

1 UNITED STATES DISTRICT COURT

2 STATE OF LOUISIANA

3 * * * * *

4 CIVIL ACTION NO. 06-789-JJB-CN

5 * * * * *

6 ALBERT WOODFOX, #72148

7 VERSUS

8 BURL CAIN, ET AL

9 * * * * *



17 The deposition of **WARDEN BURL CAIN**, taken in
18 connection with the above-captioned cause,
19 pursuant to the following stipulations, at the
20 Louisiana Attorney General's Office, 1885 North
21 Street, Baton Rouge, Louisiana, on Wednesday, the
22 22nd day of October, 2008, beginning at 1:19 p.m.

23
24
25 **REPORTED BY:** Angie Henning, CCR, CVR

A P P E A R A N C E S

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I N D E X

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S T I P U L A T I O N

It is hereby stipulated by and between/among
counsel for the parties in the case above-numbered
and entitled that the testimony of

WARDEN BURL CAIN,

be taken before Angie Henning, Certified
Court Reporter, by counsel for all purposes,
pursuant to notice and to the provisions as
authorized under the Louisiana Code of Civil
Procedure;

That parties hereto waive all formalities in
connection with the taking of said deposition,
including the reading and signing thereof, except
the swearing of the witness and reduction of the
questions and answers to typewriting;

That counsel for all parties reserve all
objections, except as to the form of the question
and the responsiveness of the answer, at the time
of taking said deposition, but they also reserve
the right to make objections at the time of said
deposition or any part thereof may be offered in
evidence, with the same rights as if the testimony
had been taken and given in Open Court.

* * * * *

1 **MS. CUMMINGS:**

2 We can put the stipulation on the
3 record. I think the parties stipulate
4 that this deposition will be used for all
5 purposes, and it will be conducted under
6 the Rules of Federal Procedure. We will
7 reserve all objections, except for those
8 to the form of the question and
9 responsiveness.

10 **MR. TRENTICOSTA:**

11 So stipulated.

12 * * * * * * * * * * * * * * * * *

13 **WARDEN BURL CAIN**

14 **ANGOLA STATE PRISON**

15 **LOUISIANA STATE PENETINTIARY**

16 **ANGOLA, LOUISIANA 70712**

17 after having been duly sworn by the court
18 reporter, testified under oath as follows:

19 **EXAMINATION BY MS. CUMMINGS:**

20 Q. Good afternoon, Warden Cain. How are you?

21 A. Fine.

22 Q. Warden Cain, you know why you're here
23 today, don't you?

24 A. I do.

25 Q. And have we met and discussed this case?

1 A. We have.

2 Q. Warden Cain, you previously gave a
3 deposition in a civil matter that's connected -- a
4 civil matter involving Albert Woodfox; is that
5 correct?

6 A. Right.

7 Q. And was that deposition given on
8 November 30, 2006?

9 A. It was.

10 Q. All right. We are going to refer to that
11 deposition if it is okay with you, Warden Cain, as
12 Cain's deposition one?

13 A. Okay.

14 Q. So that there will be clarity. In that
15 deposition, did you describe Albert Woodfox as
16 quote, "model prisoner?"

17 A. I did in a small, confined description of
18 his environment what he is at that particular
19 snapshot time. It was not all-encompassing.

20 Q. Okay. And what did you base -- well,
21 first of all, give us the definition. What is
22 your definition of a model prisoner?

23 A. Well, a true model prisoner is someone who
24 has been morally rehabilitated, and who, you know,
25 that you can trust to live and work and move and

1 work among anybody.

2 Q. Okay. Do you feel --

3 A. In prison.

4 Q. Do you feel that that definition fits
5 Albert Woodfox?

6 A. Absolutely not.

7 Q. Prior to giving the deposition on November
8 30th -- well, tell me what factors would you take
9 into consideration to determine whether somebody
10 was a quote, "model prisoner?"

11 A. Well, number one is, he is not a rule
12 violator, but a rule follower, and someone who
13 goes with the flow as far as what is right and
14 what is wrong, and doesn't do what is wrong, and
15 someone who participates in programs morally; and
16 by that, I mean I'm talking about -- for instance,
17 an example would be like hospice caregivers,
18 active in church, active in clubs and
19 organizations, and not looking out to self and for
20 self gain, but looking out for the good of all
21 like we do as citizens. We care about each other
22 and we share and we give. We're not takers.

23 Q. Okay.

24 A. But moral -- a moral person.

25 Q. All right. In determining whether someone

1 is morally rehabilitated, and whether they are a
2 model prisoner, would you want to know their
3 complete disciplinary history?

4 A. Well, you would.

5 Q. Okay. Did you have an opportunity to
6 review that history prior to giving your
7 November 30, 2006, deposition?

8 A. I really didn't. I hadn't reviewed that
9 at all too much.

10 Q. Okay. Have you had an opportunity to do
11 that for today's deposition?

12 A. I have.

13 Q. And do you have records in front of you
14 reflecting Albert Woodfox's disciplinary history?

15 A. I do.

16 Q. When was his last -- starting now and
17 going backwards, when was he last disciplined at
18 Angola?

19 A. His last actual disciplinary report was
20 5/16/08 for pornography, which was in May of this
21 year after he moved to the other dorm.

22 Q. Okay.

23 A. He had five pages of pornography, which is
24 against the rules at Angola. He had other
25 infractions that we didn't write him up for, and

1 one is he did the three-way phone calls, and did
2 an interview with the press which is absolutely
3 illegal at Angola.

4 We don't allow inmates to do interviews with
5 the press unless I personally approve it, or it's
6 part of something to rehabilitate, to project
7 Angola's positive side or project the truth. And
8 so that event occurred, and also then he and
9 Herman Wallace swapped their phone ID numbers, pin
10 numbers -- you know, talking -- calling lawyers
11 and things like that, and for those infractions,
12 we didn't write him up on.

13 Q. Why not?

14 A. Well, we just didn't want to look like we
15 were nitpicky. The serious rule infraction was to
16 do the press interview. But still in all, we just
17 didn't want to act like we were overbearing and
18 trying to have an excuse to move him out of the
19 dormitory that we put him in. We were trying to
20 act in good faith. And so also, we were kind of
21 curious to see just how far they would go. And so
22 -- just to see what rules they would break. Now,
23 the pornography we wouldn't let go. We had to do
24 something there, because we do not allow that in
25 the prison.

1 Q. Why not? Why is that such a concern to
2 you?

3 A. Well, pornography we believe can cause
4 inmates to become predators on other inmates,
5 because they see -- the sexual thing arouses them.
6 And so they're in an environment where there are
7 no females, there is no sexual gratification other
8 than whatever you can create yourself, and then
9 what happens is, then we -- and I feel like with
10 28 years of experience as a warden, that it causes
11 homosexuality more so than if you don't have it,
12 because there is that urge in that moment when
13 he's really aroused and looking at the
14 pornography, that he will be a predator possibly
15 on someone else, if he's in that environment, and
16 they were in a dormitory environment. And we just
17 don't allow it in the prison for those reasons,
18 and it is counterproductive to moral
19 rehabilitation. And we're trying to morally
20 rehabilitate the inmates, so when they're released
21 from prison, they don't hurt someone again. So
22 those things are counteractive and
23 counterproductive to our overall mission.

24 Q. Okay. I would like to show you what I'm
25 going to mark as State's Exhibit No. 1.

(The exhibit is marked as State's
Exhibit No. 1 for identification and is
attached hereto.)

Could you identify that, please, for the court
reporter?

A. Right. This is a write-up, 5/16/08,
8:55 a.m. for contraband. Do you want me to read
it to you?

Q. Sure.

A. "On the above date and approximate time,
I, Sergeant J. Rice, was conducting a search of
Inmate Albert Woodfox, #72148 when I found 5 pages
or pornography that had been ripped from a
magazine. They were in his locker box. The
pictures were confiscated and locked up in
Shakedown Crew locker box."

The penalty for that was loss of two weeks
yard time and loss of two weeks canteen, and he
was found guilty.

Q. Okay. So that is the event on 5/16, and
you indicated that he was not written up for the
three-way calls or for the interview at all?

A. No.

Q. Was that since he was released to the
dormitory from CCR?

1 A. Yes.

2 Q. Okay. Prior to the event that happened in
3 May of this year -- I am actually going to -- this
4 is one -- so we'll stay on the same page. I am
5 going to take you to events of 12/4/02. Well,
6 first can you identify what I'm going to mark as
7 State's Exhibit No. 2?

8 (The exhibit is marked as State's
9 Exhibit No. 2 for identification and is
10 attached hereto.)

11 A. That is a write-up for Albert Woodfox on
12 12/4/02 for aggravated disobedience.

13 Q. And is this the disciplinary report from
14 Angola?

15 A. It is. It says, "On the above date and
16 time, inmate Albert Woodfox #72148 was hollering
17 and shaking the bars on his cell. I, Sergeant
18 L.R. Montondon, gave inmate Albert Woodfox #72148
19 several direct verbal orders to "quiet down and
20 step back from the bars." Inmate Albert Woodfox
21 refused all orders. Lieutenant Laprarie was
22 contacted, and inmate Albert Woodfox was placed in
23 Adm. Seg."

24 He had a loss of two weeks canteen here. This
25 is very serious.

1 Q. Why is that serious?

2 A. Well, this is absolutely being defiant,
3 failure to follow orders, and this is just no
4 different than someone just wanting your way.
5 I'll get it any way I can. And this kind of
6 action here can cause other inmates to rack the
7 bars. It can cause a riot on the tier. It can
8 cause all kind of problems.

9 Q. Okay. Next, I will take you to State's
10 Exhibit No. 3.

11 (The exhibit is marked as State's
12 Exhibit No. 3 for identification and is
13 attached hereto.)

14 Can you identify that, please?

15 A. Okay. This is an unusual occurrence
16 report, and this is "On September 19, 2000, at
17 7:27 p.m., I was notified by Sergeant William
18 Jennings that while he was making rounds in Upper
19 B Tier, he observed that there was food and what
20 appeared to be human waste on inmate Roynell
21 Joshua's cell bars, on inmate Albert Woodfox's
22 cell bars, and the wall in front of inmate
23 Woodfox's cell. Inmate Calvin Thomas was on the
24 tier for his tier time at the time of the
25 incident. Inmate Calvin Thomas was placed in

1 Administrative Segregation at CBD, and inmate
2 Albert Woodfox and Roynell Joshua were placed in
3 Administrative Segregation on Lower E Tier. All
4 three inmates were examined by medical personnel
5 and were allowed to take a shower. Warden Davy
6 Kelone was notified of this incident."

7 And what this was, they were throwing human
8 waste on each other and obviously having some sort
9 of serious disagreement to resort to that sort of
10 behavior.

11 Q. Okay.

12 A. Also, on the back page, it was the same
13 thing.

14 Q. Okay. All right. Does it reflect whether
15 he was disciplined as a result of that?

16 A. He was.

17 Q. What was his discipline?

18 A. Let's see if I can find it here. (Viewing
19 documents.) Aggravated fight, Upper B Tier. I
20 don't see exactly what they did to him on this
21 one. They locked him in his cell for what he had
22 done, and took him to Lower E Tier.

23 Q. Okay.

24 A. Again serious. This is a disagreement,
25 you know, a fight, violence. If you're not in the

1 cell, you would be using some kind of weapon
2 probably, and it can have a disastrous outcome
3 where these inmates are resorting to human waste,
4 and that's why they're in CCR, to protect them
5 from each other and from themselves.

6 Q. Okay. I am going to take you to State's
7 Exhibit No. 4, and I'm just taking them in order,
8 strictly in order.

9 (The exhibit is marked as State's
10 Exhibit No.4 for identification and is
11 attached hereto.)

12 Could you identify that?

13 A. Okay. 5/5/99, "Threat to security (making
14 threats of start another hunger strike.)" Hunger
15 strikes are real bad.

16 "On the above date and approximate time, I
17 called inmate Woodfox into the Major's office to
18 discuss with him his part in the hunger strike
19 that had taken place on CCR 5/3/99 and 5/4/99.
20 Information received was that Woodfox was getting
21 others to keep the hunger strike going and that
22 Woodfox was a leader of the hunger strike. Inmate
23 Woodfox stated that he had only participated in
24 the strike, because he felt that CCR inmates had
25 lost too many privileges. Inmate Woodfox then was

1 very belligerently asked why some of the inmates
2 who participated in the hunger strike got locked
3 up. I told him they were locked up because they
4 were influencing other inmates into participating
5 in the hunger strike. At this point, inmate
6 Woodfox stated that he did not feel that locking
7 up those inmates was right. He then became very
8 belligerent, and said "you just as soon put me in
9 Camp J because that's what it's going to come to
10 because this shit isn't over with yet." He also
11 stated "as far as he was concerned, it wouldn't be
12 over as long as the four inmates remained locked
13 up." He said he only organized a peaceful
14 demonstration, and there wasn't anything wrong
15 with that. He said again, "just go ahead and lock
16 me up at Camp J now, because that's what you're
17 going to have to do anyway."

18 Q. Okay. Well, I mean, it's a hunger strike
19 -- is that --

20 A. A hunger strike is really, really bad,
21 because you could see he admitted that he was
22 organizing a peaceful demonstration. There is no
23 such thing as a peaceful demonstration in prison.
24 You know, when you're demonstrating, you're being
25 defiant to authority, and, therefore, you want

1 your way.

2 The prison operates with one authentic
3 authoritarian figure, the warden and the rule
4 book. And so if you're going to be defiant and be
5 belligerent and do a hunger strike, then you're
6 giving me an ultimatum. If you don't give me what
7 I want, I'm going to starve myself to death and
8 not eat, therefore, do what I say. So, therefore,
9 that is absolutely contrary to the administration,
10 the rule books and so forth.

11 He's trying to give us ultimatums. Ultimatums
12 is what they give you when they take hostages.
13 Ultimatums are not what we do in prison.

14 This is one of the worst things you do, plus
15 what you do is, you then get others to
16 participate, as he encouraged others to
17 participate, which then causes it to be like a
18 snowball and can move through your entire prison,
19 and can cause you really serious problems and
20 threat to lives, threat to property, and total
21 unrest in the prison.

22 Hunger strikes are bad, and this is what he
23 was doing. This is a strike. There is no
24 peaceful demonstration.

25 Q. Right. Okay. I'll take you to State's

1 Exhibit No. 5.

2 (The exhibit is marked as State's
3 Exhibit No. 5 for identification and is
4 attached hereto.)

5 And each one of these that you're identifying,
6 is each one of these, unless you indicate
7 otherwise, a disciplinary report from Angola?

8 A. Yes. He has had a lot of disciplinary
9 reports at Angola.

10 Q. Okay. And during the one on 9/22/92, what
11 happened?

12 A. 9/22/92. "During a routine shakedown, I,
13 Sergeant Gaspard, along with Sergeant E.C. Wiley,
14 found a homemade (8 piece) telescopic pole
15 concealed in a large manila envelope inside of
16 inmate Woodfox's locker box. The pole was not
17 assembled when found. We also found (1) burnt
18 empty Coke can."

19 Now, this was serious because they use -- the
20 large telescopic pole can be a spear. It can be
21 used for anything like that, and Angola was
22 notorious -- and there are spears in the museum
23 where they used spears, not only on those inmates,
24 but on security guards, security officers, so that
25 was very, very -- that's a dangerous weapon. And

1 then the can -- the burnt can, you see, he was
2 notorious also for -- he could tear the can apart
3 and make the handcuff shims, because all handcuffs
4 just lock in together.

5 If you shim the handcuff --it's easy to do --
6 push the little mechanism up and you can easily
7 open then handcuffs. So the can is aluminum, so
8 you roll it up and make the little shims, so the
9 can is really contraband as well.

10 The burnt can, he probably was burning
11 something in his cell obviously, so he was setting
12 a fire in his cell. So, therefore, do we want to
13 have fires in the cell, absolutely not. You can
14 then burn the mattress. You can burn the
15 clothes.. You could make smoke.

16 You could cause all kind of chaos, so that we
17 would have to rapidly evacuate the cell. And,
18 therefore, the potential for violence and moving
19 unrestrained could exist, which then would give
20 the inmates a chance to take some kind of action
21 on each other, if they had any hidden weapons, or
22 on security, or again, the most dreaded crime of
23 all, take hostages. So the burnt can represented
24 the fire that was obviously there.

25 Q. Okay.

1 A. And it was a serious write-up.

2 Q. Okay. Did he receive a sentence for that
3 one?

4 A. Okay. Deferred sentence for review or
5 something here at the bottom -- and I don't see it
6 on the next page -- yes, "loss of three weeks
7 store, suspended 90 days." No, this is a
8 different one.

9 Q. That's a different one. That's the next
10 one.

11 A. Yeah, that's the next one. Okay. I don't
12 know what the sentence was for this one. I would
13 think -- that was pretty -- not a serious enough
14 sentence for what he did.

15 Q. Okay. Next, State's Exhibit No. 6, which
16 is the next one in order dated 12/2/87.

17 **(The exhibit is marked as State's**
18 **Exhibit No. 6 for identification and is**
19 **attached hereto.)**

20 A. "12/2/87, GAR 3-Lobby, CCR Lockdown.
21 Aggravated disobedience." Bad. "While passing
22 through the GAR 3 lobby in route to a visit,
23 inmate Woodfox stopped at the head of the tier on
24 GAR 3 left and started hollering to inmates down
25 the tier. I gave him several orders to stop

1 hollering. Inmate Woodfox continued hollering at
2 the inmate, hollering and ignoring my orders.
3 Steven P. Gaspard."

4 Q. Okay.

5 A. So one thing is, all of these were with
6 different officers.

7 Q. Well, that was my next question. These
8 are all with different officers. What does that
9 tell you?

10 A. Well, it tells you that these are
11 absolutely no sham, no setup, no nothing. It's
12 just -- these are the truth.

13 Q. Okay. Was it one officer that went --

14 A. If it would have been one officer, it
15 would still mean they were the truth.

16 Q. So it wasn't one that like -- he can't
17 claim that one officer was after him?

18 A. No.

19 Q. Okay. State's Exhibit No. 7, which is the
20 next one.

21 A. This is a bad one, too. It showed that --

22 Q. Let me ask you that, then.

23 A. Well, I mean, he's hollering at the other
24 down the tier. It's like if you're hollering at
25 them down the tier, then you're disagreeing with

1 them, and so you have conflict with them. And so,
2 therefore, you're in the proper environment
3 because you're locked in a cell, so you can't get
4 together with them, because obviously you will
5 have a violent outcome. So, therefore, he needed
6 to be in CCR.

7 He needed to be shut away from the others, and
8 then from him, because they're screaming and
9 hollering when you let them together. They're
10 going to fight and be violent. And these guys
11 have murdered and killed before, so you don't know
12 what the extent of the violence would be.

13 Q. Okay. That takes us to the next one,
14 which is 10/12/87. That is State's Exhibit No. 7.

15 **(The exhibit is marked as State's**
16 **Exhibit No. 7 for identification and is**
17 **attached hereto.)**

18 A. 10/12/87. Okay. "Threat to security. On
19 10/8/87, I received information from three
20 confidential informants that inmate Albert Woodfox
21 had made a statement that he was going to get
22 Sergeant David Ross any way he could, that he may
23 have to pay for it in the long run, but it would
24 be worth it to him. On 10/12/87, after
25 investigating into more of the same, three

1 confidential informants stated that if inmate
2 Woodfox was not moved from GAR 3 left that it was
3 going to be problems between inmate Woodfox and
4 other inmates on the tier, because they would not
5 go along with him in trying to cause problems.
6 Lieutenant Colonel Vannoy was notified of this
7 incident and inmate Albert Woodfox was placed in
8 adm. lockdown."

9 Q. Okay.

10 A. This is harborly serious, because he was
11 doing time for murder of Correctional Officer
12 Brent Miller. And so, therefore, any threat on
13 another correctional officer has to be taken very,
14 very seriously, and that is what the three CI's
15 were implying, saying that he did.

16 Q. Okay. And was he -- what type of hearing
17 do they have when they have a disciplinary report
18 written on them?

19 A. Well, what they do, they go to court. We
20 have an inmate paralegal or inmate lawyer that we
21 can them, and the court is recorded. He will have
22 -- the judges will be -- a security person will be
23 the court chairman, and he could have one other or
24 two others, and they're going to be from different
25 divisions of the prison.

1 For instance, the treatment side. It could be
2 classification. It could be a social worker. It
3 can't be two security officers. It has to be one
4 from security and someone else, and they're going
5 to present their evidence, and he's going to
6 present his evidence, and they're going to rule
7 and then that's going to be it. And he can appeal
8 that decision to the secretary to the warden.

9 Q. Okay.

10 A. That's how it works.

11 Q. Okay. And was he found guilty of this
12 charge?

13 A. Let me see at the bottom.

14 Q. It's written at the bottom of the page?

15 A. Okay. Inmate was found guilty. Inmate
16 was found guilty, yes.

17 Q. Okay. And that takes us to the next one,
18 which is State's Exhibit No. 8 on 6/19/87.

19 **(The exhibit is marked as State's**
20 **Exhibit No. 8 for identification and is**
21 **attached hereto.)**

22 A. This would be aggravated disobedience.
23 "On the above date and time, I, Officer McMillian,
24 gave the above inmate several direct verbal orders
25 to stop the loud hollering and arguing with cell

1 number six. He refused all my orders and
2 continued the loud arguing."

3 He pleaded not guilty. He got one week. I
4 can't read exactly what it was. He was found
5 guilty. This is really bad, because again, he had
6 no respect, and when the officer is telling him to
7 do something, he doesn't do it. He didn't do. He
8 refused all orders and continued on arguing, so he
9 is defiant.

10 Q. Okay.

11 A. Defiant with officers and has no respect
12 for them.

13 Q. Okay. Let's go to the next one, which is
14 State's Exhibit No. 9, and that is for 12/4/85.

15 **(The exhibit is marked as State's**
16 **Exhibit No. 9 for identification and is**
17 **attached hereto.)**

18 A. Okay. "12/4/85. CCR C Tier. Fighting
19 and aggravated disobedience. Approximately,
20 12:45 p.m., I, Sergeant Thomas, while letting
21 inmate Otis Lewis back in his cell from his hour
22 showering, looked down the tier and saw inmate
23 Albert Woodfox run out of his cell (8) which had
24 open while I was opening Lewis' cell. The two
25 inmates began to fight. I pressed my beeper and

1 gave (4) direct verbal orders to stop. At that
2 time, they backed into the front bars still
3 fighting at that time. Captain Arnold and
4 Sergeant Dauzat came in. Captain Arnold ordered
5 them to stop but they refused. Then Captain
6 Arnold gave me an order to open the tier door,
7 which I did. Captain Arnold and Sergeant Dauzat
8 broke up the fight by grabbing one inmate a piece.
9 Both inmates were sent to the hospital and then to
10 adm. lockdown."

11 Now, see this is where he's absolutely
12 obviously the aggressor. For some reason, the two
13 doors were open at the same time, and Albert
14 Woodfox ran out of his cell and ran down and
15 attacked the other inmate, so he had a propensity
16 for violence.

17 Q. Okay. What was the disposition on this
18 one?

19 A. The disposition on this was 10 days in
20 isolation, suspended 90 days.

21 Q. Okay. Was there a reason for that
22 sentence stated on it?

23 A. Well, they would try to probably -- I
24 don't see the reason. Do you see the reason?
25 Accepted a guilty plea in officer statements.

1 Sentence based on good conduct record.

2 Q. Well, I'm a little confused by "sentence
3 based on good conduct record," since we have all
4 these reports in front of us. Is that within a
5 specific time frame, or what does that mean?

6 A. Well, one thing it means is that he is
7 already in lockdown. He's in CCR, so that's a
8 cell block environment. He just has more things
9 in the cell than he would in another cell. And so
10 there are a lot of reasons that you would do that.
11 You would have a shortage of cells in Camp J or
12 backlog or whatever, and then the other one was --
13 see, it had been two years from here to this
14 write-up, so that is what they did.

15 Q. Okay. And going backwards, this was '85,
16 so the one prior to that was 10/81.

17 A. 10/81, it had been four years.

18 Q. Right. And that will be State's Exhibit
19 No. 10. So it had been four years since he had
20 been in trouble, at least written up; is that
21 correct?

22 A. Yes. And the point that you make right
23 here is, he didn't ever really get any better.
24 When an event occurred in his life that he felt
25 like he needed to resort to violence, he did. He

1 did. You know, instead of chilling on out and
2 coming on progressively to get to where that you
3 don't resolve conflict with violence, he didn't,
4 and that's why you see these spaced out like they
5 were. He would be okay a while, but then he would
6 get -- boom, here he would come again.

7 Q. Okay. And you said he would be okay a
8 while. During all of these --

9 A. Well, maybe nobody disagreed with him.
10 Maybe he had no conflict. But when he did, he
11 resorted to violence, and many times, he did.

12 Q. Okay. Let's go to State's Exhibit No. --

13 **MR. CALDWELL:**

14 What was the date of State's No. 10?

15 **MS. CUMMINGS:**

16 That's the one we're going to now.

17 **BY MS. CUMMINGS:**

18 Q. That was 10/23/81.

19 **(The exhibit is marked as State's**
20 **Exhibit No. 10 for identification and is**
21 **attached hereto.)**

22 A. Okay. "Disobedience. At approximately
23 10:10 p.m., I, Officer Sarpy, gave inmate Albert
24 Woodfox five direct orders to quit arguing with
25 inmate Herbert Nicholson and quit sticking his arm

1 out of the cell. Inmate Albert Woodfox kept on
2 fussing and sticking his hand out of the cell."

3 So the plea right there, he pled guilty or was
4 found guilty, and he received a reprimand.

5 Q. All right. Again, refusing to follow
6 orders given by the guard?

7 A. Yes, defiance.

8 Q. Okay. On 2/15/79 -- that is State's
9 Exhibit No. 11.

10 (The exhibit is marked as State's
11 Exhibit No. 11 for identification and is
12 attached hereto.)

13 A. It says "while shaking down the above
14 named and numbered inmate's cell, I found... --"
15 and that name and number is Albert Woodfox, 72148
16 -- "...I found two unauthorized containers, an
17 empty Clorox bottle and an empty Kool-Aid
18 container. The Kool-Aid container was half-full
19 of sugar. Inmate was allowed to empty the sugar
20 from the Kool-Aid container. The empty containers
21 were then taken from the inmate."

22 Q. Okay. Why aren't they allowed to have
23 containers?

24 A. Well, lots of reasons. You can have
25 containers, and you can make home brew. You could

1 store things in it. And one thing is the Clorox
2 bottle would bother us because they would store
3 bottles when they wanted to escape, because the
4 bottles were flotation devices. You know, gallon
5 bottles would be, and so we don't allow them to
6 have the bottles because of that. And so the
7 sugar -- half full of sugar is -- I don't know how
8 large the Kool-Aid container was, but the sugar
9 container would be a concern to us, too, because
10 that is a component of making beer and whiskey.

11 Q. And they actually do that in there?

12 A. They do.

13 Q. What was the disposition on this one?

14 A. Okay. Inmate Woodfox was found guilty
15 based on the contents of the report which are more
16 credible than the inmate's testimony. The
17 sentence is based on the inmate's previous record
18 and the seriousness of the report. Five days
19 isolation.

20 Q. Okay. State's Exhibit No. 12, and that
21 was on 11/1/78.

22 (The exhibit is marked as State's
23 Exhibit No. 12 for identification and is
24 attached hereto.)

25 A. "11/1/78, while shaking down the above

1 named and numbered inmate, Albert Woodfox, I found
2 what appeared to be a firing pin for a zip gun
3 hidden inside a tube of toothpaste. The object
4 was about (3") three inches long, sharpened on one
5 end, and appeared to be the end of a radio
6 antennae. A further search of the tier turned up
7 two 22 caliber bullets hidden under a lavatory
8 sink by the showers, which further leads us to
9 believe that this was a firing pin for a zip gun.
10 This inmate was placed in isolation by order of
11 Colonel H.D. Byargeon. The object found in the
12 tube of toothpaste was locked up in the safe at
13 R.C. by Lieutenant Honeycutt, Jr., supervisor of
14 the Outcamp Shakedown Crew. The two bullets were
15 turned over by Lieutenant Honeycutt, Jr. to
16 Colonel H.D. Byargeon."

17 Q. Okay. What is a zip gun?

18 A. A zip gun is a homemade gun. They have a
19 firing pin and they can even use a radio antennae
20 as the barrel for the gun. And then the long nail
21 would penetrate the primer on the shell, the
22 bullet, and the radio antennae could be the
23 proper size, because they're multi-sizes as you
24 send them out, and that would be the barrel for
25 the bullet. And two bullets meant two shots, and

1 that meant two people shot. And the zip gun would
2 be no different than having any other gun, because
3 you have a gun. And a gun in prison is to escape
4 or get away or either seriously injure someone
5 else or kill them.

6 Q. Okay. And was he found guilty of this
7 infraction?

8 A. Guilty, ten days isolation and lost 25
9 days good time.

10 Q. Okay. State's Exhibit No. 13, and that is
11 July 30, 1978.

12 (The exhibit is marked as State's
13 Exhibit No. 13 for identification and is
14 attached hereto.)

15 A. Okay. "At 10:55 a.m. was picking up chow
16 trays on D Tier when I came to Albert Woodfox
17 72148 cell. I saw he had two styrofoam cups, and
18 I told him to give me one, as one was all he could
19 have, and he told me no. I asked him was he
20 refusing, and he said yes, he was, and I was not
21 going to get it."

22 Q. Okay.

23 A. Inmate was found guilty based on inmate's
24 own admissions and due to conduct record, five
25 days isolation and loss of 10 days good time.

1 Q. Why is this significant?

2 A. He just didn't do it. He just wasn't
3 going to do it. He was going to be defiant to
4 security. He wanted his own way. I mean, he just
5 wasn't going to do it -- defiant.

6 Q. State's Exhibit No. 14, and that's
7 10/5/77.

8 (The exhibit is marked as State's
9 Exhibit No. 14 for identification and is
10 attached hereto.)

11 A. Okay. Albert Woodfox. "Prior to entering
12 CCR isolation, this inmate was asked by Captain
13 Travis Jones if he would submit to a complete
14 shakedown. Inmate's exact reply was "you're not
15 looking up my ass, you ain't." Woodfox was bent
16 over the A.U. desk (clerk's desk) by the officers,
17 and his cheeks were searched for contraband. In
18 the process of bending this inmate over the desk,
19 he resisted us and tried to escape from the
20 office. He also kicked my right shin with one of
21 his feet while we were searching him. The only
22 forced used was that was needed to restrain inmate
23 Woodfox."

24 Q. Okay.

25 A. Found guilty.

1 Q. Are strip searches necessary?

2 A. Yes, because you're looking for handcuff
3 keys and shims, basically. And so you have to do
4 that, and you're also looking for any other
5 contraband, because it is not unusual at all to
6 hide contraband in body cavities, be it weapons,
7 be it drugs, or be it mechanisms to escape.

8 Q. Okay. And this indicates that he kicked
9 the guard; is that correct?

10 A. He kicked the guard and kicked him on his
11 shin and resisted and said you ain't going to do
12 it. Again, being very defiant.

13 Q. Okay. Was he found guilty of this
14 infraction?

15 A. He was.

16 Q. Would you characterize this as a violent
17 infraction?

18 A. It is. I mean, he's defiant. He doesn't
19 want them to do their job. He just said okay -- I
20 guess he thought, well, I'm just going to tell
21 you-all you can't. You-all just not going to
22 search me. I'm just not going to be searched
23 anymore in prison. I mean, that's crazy. So,
24 yes, it's very defiant and it's very belligerent,
25 and it's just not going with the flow.

1 It's no different all the way to the time he
2 does pornography, because he does what he wants to
3 do. He doesn't do what the rules say. If he has
4 a whim of what he wants to do, he'll do it.

5 He made a three-way phone call and did an
6 interview, when he knew he was not supposed to.
7 This is a pattern all the way through his career
8 at Angola from start to finish.

9 Q. Okay. State's Exhibit No. 15 occurred on
10 9/24/77.

11 **(The exhibit is marked as State's**
12 **Exhibit No. 15 for identification and is**
13 **attached hereto.)**

14 A. Okay. "9/24/77. Albert Woodfox. During
15 routine strip search procedure, inmate Albert
16 Woodfox refused to bend over." Is this the same
17 one or a different one?

18 Q. No, it's a different one.

19 A. Refused to spread over -- "...refused to
20 bend over and spread his buttocks. Lieutenant
21 Horace Issac and myself ordered inmate Woodfox to
22 bend over and spread his buttocks and he refused
23 to do so. Inmate Woodfox had to be physically
24 restrained over a desk with his buttocks spread
25 open by Lieutenant Horace Isaac. Inmate Woodfox

1 charged into Lieutenant Horace Isaac as if to do
2 Lieutenant Isaac physical harm. In the CCR
3 isolation hallway inmate Woodfox punched Officer
4 John R. Christen in the mouth, busting his lips,
5 and loosening the Officer Christen's two front
6 teeth. Officer Christen was relieved and treated
7 in the Feliciana Hospital. Inmate Albert Woodfox
8 punched Officer Harry Bereas in his left jaw.
9 Inmate Woodfox kicked Officer Emus in his left
10 leg. An incident report has been submitted
11 concerning this incident."

12 Q. Okay. Was he found guilty of this
13 infraction?

14 A. He was. He spent ten days in isolation.
15 This is absolutely horrible because he just took
16 on all of the security.

17 Q. Okay. Was this a violent crime?

18 A. It is a very violent crime. I mean, this
19 is a violent man. If he don't get his way, he's
20 going to do something to you. You know, he just
21 was violent his whole career.

22 Q. Okay. State's Exhibit No. 16. Date of
23 incident 9/14/77.

24 (The exhibit is marked as State's
25 Exhibit No. 16 for identification and is

1 **attached hereto.)**

2 A. "9/14/77, Albert Woodfox, while shaking
3 down the above named and numbered inmate's cell, I
4 found a handcuff key hidden in a roll of toilet
5 tissue. The handcuff key was turned in to Officer
6 Bill Honeycutt who is in charge of the 2-10
7 shakedown crew, who in turn turned it over to
8 Lieutenant Colonel H.D. Byargeon."

9 He pled not guilty, and he was found guilty
10 and transferred to Camp J for extended lockdown.
11 This is real bad, because the handcuff key gets
12 you out of the handcuffs, which means you can have
13 a weapon. You can grab a weapon or you can get an
14 officer's weapon.

15 If he were to be escorted from one camp to
16 another, he would try to escape. He would try to
17 get a gun. He would try to do anything. And as
18 you saw, he was aggressive -- very aggressive
19 toward the officers.

20 Well, not in restraints, and with one handcuff
21 even hanging, he had a weapon in his hand with the
22 other end of the handcuff hanging on his arm is
23 very bad.

24 Q. Okay.

25 A. Why do you want a handcuff key, if you

1 don't want to run away?

2 Q. Okay. State's Exhibit No. 17, 9/7/77.

3 **(The exhibit is marked as State's**
4 **Exhibit No. 17 for identification and is**
5 **attached hereto.)**

6 A. "The above inmate refused to give up his
7 supper tray when told to do so by Jack R. Murray,
8 L.S.P. Sergeant. Aggravated disobedience. Albert
9 Woodfox."

10 Q. Okay. Again, why is this important?

11 A. Ten day isolation, 25 days given. Because
12 purely defiant. Inmate refused to give up his
13 supper tray. I mean, that is no big deal, but yet
14 he makes a big deal of it because he wants to act
15 out and be defiant. And there probably could have
16 been other inmates obviously seeing him around who
17 he would be trying to show them that, hey, I don't
18 have to do what they tell me. Very aggressive
19 toward security and authority.

20 Q. And is that dangerous in jail?

21 A. Very dangerous.

22 Q. Okay. Number 18 --

23 A. You can look -- it led to Brent Miller.

24 Q. What do you mean by that?

25 A. Well, he finally wound up killing Brent

1 Miller and was convicted of it. He had no fear of
2 security -- Albert Woodfox.

3 Q. This is State's Exhibit 18, 7/12/77.

4 (The exhibit is marked as State's
5 Exhibit No. 18 for identification and is
6 attached hereto.)

7 A. Okay. "While shaking down the above named
8 and numbered inmate's cell, I, Jack R. Murray,
9 L.S.P. Sergeant, found (1) razor blade laying on
10 the bars of his cell. It is a posted policy that
11 there will be no razor blades in the cells."

12 He was found guilty, and he was sentenced to
13 ten days isolation and lost 25 days good time.
14 That was suspended 90 days. He had -- a razor
15 blade is a very serious weapon.

16 It can cut your throat. It can cut your
17 jugular vein, bleed you to death. It can kill
18 you, plus it can disfigure you. And so it's --
19 also, razor blades -- if you get a match, you can
20 take your toothbrush and you can melt the plastic
21 and embed the razor blade into the plastic, and
22 then you really have a good weapon, because you
23 have a handle on it.

24 And if it were a razor blade that had on side
25 solid, then it was even stronger. But in any

1 event, a razor blade is very dangerous -- very
2 bad.

3 Q. What other use would he have for a razor
4 blade in jail?

5 A. To cut someone or harm someone, do bodily
6 harm, or use it as a weapon to put at someone's
7 throat for a hostage, so that he could force them
8 to let him out and escape.

9 Q. Okay. State's Exhibit No. 19. The date
10 on that one is 10/6/76.

11 **(The exhibit is marked as State's**
12 **Exhibit No. 19 for identification and is**
13 **attached hereto.)**

14 A. Okay. 10/6/76, defiance, Albert Woodfox
15 72148, cursing an officer. "The above named and
16 numbered inmate called me a fat mother fucker
17 while I was shaking down his cell."

18 Ten days isolation. No respect for security.
19 No respect for another human.

20 Q. Okay. What do you have next, because I
21 accidentally forgot to put a sticker on this one.
22 Let's go ahead and write in --

23 A. 5/27/76?

24 Q. Yes. State's Exhibit 20 is 5/27/76.

25 **(The exhibit is marked as State's**

**Exhibit No. 20 for identification and is
attached hereto.)**

A. "While shaking down the above named and numbered inmate's cell, cell #7 D-tier, I, Officer Ivory Young, found a Crest toothpaste tube which contained a substance which looked like gunpowder. This was turned over to Major Norwood for further investigation. The inmate living in CCR, cell #7. Approximately, 1/3 of this substance was poured into an ashtray and a match was placed onto the substance and it ignited. This substance checked out to be gunpowder."

Q. Okay.

A. This is an old rule violation report, 1972.

Q. Okay. Does it show the disposition on this one?

A. I don't see disposition on this one.

Q. Okay. But they did check the gunpowder? They found it in his cell, they checked it, and it ignited?

A. It ignited. It was gunpowder, and gunpowder makes a bomb and the toothpaste. If he can find a mechanism to ignite it. Obviously, they had cigarettes, fire or whatever, if he burnt

1 the can.

2 Q. Okay. State's Exhibit No. 21, and that's
3 dated 4/4/75.

4 (The exhibit is marked as State's
5 Exhibit No. 21 for identification and is
6 attached hereto.)

7 A. 4/4/75. Defiance, property destruction.
8 "The above inmate cursed the correctional officer
9 for all kind of bitch, mother fucker, and then
10 threw glass jars at us. He also tore his commode
11 out and broke it up and threw it at us. This was
12 done while we were trying to get inmate Wilkerson
13 off the tier to put him in the hole for refusing
14 to catch his cell." Ten days isolation.

15 Q. Okay.

16 A. And what he was doing, he was being
17 belligerent and defiant because they were locking
18 up his partner. And the loyalty to his partner
19 was so great, that he was self-sacrificing. He
20 probably wanted to go with him and be locked up,
21 too. So then he wanted to inflict all the pain
22 and injury he could on security. So he even tore
23 up his commode and destroyed state property,
24 because it was porcelain at the time, obviously,
25 because it broke, so that he could throw it at the

1 officers.

2 Q. Okay.

3 A. There's a strong bond between those two.

4 Q. State's Exhibit No. 22, 12/17/72.

5 (The exhibit is marked as State's
6 Exhibit No. 22 for identification and is
7 attached hereto.)

8 A. Okay. 12/17/72. "Above named and
9 numbered inmate used extremely vulgar, profane,
10 and obscene language in the presence of visitors
11 and continued to do so after being directed to
12 refrain. He stated to go get someone with
13 authority. Warden Hoyle denied Rory Mason's visit
14 due to repeat incidents. Inmate Woodfox created a
15 disturbance as a result of this."

16 So he was denied a visit, he acted out, threw
17 a fit, screamed and hollered. He wanted his own
18 way.

19 Q. Okay. And what was the disposition on
20 that one?

21 A. Ten days -- ten days CCR isolation.

22 Q. Okay. State's Exhibit No. 23, and that is
23 12/17/72.

24 A. 12/17/72. Albert Woodfox. "Above named
25 and numbered inmate used extremely vulgar,

1 profane, and obscene language in the presence of
2 visitors and continued to after being directed to
3 refrain. He stated to get someone with..." -- is
4 this the same one?

5 Q. Oh, I'm sorry. That is the same one.
6 Yes, I'm sorry. That is the same one.

7 A. Okay.

8 Q. We will scratch 23 on that -- well, let's
9 just leave that -- let's scratch 23 on that. We
10 won't attach it since it is the same report, and
11 we'll mark the next one, 9/6/72, as State's
12 Exhibit No. 23.

13 **(The exhibit is marked as State's**
14 **Exhibit No. 23 for identification and is**
15 **attached hereto.)**

16 A. Okay. "The above named and numbered
17 inmate, Albert Woodfox, came out of his cell to go
18 to D.B Court. He refused to come off the tier.
19 He went to get this subject and he had an armature
20 in a sock, which he threatened me and other
21 officers, however, he gave it to Mr.. C. Bord and
22 he came on out and went to court."

23 Q. Okay. What is an armature?

24 A. An armature is a way -- something with
25 weights that you put in a sock and you swing

1 around and around and you hit people with it and
2 beat them and use it as a weapon. And the sock
3 gives it momentum as you swing it. It can inflict
4 great bodily harm.

5 Q. Okay. And was it a rule relation for him
6 to have the armature in the sock?

7 A. It was a rule violation, because he turned
8 it into a weapon. It would be a rule violation to
9 have an armature anyway. An armature would be a
10 portion of a motor, and it would be in used to
11 make a tattoo machine and things like that, which
12 is illegal. I mean, you don't need an armature in
13 prison.

14 Q. What was his disposition on that one?

15 A. I can't really tell. Ten days isolation,
16 suspended for 90 days.

17 Q. 4/18/72, and that is State's Exhibit
18 No. 24.

19 (The exhibit is marked as State's
20 Exhibit No. 24 for identification and is
21 attached hereto.)

22 A. "Inmate locked up and charged with the
23 murder of Brent Miller. Inmate waiting to be
24 tried. The Board feels inmate should remain in
25 lockdown because he is dangerous to inmates and

1 free personnel. His record shows where he stabbed
2 another man or inmate."

3 Q. Okay. Do you know about that incident
4 that is referred to in here -- the stabbing of the
5 other --

6 A. The Brent Miller --

7 Q. Well, I know about the Brent Miller one,
8 but the stabbing of the other inmate?

9 A. Yes. I have a vague memory of it, because
10 he did -- I had a report that he had stabbed
11 another inmate, too.

12 Q. Okay. State's Exhibit No. 25, which is --

13 **(The exhibit is marked as State's**
14 **Exhibit No. 25 for identification and is**
15 **attached hereto.)**

16 A. Refusing to work.

17 Q. -- August 19, 1971.

18 A. Albert Woodfox. Refusing to work. "The
19 above inmate was told this morning to get him a
20 pair of boots and catch the farm line. He said
21 that he had 50 years, and he had no intentions of
22 working in the field. This inmate had been
23 advised of this report." Ten days CCR and loss of
24 six months good time.

25 Q. Okay. Again, why is that -- I mean, why

1 did he have to work?

2 A. You have to work because you have to work
3 off energy and because work has to be done to
4 maintain the farm and to grow the vegetables and
5 so forth to feed yourselves, and you're sentenced
6 to hard labor so you're supposed to work. There's
7 no reason that you're not supposed to work other
8 than being sick, and he just again was flat
9 defiant and belligerent and didn't want to follow
10 authority.

11 Q. Okay.

12 A. He wanted his own way.

13 Q. Again, was that prior to the time that he
14 was placed in CCR?

15 A. Yes.

16 Q. For the record, how many total
17 disciplinary reports do you have?

18 A. I believe you read 26 or 27.

19 Q. So it's much greater than three over the
20 course of time he was in there?

21 A. Oh, yes.

22 Q. Is that significant to you, the number and
23 the type of reports that you have?

24 A. The significance of it is he doesn't get
25 better. He just keeps on doing it as he becomes

1 -- some will have a lot of write-ups, and you
2 know, will finally say, go six months without any
3 write-ups and don't get anymore and you progress
4 and you start rehabilitating and you don't get
5 anymore.

6 He never rehabilitated. He always kept being
7 defiant and wanted his way and do his own thing.
8 The pornography -- a simple rule. He knew not to
9 do it, but he is just flat a rule breaker. When a
10 rule is in his way that he don't like, he just
11 breaks it.

12 The three-way call -- he knew not to do the
13 press, the interview. He did the interview right
14 out of his cell along with Herman Wallace.

15 Q. Okay.

16 A. They did the three-way call. They know
17 that is illegal. They did the three-way call, and
18 that is now, so this is no different than the
19 beginning. This man is not rehabilitated.

20 Q. Well, prior to the time that he was moved
21 out of CCR, which I think was when?

22 A. March, I believe.

23 Q. March of --

24 A. Of '08.

25 Q. March of '08, prior to that time he was in

1 CCR; correct?

2 A. He was.

3 Q. After the murder of Brent Miller?

4 A. Right.

5 Q. How much freedom does a prisoner have in
6 CCR?

7 A. They have a lot of freedom. It is not
8 solitary confinement. Do you want me to describe
9 it for you?

10 Q. Yes.

11 A. Okay. In CCR, you have books to read,
12 magazines to read if you want. You can have the
13 newspaper to read. You have a television on the
14 wall outside the cell that you can see, and you
15 can within reason watch what you want. They all
16 agree what they're going to watch and they watch
17 that. They have a choice.

18 And so they can live in that -- they get one
19 hour out to be out on the tier. They get to walk
20 up and down the tier. They can have isometric
21 exercises at the end of the tier. And in his
22 case, he did jumping jacks, and he ran in place.
23 You know, they stay in pretty good shape in there,
24 because you can exercise if you want to you.

25 Now, the good thing is, three days a week they

1 get on the yard to go out and walk in the sunshine
2 and get their vitamin D and exercise on the yard.
3 Now, if it's raining or the weather is inclement,
4 then you may miss that week, but you normally go.

5 Now, some inmates don't want to go, and they
6 will tell the officers they don't want to go, and
7 then we don't make them go. So it's an option.
8 And so if you want to go, though, we offer you the
9 chance to go.

10 The cells in the CCR at that time were
11 (7'x10') seven-by-ten, which was 70 square feet,
12 which is pretty large cells. Now, the cells today
13 are smaller, because we moved CCR to the old
14 death-row. But at that point in time, they were
15 larger cells, or they were as long as I've been at
16 Angola in the last 14 years.

17 Q. Okay.

18 A. And you would eat normally what everybody
19 else eats, three meals a day.

20 Q. Do you have more supervision in CCR than
21 you do in just regular population?

22 A. You would, and you don't, because in
23 regular population, you have a correctional
24 officer sitting at the head of a dorm that can see
25 all of you all the time, so you have eyes on you.

1 If you're in CCR in a cell block environment, you
2 have an officer pass by you every 30 minutes to
3 check the cell. So then, therefore, you have no
4 eyes on you at all 28 out of 30 minutes normally,
5 most of the time.

6 Q. But you're confined to one cell?

7 A. But you're confined to one cell, but you
8 don't have anybody looking at you. So in that
9 sense, you don't have, but in the other sense, you
10 do. But you're in the cell so, therefore, you're
11 confined, so you can't run away and do anything
12 bad, and that's why they don't have to look at you
13 all the time.

14 Q. Okay. So you can't run away and do
15 anything bad?

16 A. Right, and that's what it's for, so that
17 you'll be in the cell. And you only put people in
18 there if they're a threat to themselves, a threat
19 to someone else, or a threat to escape or could
20 cause an unsafe situation for the correctional
21 officers themselves or for anyone else that walks
22 through.

23 Q. After you have reviewed all these
24 documents and all these disciplinary reports,
25 would you describe Albert Woodfox as a model

1 prisoner?

2 A. He is not a model prisoner at all.

3 Q. In your deposition, when you -- okay.
4 He's not a model prisoner at all?

5 A. No. He is in the same situation as
6 Derrick Todd Lee. I wouldn't describe him as a
7 model prisoner, either. Derrick Todd Lee has only
8 had one write-up in four years. He's not a model
9 prisoner, and I'm not going to let him out of the
10 cell.

11 Q. Okay. And why is that? Why do you feel
12 that way?

13 A. Because of the potential to escape, the
14 potential to hurt someone else, and the potential
15 for violence is too great. And in our business,
16 we do not gamble because the outcome we can't
17 afford. We can't afford the outcome, so don't
18 gamble, so we don't gamble.

19 Q. Okay. What is it about Albert Woodfox
20 that gives you such concern?

21 A. The thing about him is that he wants to
22 demonstrate. He wants to organize. He wants to
23 be defiant. He wants to show to others that he is
24 powerful and strong. And so he has also murdered
25 a correctional officer. He has no fear of the

1 people in blue. It almost doesn't matter to him.

2 He will hurt you, so therefore, the
3 correctional officers want to not be mingling with
4 him really because of the potential for violence.
5 The other inmates have a potential for violence,
6 and if something doesn't go his way, then he's
7 going to resort to violence. That has been his
8 lifelong career to do this.

9 Q. And in his disciplinary reports, have you
10 seen a pattern of any preparation for violence or
11 escape?

12 A. Defiance. Defiance, escape -- I hate to
13 say too much in a deposition, but it's real
14 simple. A criminal is real simple. He is
15 selfish. He takes your body. He takes whatever
16 he wants. He self-indulges.

17 One who is not a criminal gives. He shares
18 with others. It's very simple. Albert Woodfox is
19 a criminal. What he wants, he takes. When he
20 wants to break a rule, he breaks a rule. When he
21 wants pornography, he gets pornography. He knows
22 it's against the rules. He is a rule-breaker.
23 How can that be rehabilitative when you're a
24 rule-breaker?

25 Q. Okay. Would you -- you gave a deposition

1 previously. I'm going to mark that as State's
2 Exhibit No. 26.

3 You gave a deposition --

4 (The exhibit is marked as State's
5 Exhibit No. 26 for identification and is
6 attached hereto.)

7 **MS. CUMMINGS:**

8 And I am attaching the entire
9 deposition, by the way.

10 **MR. TRENTICOSTA:**

11 Excuse me. Are you attaching the
12 exhibits?

13 **MS. CUMMINGS:**

14 Yes, I'm going to attach all the
15 exhibits, Exhibits No. 1 through 26.

16 **MR. TRENTICOSTA:**

17 Exhibits to the deposition?

18 **MS. CUMMINGS:**

19 I don't have the exhibits to the
20 deposition.

21 **MR. CALDWELL:**

22 To the first deposition -- to Burl
23 Cain's first deposition?

24 **MS. CUMMINGS:**

25 Well, I don't have them today. I was

1 going to attach the deposition itself. If
2 you wanted to make other attachments, I
3 guess that would be your prerogative to do
4 so.

5 **MR. TRENTICOSTA:**

6 Thank you.

7 **BY MS. CUMMINGS:**

8 Q. So the entire deposition is going to be
9 attached as well. In that, you were asked about,
10 or the issue is whether or not you're comfortable
11 releasing Albert Woodfox from CCR into general
12 population. Is that kind of the gist of what you
13 were asked?

14 A. I would say no.

15 Q. You weren't at that time -- at the time
16 that you gave the deposition.

17 A. I weren't what?

18 Q. You weren't comfortable with releasing him
19 from CCR?

20 A. No. I have never been comfortable with
21 releasing him from CCR -- never, ever.

22 Q. And I think you've given us the reasons
23 for that. How about -- how would you feel with
24 releasing him to the public, to the general
25 population to live amongst the rest of us?

1 A. I wouldn't release him to the general
2 population to live among the rest of us at all,
3 because he is not a rehabilitated prisoner. He
4 will be a predator when the opportunity comes his
5 way and when he feels the need to be that, to
6 indulge himself in his own wishes and desires.
7 That's what he does. He is not rehabilitated.

8 Q. Okay. And I think you've addressed the
9 issue -- how many infractions has Derrick Todd Lee
10 had?

11 A. I think he's had only one. He spit on
12 another person in the four years I've had him, and
13 we wouldn't release him. We wouldn't release John
14 Simonis, the ski mask rapist. Some people need to
15 live in the cell. Some people need to live in a
16 cell for public safety and for the safety of the
17 correctional officers and for the safety of the
18 other inmates.

19 To give you an example, with two cells open,
20 Albert Woodfox ran out of the cell and ran down
21 and just jumped on the other inmate. That was one
22 of the write-ups. He had an issue with the other
23 inmate and he dealt with it.

24 Q. Okay.

25 A. Right in front of the officers.

1 Q. All right. In addition to his conduct,
2 while he was in -- while he has been in Angola,
3 would his criminal history also be relevant to you
4 in determining whether this is a man that is a
5 predator?

6 A. Oh, yes. Our criminal history is who we
7 are, and that is the only thing we have to judge
8 someone by. And his criminal history is that he
9 is a predator.

10 Q. Okay.

11 A. He has a potential -- he may not be a
12 predator today, but he has the potential to be a
13 predator when he feels himself and justifies
14 himself that he needs to be a predator, he will
15 resort to that extreme. Most people won't.

16 Q. I would like to show you what I've marked
17 as State's Exhibit No. 27.

18 **(The exhibit is marked as State's**
19 **Exhibit No. 27 for identification and is**
20 **attached hereto.)**

21 **MR. TRENTICOSTA:**

22 Do you think I can have a copy?

23 **MS. CUMMINGS:**

24 Sha, could you run copies of the rest?

25 **MS. CARTER:**

1 Sure.

2 **MS. CUMMINGS:**

3 No, that's okay. I think Terri has
4 it.

5 **MR. TRENTICOSTA:**

6 No. 27?

7 **MS. CUMMINGS:**

8 Yes.

9 **BY MS. CUMMINGS:**

10 Q. What is State's Exhibit No. 27?

11 A. It's a rap sheet, isn't it? Yes, it's a
12 rap sheet. Criminal record of Albert Woodfox.

13 Q. All right. And you said that that is
14 significant to you as well?

15 A. It is.

16 Q. Would you be trying to determine whether
17 or not he committed violent crimes?

18 A. From 1964. He wasn't even 20 years old.

19 Q. All right.

20 A. All his life malicious mischief. He was
21 born in '47, and this was '64 -- 17 years old.
22 '65, loitering. '65, fugitive. Theft, '65. He's
23 a career criminal.

24 Q. Okay. And again, I would like to --

25 A. '66, stolen vehicle. '67, '69, aggravated

1 rape. He was charged with that in 1969.

2 Q. Okay.

3 A. Multiples -- simple battery, simple
4 battery, dangerous weapon -- just right on, and
5 that's in '69. Simple burglary, criminal
6 mischief. '70, New York City, simple burglary,
7 larceny, fugitive, '71.

8 Q. Do you know whether or not he has ever
9 been convicted of any escapes?

10 A. Two times, I believe.

11 Q. So he has been convicted of escape on two
12 different occasions?

13 A. I think so, yes.

14 Q. And that is in addition to the violent
15 crimes that are shown on that rap sheet?

16 A. Right. (Viewing documents.)

17 Q. That's okay. I guess that's good. Have
18 you reviewed it enough?

19 A. I reviewed it. I didn't go all the way
20 through it. I just went to when he got to Angola.

21 Q. Do you want to look at it some more?

22 A. Let's look at it some more. (Viewing
23 documents.) An aggravated escaped here in '81.

24 Q. Based on the rap sheet that you reviewed
25 as well as his disciplinary history at Angola --

1 based upon the rap sheet that you reviewed, as
2 well as his disciplinary history at Angola, do you
3 feel that he should be released to the general
4 public?

5 A. No. I do not feel that he should be
6 released to the general public. I think it is a
7 gamble, and I told you, in our business, we don't
8 gamble, because he will hurt and harm people again
9 or resort to violence when he feels the need to do
10 it to get his way.

11 Q. Okay. Is there a difference in a
12 prisoner's ability to cause trouble when they are
13 in CCR as compared to when they are in the general
14 population?

15 A. Yes, because he is in the confinement of
16 the cell. And, therefore, he has no one to commit
17 violence upon other than himself, or to reach
18 through at the correctional officers or someone.
19 So that's why he's in the cell so that he won't
20 have an opportunity to cause problems or to hurt
21 someone or himself or hurt the correctional
22 officers or other inmates.

23 Q. Okay. So he has less opportunity?

24 A. He has less opportunity.

25 Q. What are the restrictions for his

1 visitation at Angola?

2 A. There are numerous different restrictions
3 for visitation. It depends. You can have contact
4 visits, non-contact visits, and that is pretty
5 well the type of visits, but who can visit is
6 another thing. Could you be more specific?

7 Q. Do you-all restrict -- I mean, if I go to
8 Angola today, if I drive out there this evening,
9 are they going to search my car?

10 A. They are.

11 Q. Okay. And why is that necessary?

12 A. Because we don't want the introduction of
13 contraband, because visitors have the potential to
14 bring in drugs and weapons and aid and abet in
15 escape and violence.

16 Q. Okay. During your tenure as warden, as
17 recently as March -- well, are you familiar with
18 an occasion that Rheneisha Robertson, Albert
19 Woodfox's niece, tried to come visit him?

20 A. She did.

21 Q. And what happened?

22 A. Well, she wouldn't submit to the search
23 and so forth, and so therefore, then the visit was
24 denied. And so then she became very belligerent
25 and whatnot, and wouldn't allow us to search the

1 car and so forth, which would indicate that they
2 were hiding some sort of contraband, and would not
3 submit to the searches.

4 Q. When that happens, or on that particular
5 occasion, are they just turned away or is the
6 search forced?

7 A. No, the search is not forced. They are
8 turned away and sent away.

9 Q. And do you know exactly when that
10 happened?

11 A. No, I don't.

12 Q. Was it --

13 A. It's been -- it was here very recently.
14 It was in the spring of this year, but I don't
15 know the exact date, the spring of 2008.

16 Q. Spring of 2008?

17 A. (Nodded head affirmatively.)

18 Q. If I showed you a letter regarding that,
19 would you -- do you recognize this document?

20 A. I do. This is from March 18, 2008. Dear
21 Ms. Robertson -- do you want me to read you the
22 letter?

23 Q. Sure.

24 A. Okay. "This letter is to inform you that
25 you have been removed from the approved visiting

1 list of inmate Albert Woodfox and any other list
2 for a period of six (6) months.

3 "On March 16, 2008, Lieutenant Russell was
4 randomly shaking down vehicles at the front gate,
5 and Mr. Bernard Robertson refused to consent to
6 have his vehicle shook down. Duty Warden Dupont
7 was summoned to the gate. Duty Warden Dupont
8 approached Mr. Robertson to discuss the reason why
9 he was refusing the shakedown when Mr. Robertson
10 became very disturbed and denied giving Duty
11 Warden Dupont his name or any other information.
12 Warden Dupont again asked Mr. Robertson why he was
13 denying to have his vehicle shook down. Duty
14 Warden Dupont contacted Major Wilson of
15 Investigative Services and Roving Security to come
16 to the gate. Duty Warden Dupont walked to the
17 rear of your vehicle in an attempt to get the
18 license plate number. Mr. Robertson sat on the
19 bumper of the vehicle in order to block Warden
20 Dupont's view from obtaining the number. Ms.
21 Rheneshia Robertson began questioning Warden
22 Dupont as to his authority to obtain such
23 information. Duty Warden Dupont asked both of the
24 visitors to leave and that their visit be
25 canceled. Mr. Robertson obtained a cell phone

1 from his vehicle and began taking pictures of Duty
2 Warden Dupont and the officers involved. Duty
3 Warden Dupont asked Mr. Robertson to put his cell
4 phone back in the vehicle, but he refused. Roving
5 Security arrived and Duty Warden Dupont ordered
6 Master Sergeant Smith to notify the West Feliciana
7 Parish Sheriff's office and summon them to have
8 the visitors removed from the grounds. At that
9 time, the visitors got into their vehicle and
10 left.

11 "Ms. Robertson may appeal this decision within
12 fifteen (15) days in writing to James M. LeBlanc,
13 Secretary, Department of Public Safety and
14 Corrections."

15 Signed Darrel Vannoy, CCE, Deputy
16 Warden/Security.

17 Q. Okay. So Ms. Robertson was given notice
18 that she couldn't visit anymore?

19 A. She was.

20 Q. Did you-all later allow her to visit
21 anyway?

22 A. We did. We later allowed her to go in and
23 visit.

24 Q. Why is that?

25 A. Well, because of two things. State

1 Representative Cedric Richmond called and talked
2 to and me asked me about it and explained to me
3 that they were upset and this, that, and the
4 other, and asked me would I give them another
5 chance and that they would be on their very best
6 behavior, and it would never happen again. And so
7 we decided then to go ahead and let them come
8 back, since he assured us that they would be good
9 and would cooperate with us in every way.

10 Q. Okay.

11 A. So that's why we rescinded the letter and
12 went on and let them go ahead and visit.

13 Q. Do you know how many times Rheneshia
14 Robertson actually visited Angola?

15 A. I don't know.

16 Q. I'll mark this as State's Exhibit No. 28.

17 (The exhibit is marked as State's
18 Exhibit No. 28 for identification and is
19 attached hereto.)

20 MR. TRENTICOSTA:

21 What's the date of that -- March what
22 -- '08?

23 MS. CUMMINGS:

24 March 18.

25 MR. TRENTICOSTA:

1 May I have a copy?

2 **MS. CUMMINGS:**

3 Certainly. I'll tell you what, why
4 don't we take a brief break, and I'll get
5 you a copy of it.

6 (Off the record.)

7 **BY MS. CUMMINGS:**

8 Q. Okay. Warden Cain, we have just a few
9 more things to go over. Were you able to review
10 the visitor's logs to determine when else
11 Rheseisha Robertson visited Albert Woodfox.

12 A. I have, and she visited Albert Woodfox on
13 two occasions. One was on 1/11/2008, she visited,
14 his niece, and also on 4/6/2008, those two times.

15 Q. And those are the only two times that your
16 records reflect that she visited him?

17 A. Right.

18 Q. Okay.

19 A. Correct.

20 Q. We also talked before the break about a
21 conviction he had for aggravated escape?

22 A. It wasn't '81. It was 1969 from Orleans
23 Parish, and also an aggravated escape and a
24 similar escape was in 1965, that was the two
25 escapes.

1 Q. Okay. I am going to show you what I have
2 marked as State's Exhibit No. 29.

3 **(The exhibit is marked as State's**
4 **Exhibit No. 29 for identification and is**
5 **attached hereto.)**

6 **MS. CUMMINGS:**

7 Mr. Trenicosta, it is the Statement of
8 Facts on the aggravated escape.

9 **MR. TRENTICOSTA:**

10 Yeah. If we can -- I'm sorry, he --
11 if I can just get -- did I hear him say
12 that there was an escape in '65?

13 **THE WITNESS:**

14 In '69.

15 **MS. CUMMINGS:**

16 '65 and '69.

17 **MR. TRENTICOSTA:**

18 '65?

19 **MS. CUMMINGS:**

20 Simple escape in '65 and aggravated
21 escape in '69.

22 **MR. TRENTICOSTA:**

23 Okay.

24 **BY MS. CUMMINGS:**

25 Q. Warden Cain, can I have you identify what

1 is marked as State's No. 29?

2 A. All right. Information for Violation
3 R.S. 14:109, and this is *State of Louisiana vs.*
4 *Albert Woodfox*, and this is a Summary of Facts.
5 And it says "On October 9, 1969, Albert Woodfox
6 was in lawful custody of the Orleans Parish
7 Criminal Sheriff by reason of having been
8 previously convicted of armed robbery and
9 sentenced to serve fifty (50) years in the
10 Louisiana State Penitentiary. On October 9, 1969,
11 he was brought back to Section "B" of the Criminal
12 Court in connection with another criminal charge.
13 At some time while the defendant was in the
14 criminal court building someone slipped him a
15 German Lugar pistol. On being returned to the
16 Parish Prison, he produced this pistol and used it
17 to secure his release and to handcuff two criminal
18 sheriff deputies in the elevator of the Criminal
19 Courts Building. He then released one of the
20 prisoners and made good his escape through the
21 basement of the criminal courts building. He was
22 subsequently apprehended in New York, New York and
23 extradited to Louisiana for trial of this charge."

24 He used a German Lugar that someone slipped to
25 him.

1 Q. Okay. Does that play any part in your
2 opinion that Albert Woodfox should never be
3 released or should not be released?

4 A. He resorts to extreme violence, yes. He
5 resorts to extreme violence when he needs to to
6 get out. Also, what else is he's locked in time
7 because someone helped him, someone gave it to
8 him.

9 Q. Okay.

10 A. Grouped up.

11 Q. I would like to show you what I'm going to
12 mark as State's Exhibit No. 30.

13 (The exhibit is marked as State's
14 Exhibit No. 30 for identification and is
15 attached hereto.)

16 Are you familiar with this document?

17 A. No, not really. This is -- is the
18 September 9, 1973, "Dear Sister Diane..." --

19 Q. Well, let me ask you, was this part of his
20 deal?

21 A. It is part of his record. I can tell that
22 from the size and the way it is, yes.

23 Q. This is part of his DOC record?

24 A. I think so. I am sure it is.

25 Q. Okay. And it purports to be a letter

1 written to Diane, and who is it from?

2 A. Albert Woodfox.

3 Q. Okay. Is this letter significant to you
4 in any way?

5 A. It is, because -- yes, it is. You can
6 read in here "Because I have been told by many of
7 my correspondents, that I am extreme. But I view
8 amerikkka..." -- and he spelled it real crazy,
9 more like the Black Panther would, I suppose.

10 Q. Why do you say like a Black Panther would?

11 A. Well, a-m-e-r-i-k-k-k-a.

12 Q. Okay.

13 A. "...And her lies, capitalism, imperialism,
14 racism, exploitation, oppression, and murder of
15 the poor and oppressed people, as being highly
16 extreme. It is my opinion that anyone who views
17 these situations as anything other than extreme,
18 is a petty bourgeoisie, or a capitalistic fool!!!!.
19 History has taught us that revolution, is a
20 violent thing, but a highly necessary occurrence
21 of life. Revolution, is blood shed, deaths,
22 sacrifices, hardships, nothing can, and will
23 change that. The passing out of pamphlets, is
24 only a method of avoiding the unavoidable. It is
25 the job of the revolutionary forces in this

1 country, to manufact revolution, instead of trying
2 to avoid it, to do other wise, is the act of an
3 opportunist."

4 This is very scary because it means that it
5 needs revolution. That his -- obviously, his
6 branch -- the Black Panthers -- wouldn't want to
7 be the ones who would be the militants to cause
8 it, and it has to happen, and to postpone it is
9 merely postponing the inevitable. Violent
10 revolution is very scary for America, for us.

11 Q. Okay. What is the date on that letter?
12 Do you see a date reflected?

13 A. September 9, 1973.

14 Q. Okay. And do you know whether his
15 political views have changed since that time?

16 A. That is what is scary to me. Because I
17 think not because even in 2007, I think it was,
18 but when I was there as the Warden in the 2000's,
19 we had the protest out front where release the
20 panther and Angola is a shame, Burl Cain to blame,
21 but there was a Black Panther demonstration there.
22 And it seems as though Albert Woodfox and Herman
23 Wallace is locked in time with that Black Panther
24 revolutionary actions they were doing way back
25 when, and that they're still hooked up to that.

1 And that's still their motive and that's still
2 their goal. And from that, there's been no
3 rehabilitation. And even when Robert King
4 Wilkerson came with Congressman Conyers to Angola,
5 he handed me out pralines. They gave me a little
6 pack of pralines, Congressman Conyers did, and on
7 that pack of pralines was a Black Panther.

8 Q. Now, who is Mr. Wilkerson?

9 A. Well, he was an Angola 3, and he is the
10 one that has been released. Also, we had a -- I
11 had a seen a film of somewhere that they had even
12 a clenched fist of the Black Panther here in
13 recent times.

14 Q. It's funny that you should mention that.
15 I would like to show you what I'm going to mark as
16 State's Exhibit No. 31.

17 **(The exhibit is marked as State's**
18 **Exhibit No. 31 for identification and is**
19 **attached hereto.)**

20 Can you identify that?

21 A. Yes. That's Albert Woodfox and Herman
22 Wallace, and they have a clenched fist and this is
23 dated -- in his own words, Albert Woodfox of the
24 Angola 3, March 29, 2007, is when this was posted.

25 Q. Okay. And you said they have the clenched

1 fist, what is that a sign of?

2 A. It is a sign of the Black Panther, the
3 clenched fist. And it is also a sign in this of
4 another one of those three-way call interviews
5 that is illegal out of Angola, because it was
6 interviewed by Kari Lydersen, in *Infoshop News*
7 *Exclusive*, 2007. And the way they do that is they
8 call their attorney, and their attorney then does
9 a three-way call, which is illegal. And they
10 continue to do this.

11 Now, let's go back and revisit this. Here are
12 these inmates that came into the prison as Black
13 Panthers and violent, killed the correctional
14 officer in 1972 and continue on, not
15 rehabilitated. And when we started the
16 deposition, we talked about, who is rehabilitated.
17 And so they're not, because they haven't changed
18 from the beginning.

19 We didn't see a progressive change as we see
20 in many, many inmates that come in very violent
21 and then they settle down as they get older and
22 they become less violent. We do not see that with
23 these two inmates that are still in Angola.

24 Q. Okay. You indicated -- you talked about
25 before the demonstrations, the Black Panther

1 demonstrations in the 2000's, were they -- do you
2 know that they were connected in any way to Albert
3 Woodfox? Did they have signs with his name,
4 anything indicating that --

5 A. They were there to free the Panthers.
6 Free the Panthers. The Panthers are Albert
7 Woodfox, Herman Wallace, the Angola 3. And this
8 is the scary thing about releasing Herman Wallace
9 and Albert Woodfox. When they took Wallace to
10 Camp J, he acted out, he tore up the toilet, he
11 threw everything, he was very violent because that
12 was his partner's comrade.

13 It's almost like Robert King Wilkerson is out
14 waiting for them to come on and join him, so they
15 can pick up where they left off. And that is what
16 is this revolutionary stuff. How do we know that
17 is not the case? And that's what worries me about
18 him.

19 Q. Did you tell me that Wilkerson actually
20 visited Angola?

21 A. Wilkerson attempted to visit, changed his
22 name to King -- well, he changed it one way or the
23 other. And so he got through the visiting shed
24 because he had changed his name where they process
25 him in, all the way into the prison, all the way

1 into CCR when someone recognized him, and then we
2 stopped and then the visit never occurred. But
3 the potential for the visit was there, and he was
4 trying to get in to visit them. And so then we
5 put him out of the prison and kicked him out. He
6 was trying to break in the prison there.

7 Q. All right. He was trying to break in the
8 prison, that's a new twist, isn't it?

9 A. A little bit.

10 Q. Okay. This is No. 31, and I just want to
11 be sure I keep these. We had to review the
12 Statement of Facts from the aggravated escape, and
13 you are also aware you indicated that the --

14 A. I said it was '81, but it wasn't. I was
15 confused when I said '81. The two was when I
16 later referenced them. One was in '65 and one
17 '69.

18 Q. Did those convictions play any -- and
19 especially the facts of the one reflected with
20 Exhibit No. 29, does that play any role in your
21 opinion or play any part in you forming the
22 opinion that he is likely to flee?

23 A. He is likely to flee. He is likely to do
24 what he can to hook up with King Wilkerson, and
25 they're waiting for Wallace. I mean, yes, I would

1 come back. I think he would flee. He has not
2 rehabilitated, and that is what so concerns me.
3 And when we talk about model prisoner, we're
4 talking confined only to a small period of time
5 regarding violence and the violence would have
6 been in that small period of time while he lived
7 in CCR, and he couldn't commit violence really
8 hardly because he was in CCR in a cell
9 environment. When you move him from the cell
10 environment on into the prison population -- I
11 wouldn't put them there, because he has a
12 potential to start organizing, to organize for
13 violence, and he has a potential for violence.

14 Q. Well, let me ask you this, where is he
15 now?

16 A. Okay. He is in a maximum-security
17 dormitory.

18 Q. Okay.

19 A. Okay. And he is in with 13 other inmates
20 or 12.

21 Q. Is this like general population?

22 A. No.

23 Q. Okay.

24 A. This dormitory is where other CCR inmates
25 are where he has associated with and have known,

1 okay. And part of that was we were trying to work
2 out a settlement really. Warden Vannoy and I had
3 talked about it and we felt like we could take
4 those other inmates who had progressed themselves
5 and had shown very little violence and put them in
6 with them, and then have strict, strict
7 restrictions.

8 We took a 64 man dormitory and converted it to
9 like 15 inmates, and then we fenced off part of
10 the yard. We put this yard right in front of a
11 tower. I mean, right by the tower, so that all
12 the time they were on the yard someone was in the
13 tower with a gun, and so could watch them. And
14 then we restricted them to that area.

15 They moved to the kitchen and to church when
16 no one else went to church. They were in the
17 kitchen when no one else was in the kitchen. The
18 only time we let them be with other inmates was in
19 the visiting room. The reason being is we have
20 extraordinary security in the visiting room. We
21 have cameras there. We also have other inmates
22 who have their visitors, who I think would act,
23 you know, really, really negatively towards any
24 violence in the visiting room. And so they would
25 be there with their visitors as well, and so we

1 felt like we could handle that. And that was the
2 only time they were there with other inmates.

3 Q. Okay. So he still has restrictions and
4 the security is very heightened?

5 A. Very, very.

6 Q. Okay. And you did this -- why did you do
7 this?

8 A. Well, we had to sue the Angola three. We
9 felt like that if we made some gesture, because we
10 felt like to be candid with you that even a
11 supermax prison that anyone in extended lockdown
12 in the country could be at jeopardy, because even
13 our own death row, because on death row we have
14 people 22 years there. We certainly want to keep
15 people on death row in cells.

16 We have the same exact rules for death row and
17 CCR throughout time. It's a little more lax now
18 for CCR than death row regarding contact visits.
19 But anyway, we didn't want to jeopardize the
20 long-term cell block confinement for anybody,
21 anywhere, in any state, so we felt like we might
22 could move this suit onto settlement if we created
23 this maximum-security dormitory and gave them even
24 more freedom than they had before to try to get
25 there, and then choose these other inmates that we

1 felt like could adapt and live with them.

2 This business of corrections is very, very
3 judgmental and very, very -- you have to have a
4 lot of experience to determine who can live with
5 whom safely. And that's why you don't willy-nilly
6 make these decisions. I mentioned already about
7 gambling, you can't.

8 To release them into the population, general,
9 I would fear greatly that he would escape. The
10 very best way to escape from us is to take
11 hostages, okay. It's a way to commit suicide by
12 us shooting him, which makes you a martyr or it's
13 either a way to get out. And as he gets older
14 then the options for that become greater in my
15 mind.

16 I would never put him in population for those
17 reasons. Also, he don't want to be there. He
18 wants to leave really bad. And so bad enough to
19 use violence to get out.

20 Then you go put him in the public. I wouldn't
21 do that at all. I don't feel like the public
22 would be safe. I think it's a threat to the
23 public. He has a life sentence for murder of a
24 correctional officer, and he needs to stay there.

25 Q. Okay.

1 **MS. CUMMINGS:**

2 All right. I will tender.

3 **MR. TRENTICOSTA:**

4 Let's take a ten-minute break, please.

5 (Off the record.)

6 **EXAMINATION BY MR. TRENTICOSTA:**

7 Q. Warden Cain, we met in 1995; isn't that
8 right?

9 A. Right, I believe so. I don't remember
10 exactly.

11 Q. Is that when you first arrived at Angola?

12 A. It was.

13 Q. Before -- and you've been the warden ever
14 since; correct?

15 A. Ever since.

16 Q. And before 1995, did you work for the
17 Department of Corrections?

18 A. I did.

19 Q. What was your job?

20 A. I was the warden at Dixon Correctional
21 Institute from 1981 to 1995?

22 Q. Okay. Were you a corrections officer or
23 warden before 1981?

24 A. No. I was assistant secretary for
25 agribusiness at the time.

1 Q. For DOC?

2 A. For DOC.

3 Q. Okay. Let me first begin where you began,
4 I guess, in matters with some of these write-ups.
5 You have no direct knowledge of anything that
6 occurred before you were there; right?

7 A. No.

8 Q. Do you have any direct knowledge of any of
9 the incidents that occurred since you've been
10 warden that we just went over?

11 A. Direct knowledge of the write-ups since
12 I've been the warden?

13 Q. Direct knowledge of the incident?

14 A. Can you give me -- what do you mean? Like
15 the porn, like, did I see it, did I go there and
16 get it and find it?

17 Q. That's direct knowledge.

18 A. No, I have the direct knowledge of it.

19 Q. Do you have any direct knowledge of any of
20 the incidents?

21 A. No. Other than the direct reading of the
22 reports and the reports would be accurate.

23 Q. You believe they're all accurate?

24 A. Oh, yes.

25 Q. Sometimes inmates go to DB Court and

1 they're found not guilty; correct?

2 A. Sometimes.

3 Q. Sometimes the reports are inaccurate;
4 correct?

5 A. No.

6 Q. The reporting officer never writes an
7 inaccurate report, that's your testimony?

8 A. I would say that he never writes an
9 inaccurate report unless he makes a typographical
10 or what kind of error because we protect our
11 court, that is our integrity and that is our
12 reputation with the inmate population. And if we
13 sham the court, we lose control of the prison,
14 because we lose credibility with those in our
15 care. I would absolutely, just as Judge Frank
16 Palazola would insist that his court have accurate
17 information would I do the same at Angola. I
18 would never say I have an inaccurate court, no.

19 Q. Do you have any knowledge of the accuracy
20 of report writing in the 1970s?

21 A. I do not in the '70s.

22 Q. All right. You do have knowledge of
23 report writing in terms of directives to the
24 officers since 1995; correct?

25 A. I do.

1 Q. But nothing before that?

2 A. I wasn't there.

3 Q. Now, at DB Court what rights are afforded
4 to the alleged offender?

5 A. The right is that the alleged offender to
6 have an inmate counsel and to make his case.

7 Q. Do they have the ability to confront their
8 accusers?

9 A. On some occasions. On some occasions not.

10 Q. So the answer would be no?

11 A. The answer was sometimes.

12 Q. Is it in the rule book? Does it say
13 sometimes you can confront your accusers?

14 A. No, but sometimes we let them confront
15 their accusers.

16 Q. But it's not a rule that it's a right to
17 the individual?

18 A. I don't believe.

19 Q. Okay. And is the individual afforded
20 counsel? And I don't mean a prisoner.

21 A. No.

22 Q. Okay. Is the inmate afforded any kind of
23 discovery?

24 A. No.

25 Q. Can the inmate testify?

1 A. Yes.

2 Q. Can the inmate ask questions to the
3 testifying witnesses?

4 A. His counsel can.

5 Q. But he can't?

6 A. No.

7 Q. So we don't -- a disciplinary court is not
8 like a constitutional court. In other words,
9 there is a lot greater rights guaranteed granted
10 to the accused in a court of law, but not in the
11 court in a disciplinary court; right?

12 A. Correct.

13 Q. Now, sometimes, would you agree that the
14 result is not a correct result? In other words, a
15 finding of guilt?

16 A. Sometimes we grant the appeal.

17 Q. Well, I'm talking about the finding of
18 guilt?

19 A. Correct.

20 Q. Always correct in your eyes?

21 A. I have to believe it's always correct.

22 Q. Do you believe it's always correct in a
23 court of law?

24 A. I have to believe it's a republic, and the
25 court of law is a court of law and that's what we

1 do.

2 Q. Do you believe that a verdict of guilty is
3 always the truth in a court of law?

4 A. Not always.

5 Q. Do you believe --

6 A. I can't go there.

7 Q. You've seen some exonerated prisoners out
8 of your penitentiary, haven't you?

9 A. I have.

10 Q. Some of them were on death row; correct?

11 A. Right.

12 Q. For murder; right?

13 A. Right.

14 Q. Some for rapes; correct?

15 A. Right.

16 Q. And would you agree that sometimes the
17 verdict of guilt in a disciplinary court may not
18 be the truth?

19 A. Not really. I can't question my own court
20 or then my court is a farce. I have to believe in
21 my court, my DB Court. I have to trust it, and I
22 have to make sure it is trustworthy.

23 I'm not saying there's not a mistake that
24 could be made, but there's not going -- we're
25 going to be innocent or guilty, and we're going to

1 be accurate and correct, or my credibility with
2 the inmates is zero, and they will hold me
3 accountable.

4 Q. Witness can lie, can't they, in a DB
5 Court?

6 A. Witness can lie.

7 Q. Garbage goes in and then the result maybe
8 is unreliable; correct?

9 A. Yes.

10 Q. Sometimes your officers lie; correct?

11 A. I hope not.

12 Q. Do you believe they do?

13 A. No.

14 Q. You believe that your officers have never
15 lied while you've been in administration in DB
16 Court?

17 A. If they lie and I know they lie, I fire
18 them.

19 Q. So sometimes they have lied?

20 A. I've never fired one for lying.

21 Q. Okay. I believe -- let's if we can, talk
22 about a few of these -- do you have inmates at
23 your penitentiary that have been there for 40
24 years?

25 A. Yes.

1 Q. Do you have inmates who in that span of
2 time have, quote, unquote, "settled down" from the
3 rule violations?

4 A. Yes.

5 Q. Some inmates may have 100 rule violations
6 in the first decade of their time; correct?

7 A. Yes.

8 Q. May have 50 the next decade; correct?

9 A. Yes.

10 Q. The last decade they may have two or
11 three; correct?

12 A. Yes.

13 Q. Would you call that person as having a
14 propensity for violence?

15 **MS. CUMMINGS:**

16 I would like to just object to the
17 form of the question. I think he would
18 have to have more information on the
19 offenses that were committed.

20 **BY MR. TRENTICOSTA:**

21 Q. Typical offenses. Typical offenses that
22 you would see in any case. Same offenses, let's
23 say, you would see with Mr. Woodfox, disobedience,
24 hollering, and those kind of offenses?

25 A. That's defiance.

1 Q. Defiance?

2 A. Uh-huh. But I know Mr. Woodfox hasn't
3 changed. I know him.

4 Q. Have you met him?

5 A. Yes.

6 Q. How many discussions have you had with
7 him?

8 A. I've had a few alone.

9 Q. Well, how many and when?

10 A. I don't know exactly.

11 Q. Well, let's look at the last one. When is
12 the last time you had a conversation with him?

13 A. Oh, I don't remember. It was when Pastor
14 Sybil (phonetically spelled) was there. It has
15 been a couple of years.

16 Q. When what happened?

17 A. I talked to him in the new dormitory.

18 Q. So that's twice. How long was your
19 conversation in the new dormitory?

20 A. Not too long.

21 Q. Five minutes?

22 A. Could have been.

23 Q. The time before that, how long was your
24 conversation?

25 A. I don't know. It was a casual

1 conversation.

2 Q. And where was the casual conversation?

3 A. CCR.

4 Q. CCR, that's twice. Can you name another
5 one?

6 A. I'm sure I've had more. I don't remember
7 just exactly when. I've been there a long time.
8 I've talked to many inmates many times.

9 Q. Sure. And we -- let's go through some of
10 these, if we can. On the discussion that you gave
11 on the last write-up which was the possession of
12 pornographic photographs, you said that Mr.
13 Woodfox violated other rules, but that you didn't
14 want to come down hard or something to that
15 effect, explain.

16 A. Three-way calls was another rule. It's
17 illegal. It's against the rules. Normally we
18 would take your phone privileges. That's one.
19 The other one was when they did the television --
20 the telephone interview which was a three-way call
21 that resulted in an illegal interview, so that's a
22 double violation. Those are specific violations.

23 Q. So why didn't you write him up?

24 A. Because I knew that the folks that were
25 defending him in the lawsuit would accuse us of

1 harassing him, and I wanted not to be accused of
2 harassing him. I wanted to let him just be free,
3 plus it showed me a lot that he was still a rule
4 breaker which means he is not rehabilitated.

5 Q. And this showing wasn't harassment for the
6 civil lawsuit?

7 A. It showed me one more thing. He thinks he
8 going to get out. Therefore, to break the rule
9 and mess himself up was just flat dumb and stupid
10 or defiant.

11 Q. Why did you file charges against
12 co-plaintiff?

13 A. Wallace?

14 Q. For a three-way call?

15 A. Wallace did the three-way call, got the
16 attorney to send \$60 to another inmate to pay for
17 some jewelry which was illegal, because he was
18 sending money from Wallace to another inmate and
19 involved the attorney to do such, so his
20 infraction was greater than Woodfox.

21 Q. Which attorney?

22 A. I would have to see the documents. It
23 starts with an "R". I believe it's an attorney.
24 Okay. (Viewing documents.) "On June 10, 2008, an
25 employee of inmates account send an email to

1 Colonel Bobby Achord of investigation in which he
2 advised that Herman Wallace, Eagle One, sent \$60
3 to Tory -- T-O-R-Y Pegram, P-E-G-R-A-M, 1810 Adams
4 Street, New Orleans. When she did deposit, she
5 found that T. Pegram sent \$60 to inmate..." --

6 Q. That's not responsive to my question. I
7 asked you which attorney?

8 A. It was my understanding -- if I keep
9 reading this I'll get to it I think.

10 Q. Well, can you read it to yourself?

11 A. I think Troy Pegram was an attorney or is
12 an attorney.

13 Q. If I told you that Tory Pegram was just
14 put on Mr. Woodfox's visiting list, would that
15 tell you she's not an attorney?

16 A. It wouldn't tell me she is or she isn't.

17 Q. Okay. Do you do background checks on
18 visitors?

19 A. On visitors we do. But I don't --

20 Q. And Ms. Pegram, as I appreciate it, was
21 just put on Mr. Woodfox's visiting list.

22 A. It's my understanding --

23 Q. And your background information on her
24 says that she's an attorney?

25 A. It's my understanding she's an attorney,

1 but she may not be his attorney. Anyway that's
2 why --

3 Q. Well, we don't know if the accusation of a
4 three-way call with Mr. Woodfox is correct, do we?

5 A. Yes. I know it's correct. I've got the
6 interview, and he made comments in the interview.
7 I also have another phone record where Herman
8 Wallace was talking to his lawyer using Woodfox's
9 pin number and Woodfox talked to him, too. I have
10 them both on recordings.

11 Q. Let me rephrase my question because I
12 wasn't clear enough.

13 A. All right.

14 Q. Mr. Woodfox was never accused of a
15 three-way call, was he?

16 A. Not officially. But I know it. I have a
17 recording. I can prove it.

18 Q. Okay. Let's look at State's Exhibit
19 No. 3. You stated, if I can paraphrase, maybe I
20 do have it correctly, they were throwing waste on
21 each other, and I think that was referring to
22 Woodfox was throwing human waste?

23 A. Apparently, they were throwing human waste
24 at each other.

25 Q. Does it say that on the document?

1 A. It's on their cell bars -- both of them.
2 So either he had to -- he was throwing it out or
3 throwing it in.

4 Q. Could it possibly be someone throwing
5 human waste at Mr. Woodfox?

6 A. It could be and I would ask why. How did
7 Mr. Woodfox provoke him to throw human waste at
8 him, because obviously there's conflict between
9 the two.

10 Q. And you would assume Mr. Woodfox made the
11 provocation?

12 A. I would assume they both.

13 Q. Interesting. You have some mentally ill
14 people that live on CCR, don't you?

15 A. I have CCR inmates that live on CCR.

16 Q. Do you have mentally ill prisoners living
17 at CCR?

18 A. I have 1,900 inmates taking psychotropic
19 medicines. I don't know where they live, but I
20 would hope the medicine would tame them down. I
21 have some on a different part of CCR, the old CCR
22 TU.

23 Q. I guess the answer would be, yes, then;
24 right?

25 A. The answer would be, I'm not sure who.

1 Q. But you -- I didn't ask who, did I?

2 A. I said I have 1,900 taken psychotropic
3 medicine.

4 Q. There's nothing in State's Exhibit No. 3
5 that suggests that there was provocation from
6 Woodfox, is there?

7 A. Yes.

8 Q. What?

9 A. That he was involved. They wouldn't throw
10 it on him if he hadn't caused you to do it, or he
11 wouldn't be throwing at him if it wouldn't be on
12 his bars. Absolutely.

13 Q. An inmate only gets human waste thrown on
14 them when they are provoked, when they provoke it
15 to happen; is that your testimony?

16 A. Not only but if you throwing human feces
17 at somebody, you have to have normally a reason.
18 You just wouldn't throw it at the wall.

19 Q. Right. But we don't know if Woodfox threw
20 anything, do we?

21 A. We know Woodfox was involved for sure.

22 Q. We know Woodfox had something thrown at
23 him, don't we?

24 A. We know that Woodfox was involved for
25 sure. We can't gamble that he wasn't.

1 Q. Now, the three -- this was State's Exhibit
2 No. 3 dated 9/19/2000, and I think the other two
3 incidences that your question -- State's Exhibit
4 No. 1 and State's Exhibit No. 2 all occurred in
5 this decade; correct?

6 A. I think so.

7 Q. Are there any -- there were three in this
8 -- so far in this decade that would be like eight
9 years and ten months. Were there any other
10 incidences outside of these three?

11 A. No. The ones that you told me there were,
12 were the ones that just happened.

13 Q. Thank you. Now, on State's Exhibit No. 4,
14 I want you please to give us the disposition of
15 that incident?

16 A. I don't see the disposition. I see that
17 they checked the seriousness of the offense, the
18 need to protect the institution, the employees of
19 each other. Those are checked, so therefore I
20 don't see other than that. I see that he plead
21 not guilty.

22 Q. There is no disposition, is there?

23 A. There are two checks that are in the
24 spaces where you would put it after you have a
25 guilty plea or a guilty verdict. Seriousness of

1 the offense is checked and the need to protect the
2 institution of employees from other inmates is
3 checked, therefore there would have to be a guilty
4 plea.

5 Q. But guilty is not checked, is it?

6 A. But two things that sustain guilty is
7 checked.

8 Q. So if Mr. Woodfox testified under oath
9 that he was cleared of this charge, would you
10 accept that as true?

11 A. Absolutely not.

12 Q. There's nothing to indicate he wasn't, is
13 there?

14 A. There are two things I just told you that
15 indicated he was.

16 Q. Okay.

17 A. For sure.

18 Q. Now on Exhibit No. 5 you testified that --
19 on State's Exhibit No. 5, you testified that there
20 was a spear, and we don't know what kind of
21 material this was, do we?

22 A. A pole. No, we don't know what kind of
23 material, but a telescopic pole and that would
24 mean it had to fold into itself and be a pole.

25 Q. It could have been paper, couldn't it have

1 been?

2 A. Paper is very dangerous.

3 Q. Could it have been paper?

4 A. It could have been paper.

5 Q. Okay. And you suggested that a burn can
6 or maybe just a can, can be a dangerous weapon.
7 Are you aware that inmates heat water in cans all
8 the time in your institution?

9 A. Not all the time. I'm aware that they do
10 that.

11 Q. Regularly, let's put it that way.

12 A. They break the rules, too, when they're
13 doing it.

14 Q. Why would an inmate -- would an inmate
15 want to heat water to drink instant coffee?

16 A. No. He might want to heat it to throw it
17 on somebody.

18 Q. Would he want to heat water to drink
19 instant coffee?

20 A. No. He has a microwave.

21 Q. In 1992 on CCR, you're telling us that
22 there was a microwave?

23 A. That was before my time. I don't know.

24 Q. Thank you. Now, what's a snitch?

25 A. A snitch?

1 Q. Yes.

2 A. An informant.

3 Q. An informant. Snitches sometimes lie?

4 A. Yes.

5 Q. To gain favor?

6 A. Yes.

7 Q. How do you know when a snitch is telling
8 the truth?

9 A. When you have more than one and you can
10 collaborate.

11 Q. If you got two snitches you're good to go?

12 A. Not necessarily, but that's better than
13 one.

14 Q. Now, in Exhibit No. 7 it's an incident
15 involving snitches; correct?

16 A. Three confidential informants.

17 Q. Now, are you aware that this write-up
18 occurred after Mr. Woodfox sued David Ross?

19 A. It wouldn't matter.

20 Q. Are you aware?

21 A. No.

22 Q. Okay. Take No. 9 for a second -- this is
23 1985. The -- you stated he, meaning Woodfox, ran
24 out of his cell?

25 A. Yes.

1 Q. Do you know what Mr. Lewis did?

2 A. No.

3 Q. You weren't there?

4 A. No. But I know Mr. Woodfox was the
5 aggressor.

6 Q. Are you aware that this is the only
7 incident of physical violence involving inmate --
8 an inmate with Mr. Woodfox?

9 A. I think he stabbed another inmate.

10 Q. Why do you think that?

11 A. I think I have the record to prove that.

12 Q. How do you know that proves anything?

13 A. How do you know it doesn't?

14 Q. It could say I stabbed him. Where does it
15 say that Mr. Woodfox --

16 A. It didn't say.

17 Q. -- stabbed an inmate? Do you know?

18 A. It says -- I read it.

19 **MS. CUMMINGS:**

20 Hold on.

21 A. "4/18/72 inmate locked up and charged with
22 the murder of Brent Miller."

23 **BY MR. TRENTICOSTA:**

24 Q. Uh-huh.

25 A. "Inmate waiting to be tried. The Board

1 feels this inmate should remain in lockdown
2 because he is dangerous to inmates and free
3 personnel. His record shows where he stabbed
4 another inmate."

5 Q. Excuse me, I can't see inmate so may I
6 look at your copy?

7 A. I'm seeing "i-n-m-" -- that's close enough
8 for me to believe that says inmate.

9 Q. Okay. Do we have any record that -- this
10 is a lockdown report; correct, not an incident
11 report; right?

12 A. Right.

13 Q. Do we have an incident report of this
14 so-called stabbing?

15 A. I don't know, if we have it with us. I'm
16 sure we have it.

17 Q. Where is it?

18 **MS. CUMMINGS:**

19 I'm sure she's looking for it right
20 down there.

21 **MR. TRENTICOSTA:**

22 I'll wait.

23 **MS. LACY:**

24 It's a stabbing report.

25 **MS. CARTER:**

1 What's the date on it?

2 **MS. CUMMINGS:**

3 It would have been --

4 **MS. CARTER:**

5 What's the date?

6 **THE WITNESS:**

7 4/18/72 is the date of this. It would
8 be prior to that.

9 **MR. CALDWELL:**

10 That's the day after the incident,
11 after the murder. Do we have it?

12 **MS. CUMMINGS:**

13 We apparently do not have it with us.

14 **MR. TRENTICOSTA:**

15 Can I have a copy?

16 **MS. CUMMINGS:**

17 As soon as I get it.

18 **MR. TRENTICOSTA:**

19 Where is it now?

20 **MS. CUMMINGS:**

21 We're going -- we have records prior
22 to '70 -- apparently -- Shay, clarify
23 that. How far back do we go?

24 **MS. CARTER:**

25 Brent, can you help me with that? I

1 mean, we know we have a Brent Miller
2 murder was April of '72.

3 **MR. CALDWELL:**

4 April 17, '72.

5 **MS. CARTER:**

6 And so this is before that, this was
7 part of the lockdown.

8 **MR. CALDWELL:**

9 It was some time in '72.

10 **MR. HICKS:**

11 The record we have is from his latest
12 -- the time that he was -- the latest time
13 that he was institutionalized, so things
14 that happened before that we wouldn't
15 have.

16 **MS. CARTER:**

17 We can keep trying to get it. I know
18 that's one of the --

19 **BY MR. TRENTICOSTA:**

20 Q. Warden Cain, if there exists a record that
21 reflects what's on this last line of this report,
22 where would it be?

23 A. It could be in the records office at
24 Angola, because he would have multi records maybe
25 since he's been there so long, and therefore, they

1 could pick up one and leave one, and the early one
2 would just be inadvertently left behind in our
3 records office.

4 Q. It would be in Mr. Woodfox's file?

5 A. Well, he could have multi files is what
6 I'm saying.

7 Q. Well, let's just call a file, and then
8 have volumes; right?

9 A. Yeah.

10 Q. Volume 1 of a file and volume 3 of a file.

11 A. Yeah.

12 Q. If I told you that in the civil lawsuit we
13 were presented with what Mr. Hicks and your office
14 have purported to be, was an entire file of
15 Mr. Woodfox. Have we not seen the entire Woodfox
16 file?

17 A. I would think that -- I don't know what
18 you've seen. I just know what that letter says,
19 what that lockdown report says that is in his
20 record, that he stabbed another inmate. And
21 that's in the report.

22 Q. It could be false, couldn't it?

23 A. It could be true.

24 Q. My question is, it could be false,
25 couldn't it?

1 A. It could be true.

2 Q. Okay. Exhibit No. 11 -- do you know --
3 well, you weren't there in '79. Do you have any
4 records of Mr. Woodfox ever making beer?

5 A. No.

6 Q. Exhibit No. 12, do you have any records
7 that suggest that Mr. Woodfox had anything to do
8 with bullets?

9 A. Yes. Guns, bullets, firing pin -- they
10 are peas in the pod.

11 Q. Is there anything to suggest in this
12 report that Mr. Woodfox had a gun?

13 A. Yes. A firing pin and bullets. Antennae
14 to make zip guns. I've seen many of them.

15 Q. Do you see anything in this report that
16 suggests there was a gun?

17 A. Yes. Firing pin and bullets.

18 Q. Your suggesting -- you said something
19 about an antennae. An antennae can be used as a
20 gun?

21 A. Yes.

22 Q. Was an antennae found during this
23 shakedown?

24 A. Parts of it. The bullets and the firing
25 pin.

1 Q. No, no. Was an antennae found during the
2 shakedown?

3 A. The antennae would have been on his radio.
4 Just tear it off when you're ready.

5 Q. So the answer is, no, to my question or,
6 yes, to my question?

7 A. An antennae wouldn't be found if it was on
8 the radio, because it would be part of the radio
9 which would be legal.

10 Q. Was there anything in -- do inmates use
11 pieces of metal as screwdrivers to fix their
12 radios?

13 A. Yes.

14 Q. They're not allowed a screwdriver, are
15 they?

16 A. None. Not any metal supposedly.

17 Q. Are you aware -- let's -- I want to refer
18 to No. 14 and No. 15. Are you aware or have any
19 knowledge of the lawsuit that was filed by
20 Mr. Woodfox after these two incidences?

21 A. No.

22 Q. Are you aware that in 1977 -- I'm sorry,
23 in 1978, the federal court found that the
24 penitentiary was violating civil rights through
25 strip searches --

1 A. No.

2 Q. -- as a result of Albert Woodfox's
3 lawsuit?

4 A. No.

5 Q. The strip searches that you conduct now
6 and the policy for strip searches would have been
7 informed by the federal court back in 1978, would
8 it not? How strip searches are conducted?

9 A. How they're done would have been what?

10 Q. Informed by the federal court's ruling in
11 1978?

12 A. I don't understand your question.

13 Q. Okay. You understand that Mr. Woodfox is
14 innocent today of the murder of Brent Miller?

15 **MR. CALDWELL:**

16 I object to that. That's
17 argumentative. That's a legal
18 proposition, and I object to the form of
19 that question.

20 **BY MR. TRENTICOSTA:**

21 Q. You understand constitutional rights,
22 Mr. Cain, don't you?

23 A. Yes.

24 Q. You understand that a person accused of a
25 crime is presumed innocent?

1 A. Mr. Woodfox had been convicted --

2 **MR. CALDWELL:**

3 Again, I object to the form that a
4 person is presumed innocent in a court of
5 law not when they are arrested in a jail,
6 or simply arrested in any crime, they're
7 not presumed innocent by the people
8 investigating the case. They're presumed
9 innocent as a legal proposition in a court
10 of law. And I reiterate my objection to
11 the form of the question. Subject to that
12 objection, you certainly should answer it,
13 if you can.

14 A. Would you ask the question again?

15 **BY MR. TRENTICOSTA:**

16 Q. I might have forgot it. Do you understand
17 that Mr. Woodfox is presumed innocent of any crime
18 today?

19 A. No. He's not presumed innocent. He was
20 convicted twice of murdering Brent Miller.

21 Q. Do you know that his conviction has been
22 reversed?

23 A. Both times, no, I don't know that.

24 Q. All right. Let's talk about the recent
25 one. Are you aware that a federal judge has ruled

1 that Mr. Woodfox's conviction is now reversed?
2 Are you aware of that?

3 **MR. CALDWELL:**

4 Again, I object to the form of the
5 question. His conviction may have been
6 temporarily overturned by the court and
7 that's a legal proposition, so I object to
8 the form of the question. And he can
9 answer if he so chooses subject to that.

10 A. Until we get release papers, he's in our
11 prison guilty of the murder of Brent Miller.
12 That's what I think and assume myself as warden of
13 the prison. He's still there.

14 **BY MR. TRENTICOSTA:**

15 Q. Well, then I'll ask the question, are you
16 aware that the federal court has reversed
17 Mr. Woodfox's conviction?

18 A. Not officially. I don't have any
19 paperwork to release him or send him to jail in
20 Baton Rouge.

21 Q. That's not my question, Warden Cain.
22 That's not my question. My question is, are you
23 aware that his conviction has been reversed?

24 **MR. CALDWELL:**

25 Again, I object to the question as to

1 whether or not the conviction has been
2 reversed or overturned and the legal
3 impact of it. The conviction is under
4 appeal on a right of repeal, and therefore
5 the conviction -- that's a legal issue. I
6 don't know if Warden Cain is a lawyer. If
7 he can answer the question, then fine, but
8 I object again to the form.

9 **MR. TRENTICOSTA:**

10 This --

11 **MR. CALDWELL:**

12 Counsel is characterizing the
13 conviction as reversed. And we keep
14 people in jail for murder and pursuant to
15 investigations, and so the issue that
16 we're interested in at this point is
17 whether or not a person who has evidence
18 in a file, in an investigative file and is
19 charged. He is charged by grand jury
20 indictment, 1996, and that charge is still
21 pending. So that charge is pending.

22 Now, the issue, regardless of what has
23 happened in the court is a legal issue as
24 to whether it has been reversed or whether
25 you want to call it overturned. And if he

1 can answer the question, then fine. If he
2 can't, I have my objection in the record
3 for Judge Brady to look at.

4 **BY MR. TRENTICOSTA:**

5 Q. Same question.

6 A. I'm not a lawyer. I assume he's still in
7 jail, so therefore he's still guilty until the
8 appeals have all been rendered, and I get some
9 paperwork that says he's free.

10 Q. So it's your understanding everybody in
11 jail is guilty? Come on.

12 A. In Angola. Because he's in Angola.
13 That's -- I'm not a lawyer, so I would let him go
14 if I thought he was free. Just let him go. He's
15 not free. He's in Angola.

16 Q. You don't have any direct knowledge about
17 Mr. Woodfox's involvement with Mr. Miller, do you?

18 A. No direct knowledge, no.

19 Q. Thank you. Would you agree that Mr.
20 Woodfox has a total of 25 rule violation reports?

21 A. I thought it was 26.

22 **MS. CUMMINGS:**

23 I think I had a duplicate.

24 A. Okay. It used to be 27, so if it 25, it's
25 25. I would agree then at 25, as far as I know.

1 **BY MR. TRENTICOSTA:**

2 Q. Okay. Fifteen occurring in the 1970s;
3 would you agree to that?

4 A. I would have to count them. I don't know.

5 Q. Would you agree that five occurred in
6 1980?

7 A. Okay.

8 Q. What's that, one every two years? And
9 would you agree two occurred in the 1990s?

10 A. No. There's more than two. I got the
11 pornography one that you don't have. That's a
12 write-up. That's three. Then I have the others
13 that I know --

14 Q. In the 1990s.

15 A. Pardon?

16 Q. The decade of the 1990s?

17 A. Oh, you're in '90s not 2000. I don't
18 know.

19 Q. Not yet. Two in 1990, that would be one
20 every five years; correct?

21 A. If that's what the record says. I'm not
22 looking at it. I don't know.

23 Q. Okay. If you assume what I'm saying is
24 correct, do you think that there has been some
25 progress made in terms of confining himself

1 through the rules?

2 A. No.

3 Q. Do you have inmates who you regard as
4 model prisoners who have five write-ups in a
5 decade?

6 A. It's not a matter of write-ups. It's a
7 matter of attitude and what you are. And they
8 protested at the front gate in 1997, release the
9 Panther.

10 Q. Did Mr. Woodfox have anything to do
11 with --

12 A. The Black Panthers --

13 **MR. CALDWELL:**

14 Counsel should be allowing the witness
15 to finish answering the question.

16 **BY MR. TRENTICOSTA:**

17 Q. Can we be responsive?

18 A. And if the -- the Black Panther owned the
19 praline, so therefore he may have less write-ups,
20 but he still has the same attitude.

21 Q. But, but -- but Warden Cain you don't have
22 any problem with Black Panthers, do you?

23 A. I have problems with defiance and protests
24 and demonstrations at the prison. I have problems
25 with that.

1 Q. You have problems with citizens
2 protesting, petitioning their government?

3 A. Violence -- protesting it. That would
4 cause violence in the prison.

5 Q. Have you seen violence being caused in the
6 prison by people protesting outside of the prison?

7 A. No. I have a good tactical team and a
8 good prison. I have good security.

9 Q. Are you suggesting that Mr. Woodfox had
10 something to do with promoting violence?

11 A. Demonstrations, yes. Violence in prison,
12 yes. I believe that. I believe the potential is
13 there for that.

14 Q. Based upon 15 write-ups that occurred in
15 the '70s?

16 A. No.

17 Q. Based upon what?

18 A. Based upon his attitude. Based upon
19 breaking rules. Based upon what he stands for.

20 Q. How do you know what his attitude is?

21 A. Look at his activities. Look at his
22 actions. Look at his write-ups.

23 Q. Three write-ups in eight and a half years.
24 Do you think that's typical of a prisoner at
25 Angola, or do most prisoners have more write-ups?

1 A. Most prisoners at Angola don't have the
2 potential for violence as he does in my opinion.

3 Q. Have you ever looked at statistical
4 analysis of write-ups that prisoners get?

5 A. Referencing what?

6 Q. A prisoner that has 25 write-ups in one
7 year. Does that happen in your prison?

8 A. I know that if an inmate uses knives and
9 perpetuates violence, that he will do it again,
10 and that's the ones that live in CCR. That's
11 experience.

12 Q. What knives has Mr. Woodfox used?

13 A. I'm giving you an example of violence and
14 why they will do it again.

15 Q. Right.

16 A. Inmates. I didn't say Woodfox.

17 Q. Can you give me an example of a knife that
18 Mr. Woodfox used?

19 A. I didn't say he had a knife. I gave you
20 an example.

21 Q. I asked you to give me an example. If you
22 can't, you can say no.

23 A. I never said he had a knife, and I didn't
24 say that he doesn't. He stabbed an inmate in the
25 record way back in 1972 or whenever it was.

1 Q. You're aware that there were scores and
2 scores and scores of stabbings in 1972, aren't
3 you?

4 A. But there were few killings of
5 correctional officers in 1972.

6 Q. Are you aware that there were scores and
7 scores and scores of stabbings in 1972?

8 A. Yes. And Mr. Woodfox is accused of
9 stabbing --

10 Q. Are you aware that --

11 **MR. CALDWELL:**

12 Counsel, allow the witness to answer
13 -- finish his answer prior to
14 interrupting.

15 **BY MR. TRENTICOSTA:**

16 Q. Are you aware?

17 A. Yes.

18 Q. Okay. Thank you. Have you seen write-ups
19 of inmates who have stabbed other inmates?

20 A. Yes.

21 Q. So they were being written up when they
22 would find that they had stabbed someone?

23 A. Yes.

24 Q. It was a regular routine, part of the job;
25 correct?

1 A. Yes.

2 Q. We had Exhibit No. 27 -- it was called or
3 referred to as a rap sheet. Do you recall this
4 one?

5 A. (Viewing documents.)

6 Q. Now, I just want to ask you -- you said
7 this shows that Mr. Woodfox had two escapes;
8 correct?

9 A. (Viewing documents.)

10 Q. And I believe you said '65 and '69?

11 A. Yes. I said he had two escapes.

12 Q. Where does it say we have an escape
13 in '65?

14 A. Well, on my sheet here it says Woodfox
15 criminal history timeline. 3/7/65 -- no, no --
16 '65.

17 Q. I am not sure if I am reading what you're
18 reading. Can you hand me what you're reading
19 there, please?

20 **MS. CUMMINGS:**

21 The agg rape was left off.

22 **MR. CALDWELL:**

23 The agg rape was left off?

24 **MS. CUMMINGS:**

25 Yes. The agg rape is not on there but

1 it's on the rap sheet.

2 **BY MR. TRENTICOSTA:**

3 Q. Where did you get this from?

4 A. Where did I get it?

5 Q. Yes.

6 A. From my lawyer.

7 Q. I'm sorry. Who is your lawyer?

8 A. Well, I got it from the attorney.

9 Q. From which attorney?

10 A. I don't know.

11 Q. Ms. Cummings? Mr. Hicks?

12 **MS. CUMMINGS:**

13 I think I gave it to him.

14 **BY MR. TRENTICOSTA:**

15 Q. Attorney General?

16 A. I'm not sure.

17 Q. Okay. I've never seen it. I'm trying to
18 understand. I'm only dealing with exhibits, and
19 I'm trying to see when you said on the rap sheet
20 we had an escape in '65, and I just -- my eyes
21 aren't that good. I can't find it. I'm trying to
22 figure out where you found it.

23 **MS. CUMMINGS:**

24 We're going to get you the minutes of
25 the conviction.

1 **MR. TRENTICOSTA:**

2 Okay.

3 **MS. CUMMINGS:**

4 So that will take care of all --

5 **MR. TRENTICOSTA:**

6 I'm just wondering where he read it.

7 **BY MR. TRENTICOSTA:**

8 Q. Are you testifying off of documents they
9 gave you but not in the exhibits here?

10 A. I had a document --

11 **MR. CALDWELL:**

12 I object to the form of the question.
13 If you want to ask him which documents he
14 objected to, then the form of the question
15 would be better, Counsel, if that's what
16 you're trying to do, and not just a
17 general thing of your objecting. If you
18 want to ask him a question --

19 **MR. TRENTICOSTA:**

20 I didn't lodge an objection,
21 Mr. Attorney General. I didn't lodge an
22 objection. I'm trying to figure out where
23 the testimony is coming from, and we were
24 dealing with State's Exhibit No. 27.

25 **MR. CALDWELL:**

1 I know exactly what you're doing,
2 Counsel. Ask the question, and he can
3 answer it if he can. I'm objecting to the
4 form of the question.

5 **MR. TRENTICOSTA:**

6 That's fine.

7 **BY MR. TRENTICOSTA:**

8 Q. Answer.

9 A. What's the question again?

10 Q. Are you testifying to documents that are
11 not in the exhibits?

12 A. I don't have a clue. I'm not a lawyer.

13 Q. Thank you very much.

14 A. I'm testifying to this document right
15 here.

16 Q. Is it your testimony that persons who are
17 on -- who live at CCR -- where is that document
18 that I had right here that Mr. Cain handed to me.

19 **MR. CALDWELL:**

20 I gave it back. I believe that was
21 the document that she pulled.

22 **MR. TRENTICOSTA:**

23 Well, let me -- just for the record,
24 the document that Burl Cain was testifying
25 to that is entitled "Woodfox Criminal

History Timeline" is not in evidence. It looks like work product of the Attorney General.

MS. CUMMINGS:

We can certainly attach it.

MR. CALDWELL:

No. We ain't going to attach any work products.

MR. TRENTICOSTA:

Sure. Why don't we attach it?

MS. CUMMINGS:

Well, he said it was work product.

MR. CALDWELL:

No. We're not going to attach that.

MR. TRENTICOSTA:

Well, then I would like to --

MR. CALDWELL:

That's our work product. And again, I object to the form of the question. Counsel is characterizing the form of the question to suit his own reasons for characterization. The witness has testified from documents that counsel has watched him testify from, and the fact that we had summaries in our own files and

1 he asked for the documents is immaterial.
2 So I don't want to attach this. It's our
3 work product and so --

4 **MR. TRENTICOSTA:**

5 Well, I think we should attach it,
6 because Burl Cain was testifying to
7 information off of that document.

8 **BY MR. TRENTICOSTA:**

9 Q. Now, Mr. Cain if a person -- if an inmate
10 is on CCR lockdown or administrative segregation,
11 whatever phrase you use, so let's just say CCR, is
12 it your testimony that violence cannot be
13 committed by the individual because they're in a
14 controlled environment?

15 A. It's not my testimony that it can't be
16 committed. It's my testimony that it reduces the
17 potential for it to be committed.

18 Q. Inmates can exhibit violence to each other
19 while on CCR; correct?

20 A. Yes.

21 Q. Inmates can exhibit violence to
22 correctional officers or other personnel of the
23 prison while on CCR; correct?

24 A. Yes.

25 Q. And they do, don't they?

1 A. Yes.

2 Q. Has Mr. Woodfox ever committed violence
3 against personnel of the penitentiary while on
4 CCR?

5 A. According to his record he has, yes.

6 Q. The incidents involving the strip search,
7 is that what you're referring to?

8 A. Yes.

9 Q. Outside of that because I was more
10 thinking about the physical space of CCR,
11 Mr. Woodfox has never exhibited violence to
12 personnel of the penitentiary, has he?

13 **MS. CUMMINGS:**

14 Wait. I object to the form of your
15 question. It sounds -- you said you were
16 going to limit it, but then it didn't
17 sound like you did. Are you -- I think he
18 responded that, yes, there were incidents
19 of violence while he was in CCR. Are you
20 limiting that to a certain area or time
21 frame?

22 **MR. TRENTICOSTA:**

23 I meant physical space in CCR. I'm
24 not sure where -- the incidences were in
25 an office by a desk as I read these

1 reports. I don't know that that's on CCR.

2 **BY MR. TRENTICOSTA:**

3 Q. Outside of those two instances, is there
4 any evidence that Mr. Woodfox displayed any act of
5 violence to any correctional officer or personnel
6 in the penitentiary?

7 A. In the penitentiary, yes, when he killed
8 Brent Miller.

9 Q. You don't know if he killed Brent Miller,
10 do you?

11 A. Yes. I know he killed Brent Miller. I
12 believe it with all my heart.

13 Q. How do you know?

14 A. I believe it. I know it.

15 Q. It wasn't on CCR, was it? No act of
16 violence -- correct me if I'm wrong. No act of
17 violence from Mr. Woodfox to any personnel at the
18 penitentiary while he's been living on CCR outside
19 of the two incidences that occurred one month
20 apart in 1977?

21 A. He ran out of the cell and fought with
22 another inmate on CCR when he had the doors open.

23 Q. I understand. Maybe you didn't understand
24 my question. I'll repeat it. Was there any
25 evidence that Mr. Woodfox committed any act of

1 violence against personnel --

2 A. Okay.

3 Q. -- of the penitentiary --

4 A. No other than Brent Miller.

5 Q. -- outside of the two incidences that
6 occurred, within a month of each other in 1977?

7 A. That and the Brent Miller killing. That's
8 all.

9 Q. You continue to refer to Mr. Woodfox as
10 being the killer of Brent Miller based on your
11 belief. Is it based on any fact?

12 A. I have the arrest report where he escaped.

13 Q. You continue to refer to Mr. Woodfox as
14 the killer of Brent Miller and you said it was
15 your belief. Do you have any facts?

16 A. Do I personally have any facts?

17 Q. Correct.

18 A. I don't personally have any facts other
19 than he's been convicted twice of doing it. And
20 the correctional officers tell me he did it that
21 were there at the time.

22 Q. Witnesses?

23 A. That's what the correctional officers that
24 were there at the time tell me.

25 Q. Are you referring to witnesses to the

1 crime?

2 A. I don't know if they were witnesses or
3 not. Stuck his head and crammed him in a garbage
4 can head first and left him there.

5 Q. But do you know witnesses -- are you
6 telling me that there are correctional officials
7 -- officers --

8 A. I don't know if there were.

9 Q. -- who were witnesses to the crime?

10 A. I said I don't know if they are witnesses
11 or not. I am saying what they tell me.

12 Q. They told you they were witnesses?

13 A. No. They told me that's what he did.

14 Q. Do you know what their knowledge is based
15 upon?

16 A. No.

17 **MR. CALDWELL:**

18 Here's your copy.

19 **MR. TRENTICOSTA:**

20 Thank you.

21 **MR. CALDWELL:**

22 Let the record show that we have given
23 Mr. Trenticosta a copy of an in globo
24 exhibit of, I believe, 11 pages which
25 purport to be records from Lafourche

1 Parish concerning his previous questions
2 about a 1965 escape, and these records
3 have been supplied to him in this
4 deposition and are marked for purposes of
5 identification as State's Exhibit No. 32.

6 (The exhibit is marked as State's
7 Exhibit No. 32 for identification and is
8 attached hereto.)

9 MR. TRENTICOSTA:

10 (Viewing documents.)

11 BY MR. TRENTICOSTA:

12 Q. Mr. Cain -- I'm sorry, Warden Cain who are
13 these officers you are referring to?

14 A. Warden Vannoy has told me about it before
15 about him being put in the garbage can.

16 Q. About who being put in the garbage can?

17 A. Brent Miller. And Warden Gunnels told me
18 about the Brent Miller killing one time, and he
19 was the one in the little house that was set on
20 fire by the -- about the time Brent Miller was
21 murdered. And the other officers I can't identify
22 in conversation.

23 Q. So Warden Vannoy, who is with us today,
24 told you that Brent Miller was shoved into a
25 garbage can?

1 A. Head first.

2 Q. Head first?

3 A. (Nodded head affirmatively.)

4 Q. He didn't tell you he witnessed the
5 murder, did he?

6 A. No. He didn't tell me that.

7 Q. And Warden Gunnels, you said he was the
8 warden back in the '70s?

9 A. No. He was just a correctional officer in
10 the little house that was set on fire.

11 Q. And does he have any direct knowledge?

12 A. I have no idea.

13 Q. Okay. Now, why did you -- why did you
14 move -- why did you open up dormitory in April for
15 some of the CCR inmates?

16 A. Well, it gave me some more CCR cell space
17 which we needed. It also gave us a chance to show
18 good faith that we would try to create a different
19 atmosphere to get away from what they kept on
20 claiming was solitary confinement that really
21 wasn't, as we determine solitary confinement. And
22 also with good faith it showed in the lawsuit that
23 we would do that, and that's why we did it.

24 We did it with extreme caution to be sure that
25 everyone was kept safe and so forth and using

1 veteran officers and so forth, with lots of
2 precautions.

3 Q. Why was the decision made in April?

4 A. Well, Secretary LeBlanc had just been
5 appointed secretary of corrections, and he and I
6 discussed it and talked about it, and I discussed
7 it with the staff. We just thought, well, we
8 could do this. And probably ten years earlier,
9 Warden LeBlanc and Warden Vannoy and I had a
10 conversation about, we wish we could find a place
11 to just have a big cage like cell thing. And we
12 had talked about this for years but never had
13 really done it. And then we just thought well
14 this is a good time to do it. It might help out.
15 So we knew we needed the cell space, so we just
16 would do it, so we did it.

17 Q. So it didn't occur because the dormitory
18 opened up or space opened up to move them out of
19 CCR?

20 A. No.

21 Q. Warden Cain under your direction at Angola
22 you have social workers and psychologists, mental
23 health professionals that make rounds to the
24 prisoners?

25 A. Yes.

1 Q. And what is the purpose?

2 A. To provide mental health treatment, etc.,
3 and social workers, and because security is the
4 authoritarian figure and the social worker and the
5 mental health worker and classification officer
6 are the side that you go to if you really need
7 compassion maybe more than you get in the men in
8 blue, and so they fill that other side of it.

9 Q. And are you aware that CCR inmates in
10 general are regularly visited by mental health
11 professionals?

12 A. Yes.

13 Q. Are you aware that Albert Woodfox, in
14 particular, has been regularly seen by mental
15 health professionals?

16 A. Not really, but probably so. I would
17 expect so.

18 Q. Do you have any knowledge of what those
19 professionals have found?

20 A. No.

21 Q. Do you think it would be important to
22 know?

23 A. I don't think he's crazy. I think he's
24 mean.

25 Q. Do you think it would be important to know

1 what the mental health professionals report about
2 Mr. Woodfox before making judgment?

3 A. No.

4 Q. Would it surprise you that of the last ten
5 years of mental health visits and evaluations that
6 Mr. Woodfox has never seen to be a danger to
7 others or suicidal, and that his behavior has been
8 well within the appropriate limits?

9 A. It wouldn't surprise me.

10 **MR. TRENTICOSTA:**

11 Counsel, I have about ten years of
12 mental health records that mainly were
13 furnished by Mr. Hicks through discovery
14 -- by Warden Cain through discovery I
15 should say -- however, they're all
16 confused as they didn't print out
17 correctly. I would like to exchange the
18 good copies for the bad copies, and if I
19 can find a few good copies to have
20 Mr. Cain read from. Is that acceptable?

21 **MS. CUMMINGS:**

22 Do you have a copy -- you obviously
23 don't have a copy for us.

24 **MR. TRENTICOSTA:**

25 No, because when I printed them out

1 this morning they came out like this.

2 **MS. CUMMINGS:**

3 Are you representing that this is all
4 the mental health reports, not a portion
5 of the mental health reports but all of
6 them over the last --

7 **MR. TRENTICOSTA:**

8 I can't represent it is every one for
9 ten years. It's close to it. I had
10 computer problems.

11 **MR. HICKS:**

12 Well, I'm obviously not counsel on
13 this case, but counsel in the civil case
14 which you are representing that I provided
15 those documents to you.

16 The documents we gave you were not
17 messed up in any way that I'm aware of.
18 I'm not sure what the -- why -- what the
19 problem in terms of them being messed up
20 is. I know that what was given to you was
21 the entire mental health records.

22 **MR. TRENTICOSTA:**

23 Yes. They're in New York. And when
24 New York tried to send them down to me
25 electronically, it was in a non-.PDF file.

1 It was .PDX or something like that which
2 doesn't compute with my computer. Then
3 they started to fax them off of their
4 computer to my fax machine, and I got a
5 lot of gobbley gook. And it took all
6 night long for this to come through, and I
7 can't -- and there's some missing just by
8 judging from the numbers on the pages.

9 **MR. HICKS:**

10 I'm certainly not in a position to
11 exchange, or do anything with respect to
12 your documents.

13 **MR. TRENTICOSTA:**

14 I understand. You were asking the
15 question, and I thought I would answer it.

16 **MR. CALDWELL:**

17 Well, I believe that in order to be
18 able to verify and examine mental health
19 reports, that it would behoove us to ask
20 the court to give us -- let us depose the
21 mental health folks if the court is so
22 inclined to do that. But to what we have
23 been examining today are business records
24 or records that are part of the Angola
25 Prison file, and then some records like

1 the LaFourche records that have been
2 marked as State's Exhibit No. 32, are
3 LaFourche Parish records, as far as I
4 remember.

5 I think we would -- in an abundance of
6 caution, we would need to look at the
7 records and see what's purported. But if
8 you want to mark something and ask him if
9 he knows what it is, or if he has seen it,
10 then I still think though we would have to
11 examine that issue on it's own. Because
12 what that's asking us to do is open the
13 door for health care professionals'
14 diagnosis or whatnot, so I'm not really
15 sure whether the court envisioned to do
16 that or not, and I honestly don't know.

17 **MR. TRENTICOSTA:**

18 I understand, Attorney General. I
19 don't know if the court envisioned that a
20 document that doesn't have any supporting
21 information is going to be worth anything.
22 Maybe we need to depose all of the people
23 who wrote the offense reports, because
24 some of them may not be what -- or we can
25 deal with it another way.

1 **BY MR. TRENTICOSTA:**

2 Q. Warden Cain, in general, the persons who
3 are at CCR receive periodic reviews; correct?

4 A. Right.

5 Q. And you were aware are you not that for
6 the last 30 some odd years Mr. Woodfox has
7 received -- reviewed by the quote, "Board" as to
8 whether he should be released from CCR; correct?

9 A. Right.

10 Q. And you've seen those documents, haven't
11 you, the review board's documents?

12 A. Not really. I've seen them some, yes.

13 Q. You've seen some?

14 A. (Nodded head affirmatively.)

15 Q. And on the document -- let me show you one
16 just as an example. Now, again just as example,
17 now on this document would you -- this is
18 identified as Woodfox 1, is this the kind of
19 review board document that is used periodically?

20 A. Yes, I see that.

21 Q. Now have you seen these before?

22 A. I have.

23 Q. Now, you are aware, are you not, that
24 there's not one review board document that
25 describes Mr. Woodfox as an escape risk; correct?

1 A. Described him as what?

2 Q. An escape risk?

3 A. There's none that say that, no. I think
4 he is though.

5 Q. And there are none, that you're aware of
6 are you that describe --

7 **MS. CUMMINGS:**

8 I would object to the form of the
9 question. He just told you he hasn't
10 reviewed the documents, and you're still
11 asking him if he's aware of what's in the
12 documents.

13 **MR. TRENTICOSTA:**

14 He said he has reviewed some
15 documents.

16 **THE WITNESS:**

17 I really haven't. I don't look at
18 these.

19 **BY MR. TRENTICOSTA:**

20 Q. But we know you have reviewed some,
21 haven't you?

22 **MS. CUMMINGS:**

23 You said you reviewed these?

24 **THE WITNESS:**

25 No.

1 **MR. TRENTICOSTA:**

2 The question --

3 **MR. CALDWELL:**

4 Why don't we mark them so it can be
5 clear.

6 **BY MR. TRENTICOSTA:**

7 Q. The question is, are you aware of any
8 review board documents that states that
9 Mr. Woodfox is an escape risk?

10 A. No.

11 Q. Okay. Are you aware of any review board
12 documents that describes Mr. Woodfox as being
13 violent?

14 A. No. Other than that that describes him as
15 being violent because that talks about the
16 original reason he's in there which is for the
17 murder of Brent Miller. So that's violent right
18 there.

19 Q. On this document --

20 **MR. CALDWELL:**

21 We are referring to Woodfox -- what
22 Counsel called Woodfox No. 1?

23 **MR. TRENTICOSTA:**

24 Sure. Woodfox No. 1. Let's call it
25 that.

1 **MR. CALDWELL:**

2 Okay.

3 **BY MR. TRENTICOSTA:**

4 Q. There are various places where a check
5 mark can be placed; correct?

6 A. Yes.

7 Q. And when the check mark of not released is
8 made --

9 A. All right.

10 Q. -- are there -- is there the word reasons:
11 and more spaces that a check mark can be made?

12 A. Yes.

13 Q. Okay. Do you see there nature of
14 commitment offense?

15 A. Yes.

16 Q. Do you see there escape risk?

17 A. Yes.

18 Q. Do you see nearer to the bottom above
19 signatures physically dangerous to himself or
20 others as evidenced by?

21 A. Yes.

22 Q. And do you see after by a colon with more
23 descriptives such as psychiatric evaluation,
24 pattern of violence, self mutilation and the like?

25 A. Yes.

1 Q. Okay. Have you -- are you aware that
2 Mr. Woodfox has been before the review board every
3 90 days and maybe even some more frequently than
4 every 90 days, but at least every 90 days since he
5 was placed in lockdown on April 18th, I believe of
6 1972?

7 A. Yes.

8 Q. Are you aware that the review board in
9 those 30 some odd years, I think it would be
10 36 years, has never ever once checked off that
11 Mr. Woodfox is violent?

12 A. Are you aware that they did check off
13 nature of original reason for lockdown is checked
14 and that's violence?

15 Q. Have they -- are you aware of any where
16 escape risk has been checked off.

17 **MR. HICKS:**

18 I found one.

19 **MR. TRENTICOSTA:**

20 You found one?

21 **MS. CUMMINGS:**

22 Yes, we sure did.

23 **THE WITNESS:**

24 Yes, we found one.

25 **MR. TRENTICOSTA:**

1 Okay.

2 **MS. CUMMINGS:**

3 Gee, I wonder if there are others?

4 **MR. TRENTICOSTA:**

5 What's the date of it?

6 **THE WITNESS:**

7 5/4/76.

8 **MS. CUMMINGS:**

9 And we would like to take this out.

10 **MR. CALDWELL:**

11 Give us copies. Counsel, if we can go
12 off the record a moment.

13 **MR. TRENTICOSTA:**

14 Yes, please.

15 (Off the record.)

16 **BY MR. TRENTICOSTA:**

17 Q. Are you aware of any other report that has
18 a check mark dealing with escape or violence?

19 A. I take issue with your escape and with
20 your violence, because it is violence to me,
21 nature of original reason for lockdown. That's
22 violence. How can you say it's not? I don't mean
23 to argue with you.

24 Q. Are you aware of any report, outside of
25 whatever we will find from the copy room in a

1 second, that the physically dangerous to himself
2 or others is checked?

3 A. Others is nature of original reason for
4 lockdown. I'm not getting away from that. You're
5 not going to convince me that he's not -- that
6 this is not referenced violence.

7 Q. Mr. Cain, I'm not trying to convince you
8 of anything. I'm only asking you a question. Are
9 you aware of any other report --

10 A. I'm giving you an answer. It's violence.

11 Q. -- that there is a check mark next to
12 physically dangerous to others?

13 **MR. HICKS:**

14 Counsel -- Counsel, I'm sitting here
15 and in just a couple of seconds found
16 another one. If you want us to go through
17 all of them, we can.

18 **MS. CUMMINGS:**

19 Let's pull them all out.

20 **MR. TRENTICOSTA:**

21 That's fine. I'm asking him if he's
22 aware of any.

23 **THE WITNESS:**

24 I am aware of two since '77.

25 **MR. HICKS:**

1 Counsel, do you want me to keep doing
2 this?

3 **MR. TRENTICOSTA:**

4 Yes.

5 **MS. CUMMINGS:**

6 Yes. Let's do it. Keep doing it. We
7 should maybe take a little brief recess
8 and pull the rest of them.

9 **MR. CALDWELL:**

10 Yes.

11 (Off the record.)

12 **BY MR. TRENTICOSTA:**

13 Q. Warden Cain, back in your deposition one
14 -- your deposition that you gave for a civil
15 matter, you were -- you stated that based upon
16 your review of Mr. Woodfox's expert Steve Martin,
17 former warden in Texas, that you believed
18 Mr. Woodfox didn't cause very much trouble. Do
19 you recall that?

20 A. I don't recall that exactly.

21 **MR. HICKS:**

22 Well, as the attorney that took that
23 deposition, I object to the form of the
24 question as mischaracterization.

25 **MS. CUMMINGS:**

1 And I'll second that objection.

2 **MR. TRENTICOSTA:**

3 Can you show me where that happened?

4 **MR. HICKS:**

5 Counsel, you asked -- I am not --

6 **MR. TRENTICOSTA:**

7 I know but --

8 **MR. HICKS:**

9 But I maintain my objection as to
10 mischaracterization.

11 **BY MR. TRENTICOSTA:**

12 Q. Let me show you, it is a page 104
13 beginning at line number 9, and I'm going to go
14 through for the moment just because on my page
15 it's 106, line number two. If you could read that
16 to yourself, just to refresh your recollection.

17 A. Line number 9, is that where it starts
18 line 9?

19 Q. Well, let's see, page 104, line 9, "We
20 retained an expert in this case who's reviewed the
21 inmates' files." Do you see that?

22 A. Yeah. (Viewing documents.)

23 Q. Tell me when you are finished.

24 A. (Viewing documents.) I am finished
25 through page 106 to 109.

1 Q. Let's see -- on 106, line 3, you were
2 asked after giving that recitation of Warden
3 Martin's report, "He could almost be, in the last
4 five years he could almost be described as a model
5 prisoner," question. And in your answer is,
6 "Yes;" is that right?

7 A. The question is "He could almost be in the
8 last five years." And see, what that meant to me
9 was if you took away everything except the last
10 five years, just that and nothing more. But there
11 was so much more from where I got accused of
12 saying he was a model prisoner almost, that's not
13 true at all. This was all taken out of context,
14 because they whittled me down to just a little,
15 bitty piece of it and left the whole rest of the
16 pie out there to stink.

17 Q. We're talking -- now, this would be of the
18 2006 deposition; right, and Mr. Martin's report
19 only reflected the last five years; correct?

20 A. He said "He could almost be in the last
21 five years," so he brought me right into that last
22 five years just looking at the record, nothing
23 else, and then he asked me the question in that
24 little, bitty ball.

25 Q. Right.

1 A. But that little, bitty ball is inaccurate
2 when you describe me saying that he is a model
3 prisoner almost, absolutely not.

4 Q. Understood. Understood, but in the last
5 five years, he has done pretty good, hasn't he? I
6 guess, it would be last seven years now.

7 A. He is like a man on death row that could
8 do good, but he is still on death row. He is
9 still dangerous, and I still can't let him out.
10 It's the same deal. He's just good because he is
11 locked in CCR into that routine and that
12 environment; and so, therefore, that's why he's
13 good, but not because he's good in his heart.
14 It's because he's good in where he lives.

15 Q. We are talking about behavior now, aren't
16 we?

17 A. We're talking about --

18 Q. He's had good behavior?

19 A. We're talking about who he is, what he is,
20 what is his potential for violence is, is what I
21 am talking about.

22 Q. Okay.

23 A. In as a whole.

24 Q. Okay.

25 A. But he's got me narrowed down to just a

1 little, bitty part. If you look at this little,
2 bitty write-up, it says he can be considered a
3 model prisoner. Well, yes, if you had somebody
4 who had -- right up as that, and don't look at
5 anything else in him, then he can be -- that's why
6 I answered it that way. To say, I say he's a
7 model prisoner in any sense of the word is taking
8 it out of context totally.

9 Q. Understood. And you said he didn't cause
10 very much trouble; correct?

11 A. Pardon?

12 Q. You also said he didn't cause very much
13 trouble based upon what Warden Martin had in
14 his --

15 A. Because the lion in a cage can't cause
16 much trouble, you see. So, therefore, he don't
17 cause no trouble because he's in the cage. He's
18 in the cell.

19 Q. Isn't it your -- I thought you testified
20 that inmates who are in cells, do -- can and do
21 commit acts of violence --

22 A. But most don't.

23 Q. -- among -- against other inmates and
24 security personnel?

25 A. But most don't.

1 Q. That's fine. They can, they have the
2 ability to do so and they do do so, some, not all?

3 **THE WITNESS:**

4 Am I supposed to elaborate on this
5 because it takes a lot of time.

6 **MS. CUMMINGS:**

7 Pardon?

8 **THE WITNESS:**

9 Am I supposed to elaborate on this
10 because it takes a lot of time.

11 **MR. CALDWELL:**

12 You should explain your answer.

13 A. I was trained by inmate Hollingsworth who
14 fought with a lock in a sock when first came there
15 as warden and knocked someone's eyeball out. He
16 nearly killed him. After a year in CCR, I let him
17 out again. Wonderful record. I let him out
18 again. He taped a knife to his hand and killed an
19 inmate.

20 Hollingsworth trained me. The ones who have a
21 propensity to murder will do it again in prison.
22 Woodfox fits that. He murdered in prison.
23 Therefore, he gets the same thing as he got.

24 The reason of balance down at Angola is if you
25 get caught with a knife or trying to kill another

1 inmate, I will lock you in CCR and don't let you
2 out anymore because of Hollingsworth. He trained
3 me. So, therefore, then the predators are locked
4 in the cell. And Woodfox fell in that category
5 because of the murder of Brent Miller.

6 **BY MR. TRENTICOSTA:**

7 Q. The record shows that in the last 18
8 years, the last 18 years, longer than you have
9 been the Warden, Mr. Woodfox has had five
10 write-ups; correct?

11 A. I won't ever let Hollingsworth out, if
12 it's 18 years. I can't, because that's what
13 trained me. That is experience teaching me which
14 others don't have and you don't have.

15 Q. Warden Cain, with all due respect, I am
16 not asking a question about whether Woodfox should
17 be in or out of CCR at the moment.

18 A. Well, I thought you were.

19 Q. Okay.

20 A. I thought you said he's a model prisoner.
21 He's really not. If he were a model prison, he
22 wouldn't in CCR.

23 Q. Well, the record shows that in the last 18
24 years, Mr. Woodfox has had five write-ups;
25 correct?

1 **MS. CUMMINGS:**

2 You better count them.

3 A. I don't know. In 18 years, five
4 write-ups? He's got more than that, sure.

5 **BY MR. TRENTICOSTA:**

6 Q. From 1990 until present day?

7 A. I've got to go and count them again? I
8 guess so. I don't know. He could have that many.
9 It doesn't matter how many write-ups he has to me
10 at all. It matters why he's in there.

11 Q. Well, do you agree that he has five
12 write-ups in the last 18 years?

13 A. I guess.

14 Q. Okay. Is that in your experience, good
15 conduct?

16 A. Nice good conduct.

17 Q. Is it good conduct?

18 A. It's good conduct.

19 Q. Okay. All right.

20 A. It doesn't reflect on the potential for
21 violence. Just good conduct, no more, no less.

22 Q. And how do you gauge whether Mr. Woodfox
23 has a great potential for a flight potential?

24 A. My experience is that one who is in prison
25 who tries to kill another in prison will try to

1 kill another in prison again. And all the ones
2 who tried to kill one in prison are all locked in
3 CCR.

4 Q. You have inmates at your penitentiary who
5 are trustees who committed murder inside the
6 prison; isn't that correct?

7 A. Sweed (phonetically spelled), he's an old
8 man, and I cut him some slack, because he was like
9 that when I got there. That's who you're talking
10 about.

11 Q. You have inmates who have committed
12 violence against other inmates but now hold what I
13 consider high positions as prisoners; isn't that
14 correct?

15 A. Yes.

16 Q. You have inmates who were once on death
17 row who now have the highest trustee status in the
18 penitentiary, don't you?

19 A. The never demonstrate at the front gate,
20 release the Panther. The never did what he did,
21 and what he stands for is violence. I believe
22 that. I can't get it out of me. I believe it. I
23 believe he is violent.

24 Q. Although the records don't reflect it, you
25 just believe it?

1 A. I have so much more experience than the
2 record and all the people that make the record. I
3 have done this 28 years. I can tell. It is just
4 what I do. I know in my heart he needs to be in
5 that cell block. He does not need to be out of
6 Angola. Pick me apart. That's the facts. I
7 believe it. He is dangerous. He is dangerous if
8 he is free in my prison, and he's dangerous on the
9 streets.

10 Q. Am I correct, your only basis -- just
11 listen.

12 A. Okay. I will listen.

13 Q. I'm sorry, I cut you off. I will try not
14 to.

15 A. Go ahead.

16 Q. But you're only basing that, are you not,
17 on your belief that he committed a murder inside
18 the penitentiary?

19 A. My belief is so accurate. It is so true.
20 I know, I believe it. I will lay my whole career
21 on it. He is dangerous.

22 Q. Is the basis of your opinion, your belief
23 that he committed a murder --

24 **MR. CALDWELL:**

25 I object to the form of the question.

1 Counsel, I believe the witness has
2 testified several times that his basis is
3 on everything that is in this record, all
4 these things we've been talking about for
5 several hours now. And having said that,
6 I object to the form and the
7 characterization through your question.
8 If he can answer it, fine.

9 **BY MR. TRENTICOSTA:**

10 Q. Ready.

11 A. Ready.

12 Q. Go ahead.

13 A. What's the question.

14 Q. Are you basing your opinion on your belief
15 -- on your opinion that Mr. Woodfox is dangerous
16 on the belief that he committed a murder?

17 **MR. CALDWELL:**

18 Object to the form of the question.
19 And here's the reason, if you are
20 objecting to -- if you're asking him if he
21 is forming it on the base of his belief,
22 if you ask him if his basis of belief is
23 solely because he committed a murder, that
24 and nothing else, which is not what he has
25 testified here to; but if that is what you

1 want to ask him, then your question should
2 be, are you basing this on -- is your
3 belief based on the fact that he only
4 committed the murder of Brent Miller, or
5 is it based on other things?

6 **MR. TRENTICOSTA:**

7 Well, it's not a belief. It's an
8 opinion. I'm asking if it is his opinion
9 that Mr. Woodfox is dangerous.

10 A. Based on everything there. I mean, if he
11 were a Ku Klux Klan man, he would be in CCR.

12 **BY MR. TRENTICOSTA:**

13 Q. Are you aware of what Mr. Robert King
14 Wilkerson has done since he has been released from
15 the penitentiary?

16 A. He is only waiting, in my opinion, for
17 them to get out so they can reunite.

18 Q. Reunite for what reason?

19 A. Because he passes out the little cookies
20 with the Panther on them. If he passed out those
21 cookies with KKK on them, it would be no different
22 to me. He would be guilty. If you build your
23 life on hatred and you're hung up back 20 or 30
24 years ago, and we have moved onto society past
25 that, you can't go back reliving in the public.

1 You're dangerous.

2 Q. Are you aware that Mr. Robert King
3 Wilkerson has not had any scraps with the law
4 since he was released after -- in the year 2000?

5 **MR. CALDWELL:**

6 I object to the form of the of the
7 question. "Are you aware," presupposes a
8 conclusion that Counsel is stating the
9 conclusion that he is not committed
10 anything, and I'm not so sure that that is
11 correct. But subject to that, you can ask
12 it. That's a bad question.

13 **BY MR. TRENTICOSTA:**

14 Q. It's your turn.

15 A. You can keep until the cows come home, I'm
16 never going to tell you he's not violent and
17 dangerous, in my opinion. I just can't do it.

18 Now, you can just keep asking me this a
19 hundred different ways, but I am going to stick
20 right where I am. I'm sorry. It's what I believe
21 as a professional in corrections with way more
22 experience than your consultant, way more, that I
23 have than he has. I know better than him. I am a
24 consultant, too.

25 Q. Well, let me ask you this, lets just for

1 the sake assume, if you can, that he is not guilty
2 of the murder of Brent Miller.

3 A. Okay. I would still keep him in CCR. I
4 still know he has a propensity for violence. I
5 still know that he is still trying to practice
6 Black Pantherism, and I still would not want him
7 walking around my prison because he would organize
8 the young new inmates. I would have me all kind
9 of problems, more than I could stand, and I would
10 have the blacks chasing after them. I would have
11 chaos and conflict, and I believe that. He has to
12 stay in a cell while he's at Angola.

13 Q. Warden Cain, what is black Black
14 Pantherism?

15 A. I have no idea. I have never been one. I
16 know they hold their fists up, and I know that I
17 read about them, and they advocated violence. In
18 that deal that I read that letter to that woman
19 that you read earlier -- that we read earlier.
20 And that is what they stand for is violence. In
21 that deal that he talks for, that's what he stands
22 for. Maybe they are nice good people, but he is
23 not.

24 Q. In your previous deposition, I think you
25 stated that you didn't have any problem with Black

1 Panthers.

2 A. I don't have a problem with them. I just
3 have a problem with him, because he's violent with
4 that stuff. He's hung up in it, back 20 years
5 ago. He stayed in prison. He never moved on.

6 There have been people who were in the Black
7 Panther religion that clenched their fists and did
8 horrible things before, that don't anymore. He
9 never left where he was before. He is still
10 living that stuff, that violence. I feel, I see,
11 I live -- I know what he stands for.

12 Q. Do you believe the Black Panthers are
13 religious people, that it is a religion?

14 A. Well, I don't know what they were. I
15 don't know anything about them. I am just telling
16 you, they moved on. He didn't. Let's don't get
17 into what they are and all that. I don't care and
18 don't know. It doesn't bother me.

19 Q. Well, I'm trying to get your understanding
20 because you said because he is a member of Black
21 Panther that he's involved in religion.

22 A. That's not why I say he is --

23 Q. I thought that is what you said. So if
24 that is the basis of your opinion --

25 A. Ask me another question.

1 Q. If that is the basis of your opinion, I
2 surely want to know what you know about the Black
3 Panther party.

4 A. I don't know anything about them.

5 Q. Okay.

6 **MS. CUMMINGS:**

7 I think he's answered your question
8 several times.

9 **BY MR. TRENTICOSTA:**

10 Q. So we can assume, if I can ask you to
11 assume that he did not kill Brent Miller and he is
12 not a member of the Black Panther party --

13 A. You're trying to --

14 Q. -- because you don't know what the Black
15 Panther party is, then why are you considering him
16 so dangerous?

17 A. You would like me to say yes to everything
18 you say, so you can run down there and go say I
19 did, but you can't go there, and you're trying
20 everything in the world to get me there. I'm
21 happy. I'm laughing at you. I'm not mad. You
22 just ain't going to get me there. That's just
23 Angola. What can I say? He's bad. He's
24 dangerous. I believe it. He will hurt you.

25 They better not let him out of prison.

1 They're going to make a bad mistake. That is my
2 testimony here. But I ain't the one. I don't
3 have to carry that burden, but I wouldn't do that
4 gamble. That ain't cool.

5 I'm sorry, Nick. I like you, but I don't
6 trust that dude. You-all can come sing. I like
7 you that much.

8 Q. Excuse me.

9 A. You-all can come sing. I like you that
10 much.

11 Q. I don't know if I'm talking out of school,
12 but maybe we should go off the record.

13 **MR. TRENTICOSTA:**

14 Give me a second, one second please.
15 (Off the record.)

16 **MR. TRENTICOSTA:**

17 I don't think I have any more
18 questions.

19 **MS. CUMMINGS:**

20 Okay. Well, I've got a few.

21 **RE-EXAMINATION BY MS. CUMMINGS:**

22 Q. We have a few things that we need to
23 address, Warden Cain. In the deposition, you
24 commented -- a few minutes ago you indicated that
25 you felt that Counsel had taken your comment out

1 of context in the previous deposition.

2 A. Only when he said that I said or implied
3 he is a model prisoner all encompassing.

4 Q. Okay. In fact, in that deposition, didn't
5 you indicate that he had a potential for violence
6 toward others and you were concerned for the
7 safety of the institution?

8 A. I did.

9 Q. Didn't you also tell him that if he got
10 away from you, he would kill people? The exact
11 quote, "Well, because if he got away from us, he
12 will kill you. Obviously, I mean, he's done it
13 before under certain circumstances, he would."

14 A. I said that, yes. I believe it. I
15 believe he is dangerous.

16 Q. Okay. So your belief is that he is
17 dangerous, and a danger not only to other
18 prisoners, guards, but he is also a danger to your
19 institution, and has continued -- existed back in
20 2006 and has continued?

21 A. I believe that. I said that. I testified
22 to that.

23 Q. Okay. If you have that much concern that
24 he is a danger inside the institution, what is
25 your fear of him being released into society?

1 A. I think it is a gamble. I think that he
2 has a great potential to escape, to flea. And I
3 think that if I were him, I would. And I think
4 that he has the potential in the right environment
5 to hurt people and do it again.

6 Q. You have indicated all through this
7 deposition --

8 A. He threatened witnesses, you know, in that
9 trial way back when.

10 Q. He threatened witnesses?

11 A. Yes. As I understood he has threatened
12 Mr. Sinuefield and he has threatened also one of
13 the Miller brothers, Stan Miller, who worked for
14 us a long time.

15 Q. Okay. So he has threatened a prosecutor?

16 A. Yeah. Now, this is only hearsay. I've
17 heard that.

18 Q. Okay. You have throughout this whole
19 thing, you have been very concerned with the
20 nature of his -- I am not going to say initial
21 offense, because he has had a lot of violent
22 offenses, but I am talking about the murder of
23 Brent Miller. You have been very concerned with
24 the nature of that offense. Is the murder of a
25 guard different to you than the murder of somebody

1 on the outside?

2 A. The murder of the guard means you have the
3 courage and the nerve to attack the man in blue
4 who is the authority figure over you; and so,
5 therefore, then there is no limit to what you
6 would do. If you felt like it served your need
7 and you had a purpose to do, then you would. And
8 so that is the ultimate is to attack the guard.
9 If they will attack him, they will attack each
10 other.

11 When they go after the correctional officer
12 then they go to CCR, and we don't release, because
13 they have -- they are too bold and they are too
14 brave and they are dangerous to us as correctional
15 officers.

16 Q. Okay. So as far as murderers go, they are
17 even worse than others?

18 A. They are. If they will attack the guards,
19 they are.

20 Q. You were also questioned about the DB
21 process, to a great extent. Are you aware that
22 actually Judge Palazola had approved your
23 processing?

24 A. He has.

25 Q. Okay. So that was put before Judge

1 Palazola --

2 A. It was. It was before the federal court.
3 That and the administrative remedy procedures,
4 both had been approved, and we were under the
5 consent decree that Judge Palazola authorized us
6 and we used that DB court process as due process.

7 Q. Okay.

8 A. And we even -- I didn't mention it, but we
9 are also required to bring in outside attorneys,
10 real lawyers, to train these inmate lawyers, and
11 do that periodically to keep their skills
12 fine-tuned as inmate lawyers.

13 Q. Okay. As I understand it, you feel that
14 your integrity depends on the validity of the
15 system and the validity of your discipline?

16 A. Inmates have to know that I will not lie,
17 then they can trust me when I say something. They
18 believe I tell the truth. I have a word, and,
19 therefore, the court reflects my integrity. And
20 if I let the court become tainted, then that's me
21 and then my system, and then I fall apart. They
22 won't trust my administration. And then we become
23 us and them, and then we have violence and we have
24 problem prison.

25 Q. Okay. Counsel also asked you to a great

1 extent about your personal interaction with
2 Woodfox. I mean, your opinion is not so much
3 based on your personal interaction with Woodfox,
4 is it?

5 A. No. I have 5,000 -- over 5,000 inmates.
6 I never get to personally interact with any of
7 them a lot and some probably never.

8 Q. Okay. But you spend a great deal of time
9 interacting with guards that supervise him; is
10 that correct?

11 A. I do. I spent a lot of time with the
12 guards that supervise him. And I just -- I have
13 talked to him some. I saw his demeanor. I saw
14 him in the new deal. I went on and saw him.

15 You don't have to talk to them to feel what
16 you feel and think what you think. And I think
17 that is part of the art of the business. Like,
18 everyone in every profession gets really
19 proficient in certain parts of it, and I think I
20 can tell really pretty good and judge character
21 really well about what people are and what they
22 are about. But their actions and their past also
23 play a major role in that. But it's -- it's all
24 the events together. It is not just a one event
25 thing.

1 Q. Okay. And back to the credibility of the
2 DB process -- at the risk of everybody in the room
3 protesting -- can you just briefly go through
4 these DB, the disciplinary documents and tell us
5 how many different officers are involved in these?

6 A. Oh, there are various -- not often even
7 the same ones.

8 Q. Okay. So it would --

9 A. It is more often -- I didn't notice any of
10 the same ones hardly. I noticed Byargeon a couple
11 of times, but he was the high-ranking person
12 reviewing him just coming in. Warden Kelone --
13 just, like, for instance, he's a preacher, and a
14 man of integrity within our church. And when he's
15 in the free world, that is what he does. And you
16 just can go through them.

17 Warden Bonnette, he is retired now. He went
18 over to Avoyelles. He's only in there one time.
19 Warden Bonnette, one time. He had just seen him
20 one time. I don't see anybody hardly twice.

21 Q. Okay. You also -- you talked about -- and
22 Counsel asked you about the hunger strike. You
23 were at Angola during that 1999 hunger strike,
24 weren't you?

25 A. I was.

1 Q. Do you recall it?

2 A. Uh-huh.

3 Q. Do you recall Albert Woodfox being
4 involved in that hunger strike?

5 A. Yes. He made me pretty angry with that,
6 because, you know, they were trying to run the
7 prison. They were trying to take it away from us.
8 What do you do with that? If we give into them,
9 then they're -- they're strong. I mean, they're
10 strong. They are not weak. They're tough, and
11 they were determined. And we are lucky we got out
12 of it.

13 Q. How did you-all get out of it?

14 A. We just -- we just -- I didn't talk to
15 them. I wouldn't talk to them, because I ever
16 caved in and talked to them, then that would be
17 bad. Warden Vannoy talked to them. And Warden
18 Vannoy worked with them at that time and Warden
19 Gunnels did, who I believe was there at the time.
20 We just got it resolved. They didn't get enough
21 to stay with them. They backed out of it. They
22 saw we weren't going to give into them.

23 Q. Okay. And there was a report in there and
24 you indicated that there was a spear made of paper
25 that was found, I think, in Albert Woodfox's

1 locker. You indicated that paper is dangerous.
2 Would you explain to us how paper is dangerous?

3 A. We have a paper guitar right now that will
4 beat your brains out.

5 Q. A paper guitar?

6 A. Uh-huh, made out of paper, a guitar. It's
7 real heavy. They wet the paper and make the paper
8 mold. They don't just roll up the piece of paper.
9 They don't have glue, so they soak the paper and
10 they make it and it dries and then it's hard.

11 It is not just paper like you think of paper.
12 You know, this thing was telescopic, so I don't
13 think it was paper. I think this was some sort of
14 metal or wood or something, but we don't what it
15 was. But even the paper is dangerous.

16 The darts are all made of paper that they
17 shoot you with when you walk through the deal with
18 just the little point and the blow guns they make.
19 And so paper is very dangerous to us, if it was
20 paper.

21 Q. Okay.

22 A. If it is made to be -- it is going to be
23 rigid enough to telescope and be a pole not matter
24 what it is. You can stick a straw through an
25 apple, you know. It is dangerous to us.

1 Q. Okay. And as Counsel was cross-examining
2 you on all of these disciplinary board reports and
3 wanted to know why you would assume that a can
4 would be used to, you know, make a -- I think
5 something to do -- why you were assuming it would
6 be used for violence rather than something else,
7 why do you make those assumptions?

8 A. Because of experience from being in the
9 business. And I would think that he does want to
10 escape. He does not want to die in Angola. And
11 if he doesn't make it through the courts, then we
12 really have to diligent with him. And right now
13 with the courts -- that's what shocked me so much.

14 When you think you have a chance to get out,
15 why do you break a silly rule with the porn and
16 the three-way call and all, because now I would be
17 on my very best behavior. I would be trying to
18 fool you. I wouldn't still break the rules.
19 That's why it shocked me when I dealt with him and
20 Wallace on these kind of little, old petty things.

21 And so we just kind of was giving them enough
22 rope to hang themselves. Just let them see what
23 they will do. And it really wasn't hurting us.
24 We just knew it. They didn't know we knew it, but
25 we were monitoring the calls. No secret and they

1 still do it.

2 Q. And when he has every reason to obey the
3 rules right now as all the attention is focused on
4 him?

5 A. Now more than ever. He's got high-quality
6 lawyers trying to help him. And I think he just,
7 you know, poops on them when he does that. He
8 didn't help their case at all.

9 Q. I would like to ask you about -- we talked
10 about one report -- it was No. 22, State's Exhibit
11 No. 22.

12 A. (Viewing documents.)

13 Q. The date of that is 12/17/72. Will you
14 look at that again.

15 A. Okay. (Viewing documents.)

16 Q. Was this in any way connected to, I think,
17 guard Gunnels being set on fire?

18 A. It was. They were together, Rory Mason
19 was, and this was part of that little deal. This
20 was a little thing going on. Warden Gunnels told
21 me this himself.

22 They were out to get someone. They had to
23 make a statement, and they were going to get
24 someone, and he told me this. And that that's why
25 they set him on fire in the little house. And

1 someone else he told me was warned about going to
2 the little house because they were going to burn
3 whoever was in the guard shack.

4 I recall him telling me that himself. And
5 they, meaning this, and this is just exactly when
6 this happened. And I think -- and he told that
7 Brent Miller was just who happened to be there.
8 They didn't pick Brent Miller out because he was
9 Brent Miller. They killed the guard that day that
10 was there in their dormitory. This was a
11 statement they were making as the Black Panthers.

12 Q. Okay.

13 A. And Gunnels told me --

14 **MR. CALDWELL:**

15 Excuse me, are we talking about
16 State's No. 22 or State's No. 24?

17 **MS. CUMMINGS:**

18 State's No. 22.

19 **THE WITNESS:**

20 No. 22, Rory Mason.

21 **BY MS. CUMMINGS:**

22 Q. Counsel also asked you about, why would
23 you presume that a radio antennae was going to be
24 used as a firing pin for a zip gun.

25 **MR. TRENTICOSTA:**

1 Objection, that is not what I said.

2 **MS. CUMMINGS:**

3 I'm sorry.

4 **BY MS. CUMMINGS:**

5 Q. Do you recall being question about --

6 A. The zip gun, I do.

7 Q. And did you believe that the -- let's go
8 ahead and find that one so we can specifically
9 refer to it. (Viewing documents.) Okay. That is
10 State's Exhibit No. 12.

11 A. (Viewing documents.)

12 Q. And this is where you found -- a guard
13 found "what appeared to be the firing pin for a
14 zip gun hidden inside a tube of toothpaste. The
15 object was about (3") three inches long, sharpened
16 on one end and appeared to be the end of a radio
17 antennae."

18 Why do you presume that could be used as a zip
19 gun?

20 A. I presumed that this was this. This was a
21 small part of the antennae. This would be the
22 firing pin mechanism, the 22 bullet would fit into
23 the bigger part of the antennae, and, therefore,
24 that would be the barrel of the gun.

25 The firing pin would go inside because it was

1 obviously the smaller part of the antennae, and
2 this is what I think the zip gun consisted of.
3 And so -- and I think there is even one in a
4 museum that is made out of a radio antennae.

5 Q. Okay.

6 A. And so that's why I said that.

7 Q. And are you aware that in Albert Woodfox's
8 deposition, he actually admitted that he was
9 making a zip gun, that he had a zip gun?

10 A. I didn't realize --

11 **MR. TRENTICOSTA:**

12 Objection, that is
13 mischaracterization.

14 A. I wouldn't be surprised. I don't remember
15 it. I don't recall it.

16 **BY MS. CUMMINGS:**

17 Q. On page 68 of the deposition?

18 **MR. CALDWELL:**

19 What's the date of the deposition?

20 **MS. CUMMINGS:**

21 This is January 31, 2008.

22 **THE WITNESS:**

23 I don't have that one. (Viewing
24 documents.)

25 **BY MS. CUMMINGS:**

1 Q. Question:

2 "Q. Do you remember being caught with
3 a firing pin for a zip gun?"

4 Answer:

5 "A. I remember also taking a
6 screwdriver I had made to work on my radio
7 and called him and traded it for a zip
8 gun."

9 Does that sound to you like he had possession
10 of a zip gun?

11 A. He did, he did, he did.

12 **MR. TRENTICOSTA:**

13 Excuse me, can you tell me where it
14 is?

15 **MS. CUMMINGS:**

16 I'm sorry. It's page 68 in the
17 corner. It's page 66, the second question
18 down.

19 **BY MS. CUMMINGS:**

20 Q. Warden Cain, you were asked -- Counsel for
21 the defense asked you whether you were aware that
22 on the lockdown review summaries that are done
23 every how often --

24 A. Ninety days.

25 Q. Every 90 days that rule infractions and

1 violence have never been checked on Albert
2 Woodfox's Lockdown Review Summary in the whole
3 time he was there. Do you remember him saying
4 that?

5 A. Yes.

6 Q. And how did you answer that question, if
7 you remember?

8 A. I answered the question by saying rule
9 violence was checked because he was in there for
10 the reason originally which meant the killing of
11 Brent Miller to me was violence. But later we
12 found that there was a lot of them checked.

13 Q. And I would like to show you 33, on
14 State's Exhibit No. 33 which is dated 10/3/79.

15 (The exhibit is marked as State's
16 Exhibit No. 33 for identification and is
17 attached hereto.)

18 Is there anything checked anything than the
19 nature of the initial --

20 MR. TRENTICOSTA:

21 May I have a copy.

22 A. There was a nature of a committed offense.
23 That he was physically dangerous to himself and
24 others as evidenced by. There was serious rule
25 infractions. There was a pattern of violence.

1 All checked.

2 **BY MS. CUMMINGS:**

3 Q. All checked?

4 A. (Nodded head affirmatively.)

5 Q. Okay. State's Exhibit No. 34, dated
6 4/5/77.

7 (The exhibit is marked as State's
8 Exhibit No. 34 for identification and is
9 attached hereto.)

10 A. Same thing with that one. Investigation
11 checked. Nature of original reason for lockdown
12 checked. Physically dangerous to himself and
13 others as evidenced by: serious rule infractions
14 and conviction for murder of correction officer is
15 all checked.

16 Q. Okay. State's Exhibit No. --

17 A. Also, the inmate refused to go to the
18 board.

19 Q. He refused to go?

20 A. Yes. He wouldn't go to the hearing. It's
21 checked.

22 Q. Okay. State's Exhibit No. 35.

23 (The exhibit is marked as State's
24 Exhibit No. 35 for identification and is
25 attached hereto.)

1 A. On 5/4/76, the same. Nature of commitment
2 offense, nature of original reason, physically
3 dangerous to himself and others as evidenced by:
4 serious rule infractions and pattern of violence.

5 Q. State's Exhibit No. 36, dated 7/21/77.

6 **(The exhibit is marked as State's**
7 **Exhibit No. 36 for identification and is**
8 **attached hereto.)**

9 A. Same thing. Physically dangerous to
10 himself and others: serious rule infractions and
11 pattern of violence. Refused to meet with the
12 board.

13 **MS. CUMMINGS:**

14 Did you get that one?

15 **MR. TRENTICOSTA:**

16 I was just handed five documents. The
17 last one is 36. I mean, the second to
18 last one is 36, dated 5/4/76.

19 **THE WITNESS:**

20 I have 36.

21 **MS. CUMMINGS:**

22 He has 36. Did I misnumber them?

23 **MS. CUMMINGS:**

24 No. 35 is 5/4/76; 36 is 7/21/77. Do
25 you-all have that one?

1 **MR. TRENTICOSTA:**

2 The problem is that I was given two of
3 4/5/77, and I was given the right ones.

4 **MS. CUMMINGS:**

5 Okay.

6 **BY MS. CUMMINGS:**

7 Q. All right. No. 37, this is October 4,
8 1977.

9 **(The exhibit is marked as State's**
10 **Exhibit No. 37 for identification and is**
11 **attached hereto.)**

12 A. Same thing. Nature -- it's all checked.
13 Physically dangerous to himself and others:
14 serious rule infractions and refused to meet the
15 board. He wouldn't go to court again.

16 Q. Okay.

17 A. He didn't want to say anything.

18 Q. No. 38.

19 **(The exhibit is marked as State's**
20 **Exhibit No. 38 for identification and is**
21 **attached hereto.)**

22 A. Same thing. Nature of original reason,
23 physically dangerous to himself and others as
24 evidenced by: serious rule infractions. Refused
25 to go to meet the board.

1 Q. No. 39 which is October 27, 1978.

2 (The exhibit is marked as State's
3 Exhibit No. 39 for identification and is
4 attached hereto.)

5 A. Nature of original reason, physically
6 dangerous to himself and others as evidenced by:
7 serious rule infractions and pattern of violence.
8 All checked. Declined to meet the board.

9 Q. Let me see, what date was that? '78,
10 okay. And this would be No. 40, which is dated
11 January 29, 1979.

12 (The exhibit is marked as State's
13 Exhibit No. 40 for identification and is
14 attached hereto.)

15 A. Same thing. Physically dangerous to
16 himself and others: serious rule infractions and
17 pattern of violence. Declined to meet the board.
18 Nature of commitment. New rule infractions since
19 last review, too, is checked on this one.

20 Q. Okay. April 26, 1979, and this is No. 41.

21 (The exhibit is marked as State's
22 Exhibit No. 41 for identification and is
23 attached hereto.)

24 A. Okay. And he still didn't go to the board
25 himself. Nature -- new rule infractions since

1 last review. Nature of original reason,
2 physically dangerous to himself: serious rule
3 infractions and pattern of violence.

4 Q. No. 42, 7/18/79.

5 (The exhibit is marked as State's
6 Exhibit No. 42 for identification and is
7 attached hereto.)

8 A. Wouldn't go to the board. Nature of
9 commitment offense. Nature of original reason,
10 physically dangerous to himself and others:
11 psychiatric evaluations, serious rule infractions.
12 His evaluation was bad here.

13 Q. Okay. No. 43, which is January 9, 1980.

14 (The exhibit is marked as State's
15 Exhibit No. 43 for identification and is
16 attached hereto.)

17 A. Same things. He's got physically
18 dangerous to himself and others: serious rule
19 infractions, pattern of violence. Nature of
20 original reason. Nature of commitment offense.
21 Investigation even.

22 Q. No. 44 -- wait, wait, wait. What date is
23 that?

24 A. This one is April 28, 1980.

25 Q. Okay.

1 **(The exhibit is marked as State's**
2 **Exhibit No. 44 for identification and is**
3 **attached hereto.)**

4 A. Okay. Investigation is checked. Not
5 released, nature of commitment offense. Nature of
6 original reason for lockdown. Physically
7 dangerous to himself or others: serious rule
8 infractions, pattern of violence. Didn't go to
9 the board.

10 Q. No. 45, which is 7/30/80.

11 **(The exhibit is marked as State's**
12 **Exhibit No. 45 for identification and is**
13 **attached hereto.)**

14 A. Wouldn't go to the board this time either.
15 It's checked, physically dangerous to himself or
16 others: serious rule infractions, pattern of
17 violence. Nature of original reason. Nature of
18 commitment. Investigation.

19 Q. No. 46, dated 7/26/83.

20 **(The exhibit is marked as State's**
21 **Exhibit No. 46 for identification and is**
22 **attached hereto.)**

23 A. Okay. Nature of original offense.
24 Dangerous to himself and others is checked.
25 Pattern of violence is checked. They are doing

1 them different. They just don't have quite as
2 many, but still got more than some. It didn't say
3 he wouldn't go to the board on that one.

4 Q. Okay. October 25, 1983, and this is
5 No. 47.

6 **(The exhibit is marked as State's**
7 **Exhibit No. 47 for identification and is**
8 **attached hereto.)**

9 A. Pattern of violence, physically dangerous
10 to himself. Nature of original reason. Not
11 released. Rule violation. He must have went to
12 the board.

13 Q. So in answer to Defense Counsel's
14 question, are you aware of any of these lockdown
15 summaries, these lockdown review summaries in
16 which is it indicated that he is kept in lockdown
17 because of serious rule infractions, pattern of
18 violence or because he refused to go to the board?

19 A. Well, he's kept in there for all these
20 reasons that they have checked off.

21 Q. Absolutely. Okay. And you have reviewed
22 all these and these are documents kept -- the
23 records kept by DOC?

24 A. Yes.

25 **MS. CUMMINGS:**

1 If I can just have a minute.

2 (Off the record.)

3 **BY MS. CUMMINGS:**

4 Q. Okay. You indicated during your testimony
5 that there are disciplinary board indications that
6 he has been violent to guards a couple of times,
7 twice at least; he has been violent to other
8 prisoners, at least once; you indicated that
9 others heard him threaten witnesses, do you think,
10 based on your experience, based on everything that
11 you see in this case, based upon everything we
12 have talked about today, that he would be a risk
13 to witnesses in his murder trial?

14 A. I do.

15 Q. And why is that?

16 A. Because of who he is and what he is and in
17 my experience with him at Angola, and because he
18 didn't rehabilitate like other people. He didn't
19 through the years become more mellow and let it
20 all go and let the past go and move onto the
21 future. He hung with the past. He hung with his
22 stubbornness to have it his way, all the time, and
23 be a revolutionary-type person.

24 Q. I don't have any other questions. Thank
25 you.

1 A. You're welcome.

2 **MR. CALDWELL:**

3 All right. Let's shut her down.

4 **MR. TRENTICOSTA:**

5 I have about three hours, Mr. Cain. I
6 do have some more questions.

7 **THE WITNESS:**

8 I know you did.

9 **MR. CALDWELL:**

10 All right. Go on.

11 **MR. TRENTICOSTA:**

12 No offense.

13 **MR. CALDWELL:**

14 Well, we've got the deponent and then
15 we've got the defense and then we've
16 got --

17 **MR. TRENTICOSTA:**

18 Well, we just did introduced records,
19 didn't we?

20 **MS. CUMMINGS:**

21 Records that --

22 **MR. CALDWELL:**

23 Yes.

24 **MR. TRENTICOSTA:**

25 Thank you.

RE-EXAMINATION BY MR. TRENTICOSTA:

Q. Now, Mr. Cain --

MS. CUMMINGS:

I take it -- excuse me, excuse me. I
take it you are going to be limiting your
re-cross to the records.

BY MR. TRENTICOSTA:

Q. Warden Cain, with the help of your lawyer,
you have reviewed the review board summaries for
Mr. Woodfox; is that correct?

A. Yes.

Q. And we just examined State's No. 33 to 46,
have we not?

A. Yes.

Q. And the last one No. 46 ends on July 26,
1983; correct?

A. Right.

Q. Have you and your lawyer found any other
subsequent report, any report in the last 25 years
that the board has reflected or checked that
Mr. Woodfox is dangerous to himself or others or
an escape?

MS. CUMMINGS:

I object to the form of the question.
There has been no indication that we've

1 had an opportunity to review all of the
2 records.

3 **MR. TRENTICOSTA:**

4 Mr. Cain just said he did.

5 **BY MR. TRENTICOSTA:**

6 Q. Can you answer that for me?

7 A. I didn't review all the records. I didn't
8 say that.

9 Q. With the help of your lawyer, did you --

10 A. I only reviewed what we had right here.
11 And we just did a few right here. We could go
12 back maybe and have to have another whole day and
13 look at all them.

14 Q. Okay.

15 **MR. HICKS:**

16 And let me say for the record -- wait,
17 let me finish talking. Let me say for the
18 record, this was the first we looked
19 through the records. It was a very quick
20 look over the course of perhaps five
21 minutes. Given more time, perhaps there
22 would be more records out there, but this
23 was a very quick search in response to
24 your question that you brought up.

25 **MS. LACY:**

1 I would like to also add for the
2 record that the last one is No. 47, which
3 is October 25, 1983, not No. 46 dated July
4 26, 1983. Just a clarification.

5 **MS. CUMMINGS:**

6 We did have 47, yes.

7 **MR. TRENTICOSTA:**

8 Warden Cain, thank you.

9 (Off the record at 5:37 p.m.,
10 whereupon, the taking of the witness's
11 testimony is concluded.)
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R E P O R T E R ' S P A G E

I, Angie Henning, Certified Court Reporter, in and for the State of Louisiana, the officer, as defined in Rule 28 of the Federal Rules of Civil Procedure and/or Article 1434(b) of the Louisiana Code of Civil Procedure, before whom this sworn testimony was taken, do hereby state on the record:

That due to the interaction in the spontaneous discourse of this proceeding, dashes (--) have been used to indicate pauses, changes in thought, and/or talkovers; that same is the proper method for a court reporter's transcription of proceeding; that the dashes (--) do not indicate that words or phrases have been left out of this transcript; and that any words and/or names which could not be verified through reference material have been denoted with the phrase "(phonetic)."

STATE OF LOUISIANA:

PARISH OF EAST BATON ROUGE:

I, Angie Henning, Certified Court Reporter in
and for the State of Louisiana, as the officer
before whom this testimony was taken, do hereby
certify that the foregoing pages, constitute a
true and correct transcription of the evidence
adduced on the taking of the testimony of

WARDEN BURL CAIN,

on Wednesday, the 22nd day of October, 2008,
at the Attorney General's Office, 1885 North Third
Street, Baton Rouge, Louisiana, after the witness
had been first duly sworn by me; that the
testimony was reported by me in the voicewriting
reporting method and thereafter reduced to
typewriting by me; that I am not related to
counsel or to the parties herein, nor am I
otherwise interested in the outcome of this
matter.

ANGIE HENNING, CVR, CCR #23023