

1 IN THE CRIMINAL
DISTRICT COURT NO. 3

2 DALLAS
COUNTY, TEXAS

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5

6 THE STATE OF TEXAS }

NO. F-96-39973-J

7 VS: }

& A-96-253

8 DARLIE LYNN ROUTIER }

Kerr Co. Number

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12

13 REPORTERS

RECORD

14 JURY

TRIAL

15 VOL. 45 OF

53 VOLS.

16 January

30, 1997

17

Thursday

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Sandra M. Halsey, CSR.,
Official Court Reporter

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I O N

C A P T

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4 BE IT REMEMBERED THAT, on
Thursday, the 30th day of

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

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

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

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

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

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

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

12 follows:

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Sandra M. Halsey, CSR.,
Official Court Reporter

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A P P E A R

A N C E S

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5

HON. JOHN VANCE

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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

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4 Attorney at Law

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9 AND: HON. CURTIS GLOVER

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15 AND: HON. RICHARD

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1

2 AND: HON. JOHN

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6 ALL ATTORNEYS REPRESENTING

THE

7 DEFENDANT: DARLIE ROUTIER

8 MR. HAGLER HANDLING THE

APPEAL

9 AND:

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11 Attorney at Law

12 820 Main Street, Suite 211

13 Kerrville, TX 78028

14 APPEARING FOR: Witness-

15 Detective Jimmy

Patterson

16 only on one date in

trial

17 AND:

18 HON. STEVEN J. PICKELL

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22

APPEARING FOR: Witness

23

Officer Chris Frosch

24

only on one date in

trial

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Sandra M. Halsey, CSR., Official
Court Reporter

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

January 30th, 1997
Thursday
9:00 a.m.

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

THE COURT: All right. Today is

20 Thursday, January 30th, 1997.

21 All right. Let the record
reflect

22 that these proceedings are being held outside of the
23 presence of the jury and all parties in the trial
are

24 present.

25 Mr. Hagler.

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1 MR. JOHN HAGLER: Your Honor, at
this
2 time, you know, we would object to any testimony
through
3 this witness, Mr. Parker, who, it's our
understanding,
4 interrogated the defendant after which time she -- an
5 arrest warrant had been issued for her.
6 And, it is our understanding, it
was a
7 lengthy interrogation. And we anticipate that Mr.
Parker
8 is going to be testifying to the oral statements made
by
9 the defendant.
10 Your Honor, we're fully aware of
the
11 provisions of 38.22, Section 5 of the Texas Code of
12 Criminal Procedure, which allows the admission
into
13 evidence of certain statements, more
specifically,
14 voluntary statements that has a bearing upon
the
15 credibility of the accused as a witness. And we
don't

16 quarrel with that, naturally.

17 But our position, your Honor, is
that

18 if they intend to elicit testimony through this
witness,

19 it should be limited -- must be limited as to only
those

20 statements of the defendant that has a bearing on
her

21 credibility, in other words, impeachment-type
testimony,

22 as opposed to allowing them to go through an entire
--

23 eliciting from this witness, any and all statements,

24 interrogations and what have you, made by the
defendant

25 while she was interrogated by this individual, while
she

1 was in custody.

2 And, we would further urge, that
even

3 though Mr. Parker is not presently a law enforcement
4 officer, he was there, acting as an agent of the
state,

5 and therefore, the provision 38.22 is applicable.

6 THE COURT: Anything, Mr. Davis?

7 MR. GREG DAVIS: No, sir. I
don't

8 have any response to that.

9 THE COURT: All right. Well, the
10 Court yesterday found that the witness -- that Mrs.
11 Routier had been properly Mirandized, and the
statement

12 was voluntarily given. So the Court would admit Mr.
13 Parker's testimony and enter appropriate findings
of

14 facts and conclusions of law in these -- in this
area,

15 and place it in the record of the trial. And I
assume

16 you will object to this.

17 MR. JOHN HAGLER: Well, as to
the --

18 we have not really had any hearings on the

voluntariness.

19 Of course, we don't -- apparently, there is no
dispute

20 about the fact she was given Miranda warnings.

21 THE COURT: All right.

22 MR. JOHN HAGLER: And, I don't
think

23 there is any question of the fact that this is going
to

24 be a custodial interrogation; is that correct?

25 MR. GREG DAVIS: That's correct.
She

Sandra M. Halsey, CSR., Official Court Reporter

1 was advised that an arrest warrant had been secured
for

2 her.

3 THE COURT: She was properly
4 Mirandized.

5 MR. GREG DAVIS: She was.

6 THE COURT: She was properly
7 Mirandized.

8 MR. GREG DAVIS: Judge, I think we
can

9 cut to this. I'm going to limit my direct
examination of

10 Mr. Parker to the areas that we discussed yesterday
11 during the defendant's testimony. I don't intend to
12 go
13 through all three hours that he spent with her.

14 THE COURT: Well, fine. With that
15 understanding, then I am going to admit it, and I'll
16 make
17 the appropriate findings of facts and conclusions of
18 law.

19 MR. DOUGLAS MULDER: Judge, why
don't
we find out what it is.

MR. GREG DAVIS: Yes, sir, I can
summarize it.

20 THE COURT: Can you summarize it
21 quickly?

22 MR. GREG DAVIS: Yes, sir. I
believe

23 Mr. Parker is going to testify that he met with her
on

24 June the 18th. He did Mirandize her. That she
agreed to

25 talk with him. That during the course of that

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1 conversation that he had with her, he did, in fact,
have

2 her voluntary statement with him. That he showed
that to

3 the defendant. That he gave her the opportunity to
read

4 the voluntary statement. That she did, in fact,
appear

5 to read the voluntary statement. And, that he asked
her

6 whether or not the contents of that voluntary
statement

7 were true, and she stated that they were.

8 We also intend to ask her (sic)
about,

9 ask Mr. Parker about whether or not he confronted the
10 defendant about whether or not she had killed her
11 children, on more than one occasion during the
12 conversation. He will testify that he did.

13 He will testify that she never
denied

14 killing her children, and that when confronted that
she

15 said, "If I did it, I don't remember." And I believe

16 those were the areas that the defendant testified
about

17 yesterday.

18 THE COURT: All right. Fine. If
you

19 will raise your right hand, please, sir.

20

21 (Whereupon, the witness

22 Was duly

sworn by the

23 Court, to

24 speak the truth,

25 The whole

truth and

25 Nothing but

the truth,

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Official Court Reporter

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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 THE COURT: All
right. Have a seat

11 right there.

12 You are under
the Rule of Evidence.

13 You understand what that means?

14 THE WITNESS:
Yes, sir.

15 MR. JOHN HAGLER:
Just so the record

16 is clear, your Honor, again, we,

again, would reurge our
17 objection to any and all testimony
for the previous
18 reasons stated.

19 THE COURT:

Thank you. Overruled.

20 MR. JOHN HAGLER:

Could we have a

21 running objection to his testimony?

22 THE COURT: Yes.

Thank you. You may.

23 All right, bring
the jury in.

24

25 (Whereupon, the
jury

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1 Was returned to
the
2 Courtroom, and
the
3 Proceedings
were
4 Resumed on the
record,
5 In open court, in
the
6 Presence and
hearing
7 Of the defendant,
8 As follows:)
9
10 THE COURT: Let the record
reflect
11 that all parties in the trial are present, and the
jury 12 is seated.
13 Ladies and gentlemen of the jury,
this
14 witness has already been sworn outside of your
presence. 15 Mr. Davis.
16 MR. GREG DAVIS: Thank you, judge.
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Sandra M. Halsey, CSR., Official Court Reporter

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1 Whereupon,

2

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4

WILLIAM M. PARKER,

5

6 was called as a witness, for the State of Texas, in

7 Rebuttal, having been first duly sworn by the Court,

to

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

9 truth, was examined and testified in open court, as

10 follows:

11

12

DIRECT EXAMINATION

13

14 BY MR. GREG DAVIS:

15

16 Q. Sir, would you please tell us your
full name?

17

18 A. My name is Bill Parker, William M.
Parker.

19

20 Q. All right. Mr. Parker, are you
presently employed as a private investigator in
Dallas?

21

A. Yes, sir, I am.

22

23 Q. Do you own your own business at
this

time?

24
25
a

A. Yes, sir, I do.

Q. How long have you been employed as

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1 private investigator in Dallas, sir?

2 A. Since 1985.

3 Q. Now, prior to 1985, would you tell
the

4 members of the jury how you were employed.

5 A. I was a police officer for the
City of

6 Dallas.

7 Q. All right. How long --

8

9 THE COURT: You may have to speak

a

10 little bit louder because those two -- the jurors at
the

11 end have to hear you.

12 THE WITNESS: Okay.

13

14 BY MR. GREG DAVIS:

15 Q. How long were you a member of the
16 Dallas Police Department, sir?

17 A. Twenty years.

18 Q. All right. And, when you
retired from

19 the Dallas Police Department in 1985, what
section or

20 division were you assigned to?

21 A. I was assigned to the homicide
unit.

22 Q. What were your
responsibilities in
23 that section?

24 A. I was a first-line supervisor.

25 Q. All right. And, how long had
you been

Reporter Sandra M. Halsey, CSR., Official Court

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1 assigned to the homicide division?

2 A. Eleven plus years.

3 Q. Okay. In the course of the
eleven

4 plus years that you spent in the homicide
division, I

5 take it that you had occasion to investigate
homicides;

6 is that right?

7 A. Yes, sir.

8 Q. Can you give the members of the
jury

9 an estimate of the number of homicides that you
10 investigated during your career as a Dallas Police
11 Officer, sir?

12 A. Three hundred a year, actual
murders

13 would be a conservative figure.

14 Q. All right.

15 A. Sometimes four hundred, but
three

16 would be safe.

17 Q. Would it be fair to say then
that you

18 were involved in say three to four thousand

homicides

19 during your career?

20 A. Yes, sir.

21 Q. And during that time period,
did you

22 have occasion to interview persons accused of
homicides?

23 A. Yes, sir, many of them.

24 Q. Can you give us any number

there, of

25 the number of interviews that you may have
conducted with

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Reporter

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1 persons accused of homicide?

2 A. Several hundred, probably
several

3 hundred, possibly as many as a thousand.

4 Q. Okay. Sir, I want to direct
your

5 attention now to June the 18th of 1996. And on
that

6 date, did you have occasion to go to the Rowlett
Police

7 Department?

8 A. Yes, I did.

9 Q. And directing your attention to
10 sometime after 6:00 P.M. on that date, did you have
11 occasion to meet an individual by the name of Darlie
Lynn

12 Routier?

13 A. Yes, sir.

14 Q. Do you see that person in the
15 courtroom this morning?

16 A. Yes, sir, I do.

17 Q. Could you please point her out?

18 A. The lady over here to my left in
the
19 gray jacket.

20 Q. Okay.

21

22 MR. GREG DAVIS: Your Honor, may

the

23 record please reflect this witness has identified

the

24 defendant in open Court.

25 THE COURT: Yes, sir.

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1

2 BY MR. GREG DAVIS:

3 Q. Sir, when you first met Darlie
4 Routier, where were you in the Rowlett Police
Department?

5 A. We were in an interview room type
area
6 in the criminal investigation division.

7 Q. All right. At some point then,
did
8 you meet where it was just you and Mrs. Routier
together?

9 A. Yes, sir.

10 Q. All right. And, did she know who
you
11 were?

12 A. Yes, sir.

13 Q. Okay. Did you discuss with her
why
14 you wanted to meet with her?

15 A. Yes, I did.

16 Q. All right. And did you, during
the
17 course of that conversation, give Mrs. Routier her
18 Miranda rights?

19 A. Yes, sir, I did.

20 Q. What was the purpose of you
giving

21 those Miranda warnings to Mrs. Routier?

22 A. Well, it was my understanding
it's a

23 requirement of the law, even though I'm not a police

24 officer, I'm acting as their agent. It's a

requirement

25 of the law to give those warnings and admonitions
before

1 any discussions.

2 Q. So it's my understanding, the
Rowlett

3 Police Department had requested that you come there
for

4 the purpose of speaking with Mrs. Routier; is that
5 correct?

6 A. That's correct.

7 Q. Even though you are not still an
8 active police officer, you did give her the same
Miranda

9 warnings that an active police officer would give
her; is
10 that right?

11 A. That's correct.

12 Q. And can you demonstrate for the
jury

13 how you gave those warnings to Mrs. Routier that
evening?

14 A. Demonstrate?

15 Q. Yes, sir.

16 A. Yes, sir. I read them from a
standard

17 card, Miranda warning card.

18 Q. Okay. Do you have one of those

cards

19 with you this morning, Mr. Parker?

20 A. Yes, sir.

21 Q. Could you read those warnings this
22 morning in the same way that you read them to Mrs.
23 Routier that evening?

24 A. Yes, sir. "You have the right to
25 remain silent and not make any statement at all. Any

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1 statement you make may be used against you at your
2 trial."

3 And I stopped at that point, and
asked

4 her if she understood that right.

5 Q. What was her response?

6 A. She indicated yes, that she did.

7 Q. Okay.

8 A. "Any statement you make may be
used as

9 evidence against you in court."

10 And again, I stopped and asked her
if

11 she understood that right, and she indicated that she
12 did.

13 Q. All right.

14 A. I then read item 3. "You have the
15 right to have a lawyer present to advise you, prior
16 to
17 and during any questioning."

18 And I stopped at that point, and I
19 asked her if she understood that right, and she
indicated

20 that she did.

"If you are unable to employ a

lawyer,

21 you have the right to have a lawyer appointed to
advise

22 you, prior to, and during any questioning."

23 And I stopped there and asked her
if

24 she understood that and she indicated that she did.

25 "And you have the right to
terminate

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1 the interview at any time."

2 And I asked her if she understood
that

3 and she indicated that she did.

4 Q. All right. Mr. Parker, while you
were

5 giving those Miranda warnings to the defendant, did
she

6 appear to understand what you were saying to her?

7 A. Yes, sir.

8 Q. Did you believe that her responses
9 were appropriate to the questions that you were
asking

10 her?

11 A. Oh, yes, sir.

12 Q. Did she appear to be impaired in
any

13 way during the time that you were giving those
warnings

14 to her?

15 A. No, sir, not at all.

16 Q. I believe that I asked you
previously

17 whether or not she appeared to know who you are. In
18 fact, had you met her briefly the day before?

19 A. Yes, sir, I had.

20 Q. And, had you introduced yourself
to
21 her?

22 A. Yes, I did.

23 Q. Okay. Now, after you gave the
Miranda

24 warnings to Mrs. Routier, did you begin having a
25 discussion with her?

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1 A. Yes, I did.

2 Q. And sir, let me ask you: During
the
3 course of that discussion that you had with the
4 defendant, did the subject of her voluntary statement
5 come up?

6 A. Yes.

7 Q. Did you have a copy of her
handwritten
8 voluntary statement with you at the time that you
were
9 speaking with her?

10 A. Yes, I did.

11 Q. Do you know the statement that
we're
12 talking about? A 10-page handwritten statement in
her
13 handwriting?

14 A. Yes, sir.

15 Q. Is that the one that you are
speaking
16 of?

17 A. That is the one I'm speaking of,
yes.

18 Q. Did you show that voluntary

statement

19 to Mrs. Routier?

20 A. Yes, sir, I did.

21 Q. And, did you ask Mrs. Routier to
read

22 that voluntary statement in your presence?

23 A. I didn't ask her to read it. I
showed

24 it to her and suggested that she read it.

25 Q. All right. What did she do when
you

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1 suggested that she read the voluntary statement?

2 A. She appeared to be reading it.

She

3 looked at it.

4 Q. Okay. Can you demonstrate for the

5 members of the jury what you mean when you say that
she

6 appeared to be reading the statement?

7 A. Well, I placed it on the table and
she

8 appeared to be reading it. From time to time, she
would

9 use her finger, she gave every indication that she
was

10 reading it.

11 Q. All right. Mr. Parker, let me
show

12 you Defendant's Exhibit 76-A. And does that appear
to be

13 the voluntary statement of Darlie Routier that you
handed

14 to her on June the 18th, sir?

15 A. Yes, sir, it's a copy of it.

16 Q. All right. And again, when she
took

17 that document from you, again, with the document now
in
18 your hand, can you demonstrate what she appeared to
do
19 with it in your
presence?

20 A.

Yes.

21 Q. Okay. For the record, you have
been
22 looking at pages and you have been following with
your
23 finger as you went along; is that right?

24 A. Yes, sir.

25 Q. Did Mrs. Routier, to your
knowledge,

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Reporter

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1 look at all 10 pages of that voluntary statement
while

2 you were with her?

3 A. Yes, sir, I believe so. It
appeared

4 that she did. She took more time on some pages
than

5 others.

6 Q. You did it fairly quickly there
for

7 the jury. How much time did Mrs. Routier spend
looking

8 at that voluntary statement, sir?

9 A. Three or four minutes. She went
10 through the first few pages of it pretty rapidly.

She

11 took a little longer on some of the others. And
then

12 went through the closing pretty quickly.

13 Q. All right. When she concluded
with

14 the voluntary statement, did you have a discussion
with

15 Mrs. Routier about whether or not she wanted to
make any

16 changes, corrections or any alterations to that
voluntary

17 statement, sir?

18 A. Yes, I did.

19 Q. What did you -- what, if
anything, did

20 you say to her?

21 A. I asked her if, since the time
she had

22 given that statement, if she had had -- anything
else had

23 occurred to her that she needed to add to this,
or she

24 would like to add to this, or if there was
anything in

25 there that didn't express what she was trying to
express,

Sandra M. Halsey, CSR., Official Court
Reporter

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1 that she needed to clarify.

2 Q. Okay. And what was her
response?

3 A. No, that is exactly what
happened.

4 Q. That is exactly what happened?

5 A. That is exactly what happened.

6 Q. Okay. Mr. Parker, I now want to
turn

7 to another subject. During your discussions with
Mrs.

8 Routier -- first of all, how long were you with Mrs.

9 Routier that evening?

10 A. About three hours.

11 Q. And, during the three hours that
you

12 spent with her, were there occasions, sir, where you

13 confronted her with the fact that you believed that
she

14 had killed her children?

15 A. Yes.

16 Q. Do you have an estimate of the
number

17 of times that you confronted the defendant with
that?

18 A. At least six times, probably,
absolute

19 minimum, 10 or 12 times, a dozen times maximum.

20 Q. Okay. And, during the times
that you

21 confronted her with that, did Mrs. Routier ever,
ever

22 deny killing her children?

23 A. No, sir. She did not.

24 Q. Do you recall what statements,
if any,

25 that she made to you, when you confronted her with
the

 Sandra M. Halsey, CSR., Official Court
Reporter

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1 fact that you thought she had killed her children?

2 A. Yes, sir, I do. She always had
the

3 same verbal response, "If I did it, I don't
remember."

4 One occasion, she just didn't respond at all, she
just

5 shrugged her shoulders.

6 Q. Mr. Parker, at the conclusion
of your

7 conversation, was the defendant placed under
arrest?

8 A. Well, it was my understanding
she was

9 under arrest at the outset of the -- of our
conversation

10 and I explained that to her.

11 Q. I take it then that the
Rowlett Police

12 Department then took her into their custody at
the end of

13 your conversation; is that right, sir?

14 A. Oh, yes, sir.

15

16 MR. GREG DAVIS: I'll pass the

17 witness, your Honor.

18

19

20 CROSS EXAMINATION

21

22 BY MR. DOUGLAS MULDER:

23 Q. Mr. Parker, just a thing or
two. You

24 said you were a homicide officer for about 11
years?

25 A. Yes, sir, that's true.

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Reporter

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1 Q. And that was from what period
to what
2 period?

3 A. 1973 to early part of 1985.

4 Q. All right. '73 to '85?

5 A. Yes, sir, that's correct.

6 Q. All right. And approximately
how many

7 murders were committed in Dallas County during
each year,

8 just approximately?

9 A. Oh, Mr. Mulder, it varies
quite a bit.

10 Q. Three to five hundred?

11 A. Yeah. Each year it got more
and more.

12 I don't recall the stats.

13 Q. Would it be fair to say that
it

14 probably ranged anywhere from four hundred,
probably, in

15 the county on up to maybe five hundred or five
hundred

16 and fifty?

17 A. I don't remember it ever

breaking five

18 hundred. I can get that information for you
exactly, if

19 you'd like.

20 Q. No, if we have got it
approximate,

21 that is fine. But you don't recall it breaking
five

22 hundred?

23 A. No, sir, I don't.

24 Q. Okay. So fair to say, it
ranged from,

25 what, a low of three hundred to five hundred,
maybe?

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Reporter

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1 A. No, sir, I would say it's
three to

2 four hundred.

3 Q. Three to four hundred?

4 A. That is my best recollection.

5 Q. I'm talking about in the
county?

6 A. Well, I'm not certain about
the

7 county. I'm talking about the city. I
misunderstood

8 you, I'm sorry.

9 Q. Well, maybe I didn't make
myself

10 clear, but there would be perhaps another hundred
that

11 occur in the county outside of the City of Dallas.

Is

12 that not a fair statement?

13 A. I think that would be a fair
guess,

14 yes.

15 Q. Okay. So if there were three
hundred

16 say in 1973 in the City of Dallas, it might be

another

17 hundred or so in the rest of the county of Dallas?

18 A. Might be.

19 Q. All right. Fair to say that
probably

20 70 to 75 percent of the murders committed in Dallas

21 County are committed in the City of Dallas?

22 A. Again it is a guess, I would say
that

23 would be a fair estimate, yes, sir.

24 Q. And the vast majority of those
that

25 are committed outside of the City of Dallas are
probably

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1 committed in Grand Prairie, Mesquite, Irving and
Garland.

2 Would you not say, the major suburbs of Dallas?

3 A. I would assume that, but I really
have

4 no idea.

5 Q. Okay.

6 A. I would assume that would be a --

7 Q. All right. Well, that makes
sense

8 though?

9 A. Logically so, yes, sir.

10 Q. There probably are not many
murders

11 committed in the unincorporated areas of Dallas
County.

12 Would that be fair to say?

13 A. Well, yes, sir. The city absorbs
the

14 lion's share of the County of Dallas, so, yes.

15 Q. Okay. And, the vast majority of
16 Dallas County is incorporated by one city or another,
17 isn't it?

18 A. Yes, sir, it is.

19 Q. Okay. So, those falling under the

20 sheriff's jurisdiction, which would be the
unincorporated

21 area of Dallas County, would be very few, wouldn't
they?

22 A. Well --

23 Q. Ten or twelve a year?

24 A. When you say under their
jurisdiction,

25 I'm not sure that I understand what you are asking
me.

Sandra M. Halsey, CSR., Official Court Reporter

1 They have county-wide jurisdiction as police
officers.

2 Q. Yes, sir, but --

3 A. The entire county.

4 Q. But as a matter of fact, Mr.
Parker,

5 the Sheriff in Dallas County, the only area he
patrols is

6 the unincorporated areas of Dallas County and any
small

7 suburb with whom he might have a contract. Is that
not

8 fair?

9 A. I think that would be, in terms
of

10 patrol, that would be true. They're very active.

The

11 county is very active in terms of their assistance to
the

12 smaller police departments throughout the county, in

13 terms of the physical evidence units, and that

sort of

14 thing. They become active in many of those areas.

15 Q. Garland has their own, of
course,

16 police force and physical evidence unit, don't
they?

17 A. Yes, sir, I believe they do.

18 Q. And so does Irving and so does
Grand

19 Prairie and so does Mesquite, don't they?

20 A. I know Mesquite does. I don't
know

21 about the others. I assume they do.

22 Q. Well, you work with Irving some,
don't

23 you?

24 A. No, sir. If I have done anything
for

25 Irving, it's been so long, I don't remember. I'm
sure I

1 may have at some point in time.

2 Q. All right. There are -- other
than

3 the major suburbs of Dallas, there are probably
another,

4 what, 14 or 15 or 16, maybe, little suburbs that --
5 Sunnyvale, things like that?

6 A. In the County of Dallas?

7 Q. Yes, sir.

8 A. Oh, I'm sure there is, yes.

9 Q. Now, Mr. Parker, I would assume
that

10 you were called in as an advisor in this case?

11 A. Yeah, I think that would be a
fair

12 characterization.

13 Q. Okay. And were you paid for your
14 services?

15 A. Well, they agreed to pay me. I
have

16 not been paid.

17 Q. Have you submitted a statement
yet?

18 A. No, I haven't.

19 Q. All right. You expect to be paid

by

20 them?

21 A. Yes, I do.

22 Q. Okay. And how do you charge for
23 something like this, where you come in as an advisor?

24 A. I made an agreement with the --
25 discussed it with the chief of police.

Sandra M. Halsey, CSR., Official Court Reporter

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1 Q. Okay. And would you share that
with
2 us?
3 A. The discussion or the agreement?
4 Q. Well, just tell us the dollar
amount.
5 A. You want the amount? Is that what
you
6 want?
7 Q. Yes.
8 A. One dollar.
9 Q. Okay. So you are basically just
doing
10 this as a gratis?
11 A. Basically, yeah, exactly.
12 Q. Okay.
13 A. One dollar.
14 Q. Well, I assume that you have not
been
15 paid yet though, have you?
16 A. I have not.
17 Q. All right.
18 A. In fairness, I have not invoiced
them
19 yet, either.

20 Q. I assume you will be paid for
your --

21 reimbursed for your expenses, won't you?

22 A. I hope so, yes, sir.

23 Q. Okay. The DA's office taking
care of

24 your room and board and that sort of thing?

25 A. They haven't yet.

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1 Q. Well, you haven't checked out
yet,
2 have you?
3 A. No.
4 Q. Did you come in last night?
5 A. Yes, sir, I did.
6 Q. Did you drive down or fly down?
7 A. I flew down.
8 Q. To San Antonio?
9 A. Yes, sir.
10 Q. Now, did you call Rowlett or did
they
11 call you?
12 A. They called me.
13 Q. Okay. And, do you know who
called
14 you, do you recall who called you?
15 A. No, it was one of the detectives,
I
16 believe. I don't recall which one.
17 Q. Okay.
18 A. I don't know -- until I was
involved
19 out there, I don't know many of those people on a
20 personal basis.

21 Q. Okay. Hadn't worked with them
before

22 on any cases of theirs?

23 A. Never.

24 Q. Okay. And, don't remember who
called
25 you?

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1 A. No, sir, I don't.

2 Q. Okay. Did you go out there, I
guess
3 the 17th?

4 A. I think it was the 16th, but I'm
not
5 certain about that.

6 Q. 16th? Okay.

7 A. A couple of days before the arrest
was
8 made.

9 Q. Okay. And did you meet with the
10 detectives out there?

11 A. Yes, sir, I did.

12 Q. Okay. And was your purpose in
meeting
13 with them to go over their reports or their evidence?

14 A. Yes.

15 Q. Okay. And, do you recall who you
met
16 with out there?

17 A. There were a lot of them, Mr.
Mulder.

18 Q. Six or eight?

19 A. Six or eight probably, yes.

20 Q. Okay. You met in one of the

21 conference rooms out there, did you?

22 A. Yes, we did.

23 Q. The chief was there I guess,
wasn't

24 he?

25 A. He was.

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1 Q. And you formalized your agreement
at

2 that time I suspect?

3 A. I did.

4 Q. Okay. And how long did you go
over

5 the evidence with them?

6 A. I spent most of that day out
there,

7 several hours. I didn't keep up with the time. Most
of

8 the day and late into the evening.

9 Q. Yes, sir. Did you go out to the
10 scene?

11 A. Not at that time. I did
subsequently.

12 Q. When did you go out to the scene?

13 A. The following day. I think it was
the

14 17th, but I'm not certain.

15 Q. Okay. How long did you spend with
16 them, Mr. Parker, on the 16th?

17 A. I'm sorry?

18 Q. How long did you spend out at
Rowlett

19 the 16th?

20 A. The police department?
21 Q. Yes, sir.
22 A. The first day out there?
23 Q. Yes, if that was the 16th.
24 A. I think it was the 16th. Seven or
25 eight hours.

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1 Q. Seven or eight hours?

2 A. I think so, yes.

3 Q. Okay. And that was spent
interviewing
4 the officers?

5 A. No, it was not.

6 Q. Okay. Did you look at
photographs?

7 A. I looked at photographs.

8 Q. Okay. Did you look at all of the
9 photographs that were taken?

10 A. I looked at a considerable number
of
11 them.

12 Q. Several hundred?

13 A. It was considerable number of
14 photographs. I, of course, didn't count them. A
lot, a
15 lot of photographs.

16 Q. Did you give them any suggestions
on
17 taking photographs?

18 A. No, I did not.

19 Q. Did you -- were you able to piece
20 together what had happened through the photographs,

or at

21 the crime scene?

22 A. Yes, sir, some, to some degree.

That

23 and a sketch of the floorplan.

24 Q. Did you think it was curious that

they

25 didn't have overall shots of the scene, like you
would

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1 get, if you backed into a corner and shot all around
and

2 went to another corner and went to various
extremities of

3 the room?

4 A. Well, they did. They had a video,
5 that I looked at, a video that showed great detail.

6 Q. You have looked at a video?

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

9 Q. Okay. How about photographs? Did
you

10 find any photographs that were shot from the
extremities

11 of the room?

12 A. Not that I recall.

13 Q. Okay.

14 A. Most of them appeared to be pretty
15 tight shots as I recall.

16 Q. Mr. Parker, did you interview the
17 paramedics?

18 A. No, sir, I did not.

19 Q. Did you review any of their
reports?

20 A. No, sir, I don't believe I did.

21 Q. Okay. Is it fair to say, and when
you
22 talk about three or four hundred cases a year that
you,
23 as a supervisor, familiarize yourself with, you are
not
24 talking about going to the scene of three or four
hundred
25 murders a year, are you?

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1 A. No, sir.

2 Q. You are just talking about
reviewing.

3 I assume you reviewed the homicide reports that came
into

4 your unit?

5 A. Yes, of course, I reviewed every
one

6 of those, and I would say I went to the scene at
least

7 half of those now. You go out on many death
cases, a

8 couple of hundred, or two or three hundred
suicides a

9 year, that sort of things.

10 Q. Okay. Those would be -- I'd take
it,

11 the cases in Dallas that you saw, how many would you
12 handle personally?

13 A. I had some role in at least half
of

14 those cases, probably more.

15 Q. Would that be just going out to
the

16 scene and making suggestions to the officers to whom

the

17 case was assigned?

18 A. In some cases. More often than
not, I

19 had a more active role than that.

20 Q. Okay. You would take part in
21 interrogation of the witnesses?

22 A. Yes, sir.

23 Q. Okay. And many times
interrogating

24 the suspect or the accused?

25 A. Yes, sir.

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1 Q. Okay. But at any rate, with the
crime
2 scenes that you have seen, Mr. Parker, is it not fair
to
3 say, that practically all crime scenes are
contaminated
4 to one degree or another?

5 A. Yes.

6 Q. That is fair to say, isn't it?

7 A. I agree with that.

8 Q. Okay. And it is especially so if
9 there have been paramedics, or the first responders
on
10 the scene were paramedics, it's especially so, isn't
it?

11 A. Yes, sir, that is a common
problem at
12 crime scenes.

13 Q. Okay. And you can multiply that
if
14 there are multiple victims, can't you?

15 A. Well, I don't know about that.

16 Q. Well, it --

17 A. Well, it has to do with the
18 physical -- the size of the physical area more than,

I

19 would think the number of people there, if I am
20 understanding your question.

21 Q. Well, maybe we could say the more
22 victims involved and the smaller the area, the more
23 confusion there is many times.

24 A. Well, yes, but on the other hand,
if
25 it's confined to a smaller area, you know, where the

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1 limits of the crime scene actually stopped, is
2 undetermined at that time.

3 Q. Okay. But would it, in your
judgment,

4 contaminate the scene if there were six or seven
5 paramedics on the scene rendering some sort of
emergency

6 assistance to the victims?

7 A. Well --

8 Q. It could?

9 A. Well, I think if I am following
your

10 question, there is always going to be something
11 characterized as contamination.

12 There is always going to be
something

13 changed there when people are involved. They are
going

14 to move things, change things.

15 Q. Sure.

16 A. Is that what you are asking me?

17 Q. Yes, sir, that is what I am
asking

18 you.

19 A. Yes, sir.

20 Q. And perhaps paramedics are less,
21 maybe, conscious of the evidentiary value of
certain
22 objects than police officers are. Would that be
fair to
23 say?

24 A. Yes, I think so. Their focus is
on
25 victims, and I think that would be fair to say,
yeah.

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Reporter

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1 Q. And you have seen situations, I
dare

2 say, where paramedics have moved pieces of
evidence?

3 A. I have, yes.

4 Q. Okay. And matter of fact, you
have

5 seen cases, have you not, where police officers
have

6 moved evidence?

7 A. I have, yes.

8 Q. Everybody wants to touch the
gun,

9 don't they?

10 A. It's a common concern, yes, sir.

11 Q. Okay. And, everybody wants to
see

12 where it happened, don't they?

13 A. Everybody wants to come in and
look

14 around.

15 Q. Mr. Parker, everybody wants to
get a

16 drink of water, everybody wants to use the
bathroom,

17 don't they?

18 A. That is a common problem, yes,
19 sir.

20 Q. Okay. Now, in going through
21 the crime

22 scene many times, Mr. Parker, don't you find that
23 officers in their walk-through, or in there
24 curiosity

25 have actually kicked evidence around?

26 A. Yes.

27 Q. Such as, not this case, but
28 such as
29 cartridge cases, in a shooting where cartridge
30 cases are

Sandra M. Halsey, CSR., Official Court
Reporter

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1 ejected, they will kick them around on the floor?

2 A. Yes, sir.

3 Q. In cases where there is traffic
and

4 there might be objects on the floor, those could
be

5 kicked around, those objects?

6 A. Yes.

7 Q. Small objects?

8 A. Yes, of course.

9 Q. And you have seen that happen,
haven't

10 you?

11 A. Of course, yes.

12 Q. And it's not unusual?

13 A. It's not unusual, no, sir.

14 Q. Mr. Parker, you are a skilled
15 interrogator, are you not?

16 A. I have spent a considerable
amount of

17 time doing that.

18 Q. Well, I mean, don't be modest.

You're

19 a skilled interrogator, are you not?

20 A. By definition, I'll leave that

to you.

21 Q. Well, I think you are. And when
you

22 interrogate someone, of course, you would -- it
would be

23 fair to say that you would have the advantage,
would you

24 not, with your experience?

25 A. It depends on who you're talking
to,

 Sandra M. Halsey, CSR., Official Court
Reporter

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1 Mr. Mulder.

2 Q. Well, let's say you are talking
to a

3 26 year old who has not had any experience with the
4 police as opposed to a five-time loser who has been
in

5 and out of the joint, most of his adult life and is
6 maybe --

7 A. Well, can you define this
advantage

8 that you are speaking of so I might be --

9 Q. Well, you are certainly more
mature

10 and more experienced, are you not?

11 A. More --

12 Q. Than a 26 year old?

13 A. I am now, yes.

14 Q. Than say Darlie Routier would
have

15 been? Or was at the time you talked to her?

16 A. I'm more mature then and now,
yes.

17 Q. All right. Now, Mr. Parker, can
you

18 tell us basically what you understood about the

evidence

19 at that -- at the time that you first talked to her?

20 A. What I understood about the
evidence?

21 Q. Yes, sir.

22 A. Well, I understood that the call
came

23 in about 2:00 o'clock that morning, and the report
was

24 that there was an intruder there. There were
obviously

25 two children murdered.

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1 The investigation of the evidence
that
2 was passed along to me indicated that it couldn't
3 possibly have happened that way. The evidence was in
4 direct contradiction to the way the crime was
reported to
5 have occurred.

6 Q. Okay.

7 A. I can give you more details about
8 that.

9 Q. Yes. Did they discuss with you
the
10 screen that had been cut?

11 A. Yes.

12 Q. Okay. And did you have access to
Mr.
13 Linch's report?

14 A. I didn't see any written report
from

15 Mr. Linch, but I was informed -- that I recall. But
I

16 was informed, I recall clearly, that the knife that
was

17 used to cut the screen was found in the kitchen in a
18 block that contains knives, a block that the knife

had

19 been found there that was used to cut that screen.

20 Q. They just gave you the shorthand

21 rendition?

22 A. Yeah. I don't think Linch had

even

23 prepared a report at that time. I don't remember

24 reading --

25 Q. Did you talk with Charlie Linch?

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1 A. Not about this, no.

2 Q. Okay. Did they -- when they gave
you

3 the information on the screen and the knife, did you
see

4 the knife?

5 A. No, I saw a picture of it.

6 Q. Did they tell you that it was a
bread

7 knife, Mr. Parker?

8 A. A bread knife?

9 Q. This is not the knife, but did
they

10 tell you that the knife that had been used to cut
the

11 screen was a bread knife?

12 A. No.

13 Q. They didn't?

14 A. No.

15 Q. Okay. Did they tell you -- they
just

16 told you that they had the knife that had cut the
screen?

17 A. Yes. They told me it came out of
that

18 set --

19 Q. Okay.

20 A. -- of knives that was in the
kitchen.

21 Q. Well, did they tell you that,
actually

22 what Mr. Linch had told them, was that he had, after
the

23 knife had been processed for fingerprints, that he
had

24 examined the serrated blade of the knife, and in
some

25 area, approximately one inch in from the point and

1 approximately five inches from the point -- in this
area

2 right in here -- that he had found a fiberglass --
what

3 appeared to him to be a part of a fiberglass rod,
and

4 that the screen threads, the threads of the screen
that

5 made up the -- made up the fabric screen on that
window,

6 that each of those threads had approximately 50
7 fiberglass rods in it, and that they were covered
with a

8 rubber-like PVC material. And that he found one of
those

9 fiberglass rods on that knife, and found some rubber
10 dust. And that he couldn't say that the rubber dust
and

11 the rod had actually been together at any time, in
fact,

12 the only thing he could do was compare the rod and
the

13 rubber dust with PVC from the screen and the
fiberglass

14 from the screen, and say that they appeared under a
15 microscope to be the same.

16 That the objects on the knife
were so
17 minuscule that he couldn't subject them to any sort
of
18 scientific test to determine whether or not these
items
19 on the knife actually came from the scene. Did they
give
20 you that much detail?

21

22 MR. GREG DAVIS: I'm sorry. I

have to

23 object to the misleading nature unless he also
includes
24 the fact that the glass material was also embedded
into
25 the rubber material and he has stated that he
believes

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1 they were deposited at the same time.

2 THE COURT: All right. With that
3 statement, you may answer the question.

4 THE WITNESS: I'm not sure I
5 understood the question.

6

7 BY MR. DOUGLAS MULDER:

8 Q. Well, I just wanted to know if
they --

9 if he told you that the -- if they gave you the
absolute,

10 and told you that the knife was used to cut the
screen,

11 or if they gave you the long rendition, and said
simply

12 that, what they found on the knife under a
microscope,

13 that it was so minuscule, one, that they couldn't
subject

14 it to any sort of scientific test other than a

15 microscope; and two, that all they could say was that
it

16 was -- it appeared to be the same as the screen. And

17 that meant it was consistent with having come from
the

18 screen but it could have come from someplace else

as

19 well. Did they give you that much detail?

20 A. Well, they told me that Charlie
Linch,

21 who I have known for many years and have great
confidence

22 in, had examined the knife found in the kitchen, and
that

23 it was his firm conclusion that that was the knife
that

24 was used to cut that screen, due to some material or
some

25 process that Mr. Linch had used. They didn't go
into

1 great microscopic detail.

2 Q. And, you would suspect then that
he

3 would tell this jury the same thing if he were under
4 oath, wouldn't you?

5 A. I would expect he would -- who
would

6 tell the jury what?

7 Q. Mr. Linch would.

8 A. I feel certain Mr. Linch could
9 probably explain it in much better detail than I
could.

10 Q. All right. But you would suspect
that

11 Mr. Linch would tell this jury the same thing that
you

12 understood that he was -- the position he was
taking?

13 A. Basically, sure.

14 Q. Okay. Were you also told, Mr.
Parker,

15 that Mr. Linch had identified one of the defendant's
16 blonde hairs in the window?

17 A. No.

18 Q. You were not told that?

19 A. No.

20 Q. Okay. Did --

21 A. No.

22 Q. Did Mr. Linch, this man in whom
you

23 have great confidence, did he ever tell you that he
had

24 initially identified a hair on the window as being
that

25 from the defendant?

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fact

19 that the mulch was undisturbed?

20 Q. Yes, sir.

21 A. Well, someone leaving in haste
from a

22 murder scene you would assume is going to be very
bloody,

23 in their haste, you could expect to see some
disturbance

24 there, to one degree or another.

25 Q. Why would you expect to see that?

1 A. I mean, you can only draw a fair
2 conclusion though from what you do see, versus a
safer
3 assumption from what you don't find.

4 Q. Okay. Why would you expect to
see
5 some disturbance in the mulch?

6 A. Well, it would be a distinct
7 possibility, Mr. Mulder, that someone would step in
that
8 in their haste.

9 Q. But why would they step in the
mulch?

10 A. Because it's there and it's kind
of in
11 the way.

12 Q. Oh, you were led to believe that
the
13 mulch was in the way and they would have to step in
the
14 mulch?

15 A. Well, I looked at the photographs
and
16 I wouldn't say you had to step in it, but it would
be

17 very easy to do, yes.

18 Q. The mulch is actually in a
flowerbed,

19 isn't it?

20 A. Yes, sir, as I recall.

21 Q. Or did you think that the mulch
was

22 below the window?

23 A. I was thinking the mulch you were
24 referring was going to be outside the fence.

25 Q. Outside the fence?

1 A. I thought that was what you were
2 referring to.

3 Q. Out in the alley part?

4 A. I suppose you could characterize
it
5 that way, outside of the fence.

6 Q. Could you show me the photograph,
Mr.
7 Parker, where the mulch -- has the mulch outside in
the
8 alley?

9 A. I don't have any photographs with
me.

10 Q. Okay. But that was significant
to
11 you, the mulch in the ally, was it?

12 A. I said it was some sort of
13 significance, Mr. Mulder. I said, it's not
overwhelming.

14 Q. Okay. Did you -- did the fence,
was
15 that significant to you?

16 A. Somewhat, yes, from what I
understood
17 that it would be.

18 Q. What did you think was
significant
19 about the fence that kept the mulch, I guess, out of
the
20 back yard?
21 A. What?
22 Q. No. What did you -- I'll be fair
with
23 you. There isn't any mulch in the alley.
24 A. Okay.
25 Q. Okay. What was significant about
the

1 fence?

2 A. Well, what I recall being
significant

3 about the fence, it was white, I was informed that
the

4 gate was very difficult to close. That it was
closed

5 when the officers arrived, and it takes a
considerable

6 amount of effort to open and close it.

7 The fact it was -- it seemed

8 inconsistent with a person leaving a murder scene to
stop

9 and close that gate. The only other alternative
would be

10 to crawl over it. Painted white, I was informed that
11 there were no blood marks, no shoe scuff marks on
this

12 white fence. That outside, there was a flowerbed,
soft

13 earth, where, if a person did vault over a fence
that

14 high, you might expect to see some imprints and
there

15 were none.

16 Q. Why would someone vault over the
fence

17 when they could go through a gate?

18 A. Well --

19 Q. Was it just for a challenge?

20 A. I don't know, possibly. Yes, it
21 doesn't fit, it doesn't make sense that they would
do

22 that. It doesn't make sense that they would close
the

23 gate. What I was informed, was that that gate was
very

24 difficult to deal with. You might vault over the
fence.

25 Q. You were not advised that the
gate had

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Reporter

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1 been worked on that night?

2 A. Worked on?

3 Q. Um-hum. (Attorney nodding
head

4 affirmatively.)

5 A. No.

6 Q. You weren't?

7 A. No.

8 Q. And that that was verified by
the

9 neighbor behind the Routier's house?

10 A. No.

11 Q. Okay.

12 A. I don't recall anything about
that.

13 Q. Did you look at the gate
yourself?

14 A. No.

15 Q. Okay. You don't know whether it
had a

16 scuff mark on the bottom of the gate where someone
had

17 perhaps pushed against it?

18 A. No.

19 Q. Okay. You said that someone

would be

20 very bloody from this scene; is that right?

21 A. Well, you could certainly expect
to

22 see some blood on them, I would assume, yes.

23 Q. What, blood on their hands?

24 A. I would think that would be a

safe

25 assumption, yes.

Sandra M. Halsey, CSR., Official Court Reporter

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1 Q. Blood on their hands?

2 A. Yes.

3 Q. Okay. I mean, blood that you
could
4 just wipe off?

5 A. I think you can wipe blood off,
yeah.

6 Q. You wouldn't expect their hands
to be
7 dripping with blood, would you?

8 A. Quite possibly, yes.

9 Q. I mean, would you?

10 A. Yes, quite possibly, yes.

11 Q. Both hands?

12 A. Quite possibly, yes.

13 Q. Okay. Did you determine how many
14 knives were used in the commission of this offense?

15 A. I was informed that, at the time
that
16 I was there, it appeared, from the preliminary
17 information to the investigators, that there was
only one
18 knife.

19 Q. Only one knife used?

20 A. That is what I was informed, yes,
sir.

21 Q. Okay. Did you accept that at
face

22 value?

23 A. Sure.

24 Q. Okay. Would it change your

opinion if

25 more knives were involved?

Sandra M. Halsey, CSR., Official Court Reporter

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1 A. Change my opinion about what?
2 Q. About anything?
3 A. No.
4 Q. Okay. So it really didn't make
any
5 difference how many knives were involved?
6 A. Nothing significant that I can
think
7 of, no.
8 Q. Okay. Did you interview Mr.
Routier?
9 A. No.
10 Q. Why not?
11 A. I met with him and talked with
him
12 very briefly.
13 Q. You talking about --
14 A. Introduction.
15 Q. Less than 30 seconds?
16 A. No,
longer than that.
17 Q. A
minute?
18 A.
Couple, two or three
minutes.

19 Q. Two
or three minutes?

20 A.
Yes, sir.

21 Q. You
just introduced yourself
and said

22 hello?

23 A.
Yes, sir. I told him I
was involved

24 in the case.

25 Q. Was
that before or after you

Sandra M. Halsey,
CSR., Official Court
Reporter

1 interviewed Mrs.
Routier?

2 A.
Before.

3 Q. Before. That same day?

4 A. Same day as what?

5 Q. The same day that you
interviewed her?

6 A. Yes, they were both together.

7 Q. Okay. Were they -- were you
alone

8 when you were interviewing Mrs. Routier?

9 A. Yes, sir.

10 Q. Okay.

11 A. At the police station, yes,
sir.

12 Q. You were put in a -- what --
an

13 interrogation room?

14 A. We were in rooms they use for
15 interviews there, yes.

16 Q. Okay. Did it have a two-way
mirror?

17 A. No. I asked them if they had
a room

18 that had a recording device, a camera or a mirror
that we

19 could use. They had none available.

20 Q. Didn't have anything
available?

21 A. No, sir.

22 Q. When did you ask them about
that, Mr.

23 Parker?

24 A. The night I talked to her.

25 Q. Okay.

Sandra M. Halsey, CSR., Official Court
Reporter

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1 A. The night she was arrested.

2 Q. Had you decided to interrogate
her

3 before that day?

4 A. Yes, sir.

5 Q. Had you decided on the 16th or
17th or

6 what?

7 A. Probably the 17th. It was the
day

8 before she was arrested.

9 Q. Okay. And, of course, like
you say,

10 the sheriff is cooperative. That could have been
done at

11 the sheriff's office, couldn't it, interview?

12 A. It could have been, I suppose.

13 Q. I mean they have -- if you
wanted to

14 record it, you certainly had -- you've got a
video camera

15 yourself, don't you?

16 A. I do.

17 Q. You could have brought your
camera,

18 couldn't you?

19 A. Well, I could have, yes, I
have got

20 several cameras I could have brought, but --

21 Q. You have recording devices as
well,

22 don't you?

23 A. Um-hum. (Witness nodding head
24 affirmatively.)

25 Q. Matter of fact, you could have
done it

 Sandra M. Halsey, CSR., Official Court
Reporter

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1 in your office, couldn't you?

2 A. Sure.

3 Q. All right. Well, I take it
just you

4 and Mrs. Routier were in the room together?

5 A. That's correct.

6 Q. No one else?

7 A. No, sir.

8 Q. Okay. Was there a microphone
in there

9 so that you -- so that the other folks could
monitor what

10 was going on between the two of you?

11 A. Not that I'm aware of. I
asked them

12 if they had one and intended to try and record
it, if

13 they did have one.

14 Q. They said it was still out at
the

15 cemetery?

16 A. No, sir, they didn't say that.

17

18 MR. GREG DAVIS: We're going
to object

19 to that.

20 THE COURT: Sustained.
21 MR. GREG DAVIS: If you --
again, if
22 we could have an understanding. I thought we
did.
23 THE COURT: Mr. Mulder.
24 MR. DOUGLAS MULDER: Yes, sir.
25 THE COURT: Let's stick to the
points

Sandra M. Halsey, CSR., Official Court
Reporter

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1 we have all agreed to.

2 MR. DOUGLAS MULDER: Well,
Judge, I

3 was just asking if the --

4 THE COURT: Well, Mr. Mulder,
you know

5 what was agreed to and stay with it. Is that
clear?

6 Thank you. Ask your next question.

7 MR. DOUGLAS MULDER: What was
agreed

8 to, Judge? I don't recall agreeing to anything.

9 THE COURT: All right. Mr.
Mulder,

10 hearings have been held in this case.

11 MR. DOUGLAS MULDER: Well, I
12 understand hearings have been held, Judge. But I
take

13 issue with the Court when you say I've agreed to
14 something. Now, I'll abide by the Court's
rulings, but I

15 have not agreed to anything.

16 THE COURT: Well, the Court
has made a

17 ruling there. Let's move on to the next
question.

18 MR. RICHARD C. MOSTY: The
Court has
19 not made a ruling with respect to this witness.
20 THE COURT: No. Just -- ask
the next
21 question, please.
22 MR. DOUGLAS MULDER: Well,
that was my
23 next question. I was going to ask it again.
24 THE COURT: Well, then ask the
25 following question, please.

Sandra M. Halsey, CSR., Official Court
Reporter

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1

2 BY MR. DOUGLAS MULDER:

3 Q. That was not a high priority,
4 recording the conversation, was it, Mr. Parker?

Or was

5 it? Maybe it was.

6 A. I would have preferred to have
it

7 recorded if they had it available, yes.

8 Q. Well, you knew going out --
you have

9 recording equipment yourself, don't you?

10 A. Well, yes, sir, but if you --
it would

11 have had to have been something that you would
put up in

12 the middle of the table, a small recorder,
something of

13 that sort or a big camera on a tripod. I don't
prefer to

14 do that. That is very distracting.

15 Q. How do you like to do it,
16 surreptitiously?

17 A. Well, surreptitiously in the
sense

18 that -- if that means secret, no. I think it

would be

19 unfair to record someone and not tell them that
you are

20 doing it. But, I have that -- for example, in my
office

21 the camera is visible there and make it clear to
them

22 that they are being recorded.

23 Q. Okay. Suffice it to say that
that was

24 not a priority or you could have done it at your
office

25 or done it at the sheriff's office or --
Richardson has

Sandra M. Halsey, CSR., Official Court
Reporter

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1 some fine recording equipment, don't they?

2 A. Well, it's not a priority and
the

3 reason it was easier to do at Rowlett is because
you

4 don't know how things are going to develop there,
and

5 it's their agency, it would seem the logical place
to do

6 it would be the Rowlett Police Department. There
was not

7 any big discussion about that. That was not a point
of

8 concern to anyone.

9 Q. Mr. Parker, was the press -- had
they

10 all been notified, the media, when you got out
there?

11 A. Got out where, Mr. Mulder?

12 Q. Got out to the Rowlett Police
13 Department, Mr. Parker.

14 A. Oh, I'm sure they were.

15 Q. They were already out there?

16 A. I saw some of those mobile units
there

17 on the parking lot.

18 Q. They were there before the
Routiers

19 got there, weren't they?

20 A. Well, are you talking about on
the

21 night they arrived -- the Routiers arrived at the
police

22 department?

23 Q. Yes, sir.

24 A. I was already inside. If they
were

25 there when I got there, I assume they were still out

1 there, but I have no idea.

2 Q. Okay. So, and I take it you did
not

3 alert them?

4 A. Absolutely not.

5 Q. So it must have been someone
there at

6 the Rowlett Police Department?

7 A. Well, I don't have any idea.

8 Q. Well, you could probably make
that

9 assumption?

10 A. No, I wouldn't make that
assumption.

11 With a case of this nature, they generally -- it's
my

12 experience, they stay real close to the police

13 departments. No one has to notify them. They are
pretty

14 good about finding out themselves.

15 Q. Okay. Did you make any notes,
Mr.

16 Parker, during your interrogation?

17 A. No, I did not.

18 Q. Okay. Did you make any report

after

19 you had concluded your interview?

20 A. No.

21 Q. You just weren't asked to make a
22 report?

23 A. No.

24 Q. When is the last time that you

talked

25 with the district attorney's office?

Sandra M. Halsey, CSR., Official Court Reporter

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1 A. I talked to Mr. Davis this
morning.

2 Q. Did you talk to him last night as
3 well?

4 A. Um-hum. (Witness nodding head
5 affirmatively.)

6 Q. And about how long did you talk
to him
7 last night?

8 A. About 15 minutes.

9 Q. Okay. Who picked you up down in
San
10 Antonio?

11 A. One of the district attorney's
12 investigators.

13 Q. Which one, do you remember?

14 A. Mrs. Kinne.

15 Q. Just the two of you?

16 A. Yes, sir.

17 Q. Okay. What time did you come in
last
18 night?

19 A. I think I arrived at five
o'clock.

20 Q. Okay. Arrived in San Antonio at

five

21 o'clock?

22 A. Yes, sir.

23 Q. Got back up here, I guess around

6:00

24 o'clock or so?

25 A. Oh, a little later than that,

7:00, I

Sandra M. Halsey, CSR., Official Court Reporter

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1 think.

2 Q. Okay. Now, just, Mr. Parker,
talking

3 about your techniques in general, not in this
particular

4 case, but when you interrogate someone, I suspect
that

5 it's part of your technique to be friendly with them
at

6 first?

7 A. I try to be friendly all the
time, Mr.

8 Mulder.

9 Q. Well, it depends on how
cooperative

10 they are, I guess, doesn't it?

11 A. No, I don't think so.

12 Q. Okay. But you in -- I guess, in
that

13 vein you attempt to, I assume get their confidence,
don't

14 you?

15 A. Well, I don't think you are ever
going

16 to get their confidence, Mr. Mulder.

17 Q. Okay.

18 A. If I understand what you are
saying.

19 Q. All right. But you are friendly?

20 A. Sure.

21 Q. And try to be nice to them?

22 A. Try to be, yes, sir.

23 Q. And in this case you were nice to
24 Darlie, weren't you?

25 A. Absolutely.

1 Q. Okay. Did you discuss with her
the
2 evidence that you understood the Rowlett Police
3 Department had?

4 A. Yes, sir. I showed her a copy of
it.
5 I showed her a copy of the affidavit for the arrest
6 warrant.

7 Q. Okay.

8 A. She looked at it very carefully.

9 Q. All right. And did you also have
the
10 benefit of her husband's statement?

11 A. Had the benefit of it?

12 Q. Yes, sir.

13 A. Yes, I had read it.

14

15 THE COURT: I think this would be
the
16 perfect time then. Let's take a 15 minute -- let's
take

17 a 20 minute break. Be back at 25 after.

18

19 (Whereupon, a short

20 Recess was

taken,

21

After which

time,

22

The proceedings

were

23

Resumed on the

record,

24

In the presence

and

25

Hearing of the defendant
Sandra M. Halsey, CSR., Official Court Reporter

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1 And the jury, as follows:)

2

3 THE COURT: All right. Are both
sides

4 ready to bring the jury back?

5 MR. GREG DAVIS: Yes, sir, we are
6 ready.

7 MR. DOUGLAS MULDER: Yes, sir, we
are
8 ready.

9 THE COURT: All right.

10

11 (Whereupon, the jury

12 Was returned to

the

13 Courtroom, and

the

14 Proceedings

were

15 Resumed on the

record,

16 In open court, in

the

17 Presence and

hearing

18 Of the defendant,

19

As follows:)

20

21

THE COURT: Let the record

reflect

22 that all parties in the trial are present and the

jury is

23 seated.

24

Mr. Mulder.

25

MR. DOUGLAS MULDER: I don't know

Sandra M. Halsey, CSR., Official Court Reporter

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1 whether this is in evidence or not, Judge.

2

3 BY MR. DOUGLAS MULDER:

4 Q. But let me show you what's been
marked

5 for identification and record purposes as
Defendant's

6 Exhibit No. 98 and State's Exhibit No. 141, Mr.
Parker.

7 Defendant's Exhibit 99, Mr. Parker.

8

9 (Whereupon, the above
10 Mentioned item was marked
11 For identification only,
12 As Defendant's Exhibit No. 99,
13 After which time the
14 Proceedings were resumed
15 As follows:)

16

17 BY MR. DOUGLAS MULDER:

18 Q. Is that the statement that you
read,

19 that you understood was given by Darin Routier?

20 A. Yes, sir.

21 Q. And, you say you talked to him
for --

22 A. Very briefly.

23 Q. Okay. You had no reason to doubt

this

24 account, did you?

25 A. No.

Sandra M. Halsey, CSR., Official Court Reporter

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1 Q. All right. And based on your
2 evaluation of the situation and your conversations
with
3 the Rowlett Police Department, you believe this was
4 truthful, didn't you?

5 A. For the most part. I didn't see
6 anything there that indicated to me that he was
involved
7 in the crime.

8 Q. Well --

9 A. And I don't recall anything
standing
10 out in my mind as being -- I had a big problem with,
but
11 it's been a long time since I've looked at it.

12 Q. Yes, sir.

13

14 MR. DOUGLAS MULDER: We will
offer in

15 evidence what has been marked and identified as
16 Defendant's Exhibit 99.

17 MR. GREG DAVIS: No objection.

18 THE COURT: Defendant's Exhibit
99 is

19 admitted.

20

21 (Whereupon, the item
22 Heretofore mentioned
23 Was received in evidence
24 As Defendant's Exhibit No. 99
25 For all purposes,

Reporter Sandra M. Halsey, CSR., Official Court

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1 After which time, the
2 Proceedings were resumed
3 As follows:)

4

5 BY MR. DOUGLAS MULDER:

6 Q. Mr. Parker, during your three
hours

7 that you spent with Mrs. Routier, she was polite to
you,

8 wasn't she?

9 A. Yes, sir, I would say so.

10 Q. Okay. And, I guess --

11

12 MR. DOUGLAS MULDER: I believe
that's

13 all. Thank you.

14

15

16 REDIRECT EXAMINATION

17

18 BY MR. GREG DAVIS:

19 Q. Mr. Parker, I just have one
question.

20 Since you left the Dallas Police Department, has
Mr.

21 Mulder ever employed you?

22

A. Yes, sir.

23

Q. On more than one occasion?

24

A. Yes, sir.

25

Reporter Sandra M. Halsey, CSR., Official Court

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1 MR. GREG DAVIS: No further
questions.

2

3

4

REXCROSS EXAMINATION

5

6 BY MR. DOUGLAS MULDER:

7 Q. We're personal friends, are we
not?

8

A. Yes, sir.

9

10 MR. DOUGLAS MULDER: Okay. I
believe

11 that's all. Thanks.

12

MR. GREG DAVIS: No further
questions.

13

THE COURT: All right. Thank
you,

14 sir. You may leave.

15

MR. GREG DAVIS: Yes, sir. Your
Honor, ladies and gentlemen of the jury, at this
time the

17 State of Texas rests its case in rebuttal.

18

THE COURT: All right. And I
19 believe -- thank you, Mr. Davis. That's all the
rebuttal

20 testimony you will be hearing from the State's
witnesses.

21 And you will be ready at 1:30; is that correct?

22 MR. RICHARD C. MOSTY: Our
witnesses,

23 I believe, they are in transit. I think we can be
ready

24 by 1:00, because I think they will be arriving --
well, I

25 don't know what time -- 12:00?

Sandra M. Halsey, CSR., Official Court
Reporter

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1 MR. DOUGLAS MULDER: We ought to
be
2 ready by 1:00 o'clock. I wouldn't think that it
would
3 take more than an hour and a half or two.

4 THE COURT: Well, to be on the
safe
5 side, let's be on safe side, let's make it 1:15.

If
6 everybody will be back by 1:15.

7 MR. DOUGLAS MULDER: Judge, I
want
8 them to know that we won't take more than about an
hour
9 and a half, so if they have got --

10 THE COURT: We understand. So if
you
11 will be -- if the jury will be back at 1:15, please.
The
12 same instructions as always. Do not discuss the case
13 among yourselves. Do no investigation on your own.

14 Please ignore any publicity that
you
15 see, read or hear about it. Thank you. If the
viewing
16 audience will remain seated, please, until the jury

17 clears the courthouse.

18

19 (Whereupon, the jury

20 Was excused from

the

21 Courtroom, and

the

22 Proceedings were

held

23 In the presence of

the

24 Defendant, with

his

25

Attorney, but outside
Sandra M. Halsey, CSR., Official Court Reporter

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1 The presence of jury

2 As follows:)

3

4 THE COURT: Can I see the

attorneys a

5 minute, please.

6

7 (Whereupon, a short

8 discussion was

held

9 at the side of

the

10 bench, between the

Court,

11 and the attorneys for

12 both sides in the case,

13 off the record, and

outside

14 of the hearing of the

15 Jury.)

16

17 (Whereupon, a short

18 recess was

taken,

19 after which

time,

20 the proceedings
were
21 resumed on the
record,
22 in the presence
and
23 hearing of the defendant,
24 as follows:)
25

Sandra M. Halsey, CSR., Official Court Reporter

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1 THE COURT: All right. Let the
record
2 reflect that these proceedings are being held outside
of
3 the presence of the jury and all parties at trial are
4 present.

5 Please raise your right hand, sir.

6
7 (Whereupon, the witness
8 Was duly sworn by the
9 Court, to speak the
truth,

10 The whole truth and
11 Nothing but the truth,
12 After which, the
13 Proceedings were
14 Resumed as follows:)

15
16 THE COURT: Do you solemnly
swear or
17 affirm that the testimony you are about to give
will be
18 the truth, the whole truth, and nothing but the
truth, so
19 help you God?

20 THE WITNESS: Yes, I do.

21 THE COURT: You may have a seat
here.

22 You have testified many times before, I assume?

23 THE WITNESS: Yes, I have.

24 THE COURT: You understand the

Rule of

25 Evidence. When you are not testifying you have to
remain

Sandra M. Halsey, CSR., Official Court
Reporter

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1 outside the courtroom.

2 THE WITNESS: Oh, the Rule, yes,
sir.

3 THE COURT: Don't talk about
your

4 testimony to anybody who has testified. In other
words,

5 don't compare it. You may talk to the attorneys
for

6 either side. If someone tries to talk to you about
your

7 testimony, please tell the attorney for the side
who

8 called you.

9 All right. Gentlemen, this is
going

10 to be a 705 hearing, so let's get directly to the
point,

11 please. Mr. Shook.

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Reporter Sandra M. Halsey, CSR., Official Court

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1 Whereupon,

2

3

4 RICHARD E. COONS,

5

6 was called as a witness, for the purpose of this
hearing,

7 having been first duly sworn by the Court to speak
the

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

9 testified in open court, as follows:

10

11

12 DIRECT EXAMINATION

13

14 BY MR. TOBY L. SHOOK:

15 Q. Dr. Coons?

16 A. Yes.

17

18 THE COURT: Please state your
name for

19 the court reporter and spell your last name.

20 THE WITNESS: Richard E. Coons,

21 C-O-O-N-S.

22

23 BY MR. TOBY L. SHOOK:

24 Q. Doctor, we're going to have a
short
25 705 hearing. What I need to know first, if you
could

Sandra M. Halsey, CSR., Official Court
Reporter

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1 just state the opinions that you have been called
on to

2 testify to today in court?

3 A. I have been asked to testify
about

4 memory, the formation of memory, how memory can be
5 altered or impaired, basically those things.

6 Q. Okay. Is that the only opinion
you

7 have come to testify on today, is about memory, how
it

8 can be altered, as far as you know?

9 A. I think that is correct.

10 Q. Could you --

11

12 MR. S. PRESTON DOUGLASS: If I
might?

13 MR. TOBY L. SHOOK: Yes.

14 MR. S. PRESTON DOUGLASS: With
respect

15 to memory, I think Dr. Coons would go into general
16 knowledge as to how memory formed, memory is
retrieved,

17 all of the aspects of how memory is created, how
memory

18 is affected, and how memory is altered in some

situations

19 by traumatic events.

20 Now, that opinion, obviously,
21 potentially goes to a great number of issues in the
case,

22 but that is the general subject matter.

23 MR. TOBY L. SHOOK: Well, is that
the

24 sum of your, as far as --

25 MR. S. PRESTON DOUGLASS: Well, if
I

Sandra M. Halsey, CSR., Official Court Reporter

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1 might go on. I think I can help in listing some
things.

2 He can testify to the traumatic
3 effects of an event upon memory. How memory is
affected,

4 that memory can be altered, that medications can have
an

5 impact upon memory and recall, that dissociation is a
6 frequent aspect of trauma-induced altered memory,

and

7 that as a result of dissociation, there are parts
of

8 traumatic events that may not be recalled.

9 Also, he will talk about how -
- he

10 might give opinions about how memory can be affected
by

11 suggestions, and how those suggestions can cause
gaps in

12 memory to be grasped by the mind and grasped by the
13 memory, and that a person in those situations can
be

14 suggested and that suggestions to fill in gaps and
the

15 mind's willingness to fill in gaps can lead to
altered

16 memories.

17

18 BY MR. TOBY L. SHOOK:

19 Q. Dr. Coons, could you tell us
then --

20 first of all, does that sound like a fair
rendition of

21 what you think -- of the opinions you will be
rendering

22 today?

23 A. I think so.

24 Q. Okay. Could you tell us, in
summary

25 form, the underlying facts and data that you have
that

Sandra M. Halsey, CSR., Official Court
Reporter

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1 has caused you to form those opinions?

2 In other words, what do you
rely on

3 for those opinions?

4 A. Well, I am physician, I am
5 psychiatrist and I have done a lot of forensic
6 psychiatry, worked with trauma victims and have
read

7 considerably in the literature about memory and
memory

8 distortion. I have been to national meetings that
had

9 programs about memory and so forth.

10 Q. In regards to this particular
case,

11 have you interviewed the defendant, Darlie
Routier?

12 A. No.

13 Q. Have you performed or had any
tests

14 performed on her personally?

15 A. No.

16 Q. And have you reviewed any
documents or

17 evidence from this case?

18 A. No.

19 Q. Okay. So --

20 A. Well, I'm sorry. I have seen a
few

21 photographs and that is it.

22 Q. And that is it?

23 A. I believe that is it.

24 Q. Have you reviewed any of her
25 statements or her husband's statements?

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1 A. I don't think so.

2 Q. Okay. Have you been given
summaries

3 of the evidence or the case at all?

4 A. Very slightly, but not much.

5 Q. Are you using those summaries of
the

6 case in any way to form your opinions that you're
going

7 to render today?

8 A. I think I am going to be given
some

9 material hypothetically, but -- so I don't have any
10 summary of the case.

11 Q. All right. And when were you
12 retained, Dr. Coons?

13 A. Mr. Mosty consulted with me back
in

14 mid-December. He came to Austin where I live and
talked

15 with me about it. And then I was called last night
by

16 Mr. Mosty and asked if I would come over here today.

17 Q. Okay.

18

19 THE COURT: Is that it?

20 MR. S. PRESTON DOUGLASS: Let me
add a

21 couple things, your Honor.

22 THE COURT: Sure.

23 MR. S. PRESTON DOUGLASS: In order
to

24 be as complete as I can be.

25 THE COURT: Sure.

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1 MR. S. PRESTON DOUGLASS: With
respect
2 to -- in a hypothetical situation, with respect to
3 questioning of a person who has been the subject of a
4 traumatic event and then, after the traumatic event
has
5 been involved in numerous recounting of the story,
and
6 also had that story recounted to them, Dr. Coons may
7 express an opinion as to a person's typical reaction
to
8 questioning under that atmosphere.

9 THE COURT: That is fine.

10 MR. S. PRESTON DOUGLASS: Just so
the
11 Court knows, and just so the Court also knows, there
12 might be some response with respect to how memory is
13 affected in that situation.

14 THE COURT: Well, I think that is
what
15 he said. All right. That's fine. Let's bring in
the
16 jury.

17

18 (Whereupon, the jury

19 Was returned to

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

Reporter Sandra M. Halsey, CSR., Official Court

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As follows:)

THE COURT: Let the record
reflect

that all parties in the trial are present and the
jury is
seated.

Ladies and gentlemen of the
jury, this
witness has already been sworn.

Mr. Douglass.

MR. S. PRESTON DOUGLASS:

Thank you.

23

24

25

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1 Whereupon,

2

3

4

DR. RICHARD E. COONS,

5

6 Was called as a witness, in Rebuttal for the
Defense,

7 having been first duly sworn to speak the truth,
the

8 whole truth, and nothing but the truth, testified in
open

9 court, as follows:

10

11

12

DIRECT EXAMINATION

13

14 BY MR. S. PRESTON DOUGLASS:

15

Q. Would you please state your name.

16

A. Richard E. Coons, C-O-O-N-S.

17

Q. Are you a medical doctor?

18

A. Yes, I am.

19

Q. Are you a psychiatrist?

20

A. Yes.

21

Q. Where do you practice psychiatry?

22

A. Austin, Texas.

23

Q. And how long have you practiced

24 psychiatry in Austin, Texas?

25 A. Twenty-two and a half years.

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1 Q. With respect to your educational
2 background in medicine, would you please tell the
jury
3 what your training and background is.

4 A. Yes. I attended the University of
5 Texas medical branch in Galveston, graduated with a
6 Doctor of Medicine Degree in 1968.

7 I did a rotating internship at the
8 University of Cincinnati, Cincinnati General Hospital
in
9 1968 and '69. That basically means rotating through
10 surgery, internal medicine, pediatrics, OB/GYN,
emergency
11 medicine and so forth.

12 Then, when I completed my
internship,
13 I moved to -- I came back to Galveston and did a
14 three-year general psychiatry residency. Basically,
that
15 is specialty training in my area, which has to do
with
16 the diagnosis and treatment of nervous and mental
17 disorders.

18 When I completed the residency, I
was
19 chief resident in the department of psychiatry and

1 Brooke General Hospital.

2 When I completed my military duty
in

3 1974 I moved to Austin, where I have practiced ever
since

4 in general and forensic psychiatry.

5 I am board certified by the
American

6 Board of Psychiatry and Neurology as of February,
1975.

7 My medical license is on file with the district
clerk in

8 Travis County where I practice.

9 Q. Do you have any privileges at
local

10 hospitals in Austin?

11 A. Well, I'm not hospitalizing at
the

12 present time. I took -- I am in a clinic of 12
doctors

13 and several of us just do office practice and don't
do

14 hospital practice.

15 Q. All right. In the course of
your

16 experience in forensic psychiatry, have you had

occasions

17 to testify in court?

18 A. Yes.

19 Q. And, can you tell the jury
perhaps how

20 many times you have testified in court, and on what

21 subjects you typically testify in court and render

22 opinions for juries on?

23 A. Since 1974 when I moved to
Austin, I

24 have done virtually all of the criminal forensic
25 psychiatry in Austin. That is to say, I evaluate
people

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1 that are charged with crimes to determine whether
they
2 are competent to stand trial, whether they were
sane at
3 the time, things of that nature.

4 I also have some consultation in
the
5 criminal area and various jurisdictions, and in
fact, I
6 have done some evaluations for Kerr County,
Fredricksburg
7 and other places around.

8 And I also consult in civil
litigation
9 cases where there are issues of whether someone was -
-
10 had sustained a mental or emotional injury or brain
11 damage or something of that nature.

12 Q. Okay. Have you --

13 A. That is in addition -- excuse me -
- to
14 my clinical practice of treating patients.

15 Q. In your clinical practice have you
had
16 occasion to treat people who have been the victim of

or

17 the witness to traumatic injuries or events?

18 A. Yes.

19 Q. Are you familiar with the body of
20 literature that deals with the responses of people
who

21 are either victims of or witnesses to traumatic
events?

22 A. Yes.

23 Q. Dr. Coons, have you been asked to
come

24 and talk with the jury about, as an expert, on the
issues

25 of memory?

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1 A. Yes.

2 Q. Is there a body of research and
3 accepted legal treatises and medical treatises that
deal
4 with memory?

5 A. Yes.

6 Q. And how it relates in a forensic
7 field?

8 A. There's a significant body of
research
9 and data available.

10 Q. Are you familiar with that
research
11 and data?

12 A. Yes.

13 Q. And, I want to ask you as it
relates

14 to traumatic events, are you aware of research that
15 relates to memory and the effects of memory?

16 A. Yes.

17 Q. Now, if you will, with respect to
the

18 issues of memory, can you give the jury an overview
as to

19 the aspects of memory, how memory is formed and how

20 memory is retained?

21 A. Yes. Memory -- people who write
about

22 memory and who study it divide it into either three
or

23 four different categories. I'm going to do the four
24 category description.

25 First of all, a person perceives

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1 something. They see it, they smell it, they hear it,
2 they touch it, and in some way they experience
something.

3 That is the -- what we call perception.

4 Then, that having been experienced
5 that way it is then processed in the brain, in some
way.

6 It is assessed, it fits in with other data that you
have,

7 or it doesn't fit in, or there are feelings
associated

8 with it, unhappy feelings, fear, pleasurable
feelings,

9 anger, or neutral, like numbers, or something of
that

10 nature. And then it is stored.

11 Now, there's a lot of research
about

12 how memory is stored, but basically the brain works
by

13 electrochemical means, and so, there is some

14 electrochemical phenomenon that is going on in the
brain

15 in different areas. We know that certain types of
data

16 are stored in different areas of the brain. So you

have

17 the storage part.

18 Then you have retrieval of
memory.

19 That is, someone asks you about something, you
recall it

20 or you have a spontaneous recollection, or you see
21 something that reminds you of something, that is
called

22 retrieval. So we have initial perception,
processing,

23 storage and retrieval.

24 Q. Now, that is how the information
is

25 brought into the brain and how it is stored; is that

1 right?

2 A. Stored and then of course the
issue of
3 retrieval.

4 Q. All right. Now, can you tell the
5 jury, is there a wide range of literature and
accepted

6 material on how traumatic events affect memory?

7 A. Yes.

8 Q. Okay. Can you tell the jury
about

9 some of the literature that you have reviewed and
you
10 think is authoritative on memory?

11 A. Well, I would say there are two
people

12 who have written extensively, actually, probably
three,

13 about memory. One is a man named Bessel Van der
Kolk.

14 He is an MD at Harvard University and he has done a
huge

15 amount of research on data and trauma, and how
trauma and

16 memories are stored in the brain, how there is an
17 interruption if something is overwhelmingly

traumatic to

18 someone and they may not actually store it, or they
may

19 not be able to retrieve it for some reason.

20 Elizabeth Loftis is a
psychologist at

21 the University of Washington in Seattle, and she is
a

22 psychologist who has done a lot of research on
altered

23 memories, where people can have memories of things
that

24 actually never occurred, or they will have a memory
that

25 has been changed by some intervening event.

1 with it or it is altered in some way.

2 Q. When a person experiences trauma
of a

3 significant nature -- well, first, when we talk
about

4 this kind of trauma, can you describe for the jury,
you

5 know, in examples, what sort of trauma you mean and
how

6 does that affect in terms of, what types of trauma
can

7 cause someone to have memory lapses or memory
problems?

8 A. It's fairly well known in abuse
of

9 children, children will blot these things out and
not

10 recall traumatic events. In adults, it would tend
to be

11 something where your bodily integrity is threatened,

12 death of yourself, or some loved one, or someone

13 important to you. Annihilation type things would be
an

14 example.

15 Q. Is that kind of trauma frequently
16 found in automobile accidents?

17 A. It certainly can be, I don't know
18 about -- it's not a high percentage. But, you know,
it's
19 not -- you wouldn't expect it in a fender-bender,
but in
20 a situation where family members might be killed,
then it
21 would -- it can have partial or complete amnesia for
22 those events.

23 Q. Okay. And certainly, Doctor,
would
24 you agree, that that type of trauma could be induced
from
25 attacks or witnessing attacks either to yourself or
a

1 loved one?

2 A. Yes.

3 Q. When trauma confronts the memory
and

4 the person's mind tries to recall events that have
5 trauma, or trauma-induced events, how does the mind
work?

6 How does it react and how does the mind recall those
7 events?

8 A. I'm afraid I have no idea what
you

9 have asked me.

10 Q. Well, let me ask you this: How
does a

11 person who is the subject of a traumatic event, how
does

12 that person recall things? For instance, are you
13 familiar with the term dissociation?

14 A. Yes, sir.

15 Q. Okay. Can you describe
dissociation

16 to the jury?

17 A. Dissociation is a psychological
18 defense mechanism. What it does is it causes a
person

19 not to experience something that would be
overwhelming to

20 them.

21 In other words, emotionally,
22 psychologically traumatic. They dissociate it.

They do

23 not perceive it in terms of what's going on. They
can

24 dissociate part of it, they can dissociate the
feeling,

25 they can dissociate the experience of it, but it's a

1 psychological defense mechanism.

2 It protects the person from
3 overwhelming psychological trauma.

4 Q. Okay. In what kind of -- based
on

5 your training and experience -- in what kind of
6 situations can a person have those dissociation
factors

7 in their memory?

8 A. Well, it would vary from person
to

9 person. Whatever would be catastrophically
overwhelming

10 to a person could potentially cause dissociation.

Some

11 people would not dissociate, other people would be a
lot

12 more vulnerable to it.

13 Q. Are you familiar with a
phenomenon

14 that occurs in memory lapses and dissociation, where
a

15 person may recall a traumatic event and that
traumatic

16 event is recalled, in effect, like snapshots? Are

you

17 familiar with that?

18 A. Yes.

19 Q. Can you explain that to the jury?

20 A. Well, memory is not like a
videotape.

21 We have discovered that with research. You don't --
if

22 you are thinking back to last Friday's football game
or

23 the Super Bowl, you don't start at the kick off and
go

24 through all the beer commercials and so forth to
the end.

25 You have recollections perhaps of special plays
that

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1 occurred or the touchdown or something, and you
have
2 these snapshot-type vignettes, although they may
be
3 action, they are shorter in duration than the whole
game.

4 So, the mind doesn't work like a videotape.

5 Now, when people try to remember
6 something, they try to go back and piece it together
as
7 if it were a videotape, but that is not the way the
8 memory works.

9 Q. So, am I correct, Dr. Coons, that
a
10 person remembers, in effect, snapshots in different
parts
11 of the traumatic event?

12 A. They can. I mean it depends.

You

13 know, it depends on how traumatic it is. If it's
lightly
14 traumatic, they may have a good recollection of it,
if
15 it's extremely overwhelming, they may have no
16 recollection of it, or they may have periods that

they --

17 or incidents that they recall of it. And those
would

18 tend to be not the most traumatic portions.

19 Q. So what you mean by that is, the

20 portions that the person would recall are the --

those

21 parts that are, in effect, removed from the source

of the

22 trauma?

23 A. Yes. If the trauma is such that

it is

24 overwhelming to the person, the parts that will be

25 removed are the parts that would have overwhelmed
them.

1 Q. Okay. Can you give the jury
examples

2 that illustrate that type of dissociation?

3 A. A traumatic event where a
person's

4 children have -- are in the house and they wander
around

5 through the crowd asking, where are my children,
yet,

6 they know they are in the house, they have heard
them

7 scream or something of that nature. Where a
person is

8 overwhelmed by what's -- in other words, to
actually

9 perceive what was going on would be psychologically
10 overwhelming to them so they dissociate it and they
don't

11 recall it.

12 Q. Okay. Now, what phenomenon occurs

13 with the mind when it experiences those snapshots
of

14 memory, but there are gaps, does the mind accept
very

15 well gaps in memory?

16 A. Well, the mind tries to fill in
the

17 gaps so that our experiences in life make sense.

And

18 people tend to do that with things that are
familiar to

19 them.

20 If you go to -- if you talk with
21 someone who is becoming senile and you ask them what
they

22 had for breakfast, they may tell you bacon and eggs

23 because that is what they have had 80 percent of the
time

24 in their life, but actually they may have had cereal

or

25 something for breakfast that morning. They are

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16 A. Yes, it would.

17 Q. All right.

18 A. The mind does not like a vacuum,

the

19 mind does not like for things not to make sense, so

it

20 will try to fill in those gaps.

21 Q. Have you seen, in your clinical

22 experience, examples of that?

23 A. Yes.

24 Q. Okay. Can you give the jury an

25 example of traumatic situations where the mind has
tried

1 to fill in gaps?

2 A. Well, in mistaken situations
where --

3 I was involved in a case one time where there were
four

5 witnesses to a shooting. And all five people, only
one

6 person had an axe to grind, that was the person who
shot

7 the other one. The others are just bystanders, and
they

8 all had significantly different stories about what

9 happened.

10 And it was a situation in a
convenience store, where one man shot another. And
the

11 witnesses had some people on this aisle, sometimes
they

12 were on that aisle, or they had them standing this
way or

13 this way, and they had them saying different things,
some

14 of them, the witnesses, had them close together,
others

15 had them far apart.

16 And they were -- all four of those

17 uninvolved witnesses, with no ax to grind, had
18 significantly, materially different stories about
19 something that happened in the morning in a
convenience
20 store.

21 Q. And that was after they had been -

-

22 this was within close proximity to the event?

23 A. Oh, yes. I mean they -- the
police

24 showed up right after this and split them all up and

took

25 a statement from them and everybody's statement was

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1 different. They had been through a traumatic
situation,
2 a shooting, and a man is dead in a convenience store,
but
3 most of them thought it had to do with the robbery
and so
4 forth. It actually wasn't, it was -- it wasn't a
5 robbery.

6 Q. And, is that frequently like that
game
7 you will see frequently played at birthday parties or
8 something, where one person will tell a story and
then
9 you whisper it to the next person and to the next
person
10 and the next person and when that story has made the
11 complete circle, it's different from when it
started?

12 A. Well, that's a game called
Gossip.

13 And there is a significant difference in gossip.
But
14 what has happened is these people have their own
set of
15 ideas about what is going on here and then they try

to

16 tailor -- their memory of the event is altered by
their

17 own perceptions, their anxiety.

18 These people in the convenience
store

19 thought they were in grave danger themselves with
gunfire

20 going on, so it distorted their memories.

21 Q. How is a situation resolved?

How do

22 you resolve a situation where you have different
stories,

23 from dramatically -- from the same perspective in
effect,

24 people sitting in the same room, how do you resolve
that?

25 How do you explain that?

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1 A. How do you explain it?

2 Q. Well, how do you resolve the
3 differences between these? Do you chalk it up to
4 differences in perceptions or how do you resolve
that?

5 A. Well, they can't all be right.

As a

6 matter of fact, maybe nobody is right. Maybe they
are

7 all incorrect because their stories are all
different.

8 But you know, you may not be
able to

9 find out exactly what went on from those witnesses.
They

10 have a memory of it and whatever their memory is
belongs

11 to them, correct or incorrect.

12 Q. Is it true, Doctor, that many
times an

13 eyewitness or even a victim can be the worst person
to

14 relate an event?

15 A. Yes. Particularly in traumatic
16 situations.

17 Q. That, in effect, would be the

last

18 person you would want to try to explain what
happened?

19 A. Well, I mean, you would want to
hear

20 what that person said, but you have to take into
21 consideration that they -- that their memory may be
22 distorted of it, as it often is.

23 Q. Earlier you talked about the
type of

24 things that can lead to the altering of memory when
25 memory is trying to fill in the gaps.

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1 A. Yes.

2 Q. Okay. As you said, the mind
kind of

3 wants to run like a videotape, but the mind doesn't
run

4 like a videotape.

5 A. That's right.

6 Q. Then you gave some factors that
when

7 someone tries to fill in the gaps in their memory,
what

8 can happen. Can you go back through those factors to
the

9 jury? And in particular, I want you to go into
10 suggestibility.

11 A. Well, I mean memory is made up of
12 data. Where the data comes from, I mean, you could
dream

13 it up yourself, somebody could suggest it to you, it
14 could be an actual memory, it can be a distortion,
15 distorted memory of what actually occurred.

16 But, we know, for example, there
is a

17 concept of recovered memories, which are, in fact,
not

18 correct, or the -- you can produce memories in
people of

19 situations which absolutely did not occur.

20 That is Elizabeth Loftis' work at
the

21 University of Washington. I mean she has
demonstrated

22 over and over again, how you can suggest to
someone, show

23 them a videotape of a situation with cars at an

24 intersection and ask them, "How far was the white
car

25 from the stop sign when the red car went by?"

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want to

19 rely on the suggestion. They want to have a memory
of

20 it. The mind abhors a vacuum and it wants an
answer, and

21 unfortunately, some of those answers come from
incorrect

22 data.

23 Q. What is the best way, Dr. Coons,
to

24 recall memory that has been -- I want to use the
word

25 lapse, but dissociation -- what is the best way to

1 retrieve that memory?

2 A. Well, if it, in fact, is there,
you

3 allow the person to tell you. You don't ask them,
well,

4 did this happen or did this happen or did this
happen,

5 because, if they don't know, they may select one of
those

6 things as an actual memory when it wasn't true.

7 Q. Now, when you say, you want to
allow

8 them to recreate the memory. Is it also important
what

9 type of atmosphere and surroundings that person is
in

10 when you try to recreate the memory or help them
recreate

11 the memory?

12 A. It is best when it is a
supportive,

13 quiet, calm, not emotionally charged situation.

14 Q. Is it in fact counterproductive
to try

15 to deal with gaps in memory, with suggestions in an

16 emotionally charged atmosphere?

17 A. Yes. You run the risk of
18 suggesting

19 data that the person will then incorporate into
20 their

21 memory. And, thereby get a distorted recollection.

22 Q. Can you give the jury an example
23 of
24 that?

25 A. Yes. We have had situations
26 where,

27 for example, there are some false memories that come
28 from

29 what's called iatrogenic production of false
30 memories,

31 where the doctor or the therapist will suggest
32 things to

1 a person which they then will take in and form as a
2 memory of abuse or something that actually didn't
happen

3 but they now accept it as truth.

4 Q. Dr. Coons, let me work through
with

5 you in a hypothetical situation. Assume with me,
Doctor,

6 that you have a young mother, 26 years of age, that
the

7 mother is very committed to her children, two young
boys

8 as well as a toddler, I want to say, but really an
9 infant-aged child.

10 That that mother is not only
deeply

11 committed, but spends a great deal of her time with
those

12 boys.

13 And also assume that the
relationship

14 between the mother and the boys is healthy, and that

15 there is no prior history of abuse, there is no
prior

16 history of neglect.

17 And also assume with me, Doctor,

that

18 the marriage is stable, that there are the typical
rough

19 seas, for want of a better word that a marriage
would

20 have, but by and large, a stable marriage, without

21 periods of separation or threat of divorce, that
sort of

22 thing.

23 Also, assume with me, Doctor,
that

24 that mother becomes the subject of a traumatic
event, an

25 attack. And assume with me, Doctor, that that
mother

1 is -- witnesses, and is present when the oldest two
boys
2 are killed, that she is the victim of a blunt trauma
3 attack to her arms, a stabbing attack to one arm,
and
4 what has been described as a large slash wound to
her
5 neck.

6 Now, with the hypothetical of a
mother

7 in that situation, I want to ask you first, Doctor,
in
8 dealing with the relationship to a mother and child,
is
9 there any stronger bond that you are aware of?

10 A. That is generally the strongest,
the
11 most intense, particularly with younger children that
are
12 requiring a protection and nurturing and care by a
13 mother.

14 Q. Can you explain that bond to the
jury?

15 I mean, it's fairly obvious, but what research and
16 psychological data shows that that bond is as strong

and

17 as primary as it is?

18 A. Well, I don't know that anybody
has

19 done a specific study that shows it. I think we
know

20 from dealing with families and dealing with mothers
and

21 children and family dynamics that that is an
extremely

22 strong bond.

23 We also know from dealing with
mothers

24 whose children are ill, for example, or in trouble
in

25 some way, their emotional response is extremely
strong.

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1 Q. And moving back to --

2 A. In general. I mean, there are
some

3 mothers who don't have a close relationship with
their

4 children, but that is the exception rather than the
rule.

5 Q. Moving back to the hypothetical of
a

6 mother as I have described, who is the subject of a
7 traumatic attack to herself and also the killing of
her

8 children by violent injuries. Would it be consistent
9 with your training and experience and your
knowledge,

10 with memory, and what you have testified to the
jury,

11 that a mother in that situation would dissociate
from

12 that trauma?

13 A. Well, it's certainly very
possible.

14 That is the kind of overwhelming trauma that leads
to

15 dissociation, not always, but can lead to
dissociation.

16 Q. When you talk about an
overwhelming
17 trauma, could an overwhelming trauma, described as
I
18 have, dissociate a person even to the extent that
their
19 first recollection of the traumatic event is after
the
20 event, such that there is no recollection of the
event
21 itself, the traumatic event?

22 A. Yes.

23 Q. And is that recognized as, I
don't
24 want to use the word common, but is it recognized
as a
25 response which has happened in the past and is not
beyond

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1 the realm of possibility?

2 A. That's right.

3 Q. Okay. And are there -- in the
course

4 of a traumatic event, are there certain things which
can

5 bring a person -- and I don't want to use the word

6 trigger -- but bring a person into recollection? Do
you

7 know what I am trying to get at?

8 A. Not yet.

9 Q. Okay. If a person is dissociated
and

10 begins to have recollection of events, let me ask
you,

11 Doctor, would it be consistent that contact with a
child,

12 that strong bond, could be the stimulus to start

13 recollection and start the memory process back again?

14 A. Yes.

15 Q. Can you explain that to the jury?

16 A. Well, I mean nobody dissociates

17 forever. I mean, they don't just dissociate and
that is

18 the end of mental functioning.

1 situation, the events as they occurred, that, in
effect,

2 snapshots would be recalled by the person and that
it

3 would be consistent to have lapses of memory?

4 A. If a person has been
traumatically

5 overwhelmed to the point where they have had
6 dissociation, they may not go from a completely
7 dissociated state to a completely alert, aware,
8 attentive, normal state.

9 It may come back in, with
vignettes or

10 occurrences. It may not just be like a marble
rolling

11 off the table. You go from complete dissociation to
12 complete normality.

13 Q. Okay. So you would expect that
there

14 would be periods of clarity and periods of vagueness,
and

15 periods of clarity?

16 A. Let's say that that would not be
17 uncommon, that is certainly feasible.

18 Ordinarily a traumatic event, a

person

19 doesn't go from dissociated to normal. They go from
20 dissociated to starting to get back with what is
going

21 on.

22 Q. Okay. And would it be common that
the

23 point that the person has the greatest amount of
24 dissociation would be the most intense part of the
25 traumatic event?

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1 A. Whatever to them would be the most
2 anguished, emotionally anguishing is the most likely
to
3 be dissociated.

4 Q. Is it also common, Doctor, that in
the
5 course of remembering and trying to fill in the gaps,
6 that a person would remember the most insignificant
7 matters while not remembering the most
significant
8 matters?

9 A. Yes.

10 Q. Can you explain how that
works?

11 A. Well, as a person moves from
the
12 dissociation that is involved with an extremely
traumatic
13 event, as they return to awareness, they are going
to
14 be -- their attention and so forth is going to be
spotty
15 and you would expect it to be with less emotionally
16 charged things, certainly not traumatically
overwhelming.

17 Q. Let me ask you this, Doctor: If
a
18 person has been in a traumatic event, would it be
common
19 that that person would have a very sketchy memory,
and
20 then would be able to remember later, the further
you are
21 removed from the traumatic event, even specific
details?
22 For instance, let me give you an hypothetical.
23 Let's assume that a person is in
a
24 traumatic event, an attack, is then confronted with
a
25 number of police officers questioning her
immediately

1 after the traumatic event, is questioned and asked
about

2 (sic) paramedics about her wounds, and then begins
to be

3 removed from the scene to be transported by
ambulance to

4 a hospital.

5 Now, in that traumatic -- in that
6 hypothetical, would it be unusual for that victim of
a

7 traumatic attack to begin remembering, the further

8 removed from the traumatic event, to be able to
start

9 remembering things as small and detailed as how long
in

10 the ambulance, what the paramedic may look like,
what

11 hospital the paramedic's taking them to, if there is
a

12 controversy as to which hospital to go to?

13 A. Yes. The further out from the --

14 necessity for dissociation, minding that
dissociation is

15 a psychological, protective mechanism, then, the
farther

16 out you are from that, the more normal your

perceptions

17 and memory you would expect to be.

18 Q. Now, an example of a mother who
has

19 been involved in an automobile accident with a child
and

20 the child may be killed, are there points where the
21 mother -- would it be common -- let me ask you this:

22 Would it be common for the mother to completely
block out

23 the traumatic events of the automobile accident, but
24 remember with detail the events that follow, such as

what

25 medical treatment was rendered, how long it seemed
to

1 take to get to the hospital, very detailed events
later?

2 A. Yes. If the event is traumatic
to

3 her, you would expect her level of excitement to
impair

4 her memory. As the traumatic effect on her
diminishes,

5 you would expect her memory to be better.

6 Q. Going back to the first
hypothetical

7 that I gave you, would it be unusual for -- when the
mind

8 tries to explain and you try to explain when your
first

9 memory and what brought it about, would it be
unusual to

10 have that first memory be in the middle of an event,

11 because you have in effect, blocked out the
traumatic

12 event, and would it be unusual to say: "My first
13 recollection is waking up."

14 Would it be unusual that the

15 recollection must be, "Well, I must have been
asleep"?

16 A. Let's say it's reasonable to say

that,

17 because a person -- a person who is dissociating
doesn't

18 know they are dissociating. All they know is the
first

19 thing I recall is such and such. And most of us
would

20 associate that with waking up. But people who
dissociate

21 do not know that they are dissociating.

22 Q. So, the mind in trying to
struggle for

23 an explanation of why they don't remember a
traumatic

24 event, the mind would -- it's not uncommon for a
person

25 to say, "I woke up." Would you agree with that,
Doctor?

1 A. Well, I don't know how many I
have
2 actually asked about that, but that certainly is the
most
3 logical explanation for how a person would perceive
that.

4 How else are they going to
explain not
5 recalling the rest of it, other than to say, "Well,
I
6 woke up," or, "I came to," since they don't know
they are
7 dissociating.

8 Q. Okay. Now, I want to ask you a
little
9 bit about medications and how medications can affect
10 recall and memory. Can you tell the jury how, if
you
11 have a person who is dissociated, how would
medications
12 affect the ability to begin recall and how would it
13 impair the ability to begin recall?

14 A. Well, you can have a beneficial
effect
15 from sedating-type medications for recall because it

will

16 decrease the anxiety, or you can have further
distortions

17 because of the distorting effect of the medication,
so

18 you can have either one.

19 Q. Okay. Are you familiar that
20 medication can be a disinhibitor?

21 A. Yes.

22 Q. In effect, certain medications
can

23 cause a person to be more relaxed and more likely to
24 relate an event due to the medication?

25 A. Yes. And it's kind of like
alcohol,

1 it's a disinhibitor, and removes anxiety.

2 Q. Okay. I want to --

3 A. Well, now are you talking about
pain

4 medications, generally, analgesics and sedative-type
5 medications?

6 Q. Right. For instance, Demerol,
could

7 Demerol have those effects?

8 A. Yes.

9 Q. What about Phenergan?

10 A. Yes.

11 Q. Certainly, the type of
medications

12 that are used in general anesthesia could have
that

13 effect, isn't that true, Dr. Coons?

14 A. Well, it depends on whether
you're

15 talking about a premedication and often people are
given

16 something like Valium, or Demerol before they
receive an

17 anesthetic to calm them down, relax the muscles,
so they

18 use less anesthetic.

19 Then, when you are waking
someone up,

20 if they have had an anesthetic, then they come out
of

21 that as they blow off either the gases or they
metabolize

22 if it's an intravenous anesthetic, they will
metabolize

23 it.

24 Q. Okay. Let me talk to you in
terms of

25 another hypothetical. Imagine that a victim of a
violent

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1 attack has been operated on, been placed under
general

2 anesthesia, been through surgery for some hour and
3 fifteen minutes, upon arrival to a recovery
room,

4 approximately 6:00 A.M. receives 25
milligrams of

5 Demerol, the same dose of Phenergan, and then begins
to

6 come out of the effects of those medications,
awakens to

7 consciousness.

8 And then assume, Doctor, that the
9 person begins to come in contact with a steady
stream of

10 family members, nurses, as well as police officers,
who

11 begin to suggest and question as to the events
12 surrounding an attack.

13 Also assume, Doctor, that the
victim

14 has dissociated significant portions of the
traumatic

15 event. Could improper questioning and suggestions
given

16 to that victim greatly affect their recall and

their

17 memory?

18 A. Yes. And you would expect -- I
would

19 expect them to be, for a person to be more
vulnerable to

20 suggestions and questioning and provided data as a
part

21 of the interrogation, as a result of the
medications than

22 if they hadn't been on medication.

23 Q. All right. When a person is

24 confronted with questions like -- let's say you're
trying

25 to identify an attacker and a person is confronted
with

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1 questions, "Was the person this size," and brings
in a

2 live person, "Was it my size, or was it this guy's
size,"

3 and the person is given some choice, suggested a
choice,

4 can that begin to lead to the type of suggestion
which

5 would cause false memories?

6 A. Yes. They are asked to make a
7 decision about -- I mean if the person is asked
what size

8 the individual was, that is an open-ended question.

9 If they say, "Was it this size
or this

10 size," then they are placed in a position of making
a

11 choice. And the mind has a tendency toward filling
in

12 the gaps and would have a tendency toward making a
13 selection.

14 Q. So suggestibility would cause
someone

15 to pick A or B?

16 A. Yes, it can, it doesn't have to,
but

17 it can.

18 Q. Now when that begins to be
recounted

19 over and over again, how does the retelling a
story, even

20 if wrong, over and over again, begin to affect
memory?

21 Does it get to where it's ingrained in the mind?

22 A. Yes. I think I am a whole lot
better

23 basketball player now than I was when I was playing

24 basketball. You know, you recall things that
strengthens

25 the memory over a period of time.

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1 Q. Now, after a person has
continued to

2 recount stories and also been suggested versions
over a
3 period of time.

4 A. I'm sorry?

5 Q. After you have been suggested --
for
6 instance, is it not unusual for people to say, "Well,
you
7 have a stab wound on your arm and you were attacked.
8 How did you get that? And could it be this or could
it
9 be that?" And when a person's memory -- people want
to
10 try to help you out; isn't that right? Have you seen
11 that frequently?

12 A. Yes, yes.

13 Q. What they try to do is say, "Well,
14 could this have happened?" How does that affect
15 suggestibility with a person's mind? Does the mind
latch
16 on to those suggestions?

17 A. It certainly can. That is a
18 phenomenon that we try to avoid, is contamination.

You

19 let people tell you what happened rather than try to
20 offer them suggestions. That is, that's not the best
way

21 to do it.

22 Q. Okay. Let me ask you this, are

you

23 familiar with Dr. Phillip Resnick?

24 A. Yes, sir.

25 Q. Is he an authoritative doctor and
well

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1 recognized and respected?

2 A. Well, Phil Resnick is probably the
3 best teacher that I have ever experienced in terms of
his
4 command, in terms of his ability to present material,
the
5 clarity of his thought and so forth. He is one of
the
6 most renowned forensic psychiatrists in the world,
7 certainly America.

8 Q. Okay. You use the term
confabulation?

9 A. Yes.

10 Q. And I'll ask you: When the mind
tends
11 to fill in the gaps, and you term that confabulation,
is
12 that unintentional?

13 A. Yes.

14 Q. That is the result of the mind --
the
15 old term is, the mind plays tricks on you?

16 A. Yes. Well, I mean, it's not so
much

17 the mind plays tricks on you, it's that you are

coming up

18 with answers to questions whether the data is there

to

19 back it up or not.

20 Q. Okay.

21 A. You ask somebody in a nursing

home,

22 "What did do you today," and they will often just

fill

23 you up with information which is wrong.

24 Q. Let me ask you in terms of

25 hypothetical situation. Imagine that in -- assume,

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1 Doctor, that you have a young lady 26 years of age,
who
2 has been the witness and victim of a traumatic event,
the
3 same lady, loss of children, very dear to her.

4 That that woman has been the
subject

5 of dissociation as to the traumatic event, that the
lady
6 has been repeatedly questioned over and over again as
to
7 the event, and that some of that questioning has been
the
8 form of suggestion as to the event.

9 And assume, Doctor, that the lady
is
10 completely cooperative throughout the process with
11 authorities to try to aid the authorities in finding
the
12 attacker or the perpetrator of the offense.

13 And assume for a minute, that the
lady
14 comes into contact with a police detective of 20
years
15 experience, and that, in the course of a three-hour
16 questioning, she is, as many as 6 to 12 times

suggested,

17 "You did this killing, you were the one that did this
18 act."

19 And assume that the person made
20 statements to the effect of, "Well, if I did it, I
don't

21 remember it."

22 Would you in many respects expect
the

23 person to make that type of statement?

24 A. I would expect someone who has
25 experienced dissociation to wonder what happened, to
--

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1 if they experience dissociation, that there are
things,

2 there are aspects of it that they don't recall.

3 And that I wouldn't find that
unusual.

4 A person who is seeking to fill in the gaps might
well

5 entertain what is being suggested by a veteran
detective.

6 Q. Now, let me ask you this then:
Does

7 the failure and assuming the hypothetical that this
8 cooperative person does not say, "But I didn't do
it."

9 Would that surprise you, that the person would not
make

10 that affirmative statement?

11 A. I guess, I mean, your
hypothetical

12 doesn't involve what the person did say, but if the
13 person is saying, someone else did it, that is
tantamount

14 to saying, I didn't do it. I mean, that --

15 Q. Well, if a person has
consistently

16 said there was another attacker?

17 A. Yes.

18 Q. Then that is the same statement
of, "I
19 didn't do it."

20 A. Yes, to me it is.

21 Q. And you wouldn't expect a person
who

22 was in the midst of saying there was another person
that

23 did it, would be expected to say, there was another
24 person that did it and I didn't do it.

25 A. I don't think I have ever -- it's

1 redundant.

2 Q. Now, let me ask you a couple of
3 questions first, Dr. Coons. You have testified in
court

4 before in cases that Richard Mosty was involved in
and

5 also cases that I was involved in; is that correct?

6 A. Yes -- well.

7 Q. And that has been for and
against?

8 A. Yes.

9 Q. All right. You have testified
some

10 years ago in a case, State of Texas versus Randy
Wohls

11 (phonetic), where you were a State's witness and Mr.
12 Mosty represented the defendant; is that right?

13 A. Yes, sir.

14 Q. And then you had testified in two
15 other cases that Richard and I were in, one in
Gillespie

16 County and one in Kimble County; is that right?

17 A. Yes.

18 Q. And you were paid for your
testimony

19 here today; is that right?

20 A. I am going to send a bill, I hope

I

21 will be paid.

22 Q. Yeah. What is your hourly rate?

23 A. \$360.00 per hour.

24 Q. Okay. And, had you previously
25 consulted Richard Mosty sometime last month, about
memory

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1 and those issues?

2 A. Yes. He called me and asked me
if I

3 would talk with him and he came to Austin and we
talked.

4 Q. Okay. And is it fair to say that
over

5 the course of your career, that you have testified
6 numerous times for the State of Texas?

7 A. Yes, many times.

8 Q. Have you in the past been retained
by

9 Dallas County to testify?

10 A. I have been -- yes, I have
testified

11 in Dallas as a prosecution witness.

12 Q. For the district attorney's
office?

13 A. Yes.

14

15 MR. S. PRESTON DOUGLASS: If I can
16 have one moment, your Honor?

17 THE COURT: All right.

18

19 BY MR. S. PRESTON DOUGLASS:

20 Q. Doctor, let me ask you: For a
mother

21 to kill her children, wouldn't it take an
overwhelming

22 impetus for that to happen?

23

24 MR. TOBY L. SHOOK: Judge, I will
25 object to this going outside of the scope of the 705

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1 hearing.

2 THE COURT: Sustained.

3

4 BY MR. S. PRESTON DOUGLASS:

5 Q. You're familiar with that bond,
are

6 you not?

7

8 MR. DOUGLAS MULDER: Well, Judge,
do

9 we need to have another hearing?

10 THE COURT: I don't think we do.

I

11 think that Mr. Douglass is perfectly capable of
pursuing

12 this in question and answer form. Go ahead, Mr.

13 Douglass.

14 MR. S. PRESTON DOUGLASS: Well, we
may

15 need another 705 hearing is what I'm trying to say.

16 THE COURT: What was the last

17 question?

18 MR. TOBY L. SHOOK: Well, the
purpose

19 of that was to get that all out in the first place.

20 MR. S. PRESTON

DOUGLASS: Well, I

21 thought I made that clear. Let me
go into one other

22 thing.

23 THE COURT:

Please go ahead. Well,

24 let me see both sides a minute up

here.

25

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cial
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t
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rter

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1 (Whereupon, a
short

2 Discussion was
held

3 Off the record, after

4 Which time the

5 Proceedings were resumed

6 As follows:)

7

8 BY MR. S. PRESTON DOUGLASS:

9 Q. Doctor, the question I asked you
was:

10 For a mother to kill children, would it not take an
11 overwhelming impetus to start that event into
fruition?

12 A. Well, I would answer that by
saying

13 that it would depend on the mother. Unfortunately,
some

14 mothers are not as close to their children, some
mothers

15 are psychotic or something of that nature.

16 But in general, and in
particular, if

17 you stick with your hypothetical person in this
case, I

18 would say that it would. It would take -- and that
is an

19 extremely unusual event for a mother with a good
20 relationship with her children.

21 Q. Let's talk about psychosis for a
22 minute. A person who is psychotic is one who --
can a

23 person be psychotic and turn that on and off like a
water

24 faucet?

25 A. No.

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1 Q. A person who is psychotic would
show
2 signs of psychosis prior to a psychotic event; is
that
3 right?

4 A. Yes.

5 Q. Is it consistent --

6 A. When you say prior to a
psychotic
7 event, I mean, generally, psychosis doesn't just turn
off
8 and on. It comes on and it stays and you -- if it's
of
9 any particular intensity, people are going to
recognize
10 that the person is talking to God or hearing voices
or
11 something of that nature.

12 Q. Is it consistent with psychosis
if --
13 from a mother's standpoint, wouldn't there be signs
of
14 failure to keep up, failure to keep up your personal
15 appearance, failure to keep up your home, failure
to
16 carry on as you had in every day life?

17 A. If the psychosis is at all
intense, it
18 will be apparent and it will adversely affect
your
19 functioning.

20 Q. To the point that -- let me
ask you
21 this other question, Doctor: When you see
someone with a
22 psychosis, is it often that that psychosis
carries on for
23 a number of hours after the psychotic event, such
as that
24 person remains psychotic?

25 A. Well, I mean, there are only
reasons

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1 that you would be -- one would be psychotic. You
can
2 become psychotic from taking LSD or something of
that
3 nature. You could be schizophrenic. You can
have a
4 manic-depressive illness where you get manic and
hear
5 voices and things like that. Those are not short
term
6 things. They tend to last a while. So, you are
not
7 talking about a matter of hours. So, I mean that
would
8 be real unusual.

9

10 MR. S. PRESTON DOUGLASS: Thank
you,

11 Doctor. Pass the witness.

12 THE COURT: Mr. Shook.

13

14

15 CROSS EXAMINATION

16

17 BY MR. TOBY L. SHOOK:

18 Q. Dr. Coons, just a few questions.

Did

19 you make any reports or notes in regards to this
case?

20 A. No.

21 Q. Okay. In fact, the first time
you

22 were contacted was by Mr. Mosty in December; is that
23 right?

24 A. Yes.

25 Q. Okay. Did he come and speak to
you

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1 about what you have talked about in front of the
jury,

2 memory and things like that?

3 A. Yes. I mean, I know that memory
was a

4 large part of what we talked about.

5 Q. Okay. And then, when was the next
6 time you were contacted?

7 A. I next spoke with Mr. Mosty at
about

8 9:00 o'clock last night, when I returned his phone
call.

9 Q. All right. And, you have not
10 interviewed the defendant in this case, Darlie
Routier?

11 A. That's right.

12 Q. Okay. You have not gone over or
seen

13 her voluntary statement, have you?

14 A. I don't think so.

15 Q. Her husband's voluntary
statement?

16 A. I don't think so.

17 Q. You haven't looked at any
police

18 reports or summaries of evidence, anything like
that,

19 have you?

20 A. I don't believe I have.

21 Q. You have looked at maybe a couple
of

22 photographs, I believe?

23 A. Several. I think there were some

24 pictures of the home and some pictures of Mrs.

Routier,

25 her arms and a cut on her neck.

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1 Q. Okay. You have not reviewed any
2 medical records, have you?

3 A. No.

4 Q. Have you talked with anyone else
in

5 regards to this case besides Mr. Mosty and Mr.
Douglass?

6 A. Mr. Mulder.

7 Q. And Mr. Mulder. Okay. Anyone
else?

8 A. And the investigator.

9 Q. Okay. Anyone else other than
that?

10 A. I don't think so.

11 Q. Okay. Consulted with any other
12 doctors in regards to this case?

13 A. No.

14 Q. Have not talked to Dr. Lisa
Clayton

15 about this case at all, have you?

16 A. No.

17 Q. Okay. And, you have not
interviewed

18 any family members of Darlie Routier, have you?

19 A. No.

20 Q. And you have not interviewed any

of

21 her physicians that attended her the day of the
attack,

22 have you?

23 A. That's right. I have not.

24 Q. None of the nurses?

25 A. No.

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1 Q. And none of the police officers?

2 A. That's right.

3 Q. Okay. You have not viewed, what
we

4 call the Silly String videotape, the grave site
videotape

5 that was made, have you?

6 A. No.

7 Q. Okay. You have just rendered some
--

8 well, you have given us some information about memory
and

9 what you know about memory and sometimes when someone
10 blocks certain aspects of memory out. Is that called
11 traumatic amnesia?

12 A. Well, that is not a diagnosis, but
13 that is a term that is used.

14 Q. What is that term used for
exactly?

15 A. Well, it's not an exact term. I
mean,

16 the way I would describe it is that the person
undergoes

17 a psychological trauma and has -- and not does not
recall

18 then what happened for some period of time.

1 Q. Okay. You all have a term you use
2 called malingering; is that right?

3 A. There is a term called
malingering.

4 Q. What -- could you explain to the
jury

5 what malingering is?

6 A. Basically, claiming that you have
7 something that you don't.

8 Q. Okay. And, are there certain
types of

9 cases in which you are trained as a psychiatrist to
be

10 very careful that a person is malingering?

11 A. Yes, sir.

12 Q. What types of cases are those?

13 A. Oh, if a person has -- would have
some

14 advantage from lying about having some kind of a
problem,

15 that is basically lying about it, for money or some
16 advantage.

17 Q. Okay. Money is one of them.

Also,

18 obviously, if a person is accused of a crime, that is
19 another situation where you often have to be very

careful

20 of malingering; is that right?

21 A. Yes, that is true. I mean, if
there

22 is any advantage to be gotten from something, someone

--

23 you always want to be careful that that is not what
is

24 going on.

25 Q. Okay. And, when a person is
accused

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1 of the crime of murder, capital murder, do you not
have
2 to be even extra careful in those situations, that a
3 person might be malingering or lying, specifically
4 saying, I have amnesia. I can't remember what
happened.

5 A. Yes, you would want to be careful
6 about that.

7 Q. Okay. If there was evidence that
the
8 crime scene may have been staged in some ways, would
that
9 make you even more cautious that this person may be
10 malingering?

11 A. Sure. You would take that into
12 consideration.

13 Q. Okay. If the offense was planned,
if
14 there was evidence that the offense may have been
planned
15 sometime, would that also make you more cautious
about
16 malingering?

17 A. I don't think it would make me
more

18 cautious. I mean, you would have -- the cautious
factor

19 would be the same. Certainly, you would take that
into

20 consideration.

21 Q. Okay. And, the type of memory
22 blockage that you have talked about, a person that
23 forgets a traumatic event, is that some type of
mental

24 disorder that you all have described in the DSM-IV?
25 A. Well, it can amount to -- it can
fit

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1 under a diagnostic category, but it is a
psychological

2 defense mechanism that occurs. So, it can occur in
the

3 absence of a diagnosable mental illness, if you
will.

4 Q. Okay. So, the person can have
that

5 memory blockage and not -- well, usually what are
the

6 situations which would be the medical disorder?

7 A. Well, it would probably always
amount

8 to -- I'm just thinking -- at least something like
an

9 adjustment disorder with mixed emotional features
or

10 something of that nature. I mean, it would
probably

11 qualify for a diagnosis.

12 Q. Okay. Does it fit in, I think
you

13 call it post-traumatic stress syndrome?

14 A. No.

15 Q. Okay.

16 A. But I mean you can have,

dissociation

17 could be a part of a post-traumatic stress disorder.

18 It's seen in people who are highly traumatized. They
may

19 dissociate part of what has happened to them.

20 Q. Now, let's talk a little bit about
21 medications, we're talking about Demerol. Demerol is
a

22 painkiller; is that right?

23 A. Yes.

24 Q. Okay. If a person is given a very
25 small doses of Demerol -- well, first of all, let me
ask

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1 you this: Is Demerol like truth serum in any way?

2 A. Well, there is no truth serum, all
it
3 is, is a sedating substance. Alcohol works, "in vino
4 veritas," is the Latin for it which means, "In wine,
the
5 truth." People get drunk and tell things that they
6 probably shouldn't be.

7 And, then, you could use Sodium
Amytal
8 or various barbiturates, you can use tranquilizers,
9 things like Demerol are sedating and that would work.

10 So there is nothing magic about
it,
11 there is no one truth serum.

12 Q. Right.

13 A. All it does is it gets you drunk,
it
14 gets you intoxicated so that you are less anxious,
and
15 can tell things that you want to tell, basically is
what
16 it does.

17 Q. If you don't want to tell things,
18 like, maybe not wanting to confess to murdering your

19 children, a small amount of Demerol is not going to
make

20 you do that to detectives, is it?

21 A. Not going to make you do what?

22 Q. Make you confess all of sudden.

23 A. No, I mean it's just like, you

know, a

24 couple of beers or something like that.

25 Q. Okay. You wouldn't expect, if a

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1 person, let's say, is cold-blooded enough to murder
their
2 own children, and they don't want to be punished for
3 that, they want to get away with it, and they are
given
4 25 milligrams of Demerol, then the detectives come in
the
5 room, they are not going to jump up and say, "You got
the
6 goods on me. I did it." You wouldn't expect that,
would
7 you?

8 A. Well, you would expect them to be
more
9 likely to tell under those circumstances where their
10 defenses are lowered. But, simply, I mean if that is
all
11 you are talking about, in an adult 25 milligrams of
12 Demerol on its own, you wouldn't expect to have that
much
13 effect.

14 Q. Okay. That is a pretty light
dosage,
15 25 milligrams, in an adult?

16 A. It depends on what it's associated

17 with. If it's, you know, 25 milligrams of
Phenergan

18 along with it and a person who's also been
premedicated

19 perhaps with Valium for their surgery, or who is
coming

20 out from under an anesthesia, you add all those
things

21 together.

22 Q. Now, you talk about people try to
fill

23 in the gaps and they are open to suggestion. Is
that

24 what we're talking about?

25 Someone says, "Well, did it
happen

1 this way?"

2 And then they go, "Yeah. I think
it

3 happened that way."

4 A. I don't know about open to
suggestion.

5 They are vulnerable to suggestion because there are
gaps

6 in their memory and so people tend to try to fill in
the

7 gaps.

8 Q. In Mr. Douglass's hypothetical,
he

9 gave you the mother that witnessed a traumatic
event. A

10 central part of his hypothetical was people making
11 suggestions about how this event actually took
place.

12 If that were removed from the
13 hypothetical, if people didn't suggest in any way
how the

14 event took place, would that change your opinion in
any

15 way?

16 A. Well, I mean, if no suggestion

was

17 made, then no suggestion was made.

18 Q. Right.

19 A. If you ask a question like,

"Well, did

20 he run off," well, then that suggests that maybe he

ran

21 off rather than walked off or crawled off or stayed

or

22 whatever. That is what I am saying, rather than

saying,

23 "Tell me what happened. Tell me everything that you

can

24 recall happened."

25 Q. And if a detective, let's say,

went to

1 this woman in the hypothetical and said, "Tell me
what
2 happened."

3 And she said, "I was asleep. I
felt
4 some pressure on me and there was a man standing
over me
5 and we had a struggle on the couch and then he ran
off."

6 That wouldn't be a suggestion on
his
7 part in any way, would it?

8 A. No, that would not.

9 Q. And if, let's say, nurses later
on
10 during the day just said, "What happened?"

11 And she said, "A man was
standing over
12 me with a knife and tried to stab me, and he ran
off and
13 I chased after him."

14 That wouldn't be a suggestion
on their
15 part, would it?

16 A. Not if that is the only thing

you are

17 considering, what that one individual said, no,
they have

18 just asked, tell me what happened.

19 Q. Okay. If, let's say, in the
situation

20 where the woman who wakes up after going into some
21 surgery and there are detectives there, that they
want to

22 question her about the event.

23 And there is a nurse there
watching

24 over her who is very observant, and says that the
25 detectives didn't suggest any answers in any way.
They

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1 just methodically went step by step and asked her
what

2 happened, didn't suggest answers. That wouldn't
be a

3 situation where she is getting her memories from
another

4 person, would it?

5 A. Only to the extent of -- if the
answer

6 is not suggested, you can still encourage someone to
form

7 an answer by saying, "And then what did he do," you
see,

8 that causes the person to have some need to come up
with

9 an answer for that. And that is leading to some
extent.

10 Q. Okay. But that is not true in
every

11 case, is it?

12 A. What isn't true?

13 Q. That, if someone just asked, "What
14 happened next," that they are going to try to think
up

15 something?

16 A. Well, then what did he do was my
idea.

17 Q. Okay. Then what did he do?

18 A. Then there is an assumption that
he

19 did something else that she noticed that she ought
to

20 come up with and there is an inclination on the
people

21 who don't -- for people who don't recall to come up
with

22 an answer.

23 Q. You talked about them blocking out
the

24 most stressful part of the event and then remembering
25 small, trivial details or details that aren't as

Sandra M. Halsey, CSR., Official Court Reporter

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1 important?

2 A. Ordinarily, you would expect a
person

3 to block out the most traumatic thing to them. The
other

4 things that they could remember would be less
traumatic

5 to them.

6 Q. Okay. In the situation you were
7 given, an attack on your children, obviously, and
on

8 yourself, would be a very traumatic event?

9 A. I would anticipate that it
would.

10 Q. Would it also be a very
traumatic

11 event if you were watching your children lying
there

12 bleeding to death and dying?

13 A. Yes.

14 Q. Okay. You actually might have
gone

15 over there, touched them, watched their eyes roll
up,

16 watched them quit breathing. That would be a very

17 traumatic event, would it not?

18 A. I would anticipate that it
would.

19 Q. If
you observed your husband
breathing

20 into the mouth of one
of the children and blood
came out

21 of holes created by
stab wounds in the chest,
that would

22 be an extremely
traumatic event, would it
not?

23 A. I
would expect it would be
quite

24 traumatic.

25 Q.
Would those be the type
of events that

Sandra M.
Halsey, CSR., Official
Court Reporter

1 you would block out
also?

2 A.
Maybe.

3 Q.
Okay.

4 A. You know, it depends on whether
your

5 memory of it is spotty or not.

6 Q. Okay. And, many times in these
7 situations you have talked about, a person will block
out
8 an event for several hours at a time; is that right?

For

9 instance, the automobile, where maybe a mother has
her

10 children killed in an automobile accident, she may
not

11 remember the driving before the accident and to
several

12 hours later?

13 A. Ordinarily that is not the way it
14 works. Usually, the traumatic dissociation or
traumatic

15 amnesia will occur for a fairly short period of time,

and

16 then the person will begin being more attentive to

what

17 is going on.

18 Q. Okay. Well, let me ask you this:

If

19 there is a traumatic event and they block out that

20 portion, and then they're taken to the hospital and

they

21 go on, that should end the amnesia there, that is the

one

22 portion they block out, that very traumatic part; is

that

23 right?

24 A. Not necessarily. I mean, if they

are

25 dealing with the idea that their children have died

or

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1 something other, then the trauma can continue. I
mean, I

2 would expect the most traumatic situation to be
immediate

3 and -- but it is certainly traumatic to think that
your

4 children have just died, so you may be
psychologically

5 dissociated to some extent because of that.

6 Q. Okay. Would you believe it --
would

7 it be consistent then that if a person has blocked
out

8 the traumatic event and they are taken to the
hospital,

9 and if they made rather -- well, if they made
rather

10 inculpatory statements, let's say to the nurses
about

11 what happened and were able to describe the attack
12 without any suggestions to them, and later on when
you

13 ask them about that, they also had no memory of
talking

14 to these nurses; would that be inconsistent with
this

15 type of situation?

16 A. Well, the fact that a person did
17 recall some aspects of what happened would indicate
18 that
19 they have a memory of it. And I mean, that it
20 wasn't
21 forever erased from their memory, that there is
22 some
23 memory of it that might be able to come out under
24 certain
25 circumstances.

26 That is the way I would answer
27 that.

28 Q. The -- you said a mother's bond
29 with
30 their child is extremely strong. That's common
31 sense, is
32 it not?

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1 A. Well, most mothers' bonds with
their
2 children are extremely strong. I think almost
anybody
3 knows that.

4 Q. Okay. And it's a well known fact
and
5 common sense will tell you that a mother will fight
to
6 the death to try to save her children, will they
not?

7 A. Some will, some won't.

8 Q. If she has a strong bond with her
9 children, they certainly will, won't they?

10 A. A strong positive bond and then
given
11 the personality of the mother. You have some very
timid
12 people who will run from confrontation and so their
13 timidity overwhelms their bond with their child, for
14 example, but some will fight to the death.

15 Q. Let's say they are not a timid
person?

16 A. Yes.

17 Q. Okay. And they have a strong,
18 positive bond with their child. They will fight to

the

19 death, will they not?

20 A. Well, they will fight hard.

21 Q. And, if you were interviewing
someone

22 who was accused of murder and claiming to have
traumatic

23 amnesia, would it be important to look at maybe some
of

24 the physical evidence as maybe, for instance, a
25 discrepancy between how the children were killed and
the

1 wounds they received and then the actual wounds that
the
2 mother received?

3 A. I'm not sure what you have asked
me
4 there.

5 Q. Okay. If I could make -- for
6 instance, would it be important to you that, if you
have
7 a situation where a mother has survived and her two
8 children have been murdered, she is the suspect, and
the
9 medical doctors who treated her, and it's their
opinion
10 that the wounds she received are superficial?

11 A. Would it be important for what
12 purpose?

13 Q. In your assessment as to whether
this
14 person would be malingering or lying to you about --

15 A. If that were the question I was
asked,
16 yes, it would.

17 Q. Okay. Would that -- just one
second.

18 And, is it always important to gather most facts
about a
19 case when you are rendering an opinion from the most
20 sources?

21 A. Well, you ought to have an
adequate
22 amount of data to answer the questions that you are
23 asked.

24 Q. Okay.
25

1 MR. TOBY L. SHOOK: Okay. That's
all

2 I have then, Judge.

3 THE COURT: Anything?

4 MR. S. PRESTON DOUGLASS: Yes.

5 THE COURT: Will this be lengthy?

If

6 it's lengthy, I'm going to excuse the jury.

7 MR. S. PRESTON DOUGLASS: Well,

it

8 could be lengthy.

9 THE COURT: All right. Thank
you.

10 Let's take a 10 minute break, please.

11

12 (Whereupon, a short

13 Recess was

taken,

14 After which

time,

15 The proceedings

were

16 Resumed on the

record,

17 In the presence

and

18
defendant

hearing of the

19
presence

but outside the

20
follows:)

of the jury, as

21

22

23

THE COURT: Let the record

reflect,

24 that these proceedings are being held outside the
25 presence of the jury. All parties in the trial are

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1 present.

2 MR. JOHN HAGLER: Your Honor, at
this

3 time, it is our understanding that both sides are
going

4 to rest and close.

5 We do at this point in time move
for a

6 judgment of acquittal, or a motion for a directed

7 verdict, and we would reurge our previous motion.

8 THE COURT: All right. Motion
denied.

9 Thank you. All right. Bring the jury back in,
please.

10

11 (Whereupon, the jury

12 Was returned to

the

13 Courtroom, and

the

14 Proceedings

were

15 Resumed on the

record,

16 In open court, in

the

17 Presence and
hearing

18 Of the defendant,

19 As follows:)

20

21 THE COURT: All right. Let the
record

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

23 jury is seated.

24 Mr. Mulder.

25 MR. DOUGLAS MULDER: Yes, your
Honor,

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1 and ladies and gentlemen of the jury, at this time
the

2 defense will rest.

3 MR. GREG DAVIS: Your Honor, the
State

4 will close.

5 MR. DOUGLAS MULDER: We close.

6 THE COURT: All right. Ladies and
7 gentlemen, both sides have rested and closed. That's
all

8 the testimony you are going to be hearing in this
case.

9 I have to get together a Charge of
the

10 Court and we will go over that now. And then you are
11 going to be recessed until tomorrow morning at
9:00

12 o'clock. You will hear arguments and then you
will

13 retire and consider the case and reach a
verdict.

14 So, the same instructions as
always:

15 Do no investigation on your own. You will decide
this

16 case on the testimony you hear, and the evidence

you

17 receive in this courtroom.

18 Do not talk about this case

among

19 yourselves yet, because it isn't finally over. If

you

20 see or hear anything about it on the radio, TV or

the

21 newspapers, please ignore it. In fact, it would

be a

22 good idea if you didn't read any papers or listen to

the

23 radio or watch any TV news broadcasts while this is

going

24 on.

25 Wear your juror badges at all
times

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1 when you are in the courthouse area, and we will see
you

2 down here tomorrow morning at 9:00 o'clock.

3 MR. RICHARD C. MOSTY: Your Honor,
may

4 we talk about one thing first?

5 THE COURT: Yes, sir.

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 THE COURT: All right. So we will
see

15 everybody down here tomorrow morning at 9:00 o'clock.

16 If

17 everyone will remain seated please until the jury
clears

18 the courthouse.

19

20 (Whereupon, the

jury

Was excused from

20

the

21

Courtroom, and

the

22

Proceedings were

held

23

In the presence of

the

24

Defendant, with

her

25

Attorney, but

outside

Sandra M. Halsey, CSR., Official Court Reporter

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19 will open.

20 THE COURT: Mr. Shook.

21 MR. GREG DAVIS: Well, 10 minutes

a

22 side and then summarize.

23 THE COURT: All right. You want

10 or

24 15 minutes?

25 MR. TOBY L. SHOOK: To open with.

Sandra M. Halsey, CSR., Official Court Reporter

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1 THE COURT: Well, just --

2 MR. TOBY L. SHOOK: Well, I don't
know

3 yet, Judge. Can I tell you in the morning?

4 THE COURT: That's fine. So you
are

5 going first?

6 MR. RICHARD C. MOSTY: Yes.

7 THE COURT: 45 minutes. If you
don't

8 use it all up, you get what's left of the 45 minutes.

9 MR. DOUGLAS MULDER: Yes, sir.

10 THE COURT: You will close, Mr.
Davis?

11 MR. GREG DAVIS: Yes, sir. I
will.

12 THE COURT: All right. Thank
you.

13 We will see everyone here in
the

14 morning.

15

16 (Whereupon, the jury was
17 thereby excused for
the

18 day, to return on

the

19

next day, January 31, 1997,

20

at 9:00 A.M.)

21

22

23

(These proceedings are continued

to

24

the next volume in this cause.)

25

Sandra M. Halsey, CSR., Official Court Reporter

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CERTIFICATION PAGE

THE STATE OF TEXAS)
THE COUNTY OF DALLAS)

I, Sandra M. Halsey, was the Official Court
Reporter of Criminal District Court Number 3, of

Dallas

County, Texas, do hereby certify that I reported in
Stenograph notes the foregoing proceedings, and that

they

have been edited by me, or under my direction and the
foregoing transcript contains a full, true, complete

and

accurate transcript of the proceedings held in this
matter, to the best of my knowledge.

I further certify that this transcript of the
proceedings truly and correctly reflects the

exhibits, if

any, offered by the respective parties.

SUBSCRIBED AND SWORN TO, this ____ day of
_____, 1997.

Sandra M. Day Halsey, CSR
Official Court Reporter
363RD Judicial District

Court

Dallas County, Texas

22

Phone, (214) 653-

5893

23

24 Cert. No. 308

25 Exp 12-31-98

Sandra

M. Halsey, CSR.,

Official Court

Reporter

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1 STATE OF
TEXAS)
2 COUNTY OF
DALLAS)

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7

JUDGES CERTIFICATE

8 The above and foregoing transcript, as
certified

9 by the Official Court Reporter, having been presented
to
10 me, has been examined and is approved as a true and
11 correct transcript of the proceedings had in the
12 foregoing styled cause, and aforementioned cause
number
13 of this case.

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MARK TOLLE, JUDGE

22

Criminal District Court Number 3

23

Dallas County, Texas

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25

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