

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

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

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

K. The Offenses and Discovery of the Bodies in 1991

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

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

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

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

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

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

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

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

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

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

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

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

the company of an adult other than Anita and Sherry.

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

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

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

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