

Friday

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Sandra M. Halsey, CSR,
Official Court Reporter

2501

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C A P T

I O N

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4 BE IT REMEMBERED THAT, on
Friday, the 17th 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

2502

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A P P E A R

A N C E S

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5

HON. JOHN VANCE

6

Criminal District Attorney

7

Dallas County, Texas

8

9

BY: HON. GREG DAVIS

10

Assistant

District Attorney

11

Dallas County,

Texas

12

13

AND:

14

HON. TOBY SHOOK

15

Assistant

District Attorney

16

Dallas County,

Texas

17

18

AND:

19

HON. SHERRI

WALLACE

20

Assistant

District Attorney

21 Dallas County,

Texas

22

23

APPEARING FOR THE STATE OF TEXAS

24

25

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Official Court Reporter

2503

1 ADDITIONAL APPEARANCES:

2

3 HON. DOUGLAS D.

MULDER

4 Attorney at Law

5 2650 Maxus Energy

Tower

6 717 N. Harwood

7 Dallas, TX 75201

8

9 AND: HON. CURTIS GLOVER

10 Attorney at Law

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Tower

12 717 N. Harwood

13 Dallas, TX

75201

14

15 AND: HON. RICHARD

C. MOSTY

16 Attorney at

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Mosty, Machann, Jackson &

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19 Kerrville,

TX 78028

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21 AND: HON. S.

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25 Kerrville,

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Sandra M. Halsey,
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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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Kerrville, TX 78028

22

APPEARING FOR: Witness

23

Officer Chris Frosch

24

only on one date in

trial

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Reporter Sandra M. Halsey, CSR, Official Court

2505

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G S
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following
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in
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presence
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attorneys
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of
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the
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P R O C E E D I N

January 17th, 1997
Friday
9:00 a.m.

(Whereupon, the
proceedings were held
open court, in the
and hearing of the
defendant, being
represented by her
and the representatives
the State of Texas, but
outside the presence of
jury, as follows:)

THE COURT: All right. Are both

sides

20 ready?

21 MR. GREG DAVIS: Yes, sir, the

State

22 is ready.

23 MR. DOUGLAS MULDER: The Defense

is

24 ready.

25 THE COURT: All right. If you
will

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1 call your first witness.

2 Let the record reflect that all
the

3 parties in the trial are present.

4 Will you raise your right hand
please,

5 ma'am.

6

7 (Whereupon, the

8 Witness was

duly

9 Sworn to

speak

10 The truth,

and

11 Nothing but

the

12 Truth, and

the

13 Proceedings

were

14 Resumed on

the

15 Record, as follows:)

16

17

18 THE COURT: Do you solemnly swear
or
19 affirm that the testimony you are about to give will
be
20 the truth, the whole truth and nothing but the
truth, so
21 help you God?

22 THE WITNESS: Yes, I do.

23 THE COURT: Okay. You are under
the
24 Rule of Evidence, which simply means when you are
not
25 testifying you have to remain outside the Courtroom.

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1 Don't talk about your testimony to
2 anybody who has testified, in other words, don't
compare.

3 You may talk to the attorneys for either side. If
4 someone tries to talk to you about your testimony,
please

5 tell the attorney for the side that called you.
Please

6 speak right into that mike.

7 THE WITNESS: Okay.

8 THE COURT: Go ahead.

9 MR. JOHN HAGLER: Your Honor, we
have
10 one matter about the last witness we talked to you
about.

11 You said you would allow us to make the objection
after
12 she had testified.

13 THE COURT: Oh, yes, okay.

14 MR. JOHN HAGLER: And, at this
point,

15 we would object to the admission of the evidence of
the
16 testimony regarding the defendant's alleged statement
17 that she was in need of \$10,000. And our objection
to

18 that point was prior to that offer and the
admission in

19 evidence of that testimony, and that objection was
that

20 it was irrelevant and confusing and misleading to
the

21 jury.

22 And, as I recall, the Court
overruled

23 that objection and allowed us to make the objection
at

24 this time.

25 THE COURT: Overruled.

1 MR. JOHN HAGLER: And
furthermore, we
2 would submit that even if relevant, the prejudicial
3 effect would vastly outweigh any probative value.

4 THE COURT: All right.
Overruled.

5 MR. JOHN HAGLER: Note our
exception.

6 THE COURT: Go ahead. Let's get
7 started with this. Mr. Shook.

8
9 Whereupon,

10

11 BARBARA JOVELL,

12

13 Was called as a witness, for the State of Texas,
having

14 been first duly sworn to speak the truth, the whole
15 truth, and nothing but the truth, testified in
open

16 court, as follows:

17

18 (OUTSIDE THE PRESENCE OF THE JURY)

19

20 DIRECT EXAMINATION

21

22 BY MR. TOBY L. SHOOK:

23 Q. State your name, please.

24 A. My name is Barbara Jovell,

25 J-o-v-e-l-l.

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Reporter

2509

1 Q. Ms. Jovell, do you know a woman
by the

2 name of Darlie Routier?

3 A. Yes, I do.

4 Q. How long have you known her?

5 A. I have known her since about
'87.

6 Q. Okay. And you're friends with
her?

7 A. Yes, I am.

8 Q. Let me turn your attention to
May of

9 '96 and ask if you went to her home to talk to her
about

10 an incident that had happened?

11 A. Yes.

12 Q. Okay. And did you talk to her
in her

13 home that day about something that happened while
you

14 were on vacation?

15 A. Yes.

16 Q. Okay. Tell the Court the
conversation

17 you had with the defendant on that day.

18 A. Darlie told me that she was

trying to

19 attempt a suicide.

20 Q. Okay. Did she tell you how
that

21 happened?

22 A. Yes. She told me that she had
pills

23 out of the wrappers, and she was going to take
them, and

24 she was writing a note but Darin walked in, and
she put

25 things away, she hid from him. And she, if it
wasn't for

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Reporter

2510

1 the dog, Domain, dragging the wrappers from under
the

2 bed, Darin would have never known.

3 Q. Okay. Did she tell you why she
was

4 about to commit suicide?

5 A. Because sometimes she gets to
feel

6 really strange, and she doesn't understand why.
That

7 things were getting to her.

8 Sometimes she felt like
everybody

9 expected too much of her, and there was more.
Pretty

10 much, that things were happening, and she felt
strange,

11 and she just didn't understand why. And, sometimes
she

12 just feels like she wants to end it all.

13 And I have asked her -- I have
told

14 her that she had three beautiful children and a
loving

15 husband, and that she should get help. And she
told me

16 that, yes, that she had talked with Darin, and that
she

17 is going to go with the three children to Lubbock.

18 Q. Okay. Let me stop you there.

Did you

19 counsel with her about that after she told you
about her

20 thinking about, or preparing to commit suicide?

21 A. Yes.

22 Q. Now, let me move you forward a
little

23 bit, and ask you to go to the date of June 7th,
after

24 Darlie Routier was in the hospital, that Friday.

Did you

25 go to the hospital and see her?

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Reporter

2511

1 A. Yes, sir.

2 Q. Okay. At one point in time,
while you

3 were at the hospital visiting her, did Darlie
Routier ask

4 other members, other people in the room to leave?

5 A. Yes, sir.

6 Q. Okay. Did she have a
conversation?

7

8 THE COURT: Ma'am, can you
keep your

9 voice up so that everybody can hear you?

10 THE WITNESS: Okay. Yes, sir.

11

12 Is
11 that better?

12 THE COURT: Just relax. Yes.
Okay.

13

14 BY MR. TOBY L. SHOOK:

15 Q. Did she have a conversation
with you

16 after the others left?

17 A. Yes, sir.

18 Q. Okay. Tell the Judge what she
told

19 you at that time.

20 A. She was concerned about her
sexual

21 toys being in the house and police searching the
house.

22 Q. Okay. Did she tell you
anything else

23 at that time?

24 A. No.

25 Q. And I have asked you not to go
into

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Reporter

2512

1 another matter.

2 A. Yes. No, she didn't.

3 Q. Unless the Judge specifically
told

4 you.

5 A. Right.

6 Q. So don't even mention that at
this

7 time.

8 A. Okay.

9 Q. Okay. And did you -- what did
you

10 tell her in response to that?

11 A. That she shouldn't worry about
it

12 that. That she just lost her two children, and
she

13 almost lost her life, and that
shouldn't matter, that she

14 shouldn't even worry about those
things.

15 Q. Now --

16 A. I'm sure

everybody, a lot of people

17 have those things.

18 Q. Okay. Now then,
let me move you

19 forward about a week later on the
next Friday, June 14th.

20 Did you go to the grave site where
the two children were

21 buried?

22 A. Yes, I have.

23 Q. Did you do that
at Darlie's request?

24 A. Yes, sir.

25 Q. Okay. And, was
there some type of

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Court Reporter

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1 birthday party there at the grave
site?

2 A. Yes, sir.

3 Q. Okay. And, were
you present when a

4 news team was out there filming that
birthday party?

5 A. Yes, sir, I was.

6 Q. Do you remember
who the news reporter

7 was that was doing that?

8 A. I remember his
name was Joe.

9 Q. Okay. Joe Munoz?

10 A. I believe so.
That was his last name.

11 Q. Okay. And, did
he interview Darlie

12 and Darin Routier?

13 A. Yes, he had.

14 Q. Okay. And, were
you present during

15 those interviews?

16 A. Yes, I was.

17 Q. And did you hear
them talking to the

18 reporter Joe Munoz?

19 A. Yes, sir, I did.

20 Q. And, at that

party was silly string

21 shot over the grave, and did you all
sing Happy Birthday?

22 A. Yes, we did.

23 Q. Okay. And, were
you there at Darlie

24 Routier's request?

25 A. Yes.

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Court Reporter

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1 Q. Okay. And, was
all of that

2 celebration filmed there by Channel
5 and Joe Munoz and
3 his team?

4 A. Yes.

5 Q. You were present
during all that?

6 A. Yes, I was.

7 Q. Were you just off
camera?

8 A. I was trying to
be off camera.

9 Q. Okay. Now, but
you were -- you heard
10 the conversations between the three
of them, did you not?

11 A. Yes.

12 Q. As they were
being interviewed?

13 A. Pretty much so.
Yes, I heard, but I

14 don't remember exactly what was -- I
mean --

15 Q. You didn't
memorize every word?

16 A. No.

17 Q. Okay. And if I
showed you a tape of
18 that interview -- and you have
reviewed that this
19 morning; is that right?

20 A. Yes, I did.

21

22

23 (Whereupon, the
following
24 mentioned item
was
25 marked for

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Court Reporter

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 BY MR. TOBY L. SHOOK:

9 Q. Okay. And did that tape -- let
me

10 show you what has been marked as State's Exhibit
101.

11 Did that tape -- was that a tape of the interview
that

12 you have just described to the Judge?

13 A. Yes.

14 Q. Okay. And, was that tape an
accurate

15 representation of what went on there, as far as the
16 interview, and what Darlie did?

17 A. Yes.

18 Q. What Darlie said?

19 A. Yes.

20 Q. And you were just off camera

watching

21 all that, is that right?

22 A.

Yes.

23 Q.

Okay.

24

25

at

MR. TOBY L. SHOOK: Your Honor,

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1 this time, we will offer State's Exhibit 101 for
record

2 purposes, and we would like to play that for the
Court

3 and offer it for admissibility before the jury.

4 THE COURT: All right.

5

6 (Whereupon, the videotape.

7 was played for the Court.)

8

9 THE COURT: All right. That is
the

10 tape you want to show, Mr. Shook?

11 MR. TOBY L. SHOOK: Yes, sir.

And

12 those are the three specific areas that the
defense

13 indicated to me that they wanted a hearing on.

14 THE COURT: All right. Mr.

Hagler, I

15 assume you want to make an objection.

16 MR. JOHN HAGLER: Yes, your Honor.

17 THE COURT: Okay. You can take

one at

18 a time, whatever areas, one at a time.

19 MR. JOHN HAGLER: Okay. Your

Honor,

20 the first area is going to be this testimony
regarding

21 the alleged suicide attempt.

22 As the Court well knows, the
burden is

23 on the State to make a threshold showing to the
Court,

24 and establish beyond a reasonable doubt, that the
25 existence of this extraneous offense, and we would

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1 classify this as an extraneous offense. I say
extraneous

2 offense, I'm talking about 404-B material, your
Honor.

3 We would submit, your Honor,
Number 1,

4 that they have failed to make such a showing. And,
in

5 particular, your Honor, Number 1, they have not --
may I

6 put this book up here, your Honor?

7 THE COURT: Oh, by all means.

8 MR. JOHN HAGLER: Your Honor,
they

9 haven't made an adequate showing of an actual intent,
on

10 the part of the defendant, to commit suicide. And
11 furthermore, your Honor, and I know the Court is well
12 aware of the concept or the definition of relevant
13 evidence, but we would submit further, in addition to
14 their failure to make a threshold showing beyond a
15 reasonable doubt of the conduct of the defendant.

16 Furthermore, your Honor, we
would

17 vigorously urge that this testimony regarding
alleged

18 suicide is simply not relevant. And again, I know
the
19 Court is well aware of the definition, but just for
the
20 purpose of this hearing, I would like to again state
that
21 the definition means: Evidence having any tendency
to
22 make the existence of any fact that is of
consequence to
23 the determination of the action more probable or
less
24 probable than it would be without the evidence.
25 Your Honor, I don't see any way,
shape

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2518

1 or form that this testimony regarding an alleged
suicide

2 attempt would have any bearing, would have any --
would

3 add any probative value to a determination, as to
whether

4 or not the defendant is guilty of the charge alleged
in

5 the indictment.

6 In other words, there is simply no
7 nexus, there is no connection between the so-called
8 statements regarding -- really it was not even a
suicide

9 attempt, it's some statements regarding some future
10 intent to, I guess, to commit suicide.

11 But there's no nexus, there is no
12 connection between this testimony and the
allegations

13 contained in the indictment. So, we would
vigorously

14 urge under 401 that such testimony is not
admissible.

15 THE COURT: All right. Are
you

16 through with that one?

17 MR. JOHN HAGLER: Yes, your
Honor.

18 THE COURT: Okay. Well, the
Court

19 will overrule that objection and admit that.

20 MR. JOHN HAGLER: Well, and
21 furthermore, your Honor, under 404-B it's conduct
which

22 we would submit that it's 404-B-type material.

Again,

23 the word offense was not -- incorrect on my part,
but it

24 is --

25 THE COURT: I understand.

1 MR. JOHN HAGLER: As the Court
well
2 knows, it extends into any type of bad acts, what
have
3 you, that would cast an aspersion of doubt on the
4 defendant's conduct.

5 THE COURT: Well, the Court
feels it
6 would tend to show a state of mind, and the Court
would
7 hold that the probative value far outweighs any
8 prejudicial effect.

9 MR. RICHARD C. MOSTY: Could I be
sure
10 that Mr. Hagler has developed that these -- this
alleged
11 event is more than 30 days removed from the offense,
and
12 that is part of our objection.

13 THE COURT: That is fine.

14 MR. RICHARD C. MOSTY: That the
time
15 factor of the removal. And secondly, that a suicide,
16 vis-a-vis a homicide that there is no relevance --
that

17 there is no connection between those from a
psychiatric

18 standpoint and a psychological standpoint.

19 THE COURT: The Court understands
your

20 objection. Same ruling. Overruled.

21 Now, let's move on to the next
one.

22 MR. JOHN HAGLER: Your Honor,
the

23 second area, as I understood the testimony, was
the

24 hospital visit regarding the so-called sex toys. I
am

25 not going to spend too much time on this area, your

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1 Honor, because I don't see any way, shape or form
that

2 this could possibly be relevant.

3 THE COURT: It's not an offense.
I'll

4 overrule that.

5 MR. JOHN HAGLER: Well, your
Honor,

6 let's put it this way: I'm not arguing
specifically as

7 an extraneous offense, but I'm arguing or
submitting to

8 the Court, that the existence of, I'm not sure what
is

9 meant by sexual toys. Again, I think that in
itself is

10 vague. But, it's unclear, it's confusing, it is
going to

11 be misleading to the jury. And then, it certainly

12 couldn't have any relevancy or any bearing, on
whether or

13 not, in fact, the defendant had any so-called sexual

14 toys. What that would have any bearing or any

15 significance as to whether she committed the offense.

16 Furthermore, I would urge that

it

17 would be 404-B material. And again, it's conduct
that

18 casts only a bad light on the defendant.

19 Obviously, your Honor, they are
20 attempting to put this into evidence, and they are
21 obviously doing it for some reason. And the reason
why

22 they are doing it is they want to show -- they want
to

23 cast a shadow on the defendant on areas that are
simply

24 irrelevant.

25 THE COURT: Mr. Mosty, do you have

1 something you want to say?

2 MR. RICHARD C. MOSTY: Mr. Hagler
just

3 hit it.

4 THE COURT: All right. Overruled.
5 I'll admit that. So now, I guess the next area is on
the
6 tape.

7 MR. JOHN HAGLER: The third area,
your

8 Honor, is the going to be the tape. Starting off
with

9 the authentication. I think this witness has
already

10 stated that she doesn't recall, she was simply
present

11 during this grave side matter.

12 As far as the authentication,
the

13 threshold of requirement that the State carries.

We

14 would submit that obviously the tape itself is not
15 self-authenticating.

16 They are required to properly
17 authenticate it through proper evidence and

testimony,

18 under our Rules 901 and 902 and Rule 1001, 1001

through

19 1004.

20 One, is we don't -- all we have

here

21 is a tape that they played. We know the name of

22 apparently the reporter who was present and who

23 interviewed the defendant and her husband.

24 We don't know what the chain of
25 custody the tape has been. We don't know the manner
and

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1 circumstances by which the tape was recorded. We
don't
2 know whether or not there were any additions or
3 alterations to the tape, since the time of its
recording
4 until the time it is being played in the courtroom at
the
5 present time.

6 We don't know whether there have
been
7 any alterations or changes, deletions or additions to
the
8 tape. And therefore, at the outset, they have simply
9 failed to satisfy their threshold requirement to
10 establish and to authenticate the admission of the
tape
11 into evidence.

12 Now, moving on with -- would the
Court
13 want to rule on that?

14 THE COURT: Well, I will rule on
that
15 one. I will overrule that and I will admit the tape.

16 MR. JOHN HAGLER: Okay. And
again,

17 your Honor, I want to point out that the witness
18 testified, that she may have been present. I don't
know

19 how much she heard. She simply said that she was
present

20 and in fact she has even admitted that she doesn't
recall

21 word for word what the statements were, and what was
said

22 during the grave side matter.

23 THE COURT: I'll overrule that,
24 because she appears throughout the tape and the tape
25 speaks for itself on the screen. You can plainly see
her

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1 there. You can plainly see everyone involved. Both
2 Routiers, and Mr. Munoz who is also on the tape. You
can
3 hear his voice, and you can see him. He is sitting
in
4 the courtroom right now.

5 So, I will overrule that and I
will
6 admit the tape.

7 MR. JOHN HAGLER: Well, your
Honor, a
8 few more objections.

9 THE COURT: Oh, a few more. Okay.

10 MR. JOHN HAGLER: Your Honor, in
11 addition, there are numerous -- one of the
requirements
12 on authentication is to identify the various voices
on
13 the tape.

14 Your Honor, in addition to the
15 defendant's voice, obviously, there are going to be
some
16 areas where there is no question that the defendant
is
17 speaking, but there are numerous voices on this

1 statements by Darin Routier are going to be hearsay
under

2 Rule 802.

3 THE COURT: Okay. Overruled.

Next.

4 MR. JOHN HAGLER: Moving on, your

5 Honor, and again, this basically gets back to my
earlier

6 statements having to do with this so-called alleged

7 suicide statement and future intent.

8 Your Honor, the tape itself that
was

9 made a number of days after the offense alleged in
this

10 indictment, we would submit, your Honor, that there
has

11 been no showing of any relevancy. It does not
constitute

12 any type of evidence or adds any probative value, if,
in

13 fact, it was presented before the jury.

14 And therefore, we would urge that
each

15 and all of the statements contained in the tape fail
to

16 satisfy the relevancy test under Rule 401.

17 THE COURT: All right. Overruled.

18 And you will not be required to -- is that all?

19 MR. JOHN HAGLER: No, your Honor.

20 THE COURT: Oh, we're still going.

21 All right.

22 MR. JOHN HAGLER: In addition,

your

23 Honor, we would further urge that this tape, even if,

and

24 I'd ask for a 403 ruling in the event the Court

admits

25 it.

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2525

1 THE COURT: You will get it.

2 MR. JOHN HAGLER: But we would
further

3 submit, your Honor, that this tape also constitutes
404-B

4 material in the fact that it shows -- and I know the
5 State is going to argue that this tape shows a lack
of

6 remorse on the part of the defendant. We would
submit

7 that this therefore, it falls into the area of
404-B.

8 And in particular, the fact that
this

9 tape could be easily, and we would submit will be,
and

10 possibly could be misinterpreted by the jury. It's
11 confusing and it's misleading.

12 The fact is, that each and every
13 individual reacts differently to a crisis in their
life.

14 And this tape, when viewed by the jurors, is going to
be

15 misinterpreted by the jurors.

16 And therefore, we would urge that

this

17 tape be suppressed because of the fact it will be and
18 could be misconstrued by a juror, under 404-B and 403.

19 THE COURT: Okay. Are we at the
end?

20 MR. RICHARD C. MOSTY: Let me ask
you

21 a question?

22 MR. JOHN HAGLER: Just one
second,

23 your Honor.

24 THE COURT: All right. That's
it?

25 MR. JOHN HAGLER: Yes, your
Honor.

1 MR. RICHARD C. MOSTY: I'll
second

2 what Mr. Hagler said.

3 THE COURT: All right. The final
4 objection is overruled. The tape will be admitted
under

5 Rule 403-B. The probative effect showing state of
mind

6 far outweighs any prejudicial value -- any
prejudicial
7 effect.

8 And, the Court will note your
9 objections in this hearing, and you will not have to
10 object in front of the jury.

11 All right. Are we ready to bring
the
12 jury in?

13 MR. TOBY SHOOK: We're ready,
Judge.

14 THE COURT: All right. Then bring
the
15 jury in please.

16

17 (Whereupon, the jury

18 Was returned to

the

19 Courtroom, and
the
20 Proceedings
were
21 Resumed on the
record,
22 In open court, in
the
23 Presence and
hearing
24 Of the defendant,
25 As follows:)

Sandra M. Halsey, CSR, Official Court Reporter

2527

1

2 THE COURT: All right. Good
morning,

3 ladies and gentlemen.

4 Let the record reflect that all
5 parties in the trial are present, and the jury is
seated.

6 Ladies and gentlemen, this witness
has

7 already been sworn outside of your presence. Mr.
Shook.

8 MR. TOBY SHOOK: Judge, at this
time,

9 the State will offer State's Exhibit 106, and it is
10 certified.

11 MR. RICHARD C. MOSTY: No
objection.

12 THE COURT: All right. State's
13 Exhibit No. 106 is admitted.

14

15 (Whereupon, the above
16 mentioned item

was

17 received in

evidence

18 as State's Exhibit No.
106,
19 for all purposes
20 after which time,
21 the proceedings
were
22 resumed on the
record,
23 as follows:)
24
25

Reporter Sandra M. Halsey, CSR, Official Court

1 Whereupon,

2

3 BARBARA JOVELL,

4

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

6 been previously duly sworn by the Court to speak
the

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

8 testified further in open court, in the presence
of the

9 jury, as follows:

10

11

12 DIRECT EXAMINATION

13

14 BY MR. TOBY L. SHOOK:

15 Q. Would you tell us your name,
please?

16 A. My name is Barbara Jovell.

17 Q. Okay. Throughout your
testimony,

18 please speak in a loud, clear voice. Okay?

19 A. Yes, sir.

20 Q. If you don't understand

anyone's

21 questions, just ask them to repeat it and we will
be glad

22 to do that. Okay?

23 A. Yes.

24 Q. Keep that voice up.

25 A. Yes.

Reporter Sandra M. Halsey, CSR, Official Court

2529

1 Q. All right. Where do you live
Miss
2 Jovell? Is it Jovell?
3 A. Yes. J-o-v-e-l-l.
4 Q. I am pronouncing it right
then?
5 A. Yes.
6 Q. Where do you live?
7 A. I live in Dallas, in Garland.
8 Q. Okay.
9 A. Do you want the whole address?
10 Q. Is Garland a suburb of
Dallas?
11 A. Yes.
12 Q. Where are you originally
from?
13 A. I am originally from
Poland.
14 Q. When did move here to the United
15 States?
16 A. In 1973.
17 Q. Okay. And did you move here with
your
18 family?
19 A. My father was already here. My

mother

20 and my sister came here together, yes.

21 Q. Is your mother -- do you call her

22 Babcia?

23 A. Everybody else do. I call her

Mom.

24 Q. Okay. All right. Is she the

lady

25 that testified yesterday?

Sandra M. Halsey, CSR, Official Court Reporter

2530

1 A. Yes.

2 Q. Okay. And when did you move to
the
3 Dallas area?

4 A. Around maybe '81 or so.

5 Q. Okay. And what brought you to
Texas?

6 A. I moved in with my ex-husband. I
7 moved with my ex-husband and his family.

8 Q. Okay. Was he your ex-husband
then?

9 A. No.

10 Q. That happened later?

11 A. Yes.

12 Q. Okay. And have you resided in
the
13 Dallas area since that time?

14 A. Yes, I have.

15 Q. Okay. Did you eventually go to
work
16 at a company called Cuplex?

17 A. Yes, I have.

18 Q. When did you start at that
company?

19 A. Shortly after -- about two weeks
after

20 I came here.

21 Q. Okay. And tell the jury what
type of

22 company Cuplex is?

23 A. They make printed circuit boards
from

24 the scratch to the electrical test.

25 Q. Circuit boards for what?

Sandra M. Halsey, CSR, Official Court Reporter

2531

1 A. That's the stuff that goes into
the
2 computers and makes them work.

3 Q. Circuit boards for computers?

4 A. Yes.

5 Q. All right. And what did you do
for
6 Cuplex?

7 A. I was an electrical test and I
was
8 trouble shooting for problems.

9 Q. Okay. Now, while you worked
there,
10 did you come to know a man by the name of Darin
Routier?

11 A. Yes, I have.

12 Q. Okay. About what year was it
that you
13 met Darin Routier?

14 A. Around '87, middle of '87 or so.

15 Q. Okay. Did he come to work there
at
16 Cuplex?

17 A. Yes.

18 Q. About how old was he when you

met him?

19 A. 19, around 19 or so.

20 Q. What did he do there at Cuplex?

21 A. He was working in my area at
that

22 time.

23 Q. Okay. Did y'all eventually

become

24 friends?

25 A. Yes.

1 Q. Okay. Did you later come to
meet his

2 fiancée?

3 A. Yes, I have.

4 Q. Okay. What was her name?

5 A. Darlie.

6 Q. Do you see Darlie here in the
7 courtroom today?

8 A. Yes, I do. That is her over
there.

9 Q. You are pointing to the woman
here in
10 the coat here at the counsel table?

11 A. Yes.

12

13 MR. TOBY L. SHOOK: Your Honor,
if the

14 record could reflect, that the witness has
identified the

15 defendant.

16 THE COURT: Yes.

17

18 BY MR. TOBY L. SHOOK:

19 Q. Had you already become friends
with

20 Darin Routier before you met Darlie?

21 A. I was with Darin friends first.

Later

22 on, maybe a few months, maybe a little more, I

don't

23 quite remember, but it was a while before I met

Darlie.

24 Q. Was that sometime in 1987 also?

25 A. Yes.

Sandra M. Halsey, CSR, Official Court Reporter

2533

1 Q. Okay. How old was Darlie
Routier when
2 you met her?
3 A. I believe around 16 or 17.
4 Q. Okay. Were they engaged at that
time?
5 A. Yes.
6 Q. After you met her, did you and
Darlie
7 become friends?
8 A. Yes.
9 Q. Were Darin and Darlie eventually
10 married?
11 A. Yes.
12 Q. When was that?
13 A. August 27th, '88.
14 Q. August 27th, 1988?
15 A. Yes.
16 Q. Okay. Where did that take
place?
17 A. In Lubbock.
18 Q. Were you there?
19 A. Yes, I was.
20 Q. Did you participate in the
ceremony?
21 A. Pardon me?

22
ceremony?

Q. Did you participate in the

23

A. Yes, I was the maid of honor.

24

Q. Maid of honor for Darlie?

25

A. For Darlie, yes.

Sandra M. Halsey, CSR, Official Court Reporter

2534

1 Q. Okay. Did Darin continue to
work at

2 Cuplex with you after they were married?

3 A. Yes.

4 Q. Did Darlie come to work there
for a

5 while?

6 A. Yes, after they were married for
a

7 little while.

8 Q. How long did she work there?

9 A. I don't exactly remember but I
10 remember she was pregnant and she had an accident.
11 Before she had the baby at work there, so she was
kind

12 of -- they put her with pay to stay home.

13 Q. Okay. Did Darin and Darlie have
14 children from their marriage?

15 A. Yes.

16 Q. How many children did they have?

17 A. Three.

18 Q. Who was the first?

19 A. Devon Routier, I'm sorry, Devon
Rush

20 Routier.

21 Q. When was he born?

22 A. June of '89.

23 Q. Okay. Who was the second born?

24 A. Damon Routier, Damon Christian

25 Routier.

Sandra M. Halsey, CSR, Official Court Reporter

2535

1 Q. When was Damon born?
2 A. February of '91.
3 Q. Okay. And did they have a third
4 child?
5 A. Yes. Drake, and he was born
October
6 of '95.
7 Q. Okay. Now, did Darin also develop
a
8 business on the side when he was at Cuplex?
9 A. Yes, he had.
10 Q. Okay. What type of business was
that?
11 A. He was not doing testing, but he
was
12 building fixtures to test printed circuit boards.
13 Q. Okay. Did he do that out of his
home?
14 A. Yes, he have.
15 Q. Did you help him with that
sometimes?
16 A. Yes, I have.
17 Q. Did you do that just on good will
or
18 were you paid for your services?
19 A. I was paid.

20 Q. Did Darlie also assist in that
type of

21 work?

22 A. Yes.

23 Q. Okay. Eventually, did Darin leave
24 Cuplex and start his own company?

25 A. Yes, he had.

Sandra M. Halsey, CSR, Official Court Reporter

2536

1 Q. What was the name of that company?

2 A. Testnec Electronics.

3 Q. Okay. And about what time was
that

4 that he started that company?

5 A. I believe it was around -- well, I
6 started working for him sometimes in May or June of
1992.

7 So, that was just a little bit before that, that he
8 opened it.

9 Q. You came to work for him as an
10 employee?

11 A. Yes, I have.

12 Q. Tell the jury what kind of company
13 that was, what you all did at Testnec.

14 A. We tested printed circuit boards.

15 Q. Same type thing?

16 A. Yes. Load fixture, drilling, the
17 material is -- it's a process that you do, but it
was

18 drilling, setting up fixtures and then testing
printed

19 circuit boards for companies.

20 Q. Who worked at the company?

21 A. For the longest time it was just
Darin

22 and Darlie and I.

23 Q. Okay. And what did do you for the

24 company?

25 A. Well, I did everything, the
testing,

Sandra M. Halsey, CSR, Official Court Reporter

2537

1 the cleaning.

2 Q. What did Darlie do for the
company?

3 A. She kept the books and plus she
helped

4 sometimes to test when it was very busy.

5 Q. Okay. And did -- the company
started

6 in '92; is that right?

7 A. Yes, around 1992. I'm pretty
sure,

8 well, around '92 because I started working shortly
after

9 they opened.

10 Q. Did the company do well when it
11 started off?

12 A. Yes.

13 Q. Did it do well through '92, '93?

14 A. Yes.

15 Q.
'94?

16 A.
Yes.

17 Q. And most of '95?

18 A. Yes, pretty much so. We had our

slow

19 periods sometimes but usually --

20 Q. And this entire time, is it you,

Darin

21 and Darlie the main employees at Testnec?

22 A. Yes, but there is -- yes, through

'94.

23 Well, we had my daughter working there part time.

She

24 was still at school. And there was time that Julie

Clark

25 came for a little while and worked with us too.

1 Q. Primarily, though, it was you,
Darin

2 and Darlie?

3 A. And Darlie.

4 Q. Okay. Now, in the last couple of
5 years, did you begin to see a change in Darlie
Routier?

6 A. Yes, I have.

7 Q. Okay. Would you tell the jurors
what

8 that change was?

9 A. She was up and down. It was
really

10 hard to tell, but she was -- she became very
11 materialistic which I brought up to Darin.

12 Q. I'm sorry. Very much what?

13 A. Materialistic. She started to
begin

14 to love material things.

15 Q. Materialistic?

16 A. Yes.

17 Q. Okay.

18 A. She was -- well, she had ups and
19 downs. She gets depressed, she gained weight, and
she

20 started fighting with Darin about money.

21 Q. Okay. Now, you say she got

22 materialistic?

23 A. Yes.

24 Q. Did she become concerned with

money

25 and buying things?

Sandra M. Halsey, CSR, Official Court Reporter

2539

1 A. Yes. She went and bought things a
2 lot.

3 Q. Okay. Now, their company was
doing

4 pretty good; is that right?

5 A. Yes.

6 Q. Okay. But, was she different from
the

7 Darlie you originally met back in 1987?

8 A. Well, she liked pretty things and
she

9 did like to look well at that time. But it was --
well,

10 how do you say it, well, not as much as I saw later.

11 Q. Now then, did Darlie Routier
12 participate in business decisions there at Testnec?

13 A. Yes, she had.

14 Q. Were you present during
conversations

15 involving business there at Testnec?

16 A. Yes, many times.

17 Q. Okay. And was Mrs. Routier
involved

18 in those conversations?

19 A. Yes.

20 Q. As far as the company, was there
a big
21 reinvestment in the company for new equipment,
things of
22 that nature?

23 A. At first the tester was bought
and
24 then later they only purchase a used drill, and then
a
25 digitizer.

1 Q. What items were purchased then
that
2 you observed with the money that was made there at
3 Testnec?
4 A. There was nothing more going into
5 Testnec.
6 Q. Okay.
7 A. It was going to Darlie.
8 Q. When you say going to Darlie what
are
9 you talking about?
10 A. She loves to shop.
11 Q. She liked to shop?
12 A. Yes.
13 Q. And what type of things did she
start
14 buying?
15 A. She had wonderful taste, she would
buy
16 expensive things.
17 Q. Okay. Did they purchase a new
home?
18 A. Yes. They had a new home built,
they
19 built a new home, yes.

20 Q. Okay. And when was that?

21 A. Oh, shortly after -- maybe '93,
maybe

22 end of '92. Shortly after we had the company. I'm
not

23 for sure.

24 Q. Okay. And who decorated the home?

25 A. Darlie did.

Sandra M. Halsey, CSR, Official Court Reporter

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1 Q. All right. Did she purchase other
2 things at that time, start buying more and more
things?

3 A. Well, furniture, you know, things
like
4 that, things for the house.

5 Q. And what about personal things?

6 A. Well, she buy a lot of
beautiful
7 clothes and stuff like that for her and her
children.

8 Q. Okay. Any items as far as
jewelry
9 goes?

10 A. Yes. She liked to start
buying
11 jewelry.

12 Q. And was that just something
that
13 happened the last couple of years?

14 A. More so, there was a purchase
of
15 jewelry more so, at that time, yes.

16 Q. Okay. Now, did you talk to her
about

17 the things she was buying?

18 A. Well, yes.

19 Q. Did you have conversations about
that?

20 A. Well, yes, she showed me. She
tell me

21 her ideas, and how she is going to decorate. And
there

22 were times that I went with her.

23 Q. Okay. Did you talk to Darin
about

24 needing new equipment for the company?

25 A. Yes, I have.

1 Q. Okay. Were you having some
problems

2 there with the work you were doing?

3 A. Well, yes, because I needed pins
for

4 grids and --

5 Q. Can you speak up?

6 A. I needed pins for grids because
the

7 grid was too small and some of the types of jobs
that we

8 did was larger and I had to stop test which is not
very

9 good. And the tester needed to be fixed because it
was

10 lopsided a lot of times.

11 Q. Okay. Was that -- was money paid
for

12 that tester to be fixed or any new equipment bought?

13 A. He tried to, you know, kind of
14 wiggle-jiggle the tester and to kind of make it
work.

15 Q. But no new equipment was bought
in

16 regards to that?

17 A. No, sir.

18 Q. All right. Now, in late '95,
did

19 business slacken off there at Testnec?

20 A. Yes, it had.

21 Q. Okay. And did it pick up at
the

22 beginning of '96 at all?

23 A. Not really. We were slow, a
lot

24 slower than we have ever been.

25 Q. Did you have a real long slow
period

Sandra M. Halsey, CSR, Official Court
Reporter

2543

1 at that time?

2 A. Very long.

3 Q. Did that slow period extend
into --

4 A. Well, we still have some jobs.

We

5 didn't get new jobs. When we do repeat jobs, it's
just

6 cheap. We have to get new jobs for us to make money.

So

7 we get mostly repeats and hardly any new jobs.

8 Q. So the business was slow through
'96?

9 A. Yes.

10 Q. Okay. Now, did that cause another
11 change in Darlie Routier's attitude when the business
12 slackened off?

13 A. Yes.

14 Q. Okay. What happened with Darlie
at
15 that time?

16 A. She was nervous and depressed and
she

17 fought with Darin a lot.

18 Q. Okay. Did you witness a lot of
these

19 fights and arguments?

20 A. Arguments, yes.

21 Q. Okay. They didn't physically hit
each

22 other, did they?

23 A. No, I have never seen them hit
each

24 other.

25 Q. Did these arguments become
frequent?

Sandra M. Halsey, CSR, Official Court Reporter

1 A. Yes.

2 Q. And what were the arguments over
that
3 you witnessed?

4 A. Money.

5 Q. Concerning what about money?

6 A. Because money wasn't coming in and
7 there was lot of bills to pay. There was just no
money.

8 There was enough, as Darin put it to me, "Oh, I am
paying

9 you by --"

10

11 MR. JOHN HAGLER: I'm going to
object

12 to the statement by Darin, hearsay.

13 THE COURT: I'll sustain the
14 objection.

15 THE WITNESS: I'm sorry. What did
I

16 do?

17 THE COURT: That's okay. Don't
worry.

18 They are going to object all the
time.

19 I will rule on them -- well, they will make -- I

mean,

20 both sides will make appropriate objections. I will
rule

21 on those, and then you just go on back, and we will
tell

22 you when to stop and when not to stop.

23 THE WITNESS: Okay.

24 THE COURT: But, we have a hearsay
25 rule.

Sandra M. Halsey, CSR, Official Court Reporter

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1 THE WITNESS: Okay.

2 THE COURT: Don't say what other
3 people said.

4 THE WITNESS: Oh, okay.

5 THE COURT: You just say what you
6 know. Don't worry, just keep going. We'll go
through
7 it.

8 THE WITNESS: The money was
slowing
9 down, and Darlie was upset, depressed. Yes, she
fought a
10 lot with Darin. And sometimes she will become calm,
and
11 things will be all right, and then it starts up
again,
12 because --

13

14 BY MR. TOBY L. SHOOK:

15 Q. Did these fights increase once
the
16 business slowed down?

17 A. Yes.

18 Q. Okay. Now, was Darlie Routier
working

19 up there full time at that time?

20 A. No, not really, she just comes
21 sometimes.

22 Q. Okay. And what did she do when
she

23 came up there? What was her role?

24 A. Well, she just came in
sometimes. And

25 my daughter was doing some paperwork but Darlie was

1 doing -- I don't exactly know for sure, but
invoices or

2 something like that, to do with bookkeeping and
things,

3 stuff, you know, and then she would be on the phone
4 shopping.

5 Q. Still shopping?

6 A. Yes.

7 Q. Was she still in on the business
8 decisions with the company?

9 A. Yes, she was.

10 Q. You have come to know Darlie and
Darin

11 Routier pretty well over the years, haven't you?

12 A. Yes.

13 Q. Who is the more dominant
personality

14 between those two?

15 A. Darlie was.

16 Q. Okay. And, did Darlie have a
temper?

17 A. Yeah.

18 Q. What kinds of things would get her
19 mad?

20 A. Well, sometimes she wanted some --

21

22

MR. JOHN HAGLER: Your Honor, we

will

23 object. This is irrelevant. She has already

expressed

24 an opinion. We are going to object to the details as

25 being irrelevant.

Sandra M. Halsey, CSR, Official Court Reporter

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1 THE COURT: Overruled. Go ahead,
if
2 you know.

3 THE WITNESS: Where was I? Can
you
4 repeat that question?

5

6 BY MR. TOBY L. SHOOK:

7 Q. You said she had a temper. What
kinds
8 of things would get her mad?

9 A. Well, if Darin -- well, she
apparently
10 didn't show my daughter how to do that little part of
the
11 invoices or something, so Tammy told me --

12 Q. Well, now, let me stop you there.
13 Don't go into with what maybe Tammy told you or
Darin
14 told you.

15 A. Well, as to the money -- to get
the
16 money out of the customers. Money or -- mostly
money.

17 Q. Okay. Now, did you become

worried

18 about the way Darlie was acting, and her emotional
state?

19 A. Yes, I was.

20 Q. Okay. And, did you speak to

Darin

21 specifically about that?

22 A. Yes, I have.

23 Q. Okay. Now, without going into

24 anything Darin said, tell the jury what you told

Darin.

25 A. I have told Darin that, "Don't
you see

1 what's going on? Darlie was able to take care of
the

2 house, the children and some, and the business."

And I

3 said, "Don't you see lately, she cannot -- she has
maids

4 clean the house, she has people to do the laundry,
she

5 has people to help with the children. There is
something

6 bothering Darlie. Something is wrong."

7 Q. Did you give him advice as to
what he

8 should do?

9 A. To get help.

10 Q. What did you mean by get help?

11 A. To do anything. To go see a
doctor or

12 maybe somebody she could talk to, because something
bad

13 will happen.

14 Q. And, about what time was this in
'96?

15 A. That was before I left for my
vacation

16 at the end of --

17 Q. Go ahead.

18 A. At the end of April, and the
beginning

19 of May, I went on vacation at the end of April, and
that

20 was happening at that time.

21 Q. So you went on vacation at the
end of

22 April of '96?

23 A. Yes.

24 Q. And this conversation that you
just

25 related to the jury that you told Darin happened
before

1 you went on vacation?

2 A. Yes.

3 Q. Okay. Did Darlie sometimes bring
the

4 children up to the shop?

5 A. Yes, she had.

6 Q. Do you recall an incident when
she

7 brought the boys up to the shop, around this same
time

8 period?

9 A. Sometimes with just the baby and
Damon

10 mostly, because Devon was still at school.

11 Q. Okay. Do you recall the times she
12 brought the boys up and wanted Darin to take care of
13 them?

14 A. Well, she had errands to run so
we

15 would keep an eye on the children.

16 Q. Okay. Let me turn your attention
now

17 to when you got back from your vacation. When did
you

18 get back from your vacation?

19 A. In May. Probably, I know the

first

20 week of May I was gone, and then I came back along

that

21 time.

22 Q. Okay. When you got back, did you

have

23 a talk with your daughter Tammy? Don't go into

anything

24 that was said. But did you have a talk?

25 A. Yes, I have.

Sandra M. Halsey, CSR, Official Court Reporter

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1 Q. Was she still working at Testnec
at
2 that time?

3 A. Yes.

4 Q. Did you also have a discussion
with
5 Darin on that day?

6 A. Yes.

7 Q. Subsequent to that talk, did you
go
8 see Darlie Routier?

9 A. Yes, I have.

10 Q. Okay. And when did you go see her
11 after that talk?

12 A. I went to see her at her house.

13 Q. Okay. And who was there at the
house?

14 A. Just her, the baby and Damon.

15 Q. Okay. And what did you talk to
her

16 about when you went to -- and this was going to be
in

17 May, I take it, when you got back?

18 A. Yes, I got back in May. So,
when I

19 came back, what I have learned, I got concerned

and I

20 wanted to talk with Darin and make sure that she
was all

21 right.

22 Q. What did she tell you had
happened

23 while you were on vacation?

24 A. She told me that she was trying
to
25 commit suicide.

1 Q. Did she tell you how that
happened?

2 A. Yes. She said that she was just
going

3 to do it. She had all the pills out of the
wrappers and

4 she was writing a note, and then she heard Darin
come in,

5 and she put things away very quickly, and she threw
some

6 wrappers under the bed, and, if it wasn't for
Domain, the

7 dog, Darin would have never known.

8 And, because Domain was -- he
started

9 playing with the wrappers and taking them out from
under

10 the bed.

11 Q. Did you ask her why she was
going to

12 do that?

13 A. Yes.

14 Q. What did she say?

15 A. I told her, that she needs to
get

16 help, because she has three beautiful children and
a good
17 husband, and if she does something to herself, what
would
18 her children think, that their mama didn't love
them.

19 Q. Did she tell you why she was
going to
20 commit suicide?

21 A. Yes, because sometimes she
didn't
22 understand how she felt. Sometimes she felt
strange and
23 that things got too much for her, and sometimes she
just
24 felt like wanting to end it all, and she doesn't
25 understand it.

1 bothering me, and I want to know what it is.

2 Q. Did she talk to you about the
weight

3 she had gained, and that that was bothering her
also?

4 A. Yes, it bothered her very much.

5 Q. What did you tell her about
that?

6 A. Oh, that she makes me sick,
such a

7 beautiful young woman, with three children. To me
she

8 looked beautiful. And I said she was just giving
herself

9 a complex and that would make her sick.

10 Q. Did you also talk about the money
11 situation and the slow business there at Testnec?

12 A. Yes. I showed her that -- well,
she

13 was worried, because that was the longest period that
we

14 had that was so slow. And she did have big bills.

But,

15 I have told her, "Hey, you know, things will pick up,

16 things will be all right. You just go get your help

and

17 me and Darin will get with it. Things will pick up,

and

18 things will be all right," for her not to worry about

19 that, for her to worry about her.

20 Q. Did she express some concern about

the

21 bills that were coming in, and about their house?

22 A. No, not really. She mostly said

the

23 children sometimes were too much, and the neighbor's

24 children wanted to play there.

25 And I told her, I said people

expect

Sandra M. Halsey, CSR, Official Court Reporter

1 so much of her. I told her that people could expect
all

2 they want, she could only deliver what she can.

3 And for the children, to tell
their

4 mothers, for a change, to let them play over there.

5 And she said that she did mention
it,

6 but she goes, "Well, sometimes I don't really mind
and

7 sometimes it gets too much".

8 Q. Now, did she seem to get somewhat
9 better after that visit that you had with her?

10 A. Yes, somewhat, but --

11 Q. Did she go to Lubbock and follow
your
12 advice?

13 A. No.

14 Q. Did she get on any medication to
help
15 her with her weight?

16 A. Well, the only thing she got on
was
17 diet pills.

18 Q. She got on diet pills?

19 A. Yes, sir.

20 Q. Let me turn your attention to
early

21 June, and ask if --

22 A. I'm sorry.

23 Q. It's okay. Did you talk to Darlie

24 about your mother coming to work for her?

25 A. Darlie called me.

Sandra M. Halsey, CSR, Official Court Reporter

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1 Q. Okay. What did Darlie say to you
when

2 she called you?

3 A. She asked me to -- if my mother
would

4 consider coming and helping her out by working,
helping

5 her, you know, with laundry and light
housekeeping.

6 Q. And what did you say to
Darlie?

7 A. I told her that I would talk to
my

8 mother. I have to talk with her and what days, if
she

9 agrees.

10 Q. Had Darlie had people help clean
and

11 watch her children before this?

12 A. Yes.

13 Q. Okay. How soon before this had
that

14 been going on?

15 A. She had a maid, but I'm not for
sure,

16 I think, well, I believe that she let her go before
even

17 my mom arrived to Texas.

18 Q. Okay. Did your mother agree to
go

19 over there and do the housework for Darlie?

20 A. Well, I kind of asked my mom to.
I

21 asked my mom, and we talked, and she agreed to work
for

22 Darlie three days.

23 I don't exactly remember if
Darlie

24 picked those days or my mom. I believe my mom or
Darlie,

25 maybe Darlie picked those days, it was Tuesday,
Wednesday

1 and Friday.

2 Q. Okay. Did you take your mother
over

3 there on that Tuesday, June the 4th?

4 A. Yes, I have.

5 Q. And when you dropped your mother
off,

6 did you pick anyone up?

7 A. Darin.

8 Q. Okay. Why did you pick Darin up?

9 A. I believe he left the Pathfinder
for

10 Darlie if she needs it. Since I dropped my mom off,
it

11 would be easy for him to ride with me.

12 Q. Did Darin have a
car?

13 A. It was a Jaguar,
yes.

14 Q. What was wrong with that car at
that

15 time?

16 A. It broke down.

17 Q. How long had it been broken down?

18 A. Oh, I don't remember. But,

shortly,

19 not -- I don't really remember, it broke down just
around

20 that time.

21 Q. So you gave him a ride to work
that

22 day?

23 A. Yes.

24 Q. Okay. And, did you give your

mother a

25 ride over to Darlie's the next day, that Wednesday,
June

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1 5th?

2 A. Yes, I did.

3 Q. Okay. And did you give Darin a
ride

4 to work on that day?

5 A. I don't remember.

6 Q. Okay. About what time did you
return

7 on Wednesday to pick your mother up?

8 A. Around, maybe, 5:15 or so,
somewhere

9 around that time.

10 Q. Okay. Who was at the house when
you

11 went to pick her up?

12 A. My mother and Darlie.

13 Q. Where were they?

14 A. They were in the kitchen.

15 Q. And what did you?

16 A. I came in in the kitchen and I
spoke

17 to them. I said, "Hey, it looks nice." And they
said,

18 Yeah, that they did everything. Everything was
cleaned

19 up and the only thing Darlie had to do is pick up.

20

There was -- everything was

cleaned

21 and washed. But there was clothes on the kitchen

cabinet

22 counter still folded up that Darlie was suppose to

bring

23 upstairs.

24 Q. Okay. Did you want to stay there

when

25 you got there?

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1 A. Yes, I felt pretty good and I
wanted

2 to stay a few minutes and talk to Darlie.

3 Q. Okay. Did you get anything to
drink?

4 A. Yes, I had a beer.

5 Q. Okay. And, did you sit down?

6 A. Pardon me?

7 Q. Where did you sit down?

8 A. I really didn't sit down. I was
kind

9 of around the kitchen island, you know, one of the
deals

10 that sits in the middle of your kitchen.

11 Q. Would that be island there?

12 A. Yes, I was kind of around there
and I

13 don't remember -- I was kind of, yeah, around that on
14 both sides, kind of moving around.

15 Q. Now, did you decide to stay there
or

16 did you leave soon after that?

17 A. I believe I had a beer and my mom
was

18 rushing me to leave.

19 Q. Your mom wanted to get out of

there?

20 A. Yes.

21 Q. What mood was Darlie in when you
left

22 that house?

23 A. She was upset.

24 Q. How do you know she was upset?

25 A. She was going back and forth, and
she

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1 was upset.

2 Q. You say going back and forth, are
you

3 talking about walking?

4 A. Yes, she was pacing back and forth
and

5 she was upset. And I have seen Darlie upset, so I
know

6 that something was wrong.

7 Q. Okay. You have seen her in that
mood

8 before?

9 A. Yes. And she was upset and, you
know,

10 she was still kind of moving around. She didn't
really

11 want to continue conversations with me.

12 Or maybe a few things were said,
but I

13 don't quite remember. All I remember is I walked in
and

14 I have two nerved-up women.

15 Q. You had what?

16 A. Two nerved-up women, my mom and
17 Darlie. My mom saying, "Let's get out, let's get

out".

18 Q. So they were both upset?

19 A. And Darlie is pacing -- doing
20 something, but she is not really doing -- I don't
know

21 what she is doing, but she is going back and forth.

22 Q. Okay. Now, did you soon then
leave

23 the house with your mother?

24 A. Yes, I have.

25 Q. Okay. Where did you park your
car?

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1 A. I parked my car out front of the
2 house.

3 Q. Okay. As you drove off, did you
see

4 any other cars coming down the street?

5 A. Yes, I have.

6 Q. What cars did you see?

7 A. I saw a black car passing by us
really

8 fast.

9 Q. Okay. It passed by you?

10 A. It passed us, really fast. I was
11 going slow and we were going to turn to Linda Vista
from

12 Eagle Drive, and we were just not too far from going
13 towards Linda Vista before we turned and that is when
the

14 car went really fast passing by us.

15 Q. Okay. Describe that car, please?

16 A. It's a black car with a -- the
back of

17 the -- it was tinted windows, the back of the car,
the

18 window was kind of straight and there was short trunk
and

19 then, you know, short, going down like that, kind of

20 sporty look.

21 Q. Short trunk?

22 A. Yes.

23 Q. Okay. Did you see who was driving
the

24 car?

25 A. No, sir, I have not.

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1 Q. And when the car drove by did it
upset

2 your mother?

3 A. Yes, it did.

4 Q. Did you see Darin Routier anywhere
5 around at that time, also?

6 A. As we were leaving, I believe we
waved

7 to him and Dana.

8 Q. Who is Dana?

9 A. Dana is Darlie's sister.

10 Q. And how old is she?

11 A. I believe she is around 15 or 16.

12 Q. Were they on their way to the
house

13 from work?

14 A. Yes. Well, they already left work
15 before me because --

16 Q. Okay. They were on their way
home

17 then?

18 A. Yes. I'm sorry.

19 Q. That's all right. Now then, that
was

20 Wednesday evening. Early Thursday morning, did you
get a

21 phone call?

22 A. Yes, I have.

23 Q. Okay. About what time was that?

24 A. Around 3 o'clock in the morning.

25 Q. Okay. Who called you?

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1 A. My daughter.

2 Q. Okay. And after you got that
phone

3 call, where did you go?

4 A. I went to Darlie's house.

5 Q. When you got to Darlie's house,
what

6 was going on?

7 A. There was a bunch of -- there was
8 police cars, fire trucks, the house was taped off.

9 Q. Okay. Did you talk with someone
there

10 at the -- in front of the residence?

11 A. Yes, I talked with my daughter and
12 Dana a little bit, and then I talked to a
policeman.

13 Q. And did you leave the front of
the

14 house and go somewhere else at that time?

15 A. I went to the hospital.

16 Q. Okay. Which hospital did you go
to?

17 A. Dallas Baylor.

18 Q. Okay. Eventually that day, did
you

19 get in to see Darlie Routier?

20 A. Yes, I have.

21 Q. Where was she when you saw her?

22 A. In intensive care room.

23 Q. Okay. And do you recall what time
of
24 the day it was when you were talking to her?
25 A. We were there practically all day
or

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1 half a day. I had to -- Darin had us leave and check
on

2 the business with Dana. We were there most of the
3 morning and we left after we saw Darin. Not really
after

4 though, it was sometime we were through. There was
5 sometime later that day, maybe evening, maybe
somewhere

6 around, maybe evening.

7 Q. So you were there a while, left to
8 help out something with Darin and then came back?

9 A. Went and came back, yes.

10 Q. Okay. When you were there the
first

11 time, did you talk to Darlie?

12 A. Yes.

13 Q. Okay. Did she tell you what had
14 happened to her?

15 A. Yes.

16 Q. Tell the jury what she told you
had

17 happened to her.

18 A. She told me that she heard Damon
going

19 "Mommy, Mommy." He leaned on her saying, "Mommy,
Mommy."

1 but she says that she picks up -- maybe I'm not
2 remembering correctly, but Damon was following her.
3 She was going after a man through
the
4 kitchen. It was the kitchen, she was going after the
5 man. And Damon was behind her and she told -- she
pushed
6 him and told him to go back, "To wait for Mommy.
Just
7 wait for Mommy." And she went out to the garage, and
8 that's all she said.

9 Q. Okay. Did you go up to the
hospital
10 the next day on Friday?

11 A. Yes, I did.

12 Q. Were there a lot of other friends
and
13 relatives there in her room?

14 A. Yes.

15 Q. At one point in time, did Darlie
16 ask -- well, did Darlie make a request there in the
room?

17 A. Yes, she asked everybody to leave
the
18 room but for me to stay behind.

19

her

20 request?

21

22

room?

23

24

25

had

Q. Okay. Did everyone comply with

A. Yes.

Q. Okay. So who was left in the

A. Just Darlie and I.

Q. And then what happened?

A. Nothing at first. She was -- we

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1 eye contact for the longest time. And we had eye
contact

2 for the longest time and it kind of scared me because
I

3 told her, "Something bad is happening." I don't
know.

4 I sat down next to her and I
said,

5 "Darlie, please talk to me. What's going on?
Please

6 talk to me." And --

7 Q. What did she say at that time?

8 A. She told me that she had sexual
toys

9 in the house and that the police going to see them.

10 Q. What did you tell her about
that?

11 A. I told her, that, "My God, you
12 shouldn't worry about those things. The babies
were

13 killed and you almost got killed. You think they
14 weren't -- that they are going to worry about the
toys.

15 I told her, a lot of people have toys." And that
was her

16 private thing.

17 Q. Let me turn your attention to
the next

18 week. Did you see Darlie again?

19

20 THE COURT: Just a minute.

Ma'am, you

21 have been on the stand a long time. Would you
want to

22 take a little break?

23 THE WITNESS: No, I'm fine.

24 THE COURT: Okay. Thank you.

Go

25 ahead, please.

Sandra M. Halsey, CSR, Official Court
Reporter

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1 THE WITNESS: I'll be okay.
I'm
2 sorry.

3 THE COURT: No, there's no
problem.

4 If you want to take a little break, we can take a
little
5 break. All right. Thank you. Go ahead, please.

6

7 BY MR. TOBY L. SHOOK:

8 Q. Did you see Darlie again after
she was
9 out of the hospital at her mother's house?

10 A. Yes, I have.

11 Q. Okay. Was that sometime the
next
12 week?

13 A. Yeah, following week, yes.

14 Q. Okay. And did you visit with
her
15 there at her mother's house?

16 A. Yes, I have.

17 Q. What is her mother's name?

18 A. Darlie Kee.

19 Q. Her name is Darlie, also?

20

A. Yes.

21

Q. It's Darlie Kee?

22

A. Yes, we call her Mama Darlie.

23

Q. Okay. Did Darlie again talk to

you

24 about the attack and what had happened to her?

25

A. Yes.

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1 Q. Okay. Tell the jury what she
told had
2 you happened when you had this conversation at her
3 mother's house.

4 A. Well, I didn't ask her
anything. She
5 was just sitting there. She was really nervous.
She
6 was, of course, chewing on her fingernails and I
went,

7 "Don't do that." And she said, she says, "Basia,
Basia",
8 she says, "When I opened -- when I felt pressure
on
9 my --"

10 Q. Go ahead. Just take your time.

11 A. You should -- she says, "Basia,
when I
12 felt pressure on my legs, and I opened my eyes,
the man
13 apparently was sitting on top of her, and he was
doing
14 this with the knife on her face."

15 Q. Rubbing the knife on her face?

16 A. Yes, something like -- she

showed me

17 something like this.

18 Q. What did she say?

19 A. And she said, "Basia, he looked
like

20 he enjoyed himself, Basia." And I said, "Darlie,
Darlie,

21 please remember the face. Please remember that
enjoyable

22 face." She told me she couldn't.

23 Q. So she said the man looked like
he was

24 enjoying himself? You asked her to remember his
face?

25 A. "Remember that enjoyable face,
please,

Sandra M. Halsey, CSR, Official Court
Reporter

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1 Darlie, remember that face."

2 Q. Did she tell you what he looked
like?

3 A. He had short hair. He had
short hair.

4 And he was tall, and he was kind of chubby around
the

5 sides and he was white.

6 Q. Was she able to describe his
face at

7 all?

8 A. No. She said she was in shock
and

9 that the doctor is going to put her under, under
hypnosis

10 to help her remember.

11 Q. Okay.

12 A. But right now she was too weak
and she

13 lost a lot of blood.

14 Q. Now, let me turn your attention
to

15 that Friday, June 14th, 1996. Did Darlie ask you
to go

16 somewhere on that day?

17 A. She asked me to go to the
cemetery.

18 Q. What was that day?

19 A. It was Devon's birthday.

20 Q. Devon's birthday?

21 A. Yes.

22 Q. And did she ask you to come to
the
23 cemetery?

24 A. Yes, she have.

25 Q. Okay. Why did she want you to
come to

Sandra M. Halsey, CSR, Official Court
Reporter

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1 the cemetery?

2

3

MR. JOHN HAGLER: Your Honor,

may I

4 approach the bench?

5

THE COURT: Yes, you may.

6

7

(Whereupon, a short

8

Discussion was held

9

Off the record, outside

10

of the hearing of the jury,

11

after which time, the

12

Proceedings were resumed

13

As follows:)

14

15

THE COURT: You may continue,

Mr.

16 Shook.

17

18 BY MR. TOBY L. SHOOK:

19

Q. That was Devon's birthday?

20

A. Yes.

21

Q. And what did she ask you to do?

22

A. She asked me to come to the

cemetery.

23

Q. And what was the reason for

coming to

24 the cemetery?

25 A. Because they were going to
celebrate

Sandra M. Halsey, CSR, Official Court Reporter

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1 Devon's birthday.

2 Q. Did you want to go to the
cemetery?

3 A. I wanted to go alone. I told
Darlie

4 that I was going to go alone afterward, and tell
him

5 happy birthday in heaven.

6 Q. Okay. Did you agree with
Darlie's

7 request?

8 A. Yes, I have.

9 Q. And why did you agree to her
request?

10 A. I agreed that I am going to go
with

11 them at 6:30 to the cemetery. I meet them at the
12 cemetery at 6:30.

13 Q. Did you take anyone with you when
you

14 went there?

15 A. I took my mother and David.

16 Q. Okay. And was Darlie there?

17 A. I believe we were the first
ones to

18 arrive, and Darlie shortly after. I don't

remember

19 exactly. We all slowly were coming in.

20 Q. Okay. And, did a news team

also

21 arrive, shortly thereafter, and film the events that

22 happened there?

23 A. Yes, sir.

24 Q. And were you present when those

events

25 were filmed?

1 A. Yes.

2 Q. And did they talk to Darlie and
Darin

3 Routier?

4 A. Yes, they have.

5 Q. And were you present when those
6 interviews took place?

7 A. Yes, I was.

8 Q. Okay. Let me -- well, you have
9 reviewed that film. You reviewed it this
morning a

10 couple of times, haven't you?

11 A. Yes, I have.

12 Q. Okay. And did the film that you
saw,

13 which is marked here as State's Exhibit 101, did
that

14 accurately reflect the interviews that you
witnessed?

15 A. Yes, it does.

16 Q. Okay.

17 MR. TOBY SHOOK: Your Honor, at
this

18 time we will offer State's Exhibit 101 for all
purposes.

19 THE COURT: All right. State's
20 Exhibit 101 will be admitted.

21

22 (Whereupon, the item
23 Heretofore mentioned

24 Was received in

evidence

25 As State's Exhibit No.

101

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

5
6 MR. TOBY L. SHOOK: And we will
ask
7 the Court's permission to play the tape at this
time.

8 THE COURT: You may play it.

9 THE COURT: Can all members of
the
10 jury see this screen?

11 THE JURY: Yes.

12 THE COURT: All right. Thank
you.

13 MR. TOBY L. SHOOK: Can everyone
see
14 the screen? Can you see the screen, Basia?

15 THE COURT: Are you able to see
the
16 screen?

17 THE WITNESS: Yes, I can.

18 THE COURT: All right.

19

20 (Whereupon, the videotape

21 was played in the Courtroom
22 for the jury, after
which.
23 time the proceedings
were
24 resumed as follows:)
25

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1 THE COURT: All right. Back on
the
2 record.

3 Ladies and gentlemen, let's take
a 10
4 minute break now, please. Thank you.

5
6 (Whereupon, a short
7 Recess was
taken,

8 After which
time,

9 The proceedings
were
10 Resumed on the
record,

11 In the presence
and
12 Hearing of the
defendant

13 And the jury, as
follows:)

14

15 THE COURT: All right, are both
sides

16 ready to bring the jury in and proceed?

17 MR. TOBY L. SHOOK: Yes, sir, the
18 State is ready.

19 MR. RICHARD MOSTY: Yes, your
Honor,
20 we are ready.

21 THE COURT: All right. Let's
bring
22 the jury in, please.

23

24 (Whereupon, the jury
25 Was returned to
the

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Court Reporter

1 Courtroom, and the
2 Proceedings were
3 Resumed on the
record,

4 In open court, in
the
5 Presence and
hearing

6 Of the
defendant,

7 As follows:)

8
9 THE COURT: Let
the record reflect
10 that all parties in the trial are
present and the jury is
11 seated.

12 THE COURT: Mr.
Shook.

13 MR. TOBY L.

SHOOK: Thank you, Judge.

14

15

16 DIRECT EXAMINATION

(Resumed)

17

18 BY MR. TOBY L. SHOOK:

19 Q. The film we just
watched, were you
20 just off camera during the
interview there?

21 A. Yes, I was
standing just not too far
22 by them, away from the camera, but
I was watching, yes.

23 Q. Towards the end
of that film, do you
24 recall when Darlie Routier then
walked off camera after
25 making a statement?

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Official Court Reporter

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1 A. Yes, she did.

2 Q. Where did she go
to?

3 A. She went to my
arms.

4 Q. Did you hug her?

5 A. Yes, I have.

6 Q. Okay. Was she
crying?

7 A. No. No, she was
not.

8 Q. You talked earlier about seeing a
car
9 when you left that Wednesday evening?

10 A. Yes.

11 Q. Okay. After the murders, did you
go
12 to the police station, and talk with them on June
the
13 8th?

14 A. Yes, I have.

15 Q. Did you take your mother with
you?

16 A. Yes, I have.

17 Q. Did you tell them what you had
seen on

18 that Wednesday?

19 A. Yes.

20 Q. Okay. Did your mother also talk
to

21 the police?

22 A. Yes. Well, I translate some.

23 Q. Okay. She talked some, you
translated

24 some?

25 A. Yes.

1 Q. About the dark car she had seen?

2 A. Black car, yes.

3 Q. Okay. After Darlie Routier was
4 arrested, did you continue to work at Testnec?

5 A. Yes, I have.

6 Q. Okay. And did you continue to
speak

7 to her?

8 A. Well, she will call for Darin at
work

9 and when he wasn't there, we end up talking.

10 Q. Okay. At some point in time, I
think

11 it was maybe in August or so, did some investigators
with

12 our office, well, did they actually speak to your
mother?

13 A. Yes.

14 Q. And then speak to you?

15 A. Yes.

16 Q. Okay. Did you agree to speak to
them?

17 A. Pardon me?

18 Q. Did you agree to speak to them?

19 A. Yes.

20 Q. Okay. Did you tell Darin that
you had

21 had a conversation with them?

22 A. Yes.

23 Q. Okay. Did you tell Darlie?

24 A. Yes.

25 Q. And did you agree to speak to the

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1 investigators again?

2 A. Yes.

3 Q. And you've met with them several
4 times, have you not?

5 A. Yes, I have.

6 Q. Investigator Bosillo and
Investigator

7 Anita Kinne?

8 A. Yes, sir.

9 Q. You've also spoken to me on a
number

10 of occasions, have you not?

11 A. A couple times, I believe.

12 Q. There in your house in Garland?

13 A. Pardon me?

14 Q. We've had conversations there at
your

15 house in Garland?

16 A. Yes.

17 Q. And since you have arrived here,
we

18 have had conversations?

19 A. Yes.

20 Q. We have gone over what questions
I was

21 going to ask you?

22 A. Yes.

23 Q. Did you talk to Darlie about
speaking

24 with the D. A.'s office?

25 A. Yes.

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1 Q. And, did you talk to her about
being

2 subpoenaed as a witness?

3 A. Yes.

4 Q. What was her reaction? What did
she

5 tell you?

6 A. She told me not to talk to you.

7 Q. What did you tell her?

8 A. I told her that I already had.

9 Q. Okay.

10 A. She told me not to speak to you
11 anymore.

12 Q. And what did you tell her?

13 A. That I have nothing to hide and I
am

14 willing to talk to both sides.

15 Q. Were you close to the boys, Devon
and

16 Damon?

17 A. Yes, I was.

18 Q. Were they often over at your
house?

19 A. In the past couple of years, I
just --

20 yes, at first, yes, I spent a lot of times with the
boys.

21 But the past couple years, I just saw them mostly at
22 work.

23 Q. At work?

24 A. Yes.

25 Q. Okay. Let me show you what have
been

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1 marked as State's Exhibit 9-A and 9-B. Is 9-B, is
that a

2 photograph of Devon?

3 A. That is Devon Routier, yes.

4 Q. And is 9-A a photograph of Damon?

5 A. That is Damon, yes.

6 Q. Okay. Tell the jury what type of
boys

7 they were.

8 A. Well, they were happy, normal,
rowdy

9 sometimes, children. Damon was very smart and Damon
was

10 also kind of a little bit on the moody side, and
stubborn

11 kind of. And it took a lot before we got closer,
and

12 even sometimes then, if he didn't want to talk to
you, he

13 would just ignore you. Devon was very smart and
loved to

14 play video games. Just like normal boys, happy,
playing,

15 rowdy sometimes, picking at each other.

16 Q. That Wednesday, when you went to

pick

17 your mother up, did you see the boys?

18 A. They were playing outside on
Tuesday,

19 and, I believe, on Wednesday, they were outside
somewhere

20 and then they were gone.

21 Q. Okay.

22 A. I remember, maybe it was Tuesday.

I

23 know for sure I saw them on Tuesday. I saw Damon, I

24 believe, on Wednesday.

25 Q. Is that the last time?

1 A. Outside, as we were walking out.

2 Q. As you were leaving?

3 A. I'm sorry?

4 Q. As you were leaving, do you think
you

5 saw him playing outside?

6 A. Yes, because it was a bunch of
7 children, but we just left quickly.

8 Q. Okay. Ma'am, I need to show you
one

9 more photograph that has been admitted for record
10 purposes. It's been marked as State's Exhibit B.

I'll

11 ask you, if you recognize this photo to be Damon
12 Christian Routier?

13 A. Yes, sir.

14

15 THE COURT: What was that number,

Mr.

16 Shook?

17 MR. TOBY L. SHOOK: State's

Exhibit

18 No. B.

19 THE COURT: Thank you.

20 MR. TOBY L. SHOOK: Judge, that's

all

21 of the questions I have of this witness.

22 THE COURT: Mr. Mosty.

23 MR. RICHARD C. MOSTY: Yes, sir.

24 THE COURT: Thank you.

25

Sandra M. Halsey, CSR, Official Court Reporter

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1

CROSS EXAMINATION

2

3 BY MR. RICHARD C. MOSTY:

4

Q. Miss Jovell, my name is Richard Mosty.

5

We have never met, have we?

6

A. No, sir, we haven't.

7

Q. In these conversations that you have

8 had with the State's attorneys, have you given a written

9

statement?

10

A. No, sir.

11

Q. You didn't sit down and write out?

12

A. No, sir.

13

Q. Did -- as you talked to Mr. Bosillo,

14 the investigator, did he take notes?

15

A. Yes, I have.

16

Q. What about Rowlett Police Department,

17 when you talked to them, did they take notes?

18

A. Yes.

19

Q. How many times did you talk to them?

20 A. To the police department?
21 Q. Yes.
22 A. Just once.
23 Q. Just once with your mother?
24 A. Yes.
25 Q. And then you talked to Mr.
Bosillo,

Sandra M. Halsey, CSR, Official Court Reporter

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1 how many times?

2 A. It was -- I don't remember
exactly how

3 many times. It was a few times, well, let's say
maybe

4 five.

5 Q. Five times?

6 A. I'm not sure, maybe about five
times.

7 Q. Okay. Are those five times alone
with

8 Mr. Bosillo?

9 A. No, there was always Anita Kinne
10 present or another -- there was one time there was -

-

11

12 THE COURT: Can you hear all
this?

13 A JUROR: No.

14 THE COURT: Okay. You're going
to

15 have to speak louder than that.

16 THE WITNESS: I'm sorry. There
was,

17 another man, he was only there maybe a couple of

times.

18 I forget his name, he was a black man, older man.

But I

19 don't remember his name.

20

21 BY MR. RICHARD MOSTY:

22 Q. Do you see Mr. Bosillo here in
the

23 courtroom?

24 A. Yes, that's him right there.

25 Q. Do you see Anita Kinne here in
the

1 Courtroom?

2 A. Yes, that is her over there.

3 Q. And you understand that they are
both

4 investigators with the district attorney's office?

5 A. Yes, I do.

6 Q. Then how many times, did you say
about

7 five times that you had met with them?

8 A. Yeah, as much as I can remember,
9 possibly about five times, maybe six.

10 Q. That is one or both of the
11 investigators?

12 A. There's always both.

13 Q. Always both?

14 A. Always.

15 Q. Now, then separate from that, how
many

16 times have you met with the district attorney's
office?

17 A. Pardon?

18 Q. With district attorney, for
instance,

19 with Mr. Shook here?

20 A. I only met with Toby, and Mr.

Bosillo

21 and maybe -- I maybe saw Toby -- I forgot your last
name,

22 I'm so sorry.

23

24 MR. TOBY L. SHOOK: That's all

right.

25 THE COURT: Please raise your
voice,

Sandra M. Halsey, CSR, Official Court Reporter

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1 ma'am.

2 THE WITNESS: I forgot your last
name.

3 MR. RICHARD C. MOSTY: It's not a
very
4 remarkable name.

5

6 BY MR. RICHARD C. MOSTY:

7 Q. Okay.

8 A. Maybe three times.

9 Q. You met with Toby maybe three
times?

10 A. Together with Mr. Bosillo.

11 Q. Sometimes Mr. Bosillo was there?

12 A. Yes, and sometimes he was not
there

13 and Anita Kinne was there.

14 Q. I'm a little confused. Are you
saying

15 that all totaled, that you've had six meetings with
16 various people, or is that nine meetings you are now
17 telling me about?

18 A. Well, I only saw, I'll just say
Toby,

19 because he came to talk to my mother.

20 Q. Well, how many times --

21 A. And --

22 Q. Just let me -- how many times do
you

23 think you've talked to -- before you came to
Kerrville,

24 representatives --

25 A. Oh, I'm sorry.

Sandra M. Halsey, CSR, Official Court Reporter

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1 Q. -- from the district attorney's
2 office? Either the district attorney, assistant
district

3 attorney or investigators. How many times do you
think

4 you talked to them?

5 A. Well, counting here?

6 Q. No, before you came to Kerrville.

7 A. Oh, before I came to Kerrville.

8 Q. Okay.

9 A. Altogether, maybe it was six
times. I

10 don't really remember.

11 Q. Since you have been in Kerrville,
how

12 many times?

13 A. We have talked a couple of times,
I

14 believe. I mean going over the questions. Couple
times.

15 Q. And when would you say that you
had

16 become close friends of the Routiers, about what
time?

17 A. In '87.

18 Q. '87?

19 A. Um-hum. (Witness nodding head
20 affirmatively).

21 Q. And went to work, actually for
Darin,
22 in when?

23 A. Around '92 somewhere.

24 Q. But you had been co-workers with
Darin
25 before that time?

1 A. Yes, at Cuplex.

2 Q. And, I guess you were around when
the
3 two boys were born?

4 A. Yes.

5 Q. Did you go to the hospital and
see
6 them?

7 A. Yes.

8 Q. And where did the Routiers live
at
9 that time?

10 A. They lived on Vaughan Street.

11 Q. Is that close to where you live?

12 A. No, I live in Garland.

13 Q. How far is that?

14 A. Not that far. Maybe 20 minutes,
15
15 minutes.

16 Q. Okay. And then, do you recall
when
17 they moved?

18 A. Yes. They were building -- well,
I
19 believe that they sold -- they sold their house, and

the

20 house was being built so they stayed with me.

21 Q. And where did you live?

22 A. I lived in an apartment, yes.

23 Q. And this would be Darlie and

Darin?

24 A. And the children, yes.

25 Q. And the two boys?

Sandra M. Halsey, CSR, Official Court Reporter

2587

1 A. Yes.

2 Q. How long did they live with you?

3 A. Oh, not too long. Maybe a
couple,
4 three months.

5 Q. Couple or three months?

6 A. Um-hum. (Witness nodding head
7 affirmatively.)

8 Q. Would that be in 1993?

9 A. Around at the time, they were
building
10 a house.

11 Q. How old were the boys then?

12 A. They were young. I don't quite
13 remember exactly.

14 Q. Okay. And were all three of you
15 working at Testnec by that time?

16 A. Yes.

17 Q. And Darin went out sort of on his
own
18 to start this fledgling company, I guess?

19 A. Yes, he still continue to work,
work a
20 little bit at Cuplex when he opened up his business
and

21 then eventually he quit. He was still going over
there

22 to have them use the machines to drill the fixtures.

23 Q. And you left -- you went to the

24 Testnec after Cuplex?

25 A. No, sir. I worked for ATG

Sandra M. Halsey, CSR, Official Court Reporter

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1 Electronics.

2 Q. Why did you leave Cuplex?

3 A. I was laid off, sir.

4 Q. You were laid off?

5 A. Yes.

6 Q. And why did you leave, was it ATG

7 Electronics?

8 A. Yes. It was American Testing
Group.

9 It was run by Germans, from Germany.

10 Q. Okay. And why did you leave
there?

11 A. The Germans pulled out.

12 Q. Okay.

13 A. So I got laid off.

14 Q. Okay. And then your next job was

15 Testnec?

16 A. Yes.

17 Q. When did you go to work for
Testnec?

18 A. Around '92.

19 Q. Okay. Now, once the Routiers
moved

20 into the new house in '93, how far was that from
your

21 house?

22 A. The way I drive, maybe 25
minutes.

23 Q. And in that '93 time frame, you
saw

24 them on a regular basis at work?

25 A. Yes.

1 Q. And socially, in conjunction with
2 work?

3 A. And socially, yes.

4 Q. Pardon?

5 A. And socially and work.

6 Q. How often?

7 A. We got together quite a few
times. I

8 mean we were together a lot of times, yes.

9 Q. Well --

10 A. A lot of times.

11 Q. Well, can you give me some -- you
12 know, once a month, or, you know, four or five times
a

13 year?

14 A. Oh, no. We saw each other at
work

15 every day. But going to the house, you mean?

16 Q. I'm talking about social times
where

17 you would go to dinner together, or dinner at their
house

18 or go to a party together?

19 A. Yeah, once a week sometimes,
every two

20 weeks, you know. I don't exactly remember.

21 Q. Okay. Now, I'm in the '93 time
frame,

22 when they first moved in that house?

23 A. Not at first, I was not going to
the

24 house.

25 Q. Why was that?

1 A. I was busy at work and I don't
know

2 why.

3 Q. Well, I guess Darlie was getting
more

4 and more busy as the kids got a little older?

5 A. Yes, she was busy. She was doing
her

6 thing. She was going shopping, you know. And I
worked

7 and I had my daughter, you know, to raise.

8 So, I mean, we had remained
friends

9 and stuff, and she had her friends and I had my
friends.

10 And we kept the contact at all times.

11 Q. But it's fair to say from '93 on
that

12 both you and Darlie got a little bit more wrapped up
in

13 your own lives and had less contact with each other?

14 A. Not really.

15 Q. That's not true?

16 A. Well, you know, we, what I say,
you

17 know, we still kept in touch, we still talk about
the

18 problems. She comes over to work all the time,
but I'm

19 just not going over there visiting all the time.

20 Q. Of course, that wasn't my
question.

21 A. I'm sorry.

22 Q. My question was: From '93 on,
as you

23 got more wrapped up in your life with your
daughter and

24 your work and she got more wrapped up in her kids
as they

25 were getting on, getting a little bit older, from
'93 on,

Sandra M. Halsey, CSR, Official Court
Reporter

2591

1 you all had less and less social contact, didn't
you?

2 A. Kind of, off and on, yes, I
would say

3 that.

4 Q. And that is, I mean, that is
natural,

5 isn't it?

6 A. Well, yes, of course.

7 Q. How old was your daughter in
'93?

8 A. She was around 15 or 16.

9 Q. That is a pretty busy age, I
know for

10 a fact.

11 A. Very.

12 Q. And you spend a lot of your
time

13 driving 15 year old daughters to movies, to
shopping, to

14 school, to ballet, to --

15 A. My daughter only would -- she
was only

16 interested in a choir for a while at school when
she was

17 around that age, she didn't really want to join
anything

18 else.

19 Q. And she lived -- your daughter
and you

20 lived alone, the two of you?

21 A. Yes.

22 Q. And as you would see Darlie,
you would

23 see her coming down to the -- to the office,
wouldn't

24 you?

25 A. Yes.

Sandra M. Halsey, CSR, Official Court
Reporter

2592

1 Q. And she would bring the kids?
2 A. Yes.
3 Q. And, the kids were well cared
for,
4 weren't they?
5 A. Yes, they were.
6 Q. They were well dressed?
7 A. Yes, they were.
8 Q. You went in their house, didn't
you?
9 On Eagle?
10 A. Oh, yes, yes.
11 Q. The kids?
12 A. Happy.
13 Q. Happy?
14 A. Playing, yes.
15 Q. And, lots of kids over there?
16 A. Sometimes, yes.
17 Q. As a matter of fact, that is
some of
18 what Darlie was -- you know, I got three of my own
and
19 two boys are bringing in more?
20 A. She didn't mind. Many times
she

21 didn't really mind having those children. Darlie
loves

22 children.

23 Q. She loved to have them over,
didn't

24 she?

25 A. Yes.

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Reporter

2593

1 Q. As a matter of fact, she
encouraged

2 her boys to bring their friends over?

3 A. Yes, she had many times, yes.

4 Q. And she would play with them?

5 A. She would play with them, no.

They

6 play on their own.

7 Q. She wouldn't participate with
them,

8 sometimes as mothers do?

9 A. No, she -- the kids wanted to
have

10 their friends. They just went all the time either
11 upstairs to play or outside to play.

12 Q. Well, I understand that, too.

But,

13 then they need, all of those kids needs Cokes and
14 sandwiches and all that stuff?

15 A. Oh, yes, she tended to that. If
they

16 come in to have a drink, yes, Darlie give them
drinks or

17 Popsicles, yes.

18 Q. That's her kids and the neighbor

kids?

19 A. Exactly, yes. She was kind to
all of
20 the children.

21 Q. Okay. Incidentally, you were
often

22 over at the house on Eagle; is that right?

23 A. Well, off and on.

24 Q. Did you have a Kee to it?

25 A. Yes, I have for a long time,
yes.

1 Q. Okay. So you actually had a Kee
to
2 the house?

3 A. Yes. When they -- mostly, I had
the
4 Kee because when they were going on trips, I went
and
5 checked on the house.

6 Q. Okay. And then I guess, you, at
least
7 kept up to some extent with how the boys were doing
as
8 they got older? You described them both as smart
kids.

9 A. Yes.

10 Q. And Damon maybe a little more
11 reserved?

12 A. Oh, yeah, he is a little bit
more
13 stubborn. If he doesn't want to do something, he
won't.

14 And you can't really change his mind. He would be,
you
15 know, ignoring you.

16 Q. And you were aware of what they

were

17 doing, in terms of going to school?

18 A. Yes, I many times picked them up
from

19 day care at that time, but not from school. But at
that

20 time, I was picking them up from day care.

21 Q. And, what grade had Devon
completed?

22 A. First grade.

23 Q. And, did it appear to you that
he had

24 done well in school?

25 A. Oh, I'll bet he did.

1 Q. You bet he did?

2 A. Oh, yes, he was smart.

3 Q. Very well-adjusted child?

4 A. Oh, yes, very polite. If he's
away
5 from mama, he -- you know how children are -- is a
lot
6 nicer to somebody else sometimes than around their
mom.

7 Q. But he acted nice even when he
wasn't
8 around his mom?

9 A. Oh, yes. Sometimes, he get
along -- a
10 little bit.

11 Q. But he was a little boy, wasn't
he?

12 A. Yes, a normal little boy, yes.

13 Q. And these boys appeared happy,
didn't
14 they?

15 A. Yes, they were happy, yes.

16 Q. And they were active?

17 A. Yes.

18 Q. Played, ran and --

19 A. All the time, Ninja turtles.

Any time

20 something new came out, especially the Ninja
turtles.

21 Lately it was the blue Rangers, and green Rangers,
they

22 wanted to be the Rangers.

23 Q. And Darlie went and bought them
that

24 stuff, didn't she?

25 A. Oh, yes, she did. She always
bought

1 them things, yes.

2 Q. Whatever the current rage was,
and I

3 can't even remember what those are anymore.

4 A. Yeah, neither do I. But there's
5 always toys, they always had lots of toys. Darlie
always

6 made sure that they are clothed and fed and had
plenty to

7 play with.

8 Q. She actually was sort of
generous to a

9 fault with the children, wasn't she?

10 A. Yes, she was.

11 Q. Okay. Matter of fact, you
thought she

12 was really too generous about a lot of things,
didn't

13 you?

14 A. She was a very kind person. She
is a

15 very kind person.

16 Q. And she donated her time to
school

17 events?

18 A. Yes.

19 Q. Volunteer work?

20 A. Yes, I believe that she was
going,

21 when they were in day care. I don't know too much
about

22 a volunteer, but I know she was doing things for
going to

23 day care, they had things, parties for the children
and

24 stuff she did, yes.

25 Q. Like room mother?

1 A. Yes.

2 Q. Or that kind of thing,
organizing

3 parties at day care?

4 A. She was supposed to become a
room

5 mother, but I believe she pulled out it -- the
children

6 out of there.

7 Q. And she did -- she donated to
8 charities, didn't she?

9 A. Yes, she had.

10 Q. Really too much, didn't she, in
your

11 judgment?

12 A. Well, I know of some.

13 Q. You thought she was too
generous?

14 A. She was generous.

15 Q. She was generous with you?

16 A. Well, like what do you mean?

17 Q. Well, she gave you presents,
didn't

18 she?

19 A. We gave each other presents on

20 birthdays or holidays.

21 Q. She let you charge on her credit
22 cards, didn't she?

23 A. I paid her back.

24 Q. I know that, but you didn't have a
25 credit card you could charge on, did you?

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1 A. No.

2 Q. And she let you?

3 A. Yes, she have, oh, yes, she have,
yes.

4 Q. She used it and charged to her?

5 A. Yes.

6 Q. And so you could pay her back over
a
7 period of time?

8 A. Yes, exactly, yes, sir.

9 Q. Now you saw her around those boys
10 often enough, I suppose?

11 A. Yes.

12 Q. And you saw how she disciplined
the
13 boys if they got a little bit out of the hand,
didn't
14 she?

15 A. Yes, I have.

16 Q. What method did she use?

17 A. Sometimes she would take a time
out.

18 Q. Now, let's talk about that. What
is a
19 time out?

20 A. A time out is, okay, that is it,
she
21 cannot get their attention, so she will make them
stop,
22 she will tell them, "Stop now. Listen to me." And
she
23 will tell them that they shouldn't do this or that.
24 Q. And she would do that in a gentle
but
25 firm way, wouldn't she?

1 A. Sometimes.

2 Q. And she told them to go, stop
what

3 they were doing, and take their time?

4 A. Yes. And, listen to me. You
5 shouldn't do this or that. And if you don't behave,
you

6 are going to go upstairs. There will be no playing
7 anymore.

8 Q. And that is how she generally did
all

9 of her disciplining of the children, wasn't it?

10 A. Sometimes it was a spanking on
the
11 butt.

12 Q. A swat on the bottom?

13 A. Yeah. With her hand, I have
never

14 seen Darlie using a belt.

15 Q. Right.

16 A. And sometimes when they
were too much

17 and she couldn't get attention, she
sometimes would

18 squeeze their cheeks.

19 Q. And get them to where,
look at me and
20 listen to me?
21 A. Yes, well, you know,
like a kid. And
22 well, I was always sensitive and I always
tried to stand
23 up for those boys, "No, no, no, they didn't
do anything."
24 So to me, you know,
sometimes it was,
25 you know, just a punishment, was like, no,
don't do it.

Sandra M. Halsey, CSR, Official Court
Reporter

2600

1 Q. Yeah. But you never --

2 A. I never seen her --

3 Q. You thought that all of
that
4 discipline was proper, didn't you?

5 A. Yes, it was proper.

6 Q. It was appropriate?

7 A. Yes.

8 Q. And it was done in a loving
manner?

9 A. Yes.

10 Q. And it was done in a caring
manner?

11 A. Yes.

12 Q. And the kids expressed their love
for
13 Darlie openly?

14 A. Mommy, yes, yes.

15 Q. And she expressed her love for the
16 children openly?

17 A. Yes.

18 Q. Who is Tammy?

19 A. Tammy is my daughter.

20 Q. Okay. And Darlie bought presents
for

21 Tammy?

22 A. Yes, she bought presents for all
of

23 her friends.

24 Q. For who?

25 A. For lots of her friends.

Sandra M. Halsey, CSR, Official Court Reporter

2601

1 Q. Darlie did?

2 A. Yes. She was always very giving
3 person.

4 Q. Did you have occasion to meet some
of

5 Devon and Damon's friends, or just as they ran
through

6 the house?

7 A. Briefly, briefly.

8 Q. Okay. They had a lot of friends?

9 A. Yeah, mostly, I don't remember
their

10 little boy's name but it was Mercedes' son that they
play

11 with a lot. And there was a few other kids that I
seen

12 faces. But I didn't believe -- but mostly when I
spend

13 time, I spend it with Devon and Damon, I didn't --
the

14 other children were not really around.

15 Q. You didn't pay much attention?

16 A. No, no. I mean, yes, I have
spoken

17 with them a few times, or something, but --

18 Q. Okay. And, by 1995, in the
fall,

19 Darlie was pregnant with Drake. Had she been
working

20 pretty much full time still?

21 A. Yes, she was still coming to the
shop,

22 she was pregnant, and, yes.

23 Q. Okay.

24 A. We see her.

25 Q. And even after Drake was born,
did she

1 continue to work?

2 A. No, sir.

3 Q. Did she continue to do the books
from
4 home?

5 A. Tammy was doing -- I don't know
too

6 much about the bookkeeping because I never keep up
with

7 that. But I know my daughter was doing some
paperwork

8 there, and Darlie, ever so often, would come to the
shop

9 with the children and the baby and she would do the
work

10 there.

11 Q. Okay. And she worked at the
shop?

12 A. Um-hum. (Witness nodding head
13 affirmatively).

14 Q. And at some point, did she sort
of

15 take her things back home?

16 A. What things?

17 Q. Well, just books and records?

18 A. I don't know, sir.

19 Q. You don't know about that?

20 A. Not really, because, well, I
never

21 really cared. I don't know what they were doing
in the

22 office. I never did that.

23 Q. And the bookkeeping was not
your

24 responsibility?

25 A. No, sir.

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Reporter

2603

1 Q. And you didn't keep up with
that?

2 A. No.

3 Q. You didn't receive checks?
For

4 instance, when the mail came in with a check or a
5 payment, you didn't receive that?

6 A. No, sir.

7 Q. You didn't make a deposit?

8 A. I made deposits later, sometimes,
yes.

9 If they tell me to make them.

10 Q. Who would fill out the deposit?

11 A. Darlie or Darin would. Darlie
mostly,

12 or sometimes Tammy.

13 Q. They would hand it to you and you
14 would drop it at the bank?

15 A. Yes.

16 Q. Or Tammy would drop it at the
bank?

17 A. Mostly, sometimes I would, or
Darlie

18 or Darin, it just depends.

19

20

THE COURT: Mr. Mosty, let's go

ahead

21 and break now until 10 after 1:00, please, for lunch.

Be

22 back then.

23

24

(Whereupon, a short

25

Recess was taken for lunch,

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1 After which time,
2 The proceedings were
3 Resumed on the record,
4 In the presence and
5 Hearing of the defendant
6 And the jury, as follows:)

7
8 THE COURT: Are both sides ready
to
9 bring the jury back?

10 MR. TOBY L. SHOOK: Yes, sir, we
are
11 ready.

12 MR. CURTIS GLOVER: Yes, sir, we
are
13 ready.

14 THE COURT: All right. Bring the
jury
15 back.

16
17 (Whereupon, the jury was
18 Returned to the
courtroom

19 And the proceedings
were

20 Resumed on the record

as

21

Follows:)

22

23

THE COURT: All right. Let the

record

24

reflect that all the parties in the trial are

present and

25

the jury is seated. You may continue, Mr. Mosty.

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1

2

CROSS EXAMINATION (Resumed)

3

4 BY MR. RICHARD MOSTY:

5

Q. Mrs. Jovell, we were talking earlier

6

about mostly the relationship that Darlie had with her

7

children, which you have described in some detail for the

8

jury. And was Darin also active with the children?

9

A. More or less. Darlie had to make him

spend time with them.

11

Q. Okay.

12

A. She made sure -- she emphasized on him

spending more time with the children.

14

Q. She was wanting Darin to spend more

15

time?

16

A. Spend more time with them, yes.

17

Q. Darin was working pretty hard, wasn't

18

he?

19

A. Not really.

20 Q. Not really?

21 A. No.

22 Q. Were you doing most of the work
down

23 there?

24 A. Well, he does the drilling. I do
most

25 of the testing and troubleshooting, yes.

Sandra M. Halsey, CSR, Official Court Reporter

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1 Q. Well, but did -- am I hearing you
2 right, that you sound like maybe you carried more
than
3 your share of the load?

4 A. Well, that was my duty. Darin was
the
5 owner, so a lot of times he had to be on the phone.
That
6 was his hard work. And, you know, Darlie would help
me
7 in tests a lot of times.

8 Q. Well, let me take out the hard
work
9 part then and say, did Darin spend a lot of hours
down
10 there?

11 A. At the shop, yes. He would come
in
12 about ten o'clock, or eleven sometimes, and he
continue
13 on staying open to customers.

14 Q. He'd stay late then?

15 A. We normally don't stay late, we
close
16 up at five o'clock.

17 Q. But Darlie was wanting him to
actually
18 spend more time at home apparently and less at the
19 office?

20 A. Yes.

21 Q. Okay. And, you were able to
observe

22 Darin and Darlie in their relationships?

23 A. Yes, I have.

24 Q. And of course, you have been
married,
25 have you not?

Sandra M. Halsey, CSR, Official Court Reporter

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1 A. Yes, I have.

2 Q. And you understand that every
marriage

3 has its good days and its bad days?

4 A. Definitely.

5 Q. And that it's unfair to take any
one

6 part of a marriage?

7 A. No.

8 Q. To look at it?

9 A. Exactly.

10 Q. And you would describe Darin and
11 Darlie as having a good marriage, wouldn't you?

12 A. Well, in many ways, yes.

13 Q. Okay. And, they spent time with
each

14 other, private, just the two of them, a lot of times,
15 didn't they?

16 A. Well, I'm sure they did.

17 Q. Or did their time together mainly
18 revolve around the kids?

19 A. Well, both actually. Sometimes
they

20 like to take trips by themselves, and sometimes with
the

21 children. So it was --

22 Q. And, Darin and Darlie were
faithful to

23 each other?

24 A. Yes, they have.

25 Q. At all times?

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1 A. At all times.

2 Q. And there's no question about that
in
3 your mind?

4 A. There is no question.

5 Q. All right. Let's talk then some
about

6 the work. I guess, it sounds like during -- you
worked

7 for Testnec from '92 to '96?

8 A. Yes, sir.

9 Q. And, a lot of that time, were you
the
10 only employee?

11 A. Yes, sir.

12 Q. And, was, I mean, the day-to-day
13 working and testing, and working with the boards and
all

14 that kind of stuff, that was really your
responsibility?

15 A. Yes, sir.

16 Q. And Darlie's responsibility was,
and I

17 understand --

18 A. Office, yes, office. When we were

19 really -- when we had a lot of work, Darlie would
come,

20 well, that was before -- lately she hadn't been
there,

21 but she would come and help me.

22 Q. Okay. And then Darin is just
mainly

23 being the manager of the business?

24 A. Yes.

25 Q. But he too would help work on
those

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1 boards?

2 A. Well, he would help set up
fixtures,

3 sometimes on boards, yes, sometimes he would test
them.

4 Q. Now, tell me what you were doing.
And

5 I am at a loss to understand what that business was,
6 really.

7 A. Well, do you want me to start from
8 when I come into the shop, I open it up?

9 Q. Well, why don't you try to tell me
10 generally, if I was a customer at Testnec, what would
I
11 be buying?

12 A. I test, I test -- customers would
send
13 us printed circuit boards.

14 Q. These are circuit boards that are
15 manufactured by some company?

16 A. Yes, some company.

17 Q. For instance?

18 A. They are all different.

19 Q. For instance, what company might
send

20 circuit boards down there? Do you remember some of
the

21 customers?

22 A. Compuroute, Tri-Circuits, at this
23 moment, I can't remember. Yeah, we have customers,
yes.

24 They send completely different, they would be huge
25 circuit boards, or little circuits, there would be
tiny

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1 ones, they are different sizes. Different
performance of

2 circuit boards.

3 Q. All right. What are those circuit
4 boards made of?

5 A. Fiberglass, the printed -- it
starts

6 from the yellow room and so on, they print onto the
7 copper, and then, that is how they lay out the film.

I

8 am not familiar too, too much as far as that area
goes,

9 but I know a little bit.

10 Q. Is the board part itself made of
11 fiberglass?

12 A. Well, yes. Well, fiberglass,
copper,

13 you know, nickel.

14 Q. Okay.

15 A. They have circuits and little
pads

16 and, you know, surface mounts, which is more newer
type

17 of stuff, getting more advanced.

18 Q. And, when you are working with

those,

19 you are actually -- you have that board in front of
you

20 and you are actually testing the circuits?

21 A. Sometimes it's 300 of them,
sometimes

22 it's five boards only, sometimes we have a thousand
of

23 them, and you have to program the board.

24 Q. Do you do anything to the board?

Do

25 you work on it? Do you fix it?

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2611

19 worked in?

20 A. Pardon?

21 Q. Is there a shop area, an open
area, a

22 shop area where the boards were kept, and where you

23 worked day in and day out?

24 A. Yes. Normally, they will come in
25 through the office and we will bring them to the
back.

Sandra M. Halsey, CSR, Official Court Reporter

2612

1 And we have only one big room in the back and
everything

2 is in that one room.

3 Q. Is it a room as big as this room?

4 A. Not exactly, smaller.

5 Q. Okay. But that is where the
actual

6 boards and the actual testing goes on?

7 A. Yes.

8 Q. Is there an office?

9 A. Yes.

10 Q. Separate from that?

11 A. Yes.

12 Q. More than one office or just one?

13 A. Well, it's two offices, actually.

14 It's one in front and one in back.

15 Q. Okay. And who -- where did Darin
16 office?

17 A. Darin is the one in the back.

18 Q. Okay. And who officed up front?

19 A. Darlie's.

20 Q. Okay. And that is where the
financial

21 records were kept?

22 A. Yes, I believe that, yes. That's
23 where the paperwork was done because I seen them do

it

24 there.

25

would

Q. When the mail would come in, who

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1 collect the mail?

2 A. Before it was Darin and Darlie,
but I

3 was doing that recently.

4 Q. Okay. Then, if a bill needs to go
out

5 to some company, who prepared that bill?

6 A. When my daughter was working, she
7 would write out bills for whatever Darlie or Darin
tell

8 her to pay bills, so she just fill them out and --

9 Q. No. I'm talking about a bill to a
10 customer. Someone who had sent computer boards
down?

11 A. Oh, Darin takes care of that,
or

12 Darlie takes care of that.

13 Q. An invoice to that customer?

14 A. Darlie would do that.

15 Q. Darlie did that?

16 A. Yes, I didn't do any
paperwork,

17 really.

18 Q. Pardon?

19 A. I didn't do any paperwork.

20 Q. You didn't do any of the

bookkeeping?

21 A. No, not at all, sir.

22 Q. Do you know how much profit they
made

23 on those boards?

24 A. Good profits.

25 Q. Good profits?

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Reporter

2614

1 A. Yes.

2 Q. Were some more profitable than
others?

3 A. Yes. Well, when we do retest,
it is

4 less money, because when the customer require a
new

5 fixture and a new test, that is where the big
bucks come

6 from.

7 Q. All right. But some, I guess
8 different boards or different numbers of circuits?

9 A. Oh, yes, they are all different
from

10 different customers.

11 Q. Profitability --

12 A. Different part numbers,
different

13 looks, different shapes.

14 Q. And do different customers get
charged

15 different rates or do they all get charged the
same rate?

16 A. Different rates. Sometimes --
I don't

17 know for sure, but Darin would discuss sometimes
what the

18 job will cost.

19 Q. Now, over that period of time,
do you

20 remember that there were computers that were
purchased

21 for the front?

22 A. Only one computer for Darlie.

23 Q. Do you remember that, that
computer

24 was purchased?

25 A. Yes, I remember that. That was
a

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Reporter

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1 computer purchased to do the paperwork on. There
was
2 typewriting on it, typewriting only.

3 Q. And did it keep invoices and
things
4 like that, or records?

5 A. I don't know if it kept
invoices, I
6 have no idea.

7 Q. Well, did they buy software to
go with
8 that?

9 A. I don't know.

10 Q. You do not know?

11 A. No. I just know I saw the new
12 typewriter and the computer.

13 Q. Remember that a new phone
system was
14 needed?

15 A. We don't have a new phone
system.

16 Q. You don't remember getting a
new phone
17 system?

18 A. We don't have one.

19

Q. Ever?

20

A. We just got -- when we started

the

21 shop, that is when the used bought from ATG, I

remember,

22 because they went out of business and that is

where Darin

23 bought the used phone system.

24

Q. Never bought any new phones?

25

A. No, sir.

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Reporter

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1 Q. What about office furniture,
buy
2 office furniture?

3 A. Darlie bought a new desk.

4 Q. Buy fax machines?

5 A. Yes, they purchased a fax
machine.

6 Q. And all of those things were
bought

7 and placed down in the business, weren't they?

8 A. Yes, a few things, yes.

9 Q. And, you seem like a pretty
frugal

10 lady, would you say so?

11 A. What does frugal mean?

12 Q. Frugal. That you mind your
dollars.

13 A. Yes, I do.

14 Q. Actually you came from a pretty
15 wealthy family in Poland, didn't you?

16 A. Well --

17 Q. By Polish standards?

18 A. Well, we were comfortable.

19 Q. Okay. And --

20 A. We were money-coordinated, we knew

how

21 to save money.

22 Q. And that is your background

forever,

23 as long as you can remember; isn't that right?

24 A. Yes.

25 Q. And you see nothing wrong, for

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1 instance, with buying refurbished or second-hand
2 equipment to get the job done, do you?

3 A. No, I didn't see nothing wrong
with
4 that.

5 Q. Matter of fact, that makes good
sense,
6 doesn't it?

7 A. Yeah, if it works, why not.

8 Q. Now, you said that -- you were
9 describing the business in September, or I'm sorry,
in
10 December and January. December of '95 and January of
11 '96?

12 A. Yes, we were slow.

13 Q. Okay. How much were the billings
for
14 December of 1995?

15 A. I have no idea.

16 Q. How much was collected?

17 A. Sir, I don't keep the books, I
don't
18 know.

19 Q. How much were the expenses that
month?

20 A. I have no idea.

21 Q. And I can go through January and
ask

22 you the same questions, can't I? And you'll say, "I
have

23 no idea"?

24 A. We were slow and the money really
25 wasn't coming in because Darlie would come into the
shop

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1 and check the books.

2 Q. The money that you have no idea
how

3 much it was, was not coming in; is that right?

4 A. There was no money, because Darin
was

5 talking to me about it, saying that it's upsetting
Darlie

6 really bad, because when he gives me my paycheck, he
say,

7 "Well, you are the only who's getting paid now,
because

8 I'm not. Because we don't have no money."

9 Q. How much were the deposits for
10 January, do you know?

11 A. I didn't keep track. We got some
12 work, don't take me wrong that we didn't have work
at

13 all. We were having some work coming, some
retests, a

14 few new jobs started coming in slowly, but not
enough.

15 Q. And, you are not the kind of
person

16 who would sit around on the job, are you?

17 A. When it was slow, and Darlie and
Darin
18 would go shopping or something, I would play computer
19 games before and answer the phones, and if something
20 comes in, I will do the job.
21 Q. You wouldn't go home if you didn't
22 have anything to do?
23 A. When Darin said that they didn't
have
24 no money, I told him that I could leave early so he
25 didn't have to pay me.

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1 Q. But he continued to pay you,
didn't
2 he?

3 A. Well, he paid me what I -- the
hours
4 that I was there.

5 Q. And that was how much an hour?

6 A. What I ended up making before I
quit?

7 Q. In January in 1996?

8 A. I started making \$10 an hour.

9 Q. Now, I don't mean to belabor this,
but
10 you do not know what the deposits were for January,
11 February, March, April, May and June for 1996, do
you?

12

13 MR. TOBY L. SHOOK: Judge, I'll
14 object. It has been asked and answered several
times.

15 THE COURT: I'll sustain it. I
think

16 she has answered, Mr. Mosty. She said she did not
know

17 that.

18 MR. RICHARD C. MOSTY: Well, the
only

19 one I asked her to answer about was January.

20 THE WITNESS: Well, I know I made
21 deposits. But, sometimes it was just a thousand
dollar

22 deposit. I remember maybe a few, sometimes it was
just

23 \$700, I don't exactly remember, sir. I don't stay
and

24 look at the books.

25

1 BY MR. RICHARD C. MOSTY:

2 Q. Maybe I'm the only one who has
not

3 heard you answer this directly. But do you know how
much

4 money was deposited in the first six months of 1996?

5 A. I don't keep the books. I don't
know.

6 Q. And do you know what the expenses
were

7 for the first six months of 1996?

8 A. All I know is that I was told
there

9 was no money.

10 Q. That wasn't my question. Do you
know

11 what the expenses were for 1996, the first 6 months?

12 A. I don't keep the books. I don't
know.

13 Q. Thank you.

14 A. The only thing I know that I am
15 told --

16

17 MR. RICHARD C. MOSTY: Excuse me,
your

18 Honor. I think she answered the question.

19 THE COURT: I'll let her go ahead
and

20 answer the question. Go ahead and answer it.

21 MR. RICHARD C. MOSTY: Excuse me,
your

22 Honor. I'm going to object, it's non-responsive.
She

23 answered the question and then she quit.

24 THE COURT: Are you satisfied
with the
25 answer?

1 MR. RICHARD C. MOSTY: The, "I
don't

2 know," answer?

3 THE COURT: Yes.

4 MR. RICHARD C. MOSTY: I think
that

5 was the complete answer.

6 THE COURT: All right. That is
fine.

7 Don't say anything until the next question.

8

9 BY MR. RICHARD C. MOSTY:

10 Q. Were you upset or -- I guess the
11 question maybe is: Did it bother you that Darlie
was

12 taking more money out of the business than you
were?

13 A. That is her business.

14 Q. That didn't bother you at all?

15 A. The only thing bothered me,
that

16 Darin -- I asked Darin, I said, "How much more
Darlie

17 needs at the house? I need things here." Because
he is

18 charging people for netlist, where he is not
performing a

19 netlist test. And that is cheating people.

20 Q. When did that conversation take
place?

21 A. When all this happened, that
started

22 from the beginning they were doing that. And I
have

23 questioned that, and I've told them that we don't
do

24 netlist. But they told me that the customer told
them to

25 go ahead and do the golden test and just put down
on the

1 paper netlist test.

2 And so, I said, "We don't do
netlist

3 test. We never use that in our tester." And so
then,

4 apparently he stopped.

5 But then, when he wasn't at work
and I

6 had to deal with the customers I found out that we
were

7 supposed to do clam shell test, netlist test.

8 And I said, "Sir, we don't do
that."

9 And he says, "Well, we have it on paper."

10 And, I said, "Well, I will let you
11 talk to Darin when he comes." So that was never a
12 netlist test performed. So I told him, I said,
"You

13 can't cheat the customers like that no more. You
are

14 cheating them."

15 Q. Excuse me, Miss Jovell, you said
this

16 was from the beginning?

17 A. Yes.

18 Q. That's talking about 1992, wasn't
it?

19 A. Yes.

20 Q. So those things that you are just
now

21 describing, that long conversation --

22 A. Until now.

23 Q. Was in 19 --

24 A. Until the time that I quit.

25 Q. That started in 1992, didn't it?

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1 A. Yes, it did.

2 Q. Okay.

3 A. That is the only thing that really
4 bothered me because you will charge for netlist test

--

5

6 MR. RICHARD C. MOSTY: Excuse me,
your

7 Honor.

8 THE COURT: Ma'am.

9 THE WITNESS: Oh, I'm sorry.

10 THE COURT: That's all right.

When

11 Mr. Mosty is through with his question and you have
12 answered it, just wait until the next question.

13 THE WITNESS: I was just trying to
say

14 that is the only thing that bothered me.

15 THE COURT: All right. I thank
you

16 very much. If you want to say it, say it with the
17 answer.

18 THE WITNESS: Okay.

19 THE COURT: Thank you. Don't stop
and

20 then wait. All right. Go ahead.

21

THE WITNESS: Okay.

22

23 BY MR. RICHARD C. MOSTY:

24

Q. Let's talk about -- well, let's

talk

25 about June 5th, 4th and 5th. You say you went by the

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1 house that day?

2 A. Yes, sir, I did.

3 Q. Essentially to pick up your
mother?

4 A. That was --

5 Q. To take her and pick her up?

6 A. Darlie -- I remember I went there
on

7 Wednesday, that was Wednesday, yes, that was
Wednesday on

8 June 5th. Yes, it was.

9 Q. You didn't pick -- you didn't take
10 your mother both days?

11 A. No. Darlie took mother home on
12 Tuesday.

13 Q. Who took her over there on
Tuesday?

14 A. I took her over there.

15 Q. You took your mother over Tuesday?

16 A. Yes.

17 Q. Darlie brought her home?

18 A. Yes.

19 Q. You took your mother over
Wednesday?

20 A. Yes.

21 Q. And you picked her up?

22 A. Yes, I have.

23 Q. Now, Tuesday morning you didn't
have

24 any conversations with Darlie?

25 A. No, sir. I waited for Darin
outside.

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2625

18 that Darlie had to bring it upstairs yet. They were
19 clean.

20 Q. Now, and you say she was pacing?

21 A. Yes, she seemed like was walking
back

22 and forth, but I don't exactly know what she was
doing.

23 She was upset.

24 Q. Where were you?

25 A. I was in the kitchen.

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1 Q. Standing?

2 A. Yes.

3 Q. What part of the kitchen?

4 A. By the island, you call it.

5 Q. Okay.

6 A. The big thing in the middle of the

7 kitchen.

8 Q. On the opposite side from the

sink?

9 A. I was on both sides, really.

10 Q. Okay. And you were moving around?

11 A. A little bit, yes. I kind of

tried to

12 follow Darlie. I am looking at her, I said, "What's

13 going on?" I said, both of them are upset but I'm

not

14 going to ask.

15 Q. Where was your mother?

16 A. In the kitchen.

17 Q. In the

kitchen?

18 A. Ready to go,

yes.

19 Q. Where was Darlie doing this

pacing?

20 A. Pardon me?

21 Q. Where was she doing this pacing?

22 A. She was going back from the
kitchen

23 and to the family room and then she went on the
other

24 way.

25 Q. In the what?

1 A. Well, she paced -- I see her
going,

2 she is like carrying, maybe, something.

3 Q. She is like hearing maybe
something?

4 A. Pardon me?

5 Q. Did you say she's like hearing
6 something?

7 A. Carrying something.

8 Q. Carrying?

9 A. Yeah, but I don't know what. She
is

10 walking from the kitchen into the family room then
she

11 went the other direction, kind of hallway through --
and

12 I am staring at the fireplace.

13 Q. And she was carrying things
between

14 the rooms?

15 A. Well, she had something in her
hand

16 but I didn't pay attention to what it was.

17 Q. You don't recall what it was?

18 A. No, sir.

19 Q. Well, when you pace back and
forth in
20 an upset area, do you take things from room to room?
21 A. Well, not necessarily.
22 Q. But she could have been walking
just
23 taking something from the kitchen to the family
room?
24 A. I don't know. She just walked
through
25 there and stuff and my mother was after me, "Come
on, I

1 want to go home".

2 Q. But you don't recall what she
had in

3 her hand?

4 A. No, sir.

5 Q. Did she go other places other
than

6 from the family room to the kitchen, walk other
places?

7 A. I don't know. I am looking at
the

8 fireplace and I have my mama upset by me, and I
said,

9 "What's going on?" I said, "Is Darlie upset?"

10 Q. Okay. You are standing in the
11 kitchen?

12 A. Yes, sir.

13 Q. Looking at the fireplace?

14 A. Yes.

15 Q. And not really paying attention
to

16 what Darlie is doing?

17 A. No, I am looking at her and I
said,

18 something is going on. She is upset.

19

Q. So you looked at the fireplace?

20

A. And mama is standing by me and is

21

making me nervous saying, "Come on. Come on." And I

22

said, "No. I'm going to relax for a minute and then

23

we're going to go."

24

Q. Okay. But you were standing up?

25

A. Yes, I have.

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1 Q. And you were looking at the
fireplace?

2 A. Yes, I love to look at fireplaces.

3 Q. Was there a fire in it?

4 A. No, sir.

5 Q. It was June, wasn't it?

6 A. Yes. I just look at the
fireplace.

7 Q. You just like looking at it.
Okay.

8 And Darlie was carrying things back and forth from
the
9 kitchen to the family room?

10 A. She was walking back and forth.

I'm

11 not really paying attention no more. I says,
Okay. I'm

12 not going ask. But we did say something but I
don't

13 quite recall what it was.

14 Q. What about other rooms? Did
she go in

15 other rooms?

16 A. I don't know. She disappears
for a

17 little bit.

18 Q. Walked in --

19 A. Then she comes back.

20 Q. Did she go upstairs?

21 A. I believe there was something
on the

22 stove cooking.

23 Q. Yeah, she was cooking supper,
wasn't

24 she?

25 A. Yes, she was.

Sandra M. Halsey, CSR, Official Court
Reporter

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1 Q. And so while you are saying she
is
2 pacing, she is cooking supper, she is taking
things to
3 the family room?

4 A. The pot is simmering.
Something is

5 simmering in the pot.

6 Q. And doesn't she go over and check
it?

7 A. No.

8 Q. She never --

9 A. No. I went over there and said,
"Um,
10 smells good."

11 Q. You were checking the supper
while

12 Darlie was pacing?

13 A. Nobody is checking it. It is
14 simmering, something is simmering in the pot, and I
just

15 looked and said, it looked good.

16 Q. What was for supper?

17 A. Some kind of chicken soup type of
18 stew, type of deal she was making. It smelled

really

19 good.

20 Q. And how long did this pacing go
on?

21 A. Well, I didn't stick around too
long

22 to know. I know she was upset, mama is upset, I
said,

23 "Okay, it's time to go".

24 Q. A minute or two?

25 A. Well, she is walking back and
forth.

Sandra M. Halsey, CSR, Official Court
Reporter

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1 She never sits down really and have a conversation
or
2 anything.

3 Q. You never sat down?

4 A. No.

5 Q. You stood up and drank your
beer and

6 walked around, didn't you?

7 A. A little bit. I kind of
looked, you

8 know, where she is going. She is going to the
family

9 room and then she went the other way. And mama is
at me

10 so I'm like, "Hold on. We're going to leave
soon." We

11 left shortly after I finished the beer, we left.

12 Q. And you don't recall anything
that you

13 and Darlie said in that time? Or did you say
anything?

14 I'm sorry.

15 A. We maybe said something but I
really

16 don't remember. I was just like, what's going on?

Both

17 women are upset. I didn't know what was going on.

Well,

18 I kind of knew that Darlie was upset because I
talked to

19 Darin before he went to pick up -- to move the
Jaguar.

20 Q. We're not going to go into what
Darin

21 said.

22 A. Okay.

23 Q. I'm just wanting you to
describe what

24 you saw.

25 A. Okay.

Sandra M. Halsey, CSR, Official Court
Reporter

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1 Q. Can you give me any estimate of
how

2 long you were in the house that day?

3 A. We maybe left about quarter to
6.

4 Q. Okay. Well, what time did you
get
5 there?

6 A. About quarter after.

7 Q. So you were there a half an hour,
you
8 think?

9 A. Maybe not even that. I really
don't
10 know.

11 Q. And during that entire time,
Darlie
12 was pacing like this?

13 A. Yes. She looks upsets and she's
14 not -- she's going, then, you know, she left. I
don't

15 see her, and mama is at me again.

16 Q. Okay. Now you went out the front
17 door?

18 A. Yes, I have.

19 Q. And when you got outside you saw
a

20 black car?

21 A. No, I didn't see a black car.

22 Q. When did you see the black
car?

23 A. It passed me by. I was
driving.

24 Q. Which way were you heading?

25 A. I was going towards Linda Vista,
south

Sandra M. Halsey, CSR, Official Court Reporter

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1 on Linda Vista.

2 Q. Did you see that that car was
stopped

3 when you first saw it?

4 A. No, sir.

5 Q. You didn't see it when it was
first

6 stopped?

7 A. No, sir, I did not.

8 Q. Your mother told you she saw it
9 stopped, didn't she?

10 A. I don't remember.

11 Q. You don't recall that?

12 A. I just saw that car driving by
fast.

13 Q. You don't recall seeing a man get
in

14 that car?

15 A. I didn't --

16 Q. You don't recall a Hispanic male?

17 A. No. I didn't see the male.

18 Q. How many people were in the car?

19 A. I didn't see how many people was
in

20 the car.

21

Q. You don't know?

22

A. No, I only saw back of the car.

23

Q. You thought that car was

suspicious,

24 didn't you?

25

A. No. I told mother to, pardon my

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1 language, "Quit freaking out, mama. There's a lot
of
2 black people living in this neighborhood".

3 Q. A lot of what?

4 A. Black people. Because she said,
"Who
5 is that black man?" When he passed us.

6 And I said, "What man?"

7 And she said, "That man in the
black
8 car."

9 And, so I looked, and I only saw
the
10 back of the car. I didn't see no man.

11 Q. And your mother told you that
that was

12 the same car that she had seen the day before at the
13 Routiers?

14 A. I believe she -- I believe she
saw --

15 she -- we gave a statement to police. I don't
really

16 remember how it was, but there was a man in the back
17 alley in a black car.

18 Q. A man in the black alley (sic)?

19

A. In a black car.

20

Q. In the back alley?

21

A. In the back alley when she was in

the

22 garage.

23

Q. And that is your mother telling

you

24 this?

25

A. Yes.

1 Q. That is the day before while she
was
2 working?

3 A. That was on -- I don't really
4 remember, sir.

5 Q. Well, it was the earlier day she
was
6 working, whatever day that was?

7 A. Right. But she saw, yes, she did
see
8 a black car in a back alley. And she, she -- when
he
9 passed us by, really fast, or a black car passed us
by,
10 she said she saw the black car in the back alley.
When
11 she was in the garage, he was like sitting and like
12 waiting for somebody but he was looking into the
garage.

13 Q. Like he was watching the house?
14 That's what your mother told you, wasn't it?

15 A. Something like that, yes.

16 Q. That it was somebody who was
17 suspicious in the back alley looking in the garage?

18 A. Well, what was -- the exact word

is.

19 What was he -- I don't recall but something, not
20 suspicious. It was more of, "Who is that black man
and
21 what is he doing in this neighborhood?"

22 She thought black people don't
have
23 nice neighborhoods.

24 Q. Okay. So she had seen another
black,
25 she seen --

Sandra M. Halsey, CSR, Official Court Reporter

1 A. She seen a black car in the back
2 alley, and a man was sitting there like he was
waiting
3 for somebody.

4 Q. And like he was looking in the
garage?

5 A. And he was looking in the garage,
yes.

6 Q. The Routier garage?

7 A. Yes.

8 Q. And that was the day before you
and
9 your mother saw, or the day before, two days before
you
10 and your mother saw this black car?

11 A. I only saw that one time when he
12 passed us by.

13 Q. That's right. But that is when
your

14 mother said, "That is the same car that I saw earlier
in
15 the alley"?

16 A. Yes, yes.

17 Q. That is what she told you?

18 A. Yes.

19 Q. Now, speaking of that -- and that
is
20 what you told the police, isn't it?

21 A. Well, I only told them what I saw,
and
22 I tried to help translate mama, what she saw.

23 Q. And she was there with you at this
24 time?

25 A. Yes, she was.

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1 Q. And that is what she told the
police?

2 A. Yes, she was.

3 Q. Okay. And you also told the
police at

4 that same time that you were not aware of any
problems

5 between Darin and Darlie, didn't you?

6 A. Well, I lied to the police, sir.

7 Q. That -- your statement is that
when

8 you told the police that --

9 A. The police asked --

10 Q. Excuse me. Let me finish my
question.

11 A. I'm sorry.

12 Q. Your statement is, that when you
told

13 the police that you were not aware of any problems

14 between Darlie and Darin, that you were lying to
the

15 police?

16 A. No, the police asked me if I saw
any

17 violence in the house and I told them no.

18 Q. And the police officer, if he
wrote

19 down that Barbara didn't know of any problems
between

20 Darin and Darlie, that is wrong?

21 A. I -- yes, that was wrong. I
didn't --

22 I was very -- I was very tired. I had not hardly
slept.

23 I didn't want to go to the police station at first.

I

24 called them and I told them, the police, that I

could see

25 them later, because I just wanted to see Darlie and
I

1 wanted to get to the cemetery.

2 Q. Well, this is on --

3 A. And I just wanted to tell them
about

4 that black car, and I didn't want to say to the
police

5 that Darlie and Darin had problems.

6 Q. Well, you have already told us
that

7 they had a good marriage?

8 A. Yeah, but they had problems,
too.

9 Q. Well, have you seen a marriage
yet

10 that doesn't have problems?

11 A. Yes, but lately, well -- it's
been

12 constant kind of fighting.

13 Q. You had problems in your
marriages,

14 haven't you?

15 A. Yes, sir, but I never had that
kind of

16 constant fighting.

17 Q. Well, how many divorces have you

had?

18 A. Well, I had two, sir.

19 Q. Okay. And Darlie and Darin

haven't

20 had one, have they?

21 A. No.

22 Q. Okay. Now, is it your statement

that

23 you lied to the police officers on June 8th, when

you

24 told them that Darin and Darlie did not have

problems?

25 A. Yes, I have. I lied. I was too

1 emotional to -- I didn't want -- I didn't feel at
that
2 time, that it's any of their business about it. I
just
3 wanted out of there. I just wanted to tell about
that
4 black car, and I didn't want to say that Darlie and
Darin
5 had problems.

6 Q. And over the last six or seven
months,

7 that is what you said back then, and over the last
six or

8 seven months you started telling this other story
now?

9 A. What other story?

10 Q. The one you're telling us today.

11 A. I didn't want to go to the police
12 station. Okay? Dana, her sister, volunteered me to
go
13 there.

14 Q. And that was because of the black
car,
15 wasn't it?

16 A. Right, to tell about that black

car.

17 Q. And you were suspicious of that
black

18 car, weren't you?

19 A. I was not.

20 Q. You were not?

21 A. I just told them what mother saw
and

22 what I saw pass me by.

23 Q. Your mother was suspicious of that
24 black car?

25 A. But when mother --

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1

2 MR. TOBY SHOOK: Judge, I'll
object.

3 These questions have all been asked and answered.

4 THE COURT: I'll sustain the
5 objection. Let's move on. Wait for the next
question.

6

7 BY MR. RICHARD C. MOSTY:

8 Q. Tell me the day, as best you can,
of
9 when you had this conversation with Darlie about what
you
10 described as her telling you about getting pills out.
11 When was that?

12 A. Pardon me?

13 Q. When was the conversation you had
with
14 Darlie about the pills?

15 A. She came in and she came -- well,
she
16 came into the shop, and she said that she is going to
go
17 see Dr. Jenson. I don't exactly remember when she
went

18 or anything, but she goes back, because she went on
those

19 pills once, because she went to a different doctor.

20 Q. You are talking about the diet
pills

21 now?

22 A. Yes.

23 Q. Excuse me. I'm talking about the
24 conversation that you said when she was going to take
25 some pills.

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1 A. Oh, that must have occurred when I
was

2 on my vacation.

3 Q. You were on vacation?

4 A. Yes, because when I came back home
5 from vacation, that is when I found this out.

6 Q. When did you have the conversation
with

7 Darlie?

8 A. I went to Darlie shortly after I
9 arrived. I was concerned after talking with my
daughter

10 and then Darin telling me, I got upset. I don't
exactly

11 remember which day, but we were slow at work again.

I

12 stayed on my vacation longer because Darin told me
not to

13 rush --

14

15 MR. RICHARD C. MOSTY: Excuse me,
your

16 Honor. May we approach the bench?

17 THE COURT: You may.

18

19 (Whereupon, a short

20

Discussion was

held

21

Off the record,

after

22

Which time the

23

Proceedings were resumed

24

As follows:)

25

Sandra M. Halsey, CSR, Official Court Reporter

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1 THE COURT: Ma'am, whenever a
question

2 is asked, if you could just answer it as briefly as
3 possible. Just precisely what they ask you. Okay?

4 THE WITNESS: Okay.

5 THE COURT: Thank you. If they
want

6 to know anything else, they will ask you. Okay?

7 THE WITNESS: I'm doing
something

8 wrong?

9 THE COURT: You are doing
nothing

10 wrong. Just answer the question that is asked.
Okay?

11 THE WITNESS: Okay. Thank you.

12 THE COURT: You're doing fine.

Go

13 ahead.

14

15 BY MR. RICHARD C. MOSTY:

16 Q. Where did your conversation
with

17 Darlie take place?

18 A. Sometime after I came back from
my

19 vacation.

20 Q. Where, was the question.

21 A. About the pills? At her home.

22 Q. Where in her house?

23 A. In the kitchen.

24 Q. Who was there?

25 A. Only Darlie and I and the
children.

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1 Damon was upstairs and the baby was on the floor.

2 Q. And what was Darlie doing?

3 A. We were -- at that time, we were
4 standing together by the island and talking.

5 Q. Well, what -- when you got there,
what

6 was she doing?

7 A. She was in the kitchen.

8 Q. Doing what?

9 A. I don't remember.

10 Q. Okay. So you went in the kitchen?

11 A. Yeah, I went over there.

12 Q. Okay. Tell me the first thing you
13 said.

14 A. Well --

15 Q. What I want is to know how this
16 conversation developed and how you got around to
talking

17 about this. So who initiated it and how did this
18 conversation get going?

19 A. I asked her how she was doing.

And

20 she said fine. And I said, okay. And then she
turned

21 around to me and she told me, "Have you heard what
22 happened?"

23 Q. Now, wait a minute. I want to
make

24 sure that I'm understanding this exactly.

25 A. Okay.

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1 Q. You say, "How are you doing?"

2 A. Yes.

3 Q. She says, "Fine." And then she
starts

4 telling you about the pills?

5 A. No, sir. She told me, "Did you
heard

6 what happened?"

7 And at the time I didn't tell
Darlie

8 that I have heard from my daughter and Darin, because
she

9 gets upset when -- somebody --

10 Q. And then what did --

11

12 MR. TOBY L. SHOOK: Judge, we will
13 object. She has not finished answering the
question.

14 THE COURT: Yes. Finish your
answer,

15 ma'am.

16 MR. RICHARD C. MOSTY: Well,
excuse

17 me, your Honor, but I thought that's all --

18 THE COURT: Well, she says she

gets

19 upset. You were cutting her off in the middle of
the

20 sentence.

21 MR. RICHARD C. MOSTY: Well, that
gets

22 upset was not near the question I was asking. It
was who

23 said what.

24 THE COURT: Thank you. She was
giving

25 the answer. Finish your answer, ma'am.

1 THE WITNESS: Darlie told me that
I
2 heard what happened and I lied to her telling her
that I
3 didn't know what happened. And I said, "What?"
4 She said, "Well, Bashia, I was
just
5 going to do it."
6 And I said, "Do what?"
7 And she said that she was going
to
8 take her life.

9

10 BY MR. RICHARD C. MOSTY:

11 Q. Is that how she said it?

12 A. I don't exactly -- I can't tell
you

13 word for word.

14 Q. Best you can, what words did she

--

15 A. But to the best of my knowledge,
that

16 she was going to take her life away, and she had
already

17 taken pills out of wrappers, she had them upstairs.

She

18 was upstairs. She was --

19 Q. Excuse me, Miss Jovell, what I
would

20 like for you to try to do, is say it as if she were

21 saying it. Like saying, "I was doing this." That

is

22 what I'm asking you. What were the exact words, as

best

23 you can tell me, in her own words?

24 A. I will try, but.

25 Q. And let's -- and maybe it's
easier if

1 we go through it about who said something, who said
2 something next. We won't go through the whole thing
at
3 once. We will go through it so that we can get it
down
4 as it happened. All right?

5 A. All right.

6 Q. Now, she said something about, "I
had

7 them out of the wrappers," or something. Tell me
how she

8 said that, as best you recall.

9 A. She said that she was upstairs.
She

10 was taking -- she had all the pills out of the
wrappers

11 or out of the wrappers.

12 Q. All the pills out of the
wrappers?

13 A. Yes.

14 Q. What kind of wrappers?

15 A. I have no idea.

16 Q. She didn't describe the
wrappers to

17 you?

18 A. No, sir.
19 Q. Like she had opened a bag?
20 A. No, only wrappers.
21 Q. She didn't say anything about
pill
22 bottles, did she?
23 A. No.
24 Q. She said wrappers?
25 A. Wrappers.

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Reporter

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1 Q. Okay. Now, then, what did she
say?

2 A. She said that she had all the
pills

3 ready and she was writing a note. And that if
Darin

4 wouldn't come in, she would have took the pills. But
she

5 heard Darin come in, and she put the pills away, she
6 quickly, because he was coming up, threw the
wrappers

7 underneath the bed.

8 Q. Did she tell you where she put
the
9 pills?

10 A. No.

11 Q. Just put them away?

12 A. She hid them away.

13 Q. Okay. She didn't say whether or
not

14 she put them in the wrappers or out of the wrappers?

15 A. No. She just said that she put
them

16 away and she shoved the wrappers under the bed. And
she

17 hid everything, and when Darin came in, Darin would
not

18 have known until the dog started playing with the
19 wrappers and took them from under the bed.

20 Q. When did the dog come in?

21 A. Well, she told me about it.

Domain,

22 the dog was playing around with those wrappers
underneath

23 the bed and he took them out from under the bed.

24 Q. And this was right after Darin

--

25 A. And that is when Darin saw the

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Reporter

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1 wrappers.

2 Q. Okay. Did Darin come in the
room

3 actually?

4 A. She said he came in.

5 Q. Okay. So she threw the
wrappers under

6 the table (sic)? Darin came in.

7 A. Under the bed.

8 Q. Under the bed. Darin came in
and then

9 the dog came in?

10 A. The dog stays upstairs most of
the

11 time.

12 Q. But the dog went under the bed
and he

13 brought out the wrappers?

14 A. Yes.

15 Q. And so Darin caught her right
then?

16 A. Darin saw the wrappers and
that's when

17 I told Darlie, I said, "Darlie" -- well, go ahead
with

18 your question.

19 Q. But all this, it was described
to you

20 as all of this happening just right after another
in

21 their bedroom?

22 A. That is what I was told.

23 Q. Now, let's talk about this film
that

24 we saw?

25 A. Yes.

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Reporter

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1 Q. That was on --

2 A. June 14th.

3 Q. June 14th, which was Devon's
birthday?

4 A. Devon's birthday, yes.

5 Q. And you say you were invited
out
6 there?

7 A. Yes, I was.

8 Q. Do you know whose idea it was
to bring
9 that silly string out? Silly -- whatever it's
called,
10 out there?

11 A. Yes. Silly string.

12 Q. Silly string out there?

13 A. Yes, that was her sister's
idea.

14 Q. That wasn't Darlie's idea, was
it?

15 A. She discussed it with Darlie
and she
16 said -- and that is what they were going to do.

17 Q. But the sister had brought that
out,

18 hadn't she?

19 A. She told me about it, that that
is

20 what they were going to plan.

21 Q. And were you there for the --
were you

22 there when the Baptist ministers were there?

23 A. What Baptist ministers?

24 Q. You don't know about that?

25 A. There was no Baptist ministers
in that

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Reporter

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1 cemetery.

2 Q. You don't know about the prayer
3 service that had been held right before that?

4 A. Yes, it had been mentioned by
Mama

5 Darlie and the family that was going to leave.

Yes, I

6 remember that. Yes, that was apparently, something
that

7 Mama Darlie and the family that was going to leave,
and

8 they went back to the cemetery. But I don't know
9 anything about ministers.

10 Q. You weren't there?

11 A. No.

12 Q. When the Baptist ministers led
them in

13 prayer at the grave site?

14 A. No, sir, I was not.

15 Q. Do people in Poland have different
16 customs and different reactions to funerals than in
17 America?

18 A. Yes, sir.

19 Q. Very much so?

20 A. Well, not that much, that was

21 different.

22 Q. Well, I'm talking about just in
23 general. Do Polish people celebrate their customs of
24 funerals different than we do in America?

25 A. Well, we normally will go to the

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1 cemetery for the performance, there will be long
prayers.

2 Q. You're Catholic aren't you?

3 A. A Roman Catholic, yes.

4 Q. And do you go, or do you know
people

5 who go on birthdays to grave sites and talk to their

6 husband or wife, or whomever their loved one is?

7 A. Yes, yes.

8 Q. That is not uncommon, is it?

9 A. Maybe not. I personally haven't
done

10 it. But we normally go really for the -- how do you
say

11 in English, when we celebrate all of the dead people?

12 Q. Is that a wake?

13 A. No, no. I don't know how to say
in

14 English.

15 Q. That's Irish, I believe.

16 A. No, sir. This is, it's once a
year, a

17 big celebration that we go, and we all go to the
cemetery

18 and we put out candles all over the graves, and we

pray.

19 Q. All Souls Day?

20 A. Yeah, that type of celebration.

It's

21 here too, but I forgot the name of it.

22 Q. Different religions do that

23 differently, don't they?

24 A. Well, I don't know about any other

25 religions.

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1 Q. Okay. And during that time out
there

2 at the cemetery, there were times when you hugged
various

3 people, weren't there?

4 A. What cemetery?

5 Q. The film we saw.

6 A. Oh, yeah.

7 Q. The birthday party.

8 A. Yes, yes.

9 Q. You hugged some people?

10 A. Yes.

11 Q. You cried some?

12 A. We tried not to cry, well, I tried
not

13 to cry.

14 Q. Okay. And you laughed some?

15 A. We smiled some, not really, I
didn't

16 really laugh.

17 Q. You didn't joke around?

18 A. I smiled a little bit and I don't,
19 well, I mean, what you saw really.

20 Q. You didn't joke around some, are
you

21 sure about that?

22 A. Joke about what?

23 Q. Joke around about anything.

24 A. No, sir.

25 Q. You are certain?

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1 A. If I did, I don't remember joking
2 about anything.

3 Q. Well, there were pictures of
Darlie
4 there crying, weren't there?

5 A. I didn't see Darlie cry.

6 Q. You never saw Darlie cry at that
whole
7 time at that birthday party?

8 A. I didn't.

9 Q. Did you see her wipe away a
tear?

10 A. No.

11 Q. Never did?

12 A. No, sir.

13 Q. Did you see the film?

14 A. That moment on the film, her head
was
15 down.

16 Q. She was faking wiping away a
tear?

17 A. I didn't see a tear.

18 Q. Did you see her walk around with
19 pictures of her babies in her arms?

20 A. Yes, I have.

21 Q. She had those in her arms a lot,
22 didn't she?

23 A. No, only when the cameraman came.

24 Q. Oh, that is just when the
cameraman
25 came is when she picked up those and put them there?

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1 A. Yes, sir.

2 Q. Okay. Do you remember them
talking

3 about how thankful they were that Drake was still
there?

4 A. Yes, she said that they were
thankful.

5

6 MR. RICHARD C. MOSTY: Your Honor,
7 this is, maybe a time when we need to take up a
matter.

8 THE COURT: All right. If the
jury

9 will step outside, please. Take a 10 minute break
now,

10 please.

11 THE COURT: All right.

12

13 (Whereupon, the jury

14 Was excused from

the

15 Courtroom, and

the

16 Proceedings were

held

17 In the presence of

the

18

Defendant, with

her

19

Attorney, but

outside

20

The presence of

jury

21

As follows:)

22

23

THE COURT: May the record

reflect

24 that all parties of the trial are present and

these

25 proceedings are being held outside of the presence
of the

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1 jury. Mr. Mosty.

2 MR. RICHARD C. MOSTY: Your
Honor,

3 what we're going to go into, and I can either go
through

4 the whole thing or I can tell you in general, and
then

5 we'll --

6 THE COURT: Well, let's just
7 generalize it first, then we will go through it.

8 MR. RICHARD C. MOSTY: Okay.
Mr.

9 Hagler suggested perhaps that I talk too loud and
that

10 the jury might hear me, so if the Court can't hear
me,

11 let me know. I'll try to talk a little bit lower.

12 THE COURT: That will be fine.

13 MR. RICHARD C. MOSTY: What we are
14 going to propose to go into at this time is, in a
15 nutshell, Miss Jovell's psychiatric history; various
16 commitments, various times that she has been in and
out

17 of insane asylums, and, into some of her background,
and

18 her experience with depression, and her own

relationships

19 at which are all relevant about what she is talking
20 about. That she's counselled Mrs. Routier on
21 psychiatric, psychological matters and so forth, and
so
22 we're going to go in to show that.

23 And so, a substantial part of this
is

24 in the Baylor medical records, when she was in there.
25 And a lot of the background in there, of what her
history

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1 is, and describe what her history is that she
described.

2 THE COURT: Perhaps she could
3 summarize it and if you need to ask more questions,
you
4 might for the purpose of this hearing.

5 MR. TOBY SHOOK: Well, Judge, what
6 time frame are you talking about?

7 MR. RICHARD C. MOSTY: Well, I'm
going

8 to -- we're going to pull it right on up to date,
it's

9 going to go from '96 backwards, through, you know,
she

10 is -- the first time she was ever committed or
11 hospitalized in an insane asylum was, she was -- or
her

12 first bout with depression, she was 16.

13 The first time she was in the
14 hospital, was 22. She was 22 years old. She was
in in

15 '89, you know, and we're going to bring up that
whole

16 history of that, of her when she is sitting there
17 counselling Mrs. Routier. What her background is

and

18 what her history is, is a fundamental part of that.

19 MR. TOBY L. SHOOK: Excuse me. Is
20 '89

21 the last year you have there?

22 MR. RICHARD C. MOSTY: That is the
23 last hospitalization I have got, that I have got.

24 MR. TOBY L. SHOOK: Judge,
obviously,

25 we would object then. There is no relevance to that,
in
1989 about some stay in the hospital. It's
completely

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1 irrelevant. It's only being tried to be introduced
to

2 dirty this witness up, in irrelevant matters.

3 THE COURT: Overruled. I'll let
them

4 do it. Go ahead.

5 MR. TOBY L. SHOOK: Well --

6 THE COURT: But if we could sort
of --

7 can we just, could you ask a summation question and
get

8 it, for the purpose of this hearing.

9 MR. DOUGLAS MULDER: Kind of tell
us

10 about all of the times that you have been in an
insane

11 asylum, or something like that?

12 MR. RICHARD C. MOSTY: Well, you
know,

13 the medical records, as you might suspect, are
replete

14 with things that she said. So I will try to move
quickly

15 through it.

16 THE COURT: All right. Thank you.

17 MR. RICHARD C. MOSTY: That is it.

18 THE COURT: Go ahead.

19 MR. RICHARD C. MOSTY: You want me

to

20 go through all this now?

21 THE COURT: Well, can I see them

real

22 quickly?

23 MR. RICHARD C. MOSTY: Sure, these

are

24 the Baylor records.

25 THE COURT: Okay.

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1 MR. RICHARD C. MOSTY: And we will
2 offer the whole record in, too.

3 THE COURT: Okay.

4 MR. RICHARD C. MOSTY: But then I
want
5 to talk to her about some specifics.

6 THE COURT: Let's break, and let
me
7 review these and then we will look at them.

8 MR. RICHARD C. MOSTY: All right.

9 THE COURT: If you will step
down
10 please, ma'am. Thank you.

11 THE COURT: All right.

12

13 (Whereupon, a short
14 recess was taken, after
15 which time, the
16 proceedings were
17 resumed in open
court,

18 in the presence
and

19 hearing of the
20 Defendant,

being

21 represented by
her
22 Attorney, but
outside of
23 the presence of the
jury
24 as follows:)
25

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1 THE COURT: All right. Everyone
2 please have a seat.

3 All right. Let's continue. Let
the

4 record reflect that these proceedings are being
held

5 outside of the presence of the jury and that all
parties

6 of the trial are present.

7 Mr. Mosty, if you will develop
what

8 you wish to on the hearing outside of the presence
of the

9 jury, please.

10

11 BY MR. RICHARD C. MOSTY:

12 Q. Miss Jovell, and I think you
have

13 described this time that you gave Darlie the advice
about

14 getting help, that was in May of 1996; is that
right?

15 A. Yes.

16 Q. And you were counselling with
her?

17 A. Pretty much. I told her to

please get

18 help.

19 Q. And you were -- your opinion was
that

20 she was suffering from depression?

21 A. Yes.

22 Q. That was your opinion?

23 A. Yes.

24 Q. And you thought she needed to go

see a

25 doctor?

1 A. Yes.

2 Q. Did you give her a name of a
doctor?

3 A. No, I haven't, because she told
me

4 that they are going to go to Lubbock and do that
anyways.

5 Q. Okay. Who were you seeking
6 counselling with at that time, and who were you in
7 counselling with?

8 A. Nobody.

9 Q. Nobody? What about -- did you
go to
10 an acupuncturist?

11 A. Oh, yes.

12 Q. Is that for psychological and
13 psychiatric?

14 A. No, sir, that was for my back.

15 Q. For your back?

16 A. Yes.

17 Q. What doctors were you seeing at
that
18 time?

19 A. I only went to see for my back,
that

20 doctor.

21 Q. When was it that -- well, let's

go

22 back the other way. When have you after Baylor --

we

23 will go to Baylor in a minute.

24 A. Yes.

25 Q. But after Baylor, what
psychologists,

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1 counselors and psychiatrists have you seen?

2 A. I went back to my M.D. and I
told him

3 what she have said to me, and I didn't agree with
that at

4 the time. And I went back to my M.D.

5 Q. Okay.

6 A. They have been keeping with me.

7 Q. So actually, and I remember that
8 because even before you went into Baylor, you had
been

9 with your M.D., your doctor?

10 A. Yes.

11 Q. And he had been giving you some
pills

12 for depression, had he not?

13 A. Yes.

14 Q. And then you went to Baylor and
then

15 you went back to that same doctor?

16 A. Yes.

17 Q. What is his name?

18 A. Dr. Niamatali.

19 Q. Actually, he is the one who has
been

20 continuing to give you --

21

22 THE COURT: Would you inquire as

to

23 the first name of the doctor, please?

24 THE WITNESS: Habi Niamatali.

25 THE COURT: Habi?

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1 THE WITNESS: It's an Indian
name, I
2 think.

3 THE COURT: Can you spell it for
us,
4 please, ma'am?

5 THE WITNESS: I don't know. I'm
6 sorry. He is in Garland.

7 THE COURT: All right.

8

9 BY MR. RICHARD C. MOSTY:

10 Q. All right. And, then, that is
the
11 doctor you went to before you went to Baylor?

12 A. Yes.

13 Q. And that is the doctor you went
to
14 after you went to Baylor?

15 A. Yes.

16 Q. And that is the doctor that you
have
17 continued to see?

18 A. No, I quit continue seeing that
19 doctor.

20 Q. When did you quit seeing him?

21 A. Because I didn't need no more
help.

22 Q. When did you quit seeing him?

23 A. Shortly after -- no, maybe -- I
maybe

24 saw him, I don't really recall, but I went there
for, oh,

25 I don't know, really, four more visits to be on the
safe

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1 side.

2 Q. Okay. And what medications have
you

3 continued to take for depression?

4 A. I don't remember, sir.

5 Q. What are you taking now?

6 A. The name of it, no, sir, I
don't.

7 Q. Are you taking anything now?

8 A. No, sir, I don't.

9 Q. Are you taking anything for it
now?

10 A. No, sir, I don't. When this
whole

11 thing started, I was very emotional, I went to my a
12 acupuncture doctor, and that helps me to relax.

13 Q. Okay. So you were upset and you
were

14 emotional and you went to your acupuncturist to --

15 A. When the events took place, when
all

16 this happened.

17 Q. So you went to your acupuncturist
18 because you were under stress and you were not
feeling

19 well, mentally?

20 A. No, sir, I was grieving for the
21 boys.

22 Q. That is a mental condition, isn't
23 it?

24 A. I don't know what you can call it,
25 but

26 I was --

27 Q. Whatever it is, it's an emotion,
28 it's
29 something in your mind?

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1 A. Well, yes, it's an emotion, it's a
2 very painful emotion.

3 Q. You were treated by your
acupuncturist
4 for that?

5 A. Yes, because it helps me to relax,
6 because I couldn't sleep and I cried a lot.

7 Q. That is to get over the emotional
--

8 A. To help me to get sleep and not
to be
9 so -- well, yes, I was very hurt.

10 Q. What have you done over the years
for
11 depression, since Baylor?

12 A. I didn't have to, sir.

13 Q. Not a thing?

14 A. Not a thing.

15 Q. You have not taken any drugs at
all?

16 A. Not a pill one.

17 Q. You have not had a depressed
state

18 since then?

19 A. No. No, sir.

20 Q. In your counselling with Darlie
21 Routier, did you call on some of your background
and your
22 experiences at Baylor?

23 A. Not at Baylor. I tried to tell
her

24 that when I had my daughter, I had a post-partum
25 depression when my child was born. I had post-
partum

1 depression and I tried to take my life away.

2 Q. Okay. And, all of that was part
of,

3 when you were talking to Darlie, part of what you
were

4 trying to do was to relate your life's experiences
to

5 her, were you not?

6 A. Because I see the difference,
more or

7 less, telling her after what happened to me after I
had

8 baby.

9 Q. All right. So you were taking
your
10 past, the one where you were hospitalized for post-
partum

11 depression, that was not at Baylor, was it? That
was at

12 a previous hospitalization?

13 A. Yes, when I had my daughter.

14 Q. So you took these two -- how many
15 times have you been hospitalized?

16 A. Twice.

17 Q. In some kind of psychiatric or

18 psychological hospital? Twice?

19 A. Twice.

20 Q. And you took those life
experiences

21 and they were part of why you wanted to discuss
getting

22 help with Darlie, weren't they?

23 A. Pretty much so, seeing her
behavior.

24 Q. Because you, in your background
and in

25 your make up, you had that, and so you wanted to
share

1 that with Darlie?

2 A. Well, she had known that, I have
told

3 her that before.

4 Q. But that was part of your
5 recommendation of visiting with her, about getting
help

6 and suicide note?

7 A. No, I went there because I wanted
to

8 make sure that Darin didn't lie to me about getting
help

9 for Darlie.

10 Q. But my question is, that part of
what

11 you were counselling her about --

12 A. I didn't counsel her.

13 Q. You didn't counsel
her?

14 A. No. I just told
her --

15 Q. Let me take that back. Your
advice --

16

17 THE COURT: Let her answer the

18 question, please. Go ahead and answer the question.

19 THE WITNESS: It's not

counselling. I

20 was very concerned about her, yes.

21

22 BY MR. RICHARD C. MOSTY:

23 Q. I'll take the word counselling
back.

24 Your advice to her.

25 A. Yes.

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1 Q. Part of your advice was based
upon
2 your own previous hospitalizations and your own
previous
3 mental problems?

4 A. Pretty much so.

5 Q. And you were recommending that
she
6 take the course you took?

7 A. Yes.

8 Q. Now, let's talk then about some
of
9 your depression when you were admitted to Baylor.
You
10 told them at that time that your depression was so
bad
11 that you could not function?

12 A. Yes, sir.

13 Q. And that had -- that that was
your
14 second time in the hospital?

15 A. Yes, sir.

16 Q. But your first episode with
depression
17 was when you were 16?

18 A. I was 16, yes.

19 Q. And when you were 16, you were
20 dysfunctional for a year, weren't you?

21 A. No.

22 Q. Do you remember telling them at
Baylor

23 that at the age of 16 you stayed home from school
the

24 whole year?

25 A. No, that is when I had my
accident,

1 she must have misunderstood me.

2 Q. Isolating and doing absolutely
nothing

3 except sleeping all the time?

4 A. I slept quite a bit, I remember,
yes.

5 That was the summertime and I prefer sleeping.

6 Q. So, this statement in the Baylor
7 medical records is wrong?

8 A. Well, I don't know how she put it
down

9 on the paper. But I remember being in my 16,
through the
10 summertime, I felt depressed. I more or less wanted
to
11 stay home and just sleep and don't go nowhere.

12 Q. Okay. Do you agree with this
13 statement, that you told Baylor that your first
episode

14 with depression was at the age of 16 when she stayed
at

15 home from school the whole year, isolating and doing
16 absolutely nothing except sleeping all the time?

Did you

17 tell Baylor that?

18

19

MR. TOBY SHOOK: Judge, could we

get

20 to a specific time when this statement was supposed

to

21 have been made and to who?

22

THE COURT: That's sustained. I

would

23 like that. If you could get the dates and times.

24

25

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1 BY MR. RICHARD C. MOSTY:

2 Q. Your date of admission to Baylor
was

3 October 15th of 1989?

4 A. Somewhere -- yes.

5 Q. Okay. But this -- this incident
that

6 you're describing was many, many years before?

7 A. No, the same incident.

8 Q. How old were you when you went to
9 Baylor in '89?

10 A. I don't know. 35, maybe.

11 Q. 35?

12 A. Maybe.

13 Q. So when you told Baylor about
your

14 depression at age 16, you had been describing
something

15 that happened 19 years before?

16 A. Well, I have told her that I
could go

17 over with her and go ahead and tell her what
happened to

18 me, but I already had that behind me. There was

19 something else that occurred at that time that I

want to

20 go into.

21 Q. By that time, you said 19 years
ago

22 you had that behind you, but now you are back at
Baylor?

23 A. What have happened, well, yes,
sir,

24 but there were some different reasons that I went
back to
25 Baylor.

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Reporter

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1 Q. Well, at 16 it was depression
when you

2 stayed home the whole year, was it not?

3 A. I didn't really stay the whole
year, I

4 don't know why she put that down.

5 Q. Well, whatever it was, you were
16

6 years old?

7 A. That was summertime, and I felt
8 depressed, yes, and I didn't get out nowhere. I
just

9 wanted to stay home and sleep.

10

11 THE COURT: The Court

understands what

12 happened there. If we could move on to the next
time

13 frame, please.

14

15 BY MR. RICHARD C. MOSTY:

16 Q. At 16, however, you were not
17 hospitalized, were you?

18 A. No, no, sir.

19 Q. And then the first time you

were

20 hospitalized, you were 22?

21 A. When I had my daughter.

22 Q. Okay. And that is not the
daughter

23 that you have now?

24 A. Yes, I have daughter.

25

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Reporter

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1 MR. TOBY L. SHOOK: Judge, I'll
object
2 to him asking for a history. If he is going to go
for
3 statements made in the records, we will just ask
that the
4 question be limited that way. He is going to ask
her
5 from the records.

6 MR. RICHARD C. MOSTY: That's
what I'm
7 trying to do.

8 THE COURT: Well, I think that
is what
9 he is trying to do. The main thing, we understand
that
10 apparently, there has been some treatment for
depression.

11 If we could just go through the dates in
chronological
12 order, please, for the purposes of this hearing.

13

14 BY MR. RICHARD C. MOSTY:

15 Q. So, then you were hospitalized
at age

16 22, what year would that have been?

17 A. 1977.

18 Q. '77. Okay. You were
hospitalized at

19 that time for about three weeks; is that right?

20 A. Yes.

21 Q. And, do you say, at that time
was your

22 complaint that you had had symptoms of depression
for the

23 previous nine months?

24

25 MR. TOBY L. SHOOK: Judge,
again, I'll

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Reporter

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1 object as to who the statement is made to and when
it's

2 made.

3 MR. RICHARD C. MOSTY: All
right.

4 I'll clarify that.

5 THE COURT: Okay.

6

7 BY MR. RICHARD C. MOSTY:

8 Q. The series of questions that I
am

9 asking about now, are the history that you gave to
10 Baylor, in October of 1989. Correct? Do you
understand?

11

12 MR. TOBY L. SHOOK: To who?

13 THE WITNESS: Dr. Lynn Markle.

14 THE COURT: Can you read --

15 MR. RICHARD C. MOSTY: Dr. Rae

Lynn

16 Markle, M.D. --

17 THE COURT: Let's get all of

that in

18 the record, and move on.

19 MR. RICHARD C. MOSTY: I'm

trying.

20 THE COURT: Well, if you could
do it.

21 The Court has already reviewed those records
briefly. I

22 understand the doctor's name. If we could get the
23 doctor's name in the chronological order, please.

24
25

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1 BY MR. RICHARD C. MOSTY:

2 Q. The conversations that I am
talking

3 about, until I tell you differently, are your
history

4 that you gave to Dr. Markle in October of 1989.

All

5 right?

6 A. Yes.

7 Q. Okay. At that time, you told
-- we've

8 already been over the 16, and now we're talking
about 22,

9 when you were 22 years old and you had been
hospitalized.

10 Where was that hospitalization?

11 A. That was in Boston,
Massachusetts.

12 Q. Do you remember the name of
the

13 hospital?

14 A. No, sir.

15 Q. And, you told Dr. Markle that
prior to

16 that hospitalization that you had been depressed
for

17 about nine months. Do you remember?

18 A. No, sir.

19 Q. You don't recall that?

20 A. No, sir.

21 Q. Do you remember telling Dr.

Markle at

22 that time, that you would take various
antidepressants

23 from your M.D. and that once you got to feeling
better,

24 you would stop taking them?

25 A. Yeah, I didn't need them no
more.

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1 Q. Okay. So you would be on
them --

2 A. No. I'm sorry. I told Dr.
Lynn

3 Markle, I committed myself to Dr. Lynn Markle on
4 voluntarily.

5 I went there by myself
because my

6 doctor told me that I better go and see, maybe if
they

7 would give me different medication. So I went in
on my

8 own, to the hospital, telling them to help me. And,
she

9 was supposed to just make sure, that a certain
dosage of

10 medication was given to me, and she did.

11 Q. Okay. At this time in May of
1996,

12 when you had that conversation with Darlie and you
were

13 talking to her, would you consider Darlie your best
14 friend at that time?

15 A. Yes, sir.

16 Q. Did you make the statement to the

Dr.

17 Markle, as follows: "She describes increasing
symptoms

18 of depression over the past nine months, stating that
her

19 local medical doctor has been giving her medication,
and

20 urging her to go to the hospital, as has her best
21 friend."

22 Did you make that statement to Dr.
23 Markle?

24 A. As what?

25 Q. That --

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1 A. Oh, no, no. My best friend, I had
a
2 friend named Gail.

3
4 THE COURT: What is the time frame
for
5 this?

6 MR. RICHARD C. MOSTY: October --
7 well, this is -- she is describing this October of
1989,
8 to Dr. Markle. She is describing the hospitalization
9 that was earlier.

10 THE COURT: I'm aware of that.
Now,
11 can we move on to other hospitalizations subsequent
to
12 that, please, so we can get this in context. Are
there
13 any subsequent to that?

14 MR. RICHARD C. MOSTY: Any
subsequent
15 hospitalizations? I've got the two
hospitalizations.

16 Now, I'm go over what she said at Baylor and what
her
17 complaints were at Baylor.

18 THE COURT: In 1989?

19 MR. RICHARD C. MOSTY: In 1989.

20 THE COURT: All right.

21

22 BY MR. RICHARD C. MOSTY:

23 Q. Did you tell Dr. Markle at that

time

24 in '89 that you had the inability to tolerate crowds

or

25 be around people?

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1 A. Yes.

2 Q. And that you would have to
frequently

3 leave and become easily agitated?

4 A. Yes, sir.

5 Q. And did you describe that you
became

6 violent if people tried to calm you down?

7 A. Yes, sir. Not people, close
friends.

8 Q. And you described crying spells
all

9 the time?

10 A. I would get angry, yes, very
easily

11 and then depressed easily.

12 Q. Now these are things that you are
13 describing that are happening in 1989, correct?

14 A. Yes, sir.

15 Q. And in 1989, you were describing
16 feelings of hopelessness, feels empty, no energy?

17 A. Yes.

18 Q. Normal interests hold nothing for
her?

19 A. Yes, sir.

20 Q. That you cannot stop eating and

had

21 gained 40 pounds?

22 A. Yes, sir.

23 Q. That your personal hygiene was
very

24 poor?

25 A. What is a hygiene?

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1 Q. That you didn't take care of
yourself,

2 and clean yourself, and brush your hair?

3 A. Well, like I say, I didn't care if
I

4 put my hair up or not. But yes, I cleaned myself,
sir.

5 Q. And you told Dr. Markle that if
it

6 were not for your 12 year old daughter, that you
would

7 just not bother to go on?

8 A. Yes, sir.

9 Q. And, you are expressing --
10

11 THE COURT: Mr. Mosty, I
understand,

12 we have had a voluntary commitment in 1989. What
is

13 relevance of this to now?

14 MR. RICHARD C. MOSTY: The point
of

15 this is a Bill of Exception, your Honor.

16 THE COURT: Well, I think the
Court

17 understands satisfactorily what happened.

18 MR. RICHARD C. MOSTY: Well, the
19 essential part of it is, that here is a lady who
has a
20 history of depression, who is now becoming an
21 advisor/counsellor to quote her best friend.

22 And, you know, it goes to show
about

23 these conversation about suicide and these
conversations,

24 did they arise in the mind of Miss Jovell? Or
did they

25 arise in the mind of Mrs. Routier?

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Reporter

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that.

20 Q. Okay. Let me go on. I will try

to

21 move along. Did you, at that time -- did you tell

Dr.

22 Markle in 1989 that you think you hear -- that

she thinks

23 she hears her name called a lot?

24 A. No.

25 Q. And you didn't say that that
had been

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Reporter

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1 going on for years?

2 A. No, sir.

3 Q. Do you recall that at that
time in

4 1989 that you were, described yourself, and were
5 described as very controlling, very histrionic?

6 A. Controlling?

7 Q. Do you remember that?

8 A. No, sir.

9 Q. Okay. Do you remember
describing --

10

11 MR. TOBY L. SHOOK: Judge, if I
could

12 get a little bit of clarification. Are these
quotes to a

13 doctor or is this a doctor's summary?

14 MR. RICHARD C. MOSTY: It's some
of

15 each. Some are observations and some are --

16 MR. TOBY L. SHOOK: Because it
sounds

17 like a summary. That's not proper impeachment,
Judge.

18 MR. RICHARD C. MOSTY: This is

not

19 impeachment. This is a Bill of Exception.

20 THE COURT: Let's continue. And

I

21 want you to be brief. I understand that, and I

have read

22 that. If you can just be brief and to the point,

please.

23

24 BY MR. RICHARD C. MOSTY:

25 Q. Did you describe in 1989 to Dr.
Markle

1 that you felt like you had manic-depression
illness?

2 A. That is what my -- Dr. Niamatali
told

3 me that I -- that I could have that.

4 Q. Is manic-depression something
you get

5 over?

6 A. Pretty much so, if nothing
tragic

7 happens through your life, or you can control it
pretty

8 nice by doing long walks. That is what helped me,
brief,

9 long walks. Swimming a lot.

10 Q. Those are things you are doing
right

11 now to control manic-depression?

12 A. Yes, we do walk six miles, well,
when

13 I get frustrated, I go for long walk.

14 Q. So even now, when you see signs
of

15 depression or manic-depression come along --

16 A. I can control it.

17 Q. You take action to control that
18 depression?

19 A. But I don't get depressed.

20 Q. Then why are you taking long
walks?

21 A. I get frustrated sometimes, you
work

22 hard.

23

24 THE COURT: Thank you. Next

question.

25

1 BY MR. RICHARD C. MOSTY:

2 Q. Did Dr. Markle go over a
discharge

3 summary with you?

4 A. Pardon me?

5 Q. Did Dr. Markle go over a
discharge

6 summary with you, talk to you about your discharge
from

7 Baylor in November of 1986?

8 A. I don't remember.

9 Q. Okay.

10 A. She put me on medication. She
told me

11 to go.

12 Q. Do you remember telling Dr.
Markle

13 that you described hallucinatory experiences,
hearing her

14 (sic) name called a lot?

15 A. I don't remember saying that.

16 Q. Do you recall describing pains
in your

17 head, sharp pains in your head?

18 A. Yes, I had that but that is

because I

19 was beat up. I still have them sometimes.

20 Q. Still got that now?

21 A. Sometimes I get a sharp pain in
my

22 temples.

23 Q. Do you remember your
psychological

24 testing showed you to be infantile, histrionic,

lacking

25 in inner core of perceptions of self and others,
and

1 strong feelings of help -- hopelessness and
helplessness?

2 A. At that time yes, I was kind of
--

3 yes, I was feeling -- I went for help.

4 Q. Do you remember describing your
mother

5 as a psychic?

6 A. Psychic?

7 Q. A psychic.

8 A. No.

9 Q. Were you also hospitalized in
1979 for
10 a suicide attempt?

11 A. No.

12 Q. Where you O.D.'d on Tylenol and
13 Anacin, Massachusetts hospital?

14 A. That was that time after I had
my
15 daughter.

16 Q. And you actually tried suicide?

17 A. Well, I believe I did.

18 Q. With pills?

19 A. Yes, sir.

20 Q. And that was part of the reason

that

21 you wanted to give Darlie Routier advice and
counselling,

22 wasn't it? Is that right?

23 A. Pardon me?

24 Q. That was one of the reasons you
wanted
25 to give Darlie Routier advice because you had
attempted

Sandra M. Halsey, CSR, Official Court Reporter

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1 suicide after you had had a child?

2 A. That is what frightened me, her
trying

3 to commit suicide and the way she was acting, she
was

4 depressed and she was angry. She would come to the
shop

5 really angry, throwing things at Darin.

6 I just wanted to help -- Darlie
wasn't

7 herself.

8 Q. Okay. And your background from
when

9 you were attempting suicide was part of what you
were

10 trying to relate to her?

11 A. I see, I see -- yes.

12 Q. Do you remember admitting to
blocking

13 out things in your memory?

14 A. No, sir.

15 Q. Do you remember describing your
mother

16 as physically and verbally abusive to you?

17 A. No.

18 Q. And that --

19 A. I told her that an American way
20 though, that American people would think that there
is
21 abuse, but we got good, hard spankings with belts.

22 Q. I'm talking about what you
described
23 to Baylor.

24 A. No. That is the way she put it
in the
25 paper. American way, that probably would be abuse

1 because here when you take a belt to a child, or
you hit

2 a child, it's abuse called. So I said, "In
America, you

3 would consider that abuse."

4 Q. My question is simply this: Did
you

5 described to the registered nurse on December 16th,
1989,

6 that you remembered your mother as physically and
7 verbally abusive?

8 A. Yeah, she'll call names, but
she'll

9 use a belt. I mean she wasn't abusive like --

10 Q. What I'm asking you is: Did you
tell

11 these things to Baylor?

12 A. No, I didn't tell exactly that,
no,

13 sir.

14 Q. You did not say those words?

15 A. My mother is not -- wasn't
abusive.

16 She, well, if American people look at abusive, in
Poland

17 that was a good, hard spanking with a belt.

18 Q. Do you remember telling that
same

19 nurse that you were afraid of your father?

20 A. My father? No, sir.

21 Q. And describing, actually on two
22 occasions, describing your mother as both
physically and

23 verbally abusive? On two separate occasions, in
the same

24 interview.

25 A. That is the way they put down on
the

1 paper, but that is not what I told them.

2 Q. All right. Do you remember
describing

3 that you had occasional feelings of needle pricks
on both

4 sides of your head?

5 A. My temples.

6 Q. On the temples; three or four
times a

7 day?

8 A. That is because I was beat up.

9 Q. And that those were going on for

--

10 that that had been going on for years?

11 A. No, sir.

12 Q. You did not tell Baylor that?

13 A. No, sir.

14

15 THE COURT: Anything else?

16

17 BY MR. RICHARD C. MOSTY:

18 Q. Miss Jovell, do you remember
being

19 interviewed by Carol Cloud?

20 A. Yes, I have.

21 Q. Within the last couple of weeks?

22 A. Yes, I have.

23 Q. Okay. You have hired a lawyer

to

24 represent you in this case, haven't you?

25 A. Yes, I have.

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1 Q. And, that interview was
conducted by

2 Carol Cloud, who works for Mr. Mulder. You
understand

3 that, don't you?

4 A. Yes, sir.

5 Q. And, but, you had your lawyer
present,

6 didn't you?

7 A. Yes.

8 Q. Do you remember describing to Mrs.
9 Cloud in that interview, several times, that the
10 statement, "I am afraid I'm losing my mind"?

11 A. Pardon me?

12 Q. Did you make that statement during
13 that interview, not once, but several times, that
you

14 were afraid you were losing your mind, in those
words?

15 A. No. I don't believe it.

16 Q. Well, of course, you were
there?

17 A. Yes, and my lawyer was there,
too.

18 Q. Did you say that? Did you say

that to

19 Carol Cloud?

20 A. No, sir.

21 Q. Did you tell Mrs. Cloud at that
time

22 that you did not believe that Darlie Routier was
capable

23 of these murders?

24 A. I didn't say that.

25 Q. You did not say that either?

Sandra M. Halsey, CSR, Official Court Reporter

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1 A. I said I have questions.

2 Q. Did you discuss these mental
problems

3 with the district attorney's office?

4 A. Yes, I have.

5 Q. And when was that?

6 A. From the
beginning.

7 Q. From the
beginning?

8 A. Yes.

9 Q. I guess you thought that was a
matter

10 of on-going concern to you?

11 A. Well, I didn't want to be here.

And I

12 told them that -- well, actually, it was started that

13 Darin called my daughter telling her that I am

some

14 f---ed up lady, type of deal. That he is
reading my

15 records right now.

16 And my daughter called me

crying

17 saying, "Mom, Darin said that."

1 Q. None?

2 A. Natural herbs. I'm sorry. I do
not

3 take medication, but I do take natural herbs since
this

4 happened. I have been having a hard time sleeping.
I

5 cry a lot and it's just -- for a type of stress.

6 Q. What natural herbs are those that
you

7 are taking?

8 A. I don't have my purse with me.
Dr.

9 Bunzo. It's all natural herbs. He only deals with
10 natural herbs and needles.

11 Q. Natural herbs and needles?

12 A. Well, he puts needles in your
body.

13 Q. That is a different doctor than
the

14 one you told me about a minute ago?

15 A. That's the Dr. Bunzo, the
16 acupuncturist doctor.

17 Q. So he gives you herbs and
needles?

18 A. He only started doing this since
this
19 happened. Sometimes I don't need them and sometimes
I
20 do. Well, they really don't do anything, just kind
of
21 relax you a little bit.

22 Q. Have you told people that you can
fly
23 out of your body?

24 A. I used to dream a lot that I was
25 flying, yes.

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1 Q. Okay. Well, that is more recent?

2 A. No, sir. That was when I was 16,
when

3 I slept a lot.

4 Q. Oh, you have not been telling --
you

5 have not told people more recently, within the last
year

6 that you can fly out of your body?

7 A. No, sir.

8 Q. Or sometimes think you can?

9 A. I was dreaming that, that I was
10 flying, when I was 16. Yes, I remember that. I
kind of

11 enjoyed it too.

12

13 MR. RICHARD C. MOSTY: In terms
of an

14 offer of proof, your Honor, I think that's what it
is.

15 And I would tell the Court this: That
because this is an

16 offer of proof, I wouldn't cover a lot
of this stuff but

17 I needed to do it for purposes of the

record, to make

18 sure that my offer is complete.

19 THE COURT: I

understand.

20 MR. RICHARD C. MOSTY:

And as part of

21 that, we would also offer to back up the
statements or

22 the statements in the history and the
comments that I was

23 pointing out.

24 THE COURT: The Court

will accept that

25 entire document.

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Court Reporter

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1
2
following
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
was
20
evidence
21

(Whereupon, the
mentioned item was
marked for
identification only
after which time the
proceedings were
resumed on the record
in open court, as
follows:)

MR. RICHARD C. MOSTY: The
entire
amount of the Baylor records which will be
Defendant's No. 45.

THE COURT: For the purposes of
this
hearing, and Bill of Exception, is there any
objection?

(Whereupon, the above
mentioned item
received in
as Defense

Exhibit

22

Number 45, for

record

23

Purposes only,

after

24

which time, the
proceedings were

25

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Reporter

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1 resumed on the
record,

2 in open court,
3 as follows:)

4

5 MR. RICHARD C. MOSTY: And
then I

6 think Mr. Hagler would like to be heard on the
offer.

7 MR. TOBY L. SHOOK: Judge, we
will

8 object to the Baylor records for any reason, on any
part

9 of the hearing, because they have not been properly
10 authenticated.

11 THE COURT: Well, I think he is
just

12 putting it on his Bill of Exception. Is that not
so?

13 MR. RICHARD C. MOSTY: That part
is

14 just to verify that for the record purposes. That
that

15 is the document that I was referring to in her -- in
16 those questions.

17 Of course, we will, at the

appropriate

18 time, we will call the custodian from Baylor down
here to

19 back up those records.

20 THE COURT: All right. That
exhibit

21 is admitted for record purposes only.

22 Yes, sir.

23 MR. JOHN HAGLER: Okay. Your
Honor,

24 the State has offered into evidence, during the
direct

25 testimony of this witness, testimony about this so-
called

17 offer, your Honor, of this testimony, that this
would

18 tend to show, the state of mind of the defendant,
you

19 know, her actions and reactions to this advice and
20 counsel made by the -- made by this witness.

21 Short-handed, your Honor, what
we're

22 saying is that the State has attempted to create
the

23 impression in front of the jury, that this matter
about

24 the so-called suicide, arose out -- was completely,
25 entirely independent of this witness, and solely
came

1 from the mind of the defendant.

2 This testimony is certainly
probative

3 and relevant to showing what the true source of this
4 so-called suicide, what have you.

5 Furthermore, the prior
experiences of

6 this witness, parallel and almost virtually mirror
what

7 the State's contention is, that the defendant, on
her

8 own, her own independent impulse did, as far as the
9 suicide attempt.

10 Furthermore, admittedly some of
these

11 things occurred within a number of years ago, your
Honor.

12 But there is no remoteness rule as to the
admissibility

13 of this type of evidence.

14 The fact of the matter is, that it
15 exists. She has independent recollection of these
16 events. And regardless of the fact that some of them
may

17 have occurred anywhere from seven to eight years ago,

the

18 fact is that she related these incidences to the
19 defendant.

20 And we would submit, created and
21 caused a state of mind of the defendant as to her
actions

22 and reactions.

23 And as far as the remoteness
thing, I

24 might also mention that as recently as this year, or

I

25 should say within the last 12 months, she has
received

Sandra M. Halsey, CSR, Official Court Reporter

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1 acupuncture treatments due to her emotional problems,
and
2 certainly this would also be admissible before the
jury
3 to show -- to allow the jury to determine the true
source
4 and actions of the defendant.

5 MR. RICHARD C. MOSTY: Your Honor,
may

6 I add one other thing?

7 THE COURT: You may.

8 MR. RICHARD C. MOSTY:
Particularly

9 related to the relevance aspect of it, and at the
risk of
10 getting called an amateur psychiatrist, this is what
is
11 known as projection.

12 THE COURT: Okay.

13 MR. RICHARD C. MOSTY: And that
is,

14 she, in her mind, and we will go back to, how I --
whose

15 mind did this originate in.

16 She, in her mind, attempted

suicide

17 after having had a baby. Actually, attempted it,
didn't

18 think about. Actually attempted it, and was
hospitalized

19 for it, and that life's experience projects into
another,

20 and she sees it in another that doesn't exist.

21 So, she sees depression in Darlie

22 Routier, that is her projection of her life
experiences,

23 not those life experiences that she is actually

24 observing.

25 THE COURT: Anything else? All
right.

1 Well, the Court holds that the testimony elicited by
Mr.

2 Mosty is not relevant to the witness's character for
3 truthfulness or untruthfulness, regarding her
testimony

4 in this case, and will not be permitted before the
jury.

5 And you have made your Bill of Exception and it will
be

6 noted and it will be put in the record.

7 MR. RICHARD C. MOSTY:

Your Honor, let

8 me make it clear, we're not offering that
for purposes of

9 demonstrating her truthfulness or
untruthfulness. We're

10 offering it to demonstrate her life
experiences and how

11 they relate to her testimony to impeach her
version that

12 these thoughts -- that what she described as
a depressed

13 person, she was really describing herself.

That is why

14 we are offering it, not for truthfulness or

15 untruthfulness.

16 THE COURT: Overruled for
that reason,

17 too. Thank you.

18 MR. RICHARD C. MOSTY:

And, may I also

19 be afforded the opportunity to put a real
psychiatrist,

20 other than myself, in to describe that
projection at the

21 appropriate time?

22 THE COURT: Mr. Mosty,

you have leave

23 to call any witness you want to call.

24 MR. RICHARD C. MOSTY:

All right.

25 Thank you. As part of this Bill of
Exception?

Sandra M. Halsey, CSR, Official Court
Reporter

1 THE COURT: Yes, sir. A
real

2 psychiatrist, you know, we're happy to hear
it.

3 MR. RICHARD C. MOSTY: On this
Bill,

4 we are still open on that subject?

5 THE COURT: We're still open.

6 MR. RICHARD C. MOSTY: Thank
you.

7 MR. JOHN HAGLER: One final thing,
8 your Honor, your ruling applies also to all the
reasons

9 that I stated the --

10 THE COURT: Oh, yes, by all means.

11 All right.

12 In as much as the jury took a
break, I

13 think we will take a quick 10 minute break, and then
we

14 will continue on, as we say in Texas, with this
witness.

15

16 (Whereupon, a short

17 recess was taken, after

18 which time, the

19 proceedings were
20 resumed in open
court,
21 in the presence
and
22 hearing of the
23 Defendant,
being
24 represented by
his
25 Attorney, and
in

Reporter Sandra M. Halsey, CSR, Official Court

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1 the presence of the jury
2 as follows:)

3
4 THE COURT: All right. Let's
bring
5 the jury back.

6 MR. RICHARD C. MOSTY: Yes,
sir.

7 THE COURT: Are both sides ready?

8 MR. TOBY L. SHOOK: Yes, sir. We
are
9 ready to resume.

10 THE COURT: All right. Bring the
jury
11 in, Mrs. Biggerstaff.

12
13 (Whereupon, the jury
14 was returned to
the
15 courtroom, and
the
16 proceedings
were
17 resumed on the
record,
18 in open court, in

the

19

presence and

hearing

20

of the defendant,

21

as follows:)

22

23

THE COURT: Let the record

reflect

24 that all parties to the trial are present and the

jury is

25 seated. Mr. Mosty?

Sandra M. Halsey, CSR, Official Court Reporter

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1 MR. RICHARD C. MOSTY: I have no
2 further questions, your Honor.

3 THE COURT: You may step down,
ma'am.

4 Thank you for coming. Watch your step, please.

Your

5 next witness.

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 MR. GREG DAVIS: Your Honor, at
this

19 time, the State will offer State's Exhibit No. 50
for all

20 purposes, and the documents that have been marked as
21 State's Exhibit 50-A, for record purposes only.

22 THE COURT: All right. Thank

you.

23

MR. RICHARD C. MOSTY: A?

24

MR. GREG DAVIS: And, if I may

briefly

25 publish it?

Sandra M. Halsey, CSR, Official Court Reporter

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1 THE COURT: Gentlemen, just one
2 minute. All right. Those are State's Exhibits 50
and
3 50-A?

4 MR. GREG DAVIS: Yes, sir.

5 THE COURT: Both State's Exhibits
are
6 admitted.

7
8 (Whereupon, the above
9 mentioned items
were
10 received in
evidence
11 as State's
Exhibit
12 Nos. 50 for all
purposes.
13 and 50-A, for the.
14 record purposes only,
15 after which time,
the
16 proceedings were
17 resumed on the
record,
18 in open court,

19

as follows:)

20

21

MR. GREG DAVIS: Ladies and

gentlemen,

22 State's Exhibit 50 contains certain documents

from the

23 Bank One. In those documents, I would refer you

to the

24 first document, which will be a loan document,

originated

25 August 3rd of 1993.

Reporter Sandra M. Halsey, CSR, Official Court

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1 The maturity date was to be
August

2 17th of 1996, for \$10,000. And it will show that
the

3 monthly payment on that loan was \$343.62.

4 The next document will be a loan
on a

5 boat. This one originated in May, May 17th of 1995,
6 principal amount \$24,145, with a monthly payment of
7 \$343.17.

8 The next document will be a loan,
this

9 is on November 3rd, 1995, the amount of the loan is
10 \$8,990. The monthly payment on this loan was
\$145.91.

11 Following that, you will see
certain

12 records relating to the personal bank account of the
13 defendant and her husband. And I would state to you
that

14 these are basically monthly statement summaries.

15 And the last statement date is
from

16 May 15th to June 14th of 1996, and you will see in
the

17 record, that for that time period, that the final
ending

18 balance was \$68.09.

19 Judge, that concludes the
publishing

20 of this.

21

22 THE COURT: All right. Your next
23 witness.

24 MR. GREG DAVIS: My next witness
will
25 be Kathryn Long.

Sandra M. Halsey, CSR, Official Court Reporter

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1 THE COURT: Kathryn Long.

2 MR. GREG DAVIS: This witness has
not
3 been sworn, your Honor.

4
5 (Whereupon, the witness
6 was duly sworn by the
7 Court, to speak the
truth,

8 the whole truth and
9 nothing but the truth,
10 after which, the
11 proceedings were
12 resumed as follows:)

13
14 THE COURT: If you will raise
your
15 right hand, please, ma'am.

16 Do you solemnly swear or affirm
that
17 the testimony you are about to give will be the
truth,
18 the whole truth, and nothing but the truth, so help
you
19 God?

20 THE WITNESS: Yes, I do.

21 THE COURT: And Miss Long, you
have

22 testified before, I assume?

23 THE WITNESS: Yes, sir.

24 THE COURT: Then you understand

the

25 Rule of Evidence and what it means?

2702 Sandra M. Halsey, CSR, Official Court Reporter

1 THE WITNESS: Yes, sir.

2 THE COURT: All right. Thank
you.

3 You are under it now.

4 THE WITNESS: Okay.

5 THE COURT: Go ahead, please.

6

7 Whereupon,

8

9 KATHRYN LONG,

10

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

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

13 the whole truth, and nothing but the truth,
testified in

14 open court, as follows:

15

16

17 DIRECT EXAMINATION

18

19 BY MR. GREG DAVIS:

20 Q. Would you please tell us your
full

21 name.

22 A. My name is Kathryn Long. L-o-n-
23 g.

23 Q. Ms. Long, how are you employed?

24 A. I'm a forensic serologist at the
25 Intsitute of Forensic Science in Dallas.

Sandra M. Halsey, CSR, Official Court Reporter

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1 Q. Okay. And what is a forensic
2 serologist?

3 A. Any time there is any kind of a
crime

4 scene, or a rape that has happened, the police
agency or

5 a doctor will collect evidence from the crime scene
and

6 bring it into us. We can then identify any kind of
body

7 fluids from the scene, and identify things as being
8 human, and as what kind of fluids they are, if they
are

9 seminal fluid or blood.

10 Q. All right. How long have you
been

11 employed by the Southwestern Institute of Forensic
12 Sciences?

13 A. Two years and eleven months.

14 Q. Can you give us an idea of your
15 background and training for the position which you
now

16 hold?

17 A. I have a Bachelor of Science in
18 Medical Technology from the University of Texas at

E1

19 Paso. I have worked eight years in clinical
20 laboratories, mostly in supervisory positions.

21 I have been working at the
Institute

22 for three years. We have an ongoing continuing
education

23 program. I am a member of the American Society of

24 Clinical Pathologists, and also a member of the

Southwest

25 Association of Forensic Scientists.

Sandra M. Halsey, CSR, Official Court Reporter

2704

1 Q. Okay. From time to time, do you
work

2 on cases with a Charles Linch?

3 A. Yes, sir, I do.

4 Q. And is he a trace evidence
analyst

5 there at the Southwestern Institute of Forensic
Sciences?

6 A. Yes, sir, he is.

7 Q. And I guess, just so I don't have
to

8 say it over and over, do we sometimes refer to that
as

9 SWIFS?

10 A. Yes, sir.

11 Q. Okay. I want to direct your
attention

12 back to June 6th, 1996, and ask whether or not you
and

13 Charles Linch went to 5801 Eagle Drive in Rowlett,
Texas?

14 A. Yes, sir, we did.

15 Q. Do you remember about what time
of the

16 day that you and Mr. Linch arrived there?

17 A. I have it my notes that we
arrived

18 there at 12:27.

19 Q. All right. P.M.?

20 A. Yes, that would be in the
afternoon,

21 yes, sir.

22 Q. All right. When you got there
were

23 Rowlett police officers present at the residence?

24 A. Yes, sir, they were.

25 Q. I want to ask you, how long were
you

1 there that day?

2 A. Almost three hours. We left a
little

3 after 3:00.

4 Q. Okay. And during that time
period

5 that you were there, were you checking certain
areas,

6 either in or out of the house for evidence of
blood?

7 A. Yes, sir, I was.

8 Q. All right. I want to direct
your

9 attention to the garage of that residence. And, do
you

10 recall whether or not you tested any areas in the
garage

11 for possible blood?

12 A. Yes, sir, I did.

13 Q. What areas of the garage did you
test?

14 A. There was an obvious stain that
was in

15 the garage. It tested negative for the presence of
16 blood. It kind of -- it had a syrupy consistency,

maybe

17 a melted Popsicle or Kool Aid.

18 There were also two other stains
that

19 I tested and also collected from the garage floor.

There

20 was one that was near to the doorway into the laundry

21 room, and also, there was one that was a little

farther

22 from the laundry room. But they were both relatively

23 close to the laundry room door.

24 Q. All right. I now have out, in

front

25 of the jury, photographs that have previously been

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1 admitted as State's Exhibit 40-A and 40-B. Can you
see

2 those?

3 A. Yes, sir.

4 Q. Shows the garage area. Would you
mind

5 stepping down please, and point out for the members
of

6 the jury, if you can, where you were testing for
blood in

7 the garage?

8 A. Okay.

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 A. There was a stain here that

again was

18 syrupy.

19 Q. All right. I'll tell you what,
if you
20 will step around here everybody can see. If you
will,
21 Miss Long, just point to the area there that you
were
22 testing.

23 A. There was this stain here. It
was
24 negative for the presence of blood. And there
were also
25 some stains that were around here, by the -- there
was a

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Reporter

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1 sign on the garage door that said, Popcorn for
sale.

2 That is approximately where I lifted the two other
3 stains, the two actual blood stains.

4 Q. Okay. The area that you are
referring

5 to as having kind of a syrupy texture to it, was
that the

6 larger area here in State's Exhibit 40-B?

7 A. Yes, sir. Right in the center
here.

8 Q. Okay. Now, did any areas in
the

9 garage test positive for blood?

10 A. Yes, sir. Again, there was
some

11 stains actually that were on the sign and there
were some

12 stains near the sign. The two that I collected
were

13 actually on the cement near the sign.

14 Q. Okay. Again, about what time
of the

15 afternoon is it that you test this area of the
garage and

16 find a positive result for blood?

17 A. It was shortly after we got
there, so

18 it would have been around 12:30.

19 Q. When it tested positive, the
blood, in

20 that portion of the garage, did you take samples
to be

21 analyzed later on?

22 A. Yes, sir, I did.

23 Q. Was anyone with you when you
tested

24 those areas that turned out to be positive for
blood?

25 A. Yes, sir. Mr. Lynch was with
me, and

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Reporter

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1 I believe also Mr. Cron was in the room.

2 Q. James Cron?

3 A. Yes, sir.

4 Q. The area that you have just
told us

5 about where you took the samples, were there any
other

6 areas in the garage where you found blood?

7 A. Other than the spots on the
8 posterboard, like I said, that had the drinks and
popcorn

9 for sale. And the two that I collected from the
actual

10 cement floor, I didn't see any other stains.

11 Q. Okay. Now, let me ask you
whether or

12 not on that date you had occasion to go to the
kitchen

13 sink area?

14 A. Yes, sir.

15 Q. Did you have an opportunity to
look at

16 the sink?

17 A. Yes, sir, I did.

18 Q. And can you describe the

appearance of

19 the sink when you first looked at it on June 6th?

20 A. At first glance, just looking
at the

21 kitchen sink, the front of the sink had a
tremendous

22 amount of blood on it. And the actual basins
appeared to

23 be clear. But on closer inspection, there was
about

24 seven stains that we could visually see, that
appeared to

25 be -- they were dried but they appeared to be
like washed

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1 out blood, like someone had washed their hands or
somehow

2 blood had mixed with water in the sink and had
actually

3 dried in little spots in the sink.

4

5 (Whereupon, the following

6 mentioned items were

7 marked for

8 identification only

9 after which time the

10 proceedings were

11 resumed on the record

12 in open court, as

13 follows:)

14

15 BY MR. GREG DAVIS:

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

17 109-A and 109-B. Tell me whether or not these
18 photographs truly and accurately depict the sink
area as

19 it appeared on June 6th of 1996?

20 A. It seems there was a little
more blood

21 on top, I believe that might have been collected,

but

22 that is a pretty close representation.

23 Q. Okay.

24

25 MR. GREG DAVIS: Your Honor,
at this

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1 time, we'll offer State's Exhibits 109-A and 109-
B.

2 MR. RICHARD C. MOSTY: No
objection.

3 THE COURT: State's Exhibits
109-A and
4 B are admitted.

5
6 (Whereupon, the items
7 Heretofore mentioned
8 Were received in evidence
9 As State's Exhibit Nos. 109-A
10 and 109-B for all purposes,
11 After which time, the
12 Proceedings were resumed
13 As follows:)

14
15 BY MR. GREG DAVIS:

16 Q. Do we see blood near the
kitchen sink
17 here in 109-B?

18 A. Yes, sir. There was also a
stain on
19 the bottom of the left-hand handle of the
cabinet.

20 Q. Okay. And first of all, let

me just

21 ask you, if my pen is now pointing at an obvious
area of

22 blood here?

23 A. Yes, that is correct.

24 Q. And did you find any evidence

of blood

25 actually running down the cabinets there in front
of the

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1 sink?

2 A. Yes, there was.

3 Q. And those are also evident,
are they

4 not, in the photographs as kind of red streaks?

5 A. Yes, sir.

6 Q. And, you were also talking
about a

7 handle to one of the cabinets; is that right?

8 A. Yes, sir, the left handle to
pull out

9 the cabinet. There is a stain on the bottom of
the

10 handle.

11 Q. Okay. On the bottom portion?

12 A. Yes, sir, where it would not
have been

13 dripped down, it would have been transferred
somehow to

14 the bottom of it.

15 Q. How about the right handle?

16 A. No, sir, that was negative. I
didn't

17 see any stains on that.

18 Q. Okay. So am I now pointing at
the

19 portion, the bottom portion of the left knob
where you

20 found evidence of blood?

21 A. Yes, sir.

22 Q. And again, what type of blood
stain

23 did this appear to be?

24 A. It was more -- it was not
dripped down

25 from above. It was somehow transferred to the
bottom of

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1 the handle.

2 Q. The stain that you were
looking at

3 there, would it be consistent with an individual
with

4 blood on her hand reaching down and pulling that
knob in

5 order to open that cabinet door?

6 A. Yes, sir.

7 Q. Okay. Now, you had said that the
8 inside portion of the sink had a washed out
appearance;

9 is that correct?

10 A. Yes, sir.

11 Q. All right. Did you ever have an
12 opportunity to open the cabinet doors there
underneath

13 the sink to look inside?

14 A. Yes, sir, I did.

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
25 follows:)

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1

2 BY MR. GREG DAVIS:

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

4 Exhibit 109-C. Does this photograph truly and
accurately

5 depict the items that were underneath the kitchen
sink

6 when you viewed it on June 6th, 1996?

7 A. Yes, sir, as best as I can recall
it.

8 I just remember there was a lot of cleaning products
9 underneath.

10

11 MR. GREG DAVIS: Your Honor, at
this

12 time be will offer 109-C.

13 MR. RICHARD C. MOSTY: No
objection.

14 THE COURT: State's Exhibit 109-C
is

15 admitted.

16

17 (Whereupon, the above
18 mentioned item

was

19 received in
evidence
20 as State's
Exhibit
21 No. 109-C,
22 for all purposes,
after
23 which time, the
24 proceedings were
25 resumed on the
record,

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1 in open court,
2 as follows:)

3

4 BY MR. GREG DAVIS:

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

6 do we see cleaning agents underneath the sink in
the

7 cabinet area?

8 A. Yes, sir.

9 Q. When you opened the cabinet
door there

10 to look inside underneath the sink, did you see
anything

11 else, Miss Long, that caught your attention?

12 A. There was also a slight streak
on the

13 inside of the cabinet door, towards the bottom.

So it

14 would have been on this edge, the left-hand
cabinet door,

15 there was a very small streak, presumptive tests
for

16 blood was positive on that.

17 Q. Let me ask you, I'm pointing at
an

18 area of the photograph now, 109-C. Do you
recognize what

19 I am pointing at?

20 A. Yes, sir.

21 Q. What is that?

22 A. It appears to be a streak of
blood,

23 which would have corresponded to when the cabinet
was

24 actually shut.

25 Q. All right. The streak of blood
that I

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1 am pointing at, was that visible with the cabinet
door

2 closed?

3 A. No, sir, it was not.

4 Q. This is something that you saw
only

5 after you opened up the cabinet door; is that
right?

6 A. Yes, sir.

7 Q. Okay. Now, when you looked in
the

8 sink itself, could you see any visible blood
inside?

9 A. Yes, I could.

10 Q. Okay. And describe the blood that
you

11 could actually see.

12 A. Again, there were several stains.

13 Most of them were -- the ones that I saw were on the

14 left-hand basin, and they appeared to have a washed
out

15 appearance.

16 Q. How about the faucet on the sink,
was

17 there any visible blood there?

18 A. No, there was not.

19 Q. Okay. Did you test the sink area
for
20 possible blood?

21 A. Yes, sir, and also the handle.

22 Q. All right. Let's talk about the
sink
23 itself. First of all, what did you do in order to
test

24 for blood?

25 A. We have a presumptive test for
blood

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1 that we use in the field and also in our office.

It's a

2 simple color change reaction test.

3 What we do is, anytime we see a
stain,

4 is we take a sterile damp swab and we swab the area,
and

5 then we add chemicals to the swab, and if there is a

6 color change reaction, then it is positive

presumptively

7 for blood.

8 Q. Okay. Did you get any positive
9 reactions inside the sink?

10 A. Yes, sir, I did.

11 Q. All right. Now, let's talk about
the

12 faucet where you had seen no visible blood. Did you
test

13 that also?

14 A. Yes, sir, I did.

15 Q. And what kind of reaction did you
get

16 when you tested the faucet?

17 A. The handle was positive.

18 Q. Positive for blood?

19 A. Yes, sir.

20

21 THE COURT: You might speak into
the

22 microphone a little bit better, because the last two
23 jurors are having a tough time hearing you.

24 THE WITNESS: All right.

25 THE COURT: Go ahead.

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1

2 BY MR. GREG DAVIS:

3 Q. After you had had the positive
4 reactions for blood at the sink, did you then take
blood

5 samples from the sink?

6 A. Yes, sir. I selected some of the
7 better stains and collected those.

8 Q. So, as I understand it then, on
June

9 6th, did you collect blood samples from the garage
floor?

10 A. Yes, sir.

11 Q. And did you also collect blood
samples

12 from the kitchen sink and also the faucet of the
sink?

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

14 Q. Were there any other blood samples
15 that you collected out there on June 6th, 1996?

16 A. I also collected a sample from the
17 front of the formica in front of the sink.

18 Q. Okay.

19 A. Very strong, obvious stain.

20 Q. Okay. So you had the garage

floor,

21 the kitchen sink and then the area of the formica
right

22 in front of the sink, right?

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

24 Q. Now, let me take you forward to

June

25 11, 1996. And ask you whether or not you went back
out

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1 to 5801 Eagle with Charles Linch?

2 A. Yes, sir, I did.

3 Q. And on that date, did you test any
4 areas outside the house for possible blood?

5 A. Yes, sir, I did.

6 Q. What areas did you test?

7 A. I tested the gate, the outside
gate, I

8 tested the latch that was on the fence and also the
latch

9 portion on the gate.

10 Q. Okay. What were the results?

11 A. They were all negative for the
12 presumptive test of blood.

13 Q. On June 11th, did you collect
any

14 blood samples?

15 A. Yes, sir, I did.

16 Q. All right. And can you tell us
what

17 blood samples that you obtained out there on June
11th?

18 A. I collected three from the
carpet.

19 Q. Would this be in the family

room?

20 A. Yes, sir.

21 Q. So you had three from the
carpet in

22 the family room?

23 A. Yes, sir.

24 Q. Okay.

25 A. One from a chair, it appears.

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1 Q. Is that a chair in the family
room

2 again?

3 A. Yes, sir.

4 Q. Okay.

5 A. Some samples from the wall and
also

6 the brass plate on the wall leading into the
kitchen.

7 Q. Okay. Now this wall, would this
have

8 been a wall, a section of the wall close to the
switch

9 plate in the kitchen area?

10 A. Yes, sir.

11 Q. And you also got the switch plate
12 itself; is that right?

13 A. Yes, sir, I collected a sample off
the

14 switch plate.

15 Q. Okay.

16 A. And then also, took one sample
from

17 one couch in the family room, and also three samples
from

18 another couch in the family room.

19 Q. All right. Now, the couch where
you
20 took the one sample, is that the couch closest to the
21 windows facing the back
yard?

22 A. Yes,
sir.

23 Q. Okay. The other three, would
they be
24 from the couch that is nearest to the kitchen area?

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

1 Q. I have got -- did you take a
total of
2 10 blood samples then?

3 A. Yes.

4 Q. Did you do anything else out
there on

5 June 11th, besides take blood samples and test the
gate

6 and latch for possible blood?

7 A. No, sir.

8 Q. Since June 11th, 1996, have you
been

9 back out to 5801 Eagle Drive?

10 A. No, I have not.

11 Q. Let me ask you, whether or not
since

12 June 6th, 1996, whether or not you have received
certain

13 blood and other evidence for analysis?

14 A. Yes, sir, I have.

15 Q. First of all, have you obtained
the

16 blood of the defendant in this case, Darlie
Routier?

17 A. Yes, sir, we drew blood samples

from

18 Darlie Routier.

19 Q. Okay. Do you recognize her as

the

20 lady over here with the jacket over her dress?

21 A. Yes, sir, I do.

22

23 MR. GREG DAVIS: Your Honor, at

this

24 time we will have the record reflect this witness

is

25 referring to the defendant, please.

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1 THE COURT: Yes, sir.

2

3 BY MR. GREG DAVIS:

4 Q. Did you actually obtain the
blood

5 sample yourself?

6 A. No, I witnessed the blood drawn.
7 Carolyn Van Winkle actually drew the blood. She is
our
8 DNA analyst.

9 Q. Okay. Was the blood sample of
Darin
10 Routier also obtained?

11 A. Yes, sir.

12 Q. And from the medical examiners,
did
13 you obtain blood samples of Damon Christian Routier
and
14 Devon Rush Routier?

15 A. Yes, we did.

16 Q. Okay. Now, in your lab there in
17 Dallas, have you analyzed certain pieces of
evidence to
18 determine whether or not there is human blood on
that

19 item?

20 A. Yes, sir.

21 Q. First, let me refer you to --

this is

22 going to be State's Exhibit 42-A, it's a window.

And I

23 believe your records will reflect this as your item

24 number 1, correct?

25 A. Well --

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1 Q. I'm sorry, it's number 47. This
would

2 be your item 47.

3 A. Yes, sir.

4 Q. Okay. Did you, in fact, test
this

5 window for evidence of human blood?

6 A. Yes, sir, I did.

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

8 jury, what sort of test that you did on this
window?

9 A. What I did was, I went through,
10 there's several -- there's numerous, tiny little
spots on

11 top of the window, and also on the window ledge.

12 What I did was, I went through
and I

13 tested all of those spots for the presumptive test,
a

14 presumptive test for blood. What we then did, was
I

15 collected the spots that were positive.

16 Q. Okay. So let me ask you then:
Can we

17 see some of these spots? Are they about the size

of a

18 pinhead, is that pretty accurate?

19 A. Yes, sir.

20 Q. Okay. Along the top of the
window and

21 also on the ledge of the window, right?

22 A. Yes, sir.

23 Q. Okay. Did they test positive
for

24 blood?

25 A. Yes, sir, some of them did.

1 Q. Okay. Now, once you had the
test back

2 as positive for blood, did you then attempt to
determine

3 whether or not it was human blood or not?

4 A. Yes, sir, I did.

5 Q. Okay. And did you do an
additional

6 test to do that?

7 A. Yes, sir, I did.

8 Q. And, was this human blood on the
9 window?

10 A. It came back that it was not
human
11 blood.

12 Q. Okay.

13 A. And there was also four stains
on the
14 actual window glass.

15 Q. All right.

16 A. I believe those have been
circled.

17 Q. Based on your experience, do you
have
18 an opinion as to whether or not the blood that you
found

19 here on the window, and the window ledge would be
20 consistent with blood dropped by an insect?

21 A. Yes, sir. We have had this
experience

22 with cars. When you are driving, and you manage to
get

23 bugs on your windshield, we get the same kind of
24 reactions.

25 Q. Okay. Any human blood found on
this

1 window, State's Exhibit 42-A?

2 A. No, sir, there was not.

3 Q. Did you also receive a window
screen

4 along with State's Exhibit 42-A?

5 A. Yes, sir, I did.

6 Q. Okay. Did that come to you from
the

7 Rowlett Police Department, also?

8 A. Yes, sir.

9 Q. Was it torn at the time that you
10 examined it? Do you remember it being torn?

11 A. Yes, sir, it was.

12 Q. Was it your understanding that
that

13 window screen had been on this window at one time?

14 A. Yes, sir.

15 Q. Did you also test that window
screen

16 for evidence of blood and human blood?

17 A. Yes, sir. What I did was I took
a --

18 I put it under the microscope and looked at the
19 individual where it had been cut or torn. I didn't
see

20 any presumptive -- anything that I would consider
blood.

21 And then I went back. And I
swabbed

22 it and it was, at the tear, it was negative for
blood. I

23 then tested the whole screen for the presence of
blood.

24 There was one very, very, small spot on one side of
the
25 screen that would be very similar in appearance to
the

1 stains that we found on the window.

2 Q. Okay. So, along the cut of the
3 window, did you find any evidence of any sort of
blood?

4 A. No, sir.

5 Q. And on the screen itself, did
you find

6 evidence of blood, but not human blood?

7 A. On the actual frame of the
screen, I

8 had a presumptive test positive for blood. It was
such a

9 small stain, there was no further testing that I
could

10 do.

11 Q. Okay. Was its size and
appearance

12 consistent with what you had seen here on the
window?

13 A. Yes, sir.

14 Q. All right. Miss Long, let me
show you

15 State's Exhibit 21 and 22. I believe these will be
your

16 items, 123 and 124. Do you recognize these two

items?

17 A. Yes, sir, I do.

18 Q. Okay. Did you also receive
these two
19 items for testing?

20 A. Yes, sir.

21 Q. All right. In your testing, did
you

22 find any evidence of blood on either State's
Exhibits 21

23 or 22?

24 A. No, sir, I did not.

25 Q. Now, throughout your testing,
did you

1 receive other items that came to you from 5801

Eagle

2 Drive?

3 A. Yes, sir.

4 Q. Okay. Let me direct your
attention

5 here to State's Exhibit 93. And I believe this
will be

6 your item number 69; is that right?

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

8 Q. Okay. On State's Exhibit No. 93,
did

9 you test that for blood?

10 A. Yes, sir, I did.

11 Q. Did it come back positive?

12 A. Yes, sir.

13 Q. And did you take blood samples
from

14 State's Exhibit No. 93?

15 A. Yes, sir, I did.

16 Q. Was there also a multi-colored
17 comforter that arrived at your office?

18 A. Yes, sir.

19 Q. And I believe, is that your item
20 number 18?

21 A. Yes, sir.

22 Q. If you will look at State's

Exhibit

23 No. 70, does this appear to be the same comforter
that

24 you tested at your lab?

25 A. Yes, sir, it does.

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1 Q. Okay. Did you also obtain a blood
2 sample from State's Exhibit No. 70?

3 A. Yes, sir, I collected three
stained

4 portions, and also one unstained portion.

5 Q. Okay. Let me show you what has
been

6 marked as State's Exhibit No. 82. I believe this
will be

7 your item number 31. Do you recognize that?

8 A. Yes, sir, I do.

9 Q. Okay. Did you obtain a sample
from

10 the handprint itself on State's Exhibit No. 82?

11 A. Yes, sir, I cut out this portion
right

12 here, I just cut some of the carpet fibers off the
top.

13 Q. If you will look at State's
Exhibit

14 No. 23?

15 A. Okay.

16 Q. And I believe that would be your
item

17 number 25? Is that correct?

18 A. Yes, sir.

19 Q. Okay. Did you also obtain blood
20 samples from State's Exhibit No. 23?

21 A. Yes, sir, I cut five stains from
22 those.

23 Q. Okay. And if you will, please
look at
24 State's Exhibit No. 86. I believe this will be your
item
25 number 70. This rug, do you recall whether or not
you

1 obtained blood samples from that rug also?

2 A. Yes, sir, I cut six stain marks
from
3 the rug.

4 Q. Okay. And Miss Long, let me show
you

5 the two items that have been marked as State's
Exhibits

6 64 and 65, I believe they are your item number 28,
two

7 towels. And ask you whether or not you obtained
blood

8 samples from each of those two towels?

9 A. Yes, sir, I did.

10 Q. Okay. Miss Long, if you will
look at

11 State's Exhibit No. 66, I believe this will be your
item

12 number 30, a white towel, a rag. Did you obtain a
blood

13 sample from that item?

14 A. Yes, sir, I did.

15 Q. If you will, please look at
State's

16 Exhibit No. 60, a sock, and I believe that will be
your

17 item number 27. Did you obtain a blood sample from
18 State's Exhibit No. 60?

19 A. Yes, sir, I cut two stains from
this
20 sock.

21 Q. If you will please look at
State's

22 Exhibit No. 39, a baseball cap. I believe this
will be

23 your item number 68. Did you obtain a blood sample
from

24 this item?

25 A. Yes, sir, I cut three stains
from

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1 this and also one unstained portion.

2 Q. Okay. And State's Exhibit No.
71-A

3 and 71-B, two Reebok tennis shoes. And I believe
these

4 will be your items 103. Do you recall taking blood
5 samples from each of these shoes?

6 A. Yes, sir.

7 Q. And I'll ask you to look at
State's

8 Exhibit No. 62. I believe this will be your item
number

9 26. Do you recall taking a blood sample from that
item

10 also?

11 A. Yes, sir, I do. I actually cut
two

12 samples from that blanket.

13 Q. Okay. State's Exhibit No. 61, a
green

14 blanket, your item number 21. Do you recall taking
a

15 blood sample from this item also?

16 A. Yes, sir.

17 Q. Okay. State's Exhibit No. 67. I
18 believe this will be your item number 2, do you

recall

19 taking blood samples from this?

20 A. Yes, sir, I do.

21 Q. Okay. In addition to this, did a
22 white rag also come to you for blood analysis?

23 A. Yes, sir.

24 Q. State's Exhibit No. 66. Let me

have

25 you look at that.

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1 A. Yes, sir.

2 Q. Do you recognize that?

3 A. Yes, sir.

4 Q. Okay. Did you also take a blood
5 sample from that?

6 A. Yes, sir, from this corner right
here.

7

8 MR. RICHARD C. MOSTY: Mr. Davis,
I

9 missed the SWIFS number.

10 MR. GREG DAVIS: This is State's
11 Exhibit No. 66.

12 MR. RICHARD C. MOSTY: What is
the

13 SWIFS number?

14 MR. GREG DAVIS: The SWIFS number
is

15 number 30.

16 THE COURT: All right.

17 MR. DOUGLAS MULDER: That is a
white

18 rag.

19 MR. GREG DAVIS: Is that already
done?

20 Okay. What I am looking for right now is State's

Exhibit

21 No. 63, which is another -- another rag, a plaid
rag.

22

23 BY MR. GREG DAVIS:

24 Q. While we're looking for that,

Miss

25 Long, let me ask you if some additional items came
to you

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1 from the medical examiner's office in the cases of
Damon

2 and Devon Routier?

3 A. Yes, sir.

4 Q. Okay. With regards to Damon
Routier,

5 did a black T-shirt come to you for analysis there?

6 A. Yes, sir.

7 Q. Did that come from Dr.

8 Townsend-Parchman?

9 A. Yes, sir, it did.

10 Q. Now, with regards to Devon
Routier,

11 did you receive from Dr. Joni McClain the following
12 items: A pillow, a pillow case, a gray and black
13 blanket, and some shorts?

14 A. Yes, sir. I did. And also, a
15 transport sheet and the autopsy reports.

16 Q. And, with regard to the items
that

17 came to you from Dr. McClain, if you can see
State's

18 Exhibit 11-C, do you see a gray and black blanket
here in

19 State's Exhibit 11-C?

20 A. Yes, sir.

21 Q. Does that appear to be the same

22 blanket that accompanied the other items regarding

Devon

23 Routier from Dr. McClain?

24 A. Yes, sir.

25 Q. Was there also a pillow and a
pillow

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1 case?

2 A. Yes, sir, but by the time I got
them,

3 I believe they were separated. It was just --
there's a

4 pillow and a pillow case.

5 Q. Okay. Let me ask you to look at
the

6 pillow here in State's Exhibit 11-F, the Power
Ranger

7 pillow. Does that appear to be the, I guess, it's

8 actually going to be the pillow case portion of
the

9 pillow that came from Dr. McClain?

10 A. Yes, sir, it did.

11 Q. And the accompanying pillow, was
that

12 along with the pillow case, correct?

13 A. Yes, sir.

14 Q. And you also indicated that Dr.
15 McClain sent over to you certain shorts, were they

Power

16 Ranger shorts as seen here in State's Exhibit 11-E?

17 A. Yes, sir, they were.

18 Q. Okay. I think we have found

State's

19 Exhibit No. 63, I believe it will be your item
number 29.

20 And let me ask you again, whether or not you took
any

21 blood samples from State's Exhibit No. 63?

22 A. It's a wash cloth. Yes, sir, I
did.

23 Q. Okay. And that is your item
number

24 29, right?

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

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1 Q. Miss Long, let me show you a T-
shirt,

2 that's State's Exhibit No. 25, and I believe your
item

3 number 24. Do you recognize this item also?

4 A. Yes, sir, I do.

5 Q. Okay. Did you take certain blood
6 samples from State's Exhibit No. 25?

7 A. Yes, sir, I did.

8
9 (Whereupon, the
above
10 mentioned items
were
11 marked for
12 identification
only
13 as State's
Exhibits
14 Nos. 110-A, B and
C,
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. Miss Long, I want to step back

for

23 just a moment before we talk about these items.

Have you

24 look at the photographs that have been marked as

State's

25 Exhibit 110-A, 110-B and 110-C. Do you recognize
these

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1 photographs to be true and accurate depictions of
the
2 kitchen sink there at Eagle as they appeared on June
6th,
3 1996?

4 A. Yes, sir.

5
6 MR. GREG DAVIS: Your Honor, at
this
7 time, we will offer State's Exhibits 110-A, 110-B
and
8 110-C.

9 MR. RICHARD C. MOSTY: No
objection.

10 THE COURT: State's Exhibits 110-
A,
11 110-B and 110-C are admitted.

12
13 (Whereupon, the items
14 Heretofore mentioned
15 Were received in evidence
16 As State's Exhibit Nos. 110-A,
17 110-B, and 110-C, for all
purposes,

18 After which time, the

19 Proceedings were resumed

20 As follows:)

21 BY MR. GREG DAVIS:

22 Q. As the jury looks at these, will
we

23 see some writing inside the sink?

24 A. Yes, sir.

25 Q. Is that writing that you placed
there?

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1 A. Yes, sir.

2 Q. And what is that to indicate?

3 A. Those were the positive -- the
spots

4 that I found that were positive for blood.

5 Q. Okay. And when you mark a side,
do

6 you label it as a T-1 or a T-2?

7 A. When I am going to collect
something,

8 I label it as, I give it a "T" number, that is a
test

9 area number. I didn't collect all the stains from
the

10 sink. There are some that have just been marked
with a

11 plus sign. That's just to indicate to me, and in
future

12 photographs, that those areas were positive.

13 Q. Okay. Miss Long, let me show you
14 State's Exhibit No. 122. And, if you will, as we go
15 through this diagram, does this appear to be a floor
plan

16 of a part of the house out there at 5801 Eagle
Drive?

17 A. Yes, sir, it does.

18 Q. Okay. As we look in the utility
19 portion of this house, at the portion representing
the
20 baseball cap, do you see two samples there?

21 A. Yes, sir.

22 Q. Okay. Do they accurately reflect
the
23 fact that you took at least two samples from that
24 baseball cap?

25 A. Yes, sir.

1 Q. All right. Do you see the
kitchen

2 sink?

3 A. Yes, sir.

4 Q. All right. Do you see some T-
numbers

5 here, actually, 9-T-7, 9-T-6, 9-T-4, 9-T-8? Do they
6 reflect samples that you took from the kitchen
sink?

7 A. Yes, sir, they do.

8 Q. Okay. Similarly, are there
numbers,

9 reflecting accurately, samples that you took from
the
10 item 70, the rug sitting in front of the kitchen
sink?

11 A. Yes, sir.

12 Q. Okay. And those are all
designated as

13 70 and then with a T-number; is that right?

14 A. Yes, sir.

15 Q. Okay. We have a representation
of a

16 vacuum cleaner. Are there samples noted as 69 and
then

17 with a T-number, and do they accurately reflect
samples

18 that you took from the vacuum cleaner?

19 A. Yes, sir, they do.

20 Q. Are there two samples over here
on the

21 wall close to the switch plate labeled as 55 and 56?

And

22 do they accurately reflect samples that you took
from

23 that portion of the wall?

24 A. Yes, sir, they do.

25 Q. Okay. Looking in the family
room, the

1 area as you come in the hall and to the left, do we
have

2 a representation of an individual there, Damon
Routier?

3 And do we have samples listed,
25-T-3

4 and 25-T-5, as well as 13-T-1, and do they represent
5 samples that you took from his clothing?

6 A. That would be with the child
facing --

7 with the face down?

8 Q. Yes.

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

10 Q. Okay. Do we also see the couch
that

11 is closest to the kitchen, and do we have three
samples,

12 52, 53 and 54? Do they represent samples that you
took

13 from the couch?

14 A. Yes, sir, they do.

15 Q. Over by the chair, do we have
two

16 samples listed as 50 and 49, and do they represent

17 samples that you took from the carpet near that
chair?

18 A. Yes, sir, they do.

19 Q. Moving across here to the child

20 representing Devon Routier, do we have a sample of

3-T-2,

21 that represents accurately a sample that you took

from

22 the gray and black blanket?

23 A. Yes, sir.

24 Q. Do we have the shorts as 3-T-6?

25 A. Yes, sir.

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1 Q. Two samples that you took from
the
2 pillow and the pillow case, the Power Ranger item,
are
3 they listed as 3-T-1 and 3-T-4?

4 A. Yes, sir.

5 Q. And these accurately reflect
samples
6 that you took from this area; is that right?

7 A. Yes, sir.

8 Q. Do we have a sample 57, close to
the
9 coffee table on the carpet, does that accurately
reflect
10 the sample that you took in that part of the house,
too?

11 A. Yes, sir.

12 Q. Moving over here to the green
blanket,

13 do we have a sample 21-T-1 that represents the sample
14 that you took from that area?

15 A. Yes, sir.

16 Q. Do we have a blue blanket with
the
17 sample of 26-T-2, and does that accurately

reflect a

18 sample that you took from that item?

19 A. Yes, sir.

20 Q. Do we have another item, 31-T-3,

that

21 represents the sample that you took from the bloody

palm

22 print?

23 A. Yes, sir.

24 Q. Do we have an item 58 that

represents

25 a sample that you took from the couch, closest to the

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1 windows, facing the back yard?

2 A. I'm sorry on the 31?

3 Q. Yes.

4 A. I actually collected T-1.

5 Q. Okay.

6 A. So T-3 would have been cut later
by
7 the DNA analysts.

8 Q. All right. Is 31-T-3, is going to
be
9 a sample actually taken by the DNA people later on?

10 A. Yes, sir.

11 Q. 31-T-1, would it be in that same
area
12 shown on the diagram?

13 A. Yes, sir.

14 Q. Let's make sure you have got that.

15 A. Yes, sir.

16 Q. Miss Long, with regards to the T-
shirt

17 down here in front of me, State's Exhibit No. 25, how
18 many times did you take samples from the T-shirt?

19 A. Twice.

20 Q. All right. The first time that
you

21 took samples, how many blood samples did you take?

22 A. I took seven.

23 Q. All right. And would you have
labeled

24 those T-1 through T-7?

25 A. Yes, sir.

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1 Q. All right. Do you recall when you
2 took those samples?

3 A. Actually, those were done on June
the
4 24th, 1996.

5 Q. Okay. And when you took the
samples,

6 is it necessary to actually cut cloth out of the T-
shirt

7 in order to get those samples?

8 A. On that shirt, yes, it was.

Unless

9 there was some portion that was -- the blood was
actually

10 caked on and we could take flakes off, but in that

11 instance, we actually cut cloth out of the actual
shirt.

12 Q. All right. And as you would take

a

13 sample, I see a hole here that has a T-1 next to it,

is

14 that the way that you would indicate where you had

taken

15 sample?

16 A. Yes, sir.

17 Q. Okay. And that would be true for
T-1

18 through T-7; is that right?

19 A. Yes, sir.

20 Q. Now, when is the second time that
you

21 took samples from the T-shirt?

22 A. It actually spanned over two days;
23 September 12th and September the 13th, 1996.

24 Q. All right. And again, would these
now
25 be T-8 through T-15?

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1 A. Yes, sir.

2 Q. And again, did you indicate those,
I

3 see a hole here that has a T-9, again, would you
indicate

4 your samples the same way that you did the first
time?

5 A. Yes, sir.

6 Q. Miss Long, if you would please
look at

7 the photographs that I have had marked as State's
Exhibit

8 120 and 121. Do you recognize State's Exhibit 120 to
be

9 a photograph from the front of the T shirt, State's
10 Exhibit No. 25?

11 A. Yes, sir.

12 Q. And do you recognize State's
Exhibit

13 121 to be a photograph of the back portion of State's
14 Exhibit No. 25?

15 A. Yes, sir.

16 Q. All right. On these two
photographs,

17 have we indicated where you took your T samples, T-1

18 through 15?

19 A. Yes, sir.

20 Q. Okay. And the locations that we
have

21 shown here on these photographs, do they accurately
22 reflect where you took those samples from?

23 A. Yes, sir.

24 Q. Now, Miss Long, in addition to
the
25 samples that you took from the T-shirt, State's
Exhibit

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1 No. 25 -- let me ask you whether or not you have ever
met

2 an individual by the name of Terry Labor?

3 A. Yes, sir, briefly.

4 Q. Okay. And would you tell the
members

5 of the jury when and where you met him?

6 A. I met him at our laboratory in
Dallas

7 on August the 23rd, 1996.

8 Q. All right. And did he come to the
lab

9 with anyone?

10 A. Yes, sir, he came with two of his
11 colleagues.

12 Q. Who were they?

13 A. I'm not sure of the gentlemen's
names.

14 I didn't really meet them.

15 Q. Bart Epstein?

16 A. That was one of them.

17 Q. Okay. Any lawyers with him?

18 A. No, sir, not to the best of my
19 knowledge.

20 Q. Okay. When Mr. Labor came there,

did

21 he inform you that he had been employed by the
attorneys

22 representing Darlie Routier?

23 A. Yes, sir.

24 Q. And, when he came to your lab

there in

25 August of 1996, did he, in fact, take samples also
from

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1 this T-shirt?

2 A. Yes, sir, he did.

3 Q. All right. And when Mr. Labor
took

4 those samples, did he also mark where he had taken
them?

5 A. Yes, sir, he did. I believe he
used

6 A, an alphabetical numbering system.

7 Q. Okay. For instance, let me --
I'm

8 just looking here at the left sleeve. Do you see a
large

9 hole with the letter F and then, the initials, it
appears

10 TLL?

11 A. Yes, sir.

12 Q. Is that the way that he sampled
and

13 the way that he actually documented which samples
that he

14 had taken?

15 A. Yes, sir.

16 Q. Do you remember how many samples
that

17 Mr. Labor took on behalf of Mrs. Routier?

18 A. I believe he took six.

19 Q. Did he take that --

20 A. He took -- I'm sorry -- he took
seven.

21 Q. He took seven samples?

22 A. Yes, sir, A through G.

23 Q. Was that done out there at your

24 laboratory in Dallas?

25 A. Yes, sir, it was.

1 Q. While he was out there, did you
have
2 any conversations with Mr. Labor or watch him, what
he
3 was doing?

4 A. I kind of watched what he was
doing,
5 but I didn't really have any conversation with him.

6 Q. Now, let me ask you, prior to
7 testifying today, have you and I discussed what you
did
8 in this case?

9 A. Yes, sir.

10 Q. Did we have conversations while
we
11 were still in Dallas about what you had done with
regards
12 to these items in front of us?

13 A. Yes, sir.

14 Q. All right. And let me ask you
whether
15 or not you have spoken with any of the gentlemen here
at
16 the other table, either Mr. Mosty, Mr. Mulder, Mr.
17 Hagler, Mr. Glover or Mr. Douglass here?

18 Have you spoken with any of them?

19 A. Yes, sir, I have.

20 Q. Okay. When did you meet with
these

21 people?

22 A. It was on New Year's Eve, 1996.

23 Q. All right. Who did you meet with?

24 A. Mr. Mulder and Mr. Mosty and their
25 investigator.

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1 Q. Okay. Is that Mr. Harrell here in
the

2 corner?

3 A. Yes, sir.

4 Q. And, do you recall how long that
5 meeting took place?

6 A. It was approximately two hours. I
had

7 to leave early.

8 Q. Okay. Who else was present at
that

9 meeting?

10 A. Charles Linch.

11 Q. And during that meeting, did Mr.
Mosty

12 or Mr. Mulder ask questions of you and Mr. Linch?

13 A. Yes, sir, they did.

14 Q. Okay. And did you provide
information

15 to them?

16 A. Yes, sir.

17 Q. Did you supply them with any notes
18 that you had generated in this case?

19 A. Yes, sir, I did.

20 Q. Mr. Linch, did he do the same?

21 A. I'm not really sure if Charlie

gave

22 them any copies of notes, but I believe he was
open to

23 that.

24 Q. Okay. So you spoke with them

New

25 Year's Eve and you were there for the meeting
about two

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1 hours, right?

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

3 Q. Was the meeting still going on
when

4 you left?

5 A. Yes, sir.

6

7 MR. GREG DAVIS: Your Honor,
at this

8 time I will pass the witness for cross
examination. And,

9 prior to her testimony, Miss Long has made a copy
of all

10 of her notes. And I am giving those to Mr. Mosty
at this

11 time. They should be complete.

12 MR. RICHARD C. MOSTY: May I
have a

13 few moments, your Honor?

14 THE COURT: You may.

15 MR. RICHARD C. MOSTY: Is this
my

16 copy?

17 MR. GREG DAVIS: Yes, sir.

18

19

20

21

CROSS EXAMINATION

22

23 BY MR. RICHARD C. MOSTY:

24

Q. Miss Long, the notes that you

gave me,

25 these are a lot more than the ones that we talked
about

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1 on the 31st, is it not?

2 A. Yes, sir, it is.

3 Q. That was just about one
specific --

4 A. Yes, sir.

5 Q. Two pages, if I remember
right.

6 A. Yes, sir.

7 Q. In addition to these notes,
have you

8 written any reports?

9 A. Yes, sir, I have.

10 Q. And what are those dated?

11 A. I have one dated September the
19th,

12 1996; September the 10th, 1996; and January the
6th,

13 1997.

14 Q. May I see those? I don't
think I have

15 ever seen those. You don't happen to have an
extra copy,

16 do you?

17

18 MR. GREG DAVIS: Let's see. I

think I

19 have got one.

20

THE WITNESS: I have an extra

copy of

21 the last one.

22

MR. GREG DAVIS: The one on

January

23 6th?

24

THE WITNESS: Yes.

25

MR. GREG DAVIS: Okay. Here

is the

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1 January 6th.

2 MR. RICHARD C. MOSTY: I have
seen

3 that one. I know I've got that one.

4 THE WITNESS: These are the
other two.

5 MR. RICHARD C. MOSTY: All
right. May

6 I get Mr. Douglass to maybe go make a copy of
these?

7 THE COURT: Oh, yes.

8 THE WITNESS: I might have
copies with

9 me. I do have copies.

10 MR. RICHARD C. MOSTY: These
are not

11 the originals that you gave me, are they?

12 THE WITNESS: Those are the
originals.

13 MR. RICHARD C. MOSTY: How
about we

14 switch?

15 THE WITNESS: Okay.

16

17 BY MR. RICHARD C. MOSTY:

18 Q. All right. Miss Long, I --

because of

19 how some of these things are labeled, I'm a
little

20 confused on some of it. I want to try to clarify
that

21 with you.

22 A. Okay.

23 Q. How many total rags did you
analyze?

24 A. Well --

25 Q. It seems like sometimes they
are

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1 referred to it as rags, sometimes as wash cloths.

2 A. Actually, there appears to be
10 of

3 the smaller towels, wash-cloth-type kitchen
towels.

4 Q. Okay. Combining all of that,
towels,

5 rags, wash cloths, whatever they are, there are
10 of

6 them?

7 A. There were also some other
large type

8 beach towels that I analyzed.

9 Q. Okay. Ten rags or wash
cloths, and

10 how many beach towels?

11 A. Seven that were actually
submitted to

12 the laboratory.

13 Q. Now, when you create a number,
let's

14 take a rag, for instance. You put that in a
number under

15 your system as just 1 through whatever?

16 A. I'm sorry. I don't understand
the

17 question.

18 Q. Well, we were referring a lot
to your

19 item number 1, which is a different State's
Exhibit

20 Number. How do you at SWIFS number? And let's
just talk

21 about those things that you were involved in.

22 A. Each case that we have is
assigned an

23 FL number, it could be a 90 or whatever year it
is, the

24 last two numbers of the year. And the P number
to

25 indicate that it belongs in the physical evidence

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1 division, then it gets a one thousand number.

2 Q. Okay.

3 A. From there, our evidence
registrar

4 then assigns individual numbers, starting from
one to

5 each item that is submitted. We get items from
the

6 medical examiner's office, we also get items from
the

7 police department.

8 In this case, I actually went out
and

9 collected my own items. So there were several
different

10 agencies submitting items. She just went down the
list

11 and went 1 through, I believe, a hundred and twenty-
four

12 or so, and assigned each item its own number.

13 Q. In consecutive order?

14 A. Yes, sir.

15 Q. How do you do the blood sampling?

16 A. What type of blood sampling?

Dried

17 samples from the scene, or --

18 Q. Yes, samples from the scene, or
19 objects at the scene?

20 A. Each of those was given its own
21 number.

22 Q. Okay. And that begins with a 1,
23 2, 3?

24 A. Right. Everything, from the
25 medical

26 examiner or from the police departments or from
27 myself

28 were each given a number in chronological order, 1

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1 through 100 and something.

2 Q. For instance, how do you do the
Ts? I

3 mean, there are two Ts, three -- what is the T?

4 A. The T is test area.

5 Q. Okay.

6 A. Usually, with each item, say there
is

7 a number 12 or number 13 was a T-shirt. The T-shirt
8 itself was number 13. However, each stain that I
cut

9 from the shirt was assigned its own number. A test
area

10 is the stain -- with actual stain on it.

11 On some instances there were
items

12 that didn't have any blood on them. You know,
there

13 would be one part that was bloody and one part
that

14 wasn't. I tried to collect a part that isn't bloody
and

15 a part that is bloody, in case there is some kind of
dye

16 reaction or something, where we have a substrate

control,

17 which is just a part of the item that is not stained.

18 Q. So, if I have got, for

instance, T-1

19 through 4, that's going to tell me that you took

four

20 samples off of that item?

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

22 Q. But does that tell me whether

or not

23 they had blood on them or not?

24 A. No, sir.

25 Q. Then you have to go to the
remainder

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1 of your report or your test to identify which did
and

2 which didn't?

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

4 Q. Now, and I noted that when you
took

5 that picture of the sink, at that point, had you
wrote

6 (sic) on that sink?

7 A. Yes, sir, I did.

8 Q. Okay. And, did you put your
initials

9 on there?

10 A. No, sir, I did not.

11 Q. Okay. But did you photograph
it then?

12 A. I did not photograph it. An
officer

13 from the Rowlett Police Department did.

14 Q. Okay. But that was to document
what

15 you had done for future reference?

16 A. Yes, sir, because my notes are
just my

17 own notes, kind of an artist rendering thing, they

are

18 not exact. The photograph depicts much more
accurately

19 what was actually there.

20 Q. And in that Exhibit, I think it
was

21 No. 110, you were really just focusing in on those
areas,

22 the photographer was just focusing in on those
areas that

23 you had picked out?

24 A. Yes, sir. I had actually

tested the

25 sink, indicated the positive areas, then I called
him

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1 over and asked him to photograph it.

2 Q. And by that time, you were
actually

3 looking inside the sink bowl itself?

4 A. Yes, sir, as closely as
possible.

5 Q. Okay. And you indicated that
there

6 was blood mixed with water in that sink area?

7 A. It was diluted out blood.

8 Q. And from your training you can
tell

9 that?

10 A. Yes, sir.

11 Q. And, it would have been
consistent

12 with someone running -- after there had been some
blood

13 in that sink, of wetting a wash towel or running
water or

14 something, so that water then spills into the sink
area

15 where the blood already was?

16 A. Or, you could be wringing out a
rag,

17 or you could be washing blood off of your hands. Or
like

18 -- yes, sir.

19 Q. Anyway, there is blood there, then
20 water comes out of the sink and whatever activity you
are

21 doing is then going to create that diluted blood?

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

23 Q. Okay. And, the streaked area that
you

24 described, did that appear to be something that had

run

25 down and dripped inside?

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1 A. No, sir, it did not.

2 Q. Okay.

3 A. You could not -- it was not
detectable

4 without opening the door of the cabinet.

5 Q. All right. When you set about to
6 sample an item, how do you choose that? How do you
say,

7 "I'm going to take one sample, or two," or, I think
the

8 most -- I remember you saying was six, maybe, or in
that

9 neighborhood?

10 A. I believe on the Victoria's
Secret

11 nightshirt, I actually collected almost 15 stains.

12 Q. Over two different times?

13 A. Yes, sir.

14 Q. Okay. But how does -- how do you
go

15 about that? For instance, you're out at the scene
and

16 there is this bloody footprint in the garage. How
do you

17 go about deciding what to collect?

18 A. I wouldn't have exactly called it
a
19 bloody footprint. It was a transfer stain. Because
it
20 was in the garage, that seemed to be an important
area at
21 that time, the alleged perpetrator would have left
22 through the garage, according to the victim's story.
23 If there was any blood in the
garage,
24 that would have been important at that time.
25 Q. Well, I don't mean to quibble
with

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1 whether or not it is a footprint or whatever it is,
it is

2 a bloody area. Can we with agree on that?

3 A. Yes, sir.

4 Q. All right. How did you choose
how to

5 take a blood sample out -- out of what part of that
6 bloody area? How do you make that decision?

7 A. There was actually two stains
that I

8 collected in the garage. I collected them because
they

9 were in the garage. It was an important area at
that

10 time, because the victim's story stated that the
11 perpetrator had left through that area.

12 Q. You and I are not clicking.

We're --

13 I'm saying, -- and then let me get off the -- let me
go

14 somewhere else.

15 Let me go to -- you are down at
the

16 Dallas County Courthouse and someone has been shot
out in

17 front and you see a bloody spot, and a smudge, and a
18 footprint and, you know, areas of blood?

19 A. If it was --

20 Q. And they say to you, "We would
like

21 for you to sample that."

22 How do you go about that process,
23 saying, "I'm going to take a sample from here or
there or

24 yonder." How do you go about that process?

25 A. It's a matter of putting together
the

1 story. Was there a suspect that was injured or
possibly

2 injured? Is the area where the blood is, is it open
to

3 the elements?

4 Q. I'll take care of that for you.

5 A. Okay.

6 Q. There is a bloody spot and I am
the

7 investigator. No, no, there is a bloody area,
more or

8 less, as big as this sheet. And I am the
investigator

9 and I say, "I would like for you, Miss Long, to
sample

10 that." You don't take the whole thing?

11 A. It would kind of be
impractical.

12 Q. Not impossible, but it would be
13 laborious.

14 A. Correct.

15 Q. But how do you do that off of that
16 sheet? Would you just pick the most bloody spot, or
the

17 cleanest spot, or how would you make that choice?

18 A. If it's one large consistent
stain,

19 you would take a portion of the stain.

20 Q. For instance, a part of this is --
21 it's maybe sort of smeared, and part of it appears
22 undisturbed, and part of it has more blood. Would
you --

23 what part of that would you take?

24 A. It's something that you would have
to
25 see. You are expecting me to visualize something
that

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did it

20 come in two rags in one bag?

21 A. Yes, sir.

22 Q. And as a serologist, you don't
like

23 that, do you?

24 A. In a perfect world, that wouldn't
be
25 appropriate.

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1 Q. Because that can affect the
integrity

2 of what you observe and the sampling you take?

3 A. I'm not quite sure about that.

4 Q. Well, you get one bloody item in a
bag

5 with another, blood that was on one can end up on the
6 other?

7 A. Yes, sir, but I took samples from
both

8 items.

9 Q. Well, I understand that. I'm just
10 talking about the transferring of blood.

11 A. If there had been a foreign blood
type

12 on one, you know, if there is one blood type on one
and

13 another blood type on the other and they mix
together,

14 the DNA analyst would be able to pick up both blood
15 types.

16 Q. Okay. And I don't quarrel with
that,

17 but that DNA analyst wouldn't be able to say, "Was it
18 originally on that one, or is it originally on that

one?"

19 A. That's correct.

20 Q. They can't make that

determination,

21 can they?

22 A. If the items were wet when they

were

23 co-mingled.

24 Q. And if there is a single spot of

blood

25 of one individual and it happens to get transferred
on to

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1 the other, the DNA analyst can never say, other than
it's

2 blood there. They can't say whether it got there
before

3 they were thrown together or after?

4 A. That's correct.

5 Q. Can't find my two rags, but I did
have

6 one. Okay. Here is a rag from the scene which is
7 State's Exhibit 87.

8 Now, did you take some samplings
from

9 this?

10 A. Yes, sir, I did.

11 Q. Okay. Now, how then does one go
about

12 doing that? Making the choice: "I'm going to cut
out

13 this spot, but I am not going to cut out that one"?

14 A. This item appeared to be folded
when

15 it was submitted to the laboratory. You can see
here,

16 the stain that I cut is also consistent with the
stain

17 that -- it appears that it has bled through.

18 Q. That is actually a transfer
through

19 from one side to another; is that correct?

20 A. Yes, sir. Therefore, I only cut
the

21 one stain.

22 Q. Okay.

23 A. I cut the --

24 Q. Let me go over that point with

you

25 right now. You are saying that because it appeared

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1 that -- do you assume that -- or was the side that
is up

2 now the bloodiest?

3 A. Yes, sir.

4 Q. In your opinion? More bloodier
than

5 the other?

6 A. Yes, sir.

7 Q. Okay. And is that more bloody
spot

8 was sitting in this manner, would then that blood
seep

9 through to the other side?

10 A. Yes, sir, if it was bloody
enough.

11 Q. Well, and this one appears that
it

12 was, doesn't it?

13 A. Yes, sir.

14 Q. I mean that was your judgment?

15 A. Yes, sir.

16 Q. So you can see that hole, and
there is

17 actually blood that has soaked through to the other
side

18 of this rag?

19 A. Yes, sir, that is the way it
appeared

20 to be.

21 Q. So you made a choice to take,
what,

22 the more bloody spot?

23 A. Yes, sir.

24 Q. And then, this other one farther
down

25 has blood, and it also appears to have soaked
through,

1 does it not?

2 A. Yes, sir.

3 Q. And why and how would you go
about --

4 I'm not really trying to say, "How did you pick
this

5 one?" But how, in general, do you look for that?
Do you

6 look for a more bloody spot?

7 A. It's the better stain to -- in
case,

8 let's say, I needed to do serological analysis on
it, if

9 the DNA analysts needed to do DNA analysis on it,
if a

10 defense expert wanted to do DNA analysis on it, or
a

11 serological analysis, what I try to do is collect
enough

12 so that everybody has enough.

13 Q. So you really, in that instance,
you

14 are looking for a large spot?

15 A. If -- since the large spot was
there,

16 I cut it.

17 Q. Okay. And, these that are over
on the

18 other side, you -- those are the ones that you did,
that

19 you would think would be -- that you didn't want to
take?

20 A. Actually -- there was a line
across

21 here, where it appeared to have been folded. So it
could

22 have been folded like this at some point. And this
stain

23 right here may have been a transfer from that
stain.

24 Q. Okay.

25 A. It's only speculation.

1 Q. Okay. So you just have to look
at
2 that and make those judgments, this one might be a
good
3 one to take?

4 A. Yes, sir.

5 Q. Because of it's size?

6 A. Yes, sir.

7 Q. Or it's cleanliness or whatever?

8 A. And also, if it's a stain
with no

9 other stains intermingling with it, we try to
get
10 discrete stains, so that we get clear blood types.

11 Q. Okay. Now, you sort of folded
this

12 towel up in a manner that some of the stains
seemed to

13 match, correct?

14 A. Yes, sir.

15 Q. And, so, if this were collected
and

16 preserved in that method, of how it was found, for
17 instance?

18 A. In what method?

19 Q. Well, if it appears that -- if it
were
20 found like this, these blood stains appear consistent
and
21 they were collected in a manner, the person that
22 collected it could prevent this from staining another
23 part, could they not?

24 A. Unless it was -- because it
appears
25 that it was bled on while it was folded down that one

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1 line.

2 Q. Okay. Down this line here?

3 A. It goes all the way. It could
have

4 been like this, or it could have possibly been like
this.

5 Q. Okay. So when it's collected, the
6 position it's in and when it is collected can be
7 important, can't it?

8 A. I would assume in some instances
it
9 could be.

10 Q. For instance, if it were like this
11 when I found it and I picked it up and I did like
this, I
12 could make a transfer of blood from one side to the
13 other?

14 A. If the item was still wet.

15 Q. Right. Right. I'm assuming that
the
16 item is still wet.

17 A. Yes.

18 Q. And, of course, you conclude that
when

19 you take that hole and it's soaked through to the

other

20 side, that is wet blood soaking through, isn't it?

21 A. Yes, sir.

22 Q. So the method in which that is
picked

23 up and then placed in a bag, or how it's kept, can
affect

24 the integrity of what you see later?

25 A. In some instances.

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1 Q. That would be true, for instance,
of a
2 shirt if you got it, and you rumbled it up and threw
it
3 in a bag, and then blood from the shirt soaked
through
4 the shirt itself and down to the bottom of the bag.
That
5 can affect the integrity of what you see later on in
the
6 laboratories?

7 A. Yes, of the actual staining
patterns.

8 Q. Right.

9 A. Not of the actual evidence itself.

10 Q. Yeah. It's still going to be
blood,
11 but the integrity of where it was at certain times is
now
12 compromised?

13 A. Yes, sir.

14 Q. So the location then becomes
suspect,
15 even though you can still say that is blood, and you
can

1 Q. Well, for instance, this shirt
that
2 the State has had you identify, did you look at the
3 bottom of that bag? Mrs. Routier's shirt; that bag
that
4 Mrs. Routier's shirt was thrown in?
5 A. Yes, sir.
6 Q. There's blood in the bottom of
that
7 bag, isn't there?
8 A. Yes, sir.
9 Q. And that would be consistent with
me
10 taking that shirt and throwing it in there, and then
that
11 shirt soaking through itself, dripping blood on to
the
12 bottom of the bag?
13 A. If -- or if the most bloody
portion
14 was actually exposed to the bottom of the bag.
15 Q. It could be either way, couldn't
it?
16 A. Yes, sir.
17 Q. It could be that it's just soaking

18 through itself, the bloodiest part is put in on top,
and

19 it soaks all the way through to the bottom of the
bag?

20 A. That could have happened, yes,
sir.

21 Q. And you can see blood that has
soaked

22 off of this shirt on to the bottom of that bag, can't
23 you?

24 A. Yes, sir.

25 Q. So it's fair to say that the
integrity

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1 of the locations of the blood spot on this shirt have
2 been compromised?

3 A. I wouldn't necessarily say that.

4 Q. Well, of course, you wouldn't
5 necessarily say it, but it's certainly possible,
isn't
6 it?

7 A. It could have been possible, but
as I
8 said, if the most soaked portion was directly on the
9 bottom of the bag, that could have been how the
bottom of
10 the bag got wet.

11 Q. Okay. I'll accept that as your
theory
12 that the bloodiest part was put in first. Okay.
I'll
13 accept that.

14 Now, will you also accept my
theory
15 that perhaps the bloodiest part was put in on top
and
16 that it went through that way?

17 A. I didn't really see any
soaking

18 through stains, but again, I'm not a blood spatter
19 expert.

20 Q. Well, you see the stains on the
21 bottom, don't you?

22 A. Yes, sir, on the bottom of the
bag.

23 Q. So the fact of the matter is it
could

24 be the way you suggest, and it could be the way I
25 suggest.

1 A. Yes, sir.

2 Q. And we will never know, will we?

3 A. No, sir, we won't.

4 Q. Now, the blood that you

identified on

5 the window screen?

6 A. Yes, sir.

7 Q. Now, did I understand that you

draw

8 no -- other than that being blood, you draw no

9 conclusions from it?

10 A. Yes, sir. It was actually on the

11 frame of the window screen.

12 Q. I'm going to apologize if I am

13 skipping around, because this is my notes as I am

14 rambling, so stop me if we are not together. I'm

going

15 to move back to talking about rugs.

16 You told me how many rags you

tested,

17 you've told me how many towels you have tested. How

many

18 rugs did you test?

19 A. Are you talking about actual

throw

20 rugs, or sections of carpet?

21 Q. No, I don't want to talk about
carpet.

22 Let's separate rugs for now. And we can cover
carpet

23 too, if you like. You did two sections of carpet,
didn't

24 you?

25 A. Yes, sir.

1 Q. I'm clear on that one.

2 A. Two large sections, yes, sir.

3 Q. Two large sections?

4 A. Yes, sir. I also cut fibers from
the

5 rug, from the actual carpet.

6 Q. Okay. The -- now, let's talk
about

7 throw rugs. How many throw rugs were delivered to
you?

8 A. I believe I tested two.

9 Q. Two. And in your notes, how did
you

10 describe those? What did you number them and how
did you

11 describe them?

12 A. I got a number 70 rug.

13 Q. Okay. That is -- is that your
number?

14 A. That is, yes, that is SWIFS
number 70.

15 Q. Okay. And how did you describe
that

16 rug in your notes?

17 A. It's a floral rug. It measures

27

18 inches by 45 inches. The tag reads, 100 percent
cotton,

19 handwoven rug, style, Kennsington. It had a green
and

20 mauve floral pattern in the center with a green,
21 checkered border.

22 Q. Is that State's Exhibit 68?

23 A. Yes. It's our item number 70.

24 Q. Okay. Does your item number 70

show

25 on there?

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1 A. Yes, sir.

2 Q. So, item number 70 is State's
Exhibit

3 No. 68?

4 A. Yes, sir.

5 Q. What other rugs did you test?

6 A. I tested a throw rug. It was
SWIFS

7 Exhibit Number 101.

8 Q. Okay. And how was that rug
described?

9 A. It was basically a green throw
rug
10 with fringe on both ends. It measured about 42
inches by
11 approximately 29 inches.

12

13 MR. RICHARD C. MOSTY: Is that
in
14 evidence?

15 MR. GREG DAVIS: Number 104?
Yes.

16 MR. RICHARD C. MOSTY: Is 104
the
17 SWIFS number?

18 THE WITNESS: The SWIFS number

was

19 101.

20 MR. RICHARD C. MOSTY: 101.

21 MR. GREG DAVIS: I don't think

that is

22 in evidence, Richard. I don't recall putting it in

23 evidence.

24 MR. RICHARD C. MOSTY: Okay.

25

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1 BY MR. RICHARD C. MOSTY:

2 Q. Mr. Davis informs me that he
doesn't

3 think that that SWIFS 101 is in evidence. But it
is a

4 green throw rug?

5 A. Yes, sir.

6 Q. Did you take any samples off
that one?

7 A. Yes, sir, I did.

8 Q. How many?

9 A. I collected six samples.

10 Q. Those would then be numbered
101-T?

11 A. T-1 through T-6.

12 Q. 1 through 6?

13 A. Yes.

14 Q. Okay. Did you test those for
blood?

15 A. Yes, sir, I did.

16 Q. And was any of that or all of
that

17 positive?

18 A. Yes, sir, they were.

19 Q. All?

20 A. All six.

21 Q. Did you test any other rugs?

22 A. No, sir, I don't recall testing
any

23 other rugs.

24 Q. Two rugs. And so I am clear, a

total

25 of two rugs, being one that was floral, and one,
was it,

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1 tell me that was solid?

2 A. Yes, sir, it was.

3 Q. And that is no other rugs that
you
4 tested?

5 A. No, sir.

6 Q. And were any other rugs
delivered to
7 you?

8 A. No, sir.

9 Q. Have you tested everything that
was
10 delivered to you for blood, or after visually
observing

11 it, obviously?

12 A. No, sir, I have not.

13 Q. Okay.

14 A. There were some water samples
15 collected at the scene, and some plumbing that was
16 collected at the scene, that I did not test.

17 Q. They delivered you the kitchen
sink,

18 literally, didn't they?

19 A. I did the kitchen sink myself at
the

20 scene, so I didn't get the kitchen sink, but we did
get

21 quite a bit of plumbing and water samples.

22 Q. And you did not do blood testing
on

23 those items?

24 A. No, sir.

25 Q. But is there anything else that
you

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1 did not do, at least go look for samples on?

2 A. Sir?

3 Q. Other evidence, other than the
4 plumbing, that was delivered that you did not test
for or

5 sample for blood?

6 A. No, sir.

7 Q. Okay.

8 A. I don't believe there is anything
else

9 that we did not test.

10 Q. And, the total of the samples on
the

11 T-shirt that you identified were: 1 through 7 on
the

12 first go-through, and 8 through 15 on the second
13 go-through?

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

15 Q. And you have not participated in
any

16 subsequent sampling to that shirt?

17 A. No, sir, I have not.

18

19 MR. RICHARD C. MOSTY: That's all

I

20 have, your Honor.

21 THE COURT: All right.

22

23

24

25

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REDIRECT EXAMINATION

BY MR. GREG DAVIS:

Q. Miss Long, on that T-shirt, did I

understand you to say that you didn't see any

evidence of

soaking through?

A. No, sir.

MR. GREG DAVIS: That's all.

RE CROSS EXAMINATION

BY MR. RICHARD C. MOSTY:

Q. Miss Long, when was the last time

--

when was the first time that you ever saw that T-

shirt?

A. It was on June the 24th, 1996.

Q. Eighteen days after this

incident?

A. Well --

Q. Trust me, it was 18 days.

A. Yes, sir.

22 Q. By that time, it was dry, wasn't
it?

23 A. Yes, sir.

24 Q. You never saw it when it was wet,
did
25 you?

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1 A. No, sir, I did not.

2 Q. And in fact, you never looked at
that

3 shirt to see what had soaked through or had not,
that is

4 not your job, is it?

5 A. That's correct.

6

7 MR. RICHARD C. MOSTY: Thank you.

8 MR. GREG DAVIS: Miss Long, I
have no

9 more questions.

10 THE COURT: All right. You may
step

11 down, ma'am.

12 THE WITNESS: Thank you.

13 THE COURT: All right.

14 In view of the time, ladies and
15 gentlemen, we will adjourn now until Monday morning
at

16 9:00 o'clock.

17 The same instructions as always.

Do

18 not discuss this case among yourselves or with
anyone

19 else, at the present time. If someone tries to

talk to

20 you about anything in this case, please tell the
bailiff

21 who is with you at the time.

22 Do no investigation on your own.

You

23 will decide this case on the testimony that you hear
and

24 the evidence that you receive in this courtroom.

25 Should you read or hear anything
about

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1 this case on radio, TV or the newspapers, please, or
2 should you hear about it or see it or anything like
that,

3 please ignore it. Because again, the outside
accounts or

4 anything are immaterial, and you will decide this
case on

5 just the testimony that you hear and the evidence you
6 receive in this courtroom.

7 So we will see everybody at 9:00
8 o'clock on Monday morning.

9 Thank you.

10 Wear that juror badge at all times
11 when you are in the courthouse area.

12

13 (Whereupon, the jury

14 Was excused from

the

15 Courtroom, and

the

16 Proceedings were

held

17 In the presence of

the

18 Defendant, with

her

19

Attorney, but

outside

20

The presence of

jury

21

As follows:)

22

23

THE COURT: Okay. Let's go back

on

24 the record. Mr. Hagler, you had something?

25

MR. JOHN HAGLER: Yes, your

Honor. I

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1 just wanted the record to reflect the two rulings
that
2 were made at side bar with counsel from both sides
3 present.

4 THE COURT: Yes.

5 MR. JOHN HAGLER: One is the
State's

6 Exhibit No. 50, the spiral notebook, Bank One
records.

7 They were admitted with the understanding of the
law of

8 parties. They were admitted over objection that
were

9 voiced during the hearing outside of the presence of
the

10 jury.

11 THE COURT: That is correct.

12 MR. JOHN HAGLER: And secondly,
your

13 Honor, as I recall, we had a short hearing
immediately

14 prior to Barbara Jovell's testimony, and I objected
to

15 the video and her testimony was also admitted over --
her

16 trial testimony was also admitted over the objections

of

17 the defense, the same objections being voiced during
the

18 hearing outside of the presence of the jury as to the
19 audio tape.

20 THE COURT: That is correct.

21 MR. JOHN HAGLER: That's all I

have,

22 your Honor.

23 THE COURT: Anything else?

24 MR. RICHARD C. MOSTY: Well, this
25 isn't on the record.

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1 THE COURT: Okay. Go ahead.

2 MR. RICHARD C. MOSTY: I want to
3 just -- from the timing standpoint, if -- I am not
asking

4 the State to tell me what they are going to do or
when

5 they are going to do it. But, it would help matters
if

6 we could start talking to witnesses about when they
might

7 be down here.

8 MR. GREG DAVIS: Well, I think, I
see

9 us finishing early Wednesday.

10 THE COURT: If he finishes
Wednesday,

11 we will start you Thursday. Fair enough?

12 MR. RICHARD C. MOSTY: Can I be
the

13 first witness?

14 THE COURT: You can be the first
15 witness, Mr. Mosty. We welcome you up here. All
right.

16 Fine. All right. And, one other matter to put on
the

17 record now.

18

19

20

(Whereupon, the

following

21

mentioned item was

22

marked for

23

identification only

24

after which time the

25

proceedings were

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

4
5 THE COURT: One other matter to
put on
6 the record, this will be Court's Exhibit No. 1, which
is
7 the Xerox from the physician of the juror who was
unable
8 to continue, and who was replaced by the first
alternate.

9
10 (Whereupon, the above
11 mentioned item
was
12 received in
evidence
13 as Court's
Number 1,
14 for all purposes
15 after which time,
16 the proceedings
were
17 resumed on the

record,

18 as follows:)

19

20 MR. RICHARD MOSTY: All right.

21 THE COURT: I'm sorry. Counsel,

here,

22 what you were -- this is just a Xerox copy.

23 All right. You -- acknowledge

that,

24 and who can see that?

25 MR. RICHARD MOSTY: Yes, sir, I
can

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1 see it.

2 THE COURT: Do you want to see his
3 signature?

4 MR. RICHARD C. MOSTY: All right.

5 THE COURT: Obviously, a
physician, no

6 one can read it. Okay, okay. Sure.

7 MR. HAGLER: Can I get one of
those

8 for next week for me?

9 THE COURT: I am sure you can.

10 MR. HAGLER: Is that it, Judge?

11 THE COURT: All right. That is
it.

12 See everybody Monday morning.

13

14

15 (Whereupon, the jury was

16 thereby excused for

the

17 day, to return on

the

18 next day, January 20, 1997,

19 at 9:00 a.m.)

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(These proceedings are continued

to

23 the next volume in this cause.)

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Sandra M. Halsey, CSR, Official Court Reporter

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CERTIFICATION PAGE

THE STATE OF TEXAS)
THE COUNTY OF DALLAS)

I, Sandra M. Halsey, was the Official Court
Reporter of Criminal District Court Number 3, of

Dallas

County, Texas, do hereby certify that I reported in
Stenograph notes the foregoing proceedings, and that

they

have been edited by me, or under my direction and the
foregoing transcript contains a full, true, complete

and

accurate transcript of the proceedings held in this
matter, to the best of my knowledge.

I further certify that this transcript of the
proceedings truly and correctly reflects the

exhibits, if

any, offered by the respective parties.

SUBSCRIBED AND SWORN TO, this _____ day of
_____, 1997.

Sandra M. Day Halsey, CSR
Official Court Reporter
363RD Judicial District

Court

Dallas County, Texas

22

Phone, (214) 653-

5893

23

24 Cert. No. 308

25 Exp 12-31-98

Sandra

M. Halsey, CSR,

Official Court

Reporter

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1 STATE OF
TEXAS)
2 COUNTY OF
DALLAS)

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JUDGES CERTIFICATE

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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.

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MARK TOLLE, JUDGE

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Criminal District Court Number 3

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Dallas County, Texas

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Sandra M. Halsey, CSR, Official Court Reporter

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