

Wednesday

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Sandra M. Halsey, CSR,
Official Court Reporter

4744

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C A P T

I O N

2

3

4 BE IT REMEMBERED THAT, on
Wednesday, the 29th 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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2

A P P E A R

A N C E S

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4

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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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

11 2650 Maxus Energy

Tower

12 717 N. Harwood

13 Dallas, TX

75201

14

15 AND: HON. RICHARD

C. MOSTY

16 Attorney at

Law

17 Wallace,

Mosty, Machann, Jackson &

Williams

18 820 Main

Street, Suite 200

19 Kerrville,

TX 78028

20

21 AND: HON. S.

PRESTON DOUGLASS, JR.

22 Attorney at

Law

23 Wallace,

Mosty, Machann, Jackson &

Williams

24 820 Main

Street, Suite 200

25 Kerrville,

TX 78028

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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

19 Attorney at Law

20 620 Earl Garrett Street

21

Kerrville, TX 78028

22

APPEARING FOR: Witness

23

Officer Chris Frosch

24

only on one date in

trial

25

Sandra M. Halsey, CSR, Official
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1
G S

P R O C E E D I N

2

3 January 29th, 1997

4 Wednesday

5 9:00 a.m.

6

7

(Whereupon, the

following

8

proceedings were held

in

9

open court, in the

presence

10

and hearing of the

11

defendant, being

12

represented by her

attorneys

13

and the representatives

of

14

the State of Texas, but

15

outside the presence of

the

16

jury, as follows:)

17

18

THE COURT: All

right. Are both sides

19 ready?

20

MR. GREG DAVIS:

Yes, sir, the State

21 is ready.

22

MR. RICHARD

MOSTY: Yes, your Honor,

23 we are ready.

24

THE COURT:

Bring the jury in.

25

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1 (Whereupon, the
jury
2 Was returned to
the
3 Courtroom, and
the
4 Proceedings
were
5 Resumed on the
record,
6 In open court, in
the
7 Presence and
hearing
8 Of the
defendant,
9 As follows:)

10

11 THE COURT:

All right. Good morning,
12 ladies and gentlemen, be seated.
Let the record reflect
13 that all parties in the trial
are present and the jury is
14 seated.

15 The defense
may call its next witness.

16 MR. S.

PRESTON DOUGLASS: Arenda
17 Langford.

18 THE COURT:
Would you raise your right
19 hand?

20

21 (Whereupon,
the witness

22 Was duly
sworn by the

23 Court, to
speak the truth,

24 The whole
truth and

25 Nothing but
the truth,

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1 After which,
the

2 Proceedings
were

3 Resumed as follows:)

4
5 THE COURT: Do you solemnly swear
or
6 affirm that the testimony you are about to give will
be
7 the truth, the whole truth, and nothing but the truth,
so 8 help you God?

9 THE WITNESS: I do.

10 MR. GREG DAVIS: May we approach?

11 THE COURT: All right.

12
13 (Whereupon, a short
14 discussion was
held
15 at the side of
the
16 bench, between the
Court,
17 and the attorneys for
18 both sides in the case,
19 off the record, and

outside

20

of the hearing of the

21

Jury, after which time,

22

the proceedings were

23

resumed on the record,

24

outside the hearing of

25

the jury as follows:)

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1

2

MR. DOUGLAS MULDER: Judge, we
need to

3

go into a matter.

4

5

THE COURT: Well, if the jury will
step back into the jury room briefly, please.

6

7

(Whereupon, the jury

8

Was excused from

the

9

Courtroom, and

the

10

Proceedings were

held

11

In the presence of

the

12

Defendant, with

her

13

Attorney, but

outside

14

The presence of

jury

15

As follows:).

16

17

THE COURT: Let the record

reflect

18 that all parties in the trial are present. These
19 proceedings are being held outside the presence of
the
20 jury.

21 Mr. Mulder.

22 MR. S. PRESTON DOUGLASS: Your

Honor,

23 if I might --

24 THE COURT: Oh, excuse me. Mr.
25 Douglass.

1 MR. S. PRESTON DOUGLASS: If I
may go
2 into the issue regarding Arenda. Arenda Langford
was
3 called inadvertently. She had sat in the courtroom
4 during what, I believe, was Tom Bevel's testimony.
It
5 was inadvertently not recognized by us.
6 Her testimony does not go to any
issue
7 that Tom Bevel testified to. She gained no
knowledge
8 with respect to her testimony, with respect to
issues
9 that she saw when she was in the courtroom.
10 The Witness Sequestration Rule,
and
11 the Rule against a witness being in court is
12 discretionary with the Court. And if it does not
affect
13 their testimony, it's purely discretionary, and the
Court
14 can allow that witness to testify if those issues do
not
15 go to issues that she saw or witnessed in the
courtroom.

16

And for that reason, we would

submit

17 that she is capable to testify and not exempt under

the

18 rule, and if she should not be allowed to testify,

we

19 need to do a Bill.

20

THE COURT: Well, do a Bill then,

21 because I'm not going to let -- anybody who has been

in

22 the courtroom is not going to testify. That is

23 discretionary, and so I'm going to exercise my

discretion

24 and not let her testify.

25

MR. PRESTON DOUGLASS, JR.: Your

1 Honor, while we're on that issue then, the next
witness

2 we're going to call is Lloyd Harrell, who, of course
is
3 our investigator.

4 His testimony would not go to any
5 factual issue in the case at all. His testimony
will be

6 a summary and a review of the 911 tape which has
been

7 entered into evidence, and does not go to any factual
8 issue regarding the case, but only the evidence which
has

9 been entered by the State, and his review of the
10 evidence.

11 THE COURT: All right. Same
ruling.

12 So let's get on with making your Bill, whatever you
want

13 to do.

14 MR. DOUGLAS MULDER: Well, I
guess,

15 Judge, we can do it the easy way, or we can do it
the

16 hard way, and I am equally adept at doing it either

way.

17 In fact, I kind of like the hard way.

18 THE COURT: Very well, Mr.

Mulder,

19 what I wish to know is, do you wish to make a
Bill?

20 MR. DOUGLAS MULDER: Well, we
can

21 bring their witness back and put in our version
through

22 him, or we can do it the easy way.

23 Now, whichever way the Court
would

24 prefer.

25 THE COURT: Well, I think we
had

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1 better do it the proper way, which would be to
exclude
2 all witnesses who have been in the courtroom, and
any
3 other witness you wish to call, please feel free
to do
4 so.

5 MR. DOUGLAS MULDER: Well,
now, I told
6 you at the time that Bevel testified that he was
-- well,
7 that his memory was less than accurate as to what
I had
8 asked him in Oklahoma City, and I told you at
that time I
9 intended to testify, if the Court will recall.

10 THE COURT: Well, I know, Mr.
Mulder,
11 but things often said in the heat of battle, I
don't take
12 them too seriously. So, let's get on with your
next
13 witness who has not been in the courtroom,
please, or who
14 has already testified under the Rule and you wish

to

15 bring him back.

16 Do you wish to call a witness
from the

17 State, bring the State's witness in.

18 MR. DOUGLAS MULDER: Judge,
let us

19 just put it on the record.

20 THE COURT: Go ahead.

21 MR. JOHN HAGLER: Okay. Your
Honor,

22 at this time, what we want to do is, we want to
state to

23 the Court what these two witnesses would testify
to.

24 THE COURT: That will be fine.

25 MR. JOHN HAGLER: And then
what our

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1 position is in this. Of course the Rule, it's
found

2 under Rule 613, under the rules of Criminal
Evidence.

3 THE COURT: Yes.

4 MR. JOHN HAGLER: The Court
knows it's

5 not a per se exclusionary rule. This Court has
6 discretion depending on the type of witness, the
type of

7 testimony and the circumstances under which the
witness

8 is called.

9 There is also a distinction
between an

10 intentional act on the part of the defense to
violate the

11 Rule, and whether or not the Rule was violated
12 unintentionally by the defense.

13 In both of these instances, your
14 Honor, as far as Lloyd Harrell's testimony, we had
no

15 idea what Bevel was going to testify to, and we
intend to

16 make an offer here, as to what we would show
through

17 Lloyd Harrell -- a requirement that he testify now,
is to

18 rebut and impeach the testimony of Bevel, which we
would

19 further submit is crucial to our defense.

20 Now, I know the Court has read,

and I

21 know the Court is aware of the Webb case, 766
Southwest

22 2nd, 236, 766 Southwest 2nd, 236, Tex. Crim. Ap. 1989.

23 Your Honor, this Court conducts

a

24 balancing test as opposed to a per se exclusionary
test.

25 And again, the issues are: One, the circumstances
under

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1 which the Rule was violated.

2 Again, as far as Lloyd Harrell,
the

3 necessity for his testimony is required only
because of

4 the fact that through the testimony of Bevel, we
had no

5 idea what he was going to testify to. As far as
this

6 other witness, we had no idea she was going to be in
the

7 courtroom at the time.

8 Secondly, this Court must look to
see

9 what type of testimony we're talking about. You
know, is

10 it the type of testimony that they would have been
11 influenced by what they heard in the courtroom?

12 And furthermore, how crucial this
13 testimony is to the defense. And again, your Honor,
we

14 plan to make a proffer of testimony here, but again,
this

15 testimony, we would urge the Court, is going to be
16 crucial to our defense, and it would be highly
17 detrimental unless the jury is allowed to hear it.

18 THE COURT: Fine.

19 MR. S. PRESTON DOUGLASS: Your
Honor,

20 with respect to Mr. Harrell, under the Court's
ruling,

21 what that would mean is, when you go up to interview
an

22 expert witness, you have to take, under the Court's
23 ruling, you would have to take, in effect, take a
dummy

24 person along, to verify what the expert is going to
say,

25 then leave that person outside throughout the whole

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1 trial, just in case this expert told you something
2 different.

3 Now, you can't anticipate that an
4 expert, who is a police officer, is going to come in
and

5 say something different from the interviews. The
only

6 way you can respond to it then is to have a witness
come

7 up and say that is directly contrary to what he told
us

8 in Oklahoma. You can't anticipate it, and you
certainly

9 wouldn't expect it. And so for that reason, it's an
10 adequate waiver of the Rule, because
we have to have some

11 way to respond to it.

12 Second, with
respect to the 911

13 recording, Mr. Harrell is not adding
any fact other than

14 his transcription of the recording
after a number of

15 hours of listening to it. And so, for
those reasons, it

16 does not interject any fact relating
to his presence in
17 Court, and for that reason, the Rule
should be waived for
18 him for that reason.

19 THE COURT: All
right. The Court's
20 ruling remains the same. If you want
to make a Bill,
21 let's make it.

22 MR. S. PRESTON

DOUGLASS: We will call
23 Lloyd Harrell.

24 THE COURT: If you
will raise your
25 right hand, please.

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1
2
witness

(Whereupon, the

3
the

Was duly sworn by

4
truth,

Court, to speak the

5

The whole truth and

6

Nothing but the truth,

7

After which, the

8

Proceedings were

9

Resumed as follows:)

10

11

THE COURT: Do you solemnly swear

or

12 affirm that the testimony you are about to give will
be 13 the truth, the whole truth, and nothing but the
truth, so 14 help you God?

15

THE WITNESS: I do.

16

17

18

19

20

21

22

23

24

25

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1 Whereupon,

2

3

LLOYD HARRELL,

4

5 was called as a witness, for the Defense, for the
purpose

6 of this hearing on the Defense Bill, outside the
presence

7 of the jury, having been first duly sworn by the
Court to

8 speak the truth, the whole truth, and nothing but the

9 truth, testified in open court, as follows:

10

11

12

DIRECT EXAMINATION

13

14 BY MR. S. PRESTON DOUGLASS:

15

Q. Please state your name.

16

A. Lloyd Harrell, H-A-R-R-E-L-L.

17

Q. Where do you live?

18

A. I live in Smith County, Texas.

19

Q. And, how are you employed?

20

A. I'm employed by Lloyd Harrell and

21 Associates, Inc., which is a private investigation
firm.

22

Q. How long have you had that

company?

23

A. Since February of 1989.

24

Q. Prior to February of 1989, how

were

25 you employed?

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1 A. I was employed with the Federal
Bureau

2 of Investigation as a special agent.

3 Q. Okay. And, how many years were
you

4 employed as a special agent by the Federal Bureau of
5 Investigation?

6 A. From 1965 until 1989.

7 Q. And, did have you numerous duties
and

8 posts in the course of your duties with the Federal
9 Bureau of Investigation?

10 A. Yes, sir, I did.

11 Q. And can you tell, for the purposes
of

12 this Bill, can you set forth what your prior
experience

13 was?

14 A. I began my career as a special
agent

15 with the FBI in Butte, Montana, and then I moved to
16 Pocatello, Idaho; from there I moved to Wichita
Falls,

17 Texas; from there I moved to Dallas, Texas; and
then in

18 1980 I moved to Tyler, Texas.

19 During that period of time I
20 investigated general criminal matters, crimes on
21 government reservations, crimes on military
reservations,
22 white collar crime, counter-intelligence,
terrorism and
23 major white collar crime.

24 Q. And in the course of your
duties with
25 the Federal Bureau of Investigation, did you have

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1 opportunities to listen to recorded
conversations, or

2 recordings of events and make transcriptions of
those

3 events?

4 A. Yes, sir, I did.

5 Q. Okay. And with respect to the
State

6 of Texas versus Darlie Routier, have you been
employed as

7 an investigator for the defense in that trial?

8 A. Yes, sir, I have.

9 Q. Have you been in the courtroom
during

10 the trial and observed various portions of the trial?

11 A. Yes, sir, I have.

12 Q. In the course of the trial, has it
13 come to your attention that the State has

introduced a

14 transcription which has been admitted in evidence
as

15 State's Exhibit 18-E?

16 A. Yes, sir, it has.

17 Q. And is that a transcription
of a laser

18 disk reproduction of the 911 call?

19 A. Yes, sir, it is.

20 Q. I'm going to hand you

State's Exhibit

21 18-E, and I'm going to ask you if you had
reviewed that

22 transcription in comparison with the 911 laser
disk and

23 the call that was put in evidence by the
State?

24 A. Yes, sir, I have.

25 Q. Mr. Harrell, the laser disk
has been

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1 marked and admitted into evidence as 18-C.

2 Have you and I, over the
course of

3 about the last two weeks, spent a number of
hours

4 reviewing the sound reproduction on State's
Exhibit 18-C,

5 in comparison with the transcript produced to
the jury by

6 the State, embodied in the transcription 18-E?

7 A. Yes, sir, we have.

8 Q. And, do you have an opinion
-- let me

9 ask you this: How many hours would you say
that you and

10 I have reviewed the laser disk 18-C, in
comparison with

11 the transcription 18-E?

12 A. Probably about four and a
half hours.

13 Q. And has some of that time
been spent

14 reviewing with other members of the defense
team?

15 A. Yes, sir, it has.

16 Q. All right. And, do you
have an
17 opinion as to whether or not the transcription
in State's
18 Exhibit 18-E accurately reflects what is on
the laser
19 disk as State's Exhibit 18-C?

20 A. No, sir, it does not.

21 Q. Are there material
variances between
22 the laser disk and the State's transcription?

23 A. I believe there are.

24 Q. Now, have you produced a
transcription
25 based upon our review of the 911 tape?

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Reporter

1 A. Yes, sir, I have.

2

3 MR. S. PRESTON DOUGLASS:

May I

4 approach the witness, your Honor?

5 THE COURT: You may.

6

7 (Whereupon, the following

8 mentioned item was

9 marked for

10 identification only

11 after which time the

12 proceedings were

13 resumed on the record

14 in open court, as

15 follows:)

16

17 BY MR. S. PRESTON DOUGLASS:

18 Q. Mr. Harrell, I'm going to hand

you

19 what has been marked as Defendant's Exhibit 96 and

20 Defendant's Exhibit 96-A.

21 A. Yes, sir.

22 Q. I'd ask you to review those

exhibits.

23 Are you familiar with them?

24
25
is

A. Yes, sir, I am.

Q. And, does Defendant's Exhibit 96,

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1 that the transcription that you made based upon a
review

2 of 18-C?

3 A. Yes, sir, it is.

4 Q. Also, would you review

Defendant's

5 Exhibit 96-A?

6 A. Yes, sir.

7 Q. Can you tell us what that is?

8 A. This is a transcription in which
we

9 have the State's version, and then changed in bold,
10 italic type those sentences in which we
believe there

11 should be a correction.

12 Q. Okay. And is it your
opinion that

13 some of those changes are material in terms
of what they

14 represent from the 911 tape?

15 A. Yes, sir, they are
material.

16

17 MR. S. PRESTON DOUGLASS:

Your Honor,

18 for purposes of this Bill, I would offer

Defendant's

19 Exhibit 96 and 96-A.

20 THE COURT: For the
purposes of this

21 Bill, any objections?

22 MR. GREG DAVIS: No, sir.

23 THE COURT: Defendant's
Exhibits 96

24 and 96-A are admitted for purposes of the

Bill.

25

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1 (Whereupon, the items
2 Heretofore mentioned
were
3 Received in evidence as
4 Defendant's Exhibits No.
96
5 and 96-A for record

purposes

6 Only, after which time,
the
7 Proceedings were resumed
8 As follows:)

9

10 MR. S. PRESTON DOUGLASS: Your
Honor,

11 I want to -- for purposes of the record, to make
sure
12 it's preserved, state to the Court that it is our
13 intention to produce, and I have available numerous
14 copies of 96 and 96-A. It was our intention to play
for
15 the jury the 911 tape on 18-C, and to produce for
16 publication the copies of 96 as well as 96-A, so the
jury
17 could listen to the tape, and make their own
18 determination with respect to it.

19

THE COURT: Do you want to

introduce

20 them all for record purposes, or as many as you want

for

21 record purposes, whatever you want to do?

22

MR. S. PRESTON DOUGLASS: Well,

your

23 Honor, if I understand right, I don't feel like for

24 purposes of the Bill I need to put in every copy.

But I

25 want the Court to understand, and I'm assuming the
ruling

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1 is the same, that those transcriptions are not going
to
2 be shown to the jury at this time.

3 THE COURT: They will not be at
this
4 time.

5

6 BY MR. S. PRESTON DOUGLASS:

7 Q. All right, Mr. Harrell, let me ask
8 you, in the course of your duties with the Federal
Bureau

9 of Investigation, did you have training both into the
10 federal code which embodies all the criminal laws
of the

11 United States of America, and have you also had
the

12 opportunity to review the State Penal Code for
the State

13 of Texas?

14 A. In some instances, yes, sir.

15 Q. Were you aware that in the
course of

16 your investigation, that a secret recording was
made at

17 the grave side of Devon and Damon Routier?

18 A. Yes, sir, I was.

19 Q. And, are you aware that there
was a

20 microphone placed in a bush which is located
21 approximately 10 to 15 feet from the grave side?

22 A. Yes, sir.

23 Q. Based upon your experience and
24 training as a special agent with the Federal
Bureau of
25 Investigation, do you have an opinion about
whether that

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1 was a lawful act?

2 A. I believe it is an unlawful
act. It's

3 against the federal law. I believe it's also
against the

4 state law.

5 Q. Have you reviewed the federal
and

6 state law that prohibit unlawful interception
7 communications?

8 A. Yes, sir, I have.

9 Q. To your knowledge in court,
has the

10 State of Texas produced any lawful warrant, or
any lawful

11 authorization by a magistrate or a judge with
lawful

12 authority, enabling the State of Texas to produce
-- or

13 to enable the State of Texas to place that bug in
a bush

14 lawfully?

15 A. We have seen no warrant or
document

16 issued by any magistrate, judge, or court which

17 authorizes an interception for surreptitious
purposes.

18 Q. And it's your understanding
that that
19 microphone was planted, and recorded private
20 communications that was at a prayer service on
June 14th
21 of 1996?

22 A. Yes, sir.

23 Q. Also, when I asked you, did
you travel
24 on December 30th of 1996, I believe it is, to
Oklahoma
25 City to meet with retired captain Tom Bevel in
Oklahoma?

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1 A. Yes, sir, we did.

2 Q. Does that date sound right to
you?

3 A. Yes, sir, December 30th, 1996.

4 Q. Okay. And, did you meet with
Mr.
5 Bevel?

6 A. Yes, sir.

7 Q. And did Mr. Bevel meet with
you,
8 Richard Mosty and Doug Mulder?

9 A. Yes, sir, and Curtis Glover.

10 Q. Okay. And the course of that
11 conversation, did Mr. Bevel make statements
regarding
12 certain bloodstains found on defendant Darlie
Routier's
13 T-shirt?

14 A. Yes, sir, he did.

15 Q. In your opinion, did the State --
did
16 he later make statements in Court in front of the
jury
17 about certain bloodstains on the T-shirt?

18 A. Yes, sir, he did.

19 Q. And do you believe that the
statements
20 that he made about the T-shirt in court in front of
the
21 jury, are materially different from what he told
you in
22 the interview in Oklahoma City?

23 A. Yes, sir, they are.

24 Q. Do you recall those
conversations?

25 A. Yes, sir. The first part of the

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1 conversation I recall, is when we talked to Mr.
Bevel

2 about how he picked the particular stains to be
tested.

3 This is, of course, after the conversation occurred
for

4 some time.

5 He indicated that the stains
that he

6 marked for Mr. Lynch to cut out and send to the DNA
7 laboratories, Gene Screen, were picked for a
variety of

8 reasons.

9 His first concern was that a
stain

10 must have directionality. He explained that
11 directionality means in a bloodstain that one axis of
the

12 stain is longer than the other one.

13 From the axis he then can
determine

14 the directionality, whether the stain is up or
down or

15 sideways.

16 In order to make a proper
17 determination, he indicated he made every effort

to

18 sample a single stain as multiple stains may cloud

the

19 issue of directionality.

20

Later, when we asked him about

this

21 particular issue, pertaining to the individual

stain

22 sample, and whose blood they contained, he said

the

23 stains contained mixtures of blood of Darlie and her

24 children.

25

Q. Is that what he said in Oklahoma?

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1 A. Yes, sir, it is.

2 Q. Okay. Now, what did he say, to
your
3 recollection, in front of this jury during the trial?

4 A. He, subsequent to apparently
analyzing
5 all of the DNA and the facts and circumstances of the
6 case, he said the stains could be, or were a result
of a
7 two occurrence event, meaning both stains, that each
8 stain sampled, could have had two separate
occurrences
9 causing that particular single stain. And therefore,
the
10 blood may not be mixed blood.

11 Q. Do you feel that that
contradiction in
12 his testimony was material in that it was directly
13 contrary to what he had previously stated?

14 A. Absolutely, for this reason: In
15 Oklahoma City he was asked at least twice, does this
mean
16 that each of those stains, the knife tip had to
contain
17 the blood of Darlie and the blood of one of her
children?

18 His response to that answer was yes.

19 Q. Now, for the purposes of the Bill

and

20 purposes of the record, the T-shirt that we have been

21 referring to, is the T-shirt removed from Darlie

Routier

22 following the attack, which has been admitted into

23 evidence as State's Exhibit No. 25; is that correct?

24 A. Yes, sir, it is.

25 Q. And were you aware that

photographs

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1 were shown to the jury in State's Exhibits 120-A,
120-B,

2 120-C, 120, 121-A and 121, and that he testified to
what

3 you believe is a contradiction?

4 A. Yes, sir.

5 Q. From, not only State's Exhibit 25
but

6 also from State's Exhibit 120-A, B, 120-C, 121-A, 121
and

7 120?

8 A. Yes, sir.

9 Q. Just going back to the 911 tape
one

10 second. Would you tell us why you believe it is
material

11 and important for the jury to hear the differences

12 between the transcription in 18-E and your
transcription

13 which is 96 and 96-A?

14 A. Yes, sir. Mr. Douglass, one of
the

15 problems in developing a transcript of any taped

16 conversation is that if you once have a transcript
which

17 is written and then you hear the tape, people will
tend

18 to hear what is written.

19 The way to develop a transcript is
to

20 listen line-by-line the words that you can hear, and
try

21 to develop a transcript as accurately as possible and
22 then verify it through listening.

23 It is very easy to misconstrue,
24 misstate a transcript if a person reads that

transcript

25 and listens to the tape at the same time. And
therefore,

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1 a transcript must be exactly accurate or as accurate
as

2 it can be in order to keep from suggesting
information on

3 the tape which is not there.

4 Q. Okay. You may have responded to
this,

5 I was listening to Mr. Mulder, but let me ask you
this:

6 Do you believe then that when the State scrolls their
7 version of 18-E up on the screen, that through the
power

8 of suggestion the jury hears what is on that screen
when

9 it is not on the tape?

10 A. There's two problems with it.
First,

11 they read what they hear and they don't hear what the
12 secondary conversation is. So if the secondary
13 conversation, meaning the communications officer, the
14 dispatcher or other people occur, they don't hear
that

15 conversation, so the response maybe not in answer
or

16 related to that particular piece of the
conversation.

17 So the jury -- it's very
suggestive to
18 a jury and they can hear and see what they see,
when in
19 fact that is not what is being said.
20 Q. Mr. Harrell, the record will
show what
21 discrepancies there are. But for the purpose of
this
22 Bill, I want you to go to, for instance, what
you think
23 is one of the most egregious examples of where
the
24 State's Exhibit 18-E is misleading, and explain,
just one
25 or two examples of where there is significant

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1 discrepancies between 96-A and 18-E.

2 A. Okay. And starting just
briefly on, I

3 will use the second minute and second reference
that is

4 in the transcript. At 3520, which is 35 seconds
and 20,

5 the female caller in the State's version says,
"Though he

6 was dead, oh, my God." I hear, "He's seven
years old.

7 He is dead. Oh, my God."

8 On 3929 I hear, "I don't even
know."

9 I hear, "I don't even know who did it." The
State's

10 transcription says, "I don't even know,"
unintelligible.

11 On 4315, I hear, "I don't
even know

12 who would do it, Darin." The State's
transcription is,

13 "I don't even know," unintelligible.

14 At 4928, we have a major
discrepancy.

15 I hear, "Who would do this?" The State's

transcription

16 is, "Who was breathing?"

17 At 5115, I hear, "Oh, my God,

who

18 would do this?" The State's transcription is,

"Are they

19 still laying there?"

20 Q. Okay. Let me stop you there.

21 A. Yes, sir.

22 Q. So in effect, if the State is

going to

23 say that their transcription which says, "Who

was

24 breathing, are they still laying there," is of

some

25 significance?

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1 A. I believe it is, yes, sir.

2 Q. Would you agree that if their
version

3 is, "Who was breathing, are they still laying
there," and

4 the correct version is, "Who would do this? Oh,
my God,

5 who would do this?" That is a material
difference?

6 A. Yes, sir, I believe it is.

7 Q. Do you believe that it is
important

8 that the jury know about this difference?

9 A. Yes, sir.

10 Q. Going on through, without
going

11 through every -- I mean, is it fair to say that
some of

12 these are adding in extra words?

13 A. Yes, sir.

14 Q. But they may not change the
context?

15 A. And sometimes the addition
has to do

16 with the fact that in the truncated version

which appears

17 on the screen, in order to eliminate the
communication's

18 officer, they have truncated out the
communication's

19 officers, so a statement made by Darlie appears
to be one

20 continuous statement, when in fact, it's
interrupted by

21 communication officers making comments.

22

23 MR. S. PRESTON DOUGLAS: May

I have

24 one moment, your Honor?

25 THE COURT: Sure.

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1 MR. S. PRESTON DOUGLASS: For
the
2 purposes of this Bill, your Honor, I don't have
any
3 further questions.

4 THE COURT: All right. Anything,
Mr.
5 Davis?

6

7

8

CROSS EXAMINATION

9

10 BY MR. GREG DAVIS:

11 Q. Mr. Harrell, in making this new
12 transcript, how did you process the 911 tape?

13 A. I didn't process the 911 tape. I
14 listened to the laser disk.

15 Q. Oh, so you used your ears just
like I

16 used my ears to listen to the tape?

17 A. Yes, sir, I did.

18 Q. So no processing with any
software, no

19 processing with any computer, no processing with any
sort

20 of equipment whatsoever?

21 A. No, sir.

22 Q. And for the record, you have been

in

23 the courtroom the entire length of the trial, have

you

24 not?

25 A. Yes, sir, I have.

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1 Q. Okay. With regards to the 911
tape,

2 why didn't you make your own transcript before we
started

3 trial?

4 A. We did not have the laser disk
before

5 trial.

6 Q. You had a copy of the 911 tape,
didn't

7 you?

8 A. We did not have -- we did not
have the

9 copy of the laser disk, nor did we have the enhanced
copy

10 before trial.

11 Q. Sir, did I ask you that?

12 A. No, sir.

13 Q. Would you please answer my
question

14 then. Did you have a copy of the 911 tape?

15 A. Yes, sir, we did.

16 Q. Now, Mr. Harrell, with regards to
Tom

17 Bevel, you went to Oklahoma City to talk with him

because

18 you knew he would be a witness in this case, didn't
you?

19 A. Yes, sir.

20 Q. So the fact that he testified
during

21 the course of this trial did not come as any
surprise to

22 you, did it?

23 A. No, sir.

24 Q. And during that meeting -- it was
25 about a four-hour meeting with Mr. Bevel?

1 A. Yes, sir.

2 Q. You didn't attempt to record that
3 meeting, did you?

4 A. No, sir.

5 Q. Ever ask Mr. Bevel whether it
would be

6 all right to record the meeting or not?

7 A. No, sir.

8 Q. Okay. So even though that was
open to

9 you, you chose not to record the meeting; is that
right?

10 A. Yes, sir.

11

12 MR. GREG DAVIS: That's all I
have,

13 your Honor.

14 THE COURT: You may step down.

Thank

15 you very much. All right.

16 Are we going to have the young
lady

17 too?

18 MR. JOHN HAGLER: Your Honor, do
you

19 want me to go ahead and make the objection now or
wait

20 until the other one?

21 THE COURT: Well, is the young
lady

22 going to testify also?

23 MR. S. PRESTON DOUGLASS: No,
that's

24 all right, your Honor.

25 THE COURT: Just Mr. Harrell.

1 MR. JOHN HAGLER: We are going to
2 withdraw the other witness.

3 THE COURT: All right. The other
4 witness is withdrawn. And for the record --

5 MR. DOUGLAS MULDER: No, Judge,
we are

6 not going to withdraw the other witness. We're
simply --

7 we dictated into the record what the witness,
8 substantially what the witness would testify to, and
9 we're satisfied with that rendition of what the
witness

10 will testify to.

11 THE COURT: All right. That's
fine.

12 And so now, Mr. Hagler.

13 MR. JOHN HAGLER: Okay, your
Honor,

14 let me just kind of back up a second.

15 THE COURT: All right.

16 MR. JOHN HAGLER: I want to try
and

17 break this down. And again, your Honor, as the
Court

18 knows, Rule 613 is not a per se exclusionary rule.
And,

19 the Webb case, which I have already cited for the
Court,

20 states that this Court conducts a type of balancing
test.

21 What the Court does, it looks to
see,

22 one, there is obviously a purpose for upholding the
Rule,

23 and that has to be balanced against the detriment
and

24 cost to the defense and how crucial the excluded
25 testimony is going to be.

1 Now, furthermore, your Honor, the
2 Court has to look to see what type of witness this
is.

3 There really are basically two types: One is an
4 unintended witness. This is going to be a witness
who,

5 during the course of the trial may become very
important

6 but was unknown, or the importance of that witness'
7 testimony was unknown prior to the trial.

8 The other category, if you want
to

9 call it that, would be one where a witness would
walk

10 into the courtroom, unbeknownst to the defense, and
the

11 defense had no knowledge as to that witness'
presence in

12 the courtroom.

13 Now, as to the lady, Arenda, I
forget

14 what her last name now is, but in that case, that
would

15 be a situation where we had no knowledge of her
presence

16 in the courtroom at the time of the testimony during

the

17 course of this trial.

18 As far as Mr. Harrell, obviously

as

19 being our investigator, we were certainly aware of

his

20 presence, but again, that particular type of

witness,

21 your Honor, is going to be an unintended witness.

22 In other words, one in which we

had no

23 knowledge prior to the trial of the importance and

24 significance of what his testimony may be during

the

25 course of this trial.

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that

16 he was going to come down and testify in this trial

that

17 the two bloods occurred during separate occasions,

as he

18 uses the term, as opposed to one incident, that is

the

19 reason why this testimony is crucial. Again, we

had no

20 knowledge of that until he testified on the stand

at

21 which time Mr. Harrell's testimony now becomes

crucial to

22 our defense to impeach his prior testimony. So

that is

23 the first one.

24 And certainly we had -- and

again, I

25 might add, that we're simply focusing in on this
one

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1 particular area.

2 As far as the wire intercept
3 testimony, your Honor, they are the ones who
originally
4 injected it into this case the matter about the
grave
5 side matter. You know, we certainly have -- never
had
6 any intention of ever doing that. That started a
7 combination of testimony and events that ended
up
8 resulting in the testimony and the issue about
the
9 illegal wire intercept. And again, we never intended
to
10 go into this matter until it was injected into the
case
11 before the jury by the State.

12 As far as the preparation of the 911
tape,
13 again, we didn't have the disk until during the
course of
14 the trial. Furthermore, the preparation of it is a
mere
15 ministerial act on the part of Mr. Harrell.
Certainly

16 his presence in the courtroom wouldn't have any
manner or
17 bearing on the preparation of the tape itself. And
he is
18 subject to cross examination like any other witness.
19 Now, again, in all respects, you
know,
20 this testimony is going to be crucial, and likewise
the
21 testimony of the other lady witness, Arenda.
22 Your Honor, to exclude this
testimony
23 would constitute a violation of our rights to
compulsory
24 process under Article 1 Section 10 of the Texas
25 Constitution, and the 5th, 6th and 14th Amendments of
the

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1 United States Constitution, and would also constitute
a
2 violation of 613, in light of the fact that if this
3 Court, and I know this Court will conduct a balancing
4 test, but certainly, the importance and crucial
nature of
5 this testimony far outweighs any violation of the
Rule,
6 which, again, was unknown and unintended on the part
of
7 the defense.

8 And for all of those reasons, we
would
9 vigorously urge the Court to allow Mr. Harrell, and
the
10 witness, Arenda, to testify before the jury.

11 THE COURT: All right. The Court
--
12 there is nothing else from either side?

13 MR. GREG DAVIS: No, sir.

14 THE COURT: All right. The ruling
of
15 the Court remains the same. The -- I think that the
16 Court, the Rule of Evidence -- first of all, the
defense
17 should have made notice of this prior to these

18 proceedings starting if you wanted somebody in. That
was

19 not done.

20 So I feel that the Rule will take
21 precedence in this case. I am holding that the
Rule

22 does, and these witnesses will not be permitted
to

23 testify, and the Bill has been made, which I think
will

24 preserve any error that there may be in this
ruling.

25 That having been done, can I
see Mr.

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1 Mulder and Mr. Davis quickly, please?

2 MR. GREG DAVIS: Yes, sir.

3 MR. DOUGLAS MULDER: Yes, sir.

4 THE COURT: All right. Ladies
and

5 gentlemen, we do have to clear some things out
please.

6 We do have to vacate the courtroom.

7

8 (Whereupon, the spectators
9 Were excused from the
10 courtroom, and the
11 proceedings were held
12 in the presence of
the

13 defendant, with
her

14 attorneys, but
outside

15 the presence of
jury

16 as follows:)

17

18 THE COURT: Mrs. Routier, would
you

19 mind raising you right hand, please.

20

21

(Whereupon, the witness

22

was duly

sworn by the

23

court, to

speak the truth,

24

the whole

truth and

25

nothing but

the truth,

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1 after which,
the

2 proceedings
were

3 resumed as follows:)

4

5 THE COURT: Do you solemnly
swear or

6 affirm that the testimony you are about to give
will be

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

8 help you God?

9 THE DEFENDANT: I do.

10 THE COURT: All right. Thank
you.

11 Ma'am, you have a right under the Fifth Amendment
of the

12 Constitution of the United States not to testify in
this

13 case if you so desire.

14 If you want to testify, no one
can

15 stop you. If you don't want to testify, no one can
make

16 you. Do you understand that?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: If you testify, you

are

19 going to be considered like any other witness, and

20 anything you say can and will be used against you,

plus

21 the State's attorneys will have the right to cross

22 examine you and ask you questions; do you

understand

23 that?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: If you elect not to

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1 testify, and I will instruct the jury that they can
not

2 hold that against you for any reason whatsoever; do
you

3 understand that?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: And, I know you have
6 discussed this with Mr. Mulder, and Mr. Mosty, and
Mr.

7 Glover, and Mr. Douglass, and Mr. Hagler all of
your

8 attorneys.

9 THE DEFENDANT: Yes, sir.

10 THE COURT: And understanding
all of

11 your rights do you wish to testify or not?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: All right. Fine.

And I

14 believe, you would like to be excused now for a
minute,

15 which is fine.

16 Ms. Biggerstaff, if you will
please

17 remove any restraints that may be on the

defendant.

18

Now, I take it that Mrs.

Routier will

19 be going to the ladies room in a minute, and

then we will

20 get on with her testimony.

21

And, Mr. Mulder, and Mr.

Mosty, and

22 all of the attorneys for the record, you are

satisfied

23 that your client understands her rights?

24

MR. JOHN HAGLER: Yes, sir.

25

THE COURT: Okay. Fine.

Thank you.

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1

2

(Whereupon, the defendant

3

returned to the courtroom,

4

after which time, the

5

proceedings were resumed on

6

the record in open court,

7

as follows:)

8

9

10

THE COURT: All right. Bring

the

11 audience back in, please.

12

13

(Whereupon, the members of

14

the audience returned to the

15

courtroom, and

the proceedings

16

were resumed as

follows:)

17

18

19

THE COURT: Is

everybody ready to

20 bring the jury back in?

21

MR. GREG DAVIS:

Yes, your Honor, we

22 are ready.

23 MR. PRESTON

DOUGLASS: Yes, your

24 Honor, we are ready.

25

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1 (Whereupon, the
jury
2 Was returned to
the
3 Courtroom, and
the
4 Proceedings
were
5 Resumed on the
record,
6 In open court, in
the
7 Presence and
hearing
8 Of the defendant,
9 As follows:)
10
11 THE COURT: All right. Let
the record
12 reflect that all parties in the trial are present
and the
13 jury is seated.
14 Ladies and gentlemen of the
jury, this
15 witness has already been sworn outside of your

presence.

16

Mr. Mulder.

17

MR. DOUGLAS MULDER: Yes, sir.

18

THE COURT: You may proceed

now.

19

MR. DOUGLAS MULDER: Yes, sir.

Thank

20 you.

21

22

23

24

25

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1 Whereupon,

2

3

4

DARLIE LYNN ROUTIER,

5

6 was called as a witness, for the Defense, in her
own

7 behalf, having been first duly sworn by the Court
to

8 speak the truth, the whole truth, and nothing but
the

9 truth, testified in open court, as follows:

10

11

12

DIRECT EXAMINATION

13

14 BY MR. DOUGLAS MULDER:

15

Q. You are Darlie Routier?

16

A. Yes, sir.

17

jury

Q. And, Darlie, will you tell the

18 how old you are?

19

A. I'm 27.

20

Q. Okay. And are you married?

21

A. Yes.

22

Q. Tell the jury where you grew up?

23 A. Well, I was born in Altoona,
24 Pennsylvania, we moved when I was seven years old.
We
25 moved to Lubbock, Texas, we came back to
Pennsylvania,

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1 when I was probably about 11 and moved again when I
was

2 13 back to Lubbock.

3 Q. Okay. Were you in school there
in

4 Lubbock?

5 A. Yes I was.

6 Q. And, at that time, what did your
7 family consist of?

8 A. Well, it was myself and my mother
and

9 my father and, my two little sisters, Dana and
Danielle.

10 Q. And, how much younger were they
than

11 you?

12 A. Well, Dana is 10 years younger
than I

13 am. And Danielle is almost 12 years younger than I
am.

14 Q. Okay. How long did you stay
there in

15 Pennsylvania before you moved, if you did?

16 A. The first time? Or the second
time?

17 Q. Well, as I understand it, you

were

18 born there and lived there. About how long did you

live

19 there?

20 A. Seven years.

21 Q. Okay. And where did you move

when you

22 left Pennsylvania?

23 A. Lubbock, Texas.

24 Q. Okay. And, how long did you

stay

25 there in Lubbock?

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1 A. It was just a few years at that
time.

2 Q. Okay.

3 A. We moved back to Pennsylvania
after
4 that.

5 Q. All right.

6 A. And then after that I believe we
moved
7 back to Lubbock when I was 13.

8 Q. Okay. Were you in school there
in
9 Lubbock?

10 A. Yes.

11 Q. Did you graduate from high
school
12 there in Lubbock?

13 A. Yes, sir.

14 Q. All right. Did you have any
further
15 or higher education other than high school?

16 A. No, sir.

17 Q. All right. Now, while were you
there

18 in high school in Lubbock, did you have occasion to
meet

19 Darin Routier?

20 A. Yes, I did.

21 Q. And, how old were you when you
met

22 Darin?

23 A. I was 15 when I met Darin.

24 Q. All right. And, what was he
doing at
25 that time?

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1 A. At that time Darin was running
or
2 helping as assistant manager of a place called
Western
3 Sizzler, it's a steak place in Lubbock.

4 Q. Okay. And, how did you happen
to meet
5 him?

6 A. Well, it was on Mother's Day,
and my
7 mother had been telling me about this great guy
that
8 worked at Western Sizzler with her, and she brought
me in
9 and introduced me to him, and Darin and I hit it
off just
10 right away. It was automatic.

11 Q. All right. Did you begin
dating?

12 A. Yes.

13 Q. Was he older?

14 A. Yes.

15 Q. How much older was he?

16 A. Two years.

17 Q. Okay. He graduated from high
school,

18 did he?

19 A. Yes, he did.

20 Q. Okay. And, moved to Dallas?

21 A. Yes, sir.

22 Q. Okay. I'll ask you if you then
got

23 engaged at some point?

24 A. Yes, we did.

25 Q. And do you remember where you
were

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1 when you got engaged?

2 A. Yes, we were in Purgatory,
Colorado.

3 We were up on a ski lift, when Darin asked me to
marry

4 him.

5 Q. All right. And you agreed I take
it?

6 A. Yes.

7 Q. All right. And you were married
8 sometime after you graduated from high school?

9 A. Yes, sir.

10 Q. Will you tell the jury when you
were

11 married?

12 A. We were married August 27th, 1988.

13 Q. Okay. And, did you go on a
honeymoon?

14 A. Yes, we did.

15 Q. Where did you go?

16 A. We went to Jamaica.

17 Q. When you got back, where did the
two

18 of you reside?

19 A. We were living in an apartment -

-

20 actually I believe it was in Garland, but it was
right

21 off of the -- there is like a peninsula off of Lake
Ray

22 Hubbard, and it was right off of that in an
apartment.

23 Q. Okay. And at that time were you
both

24 working?

25 A. Yes.

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1 Q. And, where were you working?

2 A. We were both working at Cuplex
in
3 Rowlett.

4 Q. Okay. And, what sort of
business is
5 Cuplex?

6 A. Well, Cuplex is a printed
circuit
7 board manufacturing place. They start from start
to
8 finish.

9 Q. Okay. And what sort of work did
you
10 do there?

11 A. I put the image on the printed
circuit
12 boards, when you get a printed circuit board, it's
just a
13 blank, pretty much, piece of fiberglass and they
have
14 these machines, and you take this film and you put
it on
15 to the board and the machine photosyn- -- I don't
know
16 what it's called, but anyway, it puts the film on

to the

17 board, and that is basically what I was doing.

18 Q. Okay. How long did you work
there at

19 Cuplex?

20 A. I worked at Cuplex, I believe it
was

21 about eight months.

22 Q. Okay. And, how long did Darin
work

23 there?

24 A. I think Darin was there for
about -- I

25 want to say like four years.

Sandra M. Halsey, CSR, Official Court
Reporter

4794

1 Q. Okay. At some point did you all
start

2 your own business?

3 A. Yes, we did.

4 Q. What was in name of your
business?

5 A. Testnec Electronics.

6 Q. Okay. And, what sort of work
did you

7 and Darin do?

8 A. Well, in the beginning we just
started

9 out selling pins, like as a broker type.

10 Q. Okay.

11 A. As we went on, we started
building

12 fixtures.

13 Q. All right. Tell us what -- you
14 started selling pins?

15 A. Yeah, pins -- just they are
parts that

16 go into testing a printed circuit board, and
companies

17 all over the world use them, and so in this
business,

18 it's a common thing.

19 Q. Okay. So then you expanded the
20 business to include what?

21 A. Yes, we expanded the business in
22 '91,
23 I believe.

24 Q. Okay.

25 A. In '92 we moved into a building,
because the business was growing.

Sandra M. Halsey, CSR, Official Court
Reporter

4795

1 Q. Had you been operating the
business

2 out of your apartment?

3 A. Yes, well at that time we had
moved

4 out of the apartment and had gotten a home.

5 Q. Okay. And, where was the home
6 located?

7 A. It was on Bond Street in
Rowlett.

8 Q. Okay. You operated your
business, out

9 of your home?

10 A. Yes, sir.

11 Q. And what had the business
expanded to

12 at that point? What were y'all doing?

13 A. While we were still in the home?

14 Q. Yes.

15 A. We were pretty much still doing
the

16 same thing, selling pins and building fixtures.

17 Q. Okay. And, what is a fixture?

18 A. A fixture is a -- basically it's
made

19 out of polycarbonate, which is like a plastic
material,
20 and Darin drills the image of the board into the
21 polycarbonate. At that point you put the
polycarbonate
22 together and then you put these pins down into the
23 polycarbonate, and that fixture is placed onto a
tester,
24 and a tester then is able to test the continuity of
the
25 board to make sure that it is a good board or if
it's a

Sandra M. Halsey, CSR, Official Court
Reporter

4796

1 bad board.

2 Q. Okay. You did this for a number
of
3 different companies?

4 A. Yes, sir.

5 Q. Okay. By the time you moved to
the
6 residence on Bond Street, had your first son been
born?

7 A. No, I was pregnant at the time,
and

8 it's -- I had him two days after we moved into the
home.

9 Q. Okay.

10 A. It was kind of a funny moment
because

11 I was at the door when my water broke and the pizza
man

12 and the real estate agent were both standing at the
door

13 with me at the time, so it was kind of --

14 Q. Okay. And, your first son was
Devon?

15 A. Yes.

16 Q. And, when was he born?

17 A. Devon was born June the 14th, 1989.

18 Q. Okay. And, y'all continued to
live at

19 the house on Bond Street?

20 A. Yes, we did.

21 Q. And was -- did your business
expand to

22 the point where Darin was able to quit his job at
Cuplex?

23 A. Yes.

24 Q. And work full time on your own
25 business?

Sandra M. Halsey, CSR, Official Court Reporter

1 A. Yes, sir.

2 Q. And, were you helping him at that
time
3 too?

4 A. Yes, sir.

5 Q. You all were doing the business
6 together?

7 A. Yes.

8 Q. Did the business continue to grow?

9 A. Yes, it did.

10 Q. All right. And, did y'all have a
11 second child?

12 A. Yes, sir, we did.

13 Q. And that would be Damon?

14 A. That would be Damon.

15 Q. And when was he born?

16 A. He was born February 19th of 1991.

17 Q. Okay. And, y'all were still
living on
18 Bond Street at that time?

19 A. Yes, we were.

20 Q. Okay. How long was it before
y'all
21 moved over on Eagle Drive?

22 A. We moved to our new home on Eagle
23 Drive in 1993.

24 Q. Okay. And, by that time were you
25 still operating your business out of your home?

Sandra M. Halsey, CSR, Official Court Reporter

4798

1 A. No, sir.

2 Q. All right. You had moved the
business

3 to a commercial building?

4 A. Yes, we moved to -- it's like a
5 warehouse building off of Main Street.

6 Q. Okay. And the business continued
to
7 prosper, did it?

8 A. Yes.

9 Q. And the boys continued to grow?

10 A. Yes.

11 Q. What sort of things did you and
your

12 husband and the boys enjoy? What did you folks enjoy
13 doing?

14 A. A lot of things. Darin and I
spent

15 all of our extra time that we had with Devon and
Damon.

16 Devon and Damon were very much a big part of our
lives.

17 I don't remember doing too many
things

18 without Devon and Damon. They loved to eat out, they

19 loved different cultures. It was very important to
me,
20 as human beings a lot of us are from different
cultures,
21 and it was very important to me that Devon and Damon
22 understood people from different cultures. And,
they
23 liked to eat, you know, Chinese food, Vietnamese
food,
24 just all different kinds of things.
25 Q. Did y'all take trips together?

Sandra M. Halsey, CSR, Official Court Reporter

1 A. Oh, yeah.

2 Q. Were you close to your family?

3 A. My family and Darin's.

4 Q. Would you travel to Lubbock, I
5 suspect?

6 A. Oh yeah, many times.

7 Q. You have relatives back in
8 Pennsylvania?

9 A. Yes.

10 Q. And would the boys go back to
11 Pennsylvania with you?

12 A. At least once a year.

13 Q. Okay. And, how often would you
14 go to Lubbock?

15 A. Several times in a year.

16 Q. Okay. And, how many brothers and
17 sisters does Darin have?

18 A. Darin has a brother Deon, and he
19 has a sister, Arenda.

20 Q. Okay. Are they younger or older?

21 A. They are both younger.

22 Q. Okay. Do you know about how old
23 they are?

24
25

A. Deon is 27 and Arenda is 21, I
believe.

Sandra M. Halsey, CSR, Official Court Reporter

4800

1 Q. Okay. Did the business continue
to
2 prosper?

3 A. Yeah.

4 Q. And, as it did, did you -- did
y'all

5 travel more and do more things with the boys?

6 A. I guess we did as the boys
started to

7 get older, we started to do more things with them.

I

8 don't know if it was a matter of so much the
business

9 prospering, but it was just a fact that the boys
were

10 getting older and were able to do more things.

11 Q. Okay. Along in the early part of
1995

12 you became pregnant with a third child?

13 A. Yes, I did.

14 Q. Okay. And, your child Drake was
15 subsequently born, I believe it was October the
18th?

16 A. Yes.

17 Q. Of 1995?

18 A. Yes, sir.
19 Q. Okay. That made three boys now?
20 A. Yes, it did.
21 Q. Y'all were still living on Eagle
22 Drive?
23 A. Yes.
24 Q. Okay. And, Drake came home with
25 the -- from the hospital?

Sandra M. Halsey, CSR, Official Court Reporter

4801

1 A. Yes.

2 Q. How did Drake fit in with his
older
3 brothers?

4 A. Devon and Damon were very proud
of
5 Drake. When I had Drake, Devon and Damon came up to
the
6 hospital, they couldn't wait to get up there to see
him.

7 And I have pictures of them holding Drake in their
arms,
8 and I have one picture where Devon and Damon like to
--

9 they are little boys, and they found one of those
rubber
10 gloves from the room, and they were putting the
rubber
11 gloves on their head, and acting silly and making
faces
12 and stuff, trying to, you know -- I guess it was in
a
13 child's way, it was their way of trying to -- they
don't
14 know that a baby doesn't understand. They were
being

15 brothers to him. I mean, he fit into the family
16 wonderfully.

17 Q. Okay. They loved him?

18 A. Oh, they loved him very much.

19 Q. They liked to take care of him?

20 A. Very much.

21 Q. Okay. Now, as time went on and

Drake

22 came home and continued to grow, he was a good-sized

23 youngster, was he?

24 A. Yes, he got pretty big.

25 Q. All right. And by April and May,
he

1 would have weighed approximately how much? Sixteen,
17,
2 18 pounds?

3 A. Eighteen pounds I would say.

4 Q. That is big boy for an 8 month
old
5 child, right?

6 A. Yeah, he was pretty big. He has
big
7 hands and big feet.

8 Q. Okay. And at that point, was he
-- I
9 take it he wasn't walking, but was he able to pull
10 himself up? Was he trying to walk or --

11 A. Yeah, he was getting to the point
12 where he was trying to really pull himself up, and,
you
13 know, he was kind of wobbly and unbalanced.

14 Q. All right. Darlie, there has
been

15 some testimony about you being -- having the
blues, or

16 being moody or depressed. Tell the jury how you
were

17 feeling about this time?

18 A. You are talking about the
incident in

19 May?

20 Q. No, I'm talking about in April
and

21 what led up to the incident in May?

22 A. Well, actually I had quit breast
23 feeding Drake in March, and I had started taking some
24 diet pills.

25 Q. Had you gained some weight?

Sandra M. Halsey, CSR, Official Court Reporter

4803

1 A. Yes. I had gained -- not a great
deal
2 of weight. I think I had maybe 12 or 15 pounds to
loose
3 after I had Drake.

4 Q. And you had lost part of it, had
you?

5 A. By May I had lost almost all of
it.

6 Q. Okay. You had started taking
diet
7 pills; is that right?

8 A. Yes, they were prescribed by the
9 doctor, they were Pondamin and Fastin, and the
reason I
10 got on those particular pills, was because, I knew a
lot
11 of women that had been on these pills that had a
very
12 high success rate without -- they didn't have a
lot of
13 the side effects that I have been told that the
older
14 diet pills have.

15 They didn't make me feel

irritable or

16 jumpy or -- the only thing I really felt from them
is

17 like a dryness in my mouth, so you tended to drink
a lot

18 more water. But that is about it. I mean, I still
ate.

19 Q. Okay. Sometimes that's good,
when you

20 are trying to loose weight, to drink a lot of
water?

21 A. That is what I have been told.

22 Q. Okay. But at any rate, those
pills

23 didn't alter your life, did they?

24 A. No.

25 Q. Your emotions, or have any
effect on

Sandra M. Halsey, CSR, Official Court
Reporter

4804

1 you that you are aware of?

2 A. No, that is why I took them,
because

3 they didn't have those side effects.

4 Q. Okay. In April and May, did you
-- in

5 the first part of May were you feeling blues-y, or
were

6 you feeling depressed or how were you feeling?

7 A. I was feeling somewhat -- I
guess you

8 could say -- I would say moody.

9 Q. Okay. I want you to tell the
jury, as

10 best you can, how you felt and what led up to the
phone

11 call to Darin on May the 3rd of 1996?

12 A. I had been having a few days
that were

13 really rough. I was crying a lot, well, usually
I'm not

14 a big cryer.

15 Q. Are you pretty upbeat as a rule?

16 A. Yes. I am the type of person
that you

17 can either look at the glass half empty or half
full, and

18 I'm the type of person that looks at it as half
full.

19 And, I didn't like feeling like
that.

20 It really bothered me. And I started to write a
letter,

21 and as I started to write the letter, I was reading
it,

22 and I realized that this was, it was silly, I mean
it

23 was -- I wasn't really serious or feeling that I
really

24 wanted to end my life. It was, I mean, I am very
25 embarrassed. I am very embarrassed that I have to
get up

Sandra M. Halsey, CSR, Official Court
Reporter

4805

1 here and even tell you people about that part, but
it is
2 something.

3 Q. Well, you were writing into a
journal
4 that you didn't think anyone would ever read?

5 A. It was private. Private
thoughts.

6 Q. Okay.

7 A. I did not attempt to take my
life.

8 There is a difference.

9 Q. You called Darin?

10 A. I called Darin at work. I told
Darin
11 that he needed to come home, that I was not feeling
well,
12 and that he needed to come home.

13 Q. Okay. Prior to that entry, and
I am
14 looking at what has been marked for identification
and
15 record purposes and admitted into evidence as
State's

16 Exhibit No. 90.

17

A. Yes, sir.

18

Q. This is your journal?

19

A. Yes, it is.

20

Q. And this was meant to be a

private

21 thing?

22

A. Yes, sir. My husband didn't

even read

23 that.

24

Q. And I notice that there is an

entry

25 September 7th of 1995, another one September the
15th of

Reporter

Sandra M. Halsey, CSR, Official Court

4806

1 1995, one October the 1st of 1995, and then April
the

2 21st of 1996, and then April the 29th of '96?

3 A. Yes, sir.

4 Q. And then you skipped a lot of
pages

5 and May 3rd of 1996, so there are approximately
five or

6 six entries and --

7 A. Can I tell you why I started to
write

8 a journal in the first place?

9 Q. You bet.

10 A. About two years before I started
11 writing this journal my grandfather had passed away,
and

12 my grandfather and I were very close. And, my
13 grandmother was always talking about the things that
they

14 did together, and all of the times that they had
15 together, and she said that she wished that she could
16 have put all of those times down on paper. I mean,
she

17 had the memories, but she wished that she could
have

18 something to pass on later when she wasn't around.
19 And, I was talking to my
grandmother,
20 and she told me that she had started writing in a
21 journal. And so, I thought that that would be a
good
22 idea for me to start writing a journal. And it
helps.
23 It helps, I think at times, when you have a busy
life, to
24 be able to stop and breathe for a moment, and reflect
on
25 what is important in your life.

Sandra M. Halsey, CSR, Official Court Reporter

4807

1 Q. Well, it's almost like talking to
2 someone in a very, very private relationship?

3 A. Yes.

4 Q. Okay. And this, of course, was
not

5 written for this jury or for anyone else was it?

6 A. No, sir. I am very embarrassed
about

7 what --

8 Q. Would you read, Darlie, that first
9 entry?

10 A. September 7th, 1995.

11 Q. Yes.

12 A. "Today is a new day with new hopes
for

13 everyone. I pray to God that Dana will open her eyes
and

14 break down her walls. Devon and Damon are growing so
15 fast, and I see myself getting older each day. I am

now

16 over seven months pregnant, and we're bringing Drake
17 Routier into the world. It has been almost five

years

18 since I have had a baby, so I am a little worried,
but

19 inside, I know, everyone will adjust fine. My life
is
20 good, and I have much to be proud of, but sometimes
we
21 just forget.
22 "I think of my grandmother often,
and
23 I know how lonely she must be at times. I wish I
could
24 take away her pain. I know pappy is watching over
her.
25 I have had two dreams about death in the past several

Sandra M. Halsey, CSR, Official Court Reporter

4808

1 months. Both times I was hesitant to go, but when I
did
2 it was such a wonderful feeling, one that you cannot
3 describe and both times I felt I was going to be with
the
4 Lord. I don't know what these dreams are telling me,
I
5 only know that I am not yet ready to leave my
wonderful
6 life here. Time will tell the story. For now I
will
7 close, for tomorrow is another day. Let it be a
good
8 one."

9 Q. Okay. Your next entry is
written,

10 what a week so?

11 A. September 15th, yeah.

12 Q. How much later, a week? Eight
days?

13 A. Yeah, about that.

14 Q. Okay. And, read that if you
would,

15 for the jury?

16 A. "Time has passed so quickly

since my

17 last entrance in my journal. I have been very
busy.

18 Dana seems to be adjusting fine, as well as my
mom. I

19 know mom is having a hard time reliving her most
unwanted

20 experiences through counselling, but I know in
the end

21 maybe it will make her heart a little softer.

22 I don't understand why Denny
did to me

23 what he did, so it is very hard to try and
forgive him.

24 I know he must have a dark secret that happened
as a

25 child and I pray to the Lord that one day he will
ask for

Sandra M. Halsey, CSR, Official Court
Reporter

1 true forgiveness for his own soul."

2 Q. Let me stop you right there.

Who are

3 you referring to as Denny?

4 A. Denny is my step-father, or
was my

5 step-father.

6 Q. Okay. And he had, not
sexually

7 molested you, but he had put his hands on you?

8 A. He fondled, tried to.

9 Q. And that is what you have
reference

10 there to?

11 A. Yes.

12 Q. When you talk about Denny and
how he

13 must have a dark side to him?

14 A. Yes, sir.

15 Q. To have done this to a child?

16 A. Yes, sir.

17 Q. And you resented it?

18 A. Very much so.

19 Q. And you told your mother about
it?

20

A. Oh, yes,

21

Q. She felt guilty about having

not --

22

A. Yes, it was an open

conversation in

23 our family.

24

Q. So that is what you have

reference to

25 there?

Sandra M. Halsey, CSR, Official Court
Reporter

4810

1 A. Yeah. Yes.

2 Q. Okay. If you would just go
back a

3 couple of sentences and read it where you pick up
on

4 Denny, so that we will --

5 A. "I don't understand why Denny did
to

6 me what he did. It is very hard to try and forgive
him.

7 I know he must have a very dark secret that happened
as a

8 child, and I pray to the Lord that one day he will
ask

9 for true forgiveness for his own soul. Eternity is
a

10 long time.

11 "Damon has been with his
grandmother

12 all week and will be returning home this evening.

I

13 can't wait to see him. I have really enjoyed the
time

14 with Devon, but when one of my babies are away I do
not

15 feel complete.

16 "I guess that it's because they
are
17 such a part of my life. Sometimes I pray the Lord
will
18 guide them down the right path, so that they will
have a
19 prosperous life. They deserve health, happiness and
20 peace. We all deserve that. Maybe if we could all
relax
21 a little more, then the world would be a much better
22 place.
23 "I will close for now. And I ask
the
24 Lord to watch over us all and help us to make the
right
25 decisions."

1 Q. Okay. When is your next entry in
the

2 journal, Darlie?

3 A. On October the 1st, 1995.

4 Q. All right. So that would be
5 approximately two weeks later?

6 A. Yes.

7 Q. Okay. And, read that to the
jury, if

8 you would, please?

9 A. "Time is getting near, soon we
will

10 have another wonderful son. I feel him growing and
he is

11 getting so big. I have not been well for about a
week

12 now. Everything hurts and I can't seem to get over
it.

13 It's not fair to Darin or the boys, but nothing I do
14 makes me feel any better. I really love Darin with
all

15 of my heart, but sometimes I feel like I'm missing
16 something. I don't know what it could be. I'm sure
I

17 have everything every woman could ever wish for.

Maybe

18 it's the excitement, things I used to do when I was
19 younger, the thrill of not knowing, just doing
whatever

20 came up.

21 "I know I have a lot of
22 responsibilities, but a little craziness once in a
while

23 sure wouldn't hurt. I want to grow old with Darin,
but I

24 don't want to feel as though part of me has to die
to do

25 it. I am young, and I want to feel it. Time goes
too

Sandra M. Halsey, CSR, Official Court Reporter

4812

1 quickly not to enjoy each moment."

2 Q. Okay. What was your -- what were
you

3 thinking about then?

4 A. I think I was just kind of --

5 Q. Just reminiscing?

6 A. Well, yeah, big and pregnant.

7 Q. Okay. That was -- you were about
8

8 and a half months pregnant at that time, weren't
you?

9 A. I think so, yeah.

10 Q. Okay. All right. And when was
your

11 next entry?

12 A. April 21st.

13 Q. Okay. Of 1996?

14 A. Yes, of 1996.

15 Q. All right. By this time Drake
is six

16 months old?

17 A. Yes, sir.

18 Q. Would you read that for the
jury,

19 please?

20 A. "Time has come and gone so

quickly.

21 Baby Drake was born October 18th. He weighs 6
pounds and

22 6 ounces, and he left the hospital weighing 5
pounds and

23 11 ounces, and was wearing premie clothes. He was
a

24 beautiful baby, all he did was sleep for the first
two

25 months. He is now six months old. He has two
teeth,

Reporter Sandra M. Halsey, CSR, Official Court

4813

1 crawls and tries to stand.

2 "Drake weighs almost 16 pounds.

He

3 has brown, dark hair and very blue eyes. He is so
much

4 fun and happy all the time. He smiles at everyone.

I am

5 a very proud mother of three wonderful, gorgeous,
healthy

6 boys.

7 "Dana has moved in with Kevin, and

8 they are now engaged to be married. They seem to be

9 having many troubles. I hope their love is strong
and

10 mature enough to make it through the trials of life.

My

11 thoughts are with Dana often. How young and so
impatient

12 in life.

13 "Danielle is growing into a
beautiful

14 young lady. It is hard to believe that she will be

14 in

15 October. She is so full of life. Sometimes it
really

16 makes me see how quickly our lives pass by.

17 "I often wonder what God's
purpose for
18 me being here. I know my children, of course, but I
19 really feel as though some day there is some
meaningful
20 importance that God expects us to figure out. What
is
21 it? I do not know. I do not yet know.
22 "I know sometimes God puts us
through
23 difficult trials in our life, and it is these trials
that
24 has made me such a strong and independent person. I
hope
25 I can share my experiences with others, either to
comfort

Sandra M. Halsey, CSR, Official Court Reporter

4814

the

16 difference between right and wrong choices, and make
them

17 understand that there are reactions and consequences
for

18 every choice we make in life.

19 "Give them morals and values. I
want

20 my children to respect the people as well as the
land

21 around them. I want them to see -- I want them to
see

22 past color, to see past rich or poor, and to realize
that

23 we all need each other to survive. Maybe some day
this

24 will happen and the world will come together.

25 "There is still a lot of good in
the

1 world. People just seem to dwell on the bad. Maybe
God

2 will help us all to be better than that. For now,
all I

3 can do is try to be a better person and try to teach
4 people among me to have hope and not give up. Life
is

5 too short and unlived. We need to start making it
more

6 than that.

7 "For now I will end my thoughts
and I

8 will pray that God will reach down and touch all of
us,

9 so that we will see and understand whatever it is
that we

10 may doubt.

11 "Give us strength to be better
people.

12 Watch over and protect the children for they are
our

13 future."

14 Q. And this was just a letter
reflecting

15 and wondering, at your 26 years of age, if you
have some

16 higher purpose or what -- how you fit into the
grand

17 scheme of things?

18 A. I think a lot of people wonder
that.

19 Q. Well, I think everybody
wonders how

20 they fit in this grand scheme?

21 A. Sure.

22 Q. At any rate, that was written
in

23 April?

24 A. April 21st.

25 Q. Okay. And the next entry is
the entry

Sandra M. Halsey, CSR, Official Court
Reporter

4816

1 of --

2 A. April 29th is the one after
that.

3 Q. All right. Read that one for
us,

4 Darlie?

5 A. "Today has been a pretty good
day.

6 This weekend was a little crazy, but it was fun. We
went

7 to a wedding and it really made me realize how
important

8 marriage is. The commitment to one another. Darin
and I

9 have decided to renew our vows to one other on our
10th

10 anniversary. So many things in our life have changed

11 since we made our first commitment. Three children,
two

12 homes and a business and a lot of growing up."

13 Q. Okay. You had, as a result of
that

14 wedding that y'all attended, you had made some
plans?

15 A. Yes.

16 Q. And what were those plans?

17 A. Well, a couple of years before
this,

18 Darin had asked me, you know how you always sit
around

19 and talk, and the conversation may come up, you
know,

20 "Well, would you do the same thing that you did the
first

21 time around?" And, I have always told Darin, "Yes, I
22 would marry you again in a second."

23 And, after we went to this
wedding,

24 one day or the day afterwards, Darin asked me
seriously

25 if I would remarry him again, and, I told him yes,
that I

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1 would.

2 Q. Okay. Did you start planning
then, in

3 your mind, for a --

4 A. Well, yeah, in Dallas -- I know
this

5 is Kerrville but in Dallas, if you want to have a
6 wedding, you have to book the place about a year or
two

7 years ahead of time. So --

8 Q. Okay. So you were planning it
ahead

9 of time?

10 A. Yes, sir.

11 Q. Okay. And, you had discussed this
12 with Darin?

13 A. I discussed it with many people.

14 Q. Okay. And then you were planning
to

15 renew your vows on your tenth wedding anniversary?

16 A. Yes, sir.

17 Q. Okay. And were you making plans
as to

18 what you would wear and what the boys would wear and
what

19 part the boys would play?

20 A. Oh, yeah.

21 Q. What did you have in mind for the
22 boys?

23 A. Well, the boys were going to be
ring

24 bearers, and I had bought -- they were going to be in
a
25 wedding in August also, my younger sister, or

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4818

1 sister-in-law was getting married in August, and the
boys
2 were going to be ring bearers at her wedding, and so,
I
3 went out and bought all of the stuff to make the boys
4 pillows to carry down the aisle.

5 Q. Okay. And, what did you plan for
baby

6 Drake to do at your wedding?

7 A. He was too young. He was just
going

8 to sit in the wedding and wear a little tuxedo.

9 Q. Okay. At any rate, you had made
the
10 entry for May 3rd?

11 A. Yes, sir.

12 Q. Of
1996?

13 A. Yes,
sir.

14 Q. And, tell the jury -- I think I
15 interrupted you and we had gone back to the journal,
and
16 had read through the journal, and this brings us now
up
17 to date to May the 3rd?

18 A. Yes, sir.

19 Q. And tell the jury what you were
20 thinking and why you wrote what you wrote on May the
3rd?

21 A. Well, to be honest, I mean, I
don't

22 know why I wrote this, it was just -- I am
embarrassed

23 that I have to sit up here and even discuss this. I

24 never planned for this to be produced in front of

the

25 whole world.

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4819

1 Q. I know it. And, as you wrote the
2 entry in your journal, when did you call Darin?

3 A. I called him during the middle,
while

4 I was writing.

5 Q. Okay. And did he come home
shortly

6 after that?

7 A. Directly.

8 Q. What happened when Darin got
there?

9 A. Darin came up to the bedroom,
Drake

10 was sleeping in the crib taking a nap. Damon was
11 watching TV. I was laying on the bed and I was
crying.

12 I had my journal on the bed, but it was closed.
And,

13 Darin came in, and asked my what was wrong. And --

14 Q. What did you tell him?

15 A. I told him that I didn't like the
way

16 I was feeling the past couple of days, that I didn't
like

17 crying, and I didn't understand why I was feeling the

way

18 I was feeling. I didn't like it.

19 Q. Okay.

20 A. And I told him what I started to
write

21 down in the journal. And Darin started to cry, and
we

22 cried for a little while together, a couple of
minutes,

23 and Darin asked me how I was thinking about doing
this,

24 when I said that I have thought about taking some
pills

25 when I was thinking about it and --

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1 Q. Just over the counter sleeping
pills?

2 A. Yes, they were just some over the
3 counter sleeping pills that I had had.

4 Q. Okay. You didn't get anything
special
5 for this deal?

6 A. What do you mean by special?

7 Q. Well, you had not gone out and
made a
8 purchase just over the counter?

9 A. No, no, no, I mean I had -- I had
10 sleeping pills, I had lots of different pills in the
11 house. You know, headache pills and stuff.

12 Q. Okay. So, you told Darin and
y'all
13 had a cry together, and consoled one another, I
suspect?

14 A. Yes.

15 Q. Okay. And how did you resolve
the
16 situation?

17 A. Well, the next day Darin went to
work

18 and he asked me how I was feeling, and I told him

1 Q. I don't understand exactly
how that

2 works, but did that change your attitude?

3 A. Yes. It made a big
difference,

4 because -- I'm sure, I mean, women understand it
better

5 than men, of course, but, yeah, it made a big
difference.

6 I mean, I was relieved.

7 Q. You perked up?

8 A. Very much so, yes.

9 Q. Okay. And, seemed to be your
old self

10 again?

11 A. Yes.

12 Q. Okay. Now, all during this
time, and

13 I say that from October through May and June,
you

14 continued to see your friends and have
relationships with

15 the neighbors and people around you?

16 A. Oh yeah, we were very busy.

17 Q. People came in and out of

your house,

18 didn't they?

19 A. Every day.

20 Q. Did you have the -- were the
21 neighborhood children, were they welcome in your
home?

22 A. Yes. My home was a welcome
home to

23 all of the neighborhood children. I was one of
the only

24 homes on the block that would allow that many
children in

25 the house at one time.

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Reporter

4822

1 Q. How many children are you
talking

2 about?

3 A. Well, before Drake was born
there

4 really wasn't a limit. But after I had Drake it
was

5 harder, because, you know, he had his naps, and he
had

6 different times, and the children needed to be
quieter,

7 so at that time I limited them to having each one
friend

8 in the house at a time.

9 Q. And prior to that, I mean, before
10 Drake was born?

11 A. Before Drake was born they had as
many

12 as -- it was --

13 Q. Six or seven?

14 A. Yeah, it was in and out quite a
bit.

15 Q. Okay.

16 A. I mean our neighborhood is full of
a

17 lot of little boys. We don't have very many girls in
the

18 neighborhood. It's all little boys.

19 Q. Okay. Do you have any rules about

--

20 A. Yes.

21 Q. Okay.

22 A. My two rules were that they

needed to

23 take their shoes off when they came in the house.

I'm

24 sure, as you know, that if you have children,

children,

25 you know, get outside and play and can come in and
when

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Reporter

4823

1 you have a new home, you want to keep things nice.
So
2 the children took their shoes off. I mean, I never
3 thought that that was a big deal. I take my shoes
off
4 when I go into people's homes. I think it is a
matter of
5 respecting others, you know, property.

6 Q. All right.

7 A. And the next thing was, that
they were
8 not allowed to have drinks or food wherever there
was
9 carpet.

10 Q. The carpet was white, wasn't it?

11 A. Yes. We didn't have as much
carpet in
12 the house. Usually if the boys were in the house
they
13 wanted to be up in the TV room where the TV, the
big
14 screen TV was, because they had a Nintendo set, and
that
15 is where they played a lot.

16 Q. What did the boys like to do at

that

17 stage?

18 A. There wasn't too much they
didn't like

19 to do. They just loved to play. I mean they --
was a

20 lot of times that they would ask me if they could
get the

21 blankets out and make tents up, I don't know if any
of

22 you ever did that when you were little, but I used
to do

23 that when I was little, and --

24 Q. Did y'all go camping as a
family?

25 A. Yes, a lot.

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Reporter

4824

1 Q. Liked to do that?

2 A. Yes.

3 Q. Liked to be outside?

4 A. Very much.

5 Q. Enjoyed the outdoors?

6 A. Yes.

7 Q. Did the boys like that?

8 A. Yes, very much.

9 Q. Boys like to ride in the car?

10 A. Yeah, they were very good.

11 Q. Okay.

12 A. I mean, long periods of time you
get
13 two brothers cooped up together, they can get a
little
14 bit irritable, but for the most part they were
good.

15 Q. I guess living in Dallas y'all
would
16 go to Wet and Wild or --

17 A. Oh yeah, Wet and Wild, Six
Flags, the
18 zoo, Medieval Times was one of their favorites.

19 Q. The boys shared your love of
animals,

20 they liked to go to the zoo?

21 A. Yes.

22 Q. Now, Darlie, moving on to June
the

23 6th --

24 MR. DOUGLAS MULDER: Judge,

you

25 generally take a break about this time. I don't
want to

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4825

1 get into some that will require us to take a
break.

2

3 THE COURT: No problem. Just
keep

4 going.

5 MR. DOUGLAS MULDER: All
right.

6 THE COURT: The jurors are okay,
7 aren't they?

8 MR. DOUGLAS MULDER: If you will
give

9 me a little notice before, I won't start anything -
-

10 THE COURT: I certainly will.
Do you

11 need a break?

12 THE JUROR: I'm all right.

13

14 BY MR. DOUGLAS MULDER:

15 Q. Now, Darlie, moving on to June
16 5th of

17 1996, you had a lady who was there at your house,
Halina,

17 I believe?

18 A. Oh yeah, yes, sir.

19 Q. Basia's mother?

20 A. Yes, sir.

21 Q. Okay. And, how long had she
worked

22 with you there at the house?

23 A. Two days.

24 Q. Okay. And, Basia, her daughter
had

25 been a friend of yours over the years, had she not?

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Reporter

4826

1 A. Yeah.

2 Q. And at one time y'all were quite
3 close, weren't you?

4 A. At one time.

5 Q. Okay. And as the years went by,
did
6 y'all drift apart?

7 A. Yes.

8 Q. And why was that?

9 A. Well --

10

11 MR. TOBY SHOOK: Judge, could we
12 approach the bench for a moment before she answers
that
13 question?

14 THE COURT: You may.

15

16 (Whereupon, a short
17 discussion was

held

18 off the record,

after

19 which time the
20 proceedings were resumed
21 as follows:)

22

23

THE COURT: All right. Just keep

24 going.

25

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4827

1 BY MR. DOUGLAS MULDER:

2 Q. Let me just direct your attention
back

3 to May -- excuse me, June the 5th, and I'll ask you
if

4 Halina was there that day, and that afternoon?

5 A. Yes, she was.

6 Q. And do you recall about what time
7 Basia picked her up?

8 A. I want to say that it was
9 approximately like 6:00 o'clock.

10 Q. Okay. Did you recall an incident
11 where -- Halina is somewhat difficult to
understand,

12 isn't she, a little bit?

13 A. She is a little bit difficult to
14 understand if you don't know her.

15 Q. Okay. But at any rate, did you
have

16 occasion to have your attention directed to the
alley

17 behind your garage?

18 A. Yes, sir, I did.

19 Q. Okay. And, when you did, did
you

20 notice anything of an unusual nature? Was there

anything

21 that attracted your attention?

22 A. Yes, sir.

23 Q. Would you tell the jury what that
was?

24 A. Well, Halina was out in front of

me,

25 and I was behind Halina, and when Halina started
walking

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4828

1 out, I just caught the tail end of a black car that
was
2 in the alley way, and it scooted out of there pretty
3 quick, and Halina told me that the person in the car
was
4 stopped in the alley looking in the garage. The
garage
5 door had been open.

6 Q. Okay. And this alarmed you, I
assume?

7 A. Well, I didn't think a whole lot
of it
8 really. I mean, at the time I didn't. I think a lot
9 more of it now.

10 Q. But it was unusual?

11 A. Well, yeah.

12 Q. Okay. Now, Darlie, during April
and

13 May had you and Darin received some telephone calls
that
14 were unusual?

15 A. Yes, sir, I had been receiving a
lot
16 of hang up calls. I don't know if you really want to
17 call it a hang up call, because they didn't really

hang

18 up.

19 They would call, and I would be on

the

20 other line and I would answer, "Hello," and I would

be

21 sitting there talking to air, you know, "Hello,

who is

22 this?" And they just kept staying on the line.

And

23 finally, after a few seconds of, you know, just

asking

24 who it was, then I hung the phone up. This went on

quite

25 a bit.

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4829

1 Q. Okay. Did you pay it any mind at
that
2 time?

3 A. No, I just figured that it was
kids
4 prank calling, I mean.

5 Q. Devon had been in school, had he
not?

6 A. Yes, he did.

7 Q. And I reckon that a 6 year old,
nearly
8 7 year old, knows his phone number.

9 A. Devon knew his phone number very
well.

10 Q. Okay. So, it could have been no
cause
11 for alarm at that time?

12 A. No.

13 Q. Okay. Now, about what time did
Darin
14 get home from work that day?

15 A. It was probably sometime after
6:00.

16 Q. All right. What happened when
Darin

17 got home?

18 A. Well, Darin came home with Dana,
my

19 little sister. My little sister works at the shop
for

20 us, and the boys had been outside playing, and I was

21 making dinner and --

22 Q. What were you fixing that
evening, if

23 you recall?

24 A. I was fixing chicken noodle

soup and

25 rolls.

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Reporter

4830

1 Q. Okay.

2 A. Darin and Dana walked in, and
Basia

3 and Halina had just left, and really, I was just
4 finishing up dinner, getting it ready to eat.

5 Q. Okay. Where were the boys?

6 A. They were outside playing with
their

7 friends in the back yard.

8 Q. Okay. Y'all had a spa in the
back

9 yard, did you?

10 A. Yes.

11 Q. All right. Hot tub?

12 A. Yes, sir.

13 Q. And, the boys would go in there
and

14 play from time to time?

15 A. Quite often.

16 Q. Okay. Was the spa full of
water, or

17 how deep was it?

18 A. Well, it was. That day they had
19 emptied the spa out about half-way, playing.

20 Q. Okay.

21 A. They were --

22 Q. Which actually made it safer for
them,

23 I guess?

24 A. Safer, I'm not sure.

25 Q. Well, how deep was it?

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4831

1 A. Well --

2 Q. Two feet?

3 A. Well, the medium part of the hot
tub

4 was probably three and a half feet, but all around
the

5 hot tub there were seats, so it was only maybe a
foot.

6 Q. Okay. And they were used to
playing

7 in the hot tub, I guess?

8 A. Oh yeah. I mean, I checked on
them,

9 and I wasn't, you know, too worried about, as far as
the

10 safety. I mean, if I would have thought it was
unsafe, I

11 never would have -- that is one of the reasons why we
12 didn't get a pool.

13 Q. Okay. At any rate, when it came
time

14 for supper, did you call the boys in?

15 A. Yes.

16 Q. Okay. And did y'all eat supper
17 together?

18 A. Yes, we did.

19 Q. All right. How about baby Drake?

20 What was he --

21 A. He was sitting in the high chair,

I

22 had fed him some of the chicken noodle soup.

23 Q. And where did the boys sit?

24 A. They sat at their little table,

beside

25 the big table.

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4832

1 Q. So you had a large table, and then
you

2 had a little table so the boys had their own table?

3 A. Right.

4 Q. And everyone had dinner?

5 A. Yes.

6 Q. Okay. And what happened after
dinner?

7 A. After dinner the boys wanted to go
8 back outside, because their friends were all outside
9 playing, and so after they finished their dinner, I
told

10 them that they could, but only for a little while, so
11 they went back outside to play.

12 I talked to Darin and Dana for a
13 little while about the business, and what all had
gone on

14 there that day, and what was going on. And then,
after

15 that, I asked Darin if he would fix the gate, because
it

16 was hard to open and close.

17 Q. Is that the gate in the back yard?

18 A. Yes.

19 Q. What was wrong with the gate?

20 A. I don't really know, I'm not a
wood
21 person, but it was not opening and closing the way
it
22 should have. The boys and I could manage with it,
but
23 you had to pull hard to open it, and you have to
push it
24 really hard to close it.
25 Q. To get it to open or close
either way,

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Reporter

4833

1 was it rather difficult for you?

2 A. Yes.

3 Q. How many cars did you have back
then?

4 A. We had two.

5 Q. Okay. And, which car was your
car?

6 A. My car was the green Pathfinder.

7 Q. Okay. Kind of a station wagon
looking
8 car?

9 A. Yeah, kind of, I guess.

10 Q. Okay.

11 A. Sports vehicle, utility vehicle.

12 Q. Okay. And, what type of car was
Darin
13 driving?

14 A. Darin had a -- I think it was an
'86,
15 an '86 or '87 Jaguar.

16 Q. Okay. Was his car working?

17 A. Not at that time.

18 Q. Okay. And how long had his car
been
19 in the shop?

20 A. Two days.

21 Q. Okay. Do you know what was
wrong with

22 his car?

23 A. I have no idea. I mean, I knew
what

24 was wrong -- I have learned what was wrong with it,
but

25 at that time I didn't know what was wrong with it.

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4834

1 Q. Okay. But at any rate, when his
car

2 was -- where did he ordinarily park his car?

3 A. He always parked the car in the
back

4 in the driveway.

5 Q. Okay. Y'all couldn't get the
car in

6 the garage?

7 A. No.

8 Q. Okay. So if his car was not in
the

9 driveway, it would be an indication to the people
that

10 were familiar with the area, that he was not home?

11 A. Yes, sir.

12 Q. Now, did he, in fact, get the
gate

13 fixed?

14 A. Yes he did. I had a lady that
had

15 just been over the night before that had a
Pomeranian,

16 and I have a little Pomeranian, and we were breeding
the

17 dogs, or we were trying to breed the dogs, and she
was
18 going to be back Thursday night, and so I wanted to
make
19 sure that the gate was locked, because the first
time we
20 had to breed them in the house, and dogs are animals
21 period, and are very funny about being around people,
22 when they are breeding, and they don't like to be
around
23 people, and they -- plus, they are -- they make a lot
of
24 racket and a lot of noise and you want to --
25 Q. Okay. So you are going to put the

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1 dogs in the yard, and I assume you wanted to secure
the

2 gate?

3 A. Yes, sir.

4 Q. So they couldn't get out?

5 A. Right, yeah, I didn't want to be
6 responsible for loosing somebody else's dog.

7 Q. And Darin was handling that chore
that

8 evening?

9 A. Yes, sir.

10 Q. Okay. And did he complete that,
or

11 advise you that he had completed it?

12 A. Later on he told me that he had
fixed

13 it.

14 Q. Okay. Were y'all planning on
having a

15 garage sale?

16 A. Yeah.

17 Q. Okay. And, tell me about what you
had

18 done in preparation for the garage sale?

19 A. We had a lot of stuff since we had
20 moved into that house, and a lot of the stuff you

just

21 kind of accumulate over the years. And, you know,
you

22 get to a point where you realize that, you know,
okay, we

23 need to get rid of some of this stuff.

24 So, we had been going through

this

25 stuff for months, and just any time that we came
across

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1 something we would put it out in the garage over to
the
2 side, whether it was in a bag or a box, or whatever,
and
3 I had been pricing some of the things out there. I
had
4 not finished pricing. There was quite a bit of
stuff out
5 there.

6 Q. Okay. Did Darin go into the
garage to
7 work and separate?

8 A. Later on he did, after he got
finished
9 with the garage.

10 Q. Okay.

11 A. I mean, the gate.

12 Q. Okay. After he had finished in
the
13 garage, what is the next thing that happened? Did
he
14 come inside?

15 A. Yes.

16 Q. All right. Were you still there
with

17 Dana, your sister?

18 A. Yeah. Actually during that time

I had

19 gone upstairs with Dana and we put the baby down for
what

20 I call a power nap, it's a 30 minute little nap, it
makes

21 a great difference in children. And, I put him down
for

22 a nap because he was sleepy, and then I came back

23 downstairs, me and Dana, and we were talking about
the

24 wedding, and Arenda's wedding, and just all

different

25 kinds of things. She was engaged to be married too,
so

1 we were all talking about that.

2 Q. Okay. And, along with Darin as
well?

3 A. Yes, sir.

4 Q. Okay.

5 A. After he came back in the garage.

6 Q. What was the next thing that
happened?

7 A. It was around, I want to say
about

8 8:30, and I told the boys that they needed to tell
their

9 friends, you know, that they needed to go home, that
it

10 was time to come in.

11 I think Devon had said something
about

12 wanting to spend the night with a friend, but he had
just

13 had a little boy named Michael over the night
before, and

14 plus, they had kind of gotten in a little bit of
trouble,

15 for emptying out all of the water in the hot tub
from

16 their father.

17 So, anyway, he was told that he
18 couldn't have Jonathan to spend the night. That he
could
19 have him spend the night another night.

20 Q. Okay. Darin left to take Dana
home?

21 A. Yeah. After the boys came in, I
guess

22 everybody has seen the pictures, but when you walk
into

23 the house through the sliding glass doors, I had
these,

24 like plastic runners down on the floor, and, there
was a

25 reason for that, because the boys liked to run in
and out

1 of the house soaking wet. And, they track in, you
know,

2 they tracked in a lot of dirt and stuff on their
feet.

3 And, when they came in, I told
them

4 that they needed to go upstairs and get dry clothes
on.

5 And, they went upstairs, and I vacuumed over there,

6 because they had drug in quite a bit of dirt off of
their

7 feet.

8 A few minutes later, the boys
came

9 downstairs with their pillows and blankets and asked
if

10 they could watch TV downstairs. A little bit after
that,

11 I asked Darin if he could drive Dana home. And he
said

12 he would.

13 Q. Okay. About how long was Darin
gone?

14 A. Maybe 30 minutes.

15 Q. Okay. And you said that you had

used

16 the vacuum cleaner to sweep up there in the den; is
that

17 right?

18 A. Yeah, over by the sliding glass
doors.

19 Q. Okay. And, do you recall where
the --

20 where you would have left the vacuum cleaner after
you

21 had cleaned up? Do you remember?

22 A. I think it was right over by
where the

23 outlet was, over by the -- down from the sliding
glass

24 doors.

25 Q. Out by the bar?

1 A. Yes.

2 Q. Okay. Now, Darin got home, about
what

3 time is it now, Darlie?

4 A. It was probably a little bit
after

5 10:00.

6 Q. Okay. And where were the boys?

7 A. Devon had fallen asleep in front
of

8 the TV and Damon was laying down in front of the TV,
and

9 he had not fallen asleep yet.

10 Q. Okay.

11 A. Drake was on me, laying on me. I
was

12 laying on the couch.

13 Q. Okay. And, did you and Darin
call

14 when he came in -- I mean, did you and Darin talk
when he

15 came in?

16 A. Yeah, when Darin came in, the
baby was

17 getting pretty fussy, and so I made him a bottle and

18 Darin said that he was going to take him upstairs
and
19 rock him.
20 I usually rocked him every night
and
21 sang to him, and Darin said that he was going to do
that,
22 and he wanted to watch the news. I don't really
like to
23 watch the news.
24 I think there is too much
negative
25 stuff on the news. But any way, I was watching
something

1 else. I don't know what I was watching, but I was
2 watching something else on TV.

3 Q. Did you all have a big screen TV
set
4 downstairs as well?

5 A. Yeah, it was an older one, but
yes.

6 Q. In the family room?

7 A. Um-hum. (Witness nodding head
8 affirmatively). Yes, sir.

9 Q. Okay. And, I'll ask you if Darin
10 eventually came down from upstairs?

11 A. Yes, he did.

12 Q. And did y'all continue to talk?

13 A. Yes, we did.

14 Q. Okay. Do you recall when you
decided

15 that you would spend the night downstairs?

16 A. It was sometime after that.

17 Q. Okay. And how were you dressed
at
18 that time?

19 A. I just had on a T-shirt and
panties.

20 Or not really a T-shirt, it was like a night shirt,
a

21 little bit longer than a regular T-shirt.

22 Q. Okay. Kind of an oversized T-
shirt?

23 A. Yeah.

24 Q. That ladies wear?

25 A. Yeah.

Reporter Sandra M. Halsey, CSR, Official Court

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1 Q. All right. Now, I'll ask you
if we

2 have had occasion to listen to the 911 tape,
Darlie?

3 A. Yes, sir, several times

4 Q. And have we -- a number of
times,

5 haven't we?

6 A. Yes.

7 Q. And, have we looked at the
State's

8 transcription of the 911 tape and listened to the
tape

9 itself, to check its accuracy?

10 A. Many times.

11 Q. Okay. And, in listening to the
911

12 tape, have we made some corrections in the State's
13 version?

14 A. Some.

15 Q. Okay. Let me hand you what has
been

16 marked for identification and record purposes, as
17 Defendant's Exhibit 96-A, and I'll ask you if this
shows

18 the State's version of the transcript of the 911

tape,

19 and in -- where there is discrepancy, or we think
we hear

20 something different, we have put in bold print,
italics,

21 what we believe is actually said?

22 A. Right underneath it?

23 Q. Yes.

24 A. Yes, sir.

25 Q. Is that correct?

Reporter Sandra M. Halsey, CSR, Official Court

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1 A. Yes, sir.

2 Q. Okay. And then on, Defendant's
3 Exhibit 96-B, it is simply our version of what the
911

4 tape says, without calling attention to -- and we
have

5 excised what the State has in places that we
disagree; is

6 that correct?

7 A. Yes, sir.

8 Q. All right. All right.

9

10 MR. DOUGLAS MULDER: We would
offer in

11 evidence what has been marked for identification, for
12 record purposes as, Defendant's Exhibit No. 96.

13

14 (Whereupon, the following

15 mentioned item was

16 marked for

17 identification only

18 as Defendant's Exhibits

19 No. 96 and 96-A

after

20 which time the

21 proceedings were

22

resumed on the record

23

in open court, as

24

follows:)

25

Sandra M. Halsey, CSR, Official Court Reporter

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1 MR. DOUGLAS MULDER: And, Sandy,
what

2 I'm going to do, is just mark this our version as
96, and

3 with the 96-A is the enhanced version.

4 THE COURT: Any objection?

5 MR. DOUGLAS MULDER: Judge, we
would

6 offer in evidence --

7 MR. TOBY SHOOK: Which is it?
The

8 first one or both?

9 MR. DOUGLAS MULDER: We're going
to

10 offer both into evidence.

11 MR. TOBY SHOOK: May I take the
12 witness on voir dire, Judge?

13 THE COURT: You may, indeed.

14

15

16 VOIR DIRE EXAMINATION

17

18 BY MR. TOBY SHOOK:

19 Q. So I take it, Mrs. Routier, that
I

20 guess, is it 96-A, has in heavy print, another

21 interpretation that you listened to, that you think
the

22 911 tape says?

23 A. Yes, sir, it's not by much, but
some.

24 Q. Okay. So any time we see a bold
25 printing, that is what you think is different?

Sandra M. Halsey, CSR, Official Court Reporter

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1 A. Yes.

2 Q. You think that you heard?

3 A. Yes, sir.

4 Q. And did you interpret this tape,
or

5 did have you any help interpreting this tape?

6 A. As far as what I heard, I
interpreted

7 it. There were other people listening as well.

8 Q. Who else was listening?

9 A. Lloyd Harrellson (sic).

10 Q. Is that Mr. Harrell?

11

12 MR. DOUGLAS MULDER: Harrell.

13 THE WITNESS: Harrell, I'm
sorry. And

14 I think Preston also.

15

16 BY MR. TOBY SHOOK:

17 Q. Mr. Douglass here?

18 A. Yes, sir.

19 Q. All right. Are all of the
changes

20 here, were those your ideas or did they hear things
that

21 you didn't hear and have those put in also?

22 A. It was a group effort, but I
went
23 through most of it, and whatever I made, I wrote
down on
24 paper, next to what they said, and they went over
it, and
25 then they listened to see if they could hear the
same

 Sandra M. Halsey, CSR, Official Court
Reporter

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1 things that I heard.

2 Q. And then y'all have had this
printed

3 up to show your interpretation?

4 A. Yes, sir.

5 Q. Okay.

6

7 MR. TOBY SHOOK: All right. No
8 objection then, your Honor.

9 THE COURT: All right. Both
10 Defendant's Exhibits 96 and 96-A are admitted.

11 MR. DOUGLAS MULDER: Okay. I
would

12 like to pass these out to the jurors.

13 THE COURT: You may.

14 MR. DOUGLAS MULDER: All right.

Let

15 me show you this, so it doesn't get any more
confusing

16 than it has to. This is -- pass those around.

Okay.

17 Pass those around. All right. All right.

18 Now, the one that I am handing you
now

19 is -- it shows the State's version as well.

20

21

22

DIRECT EXAMINATION (Resumed)

23

24 BY MR. DOUGLAS MULDER:

25 Q. Darlie, let me ask you this: When
you

Sandra M. Halsey, CSR, Official Court Reporter

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1 see something written on the TV screen, do you have a
2 tendency to hear what you read?

3 A. Yes, sir.

4

5 MR. TOBY SHOOK: Judge, we will
object

6 to leading.

7 THE COURT: Sustain the objection.

8 Phrase the questions properly, please.

9 MR. DOUGLAS MULDER: What I would
like

10 to do, Judge, is play this once with the jury
following

11 the 911 tape. And where they can see the --

12 THE COURT: That's fine.

13 MR. DOUGLAS MULDER: I want them
to

14 listen to it, and where they see the italicized part,
15 they will know that there is a discrepancy there, and
16 then I want to play it again for them, once they
17 understand where the problems are, and then I want to
18 play it again for them, looking at our version.

19 THE COURT: Okay. You are going
to

20 play it three times?

21 MR. DOUGLAS MULDER: Yes, sir.

22 THE COURT: Yes, sir. Well, that
is

23 fine. That is fine. All right.

24 MR. DOUGLAS MULDER: Our
electrician

25 is in the process of --

4847 Sandra M. Halsey, CSR, Official Court Reporter

1 THE COURT: All right. While
we're
2 assembling all of the mechanical devices, we are going
to
3 take a 10 minute break.

4
5 (Whereupon, a short
6 Recess was
taken,

7 After which
time,

8 The proceedings were
9 Resumed on the record,
10 In the presence and
11 Hearing of the
defendant

12 And the jury, as
follows:)

13
14 THE COURT: All right. Be
seated
15 please. Bring the 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

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1

2 THE COURT: All right. Let the
record

3 reflect that all parties in the trial are present,
and

4 the jury is seated.

5 Mr. Douglass and Mr. Mulder, you
may

6 both continue.

7 MR. DOUGLAS MULDER: Yes, sir.

8

9

10 DIRECT EXAMINATION (Resumed)

11

12 BY MR. DOUGLAS MULDER:

13 Q. Now, Darlie, at times on this 911
tape

14 are you carrying on a conversation with a 911
operator?

15 A. Yes, sir.

16 Q. And, at times are you also talking
to

17 your husband?

18 A. Yes, sir, I was talking to at
least

19 three people at once.

20 Q. And at times are you also talking
to
21 the police officer after he arrives there?

22 A. Yes, sir.

23 Q. Okay. And, do you know whether or
not
24 each of the people, of course, the 911 operator has
no
25 idea who else is present?

Sandra M. Halsey, CSR, Official Court Reporter

1 A. No, she is on the phone.

2 Q. Okay. So, is it fair to say that
at
3 times, that it is understandable that each of these
4 people think you are talking to them, even though you
may
5 just be talking to one of the three?

6 A. As chaotic as it was, I definitely
7 think that is a possibility.

8 Q. But if you're talking to Waddell,
and
9 you are speaking into the phone and the
communications
10 operator doesn't know but what you are talking to
her?

11 A. Yeah, whatever she would be
hearing.

12 Q. Okay. Likewise, if you answer
your
13 husband, and you are still talking into the phone,
she
14 would have reason to believe that --

15 A. Oh, that I was talking to her,
yeah.

16 Q. Of course.

17 A. Yeah, yeah.

18 Q. And, at one point, toward the
end,

19 initially there is a -- the communications officer
says

20 "Don't touch anything." And you said something
about a

21 knife, and she said, "Don't touch anything."

22 And you said, "I have already
picked

23 it up," or, "I have already touched it." Words to
that

24 effect?

25 A. Yes, so I have heard several
times.

Sandra M. Halsey, CSR, Official Court Reporter

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1 Q. Okay. Now, in another situation
in
2 there, Officer Waddell says something about a knife?

3 A. Yes, sir.

4 Q. Okay. And you made a remark to
him?

5 A. Yes, sir.

6 Q. There is also, a -- in the
7 conversation there, there is a direction, and of
course

8 you were here when Waddell testified and said he
didn't

9 recognize his voice saying to get the rags?

10 A. Yes, sir.

11 Q. Was that Waddell? Or was that
Darin?

12 A. No, sir, that was not Waddell. I
know

13 my husband's voice.

14 Q. All right.

15 A. I have listened to that tape many
16 times.

17 Q. Okay.

18

19 MR. DOUGLAS MULDER: Judge, what I

20 would like to suggest to the jury, is that they
listen to
21 the tape with our bold print italicized part first,
so
22 that you know where our discrepancies are, and then -
-

23 THE COURT: All right. Roll the
tape

24 then.

25 MR. DOUGLAS MULDER: And then once
you

Sandra M. Halsey, CSR, Official Court Reporter

1 have spotted that, I would like to have you play it
again

2 so you can hear it again like that, and then I would
like

3 to play it again for you a third time, where you can
just

4 hear our version.

5 THE COURT: All right. If you
will

6 proceed please, Mr. Douglass.

7 MR. DOUGLAS MULDER: Yes, sir.
All

8 right. This is the right one without the cover sheet
on

9 it. Everybody got it? Okay.

10 THE COURT: Okay.

11

12 (Whereupon, the tape was
13 played for the jury, after
14 which, the proceedings were
15 resumed on the record.
16 as follows:)

17

18 MR. DOUGLAS MULDER: Judge, now
that

19 they have kind of identified the areas, we would like

to

20 play it through one more time like this. And then

21 finally play it through with them not looking at

this,

22 but just looking at our version, and so they can

check

23 it.

24 THE COURT: All right. You may

25 proceed.

Sandra M. Halsey, CSR, Official Court Reporter

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1 MR. DOUGLAS MULDER: By now, if
you
2 will look at this thing, now that you have identified
it,
3 and then we will go through it with ours.

4 THE COURT: All right. Let's go.

5
6 (Whereupon, the tape was
7 played again for the jury,
8 after which time, the
9 proceedings were resumed
10 on the record, in open
11 court, as follows:)

12
13 THE COURT: All right.

14 MR. DOUGLAS MULDER: Judge, now we
15 would like for them to just take our version and
listen
16 to it, and that is the one with the cover sheet on
it.

17 THE COURT: Okay. Is everybody
ready?

18

19 BY MR. DOUGLAS MULDER:

20 Q. There is a word in there, Darlie,
that

21 they say is fighting and you said --

22 A. Frightened.

23 Q. Frightened? It sounds like --

24 A. I didn't say fighting.

25 Q. Okay. All right.

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1

2

THE COURT: All right. Mr.

Douglass,

3

are you ready?

4

MR. S. PRESTON DOUGLASS: Yes,

sir.

5

THE COURT: All right. Crank her

up.

6

7

(Whereupon, the tape was

8

played again for the jury,

9

after which time, the

10

proceedings were

resumed

11

on the record, in

open

12

court, as follows:)

13

14

THE COURT: All right. I think,

15

ladies and gentlemen, what we will do now, we will

break

16

for lunch until 1:15, and be back at that time.

17

Can you make it back at 10 after?

Can

18

all of the jurors make it back by 10 after 1:00?

Okay.

19 All right. The same instructions
as
20 always: No discussing the case among yourselves, do
no
21 investigation on your own.

22 Please remain seated, please,
until
23 the jury clears the courthouse.

24 Do no investigation on your own.
25 Leave everything that you have
been

Sandra M. Halsey, CSR, Official Court Reporter

1 given right there, please.

2 All right. Do not take that with
you.

3 Let the jury clear the courthouse,
4 please.

5
6 (Whereupon, the jury
7 was excused from
the
8 courtroom, and the
9 proceedings were
held
10 in the presence of
the
11 defendant, with
her
12 attorney, but
outside
13 the presence of
jury
14 as follows:)

15
16 THE COURT: Okay. See everybody
back
17 here at 1:15. Please, ladies and gentlemen, if you
would

18 let the jury leave the courthouse.

19 All right.

20

21 (Whereupon, a short recess

22 was taken, after which

23 time the proceedings were

24 resumed on the record

25 in open court, in the

Sandra M. Halsey, CSR, Official Court Reporter

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1 presence and hearing of the
2 defendant, with her attorneys,
3 as follows:)

4
5 THE COURT: All right. Are both
sides

6 ready to bring the jury back in and continue?

7 MR. DOUGLAS MULDER: Yes, sir, the
8 defense is ready.

9 MR. GREG DAVIS: Yes, sir, the
State
10 is ready.

11 THE COURT: All right, everyone
find a
12 seat, ladies and gentlemen.

13 Let's bring the jury in, please.

14

15 (Whereupon, the jury
16 was returned to

the

17 courtroom, and

the

18 proceedings

were

19 resumed on the

record,

20

in open court, in

the

21

presence and

hearing

22

of the defendant,

23

as follows:)

24

25

THE COURT: Let the record reflect
Sandra M. Halsey, CSR, Official Court Reporter

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1 that all parties in the trial are present and the
jury is
2 seated.

3 Mr. Mulder.

4 MR. DOUGLAS MULDER: Yes, sir.

5

6

7 DIRECT EXAMINATION (Resumed)

8

9 BY MR. DOUGLAS MULDER:

10 Q. Darlie, I think we were at that
point

11 in time, where you said that Darin had come back from
12 taking Dana home?

13 A. Yes, sir, that evening.

14 Q. Yes?

15 A. Yes.

16 Q. The evening of the 5th, and he
come

17 home, about what time did he get home?

18 A. I want to say it was sometime
after

19 10:00.

20 Q. Okay.

21 A. A little bit after 10:00

22 Q. All right. And tell the jury

what

23 happened after he got home. Where you were? Where

the

24 boys were? What was going on?

25 A. Well, after we got home -- or
after

Sandra M. Halsey, CSR, Official Court
Reporter

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1 Darin got home, Devon was sleeping in front of the
TV,
2 directly in front of the TV, Damon was lying beside
the
3 couch, he wasn't asleep yet, but he was laying
there with
4 his little kitten. I was laying on the couch with
Drake
5 on me. Drake was awake.

6 Q. Okay. And, Darin came in and
what
7 happened?

8 A. Darin came in, and after a few
9 minutes, Drake was getting a little bit fussy
because he
10 was ready to go to bed. So I made Drake a bottle
and
11 Darin went upstairs. He said something about he
was
12 going to watch the news and that he would feed
Drake and
13 put him down to sleep.

14 Q. So he took Drake with him when
he went
15 upstairs?

16 A. Yes, sir, he took Drake with
him.

17 Q. All right. And after a period
of time

18 did he come back?

19 A. Yeah, after about 30 minutes.

20 Q. Okay. Did you all continue to
talk?

21 A. Yes, sir.

22 Q. Okay. Had you -- did you talk
about

23 the trip you were taking?

24 A. Yeah, we talked about many
things. We

25 talked about --

Sandra M. Halsey, CSR, Official Court
Reporter

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1 Q. What was said about the trip to
2 Pennsylvania?

3 A. Well, just that I had talked to
my

4 father earlier, and you know, they were really
looking

5 forward to us coming, and it was my grandparents'
50th

6 anniversary, and --

7 Q. When were you due out there?

8 A. We were to fly in on the 14th of
June.

9 Q. Where would you fly?

10 A. We were to fly into Pittsburg,
11 Pennsylvania and then I had my relatives coming to
pick

12 me up in Pittsburgh, it's about a two and a half hour
13 drive from Pittsburgh to Altoona.

14 Q. Had airplane tickets?

15 A. Yes, sir.

16 Q. Okay. And for all five of you?

17 A. Yes. Well, Drake was just an
infant

18 that sat on your lap, so you didn't really have to
19 purchase a ticket for Drake.

20 Q. But tickets for the rest of
y'all?

21 A. Yes, sir, we had had tickets for
22 months.

23 Q. When were you coming back from
24 Pennsylvania?

25 A. I want to say that we were coming
back

Drake

18 was getting around a lot more, and Devon was out for
19 school, and so I wanted to be, you know, at home
with the
20 boys.

21 Q. Okay. Had you brought any
records

22 home from the -- personal records home from the
business?

23 A. Yes, sir, I had.

24 Q. Tell us about those and where
were
25 they in your home.

1 A. It was around March that I quit
2 working at the shop where I didn't go up there all
the
3 time. I would drop in once in a while, but not on a
4 daily basis. And, I just took all of my personal
files,
5 I mean, the files that had been mentioned during
this
6 trial, were my personnel files from my office. They
were
7 in folders, they had labels on them. It wasn't just
8 papers on the will or papers on insurance, or
anything
9 like that.

10 Q. Well, had you consulted a lawyer
about
11 estate planning?

12 A. Yes, I had done that.

13 Q. And you saw the letter that was
14 admitted into evidence?

15 A. Yes, sir.

16 Q. Now the other things that -- I
guess
17 directions as to how you wanted the estate divided
up in

18 the event that you died in some common disaster?

19 A. If Darin and I were to die
together,

20 is mainly what I was concerned with, because on our
21 insurance policies, I think you become an automatic
22 beneficiary if your spouse dies, I think it's
automatic.

23 You have it written up to where --

24 Q. Were those directions in with the
25 letter from the lawyer?

Sandra M. Halsey, CSR, Official Court Reporter

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1 A. Yes, sir, there was a lot more
papers

2 in with all that stuff than what has been shown.

3 Q. And that had been done sometime
back?

4 A. Yes, sir.

5 Q. Okay. Do you remember the green
6 plastic container that was pointed out to the jury,
as

7 the container in which you kept your sewing
equipment?

8 A. Yes, sir.

9 Q. Did you have any sewing equipment
in
10 there?

11 A. No, sir.

12 Q. What was in that?

13 A. It was all files inside of that.

14 Q. And is that -- were those papers
that

15 you brought home from the office?

16 A. Yes, sir.

17 Q. Personal papers that you had?

18 A. Yes, sir.

19 Q. Just hadn't found a place for them

in

20 the house?

21 A. No, actually I had been talking
about

22 getting a file cabinet, and I didn't want just a
regular

23 plain file cabinet that sat out in the middle of the

-- I

24 wanted a file cabinet that looked like a piece of
25 furniture. It is harder to find those.

Sandra M. Halsey, CSR, Official Court Reporter

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1 Q. You wanted a file cabinet that
didn't

2 look like a file cabinet?

3 A. Well, yes, I guess you could say
that.

4 Q. Okay. At any rate, what else did
5 y'all talk about?

6 A. We talked about the boat.

7 Q. What about the boat?

8 A. We had not been using the boat
very

9 much since Drake was born, and the boat had had a
problem

10 and it was going to cost, I don't know, I think Darin
had

11 told me like eight hundred dollars or something to
get it

12 fixed, he had just gotten an estimate from somebody.

And

13 we discussed getting rid of the boat, because we
weren't

14 using it any more.

15 There wasn't an argument, that's
all

16 been taken out of context. There was not an argument

17 about the boat. There was not an argument about the
18 car.

19 What I was upset about, was that a
20 man

21 had called me earlier, and had pretty much, I mean,
22 he

23 was very rude and had cussed me out over the phone
24 about

25 something that I didn't even know about. My
26 husband's

27 car was at his shop, and he wanted my husband to come
28 and

29 pick it up, and he was very rude to me, and I was
30 upset

31 about it.

32 Q. It wasn't your fault?

Sandra M. Halsey, CSR, Official Court Reporter

1 A. Well, I didn't even know about it.

2 Q. Okay. Did you discuss that?

3 A. Yeah.

4 Q. And you talked about the boat?

5 A. Yes, sir.

6 Q. You thought the boat was a

headache

7 that y'all didn't need?

8 A. Yes, and my husband had made plans
to

9 put the boat in the boat trader. Matter of fact, I
think

10 that he had spoken to somebody about that.

11 Q. All right. But it was just a
normal

12 discussion between you and your husband?

13 A. Yes, sir.

14 Q. Okay. And, about what time did
you

15 decide you were going to stay downstairs versus
going

16 upstairs?

17 A. I don't really know, as far as
what

18 time. It was sometime while we were talking.

19 Q. Okay. Did you have a pillow
there?

20 A. No, Darin went upstairs and got
me a
21 pillow and a blanket.

22 Q. Is that the maroon pillow that
we have
23 seen here?

24 A. Yes, sir, it's got the squares
or
25 diamonds on it I think.

Sandra M. Halsey, CSR, Official Court
Reporter

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1 Q. Okay. And he brought that down
to

2 you?

3 A. Yes, sir.

4 Q. Okay. And, did you visit some
more,

5 or was that --

6 A. We were kissing for a little
bit.

7 Q. Okay. And then did he go on
upstairs?

8 A. Yes, sir.

9 Q. Okay. And, will you tell the
jury,

10 where you were stationed on that sofa? Was your
head

11 toward the TV set, or away from it?

12 A. Well my head was -- like, if I
am

13 sitting like I am right now, the TV was behind me.

14 Q. Okay.

15 A. My head would be right here.

(Witness

16 indicating on the diagram.)

17 Q. All right. Where would your
feet be?

18 A. My feet would be down here.

(Witness

19 indicating on the diagram.)

20 Q. Okay. You had a blanket?

21 A. Yes, sir.

22 Q. Okay. What color was the
blanket?

23 A. The blanket was green.

24 Q. Okay. And you had the maroon
pillow?

25 A. Yes, sir.

Sandra M. Halsey, CSR, Official Court
Reporter

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1 Q. Anything else?

2 A. As far as what I had?

3 Q. No, as far as pillows or
blankets or

4 anything of that nature?

5 A. There was another gold pillow
6 underneath me.

7 Q. Okay. Anything else?

8 A. I can tell you what the boys
had.

9 Q. All right.

10 A. Devon had a Power Ranger
pillow, about

11 right about here. And he had his head here, with
his

12 legs going towards the TV.

13 Damon was on a gold pillow down
here

14 by the couch, his head was on the gold pillow,
with his

15 feet facing towards the couch, and he had a blue
pillow

16 and he was laying there with his little black
kitten.

17 Q. Okay. All right. And, Darin
went on

18 upstairs to bed?

19 A. Yes, sir, I asked him if he had
made

20 sure that the front door was locked and he said
that he

21 did. And I asked him to turn off the kitchen
light as he

22 was going upstairs.

23 Q. Okay. Did y'all set your
alarm?

24 A. No, sir, I wish we had.

25 Q. Okay.

Sandra M. Halsey, CSR, Official Court
Reporter

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1 A. We never set our alarm. We had
set it
2 a couple of times, and a couple of times that we
set it,
3 it went off, and I don't know if it went off
because of
4 the cats or what, but it went off, and it was a
real big
5 deal, and anyway we just kind of got out of the
habit of
6 not setting it.

7 Q. Okay. All right. So, were you
still
8 watching TV or what?

9 A. I watched TV briefly, just for
a few
10 minutes.

11 Q. Okay. And then curled up with
your
12 head toward the TV set and your feet away?

13 A. I went to sleep. I was tired.

14 Q. Okay. Was Devon asleep?

15 A. Both of the boys were asleep.

16 Q. All right. He was facing
toward the
17 TV set?

18 A. Yes, sir.

19 Q. And the other youngster, Damon,
was

20 facing away from it, as were you?

21 A. Yes, sir.

22 Q. Okay. And did you go to sleep?

23 A. Yes, sir, I did.

24 Q. All right. Darlie, what is the
very

25 next thing that you remember, that you either felt
or

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1 heard or saw?

2 A. The next thing that I remember
is

3 Damon hitting my right shoulder, and he said
"Mommy," or

4 he said "Mommy, Mommy," I'm not sure, but he said,
5 "Mommy."

6 I looked up, and you've got to
7 remember that I'm in a -- I am not completely
awake, you

8 know, when you first wake up, you are not
completely wide

9 awake. And there was a man, that was down, going
away

10 from the couches, walking away from me.

11 I started to get up and when I
stood

12 up, I heard noise like glass breaking. I started
to walk

13 towards the kitchen, Damon was behind me, and when
I got

14 to the kitchen, I put my hand back here for Damon
to

15 stay. And when I got to the kitchen, I could see
the guy

16 going into the utility room.

17 Q. Were the lights on?
18 A. No, sir, the lights were off.
19 Q. Okay. So the area was
illuminated by
20 the big screen TV set only?
21 A. There was a little bit of --
yeah, I
22 mean, there was a little bit of light, I don't
know what
23 you would call that, just kind of a --
24 Q. Okay.
25 A. A glare, maybe.

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1 Q. All right. Okay. What
happened?

2 A. I started to take a couple of
steps

3 into the kitchen, and I realized that the lights
were

4 off, so I turned back around, and I flipped the
lights on

5 real quick. I started to walk into the kitchen.

6 Q. Where was the man by this time?

7 A. He was gone, he was out of my
sight.

8 Q. All right.

9 A. I got into the kitchen, and I
got to

10 where the island is, there is an island in the
middle of

11 the kitchen. I got to where the island was, and it
was

12 at that moment that I realized that I had blood on
me.

13 And I kept going, walking a
little

14 bit, and I saw a knife laying in the utility room.
The

1 his eyes were open, and he had cuts on him that
were so
2 big.

3 Q. Did you say anything at that
time?

4 A. I screamed "Devon." I screamed
out
5 and I couldn't believe what I was seeing. It was at
that
6 time that I turned back around and I went to Damon,
and
7 Damon was standing up still.

8 Q. Could you see that he had been
hurt or
9 cut or anything at that point?

10 A. Not at that time, I couldn't see
that
11 he had been hurt. I just started checking all over
him
12 and when I turned him around I could see big, huge
wounds
13 through his shirt. I started screaming, and I ran
into
14 the entrance way, and I flipped on the lights real
quick,

15 and I was screaming Darin, Devon, Darin and Devon,
and,
16 we ran back into hallway, Darin went over to Devon,
I
17 went into the kitchen and flipped the lights on, and
I
18 grabbed the phone, and I went to the drawer where
there's
19 towels in the drawer, and I went to the drawer, and
I
20 went over to the sink and I got the towels wet.

21 Q. Did you have all the lights on
now?

22 A. Yes, sir.

23 Q. Okay.

24 A. Yes.

25 Q. So the area of both the den and
the

1 kitchen was fully illuminated?

2 A. Yes, sir.

3 Q. You went over to the kitchen, you
got

4 the phone and then what did do you?

5 A. I went to the kitchen, and I got
the

6 phone, and then I went to the drawer and I got the
towels

7 and then I went to the sink.

8 Q. Okay. Why did you get the
towels?

9 A. I just wanted to help to stop the
10 bleeding. I didn't know what to do. I didn't know
what

11 to do. I was just reacting.

12 Q. Okay. So you got the towels?

13 A. I got the towels and I went to
the

14 sink and I got the towels wet.

15 Q. All right. Were you on the phone
with

16 911?

17 A. At that time -- at that time, I
think

18 911 came on.

19 Q. Okay.

20 A. I don't know what I said, I mean

--

21 Q. Do you know if you started -- if
you

22 got the towels before you called 911, or you called
911

23 before you got the towels, or did it all happen
about the

24 same time?

25 A. Yeah, I mean, I got the towels,
and I

1 was calling 911 as I got the towels.

2 Q. All right. And after you got the
3 towels wet, did you take those to Darin?

4 A. I got a couple of towels wet, I
went
5 to Damon first.

6 Q. Okay.

7 A. I put a towel on Damon's back.
8 There's been a lot of controversy that I didn't do
that,

9 but I did do that. I put a towel on my baby's back.

10 Q. You were the only one -- the
police

11 didn't get any towels out, did they?

12 A. No, sir, the police did not get
any
13 towels out.

14 Q. Darin didn't get any towels
out?

15 A. Darin didn't get any towels out.
16 Darin was trying to save Devon.

17 Q. All right. So you got the towels
and

18 you took them to Damon?

19 A. I put a towel on Damon, then I

told

20 him to hold on. I said, "Hold on, baby." And he
said,

21 "Okay, Mommy." That is the last thing that he said
to

22 me.

23 Q. All right. Darlie, just tell us,
as

24 best you recall, what happened after that?

25 A. I went over to Darin, and Darin
was

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1 down and he was breathing into Devon's mouth, and I
2 didn't know how to do CPR, I didn't even know what I
was
3 doing. When Darin was blowing into Devon's mouth,
you
4 could see some blood coming out of his wounds on the
side
5 of his chest.

6 Q. All right. What did you do?

7 A. I didn't know what to do. All I
did
8 was just put a towel on it. I didn't know what to
do.

9 Q. How did you put the towel down?

10 A. I just put the towel on top of
his
11 chest wound.

12 Q. Okay.

13 A. After that, I ran back and I
think

14 that is when I ran, and I screamed for Karen across
the

15 street, because I didn't know what to do, and I
knew that

16 we had to get help.

17 Q. Karen is the nurse?

18 A. Karen is the nurse, and she is
one of

19 my best friends, and I knew that she would know
what to

20 do.

21 Q. Okay.

22 A. So I called for Karen,

23 Q. Did you get more towels? Did
you go

24 back and forth to the sink?

25 A. Yes, sir, I got more towels, I
got

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1 another towel, I didn't know what I was doing. I
got

2 another towel, and I went back to the sink, and I
got

3 another towel, I put another towel beside Damon
and I

4 told him to hang on again, he was still alive, he
was

5 still trying to breathe.

6 Q. What was Darin doing at this
time?

7 A. Darin was still with Devon.

8 Q. All right. Were y'all
frantic?

9 A. Yes, sir, very much. Can you
imagine,

10 your babies are dying in front of you. What do you
do?

11 What do you do?

12 Q. Both of you were frantic?

13 A. Yes, sir.

14 Q. Did you keep talking to 911, or
do you

15 know?

16 A. I don't even remember. There was

so

17 much going on at one time it was crazy.

18 Q. Did the police come?

19 A. Yes, sir, an officer came.

20 Q. All right. Did Officer Waddell
come?

21 A. Yes, sir.

22 Q. Okay.

23 A. Officer Waddell came in. I was

24 standing over at the kitchen bar, and I was leaning
over

25 the vacuum cleaner that was there earlier, because I
was

1 a little dizzy and I couldn't breathe very good.
That

2 vacuum cleaner right there.

3 Q. Did you know how badly you had
been

4 hurt at that time?

5 A. No, I didn't know, I had seen my
neck

6 in the mirror.

7 Q. Where is mirror located?

8 A. The mirror is located behind the
wine

9 rack in the kitchen.

10 Q. Okay. So it's obscured somewhat
by

11 the wine glasses and the wine bottles?

12 A. It's behind the wine rack.

13 Q. Okay. In this area? Can you see
14 that?

15 A. Yeah, that is where it's at.

16 Q. Okay. That is the wine rack?

17 A. Yes.

18 Q. There is a mirror back here on
the

19 wall?

20 A. Yes, sir.

21 Q. Okay. Was Waddell as consumed
and
22 taken aback by the horror of the scene as y'all
were?

23 A. Yes, sir.

24 Q. Was he of much help?

25 A. No, sir.

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1 Q. Okay. Did you -- you heard this
911

2 tape, 20 times I bet, haven't you?

3 A. Yes, I have heard it a lot.

4 Q. Okay. When we tried to figure
out

5 what was going on, and what was being said, and who
was

6 saying what?

7 A. Yes, sir.

8 Q. Okay. And you talk at times to
9 Waddell, do you not?

10 A. I believe so, yes, sir.

11 Q. All right. You are carrying on
a

12 number of conversations with a number of people?

13 A. I'm talking to a lot of
different

14 people. I didn't even know really what was going
on.

15 Q. All right. At any rate, did
the

16 paramedics get there?

17 A. Waddell was in the living room,
and he

18 told me to sit down or lay down, I don't remember

which,

19 and I did that.

20 Q. You had been holding on to the
vacuum

21 cleaner?

22 A. I had just been leaning over it
for

23 support, just to keep myself up. When I sat down, I
kind

24 of took the vacuum cleaner with me.

25 Q. Okay.

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1 A. I don't know which way, I don't
know

2 which way, I have no idea. I mean, I don't know. I
have

3 heard all kinds of stuff about that, and --

4 Q. Okay. Did you ever see the vacuum
5 cleaner in the kitchen?

6 A. No, sir.

7 Q. Was the vacuum cleaner ever in the
8 kitchen, at any time?

9 A. No, sir. The vacuum cleaner was
never
10 in the kitchen while I was there.

11 Q. Okay.

12 A. I know, because I ran back and
forth

13 through that kitchen, that vacuum cleaner was not in
the

14 kitchen at all.

15 Q. Okay. What happened after the
16 paramedics got there, Darlie?

17 A. Sergeant Walling got there, and
18 Sergeant Walling, right away, was -- I mean he
was

19 very -- they ran, he said something to Waddell,

and

20 Sergeant Walling and Waddell ran through the
kitchen, and

21 went into the garage.

22 Q. Do you know if they went by the
wine

23 rack, or if they went by the sink?

24 A. I think that they went by the
wine

25 rack.

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1 Q. Okay.

2 A. I think that they both went
through

3 where the wine rack is.

4 Q. Okay.

5 A. It seemed about -- I don't know -
- at

6 that time, Darin ran out of the room also. Not with
7 them, but he ran the other way, towards the front
door.

8 Q. Okay. How long was it before you
were
9 taken to the front porch?

10 A. I don't know, sir. I mean, when
the

11 paramedics came in, one of them went back -- one of
them

12 went over to Devon, and one of them went to Damon,
and he

13 was doing something to Damon, and I saw him put his
hands

14 on Damon's neck, Damon had his head away from me,
and I

15 asked him, "Is he dead?"

16 And he wouldn't answer me. But

when

17 he picked him up and turned him over, his eyes were
open,

18 and he wasn't moving.

19 Q. Okay. Did they take Devon -- did
they

20 take Damon out?

21 A. Yes, sir, they took Damon out.

22 Q. All right. And, moments later,
did

23 they take you to the front porch?

24 A. Yes, sir, but I didn't remember
25 though.

1 Q. Okay. You don't remember them
taking

2 you from the den to the front porch?

3 A. No, sir.

4 Q. Do you remember them taking you
from

5 the front porch to the ambulance?

6 A. Yes, sir.

7 Q. Okay.

8 A. Vaguely.

9 Q. Okay.

10 A. When I was out on the front
porch,

11 there were so many people.

12 Q. Do you know how many paramedics
came

13 into that room?

14 A. I have no idea. I know there
were a

15 lot of people running in and out of that house.

16 Q. Do you know how many police
officers

17 were in there?

18 A. I have no idea. I know it had to
have

19 been at least, I mean, while I was there, it had to
have

20 been at least two or three.

21 Q. Okay. Do you know how many
22 paramedics? Could it have been as many as six or
seven

23 paramedics?

24 A. Are you talking about paramedics
and
25 the --

1 Q. I'm talking about, and firemen in
the
2 house?

3 A. Yes, there were several. I mean,
I
4 don't know the exact number but there were several.

5 Q. As many as five or six or so?

6 A. More.

7 Q. Okay.

8 A. I mean there was at least five or
six.

9 Q. Do you remember them taking you
from
10 the front porch to the ambulance?

11 A. Vaguely.

12 Q. Do you remember Darin helping you
on
13 the stretcher?

14 A. Darin, and there was another -- I
15 think he was a paramedic, they tried to help me over
to
16 the stretcher, and when I stood up, Darin said
something

17 to me that my panties were gone.

18 Q. Is that the first that you

realized?

19 A. That is the first that I realized
that

20 by panties were even -- that they were gone.

21 Q. Do you -- you were taken on to
Baylor

22 Hospital?

23 A. Yes, sir.

24 Q. And they bandaged your --

25 A. They bandaged my right arm at the

1 door, I believe the paramedic told me that he was
going
2 to bandage it, and that it might hurt, because he
was
3 going to have to put a lot of pressure on it to stop
the
4 bleeding.

5 Q. Okay.

6 A. And they also bandaged my neck at
the
7 front door as well.

8 Q. Okay.

9 A. I don't remember very much
because
10 there were so many people. You have got to remember
11 there were -- I mean, you kind of have to put
yourself in
12 that situation. There were people running in and
out and
13 screaming and yelling, it was --

14 Q. Chaotic?

15 A. It was very chaotic, and for
anybody
16 to sit up here and say that it wasn't, I mean, it
was

17 very chaotic.

18 Q. You talked to Darin once you were
19 in
20 the ambulance?

21 A. Yes.

22 Q. Did you know, at that time that
23 your
24 sons were both dead?

25 A. Yes, sir.

Q. Did he try to go to the hospital
with
you in the ambulance?

1 A. He tried to get into the
ambulance, I

2 don't know what they said to him, but I know he did
try

3 to get into the ambulance.

4 Q. Okay. You were taken on to the
5 hospital?

6 A. Yes, sir. It took them a little
while

7 to decide where they were going. I remember the one
8 paramedic -- there was a bunch of people in there,

but

9 the one paramedic was talking back with the paramedic
in

10 the front that was driving, and you could hear the --
11 like the radio, I guess, where they were getting

their

12 instructions of which hospital to go to, and at
first

13 they were saying Baylor of Garland, something,
Baylor of

14 Garland, and then they said, something like, no,
Baylor

15 of Dallas, and it was like, they couldn't -- they
were

16 trying to decide which -- I guess which place that
they

17 were going to go to.

18 Q. Okay. Were you asked by any of
the

19 police officers at the scene as to what does this
man

20 look like and how much of him you saw?

21 A. Yes, sir. I believe that
Sergeant

22 Walling asked me at the front door a
description of the

23 man.

24 Q. Okay. What did you tell
him?

25 A. I told him that I wasn't
sure if he

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1 was white or black because it was dark, but
that I

2 assumed that he was white because of his hair.

3 Q. What was there about his
hair?

4 A. His hair was longer and it
was

5 straight and he had a dark colored cap on his head.

6 Q. Okay. Could you -- did you ever
see

7 the front of the cap?

8 A. No, sir, later they asked me in
the

9 hospital if the cap -- if the bill of the cap, if I
could

10 see it from the back, and I told them, no, that I
could

11 not see the bill from the back.

12 Q. Okay. Some people wear their hat
13 backwards with the bill around the back?

14 A. My little boys wear their hats,
15 sometimes with the bill around the back.

16 Q. Okay. And, you said you didn't
see

17 the bill?

18 A. No, sir.

19 Q. Do you know if the cap even had a
20 bill?

21 A. Well, I can't say for sure.

22 Q. Okay. What else did you give
them?

23 What other description did you give them?

24 A. I told him that he had on a dark
25 colored T-shirt and that he had on jeans.

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1 Q. Okay. Did they ask you about how
tall

2 he was, or how much he weighed?

3 A. Not until later.

4 Q. Okay.

5 A. In the hospital, somebody asked
me, I

6 think somebody asked me how tall he was, I think.

7 Q. Okay. Detective Frosch is

8 considerably taller than Detective Patterson?

9 A. Yeah, he looks like it.

10 Q. All right. And, was he built
more

11 along the lines of Detective Frosch than Detective
12 Patterson?

13 A. Yes, sir.

14 Q. Did you tell them that?

15 A. Yes, sir.

16 Q. All right. Did you, Darlie,
when

17 Detectives Patterson and Frosch came to see you in
the

18 hospital, did you cooperate with them?

19 A. As much as I could, yes.

20 Q. Did you answer the questions?

21 A. Yes.

22 Q. Okay. You stayed there in the
23 hospital for three days?

24 A. Yes.

25 Q. Okay.

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1 A. I was released on Saturday.

2 Q. Okay. Your family came down to
visit
3 you?

4 A. Yes, sir.

5 Q. And your in-laws, Sarilda and, is
it
6 Lenny?

7 A. Yes.

8 Q. Routier from Lubbock?

9 A. Yes, sir.

10 Q. And your sisters and your mother
and
11 relatives came to see you?

12 A. I was told a lot of people came to
see
13 me, I don't really remember very much of the people
14 actually being in there, but yes, that is what I was
15 told.

16 Q. You saw Drake, he was there?

17 A. Yes, I do remember Drake.

18 Q. Okay. They brought Drake down a
19 couple times, did they?

20 A. Yeah, the time that I really
remember

21 being with Drake was Saturday and Karen had brought
Drake

22 up to the hospital, and they had taken the last of my
23 tubes out of my arms, and Karen put him on my
stomach,

24 and I fed him a bottle.

25 There was another time before
that,

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1 but I really don't remember very much about it.

2 Q. Okay. Another time when Karen
brought

3 Drake down?

4 A. Yes, sir.

5 Q. Okay. Darlie, you have heard
6 testimony about the bruises to your arms?

7 A. Yes, sir.

8 Q. Did you realize that your arms had
9 been bruised there in the hospital?

10 A. I realized a little bit later that
11 they had been bruised in the hospital.

12 Q. I didn't mean when you first got
to

13 the hospital --

14 A. Right.

15 Q. But while you were still there at
the

16 hospital?

17 A. Yes, sir.

18 Q. Okay. All right. And until you
heard

19 Dr. Santos and Dr. Dillawn, and Dr. DiMaio --

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

22 Q. Testify that those bruises were
the

23 result of blunt trauma?

24 A. Yes, sir. I didn't know, that
that is
25 what they were caused from.

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1 Q. Did you realize that you had been
2 beaten?

3 A. No, sir. I thought that the
bruise on
4 my right arm was because of the wound. I had no idea
5 that it was from --

6 Q. Blunt trauma?

7 A. Yes, blunt trauma, until I heard
them
8 talking about it.

9 Q. The bruise on your left arm, where
you
10 had the medical intervention, the IV and the arterial
11 line?

12 A. Yes, sir.

13 Q. Did you assume that those had
caused
14 the injuries to your --

15 A. I assumed that the IV did, because
I
16 have had IV's before that have done that.

17 Q. I'll ask you, Darlie, while you
were
18 there at the hospital, if you realized anything
unusual

19 about the inside of your mouth?

20 A. Yes, sir.

21 Q. What was that?

22 A. My mouth was very sore. It felt
kind

23 of raw inside.

24 Q. Do you know what caused that?

25 A. I don't know what caused it. I
can

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1 tell you what I -- I can speculate. I can tell you
what

2 I think caused it.

3 Q. What do you think caused it?

4 A. I think that the man had his hand
over

5 my mouth while he was attacking me.

6 Q. Okay. Do you have any
recollection of

7 this man attacking you and beating you severely and
8 cutting you?

9 A. I don't have any -- what you would
say

10 that, I mean, that I can remember him doing that. I
have

11 assumed that that is what he has done, because common
12 sense tells you that that is what he has done.

13 Q. Well, do you have any recollection
14 of fighting with him, or struggling with him?

15 A. No.

16 Q. Okay.

17 A. Not as far as remembering.

18 Q. You can look at your arms, and at
19 your -- the bruises and the stab marks.

20 A. That's all that was ever said. I

21 mean --

22 Q. The bruises and the stab marks
would

23 lead you to that inescapable conclusion, would it
not?

24 A. I think it led all of us to that
25 conclusion.

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1 Q. Okay. But you have no
recollection?

2 A. No, sir.

3 Q. Okay.

4 A. I have sat in a jail cell for
seven

5 months, and I have tried to think very hard, I have
tried

6 to do self-relaxation, I have talked to Lisa about

7 self-relaxation, kind of --

8 Q. Have you had dreams, nightmares?

9 A. Yes, sir, I have had a lot
dreams. I

10 have had dreams.

11 Q. You and Darin also went to a
psychic?

12 A. Well, we had a psychic come out
to the

13 house.

14 Q. Okay. You had a psychic come to
your

15 mother's house?

16 A. We had a psychic come to the
house.

17 Q. On Eagle Drive?

18 A. Yes, sir.

19 Q. And go through the house with
you?

20 A. Yes, sir. It's not something
that I

21 really believe in or practice, but I think that when
you

22 are a parent, and when you are desperate to find
answers,

23 that you will do just about anything.

24 Q. What did the psychic tell you?
25

1 MR. TOBY SHOOK: Judge, we will
object

2 to hearsay.

3 THE COURT: Sustained.

4

5 BY MR. DOUGLAS MULDER:

6 Q. Did the psychic give you a
description

7 of what had --

8

9 MR. TOBY SHOOK: Judge, we will
object

10 to hearsay --

11 MR. DOUGLAS MULDER: Judge, I'm
not

12 going to go into it, but I'll --

13 MR. TOBY SHOOK: About him going
into

14 a description. And we will object to relevance as
to

15 what a psychic told them.

16 THE COURT: Well, I'll let you
17 rephrase the question, Mr. Mulder, and before you
answer,

18 ma'am, if Mr. Shook wants to make an objection, I'll

let

19 him make an objection. So please state your
question.

20

21 BY MR. DOUGLAS MULDER:

22 Q. Did y'all go through the house
with a
23 psychic?

24 A. A little bit.

25 Q. Okay. And, did the psychic do

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1 whatever psychics do out there?

2 A. Yes.

3 Q. I guess the psychic went through
the

4 house?

5 A. Yes.

6 Q. Was it a male psychic, or --

7 A. Actually she says that she is a
8 psychic.

9

10 MR. TOBY SHOOK:: Judge, I'll
object

11 to the hearsay.

12 THE COURT: Sustained. Let's
don't

13 say what anybody else says.

14 THE WITNESS: Okay. She is a
psychic

15 and an investigator.

16

17 BY MR. DOUGLAS MULDER:

18 Q. Okay.

19 A. Not just a psychic.

20 Q. But, at any rate, did she give you
her

21 impressions of what had gone on in the house?

22 A. Yes, sir.

23

24 THE COURT: That's all right.

Just

25 wait until the next question comes up.

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4891

1 THE WITNESS: Okay.

2

3 BY MR. DOUGLAS MULDER:

4 Q. And have you discussed with your
5 mother, and with your husband, and with friends what
the
6 psychic said?

7 A. I have discussed it with just
about
8 everybody I know.

9 Q. Okay.

10 A. What the psychic said and my
dreams.

11 Q. You were released from the
hospital on
12 the 8th; is that right?

13 A. Yes, sir. Saturday.

14 Q. And went to the viewing where your
15 sons' bodies were?

16 A. Didn't go directly to the viewing.

17 Q. Well, you went from there --
didn't

18 you go directly?

19 A. I went directly from the hospital
with

20 the police to the police department.

21 Q. Okay.

22 A. And then from the police
department to

23 the viewing.

24 Q. All right. Did the police know

that

25 you had a viewing that evening?

Sandra M. Halsey, CSR, Official Court Reporter

4892

1 A. Yes, sir.

2 Q. Okay. And, did they tell you that
it

3 was necessary for you to come by and make a
statement?

4 A. Yes, sir, they were very adamant
about

5 that.

6 Q. All right. Did you and Darin both
go

7 by and make a statement to the police?

8 A. Yes, sir.

9 Q. Okay. Did you cooperate with the
10 police?

11 A. Very much so.

12 Q. Okay. And, after the viewing, the
13 funeral was the next day?

14 A. Yes, sir.

15 Q. Okay. And, Darin had -- Darin and
his

16 mother had pretty much arranged the funeral, had they
17 not?

18 A. They arranged most of the funeral
and

19 they would come back to the hospital and tell me what
was

20 going on.

21 Q. All right. Did you know that they
22 were going to have the Gangster's --

23 A. I didn't know until I got there.

24 Q. Okay. But was that, in fact, your
25 boys, one of their favorite songs?

Sandra M. Halsey, CSR, Official Court Reporter

4893

1 A. Yes, sir, and I think that it's
been

2 made way too much of an issue. Children --

3 Q. Did the boys understand the lyrics
too

4 that song?

5 A. No. The boys didn't understand
the

6 lyrics. They just understand the beat. The
rhythm. A

7 lot of children are like that. That is how they
teach

8 them in school. I have been around children a lot.
I

9 have been a volunteer, and children --
communication is

10 taught through music.

11

12 MR. TOBY SHOOK: Judge, we
will object

13 to the non-responsiveness of that answer.

14 THE COURT: Overruled. Go
ahead.

15

16 BY MR. DOUGLAS MULDER:

17 Q. Why do the children like that

music?

18 A. Children liked the music
because of
19 the beat and the rhythm. A lot of communication
is
20 taught to children through music.

21 Q. Did your boys like music?

22 A. Very much, I don't know too
many
23 children that don't.

24 Q. They danced to the music,
would they?

25 A. Oh, yes.

Sandra M. Halsey, CSR, Official Court
Reporter

4894

1 Q. All right. And, you would
sing to

2 your children, wouldn't you?

3 A. Yes, sir.

4 Q. Okay. Would you sing to them
5 frequently?

6 A. Yes, sir.

7 Q. And what would you sing to
them?

8 A. I sang to them all kinds of
songs.

9 Q. Okay. Did they have any
favorites?

10 A. They had lots of favorites. I
sang

11 Jesus Loves Me to Drake every night.

12 Q. Okay. And that was one the songs
that

13 was played at the funeral, wasn't it?

14 A. Yes, sir.

15 Q. Okay. Do you recall what the
other

16 song was that was played at the funeral?

17 A. I believe that it was, I Will
Always

18 Love You, by Whitney Houston.

19 Q. All right. Was that one of
y'all's'

20 favorites?

21 A. Yes, sir.

22 Q. Okay. After the funeral, there
was

23 a -- sometime later there was a grave side service?

24 A. Yes, sir.

25 Q. Okay. And did that follow the

Sandra M. Halsey, CSR, Official Court Reporter

1 funeral?

2 A. Well, which one are you talking
about?

3 Q. Well, was there a grave side
service,

4 that immediately followed the funeral?

5 A. Oh, yes, yes, there was.

6 Q. And then, there was a prayer
service

7 some four or five days later?

8 A. On the 14th?

9 Q. Yes.

10 A. Yes, sir.

11 Q. Following the prayer service
there,

12 Darlie, there was a birthday party?

13 A. Yes, sir.

14 Q. Or a celebration of sorts?

15 A. Yes, there was.

16 Q. Were you there for that?

17 A. Yes, I was.

18 Q. Was that your idea?

19 A. Well, no, it wasn't. It was my
20 sister's.

21 Q. How did that come about and why?

22 A. Well, it was Devon's birthday, and

for

23 those of you who have children, Devon wanted nothing
more

24 than to be seven. Devon asked me day in and day out,

for

25 two weeks, "Mommy, am I seven yet?"

Sandra M. Halsey, CSR, Official Court Reporter

4896

1 And I told him, "No, not yet. But
you
2 will be soon."

3 And it was a way of telling Devon
4 happy birthday. I didn't see anything wrong with it.
We

5 have been criticized and ridiculed. How do you ever
know
6 what you are going to do unless you are placed in the
7 same situation? And who has that right to tell you -

-

8
9 MR. TOBY SHOOK:: Judge, I'll
object

10 to the narrative non-responsive, going into a
narrative.

11 THE COURT: Ma'am, let me just
caution

12 you, just answer the questions as briefly as you can.
13 Okay?

14 THE WITNESS: I'm trying to.

15 THE COURT: I know you are, and
you

16 are doing a good job. Thank you. Just try to be
very

17 brief.

18

19 BY MR. DOUGLAS MULDER:

20 Q. Darlie, did you love those
children?

21 A. I loved those children more than
my
22 life. They were the most important thing to me. And
23 what they have done is wrong.

24 Q. Did you ever, ever harm those
25 children?

1 A. Never.

2 Q. Okay. Did you stab those children
and
3 then cut yourself?

4 A. No, I did not stab those children
nor
5 did I try to stab myself.

6 Q. Would you have any reason to do
7 anything like that?

8 A. No, sir.

9 Q. But to love those children?

10 A. No, sir.

11 Q. Do you know who did kill your
12 children?

13 A. No, sir.

14

15 MR. DOUGLAS MULDER: We will pass
the

16 witness. They will have some questions for you.

17 THE COURT: Mr. Shook.

18 MR. TOBY SHOOK: Yes, sir.

19

20

21 CROSS EXAMINATION

22

23 BY MR. TOBY L. SHOOK:

24 Q. Mrs. Routier, you started that
25 business, Testnec, with your husband; is that right?

Sandra M. Halsey, CSR, Official Court Reporter

4898

1 A. Yes, sir.

2 Q. Okay. And you worked there along
side

3 him, through the years when y'all were building it
up,

4 didn't you?

5 A. Pretty much so, yes.

6 Q. Okay. I mean, it wasn't his
7 operation, you took equal part in that company, and
built

8 it up with him, didn't you?

9 A. Sure.

10 Q. And, you ran, in fact, I think
your

11 main, primary job in that, was running the books; is
that

12 right?

13 A. Pretty much, to a certain degree,
I

14 mean we had a CPA, but the daily routine, you know,
the

15 daily work.

16 Q. You would keep up with that, and
as

17 far as accounts go, and who owed you money, and

things

18 like that, more or less the business operation?

19 A. Yes, sir.

20 Q. You also helped make some of the
21 computer parts, or whatever you did there, the
circuit

22 boards?

23 A. Yeah. I didn't know a whole lot
about

24 it, but I tried to help out wherever I could,
wherever

25 they needed me.

1 Q. And even when you quit working
there

2 as much, you still went up there on a weekly basis,
did

3 you not?

4 A. Yeah, I would stop in.

5 Q. Okay. And you still helped with
the

6 books if they needed it?

7 A. Well, at that time I usually
brought

8 the books home, but yeah, I mean, I did the books,
but I

9 did it at home.

10 Q. You would work at home with the
11 business?

12 A. Yes, sir.

13 Q. And every day you discussed what
was

14 going on with the business with your husband, did
you

15 not?

16 A. Pretty much.

17 Q. And the decisions made in
the

18 business, those were made by Darin and
yourself?

19 A. That part I would have to say
more of

20 it was Darin than me, but I mean, I knew about it.

21 Q. You certainly had input in it,
didn't

22 you?

23 A. Sometimes.

24 Q. That is why you discussed that
even on

25 the night of 5th, y'all were talking about the
business?

1 A. Yes, sir.

2 Q. Okay. And you did all this while
you

3 were running the home also?

4 A. Yes, sir.

5 Q. And, as far as the home goes, you
were

6 the one that decided decorating the home, making

7 purchases for the home, how it looked, and that kind
of

8 thing, did you not?

9 A. Well, most of it, yes.

10 Q. And you would keep the house up,
and

11 keep it clean, and that kind of thing?

12 A. Yeah, I had help.

13 Q. When did you start getting help
with

14 the house?

15 A. Well actually, I had had a maid
16 service for quite sometime.

17 Q. When did that start?

18 A. I don't have any exact date for
you.

19 I can say, approximately, two years ago.

20 Q. Okay. And, would they come in
every

21 week?

22 A. Yes, sir.

23 Q. Okay. And then, of course the
week of

24 the murder, you had Babcia come in for a couple of
days?

25 A. Yeah, if I can explain. The
people

1 that I was having clean, they had changed to a bunch
of
2 different people, and they weren't doing as good of
a job
3 as what they normally would do. And so, I had let
them
4 go, and I had another lady come in and clean, and
she was
5 very nice, but every time she cleaned she ended up
6 breaking something. And, it ended up costing me
more
7 money to have her clean, than what it was -- what
she was
8 breaking.

9 Q. So you were having people then
coming
10 in for the last two years helping you clean?

11 A. Yes, sir.

12 Q. You also -- did you have some of
these
13 teenage girls help you watch over the kids?

14 A. Well, I wouldn't necessarily say
watch
15 over the kids. I think that they -- I think that
was

16 kind of an excuse that they used to be in the house.

17 Q. Okay.

18 A. I mean, they didn't really want
to say

19 that they were coming over to be with, you know, a
five

20 and a six year old.

21 Q. So let me ask you. You said that
22 Darin fixed the gate that Wednesday night?

23 A. Yes, sir, he did.

24 Q. Did you go try the gate out
yourself?

25 A. No, I didn't.

1 Q. Are you telling this jury then
that

2 gate was swinging freely?

3 A. I don't know if it was swinging
or

4 not, all I know is Darin told me that he fixed it.

5 Q. That gate was hanging on hinges
by

6 shoe strings and coat hangers and things like --

7 A. Shoe strings?

8 Q. Yeah. Have you seen the
photographs?

9 A. No, sir.

10 Q. Had you all been making some
repairs

11 to that gate?

12 A. Yes, sir.

13 Q. Put some new poles in?

14 A. My husband I think did, I'm not
too

15 sure about that.

16 Q. Okay. Do you know when those
poles

17 were put in?

18 A. No, sir, I couldn't tell you

that.

19 Q. Let me show you 13-D, 13-C, can
you

20 see that gate there?

21 A. Yes, sir.

22 Q. Do you see the strings attached
from

23 the poles to the gate?

24 A. Yes, on that one I do. I see it.

25 Q. Okay.

Sandra M. Halsey, CSR, Official Court Reporter

4903

1 A. I think, I mean I don't know if
it's a
2 shoe string, but it looks like some type of string.

3 Q. Some type of string?

4 A. Yes, sir.

5 Q. The same thing in this
photograph?

6 A. Yes, sir.

7 Q. Okay. But was the gate dragging,
is
8 that -- was that the problem?

9 A. Yeah, the bottom of the gate.

10 Q. Okay. And you did --

11 A. I don't know anything about the
poles

12 really, I just know about the gate.

13 Q. Did you go out that gate on the
date

14 of the 5th?

15 A. Did I go out the gate?

16 Q. Yes.

17 A. No, sir, I did not.

18 Q. You were home all day, weren't
you?

19 A. Yes, sir, I was.

20 Q. Had you been having trouble
getting

21 through that gate?

22 A. Yes, sir, we had.

23 Q. Okay. Would you have to
actually,

24 what, lift the gate up, and try to put it in the
air, to

25 keep it from dragging on the concrete?

Sandra M. Halsey, CSR, Official Court Reporter

4904

1 A. Sort of. I mean, it drug. You
kind

2 of had to -- I think one of the officers described
it a

3 good way as kind of pushing your foot.

4 Q. Right. He -- that was Sergeant
5 Walling. He had to shove his foot, to shove the
gate

6 open?

7 A. Yes, sir.

8 Q. Okay. So it was no easy task
getting

9 in and out of that gate, was it?

10 A. I wouldn't say it was easy, but I
11 wouldn't say it was hard.

12 Q. Well, if you knew what you were
doing,

13 it would be a lot easier, wouldn't it?

14 A. Well, I would think that anybody,
15 really -- I mean, me and my boys got it open.

16 Q. They had been in and out of it
several

17 times?

18 A. Sure.

19 Q. And you knew how to get in and out

of

20 it, didn't you?

21 A. Yeah, I don't think it takes too
much,

22 to know how to get in and out of it.

23 Q. Okay. And the vacuum cleaner was

24 where?

25 A. The vacuum cleaner was beside the

Sandra M. Halsey, CSR, Official Court Reporter

4905

1 kitchen bar.

2 Q. Okay.

3 A. In the den side.

4 Q. Is that where you normally keep
the
5 vacuum cleaner?

6 A. No, sir.

7 Q. Where do you normally keep that
vacuum
8 cleaner?

9 A. Normally I keep the vacuum cleaner
in
10 the cherry wood room. There was another vacuum
cleaner
11 there, I think, at that time.

12 Q. What is the cherry wood room?

13 A. I'm sorry. I don't know what
y'all

14 call it. The front living area.

15 Q. Okay.

16 A. The very front one in there in the
17 house.

18 Q. Okay. When you come into the
house?

19 A. Yes, you go to the left.

20 Q. You go to the left?
21 A. Yes, sir.
22 Q. And you keep it in there?
23 A. Yes, sir.
24 Q. Okay. You come in the entry way,
you
25 are talking about what is labeled the living room?

Sandra M. Halsey, CSR, Official Court Reporter

4906

1 A. Right here.

2 Q. That is where you keep your vacuum
3 cleaner?

4 A. Usually, yes, sir.

5 Q. Every day? I mean, that is where
we
6 would find the vacuum cleaner?

7 A. Well, not every day. Sometimes it
8 would be upstairs. I have two vacuum cleaners.

9 Q. Well, do you have closets in the
10 house?

11 A. Not very many. There's one.

12 Q. One closet in the house?

13 A. One hallway closet, as far as
clothes
14 closets, there's a couple.

15 Q. And, so the vacuum cleaners, they
16 don't fit in any of the closets, they have to be out
all
17 the time?

18 A. I guess you could try to fit them
in
19 there.

20 Q. Well, you keep a pretty neat
house,

21 don't you?

22 A. To a certain extent, yes, sir.

23 Q. I mean, you are pretty famous for

24 having a very neat house, aren't you?

25 A. I like to keep a neat home.

Sandra M. Halsey, CSR, Official Court Reporter

4907

1 Q. But you don't put your vacuum
cleaners

2 away?

3 A. Well, it wasn't like an important
4 thing, that I made sure that I put my vacuum cleaner
5 away.

6 Q. And that night, I guess when you
were

7 lying on the couch then, the vacuum cleaner was
against

8 the bar over there?

9 A. Yes, sir. I had been vacuuming.

10 Q. Okay. And you talked about
this

11 gangster rap song, that was your son's favorite
song?

12 A. It was both of my sons -- one of
their

13 favorite songs.

14 Q. And you don't believe that they
could

15 have understood the words to it?

16 A. I don't think so.

17 Q. Did you know the words to it?

18 A. No.

19

Q. Okay.

20

main

A. I mean, I know the verse, the

21 chorus verse, but I don't know all the words to it,

no.

22

Q. Okay. You had said that -- well,

23 let's talk about your diary for a moment?

24

A. Okay.

25

Q. Now you got that diary in '95?

Sandra M. Halsey, CSR, Official Court Reporter

4908

1 A. I believe so.

2 Q. Okay. And you made what four or
five
3 entries in it, over a few months period?

4 A. I think so, I don't know if I had
read
5 four or five, something like that.

6 Q. Well, most of the pages are
blank,
7 aren't they?

8 A. Yes, sir.

9 Q. But finally at the end here, on
the
10 3rd of May, is when you write this -- now you say
you
11 weren't going to commit suicide?

12 A. No, sir.

13 Q. You were just feeling real moody?

14 A. I was feeling somewhat depressed,
and
15 moody.

16 Q. Okay.

17 A. I mean, I think they kind of go
18 together.

19 Q. How long had you been feeling

moody?

20 A. I don't know. It had been a few
days.

21 Q. Okay. And, what time of the day
was

22 it that you started writing this note?

23 A. I started writing the note, I
think it

24 was like, I want to say like around 3:00 or 3:30.

25 Q. Did you have pills out by you?

1 A. By the note?

2 Q. Just out?

3 A. No, sir, they were in a drawer.

4 Q. They were in a drawer?

5 A. Yes, sir.

6 Q. You didn't take the pills out at
all?

7 A. No, sir. We took the pills out
later
8 to throw them down the toilet, to flush them down
the
9 toilet.

10 Q. Had you thought about taking the
11 pills?

12 A. I think I was thinking about it
while
13 I was writing the letter, yes, sir.

14 Q. To kill
yourself?

15 A. To think about
it.

16 Q. Well, you were going to the
trouble of
17 writing this letter, right?

18 A. Yes, sir, I did, and I also went

to

19 the trouble of stopping because I realized that I
didn't

20 want to do that.

21 Q. I mean, the first line in here
is, "I

22 hope that one day you will forgive me for what I am
about

23 to do." What were you about to do?

24 A. I was contemplating suicide.

25 Q. Pretty seriously?

Sandra M. Halsey, CSR, Official Court Reporter

4910

1 A. If it would have been seriously,
I
2 wouldn't be here today.

3 Q. Well, you are writing a note?

4 A. Yes, sir.

5 Q. "I hope that one day you will
forgive

6 me for what I am about to do"?

7 A. Yes, sir.

8 Q. And you have got the pills, I
mean,

9 that's the way you were going to do it, right? Take
10 pills?

11 A. That's what I was thinking about.

12 Q. And you were going to the trouble
of

13 writing this note?

14 A. Yes, sir.

15 Q. So we're talking about some
pretty

16 serious contemplation, aren't we?

17 A. Yes, sir, but you also have to
18 consider that I stopped in the middle of that note
and

19 called my husband, because I had decided that I

wasn't

20 going to do that, and that it was silly.

21 Q. Now, why were you so desperate,

at

22 that point in your life, one month before these
murders,

23 that you were thinking about committing suicide?

24 A. I cannot answer that question for

you.

25 Q. Do you have amnesia about that?

Sandra M. Halsey, CSR, Official Court Reporter

4911

1 A. No, sir.

2 Q. You don't have traumatic amnesia
about

3 why you were so desperate to think about committing
4 suicide?

5 A. No, sir, I don't.

6 Q. But you didn't purchase those
pills

7 while were you contemplating it?

8 A. No.

9 Q. Okay. Those had just been lying
10 around the house?

11 A. They had been in a box, in the
house.

12 Q. Okay. How long had they been
there?

13 A. How long had they been what, in
the

14 house?

15 Q. Right.

16 A. For quite sometime.

17 Q. Okay. Do you remember the first
time

18 that you met your psychiatrist on the 20th of June,
she

19 asked you about your thinking about suicide?

20 A. Lisa?

21 Q. Yes.

22 A. I guess so, sir.

23 Q. You don't have any other

24 psychiatrists, do you?

25 A. No, sir.

Sandra M. Halsey, CSR, Official Court
Reporter

4912

1 Q. Okay.

2 A. Well, I mean there was
different

3 people that talked to me in the jail.

4 Q. Okay. Do you remember telling
her

5 that you thought about suicide, actually bought
over the

6 counter pills, wrote note, but knew she couldn't,
and

7 called husband?

8 A. Yes, sir.

9 Q. Okay. So you told her that you
10 actually bought over the counter pills?

11 A. I had bought over the counter
pills.

12 Q. For the purpose of taking them
to

13 commit suicide?

14 A. No, sir. I did not buy the
pills that

15 day. If that is, I mean, what you are asking.

I'm not

16 sure.

17 Q. So you felt bad enough on the

3rd of

18 May, to sit down and contemplate how you would
kill

19 yourself, write a note, and then decided to call
your

20 husband?

21 A. Yes, sir.

22 Q. I guess you were not very happy
with

23 your life at that point?

24 A. Well, I was feeling pretty
depressed.

25 Q. Have you ever thought about
committing

Sandra M. Halsey, CSR, Official Court
Reporter

4913

1 suicide at any other time in your life?

2 A. No, sir.

3 Q. You said that you mentioned on
your

4 direct testimony about being molested a little by
your

5 --

6 A. Step-father.

7 Q. Step-father. What's his name?

8 A. Denny.

9 Q. Okay. And, that happened when --
how

10 old were you?

11 A. The first time I was eight years
old.

12 Q. Okay. And where is he now?

13 A. He lives -- I'm not exactly sure
what

14 the name of the place is, but it's a little bit
further

15 outside of Terrell, on one of those little tiny,

16 drive-through towns.

17 Q. Okay. When is the last time you
saw

18 him?

19 A. The last time I saw him, I
believe was

20 on Mother's Day, he came over to pick up Danielle,
my
21 little sister.

22 Q. That is Mother's Day of this last
23 year, 1996; right?

24 A. Yes, sir.

25 Q. Which would have been how close
to the

1 murder?

2 A. Well, I don't know, about three
weeks

3 maybe.

4 Q. Okay. It's in May, right?

5 A. Mother's Day is, yes, sir.

6 Q. Okay. And in fact, on that
date, you

7 gave him Damon and Devon, and let them go with him
to his

8 home to stay for a couple of days, didn't you?

9 A. For a day.

10 Q. For one day?

11 A. Yes, sir.

12 Q. This is the man that molested
you?

13 A. Yes, sir.

14 Q. And you let him have your
children?

15 A. Yes, sir. Can I explain that?

16 Q. Just answer my question. I
mean, if

17 your lawyer here wants to you explain it, he can
have you

18 do that.

19 A. Okay. That is fine.

20 Q. Okay. And how long were they
gone?

21 A. A day.

22 Q. Okay. Incidentally, as far as
that

23 accusation of the molestation, the police were
never

24 called, were they?

25 A. No, sir, I was eight years old.

Reporter Sandra M. Halsey, CSR, Official Court

4915

1 Q. Okay. When did your mother
divorce

2 him?

3 A. I think I was about 17 when she
got

4 the actual -- maybe 18 which I -- no, when she got
the

5 actual divorce from Denny, it was about four or
five

6 years ago.

7 Q. But on that Mother's Day your
children

8 were with him?

9 A. Yes, sir, after Mother's Day.

10 Q. Is that your usual practice not to
11 have your children with you on Mother's Day?

12 A. No, they were with me half of the
day.

13 Q. Okay. So, that is not your usual
14 practice not to be with your children on Mother's
Day?

15 A. No, sir.

16 Q. Well, in '95 and '94 you weren't
with

17 your children on Mother's Day, were you?

18 A. On Mother's Day?

19

Q. Yes.

20

A. In '94 and '95?

21

Q. Yes.

22

A. Where was I?

23

Q. Well, weren't you out kind of

24 celebrating with your friends on those Mother's Day?

25

A. Oh, are you talking about the

night

Sandra M. Halsey, CSR, Official Court

Reporter

4916

1 before Mother's Day?

2 Q. Well, the little party that
you

3 planned, right?

4 A. Sure.

5 Q. Okay. I mean, that was kind
of an

6 annual event with you, to go partying with some
other

7 women on Mother's Day, wasn't it?

8 A. All mothers, yes, sir.

9 Q. Okay. You call that Mother's Day
Out?

10 A. Yes, sir.

11 Q. Okay. Now, incidentally did you
12 attend church regularly with your boys?

13 A. No, sir.

14 Q. Okay. The Silly String party, as
I

15 guess it's come to be known?

16 A. Yes, sir.

17 Q. You are saying that was not your
idea?

18 A. No, sir, it was not.

19 Q. Okay. Did you not go around the
20 neighborhood telling all the kids and parents that

they

21 needed to come to this party?

22 A. I called everybody, yes, sir, I
did.

23 Q. I mean, you did that, didn't you?

24 A. Yes, sir.

25 Q. I mean you were physically walking

Sandra M. Halsey, CSR, Official Court Reporter

4917

1 around the neighborhood going around knocking on
doors

2 and telling parents that they needed to bring their
kids

3 to the --

4 A. To a couple of their friends'
house, I

5 did.

6 Q. Okay. And, this is while the
police

7 still had custody of your house; is that right?

8 A. Yes, sir.

9 Q. And, you were walking around the
10 neighborhood, knocking on doors?

11 A. I was not walking around the
12 neighborhood, I went to three homes.

13 Q. Okay. And when you -- were you on
14 some type of drugs or something at the Silly String
15 party?

16 A. I had not been taking as much
17 medication as what I was, but yes, I was still on
some.

18 Q. Are you trying to blame your
behavior,

19 shooting Silly String, laughing and giggling on any
20 medication?

21 A. No, I am not blaming my behavior,

I

22 don't think there is anything to blame.

23 Q. Okay. And, the Silly String

wasn't

24 your idea, is that right?

25 A. No, sir.

Sandra M. Halsey, CSR, Official Court Reporter

4918

1 Q. But your certainly didn't mind
2 spraying it and things like that, did you?

3 A. I didn't think there was anything
4 wrong with it.

5 Q. And then you saw Joe Munoz out
there
6 with a camera?

7 A. Yes, he was.

8 Q. And you talked to him at quite a
great
9 length, didn't you?

10 A. Yes, he came over to the grave.

11 Q. You didn't mind talking to him on
12 camera, did you?

13 A. Well, actually in the beginning I
14 didn't want to, but then later on, yes, I did.

15 Q. You warmed up to him pretty
quick,
16 didn't you?

17 A. Yes, he is a very nice man.

18 Q. Well, you can kind of tell that
from
19 watching the videotape.

20 A. He was very nice.

21 Q. In fact, it's on that videotape,

that

22 you say, that this killer, went to your children
first,

23 then tried to come to you.

24 A. Yes, sir.

25 Q. But he had to go to them first?

Reporter Sandra M. Halsey, CSR, Official Court

4919

1 A. That's what I said.

2 Q. Okay. Well, were you just
imagining

3 that is what happened, and assuming what had
happened?

4 A. Well, I think we have all assumed
that

5 that is what happened.

6 Q. Okay. So you don't remember
that?

7 A. No, sir.

8 Q. You were just making that
statement?

9 A. Yes.

10 Q. Because you figured that is
probably

11 what happened?

12 A. We all figured that that is what
13 happened.

14 Q. Now, how long had the window been
up

15 in the garage?

16 A. As to -- I mean, can you be a
little

17 bit more specific?

18 Q. Well, did you usually keep that
window

19 locked? This point of entry?

20 A. We didn't usually keep it locked
all

21 the time. Usually it was kept open, and down -- I
mean

22 it was off and on. It wasn't always up, but it
wasn't

23 always down.

24 Q. Why did you keep it open?

25 A. I kept it open when we had cats
out

1 there, and when we would breed them.

2 Q. Okay. And, was it open on the
day of

3 the 5th?

4 A. I believe it was open some.

5 Q. And had you been keeping it open
for

6 that entire week?

7 A. I'm not sure about that. As a
matter

8 of fact, I think I had shut it a couple of times
during

9 the week.

10 Q. When had you shut it?

11 A. I couldn't tell you, sir.

12 Q. But you know it was open on
Wednesday;

13 is that right?

14 A. I know it was open on Wednesday?

15 Q. Yes.

16 A. I believe so.

17 Q. And that was because you had cats
out

18 there, is that right?

19 A. No, sir.

20 Q. Why was that?

21 A. It was just open, I just remember
it

22 being open when I had gone out into the garage.

23 Q. Okay. So it's clear, your
husband,

24 Darin, didn't commit this offense, did he?

25 A. No, he didn't.

Sandra M. Halsey, CSR, Official Court Reporter

4921

1 Q. I mean, you know that for a fact,
2 don't you?

3 A. Yes, sir.

4 Q. This jury can remove that issue
from

5 their minds whatsoever, that Darin Routier did not
kill

6 your sons?

7 A. Yes, sir.

8 Q. The man you saw walking away was
not

9 your husband?

10 A. Yes, sir.

11 Q. You saw that man go out into the
12 garage; is that right?

13 A. Out through the utility room into
the

14 garage.

15 Q. And after that, you are wide
awake

16 down in the kitchen, and then in the Roman room
and in

17 the hallway.

18 A. Well, not wide awake at
first, but

19 yes, I did become wide awake.

20 Q. Well, there is no way that if
that had

21 been Darin, that he could have snuck in the
house and

22 gotten back upstairs and then come back down?

23 A. No, I don't think so.

24 Q. So we can put that issue

aside. The

25 murderer of your children is not your husband?

Sandra M. Halsey, CSR, Official Court
Reporter

4922

1 A. Yes, sir.

2 Q. Okay. So what it comes down
to is,

3 the murderer is either this man who crept into
your house

4 and murdered your children and attacked you, or
you are

5 the murderer?

6 A. Sir --

7 Q. That is got to be one of two
ways,

8 doesn't it?

9 A. Sir, I did not murder my
children.

10 Q. It's got to be one of two
ways?

11 A. I did not murder my children,
sir.

12 Q. So it was this man who crept
into your
13 house?

14 A. Yes, sir, it was.

15 Q. Okay. Now, at the time that
this

16 happened, did you feel stalked in any way?

17 A. At the time that it --
18 Q. Of the murders.
19 A. At the time that it happened?
20 Q. Yes, on the 5th?
21 A. I didn't think about it. I
mean,
22 being stalked -- after it happened?
23 Q. No, I'm talking about before?
24 A. Not really stalked, I mean,
we had had
25 some phone calls and stuff, but I never really
gave it a

Sandra M. Halsey, CSR, Official Court
Reporter

4923

1 whole lot of thought.

2 Q. And, had Darin told you that
your

3 neighbor Karen had told you about this car that
was

4 watching your house?

5 A. No, sir, he didn't tell me
that.

6 Q. He hadn't told you that?

7 A. No, sir.

8 Q. So the only indication that you
had of

9 anyone after you, maybe were these phone calls; is
that

10 right?

11 A. At the time I didn't think
anything of

12 it, but yes, sir.

13 Q. Okay.

14

15 THE COURT: Mr. Shook, let's take
a 10

16 minute break now, please.

17 MR. TOBY SHOOK: All right, Judge.

18 Thank you.

19 THE COURT: All right.

20

21

(Whereupon, a short

22

recess was

taken,

23

after which

time,

24

the proceedings

were

25

resumed on the

record,

Sandra M. Halsey, CSR, Official Court Reporter

4924

1 in the presence and
2 hearing of the defendant
3 and the jury, as follows:)

4
5 THE COURT: All right. Everybody
find
6 your seats.

7 Are both sides ready to bring the
jury
8 in and resume the trial?

9 MR. DOUGLAS MULDER: Yes, sir, we
are
10 ready.

11 MR. TOBY SHOOK: Yes, sir.

12 THE COURT: All right. Bring the
jury
13 in, please.

14
15 (Whereupon, the jury was
16 Returned to the courtroom,
17 and the proceedings
were
18 resumed on the
record in
19 the presence and
hearing

20 of the jury as

follows:)

21

22 THE COURT: Let the record

reflect

23 that all the parties in the trial are present, and

the

24 jury is seated.

25 All right. Mr. Shook.

Sandra M. Halsey, CSR, Official Court
Reporter

4925

1 MR. TOBY SHOOK: Thank you.

2

3

4 CROSS EXAMINATION (Resumed)

5

6 BY MR. TOBY L. SHOOK:

7 Q. Over the break you were able to
8 consult with your attorneys again, were you not,
Mrs.

9 Routier?

10 A. They told me something.

11 Q. Okay. You were able to talk
with them

12 there over the break?

13 A. Yes, they told me that I was --

14 Q. I didn't ask you what they
said.

15 A. Yes, sir, I was.

16 Q. I just wanted to know if you
were able

17 to talk to them.

18 A. Yes, sir.

19 Q. Okay. I'll try to keep my
questions

20 real simple. Okay?

21 A. Okay.

22 Q. Now, apparently this man who
crept
23 into your house in the early morning hours of the
6th was
24 able to murder your children, wound you, and leave
the
25 one witness that could put him on death row?

 Sandra M. Halsey, CSR, Official Court
Reporter

4926

1 A. I think that he thought I was
dead.

2 Q. Okay. He left the one witness
who

3 could cause his conviction and put him on death
row

4 alive?

5 A. Again, I think he thought I was
dead.

6 Q. Well, were you not moving or
7 something?

8 A. I don't remember that much, sir.

9 Q. Then, how would you know he would
10 think that you were dead?

11 A. Because he was walking away from
me.

12 Q. And you were just laying there?

13 A. Yes.

14 Q. I mean, he had to get close enough
for

15 you to be able to identify him, wouldn't he, Mrs.

16 Routier?

17 A. I would think so.

18 Q. Okay. Well, I mean you have got
your

19 throat cut, he has to do that, he has to get right up
on

20 you, doesn't he?

21 A. Yes, sir.

22 Q. Face to face?

23 A. Yes, sir.

24 Q. Okay. And, has to be in that room
25 while your children are killed?

Sandra M. Halsey, CSR, Official Court Reporter

4927

1 A. Yes, sir.

2 Q. Let's me ask you this, do you
think

3 that you slept while that man stabbed your boys?

4 A. I have no idea.

5 Q. Well, do you think you could have
6 slept through that?

7 A. I don't know how to answer that,
8 because I don't know.

9 Q. Well, you are a light sleeper,
aren't
10 you?

11 A. I wouldn't necessarily call it a
light
12 sleeper.

13 Q. Well, don't you wake up whenever
the
14 baby moves in his crib?

15 A. Yes, sir, but that is not exactly
a
16 real light noise.

17 Q. So, when your baby rolls over, you
18 wake up?

19 A. His crib is on a hardwood floor
and it

20 has rollers on it, and when he wiggles and moves, it
21 shakes the whole crib, and it makes, I mean, it's a
22 pretty loud noise.

23 Q. That is why you were sleeping
24 downstairs, right?

25 A. It's one of the reasons, yes.

Sandra M. Halsey, CSR, Official Court Reporter

1 Q. I mean, that is what you put in
your

2 voluntary statement, did you not?

3 A. Yes, sir.

4 Q. I mean, no one forced you to write
5 that down, did they?

6 A. No, sir.

7 Q. I mean, this is in your
handwriting?

8 A. Yes, sir.

9 Q. Okay. And don't you say, "I had
been
10 sleeping on the couch the past week or so off and on
11 because the baby slept in our room, in the crib, and
when

12 he moved he woke me up?

13 A. Yes, sir.

14 Q. Okay. So you are a light sleeper,
15 aren't you?

16 A. To some degree.

17 Q. And, how close would you say Damon
was

18 to you when you went to sleep?

19 A. How close was Damon?

20 Q. Yes, how close was he to you?

21 A. He was very close.
22 Q. I mean within one foot, wasn't he?
23 A. Pretty much so, yes.
24 Q. Easily one foot, lying there right
25 beside you?

Sandra M. Halsey, CSR, Official Court Reporter

4929

1 A. Yes, on the floor.

2 Q. Do you think that you could have
slept

3 through a man stabbing him four times in the back?

4 A. Again, I have no idea.

5 Q. Well, you know yourself pretty
good,

6 do you think you could have slept through that?

7 A. Sir, I cannot answer that. I
cannot

8 remember.

9 Q. Do you think you could have slept
when

10 this man stabbed your seven year old, Devon?

11 A. I can't answer that question.

12 Q. He was only about four or five
feet

13 away from you, wasn't he?

14 A. Yes, he was.

15 Q. Well, you are a mother, aren't
you?

16 A. Yes, sir, I am.

17 Q. And don't mothers -- aren't they
able

18 to tell when their children are in trouble?

19 A. I would like to think so.
20 Q. Aren't they known for being
able to
21 hear those noises?
22 A. From an instinct.
23 Q. Have that instinct?
24 A. Yes, sir.
25 Q. So, don't you think that you
would

Sandra M. Halsey, CSR, Official Court Reporter

4930

1 have woken up if a man started stabbing you?

2 A. I have no idea of what happened
that

3 night.

4 Q. Well, certainly you would have
woken

5 up when he started beating you, wouldn't you?

6 A. I have assumed that that is what
7 happened, yes, sir.

8 Q. I mean, you would have to be
awake to

9 take a beating like that?

10 A. I would assume so, yes, sir.

11 Q. And, it's your arms that were
beaten,

12 weren't they?

13 A. As far as I know, yes, sir.

14 Q. Okay. I mean, you weren't hit in
the

15 face, that's for sure, were you?

16 A. Directly in the face?

17 Q. Yes, we can't see any bruises on
your

18 face, can we?

19 A. No, sir.

20 Q. Okay. And you weren't stabbed in
your

21 face, were you?

22 A. Not stabbed. There were marks on
my

23 face.

24 Q. You weren't beaten in the chest,
25 stomach, back or anything like that?

Sandra M. Halsey, CSR, Official Court Reporter

4931

1 A. I have no idea.

2 Q. Well, did you ever see any
bruises in

3 your chest, in your back?

4 A. Not bruises, but there was a mark
on

5 my breast.

6 Q. But no bruises?

7 A. No bruises.

8 Q. Okay. You didn't complain to the
9 doctors about a big headache, being whacked in the
head,

10 or bumps on the head?

11 A. Actually I did complain about
feeling

12 pain. I didn't complain specifically in what areas,
I

13 was hurting all over from head to toe.

14 Q. Certainly you are not going to
wake

15 up -- or your are going to wake up when he cut your
16 throat, aren't you?

17 A. I have no idea, I would assume
so.

18 Q. You wouldn't

sleep through that, would

19 you?

20 A. I don't know

what happened. I would

21 assume so, but I cannot remember.

22 Q. Do you really

think that you could

23 have slept when the man cut your

throat?

24 A. I don't think

so.

25 Q. You couldn't

have slept when you got

Sandra M. Halsey, CSR,
Official Court Reporter

4932

1 stabbed in the arm either, could
you?

2 A. I don't think
so.

3 Q. Okay. And, if you had awakened,
if

4 you had woken up, when your children were attacked,
you

5 would have screamed, wouldn't you?

6 A. Unless my mouth was covered.

7 Q. Well, I mean that would -- I guess
are

8 there more than one man attacking you?

9 A. I have no idea, sir.

10 Q. I mean, if there was just one
guy, he

11 can only do one thing at a time, can't he?

12 A. Well --

13 Q. You only saw one man, didn't you?

14 A. I only saw one man, yes, sir.

15 Q. Okay. Walking away from you.

And if

16 there is just one man attacking your kids, and you
saw

17 him, you would jump up and defend your children,

wouldn't

18 you?

19 A. I would think so, but again, I
cannot

20 remember.

21 Q. You would think you would get up?

22 A. Yes, sir.

23 Q. And defend your children?

24 A. Yes, sir.

25 Q. Don't you know you would do that?

Sandra M. Halsey, CSR, Official Court Reporter

4933

1 A. Yes, sir.

2 Q. I mean, you would defend them with
3 your life, wouldn't you?

4 A. Yes, sir.

5 Q. If you saw a man attacking your
6 children, you would scream your head off, wouldn't
you?

7 A. Yes, sir, unless my mouth was
covered.

8 Q. You would scream for your husband,
9 wouldn't you?

10 A. Unless my mouth was covered, yes,
sir.

11 Q. You didn't have any problems
screaming
12 for him when he finally got up and came down there,
did
13 you?

14 A. My mouth was not covered.

15 Q. Did you find any tape, or any
gauze or
16 anything stuffed in your mouth that showed it to be
17 covered?

18 A. No, just except for that it was
torn

19 up inside.

20 Q. Okay. It was all torn up inside.

21 A. Well, it felt raw.

22 Q. Did you talk to the doctors about
23 that?

24 A. I talked to the nurse about that,

yes,

25 I did.

Sandra M. Halsey, CSR, Official Court Reporter

4934

1 Q. There is no way you could be
prevented

2 from defending your children, and sounding the alarm,
if
3 you had seen them being attacked?

4 A. What do you mean -- I'm not sure I
5 understand what you mean.

6 Q. Well, if you had woken up, and
some

7 man is stabbing your children, you would have tried
to

8 stop him, wouldn't you?

9 A. Yes, sir.

10 Q. Okay. But you have no memory of
any

11 of that?

12 A. No, sir.

13 Q. You must have been beaten first,
14 wouldn't you say?

15 A. Sir, I have no idea. I have sat
for

16 seven months, and tried to think of every possible
thing

17 I could think of what this man did to me.

18 Q. Okay.

19 A. I don't remember.

20 Q. You don't know if you were
stabbed

21 first, or you were beaten on the arms first?

22 A. I have no idea. I don't
remember.

23 Q. And what is the description that
you

24 remember, the best description that you have of this
man?

25 A. It's not much, he was a taller
man,

1 with dark hair.

2 Q. Okay. Let's start with that.

How

3 tall was he?

4 A. I cannot give you an exact -- I
mean,

5 I can just tell you that he was above -- I would
think

6 above six foot.

7 Q. Okay. Above six foot?

8 A. Yes, sir.

9 Q. And I believe you said that he
was

10 along Chris Frosch's build; is that right?

11 A. Yes, sir.

12 Q. Are you talking about height-
wise?

13 A. Built-wise.

14 Q. Okay. And --

15 A. I mean, I haven't seen Chris
Frosch

16 in, you know, I have just seen him in dress clothes,
but

17 he seems to be about the same build.

18 Q. Okay. So he is the same height
and

19 build as this man that was walking away?

20 A. Well, approximately.

21 Q. Okay. So the man is over six
foot,

22 you would say?

23 A. Yes, sir.

24 Q. And he was a white male?

25 A. I don't know that for sure.

Sandra M. Halsey, CSR, Official Court
Reporter

4936

1 Q. Okay. What kind of hair did he
have?

2 A. He had longer hair.

3 Q. How long was it?

4 A. Like here.

5 Q. Okay.

6 A. Whatever you call that.

7 Q. To his collar?

8 A. Yeah.

9 Q. What color was it?

10 A. Well, as far as I could tell,
it was

11 dark, because it was dark in there.

12 Q. Okay. And the build he had, he
was

13 built like Chris Frosch?

14 A. To some degree, yes, sir.

15 Q. Okay. Well, to what degree was
he

16 not?

17 A. Sir, you are asking me to be
specific

18 about something that I cannot be specific about.

19 Q. Okay. And, you saw his back
and that

20 was all?

21 A. Yes, sir.

22 Q. As he walked away?

23 A. Yes, sir.

24 Q. You didn't yell out for Darin

when you

25 saw this man walking in your house?

Reporter Sandra M. Halsey, CSR, Official Court

4937

1 A. Actually, it happened all so
quick I

2 did yell out for Darin, but it was after a couple
of

3 seconds that the guy had already walked out.

4 Q. While were you still on the
couch?

5 A. No, sir.

6 Q. Okay. While you were in the
kitchen?

7 A. Yes, sir.

8 Q. That is when you yelled out for
Darin?

9 A. That is the first time, yes,
sir.

10 Q. Who -- in talking to Dr.
Clayton

11 yesterday, who is Glenn?

12 A. I really don't know Glenn that
well.

13 Glenn was somebody that came into the shop. I
think that

14 he knew one of the men beside -- that works beside
our

15 shop.

16 Q. Okay.

17 A. And he had come in, and he had
said

18 some things to Basia, Barbara, and they weren't
very nice

19 things, and I guess his wife was having some
problems

20 with that. And, his wife called, and I told her
that --

21 what he did.

22 Q. You told his wife?

23 A. Yes, sir.

24 Q. When was this?

25 A. This was about a year and a
half ago.

 Sandra M. Halsey, CSR, Official Court
Reporter

4938

1 Q. Okay. And then, what happened?
Did

2 he threaten you in some way?

3 A. Yes, he threatened me later
over the
4 phone.

5 Q. Okay. How long ago was this?

6 A. It was about, oh, not quite a
year and
7 a half.

8 Q. Okay. And you say that you
gave the
9 police his name?

10 A. I told them Glenn. I don't
think I

11 gave them the last name, because I didn't know his
last
12 name at that time.

13 Q. What is his last name?

14 A. Mize.

15 Q. Okay. Now, you -- did you tell
them

16 this is guy that just threatened you or did this
guy look

17 like the killer?

18 A. Yeah, I just told them -- they

just

19 asked me if there was anybody that we thought -- I
mean,

20 they asked me and Darin together, at one time, if
there

21 was anybody that we thought, you know, had ever

22 threatened us or anything like that.

23 Q. You are not saying this Glenn
guy did

24 the killing, are you?

25 A. I don't know.

Reporter Sandra M. Halsey, CSR, Official Court

4939

1 Q. Well, does he look like the
guy?

2 A. Well, I have not really seen
Glenn.

3 Q. Well, when you had seen him,
did he
4 look like him?

5 A. Well, I haven't seen Glenn.

6 Q. Well, what does he look like?

7 A. Glenn?

8 Q. Yes.

9 A. I don't know.

10 Q. You don't know what he looks
like?

11 A. Not to give you a detailed
12 description, no.

13 Q. You have never seen him before?

14 A. No. I saw him when we walked in
to go
15 and to talk to Basia, but that was a year and a
half ago,
16 and I really wasn't paying that much attention.

17 Q. Okay. So you really don't know
what
18 this Glenn guy looks like?

19 A. Not really. No, sir. I mean,

we have

20 people walk in and out of our shop.

21 Q. Okay. You can't tell us if he

is a

22 tall guy, or short guy, or fat guy, or skinny guy?

23 A. No, sir.

24 Q. So you don't know if he would

look

25 anything like this man you saw walking away?

Sandra M. Halsey, CSR, Official Court
Reporter

4940

1 A. No, sir.

2 Q. Okay. So you just told that --
you

3 just told the police this Glenn guy had threatened
you at

4 some point in the past?

5 A. Yes, sir.

6 Q. Do you think you would recognize
Glenn

7 if you saw him again?

8 A. I don't know.

9 Q. Well, we will give it a try.

10 A. Okay.

11

12 MR. TOBY SHOOK: Y'all just come
on up

13 here, please.

14

15 (Whereupon, Chris Frosch and
16 Glenn Mize entered the
17 courtroom, and the
18 proceedings were resumed on
19 the record as follows:)

20

21 MR. TOBY SHOOK: All right.

Y'all

22 just come on up here please. All right. Stand
right

23 here for me please. Okay?

24

25

Reporter Sandra M. Halsey, CSR, Official Court

4941

1 BY MR. TOBY SHOOK:

2 Q. All right. Do you recognize him
as
3 being Glenn Mize?

4 A. Yeah, but the hair looks longer.

5 Q. Okay. But this is Glenn Mize?

6 A. I guess so.

7 Q. Okay.

8

9 MR. TOBY SHOOK: If y'all could
10 just -- I don't want to make it like a beauty
pageant,
11 but if you could turn around with your backs to the
jury,
12 and also to Mrs. Routier.

13 THE WITNESS: Okay.

14

15 BY MR. TOBY SHOOK:

16 Q. All right. They don't really
have the
17 same build, do they?

18 A. No, sir.

19 Q. So can we eliminate Glenn Mize
as
20 being the one?

21 A. I think so.

22

23

MR. TOBY SHOOK: Okay. All right.

Y'all

24 can go on back. Thank you.

25

Reporter Sandra M. Halsey, CSR, Official Court

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1 (Whereupon, the witnesses
2 were excused from the
3 courtroom, and the
4 proceedings were resumed
5 on the record as follows:)

6

7 BY MR. TOBY SHOOK:

8 Q All right. So we got Darin out,
and

9 we got Glenn out?

10 A. Yes, sir.

11 Q. Okay. Do you remember on the
18th

12 going to the Rowlett Police Department and talking
to a

13 man by the name of Bill Parker?

14 A. Yes, sir.

15 Q. A private detective retired
Dallas

16 homicide officer?

17 A. Yes, sir.

18 Q. Do you remember how long you
talked to

19 him?

20 A. About two hours.

21 Q. Okay. You and him were in a

room

22 there at the Rowlett Police Department?

23 A. Yes, sir.

24 Q. Okay. And during the course

of that

25 conversation, he read you your Miranda rights,
didn't he?

Sandra M. Halsey, CSR, Official Court
Reporter

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1 A. Yes, sir.

2

3 MR. JOHN HAGLER: Excuse me,
your

4 Honor, could we approach the bench?

5 THE COURT: Yes, you may.

6

7 (Whereupon, a short
8 discussion was held
9 off the record, after
10 which time the
11 proceedings were resumed
12 as follows:)

13

14 MR. JOHN HAGLER: Your Honor,
could we

15 have just a second, please?

16 THE COURT: Oh, by all means, yes.

17 Members of the jury, if you will
step

18 back in the jury room briefly, please.

19

20 (Whereupon, the jury

21 was excused from

the

22 courtroom, and

the

23

proceedings were

held

24

in the presence of

the

25

defendant, with

her

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1 Attorney, but outside
2 the presence of the jury
3 as follows:)

4
5 THE COURT: Let the record
reflect

6 that these proceedings are being held outside of
the
7 presence of the jury, and that all parties in the
trial
8 are present.

9 If we can get directly to the
point,
10 please, gentlemen.

11 MR. TOBY SHOOK: Yes, sir.

12 THE COURT: Okay. Now, listen
to
13 these questions carefully, and just answer them as
14 straight as they come. Okay?

15 THE WITNESS: Yes, sir.

16 THE COURT: All right. Thank you.
17 All right. Mr. Shook.

18 MR. TOBY SHOOK: Yes, sir.

19

20 BY MR. TOBY SHOOK:

21 Q. Do you recall, in talking to Mr.

22 Parker that he accused you of killing your children
on
23 six different occasions, and when he did that you
24 answered, "If I did, I don't remember it"?
25 A. No, sir, I did not say that.

Sandra M. Halsey, CSR, Official Court Reporter

4945

1 Q. You didn't say that on any of the
2 times?

3 A. No, sir.

4 Q. You never said that to him?

5 A. No, sir.

6 Q. Whether it was one time or six
times,

7 you never said that to him.

8 A. I never said that I don't
remember.

9 Q. Okay.

10

11 MR. TOBY SHOOK: That is the
statement

12 that I wanted to ask Mrs. Routier about.

13 THE COURT: And that occurred
when?

14 MR. TOBY SHOOK: Oh. Also, Judge,
15 just so we won't have to have another hearing, the
other

16 thing is, do you recall Mr. Parker asking you, if
17 everything here in your voluntary statement was true
and

18 correct?

19 THE WITNESS: If Mr. Parker asked
me

20 that?

21

22 BY MR. TOBY SHOOK:

23 Q. Yes.

24 A. I don't remember him asking me

that.

25 Q. And you don't recall reading over
this

Sandra M. Halsey, CSR, Official Court Reporter

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1 statement in front of him?

2 A. No, sir. He had an arrest warrant
3 affidavit with him.

4 Q. Um-hum. (Attorney nodding head
5 affirmatively.)

6 A. That's all he had with him, that I
7 saw.

8 Q. You never read over the voluntary
9 statement?

10 A. No, sir, not with Bill Parker.

11 Q. Okay.

12

13 MR. TOBY SHOOK: That is another
14 question I had.

15 THE COURT: She had been
Mirandized?

16 MR. GREG DAVIS: Yes, sir.

17 THE COURT: Okay. Mr. Hagler?

18 MR. JOHN HAGLER: Well, your

Honor,

19 she was -- from what I understand, the arrest warrant
had

20 already been issued. She was at the police station.

She

21 was -- although unbeknownst to her, she clearly was

in

22 custody. Therefore, the provision 38.22 are going to

be

23 applicable, your Honor. And, apparently they are

going

24 to attempt to argue here, that this will be some type

of

25 impeachment, and I don't think that they have laid

the

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1 proper predicate for the impeachment.

2 And, furthermore, apparently --

I'm

3 not sure at what point in time she made these
statements,

4 but there are certainly some issues as to whether or
not

5 these statements -- that she understood what the

6 interrogation was about, and whether or not she
freely

7 and voluntarily made the statements.

8 And, we would object to going into
any

9 matters while she was in custody. Clearly there was
an

10 arrest warrant out for her. So, these are all
custodial

11 statements.

12 THE COURT: That is correct. But
she

13 had been Mirandized?

14 MR. GREG DAVIS: Yes, sir, she
had.

15 THE COURT: All right. Okay,
fine.

16 The Court is overruling your objection and I assume

you

17 want a running objection?

18 MR. JOHN HAGLER: Yes, your
Honor.

19 THE COURT: You may have it.

Let's

20 bring the jury back in.

21

22 (Whereupon, the jury

23 was returned to

the

24 courtroom, and

the

25 proceedings

were

Sandra M. Halsey, CSR, Official
Court Reporter

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1 resumed on the
record,
2 in open court, in
the
3 presence and
hearing
4 of the defendant,
5 as follows:)

6
7 THE COURT: All right, you can
8 proceed, Mr. Shook.

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

11 Continue, Mr. Shook.

12

13

14 CROSS EXAMINATION (Resumed)

15

16 BY MR. TOBY L. SHOOK:

17 Q. Do you recall talking with a man
by

18 the name of Bill Parker, at the Rowlett Police
Department

19 on the 18th of June?

20 A. Yes, sir.

21 Q. Okay. And, did he show you your
22 voluntary statement?

23 A. No, sir.

24 Q. Did he show you the voluntary
25 statement, and ask you to read over it?

Sandra M. Halsey, CSR, Official Court Reporter

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1 A. No, sir.

2 Q. Did he ask you, do you want to
make
3 any changes in this voluntary statement?

4 A. No, sir. The only thing I saw
from
5 him was an arrest warrant affidavit.

6 Q. So you are saying that he never
showed
7 you any voluntary statement?

8 A. He did not ever show me my
voluntary
9 statement.

10 Q. And, you didn't read over it in
front
11 of him?

12 A. No, sir.

13 Q. Okay. And while you talked to
him,
14 during that interview, at least six times he accused
you
15 of killing your children, and in each response to
him,
16 you said "If I did it, I don't remember it"?

17 A. No, sir.

18 Q. You never said that?

19

A. No.

20

Q. Okay. Not once, not twice, not

six

21 times?

22

A. I never said that.

23

Q. Okay. And 76-A this is your

voluntary

24 statement, isn't it?

25

A. Let me see it.

Sandra M. Halsey, CSR, Official Court Reporter

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1 Q. Is that your statement?

2 A. Yes, sir, it is.

3 Q. And you wrote that out in your own
4 handwriting?

5 A. The day before the viewing, yes,
sir.

6 Q. Right. Down at the Rowlett Police
7 Department?

8 A. Yes.

9 Q. How long did it take you to write
this
10 out?

11 A. I really don't remember. I know
that
12 I was there a total of almost three hours.

13 Q. Okay. It's 10 pages, isn't it?

14 A. If you say so, yes.

15 Q. Okay. Well, take a look at it.
Let
16 me just see that last page.

17 A. Yes, 10.

18 Q. Okay.

19 A. Yes, sir.

20 Q. Okay. And did you write it out
all in
21 one sitting, just sit down and start writing?

22 A. Yes, sir.

23 Q. Okay. Was Detective Patterson
asking

24 you questions?

25 A. He asked me questions before.

Sandra M. Halsey, CSR, Official Court Reporter

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1 Q. Okay. But while you wrote it out,
you

2 just sat there and wrote it.

3 A. Just wrote questions.

4 Q. All 10 pages?

5 A. I mean, just wrote, yes, sir.

6 Q. You knew it was real important to
get

7 all this information down, didn't you?

8 A. No, sir, I did not.

9 Q. You didn't think it was
important?

10 A. Not in the way that they are
saying

11 it's important.

12 Q. I mean, didn't you think it was
pretty

13 important if a detective on the case is asking you
to

14 write down what happened that night?

15 A. Sir, at that time, all I was
concerned

16 with was getting to the viewing to see my boys.

17 Q. Well, you wrote 10 pages?

18 A. Yes, sir, I did.

19 Q. Okay.

20 A. And that is not -- if you look at
that

21 and you compare that to my normal handwriting, you
can

22 tell that is pretty sloppy.

23 Q. Okay. We know, that in this
voluntary

24 statement, that you never mentioned going to the
kitchen

25 sink, do you?

1 A. No, sir, there's a lot of things
in
2 there that are not mentioned, I believe.

3 Q. All right. Well, we will get to
some
4 of those. But as far as going to the kitchen sink,
5 wetting towels, that is never mentioned in here?

6 A. I believe there is mention about
7 getting towels.

8 Q. But wetting towels?

9 A. No, sir.

10 Q. That's not mentioned in there, is
it?

11 A. No, sir.

12 Q. Okay. Going to the sink?

13 A. No, sir.

14 Q. The sink is not mentioned
anywhere in

15 here, is it?

16 A. No, sir.

17 Q. Of course at that time, you
didn't

18 know that the police had taken your kitchen sink,
had

19 you?

20 A. No, sir.

21 Q. You didn't find that out until
they

22 released the house back to you?

23 A. Well, actually we were in the
house

24 that night, but I didn't even recognize it that
night.

25 Q. You didn't recognize the sink
gone?

Sandra M. Halsey, CSR, Official Court
Reporter

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1 A. No, sir.

2 Q. Didn't make any mention of the
sink

3 being gone?

4 A. No, as a matter of fact, I
mentioned

5 something to Chris Frosch about going to the sink,
and

6 he --

7 Q. When did you do that?

8

9 MR. DOUGLAS MULDER: Excuse me,
Judge,

10 if he will just do her the courtesy of -- we have
been

11 very patient, if he will just do her the courtesy of
12 letting her complete her answer.

13 THE COURT: All right, that is
fine.

14 Let her complete her answer. Did you have anything
else

15 to say to that?

16 THE WITNESS: Yes, sir.

17 THE COURT: All right, well, go
ahead

18 and say it.

19 THE WITNESS: The day the house
was

20 released, Chris Frosch was standing, I believe he
was in

21 the -- whatever you guys call it, in the living area,
the

22 den, the family room -- he was standing in the family

23 room with me and Darin, and I had realized that I had

24 gone to the sink and gotten towels out of the drawer,

and

25 I told him that.

Sandra M. Halsey, CSR, Official Court Reporter

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1

2 BY MR. TOBY SHOOK:

3 Q. That is the first time that you
4 mentioned that?

5 A. Yes, sir.

6 Q. But you didn't mention it here in
your
7 voluntary statement?

8 A. No, sir.

9 Q. Okay. Of course, you didn't know,
how
10 important it might be, if the police discovered that
11 there might be some clean up over there at the sink?

12 A. I didn't think any of that stuff
was
13 important.

14 Q. Okay. You also don't mention
leaning
15 on the vacuum cleaner at all, do you?

16 A. No, sir.

17 Q. You don't mention the vacuum
cleaner
18 anywhere?

19 A. No, sir.

20 Q. Don't mention having to hold on

to it

21 like a cane?

22 A. No, sir.

23 Q. Of course, at that time you

didn't

24 know that your blood had dripped on it while it was

25 standing.

Sandra M. Halsey, CSR, Official Court Reporter

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1 A. At that particular time, no, sir.

2 Q. And you didn't know that your
blood

3 also was shown on it when --

4 A. Sir, there were a lot of things
that

5 happened that night that I didn't know of.

6 Q. Excuse me. And you had no idea
that

7 the police could later discover that blood -- your
blood

8 drops could be found on this vacuum cleaner, in such
a

9 way that you deposited that --

10 A. Sir, my blood was everywhere in
that

11 house.

12 Q. Could I finish my question,
please?

13 A. Yes, sir.

14 Q. You had no way of knowing, that
at

15 that time, the police would be able to go in and
find

16 that you had put blood on this vacuum cleaner,

that it

17 had dripped, while it was laying on the floor, you
didn't

18 know that, did you?

19 A. I'm not sure. I didn't know --

20 Q. You didn't know that they could
do

21 that, did you?

22 A. That they could see blood on a
vacuum

23 cleaner?

24 Q. That they could tell that you

had been

25 standing over it while the vacuum cleaner was
laying

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Reporter

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1 down? I mean, you are not a blood spatter expert,
are
2 you?

3 A. No, sir, I'm not.

4 Q. Okay. And you didn't know that
they

5 would be able to tell that your blood was deposited
on

6 this vacuum cleaner while it was standing up also,
did

7 you?

8 A. No, sir.

9 Q. And you didn't know that they
had

10 found the vacuum cleaner laying in the floor but,
more

11 importantly what was underneath were your bloody
12 footprints?

13 A. I later found that out, yes, sir.

14 Q. But at the time you made this
15 statement, this 10 page statement, you didn't know
that,

16 did you?

17 A. No, sir, I didn't know any of
this

18 stuff.

19 Q. Okay.

20 A. I didn't think it was important.

21 Q. And, back on the 8th of June,
when you

22 wrote out your 10 page statement, you didn't mention

23 going over to your son Devon, did you?

24 A. No, sir.

25 Q. We're not going to find that
anywhere

1 in here, are we?

2 A. No, sir.

3 Q. Okay. I mean, you mentioned
laying a

4 towel on Damon, you mentioned that in here, don't
you?

5 A. I believe so.

6 Q. Okay. But you never mentioned
going

7 to Devon and putting a towel on him?

8 A. No, sir.

9 Q. Or leaning over to Darin?

10 A. No, sir, there's too many things
to

11 remember that happened that night.

12 Q. You talk about Darin giving CPR
to

13 Devon in here, don't you?

14 A. I don't know, did I?

15 Q. You describe it, don't you?

16 A. I don't know.

17 Q. Well, you can take a look and
see.

18 It should be towards the back.

19 A. About Darin?

20 Q. About Darin performing
CPR on Devon?

21 A. "The paramedic came in
and tried to
22 work on the children and Darin was
screaming, 'Who did
23 this?'"

24 Q. Prior to that, do you
mention Darin
25 going to the aid of your children?

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Reporter

1 A. Okay. Yeah, it's right
here.

2 Q. Okay. What did you say
in that
3 statement?

4 A. "Darin started giving
Devon CPR while

5 I put a towel on my neck and a towel over
Damon's back."

6 Q. Okay. So you thought it
was important

7 enough when you were writing that
statement, to put that

8 you put a towel on Damon, and that Darin
was giving CPR,

9 but you didn't bother to write in there
that you yourself

10 went over, and put a towel on Devon, did
you?

11 A. Sir, I didn't know what
was important

12 and what was not important at that time.

13 Q. Okay. Well, you left it
out?

14 A. Yes, sir.

15 Q. Okay. Now, you say in

that statement

16 that you laid a towel on Damon. Do you
mean you laid it

17 across his back?

18 A. Yes, sir.

19 Q. While he was lying on
the floor there?

20 A. Yes, sir.

21 Q. Okay. You didn't bend
down and apply

22 pressure to his back though, did you?

23 A. No, sir.

24 Q. You just laid it across
his back?

25 A. Yes, sir.

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Reporter

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1 Q. Okay. That is after you
had wet it,
2 right?

3 A. Yes, sir.

4 Q. Okay. So you just kind
of laid it
5 down on him?

6 A. Yes, sir.

7 Q. What good would laying a
towel down on
8 his back do?

9 A. Sir, I didn't know what
I was doing.

10 Q. You didn't know what you
were doing?

11 I mean, for that to have any effect at all,
you would

12 have to put pressure on it. You would have
to hold it,

13 wouldn't you?

14 A. I was trying to do the
best that I

15 could in the situation that I was in.

16 Q. Okay. And you said that
you wet the

17 towel first?

18 A. Yes, sir.

19 Q. Okay. Wet towels, are
not going to do

20 a very good job in that situation?

21 A. Well, I didn't know
that.

22 Q. You didn't know that?

23 A. No, sir. I have never
had any medical

24 training or CPR training before.

25 Q. Well, your boys have
gotten cuts on

Sandra M. Halsey, CSR, Official Court
Reporter

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1 them, they have hurt themselves when they
were growing

2 up?

3 A. Devon had gotten one cut
before.

4 Q. Do you put wet bandaids
or wet towels

5 on them, or do you put a dry one on them to
stop the

6 bleeding?

7 A. Actually I put -- when
Devon had his

8 accident, I did put a wet towel on his
head.

9 Q. Doesn't common sense
tell you, you
10 have to put a dry towel on something like
that?

11 A. Sir, at that time there
was no common
12 sense.

13 Q. Okay. Well, you had
enough common

14 sense to put a towel on your wound, didn't
you?

15 A. Yes, I did.

16 Q. I mean, you put a towel
right on your

17 neck right away, didn't you?

18 A. Well, actually it was a
couple of

19 times. I know what it says in there, but
it was after I

20 had gone back and forth a couple of times.

21 Q. You didn't have any
problem in the

22 world figuring out that you needed to put a
towel on your

23 neck, and apply pressure to stop that
bleeding?

24 A. No, sir, it was also a
wet towel too.

25 Q. But you kept it on your
neck, didn't

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Reporter

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1 you?

2 A. It was on my neck, yes,
sir.

3 Q. The whole time, didn't
you?

4 A. I don't know if it was on my neck
the
5 whole time.

6 Q. While you were on the phone to
911,
7 you kept that towel right to your neck?

8 A. I'm not sure about that.

9 Q. You are not sure?

10 A. No, sir.

11 Q. Well, we know you kept it on
there

12 some, didn't you?

13 A. Yes, sir.

14 Q. I mean, that is why you couldn't
15 put -- apply any pressure to your son Damon, was
because

16 you had your hands full?

17 A. Sir, I was running back and
forth,

18 doing all kinds of things.

19 Q. One hand, you had the phone?

20 A. Part of time I had the phone like
21 this. (Witness demonstrating.)

22 Q. And the other hand you had the
towel

23 right to your neck?

24 A. Part of the time, yes, sir.

25 Q. You weren't about to let that
towel

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1 go, and reach down and try to stop the bleeding from
your

2 son, were you?

3 A. Sir, I was doing a lot of things
at

4 once.

5 Q. Mainly with one hand you were
holding

6 that towel?

7 A. Some of the time.

8 Q. But you never applied pressure to
9 Damon's wounds did you?

10 A. No, sir, I didn't.

11 Q. Okay. You also put in your
statement

12 that while all of this is going on, let's see,
Darin, he

13 is over there working on Devon, and --

14 A. Yes, sir.

15 Q. And you have laid a towel down?

16 A. I went over to Darin and helped
with

17 Devon, after I saw what Darin was doing, and then I
came

18 back again, and laid the towel down beside Darin,

just on

19 the floor.

20 Q. And you write in your statement,

"I

21 looked over at Darin and saw the glass table had

been

22 knocked half way off, and the flower arrangement had

been

23 knocked over?"

24 A. I think so.

25 Q. You remember that?

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1 A. Yes, sir.

2 Q. Okay.

3 A. To some degree.

4 Q. Well, you remembered it enough to
be

5 able to write it down in your voluntary statement on
the

6 8th?

7 A. It's in there, yes, sir.

8 Q. Okay. "I then stood up and
turned

9 around and saw glass all over the kitchen floor."

10 You remember that, don't you?

11 A. If it's in there, yes, sir.

12 Q. Your memory back on the 8th was
that

13 you saw all this glass on the kitchen floor?

14 A. I did see some glass on the
kitchen

15 floor.

16 Q. While your son Damon is lying
there

17 bleeding, and your husband was working on Devon?

18 A. Well, it was just a glance,
it's

19 not -- I mean --

20 Q. Then, "I tried to glance over
to see

21 if anything was out of place, or if anything was
22 missing"?

23 A. Yes, sir.

24 Q. You looked around to see if
anything
25 was missing?

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1 A. Well, when I was standing where
the
2 knife was placed, there was -- my jewelry was
sitting
3 right beside it, and that is what I saw.

4 Q. Okay. Why would you want to
glance
5 around to see if anything was missing?

6 A. Because the officer when he
came in
7 told me that nothing was gone.

8 Q. Okay. So you wanted to look
around
9 for that?

10 A. I didn't necessarily look
around, I
11 mean, it was like right there in front of my face.

12 Q. And you knew nothing was gone?

13 A. As far as that, it didn't look
like
14 anything was gone.

15 Q. You said that several times on
the 911
16 tape?

17 A. Yes, sir, I was just responding

to

18 what the officer told me.

19 Q. Nothing is touched, nothing is
20 touched?

21 A. I think he said, nothing is --
there

22 is nothing gone, I think those were his words.

23 Q. And, your interpretation of the
911

24 tape is that, you never used the word that "I was
25 fighting"; is that right?

1 A. No, sir. You can hear it.

2 Q. Your interpretation is you were
3 frightening?

4 A. I was frightened.

5 Q. Frightened.

6 A. If you say it like that, but when
you
7 are running back and forth, and you are out of
breath.

8 Q. Okay. Let me take a moment, maybe
I
9 can use one of these. All right.

10 A. What page?

11 Q. Five. Okay. About the middle of
that
12 page, before we get to that?

13 A. Yes, sir.

14 Q. You are saying, I believe "Some
man
15 came in, stabbed my babies stabbed me. I woke up" --
and
16 your version is, "I was frightening"?

17 A. Yes, sir.

18 Q. Frightening?

19 A. Yes, sir.

20 Q. "And he ran out and threw the
knife

21 down"?

22 A. Yes, sir.

23 Q. Of course our version was, "I was

24 fighting"?

25 A. Well, you can listen to it.

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1 Q. Of course, if you said "I was
2 fighting," that would indicate that you remember what
was
3 going on, right?

4 A. I'm not sure.

5 Q. Well, if you were able to say on
the
6 911 tape, I was fighting him, that would mean you
would
7 have a memory of that attack, wouldn't it?

8 A. Well, it does not necessarily mean
9 that.

10 Q. It doesn't?

11 A. I was talking to three different
12 people at one time.

13 Q. But, if you said on the 911 tape,
if
14 you said, "I woke up, I was fighting, and he ran
through

15 the garage." That would indicate that you do
remember
16 what was going on, wouldn't it?

17 A. Well, sir, I don't think that it
says
18 fighting.

19 Q. Oh, no.

20 A. I have listened to this tape a lot
21 of
22 times.

23 Q. But if it did say fighting?

24 A. I don't think it does say
25 fighting.

Q. If it did say fighting, wouldn't
that
25 indicate that you do remember --

1 A. I don't think it does say
fighting. I

2 don't think it does say fighting.

3 Q. If it did say fighting, wouldn't
that

4 be an indication that you remember what was going on?

5 A. I don't think that it does say
6 fighting.

7 Q. Can I take that as a yes then?

8 A. I think it says frightening.

9 Q. You were frightening?

10 A. Yes, sir. You can listen to it.

11 Q. Oh, I have?

12 A. I know you have.

13 Q. I have lots of times.

14 A. So have I.

15

16 THE COURT: All right. Let's just
ask

17 questions and answers please.

18

19 BY MR. TOBY L. SHOOK:

20 Q. Do you remember talking to
Detective

21 Waddell there when he came into your house?

22 A. Very briefly.

23 Q. Okay. Did you tell Detective

Waddell

24 that you had been fighting with the man there at the
25 island area?

Sandra M. Halsey, CSR, Official Court Reporter

4968

1 A. No, sir, it would have been on the
2 call as well, and it's not on there.

3 Q. Okay. You never told him that any
4 time he was in your house?

5 A. No, sir, I didn't.

6 Q. Okay. You remember the paramedic,
the

7 one with the nickname Toad?

8 A. I only remember them really by
their

9 faces.

10 Q. He was the one that actually put
the

11 bandage on you and walked you out?

12 A. I don't remember.

13 Q. Okay.

14 A. I thought that there were two of
them.

15 Q. Did you ever make the statement,
there

16 in your living room, in front of the paramedics then,
17 that the man was wearing a ball cap, and he broke out

the

18 window in the garage?

19 A. I don't ever remember saying that.

20 Q. Okay. So you don't remember if
you

21 said that or not?

22 A. No, sir.

23 Q. Okay. Do you remember talking
to

24 Detective Patterson and Detective Frosch down there,
25 after your operation?

Sandra M. Halsey, CSR, Official Court Reporter

4969

1 A. I do remember some of that, yes,
sir.

2 Q. Okay. And do you remember
telling

3 them that morning, that the man was standing over
you,

4 and you fought with him on the couch?

5 A. No, I heard Patterson say that,
but I

6 don't remember saying anything about that.

7 Q. So it was Detective Patterson
that

8 suggested that?

9 A. I think that is what -- when he
came

10 up here, isn't that what he said?

11 Q. He said that -- he said, are you
12 fighting with him on the couch?

13 A. I'm not sure. He just said
something

14 along those lines, I thought, when he was sitting up
15 here, when he was up here the other day.

16 Q. Well, you remember the nurse
Chris

17 Wielgosz?

18 A. Again, I only remember the people
as
19 they came in here by their face.

20 Q. Okay. He was the nurse with
glasses
21 that tended to you, when you got out of the
operating
22 room. He was the nurse present when
Detective Patterson
23 and Frosch talked to you?

24 A. I really don't remember
that.

25 Q. That nurse that gave you
the truth

Sandra M. Halsey, CSR, Official Court
Reporter

4970

1 serum?

2 A. I really don't remember
him.

3 Q. Okay. Well, you remember
him

4 testifying, don't you?

5 A. Well, there's been a lot of people
to
6 testify.

7 Q. Do you remember his description of
how
8 the detectives questioned you?

9 A. I really -- I don't remember who
you
10 are talking about specifically.

11 Q. Okay. It would be the nurse that
was
12 there with the detectives?

13 A. Well, I know, but there were a
couple
14 of nurses.

15 Q. Well, do you remember someone
16 testifying, that said they were present while the
17 detectives were questioning you?

18 A. I think so, I sort of remember

that,

19 yes.

20 Q. Okay. Well, that is who we're
talking

21 about?

22 A. Okay.

23 Q. And do you remember his
description

24 was that the detectives went slowly and methodically?

25 A. I really don't remember what his
exact

Sandra M. Halsey, CSR, Official Court Reporter

4971

1 words were.

2 Q. That they never suggested answers
to
3 you?

4 A. Sir, I don't remember what he -- I
5 mean, there's been so many people testifying, I don't
--

6 Q. Okay. Are you saying then today,
that
7 Detective Patterson was suggesting answers to you?

8 A. Suggesting as in, what do you
mean?

9 Q. Fighting on the couch?

10 A. What do you mean? He was telling
me.

11 Q. Well, I think that is what you are
12 trying to get across, that you didn't come up with
the
13 word fighting, that was Detective Patterson?

14 A. Sir, I don't even remember
that.

15 Q. Okay. You don't have any
memory of
16 that?

17 A. As far as fighting?

18 Q. Fighting on -- telling

Detective

19 Patterson that you fought with the man on the couch?

20 A. No, I don't -- I mean, I don't

think

21 that I said that. I could have said that, but I

don't

22 remember saying that.

23 Q. Okay. So you could have said

that?

24 A. Yes, sir.

25 Q. Okay.

Sandra M. Halsey, CSR, Official Court Reporter

4972

1 A. I mean, I think that you can have,
you
2 know, memory, especially in that situation.

3 Q. Okay. Then you got transferred up
to
4 the ICU floor?

5 A. I guess so.

6 Q. You don't remember that?

7 A. No, sir.

8 Q. Do you remember telling the nurse,
9 Dianne Hollon, that you felt pressure on you, and
you
10 woke up and a man was standing over you?

11 A. I don't remember -- I remember
their
12 faces when they came in here and when you guys were
13 talking to them, but I don't -- I mean, I don't --
when
14 you say you are familiar with them, I am not.

15 Q. She was the nurse that attended
you
16 from about 8:00 in the morning until 7:00 at night,
the
17 tall girl with brown hair?

18 A. Tall girl with brown hair?

19 Q. Was with you for about 11 hours?

20 A. What was her name?

21 Q. Dianne Hollon.

22 A. I don't remember, but I'll try

to

23 answer your questions.

24 Q. Do you remember telling her that

you

25 felt pressure on you, the man was standing over

you?

Sandra M. Halsey, CSR, Official Court
Reporter

4973

1 A. I do remember feeling pressure
on my
2 legs.

3 Q. Do you remember telling her that
the
4 man was standing over you, and you fought him off?

5 A. No, sir, I don't remember that.

6 Q. Okay.

7 A. I do remember the pressure though
on
8 my legs.

9 Q. All right. Where was it on your
legs?

10 A. It was on my right leg.

11 Q. On your right leg?

12 A. Yes, sir.

13 Q. Okay. Do you remember telling the
14 nurse, Paige Campbell, she is the small nurse with
blonde
15 hair?

16 A. I think I remember Paige Campbell,
17 because she gave me a shower I think.

18 Q. Okay. Do you remember that you
showed

19 her your hand, and you said, "This is where he cut me

20 when I tried to grab the knife"?

21 A. No, sir.

22 Q. You don't remember telling her
that?

23 A. No, sir. I remember her giving me
a

24 shower.

25 Q. Okay. Do you remember telling her

Sandra M. Halsey, CSR, Official Court Reporter

4974

1 that you woke up and the man was standing over you
and

2 tried to stab you with a knife?

3 A. No, sir.

4 Q. Okay. Are you saying you just
don't

5 remember that or that didn't happen?

6 A. I'm just saying I don't remember
that.

7 Q. Okay. So you could have said
that?

8 A. I suppose it's possible.

9 Q. Okay. If you had said that, would
10 that not mean that you do remember this attack?

11 A. I don't remember this attack as of
12 right now, I do not remember.

13 Q. Okay. Do you remember talking to
the

14 nurse, Denise Faulk, that is the last nurse that
15 testified, the one that had you --

16 A. I remember her up here, but I
don't

17 remember her in there.

18 Q. Okay. And do you remember, she is
the

19 one that took the pink notes of what you said?

20 A. Yes, I remember her sitting up
here.

21 Q. Okay. And, do you remember
telling

22 her, about 3:00 in the morning, that when you were
laying

23 on your right side that you told her, "I was laying
just

24 like this"?

25 A. First of all, I can't imagine --
can I

Sandra M. Halsey, CSR, Official Court Reporter

1 see a picture of my arm? Do you have a picture of
the
2 arm?

3 Q. Well, why don't you -- I'll show
you a
4 picture of the arm in a minute.

5 A. Okay. I don't imagine that I
would be
6 laying on the right side with my arm like that.

7 Q. So, that didn't happen?

8 A. I am just saying that I don't
believe

9 that I would lay -- I mean, if you look at that
picture,

10 I don't think anybody would be laying on that arm, as
11 what you are saying. I think you could lay on it
like
12 this, with the arm out.

13 Q. Okay.

14 A. But not like this.

15 Q. Okay. Do you think she might have
16 been making that up?

17 A. No, sir, I think maybe either she
has
18 misunderstood, or has gotten her information wrong.

19 Q. Okay. So maybe she misunderstood
what

20 you said?

21 A. Yes.

22 Q. Of course, if you are laying on
your

23 right side, your back never would be exposed to any
blood

24 you might get on it, would it?

25 A. Well, I'm not sure I understand.

Sandra M. Halsey, CSR, Official Court Reporter

4976

1 Q. Do you remember telling Denise
Faulk
2 that you woke up when Damon started touching you and
3 crying?
4 A. I really don't remember that.
5 Q. Do you remember telling her that
you
6 felt a wrestling at your neck area?
7 A. No, sir, I don't remember that.
8 Q. You just don't remember that?
9 A. No, sir.
10 Q. Again, I guess if you did tell her
11 that, that would indicate that you did have some
memory
12 of this attack, wouldn't it?
13 A. Well, I don't remember that.
14 Q. You don't know of any reason that
15 Denise Faulk would have to come down here and lie
about
16 that, do you?
17 A. I don't know of any reason, no, I
18 mean --
19 Q. I mean, y'all didn't know each
other
20 before this did you?
21 A. No, sir, but --

22

Q. Can you think of a good reason?

23

A. Well, I have heard a lot of things

24 that --

25

might

Q. Do you think all of the nurses

Sandra M. Halsey, CSR, Official Court Reporter

4977

1 have gotten together and come down here and --

2 A. No, sir, I don't think that. That
is
3 not what I'm saying. I just think that maybe a lot
of
4 people, a lot of time went by, and I think that you
can
5 definitely --

6 Q. Well, you heard her, she wrote it
7 down.

8
9 THE COURT: Well, let her finish
her
10 answer. Do you want to add any more?

11 THE WITNESS: Well, I just think
that
12 you can definitely take things out of context, after
a
13 certain period of time.

14
15 BY MR. TOBY L. SHOOK:

16 Q. Well, as far as time goes by, you
17 heard her testimony. She wrote these notes down?

18 A. Yes, sir, I did.

19 Q. When she got home. Pretty fresh

on

20 her mind?

21 A. She has got the notes.

22 Q. Okay.

23 A. But how do we know that those were

24 written then?

25 Q. Do you think she lied about it?

Sandra M. Halsey, CSR, Official Court Reporter

4978

1 A. No, I'm not saying that.

2 Q. Okay. Well, do you think we can
trust

3 her?

4 A. She seems like a nice person.

5 Q. Okay. Have you told any one else
that

6 a man was standing over you, and you woke up, and he
7 tried to stab you?

8 A. Just as far as the dream that I
had.

9 Q. Just the dream?

10 A. Yes.

11 Q. When did your memory start getting
12 better? I mean, I guess you don't remember much
that

13 happened in the hospital, do you?

14 A. No, I don't even remember, as far
as

15 my relatives being there. I have had a lot of
different

16 people say that they talked to me, and came and saw
me

17 that I don't remember.

18 Q. Okay. You remember everything up

19 until this attack, don't you? What went on in the
20 evening?

21 A. To a certain extent, I mean,
yeah.

22 Q. I mean, your memory is not
fuzzy on

23 when Darin got home?

24 A. No, sir.

25 Q. Or what you did all day?

Sandra M. Halsey, CSR, Official Court
Reporter

1 A. No, sir, I was conscious then,
yes,
2 sir.

3 Q. Your memory is not fuzzy on
having
4 your little sister Dana there, and what the boys
were
5 doing, is it?

6 A. No, sir.

7 Q. It's not fuzzy as to what you
and
8 Darin talked about, is it?

9 A. To a certain extent, no, sir.

10 Q. Okay. But then, as far as any of
the
11 facts of this offense goes, you don't remember a
thing
12 about that, do you?

13 A. No, I can speculate, but I don't
know,
14 to sit her and tell you, I can't tell you that.

15 Q. Then your memory gets kind of good
16 again, because you give a lot of details in your
17 voluntary statement about what happened after you saw

--

18 A. I think if I live to be a hundred,
I
19 wouldn't be able to tell you everything that happened
20 that night.

21 Q. Okay.

22 A. For detail.

23 Q. Well, you gave us a lot of
details?

24 A. I gave some things, yes, sir.

25 Q. And you were able to give a lot of

Sandra M. Halsey, CSR, Official Court Reporter

1 details on the 8th, when you wrote this statement
out?

2 A. Yes, sir, but I still think that
3 there's a lot of things to this day, that --

4 Q. But as far as where the paramedics
5 were, what Darin was doing, what you were doing, you
were

6 able to write that all down on June the 8th, weren't
you?

7 A. Not every bit of it, but some of
it,

8 yes, sir.

9 Q. Well, we will be able to see for
10 ourselves what all you wrote down?

11 A. Yes, sir, I think we have already
gone

12 over that.

13 Q. Okay. But then again at the
hospital,

14 when all of these statements are made to these
nurses?

15 A. Yes, sir.

16 Q. Your memory is gone again, isn't
it?

17 A. I just don't remember now.

18 Q. You just don't remember those?
19 A. No, sir.
20 Q. It kind of goes in and out?
21 A. Yes, sir. I have been told that
that
22 is common.
23 Q. Okay. But I guess it got better
on
24 the 8th when you were writing this statement out?
25 A. A little bit, but not much.

Sandra M. Halsey, CSR, Official Court Reporter

1 Q. Okay. And as far as --

2 A. Like I said, to this day, there is
3 still a lot of steps that I don't remember.

4 Q. Okay. And you remember going to
the
5 police station and giving this statement, don't you?

6 A. Yes, sir, it was before the
viewing.

7 Q. And then you went to the viewing
after
8 that?

9 A. Yes, sir. I was almost two hours
10 late.

11 Q. And then the next day was the
funeral?

12 A. Yes, sir.

13 Q. Okay. Then there was a birthday
party
14 after the funeral at your mother's house, wasn't
there?

15 A. That is kind of been misunderstood
as
16 a birthday party.

17 Q. It wasn't a birthday party?

18 A. Well, after a funeral people go to

the

19 person's home, and they get together, and eat, or
talk

20 and console each other, and the kids were there, and
they

21 were swimming out in the back, and I had given my
little

22 sister the sand art for them to do sand art. For
Devon,

23 for his birthday.

24 Q. So you are saying that there

wasn't a

25 birthday party at your mother's house?

Sandra M. Halsey, CSR, Official Court Reporter

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1 A. It wasn't really a birthday party.

2 Q. Okay. I guess your good friend

Karen

3 Neal was just mixed up about that?

4 A. No, sir.

5 Q. Okay. Were your aunts there, your

6 aunts from Pennsylvania, were they there at your

mother's

7 house?

8 A. I don't remember.

9 Q. Okay.

10 A. I think they could have been, but

I'm

11 not exactly sure.

12 Q. Okay.

13 A. I mean, because we had relatives

that

14 were staying at hotels, and they were going back and

15 forth, and --

16 Q. But, by that, you do remember

going to

17 the party, don't you? Your memory wasn't bad at that

18 point, was it?

19 A. Really, I don't remember much

about

20 that day. I stayed in the house, and pretty much --

I

21 don't really remember too much about that.

22 Q. Well, your other good friend in
the

23 neighborhood is Mercedes Adams?

24 A. Yes, sir.

25 Q. Do you remember that next week
going

Sandra M. Halsey, CSR, Official Court Reporter

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1 over to her house and talking to her?

2 A. I think I went over to her house
and

3 to Karen's.

4 Q. Okay. And do you remember talking
to

5 her in her family room area?

6 A. I don't really remember it, but
yes,

7 it is possible that I did that.

8 Q. Her house has the same exact
floorplan

9 as your house does, doesn't it?

10 A. Yeah, to some extent, yes, it
does.

11 Q. Okay. And back in that family
room,

12 she has kind of set her furniture up, following your
13 example, hasn't she? Two couches?

14 A. Well, I don't know about that.

15 Q. Okay. Do you remember talking to
her

16 about what happened there in that family room on
that

17 couch?

18 A. About --

19 Q. About what happened that night?

20 A. About everything that happened

that

21 night?

22 Q. Well, just describing to her what

23 happened that night. Do you remember talking to her

24 about that night?

25 A. I'm sure I did. I talked to
Mercedes

1 about a lot of things. I talked to her about that,
I
2 talked to her about everything that was going on.

3 Q. Okay. Well, let me talk
specifically

4 about that. Do you remember telling Mercedes Adams
that

5 Damon woke you up, and when you woke up, there was a
man

6 standing over you, and then he tried to stab you in
the

7 heart, and you were able to block his blow. And
that is

8 how this cut got on your left side?

9 A. No, sir, I mean, I think I did
tell

10 her that, but that was about a dream that I had.

11 Q. Okay. You did tell her that
though?

12 A. I believe so.

13 Q. But that was a dream you had?

14 A. Yes, sir, just like I said
before. I

15 had about seven or eight dreams just like that.

16 Q. So when you told her this, did you

say

17 Mercedes, this is a dream I had about what happened?

18 A. Well, I don't know if I said it

in

19 those exact words.

20 Q. You mean you might have been

able to

21 tell her that, and just not mention that it was a

dream

22 you were having?

23 A. I don't think so.

24 Q. You don't think so?

25 A. No, sir.

1 Q. So, you think before you went
through
2 that rendition of it, you would have told her, this
is a
3 dream I had?

4 A. Well, in some perspective like
that,
5 yes, sir.

6 Q. Okay.

7 A. I think that I would have said
that.

8 Q. So she wouldn't have thought any
way
9 that you were trying to tell her what had happened
that
10 night?

11 A. No, sir, I did tell her what the
12 psychic told us about what happened.

13 Q. Well, I'm not asking you about
what
14 the psychic said.

15 A. Well, it was the same thing.

16 Q. Okay. So this was just a dream
you
17 were telling Mercedes about?

18 A. Yes, sir.

19 Q. Okay. Do you remember having a
20 conversation with Mercedes later, when she asked
you how
21 you could sleep through this killing?

22 A. I don't really remember her
asking me
23 that.

24 Q. You don't remember that?

25 A. She could have, but I really
don't

Reporter Sandra M. Halsey, CSR, Official Court

4986

1 remember.

2 Q. She could have asked you that?

3 A. Yes, sir.

4 Q. Do you remember her asking how
could

5 you sleep through your boys being stabbed? How did
you

6 sleep through it?

7 A. That is a question I have asked
myself

8 many times.

9 Q. Well, do you remember telling
her,

10 "Well, I was on sleeping pills that night,
Mercedes"?

11 A. No, I don't think I said that.

12 Q. You didn't say that?

13 A. No.

14 Q. I mean, you weren't on sleeping
pills,

15 were you?

16 A. No, sir, I wasn't.

17 Q. Okay. When was it that you
started

18 sleeping downstairs on the couch?

19 A. We had slept downstairs on the
couch
20 for quite some time. I mean off and on, it wasn't
an all
21 the time thing.

22 Q. That evening you were watching
TV; is
23 that right?

24 A. Yes, sir.

25 Q. But your head was at this end
of the

 Sandra M. Halsey, CSR, Official Court
Reporter

1 couch; right?

2 A. Yes, sir, it was.

3 Q. The TV is behind you?

4 A. Yes, sir.

5 Q. How long had you been laying in
that

6 position?

7 A. I had been laying that way the
whole

8 time.

9 Q. How could you watch TV in that
10 position?

11 A. You are on your stomach and you
are

12 looking at the TV.

13 Q. Okay. So you were laying there
on

14 your stomach, watching TV that way?

15 A. Yes, sir.

16 Q. And you decided to sleep on the
couch

17 downstairs?

18 A. Yes, sir.

19 Q. How many nights in a row had
you done

20 that?

21 A. I didn't do it the night

before. The

22 boys had a friend over. And, I may have done it

before

23 that, and I may have done it the Friday, the week

before

24 that, with my little sister.

25 Q. Okay. Did you not tell the
police

Sandra M. Halsey, CSR, Official Court
Reporter

4988

1 there on the 6th that you had been sleeping
downstairs

2 for about the last five days?

3 A. Well, I don't remember saying
the last

4 five days.

5 Q. Well, why did you choose to
sleep down

6 there that night?

7 A. Well, the boys were down there
8 sleeping, and Damon, if he wakes up, he wakes up
every

9 night, and he comes into our bedroom, and he gets
in bed

10 with us. If Devon wakes up, he usually, wakes up
and

11 then goes back to sleep, but Damon doesn't do
that. And

12 so, I wanted to make sure that I was down there
with

13 Damon.

14 Q. Well, why didn't you just put
Damon in

15 his bed?

16 A. Because it was already late,

and they

17 were already sound asleep. It was our home. It
was our

18 home, sir, I didn't -- I mean, what is wrong with
19 sleeping downstairs?

20 Q. Do you usually let your
children lay

21 on the floor and sleep all night?

22 A. Sometimes.

23 Q. Okay. That was a normal
practice?

24 A. Yes, sir, it was.

25 Q. Okay. Why did you want to
sleep

Sandra M. Halsey, CSR, Official Court
Reporter

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1 downstairs then?

2 A. Because, mainly my children
were down

3 there.

4 Q. Okay. And, why did you want to
sleep

5 down there with the children?

6 A. Because of Damon.

7 Q. Because he would wake up at
night?

8 A. Yes, sir, and he would cry.

9 Q. He would cry?

10 A. Yes, sir.

11 Q. If you weren't right there?

12 A. Yes, sir.

13 Q. Okay. When he wakes up in his
bed,

14 does he start crying?

15 A. In his bed?

16 Q. Yes.

17 A. No, usually he comes into our
room.

18 Q. Okay.

19 A. Like if he had a bad dream, or
20 sometimes he would wet the bed.

21 Q. Okay. But you decided not to

take

22 them upstairs and put them in their beds after
they were

23 asleep?

24 A. No, sir.

25 Q. Okay. And you had the window
open?

Sandra M. Halsey, CSR, Official Court
Reporter

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1 A. From what I remember, it was
open.

2 Q. Okay. Now, you weren't
sleeping on

3 the couch because you had had some disagreement
with your

4 husband, were you?

5 A. That night, was I sleeping
there?

6 Q. Yes.

7 A. No, sir.

8 Q. Okay. You weren't down there
9 sleeping separate from him because you were mad at
him?

10 A. No, sir, as a matter of fact,
when we

11 went to bed, we had both told each other that we
loved

12 each other and we would see each other in the
morning.

13 Q. Okay. And that dog you had, he
barks

14 a lot at strangers, doesn't he?

15 A. He does bark a lot if he is
awake.

16 Q. If he is awake?

17 A. Yes, sir.

18 Q. He is not a real old dog, is
he?

19 A. No, I believe he is a couple of
years.

20 Q. Okay. I guess he just slept
through
21 this whole thing also?

22 A. No, actually I think when
everybody

23 started arriving, he was barking. I think Karen
had to

24 go up and get him.

25 Q. Okay. He can make a lot of
noise when

Sandra M. Halsey, CSR, Official Court
Reporter

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1 he wants to, can't he?

2 A. Yes, sir.

3 Q. Okay. What about that big cat
that

4 was right next to your head? Does he sleep well
too?

5 A. He wasn't right next to my head,
but,

6 I think animals are kind of like people.

7 Q. Well, what do you mean by that?

8 A. Well, they sleep and eat just like
we
9 do.

10 Q. They don't wake up when strangers
come
11 into the room?

12 A. I don't know, sir. I don't know
if he
13 did or not.

14 Q. Oh, and this man that you saw, you
15 said he had a T-shirt, are you talking about a short
16 sleeve T-shirt?

17 A. I don't know for sure if it was
short

18 sleeve, but --

19 Q. You think it was short sleeved?

20 A. I think it was short sleeved.

21 Q. Okay. Now, your finances, are
you

22 trying to tell the jury that you didn't have any
23 financial problems at all?

24 A. No, sir, I'm not trying to say
that at
25 all.

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1 Q. Had business been slow?

2 A. Yes, it had.

3 Q. And how long had it been slow?

4 A. It was a little bit slow, I think

5 March and April had been slower than what we were
used

6 to. May had picked up.

7 Q. Just March and April, are those
the

8 only slow months you had?

9 A. That were slow.

10 Q. Okay.

11 A. Yes, sir.

12 Q. Okay. Money wasn't tight at that
13 time?

14 A. Yes, money was tight.

15 Q. Okay.

16 A. But the bills were being paid.

17 Q. Okay.

18 A. As a matter fact, I think we
withdrew

19 11 thousand dollars out of our account, as far as
draws

20 in May, which is one of our biggest draws that we
had.

21 Q. I guess, if
those are reflected in the

22 records, we could see that?

23 A. Yes, sir, they
do, as a matter of

24 fact.

25 Q. Okay. Do you
recognize 83-B?

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Official Court Reporter

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1 A. Yes, sir, I do.

2 Q. Okay. And, were
y'all two months

3 behind on your mortgage?

4 A. No, sir, and
this was found in the

5 trash that came out of our
Pathfinder that the -- I guess

6 the detectives, or whoever looked
for it, it was found in

7 the trash, in the garage.

8 Q. Right.

9 A. And it was in
the trash, because it
10 had been paid and taken care of.

11 Q. Right. But when
you received this in

12 May, had y'all been two months
behind on the mortgage
13 payment?

14 A. No, sir, we
weren't. We were one

15 month behind and the next one was
coming up.

16 Q. And were you one

month behind because

17 you all had been real short on
money?

18 A. No, actually we
were one month behind

19 because I completely forgot. I had
just started paying

20 bills at home, when I was used to
paying them at the

21 shop.

22 Q. So you had just
forgotten to make that

23 payment?

24 A. Well, there was
actually a couple of
25 bills that I had forgotten to make.

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Official Court Reporter

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1 Q. Same thing on
the American Express

2 bill, I guess?

3 A. I'm not sure
about that American

4 Express bill.

5 Q. And despite --

6 A. I do know that
it was paid, but I

7 don't remember seeing that.

8 Q. Okay. Despite
being strapped for

9 money, you were planning on going
to Pennsylvania for two

10 weeks?

11 A. Yes, sir.

12 Q. Then you were
going to go down to

13 Mexico with your good friend
Mercedes?

14 A. Yes, sir.

15 Q. Was that going
to be in July?

16 A. Yes, sir.

17 Q. Okay. And you

had a lot of jewelry

18 out that wasn't taken in this
attack; is that right?

19 A. Yes, sir.

20 Q. That was the
photographs with all of

21 the jewelry that we have seen on
the bar?

22 A. Yes, sir.

23 Q. And, you usually
wore those on your

24 fingers, did you not?

25 A. Yes, sir.

Sandra M. Halsey, CSR,
Official Court Reporter

1 Q. Was it your
practice to wear rings on

2 every finger?

3 A. Sometimes.

4 Q. You bought a lot
jewelry, didn't you?

5 A. My husband
bought me a lot of jewelry.

6 Q. Did you ever
shop for jewelry

7 yourself?

8 A. Not by myself.

9 Q. You never went
into these pawn shops
10 by yourself?

11 A. Not by myself,
no, sir.

12 Q. Was Darin always
with you?

13 A. Yes, sir.

14 Q. Did you take the
children with you

15 sometimes when you went shopping?

16 A. I think there
were a couple of times.

17 Q. Did you take
them into the pawn shop

18 when you went shopping?

19 A. Maybe a couple
of times.

20 Q. So you are
saying that Darin was the
21 one that would buy the jewelry for
you?

22 A. Well, we would
look at it together.

23 Q. Okay. And that
was one of your
24 hobbies; is that right?

25 A. Well, I don't
know if you would call

Sandra M. Halsey, CSR,
Official Court Reporter

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1 it a hobby.

2 Q. Okay. Had you
not been having fights

3 up at work with your husband in
'96, in March and April?

4 A. We had ups and
downs, just like

5 everybody else does.

6 Q. Were you not
fighting more frequently

7 over money?

8 A. No, sir.

9 Q. That just wasn't
happening?

10 A. No, sir.

11 Q. You weren't
having loud arguments at

12 work over money?

13 A. No, sir, if we
had arguments at work,

14 usually it was about something that
had happened with a

15 job.

16 Q. Okay. Not over
money or anything like

17 that?

18 A. No, sir.

19

20 MR. TOBY SHOOK:

Judge, could we

21 approach the bench for a second?

22 THE COURT:

Certainly.

23 MR. TOBY SHOOK:

Just for a moment.

24 THE COURT:

Certainly.

25

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Official Court Reporter

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1
short

(Whereupon, a

2
held

Discussion was

3

Off the record, after

4

Which time the

5

Proceedings were resumed

6

As follows:)

7

8
and

THE COURT: All right. Ladies

9
step

gentlemen of the jury, once more, you will have to

10

out of the courtroom briefly, please.

11

12

(Whereupon, the jury

13

was excused from

the

14

courtroom, and

the

15

proceedings were

held

16

in the presence of

the

17

defendant, with

her

18 attorney, but outside
19 the presence of the jury
20 as follows:)

21

22 THE COURT: All right. All
right.

23 Just a minute.

24 Let the record reflect that all
25 parties in the trial are present, and these
proceedings

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1 are being held outside of the presence of the
jury.

2 MR. TOBY SHOOK: No, Judge,
this is

3 not a hearing. I need to go back there for a
moment.

4 THE COURT: All right.

5 MR. TOBY SHOOK: About 10
minutes.

6 THE COURT: Well, let's take a
10
7 minute break then. All right.

8
9 (Whereupon, a
short
10 recess was
taken,
11 after which
time,
12 the proceedings
were
13 resumed on the
record,
14 in the presence
and
15 hearing of the

defendant

16 and the jury, as

follows:)

17

18 THE COURT: All

right. Are both sides

19 ready to bring the jury in and

resume the trial?

20 MR. GREG DAVIS:

Yes, sir. The State

21 is ready.

22 MR. DOUGLAS

MULDER: Yes, sir, the

23 defense is ready.

24 THE COURT: All

right. Bring the jury

25 in, please.

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Official Court Reporter

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1
2 (Whereupon, the
jury
3 was returned to
the
4 courtroom, and
the
5 proceedings
were
6 resumed on the
record,
7 in open court, in
the
8 presence and
hearing
9 of the defendant,
10 as follows:)
11
12 THE COURT: Let the record
reflect
13 that all parties in the trial are present and the
jury is
14 seated.
15 Mr. Shook.
16 MR. TOBY SHOOK: Thank you.

17

18

19

CROSS EXAMINATION (Resumed)

20

21 BY MR. TOBY L. SHOOK:

22

Q. Ma'am, do you remember calling up

a

23 radio show, back on December 5th and talking to a

man by

24 the name of Rick Roberts up in Dallas?

25

A. Yes, sir.

Sandra M. Halsey, CSR, Official Court Reporter

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1 Q. Okay. Do you need me to wait?
Are
2 you okay?
3 A. Yes, sir.
4 Q. Okay. I can wait if you need a
5 moment?
6 A. No, I'm fine.
7 Q. Okay. I've got a typed
transcript of
8 that, but do you remember telling him -- let me show
you
9 the statement, and you said, "It happened, but I
just
10 want people to keep an open mind. I want people to
know
11 that I did not murder my children. I know what
happened
12 in that house that night"?
13 A. Yes, sir.
14 Q. Okay. And then you repeated it
again.
15 "I know what happened in that house that night"?
16 A. Yes, sir.
17 Q. Okay. Now, I brought Glenn Mize
in
18 here earlier and you said that he didn't match the

19 description, right? We could rule him out?

20 A. Well, he is too large.

21 Q. Okay. And we could rule him out?

22 A. Yes, sir.

23 Q. But, in the past, you have made

lots

24 of statements, written letters to your family and

friends

25 saying it was Glenn Mize, haven't you?

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1 A. I didn't say it was Glenn Mize.

2 Q. You made lots of statements in the
3 past, haven't you?

4 A. Yes, sir.

5 Q. Do you remember writing a letter
to

6 your Aunt Sandy on November 1st of 1996? Do you
remember

7 doing that?

8 A. Can I see the letter, please?

9 Q. Sure.

10 A. Yes.

11 Q. Do you see at the top there, Aunt
12 Sandy?

13 A. Yes, sir.

14 Q. That is a copy of a letter you
wrote

15 her, isn't it?

16 A. Yes, sir.

17 Q. Okay. And do you remember telling
18 her, "We believe we know who did it. That FBI
guy is

19 working on it. We have two months to work on it.

We

20 already have so much on him. I really believe he did
it.

21 Darin will have to tell you about him it's a long
story,

22 I know it's him. I saw him and I know it's him"?

23 A. Yes, sir.

24 Q. You wrote that to your aunt?

25 A. Yes, sir, can I see this page a
minute

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1 please?

2 Q. Sure.

3 A. Yes, sir, that's it.

4 Q. Okay. So in this letter you say,
"I

5 saw him and I know it's him."

6 A. I don't think that we were talking
7 about Glenn Mize at that time.

8 Q. Well, you were talking about
someone

9 that you thought did it?

10 A. Yes, sir.

11 Q. Who did you think did it back on
12 November 1st?

13 A. There was another man that lived
in
14 the neighborhood that some people were telling me
about.

15 Q. Okay. Well, you say in the
letter,

16 "I saw him"?

17 A. Yes, sir.

18 Q. I mean that is a pretty positive
19 statement. "I saw him and I know he did it." Are
you

20 talking about that other man, or are you talking
about

21 Glenn Mize?

22 A. I'm talking about the other man
that

23 they were telling me about.

24 Q. Okay. Then, let me show you
another

25 letter to your good friend Karen?

1 A. Yes.

2 Q. Do you recognize that?

3 A. May I see it?

4 Q. Sure. Do you recognize that as a
copy
5 of the letter to your friend Karen?

6 A. Yes, sir, that is my handwriting.

7 Q. You say in that letter, and you
even
8 underlined it: "Karen, I know who did it, I can't
write
9 it down, they read my mail"?

10 A. Yes, sir, at the time I was
hoping.

11 Q. You were just hoping?

12 A. Yes.

13 Q. Okay. So you --

14 A. I had been told a lot about two
15 different people.

16 Q. Okay. Let me show you another
letter
17 to Karen, do you recognize that?

18 A. Let me read it.

19 Q. Okay. Do you recognize that
letter to
20 your friend Karen?

21 A. Yes, sir.

22 Q. Okay.

23 A. Yes, sir.

24 Q. Okay. And in this letter, you

say, "I

25 believe Glenn did it."

Sandra M. Halsey, CSR, Official Court Reporter

5004

1 A. Yes, sir.

2 Q. "Rene's old friend, Allison."

3 A. Yes, sir.

4 Q. "Well, Glenn was her stepfather.

Mom

5 and Darin can give you all the details. This man is
very

6 evil, and I told the police about him in the
beginning."

7 A. Yes, sir.

8 Q. "And I thought the PD checked it
out,

9 but they didn't."

10 A. Yes, sir.

11 Q. So we're talking about Glenn Mize
12 there, aren't we?

13 A. In that one, yes, sir, there were
two

14 different people that I was told about, I was told a
lot

15 of things about.

16 Q. Well, in these letters, you are
saying

17 you saw the man, and he is the one that did it?

18 A. I saw the back of the man.

19 Q. Okay. Well --

20 A. I didn't know what Glenn looked
like.

21 Q. Well, we have another letter here
to

22 Dear Joe and Terry?

23 A. May I ask you where you are
getting

24 all of these letters from, sir?

25 Q. Do you recognize this letter?

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21 A. Yes, sir.
22 Q. Okay. Y'all were working on it.
23 A. I'm sorry, what?
24 Q. Did this other man live in the
25 neighborhood you say?

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5006

1 A. Yes, sir.

2 Q. Okay. And, down the street I
guess;

3 is that right?

4 A. Yes, sir.

5 Q. Do you remember telling her, "We
know

6 he left the sock directly in the path towards his
home"?

7 A. That is what that says.

8 Q. "We know he was outside his home
at

9 2:30 that morning"?

10 A. Yes, sir, that is true.

11 Q. And his wife gave a statement?

12 A. Yes, sir.

13 Q. "2:00 A.M. She heard him come
back at

14 2:30 A.M., and all the people behind us gave
statements

15 that they woke up at 2:30 A.M. with the dogs
barking"?

16 A. That is what I was told.

17 Q. "Devon and Damon knew this man."

Did

18 they know this man?

19 A. They did.

20 Q. What is his name?

21 A. His name is Gary.

22 Q. His name is Gary what?

23 A. Austin.

24 Q. Gary Austin?

25 A. Yes, sir.

Sandra M. Halsey, CSR, Official Court Reporter

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1 Q. Okay. "And he lives in the same
house

2 as ours -- the same floorplan." What does Gary
Austin

3 look like?

4 A. I don't know, sir.

5 Q. You don't know what he looked
like?

6 A. No, they told me -- some people
went

7 by his house and told me what he looked like.

8 Q. He fits the description. He has
9 longer hair, he has big arms and a wide back?

10 A. Yes, sir.

11 Q. Okay. And he is heavier around
the

12 middle?

13 A. Yes, sir.

14 Q. Is that the description you gave
the

15 police?

16 A. Yes, sir, I believe so.

17 Q. Is that what you remember?

18 A. Yes, sir.

19 Q. I mean, a while back you didn't

tell

20 this jury about anyone being wide around the middle

or

21 having big arms?

22 A. Well --

23 Q. Did you?

24 A. Well, as big as Chris Frosch,

that is

25 pretty big to me.

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5008

1 Q. And then in that same letter, you
2 said, "This man could be on his balcony and see into
our
3 back yard"?

4 A. That is what I was told, sir.

5 Q. "Where the hot tub is"?

6 A. That is what I was told.

7 Q. "And who knows how many times he
8 watched me"?

9 A. Yes, sir.

10 Q. Okay. Now, you know that no one
could
11 watch you from any balcony in your hot tub, don't
you?

12 A. No, I don't. That is what I was
told.

13 Q. Your hot tub is covered, isn't it?

14 A. Yes, it is, but it had open
windows

15 all the whole way around it.

16 Q. It's all covered. We can see that
in
17 these photographs?

18 A. Yes, sir, but all those windows
are

19 open a lot.

20 Q. You have been in your back yard
many

21 times, haven't you?

22 A. Yes, sir.

23 Q. And you know, that there is no
house,

24 anywhere in your neighborhood, that has a balcony
that

25 can see in your back yard?

Sandra M. Halsey, CSR, Official Court Reporter

5009

1 A. There is a house, sir.

2 Q. There is?

3 A. Down the street.

4 Q. Down the street, where is it? How
far
5 down the street is it?

6 A. Down at the very end of street.

7 Q. At the end of the street?

8 A. That is what I was
told.

9 Q. Can you show us?

10 A. Yes, sir.

11 Q. Okay. All right.

12 A. That is not the
same.

13 Q. What is not the same?

14 A. It doesn't look the same there is
a --
15 like a cut off here. This looks further to me, this
is
16 further away.

17 Q. Okay. But it would be down here,
way
18 down here?

19 A. Yes, sir.

20 Q. Okay. And you are saying that
someone

21 could get on their balcony, and down at the end of
the

22 block, look and see you inside your hot tub?

23 A. Sir, all I am saying is what I
was

24 told.

25 Q. Is that possible?

1 A. I'm saying what I was told.

2 Q. Well, is that possible?

3 A. I don't know, sir, I have not
been out
4 there.

5 Q. You have been in your back yard?

6 A. I have not been to the other
person's
7 balcony.

8 Q. Do you think that the other
person, at
9 the other end of the block could see you?

10 A. I have no idea.

11 Q. What that is, is just a lie,
isn't it?

12 A. It's not a lie, sir, it's what
was
13 told to me.

14 Q. You are just lying to your
relatives?

15 A. I'm not lying to my relatives.
That
16 was told to me.

17 Q. Okay. Here is another letter to
your

18 Aunt Sherry and family; do you recognize that?

19 A. Yes, sir, I do.

20 Q. Okay. And in this letter, don't
you

21 say, "I know who did it, and it's driving me crazy
that

22 he is out there running free. What really makes me
angry

23 is that I gave the Rowlett PD his name in the
beginning

24 and I assumed they would check him out, but they
never

25 did. Now he has had time to make up a story, but I

1 believe if he has lot a of pressure he will break"?

2 A. Sir, the man that did this, is
out

3 there running free.

4 Q. Did you write that?

5 A. Yes, I did.

6 Q. That is supposed to be Glenn
Mize,

7 isn't it?

8 A. Well, either Glenn Mize or Gary.

9 Q. Well, you say in this letter that
you

10 gave his name to the Rowlett Police Department and
you

11 have already testified that the one name you gave
was

12 Glenn's; is that right?

13 A. Yes, sir.

14 Q. So you are talking about Glenn
Mize in

15 this letter, aren't you?

16 A. Yes, I think so, yes, sir.

17 Q. You say, "I know who did it."

18 A. Yes, sir.

19 Q. Okay. Okay. This is a letter

to your

20 friend Melanie; is that right?

21 A. Yes, sir.

22 Q. Do you recognize that?

23 A. Yes, sir.

24 Q. Okay. And in this letter, do

you not

25 say --

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5012

1 A. Wait, can I see the back of it?

2 Q. Sure. In this letter, don't you
say,

3 "I am praying that they will be able to get a
confession

4 from Glenn"?

5 A. Yes, sir.

6 Q. I can't believe the police never
even

7 checked him out?

8 A. Yes, sir.

9 Q. You are talking about Glenn
Mize;

10 right?

11 A. Yes, sir, the police never did
check

12 him out until later.

13 Q. Well, you have told this jury
that we

14 could rule out Glenn Mize; right?

15 A. Yes, sir, now that I have seen
him.

16 Q. Okay. Again, here is another
letter I

17 want to show you, to your Aunt LouAnn, is that your

Aunt

18 LouAnn up in Pennsylvania?

19 A. Yes, sir.

20 Q. Okay.

21 A. Yes, sir.

22 Q. Okay. And in that letter, you

say "We

23 know who did it, and we're trying to get more on
him.

24 Unless we can get him to confess or say something

to

25 someone, I'm not sure how we can get him?"

Sandra M. Halsey, CSR, Official Court
Reporter

5013

1 A. Yes. Can I see that just a
minute?

2 Q. Sure.

3 A. This was not to my LouAnn in
4 Pennsylvania, this is another LouAnn.

5 Q. Another LouAnn?

6 A. That is in our family.

7 Q. Now, some of these letters
obviously

8 were to your friend Karen Neal; is that right?

9 A. Yes, sir.

10 Q. You said, "We know who did it,
Glenn

11 did it."

12 A. Yes, sir.

13 Q. Okay. I guess she forgot about
that

14 when we asked her if she remembered any other
version

15 that you had told her?

16 A. Karen?

17 Q. Karen.

18 A. I don't know, you would have to -

- I

19 don't remember.

20 Q. Okay. Now, Mrs. Routier, you say
your

21 panties were gone?

22 A. Yes, sir.

23 Q. Were you wearing them before the

24 attack?

25 A. Yes, sir.

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5014

1 Q. Okay. But they were gone, I
guess,

2 when did you realize they were gone?

3 A. After I was told sometime later.

4 Q. Okay. Let me show you another
letter

5 to your Aunt Sandy and Uncle Robert?

6 A. Yes, sir.

7 Q. Do you recognize that?

8 A. These are what, two letters or
three

9 letters?

10 Q. Do they all seem to be in your
11 handwriting?

12 A. Yeah, but one thing I'm noticing
is

13 that these letter don't have any dates, and I always
put

14 dates on my letters.

15 Q. Are you saying we made these up
some

16 how?

17 A. No, no. I'm just saying that
they

18 don't have dates on them.

19

20

MR. JOHN HAGLER: Your Honor,

could we

21 approach the bench?

22

THE COURT: Yes, you may.

23

24

(Whereupon, a short

25

discussion was held

Sandra M. Halsey, CSR, Official Court Reporter

5015

1 off the record, after
2 which time the
3 proceedings were resumed
4 as follows:)

5

6 BY MR. TOBY L. SHOOK:

7 Q. In this letter, don't you say,
"Well,

8 I guess you heard that they are now saying they
found a

9 small amount of one of the boy's blood on my gown.

It

10 would have to be Damon's because I was trying to
save

11 him"?

12 A. Yes, sir.

13 Q. That is after you heard about
some of

14 the DNA results; is that right?

15 A. I don't know that, there is not a
date

16 on that letter.

17 Q. Okay. But that is your letter,
isn't

18 it?

19 A. Yes, sir, it is.

20 Q. But when you write to your
friends and
21 relatives that you saw him, and you know it was him,
you
22 were just -- that was just wishful thinking?
23 A. I was wanting to hope, yes, sir.
24 Q. Okay.
25 MR. TOBY SHOOK: Okay. That's
all we

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1 have, Judge.

2 THE COURT: Mr. Mulder.

3 MR. DOUGLAS MULDER: Yes.

4

5

6 REDIRECT EXAMINATION

7

8 BY MR. DOUGLAS MULDER:

9 Q. Darlie, I got into this case the
last

10 of October of last year; did I not?

11 A. Yes, sir.

12 Q. Okay. Prior to that time, you
had a

13 lawyer who had two investigators working on this
case,

14 didn't he?

15 A. Yes, sir.

16 Q. Had one by the name of Cliff
Jenkins,

17 and another one by the name of Ron Cochran?

18 A. Yes, sir.

19 Q. And they funneled -- of course,
they

20 were being paid, weren't they?

21 A. Yes, sir.

22

23

MR. TOBY SHOOK:

Judge, I will object

24 to the leading.

25

MR. DOUGLAS

MULDER: Judge, he brought

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Court Reporter

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1 this up, and I feel that --

2 MR. TOBY SHOOK:

Well, I still object

3 to the leading.

4 THE COURT:

Gentlemen, gentlemen,

5 please.

6 MR. TOBY SHOOK:

I'll object to the

7 leading, Judge.

8 THE COURT:

Gentlemen, gentlemen,

9 please, phrase your questions
properly. Stop the

10 bickering and let's get on with it.

11

12 BY MR. DOUGLAS MULDER:

13 Q. And, the

investigators would funnel --

14 you have been locked up in jail since
June the 18th,

15 haven't you?

16 A. Yes, sir.

17 Q. So you are

dependent upon what is fed

18 to you?

19 A. Yes, sir.

20 Q. All right. And,

as a matter of

21 fact --

22

23 MR. DOUGLAS

MULDER: Mark this as my

24 next exhibit.

25

Sandra M. Halsey, CSR, Official
Court Reporter

5018

1 (Whereupon, the
next
2 exhibit was
marked as
3 Defendant's
Exhibit
4 No. 97, after which
5 time, the proceedings were
6 resumed as follows:)

7

8

9 BY MR. DOUGLAS MULDER:

10 Q. All right. Before I get off on
this,
11 he made some to do about you letting your boys go
with
12 this man who molested you?

13 A. Yes, sir.

14 Q. Was your sister with them as
well?

15 A. Yes, that is the only reason
that I
16 let them go.

17 Q. You didn't turn them over to this
man,
18 did you?

19 A. No.

20 Q. Let me show what has been marked
for

21 identification for record purpose as Defendant's
Exhibit

22 No. 97?

23 A. Yes, sir.

24 Q. Okay. Is that a report about the
25 Austins?

Sandra M. Halsey, CSR, Official Court Reporter

5019

1 A. Yes, sir.

2 Q. All right. And I'll ask you if,
prior

3 to the time that you wrote that letter, you received
4 information from this private investigator, that he
had

5 gone down to the Austins' residence, he had heard
about

6 it through the neighborhood?

7 A. Yes, sir.

8 Q. And, he had gone down
to the Austins

9 down --

10

11 MR. TOBY SHOOK: Judge,

I'll object to

12 his leading.

13 MR. DOUGLAS MULDER:

Well, Judge, this

14 is the only way I can ask --

15 MR. TOBY SHOOK: And he

is going into

16 facts not in evidence.

17 MR. DOUGLAS MULDER:

Well, he brought

18 it up.

19 MR. TOBY SHOOK: And,
it is hearsay.

20 THE COURT: Well, let's
just phrase
21 the question right, please.

22

23 BY MR. DOUGLAS MULDER:

24 Q. Did the investigator
tell you that Ms.

25 Austin had let it out to one of the people
in the

Sandra M. Halsey, CSR, Official
Court Reporter

5020

1 neighborhood.

2

3 MR. TOBY SHOOK: Again,

I'll object to

4 leading.

5 MR. DOUGLAS MULDER:

Well, this is the

6 only way I can ask the question, Judge.

7 THE COURT: Well,

gentlemen, please.

8 Well, there are other ways. I'll let you

ask this

9 question in the interest of time. Please.

10 MR. DOUGLAS MULDER:

All right.

11

12 BY MR. DOUGLAS MULDER:

13 Q. That Ms. Austin had

gone down at 2:30

14 or 2:45 in the morning and found her

husband there?

15 A. Yes, sir.

16 Q. Fully dressed?

17 A. Yes, sir.

18 Q. And, as if he had been

out and about

19 that evening?

20 A. That is what I was
told.

21 Q. Okay. And, he had told
her at that
22 time, that he had gotten up, he thought it
might rain.

23

24 MR. TOBY SHOOK: Judge,
again, I'll
25 object to the leading.

Sandra M. Halsey, CSR, Official
Court Reporter

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1 THE COURT: I'll
sustain the
2 objection. One leading question is fine.
Now, phrase
3 the questions, do not testify. I will
sustain the
4 objection.

5

6 BY MR. DOUGLAS MULDER:

7 Q. Well, tell us what else
you were told
8 about this man Austin who lived --

9

10 MR. TOBY SHOOK: And
now I'll object
11 to hearsay, Judge.

12 THE COURT: Sustained.

13

14 BY MR. DOUGLAS MULDER:

15 Q. All right. Austin
lived down the way
16 from you, did he not?

17 A. Yes, sir.

18 Q. And his house is the
same floorplan as

19 yours, isn't it?

20 A. Exactly the same
floorplan.

21 Q. Okay. And, did you
hear from this

22 investigator, that Austin had been out
prowling around,

23 and was --

24 A. Yes, sir.

25 Q. Was --

Sandra M. Halsey, CSR, Official
Court Reporter

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1
2 MR. TOBY SHOOK: Judge,
again --
3 MR. DOUGLAS MULDER: --
caught by his
4 wife --
5 MR. TOBY SHOOK: Again,
I object to --
6 MR. DOUGLAS MULDER: --
coming in at
7 2:30 in the morning?
8 THE WITNESS: Yes, sir.
9 MR. TOBY SHOOK: Judge,
again I object
10 to the leading and the hearsay.
11 THE COURT: Please, Mr.
Mulder, please
12 phrase your questions properly.
13 MR. DOUGLAS MULDER:
Judge, I
14 understand, and I will try to put them as
artfully as I
15 possibly can.
16 THE COURT: Good.
17 MR. DOUGLAS MULDER:
But, you know,

18 she has a right to answer these letters.

19 THE COURT: We do

understand that, and

20 if you will phrase your questions

properly, she may do

21 that.

22

23 BY MR. DOUGLAS MULDER:

24 Q. Well, tell us what you

understood

25 about the Austins, and what precipitated
you writing this

Sandra M. Halsey, CSR, Official
Court Reporter

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1 letter that you thought that Austin was
one of the --

2 incidentally, we don't have that
investigator any longer,

3 do we?

4 A. No, sir, we don't.

5 Q. All right. But tell
the folks on the

6 jury, just what you got about this Austin
fellow being

7 out and prowling around?

8 A. He told me that --

9

10 MR. TOBY SHOOK: Judge,
I'll object to

11 the hearsay.

12 THE COURT: Don't say
that.

13 THE WITNESS: I was
told.

14 MR. TOBY SHOOK: Again,
Judge, I would

15 object to the hearsay. She can't go into
what this

16 investigator told her, it's clearly
hearsay.

17

18 BY MR. DOUGLAS MULDER:

19 Q. Well, what prompted you
to write this
20 letter?

21 A. I thought that the man
had been
22 outside because he had to get laundry at
2:30 in the
23 morning.

24 Q. All right.

25 A. And, he was breathing
very hard when

Sandra M. Halsey, CSR, Official
Court Reporter

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1 he came in. And he was acting strange.

2 Q. Well --

3

4 MR. TOBY SHOOK: Judge,
Judge, again

5 we're going all into hearsay.

6 THE COURT: Well, let's
stay away from

7 hearsay, gentlemen. Just what we know,
direct questions

8 and answers. Let's move along.

9 MR. DOUGLAS MULDER:
Well, Judge, it
10 goes to her state of mind at the time that
she wrote that
11 letter.

12 THE COURT: Well, I
know it does, Mr.

13 Mulder, and if you will ask your questions
in the right

14 way, we can get on with this, and you know
how to do it.

15 MR. DOUGLAS MULDER:
Well, Judge,

16 perhaps you can give me some guidance.

17 THE COURT: Well, I

will be happy to

18 if you will both approach the bench.

19 MR. DOUGLAS MULDER:

All right. I can

20 use all the help I can get.

21 THE COURT: All right.

22 MR. DOUGLAS MULDER:

All right,

23

24 (Whereupon, after a
25 short discussion

Sandra M. Halsey, CSR, Official
Court Reporter

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1 off the record,
2 between the attorneys
3 and the Court, after
which

4 time, the proceedings
were

5 Resumed on the record
6 as follows:)

7

8 MR. DOUGLAS MULDER: I'll ask it
just

9 like you said, Judge.

10 THE COURT: All right. Fine.

11

12 BY MR. DOUGLAS MULDER:

13 Q. Darlie, why did you write those
14 letters?

15

16 THE COURT: Good.

17 MR. DOUGLAS MULDER: Thank you,
Judge.

18

19 BY MR. DOUGLAS MULDER:

20 Q. You can go ahead and tell the
jury

21 why?

22 A. Because at the time, from what I
was

23 being told, that is what I thought.

24 Q. Okay. You are not out being able
to
25 do any investigation on your own, are you?

Sandra M. Halsey, CSR, Official Court Reporter

5026

1 A. No, sir.

2 Q. And, do you know whether or not,
in
3 fact, this investigator had a videotaped interview?

4 A. Yes, sir.

5

6 MR. TOBY SHOOK: Judge, I will --

7 THE WITNESS: He did.

8 MR. TOBY SHOOK: Judge, again
I'll

9 object to the leading, please.

10 THE COURT: I'll let her answer
the

11 question. Go on and answer it, Mrs. Routier, as
12 succinctly as possible.

13 THE WITNESS: Yes, sir, that is
what I

14 was told.

15

16 BY MR. DOUGLAS MULDER:

17 Q. Where the wife said that he is
out in

18 the wee hours of the morning.

19

20 MR. TOBY SHOOK: Judge, I will
object

21 again, to hearsay and leading.

22 THE COURT: Well, I'm going to
let him

23 (sic) answer the question, or we will be here
forever.

24 Now, go ahead.

25 THE WITNESS: Yes, sir. That is
what

Sandra M. Halsey, CSR, Official Court Reporter

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1 I was told.

2

3 BY MR. DOUGLAS MULDER:

4 Q. All right. Your boys had known
his

5 son, hadn't they?

6 A. Yes, sir, they did.

7 Q. With respect to Mize, those
8 investigators also told you about his violent
behavior,

9 didn't they?

10 A. Yes.

11

12 MR. TOBY SHOOK:: Judge, again,
I'll

13 object to hearsay and to the leading nature of the
14 question.

15 THE COURT: Overruled. Let's
move on

16 please.

17 THE WITNESS: Yes, sir, they did.

18

19 BY MR. DOUGLAS MULDER:

20 Q. Went down to the courthouse and
21 checked to find out where he lived, and found out

about

22 him, didn't they?

23 A. Yes, sir, I didn't make up any of
this

24 stuff about these people. This is what was being

told to

25 me from other people.

Sandra M. Halsey, CSR, Official Court Reporter

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1 Q. Of course, you are desperate,
aren't

2 you?

3 A. Yes, sir, very much.

4 Q. Okay. When you talk to your
friends

5 about this, Darlie, are they interested in what
happened

6 to you?

7 A. Yes.

8 Q. Do they want to hear what
happened

9 that night?

10 A. Yes, sir.

11 Q. Have you told your friends about
what

12 happened that evening, as best you recall?

13 A. Yes, sir.

14 Q. Cooperated with the police on
every

15 instance, didn't you?

16 A. Yes, sir.

17 Q. Cooperated with Bill Parker?

18 A. Yes, sir.

19 Q. With Patterson?

20

A. Yes, sir.

21

Q. All of them?

22

A. Yes, sir.

23

Q. Have you told your friends that -

-

24 about the dreams that you have had, or the

nightmares

25 that you have had?

Reporter Sandra M. Halsey, CSR, Official Court

5029

1 A. Yes, sir.

2 Q. Have you told your friends about
the

3 psychic that you talked to?

4 A. Yes, sir.

5 Q. Have you told your friends that
you

6 were involved in some sort of what, fight or
altercation?

7 A. Yes, sir.

8 Q. Were you, in fact, involved in a
fight

9 or altercation?

10 A. Yes, sir.

11 Q. Well, how do you know that?

12 A. Look at me. It's very obvious to
13 anybody with any common sense can see it.

14 Q. Do you know from the looks of your
15 arms, and from these stab wounds in your arms, and
from

16 the stab wounds in your chest and the slash on your
17 throat that you have been involved in a fight with
18 someone?

19 A. Yes, sir.

20

21

MR. DOUGLAS MULDER: I believe

that's

22 all. Thank you.

23

THE COURT: Mr. Shook.

24

25

Reporter Sandra M. Halsey, CSR, Official Court

5030

1

REXCROSS EXAMINATION

2

3 BY MR. TOBY L. SHOOK:

4 Q. Well, these investigators, you
make

5 the statement right here, "I know it's him, I saw
him and

6 I know it's him." They are not "Darlie, you know
it's

7 him. You can go ahead and tell people that"?

8 A. Yes, sir, I was hoping.

9 Q. You were just hoping?

10 A. Yes, sir.

11 Q. Okay.

12

13 MR. TOBY SHOOK: I don't have
14 anything further, Judge.

15 MR. DOUGLAS MULDER: I believe
that's

16 all we have.

17 THE COURT: You may step down,
ma'am.

18 Watch your step going off of there, please, ma'am.

Are

19 you okay?

20 THE WITNESS: Yes, sir.
21 THE COURT: Watch your step
getting
22 off of there, please, ma'am.
23 THE WITNESS: Okay.
24 THE COURT: Are you okay? Go
ahead
25 and get a drink of water. Don't you worry about
it.

Sandra M. Halsey, CSR, Official Court
Reporter

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1 All right. Your next witness,
Mr.

2 Mulder.

3 MR. DOUGLAS MULDER: Your Honor
and

4 ladies and gentlemen of the jury, at this time the
5 defendant will rest her case in chief.

6 THE COURT: All right.

7 MR. GREG DAVIS: Yes, sir, may
we
8 approach for just a minute?

9 THE COURT: You may.

10

11 (Whereupon, a short
12 discussion was

held

13 at the side of

the

14 bench, between the

Court,

15 and the attorneys for

16 both sides in the case,

17 off the record, and

outside

18 of the hearing of the

19 Jury, after which

time,

20

the proceedings were

21

resumed on the

record.)

22

23

THE COURT: All right.

24

MR. GREG DAVIS: Thank you.

25

THE COURT: All right. Members

of the

Reporter Sandra M. Halsey, CSR, Official Court

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1 jury, that's all of the testimony you will be
hearing

2 from the defense on their case in chief.

3 The State has a witness they
want to

4 call in rebuttal, he will be here tomorrow morning
at

5 9:00 and we will be -- I mean, before that, we
will be

6 ready to go then.

7 So, you are excused until
tomorrow

8 morning at 9:00 o'clock. Same instructions as
always.

9 Do not discuss this case among yourselves, because
it is

10 not over yet, or with anybody else.

11 If someone tries talk to you,
tell the

12 bailiff who is with you at the time. Do no
investigation

13 on your own. You will decide this case based on
the

14 testimony you hear and the evidence that you will
receive

15 here in this courtroom.

1 Mr. Birdsong, hold everybody in.

2 THE BAILIFF: Yes, sir.

3

4 (Whereupon, the
jury

5 Was excused from
the

6 Courtroom, and
the

7 Proceedings were
held

8 In the presence of
the

9 Defendant, with
his

10 Attorney, but
outside

11 The presence of
jury

12 As follows:)

13

14 THE COURT: All right. All
right.

15 Let the record reflect that these proceedings are
being

16 held outside of the presence of the jury, and all

parties

17 in the trial are present. All right.

18 MR. JOHN HAGLER: Okay. We're
getting

19 together the letters that they intend to use. It
will

20 just take us a second.

21 THE COURT: Well, just say all of
the

22 letters.

23 MR. DOUGLAS MULDER: Okay. We are
24 ready now. All right.

25 THE COURT: Back on the record
now.

Sandra M. Halsey, CSR, Official Court Reporter

1 MR. JOHN HAGLER: Okay. Your
Honor,
2 pursuant to the agreement with the Court, we make our
3 objections to the testimony, regarding the cross
4 examination of the appellant by use of --

5 THE COURT: The defendant.

6 MR. JOHN HAGLER: I'm sorry.
Judge,

7 I'm just used to writing -- or dictating briefs.

8 THE COURT: I know you are, Mr.
9 Hagler.

10 MR. JOHN HAGLER: The defendant,
by
11 use of her written correspondence to various
individuals.

12 And, your Honor, the Court stated that we could make
this
13 objection, to the use of all of those documents. At
the
14 present time, we would offer into evidence those
15 documents which we have mark as -- which will be
marked

16 as Defendant's Exhibit, whatever the next number is.

17 THE COURT: All right. We will
make

18 it Defendant's Exhibit 98.

19

20

(Whereupon, the following

21

mentioned item was

22

marked for

23

identification only

24

as Defendant's Exhibit No. 98

25

after which time the

Sandra M. Halsey, CSR, Official Court Reporter

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

5
6 MR. JOHN HAGLER: And, your Honor,
we
7 would submit, that under 39.14, under the Texas Code
8 of --

9 THE COURT: Be quiet, please.

Thank
10 you.

11 MR. JOHN HAGLER: All right.

Thank
12 you. All right.

13 And, we're entitled to all written
14 statements made by the defendant. These statements,
15 it
16 is our understanding, and we will ask the prosecutor
the
17 question as to whether or not these letters, were
copied
18 at the time that they were forwarded or sent from the
jail by the sheriff's department.

19 MR. TOBY SHOOK:: These letters

are

20 copies that were in possession of Kerr County

Sheriff's

21 office. It was our understanding that they copied

all

22 mail going in, and all mail going out.

23 They would not give us possession

of

24 these. We subpoenaed these today, we subpoenaed all

of

25 the correspondence today, and it got over here this

Sandra M. Halsey, CSR, Official Court Reporter

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1 afternoon. I have looked at a lot of these letters.
2 Prior to that, we were allowed to view it, but we
were
3 not allowed to take it away, or to make copies.

4 On the 27th of December, of '96,
5 Preston Douglass and Lloyd Harrell were up at the
office,

6 and I was showing them photographs on behalf of Mr.
7 Davis. I told Mr. Douglass at that time, that the
Kerr

8 County Sheriff had made copies of the mail, but would
not

9 give us possession of them. So they were informed at
10 that time. We didn't have possession of them, and
we

11 didn't have possession of them until today, Judge.
We

12 were allowed to look at them.

13 THE COURT: All right. That's
fine.

14 All right.

15 MR. JOHN HAGLER: Well, just one
16 thing, your Honor. Of course, it is our position,
that

17 the Kerr County Sheriff's Department is simply an
arm of

18 the State, and the State did, in fact, have
constructive
19 custody of these documents, and we were never given
20 proper notice, and at the time of -- prior to the
time of
21 the trial, the time that the statements of the
defendant
22 were tendered, pursuant to this Court's discovery
order,
23 And therefore, in view of Article 39.14 or 38.14 we
would
24 urge that -- we would urge for a mistrial at this
time,
25 as a result of the use of these documents without
proper

Sandra M. Halsey, CSR, Official Court Reporter

1 discovery.

2 THE COURT: All right. Motion for
3 mistrial is denied. And your objection, I assume you
are

4 objecting?

5 MR. JOHN HAGLER: To the use of
these

6 documents.

7 THE COURT: That is overruled.
You

8 have running objection back from the start, as you
did

9 approach the bench, and you have a running objection
from

10 the start of the presentation of these documents.

11 MR. JOHN HAGLER: Okay. And,
these

12 documents, your Honor, they will be an exhibit?

13 THE COURT: They will be an
exhibit,

14 you bet, you bet. Get them all in there.

15 This is off the record. See
everybody

16 first thing in the morning.

17

18 (Whereupon, Defendant's

19 Exhibit No. 98 was
20 admitted in
evidence
21 as Court's
Exhibit.)
22
23 (Whereupon, the
24 proceedings were
25 recessed for the
day,

Sandra M. Halsey, CSR, Official
Court Reporter

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1 to be resumed the
2 following day,
3 January 30th,
1997, at
4 9:00 A.M., in open
5 court, as follows:)
6
7 (These proceedings are continued
to
8 the next volume in this cause.)
9
10
11
12
13
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24

Reporter Sandra M. Halsey, CSR, Official Court

1 CERTIFICATION PAGE

2

3 STATE OF TEXAS)

4 COUNTY OF DALLAS)

5

6 I, Sandra M. Halsey, Official Court Reporter
of

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

8 do hereby certify that I reported in Stenograph
notes,

9 the foregoing proceedings, and this Statement of
Facts

10 contains a true, complete and accurate transcript of
all

11 the proceedings held in this cause, on the date or
dates

12 as indicated.

13

14

15

16

Sandra M. Halsey, CSR

#308

17

Official Court Reporter

18

Criminal District Court

No. 3

19

Dallas County, Texas

20

21 Cert. #308

22 Exp. 12-31-98

23

24

25

Sandra M. Halsey, CSR, Official Court Reporter

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JUDGE'S CERTIFICATE

I, Mark Tolle, am Judge of this court,

Criminal

District Court Number 3, of Dallas County, Texas. I

hereby certify that the foregoing transcript is true
and

correct, to the best of my knowledge, as certified by

the Official Court Reporter of this Court.

20
21
No. 3

MARK TOLLE, JUDGE
Criminal District Court

22

Dallas County, Texas

23

24

25

Sandra M. Halsey, CSR, Official Court Reporter

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Sandra M. Halsey, CSR, Official Court Reporter

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