

STATEMENT OF TERRY GAFFNER

Given to the Marshall City Police on November 10, 2001, as given and sworn before Officer Charles Smith (star #4540)

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November 10, 2001**

PRESENT:

**Officer Charles Smith (Interviewer), Marshall City Police Department.
Thompson County, State of Marshall**

Terry Gaffner

Interviewer: For the record, this is the voluntary statement of Terry Gaffner, concerning information that the interviewee has in connection with a complaint that a person named "D" Diamonte took the interviewee's motorcycle on October 31, 2001, without permission and caused substantial damage to that motorcycle. Correct?

Gaffner: Is true.

Interviewer: As 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. 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.?

Gaffner: O.K., I got it; I understand you.

Interviewer: Go ahead. State your name and address.

A: Terry Gaffner [spells], and I am now living at 707 Lake Street, upstairs apartment, but was living with the thief until a couple of days ago. I am fed up with person taking my things, and making false accusations against me and not wanting to pay for damage to my motorbike.

Q: Who are you complaining against?

A: The people, D, who take my motorcycle on Halloween holiday, gets drunk, ruins bike, says will repair bike not to worry, then renegs on paying

for repairs after I have picked up bike and paid for it with authorized credit card. I work hard to get a nice American motorcycle - it is my success. And that thief took it and wrecked it and now won't pay to fix.

Q: Are you referring to a "D" Diamonte?

A: You got it, the person who now says I am a fraud and slanders me.

Q: One moment. Let's see. You are talking about the statement made by D Diamonte on November 9, 2001 in Marshall City, Thompson County, State of Marshall? Do I understand you wish to make a statement regarding a complaint made by D Diamonte, accusing you of misuse of a credit card?

A: Yes.

Q: Well, no charges are pending against you. I think the merchant will need to come in to - Diamonte simply says you did not have permission to use the card, but did not demand that there be theft or attempted theft charges. No one else has complained that they -- no charges are pending against you. You are not the subject of any criminal investigation. You sure you want to Well, I got the impression that Diamonte is not pressing charges, and You are here of your own free will. You can leave any time you want to. OK? You still want to make a statement? Maybe you two should work this out between you. You are friends and neighbors.

A: I don't want to leave. I got to say my side.

Q: What would you like to say?

A: I do nothing wrong. I'm here because that D was talking about a statement D made to the police yesterday at party which we are all at. D made me sound like I stole D's identity and used D's credit card without permission. You want to know something? D is the last person whose identity I would want. It's all baloney. That D is making stuff up to get out of paying. D has always got an angle.

Q: Could you be more specific?

A: Well, it's all because when I needed a place to stay in April. I was living with Crocker McGrath across the way at the time. I met Crocker through the bike shop when I first moved to Marshall City.

Q: Crocker McGrath?

A: Yes. This person and I get to know each other because Crocker is person in charge of bike repair store when I first come to Marshall City at

the end of last year, maybe the beginning of this year. I needed a place to stay, so on a temporary basis Crocker takes me in to stay on the couch. Crocker lives in small apartment in nice building on Lake Street.

Q: So, you need a place to stay? Where were you working?

A: I'd rather not say; is not important anyway. I new find a job through Crocker to work at your world famous puppet theater here in Marshall, and at first I just clean up but I am good at light and sound for live theatrical performances, from college, which was not in this country but in a country I would rather not say, and I am then given chance to do backstage work, you know, lights from a cue card, and then I soon get to do some of the voices, too, and I am making a couple of hundred dollars a week so I can afford a room of my own. So, I have seen this D in the apartment complex, as D's apartment is across the yard, in back, not on the street, and Crocker introduces us, and D is also in theater like me. Through Crocker I met D, which is spelled D by itself then D-I-A-M-O-N-T-E - not an "I" but an "E" at the end, in late April. D said I got a place at the apartment for half rent, half, and I can keep an eye on the apartment in the summer just in case D has to go out of town to work, if I need. So I move there right away, in late April, and I can park my bike in back safe, so I am all set up with a room of my own by early May, if you know what I mean. At first, we are like, you know, close pals. So, I don't know better at the time.

Q: How does this relate to -

A: I tell full truth of story. D starts by charging me \$250 a month, which is illegal, because D can't sublease under the rental lease which is in writing from the landlord. I found that out from Crocker. But, I don't want trouble so I never say anything. D also said we are supposed to split bills, like food and electricity, but in summer there is no splitting of electricity when D is out of town, so with air conditioning causing \$150 electric bill for two months running, I am paying a lot without any sharing. When D comes back, I am working two jobs, because I find a perfect job at the TV station WMSS-TV, and am working my head off never eating at the apartment, and D comes back and wants me to pay for half of the groceries, which I am not eating, then I find out I was paying more than half the rent, which I also found out from Crocker, I was covering my half of the living expenses. Don't you think so?

I stayed in this little room in the apartment there, even though D starts in on how I am never around and why can't I clean up, because by now the place is a dump, but I am at the time desperate for peace and quiet as I am working two jobs, day and night, and I have no time to look around for another place. You know what I am saying? It's advantage being taken of me.

Q: Maybe we can shorten this. You are here to make a complaint about a stolen motorcycle. You moved in with Diamonte in the beginning of May, and you think maybe you are paying more than your fair share of the rent. When do you think your bike was stolen? How exactly did you and D get along?

A: I am getting to that. We are OK in May and June. When we both have time we go out to restaurants sometimes or go to parties together. July and August, I am alone, but I also have added job at a better opportunity, the TV station, where I work from 11 AM to 1:30 pm, daily, Monday to Friday, as assistant producer and usher for children's show, Uncle Hucklebuck's Lunchtime Little Theater, starring Uncle Hucklebuck, Uncle Ned, and Aunt Jane. The parents bring in the kids, who all want the kids to be on TV sitting in the peanut gallery. Also, on Saturdays I work from 9 am to noon in the same capacity for the live program Happy Polka Party. After the show, I am in charge of handing out free souvenirs, like small samples of food or stuff. So, in late July I am working more. My hours were get up at 9:30 am, get to the TV station by 11 to put on usher uniform and get the producer coffee, then line the kids up to march in to the peanut gallery, then put up with the parents who have kids there but the peanut gallery is filled up, then the show lasts from noon to 1 pm, and I get a half hour to usher people out, then change back into street clothes and leave at 1:30, go home, take a nap, get up at 5:00 pm, go to famous puppet theater to get set up for the 7 pm show, then the 9 pm and the 11 pm and get home late. The last show ends at 1 am, but sometimes I get in at 5:00 am. I was working and tired all the time. I wait for big break.

Q: How does this relate -

A: I am getting there. D comes back after Labor Day, and starts to get upset that I couldn't hang out, you know, socialize, like before. Then, when I came home D would be full of questions and nagging me. I am getting advice on health, and do I really need both jobs, and D is out of work, and why can't I go to a party? What I did was none of D's business. I am renting a room, that's all. D does not own me.

Next, I also notice that things in my room are moved when I was gone. Now, I start to get the creeps. I stayed again at Crocker's apartment sometimes, just to get some time away from D.

See, D hadn't worked since summer and was just hanging around the apartment. I offered to try to get D a job at the puppet theater, but D says "no" because it's bad hours and no future. I don't know what D was doing for money, besides borrowing it from me. I lend D maybe at least \$100 in September, and I notice that I am buying the groceries but D is doing more

than half the eating.

Q: Maybe we could speed this along if we just -

A: I'm ending. A couple of weeks after Labor Day I am so exhausted I am sick, and I am thinking that the TV job is going to open up in big break, and I will leave the puppet theater job to advance upwardly mobile in TV. I am sick with some kind of bug which gives me a fever for two days, I think this is maybe September 20-21, and I call my producer at Lunchtime Little Theater and say I am sick, but only for a day or two, and my producer says can I get a someone to cover for me, a substitute, for just the two days, and I should get well, because they want to talk to me about a working full time because there are a couple of other shows that are coming with the new season, and so I ask D to go over and cover for me, you know, take the kids to the peanut gallery and get the producer coffee. D had been with me one time there and sort of knew what I did. I am sick on Friday also, and D goes a second time. I go back in on Monday, the 24th, and I find out that D has a full-time job there, and I am being stuck with Lunchtime Little Theater and Saturday mornings. This is not fair, you know? But, I am not down, as there will be another next time any day now I think, but there never is. Unless D leaves.

So, now I am getting to the point: The ultimate straw is when D takes my Harley Davidson - my one nice thing I work for to show success, without my permission, and crashed it while driving drunk to a party on Halloween. D wasn't arrested but comes home pushing my bike. There's a police report too. I smelled that beer, you know, from head to toe. D says, oh, I had something to drink after I was in the crash, but I don't think so. I was so mad. I admit, I lost my temper, but taking my bike without my permission and then getting drunk and wrecking it, that's the end! I now had to walk or take public transportation back and forth to these two jobs, and I need the bike repaired right away.

Q: When did you get the motorcycle fixed?

A: Had to on the next day, the first of November. I took it to the Oz bike shop on Madison, you know 740 Madison. I get the estimate, over \$1,500 to fix. I don't have this, even with working steady. I tell D and D says it's not that much and also does not have it. But we know that there is a sign in that Motor repair shop, saying "No checks, no credit." So D tells me we can put it on the credit card. D says to use the credit card. After all, in September, D was living off my food shopping and otherwise sponging off me. I mean, I had to keep some of the good food in my room, so D did not eat it first.

Q: Did D offer to pay for the repairs to the motorcycle?

A: D said we'd work it out. D knew who was responsible. There's police report! D can't deny wrecking the bike. D just says, I am short on cash that's all, but offered to put bill on the credit left on D's credit card. D said that when the time came to pay for the repairs, I could use the credit card to cover what was needed. D says, it is in the dresser top drawer when I need it. I knew that, used card in summer for D, no problem.

Q: Tell me about the break-in. Diamonte reported a break-in, and you were living there at that time, right?

A: Well, like I said, I'm not the accusing kind, but I don't think it was a break-in at all. I think D did it to get money from insurance D has. I never accused D before. Where's the proof? You know what I mean? I didn't get much taken, I turn head.

Q: What happened the day of the break-in?

A: It was weekend. D left for some party of another wanna-be star. I go out for a while, after that, and this is maybe at 9 pm, to take a walk. I have no bike. I came home and the place was wrecked. D is there and I say call the police to file a report and see what could be done. I have everything I own - which isn't much - in that room. So, some money is taken, and some things are thrown around. D is going crazy about the break-in. I had renter's insurance I took out about a month before. But I don't need to use it as I am not missing that much, although D wants me to say there was a lot of stuff taken out of D's room for an insurance claim, but I refuse. When the cop said that there was no sign of a break-in, I figure it is D. D's stereo barely worked, and D I think pawned the ring D says was taken too.

I talked to Crocker about this supposed break-in. Crocker was home all night and didn't see anyone break into our apartment. Crocker likes to keep an eye on things, and lives across the way, and has a good view of the apartment. Crocker tells me of being home all night, and looking across at the apartment, and never seeing the lights come on until maybe 2:30 a.m., and then seeing the lights go on and D coming in and moving around. Then Crocker sees D make a phone call, and then sees me come in and sees D waving at me and apparently yelling at me, and then sees a policeman come in. Crocker does not come over, though. The complex has a security gate, so I don't know how someone could have gotten to our place from the outside without Crocker seeing them climb over the gate. Crocker is there in the building next to the gate, and in back where D's apartment is right there across the way. It was D.

D wants me to say for the insurance claim that some ring and the stereo was stolen. It wasn't my ring. I don't ever see such a ring, ever, and I

wasn't going to commit insurance fraud. D says I am no friend when I refused and said a friend would help out, to make the claim. Anyway, D figures how to get a receipt from some mail-order place for the ring. Maybe D was looking for some cash from everything stolen. I don't know or care.

Q: When did you move out?

A: The other day, the 7th, Wednesday. I just moved back over to Crocker's apartment. After my bike is smashed up, I know it is time to move. D says I still owe for all the bills and rent in October and November, and I paid some. We are starting to not get along so well, and I thought D might renege on paying for the bike like promised. I thought I better save up some of my cash in case. If D came through, we'd work it out.

So, bottom line. I didn't use D's credit card without permission. D said something at the party Friday night that I used the card without permission. I think D set this whole thing up to get stuff without paying for it. You know, D has a history of bankruptcies and pawning things for money. D hasn't worked in awhile and was desperate for money. I think D's a scammer thief. D said D would pay, and now tries to get out of it.

D owed for the bike repairs, knew estimate for over \$1000. D says, use the card. Then D says the repairs were way too much, and should only pay maybe \$200. This is classic. D agrees to pay for the damages D caused, and then blames me for stealing the credit card to pay for those repairs. D is trying to use the break-in too.

I know there won't be any charges against me, but given my past problems, I wanted to come in and set the record straight. I had my bike stolen and broken by D, now D turns it around on me and calls me a thief. You should not be fooled.

Q: What problems?

A: I didn't want to bring this up, but I will be totally up-front. I did 18 months for a conspiracy to money launder, because someone says that I agreed to inflate theater receipts so as to hide dirty money, you know, from selling marijuana. I got out just before Christmas, come to Marshall City to get my bike, and in January decide to stay in Marshall City to start over. I used to work in theater, I take college courses, and know I could get a job, even with the record, in a booming theater town like Marshall.

Q: Anything else you'd like to add.

A: No, just that D stole my bike, wants me to commit fraud on others with D's break-in scam, and I didn't do anything wrong. I would not risk

going back to prison. I'm OK getting my life back together, which I wouldn't give up for some lousy credit card scam. I work hard. D promised to pay.

Q: How did you get the card?

A: Originally D lent it in July - to use as an emergency while I am alone in the apartment, so I had used it a couple of times to pay household bills, but I am very careful never to use it for myself. D gets bills, pays, I get no complaints. This credit card is a spare copy, I assume. In September I give it back. Nothing is hidden here. I mean, even Crocker knew and Crocker is D's neighbor. When the time came to pay the repair bill - the bike was ready for pick-up - I go to D and say, I got to have the card for the repairs, and D says the card is where you left it, in the dresser, and gives me the OK to use the card - I was to just run the card through.

Q: Did you tell D the amount before?

A: I didn't need to. D knew the estimate was over \$1,500. I take card back to the apartment and put it on the dresser there, but I did not put receipts now that I recall. I still have key, D knows. The final bill was close to two thousand. I was in the apartment complex. I work a lot and was going to visit D and drop the card and bill off. Anyway, D is now complaining I spent too much and says I am going to be arrested. I have nothing to hide, so I am here to clear the record and tell the whole story. D knew where to find me. We're in the same complex, I am right across the way. D could come to see me and tell me there is a dispute, except D knows I am in the right, and is now having second thoughts.

Q: O.K. You have to sign the transcript of this statement; come back this afternoon at 4 p.m., and it will be ready for signature.

I have read the above transcript and it is a true and accurate report of my statement of November 10, 2001. This statement is given as if under oath.

Terry Gaffner

Witness: Officer Charles Smith
Marshall City Police Department
Recorded and transcribed by:
Sylvia Bacon
Official Court Reporter