

1                                IN THE CRIMINAL  
DISTRICT COURT NO. 3

2    DALLAS  
COUNTY, TEXAS

3

4

5

6    THE STATE OF TEXAS                                }

NO. F-96-39973-J

7    VS:    }

& A-96-253

8    DARLIE LYNN ROUTIER                                }

Kerr Co. Number

9

10

11    REPORTERS

RECORD

12    JURY

TRIAL

13    VOL. 35 OF

53 VOLS.

14    January

16, 1997

15

Thursday

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Sandra M. Halsey, CSR,  
Official Court Reporter

2223

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I O N

C A P T

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4           BE IT REMEMBERED THAT, on  
Thursday, the 16th day of

5    January, 1997, in the Criminal  
District Court Number 3 of

6    Dallas County, Texas, the above-  
styled cause came on for

7    a jury trial before the Hon.  
Mark Tolle, Judge of the

8    Criminal District Court No. 3,  
of Dallas County, Texas,

9    with a jury, and the proceedings  
were held, in open

10   court, in the City of Kerrville,  
Kerr County Courthouse,

11   Kerr County, Texas, and the  
proceedings were had as

12   follows:

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Sandra M. Halsey, CSR,  
Official Court Reporter

2224

1

A P P E A R

A N C E S

2

3

4

HON. JOHN VANCE

5

Criminal District Attorney

6

Dallas County, Texas

7

8

BY: HON. GREG DAVIS

9

Assistant

District Attorney

10

Dallas County,

Texas

11

12

AND:

13

HON. TOBY 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

2225

1     ADDITIONAL APPEARANCES:

2

3                     HON. DOUGLAS D.

MULDER

4                     Attorney at Law

5                     2650 Maxus Energy

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9     AND:             HON. CURTIS GLOVER

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15     AND:             HON. RICHARD

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22 Attorney at

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Sandra M. Halsey,  
CSR, Official Court Reporter

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1

2 AND:

HON. JOHN

HAGLER

3

Attorney at

Law

4

901 Main Street, Suite 3601

5

Dallas, TX 75202

6

ALL ATTORNEYS REPRESENTING

THE

7

DEFENDANT: DARLIE ROUTIER

8

MR. HAGLER HANDLING THE

APPEAL

9 AND:

10

HON. ALBERT D. PATILLO, III

11

Attorney at Law

12

820 Main Street, Suite 211

13

Kerrville, TX 78028

14

APPEARING FOR: Witness-

15

Detective Jimmy

Patterson

16

only on one date in

trial

17 AND:

18

HON. STEVEN J. PICKELL

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Attorney at Law

20

620 Earl Garrett Street

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Kerrville, TX 78028

22

APPEARING FOR: Witness

23

Officer Chris Frosch

24

only on one date in

trial

25

Reporter Sandra M. Halsey, CSR, Official Court

2227

1  
G S

P R O C E E D I N

2

3 January 16th, 1997

4 Thursday

5 9:00 a.m.

6

7

(Whereupon, the

following

8

proceedings were held

in

9

open court, in the

presence

10

and hearing of the

11

defendant, being

12

represented by her

attorneys

13

and the representatives

of

14

the State of Texas, but

15

outside the presence of

the

16

jury, as follows:)

17

18

THE COURT: All right. Let the

record

19 reflect that these proceedings are being held  
outside of  
20 the presence of the jury and all the parties in the  
trial  
21 are present.  
22 All right. Juror number 12 is  
ill,  
23 and disabled and unable to continue fully and fairly  
to  
24 perform her function as a juror. So, I am replacing  
her  
25 with alternate number 1.

Sandra M. Halsey, CSR, Official Court Reporter

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1 MR. JOHN HAGLER: Yes, your  
Honor, in  
2 response to the Court's ruling, we're fully aware of  
the  
3 fact that under article 6.29, subsection B, there  
were  
4 alternates, of course, picked in this case. And if a  
5 juror in fact becomes disabled during the course of  
the  
6 trial, they can be replaced with an alternate.

7 We would submit, your Honor, that  
this  
8 juror was in attendance during the trial during the  
last  
9 week and a half, and we feel like, that the  
appropriate  
10 remedy in this case would be to continue this case  
for --  
11 we would suggest 24 hours, in order for us to  
12 determine -- for the Court to determine whether she  
is  
13 truly, and in fact, disabled as  
provided for under the  
14 statute.

15 THE COURT: This  
juror had the flu

16 yesterday, struggled to come down,  
continues to have it  
17 today and is bedridden. So, I am  
replacing her with  
18 alternate number 1.

19 MR. JOHN HAGLER:

We would object to  
20 the replacement of that juror with  
an alternate under  
21 article 36.1, subsection B.

22 THE COURT:

Thank you. All right.

23 Let's bring the jury in, please.

24

25

Sandra M. Halsey, CSR,  
Official Court  
Reporter

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1 (Whereupon, the  
jury  
2 Was returned to  
the  
3 Courtroom, and  
the  
4 Proceedings  
were  
5 Resumed on the  
record,  
6 In open court, in  
the  
7 Presence and  
hearing  
8 Of the defendant,  
9 As follows:)  
10  
11 THE COURT: Good morning, ladies  
and  
12 gentlemen.  
13 Let the record reflect that all  
14 parties in the trial are present and the jury is  
seated.  
15 You may continue, Mr. Davis.  
16 MR. GREG DAVIS: Thank you, your  
17 Honor.

18

19

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21

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23

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25

Sandra M. Halsey, CSR, Official Court Reporter

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1 Whereupon,

2

3 JAMES CRON,

4

5 resumed the stand as a witness, for the State of  
Texas,

6 having been previously duly sworn by the Court to  
speak

7 the truth, the whole truth, and nothing but the  
truth,

8 testified further in open court, as follows:

9

10

11 DIRECT EXAMINATION (Resumed)

12

13 BY MR. GREG DAVIS:

14 Q. Sir, again, you are James Cron;  
is

15 that right?

16 A. That's correct.

17 Q. The same James Cron that  
testified

18 yesterday in this cause?

19 A. Yes.

20 Q. Okay. Mr. Cron, I believe  
when we

21 left yesterday, we were talking about certain  
marks that

22 you saw on the kitchen floor that day on June  
6th, 1996,

23 when you were at 5801 Eagle Drive. Do you  
recall that?

24 A. Yes.

25 Q. Okay. And, I believe that  
we last had

Sandra M. Halsey, CSR, Official Court  
Reporter

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1 referred to State's Exhibits 43-A and 43-B. Do  
you

2 recall that also, sir?

3 A.

Yes.

4 Q.

Okay.

5

6 (Whereupon, the

following

7 mentioned items were

8 marked for

9 identification only

10 after which time the

11 proceedings were

12 resumed on the record

13 in open court, as

14 follows:)

15

16 BY MR. GREG DAVIS:

17 Q. Sir, let me ask you, if you will,

to

18 look at State's Exhibit 43-C and 43-D. Do you

recognize

19 those two photographs, sir?

20 A. I do.

21 Q. Do they truly and accurately  
depict

22 the floor there at 5801 Eagle Drive as it appeared  
on

23 June 6th, 1996, sir?

24 A. Yes.

25

Sandra M. Halsey, CSR, Official Court Reporter

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1 MR. GREG DAVIS: Your Honor, at  
this

2 time, we will offer State's Exhibits 43-C and 43-D.

3 MR. DOUGLAS MULDER: No objection.

4 THE COURT: State's Exhibit 43-C  
and D

5 are admitted.

6

7 (Whereupon, the items

8 Heretofore mentioned

9 Were received in

evidence

10 As State's Exhibit Nos.

43-C

11 and 43-D for all

purposes,

12 After which time, the

13 Proceedings were resumed

14 As follows:)

15

16 BY MR. GREG DAVIS:

17 Q. Again, Mr. Cron, if you will

please

18 step down, just for a moment.

19

20 (Whereupon, the witness

21                               Stepped down from  
the  
22                               Witness stand, and  
23                               Approached the jury  
rail  
24                               And the proceedings  
were  
25                               Resumed as follows:)

Sandra M. Halsey, CSR, Official  
Court Reporter

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1 BY MR. GREG DAVIS:

2 Q. Mr. Cron, let me ask  
you first:

3 Looking here at State's Exhibit 43-C,  
does that appear to

4 be essentially the same photograph we  
have here in

5 State's Exhibit No. 43-A?

6 A. Yes.

7 Q. Does it show a little  
bit more of the

8 floor than we show here in 43-A?

9 A. It does, yes.

10 Q. Okay. And again  
State's Exhibit 43-C,

11 can you refer, for the members of the  
jury, the marks

12 that you were referring to yesterday  
that you believe to

13 be roll marks?

14 A. Yes, sir. It was  
these marks on the

15 left side of the photograph here and  
here.

16 Q. Okay. And an  
additional mark up here

17 that I am pointing to now?

18 A. Yes.

19 Q. Okay. And again,

when you saw these

20 marks, the vacuum cleaner, was it still

in the position

21 that is shown here in this photograph?

22 A. Yes, it was.

23 Q. Officer Mayne had not

yet moved it; is

24 that right?

25 A. That's correct.

Sandra M. Halsey, CSR, Official  
Court Reporter

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1 Q. And, looking here at  
State's Exhibit

2 43-D, are we looking, essentially, at  
the same portion of

3 the floor as shown here in State's  
Exhibit 43-B?

4 A. Yes.

5 Q. Okay. And again,  
looking at this, do

6 we see the same marks that you have  
indicated earlier,

7 looking at the previous photograph that  
we see here?

8 A. Yes.

9 Q. Okay. Do you see any  
other marks on

10 State's Exhibit 43-D that you believe  
may be roll marks

11 also?

12 A. This could possibly  
be some at the

13 bottom center of the photograph.

14 Q. Okay. And again, 43-  
D was taken after

15 the vacuum clean had been lifted off of  
the floor by

16 Officer Mayne; is that right?

17 A. That's right.

18 Q. Let me ask you, Mr.

Cron, did you have

19 an opportunity -- do you recognize

State's Exhibit 93

20 here?

21 A. I do.

22 Q. Okay. And, do you

recognize this to

23 be the photograph shown of the vacuum

cleaner shown in

24 State's Exhibit 43-A?

25 A. Yes.

Sandra M. Halsey, CSR, Official  
Court Reporter

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1 Q. Did you have an  
opportunity to observe

2 this vacuum cleaner while it was still  
laying on the

3 floor?

4 A. I did.

5 Q. And what, if  
anything, did you observe

6 on State's Exhibit 93 as it was on the  
floor?

7 A. There was some traces  
of blood, or

8 what appeared to be blood.

9 Q. Okay. If we could  
position the vacuum

10 cleaner here on the floor, is this  
essentially the

11 position that the vacuum cleaner was in  
when you saw it

12 here on the floor?

13 A. Yes.

14 Q. Okay. And just, if  
you could in

15 general, show us where you observed  
blood that day?

16 A. Here again, I can't

pinpoint exactly

17 where I saw the blood. I would have to  
look at

18 photographs to compare it. But there  
was some blood on

19 the handle area, a little blood on the  
body of the

20 vacuum, some blood on the wheels.

21 Q. Okay. Today, we have  
got tape on the

22 wheels, I take it?

23 A. Yes.

24 Q. The tape was not on  
the wheels back on

25 June 6th; is that right?

Sandra M. Halsey, CSR, Official  
Court Reporter

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1                   A.     That's right.

2                   Q.     So, you were able to  
observe blood

3     while the vacuum cleaner was on the  
floor?

4                   A.     Yes.  And there was  
some blood up in

5     this area, in this area here.

6                   Q.     Okay.  And you're  
pointing toward --

7     what I am going to call the top of the  
bag portion of the

8     vacuum cleaner?

9                   A.     Yes, below the handle  
on the top of

10    the bag.

11                  Q.     All right.  Do you  
recall how Officer

12    Mayne lifted this vacuum cleaner off of  
the floor?

13                  A.     Yes.  I was standing  
in this position,

14    and he was at the base, and he handled  
it, and here

15    again, exact position he put his hand, I

don't recall,

16 but it was in this area here he picked  
it up.

17 Q. Okay.

18 A. Somewhere in this  
area.

19 Q. Okay. And again, did  
you have an

20 opportunity, once the vacuum cleaner had  
been lifted up

21 off of the floor, did you have an  
opportunity to look at

22 the vacuum cleaner a little bit more?

23 A. Yes.

24 Q. Okay.

25 MR. GREG DAVIS:

Thank you. You can

Sandra M. Halsey, CSR, Official  
Court Reporter

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1 go back up to the witness stand.

2 THE WITNESS: Okay.

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 (Whereupon, the  
following

12 mentioned items were

13 marked for

14 identification only

15 after which time the

16 proceedings were

17 resumed on the record

18 in open court, as

19 follows:)

20

21 BY MR. GREG DAVIS:

22 Q. Mr. Cron, let me show you  
photographs

23 that have been marked as State's Exhibit 46-A, 46-  
B,  
24 46-C, 46-D, 46-E, 46-F and 46-G. Do you recognize  
those  
25 photographs, sir?

Sandra M. Halsey, CSR, Official Court  
Reporter

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1 A. I do.

2 Q. Do they truly and accurately  
depict

3 the blood that you saw on the vacuum cleaner,  
State's

4 Exhibit 93, on June 6th, 1996, sir?

5 A. Yes.

6

7 MR. GREG DAVIS: Your Honor, at  
this

8 time we will offer State's Exhibit 46-A through 46-G,  
9 inclusive.

10 MR. DOUGLAS MULDER: No objection.

11 THE COURT: State's Exhibits No.  
46-A,

12 B, C, D, E, F and G are admitted.

13 MR. GREG DAVIS: Okay.

14

15 (Whereupon, the items

16 Heretofore mentioned

17 Were received in

evidence

18 As State's Exhibit

Nos.

19 46-A through 46-G

20

For all purposes,

21

After which time, the

22

Proceedings were resumed

23

As follows:)

24

25

Sandra M. Halsey, CSR, Official Court Reporter

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1 BY MR. GREG DAVIS:

2 Q. Mr. Cron, if you could step down  
3 again, we can go over these photographs with the  
jurors.

4

5 (Whereupon, the witness

6 Stepped down from

the

7 Witness stand, and

8 Approached the jury

rail

9 And the proceedings

were

10 Resumed as follows:)

11

12 BY MR. GREG DAVIS:

13 Q. Okay. Mr. Cron, looking at  
State's

14 Exhibits 46-A and 46-B, are we looking at the  
handle

15 portion of the vacuum cleaner?

16 A. Yes.

17 Q. What do we see in State's Exhibit  
46-A

18 and 46-B?

19 A. Okay. In 46-A, there is some red

20    discoloration on the handle, what appears to be blood  
or

21    apparent blood.  And the same on the side view of the  
22    handle in 46-B, there is red blood substance --  
looking

23    substance on the side of the handle.

24                    Q.    How would you characterize the  
blood

25    that you saw on the handle?

Sandra M. Halsey, CSR, Official Court Reporter

1 A. More of drops, smears, smears.

2 Q. Smears on the handle?

3 A. Yes.

4 Q. Let me ask you whether or not the  
5 blood that you saw on the handle, would that have  
been

6 consistent with an individual actually holding the  
handle

7 while having blood on their hands?

8 A. Yes. Um-hum. (Witness nodding  
head

9 affirmatively).

10 Q. State's Exhibit Nos. 46-C, D and  
E,

11 starting with 46-C, are we looking at, again, the top  
12 portion of the bag of this vacuum cleaner, sir?

13 A. We are.

14 Q. Okay. And can you point out the  
blood

15 that's on that photograph?

16 A. Yes, there is some blood on 46-C  
on

17 the top of the bag, which is this area here.

18 Q. And if we turn the vacuum cleaner  
19 around then, are we looking at the back portion  
now of

20 the vacuum cleaner in State's Exhibit 46-D and 46-  
E?

21 A. Yes.

22 Q. And again, blood there, also?

23 A. Yes, discolorations of blood up  
on the

24 side near the cord and on the cord and on -- I don't  
know

25 what that is called, anyway, the shaft of the vacuum

Sandra M. Halsey, CSR, Official Court Reporter

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1 cleaner.

2 Q. Okay. Now, looking at State's  
Exhibit

3 46-F and 46-G, are we looking at the base of the  
vacuum

4 cleaner here?

5 A. Yes.

6 Q. And again, would you just point  
out to

7 the members of the jury the blood that you see in  
those

8 photographs?

9 A. On the two photographs, there's  
some  
10 blood in this area, which would be the corner of the  
base

11 of the vacuum. Let me look, I got a glare here,  
some

12 blood in this area here.

13 Q. Now, Mr. Cron, the blood that you  
14 observed on this vacuum cleaner, tell me whether or  
not

15 it appeared that some of the blood that you saw on  
this

16 vacuum cleaner had been deposited on the vacuum

cleaner

17 when it was standing upright, as it is now?

18 A. It looked like most of it was  
when it

19 was in its down position.

20 Q. Okay.

21 A. Laying on the floor, there was  
some on

22 the handle, it had been smeared, it could have been  
when

23 it was in an upright position.

24 Q. Okay. And then most of it that

you

25 observed would have been deposited while the vacuum



1 cleaner was in this position?

2

3 MR. DOUGLAS MULDER: Object to  
4 leading.

5 MR. GREG DAVIS: Is that correct?

6 MR. DOUGLAS MULDER: Leading.

7 THE COURT: We sustain the  
objection.

8 Let's phrase our question properly.

9

10 BY MR. GREG DAVIS:

11 Q. Mr. Cron, let me ask you whether  
12 or

13 not you observed blood that you believe to have been  
14 deposited while the vacuum cleaner was laying down?

15 A. I did. The drops were round --  
16 oval

17 to round shapes, which indicates straight drops.

18 Q. Okay. You may go back.

19 (Whereupon, the witness

20 Resumed the witness

21 Stand, and the

22 Proceedings were resumed

23 On the record, as

Follows:)

24

24 BY MR. GREG DAVIS:

25 Q. Mr. Cron, tell me, when  
Officer Mayne

Reporter Sandra M. Halsey, CSR, Official Court

2243

1     lifted this vacuum cleaner, were you in  
agreement with

2     that decision at that time?

3                     A.     Yes.

4                     Q.     Okay.  And, did you have  
any concerns

5     at that time about Officer Mayne possibly  
obscuring

6     possible fingerprints on this vacuum  
cleaner?

7                     A.     No.  And I can elaborate  
on that if

8     you would like.

9                     Q.     Yes, sir, if you would.

10                    A.     Normally, there might be  
handprints or

11    fingerprints on the handle and I didn't want  
it

12    disturbed.  If something has to be lifted,  
you usually go

13    to the route of least disturbance on any  
possible agency.

14    I did mention to him, be careful.  Although  
I felt like

15    he was, but I wanted to make sure he didn't  
touch the

16 handle itself. Because we could see some  
blood there and

17 I thought there might be a bloody print on  
it when we

18 examined it closer.

19 Q. Now, I want to direct  
your attention

20 to, again, the kitchen floor. And ask you  
about

21 footprints that you may have seen on the  
floor. I know,

22 looking at State's Exhibit 43-B, do we see  
footprints in

23 that photograph, sir?

24 A. Bare footprints, yes,  
sir.

25 Q. And, just so we can get  
oriented, what

Sandra M. Halsey, CSR, Official Court  
Reporter

2244

1 direction would these footprints be leading  
in State's

2 Exhibit 43-B?

3 A. In 46-B (sic), the  
prints, I can't say

4 north, south or west, but they are heading  
to the lower

5 right hand corner of the photograph.

6 Q. Okay. Would this be  
toward the sink

7 in the kitchen, or away from the sink in the  
kitchen?

8 A. Away.

9 Q. Did you see any bloody  
footprints, Mr.

10 Cron, that led from the family room toward  
the utility

11 room?

12 A. None.

13 Q. Did you see any bloody  
footprints in

14 the utility room?

15 A. Let me back up, no bare  
footprints,

16 there was a footprint.

17 Q. Okay. I'm talking about  
bare

18 footprints here like we see in 43-B?

19 A. There were no bare  
footprints at all

20 in the kitchen except by the sink there.

21 Q. All right. The utility  
room?

22 A. None.

23 Q. Okay. Any bloody bare  
footprints

24 leading from the utility room back to the  
sink?

25 A. No.

Sandra M. Halsey, CSR, Official Court  
Reporter

2245

1 Q. Did you see bloody  
footprints that you

2 believed to be of different sizes in the  
kitchen?

3 A. No.

4 Q. Now, did you ever observe  
anything in

5 the kitchen that you believed to be a bloody  
shoe print?

6 A. There was a partial one.  
I did see

7 one.

8 Q. Okay.

9  
10

11 (Whereupon, the following  
12 mentioned items were  
13 marked for  
14 identification only  
15 as State's Exhibit 43-E,  
16 F & G, after which time  
the

17 proceedings were  
18 resumed on the record  
19 in open court, as  
20 follows:)

21

22 BY MR. GREG DAVIS:

23 Q. If you would, look at  
State's Exhibit

24 43-G. Tell me whether or not you recognize  
that, sir?

25 A. I do.

Sandra M. Halsey, CSR, Official Court  
Reporter

2246



1                   Q.     Okay.  And does that  
truly and  
2     accurately depict that portion of the  
kitchen floor as it  
3     appeared on June 6th, 1996?

4                   A.     Yes.

5  
6                   MR. GREG DAVIS:  Your  
Honor, at this  
7     time we will offer State's Exhibit 43-G.

8                   MR. DOUGLAS MULDER:  We  
don't have any  
9     objection to it.  If we could have him clear  
it up as to  
10    where that is in the kitchen floor.

11                  MR. GREG DAVIS:  I'll  
have him do  
12    that.

13                  THE COURT:  Okay.  Go  
ahead.

14                  Well, it's admitted.  Are  
you going to  
15    object to my admitting it?

16                  MR. DOUGLAS MULDER:  No.  
If he wasn't  
17    going to do that, I would ask to take the

witness on voir

18 dire to establish where that was on the  
floor. If he is

19 going to do it, that is fine with me.

20 THE COURT: All right.

State's

21 Exhibit No. 43-G is admitted.

22

23 (Whereupon, the item

24 Heretofore mentioned

25 Was received in evidence

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1 as State's Exhibit No.  
43-G,

2 For all purposes  
3 After which time,  
4 the proceedings were resumed,  
5 as follows:)

6

7 BY MR. GREG DAVIS:

8 Q. Okay. Mr. Cron, first of all,  
what do

9 we see here in State's Exhibit 43-G?

10 A. It's a partial footprint on the  
11 kitchen floor in what appears to be blood. A heel  
print

12 of a shoe or a boot.

13 Q. Do you recall what part of the  
kitchen

14 that this was found?

15 A. Yes. Exact measurements I don't  
have,

16 but it's about halfway between the end of the  
counter to

17 the island counter and the utility room door,  
heading in

18 the direction of the utility room door.

19 Q. Okay. Did you see any other

bloody

20 shoe prints there in the kitchen, besides the one  
21 depicted in State's Exhibit 43-G?

22 A. No.

23 Q. Did you ever do anything with 43-  
24 G,

25 the shoe print, shown in State's Exhibit 43-G in an  
effort to identify who might have left that track?

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1 A. Yes.

2 Q. What did you do?

3 A. Well, through the Rowlett PD, the  
4 negatives, I had them submitted to the photo lab,  
Dallas

5 County Sheriff's Department photo lab for 1 to 1.  
That

6 is actual size blowups made.

7 And then I had Rowlett PD take  
foot

8 wear impressions of everybody that was at the scene,  
9 including my own. I took my shoes there that I  
was

10 wearing that night. So I got --

11 Q. Let me ask you: What is a 1  
to 1  
12 photograph?

13 A. 1 to 1 is true size, actual  
size.

14 That is the purpose for placing rulers in crime  
scene

15 pictures. If a ruler is in a photograph, the photo  
lab

16 personnel can -- using the negative, can enlarge the  
17 image from the negative, to where the ruler becomes  
its

18 actual size on the photographic paper. And when the  
19 ruler is its true size, when they print it  
everything in  
20 the picture will be its true size. That is why  
rulers  
21 are used in crime scene pictures.

22 Q. Well, once you got the 1 to 1  
23 photograph of this shoe print, did you compare it  
against

24 something?

25 A. To all of the footprints of  
everybody

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1 that was present there that morning.

2 Q. Okay. And were you able to  
determine

3 through your comparisons who actually left this shoe  
4 print shown in State's Exhibit No. 43-G?

5 A. Yes.

6 Q. Who was it?

7 A. It was Sergeant Matt Walling. I  
may

8 be mispronouncing his name, Walling.

9 Q. Okay.

10 A. It was consistent with being his  
and

11 no other's at the scene.

12 Q. Okay. Now, Mr. Cron, I want to  
direct

13 your attention; do you recall a wine rack being  
present

14 in the kitchen, sir?

15 A. I do.

16 Q. Did you have an opportunity that  
17 morning to observe the wine rack?

18 A. Yes.

19 Q. First of all, let me ask you: Did  
you

20 observe any blood on the wine rack itself?

21 A. I didn't.

22 Q. Did you observe any blood on any  
of

23 the bottles or the glasses on the wine rack?

24 A. I didn't see any.

25 Q. Did you see any items on the wine  
rack

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1     itself that were broken?

2                     A.     No.

3                     Q.     Were there glasses on the wine  
rack?

4                     A.     Yes.

5                     Q.     Okay.  They were not broken?

6                     A.     They were not.

7                     Q.     Were there wine bottles there  
also?

8                     A.     Yes.

9                     Q.     Okay.  Were they broken?

10                    A.     No.

11                    Q.     Did you ever examine the wine rack  
to

12     determine what amount of force would be necessary to  
move

13     the wine rack?

14                    A.     I did.

15                    Q.     Okay.  Can you tell the members of  
the

16     jury what you did in that regard?

17                    A.     Okay.  This was, later in the  
evening

18     after all the fingerprints were finished on it, I  
shook

19     the wine rack, rattled it, bumped into it and jarred

it

20 to see if any glasses would fall off and none did.

21 Q. In the kitchen itself, what items

did

22 you find to be broken?

23 A. A wine glass.

24 Q. Okay. Mr. Cron, let me ask you

now,

25 if at any time you went back into the family room  
area

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1 and observed carpet in that room?

2 A. Yes, I did.

3 Q. Did you have an opportunity to  
observe

4 the section of the carpet that would be behind the  
west

5 couch, between the couch and the windows that lead to  
the

6 back yard?

7 A. I did.

8 Q. Did you observe anything when you  
9 looked at that, sir?

10 A. Yes.

11 Q. What did you see back there?

12 A. Well, on the carpet there were  
several

13 smudges, some of them in the appearance of heels of  
foot

14 wear.

15 Q. Okay. And, do you know what was  
done

16 with that section of the carpet?

17 A. Yes. While I was there it was cut  
18 out.

19 Q. Okay. Did you recommend that that  
be

20 done?

21 A. Yes.

22 Q. Okay. Now, did you ever have an  
23 opportunity to -- well, did you have an opportunity  
to

24 look at the section of carpet after it had been cut  
out?

25 A. I did.

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1 Q. Did you also have an opportunity  
again

2 to look at all of the impressions, the shoe  
impressions

3 left by all of the emergency personnel back there?

4 A. Yes.

5 Q. Were you ever able to determine  
who

6 left the shoe prints or the impressions back there  
on

7 that section of the carpet behind the couch?

8 A. Yes.

9 Q. Okay. And how did you do that?

10 A. I had not only the carpet, but  
11 photographs taken of the prints on the carpet. I  
had

12 then enlarged to their actual size, true size.

Using

13 them, I compared them with the foot wear  
impressions of

14 everybody at the scene that morning.

15 Q. Okay. And what was the result?

16 A. The results: Three of them are  
17 consistent, or the three patterns are consistent  
with

18 being the boot pattern of the paramedic. And I  
probably

19 have some trouble pronouncing his name, but I know  
his

20 nickname.

21 Q. What is his nickname?

22 A. Toad.

23 Q.

Toad?

24 A.

Right.

25 Q.

Okay.

1                   A.     I can't recall.

2                   Q.     How about --

3                   A.     I have his name, it was on the

4 pictures.

5                   Q.     Let me give it a shot.  Koschak?

6                   A.     That is it.

7                   Q.     Does that sound familiar to you?

8                   A.     That's it.

9                   Q.     Okay.  Also, sir, do you recall

10 whether or not you observed any other area of

carpet that

11 you thought should be removed?

12                   A.     There were some areas that

something

13 needed to be done with, either removed or checked

further

14 for prints.

15                   Q.     Okay.  Were any other sections

of

16 carpet actually removed while you were there?

17                   A.     Not while I was there.

18                   Q.     Okay.  Did you ever -- well, let

me

19 just direct your attention.

20

21

MR. GREG DAVIS: Can all of the

jurors

22 see this?

23

THE JURORS: Yes.

24

25

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1 BY MR. GREG DAVIS:

2 Q. Mr. Cron, looking at State's  
Exhibit

3 35-C, do you recognize what is shown there, sir?

4 A. Yes.

5 Q. What is that?

6 A. It's a -- you mean each specific  
item?

7 Q. No. What part of the room is  
this?

8 A. Oh, it's near the couch and the  
glass

9 coffee table.

10 Q. Okay. Now, look at State's  
Exhibit

11 35-E. Do you see what I am pointing at here, sir?

12 A. I do.

13 Q. What is that?

14 A. Looks like a small palm print in  
blood

15 on the carpet.

16 Q. Could you -- when you first went  
into

17 the family room, could you see the palm print here  
shown

18 in State's Exhibit 35-E?

19 A. No.

20 Q. Okay. What did you have to do  
in

21 order to see that?

22 A. Well, we had to move the objects  
after

23 the initial photographs were taken, conducting a  
crime

24 scene investigation during the moving of things  
that was

25 discovered.

1 Q. Okay. Do you see what I am  
pointing

2 at here in 35-C?

3 A. Yes.

4 Q. Okay. What is that?

5 A. A blanket.

6 Q. Did you have to move that?

7 A. Yes, sir.

8 Q. Let me ask you a couple  
questions

9 here. Do you see what appears to be a pillow here  
in

10 35-C?

11 A. Yes.

12 Q. Do you see that?

13 A. Yes.

14 Q. Did you have a chance to look at  
that

15 pillow that day?

16 A. Later that day, yeah, I did, yes.

17 Q. Okay. Could you see any  
cuts or

18 defects in that pillow?

19 A. No.

20 Q. Let me direct your attention to

what

21 appears to be a gold pillow in State's Exhibit 35-

C. Did

22 you also have an opportunity to look at that, Mr.

Cron?

23 A. I turned it over and looked at

it,

24 yes, sir.

25 Q. Could you see any cuts or tears

or

1 other defects in that pillow, sir?

2 A. I didn't notice any.

3 Q. And now, the -- let me point to  
the

4 couch here that is shown in State's Exhibit 35-C.  
Did

5 you have a chance to look at that couch, also?

6 A. I did.

7 Q. What is that couch made of?

8 A. Vinyl or similar material,  
plastic,

9 similar to leather.

10 Q. Okay. Did you see any cuts or  
tears

11 or defects in that couch that morning?

12 A. I didn't observe any.

13 Q. How about the other couch in  
the

14 family room shown in State's Exhibit No. 35-H, any  
cuts

15 or defects or tears in that couch that you saw?

16 A. No.

17 Q. Is there also a chair that sits  
across

18 in that room?

19 A. There is.

20 Q. Any cuts or defects or tears in  
that  
21 chair?

22 A. I didn't see any.

23 Q. Mr. Cron, on June the 6th, do  
you have  
24 an estimate of the amount of time that you spent  
out  
25 there at 5801 Eagle Drive?

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1                   A.     Yes.

2                   Q.     How long were you out there?

3                   A.     Till 3:30 P.M. that day.

4                   Q.     You got out there about what  
time?

5                   A.     I entered the scene a little  
after  
6     6:00 A.M.

7                   Q.     What, about nine or nine and a  
half  
8     hours?

9                   A.     Yes.

10                  Q.     Of that amount of time of the  
nine or  
11     nine and a half hours, what percentage of your time  
was  
12     spent actually inside of the house?

13                  A.     Oh, majority of it. Probably  
seven  
14     hours, seven and a half, inside.

15                  Q.     Okay. Now, Mr. Cron, I would  
like to  
16     turn your attention to certain latent prints that  
were  
17     given to you for comparison. Were certain latent

prints

18 given to you for comparison at a later date?

19 A. Yes.

20 Q. Let's talk a little bit about  
prints.

21 Are there differing kinds of prints?

22 A. Yes.

23 Q. Could you explain to us what  
those

24 kinds might be?

25 A. Well, there's only three kinds of

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1 basic fingerprint patterns. I'm not mentioning or  
going

2 to talk right now about palms, and joints of fingers,  
3 footprints and toe prints, but just the tips of the  
4 fingers, there's only three patterns.

5                                 These patterns have what you call  
6 sub-groups. A lot of people of heard of whirls and  
loops

7 and arches, well, that is the three patterns. And  
8 there's two kinds of arches, there's four kinds of  
whirls

9 and two kinds of loops. We all have a loop and whirl  
10 pattern or a combination of these, we might have all  
11 whirls, we might have all arches, loops, it's a  
mixture

12 on people. But we all have one or more of these  
three  
13 basic patterns.

14                         Q.     Okay. You mentioned the  
fingerprints,  
15 right?

16                         A.     Yes, sir.

17                         Q.     Joints of fingers?

18                         A.     Yes. Joints, the rest of the  
joints,

19 the palms of the hands, the soles of the feet and  
toes  
20 have patterns and friction ridges composed of the  
same  
21 type of ridges we have on the tips, but they are  
not  
22 classified into whirls, loops and arches. That is  
only  
23 for classification purposes for the fingerprint tips,  
but  
24 we have similar ridges in all of the rest of our  
hands  
25 and feet.

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1 Q. Okay. Do fingerprints differ by  
sex?

2 A. No.

3 Q. So you can't -- can you  
differentiate,

4 if you see a fingerprint that is left, can you  
5 differentiate between male and female on that print?

6 A. Not on the basis of the print  
alone.

7 You can make educated guesses based on size that is  
8 not -- you may not be 100 percent accurate, but you  
can

9 look at the size and say, "This probably is a male  
with

10 large hands." But scientifically, no, you cannot  
tell

11 the difference.

12 Q. Okay. How about race? Can you  
13 differentiate that by fingerprints or palm prints?

14 A. Not at all.

15 Q. Do our fingerprints change as we  
grow

16 older? I am talking about, if say, just to give you  
an

17 example: A five year old child as opposed to my

18 fingerprints, are they going to change over time  
from

19 when I was five to what I am now?

20 A. No, not as far as the identity.

The

21 only thing that would change would be size, but your

22 prints remain the same from pre-birth until you

23 decompose. Those patterns stay the same. The size

will

24 change with age.

25 Q. What size? The finger or  
something

1 else?

2 A. The ridges.

3 Q. What do you mean, ridges?

4 A. The skin, the friction ridges.

With,

5 say a newborn, will have very tiny -- you almost  
need a

6 magnifying glass to see the ridges in a newborn as  
7 opposed to someone, say 50, 20 years old. They are  
8 pretty discernible with the naked eye. It's the  
size of

9 the skin ridges.

10 Q. Mr. Cron, are you familiar with  
how

11 fingerprints are lifted?

12 A. Yes.

13 Q. Okay. Can you describe for the  
14 members of the jury how, if you go out to a crime  
scene

15 the methods that you use to process a scene and lift  
16 latent fingerprints?

17 A. Well, that is a pretty lengthy  
18 subject, but there's different ways to lift prints  
or to

19 develop prints. Quite often it depends on the

surface

20 the print is on, or you think a print might be on,  
21 weather conditions.

22 One of the basic ways at scenes  
is to

23 use a powder, dry powder, normally this is a black  
24 powder, it can be different colors, but black powder  
is  
25 generally used.

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1                           The black powder adheres to any  
2    moisture that may be on an invisible or semi-  
visible  
3    print.  And by adhering to the ridges in the shape,  
the  
4    moisture and the shape of the ridges on the tips of  
our  
5    fingers or palms, it becomes visible and we  
developed a  
6    print.

7                           Q.     Okay.  How do you go about  
comparing a  
8    fingerprint that you find at a crime scene to another  
9    fingerprint?  How do you do that?

10                          A.     Well, there's several steps.  
These  
11   are rapid steps.  It doesn't take long.  First, you  
look  
12   to see if the unknown print from the crime scene has  
the  
13   same pattern, one of the three patterns I mentioned,  
the  
14   basic patterns.

15                                 If it is, then you get into a  
little  
16   more detail.  You look for individual

characteristics

17 that may be in the finger pattern. When you find a  
18 sufficient number of these characteristics, if you  
have  
19 enough there to have an identification, but if  
they're  
20 lacking individual characteristics, although both  
prints  
21 may be say a whirl, if they aren't identical with  
the  
22 minutia in them, or the minor friction ridge  
23 characteristic, it's not an identification.

24 Q. Okay. How long have you been  
25 comparing fingerprints and identifying  
fingerprints?

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1 A. Oh, since about 1958.

2 Q. You have any idea of the  
number of

3 fingerprints that you have compared and  
identified in

4 your career?

5 A. I really don't, many.

6 Q. Okay. One other thing, can you  
tell

7 the age of a fingerprint? By that, I mean, how  
long a

8 fingerprint has actually been left on a surface?

9 A. Never. You can't.

10 Q. Okay. What -- would there be  
some

11 factors that might allow a fingerprint to stay on a  
12 surface longer or shorter?

13 A. Yes.

14 Q. Periods of time?

15 A. Yes.

16 Q. What sorts of things would affect  
17 that?

18 A. Weather -- well, there's three  
things,

19 four things, I guess. One would be psychological,

20 mental, attitude of the person leaving the print, the

21 prints.

22 Sometimes this can affect whether

a

23 person is sweating, the perspiration might add a  
little

24 moisture to the print or they might be perspiring

too

25 much, leaving too much water, liquid. If they are  
not

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1 perspiring at all and their fingers are dry, it may  
not

2 leave a print.

3 So the mental condition is a  
factor.

4 Another factor would be the physical condition of  
the

5 person leaving the print. This could be -- the  
ridges

6 could be affected by occupation, illness, say  
psoriasis

7 maybe, or occupation, meaning a brick layer,  
somebody

8 that works with vehicles quite often, or the type of

9 occupation that could damage the ridges, this could  
hurt

10 it and is a factor in how good the prints may be if  
they

11 are left at a scene.

12 Another factor is atmospheric

13 conditions. This is indoor or outdoor. Say it's

14 outdoors, it could be the wind, rain or sun. Indoors

15 would be the air conditioning, heating units in the  
house

16 and it could either add too much moisture or extract

17 moisture from the print. So these are factors.

The  
18 surface itself. Smooth surfaces tend to leave --  
are  
19 receptive to prints, porous surfaces, sometimes it  
can be  
20 too porous, such as a blotter on a desk, or it could  
be  
21 slightly porous, like a sheet of paper, which is very  
22 good to get prints off of and easy to get prints  
off of  
23 sometimes.

24 Pitted surfaces, paint flaking  
on  
25 surfaces, rough, all these surface conditions are  
a

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1 factor. So what with surface, the weather  
conditions,

2 condition of the fingers themselves, and the  
mental

3 condition of the person, you have to have a perfect  
4 combination to leave a good print.

5 Q. Do you know how long, the maximum  
6 amount of time that a print can remain intact?

7 A. I don't. I know that some have  
lasted

8 40 or 50 years, and others evaporate within seconds.

9 Q. And again, I think you said that  
you  
10 were given some prints to compare, correct?

11 A. I was.

12 Q. Now, when you do comparisons,  
would it

13 be fair to say that not all fingerprints are created  
14 equally, maybe, that some of them are a little  
more

15 difficult to read than others?

16 A. Well, it depends on those  
factors.

17 Prints themselves under ideal conditions are okay  
to

18 read. But it depends on the print itself, under

what

19 conditions it's recovered.

20 Q. Okay. Are there some latents  
that you

21 simply cannot read?

22 A. Latent prints? Oh, yes, yes.

23 Q. Okay. Is that unusual?

24 A. No. It's common, in fact.

25 Q. Okay. What types of latents  
might you

1 receive that you just simply cannot do anything  
with,

2 can't make a comparison?

3 A. Well, there's several things.

They

4 can be overlapping, one on top of another, or three  
may

5 be overlapping; partial prints, that is the finger  
or

6 palm of whatever may touch an object in such a way  
that

7 it doesn't leave sufficient ridge details with  
enough

8 points of comparison, enough little detail. It  
could be

9 they are awful faint, just can't be seen, maybe a  
10 grayish-type image, some of these are factors that  
make

11 prints hard to identify.

12 Q. Okay. Mr. Cron, let me show you

13 State's Exhibits 85-F and 85-G, and ask you to  
take a

14 look at those two documents and tell me whether  
you

15 recognize them or not.

16 A. I do.

17 Q. What do they appear to  
be?

18 A. You mean read from the  
card?

19 Q. Yes, sir.

20 A. Exhibit 856 (sic).

21 Q. Well, I'm sorry, that's going to  
be  
22 "G".

23 A. Oh, "G". Exhibits 85-G and 85-F  
are  
24 the latent prints handed me from the Rowlett PD.  
They  
25 are from the inside of the entry door between the  
garage



1 and the wash room, and they appear to be in blood.

2 Q. Okay. Are you familiar with  
that

3 location?

4 A. Yes.

5 Q. Okay. Is that going to be the  
door

6 leading from the utility room to the garage?

7 A. Yes. The wash room, what we're  
8 calling the utility room.

9 Q. Okay. Are there latents on the  
back

10 of those cards?

11 A. Yes.

12 Q. Okay. What were you able to do  
with

13 those two latents?

14 A. Well, I compared them but I  
wasn't

15 able to make any identification.

16 Q. Okay. Why not?

17 A. They are in liquid. They are  
partial.

18 I can see ridges, I mean, they are obviously palm or  
19 finger, probably finger. But there's not enough  
points

20 of comparison to identify anyone.

21 Q. Okay. So even if you had a known

22 fingerprint that you are looking at, would you be

able to

23 make a comparison and an identification based on

what you

24 have got in front of you there?

25 A. No, I couldn't identify the

correct

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1 print if it was in front of me and I was making a  
2 comparison with these.

3 Q. Okay. Mr. Cron, looking at  
State's

4 Exhibit No. 85-H, do you recognize that?

5 A. Yes, I do.

6 Q. Okay. Is that also a latent that  
was

7 given to you by Rowlett?

8 A. Yes.

9 Q. Where did that latent come  
from?

10 A. This is from the sliding glass  
door

11 leading from the family room out to the back patio.

12 Q. Okay. And, what were you able to  
do

13 with the latent on 85-H?

14 A. Nothing. It was too partial,  
there

15 was some friction ridges there, but I couldn't make  
any

16 identification.

17 Q. Okay. If you had a perfect print  
in

18 front of you that belonged to that individual, could  
you

19 make a comparison and tell us if that individual  
left

20 that latent on 85-H?

21 A. I could not.

22 Q. If you would, please look at  
State's

23 Exhibits 85-I and 85-J. Do you recognize those  
also?

24 A. I

do.

25 Q.

Okay. Are those two of  
the latents

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1 given to you by  
Rowlett?

2 A.  
Yes.

3 Q. Where did they come from?

4 A. Off of the glass table top in the  
5 family room. And one of them, well, both of them,  
that's

6 right, both of them are off the glass-topped table.

7 Q. Okay. What were you able to  
determine

8 by looking at those two latents?

9 A. That there is ridge detail, a few  
10 points of comparison, but I can't -- couldn't make  
any  
11 identification.

12 Q. Okay. Same thing as you had with  
the  
13 other sets that I have just shown you?

14 A. Yes. These are better prints but  
15 still lacked sufficient points of identification.

16 Q. Okay.

17 A. Actually, they're the same.

Let's

18 see, that is -- oh, yes, that is, they're double

lifts of

19 the same print.

20 Q. Okay.

21 A. He attempted -- the man that  
lifted it

22 tried to get it clear, make it clear by the second  
lift

23 and it didn't work.

24 Q. Okay. How would you classify the

size

25 of these two latents?

1 A. Small.

2 Q. Okay. What do you mean by small?

3 What would that be consistent with?

4 A. A juvenile, it could be. It fits  
the

5 criteria to be a younger person's prints.

6 Q. Okay. What are those criteria?

7 A. Small ridges.

8 Q. Let me just ask you: The two  
prints

9 here, 85-I and J, would they be consistent with  
having

10 been left by a five or six year old child?

11 A. It's possible, yes, sir.

12 Q. Okay. Mr. Cron, let me show you  
13 what's been marked as State's Exhibit 85 -- 88-A, B,  
C,

14 D, E and F. Do you recognize those also, sir?

15 A. Yes, sir.

16 Q. Okay. Were they also latents  
given to

17 you by the Rowlett Police Department?

18 A. Yes.

19 Q. Do the cards indicate when those  
20 latents were lifted?

21 A. November 26th, 1996.

22

Q. Okay. Where did they come from?

23

A. One of them -- do I need to give

--

24

Q. Yes, if you would go through each

one.

25

A. 88-D came from a plastic bowl

upstairs

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1 in the northeast bathroom; 88-E from the door trim  
2 upstairs in the northeast bathroom; 88-F, sink  
counter  
3 along the northeast edge of the upstairs bathroom;  
88-A,  
4 the sink in the northeast end of the counter in the  
5 upstairs bathroom; 88-B, the sink, northeast end of  
the  
6 counter, sink counter, upstairs bathroom; 88-C,  
upstairs  
7 northeast bathroom sink.

8 Q. Okay. Let me ask you, looking at  
9 these latents that were from the bathroom upstairs  
in  
10 that residence, was there enough ridge detail for  
you to  
11 make comparisons using these latent fingerprints or  
palm  
12 prints?

13 A. There was one, I would have to  
relook  
14 at them, but one of them, there was enough ridge  
detail,  
15 there may be more.

16 Q. All right. Were you ever able to  
17 identify the print that had enough ridge detail here?

18 A. No.

19 Q. When you went out there that day

on

20 June the 6th, did you have any reason to believe that  
the

21 intruder had ever been upstairs in that bathroom at

5801

22 Eagle Drive?

23 A. I saw no indications of any

intruder

24 being upstairs.

25 Q. Mr. Cron, let me show you now  
what's

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1     been marked as State's Exhibit 85-A, B, C, D and E.  
If

2     you would, please look at those five cards.

3                     MR. DOUGLAS MULDER:  Is that 85-A  
through E?

4                     MR. GREG DAVIS:  Right.

5                     A.     Okay.

6

7     BY MR. GREG DAVIS:

8                     Q.     All right.  Do you recognize  
those,

9     sir?

10                    A.     Yes.

11                    Q.     Okay.  Are they latents given to  
you

12     by the Rowlett Police Department?

13                    A.     They are.

14                    Q.     And do the cards indicate where  
those

15     latents were actually lifted?

16                    A.     Yes.

17                    Q.     And would you please tell us where  
18     those latents came from?

19                    A.     Let me try to put these in  
20     alphabetical order.  I should have done it on the

last

21 stack. Okay. 85-A was off the southeast window,

lower

22 inside ledge, or the frame of the -- ledge of the  
window

23 frame. Do you want me to get into the feet and

inches or

24 anything?

25 Q. No, sir.

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1 A. Okay.

2 Q. First of all, as you look through  
3 there, does it indicate that all of those latents  
came  
4 from the same window?

5 A. Yes.

6 Q. All right. Do they indicate that  
they  
7 all came from generally the same area of the window?

8 A. Yes.

9 Q. And what area would that be?

10 A. The inside lower edge, the border  
of  
11 the window.

12 Q. The inside?

13 A. Yes, sir.

14 Q. Looking at the latents there in  
front

15 of you, can you tell how many different latents that  
you

16 have? And I guess what I am asking is, do you feel  
like

17 we have any duplicates in the five latents that you  
have

18 in front of you?

19 A. Yes, there are duplicates.

20 Q. Okay.

21 A. There are -- two cards have the  
same

22 prints.

23 Q. Okay. Do you -- could you tell us

24 just which two cards have the same prints?

25 A. I may have to re --

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1 Q. Reexamine?

2 A. Unless -- I may have to look at  
them

3 again real quickly.

4 Q. Okay.

5 A. I just happen to have a magnifying  
6 glass.

7 Q. Okay.

8 A. When I examined these for the  
Rowlett

9 Police Department I told them, you know, what they  
had.

10 But I didn't mark on here that A and B match and so  
on

11 and so forth. So let me look at them real quick.

12 Q. Okay.

13 A. All right. I'm ready.

14 Q. Okay.

15 A. 85-A, B and D have -- they are  
16 multiple lifts. That is, they are all the same  
print.

17 Q. That's A, B and D, right?

18 A. A, B and D.

19 Q. Okay. How about the other two?

20 A. 85-C and E are multiple lifts.

They

21 are both the same print.

22 Q. Okay. Let's talk, first of all,  
about

23 the latent that is shown on A, B and D. Can you tell  
us

24 from looking at that, whether or not we're looking at  
a  
25 fingerprint or a palm print?

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1                   A.     By the appearance of it, it's a  
2     partial print but it appears to be a palm print,  
partial

3     palm print, as opposed to an individual finger.

4                   Q.     All right.  Partial palm print,  
for A,

5     B and D, right?

6                   A.     Yes, sir.

7                   Q.     Okay.  Now, if you would, looking  
at C

8     and E, same question.  Can you tell us what we're  
looking

9     at there?

10                  A.     Yes.  C and E same thing, appears  
to

11     be a palm and has less tendency to look like a  
finger.

12     In fact, I would say that it is a palm print.

13                  Q.     Okay.  So a little bit more  
certain

14     about C and E being a palm print?

15                  A.     Yes.

16                  Q.     Let me ask you:  With regards  
to the

17     latent that is shown on 85-A, B and D, did you

compare

18 that against known prints?

19 A. I did.

20 Q. Did you compare it against  
prints of

21 all the emergency personnel out there at the  
residence

22 that day?

23 A. Yes.

24 Q. Including yourself?

25 A. And my own prints, yes.

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Reporter

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1 Q. Did you also compare it  
against the

2 fingerprint of the defendant in this case?

3 A. I did.

4 Q. As well as the defendant's  
husband?

5 A. Yes. Finger and palms.

6 Q. Okay. Were you ever able to  
make an

7 identification on the latent shown on A, B and D?

8 A. No.

9 Q. Same questions for the latent  
shown on

10 C and E. Did you compare it against the known

11 fingerprints of the emergency personnel as well  
as the

12 defendant and her husband?

13 A. I did.

14 Q. Were you ever able to make  
15 identification on that latent print?

16 A. I was not.

17 Q. Can you tell me what  
conclusions, if

18 any, that you drew from looking at the latents  
shown, on

19 State's Exhibit 85-A, B and D?

20 A. They don't belong -- as I  
stated, they

21 don't belong to anyone that was there at the  
scene that

22 morning. They -- the C and D ones are palms,  
prints on,

23 which are all the same. But the print on A, B  
and D

24 are -- have a tendency to be palms, although part  
if it

25 could be a finger, it looked like an overlap.

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1                                   There's -- they have, based on  
the  
2   size of the ridges, an educated opinion could be  
that  
3   they could be a juvenile. As I stated, there is  
no  
4   scientific way to determine the age of a person  
leaving a  
5   print, but the size of them are indicative of being a  
6   smaller person's print.

7                                   But that, you know, is my opinion  
from  
8   looking at latents and ridges over the years. But I  
9   can't say beyond any doubt that it belongs to a  
juvenile.

10                                Q.    Okay. Just that it has a tendency  
to  
11   be that?

12                                A.    Yes, sir.

13                                Q.    Okay. How about the other latent  
14   shown on C and E; the one that you feel a little bit  
more  
15   definite about being a palm print.

16                                A.    The same there. Based on size of  
the

17 ridges. It has a tendency to look like a smaller  
adult

18 or a juvenile's ridges based on size.

19                                 And again, that is based on  
opinion

20 from looking at prints, juveniles and adults, but  
it's

21 not a -- there is not a scientific method in  
determining

22 that.

23                                 Q.     Let me ask you, you said -- you  
had

24 indicated in your testimony that the cards indicate  
that

25 these latents were lifted from the inside portion of  
the

1 window frame; is that right?

2 A. Yes.

3 Q. Would that affect how long  
these

4 fingerprints could remain on that frame?

5 A. It would protect them from the  
6 weather. That is one thing that it does add to  
the

7 longevity of a print.

8 Q. Okay. Mr. Cron, when you had  
the

9 latents there in front of you 85-A, B, C, D and  
E, as

10 well as latents from the upstairs bathroom in the  
house?

11 A. Yes.

12 Q. Okay. Did you have either the  
13 fingerprints or the palm prints of Damon or Devon  
Routier

14 to compare those latents against?

15 A. I did not.

16 Q. Just a couple more questions  
about

17 these fingerprints. When you go out to process a  
scene,

18 do you always get latents where you think you might  
get

19 latents?

20 A. No, I don't.

21 Q. Is it unusual to print a room and  
not

22 get any latents?

23 A. No. The latents are fragile,

24 sometimes we get them, sometimes we don't. It's a  
shot

25 in the dark.



1 Q. Is that -- would that be true  
even if

2 you know the people have recently been in that room  
and

3 touching things?

4 A. Yes.

5 Q. Mr. Cron, I want to ask you some  
6 questions about the utility room. And again, you  
had an

7 opportunity, did you not, to look at that floor on  
June

8 6th, 1996?

9 A. I did.

10 Q. Okay. Let me ask you, sir, did  
you

11 see blood on the floor?

12 A. Yes.

13 Q. The type of blood that you saw on  
that

14 utility room floor that morning, sir, was that  
blood, in

15 your opinion, consistent or inconsistent with a  
knife

16 having been thrown or dropped on that floor that  
morning?

17 A. Inconsistent.

18 Q. And why do you say it was  
19 inconsistent?

20 A. The drops of blood on the floor  
were  
21 slow moving, or low velocity drops. There was no  
cast  
22 off blood. By cast off, I mean, when an object that  
has  
23 blood on it hits a hard surface with any force,  
blood is  
24 literally cast off and it leaves little tear-drop  
shaped  
25 stains or patterns as opposed to the drop patterns  
from

1 falling blood on a flat surface. And I saw nothing  
like  
2 that in the scene.

3 Q. And you are sure you saw no cast  
off  
4 blood on that floor?

5 A. I looked for it, and didn't see  
any.  
6 Not of a knife being dropped on the floor.

7 Q. And the knife that you saw up on  
the  
8 kitchen counter, do you recall that?

9 A. Yes.

10 Q. Did that knife still have blood  
on its  
11 blade when you saw it?

12 A. Yes, sir.

13 Q. The blood, again, in the utility  
room  
14 that you saw, how did you characterize that?

15 A. It would be classed as straight  
drops,  
16 low velocity, slow movement to no movement.

17 Q. Okay. If I am bleeding here this  
18 morning from my hand, and I am standing still or my

hand

19 is not moving, and the blood drops straight down on  
the

20 floor, how would you categorize that type of blood  
that

21 would fall on this carpet?

22 A. Well, that would be low velocity.

You

23 know, there is three velocities, low, medium and  
high

24 velocity. Low velocity is blood that drops

approximately

25 five feet per second, medium is under 25 feet, and  
that,

1 medium velocity blood is the type you get if  
somebody is  
2 beaten with a club, say a baseball bat, or you know,  
a  
3 tire iron, the blood is cast off from when the club  
is  
4 swung, travels a little faster than low velocity and  
5 leaves a different type pattern.

6 High velocity is pulverized  
blood,  
7 it's more like a spray, it's from a shotgun or a  
pistol,  
8 firearm type injuries, and when it hits a person the  
9 blood is pulverized and leaves a fine mist. That is  
the  
10 type, and it travels over 25 feet per second.

11 Q. Okay. Let's assume again that I  
am  
12 bleeding from this hand. Okay? And I run across  
this  
13 floor this morning as opposed to just standing or  
walking  
14 very slowly. Okay?

15 Would you expect to see a  
different

16 type of blood drop on this carpet or flooring surface  
17 from this hand this time?

18 A. Yes. The faster you are moving,  
the  
19 more elongated the shape of the drops.

20 Q. All right.

21 A. The blood or all liquid drops in a  
22 ball. It's not like the drawings in cartoons where  
23 somebody sweating and it looks like tear drops, or  
when  
24 you see cartoons or drawings of rainfall, rain  
doesn't  
25 fall that way.

1                   All liquid that is in contact,  
it's in  
2    a ball.  When it hits, it -- it makes contact with a  
hard  
3    surface and flows in the direction opposite of where  
it's  
4    coming.  If it's coming from side, it will hit and  
flow  
5    out in a tear drop effect in the direction of travel.  
6                   And, if it's straight down, there  
is  
7    no travel, so it makes a round drop or slightly  
elongated  
8    drop.  So there is no direction.  You can't tell if  
9    somebody was going left or right or north or east or  
what  
10   when it's a round drop.

11                   Q.    Okay.  Let me ask you this:  These  
12   drops that you saw there in the utility room, were  
they  
13   consistent or inconsistent with an individual  
bleeding  
14   and running quickly through that room, sir?

15                   A.    A slow-moving individual left  
those

16 drops.

17 Q. Okay. And let me ask you about  
the

18 blood drops that you saw in the kitchen floor. Okay?  
Do

19 you recall those drops?

20 A. Yes, in the kitchen? Yes.

21 Q. Yes, sir. I'm talking about now  
about

22 the area leading from the family room back to the  
utility

23 room. Do you recall the types of drops that were on  
that

24 floor there?

25 A. Yes.

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1 Q. What types of drops were there?

2 A. Again, that's low velocity, slight  
3 movement, very little movement.

4 Obviously, the person who dropped  
them

5 was moving because they were progressive drops, but  
they

6 were almost all from -- anywhere from a 70 degree to  
90

7 degree angle which indicates that it was almost  
straight

8 down.

9 Q. Were those drops consistent or  
10 inconsistent with a person holding a bloody knife  
and

11 running through that kitchen?

12 A. Inconsistent.

13 Q. Were those drops consistent or  
14 inconsistent with an individual who is bleeding,  
running

15 through that kitchen?

16 A. Yes, inconsistent. But walking  
17 through, it's consistent with walking through the  
18 kitchen.

19 Q. How about the -- did you see

blood

20 drops leading -- or between the kitchen sink and  
the

21 utility room?

22 A. Between the kitchen  
sink and utility

23 room?

24 Q. Yes, sir. Did you see

any blood drops

25 between those two areas?

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1 A. Yes.

2 Q. Okay. Let's talk  
about those blood

3 drops. Were they consistent or  
inconsistent with a

4 person running through that area of the  
kitchen holding a

5 bloody knife?

6 A. It's inconsistent.

7 Q. Again, why?

8 A. They were, almost 90  
degree, that is

9 straight down, slight angle, 70 degree  
angle, slow

10 moving, similar to an arm moving. There  
is no speed

11 indicated by the shape of the drops.

12 Q. Okay. Again, would  
those drops be

13 consistent or inconsistent with a person  
who is bleeding,

14 running through that portion of the  
kitchen?

15 A. Inconsistent.

16 Q. Again, the same

reasons?

17                                   A.     Yes.

18                                   THE COURT:   Why don't  
we go ahead and  
19    take our morning break now for 15  
minutes, please.

20                                   MR. GREG DAVIS:     All  
right.  Thank  
21    you.

22                                   THE COURT:   All right.

23

24                                   (Whereupon, a short  
25                                    Recess was taken,

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Court Reporter

1 After which time,  
2 The proceedings were  
3 Resumed on the  
record,

4 In the presence and  
5 Hearing of the  
defendant

6 But outside the  
presence.

7 and hearing of the  
jury,

8 as follows:)

9  
10 THE COURT: Are both sides ready  
11 to  
12 bring the jury in and resume the trial?

13 MR. GREG DAVIS: Yes, sir, we are  
14 ready.

15 MR. DOUG MULDER: Yes, sir, the  
16 Defense is ready.

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

20 (Whereupon, the jury  
was returned to

the  
21 courtroom, and  
the  
22 proceedings  
were  
23 resumed on the  
record,  
24 in open court, in  
the  
25 presence and  
hearing

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1 of the defendant,  
2 as follows:)

3  
4 THE COURT: All right. Be seated,  
5 please. Let the record reflect that all parties at  
trial

6 are present and the jury is seated. Mr. Davis.

7 MR. GREG DAVIS: Thank you, sir.

8

9 BY MR. GREG DAVIS:

10 Q. Mr. Cron, again, you had an  
11 opportunity to observe the window there in the garage  
12 where the screen was cut; is that right?

13 A. I did.

14 Q. Okay.

15

16

17 (Whereupon, the

following

18 mentioned item was

19 marked for

20 identification only

21 after which time the

22 proceedings were

23 resumed on the record

24 in open court, as

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1

2 BY MR. GREG DAVIS:

3 Q. Let me show you, sir, State's  
Exhibit

4 No. 42-C. Do you recognize that to be a photograph  
of  
5 the window?

6 A. Yes.

7 Q. Is it a photograph of the window  
in

8 its original position as you first  
saw it on June 6th,

9 1996?

10 A. Yes.

11 Q. Does it also show  
some of the items

12 near that window, inside the garage?

13 A. Yes.

14 Q. Is it a true and  
accurate depiction,

15 sir?

16 A. It is.

17

18 MR. GREG DAVIS:

Your Honor, at this

19 time, we will offer State's Exhibit

42-C.

20

MR. DOUGLAS

MULDER: We have no

21 objection.

22

THE COURT:

State's Exhibit 42-C is

23 admitted.

24

25

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Court Reporter

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1 (Whereupon, the  
item  
2 Heretofore  
mentioned  
3 Was received in evidence  
4 As State's Exhibit No. 42-C  
5 For all purposes,  
6 After which time, the  
7 Proceedings were resumed  
8 As follows:)  
9

10 BY MR. GREG DAVIS:

11 Q. Again, as we look at this  
photograph,

12 do we see certain items inside the garage?

13 A. Yes.

14 Q. Mr. Cron, have you had an  
opportunity,

15 before we came in the courtroom this morning, to  
examine

16 the window that has been marked as State's Exhibit  
42?

17 A. Yes.

18 Q. Okay. And, sir, do you believe  
that

19 to be an accurate reproduction of the window shown

in

20 State's Exhibit No. 42-C?

21 A. Yes,

22

23 (Whereupon, the

following

24 mentioned item

was

25 marked for

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

7  
8 MR. GREG DAVIS: Your Honor, for  
9 demonstrative purpose, we will offer State's Exhibit  
42.

10 MR. DOUGLAS MULDER: We have no  
11 objection.

12 THE COURT: State's Exhibit 42 is  
13 admitted for demonstrative purposes.

14  
15 (Whereupon, the above  
16 mentioned item  
was  
17 admitted in  
evidence  
18 for demonstrative  
purposes  
19 as State's Exhibit 42  
20 after which time,

the

21

proceedings

resumed

22

in open court, as

follows:)

23

24 BY MR. GREG DAVIS:

25

do at

Q. Mr. Cron, what I would like to

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1 this time is to place this window over here in  
front of

2 the jury. And then I'm going to ask you to do  
certain

3 things with it. All right?

4 A. Yes. Okay.

5 Q. Okay. Mr. Cron, if you would  
step

6 down here, please.

7

8 (Whereupon, the witness

9 Stepped down from

the

10 Witness stand, and

11 Approached the jury

rail

12 And the proceedings

were

13 Resumed as follows:)

14

15 BY MR. GREG DAVIS:

16 Q. And first of all, the outside of  
the

17 window, is it facing toward the jurors at this  
time?

18 A. It is.

19                   Q.     Okay.  The inside of the garage  
20  portion is here toward the counsel table, right?

21                   A.     Yes.

22                   Q.     All right.  Would you please,  
looking

23  at State's Exhibit 42-C, would you position the  
window

24  itself in the open position that would match the  
position

25  shown in State's Exhibit 42-C?

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1                   A.     That's approximately the height of  
the  
2     window in the picture.

3                   Q.     Okay.

4                   A.     The open one.

5                   Q.     All right.  Now, the screen that  
is in

6     the window of 42, does it appear to be the same type  
of

7     screen as shown in State's Exhibit 42-A?

8                   A.     Yes.

9                   Q.     Could you demonstrate for the  
jurors

10    what it would take to remove the screen on State's  
11    Exhibit 42?

12                  A.     Yes.  This type of screen is  
fairly

13    common, to open it.  It has little tabs at the base  
that

14    frees the window (sic) from the slot at the base of  
15    the -- the screen, at the slot of the window frame.

16                  Q.     All right.

17                  A.     There's little clips at the top of  
the

18    frame that fit up into the window frame and helps  
hold it

19 into position.

20 Q. Okay. Let me just take that  
screen

21 from you. And if you would, take State's Exhibit 42-

A.

22 Can you place that into the window?

23 A. Yes.

24 (Witness demonstrating.)

25 Q. Okay. All right.

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1                   A.     They are easier to get out than  
they

2     are to get in, that's for sure.

3                   Q.     All right.  We have now got a  
4     reproduction of State's Exhibit 42.  And now we have  
5     State's Exhibit 42-A, the screen in place in that  
window,

6     right?

7                   A.     Yes.

8                   Q.     Now, during the break or sometime  
this

9     morning, did you actually put some safety pins into  
the

10    screen?

11                  A.     I did.

12                  Q.     Okay.  What was the purpose of  
doing

13    that?

14                  A.     The only -- the purpose was to  
mark

15    the original tear marks here in case we accidentally  
tore

16    the screen, we would know the original position of  
where

17    the cuts were really made.

18                   Q.     Okay.  Now, if we look at the  
19  photograph, State's Exhibit 42-C, do we see what  
appears  
20  to be some sort of an animal carrier, a cat carrier  
of  
21  some sort there?

22                   A.     Yes.

23                   Q.     Am I showing you, I think it's  
24  actually called a litter pan here for cats, am I  
holding  
25  what appears to be a similar type litter pan as shown  
in

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1 State's Exhibit 42-C?

2 A. Yes. It may be the same brand.

But,

3 yes, it is very similar.

4 Q. Okay. If you would, if you could  
take

5 this litter pan and position it in relation to the  
window

6 as the litter pan is shown in 42-C.

7 A. I don't know if I have enough room  
8 here.

9 Q. Just --

10 A. That is approximately the position  
11 there.

12 Q. Okay. And I am going mark this  
litter

13 pan as State's Exhibit 42-E, and I will offer it  
again

14 for just demonstrative purposes only.

15

16 (Whereupon, the above

17 mentioned item

was

18 marked for

19 identification

only

20 after which time  
the  
21 proceedings were  
22 resumed on the  
record  
23 in open court, as  
24 follows:)  
25

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1 MR. DOUGLAS MULDER: No  
objection.

2  
3 (Whereupon, the item  
4 heretofore mentioned  
5 was received in  
evidence

6 as State's Exhibit No.  
42-E

7 for demonstrative  
purposes,

8 after which time, the  
9 proceedings were  
resumed

10 as follows:)

11

12 BY MR. GREG DAVIS:

13 Q. We have now positioned the  
litter

14 pan, does there appear to be some sort of an animal  
cage

15 next to the window also?

16 A. Yes, sir.

17 Q. Okay. I'm going to ask you --  
we've

18 got a little pallet out here?

19 A. Yes.

20 Q. All right. If we could, if we  
could

21 take that pallet, and if we could position that in  
the

22 same area that the cat cage was in that day.

23 A. Okay. There is a little angle on  
it

24 to make sure.

25



1 (Whereupon, the  
following  
2 mentioned item was  
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 MR. GREG DAVIS: Again, for  
12 demonstrative purposes only, I would mark and offer  
the 13 pallet as State's Exhibit 42-F.

14 MR. DOUGLAS MULDER: No  
objection.

15 THE COURT: State's Exhibit 42-F  
16 is  
17 admitted.

18

19 (Whereupon, the above  
20 mentioned item  
was  
21 received in  
evidence  
as State's

Exhibit

22

No. 42-F, for

demonstrative

23

purposes, after which

time,

24

the proceedings were

25

resumed in open

court,

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1 as follows:)

2

3 BY MR. GREG DAVIS:

4 Q. Okay. Mr. Cron, have you now

5 positioned the window in the position shown in  
State's

6 Exhibit 42-C, have you positioned the litter pan in  
the

7 position shown in 42-C, and have you now positioned  
the

8 pallet in the same position as shown in the cat  
cage, or

9 whatever animal cage this is, in 42-C?

10 A. Well, with the exception, this  
might

11 go just a little bit more this direction here.

12 Q. Okay.

13 A. Yes, that is within an inch or  
so,

14 that is the position of the items in the  
photographs.

15 Q. Okay. If you would, I'm going to  
have

16 you step around the other side of the screen for  
just a

17 moment.

18                               With the screen in this cut  
condition,  
19    can you show the members of the jury, if you wanted  
to  
20    open this window in this condition right here, can  
you  
21    open it or can you remove this screen?  
22                               A.     Can I remove the screen?  
23                               Q.     Yes, sir.  
24                               A.     Very easily.  
25                               Q.     Okay.  Can you demonstrate that  
for

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1 the jury, please?

2 A. Yes. That's one way. I mean, I  
could

3 have grabbed it any place to remove it.

4 Q. Okay.

5 A. It's easy to remove.

6 Q. Okay. And just for the record,  
could

7 you describe for the court reporter what you did in  
8 removing that screen and would you demonstrate that  
again

9 just so that she can have some record of it?

10 A. A moment ago when I removed it, I  
11 grabbed the screen at the center area and just  
pulled

12 outward and it popped out.

13 Q. Sir, when you saw the screen,  
State's

14 Exhibit 42-A for the first time that day, was it  
still in

15 the window in the same type of position as we see  
here in

16 the Courtroom today?

17 A. Yes.

18 Q. It had not -- it was not removed

or

19 missing from this window when you first saw it; is  
that

20 right?

21 A. That's correct.

22 Q. And you have just now helped me  
fold

23 the screen back inward. Was the screen still folded

24 inward toward the garage when you first saw this

screen?

25 A. Yes.

1                   Q.     And the windowsill that you are  
2     talking about -- can you just demonstrate here for  
the  
3     members of the jury, where you saw the dust on the  
4     windowsill, using this windowsill?

5                   A.     Yes.   The dust I saw on the  
windowsill  
6     was from the edge of the window to the other edge of  
the  
7     window, the entire length and breadth, the length  
and  
8     width of the windowsill, on top of the wooden sill.

9  
10                   MR. GREG DAVIS:   Your Honor, at  
this  
11     time it may be necessary to reposition this window  
just  
12     slightly.   But what we would like to do is we would  
now  
13     like to bring out Chris Frosch to the courtroom for  
the  
14     purpose of demonstration and in the process, we will  
move  
15     this window.

16                   THE COURT:   Thank you.   Go ahead.  
17     Please do so.

18 (Mr. Frosch enters courtroom.)

19 THE COURT: Let the record  
reflect

20 that Mr. Chris Frosch has entered the courtroom and  
is

21 now standing with Mr. Davis.

22 MR. GREG DAVIS: All right.

Let's

23 make sure we have everything positioned right again.

All

24 right.

25



1 BY MR. GREG DAVIS:

2 Q. Okay. Again, for the record, Mr.  
3 Cron, after we moved the window did you reposition  
the

4 pallet and the litter pan to correspond with the  
location

5 shown in State's Exhibit 42-C?

6 A. Yes.

7 Q. The window opening itself still  
8 corresponds to what you see here in State's Exhibit  
42-C,

9 also?

10 A. Yes.

11 Q. Okay. At this time, I'm going to  
ask

12 that Mr. -- that Officer Frosch, starting here on  
the

13 inside portion closest to counsel table, and if the  
14 record could reflect he is just wearing slacks, a  
dress

15 shirt and a tie. He is not wearing a coat and he is  
also

16 not wearing his weapon at this time.

17 And I am going to ask that he now  
18 attempt to go through this window from the inside  
portion

19 outward toward the jury. And, would y'all like to  
come

20 around here, wherever you can all see best.

21

22 MR. DOUGLAS MULDER: That is  
okay.

23 THE COURT: Okay.

24 THE WITNESS: Would you like me  
to  
25 take the stand again?

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1 MR. GREG DAVIS: No. Right here  
is  
2 fine.

3 THE COURT: All right. If you  
are  
4 ready to do the demonstration, let's do it.

5 MR. GREG DAVIS: Okay.  
6 At this time, again, if you will  
just  
7 repeat that one more time, Mr. Frosch.

8 MR. CHRIS FROSCH: Okay.

9 MR. GREG DAVIS: Mr. Frosch, this  
10 time, I'm just going to ask just one more attempt  
here.

11 This time instead of straddling the window as you go  
out,  
12 I'd like for you to go out this window head first.

If  
13 you would please do that. You didn't know that when  
I  
14 called you up here, did you?

15 MR. CHRIS FROSCH: No.

16 MR. GREG DAVIS: All right.  
Okay.

17 MR. DOUGLAS MULDER: Could you  
give

18 him a little running room?

19 THE COURT: All right.

20 MR. GREG DAVIS: Okay. All  
right.

21 All right. Thank you, Mr. Frosch.

22 THE COURT: Is that it?

23 MR. GREG DAVIS: Yes, that is it.

24 THE COURT: All right.

25 MR. DOUGLAS MULDER: Judge, could  
we

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1 have the record reflect that he didn't touch the  
sill as

2 he went through either time?

3 THE COURT: The record will so  
4 reflect.

5 MR. DOUGLAS MULDER: Thank you.

6 THE COURT: All right.

7

8 (Whereupon, the witness

9 Resumed the witness

10 Stand, and the

11 Proceedings were resumed

12 On the record, as

13 Follows:)

14

15

16 BY MR. GREG DAVIS:

17 Q. Just a couple of questions, Mr.  
Cron.

18 In your opinion about no intruder came into this  
house,

19 has that opinion changed, sir?

20 A. No.

21 Q. Mr. Cron, just one other thing.

The

22 bloody footprints that you saw on the kitchen floor,

did

23 you have 1-to-1 photographs of those footprints  
taken?

24 A. I did.

25 Q. So, they are life-size now?

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1 A. Yes.

2 Q. Did you compare those against  
inked

3 impressions of the footprints of the defendant in  
this

4 case?

5 A. I did.

6 Q. Okay.

7

8 (Whereupon, the  
following

9 mentioned items were  
10 marked for  
11 identification only  
12 after which time the  
13 proceedings were  
14 resumed on the record  
15 in open court, as  
16 follows:)

17

18 BY MR. GREG DAVIS:

19 Q. Mr. Cron, let me show you  
what's been

20 marked as State's Exhibits 44-A and 44-B.

First, those

21 two, do they truly and accurately depict bloody  
22 footprints on the kitchen as they appeared on  
June 6th,  
23 1996?

24 A. They do.

25 Q. State's Exhibits 44-C and  
44-D, are

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1 those 1-to-1 photographs that you had made of  
those

2 bloody footprints, sir?

3 A. Yes.

4 Q. And State's Exhibit 44-E and 44-F,  
are

5 those inked impressions of footprints that were given  
to

6 you by the Rowlett Police Department for comparison  
7 purposes?

8 A. Yes.

9

10 MR. GREG DAVIS: Your Honor, at  
this

11 time we will offer State's Exhibit 44-A, 44-B, 44-C,  
D, E

12 and F.

13 MR. DOUGLAS MULDER: Let me see.

I'm

14 sure we have no objection, but let me just see what  
15 you're talking about.

16 MR. GREG DAVIS: Okay.

17 MR. DOUGLAS MULDER: No objection.

18 THE COURT: State's Exhibit 44-

A, B,

19 C, D, E and F are admitted.

20

21

(Whereupon, the items

22

Heretofore mentioned

23

Were received in

evidence

24

As State's Exhibit

Nos.

25

44-A, B, C, D, E and

F

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1 For all purposes,  
2 After which time, the  
3 Proceedings were resumed  
4 As follows:)

5  
6 MR. GREG DAVIS: Mr. Cron, if you  
will

7 just step down here for just a moment at this time.  
Find  
8 a space here and talk about these exhibits.

9  
10 (Whereupon, the witness  
11 Stepped down from  
the  
12 Witness stand, and  
13 Approached the jury  
rail  
14 And the proceedings  
were  
15 Resumed as follows:)

16  
17 BY MR. GREG DAVIS:  
18 Q. If you will stand right over here  
with  
19 me kind of angled, let me know if you cannot see

this.

20 Okay. Let's look at the top two photographs, are  
those,

21 again, photographs taken of the kitchen floor?

22 A. Yes.

23 Q. Okay. The 1-to-1's that you had,

24 State's Exhibit 44-C, is that a 1-to-1 that you had  
taken

25 of the footprints shown in 44-A?

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1                   A.     Yes.  It's an enlargement to where  
2  it's shown at its true size.

3                   Q.     Okay.  And the enlargement, the 1-  
to-1

4  that is shown in 44-D, is that a 1-to-1 enlargement  
of  
5  the bloody footprint shown in 44-B?

6                   A.     Yes, that is the true size of the  
7  footprint shown in the top of the photo, too.

8                   Q.     All right.  Now, did you, in fact,  
9  compare the 1-to-1 footprints shown in 44-C to the  
left

10  foot, inked impression of the defendant shown in  
State's  
11  Exhibit 44-E?

12                   A.     Yes.

13                   Q.     Do you have a ridge detail and  
those  
14  types of things on footprints, too?

15                   A.     You can have, yes.  All feet have  
16  ridge formations.

17                   Q.     All right.  Was there enough ridge  
18  detail left in this bloody imprint here in 44-C to  
make  
19  that kind of comparison?

20                   A.     No.

21                   Q.     What kind of comparison were you  
able

22     to make between 44-C and 44-E?

23                   A.     I had to do a shape comparison  
based

24     on measurements, size, design and pattern.

25                   Q.     Okay.  What conclusions or  
opinions

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1 did you form after you compared 44-C and 44-E?

2 A. In my opinion, the bloody  
footprint in

3 44-C is consistent in all aspects with being the  
same

4 size and design and pattern as the left footprint of  
5 Darlie Routier, and that is exhibit 44-E. They are  
the

6 same in all aspects.

7 Q. Okay. Let's go to 44-D and 44-F  
then.

8 Again, did you make the same type of comparison  
between

9 those two exhibits?

10 A. I did.

11 Q. Was there enough ridge detail to  
make

12 a -- you know, a complete match with State's Exhibit  
13 44-D?

14 A. There was not.

15 Q. Okay. What conclusions or  
opinions

16 did you form then after you compared 44-D and 44-F?

17 A. In my opinion, the bloody  
footprint in

18 44-D is consistent in all aspects of being the same  
19 footprint in 44-F which is the left bare footprint  
of the  
20 defendant.

21 Q. Okay. Thank you, sir. Let me  
ask

22 you: On the garage door there at 5801 Eagle, what  
23 condition was the door in when you first saw it?

24 A. The overhead garage door?

25 Q. Yes, sir.

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1 A. It was shut and latched.

2 Q. Okay. When Officer Frosch went  
3 through this window, would you categorize him as  
moving

4 quickly through this window, sir?

5 A. Not quickly. I think he was  
being

6 careful.

7 Q. Okay. Now, was it your  
understanding

8 that the intruder, when he went through this window  
that

9 he was doing that in a lighted courtroom?

10 A. No.

11 Q. Okay. What was your  
understanding

12 about the conditions there in the garage when this  
13 intruder went through this window out?

14 A. He was fleeing the scene where he  
had

15 stabbed three people, then dropped a weapon to  
literally

16 arm one of the survivors of this attack, and so he  
armed

17 somebody that was behind him and he was fleeing the  
18 scene.

19                           Q.     Okay.  Based on your experience,  
would

20    you expect that intruder to very carefully straddle  
or

21    climb through this window in an effort to exit that  
22    house?

23                           A.     Not at all.

24                           Q.     How would you expect that

intruder to  
25    leave?

1                   A.     He would probably go through  
there so

2     fast, it didn't matter if the screen was cut or not.  
He

3     left the scene.

4                   Q.     Did you ever find any evidence  
out

5     there that an intruder had entered that house and  
killed

6     these two children?

7                   A.     No.

8                   Q.     What kind of surface would you  
9     characterize this window ledge as?  Is this smooth,  
what

10    sort of surface is this right down here where  
Officer

11    Hamilton found these prints?

12                   A.     It was a -- it wasn't smooth.  It  
13    wasn't that rough.  It was -- between smooth and  
rough,

14    it was a rough surface.

15                   Q.     Okay.  When you had these prints  
16    lifted here, and you didn't have any more prints  
lifted

17    anywhere else that you could compare to, what did  
you

18 think then?

19                   A.     I didn't feel like they were the  
20 intruders. But they weren't bloody. I just had no  
real

21 opinion on them at all outside of they were some  
prints

22 that we needed to compare.

23                   Q.     Okay. This window screen here,  
would

24 it be fair to say that the cut as seen in the screen  
25 today lies below where this window frame is open  
to?

1 A. It did.

2 Q. All right.

3

4 MR. GREG DAVIS: I'll pass the  
5 witness, your Honor.

6 THE COURT: Mr. Mulder.

7 MR. DOUGLAS MULDER: Judge, I am  
8 prepared to go ahead, or I might suggest, I am  
going to

9 spend some time with him, as you might appreciate.

10 THE COURT: Well, I know it's  
just

11 11:00 o'clock.

12 MR. DOUGLAS MULDER: We can take  
a

13 break now and come back at 12:30 and I could start  
then

14 and I wouldn't have to interrupt it. Otherwise,  
what I

15 don't want to do -- it's at your pleasure, whatever  
you

16 want me to.

17 THE COURT: Well, I think we  
ought to

18 go on. We're going to have to go ahead now.

19 MR. DOUGLAS MULDER: Let's go

ahead.

20 THE COURT: All right.

21 MR. GREG DAVIS: If I could, if

I

22 could have one more question.

23 MR. DOUGLAS MULDER: All right.

24

25

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Reporter

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1 BY MR. GREG DAVIS:

2 Q. Mr. Cron, let me ask you:

Sometime

3 after your initial walk-through of the garage, if  
you

4 ever saw blood on the floor of that garage?

5 A. Did I ever see blood?

6 Q. Yes, sir.

7 A. Yes.

8 Q. Okay. About what time was  
that?

9 A. Oh, I may be off a little bit,  
noon, 1

10 o'clock, 2 o'clock, I don't recall exactly.

11 Q. Was that blood on the garage floor  
12 when you first made your walk-through?

13 A. No.

14 Q. Do you have an opinion as to how  
it

15 got out there in the garage?

16 A. Yes.

17 Q. What is your opinion, sir?

18 A. One of the crime lab people or  
19 officers, tracked it out there during the walk --  
during

20 their investigations.

21 Q. Okay.

22

23 MR. GREG DAVIS: That's all I  
have.

24 Thank you. Pass the witness.

25

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1

CROSS EXAMINATION

2

3 BY MR. DOUGLAS MULDER:

4 Q. Did you determine who had tracked  
that

5 blood out there?

6 A. No, sir.

7 Q. What sort of blood did you find  
there

8 in the garage?

9 A. Later on in the day?

10 Q. Yes, sir.

11 A. It was a -- what would be called a  
12 smear from a -- apparently a shoe, since it was on  
the

13 garage floor. It was very visible.

14 Q. It was very visible, was it?

15 A. Yes.

16 Q. And you just found one?

17 A. Yes.

18 Q. Whereabouts in the garage was  
it?

19 A. Coming out of the door leading  
into

20 the utility room, it was several feet into the

garage.

21 There was a little child's -- I want to say chalk  
board

22 but not a chalk board, the board that you can write  
on

23 with grease pencils or something laying there, and  
it was

24 sort of to the right of it. Several feet inside  
the

25 entry.

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1 Q. Was it several steps from the  
utility

2 room into the garage?

3 A. Yes.

4 Q. Okay. And you just found the  
one shoe

5 impression?

6 A. Yes.

7 Q. And what did you, as a trained  
crime

8 scene man, what did you make of that?

9 A. Well, let me go back. When I  
said

10 shoe impression, I assumed it was off of a shoe.

There

11 was no pattern to it or anything, but I thought it  
might

12 have been from a shoe because it was on the floor.

13 Q. Okay.

14 A. What I thought was, they stepped  
in

15 one of the drops that had been in the utility room,  
got a

16 drop on their foot when they stepped out walking,  
and it

17 slid off or sloughed off or smeared off.

18 Q. When was is it that you saw  
that?

19 A. About -- It was after the crime  
lab

20 people arrived. I want to say between 1:00 and  
2:00, no,

21 noon and 2:00, somewhere in there.

22 Q. So, is it fair to say that to  
make

23 that, that is a transfer stain, I guess, isn't it?

24 A. Yes.

25 Q. Okay. To make that transfer  
stain,

1 the blood, at least someplace, would still have had  
to

2 have been wet?

3 A. Yes.

4 Q. That makes sense, doesn't it?

5 A. Yes, sir.

6 Q. Okay. Now, I would also, and  
this was

7 several steps into the garage, was it?

8 A. Yes. I didn't measure it  
because it

9 wasn't there earlier, but it was about two feet,  
maybe,

10 in that area, three, three at the most.

11 Q. Do you have any explanation for  
why we

12 didn't see it before, if it's three or four feet  
into the

13 garage?

14 A. It wasn't there.

15 Q. I mean are you suggesting that  
someone

16 hopped on one foot and then put the other foot  
down?

17 A. No. I have no idea how it got

there,

18 outside of, it was not there for hours, and then it  
was

19 there later when we walked out.

20 Q. It doesn't make sense that they  
hopped

21 in there and then put their foot down, does it?

22 A. Not at all. No. I don't think  
they

23 were acting that way.

24 Q. But you didn't see the first  
footprint

25 and then the second one, did you?

1 A. No, I did not.

2 Q. Okay. And it would seem to me,  
if, in

3 fact, they had stepped on a blood stain or spot  
that was

4 still wet in the utility room, you could walk back  
to the

5 utility room and it would be apparent?

6 A. Well, you mean a smeared drop?

7 Q. Yes.

8 A. Well, unless they picked up a  
small

9 drop on one shoe and then they stepped out on the  
10 non-bloody shoe and the next step was the bloody  
spot and

11 that might have left it several feet out.

12 Q. No, but what I'm saying is, I  
would

13 think that it would be apparent in the utility  
room, that

14 someone had stepped down and smashed one of those  
blood

15 drops?

16 A. Oh, yes, yes. It should be  
apparent.

17 Q. Well, did you do back and look?

18 A. Oh, no.

19 Q. I mean, well, why not?

20 A. Because, the blood was placed  
there

21 long after our arrival and inspection. We were  
through

22 doing the blood inspection at the garage at the  
time the

23 drop was found out there.

24 Q. Well, how did you know you just  
hadn't

25 overlooked it?



1                   A.     Because I don't overlook things  
that

2     are so obvious.   This was a --

3                   Q.     I do.

4                   A.     I don't.

5                   Q.     Okay.

6                   A.     That's my job.

7                   Q.     All right.   You have -- speaking  
of

8     your job, of course, you and I go way back, don't  
we?

9                   A.     Yes.

10                  Q.     You started with the sheriff's  
office

11     about the same time I started with the district  
12     attorney's office?

13                  A.     '64 is when I started.

14                  Q.     '64 is when I went to work there,  
too.

15     But at any rate, so we have over the years worked  
16     together on many occasions, have we not?

17                  A.     Yes, sir.

18                  Q.     Okay.   And we are friends, are we  
not?

19                  A.     Yes, sir.

20 Q. I hope we will be friends when  
we're

21 through here.

22 A. I'm sure, after this trial here.

23 Q. We won't let anything like this  
stand

24 in our way, will we, Jim?

25 A. I haven't.

Sandra M. Halsey, CSR, Official Court Reporter

2315

1                   Q.     All right.  Now, just to go back  
2     and -- did you -- as I understood your credentials  
here,

3     which I might say are quite impressive, but as I  
4     understood your credentials here, you had started  
with

5     the Dallas PD right out of high school?

6                   A.     Yes.

7                   Q.     Did you then in the course of  
your

8     work with the sheriff's office or Dallas PD, did you  
get

9     your degree in police science?

10                  A.     What type of -- you mean college?

11                  Q.     Yeah.

12                  A.     No, I did not.

13                  Q.     Did not.  Okay.  And you were not  
a

14     Dallas police officer, were you?

15                  A.     I

was not, no.

16                  Q.     

Okay.  Matter of fact,  
you worked

17     classifying

fingerprints, did you  
not?

18 A.

Not primarily. I was  
assigned to  
19 their crime scene  
section with Carl Day,  
and my job was  
20 keeper of the  
records, and they trained  
me on the  
21 fingerprints, and in  
the police department ID.

22 Q.

Okay.

23 A.

And crime scene  
investigation.

24 Q.

When was it that you  
started with the  
25 Dallas Police  
Department as a civilian  
employee?

Sandra M.  
Halsey, CSR, Official  
Court Reporter

2316

1 A.

1958.

2 Q.

Okay.

3 A. August.

4 Q. And continued as non-sworn  
civilian

5 employee for six or so years?

6 A. Six years, yes, sir.

7 Q. Okay. And, then, I believe, you  
said

8 you started with the sheriff's office sometime in  
'64?

9 A. That's right, in '64.

10 Q. Okay. You would have worked in  
the

11 identification bureau?

12 A. Yes.

13 Q. And again, it was your forte or  
your

14 principal area of responsibility to classify

15 fingerprints, was it not?

16 A.

Yes.

17 Q.

Okay.

18 A. Well, it was dual duties.

19 Q. Right.

20 A. Crime scene and classifying  
prints.

21 Q. Okay. And at that time, it was  
you

22 and Jimmy Kitchens, wasn't it?

23 A. Yes.

24 Q. Was there anybody else in there?

25 A. Yes.

1 Q. Who else was in there?

2 A. I may forget a name, John Slovak,  
3 Sanders, a man named Sanders, Albright, Conrad  
Albright,

4 and it seems like there was one other.

5 Q. Well, you have got a lot of people  
in

6 jail in Dallas County, aren't there?

7 A. Now. There was less then.

8 Q. Yeah.

9 A. Now there's pushing -- it's goes  
up to

10 8,000 to 6,000 now.

11 Q. Okay. And, to check them in and  
check

12 them out, somebody has got to compare their  
fingerprints

13 so that they don't let the wrong one out, don't they?

14 A. That's correct.

15 Q. Okay. And you get a lot of --  
would

16 you tell the jury, give them an idea of what you do,  
or

17 what you did back then with respect to fingerprints?

And



18 fingerprint comparison and classifications?

19 A. What I did?

20 Q. Yes, sir.

21 A. Well, fingerprints could  
generally

22 break down into two functions. One is to record  
the

23 prints of inmates or people booked in the jail and  
this

24 is the old ink set, where all 10 fingers are taken.

25 They are classified and they are  
Sandra M. Halsey, CSR, Official Court Reporter

1 placed in a master fingerprint file. The other  
part of

2 fingerprint deals with the identification, or the  
3 processing, developing and identification of  
unknown

4 prints with latent prints. Is that what you mean?

5 Q. Yeah. Back then it was done  
with

6 cards about that size, wasn't it?

7 A. It generally still is, 8-by-8  
cards.

8 Q. Okay. And, it was done  
manually,

9 wasn't it?

10 A. Yes.

11 Q. I mean, it wasn't modern like it  
is

12 today at all, was it?

13 A. No.

14 Q. Okay. So, it was a laborious  
process,

15 was it not?

16 A. Well, I didn't enjoy it, no.

17 Q. And --

18 A. I didn't enjoy touching inmates.

19 Q. And Captain Kitchens was the man

in

20 charge?

21 A. Yes.

22 Q. Okay. And, fair to say, that in

the

23 city of Dallas or in the County of Dallas, the

sheriff's

24 primary responsibility is for the jail, is it not?

25 Primary?

Sandra M. Halsey, CSR, Official Court Reporter

2319

1                   A.     Well, that is -- well, he is the  
man

2     in charge of the jail, the department is.  Yes,  
sir.

3                   Q.     Sure.  But, Dallas has probably  
30

4     suburbs, for lack of a better word, or cities  
associated,

5     or cities in Dallas County that are independent  
units,

6     and all have their police force; isn't that correct?

7                   A.     Not in 1964.  That only came  
later.

8     And we lost some cities that were swallowed up by  
bigger

9     cities.

10                  Q.     I understand.

11                  A.     But generally speaking, they have  
12     their own police departments, yes.

13                  Q.     Okay.  By and large the sheriff  
of

14     Dallas County's responsibility is to maintain the  
jail,

15     and to make sure the right people are going in and  
out,

16     and to patrol the unincorporated areas of Dallas

County;

17 is that not correct?

18 A. Well, not entirely.

19 Q. Well, I mean, that's 99 percent  
of it,

20 isn't it?

21 A. Not really. He has warrants,  
civil

22 warrants, criminal warrants, he has the criminal  
23 investigation division, the patrol has a contract,  
you

24 know, at times they vary. They had several cities  
they

25 contracted with to supply patrols to, and now it's,  
I

1 believe, just one, which is Sunnyvale.

2 Q. Um-hum. (Attorney nodding head  
3 affirmatively).

4 A. But at one time they also had all  
the

5 patrol for Cedar Hill, and there was a contract with  
6 Seagoville too, at one time. They even had several  
7 substations in about four areas of the county. At  
this

8 point in time, in 1997, it's primarily jail with  
less

9 patrol activity. But that has only come about in  
about

10 the past, oh, six, seven or eight years.

11 Q. Yes, sir. But back in 1964, even  
in

12 1964 and 1970, '75, whatever, there was not a great  
deal

13 of Dallas County that was not incorporated, was  
there?

14 A. No. Unincorporated, no, there  
wasn't

15 that much unincorporated.

16 Q. And the sheriff, other than the  
17 contracts that the sheriff had with these

little

18 municipalities that didn't -- and it was just  
more

19 economical to have the sheriff do it than for them  
to

20 hire their own police force and give them benefits  
and

21 that sort of thing, wasn't it?

22                   A.     Well, up to a point.  They  
couldn't

23 hire their own -- they didn't have separate crime  
scene

24 units.  We had to help them on their major crime  
scenes,

25 and all of their investigations.

1                   Q.     Sure.  But we're just talking  
about

2     the little ones, aren't we?

3                   A.     Garland, Mesquite, Richardson,  
4     Carrollton, the ones that I didn't help during my  
career

5     down there would basically be the Dallas Police  
6     Department.

7                   Q.     For example, the Dallas Police  
8     Department, probably during your career, Lieutenant,  
9     probably the biggest, maybe most offensive deal in  
your  
10    department would have been the murder of a deputy  
sheriff

11    in the Trinity River Bottoms?

12                  A.     That was actually handled by the  
13    Dallas Police Department.

14                  Q.     No.  I know that.  That is the  
point I  
15    am making.

16                  A.     What was your question?

17                  Q.     I said that was probably the  
biggest

18    case with -- that involved officers of the Dallas  
19    Sheriff's office?



20 A. Being killed?

21 Q. Yes. Um-hum. (Attorney nodding  
head

22 affirmatively).

23 A. We have had other officers killed  
that

24 I have investigated.

25 Q. We have. Had one killed there in  
the

1 building.

2 A. Right.

3 Q. Right outside the Sheriff's  
office,

4 didn't you?

5 A. Right.

6 Q. Several.

7 A. If you are talking about what I  
have

8 investigated --

9 Q. Oh, no.

10 A. -- or what the section? Cause I  
11 have --

12 Q. No. I am just pointing out that  
even

13 in a case of that magnitude where three deputy  
sheriffs

14 were killed, you didn't handle the crime scene  
search.

15 It was handled by Dallas PD, was it not?

16 A. Oh, yes. It was in their city.

17 Q. Yes, sir. So you don't help and  
18 assist, as a general rule, the Dallas Police  
Department,

19 do you?

20

A. No.

21

Q. Okay. They have their own crime scene

22 search unit which, I dare say, they think is probably

23 superior to anybody's, with the exception of Kerrville's?

24

A. They probably think that.

25

Q. I mean there's a pride in their own

1 unit and they don't, for lack of a better way to  
phrase

2 it, they probably don't feel like they need your  
help?

3 A. Well, only on high tech  
material, they

4 would bring us some of their work on processing  
items for

5 latent prints that they couldn't handle.

6 Q. Well, you have got the ovens  
down

7 there and the paraphernalia where you can process  
with

8 the super glue and so on and so forth. You can  
handle

9 those things?

10 A. Well, they have that. We used  
some

11 other high tech, lasers, we have the vent-a-hoods  
for the

12 fuming and using chemical processes.

13 Q. Okay. But other than  
assistance in,

14 say fingerprints, they had their own crime scene  
search

15 unit which was well manned, was it not?

16 A. Yes. I didn't go down and help  
the

17 Dallas Police Department on their homicides.

18 Q. Okay. And the City of Garland,  
for

19 example, now is probably 200,000, as is Irving and  
20 Richardson and Mesquite, aren't they?

21 A. They are the second largest  
city, I

22 believe, in Dallas County.

23 Q. Okay. But those  
municipalities, those

24 four municipalities probably account for about,  
what, 40

25 percent of Dallas County?

Sandra M. Halsey, CSR, Official Court  
Reporter

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1                   A.     I don't know.  When I retired  
they  
2     hired me as a consultant to work to revamp their  
crime  
3     scene section for them and assist them on several  
4     murders.  Right after I retired they told me that  
they  
5     were second largest, and I don't know any more.

6                   Q.     Okay.  Well, is it fair to say  
that  
7     Dallas County is about 2 million right now?

8                   A.     I don't know.  Probably is,  
yes.

9                   Q.     Well, you live there, don't you?

10                  A.     Yeah.  Well, I don't care about  
11     population.

12                  Q.     How many is it?

13                  A.     Okay.  Two million.  It might be 2  
14     million or 100,000, I don't know.

15                  Q.     All right.  The city of Dallas is  
16     about half of that.

17                  A.     Okay.

18                  Q.     Garland, Richardson, Mesquite,  
Irving,  
19     probably 7 or 8 hundred thousand?

20                           A.     I will accept your figures.  I  
don't

21    know.

22                           Q.     Well, when we talk about, for  
example,

23    you attended the FBI school.

24                           A.     Well, not the main academy.  I  
25    attended their advanced latent print development and

Sandra M. Halsey, CSR, Official Court Reporter

2325

1 comparison course.

2 Q. Okay. So that --

3 A. I'm not a graduate of the FBI  
Academy,

4 no.

5 Q. All right. I didn't know whether  
you

6 left that impression or not.

7 A. Oh, no.

8 Q. But you attended -- you didn't  
9 graduate from the FBI Academy?

10 A. Oh, no.

11 Q. You attended a special school that  
12 dealt with fingerprints?

13 A. Yes. One there and then several  
that

14 they conducted in Dallas County, but not the national  
15 academy. No.

16 Q. All right. And as you would  
attend

17 these schools, they would give you an award,  
wouldn't

18 they?

19 A. Award?

20 Q. Yes.



21                   A.     No, that was the certificate  
of  
22    attendance that I attended the school and  
passed or  
23    whatever, you know.  It's proof that I went.

24                   Q.     If you just -- and that was  
important,  
25    it's important when you get up and testify that  
you've

Sandra M. Halsey, CSR, Official Court Reporter

1 attended, I guess, the best known school is probably  
the

2 FBI school, isn't it?

3 A. Well, two reasons: For testifying  
and

4 also the knowledge you gain from attending such  
schools.

5 Q. Sure. DPS has a school, don't  
they,

6 down in Austin?

7 A. Yes. Right.

8 Q. And they can, also, on occasion,  
have

9 schools in satellite places, can't they?

10 A. Yes.

11 Q. Okay. And you have attended DPS,  
I

12 dare say, have you not?

13 A. Yes.

14 Q. Over the years?

15 A. Yes.

16 Q. In fingerprint comparison?

17 A. On fingerprint? No.

18 Q. Okay.

19 A. Other schools, but not that  
one.

20 Q. Okay. Did you prepare a  
report in

21 this case?

22 A. Yes.

23 Q. Okay. Do you have it with  
you?

24

25 MR. GREG DAVIS: I have got it,  
Mr.

Sandra M. Halsey, CSR, Official Court Reporter

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1 Mulder.

2 THE WITNESS: He has it.

3

4 BY MR. DOUGLAS MULDER:

5 Q. All right. You told us about 21

6 hundred crime scenes that you had -- excuse me.

21,000,

7 I believe it was, crime scenes that you have  
attended

8 over the years; is that right?

9 A. Partly. I said, 21,000 civil and  
10 criminal offenses I have been involved with in the  
last

11 39 years.

12 Q. What, do you have a little  
business on

13 the side where you handle some civil cases or  
something?

14 A. As favors to people. It's not a  
15 contract. I make enough money in retirement, I  
don't

16 need the work, but I have -- I do a consulting  
business.

17 Q. Okay. And that is, that would be  
the

18 civil -- that would be aside from your duties and

19 responsibilities there in the sheriff's office,  
wouldn't

20 it?

21 A. Yes. There are several cases  
that

22 came out of criminal offenses, suicides, where one  
side

23 is saying it was probably a homicide. That type of  
civil

24 case.

25 Q. This is a deal where you -- are  
you

1 telling the jury that these are cases where you  
made an

2 appearance at the scene?

3 A. Some of them, yes.

4 Q. Some of them you just consulted  
on?

5 A. Some. Well, it varies.

Sometimes I

6 go to the scene, sometimes they will bring me  
items,

7 sometimes I will go to their facility, it depends on  
the

8 case and what they want me to do.

9 Q. Okay. It could be anything from  
a

10 bicycle theft or breaking into a car to a double ax  
11 murder?

12 A. Well, I'm not trying to be  
facetious,

13 I don't handle the little ones. I just send them to  
14 other people. If it's not what I would consider  
an

15 interesting double ax case, I don't take them.

16 Q. Well, you're not in a position  
to pick

17 and choose in the sheriff's office, are you? I  
mean, if

18 somebody has --

19 A. Oh, I was then. Then I  
wasn't. But I

20 thought you talking about when I retired.

21 Q. No, no. I'm talking about  
when you

22 were with the sheriff's office.

23 A. Oh, gosh, then, it could be an  
egg

24 thrown on a car.

25 Q. Yeah. It could be most  
anything,

Sandra M. Halsey, CSR, Official Court  
Reporter

1     couldn't it?

2                     A.     Yes.

3                     Q.     And these are cases, when you  
say

4     21,000, you are talking about cases that you have  
5     consulted on, cases that you have gone to the  
scene,

6     cases where people have come to you, you have  
gone to

7     them, things of that nature?

8                     A.     Every case that I have been  
involved

9     with whether it's -- just as you described, that I  
10    somehow had a part in, either at the scene or  
consulted

11    or they brought me evidence.  You are correct.

12                    Q.     How did you arrive at that  
estimation?

13                    A.     Well, for years, at the sheriff's  
14    department for 29 years, we kept annual statistics,  
as

15    you know, working for the County, and working with  
16    commissioners and budgets, we had to justify all of  
our

17    equipment, so we kept a record of every call or



every

18 thing that was brought to our office by way of case

and

19 crime.

20 And for 29 of those years, the

21 statistics kept that way, and I knew what I was

involved

22 in. Since I retired, of course, naturally I am the

only

23 one, and I have my own log book and I register my

crimes.

24 The City of Dallas ones, there's

25 less -- I personally, being a civilian employee, they

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1 took me under their wing to show me all of this crime  
2 scene procedures, but I really couldn't get involved  
in  
3 that aspect or handle their evidence. I was just  
sort of  
4 like a trainee where they took me under their wing,  
5 showed me how to class prints, take pictures,  
and do  
6 the -- but I didn't count those Dallas Police  
ones.

7 Q. Okay. Speaking of taking  
pictures,

8 and I don't want to get ahead of myself here too  
much,

9 but did you educate the Rowlett Police Department on  
how  
10 to take pictures?

11 A. No.

12 Q. Okay.

13 A. I talked to them about -- on some  
of  
14 the little schools I have taught for them.

15 Q. Right.

16 A. I have told them what to shoot,  
but as

17 far as use of a camera, I didn't teach them that.

18 Q. Okay. Well, when you were  
telling

19 them what to shoot did you tell them to make a log  
of  
20 their photographs?

21 A. No, I did not.

22 Q. Okay. Well, then you didn't  
attend

23 the FBI School on crime scene search?

24 A. Referring to -- no, I didn't.

25 Q. Okay. So you wouldn't know that  
the

1 FBI, the first thing the FBI recommends is that you  
take

2 pictures and that you log them.

3 A. Well, the FBI recommends a lot of  
4 things that is not law or rules, its recommendations,  
5 similar to their points on fingerprint comparison.

It's

6 a guideline is all.

7 Q. Did you know that Mayne took some  
12

8 or 14 rolls of film in this case?

9 A. Not how many. I knew he took  
quite a  
10 few pictures.

11 Q. Would it surprise you that he  
didn't

12 keep contact sheets or have contact sheets made, or  
that

13 he didn't even number the rolls of film so you could  
tell

14 which one, or what order they were taken in?

15 A. I would say, surprise, I don't  
know if

16 that is the right word. I would say that a contact  
sheet

17 should have been made for referral purposes.

18 Q. How would that help us?

19 A. It actually helps everybody all

down

20 the line, from the beginning of the offense just to

be

21 able to look at a contact sheet and say, "Well,

this is

22 what we shot the first day. This is what we shot

later."

23 It's easier than sorting through your negatives and

24 finding them.

25 Q. Yes, sir.

1 A. It's a record keeping procedure.

2 Q. I believe it was your  
recommendation,

3 Lieutenant, that they take photographs first; is  
that

4 right?

5 A. Yes. Yes, sir.

6 Q. Okay. And, of course, you had  
walked

7 the scene, so to speak, had you not?

8 A. I did.

9 Q. And in your entourage as you  
walked

10 through, there were some -- I guess there were four  
of

11 you, weren't there?

12 A. Yes.

13 Q. All right. And can we agree that  
in

14 the course of your years, there were very few crime

15 scenes that you have seen that have not been  
contaminated

16 to some degree?

17 A. I would have to ask for an  
explanation

18 on what you --

19 Q. What I mean by contamination?

20 A. Yes. I mean, I'll be glad to  
answer

21 it. I just need to know.

22 Q. Yes. Is it rare not to find --  
well,

23 let me just ask it another way. Perhaps that was  
24 unartful. Is it rare not to see contamination in a  
crime

25 scene, to some degree?

1                   A.     Let me clarify.  Before or after  
the  
2   arrivals of the officers?

3                   Q.     Well, I think it would be after  
the  
4   arrival of the officers.

5                   A.     Well, what occurs quite often  
after  
6   the arrival of the first officer, and I'm going to  
have  
7   to narrow this down to a violent scene, as opposed  
to a  
8   burglary.  If that's okay?

9                   Q.     Suit yourself.

10                  A.     Okay.  Well, because there's  
less  
11  problems with a non-violent situation where you  
have,  
12  say, a burglary of a store.  But on violent  
situations,  
13  you have what we call, the first arrivals, the  
responding  
14  officers.  And since they are in a violent situation  
15  where people are injured, their primary concern is  
care



16 for the survivors, medical attention or possibly  
suspects

17 at the scene.

18                                    You will get some initial walking  
19 through a scene, if that is the type of situation,  
that

20 something could be stepped on. You get a little of  
that.

21 I mean, it's inevitable. Human life is more  
important

22 than evidence up to a point.

23                                    Q.     Exactly.

24                                    A.     And there is the point. But once  
the  
25 situation is contained, or the scene is contained, I  
have

1 seen in most instances where, you know, the medical  
2 personnel arrived, people are being cared for and  
then

3 it's time for the crime scene officers to arrive,  
things

4 settle down, and then you have less destruction or,  
you

5 know, tamperings.

6 Tampering always implies to me on  
7 purpose, or trying to change things. But you have  
less

8 damage of evidence once the initial emergency is  
over

9 with.

10 Q. Yes, sir.

11 A. But, to be honest, some could  
occur

12 right at first.

13 Q. Well, we have gone all around  
Robin

14 Hood's barn, but the bottom line is, you are  
saying, yes,

15 there is contamination?

16 A. It's possible. It's not  
always. That

17 would be a blanket statement, but the risk is  
there at

18 any scene when the first officers arrive.

19 Q. Yes, sir. And, of course, the  
risk is

20 also there that the scene has been contaminated  
and you,

21 as a crime scene search man, don't realize that,  
isn't

22 it?

23 A. That's true. Yes, sir.

24 Q. Okay. You have seen evidence  
kicked

25 around, haven't you?

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Reporter

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1 A. Yes.

2 Q. You have seen spent shell  
casings,

3 shell cartridge cases kicked around, haven't you?

4 A. I have.

5 Q. You have seen glass kicked  
around,

6 haven't you?

7 A. Yes.

8 Q. And, you know, one thing that  
I

9 thought was curious, it was your recommendation  
that

10 Moyne -- Mayne, excuse me, that Mayne photograph  
the

11 scene first?

12 A. Yes.

13 Q. Okay. Have you looked at the  
14 photographs that he took?

15 A. I have seen most of the -- yes,  
sir, I

16 have.

17 Q. Fair to say if he took -- if  
there

18 were 24 shots to a roll and he took 10, 12, 14, he

would

19 have taken some 300 pictures?

20 A. Very likely, yes.

21 Q. Maybe more?

22 A. Yes.

23 Q. Okay. And did you notice that

his

24 pictures, you know, he didn't stand in the corner of

a

25 room and shoot that room like this? Did you notice  
that?

1 A. I did notice that, yes.

2 Q. And then moved to maybe another  
place

3 in the room and shoot panoramic and then move to  
another

4 corner and other places and shoot from the  
boundaries of

5 the room?

6 A. I noticed he did not do that.

7 Q. That would have been a good idea,  
8 wouldn't it?

9 A. Yes, it would have been.

10 Q. And for two reasons, wouldn't it?

11 A. Yes.

12 Q. At least?

13 A. Well, yes.

14 Q. I mean, we can think of two  
reasons.

15 One, it would be a lot clearer and perhaps when you  
put

16 these pictures together, you don't have what looks  
like a

17 jigsaw puzzle?

18 A. Correct.

19 Q. That would be one reason. And

two, if

20 he is taking 300 shots and he is just shooting what  
he

21 thinks is important, then he is walking around and  
every

22 time he takes a step, and every time he takes a  
shot, and

23 every time he goes through every place in that  
deal, he

24 is, he risks contaminating that scene, doesn't he?  
25 A. Walking through it, here again,  
the

1 word contaminated, if he is watching where he walks  
and

2 he is shooting pictures and stands still when he  
shoots

3 and looks where he's walking, I don't know if he  
would

4 contaminate it.

5 Q. Did you look at the bottoms of  
his

6 shoes to see if he had blood on the bottoms of his  
shoes

7 when he finished shooting his shots?

8 A. No.

9 Q. Did you look on the bottoms of his  
10 shoes to see if he had glass shards on the bottoms of  
his

11 shoes when he finished shooting the shots?

12 A. No, I did not.

13 Q. That would have at least told us  
14 whether or not he stepped in blood and stepped in  
glass,

15 would it not?

16 A. Well, I don't know about the  
glass,

17 the blood, there would have been bloody footprints on



the

18 tile, you know, the kitchen floor, and the other  
parts of

19 the house where we walked, like to go out the front  
door,

20 we would walk around to where the dining room was to  
21 avoid going through the bloody hall. There were  
no

22 bloody footprints in there. So I can only  
assume he

23 didn't have bloody shoes when he walked that  
way.

24 Q. Or he wiped his feet on the  
carpet and

25 you can see a great deal of traffic on that carpet,  
can't

1 you?

2 A. Oh, yes. Oh, yes.

3 Q. Okay. And as a matter fact, you  
know,

4 one reason that you rope off a crime scene, police  
get in

5 there and they are naturally curious, aren't they?

6 A. Yes, they are.

7 Q. Everybody wants to handle the  
gun,

8 don't they?

9 A. Well, they want to look at it, at  
10 least.

11 Q. They want to get out there, look  
at

12 that gun, maybe pick it up. Then if they have  
touched it

13 and realized what they have done, they try to put it  
14 right down where it was, don't they?

15 A. Well, I hope an officer wouldn't  
do

16 that.

17 Q. I know it. And you hope an  
officer

18 wouldn't touch the inside of this window, don't you?

19                   A.     I mean, maybe leave some prints  
while  
20    they are doing it?  
21                   Q.     Yes, sir.  
22                   A.     I would hope they wouldn't.  
23                   Q.     You would hope they wouldn't, but  
you  
24    had the entire force out there printed, did you not?  
25                   A.     Yes.

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1 Q. You just didn't take their word  
for  
2 it, I take it?  
3 A. No, I didn't take their word.  
4 Q. And why is that?  
5 A. I wanted to eliminate the prints.  
6 Q. Exactly. And the only way you  
could  
7 do it is you can't just ask them and say, "Hey, guys  
--"  
8 Nobody is going to admit being that foolish, are  
they?  
9 A. Right.  
10 Q. That has been your experience,  
hasn't  
11 it?  
12 A. Yes, that's right.  
13 Q. Sure. And the same thing about  
the  
14 shoes?  
15 A. What?  
16 Q. Everybody is going to deny it,  
aren't  
17 they?  
18 A. What about the shoes?

19                           Q.     Shoes are touching the --  
fooling with  
20     the gun or fooling with an obvious --  
contaminating an  
21     obvious entry or exit?

22                           A.     Well, I saw that they didn't  
touch the  
23     entry and/or exit, the supposed one, because I  
made a  
24     comparison.  By the same token, I know they didn't  
walk  
25     through the blood leaving their bloody shoe prints

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Reporter

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1 everywhere all through the house.

2 Q. You don't know whether some of  
the

3 prints that you could not identify are those of  
police

4 officers, do you?

5 A. I have no idea who those prints  
are.

6 Q. Exactly. So that we can be real  
clear

7 on this, as far as the -- I'll call them coincidental  
8 prints on the window, okay, for lack of a better  
word.

9 A. That isn't what I would call them  
but

10 you can call them what you want. They're  
unidentified

11 prints.

12 Q. Unidentified prints.

13 A. Yes.

14 Q. Suffice it to say that they are  
15 suitable for comparison purposes, aren't they?

16 A. Yes. They are difficult, but they  
can

17 be compared.

18                   Q.     Exactly.  Basically, what we have  
are

19   two prints, don't we?

20                   A.     As I testified --

21                   Q.     Five lifts, two prints.

22                   A.     Well, yes, right.  One them is --  
oh,

23   yeah, as far as two prints, right.

24                             One of them, I'm not sure if it's

the

25   finger or palm it's so bad, but yes, there's two  
prints

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1 unidentified.

2 Q. How much of those prints, just  
give

3 the jury some idea of the area, how much of those  
prints

4 was suitable for comparison purposes?

5 A. Oh, that is --

6 Q. That is a tough one.

7 A. Yeah. I have to measure it. It's  
an

8 elongated print. I'm trying to -- maybe a yellow  
number

9 two pencil, if you can imagine the width of a pencil,  
and

10 possibly an inch and a half section of that pencil,  
that

11 width and length would be about the size of the  
print.

12 Q. Okay. And there are enough  
points

13 of -- the way you, as an expert, identify the print,  
you

14 look at a known print and then you look at an  
unknown

15 print, and you see if there are enough common areas



of

16 identification so that you are comfortable in  
saying that

17 that print was made by this particular hand.

18 A. That's correct.

19 Q. And how many points of  
identification

20 do you require?

21 A. Do I personally require?

22 Q. Yes.

23 A. I can't come up with an exact  
total

24 because it depends on the quality of the print, but  
25 basically eight, nine or more points.

1                   Q.     Okay.  How many points of  
2     identification did you see in these two unknown  
prints?

3                   A.     Oh --

4                   Q.     The coincidental prints?

5                   A.     I'm not going to count points  
that

6     were pushing it because this -- I would say 10 or  
11.

7                   Q.     Just -- you are right on that  
edge

8     then, I guess --

9                   A.     Right.

10                  Q.     -- of comfort level?

11                  A.     Right.  Enough to where if I  
found the

12     10 or 11 points in a known set, that in my opinion,  
it

13     would have been a positive identification.

14                  Q.     And this would be true -- is  
this true

15     of both prints, or is this just the one?

16                  A.     Both of them.

17                  Q.     Both of them?

18                  A.     Yes.

19 Q. And about how much area-wise was  
the

20 second coincidental print?

21 A. It was kind of the shape of it,  
here

22 again, I'm trying to think of a description. It  
was

23 little wider on one end and it tapered down, sort  
of like

24 a long tear drop effect. About two inches wide and

--

25 I'm sorry, two inches long, and maybe a half inch  
wide

1 and it tapered down to possibly an eighth of an  
inch  
2 wide.

3 Q. Okay. And you found 9 or 10 or  
11  
4 points of identification in that print as well?

5 A. Right. Without looking at it  
again  
6 and counting them, but the best of my knowledge, it  
was  
7 about that area, 11 points or 10 points.

8 Q. Okay. Could you compare them  
with  
9 each other and see if they were made by the same  
person?

10 A. I tried that, but I don't know if  
they  
11 were made by the same person. In that case, the same  
12 person would have had to touch both areas in exactly  
the  
13 same part of their hand.

14 Q. Yes.

15 A. And so, it could be the same  
person,  
16 but I couldn't prove it.

17 Q. Okay.

18 A. I did try though.

19 Q. Did you, incidentally, just in  
talking  
20 about this, did you notice how the officer, when he  
went  
21 through there, where he put his hands?

22 A. Then?

23 Q. Yes.

24 A. I didn't watch him.

25 Q. Okay.

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1                   A.     I mean I was watching his feet, I  
was  
2     not watching his hands.

3                   Q.     You saw that he didn't -- I don't  
know  
4     whether there was dust there or not, but you saw that  
he  
5     didn't touch the sill?

6                   A.     I saw that.

7                   Q.     You said there was a print in the  
shoe  
8     print or a partial shoe print in the middle of the  
9     kitchen floor; is that right?

10                  A.     Yes.

11                  Q.     Okay.  And where exactly was that?

12                  A.     Here again, I don't know the  
exact  
13     measurements, it was heading towards the utility  
room,  
14     approximately half way past the island, the counter  
that  
15     set out in the middle of the kitchen and the utility  
room  
16     door, somewhere in that area.

17                  Q.     Would you suspect then that that

would

18 be a result of contamination?

19 A. It might be a matter of semantics,  
but

20 it was --

21 Q. I mean, somebody stepped in the  
blood?

22 A. In that case, yes, an officer had  
to

23 step in some of the blood, from where, I do not know  
if

24 it was the living room or kitchen, but an officer  
stepped

25 in the blood at the scene and transferred that to the

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1 kitchen floor.

2 Q. All right. And you say that was  
3 around the island; is that right?

4 A. A little past the island heading  
to  
5 the utility room.

6 Q. Okay.

7

8 THE COURT: Mr. Mulder, let's go  
ahead

9 and break now until 10 minutes after 1:00, please,  
10 thank you, for lunch.

11

12 (Whereupon, a short

13 Recess was

taken,

14 After which

time,

15 The proceedings

were

16 Resumed on the

record,

17 In the presence

and

18 Hearing of the

defendant



19

And the jury, as

follows:)

20

21

22

THE COURT: Are both sides ready

to

23 resume? All right. Bring the jury in, please.

24

MR. GREG DAVIS: Yes, sir, the

State

25 is ready.

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1 MR. DOUGLAS MULDER: Yes, sir, the  
2 defense is ready.  
3 THE COURT: All right. Bring the  
jury  
4 in please.  
5  
6 (Whereupon, the jury  
7 Was returned to  
the  
8 Courtroom, and  
the  
9 Proceedings  
were  
10 Resumed on the  
record,  
11 In open court, in  
the  
12 Presence and  
hearing  
13 Of the defendant,  
14 As follows:)  
15  
16 THE COURT: Are you through with  
all  
17 of these exhibits, Mr. Mulder?  
18 MR. DOUGLAS MULDER: Well, why

don't

19 we just move it back there in the aisle. I don't  
know if

20 I am going to go into it any more or not.

21 THE COURT: All right.

22 MR. DOUGLAS MULDER: All right.

That

23 is fine if you want to leave it there. I may want to  
24 bring it back here.

25 THE COURT: All right. Let the  
record

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

2 jury is seated. Mr. Mulder, you may continue.

3

4

5

6

CROSS EXAMINATION (Resumed)

7

8 BY MR. DOUGLAS MULDER:

9 Q. I think when we quit, Lieutenant,  
we

10 were talking about a shoe impression that was in the  
11 kitchen in blood?

12 A. Yes, that's correct.

13 Q. Is that right?

14 A. Yes.

15 Q. And it was just a lone impression  
16 there; is that right?

17 A. Yes.

18 Q. Okay. And you subsequently  
identified

19 that as Sergeant Walling's print?

20 A. Yes, as being consistent with his  
heel

21 print. I don't remember if it was left or right, but  
it

22 was his footprint.

23 Q. Okay. Did you see that that  
morning

24 or afternoon?

25 A. Through -- during the initial

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1 walk-through.

2 Q. Oh, you saw it during the initial  
3 walk-through?

4 A. Yes.

5 Q. And is that when you looked on the  
6 bottom of his foot to see if his sole configuration  
7 corresponded with that?

8 A. No, that came later when I had  
9 everybody there, shoe print inked and impressions  
made of  
10 everybody at the scene.

11 Q. Okay. Did you see the -- are you  
12 telling the jury that that, in your judgment,  
resulted

13 from a -- blood drops that he stepped in?

14 A. Oh, no. How he got it, I don't  
know.

15 It was either off of the hallway or the carpet in the  
16 living room.

17 Q. I understand. But it's from me to  
you  
18 into the room?

19 A. Oh, yes.

20 Q. So unless he took one big leap, he  
had

21 to walk several times and you only found the one --  
if  
22 you were walking from the carpeted area in the den,  
he  
23 walked up to where you were before you saw that one  
heel  
24 print; is that correct?  
25 A. That's correct.

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1                   Q.     Okay.  Well, my question to you is  
2  this, sir:  Why did you not see other heel prints as  
he  
3  walked off leading up to that?

4                   A.     I have no idea.  There was just  
that  
5  one isolated heel print.

6                   Q.     You aren't suggesting to the jury  
that

7  he hopscotched on one foot up to that deal and  
finally

8  put his heel down, are you?

9                   A.     No, no, I wouldn't say that.

10                  Q.     That doesn't make sense, does it?

11                  A.     No.

12                  Q.     Are you saying that there just is  
no

13  explanation?

14                  A.     That I know of there isn't, unless  
15  just didn't deposit, maybe he didn't step hard  
enough.  I

16  don't know why.  But it was one bloody print there  
that

17  was his shoe, but how -- why there wasn't another  
trail,



18 I don't know.

19 Q. Well, sometimes, I guess, there is  
20 more than one explanation for a bloody print? Is  
that  
21 right?

22 A. Yes. I was waiting. I thought  
you  
23 were going to say more. Yes, there is.

24 Q. Yes. Sometimes there is more than  
one  
25 explanation, sometimes there is no explanation?

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1 A. That's correct.

2 Q. And when you say it's consistent,  
all

3 you mean is that that is a possibility?

4 A. Yes. On the comparison, or how he  
got

5 the print there? On the -- consistent in the context

6 that I am saying it was consistent with being his  
shoe,

7 I'm not saying it is a -- is that what you are  
getting

8 at?

9 Q. You're saying it's his shoe.

It's

10 consistent with his shoe. Could be his shoe.

Could be

11 another shoe that's similar to that shoe.

12 A. Oh, as the same brand, style and  
all,

13 yes, yes.

14 Q. But you are just saying that it  
is

15 consistent with that. That means you cannot rule  
that

16 one out?

17 A. That's correct.

18 Q. Okay. There were some -- you  
talked

19 about some bloody barefoot prints?

20 A. Yes.

21 Q. And you said they were about the  
size

22 of Darlie's; is that right?

23 A. Yes.

24 Q. They were in the kitchen area, as  
I  
25 understand?

1 A. That's correct.

2 Q. And they are here in one of these  
3 exhibits, are they?

4 A. Yes.

5 Q. Now, Lieutenant, as best you can,  
6 would you tell the jury, just approximately, where  
these  
7 footprints were?

8 A. Using that exhibit there?

9 Q. If you can.

10 A. May I step down?

11 THE COURT: You may.

12

13 (Whereupon, the witness  
14 stepped down from the  
15 witness box, and approached  
16 the jury rail, for the  
17 purpose of further describing  
18 the exhibit to the jury.)

19

20 MR. DOUGLAS MULDER: Can y'all

see

21 that?

22 THE WITNESS: Well, let me

turn it

23 this way.

24

MR. DOUGLAS MULDER: All

right.

25

THE WITNESS: The bare, bloody  
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1 footprints were in this area here.

2

3 BY MR. DOUGLAS MULDER:

4 Q. All right. Just approximately --

5 A. The bare, bloody footprints are  
right

6 here.

7 Q. Well, you're indicating an area  
there,

8 I suspect, that is some six or seven feet?

9 A. Not quite that far. It's more  
like

10 five feet from the area of the counter.

11 Q. All right. Was there --

12 A. Between the sink and the edge of  
the

13 counter.

14 Q. All right. Well, can you see both  
of

15 them in State's Exhibit No. 44-A?

16 A. No.

17 Q. Okay.

18

19 (Whereupon, the

above

20

mentioned item

was

21

marked for

22

identification

only

23

after which time

the

24

proceedings were

25

resumed on the record

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1 in open court, as  
2 follows:)

3

4 BY MR. DOUGLAS MULDER:

5 Q. Let me hand you what's been  
marked for

6 identification record purposes as Defendant's  
Exhibit 41.

7 And I'll ask you if you recognize that exhibit.

8 A. I do.

9 Q. All right. Does that show both  
of the

10 prints?

11 A. I would have to look at the other  
12 picture but I believe it does, yes, sir.

13 Q. Okay.

14 A. Yes, it does.

15 Q. Okay. Can you kind of --

16

17 MR. DOUGLAS MULDER: We will  
offer

18 into evidence what's been marked and identified as  
19 Defendant's Exhibit No. 41.

20 THE COURT: Any objection?

21 MR. GREG DAVIS: No objection.

22 THE COURT: Defendant's Exhibit



41 is

23 admitted.

24

25

(Whereupon, the item

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1                   Heretofore mentioned was  
2                   Received in evidence  
3                   As Defendant's Exhibit  
4                   No. 41, For all purposes,  
5                   After which time, the  
6                   Proceedings were resumed,  
7                   As follows:)

8

9    BY MR. DOUGLAS MULDER:

10                   Q.    Can you show the jury the  
footprints?

11                   A.    One, excuse me, one is here, and  
the  
12    other is in this here.

13                   Q.    Okay. And, now this is -- the  
one in  
14    the middle right here is going to be in this  
proximity

15    because you can see that rug?

16                   A.    Yes.

17                   Q.    Okay. Approximately, how far  
apart

18    were these two footprints?

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

20 Not very far. Approximately 16 inches.

21 Q. Okay.

22 A. Those are 12 inch tiles, so it  
would

23 be about 16 inches.

24 Q. All right. If we have got this

one in

25 the -- I guess, the tile would have a diamond in the

Sandra M. Halsey, CSR, Official Court Reporter

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1 middle, is that it?

2 A. These bifocals, I have to look  
through

3 them -- yes, this would be --

4 Q. Are your eyes getting worse with  
age?

5 A. Not on looking at prints and  
evidence,

6 but on reading and some photographs.

7 Q. See if they could print these in  
8 Braille.

9 A. All right. This is the tile  
right

10 there.

11 Q. Okay. Show me that again.

12 A. Okay. The heavier white line is  
the

13 tile and there is another tile right there.

14 Q. Okay. I got it. All right.

Were

15 these the only two footprints that you found?

16 A. They were the clearest, but there  
were

17 other little barefoot prints, steps, but those are  
the --

18 they are complete from toe to heel.

19 Q. But you are not saying there  
wasn't

20 other barefoot traffic through there, are you?

21 A. Other than those?

22 Q. Yeah.

23 A. No, there wasn't.

24 Q. I mean there was, as a matter of  
fact,  
25 wasn't there?



just

19 looked at it for blood. I did look at it, and there  
was

20 some blood drops on it.

21 Q. You had your bifocals on, I  
assume?

22 A. I did.

23 Q. Okay. And you examined it for  
blood.

24 Did you see any blood on it?

25 A. There were a few drops.

1 Q. There was blood on it?

2 A. Yes.

3 Q. Do you know how the blood got  
there?

4 A. No.

5 Q. Okay. You know, I wrote this  
down  
6 yesterday when you were on the stand, and you said  
there  
7 was no blood in the garage.

8 A. In the garage?

9 Q. Yes.

10 A. That's right.

11 Q. You remember yesterday you said  
that?

12 A. That's correct.

13 Q. But then when you got on the  
stand  
14 today, you told the jury there was blood in the  
garage.

15 A. Well, that was the blood that  
was  
16 transported out there after we made our  
investigation and  
17 I made the walk-through.





1 statement.

2 Q. Well, no. It can't be both  
ways.

3 There's either blood in the garage or there  
isn't.

4 A. Well, there wasn't blood when I  
5 arrived and inspected it. The blood was transported  
out

6 there later by some officer, or -- well, there were  
no

7 paramedics, so it must have been an officer.

8 Right there visibly as I stepped  
out

9 from the garage, if it had been a snake, it would  
have

10 bit me, as the expression goes.

11 Q. Well, what you meant was, the  
first

12 time through you didn't see any blood?

13 A. I didn't see any blood the first  
time

14 through.

15 Q. Now, the first time, as I  
understand

16 it, that you and Nabors?

17                   A.     Yes.  
18                   Q.     And, Hamilton?  
19                   A.     On the walk-through?  
20                   Q.     Right.  
21                   A.     No, it was Nabors.  
22                   Q.     Walling?  
23                   A.     Walling and Mayne.  
24                   Q.     And Mayne?  
25                   A.     Yes.

1 Q. Okay. And you?

2 A. Yes.

3 Q. And the four of you walked  
through; is

4 that right?

5 A. Yes.

6 Q. And you said you walked in and  
you --

7 as you came in, you came in the entry -- you came  
in the

8 entry. Just show the jury kind of how you --

9 A. I am going to have to stand up.

When

10 I first arrived with the officers into the scene, I  
came

11 in the front door, went down the hallway leading to  
the

12 back of the house.

13 Q. Now, you are talking as you go  
along,

14 aren't you?

15 A. Yes, sir, yes.

16 Q. This is kind of OJT for the guys  
that

17 are walking along with you?

18                   A.     Well, a conference more or less.

They

19    were advising me, what they were informed as to

what

20    occurred, so I could plan an attack or an action

and I

21    was talking --

22                   Q.     Now, Mayne didn't tell you what

had

23    occurred, did he?

24                   A.     No, it was Walling, yes,

Sergeant

25    Walling.

1 Q. Walling told you -- all right.

2 A. And what he was advised what had  
3 happened, you know, that we --

4 Q. From who? Did he say who told  
him

5 what happened?

6 A. Yes, he told me the mother of  
the  
7 boys.

8 Q. Told him what happened?

9 A. Yes. He said she was stabbed,  
the  
10 boys were stabbed and one of them was still here,  
the  
11 other one was transported. It was general  
information,

12 so I could -- you know, I needed to know. I needed  
to

13 know if they came in here, if this was a broken  
window,

14 or what. It was just a rundown like you would get  
from a

15 complainant.

16 Q. Sure. It couldn't have taken  
him long

17 to tell you?

18 A. There wasn't that much to tell.

Just

19 that she was stabbed, she fought with the guy

here, that

20 he ran out through here, she followed him, picked

up the

21 knife, called 911, just basic.

22 Q. Did he tell you that he got

that

23 information from her in less than 30 seconds?

24 A. No.

25 Q. He didn't?

Sandra M. Halsey, CSR, Official Court  
Reporter

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19 place, broken things, disturbed things, blood,  
weapons,  
20 and that sort of thing. You are just getting a  
mind's  
21 eye view of the scene, and once you do all that on  
your  
22 walk-through, then you start to concentrate on  
specific  
23 areas. And since a body was here and the paramedics  
24 picked up a body here --  
25 Q. You heard?

Sandra M. Halsey, CSR, Official Court Reporter

1                   A.     I heard.  That is where we would  
start

2     some of our evidence concentrations.

3                   Q.     Did you see evidence there of  
medical

4     intervention?

5                   A.     Around here there was some tape or  
6     some of the wrappings for Band-Aids or something  
laying

7     on the floor.

8                   Q.     Show us again?  Can you see that?

9                   A.     In this area.

10                  Q.     You said in this area here there  
was

11    some tape and evidence of medical intervention?

12                  A.     Yes, it wasn't much.  It was a  
13    Band-Aid.

14                  Q.     Did y'all collect that?

15                  A.     I didn't collect anything.  I  
don't

16    know if they did.

17                  Q.     All right.  And from there, will  
you

18    show us where you went from the family room.

19                  A.     I went into the kitchen area.

20 Q. All right. Now, when you got in  
the

21 kitchen area, you saw the vacuum cleaner, didn't  
you?

22 A. Yes, over here.

23 Q. Okay. And that would be -- you  
said

24 you were looking for things out of the ordinary,

and a

25 vacuum cleaner in the kitchen, in this area, is going  
to

Sandra M. Halsey, CSR, Official Court Reporter

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1 be out of the ordinary, isn't it?

2 A. Upside down with blood on it, yes.

3 Q. Okay. Right-side up, upside down,

a

4 vacuum cleaner sitting here in the kitchen is going  
to be

5 out of the ordinary, isn't it?

6 A. I don't know.

7 Q. Come on Jim, you know that.

8 A. No. Right here?

9 Q. Sure.

10 A. Yeah. I thought you meant just in  
the

11 kitchen.

12 Q. No. In the family room it might  
be

13 all right, but not in the kitchen, a vacuum cleaner.

14 A. I mean there was a pantry right  
here,

15 they might have kept it in the pantry.

16 Q. Yes.

17 A. But no, you are right, if it was  
18 laying right out here, but if it was here, I  
wouldn't

19 think that much of it because that was the pantry

area.

20 Q. But it wasn't there, was it,  
Jim?

21 A. No.

22 Q. Okay.

23 A. And like I say, I thought that is  
24 unusual, that is something different, there is a  
vacuum  
25 cleaner here.

Sandra M. Halsey, CSR, Official Court Reporter

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1 Q. You probably said something to  
Walling

2 about it, didn't you?

3 A. No. I was making my -- I don't  
4 recall. I might have said, look at this.

5 Q. But you didn't make any notes, did  
6 you?

7 A. No.

8 Q. Okay. And why is that?

9 A. Well, I didn't have any need to at  
10 that time. I made my notes later when I made the  
report.

11 Q. You made the report on the 16th,  
12 didn't you?

13 A. On the 16th, yes. I made my  
verbal

14 report that night to them.

15 Q. Well, you made your verbal report  
when

16 you got out there by the back, didn't you?

17 A. Yes, right.

18 Q. You are telling them, "Guys, this  
is

19 what I think, there is no -- hey, the die is cast."

20 A. Right. Well, I told them after

the

21 walk-through, when I came around the front, I said,

22 "Look, we have no intruder here."

23 Q. Yeah, right.

24 A. That was my verbal comment.

25 Q. That is Lieutenant Cron's analysis

Sandra M. Halsey, CSR, Official Court Reporter

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1 after, what, did the walk-through take 20 minutes?

2 A. 20 or 30, yes, sir.

3 Q. 20, 30 minutes. Okay.

4 A. It was so obvious it didn't take  
long.

5 Q. Okay. And, I guess when you  
walked

6 around there, and saw that vacuum cleaner that you  
now

7 say was out of the ordinary, you said something to

8 Walling, and Walling told you that, "Hey, when I  
came

9 through here initially with Waddell, there weren't  
(sic)

10 no vacuum cleaner there."

11 A. He didn't tell me that.

12 Q. Oh, he didn't tell you that?

13 A. No.

14 Q. Would that have made a  
difference?

15 A. Well, it might have made a  
difference

16 if they said the living room window was -- I mean,  
it

17 doesn't even compute.



18                           Q.     I know it.  He said, "You don't  
have  
19   to take my word for it, Lieutenant, not only did I  
not  
20   see it there, but if you will just check the man on  
the  
21   door, he was in here.  He walked in here because he  
22   thought there was somebody hiding back here.  And  
not  
23   only did he say there wasn't a vacuum cleaner there  
when  
24   he first came into the house, but he said there was  
25   nothing there that would" --

1

2 MR. GREG DAVIS: I'm sorry, that  
is a  
3 misstatement of testimony. What they said is that  
they  
4 didn't see it, not that it was not there.

5 MR. DOUGLAS MULDER: Okay.

6

7 BY MR. DOUGLAS MULDER:

8 Q. Well, he said he didn't see  
anything

9 that would impede his traffic, from the den to the  
sink.

10 A. Did he --

11 Q. Waddell.

12 A. I don't, I mean I have no comment  
on

13 that.

14 Q. He said he didn't see a vacuum  
15 cleaner, he didn't see anything that would impede  
his

16 traffic --

17

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

19 I don't recall the officer making that statement  
about

20 being impeded.

21 THE COURT: The jury is  
instructed to

22 remember the testimony as they heard it. Let's move  
on.

23 MR. DOUGLAS MULDER: We can have  
the

24 court reporter read it back.

25 THE COURT: Let's keep going.

Sandra M. Halsey, CSR, Official Court Reporter

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1 BY MR. GREG DAVIS:

2 Q. At any rate, you got back to  
the  
3 garage area, went on in the garage and saw the  
cut  
4 screen, didn't you?

5 A. Yes, sir.

6 Q. Okay. And, then you left and  
went  
7 back out, and as I recall, you went back through  
the  
8 utility room?

9 A. Yes.

10 Q. Where there was blood?

11 A. Yes.

12 Q. All four of you?

13 A. Yes.

14 Q. And you don't know how many people  
had  
15 been through there prior to you going through there,  
do  
16 you?

17 A. No.

18 Q. Okay. And that is why when you  
got

19 these prints here, you printed the whole shebang,  
didn't

20 you?

21 A. Yes.

22 Q. Okay.

23 A. I had them printed, I didn't

print

24 them.

25 Q. No, I understand. I  
understand.

Sandra M. Halsey, CSR, Official Court  
Reporter

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1                                    Anyway, you went on out through  
the

2   nook and through the dining room this time?

3                                    A.    Yes.

4                                    Q.    Okay.  And around through the  
entry

5   and around in back?

6                                    A.    That's correct.

7                                    Q.    Okay.  It's still dark, isn't  
it?

8                                    A.    Not at that time, because it  
being

9   June and when I arrived around 6:00 it was  
getting

10  lighter.  In fact, when I got to the back yard,  
we didn't

11  need flashlights or anything.  It was, you know -  
-

12                                    Q.    The back yard --

13                                    A.    At that time of summer, you  
know, it

14  was getting light.

15                                    Q.    It was about 6:30 when you  
were in

16  back.  Is that about close enough?

17 A. Yes, around 6:30.  
18 Q. Okay. And, you told us about  
the gate  
19 back here.  
20 A. Yes.  
21 Q. Remember that?  
22 A. Yes.  
23 Q. You looked for blood there,  
didn't  
24 you?  
25 A. I did.

Sandra M. Halsey, CSR, Official Court  
Reporter

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1 Q. Okay. You -- let me ask you,  
you

2 expected the assailant to have blood, to be  
bleeding?

3 A. No. I would have assumed, unless  
he

4 accidentally wounded himself during the commission of  
the

5 other stabbings, I thought he might have blood from  
the

6 clothing or hands or whatever, from the victims.

7 Q. You thought he might be so  
saturated

8 in blood that it would be dripping from him?

9 A. No, of course not.

10 Q. That's not -- you didn't think  
that,

11 did you?

12 A. No, not at all.

13 Q. And as matter of fact, you  
wouldn't

14 expect this guy to have much blood on him at all,  
would

15 you?

16 A. Now, that I can't answer. I



didn't

17 know, if there was an assailant, I wouldn't have  
known

18 what he was clothed in, sweatshirt, baggy pants.  
He

19 might have had clothing that could have absorbed  
some,

20 but that is just one of the things to be thorough on  
if

21 you would look for blood.

22 Q. Okay. You said an assailant?

23 A. Well, one, two, three, five, I

don't

24 know.

25 Q. Well, could you tell?

1                   A.     Could I tell what?  
2                   Q.     How many assailants?  
3                   A.     Well, if this had been a bona  
fide  
4     offense, or what was I looking for?  
5                   Q.     Could you tell from the scene if  
there  
6     were one or two or three people?  
7                   A.     No, I couldn't tell.  
8                   Q.     There isn't any way you could  
tell, is  
9     there?  
10                  A.     No.  
11                  Q.     Okay.  You get around the back  
and you  
12     are looking at the gate; is that right?  
13                  A.     Yes.  
14                  Q.     And you said -- did you mean to  
imply  
15     to the jury that there were scuff marks at the base  
of  
16     the gate?  
17                  A.     There were some marks where --  
which I  
18     noticed, and the officer, Matt Walling, said that

they

19 had to kick and force it open from that lower area.

20 Q. He said he had to kick it open?

21 A. Well, or shoved it, yeah, or  
pushed it

22 with his foot.

23 Q. Pushed it with his foot?

24 A. Yes.

25 Q. And there was a mark on there

Sandra M. Halsey, CSR, Official Court Reporter

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1 consistent with that?

2 A. No. It was not the shape of a  
shoe or

3 anything, it was just a darkish scuff mark.

4 Q. All right. Did it look recent?

5 A. There is no way for me to tell  
that.

6 Q. You couldn't tell whether that  
was

7 Walling or somebody else, could you?

8 A. No. I went with the officer's  
9 statement that he touched it and kicked it there,  
but as

10 far as personal knowledge, no.

11 Q. Did you have to kick it the  
second

12 time?

13 A. Oh, when I got there, it was  
propped

14 open.

15 Q. It was open?

16 A. Yes. I moved it myself later in  
the

17 investigation to see how difficult it was to swing,

18 because the hinges were fouled up. But when I got

there

19 I didn't have to move it.

20 Q. Okay. And, you don't know when

the

21 scuff mark was made on that, do you? Is that right?

22 A. Outside of the officer telling me

when

23 he entered that way, but, no, I don't know.

24 Q. All right. So you get around

there

25 and you are looking at the window from the outside;  
is

1 that right?

2 A. That time, yes.

3 Q. Okay. And you don't need a  
flashlight

4 but you can look in there and you can see this thick  
5 layer of dust like fresh, fallen snow; is that  
right?

6 A. Well --

7 Q. That's what you said.

8 A. It would be like Robin Hood's  
barn, if

9 you want to use terms like that. But yes it was  
like

10 fresh, fallen snow.

11 Q. I mean, you said fresh, fallen  
snow.

12 A. Well, the reason I said fresh,  
fallen

13 snow was sort of a description of powder or  
something on

14 an object that you can see if something recently has  
gone

15 through it. But, okay, fresh, fallen snow.

16 Q. Okay. And you noticed when  
Frosch, he

17 is that fellow that came in here and he went through  
the

18 window --

19 A. Yes, that did the demonstration?

20 Q. Three times, he went through it,

21 didn't he?

22 A. Three or four, yes.

23 Q. Did you see any -- was there

anything

24 you could point to to show the jury of any evidence

that

25 he went through that?

1                   A.     Well, I didn't process it for  
latents,

2     or -- is that what you --

3                   Q.     Well, you are way ahead of me  
because

4     you know where I'm going. He didn't touch the sill?

5                   A.     Oh, no.

6                   Q.     The only thing he touched was the  
7     window. And, darn, if he didn't touch it in the  
same

8     place. Now this is going to be -- this is the  
inside of

9     the window, isn't it? So the window is really like  
this.

10                  A.     That is the inside.

11                  Q.     All right. And darned if Frosch,  
it's

12     up like this. Would you hold this for me? And  
darn, if

13     Frosch when he is going through doesn't touch it  
right

14     there, where we have got these unidentified  
coincidental

15     prints, right?

16                  A.     Yes.



17 Q. You noticed him do that, didn't  
you?

18 A. Yes.

19 Q. Now, you are not saying somebody  
20 couldn't go through that window and not leave  
evidence,

21 are you?

22 A. I'm saying it's highly unlikely  
twice,

23 especially the second time.

24 Q. I mean, he went through it. We  
have

25 all seen this. The guy about the size of a  
linebacker

1 goes through this thing four times.

2 A. Well, I think the difference is  
he was

3 doing his demonstration trying to get through the  
window,

4 which he did knock the --

5 Q. He didn't even knock the screen  
loose.

6 He didn't even knock the screen loose.

7 A. Yeah. I realize that. But the  
other

8 person, an intruder would have had to have been  
leaving

9 after three stabbings, dropping a knife, with a  
woman, a

10 wounded woman, a live woman behind him, it seems  
unlikely

11 he would very carefully leaving a --

12 Q. Well, I mean, some burglars are  
13 careful and some aren't; isn't that right?

14 A. Well, we're talking about a  
murderer

15 here.

16 Q. Well, you talk about somebody who  
17 breaks into a home, that's a burglar who commits a

18 murder, isn't it?

19 A. Yeah, in that case --

20 Q. But I mean you know what a  
burglar is,

21 don't you?

22 A. Do you know what a murderer is?

23 Q. Well, sure.

24 A. There is a difference. A burglar  
25 leaving a scene as opposed to a murderer with a  
living

1 witness, that he threw the knife down is the  
difference

2 in a burglar leaving the scene.

3 Q. It depends. You know, you deal  
with

4 the -- generally with the criminals that are not  
smart,

5 don't you?

6 A. Thank goodness, yes, most of  
them.

7 Q. All right. And even so,  
Lieutenant,

8 of the 21,000 deals that you have both been to or  
heard

9 about on the phone or people have come to you or you  
have

10 gone to them or whatever it might be, the fact of the

11 matter is 90 percent of them are not even caught,  
are

12 they?

13 A. I wouldn't go that far.

14 Q. What would you say, 80 percent?

15 A. I have no percentage. I don't  
know.

16 We are dealing with different agencies. Some have

a

17 higher clearance rate. I work with agencies all  
over

18 North Central Texas, so I don't know their  
clearance

19 rate.

20 Q. But, you're not going to  
quarrel

21 with -- if they have a 20 percent clearance rate  
it's

22 good, isn't it?

23 A. I don't know.

24 Q. Don't know? You never kept up  
with

25 that, you didn't make an "X" on the --

1                   A.     I'm not going to get into  
statistics

2     on clearance rates of murders and so forth.

3                   Q.     Well, as long as we're talking  
about

4     statistics, you said there were 43 hundred, and I  
didn't

5     hear what you said, homicides or you just said death  
6     cases?

7                   A.     Death. There are four types of  
8     deaths, and the 43 hundred included all types of  
deaths.

9                   Q.     So, you are talking about  
suicides,

10    you're talking about accidental, you are talking  
about

11    natural causes and you are talking about homicides.

12                   A.     That is the four, yes.

13                   Q.     Okay.

14                   A.     And, of course, naturally, when  
you

15    arrive at a scene, you don't know what it is, it may  
be a

16    suicide reported and it turns out to be a homicide,  
it

17 may be reported as a homicide, it might be  
accidental.

18 You have to make an investigation and prove,  
hopefully,

19 either way, the cause of death, and that is where  
the

20 death investigations come in.

21 Q. All right. And, again, your  
22 jurisdiction primarily is the unincorporated area  
of

23 Dallas County, is it not?

24 A. When I was working with the  
sheriff's  
25 office?

Sandra M. Halsey, CSR, Official Court Reporter

1 Q. Yes, sir.

2 A. I had the privilege of not being  
3 restrained by the county line. The sheriff allowed  
me to

4 go out of the county to any agency that needed  
assistance  
5 of crime scene expertise.

6 Q. Anybody who would request your  
7 assistance?

8 A. Yes. I have been to Texarkana,  
9 Oklahoma, just worked on many cases all over this  
area.

10 Q. Okay. I don't guess you've broken  
11 those down as to the 43 hundred; how many were  
homicides,

12 how many were suicides, how many --

13 A. I really  
didn't.

14 Q. You didn't do  
that?

15 A. No.

16 Q. Okay.

17 A. When I was asked to do that it  
was a

18 trial where they needed qualification and they



wanted to

19 know how many death investigations, so I included  
all

20 deaths.

21 Q. And you were including in that  
where

22 somebody calls you and asks your opinion over the  
phone

23 or comes by to see you?

24 A. Just a phone opinion?

25 Q. Yes.

1                   A.     No.  I didn't include it.  I  
either

2     had to work with the evidence itself, either  
brought to

3     me, go to the scene, or somehow review the reports  
and/or

4     evidence, photographs, but not phone calls, no.

5                   Q.     They send reports to you and you  
would

6     review the reports?

7                   A.     Yes.  I would do that, autopsy,  
lab

8     reports and so forth.

9                   Q.     Okay.

10                  A.     That was on some of them.

11                  Q.     Okay.  Now, you told the jury  
that in

12     your -- you have not been to the FBI Crime Scene  
Search

13     School, have you?

14                  A.     No.

15                  Q.     Okay.  And, in fact, you have  
been to

16     the -- you are mainly a fingerprint man.  Isn't that  
the

17     fact of the matter?

18 A. No, crime scene and fingerprints.

19 Q. Crime scene and fingerprint?

20 A. Yes. Matching evidence and so  
forth.

21 Q. Okay. Not an investigator in the  
22 sense that you take statements from people?

23 A. I do not do that.

24 Q. Okay. Don't interview witnesses  
out  
25 there at the scene?

1                   A.     The closest I have come to that  
is if

2     I arrived at a scene and then -- well, take a  
burglary.

3                   Q.     He's still there and you asked him  
how

4     he got in?

5                   A.     Yeah.  I'd say, "Show me where you  
6     think the guy got in," you know, that type thing.

Rather

7     than just roam around until I found it myself.

That's

8     why I would interview those types.  But, as far as  
9     statements, I don't do that.

10                  Q.     Okay.  Not your job to interview  
11     witnesses to a particular event either, is it?

12                  A.     It is not.

13                  Q.     Okay.  When you made your  
14     determination that there was no intruder, you told

the

15     folks out there with you what your opinion was,  
didn't

16     you?

17                  A.     Yes.

18                  Q.     Okay.  And that was within 20 to

30

19 minutes of the time you got there?

20                   A.     My initial comment to them was,  
that

21 it looks to me like there was no intruder here. Of

22 course, I did stay there longer and I found things

to

23 confirm my opinion.

24                   Q.     One of the things to confirm your  
25 opinion was the prints here?

Sandra M. Halsey, CSR, Official Court Reporter

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1 A. The prints? No, that wasn't.

2 Q. No. That would be -- but you are  
not

3 the type of guy to say, I have already made up my  
mind,

4 don't confuse me with the facts, are you?

5 A. No.

6 Q. Okay. Now, you said the first  
thing

7 to do would be to take photographs.

8 A. In that scene, since everything  
was

9 primarily indoors, I said, "Yes, let's get  
photographs

10 and record everything."

11 Q. And the next thing, you get the  
print

12 man doing the prints?

13 A. Well, the sketch, sort of --

14 Q. Sketch man.

15 A. The sketch went along with the  
photos.

16 And then the prints, I suggested come next because  
with

17 people around we wanted to collect any prints  
before they

18 were contaminated by people touching objects.

19 Q. No shortage of manpower though,

was

20 there?

21 A. For certain jobs, there was.

They had

22 one latent print man.

23 Q. Well, you are a latent print

man?

24 A. Yeah, but I wasn't there to do

the

25 prints.

Sandra M. Halsey, CSR, Official Court  
Reporter

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1 Q. You are mainly a latent print  
man,

2 aren't you?

3 A. I wasn't there to do that work  
for

4 them. I didn't have my equipment with me. I went  
for

5 just advice.

6 Q. What type of brush do you use?

7 A. Well, here again, it depends on  
the

8 surface. I have preferences.

9 Q. Do you prefer the camel hair?

10 A. I prefer that. The short  
bristle, you

11 know, there are long bristles, short handles,  
filament.

12 Q. Those are tools of your trade,  
aren't

13 they?

14 A. Yes, I prefer the camel.

15 Q. Okay. But I mean, wouldn't you  
expect

16 a fingerprint man to know what kind of brush he  
was



17 using?

18                           A.     I would think that he would  
like to if

19 that is his trade. I don't know if it matters, if  
he

20 knows he will get good results. But, I guess,

21 professionally, I would like to know what tools  
I'm using

22 and equipment.

23                           Q.     Well, it would be kind of like  
asking

24 a police officer what kind of gun he had and he  
wouldn't

25 know.

Sandra M. Halsey, CSR, Official Court  
Reporter

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1 A. Yes.

2 Q. Isn't it?

3 A. I feel like a person that's  
primary

4 job is to lift prints should know what type of  
brush.

5 Q. If they had done much of it?

6 A. I don't know. Maybe they have  
done a

7 lot of it, just don't know what brush they are  
using.

8 Q. Yeah. Okay. But at any rate,  
you

9 didn't attempt to take any prints?

10 A. No, I did not.

11 Q. All right. But they took prints  
in

12 the kitchen, that was the next order of business,  
wasn't

13 it, after they did the prints in the garage?

14 A. I really don't know if they went  
to

15 the living room first, the kitchen next or the door  
16 leading from the utility room into the garage.

So, I

17 don't know the sequence that they lifted the  
prints.

18 Q. Did you check on their  
progress?

19 A. No.

20 Q. Well, there wasn't much for you to  
do  
21 then, was there?

22 A. Yes, the advice came from  
23 determining -- from crime scene reconstruction advice  
of

24 what I think actually occurred there.

25 Q. Well, I mean once you told them  
that?

Sandra M. Halsey, CSR, Official Court Reporter

1 A. Well --

2 Q. Once you told them that, I mean,  
there

3 this is no reason to keep telling them over and over  
and

4 over again, is there?

5 A. No.

6 Q. All right. But, I mean, you  
didn't

7 point out things, do this, do this, do this, do this,  
and

8 then come back and check on them to see how they are  
9 doing?

10 A. Well, they have been a police  
agency

11 for a good number of years and I didn't think they  
needed

12 me to tell their routine -- dusting at a homicide or  
13 dusting at a criminal mischief, dusting is dusting  
for

14 prints, so I didn't follow them around.

15 Q. So what you are telling this jury  
is

16 you have all the confidence in the world in Officer  
17 Mayne's ability to service the crime scene, as it

needs

18 to be serviced?

19 A. With the guidelines I gave him,  
yes.

20 Q. Okay. Did you give him any -- did  
you

21 see some towels around there?

22 A. There were towels -- in which  
area?

23 There were some in the kitchen, there were some in  
the

24 hallway leading to the front door.

25 Q. You just saw them in the hallway  
and

Sandra M. Halsey, CSR, Official Court Reporter

1 in the kitchen?

2 A. Well, and there were a few at the  
end

3 of the couch in the family room. There was towels --

4 Q. How many towels?

5 A. I don't know how many.

6 Q. And were they wet or dry?

7 A. I didn't touch them.

8 Q. Did they have blood on them?

9 A. Some did.

10 Q. Some did and some didn't?

11 A. I'm sure some didn't, but most  
did.

12 Q. Which ones didn't?

13 A. I don't know. I didn't go around  
and

14 check each towel individually.

15 Q. Well, I would think that bloody  
items

16 would be important.

17 A. They are.

18 Q. Okay. Well, did you advise  
Officer

19 Mayne that if you find two bloody items in the same  
20 general area stick them both together and put them in

the

21 same bag?

22 A. No.

23 Q. What is wrong with that?

24 A. It's not good policy.

25 Q. What --

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1                   A.     There is the chance of --

2                   Q.     Contamination?

3                   A.     -- mixing two -- one word, yes,  
mixing

4     two bloods.  Sometimes it happens, sometimes it  
doesn't.

5     But it's the opportunity there when two objects are  
in

6     the same bag and one is damp.

7                   Q.     If it's wet it's going to happen,  
8     isn't it?

9                   A.     It could, yes.

10                  Q.     Can you think of a situation where  
it

11     didn't happen where they were wet?

12                  A.     I don't even know of a case where  
it

13     did happen.  I just know it could happen.  Anytime  
two

14     wet objects, if they are butting up to each other,  
where

15     they are touching, of course, they are touching.

16                  Q.     They are going to transfer?

17                  A.     But if they are on opposite  
sides, we



18 don't know if the sack was shook or rolled over, you  
19 know. So what I'm saying is, if you put two wet  
objects  
20 in there, where they are touching, they are  
definitely  
21 making contact.

22 Q. Well, can you imagine a situation  
23 where you put two wet -- say you put one dry item and  
one  
24 wet item in the same sack. Can you imagine a  
situation  
25 where the wet item would not make the dry item wet?

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1                   A.     Oh, it probably would.  It's hard  
for  
2     me to relate to this because I never did that.

3                   Q.     Well, you don't approve of it, do  
you?

4                   A.     No, I don't.

5                   Q.     Okay.  Now, I don't know as much  
as  
6     you do about crime scenes.  And you see, because I  
would

7     have taken the photographs from the corners and then  
I  
8     would have processed the floor?

9                   A.     The what?

10                  Q.     I would have processed the floor.

11                  A.     Oh, okay.

12                  Q.     Before I would have turned  
somebody

13     loose in there to take 300 photographs, I would  
process

14     the floor.  Is that --

15                  A.     Not really.  You want your  
16     photographs.  If there was heavy traffic, if this  
were a

17     hallway and you didn't have -- well, I don't know why

18 they wouldn't be able to have control over the entry  
and  
19 exit, but if you could protect the floor it's better  
to  
20 get the pictures, because the pictures can show the  
21 location of evidence, it could show some of the  
patterns  
22 of the blood.

23 Q. No. You're missing -- maybe I'm  
not  
24 communicating.

25 A. Oh.

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1 Q. I said I would have taken the  
pictures

2 first, but I would have taken them from the corners?

3 A. Oh, that. I thought you said  
you

4 would process the floor before you did the  
pictures.

5 Q. No, no. But then I would process  
the

6 floor.

7 A. Okay.

8 Q. I wouldn't turn somebody loose in  
9 there to take 300 pictures, you know, walking around  
10 like, you know, and a guy following him making a  
diagram.

11 You said that was all done before they started  
processing

12 it.

13 A. Yes.

14 Q. You see, I would have scooped up  
the

15 wine glass.

16 A. Well, you see the diagram didn't -

-

17 the diagram was for the general outlay, similar to

this

18 drawing here. It was not to place each item of  
evidence

19 in the sketch. That could be placed on after the  
20 examination.

21 But going back to your photos,  
yes, I

22 agree that photos from the corner of the room would  
have

23 been better.

24 Q. Why didn't you advise them to take  
25 into custody the entire glass?

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1                   A.     There was no need to.

2                   Q.     How do you know there was no need  
to?

3                   A.     It's just no need to.  I mean, I  
can't  
4     think of any -- right at this given time in life  
here, I  
5     can't think of a need to collect all of it.

6                   Q.     Well, you were there when Mayne  
was  
7     collecting the glass?

8                   A.     Yeah.  I was in the kitchen.  I  
told  
9     him to collect some.

10                  Q.     He only got the glass without  
blood on  
11    it.  Did you tell him to do that?

12                  A.     No, I just told him to pick up  
some of  
13    the glass.

14                  Q.     Take some random samples?

15                  A.     Yes.

16                  Q.     Well, any reason for him just to  
take  
17    the ones without blood on them and leave the ones

there

18 with blood on them?

19 A. No. I don't know why. I didn't  
20 advise him on which pieces to pick up. I just said  
21 collect some of the glass.

22 Q. Well, you know the FBI actually  
can  
23 reconstruct a glass like that. Are you aware of  
that?

24 A. I imagine they could with all the  
25 pieces there. But then, we had the wine glasses  
there

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1 unless we were assuming that maybe it wasn't even  
one of

2 those glasses off the wine rack.

3 Q. So you just assumed?

4 A. Yeah.

5 Q. You don't want to assume  
anything, do

6 you?

7 A. Well, they assumed Richard Jewell  
8 bombed Atlanta. I mean, I'm not saying the FBI does  
9 everything wrong, but I'm saying --

10 Q. You don't want to ever assume  
anything

11 except a four percent mortgage, right?

12 A. Right.

13 Q. And not from Bank One?

14 A. Right.

15 Q. You won't get one from Bank One.

16 A. No. There is a need for that.

If we

17 felt like, or if I felt like we needed to say, "Did  
this

18 glass come in? Did an intruder bring the glass?"

And we

19 need to connect it to another scene, well,



certainly, we

20 would collect every piece.

21 Q. Okay.

22 A. But when you have a wine rack  
there

23 with glasses, the stem was intact and the base was

24 perfectly intact, it didn't take a rocket scientist

to

25 figure that it came out of there. So there is no  
need to

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1 collect it, in my opinion, outside of trying to  
collect

2 pieces to later compare, if there was an intruder,  
to

3 compare with the glass that might have been in the  
sole

4 of his shoes.

5 Q. Okay. While you were telling us  
what

6 a rocket scientist could and couldn't do, let me  
just ask

7 you how you decided, that wine glass was broken?

8 A. How did I decide it was broken?

9 Q. Yes, sir. Um-hum. (Attorney  
nodding

10 head affirmatively.).

11 A. When I make my -- walking through  
the

12 kitchen the first time, I had no earthly idea. I

13 thought, well, maybe it was broken during the  
scuffle

14 with the intruder.

15 After I finished the walk-through  
and

16 went outside and came back inside, it looked to me

like

17 it had been broken there to simulate or stage an  
offense,

18 a member of the household broke it and planted it  
there.

19 Q. Excuse me? Would you repeat  
that?

20 A. After I made the initial walk-  
through,

21 when I first went through, I didn't think anything  
of it.

22 I thought it was broken maybe in a scuffle.

23 Q. Yes.

24 A. After I went back outside the  
house,  
25 finishing all of the inside, going outside then  
coming

1 back in, I based my opinion that there was no -- on  
the  
2 whole scene, that there was no intruder and I could  
only  
3 conclude that the glass was broken as part of the  
staging  
4 of this offense to make it appear like there had been  
an  
5 intruder.

6 Q. Okay. You didn't think that  
perhaps  
7 an intruder could have hit it with his arm running  
out of  
8 the area?

9 A. We thought of that, yes, or I  
thought  
10 of it.

11 Q. Okay. But what made you believe  
that  
12 that couldn't have happened?

13 A. Well, that with everything else in  
the  
14 scene, it would have been such a large series of  
15 coincidences and unusual things and inconsistent  
things,

16 that I didn't believe that occurred. Especially,  
after  
17 shaking the wine rack and I couldn't dislodge any  
glasses  
18 without tilting it forward so far that they would all  
19 fall out of their rack.

20 Q. Okay. Well, if you are right, if  
21 somebody just threw it down and broke it in an effort  
to  
22 stage it, you would expect for the glass to be on the  
23 floor, wouldn't you?

24 A. The glass that was broken to be on  
the  
25 floor?

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1 Q. Yes, sir.

2 A. Right.

3 Q. And you wouldn't expect to find  
glass

4 up on the shelves, would you?

5 A. No, unless some of it fell off,  
6 bounced or whatever up there, I don't know how hard  
they

7 threw it down.

8 Q. Do you think that glass is going  
to

9 hit the floor and bounce all the way up to a shelf  
three

10 feet high?

11 A. Was there glass on the top?

12 Q. Well, you are the guy who never  
13 overlooks anything.

14 A. I didn't see any glass, I don't  
know.

15 Q. Well, put your good eye on this  
right

16 now and see if you can't see some glass.

17 A. I never saw glass there.

18 Q. See if you can't see a shard. Let  
me

19 point it out to you.

20

21

22 (Whereupon, the following

23 mentioned item was

24 marked for

25 identification only

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

6  
7

8   BY MR. DOUGLAS MULDER:

9                   Q.    Let me give you a -- let me show  
you

10   what has been marked for identification and record  
11   purposes as State's (sic) Exhibit No. 42. I mean  
Defense

12   Exhibit No. 42.

13

14                   THE COURT: Thank you.

15

16   BY MR. DOUGLAS MULDER:

17                   A.    Would you point it out to me?

18                   Q.    Sure. Right there. Look at that.

19                   A.    Okay. Well, I see -- would you  
circle

20   it? I mean, there is a reflection that --

21                   Q.    Now, you identify fingerprints for  
a

22   living, don't you?



23                   A.     Yes.  I don't identify reflections  
of

24   light on glass like that looks to be.

25                   Q.     Okay.  Did you have the presence  
of

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1 mind out there, Lieutenant, to look in the ice  
bucket, in

2 the top of ice bucket?

3 A. In the ice bucket? No, I didn't  
open

4 the ice bucket.

5 Q. Well, you know, if somebody bumped  
it

6 on the way out and it broke before it hit the ground,  
you

7 would likely find some glass on the shelf, wouldn't  
you?

8 A. Well, if the glass was broke --  
say

9 this again.

10 Q. I said if somebody bumped it?

11 A. This is so hypothetical here, I'm  
12 trying to -- go ahead.

13 Q. Well, you know, when we talk about  
14 this and we talk about reconstruction, you know,  
it's

15 just common sense, isn't it?

16 A. Yes, sir, it is.

17 Q. Is that right?

18 A. It is.

19 Q. And you don't have

any more common

20 sense than anybody in this jury box?

21 A. Well, I might be

able to look for

22 things that they might not think to

look for, but common

23 sense wise, that is what crime scene

construction is, is

24 things that happen and it's common

sense.

25 Q. That's right. But  
you are mainly a

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Court Reporter

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1 print man?

2 A. No, I'm a crime  
scene man. I wouldn't  
3 be a certified senior crime scene  
analyst and head of the  
4 section -- I don't want to go through  
all that again.

5 But yes, I am a crime scene person.

6 Q. Right. Well, put  
your good eye on  
7 that crime scene and tell me whether  
or not you can see  
8 that glass shard?

9 A. Well, if you are  
saying, I'm assuming  
10 you're saying that --

11 Q. We have been  
through that assuming  
12 business.

13 A. Well, I don't see  
anything.

14 Q. Okay.

15

16 MR. GREG DAVIS:

Has that been

17 offered?

18 MR. DOUGLAS

MULDER: I'm offering it

19 into evidence. It's just a copy of  
what you all had.

20 THE COURT: Any  
objection?

21 MR. GREG DAVIS:

Well, if I could just

22 see that for just a moment. I don't  
think I will have

23 any objections.

24 MR. GREG DAVIS:

No objection.

25 THE COURT:  
Defendant's Exhibit 42 is

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Court Reporter

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1 admitted.

2

3 (Whereupon, the  
above

4 mentioned item  
was

5 received in  
evidence

6 as Defense Number  
42,

7 for all purposes

8 after which time,

9 the proceedings

were

10 resumed on the

record,

11 as follows:)

12

13 THE WITNESS: Counsel, was that

one of

14 the original crime scene pictures?

15

16 BY MR. DOUGLAS MULDER:

17 Q. That is one that --

18 A. The first pictures taken?

19 Q. I didn't take the picture, I don't

20 know.

21                   A.     You see, that could have been one  
22 of

23 the follow up pictures and if that is glass up there,  
24 maybe that is where they laid a piece of it.

25                   Q.     Let's see if this just isn't a  
little  
bit better right here.

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1 A. But I didn't see it that night.

2 Q. Can you see that, Lieutenant?

3 A. In the picture there?

4 Q. Or, here, you are welcome to step  
down

5 here, if you like.

6 A. Well, I might want to look at  
that.

7 It could have been one of the photographs taken after  
the

8 initial photographs were shot, but it was not there  
when

9 I looked at it.

10 Q. It says 6-6 of '96.

11 A. That was the date of the offense.

12 Q. You see right here?

13 A. We might -- you see, here is the  
stem

14 and that is the -- if that is a piece of glass, which  
I

15 have trouble seeing it as glass, it's something  
16 reflective up there, it very likely is one of the  
17 follow-up pictures taken after the initial shots and  
the  
18 evidence collection.

19 Q. Well, I mean, that is convenient



for

20 you to disregard everything that isn't consistent

with

21 your having made up your mind 20 minutes after you

got

22 out there.

23 A. No.

24 Q. That is basically what you want

to do,

25 isn't it?

1 A. What?

2 Q. You want to ignore the -- because  
this

3 doesn't corroborate your position, you chose to  
ignore

4 it, don't you?

5 A. No, I'm not ignoring it. Prints  
are

6 only important if they match someone, when they  
don't

7 match someone, we don't know, that could have been  
there

8 years, or we don't know who, it could have been one  
of

9 the children.

10 Q. Yeah, yeah.

11 A. The crime lab --

12 Q. That is a likely story that you -

-

13 A. No. It's true. They were small  
14 prints, the Dallas County Medical Examiner released  
the

15 bodies for burial and failed to palm print them.

16 Q. Oh, now it's the medical  
examiner's

17 problem?

18 A. It definitely is. They made a  
major

19 mistake on that.

20 Q. Did you look at the bodies?

21 A. One body.

22 Q. Which body did you look at?

23 A. The oldest boy, Devon, the one  
that

24 was still at the scene when I arrived.

25 Q. Did you notice that he had two  
stab

1 wounds in his chest?

2 A. Yes. Well, they were -- yes, I  
did.

3 Q. How many stab wounds did you see?

4 A. I started to say more than two,  
but I

5 didn't count them all.

6 Q. Okay. But you counted at least  
two,

7 is that what you're telling us?

8 A. Yes.

9 Q. Could there have been as many as  
four?

10 A. I don't know. That was -- the  
medical

11 examiner arrived at that time, and they were loading  
the

12 boy on the stretcher and I just made a cursory look  
at

13 him. I didn't -- I wasn't --

14 Q. You --

15 A. I wasn't doing it for that  
reason.

16 Q. Yes, sir. You knew he would have  
died

17 rather soon after those wounds were inflicted?

18 A. I would assume so, yes, from the  
19 positions of the wounds. I would say yes.

20 Q. Did you notice anything about the  
21 position of the wounds as to where the sharp edge of  
the

22 knife was?

23 A. I'm trying to recall. I think it  
24 would have been in a downward position, that is the

--

25 what we would call the blunter edge of the knife  
would be

1 up, the sharp edge down.

2 Q. Do you remember?

3 A. About just enough -- it looked to  
me

4 like they were vertical wounds.

5 Q. Were the wounds consistent, did  
they

6 look like they had been made from someone, without  
that

7 person changing their position?

8 A. Oh, I don't have any opinion on  
that.

9 No, sir. I tried to avoid that on some of these  
stabbing

10 cases. That is getting into the medical examiner's  
area

11 and it's hard to determine at the scene.

12 Q. Well, if the wounds -- could you  
draw

13 the wounds on here?

14 A. Probably not very accurately. I  
would

15 just like to say for the record, I'm doing it from  
vague

16 memory on them and that I could be wrong. I thought

they

17 were vertical. I could draw a couple of marks on  
there.

18 Q. You thought they were both just  
19 straight up and down?

20 A. In that area. But here again,  
that

21 wasn't the reason for me being at the scene so I  
didn't

22 make any type of good inspection.

23 Q. Would it have made any  
difference to

24 you whether or not the boys were both killed with  
the

25 same instrument?

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Reporter

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1                   A.     As regards to what, an  
intruder?

2                   Q.     No, as opposed to being killed  
with  
3     two different instruments?

4                   A.     No, it wouldn't have made any  
5     difference to me.

6                   Q.     He could have used three  
different  
7     instruments and it still wouldn't have made any  
8     difference?

9                   A.     Not really. I mean, I wasn't  
10    interested in how many weapons.

11                  Q.     Okay. So you wouldn't have --  
that  
12    wouldn't have entered into your equation, would  
it?

13                  A.     On how many weapons?

14                  Q.     Yes.

15                  A.     Not too much, no.

16                  Q.     Or really -- okay. Of course,  
you  
17    could have picked up that entire glass from the  
floor,  
18    right?



19                           A.     I would imagine all of the  
pieces were

20     in the area.  They probably could have  
reconstructed it.

21                           Q.     Okay.  And that could have been  
sent

22     into the FBI laboratory and you know that they are  
able

23     to determine the force necessary to break a glass  
in that

24     fashion, don't you?

25                           A.     Yes.

1 Q. Okay. Now, when you examined  
the den,

2 you said you found no evidence of a violent  
struggle?

3 A. Correct.

4 Q. Well, why would you expect a  
violent

5 struggle?

6 A. Because the information I had  
received

7 was that an intruder stabbed two boys and stabbed  
their

8 mother, she resisted him, he fled the scene, she  
went

9 after him or followed him out and --

10 Q. Okay. So you interpreted --

11 A. So, I would assume that  
something

12 violent occurred in the family room.

13 Q Well, you didn't find any  
evidence of

14 a violent struggle in the family room; is that  
right?

15 A. By struggle, naturally the two  
boys --

16 Q. That was your terminology, I'm

not

17 trying to put words in your mouth. But did you or  
did

18 you not find evidence of a violent struggle?

19 A. I did not.

20 Q. Okay. And the violent, again,  
that is

21 not my word, that is your word, you were looking  
for a

22 violent struggle?

23 A. Yeah. I didn't think this was a  
24 peaceful killing.

25 Q. Okay. You wouldn't expect two

1 youngsters to put up much resistance, would you?

2 A. No.

3 Q. And you wouldn't expect someone  
4 killing two youngsters to get much blood on their  
hands,

5 would you?

6 A. Well, that I couldn't say.

7 Q. Oh, you can't say?

8 A. No, I don't know. They might or  
they

9 may not.

10 Q. You didn't find any blood on the  
11 fence; is that right?

12 A. That's right.

13 Q. And, why did you check the  
fence?

14 A. For blood and scuff marks.

15 Q. Well, you thought --

16 A. Or cloth, material, you know,  
just

17 some signs of somebody going over it.

18 Q. Why would they go over a fence  
if they

19 could go through a gate?

20 A. That is what I was wondering.

21 Q. They aren't looking for a

challenge,

22 they are looking for a way out, aren't they?

23 A. Well, I would have been amiss if

I had

24 not checked the fence, that was part of the crime

scene

25 investigation. Naturally, I checked the gate which  
was,

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2404

1 you would assume to be a normal route of entry and  
exit,

2 but good policy is to check everything.

3 Q. Did you go back and make a final  
4 walk-through?

5 A. Yes.

6 Q. Okay. And this was after Mayne  
had

7 collected all of the evidence that he was going to  
8 collect?

9 A. Not really. My final walk-  
through,

10 what I would -- my last one came about 3:00 P.M.

11 Q. Right.

12 A. But after the photographs were  
began,

13 they started taking pictures and doing a sketch and  
14 started in on the latent print collecting and some  
of the

15 evidence collecting, I then made another walk-  
through and

16 that is where items were starting to be moved and I  
17 wanted to see what was under objects.

18 So, that would be termed a

19 walk-through, I guess, room to room as things were

moved.

20 Q. Okay. Now, of course, I guess  
you

21 were getting information; is that right?

22 A. If one of them was to say, "Look  
what

23 I found", and I would walk over there. That type?

24 Q. Yeah.

25 A. Yes.

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2405

1 Q. All right. Let me ask you this:  
Did  
2 they tell you -- did the officers out there tell  
you that  
3 someone had attempted to break in a house four or  
five  
4 blocks from there approximately forty-five minutes  
before  
5 this was reported?

6  
7 MR. GREG DAVIS: Objection, that  
is  
8 hearsay.

9 THE COURT: Sustained.

10 MR. GREG DAVIS: Would you  
please  
11 instruct the jury to disregard that last question  
from  
12 counsel?

13 THE COURT: Yes. The Jury is  
14 instructed to disregard that last question from the  
15 defense attorney.

16

17 BY MR. DOUGLAS MULDER:

18 Q. Well, let me ask you this: Did  
they



19 tell you about any other break-ins in the  
neighborhood?

20

21 MR. GREG DAVIS: Objection.

We'll

22 object to that as hearsay.

23 THE COURT: Sustain the

objection. No

24 hearsay please.

25

1 BY MR. DOUGLAS MULDER:

2 Q. But would it have made any  
difference?

3

4 MR. GREG DAVIS: Objection,  
that's

5 going to be hearsay.

6 THE COURT: Sustained. Kindly  
7 rephrase your questions.

8 MR. DOUGLAS MULDER: Well, now  
wait a

9 minute.

10 Now, Judge, let me -- with all  
due

11 respect, are you saying that if there was a break-  
in next

12 door that this man couldn't --

13 THE COURT: Mr. Mulder, if you  
will

14 kindly ask your next question, please.

15 MR. DOUGLAS MULDER: Well --

16 THE COURT: In a non-hearsay  
manner.

17 You know how to do it. Thank you.

18

19 BY MR. DOUGLAS MULDER:

20                   Q.     Well, let's -- you made a big to  
do

21    about the mulch; is that right?

22                   A.     Yes, I mentioned the mulch.

23                   Q.     Right.  And you said that this

24    intruder didn't go through the mulch?

25                   A.     He didn't run through it.

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1 Q. He didn't run through it?

2 A. No, I walked through it and I  
didn't

3 disturb it, and I said -- so, I saw no signs of  
running

4 or hurrying through it.

5 Q. When you walked through it were  
you

6 able to look at it and tell that you had walked  
through

7 it?

8 A. No, I couldn't tell I did. It  
was --

9 Q. Well, if you couldn't tell if you  
had

10 walked through it, how could you tell if an intruder  
had

11 walked through it?

12 A. Well, because I didn't say an  
intruder

13 had walked through it. I said an intruder didn't  
run

14 through it and disturb it. You know, in my  
testimony, I

15 said when I inspected the mulch, I walked through it

and

16 didn't leave any disturbed mulch, but when I ran  
through

17 it and moved it with my hand, I did leave signs of  
18 disturbance. So I knew the intruder didn't run  
through

19 it.

20 Q. Well, the intruder would have to  
go

21 out of his way to run through the mulch. Why would  
he

22 run through the mulch when he could stay on the  
sidewalk

23 and the sidewalk goes right to the gate?

24 A. Well, he would have had to have  
gone

25 12 feet out of his way to go on the sidewalk. It's  
12

1 feet shorter to go through the mulch.

2 Q. Were there any shrubs in there?

3 A. No.

4 Q. Or any plants in there?

5 A. No. It's 23 feet from the window  
to

6 the gate when you go through the mulch, and it's 35  
feet

7 if you stay on the sidewalk.

8 Q. Okay. We can see that from  
the aerial

9 photograph, can't we?

10 A. Or the sketch or whatever.

11 Q. Well, you are talking about  
coming out

12 of this window right here?

13 A. Yes, yes, sir.

14 Q. Can you see that? And  
going --

15 A. Would you like me to step  
down?

16 Q. Yes, would you please. Let  
me just

17 put it right here. I will hold it up.

18 This is the gate right

here, isn't it?

19 A. Yes. The is gate is here.

20 Q. All right. And, you can

come out that

21 window and just go right like that, can't you?

22 A. It's 35 feet from here, 12

feet to

23 here.

24 Q. Okay.

25 A. I'm sorry, 23 feet there,  
there's 12

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Reporter

2409

1 feet difference.

2 Q. All right. 12 feet  
difference?

3 A. Yes.

4 Q. Okay.

5

6

7 (Whereupon, the  
following

8 mentioned items were  
9 marked for  
10 identification only  
11 after which time the  
12 proceedings were  
13 resumed on the record  
14 in open court, as  
15 follows:)

16

17 BY MR. DOUGLAS MULDER:

18 Q. Let me show you what has been  
marked

19 for identification and record purposes as  
Defendant's

20 Exhibits 43 and 44. Can you look at that those  
and tell

21 me whether or not you can identify those?



22 A. I can.

23 Q. And those are photographs of  
that back

24 area, are they not?

25 A. Yes.

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1 Q. Okay.

2

3 MR. DOUGLAS MULDER: We will  
offer

4 into evidence what's been marked and identified as  
5 Defendant's Exhibits 43 and 44.

6 MR. GREG DAVIS: No objection.

7 THE COURT: Defendant's  
Exhibits 43

8 and 44 are admitted.

9

10 (Whereupon, the items  
11 Heretofore mentioned  
12 Were received in  
evidence

13 As Defendant's  
Exhibit

14 No. 43 and 44 for all  
15 Purposes, after which  
time,

16 The Proceedings were  
resumed

17 As follows:)

18

19 BY MR. DOUGLAS MULDER:

20 Q. There was a turned over chair

and --

21 you know, if we put these kind of together and  
patched

22 them together like the other exhibits. I don't  
know

23 whether we can. But at any rate, you would  
expect him to

24 run around those obstacles, would you not?

25 A. Yes.

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Reporter

2411

1 Q. And there are some shrubs in  
there,

2 aren't there?

3 A. Well, up close to the window,  
yes.

4 Q. But anyway, you are not  
talking about

5 saving any appreciable time by cutting across the  
mulch,

6 are you?

7 A. Seconds.

8 Q. Okay.

9

10 MR. DOUGLAS MULDER: Judge, if  
we

11 could just take a -- are you about ready for your  
12 afternoon break?

13 THE COURT: Mr. Mulder, I will  
14 determine when we break, please. Thank you.

15 MR. DOUGLAS MULDER: Would you  
give us

16 just a minute or two?

17 THE COURT: You may have a  
minute

18 right there.

19 MR. DOUGLAS MULDER: Thank

you.

20

THE COURT: Thank you.

21

22 BY MR. DOUGLAS MULDER:

23

Q. Just one other thing. What

other sort

24 of brushes do they have for dusting for

fingerprints?

25

A. There is magnetic powder

brushes,

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Reporter

2412

1    there's zephyr brushes which is filament or  
material

2    that -- as opposed to feather or camel hair, that  
the

3    powder can adhere to and spread evenly on latent  
prints.

4    There's feather dusters.

5                    Q.    How about plastic or fiberglass?

6                    A.    Yes, plastic and fiberglass.

There's

7    so many different styles out now, the fingerprint  
supply

8    companies are in competition with one another and  
there's

9    quite a few types of brushes you can choose from.

10                   Q.    I guess they are all popular.

11                   A.    Yeah. Well, as we talked about, I  
12   prefer camel hair, we talked about that.

13                   Q.    Somebody else may prefer  
fiberglass or

14   plastic?

15                   A.    Feather, yes, sir.

16                   Q.    Okay.

17

18                   MR. DOUGLAS MULDER: I believe

that's

19 all. Thank you.

20

21

REDIRECT EXAMINATION

22

23 BY MR. GREG DAVIS:

24

Q. Mr. Cron, let me ask you, first of

25 all, State's Exhibit No. 42, the window, is that an

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1 actual scale model of the actual window that is out  
there

2 on 5801 Eagle Drive?

3 A. Yes.

4

5 MR. GREG DAVIS: Your Honor, at  
this

6 time we will offer State's Exhibit 42 for all  
purposes.

7 MR. DOUGLAS MULDER: Was that  
the

8 window?

9 MR. GREG DAVIS: Yes, sir.

10 MR. DOUGLAS MULDER: We have no  
11 objection.

12 THE COURT: State's Exhibit 42  
is  
13 admitted.

14

15 (Whereupon, the item  
16 Heretofore mentioned was  
17 Received in evidence  
18 As State's Exhibit No. 42,  
19 For all purposes, after  
20 Which time the  
21 Proceedings were



22

Resumed in open court,

23

As follows:)

24

25

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2414

1 BY MR. GREG DAVIS:

2 Q. Mr. Cron, can you us a few  
examples of

3 some of the --

4

5 MR. GREG DAVIS: We will also  
offer

6 State's Exhibits 42-E and F, that would be litter  
pan and

7 pallet.

8 THE COURT: Any objection?

9 MR. DOUGLAS MULDER: No.

10 THE COURT: State's Exhibit  
42-E and F

11 are admitted.

12

13 (Whereupon, the items

14 Heretofore mentioned were

15 Received in evidence

16 As State's Exhibit Nos. 42-E

17 And 42-F for all purposes

18 After which time,

19 The proceedings were

20 Resumed in open court,

21 As follows:)

22

23 BY MR. GREG DAVIS:

24 Q. Mr. Cron, while you were with  
the  
25 sheriff's department, can you give us an example  
of a few

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Reporter

2415

1 of the major homicides that you participated in  
as far as

2 investigation goes?

3 A. On the scene or just where I  
received

4 evidence or somehow helped with a crime?

5 Q. Well, if you could, could you  
give us

6 a couple of examples of on the scene? A couple  
of cases

7 that stand out in your mind.

8 A. Well, there was ax murder in  
Wiley,

9 Texas, several years back, which, I cleared by  
10 identifying the defendant's print on a  
refrigerator door.

11 She had denied it up to that point, but then --

12

13 MR. DOUGLAS MULDER: Judge,  
we're

14 going to object to any narration.

15 THE COURT: Overruled. You  
may

16 continue.

17 THE WITNESS: Another in  
Lancaster,

18 Texas.

19 MR. JOHN HAGLER: Again, your

Honor,

20 we will object to him going into details of  
specific

21 offenses.

22 Clearly it's irrelevant to the  
issue

23 at hand.

24 THE COURT: I think he is

merely

25 describing the name of the offense.

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Reporter

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1                                   MR. DOUGLAS MULDER: Well,  
Judge, he  
2    is describing the offense and how he did whatever  
he did,  
3    identifying the fingerprints.

4                                   THE COURT: Thank you. Are  
you  
5    objecting?

6                                   MR. DOUGLAS MULDER: Yes, sir.

7                                   THE COURT: Overruled. Thank  
you. Go  
8    ahead.

9  
10   BY MR. GREG DAVIS:

11                                  Q.    Let me just cut to it, I  
guess. Have  
12   you participated in a number of homicides  
investigations  
13   where you were actually the crime scene man there  
at the  
14   scene?

15                                  A.    Yes.

16                                  Q.    With regards to some of the  
other  
17   steps in the kitchen Mr. Mulder asked you about,  
did you

18 see any of the other steps as being inconsistent  
with the

19 two steps that we see here, in State's Exhibit  
44-A and

20 44-B?

21 A. No.

22 Q. With regards to the wine rack,  
sir,

23 did you see any evidence whatsoever that someone  
had run

24 into that wine rack while leaving the residence?

25 A. No.

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Reporter

2417

1 Q. Mr. Cron, looking here at  
State's

2 Exhibit 36-C, do you see that, sir, what I am  
showing

3 you?

4 A. The photograph, yes.

5 Q. Yes. Did you or some other  
officer

6 balance these two openers on this little round  
object

7 here while you were going through the house?

8 A. No.

9 Q. Were those two objects still  
balanced

10 up there as they are in 36-C when you first saw that  
wine

11 rack, sir?

12 A. Yes.

13 Q. Is this the wine rack that is  
standing

14 right next to that broken glass on the floor?

15 A. Yes.

16 Q. The ice tongs, they still -- were  
they

17 perched up here on top of the ice canister when you



got

18 there too?

19 A. Yes.

20 Q. You didn't place them there?

21 A. No, I did not.

22 Q. Okay. Mr. Cron, did you see a

23 trampoline in that back yard?

24 A. A trampoline?

25 Q. Yes, sir. Where somebody could

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2418

1 trampoline or vault over that 6 foot fence?

2 A. No.

3 Q. Would you, based on your 39 years  
4 of  
5 experience, would you expect an intruder leaving this  
6 scene to go through the gate, close it and then latch  
7 it  
8 behind him before he left?

9 A. Not that difficult of a swinging  
10 gate,  
11 but I wouldn't expect any intruder to shut a gate  
12 when  
13 they were fleeing.

14 \* Q. Would you expect an intruder to  
15 go  
16 through this window, as --

17

18 MR. JOHN HAGLER: Excuse me, your  
19 Honor, we object. This is all based on  
20 speculation.

21 Furthermore, the witness is not qualified to give  
22 his  
23 personal opinion.

24 THE COURT: Overruled. You may  
25 continue to ask the question.

19

20 BY MR. GREG DAVIS:

21 Q. Sir, based on your experience,  
would

22 you expect an intruder to leave out that window as

23 Officer Frosch did this morning, very slowly and

24 deliberately?

25 A. Not on exiting, he might have  
been a

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2419

1 little slower on entering.

2 Q. Did you see whether or not  
anything

3 happened to that pallet that I was holding while  
Officer

4 Frosch went through that window?

5 A. He bumped it and you caught it  
and

6 kept it from falling.

7 Q. All right. That cat cage that  
is

8 shown in those photographs, is that going to give  
like

9 that pallet was in my hand?

10 A. No.

11 Q. One final area: Sir, when you  
came to

12 the conclusion that no intruder had come into that  
house,

13 did you base that decision on one factor or several  
14 factors?

15 A. Many factors.

16 Q. Could you please list those  
factors

17 for us at this time?

18                   A.     It's my opinion that an intruder  
did

19   not enter the house and commit --

20

21                   MR. JOHN HAGLER:   Excuse me.

This has

22   already been gone through before, repetitious.

23                   THE COURT:   Overruled.

Continue.

24                   THE WITNESS:   My opinion that an  
25   intruder did not commit these offenses was based on  
the

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1 entire scene. Not one object, or item. It was  
based

2 upon the point of entry, starting there.

3                               There were no signs of entry or  
exit

4 from somebody coming in at night from the outside,  
the

5 type of cutting on the screen is inconsistent with  
the

6 average or the known ways to enter, cutting  
screens.

7                               This is all common sense, the  
screen

8 will pull out very easily. The cuts were not by the  
two

9 latches at the bottom where the cuts normally are  
when

10 the screen is removed.

11                               The dust on the sill, criminals  
12 normally are not concerned with their footprints,  
13 footprints or heel prints or cloth prints from their  
14 clothing, they are not aware that we can make weave  
and

15 cloth pattern comparisons.

16                               So anyway, there wasn't any signs  
that

17 I could see of the entry and exit. There was no  
blood

18 and so forth. The trail through the garage, going  
in, I

19 didn't expect to find a lot through there on the  
initial

20 entry of an intruder.

21 When the intruder got in, the  
fact

22 that a knife was found in a knife block to commit the  
23 offenses with, is inconsistent with the burglar that  
just

24 came in and cut a screen.

25 It's equivalent to coming in with  
one

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2421

1 knife, putting it up and looking for another knife to  
2 commit the crimes with, the stabbings with.

3 Two: There were -- there was a  
lot of  
4 jewelry, and property laying in plain view, and none  
of  
5 this was disturbed or touched. There was none  
reported  
6 missing.

7 The wounds on the two boys were  
8 approximately the same, that is deep, penetrating  
wounds.

9 The wounds to the defendant were  
10 different in context, different style of wounding.

11 The fact that I asked if the  
intruder

12 made any statements, because that is part of the  
initial

13 investigation when you find that and the officer  
related

14 that the complainant didn't give any words or  
statements

15 that the intruder said. This is unusual.

16 I have never worked an offense  
where





1 up.

2                   The intruder is supposed to have  
left  
3 the family room area to go into the kitchen and then  
head  
4 for the utility room. In the area of the -- right as  
you  
5 exit the family room, there was the glass on the  
floor,  
6 the vacuum cleaner and barefoot prints.

7                   There was no footprints other than  
the  
8 bare footprints. There was no shoe or boot prints  
9 present.

10                   The glass was -- some of the glass  
was  
11 on top of the bare footprints, which would indicate  
the  
12 glass was placed there on top of the bloody  
footprints.

13                   I had the -- I asked for the  
reports  
14 from the Baylor Hospital on the condition of the  
15 complainant -- or the defendant's -- at this time the  
16 defendant, then the complainant, bare feet to see

if

17 there were any cuts and scratches, which there  
should

18 have cuts and scratches on her feet after  
stepping on

19 sharp glass from the wine glass, broken glass. And  
that

20 was not there.

21 There was no trail of bloody  
22 footprints leading from across the kitchen. And, if  
the

23 defendant had been stabbed either in the kitchen near  
the

24 family room or in the family room and bleeding like  
she

25 was, there should have been bloody footprints. Left  
a

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1 lot of bloody footprints by the kitchen sink.

2 At the garage door, that is the  
3 utility room leading into the garage door, there was  
some

4 blood on the edge of the door which is consistent  
with

5 somebody touching it and looking out through there,  
6 shutting it, or whatever, however it got there.

7 I can't say what they were doing,  
but

8 blood was on the edge of the door. There were  
dropped

9 blood straight down or very slow movement droplets  
of

10 blood on the utility room floor, going to and from  
the

11 family room across the kitchen floor.

12 Outside in the garage, the lack of  
any

13 blood at all, the blood that was found later, you  
know,

14 it wasn't there during my initial inspection. The  
lights

15 were on, it was bright.

16 We did presumptive blood tests,



1 to the great care of shutting a gate behind them and  
2 latching it.

3 It's just inconsistent with  
somebody

4 fleeing a murder with a living witness that is armed.  
5 The intruder is supposed to have dropped the knife in  
the  
6 utility room floor. I have never known someone to  
arm  
7 their victim, which is what this would have been  
8 equivalent to.

9 And, all of these put together,  
the  
10 vacuum cleaner on top of the bloody footprints, in my  
11 opinion, no intruder committed these offenses.

12

13 MR. GREG DAVIS: Thank you. We  
will

14 pass the witness.

15

16

17 RECROSS EXAMINATION

18

19

20 BY MR. DOUGLAS MULDER:

21                   Q.     I guess you think that somebody  
with  
22    their throat slashed and cut up is going to be a real  
23    threat to an intruder?

24                   A.     I don't think they would be left  
25    alive.

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2425

1 Q. Okay. I guess all crime scenes  
are

2 different. They are like people, aren't they?

3 A. Not -- well, generally, yes, yes.

4

5 MR. DOUGLAS MULDER: I believe  
that's

6 all. Thanks.

7 MR. GREG DAVIS: No further  
questions.

8 THE COURT: Thank you. You may  
step

9 down, sir. You are excused subject to recall.

10 THE WITNESS: Thank you, sir.

11 THE COURT: We will now break  
for 10

12 minutes.

13

14 (Whereupon, a short

15 Recess was

taken,

16 After which

time,

17 The proceedings

were

18 Resumed on the



record,

19

In the presence

and

20

Hearing of the

defendant

21

And outside the

22

presence of the

Jury,

23

as follows:)

24

25

THE COURT: Just for

the record, this

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Court Reporter

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1 is Krystyna Krawczyk. She is a native  
of Poland. She

2 will be the interpreter for the witness  
who is Mrs.

3 Halina Czaban.

4 And you do speak  
English but sometimes

5 you prefer to speak Polish; is that  
correct?

6 THE WITNESS: Yes,  
sir.

7 THE COURT: All  
right. Sister, if you

8 will raise your right hand, please.

9 We are on the record.

10 Do you solemnly swear  
or affirm that

11 you will faithfully perform your duties  
as interpreter

12 and accurately interpret from Polish to  
English, and from

13 English to Polish, all matters before  
the Court today

14 concerning this witness.

15

16 (Whereupon, the  
interpreter  
17 Was duly sworn by  
the  
18 Court, to faithfully  
translate,  
19 From English to  
Polish,  
20 And from Polish to  
English,  
21 all testimony of  
this witness,  
22 After which, the  
23 Proceedings were  
24 Resumed as follows:)  
25

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Court Reporter

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1 THE INTERPRETER: I  
will.

2 THE COURT: Is that I  
do?

3 THE INTERPRETER: Yes, sir.

4 THE COURTR: All right. Thank  
you,

5 ma'am. Lower your hand, please.

6 THE INTERPRETER: Yes.

7 THE COURT: Ma'am, if you will  
raise

8 your right hand, please.

9 Do you solemnly swear or affirm,  
that

10 the testimony you are about to give, will be the  
truth,

11 the whole truth, and nothing but the truth, so help  
you

12 God?

13 THE WITNESS: I do.

14

15 (Whereupon the witness

16 was duly sworn by the

17 Court, to speak the

truth,

18                   The whole truth, and  
19                   Nothing but the  
truth,  
20                   After which, the  
21                   Proceedings were  
22                   Resumed as follows:)  
23  
24                   THE COURT:  And you did  
understand me  
25    then?

1 THE WITNESS: Yes, I understand.

2 THE COURT: Okay. You are both  
under

3 the rule of evidence now. That simply means that  
when

4 you are not in the courtroom, ma'am, the witness.  
When

5 you're not testifying, stay outside the Courtroom.  
Don't

6 talk about your testimony with anybody who has  
testified.

7 In other words, don't compare it.

8 You may talk to the attorneys for  
9 either side. If somebody tries to talk to you about  
your  
10 testimony, please tell the attorneys for the side who  
11 called you. Fair enough?

12 THE WITNESS: Yes.

13 THE COURT: If you will have a  
seat

14 right here. Sister, if you just won't discuss  
anything

15 that goes on in here with anybody outside other than  
the

16 attorneys for either side.

17 Before we go on the record again,

are

18 we going to do this in Polish or in English?

19 MR. TOBY SHOOK: In Polish,  
Judge.

20 THE COURT: Totally in Polish.

21 MR. DOUGLAS MULDER: We want the  
22 questions in Polish, too.

23 THE COURT: That is what I mean.

We

24 are going to have the whole thing. Here is what is  
going

25 to happen. Here is what is going to happen: One

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1 attorney for each side will ask you a question in  
2 English.

3 THE WITNESS: Okay.

4 THE COURT: Even though you may  
5 understand it, Sister will translate it to you in  
Polish.

6 THE WITNESS: Yes.

7 THE COURT: You will answer her in  
8 Polish.

9 THE WITNESS: Yes.

10 THE COURT: You will then tell the  
11 attorney what she said in Polish in English.

12 THE INTERPRETER: All right.

13 THE COURT: Exactly what she said.

14 MR. RICHARD C. MOSTY: Could we  
15 clarify that, because a lot of people who have not  
16 interpreted, oftentimes when they say, "Well, she  
said  
17 that."

18 THE COURT: No, we don't mean  
that.

19 I mean, for example, if they  
asked,

20 "What color was the car?"

21 And she says, "The moon is made



of

22 green cheese." You say, "The moon is made of  
green

23 cheese." You say exactly what she says. Okay?

24 THE INTERPRETER: Yes.

25 THE COURT: Fair enough? Don't  
say,

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1 "She said." All you do is answer, just say the words  
she

2 says.

3 MR. RICHARD C. MOSTY: In the  
first

4 person.

5 THE COURT: In the first person.

6 Right. All right.

7 MR. TOBY L. SHOOK: Judge, where  
would

8 you like the interpreter, the Sister to stand when  
she

9 does the interpretation?

10 THE COURT: Well, I imagine if you  
11 want to stand, I think the jury has to hear this, if  
you

12 could stand right here and just turn around, just  
turn

13 around like that.

14 And then the jury, if you will you  
15 speak loudly so that the jury can hear you. And you  
will

16 speak into this. And, we'll just try it and see how  
it

17 works.

18 Let's bring the jury in.

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

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

4  
5                    THE COURT: Let the record  
reflect

6    that all parties in the trial are present, and the  
jury  
7    is seated.

8                    Ladies and gentlemen of the  
jury, this

9    witness sitting on the witness stand right now, has  
been

10    sworn outside of your presence. She speaks both  
Polish

11    and English, but prefers to speak in Polish.

12                    Sister Krawczyk here is the  
13    interpreter. She is a native of Poland, fluent in  
both

14    Polish and English.

15                    So, what will happen is, she has  
been

16    sworn as the interpreter. Questions will be asked  
to the

17    Sister, she will then, the interpreter, she will  
then,

18 they will be asked in English, she will relay the  
19 question in Polish, the witness will answer in  
Polish,

20 then the question will be translated into English.

21 So, go a little slower but

22 nonetheless, it should not be too bad.

23 So, Mr. Shook.

24 MR. TOBY L. SHOOK: Thank you,

Judge.

25

1 Whereupon,

2

3 HALINA CZABAN,

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,

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

8 open court, as follows:

9

10

11 DIRECT EXAMINATION

12

13 BY MR. TOBY L. SHOOK:

14 Q. Could you tell us your name,  
please?

15 A. Halina Theresa Czaban.

16 Q. And where were you born?

17 A. In Poland.

18 Q. When did you come to the United  
19 States?

20 A. In 1973.

21 Q. Okay. And, how long have you  
been a

22 U.S. citizen?

23 A. Since 1982.

24 Q. Okay. Can you speak and

understand

25 the English language?

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1 A. Yes.

2 Q. And do you converse in the  
English

3 language every day?

4 A. Yes.

5 Q. In this situation, do you prefer  
to  
6 speak through an interpreter?

7 A. Yes.

8 Q. And why is that?

9 A. Because it will be easier for  
me.

10 Q. All right. And you came to this  
11 country in 1972?

12 A. In 1973.

13 Q. Okay. What brought you to this  
14 country?

15 A. My husband brought me here.

16 Q. Did you come with your family?

17 A. With two daughters.

18 Q. Okay. And where have you lived  
here

19 in the United States?

20 A. In Massachusetts.

21 Q. What other states?

22 A. In Michigan.



23

Q. And any other states?

24

A. And in Florida.

25

Q. Okay. Let me ask you first: Did

you

Sandra M. Halsey, CSR, Official Court Reporter

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1 work when you were in Poland?

2 A. Yes.

3 Q. What type of job did you have?

4 A. I was a registered nurse.

5 Q. And have you had jobs since you  
moved

6 here to America?

7 A. Yes.

8 Q. What types of jobs were those?

9 A. I worked for 15 years in the  
factory

10 where they were making parts for the cars.

11 Q. Did you recently move to the  
Dallas

12 area?

13 A. Yes.

14 Q. When was that?

15 A. Sixth of April.

16 Q. Of this past year,  
'96?

17 A. '96.

18 Q. And who do you live  
with?

19 A. With my daughter.

20 Q. What is her name?

21 A. Barbara Jovell, J-o-l-l-e

(sic).

22                           Q.     Do you have a nickname that  
your

23     daughter and other people call you?

24                           A.     Babcia.

25                           Q.     And what does that mean?

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Reporter

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1 A. It means grandmother.

2 Q. Okay. Let me ask you, ma'am,  
after

3 you moved here, did you meet a woman by the name  
of  
4 Darlie Routier?

5 A. Yes.

6

7 MR. RICHARD MOSTY: Judge ---

8 THE COURT: Ma'am. Speak

only in

9 Polish. Now wait until the translator -- the  
interpreter

10 gives you the questions in Polish. Answer only  
in

11 Polish.

12 THE WITNESS: I am sorry.

13 THE COURT: That's all right.

14 THE INTERPRETER: Yes.

15

16 BY MR. TOBY L. SHOOK:

17 Q. And who is Darlie Routier?

18 A. She was a friend of my  
daughter.

19 Q. Okay. Do you see Darlie

Routier in

20 the courtroom today?

21 A. Yes.

22 Q. Okay. Could you point her  
out,

23 please?

24 A. She is sitting over there.

25 Q. Are you pointing to the woman  
here in

Sandra M. Halsey, CSR, Official Court  
Reporter

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1 the green checkered dress?

2 A. Yes.

3

4 MR. TOBY L. SHOOK: Your

Honor, if the

5 record could reflect, the witness has identified  
the

6 defendant.

7 THE COURT: Yes.

8

9 BY MS. TODY L. SHOOK:

10 Q. Now then, in between June and  
April of

11 1996, how many times did you meet Darlie  
Routier?

12 A. About five or six times.

13 Q. Did you go over to her house?

14 A. Four times I was in her  
house.

15 Q. Did you ever meet up at a  
work place?

16 A. Excuse me?

17 Q. Did you ever meet up at your  
18 daughter's work place? I'm sorry, let me try  
that again.

19 Did you ever meet her at your daughter's work  
place?

20 A. Yes, my daughter took me  
there.

21 Q. Where did your daughter work  
at that  
22 time?

23 A. In Darlie's business.

24 Q. Do you remember the name of  
that  
25 place?

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Reporter

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1                   A.     Electronics something.  
Something

2     connected with electronics, but she (sic) -- I  
don't  
3     remember.

4                   Q.     Okay.  Let me ask you:  Did you  
talk  
5     to Darlie in June about working for her?

6                   A.     Yes.

7                   Q.     Okay.  Did Darlie call you up?

8                   A.     Yes.

9                   Q.     And what did she say?

10                  A.     She asked me if I would be  
willing to  
11     come to her home three days to work.

12                  Q.     Okay.  And what days were you  
to work  
13     there?

14                  A.     On Tuesday and Wednesday, and I  
was  
15     suppose to work also on Friday.

16                  Q.     Okay.  Is that Tuesday, June  
4th, and  
17     Wednesday, June 5th?

18                  A.     Excuse me?  Could you -- June -

-



19 Q. June 4th and June 5th?  
20 A. Yes.  
21 Q. What did you tell Darlie?  
22 A. I told her to call first my  
daughter.  
23 Q. Okay. And what type of work  
did she  
24 want you to do?  
25 A. Laundry, and in case I had  
time, I

Sandra M. Halsey, CSR, Official Court  
Reporter

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1 would do some cleaning.

2 Q. And were you to be paid?

3 A. Yes.

4 Q. How much?

5 A. \$50 for three days.

6 Q. Okay. Did you agree eventually  
to

7 work for her?

8 A. Yes.

9 Q. And did you go over to her  
house on

10 June 4th, that Tuesday?

11 A. Yes.

12 Q. About what time did you get  
there?

13 A. 8:15 or 8:20, about.

14 Q. And who took you there?

15 A. Daughter.

16 Q. Okay. Did your daughter go on to  
work

17 after she dropped you off?

18 A. She just -- she went with me to  
pick

19 up Darlie's husband for work.

20 Q. Okay. Did Darlie's husband leave

with

21 your daughter?

22 A. Yes.

23 Q. And what is his name?

24 A. Darin.

25 Q. Okay. Is that who Barbara works  
for

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1 at her job?

2 A. She was working.

3 Q. Okay. And why did your daughter  
need

4 to give him a ride to work?

5 A. Because his car was broken.

6 Q. Okay. What type of work did you  
do

7 there that day at Darlie's house?

8 A. Laundry.

9 Q. Was anyone else there besides  
Darlie?

10 A. A girl named Rebecca.

11 Q. Okay. And who was Rebecca?

12 A. Darlie told me that she was a  
13 babysitter.

14 Q. And about how old was Rebecca?

15 A. I don't know exactly, about 11 to  
12

16 years old, about this age. I am not sure.

17 Q. Had you seen Darlie's boys, Devon  
and

18 Damon?

19 A. No.

20 Q. They were not there at the house

when

21 you got there?

22 A. No.

23 Q. You have met them before, haven't  
you?

24 A. I don't understand the question.

25 Q. Okay. You had seen and met  
Darlie's

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1 children before you went to work there that day,  
hadn't

2 you?

3 A. Yes.

4 Q. Okay. Was there also a baby in  
the

5 house?

6 A. Yes.

7 Q. Did you see the boys around  
lunchtime?

8 A. Yes.

9 Q. Okay. Where did they come from  
when

10 you saw them at lunch?

11 A. From the outside.

12 Q. Okay. After lunch, what did they  
do?

13 A. Darlie told them, "You either go  
14 upstairs or outside."

15 Q. And what did they do?

16 A. She -- they went outside.

17 Q. Okay. What time did the girl,  
18 Rebecca, leave?

19 A. It was about 10 till 3:00 or 15  
till

20 3:00 P.M.

21 Q. And why did she leave?

22 A. Because her mama came from work.

23 Q. Okay. Had you been doing laundry  
all

24 day long?

25 A. Yes, because it was a lot of  
laundry.

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1 Q. And where was Darlie during the  
day  
2 while you were doing laundry?  
3 A. She was upstairs and also  
downstairs.  
4 Q. Okay. And where was the girl,  
5 Rebecca?  
6 A. They were together.  
7 Q. Okay. How did you get home that  
day?  
8 A. Darlie took me to my home.  
9 Q. Okay. And about what time was  
that?  
10 A. About 5:00 P.M.  
11 Q. Did you want to go back the next  
day?  
12 A. No.  
13 Q. Why is that?  
14 A. I didn't want to go back because  
I  
15 didn't feel comfortable, because I felt that Darlie  
and  
16 Rebecca were making fun of me behind my back.  
17 Q. Okay. How was Darlie acting that  
day?



18                           A.     Some days she was a very, very  
joyful  
19    person, sometimes not.  And sometimes she talked to  
me,  
20    but sometimes she was upstairs.

21                           Q.     Okay.  Did you decide to go back  
the  
22    next day?

23                           A.     Yes, because of my daughter.

24                           Q.     Okay.  And again, what time did  
you  
25    arrive there on Wednesday, June 5th?

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1                   A.     About 8:15 or 8:20.

2                   Q.     Okay.  And who was at the house  
when  
3     you got there that day?

4                   A.     Darlie and Rebecca.

5                   Q.     Where were they in the house?

6                   A.     Darlie was sitting in the armchair  
and  
7     Rebecca was sitting across her (sic) on the couch.

8                   Q.     What room was that?

9                   A.     Family room.

10

11                   MR. RICHARD C. MOSTY:  Your Honor,  
may  
12     we approach?

13                   THE COURT:  Yes.

14

15                   (Whereupon, a short  
16                   Discussion was  
held  
17                   Off the record,  
after  
18                   Which time the  
19                   Proceedings were  
resumed  
20                   As follows:)

21

22

THE COURT:

Ladies and gentlemen of

23 the jury, will you step into the  
jury room briefly,

24 please.

25

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Court Reporter

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1 (Whereupon, the  
jury  
2 Was excused from  
the  
3 Courtroom, and  
the  
4 Proceedings were  
held  
5 In the presence of  
the  
6 Defendant, with  
her  
7 Attorney, but  
outside  
8 The presence of  
jury  
9 As follows:)

10  
11 THE COURT: Let the record  
reflect

12 that these proceedings are being held outside the  
13 presence of the jury and all parties in the trial  
are  
14 present.

15 Go ahead, please. Next question.

16 MR. TOBY SHOOK: Sister, do you

need

17 some water?

18 THE INTERPRETER: Yes, I do.

19 THE COURT: All right. We have

some

20 water there.

21 THE INTERPRETER: I'm sorry, I

have a

22 sore throat.

23 THE COURT: Do you need some

water?

24 THE WITNESS: Yes.

25 THE COURT: We will still do this

in

1 Polish and English, keep it the same way.

2 All right. Next question, Mr.  
Shook.

3 MR. TOBY L. SHOOK: Yes, sir.

4

5 BY MR. TOBY L. SHOOK:

6 Q. Okay. Again, where were Darlie  
and

7 Rebecca?

8 A. They were sitting in the family  
room.

9 Q. Okay. And what was going on when  
you

10 went in that room?

11 A. Yeah. I was -- I said good  
morning.

12 Q. Okay. And what happened next?

13 A. Because it was very quiet, I  
was

14 looking where was the baby.

15 Q. Okay. What did you say?

16 A. And I asked, "Where is the  
baby?"

17 Q. Okay. And what happened  
next?

18 A. Nobody answered me.

19 Q. Okay.

20

21 MR. RICHARD C. MOSTY: May I

move over

22 there, your Honor?

23 THE COURT: Yes.

24 MR. RICHARD C. MOSTY: I

can't hear.

25

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Reporter

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1 BY MR. TOBY L. SHOOK:

2 Q. Then what happened?

3 A. Yes, I asked for the second  
time,

4 where was the baby?

5 Q. Then what happened?

6 A. It was silent again.

7 Q. Okay. And then what happened?

8 A. And when I asked for the third  
time,

9 Rebecca pointed her finger toward Darlie's lap.

10 Q. Okay. Did you look at her lap at  
that

11 time?

12 A. Yes.

13 Q. Describe what you saw.

14 A. Well, yeah, I thought she was  
holding

15 a bundle of laundry.

16 Q. Okay. She had a blanket in her  
lap?

17 A. Yes.

18 Q. And what is the next thing that  
19 happened?

20 A. I told Darlie, "Give me the



baby."

21 Q. Okay. What did Darlie do?

22 A. Nothing.

23 Q. Then what happened?

24 A. For the second time, I repeated

my

25 question, my request.

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1 Q. And what happened?

2 A. She told me that the baby liked  
it  
3 this way.

4 Q. Okay. Then what happened?

5 A. And then I asked please -- asked,  
6 "Please, give me the baby."

7 Q. What happened next?

8 A. And she handed me this baby.

9 Q. How did she hand you the baby?

10 A. In a strange manner, not the way  
I  
11 expected a mother to hand in the baby.

12 Q. Okay. How was that? Show the  
Judge.

13 A. She was holding the baby here, on  
the  
14 lap. And she gave me this way.

15 Q. Then what did she do?

16 A. Darlie went upstairs.

17 Q. How did she go upstairs?

18 A. Very quickly.

19 Q. Okay. And what did you do?

20 A. Very slowly, I started to  
uncover the

21 baby.

22 Q. Was the baby's face covered?

23 A. Yes.

24 Q. Okay. And describe the baby

once you

25 uncovered his face?

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Reporter

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1                   A.     The face was very perspired,  
very red,

2     and the lips were light blue.

3                   Q.     What did the baby do once you  
4     uncovered it?

5                   A.     Very slowly, I uncovered the  
face, and

6     then the baby started to catch the breath.

7                   Q.     Okay.  And then what  
happened?

8                   A.     And then, still, when I was  
uncovering

9     the baby slowly, the baby started to cry.

10                  Q.     Okay.  Were you able to  
settle the

11    baby down eventually?

12                  A.     Yes.

13                  Q.     Okay.  Later that morning in  
that same

14    room, did you see the baby by the glass table?

15                  A.     Yes.

16                  Q.     Okay.  Were Darlie and  
Rebecca in the

17    room again?

18                  A.     Yes.

19 Q. Okay. Did you see something  
that

20 caused you some concern at that time?

21 A. Yes.

22 Q. And what was that?

23 A. I finished my laundry and I  
was coming

24 toward the couch, to sit on the couch. And I  
saw that

25 the baby was falling towards the table.

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Reporter

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1 Q. Falling towards the table?

2 A. Yes, towards the table.

3 Q. And what did you do?

4 A. I shouted, "Oh, my God." And  
very  
5 quickly, I caught the baby.

6 Q. Did you catch the baby?

7 A. Yes.

8 Q. And what did Darlie and the  
girl,  
9 Rebecca, do?

10 A. They started to laugh.

11 Q. What did you say?

12 A. I told them, "It is not  
funny."

13 Q. Okay. Later on that day, did  
you come  
14 across the baby again in the laundry room?

15 A. Yes.

16 Q. And what time of the day was  
that?

17 A. It was right after she gave  
the  
18 children lunch.

19 Q. Okay. And what was the baby  
doing

20 when you came upon it?

21 A. She (sic) was in the laundry  
room, the

22 baby was in the laundry room.

23 Q. Was any adult near it at that  
time?

24 A. No.

25 Q. And what did you do?

Reporter Sandra M. Halsey, CSR, Official Court

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1                   A.     I picked up the baby in my  
arms.

2                   Q.     Okay.  Then what happened?

3                   A.     Then I called Rebecca.

4                   Q.     Where was Rebecca?

5                   A.     Darlie and Rebecca were  
upstairs.

6                   Q.     And did Rebecca come to you  
then?

7                   A.     Yes, she came, she picked up  
the baby

8     and she went upstairs.

9                   Q.     What did you tell her?

10                  A.     I told her -- I told her not to  
leave

11    the baby in this way.

12                  Q.     Okay.  A little while later,  
did you

13    come into the kitchen again and find the baby in a  
high

14    chair?

15                  A.     Yes.

16                  Q.     And did you become alarmed at  
that

17    time?



18                           A.     Yes.  I was folding the laundry  
and I

19    heard the cry of the baby.

20                           Q.     Did you find the baby in the  
high

21    chair at that time?

22                           A.     Yes.

23                           Q.     And how was the baby positioned  
in the

24    high chair?

25                           A.     The baby slipped down from the  
seat of

                          Sandra M. Halsey, CSR, Official Court  
Reporter

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1 the chair.

2 Q. It slipped out from the seat?

3 A. Yes.

4 Q. And what was the baby doing?

5 A. It was crying.

6 Q. And where was Darlie and the  
girl,

7 Rebecca?

8 A. Upstairs. Upstairs.

9

10 THE COURT: Wait till they ask  
you the

11 question, ma'am.

12

13 BY MR. TOBY L. SHOOK:

14 Q. Okay. What did you do?

15 A. I shouted. I called very  
loudly for

16 Rebecca to come downstairs.

17 Q. And did Rebecca come  
downstairs?

18 A. Yes.

19 Q. And what did you tell her?

20 A. I told them not to leave baby  
in this

21 situation anymore.

22 Q. Was Darlie present at that  
time?

23 A. No.

24 Q. Was she still upstairs?

25 A. Yes.

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Reporter

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1 Q. Okay.

2

3 MR. TOBY SHOOK:: Judge, that's  
all

4 the questions I have on those four instances  
involving

5 the child on that Wednesday.

6 THE COURT: All right. Any  
cross

7 examination, Mr. Mosty? All right. Who will do  
the

8 cross examining? Mr. Mosty?

9 MR. RICHARD C. MOSTY: I don't  
think I

10 want to cross examine her right now, Judge. Is it  
crime

11 to -- well, I'll let Mr. Hagler address that.

12 THE COURT: All right. Do you  
have

13 any objections?

14 MR. JOHN HAGLER: Yes, your  
Honor. I

15 couldn't hear the very beginning of it, but it was  
my

16 understanding that we have identified four specific  
17 instances here. And, it's my understanding that

each one

18 of these involve Drake as opposed to either one of  
the

19 boys; is that correct?

20 MR. TOBY L. SHOOK:: That's  
correct.

21 MR. JOHN HAGLER: According to  
her

22 testimony.

23 THE COURT: Apparently showing  
24 careless behavior or treatment of the infant son,  
Drake.

25 Is that correct?

1 MR. TOBY L. SHOOK: Judge, yes,  
it

2 shows --

3 THE COURT: In summary.

4 MR. TOBY L. SHOOK: It shows  
strange

5 behavior, careless behavior, and I think it goes to  
the

6 defendant's state of mind a few hours before the  
murder

7 in regards to one of her children. And I think  
it's

8 relevant in that way.

9 This happened on the 5th and the  
10 murders occur into the early morning hours of the  
6th.

11 And this shows very odd behavior towards one of  
her

12 children just a few short hours before.

13 So, I think it's relevant in  
that

14 manner. It goes to the state of mind of the  
defendant

15 only a few hours prior to the offense.

16 And it goes to the relationship  
under,

17 I believe it's 38.36, between the victims because  
this is  
18 their little brother, it goes to the -- it's relevant  
in  
19 that way also. Although, it doesn't directly involve  
20 Devon and Damon as children in those situations,  
21 obviously, they are present in that household, that  
is  
22 their little brother.  
23 It shows the defendant's state of  
24 mind, and it's relevant to show the relationship in  
that  
25 way.

Sandra M. Halsey, CSR, Official Court Reporter

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1 THE COURT: Mr. Hagler.

2 MR. JOHN HAGLER: Okay. The  
State's

3 indicated, your Honor, normally, of course, under  
article

4 38.36, the State is entitled to show the relationship  
5 between the defendant and the deceased. And clearly  
that

6 section is not applicable because we're not talking  
7 about -- we are talking about Drake and not the  
8 complainant and/or, either one of the decedents in  
this  
9 case.

10 Secondly, your Honor, again, I  
have

11 identified four specific instances of what I would  
12 consider irrelevant and extraneous offenses under  
404-B.

13 The first one having to do with  
the

14 incident, the alleged incident where the child was in  
the

15 defendant's lap. As I interpret this witness, she is  
16 stating something to the effect that the defendant  
was



17 involved in some kind of smothering incident or what  
have

18 you.

19 Your Honor, that clearly is an  
20 extraneous offense under rule 404-B and furthermore,  
we

21 would submit that it's irrelevant under 401 because  
of

22 the fact that it deals with a different individual.

23 In addition to that, your Honor,  
as

24 the Court knows, in order to show an extraneous  
offense

25 of this nature, they are required to make a prima  
facie

Sandra M. Halsey, CSR, Official Court Reporter

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1 showing beyond a reasonable doubt that the incident  
2 occurred, of the smothering incident. And I would  
submit

3 to the Court that they have failed to elicit  
sufficient

4 fact, to establish beyond a reasonable doubt that  
such an

5 extraneous offense occurred.

6 I might also add that also to the  
7 incidents two, three and four.

8 Secondly, your Honor, and again  
the

9 other ones deal with -- they are specific 404-B  
matters.

10 Again, in dealing with someone other than the  
11 complainant, and furthermore, clearly indicate the  
clear

12 404-B material.

13 It doesn't necessarily have to be  
an

14 extraneous offense to constitute 404-B material. It  
can

15 be any type of so-called bad acts. It's pretty  
apparent

16 that they are attempting to offer the incidences, the





18

MR. TOBY L. SHOOK: No, there's

other

19 areas. I think those are the areas --

20

THE COURT: Well, it's break time

21 right now. Let's take a 10 minute break and I will

rule

22 on it then.

23

24

(Whereupon, a short

25

Recess was taken,

Sandra M. Halsey, CSR, Official Court Reporter

2456

1                   After which time,  
2                   The proceedings were  
3  
4                   Resumed on the record,  
5                   In the presence and  
6                   Hearing of the defendant  
7                   Without the jury, as follows:)

8  
9                   THE COURT: We will not go into  
any of  
10 those four incidences now, we are going to skip over  
that  
11 for now. We can't bring that in now. Do you  
understand  
12 that?

13                   THE WITNESS: Yes.

14                   THE COURT: Make sure she  
understands  
15 it in Polish.

16                   THE INTERPRETER: Yes, sir.

17                   THE COURT: We are going to start  
a  
18 new series of questions and forget the old ones.

19                   All right. Does  
the witness  
20 understand that?

21 THE INTERPRETER:

Yes.

22 THE COURT: All

right. Let's bring

23 the jury back in, please.

24 Let the record

reflect at this time

25 all parties in the trial are  
present and the jury is

Sandra M. Halsey, CSR,

Offi  
cial  
Cour  
t  
Repo  
rter

2457

1 seated.

2

3 (Whereupon, the  
jury

4 was seated in  
the

5 Courtroom, and  
the

6 Proceedings were  
had

7 In the presence  
and

8 Hearing of the  
9 Defendant as follows:)

10

11 THE COURT: All right. Mr.  
Shook, you

12 may continue.

13

14 DIRECT EXAMINATION (Resumed)

15

16

17 BY MR. TOBY L. SHOOK:

18 Q. When you got to the house on  
19 Wednesday, who was present at the house?

20 A. In Darlie's house?



21 Q. Yes. Darlie's house.

22 A. Darlie and Rebecca.

23 Q. Okay. Did you see the boys,

Devon and

24 Damon at that time?

25 A. I saw them at lunch.

Sandra M. Halsey, CSR, Official Court Reporter

2458

1 Q. Okay. Did they come in for lunch  
and

2 eat again?

3 A. Yes, they ate lunch.

4 Q. And what did they do after lunch?

5 A. Darlie told them, "You either go  
6 upstairs or outside".

7 Q. And what did they do?

8 A. They went outside.

9 Q. Okay. What work did you do there  
on

10 Wednesday?

11 A. I was doing laundry, but not so  
much.

12 Q. What else did you do?

13 A. I was dusting.

14 Q. And what part of the house did you  
15 dust?

16 A. In the family room, where is the  
TV,  
17 and everything, what is by the kitchen.

18 Q. Okay. What else -- excuse me.

What

19 else did you do?

20 A. And I was vacuuming.

21 Q. Okay. And where did you vacuum?

22 A. Downstairs.

23 Q. Okay. Did you vacuum the entire

24 downstairs?

25 A. Yes.

Sandra M. Halsey, CSR, Official Court Reporter

2459

1 Q. Okay. What did you do with the  
vacuum

2 cleaner when you finished?

3 A. Darlie told me just to put it by  
the  
4 kitchen.

5 Q. Okay. And where did you put the  
6 vacuum cleaner in the kitchen?

7 A. Okay. Between the table or the  
8 cabinet where they had wine, and between the cabinet  
that  
9 I call a storage room.

10

11

12 (Whereupon, the following

13 mentioned item was

14 marked for

15 identification only

16 after which time the

17 proceedings were

18 resumed on the record

19 in open court, as

20 follows:)

21

22

23 BY MR. TOBY SHOOK:

24

Q. Okay. Let me show you a

photograph

25 that has been marked as State's Exhibit No. 99, and  
ask

Sandra M. Halsey, CSR, Official Court Reporter

2460

1 you, let me ask you: Do you see the area where you  
left

2 the vacuum?

3 A. Here.

4 Q. Next to the wine rack here?

5 A. Yes.

6 Q. And is this the storage room you  
were

7 speaking of?

8 A. Yes. This is the place where we  
kept

9 the cereal and salt and pepper.

10

11 MR. RICHARD C. MOSTY: I'm sorry.

I

12 can't hear.

13 THE COURT: Please speak into the  
14 microphone. Thank you. All right.

15 MR. TOBY SHOOK: We will offer

State's

16 Exhibit No. 99.

17 THE COURT: Any objection?

18 MR. RICHARD C. MOSTY: No

objection,

19 your Honor.

20 THE COURT: State's Exhibit 99 is

21 admitted.

22

23

(Whereupon, the item

24

Heretofore mentioned

25

Was received in evidence

Sandra M. Halsey, CSR, Official Court Reporter

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1 As State's Exhibit No. 99  
2 For all purposes,  
3 After which time, the  
4 Proceedings were resumed  
5 As follows:)

6

7 BY MR. TOBY L. SHOOK:

8 Q. Now, let me show you the photo  
again.

9 And if you would point for the jury the area where  
you

10 left the vacuum?

11 A. Here.

12 Q. Is there a door open here where  
we see

13 supplies, groceries, things like that?

14 A. Yes.

15 Q. Okay. And is that the pantry  
we're

16 talking about?

17 A. Yes.

18 Q. The area I'm pointing to, is that  
19 where you left the vacuum cleaner?

20 A. Yes.

21 Q. Okay. And if you could mark an  
"X"



22 where the vacuum cleaner is.

23 A. Yes.

24 Q. When you left that day, is that

where

25 the vacuum cleaner was?

Sandra M. Halsey, CSR, Official Court Reporter

2462

1 A. Yes.

2 Q. Okay. What was Darlie doing that  
day?

3 Where was she in the house?

4 A. She was cooking the dinner.

5 Q. Okay. Had she done any vacuuming  
that  
6 day?

7 A. Yes.

8 Q. And where was that?

9 A. Upstairs.

10 Q. Okay. What time did the girl  
named  
11 Rebecca leave that day?

12 A. It was about 3:00 or 3:15 p.m.

13 Q. After Rebecca left, did Darlie  
show  
14 you anything in her family room?

15 A. She brought a jewelry box.

16 Q. Where did she bring the jewelry  
box  
17 from?

18 A. From the upstairs.

19 Q. Okay. Where did she take the  
jewelry  
20 box to?

21 A. Excuse me?

22 Q. Where did she take the jewelry  
box to?

23 A. She brought it downstairs.

24 Q. Okay. To what room did she bring  
it?

25 A. To the family room.

Sandra M. Halsey, CSR, Official Court Reporter

2463

1 Q. What did she do then?

2 A. She was showing me and so we were  
3 looking at it.

4 Q. At the box or the jewelry in the  
box?

5 A. At the jewelry in the box.

6

7

8 (Whereupon, the following

9 mentioned item was

10 marked for

11 identification only

12 after which time the

13 proceedings were

14 resumed on the record

15 in open court, as

16 follows:)

17

18 BY MR. TOBY SHOOK:

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

20 marked as State's Exhibit 99-A. Is this a photo of  
the

21 jewelry box?

22 A. This is.

23 Q. Okay. And was it later placed in

the

24 chair where we see it?

25 A. No.

Sandra M. Halsey, CSR, Official Court Reporter

2464

1 Q. Where was the box when you left  
that  
2 day?

3 A. The box was just by the  
armchair.

4  
5 MR. TOBY L. SHOOK: We will  
offer

6 State's Exhibit 99-A.

7 MR. RICHARD C. MOSTY: No  
objection.

8 THE COURT: State's Exhibit 99-A  
is  
9 admitted.

10  
11 (Whereupon, the item  
12 Heretofore mentioned  
13 Was received in  
evidence

14 As State's Exhibit  
No. 99-A

15 For all purposes,  
16 After which time,  
the

17 Proceedings were

resumed

18 As follows:)

19

20 BY MR. TOBY L. SHOOK:

21 Q. And again, if you  
could point out for

22 the jury where the jewelry box is?

23 A. Now it is in the  
armchair.

24 Q. Did you talk with  
Darlie about the  
25 jewelry that she had in the box?

Sandra M. Halsey, CSR, Official  
Court Reporter

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1 A. Yes.

2 Q. And what did she tell  
you about the  
3 jewelry?

4

5 MR. JOHN HAGLER:

Your Honor, this is

6 all irrelevant under 401.

7 THE COURT: What is  
the relevance?

8 MR. TOBY L. SHOOK:

Judge, we're about

9 to get into the relevancy about that.

10 THE COURT: All  
right. I'll let you

11 go a few more questions. Let's get  
right to the point,

12 please. It's getting late.

13

14 BY MR. TOBY L. SHOOK:

15 Q. What did she tell you  
about the

16 jewelry?

17 A. She was telling me  
about some of

18 the --



19

20

MR. JOHN HAGLER:

Your Honor, excuse

21 me, could we approach the bench?

22

THE COURT: Yes,

sure.

23

24

(Whereupon, a short

25

Discussion was held

Sandra M. Halsey, CSR, Official  
Court Reporter

2466

1                                   Off the record,  
after

2                                   Which time the  
3                                   Proceedings were  
resumed

4                                   As follows:)

5  
6                                   THE COURT: All  
right. Back on  
7 record. If we could keep all of our  
questions on point,  
8 please. Thank you.

9  
10 BY MR. TOBY L. SHOOK:

11                                 Q. As she showed you the  
jewelry, did the  
12 question of money come up?

13                                 A. She was telling me  
that she needed  
14 \$10,000.

15                                 Q. Okay. And did she  
make a comment  
16 about how much her jewelry was worth?

17                                 A. No, I didn't see any  
jewelry that was  
18 expensive.

19 Q. Did you tell her  
anything about

20 selling her jewelry?

21 A. No, we didn't talk  
about this.

22 Q. Okay. What did you  
do with the

23 jewelry after she showed it to you?

24 A. There were also rings  
on the kitchen  
25 counter, so she asked me to bring them.

Sandra M. Halsey, CSR, Official  
Court Reporter

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17  
18  
19  
20  
21  
22

(Whereupon, the

following

mentioned item was  
marked for  
identification only  
after which time the  
proceedings were  
resumed on the record  
in open court, as  
follows:)

BY MR. TOBY SHOOK:

Q. Let me show you a photograph

marked

State's Exhibit 99-B. Are those the rings you are  
talking about on the counter?

A. Yes.

MR. TOBY L. SHOOK: We will

offer

State's Exhibit 99-B.

MR. RICHARD C. MOSTY: No

objection.

THE COURT: State's Exhibit 99-B

is

23 admitted.

24

25

(Whereupon, the item

2468 Sandra M. Halsey, CSR, Official Court Reporter

1 Heretofore mentioned  
2 Was received in evidence  
3 As State's Exhibit No. 99-B  
4 For all purposes,  
5 After which time, the  
6 Proceedings were resumed  
7 As follows:)

8

9 BY MR. TOBY L. SHOOK:

10 Q. Showing the photograph 99-B, are  
these

11 the rings you took from the counter?

12 A. Yes.

13 Q. And had you seen these rings  
there all

14 day on Wednesday?

15 A. Yes.

16 Q. Okay. After you took the rings  
to

17 Darlie, what did you do with them?

18 A. I handed them to Darlie and she  
look

19 at them and she gave me them and she told me to put  
them

20 in the same place I took them from.

21 Q. And did you do that?

22

A. Yes.

23

Q. What time did you leave that

day?

24

A. At 5, after 5 p.m.

25

Q. And who picked you up?

Sandra M. Halsey, CSR, Official Court Reporter

2469

1 A. My daughter took me home.

2 Q. Okay. As you left Darlie's  
house, did  
3 you see another car?

4 A. Yes, I saw a black sport car.

5 Q. And where was the black sports  
car?

6 A. It was coming from the left  
side.

7 Q. And what did the car do?

8 A. The car stopped for a while and  
the  
9 second person entered the car.

10 Q. Okay. And where were you when  
this  
11 happened?

12 A. I was with my daughter by the  
car.

13 Q. Okay. And was your car in front  
of  
14 Darlie's house?

15 A. Yes.

16 Q. Okay. What did the black sports  
car  
17 do then?

18 A. It passed by very quickly, that



even I

19 got frightened a little.

20 Q. Okay. And could you describe  
the men

21 or the man you saw in the car?

22 A. I didn't see the driver in the  
car,

23 but I saw the person on the right side of the car.

24 Q. What did he look like?

25 A. It was young, maybe Mexican, it  
was

1 dark face, maybe a black face.

2 Q. Okay. Now later that next day  
in the

3 early morning hours, did you all receive a phone  
call?

4 A. Excuse me?

5 Q. That next day in the morning  
hours,

6 did you receive a phone call?

7 A. Yes.

8 Q. Okay. And did your daughter  
leave the

9 house soon after that?

10 A. Yes.

11 Q. You learned what happened over  
at the

12 house, that a murder happened at the house; is that  
13 right?

14 A. Yes, at 3:00 o'clock.

15 Q. Okay. A couple of days later,  
did you

16 and your daughter go to the Rowlett Police  
Department?

17 A. Excuse me?

18 Q. A couple of days later, one or  
two

19 days later, did you and your daughter go to the  
Rowlett

20 Police Department?

21 A. Yes.

22 Q. And did you tell the police  
about this

23 car that passed you in front of Darlie's house?

24 A. Yes.

25 Q. And did you tell them, or did  
your

1 daughter tell them?

2 A. I told them.

3 Q. Okay. Did you tell them about  
another

4 occasion that you saw a black car?

5 A. Yes.

6 Q. Okay. And what day was it that  
you

7 saw that car?

8 A. It was a week after I came here  
and

9 when I went to Darlie's house for dinner.

10 Q. Would that be back in April  
then?

11 A. Yes.

12 Q. And where did you see the black  
car

13 then?

14 A. It was coming from the same  
side.

15 Q. Okay. And in front of Darlie's  
house?

16 A. Yes, it was just following --  
the car

17 was driving on the street.

18 Q. Did you tell the police about  
seeing

19 that car?

20 A. Yes.

21 Q. And did you see the driver of  
that car

22 on that day in April?

23 A. No.

24 Q. Do you know if these were the  
same car

25 or different cars?

1                   A.     One was sports car and the other  
was  
2     also sports car.

3                   Q.     Are those the only two times you  
have  
4     seen a dark car over there at Darlie's house?

5                   A.     Yes.

6  
7                   MR. TOBY SHOOK:   Okay.   That's  
all the  
8     questions, Judge.

9                   THE COURT:   Thank you.  
Anything, Mr.

10    Mosty?

11                   MR. RICHARD C. MOSTY:   Yes, sir.

12                   THE COURT:   All right.

13

14                   CROSS EXAMINATION

15

16    BY MR. RICHARD C. MOSTY:

17                   Q.     Is it Miss Czaban?

18                   A.     Czaban.

19                   Q.     Miss Czaban, you have understood  
the

20     questions in English, have you not?

21 A. Yes.

22 Q. All of the questions that Mr.

Shook

23 asked you, you understood in English, didn't you?

24 A. No, not everything.

25 Q. Not everything? Most of them  
you did?

Sandra M. Halsey, CSR, Official Court Reporter

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1 A. Yes.

2 Q. And you were able to answer some  
of  
3 them even before they had been interpreted into  
Polish?

4 A. Yes.

5 Q. When you went down to the police  
6 department to tell your story, did you need an  
7 interpreter?

8 A. No, because there was not so  
many  
9 questions.

10 Q. Was the police  
officer able to ask you  
11 questions?

12 A. Yes.

13 Q. And you  
understood those questions?

14 A. Not everything,  
because my daughter  
15 was helping me.

16 Q. What was the  
police officer's name?

17 A. I don't know  
because I wasn't



18 interested in that.

19 Q. Did the police  
officer write things

20 down as you talked to him?

21 A. Yes.

22

23 MR. RICHARD C.

MOSTY: May I have a

24 brief moment to confer with the

State's attorney?

25 THE COURT: Yes.  
Sure.

Sandra M. Halsey, CSR,  
Official Court Reporter

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1

2

(Whereupon, a

short

3

Discussion was

held

4

Off the record, after

5

Which time the

6

Proceedings were resumed

7

As follows:)

8

9 BY MR. RICHARD C. MOSTY:

10

Q. Miss Czaban, then you told the

police

11 officer that you had seen black cars on two  
occasions at

12 the Routier residence?

13

A. About what car do you -- are you

14 talking about?

15

Q. Let me move over here so the

16 interpreter doesn't have to spin in circles.

17

18

THE INTERPRETER: Okay. Thank

you

19 very much.

20

21 BY MR. RICHARD MOSTY:

22 Q. You went to the police department

a

23 couple of days after this incident?

24 A. Yes.

25 Q. And at that time you told the  
police

Sandra M. Halsey, CSR, Official Court Reporter

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1 officer that on two different occasions you had seen  
2 black cars?

3 A. It was the same street. I saw  
the  
4 cars on the same street. One was driving very fast  
and  
5 the other time it was driving slower.

6 Q. These are two separate occasions?

7 A. Yes.

8 Q. And were these cars in the  
alleyway

9 behind the house?

10 A. Yes.

11 Q. Both times in the alley?

12 A. Yes.

13 Q. Okay. And you thought this was  
14 suspicious, didn't you?

15 A. When it happened, everything,  
then I

16 started to think and I thought maybe somebody was  
17 watching, maybe somebody was around, so it started  
to

18 interest me. It concerned me.

19 Q. Right. Those cars had the  
appearance

20 of somebody watching the Routier home?

21                   A.     I didn't say exactly this.  I  
meant  
22    that I was concerned because the street was very  
narrow  
23    and there are children, and I was concerned that the  
cars  
24    were driving so fast.  
25                   Q.     Okay.  So you went to the police

Sandra M. Halsey, CSR, Official Court Reporter

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1 department two days after the incident to report  
unsafe

2 driving?

3 A. I just simply said what I saw.

4 Q. Well, you weren't concerned about  
the

5 children -- but two days after this incident you  
were

6 concerned that these were suspicious cars, weren't  
you?

7 A. Excuse me, sir, could you repeat  
the

8 question?

9 Q. Two days after the incident you  
went

10 to the police because you thought these were  
suspicious

11 cars?

12 A. It was suspicious because I  
thought

13 how come that on such a narrow street the cars are  
14 driving so fast. So, I was concerned about those  
cars.

15 Q. Okay. So you concerned about how  
fast

16 those cars were driving?

17 A. Yes, because they, one car almost  
hit

18 my daughter, Basia.

19 Q. Okay. And so, you thought you  
needed

20 to report that driving to the police?

21 A. The police was asking me if I saw  
any

22 cars.

23 Q. Did the policeman call you and ask  
you

24 to come down to the station?

25 A. Yes.

Sandra M. Halsey, CSR, Official Court Reporter

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1 Q. Okay. And he asked you if you saw  
any

2 cars driving unsafely?

3 A. Yes.

4 Q. That is what he asked you?

5 A. Well, no. He just asked me if I  
have

6 not seen any cars.

7 Q. Okay. He just said, "Tell me  
every

8 car you have seen on that street?"

9 A. No.

10 Q. No? What did he ask you? In the  
best

11 you can recall, exactly what were his words?

12 A. I said, in this way: "When I  
left,

13 and with my daughter we were by the car, and the car  
was

14 driving and that car was driving very fast." And I  
told

15 the policeman that I saw the car that was driving  
very

16 fast.

17 Q. When you first saw the car, was



it

18 sitting still?

19 A. Excuse me, sir?

20 Q. When you first saw the car, was

it

21 sitting still?

22 A. Sitting? You mean standing?

23 Q. Standing still.

24 A. First time not.

25 Q. It was --

Sandra M. Halsey, CSR, Official Court  
Reporter

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1                   A.     And the second time I saw as  
there was

2     somebody was entering the car, sit down and  
they left.

3                   Q.     Okay. Well, let's talk  
about the

4     second time. Is that the time that the car was  
driving

5     too fast?

6                   A.     Yes.

7                   Q.     And they drove down the  
alley?

8                   A.     Excuse me, sir. Could you  
clarify the

9     word alley?

10                  Q.     The street behind the house?

11                  A.     Oh, no, no.

12                  Q.     Where was the car when the  
people got

13     in it?

14                  A.     In the front.

15                  Q.     Okay. The house was in  
front -- the

16     car was in front?

17                  A.     No. Behind the house.

18

19

THE COURT: Ask the witness

to get

20 down and point, if that is satisfactory to both  
sides.

21

MR. RICHARD C. MOSTY: Well,

I sort of

22 enjoy being confused myself.

23

24 BY MR. RICHARD C. MOSTY:

25 Q. But, let me show you, ma'am

--

Sandra M. Halsey, CSR, Official Court  
Reporter

2479

1 A. Yes.

2 Q. -- Exhibit 8. This is an  
aerial

3 photograph of the house.

4 A. Yes.

5 Q. All right. Now, now let be  
clear.

6 A. I speak Polish.

7 Q. I'm talking about the second time  
you

8 saw the car, the day before the murders? What time  
was

9 it?

10 A. About 5:15.

11 Q. Okay. And you were leaving the  
house

12 with your daughter?

13 A. Yes.

14 Q. When you first saw the car, you  
saw

15 one man in it and one man getting in it?

16 A. Yes.

17 Q. So the car was stopped?

18 A. It wasn't exactly completely was  
19 standing. It wasn't turned off. The engine wasn't

20 turned off.

21 Q. Okay. It was not moving  
forward?

22 A. No.

23 Q. All right. We're getting there.

When

24 you saw the car when the man was getting in it,

where was

25 the car?

Sandra M. Halsey, CSR, Official Court Reporter

2480

1                   A.     Right there.

2                   Q.     Could you point on the map?

3                   A.     There is garage -- this way  
here,

4     here, here, sir.

5                   Q.     All right.  It was sitting on  
the --

6                   A.     Right here.  More over there.

7                   Q.     Okay.

8                   A.     Um-hum.  (Witness nodding head  
9     affirmatively).

10                  Q.     So it was behind the house, but  
on the

11     street?

12                  A.     On the street -- see, because  
like --

13

14                             THE COURT:  Ma'am, speak only in  
15     Polish.

16                             THE WITNESS:  Yes.  Because when  
I

17     left the house, so I was very comfortable and I  
just

18     walked a little on the sidewalk.

19

20 BY MR. RICHARD C. MOSTY:

21 Q. Okay. So the car is over here?

22 A. Yes.

23 Q. Let me show the jury where you  
pointed

24 to. (Showing to each juror.)

25 Okay. Now, then, after the car  
was

Sandra M. Halsey, CSR, Official Court Reporter

2481

1 stopped and after the man got in it, then the car  
drove

2 off at an unsafe speed?

3 A. Yes.

4 Q. Like they were in a hurry?

5 A. I have seen very often car  
driving so

6 fast, but on such a street I just told them that  
they

7 should not drive so fast.

8 Q. You told these men that?

9 A. I told my daughter.

10 Q. Oh, okay. But you thought it was  
11 unusual that that car drove off that fast?

12 A. I was on the street two or three  
13 times, so I don't know. I don't know how the cars  
are

14 driving there on the street.

15 Q. Okay.

16 A. But there was a young one, young  
man.

17 Q. Driving?

18 A. The one that was driving the car,  
I

19 have not seen. I saw just the one that was sitting



by

20 the driver.

21 Q. Okay. And which way did this car  
go?

22 A. Here, like this.

23 Q. It came around the Routier house?

24 A. No, not here, not here.

25

Sandra M. Halsey, CSR, Official Court Reporter

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1 THE COURT: Ma'am, speak only in  
2 Polish.

3 THE INTERPRETER: The witness has  
a  
4 problem, because she says, "I cannot see this." And  
she  
5 wants to explain.

6 THE COURT: Well, I think, Mr.  
Mosty,  
7 if you would get someone to hold that, and have her  
step  
8 down so she can see it. Mr. Hagler or somebody can  
hold  
9 it.

10 MR. RICHARD C. MOSTY: All right.  
11 Ma'am, would you step down there, please? All  
right.

12 THE COURT: Step down, please,  
and  
13 just point for them.

14 MR. RICHARD MOSTY: Ma'am, excuse  
me,  
15 you all are going to have to sort of move so that  
the  
16 people can see behind you. You need to stand to the  
17 side.

18 THE WITNESS: Okay.

19

20 BY MR. RICHARD C. MOSTY:

21 Q. Okay. Now, when I make that -- I  
made

22 the motion going like this, didn't I?

23 A. It was coming from this way. Not  
from

24 this street.

25 Q. Why do you point that out so much  
that

1 it wasn't on that street?

2 A. Because I didn't know that there  
was a

3 street. I even did not know that there was a  
street,

4 only my daughter just told me that there was a  
street.

5 Q. Where was your daughter's car  
parked?

6 A. Here.

7 Q. On the street?

8 A. Yes.

9 Q. So you are saying your daughter  
had

10 left the house out the back door?

11 A. No, by front door.

12 Q. Okay. How did you and your  
daughter

13 happen to be back over by -- on the back side of the  
14 house?

15 A. How can you say we were on the  
back

16 when the daughter was coming from here. We were  
here and

17 the car was driving over there.

18 Q. So you were in your car when you

saw

19 this car?

20 A. No. No, I was in this street.

21 Q. You were in the street? Where in  
the

22 street?

23 A. Which one was driving? I went --

I

24 was going on the driveway.

25 Q. Okay.

1                   A.     Yeah, going here, my daughter.

My

2     daughter was following me just a little behind me,  
and I

3     stood over there, and then I saw the car coming  
from

4     the side.

5                   Q.     So, you walked out of the house

6     through the front door?

7                   A.     Yes.

8                   Q.     And your daughter's car, was it  
parked

9     right in front of the house?

10                  A.     Yes.

11                  Q.     And you saw this black car drive  
down

12     this street at an unsafe speed?

13                  A.     Yes.

14                  Q.     Okay. Now, let's talk about the

--

15     well first, how many times have you ever been to the  
16     Routier house?

17                  A.     I think about four times.

18                  Q.     Okay. About four times. And on  
two

19 of those occasions, you have seen black cars?

20 A. Yes, because I always look at the  
cars

21 when they are driving.

22 Q. All right. And in April, you saw  
a

23 black car out there?

24 A. Yes.

25 Q. And you thought it was  
suspicious?

1                   A.     No.  I only just said that I saw  
the  
2     car that was driving so fast.

3                   Q.     Two cars, two black cars driving  
too  
4     fast?

5                   A.     Yes.

6                   Q.     Did you ever see any other color  
cars  
7     driving too fast on that street?

8                   A.     I think, yes.

9                   Q.     You didn't report those to the  
police  
10    though?

11                  A.     No, because just when the  
police asked  
12    me about what I saw, I just simply said that I saw  
this.

13                  Q.     And so the only two cars that  
were  
14    important enough to describe to the police were  
the two  
15    black ones?

16                  A.     Yes.

17                  Q.     The first car that you saw, was



it

18 also parked when you first saw it?

19 A. No.

20 Q. It was driving?

21 A. Yes, it was driving this way.

22 Q. And did you say it was driving

very

23 slow?

24 A. No. Very quickly.

25 Q. It was driving very quickly?

Sandra M. Halsey, CSR, Official Court  
Reporter

2486

1 A. Yes.

2 Q. All right. I'm about to give  
up on  
3 the cars.

4 A. Okay. I tell them what I saw,  
sir.

5 Q. Okay. You described only two  
6 incidents of the four times you were there, and  
you  
7 described two black cars?

8 A. Yes.

9 Q. Okay. Let's move on to  
something  
10 else.

11

12 MR. RICHARD MOSTY: Ma'am, I'll  
try it  
13 over here.

14

15 (Whereupon, the witness  
16 Resumed the witness  
17 Stand, and the  
18 Proceedings were resumed  
19 On the record, as  
20 Follows:)

21

22 BY MR. RICHARD MOSTY:

23 Q. Did you tell anyone else about  
those

24 cars, other than the police?

25 A. To my daughter, my daughter and  
you.

Sandra M. Halsey, CSR, Official Court  
Reporter

2487

1 Q. Did you ever tell Mrs. Routier  
that

2 you had seen a suspicious car in the alley?

3 A. Excuse, me, sir, could you  
repeat?

4 Q. Did you ever tell Mrs. Routier  
that

5 you had seen a suspicious car in the alley?

6 A. One time to her husband, when he  
came

7 from work.

8 Q. And I didn't mean to use the word  
9 alley, I don't want to go down that street again.

You

10 reported to Mr. Routier that you had seen a  
suspicious

11 car near their house?

12 A. I didn't see him at all and I  
didn't

13 talk to him when I was at the cemetery.

14 Q. Did you ever tell Mr. Routier  
that you

15 had seen a suspicious car near their house?

16 A. No.

17 Q. I thought you just said you did?

18 A. No. I only told my daughter, and

my

19 daughter told Darlie in the hospital.

20 Q. Okay. You told your daughter  
that you

21 had seen a suspicious car near the Routier's house?

22 A. I told my daughter on such a  
street

23 the cars should not drive in this way.

24 Q. And you wanted your daughter to

go

25 tell Mrs. Routier that in the hospital?

1                   A.     No, I didn't want my daughter to  
go to  
2     the hospital.

3                   Q.     Did you ever see any people, any  
4     suspicious people in the alley?

5                   A.     I didn't walk on those street.

6                   Q.     So you never saw any suspicious  
7     persons on the street?

8                   A.     No, never, never.

9                   Q.     Now, when you looked at this  
jewelry,  
10    what had you been doing right before that?

11                  A.     Excuse me, sir, before that,  
right?

12                  Q.     Before that.

13                  A.     I was -- I put the laundry on the  
14    kitchen.

15                  Q.     Were you watching TV with Mrs.  
16    Routier?

17                  A.     No.

18                  Q.     Do you have a lot of jewelry?

19                  A.     Well, no.

20                  Q.     Okay. Did you start to answer  
the  
21    last question in English?

22

23

THE COURT: Let's answer

everything in

24 Polish like we agreed to do. Next question.

25

MR. RICHARD C. MOSTY: Well,

there is

Sandra M. Halsey, CSR, Official Court Reporter

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1 a bit of a problem, your Honor.

2 THE WITNESS: I'm sorry.

3 THE COURT: Please speak only in  
4 Polish, ma'am.

5 THE WITNESS: Okay.

6 THE COURT: Thank you. Go ahead.

7

8 BY MR. RICHARD C. MOSTY:

9 Q. Do you have a lot of jewelry?

10 A. I don't care to answer this  
question.

11 Q. You don't care to answer that  
12 question?

13

14 THE COURT: Ma'am, please answer  
the  
15 question if you know the answer.

16 THE WITNESS: I don't have a lot.

17

18 BY MR. RICHARD C. MOSTY:

19 Q. How much jewelry do you have?

20 A. If you would like, I can show  
you,

21 see.

22 Q. You're showing me a ring? And a  
23 necklace?



24  
25  
reflect

THE COURT: Let the record

Sandra M. Halsey, CSR, Official Court Reporter

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1 that the witness is showing the ring on her finger  
and a

2 necklace. Thank you. You may proceed. Go ahead.

3 THE WITNESS: This is a Madonna.

4

5 MR. RICHARD C. MOSTY:

6 Q. Is that all of the jewelry you  
have?

7 A. Well, why should I answer this  
8 question?

9

10 THE COURT: Ma'am, please,  
answer the  
11 question.

12 THE WITNESS: Yes, I have also a  
13 golden bracelet.

14

15 BY MR. RICHARD C. MOSTY:

16 Q. You have quite a bit of jewelry?

17 A. Excuse me, sir?

18

19 MR. TOBY L. SHOOK: Judge, we  
will

20 object to relevance at this point.

21 THE COURT: Overruled. I'll let  
her

22 answer the questions. Please answer the question,  
ma'am.

23 THE INTERPRETER: Excuse me,  
sir,

24 could you repeat that?

25

Sandra M. Halsey, CSR, Official Court Reporter

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1 BY MR. RICHARD C. MOSTY:

2 Q. You have quite a bit of jewelry?

3 A. No, I don't have.

4 Q. Well, how much jewelry do you  
have?

5 A. I am poor woman.

6

7 THE COURT: Ma'am.

8 THE WITNESS: I am too poor a  
woman to

9 have a lot of jewelry.

10 THE COURT: We have answered  
that

11 question. Let's move on to the next one. I think  
she

12 has shown us --

13

14

15 BY MR. RICHARD MOSTY:

16 Q. Well, is your testimony that all  
of

17 the jewelry you have, is what you have on you?

18 A. No, I have one more ring that I  
got

19 from my family, and I have it in my room.

20

Q. And that's all?

21

A. And I have a bracelet.

22

Q. And that's all?

23

A. That's it.

24

Q. Have you given a lot of jewelry

to

25 your daughters?

Sandra M. Halsey, CSR, Official Court Reporter

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1 A. Yes.

2 Q. So you are knowledgeable about  
3 jewelry?

4 A. Yes, I have knowledge about  
jewelry

5 because when my grandmother died, they sent me  
jewelry

6 from Poland.

7 Q. And on the day that you were  
looking

8 at the jewelry, you and Mrs. Routier were talking  
about

9 the jewelry that you had or that you had inherited  
and

10 talking about her jewelry?

11 A. There were small rings and so  
she was

12 telling me that she got those rings from her  
grandmother.

13 Q. And you told her that you had  
also

14 received jewelry from your family?

15 A. Yes, correct.

16 Q. And some of the jewelry you had  
gotten

17 from your family was pretty valuable jewelry,  
wasn't it?

18 A. For me, yes.

19 Q. Okay. And Mrs. Routier's  
jewelry was

20 sort of cheap jewelry, wasn't it?

21 A. No, those jewelry that were all  
lying

22 on the counter, they were very expensive.

23 Q. And you discussed cleaning of  
that

24 jewelry, didn't you?

25 A. No.

1 Q. And you were not going to clean  
that

2 jewelry the next time you came to work?

3 A. No, never.

4 Q. Never discussed at all?

5 A. No. I didn't talk about this.

6 Q. Okay. Mrs. Routier just brought  
down

7 the jewelry and laid it out and started showing it  
to

8 you?

9 A. No. She came downstairs, she  
brought

10 the jewelry, she sit in the armchair, and she told  
me,

11 she asked me to come to her and see what she had.

12 Q. But she, at no time, discussed  
with

13 you you cleaning that jewelry?

14 A. No. I have never cleaned  
anybody's

15 jewelry.

16 Q. And this is about the fourth or  
fifth

17 time you have been around Mrs. Routier?



18                           A.     Four times I was there.

19                           Q.     Four times.  And she told you --

                          was

20     it in this conversation that she told you she

                          needed

21     \$10,000?

22                           A.     Yes.

23                           Q.     Before or after she showed you

                          the

24     jewelry?

25                           A.     During the time she was showing

                          me the

1 jewelry.

2 Q. On the fourth occasion that you  
have

3 ever been around her, she is telling you that she  
needs

4 \$10,000?

5 A. Yes.

6 Q. It was not \$9,000 and it was not  
7 \$15,000, it was 10?

8 A. Yes.

9 Q. Now, Mrs. Routier had done some  
nice  
10 things for you, hadn't she?

11 A. What kind?

12 Q. Well, she brought you a cake?

13 A. What cake, when?

14 Q. Did Mrs. Routier bring you a  
cake?

15

16 MR. TOBY L. SHOOK: Judge, we  
will

17 object to relevancy.

18 THE COURT: No. I'll let him  
develop

19 this. Overruled. Go ahead.

20                   A.     When I came, I didn't know her  
very  
21 well, and I had a birthday.  When I had a birthday,  
she  
22 came to my house with boys and the boys brought me  
23 flowers.  
24  
25

Sandra M. Halsey, CSR, Official Court Reporter

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1 BY MR. RICHARD C. MOSTY:

2 Q. Okay. Did they also  
bring you a cake?

3 A. No.

4 Q. But it was your  
birthday, wasn't it?

5 A. Yes.

6 Q. And during the day  
that you were there

7 or the days that you were there, Mrs.  
Routier cooked for

8 her children, didn't she?

9 A. Yes.

10 Q. Just a couple more  
things. Did --

11 when you talked to the police, you said  
that the police

12 asked you to come down to the police  
station?

13 A. Yes.

14 Q. Can you describe the  
man you talked

15 to?

16 A. It was a very tall  
man with dark hair.

17 Q. Did he seem  
particularly interested in

18 black cars?

19 A. Yes, he was asking.

20 Q. Okay.

21

22 MR. RICHARD C. MOSTY:

Pass the

23 witness.

24 THE COURT: Anything,

Mr. Shook?

25

MR. TOBY L. SHOOK:

May we approach

Sandra M. Halsey, CSR, Official  
Court Reporter

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1 the bench for a moment?

2 THE COURT: Yes, you  
may.

3

4 (Whereupon, a short  
5 Discussion was held  
6 Off the record, after  
7 Which time the  
8 Proceedings were resumed  
9 As follows:)

10

11 THE COURT: Any further  
questions?

12 MR. TOBY L. SHOOK: Not at this  
time,  
13 Judge.

14 THE COURT: You may step down,  
ma'am.

15 Ladies and gentlemen of the jury,

I

16 know we agreed to stay until 5:00, but in view of  
the

17 lateness of the hour, we're not going to start  
another

18 witness.

19 Now, we will start promptly at

9:00

20 tomorrow morning. Everybody be here, witness in  
the

21 chair, ready to go. See you then.

22 Same instructions as always. Do  
not

23 discuss this case among yourselves or with anybody  
else.

24 If someone tries to talk to you, tell the bailiff

who is

25 with you at the time.

Sandra M. Halsey, CSR, Official Court Reporter

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1                   Likewise, should you hear this on  
the  
2    radio or see it on TV or in the newspaper, please  
ignore  
3    it. See everybody tomorrow morning. Wear your  
juror  
4    badge.

5                   Thank you.

6  
7  
8                   (Whereupon, the jury was  
9                   thereby excused for the  
10                  day, to return on the  
11                  next day, January 17, 1997,  
12                  at 9:00 a.m.)

13  
14  
15                  (These proceedings are continued  
to  
16    the next volume in this cause.)

17  
18  
19  
20  
21



22

23

24

25

Sandra M. Halsey, CSR, Official Court Reporter

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CERTIFICATION PAGE

THE STATE OF TEXAS )  
THE COUNTY OF DALLAS )

I, Sandra M. Halsey, 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  
\_\_\_\_\_, 1998.

---

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

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1 STATE OF  
TEXAS )  
2 COUNTY OF  
DALLAS )

3

4

JUDGES CERTIFICATE

5

6

7

8 The above and foregoing transcript, as  
certified

9 by the Official Court Reporter, having been  
presented to

10 me, has been examined and is approved as a true and  
11 correct transcript of the proceedings had in the  
12 foregoing styled cause, and aforementioned cause  
number

13 of this case.

14

15

16

17

18

19

---

20

MARK TOLLE, JUDGE

21

Criminal District Court Number 3

22

Dallas County, Texas

23

24

25

Sandra M. Halsey, CSR, Official Court Reporter

2500

