

STATEMENT OF ALEC BROWN

Made at the Marshall City Police Homicide Investigations Unit at 10 a.m., on September 16, 2001, as given and sworn before Officer Roy Henry (Star #18979).

PRESENT: Detective Roy Henry (Interviewer), Marshall City Police Department, Homicide Investigations Unit; Thompson County, State of Marshall, and

Alec Brown.

Detective Henry: For the record, this is the voluntary statement of Alec Brown, in connection with the investigation into the poisoning of Patrice Zeller on September 12, 2001, in the city of Marshall. May I call you Alec?

Alec Brown: Sure.

Q: Alec, you can see, a court reporter is taking down everything that we say, so please no shaking or nodding of your head as we need audible answers to my questions. If you do not hear or understand a question, feel free to ask me to repeat or rephrase my question. If you answer a question we may assume that you heard the question clearly and understood the question fully. O.K.? This will be typed up for you to read and review, and you can then sign it. Some of the preliminary information may be summarized, but other portions of the interview will be transcribed word-for-word. If you don't understand a question, stop me and ask me to repeat it or rephrase it. And, anytime you wish to leave for a personal break or to get a cup of coffee, we'll take a break. O.K.?

A: Yes.

Statement of Alec Brown

The following is the statement made by Alec Brown on September 15, 2001, at the Marshall City Police Department, Homicide Investigations Unit. Detective Roy Henry conducted the interview.

[Summary of information given by witness at the beginning of the interview]: My name is Alec Brown. I live here in Marshall City, at 4420 N. Paul Street. My parents moved to Marshall City shortly after I was born, and I have lived here almost all my life. I attended Markworth High School, and tried a little college later on.

I first met Marty Zeller in the summer of 2000 when he came to work at Byrnes Pharmacy #1 -- a little over a year ago. We know each other from work, but we also have become social friends: I have been in the Zellers' home for dinner and a couple of parties (such as the Christmas party last year); they has been to my condo for dinner at least once. I know Jamie Byrnes who is my boss now, was my boss over at Byrnes Pharmacy Number Two when I first came to work for Byrnes, and is my boss again since taking over the Pharmacy Number One when Mr. Charles Byrnes got sick last spring. Mr. Charles Byrnes died in July.

[End of summary].

Q [Officer Henry]: I'm going to ask you some questions about your background later.

A. [Alec Brown]: OK.

Q: You know why we are here – the Zeller case.

A Let me start by saying that there is no way that Marty could have or would have hurt Patrice. There is a mistake somewhere. You shouldn't be holding Marty. From what I see, they are very close. He always told me that he thought he was very lucky to be married to someone like her, and that he would do anything for her and she would do anything for him. I know him by reputation, also, and he is honest, hardworking, and would not hurt anyone. He is a very peaceful, non-violent person. Everybody knows that.

Q: What do you do at Pharmacy #1?

A: My title is Inventory Manager. I'm just a clerk, a cashier. I just take care of things in the front of the store, so to speak. I do not fill prescriptions. Sometimes I will work behind the pharmacy cash register. If a prescription has already been filled, and is in the drawer waiting to be picked up, I can ring it up. I do not give advice, double check the prescriptions or anything. Marty was working to become a pharmacist-technician to handle the prescriptions. I am not sure how that works, even though it has been explained to me a couple of times. I like my job because it is steady, the pay is OK, I get good medical coverage and free prescriptions – at least I used to, and now Jamie makes me pay the deductible on the insurance. Old Man Byrnes never did that. The prescriptions were free, period. I guess he buried the bill as inventory shrinkage, which is like saying it was taken by shoplifters or spillage. I also used to get a free ice cream or soda, but Jamie cut back on that, too. So, I guess you could say I like my job, but I'm not crazy about my boss.

Q: Let's see if you can confine your answers to the questions.

A: Well, I just want you to know that I am not a pharmacist. I have no interest in becoming one, or even a pharmacist technician. I am happy to have a job, but I do not want the responsibility of handling prescriptions. Mr. Charles Byrnes used to tell me to be more ambitious, but I always told him I was happy doing what I was doing.

Q: You were working at the Byrnes Pharmacy Number One last Wednesday, September 12, 2001?

A: Yes. We had to stay open. Byrnes made us work. The pharmacists all refused to come in - did not come in, so Jamie was working shorthanded behind the pharmacy window, and was not too happy. I wanted to take the day off to attend memorial services for the people who died on Tuesday at the Pentagon and the World Trade Center. Of course I thought about the cyanide deaths here in Marshall, in July – well, you know all about it, your being a police officer and all—the poisonings.

Q: What were things like in the pharmacy, in the store, Wednesday?

A: Slow. Byrnes could not get any of the registered pharmacists to come in. Most of the stores in town closed. They closed the day before, after the World Trade Center, and almost all stayed closed on Wednesday. We did not close because Jamie was going to stay open even if the town was on fire. Jamie would not let us watch anything on the TV or listen to the radio. I was looking at the newspaper and Jamie told me not to read on the job. I went downstairs to the washroom and used my cell phone to get the news.

In fact, on the 11th I asked Jamie if we could close – you know, around noon, and Jamie said, “What for?” And I said, because of the national tragedy. And Jamie says, right there at the counter, “I have a business to run. If the others close, that’s more customers for us.” We were the only pharmacy in Marshall City to open up on the 12th. There were prayer services all over town. We’re a patriotic and religious people. Jamie didn’t care. We were all told to come to work, and there were to be no excuses. Jamie did not seem concerned about the tragedy that had taken place. Jamie did not want to lose a day’s revenue. Jamie called me at home Tuesday night. I was trying to watch TV and Jamie said the Byrne pharmacies were all going to be open on Wednesday, regular business hours. I said there were prayer services, and Jamie told me, “You can pray while you are at work. People have to have prescriptions filled, and we will be open when everyone else is closed. I have a business to run, not a church.” Wow. So I went in. I worked 8 a.m. to 4:30 p.m.

Q: OK. You were on the job when the Zellers came in?

A: Just when I was getting ready to leave, I saw Marty and Patrice Zeller come in front door of the store. I was standing near the front cash register,

and Jamie was downstairs, so I could not leave yet, because no one else was in the store. This is at 4:30. I am quite certain that Marty came over to talk to me almost immediately. I don't think he wanted Jamie to see him, there being a lot of ill will between them because Jamie had forced Marty to quit – Jamie accused Marty of “pilfering” food and “skimming” cash, and Marty and Jamie got into an argument a couple of weeks ago, and the next day Jamie basically told Marty that it would be better all around if Marty found work elsewhere. In this economy, where?

Anyway, Marty comes in with Patrice around 4:30. I was getting my stuff together. I wanted to go home, to find out what was happening with the World Trade Center and the terrorists, and go to one of the prayer services. Marty comes over, and says, “So, ‘Slick’ is keeping the stores open. Got to pay the bills at The Four Seasons. If only Old Man Byrnes were alive, he'd never allow this.”

Q: “Slick”?

A: That's what people call Jamie. “Slick.” And I say that “Slick” would not have had the money to stay at The Four Seasons, that Old Man Byrnes must have left some serious money to “Slick.” And Marty says that he hears that Old Man Byrnes left the drugstores to “Slick,” but “Slick” has to show a profit in order to get the money left in trust. Who knows, it's all bound up in secret trusts, and I am just telling you what my uncle, who is a law partner with “Jamie's” lawyer, told me last week. Anyway, we are talking, and it is now about twenty minutes to five p.m., when Patrice comes over and says she has made her purchases, and wants to go home because she has a headache. So, Marty and I shake hands, I tell them I will see them around, and they leave. That night I hear that she is taken to the hospital with poisoning, and I think, “Oh, oh. She must have bought some poisoned aspirin at Byrnes. Jamie is going to get a lawsuit, and lose everything.” Look at what's happening to Lonnie's Cut Rate. They had to close. He's being sued.

Q: How did you feel about that?

A: I thought it was ironic that Jamie's store sold contaminated aspirin and it happened when Jamie was keeping open the store when everyone else was closed. On the other hand, I felt terrible. I had just seen Pattie that afternoon, and I felt that Marty must be terrified that Pattie could die, and that she might be in a lot of pain.

Q: OK. Let me ask you this: Was Marty with you the whole time he was in the store?

A: Well, I believe so. I know I was getting ready to leave, and it was 4:30. Merve who was working 4:30 to 10:30 had not arrived, so I was looking at the

clock and the front door. The moment Merve arrived, I could leave. If Merve wasn't there I had to stay. I had to ask permission to leave, and I did not want to have to go over to the pharmacy window to ask permission to leave, and maybe have Jamie give me a hard time for not staying around – not that I would get any overtime for the favor. One time I had to wait 20 minutes, and I did not get a penny. But I heard that Jamie docked Merve a half-hour's pay. Well, to answer your question, I saw Marty right after he came in, because I looked up and he was walking toward me, and I could see that Pattie was walking to the pharmacy window.

Q: Could you see the whole store?

A: Pretty much. The area near the walls where the employees work – and the pharmacy area, too, are up on a platform – like one step up off the store floor. I would guess it's about six inches high. So we have a better view of everything, and can reach up a little higher on the shelves that are against the wall, and also be higher at the cash registers.

Q: Don't the display cases block your view?

A: No. They are like five feet high. So, if I am standing at the cash register or in the pharmacy cage, I have a pretty good view of the store. I can certainly see where adults are unless they are rather small adults. And from where I was standing when I was talking with Marty, I could see the area in front of the pharmacy pretty well. I could definitely see Patrice back there. Marty was talking with me, and she was back there. I could see her moving in front of the analgesics – the pain killers, you know, aspirin and such – and I saw her go to the cash register back there. She waited a couple of minutes. Then I could see her give Byrnes some merchandise and pay for it. Then she came over and signalled Marty that they had to go home.

Q: Didn't you see Marty back at the pharmacy cash register at all?

A: No. I looked up when I was at the corner of the store, moving toward the pharmacy area. I talked with him as I walked towards the place where I deposited my employee identification badge – we had to leave those in a drawer before we leave the store, and the drawer is in the middle of the side counter. That's where I ended up, and I had her in the corner of my eye. I saw Merve come in the side door. That's a door where you can come in just by using the door handle – but you have to be buzzed out. Old Man Byrnes -- Mr. Charles Byrnes -- set up this goofy system to keep people from running out without paying. In other words, anyone can come in, but nobody gets out the side door without someone in the pharmacy station buzzing them out. Of course they can come in and go out the front door. Marty used to tell both Byrnes's that the Fire Department was going to cite the store for blocking that door. The Byrnes family did not care.

Listen, working in that store is OK, but sometimes I take a look at the way the Byrnes's do things and I wonder about them. Like having a soda fountain. Nobody has a soda fountain any more. It's not worth the trouble. Mr. Charles Byrnes thought of it as a "loss leader." He said people would come in to see the soda fountain, and maybe stop for some ice cream or an ice cream treat of some kind – you know, a chocolate soda or a malted milk shake. I had to learn how to make that stuff. It also requires us to wash our hands whenever we work back there, which means that we have to go downstairs to the washroom to wash up. Sometime I just wash with the hand sanitizer. It also brings in the inspectors from the city's ordinance enforcement office. They are always on the lookout for vermin, you know, mice and little bugs. Frankly, that was a problem, and Marty was always reminding Mr. Charles Byrnes that he had to get in a clean-up crew or an exterminator. When Jamie came in, Jamie did not want to spend money on the exterminators, and summer is the worst for bugs and stuff. Marty was complaining a lot, and Jamie was telling him to forget it. Finally Jamie told us all that the soda fountain was coming out, we were not going to sell unpackaged foods, we were going to restrict the basement to employees

Q: I don't understand.

A: OK. Here's how that works. If you serve food, the city law requires that you provide a washroom for the customers. That meant that people were going downstairs to use the washroom, and there was a stockroom down there, and maybe they would take a couple of things off the inventory shelves when they were down there. Old Man Byrnes said we had to trust that people were not going to do that, and frankly I don't recall there being any shortages in the inventory down there. But Jamie really did not like it, and wanted to keep the stairway door locked. Well, that got to be a distraction. A customer would ask to use the washroom. One of us would have to go over and unlock the door, turn on the light, and sometimes even give directions. Finally we just left the door unlocked again. Jamie is right – the solution is to take out the soda fountain. That way the store does not have to provide customers with a washroom, and people don't have ready access to the stairway or the inventory.

Q: Was that stairway door open on Wednesday -- this Wednesday?

A: Yeah. I used that door several times and never used a key – you know, like when I went downstairs to listen to the news on my cell phone.

Q: Could anyone have opened the door and turned off the security cameras?

A: Only if they knew where the switch was. Those switches are maybe a foot above the light switches, just to the left of the door as you go in. You can reach up a bit and turn the switch on or off. In the morning we turn them on, at night we turn them off. The taping machine is in the basement, and there is a monitor in the pharmacy. There's also a monitor for each camera downstairs. You can turn off the tape machine alone, and the camera and the upstairs monitor stays on. I hear that the machine was turned off on Wednesday afternoon.

Q: Where did you hear that?

A: Jamie mentioned it. Jamie said that the videotape recording machine could have proven Marty put the doctored pills on the shelf.

Q: Did the videotape recoding machines ever fail or go off on other occasions?

A: Only when someone turned them off. It would rarely happen – I think it happened maybe two times before – It happened on September 8, I hear. Slick complained that someone had turned off the tape machine on September 8, in the evening. Jamie was not working that evening, but came in to close up and started asking why the tape had been switched off. Nobody knew.

Q: Was Marty in the store that evening?

A: Yes, from what I hear.

Q: You think he turned off the recording?

A: I know where you are going. Marty was in, and there's a receipt showing what he bought -- which included five bottles of aspirin. There is no tape showing him picking up the bottles from the shelf.

Q: Let's go back to when you were talking to Marty, and Patrice finished making her purchase on Wednesday.

A: He and I were talking. We had talked a little bit, then Pattie came back and said hello, but she wanted to go home as she had a headache and was not feeling well, so I said good bye. Merve came in the side door, back by the pharmacy, and so I waved goodnight to good old "Slick" without going on back, and I got out of there. It was almost 4:45. I would say the Zellers left a minute ahead of me.

Q: What did they look like when they left?

A: She wasn't saying anything. He had his hand on her shoulder -- like comforting her. I lost sight.

Q: When did you next go back to the store?

A: The next morning at 7 a.m. And the first thing that happened when I got there was that Byrnes comes to me and asks, "Didn't you see Marty come yesterday with Patrice? I said, "I think so." And Jamie is almost in a panic, and asks me, "Didn't you see Marty over by the aspirin counter?" And I thought I should be prudent here, as I did not know where all this was leading, so I said, "Maybe." And Jamie says, "You saw him. He was right here, and he was the one who handed Pattie the bottle of aspirin she bought. Then Jamie asks me, "Did you ever hear Marty talk about cyanide?" And I said, "I don't think so. Maybe. I have to search my memory."

Then Jamie asks, "Were you here the other day when Marty came in and bought a half-dozen bottles of ByrAspirin? I said, I saw Marty here the other day, but I don't know what he bought. I know I was surprised to see Marty back in the store just a few days after being axed. But I also figured maybe Marty was there to pick up some personal stuff, or a paycheck. I know that Marty was back by the pharmacy and the downstairs door around 7 p.m. I also remember that was the evening when the TV security cameras -- I should say, the taping mechanism for the camera which monitors the side entrance and the pain relief medication section -- got turned off -- the switch by the basement door, you know, just at the top of the stairs, was somehow turned off. First time that ever happened, so the -- so whoever came to the register was not filmed, tape recorded, video recorded. The tape was not running that night until Jamie noticed that the tape was not running -- that was at 10 p.m. when we were closing.

Same thing happened when Marty came in on Wednesday, except I am sure that Marty did not go to that back area the entire time he was in the store. Jamie screams "Marty did this!"

Then Jamie told me that the soda fountain was coming out, for security reasons. See, if we serve food, customers have access to the downstairs washroom. Jamie says the fountain is a waste of space, and it also required that we keep up on the health department regulations. They come in looking for bugs and mice, and can close you down if they find anything. Byrnes did not want to take any more chances.

Q: Did you ever hear Marty Zeller threaten his wife, Patrice?

A: Never.

Q: Did you ever hear him threaten Jamie Byrnes?

A: Well, yes.

Q: When was that?

A: When he got fired.

Q: On August 31?

A: Yes. I was right there, and it was maybe three o'clock in the afternoon. Marty had asked for something, I think. I don't know what, and suddenly Jamie said, "I think you have taken enough out of here. This is the last straw. Don't come in tomorrow to work, because I am downsizing the staff, and you are no longer working here." Something very close to that. And Marty says, "Firing me won't solve anything. You still have to obey the health laws. And you can't blame me for anything that goes wrong around here any more." And Jamie says, "I won't have to worry about you pilfering merchandise and money." And Marty says, "That's garbage." And Jamie says, "Look, you've got a stolen candy bar in your hand right now." And Marty puts the candy bar on the counter, and looks right at Jamie, and says, "We will get you for this. And that is a promise."

Q: "We will get you for this." What did he mean by that?

A: Nothing. It's what people say when they are angry and feeling helpless. An empty threat. Marty is not a vengeful person.

Q: On Wednesday were you able to see Jamie Byrnes and Patrice Zeller when she made her purchases?

A: Yes. I could see across the store. She was holding -- looking at -- a small white bottle, probably an aspirin bottle, and she went over to the pharmacy window, to the cash register, and I saw Jamie Byrnes put everything in a small bag, accept something, probably money, and a moment after that saw Patrice head toward us. I said hello when she came up and almost right away she said that she wanted to go home. Marty said goodbye to me. There was nothing unusual, and they left together. As I said, he had his hand on her shoulder. I don't know for sure what she bought. I assume it was aspirin and other stuff but I did not see what was in her hand or purse.

Q: Are you concerned about the stores going out of business?

A: Sure. I hope the stores survive all this publicity.

Q: I want to get some background on you, OK?

A: Sure. [Summarized] My father died when I was just out of high school, so I stayed at home with my mother. When she got sick a year later, I had to quit college to get a job and look after her. She died when I was 21 years old. I had to move out, as my folks had taken out a “reverse mortgage,” so I worked things out with the bank and got some cash and the ...well the bank took the house. I moved away for a little over a year, then came back and used some money that was left when my mother’s estate closed, to make a 50% down payment on a condominium. I am still paying that mortgage off, but it is not too bad because I put down such a large amount to begin with, and I bought a fairly modest place at a very good price. I am now 30 years old. I worked as a clerk and salesperson over at Walmart for a few years, and then three years ago I came to work at the Byrnes Pharmacies. I took some evening and weekend courses in pharmacy at Thompson College, but I decided I did not want to be a pharmacist so I did not follow up. I am studying business administration, and I have no idea how long it will take me to finish. I am about one-third completed for an undergraduate degree. Part of my problem right now is that the store is under new management, so to speak, and I was not able to negotiate a schedule which would have allowed me to attend classes this current term. Jamie Byrnes, my employer, won’t commit to a schedule which will guarantee that I have certain evenings free, or even Saturdays free, for a term. Jamie took over the store last spring and made me work a schedule in which we rotated working evenings and mornings, and we rotated working Saturdays and Sundays. The bottom line was that I had to withdraw from the two courses I was taking – the Wednesday evening class in Business Speech (mostly a parliamentary procedure course) and Survey of Economics. I took no summer class, and I am not taking any classes now. I met Marty Zeller several years ago – I am not sure where. Maybe at the college. I sort of saw him around town, but did not really know him. But since he came to work at Byrnes’ Pharmacy, we became friends. So, I met Patrice right after that.

I began working at the Byrnes Pharmacy #2 in January 1999 when it just opened. We had a grand opening, so I was one of the first employees there. After six months at that location, I was reassigned to work at Pharmacy Number One, at my request. Pharmacy Number One has been around since 1955, when Old Man Byrnes, Mr. Charles Byrnes, opened it. I think there was a drugstore there before, because we have this old-fashioned soda fountain, like from the 1940s or earlier, and people like to come in and have a soda or a cola, or a scoop of ice cream with some syrup. Anyway, I did not go to the Number One store until a year after I started, and that was because I wanted to work there because Old Man Byrnes was a lot nicer, a lot easier to work for than Jamie. Jamie was not, is not, a pharmacist, see, in this State you can own and manage a pharmacy but you must have a trained, registered pharmacist to fill prescription. Old Man Byrnes was a registered pharmacist. He managed the three stores, even though one is in Moline. Jamie refused to study pharmacy, or maybe flunked out of school, I hear. Mr. Byrnes, Charles Byrnes, was a wonderful man, very thoughtful, generous, businesslike, honest. “Slick” is not

any of those things, in my view. "Shortcut Slick" would be a better name. I did not want to stay on at Pharmacy Number Two, Jamie tends to be too rigid, tight-fisted. Jamie does not know how to compliment people, but knows how to smile and flatter customers. I wanted to move and Old Man Byrnes asked me to work in the Number One store. I just work as a clerk. I am not interested in becoming a pharmacist.

Q: Thank you. Come back this afternoon. I'll have this interview typed up. You can review it and sign it.

A: Fine.

Whereupon the interview ended.

I have reviewed the above statement and it is true and accurate.

Alec Brown

September 16, 2001
Date