***Court of Appeals of Texas,Fort Worth. Kevin Allan BARNES, Appellant, v. The STATE of Texas, State. No. 2-99-322-CR. Decided: July 19, 2001 - See more at: http://caselaw.findlaw.com/tx-court-of-appeals/1484354.html#sthash.8gi4sffR.dpuf***

On October 9, 1997, Myron Nash, Carlis Russell, and Tonero Rainey stole “a whole bunch of rifles” and firearms from a house in Arlington, Texas.   They loaded the guns into the trunk of Rainey's blue Cadillac and drove to S.R.'s house at 2512 Vogt Street in Fort Worth.   S.R. and Nash knew each other because S.R. had previously dated Nash's brother.   Nash entered S.R.'s house and told her that he had “just hit a lick” and that he needed to store some things at her house for a short while.   S.R. agreed, and Nash and his companions placed the guns in the attic.   S.R. saw some of the guns and described them as old-fashioned.   Nash told S.R. that he got them from his uncle's house.   One of Nash's companions handed S.R. a derringer and told her she could have it.   Before leaving, Nash asked to borrow S.R.'s car, a 1995 red Mitsubishi.   S.R. agreed and the men left, leaving Rainey's blue Cadillac in S.R.'s driveway.   The three men had been at S.R.'s house for about fifteen or twenty minutes.   S.R. did not know Nash's companions, but later identified them in a photographic spread and in a live lineup as Carlis Russell and Tonero Rainey.   Nash promised Russell and Rainey that he would “hook all of that up” later.Later that day, Nash, Russell, and Rainey went to appellant's apartment, arriving in a sports car.   Nash and Russell revealed to appellant and D'Andre Edwards that they had stolen the guns from a house in Arlington, and showed them a .38 they had obtained in the robbery.   They informed appellant and Edwards that they planned to sell the stolen weapons.That same evening, the Fort Worth police, conducting an unrelated investigation, obtained permission from S.R. to search her house.   The police told S.R. that they were looking for stolen property such as televisions, refrigerators, and appliances.   The officers discovered the cache of guns in the attic, but confiscated only the handguns after S.R. claimed that the rifles belonged to her uncle.   In addition to the guns, the police officers recovered nineteen rounds of ammunition, a night scope, two bandanas, and a wool cap.   S.R. contacted Nash that night and told him that the police had confiscated the firearms.   Nash sent someone to pick up the remaining rifles on the evening of October 10, and Nash returned S.R.'s car around 10:30 p.m. that evening.In a telephone conversation on October 10, appellant discussed “hitting a lick” with Chris Hill. Edwards overheard the conversation because he was listening on the extension in another room of the apartment.   Edwards inferred that appellant and Hill were discussing “[m]aking some money” by an “illegal method.”   About an hour later, appellant and Edwards were joined by Hill, Deangus Wright (known as “D”), and “the white boy.”   The group was angry with Myron Nash (known as “Big O”) for “messing them over with the guns.”   They again discussed “hitting a lick” and “mak[ing] some money” together.   Appellant obtained a gun, and his companions, all but Edwards, made masks out of bandanas.   Appellant, Wright, Hill, and the white boy left the apartment after thirty minutes.   When they left, appellant had a .38 revolver. At approximately 2:00 a.m. on October 11, 1997, someone rang the doorbell of S.R.'s house and identified himself as “D.” Thinking it was a friend she knew by the name of “Derrick,” S.R. unlocked the door.   At least three men burst into the room with guns drawn and masks over their faces.   One of the assailants held a gun to S.R.'s face and demanded to know where “O” was.   The others moved past them into the house.   Left alone with S.R., the first intruder sexually assaulted her. One of the men apparently searched the residence and came back to report that another woman was present in the house, S.R.'s best friend, C.H. He returned to the bedroom where C.H. lay asleep and “started on” her.   When the first assailant finished sexually assaulting S.R., he immediately attempted anal intercourse with her while one of his accomplices watched.   After the first attacker finished and left the room, the second assailant placed a gun to S.R.'s head and ordered her to perform oral sex on him.   Sometime during the ordeal, one of the attackers “snatched” two bracelets from her wrists.   The second assailant forced S.R. at gunpoint to crawl into the back bedroom, where she saw a third man sexually assaulting C.H. Ordered to keep her eyes shut, S.R. only caught glimpses of the assailants. The assailants then forced S.R. onto the bed and ordered C.H. to perform oral sex on her.   C.H. refused, declaring she “wasn't gay.”   One of the assailants replied that he did not care, and pointed a gun at her.   C.H. pretended to perform oral sex on S.R., but the men were not satisfied and forced C.H. to crawl on her hands and knees out of the bedroom. The first intruder returned and sexually assaulted S.R. again.   When he had finished, the attacker stated angrily to S.R.:  “[B]itch, you don't have no guns, you don't have no drugs, you don't have nothing in this motherf [---].”  S.R. explained that the police had taken the guns, and told him to look at the receipt the officers had left.  The man only expressed interest as to why the police had searched the house. Minutes later S.R. heard a gunshot, heard C.H. scream, and then heard a second gunshot.   C.H. was shot in the buttocks and the head.   S.R. peered out from under the pillow and saw “someone still standing in the doorway pointing a gun” at her.   S.R. was shot several times.   She feigned death until the intruders left.   The entire house had been ransacked in an obvious effort to find “something or ․ to steal something.”   C.H. died from the gunshot wounds, but S.R. survived. Appellant returned to Edwards's apartment with Russell, Hill, Wright, and the white boy around 3:00 a.m. When they returned, Russell had a .38 gun, Hill had a chrome .38, appellant had a .380, and Wright had a .22 derringer.   Wright also had a Texas ring and a necklace. Wright, Hill, and Michael Schiavo only stayed for five minutes before they went home.   Appellant told Edwards that Wright had “somehow ․ got in the room” and had “sex with one of the girls.”   Appellant said that Russell “made the girls do things that-that were nasty,” including performing oral sex on him and on each other.   Appellant admitted to Edwards that Russell had ordered him “to kill the girls” and that appellant shot one of the women “in the butt.”   Russell then shot the girl in the head.   Hill and Russell “shrugged their shoulders” and shot the second victim.   Appellant admitted that at least one of the handguns the men had in their possession when they returned had come from S.R.'s house. - See more at:

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