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IN THE CRIMINAL DISTRICT COURT NO.

DALLAS COUNTY, TEXAS

THE STATE OF TEXAS }
VS: } NO. F-96-
39972-J
DARLIE LYNN ROUTIER } & F-96-
39973-J 9

STATEMENT OF FACTS
MOTION HEARING
TO HOLD DEFENDANT WITHOUT

VOL. 5 OF 53 VOLS.

August 27, 1996

Tuesday

24
25

Sandra M. Halsey, CSR, Official Court Reporter

263

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C A P T I O N

BE IT REMEMBERED THAT, on Tuesday, the 27th day
of
August, 1996, in the Criminal District Court Number
3 of
Dallas County, Texas, the
above-styled cause came on for a
hearing before the Hon. Paul
Banner, Judge Presiding, and
sitting for the Hon. Mark
Tolle, Judge of the Criminal
District Court No. 3, of Dallas
County, Texas, without a
jury, and the proceedings were
resumed, in open court, as
follows:

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21

22

23

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25

Sandra M. Halsey, CSR,
Official Court Reporter

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A P P E A R

A N C E S

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HON. JOHN VANCE,

5

Criminal District Attorney

6

Dallas County, Texas

7

8

BY: HON. GREG DAVIS

9

Assistant

District Attorney

10

Dallas County,

Texas

11

12

AND:

13

HON. JOHN GRAU

14

Assistant

District Attorney

15

Dallas County,

Texas

16

17

AND:

18

HON. SHERRI

WALLACE

19

Assistant

District Attorney

20

Dallas County,

Texas

21

22

APPEARING FOR THE STATE OF TEXAS

23

24

25

Sandra M. Halsey, CSR,
Official Court Reporter

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1

2 ADDITIONAL APPEARANCES:

3

4 HON. DOUGLAS

PARKS

5 Attorney at Law

6 Dallas County,

Texas

7

8 AND:

9 HON. WAYNE HUFF

10 Attorney at Law

11 Dallas County, Texas

12

13 Appearing for the

Defendant

14 For the purpose of the

trial

15 AND:

16

17 HON. BLAKE WITHROW

18 Attorney at Law

19 Dallas County, Texas

20

21 APPEARING FOR THE

DEFENDANT

22

for the purpose

of the appeal

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Sandra M. Halsey, CSR, Official
Court Reporter

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P R O C E E D I N

August 27th, 1996
Tuesday
9:30 a.m.

(Whereupon, the
proceedings were held
Open court, in the
And hearing of the
Defendant, being
represented by her
and the representatives
The State of Texas, but
without the presence of a
jury, as follows:)

THE COURT: Okay. Back on

20 now. All counsel and the defendant are present.

This is

21 the second day of testimony in regard to F-96-
39972 and

22 73. Are both sides ready to resume?

23 MR. GREG DAVIS: Yes, your
Honor.

24 Ms. Wallace has gone back to get Jimmy

Patterson. He is

25 back there in the work room.

Sandra M. Halsey, CSR, Official Court
Reporter

1 THE COURT: Okay.

2 MR. GREG DAVIS: And while we
are

3 waiting for Detective Patterson; yesterday,
Counsel

4 inquired about an offense report that was purportedly
5 prepared by Detective Patterson. I have looked
through my

6 records as has Detective Patterson. We can not find
an

7 offense report that was actually prepared by him.

8 He has this morning given me
certain

9 reports that he did prepare. One is entitled
10 investigative supplement interviews, and I am
tendering

11 that 3-page document to Counsel at this time.

12 He has also tendered to me several
13 pages of personal notes. And I am now tendering
those to

14 Counsel, and he has also indicated that he has now
given

15 me two additional documents entitled "telephone
16 memorandum" that he prepared, and I am now tendering
those

17 to Counsel, and those are the reports that he has

18 prepared.

19 THE COURT: All right.

20 MR. WAYNE HUFF: Judge, I'm going

to

21 need to go through these. I can proceed with some

more

22 questions now.

23 THE COURT: Why don't you do that,

then

24 we will take a break when you need one.

25 MR. WAYNE HUFF: That will be
fine.

1 I'm prepared to proceed.

2 THE COURT: Thank you. Go ahead.

3

4

5 Whereupon,

6

7

DETECTIVE JIMMY PATTERSON,

8

9 Resumed the witness stand as a witness for the State
of

10 Texas, having been previously duly sworn by the
Court, to

11 speak the truth, the whole truth, and nothing but the
12 truth, was examined and testified further in open
court,

13 as follows:

14

15

16

CROSS EXAMINATION (Resumed)

17

18 BY MR. WAYNE HUFF:

19

20 Q. Detective Patterson, I believe
yesterday we had reached the point where you had
taken

21 Mrs. Routier's written statement, and that we had

gotten

22 through the procedure for your having done that, and
you

23 again met with her on June the 10th; is that correct?

24 A. Yes, sir, I believe that is right,

yes,

25 sir.

Sandra M. Halsey, CSR, Official Court Reporter

1 Q. Did you ask that she came in --
that
2 she come in?
3 A. I'm not sure if we called and asked
her
4 to come in or not.
5 Q. All right. Let me turn your
attention
6 to the top page of your investigative summary, page 4,
and
7 ask you if she was requested to come in?
8 A. Yes, sir, she was.
9 Q. And she did come in?
10 A. Yes, sir.
11 Q. Did she have her husband with her?
12 A. Yes, sir.
13 Q. Were they both interviewed or just
her?
14 A. Both of them.
15 Q. All right. Who interviewed her
16 husband?
17 A. Detective Frosch.
18 Q. Okay. And you interviewed Mrs.
19 Routier; is that correct?
20 A. Yes, sir.
21 Q. You asked her to draw a diagram; is

22 that correct?

23 A. Yes, sir.

24 Q. Where is that diagram?

25 A. It's in the report.

Sandra M. Halsey, CSR, Official Court Reporter

1 Q. In this report?

2 A. No -- is that the affidavit?

3 Q. No. Is it in the affidavit for
arrest

4 warrant?

5 A. Yes, sir.

6 Q. Okay. Is that what is referred to
as

7 Exhibit A?

8 A. Yes, sir.

9

10 MR. WAYNE HUFF: Your Honor, our
copy

11 of the affidavit for arrest warrant never had that
exhibit

12 on it. We would ask that we be provided with that.

13 MR. GREG DAVIS: If I could
approach

14 the witness for just a moment, your Honor?

15 THE COURT: You may.

16

17

18 VOIR DIRE EXAMINATION

19

20 BY MR. GREG DAVIS:

21 Q. Detective Patterson, I am now
showing
22 you a document, and -- if you will, please mark that
as
23 State's Exhibit D.
24
25 (Whereupon, the
above

Sandra M. Halsey, CSR, Official
Court Reporter

1 mentioned item
was
2 marked for
3 identification
only,
4 as State's
Exhibit D,
5 after which time
the
6 proceedings were
7 resumed on the
record
8 in open court, as
9 follows:)

10

11 BY MR. GREG DAVIS:

12 Q. Is that, in fact, the diagram that
she
13 drew for you on June the 10th, 1996?

14 A. Yes, sir.

15 Q. And that is the document that was
16 attached to the affidavit as Exhibit A; is that
correct?

17 A. Yes, sir.

18

19 MR. GREG DAVIS: Your Honor, at

this

20 time we will offer State's Exhibit D and tender that

to

21 Counsel.

22

MR. WAYNE HUFF: Thank you.

23

24

25

Sandra M. Halsey, CSR, Official Court Reporter

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CROSS EXAMINATION (Resumed)

BY MR. WAYNE HUFF:

Q. Is this a copy of the diagram that

she

drew for you?

A. Yes, sir.

Q. Is it a true and accurate copy of

the

original?

A. Yes, sir.

MR. WAYNE HUFF: Your Honor, we

will

offer this for purposes of this hearing.

MR. GREG DAVIS: No objection.

THE COURT: Received.

(Whereupon, the above

mentioned item

was

received in

evidence

as State's

Exhibit D,

21

for all purposes,

after

22

which time, the

23

proceedings were

24

resumed as follows:)

25

Sandra M. Halsey, CSR, Official Court Reporter

273

1 BY MR. WAYNE HUFF:

2 Q. Was there a reason that you wanted
Mrs.

3 Routier to draw you a diagram, Officer?

4 A. Yes, sir.

5 Q. What was that reason?

6 A. I just wanted her to show us
exactly

7 where she was laying on the couch, where the suspect
she

8 said was standing, the route that he took to the
kitchen

9 or through the kitchen to the utility room.

10 Q. All right. And she did all that
for

11 you did she?

12 A. Yes, sir.

13

14 MR. WAYNE HUFF: May I approach
the

15 witness, your Honor?

16 THE COURT: Yes, sir.

17

18 BY MR. WAYNE HUFF:

19 Q. I'm showing you State's Exhibit
D; is

20 that "X" the location where she said the suspect
was?

21 A. Yes, sir.

22 Q. Okay. Which couch did she say that
she

23 was on?

24 A. This couch right here.

25 Q. And, where was her head?

Sandra M. Halsey, CSR, Official Court Reporter

1 A. In this direction here.
(Indicating on
2 diagram.)
3 Q. All right. So her head was down
near
4 the TV; is that correct?
5 A. Yes, sir.
6 Q. All right. What route did she say
the
7 suspect took as he left?
8 A. That he came between the couch and
the
9 coffee table this way, and then, this little table top
10 that you call an island, he was on the east side of
it,
11 and then went into the utility room.
12 Q. All right. Take this red pen and
draw
13 the route that she told you the suspect took, if you
14 would.
15 A. Okay. (Witness complies.)
16 Q. All right. In other words, she
said
17 that he went around the couch, around the island, and
back
18 out the utility room; is that correct?

19 A. Yes, sir.

20 Q. All right. And past this wine rack
21 here, where the wine glasses were; is that correct?

22 A. Yes, sir.

23 Q. One of the wine glasses you later
found

24 was broken; is that right?

25 A. Yes, sir.

1 Q. All right. Did you ask her any
other

2 questions on June 10th, other than to draw a
diagram?

3 A. No, sir, not that I can
remember.

4 Q. All right. Did you ask her
any

5 questions about when she saw the knife?

6 A. Well, I'm sure I
did.

7 Q. What did she tell
you?

8 A. Well, again she tells me that it
was on

9 the floor in the utility room.

10 Q. Okay. Did she tell you when she
saw

11 it?

12 A. When she followed the suspect
towards

13 the utility room, she saw it on the floor.

14 Q. Okay. Did she tell you when she
saw

15 it?

16 A. Well, when she got to the utility

room.

17 Q. All right. Well actually, isn't it
18 part of your report that she told you she saw it
across
19 the island?

20 A. Yes, sir.

21 Q. In fact, you went out and checked
that
22 out; is that correct?

23 A. Yes, sir.

24 Q. And she -- did you ever confront
her
25 with the fact that you couldn't see the knife over
the

1 island?

2 A. No, sir, she came back at a later
date

3 and said that -- matter of fact, I think she even
called

4 in and said something to Sergeant Lamar Evans about
that

5 she didn't see the knife over the island, that she
had to

6 get to the utility room before she saw the knife.

7 Q. Okay. So, she called back the next
day

8 and told you she was mistaken about that; is that
correct?

9 A. I'm not sure if it was the next
day.

10 Q. All right. Well, let me see if
this

11 will refresh your memory.

12

13 (Showing document to
14 witness.)

15

16 A. Okay. Yes, sir, it was the next
day.

17 Q. All right. Is there anything
about
18 that, that troubled you? Was that one of the things
that
19 you called an inconsistency?

20 A. Yes, sir.

21 Q. Why is that?

22 A. Well, when she first told me that
she
23 saw the knife from the light switch, I couldn't see
the
24 knife from the light switch, then she changed it to
where
25 she saw the knife on the floor, from standing about
mid

1 way of that island.

2 Q. All right. Well, in between the
time

3 she told you she saw it over the island, and she
called

4 Sergeant Evans, she had not been back out to the
house,

5 had she?

6 A. No, sir.

7 Q. So she would have had no
way of knowing

8 whether that was wrong or not; is that right?

9 A. Well, I'm not sure I
understand your

10 question.

11 Q. Well, she called you back
the next day,

12 without having gone out to the scene
personally, and told

13 you that she had made a mistake; is that
right?

14 A. Yes, sir.

15 Q. So she gave you a
supplemental report;

16 is that right?

17 A. Yes, sir.

18 Q. Sort of like Officer

Waddell gave you a

19 supplemental report; is that right?

20

21 MR. GREG DAVIS: I'm going

to object to

22 that, it calls for conclusions on the part of

this witness

23 concerning what Officer Waddell did.

24 THE COURT: Sustained.

25

Sandra M. Halsey, CSR, Official Court
Reporter

1 BY MR. WAYNE HUFF:

2 Q. Well, let me just ask you
this,

3 Detective Patterson, is it quite often that
police

4 officers have to go back and correct mistakes in their
5 reports, and supplement their reports?

6

7 MR. GREG DAVIS: I'm going to
object to

8 that, it's not relevant as to what officers do in
other

9 cases concerning supplemental reports. Again,
trying to

10 compare what this woman did to an officer's report,

I

11 think is improper and it's irrelevant here.

12 MR. WAYNE HUFF: Well, your
Honor, the

13 police are saying that it's okay for a trained

14 professional to supplement his report, but when a
suspect

15 supplements a report, then there is something
suspicious

16 about it.

17 MR. GREG DAVIS: Well, this

isn't a

18 supplemental report. This is two inconsistent
stories

19 given on two days, back to back, and I would hardly
call

20 that a supplement to give a contradictory story to
a

21 police officer. So, again, I think that the
comparison

22 again, and calling this a supplemental report is
improper

23 to begin with.

24 THE COURT: Overruled.

25 BY MR. WAYNE HUFF:

Sandra M. Halsey, CSR, Official Court
Reporter

1 Q. But she basically did the same
thing

2 Officer Waddell did, didn't she?

3 A. What is that?

4 Q. She changed her mind about what she
5 told you.

6

7 MR. GREG DAVIS: I'm going to
object to

8 that. That is an improper characterization of what

9 Officer Waddell did. He didn't change his mind about
what

10 he saw, and I'm going to object to that comparison.

11 THE COURT: Try again.

12

13 BY MR. WAYNE HUFF:

14 Q. Well, Officer, let's move on to
15 something else. Suffice it to say, before she called
16 Sergeant Evans back, you didn't confront her and say,
17 "Well, I can't see over that island into the other
room."

18 Did you?

19 A. No, sir, I did not.

20 Q. All right. Now, she came in
21 voluntarily on June the 8th; is that right?

22 A. Yes, sir.

23 Q. She and her husband both; is that
24 right?
25 A. Yes, sir.

Sandra M. Halsey, CSR, Official Court Reporter

280

1 Q. She came in without legal counsel;
is
2 that correct?

3

4 MR. GREG DAVIS: I'm going to
object.

5 That has been asked and answered I think two or three
6 times now, as to when she came in on June the 8th,
prior

7 to this date, so we're going back over old ground at
this
8 point.

9 THE COURT: Sustained.

10

11 BY MR. WAYNE HUFF:

12 Q. Well, did she come in with or
without
13 legal counsel?

14

15 MR. GREG DAVIS: I'm going to
object

16 again. That has been asked and answered. He said
that

17 they came in together by themselves alone.

18

19 BY MR. WAYNE HUFF:

20 Q. All right, let's move on to
something

21 else, Officer.

22 Now, at the end of your report you
23 summarized your conclusions, Officer, one of them
is:

24 "Darlie mentions she is a light sleeper. This is
one
25 reason why she was staying downstairs and not
upstairs."

Sandra M. Halsey, CSR, Official Court
Reporter

1

2 MR. GREG DAVIS: I'm going to
object to

3 him reading from a document that is not in
evidence again.

4 And I'm going to object to offering the document,
if he

5 does offer it because again, it's hearsay and it
is

6 improper impeachment at this time.

7 THE COURT: Go ahead, sir.

8 MR. WAYNE HUFF: I'll do it
this way,

9 Judge.

10

11 BY MR. WAYNE HUFF:

12 Q. Did Darlie tell you she was a
light

13 sleeper?

14 A. Yes, sir.

15 Q. Did she tell you that was why
she was

16 staying downstairs?

17 A. Yes, sir.

18 Q. And you thought that was
strange,

19 because she didn't hear her children being killed;
is that

20 correct?

21 A. Yes, sir.

22 Q. Had Mrs. Routier taken any
medication

23 that evening before she went to sleep?

24 A. Not that I'm aware of.

25 Q. Did you ask?

Reporter Sandra M. Halsey, CSR, Official Court

1 A. Not that I recall.

2 Q. You never asked Mrs. Routier if
she

3 ever took any medication that night before she
went to

4 sleep?

5 A. I don't remember asking her.

6 Q. Was the TV on?

7 A. I was told the TV was on by one
of the

8 officers.

9 Q. Okay. Was the sound on?

10 A. The sound was on when I went in
there

11 that morning.

12 Q. Loud, soft, medium?

13 A. I don't -- I'm not sure.

14 Q. Did you ask Mrs. Routier if the
sound

15 was on that night?

16 A. No, sir.

17 Q. That wasn't important to you?

18 A. No, sir.

19 Q. What other sounds might have been
in

20 the room?

21 A. No, sir.

22 Q. You didn't figure that into your

23 equation?

24 A. No, sir.

25 Q. Now, the next one is, you found
it

1 unusual that she said in one story that she was
2 struggling with the suspect on the couch, and then
in
3 another story that she was not struggling with the
4 suspect, and saw him at the foot of the couch; is
that
5 right?

6 A. Yes, sir.

7 Q. When did she tell you that she
was
8 struggling with the suspect?

9 A. The first time I met with her.

10 Q. In the hospital?

11 A. Yes, sir.

12 Q. When she was under -- had just
gotten

13 out of surgery; is that right?

14 A. Yes, sir.

15 Q. Is that the only time she told
you
16 that?

17 A. I'm not sure.

18 Q. All right. You also found it
strange

19 that there was not any evidence of blood on the

couch

20 where she says her head was located when her throat
was

21 cut?

22 A. Yes, sir.

23 Q. Was there any blood on that couch
at

24 all?

25 A. Yes, sir.

Sandra M. Halsey, CSR, Official Court Reporter

1 Q. Where?

2 A. Towards the -- what I would call
the

3 north end of the couch where her feet were.

4 Q. All right. Was her head on a
pillow?

5 A. Yes, sir.

6 Q. Did you-all retrieve the pillow?

7 A. Yes, sir.

8 Q. Was there blood on the pillow?

9 A. I honestly can't say right now, I
did

10 not look at my notes to see. I don't think that there
11 was, but I'm not sure.

12 Q. There is nothing in this report
about a

13 pillow, is there?

14 A. I have not read that report in the
15 last -- well, over a month, I don't remember.

16 Q. Now you can't remember whether you
17 checked the pillow out or not?

18 A. I know that we had taken several
19 pillows, and I'm just not sure on that pillow.

20 Q. Describe the pillow that she had
her

21 head on?

22 A. Well, most of the pillows were like

23 sofa pillows where they were just small and square,

and

24 this was a bed-sized pillow, and it had a maroon

pillow

25 case on it.

Sandra M. Halsey, CSR, Official Court Reporter

285

1 Q. Okay. Was that the only bed-
sized

2 pillow downstairs?

3 A. Yes, sir.

4 Q. All right. Let's see. At one
point

5 you say that she told you she saw the knife when the
6 suspect dropped the knife in the utility room?

7 A. Correct.

8 Q. When did she tell you that?

9 A. I'm not sure which conversation
it was
10 when she told me that.

11 Q. Well, was it in a written
statement?

12 A. In her written statement?

13 Q. Yes, sir.

14 A. I have not reviewed her written
15 statement, so I don't remember.

16 Q. She has consistently told you she
found

17 the knife in the utility room; is that correct?

18 A. Yes, sir.

19 Q. So you know that she went into
the

20 utility room; is that correct?

21 A. Well, I know she told me that.

22 Q. Well, there was blood in there
too,

23 wasn't there?

24 A. Yes, sir.

25 Q. You say it is inconsistent with
the

1 physical evidence when Darlie says the knife was on
the

2 utility room floor; is that right?

3 A. Could you repeat that?

4 Q. You indicate that it is
inconsistent,

5 and one of the things you took into account, it is
6 inconsistent that the knife was on the floor in the
7 utility room; is that correct?

8 A. Well, that it's inconsistent
that the

9 knife was found on the utility floor?

10 Q. You said there was no evidence
that it

11 was ever on the floor?

12 A. Right. Yes, sir, that is
correct.

13 Q. Was there blood on the utility
floor?

14 A. It looks like drops of blood.

15 Q. Who told you that it looked like
drops

16 of blood?

17 A. Well, I saw, personally I saw
drops of

18 blood, and Sergeant Nabors, and James Cron.

19 Q. All right. Did they say the
knife was

20 never on the utility room floor?

21 A. Yes, sir.

22 Q. All right. How much blood did
the

23 knife have on it, at the time that it was laid on
the

24 utility floor?

25 A. Well, I don't believe that it
was ever

Sandra M. Halsey, CSR, Official Court
Reporter

1 laid on the utility floor.

2 Q. How much blood was on the knife
when

3 you saw it on the counter?

4 A. It looked like quite a bit of
blood.

5 Q. Well, how much had dripped on to
the

6 counter?

7 A. Well, I can't tell you in
measurements.

8 I mean, you can tell that that knife was laying on
that

9 table top.

10 Q. Okay. You mean on the counter?

11 A. On the counter top, yes, sir.

12 Q. And it laid there for quite a
while,

13 didn't it?

14 A. Yes, sir.

15 Q. All right. The evidence would
seem to

16 suggest that it only laid on the utility room floor
for

17 just minutes, if it was there at all; is that right?

18 A. Well, I don't believe it was ever
19 there.

20 Q. Okay. Well, if it was there,
according
21 to her statement, it was there for a very brief period
of
22 time; would that be correct?

23 A. Yes, sir.

24 Q. You indicated one of the things
that
25 you took into consideration is that Mrs. Routier
never

1 mentioned being on the west side of the island,
between

2 the island and the sink; is that something you took
into

3 account?

4 A. Yes, sir.

5 Q. Did you ever ask her if she was in
that

6 location?

7 A. Well, I didn't ask her in a way
that,

8 "Were you on that side?" But I did ask her -- can I
look

9 at that?

10 Q. Sure.

11 A. Because when she got through
drawing

12 this out, I asked her several times, "Did anyone ever
go

13 on the west side, between the island and the sink?

Did

14 anyone ever go that side, towards the utility room?

Did

15 anyone ever come back this way, between the island
and the

16 sink to get back into this room?" And she told me
no.

17 Q. When did you ask her that?

18 A. When she got through doing this
19 drawing.

20 Q. All right. Did you ever ask her,
"Did
21 you go near the sink?"

22 A. I didn't ask her if she went near
the
23 sink, I asked her if she or anyone had ever --
either went

24 this way, or went -- or came back this way.

25 Q. Well, anyone, did you ask her if
she

1 did?

2 A. Yes, I said, "Did you or anyone."

3 Q. All right. So you are saying
now, that

4 you specifically asked her if she ever went over
where the

5 sink was?

6 A. I didn't mention the sink.

7 Q. All right. You asked her if she
ever

8 went into the utility room from that direction?

9 A. Yes, sir.

10 Q. And you say that she told you no?

11 A. Right.

12 Q. Did you ever ask her if she was
13 standing at the sink?

14 A. No, sir.

15 Q. You knew there was blood at the
sink?

16 A. Yes, sir.

17 Q. But you never inquired of that?

18 A. No, sir.

19 Q. Were there some bloody towels
seized?

20 A. Yes, sir.

21 Q. Did you ask her where those came
from?

22 A. No, sir.

23 Q. Is there a drawer in the kitchen
where

24 towels are kept?

25 A. Yes, sir.

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1 Q. Where is it located?

2 A. This part right here, yes, this
part

3 right here. I mean, it's kind of a lower part, and
then

4 there is a higher part right there, and then
there's some

5 drawers right in here. (Witness indicating on
diagram.)

6 Q. Which drawer has the towels?

7 A. I believe there was a set of 3
drawers

8 there, and it was the middle one.

9 Q. Did that drawer have blood on
it?

10 A. I'm not sure without looking at
the
11 pictures.

12 Q. Where are the footprints that
you

13 talked about leading from the kitchen to the den?

14 A. Right in here. (Witness
indicating on

15 diagram.)

16 Q. All right.

17 A. This island was actually a
little more

18 over here, but it is right in here.

19 Q. All right. So the footprints
are in

20 front of that drawer?

21 A. Yes, sir.

22 Q. And you say there are no
footprints

23 going back into the utility room?

24 A. No, sir.

25 Q. But there was blood back there,
isn't

 Sandra M. Halsey, CSR, Official Court
Reporter

1 there?

2 A. There are drops of blood, yes,
sir.

3 Q. So someone who was bleeding was
back

4 there, right?

5 A. Yes, sir.

6 Q. You indicate in here that a
security

7 light is activated when someone is in the back
yard?

8 A. Yes, sir.

9 Q. Did y'all check that out?

10 A. Sergeant Nabors and -- yes, sir,
11 Sergeant Nabors did.

12 Q. And you say that security light
turns

13 on for how long?

14 A. I don't remember.

15 Q. Why don't you take a look at your
16 report?

17 A. It indicates 18 minutes.

18 Q. All right. How was that security
light

19 triggered? Is it a motion detector?

20 A. Yes, sir.

21 Q. Who first told you that the
security

22 light was not on when the police officers arrived?

23 A. Sergeant Matt Walling.

24 Q. Okay. When did he arrive at the
scene?

25 A. Four or five minutes after the call
was

Sandra M. Halsey, CSR, Official Court Reporter

1 made.

2 Q. All right. Do you know the method
they

3 used to test how the security light comes on?

4 A. No, sir.

5 Q. You indicate that the injuries to
Mrs.

6 Routier are not consistent with the children's
injuries;

7 is that correct?

8 A. Yes, sir.

9 Q. She was stabbed, wasn't she?

10 A. Yes, sir.

11 Q. She was cut, wasn't she?

12 A. Yes, sir.

13 Q. Do you believe that a person
struggling

14 with an assailant might receive different injuries
than

15 someone who is not?

16 A. I honestly can't say.

17 Q. Darlie's injuries were not life
18 threatening. They were not life threatening at all?

19 A. I don't believe so, no, sir.

20 Q. You mean if they were left

untreated,

21 she would not have bled to death?

22 A. I'm not sure.

23 Q. There was blood found underneath
the

24 broken glass in the kitchen where Darlie says the

suspect

25 ran or walked through. There were not any cuts on
the

1 bottom of her feet; is that what you are saying?

2 A. Yes, sir.

3 Q. Where were -- I want you to put
little

4 "X's" in there where all the glass fragments were.

5 A. Well, I wouldn't be able to show
where

6 all the glass fragments were.

7 Q. There were hundreds of them,
weren't

8 there?

9 A. There was a bunch, yes, sir.

10 Q. Well, can you show us where the
largest

11 glass fragments were?

12 A. Well, you know, if I was looking
at a

13 picture, I could show you where there was a bigger
piece.

14 Q. Okay. Let me show you what's
been

15 marked as State's Exhibit No. 13, and I'll ask if
you can

16 identify that?

17 A. Yes, sir.

18 Q. Is that part of the kitchen
floor, next

19 to the wine rack?

20 A. Yes, sir.

21 Q. Does the largest part of the
glass

22 fragments appear there?

23 A. Yes, sir.

24 Q. And would that be here?

25 A. Yes, sir.

1 Q. Are there any other glass
fragments

2 there?

3 A. Yes, sir.

4 Q. Where?

5 A. All over the floor, all in this
area.

6 Q. All in that particular area?

7 A. Yes, sir.

8 Q. Are there any of the glass
fragments in

9 State's Exhibit 14?

10 A. I know that they are in this area
right

11 in here, and I'm not sure how far it goes back here,
12 because this picture right here, is showing more
where

13 this vacuum cleaner was.

14 Q. Okay. You can't see any there;
is that

15 correct?

16 A. Well, no. No, sir, I can't.

17 Q. All right. Now, you know that at
least

18 two police officers walked over this kitchen floor

to go

19 back and check out the garage, don't you?

20 A. Yes, sir.

21 Q. You know the paramedics were in
the

22 house; is that correct?

23 A. Yes, sir.

24 Q. Do you know if they were in the
kitchen

25 or not?

1 A. No, sir.

2 Q. You didn't ask them?

3 A. I don't recall anyone -- any of
the

4 paramedics going into the kitchen.

5 Q. Well, you weren't there, were
you?

6 A. No, sir.

7 Q. And you didn't ask them, did you?

8 A. No, sir.

9 Q. And it wasn't in the report, was
it?

10 A. No, sir.

11 Q. So you really don't know whether
the

12 position of the glass changed from the time it was
broken,

13 until the time the physical evidence people arrived,
do

14 you?

15 A. No, sir.

16 Q. You are not saying that every
time you

17 step on a piece of glass with bare feet you are
going to

18 cut your foot, are you?

19 A. No, sir.

20 Q. Let's see. On June the 18th,
when did

21 you decide to get an arrest warrant for Mrs.
Routier?

22 A. I believe we got the arrest
warrant on

23 June the 18th.

24 Q. When was the decision made to get
the
25 arrest warrant?

1 A. June the 18th.

2 Q. All right. In the morning?

3 A. Yes, sir.

4 Q. All right. Was this as a result
of a

5 meeting or a conference with you and other
detectives?

6 A. Yes, sir.

7 Q. Who was involved in that
conference?

8 A. Sergeant Evans and Detective
Frosch.

9 Q. So y'all went down and got an
arrest

10 warrant from Judge Warder; is that correct?

11 A. Yes, sir.

12 Q. And you called up Mrs. Routier and
her

13 husband, and asked them to come in and be interviewed
yet

14 again; is that correct?

15 A. Yes, sir.

16 Q. And they came in once again; is
that

17 correct?

18 A. Yes, sir.

19 Q. When was Mrs. Routier advised that
she

20 was -- that you had a warrant for her arrest?

21 A. Approximately 9:00 o'clock that
June

22 18th.

23 Q. What time did she come in?

24 A. I don't remember the time, I want

to
25 say it was around 7:00 o'clock.

1 Q. Let me ask you if that refreshes
your

2 memory? (Showing witness document.)

3 A. Yes, sir.

4 Q. Okay. What time was it?

5 A. 6:50 P.M.

6 Q. All right. Who read her her
rights?

7 A. I did.

8 Q. Who interviewed her?

9 A. Bill Parker.

10 Q. Is he a Rowlett police officer?

11 A. No, sir.

12 Q. Why was he called in to interview
her?

13 A. He is a retired Dallas police
officer.

14 Q. Why specifically was he called in
to

15 interview her?

16 A. He had worked homicide cases for
about

17 11 years.

18 Q. All right. Did you feel like you
19 needed someone else at this point to interview Mrs.

20 Routier?

21 A. Yes, sir.

22 Q. So she allowed herself to be
23 interviewed by yet another person, until she was
advised

24 that she was under arrest? Is that correct?

25 A. Yes, sir, that's correct.

Sandra M. Halsey, CSR, Official Court Reporter

1 Q. And then, and only then, did she
ask

2 for a lawyer; is that correct?

3 A. Yes, sir.

4 Q. Officer, are you sure that it's Mr.
5 Parker that interviewed her and not you?

6 A. No, Mr. Parker interviewed her.

7 Q. Were you there?

8 A. During his interview?

9 Q. Yes, sir.

10 A. No, sir. Well, I was there, but I
11 mean, I was not in the interview room.

12 Q. Where were you?

13 A. Outside the interview room.

14 Q. Were you listening?

15 A. No, sir.

16 Q. Well, why did you put in your
report

17 that: "I read Darlie her Miranda rights before
conducting

18 an interview with her"?

19 A. Well, it says that I read Darlie
her

20 Miranda rights before conducting an interview with
her,

21 yes, sir.

22 Q. What part of that report says that
Mr.

23 Parker conducted an interview with her?

24 A. It doesn't.

25 Q. But that is what happened, isn't
it?

Sandra M. Halsey, CSR, Official Court Reporter

1 A. Yes, sir.

2 Q. You indicate, Officer, that you all
had

3 a Garland K-9 come out there to smell around outside
of
4 the house; is that right?

5 A. Yes, sir.

6 Q. You indicate -- was there something
7 unusual about what that resulted in?

8 A. Yes, sir.

9 Q. What was that?

10 A. According to the officer that
handles

11 the K-9, there wasn't any disturbance around that area
of
12 the window.

13 Q. Well, what do you mean there was no
14 disturbance?

15 A. Well, that it didn't appear that
16 anybody had been out there. That there had been
anybody

17 moving around in the grass.

18 Q. Was that the dog's opinion or the
19 officer's opinion?

20 A. The officer's.

21 Q. Was that based on the dog not
picking

22 up a scent?

23 A. Yes, sir.

24 Q. All right. Well, does that mean
that

25 there was no one out in that back yard in the last 24

Sandra M. Halsey, CSR, Official Court Reporter

1 hours, or 6 hours, or --

2 A. No, sir, because there was two
officers

3 that had searched back there.

4 Q. All right. I guess the dog didn't
pick

5 up their scent either; is that what you are saying?

6 A. Well, the dog didn't pick up on any
7 disturbance where it led from that back yard.

8 Q. All right. Well, the dogs pick up
on

9 smell, not disturbances, don't they?

10 A. Well, I'm not sure how that K-9
works.

11 Q. Okay. Well, there was a sign of a
12 small disturbance, I mean, the screen was cut, wasn't
it,

13 by someone?

14 A. Yes, sir.

15 Q. So we know someone was out there;
is

16 that right?

17 A. Yes, sir.

18 Q. What kind of sign of a disturbance
were

19 you looking for out there?

20 A. Footprints.

21 Q. And you didn't find any of those?

22 A. No, sir.

23 Q. Was the ground wet? Was it muddy?

24 A. No, sir.

25 Q. Is it possible to get to that

window

Sandra M. Halsey, CSR, Official Court Reporter

1 where the screen was cut without stepping on grass or
bare
2 ground?

3 A. Yes, sir.

4 Q. How would you do that?

5 A. Well, you can stay on the concrete.

6 Q. Well, in fact, the concrete
extends

7 right up to that window, doesn't it?

8 A. Yes, sir.

9 Q. All right. Now, as a result of
all

10 this, you went down and got an arrest warrant for
Mrs.

11 Routier and that was executed that same night; is
that

12 correct?

13 A. Yes, sir.

14 Q. Okay. You saw the window with the
cut

15 screen before it was removed?

16 A. Yes, sir.

17 Q. In your opinion, could someone
have

18 gone in and out of that window, was it possible

for a

19 human being to get in through that window through

the

20 screen?

21 A. Yes, sir.

22 Q. Was it possible for them to do

that

23 without disturbing the windowsill, or any of the dust,

or

24 anything that was on it?

25 A. Well, anything is possible, but I
don't

Sandra M. Halsey, CSR, Official Court Reporter

1 think they could have.

2 Q. Well, was there mulch under the
window

3 bed, or under the windowsill?

4 A. I would have to look at the
picture.

5 Q. Okay.

6

7 (Attorney showing.

8 picture to the

witness.)

9

10 A. No, sir.

11 Q. Mulch on the flowerbeds? Was there

12 mulch on the flowerbeds?

13 A. Yes, sir.

14 Q. Was it necessary to go over that

mulch

15 to get to that window?

16 A. No, sir.

17 Q. So the fact that the mulch wasn't

18 disturbed would be really of no significance at all,

would

19 it?

20 A. No, sir.

21 Q. Well, if that is true, why did you
talk

22 about it in your affidavit for arrest warrant,
Officer?

23 A. Well, we indicated that it
didn't look

24 like anybody had walked through it.

25 Q. Is it true, Officer, that there
was

 Sandra M. Halsey, CSR, Official Court
Reporter

1 blood extending all the way from in the kitchen to
back

2 where the utility room was?

3 A. Yes, sir.

4 Q. There was blood in front of the
wine

5 rack; is that right?

6 A. Yes, sir.

7 Q. There was blood all along here; is
that

8 correct?

9 A. Yes, sir.

10 Q. Was there blood on the other side
of

11 the island?

12 A. Yes, sir.

13 Q. So it's your conclusion that anyone
14 walking through that area would have left a
footprint?

15 A. Well, no more blood than what
was on

16 that side of the island, on the west side of the
island,

17 there might not have been any footprints, no.

18 Q. What are you referring to as the

west

19 side of the island?

20 A. Well, this is the west side of
the

21 island here. (Indicating on diagram.) And there
is just

22 some drops of blood going this way.

23 Q. Well, were those blood drops
disturbed

24 in any way?

25 A. No, sir.

Reporter Sandra M. Halsey, CSR, Official Court

1 Q. Would it be your opinion that
someone

2 that would walk back there, would disturb the
blood?

3 A. Yes, sir.

4 Q. You were aware --

5 A. Well, I mean, they wouldn't have
--

6 well, no, sir.

7 Q. You are aware that two police
officers

8 walked back there?

9 A. Yes, sir.

10 Q. Did they appear to have
disturbed the

11 blood?

12 A. No, sir.

13 Q. Did they leave any footprints?

14 A. No, sir.

15 Q. You know that both of them were
in the

16 living room where there was copious blood on the
carpet.

17 A. Yes, sir.

18 Q. Did they leave any footprints

anywhere

19 in the house?

20 A. Well, you could see some
footprint

21 markings in the carpet.

22 Q. They didn't leave any in the
kitchen,

23 did they?

24 A. No, sir.

25 Q. All right.

Reporter Sandra M. Halsey, CSR, Official Court

1

2

MR. WAYNE HUFF: Your Honor

could we

3

approach the bench for a moment?

4

THE COURT: Sure.

5

6

(Whereupon, a short

7

Discussion was held

8

Off the record, after

9

Which time the

10

Proceedings were resumed

11

As follows:)

12

13

THE COURT: All right. We're going

to

14

recess. We will start back at 10:30, probably about

10:32

15 or 10:33 when we will actually get started.

16

You may step down.

17

18

(Whereupon, a short

19

Recess was

taken,

20

After which

time,

21

The proceedings

were

22 Resumed on the
record,
23 In the presence
and
24 Hearing of the defendant
25 as follows:)

Sandra M. Halsey, CSR, Official Court Reporter

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THE COURT: All right, Mr. Huff,
have
you had enough time to look at those documents?

MR. WAYNE HUFF: I think so, your
Honor.

THE COURT: All right. Let's
resume.

MR. WAYNE HUFF: Would you mark
these
please.

(Whereupon, the above
mentioned item was
marked for
identification
only as
Defendant's
Exhibits 4
through 8, after
which
time the proceedings were
resumed on the record
in open court, as
follows:)

21 THE COURT: All right. You can go
22 ahead, Mr. Huff.

23

24 BY MR. WAYNE HUFF:

25 Q. Officer, we have been referring to
the

Sandra M. Halsey, CSR, Official Court Reporter

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1 east side of the island and the west side of the
island.

2 Would you just put an "E" and a "W," just so we will
know

3 what we're talking about here.

4 A. Okay. (Witness complies.)

5 Q. So, the west side is at the top and
the

6 east side is at the bottom of this sheet of paper; is
that

7 correct?

8 A. Yes, sir.

9 Q. Officer, I asked to you bring some
10 handwritten notes down to court today. Let me show
you

11 Defendant's Exhibit No. 6 and ask if you can
identify

12 that?

13 A. Yes, sir.

14 Q. All right. Are those the
handwritten

15 notes that you brought?

16 A. Yes, sir.

17 Q. Are those the only handwritten
notes

18 that you have in this case?

19

A. Well --

20

Q. Or that you wrote in this

case?

21

A. Yes, sir.

22

Q. Okay.

23

A. And then those two.

24

Q. And the telephone memorandum,

I have

25 marked as separate exhibits, Defendant's Exhibits
7 and 8.

Reporter Sandra M. Halsey, CSR, Official Court

1 Are these the only telephone memorandum you made
as a
2 result of this case?

3 A. Yes, sir.

4 Q. Defendant's Exhibit No. 5,
what is

5 Defendant's Exhibit No. 5?

6 A. It's a supplement that I
started.

7 Q. Okay. That you didn't
complete?

8 A. Right.

9 Q. Okay. It's page -- it's marked
page 1
10 of -- and then that's blank, and then page 2 of blank,
and

11 then the third page doesn't appear to be marked?

12 A. Right.

13 Q. There are no other pages to this
14 document?

15 A. No, sir.

16 Q. It's just that you didn't finish
it?

17 A. Right.

18 Q. And Defendant's Exhibit 4 is your

19 prosecution report; is that correct?

20 A. Yes, sir.

21 Q. Okay. And it's 5 pages long; is
that

22 right?

23 A. Yes, sir.

24 Q. All right.

25

Sandra M. Halsey, CSR, Official Court Reporter

1 MR. WAYNE HUFF: Your Honor, for
record

2 purpose only, we are going to offer Defendant's
Exhibits

3 6, 7, 8, 5 and 4.

4 MR. GREG DAVIS: No objection.

5 THE COURT: Received.

6

7 (Whereupon, the items

8 Heretofore mentioned

9 Were received in evidence as

10 Defendant's Exhibits No. 4

through 8

11 For record purposes only,

12 After which time, the

13 Proceedings were resumed

14 As follows:

15

16

17 BY MR. WAYNE HUFF:

18 Q. Did you have occasion -- and I
need to

19 take you back now, Officer, to the hospital -- did
you

20 have an occasion to talk to a nurse there by the
name of

21 Theresa Marie Powers?

22 A. Yes, sir.

23 Q. Did you personally interview her?

24 A. No, sir, not at that time.

25 Q. Did you interview her later?

Sandra M. Halsey, CSR, Official Court Reporter

1 A. Yes, sir.

2 Q. Did she give you an affidavit?

3 A. Yes, sir.

4 Q. What did she tell you?

5

6 MR. GREG DAVIS: I'm going to
object to

7 that as being hearsay.

8 MR. WAYNE HUFF: Well, your Honor,
this

9 is the investigating officer. Hearsay is admissible
at

10 this hearing.

11 MR. GREG DAVIS: No, it's not.

What

12 rule says that hearsay is admissible in this
hearing?

13 THE COURT: Will you --

14 MR. GREG DAVIS: I don't know of
any

15 rule that says --

16 THE COURT: Excuse me, quiet
please.

17 I'm sorry. Go ahead.

18 MR. GREG DAVIS: I'm sorry. I'm
19 unaware of any rule of evidence that says that this

20 hearing allows hearsay. Unless Counsel can cite that
rule

21 for me, I don't know of it.

22 MR. WAYNE HUFF: Well, your Honor,
the

23 Courts -- case law specifically says that the Court is

24 entitled to rely upon, for its ruling, not only

evidence

25 that comes in, that might come in at trial, even
evidence

Sandra M. Halsey, CSR, Official Court Reporter

1 that may not be admissible at trial. And this
particular

2 Officer I would remind the Court, is an investigating
3 officer, and I believe that I am entitled to cross
examine

4 him about his opinions.

5 MR. GREG DAVIS: Well, if there is
case

6 law to that effect, and I have not seen that case law,
but

7 it would sound to me as though it's within the sound
8 discretion of this Court as to whether we're going to
9 venture off into tangents of hearsay, which will take
us

10 well into tomorrow, or whether we're going to confine
this

11 to the established rules of evidence here.

12 MR. WAYNE HUFF: Well, Judge, if
she

13 didn't have anything important to say, he can just
tell us

14 that, and we will move on.

15 MR. GREG DAVIS: Well, no, we
couldn't

16 do that, because we know what is going to happen here
with

17 this line of questioning, history has told us that
won't

18 happen.

19 THE COURT: Well, if you have the
20 authority I will be glad to look at it, otherwise, I'm
21 going to --

22 MR. WAYNE HUFF: Oh, I'll just move
on,
23 your Honor.

24 THE COURT: Thank you.
25

Sandra M. Halsey, CSR, Official Court Reporter

1 BY MR. WAYNE HUFF:

2 Q. You did take an affidavit from her
3 later; is that right?

4 A. Yes, sir.

5 Q. Okay. At the hospital that night,
did

6 you question someone about some insurance policies?

7 A. No, not that I remember at the
8 hospital.

9 Q. Okay. When is the first time you
10 questioned someone about that?

11 A. That is going to be sometime after
we
12 found the insurance policies at the house.

13 Q. Where did you find those, please?

14 A. In the living area.

15 Q. Where in the living area?

16 A. Next to the couch that Darlie
Routier

17 was laying on.

18 Q. All right. Which couch was that?

19 A. It was right here, there was a
stack of

20 papers, insurance policies.

21 Q. Were there any other papers there
other

22 than the insurance policies?

23 A. Yes, sir.

24 Q. What?

25 A. Some cat records, social security

Sandra M. Halsey, CSR, Official Court Reporter

1 records, birth certificates, marriage license.

2 Q. A lot of personal papers just
scattered

3 out there?

4 A. Yes, sir.

5 Q. Okay. Now, did you find any
insurance

6 policies on either of the two children?

7 A. I'm not sure -- no, I don't
remember

8 finding any policies, no.

9 Q. Well, let me just make it clear
what

10 I'm talking about. You had indicated, at some point,
that

11 on Darin there was seven hundred thousand dollars in
life

12 insurance policies?

13 A. Yes, sir.

14 Q. What was the source of that
15 information?

16 A. Darlie told me about the insurance
on

17 him.

18 Q. When did she tell you that?

19 A. During one of the interviews.

20 Q. Okay. Did it turn out that there

was

21 that much insurance on him?

22 A. No, but we found some policies, but

I'm

23 not sure of the amount.

24 Q. Okay. How about policies on Mrs.

25 Routier? Were there any insurance policies on her?

Sandra M. Halsey, CSR, Official Court Reporter

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1 A. Yes, sir.

2 Q. Okay. Did you personally review
them?

3 A. No, sir.

4 Q. How much were they for?

5 A. I believe she told me -- I believe
she

6 told me she had -- there was two different insurance
7 policies on Darin and two different policies on
Darlie,

8 and the children had two different policies each,
except

9 for Drake, he didn't have any.

10 Q. How much insurance was on the
children?

11 A. Five thousand dollars each.

12 Q. Okay. And on Darlie, you still
don't

13 know for sure?

14 A. Well, I want to say there was one
like

15 for a hundred and fifty thousand dollars, and one for
a

16 hundred thousand.

17 Q. Okay. I'm going to turn -- direct

your

18 attention to page 3 of Defendant's Exhibit 6. What
date

19 do you recall making those entries in your personal
notes?

20 A. I didn't put a date on this sheet.

21 Q. Can you tell from the context of
it,

22 when they were probably made, or not?

23 A. Well, sometime during one of the
24 interviews.

25 Q. All right. But you cannot tell
which

Sandra M. Halsey, CSR, Official Court Reporter

1 interview?

2 A. I'm not sure, without going back
and

3 looking it over real good.

4 Q. Okay. The first two pages appear
to be

5 made on June the 6th; is that right?

6 A. Yes, sir.

7 Q. Okay. And then the next page is
not

8 dated?

9 A. No, sir.

10 Q. So you don't know when that was
made?

11 A. Not without going back and
reviewing

12 it.

13 Q. Okay. Page 4 is not dated, page 5
is

14 not dated, page 6 is not dated, page 7 is not dated,
page

15 8 is not dated, page 9 is not dated, page 10 is not
dated,

16 page 11 is not dated, and page 12 is not dated?

17 A. Page 11 is.

18 Q. Oh, it was dated. I missed that.

All

19 right. What date was that?

20 A. June 6th.

21 Q. All right. Now, are these pages in
the

22 order that you made them?

23 A. No, sir.

24 Q. Okay. The list of people that you
have

25 on the last page of this exhibit, when was that list

Sandra M. Halsey, CSR, Official Court Reporter

1 compiled?

2 A. I don't have the date. I don't
3 remember.

4 Q. All right. The numbers out beside
each

5 one, what do those refer to?

6 A. Well, these are prescription
bottles,

7 and I just took all the doctors' names and the dates
off

8 of the prescription bottles.

9 Q. Okay. Did you ever interview any
of
10 those doctors?

11 A. No, sir.

12 Q. Okay. You indicated to the Court
13 yesterday, that you, I believe found Mrs. Routier's
14 demeanor at the hospital unusual in hindsight, what
about

15 Mr. Routier's demeanor?

16 A. Well, the first time I met him was
at

17 the hospital, in this room, and at first I didn't
think

18 that his demeanor was appropriate.

19 Q. Okay. Why?

20 A. Well, because of the way he was
acting.

21 The first thing he asked, or said to me, when I first
22 walked in that room, was he talked about his wife's
23 breasts, and the size of them.

24 Q. All right. Okay. Did he say
anything
25 else you thought was inappropriate?

1 A. Well, there were several times
that --

2 he had been in that room for a long time and never
one

3 time asked about the children.

4 Q. Okay.

5 A. And, there was times that he
cried, and

6 there was times that he laughed.

7 Q. Okay. And you thought that was
unusual

8 at the time?

9 A. Yes, sir.

10 Q. Well, is it fair to say then -- I
mean,

11 later you determined that he was not involved; is
that

12 correct?

13 A. That's correct.

14 Q. So, it would be fair to say that
the

15 fact that someone acts a little differently than you

16 expect, doesn't mean they are guilty of anything,
wouldn't

17 it?

18 A. No, sir.

19 Q. It wouldn't be correct?

20 A. Well, do what now?

21 Q. Well, the fact that someone acts
22 inappropriately, in your opinion, after the death of
their

23 children, doesn't mean that they caused their death,
does

24 it?

25 A. I'm not sure of the question you
are

1 asking.

2 Q. Well, you indicated, did you not,
that

3 Mr. Routier was acting as if nothing serious had
happened

4 to his family; is that right?

5 A. Yes, sir.

6 Q. Okay. But you later determined
that he

7 did not commit this offense, didn't you?

8 A. That's correct.

9 Q. So the fact that he was acting as
if

10 nothing serious had happened to his family, doesn't
make

11 him guilty, does it?

12 A. No, sir.

13 Q. All right. Officer, would you
14 recognize the 911 tape if you heard it?

15 A. Yes, sir.

16 Q. Now, specifically, I'm talking
about

17 the 911 tape, that was made the night, or the early
18 morning hours of June 6th.

19 A. Yes, sir.

20 Q. You have listened to that tape?

21 A. Yes, sir.

22 Q. How was that tape compiled?

Explain

23 the process to us, please?

24 A. Well, it's on a reel to reel tape,

and

25 every 24 hours it's taken off, I believe it's at 12

Sandra M. Halsey, CSR, Official Court Reporter

1 midnight, but it's taken off, and a new one is put on,
and

2 then it's placed in a container that is placed
wherever

3 they put them.

4 Q. Did you make a copy of the 911
tape?

5 A. Yes, sir.

6 Q. Okay. Did you listen to the
original

7 of the 911 tape as you were making a copy?

8 A. Yes, sir.

9 Q. Okay. So you could recognize if
what I

10 am about to play is -- if it fairly and accurately
depicts

11 the original; is that correct?

12 A. Yes, sir.

13 Q. Okay. I want you to listen
closely,

14 because I'm going to ask you some questions
afterward.

15

16 MR. WAYNE HUFF: Mark this for
me,

17 please.

18

19

(Whereupon, the above

20

mentioned item was

21

marked for

22

identification only as

23

Defendant's Exhibit No. 9,

24

after which time the

25

proceedings were

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1 resumed on the record
2 in open court, as
3 follows:)

4
5 MR. WAYNE HUFF: Let the record
reflect

6 that I'm playing a tape, your Honor, for the purpose of
7 identification at this time.

8 THE COURT: Okay.

9

10

11 (Whereupon, the 911
12 tape was played
13 in

14 open court, and

15 the

16 following is a
17 transcript of

18 the

19 tape, as best

20 as

could be heard,

but is not a

verbatim

transcript.

of the same.)

21

22

"911. What is your Emergency?"

23

(Inaudible.)

24

"Ma'am?"

25

children."

"He just stabbed me and my

Sandra M. Halsey, CSR, Official Court Reporter

321

1 "What?"

2 "He just stabbed me and my
children."

3 "Who did?"

4 "A man."

5 "Hang on, hang on."

6 "Please come. My baby's are
dying, Oh
7 God, my babies are dying."

8 "This is 911 medical emergency,
there
9 is a stabbing at 5801 Eagle Drive, Block 231, Eagle
10 Drive."

11 (Inaudible.)

12 "Ma'am, I need you to calm down
and
13 talk to me."

14 (Inaudible.)

15 "Okay. 5801 Eagle?"

16 "Yes."

17 "Ma'am, ma'am. Listen. Listen
to me.
18 I need you to listen to me."

19 "Oh, my God."

20 "Did you pick the radio up?"

21 "Yes."

22

"Oh, my God."

23

"Ma'am, I need you to talk to

me."

24

"Oh, my God. Oh, my God."

25

(Inaudible.)

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1 "Ma'am, I can't understand you.
You
2 are going to have to slow down and calm down and
talk to
3 me."
4 (Inaudible.)
5 "What is going on."
6 "My babies were sleeping downstairs
and
7 they are dead. Oh, my God. Hold on, baby, hold on.
Oh,
8 my God. Oh, my God. Oh, my God."
9 (Inaudible.)
10 "Ma'am, is there anybody in the
house
11 besides you and your children?"
12 "My husband, he was just came
13 downstairs. The baby is crying, they are dying, Oh,
my
14 God, Oh, my God."
15 "Ma'am, listen to me, calm down,
calm
16 down."
17 "5801 Eagle Drive."
18 "When are they going to be here?"

19 "Ma'am, they are on the way."

20 "Ma'am, how old are your
boys?"

21 "What?"

22 "How old are your boys?"

23 "Oh, my God. Oh, my God."

24 "Is your name Darlie?"

25 "Yes."

1 "And your husband's name Darin?"
2 "Yes."
3 "Ma'am, you don't know who did
this?"
4 (Inaudible.)
5 "They left a knife out there."
6 (Inaudible.)
7 "Ma'am, don't touch anything."
8 "I already picked it up."
9 "Ma'am, are you still out on
Eagle?"
10 "Um-hum. I live on Eagle. Oh, my
God.
11 Oh, my God, oh, my God, how could they do this?"
12 "Listen, ma'am, you need to let
the
13 officers in the front door. Okay? Ma'am, you need
to let
14 the police officers in the front door."
15 (Inaudible.)
16 "Okay, it's all right. It's
okay."
17 (Inaudible.)
18 "Somebody just walked in here and
did

19 it, Darin. Oh, my God. Oh, my God."

20 "Ma'am, is the police officer
there?"

21 "Yes, he's here."

22 "Okay. Go talk to him. Okay? Go
talk

23 to him. Okay?"

24 (End of tape.)

25

1 BY MR. WAYNE HUFF:

2 Q. Officer, let me -- you have just
heard

3 State's (sic) Exhibit No. 9 the first portion of the
911

4 call played. Does that fairly and accurately depict
the

5 911 call, the original?

6 A. Yes, sir.

7

8 MR. WAYNE HUFF: Your Honor, we
will

9 offer Defendant's Exhibit No. 9, and ask that we be
10 allowed to substitute a copy.

11 MR. GREG DAVIS: No objection.

12 THE COURT: Received.

13

14 BY MR. WAYNE HUFF:

15 Q. Officer, did you ever listen to
the 911

16 tape to determine if you could hear any glass
breaking on

17 it?

18 A. I listened to that tape several
times,

19 yes, sir.

20 Q. Did you ever here any glass
breaking on

21 the tape?

22 A. Not that I remember.

23 Q. You just listened to it then, did
you

24 hear it then?

25 A. No, sir.

1 Q. Okay. Just one other thing,
Officer.

2 Did y'all take the glass -- all of the glass into
custody

3 or into evidence?

4 A. We did take some, yes, sir.

5 Q. But not all?

6 A. No, sir.

7 Q. How long did y'all have the house
to

8 work with?

9 A. About 11 days.

10 Q. And, you took a lot of things out
of

11 the house, didn't you?

12 A. Yes, sir.

13 Q. Papers, notebooks, personal
effects,

14 all sorts of things, didn't you?

15 A. Yes, sir.

16 Q. In fact, one thing you didn't take
out

17 of house was the major
piece of that broken glass;

is that

18 correct?

19 A. (No
response.)

20 Q. You
didn't take into evidence the
stem

21 piece of the glass that
was broken, did you?

22 A. I
would have to look at the
evidence

23 tags.

24 Q. All
right. Well, Mrs. Routier
told you

25 that she thought that
the person was wearing a
black

Sandra M. Halsey,
CSR, Official Court Reporter

1 baseball cap; is that
right?

2 A. Yes,
sir.

3 Q. Does that appear to be a black
baseball

4 cap in the laundry room?

5 A. Yes, sir.

6 Q. After being in the house for 11
days,

7 you didn't take that into evidence either did you?

8 A. No, sir.

9 Q. In fact, the DA's office had to run
an

10 evidentiary search warrant to go back and get that
glass;

11 is that right?

12 A. To get the cap.

13 Q. To get the cap, I'm sorry.

14 A. Yes, sir.

15 Q. Were you present when that
evidentiary

16 search warrant was executed?

17 A. Yes, sir.

18 Q. Was any other evidence gathered,

other

19 than the baseball cap at that time?

20 A. No, sir.

21 Q. No further blood samples were
taken?

22 A. No, sir.

23 Q. How long did you spend in the
house?

24 A. Just a few minutes. All we did

is, we

25 waited on a crime scene officer to arrive so we could

1 photograph the cap.

2 Q. All right.

3

4 MR. WAYNE HUFF: Pass the witness.

5

6

7 REDIRECT EXAMINATION

8

9 BY MR. GREG DAVIS:

10 Q. Detective Patterson -- may I
approach,

11 your Honor?

12 THE COURT: Sure.

13

14 BY MR. GREG DAVIS:

15 Q. Detective Patterson, let me show
you

16 State's Exhibit No. 18, do you recognize this as a
17 photograph that was taken of Darlie Routier at Baylor
18 Hospital on June 6th of 1996?

19 A. Yes, sir.

20 Q. And it shows some three cuts to
three

21 of her fingers?

22 A. Yes, sir.

23

Q. Did you see those cuts when you

went to

24 see her at Baylor Hospital?

25 A. Yes, sir.

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1 Q. All right.

2

3 MR. GREG DAVIS: I'll offer
State's

4 Exhibit No. 18.

5 MR. WAYNE HUFF: No objection.

6 THE COURT: Received.

7

8 (Whereupon, the items
9 Heretofore mentioned
10 Were received in
evidence

11 As State's Exhibit No.
12 18,

13 For all purposes,
14 After which time, the
Proceedings were
resumed

15 As follows:

16

17

18 BY MR. GREG DAVIS:

19 Q. Detective, if we can look at
State's

20 Exhibit No. 15, you see a part of the counter top
over

21 here, which would be -- as we are looking at the
sink, to

22 the right side of the sink.

23 A. Yes, sir.

24 Q. Was there any visible blood?

25 A. No, sir.

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1 Q. How about inside the sink, was
there
2 any visible blood when you looked inside the sink?
3 A. There was a few drops.
4 Q. Okay. Now, did you participate in
a
5 trip to the house, where this particular area of the
6 counter top was luminaled?
7 A. Yes, sir.
8 Q. And luminal is what?
9 A. Well, it's just a chemical
substance
10 that is made up, that you can spray on a table top,
or
11 spray on anything that shows blood.
12 Q. All right. And, when this
particular
13 area of the counter top was luminaled, what were the
14 results?
15 A. It looked like somebody had wiped
up
16 blood off of that counter top.
17 Q. Okay. Again, before you did the
18 luminal, there was no apparent blood on this surface,
was
19 there?

20 A. That's correct.

21 Q. On that tape that was just played,
22 could you hear any water running in a sink?

23 A. No, sir.

24 Q. While that tape was being played,

I
25 noticed that the defendant was crying quite heavily,
and

Sandra M. Halsey, CSR, Official Court Reporter

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1 how many meetings did you have with this defendant,
prior

2 to her arrest?

3 A. Well, it was several.

4 Q. Did you ever see her cry like
that?

5 A. I saw her act, I never saw any
tears.

6 Q. Okay. Well, I saw tears today.
I'm

7 asking you. Did you ever see a tear come out of her
eyes

8 during any of the meetings that you had with her,
prior to

9 her arrest?

10 A. No, sir.

11 Q. Detective, at some point did the
12 Rowlett Police Department obtain a copy of a videotape
13 that was shot by KXAS?

14 A. I'm sorry?

15 Q. Did the Rowlett Police Department
ever

16 obtain a copy of a videotape that was done by KXAS, at
a

17 cemetery, in Rockwall, Texas?

18 A. Yes, sir.

19

20 MR. GREG DAVIS: Mark this,
please.

21

22 (Whereupon, the above

23 mentioned item was

24 marked for

25 identification only

Sandra M. Halsey, CSR, Official Court Reporter

1 as State's Exhibit No. 27,
2 after which time the
3 proceedings were
4 resumed on the record
5 in open court, as
6 follows:)

7

8

9 BY MR. GREG DAVIS:

10 Q. Detective Patterson, let me show
you

11 State's Exhibit No. 27. Is this, in fact, the tape
that

12 was provided to your department by KXAS?

13 A. Yes, sir.

14 Q. Have you had an opportunity to
review

15 it?

16 A. No, sir, I have not.

17 Q. At the time that you saw Darin
Routier

18 at Baylor Hospital on June the 6th of 1996, did you
know

19 whether or not Darin Routier had discussed the deaths
of

20 his two children with his wife, Darlie Routier?

21 A. No, sir.

22 Q. Did you know at that time, whether
he

23 approved of their deaths or not?

24 A. No, sir.

25 Q. Did you know whether he had
witnessed

Sandra M. Halsey, CSR, Official Court Reporter

1 their deaths?

2 A. No, sir.

3 Q. Did you know what he really knew
about

4 these deaths?

5 A. Not at that time.

6 Q. You said he made some comment about
his

7 wife's breasts, what exactly did he say?

8 A. I would have to review the notes to
see

9 exactly what he said, but when I walked in there the
first

10 thing he talked about was, how pretty she was, and she
had

11 big breasts.

12 Q. How long were you with him?

13 A. In the hospital?

14 Q. Yes, sir.

15 A. Just a few minutes.

16 Q. Besides the one broken wine glass,
were

17 there any other items in that house that were broken?

18 A. No, sir.

19 Q. All right.

20

21

MR. GREG DAVIS: Pass the

witness.

22

23

24

25

Sandra M. Halsey, CSR, Official Court Reporter

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1

REXCROSS EXAMINATION

2

3 BY MR. WAYNE HUFF:

4 Q. Officer, did you take any
fingernail

5 scrapings from Mrs. Routier?

6 A. Well, we checked -- I asked the
crime

7 scene officer about it, and she doesn't have any

8 fingernails, or she didn't at that time.

9 Q. None at all?

10 A. No, we did not.

11 Q. You didn't even try?

12 A. She didn't have enough to try.

13 Q. Did you find out what caused the
cuts

14 on her hand?

15 A. No, sir.

16 Q. Did you ask Mrs. Routier what
caused

17 them?

18 A. Yes, sir.

19 Q. What did she tell you?

20 A. During one of the interviews she
just

21 thought that maybe she had gotten the cuts by that
knife.

22 Q. Okay. She didn't know either, in
other

23 words?

24 A. No.

25 Q. She was guessing?

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1 A. Yes, sir.

2 Q. Did you get any professional
opinions
3 about that?

4 A. No, sir.

5 Q. There was no blood in the sink?

6 A. There was a few drops.

7 Q. Okay. There was blood to the --
and
8 luminal showed there had been blood to the right of
the
9 sink; is that correct?

10 A. Yes, sir.

11 Q. Well, I guess your theory,
Officer, is
12 that someone cleaned up the blood around the sink?

13 A. Yes, sir.

14 Q. And you are telling the Court,
that
15 they cleaned up over here, everything in the sink?

16 A. Yes, sir.

17 Q. And left this?

18 A. Yes, sir.

19 Q. They just forgot about that little
bit

20 of blood on the front of the sink; is that right?

21 A. I don't know if they forgot, or if
they

22 just didn't notice it.

23 Q. You didn't have any trouble
noticing

24 it, did you, Officer?

25 A. No, sir.

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1 Q. By the way, not having any drops
of
2 blood in the sink would also be consistent with the
water
3 running; is that correct?

4 A. I'm not sure what you are asking.

5 Q. Well, if you turn the water on to
get
6 rags wet, and there was not any blood visible, except
for
7 luminal, that would be consistent with that, wouldn't
it?

8 A. Well, I'm still not sure.

9 Q. Well, Officer, if you have a
bloody
10 rag, and you've got in the sink to get it wet, and
the
11 water is running, then the blood is going to run down
the
12 sink; is that right?

13 A. Yes, sir.

14 Q. Okay. Or it is going to get on
the
15 towel, one or the other; is that right?

16 A. Yes, sir.

17 Q. And if you put the towel up on the
18 counter, and there is no visible blood except from
19 luminal, that means that could also be consistent
with a
20 towel being up there, maybe with water and blood on
it; is
21 that right?

22 A. Well, I'm not sure what you are
saying.

23 Q. Well, you understand the luminal
24 process?

25 A. Right.

1 Q. You don't claim to be an expert on
2 it --

3 A. No, sir.

4 Q. But you understand it?

5 A. Yes, sir.

6 Q. It shows up where blood may have
been,

7 that is not visible to the naked eye; is that
correct?

8 A. That's correct.

9 Q. Okay. So, if you have got a rag
that
10 had blood, and some blood, and a lot of water on it,
and
11 they put it somewhere, and you couldn't see it with
the
12 naked eye, but you could see it with luminal, that
would
13 also be consistent with placing a rag on a counter
top; is
14 that correct?

15 A. Yes, sir.

16 Q. Was the luminal done -- when was
the
17 luminal test done, Officer?

18 A. I don't remember the date.

19 Q. Well, it wasn't the first or second
20 day, was it?

21 A. No, sir.

22 Q. Officer, based on your
investigation,

23 was it your opinion that this was just a spur of the
24 moment crime, or was this planned, or do you have an
25 opinion?

1 A. I have an opinion.

2 Q. What is your opinion?

3 A. I'm not saying that she planned it
out

4 over weeks, but I think that she just didn't wake up
and

5 it happened.

6 Q. So it was planned?

7 A. I think that at least by a few
minutes.

8 Q. Not very well planned; is that what
you

9 are saying?

10 A. Yes, sir.

11 Q. Okay.

12

13 MR. WAYNE HUFF: I believe that's
all,

14 your Honor.

15 MR. GREG DAVIS: No further
questions.

16 THE COURT: You may step down,
Officer.

17 MR. GREG DAVIS: The State will
call

18 Charles Linch.

19 THE COURT: Were you sworn earlier?

20 THE WITNESS: Yes, sir, I was.

21 THE COURT: Please have a seat.

22

23

24

25

Sandra M. Halsey, CSR, Official Court Reporter

1 Whereupon,

2

3 CHARLES LINCH,

4

5 was called as a witness, for the State of Texas,
having

6 been first duly sworn by the Court to speak the truth,
the

7 whole truth, and nothing but the truth, testified in
open

8 court, as follows:

9

10

11 DIRECT EXAMINATION

12

13 BY MR. GREG DAVIS:

14 Q. Sir, would you please tell us your
full

15 name?

16 A. My name is Charles Linch, L-I-N-C-
H.

17 Q. Mr. Linch, how are you employed?

18 A. Currently employed as a trace
evidence

19 analyst at the Institute of Forensic Sciences here in

20 Dallas.

21 Q. How long have you been employed in
that

22 capacity?

23 A. I have been at the Institute, off
and

24 on, for the last 16 years. I have been in trace
evidence

25 for the last nine years.

Sandra M. Halsey, CSR, Official Court Reporter

1 Q. All right. Let me ask you, if you
2 would, to briefly detail your educational and
professional

3 background, that allows to you hold your present
position?

4 A. From 1983 until 1987 I was a field
5 agent at the Institute. I went to the scene of over
500
6 death scenes during those four years. One hundred and
two
7 of those were homicides, one hundred and thirty-three
were
8 suicides, and 82 were accidents, and another 18 were
9 unclassified.

10 I have a Bachelor of Science from
the
11 University of Houston, I attended the FBI hair and
fiber
12 school, the FBI Forensic and Serology school, and the
FBI
13 DNA analysis school.

14 Q. Let me ask you, what training or
15 experience have you had in analyzing blood drops or
blood
16 patterns at death scenes?

17 A. The forensic serology school
offered

18 instruction by Special Agent Bob Spalding with the
FBI.

19 Q. As part of your duties, do you
also
20 make microscopic examinations and analysis of items,
such
21 as hair?

22 A. Yes, I do.

23 MR. GREG DAVIS: May I approach,
your

24 Honor?

25 THE COURT: Sure.

1 BY MR. GREG DAVIS:

2 Q. Did you have an opportunity, at
some

3 point, Mr. Linch, to go out to 5801 Eagle Drive?

4 A. Yes, I did.

5 Q. Do you recall when you first went
out

6 there?

7 A. It was about 12:30 on June the
6th.

8 Q. And, did you have an opportunity
to
9 walk through the house and examine the house?

10 A. Yes, I did.

11 Q. Let me start first with the
photograph

12 of the utility room there at 5801 Eagle Drive. Do
you

13 recognize that photograph?

14 A. Yes, I do.

15 Q. And the blood droplets -- are
there

16 blood droplets on the ground here?

17 A. Yes, there are.

18 Q. All right. First of all, let me

ask

19 you whether there is any blood evidence here that
would be

20 consistent with a knife having been -- a blood-soaked
21 knife having been dropped on the utility floor?

22 A. No, sir, there isn't.

23 Q. All right. And, what would you
expect

24 to see, if a knife with blood on it, had, in fact,
been

25 dropped on the floor of the utility room?

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I am

17 standing here, and I am bleeding, and I drop straight
down

18 on the floor, is that going to be a drop with no
velocity

19 to it?

20 A. That is right, other than the
21 perpendicular component.

22 Q. All right. If I am bleeding, and I
23 walk across this courtroom, at some sort of speed, are
you

24 going to expect to see some sort of velocity, or angle
25 change on the blood drops on the floor?

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1 A. It would depend on how fast you are
2 walking, and if your arm was swinging or not, and the
type
3 of vessel that was injured. If it was a split
arterial
4 spurting, it would be different than just a
subcutaneous
5 cut.

6 Q. All right. The blood drops here on
the
7 utility room floor, do they evidence a velocity?

8 A. Well, there is no appreciable
velocity,
9 another than just straight down.

10 Q. All right. What conclusion would
you
11 draw from the fact that there is no velocity with the
12 blood drops that are in the utility room?

13 A. Well, a person is either walking
very
14 slowly, or standing over the area where the blood
drops
15 were produced.

16 Q. Okay. Did you find any blood in
the

17 garage?

18 A. At the time of our visit, there was
19 what appeared to be some blood out by the freezer. I
was
20 later informed that that had probably been tracked by
the
21 police and the first responders. It was not seen
earlier.

22 Q. Okay. Did you also have an
opportunity
23 to observe the kitchen floor?

24 A. Yes, I did.

25 Q. If we could, if we could look at
the

1 diagram here, that has been marked as Defendant's
Exhibit

2 No. -- well, this is actually State's Exhibit No. D.

3 A. Okay.

4 Q. This being a diagram that includes
the

5 kitchen. First of all, if we will look here on the
east

6 side of the island in the kitchen, you see there is a
red

7 line that extends from the -- basically what we have
been

8 calling the kitchen, the bar there that separates the

9 kitchen from the living room, there is a line, a red
line,

10 that goes from that point over toward the utility
room,

11 can you describe the blood drops that you found in
that

12 area, sir?

13 A. There was quite a bit of blood in
that

14 area. On the floor, a large percentage of those
blood

15 drops are very similar to the blood drops in the

utility

16 room. They appeared to have just a downward
component,

17 with no accompanying, horizontal velocity.

18 Q. All right. Let me ask you then,
the

19 blood drops that you found on the east side of the
island,

20 would they be consistent or inconsistent with an
21 individual running through that area who is bleeding
or

22 either had a bloody object in his hand?

23 A. Inconsistent.

24 Q. The same type of blood drops that
you

25 found in the utility room; is that right?

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1 A. That's right.

2 Q. In that nature?

3 A. That's right, the blood was very
sparse

4 on the east side of the island.

5 Q. Did you find any bloody footprints
in

6 that area of the kitchen?

7 A. I recall the bloody footprints more
8 toward the kitchen sink area.

9 Q. All right. So, whatever footprints
10 that you found would have been on the west side of
the
11 island; is that correct?

12 A. That's right, and headed toward
the
13 den.

14 Q. Now, if we look at the diagram,
and if
15 we can envision a line that goes from the utility
room,

16 toward the kitchen sink, did you also find some blood
17 drops in that area of the kitchen?

18 A. In addition to that on the
floor?

19 Q. No, sir, I'm talking about on
the
20 kitchen floor, in the area of the kitchen floor,
this
21 would be on the west side of the island, leading from
the
22 utility room towards the kitchen sink. Were there
also
23 some blood drops on that portion of the floor?

24 A. Yes, sir, there were.

25 Q. All right. And, did those blood
drops

1 evidence velocity or not?

2 A. They did not. They had the same
slow

3 motion type character to them.

4 Q. Would they be consistent or
5 inconsistent with someone having run who is bleeding
or

6 either carrying a bloody object in that part of the
7 kitchen?

8 A. They could have been carrying a
bloody

9 object, but they were not running.

10 Q. Now, if we can, if we can talk
about

11 the portion of the kitchen that deals with the area
right

12 here in front of the kitchen sink, extending back
toward

13 the edge of the kitchen bar, toward the living room
or the

14 den area. Were there blood drops there also?

15 A. Yes, sir.

16 Q. Let's talk about first, the amount
of

17 blood on the floor. Was it the same amount of blood,

or

18 less blood, or more blood than you had seen on the
other

19 portions of the kitchen floor?

20 A. There was a greater smear amount
of

21 blood in that area.

22 Q. Do you recall there being a throw
rug

23 or an area rug right here in front of the kitchen
sink?

24 A. I don't have a specific

recollection of

25 it, no, sir.

1 Q. If we could, if we could look at
2 State's Exhibit 13 and 14, do you see a green flowery
rug
3 here, depicted on both of those photographs?

4 A. Yes, I do. I later examined that
rug
5 in the laboratory.

6 Q. Okay. Is that in fact, a rug that
7 would have been placed, pretty much in front of the
8 kitchen sink then?

9 A. I don't know.

10 Q. Okay. Let's take a look at the
area
11 then. Again, leading from the sink toward the -- to
the
12 kitchen bar, did you find bloody footprints in that
13 portion of the room, sir?

14 A. Yes, sir.

15 Q. And, were they going in any
particular
16 direction or not?

17 A. They were headed -- leaving the
kitchen
18 sink area, and toward the -- either the front door or
the

19 den, but in that general direction, away from the
kitchen

20 sink.

21 Q. All right. Did you find any bloody
22 footprints that led toward the sink, sir?

23 A. No, I didn't.

24 Q. All right. Would the bloody
footprints
25 that you found be consistent or inconsistent with an

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1 individual who is bleeding, pacing back and forth,
between
2 this kitchen sink, toward the island or the end of
this
3 kitchen bar, pacing repeatedly, in this area, would it
be
4 consistent or inconsistent with what you found, with
5 regards to the footprints?

6 A. I think it would be inconsistent,
7 provided that each pace went back to the original
blood
8 source that the foot is then tracking further. The
9 bloodiest footprint was the only one headed away from
the
10 sink, there were no other significant bloody feet
prints.

11 Q. Okay. But there were more than one
12 bloody footprint, was there not?

13 A. Yes, sir.

14 Q. Okay. In fact, on State's Exhibit
No.

15 14, we can find several different bloody footprints
16 leading away from the kitchen sink; is that right?

17 A. That's right.

18 Q. But again, you found no bloody

19 footprints that would have led toward the kitchen
sink; is

20 that right?

21 A. They are all leading away.

22 Q. Now, in that area, did you also
find

23 some bloody footprints that were actually underneath
24 broken glass?

25 A. I don't recall that.

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1 Q. Okay. If we could, if we could
look
2 here on State's Exhibit No. 14, do you recall that we
have
3 looked at this and we have found what appears to be a
4 piece of broken glass laying on top of one of the
bloody
5 footprints?

6 A. Yes, sir.

7 Q. Okay. Looking at State's Exhibit
No.
8 13 and 14, are they, in fact, showing the same area of
9 that kitchen?

10 A. Yes, they are. The animal food
trays
11 on the floor and the trash can are both present in the
12 photograph for orientation.

13 Q. And when we look at State's Exhibit
No.
14 13, really, the only difference is a little bit of the
15 angle is different, and also, we have a vacuum cleaner
16 that is down on the floor; is that right?

17 A. That's right.

18 Q. Did you find bloody footprints
19 underneath this vacuum cleaner that had been laid on

the

20 floor?

21 A. There are bloody footprints under

the

22 vacuum cleaner. The vacuum cleaner had been removed,

23 prior to my arrival.

24 Q. Okay.

25 A. But, with regard to these
photographs,

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1 where you can, in one, see the vacuum cleaner lying
down,

2 and in another, the area that exhibits bloody
footprints,

3 would be underneath the overturned vacuum cleaner.

4 Q. So, is it fair to say that we have
5 bloody footprints that are underneath this vacuum
cleaner?

6 A. Yes, sir

7 Q. Do we also have broken glass that
is

8 underneath this vacuum cleaner?

9 A. Yes, sir.

10 Q. Okay. Let me ask you also, with
11 regards to the portion of the kitchen, and this is
going

12 to be in the area of the kitchen, roughly by the end
of

13 the kitchen, the bar, do you recall there being a
wine

14 rack also?

15 A. Yes, I do.

16 Q. Did you find -- well, let me just
ask

17 you this: Was the blood evidence there consistent

or

18 inconsistent with a struggle having occurred in that
19 portion of the kitchen, with an individual who had a
knife

20 in his hand?

21 A. That is inconsistent. That is a
fairly

22 small area, and a fairly unstable wine rack was in
that

23 area.

24 Q. Did you find any cast-off blood, in
25 that portion of the kitchen?

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1 A. No, sir.

2 Q. And, what would cast-off blood have
3 indicated to you, if you had found it there?

4 A. Well, cast-off is a term that is
5 referred to the type of pattern you see after a knife
has

6 been bloodied, and it is in this type of motion. I
didn't

7 see any of that.

8 Q. So, for instance, if you and I were
9 standing in that portion of the kitchen and I have a
knife

10 with blood on the edges of it, and I am attempting to
11 fight you and you are struggling with me, and I am
pulling

12 back with that knife in order to stab you, is that
where

13 we will get the blood cast off from the blade of that
14 knife on to an object higher, perhaps on a wall?

15 A. That's right.

16 Q. Matter of fact, in this entire
house,

17 did you find any blood that you would consider to be
high

18 in elevation?

19 A. The highest blood present in the
house
20 that I saw was at the light fixture that is near the
wine
21 rack that we just talked about.

22 Q. Did that appear to be cast-off
blood or
23 another type of blood?

24 A. It would be consistent with a
bloody
25 hand going to the light switch.

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1 Q. Now, if we can, if we can talk
about --

2 let's talk about this kitchen sink for a moment. Did
you

3 have an opportunity to observe the kitchen sink out
there?

4 A. Yes, I did.

5 Q. Can you tell the Court what you
found

6 when you examined that sink?

7 A. Well, the kitchen sink and the
faucet

8 fixture is stainless steel material, and the stainless
9 steel had been cleaned of blood, including the faucet.

10 The faucet tested positive for the presumptive
presence of

11 blood that wasn't visible, but was still picked up.
So

12 that area had been cleaned.

13 Q. Okay. And again; exactly what are
you

14 basing your opinion on that the kitchen sink was
cleaned?

15 What do you mean by cleaned, first of all?

16 A. The double sinks themselves were

devoid

17 of blood with the exception of some watered down,
bloody

18 material that had dripped down.

19 The area in front of the sink and
below

20 the sink had a significant amount of blood to it.

That

21 blood, in my opinion, could not have occurred
without

22 getting some into the sink. So, it's been
cleaned.

23 And the second thing is that there
was

24 luminal testing done, which showed a positive
reaction,

25 again a presumptive test for blood at the right side
of

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1 this stainless steel sink. So, the sinks had been
washed

2 of blood.

3 Q. Okay. So this family area here,
did

4 you also have an opportunity to observe it?

5 A. Yes, I did.

6 Q. And was there a good amount of
blood in

7 that family room?

8 A. There was blood consistent with two
9 children being stabbed, yes.

10 Q. Let's talk about this couch that is
11 going to be on -- actually let's call this the west
couch.

12 Was there any cast-off blood on that west couch?

13 A. I didn't see any.

14 Q. What type of blood did you see on
that

15 couch?

16 A. It was a very minimal amount of
blood,

17 if any at all, it would be a transfer smear type.

18 Q. What do you mean by transfer smear?

19 A. The first object had been bloodied,

and

20 then is rubbed against it, like an arm or a leg.

21 Q. Would that transfer smear have been

22 consistent with a five year old child being stabbed at
the

23 far end of this couch, or near the far end of this
couch,

24 closer to that big screen television, and then

actually

25 travelling in some manner, either on his hands or
knees,

1 or walking and rubbing up next to this couch, as he
walks

2 towards the glass end table?

3 A. Sure, and there was an additional
4 finding that supports that.

5 Q. Okay. And, that additional
finding is

6 what?

7 A. It was a child's bloody handprint
in

8 the floor, near this couch, which it looked like a
child

9 had supported himself or attempted to support himself
with

10 the bloody hand.

11 Q. Did you find any bloody handprints,
12 small bloody handprints, on the couch itself?

13 A. I don't recall any.

14 Q. The blood that you found on this
couch,

15 was it consistent or inconsistent with an individual
16 laying on her back, with her head on this portion of
the

17 couch, closest to the big screen television, having
been a

18 cut in the neck, having a puncture wound to the left
side

19 of her neck, closer to her left shoulder, and having a
20 right arm cut on this couch, was it consistent or
21 inconsistent with that, in your opinion?

22 A. It would be inconsistent.

23 Q. Why do you say that?

24 A. From the amount of bleeding that I
25 observed in the kitchen and on Mrs. Routier's T-
shirt,

1 there was substantial bleeding from her, and unless
she
2 was attacked, and immediately, within a micro second,
got
3 up from that area, there should be some blood left
from
4 her injuries.

5 Q. Did you detect any bloody
footprints
6 leading from this couch toward the kitchen area? Do
you
7 recall those?

8 A. No, I don't.

9 Q. Okay. Now you said that you had
been
10 out to five hundred death scenes, as part of your work
as
11 a medical examiner's agent, correct?

12 A. That's right.

13 Q. And, have you received training in
the
14 overall analysis of death scenes?

15 A. Prior to becoming a field agent, I
was
16 an autopsy technician, but not really death scenes --

17 well, I had instructions from personnel out at the
medical

18 examiner's office, prior to doing that activity, but
there

19 was no off site training for that, no.

20 Q. Did you form an overall opinion
about

21 the crime scene, as it appeared at 5801 Eagle Drive?

22 A. Yes, I did.

23 Q. And what opinion did you form?

24 A. It appeared staged or altered.

25 Q. Why do you say that?

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1 A. From the appearance of the kitchen,
the
2 blood was consistent with someone standing there and
3 bleeding at the kitchen sink, and the sink had been
4 cleaned up. All of the blood that I saw or observed
is a
5 slow motion, nobody is in a hurry type dynamic.

6 The wounding of the children
appeared
7 to be controlled and precise. And with the exception
of
8 the youngest child, there was minimum movement of the
9 children after a precise attack.

10 The cut screen on the garage was
11 curious. Home intruders don't cut screens, they pull
them
12 off the windows.

13 Q. Let me just stop you right there.
14 Let's talk about that window and that screen.

15 Looking at State's Exhibit No. 10,
when
16 you are referring to the window and the screen, are
you
17 referring to the window shown in State's Exhibit No.
10?

18 A. Yes, I am.

19 Q. Were the screen and the window
itself

20 actually brought to you by the Rowlett Police
Department?

21 A. Yes, they were.

22 Q. Have you had an opportunity to
examine

23 both of those items, sir?

24 A. Yes, I have.

25 Q. With regards to the screen, did you

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1 make a determination of whether the screen had been
cut

2 from the inside or the outside, and the manner in
which it

3 had been cut?

4 A. I have an opinion as to the manner
in

5 which it was cut. From my observations, it could have
6 been cut either from the outside or the inside. If it
7 were cut from the outside, it goes in a motion, from
8 right, in a smooth cutting stroke to the left. The
screen

9 had to be restabilized with the hand, and then you do
the

10 downward vertical component of this T-shaped defect.
If

11 it were done from the inside, the person starts from
left

12 to right instead of right to left.

13 Q. Okay. Did you observe any blood on
14 that screen?

15 A. No, I didn't.

16 Q. Did you have an opportunity to look
at

17 the windowsill here portrayed in State's Exhibit No.

10?

18 A. Yes, I did.

19 Q. Did anything catch your attention

as

20 you looked at that windowsill?

21 A. Well, the entire component?

22 Q. Well, just looking at the

windowsill,

23 was there anything still in this windowsill? Was

there

24 any dirt or dust or anything that you can recall?

25 A. No. Maybe a fine layer of dust,

but

1 that's all.

2 Q. Could you see any scuff marks or
blood

3 or anything on this windowsill to indicate that
someone

4 had recently gone through it?

5 A. No, there was a slight bend on the
6 lower frame of the window screen, but other than
that, no.

7 Q. Looking at the window frame
itself, was

8 that examined by yourself?

9 A. The window?

10 Q. Yes, sir, the window.

11 A. Yes, it was.

12 Q. Now, did the Rowlett Police
Department

13 supply you with hair samples that came from the
defendant,

14 Darlie Routier?

15 A. Yes, Mrs. Routier came to the
Institute

16 and provided hair samples and blood.

17 Q. Did you find any hairs in the
window

18 that were submitted to you by Rowlett?

19 A. When Rowlett first submitted the
20 window, and it came to the Institute, it was not
examined

21 thoroughly. A decision was made to send it to the
Dallas

22 Sheriff's Office for laser printing. It goes to the
23 Sheriff's physical evidence lab, then it is returned
back

24 to my office for examination.

25 The initial request was to look
for

1 scratches on the glass, and there were scratches, but
you

2 couldn't do that with a kitchen knife. It would have
to

3 be something else.

4 In addition, there was a hair
found in

5 the left side of the window, within the window track.

6 Q. Okay. Did you compare the hair
that

7 you found in the left track of that window to the
head

8 hair that had been submitted to you by Darlie
Routier?

9 A. Yes, I did.

10 Q. And what were the results of
your

11 analysis?

12 A. The head hair from the window
itself

13 had been forcibly removed, and it had the same
microscopic

14 characteristics as Mrs. Routier.

15 Q. Were there any particular
16 characteristics that you looked to, to make that

17 comparison?

18 A. Well, there are a number of
internal,
19 structural things that the microscopist looks at, in
doing
20 side by side comparison. Her hair is treated or
bleached,
21 and has some untreated root end components. So, all
of
22 those things are taken into account.

23 Q. Okay. Did you compare the length
of
24 her untreated -- the untreated portion of her hair,
that
25 she submitted to you with the untreated portion of the

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1 hair that you obtained from the window?

2 A. Yes, I did.

3 Q. What was the results?

4 A. The amount of untreated shaft on
the

5 found hair was within the range of the amount of
untreated

6 shaft, at the time of her visit to the Institute.

7 Q. It would be contemporaneous?

8 A. It could be.

9 Q. Looking now at State's Exhibit No.
9,

10 do you recognize the butcher block and the eight
knives

11 that are shown in that photograph, sir?

12 A. Yes, sir, I do.

13 Q. Were they submitted to you for
analysis

14 also?

15 A. Yes, they were.

16 Q. And, if you will, if you will
briefly

17 tell the Court what you did with those knives?

18 A. An examination was made of each
knife

19 handle and knife blade for any possible foreign or
trace
20 material. And, looking at the butcher block, if you
use
21 the numbering system of the lower knives, the number 1
22 knife which is present in the block was there, there
is a
23 number 2 spot, that was empty. There is a number 3
spot,
24 that had a knife, and then the fourth knife that was
on
25 the far left end was also present in the block.

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1 On the top of this butcher block,
there
2 are also five other knives that are sitting in their
3 respective places. And so, there is one knife missing
4 from this butcher block that holds nine knives.

5 Q. Okay. Looking at the knife
portrayed
6 in State's Exhibit No. 8, did you try to determine,
sir,
7 whether this particular knife would fit into the empty
8 slot shown on the butcher block, in State's Exhibit
No. 9?

9 A. I didn't physically attempt it, but
it
10 could.

11 Q. Okay. Now, let me just ask you,
did
12 you find anything that you found to be unusual on any
of
13 these particular knives that you later analyzed?

14 A. The knives from the butcher block,
the
15 knife that I described as number 4 on the bottom far
left
16 slot of the butcher block, there was obtained

17 microscopically some material from the serrated blade
of

18 that knife.

19 This material consisted of
rubbery,

20 dust residue, and a single glass rod. This glass
rod

21 measured about 10 microns by 40 microns, and that
would

22 be, about as half as thick as a thin, human hair, but
this

23 glass rod was present on the blade of the knife.

24 Q. Did you compare that material that
you

25 found on the blade on knife number 4, to the material
that

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1 makes up this window screen shown in State's Exhibit
No.

2 10?

3 A. Yes, I did.

4 Q. And what were the results of your
5 comparison?

6 A. The screen cloth is composed of a
PVC

7 or a poly vinyl chloride type material, or some
derivative

8 thereof, a rubbery material, black. This rubbery
material

9 encircles a core bundle of fiberglass rods, that the
10 fiberglass rods composing the screen are the same
diameter

11 and general appearance as the single, glass rod
fragment

12 from the knife blade.

13 In addition, upon test cutting, you
can

14 obtain different thickness sections of the rubbery
15 material from the screen cloth, that appear

16 microscopically similar to the rubbery material -- or
the

17 screen cloth rubbery material was microscopically

similar

18 to the rubber dust particles from that number 4 knife.

19 Q. So, the bottom line, with regard to
the

20 material that you found on knife number 4, what is
your

21 conclusion about that material?

22 A. Knife number 4 could have cut the
23 screen.

24 Q. All right.
25

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1 MR. GREG DAVIS: Pass the witness.

2

3

4 CROSS EXAMINATION

5

6 BY MR. DOUGLAS PARKS:

7 Q. Mr. Linch, you have testified
regarding

8 blood spatter and analysis. Do you rely upon any
9 particular publications or authorities, in your
expertise

10 in that area?

11 A. There are several folks who are
12 recognized in actually founding the science of blood
13 spattering interpretation. Herbert McDonald, Bob
Spalding

14 is probably one of the first folks involved with the
15 science early on. Dr. Stone at the Institute, has
been

16 involved with blood spatter analysis. And, that would
be

17 about it.

18 Q. Are there publications that one
could

19 go to, if he wanted to learn about blood spatter,

without

20 going to work for a crime lab or something, a lay
person

21 deciding he wants to learn a little something, where
would

22 one go?

23 A. Yes, sir, there is a text by
Herbert

24 McDonald on blood flight characteristics. Any
forensic

25 science section of the library has -- any
criminalistics

1 book would have a chapter on blood spatter, just
about
2 any.

3 Q. About when was Dr. McDonald's
book
4 written?

5 A. I don't know.

6 Q. During the course of your
7 investigation, both on the scene and at SWIFS, did
you
8 have occasion to make notes and write reports and
things
9 of that kind?

10 A. Yes.

11 Q. Did you bring copies of that
material
12 with you today?

13 A. I brought the originals.

14 Q. May I take a look at those?

15 A. Sure.

16 Q. While I am thinking about it, Mr.
17 Lynch, have you undertaken to group or attempt to
18 recognize in some way whose blood was where, at that
19 scene?

20 A. That is an on-going process in

our DNA

21 laboratory, and I have not been told any results, if
they

22 have results.

23 Q. Okay. So, as we speak today, we
don't

24 know right now, the blood that you have testified
about,

25 whose is where?

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1 A. I don't know, they might know.

2 Q. Who is they?

3 A. Caroline Van Winkle is doing the
DNA
4 work.

5 Q. Out at SWIFS?

6 A. Yes, sir.

7 Q. Okay. Has she given you any
indication
8 when she thought that that work would be completed?

9 A. No, sir, she has not.

10 Q. You went to the scene on June the
6th,
11 1996, at about 12:30 P.M.; is that correct?

12 A. That's right.

13 Q. Okay. And, about how long were
you at
14 the scene, Mr. Linch?

15 A. We left about 3:30.

16 Q. And who went with you?

17 A. Kathryn Long, a forensic
serologist at
18 the Institute.

19 Q. Did you take any samples yourself
at

20 that time?

21 A. I didn't, now, Ms. Long took some
22 samples at my direction.

23 Q. Do you recall off the top of your
head

24 where those samples were taken from?

25 A. Sure. She -- I initially asked
her to

1 do presumptive testing in the different bathrooms.
And,
2 as we worked our way through the house, she took
blood
3 samples from inside this stainless steel sink, that I
4 testified that I thought was cleaned of blood. She
did
5 presumptive testing on the water faucet, and that was
6 positive.

7 She took some sections out of
various
8 areas of the carpet, in the den or living area.
9 Q. How did she do that?
10 A. With scissors, just cut the fiber
11 strands. On that visit, she took a sample from this
light
12 switch, where the smeared blood was in the kitchen,
and I
13 think she took maybe a total of 9 to 13 blood samples.

14 Q. Is it your plan to analyze all of
15 those?

16 A. Well, I'm not sure what requests
have
17 been made by the State as to how many of what types
to

18 analyze.

19 Q. Okay. All of that would have
gone to

20 Caroline Van Winkle?

21 A. Yes, sir, that would be a question
for

22 her.

23 Q. You indicated that you went out to
the

24 utility room section?

25 A. Yes, sir.

1 Q. And you saw some drops of blood
there

2 on the floor; is that correct?

3 A. That's right.

4 Q. Did you see a black baseball cap
on the
5 floor?

6 A. The cap was not in the middle of
the
7 floor, as indicated in this photograph. So, I didn't
see
8 it at that time.

9 Q. But where was it, if you remember?

10 A. My understanding from the person
who
11 recovered it, said that it was maybe like between a
washer
12 and dryer, or not in an obvious area.

13 Q. Were you there when they recovered
the
14 cap?

15 A. No.

16 Q. Any reason that you know of, why
it
17 would have been moved to a central location to be

18 photographed?

19 A. I don't know.

20 Q. Were any blood samples taken off
of the
21 cap?

22 A. I think there were, but again that
23 would be a question for serology, DNA.

24 Q. Okay. Now, did you see some
blood, not
25 on the floor, in that utility room?

1 A. I believe there was some on the
higher

2 up appliance-type materials.

3 Q. Okay. Washing machine, something
like

4 that?

5 A. Yes, sir.

6 Q. Do you recall what type of -- was
that

7 drops or smears or do you remember?

8 A. Well, I don't recall.

9 Q. What about on the door itself,
going

10 into the utility room from the kitchen, do you recall
11 seeing any blood there?

12 A. Yes, sir, there was some -- a
transfer

13 smear type on the inside surface, that also continued
into

14 the part of the door that fits flush with the door
facing.

15 Q. Okay. What about the door that
leads

16 from the utility room into the garage, did you see
any

17 blood on that door?

18 A. Well, that was the door I was just
19 talking about.

20 Q. That was the door you were
referring
21 to?

22 A. Right.

23 Q. Okay. Did that blood smear on the
door

24 leading into the garage also have at least a partial
25 bloody fingerprint?

1 A. I don't recall. I was leaving the
2 identification and characterization of fingerprints
up to
3 the police personnel.

4 Q. You indicated that you proceeded
into
5 the garage and saw some blood out there; is that
correct?

6 A. That is right.

7 Q. Where was that?

8 A. There is -- as you come out of the
9 utility room and take a left towards the window,
there is
10 a freezer. Down in that floor, there was some sort
of
11 sign, plastic sign, maybe this big and there was some
--
12 not a discernible blood footprint, but a light shadow
of
13 transfer smeared type blood.

14 Q. Okay. Did it appear to be a
footprint
15 transfer?

16 A. It could have come from a shoe.

17 Q. You indicated that you were

advised

18 that it was probably left by a police officer?

19 A. I was advised that it was not seen
20 earlier.

21 Q. Who advised you of that?

22 A. Retired Lieutenant Jim Cron with -

-

23 Q. Okay. So, what we know is, there
is

24 what appears to be, a part at least, of a bloody shoe
25 print in the garage there when you got there, but you

Sandra M. Halsey, CSR, Official Court Reporter

1 don't know --

2 A. Well, I don't know if it was a
shoe or

3 bare foot or what, it was an indiscernible smudge of
4 blood.

5 Q. Okay. Were any samples taken of
that,

6 as far as you know?

7 A. Yes, we took samples.

8 Q. And Caroline Van Winkle would have
9 those?

10 A. Kathy took it, and delivered it to
11 Carolyn Van Winkle.

12 Q. Okay. Any other blood out there
in
13 that garage area that you saw?

14 A. No, sir.

15 Q. You testified, Mr. Linch, that you
saw

16 nothing in the utility room that would have been
17 consistent with a blood-soaked knife having been
dropped

18 in the utility area?

19 A. That's correct.

20 Q. Now, would it be fair to say that

--

21 well, let me just ask you this, what is a blood-
soaked

22 knife, in your estimation?

23 A. Well, it would be one like we got
at

24 the Institute. It's literally coated with dried
blood

25 when we got it.

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1 Q. It was very bloody when you got
it?

2 A. Yes, sir.

3 Q. Okay. If a knife is used to
commit an

4 offense, a stabbing of this kind, and let's just
assume

5 that an assailant stabbed -- did the things that you
6 understand happened in
this house today, took a knife
with

7 him through the kitchen
and put it down on the floor,

8 would you expect to see
signs of that necessarily?

9 A. Put it
down on the floor?

10 Q. Yes,
sir.

11 A. I
would expect to see an outline
of it.

12 Q. That
would assume that the knife
was

13 bloody?

14 A. Right,
right.

15 Q. If the
person had wiped the knife
off,

16 of course, it would not
necessarily leave any signs;
is

17 that -- would that be
fair to say?

18 A. Yes,
sir, that's right.

19 Q.
Whether it was laid down or
dropped?

20 A. Yes,
sir.

21 Q.
Because whether or not you
see signs of
22 a knife having been
dropped, or put down, or
placed at a
23 particular location,
would depend more on the
amount of

24 blood on the knife than
it would anything else, would
that
25 be fair to say?

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CSR, Official Court Reporter

1 A. Yes,
sir.

2 Q. All
right.

3
4 MR. DOUGLAS PARKS: Your Honor, Mr.
5 Huff whispers in my left ear that it is going to take
us a
6 little while to go through these reports. Would this
be
7 an appropriate time --

8 THE COURT: You mean to read the
9 documents you got about thirty minutes ago, or an hour
10 ago?

11 MR. DOUGLAS PARKS: Yes, sir.

12 MR. WAYNE HUFF: We just got these,
13 Judge. I'm a little faster reader than that, your
Honor.

14 THE COURT: Oh, okay.

15 MR. DOUGLAS PARKS: I can ask him a
few
16 other things, but I am just suggesting that I am not
going
17 to be able to finish before we have to review that.

18 THE COURT: Well, we have already
got

19 it interrupted now. Why don't we just recess until
1:30.

20 You may step down.

21

22 (Whereupon, a short

23 recess was

taken,

24 after which

time,

25 the proceedings were

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1 resumed on the record,
2 in the presence and
3 hearing of the defendant
4 as follows:)

5
6 THE COURT: Let's go back on the
7 record. All right.

8 MR. DOUGLAS PARKS: I'm ready. May
9 I
9 proceed?

10 THE COURT: Yes. This is
11 resumption of
12 the hearing, the defendant and her counsel, and the
13 State's counsel are present.

14 All right, go ahead.

15 MR. DOUGLAS PARKS: Would you mark
16 these, please?

17 (Whereupon, the above
18 mentioned item was
19 marked for
20 identification only
21 as Defendant's

Exhibits

22 No. 10, 11, 12 &
23 13,

23

after which time the

24

proceedings were

25

resumed on the record

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1 in open court, as
2 follows:)

3
4

5 CROSS EXAMINATION (Resumed)

6

7 BY MR. DOUGLAS PARKS:

8 Q. Mr. Lynch, let me show you what
has

9 been marked as Defendant's Exhibits No. 10, 11, 12,
and

10 13; are those the original of your reports and
notes that

11 you furnished to me, prior to our lunch
recess?

12 A. Yes, they are. Defendant's
10 is my

13 report of June the 28th, with accompanying
notes.

14 Defendant's 11 is my original report with
notes, dated

15 June 20th. Defendant's 12 is my report of
June 17th with

16 the accompanying original notes. And
Defendant's 13, is

17 my report of July 5th with the accompanying

notes.

18

19

MR. DOUGLAS PARKS: Your

Honor, at this

20 time, we would offer these into the record,
for record

21 purposes only, with the understanding that
copies will be

22 substituted.

23

MR. GREG DAVIS: No

objection.

24

THE COURT: Received.

25

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Reporter

1 (Whereupon, the
above
2 mentioned items
were
3 received in
evidence
4 for record
purposes,
5 as Defendant's
Exhibits
6 No. 10, 11, 12 &
13,
7 after which time, the
8 proceedings were
9 resumed as follows:)

10
11 BY MR. DOUGLAS PARKS:

12 Q. Mr. Linch, let's go back just a
moment
13 to the bloody footprint in the garage, if I understood
you
14 correctly, you were not able to tell whether that was
made
15 by a barefoot or shoed foot?

16 A. Well, or even a foot. It's a smear
17 impression of blood.

18 Q. Was a photograph made of that?

19 A. I don't know.

20 Q. When you got there about 12:30 P.M.

on

21 June 6th, what was the condition of the blood at the

rest

22 of the scene, from the standpoint of, was it dried, or

was

23 it not, or do you recall?

24 A. For the most part it was dried.

25 Q. Do you recall, a plastic runner
that

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1 came from the entryway area back through the hallway,
into

2 the den area --

3 A. You are talking about the large
4 rectangle piece?

5 Q. Yes, sir.

6 A. Yes, sir, I do.

7 Q. And, as best you recall, was the
blood

8 on that runner pretty much in a dried condition by
that

9 time?

10 A. Pretty much, yes, sir.

11 Q. And in the kitchen?

12 A. Yes, sir, I don't know about the
rug.

13 The rug may have still had some moist element to it,
but

14 it was --

15 Q. Was the rug -- I'm sorry. Was the
rug

16 in the den area still there when you were there on
June

17 6th?

18 A. The rug in the den? Which one was
19 that?

20

Q. The carpet?

21

A. Oh, the white --

22

Q. Yes.

23

A. Yes, it was.

24

Q. Did you have occasion to do any
25 investigation of the blood and other trace evidence
on

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1 that carpet in that area?

2 A. The floor area had previously been
3 looked at for hairs, and we received those in the
4 laboratory. I did the tapings of the coffee table
glass

5 in that area for hairs. Kathy Long, at my direction,
did

6 take some blood samples from the carpet.

7 Q. Who do you understand took hair
samples

8 before you got there?

9 A. It would either be David Mayne, or
one
10 of his associates.

11 Q. David Mayne being the property
person

12 at the Rowlett Police Department; is that correct?

13 A. He was working the crime scene when
I
14 arrived.

15 Q. Okay. Aside from David Mayne, who
do
16 you recall being at the crime scene when you and your
17 assistant arrived?

18 A. Detective Patterson, Lieutenant Jim

19 Cron, and there were several other Rowlett officers
that I

20 don't know their names.

21 Q. Were they uniformed officers or
plain

22 clothes?

23 A. There were at least two uniformed,
yes,

24 sir.

25 Q. Do you know about how long Cron had

Sandra M. Halsey, CSR, Official Court Reporter

1 been there?

2 A. He told me he had been there since
3 early on.

4 Q. Okay. And, was he still there when
you
5 left?

6 A. I don't recall.

7 Q. Okay.

8 A. I don't recall if he was or not.

9 Q. Okay. In the den area, where the
boys
10 were found, besides blood and hair, did y'all collect
any
11 other kind of evidence?

12 A. I asked -- or it was done, that a
strip

13 of carpeting behind the couch, between the couch and
the

14 glass doors to the back yard, was cut up and
collected.

15 Q. Why was that?

16 A. There were what appeared to be some
17 foot impressions on it, bloody foot impressions.

18 Q. From a bare foot or a shoed foot?

19 A. I don't know.

20 Q. Were photographs made of that?
21 A. Yes, sir.
22 Q. Have you done any testing on that
piece
23 of carpet since you had it cut out?
24 A. I have not, serology, or DNA may
have.
25 Q. Is that in the kind of shape where
you

Sandra M. Halsey, CSR, Official Court Reporter

1 will be able to determine whether it was made a bare
foot

2 or a shoed foot?

3 A. These were not distinguishable
4 patterns. If it were a shoe, you couldn't include or
5 exclude shoes, in my opinion. I would -- the more I
think

6 about it, I would have the opinion that it was a shoe,
7 more likely than a bare foot.

8 Q. Other than the clippings for blood
that

9 you have talked about, was the handprint cut out, the
10 small handprint?

11 A. Yes, it was.

12 Q. Was that done at your direction?

13 A. No, sir.

14 Q. Okay. The handprint was cut out,
or

15 the shoe print or the footprint, or that print behind
the

16 couch was cut out. Anything else that you recall
being

17 taken from the carpet there at the scene?

18 A. From the carpet itself?

19 Q. Yes.

20 A. Other than various blood samples,
no,

21 sir.

22 Q. What about glass, did you observe
any

23 glass on that carpet?

24 A. I didn't, no.

25 Q. Did you look for any glass on the

Sandra M. Halsey, CSR, Official Court Reporter

1 carpet?

2 A. I looked for anything that may be
3 there, and I don't recall glass being there. I was
not
4 specifically looking for glass.

5 Q. Okay. Did you find any blood on
the
6 wine rack?

7 A. I didn't, no.

8 Q. Do you know whether anyone else
did?

9 A. No, I don't know.

10 Q. Any blood under the wine rack?

11 A. I don't know, I didn't look
underneath

12 it.

13 Q. You have indicated that you found a
14 hair in the track where the -- if I understand you
15 correctly, the window is raised up and down, there in
the
16 garage; is that correct?

17 A. That's right.

18 Q. Did you make any sort of
investigation

19 of the window -- in that garage area, how many

windows, on

20 the lower level, along that wall?

21 A. How many windows?

22 Q. Does that make sense? If you were
to

23 go into the garage and raise the windows, how many
windows

24 would you raise?

25 A. At least two, there may have been

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1 three, I don't recall.

2 Q. Did you inspect the window, that
was --

3 where the screen was not cut, to see whether or not it
was

4 locked?

5 A. No, I didn't.

6 Q. If we assume, at this point Mr.
Linch,

7 that a person -- the intruder came into the house,
through

8 the screen, went into the house and stabbed these two
9 children and Mrs. Routier and made his escape back out
10 through the garage area, and back through the back
window,

11 which way would you expect the flap on the window
screen

12 to be?

13 A. It could be either way. In doing
test

14 cuts on that screen next to it, this rubbery material
and

15 the fiberglass that the screen cloth is made of is
very

16 elastic. So, you may go through one way and have it

17 oscillate either way, and the way it ends up, is due
to
18 physics beyond my control.

19 Q. If a person had done that, would
there
20 necessarily have been blood on the windowsill, or on
the
21 window?

22 A. Could somebody who had bloody
clothing
23 get through there and not leave blood?

24 Q. Yes.

25 A. It may be possible.

1 Q. Is it possible to know how bloody
a
2 person would even necessarily be, who did that?

3 A. Is it possible to know, having
done
4 this wounding, how bloody that individual would be?

5 Q. Yes.

6 A. I would for sure expect bloody
hands,
7 but beyond that would be speculation.

8 Q. With respect to going over a
fence,
9 would you expect to necessarily find blood or scuff
marks
10 on the fence, if a person went over a fence?

11 A. It may not be found. It may be so
12 slight that you did not find it.

13 Q. The hair that you found, that has
the
14 same characteristics, I believe you testified as Mrs.
15 Routier's, that was found some period of time after
the
16 screen was collected; is that correct?

17 A. The two screens were collected and
the

18 window was collected and the hair was found after the
19 window had come to our laboratory, to the sheriff's
20 department, the physical evidence section, and back
to our
21 laboratory. I was not necessarily looking for it, I
was
22 lifting the window to look for, again scratch
defects, as
23 was the original request, and then the hair was
seen.

24 Q. Okay. You found some material
inside
25 the butcher block; is that correct?

1 A. Kathryn Long removed some
material from
2 inside the butcher block.

3 Q. Okay. The fiber or the
fiberglass rod
4 that you found on the knife --

5 A. Right.

6 Q. Is there any way to know how long
that
7 had been there?

8 A. No, sir.

9 Q. Are you presently aware, Mr.
Linch, of

10 any other type of material that a substance such as
that
11 might have come from, other than a window screen?

12 A. You are asking what other
materials
13 contain fiberglass?

14 Q. Well, yes, fiberglass with this
15 rubberized, or whatever?

16 A. Well, I have looked at a number
of
17 items that are made with fiberglass, and the only
one

18 that -- it really wasn't even similar, but the
fiberglass,
19 in conjunction with the rubbery residue, is the
inclusion
20 or exclusion of these other items, and the diameter
of the
21 glass rod. Some black electrical tape has
fiberglass in
22 it, but the black sticky resin that accompanies that
23 fiberglass, would be different, and would be
discernible
24 on a knife.
25 Q. Okay. With respect to the rate
of

1 travel that a person would have to go, and -- I'm
not
2 trying to be facetious, Mr. Lynch, I know that you
can't
3 tell us in miles per hour, but can you give us some
idea
4 of how fast or slow a person, in your expectation,
would
5 be moving to leave the blood drops that you observed
at
6 the scene? Could it be a slow walk, a fast walk, or
--

7 A. I would characterize it as a slow
walk.

8 Q. Did you see any indication from the
9 blood evidence that you saw out there that day, that
10 anyone had run through the house while they were
bleeding?

11 A. I'm sorry?

12 Q. Did you see any indication of
anyone
13 having run through the house while they were
bleeding?

14 A. The only drop that I saw with
any

15 velocity, was on a wall heading toward the front
door,

16 lower portion of the wall, to the right, as you
are going

17 out the front door.

18 Q. Do you recall whether or not
there was

19 any blood on the front steps of the house?

20 A. The front steps?

21 Q. Yes, sir.

22 A. I don't recall.

23 Q. Mr. Lynch, you have indicated
to us

24 that after having viewed this scene -- well,

first, let me

25 ask you. You went out there on June the 6th. I
believe

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Reporter

1 you indicated that was the first time you went
out there.

2 How many other trips did you make?

3 A. I made one other.

4 Q. And about when was that?

5 A. That would have been about
the time

6 that the crime scene was to be released. I
don't recall

7 the exact date.

8 Q. Ten or 11 days later, or
something like

9 that?

10 A. Sir?

11 Q. Ten or 11 days later,
something like

12 that, would that be about right?

13 A. Probably. It would be in the
notes.

14 Q. What did you do that time?

15 A. It was a final visit to look
at other

16 items. We went out, specifically, we went out
and looked

17 at the back gate area, where the latch was, and

there was

18 some stained material that looked like blood,
but was not

19 blood. And also, in the driveway there were
some dropped

20 similar looking stained material that looked
like blood,

21 but was not blood.

22 I went into the jacuzzi area,
there in

23 the back. So, it was just a general re-walk
through type

24 of visit.

25 Q. Did you take any other
evidence that

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Reporter

1 day, that you recall?

2 A. Kathryn Long took additional
blood

3 samples from the white carpet in the den.

4 Q. So that carpet was still
there at that
5 time?

6 A. Yes, sir, it was.

7 Q. Do you know when it was
moved?

8 A. No, sir, I don't.

9 Q. On that visit, in taking
samples from
10 the carpet, do you recall having seen any glass
on that
11 carpet area?

12 A. No, I don't.

13 Q. A couple of things, Mr.
Linch, and I'll
14 be through.

15 With respect to the size of
the

16 fiberglass sample that you took from the knife.

17 A. Yes, sir.

18 Q. You told us the dimensions of

it, but

19 that doesn't much mean anything to me. Can you
compare it

20 to the size of something?

21 A. Yes. I also testified that it
is about

22 half as thick as a thin, human hair.

23 Q. About how long would it have
been?

24 A. Four times that thickness.

25 Q. Okay.

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1 A. So it's not really visible to
the
2 unaided eye.

3 Q. Okay. You can see it with
4 magnification?

5 A. Only.

6 Q. Only.

7 A. Yes, sir.

8 Q. Okay. With respect to the area of
the
9 sink, where you indicated that, in your opinion, that
10 there had been some clean up. How does the luminal
11 process work?

12 A. It works in a similar way that the
13 other presumptive blood testing works. It's that the
iron
14 in hemoglobin is a very strong oxidizing agent, and if
you
15 are able to cause the present iron to oxidize your
reagent
16 chemical and get some type of reaction in the instance
of
17 luminal, a fluorescence, not a fluorescence, but a
18 phosfluorescence, then any occult, or latent blood may
be

19 visualized in darkness.

20 Q. Then, do you have to what, take an
21 infrared light or something?

22 A. No, sir, it is bright upon it's
own.

23 Q. Okay. Were any photographs made
of

24 that process, do you know?

25 A. I think there were.

1 Q. Do you know who did that?

2 A. I believe that was done with the
3 assistance of Richardson Police Department.

4 Q. Was that before you got there?

5 A. It was done in my absence.

6 Q. Okay.

7 A. It was done after my first visit.

8 Q. How much blood would there have
had to

9 have been there before there would be a reaction to
the

10 luminal?

11 A. You can't say. It's a very trace
12 amount.

13 Q. Okay. Will it react to anything
other

14 than human blood?

15 A. Sure.

16 Q. What?

17 A. Copper will give a reaction, and
that's

18 the main one. There's some other items that I don't
19 recall right offhand.

20 Q. Well, Mr. Linch, you have indicated
to

21 us that after you had visited the scene, looked at it
and

22 studied it, that it is your opinion that this scene
had

23 been staged or altered; is that correct?

24 A. That's right.

25 Q. Based upon your examination, if
you

1 would, please, tell us in light of that, what you
believe

2 happened to be consistent with the scene as you found
it

3 to be?

4 A. What do I believe the scenario
was?

5 Q. Yes.

6

7 MR. GREG DAVIS: Well, you know,
again,

8 I'll ask that the witness testify, if he is capable of
9 answering the question and feels qualified. If not,
then

10 I would expect the witness to tell the Court that.

11 THE WITNESS: The -- in not only
with

12 the scene, but in comparing body examination
information

13 of the children and other things, it is consistent
with

14 the older child being stabbed twice in the chest, at
least

15 twice in the chest, in the den area, in the floor.
The

16 younger child, it seems quite consistent with him

1 portion of sink is cleaned.

2 At the point when the blood is
still

3 wet, the wounded person comes out of the sink area,
at

4 least once. There is a wounded person walking from
the

5 kitchen sink area to the door, leading into the
garage.

6 The screen is consistent with
having

7 been cut from the outside, with someone with an arm
8 stretch who can make a right to left, smooth,
9 uninterrupted stroke. If you cut that screen and you
stop

10 at all, then you get significant jags. This is a very
11 smooth cut.

12 The screen is restabilized with the
13 left hand, a cut is made perpendicular, and the bottom
of

14 that perpendicular cut, the rubberized material
covering

15 these fiberglass bundles is significantly denuded. By
16 that I mean, there is more fiberglass bundle exposed,
and

17 therefore, that would be consistent more with a
serrated

18 knife than a straight edged knife.

19 And, the other view of the crime
scene

20 is, there is obvious paramedic intervention and
creation

21 of some artifact.

22

23 BY MR. DOUGLAS PARKS:

24 Q. Are you able to tell whether the
25 wounded person at the sink, who made at least one
trip

1 away from the sink, was the same person, or could it
have

2 been a different person who made the trip to the
utility

3 room?

4 A. It was a barefooted person.

5 I'm sorry. I didn't understand
your

6 question. The person with the bare feet, could it
have

7 been the same or different going towards the door
leaving

8 the blood?

9 Q. Yes.

10 A. It could be the same or different.

11 Q. Okay. But we know whoever it was
12 barefooted?

13 A. Sir?

14 Q. We know whoever it was, was
barefooted?

15 A. Going toward the door to the
garage?

16 Q. Yes.

17 A. No, I don't know that.

18 Q. Okay. Were you able to see any
places

19 in the kitchen area, let's say between the island and
the

20 wine rack, blood drops that appeared to you, to have
been

21 stepped in by the time you got there?

22 A. I'm sorry, could you repeat that?

23 Q. The blood drops on the floor,
between

24 the island in the kitchen, do you recall that?

25 A. Yes, sir.

1 Q. And the wine rack?

2 A. Right.

3 Q. Did you -- or, were you able to
4 determine whether anybody had stepped in any of that
blood

5 before you got there?

6 A. When you view blood at a scene
where
7 there has been police traffic, and paramedic traffic,
you

8 always have that in the back of your mind. There is
9 always artifact creation. From what I saw, it didn't
seem

10 to be significantly disturbed while wet. While dry,
I
11 don't know.

12 Q. Okay. On the wine rack, Dr.
Linch, did

13 you see any glass on that wine rack?

14 A. I'm not a doctor. But, did I see
any

15 wine glasses on the rack?

16 Q. No, any glass on the wine rack?

Broken

17 glass?

18 A. Oh, no, I didn't.

19 Q. Had the glass been removed before
you

20 got there, or did you see the broken wine glass
yourself?

21 A. There was glass fragments still in
the

22 floor when I got there.

23 Q. Okay. What about the stem and
base, do

24 you remember seeing that?

25 A. I don't recall if it was still
there or

1 not.

2 Q. Okay.

3

4 MR. DOUGLAS PARKS: That's all I
have,

5 your Honor.

6

7

8 REDIRECT EXAMINATION

9

10 BY MR. GREG DAVIS:

11 Q. Mr. Linch, just one question.

About

12 the cap that was found in the utility room that was
13 submitted to you for analysis, did you find any hairs
14 inside the cap?

15 A. Yes, I did.

16 Q. And, were you submitted a head hair
17 from the body of Devon Routier?

18 A. Yes, sir.

19 Q. And, did you make a comparison
between

20 the hair that you found inside of that baseball cap
with a

21 head hair from Devon Routier?

22 A. Yes, I did.

23 Q. And, what was the result of your

24 comparison?

25 A. The hair was consistent with one of
the

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1 children, I can't remember which, you have my notes.

2 Q. So it's either consistent with

Devon or

3 Damon Routier; is that correct?

4 A. That's right.

5

6 MR. GREG DAVIS: No further
questions.

7 MR. DOUGLAS PARKS: Nothing
further,

8 your Honor.

9 THE COURT: All right. You may
step

10 down.

11 MR. DOUGLAS PARKS: We would agree
that

12 Mr. Lynch can be excused.

13 THE COURT: Thank you, sir.

14 MR. DOUGLAS PARKS: He has been
here a

15 day and a half, Judge.

16 THE COURT: Thank you.

17 MR. GREG DAVIS: The State will
call,

18 Darin Routier.

19

20

21

22

23

24

25

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1 Whereupon,

2

3

DARIN ROUTIER,

4

5 was called as a witness, for the State of Texas,

having

6 been first duly sworn by the Court to speak the truth,

the

7 whole truth, and nothing but the truth, testified in

open

8 court, as follows:

9

10

11

DIRECT EXAMINATION

12

13 BY MR. GREG DAVIS:

14

Q. Please state your name.

15

A. Darin Eugene Routier.

16

Q. Are you the same Darin Routier who

has

17 testified previously in this case; is that right?

18

A. Yes, sir.

19

Q. Mr. Routier, let me ask you, on

June

20 the 14th of 1996, did you and the defendant, Darlie

21 Routier, go to your sons' graves?

22 A. Once in the morning and once at
night.

23 Q. All right. So you were there
during

24 the afternoon of June the 14th; is that correct?

25 A. Yes, sir.

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1 Q. While you were there was there a
camera

2 man there from KXAS, Channel 5?

3 A. In the evening there was.

4 Q. Do you remember also, during that
5 period of time, that same cameraman actually
videotaping a

6 portion of what was happening out there at the grave
site?

7 A. Yes, sir.

8 Q. Did you and your wife, the
defendant in

9 this case, actually give a videotaped interview to Joe
10 Munoz, of Channel 5? Do you remember that?

11 A. Yes, it was a -- kind of a small
12 interview, yeah.

13 Q. Okay.

14 A. We did speak to him for a minute.

15 Q. Mr. Routier, if I showed you a
16 videotape of those proceedings, could you tell me
whether

17 this videotape truly and accurately depicts what
happened

18 out there on June 14th? If you would, please look at
the

19 videotape I'm showing to you now, please, sir.

20

21

(Whereupon, the video

22

taped interview

23

was played in open

24

court, and the

25

proceedings

are

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1 a non verbatim
2 transcript, of
the
3 video as
follows:)

4
5 (Inaudible.)
6
7 DARLIE ROUTIER: "We can't let --
you
8 know --" (Inaudible.)
9 THE COMMENTATOR: "The flag, I
mean,
10 why? What was it?"
11 DARIN ROUTIER: "Well, the
significance
12 of the flag is that on Memorial Day we were down the
13 street, and we were all leaving to go home, we had had
a
14 barbecue with the family and swimming in the back yard
and
15 stuff over at her mom's house, and I went to the front
to
16 load up the truck, I mean, I opened up the back hatch
and
17 there was two American flags in there. And, I said,

18 'Damon, where did you get these flags?'

19 "And he said, 'I got them down the
20 street.'

21 "And I said, 'Well, I saw those
flags

22 when we drove up.' I said, 'Those don't belong to
you.'

23 "And he said, 'I know.'

24 "And I said, 'Well, then you can
take
25 them back.'

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1 "Well, he had walked about two
doors
2 down instead of four, and he said -- you know, I told
him,
3 you need to take those back, because, I said, 'The
police
4 are going to get you. You cannot steal stuff out of
5 somebody's yard.'
6 "And he said, 'Well, Daddy, I just
7 wanted them for my clubhouse.'
8 "And I said, 'Well, I'll buy you
some,
9 I'll get you some. We will get you some for your
10 clubhouse, but I want you to take those back, because
11 those people are going to miss them.'
12 "So, that is what he did, but he
just
13 went about two doors down and just stuck one of them
in
14 the ground, and then he laid the other one on the
grass,
15 because he was lazy, just like any typical kid. And I
was
16 watching him, and I pointed my finger at him, and he
knew

17 that if he was going to satisfy me he would have to
put
18 them back exactly the way they were. So, that was
the
19 story on the flags."

20 THE COMMENTATOR: "They were
good
21 kids."

22 DARIN ROUTIER: "They were good
kids
23 and we tried to teach them right. We didn't teach
them
24 anything that -- we didn't teach them anybody was
bad,
25 they still believed in other things that we are
taught as

16 know, plus we bought new toys that were going to
take up
17 there to them, and they just wanted to do that. I
mean,
18 they were just giving type people. I mean, they
learned
19 that from us, but we saw it through them."
20 THE COMMENTATOR: "Your
sweetest memory
21 of these boys."
22 DARLIE ROUTIER: "I have got a
lot of
23 sweet memories. I could talk to you for days and
days and
24 days. You would have to come and spend a -- come
and move
25 in. But, um --"

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Reporter

1 DARIN ROUTIER: "How about the
--"
2 DARLIE ROUTIER: "No, we can't
tell
3 them that."
4 DARIN ROUTIER: "Well, what about
the
5 videotape?"
6 DARLIE ROUTIER: "The 'Home Alone
7 House' was a sweet story."
8 DARIN ROUTIER: "Yeah."
9 DARLIE ROUTIER: "When we first
bought
10 this house -- this is so sad, because -- I mean it's
sad
11 but it's sweet, because it is just the way they were.
12 But, when we bought this house, and we were having
it
13 built, the movie 'Home Alone' had come out. And,
they
14 just loved that movie. They thought it was, you
know,
15 just the all time movie. And so, they kept calling
our
16 house the 'Home Alone House.' And they kept

telling

17 everybody, 'This is our Home Alone House, This is our
Home

18 Alone House.'

19 "And, they said, 'Mommy, when we
get in

20 the Home Alone House, we want to take a sled and go
down

21 the stairs like he did in the Home Alone House.'

22 "And I mean, I was saying, 'Oh, no,
you

23 can't do that, you can't do that.'

24 "And you know what, if they were
here

25 now, I would let them do it."

1 DARIN ROUTIER: "Well, they would,
to
2 an extent, they would get in a pillow, and they would
sit
3 and drive a pillow, with the soft part on their rear
end,
4 and then they would go, bump, bump, bump, all the way
down
5 the stairs, until they would get to the bottom.
6 "It wasn't straight, it was at an
angle,
7 the staircase."
8 "And our house was not as big as the
one
9 in 'Home Alone,' but that was how they would describe
it,
10 because of the fact they would -- that is how they
would
11 describe it, because of the fact that they -- I mean,
they
12 were little when they moved into that house. I mean,
that
13 was three years ago. And, you know, when you are four
14 years old, and they recollect things, and we
recollect
15 things, it was just a couple of weeks ago that we

had

16 pulled the video camera out, and I finally got it
working

17 again, and we were watching the videotapes of when
they

18 were that little, and Damon could hardly talk. And
you

19 know, Courtney has been a big part of their lives
too,

20 because there have experienced Christmases and

21 Thanksgivings together. And I mean, we did that with
all

22 of our friends and all of our family. I mean, all of
our

23 friends are our family."

24 "Because when you are -- a lot of
times

25 you come from another place, and you come to Dallas,
the

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1 friends that you have around you are your family away
from

2 your real family."

3 THE COMMENTATOR: "Let me ask you.
Why

4 the balloons? Why all of this now?"

5 DARLIE ROUTIER: "Well, because,
even

6 though we are sad because Devon and Damon aren't here,
we

7 try to hang on to what we can, to get us through these

8 times."

9 "And, if you knew Devon and Damon,
you

10 would know that they are up in heaven, and they are up

11 there having the biggest birthday party that we could
ever

12 imagine. And they would not want us to be down here
being

13 sad, even though our hearts are breaking, I know that

14 Devon and Damon would want us to be happy. They
wouldn't

15 want us to be crying, and they wouldn't want us to be
--

16 well, not to -- not to be happy. They would want us
to

17 celebrate as if we were with them, because in a way
they
18 are with us, because they will always be with us, no
19 matter what we are doing, no matter what we are
thinking,
20 they will always be a part of all of us. And not
just
21 Darin and I, but they have touched a lot of people."

22 THE COMMENTATOR: "What do you
think
23 about the man who did this?"

24 DARIN ROUTIER: "We won't get into
25 that."

1 THE COMMENTATOR: "No, I mean what
do
2 you feel? Your emotion. What do you feel when you
think
3 about what happened?"

4 DARLIE ROUTIER: "We get very sad.
We
5 cry a lot. We get sick. We get very angry. We get
very
6 angry because this person is still out there, and he
is
7 doing whatever he wants to do, and we are just like
in a
8 time warp. It's like we are walking in Limbo. We
don't
9 know whether we are coming or going, you know. And
he is
10 free. He is free to do whatever he wants. But I
know
11 that he is not going to be free for long, and I feel
12 that -- I feel the, you know, the support, and the
hard
13 work that these detectives and policemen are putting
into
14 this is incredible. It's just, it's just beyond the

call.

15 I mean --"

16 DARIN ROUTIER: "They are using
some

17 high tech stuff on this investigation. Stuff that I
18 wouldn't believe, and hadn't even seen in the movies.

19 But, they are taking, absolutely no -- they are
sparing no

20 expense. I mean, they are doing the most and the
best job

21 that they possibly can. And --"

22 DARLIE ROUTIER: "They will find
him."

23 DARIN ROUTIER: "They are going to
find

24 him."

25 DARLIE ROUTIER: "They are going
to

1 find him. We are having prayer groups everywhere.
2 Everybody is praying. I said God's hot line must be
--
3 you know must be swamped, because everybody
everywhere is
4 praying, and we can feel it."
5 (Inaudible.)
6 THE COMMENTATOR: "What do you
remember
7 from that night?"
8 DARIN ROUTIER: "Fear."
9 DARLIE ROUTIER: "Fear and pain.
10 "But you know, even when I was --
what
11 had happened to me, I didn't feel anything because I
was
12 in shock. But, I wasn't thinking about me. All I
was
13 thinking about was trying to save the babies. I
mean,
14 Darin and I tried to save the babies, but it was too
late.
15 But we tried. We tried, and we have to live with
that
16 forever."

1 never lived in fear, then you will never know --"

2 DARLIE ROUTIER: "You never think
of
3 those things."

4 (Inaudible.)

5 DARLIE ROUTIER: "You know, people
--"

6 DARIN ROUTIER: "We understand
anger,
7 but we didn't teach it."

8 DARLIE ROUTIER: "No. People,
9 unfortunately in our world, gossip is the biggest
evil in
10 the world, and unfortunately there is nothing you can
do
11 to stop it. And, we are not going to make an issue
out of
12 this, because anybody that knows us, knows how we
were,
13 how we lived. You know, they know the story, and we
don't
14 have to explain ourselves to anybody."

15 DARIN ROUTIER: "If they don't know
us,
16 then it doesn't matter. They can't do anything to us.
17 They can't damage us any worse than what we are."

18 THE COMMENTATOR: "Bottom line,
what
19 would you want to say to the person who did this?"
20 DARIN ROUTIER: "Hopefully we can
get
21 into that when we catch him."
22 DARLIE ROUTIER: "I think he is a
23 coward. I think he is a coward because he went
after
24 two -- he went after something that was so
innocent, they
25 couldn't fight back, and then he tried to turn to
me, but

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1 he had to go to them first, and to me, that is such
a
2 cowardness."

3 DARIN ROUTIER: "What kind of
animal

4 goes after a weak sheep, that is asleep, is
completely

5 lifeless, and attacks the weakest person in the
room

6 first, to be able to get off on whatever he was
thinking

7 that he was going to accomplish. I mean, I kept
hoping

8 and praying that this guy had stolen something out
of my

9 house, that he picked me and my family because I had
more

10 than some, or had more than this person. That way, I
11 could, in my heart think that well, living large is

the

12 reason why we got targeted."

13 THE COMMENTATOR: "Now you don't
know

14 why."

15 DARIN ROUTIER: "Now we don't know
why.

16 Now we know that this is a sick individual that took
17 absolutely nothing from our house, but took the two
most
18 important things, that were important to us, away from
us.
19 That is the part we don't understand. That is the
part
20 that we may never understand. (Inaudible.) But our
goal
21 now in our lives is to live our lives the way that
God
22 wants us to. So, that we can be with our boys
again, and
23 they will still be five and they will still be
seven, and
24 they will still be playing and fighting."
25 (END OF TAPE)

1

2 BY MR. GREG DAVIS:

3 Q. Mr. Routier, let me just ask you
now,

4 does State's Exhibit No. 27 accurately depict what
5 occurred there on June the 14th?

6 A. Yes, sir.

7 Q. Okay.

8

9 MR. GREG DAVIS: Your Honor, at
this

10 time, we will offer State's Exhibit No. 27.

11 MR. DOUGLAS PARKS: No objection
for

12 the purposes of this hearing.

13 THE COURT: Received.

14

15 (Whereupon, the above
16 mentioned item

was

17 received in

evidence

18 for all purposes,

after

19 which time, the

20 proceedings were

21

resumed as follows:)

22

23

MR. GREG DAVIS: No further

questions.

24

MR. DOUGLAS PARKS: No questions.

25

THE COURT: All right.

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1 MR. GREG DAVIS: The State will
rest.

2 MR. DOUGLAS PARKS: We will call
Jim
3 Cron.

4 MR. GREG DAVIS: The State will
object

5 to that. May we approach the bench, please?

6 THE COURT: Sure.

7 MR. GREG DAVIS: Well, I'll make my
8 argument from here. I don't think that the law
9 contemplates that the defense at this time is entitled
to
10 go into a full-fledged discovery hearing. I don't
know if
11 the law requires you to allow them to put any evidence
on
12 at this time.

13 The entire burden in this hearing
is
14 on the State of Texas. I feel like the State of Texas
has
15 met it's burden. If the defense has any right at all,
I
16 believe, in this hearing, they have the right to put
on

17 evidence that they believe to be exculpatory
or
18 mitigating. That is not what is about to
occur.

19 If you will inquire of Counsel,
you
20 will find that Counsel has not talked with any of
the
21 witnesses that they are about to attempt to call on
this
22 hearing. They have no idea whether these people have
23 exculpatory or mitigating testimony to give. And
what we
24 are about to do is, we're about to launch off, into a
two
25 week deposition, and I would submit that is not what
the

1 law contemplates.

2 MR. DOUGLAS PARKS: Well, in
response,

3 Judge, I would make the same invitation that Mr.
Davis

4 made to the defense just a few minutes ago. If he
has got

5 some law that says that we're not entitled to that,
then

6 he ought to trot it out for the Court.

7 MR. GREG DAVIS: I don't have to.
You

8 see, the law says, and the case law very clearly
says,

9 that the burden of proof is on the State of Texas.

10 MR. DOUGLAS PARKS: Well, the
burden of

11 proof is on the State of Texas during the course of
the

12 trial. It doesn't keep the defense from putting up

13 evidence, in order to try to persuade the fact-finder
to a

14 different view.

15 THE COURT: Who is Mr. Cron?

16 MR. DOUGLAS PARKS: Mr. Cron is a

17 retired Dallas Deputy Sheriff who was called to the
scene.

18 If you will recall, Charlie Linch indicated that he
was

19 out there doing blood work and crime scene work.

20 MR. GREG DAVIS: Mr. Cron is one
of my

21 witnesses. He is the witness that was called by
Rowlett

22 to help in the crime scene search of that residence.

In

23 no way is he a defense witness. If the defense were

24 really serious in trying to put on something, we

would see

25 witnesses coming from the defense, but we're not.

1 THE COURT: Well, gentlemen, I'm
about
2 to recess this, and I would appreciate Counsel
meeting me
3 in chambers.

4 MR. GREG DAVIS: Yes, sir.

5 MR. DOUGLAS PARKS: Yes, sir.

6 THE COURT: We will talk about
this
7 then in chambers. We will be in recess until about
2:30.

8

9

10 (Whereupon, a short

11 Recess was

taken,

12 After which

time,

13 The proceedings

were

14 Resumed on the

record,

15 In the presence

and

16 Hearing of the defendant

17 And the defendant, as follows:)

18

19

20

THE COURT: All right. Let's go

back

21

on the record in the Darlie Routier case.

22

Okay. We will resume F-96-39972

and

23

973. The defendant and her counsel, and the State's

24

attorney are present, the State has rested, what

says the

25

defense?

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1 on -- because of the nature of this crime scene,
very

2 likely be, to some extent at least, contrary to the
3 testimony of the State's witnesses on direct.

4 And, I would respectfully request
the

5 Court to allow us to put Mr. Cron on.

6 THE COURT: Are you in a position
of

7 suggesting how it might be contrary to earlier
theories

8 advanced by statements?

9 MR. DOUGLAS PARKS: Well, no.

10 THE COURT: I'm not asking you to
do it

11 with direct precision, but --

12 MR. DOUGLAS PARKS: I cannot tell
the

13 Court that I can specifically say to you, what
particular

14 evidence Mr. Cron would speak to, is contrary to what
the

15 State's evidence has already been. I couldn't know
that

16 without hearing his testimony.

17 THE COURT: And as I understand the
18 defense position is, that this particular witness and
some
19 others, you have been unable to talk directly with, up
to
20 this point.

21 MR. DOUGLAS PARKS: It is my
22 understanding, your Honor, that this particular
witness,
23 along with the other witnesses about whom I will
speak,
24 have either been instructed, or have indicated that
they
25 will not talk to the defense, unless a
representative of

1 the district attorney's office is present. Which we
2 consider to be a refusal to speak to us at all.

3 We don't follow the district
attorney

4 around, and we wouldn't expect him to follow us
around.

5 THE COURT: Well, would the State
like

6 to be heard?

7 MR. GREG DAVIS: Yes, sir. If I
may

8 respond to the last point. The State has made an
offer to

9 the defense, on more than one occasion, to make
10 paramedics, police officers and the like available to
the

11 defense for interviews, with a stipulation that some
12 employee of the district attorney's office be present.

On
13 each occasion where we have made that offer, that has
been

14 refused, and turned down by the defense.

15 I would like to, either directly
ask

16 Counsel, or have the Court ask Counsel, what the basis

for

17 his belief is that retired Lieutenant Cron took
18 photographs, or took blood samples from that
residence,

19 since he has not spoken with Lieutenant Cron.

20 I fail to see the basis for that
21 assertion, and either through the Court's questioning,
or

22 my own, I would like to hear what the basis of that
belief

23 is. Because I don't think that assertion -- I don't
see

24 how that assertion can be made by Counsel at this
point.

25 He is not in any position to make that assertion, in
good

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1 faith, and --

2 MR. DOUGLAS PARKS: Well, I
listened to

3 Charlie Linch testify.

4 MR. GREG DAVIS: Well, I listened
to

5 him also, and I didn't hear Charlie Linch say
anything

6 about Cron taking photographs or samples. But I
think

7 again, just to sum this up, I have heard nothing
from

8 Counsel that would indicate that this witness has
any

9 exculpatory or mitigating testimony to give. This is
just

10 speculation or guess-work on the part of Counsel. And
I

11 would suggest to the Court that what we would be
engaging

12 in is just sheer discovery, a fishing expedition, and
for

13 that reason, I would ask that the Court deny this
request.

14 THE COURT: Anything else?

15 MR. DOUGLAS PARKS: Not before the

16 Court's ruling.

17 THE COURT: Okay. The defense
request

18 to -- Cron, how do you spell that?

19 MR. DOUGLAS PARKS: Jim Cron, C-R-
O-N,

20 your Honor.

21 THE COURT: Mr. Cron, that request
is

22 denied.

23 MR. DOUGLAS PARKS: Your Honor, may
we

24 call Jim Cron to the stand, so that we may make a
record,

25 and ask him those questions that we would have asked
him,

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1 for the purposes of the hearing to make our record?

2 THE COURT: Well, that wouldn't --
what

3 purpose is that going to serve? If the fact-finder
isn't

4 going to be able to consider it?

5 MR. DOUGLAS PARKS: So that the
Court

6 of Appeals can determine whether or not we should have
7 been allowed, your Honor, to hear his testimony.

8 THE COURT: In the event it
develops

9 that there is something that is beneficial to the
defense?

10 MR. DOUGLAS PARKS: Yes, sir.

11 THE COURT: Okay. I'm not out
right

12 denying your opportunity to do that, I'm just not
going to

13 grant that at this time. If you will remind me, we
will

14 make sure your record is developed fully. Okay?

15 MR. DOUGLAS PARKS: Yes, sir.

16 THE COURT: Who else do you want
to

17 call?

18

MR. DOUGLAS PARKS: Please the

Court,

19 we will now call Sergeant Matt Walling, and we would

20 respectfully suggest to the Court that in the event

that

21 Sergeant Walling is called to testify, that he would

22 testify that he is a sergeant with the Rowlett

Police

23 Department, that he was the second person on the

scene.

24 That he entered the house with Officer Waddell.

That he

25 viewed the scene, as he saw it, and proceeded with
Officer

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1 Waddell to the back of the house, in search of an
2 intruder.

3 We would hope to develop through
4 Sergeant Walling, since we have not been able to up
to
5 this point in time, who was responsible for the
6 preservation of the scene, and I would respectfully
7 suggest to the Court that Sergeant Walling could
tell us
8 that.

9 Essentially, the same argument
with
10 respect to Jim Cron. This is a person who was
probably
11 the second person on the scene, has not been called by
the
12 State, even though this is a motion upon which they
have
13 the burden of proof.

14 We believe that if Sergeant Walling
15 were to testify, that his testimony would indicate
16 matters contradicting the testimony of Officer
Waddell,
17 and/or other State's witnesses, that would impact the
18 Court's view of the credibility of the State's case,
and

19 would make less likely, the Court's belief that there
has

20 been sufficient evidence to hold this defendant
without

21 bond. And, we respectfully ask the Court to allow us
to

22 call Sergeant Walling.

23 MR. GREG DAVIS: Well, Your Honor,
I

24 would have the same argument as I made with respect to
25 Lieutenant Cron, that is again, I know of no basis,
how

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1 Counsel can state that Sergeant Walling would in any
way

2 contradict or impeach any of the testimony given by
3 Officer Waddell in this case. I don't think that
4 assertion can be made in good faith to this Court,
based

5 on what Counsel knows concerning the activities or the
6 prospective testimony of Sergeant Walling.

7 And again, this is going to be a
8 discovery expedition. And, I would also say that,
just as

9 an overview here, you know the State gets to make the
10 decision as to how it meets its burden of proof. I
may do

11 that through one witness or one hundred witnesses.

So,

12 the fact that I don't call Sergeant Walling has no
bearing

13 in this case, with regards to what I should have done,
or

14 what he would like for me to do, what Counsel would
like

15 for me to do. Again, the same argument as with Cron.

16 THE COURT: At this point, do you
have

17 anything that you can suggest to me, that will

indicate

18 some area of contradiction other than presumptively,
any

19 two people observing the same event would tell it
with at

20 least some difference.

21 MR. DOUGLAS PARKS: Just my life
22 experience, Judge.

23 THE COURT: Okay.

24 MR. DOUGLAS PARKS: You know that

--

25 THE COURT: All right. Well, your

1 request to call Sergeant Walling of the Rowlett
Police

2 Department is declined.

3 MR. DOUGLAS PARKS: And we would
make

4 the same request with regard to Sergeant Walling,
calling

5 him for the purposes of making our bill.

6 THE COURT: That request is denied
at

7 this point, but you will be given the opportunity to
8 perfect a bill.

9 MR. DOUGLAS PARKS: Your Honor,
the

10 defense would call Detective Chris Frosch. And we
would

11 respectfully suggest to the Court, that if Detective
12 Frosch were to testify, that he would testify that
he is

13 the partner of Detective Jimmy Patterson, to whom
this

14 case was assigned. That he worked both with, and in
15 conjunction with Detective Patterson in
interviewing

16 witnesses, in interviewing perhaps this defendant,
and

17 certainly her husband.

18 We believe that if Detective
Frosch

19 were to testify that he would testify to items
20 contradictory to or casting doubt upon some
elements of

21 the State's case, that would make it likely that
this

22 Court would -- or at least likely that the Court
would

23 view the testimony of the State's witnesses, that it
has

24 already heard, in a light less credible than that in
the
25 present state of the case.

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1 Detective Frosch was active in the
2 investigation of this case, and we believe that his
3 testimony is necessary to a full and complete hearing
of
4 this matter, and we would respectfully request the
ability
5 to call him.

6 MR. GREG DAVIS: Well, again, I
don't
7 know how Counsel can make a statement that he believes
8 Frosch would testify to items contrary to other
witnesses
9 presented by the State. Other than -- I don't know
what
10 he is basing that on, other than life experience
again.

11 So, again we have the same argument that we have
12 previously made.

13 THE COURT: Your request to call
14 Sergeant Frosch?

15 MR. DOUGLAS PARKS: Detective
Frosch.

16 F-R-O-S-C-H.

17 THE COURT: Okay. That request is
18 declined. I will give you the opportunity to develop

the

19 bill.

20 MR. DOUGLAS PARKS: Your Honor, we

21 would next call paramedic, Brian Koshack, and I am
not

22 sure of the spelling, I believe it is K-O-S-H-A-C-

K.

23 The defense believes that if

paramedic

24 Koshack were called to testify, that he would testify

that

25 he was on one of the two responding ambulances that
came

1 to the scene on Eagle, on June 6th, 1996.

2 He could testify as to the
activities

3 of he and other paramedics, with respect to the
treatment

4 attempted on the children, where in the house they
went,

5 what part of the scene, if any, they stomped through,
and

6 essentially place the crime scene itself in a better
7 perspective for the Court to be able to determine,
through

8 their eyes, as almost the first people on the scene,
what

9 the scene was originally and before police officers
and

10 other people came through the scene, since this is a
case

11 relying entirely upon circumstantial evidence.

12 The scene, as early as possible,
being

13 developed would seem to me to be necessary for the
Court's

14 full consideration of the issue before the Court
today,

15 and we would like to call him, and in order to move
this
16 along, somewhat, your Honor, with respect to that and
the
17 paramedics.

18 We would ask not only to call Brian
19 Koshack, but to call Captain Dennis Vrana, V-R-A-N-A;
Jack
20 Kolbye, C-O-L-B-Y (sic); Rick Coleman, C-O-L-E-M-A-N;
Mike
21 Youngblood and Todd Higgins.

22 All of whom essentially could
provide
23 the same sort of testimony that I have just described,
24 with respect to paramedic Brian Koshack.

25 MR. GREG DAVIS: And, again, I
would

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1 reurge the same argument that I have previously made,
with

2 the addition: I believe the record or the Court's
file

3 will reflect that previous to this date, that Counsel
has

4 had the opportunity to take the oral depositions of
two

5 paramedics employed by Rowlett Fire Department, Eric
6 Zimmerman, and Larry Byford.

7 With that, I'll rest.

8 THE COURT: The request to call
9 Koshack, Kolbye, the other two or three that you
10 mentioned, unless there is some showing that can be
made,

11 such as I requested on Cron and Walling, the ruling
is,

12 that you may not call those witnesses at this time.

13 MR. DOUGLAS PARKS: Yes, sir.

14 THE COURT: You will be given an
15 opportunity to develop your bill.

16 MR. DOUGLAS PARKS: Yes, sir.

Thank

17 you, your Honor.

18 Finally, your Honor, we would

call

19 Sergeant David Nabors of the Rowlett Police
Department,

20 and, Officer Jeff Craig of the Richardson Police
21 Department, both of whom are crime scene persons.

22 I believe that Sergeant David
Nabors

23 was in charge of the crime scene for the Rowlett
Police

24 Department, and that he or someone else in authority,
with
25 the Rowlett Police Department called Jeff Craig, of
the

1 Richardson Police Department, to come to the scene.

2 We believe that their testimony
would

3 be very like the testimony of Lieutenant Jim Cron,
and we

4 respectfully request the Court allow us to put that
5 testimony on.

6 MR. GREG DAVIS: Again, I would
reurge

7 the same argument to the Court.

8 THE COURT: Other than whatever
the

9 record presently shows about the participation of any
--

10 of either Nabors or Craig, do you have anything
specific

11 that you can advance?

12 MR. DOUGLAS PARKS: No, your
Honor.

13 THE COURT: The request to call
Nabors

14 and Craig is denied at this hearing.

15 Counsel, the State has offered
16 apparently to give the defense access to these
witnesses

17 if they are present.

18 Do you want me to recess this and

let

19 you take them up? You can have an opportunity. It

may or

20 may not develop some of the matters that I have

indicated

21 that I would be prepared to hear, if I can know in

advance

22 that there is some real likelihood of it being

developed.

23 MR. DOUGLAS PARKS: Yes, sir, if

the

24 Court is offering us a recess at this time to

interview

25 some of these people, we would take that up.

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1 THE COURT: Well, I thought I heard
Mr.

2 Davis for the State indicating that you have had that
--
3 that there has been an outstanding offer.

4 MR. DOUGLAS PARKS: Yes, sir, and
we
5 would be glad to avail ourselves of it.

6 THE COURT: Do you think that it
might
7 be appropriate for another short recess, and let you
8 lawyers talk, and see if you can work out any kind of
9 schedule? It strikes me that is not very valid to
start a
10 hearing and not try to get it completed.

11 MR. GREG DAVIS: Well, just so I am
12 clear, is this -- Counsel's proffer to interview
these
13 people, in lieu of taking oral depositions?

14 MR. DOUGLAS PARKS: No, sir.

15 MR. GREG DAVIS: Well, I know,
the
16 offer made --

17 THE COURT: Well, excuse me,
Counsel.

18 MR. GREG DAVIS: Yes, sir.

19 THE COURT: I take it that the
defense
20 position then is, unless it is a formal deposition,
that
21 you do not want to take advantage of the opportunity
to
22 discuss whatever these witnesses might know, or
whatever
23 they might tell you about, as long as there was a
State's
24 representative present?
25 MR. DOUGLAS PARKS: No, what I'm

1 saying, Judge, what I will say, Judge, to the Court,
and

2 to Mr. Davis is, that I will be glad to talk to
these

3 people, find out what they know, and after having
done

4 that, it may be that I will not take their oral
5 deposition, but I will not commit to not taking
their

6 deposition, sight unseen.

7 MR. GREG DAVIS: Well, the
State's

8 offer has always been the same as I'll state it
now.

9 We will offer these people for
10 interviews by defense counsel, in lieu of oral
11 depositions. That is how this whole matter
started.

12 When I made the offer, that was
not

13 good enough, so that oral depositions were started in
this

14 case, and I'm not going to be put in the position of
15 having them interview the people, and then,
turning

16 around, and taking a half a day of my time, and

the

17 State's time to then take their oral
depositions.

18 THE COURT: Well, the State's
position

19 was that, a non-depositional interview is in lieu of
the

20 deposition; is that correct?

21 MR. GREG DAVIS: Yes, sir, that is
22 true.

23 THE COURT: I didn't understand --

24 MR. GREG DAVIS: Yes, sir, that is

the
25 condition.

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1 MR. DOUGLAS PARKS: Judge, there is
a

2 civil --

3 THE COURT: So, I gather that his
offer

4 is under terms unacceptable to the defense?

5 MR. DOUGLAS PARKS: Yes, sir.

6 THE COURT: So it looks like that
7 it's --

8 MR. DOUGLAS PARKS: Well, there is
a

9 civil case that is going on at the same time, and I
cannot

10 afford to waive my right to take depositions in that
case.

11 THE COURT: Well, this hearing is
not

12 concerned with the civil cases.

13 MR. DOUGLAS PARKS: I understand
that,

14 Judge.

15 THE COURT: Well, the defense
request

16 to call persons that were not called by the State,
that

17 apparently were at or near the crime scene at

relevant

18 times, at this point in time, this has been declined
by

19 the Court.

20 You got anybody else you want to
call?

21 MR. DOUGLAS PARKS: No, sir, that
22 completes our list of witnesses at this time.

23 THE COURT: So the defense rests,
24 subject to the bill?

25 MR. DOUGLAS PARKS: Your Honor,
prior

1 to resting, subject to the bill, we would offer into
2 evidence the -- or at least -- well, ask that the
Court

3 take judicial notice of, and offer into evidence, for
the

4 purposes of this record, the two -- both responses
that I

5 have previously given to the Court in chambers, and
the

6 two writ jackets, from the previous bond reduction
7 hearings.

8 I believe those have numbers
beginning

9 with WX, and I can't recall the exact numbers.

10 THE COURT: I understand.

11 MR. DOUGLAS PARKS: Yes, sir.

12 THE COURT: All right. Is that
this?

13 MR. DOUGLAS PARKS: Yes, sir.

14 THE COURT: All right.

15 MR. DOUGLAS PARKS: Would you mark
16 these, please?

17

18 (Whereupon, the above

19 mentioned item was

20 marked for

21 identification only
22 as Defendant's Exhibits
No.
23 14 & 15 after which time
the
24 proceedings were
25 resumed on the record

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1 in open court, as
2 follows:)

3
4 MR. DOUGLAS PARKS: Your Honor, we
5 would offer at this time, what has been marked as
6 Defendant's Exhibits 14 and 15, and these are the
files in
7 Cause numbers WX-96-00281-J and WX-96-00282-J, the
jackets
8 and their contents.

9 MR. GREG DAVIS: No objection.

10 THE COURT: Received.

11

12 (Whereupon, the above
13 mentioned items

were

14 received in

evidence

15 for all purposes,

after

16 which time, the

17 proceedings were

18 resumed as follows:)

19

20 MR. DOUGLAS PARKS: May I have just

a

21 moment, your Honor?

22 THE COURT: Yes, sir.

23 MR. DOUGLAS PARKS: Your Honor, we

24 would lastly recall to the Court, objections and

argument

25 made to the Court with respect to the jurisdiction of
the

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1 Court to render a judgment in the case. And for the
2 purposes of the record, it was essentially the
position of

3 the defense, that since Judge Tolle has heard this
matter

4 on a motion to reduce bond, that that particular
matter

5 has been appealed, and is presently on appeal, in the
6 Court of Appeals, for the Fifth Judicial District here
in

7 Dallas, and that that case is set for submission on
8 September 5th, 1996, and that this Court does not have
9 jurisdiction to act on the State's motion today, and
we

10 would ask the Court to rule on that particular issue.

11 THE COURT: As I understand it, you
are

12 asking that given the Trial Court actions before in
regard

13 to a bond reduction hearing, and its present appeal
that

14 is pending.

15 MR. DOUGLAS PARKS: Yes, sir.

16 THE COURT: That because of those
17 facts, that this Court does not have jurisdiction to
18 entertain the State's motion, which this hearing is

all

19 about, is whether bail is to be denied outright or
not,

20 for the defendant awaiting trial?

21 MR. DOUGLAS PARKS: Yes, sir.

22 THE COURT: The defendant's

motion or

23 request that this Court determine that it has no

24 jurisdiction to entertain the application or the

motion of

25 the State to hold the defendant without bail, that
motion

1 is refused. That this Court, by inference,
obviously, as

2 I am ruling in this Court, does have the authority to
3 entertain the motion that the State can file the
motion

4 and seek a hearing on this.

5 MR. DOUGLAS PARKS: That being the
6 Court's ruling, your Honor, we would respectfully
request

7 the Court to recess this hearing, until such time as
the

8 defense can bring an appeal to the Court of Appeals,
with

9 respect to the Court's just rendered decision
regarding

10 jurisdiction.

11 THE COURT: Do you have any
authority?

12 MR. DOUGLAS PARKS: No, sir.

13 THE COURT: Well, the defense
motion to

14 abate any further proceeding on the State's motion,
that

15 relief is denied. I assume that if you have no
witnesses,

16 we are about to hear some argument.

17 MR. DOUGLAS PARKS: We have nothing
18 further, your Honor.

19 THE COURT: All right. The State
has
20 the burden. Do you want to open the argument?

21 MR. GREG DAVIS: Well, if we could,
22 before we argue this matter, I would like for the
record

23 to reflect that there are several people in the
gallery

24 available here today. Among them, being the
defendant's

25 mother, Darlie Kee, her sister, Dana Stahl, and the

1 defendant's husband, Darin Routier, is still
available at

2 this time, and what appear to be a number of people,
on
3 the second row of this gallery, and I would like the
4 record to reflect that, at this time, as we begin the
5 arguments.

6 And, your Honor, I am going to
keep my

7 argument very short. I know that you were listening
to
8 the evidence, and I'm not going to rehash it for you.

9 I am just simply going to say that
the
10 State of Texas has met it's burden of proof in this
case.

11 Through clear and strong evidence, that not only
would a
12 jury find this defendant guilty of capital murder, as
we
13 have charged in these two indictments, but also that
they
14 would answer special issues in such a way, that this
Court

15 would be required by law to impose a sentence of

death on

16 this defendant.

17 And we have met that burden of
proof,

18 and for that reason, I would ask that this Court
19 respectfully -- that it hold this defendant without
bond

20 pending the trial of this matter.

21 Thank you.

22 THE COURT: Thank you.

23 MR. DOUGLAS PARKS: Please the
Court.

24 Your Honor, for approximately 25
years

25 now, I have been telling juries in voir dire that the

1 Constitutional right that we as citizens have to a
2 presumption of innocence exists, if it exists at all,
in
3 the hearts and in the minds of the citizens who sit
as
4 jurors in cases of this kind. And with due respect
to the
5 Court, to judges who are called upon to make
decisions
6 such as your Honor is called upon to make this
afternoon.

7 Our Constitution, both our United
8 States Constitution and our Texas Constitution tell
us we
9 have that right. But until and unless juries
actually
10 afford us that right, we don't have it.

11 The same can be said of judges in
the
12 position that your Honor is, this afternoon.

13 This is an attack on the
presumption of
14 innocence. It is, to my way of thinking, a fairly
cynical
15 attack on the presumption of innocence. Because the

State

16 has had ample opportunity to develop a record to hold
this

17 defendant without bond. It has declined to do so.

18 Until such time as it is apparent
that

19 the bond now set by this Court, which is set at an
amount

20 20 times higher than any bond has ever been approved
in a

21 capital murder case by the Court of Criminal appeals,

22 still does not satisfy them. Fearing, I suppose,
that a

23 citizen accused of this offense might actually post
bond,

24 they have brought this motion. Just ahead of the

Court of

25 Appeals hearing, and hopefully the decision to reduce
the

1 bond in this case, as it should be reduced.

2 They have not, I respectfully
suggest

3 to the Court, brought proof evident to this Court.

What

4 they have brought to the Court, is a great deal of
5 speculation, an incomplete case, their own blood work
is

6 not done. We don't know what that will show.

7 They are asking this Court to
overlook

8 a Constitutional right basic to the jurisprudence of
this

9 country, on speculation, incompleteness, could's and
10 maybe's. Because that is what we heard from their
11 witnesses. It could have happened that way. It
could

12 have happened that way.

13 Their own medical examiner would
not

14 even answer a direct question.

15 Because you see, your Honor,
whether or

16 not her wounds are self-inflicted are crucial in this
17 case, it's obvious, because if she didn't cut herself,

18 someone else did.

19 And the only thing that their
medical

20 examiner could say was, "She could have done this."

And

21 when I asked her would she tell us, in reasonable,
medical

22 probability whether you believe that happened or not,
she

23 flat refused to answer the question. And, that is the

24 quality of the State's case here today.

25 Proof evident? I don't think so.

I

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1 respectfully suggest to the Court, that if this had
been a
2 trial before the court, it would have been the Court's
3 duty and responsibility to direct a verdict of not
guilty
4 in this case.

5 We, respectfully ask the Court to
deny
6 the motion before it this afternoon.

7 THE COURT: Thank you, Counsel.

8 MR. GREG DAVIS: Well, again, you
know
9 my position is very clear.

10 What we have shown to you is this:
11 That this individual down here, Darlie Routier, very
12 savagely killed her two children, during the early
morning
13 hours of June the 6th, 1996. She butchered these two
14 children, with very deep, repeated stab wounds. We
have
15 shown you very thoroughly through the presentation of
the
16 physical evidence in this case, that the three
different
17 stories that she told to the authorities concerning

this

18 event, none of them are consistent with the physical
19 evidence that is found out there that day.

20 The amount of blood in that den,
that

21 that couch is inconsistent with her version, where she
22 said that she was attacked on the couch.

23 The amount of blood and the type
of

24 blood found near the kitchen bar and the wine rack,
are

25 inconsistent with this struggle with this unnamed
intruder

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1 over there.

2 And then we see a scene there in
the

3 kitchen, where we see no velocity or low velocity
blood

4 drops throughout that entire kitchen, and by her own
story

5 given on June the 8th, she is running through that
kitchen

6 area three separate times. Yet we don't have any
blood

7 indicating that that occurred.

8 The only footprints that we have
are

9 leading from that sink, that has been washed and near
the

10 counter top, that has been wiped off clean. Leading
back

11 from that kitchen sink, and back to that den.

12 Darin Routier told you that he
didn't

13 kill those two children. There were no other adults
in

14 that house. He never saw an intruder, heard an
intruder,

15 saw a car or heard a car.

16 We know also, from what Charlie
Linch

17 has told you, that the knife that is still in that
butcher

18 block, has a particle on it which microscopically
matches

19 the particle on the window screen. And, I would say
to

20 you that indicates to me this is very calculated
killing.

21 That this individual right over here, Darlie Routier,
went

22 outside before these two boys were killed, and cut
that

23 screen, attempted to make it look like an intruder
had

24 come in through that window, and then came back in,
and

25 savagely killed Devon Routier, and savagely killed
Damon

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14 and joke with a newsman.

15 It's just like Darin Routier said,

16 "Whoever did this is an animal who slaughtered two
sheep,

17 two little lambs." That is exactly what we have
shown,

18 your Honor.

19 Thank you.

20 THE COURT: Thank you, Counsel.

21 Do either of you have any authority
you

22 want me to look at, in regard to the standard?

23 MR. DOUGLAS PARKS: Your Honor, we

24 would ask the Court to consider the standard as set
out in

25 Beck_versus_State, in item 2.

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1 THE COURT: Excuse me? In item 2
here?

2 MR. DOUGLAS PARKS: Yes, sir.
3 THE COURT: Beck, B-E-C-K, 648,
2nd, at

4 7.
5 MR. DOUGLAS PARKS: Yes, sir. We
would
6 also like for the Court to consider Westbrook_versus

7 State, an indication of the presumption, a strong

8 presumption in favor of bail.

9 THE COURT: Well, Westbrook being
753

10 Southwest 2nd, 158.

11 MR. DOUGLAS PARKS: Yes, sir.

12 THE COURT: Does the State have
any

13 authorities?

14 MR. GREG DAVIS: No, sir, we're
very

15 happy with those two cases that have been submitted
to

16 you.

17 THE COURT: Okay. The Court is
going

18 to retire to consider the evidence here. There are

19 obviously some documentary evidence that has been
20 presented, and some exhibits that were presented,
that
21 have been in the hands of the lawyers or the
witnesses,
22 and not the fact-finder, and I'm going review that.
It's
23 3:28, I'm not certain as to how much time might be
24 involved. So therefore, Counsel, do you have any
pleasure
25 you want to --

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1 MR. DOUGLAS PARKS: We will be
here.

2 MR. GREG DAVIS: If the Court
would

3 like to --

4 THE COURT: Do you want to set a
time

5 for it, perhaps tomorrow, or do you want to see if it
6 comes out today, or what is your pleasure, Counsel?

7 MR. GREG DAVIS: Well, I don't
have a

8 problem coming back tomorrow morning at 9:30, if that
is

9 convenient with Counsel.

10 THE COURT: Are you gentlemen --
will

11 one of you be in the building then here?

12 MR. WAYNE HUFF: We will, your
Honor,

13 our only problem would be the availability of our
14 witnesses, for a Bill if need be.

15 THE COURT: All right. Why don't
I --

16 I suggest that -- well, why don't I talk to Counsel
in

17 chambers to see about possible timing or a way to try

and

18 look at doing the Bill.

19 MR. DOUGLAS PARKS: Yes, sir.

20 THE COURT: Which might be a
little

21 easier to do there. Okay. Anyway, obviously as
soon as

22 the Court has made its decision, that decision will
be

23 made public, and the Counsel and the defendant will
be

24 informed.

25

1 (Whereupon, a
short
2 Recess was
taken,
3 After which
time,
4 The proceedings were
5 Resumed on the record,
6 In the presence and
7 Hearing of the defendant
8 And the jury, as follows:)
9
10 THE COURT: We are going to
come back
11 tomorrow for my ruling at 9:30 in the morning.
12 Mr. Davis, are you going to
get your
13 witnesses so we can swear them all in?
14 MR. GREG DAVIS: Yes, sir.
If we could
15 go on the record just briefly. During the
break that we
16 have just taken, I have talked with Mr. Parks
concerning
17 the witnesses that he wants for the proof
hearing and they

18 will be sworn in, in just a moment. I do want
an
19 understanding with the Court that we certainly
don't want
20 to violate any orders of the Court, that even
though these
21 people well be sworn in as witnesses, that I
can talk with
22 them during this period of time.

23 THE COURT: Sure.

24 MR. GREG DAVIS: And, that I
can talk
25 with them as a group, if necessary, with the
understanding

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1 that I am still continuing to investigate the
case.

2 And I know technically, the
Rule

3 prohibits these people from sitting in while I
interview a

4 particular person, but I have talked with Mr. Parks,
and

5 let me just ask you, do you have an objection with me
6 doing that, because I do need to do that, in order
to

7 conduct my investigation. And again, I don't want
to be

8 in violation of anything, but I do want that
understood

9 that I do need to do that.

10 THE COURT: Well, as far as I'm
11 concerned, I don't care. The evidence on this motion
has

12 been concluded. So, therefore --

13 MR. GREG DAVIS: Okay. That is
fine.

14 THE COURT: Okay. So, in that
sense,

15 the Rule is not applicable. The way it is, it's just

like

16 when the verdict comes in.

17 MR. GREG DAVIS: Okay.

18 THE COURT: Okay. Gentlemen, if
you

19 are to be a witness in this matter, I need for
you to

20 raise your right hand, please.

21

22 (Whereupon, the witnesses

23 Were duly sworn by

the

24 Court, to speak

the truth,

25 the whole truth

and

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Court Reporter

1 nothing but the
truth,
2 after which, the
3 proceedings were
4 resumed as follows:)

5
6 THE COURT: Do you and each of you
7 solemnly swear or affirm that the testimony you are
about
8 to give will be the truth, the whole truth, and
nothing
9 but the truth?

10 THE WITNESSEES: I do.

11 THE COURT: Okay. You can put your
12 hands down a minute. In just a second I'm going to
get
13 your names, but, right now, the present schedule
would be
14 to take -- or your testimony to occur at 1:30,
Thursday,
15 September the 19th. Now, I understand all of you
have
16 been subpoenaed, or else have a connection with
the
17 State's attorney. If that hour changes, because
that

18 would be an afternoon session, and it is possible we
might

19 not get through with all of you on that day, and I
would

20 assume that we will try to work it where you are not
up

21 here if there is no chance of you being reached.

Okay?

22 Further, the actual place for
your

23 testimony to be given, is probably a room different
than

24 this one. So you might want to find out, maybe Ms.
25 Wallace can be in touch with you, or one of the
district

1 attorneys, to know which courtroom physically it
might

2 occur in. It might be this one, it might be a
different

3 one.

4 Okay. Now, I need to get your
names.

5 Pardon me. Starting with the gentleman on the
right:

6 THE WITNESS: Rick Coleman.

7 THE WITNESS: Dennis Vrana.

8 THE WITNESS: Michael

Youngblood.

9 THE WITNESS: Brian Koschak.

10 THE WITNESS: David Nabors.

11 THE WITNESS: Todd

Higgins.

12 THE WITNESS: Jack

Kolbye.

13 THE WITNESS: James

Cron.

14 THE WITNESS: Jeff

Craig.

15 MR. GREG LONG: And, your Honor,

Chris

16 Frosch came in after you had already sworn the other

17 witnesses, and he is here with them.

18

19 (Whereupon, the witness

20 was duly sworn by the

21 Court, to speak the

truth,

22 the whole truth and

23 nothing but the truth,

24 after which, the

25 proceedings were

Sandra M. Halsey, CSR, Official Court

Reporter

1 resumed as follows:)

2

3 THE COURT: Do you solemnly
swear or

4 affirm that the testimony you are about to give in
the

5 proceeding will be the truth, the whole truth, and
nothing

6 but the truth?

7 THE WITNESS: Yes, your Honor.

8 THE COURT: Okay. Do you want to
tell

9 me your name, although I just heard it?

10 THE WITNESS: It's Chris Frosch,
11 F-R-O-S-C-H.

12 THE COURT: Okay. And I'm not sure
13 that you heard, the testimony from you would be
expected

14 to begin on an afternoon session, at 1:30, Thursday,
15 September the 19th. Okay?

16 Because you have been sworn in now,
it

17 is not necessary for new subpoenas to issue for you.
You

18 need to be in attendance of the Court, I assume,
through

19 Ms. Wallace or Mr. Davis, that somebody will let you
know
20 if that time frame changes. Because we might have to
take
21 you in platoons, like half of you that afternoon, and
then
22 another afternoon the balance of you. But I can
excuse
23 you at this time, unless the State needs to talk
to you
24 about something, but as far as I am concerned you
don't
25 need to remain.

Sandra M. Halsey, CSR, Official Court
Reporter

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Sandra M. Halsey, CSR, Official Court Reporter

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CERTIFICATION PAGE

THE STATE OF TEXAS)
THE COUNTY OF DALLAS)

I, Sandra M. Halsey, Official Court Reporter of
Criminal District Court Number 3, of Dallas County,
Texas,

do hereby certify that I reported in Stenograph notes
the
foregoing proceedings, and that they have been edited
by
me, or under my direction and the foregoing transcript
contains a full, true, complete and accurate
transcript of
the proceedings held in this matter, to the best of my
knowledge.

I further certify that this transcript of the
proceedings truly and correctly reflects the exhibits,
if
any, offered by the respective parties.

SUBSCRIBED AND SWORN TO, this ____ day of
_____, 1996.

Sandra M. Day Halsey, CSR
Official Court Reporter
Criminal District Court

21

Dallas County, Texas

22

Phone, (214) 653-

5923

23

24 Cert. No. 308

25 Exp 12-31-96

Sandra

M. Halsey, CSR,

Official Court

Reporter

1 STATE OF
TEXAS)
2 COUNTY OF
DALLAS)

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JUDGES CERTIFICATE

8 The above and foregoing transcript, as
certified by
9 the Official Court Reporter, having been presented to
me,
10 has been examined and is approved as a true and
correct
11 transcript of the proceedings had in the foregoing
styled
12 cause, and aforementioned cause number of this case.

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PAUL BANNER, JUDGE PRESIDING

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Criminal District Court Number 3

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Dallas County, Texas

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Sandra M. Halsey, CSR, Official Court Reporter

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