

THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NORTHEAST DIVISION AT COOKEVILLE

IN THE MATTER OF:

THE PUTNAM PIT, INC. AND
GEOFFREY DIVIDIAN,

Plaintiff

-vs-

No. 97-0108

CITY OF COOKEVILLE AND
JIM SHIPLEY, in his official capacity
as City Manager of the City of
Cookeville,

Defendants

DEPOSITION OF:
WILLIAM EDWARD GIBSON
October 4, 2001

APPEARANCES:

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1 This is the deposition of WILLIAM EDWARD
2 GIBSON, taken by agreement of counsel, at the city hail
3 of Cookeville, Tennessee, at approximately 2:50 p.m. on
4 October 4th, 2001, taken for proof pursuant to the
5 Rules of Civil Procedure.

6 All formalities as to caption, certificate
7 and transmission are waived. It is agreed that Carla
8 York Hannah, court reporter and notary public for the
9 state of Tennessee, may take the said deposition by
10 stenograph machine and tape recorder, transcribing the
11 same to typewriting. The signature of the witness is
12 hereby expressly waived.

13
14 MR. CASEY: United States District Court,
15 Middle District of Tennessee, Northeast Division at
16 Cookeville, The Putnam Pit, Incorporated and Geoffrey
17 Davidian, plaintiffs versus City of Cookeville and Jim
18 Shipley, in his Official Capacity as City Manager of the
19 City of Cookeville. This is a deposition of Attorney
20 General Bill Gibson. We're at the city hail in
21 Cookeville, Tennessee. This is October the 4th at
22 2:48 p.m. of the year 2001. My name is Mike Casey. I am
23 doing the video deposition in this case, Michael's Video
24 Productions, 1570 Brown Avenue, Cookeville, Tennessee.
25 The attorneys will now identify themselves.

1 MR. DUFFY: John Duffy for the defendants.

2 MR. HARRIS: Sam Harris for The Putnam Pit
3 and Geoff Dividian, the plaintiffs.

4 MR. CASEY: Also present is Mike O'Mara,
5 attorney for the City of Cookeville. The court reporter
6 will now swear in the witness.

7

8

9 WILLIAM EDWARD GIBSON, having been first
10 duly sworn, testified as follows:

11 DIRECT EXAMINATION

12 BY MR. DUFFY:

13 Q. We should also stipulate that this is a
14 deposition for proof. What is your name, sir?

15 A. William Edward Gibson.

16 Q. And how are you employed, sir?

17 A. I'm the District Attorney General for
18 the State of Tennessee, the Thirteenth Judicial District.

19 Q. And are you going to be out of the
20 country during the week of October 9th?

21 A. I am going to be out of the country
22 from the 7th of October through the 14th, hopefully.

23 Q. All right, sir. Tell the members of
24 the jury what counties the Thirteenth Judicial District
25 encompasses, if you will.

1 A. It's seven counties in upper middle
2 Tennessee: Overton, Pickett, Clay, Putnam, Cumberland,
3 White and DeKalb Counties.

4 Q. And how long have you been District
5 Attorney General for the Thirteenth Judicial District?

6 A. A little over eleven years. I took
7 office the first time September the 1st of 1990.

8 Q. Were you then re-elected in 1998?

9 A. I was.

10 Q. And the district attorney serves eight
11 year terms, I believe?

12 A. That's correct.

13 Q. All right, sir. What is... what is the
14 job of the district attorney general in the thirteenth
15 judicial district?

16 A. Well, the district attorney's principle
17 duties include prosecuting criminal cases in all of the
18 courts where state charges are brought against
19 defendants. The pursuit of justice is a good way to put
20 it.

21 The district attorney has a role in pursuing the
22 guilty and also protecting the innocent from frivolous
23 prosecution.

24 We also have other duties. We work closely with law
25 enforcement. We train, we do trainings with law

1 enforcement. We work closely with victims of crime to
2 arrange services for them. We advocate for victims. The
3 district attorney has a very wide and varied job
4 description.

5 Q. Does the office of the district
6 attorney have any impact on the business community in the
7 judicial district that you operate?

8 A. Well, as with any place, the level of
9 crime or the level of safety that the citizens in a
10 community feel or citizens looking prospectively at
11 coming to a community, if it's a safe place, then that
12 certainly would have an impact on the community as far
13 those issues.

14 Q. And what do you do to engender
15 confidence in the business community with respect to the
16 safety and the justice system in the judicial district in
17 which you operate?

18 A. Well, our area, of course, unlike many,
19 is a relatively safe area to live in. We are pro-active
20 in many areas.

21 We work with the law enforcement agencies and we pay
22 particular attention to street level crimes and I think
23 those things are at a minimum here.

24 We work pro-actively with domestic violence, other
25 resources, the domestic violence agencies. We work with

1 the mediation services, because some issues are just not
2 particularly well suited. People will take criminal
3 warrants out on each other for issues that should be
4 mediated.

5 We're involved in our communities in a lot of
6 different ways that all come back one way or another to
7 keeping the community safe and attractive for people that
8 might consider coming here.

9 Q. Let me ask you specifically about
10 Putnam County. Now is your office located in Cookeville?

11 A. My office is located in Cookeville, my
12 main office. We also have a satellite office in
13 Livingston and one in Crossville.

14 Q. And do you believe the Putnam County
15 area is a good location for business or a bad location
16 for business?

17 MR. HARRIS: I'm going to object to the
18 leading.

19 WITNESS: I think the Putnam County area
20 is...

21 MR. HARRIS: (Interposing) I'm also going to
22 make an objection here as to what his foundation is, as
23 to his qualifications to give this opinion.

24 WITNESS: I think the Putnam County area
25 is very good for business in a lot of different ways.

1 And the one I'm most familiar with is that it is an area
2 where people can feel safe.

3 Q. All right. Any other reasons that you
4 believe it to be a good place for business?

5 A. Well, I just think it's a good
6 location. We're well served by highways. We have an
7 attractive area of the country to be in.

8 I think the people here are good. I characterized
9 it at a recent talk I was giving somewhere that, you
10 know, if you scream in a parking lot around Cookeville
11 and Putnam County, somebody is going to come and help
12 you. And that says it pretty well.

13 The people around here care about each other. And I
14 think people that come here find us to be friendly.

15 Q. All right, sir. Do you know Jim
16 Shipley, the city manager for the City of Cookeville?

17 A. I do.

18 Q. Are you social friends with him?

19 A. No, not social friends at all. I just
20 know him through I guess occasional business dealings
21 where the district attorney's office had some dealing
22 with the City of Cookeville.

23 Q. All right, sir. Do you know the
24 plaintiff in this case, Geoffrey Davidian?

25 A. I do know Mr. Davidian.

1 Q. How did you come to know Mr. Davidian?

2 A. Several years ago Mr. Davidian came to
3 Cookeville and introduced himself as a journalist. The
4 first way that I really became acquainted with him was
5 indirectly. I had heard that he was here investigating,
6 doing an investigation on a murder case that was going on
7 here, a murder investigation or a death investigation.

8 That Mr. Davidian had received a speeding ticket
9 from the city police department and he was taking issue
10 with that in the court system.

11 And at some point at that time, and it's been
12 several years ago, but Mr. Davidian did, in fact, start
13 calling and coming to see me.

14 Q. All right, sir. Did he ask you or make
15 inquiries with respect to the death of Darlene Eldridge?

16 A. He did question the death of Darlene
17 Eldridge.

18 Q. And by the way on the speeding
19 ticket... the speeding ticket, excuse me, what if anything
20 did Mr. Davidian tell you about his theory for why he got
21 this speeding ticket?

22 A. Well, he came in and he was I think at
23 that point in time questioning the Constitutionality of
24 the municipal court and he was asking me questions. And
25 he was, either in conversations with me or maybe with

1 others, had implied that he got . . .

2 MR. HARRIS: (Interposing) I'm going to
3 object as hearsay to the extent it was conversations with
4 others, unless the foundation is laid as to these
5 conversations.

6 Q. And right now I'm asking what
7 Mr. Davidian told you.

8 A. Well, Mr. Davidian's whole tone was
9 that he had been stopped and harassed by the Cookeville
10 Police Department because he was in town doing a
11 journalistic investigation of a death case that they were
12 investigating.

13 That he was looking over their shoulder and that
14 this was some sort of a warning to him to leave it alone
15 is what he implied to me.

16 And I asked Mr. Davidian, you know, the first
17 question I had was, you know, were you actually speeding
18 or not? And he said he didn't know. That that wasn't
19 important. That wasn't the issue. The issue was,
20 whether he was speeding or not, he felt the motive behind
21 the traffic stop was on account of what he was here for.

22 Q. I see. Tell the jury was there an
23 investigation by one or more agencies into the death of
24 Darlene Eldridge?

25 A. There was an investigation. I think it

1 was headed up originally by the Cookeville Police
2 Department and assisted by the State Fire Marshall's
3 Office. And later at the request of the family, the
4 T.B.I. was called in to back up the city's investigation
5 or to follow down, to follow additional leads. To kind
6 of oversee the city's investigation and do anything else
7 that needed to be done.

8 Q. What did Mr. Davidian tell you about
9 his relationship with the Eldridge family or the Eldridge
10 investigation? In other words, why he was here in the
11 city of Cookeville?

12 A. Well, I don't think Mr. Davidian
13 himself ever told me what his connection was with the
14 Eldridge family or what it was that brought him here. He
15 did say that he was here to investigate that
16 investigation.

17 Q. Did you know Mr. Davidian prior to
18 this?

19 A. Not at all. I think he lived in Maine
20 or somewhere and just traveled here.

21 Q. Did Mr. Davidian have any ties to the
22 local area that you're aware of?

23 A. I didn't know of any.

24 Q. Did he express anything else about his
25 interest in pursuing an investigation about the death,

1 circumstances of the death of Darlene Eldridge?

2 A. No. It's like he made some mention of
3 the death of Darlene Eldridge, but the subject, the tone
4 or the thrust of his visit pretty quickly turned to
5 himself and his own pursuit of this traffic ticket thing.

6 Q. All right. Did he subpoena you in that
7 traffic ticket case?

8 A. At some point that traffic ticket case
9 made it to the Circuit Court. And he subpoenaed me to
10 come to a local motel to a discovery deposition out of
11 that case.

12 And in that subpoena, if my recollection is correct,
13 he asked that I bring all of the records, paperwork,
14 documents that my office had concerning the investigation
15 of the death of Darlene Eldridge to this deposition
16 concerning his traffic ticket.

17 Q. Now, would a subpoena of that breadth
18 about an ongoing investigation, would that cause you as
19 district attorney any concern?

20 A. It certainly would cause any district
21 attorney concern. And what I did in that case is I
22 called the state attorney general's office, our legal
23 counsel for state agencies, and I asked them what I
24 should do in that situation.

25 They were immediately concerned since it did involve

1 an ongoing investigation and the effort in an unrelated
2 case to get into this open investigative file. They said
3 that they were going to send a representative up here to
4 represent me in the issue of the subpoena.

5 Which they did. A lawyer came from the attorney
6 general's office and appeared and the court did quash
7 that subpoena. Or did away with the subpoena. Said in
8 this case that there was no necessity in me coming and
9 bringing those records for a deposition.

10 Q. Now, prior to that time... are you
11 familiar with Mr. Davidian's publication of the Putnam
12 Pit?

13 A. I am very familiar with the Putnam Pit.

14 Q. Okay. Prior to the subpoena quash
15 where you were subpoenaed and the state attorney
16 general's office successfully resisted your appearing as
17 a witness in the traffic ticket case, had Mr. Davidian
18 written anything about you or your office that you know
19 of?

20 A. The time frames, and it's been several
21 years ago, and in the very early stages of Mr. Davidian's
22 visits to Cookeville, he began publishing information
23 about my office and about this investigation. As far as
24 when that information or when those publications came in
25 regard to that subpoena, I'm not certain.

1 Q. All right. Do you recall ever seeing
2 anything published in the Cookeville... Let me ask you
3 would you be aware of an article accusing you, for
4 example, of Cocaine use or conspiring to interfere with a
5 murder investigation? Something that came out in the
6 local community, would you be aware of something like
7 that?

8 A. I'm very much aware of those things.
9 Mr. Davidian has consistently through his publication
10 suggested Cocaine use. Articles that say "Confidential
11 sources say that the district attorney has a Cocaine...
12 uses Cocaine" or people saying they've used Cocaine with
13 the district attorney.

14 At one point in time, Mr. Davidian was in my office
15 and he said, "Well, let me just ask you something. Have
16 you ever used Cocaine?" And I said, "No", which is the
17 truth. I had not.

18 And before long, there was a big headline, "District
19 Attorney Gibson denies Cocaine use", which could be
20 orchestrated to convey to the general public that it was
21 true, but I was just denying it. And it was a total spin
22 on the truth.

23 Q. Did articles such as this, were those
24 published prior to the subpoena quash in the traffic
25 ticket case or after?

1 A. Well, I'm not exactly sure about the
2 dates, but I believe they were before and after.
3 Certainly after and I believe some of those articles came
4 before the subpoena issue.

5 Q. What was Mr. Davidian's response as far
6 as his publication when you through the state attorney
7 general's office resisted providing access to
8 Mr. Davidian to your files pursuant to the subpoena that
9 he issued?

10 A. Well, there was implication that the
11 state had come in to protect this conspiracy. That was
12 what was implied in his article. That "obviously the
13 district attorney has dodged the bullet of this subpoena
14 and the truth will remain unheard".

15 MR. HARRIS: I'm going to object to this
16 testimony at this time. There's been no foundation as to
17 what he... to where these statements are, what articles
18 he's referring to. And certainly I'm also objecting on
19 the grounds of best evidence. If he's going to state
20 what's in these articles, I think the articles need to be
21 submitted, rather than have him summarize what he thinks
22 they say. So I would ask that we have some foundation as
23 to which articles he's referring to.

24 MR. DUFFY: Well, the articles will be
25 exhibits at trial. I'm asking him to testify as to

1 his... right now as to his recollection of these
2 articles.

3 MR. HARRIS: Then I raise the best evidence
4 rule.

5 MR. DUFFY; Fine.

6 BY MR. DUFFY:

7 Q. You may go ahead and finish your
8 answer, sir.

9 A. I just recall the articles made the
10 implication that there was, you know, again, some big
11 secret hidden in these files, which there wasn't.

12 Q. Let me show you what is dated the
13 November 12th, 1997 edition of the Putnam Pit and ask you
14 if you are familiar with that first off?

15 A. I have seen this, yes.

16 Q. All right. And reading from it, since
17 we can't make it an exhibit right now at this deposition,
18 why don't you just read that starting with editorial
19 over. Read the first page of that, where the word
20 "Editorial" begins and there's a picture of it looks like
21 Darlene Eldridge.

22 A. In large print "Who killed Darlene
23 Eldridge?", with a question mark. "By Geoff Davidian,
24 editor of the Putnam Pit. Five years ago on
25 November 21st, school teacher Darlene Eldridge died of

1 the injuries she received when an arsonist torched her
2 State Street home as she slept. The killer has not been
3 prosecuted. City Attorney T. Michael O'Mara billed the
4 city about ten thousand dollars for his work in keeping
5 the files of this killing closed, protecting District
6 Attorney General William E. Gibson from having to testify
7 about possible Cocaine use with the dead woman and other
8 facts that would have brought the killer to justice.

9 Nice work, Mike. You are an example of the finest and
10 brightest, an example of a person who abused the system
11 to keep a killer on the streets. Congratulations on your
12 fine work. Maybe your church will pray for your soul.
13 The Putnam Pit is certain that those who worship with you
14 are as clear in their opinion of your fine work as we are
15 at the Putnam Pit. Mr. O'Mara, our hats are off to you
16 for the lack of shame with which you carry yourself.
17 Remember, you shmoozed your way to the top. Now just
18 steal from the public and help the scum bags. After all,
19 you have to prepare for hell".

20 Q. Now, let me ask you with respect to the
21 implications, whatever they might be, that an arsonist
22 torched the home of Darlene Eldridge. Was that
23 investigated?

24 A. That was thoroughly investigated by
25 several agencies.

1 Q. And what determination was made with
2 respect to whether it was an arson?

3 A. There were a lot of agencies involved
4 and various determinations. I don't think there was ever
5 a firm finding that it was the result of an arsonist.
6 I think at one point the fire marshal's office may have
7 suggested that and then changed their opinion.

8 I know for a fact that there was never a suspect
9 developed or a motive. The Cookeville Police Department
10 did extensive work on it and then as I said earlier, at
11 the request of the family, the T.B.I. came in to follow
12 certain leads that the family suggested might be viable
13 that were overlooked intentionally by the police
14 department. The T.B.I. investigated it. And there has
15 never been a finding by those agencies that it was an
16 arson or that it was a murder.

17 Q. So with respect to the implication that
18 the killer has not been prosecuted, was there ever a
19 suspect identified?

20 A. There's never been a suspect
21 identified.

22 Q. And the investigation into that, was
23 that something done by your office?

24 A. No, it was not done by our office.
25 We're not a primary investigative agency. But it was

1 done by the police department and the T.B.I. and some
2 other agencies that worked with them.

3 Q. Now, with respect to the implications
4 that the city attorney was protecting you, the district
5 attorney general, from having to testify about possible
6 Cocaine use with a dead woman and other facts that would
7 have brought the killer to justice, first off let me ask
8 you this question. What do you have to say about
9 Mr. Davidian's accusations about your possible Cocaine
10 use with the dead woman?

11 A. I've never used Cocaine with anybody.
12 And I didn't know Ms. Eldridge at any level. I knew she
13 was a school teacher. I can't say that we never met, but
14 certainly before this I couldn't have picked her out of a
15 crowd or told you who she was.

16 Q. And with respect to Mr. Davidian's
17 implication that your testimony would have revealed facts
18 that would have brought the killer of Darlene Eldridge to
19 justice, what say you to that?

20 A. There's nothing about that. There's
21 nothing that I could have testified to or knew that...
22 If there were a killer of Darlene Eldridge, I would love
23 nothing more than to see the person arrested and brought
24 to justice. There's been never anything hid. There's
25 nothing to hide in this case.

1 Mr. Davidian had a traffic ticket case that I didn't
2 know anything about. Didn't have any information about.
3 And he attempted to use the subpoena power that people
4 have in that case to bring me to a deposition to discuss
5 an ongoing or an open file, an open investigation, which
6 was of great concern to everybody.

7 Q. And what do you say to the accusation
8 that the city attorney worked to... It says, "Billed the
9 city ten thousand dollars for his work in keeping the
10 files of the killing closed, protecting District Attorney
11 General William Gibson". First off, you know Mike
12 O'Mara, don't you, I guess?

13 A. I do.

14 Q. Did you have any discussion with
15 Mike O'Mara with respect to your criminal files in your
16 office as district attorney general about keeping them
17 closed or protecting you from testifying?

18 A. No, no discussion whatsoever. There
19 was no need to protect me at all. We did feel a need to
20 not open those files generally to the public scrutiny or
21 to Mr. Davidian at that point in time for very valid
22 reasons. Leads were still being pursued and the matter
23 was still under investigation by the T.B.I.

24 Q. Would it be the practice of your office
25 as district attorney or for that matter of a prosecutor's

1 office anywhere to open their files up in response to...
2 their criminal files in their office in response to a
3 civil subpoena?

4 A. I can't imagine that that would ever
5 happen outside of a court order to do so, just because of
6 the fact that it could compromise the investigation. And
7 in some cases, if that were a precedent, it could
8 compromise people's lives.

9 Q. Did Mr. Davidian's attitude toward you
10 change when you refused to provide him the information he
11 sought with respect to Darlene Eldridge?

12 MR. HARRIS: I'm going to object to the
13 leading.

14 WITNESS: Mr. Davidian has always had a
15 very aggressive, combative, antagonistic approach to me
16 and I don't know that it's ever changed. I think the
17 first day he came in he had it and if anything, it's
18 gotten worse over time. Mr. Davidian's approach has been
19 very accusatory and just very aggressive.

20 Q. All right. Has Mr. Davidian ever
21 accused you of being part of a conspiracy to cause harm
22 to the Eldridge family, either through the prosecution or
23 lack thereof of Darlene, or her brother, one Fabian
24 Eldridge?

25 MR. HARRIS: I'm going to object for you to

1 establish foundation as to certainly as to when this
2 occurred and if it's in the Putnam Pit, which particular
3 article. And if it is in an article, I would certainly
4 want that as the best... Also raise the best evidence
5 rule objection.

6 Q. You may go ahead and answer if you
7 recall the question.

8 A. Mr. Davidian has promoted the idea, the
9 false idea that I was in some way involved in the death
10 of Darlene Eldridge. That I had used Cocaine with
11 Darlene Eldridge and that I had some motives or some
12 effect in trying to quash the investigation or interfere
13 with the investigation, because eventually it was going
14 to lead back to me. And also in the prosecution of
15 Fabian Eldridge, he has attacked that on numerous
16 occasions.

17 MR. HARRIS: And again, I move to strike that
18 response for lack of foundation.

19 Q. Let me show you what is one of
20 plaintiff's exhibits, and they have not been numbered at
21 this time. But do you recognize the "It's Bash Bill
22 Gibson Time" article from the Putnam Pit?

23 A. I do.

24 Q. Have you seen that before?

25 A. I have seen that.

1 Q. And could you look on page three of
2 that exhibit, the number of which we will identify later.
3 First off, is that... do you recognize that as being from
4 the Putnam Pit web site?

5 A. I do.

6 MR. HARRIS: I'm sorry. Objection. What is
7 that?

8 MR. DUFFY: This would be page three.

9 MR. HARRIS: Just the page three in general?

10 MR. DUFFY: Yes.

11 MR. HARRIS: Okay. I'm sorry. I thought
12 you were pointing to something in particular. I didn't
13 know what you were pointing to. We'll certainly
14 stipulate that's from the Putnam Pit.

15 MR. DUFFY: All right. Thank you,
16 Mr. Harris.

17 BY MR. DUFFY:

18 Q. And what does it say in the upper right
19 hand corner on Mr. Davidian's web site?

20 A. It says, "New!", with an exclamation
21 point. "He painted the sign. He paid the taxes. The
22 least D. A. Bill Gibson could do is buy drugs with the
23 rest of the money like a decent and respectable D. A.,
24 although he denies he used them with murdered school
25 teacher, Darlene Eldridge".

1 MR. HARRIS: I'd like you to finish reading
2 the rest of that.

3 WITNESS: "By lawyer-ex, Putnam Pit
4 gorilla law columnist".

5 BY MR. DUFFY:

6 Q. Thank you. Were you asked., or I'm
7 sorry. Do you remember Putnam Pit articles with respect
8 to whether or not your office would investigate or
9 prosecute so called illegal jailer's fees allegedly
10 collected by Circuit Court Clerk Lewis Coomer?

11 A. Yes, I'm familiar with that.

12 Q. Can you give the jury some background
13 so they'll know what we're talking about when we talk
14 about the jailer fees collection issue that
15 Mr. Davidian is writing about?

16 A. Well, at some point several years -- I'm
17 not sure of the exact date a law was passed that allowed
18 local governments to collect a fee from inmates housed in
19 local jails to offset the cost of their housing, so that
20 the inmates in some manner, in some way, could be
21 partially paying their own way and not the government
22 paying for all the expense of housing them.

23 It's Mr. Davidian's contention that at some point
24 the circuit court clerk in Putnam County started
25 collecting those fees either before the effective date of

1 the statute or before the law was ratified by the county
2 government. I'm not sure.

3 But it boils down to an accusation that on behalf of
4 Putnam County, he started collecting these fees ahead of
5 when he was supposed to by some days or weeks or months.
6 And that in fact, it should be investigated and
7 prosecuted for some crime, I suppose. That's what he was
8 promoting. (Notel)

9 Q. All right. Before we continue with
10 that, let me ask you to go back. Do you remember... Let
11 me show you again the "It's Bash Bill Gibson Time"
12 article. And on page two, do you recall the statement on
13 Mr. Davidian's web site, "The Gibson Legacy. Dead Baby
14 Capital of Tennessee"?

15 A. I do remember that.

16 Q. What was it that Mr. Davidian was
17 stating in the Putnam Pit web site with respect to you
18 and any relation to dead babies?

19 MR. HARRIS: I'm going to issue an objection
20 here on the best evidence rule, that the article speaks
21 for itself.

22 WITNESS: To me Mr. Davidian was implying
23 in that article or stating in that article that I was
24 responsible for dead babies in this area by virtue of my
25 job.

1 MR. DUFFY: Mr. Harris, would you agree that
2 Mr. Davidian had on his web site... I can't lay my hand
3 on it right now, but the question "How many dead babies
4 are in Bill Gibson's back yard?"?

5 MR. HARRIS: We'll stipulate that that's a
6 rough paraphrasing I think of what that article is. In
7 fact, I believe... I thought we had that exhibit out
8 earlier.

9 BY MR. DUFFY:

10 Q. Do you have any idea what Mr. Davidian
11 is referring to in that accusation in the Putnam Pit?

12 MR. HARRIS: I am going to object on the best
13 evidence rule and also foundation as to whether.., to
14 establish whether or not Mr. Davidian wrote that article.

15 MR. DUFFY: You will stipulate it was on its
16 web site, won't you?

17 MR. HARRIS: Yes.

18 MR. DUFFY: Okay.

19 BY MR. DUFFY:

20 Q. "How many dead babies in D. A. Gibson's
21 back yard, by C.D. Sunny Boy Norman". Do you have any
22 idea what this accusation is about babies, dead babies in
23 your back yard on the Putnam Pit web site?

24 A. As best I recall that article, it had
25 something to do with Methamphetamine.

1 MR. HARRIS: And before I had to sit back
2 down to get that, but objection to best evidence as to
3 the article speaks for itself.

4 WITNESS: The article, I mean, it
5 certainly says and implies that there's dead babies in my
6 back yard. And if you want to look deeper into it, that
7 I'm responsible for the death of babies in this area in
8 some way. And it was a very troubling article, a very
9 troublesome thing for me to read that.

10 Q. Is there any truth to that accusation
11 or innuendos therefrom?

12 A. No.

13 Q. All right. Now, going back to Circuit
14 Court Coomer, these jailer fees, were those fees that a
15 prisoner who was convicted of an offense and served jail
16 time, as a consequence thereof was to reimburse the
17 county for the expenses of, you know, holding him in
18 jail?

19 A. They were.

20 Q. And was a state statute passed that
21 enabled the circuit court clerks of the various counties
22 to seek reimbursement from the prisoners for those fees?

23 A. There was. The idea being to let the
24 inmates pay part of their own housing and not let the tax
25 payers bear the total cost.

1 Q. All right. Let me show you this
2 article that's also from the November 14, 1997 Pit and
3 ask you to read the headline on that. Do you have a copy
4 of the article, the full article? He'll read it.

5 MR. HARRIS: Okay. I'm not sure which
6 article. You didn't show that to me. I'm not sure which
7 article you're referring to.

8 MR. DUFFY: I will say this is from the
9 C. D., I believe. And it was one of those things where
10 if you clicked on it, it tried to take you to the
11 internet. So I don't have the full copy. Yeah, this one
12 here.

13 MR. HARRIS: I'm sorry. Which article? You
14 said... Oh, C. D. You mean the C. D. Rom and not C. D.
15 Norman?

16 MR. DUFFY: Right.

17 MR. HARRIS: The article by Susan Richards
18 and Geoff Davidian? Is that what you're referring to?

19 MR. DUFFY: Right.

20 BY MR. DUFFY:

21 Q. And unfortunately, I'm going to need to
22 ask you just to read that paragraph. Or I can read it or
23 something.

24 A. "T.B.I., D. A. Gibson won't investigate
25 illegal jailer's fee collection by Court Clerk Lewis

1 Coomer. By Susan Richards and Geoff Davidian of the
2 Putnam Pit Staff. While going hog wild to destroy
3 politically unpopular, seldom at work, faux-pas prone
4 County Assessor of Taxes Byron Looper, who is not accused
5 of any criminal activity, the Tennessee Bureau of
6 Investigation and the district attorney general will not
7 investigate illegal charging of jailer's fees by Circuit
8 Court Clerk Lewis Coomer. District Attorney General Bill
9 Gibson, clearly not the brightest man in the country,
10 refuses to receive the evidence, local judges refuse to
11 get involved and the state comptroller's division of
12 county audit has not addressed the possibility that the
13 money was diverted. Tennessee Bureau of Investigation's
14 number two man, Rob Reeves, became huffy, shouted 'gutter
15 journalism' and slammed down the phone when confronted
16 with the fact that the system does not address officials
17 taking money".

18 Q. Now, what do you say to the jury with
19 respect to Mr. Davidian's reporting that the district
20 attorney general... Well, first off let me ask you was
21 there any "illegal jailer's fee" collection by Circuit
22 Court Clerk Lewis Coomer as you understood it?

23 A. No, my understanding was that
24 Mr. Coomer was collecting the fees under this new statute
25 and putting them through the proper channels in his

1 office. And Mr. Davidian's allegation was that he
2 started collecting, he jumped the gun or he started
3 collecting these fees before the effective date of the
4 statute or before the date when he should have started
5 collecting these fees.

6 And I've always said that, you know, if people paid
7 these fees before the law came into effect, they may have
8 a right to seek a refund. There's no implication that
9 Mr. Coomer stole any of the money or took any of the
10 money home.

11 It's just that he through inadvertence or whatever
12 started actually performing this duty before the
13 effective date that the law would have allowed him to.
14 We've never heard from any inmate who felt like he had
15 been taxed or paid the fees and should have a refund.

16 And in the context of Mr. Davidian, we felt like he
17 was just particularly on a vendetta pursuit of the
18 circuit court clerk.

19 Q. And were you ever.., do you remember
20 seeing the Putnam Pit article purporting to have an
21 exclusive interview from you with respect to the issue of
22 prosecution of Circuit Court Clerk Lewis Coomer?

23 A. I did see that article.

24 Q. Was there any... Stepping back to this
25 article, is there any truth to the statement that "the

1 district attorney general will not investigate illegal
2 charging of jailer fees by Circuit Court Clerk Lewis
3 Coomer"?

4 A. There is truth to the statement that we
5 refused to investigate that situation.

6 Q. Was there any illegal charge in the
7 jailer's fees to investigate?

8 A. There was not. According to his own
9 allegations, it would not have been a criminal matter had
10 Mr. Coomer started collecting these fees prior to the
11 effective date. As I said before, you know, if people
12 inappropriately paid those fees before the law took
13 effect, then they could have asked for a refund. But
14 there was not any suggestion of what would have amounted
15 to criminal behavior on Mr. Coomer's part had the
16 allegation been true.

17 Q. Is the circuit court clerk's office
18 audited by the State of Tennessee comptroller's office?

19 A. The circuit court clerk's, as all
20 county offices, are very closely audited. Their books
21 and their money transactions are closely audited.

22 Q. Were you ever presented with any
23 evidence or requests for a prosecution of Circuit Court
24 Clerk--it's hard to say fast--Coomer's office with
25 respect to these jailer's fees from the auditors?

1 A. No. There was never any suggestion
2 that the auditors found anything wrong there.

3 Q. Now, there is a discussion in that
4 article about "Going hog wild to destroy politically
5 unpopular" et cetera "County Assessor of Taxes Byron
6 Looper".

7 A. Uh-huh (affirmative response).

8 Q. For those on the jury who..., if anyone
9 might not know, tell them who Byron Looper is and where
10 he's at today.

11 A. Well, Byron Looper at this time was the
12 property assessor of Putnam County. He later was subject
13 to a criminal indictment by the Putnam County Grand Jury
14 for offenses that he committed in relation with that
15 office.

16 But the significant thing that people would remember
17 about Byron Looper is he is the man that later qualified
18 to run against State Senator Tommy Burks and assassinated
19 Senator Burks on his farm in October of 1998. And has
20 now been tried and convicted of that and he's serving a
21 life sentence without possibility of parole in the State
22 Department of Corrections.

23 Q. I've just been handed a note that I
24 forgot to ask you the follow-up on the exclusive
25 interview with District Attorney General William E.

1 Gibson. Do you recognize that?

2 MR. HARRIS: Could I see what you're showing
3 the witness before you show the witness, Mr. Duffy?

4 MR. DUFFY: Sure. I'm sorry, Mr. Harris.
5 Once again, that is just what was on the C.D. Rom that
6 you provided. And if you try to click on the underlying
7 link, it tries to take you to the internet and it's not
8 contained on the C.D. Rom discovery responses that your
9 client has provided.

10 MR. HARRIS: Well, as you know, what's on the
11 C.D. Rom, you asked for what we still have in storage and
12 that's all we have. Some of these articles are old. So
13 if you're going to make these speeches, which I object
14 to, I'd move to strike these speeches.

15 BY MR. DUFFY:

16 Q. Is that the article to which you were
17 referring?

18 A. It is.

19 Q. Or the headline?

20 A. It's called "Exclusive interview with
21 District Attorney General William E. Gibson about the
22 Lewis Coomer thefts".

23 Q. Is that headline and the reporting that
24 is set forth therein accurate?

25 A. No. Not at all.

1 Q. What happened? What is he referring to
2 there?

3 A. Well, it was one May on a Saturday. We
4 were having a car wash and we were using the parking lot
5 of the D. A.'s office to raise some money for Camp
6 Horizon, a program for special education children to get
7 to attend. And special education teachers were washing
8 cars basically to raise money for these kids to go to
9 camp in July.

10 Mr. Davidian comes flying into the parking lot and
11 pulls up and stops and rolls down his window and says,
12 makes some derogatory comment about something. I'm just
13 out here trying to garner political favor or something.
14 And starts to drive of f.

15 Speeds off kind of and then he stops abruptly and
16 backs up and he says something to the effect of, "Hey,
17 why won't you investigate Coomer?" And I made some
18 comment back to him about "Because there's nothing to
19 investigate. There's not a crime" or something. And he
20 rolls the window back up and takes off.

21 And he had under this headline the substance of that
22 two sentence conversation on the web page, implying that
23 it was an exclusive interview with me concerning the
24 Lewis Coomer thefts. And there were no Lewis Coomer
25 thefts.

1 Q. Now, back to Mr. Looper. Was either
2 Mr. Davidian or the writers who supplied the information
3 to him as editor of the Putnam Pit critical of your
4 prosecution of whom we now know to be a convicted first
5 degree murderer, Byron Looper?

6 A. They were always critical of that, of
7 the prosecution of Mr. Looper.

8 Q. Do you understand why Mr. Davidian was
9 critical of your office for prosecuting a first degree
10 murder suspect?

11 A. I do not. Other than the fact that
12 Mr. Davidian is someone who historically has created...
13 he's been a person that's created difficulty, dissension,
14 fights. And he's somebody that has come in here to
15 basically depreciate the area and that would go
16 consistently with that theme. Obviously a man that's
17 here on that mission would take up for a person like
18 Byron Looper.

19 Q. Did the things that he accused you of
20 or your office of with respect to Byron Looper, were
21 those things true?

22 MR. HARRIS: Well, I'm going to object as to
23 foundation. We don't know what exactly it is that he's
24 been accused of.

25 Q. Can you cite us two examples of

1 information that Mr. Davidian published on his web site
2 in support of Byron Looper prior to his conviction or
3 after if they were untrue with respect to your office's
4 prosecution of Mr. Looper?

5 MR. HARRIS: And to that, if he's going to
6 summarize these articles, I'm going to object on the
7 grounds of best evidence and ask that we actually know
8 which particular articles and we see these articles and
9 that these articles are the best evidence as to what they
10 said.

11 Q. Go ahead, sir.

12 A. His article suggested that Mr. Looper
13 was not being afforded his Constitutional rights. That
14 it was a politically motivated prosecution. That it was
15 some sort of vendetta. Suggestions that the good ol' boy
16 network of Putnam had succeeded in prosecuting an
17 innocent person.

18 During the trial, there was some very derogatory
19 things on the web page about witnesses that testified at
20 the trial. One particular individual, a farm hand at the
21 Burks farm named Wesley Rex, he's mildly mentally
22 retarded. And he was referred to on that web page as a
23 moron and an idiot and just some things that were
24 unnecessarily depreciatory, derogatory about somebody
25 that didn't even want to be involved in the case.

1 Just a consistent tone of defending the actions of
2 Looper and using that as a platform to attack the
3 institutions and individuals around here that
4 Mr. Davidian constantly attacked.

5 MR. HARRIS: I'm going to move to strike all
6 of that as a characterization rather than an actual...
7 And again, under the best evidence rule, this is simply
8 his characterization and opinion as to what the Putnam
9 Pit says and not what it actually said. And that this
10 testimony should be stricken.

11 And also certainly if he's going to be allowed to
12 give his opinion, it's more prejudicial than probative
13 since he's hardly established himself as an expert on
14 what was written in the Putnam Pit.

15 Q. Let me show you what we have as an
16 exhibit of a Putnam Pit article on the Byron Looper case
17 and tell us whether that article is responsive to
18 Mr. Harris's objection.

19 MR. HARRIS: I'm going to object to that
20 question as he...

21 MR. DUFFY: (Interposing) Let me rephrase.
22 Let me rephrase it.

23 MR. HARRIS: Thank you.

24 BY MR. DUFFY:

25 Q. Is that Putnam Pit article one of the

1 articles that you're familiar with, published in the
2 Putnam Pit about your office and the prosecution of Byron
3 Looper?

4 A. Is this article representative of what
5 we were saying?

6 Q. Is that one of them that you were
7 testifying about?

8 A. It is. And there were certainly worse
9 ones than this.

10 Q. Okay. Are there matters...

11 MR. HARRIS: (Interposing) Mr. Duffy, let me
12 stop you. I don't know if you specifically identified
13 this particular article for the record.

14 MR. DUFFY: Yeah, you're right, quite right,
15 Mr. Harris. Let's do that. The reason that I didn't
16 identify it was because the copy I have does not have a
17 date on it other than to say, you know, "The Putnam Pit,
18 No bull". It's entitled "Bible belt welts. Readers have
19 more faith in murder suspect Looper than in Bible
20 thumping D.A. poll finds".

21 MR. HARRIS: Is yours also four pages of
22 four?

23 MR. DUFFY: It's five pages actually.

24 MR. HARRIS: Okay. I only have four.
25 Anyway...

1 BY MR. DUFFY:

2 Q. Do you recall without, you know, taking
3 the jury's time to go through all of it whether specific
4 items in Mr. Davidian's article, that particular article,
5 that you would like to respond to that made attacks at
6 your office?

7 A. "A year before the Burks murder, the
8 Democrat district attorney was willing to pay an
9 informant to 'set Looper up', even if he had to lie to do
10 it, John Wayne Dedmon told the Putnam Pit". That was a
11 lie which Mr. Dedmon admitted was a lie. It was an
12 effort that John Wayne Dedmon and Byron Looper and some
13 of his cohorts were forwarding pursuing to set the D.A.
14 up. And John Wayne Dedmon came up and admitted to all of
15 that.

16 Q. To your knowledge, did the Putnam Pit
17 ever publish anything about Mr. Dedmon?

18 A. The Putnam Pit was full of this
19 suggestion, that I had tried to hire Dedmon to set up
20 Byron Looper.

21 Q. Now, once it came out that that
22 accusation by Mr. Davidian, that it was false, did he
23 publish anything in the Pit to correct that?

24 A. No. He's never taken back anything
25 that he said that was false.

1 Q. Even after Mr. Burks's (sic) conviction
2 on the first degree murder charge, has Mr. Davidian
3 continued to support Mr. Looper?

4 A. Mr. Looper...

5 MR. HARRIS: (Interposing) I would object to
6 that question and ask... There's nothing here showing
7 that he ever supported Mr. Looper. And you're asking
8 that leading. You're asking that in a way to prejudice
9 the jury.

10 MR. DUFFY: Let me rephrase.

11 MR. HARRIS: This article clearly refers to
12 Looper as an insatiable office seeker. And yet you are
13 sitting here mischaracterizing the tone of the article by
14 selectively picking out the whole article.

15 MR. DUFFY: Let me rephrase the question.

16 MR. HARRIS: Thank you, Mr. Duffy.

17 BY MR. DUFFY:

18 Q. Did Mr. Davidian ever publish anything
19 to rectify that false accusation with respect to
20 Mr. Dedmon and your office?

21 A. Not to my knowledge. I quit really
22 paying any attention to the Putnam Pit at the end of the
23 Looper trial, because some of the matters that were in
24 that publication during and after the Looper trial were
25 so disturbing that I didn't... I just didn't want to...

1 You know, I used to read it sometimes, but after some of
2 the things he was saying during and after the trial, I
3 didn't care to even visit the web page any more.

4 MR. HARRIS: I'm going to move to strike that
5 under the best evidence rule and lack of foundation as to
6 what exactly it is that he's referring to. It is
7 disturbing. We have no basis to know what specifically
8 he's referring to.

9 Q. And let me show you another article
10 from the Putnam Pit. Do you recognize that one?

11 (Article is handed to counsel.)

12 MR. HARRIS: Thank you, Mr. Gibson.
13 Objection as to foundation and as to the nature and who
14 wrote the article and when it was published. Of course,
15 we reserve that objection. I know you'll possibly
16 establish it with another witness.

17 MR. DUFFY: Right.

18 MR. HARRIS: But until then, of course.

19 BY MR. DUFFY:

20 Q. Let me show you an article that has
21 been... It has the date of February 24, 2001 from
22 WWW.putnampit.com, with some sub-addresses.

23 MR. HARRIS: Mr. Duffy, you may need to
24 identify that more specifically for the record. Because
25 I certainly would ask for a copy of that.

1 MR. O'MARA: Page 746 and 747 of the C.D.

2 Rom. But I'll get you a copy.

3 BY MR. DUFFY:

4 Q. Let me... I'm afraid that the only way
5 we're really going to be able to identify it for the jury
6 would be to ask you perhaps if you'd just read where it
7 starts talking about D. A. Gibson and prosecuting the
8 Looper murder case.

9 A. "How we feel about D.A. Gibson
10 prosecuting the Looper murder case. How we would feel if
11 the case were jeopardized because he insists on
12 prosecuting despite his links to the case. How we feel
13 about the chances of Gibson being forced to testify? How
14 we would feel if Gibson were committed to a psychiatric
15 hospital, driven in one of Sheriff Jerry Abston's cars
16 two weeks before trial, just before he was to testify
17 about setting up Byron Looper. How we'd feel if we had
18 been fed lies? How we would feel if land speculation was
19 behind the killing. How we would feel about corruption,
20 conniving and justice disregarded. How we would feel
21 about political use of the criminal justice system. How
22 we would feel if Burks's killer stays free because Gibson
23 needs a witness against Looper.

24 Q. And what have you to say about that
25 commentary with respect to your office and your

1 prosecution of Mr. Looper reported in the Putnam Pit?

2 A. Well, this particular article makes a
3 lot of implications. It doesn't state anything. It
4 makes statements in the form of questions that if those
5 were made in the form of statements, they would be false.
6 There's not any basis to any of this. You know, he's
7 suggesting that Senator Burks's killer would stay free
8 because of me, because of some need I have. "Because
9 Gibson needs a witness against Looper".

10 MR. HARRIS: I'm going to object and move to
11 strike this. He's not established any foundation that he
12 knows what the article is about.

13 MR. DUFFY: I believe he prosecuted the case
14 and would be... Do you feel like that you're...

15 MR. HARRIS: (Interposing) Well, then I'm
16 going to have to move if this is about the prosecution,
17 I'm going to move to have all of his testimony dismissed
18 then if this is... If your offer of proof here is that
19 we're going to retry the Byron Looper murder case, then
20 all of his testimony is irrelevant under 403. It's a
21 waste of the court's time. It would require extensive
22 cross examination and rebuttal. And I want that on the
23 record that we would now...

24 If that's your purpose in introducing all of this,
25 that all of this testimony should be stricken. The

1 question I believe had nothing to do with the fact that
2 he has... I'm well aware that Mr. Gibson prosecuted Byron
3 Looper. He won that case. Byron Looper was convicted.
4 But the issue is what...

5 I believe your question dealt with what he wrote
6 about Byron Looper and about the prosecution. And
7 certainly he's written these questions that are now being
8 characterized as statements and recharacterized without
9 us having knowledge of what's in the article.

10 And so again, if that's the case, I would move that
11 all of his testimony be stricken.

12 (Whereupon a short recess is taken.)

13 BY MR. DUFFY:

14 Q. General Gibson, during the break, have
15 you had an opportunity to read the two page excerpt from
16 the Putnam Pit relating to your office as the prosecution
17 of Mr. Looper?

18 A. I have.

19 Q. Based on your having been deeply
20 involved in the prosecution of the case, are you able to
21 tell the jury your side, your side or explanation for the
22 innuendos made by Mr. Davidian or whoever the author is
23 in the Putnam Pit in those articles?

24 MR. HARRIS: I'm going to object to that
25 question as awfully vague. What innuendo in particular

1 are you referring?

2 Q. Let me just ask it this way. What is
3 your response to what Mr. Davidian has published there,
4 if it's Mr. ... either as the editor or author?

5 A. Well, I have to quote some of it to
6 respond. It starts out, "How it feels to be short shorn,
7 without mention of honor, guts, glory, integrity, ethics,
8 competence or brains. How much decency we feel we must
9 cede to satisfy District Attorney General Bill Gibson's
10 seeming, at least to us after thoughtful consideration
11 for months and years with no malice, something that in
12 the past the Putnam Pit would unattractively have called
13 'inferiority, I-must-control,' sociopath driven need to
14 prevail."

15 And then it asks the question, "Why?" And then it
16 answers, "How do we feel about D. A. Gibson prosecuting
17 the Looper murder case?" And the first response is
18 "How we would feel if the case were jeopardized because
19 he insists on prosecuting despite his links to the case",
20 which the implication is I shouldn't have prosecuted the
21 case because I have some links to the case, which is
22 totally false. I had no links to the case whatsoever
23 that would make it inappropriate or ineffective for me to
24 prosecute it.

25 "How we feel about the chances of being Gibson... of

1 Gibson's being forced to testify". There was a point at
2 the trial that the defense tried to call me as a witness
3 in their case for some unknown reason.

4 "How we would feel if Gibson were committed to a
5 psychiatric hospital, driven in one of Sheriff Jerry
6 Abston's cars, two weeks before the trial, just before he
7 was to testify about setting up Byron Looper." I'm not
8 sure, except it may refer to a gentleman named John Wayne
9 Dedmon, who said that he had conspired with Looper to set
10 me up.

11 "How we would feel if we had been fed lies?"

12 MR. HARRIS: I'm going to object and move to
13 strike that as hearsay as to what John Wayne Dedmon said.
14 That statement should be stricken.

15 WITNESS: John Wayne Deadmon said it in...

16 MR. DUFFY: (Interposing) It's not offered
17 for the truth.

18 WITNESS: "How we would feel about
19 corruption, conniving and justice disregarded. How we
20 would feel about political use of the criminal justice
21 system." Some theory that the Looper prosecution for the
22 murder of Senator Burks was political.

23 MR. HARRIS: And I'm going to object to this
24 speculation as to his testimony as to what... how Bill
25 Gibson interprets this.

1 WITNESS: That's what he's talking about.
2 That's what he's always talked about. "How we would feel
3 if Burks's killer stays free because Gibson needs a
4 witness against Looper", suggesting even at this point in
5 time that Looper is not the killer. Then it comes on
6 over and says...

7 MR. HARRIS: (Interposing) I'll have to
8 object to that characterization and object to this 3/4)
9 speculation as to what that means and what it suggests
10 and that that testimony should be... I also move to have

12 WITNESS: And then it's got here a picture
13 of me with a circle-slash over my face and the headline
14 is, "How we feel about what you can tell from a man's
15 eyes? Whether or not we feel you can tell whether he was
16 a bad, bad boy?"

17 And over the circle-slash that's over my face, it
18 has what would seem to be a quote from me saying, "Will
19 you forgive me? I have faith in God. I won't do it
20 again, as far as you know. I swear."

21 And then it comes on down and says, "Does it feel
22 like Billy's been a bad, bad boy? Did it feel bad when
23 you were feeling you were being a bad, bad boy? It
24 didn't feel like I was being bad, but..."

25 And those are things that at least by innuendo and

1 implication seem to be quotes from me, which they are
2 absolutely not.

3 MR. HARRIS: I'm going to object and move to
4 have that stricken as to what it characterizes, what it
5 represents, who it says. That's pure speculation on his
6 part as to who it involves.

7 WITNESS: I assume the jury is going to
8 see this exhibit.

9 MR. HARRIS: I would move to strike that
10 comment.

11 MR. DUFFY: We're going to introduce that as
12 one of the many articles that is published on the Putnam
13 Pit relevant to whether or not the Putnam Pit addresses
14 the subject matter of the promotion of the economic,
15 welfare, commerce and tourism in the industry in the
16 area. And you would agree that is an excerpt from the
17 Putnam Pit web site. Is that correct, Mr. Harris?

18 MR. HARRIS: Presumably it is an excerpt from
19 the Putnam Pit. But his comments as to how he interprets
20 it are totally irrelevant and speculation as to what he
21 thinks the article means. It's his interpretation and
22 any statements made there would be more prejudicial than
23 probative of any reason that you've stated that you wish
24 to introduce this into evidence. And we would certainly
25 reserve this particular matter for further review by the

1 court.

2 WITNESS: The jury can make it's own
3 determination, but this is extremely representative and
4 characteristic of Mr. Davidian's form of journalism.

5 MR. HARRIS: (Interposing) I'm going to move
6 to strike that. I'm going to move to strike that.
7 Mr. Gibson, you're not here as an attorney. And if I
8 make an objection, the court is not here, but they would
9 tell you, as I'm sure you have seen when you've been in a
10 court room, that you have to stop talking when an
11 objection is made. I am moving to strike your comments
12 as to what the jury can and will do. And I would think
13 as an attorney you would know that and that you're
14 starting to be... your behavior is starting to become
15 objectionable.

16 MR. DUFFY: Mr. Harris, what intent to do is
17 to let the jury see the exhibit. Let them assess their
18 interpretation and hear General Gibson's response.
19 That's all we're going to do. We'll let the court
20 decide.

21 MR. HARRIS: I agree.

22 MR. DUFFY: I'll move on.

23 MR. HARRIS: All right. Let me say this.
24 Put this on the record. But you would agree that as a
25 witness, he cannot tell... he is not to directly address

1 the jury and tell them what they can and can't do.

2 MR. DUFFY: I agree.

3 MR. HARRIS: And I know, Mr. Gibson, you're
4 used to being an attorney and therefore you're used to
5 talking to the jury, but you're here as a witness today.
6 And so...

7 WITNESS: (Interposing) You've got it.

8 MR. HARRIS: Right. It's a little bit
9 different. I understand. I've not done that in your
10 role yet, so I wouldn't know how I would react either.

11 BY MR. DUFFY:

12 Q. Mr. Gibson, let me ask you with respect
13 to the matters of the Putnam Pit that discuss the
14 operation of the office of the District Attorney General
15 in the Thirteenth Judicial District, do those articles
16 characterize that office in any kind of a fair light?

17 A. No. Whatsoever, no fair light at all.
18 No objectivity, no fairness. And this is a perfect
19 example of the kind of publication, the smut that he puts
20 out in his publication.

21 (Question is stricken.)

22 Q. With respect to the question of whether
23 the Putnam Pit in its articles as they address the office
24 of the District Attorney General in the Thirteenth
25 Judicial District, does the Putnam Pit do anything to

1 promote the welfare of the community?

2 MR. HARRIS: I'm going to object to that as a
3 conclusory opinion, which he's certainly not an expert on
4 that subject. And I don't know that he's qualified to
5 give a lay opinion on this particular matter.

6 Q. Just go ahead.

7 A. I've never seen anything in the Putnam
8 Pit that did anything but depreciate the well being of
9 this community. And I will add inappropriately in most
10 cases.

11 Q. Is there anything in the Putnam Pit
12 that you've seen as it relates to law enforcement and the
13 criminal justice system in the Putnam County area, is
14 there anything... Well, let me just ask you, how would
15 you believe that someone thinking about locating a
16 business here... Let's start with that, someone seeking
17 to locate a business here or do business there, how would
18 they interpret..., or excuse me. How would the Putnam Pit
19 cast this area in terms of the criminal justice system?

20 MR. HARRIS: I'm going to object to that
21 question as vague. I'm not sure I understand it. And to
22 the extent that it calls to give an opinion as to how
23 other people would react, I'd certainly think it would be
24 speculative and he's in no... there's no foundation that
25 he can give that type of opinion as to what other people

1 think.

2 WITNESS: The misrepresentations of the
3 Putnam Pit would, if believed, if reviewed by people, it
4 would cast this area in such a poor light, in my realm
5 particularly in regards to the criminal justice system.
6 To suggest that there's dead babies in the district
7 attorney's back yard. That the tax assessor was first
8 prosecuted or persecuted inappropriately for political
9 reasons, while the killer of the state senator is still
10 running free. That the district attorney is a Cocaine
11 user, a Cocaine addict. None of which, none of these
12 things are true. And they cast this area in a terrible
13 light for anybody that should happen to see it.

14 MR. HARRIS: I'm going to move to strike that
15 answer for the reasons previously gave. I gave the
16 objection and it was somewhat nonresponsive. And his
17 opinion for which he had... there's no foundation for his
18 opinions to given.

19 Q. Let me ask you hypothetically if you
20 were running... Does the district attorney general's
21 office run a web site?

22 A. We don't. The district attorney's
23 conference does, but our local office does not.

24 Q. If you were running a web site with web
25 links with the goal of promoting the Putnam County area,

1 hoping to attract businesses, hoping to attract visitors
2 to their area, hoping to attract families who may want to
3 move here, would you believe that the Putnam Pit meets
4 the criteria of promoting the area to such persons?

5 MR. HARRIS: I'm going to object to this
6 question as it calls for speculation. There's no
7 foundation that he can give this opinion. Any opinion he
8 would give would be totally speculative. And there's no
9 showing he has any knowledge whatsoever. Certainly he's
10 indicated he's never ran a web site. And this question
11 should be stricken.

12 WITNESS: I absolutely do not believe that
13 it does anything to promote the goals of the Cookeville
14 web site. And I can't imagine that anybody that had ever
15 read one word of it would think differently.

16 Q. Your witness.

17 MR. HARRIS: I would object and move to
18 strike that last statement by him also as a conclusion, a
19 conclusory opinion, an ultimate question for the jury.

20

21

22 CROSS EXAMINATION

23 BY MR. HARRIS:

24 Q. Mr. Gibson, you're a politician.

25 Correct?

1 A. I'm an elected official.

2 Q. And you're a politician. Correct?

3 A. Depending on your definition of that.

4 Well, I run for office, yeah.

5 Q. Previously you gave a deposition this

6 afternoon in which you stated yes, you were a politician,

7 did you not?

8 A. I think I answered you that I am an

9 elected official. I do run for office once every eight

10 years. If you call that a politician, then yes, I am a

11 politician.

12 Q. Well, do you call that a politician?

13 A. Well, politician means different things

14 to different people and often has a really poor

15 connotation, but I am an elected official. If I'm a

16 politician, I'm a poor one.

17 Q. Well, you've actually been successful

18 as a politician if the definition of politician is

19 somebody who runs for office, haven't you?

20 A. I think I've done a good job in the

21 D. A.'s office.

22 Q. But you've been successful in terms

23 that you've been able to be popularly elected?

24 A. I have been elected and re-elected one

25 time.

1 Q. You're a public official. Correct?

2 A. That's correct.

3 Q. You're a public servant. Correct?

4 A. Correct.

5 Q. And you would do nothing to try to
6 misuse your office. Is that correct?

7 A. I would hope to never misuse my office.

8 Q. Okay. And as a public official, you
9 would not deny somebody a government benefit just because
10 you disagreed with their view point, would you?

11 A. So in the realm of my office, if a
12 critic of mine came in to seek to prosecute... to seek
13 prosecution of a crime or to seek the services of the
14 district attorney's office, and it was somebody even
15 though they were critical of me, they would still come to
16 my office seeking our help, I guess I would talk it over
17 with the person. I would say, you know, "You're critical
18 of me. Would you be really comfortable having my office
19 serve your needs in this criminal matter in this case?"
20 If they were and I felt comfortable with it, I would try
21 to proceed with it.

22 Otherwise, there is a procedure in place where
23 another district attorney can be appointed. If the
24 person said, you know, "I don't like you. I don't
25 really... There's been a crime committed against me. I

1 don't want you handling it", I could get them another
2 district attorney appointed from another part of the
3 state and have no contact with the case, but still insure
4 that that person got the services of the D. A.'s office.

5 Q. Well, I will move to strike that as
6 nonresponsive. Let me ask you the question. And I'm
7 starting from the general... from a general move to the
8 specific, if you will. You would not deny somebody the
9 benefits, as a public official, you would not deny them
10 the benefit of government services strictly because you
11 disagree with them over their view point?

12 A. Well, I can speak only from the stand-
13 point of the services that I provide. And that's just
14 what I just got through telling you that nobody should be
15 denied, no victim of a crime should be denied a competent
16 prosecution just because they're critical of the local
17 D. A.

18 Q. Okay. Let me try this again.

19 A. Okay.

20 Q. This question seems to call for a yes
21 and no and you don't seem to be responding that way.
22 Would you as a public official deny someone benefits of
23 your government office or resources of your government
24 office because of their view point?

25 A. I would never deny a citizen competent

1 prosecution because I disagree with their view point on
2 some issue.

3 Q. Now, you previously took a deposition
4 that I wish to enter, but we do not have that prepared.
5 And I will reserve the right to introduce portions of the
6 deposition at trial. Or we can, I guess, postpone this
7 until we can get the deposition prepared, Mr. Duffy. How
8 do you wish to proceed?

9 MR. DUFFY: The deposition will be used in
10 any way that the deposition can be used under the Federal
11 Rules of Civil Procedure and the rulings of the court.

12 MR. HARRIS: That's true. It will be. Well,
13 since the deposition hasn't been prepared, since you gave
14 me such short notice for this matter, I don't have the
15 transcript with which to confront him. And therefore I
16 reserve the right to ...

17 MR. DUFFY: (Interposing) You can designate
18 the page and line numbers of the deposition.

19 BY MR. HARRIS:

20 Q. Did you not previously testify at the
21 deposition that you said a public official could not deny
22 someone government resources or government benefits
23 because of a view point?

24 A. That's exactly what I'm saying now.
25 Except I don't know about could not. Certainly should

1 not. I don't know that, you know, if a public official
2 was determined to violate ethics and moral standards that
3 he could, but he sure shouldn't.

4 Q. Right.

5 A. But I can only speak in the context of
6 my office and my profession.

7 Q. Mr. Gibson, I'm not accusing you of
8 denying anyone. You understand my question is not
9 accusing you of denying anybody government benefits or
10 government resources because of somebody's view point.
11 I'm just getting your opinion as a public official as to
12 how you conduct your office.

13 A. Well, and I want you to understand that
14 my answer is in the context of my office, which is what I
15 assume is what you're asking.

16 Q. And you've stated you would not and you
17 should not deny somebody government benefits. Correct?

18 A. I would not...

19 Q. (Interposing) Because of the view
20 point?

21 A. I would not and certainly no elected
22 district attorney should deny somebody competent
23 prosecution because they disagree with the person's view
24 point.

25 Q. And the First Amendment protects, the

1 First Amendment of the United States Constitution
2 protects people's rights to criticize public officials.
3 Isn't that correct?

4 A. That is correct.

5 Q. And part of the protection of the First
6 Amendment would mean that public officials cannot
7 retaliate against individuals because they have
8 criticized a public official. Is that correct?

9 A. Well, I assume that it would be illegal
10 and certainly morally and ethically and illegal to
11 retaliate against a citizen because they are critical of
12 your office.

13 Q. Do you think that denying somebody
14 government resources because they're critical of a view
15 point, because that person expressed a critical view
16 point, do you think that could constitute a form of
17 retaliation?

18 MR. DUFFY: Objection at this point on the
19 grounds that it's not relevant and it calls for a legal
20 conclusion.

21 Q. Go ahead and answer it.

22 A. I don't understand the question.

23 Q. Okay. Would denying... for example--
24 I'll try it by example to help you understand--for
25 example, if somebody had criticized you as district

1 attorney?

2 A. Uh-huh (affirmative response).

3 Q. And then that person came to your
4 office for a child support collection matter?

5 A. Uh-huh (affirmative response).

6 Q. I understand you've already mentioned
7 about conflicts. But assuming they wanted your office to
8 pursue the child collection matter, would you deny
9 somebody the right to take advantages of your office and
10 its child support collection strictly because you
11 disagreed with their view point on that?

12 A. I can't imagine a scenario if the
13 person was comfortable with my office being the agency
14 that pursued their matter and I was still comfortable
15 working with the person, I can't imagine a scenario where
16 we would not go forward. But as I said before, if it
17 were...

18 It's a bizarre sort of question where you're telling
19 me that a person that's critical of my office is coming
20 to my office for services. Typically that person is not
21 going to come to my office. They're going to come and
22 try to find a way to get another district attorney, which
23 there is a procedure to do that.

24 Q. And first they would probably come to
25 your office though?

1 A. But if the person came to my office...
2 and we have had situations where people for one reason or
3 another were uncomfortable with our office. Maybe we had
4 prosecuted relatives of theirs in the past or for
5 whatever reason. And we have referred those people into
6 this process where they can get a district attorney
7 appointed through a mutual process from another area.
8 So the question you're asking is would Is..

9 Q. (Interposing) I'm going to move to
10 strike this as nonresponsive. I gave this example to
11 help you understand my question. I don't... And then I
12 made it clear that I understand about your conflicts of
13 interest. Point blank, it's wrong, it would be wrong, if
14 they insisted that they had a right as a citizen to child
15 support collection, it would be wrong to deny them solely
16 because of their view point. Isn't that true?

17 A. Yeah, that's absolutely true.

18 Q. Okay. Thank you. See, it was simple.

19 A. But you're asking that in the context
20 of my office and I'm having to answer that in the context
21 of my office.

22 Q. Basically I'm asking you that in the
23 context as a public official. Now, you'd agree that
24 Geoff Davidian has published stories in the Putnam Pit
25 that have been critical of you?

1 A. Geoff Davidian has published stories in
2 the Putnam Pit that have been critical of me.

3 Q. I mean, that's just an understatement
4 practically, isn't it?

5 A. Well, his stories have been lies and
6 innuendo and implication and...

7 Q. (Interposing) That's not my question.
8 I'd move to strike your response.

9 A. ... maybe it's an element of truth that
10 is spun to the point that it loses any semblance of
11 truth.

12 Q. My question is it's pretty clear that
13 he writes negative stories about you. Correct?

14 A. Your question was "That's an
15 understatement, isn't it?" And yeah, that's an
16 understatement.

17 Q. That's how you answer a yes or no
18 question, Mr. Gibson, would you agree?

19 A. Negative and untruthful stories.

20 Q. Well, I didn't ask about untruthful
21 stories, did I?

22 A. (Negative response).

23 Q. You seem to want to... In your
24 testimony here, you seem to stay on that line that
25 every..., you always say that the Putnam Pit is

1 untruthful. Is that as a result of your discussion with
2 your attorney, the attorneys for the City of Cookeville
3 here this afternoon?

4 A. It's a result of reading the Putnam Pit
5 over the years.

6 Q. Well, you don't have to put... Would
7 you agree you don't have to put that spin in every time I
8 ask a question?

9 A. Well, when your question calls for that
10 answer, then I feel like I should give you that.

11 Q. Well, if I asked if it's negative and I
12 don't ask about truth, explain to me how you feel you can
13 just add whatever you want in your testimony.

14 A. Well, to me the explanation of whether
15 it's truthfulness or untruthful goes to the negativity of
16 it.

17 Q. So you think the Putnam Pit is negative
18 because it's untruthful?

19 A. I think it's extremely negative and
20 untruthful.

21 Q. Okay. Now, previously in the
22 deposition you indicated that you had read a story in the
23 Putnam Pit that seemed to say that you had spent too much
24 money having a sign painted on your office on Jefferson
25 Avenue?

1 A. That's correct. I did spend too much
2 money.

3 Q. You also said that the Putnam Pit was
4 truthful. You agreed with that expression of an
opinion?

5 A. I didn't say the Putnam Pit was
6 truthful. I said in that particular instance he accused
7 me of spending too much money on that sign and I did
8 spend too much money on the sign.

9 Q. Well, it might take a while. Would you
10 like to have that portion of your deposition read to you?

11 A. Sure. I mean, I'm not denying what you
12 say. I spent too much money on the sign and when he
13 printed that in the Putnam Pit, that particular sentence
14 was the truth.

15 Q. Okay. So the Putnam Pit did.., that
16 story was true. Correct?

17 A. Well, that sentence was true. I don't
18 recall the whole story, but he accused me on that one
19 occasion of spending too much on a sign and yeah, the
20 sign turned out to be too expensive.

21 Q. Okay. And there's nothing wrong with
22 him writing a story that says you spent too much money on
23 something, is it?

24 A. There's nothing wrong with it?

25 Q. Yeah. Is there anything wrong with him

1 writing a story that said... criticizing your office for
2 spending too much money?

3 A. No, the First Amendment gives him the
4 right to do that and in that instance, it was the truth.

5 Q. Okay. Mr. Davidian also wrote a story
6 that indicated you had been critical of Judge John
7 Turnbull. Isn't that correct?

8 A. He did.

9 Q. And you agreed that that was true, that
10 you had made some... you had exercised your First
11 Amendment rights by criticizing John Turnbull?

12 A. Right. I'm not sure the story in its
13 entirety fairly stated the criticism, but there was a
14 time when I was critical of Judge Turnbull. And in a
15 story in the Putnam Pit, he did write some story about me
16 being critical of the judge.

17 Q. Is it fair to say that... You say
18 you're not sure what other things were said or not, but
19 is it fair to say you generally disagree with
20 Mr. Davidian's view point?

21 A. Well, it's not that I disagree with his
22 view point. It's just that he publishes things that
23 don't accurately reflect the truth.

24 Q. Did you agree with his view point?

25 A. I don't agree or disagree with his view

1 point. I disagree when I read things in there that are
2 stated in a way that I know is not true.

3 Q. Okay. It's your opinion that they're
4 not true?

5 A. Factually I know that they're not true.
6 And I'll give you a good example. He's implied several
7 times in the Putnam Pit...

8 Q. (Interposing) I move to strike this.
9 I've not asked for any examples and he's answered my
10 question.

11 MR. DUFFY: Go ahead and complete your
12 example.

13 WITNESS: Several times in the Putnam Pit
14 he has stated that I am a Cocaine user. One time he came
15 to my office and asked me point blank if I've ever used
16 Cocaine and I told him point blank that I have not, which
17 is the truth. So he continues to write these articles
18 saying that I do use Cocaine. And saying that, you know,
19 there was a headline that I had the gall to deny Cocaine
20 use, "Gibson denies Cocaine use", which implies to the
21 motoring public that obviously, you know, Gibson is a
22 Cocaine user who is now denying it. That's the

23 Q. (Interposing) That's how you read it.
24 Isn't it that true?

25 A. Well, I think that's a widely

1 accepted... and I'm not sure if they call it gutter
2 journalism or yellow dog journalism, but you suggest
3 something as being true without actually saying that it's
4 true. You send the message without actually making the
5 statement.

6 Q. Do you deny Cocaine usage?

7 A. Sure. I've never used Cocaine.

8 Q. Right. So how else do you report the
9 story that you denied that?

10 A. What is newsworthy about my denial of
11 something that's never been raised? You know, the story
12 is obvious to anybody that reads it is that he wants to
13 suggest to the public that I am a Cocaine user who is now
14 denying it. And that's just not true.

15 Q. Do you think that's Mr. Davidian's view
16 point about that story?

17 A. I don't know about his view point. I
18 know that he's published that and I know that it in
19 essence is a lie when taken in the big picture.

20 Q. You don't know what his view point is
21 on that story?

22 A. What is view point is on what story?

23 Q. On the story "Gibson denies Cocaine
24 usage".

25 A. Apparently he has a view point that I

1 do or at that time was a Cocaine user, which was false.

2 I do deny that.

3 Q. Right. So that was his view point.

4 Correct?

5 A. Well, I can't tell you what his view
6 point is.

7 Q. Well then, you just testified that you
8 knew what his view point is.

9 A. If his view point is that I'm a Cocaine
10 user, then I do deny it as being accurate.

11 Q. Do you know how to tell what the view
12 point is of a story?

13 A. No. I don't... not Mr. Davidian's
14 stories.

15 Q. You don't know how to read a story and
16 tell what the view point is?

17 A. Not Mr. Davidian's.

18 Q. Mr. Davidian wrote an article about he
19 had gone and got public records from the City of
20 Cookeville about your grades. Do you recall testifying
21 in your deposition about that?

22 A. I do.

23 Q. Okay. And he reported you made a "D"
24 in English literature?

25 A. Right.

1 Q. Was that true?

2 A. I think I made a "D" in English
3 literature. I didn't go back and read the transcripts,
4 but if Mr. Davidian claims that he got the transcript, I
5 would not deny getting the "D" in English literature.

6 Q. You also made two "D's" in American
7 History while you were at Tennessee Tech. Isn't that
8 true?

9 A. I do recall having a hard time with
10 American History.

11 Q. Okay. And he wrote that article. Was
12 that true or false?

13 A. That he wrote the article?

14 Q. Yes.

15 A. I don't know. It was on the Putnam
16 Pit.

17 Q. So you never saw that particular
18 article in the Putnam Pit?

19 A. I did. As I'm sitting here today, I
20 can't testify who authored the article.

21 Q. Oh, okay.

22 A. But I assume if it's on the Putnam Pit,
23 he either wrote it or published it.

24 Q. Now, in that article he also wrote that
25 you were a "D" plus student at Putnam senior high. Do

1 you know whether that's true or not?

2 A. He wrote that I had a particular grade
3 point average, 1.66, and I'm not sure if that's true or
4 false. I didn't make stellar grades in high school.

5 Q. Okay. And so you're not saying that
6 that was a falsehood that he wrote. Correct?

7 A. That's correct.

8 Q. You're just saying you don't know?

9 A. Right.

10 Q. Okay. He also wrote that you had been
11 a dishwasher at Holiday Inn.

12 A. That was true.

13 Q. And that was true, right?

14 A. I started when I was fourteen.

15 Q. He wrote down your references when you
16 applied to be a police officer as being Mrs. Jerry
17 Maddux, Mr. H. S. Barnes and Lonnie Hill. If he wrote
18 that, would that have been true?

19 A. I think that's true. That was in 1976
20 and I think that was Lonnie Hillis. He was an employer
21 of mine at Holiday Inn.

22 Q. Okay. Other than he got the name
23 right, though, basically he's written the truth about you
24 there. Right?

25 A. That those were my references?

1 Q. Yes.

2 A. Yeah, in that instance, that would have
3 been true.

4 Q. Now, did you actually read the article
5 "How many dead babies in D. A. Gibson's back yard"?

6 A. I can't remember the... I can't really
7 remember the substance of that article. I think I read
8 part of it and then just quit, because it's disturbing to
9 read something like that about dead babies in my back
10 yard.

11 Q. So you didn't read..., you're now
12 testifying you didn't even read the whole article.
13 Correct?

14 A. Well, I've read, you know, several
15 articles on the Putnam Pit over the years. I've read in
16 their entirety and several I've scanned and others I've
17 just sort of gotten the substance of and quit. It seems
18 like that article was about Methamphetamine.

19 Q. I understand that. My question to you
20 was did you read that whole article?

21 A. I'm not sure.

22 Q. You're not sure. It's possible you
23 didn't read the whole article. Correct?

24 A. Obviously.

25 MR. DUFFY: Have you got the article? He

1 could look at it and tell you.

2 MR. HARRIS: Is that an objection,

3 Mr. Duffy?

4 MR. DUFFY: No, it was a suggestion to speed
5 up the proceeding. I'm sorry for interfering. Go ahead.

6 MR. HARRIS: Yes. I object to that as you
7 took up a substantial amount of time. I'm going as best
8 I can.

9 WITNESS: I could read the article and
10 tell you more accurately.

11 BY MR. HARRIS:

12 Q. Well, I've not asked you about the
13 article. I'm simply asking whether you read the whole
14 article or not?

15 A. Well, if I could read the article now,
16 I could tell you for sure.

17 Q. But you're not sure, are you?

18 A. No, I'm not.

19 Q. Okay. So when you comment on the
20 Putnam Pit, there's a lot of articles that you haven't
21 read that have been on the Putnam Pit. Correct?

22 A. I'm sure there's a lot of articles that
23 have been on the Putnam Pit that I haven't read.

24 Q. So it's possible that there's articles
25 that have been on the Putnam Pit that were positive about

1 Cookeville, contrary to your opinion that nothing on the
2 Putnam Pit is positive about Cookeville?

3 A. All I can say is I've never seen
4 anything on the Putnam Pit that suggested anything
5 positive about Cookeville.

6 Q. But you've also said you haven't...
7 You've also now testified that you haven't read every
8 article on the Putnam Pit?

9 A. Sure. It would be ludicrous to say
10 you've read every article that's ever been published in
11 some publication. I don't sit down and read it cover to
12 cover.

13 Q. Would it be equally ludicrous then to
14 say that you've never seen a positive article in the
15 Putnam Pit when you haven't made an effort to see every
16 article in the Putnam Pit?

17 A. Well, I read the Putnam Pit, at least
18 the headlines, fairly thoroughly for a period of time.
19 But I can't say that I've read every article that's ever
20 been published. I think if he ever wrote anything
21 positive about Cookeville and Putnam County it would be
22 probably the talk of the town, but I don't know.

23 Q. But you don't know, right? So your
24 testimony basically here is just speculation of your view
25 point about the Putnam Pit. Isn't that true?

1 A. Well, it's not my view point. I'm
2 saying factually I've read a lot of the Putnam Pit and I
3 know the tone of the Putnam Pit. And I personally have
4 never seen anything positive or anything that's not
5 negative about Cookeville, Putnam County and the
6 individuals that live and work here on the Putnam Pit.

7 Q. Now, would you agree that
8 Methamphetamines is a problem in the Thirteenth Judicial
9 District?

10 A. Absolutely.

11 Q. And your office tries to correct that
12 problem, don't they?

13 A. Well, law enforcement in general is
14 struggling with that problem in this whole area. All of
15 the Cumberland Plateau and a lot of places in the
16 country. Our office does our part. We prosecute the
17 cases.

18 Q. And you would agree that the
19 Methamphetamine problem in this area has an effect on the
20 economic welfare of this area. Correct?

21 A. I would assume that Methamphetamine, a
22 Methamphetamine problem has an impact on the economic
23 welfare here as anywhere.

24 Q. And you also previously testified in
25 your deposition that the Methamphetamine problem has an

1 impact on industry in this area. Correct?

2 A. I assume that drug use, including
3 Methamphetamine, has an impact on industry here and
4 everywhere else.

5 Q. And it's your responsibility... You
6 have a responsibility as the top law enforcement
7 prosecutor in this area to at least address these
8 problems, don't you?

9 A. I do.

10 Q. Do you have any problem with
11 Mr. Davidian writing about how you address these
12 problems?

13 A. Do I have a problem with it?

14 Q. Just in general. Obviously you don't
15 like his opinion about how you go about doing it, because
16 he obviously.., you would agree with me that
17 Mr. Davidian obviously does not think you do a good job
18 no matter what you do. Correct?

19 A. Correct.

20 Q. Okay. But nonetheless, you would agree
21 that the First Amendment allows him to criticize you and
22 make statements and publish statements about how you go
23 about addressing the drug problem in this area?

24 A. I think so, but I think the First
25 Amendment requires that it not be slanderous or libelous.

1 And I think there's an implication that there be some
2 element of truth to what he's saying. There's no dead
3 babies in my back yard.

4 Q. Okay. Is it possible that that was a
5 figure of speech?

6 A. I guess it's possible, but I don't know
7 how... You know, how would it be read?

8 Q. Well...

9 A. (Interposing) If there's a headline
10 that says "Dead babies in the D. A.'s back yard", what
11 does that say?

12 Q. Mr. Gibson, you live in an apartment,
13 too, don't you? U

14 A. Sure.

15 Q. You don't really have a back yard, do
16 you?

17 A. I do have a back yard.

18 Q. At the apartment complex?

19 A. Yes, sir.

20 Q. Oh, okay. Sorry. Well, in any event,
21 isn't it possible.. .Let me ask you this. Methamphetamine
22 has had a tremendous impact on children in this area.
23 Correct?

24 A. Everywhere Methamphetamine exists, it
25 impacts children, because the people that manufacture

1 Methamphetamine that have children manufacture the drug
2 in their homes often with their children there. And the
3 process of manufacturing Methamphetamine is very
4 dangerous and it involves chemical processes that put off
5 fumes. And this is a very difficult situation for
6 children to be in, but it's not a situation that's unique
7 to Cookeville or this area. It's unique... it's
8 everywhere that Methamphetamine is manufactured.

9 Q. Right. But I guess the answer to that
10 question is that the Methamphetamine problem could be
11 detrimental and harmful to children. Correct?

12 A. I don't know.

13 Q. You don't know whether Methamphetamines
14 can be harmful to children?

15 A. That's not what you asked.

16 Q. Well, all right. I'm asking it now.

17 A. Methamphetamine is inherently harmful
18 to children.

19 Q. Okay. And so if children die as the
20 result of Geoff alleging, Geoff Davidian alleging that
21 you're not doing a good job, isn't it possible that
22 that's what he means by "How many dead babies in D. A.
23 Gibson's back yard"?

24 A. If children died as a result of his
25 allegation?

1 Q. No. If... You're right. That's pretty
2 confusing. Let me try to break it down. If the gist of
3 the article is that you're not doing a good job,
4 regardless of whether that's true or not, if
5 Mr. Davidian expresses that opinion, isn't it possible he
6 simply means you're not doing a good job and that could
7 result in the deaths of children as a result of the
8 Methamphetamine problem?

9 A. Well, I don't know how to predict what
10 Mr. Davidian means when he writes an article with the
11 headline "Dead babies in the D. A.'s back yard". If he
12 is suggesting through that article that--and I can't sit
13 here and tell you that I know the content of the article,
14 because I'm not sure which article even that we're
15 talking about--but anything is possible. I can't sit
16 here and tell you that it's impossible, what he may have
17 meant.

18 But I do know the headline "Dead babies in District
19 Attorney Gibson's back yard" suggests a lot of things
20 that would come to the reader's mind ahead of that. The
21 D. A. is a child killer. The D. A. is hiding...You know,
22 the D. A. is a John Wayne Gacey (spelled phonetically).
23 The D. A. has got dead bodies buried all around in his
24 yard.

25 I don't even know what percentage of the population

1 would read past the headline. Or beyond that, what
2 percentage of the population would understand the
3 implications being made in the body of the article by
4 Mr. Davidian.

5 Q. Well, isn't Mr. Davidian... Doesn't the
6 fact that Mr. Davidian writes that headline suggest that
7 he has greater faith in the intelligence of the Putnam
8 Pit readership than you do?

9 A. I think Mr. Davidian writes that
10 article because he wants to attack me and everybody else
11 around here in any way he can. Regardless of the truth
12 or the implication or the innuendo.

13 Q. Well, actually when you read that
14 article, it only attacks you. It doesn't attack
15 everybody else around here, does it?

16 A. I don't know if that particular article
17 does or not, but the next one probably goes on to the
18 next person that he's got a vendetta against.

19 Q. Well, you know, you're speculating here
20 and I would move to strike that, that statement. By the
21 way, we've referred to this article as being "How many
22 dead babies in Bill Gibson's back yard" as being by Geoff
23 Davidian, but the by line that you read earlier did say
24 it was by C. D. Norman. Isn't that true?

25 A. I think that's true.

1 Q. Do you know C. D. Norman?
2 A. I don't.
3 Q. Okay.
4 A. I assumed that was just a co-name of
5 Geoff Davidian.
6 Q. Okay.
7 A. I didn't know that there is a real
8 C. D. Norman.
9 Q. So you've made a lot of assumptions
10 about what you've read in the Pit without knowing all of
11 the facts. Is that what you're saying?
12 A. Well, the things that I've read in the
13 Pit speak for themselves.
14 Q. Well, my question to you is have you
15 made assumptions about things you read in the Pit without
16 knowing all of the facts?
17 A. No.
18 Q. Well, you just said you assumed that
19 C. D. Norman was a made up name, didn't you?
20 A. Well, that's not the substance of
21 something I've read in the Pit. You know, the Pit has
22 got lawyer-ex and gorilla student-ex and advocate-ex and
23 all of these anonymous names. You know, "lawyer-ex
24 interviewed witness-ex, who says the D. A. is on
25 Cocaine".

1 Q. But you...

2 A. (Interposing) So I assume that Geoff
3 Davidian is the type of person who writes either under a
4 lot of different names or accepts a lot of anonymous
5 authorship.

6 Q. (Interposing) Well, you...

7 A. (Interposing) There's some reason that
8 they want to hide the names and I assume that
9 C. D. Norman is probably not a real person or is a real
10 person and that's not their real name.

11 Q. Well, previously this was made an
12 exhibit. This is... Mr. Gibson, I apologize. Let me
13 identify that. We have not used, for purposes of this
14 video deposition, we have not used exhibit numbers. But
15 if you have it, I'd like to keep this one. You were
16 handed an exhibit by Mr. Duffy that starts out, "It's
17 Bash Bill Gibson time".

18 MR. DUFFY: Mr. Harris, let me suggest this.
19 Everything that I have shown him consists of three
20 documents. Why don't we make those one, two, three and
21 this four?

22 MR. HARRIS: Well, you did show him this
23 article, too, "It's Bash Bill Gibson time".

24 MR. DUFFY: That's this. Yeah.

25 MR. HARRIS: Right.

1 MR. DUFFY: Okay. Exhibit...

2 MR. HARRIS: Which I don't know. You've not
3 designated it.

4 MR. DUFFY: We'll compare. Go ahead with
5 your question.

6 BY MR. HARRIS:

7 Q. We're referring to what you were
8 previously shown on direct examination as... the article
9 that's starting out "It's Bash Bill Gibson time".

10 A. Okay.

11 Q. Let me show you this one, because this
12 is a little bit better printout. Do you see the picture
13 at the bottom of the page that says C. D. Norman?

14 A. I don't.

15 Q. It starts out and says C. D. Norman
16 went to high school with you?

17 A. Uh-huh (affirmative response).

18 Q. Do you see his picture?

19 A. Uh-huh (affirmative response).

20 Q. Do you recognize that person?

21 A. No. Does the initials C. D. stand for
22 some other..., do you know of a name that I can try to...

23 Q. It's a good question, because to tell
24 you the truth, I don't know. I don't know his name any
25 other way either, so I wish I could help you.

1 A. I don't remember going to high school
2 with a C. D. Norman and assume that that's a lie.

3 Q. Okay. Well, when you saw this and you
4 saw this picture, if you still assumed that C. D. Norman,
5 Sonny Boy was a made up name?

6 A. Yeah. You know, if there's a person
7 whose picture that is that claims they went to high
8 school with me. What does it say, helped tutor me with
9 English or something? I assume that that's all a lie.

10 Q. Well, you seem to make a lot of
11 assumptions that are negative, in your opinion, about
12 Geoff Davidian and the Putnam Pit, don't you?

13 A. Well, I don't recognize the picture.
14 I've never heard of a C. D. Norman, who claims to have
15 gone to high school with me. And I think it's fair to
16 assume that that's not true.

17 Q. Do you know for a fact whether or not
18 Geoff Davidian has spoken with sources that indicated
19 that you had used Cocaine?

20 A. No. I asked him one time, you know, if
21 there really were these sources and it seems like he said
22 that he couldn't tell me that or something.

23 Q. When you indicated that there's a lot
24 of anonymous names or that he doesn't want to reveal
25 sources, is it possible that it's because you're a

1 politically powerful person and capable of retribution
2 against these individuals if their names were known?

3 A. I don't think Mr. Davidian could ever
4 cite an instance where I've used any power of the D. A. 'S
5 office to take retribution on anybody.

6 Q. That's not what I asked you. Is it
7 possible that he doesn't want to reveal these names
8 because of your political position?

9 A. I don't know what's possible or
10 impossible with him.

11 Q. (Interposing) I'm not talking about
12 what's possible or impossible with him. Is it possible
13 that you might, that you... Isn't it true that you're in
14 a powerful political position here in Putnam County?

15 A. Well, I've got a position that is
16 looked upon as politically powerful.

17 Q. Okay. And so some people may not want
18 to publicly put their name out there when they give a
19 false opinion or a negative opinion... not necessarily a
20 false opinion, but a negative opinion about you?

21 A. Well, that's certainly possible. A
22 false opinion is.

23 Q. (Interposing) What about a negative?
24 I'll grant you that. It's pretty clear if somebody is
25 going to lie about you, that would be a pretty stupid

1 thing to do against the district attorney, wouldn't it?

2 A. If somebody wants to publish some
3 publication and a web page that's full of lies and
4 innuendo and slander, then I could see where the person
5 would not want to put their name on it.

6 Q. But what about other people who...
7 what if there are other people who actually wrote these
8 articles?

9 A. What do you mean?

10 Q. What if there's a lawyer-ex for
11 example? And he may not want his identity revealed if he
12 writes a critical article about you. Isn't it possible
13 he might not want to do that because of your position as
14 the district attorney?

15 A. What if there is really a lawyer-ex,
16 would it be possible that this possible lawyer-ex would
17 not want to put his name on these articles that lie about
18 me?

19 Q. Because of possible retribution from
20 you?

21 A. I guess. Sure.

22 Q. So the point is you really don't know
23 whether these people exist or not, do you?

24 A. I sure don't.

25 Q. And you've just assumed that

1 Mr. Davidian made these up, names up. Right?

2 A. Well, I assumed from the harmony of the
3 tone of all of these opinions that come from...

4 Q. (Interposing) Mr. Gibson, true or
5 false, yes or no, did you assume that these names were
6 made up?

7 A. Lawyer-ex and...

8 Q. (Interposing) C. D. Norman.

9 A. ... dog-ex and C. D. Norman. I assumed
10 that a lot of those names were made up.

11 Q. And that Geoff Davidian was the sole
12 author of these points of view. Correct? That was your
13 opinion about the Putnam Pit. Right?

14 A. Yeah. And that's based on the fact
15 that they all seemed to make the same statement in
16 different harmonies.

17 Q. Now, Mr. Davidian wrote negative things
18 about Byron Looper. Isn't that true?

19 A. I don't remember a lot of that. I
20 think he at one point wrote an article that, you know,
21 Byron Looper was a good guy, a target of persecution, but
22 Byron Looper certainly, you know... he needs to
23 straighten up and not disappoint everybody.

24 Q. What article are you referring to?

25 A. I'm not sure.

1 Q. You're not sure, are you?

2 A. All of the stuff in the Putnam Pit is
3 sort of, at some point it blends in your brain.

4 Q. And you have your assumptions about
5 what's in the Pit, but you don't know whether that
6 article exists or not, do you?

7 A. No, I know I read the article.

8 Q. Okay. Even in this article of "Bible
9 Belt welts"--I'm not sure what number we're using. That
10 one right there. That's correct. Doesn't it say in the
11 first paragraph, "Looper, an insatiable office seeker"?

12 A. Where are you reading?

13 Q. Well, look in the first... it's the
14 first paragraph. That would be that first block of
15 sentences.

16 A. Below Caesar?

17 Q. See the dateline Cookeville, Tennessee?

18 A. Cookeville, Tennessee, okay.

19 Q. Referring to that as the first
20 paragraph of the article.

21 A. Okay.

22 Q. The last sentence, does it not say,
23 "Looper, an insatiable office seeker, opposed Burks's
24 re-election on the state ballot two weeks later"? Is
25 that not what that sentence says?

1 A. Uh-huh (affirmative response).

2 Q. That's hardly a favorable view of Byron
3 Looper, is it?

4 A. An insatiable office seeker?

5 Q. Yes.

6 A. I guess it's kind of a neutral. It's
7 not a favorable or unfavorable.

8 Q. Do you know what insatiable means?

9 A. Yes. And I know what a paragraph is,
10 too.

11 Q. Okay.

12 A. But what I'm saying is I don't read
13 that statement as being particularly favorable or
14 disfavorable. It's saying he's a person that
15 continuously seeks office.

16 Q. Okay. Okay. Well, let's go down to
17 the last paragraph on this page. And doesn't this
18 article also say, "It is a miracle that Looper, an
19 ornery, egotistical, thoroughly vain and political man,
20 whose political life displayed little in the way of
21 family values or sentimentality, could garner such a
22 presumption of innocence in a district where the D. A. 's
23 election was peppered with the slogan..."? And it says
24 that on that page. Now, the part I just read, do you
25 think that calling Byron Looper ornery and egotistical is

1 being favorable to Byron Looper?

2 A. Well, I think Mr. Davidian has to
3 demonstrate some semblance of objectivity to try to keep
4 an audience. And the purpose of this paragraph is to say
5 that Looper can't get a fair trial and to talk about my
6 election being peppered with the slogan "I have faith in
7 God", which I have no idea where that came from, as a
8 campaign slogan.

9 Q. (Interposing) Okay. So you're
10 saying...

11 A. (Interposing) What I'm saying is that
12 Mr. Davidian apparently has to do something to disguise
13 his inherent support of Byron Looper.

14 Q. I see. So when Geoff Davidian writes
15 things... when he writes negative things about Byron
16 Looper, he's disguising some hidden intent. Is that your
17 view point regarding the Putnam Pit?

18 A. If you take that in the context of
19 everything that he's ever written about Burks and
20 Looper...

21 Q. (Interposing) Is that your view point
22 regarding the Putnam Pit?

23 A. ... then it would be my view point.

24 Q. Mr. Gibson, my question is, is that
25 your view point regarding the Putnam Pit? That whenever

1 Geoff writes something negative about Byron Looper, that
2 he's doing that to disguise some hidden intent? Is that
3 your view point of what the Putnam Pit does? Yes or no?

4 A. That is my view point in the context of
5 the overall tone of support that he has always shown for
6 Byron Looper. I'm saying that he has to say something to
7 appear to be halfway objective.

8 Q. At the time you did the Byron Looper
9 trial, was there not a story going around that was
10 covered that John Wayne Dedmon had been told to set
11 Looper up? Was that not an issue either in the trial or
12 in the pre-trial litigation of that criminal case?

13 A. It was never a real issue. One of the
14 defense attorneys, one of the prior defense attorneys--
15 not the ones that took it to trial--produced a tape that
16 was allegedly made by John Wayne Dedmon that purported to
17 be a conversation with me telling him to set up Byron
18 Looper. And that tape was brought into court. It was
19 played. Everybody agreed that the voice on the tape
20 could not possibly have been mine. And...

21 Q. (Interposing) Is there anything...

22 A. (Interposing) John Wayne Dedmon came
23 forward and made a statement to the F.B.I. that he had
24 produced that tape with the assistance of Jerry Burgess
25 and Byron Looper. They had hired an actor to portray me

1 on the tape. And...

2 Q. (Interposing) Well, I've never seen
3 this tape, but my point is whether...

4 A. (Interposing) Well, it's an audio tape.

5 Q. We don't need to retry the whole Looper
6 case. Was this not an issue raised in the trial?

7 A. It was never an issue raised in the
8 trial.

9 Q. Well, you just said the tape was
10 introduced at trial. It was introduced by a defense
11 attorney. Don't you think...

12 A. (Interposing) No, I said the tape was
13 introduced pre-trial by an attorney...

14 Q. (Interposing) Pre-trial. Pre-trial.

15 A. ... that was not an attorney at the
16 trial.

17 Q. And you don't think that that story was
18 newsworthy?

19 A. I don't know whether it was newsworthy
20 or not. It was nonsense. It came to the surface and was
21 verified as nonsense by Dedmon.

22 Q. But is there any problem with the press
23 reporting this story?

24 A. Sure. There's no problem with that at
25 all.

1 Q. Right.

2 A. Of course, Mr. Davidian has never...

3 Q. (Interposing) I'd move to strike this
4 as... I know you... Are you trying to get in a spin in
5 favor of the city here? Do you want to help them?

6 A. No. You asked if there was a problem
7 in reporting that. And there's not a problem in
8 reporting that if the whole truth is reported. And that
9 includes that John Wayne Dedmon came forward and said
10 this was all bogus. And you'll never find that in the
11 Putnam Pit.

12 Q. Well, how do you know you won't find it
13 in the Putnam Pit if you've never read all of the
14 articles?

15 A. If it's in there, I'd like to see it.

16 Q. Well, we'll certainly be introducing
17 that at trial. Now, we need to get to the thing about
18 the traffic ticket case. You might find yours a little
19 bit quicker than I will.

20 MR. DUFFY: Before you leave that, did I
21 understand Counsel to say there was a representation that
22 an exhibit will be forthcoming where during the material
23 times in 19--... What year was that?

24 MR. HARRIS: (Interposing) I'm going to
25 object to any statements like this.

1 MR. DUFFY: All right.

2 MR. HARRIS: We can discuss the introduction
3 of exhibits off the record.

4 MR. O'MARA: Well, then don't make those kind
5 of statements on the record, Mr. Harris.

6 MR. HARRIS: I'm going to object to
7 Mr. O'Mara's interrupting these proceedings. He is not
8 the attorney of record and I'm not going to sit here and
9 fend off two objections from an attorney. Now, he's made
10 several comments. He knows that's out of place. And I
11 want to know who am I dealing with objections from in
12 this case?

13 MR. O'MARA: You'll be dealing with
14 objections from Mr. Duffy and you will find...

15 MR. HARRIS: (Interposing) If I'm dealing
16 with objections from Mr. Duffy...

17 MR. O'MARA: (Interposing) Mr. Harris? You
18 will find...

19 MR. HARRIS: ... then I think Mr. Duffy
20 should address this question. You are not...

21 MR. O'MARA: (Interposing) You will find that
22 I am attorney of record from the very first pleading
23 filed in this case and I'm still of record in this case.

24 MR. HARRIS: That's correct. And I move to
25 strike all of this from the video tape.

1 MR. O'MARA: Go ahead.

2 MR. HARRIS: Because if... Hold up,

3 Mr. Duffy. This is... If you want, we can go off the

4 record.

5 MR. DUFFY: Let's do.

6 MR. O'MARA: The jury is not going to hear it

7 anyway. It's just babble.

8 MR. HARRIS: Let's just go off the record

9 anyway.

10 MR. DUFFY: Yeah.

11 MR. O'MARA: We're not going anywhere. We're

12 going to finish the deposition.

13 MR. HARRIS: Can you control your co-counsel?

14 MR. DUFFY: Sam, just...

15 MR. HARRIS: Can you control your co-counsel?

16 MR. DUFFY: Are we off here?

17 (Off the record.)

18 MR. DUFFY: I'm going to need the record

19 read back to my last question before the interruption of

20 Mike O'Mara.

21 (Whereupon question is played back for

22 witness.)

23 BY MR. DUFFY:

24 Q. Mr. Gibson, if you would, I don't know

25 if you have a copy of that. This has been pre-marked by

1 me as Plaintiff's Exhibit 5 to be introduced at trial.
2 Have you ever seen this particular edition of the Putnam
3 Pit?

4 A. I have.

5 Q. Okay. If I could see Exhibit 5, pre-
6 marked Exhibit 5? Mr. Davidian...

7 MR. DUFFY: (Interposing) Before you...

8 Mr. Harris, are you telling us that Exhibit 5 is an
9 edition of the Putnam Pit? Because it's not identified.

10 MR. HARRIS: Yes. I'm identifying this as a
11 particular edition of the Putnam Pit.

12 MR. DUFFY: All right. Thank you.

13 BY MR. HARRIS:

14 Q. Do you remember the article he wrote
15 about the child lures program?

16 A. Which one?

17 Q. In the Putnam Pit?

18 A. I know the Putnam Pit, but which
19 article?

20 Q. This one right here on the front page
21 of there.

22 A. I think he wrote several. I don't
23 particularly remember.

24 Q. Well, it would be the first article on
25 the first page.

1 A. Okay. But doesn't it continue on to
2 page four? Actually, no. Okay. What about it?

3 Q. In that article, Mr. Davidian... You
4 had... Had you not said you were not going to use
5 campaign money to put up signs in people's yards? He
6 wrote that. Was that true?

7 A. That was true.

8 Q. Okay. And in fact, you had suggested
9 that you would donate money to the child lures program.
10 Correct?

11 A. That's correct.

12 Q. But in fact, it would have been a
13 violation of campaign law to donate money to the child
14 lures program because that was a for profit business.
15 Correct?

16 A. I don't know that buying programs to
17 prevent abduction of children and giving them to the
18 Putnam County school system would violate any campaign
19 laws.

20 I bought signs. I bought bumper stickers and signs
21 in prior elections from organizations that are for
22 profit. I bought ads in newspapers with campaign
23 donations for newspapers that are for profit businesses.

24 The benefactor of the child lures programs would be
25 the school systems that would use those programs with the

1 kids and that would not be a violation.

2 Q. But the profit... the money that you
3 would pay from your campaign's fund would have gone to
4 that for profit corporation. Correct?

5 A. All of the money that you spend out of
6 a campaign fund goes to a for profit corporation.

7 Q. In this particular case. Let's try to
8 just deal with what I particularly ask you. In this
9 particular case, did you actually spend the money on the
10 child lures program?

11 A. Yeah, I think I spend some money on the
12 child lures.

13 Q. Okay.

14 A. I know I have at some point.

15 Q. But that was an issue of concern during
16 the election. Correct?

17 A. What?

18 Q. The donations to the child lures
19 program?

20 MR. DUFFY: I object to the form of the
21 question. Issue of concern to whom?

22 Q. Well, was it an issue of concern to you
23 during the campaign?

24 A. I had an idea...

25 Q. (Interposing) The expense of your

1 campaign--let me clarify from his objection and rephrase
2 and that will help you. The spending of your campaign
3 money is always an issue in your campaign, isn't it?

4 A. Sure.

5 Q. Okay. And a public campaign for a
6 public office is an issue of public concern. Isn't that
7 correct?

8 A. A public campaign for public office is
9 an issue of public concern.

10 Q. All right. There's nothing wrong with
11 the press writing bout a public campaign, is it?

12 A. Certainly not.

13 Q. Now, there was a special Byron Looper
14 memorial insert. Do you have that, Mr. Duffy?

15 MR. DUFFY: (Nods head yes).

16 Q. And does that not say that... does that
17 not refer to Byron Looper as a guilty man, saying you
18 were trying to frame a guilty man?

19 A. It says, "Only in Tennessee the
20 District Attorney frames a guilty man".

21 Q. Okay. Isn't that saying that he...
22 isn't the Putnam Pit saying that Byron Looper is guilty?

23 A. I guess.

24 Q. But doesn't it have the view point that
25 maybe you're not doing a good job in prosecuting the

1 case? Do you think that's what that's suggesting?

2 A. It's suggesting that I would frame
3 somebody who is guilty.

4 Q. And in your view point, you wouldn't do
5 that, would you, Mr. Gibson?

6 A. That's not my view point. I can tell
7 you I wouldn't do that.

8 Q. Yeah. That's your opinion. You
9 wouldn't frame a guilty man, would you?

10 A. Well, it's not my opinion. It's not
11 something that's subject to an opinion. It's a fact.

12 Q. Well, how could it be a fact if it's a
13 speculation about what actions you would or would not
14 take?

15 A. It's not speculation. I can sit here
16 and tell you as a fact I would never frame an innocent
17 man. I would never frame a guilty man, whatever that
18 means.

19 Q. But you indicated that you thought...
20 and there was some attempt to say that Byron... that the
21 Putnam Pit was... Is this another example of the Putnam
22 Pit saying something negative about Byron Looper in order
23 to achieve objectivity?

24 A. It's an example of the Putnam Pit
25 saying something bizarre.

1 Q. Okay. And that's your opinion. Right?

2 A. Yeah.

3 Q. Now, I believe earlier today you
4 indicated to me that you thought the Putnam Pit had
5 diminished in the last four years. Did you say that?

6 A. I feel that their readership, the stir
7 that the Putnam Pit would make around here has diminished
8 over the course of the past... some period of time. I
9 don't know that I said four years. But I know that
10 initially that a lot of people talked about it and got
11 upset about it and now everybody sort of just... the
12 targets of the Pit sort of ignore it.

13 Q. And the Putnam Pit doesn't have the
14 impact that it once did, does it?

15 A. With me it doesn't. I think the
16 people, the readers, if there are readers of the Putnam
17 Pit, have begun to see it really for what it is.

18 Q. I'm going to move to strike that as
19 nonresponsive to any question and also him offering a
20 speculative opinion about what other people think, which
21 there's no foundation that he has any basis for making
22 that opinion and we'd move to strike it.

23 MR. DUFFY: The witness is explaining his
24 answer. Go ahead.

25 MR. HARRIS: And that hardly that constitutes

1 an explanation of his answer which dealt with what he
2 thought.

3 BY MR. DUFFY:

4 Q. Now, Geoff Davidian is not an attorney,
5 is he?

6 A. I don't know.

7 Q. Okay. As far as you know, he's not
8 though, right?

9 A. I've never heard him present himself as
10 an attorney.

11 Q. Okay. So when he was being prosecuted
12 for the fifty dollar traffic ticket, it's possible he
13 didn't know all of the legal procedures. Correct?

14 A. I have no idea.

15 Q. Okay.

16 A. I was not involved in that and have no
17 idea what he knew or didn't know.

18 Q. okay. But you previously testified
19 that you thought you knew what he was doing regarding the
20 subpoenaing of you?

21 A. He subpoenaed me into his traffic
22 ticket case and asked me to bring an open investigation
23 file. And I think he subpoenaed not only my file, but
24 any other files of law enforcement that I had access to.
25 I'm not positive. But on some matter that was totally

1 irrelevant to the traffic ticket. But I don't know the
2 issues of his traffic ticket and certainly not of the law
3 he knew or didn't know at that time.

4 Q. Well, even if he knew it wasn't...
5 Even if it wasn't appropriate to subpoena you, he's not
6 an attorney. If he's not an attorney, he wouldn't
7 necessarily..., he might make a mistake regarding what's
8 relevant or irrelevant in a traffic ticket case. Isn't
9 that correct? Isn't that possible rather?

10 A. He might make a mistake as to the
11 relevance of...

12 Q. Of your testimony in that case.

13 A. Of the investigation in a murder being
14 relevant to his traffic ticket?

15 Q. That's correct.

16 A. He might have made that mistake, I
17 guess.

18 Q. You've made mistakes as an attorney.
19 We all make mistakes, don't we?

20 A. Sure. But I don't think that I've
21 ever... I mean, I don't think Mr. Davidian is an idiot.
22 I think he knows what's relevant to what issue. And I
23 don't think there's an argument that he thought I was
24 relevant to his traffic case. I don't know. I can't
25 tell you what he was thinking, but that's pretty far

1 removed from what he was doing.

2 Q. Is it fair to say that all of your
3 comments and opinions about the Putnam Pit are based upon
4 the content of the Putnam Pit?

5 A. Most of my opinions about the Putnam
6 Pit are based on the content of the Putnam Pit.

7 Q. All right. And I'll make this very
8 simple, yes or no. You generally don't like the content
9 of the Putnam Pit, do you?

10 A. No, I don't think the content of the
11 Putnam Pit fairly characterizes the community I grew up
12 in or the people that I work with or me. I don't think
13 it puts... I think it removes any semblance of truth
14 from the truth. The articles are spun in such a way,
15 "Dead baby in Gibson's back yard", "D. A. denies Cocaine
16 use". What kind of person would I be if I sat here and
17 told you, "Yeah, I like that kind of stuff"?

18 Q. Well, that's true. And yet despite the
19 fact that you don't like it, you don't think that based
20 upon... You would agree that the expression of his view
21 point is not a basis for denying him government benefits
22 or government resources or services?

23 MR. DUFFY: I continue to object to this
24 line of questioning to the extent it calls for some kind
25 of legal conclusion or pinion that might be relevant to

1 the facts of this case.

2 A. You're going to have to... I was
3 wrestling with the question the first time.

4 Q. All right. I'll have the court
5 reporter...

6 (Whereupon question is played back for
7 witness.)

8 Q. I want to make sure it's clear. This
9 question, I'm going to repeat it for him subject to your
10 objection so you don't have to repeat the objection. Is
11 that all right?

12 MR. DUFFY: Uh-huh (affirmative response).

13 Q. All right. Mr. Gibson, would you agree
14 that just because Mr. Davidian has expressed a view point
15 that you personally disagree with, that would not give a
16 government official the right to deny him government
17 benefits or government resources?

18 A. I would agree that nobody should be
19 denied some benefit they're entitled to simply because
20 they've expressed an opinion, be it the truth or a lie,
21 that is unpopular with the person that would grant the
22 resource otherwise.

23 Q. Thank you, Mr. Gibson.

24 A. You're welcome, Mr. Harris.

25 MR. DUFFY: Are you done?

1 MR. HARRIS: I'm done.
2 (Mr. Duffy's first question is
3 stricken.)
4
5

6 RE-DIRECT EXAMINATION

7 BY MR. DUFFY:

8 Q. Has anything your office has done with
9 respect to the prosecution of Methamphetamine manufacture
10 in your judicial district, to your knowledge, had any
11 adverse effect on children?

12 A. Not to my knowledge. We take issues
13 involving, especially issues involving children very
14 seriously and I don't know. If Mr. Davidian could point
15 to something factually, I'd sure like to see it.

16 Q. What is your conviction rate like with
17 respect to Methamphetamine cases?

18 MR. HARRIS: I'm going to object to the
19 relevance of this as being broad and a waste of
20 the court's time and inefficient in the carrying on of
21 this trial under Rule 403. Sorry. Go ahead.

22 WITNESS: I feel like my office has good
23 conviction rates in every area. The big boom of
24 Methamphetamine cases is actually just now working its
25 way through the system, so there's not any real hard

1 statistics. But we certainly . . . we work with difficult
2 state laws in Tennessee, because the law has some
3 catching up to do with the Methamphetamine problem. But
4 I think we have a good rate of conviction for those
5 cases.

6 BY MR. DUFFY:

7 Q. Assuming that that question contained
8 in Mr. Davidian's Putnam Pit deals with the subject
9 matter of Methamphetamine, have you seen anything in the
10 Putnam Pit from a factual standpoint that supports an
11 inference by Mr. Davidian that your office somehow takes
12 a position with respect to Methamphetamine use that's
13 harmful to children?

14 A. I've never... I've seen... He implies
15 that we take an approach to Methamphetamine that is
16 harmful to children.

17 Q. Have you ever seen him assert in the
18 Putnam Pit any factual basis to support that inference or
19 opinion or whatever it is that Mr. Davidian apparently
20 has?

21 MR. HARRIS: I'm going to object to this form
22 as being vague. I'm not even sure what it is you're
23 referring to.

24 WITNESS: I've never seen anything factual
25 in the Putnam Pit that would support the allegation that

1 our... the function of our office has contributed to the
2 death of babies.

3 MR. DUFFY: Let me just make sure that we
4 have our exhibits right, Mr. Harris. Let's real quick,
5 let's go ahead and get that marked as Deposition
6 Exhibit #1. And we can include yours. I believe...
7 Actually none of this needs to be on the record.
8 Everybody can go on.

9 MR. HARRIS: Well, actually, I wouldn't mind
10 having...

11 MR. DUFFY: Oh, do you need to follow up?

12 MR. HARRIS: ... follow-up.

13 MR. DUFFY: Okay. Sorry. Go ahead. We'll
14 straighten out the exhibits later.

15

16

17 RE-CROSS EXAMINATION

18 BY MR. HARRIS:

19 Q. Just one quick question. Have you ever
20 seen articles where Mr. Davidian has expressed an
21 opinion, right or wrong, that you haven't done a good job
22 in prosecuting certain cases, like the Methamphetamine
23 one?

24 A. His opinion?

25 Q. His opinion.

1 A. Sure.

2 Q. Thank you.

3 (Whereupon the following articles from
4 the Putnam Pit are entered as exhibits: The Wednesday,
5 November 12, 1997 Putnam Pit Article, captioned "Who
6 Killed Darlene Eldridge?" is entered and marked as
7 Exhibit #1 to this deposition; The Putnam Pit Article
8 captioned "DA Bill Gibson under fire" is entered and
9 marked as Exhibit #2 to this deposition; The Putnam Pit
10 Article captioned "Bible Belt welts" is entered and
11 marked as Exhibit #3 to this deposition; The Putnam Pit
12 Article captioned "How we feel about DA Gibson
13 prosecuting the Looper murder case" is entered and marked
14 as Exhibit #4 to this deposition; and The Putnam Pit
15 Article captioned "Hitting Below the Bible Belt" is
16 entered and marked as Exhibit #5 to this deposition.)
17 (FURTHER DEPONENT SAITH NOT.)

18

19 WILLIAM EDWARD GIBSON

20 (Signature Waived)

21

22

23

24

1 CERTIFICATE OF REPORTER

2

3 I, the undersigned, CARLA YORK HANNAH,
4 Court Reporter and Notary Public-at-Large for the State
5 of Tennessee, do hereby certify that the foregoing is a
6 true, accurate and complete transcript, to the best of my
7 knowledge and ability, of the deposition of WILLIAM
8 EDWARD GIBSON as it was presented before me on the
9 4th day of October, 2001, at approximately 3:00 p.m. at
10 the City Hall in Cookeville, Tennessee.

11 I do hereby further certify that I am
12 neither of kin, counsel, nor do I have any interest to
13 any party hereto.

14

15

16

17 October 8th, 2001

18

19

20

21 CARLA YORK HANNAH
Notary Public-at-Large
22 State of Tennessee

23

24 My Commission Expires:
8/26/03

25

1 EXHIBITS

2

3 Exhibit #1 The Putnam Pit Article dated
 Wednesday, November 12, 1997 Page 107

4

5 Exhibit #2 The Putnam Pit Article Captioned
 "DA Bill Gibson under fire" Page 107

6

7 Exhibit #3 The Putnam Pit Article Captioned
 "Bible Belt Welts" Page 107

7

8 Exhibit #4 The Putnam Pit Article Captioned
 "How we feel about DA Gibson
 prosecuting the Looper Murder
 Case" Page 107

9

10 Exhibit #5 The Putnam Pit Article Captioned
 "Hitting Below the Bible Belt" Page 107

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