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IN THE CRIMINAL DISTRICT COURT

DALLAS COUNTY, TEXAS

THE STATE OF TEXAS } NO. F-96-
39973-J

VS: } & A-96-253
DARLIE LYNN ROUTIER } Kerr Co.

Number

REPORTERS RECORD

CLOSING

ARGUMENTS

IN GUILT OR

INNOCENCE

VOL. 46 OF 53

VOLS.

January 31,

1997

Friday

20

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22

23

24

25

Sandra M. Halsey, CSR,
Official Court Reporter

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C A P T

I O N

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3

4 BE IT REMEMBERED THAT, on
Friday, the 31ST 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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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

Sandra M. Halsey, CSR,
Official Court Reporter

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1 ADDITIONAL APPEARANCES:

2

3 HON. DOUGLAS D.

MULDER

4 Attorney at Law

5 2650 Maxus Energy

Tower

6 717 N. Harwood

7 Dallas, TX 75201

8

9 AND: HON. CURTIS GLOVER

10 Attorney at Law

11 2650 Maxus Energy

Tower

12 717 N. Harwood

13 Dallas, TX

75201

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15 AND: HON. RICHARD

C. MOSTY

16 Attorney at

Law

17 Wallace,

Mosty, Machann, Jackson &

Williams

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TX 78028

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21 AND: HON. S.

PRESTON DOUGLASS, JR.

22 Attorney at

Law

23 Wallace,

Mosty, Machann, Jackson &

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24 820 Main

Street, Suite 200

25 Kerrville,

TX 78028

Sandra M. Halsey,
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1

2 AND:

HON. JOHN

HAGLER

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Attorney at

Law

4

901 Main Street, Suite 3601

5

Dallas, TX 75202

6

ALL ATTORNEYS REPRESENTING

THE

7

DEFENDANT: DARLIE ROUTIER

8

MR. HAGLER HANDLING THE

APPEAL

9 AND:

10

HON. ALBERT D. PATILLO, III

11

Attorney at Law

12

820 Main Street, Suite 211

13

Kerrville, TX 78028

14

APPEARING FOR: Witness-

15

Detective Jimmy

Patterson

16

only on one date in

trial

17 AND:

18

HON. STEVEN J. PICKELL

19

Attorney at Law

20

620 Earl Garrett Street

21

Kerrville, TX 78028

22

APPEARING FOR: Witness

23

Officer Chris Frosch

24

only on one date in

trial

25

Sandra M. Halsey, CSR, Official
Court Reporter

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P R O C E E D I N

January 31st, 1997
Friday
9:00 a.m.

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

20 THE COURT: All right. Let the
record

21 reflect that these proceedings are being held
outside of

22 the presence of the jury and all of the parties in
the

23 trial are present.

24 Have both sides had a chance to
read

25 the Charge of the Court?

Reporter Sandra M. Halsey, CSR, Official Court

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1 MR. GREG DAVIS: Yes, sir, we
have

2 MR. JOHN HAGLER: Yes, sir,
your

3 Honor.

4 THE COURT: All right. What
says the

5 State?

6 MR. GREG DAVIS: The State has
no

7 objections to the Charge, specifically we have no
8 objections to the extraneous offense charge as it
is

9 given in the Court's Charge.

10 THE COURT: All right. And Mr.
11 Hagler?

12 MR. JOHN HAGLER: We have no
objection

13 to the Charge as it presently exists. We -- is
the

14 extraneous charge in there, Judge?

15 THE COURT: No, it is not?

Didn't you

16 want that removed?

17 MR. JOHN HAGLER: Yes, sir,
it's our

18 request that that be removed.

19 THE COURT: Granted.

20 MR. JOHN HAGLER: And also we
had

21 thought about a limiting charge at one time, but
we would

22 prefer that not to be in the Charge.

23 THE COURT: Granted.

24 MR. JOHN HAGLER: We're

satisfied with
25 the Charge.

Reporter Sandra M. Halsey, CSR, Official Court

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1 THE COURT: All right. And
just to
2 make that clear, these are two charges you are
talking
3 about right here?

4 MR. JOHN HAGLER: Yes, sir,
your
5 Honor.

6 THE COURT: All right. Let me
mark
7 these exhibits as Court's Exhibit B and C.

8
9 (Whereupon, the
10 Exhibits were marked
11 For
identification
12 Only, as
Court's
13 Exhibit No. B & C.)

14
15 THE COURT: All right. The
limiting
16 Charge will be Court's Exhibit B, and the
extraneous
17 charge will be Court's Exhibit C.

18

19

20

(Whereupon, the above

21

mentioned items

were

22

received in

evidence

23

for record purposes only

24

as Court's Exhibit Nos. B & C,

25

after which time,

Sandra M. Halsey, CSR, Official Court Reporter

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1 the proceedings were
2 resumed on the record,
3 as follows:)

4
5 THE COURT: Now, you can examine
this

6 Charge, Mr. Hagler, and see if that is the way you
wanted

7 it.

8 MR. JOHN HAGLER: Yes, sir, but we
9 don't want that in there any more.

10 THE COURT: All right. Then that
will

11 be Court's Exhibit C. All right.

12 MR. GREG DAVIS: If the record
could

13 reflect, your Honor, the State objects to the Court's
14 Exhibit B, I believe it is, that you were referring
to,

15 and our objection is based upon the fact that we
believe

16 it is a comment on the weight of the evidence.

17 THE COURT: Well, okay, I am
pulling

18 that. That is just for record purposes only.

19 MR. GREG DAVIS: Yes, sir.

20 THE COURT: All right. And
both

21 Court's Exhibit B and C are removed from the
Charge at

22 the defendant's request. So what is going to
happen?

23 Anything else, Mr. Hagler?

24 MR. JOHN HAGLER: No, sir.

25 THE COURT: So what is going to
happen

Reporter Sandra M. Halsey, CSR, Official Court

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1 now, is that we're going to call the jury in and
I'm
2 going to read the Charge to them, and then we will
hear
3 arguments. And who is going to open for the State?

4 MR. TOBY SHOOK: I will, Judge.

5 THE COURT: Okay. So by
agreement

6 there is an hour and a half to the side and how
long do
7 you want, Mr. Shook?

8 MR. TOBY SHOOK: Judge, if you
could

9 tell me when I have used 25 minutes and then 45
minutes
10 if I go that long.

11 THE COURT: I'll be happy to.
And

12 then I will tell you after 45 minutes every 15
minutes
13 thereafter; is that fair enough?

14 MR. TOBY SHOOK:: That will be
fair,
15 Judge.

16 THE COURT: All right. So with

that

17 in mind. Let's bring the jury in.

18 MR. DOUGLAS MULDER: Judge,

we're

19 going to need a few minutes after the State's opening

20 argument.

21 THE COURT: Well, I don't think

there

22 will be any problem there. I will take a break any

way.

23 MR. DOUGLAS MULDER: Okay, good.

We

24 just need 2 or 3 minutes to get our exhibits

together.

25 THE COURT: All right. Ladies and

Sandra M. Halsey, CSR, Official Court Reporter

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1 gentlemen in the Courtroom: We cannot have any
emotional
2 outbursts of any kind. So, if some of you -- if we
do
3 have any emotional outbursts, we will ask that person
to
4 leave, in fact, we will remove that individual and
you
5 will not be allowed to re-enter.

6 So, if you don't feel like you can
7 take any of the arguments you may hear, the time to
leave
8 is now, and no one will think any less of you.

9 Is there anyone who wishes to
leave?

10 All right, thank you. All right.
If
11 you will bring the jury in.

12
13 (Whereupon, the jury
14 Was returned to
the
15 Courtroom, and
the
16 Proceedings
were

17 Resumed on the
record,
18 In open court, in
the
19 Presence and
hearing
20 Of the defendant,
21 As follows:)

22
23 THE COURT: Let the record reflect
24 that all parties in the trial are present and the
jury is
25 seated.

Sandra M. Halsey, CSR, Official Court Reporter

1 Ladies and gentlemen of the jury,
what
2 is going to happen now is that I am going to read to
you
3 the Charge of the Court in the case, that is the law
in
4 the case. Then you will hear arguments from both
sides,
5 then the case will be yours to decide.

6 The first thing you do when you
retire
7 to the jury room will be to select one of your
members as
8 the presiding juror. That is what we call the
foreman
9 now. Any member of this jury may be the presiding
juror.

10

11 Charge of the Court: Members of
the
12 jury:

13 The defendant, Darlie Lynn
Routier,
14 stands charged by indictment with the offense of
capital
15 murder, alleged to have been committed in Dallas

County,

16 Texas, on or about the 6th day of June, 1996. To
this

17 charge the defendant has pleaded not guilty.

18 You are instructed that the law
19 applicable to this case is as follows:

20 A person commits the offense of
21 capital murder if the person intentionally or
knowingly

22 murders an individual under 6 years of age.

23 A person commits murder, if he
24 intentionally or knowingly causes the death of an
25 individual.

Sandra M. Halsey, CSR, Official Court Reporter

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1 A person acts intentionally or
with
2 intent, with respect to the nature of his conduct,
or to
3 a result of his conduct, when it is his conscious
4 objective or desire to engage in the conduct or to
cause
5 the result.

6 A person acts knowingly or with
7 knowledge with respect to a result of his conduct,
when
8 he is aware that his conduct is reasonably certain
to
9 cause the result.

10 The term "individual," means a
human
11 being who has been born and is alive.

12 Now, bearing in mind, the
foregoing
13 instructions, if you find and believe from the
evidence
14 beyond a reasonable doubt, that the defendant,
Darlie
15 Lynn Routier, on or about the 6th day of June, 1996,
in

16 the County of Dallas and in the State of Texas, did
then
17 and there, intentionally or knowingly cause the
death of
18 Damon Christian Routier, an individual, by stabbing
the
19 said Damon Christian Routier with a knife, and you
20 further find and believe from the evidence, beyond
a
21 reasonable doubt, that the said Damon Christian
Routier
22 was, at the time of his death, an individual under
6
23 years of age, then you will find the defendant
guilty of
24 capital murder as charged in the indictment and so
say by
25 your verdict.

Sandra M. Halsey, CSR, Official Court
Reporter

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1 If you do not so believe, or if
you
2 have a reasonable doubt thereof, you will acquit
the
3 defendant and say by your verdict not guilty.

4 In all criminal cases, the
burden of
5 proof is on the State. All persons are presumed to
be
6 innocent, and no person may be convicted of an
offense,
7 unless each element of the offense is proved beyond
a
8 reasonable doubt.

9 The fact that a person has been
10 arrested, confined, or indicted for, or otherwise
charged
11 with the offense, gives rise to no inference of guilt
at
12 her trial.

13 The law does not require the
defendant
14 to prove her innocence, or produce any evidence at
all.
15 The presumption of innocence alone is sufficient to

16 acquit the defendant unless the jurors are satisfied
17 beyond a reasonable doubt of the defendant's guilt,
after
18 careful and impartial consideration of all the
evidence
19 in the case.

20 The prosecution has the burden of
21 proving the defendant guilty, and it must do so by
22 proving each and every element of the offense charged
23 beyond a reasonable doubt; and if it fails to do so
you
24 must acquit the defendant.

25 It is not required that the

1 prosecution prove guilt beyond all possible doubt.

It is

2 required that the prosecution's proof excludes all

3 reasonable doubt concerning the defendant's guilt.

4 A reasonable doubt is a doubt

based on

5 reason and common sense, after a careful and

impartial

6 consideration of all of the evidence in the case. It

is

7 the kind of doubt that would make a reasonable person

8 hesitate to act in the most important of his own

affairs.

9 Proof beyond a reasonable doubt

10 therefore must be proof of such a convincing

character

11 that you would be willing to rely and act upon it

without

12 hesitation in the most important of your own affairs.

13 In the event you have a

reasonable

14 doubt as to the defendant's guilt, after considering

all

15 of the evidence before you and these instructions,

you

16 will acquit the defendant and say by your verdict
not
17 guilty.

18 You are further instructed that
the
19 indictment is not evidence in this case, and cannot
be
20 considered as a fact or circumstances against the
21 defendant in your deliberations. The true and sole
use
22 of the indictment is to charge the offense, and to
inform
23 the defendant of the offense alleged against her.

24 In deliberating on this case you
are
25 not to refer to or discuss any matter not in issue
before

Sandra M. Halsey, CSR, Official Court
Reporter

1 you. You shall not consider nor mention any
personal

2 knowledge or information you may have about any
fact or

3 person connected with this case, which is not shown
by

4 the evidence.

5 In determining the guilt or
innocence

6 of the defendant, you shall not consider or discuss
the

7 punishment, if any, which may be assessed against
the

8 defendant, in the event she is found guilty beyond a
9 reasonable doubt.

10 You are charged that it is only
from

11 the witness stand that the jury is permitted to
receive

12 evidence regarding the case, or any witness therein,
and

13 no juror is permitted to communicate to any other
juror

14 anything he may have heard regarding the case of any
15 witness therein, from any source other than the

witness

16 stand.

17 You are instructed that during

your

18 deliberations you should not consider the remarks,

the

19 rulings or actions of the presiding judge during

this

20 trial, as any indication of the Court's opinion,

as to

21 the existence or nonexistence of any fact, or as

an

22 indication of the Court's opinion as to the guilt or

23 innocence of the defendant.

24 The Court has not intended to

express

25 any opinion upon any matter of fact in this case. If

you

Sandra M. Halsey, CSR, Official Court Reporter

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1 have observed anything which you have or may
interpret as

2 the Court's opinion upon any matter of fact in this
case,

3 you must wholly disregard it.

4 At times throughout this trial,
the

5 Court has been called upon to pass on the question of
6 whether or not certain offered evidence might be
properly

7 admitted. You are not to be concerned with the
reasons

8 for such rulings, and are not to draw any inference
from

9 them. Whether offered evidence is admissible, is
purely

10 a question of law.

11 In admitting evidence to which an
12 objection is made the Court does not determine what
13 weight should be given to such evidence nor does it
pass

14 on the credibility of the witness.

15 As to any offer of evidence that
has

16 been rejected by the Court, you of course, must not

17 consider the same. And as to any question to which
an
18 objection was sustained, you must not conjecture as
to
19 what the answer might have been, or as to the reason
for
20 the objection.

21 You are the exclusive judges of
the
22 facts proved, of the credibility of the witnesses and
of
23 the weight to be given to their testimony, but you
are
24 bound to receive the law from the Court which is
herein
25 given you, and be governed thereby.

Sandra M. Halsey, CSR, Official Court Reporter

14 Any communication relative to the
15 cause, must be in writing, signed by the presiding
juror
16 and shall be submitted to the Court through the
bailiff.

17 Do not attempt to talk to the
bailiff,
18 the attorneys or the Court regarding any question
you may
19 have concerning the trial of this case. And after
you
20 hear arguments, you will retire to consider your
verdict.

21 That is signed by me, Mark Tolle,
the
22 Presiding Judge.

23 Now, the final page there are two
24 verdict forms, and you will fill out whichever
verdict
25 form is appropriate depending on how you decide.
Only

1 one verdict form will be filled out.

2 The presiding juror will sign the
line

3 beneath that form, and we would ask the presiding
juror

4 to please print his or her name beneath the
signature so

5 there can be no mistake.

6 Now, arguments from both sides
will be

7 had. The way this works is this: The State gets to
8 open, and then you will hear from the defense, then
the

9 State will get to close.

10 And by agreement it will be
ninety

11 minutes to the side.

12 Mr. Shook.

13

14

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Sandra M. Halsey, CSR, Official Court Reporter

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1 CLOSING ARGUMENT IN GUILT OR INNOCENCE

2

3 MR. TOBY SHOOK: May it please
the

4 Court?

5 THE COURT: Yes, sir.

6 MR. TOBY SHOOK: Members of the
jury.

7 We have had a very long, and tedious trial on the
issue

8 of guilt or innocence. We have reached the close of
that

9 portion of this trial and now we're having closing
10 arguments.

11 As the Judge has just told you the
12 State will start out. I'm going to go over some of
the

13 evidence in this case, some of the things that we
talked

14 about on voir dire and Mr. Mosty and Mr. Mulder, I
15 believe, will speak on behalf of the defendant, and
then

16 Mr. Davis will close for the State of Texas.

17 The first thing I want to do is
thank

18 you for your service and your patience with us. We
have
19 come to this county, transferred here because of the
20 publicity in this case, and we have imposed on you.
We
21 have taken you from your family, your homes, and
your
22 work and we have had you here a lot longer
than we
23 thought we would. That wasn't planned in any
way.

24 You have been patient with us,
you sat
25 through hour after hour of testimony, questions from
the

1 lawyers rehashing the same issues and you sat back
there

2 during hearings. We know what we have done to you,
and

3 we appreciate your service.

4 But I know that each and every
one of

5 you knows just how serious this offense is, and how
6 important this case is.

7 I want to talk a little bit about
some

8 of the things we talked about with each and every one
of

9 you on jury selection. Remember we talked to each
and

10 every one of you about probably 40 minutes, maybe a
11 little longer, some a little less. We went over a
lot of

12 different areas.

13 And remember, each and every one
of

14 you were chosen for this case. This isn't like
another

15 criminal case where each side has several strikes
and

16 then they submit those strikes, and just the
leftovers

17 are put on the jury. Each side agreed on you as
jurors

18 because you are level-headed, and because we thought
you

19 had common sense.

20 But I want to talk about some of
those

21 issues that we talked about on voir dire.

22 Remember, I talked about motive
or

23 Miss Wallace talked to you about motive, and what we
had

24 to prove in this case.

25 We had to prove that the
defendant

1 intentionally killed Damon Routier with a knife, and
we
2 had to prove that it happened in Dallas County.

3 Now, I talked about motive
because

4 everyone wants to know a reason why the crime
occurred.

5 That is human nature. And I told you the reason may
be

6 very apparent. Sometimes it never comes out in
court at

7 all, and sometimes there might be several motives
out

8 there. Everyone might have their own version.

9 You could have psychiatrists,
10 psychologists, detectives argue all day long on all
of

11 the motives, but you may never know the real
motive. But

12 that doesn't change the evidence. And the law does
not

13 require the State to prove the motive because we
can not

14 always get into the mind of the defendant. That
motive

15 may be locked away in there.

16 Each of you by now have your own
idea

17 what the motive is in this case, I don't know. I'm
going

18 to talk about motive a little bit later. But it is
not a

19 requirement that the State has to prove beyond a

20 reasonable doubt what the motive is, and each and
every

21 one of you agreed to that.

22 Another issue we talked about
was

23 circumstantial evidence. When we try to prove a
case we

24 put on evidence, and there's two kinds. You have
an eye

25 witness to a crime, or you have circumstantial
evidence.

Sandra M. Halsey, CSR, Official Court
Reporter

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1 Circumstantial evidence covers
2 everything. Physical evidence left, statements
made by
3 the defendant, anything that connects the defendant
to
4 the offense is circumstantial evidence, and there
is no
5 difference between the two. It all connects.
6 Inconsistencies, what they said, how it meshes with
the
7 physical evidence.

8 Now, I asked each and every one
of you
9 if we brought you a case using solely
circumstantial
10 evidence, could you find the defendant guilty if
you
11 believed that circumstantial evidence beyond a
reasonable
12 doubt and each of you said yes that you could.

13 Now, the other area I want to
get into
14 is something that we maybe just said in passing or
15 several times with each of you and that is the one
thing

16 you had to remember, the most valuable tool that
you
17 could use, and the reason you made it on this jury
is
18 common sense.

19 When you review this evidence
just use
20 your God given common sense. The common sense that
has
21 gotten you through life so far. That's all you
need to
22 do.

23 I think the first hurdle when
you
24 review this evidence anyone has to look at or
anyone has
25 to come to grips with is this: We have a brutal,
vicious

Sandra M. Halsey, CSR, Official Court
Reporter

1 murder of a child, of two children and we have
accused

2 the mother of those children of this crime. And
the

3 first thought in anyone's mind is, no mother could
ever

4 murder their children, it's not possible. That is
a

5 natural reaction.

6 But what you have to do is come
to

7 grips with reality, that there are certain people
that

8 are capable of anything under the right moment.
That is

9 why we have laws. That is why we have to have
trials.

10 And when a mother does kill her child, it causes a
huge

11 frenzy. That is why this courtroom is packed. That
is

12 why there is media out there in front of this
Courthouse.

13 That is why we had to come here. But these things
do

14 happen.

15 And after you overcome or come
to

16 grips with that, then you begin to analyze this
evidence

17 using your common sense.

18 Now, I want to go through some
of that

19 evidence now. There is a whole lot. We have been
here

20 almost a month, there is no way anyone could
remember or

21 recall every aspect of it, but I want to touch on
some of

22 the high points of how I think this circumstantial
23 evidence meshes.

24 You see, circumstantial
evidence comes

25 in piece by piece. One piece may not mean
anything if

Sandra M. Halsey, CSR, Official Court
Reporter

5211

1 you just look at it by itself, but it's like a
jigsaw

2 puzzle. As it comes in, you start sorting through
it,

3 and then you start putting it together. And when
it's

4 all in, it all fits, and when it fits in this case
you

5 get the true picture of the killer, who sits right
over

6 here. Darlie Lynn Routier.

7 So let's talk about some of that
8 evidence. We all know now, that around 2:30 in the
9 morning or so, back on June the 6th, there was a 911
call

10 that came from the Routier home, came from Darlie
Lynn

11 Routier.

12 And you know, as you look at this
13 case, and what the State has to prove, the issue
comes

14 down to this: You know there is no question Damon
was

15 murdered. There is no question he was under the age
of

16 six.

17 There is no question that it
happened

18 in Dallas County. We have alleged that he was
murdered

19 with a knife. I don't think you have to be Sherlock
20 Holmes to figure out this was the knife. The blood
is on

21 it. It's the size matching into the body and it's
left

22 there. He was killed with a knife.

23 The only issue is who did it?

24 Identity. And it comes down to this: It's either
going

25 to be some unknown intruder who came into that house
and

Sandra M. Halsey, CSR, Official Court Reporter

5212

1 committed a horrible murder or it's going to be the
2 defendant.

3 You know that this 911 call came
out.

4 I think that gives you the first insight. You have
heard

5 that thing a dozen times, you have looked at
transcripts

6 from both sides. It gives you the true insight into
the

7 defendant, because first of all, and I think it's
quite

8 clear she says: "My babies were stabbed, I was
stabbed,

9 I was fighting. He went into the garage. I was
10 fighting."

11 That let's you know that she knew
what

12 was going on there that night. She was well aware of
13 everything that was going on.

14 It also, towards the end of it you
get

15 that unusual statement: "I picked up the knife.
Maybe

16 we could have gotten some fingerprints."

1 in that home. Officer Waddell went in, he talked
briefly
2 with the defendant. There is a lot of chaos going on
in
3 there. And Officer Waddell and Sergeant Walling,
they
4 didn't have stop watches and weren't timing where
they
5 were at one portion, and how long one conversation
took
6 place.

7 Waddell told you that he was told
8 quickly this person was in the garage. Now, he
couldn't
9 go and check in that garage right away because his
10 training told him this: There was only one of him,
and
11 if he goes in there and gets himself killed, then
this
12 family is still exposed. He has to wait on his back
up.

13 But he does know this: This
woman is
14 not putting pressure, not caring for Damon. Darin
is

15 over there with Devon and he asks her to. The
entire
16 time she is not caring for Damon. He has to watch
the
17 door, he can't administer the aid, but we know the
18 mother, she has one hand on her wound and the other
hand
19 has a phone. She is not putting the pressure on
Damon.

20 We know that she tells him, "There
was
21 a fight over here at the island."

22 We know that Sergeant Walling came
in
23 and had a brief conversation with her, as she gives a
24 description of a white male with a hat, and T-shirt
and
25 she says they fought on the couch. They put that

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1 description out, and that house is closed down
quickly.

2 The paramedics soon got to that
3 location and you heard from them. They moved in
quickly,

4 they tried to do what they could. They only stayed
in

5 the one family room and cared for those children.

They

6 didn't run in the kitchen or into vacuum cleaners or
7 anything like that.

8 And they told you that, you know,
they

9 get Darlie out of there quickly. She is holding her
10 neck, they start putting pressure on her neck.

11 You remember the one whose
nickname is

12 Toad, I think his name is Koschak. He told you while
he

13 was in that room though that he heard the defendant
say:

14 "He has a ball cap on. He broke out the window."

15 They put her in the ambulance,
there

16 was really nothing they could do for Devon. They

take

17 Damon out to the ambulance, and they try to get
him to

18 the hospital.

19 They put her in the ambulance
and

20 there was a paramedic named Byford who tended to
her

21 during that whole trip. She is quiet there in
the

22 ambulance, she is anxious, she wants to know, how
long

23 it's going to take, "When are we going to get
there?"

24 But there are no questions about her children.

No

25 questions about their condition.

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Department.

15 They are just doctors, surgeons, emergency room
surgeons.

16 And they have no reason to lie or be biased in this
case.

17 And what did they tell you? They
told

18 you that they looked at her wounds, it was in the
zone 2

19 area which tells them this: They don't want to take
any

20 chances, they are going to take her up and do some
21 exploratory surgery. And they did that. And what

did

22 they find? Well, they found that the wound had cut
23 across the neck through the skin to the platysma,

but not

24 into the platysma. Well, what does that mean? We
asked

25 them to explain it in just plain English.

1 Cut through the skin, and cut
through

2 the fat and that's all. A superficial wound. Not a
3 serious injury. In fact, I think Dr. Santos said, if
4 this had happened under different circumstances, if
this

5 has been a household accident, we would have sewn her
up,

6 and she would have been released in a few hours.

7 But they were under the impression
8 that she was a victim at that time. Her children
had

9 been killed. She didn't need to go to the ICU, but
they

10 sent her there because they wanted to keep her away
from

11 the press, and they thought that she would be really
12 going crazy because her children had been murdered.

13 Superficial wounds. There was
also

14 two wounds, a small one right here, and one to her
15 forearm. They just sewed it up, nothing serious
about

16 that. Another wound right here, nothing serious
about

17 that. No wounds to her face, no wounds to her
chest or

18 back.

19 You remember Dr. Santos told you
that,

20 of course, he checked on her. He deals with this
21 situation all the time. People that have been
seriously

22 injured, people that lose their relatives, I mean,
that

23 is part of his job.

24 He said he was expecting her to go
25 crazy. Mothers, many times when they lose their

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1 children, they don't accept that fact. They want to
know

2 where they are. They won't accept it when you tell
them

3 they are dead. But not this woman. She wasn't of
the

4 demeanor he thought she would be. Flat affect is
what he

5 called it. Flat affect.

6 And the other things those doctors
7 told you was this: That there weren't any major
trauma

8 to her arm. This is blunt trauma, caused by -- like
what

9 they see in accidents, or someone struck with a
baseball

10 bat. And it's something they look for and they
didn't

11 see it.

12 They told you, you know, you can't
13 tell how old a bruise is exactly but this looks like
a

14 pretty recent bruise. Twenty-four to 48 hours.

15 If she had received the type of
trauma

16 that would cause a bruise like this on the 6th, they
17 would have seen it within a few hours. They would
have
18 seen it begin forming. They didn't see it, folks.
It
19 didn't happen then.
20 You see, Darlie Lynn Routier
soon
21 realized that people weren't probably buying into
her
22 story, and she had to increase those injuries.
And I
23 know it seems almost diabolical, but the evidence
shows
24 she went home and caused those injuries to herself
after
25 she was out of that hospital.

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1 You also heard from the nurses in
this
2 case. The first one you heard from, after Jody Fitts
was
3 Chris Wielgosz. Remember, he was the nurse who
handles
4 people when they come out of an operating room, and
5 usually he handles heart patients, but because of the
6 overflow, he got the defendant. And she is not the
7 typical patient he usually gets, because they are
usually
8 unconscious and need a lot of care, but her injuries
did
9 not need a lot of care. And she was alert and awake.
10 He told you sometimes people are
real
11 groggy when they come out of an operation and
sometimes
12 they are awake, and she was awake.
13 And he is just sitting there with
her
14 and she starts making these unsolicited comments
like:
15 "Gee, I wish I hadn't touched the knife. I might
have

16 messed up the fingerprints."

17 He is not even asking her about
the

18 offense, but she has to volunteer. See, she has to
get

19 this story going, she has to get the people to
believe

20 that she is the victim in this case.

21 What did he tell you? And, he
has no

22 motive to lie. He is not paid for his testimony.
He

23 doesn't come down here and testify. What does he
tell

24 you? He says, "Well, I gave her a little bit of
Demerol,

25 it didn't seem to affect her, and then the
detectives

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1 came and spoke to her."

2 And he told you how the
detectives

3 questioned her. They didn't suggest answers to
her.

4 They went real slow and methodically, and she told
them

5 what she remembered. And she told them that she

6 remembered the man standing over her and fighting
him off

7 the couch. They didn't tell her that is what
happened.

8 Those were her words. You see, she hadn't come up
with

9 the complete amnesia defense yet.

10 And he told you she knew details
all

11 about her rings, and ring sizes, and carats and

12 descriptions of that, but it was real hazy and
couldn't

13 give a description of his face. And it was real
slow and

14 methodical.

15 You also heard from the other
nurse,

16 Jody Cotner, who is the trauma coordinator.

Remember she

17 had the longer brown hair. She had been there 11
years.

18 One of her jobs is to work with
19 people, to inform people that their loved one has
died.

20 She has had to do that hundreds of times. She has
had to

21 deal with mothers that lose their children, and
what did

22 she tell you? There is nothing like it. The bond

23 between a mother and a child. A grief that is

24 inconsolable. They do it in different ways, but

they all

25 show it. And she never saw that reaction from this

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1 woman. Never saw the reaction she has always seen
2 before.

3 The same with the other nurses
who

4 deal with this stuff every day. They have never
seen a

5 reaction like that. It was more of a whining, no
real

6 tears, I think you-all know what they are talking
about

7 now, now that all of the evidence is in.

8 They have no motive to lie, but
what

9 did they tell you? All day long, during their
shifts,

10 what happened? The first one I believe was Dianne
11 Hollon, had her all during the day. "I woke up, a
man

12 was standing over me, I yelled and he ran off."

They

13 didn't suggest those answers to her, that was her
14 version.

15 And we had Paige Campbell, the
little

16 blonde girl who helped bathe her at one point in

time.

17 The defendant showed her her hand, "This is where he
cut

18 me when I grabbed the knife. He was standing over
me

19 when I woke up and tried to stab me."

20 You heard from Denise Faulk, the
last

21 nurse that had her all night long. About 3:00 in
the

22 morning she took the time to write those notes down
the

23 next day or so. About two and a half pages on pink
paper

24 and the defendant -- she didn't come up with this
story,

25 the defendant did: "I was laying just like this."
On

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1 her right side. "When I woke up, when Damon woke up.
2 And there was a man wrestling at my neck area."

Denise

3 Faulk isn't telling her to say that. This is her
4 version.

5 "And I yelled out, and he ran off,
and

6 I heard glass break. I picked up the knife. He was
7 wrestling at my neck area."

8 She didn't realize at that time
that

9 people weren't going to buy this. If you are
fighting

10 with a man face to face, you are going to remember
his

11 face. She had not come up with her temporary
amnesia

12 yet.

13 These nurses have no reason to
lie.

14 Let's talk a minute then about
the

15 physical evidence. You heard from retired
Sheriff's

16 Lieutenant James Cron. He has been in law

enforcement

17 for 39 years. He has been to hundreds --

thousands of

18 crime scenes. He knows his business. He had worked

with

19 the Rowlett Police Department which is a small

20 department. I mean, it is a suburb of Dallas, but

really

21 it's a small town in and of itself. And they called

him

22 out there and he made it out there at 6:00 in the

23 morning. They had already sealed that house off.

The

24 police had not been running through there except for

the

25 officers when they first arrived.

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1 They sealed that house off and he
went
2 in with them, and he did a walk through, and he saw
the
3 photographs and he looked at the evidence. And it
didn't
4 take him long to start figuring out, after he got the
5 story of what supposedly happened, that the
physical
6 evidence isn't matching up. What are the things
he
7 looked at? The window itself where this intruder
should
8 have gone through. It's cut.
9 Then Cron tells you, "Well, the
first
10 thing about that is, that is not how intruders get
in
11 homes. They just take the screen off. They cut a
little
12 slit and take it off. They don't make this big
slash."
13 The other thing about it, this
man is
14 supposed to be coming in and going out, but there's

dust

15 on that windowsill and it's not disturbed.

16 He has also been told that there
was

17 some type of struggle. There's dead children that
have

18 been stabbed many times. A woman who is supposed
to --

19 supposedly has had her throat slashed, he should
expect

20 to see some blood on the intruder's hands. There
is

21 nothing there. There is nothing disturbed. There
is no

22 blood in the garage that he can see. There is no
blood

23 outside. That gate is closed, and you can't get
that

24 gate open because it drags on the cement. You have
to

25 lift it up. But somehow this intruder, if he went
out

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1 that gate, shut it behind him. And that doesn't
make

2 sense to Lieutenant Cron.

3 What else didn't make sense to
him?

4 Well, the inside of the house itself. There's
supposed

5 to be some violent struggle, but it didn't look
like a

6 whole lot of violence, where two people are dead in
there

7 and one woman is wounded. But not -- it's not all
torn

8 up. He didn't see tears in the couch where a knife
was

9 being thrown around. It just wasn't making sense to
him.

10 Then he looked at this, and he was
11 there when it was picked up. This vacuum cleaner,
12 because it is just lying right there in the kitchen
floor

13 close to the sink. Now, Officer Waddell and Walling
14 didn't see this. Of course, they are not looking for
all

15 of the evidence, they are on a walk through when they
are

16 there. They are moving very quickly looking for an
17 intruder, and this is off to the side of the sink
and
18 they are not standing by there, so, no, they don't
19 remember it back then.

20 But it's right there, and you
don't

21 have any evidence of officers having to move it
over

22 there or paramedics having to move it over there.

And

23 they notice that there are some bloody footprints.

24 Bloody footprints leading away from the sink. And

when

25 they pick this up, bloody footprints are under it.
Well,

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1 it doesn't take Sherlock Holmes to figure out, that
this
2 vacuum cleaner was dumped down on top of those bloody
3 footprints after it was moved. But why?

4 If the defendant did it, it's
because

5 it's staging. You need to show some type of struggle
6 occurred, something like that.

7 But what else didn't make sense to
Mr.

8 Cron? The wine glass. Supposedly ran into this --
this

9 intruder ran into this wine rack somehow and broke a
10 glass. Well, there's glass on top of the bloody
11 footprints, and the officer said they were careful
not to

12 step on blood, and not to step on glass.

13 The trouble is he checked that
wine

14 rack and it was real sturdy, and the wine glass had
been

15 hooked up inside, hanging upside down. And there
were

16 more delicate items lying on that wine rack that were
not

17 broken and not moved, and that didn't make sense to

1 is the hand print. You will recall, they cut it out.
It
2 was Damon's hand print. It was a small palm print
there
3 on the couch. Actually, I think it was right in this
4 area here.
5 They cut it out, the blood came
back
6 to Damon, and you could see his little hand there.
The
7 trouble is they didn't find that until after they
pulled
8 the blanket up. You see that blanket had to be
placed
9 there after he had walked through there.
10 We can tell from the DNA that
Damon
11 moved some after he was stabbed. He sat down,
probably,
12 you can see where the imprint of his pants were, and
he
13 moved through here, and then, of course, wound up
over
14 here.
15 All this was not adding up to

Cron.

16 Now, there were fingerprints found on that
windowsill,

17 and Cron told you how fingerprints get there, you
know.

18 People with their oil will leave a print. Most of
the

19 time you don't have a print you can get. Officer

20 Hamilton told you he got lots of prints, but most of
them

21 he couldn't match up. When you touch something, it
would

22 just smear. It doesn't mean anyone touched it.

23 Cron can't tell you how long that

24 print was there or when it was put there. He can

tell

25 you, "Well, from looking at it though, it could have
been

1 a small child." Which would not be unusual. You
2 remember the question Mr. Davis asked Darin:
"Didn't

3 your children go through that window to get
popsicles?"

4 "Well, yeah, my neighbor told me
they

5 did that, but I was not aware of it at the time."

6 And you can tell where that
screen is

7 bent, where children could have pried it open and
just go

8 in. Because, see, it's no big deal to remove that
9 screen. There is a replica of that window back there
10 with the screen in it. And another thing about that.
11 Remember the screen, you can see in the photographs,
it's

12 folded in, which is not consistent with someone
coming

13 out.

14 And Detective Frosch went through
that

15 window very carefully. That is the only way you can
make

16 it through there, the way it was blocked off, one

window

17 frame from the other. You have a small area to get

18 through, and if you are not going to knock that

window

19 screen off, you have to do it extremely slowly and

20 carefully, which is totally inconsistent with what an

21 intruder would do.

22 But you can take that window back

23 there if you want, and you can try to go through it

fast.

24 And I guarantee you, if you go through it fast, that

25 screen will come off. All you have to do is stick

your

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1 thumbs down on that screen and flip them, and that
screen

2 will come off.

3 But Darlie Routier didn't know
that,

4 you see. She thought that you had to cut the
screen to

5 make it look like someone came in and out. She
didn't

6 have to do that. It comes right off. It's not like
Fort

7 Knox. Screens come off easily, that screen comes off

8 easily.

9 You heard from Charles Linch who
has

10 worked at the Southwestern Institute of Forensic
Sciences

11 for, I think, about 16 years. He is what they call a

12 trace analyst. He looks at things that are left
behind.

13 He looks at things through a microscope. He went out

14 there that day. He called, he had heard about it,
they

15 brought the boys' body in, at the same time Cron is

16 telling Rowlett, you need to get Linch out here.

He is

1 and it turns out to be one of the Rowlett police
2 officers' hair.

3 But he found some other
evidence

4 because the police confiscated these knives. In
those

5 knives was a bread knife, and he looked at those
under

6 the microscope, and he found a glass rod and he
found

7 some rubber material and some rubber debris with
glass

8 crushed in it and that wasn't on any of the other
knives.

9 And he had one of the screens from
the

10 garage, and he quickly found that that screen was
11 composed of fiberglass rods with plastic covering
over

12 it. And he found that if he used that bread knife
and

13 you cut it all the way across, that that screen was
cut

14 with a serrated knife, and could be cut in the same
15 fashion with that particular bread knife.

16 And when he tested cutting that

bread

17 knife, he looked at it under the microscope and what
did

18 he find? Glass rods, the same type of rubber
material

19 seen on the bread knife. And that same type of
rubber

20 debris with the glass meshed in. The same type of
stuff

21 that happens when you cut the screen. And it adds
up,

22 that bread knife was used to cut that screen, and
Charles

23 Linch found the evidence. And that tells you they
were

24 trying to fake the crime scene.

25 You aren't going to have an
intruder

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1 somehow get in the house and then take the knife out
and
2 then cut the window.

3 Charles Linch also looked at that
4 shirt and saw there were some holes in the shoulder,
saw

5 there were some bloody smudges where you could have
held
6 that shirt up, where someone might have been testing

that
7 shirt, but there is no corresponding injuries to her
8 shoulder.

9 Charles Linch talked about -- he
10 looked at other things that might leave that
fiberglass,

11 like Officer Hamilton's fiberglass fingerprint brush.
12 Different size. That fiberglass on the brush was
a

13 different size, not the same size as was found on
the
14 bread knife.

15 He also said that he looked at
16 computer boards because you know the Routiers worked
with

17 computer boards. It looked different. The material

left

18 from the fiberglass on a computer board is different
from

19 what was left when you cut it with that bread knife,
the

20 screen with the bread knife.

21 Then you heard from Tom Bevel who
was

22 from Oklahoma City. He has been a very qualified
police

23 officer, retired now and is in private practice and
he is

24 a blood expert. And he told you some interesting
things.

25 First of all, by looking at the

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14 traces of blood where that knife was left. That
knife

15 was not dropped on the utility room floor. She
never

16 picked it up.

17 THE COURT: You have used 30
minutes,

18 Mr. Shook.

19 MR. TOBY SHOOK: Thank you,
Judge.

20 He also told you that on this
vacuum

21 cleaner, there was blood transferred on the handle.
That

22 is her blood. There was blood dropped on that while
she

23 was standing up, that is her blood, and there is
blood

24 deposited on it after it's laying down. That is her
25 blood. That let's you know she had it, and there was
--

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1 they had impressions of the wheels, that it's been
rolled

2 around. She was on top of it when it was standing,
and

3 she was walking around it when it was close. That
let's

4 you know what? She is staging this thing.

5 He also told you that there was a
6 blood impression of a knife in the carpet. Remember
7 that? And the DNA impressions taken of that
impression

8 of the knife in the carpet showed her blood, and I
9 believe it was Damon's. Well, what does that tell
you?

10 Well, it is inconsistent with her story. If she is
cut

11 by some intruder, why would he be going and laying
the

12 knife down and then picking it up and walking off.

It

13 shows that she was walking around, and she placed
that

14 knife down.

15 He also told you about cast off.

How

16 blood can be deposited, and he looked at that shirt

17 carefully. A lot of blood. Mostly her blood on
that
18 shirt. But this particular spot right here
(Indicating
19 on shirt exhibit), came back to Devon, it's right
here.
20 And he can tell you from his training that that is
cast
21 off. Cast off is blood that comes off an
instrument such
22 as a knife.
23 He also found blood from Devon
and
24 Damon on the front, which he said is also
consistent with
25 cast off, and her blood is found there too. And
it could

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1 happen two ways: It's either mixed, it comes off
at the

2 same time and lands there on the front, or it
first could

3 be deposited when she is stabbing the children and
then

4 later on as she cuts herself it could be deposited
in the

5 same area. Or, it could happen together.

6 But this spot on the back is
Devon's,

7 and Devon's alone. And it doesn't get there when
you

8 fold a shirt up. He said he could tell that.
It's cast

9 off. And the defense asked him all types of
questions of

10 how that could happen, but the most consistent way
it

11 could happen is when the stabbing motion comes up
and the

12 knife is over the shoulder. He simulated it in
tests and

13 found the same size of the spot on his own T-
shirt. That

14 tells you that she was stabbing, and Devon's blood
winds

15 up on her back. It's not going to wind up there
if she

16 is laying on the couch as the man wrestles at her
neck.

17 You heard from Special Agent
Brantley

18 who is with the FBI. He works for the Behavioral
Science

19 Center, former prison psychologist, and he looks
at these

20 things, hundreds of these cases every year, and he
kind

21 of told you how they do the analysis. What is
wrong with

22 this picture? And in his opinion, this crime
scene was

23 staged. These boys were killed by someone they
knew.

24 And, of course, once he explains it, it makes
sense

25 because it is all common sense stuff, except to
the

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1 average lay person. We don't deal with murders,
2 fortunately, every day. We don't look at this
stuff.

3 They look at what's wrong with
this

4 picture. Low crime area in this neighborhood. No
5 murders happening all the time. No easy access
getting

6 in. And then he looked at what you call risk
factors.

7 What would a person be worried about if they were
going

8 to commit this offense? That is a well lighted
house. A

9 truck is out front. There is someone home because
the TV

10 is on. You don't want those people to hear you as
you

11 come in. You don't cut the screen on the window.
They

12 are usually just removed. There is a big cage
right

13 there that let's you know that there is some
animal

14 running around. They don't like animals, these

15 intruders, to let you know they are in the house.

In

16 fact, there was a dog in that house who could

sound an

17 alarm.

18 Then he went inside the house.

19 Obviously there was no intent to rob because all of

these

20 possessions are left untouched. It's not an attempt

for

21 rape because the rapist doesn't kill the children

right

22 away. They use them as tools. No, from the wounds

on

23 these boys he could say they were the target of this

24 offense. They were killed in anger. It was a

personal

25 attack. These are devastating wounds.

16 cut that screen, then doesn't bring -- gets the
knife

17 from the home itself. You bring your own weapon
when you

18 are intent on homicide.

19 And then after you kill these
boys,

20 and wound the adult, you don't leave a live witness.
It

21 makes no sense. Someone that can identify you. Not
only

22 do you not leave them, you don't arm them with the
very

23 knife. You don't leave them alive to sound the
alarm.

24 That doesn't make sense to him.

25 And that sock, it's more like it
was

1 just put away to get away from it, because there is
only

2 the boys' blood found on that sock, and not her
blood.

3 And if some killer was in there with that sock on
his

4 hand, stabbing those boys and slashing her, and
in a

5 struggle, don't you know that her blood would be on
that

6 sock, but it's not.

7 And then the strangest thing about
it

8 was, of course, this crime scene where this horrible

9 crime occurred, there is not a lot of property
damage.

10 There is no big struggle there. I think the way he

11 termed it "maximum human devastation, minimum
property

12 damage." As if the intruder or killer wanted to be

13 careful with all of those dainty little things that
were

14 in that house.

15 You heard from Barbara Jovell, who
was

1 attitude started changing. She started thinking
about
2 money, and became more self-centered. She started
buying
3 the jewelry. You know she wears the 10 rings on
every
4 finger, all the rings and earrings. She started
becoming
5 more self-centered, shopping all the time.
Decorating,
6 buying boats, they bought a spa, they bought new
cars,
7 and she is the dominant personality. And everything
was
8 going fine, except when business suddenly tumbled
off,
9 and it was a real slow period and money got real
tight,
10 and they can argue all they want that it's not
tight,
11 folks, but you've got the evidence, how -- how much
they
12 were out that year. I mean, they are down in the
money
13 and it's not coming in. You have got bills,
mortgage

14 payments, two payments behind in May. You have got
15 letters like that.

16 The money had run out and she
didn't

17 like it, and she said that Darlie would come up to
work

18 and be mad, and she was mad over money, and they
argued

19 all the time, and she told Darin, "This is not the
Darlie

20 we know. You need to get help for her." And this
was in

21 March. And then in May, when she came back from her
22 vacation, she heard about the suicide attempt and
talked

23 to Darlie and pleaded with her to get help, but she
24 didn't. She didn't.

25 And Barbara Jovell told you also
when

1 she was at that hospital and Darlie told her, "That
man

2 was standing over me, he tried to stab me, and I
blocked

3 that blow." She didn't tell her to say that, but
that is

4 what she told you.

5 She told you she told her another
6 version later on at the house, at her mother's
house.

7 That she woke up and the man had the knife, and was
8 enjoying her face, scraping the knife on her face,
but

9 she just couldn't remember his face.

10 She came and told you the truth.
And

11 you do know there was some type of suicide attempt
from

12 the diary entry and the defendant. Well, of course,
her

13 version was, "I was just kind of moody that day."
Well,

14 it lets you know what? You know, I don't think the
15 defendant was going to kill herself. I think she
loves

16 herself too much.

17

But did she want attention?

Maybe.

18 Were things not going right in her life? No. The
money

19 train had stopped and things weren't going right.

One

20 month before this killing she is making an entry
where

21 she is saying she is going to kill herself. Things
are

22 not going right in her life. They are not going
her way.

23

You have a tape taken by the

grave

24 site about eight days after this offense. It's

been

25 called the Silly String tape. And I think it gives
you a

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scary.

16 And you have the voluntary
statement

17 that she gave the police on the 8th, and what is
18 important is what she left out, you see, because
she

19 didn't know what the evidence would show. She
didn't

20 know that there was blood evidence that shows she
was

21 standing over this, and showing that she moved
this

22 vacuum cleaner around. So she didn't mention the
vacuum

23 cleaner in that voluntary statement.

24 She mentions a lot of other
things.

25 She didn't know that it looked like there was clean
up

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1 area at the sink, so then she has to come up later
with
2 the wet towel scenario, which makes no sense at
all. Wet
3 towels are not going to do those children any good.
But
4 she has to come up with an excuse.
5 She talks about in that
voluntary
6 statement that she looks over and sees Darin doing
CPR on
7 Devon, but she doesn't put herself over there
because at
8 that time, she didn't know that Devon's blood was
9 deposited on her back and she needed to put herself
over
10 there.
11 And another thing that is
important.
12 Do you remember when Darin testified? He said,
"You
13 know, I woke up because I heard glass break, and I
14 immediately heard Devon yell -- heard her yell
'Devon.'
15 Glass breaks, she yells Devon, I get up."

16 Her version is a contradiction
to
17 that. Glass broke, I walked into the kitchen, I
picked
18 up and found a knife, I walked back over, I turned
on the
19 lights, I saw Devon and that is when I yelled
"Devon." A
20 contradiction there. Key contradiction.
21 You see, Darin is not going to
wake up
22 until she wants him to wake up. When she is making
that
23 glass noise, so he can come downstairs and see
what's
24 happened.
25 Before that she set this whole
thing

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1 up, folks, she was thinking about it. She had to
be

2 downstairs sleeping because if she is in bed with
him,

3 she can't pull this off. She has to have those
boys in

4 the room.

5 I still don't understand this
excuse,

6 "Well, they wake up in the middle of the night." She
had

7 to have them down there, so she could have access to
8 them. She couldn't kill them in their beds. She had
to

9 have that window up, so she could cut that screen and
10 make it look like an entry, because it couldn't be a
11 noisy entry or Darin would wake up on that.

12 She had to have that TV on, so
maybe

13 some sounds might be muffled. She killed those boys
and

14 then she faked that scene. She probably used that
sock

15 in some way, maybe to hopefully keep her prints off
the

16 knife, saw blood, wanted to get rid of it. It

wouldn't

17 take her a long time to go out in the back yard, cut
that

18 screen and knock over a piece of furniture and go
three

19 houses down and try to get rid of that thing. Come
back

20 in, and cut yourself probably saw Damon moving. We
don't

21 know for sure, she may have finished him off after
she

22 found him moving. Then she cuts herself and bleeds,
and

23 she breaks the glass. She has got to move that
vacuum

24 cleaner around. She doesn't realize what she is
doing,

25 that she is covering up her tracks and then leaving

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1 evidence of staging. And then she yells for her
husband.

2 And then we have that scenario coming out.

3 And finally we have the amnesia
4 defense. What a lucky killer this is. He goes in
and

5 brutally murders two children, wounds their
mother, is

6 face to face, cutting her throat, beating her, and
yet

7 decides to leave her alive, the one woman that
could

8 identify him, that could put him on death row, and
lucky

9 for him, she gets amnesia. She is not going to be
able

10 to remember his face. He is one lucky killer.

11 Well, that doesn't make sense.

That

12 doesn't pass the common sense test, and neither does
how

13 this scenario could have happened, because I don't
think

14 any of you believe, for one second, that woman could
15 sleep through her children being murdered.

16 One foot away is Devon. About

four or

17 five feet -- I'm sorry, four or five feet away is
Devon.

18 And one foot away is Damon, and no mother who cares
19 anything about her children is going to sleep through
20 that attack. And when she wakes up, she is going to
be
21 screaming her head off for her husband. She is going
to
22 be attacking that intruder. That room would be a
23 shambles. That dog would be barking and Darin would
be
24 coming down.

25 Or you can look at it the other
way,

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1 maybe she is attacked first. Well, she is going wake
up

2 when she is beaten, or when her throat is cut, and
she is

3 going to be screaming then also. And we will have
this

4 same scenario, but that didn't happen. She murdered
5 those children.

6 And what -- why would an intruder,
7 someone so bent on homicide, that he would cause
those

8 penetrating -- he almost impaled the children, if
this

9 was an intruder, stabbing through those bodies.

Why

10 would he then leave her alive? This intruder would
have

11 been on her, and if her story was true, she wouldn't
be

12 here today. If she had had that knife stuck in her,
she

13 would be dead lying on that couch, if her story were
14 true.

15 And if you go, you know, what was
the

16 motive? I mean, she comes across and: "My panties

were

17 gone." This whole murder is over her panties, I
guess.

18 The guy took a sock, he leaves the knife, but he
takes

19 her panties.

20 If you are going to have amnesia,
it

21 should be consistent amnesia. That is on the 911
tape,

22 they have got to have an excuse for everything. "I
was

23 frightening" -- that is their version, "I was

24 frightening," that is not even a word. No, she said

she

25 was fighting, and that lets you know that she knows
what

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1 is going on.

2 If you are going to have amnesia,
it
3 should be consistent. You don't say on that tape by
the
4 grave site, "He went for them first, then he tried
to
5 come to me, but he went to them first." You don't
say
6 that.

7 You don't make statements to the
8 detectives down there, he came after me, and I fought
him
9 on the couch. You don't tell nurse after nurse, the
man
10 was standing over me, if you have amnesia.

11 You see, her relatives came in and
12 said, no, Darlie, at the hospital, just said she woke
up,
13 and the man was walking away.

14 You see, that is inconsistent,
because
15 at the same time she is supposedly telling them that,
she
16 is telling the nurses, that the man was standing over
me.

17 And they have no reason to lie. You see, they might
be
18 more believable if they said, "You know, we suggested
19 that some man was standing over her. We told her
that.
20 She is just trying to believe it."

21 THE COURT: You have used 45
minutes,

22 Mr. Shook.

23 MR. TOBY SHOOK: Thank you,
Judge.

24 And isn't it funny how her
amnesia
25 goes in and out. Nothing about the attack, plenty
about

1 when the paramedics are there, caring for her
children,

2 as her children are dying, because she has got to
put

3 herself in certain places to get an explanation for
this

4 evidence. She has got to put herself, all of a
sudden,

5 this is a cane for some reason, and that is why the
blood

6 is there, this is a cane that I'm using. I am using
wet

7 rags, you know. I'm using wet rags, that is my
excuse

8 for that one.

9 "Well, why do you have a wet rag?"

10 "Oh, I don't know, I just
panicked."

11 Of course, she was not about to
put

12 any pressure on her son. She had it on her neck.
She

13 was not about to do that. She didn't want Damon to
live.

14 Oh, I was running over and helping

15 Darin. Of course, that is the first time that has
come
16 out, because she has got to get that blood on his
back.
17 It's got to be consistent amnesia. But then, when
you
18 have these statements to the nurses about, "Yeah,
there
19 was a man standing over me with a knife." Boy, that
20 amnesia turns on again, doesn't it?
21 I don't remember much about the
22 hospital. I don't remember telling them that. It
just
23 goes in and out when she needs it.
24 And then, you have the defendant's
25 testimony, and you got to see her demeanor, how she

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1 testified, how she is. She was up there for four
hours.

2 One of the parts, I think it was when Mr. Mulder had
her,

3 it was so telling, it might be something small, but I
4 think it's so telling, because she said, "I didn't
kill

5 those children." Not her children, "I didn't kill
those

6 children."

7 She had to have an explanation
for

8 everything, and she tried to cry, she tried to cry
when

9 she was on direct, and just like she tried to cry at
the

10 grave site, but those tears weren't streaming down
her

11 face. Those tears didn't start up until she got
caught

12 in a lie.

13 Now, we heard about this Glenn
guy,

14 "Yeah, I told the police about that."

15 Well then we brought Glenn in, and

she

16 was surprised. And, "Yeah, that is Glenn." We got
that

17 out of her finally, but no, he doesn't match the
18 description in any way. He is not the killer. Darin
is

19 not the killer and Glenn is not the killer.

20 Then we bring out the letters.

This

21 is the woman that is suppose to not remember anything
22 about this incident. Then she is confronted with her
23 letters, one of them written -- a couple of them

written

24 November 1st, 1996.

25 "I saw him. I know he did it. I
saw

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1 him."

2 Another letter to her friend

Karen,

3 "Glenn did it. I know who did it."

4 Another letter to a person named

Joe

5 and Terry, a long description. "This man matches the

6 description." And goes into quite detail. "Broad
back,

7 wide around the middle, big arms, long hair, and he
lives

8 right down the street, and the sock was on the way to
his

9 house. He could see me from his balcony." There is
no

10 balcony that you can see from her backyard. You saw
her

11 try to explain that. That house is 12 -- over 15
houses

12 away.

13 Her hot tub is covered. She is
making

14 that up. Because see, she is suppose to have
amnesia,

15 but she got caught. She got caught in a lie. She
is

1 that we should have seen on that videotape, out at
that

2 grave site, when they were interviewing them.

3 Those are the type of tears that
you

4 should have seen back then. Real tears. But you
didn't

5 see those tears, because she wasn't crying for those

6 boys. Those boys are nothing to her more than, like

7 those pieces of jewelry left up on that counter.

Those

8 tears were for herself, because she realized that you

9 knew the true then. That she does know what went on
in

10 that house. That she does have a memory. She knows
that

11 you know she is the killer.

12 Now, Devon and Damon didn't die

13 instantly. They had lethal wounds, but they didn't
did

14 instantly. We know that. They are capable of making

15 noises, their eyes were open when that knife went in.

16 They were awakened. We know that little Damon, he
moved.

17 I don't know where he was trying to go, he didn't get

18 far, but he moved.

1 opened his eyes, and he saw who was murdering him.
He
2 saw her. He saw his mother.
3 THE COURT: Thank you, Mr. Shook.
All
4 right. Ladies and gentlemen, we will take a 10
minute
5 break now, please.
6 We would ask the forbearance of
the
7 press, if any -- we are in very close quarters here.
If
8 any members of the jury are using restrooms
throughout
9 the building, please do not talk with them in any
manner
10 today. We would ask you not to do that. Thank you.
11
12 (Whereupon, a short
13 Recess was
taken,
14 after which
time,
15 the proceedings
were
16 resumed on the

record,

17 outside of the presence

and

18 hearing of the

defendant

19 And the jury,

as follows:)

20

21 THE COURT: All

right. Is the jury

22 ready?

23 THE BAILIFF:

Yes, sir.

24 THE COURT: All

right. Bring the jury

25 back in, please.

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1
2 (Whereupon, the
jury
3 Was returned to
the
4 Courtroom, and
the
5 Proceedings
were
6 Resumed on the
record,
7 In open court, in
the
8 Presence and
hearing
9 Of the defendant,
10 As follows:)
11
12 THE COURT: Let the record reflect
13 that all parties in the trial are present and the
jury is
14 seated. Mr. Glover.
15 MR. CURTIS GLOVER: May it please
the
16 Court?

17 THE COURT: Yes, sir.

18 MR. CURTIS GLOVER: Ladies and
19 gentlemen of the jury, my thanks along with the other
20 counsel in this case, for your very courteous
attention,
21 lo, these many weeks.

22 As Mr. Shook said to you, we
really
23 have imposed upon you, but you occupy a position in
our
24 society, which is probably the most important, in
that
25 you are a barrier between what could possibly be in
a

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1 democracy, tyranny. And you make that decision, and
you

2 keep that tyranny away.

3 And, as we go through this case,
and

4 we talk about the responsibilities of the government
or

5 of the State when they bring charges like this, you
will

6 see the importance of your position.

7 You know, Judge Tolle gives you a
8 charge here, it's your guide as to the law that
will

9 guide you in this case. He tells you, and I think
the

10 most important thing that he tells you, is that in
any

11 criminal case, charges are brought by the State.

They

12 have the burden of proof, that burden never
shifts.

13 And you know there is no burden
on the

14 defense to do anything. They are to prove her
guilt

15 beyond a reasonable doubt and if there is a

reasonable

16 doubt as to any element in this case, the Judge is
17 telling you, you resolve that in behalf of the
defendant

18 and say by your verdict not guilty.

19 Now, you know, you can go
through this

20 evidence and you can say, well, you know there was
21 confusion about this. Or where was that witness?

There

22 was confusion about this particular evidence that
raised

23 a reasonable doubt in my mind.

24 Judge Tolle is telling you, you
25 resolve that reasonable doubt in behalf of Darlie
Routier

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1 and say by your verdict not guilty. I don't care
whether

2 there was one or there are a thousand, the Judge
is

3 telling you you resolve those in her behalf.

4 Let's go on and look at the
evidence,

5 and I am just going to speak with you just very
briefly.

6 Let's get to Mr. Cron. He was
the

7 bearded man who was a retired deputy Sheriff in
Dallas.

8 He came out to the scene of this devastation very
quickly

9 that morning. He was put in charge, if you
please, he

10 tried to avoid that position, but he was put in
charge.

11 He waltzed through that house, folks, and in 20
minutes

12 without knowing anything -- not knowing the result
of any

13 DNA, not knowing the result of any fingerprints,
not

14 knowing the result of anything, he waltzes through
there

15 and says, "There was no intruder."

16 The die was cast. She became
the

17 focus of everything. They wouldn't listen to
anything

18 else from anybody. There was no -- nothing about
black

19 cars, they were secretly laying their ground work
to go

20 after her, and they did.

21 Now, what kind of flawed
investigation

22 is this, where the conclusion comes up front? He

23 concluded it, folks. He said, "There is no
intruder."

24 So, that's either Darin or her. And we know by
the

25 evidence in this case, that only 2 millimeters she
was

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1 away from death, and if she had died, according to
Mr.

2 Bently (sic), and according to Cron, do you know
who

3 would be on trial here? Mr. Bently (sic) says the
4 intruder knew those children, the intruder,
Darlie.

5 But I can't point the finger
at

6 anybody, but the person that killed those children
knew

7 them.

8 Darin is just 2 millimeters away
from

9 being tried himself for this death. If she had died
10 there on that couch, who would be out here being
tried?

11 Darin, according to the FBI. So how plausible is
Mr.

12 Bently's (sic) conclusion about all of this.

13 Mr. Bently (sic) comes down to
Dallas

14 to lend sophistication, if you please, to what Mr.
Cron

15 has decided after 20 minutes.

1 never mounted that witness stand, came in here and
gave a

2 demonstration of going through the window? Went
right

3 through it very quickly. He is a big man. And he
put

4 his hand, folks, exactly where those prints were
found.

5 Exactly where those prints were found.

6 Now, of all the fingerprints that
they

7 attempted to find in that place, that was the most
8 significant. They found very few, but that was the
most

9 significant. They matched nobody.

10 Now, what does that tell you?
Well,

11 they want to dismiss that, and try to infer to you,
that

12 perhaps those were children's fingerprints. But
isn't it

13 interesting that Mr. Frosch put his hand right down
there

14 where they were, as he went through there, without
any

15 trouble, I submit to you, right through that window,
and

16 you saw it.

17 They want to dismiss the sock up
the

18 alley. They want you to infer, that through all of
this

19 melee out there, that Darlie Routier runs up the
alley,

20 and plants a sock with the blood of both of the
children

21 on it. How preposterous.

22 If you are going to create a
scene,

23 and they have to have an answer for everything. Any
time

24 the scene gets confusing, they say, "That's
staging."

25 You will recall Mr. Waddell, the
first

because

16 the vacuum sweeper was over her foot, that she staged
all

17 of that, her print. Or the glass down there on the
18 floor.

19 The first man on the scene, Mr.
20 Waddell says, "That vacuum sweeper was not in the
way."

21 That is something, folks, you
would

22 have seen. A vacuum sweeper standing in an area of
23 importance in that house, would have gotten your
24 attention. Think about your vacuum sweeper being
turned
25 over in your kitchen. If you were a police officer

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1 walking in there, you would have noticed it.

2 Mr. Waddell says, "I didn't see a
3 vacuum sweeper." And if you want any of this
evidence

4 read back to you, as to the importance of that
statement,

5 ask the reporter to read that back to you. She can
do

6 that.

7 Mr. Walling mounts the witness
stand:

8 "I didn't see any vacuum sweeper."

9 Darlie gets on the witness stand
and

10 says, "I was using it as a prop. I was standing
there

11 trying to hold myself up."

12 I want to talk with you just about
one

13 more subject, and then I'm going to sit down.

14 You are going to have a question
in

15 your mind as to what you think went on out there
that

16 night when this happened. And I'm going to submit

to

17 you, that it's a reasonable deduction from the
evidence

18 that you heard, that that TV was on in there, and
you-all

19 know from experience, the kind of light that a TV
20 creates. It's a dimming, and it's a bouncing type
of

21 light. A person standing outside of that house
could

22 have seen that. They could have seen the
silhouette of a

23 woman lying on that couch, little knowing that
there are

24 two small children laying on the floor, and I can't
put

25 myself, and neither can you, into the mind of a
crazed

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1 maniac, because that is what it would take to do
this.

2 But that person stealthily went
into

3 that house, with the intention of going after her,
gets

4 in there and sees the reflections on the floor of
those

5 two small children, and they want you to believe
that

6 that would have been a noisy affair.

7 How many movies have you ever
seen

8 where one adult dispatches another, without even

9 virtually a sound. It can be done, folks. And you
are

10 talking about two delicate little boys laying there
on

11 the floor.

12 Do you think an adult male or
males,

13 for that matter, could not have come up very
stealthily,

14 and leaned over each one of those kids and pinned
them to

15 the floor, and children are hard to wake up, and hold
16 them down with their hand over there mouths, or
whatever

17 is necessary to keep them from making noises, and
plunged

18 that knife into them, and that child would never have
19 moved.

20 It's like killing an animal and
21 holding it down, and it could have been done without
a

22 bit of noise, and then move on next to the other
child

23 before you go for what you are ultimately in there
for.

24 The other adult. And stoops down over Damon, most
close

25 to her, and does the same thing. And do you think an

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1 adult male or males couldn't have held a little child
2 down? It can be done, folks.

3 Use your common sense as he has
asked

4 you to do. Then he moves on to her, and cuts her
throat.

5 I don't know what his intentions were, but her
panties

6 were gone. She said that.

7 We can't account for the mind of a
8 person like this. Damon wakes up. Damon is not
dead,

9 and he comes over. And you say, "Why doesn't she
hear

10 all of this?"

11 Well, he is stealthily killing
those

12 two kids, and I don't know what he did to her, but I
13 submit to you the account that she gave of what she
felt

14 in her mind as she came up off of that couch was one
of a

15 person who was in a complete fog. She said, "I don't
16 know, I just followed him out."

17 The inside of her mouth was cut

1 Mr. Glover.

2 MR. CURTIS GLOVER: Thank you,
Judge.

3 I'm going to sit down now, folks.
But

4 just as they say, and I adopt that, use your common
5 sense. This woman did not kill those two little
6 children. There is no evidence here whatsoever to
7 indicate that she would ever have had that kind of a
8 mentality, quite the contrary.

9 And I will ask you sincerely from
my
10 heart, to find her not guilty.

11 Thank you.

12 THE COURT: Thank you, Mr. Glover.

13 Mr. Mosty.

14 MR. RICHARD C. MOSTY: May it
please

15 the Court? Counsel.

16 Ladies and gentlemen of the jury,

I

17 will just very briefly echo the thanks that you have
been

18 given by the other counsel and, well, you know that
we're

19 thankful for your service.

20 And, I will apologize to you, if

at

21 any time you think that I have wasted your time. If

you

22 think I have wasted the Court's time, I apologize to

the

23 Court. If you think I have wasted the State's time,

I

24 apologize to the State.

25 But I'm going to expend every

ounce of

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1 my energy to defend a principle I believe in, and
someone

2 I believe in. And I will never apologize for my
faith

3 and my belief in those principles.

4 But if I have done that too
much, in

5 time-wise, I apologize. I'm sorry.

6 I want to -- there is no way
that you

7 can cover everything, but I want to focus back on
a

8 couple of things. My opening comments, do you
remember I

9 said, and this is the phrase that I used: "By all
10 accounts this is an attentive, doting mother whose
focus

11 is her children." And ladies and gentlemen, you
have not

12 heard one word contrary to that."

13 Even Basia, the one who comes
down

14 here says, she is faithful, they have a faithful
15 marriage, they have a good marriage. She is
attentive to

16 her children. She is interested in her house.
She is
17 caring about her physical appearance. She wants
her
18 house clean. She had lots of kids in the house.
All of
19 these things is (sic) undisputed. They could not
produce
20 one person from Rowlett, Texas who said to the
contrary.
21 Not one.
22 And yet, then they say that
there is a
23 psychotic killer on the loose. Claimed to be
psychotic.
24 And how many times did Mr. Shook say, "It doesn't
make
25 sense. Why did this happen?"

Sandra M. Halsey, CSR, Official Court
Reporter

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1 You know, that is the State's
2 obligation. They can not give you an explanation
of what

3 happened. They can not tell you what happened.
They

4 don't know. And it's not our obligation to prove
that.

5 It seems to me like when you go
back,

6 in this kind of case, and me not being able to
cover

7 everything I wish I could, but I know I'm going to
8 forget, and there are some things I'm going to
cover, and

9 I'm going to sit down, and I'm going to remember
things I

10 should have.

11 But it seems to me that a jury
in this

12 case would sit down and very carefully and
deliberately

13 go through the evidence, and look at some of these
14 things. Some of these things have been pointed
out to

15 you quickly. And you need to get these pictures

up and

16 look at them, and I will point out a couple of
things as

17 we go through.

18 I said in opening statement
that

19 Darlie Routier was in the cross hairs immediately.

You

20 know that is true. Within 20 minutes.

21 You know, I want to get Mr.

Cron in a

22 room quietly, and I want to say to him, "Who do
you think

23 you are? Almighty judge, jury and executioner?

Who do

24 you think you are? That you walk in within 20

minutes,

25 and determine that this scene, that you know who
is

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Reporter

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1 guilty. You don't know what the condition of
anything

2 is. You don't know what the story is. You don't
know

3 what the things were like when it happened. You
don't

4 know about fingerprints. You don't know about DNA.
Who

5 do you think you are?"

6 And from that moment, this case
and

7 the Rowlett Police Department was irretrievably,
8 irreversibly, irrevocably focused in the cross hairs
on

9 Darlie Routier. And Cron said, incredibly I
thought, "I

10 didn't need to pick up the glass. I didn't need to
go to

11 the FBI and see how much force it would take to
break.

12 Maybe we could have determined how it broke. I
didn't

13 need to do that. I didn't need to check officers
feet

14 for glass, because I knew there wasn't an
intruder. I

15 didn't need to pick up rags by the children's body
16 because I knew that there wasn't an intruder."
17 It seems to me like the first
thing
18 that you would do, if you walked on a scene, and
you
19 said, "This scene is not like another scene I have
been
20 to." What would you do? I would say, "Wait a
minute,
21 boys. This is the case we better be careful about.
This
22 one is unusual. This one is different. This one
doesn't
23 fit the pattern."
24 And you know, that in the mind
of a
25 crazed criminal, in the mind of a drug crazed
lunatic,

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Reporter

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1 what is going to make sense? And so, why don't you
back

2 up and say, "This is a case in which we need to
leave no

3 stone unturned. Let's do this one carefully.

Let's

4 don't decide in twenty minutes that we know what
5 happened." But they did.

6 And then, what does the State
do? The

7 State, rather than bringing you hard facts, rather
than

8 bringing you hard facts, brings you opinions that
cannot

9 be tested. I'm not talking about medical opinions,
based

10 on medical testimony, I'm not talking about
scientific

11 opinions based on scientific testimony, I'm talking
about

12 opinions that can not and will never be tested.

13 How much of the State's case is

14 opinion? Cron's opinion? Well, we have got to
back that

15 up, so let's get Mr. Bevel in.

16 Before I leave Cron, what is the

one

17 word that never, never came out of his lips? Sock.

In

18 the entire time he testified, he never said the
word

19 sock. Do you know why? Because he can't explain
it. He

20 can not possibly explain the sock, so he didn't
even

21 mention it. It's like the glass, the wine glass,
if it

22 doesn't fit with my conclusion, I'm pushing it
away. I'm

23 never going to bring it to a jury.

24 So we bring in Bevel. And Bevel

is

25 the blood guy. And do you remember when I was down
here

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Reporter

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1 (Demonstrating on the floor), and I said -- well,
first,

2 he draws his opinion. And then he comes up with
this

3 video, and I encourage you to look at that video,
because

4 contrary to what Mr. Shook says, in that video,
where he

5 is doing like this (Demonstrating), those blood
spatters

6 are long, and there is clear directionality to
them. As

7 bad as that video is, you can see that.

8 And remember, he says that
Devon's

9 stain, he can't tell if it's going up or down. So
what

10 conclusion do you draw? But think about it. I'm
down

11 like this, and you remember I had my pen, I
actually had

12 the court reporter's pen, this green one, and I had
like

13 this, and I said, "This one is going this way and
that is

14 consistent with that?"

15 "Well, yeah, that's okay."

16 "And this one is going like
this, and

17 that is consistent with that?"

18 "Well, yeah, that's okay".

19 "And this one is over here, as
to --

20 like that?"

21 "Yeah, that's okay."

22 They are all consistent. There
is

23 nothing that he said that wasn't consistent, except
in

24 his judgment, in his opinion.

25 And remember what consistent
means.

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Reporter

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1 It means I cannot exclude it as a possibility in
his

2 judgment. He can't explain how a bleeding person
could

3 get to that wine rack without getting blood on it.
He

4 can't explain it.

5 He can't explain how a bleeding
person

6 can get to the vacuum cleaner without getting blood
on

7 it. He can't explain how someone picks up the
vacuum

8 cleaner three times, a woman, three times, and
doesn't

9 have blood over here, where he picked it up. He
didn't

10 want to admit that, do you remember? He didn't
want to

11 admit where he picked it up. He can't explain
that.

12 But then, he can explain a knife
being

13 laid down. Now think about that for a minute. Get
the

14 pictures out. You will see that that stain has a
bend to
15 it that goes with the knife. And he described
laying it
16 down. He described it as laying it down and leaving
a
17 trail, and then laying it down.

18 Ladies and gentlemen, if that is
true,
19 this trail goes straight. It does not go with the
20 curvature of the knife.

21 The other thing is, it was laid
down
22 left-handed. There -- look at the photographs.
It's
23 right next to a chair. A right-handed person
couldn't

24 have gotten there to do that. It was laid down
25 left-handed. And he goes and he tells you --
remember

1 back, the State says, there is no -- that this scene
is
2 not disrupted.

3 Bevel describes for you blood
runs.

4 Do you remember? Gravity blood runs.

5 Ladies and gentlemen, take
State's

6 Exhibit 11. And I'm just going to demonstrate this
for

7 you, but do it for me. Over here on this coffee
table,

8 there is a blood run. There is a place where the
blood

9 has run. You see what I am talking about? I may
get in

10 trouble for breaking this. It's on the coffee table

11 right there. There is a blood run. That coffee
table is

12 askew, there is a blood run there. I'm not going to
be

13 able to get it back to you. It's number 11.

14 How does that blood run? If
Darlie

15 Routier is standing there, there is going to be a

drop.

16 However, if she bleeds there, or someone bleeds
there, I

17 don't think that blood was identified, and that
coffee

18 table is laid over, then the blood is going to run.

19 That evidence shows you, that at
one

20 point, that glass top table was off of the pedestal.

21 That is how the blood ran. And it gets back up
sometime.

22 But the State, and Mr. Bevel don't

23 want to talk about that, because that doesn't fit
with

24 their theory. Bevel, you know, and you can give
them

25 credit for this sock stuff, Bevel said that the
sock,

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Reporter

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1 that is disconnected or disassociated evidence, I
can't

2 remember what he called it. They said, "Mr. Bevel,
if

3 you were going to disassociate something, would you
4 disassociate a sock?"

5 Of course not. You would
disassociate

6 a murder weapon. But that is how the State -- when
7 something doesn't quite go right, we wiggle it, to
try to

8 make it meet our preconceived answer.

9 And Charlie Linch -- and again, to
10 some extent I have got to include Charlie Linch in
this

11 question of opinions, where I say opinion that is
12 unfounded.

13 I don't quarrel with what Charlie
14 Linch said his job was. You remember. He said, "My
job

15 is to tell you what I see, and to leave it to you
16 lawyers," -- he told me this -- "to leave it to you
17 lawyers to figure out what it means."

18 That is what he said. You all
19 remember it. Sort of a humorous moment. And, of

course,

20 he was describing, in some of that, the fiberglass.

And

21 remember, that his fiberglass experiments in all of
his

22 experiments, he got three to four times more glass
rods

23 than he found on this knife. He said, "I can't marry

24 those two. I can't bond them together. There could

be

25 any number of other things."

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1 He looked at one circuit board.
He
2 didn't test any circuit boards, he said he picked up
one.
3 He didn't test it.
4 But then, what Charlie Linch said
is
5 fall in lock step with the State. He comes up with
an
6 opinion, that is not verifiable, that is not
7 scientifically or medically recreatable (sic), he
comes
8 up with a theory that this must be posed.
9 Well, when did Charlie stop being
an
10 observer of details, and start being an advocate for
the
11 State? When did he stop? And that is where you get
into
12 these opinions.
13 And then, to cap it off, the State
14 brings a bureaucrat from Washington, who has been to
one
15 murder scene in his life.
16 First, the State sends him what

they

17 want. Their reports of these officers, who are not
under

18 cross examination, these officers who didn't make a
19 report sometimes, who made supplemental reports.

The

20 only person in this courtroom who has got to have
a

21 perfect story is Darlie Routier.

22 All of these officers can make
23 supplemental reports, and they can forget who picked
up

24 the sock, they can do all of this stuff, and it's
simply

25 a mistake. I mean, you know, memories are like
that.

1 But Brantley comes down and gives
you

2 a mail-in verdict. The State has mailed him what
they

3 want in Washington, they know the lady is
indicted, he

4 knows that Cron has said she is guilty. They send
him

5 the tests that they want to send. They send
Dallas

6 Morning News articles along with it, and he mails
back a

7 verdict.

8 That is the antithesis of the jury
9 system. He comes down here and he says, based on
what I

10 have looked at, all he did was get under oath and
deliver

11 the State's final argument for them. That's all he
did.

12 He -- could I hire that guy? No. He works for the
13 FBI. Can you challenge that? No, not based on
reason.

14 He thinks the room is not askew
enough

15 for him. Well, he didn't no this coffee table had
been

16 knocked over. The trash cans are knocked over, but
not

17 enough to suit him.

18 And again, saying why did
something

19 happen? Or is this -- I wonder why? What is the
reason?

20 That is not proving facts beyond a reasonable doubt.

21 It's an untested opinion.

22 Judge Barton who was the judge
before

23 Judge Ables. I don't know how many cases I have
tried in

24 this courtroom, but I will never forget this: When a
25 jury was let go, no matter what time of night it was,
and

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1 Judge Barton worked long hours. We had lots of
verdicts
2 at midnight. And he would invariably bring the jury
in,
3 and they were tired and they were worn out, and the
4 lawyers were tired, and the lawyers were worn out,
and
5 Judge Barton would invariably tell them this story
that I
6 thought was silly, and I thought, "Judge, come on."
7 And he would say, "Ladies and
8 gentlemen, in this country you have the right
to
9 participate in the jury system. People,
ordinary
10 citizens have the right to participate in the
jury
11 system. And so long as that happens," he would
tell
12 them, "there are going to be fallibilities,
because
13 people are fallible. And the system is not
perfect
14 because people work in it. Juries work in the
system."

15 But he said, "The only perfect
system
16 is one in which the people are not allowed to
17 participate. In which the government chooses to
decide
18 who is charged, and what evidence, and who is guilty,
and
19 the people are not allowed to participate." And so
he
20 would say, "Be thankful that you live in a system
where
21 the people can participate."

22 And I say, thanks to Judge Barton.
It
23 took me a long time to learn the importance of that,
but
24 I know it. You know what Brantley didn't talk
25

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1 about? That black car. Is there one lick of
evidence in

2 the record that anybody ever looked for that black
car?

3 None.

4 It's described by Basia, it's
5 described by Halina, it's described by the Neals, and
6 Nelda Watts described it to Mr. Patterson. Four
times

7 that black car shows, sitting in the driveway,
watching

8 the house, and there is not one lick of evidence
about

9 it.

10 The State wants to disconnect
that,

11 like they want to disconnect the sock, because they
can't

12 explain it. They can't explain a pubic hair, they
can't

13 explain a fingerprint. They can't explain those
things,

14 so they want to say, this is a confusing situation.

It

15 doesn't make sense. It's their obligation to make it

16 make sense.

17 Like Mr. Shook said about motive,

18 people want to know why. Do you know why people

want to

19 know why? Because some things don't make sense. It

20 makes no sense that this lady would change from a

good

21 mother, a doting mother to a psychotic killer.

22 So that lack of motive, that lack

of

23 reason creates hesitation. That is what reasonable

doubt

24 is described as, hesitation when you are acting on

the

25 most important things in life.

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1 The State tries to bring in, for
2 instance, these records. Again, go look. Mr. Davis
--
3 the State has tried to mislead you on some times, and
4 call them on it.

5 Mr. Davis offered the May through
--
6 or the January through May bank statements and said,
"You
7 are three thousand dollars less in deposits than in
your
8 withdrawals." Well, of course, in June, that
situation
9 reversed itself.

10 But you know what they forgot to
tell
11 you? You know what he forgot to point out to you?
Is
12 how much money the Routiers took out of that
business,
13 for their own uses. More than five thousand dollars
a
14 month in draws from the Routiers.

15 Look at it if you want to. That
is

16 the average. Fifty-two hundred dollars. Plus,
another
17 thousand. They paid for the Nissan, four hundred
dollars
18 out of there. They paid for the boat, \$344, their
19 insurance was \$272. Over that period of time they
were
20 taking sixty-seven hundred, forty-one hundred,
21 fifty-three hundred dollars out. And do you know the
22 month of May, the month of the May, draws of seven
23 thousand dollars. Do you know why? Do you know
why
24 these things were in the trash can? Because they
have
25 been taken care of. The draws are seven thousand
dollars

1 a month, plus another thousand on cars and payments
like
2 that.

3 The reasons -- add it up. I
can't
4 remember what it is, it's something like thirty-
five
5 thousand dollars that the Routiers took out of
that
6 business, and the State misleads you about these
records.

7 That, you know, someone
contemplating
8 an important event. Like someone who is going to
kill
9 their children is going to get these records out.
Well,
10 they didn't even get them out. They are dog and cat
11 records, there are life insurance papers, there's old
12 notes, there's a letter from a lawyer months before
about
13 a will. Those are all of what is sitting up there,
and
14 that is what is sitting here. The State doesn't want
to

15 talk about those, because they can't, they don't get
16 anywhere, they are innuendo.

17 Did you hear some of the innuendo
18 about, "Do you take your children to the pawn shop?"
19 "Gangsters paradise."

20 What do you think Mr. Davis would
say

21 if Mrs. Routier played her favorite song at her
22 children's funeral? What do you think he would say?

He

23 would say, "You care so little about your children,
you

24 won't even play their favorite song." Who do you
think

25 you are?

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1 The State -- another thing the
State
2 doesn't want to talk about. The towels. The State
3 doesn't want Darlie Routier over there by the
children.
4 Well, ladies and gentlemen, look at Exhibit 56. It's
got
5 blood by Devon's body. Blood drops. Whose blood is
6 that? It's Darlie Routier's. If she didn't go to
help
7 Damon -- Devon, how did that blood get there?
8 The State doesn't want her
bringing
9 towels. Look at Exhibit 79. It's the towel drawer.
10 It's open. You see the kind of towels that are in
11 evidence. There is blood on the drawer. Whose blood
is
12 it? It's Darlie Routier's. If she didn't get towels
to
13 help the children, how did the blood get there? If
she
14 didn't take the towels, do you think she stood in the
15 kitchen and threw them to Darin? How did the white
16 towel, this isn't it -- they didn't pick up the one
by

17 Devon. How did the white towel get over there? How
did

18 those towels get to Devon, by his hand?

19 THE COURT: You have used 25
minutes,

20 Mr. Mosty.

21 MR. RICHARD C. MOSTY: I'm going
to

22 talk briefly about -- and Mr. Mulder will cover this
23 more, the knife wound, and I'm going to relate this
to

24 Mr. Brantley.

25 Did you notice how Doctor DiMaio

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1 described those wounds? And how they came down, and
then

2 in a continuation. And common sense tells you, and
3 anybody who describes these, sees how you would do
that.

4 And the length of the knife, think
5 about that. How could someone cut, in the manner
that

6 Darlie is cut, up, a right-handed person? Look where
the

7 knife has to be. And how do you get this wound over
8 here? It doesn't make sense. It doesn't make
common

9 sense and that is medical, that is a medical
opinion.

10 It's not some witchcraft opinion from the FBI
11 headquarters, it's medical. How do we get these
bruises?

12 The State -- if Darlie Routier was
out

13 in a long black veil at the grave site, they would
say

14 she is faking it. If she had a perfect story, they
would

15 say that is too good. There is no way that it can

fit.

16 There is no way this knife wound can fit logically.

17 There is no way the sequence of events can fit
logically.

18 And what did the State do through all of this? I
cannot

19 imagine someone being more under a microscope than
Darlie

20 Routier has been.

21 She started at 6:00 A.M. when they
go

22 down there, and she is on a disinhibiting drug. I
submit

23 they knew that, and they thought they are going to go

24 down there to the hospital and they are going to find
out

25 what went on. And then to be good guys they go and
visit

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1 her on the 7th. And then, on the 8th they come and
they
2 get another statement, 10 pages.

3 Remember, ladies and gentlemen,
when

4 you talk about these bruises, how did she leave the
5 hospital? In the escort of the Rowlett P.D. She
goes --

6 and all of these bruises are described by any number
of
7 people.

8 And then after that, they see her
9 again on the 10th, take pictures again, talk to her
again

10 and then: Who do you think you are? To go out and
put a

11 bug on a grave site in hopes that you will get a
12 confession. Who do you think you are?

13 You know the only person who
needed a

14 lawyer, who needed to claim a lawyer in this case,
you

15 heard him, was Officer Patterson.

16 If you are going to ask me about
that,

17 I'm going to talk to a lawyer. The audacity to do
that

18 at a funeral service, at a prayer service for
children.

19 And then, to bring in the closer,
Mr.

20 Parker. Three hours, close the deal for us. Close
the

21 deal.

22 Mr. Parker says, "Well," -- in
that

23 deep voice -- don't you know how he came across to
Darlie

24 Routier. He says, "She didn't deny it."

25 "Well, Mr. Parker, she told you

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1 somebody else did it, didn't she?"

2 That is denial. And after three
hours

3 in there, you know, can't you see her saying, "Man,
leave

4 me alone. You accused me, you told me you thought
you

5 (sic) were guilty, you told me you looked at all the
6 evidence, you told me all that, leave me alone."

7 Now, then beyond that, they copy
all

8 of her jailhouse mail. And through all of that,
through

9 everything, microscopically that they have done to
Darlie

10 Routier, what is the one thing that they have failed
so

11 miserably to do? Get the confession that they
wanted.

12 Get the confession that they bugged graves for. Get
the

13 confession that they brought the closer in for. Get
the

14 confession that they read the jail mail for. They
didn't

15 get any of it.

16 You know, and here is a lady
sitting

17 in jail, whose investigators and lawyers are out
there

18 and they are trying to say, "You know, gosh, we've
got a

19 lead." And she gets beat up over that? Good night.

20 But they never, ever, got what
they

21 wanted. And they never, ever have brought you an
22 explanation.

23 Mr. Brantley, Mr. Mulder said,
"Mr.

24 Brantley, from all the way from Washington, here is
your

25 chance. Tell me what happened."

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1 He couldn't do it.

2 "Tell me how it happened."

3 He couldn't do it. He didn't
know.

4 There are things he said he didn't know. He didn't
know

5 DNA results for one thing. He didn't know when the
6 children died, or how long they died, even though the
7 autopsy report was available to him.

8 He didn't want to know. He was
9 afforded the opportunity to set it out, and through
this

10 trial, no one has done it. And I submit to you that
they

11 never will.

12 There is no way I can cover what I
13 would like to cover. But, it is so important that
you go

14 back and you look at the evidence, at the hard facts,
at

15 the verifiable medical evidence, at the verifiable
16 scientific evidence. You know, all of the State's
case

17 of opinions, of maybe's, of could be's, of could have
18 been, should have been, would have been. That is not

19 proof beyond a reasonable doubt.

20 This is not a could have, should
have,

21 would have. This is not a case where you say, "Well,
if

22 she didn't do it, who did?"

23 This isn't a multiple choice test,
or

24 as we used to call them multiple guess. This isn't
25 multiple guess. This isn't a question of you solving
the

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1 case. I think we talked to every one of you on the
jury

2 about that. You are not here to solve the case.

3 This is a question of, has the
State

4 brought you hard evidence, verifiable evidence that
would

5 cause you not to hesitate in your life. That is the
6 definition of reasonable doubt. Not to hesitate to
make

7 that decision. If you hesitate, then you have got a
8 doubt based on reason. Not opinions, not just, "Oh,
I

9 think this, or that is consistent with this, or
this is

10 consistent with blood going that way, this blood
drop

11 could be going up or down, that table is not messed
up

12 enough." Proof beyond a reasonable doubt.

13 And I say to you, that when you
are

14 back there and you are debating this thing, and you
move

15 from subject to subject, remind yourself, remind

your

16 fellow jurors. We have to test this piece of
evidence

17 against the presumption of innocence. Every piece
of

18 evidence, test it against the presumption of
innocence.

19 Every time you are in a
conversation

20 with your fellow juror, you seem to hesitate about
that.

21 You seem to have reasonable doubt about that. Work
22 through it, and think about it.

23 There is no explanation, the State
has

24 failed miserably, as Mr. Davis said in the beginning,
25 "We're going to tell you why this happened." They
didn't

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1 do that. They proved it's just the contrary.

2 A mother, that there is no
explanation

3 and they will never give you one, and they will never
4 give you an explanation of what happened that night.

You

5 know, and I bet the officers who walked on the scene
when

6 Charles Manson had butchered those people said, "I
have

7 never seen anything like this."

8 And as Cron said, the FBI, who
9 fingered Richard Jewell, I bet there are a few places
10 they would say, "I have never seen anything like
this."

11 In closing, I'm going to -- I
want to

12 quote two things.

13 Justice Brandeis was one of the
14 eminent Supreme Court Justices for many years, and
he

15 wrote, in 1928, nearly 70 years ago, in a case
called

16 Olmstead_versus_The_United_States, "They, the
makers of

17 the Constitution, conferred as against the
government,
18 the right to be let alone. The most comprehensive
of
19 rights, and the right most valued by civilized men.
The
20 greatest dangers to liberty lurk in insidious
21 encroachment by men of zeal, well meaning, but
without
22 understanding."

23 They don't like Darlie Routier.
They
24 don't like the lifestyle she led. They have to try
to
25 trash her with breast implants.

1 Why did they do that? They want
to
2 trash her, because they can't explain it.

3 THE COURT: You have used 35
minutes

4 Mr. Mosty.

5 MR. RICHARD C. MOSTY: She had
the
6 audacity -- she had the audacity to express herself
the
7 way she really is, and the audacity to not fit what
the
8 State -- what the government wanted her to do, and
to be
9 the victim of a crime that doesn't fit what somebody
in
10 Washington thinks it ought to look like.

11 Learned Hand was a Justice of the
12 Supreme Court for many years, and he made a
statement
13 that I have adopted as my own. It was first
written --
14 the quote was first written by Oliver Cromwell to
the
15 Church of Scotland in 1650.

16 And he is writing to the Church
of
17 Scotland over, at that time a religious issue, and
he
18 says: "I beseech ye, in the name of God, that ye
may be
19 mistaken." And Learned Hand, in his articles, Life
and
20 Morals and Ethics in Public Life, made this quote:
He
21 said, "I beseech ye, in the name of God, that ye may
be
22 mistaken."

23 I should like to have every
school
24 begin, I should like to have every legislative body
25 begin, and yes, I should like to have every court
begin

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1 with this statement, "I beseech ye, in the name of
God,

2 that ye may be mistaken."

3 And I should like for every jury,
when

4 you are weighing reasonable doubt. When you are
laying

5 the evidence against the presumption of innocence.
When

6 you are seeing if you hesitate and if your fellow
jurors

7 hesitate in the most important of life's events.

8 "I beseech ye, in the name of
God,

9 that ye may be mistaken." Thank you.

10 THE COURT: Thank you Mr. Mosty.
Mr.

11 Mulder.

12 MR. DOUGLAS MULDER: Judge, if we
13 could have just a minute to organize the evidence.

14 THE COURT: All right. If you
will

15 step back in the jury room for a brief, five
minute

16 break, please.

17

18 (Whereupon, the jury
19 Was excused from
the
20 Courtroom, and
the
21 Proceedings were
held
22 In the presence of
the
23 Defendant, with
his
24 Attorney, but outside
25 The presence of jury

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1 As follows:)

2

3 THE COURT: All right. Are both
sides

4 ready to bring the jury back in and resume the
arguments?

5 MR. DOUGLAS MULDER: Yes, sir, we
are

6 ready.

7 MR. GREG DAVIS: Yes, sir.

8 THE COURT: All right. Bring the
jury

9 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: Let the record

reflect

22 that all parties in the trial are present and the

jury is

23 seated.

24 Mr. Mulder, you have 42 minutes.

25 MR. DOUGLAS MULDER: Yes, sir,

thank

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1 you, your Honor.

2 May it please the Court?

3 THE COURT: Yes, sir.

4 MR. DOUGLAS MULDER: Once again,

I

5 have an opportunity to speak directly to you, and I
think

6 it would indeed be thoughtless of me not to take a
moment

7 or two to thank you for the time and attention that
you

8 have all devoted to this case.

9 This has been a relatively long
case,

10 as cases go, and I'm sure that y'all have things
that you

11 would rather be doing. We have taken you away from
your

12 homes and from your families and from your jobs,
and we

13 appreciate it deeply.

14 Last night, when I visited with

15 Darlie, and I asked her, "Is there anything in
particular

16 that you would like to have me say to this jury?"

17 MR. GREG DAVIS: I'm going to

object

18 to that as being outside the record as to what he
did

19 last night.

20 THE COURT: Both sides are
instructed

21 to stay within the record, and the jury is
instructed to

22 remember the testimony as they heard it and you may
23 continue.

24 MR. DOUGLAS MULDER: She just
asked

25 that I thank you, and I do that.

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1 MR. GREG DAVIS: I'm going to
object
2 to that again, about whatever conversations that he
may
3 have had outside of this courtroom.

4 THE COURT: Well, I'll sustain
the
5 objection. And let's stay within the record, please.

6 MR. DOUGLAS MULDER: Yes, sir. I
need
7 to visit with you a little bit about some of the very
8 fundamental principles of law, and then I too, would
like
9 to share my thoughts with you in an effort to help
you,
10 if it does, in arriving at your verdict.

11 But let me make one thing clear.
You
12 aren't down here to return a verdict that is going to
13 make me happy. And you aren't down here to return a
14 verdict that is going to make Greg Davis happy.

15 The only people that have to be
16 satisfied and happy with your verdict are the 12 of
you.

17 Now the law says, and we talked to

you

18 about this on voir dire, the law says that all people
are

19 presumed to be innocent. And the law says that that
20 presumption stays with them until the State proves
their

21 guilt beyond all reasonable doubt. Another way of
22 saying, "Whoever does the accusing, has to do the
23 proving."

24 Now, way back four weeks ago, Mr.
25 Davis stood before you, and for a half an hour or 40

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1 minutes he told you, he made a pledge, he made a
promise.

2 And he said, "We're going to prove that Darlie
Routier is

3 self-centered, and materialistic and that she and her
4 husband were in financial straits and that it was
just

5 too expensive to maintain these youngsters. And that
is

6 why she killed them."

7 Now isn't that basically what he
said?

8 Now let's talk about finances for
a

9 minute. We know that she and Darin had their own
10 business. And we know that through June of 1996 they
had

11 taken in approximately eighty-six thousand in cash in
12 that business, we know their expenses were some
five

13 thousand a month in that business, and that
leaves us

14 some fifty-six thousand.

15 Mr. Davis said: "Oh, but you were
ten

16 thousand dollars in debt to the IRS."

17 He says, "I always owe the IRS."

18 And he said, "You owed your credit
19 card companies some twelve thousand dollars."

20 You know, I had expected from the
21 statement that he made that he was going to bring
bankers

22 down here and he was going to bring mortgage people
down

23 here, and he was going to bring people from the
credit

24 card companies talking about how they were hounding
these
25 folks.

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1 And he was going to bring car
2 repossessors and things of that nature to show how he
had
3 lost his business and they were almost to be thrown
out
4 in the street. But that is not what happened.

5 Eighty-six thousand in six months,
6 expenses of some thirty thousand, that is fifty-six
7 thousand. And that may not be high cotton to Mr.
Davis.

8 But you know, it's better than nine thousand
disposable
9 income that he had each month.

10 But he said in addition to that,
he
11 said there was eighteen or twenty thousand that I
had in
12 accounts receivable that I have since brought in, so
it
13 was there and available if I wanted it. And he had
14 seventy-nine hundred dollars in the bank. And he
showed
15 sixty-four dollars in their personal checking
account.

16 You know, who cares? Like I said, that's a long way

from

17 skid row. Those are not dire straits to my way of
18 thinking.

19 Now, you have had some false
20 impressions that -- and I was a little surprised, but
for

21 example, you will recall from that den they brought
you

22 some records, and Mr. Davis introduce through Mayne
23 records about someone contemplating the disposal of
their

24 assets in the event of death. And the idea or the
25 impression that he wanted to leave was that there was

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1 death thoughts in the mind of Darlie Routier on the
night

2 of June the 5th. Y'all recall that.

3 You know, but the thing he didn't
4 bring you was the fact that they had a letter from
the

5 lawyer dated September of 1995, talking about estate
6 planning, and all of this was in the same file. And
that

7 was intended to deceive you, because it wasn't until
we

8 had a chance at bat that we were able to straighten
that

9 out.

10 But there was no death
contemplated by

11 her. That was strictly done to mislead you.

12 Now, I think that there were some
13 leads out there that perhaps they should have
pursued.

14 You will recall when Jimmy Patterson was on the
witness

15 stand and I had to call him.

16 Can you believe that the leading

--

17 that the lead detective, the man who made the
ultimate
18 decision to charge Darlie was not called by the
State.
19 They didn't call Patterson and didn't call Frosch. I
had
20 to call them. And I was able to question him up
until he
21 took the Fifth, and you will recall when the Judge
22 admonished him. But he tells you several things.
23 Patterson told you that the
very
24 morning of this tragedy they had a call at the
police
25 station, and the caller described a man who had a
black

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1 cap --

2 MR. GREG DAVIS: I'm sorry, that
is a
3 misstatement. It was not that morning, it was that
4 afternoon on the 6th.

5 THE COURT: The jury is instructed
to
6 remember the testimony as they heard it, and be
guided by
7 the Charge of the Court.

8 MR. DOUGLAS MULDER: I thought
that
9 Mr. Patterson said it was that morning, but I'll
stand
10 corrected. That afternoon is just as good.

11 But they had a man that fit the
same
12 description that Darlie Routier had given, and he
didn't
13 bother to check it out because he said it was on the
14 other side of town, which means that is five minutes
15 away.

16 He didn't bother to check it out
17 because it was on the other side of town. And the
man

18 that called in had had the presence of mind to get
the

19 man's name. And to this date they still haven't
checked

20 his fingerprints, if they have got them, with the
21 fingerprints in that window.

22 They haven't checked the
fingerprints

23 of Glenn Mize with the fingerprints in that window.

And

24 they haven't checked the fingerprints of Gary

Austin, the

25 fellow who lives down that alley that she wrote
about in

1 the letters, that the investigators had told her
about,

2 and those were investigators that were in it before
I

3 was.

4 But they still haven't checked
their

5 fingerprints with the fingerprints in the window.

6 Now, what about the black car.
Mr.

7 Patterson knew about that black car because he was
there

8 and interviewed Nelda Watts. The neighbor who lived
9 right here. And she told Mr. Patterson that there
was a

10 car that was parked out in front of her mailbox that
11 morning.

12 You see, they didn't call her
because

13 she contradicts what Gorsuch says. But we know, by
now,

14 from what the police officers said and everything
else

15 that Gorsuch is -- he is not lying, he is simply
mistaken

16 about the facts. But we know that there were more
cars
17 out there than what Mr. Gorsuch led you to believe.
18 But at any rate she told you,
and
19 Patterson told you that he was told that there
was a
20 black car that was parked out there, and that that
black
21 car was seen when a scream was heard and a lady
looked
22 out of her window. She saw the black car there.
23 Then when the emergency vehicles
24 arrived that black car was gone. Now Karen Neal
also
25 told you that she was there and she heard this next
door

the

16 police about that. Told Patterson about that. But
they

17 didn't do anything about it.

18 And, she told you that later on,
the

19 day of the murders, she again saw that black car as
it

20 went through -- remember when it went through the

21 neighborhood? And she ran out and she didn't get

the

22 license number, but she told the police that, "That
is

23 the car that I was talking about." But they turned a

24 deaf ear.

25 THE COURT: Thirty minutes left,
Mr.

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1 Mulder.

2 MR. DOUGLAS MULDER: Thirty?

3 THE COURT: Thirty.

4 MR. DOUGLAS MULDER: Yes, sir.

Folks,

5 this was a -- this was a normal family. You had a
mom

6 and dad and you had a house and a picket fence, a
rose

7 garden, you had three children.

8 You know she just doesn't, all of
a

9 sudden, out of the blue go haywire and kill her
children.

10 Now, Mr. Davis has told us that he
11 would bring witnesses. The State has the burden of
12 proof. They have done the accusing, they have got
to do

13 the proving.

14 They have brought you absolutely

--

15 and think about this: Who of us could withstand the
16 scrutiny that they have put this woman under for the
last

17 nine months? Unlimited funds to investigate her.

18 They have got some two hundred
lawyers
19 in the district attorney's office in Dallas, some
hundred
20 and how many investigators, I don't know.
21 They have got the Rowlett Police
22 Department at their disposal. They have had them
down
23 here for four weeks. Unlimited funds to
investigate
24 Darlie Routier, and they can't come up with one
single
25 witness that will say anything bad about her as a
mother.

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1 The undeniable proof is, that she
is a
2 very loving, very caring, very devoted mother. And
don't
3 you know, with unlimited funds, if that weren't true,
4 they would have somebody down here saying something
about
5 it to the contrary.
6 Don't you know, if she had ever,
ever,
7 ever mistreated those children, that someone would be
8 down here under oath telling you about it?
9 Let's talk for a little bit about
that
10 crime scene, and there is nothing magical about a
crime
11 scene. You know this fellow from the FBI that came
in
12 here, Mr. Brantley, he learned a lot of what
he is
13 telling about by talking to prisoners in the
West
14 Virginia penitentiary. And you can imagine how
truthful
15 those folks are going to be with him, but that is

where

16 he got a lot of -- that and what he gleaned from that
one

17 murder investigation that he was involved in.

18 But he came down here, and he
said,

19 well, you know after looking at everything, he
said, "I

20 think it's someone who knew the boys very, very
well."

21 And he went through his risks, and he went through
the

22 other things.

23 But you know when I asked him,
and I

24 would suggest to you that they have a duty and a
25 responsibility to tell you how this happened. Okay?
And

1 if they can't tell you how it happened, then they
have
2 the duty and the responsibility to tell you why they
3 can't tell you how it happened.

4 But I said, "Professor, Mr.
Brantley,

5 you are the analyst, will you tell the jury, please,
how

6 this happened?" And he said, "Well, I can't do
that."

7 "Well, I mean, you are the
analyst,

8 you ought to be able to tell them how it happened.
Who

9 was killed first? How many knives? You know."

10 "Well, I can't do it."

11 "Well, can you tell us how long
it

12 took to commit this particular" -- and that is
going to

13 be important on down the line. Think about that
now. I

14 want you to remember that. How long this took to
commit

15 this and stage, you know, this thing.

16 He said, "I can't do that."
17 All right. Let's talk for a
minute
18 about staging. You know, Cron, ex-deputy sheriff
Cron
19 was called to the scene. And Jim Cron, he is a fine
man,
20 he worked at the sheriff's office many, many years.
He
21 was a fingerprint man. He left the sheriff's office
22 about three years ago, grew a beard, and now he calls
23 himself a consultant, and I don't quarrel with that.
But
24 he is a fingerprint man. But at any rate, he doesn't
25 know any more about logic and common sense and what
is

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1 reasonable and what isn't, than you all do.

2 Cron is the one, he gets out there
and

3 he says, "Look," -- he said, "You couldn't go through
4 that window without disturbing the dust on it." He
said

5 it was like a field of fresh fallen snow. Remember
that?

6 And then here comes Frosch, right
7 before his very eyes and he goes in and out of it.

8 Frosch who is 6'3", and probably would dress out at
about

9 220, goes through it back and forth three times, and
10 never disturbs it at all. You know, I thought he
was

11 going to come out of here with that screen around
his

12 neck. But he went through that, in and out, before
your

13 very eyes three times.

14 Well, Cron says, you know, I
guess he

15 wants the lights turned out and the blinds -- you
know,

16 he said he didn't do it at night. I don't care what

it

17 is, you know, if it doesn't fit with his ideas and
his

18 opinion, then he just disregards it.

19 And another thing that astounded
me,

20 and must have you, he put his hand in the very same
place

21 that they have the unidentified fingerprints. I
called

22 them to Cron the coincidental fingerprints, remember?

23 He said, "Well, those don't really
24 mean anything." Of course, they had all of the

police

25 officers and all of the -- why are they getting the

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1 prints of the paramedics if they didn't -- if they
2 weren't wandering throughout the house.

3 They had all of the prints of the
4 paramedics, all of the prints of the police officers,
all

5 of the prints of the Routier family, and they
compared

6 them. No match.

7 And Cron says, "Well, you know,
that

8 doesn't mean anything." And you can imagine what it
9 would mean if her prints were on there. Then it
would

10 have been extremely important, like it was when her
hair

11 was in the window. But we know about that.

12 Cron didn't have any opinion
about

13 that sock. They never asked him about that sock.

They

14 preferred to ignore the sock.

15 You talk about artifacts, and
you know

16 what an artifact is. An artifact is something that
has

17 been changed, or a manmade change in the crime
scene.

18 That is an artifact.

19 Well, when do you determine
whether or

20 not there are any artifacts? And isn't that the
first

21 thing?

22 You know Bill Parker said this,
and I

23 think Richard Mosty categorized him perfect as the

24 "closer." He is the guy, you know, on the used car
lot

25 that comes in when they are balking a little bit,
and

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1 they are trying to make a sale, and he is "the
closer".

2 And I tell you, if Bill Parker
can't

3 get a confession out of somebody, they haven't done
4 anything, and it's as simple as that.

5 But Parker is the one that they
should

6 have asked about this, because he is the one that has
7 been out to many crime scenes. But Parker said, he
8 wasn't asked to give his opinion or reconstruct
anything.

9 But I asked him, "Aren't all crime scenes
contaminated?"

10 And he said "Yes, they are. The
11 police officers come in there, and everybody
wants to

12 look at the weapon. Everybody wants to get a
drink.

13 Everybody wants to use the bathroom. It's
chaotic."

14 Especially when you get the first responders and
they are

15 paramedics, because they are not interested in the
crime

16 scene, they are interested in trying to save lives.
17 But the time that you find out
what
18 the artifacts are and what has been changed isn't
five or
19 six months later down at the courthouse, when you
are
20 doing your mock trial routine. It's there. That
is your
21 job, Patterson. You talk to the paramedics. You
find
22 out what they have done, and what they have moved.
23 Now, there is a very telling
24 photograph here, and I will remind you that both
Darlie
25 and Darin, in their statements, say that the glass
table

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1 top was down. Darin says it, and you can look at
that.

2 I put it in evidence, they didn't. I put her
statement

3 in evidence. They didn't.

4 But she says that there was a
table

5 top and it was down when she first got up, and when
he

6 came down the stairs, and when they first saw the
scene.

7 And this is that table top. This
is

8 the table top right here. And you know, Cron
criticized

9 the photographs, like all of us do, because they are
not

10 proper. But Cron was right there and didn't do
anything

11 to correct the situation when he saw it.

12 You know, he let the photographer
go

13 through there and take three hundred pictures in the
den

14 and in the kitchen, before they ever started to

process

15 the situation. And that is not good police work,
and you

16 know that. Just from sitting here as jurors.

Common

17 sense tells you that.

18 But you can tell from this
photograph,

19 I guess it goes like this. But you can see that
that

20 blood has run off that table, and that is
consistent with

21 it being down. Darin told you that the paramedic
put

22 that table back on the pedestal. Darin told you
that the

23 paramedic knocked that lamp shade down.

24 Darin told you and Darlie told
you

25 that she used the vacuum cleaner to steady herself
on.

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1 Now, if that is not the case,
you

2 know, we know Waddell and Walling are still here.
You

3 know, God only knows what this has cost the County
of

4 Dallas. But, you know, they can get them here
like

5 instant coffee. So they are still here.

6 They could have called Mr.
Waddell up

7 here and said, "Mr. Waddell, did you ever see her
using

8 this vacuum cleaner? We know, Mr. Waddell that you
9 didn't see it in the kitchen, but did you ever see
her

10 using this vacuum cleaner to steady herself with,
like

11 she said?"

12 And he could have told you one
way or

13 the other.

14 And it's absurd for them to
suggest

15 that Walling and Waddell were in that kitchen, and

saw

16 the glass on the floor, and didn't see a vacuum
cleaner.

17 Remember how they tip-toed around
that

18 glass, so as not to step on it? And you are telling
me

19 that they didn't see a vacuum cleaner?

20 You know, I asked Waddell, I
said:

21 "Was there anything to obstruct you walking from the
den

22 to the kitchen sink?"

23 And he said, "No."

24 "Well, I meant, would you have to
jump

25 over a vacuum cleaner?"

1 And he said he didn't see any
vacuum
2 cleaner. To suggest that this is staging is absurd.

To

3 suggest that she rolled this around to stage what?
This

4 is absurd.

5 But you see what they didn't do,
what

6 Patterson didn't do and what Walling didn't do, and
what

7 the officers didn't do, was find out from the
paramedics,

8 at that time, "What have you moved?" Not wait until
9 sometime later.

10 What else have they tried to mislead you
on?

11 Well, you know, it's kind of curious that Waddell --
he

12 makes it sound like there wasn't much going on when
he

13 got there. Darlie was rather calm. But when I got
his

14 report from him, he admits that in his report, he
15 described her as hysterical.

16 Now, I think Waddell -- and I
don't
17 mean to fault Waddell, I think he was -- I think he
was
18 as shocked as any of us, as I would have been. And
I
19 don't know how I would have reacted. I may have
frozen
20 just like he did. I don't know. And so I'm not
throwing
21 stones at him. But I think what you heard was what
he
22 wished he had done.
23 He didn't help those children and
he
24 didn't do anything to help them. And I dare say he
25 didn't give any instructions.

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1 And you are privy, you see, you
have

2 this advantage, he said that he didn't do any
questioning

3 of Darlie after Sergeant Walling got there. Remember
4 that? Remember that?

5 Okay. Walling got there at the
end,

6 you can hear where he is coming in on the 911 tape,
you

7 have listened to that a bunch of times. Waddell is
the

8 one who was questioning her on the 911 tape.

9 She is answering Waddell, she is
10 talking to him about fingerprints, she is talking --
and

11 when she first said something about fingerprints,
she

12 said something about, "He dropped a knife," and the
woman

13 says, "Don't touch anything."

14 They are trained to tell them
that,

15 because people instinctively do. Just like police
16 officers. They handle -- everybody wants to touch

the

17 gun, everybody wants to see the knife.

18 And they are instructed, "Don't

touch

19 anything."

20 She said, "I've already touched

the

21 knife."

22 But when they talk about

fingerprints,

23 she is talking to Waddell, but she is carrying on

three

24 conversations, one with Waddell, one with the 911

25 operator and one with her husband. You can
appreciate

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1 that. But they didn't know that at that time.

2 The 911 operator thought she was
3 talking to her. You know and Waddell I assume
thought,

4 whatever, and the husband. So, to -- just to
hopefully

5 clear that up.

6 But at any rate, let's talk a
little

7 bit about that sock. Do you really believe that,
first

8 of all, if you are going to plant evidence, what is
the

9 most important consideration? That the police find
it.

10 I mean, it doesn't do any good if the police don't
find

11 it. The police have to find it.

12 Do you think that she is so
13 sophisticated that she would have the presence of
mind to

14 put just a smidgen of blood on that sock, just a wipe
of

15 blood on that sock and put it three houses down the
alley

16 and depend on Patterson and his people to find it? I
17 don't think so.

18 I think what she would have been
19 inclined to do, and what someone who wasn't
acquainted

20 with crime scenes, maybe you all, you know two
months

21 ago, if you are going to plant something like that,
it's

22 going to be a sock that is drenched in blood. And
you

23 are going to put it at the end of the driveway, where
the

24 driveway meets the alley to show that somebody was
taking

25 off and kind of show where they were going down the

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1 alley.

2 THE COURT: Fifteen minutes left.

3 MR. DOUGLAS MULDER: You are not
going

4 to do anything as subtle as a little smear on that
sock,

5 down three houses and hope the police find it.

6 Now I'm going to have to move on,
and

7 I'm going to talk fast, and forgive me, I would like
to

8 take another 45 minutes or an hour, but I don't have
that

9 luxury.

10 Let's talk about Tom Bevel and
talk

11 about what he said.

12 He said basically that they are
two

13 spots. A spot here and a spot here. And you can
either

14 believe that the blood was mixed and it was Darlie's

15 blood and Devon's blood, or Darlie's blood and

Damon's

16 blood, or Darlie's blood and Damon's blood.

17 Or, you can believe, if you
choose,
18 you can believe that one spot of the child's blood
hit
19 here, and then one spot of her blood hit right on
top of
20 it, and then one spot of the other child's blood hit
21 here, and then another spot of her blood hit right
on top
22 of it, exactly right on top of it, and the same
thing
23 over here.
24 Now, to make the situation work,
Mr.
25 Bevel tells you, that the only way you can get this
-- or

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1 one way, I guess, that you could get this on there
was

2 through stabbing, and when you draw the knife back,
the

3 knife blade, which is -- it has a supply of both of
their

4 blood on it, is cast off here when you stab the one
boy.

5 Okay?

6 Is everybody clear on what he is
7 talking about?

8 Now, if in fact that is true, we
know

9 that Darlie has to be injured prior to the time that
this

10 happens because it's got to get her blood on the
knife

11 blade.

12 So, that means that she is either
the

13 one who is assaulted first, her throat is cut, she is
14 stabbed in the right forearm, stabbed in the left
chest

15 and her fingers are cut here, and she is beaten
severely

16 with a blunt instrument, all of that happens first.

17 Okay?

18 And then the boys are stabbed --

and

19 that doesn't make a lot of sense because you have got

to

20 get her down that alley with that sock, and none of

her

21 blood is outside the house.

22 In fact, it's not outside the --

it

23 goes to the front door, and it goes to the utility

room

24 and it's in the kitchen and den. Okay?

25 So that is unlikely that she is

the

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1 first one -- that she is going to cut her throat and
do

2 all of this stuff to herself, and then stab the
children.

3 But you see, the other version is
4 equally ridiculous. Because under that scenario,
she

5 stabs both boys, then she cuts her throat and
inflicts

6 all of these wounds to herself, to get her blood on
that

7 knife, you see. And then, she goes back and stabs
the

8 kids.

9 Now, does that make sense?

Neither

10 one of these situations actually makes sense. But
you

11 see, she has got to load the knife with her blood if
12 these are mixed blood cast offs, and it won't work
either

13 way. I mean, it doesn't make any sense either way.

14 They have got -- they have the
15 responsibility of telling you how this happened, or
they

16 have the responsibility of accounting for you why
they

17 can't. And they haven't done that.

18 Now, Angie Rickels came down here
and

19 testified. You remember her? She is the young lady
that

20 lived -- lives on Miami, four blocks away. She is
two

21 blocks on the other side of Dalrock Road. And you
know

22 Dalrock runs from Highway 66 to Interstate 30. And
it's

23 about five minutes between the two.

24 You get on Interstate 30 and you
can

25 be in Dallas in ten minutes, or you can be in
Rockwall or

1 through Rockwall in ten minutes. You get on 60 and
you

2 can -- you know, but you have got access to two
highways,

3 and they are only five minutes apart.

4 She told you this: She said that
her

5 husband works nights, and she said that he was
working

6 this particular night and she was home with her 15
year

7 old daughter and her infant baby.

8 And she said that she was -- she
heard

9 somebody trying to come in through the door. And
first

10 thought it was her husband because it was 1:30, and
he

11 works late nights. And sometimes comes home for
lunch or

12 checks on her, because of her condition. She had a
13 stroke earlier. And then she didn't hear the key in
the

14 door, and that aroused her suspicion. She went to
the

15 door and she looked out, and turned on the light,
and
16 these two men ran off. Do you remember that?
17 She said she -- of course, it
scared
18 her, but she didn't call the police like she should
have,
19 I suspect. But at any rate, she said about 15 or 20
20 minutes later she heard something at the window, and
it
21 was somebody trying to get in with a knife or a
22 screwdriver, and she turned out the lights this time
and
23 they -- she saw them run off.
24 She said she told her husband
about it
25 immediately when he got home. He called her in-laws
and

1 told them, told some people, and they said, "You
really

2 ought to report this." And so she finally did. And
she

3 said the police came out there, and they really
weren't

4 interested in it.

5 Now this is 1:30 to 1:45 or two

6 o'clock, I suspect on June the 6th, some four blocks
from

7 where this happened. And the FBI agent said that
it's

8 important what has happened in the neighborhood.

9 You know, the black car would have
10 been important. This would have been important.

People

11 on the prowl, people walking around, people trying
to

12 break into a lady's house and her situation was
similar

13 in that, you know there was no car in the driveway.

Her

14 husband had taken the car to work.

15 The TV was on, evidence that
somebody

16 was there, and the house was occupied, the lady of
the

17 house was home there alone.

18 I went out to see her, I filed a
19 motion and got that information from the State in
20 November. And I went out to see her the very next
day,

21 just as soon as I could get out there, because I
thought

22 it was important.

23 I got out there and I talked to
her,

24 and you know what she told me?

25 MR. GREG DAVIS: I'm going to
object

1 to whatever she told him out there. That is outside

--

2 MR. DOUGLAS MULDER: She
testified to

3 the same thing here in Court. She said that Mr.
Bosillo

4 had been out there the day before, and you remember I
had

5 looked around for him. I walked out here and I
looked

6 for him to see where he was, and he wasn't anywhere
to be

7 found in Court. And then there was the lady with the

8 blonde hair she was also with him. Remember
that? I

9 looked around for one of them and couldn't find
them.

10 What did he tell her? They
said,

11 "Don't talk to anybody." Now that is not fair
play.

12 Patterson ignores everything, and he says: "Don't
talk

13 to anybody." Now, I am offended by the arrogance of

14 that.

15 If this trial is to be a quest,
if
16 this trial is to be a search for the truth, then I
trust
17 you to hear everything that went on, and that is not
fair
18 play. Is it?

19 What else has happened? The
funny
20 business like this.

21 Well, we have Wade that walked
down
22 the alley, and he said he saw the knife and the
23 screwdriver in the yard back there, and they brought
the
24 young man, that may not have anything to do with it,
but
25 if that is his type of thinking -- I mean, if he
ignores

1 obvious things like that, what else has he ignored?
You
2 know? What else has he ignored? What else was
there
3 besides the sock down in that alley that you ought
to
4 have access to.
5 I called Darlie Routier to the
stand
6 because I thought you had a right to hear her
account.
7 It's as simple as that.
8 Not because I had to, not
because it
9 was necessary, I don't think with the state of the
10 evidence the way it was at that time, that it was,
but
11 you have a right to sift through this and hear
everything
12 if this is to be a search for what the truth
actually is.
13 And that is the way that I look at it.
Apparently, not
14 the way they look at it. Because they have not
done what

15 they said they were going to do.

16 What about this amnesia? Is
that

17 something that I dreamed up? No, it's not. Lisa
Clayton

18 told you about amnesia. Lisa Clayton told you
that she

19 had studied under Resnick, who is the leading
authority

20 on why mothers kill babies or children. And she
outlined

21 for you the reasons, and I don't have time to go
through

22 all of those reasons. But we went through each
one

23 carefully, because I think it's important to you.

24 And, she told you why each one
was not

25 applicable to this particular case, didn't she?
And she

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1 said, you know, Mulder, when I got into this case,
the

2 only restriction that I put on it was that I was
going to

3 tell the truth.

4 And I said, "That is fair with
me.

5 That's all I want." Okay?

6 And she told you that she
believed

7 Darlie Routier. She talked to her family. She
talked to

8 her husband. She talked to her in-laws. She
said, "I

9 believed her. She is not guilty."

10 Do they rebut that? You know,
these

11 folks have the luxury of having ten grand for this
guy to

12 come in here and do this song and dance on this
911 tape.

13 They can spend ten thousand for that. You know,
they can

14 bring you a psychiatrist, if what Lisa Clayton
said is

15 not true.

16 Dr. Vincent DiMaio, 28 years as

a

17 pathologist. I suggest to you, that there is no

one

18 better qualified in the United States, and he

happens to

19 be in Bexar County, and I didn't hire him for this

case.

20 I know the man, naturally, but I didn't hire him

for this

21 case.

22 But I submit to you that there

is no

23 one better qualified. Seven thousand autopsies.

24 Supervised twenty-one thousand autopsies. He has

been

25 doing this 28 years. And he tells you, under
oath,

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1 "These are not -- these wounds are not consistent
with

2 being self-inflicted. They simply are not."

3 Now their doctor wouldn't
commit

4 herself. And I don't blame her, but she would not
5 commit. But they have unlimited funds. And if, what
Dr.

6 DiMaio is telling you is not true, they could bring
7 someone in here, and I suspect maybe they already
have.

8 I don't know.

9 THE COURT: Five minutes left, Mr.
10 Mulder.

11 MR. DOUGLAS MULDER: Yes, sir.

But I

12 suspect, that if that were not the gospel truth, they
13 would bring someone in here.

14 Dr. DiMaio told you that he has
been

15 involved in cases where the people who have
16 self-inflicted the wounds and injuries were medical
17 people. In fact, he told you about two months ago or
so

18 that he testified, it was a nurse.

19 He said, "They use their dominant
hand
20 because that is natural to them." The medical people
do
21 it. Why would I think that she would be
sophisticated
22 enough to think on down the line, to a jury, and use
one
23 hand to do this, and another hand to do this, I mean,
why
24 would she do that? You know, it makes absolutely no
25 sense.

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16 long. So that takes us up to nearly 2:37 or
2:36.44, if

17 we were right on the money when we started at 2:31.

It

18 takes us up to 2:36.44, when Walling gets there.

19 Remember? He gets there at the end of the
tape.

20 What does Walling say? Do
the

21 paramedics come in immediately? No.

22 He said "I had to secure the
place

23 before the paramedics were in."

24 And he said, "We secured the
place."

25 You remember, because up until then, according to
Darin,

1 Waddell had never drawn his gun. He went into the
2 kitchen a little bit, but he had never drawn his
gun.

3 And Walling came in and he and
Waddell

4 secured the area, and then they got the paramedics
in,

5 and the paramedics came in. So let's give them a
minute

6 to secure the area. And that gets us to 2:37.44.

7 He said they rushed in. And
Kolbye

8 was the first one to get to Damon. Remember, he
said he

9 saw that -- he administered whatever aid he could to
him.

10 And he saw the light of life leave his eye.

Remember

11 when he said that?

12 Now, let's give him 30 seconds to
do

13 that. So it's now 2:38.

14 Dr. Townsend told you that that
15 youngster would have hung in there for a matter of
16 minutes, and when I tried to pin her down, you know,

it

17 was finally five or six minutes, and then she said:

"It

18 could have been as many as eight or nine minutes."

Okay?

19 If you dial that back, from the

2:37,

20 nine minutes, then you are at 2:29. When that

youngster

21 is stabbed and she then has to cut her throat, she

has

22 got to get that sock down the alley. She has got to

cut

23 her throat. She has got to do all of this staging.

She

24 has got to break the glass. Remember, some of the

glass

25 had blood on it, and some of the glass didn't have

blood

1 on it?

2 And then there was glass shards
up on

3 the shelf and glass in the ice bucket. She didn't
throw

4 it down, that was broken as she -- as the assailant
went

5 out of there. You can tell from the physical
evidence.

6 That is not part of staging.

7 Dr. Coons tells you -- and with
this I

8 think I am about out of soap. But Dr. Coons tells
you

9 this: He has done a lot of research on memory. And
Mr.

10 Mosty talked to him back in December, and then called
him

11 the other night, late at night, and told him that he
was

12 due in Court here, and he came in.

13 And he told you about memory, and
he

14 said the mind is not like a camera. And when the
mind

15 experiences an overwhelmingly traumatic event, it's
like
16 the circuit breaker in your electrical circuit, and
it
17 flips, or it blows a fuse. It shuts down. You see.
18 The trauma that
the mind can't handle.
19 He said, it's like the woman who
is in a car accident and
20 her child is killed. And she
doesn't remember anything
21 about the accident, but she can
tell you in detail what
22 happened in the ambulance on the
way to the hospital
23 because she has a memory of that.
24 You know, it's
really -- the mind
25 shuts down. It's like walking
into a movie in the

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1 middle. And what she told these
people from time to

2 time, and I dare say that the
mind, she knew that she was

3 fighting. She knew that she was
involved in a struggle.

4 You can't be beat up like that.

5 They want you
to think that somebody

6 beat her up when she got out of
the hospital. It's

7 ludicrous. I had that little
polaroid picture that shows

8 where the bruising is starting on
her arm. That is

9 ludicrous.

10 THE COURT: Mr.

Mulder, your time is

11 up if you could close, briefly,
please.

12 MR. DOUGLAS

MULDER: Yes, sir. I have

13 done all I can. You have been
most attentive. I have

14 watched you. You have been most

attentive. You have
15 paid attention, and you have
listened to the witnesses.
16 This lady is
simply not guilty. There
17 is a reasonable doubt. I'll ask
you to find her not
18 guilty, and I thank you for your
time and for your
19 attention.

20 Thank you,
Judge.

21 THE COURT:
Thank you, Mr. Mulder.

22 The jury having
been in the courtroom
23 for some time will take a 10
minute break, and we mean 10
24 minutes, please. You can step
outside briefly. Thank
25 you.

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1
2 (Whereupon, a
short
3 Recess was
taken,
4 After which
time,
5 The proceedings were
6 Resumed on the record,
7 In the presence and
8 Hearing of the defendant
9 And the jury, as follows:)
10
11 THE COURT: All right. Are both
sides
12 ready to bring the jury back in and resume the
argument? 13 MR. GREG DAVIS: Yes, sir, the
State
14 is ready.
15 THE COURT: All right. Bring the
jury
16 in and we will hear the closing argument.
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,

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1 As follows:)

2

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

6 Ladies and gentlemen of the jury,
the
7 defense has requested an additional five minutes to
make
8 one more point. I'm going to grant that request with
the
9 understanding that Mr. Davis will also have an
additional
10 five minutes in his summation.

11 Mr. Mosty.

12 MR. RICHARD C. MOSTY: Ladies
and

13 gentlemen, I have to be a little sheepish as I
come up

14 here and say that there is something that we
didn't

15 cover, and as Mr. Mulder would say, "Just a thing or
16 two." But it is going to be just a thing or two.

17 And I want to pick up with this
time

18 line that Mr. Mulder started on and lay into that.
19 You know, that from the end of the
911
20 tape at 2:37 or 2:36.44, let me call it 2:37, there
is
21 another minute or so after that to 2:38, that before
the
22 paramedics are in and then there's some period of
time
23 after that in the 2:38 or the 2:39 range when Damon
is
24 said to be dead. So that leaves that eight to nine
25 minutes of a window, from 2:29 or 2:38 to 2:39 before

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1 Damon is dead.

2 And what I want to lay for you is
what

3 has to happen there. And I'm going to describe some
of

4 these things.

5 Now, for the State's theory to be
6 true -- now, you know that Mrs. Routier is not
stabbing

7 any children by the time the 2:31 call comes in.
That is

8 when she is on the 911 and her husband is almost
9 immediately heard on the tape within 30 seconds, I
10 believe it's maybe 38 seconds. So you know that all
of

11 this has to happen then in a two or maybe three
minute

12 span. And here is what has to happen.

13 Mrs. Routier has to stab the
children

14 two times. Each of them multiple times, in all of
this,

15 and what the State has described as, "How could
anyone

16 sleep through it?"

17 And then, she has to get a
smidgen of
18 blood off of each, not one, off each. And then she
has
19 to go out the window, and she has got to run around
20 behind on Eagle Drive.
21 Now, you know that if somebody is
22 going to do that, they aren't going to just bolt down
23 these three houses, they are going to have to come
around
24 and look in the alley.
25 Now, she has got to go out that
gate,

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1 that is so hard to kick, but she had to kick it. I
guess

2 she kicked it barefooted. She has to have the sock
in

3 her hand and not leave any blood on the gate. She
has to

4 kick it barefooted, she has to run down the alley all
the

5 way down there, three houses down. More than 75
yards,

6 you know, an olympic-sprinter type. And then she has
to

7 come back, and then she has to come back in the
house.

8 She hasn't been wounded at this time.

9 Now, I'm saying -- I'm giving them
the

10 screen, I'm not even putting this in any part of
this.

11 She has to come back in, come back in the house, and
get

12 the knife again.

13 Now, we know that the knife has
not

14 been laid down on the carpet because she is not
wounded.

15 So she has to -- she has to then take that knife,
and she
16 has to cut herself five times. Somewhere. And then
she
17 has got to be bleeding profusely by that time.
Sometime.

18 Now, at some point she has got to
go
19 over and lay the knife down carefully, carefully.
By
20 there. Wait a minute. I forgot something. You
have got
21 this maroon pillow in evidence. You know about
blood
22 spatter now. You see this blood. You see that
blood
23 run. That is Mrs. Routier's blood. She has to lay
down
24 on the pillow at some point. Bleed and let that run
25 down. Maybe she cut her knife on the pillow.

1 She has to do that. Now she has
got
2 to lay a blood trail. She has got to lay lots of
blood
3 trails. She has got to lay one to the utility room.
4 Slowly, the State says, slowly, lay a blood trail to
the
5 utility room.

6 Then she has got to come back.
Now
7 she has got to go to the sink and she has got to
lay a
8 lot of blood. She has got to lay a lot of blood.
She
9 has got to go over to the children. She has got to
lay
10 blood over by the children, because we know those
blood
11 drops are there.

12 She has to knock off the coffee
table,
13 slightly askew. She has got to do all of that
because
14 there is blood there. She has got to knock down
the
15 lamp. What else does she have to do? She is

running --

16 no, no, she is not running, she is walking, she is

17 walking through the house doing this because the

blood is

18 slow, the State told you that.

19 She has got to pick up the knife

off

20 of the carpet. She has got to pick up the knife

off of

21 the carpet. She has got to lay more blood trails.

She

22 has got to get the vacuum -- I guess she puts the

knife

23 up there. Then she has got to get the vacuum

cleaner.

24 She has got to do it three times. How many times?

25 Three. Up, down, then she has got to throw it
over.

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1 Then, she has got to stand over
it, so

2 she could bleed on it.

3 THE COURT: You have one minute
left,

4 Mr. Mosty, please.

5 MR. RICHARD C. MOSTY: And all
of

6 that, that is what she has got to do in all of this
time

7 frame. And quite frankly, wait, she cut her shirt.

8 Don't you remember? She cut her shirt somewhere in
9 there.

10 Now, with all of that, in all of
that,

11 you know, those are the things that DiMaio says are
usual

12 in a statement. And all of that, what she has had.
And

13 this is after Dr. Coons has described that
traumatic

14 event where she wouldn't have any memory.

15 And all of this has to happen,
in

16 about two minutes.

17 Thank you.

18 THE COURT: Thank you, Mr.

Mosty.

19 Mr. Davis, you have 45 minutes.

20 MR. GREG DAVIS: Thank you,

Judge.

21 May it please the Court?

22 THE COURT: Yes, sir.

23 MR. GREG DAVIS: Ladies and

gentlemen,

24 before I begin, and I have 45 minutes, but you will

be

25 relieved to know that I am going to be the last
lawyer

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1 talking to you today, and that probably does come
as a
2 relief.

3 But I want to also thank you,
not for

4 serving because really you didn't have a choice
about

5 that, but I do want to thank you for the very close
6 attention that you have shown throughout this four
weeks.

7 In my 19 years, I don't recall a
more

8 attentive jury. And there were times, as we talked
about

9 in the opening statement, where unfortunately you
had to

10 see things that really no juror should have to look
at.

11 And you had to hear things that no juror should
have to

12 hear. But I appreciate the attentiveness to the
facts,

13 because it's on the facts that the truth is shown
in this

14 case. Not on lawyers' statements. Lawyer talk

here this

15 morning. But it's on the facts that you have heard
here

16 over the last four weeks. That is what really
counts in

17 this case.

18 Now, you have just heard three
very

19 fine attorneys. Among the five that are over here
at

20 this table, they are very fine attorneys. All.

And you

21 have heard now, four very fine arguments from those
three

22 attorneys.

23 I hope that there wasn't a one
of you

24 sitting over there in the jury box that was
surprised to

25 find out that none of these attorneys over here are

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1 satisfied with the State's case.

2 In 19 years I have never seen it
3 happen. And I dare say, if I live to be a hundred,
and

4 if I am still out here practicing law, I don't
think I

5 will ever see it either. It just doesn't happen.
If it

6 did, we wouldn't be here today, would we?

7 You know, Mr. Mulder would have
you

8 believe, that there was some sort of conspiracy on
the

9 part of the State of Texas here in this case to
mislead

10 you good people.

11 Here is my answer to that: If
there

12 is a one of you, when you go back there to that jury
room

13 today, if there is even a one of you who believes
that,

14 before you look at any of the evidence in this case,
any

15 of the facts before you, if you believe that, you

write

16 not guilty and you come back in here.

17 That is how strongly I feel about

18 that. There has been no effort at all to mislead
you

19 good people. There has been an over-all effort
here,

20 over this four week period here, from this side of
the

21 table, any way, to try to show you the truth as best
we

22 know how, and we have done that.

23 You know, if I was going to
mislead

24 the people at this table over here as they claim,
would

25 I, over three months ago now, have given them
material

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1 that might in some way help their client? Would I
have

2 done that? You know the answer is no, I would not
have

3 done that. I would have swept that under the rug,
under

4 the carpet and said, "We don't need that stuff."

5 But, that is not the way we
operate.

6 We hand it over, good or bad, and let them use it as
they

7 see fit and that is what they have done in this case.

8 I'm not going to apologize for
9 standing up here and representing the good people of
the

10 State of Texas and Dallas County. I'm not ashamed to
be

11 sitting at this table. I'm not ashamed at all of the
12 good people from the Rowlett Police Department who
are

13 still down here in this courtroom today.

14 You know, these are the men and
women

15 who protect us. These are the men and women who,
when

16 they got that call on June the 6th of '96, they are
the
17 ones that we sent over there to 5801 Eagle Drive,
aren't
18 they? And they had to walk into literally hell that
19 morning at 2:35 in the morning and start dealing
with
20 that hell and start dealing with this woman right
over
21 here, Darlie Lynn Routier.
22 They didn't ask to do that, you
see
23 that is their job, and that is what they did in
this
24 case, and they have got absolutely nothing to be
ashamed
25 of and I am proud that they are a part of our case,
and I

1 am proud that they are sitting in here where you can
see

2 them this morning.

3 There is one other thing I am
very

4 proud to do. I am very, very, proud most of all in
this

5 case, to be the voices for Damon and Devon Routier.

You

6 know the two little boys, we almost forget them.

You

7 know, the pictures were put over here, I suppose
after

8 Mr. Shook's argument. I don't think it takes a
genius to

9 figure that out.

10 You know, these two little boys
right

11 here don't have voices any more, do they? They are

12 dependent on us, Mr. Shook, Ms. Wallace and myself,
and I

13 will guarantee you, I am going to use my voice this

14 morning to the best of my ability to talk for these
two

15 little boys, who never had a chance as their mother

16 slaughtered them there on June the 6th, 1996.

17 May we never forget these two
precious

18 children. May they always be a part of this case.

19 You know this case, I think, shows
a

20 very distinct difference in good and bad. It shows
you a

21 very distinct difference in what the guilty do and
what

22 the innocent do.

23 It's been a textbook, almost on
what

24 does a guilty woman do when she comes to trial in

Kerr

25 County?

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1 The first thing she does is, she
tries
2 to deceive you. Mr. Mulder used that word,
misleading,
3 misleading, misleading. If there is anybody in this
4 courtroom who has tried to mislead you throughout
these
5 past four weeks, it's this woman over here.
6 Just like her husband, trying to
7 materially alter her appearance for you. She doesn't
8 want you to know who she really is. That is why she
sits
9 over there like she is today with this plaintive
little
10 look on her face, "Poor me, I am the victim," kind of
11 look. Hoping that just one of you, because it only
takes
12 one of you, one of you will buy into that game.
13 And then what do they do beyond
that?
14 Well, they blame the phantom intruder.
15 Mr. Mosty made mention of Charles
16 Manson out in California. I think what we saw by
this
17 team over here, was what I am going to call the

Susan

18 Smith defense. That phantom intruder. You know
that

19 fellow -- remember, it was a black man in South
Carolina,

20 supposedly, that took those two children.

21 It's that man that we just don't
know

22 where he went to. We can't describe him. My
goodness, I

23 don't know. It's the phantom. And you stay with
that

24 phantom until all of the evidence in this case
shows that

25 that is totally impossible and inconsistent with
what

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1 they found out there on Eagle Drive that day.

2 And I don't have to go over
that, Mr.

3 Shook did a fine job of doing that this morning
earlier.

4 But you stay with that until that one doesn't work.
Then

5 what do you do? You go to Glenn Mize, and you
point the

6 finger through those letters at poor Glenn Mize and
you

7 say, "I know it's Glenn Mize." Not that: "The

8 investigators have told me that maybe it was Glenn
Mize.

9 I know it's Glenn Mize." And you stick with that
until

10 poor Glenn Mize has to trot into this courtroom and
stand

11 before this accuser, and where she finally has to
admit,

12 it can't possibly be Glenn Mize.

13 Then what do you do? You go to
a man

14 named Gary Austin. And you say, "I guess maybe
it's this

15 Gary Austin," you know, this guy that lives all the
way

16 down the block, who can magically, I guess, look
over the

17 horizon, into her backyard and watch her while she
is in

18 this hot tub.

19 If that one doesn't work, then
you go

20 to Angelia Rickels, and you say, "Well, it must
have been

21 those two guys over there on Miami Drive that
morning."

22 But, there's a couple of
problems with

23 that. Angelia Rickels, you had a chance to see
her. Did

24 you really believe that she can accurately recall
what

25 happened to her that night? I mean, a man is
supposedly

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1 bumping on that doorknob for ten minutes solid and
this

2 woman says she is alone, her husband is not there,
and

3 she doesn't call the police.

4 Maybe that happened, and maybe
it

5 didn't, but what you do know is this: That the
6 description of the two men that she saw there at
her

7 house, don't in any way match the description that
this

8 woman over here gave to the Rowlett Police
Department,

9 does it?

10 Cowboy hat, cowboy shirt, long
sleeved

11 for one of them. That is not the man that she
described

12 out there on June 6th, or any other date.

13 Another man is wearing a toboggan
with

14 a dark jogging suit, long sleeves, that is not the
15 description either, is it? So even if those men were
16 there, for whatever reason they were there, we can

rest

17 assured that they are not the man that came into her
home

18 that morning on June the 6th.

19 And, as a last resort then, what
do

20 you do? You go for this man in the dark T-shirt and
dark

21 cap that was talked to, not the morning of June the
6th,

22 but the afternoon of June the 6th, some 14 hours
after

23 this thing happened.

24 And you see, it's kind of like
that

25 Paul Harvey show. You didn't hear the rest of the
story.

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1 Mr. Mulder knows his name as I do. His name is
Wilford

2 Davis.

3 And Mr. Mulder told you something
that

4 wasn't true. Maybe inadvertently he did that. But
he

5 said to you, we didn't get his fingerprints and match
6 them to the ones on that window out there on Eagle
Drive.

7 And I'll stand before you right now, and I will tell
you

8 that the State of Texas did, when we called --

9

10 MR. RICHARD C. MOSTY: That is
outside

11 the record, your Honor.

12 MR. DOUGLAS MULDER: Judge, if
they

13 did, they haven't told us.

14 MR. GREG DAVIS: That is not
15 exculpatory evidence.

16 THE COURT: Just a minute,
gentlemen.

17 The jury is instructed to remember

the

18 testimony as they heard it, and be guided by the
Charge

19 of the Court, and both sides are reminded to stay
within

20 the record.

21 MR. GREG DAVIS: Yes, sir.

22 As invited argument, I'm going to
tell

23 you that is not true.

24 MR. DOUGLAS MULDER: Judge --

25 MR. RICHARD C. MOSTY: That is an

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1 absolute misstatement. We have -- there is no --

2 MR. DOUGLAS MULDER: No one has
ever

3 told us --

4 MR. RICHARD C. MOSTY: There is no
5 evidence of that --

6 THE COURT: Just a minute,
gentlemen.

7 One defense attorney at a time, please.

8 MR. RICHARD C. MOSTY: That is not
in
9 the record anywhere anyhow.

10 THE COURT: Both sides are ordered
to
11 stay within the record, and the jury is ordered to
12 remember the testimony as they heard it, and be
guided by
13 the Charge of the Court.

14 Please continue.

15 MR. GREG DAVIS: Yes, sir.

16 And then, I guess finally, it is
some

17 drug crazed maniac, I think that was Mr. Mosty's
term,

18 -- you know, where is this drug crazed maniac, and

where

19 does that idea come from?

20 If there is some drug crazed

maniac

21 out there that is a suspect, then I want to know

this:

22 Where are those investigators that were hired by the

23 defense to go out to that neighborhood?

24 And don't you know that if they

had

25 found someone like that, there is no way in this
world

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1 that they wouldn't have been sitting on that witness
2 stand telling you people about the folks that they
found

3 out there. But that is not what happened is it?

4 All right. Next one. When all
of

5 that doesn't work, what you do is this: You blame
the

6 police. I don't know of an older defense. It's
the most

7 regularly used defense certainly. But you look at
these

8 police officers and you say, they just didn't do
the job

9 right. They either didn't do enough, or they did
too

10 much. You kind of take your pick on most of these
cases.

11 And you say to them, "You know, you put her in the
cross

12 hairs immediately, and you weren't careful
enough."

13 Ask yourselves this: If the
Rowlett

14 police had gone out there on June the 6th and
decided,

15 this is it, Darlie Routier is the one and only.
We don't
16 care about anybody else, we're not going to look
for
17 another suspect, this is our suspect right here
and we're
18 going to make our case against her. You just
wonder, I
19 guess somebody forgot to tell Charles Hamilton
about that
20 that morning, didn't they?
21 I mean, here is poor old
Charles
22 Hamilton out there for five hours trying to lift
23 fingerprints from that house. Now, why would they
have
24 done that? Gone to that trouble of trying to find
the
25 fingerprints of that intruder if they had already
decided

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1 this is our one and only suspect? And why would
they

2 wait for James Cron? Why not just go ahead and
get in

3 that house, and go through there and say it all
matches

4 Darlie Routier?

5 They didn't do that though, did
they?

6 They waited until a man with 39 years experience in
crime

7 scene search went out there and assisted them. Why
would

8 you call for Charlie Linch and Kathryn Long from
SWIFS if

9 you already know who you want to charge over here?
Why

10 go to the trouble of finding the blood evidence?
Why go

11 to the trouble of having over a hundred blood
samples DNA

12 tested, like we did in this case?

13 Why do you do all of those
things, if

14 you have already made up your mind that this is our

15 suspect? You don't do that. You do that because
you
16 want to know the truth, the most complete truth
possible,
17 and that is exactly what they did and that is
exactly
18 what we did in this case right here.
19 The next person that you blame,
must
20 be the medical community. You say, the nurses --
you
21 don't remember what you remember, about what she
told you
22 out there that day. And when it comes to the
bruising,
23 you six skilled nurses and you doctors don't know
what
24 you were doing out there, you missed this obvious
bruise
25 out here. You were negligent in your duties toward
this

1 woman.

2 You know, it's interesting, I
watched

3 Mr. Mulder while he showed where that bruise was in
that

4 polaroid. Did you notice the arm? Did Mr. Mulder
point

5 here to the inside of the arm? No, he didn't, did
he?

6 He pointed on the outside, where that wound was,
where

7 you would expect to see a redness on June the 6th.
Not

8 over here on the inside of the arm where that
bruise

9 shows up on June the 10th of 1996, did he?

10 And then to buttress your case
against

11 the nursing profession out there, what do you do?
You

12 bring in family and friends who might as well have
been

13 sitting on the front row of this gallery throughout
the

14 case, they know as much about this case as you do
as

15 jurors.

16 And after all of the evidence is
in

17 from the State, they all get up here, with a very
clear

18 memory apparently, with no photographs to back them
up,

19 because you see it wasn't important back then.

20 They all tell you, "Oh sure, I
know

21 that bruise was there all the way from here up to
there."

22 Except for one, it was curious, Karen Neal. Of all
of

23 them that came in here, who is the registered nurse
of

24 the lot? It was Karen Neal. And what did Karen
Neal

25 tell you about that bruise? Do you remember?

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1 When Mr. Shook asked her about
the
2 location, she didn't point to the inside of the arm
where

3 the family and friends had pointed to. I was
watching

4 her very closely, as I hope you were also.

5 She went right to that outside,
didn't

6 she? Right to where you would expect the wound to
be.

7 Not to where the others said they saw that bruising,
and

8 she is the registered nurse, just like the others
from

9 Baylor Hospital, who know what they saw and know
what

10 they didn't see. There was no bruise at Baylor
Hospital.

11 Who do you blame next? You blame

12 James Cron. What you do, you call him that old
bearded

13 man who came out there. You call him a fingerprint
man.

14 Even though you know he is a senior crime scene

analyst.

15 I mean, that is what the man does. And you say, he
just

16 waltzed through that house, and he came up with this
17 conclusion like that.

18 Folks, it wasn't rocket science
that

19 we were dealing with out there. A man with 39 years
20 experience walked through that house, and it just
stuck

21 out like a sore thumb.

22 Her story doesn't match the
evidence.

23 And now, you have had the opportunity to see what he
did

24 and you can see why he walked through there and
said, "It

25 doesn't match up. We need to look at some things.
You

1 people know what you are doing, let's do the
testing,

2 let's do the printing, let's do all of this stuff,
but I

3 am telling you right now, from what I know and from
what

4 I see, it doesn't match up."

5 And he was the starting point in
this

6 case. He was not the finishing touch, he was the
7 starting point. And then what do they do? After
they

8 blame Cron, they come in here against Charlie Linch
and

9 they say Charlie Linch gave -- I think the quote from
Mr.

10 Mosty was -- he gave you a bunch of unfounded
opinions.

11 I think unfounded opinions are opinions that they
don't

12 like. I think that is the definition that we can
13 conclude unfounded opinions are.

14 What did Charlie Linch tell you?

He

15 told you that he found that fiberglass rod, and he

found

16 that rubbery material on that knife. Up to that
time, he

17 had never seen a compound before, under the
microscope,

18 like the rubber compound that he found on that knife
that

19 just happened to come out of the butcher block, out
of

20 whose kitchen? This woman's kitchen. Never seen
that.

21 What did he see when he looked at
that

22 window screen? What did he see right here? He saw
the

23 same two things. He saw fiberglass, and he saw this
24 rubbery material that he had never seen before.

25 And there was one more thing that
he

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1 saw there that the defense just didn't mention during
the
2 arguments. He saw embedded in that rubbery material,
3 fragments of glass. Fiberglass that were wed to the
4 rubber material, and from that, he told you that he
could
5 conclude scientifically, that the rubbery material,
and
6 the fiberglass in it were placed on that knife
blade at
7 the same time.

8 Now, we know that Charlie Linch
was
9 right about one thing in this case: He was right
about
10 that sock, wasn't he?

11 When he told you those fibers
were
12 consistent with that shoe. Darin Routier's shoe.
Was
13 Charlie Linch right or was Charlie Linch wrong?

14 We know he was right, because
Darin
15 Routier, thanks to Corrine Wells, had to get up here
and

16 tell you.

17 MR. JOHN HAGLER: Excuse me, your
18 Honor, I believe he is going into something that is
not
19 in evidence.

20 THE COURT: The jury is
instructed to
21 remember the testimony and evidence you have heard,
and
22 both sides are instructed to remain within the
record.

23 MR. GREG DAVIS: Yes, sir.

24 MR. JOHN HAGLER: Could we have a
25 ruling on that, your Honor?

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1 THE COURT: Well, I'll overrule
that.

2 MR. JOHN HAGLER: He is going to
go
3 into a matter that is not in evidence.

4 MR. GREG DAVIS: No, sir, I am
not.

5 THE COURT: No, he is not, I
don't
6 think he is. If he does, then the objection will
be
7 sustained.

8 MR. GREG DAVIS: Yes, sir.

9 THE COURT: Stay within the
record.

10 MR. GREG DAVIS: And what did
Darin

11 Routier say to you good people, he said, "That
is my sock

12 and it came out of that utility room. It's my
sock."

13 Just like Charlie Linch had told you after his
14 microscopic examinations.

15 Now, let's talk about the
sock for

16 just a second here before I go on. You know,

I'm not

17 telling you that this defendant went down there
in some

18 clever effort to plant this sock. I'm not
saying that.

19 Mr. Shook is not saying that either. What we
are saying

20 to you is, that this woman knew very well that
this sock

21 right here came out of her house.

22 She knew good and well that
she was

23 going to get it out of that house and try to
disassociate

24 it from that house. You see, she never counted
on that

25 knife being found in that butcher block with
that

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1 fiberglass.

2 But she knew that that sock
right
3 there had blood on it, and how is she going to
ever
4 explain that? Get it out of the house. It wouldn't
take
5 her very long at all, and that is exactly what she
did in
6 this case. And the telltale thing is the blood that
is
7 on there. Whose blood is on the sock? Is it the
blood
8 that we would expect to see from some intruder who
came
9 over there and stuffed it down her mouth, attacked
her,
10 stabbed her, slashed her throat? Is it her blood?
No,
11 it's not. It's only the two boys and about a
12 nickel-sized stain. Not her blood.

13 You know, the next man to attack
was
14 Tom Bevel. Well, let me back up to Charlie Lynch
one

15 more time here.

16 You know, we know as they
criticized

17 Charlie Linch, we know that back in August of last
year,

18 that there was an expert by the name of Bart
Epstein, a

19 trace evidence analyst there at SWIFS on behalf of
the

20 defendant. And we know that back there in August
that

21 Charlie Linch said, "Here, I will show you
everything

22 that I am doing out here." He let him look at the
23 slides, let him examine the evidence.

24 Basically, he looked over Charlie
25 Linch's shoulder and graded his work out there at
SWIFS.

1 And don't you know, don't you know, that if Bart
Epstein
2 had any disagreement whatsoever with the findings of
3 Charles Linch, that you would have seen him up here
on
4 this witness stand? Because we know that this
defense
5 team here, when they need a witness like Richard
Coons,
6 hey, you can place a phone call at 9:00 P.M. and
they
7 will get him here the next morning.
8 So where is Bart Epstein? You
know
9 why he is not here, because there is nothing wrong
with
10 Charles Linch's work in this case.
11 As we look to Tom Bevel, as they
12 criticized Tom Bevel on his opinions. That
videotape,
13 and you have got the T-shirts back here, as you
look at
14 that videotape with that motion demonstrated by Tom
Bevel
15 and you will find that they weren't long on the

back.

16 Those blood stains. They are the same size and
17 consistent with the size of Devon Routier's blood
that
18 was deposited on the back of this defendant's shirt.
19 That is what the videotape and the T-shirt will show
you.

20 Mr. Mosty demonstrated about
picking
21 up this vacuum cleaner. Listen, it's not that hard,
and
22 you can try it yourself. You don't have to hold it
down
23 here by the neck. If you hold it right up here and
you
24 roll it around, as this defendant did that day, what
do
25 you get? You look at my hand and you will see, you
get

1 the blood smear right on the right side of this
handle,

2 exactly like she did that day.

3 You know, here is the bottom line
on

4 Tom Bevel. You know out there at SWIFS there is
another

5 expert, Terry Labor. He is the DNA blood spatter
expert

6 who went out there on behalf of the defendant also,
along

7 with Bart Epstein. And if they want to quarrel with
Tom

8 Bevel and tell you that he is wrong, and that he is a

9 witch doctor of some sort, where is Terry Labor
then?

10 Where is their blood spatter expert?

11 Don't you know that if he had
any

12 criticism of the opinions rendered by Tom Bevel,
that

13 just like Bart Epstein, you would see them right up
here,

14 and he would be detailing for you what those
criticisms

15 are. But he is not here either, is he? And for a
very

16 good reason.

17 There is one other thing that we
need

18 to ask also. Where are the samples from the T-shirt
19 taken by Terry Labor? Where are they? You
remember

20 those first dibs samples that Terry Labor took
from the

21 defendant's T-shirt back in August? Before Tom
Bevel

22 even had a chance to look at the T-shirt. Terry
Labor,

23 the defendant's expert, went to Dallas and was
given an

24 opportunity to take several samples from that T-
shirt.

25 Did you see those samples in
this

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1 courtroom at any point in this trial? No, you
didn't.

2 Don't you wonder why? You
really

3 don't have to wonder long about that question.
It's

4 obvious to you. Why those best samples taken by
the

5 defense, why you never saw them, and why you never
heard

6 a test result or a DNA result on any of the samples.

7 It speaks volumes to you
sometimes

8 what you don't see and hear. And it speaks
volumes in

9 this case with regards that T-shirt.

10 Well, after you have beat up on
the

11 police and you beat up on the nurses, the forensic
12 experts, next to last you try to change your story.

13 You see, you can still win this
case

14 if you are the defendant, if you can change the
facts.

15 And if you can go back and say, "By the way, you

1 Then, if you are the defendant,
you do
2 the very same thing. All of a sudden, through this
3 traumatic amnesia, you remember the Devon CPR, you
4 remember the sink, you remember the vacuum cleaner.
You
5 remember the bruises on your arm, and then even you
6 remember that you didn't wear panties that night, or
they
7 were taken from you.

8 So if you change enough facts,
folks.

9 I mean, nobody is ever guilty if you can do that.

10 And when that one failed, as it
did in

11 this case, what is the last thing that you do? What
you
12 do is you say, traumatic amnesia.

13 You know, I think it would be fair
to

14 term that the "I can't remember" or "I won't
remember"

15 defense. It's just like Mr. Shook talked about with
some

16 of these doctors, you know if you say "I don't

remember."

17 How do you get at that? I mean, if I told you
people, "I

18 don't remember something," is there any number of
19 questions that you could ask to make me remember
20 something like that?

21 It's convenient, isn't it? It's
very

22 convenient in this case. And in order to try to
prove

23 that defense, they bring Dr. Lisa Clayton, and I have
got

24 no quarrel with her. But it really seems strange to
me,

25 that when Mr. Mulder said that she had freedom to do

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1 whatever she wanted on this case, it just strikes me
as

2 just a little bit funny the very limited number of
things

3 that she chose to do.

4 Who does she talk to? Well, she
talks

5 to the defendant quite a bit for 12 hours. You know
she

6 is a real objective source of information, don't you?

7 She talks to her husband. You have all had a chance
to

8 see Darin Routier. Need I say more? Okay.

9 The family, her in-laws, kind of a
10 one-sided picture that we're getting here, put that
is

11 the picture that Lisa Clayton chose to see.

12 No paramedics, no police
officers, no

13 nurses, no doctors, no one outside of the immediate

14 family of Darlie Routier. And then she comes to
this

15 startling conclusion that she thinks that Darlie
Routier

16 is telling her the truth. You know?

17 I mean, it's a bit mind-boggling
that
18 she would do that. But then again, this is the
doctor,
19 the psychiatrist who would have you and I believe,
that
20 there is nothing inappropriate, eight days after
your
21 children have been slaughtered, to go out to their
22 graves, and shoot some Silly String and laugh and
carry
23 on.

24 You see, when we look at that
tape,
25 according to Dr. Clayton, and our stomach turns a
little

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1 bit, because we still have consciences and those
things

2 bother us. It's our fault, don't you understand,
because

3 we don't know what is appropriate and not
appropriate.

4 That is Dr. Clayton's take on this case.

5 And then, I guess maybe she
doesn't do

6 a good enough job, and so Richard Coons is called
in. I

7 guess coincidences happen in life, but this one
seems a

8 bit farfetched that he calls at 9:00 o'clock on

9 Wednesday, what, about four hours after the
defendant

10 testifies in this case.

11 I can imagine that call going
out, "Is

12 there a doctor in the house, the defendant has
mortally

13 wounded her case, and we need a doctor down here
now."

14 And so, Richard Coons comes to
15 Kerrville. And I have got no quarrel with him,

believe

16 me. He is an eminently qualified psychiatrist and a
fine

17 gentlemen, and I think he told you the truth, as he
sat

18 on that stand.

19 There is only one problem with
Dr.

20 Coons though. They didn't give him any facts, did
they?

21 Oh, they gave him a lot of hypothetical questions
from

22 Mr. Douglass here. A lot of assumptions that were
all

23 favorable to the defendant, and then he answers the
24 questions.

25 But you see what happens when you

1 change those a little bit, as Mr. Shook did, and you
2 start talking about some of the facts, the actual
true
3 facts in the case, his opinion started to change,
didn't
4 it? And I think it's very clear why they chose as
they
5 did, because that is their witness. It's very
evident
6 why they chose not to give him any facts at all to
work
7 with. Because they knew, as you do, that if you
give
8 that man -- because he is honest, if you give him
the
9 facts, he may give you an answer that you don't
like.

10 MR. RICHARD C. MOSTY: Your Honor,
I'm
11 going to object to that. He was called as a rebuttal
12 witness. He could only rebut, he can only be
called to
13 rebut what the State has put on. That is the only
14 purpose that he can be called for.

15 THE COURT: Thank you. The jury

is

16 instructed to remember the testimony as they heard
it,

17 and be guided by the Charge of the Court. You have
15

18 minutes left.

19 MR. GREG DAVIS: Thank you,
Judge.

20 Well, I told you what a guilty
woman

21 does and very quickly, as we walk through here,
let's

22 talk about what an innocent woman does and doesn't
do.

23 You ask yourselves these
questions, as

24 I go through here, using the common sense test, and
25 really that is your best thing to hang on to. You
have

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Reporter

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1 heard a lot, hang on to your common sense. But as
I go

2 through here very quickly,

3 Does an innocent woman, a light

4 sleeping innocent woman, does she sleep through
the

5 stabbing of a child that is five feet away from
her?

6 No, she doesn't.

7 Does an innocent woman sleep
through

8 the stabbing of her child as he is one foot away
from

9 her?

10 No, she doesn't.

11 What do innocent women do? They
come

12 to the defense of their children, is what they do.

13 And does an innocent woman then
sleep

14 through her own attack. Puncture wound to the arm,
15 slashes to the neck, stab to the left shoulder.

Does an

16 innocent woman sleep through her own attack?

17 You know, I don't even have to

answer

18 that one. Your common sense gives you the answer.

19 Absolutely not.

20 But in all three cases, this is
what

21 this woman claims to have done, and she did it
because

22 she is not an innocent woman.

23 When she wakes up, does an
innocent

24 woman look up and see an intruder and not
immediately

25 yell upstairs for her husband? No.

Reporter Sandra M. Halsey, CSR, Official Court

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1 And does an innocent woman wake
up,
2 see her children here bleeding, and then leave them
and
3 chase into a darkened kitchen and utility room, after
an
4 armed intruder? No.

5 But that is not what this woman
did;
6 is it? What she did is not consistent with what an
7 innocent woman does. And, does an innocent woman,
while
8 her children are literally bleeding at her feet, look
9 around the room, and make sure that none of her
jewelry
10 is gone?

11 Heaven help us if that is what
12 innocent women and mothers do, and that is what
parents
13 do. No. They don't do it, but that is exactly what
she
14 did that morning. Looking around to make sure the
15 goodies aren't gone from that kitchen bar.

16 And do innocent women, innocent
17 mothers, again, as their children are bleeding, do

they

18 worry about leaving fingerprints on a knife handle?

Of

19 course not. But that is exactly what this woman did

20 because she is not an innocent woman.

21 And do innocent women have to give

22 eight accounts of what happened? All different

accounts?

23 I'm not going to run through all

of

24 them. But basically, to Waddell, the fight was at

the

25 kitchen bar. To Walling, the fight was at the couch.

To

Sandra M. Halsey, CSR, Official Court Reporter

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1 Jody Cotner, Damon shook her and woke her up and
followed

2 her in the kitchen.

3 To Dianne Hollon, there is an
intruder

4 over her immediately, and she felt pressure and there
is

5 a fight at the couch.

6 To Paige Campbell, the intruder is
7 over her, and he tried to stab her. She grabbed at
the

8 knife. She never saw his face.

9 To Denise Faulk, Damon was crying
to
10 wake her. Struggle at the neck. Wrestling on the
couch.

11 Barbara Jovell, Damon woke her by
12 saying "Mommy, Mommy," and pressure on the legs. And
in

13 her voluntary statement she just says a man is
walking

14 away from her.

15 Listen, folks, if you are telling
the

16 truth it doesn't take eight shots at it to get it.

17 Because the truth never changes. Once is enough.
But
18 that is not what this woman did, because this woman
right
19 here is not an innocent woman. This woman here is
guilty
20 of capital murder.
21 And does an innocent woman, can
you
22 imagine, in your wildest nightmares, an innocent
mother
23 sitting across the table from Bill Parker, and
having
24 Bill Parker accuse her of killing her own flesh
and blood
25 several times, and remaining polite for a three
hour

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Reporter

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1 period.

2 Or never denying the fact that
she

3 killed her children, and can you imagine an
innocent

4 mother sitting across the table from Bill Parker and
he

5 says, "I know you killed your children." And an
innocent

6 mother just saying: "Hum." (Shrugging shoulders.)

7 No, they don't. That is not what
she

8 did, you see, because this woman right here is not an
9 innocent woman. Guilty of capital murder, Darlie
10 Routier.

11 You know you have got a very
simple

12 choice here. You have got a choice of either this
woman

13 sitting over here, Darlie Lynn Routier, killed her
two

14 children, or some mysterious, lucky intruder did it.
And

15 he, indeed, has to be a lucky intruder, doesn't he?

16 Happened to pick the night that

the

17 window is open. Happens to pick the night where a
sock

18 is left conveniently in a utility room. We haven't
even

19 mentioned how he got in.

20 I guess the guy just had to slip
down

21 the chimney, to get the knife, then go out and then
cut

22 the screen, and then come through the utility room.

But

23 when he got in there, lucky fellow, the knife is in
the

24 butcher block. Lucky fellow that he kills two

children

25 without the mother waking. Lucky fellow that when he

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1 cuts this woman over here, she can't describe him.

2 Lucky fellow that he drops a knife
on

3 the floor as he leaves, arming his victim, and she
4 doesn't pick it up and wound him. Lucky fellow that
he

5 leaves no trace in the garage. Lucky fellow that he
6 leaves no trace in the backyard as he leaves.

7 Those are your choices here. And
as

8 you go through here, and as you look at the hard,
9 scientific, physical evidence, as Mr. Mosty asked you
to,

10 and I will also. When you look at that screen being
cut

11 by that knife inside the house, as it was, that is
really

12 as far as you have to go with the hard, scientific
stuff.

13 Because, if that fact is true, that that screen on
that

14 window was cut with a knife inside of that kitchen of
the

15 defendant, that answers all of the questions that you
16 have in this case right here that you need to

answer.

17

Now you know from the

scientific

18 evidence that was the case. And as you look at

Devon's

19 blood on the back of that T-shirt, you know how that

was

20 deposited. And as you look at the boys' blood on

the

21 front of the T-shirt, you know how that was

transported

22 to her T-shirt.

23

As you look at that utility room

24 floor, you know that the floor is totally

inconsistent

25 with the story that she gave. There is no cast off

Sandra M. Halsey, CSR, Official Court
Reporter

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1 pattern, and you know from the scientific evidence
that

2 that was the case.

3 The blood on the vacuum, the
roll

4 marks that she made in the kitchen as she staged
that

5 scene. And the sink being cleaned with the blood
hidden

6 behind the closed drawers and doors to that sink.

7 The physical evidence is there.
It

8 points not at many people, not at some people, but
it

9 points very clearly to this woman right here,
Darlie Lynn

10 Routier. And only Darlie Lynn Routier.

11 You know she did it, and they
keep

12 saying that I didn't show you why they did it, and
I

13 think I did. We have got a pretty good snapshot
look at

14 what this woman's life was like back then.

15 It's so desperate that on May

3rd of

16 1996, in this beautifully normal American home,
with no

17 problems in it, this woman is contemplating
suicide. You

18 know it wasn't good in there. You know the
pressures

19 were building up with the children. You know she
was

20 unhappy that she hadn't had a girl. She was
unhappy with

21 her weight and with her appearance. She is unhappy
that

22 she is not getting the attention from her husband
that

23 she wants to get out there, and she is unhappy
about that

24 financial situation.

25 Those numbers don't lie there.
You

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Reporter

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1 can see that if you average it out these people are
going

2 to take in ninety thousand dollars less than they
took in

3 in '95.

4 That is not bad money but when
you are

5 used to 260, 170 is not going to cut it. You know
the

6 pressure was there. You know why she did it. You
have a

7 very good idea.

8 Only God and she knows exactly
why she

9 did it. But we have a pretty darn good idea, don't
we,

10 of the kind of pressure that was building up that
night

11 on June 6th of 1996.

12 You know, these two children
here,

13 well, they lived in Rowlett and I never had the
pleasure

14 of meeting them, but you know, once upon a time
they were

15 ours too. They weren't just Darlie Routier's
children,

16 they were ours.

17 You see, they were our
neighborhood

18 kids too. The kids we saw running up and down the
19 streets on their bicycles. They were our
classmates.

20 They were our students. These children right here.

21 In a real sense they were our
future.

22 You know, and as these two precious children, laid
on

23 that carpet, looking up with those opened eyes,
literally

24 drowning in their own blood as they laid on that
carpet,

25 as Mr. Shook said to you, the very last thing that
each

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Reporter

1 of these two children saw was their killer.

2 Can you imagine what it must
have been

3 like for those two children that morning as they
saw this

4 woman right here?

5 THE DEFENDANT: Liar, liar.

6 MR. GREG DAVIS: She says liar
now --

7 THE DEFENDANT: You are a liar.

8 MR. GREG DAVIS: See. See. But
--

9 THE DEFENDANT: I did not kill
my

10 kids.

11 MR. GREG DAVIS: But they looked
up

12 there, and they saw this woman right here, in a
rage,

13 coming down on them with that knife, and that is
the very

14 last thing that they saw. They saw their killer,
and

15 after these four weeks, you have seen her too. Her
name

16 is Darlie Lynn Routier. She sits here before you.

And

17 I'll ask you now to go back to that commitment that
you

18 all gave to us.

19 You said that if we proved our
case

20 beyond a reasonable doubt, as we have in this case,
that

21 not only could you, but you would, find this woman
guilty

22 of capital murder, and that is exactly what I am
going to

23 ask you to do at this time, because the facts in
this

24 case show her to be guilty of capital murder.

25 THE COURT: Thank you, Mr.
Davis.

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Reporter

1 Ladies and gentlemen of the
jury, if
2 you will retire to the jury room now, please. If
you
3 will select one of your members as presiding juror,
and
4 when you have reached a verdict, please contact the
5 bailiff who has you in charge at the time.

6
7 (Whereupon, the jury
8 Was excused from the
9 Courtroom, to begin
their
10 deliberations at 1:40
p.m.,
11 during which time, the
12 proceedings were
held
13 In the presence of
the
14 Defendant, with
her
15 Attorneys, but
outside
16 of the presence of the jury
17 as follows:)

18

19 THE COURT: All right, ladies and
20 gentlemen, here is how this is going to work.

21 We can't get all of these
exhibits in

22 the jury room, so we're going to let the jury
deliberate

23 in here. That means that all of you will be
downstairs.

24 We will be in the offices up here, should anything
be
25 needed. If a verdict is reached, believe me, you
will

Sandra M. Halsey, CSR, Official Court Reporter

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1 know. We will not do anything without calling
everybody
2 up.

3 We will have to ask you to step
4 downstairs, please, and remain there until given
further
5 notice.

6
7 (Whereupon, the Audience
8 was excused from the
9 Courtroom, and the
10 proceedings were resumed on
11 the record, in the
presence
12 and hearing of the
defendant,
13 but outside the presence
of
14 the jury as follows:)

15
16 THE COURT: All right. Let the
record
17 reflect that these proceedings are being held outside
of
18 the presence of the jury, and all parties in the

1 any inconvenience, we certainly apologize for it, and
we

2 appreciate everything that you have done.

3 If you will leave your juror badge
4 here now, we have an officer that is going to escort
you

5 down the backstairs of the courthouse. And please do
not

6 discuss the case with anyone until it's all the way
over.

7 When it is all the way over, if a verdict comes in,
for

8 example, of not guilty, it will be over.

9 If a verdict comes in, for
example, of

10 guilty, then we have to have another hearing, so
please

11 don't discuss it until it's all the way over. After
that

12 you may discuss or not discuss it as you see fit. If
you

13 want to talk about it, you can, if you don't want to
talk

14 about it, you don't have to. That is anybody. The
15 press, the lawyers, anybody. It's just your call and
16 your judgment. Please don't discuss anything about

it

17 until it's over.

18 Thank you very much again for all

of

19 your hard work and your services.

20 THE BAILIFF: Do they need to be

paid

21 by Ms. Uecker before they leave, Judge?

22 THE COURT: Oh, that is Kerr

County.

23 That is a very important thing. I assume so.

24 THE BAILIFF: Just follow me,

folks,

25 and I will take care of you.

Sandra M. Halsey, CSR, Official Court Reporter

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1 THE COURT: All right. Thank you
very
2 much.
3
4 (Whereupon, the alternate
5 Jurors were excused
from
6 the Courtroom, and
the
7 proceedings were
recessed
8 pending the
deliberations
9 of the jury on guilt
or
10 innocence, until the
following
11 proceedings were resumed,
12 outside the presence of
the
13 defendant, represented by
her
14 Attorneys, and outside
15 of the presence of the
jury
16 at 6:00 P.M., as

follows:)

17

18 THE COURT: All right. Let the
record

19 reflect that these proceedings are being held outside
of

20 the presence of the jury, and all participants in the
21 trial are present. These proceedings are being held
in

22 chambers. We have present for the defense, Mr.
Mulder,

23 Mr. Mosty, and Mr. Harrell; and for the State is Ms.

24 Wallace.

25 I have received the following
note:

Sandra M. Halsey, CSR, Official Court Reporter

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1 "Some of us remember hearing Darin
say
2 that he did not lock the door from the utility room
to
3 the garage before he went to bed, 6/5/96, the rest of
us
4 remember that Darin said he locked this door. Which
is
5 right?"

6 "Frank S. Walker. Presiding
juror."

7 Now Ms. Halsey has looked that up
and
8 you have seen the reply. Does either side have any
9 objection to the answer to the note?

10 MS. SHERRI WALLACE: No
objection from
11 the State.

12 MR. DOUGLAS MULDER: No
objection,
13 your Honor.

14 THE COURT: All right. Just for
the
15 record, both sides agree to giving this note back
to the
16 jury just like it is?

17 MS. SHERRI WALLACE: The State
has no

18 objection.

19 MR. DOUGLAS MULDER: The defense
has

20 no objection.

21 THE COURT: All right. And just
for

22 record purposes, Mrs. Darlie Lynn Routier is not
here for

23 this hearing. Do you wish to waive her presence,
Mr.

24 Mulder?

25 MR. DOUGLAS MULDER: Yes, sir.

Sandra M. Halsey, CSR, Official Court
Reporter

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1 THE COURT: And Mr. Mosty?

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

3 THE COURT: All right. You may
send

4 the note back to the jury.

5

6 (Whereupon, at 6:20 P.M.,

7 the note was answered

8 and sent back to the jury room

9 and the jury resumed their

10 deliberations, until 7:00

11 o'clock P.M., and they recessed

12 for the evening, to resume the

13 following day, February 1,

1997,

14 at 9:00 o'clock A.M., and the

15 jury continued with their

16 deliberations until 12:20

P.M., at

17 which time the proceedings

were

18 resumed as follows:)

19

20 (THESE PROCEEDINGS ARE CONTINUED IN THE

NEXT

21 NUMBERED VOLUME.)

22

23

24

25

Sandra M. Halsey, CSR, Official Court Reporter

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CERTIFICATION PAGE

THE STATE OF TEXAS)
THE COUNTY OF DALLAS)

I, Sandra M. Halsey, was the Official Court
Reporter of Criminal District Court Number 3, of

Dallas

County, Texas, do hereby certify that I reported in
Stenograph notes the foregoing proceedings, and that

they

have been edited by me, or under my direction and the
foregoing transcript contains a full, true, complete

and

accurate transcript of the proceedings held in this
matter, to the best of my knowledge.

I further certify that this transcript of the
proceedings truly and correctly reflects the

exhibits, if

any, offered by the respective parties.

SUBSCRIBED AND SWORN TO, this _____ day of
_____, 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)

3

4

JUDGES CERTIFICATE

5

6

7

8 The above and foregoing transcript, as
certified

9 by the Official Court Reporter, having been presented
to

10 me, has been examined and is approved as a true and
11 correct transcript of the proceedings had in the
12 foregoing styled cause, and aforementioned cause
number

13 of this case.

14

15

16

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20

MARK TOLLE, JUDGE

21

Criminal District Court Number 3

22

Dallas County, Texas

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25

Sandra M. Halsey, CSR, Official Court Reporter

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