

1 IN THE
CRIMINAL DISTRICT COURT NO. 3

2
DALLAS COUNTY, TEXAS

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5
6 THE STATE OF TEXAS

}
7 VS:
} NO. F-96-39973-J
 8 DARLIE LYNN ROUTIER
 } & A96-253 (Kerr Co.)

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STATEMENT OF FACTS

15
JURY TRIAL

16 TRIED IN
KERR COUNTY, TEXAS

17 VOL.

28 OF 53 VOLS.

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C

A P T I O N

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BE IT REMEMBERED

THAT, on Monday, the 6th day of

5 January, 1997, in the Kerr

County Courthouse, this case

6 being transferred from

Criminal District Court Number

3 of

7 Dallas County, Texas, the

above-styled cause came on for

a

8 trial before the Hon. MARK

TOLLE, Judge Presiding, for the

9 Criminal District Court

No. 3, of Dallas County, Texas,

10 with a jury, and the

proceedings were held, in open

court,

11 as follows:

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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. TOBY

L. SHOOK

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

1 ADDITIONAL APPEARANCES:

2 HON.

DOUGLAS D. MULDER

3 Attorney at
Law

4 2650 Maxus
Energy Tower

5 717 N.
Harwood

6 Dallas
County, Texas 75201

7 AND:

8 HON. CURTIS
GLOVER

9 Attorney at
Law

10 2650 Maxus
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11 717 N.
Harwood

12 Dallas
County, Texas 75201

13 AND:

14 HON.

RICHARD MOSTY

15 Attorney at

1 AND:
2 HON. JOHN
HAGLER
3 Attorney at
Law
4 901 Main Stree, Suite 3601
5 Dallas, Texas 75202
6 AND:
7 MR. LLOYD HARRELL
8 Private Investigator
9 Dallas, Texas
10 APPEARING FOR THE
DEFENDANT

11 AND:
12 HON. ALBERT D. PATILLO, III
13 Attorney at Law
14 820 Main Street, Suite 211
15 Kerrville, TX, 78028
16 APPEARING FOR WITNESS:
17 Detective Jimmy
Patterson

18 AND:
19 HON. STEVEN J. PICKELL
20 Attorney at Law
21 620 Earl Garrett Street
22 Kerrville, TX 78028

23

APPEARING FOR WITNESS:

24

Officer Chris

Frosch

25

Sandra M. Halsey, CSR, Official
Court Reporter

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G S
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the
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P R O C E E D I N

January 6, 1997
Monday
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
outside the presence of
jury, as follows:)

THE COURT: All right. Let's go on

the

20 record.

21 All right. This is Cause A96-253,

the

22 Kerr County Number, formerly F-96-39973-MJ, the Dallas

23 County number. Styled the State of Texas versus

Darlie

24 Lynn Routier, who is present in court with her

attorneys.

25 Let the record reflect that
these

Reporter Sandra M. Halsey, CSR, Official Court

1 proceedings are being held outside the presence of
the

2 jury, and all parties to the trial are present.

3 We will now arraign the
defendant.

4 Mr. Davis, do you wish to do
that?

5 MR. GREG DAVIS: Yes, sir.

6 MR. DOUGLAS MULDER: Judge, would
you

7 like to have her stand, in as much as this is not
before

8 the jury?

9 THE COURT: Yes, whatever --

10 MR. DOUGLAS MULDER: What is your
11 pleasure?

12 THE COURT: -- whatever she wishes
to

13 do. If you care to stand up, that will be fine. You
may

14 be seated if you wish. That's fine.

15 MR. GREG DAVIS: "True bill of
16 Indictment. In the name and by the authority of the
State

17 of Texas, the Grand Jury of Dallas County, State of

Texas,

18 duly organized at the January Term A. D. 1996 of the
194th

19 Judicial District Court of Dallas County, in said
court,

20 at said Term, do present that one Darlie Lynn
Routier...."

21 Is that your true name?

22 THE DEFENDANT: Yes, it is.

23 MR. GREG DAVIS: "... the

Defendant, on

24 or about the 6th day of June, A. D., 1996, in the
County

25 of Dallas, and said State did unlawfully, then and
there,

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1 intentionally and knowingly cause the death of Damon
2 Christian Routier, an individual, hereinafter called
the
3 deceased, by stabbing said Damon Christian Routier
with a
4 knife, and the deceased was, at the time of the
offense
5 under 6 years of age.

6 "Against the peace and dignity of
the
7 State.

8 "Signed, John Vance, Criminal
District
9 Attorney of Dallas County, Texas. Ray W. Paul,
Senior,
10 Foreman of the Grand Jury."

11 THE COURT: Mr. Mulder, how does
your
12 client plead?

13 THE DEFENDANT: Not guilty.

14 THE COURT: All right. Thank you,
15 ma'am.

16 All right. We have before the
Court
17 two motions filed this morning: A motion for
continuance

18 and a motion to examine the jurors.

19 The Court will take up the motion
for

20 continuance first. Who is going to address that?

21 MR. RICHARD C. MOSTY: Your Honor,
I

22 will address the motion for continuance.

23 THE COURT: All right.

24 MR. RICHARD MOSTY: And let me

preface

25 this by saying we are asking for a one day
continuance.

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1 During the course of our
investigation,
2 over the last few weeks, we have determined, for
instance,
3 that as late as December 20th of 1996, that additional
DNA
4 testing was requested by the State. We presume, since
we
5 do not have those results, that the State does not
have
6 them.

7 So, there is DNA testing that is
8 outstanding, on-going, that has not been provided to
us,
9 and we move for a continuance on that basis. Or in
the
10 alternative, to exclude that DNA testing, whatever
the
11 results may be, precluding the State from
introducing
12 those.

13 THE COURT: Well -- go ahead.

14 MR. RICHARD MOSTY: The second
part of
15 the motion for continuance, is that we have -- that
the

16 evidence has been at various places: The District
17 Attorney's office, the Rowlett P.D., SWIFS, Gene
Screen,
18 various places. And Mr. Douglass and Mr. Harrell
went up
19 last week to look at that, and they weren't able to
look
20 at all of the evidence even. Some of it was being
put
21 together to be moved down here.
22 So, presumably, all of the
evidence is
23 here now. I think it came in on the 2nd. So, we
need one
24 day, or part of a day, to examine all of the
evidence that
25 the State has down here, which we have not had that

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Reporter

1 opportunity to do up to this time.

2 The third item is, that as of
Friday

3 afternoon, Mr. Mulder received another report from
the

4 State. I didn't receive it. It was not sent to me.
And

5 Mr. Mulder was actually in transit at the time, or
getting

6 ready to head to Kerrville and picked up a copy of it
and

7 brought it down.

8 So, Mr. Mulder got it Friday
evening as

9 he was travelling. I got it over the weekend. And
this

10 is additional testing done by SWIFS that we just got

11 Friday. So we needed at least a bit of time to
evaluate

12 that.

13 So, for all of those, other things,
14 such as the photographic contact sheets that were
to be

15 available, I filed a motion before Christmas that
Mr.

16 Davis immediately responded to that said this
information
17 will be available. And then when we went up there,
it in
18 fact wasn't. And, of course, we were all dealing
around
19 the holidays, so I don't fault anyone for that, it
just
20 couldn't -- it just hasn't been done. And we have
not
21 seen all of the photographic contact sheets.
22 By contact sheets, what I mean is
the
23 log of what photograph goes to what --
24 THE COURT: I am familiar with
that.
25 MR. RICHARD C. MOSTY: -- location
or

1 what time frame.

2 In connection with this, we have
also

3 filed a motion to examine the witness, which also, in
4 terms of a one-day continuance, we think makes sense,
in

5 that we think that the Court ought to briefly, and
within

6 some agreed upon question areas, inquire of the jury
just

7 to make sure that nothing has happened to them,
either

8 through the media, or in their personal life that
would

9 cause them to be anything other than fair and
impartial.

10 So, we're not talking about a
real

11 delay here, in that the Court, and some of the
attorneys

12 could be examining the jurors, while other of the
13 attorneys were looking at the evidence. And, so,
and

14 quite frankly, I think that in the long run, this will
15 speed up the trial process.

16 If we're having to, one by one,
look at
17 documents, or boards, or whatever they might be. If
we
18 have done that in advance, then we will be in a far
better
19 position to understand what the State is offering, and
to
20 either know that we have an objection or not. And
then,
21 in the long run, the trial will really run smoother if
we
22 have this day.

23 THE COURT: Okay. Well, have you
given
24 the defense everything that they're entitled to, Mr.
25 Davis?

1 MR. GREG DAVIS: Yes, sir. I --
when I
2 contacted Mr. Mosty, when I received his motion on
3 December the 20th, I told him that I was a little bit
4 surprised because all of this stuff has been available
5 since they got hired on October the 21st.

6 Now, I have never received a single
7 phone call, I have never got a single letter, not a
single
8 personal contact, from anybody here at the defense
table
9 asking to see anything.

10 The first thing I get is the motion
on
11 December the 20th, "can we see photographs," and, of
12 course, they have been available for over two months
for
13 them.

14 All of the physical evidence has
been
15 out at Rowlett for two months available to them. All
of
16 the other evidence at SWIFS, and Gene Screen, has been
17 available. So, I'm not quite sure why they waited
until

18 the late part of December to try to make an attempt
to

19 view all of this stuff.

20 The court appointed attorneys that
you

21 had on this case previously, prior to October the
21st,

22 had already had a chance to go out, in fact, twice to
23 Rowlett, and view everything, video tape everything.

24 I've got to assume that the video
tape

25 they made of all of that physical evidence was handed
over

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1 to Mr. Mulder or Mr. Mosty. So I'm a bit bewildered,
I
2 guess, about why all of this is occurring in late
3 December.

4 Now, the only DNA testing that's
5 outstanding concerns the T-shirt, it probably
consists of
6 no more than 10 to 12 samples that were taken off the
7 T-shirt. That's the only DNA that we have
outstanding.

8 I have asked Sherri Wallace to
call
9 Gene Screens to talk to Judy Floyd or Robert
Giles. I

10 would assume that this morning, that I will have
those
11 results back from Gene Screen, and I will certainly
convey
12 those to the defense at that time.

13 I would also notify the Court, that
I
14 know that Mr. Mulder has been out to talk to Charles
Linch
15 of SWIFS at least twice. He talked with him the first
16 time for three hours about the case. He talked with

him

17 again -- I know the defense attorneys talked with
Charles

18 Linch again for over three and a half hours on New
Year's

19 Eve.

20 The defense has had DNA experts
21 available to them since October the 21st that have
already

22 been hired by the court appointed attorneys.

23 In talking with them last week,
they

24 indicated that they haven't done any testing on any of
the

25 samples that they took back in August of 1996.

1 So that's where we stand on the
case at

2 this point, your Honor.

3 THE COURT: All right. Thank you.

4 MR. RICHARD C. MOSTY: May I
respond

5 briefly, your Honor?

6 THE COURT: You may indeed.

7 MR. RICHARD C. MOSTY: Well, it's
not

8 the photographs we're asking for, it's the contact
sheets,

9 whereby you can make sense of the photographs. And as
we

10 sit here right now, and they were in -- Mr. Douglass
and

11 Mr. Harrell were in the D.A.'s office the 27th, and
those

12 were not available. They were not available to them.
I

13 don't know where they were, but they were not
available to

14 them, so we haven't see them.

15 MR. GREG DAVIS: They were -- I'm
16 sorry.

17 MR. RICHARD MOSTY: The second
thing
18 is, that as Mr. Davis suggests, if we get the Gene
Screen
19 information today, then we can look at it today, and
we
20 would be in a position to be prepared. If it comes
in
21 today, that will be great, and then we'll know.
22 The third item he addressed --
well, I
23 think I have covered the main two. The one is the
contact
24 sheet -- Well, the third item is that even after we
talked
25 to Linch, and this was on the 31st, even after we
talked

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1 to Mr. Lynch, two days later, on January 2nd, we get a
new
2 report, dated January 2nd, from Mr. Lynch's
organization.

3 So, that's the kind of thing that's
4 happening. We go to talk to somebody, and then after
that
5 happens, then we get a new test.

6 MR. GREG DAVIS: Well, the contact
7 sheets, again, I indicated to Mr. Mosty that he
could

8 check with SWIFS, or he could check with the
Rowlett

9 Police Department. They would be in possession of
those
10 items. I wouldn't.

11 So, as to reasons why they didn't
see
12 those at those departments, I don't know.

13 THE COURT: All right. Thank you.

14 The Court denies the motion for
15 continuance, and denies the motion to examine the
jurors.

16 All right.

17 MR. DOUGLAS MULDER: Judge, just

one

18 thing. Will you instruct them to give us the contact
19 sheets of those photographs?

20 THE COURT: Whatever you're
entitled

21 to, you will get.

22 MR. DOUGLAS MULDER: Well, I
understand

23 that, Judge, but that doesn't do me any good. We
want the

24 contact sheets.

25 THE COURT: Well, you are
instructed to

1 give -- do you have the contact sheets? If you have
the
2 contact sheets, let Mr. Mulder, or one of the
defense
3 attorneys have them.

4 MR. GREG DAVIS: Yes, sir.

5 MR. DOUGLAS MULDER: When can we
have
6 them?

7 THE COURT: Well, I imagine as
soon
8 they can get them for you. It is 9:07 now, I imagine
9 sometime this morning you will get them.

10 MR. DOUGLAS MULDER: By noon?

11 THE COURT: Well, I don't know, but
I
12 think we can handle that.

13 Do you have the contact sheets?

14 MR. GREG DAVIS: I don't know. I
will

15 have to check. I don't know if they are down here or
not.

16 I know that Rowlett brought extra copies of all of
their

17 photographs down here.

18 THE COURT: Well, we can work that
out.

19 MR. DOUGLAS MULDER: We have got
the
20 photographs. We aren't concerned with the
photographs.

21 We're concerned with the contact sheets, and there's a
big
22 difference.

23 That's what we've been trying -- we
24 understand what the photographs are. We have had
the
25 photographs forever. We want the contact sheets.

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Reporter

1 THE COURT: Well, as soon as you
get

2 the contact sheets, give them to the defense.

3 MR. GREG DAVIS: Yes, sir, I
will do

4 that.

5 MR. DOUGLAS MULDER: Well, can't
we

6 have a deadline on that, Judge, as to when we can
get

7 them?

8 THE COURT: Well, why don't we find
out

9 when they can get them first, and then I will rule on
that

10 part of it again.

11 MR. GREG DAVIS: All right. I will
12 have Miss Wallace go back right now and talk with
them.

13 Also, Miss Wallace has now talked
with

14 Gene Screen. All of the samples that were taken from
the

15 T-shirt, Dr. Giles has indicated to her, are that of
the

16 defendant. And those are the samples that are taken

from

17 the large, bloody area here on the front of the T-
shirt.

18 And there were some additional, I believe three
samples

19 off the right shoulder. Those were all the
defendant's.

20 THE COURT: All right, thank you.

21 Is the jury here? All of them are
22 here?

23 DEPUTY SHERIFF JAN BIGGERSTAFF:

We

24 lack one.

25 THE COURT: Well, let's check and
see

1 if that one has come in yet.

2 DEPUTY SHERIFF JAN BIGGERSTAFF:

All

3 right.

4 MR. JOHN HAGLER: Excuse me, your

5 Honor, while we're waiting for the jury, could I make

a

6 statement to the court?

7 THE COURT: Oh, sure.

8 MR. JOHN HAGLER: Judge, I

anticipate

9 they will be making an opening statement at this

point in

10 time. I understand that the statement itself isn't

11 evidence, but the problem we have, of course, is we

don't

12 know what they're going to say. And we're going to

notify

13 the Court now, that we're going to object to some of

their

14 expert testimony.

15 And, specifically the validity of

some

16 of their expert testimony, the tests, the foundation

for

17 the validity of the qualifications and what have you.

1 regarding sexually orientated materials and what have
you,

2 and we're going to object to those.

3 I won't go into specific details at
4 this time, but specifically materials, and specific
5 matters regarding the defendant's background, and what
6 have you. We're going to object to any reference to
7 those. During the trial, we will want a hearing on it
8 before the State is going to offer any of this
testimony.

9 But the reason I mention it at this
10 point in time, your Honor, is the fact that once this
11 comes out in front of the jury, it is just going
to be
12 very difficult for the Court to instruct the jury
to
13 disregard.

14 So, I would ask that the Court
instruct
15 the State one, not to go into any type of sexually
16 orientated materials, or background matters regarding
--
17 or collateral matters regarding the defendant.

18 And secondly, I know they can make
an

19 opening statement, and give an overview as to their
20 testimony, but we're going to object to any
specific
21 references or statements during their opening
statement
22 regarding the nature of the expert testimony and
its
23 contents.

24 THE COURT: Well, the Court will
25 instruct both sides, when they make their opening
Sandra M. Halsey, CSR, Official Court
Reporter

1 statements, if both sides intend to make opening
2 statements, to make the opening statements without
any
3 testimony being given. Thank you.

4 We're still waiting for a
juror, so
5 everybody relax.

6
7 (Whereupon, a short recess
8 was taken, after which time
9 the proceedings were resumed
10 on the record, outside the
11 presence of the jury as follows:)

12
13 MR. GREG DAVIS: Judge, if we could
14 make a statement on the record.

15 THE COURT: Sure.

16 MR. GREG DAVIS: I spoke with the
17 Rowlett Police Department and determined that they
have no
18 contact sheets. They don't use contact sheets.

19 We have also talked to SWIFS, the
same
20 thing. They don't use contact sheets. They simply go
21 from the slides directly to photographs, and so we
have

22 none.

23 THE COURT: All right. There are

no

24 contact sheets available.

25 MR. DOUGLAS MULDER: Well, that
clears

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20

1 it up. But, of course, it could have been cleared
up a
2 long time ago. Apparently they didn't know what
contact
3 sheets were.

4 MR. GREG DAVIS: Well, this could
have
5 been cleared up a long time ago if he had asked us.

6 MR. DOUGLAS MULDER: But we did ask
for
7 them. They said they had them. In fact, he said ten
8 minutes ago they had them.

9 THE COURT: All right. Gentlemen,
10 let's cease the bickering. There are no contact
sheets,
11 so there will be none given. Thank you.

12 MR. DOUGLAS MULDER: Judge, could
we
13 find out if they have a photographic log in lieu of
the
14 contact sheets?

15 THE COURT: Do you have a
photographic
16 log in lieu of the contact sheets?

17 MR. GREG DAVIS: We'll find that
out.

18 THE COURT: We will find that out.

19 MR. DOUGLAS MULDER: What we would
20 like -- and let me just tell you where I'm going on
this:

21 You know, when you look at the photographs, you will
see

22 the various items of evidence have moved in the
23 photographs. And you can't tell, without the contact
24 sheets, or without a photographic log, as to when the
25 photographs were made. But the evidence moves.

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1 MR. GREG DAVIS: Well, that's not
true,

2 because the photographs have the date stamp on them.

3 MR. DOUGLAS MULDER: Well, some do
and

4 some don't.

5 MR. GREG DAVIS: When they show
June

6 6th, and when they show June 8th.

7 MR. RICHARD C. MOSTY: So we can be
8 clear, what we're looking for is any piece of paper,
9 handwritten, called a log, a contact sheet, any scrap
of
10 tangible, personal property that can somehow identify
what
11 photographs are taken when.

12 MR. GREG DAVIS: Okay. We're going
13 back right now to find that out. I have never seen
one,
14 but we are going to double check again.

15 THE COURT: All right. I think
that

16 both sides have had adequate time to prepare for
this

17 case. And whatever the State has that the defense

is

18 entitled to, the State is ordered to give it to
them.

19 We will now await the arrival of
the
20 final juror.

21

22 (Whereupon, a short
23 recess was taken,
24 after which time,

the
25 proceedings were

Sandra M. Halsey, CSR, Official
Court Reporter

1 resumed on the
record

2 in open court, in
the

3 presence and
hearing of

4 the defendant, and
her

5 attorneys as
follows:)

6

7 THE COURT: All right. Let's go
back

8 on the record.

9 All right. Let the record reflect
that

10 all parties in the trial are present, and these
11 proceedings are being held outside of the presence of

the

12 jury.

13 The absent juror was the Number 3

14 alternate, let the record reflect. And apparently

was

15 present in the courtroom and did not understand that

she

16 was to go to the jury room.

17 Both sides have conferred with
the
18 Court, and been given the opportunity to dismiss this
19 juror, the Number 3 alternate, but both sides have
agreed

20 to keep her on at this time; is that correct?

21 MR. GREG DAVIS: Yes, your Honor.

22 THE COURT: Mr. Mulder?

23 MR. DOUGLAS MULDER: That is
correct,

24 Judge.

25 MR. GREG DAVIS: Yes, sir.

1 THE COURT: All right. Are both
sides

2 ready to start?

3 MR. GREG DAVIS: Yes, sir, the
State is

4 ready.

5 THE COURT: All right. Call the
jury

6 in, please.

7

8 (Whereupon, the jury

9 was returned to

the

10 Courtroom, and

the

11 Proceedings

were

12 Resumed on the

record,

13 In open court, in

the

14 Presence and

hearing

15 Of the defendant,

16 As follows:)

17

18

THE COURT: All right.

Let the record

19 reflect that all parties in the trial are
present and the

20 jury is seated.

21

Ladies and gentlemen

of the jury, if

22 you will raise your right hands, please.

23

24

(Whereupon, the jury

was

25

Duly sworn by the

Court,

Sandra M. Halsey, CSR, Official
Court Reporter

1 To a true verdict
render

2 According to the law
and

3 The evidence, after
which

4 Time the proceedings
were

5 Resumed as follows:)

6

7 THE COURT: You and each of you do
8 solemnly swear or affirm you will a true verdict
render,

9 according to the law and the evidence, so help you
God?

10 THE JURORS: I do.

11 THE COURT: Thank you. All right.

12 Now, call any witnesses to be
sworn in

13 now. Do you have any witnesses present?

14 MR. GREG DAVIS: Yes, sir, I do.

15 THE COURT: All right.

16 MR. GREG DAVIS: The State will be
17 asking that the Rule be invoked as to all witnesses,
your

18 Honor.

19 THE COURT: All right. Fine. Are
you

20 going to make an opening statement?

21 MR. GREG DAVIS: Yes, sir.

22 THE COURT: All right. I will
swear

23 them in, and then I will dismiss them. And then you
will

24 call them in again after I swear them.

25 MR. GREG DAVIS: Yes, sir.

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1 MR. DOUGLAS MULDER: Judge, we
would
2 like to make it known to the Court that we intend to
rely
3 on any subpoenas that the State has issued.

4 So, if they will -- if we could
just
5 have an understanding that they'll check with us
before
6 they dismiss anybody.

7 THE COURT: That will be fine. Can
you
8 agree to that?

9 MR. GREG DAVIS: Yes, sir.

10 THE COURT: All right. Fine.

Thank
11 you. We normally swear all witnesses at
one time so it
12 speeds up the proceedings somewhat.
That's why we do it.

13 Come on up, please,
ladies and
14 gentlemen.

15 MR. DOUGLAS MULDER:
Judge, could we

16 have the witnesses identified as they are

sworn in?

17 THE COURT: Yes, that

will be fine. I

18 will swear them all in, then they will

identify who was

19 sworn in.

20 MR. GREG DAVIS: I have

one more.

21 THE COURT: All right.

Is that it?

22 All right. If you will

all raise your

23 right hands, please.

24

25 (Whereupon, the

witnesses

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19 W-A-L-L-I-N-G.

20

THE WITNESS: Stephen Joseph

Ferrie,

21 F-E-R-R-I-E.

22

THE WITNESS: Stephen Roberts

Wade,

23 W-A-D-E.

24

THE WITNESS: David Wayne

Waddell,

25 W-A-D-D-E-L-L.

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1 THE WITNESS: Dean Poos, P-O-
O-S.

2 THE WITNESS: Janice Brooks-
Bloom,
3 B-L-O-O-M.

4 THE WITNESS: Joni McClain,
5 M-C-C-L-A-I-N.

6 THE WITNESS: Janis Townsend-
Parchman.
7 T-O-W-N-S-E-N-D, hyphen Parchman, P-A-R-C-H-M-A-N.

8 THE WITNESS: Thomas Dean Ward,
9 W-A-R-D.

10 THE WITNESS: Barry Gene Dickey,
11 D-I-C-K-E-Y.

12 THE WITNESS: James Richard Bille.
B,
13 as in boy, I-L-L-E.

14 THE COURT: Thank you. And you,
sir?

15 THE WITNESS: Gustavo Guzman,
16 G-U-S-T-A-V-O.

17 THE COURT: That's Gustavo Guzman?

18 THE WITNESS: Yes.

19 THE COURT: Thank you.

20 THE WITNESS: Bill, or William
Wallace

21 Gorsuch, G-O-R-S-U-C-H.

22 THE COURT: All right. The Rule of

23 Evidence has been invoked. That simply means that --

what

24 that means is this: Don't talk about your testimony

with

25 anybody who has testified. In other words, don't

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indictment

21 first?

22 THE COURT: Excuse me. Thank you

very

23 much. Let's present the indictment first. Thank you.

24 MR. GREG DAVIS: Yes, sir.

25 Good morning, ladies and gentlemen.

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1 Again, my name is Greg Davis, and along with Mr. Shook
and

2 Miss Wallace, I represent the State of Texas in this
case.

3 I am now going to read to you the
True

4 Bill of Indictment, which has been returned by the
Dallas

5 County Grand Jury in this case. It reads as follows:

6 "True Bill of Indictment. In the
name

7 and by the authority of the State of Texas, the Grand
Jury

8 of Dallas County, State of Texas, duly organized at
the

9 January Term, A.D. 1996, of the 194th Judicial
District

10 Court, Dallas County, in said court, at said Term,
do

11 present that one Darlie Lynn Routier, defendant, on
or

12 about the 6th day of June A.D. 1996, in the County
of

13 Dallas and said State did, unlawfully, then and
there,

14 intentionally and knowingly, cause the death of
Damon

15 Christian Routier, an individual, hereinafter
called

16 deceased, by stabbing the said Damon Christian
Routier

17 with a knife, and the deceased was, at the time of
the

18 offense, under six years of age."

19 It concludes: "Against the peace
and

20 dignity of the State."

21 It is signed by John Vance,
Criminal

22 District Attorney of Dallas County, Texas. And it's
also

23 signed by Ray W. Paul, Senior, who is the foreman of
the

24 Grand Jury.

25 THE COURT: To the indictment, Mr.

1 Mulder, how does you client plead?

2 MR. DOUGLAS MULDER: Yes, sir, your
3 Honor, and ladies and gentlemen of the jury, the
defendant

4 pleads not guilty.

5 THE COURT: All right. The State
may

6 make your opening statement.

7 MR. GREG DAVIS: Thank you.

8 May it please the Court.

9 Ladies and gentlemen, on June the
6th,

10 of 1996, the evidence will show that five-year-old
Damon

11 Christian Routier, and his six year old brother Devon,
12 were stabbed and murdered in their own home in
Rowlett,

13 Texas. And Rowlett being a small suburb in eastern
Dallas

14 County.

15 Now, the evidence will show in this
16 case how these two children were murdered, who
murdered

17 them, and the reasons why they were murdered. And in
the

18 process, ladies and gentlemen, the evidence in this
case

19 will show to you, that this woman here, Darlie Lynn
20 Routier, and no other person, is the individual who
21 stabbed and murdered her own children as they lay
sleeping

22 in their own home on June the 6th, 1996.

23 The evidence will show you that the

24 real Darlie Routier is, in fact, a self-centered

woman, a

25 materialistic woman, and a woman cold enough, in fact,
to

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1 murder her own two children.

2 Now, the evidence in this case also
3 will show you that the defendant's husband is named
Darin.

4 Darin Routier. Now, Darin owned and operated a small
5 electronics business in Rowlett, Texas. And he did
very

6 well. He was a hard worker.

7 In 1993, the Routier family moved
into

8 a new two-story home in Rowlett, in a nice
neighborhood.

9 Their address was 5801 Eagle Drive. It was a corner
lot.

10 The evidence will show that when
they

11 moved into that home, they started to buy the kinds
of

12 things that would show their success: A lighted
fountain,

13 satellite dishes, jewelry, fancy clothes, leather
14 furniture and a Jaguar automobile.

15 And 1994 was another good year.

And

16 1995 was even better. But, again, instead of

reinvesting

17 the money from that business back into that business,
the

18 evidence will show that the defendant and her husband
kept

19 on spending those profits on themselves.

20 And this time, in 1995, there were

21 several vacations. There was a nine thousand dollar

22 redwood spa for their backyard. And there was a

23 twenty-four thousand dollar cabin cruiser for the

lake,

24 Lake Ray Hubbard, which is close to Rowlett.

25 Now, as 1996 began, everything
still

1 looked good on the surface for this defendant. The
2 evidence will show that beneath the surface, things
were

3 starting to change. For, you see, in 1996, Darlie
Routier

4 had a new baby. That baby was keeping her very busy.
Her

5 other two children Devon and Damon were also keeping
her

6 busy.

7 Secondly, she hadn't been able to
lose

8 the weight from her pregnancy. She was having
problems

9 there also.

10 And perhaps most importantly, the
11 evidence will show to you that the money train from
12 Darin's business was beginning to peter out. His
business

13 was flattening out as 1996 began.

14 When we come to June the 5th, 1996,
the

15 evidence is going to show you that those problems
began to

16 worsen, and they had worsened over time. By that

date,

17 this defendant right over here, still had not lost the

18 weight that she had gained during her pregnancy. And

that

19 had led her by June the 5th, 1996, to begin taking

diet

20 pills in order to try to get back that figure. She

was no

21 longer the glamorous, blond center-of-attention by

that

22 date.

23

Also by that date, the baby, his

name

24 was Drake. By this time he was eight months old.

Drake,

25 Devon and Damon were again -- were taking up more and
more

1 of her time. And by this time, she was becoming angry
2 because, in fact, her lifestyle that she had grown
3 accustomed to, the vacations, the buying sprees, the
nice
4 things, the freedom, those things were starting to go
5 away, and she was beginning to become very angry by
that
6 time.

7 You will also see that by 1996, by
June

8 the 5th, on that date, the Jaguar automobile, it
wasn't

9 running, so she had no transportation. That cabin
cruiser

10 on the lake, by that time, it wasn't running either.

And

11 there were problems at Darin's business. The evidence
12 will show again, that business was starting to

flatten

13 out.

14 By June the 5th, the Routiers,
the

15 defendant and her husband, had no savings accounts,
no

16 retirement accounts. They had very little money in
the

1 that the Routiers tried to borrow five thousand
dollars
2 from a bank in Rowlett. Because of their credit
3 situation, they were turned down on that loan. That's
the
4 situation that we see on June the 5th, 1996.

5 Now, during that evening, the
evidence

6 is going to show to you that the two boys, Devon and
7 Damon, were downstairs in the family room. And we'll
be
8 referring to it as either the family room, or as the
9 Routiers sometimes referred to it as the Roman room.

10 They were in the family room
sleeping,

11 watching television, the defendant was down there, at
12 times her husband was downstairs also.

13 About 1:00 a.m. that morning, both
boys

14 were asleep on the carpet, by a couch where the
defendant

15 was, close to a big screen television. They had been
16 watching TV that evening. By this time they were
sound

17 asleep.

18 About 1:00 o'clock in the morning,

the

19 defendant's husband came to her and told her that he
was

20 going to go ahead and go upstairs to the master
bedroom

21 and go to sleep. Baby Drake was already up there in
his

22 bassinet.

23 The defendant, at that time, at
1:00

24 o'clock in the morning, told her husband, "I'm not
going

25 to go upstairs, I'm going to stay downstairs with the
two

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1 boys."

2 You see, the defendant was a very
light

3 sleeper, and she had complained to her husband that
the

4 baby would keep her awake simply by turning in his
crib.

5 And for that reason, she said, "I'll stay down here
with

6 the two boys tonight, and I will sleep down here."

7 So, at 1:00 o'clock in the morning,
the

8 situation will be, that we have Devon, we have Damon,
we

9 have only one other person downstairs with them. And
that

10 person is the defendant right over here, Darlie Lynn
11 Routier.

12 Now, sometime between 1:00 a.m.,
and

13 2:30 a.m., on the morning of June the 6th, 1996,
both

14 Devon and Damon were stabbed to death. The
evidence will

15 show to you that Devon Routier, the six-year-old,

was

16 stabbed twice in the chest. The first stab wound
to the

17 upper chest penetrated his pulmonary artery, and
it went

18 into his right lung.

19 The second stab wound that you
will

20 hear about, is lower in the chest, and that
entered into

21 his liver. And the evidence will show to you
that

22 six-year-old Devon died face up, on the carpet,
with his

23 eyes open. Supposedly, as his mother, the
defendant, was

24 sleeping on a couch in that very same room where
he died.

25 Now, the evidence will show
you that

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1 five-year-old Damon was also stabbed. That child
was

2 stabbed four times in the back. Some of those
wounds

3 penetrated through his lungs, others through his
liver,

4 and he died as a result of those stab wounds.

5 The evidence will show you that he
was

6 stabbed at least one time in the back, again, as his

7 mother supposedly was sleeping on a couch, nearby
where he

8 was attacked. But the evidence will show to you that
he

9 didn't die immediately. Damon somehow struggled
across

10 the floor of that family room, towards the hallway,
and

11 towards the kitchen, before collapsing on the floor.

12 And when the first police officers
got

13 there to that scene that morning, and when the
paramedics

14 got there, they found him face down, gasping for
breath,

15 with his eyes open. But the evidence will show to
you

16 that Damon Christian Routier died before the
paramedics

17 could get him to the hospital that morning.

18 Now, you will hear from police
19 officers, who dealt with the defendant. You will hear
20 from paramedics who dealt with the defendant that
morning

21 also. You will hear from doctors who treated her, and
you

22 will hear from personnel from Baylor Hospital in
Dallas,

23 nurses, and other medical personnel over there who
dealt

24 with her that morning. And you'll hear them tell you
that

25 that morning, immediately after these attacks on her

this

17 defendant gave differing stories about what had
happened

18 out there that night. You will hear the 911 tape.

You

19 will hear that at 2:31 a.m., June 6th, the Rowlett
Police

20 Department received a call from the defendant, a 911
call.

21 And you'll hear that tape during this trial, probably

22 today or either tomorrow. You'll hear that tape. And

on

23 that tape, you will hear the defendant's voice. You

will

24 hear her scream, sometimes very loudly.

25 You will hear the very first story
that

1 she gives to the police about what happened out there
that

2 night. You'll hear her say to them that, in fact,
that

3 she had seen an intruder while she was sleeping
4 downstairs, that she woke up, she found that her two
5 children had been stabbed, that she had been stabbed,
that

6 she saw an intruder. That intruder then started to
run

7 from the family room, through the kitchen, to the
utility

8 room and finally to the garage.

9 That he was armed with a knife.

You

10 will hear her tell the police that she chased that
man,

11 while she's unarmed, that she chased this armed
intruder

12 through that house, that he threw a knife down in the
13 utility room, that she picked up that knife.

14 Now, you will hear on that tape
also,

15 how the focus of Darlie Routier turned very quickly
from

16 her two children, who were dying there in her

presence, to

17 herself, to the activities of the Police Department
18 personnel who were on the scene, and to the condition
of
19 the crime scene.

20 You'll hear her, only five minutes
into
21 that tape, say, "this knife was laying over there, and
I
22 already picked it up. God, I bet we could have gotten
the
23 prints, maybe, maybe." You will hear that being said
as
24 her two children are dying and bleeding to death,
right
25 there in front of her.

1 Now, finally, ladies and
gentlemen, in
2 this trial, you will hear about the police
investigation,
3 the extensive police investigation. And you will see
the
4 physical and the scientific evidence that was
conducted,
5 and that was preserved and collected out there at
that
6 scene.

7 You will see a lot of things,
8 unfortunately, that are going to be very graphic.
And I'm
9 just going to apologize in advance for that. There
is
10 just no way around it. Some of these things are
going to
11 be very difficult for you to look at and to listen
to.
12 But the bottom line and the reason why we're going to
have
13 to show you those things, is because those things
show us,
14 and they'll show you, exactly what happened out there

that

15 night. And for that reason, you're going to have to
view

16 it, and you're going to have to listen to it.

17 Now, among the things that you
will see

18 through that evidence will be that both boys, both
Devon

19 and Damon were stabbed with a knife that came from
the

20 defendant's own kitchen; a large butcher knife that
was

21 kept in her kitchen. You will also see in that
evidence,

22 that both boys' injuries were deep stab wounds to the

23 trunk area. And that they were totally inconsistent
with

24 the superficial wound that this defendant received on

June

25 the 6th, 1996.

1 That evidence will also show you,
that

2 neither the defendant, nor any intruder ever ran
through

3 that kitchen and utility room to the garage after the
4 boys' attack, as the defendant claimed. That never
5 happened.

6 You will also see that no intruder
ever

7 threw a knife down on that utility room floor as he
fled

8 that residence, as the defendant claimed.

9 And you will also see in that
evidence

10 that no intruder ever left out of that garage through
a

11 window, where a screen had been cut, that evening
after

12 the boys' attack. That never happened either, as
this

13 defendant claimed it happened that night.

14 And finally, the evidence in this
case

15 will show you, beyond any reasonable doubt, that this
16 defendant staged the crime scene before the police got
17 there, to make it appear like an intruder had come in,

and

18 that she had had a struggle with that intruder.

19 You will also see, that there is

blood

20 on her T-shirt that she was wearing at the time. That

her

21 own son's blood is on her T-shirt, and that it was

22 deposited while she was stabbing them to death on June

the

23 6th, 1996.

24 And, finally, you will hear that

that

25 screen that was cut on that garage window, the place
where

1 this intruder supposedly came into the house to attack
the

2 boys, and supposedly left out of the house, as she
chased

3 him unarmed. You will see, that the screen is made up
of

4 two things: It's made up of fiberglass rods that are
also

5 connected with a rubber polymer, a black rubbery
6 substance.

7 And you'll hear that a knife was
found

8 inside the defendant's residence, in her kitchen,
still in

9 a butcher block, and that knife was examined. And
those

10 two very same substances, both the fiberglass rods
found

11 in the window screen, and the black rubber material,
was

12 found on the blade of that knife.

13 At the conclusion of this case,
when

14 all of the testimony is in, I'm going to come before
you,

15 and I'm going to ask you to find this defendant
guilty,
16 because the evidence we're going to show you through
this
17 trial, shows beyond any reasonable doubt that she is,
in
18 fact, guilty of the capital murder of five-year-old
Damon
19 Christian Routier.

20 Thank you.

21 THE COURT: Thank you, Mr. Davis.

22 Mr. Mosty, the defense will now
make an

23 opening statement

24 MR. RICHARD C. MOSTY: May it

please

25 the Court, ladies and gentlemen of the jury. I think
that

1 when we talked to all of y'all, that at some point,
one of
2 the defense lawyers, Mr. Mulder, or myself, or one of
us,

3 probably said to every one of you, that one of the
things

4 that we hate about a criminal case is, that the State
5 always gets to go first. And that, we think first
6 impressions are important, and that we would like to
go

7 first, and we would like to tell you our story. But
we're

8 not allowed to do that because of the rules.

9 The State -- and the indictment was
10 read to you, and you were all told that the indictment
is

11 no evidence of guilt. It means nothing. And the
12 presumption of innocence, and the burden of proof that
the

13 State has to prove beyond a reasonable doubt that
Darlie

14 is guilty. And so, we don't get to go first. And, I
just

15 say that, to remind you again of that, as I talk about
16 what the evidence is going to show, and what Mr. Davis
did

17 not tell you, about what the evidence is going to
show.

18 Always remember that we're going to
get
19 our chance, it's just not going to be the first
chance.

20 Now, what the State has said, is
that a
21 person who has witnessed their two children being
stabbed
22 to death in their own home, and their own knife, their
own
23 throat slashed, that that person's account, given
right
24 then, and under the terror of that moment, that that
25 account is by itself, and that they will take that by

18 the evidence, please.

19 MR. RICHARD C. MOSTY: Darin and
Darlie

20 are a couple that met in West Texas, in Lubbock. And
the

21 evidence will show, that they eventually settled, and
they

22 were trying to get ahead. They're in their mid 20's.

23 Trying to get ahead, and ended up moving to Rowlett,
which

24 is just northeast, you would say, in Dallas. And they
did

25 find some success, and they wanted to get ahead. And

1 Darin started a little business, and it gained some
2 success. And they bought a nice house. And they had
two
3 beautiful children when they moved in the house, and
later
4 a third. And you will see, that house will be brought
to
5 you.

6 And you will see a description of
that
7 house. And you will go upstairs, and you will see
8 bedrooms decorated with Mickey Mouse wallpaper, with
9 children's stuff, Mickey Mouse bedspreads, another
bedroom
10 that is decorated very neatly with the other child's
stuff
11 in it.

12 You will see a house that is a
family,
13 in a fairly up-scale, I would call it, neighborhood, a
14 neighborhood unlike you will find one in Kerrville.
And
15 you will see this attention to children. That you
will
16 see that this lady's life, focused around her
children.

17 She helped her husband at the store some, at the
business

18 some. But her life focused around the children.

And you

19 will see, by all accounts, from friends, neighbors,

20 family, that she devoted everything to those
children.

21 That that's what she lived around.

22 In fact, as Mr. Davis pointed
out, she

23 was a light sleeper. So concerned, as a mother,
about an

24 infant baby that if the baby just moved, she was
worried

25 about her baby.

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1 And that's the life that you'll
see.

2 And then the State suggests, that in a blink of an
eye,
3 this lady changes from a doting mother of three babies
to
4 a psychotic killer. And not only a psychotic killer,
but
5 a forensic expert, an expert in crime scenes, such
that
6 she could stage this whole crime scene.

7 You will see from the evidence the
type
8 of wounds that Darlie Routier had. You will see a
stab
9 wound, defensive in nature, to her right shoulder.
And
10 the State will suggest to you, that that's self
inflicted,
11 or that it's staging.

12 One of the facts that you did not
hear
13 from Mr. Davis is that there is a bloody sock found 75
14 yards down an alleyway that has these boys' blood on
it.
15 And that somehow this doting mother, turned psychotic

16 killer, went and dipped, just ever so slightly, an
amount
17 of her children's blood in that sock and then ran 75
yards
18 down the alleyway, and planted it, while her husband
is
19 upstairs asleep. And the children have been stabbed
and
20 are dying in the living room.
21 The State -- what happened, at 6:00
22 o'clock, or by 6:00 o'clock, and I submit the evidence
is
23 going to show you earlier than that. By 6:00 a.m., on
24 June 6th, the Rowlett Police Department had decided
that
25 Darlie Routier was guilty, and they never ever blinked

1 from that. They never turned back. They never looked
any
2 other direction. They developed tunnel vision. And
the
3 only thing they could take -- maybe it's more like a
rifle
4 scope. That they had focused the cross hairs on
Darlie
5 Routier, and they were never going to take them off
of
6 her.

7 Now, I don't quarrel with police
8 officers going out and doing a good job and finding a
9 suspect, and focusing on that suspect. But I do
quarrel,
10 when they only focus on that suspect.

11 MR. GREG DAVIS: I'm sorry, I have
got
12 to object to this as being argument. It's not what
the
13 evidence is going to show.

14 THE COURT: Sustained.

15 MR. RICHARD C. MOSTY: It is,
Judge.

16 THE COURT: Sustained.

17 MR. RICHARD C. MOSTY: I'll tell
you
18 exactly what I'm talking about. There's a
description
19 given that night by a neighbor, of a black car, that
is at
20 the scene at the time of the screams. And, by the
time
21 the sirens start going off is gone. That car is
gone.
22 And there will be no indication in the evidence that
the
23 Rowlett Police Department ever did anything to find
that
24 car. And that black car is a mystery to this day.
25 By 6:00 a.m., the Rowlett Police

1 Department had focused on Darlie Routier, and that was
it.

2 All of the investigation, the evidence that you'll see
3 from then on, talks about, focuses on Darlie
Routier.

4 And one of the things that you
will
5 see, as they have pointed that rifle scope at Darlie,
is
6 that the State's evidence, and the State's theory has
7 changed, and it changes.

8 The State's case that Mr. Davis has
9 described, and will present, is not what the evidence
will
10 show they were focusing on back in June, because the
June
11 investigation has fallen apart. And let me just go
12 through a few of them, because I won't be able to
remember
13 them all.

14 This business -- and some of these
Mr.
15 Davis didn't mention. The mulch. He said one of the
16 reasons they knew Darlie was guilty was because the
mulch

17 outside of this window had been undisturbed. Well,
the

18 evidence will show you, in fact, there is no mulch
outside

19 of this window. The mulch is over there. So of
course it

20 wasn't disturbed.

21 The evidence the State relied upon,
in

22 June, this is in June, was that, for instance, there's
no

23 blood from the assailant, from the true murderer, that

24 goes out the kitchen and through the garage, as they
25 decide there should have been.

1 Well, the State's own evidence --
the
2 State's own witnesses will testify that they would
not
3 expect this assailant, this murderer, who is still on
the
4 streets, to have much blood on him. So the fact that
he
5 didn't leave a blood trail through the garage means
6 nothing. It means absolutely nothing.

7 The State says that she didn't try
to
8 help her children. You will see that's false.
And one of
9 the things that's very interesting is, that you
will see
10 this Officer Waddell who came in, and he's the one
who's
11 going to say, "I came to the scene --". This is a
12 trained, police officer, trained in first aid. "I
came to
13 the scene, and I told her to help her child but
she
14 didn't."

15 And we're going to ask him,

"Officer

16 Waddell, while you were there, why didn't you go
help the

17 child?" He's criticizing the mother, who has had
her

18 children butchered, and he doesn't go and help the
19 children. But that's somehow evidence of Darlie's
guilt.

20 There's some of these things
that are

21 fairly incredible. One of them is, that the
officer says

22 that one of the reasons he knows that Darlie is
guilty

23 very early on, is that there is no high velocity
blood in

24 the kitchen. High velocity refers to the, -- and
you will

25 hear some of this, how fast the blood is moving
when it

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1 hits an object. And he says he knows Darlie's
guilty

2 because there's no high velocity blood in the
kitchen.

3 Ladies and gentlemen, you will
not find

4 any person who testifies in this case, who will say
that

5 there should have been high velocity blood in the
kitchen.

6 They will say there would never have been high
velocity

7 blood in the kitchen, because high velocity blood
relates

8 to gunshots. And everybody knows there weren't any
9 gunshots that went off in this house.

10 So, this high velocity blood,
which

11 they know, proves Darlie is guilty, is nothing. It
means

12 nothing. It is nothing.

13 One of the kingpins of the
State's case

14 came in. That in this window, which is cut -- and
you've

15 got to remember, ladies and gentlemen, when you see
this,
16 this window is maybe this high off the ground. It's
not
17 as high as my boots. I could step over it like
that. But
18 this window that was cut, didn't have any dust
disturbed
19 on the windowsill.
20 Ladies and gentlemen, you will
see it.
21 And if someone is down, and they step like that,
they can
22 step over that windowsill. It's right down on the
ground.
23 So the fact that dust is undisturbed means nothing.
24 But they have more than that,
they had
25 a hair in the window. And as you climb through, the

1 State's theory being, that she climbed through, and
a
2 piece of hair was pulled. And it was tested, and it
was
3 shown to be pulled out of someone's hair. And it
was
4 blonde. And it was bleached. And the State
concluded
5 that it belonged to Darlie Routier. The State's
witness
6 testified previously that that hair was consistent
with
7 Darlie Routier.
8 Well, that was a great theory
back in
9 June. However, now, when the hair is tested by DNA,
and
10 you will hear this evidence, that hair belonged to a
11 Rowlett police officer. So, it's a blonde hair
that
12 proves Darlie is guilty in June, and it's a blonde
hair
13 that means nothing now. But that's the change of
the
14 theory. And the State's theory has evolved like that.
It

15 has changed over and over.

16 It's gone so far, that after -- the
17 evidence will show you, that even after you were
selected

18 on this Jury, the State has continued to go back, and
19 continued to go back, to try to find some tests, to
try to

20 find something, to try to pull up something, to prove
that

21 Darlie Routier is guilty, because she is the only
person

22 in their cross hairs. And, that these tests have been
23 done, up as late as last Friday. Continuing to do
tests

24 to keep the rifle scope pointed on Darlie.

25 And you will see, through all
of this,

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Reporter

1 that things have changed. And the State's theory
has

2 changed. And the reason is, that when the blonde
hair

3 falls through, then they have got to do something
else.

4 When something falls through, they have to move to
5 something else. And you will see, we will bring you
that

6 pattern.

7 And I don't think the evidence will
8 ever show you, I think we told all of you this: That
your

9 job is not to solve this case. Because I don't think
the

10 evidence will tell you what really happened. That the
11 evidence here will ever tell you what really happened
at

12 5801 Eagle Drive. And that's a shame. But the
evidence

13 will leave those gaps in it. It will leave those
holes in

14 it.

15 And we submit, we know, that when
you

16 have heard it all, you will understand, that this lady

is

17 an American mother, just like any other number of
American

18 mothers. She's not perfect. Never said she was.
Nobody

19 is ever going to say she was. But the description of
20 becoming a psychotic killer, will not be borne out in
the

21 evidence. It will show, that she is an American
mother,

22 just like any other mother.

23 And when you have heard all of
that,

24 although you won't know what happened fully, at 5801
25 Eagle, you will know that the evidence does not
prove,

1 that Darlie Routier committed this crime.

2 Thank you.

3 THE COURT: All right. Thank you,
Mr.

4 Mosty.

5 If you will call your first
witness,

6 please, Mr. Davis.

7 MR. GREG DAVIS: Yes, sir. Thank
you.

8 We will call Dr. Joni McClain.

9 THE COURT: All right. Dr. Joni
10 McClain.

11 All right. Go ahead.

12

13 (Whereupon, the witness having
14 been previously duly

sworn by

15 the Court, approached the
16 witness stand and testified
17 as follows:)

18

19

20

21

22

23

24

25

Reporter Sandra M. Halsey, CSR, Official Court

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1 Whereupon,

2

3 JONI McCLAIN,

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, inside the presence of the jury, as
follows:

9

10

11 DIRECT EXAMINATION

12

13 BY MR. GREG DAVIS:

14 Q. Would you please tell us your
full

15 name.

16 A. Joni McClain.

17 Q. Are you a medical doctor?

18 A. Yes.

19 Q. How are you employed?

20 A. I'm a Medical Examiner with

Dallas

21 County.

22 Q. How long have you been a

Medical

23 Examiner with Dallas County?

24 A. Since June of 1992.

25 Q. Can you tell us a little bit
about your

Sandra M. Halsey, CSR, Official Court
Reporter

1 educational and professional background?

2 A. I graduated from the
University of

3 Oklahoma School of Medicine in 1983 with a doctor
of

4 medicine degree. After that, I did a four-year
residency

5 in anatomic and clinical pathology at the Oklahoma
6 teaching hospital.

7 After that, I spent a fellowship
year

8 at Indiana University in forensic pathology. And
then

9 after that, I was in the Military for four years at
the

10 office of the Armed Forces Medical Examiner in
Washington

11 D.C. Then I joined the office in Dallas.

12 Q. Okay. You had mentioned forensic
13 pathology. Can you tell us what that is?

14 A. Well, forensic pathology is
involved

15 with determining the cause of death, why someone
died, as

16 well as the manner of death. And we do that, in

instances

17 where people die under unusual, unknown, or violent
18 circumstances. In order to come to the cause and
manner
19 of death, we perform autopsies.

20 Q. Approximately how many autopsies
have
21 you performed personally?

22 A. Over 1,500.

23 Q. Let me ask you if you had an
occasion

24 to perform an autopsy on an individual that was
identified

25 to you as Devon Routier?

1 A. Yes.

2 Q. And when an autopsy is performed,
Dr.

3 McClain, it comes there to the Dallas County M.E.'s
4 office, is it assigned a case number?

5 A. Yes, it is.

6 Q. Okay. Is that a case number that
will

7 be for that individual only?

8 A. Yes.

9 Q. Now, do you also prepare an autopsy
10 report, a written report of your findings?

11 A. Yes.

12 Q. As a part of the process, are
13 photographs also taken, either at or near the time of
the
14 autopsy?

15 A. Yes, they are.

16 Q. Okay.

17

18 (Whereupon,
the

19 exhibits were
20 marked for

21

Identification

22

only, as

State's

23

Exhibit No. 1

24

and State's

25

Exhibit A.)

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1

2

3

MR. GREG DAVIS: May I approach the
witness, your Honor?

4

THE COURT: You may.

5

6

BY MR. GREG DAVIS:

7

Q. Doctor McClain, let me show you
what's

8

9

been marked as State's Exhibit No. 1, and ask you to
review that document. And tell me, whether or not it
is a

10

11

true and correct copy of the autopsy report that you
prepared in this case concerning Devon Routier?

12

A. Yes, it is.

13

14

15

16

17

18

19

20

Q. Okay. And, Dr. McClain, if you
will,

if you'll take a look at State's Exhibit No. A and
tell me

whether or not that is a photograph that was taken at
or

near the time that you performed the autopsy on Devon
Routier?

18

A. Yes, it is.

19

20

Q. And does it also contain and show
the
same case number of 1811-96, as it appears on your

autopsy

21 report?

22 A. Yes.

23

24 MR. GREG DAVIS: Your Honor, at

this

25 time, we'll offer State's Exhibit No. 1, the autopsy.

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1 We'll offer State's Exhibit A for record purposes
only.

2 MR. DOUGLAS MULDER: No objection.

3 THE COURT: State's Exhibit 1 is
4 admitted for all purposes. State's Exhibit A is
admitted

5 for record purposes only, not to be shown to the
jury.

6

7 (Whereupon, the items

8 Heretofore mentioned

9 Were received in

evidence

10 As State's Exhibit

No. 1

11 For all purposes, but

12 State's Exhibit A

for

13 Record purposes

only,

14 After which time,

the

15 Proceedings were resumed

16 As follows:)

17

18 BY MR. GREG DAVIS:

19 Q. And, Doctor, you have another copy
of

20 your autopsy report; is that correct?

21 A. Yes, I have the original.

22 Q. Can you tell us briefly how you
23 performed this autopsy on Devon Routier?

24 A. Okay. Well, first, the body is
brought
25 in and we take photographs of the body as we receive
it.

1 Then we remove any clothing. We save that for trace
2 evidence. After any trace evidence is collected, we
will
3 clean the body and then take additional photographs,
of
4 any injuries or diseases that we might find on the
body.

5 So, after we document the outer
portion
6 of the body, then we will look at the inside of the
body
7 for any injuries or any disease processes. We
document
8 the injuries. We also remove fluids at that time
for
9 toxicology.

10 Q. Okay. Now, when this child came
to
11 you, what kind of clothing was he wearing?

12 A. He was received in a body bag,
on a
13 white sheet. He was wearing one Power Ranger pair
of
14 shorts. Also a Power Ranger pillow case and pillow
were
15 submitted with the body, as well as one black and

white

16 bed cover.

17 Q. Can you tell us how much this

child

18 weighed?

19 A. He weighed 46 pounds.

20 Q. And how tall was Devon?

21 A. He was 46 inches.

22 Q. So he's a little under four feet

tall;

23 is that right?

24 A. Yes.

25 Q. And did he appear to be the stated
age

1 of six years?

2 A. Yes.

3 Q. Now, as a part of your autopsy, are
you

4 looking for external injuries and also, further in the
5 process, for internal injuries?

6 A. Yes.

7 Q. Okay. And, can you tell the
members of

8 the jury, the types of injuries that were noted during
9 your autopsy of Devon?

10 A. Yes. I noted on his body four,
11 separate, sharp, force injuries. And when I describe
12 these, I'm just going to start in with number 1. That
13 doesn't mean that that was the first one inflicted. I
am

14 just using the numbers for record purposes for the
report.

15 So, I'm going to start off with
stab

16 wound number 1. There was a stab wound of the left
upper

17 chest, that went into the left upper chest, between
the

18 fourth and fifth ribs. This stab wound went

through the

19 left upper lobe of the lung, the pulmonary artery,
the

20 right lower lobe of the lung and then penetrated
into the

21 right posterior chest, about one-sixteenth of an
inch.

22 Where it penetrated into the chest, was between the
23 posterior ribs 7 and 8.

24 The stab wounds went front to
back,

25 left to right, and really no up or down deviation.
And I

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Reporter

1 estimated the depth of penetration as five inches.

2 Also noted on this stab wound,
there

3 were a sharp and a blunt angle. In addition, there
was

4 blood in both the chest cavities.

5 Q. Okay. Now, you
had indicated, that on

6 one of the stab wounds you noted a
blunt and then a sharp

7 edge; is that correct?

8 A. That's correct.

9 Q. And, would that
be consistent with this

10 child having been stabbed with a
single-edged knife, as

11 opposed to a knife that has two
sharp edges?

12 A. Yes.

13 Q. Okay. Now, you
had indicated that you

14 took -- or photographs were taken
during this autopsy, or

15 near the time of the autopsy; is
that correct?

16 A. That's correct.

17 Q. Okay.

18

19 MR. GREG DAVIS:

May I approach again,

20 your Honor?

21 THE COURT: You

may.

22

23 (Whereupon, the

following

24 mentioned items

were

25 marked for

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Official Court Reporter

1 identification
only
2 as State's
Exhibits
3 Numbers 1-A through 1-F,
4 after which time the
5 proceedings were
6 resumed on the record
7 in open court, as
8 follows:)
9
10 BY MR. GREG DAVIS:
11 Q. Dr. McClain, if we could look at
the
12 photographs that have been marked as State's Exhibits
1-A
13 through 1-F. Are these, in fact, true and accurate
14 photographs of the body of Devon Routier that were
taken
15 there, at or near the time of the autopsy?
16 A. Yes.
17 Q. Do they truly and accurately depict
the
18 injuries that you noted during your autopsy?
19 A. Yes, they do.
20 Q. Okay. Do you believe they would be

of

21 an assistance to this jury, in understanding your
22 testimony about these injuries?

23 A. Yes, I do.

24

25 MR. GREG DAVIS: Your Honor, at
this

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1 time we'll offer State's Exhibit 1-A, 1-B, 1-C, 1-D,
1-E

2 and 1-F.

3 MR. DOUGLAS MULDER: No
objection.

4 MR. RICHARD MOSTY: Those are the
5 individual photo numbers?

6 MR. GREG DAVIS: Yes.

7 THE COURT: State's Exhibits 1-A,
B, C,
8 D, E and F are admitted. They may be published to the
9 jury.

10

11 (Whereupon, the items
12 Heretofore mentioned were
13 Received in evidence as
14 State's Exhibits Numbers
1-A

15 through 1-F for all
purposes,

16 After which time, the
17 Proceedings were resumed
18 As follows:)

19

20 MR. GREG DAVIS: Okay. We'll try
to

21 position this.

22 THE COURT: Well, if any one of
the

23 defense attorneys wishes to come and view this, feel
free

24 to do so.

25 Can all of the members of the jury
see

Sandra M. Halsey, CSR, Official Court Reporter

1 this pretty well?

2 THE JURORS: Yes.

3 THE COURT: Okay. Thank you.

4 Can you gentlemen at the end see
this

5 okay?

6 THE JURORS: Yes.

7

8 BY MR. GREG DAVIS:

9 Q. Now, Doctor, if we could, if we
could

10 start with just the overall -- and you have a
numbering

11 system for the stab wounds; is that correct?

12 A. That's correct.

13 Q. And State's Exhibit A here, do we
show

14 stab wound 1 here?

15 A. Yes.

16 Q. And then stab wound two, lower to
the

17 chest; is that correct?

18 A. That is correct.

19 Q. Now, stab wounds -- we also --
well,

20 let's start here with the stab wounds first. We have

stab

21 wound number 1. Can you tell us, is State's Exhibit
1-D,

22 is that a closeup of that stab wound?

23 A. Yes, it is.

24 Q. This stab wound again, was how --

how

25 deep was that wound, number 1?

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1 A. The depth of penetration was five
2 inches.

3 Q. Stab wound number 2 here, to the
lower

4 portion of the chest, is that shown in State's
Exhibit

5 1-C?

6 A. Yes.

7 Q. And the depth of that wound,
please.

8 A. That was two and one-half inches.

9 Q. Now, we see here, in State's
Exhibit

10 Number 1-E, an injury to the child's left forearm
area.

11 What type of injury is that?

12 A. That's an incised wound. An
incised

13 wound is longer on the skin's surface than it is
deep.

14 It's still a sharp-force injury.

15 Q. More of a cutting motion, as
opposed to

16 a stab motion?

17 A. Yes.

18 Q. And finally, we're looking at a
number

19 4 wound here, on the back portion of the child's
left leg.

20 Is that shown in State's Exhibit 1-F?

21 A. Yes.

22 Q. What type of wound does State's
Exhibit

23 1-F show?

24 A. That's a stab wound.

25 Q. Approximately how deep was that
stab

Reporter Sandra M. Halsey, CSR, Official Court

1 wound shown in 1-F?

2 A. It was three-fourths of an inch.

3

4 (Whereupon,

the

5 exhibit

was

6 marked for

7

Identification

8 only, as

State's

9 Exhibit No.

2.)

10

11 BY MR. GREG DAVIS:

12 Q. Okay. Thank you. Doctor, have we

--

13 let me just ask you, Doctor. Have we -- do we have a

14 video tape that shows the injuries sustained by

Devon

15 Routier?

16 A. Yes.

17 Q. Okay. And, have you had an

opportunity

18 to view that video tape?

19 A. Yes, I have.

20 Q. Let me show you what has been
marked as

21 State's Exhibit 2. It shows to be a video tape of
Devon

22 Routier. Is this, in fact, the video tape that you
viewed

23 yesterday?

24 A. Yes.

25 Q. And, Doctor, let me first ask
you, does

1 it truly and accurately depict the injuries
sustained by

2 Devon Routier, the stab wounds number 1 and 2 shown
here

3 on the photographs?

4 A. Yes.

5 Q. Do you believe that this video
tape

6 would assist you in your testimony for this jury
7 concerning these injuries?

8 A. Yes.

9 Q. Do you also believe it would assist
the
10 jury, in understanding the nature, and the direction
and

11 the depth of these wounds also?

12 A. Yes.

13 Q. Okay.

14

15 MR. GREG DAVIS: Your Honor, at
this

16 time we'll offer State's Exhibit No. 2.

17 THE COURT: Any objection?

18 MR. DOUGLAS MULDER: It just
applies to

19 this particular one?

20 MR. GREG DAVIS: Right. Just to
Devon.

21 That is it.

22 MR. RICHARD C. MOSTY: It doesn't
have

23 anything else on it?

24 MR. GREG DAVIS: No, this is just
to
25 Devon.

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1 THE COURT: All right.

2 MR. DOUGLAS MULDER: No objection.

3 THE COURT: All right. State's
Exhibit

4 No. 2 is admitted.

5

6 (Whereupon, the item
7 Heretofore mentioned
8 Was received in

evidence

9 As State's Exhibit

No. 2

10 For all purposes,
11 After which time,
the

12 Proceedings were
resumed

13 As follows:)

14

15 THE COURT: All right. You may
16 proceed.

17

18 BY MR. GREG DAVIS:

19 Q. Doctor, in this -- while we're
waiting,

20 this video has no sound attached to it; is that right?

21 A. That's correct.

22 Q. So, as we go through here, this
will

23 show stab wound number 1 first; is that right?

24 A. Yes.

25 Q. And then it will show us stab wound

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1 number 2; is that right?

2 A. That's correct.

3 Q. So, if you would, if you need to,
if

4 you'll just comment on each one of them, as we're
looking

5 at this, since there's no audio attached to it. Okay?

6 A. Okay.

7

8 (Whereupon, State's
9 Exhibit No. 2, a
10 video tape, was
played

11 for the jury, after
12 which time
proceedings

13 were resumed on the
14 record as follows:)

15

16 BY MR. GREG DAVIS:

17 Q. All right. Let me see if it will
work

18 for us here.

19 A. Okay. This is a photograph showing
20 stab wounds 1 and 2.

21 And this shows the wound track of

stab

22 wound number 1 through the body. Then a cross section
of

23 the body, you will see the track of the wounds.

24 Q. Okay.

25 A. You can see that the track is 5
inches

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1 in depth. It goes through the lungs, pulmonary
artery,

2 lung, and into the posterior portion of the back.

3 And then, this demonstrates stab
wounds

4 number 2, as well as incised wound number 3 to the
arm.

5 Q. So, it would have been -- it would
have

6 shown that the injury to the left arm could have been
7 caused as a portion of stab wound number 2; is that
right?

8 A. Yes.

9 Q. Okay.

10 A. And here you can see the stab wound
11 going two and one half inches into the liver.

12 Q. Let me ask you what actually would
have

13 caused the death of Devon Routier -- stab wounds
caused

14 the death. Correct?

15 A. Yes, multiple, sharp, force
injuries.

16 Q. Can you tell us how those stab
wounds

17 would have actually caused this child's death?

18 A. Well, the mechanism of death would
be

19 that the child bled to death, bled out.

20 Q. All right. Is this a situation
where

21 he would have died instantly?

22 A. No. It's fairly rapid, probably
within

23 a few minutes.

24 Q. Okay. So we're talking, perhaps
five
25 minutes to actually lose enough blood to actually die
--

1

2 MR. DOUGLAS MULDER: Object to
leading.

3 THE COURT: Sustained. Rephrase
the
4 question.

5

6 BY MR. GREG DAVIS:

7 Q. All right. Do you have any idea,
an
8 approximation of how much time would have been
necessary

9 for this child to die?

10 A. I would say probably, again, a
few
11 minutes. I can't give an actual number, but the low
end
12 of a few minutes.

13 Q. Okay. Do you have an opinion as
to
14 whether or not this child would have been able to
make a
15 noise, after receiving both of these stab wounds?

16 A. It's possible, yes.

17 Q. Okay. And why do you believe

it's

18 possible that he could have?

19 A. Because there's

nothing that would have

20 precluded that medically, you know, on
why a child

21 couldn't have made a noise. The stab
wound itself would

22 not have precluded that.

23 Q. Okay. Now, as part
of the -- as part

24 of the autopsy, did you take hair
samples and blood

25 samples from this child?

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Court Reporter

1 A. Yes.

2 Q. Okay. And, did you
keep those, or did

3 you deliver them to someone?

4 A. I submitted them to
the criminal

5 investigation laboratory at SWIFS.

6 Q. Okay. You, yourself,
did you do any

7 sort of blood analysis or hair analysis
in this case

8 concerning Devon Routier?

9 A. No.

10 Q. Let me ask you also,
did either one of

11 these stab wounds actually penetrate
through any ribs?

12 A. Yes.

13 Q. All right. Are a
child's ribs

14 different than an adult's ribs, such as
mine?

15 A. Yes. There's still a
lot of cartilage.

16 And in this case, the stab wound went

through cartilage.

17 Q. All right. Is

cartilage going to be as

18 hard as bone?

19 A. No.

20 Q. Concerning the amount

of strength

21 necessary to penetrate through the

cartilage here in Devon

22 Routier, what's your opinion about that?

23 A. Well, it's certainly,

you know, less

24 than bone.

25

Sandra M. Halsey, CSR, Official
Court Reporter

1 (Whereupon, the
following
2 mentioned items were
3 marked for
4 identification only
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. Okay. Doctor, just looking at
State's

13 Exhibit No. 31-A here. We've looked at this
yesterday,

14 have we not?

15 A. Yes.

16 Q. Okay. There are two stab wounds
17 depicted concerning Devon Routier. Are these
essentially

18 still images that were shown on the video that the
jury

19 just saw?

20 A. Yes, they are.

21 Q. And do they truly and accurately

depict

22 the wounds sustained by Devon Routier?

23 A. Yes.

24 Q. And again, do you believe it would
25 assist the jury, in understanding the nature of those

Sandra M. Halsey, CSR, Official Court Reporter

73

1 wounds?

2 A. Yes.

3

4 MR. GREG DAVIS: Pass the witness.

5

6 CROSS EXAMINATION

7

8 BY MR. DOUGLAS MULDER:

9 Q. Now, Doctor, just a thing or two.

You

10 took very precise measurements of these wounds, did
you?

11 A. Yes, I measured them.

12 Q. Okay. And, were you able to tell
from

13 your examination -- you said it was a single-edged
knife

14 in your opinion; is that right?

15 A. One of the wounds there was a
blunt and

16 a sharp angle, so that would be consistent with a
17 single-edged knife.

18 Q. Are you telling us that perhaps
one of

19 the wounds was with a double-edged knife?

20 A. I can't rule that out, because I'm

21 calling one an indeterminate angle, so it could be
either
22 sharp or blunt. I couldn't tell for sure because of
the
23 drying.

24 Q. Well, I noticed from the movie
that you
25 vouch for, that the knife was depicted in a certain
way;

Sandra M. Halsey, CSR, Official Court Reporter

1 is that right?

2 A. That's correct.

3 Q. In the wound that you've
identified as

4 number 1, and this is just your way of numbering
them, is

5 it not?

6 A. That's correct.

7 Q. There's no way you can determine
any

8 order is there?

9 A. No.

10 Q. Okay. And as a matter of fact,
the

11 fourth one could be the second one, and the first one
12 could be the third, and the second one could be the
first.

13 There's just absolutely no way to determine the order,
is

14 there?

15 A. No, there's not.

16 Q. Now, the one that you designated as
17 number 1, were you able to determine where the sharp
edge

18 was, and where the blunt edge was?

19 A. Yes. The sharp edge pointed
towards

20 the center of the chest, and the blunt was towards
the
21 arm.

22 Q. Okay. So, if I'm indicating
with my

23 finger the -- I've indicated on wound 1 the sharp
edge?

24 A. Yes.

25 Q. Okay. And the blunt edge you say
is up

Sandra M. Halsey, CSR, Official Court Reporter

1 here?

2 A. That's correct.

3 Q. And that would be indicative of a
4 single-edged weapon, or knife; is that right?

5 A. Yes.

6 Q. Okay. Now, can you tell the width
of
7 this knife?

8 A. Not accurately, no.

9 Q. Okay. Can you tell the length of
the
10 knife blade?

11 A. I can just say how far it went into
the
12 body. I can't say how long the actual knife was.

13 Q. Why is that?

14 A. Well, a knife could be a lot longer
15 than, you know, what you see in the body. I can just
say
16 that the knife went in five inches.

17 Q. Okay. And, of course, you can take
a
18 knife and if you were to stick me say, for example, in
the
19 stomach with a knife, you could make a penetration of

say

20 four inches, for example, with a knife, with a blade

no

21 more than a three inches in length; is that not

correct?

22 A. Yes, that's correct.

23 Q. Because the body would give some,

would

24 it not?

25 A. That's correct.

1 Q. Okay. But you know, that if you
find
2 a -- so, you can tell us, that you can't determine the
3 exact length of the knife blade; is that right?

4 A. That's correct.

5 Q. Okay. Now, the wound that you've
6 marked, or designated in your report as number 2, did
you

7 examine that to see if you found a sharp edge and a
blunt
8 edge?

9 A. Yes, I did.

10 Q. Okay. And were you able to
distinguish

11 a sharp edge and a blunt edge?

12 A. I found a sharp edge down lower. I
13 could distinguish a sharp edge on number 2.

14 Q. A sharp edge was here?

15 A. No, it's there.

16 Q. Okay.

17 A. The portion of the wound above it,
the

18 opposite of where you were pointing, I call that
19 indeterminate, because I couldn't say if it was sharp
or
20 blunt. So we use the term indeterminate if you can't

tell

21 specifically.

22 Q. Okay. Can you make any

determination

23 with respect to the wound that you've designated as 3?

24 A. No.

25 Q. Okay. How about with respect to
the

Sandra M. Halsey, CSR, Official Court Reporter

1 wound that you've designated as 4?

2 A. No.

3 Q. Okay. Can you even tell the jury
with

4 certainty that these wounds were made by the same
5 instrument?

6 A. I can't say with certainty. It's
7 possible they were, it's possible they weren't.

8 Q. Okay. So it's an "iffy" type of
9 situation?

10 A. Well, I just can't say.

11 Q. Okay. Now, did you -- when you
12 examined these wounds, did you notice anything unusual
13 about the entrance wound?

14 A. I don't know what you're -- they
looked
15 like stab wounds.

16 Q. Did you take a cross section of
these
17 wounds?

18 A. I saved the chest plate.

19

20 MR. TOBY SHOOK: Turn the thing so
they

21 can see it.

22 MR. DOUGLAS MULDER: Y'all can't

see

23 this?

24 THE COURT: If the jury ever can't

see

25 anything, please raise your hand and state so, please.

Sandra M. Halsey, CSR, Official Court Reporter

78

1 MR. DOUGLAS MULDER: Can you see
what

2 they're talking about?

3 THE JURY: Yes.

4

5 BY MR. DOUGLAS MULDER:

6 Q. Sharp edge here?

7 A. Yes.

8 Q. Sharp edge here?

9 A. Yes.

10 Q. Indeterminate here?

11 A. Yes.

12 Q. And blunt here?

13 A. Yes.

14 Q. Okay. Have you been shown any

knife or

15 instrument that purportedly caused these injuries?

16 A. Yes, I have.

17 Q. Okay. Did you bring it with you?

18 A. No.

19 Q. Okay. And, how long ago did you

see

20 that?

21 A. I looked at it yesterday.

22 Q. Is that the first time that you've

seen

23 it?

24 A. Yes.

25 Q. Okay. You're telling me that you
did

Sandra M. Halsey, CSR, Official Court Reporter

1 the autopsy some seven months ago --

2 A. Yes.

3 Q. -- and the first time they showed
you a

4 weapon that they are contending caused these injuries
was

5 yesterday?

6 A. Yes.

7 Q. Okay. Do you know -- when you say
the

8 chest plate, I assume that you're talking about this
area

9 right here?

10 A. Yes.

11 Q. And you preserved that?

12 A. Yes, I did.

13 Q. Okay. And what was done with that?

14 A. At the time of autopsy I saved the
15 chest plate. I put it in a bag with formalin which is
a

16 preservative.

17 Q. Okay. Did you notice any markings
or

18 toolings or any irregularities that you noted, around
19 either wounds 1 or 2?

20 A. I did not examine that closely to

look

21 for the toolmarks. We have other individuals in the
22 laboratory that do those sort of analyses.

23 Q. Do you know whether or not there
were

24 any tool markings around those entrance wounds?

25 A. I believe there is a report, but I

Sandra M. Halsey, CSR, Official Court Reporter

1 don't know all of the details. I would have to look
at
2 the report on what they did find. I don't do that
3 examination.

4 Q. Okay. How many stabbings have you
seen

5 in the course of your -- I think you said 1,500
autopsies?

6 A. I'd say hundreds. I don't know
7 specifically.

8 Q. Okay. Can you give the jury an
9 educated guess as to what might cause the tool
markings

10 around those entrance wounds?

11 A. Well, just various characteristics
of a
12 knife itself. You know, a knife is a tool, so if
there's

13 something on the knife that makes a mark, it can do
that

14 into the cartilage. The actual knife can make a mark.

15 Q. Into
what?

16 A.
Cartilage.

17 Q. Okay. Is -- was it the cartilage

that

18 was marked, or was it the outside of the chest plate

that

19 was marked?

20 A. The cartilage is what they look at,

to

21 look for the marks.

22 Q. Okay. Whereabouts on the cartilage

23 would they look?

24 A. They look at the cartilage. And

you

25 really need to talk to the person that does that,
because

1 I don't do that analysis.

2 Q. Okay. But you can't tell us what
might

3 cause those tool markings?

4 A. Something from the knife.

5 Q. Okay. The knife is going to be
6 relatively smooth on both sides, is it not?

7 A. Well, we're talking about the
cutting

8 side of the knife. That's what we're talking about.

9 Q. You're talking about the sharp
edge?

10 A. Yes.

11 Q. On wound 1?

12 A. No, we're talking about wound 2
that

13 went through the cartilage.

14 Q. Okay. Wound 2, it is the one that
15 penetrated some two and a half inches; is that
right?

16 A. Yes.

17 Q. Okay. Now, are you talking about
the

18 blade that went into the cartilage, --

19 A. Yes.

20 Q. The tip of the blade?

21 A. Well, the sharp edge of the
blade.

22 Q. Well, the blade is generally, when
a

23 knife is sharpened all the way to the tip, or most of
the

24 way to the tip, is it not?

25 A. Yes.

1 Q. Okay. And is that what you're
talking

2 about -- what part are you talking about that might
have

3 marked the cartilage?

4 A. The sharp edge of the knife, or
any

5 portion of the knife.

6 Q. Well, of course, if --

7 A. The blade itself is what I'm
trying to

8 say.

9 Q. Pardon?

10 A. The blade portion of the knife can
make

11 marks.

12 Q. Okay. This wound was only two and
a

13 half inches deep, was it not?

14 A. That's correct.

15 Q. Okay. So that we know that -- that
16 that blade could not have penetrated that body more
than

17 two and a half inches, could it?

18 A. Well, that's as far as it went,

yes.

19 It went two and a half inches.

20 Q. Okay. Doctor, can you give us any
21 range as to how long that child would have lived once
the

22 damage to his chest area, that you have testified to,
23 occurred?

24 A. Again, I feel like, I can't say a
25 specific minute, but minutes is what I believe.

Sandra M. Halsey, CSR, Official Court Reporter

1 Q. Well, I know you can't say a minute
and

2 24 seconds.

3 A. Right.

4 Q. But can you give us a range like,
you

5 know, not more than three minutes, or not more than
five

6 minutes, or not more than --

7 A. Well, again, it would just be a
rough

8 guess. Probably not more than five minutes. But
again,

9 that is a guess, because I don't know specifically.

10 Q. All right. I understand. Now,
could

11 you tell whether or not there had been any attempts
to

12 resuscitate this child?

13 A. I didn't see anything, but
sometimes

14 you don't see anything on resuscitation.

15 Q. I mean, what would you look for if
you

16 were to see if someone had given him mouth to mouth

17 resuscitation, or whether someone had performed CPR on

18 him?

19 A. Occasionally with CPR you might see
20 some bruises on the chest, sometimes you don't.

21 Q. Okay. So that, again, that kind of
22 depends on the situation?

23 A. Yes.

24 Q. The fact that you don't see them --

or
25 did you see them?

Sandra M. Halsey, CSR, Official Court Reporter

1 A. I didn't see anything, no.

2 Q. Well, the fact that you didn't see
them

3 doesn't mean that CPR wasn't attempted, does it?

4 A. No, it doesn't.

5 Q. All right. Now, what would happen,
6 Doctor, if you were to attempt mouth to mouth
7 resuscitation with this child's open wounds? If you
blew

8 into that child's open wounds, I take it the lungs, at
9 least the lung in the first wound was penetrated?

10 A. Yes.

11 Q. What would you expect -- the child
12 didn't have a shirt on?

13 A. No.

14 Q. Okay. What would happen if
you blew

15 into that child's mouth? What would happen with
respect

16 to those injuries?

17 A. I don't know what would have
happened

18 to the injuries.

19 Q. Would anything have come out
of those

20 injuries?

21 A. Well, I don't know if it
would,

22 possibly. I don't know. Maybe some blood,
maybe not. I

23 don't know.

24 Q. Okay. But blood could have
come out,

25 could it not?

Reporter Sandra M. Halsey, CSR, Official Court

1 A. It's possible.

2 Q. Okay. There will be a
hemorrhage

3 associated with those -- you said cut the
pulmonary

4 artery, didn't you?

5 A. Yes.

6 Q. Well, isn't that one of the two
main

7 arteries in the body?

8 A. Yes, it is.

9 Q. I mean, it's one of the largest
10 arteries that we have, isn't it?

11 A. Yes.

12 Q. So you would expect, you said the
child

13 bled out. He, in effect, bled to death, did he not?

14 A. Yes.

15 Q. So you would expect a lot of blood
16 associated with that initial intrusion, would you
not?

17 A. Yes. I found in each chest
cavity

18 itself about 450 milliliters of blood.

19 Q. Well, then you can say with

certainty,

20 Doctor, that if you blew into that child's mouth,
blood is

21 going to come out these holes, isn't it?

22 A. I don't know if blowing into it
would

23 do anything.

24 Q. Oh, you don't?

25 A. No.

Sandra M. Halsey, CSR, Official Court Reporter

1 Q. Would you just say it's a
possibility?

2 A. I guess it's possible, blowing or
3 moving the body.

4 Q. All right. Doctor, was there any
other

5 clothing associated with the body, other than the
Power

6 Ranger shorts?

7 A. Well, what I received were the
Power

8 Ranger shorts. And then there was a Power Ranger
pillow

9 case and pillow that was submitted with the body.
Also a

10 black and white bed cover. So that's what I received
with

11 that body.

12 Q. Doctor, if you blew into the
child's

13 mouth, in a mouth-to-mouth resuscitation effort, would
air

14 come out those invasions? You don't know about that
15 either?

16 A. I don't know. I've never done

that, so

17 I don't know.

18 Q. You just deal with the dead bodies,
19 don't you? You don't deal with the live ones?

20 A. That's correct.

21

22 MR. DOUGLAS MULDER: I believe
that's

23 all. Thanks.

24

25

1
2
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17

REDIRECT EXAMINATION

BY MR. GREG DAVIS:

Q. Dr. McClain, would you expect blood to be gushing out of stab wound number one as that wound was being inflicted on this child?

A. It could come out, or it might just be in the body too.

Q. Okay. What do you mean it might just be in the body?

A. That the blood seeping out of the lungs is collecting in a chest cavity. And I have 450 milliliters of blood in each chest cavity. So it doesn't have to go out of the body, it could stay in the body.

Q. How about stab wound number 2. Would you expect blood to spurt out of that wound as that wound was being inflicted on the child?

18 A. No, not necessarily, because it can
19 just all be in the body. So I've got, you know,
 again,
20 450 milliliters of blood in the chest, both sides of
 the
21 chest.

22 Q. Would you say that that is a
23 substantial amount of blood in the cavity?

24 A. Yes.

25 Q. How much blood would this child
 have

1 had in all?

2 A. Probably about -- I can give an
3 estimate around 1,400 milliliters, and I got --

4 Q. So we're talking about a third of
the

5 blood then?

6 A. And I've got about 900 altogether
in
7 the body. Because I had 450 in each chest, and then
there

8 was about 30 in the pericardial sac. So I collected
930
9 milliliters within the body.

10 Q. Okay. Mr. Mulder asked you about
11 breast plates and impressions that you took. Do you
know

12 a person by the name of Robert Poole?

13 A. Yes.

14 Q. Who is Robert Poole?

15 A. He's a firearm and tool mark
examiner

16 at the Southwestern Institute of Forensic Sciences.

17 Q. Okay. And did I understand you to
say

18 you don't do tool mark analysis, do you?

19

A. No.

20

Q. Would that be something Mr. Poole

would

21 do?

22

A. Yes.

23

Q. Okay.

24

25

MR. GREG DAVIS: May I

approach, your

Reporter Sandra M. Halsey, CSR, Official Court

1 Honor?

2 THE COURT: You may.

3

4 BY MR. GREG DAVIS:

5 Q. Doctor, let me show you what's
been

6 marked as State's Exhibit 67. Do you recognize
that?

7 A. Yes, I do.

8 Q. Okay. Is this the knife that
you

9 looked at yesterday?

10 A. Yes.

11 Q. Okay. Doctor, just looking at
State's

12 Exhibit 67, is this a single, or is this a double-
edged

13 knife?

14 A. That's a single-edged knife.

15 Q. All right. Do you know
approximately

16 how long the blade is on this knife?

17 A. I didn't measure exactly that.
It's

18 either 8 or 10 inch.

19 Q. Okay. Now, on the cutting edge

of this

20 knife, on the single edge that's sharp, are there
certain

21 marks?

22 A. Yes.

23 Q. Okay. What type of marks are on

this

24 knife?

25 A. Very small serrations.

1 Q. Okay. Just small parallel lines
that
2 run pretty much the length of the cutting edge; is
that
3 correct?

4 A. That's correct.

5 Q. Doctor, looking at State's Exhibit
67,
6 can you tell us whether or not stab wound number 1 to
7 Devon Routier could have been produced by State's
Exhibit
8 67?

9 A. Yes.

10 Q. Anything at all that would have
11 excluded State's Exhibit 67 as having produced stab
wound
12 number 1?

13 A. No.

14 Q. Can you tell us whether or not
State's
15 Exhibit 67 could have produced stab wound number 2?

16 A. Yes, it could have.

17 Q. Is there anything at all that
would
18 have excluded State's Exhibit No. 67 as having
produced

19 stab wound number 2?

20 A. No.

21 Q. Now, on stab wound number 2, did I
22 understand you to say the sharp edge is downward; is
that

23 correct?

24 A. Yes.

25 Q. If you would, I would like for you
to

Sandra M. Halsey, CSR, Official Court Reporter

1 assume that this child, at the time that he received
stab

2 wound number 2, had his left arm covering a portion of
his

3 lower chest. Okay.

4 Would it have been possible for
this

5 knife, with the sharp edge down, to have caused both
stab

6 wound number 2 and the incised wound that we see here
on

7 State's Exhibit 1-E?

8 A. Yes.

9 Q. Okay. Looking finally at wound
number

10 4. Is it possible that State's Exhibit No. 67 could
have

11 produced stab wound number 4?

12 A. Yes.

13 Q. Is there anything at all that
would

14 have excluded State's Exhibit 67, as having produced
that

15 stab wound?

16 A. No.

17 Q. Okay.

18

19 MR. GREG DAVIS: I'll pass the
witness,

20 your Honor.

21

22 RECROSS EXAMINATION

23

24 BY MR. DOUGLAS MULDER:

25 Q. Now, Doctor, can you give the --
first

1 of all, you aren't saying that that's the weapon
that

2 caused those stab wounds, are you?

3 A. No. I'm saying it's consistent
with.

4 Q. Could be is what you're saying?

5 A. Yes.

6 Q. No question about that, is there?

7 A. No, there's no question it could
be.

8 Q. And you're not identifying that
knife

9 as the instrument that caused those injuries, are
you?

10 A. No.

11 Q. No question about that, is there?

12 A. No, I can't say.

13 Q. Can you give us the maximum width
of

14 the knife that could have caused those injuries? And
when

15 I say width, I'm talking about this portion.

16 (Demonstrating on knife.)

17 A. You really can't because there is a
18 sharp edge, you could have a very long length on the

body

19 just by pulling a knife through, so --

20 Q. In effect, what you're saying is
that

21 you could -- you could take a relatively narrow knife
and

22 by pulling it down, of course, this isn't cutting
even,

23 but you could make a wide gash -- (Demonstrating with
24 knife on paper.)

25 A. A longer.

1 Q. A long gash with a relatively
narrow --

2 with a knife less than half this width. Right?

3 A. Yes.

4 Q. Okay. Can you tell us the -- so
you

5 can't tell us the width of the knife; is that right?

6 A. No, you can't say how long that is.

7 Because just like you pointed out, you could pull it
down.

8 Q. Can you tell us how long the blade

9 would be?

10 A. I can just tell you how deep it is
in

11 the body. Again, five inches on one, two and one half
on

12 the other. So, I can't tell you how long the knife
would

13 have to be.

14 Q. Okay.

15 A. Or how long it is.

16 Q. Okay. And there isn't any way that
you

17 know of, of estimating that, I guess?

18 A. No.

19 Q. Okay. Can you tell us whether or

not

20 the -- assuming that it was a knife. And we're going
to

21 have to assume that it was a knife. It could be other
22 sharp instruments that could
have caused this. Right?

23 A. I feel like
it is a knife.

24 Q. Okay.

Could you tell whether or not
25 the knife had a serrated blade
or a plain blade?

Sandra M. Halsey, CSR,
Official Court Reporter

1 A. I cannot
tell.

2 Q. You can't
tell?

3 A. No.

4 Q. You've said that this knife, in
fact,

5 has a serrated blade?

6 A. That's correct.

7 Q. Okay. Now, did you x-ray the body?

8 A. Yes.

9 Q. Okay. And did you find -- this was
a

10 very healthy young man, was he not?

11 A. Yes.

12 Q. Good hygiene?

13 A. Yes.

14 Q. I mean, a well taken care of young
man,

15 wasn't he?

16 A. Yes.

17 Q. Okay. Teeth were good?

18 A. Yes.

19 Q. Good dental hygiene?

20 A. Yes.

21 Q. You examined those, didn't you?
22 A. Yes.
23 Q. Matter of fact, you looked to see
if
24 there was any evidence of child abuse, didn't you?
25 A. Yes.

Sandra M. Halsey, CSR, Official Court Reporter

1 Q. Any bones that perhaps were broken
and

2 had healed? You looked for that, didn't you?

3 A. That's correct. There were none.

4 Q. Were none. So this child was in a
very

5 fit condition, was he not?

6 A. Yes.

7 Q. Well nourished?

8 A. Yes.

9 Q. Apparently well taken care of,
didn't

10 he?

11 A. Yes.

12 Q. And no evidence of any child abuse
in

13 his history?

14 A. No.

15 Q. Okay. Thanks.

16

17 THE COURT: That's it? Are you
18 through, Mr. Mulder?

19 MR. DOUGLAS MULDER: I am for right
20 now, Judge.

21 THE COURT: All right. Can I see
both

22 sides a minute?

23 MR. DOUGLAS MULDER: Yes.

24 THE COURT: You have no more

questions

25 for this witness?

Sandra M. Halsey, CSR, Official Court Reporter

1 MR. DOUGLAS MULDER: No, I pass the
2 witness, Judge.

3
4 (Whereupon, a short
5 discussion was held
off
6 the record, at the
side
7 of the bench, and
8 outside the hearing
of
9 the jury, after
which
10 time the
proceedings
11 were resumed on
the
12 record as
follows:)

13
14 THE COURT: Okay. Ladies and
gentlemen

15 of the jury --

16 You may step down, ma'am. Thank
you
17 very much for coming.

18 This is our first day, and we are
19 running a little late. But nonetheless, I'm going to
20 recess you for lunch now until 1:30. We have some
matters
21 to take up here. And since I am new to Kerrville, I
think
22 that will give you enough time to eat. Don't want to
23 upset anybody here. I think you can get in before the
24 lunch crowds occur.
25 So, just the following
instructions:

Sandra M. Halsey, CSR, Official Court Reporter

1 Don't talk about this case to anybody. If somebody
tries

2 to talk to you about the case, tell the bailiff who
3 happens to be with you at the time.

4 You can make casual comments to the
5 people you see in the courtroom, but we're very
6 sociable -- nobody is going to talk to you about this
case

7 until it's all over. When the case is over, you may
talk

8 or not talk as you see fit. But don't discuss it with
9 anybody.

10 Now, don't discuss it among
yourselves

11 when you get back in the jury room there, because it's
not

12 over yet.

13 And finally, don't do any
14 investigations on your own. I know this is on a
change of

15 venue, so Rowlett's quite a ways away. I don't think
16 anybody will be flying up there or driving up there
over

17 the weekend to see it.

18 Do no investigation on your own.

Don't

19 read any law books, or anything like that. You have
20 received a copy of the juror
instructions, basically
21 that's what it is.
22 So, we'll see
everybody back here at
23 1:30. Come straight back to the
jury room, please. And
24 that will be fine. We'll see
everybody here at 1:30.
25 Wear that juror badge at all
times. Thank you very much.

Sandra M. Halsey, CSR,
Official Court Reporter

1
2 (Whereupon, a
short
3 Recess was
taken,
4 After which
time,
5 The proceedings were
6 Resumed on the record,
7 In the presence and
8 Hearing of the defendant
9 And the jury, as follows:)

10
11 THE COURT: All right. Is
everybody
12 ready to bring the jury back in?

13 MR. GREG DAVIS: The State is
ready,
14 Judge.

15 MR. DOUGLAS MULDER: Yes, sir, the
16 defense is ready.

17 THE COURT: All right. Bring the
jury
18 in, please.

19
20 (Whereupon, the jury

21 Was returned to

the

22 Courtroom, and

the

23 Proceedings

were

24 Resumed on the record,

25 In open court, in the

Sandra M. Halsey, CSR, Official Court Reporter

1 Presence and hearing
2 Of the defendant,
3 As follows:)

4
5 THE COURT: All right. Please come
to
6 order. Let the record reflect that we're resuming the
7 Darlie Routier matter.

8 Let the record reflect that all
parties
9 of the trial are present and the jury is seated.

10 Ladies and gentlemen of the jury,
for
11 your planning, due to the inclement weather, we'll be
12 breaking today around 4:30, plus or minus a few
minutes
13 each way.

14 All right. Your next witness --
this
15 witness has already been sworn.

16 Go ahead, Mr. Davis.

17 MR. GREG DAVIS: Thank you.

18
19
20
21

22

23

24

25

Sandra M. Halsey, CSR, Official Court Reporter

100

1 Whereupon,

2

3

DR. JANIS TOWNSEND-PARCHMAN

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

DIRECT EXAMINATION

11

12 BY MR. GREG DAVIS:

13

Q. Ma'am, would you please tell us
your

14 full name.

15

A. Janis Townsend-Parchman.

16

Q. Are you a medical doctor?

17

A. Yes, I am.

18

Q. Would you please tell us how
you're

19 employed.

20

A. I'm employed as a medical examiner

by

21 Dallas County.

22 Q. How long have you been a medical
23 examiner for Dallas County?

24 A. I've been working for Dallas
County for
25 five and a half years.

Sandra M. Halsey, CSR, Official Court Reporter

101

19 residency program to Methodist Medical Center of
Dallas

20 and completed it.

21 I am licensed to practice medicine
in

22 the State of Texas. I'm certified by the American
Board

23 of Pathology in anatomic, clinical and forensic
pathology.

24 I've done over 1,800 forensic autopsies.

25 Q. All right.

1 THE COURT: You may want to speak
into

2 that microphone, Doctor. Okay.

3 THE WITNESS: Okay. Is it on?

4 THE COURT: It's on.

5

6 BY MR. GREG DAVIS:

7 Q. Doctor, did you perform an autopsy
on

8 an individual identified to you as Damon Routier?

9 A. Yes, I did.

10 Q. And was that assigned the case
number

11 of 1810-96?

12 A. Yes, it was.

13 Q. As part of your autopsies, do you
14 prepare a written autopsy report of your
findings?

15 A. Yes.

16

17 MR. GREG DAVIS: Your Honor,
may I

18 please approach?

19 THE COURT: You may.

20

21 (Whereupon, the following

22 mentioned item was
23 marked for identification
24 only as State's Exhibit B,
25 3, 3-A & 3-B, after

Sandra M. Halsey, CSR, Official Court Reporter

1 which time the
2 proceedings were
3 resumed on the record
4 in open court, as
5 follows:)

6
7 BY MR. GREG DAVIS:

8 Q. Dr. Townsend-Parchman, if you
would,
9 please look at State's Exhibit No. 3, and tell me
whether
10 or not that is a true and correct copy of the autopsy
11 report prepared in this case involving Damon
Routier?

12 A. Yes, it is.

13 Q. Okay. Doctor, at the time of
the
14 autopsy, was a record photograph taken of the
victim?

15 A. Yes.

16 Q. If you would, please look at
what's
17 been marked as State's Exhibit B. And I'll ask
you
18 whether or not that photograph bears also the case

number

19 of 1810-96, the same number that appears on the
autopsy

20 report concerning Damon Routier?

21 A. Yes, it does.

22 Q. All right.

23

24 MR. GREG DAVIS: Your Honor, at

this

25 time we will offer State's Exhibit No. 3. We
would offer

Reporter Sandra M. Halsey, CSR, Official Court

1 State's Exhibit B for record purposes only.

2 MR. DOUGLAS MULDER: No
objection.

3 THE COURT: State's Exhibit 3
is
4 admitted for all purposes. 3-B is admitted for
record
5 purposes only, not to be shown to the jury.

6
7 (Whereupon, the items
8 Heretofore mentioned
9 Were received in evidence
10 As State's Exhibit No. 3
11 For all purposes, and
12 State's Exhibit B
13 For record purposes only,
14 After which time, the
15 Proceedings were resumed
16 As follows:)

17

18 BY MR. GREG DAVIS:

19 Q. Doctor, do you have another copy
of
20 your autopsy report with you?

21 A. Yes, I have the original.

22 Q. Okay. Doctor, if you would, would
you

23 briefly tell us the procedures that you used to
perform

24 this autopsy on this child.

25 A. Well, the standard procedure at
our

Sandra M. Halsey, CSR, Official Court Reporter

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1 office for a homicide, since this is a homicide --
the
2 first thing that happens, the medical examiner reads
the
3 background information that's been compiled by one of
our
4 investigative agents. And then the autopsy actually
5 begins.

6 The first thing that happens is
what we
7 call an "as is" photograph that's taken of the
individual,
8 simply as they're received by our office. And after
that,
9 evidence is collected, whatever the appropriate
evidence
10 is for that case.

11 The body is disrobed, and a brief
12 inventory of any clothing or jewelry on or with the
body
13 is made at that time. Standard characteristics are
noted
14 about the body during the external examination,
including
15 length, weight, hair color, eye color, and so on and
so

16 forth, including any scars or identifying marks,
and
17 including any evidence of treatment at the
hospital.

18 Photographs are taken of the
body,
19 particularly noting any injuries. And, of course,
during
20 our examination the injuries are noted and described.
And
21 then, when all of that is taken care of, the actual
22 internal examination is made with the characteristic
23 incisions being made in the body.

24 The body organs are examined while
25 they're still in the body cavities looking for
evidence of

1 natural disease and looking for evidence of injury.
And

2 samples of body fluids are taken at that time to be
sent

3 to our toxicology lab for analysis.

4 Then the body organs are removed
from

5 the body cavities and they are again examined, both
while

6 intact, and after incisions were made in them, looking
for

7 evidence of natural disease and evidence of any
injury. A

8 portion of each body organ is put into a preservative
9 solution in case microscopic slides need to be made.

10 Q. Can you tell us how tall Damon
Routier

11 was?

12 A. Well, we do length, not weight --
13 rather not height. And when we measured him, we got

43
14 inches in length.

15 Q. Okay. How much did he weigh?

16 A. Forty pounds.

17 Q. Were there any clothes accompanying
the

18 body to the morgue?

19 A. Accompanying the body, there was a
cut

20 away blood-stained, black, printed T-shirt with
defect.

21 No jewelry was present.

22 Q. Okay. Now, when you talk about a
23 T-shirt having a defect. What do you mean?

24 A. Simply that there were one or more
25 defects or holes in it.

1 Q. Do you recall whether the defects
were
2 on the front or the back of the T-shirt?

3 A. I don't really recall in any
detail to
4 tell you the truth.

5 Q. So that's the only clothing that
came
6 with him. Correct?

7 A. Correct. And there was no
clothing on
8 his body.

9 Q. Okay. During the course of the
10 autopsy, did you note any injuries to Damon Routier?

11 A. Yes, indeed.

12 Q. Would you tell us what those
injuries
13 were.

14 A. There were four stab wounds, and
there
15 were two incised wounds. Incised wounds, like stab
16 wounds, are sharp-force injuries. Injuries caused by
a
17 sharp-edged object. Incised wounds are commonly
called

18 cuts. They are longer on the surface of the body
than
19 they are deep into the body, and stab wounds are just
the
20 opposite. They are longer within the body than they
are
21 long on the surface of the body.

22

23 MR. GREG DAVIS: Okay. May I
approach,

24 your Honor?

25

THE COURT: You may.

Sandra M. Halsey, CSR, Official Court Reporter

1

2 BY MR. GREG DAVIS:

3 Q. Doctor, if you would, look at the
4 photographs that have been marked as State's Exhibits
3-A

5 and 3-B. I'll ask you whether these two photographs
truly

6 and accurately depict the injuries that you noted
during

7 the autopsy of Damon Routier.

8 A. Yes, they do.

9 Q. Do you believe that they would
assist

10 the jury and would assist you during your testimony in
11 describing these injuries?

12 A. Yes, I do.

13

14 MR. GREG DAVIS: Your Honor, at
this

15 time we'll offer State's Exhibits 3-A and 3-B.

16 MR. DOUGLAS MULDER: We have no
17 objection.

18 THE COURT: State's Exhibits 3-A
and

19 3-B are admitted.

20

21 (Whereupon, the items
22 Heretofore mentioned
23 Were received in
evidence
24 As State's Exhibit No.
3-A
25 And 3-B for all
purposes,

Sandra M. Halsey, CSR, Official Court Reporter

1 After which time, the
2 Proceedings were resumed
3 As follows:)

4
5 BY MR. GREG DAVIS:

6 Q. Doctor, can you still see the
board?

7 A. Yes, I can.

8 Q. Doctor, again, if we look at the
injury

9 that's marked with a black 1 first, can you tell us
what

10 type of injury this one is?

11 A. That's one of the incised wounds or
12 cuts.

13 Q. Okay. This is going to be more of
a

14 cut than a stab. Correct?

15 A. It's not a stab, it's a cut.

16 Q. Can you tell us about how deep
injury

17 number 1 was?

18 A. Into the body?

19 Q. Yes.

20 A. One-eighth inch, going into the
muscle.

21 Q. If we look at the wound that's
marked

22 with a black 2, what type of injury is that?

23 A. That's another incised wound or
cut.

24 Q. How deep was this wound number 2?

25 A. It also goes into the muscle. And
the

Sandra M. Halsey, CSR, Official Court Reporter

1 depth was three-quarter inch.

2 Q. Now, if we turn to the four
injuries

3 that are marked with the white numbers, are those the
stab

4 wounds?

5 A. Yes, they are.

6 Q. Looking first at stab wound number
1,

7 can you tell us how deep was stab wound number 1?

8 A. One and three quarter inches.

9 Q. All right. And, what organs were
10 penetrated with stab wound number 1?

11 A. It perforated, which means made a
hole

12 in the left 8th rib, as well as the left 7th,
intercostal

13 muscle, which is the muscle between the left 7th and
8th

14 ribs. And it went into the left lung.

15 Q. Did this actually penetrate a rib
then?

16 A. Yes, it did. It went through a
rib.

17 Q. Could you compare this child's

ribs

18 with an adult's ribs, consistency, just -- are they
the

19 same? Are they different? How would you compare
those?

20 A. They are different. They are
narrower,

21 they are thinner and they are softer.

22 Q. Okay. Would it take more force,
less

23 force, or just as much force, to penetrate this
child's

24 rib as it would to penetrate one of my ribs or another
25 adult's ribs?

Sandra M. Halsey, CSR, Official Court Reporter

1 A. Less force.

2 Q. Stab wound number 2 here. Can you
3 describe that for us?

4 A. That one goes through the right 8th
rib

5 and also the right 7th intercostal muscle, and goes
into

6 the right lung to a depth of four and three quarter
7 inches.

8 Q. Okay. How deep again?

9 A. Four and -- I'm sorry, four and
10 three-eighth inches.

11 Q. Okay. Stab wound number 3. Can
you

12 describe that one for us?

13 A. That one goes through the right 8th
14 intercostal musculature. That's the muscle between
the

15 right 8th and 9th ribs. And it goes into the right
lung

16 with a maximum depth of penetration of one and
17 seven-eighth inches.

18 Q. Okay. Finally, stab wound number 4.
19 Would you describe that one for us.

20 A. That goes through the right 11th
21 intercostal musculature. It goes through the right

lung,

22 the diaphragm and into the liver, with a maximum
depth of

23 penetration of three inches.

24 Q. Now, on these wounds, were you

able to

25 determine whether or not these four stab wounds
marked

Sandra M. Halsey, CSR, Official Court Reporter

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1 with a white 1, 2, 3 and 4, whether or not they were
2 consistent with having been made by a single-edged
knife?

3 A. Yes.

4 Q. Okay. Were they?

5 A. Yes. Each of those, as well as
the

6 incised wounds, had one, we call angle, more pointed
7 portions of the wounds. And each one of those had a
blunt

8 angle, and a squared off angle. And each one had a
sharp

9 angle, and that's consistent with a single-edged
10 instrument.

11 Q. Okay. Did you note that same
pattern

12 on each one of these injuries?

13 A. All six.

14 Q. Okay. These injuries, would it be
fair

15 to say that they appear to be rather wide on this
16 photograph?

17 A. Yes.

18 Q. Okay. Can you describe how the
skin

19 may act after a stabbing to produce this sort of
20 appearance at autopsy?

21 A. Your skin has in it what doctors
call
22 lines of Langer, which are lines of tension, and
they're
23 really -- it's a matter of elastic -- of the
elasticity of
24 the skin. And, unless a stab wound is absolutely
parallel
25 with the lines of Langer, it's going to spread. It's
just

1 the nature of skin.

2 If it's absolutely parallel with
these

3 lines of Langer, along which the tension flows, then
it

4 won't spread, because it's right there and the
tension is

5 going along with it. But, if it's the least bit of
like

6 or crosswise, it's going to spread.

7 Q. Okay. In this case, did these
wounds

8 spread after the wounds were actually inflicted?

9 A. Yes, on all of them.

10 Q. You talked about these being
consistent

11 with a single-edged knife. If I may, let me show you

12 State's Exhibit No. 67. Have you had an opportunity
to

13 look at this knife?

14 A. Yes, I have.

15 Q. Okay. In fact, did you look at it
16 yesterday?

17 A. Yes, I did.

18 Q. Is this, in fact, a single-edged
knife?

19 A. Yes, it is.

20 Q. If we look at stab wounds 1, 2, 3

and

21 4, starting with stab wounds -- well, the first

incised

22 wound. Is there anything about stab wound number 1,

that

23 would eliminate State's Exhibit No. 67 as the

instrument

24 as -- that actually produced that wound? Is there

25 anything that could exclude that?

Sandra M. Halsey, CSR, Official Court Reporter

1 A. No.

2 Q. Is this wound number 1, the incised
3 wound, is it consistent with having been made with
State's

4 Exhibit No. 67?

5 A. Yes.

6 Q. The incised wound number 2, is that
7 consistent with having been produced with State's
Exhibit

8 Number 67 again?

9 A. Yes.

10 Q. Is there anything about this wound
that

11 would exclude it from having been made with State's
12 Exhibit No. 67?

13 A. No.

14 Q. If we could then, let's look at
stab

15 wound number 1. Is that wound consistent with having
been

16 made with a single-edged knife, such as State's
Exhibit

17 67?

18 A. Yes.

19 Q. Is there anything about that wound

that

20 would exclude State's Exhibit 67 as the weapon that
21 produced that wound?

22 A. No.

23 Q. The same question for State's

Exhibits

24 2, 3 and 4. Are they consistent with having been made
25 with a single-edged knife, such as State's Exhibit 67?

Sandra M. Halsey, CSR, Official Court Reporter

1 A. Yes, they are.

2 Q. They are consistent?

3 A. Yes, they are.

4 Q. Is there anything about these three
5 wounds, 2, 3 and 4, that would exclude State's Exhibit
No.

6 67 as the weapon that produced those wounds?

7 A. No, there isn't.

8 Q. Doctor, looking at these wounds at
1,

9 2, 3 and 4, do you have an opinion as to whether or
not

10 when they would have been produced with a stabbing
motion,

11 would blood have gushed out, or spurted out of stab
wounds

12 1, 2, 3 and 4?

13 A. Gushed or spurted? No.

14 Q. Okay. Do you believe that that
would

15 have occurred?

16 A. Gushed or spurted?

17 Q. Yes.

18 A. No.

19 Q. Okay. What type of bleeding

would you

20 expect to see from stab wounds 1, 2, 3 and 4?

21 A. Ooze.

22 Q. Oozing?

23 A. To a greater or lesser extent,

it's

24 actually impossible to predict how rapid an ooze.

25 Q. Okay. Why would you expect this
to

Reporter Sandra M. Halsey, CSR, Official Court

1 produce an oozing, as opposed to a gushing or
spurting?

2 A. Because they all go into long,
or in

3 the case of number 4 -- and when I say all, I'm
talking

4 about the stab wounds. The incised wounds just go in
the

5 muscle, although muscle oozes too.

6 But 1, 2, 3 and 4 all -- the stab
7 wounds, all go into the lung. None of them cut a
major

8 vessel. They cut actual lung tissue. And what lung
9 tissue does is ooze. That's also what the liver
does.

10 And it's also what muscle does.

11 Q. Doctor, let me ask you, during the
12 course of this autopsy, did you take hair samples
from

13 Damon Routier?

14 A. Yes.

15 Q. Did you also take blood samples?

16 A. Yes.

17 Q. Can you tell us what you did with
the

18 hair and blood samples taken? Did you keep them for
your
19 own analysis or did you send them to someone else out
20 there at Southwestern Institute of Forensic Sciences
for
21 instance?

22 A. What we routinely do, is take all
of
23 the evidence we collect during autopsy up to the
third
24 floor, which is where the criminal investigation
25 laboratory for Dallas County is. And we take the
evidence

1 to the evidence registrar and give it to that person
who
2 enters it into the computer and then gives it to the
3 appropriate people in the criminal investigation
4 laboratory for the actual analysis.

5 Q. So, are there other people out
there
6 who do hair examinations or do blood work, DNA, other
7 folks?

8 A. Yes. Yes. There are several
9 subdivisions of the criminal investigation
laboratory,
10 including people who do all of those things.

11 Q. Okay. Were footprints taken of
Damon
12 Routier?

13 A. As I recall, yes. Let me check.
Yes.

14 Q. Okay. Can you tell from your
report
15 whether or not fingerprints and palm prints were
taken
16 from Damon Routier?

17 A. They were not.

18 Q. Okay. Can you tell us why that was

not

19 done in this case?

20 A. Routinely on small children in this
age

21 group we take footprints. We are largely taking

22 footprints in this age group for possible

identification

23 purposes. And children this age have had, of course,
the

24 footprints taken at the hospital when they are born,

but

25 seldom have had their fingerprints taken.

Sandra M. Halsey, CSR, Official Court Reporter

1 Q. Okay. Doctor, in addition to the
2 photographs that were taken, have you had a chance to
view
3 the video tape depicting the injuries sustained by
Damon
4 Routier?

5 A. Yes.

6 Q. And does that video tape truly and
7 accurately depict the injuries sustained by that
child?

8 A. Yes.

9 Q. Do you believe that it would assist
the
10 jury in understanding the nature of the wounds?

11 A. Yes, I do.

12

13 MR. GREG DAVIS: May I approach,
your

14 Honor?

15 THE COURT: You may.

16

17 (Whereupon, the following
18 mentioned item was
19 marked for
20 identification only
21 as State's

Exhibit 5,

22

after which time

the

23

proceedings were

24

resumed on the

record

25

in open court, as

Sandra M. Halsey, CSR, Official Court Reporter

119

1 follows:)

2

3 BY MR. GREG DAVIS:

4 Q. Okay. Doctor, let me show you
what's

5 been marked as State's Exhibit No. 5. Is that, in
fact,

6 the video tape that you've had a chance to view that
shows

7 the injuries sustained by Damon Routier?

8 A. I believe so.

9 Q. Okay.

10

11 MR. GREG DAVIS: Your Honor, at
this

12 time, we'll offer State's Exhibit No. 5.

13 THE COURT: Any objection?

14 MR. DOUGLAS MULDER: No objection.

15 THE COURT: State's Exhibit No.

5 is

16 admitted.

17

18 (Whereupon, the item

19 heretofore mentioned

20 was received in

evidence

21 As State's Exhibit

No. 5

22 For all purposes,

23 After which time,

the

24 Proceedings were

resumed

25 As follows:)

Sandra M. Halsey, CSR, Official Court Reporter

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1
2
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10
proceedings
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each
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MR. GREG DAVIS: Your Honor, may

publish it at this time?

THE COURT: You may.

(Whereupon, State's
Exhibit No. 5, a
video tape, was
for the jury,
which time
were resumed on
record as follows:)

BY MR. GREG DAVIS:

Q. Doctor, this video does not have
any
sound attached to it, does it?

A. I don't recall such.

Q. Okay. If you would, as we view
injury, if you'll narrate for the jury what we're

looking

20 at please. All right?

21 A. I'll try.

22 Q. Okay. Are we now looking at stab
wound

23 number 1?

24 A. Yes. It's gone through the 8th
rib.

25 And you can see that it goes into the left lung to a
depth

Sandra M. Halsey, CSR, Official Court Reporter

1 of one and three quarter inches.

2 And stab wound number 2 goes
through

3 the right 8th rib. All the way through the right lung
and

4 actually penetrated the anterior chest wall, not all
the

5 way through.

6 Q. Is this area here the anterior
chest

7 wall?

8 A. Yes. The anterior chest wall, the
9 inside.

10 Q. Okay.

11 A. Stab wound number 3 goes through
the

12 right 8th intercostal space, the muscle between the
right

13 8th and 9th ribs and goes into the right lung, as you
can

14 see there.

15 Q. Okay.

16 A. And stab wound number 4 is in the
right

17 11th intercostal musculature between the right 11th
and

18 12th ribs. And it goes through the right lung
diaphragm

19 and into the right lobe of the liver.

20 Q. Okay. Thank you, Doctor.

21

22 (Whereupon, the

witness

23 resumed the witness

24 stand, and the

25 proceedings were

resumed

Sandra M. Halsey, CSR, Official Court Reporter

1 on the record, as
2 follows:)

3

4 BY MR. GREG DAVIS:

5 Q. Doctor, let me just ask you, what
is

6 your opinion concerning the cause of death of Damon
7 Routier?

8 A. Sharp force injuries to the back.

9 Q. Okay. The cause of death, would
that
10 be consistent with this child having been stabbed with
a
11 knife?

12 A. Yes.

13 Q. Okay. A single-edged knife?

14 A. Yes.

15 Q. Let me also ask you, Doctor,
whether or

16 not on June 6th, 1996 you received a call from the
Rowlett

17 Police Department?

18 A. Not me personally.

19 Q. Someone out there at the medical
20 examiner's office?

21 A. Yes.

22 Q. Okay. As a result of that phone
call,

23 did you go to Baylor Hospital in Dallas?

24 A. Yes, I did.

25 Q. And, while at Baylor Hospital, did
you

Sandra M. Halsey, CSR, Official Court Reporter

1 have an opportunity to see the defendant in this case,
2 Darlie Lynn Routier?

3 A. Yes, I did.

4 Q. Do you see her here in the
courtroom

5 this afternoon?

6 A. Yes, I do.

7 Q. Would you please point her out for
the
8 members of the jury.

9 A. She's the lady over there in the
red
10 dress with the white collar.

11

12 MR. GREG DAVIS: Your Honor, may
the
13 record please reflect that this witness is identifying
the
14 defendant in open court?

15 THE COURT: Yes, sir.

16

17 BY MR. GREG DAVIS:

18 Q. Doctor, at the time that you saw
Darlie

19 Lynn Routier where was she?

20 A. She was in a hospital bed.

21 Q. Okay. And, was anyone in the room
when

22 you were there with her?

23 A. There were many people in the room,
but

24 you have to understand this was a large four-bed room,
25 four or six-bed room. And, although there were
many

Sandra M. Halsey, CSR, Official Court
Reporter

1 people in the room, when I was actually looking at
her

2 injuries, there was no one in the immediate
vicinity.

3 Q. Do you remember about what time it
was

4 on June the 6th that you saw her?

5 A. It was afternoon. Late afternoon,
I

6 think.

7 Q. Okay. Did you have an opportunity
to

8 observe the wounds that she had at that time?

9 A. The wounds on her neck and right
10 shoulder, the dressings were removed so that I
could

11 better look at them, but they were still
completely

12 covered by steri-strips. The wounds in her right
forearm,

13 one of them was suture closed, the other one was open,
and

14 there was no dressing on those.

15 Q. So she had a wound to her left
16 shoulder; is that right?

17 A. Anterior left shoulder, yes.

18 Q. One to her neck area?

19 A. Yes.

20 Q. And then another wound to her right

21 arm; is that correct?

22 A. Two in the right forearm, one a

 little

23 bit bigger than the other one.

24 Q. And you had an opportunity to see

 them;

25 is that correct?

Sandra M. Halsey, CSR, Official Court Reporter

1 A. Yes.

2 Q. And, as I understand, the wounds to
the

3 neck and to the anterior portion of the left shoulder,
4 they were still covered with steri-strips; is that
right?

5 A. Yes.

6 Q. What is steri-strips?

7 A. Steri-strips are long, thin,
adhesive

8 pieces of a somewhat translucent, partially see
9 throughable, but not really very see throughable tape,
10 which surgeons and other doctors will put across.

Say

11 your incision is this way, they'll be put across
it, in

12 order to hold the skin edges in very good close
13 proximation. And, by in large, that means it heals
better

14 and gives you a nicer scar. That's why they do it.

15

16 MR. GREG DAVIS: Your Honor, we're
17 going to ask that the defendant be asked to stand up
and

18 remove the scarf so that Dr. Townsend-Parchman can

look at

19 the injuries there on the neck to determine whether -

- so

20 she can describe those injuries as they appeared on

June

21 6th, 1996.

22 MR. DOUGLAS MULDER: Excuse me, I

don't

23 think I'm going to have any objection to this, but I

24 thought the Doctor said that it was bandaged at the

time

25 and she couldn't see it.

17 witness stand, and
18 approached the
defendant
19 and the proceedings
were
20 resumed as follows:)

21

22 BY MR. GREG DAVIS:

23 Q. Doctor, if you could, if you could
go

24 over there to the defendant and just point to the
areas of
25 the injuries and describe what you see today and what
you

1 saw on June 6th, 1996, please.

2 A. Well, what I see today is a scar,
from

3 here to here, (witness pointing on defendant) on the
4 portion of the neck, and the base of the neck that I
can

5 see, which is angled from her right superior to her
left

6 inferior. And, it's a scar that looks about six
months

7 old. And, it's in the same location as where I saw
all

8 the steri-strips going across her neck back in
June.

9 Q. Okay. How about the injury to
the

10 anterior portion of the shoulder? Can you just -
- we

11 can't see that one right now, can we?

12 A. Okay. There's a scar right there
which

13 is, what, about an inch long. And, again, that's in
the

14 same location that I saw steri-strips across her
anterior

15 left shoulder back in June.

16 Q. Okay. How about the injury to her
17 right arm?

18 A. Okay. There's a scar here, with
stitch

19 marks, which is appropriate for what I saw back in
June,

20 that has healed. And, there is also a little scar
21 corresponding to the other defect that I saw back in
June.

22 Q. Okay. So, do we have a longer
scar?

23 A. We have a longer scar here with
stitch

24 marks, and we have got a shorter scar, more on the
dorsum
25 of the forearm.

1 Q. Okay. Thank you, Doctor. You can
take

2 your seat.

3

4 (Whereupon, the witness

5 Resumed the witness

6 Stand, and the

7 Proceedings were resumed

8 On the record, as

9 Follows:)

10

11 BY MR. GREG DAVIS:

12 Q. All right. You have indicated
that you

13 saw the injury to the neck, to the shoulder and the
two

14 injuries to the right arm. Did you note any other

15 injuries while you were examining Ms. Routier?

16 A. Back in June?

17 Q. Yes.

18 A. No.

19 Q. Did she complain of any other
injuries

20 that she wanted you to look at while you were with
her on

21 June 6th, 1996?

22 A. No.

23 Q. Okay. Any other injuries to her
hands,

24 to her legs, to her trunk, her face, any other injury
25 whatsoever?

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1 A. No.

2 Q. Okay.

3

4 MR. GREG DAVIS: May I approach,
your

5 Honor?

6 THE COURT: You may indeed.

7 MR. DOUGLAS MULDER: Judge, may we
all

8 approach?

9 THE COURT: Yes.

10 MR. DOUGLAS MULDER: We're going
to

11 object to displaying anything before the jury until
it's

12 been properly identified and authenticated and the
chain

13 of evidence has been proven, and it's been admitted
into

14 evidence. I tell you, he can do all that, we have
no

15 objection to it, but we want to see him do it
first.

16 That's the only proper thing to do. He knows the
rules.

17 THE COURT: Well, I think that's

what

18 he's getting ready to do.

19 MR. DOUGLAS MULDER: He's not
going to

20 put it in through her.

21 THE COURT: Well, if he is,
let's see

22 if it's going to be offered.

23 MR. GREG DAVIS: Well, Judge, I
am not

24 going to bring it in through this witness at this
time.

25 MR. DOUGLAS MULDER: Well, then
we

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1 object until the evidence is admitted into
evidence.

2 THE COURT: I understand.
Anything,

3 Mr. Davis?

4 MR. GREG DAVIS: No, sir. If
that's

5 the -- I'll certainly, I'll hold this back and I
will

6 bring this witness back from Dallas, if necessary,
and

7 we'll do it at that time, your Honor.

8 THE COURT: All right.

9

10 BY MR. GREG DAVIS:

11 Q. All right. Let me just ask
you,

12 Doctor, did you see any injuries to Ms. Routier that
13 morning, or that afternoon of June 6th, of 1996 that
would

14 have corresponded to three defects in a T-shirt that
she

15 was wearing, during the attack on June 6th, 1996? Any
16 injuries to this portion of her shoulder up here?

17 A. No.

18 Q. Any stab wounds up here?

19 A. No.

20 Q. Any scratches up in this area of
her

21 body?

22 A. I didn't see anything on her right
23 shoulder.

24 Q. Did she complain to you of any
injuries

25 to this portion of her body then?

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1 A. No.

2 Q. Okay. Now, with regard to the
injuries

3 to her neck and to her shoulder, how would you
describe

4 the severity of those wounds that you saw?

5 A. They are relatively superficial.

6 Q. And by that, what do you mean?

7 A. Well, they didn't go very deep into
her

8 body, and they didn't strike any vital structure.

9 Q. Do you have an opinion as to
whether or

10 not the injuries to Ms. Routier's right arm, her left
11 shoulder and her neck could have been self-inflicted?

12

13 MR. JOHN HAGLER: Excuse me, your
14 Honor. I don't think this witness has been qualified
as

15 an expert in the area to know whether that is
16 self-inflicted. We don't question her qualifications
as a

17 medical examiner, but not this line of questioning.

18 THE COURT: Overruled. Go ahead
and

19 answer, if you know it.

20 MR. CURTIS GLOVER: Judge, you
might

21 note, that some of these wounds were concealed and
22 covered. The Doctor didn't even see them at that
time.

23 To make a determination like that with something
24 concealed --

25 THE COURT: Thank you very much.

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1 Overruled. Go ahead.

2 THE WITNESS: It is possible that
they

3 were.

4

5 BY MR. GREG DAVIS:

6 Q. Okay. Is it possible that someone
else

7 did it?

8 A. Yes. It's possible someone else
did

9 it.

10 Q. But it's possible from their
location

11 that she could have done it also?

12

13 MR. DOUGLAS MULDER: Object to the
14 leading.

15 THE WITNESS: Yes, it's possible.

16 THE COURT: Overruled. Go ahead.

17 THE WITNESS: It's possible.

18

19 BY MR. GREG DAVIS:

20 Q. How long were you with Ms. Routier
that

21 afternoon?

22 A. Oh, possibly 10 minutes.

23 Q. Did you have any lengthy

conversations

24 with her?

25 A. No.

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1 Q. If we may, if we could go back to
the
2 injuries sustained by Damon Routier.

3
4 THE COURT: Can all of the members
of
5 the jury see that? If you can't, speak up.

6

7 BY MR. GREG DAVIS:

8 Q. Do you have an opinion whether or
not
9 these wounds would have caused this child to die
10 instantly?

11 A. Yes, I have an opinion, and no, he
12 would not have.

13 Q. Okay. Do you have any -- can you
give
14 us an estimate of the amount of time that you believe
this
15 child could have survived with these four stab wounds
to
16 the back?

17 A. Minutes.

18 Q. Okay. Doctor, I would like for you
to

19 assume for a moment that this child had received all
four
20 of these stab wounds at one time. Okay. Do you have
an
21 opinion whether or not this child could have remained
22 mobile and could have moved on his own, say, 10 to 15
23 feet?

24 A. Yes.

25 Q. Okay. What is your opinion?

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17 It's rapid ooze, but they ooze. They don't spurt,
or
18 whatever your verbs were. And, that means that,
until
19 you -- or whoever the victim is, loses enough blood
volume
20 that they lose consciousness, until that time, they
are
21 able to move around and make noise.
22 Now, in this case, since we are
dealing
23 with the lungs, and you have to think about the
business
24 about the idea of the lungs collapsing. You have to
25 realize that lungs are not like a balloon. It's not
a

1 matter of either it's inflated or it's popped. It's
not
2 like that. Once a lung is punctured, it slowly,
however
3 slowly, sometimes relatively rapidly, but nonetheless
over
4 a period of some time deflates, both as blood comes
out of
5 the lung, and, sometimes you will also have air coming
6 into the chest cavity from -- through the wound
passage
7 way itself. But until that gets to the point that
the
8 lung is no longer inflating and deflating somewhat
with
9 breath efforts, then the person is able to cause
sound, or
10 make a noise.

11 Q. Doctor, finally, if you would look
at
12 State's Exhibit No. 31-B. Do you see depicted on this
13 board certain injuries pertaining to Damon Routier,
stab
14 wounds 1, 2, 3 and 4?

15 A. Yes.

16 Q. Do these truly and accurately
depict

17 the injuries sustained by Damon Routier?

18 A. Yes.

19 Q. Okay. Do you believe that they
would

20 be of assistance to the jury in understanding the
nature

21 of these wounds also?

22 A. I think so. I personally find it
23 easier to follow this, than to follow the video tape.

24 Q. Okay.

25

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1 MR. GREG DAVIS: I'll pass the
witness,
2 your Honor.

3 THE COURT: Mr. Mulder.

4 MR. DOUGLAS MULDER: Yes, sir.

5

6 CROSS EXAMINATION

7

8 BY MR. DOUGLAS MULDER:

9 Q. Dr. Townsend-Parchman, can you give
us
10 your best estimate as to how long this child would
have
11 survived after he had received the last of the
series of

12 six wounds?

13 A. Minutes.

14 Q. I know you said a matter of
minutes,

15 but --

16 A. It's minutes.

17 Q. But I mean --

18 A. My very best estimate, and it's
an

19 estimate, would be that -- if we're still assuming

that

20 all four stab wounds were inflicted at the same
time.

21 Q. Okay.

22 A. That --

23 Q. Or at approximately the same time.

24 A. Yes, approximately the same time.

That

25 from that moment until the time he collapsed, because
of

1 blood loss and difficulty breathing, would be a few
2 minutes.

3 Q. Less than five minutes. Would
that be

4 fair to say?

5 A. Likely.

6 Q. Likely. All right.

7 A. And that, from the time he
collapsed,

8 until he actually expired, would probably be another
few

9 minutes.

10 Q. Okay. So, from the time that he
11 received all of these injuries, he could have lasted
as

12 little as two or three minutes, or as much as maybe
five

13 or six minutes, something like that?

14 A. Yes.

15 Q. Okay.

16 A. Even conceivably a little bit
longer.

17 Q. Maybe as much as eight or nine
minutes?

18 A. You can't tell.

19 Q. All right. Now, there isn't anyway
20 that you know of, that you can determine the order in
21 which these injuries were received, is there?

22 A. No. No. In fact, let me add, that
23 when we number these injuries, we're numbering them
for
24 ease of identification and ease in talking about them.
25 It's a lot easier to say stab wound number 3, than for

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1 every time, for instance, have to say the middle stab
2 wound, on the right side of the back. So we numbered
them

3 for ease of description in court, and ease in talking
4 about them. But, it is in no way, meant to indicate
what

5 order they actually happened.

6 Q. Okay. They are generally numbered
from

7 the top of the head, don't you, down?

8 A. As a rule. For instance, on this
time

9 I simply -- it's the back of the body -- and, you
know,

10 our society with English, you tend to go top to
bottom,

11 and left to right. So I started on the left side of
the

12 body and went top to bottom, and then go to the right
side

13 of the body and went top to bottom.

14 Q. Okay.

15 A. So it's arbitrary.

16 Q. Now, could you tell from your

17 examination, based on the 1,800 autopsies that you say

you

18 have done?

19 A. Yes, forensic.

20 Q. Could you tell whether the
instrument,

21 and I notice you didn't call it a knife when you told
the

22 jury what the cause of death was. You just simply
called

23 it a sharp instrument?

24 A. Yes.

25 Q. Because it may or may not be a
knife?

1 A. Correct.

2 Q. Okay. Were you able to tell
whether or

3 not this sharp instrument had a serrated blade or
not?

4 A. No.

5 Q. You could not?

6 A. No.

7 Q. Okay. Could you tell the maximum
width

8 of the instrument?

9 A. No.

10 Q. Could you tell the maximum length
of

11 the blade of the instrument?

12 A. No.

13 Q. Okay. So, when you say it's
consistent

14 with this one, just all you're telling the jury is
that

15 you can't rule this out?

16 A. Correct.

17 Q. Okay. And it could be consistent
with

18 any number of pocket knives or buck knives that we
may

19 have?

20 A. Or other kitchen knives.

21 Q. Yes. Thank you. Now, for
example,

22 Doctor, if we take -- well, we'll just start off
with this

23 stab wound number 1. And it says that you found a
defect

24 in the back, of one and five-eighths inches. That's
going

25 to be this one right here, right?

1 A. Yes. And, when I say one and
2 five-eighths inches, I mean that's the length on the
3 surface of the body.

4 Q. Okay.

5 A. Not to be confused with the depth
of

6 penetration within the body tissues, which on stab
wound

7 number 1 is one and three quarter inches.

8 Q. Okay. And, if we -- we know then
that

9 if this instrument actually made this cut, it couldn't
10 have gone in more than how far?

11 A. One and three quarter inches. And
it's

12 a stab wound, it's not a cut.

13 Q. Well, I understand what you mean
when

14 you talk about a stab, and how you differentiate the
15 incised wound. It's longer, generally, than it is
deep.

16 And the stab wound is simply deeper than it is --

17 A. That's right.

18 Q. That's generally accepted, is it
not?

19 A. Yes.

20 Q. And, by cut, I simply meant that
the

21 body was penetrated.

22 A. I'm just trying to keep it straight
in

23 everybody's mind.

24 Q. I understand.

25 A. Because it can get tricky and

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1 confusing.

2 Q. Well, we don't want to be tricky.
But

3 we can agree, can we not, that, for example, stab
wound

4 number 1, if this knife was used, it couldn't have
gone in

5 anymore than one and three-quarters inches?

6 A. Well, I'm saying I don't think
whatever

7 instrument was used went in any further than one and
8 three-quarter inches.

9 Q. It could have gone in a little less
10 than that. I notice that you have it maximum.

11 A. Yes. That's what we call it. And
we

12 call it that because, as you are perfectly well aware,
13 since all of us live in a human body, bodies are,

14 depending upon the portion of the body, to a
greater or

15 lesser degree, compressible. And even the thorax,
and

16 even the rib cage is somewhat compressible,
particularly on

17 a child where the bones are softer.

18 So, what I'm measuring is the
maximum
19 depth. And I cannot rule out at the time of the
actual
20 injury, the body wasn't somewhat compressed with
that.
21 So the instrument didn't have
to go
22 that far back in -- far in. But then once the
instrument
23 was out of the body, and the compression was
released, the
24 track expands a little bit, if you see what I am
getting
25 at. So that's why we phrase it this way.

1 Q. Can we agree that if this knife
made
2 this stab wound, that the knife -- let me back up
here a
3 minute. We could take a knife, a pocket knife, and
stab
4 me, for example, and shove it in. And a two-inch
blade
5 could make a -- it could penetrate me to a depth of
as
6 much as four inches, couldn't it?

7 A. Probably only in the abdomen could
you
8 get four inches. In the thorax, you probably couldn't
get
9 more than two and a half to three inches. I'm just
10 pointing out that the portion of the body makes a
real
11 difference in terms of compressibility.

12 Q. Okay.

13 A. But yes, that's --

14 Q. Well, we can agree on that.
Right?

15 A. Yes. That's what I was trying
to

16 explain to the jury.

17 Q. All right. But -- so, if I'm, and
I'm
18 kind of doing this as I'm standing up, and thinking as
I'm
19 going along. But you're saying that this knife could
20 have -- I could have held it like this, for example,
in a
21 test, and shoved it in, and gotten it in an inch and
three
22 quarters. Right? Because of the -- because that may
have
23 given some, I may have been able to push down on it
and
24 compress it and push it in?

25 A. Well, again, the factor of almost

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1 two -- you're probably pushing your luck. But the
general
2 idea that the portion of the blade actually used could
be
3 less than the wound track left, because of the
4 compressibility of the body, is accurate.

5 Q. Okay. Are you saying that often
times
6 in stab wounds the individual moves, or the individual
7 doing the stabbing moves, and that can enlarge the
stab
8 wound itself?

9 A. Well, you can have two things
happen.
10 Instead of -- let me start out with what perhaps is --
it
11 certainly is the simplest idea of stab wounds. The
12 simplest idea, I think, of a stab wound is the idea
that
13 the knife blade goes into the body, there's no
14 compression, there's no cutting of force by the blade
15 during the stab, rather the blade just goes in and
comes
16 back out. That's the most simple case.

17 Now, what we've been talking about
is

18 the idea that the blade goes in while the body is
19 compressed. So that when the blade comes back out,
and
20 the pressure is released, the track in the body
actually
21 is longer than the amount of the blade that was in the
22 body at the time the wound was inflicted.
23 I think Mr. Mulder is also getting
at
24 the idea that while the blade is in the body, it's
25 possible for the sharp cutting edge to cut through the

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1 body, so that you got essentially a cutting on the
surface

2 of the body, and, of course, into the body motion, as
well

3 as the stabbing motion. And, yes, both of those
things

4 are possible.

5 Q. Okay. So we can agree, can we not,
6 Doctor, that these injuries could have been inflicted
with

7 quite a bit smaller instrument than the knife that you
8 were shown, I guess I want to say last week, but it
was

9 yesterday?

10 A. Yes.

11 Q. Okay. And it's impossible,
Doctor, is

12 it not, to testify that all of these stab wounds and
13 incised wounds were made with the same
instrument?

14 A. There's no way to know
that.

15 Q. You can't tell that, can you?

16 A. No.

17 Q. And there's no way for you to look
at

18 this, and tell how many people participated or how
many

19 assailants may have been present at the time these
20 injuries were inflicted?

21 A. Oh, my, no.

22 Q. Now, Doctor, did you x-ray this
23 youngster?

24 A. We did a chest x-ray.

25 Q. Okay. Was he x-rayed and examined
to

1 see if there was any evidence of past child abuse?

2 A. We did a chest x-ray because we
were

3 looking for the question of whether there was air

4 embolism. But, I think what you're getting at,
perhaps,

5 is the idea of did we do total body x-rays, including
the

6 long bone survey. And, I can't tell you for sure,
but I

7 have no memory of that.

8 Q. Okay. You don't know why one
would be

9 x-rayed and the other one not. If the other youngster
was

10 x-rayed, in all probability this one was too?

11 A. It's quite likely.

12 Q. Okay. And, it's fair to say that
you

13 found no evidence of child abuse when you examined
this

14 young man?

15 A. No, I did not.

16 Q. Okay. In fact, found him to be in
good

17 health, did you not?

18 A. Yes.

19 Q. Good hygiene?

20 A. Yes.

21 Q.

Teeth?

22 A.

Yes.

23 Q. Just appeared a well-nourished

24 well-taken care of youngster, didn't he?

25 A. Well, except for these six
sharp-force

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1 injuries, he seemed to be a perfectly healthy,
normal

2 little boy.

3 Q. Yes. And you can agree with me
then

4 that you found no evidence of past child abuse?

5 A. I did not.

6 Q. You know, sometimes y'all will
x-ray

7 the children where you suspect child abuse, and
you'll

8 find broken bones that have healed, won't you?

9 A. Yes.

10 Q. Now, when you went up to see
Miss

11 Routier in the hospital, you were there at the
suggestion

12 of the Rowlett Police Department; is that right?

13 A. Indirectly, yes.

14 Q. Okay. Had they made a request of
the

15 medical examiner's office?

16 A. Yes, that's what I was told.

17 Q. All right. And, did they
accompany you

18 when you went up to see Ms. Routier?

19 A. There was an officer either in or
20 outside the room. But there was not one at the bed
side

21 while I looked at her injuries, no.

22 Q. Okay. Did you -- you weren't
there to

23 take any complaints that she might have, were you?

24 A. No.

25 Q. Okay. And you weren't there to
treat

1 her or to check on her treatment, were you?

2 A. I did talk with one of the
surgery

3 residents about what they found during their
exploratory

4 surgery, but I was certainly not there to treat her.

I

5 was there to inquire into her injuries.

6 Q. And, of course, in all fairness to
her,

7 you identified yourself and told her why you were
there,

8 didn't you?

9 A. I introduced myself, told her who I
10 was, where I was from.

11 Q. Well, she knew then --

12 A. And told her that I would like to
look

13 at her injuries.

14 Q. And, is it fair to say that she
knew

15 from your introduction -- you knew then, from your
16 introduction to her, that if she had complaints, of
17 course, she wasn't going to direct her complaints to
you.

18 She understood that, I assume, didn't she?

19 A. I don't know what she understood.

20 Q. I mean, you would have thought it
21 inappropriate if she started directing -- I mean, you
cut

22 bodies up after they're dead. You don't, as a general
23 rule, treat live people, do you?

24 A. Not anymore.

25 Q. Okay. Now, at any rate, you did
talk

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1 to one of the attending physicians?

2 A. I talked with one of the physicians
on

3 the case. I don't remember his name.

4 Q. Okay. But, I assume you made some
5 notes?

6 A. No, I didn't make any notes.

7 Q. Didn't make any notes?

8 A. No.

9 Q. So you're just sharing with us what
you

10 are retrieving from the halls of your memory?

11 A. Yes.

12 Q. Okay. Is there a particular --

13

14 MR. GREG DAVIS: I'm sorry Mr.

Mulder.

15 Could we have this examination done at the counsel
table

16 unless there is some exhibits being used.

17 MR. DOUGLAS MULDER: Well, Judge,
it's

18 so difficult to get in and out of there. If I could
just

19 stand to the side.

20

THE COURT: That will be fine.

Just

21 stand there.

22

23 BY MR. DOUGLAS MULDER:

24 Q. Yes. Is there a reason that you

didn't

25 take notes?

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1 A. Well, why would I take notes? It's
not
2 pertinent to the autopsy. I was there at the request
of
3 the police, through the people in our office. And the
4 question I had been asked to answer was: Is it
possible
5 the injuries were self-inflicted?

6 I went in, I examined her without
7 touching her. I talked with this one surgeon, and, my
8 opinion at that time is still the same opinion --

9 Q. Could be, maybe yes, maybe
no?

10 A. -- was that it was possible.

And

11 that's what I told the Rowlett policeman who was
there.

12 Q. Well, I mean, that's tantamount
--

13 almost tantamount to no opinion. I mean, you're
saying

14 maybe yes and maybe no. Is that about the size of
it?

15 A. That is what I can conclude from
the

16 information I have available.

17 Q. Did you take any photographs of
her?

18 A. I did not.

19 Q. Were photographs taken while
you were

20 present?

21 A. Yes.

22 Q. Have you had a chance to review
those?

23 A. Not recently.

24 Q. And again, did you introduce
yourself

25 to the doctor that you visited with?

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Reporter

1 A. I don't recall.

2 Q. Okay. But you didn't get his
name?

3 A. No, I don't recall.

4 Q. Was it a male doctor?

5 A. It was a male doctor.

6 Q. Okay. Did you ask him about
the

7 injuries that she had received to her right
forearm?

8 A. I just asked about her
injuries.

9 Q. Okay. And did he tell you that she
had

10 the two -- what do you characteristically call those
11 injuries to this area of the arm?

12 A. Well --

13 Q. If they were on the -- on this
young

14 man, and he had the injuries that you've described
and

15 observed from Ms. Routier, would you not
characterize

16 those in your autopsy protocol as defensive
wounds?

17 A. They could be construed as such.

18 Q. Could be construed as defensive
wounds,

19 couldn't they?

20 A. They could be.

21 Q. Yes. Um-hum. And, did the
physician

22 who was there, that you, whose name you can't recall,
did

23 he tell you that the one wound was -- did more than
just

24 penetrate the skin?

25 A. He said the larger wound on her
right

1 forearm went to the bone.

2 Q. Went to the bone?

3 A. Yes.

4 Q. That's as far as it could go, I
guess,

5 isn't it?

6 A. Well, if you examine that portion
of

7 your right forearm, you're virtually over bone.

8 Q. Well, didn't you --

9 A. I'm just saying you don't have to
go
10 very far in terms of portions of an inch --

11 Q. Yes.

12 A. -- to get to the bone.

13 Q. I understand. But he told you it
went

14 in an inch to the bone, did he not?

15 A. I don't recall that.

16 Q. You don't recall that?

17 A. No.

18 Q. Okay. All right. Would you tell
the

19 jury what a defensive wound is, please.

20 A. It's not uncommon in a case where

the

21 victim has sustained sharp-force injuries, and where

the

22 victim has put up a resistance during a struggle, for

the

23 victim to sustain sharp-force injuries on the hands

and

24 the forearms. And those, I believe, is what Mr.

Mulder is

25 referring to as defensive wounds.

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1 Q. Okay. Have you had a chance to
review

2 a statement that you had made on another occasion?
Have

3 you had a chance to review your testimony?

4 A. You mean during the bond denial
5 hearing?

6 Q. Yes.

7 A. Yes.

8 Q. You have?

9 A. Yes.

10 Q. Okay. Let me ask you, if you were
11 asked about the -- how deep the wound on the right
forearm

12 was, and you answered: "The surgeon I talked to said
that

13 it went through and hit the bone. But if you look at
that

14 portion of your forearm, you realize that the bone is
less

15 than an inch away." Did you respond in that fashion?

16 A. That sounds right.

17 Q. Okay. So it's approximately an
inch

18 that that penetrated to get to the bone, isn't it?

19 A. Well, less than an inch.

20 Q. All right. But it's again, it's

on the

21 high side, is it not? It's closer to an inch than it

is

22 to a half of an inch, and that's why you use that

23 reference. Is that not fair to say?

24 A. Not necessarily. And remember I

wasn't

25 there during the surgery, and I certainly wasn't able

to

1 measure the depth of penetration.

2 Q. Well, and of course, he may have
said,

3 an inch and a half, and since you didn't write it
down,

4 you simply were calling on your memory and your
knowledge

5 of anatomy?

6 A. Well, with knowledge of anatomy,
it

7 would be difficult to get more than an inch.

8 Q. Okay. That's a -- it's not just
a

9 little nick. That is a -- can you estimate about the
10 length of that defect?

11 A. On the surface of her body?

12 Q. Yes.

13 A. Well, the thing to do is to measure
it.

14 Q. Okay. Well --

15 A. There's no reason to estimate.

16 Q. Okay. How large do you recall it
17 being?

18 A. I don't.

19 Q. You don't remember?

20 A. I didn't -- no, I don't.

21 Q. Okay. You do recall it being --
22
23 THE COURT: Please do not lean on
the
24 bench.
25 MR. DOUGLAS MULDER: Judge, I'm
sorry.

Sandra M. Halsey, CSR, Official Court Reporter

1 THE COURT: Thank you very much.

2 MR. DOUGLAS MULDER: You bet.

3 THE COURT: Let's don't do it again
or

4 you'll be back sitting down.

5 MR. DOUGLAS MULDER: Yes, sir.

6

7 BY MR. DOUGLAS MULDER:

8 Q. Yes. Would you say that it's in
excess

9 of an inch and a half? You wouldn't quarrel with
that?

10 A. I would measure it.

11 Q. Well, do you want to step over here
and

12 measure it?

13 A. Well, you can -- I'm perfectly
happy to

14 have you report to me whatever it happens to measure.

15 Q. Well, I measure it nearly an inch
and

16 three quarters, or right at an inch and three
quarters.

17 A. Okay.

18 Q. Okay. And there were two wounds
that

19 could be characterized as defensive wounds then?

20 A. There was another much smaller one.

21 Q. Okay. And, did you know how deep
that

22 was?

23 A. I could see it went into the
dermis.

24 Q. Okay.

25 A. Which is the deep portion of the
skin.

Sandra M. Halsey, CSR, Official Court Reporter

1 Q. Okay. All right.

2 A. The skin on one's forearm is
probably

3 less than an eighth of an inch thick.

4 Q. Okay. Doctor, you said that with
5 respect to whether or not these are self-inflicted, or
not

6 self-inflicted, you can't say either way, basically;
is

7 that correct?

8 A. It could be either.

9 Q. Okay. And generally associated
with a
10 self-inflicted -- say a suicide, for example, or
attempted

11 suicide. Don't you have what are frequently referred
to
12 as hesitation wounds?

13 A. They may be present.

14 Q. Okay. And, this is just a
situation

15 where the individual, once they cut the skin decide
that

16 maybe it's not that good of an idea after all, and
then

17 they jerk back or stop and then they get a little

more.

18 And you will see a lot jerks in the outer portions of
the

19 skin, won't you, traditionally?

20 A. Yes, you may.

21 Q. Okay. And, isn't it fair to
say, in

22 all fairness to Ms. Routier, isn't it fair to say,
that

23 her wounds are, in the neck, are quite deep for
hesitation

24 wounds?

25 A. Not necessarily.

Sandra M. Halsey, CSR, Official Court Reporter

1 Q. Okay. Is that another maybe yes,
maybe

2 no, type of deal?

3 A. I would say that usually, what I
think

4 you're thinking of as hesitation wounds, go into the
5 dermis. But certainly I have seen hesitation wounds
that

6 went deeper than that, into the musculature.

7 Q. Okay. Traditionally they aren't as
8 deep as Mrs. Routier's, are they?

9 A. Well --

10 Q. Ordinarily.

11 A. Most of the hesitation wounds I
have

12 seen were not that deep.

13 Q. Okay. Doctor, did you look at her
14 medical charts?

15 A. I've seen portions of her medical
chart

16 from that admission to Baylor.

17 Q. Did you make any copies of those?

18 A. I made copies of a few pages from
it,

19 chiefly the operative report.

20 Q. Okay. Now, was she -- usually when
you

21 see hesitation wounds, you see a series of them, don't
22 you?

23 A. Oh, I have seen a few cases where
there

24 were only one or two. There are usually a few more
than

25 that. It's variable.

Sandra M. Halsey, CSR, Official Court Reporter

1 Q. Okay. Now, Doctor, when you saw
Ms.

2 Routier, was she -- she wasn't ambulatory, was she?

3 A. She was in the bed.

4 Q. Okay.

5

6 MR. DOUGLAS MULDER: Mark these,
7 please.

8

9 (Whereupon,
the
10 exhibits were
11 marked for
12
Identification

13 only, as
Defense
14 Exhibit Nos.
1
15 through 5.)

16

17 THE COURT: What numbers will these
18 exhibits be?

19 MR. DOUGLAS MULDER: Your Honor,
they

20 will be Defendant's Exhibits 1 --

21 THE COURT: 1 through 5?

22 MR. DOUGLAS MULDER: Thank you,
Judge,

23 but I thought I would number them -- well, I can do
that.

24 Or I can do them --

25 THE COURT: Whatever you wish.

Sandra M. Halsey, CSR, Official Court Reporter

1 MR. DOUGLAS MULDER: A, B, C.

2 THE COURT: In the future, I would
like

3 for all -- both sides to have all their exhibits
4 pre-marked, prior to admitting them into evidence.

5 MR. DOUGLAS MULDER: That's what
I'm

6 doing.

7 THE COURT: I mean pre-marked
before

8 you come in with them, so we don't have to go through
this

9 delay.

10 MR. DOUGLAS MULDER: Judge, we
don't

11 know who the witnesses are going to be. There is no
way

12 we can put them on.

13 THE COURT: Thank you. All right.

So

14 what are they going to be? Defendant's Exhibit
number

15 what?

16 MR. DOUGLAS MULDER: I think
that's a

17 good idea. If I had a list of their witnesses, and

the

18 order in which they'll be, I will have them pre-
marked.

19 THE COURT: Okay.

20 MR. DOUGLAS MULDER: Could I
expect

21 that at the conclusion of the day?

22 MR. GREG DAVIS: Could we have a
stop

23 to these sidebar comments, please?

24 THE COURT: Sustained.

25 MR. GREG DAVIS: Thank you.

1

2 BY MR. DOUGLAS MULDER:

3 Q. Let me hand you what have been
marked

4 for identification record purposes as Defense
Exhibits 1

5 through 5. And if you'll examine those in the
privacy of

6 the jury box -- the witness box. Have you seen
those?

7 A. I recall seeing those before, I
8 believe.

9 Q. All right. Do those accurately
portray
10 the scene they seek to represent as they existed as
you
11 viewed Ms. Routier on the date that you've described?

12 A. They represent what I saw when I
went
13 to see her in the hospital.

14

15 MR. DOUGLAS MULDER: We'll offer
into

16 evidence what has been marked and identified as
Defense

17 Exhibits 1 through 5.

18 MR. GREG DAVIS: No objection.

19 THE COURT: Defense Exhibits 1

through

20 5 are admitted.

21

22 (Whereupon, the items

23 Heretofore mentioned

24 Were received in evidence as

25 Defendant's Exhibit No. 1

Sandra M. Halsey, CSR, Official Court Reporter

1 through 5 for all purposes,
2 After which time, the
3 Proceedings were resumed
4 As follows:)

5

6 BY MR. DOUGLAS MULDER:

7 Q. Now --

8

9 MR. DOUGLAS MULDER: Judge, I will
hand

10 these to the jury in a minute when I finish my
11 examination.

12

13 BY MR. DOUGLAS MULDER:

14 Q. Now, Doctor, did you notice any
15 bruising on her arms?

16 A. I did not.

17 Q. Okay. Doctor, will you share with
the

18 jury some of your knowledge with respect to bruising,
how

19 it occurs. And, you know, when I bump myself, it
really

20 doesn't look all that bad that day or the next day,
but

21 it's on down the line. What happens? What causes
that?

22 A. What bruising or contusions are,
is a

23 breakage of very small blood vessels, usually
capillaries

24 in your skin, or the subcutaneous tissue, or let's
talk

25 about the extremities to make things easy.

1

2 THE COURT: Could you speak up
just a

3 little bit louder.

4 THE WITNESS: Okay. Let me try
to
5 repeat.

6 We're talking about the breakage
of
7 very small blood vessels, or capillaries in the skin
or
8 the subcutaneous tissues or the muscle, or sometimes
all
9 of those.

10 If they break in the skin, usually
you
11 will see the bruise within 24 hours. If you bruise
or
12 break the blood vessels in deeper structures, then
it
13 takes a while, a variable length of time, for the
blood
14 that comes out of the broken blood vessels to work
its way
15 up into your skin, so that you can actually see a
bruise.

16 And I expect most of you have had that experience.

17 We, of course, have bumped into
things

18 and by the next day have seen a bruise. But I
expect most

19 of us have bumped into something, or gotten
clobbered by

20 something pretty hard, and you didn't see anything
for a

21 day or two, or maybe three or four, but eventually
the

22 bruise, as we say, comes to the surface and you do
see it.

23

24 MR. DOUGLAS MULDER: Mark these
too,
25 please.

Sandra M. Halsey, CSR, Official Court
Reporter

1
2 (Whereupon, the following
3 mentioned items were
4 marked for
5 identification only
6 as Defendant's 6 through 10,
7 after which time the
8 proceedings were
9 resumed on the record
10 in open court, as
11 follows:)

12

13 BY MR. DOUGLAS MULDER:

14 Q. Doctor, let me show you what's
15 been
16 marked for identification for record purposes as
17 Defendant's Exhibits 6 through 10. And again, I'll
18 ask
19 you to examine those in the privacy of the witness
20 box.

21 Do you recognize Darlie Routier
22 in
23 those photographs?

24 A. I can't say that I do.

25 Q. Let me see if I have got one
26 that shows

22 that.

23 A. All right.

24

25 THE COURT: All right. Ladies

and

Reporter Sandra M. Halsey, CSR, Official Court

1 gentlemen, we're going to take a 10 minute break
right

2 now. Thank you very much.

3 May I see both sides.

4

5 (Whereupon, a short

6 recess was

taken,

7 after which

time,

8 the proceedings were

9 resumed on the record,

10 in the presence and

11 hearing of the

defendant

12 and the jury, as

follows:)

13

14 THE COURT: Are both sides ready to

15 bring the jury in and resume?

16 MR. DOUGLAS MULDER: Yes, sir, the

17 defense is ready.

18 MR. GREG DAVIS: Yes, your Honor,

the

19 State is ready.

20 THE COURT: All right, bring the

jury

21 back in, please.

22

23

(Whereupon, the jury

24

was returned to

the

25

courtroom, and the

Sandra M. Halsey, CSR, Official Court Reporter

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1 proceedings were
2 resumed on the
record,
3 in open court, in
the
4 presence and
hearing
5 of the defendant,
6 as follows:)

7
8 THE COURT: All right. Back on
the
9 record in the Darlie Routier matter. Let the
record
10 reflect that all parties of the trial are present,
and the
11 jury is seated.

12 All right, Mr. Mulder.

13

14 BY MR. DOUGLAS MULDER:

15 Q. Doctor, could you tell us, as
best you

16 recall, when you were asked to go to Baylor Medical
Center

17 to see Darlie Routier?

18 A. It was sometime during the day

that I

19 performed the autopsy on Damon.

20 Q. Sometime during the 6th of June?

21 A. Yes.

22 Q. Okay. And you don't recall when

that

23 was, whether it was morning or afternoon?

24 A. Not precisely.

25 Q. Okay. And you didn't make any
notes

Sandra M. Halsey, CSR, Official Court
Reporter

1 about check out of the office or anything like
that?

2 A. Not that I recollect.

3 Q. All right. And, I assume you
didn't

4 dictate any sort of a memo when you returned?

5 A. No, I did not.

6 Q. So we're relying strictly on
your

7 memory; is that correct?

8 A. Yes.

9 Q. Okay. Did you examine either of
her

10 hands?

11 A. No.

12 Q. Did you ask to see her hands?

13 A. I asked to be shown her injuries.

14 Q. Okay.

15 A. I was shown her steri-strip neck,
her

16 steri-strip anterior left shoulder, and her right
forearm.

17 Q. Okay. And, who did you ask to see
her

18 injuries, the Rowlett police officer, the treating

19 physician whose name escapes you or --

20 A. I was talking with one of the ICU
21 nurses, who in turn, talked with the doctor in
surgery
22 resident, who was the person who actually removed
the
23 dressings on her neck injury and on her anterior
left
24 shoulder injury.

25 Q. Okay. Did you make any
determination

Sandra M. Halsey, CSR, Official Court Reporter

1 at that time as to the instrument that had caused
those

2 injuries?

3 A. No.

4 Q. Okay. And, Doctor, how closely did
you

5 examine the injury to her right forearm?

6 A. The longer one was sutured up, the
7 shorter one was not. I looked at them.

8 Q. Okay. I mean, you just eyeballed
them

9 from a distance of four or five feet?

10 A. I was at the bedside.

11 Q. Okay. Did you examine her
legs?

12 A. No.

13 Q. Doctor, what is blunt trauma?

14 A. Blunt force injuries are
usually

15 divided into three categories: There are
lacerations,

16 which are breaks or tears in the skin. And they
are

17 different from cuts or incised wounds, and they're

18 different from stab wounds, because as we've said,

stab

19 wounds and incised wounds are caused by a sharp
edge.

20 Whereas, lacerations are, just that, they're blunt
force

21 injuries, so that the break, or tear in the skin, as
a

22 rule, if you look into the depths of the wound, will
have

23 tissue bridging, what we call tissue bridging. Which
a

24 stab wound or incised wound will not have.

25 There are also contusions, which
is the

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1 same thing as bruising, or ecchymosis. That is what
we

2 were talking about, the idea of small blood vessels
being

3 broken and blood leaking out of the small blood
vessels.

4 And the idea is that it's blunt force that causes the
5 breakage of the blood vessels.

6 And you also have the third
variety of

7 blunt force injuries, which is abrasions. Abrasions
are

8 scrapes or scratches.

9 Q. Okay. Doctor, where were you
prior to

10 coming to the medical examiner's office in Dallas?

11 A. I was working in Denton at Ford's
lab.

12 Q. Okay. And what were you doing
there?

13 A. I was a pathologist.

14 Q. Okay. Do they have a medical
examiner

15 in Denton County?

16 A. No, they do not.

17 Q. How long were you there at Ford's
lab?

18 A. About six months.

19 Q. Do you have an independent
recollection

20 as to how long you were there at Baylor Medical Center
21 with Ms. Routier on the 6th of June of '96?

22 A. As I've already mentioned, I was
with

23 her approximately, perhaps 10 minutes.

24
25 MR. DOUGLAS MULDER: I believe
that's

Sandra M. Halsey, CSR, Official Court Reporter

1 all.

2 Thank you, Doctor.

3

4 REDIRECT EXAMINATION

5

6 BY MR. GREG DAVIS:

7 Q. Doctor, I just have a couple of
8 questions for you. Defensive wounds -- when you see
9 defensive wounds in your line of business, on what
part of

10 the body do you normally see those?

11 A. I most commonly see defensive
wounds on

12 the hands. They're also seen on the forearms.

Sometimes,

13 if the person winds up, essentially fighting off the
14 assailant with his or her legs, you'll see them on the
15 feet, and lower legs.

16 Q. Okay. When you see defensive
wounds to

17 the hands, can you please describe for the members of
the

18 jury, what those defensive wounds look like when you
see

19 them.

20 A. The most common thing I see when I
see

21 defensive wounds on the hands is, what I see is deep
22 incised wounds.

23 Now, I'm talking about deep incised
24 wounds. Most of these wounds go all the way through
the
25 skin into the subcutaneous tissue, on the fingers and
on

Sandra M. Halsey, CSR, Official Court Reporter

1 the palms. Some of them will go into or through
tendons,

2 sometimes all the way to the bone.

3 Now, it may sound real foreign to
you,

4 the idea of grabbing a knife. I know it does to me.
But

5 you've got to understand that these people are
fighting

6 for their lives. And the alternative to grabbing a
knife

7 is letting the knife come into their body, their
neck,

8 their head, their chest, their body organ area.

9 So, when push comes to shove,
people

10 will grab a knife and get these deep cuts on their
hands.

11 And that's what I most commonly see in the way of
12 defensive wounds.

13 Q. Okay. And so, does it go through
the

14 skin then?

15 A. Almost all of them go into the
deep

16 dermis, or through the skin, into the subcutaneous
tissue.

17 Q. What is subcutaneous tissue?

18 A. It's actually fat. I don't know if
19 you've ever seen a cut, or laceration, all the way
through

20 the skin, but what you've got underneath your skin is
a

21 layer of fat, which is yellow, it's fat. And then,
what

22 you've got underneath that, is the muscle tissue.

23 Q. Okay. Now, when you looked at
Darlie

24 Routier on June 6th, 1996, did you see any wounds to
her

25 hands that looked like what you've just been talking

Sandra M. Halsey, CSR, Official Court Reporter

1 about?

2

3

MR. DOUGLAS MULDER: Excuse me,
Judge.

4 She's already answered that. She said she didn't
examine

5 her hands. She didn't see her hands.

6

THE COURT: Overruled. Overruled.
She

7 can answer it if she knows. Go ahead.

8

THE WITNESS: I didn't see any
injuries

9 to her hands. I didn't look at her hands.

10

MR. DOUGLAS MULDER: And that's why
if

11 you don't look at the hands.

12

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

13 his comments.

14

THE COURT: Sustained. Let's both
15 sides sit down, ask the questions, I'll rule on the
16 objections, and no sidebar.

17

Is that clear, Mr. Mulder?

18

MR. DOUGLAS MULDER: Yes, sir.

19

THE COURT: Thank you.

20

21 BY MR. GREG DAVIS:

22 Q. Now, you've also mentioned
hesitation

23 wounds. Now, how deep do hesitation wounds
normally go?

24 A. I would say most of the
hesitation

25 wounds I have seen go into the dermis. The dermis
being

Sandra M. Halsey, CSR, Official Court
Reporter

1 the deep white part of the skin.

2 You know, on the very surface
you've

3 got a thin layer area of epidermis, which is where
the

4 pigment is. And then you've got the deeper part of
the

5 skin, which is the dermis. And once you cut into
the

6 dermis -- the dermis on everybody is absolutely
pure

7 white. Pure white. And then under that you've
got the

8 yellow subcutaneous fat.

9 Q. And normally what do
hesitation wounds

10 look like?

11 A. Well, I would say if you have
got more

12 than one, they will often crisscross and go into
the

13 dermis.

14

15 MR. GREG DAVIS: Okay. May I
see

16 Defense Exhibits 1 through 5, please?

17 MR. DOUGLAS MULDER: Sure.

18 MR. GREG DAVIS: May I

approach, your

19 Honor?

20 THE COURT: You may indeed.

21

22 BY MR. GREG DAVIS:

23 Q. Doctor, if you would, looking

at

24 Defense Exhibit No. 5. How many wounds to the

right

25 forearm do you see there?

Sandra M. Halsey, CSR, Official Court
Reporter

1 A. I see two.

2 Q. Okay. Do I have my finger on
the
3 longer one that's been sutured?

4 A. Yes, you do.

5 Q. Okay. And is there a second wound
to
6 the right arm?

7 A. Yes, there is. It's up here.

8 Q. Okay. Above the first one?

9 A. Yes.

10 Q. Can you tell us how deep this wound
11 was?

12 A. It was open and it went into the
13 dermis.

14 Q. Is it fair to say it's much
shorter?

15 A. Yes.

16 Q. Can you tell whether or not that's
a
17 hesitation wound or not?

18 A. It could be.

19 Q. Now, again, looking at Damon's
wounds,
20 is there any way for you to tell whether or not all

four

21 of these stab wounds were produced at the same time?

22 A. No, there's not.

23 Q. Is it possible that stab wound,
say,

24 number 1 occurred, and then some period of time

elapsed

25 before stab wounds 2, 3 and 4 occurred?

Sandra M. Halsey, CSR, Official Court Reporter

1 A. That's possible.

2 Q. If only one of these stab wounds
had

3 occurred, and then an interval of time had elapsed
before

4 stab wounds 2, 3, and 4 occurred, for instance, could
this

5 child have lived longer than the time period that
you've

6 already talked about?

7 A. That's possible.

8 Q. Can you give us an estimate of how
long

9 this child might have lived if, say, stab wound 1 had
been

10 inflicted and then the other three were inflicted
sometime

11 later on?

12 A. What we're talking about, a few to
13 several more minutes.

14 Q. Okay. Can you give us a ballpark
15 figure of an outside time period there?

16 A. A few to several more minutes.

17 Q. Okay. And, how many minutes did
you

18 say that this child could have lived if all four of
them

19 had been produced at the same time?

20 A. A few minutes.

21

22 MR. GREG DAVIS: Okay. No

further

23 questions.

24

25

1

REXCROSS EXAMINATION

2

3 BY MR. DOUGLAS MULDER:

4

Q. Doctor is there anything to suggest

5 that those wounds were not all received at the same time,

6 or at approximately the same time?

7

A. There's nothing -- they don't suggest

8 anything.

9

Q. Thank you.

10

11 MR. DOUGLAS MULDER: I believe that's

12 all.

13

MR. GREG DAVIS: No further questions.

14

THE COURT: All right. Now, this witness, as I understand, will be returning to Dallas

15 tonight; is that correct, Doctor?

16

THE WITNESS: I hope so.

17

18 THE COURT: Okay. Well, I'm sure they'll get you out of San Antonio airport.

19

20 All right. So, we are excusing

this

21 witness now for the time being; is that right?

22 MR. GREG DAVIS: That's what we
would

23 ask, along with Dr. McClain, also subject to recall.

24 THE COURT: Subject to recall.

25 MR. DOUGLAS MULDER: We wouldn't
have

Sandra M. Halsey, CSR, Official Court Reporter

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1 any quarrel with that.

2 THE COURT: All right. Thank you
very

3 much for coming, Doctor.

4 All right. Next witness.

5 MR. TOBY L. SHOOK: Judge, we'll
call

6 William Gorsuch.

7 THE COURT: All right. Thank
you.

8 MR. DOUGLAS MULDER: Judge, may I
give

9 these pictures to the jury?

10 THE COURT: You may publish those
to

11 the jury. That will be fine.

12 Sir, if you will just come on up
and

13 have a seat here.

14 Just speak into the mike loudly
so

15 everybody can hear you.

16 All right. Go ahead, please, Mr.
17 Davis.

18 MR. TOBY L. SHOOK: Judge, I'm

asking

19 the questions.

20 THE COURT: Mr. Shook, excuse me,

21 sorry.

22 MR. TOBY L. SHOOK: Would the

Court

23 prefer that I wait until the jurors view the

photographs

24 before I go ahead?

25 THE COURT: That will be fine.

1 All right. Go ahead, Mr. Shook.
2 MR. TOBY L. SHOOK: Thank you,
Judge.
3
4
5 (Whereupon, the witness
6 was duly sworn by the
7 Court, to speak the
truth,
8 the whole truth and
9 nothing but the truth,
10 after which, the
11 proceedings were
12 resumed as follows:)
13
14
15
16
17
18
19
20
21
22
23
24

25

Sandra M. Halsey, CSR, Official Court Reporter

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1 Whereupon,

2

3

WILLIAM GORSUCH,

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

DIRECT EXAMINATION

11

12 BY MR. TOBY L. SHOOK:

13

Q. State your name, please.

14

A. William Walter Gorsuch.

15

Q. Would you spell your last name,
please.

16

A. G-O-R-S-U-C-H.

17

Q. Where do you live, sir?

18

A. 8401 Eagle Drive, Rowlett, Texas.

19

Q. Okay. And, are you originally from
20 Rowlett, Texas?

21

A. No, I'm not.

22

Q. Where were you born and raised?

23 A. I was born and raised in Maryville,
24 Missouri, Nodaway County.
25 Q. Okay. And when did you move here
to

Sandra M. Halsey, CSR, Official Court Reporter

1 Texas?

2 A. September of 1984.

3 Q. Okay. Do you have family?

4 A. Yes, I do.

5 Q. What does your family consist of?

6 A. My wife and two children, a 9-year-
old

7 and an 11-year-old.

8 Q. Okay. Boy and girl?

9 A. Yes.

10 Q. Which one is the 9-year-old?

11 A. The boy.

12 Q. Okay. What's his name?

13 A. Jonathan.

14 Q. Okay. How long have you lived in
15 Rowlett?

16 A. I've lived in Rowlett since April
of

17 '86.

18 Q. Okay. And, to kind of orient the
jury,

19 tell the jurors where Rowlett's located near Dallas.

20 A. Rowlett, Texas, is located to the
east

21 of Dallas, on Lake Ray Hubbard, the city reservoir.

It's

22 about approximately 35 miles from downtown Dallas.

It's a

23 suburb of Dallas, just east of Garland.

24 Q. The portion of Rowlett that you

live

25 in, is that in Dallas County?

Sandra M. Halsey, CSR, Official Court Reporter

1 A. Yes, it is.

2 Q. And for the record, in the State of
3 Texas?

4 A. In the State of Texas.

5 Q. Okay. And how long have you have
lived

6 at the location you're at now?

7 A. I've lived at that house since
November

8 of '92.

9 Q. Okay. Prior to that, were you also
10 living in Rowlett?

11 A. Yes, I was.

12 Q. Okay. And where did you live then?

13 A. I lived at 8501 Woodside, which is
14 approximately three blocks south of there.

15 Q. Okay. And how long had you lived
16 there?

17 A. Since April of '86.

18 Q. Okay. What brought you to Texas in
the

19 first place?

20 A. Job. I worked originally for
Rockwell

21 International.

22 Q. Okay. Where do you work now?

23 A. I work for the same company, but it
has

24 since changed hands. It's now Alcatel Telecom.

25 Q. Okay. And what type of work do you
do

Sandra M. Halsey, CSR, Official Court Reporter

1 with them?

2 A. I'm a telecommunication's engineer,
3 support, third tier.

4 Q. Okay. And you moved in to that
5 residence in 1992?

6 A. November of '92. Correct.

7 Q. Okay. Describe that neighborhood
for
8 the jury. Is that a relatively new neighborhood or an
old
9 neighborhood?

10 A. Dalrock Heights is a relatively new
11 neighborhood. When we moved to Rowlett in April '86,
that
12 neighborhood was an open field.

13 It started being built, I don't
14 remember the exact date. It filled up rather quickly.

We
15 were probably the first 60 percent of the new homes
being

16 built in that area. Most of the homes in that area
are

17 100,000 plus.

18

19 MR. TOBY L. SHOOK:

Okay. May I

20 approach the witness, your Honor?

21 THE COURT: You may.

22 All right. Whoever

has a beeper on,

23 turn it off.

24

25 (Whereupon, the
following

Sandra M. Halsey, CSR, Official
Court Reporter

1 mentioned items were
2 marked for
3 identification only

as

4 State's Exhibits 6-A
5 and 6-B, after which

time

6 the proceedings were
7 resumed on the record
8 in open court, as
9 follows:)

10

11 BY MR. TOBY L. SHOOK:

12 Q. Let me show you what's been marked
13 as

14 State's Exhibit 6-B. Do you recognize this as being a
15 map

16 of Rowlett?

17 A. Yes, I do.

18 Q. Okay. Is this how Rowlett appears
19 in

20 the Dallas area, and a greater closeup of the area
that

you live in Rowlett?

A. Yes, sir.

20

21 MR. TOBY L. SHOOK: Okay. We'll
offer

22 State's Exhibit 6-B.

23 MR. DOUGLAS MULDER: No objection.

24 MR. TOBY L. SHOOK: Okay. We'll
offer

25 6-A and 6-B.

Sandra M. Halsey, CSR, Official Court Reporter

1 MR. DOUGLAS MULDER: We don't have
any
2 objection to either one of them.

3 THE COURT: State's Exhibits 6-A
and
4 6-B are admitted.

5
6 (Whereupon, the items
7 Heretofore mentioned
8 Were received in
evidence

9 As State's Exhibit 6-
A
10 And 6-B for all purposes,
11 After which time, the
12 Proceedings were resumed
13 As follows:)

14
15 MR. TOBY SHOOK: Could I have
the
16 witness step down for a moment, Judge.

17 MR. COURT: You may.

18
19 (Whereupon, the
witness
20 stepped down from

the

21

witness stand, and

22

approached the

jury rail

23

and the

proceedings were

24

resumed as

follows:)

25

Reporter Sandra M. Halsey, CSR, Official Court

1 BY MR. TOBY L. SHOOK:

2 Q. Mr. Gorsuch, let me get you to
step

3 back so that all of the jurors can see, but let me
hold

4 the exhibit up. And if you could just, first, on
the

5 lower portion of the exhibit, point out where
Dallas is

6 and where Rowlett is located in relation to Dallas.

7 A. This is the Dallas area. Rowlett
is a

8 little bit northeast of Dallas. The upper map shows
a

9 closer view of Rowlett. And Rowlett is basically
10 dissected in the center with Dalrock Road, which this
is

11 Rockwall County, this is Dallas County. Eagle Drive
is

12 located in this area right here where the red dot is.

13 Q. And 5801 Eagle Drive, is that a
14 neighbor's residence?

15 A. It is a neighbor's residence.

16

17 THE COURT: Mr. Shook, could you
move

18 back just a little bit so the defense can get a good
view

19 too, please. Thank you.

20 THE WITNESS: 5801 address, even
though

21 my address is 8401, Eagle Drive comes up directly
north

22 and then turns directly west. The numbering system

23 changes as it turns to go back south. The north-south

24 street is a lowered numbered system than what my

address

25 is.

1 BY MR. TOBY L. SHOOK:

2 Q. And, are you familiar with how big
the
3 city of Rowlett is?

4 A. Yes.

5 Q. Is it a big or small city?

6 A. It's fairly large. It's
approximately

7 35,000. When we moved there in '86 it was only 6.

8 Q. All right. If you could take your
seat
9 up there.

10

11 (Whereupon, the
witness

12 resumed the witness
13 stand, and the
14 proceedings were
resumed

15 on the record, as
16 follows:)

17

18 BY MR. TOBY L. SHOOK:

19 Q. The neighborhood that you live in
now,

20 you've lived there since 1992; is that right?

21 A. That's correct.

22 Q. And previous to that, you lived
about

23 three blocks away?

24 A. Correct.

25 Q. Okay. Describe that particular

Sandra M. Halsey, CSR, Official Court Reporter

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1 neighborhood to the jury. What is it like?

2 A. It's a fairly upscale
neighborhood, as

3 it's been described before. The neighborhood is
mostly

4 family oriented, lots of small children, and kind
of a

5 bedroom community, so to speak. Most of Rowlett
is a

6 bedroom community. I mean, most people go to work
between

7 7:00 to 8:00 o'clock in the morning, and return home

8 between 5:00 and 6:00 o'clock at night. Rowlett's
pretty

9 much deserted during the day.

10 Q. Do the Rowlett Police, do they
have a

11 high profile presence in your neighborhood?

12 A. Very.

13 Q. Okay. What areas do they patrol
around

14 your home?

15 A. Any specific areas, they really
don't

16 have any. The police are in the area quite often.

As,

17 according to the map there, Rowlett is kind of split
by
18 the lake, by Lake Ray Hubbard, so there's a part of
19 Rowlett that's kind of by itself. It's almost a
20 peninsula.

21 The police are out in that area
quite
22 often, because it is hard to get there. There's only
23 really two roads that you can get to that side of
Rowlett.

24 So the police have kind of stations that they sit at
in
25 that area.

1 Q. So, is it unusual to see police
2 officers coming down your street, at all times during
the
3 day or night?

4 A. No.

5 Q. Okay. What about in the evening,
as
6 far as traffic down your street? Is there a lot of
7 traffic on your street?

8 A. No, there isn't. Our street, as
the
9 map here shows, which is actually a little
incorrect, it
10 shows Eagle Drive going all the way to 66 Highway,
which
11 is now Lake Pointe Drive. Eagle Drive does not go
all the
12 way to 66.

13 So, it's for the most part, it
14 basically services our neighborhood and our
neighborhood
15 only. It does not have a major thoroughfare
connection
16 other than off of Dalrock Road.

17 Major traffic through the area,

up

18 until about 5, 6, or 7:00 o'clock that night, is
typical

19 for a normal neighborhood. After that it drops
off, until

20 probably about 10:00 o'clock, 11:00 o'clock, then
it'll

21 drop again to almost nothing.

22 Q. Okay. Now, living in that
23 neighborhood, have you come to meet several of your
24 neighbors?

25 A. Yes.

Sandra M. Halsey, CSR, Official Court
Reporter

1 Q. Okay. Did you meet Darlie and
Darin

2 Routier when they moved in?

3 A. Yes, I did.

4 Q. Okay. Were you moved in the
5 neighborhood first or were they?

6 A. We were.

7 Q. Okay. When did they move into
that

8 particular neighborhood?

9 A. It would have probably been in
the

10 spring of '93 to the summer of '93, sometime in
there.

11 Q. Okay. Was there a house there
when you

12 first moved in or was it built?

13 A. No, it was built.

14 Q. Okay. So, they were the first
15 residents of the house?

16 A. Yes.

17 Q. Okay. And where is their house in
18 relation to your house?

19 A. Directly across the street. My
house

20 faces to the south, their house faces to the east.

It's

21 almost a direct corner from my house.

22 Q. Okay. And did they have children
with

23 them when they moved in?

24 A. Yes, they did.

25 Q. Okay. How many children did they
have?

Sandra M. Halsey, CSR, Official Court Reporter

1 A. Two boys.

2 Q. And did you come to learn their
names?

3 A. Yes, I did.

4 Q. And what are their names?

5 A. Devon and Damon.

6 Q. Okay. Now, you said you had a 9
year
7 old; is that right?

8 A. Yes.

9 Q. Okay. Eventually did your 9 year
old
10 become friends with them?

11 A. Yes, he did.

12

13 (Whereupon, the following
14 mentioned items were
15 marked for
16 identification only as
17 State's Exhibits 9-A
and
18 9-B, after which time
the
19 proceedings were
20 resumed on the record
21 in open court, as

22

follows:)

23

24

25

Sandra M. Halsey, CSR, Official Court Reporter

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1 BY MR. TOBY SHOOK:

2 Q. Okay. Let me show you what's been
3 marked as State's Exhibits 9-A and 9-B. Do you
recognize

4 those photographs?

5 A. Yes, I do.

6 Q. And are they photographs of Damon
7 Routier and Devon Routier?

8 A. Yes, they are.

9

10 MR. TOBY L. SHOOK: We'll offer
State's

11 Exhibits 9-A and 9-B.

12 MR. DOUGLAS MULDER: No objection.

13 THE COURT: State's Exhibits 9-A
and

14 9-B are admitted.

15

16 (Whereupon, the items

17 heretofore mentioned

18 were received in

evidence

19 as State's Exhibit No.

9-A

20 and 9-B for all

purposes,

1 BY MR. TOBY L. SHOOK:

2 Q. Let me show you State's Exhibits
9-B.

3 Is this a photograph of Devon Routier?

4 A. Yes, it is.

5 Q. Okay. And was he the older boy?

6 A. Yes, he was.

7 Q. Okay. And, do you know how old
he was?

8 A. When? I don't understand the
question

9 exactly. When?

10 Q. Okay. Let's go back to the
summer of

11 this year, June of '96. Do you know how old he was
at

12 that time?

13 A. Six, I believe.

14 Q. Okay. Was he younger than your
boy?

15 A. Yes.

16 Q. How old was your boy back in
June of

17 '96?

18 A. Eight.

19 Q. Okay. Then State's Exhibit 9-A

is this

20 a photograph of Damon Routier?

21 A. Yes, it is.

22 Q. Was he the youngest boy between
Devon

23 and Damon?

24 A. Yes, he was.

25 Q. And how old was he back in June
of '96?

Reporter Sandra M. Halsey, CSR, Official Court

1 A. I believe he was two years
younger,
2 approximately.

3 Q. Okay. Since your boy became
friends
4 with them, did you see them a lot?

5 A. Yes, I did.

6 Q. Okay. Did they play together a
lot?

7 A. Yes.

8 Q. Okay. And where did they play?

9 A. The Routier's home, my home,
yards,
10 backyards, front yards, boys play about anywhere.

11 Q. Okay. Did you get to know Devon
and
12 Damon pretty well?

13 A. Yes.

14 Q. Okay. How often did they play
with
15 your boy, Jonathan?

16 A. We lead kind of a hectic life
with
17 soccer and school and scouts and everything. It
was

18 nothing uncommon to play two or three times a week,
and on

19 the weekends when available.

20 Q. Okay. If your boy was around, were
21 they usually out playing with each other?

22 A. That or one of the other
neighborhood

23 kids, and he would join in, yes.

24 Q. Okay. So, you've had them in your
home

25 and your boy went over to the Routier's home?

Sandra M. Halsey, CSR, Official Court Reporter

1 A. Yes.

2 Q. The Routiers themselves, did you
know
3 them very well?

4 A. Not very well, no. I knew them by
5 sight.

6 Q. Okay. Let me ask you, do you see
7 Darlie Routier in the Courtroom today?

8 A. Yes, I do.

9 Q. Okay. If you could point her out,
10 please.

11 A. The fourth chair from the left.

12 Q. The woman here in the dress seated
at
13 the table?

14 A. Yes.

15

16 MR. TOBY L. SHOOK: Your Honor, if
the

17 record could reflect the witness has identified the
18 defendant.

19 THE COURT: Yes, sir.

20

21 BY MR. TOBY L. SHOOK:

22 Q. And did you meet her husband,
Darin,

23 after they had moved in?

24 A. Yes. I actually met him before

they

25 moved in.

Sandra M. Halsey, CSR, Official Court Reporter

1 Q. Okay. Now, you weren't close
friends

2 with either of the adult Routiers; is that right?

3 A. No.

4 Q. How many conversations have you had
5 with the defendant, Darlie Routier?

6 A. One, possibly.

7 Q. Okay. How about Darin Routier?
How

8 many conversations have you had with him?

9 A. Four, possibly.

10 Q. Okay. Were these at either one of
your

11 homes, inside the homes, or where did these take
place?

12 A. Basically in front of the homes,
13 different places. Beside the homes, in front of
the
14 homes, in the street.

15 Q. Okay. But you weren't close
friends

16 with them; is that right?

17 A. No.

18 Q. Okay. Were they closer friends
with

19 other neighbors that are in the neighborhood other

than

20 yourself?

21 A. Yes.

22 Q. Okay.

23

24 MR. TOBY L. SHOOK:

May I approach the

25 witness?

Sandra M. Halsey, CSR, Official
Court Reporter

1 THE COURT: You may.

2

3 (Whereupon, the
following

4 mentioned items were

5 marked for

6 identification only

7 as State's

Exhibits

8 Numbers 7, 8, &

8-A,

9 after which time

the

10 proceedings were

11 resumed on the

record

12 in open court, as

13 follows:)

14

15 BY MR. TOBY L. SHOOK:

16 Q. I want to show you a couple of
aerial

17 photographs, one marked State's Exhibit 8, the other

18 marked State's Exhibit 7. Do you recognize both of
these

19 photographs as being aerial photographs of your

20 neighborhood?

21 A. Yes, they are Dalrock Heights.

22 Q. Okay. And, do they accurately
reflect

23 how your neighborhood looked, how the streets were

24 situated back in June of '96?

25 A. Yes, they do.

Sandra M. Halsey, CSR, Official Court Reporter

1

2

MR. TOBY L. SHOOK: We'll offer

State's

3

Exhibits 7 and 8 at this time.

4

MR. DOUGLAS MULDER: No objection,

your

5

Honor.

6

THE COURT: State's Exhibits 7 and

8

7

are admitted.

8

9

(Whereupon, the items

10

Heretofore mentioned

11

Were received in

evidence

12

As State's Exhibit

Nos. 7

13

and 8 for all

purposes,

14

After which time, the

15

Proceedings were resumed

16

As follows:)

17

18

MR. TOBY L. SHOOK: Your Honor,

could I

19

have the witness step down for a moment?

20

THE COURT: You may.

21

Step down, please, sir. Watch

your

22 step.

23

24

(Whereupon, the witness

25

Stepped down from

the

Sandra M. Halsey, CSR, Official
Court Reporter

what

20 this reflects?

21 A. Yes, it is.

22 Q. Okay. The street labeled

Dalrock,

23 could you describe that for us.

24 A. Dalrock Road is basically a road

that

25 runs between Highway 66, a little point, or a little
point

1 north of Highway 66, which is about another quarter
of a
2 mile beyond what the picture encompasses here. It
runs
3 all the way to I-30, which is approximately two and a
half
4 miles south.

5 Q. Okay. And how far is Highway 66 in
6 relation to this photograph?

7 A. About a quarter of a mile beyond,
it
8 probably in relation to the picture in the scale, is
9 somewhere in this area.

10 Q. Okay.

11 A. It's east-west. Dalrock Road is
in
12 north-south. It's also the Dallas/Rockwall county
line.

13 Q. Okay. Eagle Drive is located
right
14 along here; is that right?

15 A. Correct. Until the corner, and
then it
16 turns around this way.

17 Q. Okay. Is it still named Eagle
Drive

18 once it comes down this way?

19 A. Yes, it is.

20 Q. All right. And, I think I'll give
you

21 the pointer, and if you could point, first, of all,
where

22 your house is located on this exhibit.

23 A. My house is located right here at
this

24 corner facing north and south.

25 Q. Okay. And there's a marker on
there,

Sandra M. Halsey, CSR, Official Court Reporter

1 5801 Eagle. Whose home is that?

2 A. That's the Routier's.

3 Q. Okay. So you're directly across
the
4 street?

5 A. Yes.

6 Q. And, where does Eagle Drive
eventually
7 wind up over here as you go down?

8 A. It would probably wind up in a dead
end
9 approximately over here at a street that goes back
south
10 only to Highgate.

11 Q. Okay.

12 A. And then continues back through the
13 other older division.

14 Q. Okay. So, you were talking about
15 earlier, you don't get a lot of traffic coming down
Eagle
16 during the evening hours?

17 A. No.

18 Q. Okay. But in this general area,
the
19 Rowlett Police are usually out making patrols all the

time

20 during the day?

21 A. Making patrols, or you'll see them

22 sitting also.

23 Q. Okay. And do they sit in this

area,

24 just kind of sit and watch traffic go by or whatever?

25 A. Yes, they do. The Lake Pointe

Baptist

Sandra M. Halsey, CSR, Official Court Reporter

1 Church at that time, there is another part of the
parking
2 lot, up in this area, that has a sign that sits in the
3 middle of the driveway. A lot of times they'll sit in
one
4 of these four driveways, and they'll just sit there
and
5 watch traffic go up and down Dalrock.

6 Q. Okay. Let me show you State's
Exhibit

7 8. We're looking at a little more closeup of the
8 neighborhood. 5801, is this the Routier's home?

9 A. Yes, it is.

10 Q. Okay. Can you -- first of all,
let's

11 point out to your house again. Can we see it on the
12 photograph?

13 A. 8401 right here.

14 Q. Okay. And do you know the other
15 neighbors close to you?

16 A. Directly east of me, this would
be

17 Terry and Karen Neal.

18 Q. Okay.

19 A. There's an elderly couple that

lives

20 here. I don't know their names. There's an
oriental

21 family that lives here. I do not know their name.

22 There's a house that's not on this picture, it's on
the

23 larger one, in this area and that would be the
Adams.

24 Q. Okay. Now, you're not close
personal

25 friends of the Routiers; is that right?

Sandra M. Halsey, CSR, Official Court Reporter

1 A. That's correct.

2 Q. Just across-the-street neighbors?

3 A. Yes.

4 Q. Are there other neighbors here that
are
5 closer friends with them?

6 A. Yes.

7 Q. Okay. Who would that be?

8 A. The Neals.

9 Q. The Neals, right here?

10 A. And the Adams, which is not on this
11 picture. They would be located in this area.

12 Q. Okay. Do you know the Adams's --
is
13 that their last name?

14 A. Mercedes and Mike, I believe.

15 Q. Okay. Real quickly, can we see
their
16 house in this photograph?

17 A. It would be this one here.

18 Q. Okay. So it's just a couple houses
19 down also?

20 A. Yes.

21 Q. Okay. All right. And as far as
the

22 boys playing, can you -- your child, where did he
play

23 with the Routiers?

24 A. Again, behind my house, which is
25 located back here. In front of the houses, the
Neal's

Sandra M. Halsey, CSR, Official Court Reporter

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1 yard, their yard, behind the house, beside the house,
kind

2 of anywhere in this area is fair game.

3 Q. Okay. You can have a seat.

4 A. All right.

5

6 (Whereupon, the witness

7 Resumed the witness

8 Stand, and the

9 Proceedings were resumed

10 On the record, as

11 Follows:)

12

13

14 BY MR. TOBY L. SHOOK:

15 Q. Now, Mr. Gorsuch, let me turn your
16 attention to the morning hours of June 6th, 1996 and
ask

17 you if you had to go into work that evening?

18 A. Yes, I did.

19 Q. Okay. Actually, I guess, let me
turn

20 your attention to June 5th, the day before that. Did
you

21 go into work those late evening hours?

22 A. Yes, I did. I went into work at

23 approximately 10:00 o'clock.

24 Q. Okay. And, do you recall what day

of

25 the week that was?

Sandra M. Halsey, CSR, Official Court Reporter

202

1 A. Wednesday, I believe.

2 Q. Okay. Was it unusual for you to
go

3 into work for late hours?

4 A. It's not unusual, it's not common
5 either, it's only when required.

6 Q. Okay. And, what was your occasion
for
7 going into work on that day?

8 A. Customer support of a
9 telecommunications system that needed some work done
to
10 it, which we had to perform after hours, because they
11 don't like to take the telephone systems down during
the
12 middle of the day.

13 Our work can only be done after
14 midnight. The system was located in Pennsylvania,
which
15 is on the east coast, which was 11:00 o'clock our
time,
16 midnight their time, which is when we could do the
work.

17 Q. Okay. Had you been home earlier
during
18 the evening hours at your house?

19 A. Yes, I had.

20 Q. Okay. Had you seen the Routier

21 children?

22 A. Yes, I had.

23 Q. Devon and Damon?

24 A. Yes.

25 Q. Now, the Routiers also had a small

Sandra M. Halsey, CSR, Official Court Reporter

1 infant; is that right?

2 A. Correct.

3 Q. Okay. Did you have any contact
with

4 the infant?

5 A. No.

6 Q. You just dealt with Devon and
Damon?

7 A. Yes, sir.

8 Q. Where did you see Devon and Damon
on

9 the night of the 5th?

10 A. They were playing with my son.

Again,

11 kind of, fair game area. They were in my backyard. I
was

12 mowing my yard, so I asked them to get out of the
backyard

13 and go to the front yard. Whenever I went to the
front

14 yard and started mowing, they were gone. The
assumption

15 was they probably went across the street to the
Routiers.

16 I later saw them riding bicycles, I

believe,

17 in the area around their side of the street, again,
18 staying away from my mowing.

19 Q. Okay. You were just doing that as
a

20 safety precaution?

21 A. Yes.

22 Q. Okay. How long did they play with
your

23 son, Jonathan, that night?

24 A. It was approximately until dark,
25 probably 8:00 or 8:30.

Sandra M. Halsey, CSR, Official Court Reporter

1 Q. Okay. Where's the last place that
you
2 saw Devon and Damon that evening?

3 A. That I actually saw them, was
riding
4 their bicycles in that area north of their home on the
5 sidewalk.

6 Q. When you were out mowing the lawn?

7 A. Yes.

8 Q. Okay. Did you see Darlie Routier
9 outside of her home that evening?

10 A. No.

11 Q. Okay. How about Darin Routier?

Did
12 you see him?

13 A. No.

14 Q. All right. You just saw the boys
out
15 there.

16 A. Yes.

17 Q. Was that unusual not to see them
18 outside of their home?

19 A. No, not really.

20 Q. Okay. And you went to work around
21 10:00 p.m. that evening?

22

A. Correct.

23

work?

Q. Okay. How long did you stay at

24

A. Until approximately 25 after 1:00.

25

Q. Okay. So, 1:25 in the morning?

Sandra M. Halsey, CSR, Official Court Reporter

1 A. Correct.

2 Q. And, did you leave work at that
time?

3 A. Yes, I did.

4 Q. Prior to leaving work, did you make
any

5 phone calls?

6 A. Yes, I did.

7 Q. Who did you call?

8 A. I called my wife to let her know
that I

9 was on my way home. Anytime I work late in the night
I

10 always call my wife and let her know that I'm on my
way

11 home. She knows approximately how long it takes me
to

12 drive home. So it's safe for me to enter the house,
so to

13 speak.

14 Q. Do you own a handgun?

15 A. Yes, I do.

16 Q. And she knows how to use it?

17 A. Yes, she does.

18 Q. Okay. You want to let her know
you're

19 on the way home?

20 A. Correct.

21 Q. Okay. How long did it take you
to get

22 home that day, that early morning of June 6th?

23 A. In the early morning hours,
driving

24 from my workplace in Richardson to Rowlett is only
about a

25 20 or 25 minute drive.

1 Q. Okay. Anything unusual happen to
you

2 on the way home?

3 A. No.

4 Q. Okay. As you -- what route did
you

5 take to get home? How do you get into the
neighborhood

6 there?

7 A. How I get into the neighborhood is
come

8 down Dalrock, which actually connects the future 190.

9 Dalrock Road comes across 66. Dalrock then comes to
Linda

10 Vista, which is the cross street there you saw coming
from

11 Dalrock, the first one from the north, Dalrock or
Linda

12 Vista then enters into the subdivision. It dead ends

13 there on Eagle, make a right turn on Eagle and park
right

14 in front of my house.

15 Q. Okay. Looking at the larger

16 photograph, then you would have come down Dalrock
past the

17 Lake Pointe Baptist Church; is that right?

18 A. That's correct.

19 Q. Did you see anything at the Lake
Pointe

20 Baptist Church when you came home?

21 A. A police officer sitting in the
22 driveway.

23 Q. Okay. And, he was sitting right
here

24 by Dalrock Road?

25 A. A little bit to the -- beyond
where you

1 can see on that picture again. It's a sign that sits
down

2 in the driveway. He was sitting here. They usually
sit

3 behind the driveway, or behind the sign a little bit.

4 Q. Nothing unusual about that?

5 A. No.

6 Q. Okay. About what time in the
morning

7 would this have been?

8 A. This would have been probably a
quarter

9 to 2:00, to 10 till 2:00.

10 Q. Okay. 1:45 to 1:50 a.m.?

11 A. Correct.

12 Q. Okay. Then you just turned down,
is it

13 Linda Vista?

14 A. Linda Vista Drive.

15 Q. Then make a turn and come down
Eagle?

16 A. Correct.

17 Q. And parked right there in front of
your

18 house?

19 A. Correct. Right there beside that
blue

20 van that's there now.

21 Q. Is that where you always park?

22 A. Yes, it is.

23 Q. Okay. And looking at the larger

24 photograph, it would be next to this blue van; is

that

25 right?

1 A. Yes.

2 Q. And then just go up the walkway,
and in

3 the house.

4 How many cars were out here in
this

5 little turn-around, this little cul-de-sac that
evening?

6 A. Other than my two vehicles, they
were

7 the only ones in that cul-de-sac.

8 Q. Okay. And what kind of vehicle
were

9 you driving?

10 A. '85 red Nissan pickup.

11 Q. Okay. And, there were no other
cars in

12 this area; is that right?

13 A. Correct.

14 Q. Where were your vehicles parked?

15 A. Directly in front of my sidewalk
there,

16 where you see the manhole cover, little dot, right in

17 front of the sidewalk. And the van is parked

18 approximately where it is right now.

19 Q. Okay. Does anyone else park out
here?

20 A. They do occasionally.

21 Q. Who is that?

22 A. The Neals.

23 Q. Okay. Your next door neighbors
here at

24 8405?

25 A. Correct.

1 Q. Okay. Were their cars parked out
there

2 that morning?

3 A. No.

4 Q. Okay. Any cars parked out in
front

5 5802?

6 A. No.

7 Q. How about this side of the street,
the

8 right side on the photograph. Did you see any
vehicles

9 parked out there?

10 A. No.

11 Q. Okay. Now, once you parked and
got out

12 of your car, what did you do?

13 A. That being that time of morning,
it was

14 fairly warm that night, fairly muggy. I stood around
and

15 kind of looked at the stars, looked around at the
sky. I

16 like looking at the stars, the moon, the sky,
whatever may

17 be out that night, probably three or four minutes.

18 Q. Okay.

19 A. Also, going in to the house that
time

20 of morning, the house is locked, so I just, I kind of
21 check the neighborhood, look around a little bit, and
make

22 sure that somebody is not going to follow me into the
23 house, follow me up to the house. I'm fairly good
size,

24 but that doesn't prevent some people.

25 I looked around, didn't see
anything

1 unusual or anything, after I had looked at my stars
and

2 whatever, and went into the house.

3 Q. Where were you standing when you
were

4 just kind of standing out relaxing, and looking up at
the

5 stars, and looking around the neighborhood?

6 A. Probably right beside my pickup,
or

7 right in front of it.

8 Q. Okay. So just right out here in
the

9 street?

10 A. No, to the left and forward.

11 Q. Okay. Up here by the curb?

12 A. Correct.

13 Q. Okay. Did you take a look down
both

14 ends of Eagle that night?

15 A. Yes, I did.

16 Q. Okay. This was your practice to
do

17 this -- to make sure to see if there was anyone
around?

18 A. Correct.

19 Q. Okay. Could you see the
Routier's

20 home?

21 A. Yes.

22 Q. Okay. Do you recall if it was
lit up

23 at that time or not?

24 A. No, I do not recall. There is a
25 fountain that you can see there in the picture, just
to

1 the left of their sidewalk.

2 Q. This fountain
here?

3 A. Yes.

4 Q. Okay.

5 A. It has three flood lights that are
on

6 the fountain, which illuminates the front of the
home, and

7 most of the area around it pretty well. There's also
a

8 street light over on the corner, on our side of the
9 street.

10 Q. Here?

11 A. To the right. The right of the
van.

12 Q. Okay.

13 A. You can see the pole barely there.

14 Q. Okay.

15 A. I did not notice any lights out of
the

16 ordinary or unusual, no.

17 Q. So, the flood lights were on, but
that

18 was the usual, is that right?

19 A. Correct.

20 Q. Overall, would you describe this
corner

21 of the neighborhood as pretty well lit?

22 A. Yes.

23 Q. Okay. You got a street light here
by

24 your house. The Routier home has their flood lights.

Are

25 there any other street lights along there?

1 A. There's another street light down
west
2 on Eagle, just to the left, I believe, of 8313 would
be
3 the next house. I think there's a street light there
at
4 that corner.

5 Q. Okay.

6 A. There's another one down this way
at
7 the stop sign on the east.

8 Q. Okay. Just down here?

9 A. Yes.

10 Q. Okay. Now, as far as any vehicles
that
11 are parked out there, there's only your two vehicles
that
12 are in front of your house?

13 A. Correct.

14 Q. And nothing in front
of your two
15 neighbors here; is that right?

16 A. That's correct.

17 Q. Anything along this
side of the street

18 at all?

19 A. Not that side of the
street, no.

20 Q. What about in front
of the Routier's

21 home, did you see any vehicles?

22 A. Their Pathfinder.

23 Q. Okay.

24 A. It's a green, I

don't know what year,

25 Pathfinder, dark green Pathfinder.

Sandra M. Halsey, CSR, Official
Court Reporter

1 Q. Okay.

2 A. Which was usually
parked there just to

3 the -- straight out area from their
sidewalk.

4 Q. In this area here?

5 A. Approximately there
where the blue car

6 is now, yes.

7 Q. And that was the
usual place it was

8 parked?

9 A. Yes.

10 Q. Okay. How many cars
did the Routier's

11 have?

12 A. Actually own, I
don't know. Two that I

13 have seen.

14 Q. Okay. Two that
you've seen? The

15 Pathfinder?

16 A. Correct.

17 Q. What other car do
they have?

18 A. A Jaguar of some
type.

19 Q. Where is that
usually parked?

20 A. Usually that's
parked there in the
21 back. Sometimes, yes, there in the
driveway. Sometimes
22 it would be parked out front, in front
of the Pathfinder.

23 Q. Okay. So sometimes
they were both

24 parked out there?

25 A. Correct.

Sandra M. Halsey, CSR, Official
Court Reporter

1 Q. But that morning,
just the Pathfinder
2 here?

3 A. Yes, sir.

4 Q. Did you notice any
other unusual cars
5 parked in front of 5717 or the other
houses here?

6 A. Not that I recall,
no.

7 Q. So, how about down
the other side of
8 Eagle, did you take a look down there?

9 A. The 8317 home, they
only own one car.

10 He is a retired doctor. He only owns
one car and always

11 parks it in the garage, so there's
never any cars, hardly

12 ever, in front of their house.

13 8313, again, they
park in the back.

14 The red car that you see there, just
part of in that

15 picture, that car's there most of the

time. So I believe

16 it was there that night also.

17 Other than that,

those are about the

18 only cars that park on the street.

Everybody else uses

19 their driveways or garages.

20 Q. Okay. Anything

else, any cars parked

21 on this side of the Routier's home?

22 A. No.

23 Q. Or down here along

this side street?

24 A. No.

25 Q. Okay. And, while
you were out there

Sandra M. Halsey, CSR, Official
Court Reporter

1 for, what would you say five minutes or
so?

2 A. Maybe five minutes,
yes.

3 Q. Did you see anyone walking
around?

4 A. No. Nothing unusual.

5 Q. Hear any unusual noises?

6 A. No.

7 Q. Okay. And this was -- you got
home

8 around, about 1:50 or so?

9 A. 1:50, quarter till 2:00.

10 Q. Okay. Then you go into the
house, I

11 take it?

12 A. Yes.

13 Q. Okay. I guess you safely made
it in

14 the house, with your wife knowing you were coming
home?

15 A. Correct.

16 Q. Okay. And where was your wife
located?

17 A. In the bedroom upstairs.

18 Q. Okay. Where is your bedroom

located at

19 in the house?

20 A. In the picture there, you see the
21 sidewalk going up to the house. There are two windows
to
22 the left of that sidewalk, that's the first floor.

The

23 second floor is cut off.

24 Q. Right here?

25 A. Yes. The master bedroom is located

Sandra M. Halsey, CSR, Official Court Reporter

1 above those two windows.

2 Q. Okay. So, your windows, do they
face

3 the Routier's home?

4 A. Yes, they do.

5 Q. Okay. And, do you recall how long
it

6 took you to get upstairs and into your bedroom?

7 A. I came in, locked the door, turned
on

8 the alarm system, checked the other doors and windows

9 downstairs, got a drink, put my things up for the
night,

10 and went upstairs, it was probably in the neighborhood
of

11 10 to 15 minutes.

12 Q. Okay. You have an alarm system
there

13 in your house?

14 A. Yes, I do.

15 Q. Who installed that?

16 A. I did.

17 Q. Okay. You turned that on?

18 A. Yes.

19 Q. Okay. Is that your usual practice?

20 A. Yes, it is.

21 Q. And, you also secured the rest of
the

22 downstairs?

23 A. Yes.

24 Q. Okay. So, give us your best

estimate

25 as to when you got upstairs into the bedroom.

Sandra M. Halsey, CSR, Official Court Reporter

1 A. Estimate of time, probably sometime
5
2 after 2:00 to 10 after 2:00.

3 Q. Okay. And does it take you long to
get
4 into bed?

5 A. No.

6 Q. Okay. Now, Mr. Gorsuch, was your
7 windows up or down that evening?

8 A. It was a warm evening, and my wife
and

9 I do not care for air conditioning very much, so we
have

10 our windows open most of the time. They were open
that

11 evening, yes.

12 Q. Okay. So, it's not unusual for you
to

13 not run the air conditioner in the evening?

14 A. No.

15 Q. And it wasn't running that night?

16 A. No.

17 Q. Okay. Window was open?

18 A. Yes.

19 Q. Okay. Do you have any problem

hearing

20 noises with the window open there?

21 A. No.

22 Q. Okay.

23 A. The design of the area, the houses
are

24 kind of in arc, as well as with the wind. There's is
25 usually a pretty good wind that comes directly up the

Sandra M. Halsey, CSR, Official Court Reporter

1 street. It's usually very quiet at that time of
morning,

2 so noises are not a problem, no.

3 Q. Okay. And then did you try to go
to

4 sleep?

5 A. Yes, I did.

6 Q. About what time would it have been
then

7 when you tried to go to sleep?

8 A. Again, probably 10 after, 15 after
9 2:00, somewhere in that vicinity.

10 Q. Okay. And, were you able to go to
11 sleep?

12 A. Yes.

13 Q. Okay. Now, did something wake you
up

14 soon after that?

15 A. Yes.

16 Q. Okay. What time was that that you
were

17 awakened?

18 A. The first time that I was awoken, I
19 really don't know. I did not look at the clock.

It

20 didn't break my sleep completely. I felt
something, a

21 noise of some kind that did wake me.

22 Q. What noise, do you know?

23 A. I do not know. A loud noise of
some

24 type. Again, it's, if you hear something in the
dark, or

25 the night, you hear it only once, and you're asleep,
or

1 trying to go to sleep, it's hard to tell what the
noise

2 was. All you know is it was a noise.

3 Q. Okay.

4 A. I don't know what time that was.

It

5 was sometime after I tried to go to sleep or after I
did

6 go to sleep and it woke me. A short time
thereafter, I

7 was awoken again though. And this time it was a
full

8 awakening.

9 Q. Okay. And what woke you at that
time?

10 A. What woke me at that time was
Darin

11 Routier running from the front of the home, down the
12 sidewalk, yelling that, "someone has stabbed my
children,"

13 or, "my kids and my wife".

14 Q. Okay. "Someone has stabbed my
children

15 and my wife"?

16 A. Yes.

17 Q. Is that your best recollection of
what

18 he was yelling?

19 A. That is my best recollection, yes.

20 Q. Okay. And tell the jurors how he
was

21 yelling that. Was he --

22 A. Very loudly. Almost broadcasting
it to

23 the neighborhood as a danger. You know, he wanted

24 somebody to hear him.

25 Q. Okay. And you had no trouble
hearing

1 him?

2 A. No.

3 Q. Okay. When you heard that, what
4 did

5 you do?

6 A. I immediately sat up in bed. And
7 naturally, when you hear something like that, you're
8 going

9 to listen to see what's going on. I immediately sat
10 up in

11 bed, and as I set up in bed, I have a waterbed that
12 sits

13 up fairly high, I can look directly out the window,
14 directly down, and I saw Darin approximately even
15 with the

16 fountain.

17 Q. Okay. Do you recall what he was
18 wearing?

19 A. I recall it was blue jeans, I
20 believe,
21 only.

22 Q. Okay. Just blue jeans?

23 A. Yes.

24 Q. Okay. And, he was standing near
25 the

19 fountain?

20 A. Yes.

21 Q. Okay.

22 A. Well, he was running near the
fountain,

23 he wasn't standing.

24 Q. Okay. Did you see anyone else out
25 there?

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1 A. Yes, I did.

2 Q. Who did you see?

3 A. I saw a policeman coming up over
the

4 bank. As I leaned up in bed, I could look out the
window

5 and see a pretty good picture, or pretty good view of
the

6 street. There's a police car sitting a little bit
ahead

7 of where the car is there now.

8 Q. Okay. Let me get you -- if we
could,

9 with the Court's permission, if we could have the
jurors

10 step down for a moment.

11

12 THE COURT: All right. That's
fine.

13 Maybe you can use the pointer, Mr. Shook.

14 MR. TOBY L. SHOOK: Okay.

15 THE COURT: If you will just wait
a

16 minute for everyone to find a position around
there.

17 Okay. Can the jury all see

that?

18 Okay.

19

20 BY MR. TOBY L. SHOOK:

21 Q. Mr. Gorsuch, if you can step over
here

22 to the side.

23 A. Okay.

24 Q. And again, on the photograph,

point to

25 the area that you first saw Darin Routier.

1 A. Okay. Darin Routier was
approximately
2 in this area here. There was a police squad car
parked
3 away from the curb, a little bit in this area, a
little
4 bit ahead of the direct front line of the home.

5 Q. Which is --

6 A. -- parked close to the front. He
was
7 actually parked around to the side, about in this
area.

8 Q. Okay. And, which way was he
pointed?

9 A. He was pointed west.

10 Q. Okay. Did you see a police officer
out
11 in that area?

12 A. Yes, I did. He was approximately
in
13 this area. There is a small bank here. It comes up
from
14 the sidewalk into the yard. It runs approximately
around
15 in about this area. He was already up over the side
of

16 that bank and was coming up about in this area here,
at

17 the corner of the house, whenever I sat up in bed.

18 Q. Okay. That's the first thing you
see

19 when you look out?

20 A. Correct.

21 Q. Okay. What was the next thing that
you

22 saw happen?

23 A. The next thing I saw happen was
Darin

24 stopped about in this area, and he came around between
the
25 fountain and the house, and met the police officer in
this

Sandra M. Halsey, CSR, Official Court Reporter

1 area. They both came back between the house and the
2 fountain and then went into the house.

3 Q. Okay. Now, did you hear anything
said

4 between Darin and the police officer at that time?

5 A. I heard something said, but I could
not

6 understand what was said.

7 Q. Okay. And then they go into the
house?

8 A. Yes.

9 Q. Okay. What do you do at that time?

10 A. I got out of bed. My wife was
awake at

11 that time, she heard basically the same thing. So she
and

12 I both got out of the bed. We kind of went to the
window

13 and looked, of course, to see what was going on. At
that

14 time all we could see was a police car sitting here.

15 Q. Okay. Did you look around the
street

16 to see if you could see anything else?

17 A. Yes, I did.

18 Q. Okay. Did you see anything else
there

19 in the neighborhood?

20 A. No. Nothing in this area, other
than

21 what I've already describe, my pickup, the Pathfinder
22 here, and my van here, the police car here.

23 Q. Okay. So there's your two cars in
24 front of your house?

25 A. Yes.

Sandra M. Halsey, CSR, Official Court Reporter

1 Q. Now the police car is parked here?

2 A. Yes.

3 Q. And the Routier's Pathfinder is in
4 front of their house?

5 A. Yes.

6 Q. Are there any other cars out there
that
7 you see?

8 A. No.

9 Q. Any other cars at your neighbors
here
10 at 5802 or anything like that?

11 A. No.

12 Q. Okay. What's the next thing that
you
13 saw?

14 A. The next thing I saw were the
police

15 officer and Darin come back out of the house.

16 Q. Okay.

17 A. The police officer and Darin then -

-

18 the police officer basically told Darin to go find
19 somebody else in the neighborhood, ask him if there
was

20 somebody else. Darin said "yes." Darin came

across the

21 street, went to the Neals' house and beat on their
door.

22 Q. Okay. Now, did another police
officer

23 arrive soon after that other officer?

24 A. Yes.

25 Q. Okay. Where was his car
located?

Reporter Sandra M. Halsey, CSR, Official Court

1 A. It was parked somewhere in this
area
2 here. He had pulled up and stopped fairly quickly,
3 somewhere out here in the middle of this area.

4 Q. Okay. And where did he
go?

5 A. He went to the house
also.

6 Q. Okay. Now, you didn't have a
stop
7 watch on or anything, did you?

8 A. No.

9 Q. Okay. Do you know how long it
took
10 this other officer to arrive on the scene?

11 A. No, I do not.

12 Q. Okay. But another officer pulled
up
13 soon thereafter?

14 A. Very soon thereafter.

15 Q. When Darin Routier emerged from
the
16 house again, was this other police officer there
also?

17 A. Not yet.

18 Q. Okay. Did he arrive soon after

that?

19 A. Yes.

20 Q. Okay. And you're observing this
from

21 your bedroom window; is that right?

22 A. That's correct.

23 Q. Okay. What's the next thing that
you

24 remember happening?

25 A. The next thing I recall happening
was

1 when Darin was here beating on the Neals' door, with
the

2 second officer arriving, and what I had already
heard, it

3 occurred to me that, you know, that maybe there is
4 somebody around that I need to find for them, or look
to

5 see if there is anybody.

6 My house has windows across the
back of

7 it, on the second story, as well as the one on the
west

8 side. I had a pretty good view of everything in the
9 alley. There's a large fence that runs between our
10 property here and the church.

11 I can see the alley several houses
down

12 to the west. I can see across the church parking lot
13 through the fence, or over the fence. The fence is
14 approximately a nine foot fence, so it's pretty hard
to

15 scale. I can also see the alley going this way for
16 probably about down to the corner here.

17 I immediately went and looked out
that.

18 After I didn't see anybody there, I went back to my

19 bedroom, picked up my pistol and went downstairs.

20 Q. Okay. And, again, were you timing

21 that, how long it took to look out the windows, that

sort

22 of thing?

23 A. No.

24 Q. Okay. When you last heard and

looked,

25 Darin was next door beating on the door; is that
right?

Sandra M. Halsey, CSR, Official Court Reporter

1 A. That's correct.

2 Q. And you said the Neals live there?

3 A. The Neals live there, Terry and
Karen.

4 Q. That's Terry and Karen Neal?

5 A. Yes.

6 Q. And those are close friends of the
7 Routiers in the neighborhood?

8 A. In my opinion, yes.

9 Q. Okay. You went outside your home;
is
10 that right?

11 A. That's correct. After I went
12 downstairs, I turned off the alarm system and came out
the
13 front door. I have two large cut pillars here with an
14 archway above my door, and I stood approximately here
to
15 this of the door beside the pillar.

16 Q. Okay. Once you got outside the
house,
17 had some more cars arrived on the scene?

18 A. Yes.

19 Q. Okay. What cars were those?

20 A. They were some more police
officers,

21 and an ambulance. There's an ambulance approximately
22 right here.

23 Q. Okay.

24 A. There was another ambulance that
came
25 and parked in this area with the police car behind it.

Sandra M. Halsey, CSR, Official Court Reporter

1 The ambulance was just in front of the Pathfinder.
The
2 police car was back in this area. There were starting
to
3 be more and more cars. There's also a MCU fire truck
that
4 came and parked in this area. There were fire, again,
5 fire response vehicles, ambulances and police cars.

How

6 many, and where exactly, it's hard to keep track.

7 Q. Okay.

8 A. From the time this ambulance
arrived --

9 before this ambulance arrived here though, there was a
car

10 that came into this area. It was dark colored car,
older

11 model, Cutlass, I believe is what it was. It had some
12 younger people in it. And the police officer that
had

13 come in this car was over here. They came across
and

14 stopped this vehicle.

15 Q. Okay. That's the second officer
that

16 arrived on the scene?

17 A. Yes. The second officer was
actually

18 the one that -- I do not believe he actually made it
to

19 the house yet.

20 Q. Okay.

21 A. When he stopped the vehicle, the
other

22 officer came out as well. The ambulance came during
that

23 timeframe. The car here was stopped, the individuals
in

24 the car, I believe there were four of them, they got
the

25 individuals out at gunpoint and basically spread eagle
on

Sandra M. Halsey, CSR, Official Court Reporter

1 the car.

2 Q. Okay. So this other car you saw,
was

3 that the first car that you saw moving that was not a
4 police vehicle, or an ambulance or a fire truck?

5 A. Yes.

6 Q. Okay. And, were you downstairs
when

7 you observed this car come by the house?

8 A. Yes.

9 Q. The police officers immediately
stopped

10 that?

11 A. Yes.

12 Q. And take the people out by
gunpoint?

13 A. Yes.

14 Q. Okay. Did you see them do anything
to

15 the car at that time?

16 A. They searched the car, interior, as
17 well as trunk, while they had the people out of the
car,

18 they questioned the people. It looked like they were
19 looking at licenses, I.D.'s, things like that.

20 Q. Did they also search those

individuals?

21 A. Yes, they did.

22 Q. Okay. Did they let those people go

on

23 their way?

24 A. Yes, they did, after a period of

time.

25 Q. Okay. And you're observing this

all

Sandra M. Halsey, CSR, Official Court Reporter

1 from your porch, I take it?

2 A. Yes.

3 Q. Okay. Where was Darin Routier at
this

4 time?

5 A. Darin was coming back across the
6 street. Before, or it was right after, actually, this
car

7 was stopped. He was still over here with Terry and
Karen.

8 Terry came out of the house first with Darin and came
back

9 across the street. Karen came out afterwards.

10 Q. Okay. It took Terry, evidently,
awhile

11 to get up out of bed once he was awakened?

12 A. Yes.

13 Q. He was the first out though?

14 A. Yes.

15 Q. Okay. Had the paramedics gone into
the

16 house at that time?

17 A. Yes. As Terry and Darin were
coming

18 across the street, the paramedics, again, did arrive.

And

19 they were coming into the house at that time, yes.

20 Q. Okay. What's the next thing that
you

21 observed?

22 A. The next thing I observed was, once
23 Terry and Darin came across the street, they came up
to

24 the front of the house. There was another officer

that

25 had arrived at that time also. He was there in
front of

1 the house also. He was watching this that was going
on

2 here. He was here.

3 Darin and Terry came across the
street.

4 Karen came out shortly thereafter, I think before
Terry

5 and Darin even entered the home. Karen came out and
came

6 across the street also. They waited and the three
of them

7 entered the home.

8 Q. Okay. And, how long were Terry
and

9 Karen in that home?

10 A. I'm not real sure. It was a
short

11 period of time.

12 Q. Okay. Again, you didn't have a
13 stopwatch on it?

14 A. No.

15 Q. But it was a short period of
time?

16 A. Yes.

17 Q. And, did they leave with anyone
at that

18 time? Did you see anyone leave when they left the
house?

19 Where they with anyone?

20 A. They were with a police officer,
yes.

21 Q. Okay. Could you describe how
they left

22 the house?

23 A. They were basically being
escorted. It

24 was a police officer, I think, and possibly a

paramedic, I

25 think.

1 Q. Okay.

2 A. It was either a paramedic or a
police

3 officer. Again, it was somebody in uniform.

4 Q. Okay. And they --

5 A. They were both on the scene at
that

6 time.

7 Q. They weren't physically throwing
them

8 out?

9 A. No. No. They were helping them
10 almost.

11 Q. Okay.

12 A. It was more of a help escort than
a

13 forceable escort.

14 Q. But it was a short period of time
that

15 they were in there?

16 A. Yes.

17 Q. Okay. What's the next thing that
you

18 observed? Did you observe anyone else coming out of
the

19 house after that?

20 A. After that period of time, other
than

21 the police officers, no.

22 Q. Okay. What about any of the
children?

23 A. It was a period of time again,
exactly

24 how long, I don't know. The smallest one, to be
honest

25 with you, I never could keep their names straight.
Devon

1 and Damon, you always saw them in pairs, so it was
just

2 always Devon and Damon.

3 I don't know which one it was, it
was

4 the smallest one, was brought out through this area
and

5 placed in this ambulance with two paramedics.

6 Q. Okay. And, did you see Darlie
Routier

7 being brought out?

8 A. Not at that time.

9 Q. Okay. Sometime later was she
brought

10 out?

11 A. She was brought out, and she was
placed

12 in an ambulance here behind, the second ambulance.

13 Q. Okay. Did more police officers
14 continue to arrive upon the scene?

15 A. Definitely.

16 Q. Okay. Did neighbors start to come
out

17 and gather around?

18 A. Yes, they did. Neighbors from
19 basically all over the neighborhood came and started

20 gathering, basically in this area, as well as this
area

21 here.

22 Q. Okay. Why were they gathering
across

23 the street here?

24 A. The gathering was kind of
controlled by
25 the police and their tape. There was a taped area,
and it

1 went, kind of, from this area up and across, through
this
2 light pole, through these mailboxes and down through
this
3 area to this corner of this house. Somewhere in that
4 vicinity. Exactly where the tape was, I don't
recall. It
5 was in two or three different places.

6 Q. Are you talking about the yellow
police
7 tape?

8 A. Yes.

9 Q. Okay. So, it stretched actually
across
10 the street and went along the other side of the
street; is
11 that right?

12 A. That's correct.

13 Q. Okay. Did it enclose your cars?

14 A. Yes, it did.

15 Q. Okay. How quickly did the police
put
16 that particular tape up?

17 A. It was up very quick. When the
18 ambulance here that had the smallest child in it had

first

19 pulled out, it was almost as soon as it pulled out,
the

20 tape went up.

21 Q. Okay.

22 A. They had to actually lift the tape
up

23 to allow the second ambulance out.

24 Q. Okay. And you said that the

neighbors

25 gathered. They gathered on the other side of the
tape?

1 A. Yes. In this area here behind the
2 tape.

3 Q. Okay. Were any of the neighbors
4 allowed to go beyond that tape?

5 A. No.

6 Q. From your observations, did the
police

7 keep everyone out, from outside of that tape?

8 A. Most definitely.

9 Q. Even before the tape was up, did
you

10 observe the police officer's actions, as far as
letting

11 people on the property, things like that?

12 A. As far as the police officers
13 themselves, the police officers themselves were the
only

14 ones, other than Terry and Karen that I saw try to
enter

15 the property, and Darin.

16 Q. Okay.

17 A. Other than that, I saw no one else
18 attempting to even enter the property.

19 Q. Okay. So, the only persons you saw
go

20 in the house were Darin and Karen and Terry?

21 A. Well, the paramedics and the police
22 officers.

23 Q. The paramedics and the police
officers?

24 A. Correct.

25 Q. By the time you saw Karen and Terry
go

Sandra M. Halsey, CSR, Official Court Reporter

1 in, they were in just a short time?

2 A. Correct.

3 Q. Where they went, do you have any
idea?

4 A. I don't have any idea. From what
Karen

5 said, whenever she came back out, the assumption is
that

6 she did go into the area where the boys were. She did

7 describe it to a little bit of detail, not much.

8 She became -- she is a nurse.

She's a

9 registered nurse. She knew the paramedics, they knew
her.

10 Somehow, through the confusion that when she came
over,

11 she was confused and she thought that she was
supposed to

12 help. So she did attempt to help.

13 Q. Okay. But was she in there
14 resuscitating these boys or anything like that?

15 A. No. She's a -- they basically --
they

16 turned around to follow -- or to walk back to the
area, I

17 guess. From what she said, just from what she had
told
18 me, that she went to the area, but they wouldn't let
her
19 do anything. That's when they escorted her and
Terry back
20 out. So, again, it was a very few minutes that
that
21 actually occurred.

22 Q. Okay. Steps in, goes in, but
doesn't

23 help, and is escorted out?

24 A. Correct.

25 Q. Okay. And, from the short time
you saw

Sandra M. Halsey, CSR, Official Court
Reporter

1 them enter and come back out, would that be
consistent

2 with what you saw there? She was not in there a
long

3 time?

4 A. Correct.

5 Q. Okay. Did you see anyone else,
any

6 other civilians, anyone else, other than police
and

7 paramedics then go in that house?

8 A. No.

9 Q. Okay. And then after they had
the

10 scene tied off, did you see anyone other than
police

11 officers going inside that house?

12 A. No.

13 Q. Okay. Even before the tape was up,
did

14 the officers have this area shut down pretty good?

15 A. Yeah, they had the area shut
down

16 pretty well. This entire area down through here
was

17 choked with emergency vehicles, fire trucks, police

cars,

18 ambulances here, police car -- there was another
police

19 car up in this area. There was a car that did try
to come

20 from the west direction, but it was stopped, backed
up and

21 went down the Allen Street. There wasn't really any
way

22 anybody could go through this area.

23 Q. Okay.

24 A. Via a vehicle.

25 Q. The only other car you saw, other
than

1 an emergency vehicle, was that this first car that
the

2 police stopped?

3 A. That's correct.

4 Q. Okay. And when you first woke up
on

5 hearing Darin Routier saying, "Someone's stabbed my
wife

6 and my kids," you looked out. Did you see any other
7 vehicles, other than the ones you have described?

8 A. No.

9 Q. One police officer and then the
10 Routier's vehicle and your two cars?

11 A. Correct.

12 Q. No other vehicle?

13 A. Correct.

14 Q. Okay. From that time on, did you
15 pretty much stay out in this area?

16 A. Basically stayed up here in this
area.

17 I didn't venture too far out from the house. The
only

18 reason was, I still had my pistol in my hand. With
the

19 shock of what was going on and everything, it didn't
dawn

20 on me till the last minute that there's police cars
all

21 over the place here, and I'm standing in front of my
house

22 with a gun in my hand.

23 Q. Not too safe a thing to do?

24 A. No, it wasn't. Wasn't too smart,

but,

25 again, I was in shock, didn't understand what was
going on

Sandra M. Halsey, CSR, Official Court Reporter

1 really. Once I realized that, I went back, directly
2 inside the door at some point, put the gun back on my
file
3 cabinet in the top drawer, and came back out the door.
4 From that point forward, I was in the front of my
house,
5 down my sidewalk, back to the front of my house. I
was
6 outside from that point on, until probably 9:00 or
10:00
7 o'clock in the morning.

8 Q. Okay. Where was Darin Routier?

9 A. Darin, most of the time, was
escorted,
10 basically, by Terry over and sat here in this area, at
the
11 end of the sidewalk at the Neals. During the whole
time
12 of them bringing the smallest child out, bringing
Darlie
13 out, he was in this area, and was allowed to escort
across
14 by the police officers, once Darlie was started being
15 brought out.

16 Q. Okay. Did he go to the ambulance
area

17 at that time?

18 A. Yes, he did.

19 Q. Okay. And, did someone eventually
take

20 him away from the scene?

21 A. Yes, they did.

22 Q. Who was
that?

23 A. Terry
Neal.

24 Q. Okay. The neighbor again there at
25 8405?

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1 A. Yes.

2 Q. That's the one he woke up?

3 A. Yes.

4 Q. Okay. And, whose vehicle did they
5 leave in?

6 A. The Routier's Pathfinder.

7 Q. Okay. And, who was driving?

8 A. Terry.

9 Q. Did you see an officer out there
with a
10 dog?

11 A. Yes, I did. The Garland K-9 unit
12 arrived at sometime and it was parked down in this
area,
13 so exactly when they arrived, I don't know. They did
14 search, with the dog, around in this area in the front
of
15 the home, down the alley, down the side, as well as in
16 between the homes. They really didn't go across the
17 midpoint of the street anywhere. They searched this
area,
18 and both back and behind and in front of the home,
that's
19 about it.

20 Q. Okay. So, you saw him out front,

and

21 then you saw him go up behind the home?

22 A. Yes.

23 Q. Okay. And, again, I guess a crowd

was

24 gathering there on the outside of the tape?

25 A. Yes.

Sandra M. Halsey, CSR, Official Court Reporter

1 Q. Okay.

2

3 MR. TOBY L. SHOOK: You can go
ahead

4 and have a seat up there.

5

6 (Whereupon, the witness

7 Resumed the witness

8 Stand, and the

9 Proceedings were resumed

10 On the record, as

11 Follows:)

12

13 BY MR. TOBY L. SHOOK:

14 Q. So it's clear, did you -- were you
able

15 to determine what time it was when you woke up with
Darin

16 yelling?

17 A. It was approximately 2:40.

18 Q. Okay.

19 A. I have a clock, an alarm clock
beside

20 the bed, and, as I recall it was around 2:40.

21 Q. Okay. Did you look at the clock
when

22 you woke up?

23 A. Yes.

24 Q. At 2:40 in the morning?

25 A. Yes.

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1 Q. Okay. Now, the Routiers have an
infant

2 son. Do you know what his name is?

3 A. I don't recall.

4 Q. Okay. Did someone take that baby
out

5 of the house sometime during the morning?

6 A. Yes, they did.

7 Q. Okay.

8 A. The police officers took it out of
the

9 upstairs bedroom somewhere. That's where Karen said
they

10 took the baby from and gave it to Karen.

11 Q. Okay. And, they took it out of
the

12 residence and then they gave it to Karen; is that
right?

13 A. That's correct.

14 Q. Okay. Eventually, did you and
your

15 wife take custody of the baby sometime that morning?

16 A. Yes, we did.

17 Q. Okay. And, in fact, did y'all
care for

18 the baby later on through the day?

19 A. Yes, we did.

20 Q. How long did y'all have the baby
there?

21 A. We had the baby probably from
around

22 11:00 a.m. until maybe 3:00 or 4:00 o'clock in the
23 afternoon.

24 Q. Okay. Did the police ever get
anyone

25 to help them retrieve the Routier's dog from the
house?

1 A. Yes, they did. Karen again, who
knew
2 the inside of the home, as well as the pet. A police
3 officer, from what Karen said, also was that -- a
police
4 officer had almost been bitten by the dog at some
point.

5 The dog was in the home, and they
6 wanted the dog out. They were afraid to do anything
with
7 the dog. And they wanted to know if anybody thought
they
8 could get it. So, again, they allowed Karen to go in
the
9 home and retrieve the dog.

10 Q. Okay. Did she go in there by
herself or
11 was she escorted into the house?

12 A. She was escorted.

13 Q. How many police officers?

14 A. Two.

15 Q. Okay. And, how long were they in
the
16 house?

17 A. Minutes, very few minutes.

18 Q. Okay. Do you know where they went

in

19 the house?

20 A. No, not for sure.

21 Q. Okay. But did Karen emerge with
the

22 dog soon after that?

23 A. Yes.

24 Q. Okay.

25

Reporter Sandra M. Halsey, CSR, Official Court

1 MR. TOBY L. SHOOK: That's all
the
2 questions I have. We'll pass for cross-
examination.

3 THE COURT: Mr. Mulder?

4

5 CROSS EXAMINATION

6

7 BY MR. DOUGLAS MULDER:

8 Q. Yes, sir. Mr. Gor -- is it
Gorsuch?

9 A. Yes, it is.

10 Q. Mr. Gorsuch, just a thing or two.
11 Gosh, have you -- have you made any notes?

12 A. No, I have not.

13 Q. You didn't need to make any notes
about
14 this?

15 A. No, it was pretty well fixed in my
mind
16 whenever I saw it.

17 Q. Did you -- when was the first time
you
18 were contacted by the police?

19 A. That morning? It was

approximately

20 7:00 o'clock.

21 Q. Do you remember who the police
officer

22 was that contacted you?

23 A. No, I do not. I didn't ask his
name.

24 Q. What did he look like?

25 A. He was in a blue uniform. That's
all I

1 can recall.

2 Q. That's the best you can do?

3 A. By 6:00 o'clock in the morning,
that's

4 the best I can do, yes, sir.

5 Q. So, it was a male?

6 A. Yes, it was.

7 Q. Okay. And I guess you told him
8 basically what you have told the jurors?

9 A. Yes, I did.

10 Q. And, gosh, that must have taken
you

11 some time?

12 A. It did.

13 Q. Okay.

14 A. He interviewed both my wife and
I.

15 Q. Okay. I assume he took notes.

16 A. Yes, he did.

17 Q. Okay. Would you recognize him
if you

18 were to see him again?

19 A. Probably not.

20 Q. Okay. Did you notice what he
was

21 writing down?

22 A. No. I did not pay attention to
what he

23 was writing.

24 Q. Did he seem to be taking

voluminous

25 notes? Or was he noting things appropriately?

 Sandra M. Halsey, CSR, Official Court
Reporter

1 A. I felt he was noting things
2 appropriately, probably, yes.

3 Q. But you say you saw him making
some
4 notes as you went along?

5 A. Yes.

6 Q. Okay. About how long did you
visit
7 with him?

8 A. Fifteen to 20 minutes, probably.

9 Q. Okay. And told him basically the
same
10 thing that you told the folks here?

11 A. Basically, yes, to the extent, no.

12 Q. Well, now, I kind of got lost in
the
13 dialogue there, but as best as I recall, you had to
go to
14 work and you left the office -- and I think you left
at
15 1:25 and called your wife, again, as you explained to
us
16 why, and you made it home, I said -- I think you said
you
17 were home -- I think the prosecutor said 1:50 and

you said

18 1:45?

19 A. Between 1:45 and 1:50, that's
correct.

20 Q. All right. And then you did the
21 business with the stars and the moon, and went on
in and

22 checked the windows and turned on the alarm that
you had

23 installed and went on up to bed?

24 A. Correct.

25 Q. Okay. All right. Now, you were
first

Reporter Sandra M. Halsey, CSR, Official Court

1 awakened, and like you said, you didn't understand
what

2 the noise was, but apparently you drifted back off
to

3 sleep?

4 A. Correct.

5 Q. And then were awakened -- what
awakened

6 you the second time, do you know?

7 A. Darin yelling.

8 Q. Okay. And, is that when you
looked at

9 the clock?

10 A. Yes, it is.

11 Q. Okay. Is your -- you know,
sometimes

12 I'll set my clock a little bit fast just so that
hopefully

13 I get where I'm supposed to be on time. Do you set
yours

14 right -- I bet you set yours right on the money,
don't

15 you?

16 A. Yes, I do.

17 Q. Okay. So, it was 2:40 you're

telling

18 us?

19 A. Yes.

20 Q. A guy like you would keep an
accurate

21 clock, wouldn't he?

22 A. I suppose so, yes.

23 Q. All right. And, you're telling
this

24 jury that it was 2:40 when Darin started to yell?

25 A. Correct.

Reporter Sandra M. Halsey, CSR, Official Court

1 Q. And, I believe you said that he
was
2 going down there -- this is the walk to his front
door,
3 isn't it?

4 A. Yes, it is.

5 Q. Okay. And the police officers
had
6 pulled up here, just down from you. Can you see that?

7 A. Um-hum. (Witness nodding head
8 affirmatively).

9
10 THE COURT: I think you better turn
it
11 a little bit more, Mr. Mulder, so those two end jurors
can
12 see it.

13
14 BY MR. DOUGLAS MULDER:

15 Q. All right. I believe you said the
16 police car went right here.

17 A. No.

18 Q. I'm sorry?

19 A. Back a little bit.

20 Q. Here?

21 A. Almost a full car length in front
of

22 where that car is shown there in the picture.

23 Q. Here?

24 A. Yes. Somewhere is that vicinity.

25 Q. Okay. But more in front of your

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1 neighbor's house than in front of your house?

2 A. No, not really. The neighbor's
house

3 there you can see in. It was actually almost
sitting

4 directly on our property line. There is a white
line

5 there in the picture.

6 Q. Yeah.

7 A. That's a mow line between his and
my

8 house, that always keeps the grass dead for some
reason.

9 The car was parked almost even with that line.
Somewhere

10 in that vicinity, almost right there by that mailbox.

11 Q. The back or the front?

12 A. The back or the front of the car?

13 Q. Squad car, yes. If you remember.

14 A. About the middle actually.

15 Q. About the middle.

16 A. Whenever I make a reference, it's
17 usually the middle of the vehicle.

18 Q. All right. Fair enough. And it
was

19 headed in this direction?

20 A. West. Correct.

21 Q. Right. Going this way?

22 A. Yes.

23 Q. Okay. Was it parked up close to

the

24 curb?

25 A. No.

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1 Q. About how far was it from the curb?

2 A. Three feet, four feet.

3 Q. All right. And, did you see the
police

4 officer actually get out?

5 A. I didn't see the police officer get
out

6 of the car. By the time I heard Darin yelling, the
police

7 officer was already across the street and was going up
the

8 small embankment there by their home, right there
where

9 your finger is, from the sidewalk.

10 Q. Okay. And, he and Darin met?

11 A. Yes.

12 Q. On the sidewalk?

13 A. No. Basically a little bit to the

--

14 move your finger. Okay. If you look at the fountain
and

15 the house, draw a direct line between them, the corner
of

16 the house about halfway in between.

17 Q. In here?

18 A. About in there.

19 Q. Okay. They met there and then went
20 directly into the house?

21 A. Yes.

22 Q. Okay. Now, how long were they in
the

23 house before the next thing that attracted your
attention

24 happened? Did they come out of the house, or did
another

25 car come up, or what?

1 A. They weren't in the house very
long.

2 They were in the house for awhile.

3 Q. Okay.

4 A. Minutes, again, I don't know.

5 Q. Okay. Would you say a couple of
6 minutes maybe?

7 A. Probably longer than that.

Probably

8 three --

9 Q. About the time it took you to look
at

10 the stars, five minutes?

11 A. Three to four, five, somewhere in
that

12 vicinity. Again, I don't know for sure.

13 Q. All right.

14 A. I don't --

15 Q. By this time, no other car is
there

16 yet?

17 A. No.

18 Q. Okay. So both of them came out;
is

19 that right?

20 A. Correct.

21 Q. Came out together?

22 A. Yes.

23 Q. And no other police cars or
ambulance

24 or anything like that yet?

25 A. Not yet.

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1 Q. Okay. They've been inside for five
2 minutes doing, of course, you have no idea of knowing
what

3 they have been doing in there?

4 A. No, I don't.

5 Q. All right. But anyway, they came
out

6 together five minutes later. And where did they go?

7 A. They were eventually at the front
door.

8 And the officer asked Darin if he had somewhere in the
9 neighborhood that he could go.

10 Q. You heard him ask that?

11 A. Yes, I did.

12 Q. Okay. And you're in your perch up
13 there on the second floor in your bedroom on the
waterbed?

14 A. Yes.

15 Q. Where you can look out?

16 A. Yes.

17 Q. Okay. And you heard him ask Darin,
is

18 there somebody in the neighborhood from whom you can
get

19 some assistance?

20 A. Yes.

21 Q. Medical help?

22 A. No.

23 Q. All right. Just assistance?

24 A. Just assistance.

25 Q. And he said there's a nurse across
the

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1 street?

2 A. No.

3 Q. He said what?

4 A. He basically asked Darin if there
was a
5 friend in the neighborhood that he could go to, and
Darin
6 said, "yes".

7 Q. And you heard this dialogue between
8 them?

9 A. Yes, I did.

10 Q. Okay. And where did Darin go?

11 A. Darin then went to 8405 Eagle.

12 Q. All right. And that's the nurse?

13 A. The Neals, yes.

14 Q. And, she's a registered nurse?

15 A. She is, yes.

16 Q. Okay. Where did the police officer
go?

17 A. He went back in the house.

18 Q. Okay. No other ambulances or
police
19 cars or anything at that point?

20 A. Not at that point.

21 Q. Now, looking at your clock, it's

now

22 2:45, and then some?

23 A. I don't know.

24 Q. Okay.

25 A. Again, I didn't look at my clock at

Sandra M. Halsey, CSR, Official Court Reporter

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1 that point.

2 Q. All right.

3 A. From that point forward, I didn't
pay

4 any attention to time.

5 Q. Does he make it over to the Neals'
6 house before anything else happens?

7 A. Yes.

8 Q. Okay. So he's in the Neals' house,
and

9 there are no other police officers here or ambulances
or
10 anything else?

11 A. I don't recall whether he went in
the
12 house or not. I know he was beating on the door.

13 Q. Okay.

14 A. Whether he entered the Neal home or
15 not, I don't know.

16 Q. What was he saying?

17 A. I did not hear that conversation.

18 Q. Okay. And you don't know -- was
he

19 saying something? Was he saying, "help", or
something

20 like that?

21 A. I did not hear the conversation.

22 Q. But you could hear him banging on

the

23 door?

24 A. Very well, yes.

25 Q. Okay. How long was it before he

Sandra M. Halsey, CSR, Official Court Reporter

1 started back across the way with the Neals?

2 A. Minutes-wise, again, a few minutes.

By

3 that time the second officer had arrived and parked
there

4 in front of 5802.

5 Q. Okay. What had this officer done?

6 A. He was already back in the house.

7 Q. He had gone back in the house?

8 A. Correct.

9 Q. And then the second officer
parked in

10 front of 5802 over here?

11 A. Yes.

12 Q. Okay. And that would be the --
let's

13 see, the retired couple?

14 A. The retired couple. I don't know
their

15 names.

16 Q. All right. And the police officer
17 parked in that area?

18 A. Yes.

19 Q. Do you remember how he was parked
20 there?

21 A. Kind of north, northeast. He was
22 pulled in to an angle.

23 Q. So, he would be headed in this
24 direction?

25 A. No, north, northeast, headed the
other

Sandra M. Halsey, CSR, Official Court Reporter

1 direction.

2 Q. This way?

3 A. Yes. The top of the map is north.

4 North, northeast would be about 45 degrees pointed in
the

5 opposite of -- there you go. Right there.

6 Q. All right. So, had he come from
this

7 direction, and pulled in there?

8 A. It appeared that he had, yes.

9 Q. Did you see him as he was coming
down

10 here?

11 A. No. He had arrived as I was coming
12 back to the window.

13 Q. Okay. All right. Did you see him
get

14 out of his vehicle?

15 A. Yes, I did.

16 Q. Okay. And where did he go?

17 A. He started across the street.

18 Q. In the direction of this residence?

19 A. Yes.

20 Q. Okay. Where was -- was Darin

knocking

21 on the door at that time?

22 A. Darin was waiting at the door.

23 Q. Okay.

24 A. Apparently he was waiting for

Terry.

25 Q. All right. He would just be a
stone's

Sandra M. Halsey, CSR, Official Court Reporter

1 throw from where that police officer pulled his squad
car

2 up, would that be about the distance from here to the
back

3 of the court room, wouldn't it?

4 A. Well, most of those homes are 25 to
30

5 feet off of the sidewalk line by the Rowlett
ordinance, so

6 that would probably be about 40 feet to 50 feet, yes.

7 Q. All right. So, did he make it over
to

8 this house before Darin left the Neal house?

9 A. No, he did not.

10 Q. All right. What happened?

11 A. The officer actually started over
12 towards the house, as I recall. This is whenever I
was

13 coming out the front door.

14 Q. All right.

15 A. And standing by my column there at
my

16 house. The officer had --

17 Q. Is that where you were?

18 A. Excuse me?

19 Q. That's where you were, right here?

20 A. That's correct.

21 Q. All right.

22 A. The officer had possibly entered
the

23 home and come back out, or had not entered the home
yet.

24 Q. Which officer?

25 A. Exactly which one -- the second
officer

Sandra M. Halsey, CSR, Official Court Reporter

1 to arrive, I believe.

2 Q. Okay. So, he either entered this
house

3 and come back out, before Darin and the Neals got over
4 there?

5 A. Terry Neal. Yes.

6 Q. Okay.

7 A. Both Neals did not come together.

8 Q. Okay. Terry was first, wasn't he?

9 A. Terry was first.

10 Q. Okay. And the -- I want to make
sure I

11 understand you. This officer, who parked over here,
the

12 second officer to arrive, made it into the house and
back

13 out of the house?

14 A. I said I think he might have, I
don't

15 know for sure. Again, I was in the process of going
down

16 my stairs.

17 Q. Okay.

18 A. Whenever I came out the door, this
car

19 had come from the west and was being stopped by the
two
20 police officers. There's another officer that had
arrived
21 down beyond Eagle Drive there, down below. Those two
22 officers, I believe, were the two that stopped the
car.
23 Again, which two officers they were, I don't know.
They
24 were in blue uniforms.
25 Q. All right. You don't know whether
it

1 was the same two officers who had originally --?

2 A. No.

3 Q. Okay. Where is -- I'm interested
in

4 this officer over here that stopped here.

5 A. Okay.

6 Q. Okay. He was the one who was
pulling

7 up when you came back to your vantage point there at
your

8 house?

9 A. Well, he had already pulled up. He
was

10 stopped.

11 Q. But he was getting out of the
vehicle?

12 A. Yes.

13 Q. All right. Was he hurrying toward
this

14 house?

15 A. He was not running. You know, I
mean,

16 a police officer carrying a gun and full belt and

17 everything, they don't run real fast, but he was
moving

18 quickly, yes.

19 Q. Moving in a fast walk?

20 A. Yes.

21 Q. Okay. And, again, where was Terry
22 Neal?

23 A. Terry and Darin, again, were at the
24 front of their home.

25 Q. At the front of the Neal home here?

Sandra M. Halsey, CSR, Official Court Reporter

1 A. Yes.

2 Q. Okay. Well, he had a head start on
3 them heading toward the Routier house, didn't he?

4 A. Yes, he did.

5 Q. It makes sense that he would arrive
6 there first?

7 A. I would assume.

8 Q. Okay. And, when did Darin Routier
get

9 back to his house, if he did?

10 A. After the car was stopped.

11 Q. After the car was stopped over
here?

12 A. Approximately in that area, yes.

Right

13 there where your finger is.

14 Q. All right.

15 A. Somewhere in that vicinity.

16 Q. So after the car was stopped
here, in

17 this vicinity, this is the little Cutlass, I think
you

18 said it was?

19 A. I believe it was a Cutlass. It
was a

20 dark car of some type. It looked like a Cutlass, or
that

21 body style. It was an older, late model car.

22 Q. Older late model?

23 A. Older car, early model. Pardon
me.

24 Q. Okay. Would you venture a guess

as to,

25 I mean, '85 or '86, something like that? Is that
what you

1 are talking about?

2 A. I would say probably late '70s,
or

3 early '80s. It was a smaller body style like a
Cutlass.

4 Q. Okay. Could you see the people
that

5 got out of the vehicle? I think you said the police
had

6 them out spread eagle.

7 A. Yes.

8 Q. Okay. And gosh, by now it's got
to be

9 by your count, 2:50, 2:55?

10 A. Again, I wasn't looking at the
clock.

11 I don't know.

12 Q. Well, would you imagine --

13 A. Somewhere in that vicinity
probably.

14 Q. It was at least pushing 3:00
o'clock,

15 isn't it? Wouldn't you say?

16 A. Probably.

17 Q. Okay.

18 A. Again, I don't know.

19 Q. All right. But, we do know this:

That

20 Darin has left, and he has not come back in. Right?

21 A. That's correct.

22 Q. Okay. So they get these people

23 stopped. How many were in the car, as best you

recall?

24 A. As best I recall, four.

25 Q. All right. And were they all men?

Sandra M. Halsey, CSR, Official Court Reporter

1 A. As I recall, yes.

2 Q. All men. Okay.

3 A. From my distance, about 50 feet,
they
4 looked like men. Young men.

5 Q. Okay. Could you tell about how old
6 they were?

7 A. Late teens, probably.

8 Q. Could you describe them?

9 A. No.

10 Q. You just could tell that they were
men?

11 A. I could tell that they were men.

12 Q. Do you know whether they were black
or
13 white, long hair, or short hair, anything like that?

14 A. I believe they were all Caucasian,
yes.

15 Q. Do you remember how they were
dressed?

16 A. No.

17 Q. Okay. I mean, did they have, just
long
18 pants on, I guess?

19 A. I believe they had on jeans,

probably.

20 Again, I don't recall.

21 Q. Okay. And, however long it took to
22 check them out, the police checked them out and they
let

23 them go. Right?

24 A. Correct.

25 Q. All right. And they drove on. And
was

Sandra M. Halsey, CSR, Official Court Reporter

1 it then that Darin came back to the residence here?

2 A. It was actually during the time
that

3 they had them stopped,

4 Q. During the time that they had them
5 stopped, Darin came back to the residence?

6 A. Darin and Terry came across the
7 street --

8 Q. And did --

9 A. -- and entered into the residence,
yes.

10 Q. And I believe you said that Mr.
Neal --

11 actually, he was ahead of Darin, wasn't he, didn't you
12 say?

13 A. No. I don't believe I did say
that.

14 Q. Okay. Was Karen behind them?

15 A.
Karen was behind them.

Yes.

16 Q.
Okay. They came over.

Did Terry and

17 Darin go into the
residence?

18 A.

No, not yet. They
waited for Karen.

19 Q.

Okay. And, I guess
Karen came along

20 shortly?

21 A.

Yes.

22 Q.

By now it's got to be
3:00 o'clock, is

23 that fair to say?

24 A.

I don't know.

25 Q.

Okay. All right. And
all three of

Sandra M.
Halsey, CSR, Official
Court Reporter

1 them went in
together?

2 A.
Yes.

3 Q. Okay. How long was it before they
came
4 out?

5 A. Again, minutes.

6 Q. A couple of minutes?

7 A. Couple of minutes, three minutes
maybe,
8 if that long.

9 Q. All right. Did all three of them
come
10 out?

11 A. Yes, they did.

12 Q. All right. And, where did they --

13 A. They were escorted out, actually.
They

14 didn't come out under their own power.

15 Q. Okay. The police escorted them
out?

16 A. It was actually an ambulance crew
that

17 had arrived while that car was being stopped.

18 Q. Okay. So the first ambulance crew
that

19 arrived, arrived while this car was being stopped
here?

20 A. Yes.

21 Q. All right. You're sure about that?

22 A. Yes.

23 Q. Okay. You're sure that there
wasn't an

24 ambulance crew that came up at the same time that this
25 officer did?

Sandra M. Halsey, CSR, Official Court Reporter

1 A. No.

2 Q. All right.

3 A. If it was there at the same time,
it
4 was very close to the same time, but it was after.

5 Q. All right. Well, wait a minute
now.

6 When I asked you if he went in the house the second
time,
7 you were talking about the police officer from here?

8 A. Again, I assume he went into the
house.

9 I don't know for sure.

10 Q. Okay. And you said that then some
11 police officers stopped a car here?

12 A. Further around the corner.

13 Q. Right here?

14 A. Further around the corner.

15 Q. Right here?

16 A. Further around the corner.

17 Q. Here?

18 A. Approximately in that area.

19 Q. Okay. Stopped them here?

20 A. Yes.

21 Q. Got them out of the car, frisked

them

22 and threw them up against the car, didn't they?

23 A. Yes.

24 Q. Okay. And, let them go on their
way.

25 Right?

Sandra M. Halsey, CSR, Official Court Reporter

1 A. Yes.

2 Q. And then the ambulance arrived?

3 A. No, the ambulance arrived while the
car
4 was stopped.

5 Q. While the car was stopped?

6 A. Correct.

7 Q. Okay. And how many people -- was
that
8 the first ambulance to arrive?

9 A. Yes.

10 Q. And where did it park?

11 A. Almost directly across the street
from
12 the police car.

13 Q. Which police car, this one here?

14 A. Yes.

15 Q. So they parked along here?

16 A. Yes. Out from the curb again.

17 Q. All right. How many attendants in
that
18 ambulance?

19 A. Two, I believe.

20 Q. Okay. Do you know about how far it
is

21 from the 5,000 block of Highway 66 to your house?

22 A. The 5,000 block of 66?

23 Q. Um-hum. (Nodding head
affirmatively).

24 A. If you cut across the church

parking
25 lot?

Sandra M. Halsey, CSR, Official Court Reporter

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1 Q. Yeah.

2 A. In a direct line in other words?

3 Q. Right.

4 A. Is that your question?

5 Q. Yes.

6 A. In a direct line, probably less
than a

7 half mile.

8 Q. Less than a half mile. It
wouldn't

9 take you very long, at that time of night, to cover
that

10 much ground, would it?

11 A. No.

12 Q. What, maybe a minute?

13 A. Probably a minute, two minutes,
14 depending on your gait.

15 Q. We'll, I'm talking about if you
were in

16 a car. I mean, if you were going 60 miles an hour,
you

17 could cover a half mile in how long?

18 A. Well, I don't have a calculator on
me,

19 I don't know.

20 Q. Half a minute?
21 A. Very quick.
22 Q. And it might take a little longer
if
23 you're going 30. But police officers don't drive 30
when
24 they're in a hurry, do they?
25 A. No.

Sandra M. Halsey, CSR, Official Court Reporter

1 Q. Okay. Did Darin ever go back in
after

2 he was escorted out?

3 A. No. No one went back in the home,
4 except for officers, paramedics. Once Karen, Terry
and

5 Darin were escorted out, Darin was asked to go over
and

6 sit on the end of the sidewalk in front of the Neals'
7 house with Terry and Karen. No one went back in the
home

8 except for Karen, whenever she got the dog. And that
was

9 between, like I said, maybe 6:00 or 7:00 o'clock that
10 morning. It was after sunrise.

11 Q. Okay. While you were standing out
12 there, I guess other neighbors were gathering around,
were

13 they?

14 A. After a period of time, not real
soon.

15 Q. Did you see the Watts, the folks
right

16 here talking to the police?

17 A. Yes, I did.

18 Q. Okay. And, did you see the police
19 officers writing down what they were saying -- or
 appeared
20 to be writing down, taking notes of what they were
 saying?

21 A. It wasn't actually the Watts. It
 was
22 actually Mrs. Watts that talked to the police officer.

23 Q. Mrs. Watts talked to the police
24 officer?

25 A. Yes.

Sandra M. Halsey, CSR, Official Court Reporter

1 Q. Okay. Now, as far as -- is this
your
2 van?

3 A. Yes, it is.

4 Q. And, in addition to that, you've
got a
5 red Nissan?

6 A. Correct. Pickup.

7 Q. Pickup truck.

8 A. Yes.

9 Q. And you're telling us, that to the
best
10 of your recollection, that the Nissan was parked in
here
11 too that night?

12 A. To the best of my recollection,
that's
13 where I always park.

14 Q. All right. Are you telling us that
you
15 parked it there that night, or do you remember it
because

16 that's the way you always did things?

17 A. No, that's where I parked that
night.

18 Q. Okay.

19 A. There was nothing there to prevent
me

20 from parking there that night. That's where I always
park

21 it. That's where I parked it that night.

22 Q. Okay. And Darin kept his car
parked

23 along here, didn't he?

24 A. His Pathfinder right at the end of
the

25 sidewalk or thereabouts.

Sandra M. Halsey, CSR, Official Court Reporter

1 Q. And he kind of did that to slow
people

2 down coming through the neighborhood. Wasn't that
3 discussed among your neighbors?

4 A. Um --

5 Q. Speed bumps or something, and he
would

6 keep his car parked here, because the kids were out
7 running around, and he didn't want people driving
fast.

8 A. It would make a good deterrent. I
9 don't know whether that was ever discussed with myself
or
10 not, not that I recall. Speed bumps were discussed at
one
11 point. The city will not use them.

12 Q. There was even some talk about
Darin

13 putting some out there himself, wasn't there?

14 A. That I don't know. It was not to
me.

15 Q. Okay. Your boys would go over and
play

16 with the Routier children in their home?

17 A. Yes.

18 Q. And you were comfortable with that,
19 weren't you?

20 A. Yes.

21 Q. Okay.

22

23 MR. DOUG MULDER: I believe that's
all.

24 Thank you, Mr. Gorsuch.

25 THE COURT: Mr. Shook?

Sandra M. Halsey, CSR, Official Court Reporter

1 MR. TOBY L. SHOOK: Just a couple
of
2 more questions, Judge.

3

4

REDIRECT EXAMINATION

5

6 BY MR. TOBY L. SHOOK:

7 Q. Mr. Gorsuch, talking about speed
bumps.

8 Did you, yourself, have some concerns about the street
9 there and cars going by?

10 A. Yes. Quite often.

11 Q. And what was your concern?

12 A. The concern is, it's kind of a
blind

13 corner, because of the way the corner is fairly sharp
14 there. You have a long street that leads to the west,
and

15 a long street that leads to the south. And people --
in

16 one of the photographs there, you can see black marks,
17 that are very evident in the pavement there. It's
not

18 uncommon for people to squeal their tires when they
round

19 that corner.

20 With my children, as well as the

21 Routier children, it was always a concern of

almost

22 everybody in the neighborhood of that corner.

The

23 children playing -- children when they play, they

don't

24 pay attention to streets or sidewalks.

25 Q. Okay.

Sandra M. Halsey, CSR, Official Court Reporter

1 A. There were a lot of times when
there

2 were some near misses.

3 Q. Near misses with who?

4 A. Children.

5 Q. Okay. What about the Routier
children,

6 in general? Did a situation ever come out there where
7 cars had to brake for them?

8 A. I'm sure they did, yes.

9 Q. Okay. Did you give specific
10 instructions to your son not to go out there?

11 A. Most definitely. My son catches
the

12 worst in most ends. Whether he's involved with it or
not,

13 he always gets a lecture on whatever happened.

14 Q. Were you ever out there when these
cars

15 almost hit the Routier children?

16 A. Not directly, no.

17 Q. Okay. You heard about that?

18 A. Yes.

19 Q. Did you ever see the Routiers out
there

20 supervising their children?

21 A. Supervising?

22 Q. Yes.

23 A. No.

24 Q. Okay. Now, as far as this

incident

25 that occurred, nothing like this had ever happened
in the

Sandra M. Halsey, CSR, Official Court Reporter

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1 neighborhood before, had it?

2 A. I don't understand the question.

3 Q. Is this something just totally
out of

4 the ordinary, as far someone being -- or a murder
like

5 this occurring in your neighborhood?

6 A. It's out of the ordinary for
Rowlett.

7 Q. Okay.

8 A. Period.

9 Q. Do you feel you have a pretty
safe

10 neighborhood there?

11 A. I believe so, yes.

12 Q. And, as far as describing who
went in

13 the Routier house, or how long they were in there,
you

14 didn't have a stop watch on any of these things; is
that

15 correct?

16 A. No. After getting kind of adjusted
to

17 what happened, and what was going on, of course, I
mean,

18 it's immediate shock. As I said, the timeframes
become
19 very convoluted at that point. It then becomes very
hard
20 to keep track of time. There are some things though
that
21 you can't wipe from your mind.

22 Q. Okay.

23

24 MR. TOBY L. SHOOK: That's all the
25 questions I have.

Sandra M. Halsey, CSR, Official Court Reporter

1 MR. DOUGLAS MULDER: We have
nothing

2 further at this time.

3 THE COURT: All right. You may
step

4 down, sir. Thank you.

5 MR. TOBY L. SHOOK: May this
witness be

6 excused?

7 THE COURT: May this witness be

8 excused?

9 MR. DOUGLAS MULDER: Yes, sir.
Subject

10 to recall.

11 THE COURT: Subject to recall, yes.

12 All right. Thank you very much.

We

13 appreciate your coming.

14 All right. Ladies and gentlemen of
the

15 jury, we're going to adjourn now until 9:00 o'clock
16 tomorrow morning. Same instructions as always. Don't
17 talk about the case among yourselves. Don't do any
18 investigation.

19 If everybody in the spectators will
20 please remain seated.

1 testimony you hear and the evidence you receive in
this

2 courtroom.

3 Now -- and wear your juror badges
at

4 all times.

5 If someone tries to talk to you
about

6 the case, tell the bailiff you happen to be with at
the

7 time.

8 Members of the spectating audience
out

9 there, the rule in this jurisdiction is that you are
to

10 remain seated until the jury leaves, please.

11 So the jury, you may leave right
now.

12 Mr. Birdsong will tell you when it's all right for
y'all

13 to leave. Thank you.

14 See you tomorrow morning.

15

16 (Whereupon, the jury

17 was excused from

18 the courtroom, after

19 which time the
20 proceedings were
resumed
21 on the record,
outside
22 the presence of the
23 jury, as
follows:)

24 THE COURT: Now, the
spectators may
25 leave at this time.

Sandra M. Halsey, CSR, Official Court
Reporter

1 (Whereupon the
2 spectators left
the
3 courtroom, and
the
4 proceedings
were
5 resumed as
follows:)

6
7 THE COURT: Okay. Back on the
record
8 now. My orders on Ms. Routier remains the same, her
9 telephone privileges are canceled.

10 The defense attorneys may appear
in
11 jail anytime they want to. They may call into Ms.
12 Routier. She can receive their calls, but nobody
else's.

13 MR. DOUGLAS MULDER: Well, now,
wait a
14 minute, Judge. Just to clarify this. I don't know
15 whether you know what the situation there is or not.
But,
16 I was there to see her yesterday, and it was about

2:30,

17 and they said that I could see her at 3:30. So, you
know,

18 apparently I can't see her at anytime. I thought
that I

19 would be able to see her at any time.

20 THE COURT: Well, let's go off the
21 record. Well, let's go off the record for just a
minute.

22 Let's go back on the record.

23 Mr. Mosty, or Mr. Douglass, what
are

24 the local rules?

25 MR. PRESTON DOUGLASS, JR.: Judge,
it's

1 impossible for me to call one of my clients in the
jail.

2 Now, maybe you can part the seas.
And

3 it's different for me to talk to Ms. Routier, but it
4 doesn't work that way.

5 MR. RICHARD MOSTY: But if we
happen to

6 call, and, it may take an hour for them to get her,
7 because it maybe at 9:00 o'clock at night and they
don't

8 have anybody else. They've got to get female guards
to go

9 get her and come up there. It just doesn't make
sense.

10 MR. DOUGLAS MULDER: Well, Judge,
as a

11 matter of fact, when I went to see her last night, I
did

12 see her, and they were good about accommodating me,
but

13 they asked me in the future to call and make an
14 appointment. I can't always call and make an
appointment

15 because I don't always know when it's going to be not
16 convenient, but simply when I'm going to be available

to

17 get over there and see her, so --

18 THE COURT: I'll discuss that with
19 Sheriff Kaiser tonight, and I will have an answer for
you

20 tomorrow morning.

21 MR. DOUGLAS MULDER: We would like
to

22 have her be able to call out to her attorneys.

23 MR. RICHARD C. MOSTY: That's part
of

24 the communication. Because she might think of
something

25 that happened during the trial, that strikes her,
that she

1 needs to convey to me or Mr. Mulder, and the next
morning

2 it's gone.

3 THE COURT: I will discuss all of
this

4 with Sheriff Kaiser. I'll have an answer for you in
the

5 morning.

6 MR. PRESTON DOUGLASS, JR.: Judge,
7 beside the phone, if I might, I tried to go see her on
her

8 birthday, and I called at 5:30, and they said you have
to

9 call back at 9:00. So, obviously, there is the time
10 pressures we're working on in a trial, sometimes we
need

11 to be able to go right then.

12 THE COURT: I understand.

13 MR. PRESTON DOUGLASS, JR.: And if
you

14 might talk to her about that.

15 THE COURT: I will talk to her
about

16 that.

17 MR. DOUGLAS MULDER: Judge, it's
18 imperative that we speak to her tonight. Can she call

us

19 tonight?

20 THE COURT: I think that I'll have

an

21 answer for you tomorrow morning, Mr. Mulder. If you

want

22 to speak to her tonight, I am sure you can go to the

jail

23 and talk to her tonight, or remain here if you want

to.

24 We'll stay here and let you talk now. Do you want

to

25 visit with her right now? We'll get out of your
way.

Sandra M. Halsey, CSR, Official Court
Reporter

1 we also have now Mr. Greg Davis. And present also
during

2 this conversation with Sheriff Kaiser was Mr. Kerry
Young,

3 a briefing attorney for the district Judges in Dallas
4 County.

5 I have told Sheriff Kaiser, and she
6 agrees, that Ms. Routier may call Doug Mulder at 896-
8942,

7 which is a condominium over in the River Hills Area.

8 She may call Mr. Richard Mosty at
9 896-3811, which is his residence. Or 257-6585,
which is

10 his office. These are the only numbers she can
call.

11 MR. RICHARD C. MOSTY: That's just
12 backwards.

13 THE COURT: Well, okay. Whatever,
they

14 have both. The residence number is 257-6585 and the
15 office is 896-3811. Those are the only people she can
16 call.

17 The way that will be handled is as
18 follows: A sheriff's deputy will dial the number, to
make

19 sure that Douglas Mulder or Richard Mosty is on the
line,
20 and that time the phone will be handed to Ms. Routier.
21 The sheriff deputy will
withdraw,
22 keeping her in sight, so they can't hear what
she is
23 saying, but nonetheless can see her. And, as soon
as she
24 is through with that conversation, the phone will
be taken
25 away. She is not to call anyone else.

Sandra M. Halsey, CSR, Official Court
Reporter

1 Visiting hours are as follows in
the

2 jail: They're 1:00 to 5:00 on Saturday, Sunday,
Monday

3 and Tuesday. Sheriff Kaiser has advised the Court
that

4 you may visit her at any time. Call first. If you
don't

5 get prompt access to her, to call her. Sheriff
Kaiser's

6 number is 896-1216.

7 And, I want both of you gentlemen
to

8 tell Mr. Mulder that, that we are -- and tomorrow.
Okay.

9 Anything else before we get into something else? Is
that

10 it?

11 All right. Then I think we've
12 adequately satisfied everybody, as regards to the
13 telephone privileges of Ms. Routier.

14 I want to tell both sides, the
first

15 time she talks to anybody else, the telephone
privileges

16 will be totally rescinded. If you visit out there,

you

17 might tell her that too. Thank you.

18

19

(Whereupon, the

20

proceedings were

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recessed for the

day,

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to be resumed the

23

following day, in

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open court, as

follows:)

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CERTIFICATION PAGE

THE STATE OF TEXAS)
THE COUNTY OF DALLAS)

I, Sandra M. Halsey, was the 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
_____, 1997.

Sandra M. Day Halsey, CSR
Official Court Reporter
363RD Judicial District

Court

Dallas County, Texas

22

Phone, (214) 653-

5893

23

24 Cert. No. 308

25 Exp 12-31-98

Sandra

M. Halsey, CSR,

Official Court

Reporter

283

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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MARK TOLLE, JUDGE

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Criminal District Court Number 3

21

Dallas County, Texas

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Sandra M. Halsey, CSR, Official Court Reporter

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