

I. Knowledge About the Poor White Trash Sub-Culture Needed to Understand the Testimony in this Case⁵

The jury which convicted Jessie consisted of 12 White residents of Coal County who are middle class and/or working class people. In arriving at their verdicts, they were disadvantaged in not having adequate knowledge of the cultural dynamics, social mores and norms of the "Poor White Trash" subculture of which the Cummings' household was a part. Knowledge of the interpersonal dynamics of the Poor White Trash subculture is critical to evaluating and understanding the evidence in this case, and how these offenses took place. (See Appendix 4).

Jessie, his extended family, and most of his friends are descendants of poor whites who migrated to southeastern Oklahoma in the late 19th Century, fleeing from the poverty of postwar southern agriculture. Southern sharecropping in Coal, Atoka and neighboring counties was characterized by low farm values, high rates of farm tenancy, and dependency upon cotton and wheat as staple crops. The "renters", as they were known, supplied the labor and work animals to work the land, and paid rents that were a percentage of the crops harvested. As they struggled with declines in commodity prices, recurrent droughts, the boll weevil, and population pressures that tended to push farm rents above customary levels, many poor White renters descended deeper into poverty. These propertyless workers owned few worldly possessions, and had little to sell but the labor capacity of their families.

A distinct and definable class of rural poor in the southern cotton-regions of the United States, including southeast Oklahoma, is known as the Poor White Trash. This is a distinct subculture within the political, social and cultural institutions of our society, and as such it has definable traits and characteristics. It is a subculture separate and distinct from the Poor White subculture in southern society, which considers White Trash to be inferior to them.

One defining characteristic of the Poor White Trash subculture is a subsistence living which

⁵The information in this section is synthesized from a number of sources, including: Flynt, W., *Poor but Proud: Alabama's Poor Whites* (U. of Alabama Press 1989); Nisbet, R. and Cohe, D., *Culture of Honor: The psychology of Violence in the South* (Westview Press 1996); Burbank, G., *When farmers Voted Red: The Gospel of Socialism in the Oklahoma Countryside, 1910-1924* (Greenwood Press 1976), and interviews with Distinguished University Professor Wayne Flynt, Auburn University, Alabama.

allows maximum independence from traditional work. Unaccustomed to the discipline of traditional employment, they do not function well working eight hours under close supervision and in a confined space. Nonetheless, Poor White Trash often work very hard, supporting themselves and their families by hunting, fishing, logging, "junking", and working seasonal jobs. They tend to live a migratory and vagabond life, moving frequently in search of better economic conditions.

The use of simplistic cunning and manipulation is a survival skill in this culture. This accounts for much of the petty thievery for which they are arrested. "Junking" includes driving around on back roads looking for abandoned property to salvage and resell, and also includes trespassing on land to salvage property that is not clearly abandoned.

The children in Poor White Trash families begin working at a young age alongside adults to contribute to the support of the household. Poor White Trash believe children should earn their own way in the world as soon as they can. Parents expect children to work to supplement the family income. The need for children to help support the family, and the transient nature of their existence in general, results in children dropping out of school before reaching high school. In addition, Poor White Trash see little value in education beyond functional literacy. Most Poor White Trash adults are semi-literate at best. Inadequate incomes also result in poor diet, health and housing, and that adversely affects intellectual development. Generations of intermarriage also contribute to lower cognitive and intellectual functioning.

Poor White Trash children enter adolescence with substantial disadvantages. They are expected to begin earning their own living, but have had little education to prepare them to do that. This contributes to unskilled labor in non-traditional work activities, and perpetuates primitive living conditions in substandard housing. Coupled with the strict discipline which characterizes Poor White Trash child rearing, children tend to drift away from home in their early teens. Girls marry young, and boys begin a life-long pattern of a transient and subsistence existence. Given the handicaps with which children of Poor White Trash arrive at adulthood, it is rare for someone with a Poor White Trash upbringing to move up the social ladder.

When children assume adult roles at a young age and live in close quarters in cramped housing, that accelerates courtship, marriage and sexual activity. The sexual mores of Poor White Trash are not mainstream. Within their subculture, sexual promiscuity is commonplace and accepted. The most casual living arrangements with the opposite sex are commonplace. Young people just move in together, and it is not uncommon for multiple sex partners to live in the same household. While adulterous relationships and multiple partners are commonplace, actual bigamy is unusual.

Poor White Trash have strong family values, although some of their values are divergent from mainstream society. There is a concern for family, love for children, and pride in the ability to provide for one's family. They can be extremely resourceful in coping with adversity, and have a very practical, down-to-earth and non-materialistic approach to life.

The nuclear family stands at the center of Poor White Trash society. Bonds to a partner acquired through marriage seldom supplant the bonds of blood kin. Despite the transient nature of their existence, blood relatives often live together or not far from each other. Intergenerational households are commonplace. Allegiance to kinfolk tends to be stronger and greater than the transitory relationship to a spouse.

The White Trash males are traditionalists in that they prefer for their wives to stay home to care for the house and children. In Poor White Trash culture, the male is viewed as the head of the family. In their child rearing practices, they believe in strict discipline. Their understanding and knowledge of child development and appropriate discipline are antiquated, which is due to lack of money for books and education, below-average intellectual functioning, and a high degree of isolation from mainstream culture. Males and females both behave in more domineering ways in their interpersonal encounters.

Some of the gender differentiations that exist in White Middle Class culture are not found in Poor White Trash culture, where there are fewer differences between males and females. In White Middle Class America, for example, men and women inhabit separate spheres, and there are cultural assumptions about women being the "weaker" sex and less prone to violence, and women act more

"ladylike" and genteel. In Poor White Trash culture, women will cuss, smoke and chew tobacco, and fight to resolve conflict on a par with males. Dominance does not depend on gender, but on power and who has it. "Power" has much to do with strength and fighting prowess. While physical abuse is common in Poor White Trash relationships, the use of aggression is often mutual in marital relationships.

Alcohol abuse is astonishingly high in Poor White Trash culture. Moonshine is still made and distributed within this society, and it is generally more potent than its counterpart sold in stores. Living under the strain of enormous social and economic hardships, alcohol is an easy escape. From alcohol abuse flows violence.

Poor White Trash have a limited range of problem-solving skills. Because they are ostracized and look-down on by other social strata, including Poor Whites, Poor White Trash often feel persecuted, insulted and cheated. They essentially feel powerless, and are hypersensitive and hypervigilant to insults, perceived or true. They resort to aggression and physical prowess to resolve affronts, conflicts and problems. To feel that someone is taking advantage of you is to feel "put upon," which is a real source of rage. When somebody offends you, there is a need to react immediately, and the fury which explodes carries with it a lifetime of frustration from deprivation.

Women and children are taught to fight in order to take care of themselves. Boys and girls alike from a young age are socialized to fight and use aggressive ways to settle differences. Even very young children are encouraged to be aggressive. They learn that they are suppose to grab things if they are to have anything at all. They are encouraged to roughhouse and fight on the carpet to entertain their elders.

An important cultural characteristic of White Trash is living life in the moment with little planning or thought about consequences beyond the immediate moment. This is the ultimate existential culture in which people live their lives for the here and now, because the "right now" is all you have. Coupled with this is the lack of thinking beyond immediate consequences and an inability to plan ahead in a sophisticated way.

Another aspect of this socio-economic group is what is called their "culture of honor," in which manhood is defined in terms of the ability to provide, and honor is understood in terms of status, defined in terms of what one possesses, and power, defined as the ability to defend one's possessions. Hence, appearing strong, tough and capable of defending one's ownership rights to possessions is of the highest value. When resources are in scarce or unpredictable supply, then one's reputation for toughness has great economic value. Thus, one needs to be constantly on guard against affronts that could be construed by others as disrespect.

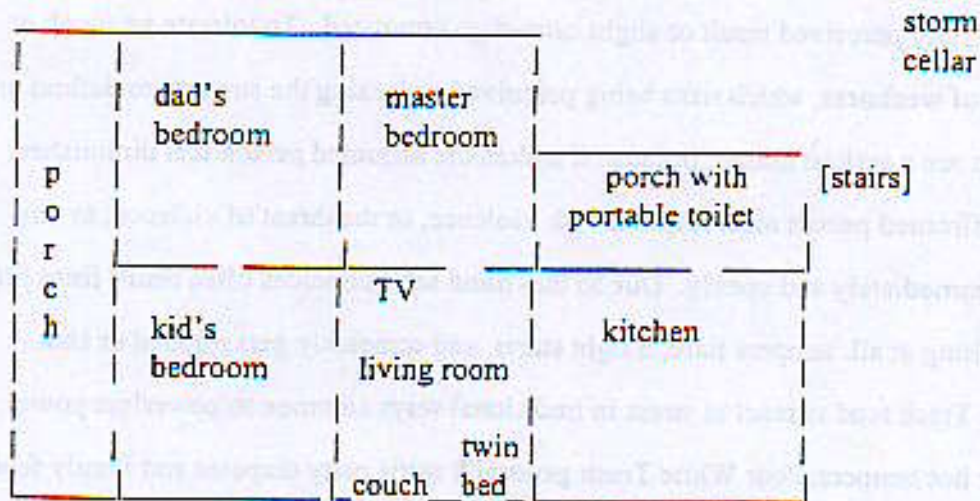
A Poor White Trash person's sense of identity primarily centers on ownership of possessions. Hence, any perceived insult or slight cannot go unnoticed. To tolerate an insult or disrespect is a sign of weakness, which risks being perceived as lacking the strength to defend one's possessions. Insults are a serious matter, because it makes the affronted person feel diminished. Consequently, an affronted person must respond with violence, or the threat of violence, to any affront, and do so immediately and openly. Due to this mind set, homicides often result from little arguments over nothing at all: tempers flare, a fight starts, and somebody gets stabbed or shot.

Poor White Trash tend to react to stress in traditional ways common to powerless power. Renowned for their hot tempers, Poor White Trash generally settle petty disputes and family feuds with fist, gun, pocket knife or club. Violence also serves as an interlude to spice up an otherwise dull existence. The yearning for excitement also is reflected in pastimes such as cockfighting and barroom brawls.

Poor White Trash women teach their children this culture of honor and enforce it on their menfolk. They would reject a man who failed to take revenge when insulted or dishonored. The women participate in its violent behavior patterns themselves. Women, like men, use aggressiveness and domineering behavior to establish status. The women are just as capable as the men in toughness and wielding power. Poor White Trash women are more likely than their female counterparts in other social strata in our society to endorse violence for answering an affront, to support spanking and strict discipline of their children, and to kill.

J. Events Preceding the Offense

The summer of 1991, Jessie and his wives were living in Phillips, Oklahoma, in a dilapidated house without indoor plumbing located on six acres, which they were renting for \$25 a month. This was an old small five-room wood-frame structure sitting on cement blocks (Appendix 9). At the time, the diningroom was being used as the livingroom, and the livingroom was being used as the children's bedroom. Jessie's father, Jess Cummings, was living in one bedroom, and Jessie and his wives shared the other bedroom (referred to herein as the "master bedroom").



Judy and Melissa were living in a tiny rental home in ^{TUSHKA} ~~Fapele~~, Oklahoma. Around August 30, 1991, her son Henry Moody and her daughter-in-law (wife of her son, James Moody), Mildred Moody, had gone to live in Arkansas. Judy's second husband, Eugene, had left her around August 23, 1991, and moved in with his parents in Lane, Oklahoma. Eugene's grandparents lived across the street from Judy, and she was very close to them. Judy was very upset about Eugene leaving her, and that he was seeing another woman who he had met at work. Judy found some solace, however, in meeting Jessie Boone Wilson [herein "Boone"]. Boone had recently moved in with Judy's close friends, Pat and Wayne Cathey, who lived in a trailer in Tushka. Judy met him at the Cathey's house

Labor Day Weekend and they began a sexual relationship the same day.

Judy and Eugene owned a red flatbed pickup which they were buying from Jessie on installments. The pickup was at Jessie's house at the end of August while he made some repairs to it. Judy had the truck back by Labor Day weekend. Around that time, Judy borrowed from Jessie the .38 Sierra that he and his wives owned. She indicated she was feeling threatened by somebody, but did not share any details. Many people were aware Judy had borrowed the .38. When she told her best friend, Ella Faye Potter, about it, Ella's boyfriend Robert Cogburn advised Judy to keep it under her pillow when she slept at night.

Eugene had dinner with Judy Monday night, September 2, 1991, and spent the night. Judy was distraught the next day when Eugene refused to move back in with her and went back to his parents' home. Judy spent Tuesday night with Boone at the Cathey's trailer. Wednesday, September 4, 1991, Judy and another woman picked Melissa up from school in the afternoon before school was out. That week Judy had transferred to her name the utilities for the house she lived in. Although Ella Faye was encouraging Judy to move closer to her in Coal County, Judy wanted to stay close to Eugene's grandparents in Tupelo.

Jessie's father was 71 years old. In August 1991, Jess was diagnosed with pancreas cancer with a biliary obstruction which caused him to lose a lot of weight. His doctor referred him to Presbyterian Hospital in Oklahoma City for further diagnosis and treatment. (Appendix 47). Although Jess was not Judy's father, she thought of him as such, using his last name before she married, and felt close to him. The night of Wednesday, September 4, 1991, Judy and Jess went to Roland's Bar in Lehigh, OK, to drink and visit before Jess went to the hospital the next day. Jess tried to coax Jessie to join them at the bar, but Jessie declined.

En route to Roland's Bar that night, Judy stopped at the Dairy Queen in Atoka where Anita was working. Anita worked the second shift that night, from about 4:00 pm until closing at 10:00, staying to clean up before going home around 10:30 pm. Judy dropped Melissa off at the Dairy Queen and told Anita to watch Melissa and take her home when Anita was done working. Anita in general did not like people to visit her at work, and she was not happy about Judy thrusting Melissa

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

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

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

K. The Offenses and Discovery of the Bodies in 1991

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

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