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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 10

STATEMENT OF FACTS  
PRETRIAL MOTIONS HEARING

VOL. 7 OF 53 VOLS.  
September 12, 1996  
Thursday

Sandra M. Halsey, CSR, Official Court Reporter

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C A P T I O N

BE IT REMEMBERED THAT, on Thursday, the 12th day of September, 1996, in the Criminal District Court Number 3 of Dallas County, Texas, the above-styled cause came on for a hearing before the Hon. Mark Tolle, Judge of the Criminal District Court No. 3, of Dallas County, Texas, without a jury, and the proceedings were held, in open court, as follows:

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Sandra M. Halsey, CSR,  
Official Court Reporter

1

A P P E A R

A N C E S

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3

4

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

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17

AND:

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HON. SHERRI

WALLACE

19

Assistant

District Attorney

20

Dallas County,

Texas

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22

APPEARING FOR THE STATE OF TEXAS

23

24

25

Sandra M. Halsey, CSR,  
Official Court Reporter

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

September 12th, 1996

Thursday

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: All right. Cause

21 F-96-39972 and 73 styled the State of Texas versus  
Darlie  
22 Lynn Routier. Let the record reflect that all parties  
in  
23 the trial are present and during these proceedings  
today  
24 the State will be represented by Mr. Greg Davis as  
lead  
25 counsel and the defense by Mr. Douglas Parks as the  
lead

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1 counsel.

2 This is a Pre-trial hearing, the  
Court

3 has reviewed all motions filed. The following motions  
are

4 granted: The motion to compel the disclosure of the  
5 district attorney's jury selection data, that is  
granted

6 as to prospective jurors. The Defendant's request for  
7 notice of State's intention to introduce evidence of  
other

8 crimes, wrongs or acts, pursuant to Texas Rules of  
9 Criminal Evidence, 4.04-B, while that should be  
directed

10 to the State and not the Court and there is no need  
for

11 the Court to rule on it. The Court will grant that.

12 Motion for inventory of items taken  
at

13 the crime scenes, that is granted. Motion in Limine  
as

14 regards to photographs, that is granted. Motion to  
15 require the State to reveal any agreement entered  
into

16 between the State and any prosecution witness that  
could

17 conceivably influence their testimony, that is  
granted.

18 Defendant's motion requesting  
notice of

19 the prosecution's intent to use certified copies  
of

20 official written instruments, that is granted.

21 Motion for leave to file  
additional

22 motions, that is granted.

23 Now, we have the motion -- the  
Omnibus

24 Pre-trial motion. And I am going to go down this  
by

25 paragraphs: Paragraph Roman Numeral 1, granted;  
Paragraph

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Reporter

1 Roman Numeral 2, granted; Paragraph Roman Numeral  
3,  
2 granted; Paragraph Roman Numeral 4, is covered by  
the  
3 discovery motion; Paragraph Roman Numeral 5, is  
granted as  
4 to the case in chief witnesses; Paragraph Roman  
Numeral 6,  
5 is granted; Paragraph Roman Numeral 7, is granted;  
6 Paragraph Roman Numeral 8, is granted; Paragraph Roman  
7 Numeral 9, is granted; Paragraph Roman Numeral 10,  
is  
8 granted, if the State calls the Grand Jury  
witness;  
9 Paragraph Roman Numeral 11, is granted. As  
regards to  
10 Paragraph Roman Numeral 10, of course, the Court  
will  
11 review in camera any impeaching or inconsistent  
12 statements. Paragraph Roman Numeral 11, is  
granted;  
13 Paragraph Roman Numeral 12, is granted, it's  
already  
14 covered in other motions, as is Paragraph Roman  
Numeral

15 13, which I will grant.

16 Paragraph Roman Numeral 14, is  
denied

17 at this time and the Court will consider that if any  
other

18 motions are filed.

19 Now we have the discovery motion.

The

20 following paragraphs and requests in that motion are

21 granted: Paragraph 1, 2, 7, 10, 11, 12, 13, 14, 16,  
17,

22 18, 20, 21, 25, 26, 27, 29, 30, 31, 32, 33, 34, 35,  
36,

23 37-A, 37-C, 37-D and 37-E.

24 Paragraph 4 is granted as to

preserving

25 any such notes. Paragraph 8 is granted as to  
anything

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1 exculpatory. Paragraph 15 is granted as to anything  
2 exculpatory. Paragraph 28 is granted as to any  
reports  
3 based on the examination of the defendant.

4 The following paragraphs are  
denied:

5 3, 5, 19, 23, 24, 37-B, 37-F, 37-G, 37-H, 37-I, 37-J  
and  
6 38. Paragraph 6 is denied except as to anything  
7 exculpatory. Paragraph 9 is denied at this time, but  
the  
8 State is ordered to have transcripts available at the  
time  
9 of the trial. And Paragraph 22 is denied as to any  
10 reports of State's experts, but granted as to any  
prints  
11 and the results of any tests.

12 Now, we have the following motions  
13 which will be held in abeyance at this time. The  
14 defendant's written objection to  
admissibility of  
15 extraneous offenses, we will rule on those at  
the  
16 appropriate time during trial.

17 The defendant's special requested  
18 Charge number 1 at the punishment phase of the trial.

The

19 Court will rule on that when we get to that phase of  
the

20 trial. The State's motion in limine -- well, these  
were

21 filed -- we should have ruled on these first. The  
State's

22 motions in limine are granted. We will have a hearing  
23 should that be necessary.

24 And the motion requesting the  
25 defendant's intent to use certified copies, I'll grant

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1 that motion, but the State has those copies, but we  
will

2 go ahead and grant that.

3 Now the following motions are  
denied:

4 The motion in limine as regard to the punishment  
argument,

5 that is denied.

6 The motions to determine the  
7 constitutionality of Sections 37.071 the parties  
charge,

8 that is denied. The motion to exclude evidence of  
9 unadjudicated extraneous offenses during the  
punishment

10 phase, that is denied. The motion to hold  
11 unconstitutional Vernon's Annotated Code of Criminal  
12 Procedure, Article 37.071, Sections 2-E and F as  
regard to

13 failure to require mitigation, that is denied.

14 Motion to voir dire on the parole  
law

15 of the 40 year minimum, that is denied. Motion to  
declare

16 the Texas capital sentencing scheme unconstitutional,  
and

17 motion to preclude imposition of the death penalty,  
that

18 is denied.

19 Motion to hold unconstitutional  
20 Vernon's Annotated Code of Criminal Procedure, Article  
21 37.071, Sections 2-E and F, as regards to the  
burden of  
22 proof, that is denied.

23 Second motion to set aside the  
24 indictment as regards to the unconstitutionality of  
the  
25 statute, that is denied.

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Reporter

1                   Motion to suppress will be held  
in  
2    abeyance, we will rule on that at the appropriate  
time.

3                   Motion to present evidence of  
parole

4    eligibility is denied. Defendant's motion  
requesting

5    notice of the State's intent to impeach witnesses by  
6    evidence of a crime, at this time -- well, I will hold  
7    that one a minute.

8                   The first amended motion to record  
the

9    trial of this cause by video or audio recording is  
denied.

10                  Now, getting back to the  
defendant's

11   motion requesting notice of the State's intent to  
impeach

12   witness or witnesses with evidence of the crime, this  
13   should be presented to the State, but the Court  
will

14   accept it and will grant the motion, and the  
State is

15   required to give written notice upon request.

16                                   We now come to the -- well, so far,  
any

17   objections to any of the rulings of the Court?

18                                   MR. GREG DAVIS:  No, your Honor.

19                                   THE COURT:  Mr. Parks?

20                                   MR. DOUGLAS PARKS:  Of course, we  
21   except to the Court's ruling with respect to those  
motions

22   that were denied, your Honor.

23                                   THE COURT:  Well, I understand  
that.

24                                   We now have the motion for change  
of  
25   venue, the Court has reviewed this motion in it's

1 entirety. Does either side have anything further with  
2 regards to that motion?

3 MR. GREG DAVIS: The State has  
nothing

4 further.

5 MR. DOUGLAS PARKS: No, your Honor.

6 THE COURT: The Court having  
reviewed

7 the motion, grants the motion and the -- will it be  
8 acceptable, if the -- as regards to where the case  
will be

9 moved, neither side will require it to be moved -- or  
10 neither side will object if it's moved to a district  
11 beyond the adjoining districts; is that correct?

12 MR. GREG DAVIS: That's correct,  
your

13 Honor.

14 MR. DOUGLAS PARKS: That's correct,  
15 your Honor.

16 THE COURT: The districts adjoining  
17 Dallas County. In other words, any county in  
Texas will

18 be acceptable to the State; is that right?

19 MR. GREG DAVIS: Yes, sir,  
your Honor.

20 THE COURT: And the defense?

21 MR. DOUGLAS PARKS: Yes, your  
Honor.

22 THE COURT: All right. In as  
much as

23 one of these -- in the Pre-trial motion it was  
asked that

24 Mrs. Routier be arraigned outside of the presence  
of the

25 jury, the Court will now do that.

Sandra M. Halsey, CSR, Official Court  
Reporter



DAVIS: Thank you.

14 MR. DOUGLAS

PARKS: Thank you.

15 THE COURT:

We will see you. Hearing

16 is over.

17 MR. GREG

DAVIS: Yes, sir.

18 MR. DOUGLAS

PARKS: Yes, sir.

19 THE COURT:

The Court will now resume

20 it's regular docket.

21 THE COURT:

All right.

22

23 (Whereupon,

this

24 Concluded

the

25 Pre-trial

motions

Sandra M. Halsey, CSR,  
Official Court Reporter





17 All right. If all of you ladies  
and  
18 gentlemen will raise your right hands, please.  
19 THE WITNESSES: There is one more.  
20 THE COURT: One more. All right.  
21 Okay. Get everybody up here.  
22 MR. GREG DAVIS: We have got  
another  
23 one.  
24 THE COURT: That's all right.  
25 MR. GREG DAVIS: I think there is  
one

1 more.

2 THE COURT: While we are waiting  
for

3 one more, let's go on the record, and the following  
people

4 are going to be sworn in today. If you will just  
state

5 your names slowly and you might spell your last name  
for

6 Ms. Halsey.

7 THE WITNESS: Melanie Waits, W-A-I-  
T-S.

8 THE WITNESS: Julie Clark, C-L-A-R-  
K.

9 THE WITNESS: Kevin Laredo,  
10 L-A-R-E-D-O.

11 THE WITNESS: Darlie Kee, K-E-E.

12 THE WITNESS: Darin Routier,  
13 R-O-U-T-I-E-R.

14 THE WITNESS: Dana Stahl, S-T-A-H-  
L.

15 THE COURT: What was your first  
name?

16 THE WITNESS: Dana.

17 THE COURT: Dana?

18 THE COURT REPORTER: Is

it D-A-N-A or

19 D-A-N-N-A?

20

THE WITNESS: D-A-N-A, S-

T-A-H-L.

21

THE COURT: And your

name, ma'am, right

22 here in front.

23

THE WITNESS: Tammy

Jovell,

24 J-O-V-E-L-L.

25

THE COURT REPORTER: What

was your

Reporter Sandra M. Halsey, CSR, Official Court

1 first name?

2 THE WITNESS: Tammy.

3 THE COURT: With an I or  
a Y?

4 THE WITNESS: Y.

5 THE COURT: Okay.

6 THE WITNESS: Barbara Jovell,  
7 J-O-V-E-L-L.

8 THE WITNESS: Kenneth Waits, W-A-I-  
T-S.

9 THE WITNESS: Kenneth Stahl, S-T-A-  
H-L.

10 THE COURT: All right. Are we  
still  
11 waiting for somebody?

12 Well, here is what we will do is,  
we  
13 will just swear this group in right now.

14 Will you ladies and gentlemen raise  
15 your right hands, please.

16

17 (Whereupon, the witnesses  
18 Were duly sworn by the  
19 Court, to speak the  
truth,  
20 the whole truth and

21                    nothing but the truth,  
22                    after which, the  
23                    proceedings were  
24                    resumed as follows:)  
25

Sandra M. Halsey, CSR, Official Court Reporter

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THE COURT: You and each of you do  
solemnly swear or affirm that the testimony you are  
about  
to give in the cases styled The State of Texas versus  
Darlie Lynn Routier, will be the truth, the whole  
truth,  
and nothing but the truth, so help you God?

THE WITNESSES: I do.

THE COURT: All right. You are now  
under -- you have now been sworn in. When Mr. Davis  
says  
be back, be back. Thank you.

Any other witnesses coming in?  
All right. Step up here, Miss.  
Okay. All right. Don't worry

about a  
thing. All right. Your name, ma'am?

THE WITNESS: Halina Czaban,  
C-Z-A-B-A-N.

THE COURT: And how do you spell  
your  
first name?

THE WITNESS: First name is,  
H-A-L-I-N-A.

THE COURT: Do you speak English?

22

THE WITNESS: Yes.

23

THE COURT: And your native tongue

24 is --

25

THE WITNESS: Well, sometimes --

not

Sandra M. Halsey, CSR, Official Court Reporter

16



1 very good.

2 THE COURT: What is your native  
tongue?

3 THE WITNESS: Polish.

4 THE COURT: But you understand me?

5 THE WITNESS: Yes, I understand.

6 THE COURT: And your name,  
ma'am?

7 THE WITNESS: Tammy Jovell.

8 THE COURT: If you will both  
raise

9 your right hands.

10

11 (Whereupon, the witness

12 Was duly sworn by the

13 Court, to speak the

truth,

14 The whole truth and

15 Nothing but the truth,

16 After which, the

17 Proceedings

were

18 Resumed as

follows:

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THE WITNESS: I

THE WITNESS: I

THE COURT: All right. Thank

Whenever Mr. Davis sees be back, be back.

THE WITNESS: All right.

THE COURT: All right. Thank

(Whereupon, this  
Concluded the  
Proceedings held,  
In this cause,  
On this date.)

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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 )

3

4

JUDGES CERTIFICATE

5

6

7

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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MARK TOLLE, JUDGE

21

Criminal District Court Number 3

22

Dallas County, Texas

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Sandra M. Halsey, CSR, Official Court Reporter

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