

Sandra M. Halsey, CSR, Official Court Reporter

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C A P T I O N

BE IT REMEMBERED THAT, on Monday, the 3rd day

of

February, 1997, in the Criminal District Court

Number 3

of Dallas County, Texas, the above-styled cause

came on

for a jury trial before the Hon.

Mark Tolle, Judge of the

Criminal District Court No. 3,

of Dallas County, Texas,

with a jury, and the proceedings

were held, in open

court, in the City of Kerrville,

Kerr County Courthouse,

Kerr County, Texas, and the

proceedings were had as

follows:

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A P P E A R

A N C E S

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5

HON. JOHN VANCE

6

Criminal District Attorney

7

Dallas County, Texas

8

9

BY: HON. GREG DAVIS

10

Assistant

District Attorney

11

Dallas County,

Texas

12

13

AND:

14

HON. TOBY SHOOK

15

Assistant

District Attorney

16

Dallas County,

Texas

17

18

AND:

19

HON. SHERRI

WALLACE

20

Assistant

District Attorney

21 Dallas County,

Texas

22

23

APPEARING FOR THE STATE OF TEXAS

24

25

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1 ADDITIONAL APPEARANCES:

2

3 HON. DOUGLAS D.

MULDER

4 Attorney at Law

5 2650 Maxus Energy

Tower

6 717 N. Harwood

7 Dallas, TX 75201

8

9 AND: HON. CURTIS GLOVER

10 Attorney at Law

11 2650 Maxus Energy

Tower

12 717 N. Harwood

13 Dallas, TX

75201

14

15 AND: HON. RICHARD

C. MOSTY

16 Attorney at

Law

17 Wallace,

Mosty, Machann, Jackson &

Williams

18 820 Main

Street, Suite 200

19 Kerrville,

TX 78028

20

21 AND: HON. S.

PRESTON DOUGLASS, JR.

22 Attorney at

Law

23 Wallace,

Mosty, Machann, Jackson &

Williams

24 820 Main

Street, Suite 200

25 Kerrville,

TX 78028

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1

2 AND:

HON. JOHN

HAGLER

3

Attorney at

Law

4

901 Main Street, Suite 3601

5

Dallas, TX 75202

6

ALL ATTORNEYS REPRESENTING

THE

7

DEFENDANT: DARLIE ROUTIER

8

MR. HAGLER HANDLING THE

APPEAL

9 AND:

10

HON. ALBERT D. PATILLO, III

11

Attorney at Law

12

820 Main Street, Suite 211

13

Kerrville, TX 78028

14

APPEARING FOR: Witness-

15

Detective Jimmy

Patterson

16

only on one date in

trial

17 AND:

18

HON. STEVEN J. PICKELL

19

Attorney at Law

20

620 Earl Garrett Street

21

Kerrville, TX 78028

22

APPEARING FOR: Witness

23

Officer Chris

Frosch

24

only on one date in

trial

25

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P R O C E E D I N G S

February 3rd, 1997
Monday
9:00 a.m.

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

THE COURT: All right. Let the record reflect that these proceedings are being held

outside the

20 presence of the jury.

21 These motions, the defense

motions to

22 exclude evidence of unadjudicated extraneous

offenses

23 during the punishment phase was denied.

24 MR. S. PRESTON DOUGLASS:

Also, your

25 Honor, there is a previous motion filed to
present

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1 evidence of a parole eligibility. It is my
understanding

2 that that motion has been previously denied.

3 THE COURT: Okay. Parole
eligibility,

4 that is denied. The one about they must consider
5 mitigating offenses was granted, and the Charge
is

6 written that way. There is some motion in there
about --

7 what was that motion in limine?

8 MR. S. PRESTON DOUGLASS:

There was a

9 motion in limine regarding the State of Texas
referring

10 to, either indirectly or directly, as to whether
the

11 defendant would ever be eligible for parole.

12 Our position was, your Honor,
that the

13 State should not be allowed to allude, in any
fashion or

14 imply, that the defendant would be eligible for
parole.

15 THE COURT: Well, that was
denied too.

16 That motion was denied. And, I think the way the
Charge

17 is written takes care of that.

18 MR. S. PRESTON DOUGLASS: The
last one

19 was to declare 37.071, Section 2,
unconstitutional in

20 that it does not allocate a burden of proof with
respect

21 to that question.

22 THE COURT: That was denied.

I'll let

23 that go to the Supreme Court.

24 MR. S. PRESTON DOUGLASS:

There was a

25 previous motion regarding parties charge, but
that is not

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1 going to be presented.

2 THE COURT: That is moot.

3 MR. S. PRESTON DOUGLASS: And
that

4 left us with the motion to declare 37.071,
Section 2,

5 E and F, as unconstitutional,
because it does not require

6 that the jurors consider
mitigation.

7 THE COURT: That
was denied. And, I

8 think the Charge clearly -- makes
it very clear that the

9 jurors will be considering
mitigation.

10 MR. S. PRESTON
DOUGLASS: Then there

11 was a motion to declare Texas
capital sentencing scheme

12 unconstitutional, and the motion
refers to the imposition

13 of the death penalty. There were
numerous reasons,

14 mainly related to Penry and the --

15 THE COURT: That
was denied.

16 MR. S. PRESTON

DOUGLASS: And the last

17 I have is four -- I believe it's
four requested

18 punishment charges, which I have
given Ruth and I can get

19 copies of them.

20 THE COURT:

Sure. All right. Are

21 both sides ready?

22 MR. RICHARD C.

MOSTY: Yes, sir.

23 MR. GREG DAVIS:

Yes, sir.

24 THE COURT: All

right. Bring the jury
25 in, please.

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1 (Whereupon, the
jury
2 Was returned to
the
3 Courtroom, and
the
4 Proceedings
were
5 Resumed on the
record,
6 In open court, in
the
7 Presence and
hearing
8 Of the defendant,
9 As follows:)
10
11 THE COURT: Good
morning, ladies and
12 gentlemen.
13 Let the record
reflect that all
14 parties in the trial are present, and
the jury is seated.
15 Is the State ready to go forward?
16 MR. GREG DAVIS:

The State is ready,

17 your Honor.

18 THE COURT: All

right. Is the defense

19 ready, Mr. Mulder?

20 MR. DOUGLAS MULDER:

Yes, sir.

21 THE COURT: All

right. If you will

22 call your first witness, please.

23 MR. GREG DAVIS: I

will call Allison

24 Hennessey.

25 THE COURT: Ms.

Hennessey, if you will

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1 raise your right hand, please.

2

3 (Whereupon, the
witness

4 Was duly sworn by
the

5 Court, to speak the
truth,

6 The whole truth and

7 Nothing but the truth,

8 After which, the

9 Proceedings were

10 Resumed as follows:)

11

12 THE COURT: Do you solemnly swear
or

13 affirm, that the testimony you are about to give,
will be

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

15 help you God?

16 THE WITNESS: I do.

17 THE COURT: Just have a seat
right

18 here, please. Is this the first time you have

testified?

19 THE WITNESS: Yes.

20 THE COURT: Okay. Here's what
you do.

21 Speak right into this microphone very loudly until
you

22 hear your voice echo.

23 You want to make sure that the

24 gentleman down there in the corner can hear you.

Okay?

25 And just listen to the questions. Now, they will
object

1 from time to time, and when they object, you stop.

And I

2 will rule on it then, okay?

3 THE WITNESS: Yes, sir.

4 THE COURT: Go ahead. If you
will

5 state your name and spell your name for the court
6 reporter, please.

7 THE WITNESS: Allison Hennessey,

8 A-L-L-I-S-O-N, H-E-N-N-E-S-S-E-Y.

9

10

11 Whereupon,

12

13 ALLISON HENNESSEY,

14

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

16 Punishment Phase, having been first duly sworn by
the

17 Court, to speak the truth, the whole truth, and
nothing

18 but the truth, was examined and testified in open
court,

19 as follows:

20

21

DIRECT EXAMINATION

22

23 BY MR. GREG DAVIS:

24 Q. Allison, how old are you?

25 A. 18.

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1 Q. All right. Are you in high
school at

2 this time?

3 A. I home school.

4 Q. Okay. And, what grade would you
be

5 in?

6 A. Senior.

7 Q. Do you live in Rowlett at this
time?

8 A. I do.

9 Q. Do you live with your mother?

10 A. Yes.

11 Q. Allison, I want to ask you
whether or

12 not you know the individual seated over here in the
red

13 and white dress?

14 A. I do.

15 Q. Do you know her to be Darlie Lynn
16 Routier?

17 A. I do.

18

19 MR. GREG DAVIS: Your Honor, may
the

20 record please reflect that this witness is

identifying

21 the defendant in open court.

22 THE COURT: Yes, sir.

23

24 BY MR. GREG DAVIS:

25 Q. Allison, how long have you known
the

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1 defendant?

2 A. Since 1994, I believe is when I
met

3 her.

4 Q. Okay. How did you meet the
defendant?

5 Did you meet her through one of your friends?

6 A. Yes, Renee Stanley. She is my
best

7 friend, and I met her through her.

8 Q. Okay. And, Renee Stanley, was
that a

9 friend in the neighborhood that you met?

10 A. Um-hum. (Witness nodding head
11 affirmatively.)

12 Q. When you met the defendant, was
Renee

13 Stanley doing anything for the defendant?

14 A. She was the babysitter.

15 Q. And, how often would Renee Stanley
16 babysit for the defendant, if you know?

17 A. It was almost every weekend.

18 Q. Okay. Did you know why Renee was
19 babysitting every weekend; what the defendant was
doing

20 that required a babysitter every weekend?

21 A. She would go out occasionally, but
22 mainly, I was told it was for auctions that she would
23 go
24 to.

24 Q. What sort of auctions?

25 A. Antique auctions.

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2

MR. RICHARD C. MOSTY: Your Honor,

we

3

object to what she was told.

4

THE COURT: Sustained.

5

6

BY MR. GREG DAVIS:

7

Q. And, during the time that you knew

the

8

defendant, were there occasions when you would go

over to

9

her house also?

10

A. Yes.

11

Q. And, were there occasions when

both

12

Renee Stanley and the defendant would be present at

the

13

house when you were over there?

14

A. Yes.

15

Q. Did you know Devon and Damon

Routier?

16

A. Yes, I did.

17

Q. When you went over to the

defendant's

18

house, and she was there, what were the boys usually

19 doing during the time periods that you were
there?

20 A. They were usually playing
outside.

21 Q. Okay. And would the
defendant be

22 outside with them, or would she be inside with
y'all?

23 A. Inside.

24 Q. And, generally, what was she
doing
25 while her two sons were outside playing?

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1 A. Speaking with Renee, I
usually was
2 quiet.

3 Q. Okay. And, when you say that
the boys
4 were outside, can you give us an idea of the
types of
5 things that you saw them doing when they were
outside?

6 A. Running up the street,
playing on the
7 fountain, playing with kids that lived in the
8 neighborhood.

9 Q. You say that they were
climbing on the
10 fountain. Are you talking about the fountain in
the
11 front yard?

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

14

15 THE COURT: Ma'am, can you
say yes or

16 no? We can't take down nods.

17 THE WITNESS: Yes, sir.

18

19 BY MR. GREG DAVIS:

20 Q. What were they doing,
exactly?

21 A. Just climbing or running
around

22 outside.

23 Q. Okay. Now, this would have
been back

24 in what, 1994?

25 A. Um-hum. (Witness nodding
head

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1 affirmatively.)

2 Q. You need to say yes or no for
the

3 court reporter, please.

4 A. Yes.

5 Q. Okay. And, how old were Devon
and

6 Damon then when they were outside on their own?

7 A. Well, I believe three and
probably

8 five.

9 Q. Okay. Now, Allison, let me ask
you

10 whether or not you were ever over at the
defendant's

11 house when Renee Stanley was babysitting for the
12 defendant?

13 A. Yes, almost every time.

14 Q. And, was there ever an occasion
where

15 you saw the defendant go out and buy something for
Renee?

16 A. Yes.

17 Q. Can you tell us what that was?

18 A. Cigarettes.

19 Q. How old was Renee at the time?

20 A. Sixteen.

21 Q. And, exactly what happened when
that

22 occurred? Just tell us how that came up, what you

23 remember happening.

24 A. About the cigarettes?

25 Q. Yes.

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1 A. That is where she got them from.
That
2 is where she told me, and I have seen her give them
to
3 her.

4
5 MR. RICHARD C. MOSTY: Object to
what
6 someone told her.

7 THE COURT: Sustained. Ma'am,
just
8 state precisely what you know yourself, not what
somebody
9 else says to you.

10 Okay. Mr. Davis, rephrase your
11 question.

12 MR. GREG DAVIS: Yes, sir.

13

14 BY MR. GREG DAVIS:

15 Q. Did you ever see the defendant
give
16 cigarettes to Renee?

17 A. Yes.

18 Q. And at the time, how old was
Renee?

19 A. Sixteen.

20 Q. Was there ever any occasion
where you

21 saw the defendant give alcohol to Renee?

22 A. Yes.

23 Q. Can you tell us about that, what
you

24 saw?

25 A. She asked Darlie if she could
have a

1 Zima that was in the refrigerator, and Darlie said
that

2 she could, and she got one and drank it.

3 Q. Were there other occasions when
you

4 saw Renee drinking over there in the house when the
5 defendant wasn't there?

6 A. Yes, almost every time she
babysat.

7 Q. Almost every time she babysat?

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

10

11 THE COURT: Is that a yes,
ma'am?

12 THE WITNESS: Yes.

13 THE COURT: Thank you.

14

15 BY MR. GREG DAVIS:

16 Q. At the time that the defendant
gave or

17 allowed Renee to drink the Zima there in her
house, how

18 old was Renee?

19 A. Sixteen.

20 Q. Allison, was there ever any
occasion

21 when you saw the defendant give Renee marijuana
inside

22 that house?

23 A. Yes.

24 Q. Could you please tell us what
you saw
25 that day?

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no,

22 ma'am. Ms. Halsey can't take down uh-hum or unh-
uhs.

23 THE WITNESS: Okay.

24

25 BY MR. GREG DAVIS:

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1 Q. And, at the time that she gave
the

2 marijuana to Renee, how old was Renee Stanley?

3 A. Sixteen.

4 Q. Did you ever have any
conversations

5 with the defendant about your feelings about what
was

6 happening inside that house with Renee?

7 A. Yes, I did.

8 Q. Can you tell us what that
conversation

9 was and how it went?

10 A. I did not agree that she was an
adult

11 giving my best friend things that I don't agree with
12 people doing, drugs and alcohol and cigarettes,
13 especially when she wasn't an adult.

14 Q. What did the defendant say, if
15 anything?

16 A. Not really anything. She just
laughed

17 it off.

18 Q. Did you continue going over to the
19 defendant's house after that conversation?

20 A. Yes, we had this conversation a
lot.

21 Q. Okay. Was there a time when you
22 finally decided that you couldn't go over there any
more?

23 A. Yes, I did.

24 Q. Okay.
25

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1 MR. GREG DAVIS: I'll pass the
2 witness.

3

4 CROSS EXAMINATION

5

6 BY MR. RICHARD MOSTY:

7 Q. Ms. Hennessey, you are now 18?

8 A. Yes, I am.

9 Q. When did you turn 18?

10 A. June 18th.

11 Q. All right. And, where do you
live?

12 A. I live in Rowlett.

13 Q. Where, in relationship to Eagle
Drive?

14 A. I live in the same neighborhood,
on
15 Luna Drive.

16 Q. On Luna Drive? How far away is
that?

17 A. About a block.

18 Q. And you had, I guess, walked down?

19 A. Yes, or drive.

20 Q. Okay. And do you still live
there?

21 A. No.

22

Q. Who did you live with?

23

A. My mother.

24

Q. And anyone else?

25

A. My stepfather and my sister and

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1 brother.

2 Q. Your stepfather is Glenn Mize,
isn't

3 it?

4 A. Yes.

5 Q. And you know that his name -- you
know

6 he came down here and testified, didn't he? Or came
down

7 here and appeared and stood in Court?

8 A. Yes.

9 Q. And, was that Glenn Mize's house
that
10 you lived in?

11 A. His and my mother's.

12 Q. Okay. And, how long did y'all
live in

13 that house?

14 A. Well --

15 Q. How long did you live there with
Mize?

16 Was it anybody else other than Mize, and your mother
and

17 you?

18 A. My brother and sister.

19 Q. How old are they?

20 A. Five and
fifteen.

21 Q. Five and
fifteen?

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

24
25 THE COURT: Is that a yes,
ma'am,

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1 please?

2 THE WITNESS: Yes.

3

4 BY MR. RICHARD MOSTY:

5 Q. And, how long did you live on
Luna

6 Drive about a block down?

7 A. Three years.

8 Q. What years?

9 A. From '92 to
'94.

10 Q. From '92 to
'94?

11 A. No, '95.

12 Q. '95?

13 A. Um-hum. (Witness nodding
head

14 affirmatively.) Yes.

15 Q. When did you move away?

16 A. Last May.

17 Q. Last May?

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

20 Q. May of '96 or May of '95?

21 A. May of '96.

22 Q. Okay. So, how long do you think
you

23 lived on Luna Drive?

24 A. About three years or a little
more.

25 Q. Okay. So would we say from '93
to

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1 '96?

2 A. We lived in an apartment before
that,

3 I don't remember.

4 Q. Well, how long were your mother
and

5 Glenn Mize married?

6 A. Seven years.

7 Q. That broke up because they
couldn't

8 get along back in May? Is that why you all moved
out?

9 A. No, they had problems their entire
10 marriage.

11 Q. Had problems their entire
marriage?

12 Violent problems?

13 A. Yes.

14 Q. Glenn Mize beat her?

15

16 MR. GREG DAVIS: I'm going to
object

17 to this as not being relevant.

18 THE COURT: Overruled. I'll let
it

19 in. Go ahead.

20

21 BY MR. RICHARD MOSTY:

22 Q. Did Glenn Mize beat your mother?

23 A. She has been hit by Glenn.

24 Q. Okay. And that is what

particularly

25 broke things up finally in May of '96?

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1 A. Yes, among other problems.

2 Q. Now, were you living with them
when

3 you moved in the house on Luna Drive?

4 A. Yes.

5 Q. So, if you moved out in May of
'96,

6 and you were there about three years, you must have
moved

7 in sometime in '93. And I understand you are not
going

8 to be exact.

9 A. Yeah.

10 Q. Do you really recall?

11 A. It was '92 or '93.

12 Q. Okay. What grade were you in?

13 A. I was going into the 9th grade

when we

14 moved, so I guess it was about four years.

15 Q. When did you meet Renee Stanley?

16 A. A couple of weeks after I moved

into

17 the house.

18 Q. Okay. And you said that you quit

19 going, I guess, to the Routier residence because you

were

20 offended by what you saw?

21 A. Yes.

22 Q. When did you quit going?

23 A. In February of '95 I stopped

being

24 friends with Renee, so it was about January.

25 Q. Okay. January of 1995?

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1 A. Yes.

2 Q. How many times do you think you
were

3 in the Routier house?

4 A. There was too many times to count.

I

5 have been in there about every weekend that she
babysat.

6 Q. Okay. And these things happened
every

7 weekend?

8 A. Which things?

9 Q. All of these things that you have
10 described.

11 A. Yes.

12 Q. Every time the boys were out
playing

13 in the yard that you went down there?

14 A. Almost every time that I was there
15 Renee would drink or smoke cigarettes.

16 Q. Yeah. She would just drink every
17 time. And every time the boys played in the
fountain

18 that you were down there?

19 A. Not every time, but several

times.

20 Q. Okay. They were playing with
other

21 neighborhood kids?

22 A. Yes.

23 Q. And, there were other
neighborhood

24 kids running and playing in their yard?

25 A. Um-hum. (Witness nodding head)

1 affirmatively.) Yes.

2 Q. Coming in and out of the house?

A lot

3 of neighborhood kids coming through there?

4 A. Yes, a lot of kids.

5 Q. And they were Devon and Damon's
age,

6 more or less? Their friends?

7 A. Probably a little older.

8 Q. Okay. Now, when did this
incident

9 about the cigarettes happen? That happened every
time

10 too?

11 A. That happened several times when
I

12 wasn't there.

13 Q. Well, tell me how you know what
14 happened when you weren't there?

15 A. My best friend told me. I was
present

16 at times that they were given to her.

17 Q. Cigarettes?

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

20 Q. What kind were they?
21 A. Marlboro.
22 Q. Marlboro?
23 A. Lights or reds.
24 Q. Well, do you remember?
25 A. She smoked both.

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1 Q. And every time Darlie went and
bought

2 cigarettes for her? That is what you are telling
this

3 jury?

4 A. That is where Darlie (sic) was
getting

5 them from. I mean, Renee.

6 Q. Every time she went down there
she

7 bought cigarettes for her?

8 A. Not every time. She didn't smoke
all

9 the time --

10 Q. Do you smoke?

11 A. No.

12 Q. Okay. And, is it your testimony
that

13 you never saw Darlie playing with those kids?

14 A. Not really.

15 Q. Never saw it?

16 A. No.

17 Q. Never saw her paying attention to
18 them?

19 A. Not really.

20 Q. Whenever she was there, she paid
no

21 attention whatsoever to those children?

22 A. Not really. She was speaking
with

23 Renee.

24 Q. And you know that, you remember
that,
25 don't you?

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1 A. Yes.

2 Q. How did you happen to -- how did
the
3 district attorney's office happen to find you?

4 A. I'm not sure.

5 Q. Who came to see you? Mr.
Bosillo?

6 A. No, there was a police officer.

7 Q. In a uniform?

8 A. Yes.

9 Q. What's his name?

10 A. Grant Jack.

11 Q. Grant Jack. Did you give him a
12 written statement?

13 A. No.

14 Q. You never wrote out anything?

15 A. No.

16 Q. When did you talk to this Grant
Jack?

17 A. I didn't really speak with him.
I
18 spoke with Anita and Mike.

19 Q. Pardon?

20 A. I spoke with Anita and
Mike.

21

Q. Who are Anita and Mike?

22

A. Them two in the audience.

23

Q. Well, I thought you told me that

you

24 spoke with Grant Jack?

25

A. That is who told me to come to

the

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1 meeting.

2 Q. When did you come to this
meeting?

3 A. Probably in September or August.

4 Q. Where was the meeting?

5 A. In the Rowlett Police Department.

6 Q. Who all was there?

7 A. Me and my mother, Lieutenant
Grant

8 Jack and Anita and Mike.

9 Q. Who else?

10 A. My little brother was there.

11 Q. Did they say, "Tell me everything
you

12 know about Darlie Routier"?

13 A. No. They just asked me general
14 questions, how I came to know her, and I mentioned
15 situations that happened.

16 Q. You don't like Darlie, do you?

17 A. Not especially.

18 Q. And that has been going on a long
19 time?

20 A. Yes.

21 Q. You know also that you -- your
mother

22 and Darlie had an argument, too, don't you, had
words?

23 A. Yes.

24 Q. Because Darlie told --

25

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21 Q. Well, what about -- what do you
know

22 about the conversation between your mother and
Darlie?

23

24 MR. GREG DAVIS: I'm going to

object

25 to that as being hearsay, your Honor.

1 MR. RICHARD C. MOSTY: Let me
develop

2 and find out what she knows.

3 THE COURT: Well, is that the
4 question?

5

6 BY MR. RICHARD MOSTY:

7 Q. You heard some conversations,
didn't

8 you?

9 A. Between who?

10 Q. Your mother and Darlie?

11 A. No. She spoke once with her on
the

12 phone.

13 Q. You heard your mother?

14 A. Yes.

15 Q. And you heard your mother have
words?

16 A. No, there was not an argument.

17

18 MR. GREG DAVIS: I'll object to
this

19 again, as being hearsay, as to what her mother said.

20 THE COURT: Sustained.

21

22 BY MR. RICHARD MOSTY:

23 Q. When did all of that happen?

Don't go

24 into what happened, but when did the problem happen?

25 A. About December or January,

December of

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1 '94 or January of '95.

2 Q. Okay. And, that is about the time
3 that you decided you wouldn't be going down to the
4 Routier's anymore?

5 A. I decided that in February.

6 Q. Yeah, but it's just coincidence
that
7 about the time your mother and Mrs. Routier had a
8 problem, that is when you decided you wouldn't go to
the
9 Routier house, that is just a coincidence?

10 A. Yes.

11

12 MR. RICHARD C. MOSTY: I'll pass
the
13 witness.

14 MR. GREG DAVIS: No further
questions.

15 THE COURT: All right. Ma'am, you
may
16 step down.

17 Ma'am, when you're not testifying,
you
18 have to remain outside the courtroom. Don't talk
about

19 your testimony with anybody who has testified, in
other

20 words, "don't compare it."

21 You may talk to the attorneys for
22 either side. If somebody tries to talk to you about
your

23 testimony, please tell the attorney for the side who
24 called you. Okay?

25 THE WITNESS: Okay.

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1 THE COURT: Now, watch your step
going

2 down there, please.

3 All right. Your next witness.

4 MS. SHERRI WALLACE: Call Eileen
5 Schirmer.

6 THE COURT: Eileen Schirmer. Ms.
7 Schirmer, just come on up here, please, ma'am. Will
you

8 raise your right hand, please, ma'am?

9

10 (Whereupon, the witness
11 Was duly sworn by the
12 Court, to speak the
truth,

13 The whole truth and
14 Nothing but the truth,
15 After which, the
16 Proceedings were
17 Resumed as follows:)

18

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

truth, so

22 help you God?

23 THE WITNESS: I do.

24 THE COURT: All right. If you

will

25 have a seat right here, please.

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1 MR. RICHARD C. MOSTY: Your Honor,
may
2 we approach?

3 THE COURT: Sure.

4
5 (Whereupon, a short
6 Discussion was held
7 Off the record, after
8 Which time the
9 Proceedings were resumed
10 As follows:)

11
12 THE COURT: All right. This is
Eileen
13 Schirmer. Is this the first time have you testified?

14 THE WITNESS: Yes, sir.

15 THE COURT: All right. Speak into
16 this microphone loudly so that gentleman
sitting right
17 down there can hear you.

18 Listen to each
question and answer
19 just what they ask you. Say yes or no,
not uh-hum or
20 unh-uh.

21

THE WITNESS: Okay.

22

THE COURT: All

right. Keep your

23 voice up.

24

25

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Court
Reporter

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1 Whereupon,

2

3 EILEEN SCHIRMER,

4

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

6 Punishment Phase, having been first duly
sworn by the

7 Court to speak the truth, the whole
truth, and nothing

8 but the truth, testified in open court,
as follows:

9

10 THE COURT: State
your full name

11 please and spell it for the court
reporter.

12 THE WITNESS: My name
is Eileen

13 Schirmer, last name, S-C-H-I-R-M-E-R.

14 THE COURT: You are
going to have to

15 get your voice up a little more so that
Mr. Samford can

16 hear it there. Now, you are going to
hear your voice

17 echo, and resonate. Don't drop it, keep
it up. Okay?

18 THE WITNESS: My name
is Eileen

19 Schirmer. First name, E-I-L-E-E-N.

20

21 DIRECT EXAMINATION

22

23 BY MS. SHERRI WALLACE:

24 Q. Ms. Schirmer, how old
are you?

25 A. I'm 30 years old.

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Court Reporter

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1 Q. Okay. Are you
married?

2 A. Yes, ma'am.

3 Q. Do you have any
children?

4 A. I have two children.

5 Q. What are their ages?

6 A. I have a girl that is nine years
old

7 and a boy that is six years old.

8 Q. Do you work?

9 A. Yes, I do.

10 Q. What do you do?

11 A. My husband and I are self-
employed.

12 We own our own business, engineering of printed
circuit

13 boards.

14 Q. What sort of business is that?

Tell

15 us about that.

16 A. We do the mechanical design and
the

17 actual layout of the printed circuit boards
themselves.

18 Q. Is that the same kind of business

that

19 the Routiers are in?

20 A. Yes, it is.

21 Q. How are y'all's' businesses
different,

22 if they are?

23 A. They test -- their business would

24 actually test the printed circuit boards, and we

were the

25 beginning phases of the design that actually
produced the

1 schematics and the layouts and the actual drawings.

2 Q. What sort of role do you have in
that

3 business, Ms. Schirmer?

4 A. I am the majority stockholder
owner

5 and the executive vice-president.

6 Q. Okay. And what do you actually -
- I

7 mean, you go to work, and you get your cup of
coffee,

8 what do you do next?

9 A. I go to work and I work 8 to 5
every

10 day and I handle all the accounting and the credit
for

11 the company.

12 Q. So, it's fair to say you do the
books

13 and the finances?

14 A. Yes, I do.

15 Q. Make sure that everything is
going

16 right?

17 A. Right.

18 Q. Through work, did and your
husband get

19 to know Darin and Darlie Routier?

20 A. Yes, ma'am.

21 Q. Okay. And how did you come about
22 getting to know the Routiers?

23 A. My husband knew Darin Routier
through

24 the business, and through conversations. My name
came

25 up, and she approached me at my office, inquiring
about

1 day care, the fact that I worked and had children,
and

2 how they were cared for, and what day care I used.

3 Q. Okay. About when did she come
and ask

4 you about day care, if you remember?

5 A. It was the latter part of '93.

6 Q. All right. Was that the first
time

7 you had ever met her?

8 A. Yes, it was.

9 Q. Were you and your husband's
business

10 close to Testnec, the Routiers' business?

11 A. Yes, they were very close.

12 Q. Tell the jury about how they were
in

13 relation to each other.

14 A. A little more than the length of
this

15 courtroom, but in separate buildings.

16 Q. So one day the defendant just
came

17 over to talk to you about day care?

18 A. Yes.

19 Q. How was she dressed when she came
20 over?

21 A. She -- her clothing was all
green,
22 tight body suit, tight jeans with suede boots past
the
23 knees, all green to match.

24 Q. Let me ask you Ms. Schirmer, what
was
25 your first impression of her?

1 A. That she liked to be very
glamorous,

2 that she paid a lot of attention to her looks.

3 Q. Over the course of time, did it
just

4 so happen that you and your husband were also
building a

5 home near their home?

6 A. That's correct.

7 Q. Okay. Were you already building
it

8 before you had even met the Routiers?

9 A. We had already bought the lot
before

10 we had ever met the Routiers. Yes, that was
11 coincidental.

12 Q. Okay. How close was the home you
were

13 building to the home they had on Eagle Drive?

14 A. Their home is the corner home
with

15 Willowbrook being the next street, and Allen Lane
being

16 the second one, we're the third house from that same
end.

17 Q. So about two streets over?

18 A. Two streets over.

19 Q. Because you worked in the same
area

20 and you lived in the same area, did you have the
21 opportunity to see the defendant frequently?

22 A. Yes, almost every day, just
either in

23 the business or casually passing through the
neighborhood

24 or it could have been the actual conversation of
visiting

25 one another.

1 Q. How was she -- when you saw her
these
2 other times, did she look different than she had the
3 first time you saw her?

4 A. Yes.

5 Q. Tell the jury how she looked
usually.

6 A. Usually she was without makeup,
7 shorts, baggy shirts, her hair wasn't so poofed up,
8 typically wore her jewelry but maybe not as much.

9 Q. Did she wear undergarments?

10 A. Not that I could tell.

11 Q. Okay. Did she ever wear a bra?

12 A. No.

13 Q. Okay. Through being around the
14 parents, did you have an opportunity to get to know
the
15 children?

16 A. Yes, I did.

17 Q. Devon and Damon?

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

20 Q. Were they about the same age as
your
21 little boy?

22 A. Yes, they were very close, months
23 apart.

24 Q. Okay. And, once you all moved in
the
25 neighborhood, did you see the boys even more?

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1 A. Yes, a lot more.

2 Q. How often would you see the boys?

3 A. Whenever they were home the boys
would

4 usually be outside, that was a good indication if
they

5 were home or not.

6 Q. So if the boys were not outside,
7 pretty much the Routiers were not home; is that about
8 right?

9 A. That's right.

10 Q. Okay. Who was out there watching
11 them?

12 A. There was usually no one from that
13 family out there with the boys.

14 Q. So the times that you would see
them,

15 Ms. Schirmer, were Devon and Damon ever supervised?

16 A. No, they were not supervised, not
by

17 their parents.

18 Q. One time, did you and your family
have

19 an invitation to join the Routiers on their boat?

20 A. Yes, we did.

21 Q. Was that in the summer of '94?

22 A. I believe it was, shortly after
they

23 had purchased the boat.

24 Q. About how old were the boys at

that

25 time, if you remember?

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1 A. I want to say about four and five.

2 Q. How old was your son in '94?

3 A. He was four years old.

4 Q. So he was the age of the little
one,
5 of Damon?

6 A. Yes, of Damon.

7 Q. Did your son know how to swim?

8 A. No.

9 Q. Were you concerned about him going
out
10 on the boat and to the lake?

11 A. Yes, even around the docks.

12 Q. Did you take any precautions
because
13 he didn't know how to swim?

14 A. Yes, we all did. We made sure
that
15 Darin had enough life jackets on the boat for
everybody
16 who was going out on the boat.

17 Q. Did you ask your son to wear his
or
18 did you just make sure it was there?

19 A. We actually -- everyone in my

family

20 put the life jackets on.

21 Q. Was that when you were in the
boat or

22 on land or where?

23 A. When we actually got into the
boat.

24 Q. Okay. Now, what about the

Routier

25 boys, Devon and Damon? Do you know whether or not
they

1 knew how to swim?

2 A. I was told that they did not know
how

3 to swim as well.

4 Q. Who told you that, their mom?

5 A. Darlie, yes.

6 Q. Okay. And, did they have any
life

7 jackets on?

8 A. No.

9 Q. Did you -- did that concern you?

10 A. Yes, it did. Especially around
the

11 docks, because they were free to roam the docks.

Whereas

12 I made my children stay hand in hand with my husband
and

13 I.

14 Q. What did your little boy have to
say

15 about that?

16

17 MR. RICHARD C. MOSTY: I'll
object.

18 That is hearsay.

19

THE COURT: Sustained.

20

21 BY MS. SHERRI WALLACE:

22

Q. Did you and your son have a

23

conversation about that?

24

A. Yes, he felt like --

25

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1 MR. RICHARD C. MOSTY: Objection.

2 THE COURT: Sustained. Let's
rephrase

3 the question or move on to a new one, please.

4

5 BY MS. SHERRI WALLACE:

6 Q. And after the conversation, did
you

7 still make him stay with you with the life jacket on?

8 A. Yes, I did. I made him wear his
life

9 jacket.

10 Q. Was there a concern in your
11 neighborhood about the Routier boys running wild?

12

13 MR. RICHARD C. MOSTY: Objection,
that

14 is hearsay. That is the most speculative hearsay.

15 THE COURT: I'll sustain the
16 objection.

17

18 BY MS. SHERRI WALLACE:

19 Q. Ms. Schirmer, did you have a
concern

20 about the Routier boys running wild in the

neighborhood?

21 A. Yes, I did, especially in and
around

22 the cars parked on that corner.

23 Q. Did you do anything about that?

24 A. Yes, I had brought it to Darin and
25 Darlie's attention, at times that when their cars
were

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1 parked out there, if the boys were riding their bikes
or
2 standing behind them, or playing games, that you
could
3 not see them dart out, because the visibility was
blocked
4 by their vehicles.

5 Q. Did the defendant respond in any
way?

6 A. No.

7 Q. Did you approach her another time,
in
8 person, about seeing the boys fairly far away from
their
9 home?

10 A. Yes.

11 Q. Okay. What did you tell the
12 defendant?

13 A. I felt like it was far from home,
14 because it was off their street and out of
visibility
15 range, and I let her know that they were over on
my
16 street, and up on the other streets riding their
bikes.

17 Q. What reaction did you expect?

18

19 MR. DOUGLAS MULDER: To which we
20 object. How is it material what reaction she would
21 expect?

22 THE COURT: I'll overrule that
23 objection. Go ahead, answer it.

24

25 BY MS. SHERRI WALLACE:

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1 Q. Why did you tell her these things,
Ms.
2 Schirmer?

3 A. I felt like that she would be
4 surprised to know that they were that far from home
or
5 that she would appreciate the fact that I brought it
to
6 her attention and to have them either stay closer to
home
7 or go where they needed to go and check in.

8 Q. Did you get that reaction?

9 A. No.

10 Q. What did she say, if anything?

11 A. She didn't really seem to say
12 anything, or be that concerned.

13 Q. Did you have the opportunity to --
14 were you and your family invited to Devon's fifth
15 birthday party?

16 A. Yes, we were.

17 Q. Okay. That was in June of 1994?

18 A. I believe it was, yes.

19 Q. And tell the members of the jury,
what

20 sort of birthday party was that? What did y'all do?

21 A. Devon's birthday party was in a
park.

22 It was picnic style. Just a community setting type,
a

23 spread, you know, pinatas to bust, some water
balloons,

24 and water guns, and food.

25 Q. What happened there?

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1 A. It was a family social, we did the
2 pinata breaking, played games, and the kids filled
their

3 water guns, and played with the water balloons, and
4 everybody sprayed one another with them.

5 Q. So, did a water fight break out?

6 A. Yes, it did.

7 Q. Okay. Tell us about that.

8 A. Well, a water fight broke out and
the

9 parents and the children were spraying one another.

It

10 was not just among the children.

11 And, at one point, everybody was

12 pretty wet, and Darlie had said, "Okay, enough is
enough.

13 Let's stop the water gun fight now."

14 And one person sneaked in a squirt
15 here and there, and the next thing you know, everyone
is

16 squirting again. And Devon sprayed Darlie, and she
got

17 really mad about it. She immediately grabbed a piece
of

18 birthday cake off the table and shoved it right into

his

19 face.

20 Q. How did she do that?

21 A. By grabbing his head and reaching
for

22 the plate off the table and shoving the two together.

23 Q. So with one hand she held his
head,

24 and with the other hand, she put the cake in his
face?

25 A. Yes.

1 Q. Did she look playful?

2 A. No. Everybody stopped laughing
and

3 stared right at her and at Devon expecting him to
start

4 crying and --

5

6 MR. RICHARD C. MOSTY: Objection
to

7 what people were expecting.

8 THE COURT: Sustained. The jury
is

9 instructed to disregard that statement by the
witness.

10

11 BY MS. SHERRI WALLACE:

12 Q. What did Devon do?

13 A. He stood there for a moment,
just

14 stared at her and he got angry.

15 Q. What did the defendant do?

16 A. She told him that he was warned
and to

17 stop and that he got what he deserved.

18 Q. Now, the woman we're talking

about, do

19 you see her in the courtroom?

20 A. Yes, ma'am, I do.

21 Q. Would you point her out for the
jury?

22 A. She is the woman in the red and
white

23 dress.

24 Q. The woman over her tapping her

pen and

25 taking notes?

1 A. Yes, ma'am.

2

3 MS. SHERRI WALLACE: Let the
record

4 reflect that the witness has identified the
defendant.

5 THE COURT: Yes, ma'am.

6

7 BY MS. SHERRI WALLACE:

8 Q. What did you think at point, Ms.
9 Schirmer?

10

11 MR. RICHARD C. MOSTY: Objection
to

12 what she thought, that is pure speculation and
hearsay.

13 THE COURT: Sustained.

14 MS. SHERRI WALLACE: What she
thought

15 herself, your Honor.

16 MR. RICHARD C. MOSTY: What she
17 thought --

18 THE COURT: Wait a minute.

Ladies and

19 gentlemen, an objection will be sufficient.

Sustained.

20 Move on.

21

22 BY MS. SHERRI WALLACE:

23 Q. What did you do at that point,

Ms.

24 Schirmer?

25 A. My husband and I discussed
leaving the

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1 party.

2 Q. Okay. Did you leave?

3 A. No, we did not.

4 Q. Why not?

5 A. Because the children were still
6 playing over in the pinata area and had not
witnessed it,

7 and wouldn't have understood if we were just to tell
them

8 that we needed to go right in the middle of their
9 activity.

10 Q. A little bit later in the party,
did

11 you witness another exchange between the defendant
and

12 her, at that time, five year old son, Devon?

13 A. Yes, ma'am.

14 Q. Tell the jury about that.

15 A. She approached Devon and told him
that

16 he was not to try to do it again, or to get even
with her

17 for putting the cake in his face.

18 Q. What was her tone?

19 A. Under her breath and talking

through

20 her teeth.

21

22 MS. SHERRI WALLACE: I'll pass

the

23 witness.

24

25

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1

CROSS EXAMINATION

2

3 BY MR. RICHARD MOSTY:

4 Q. Ms. Schirmer, I take it that you
don't

5 much like Mrs. Routier?

6 A. That is not true.

7 Q. You do like her?

8 A. Yes, sir.

9 Q. How do you discipline your
children?

10 Do you spank them?

11 A. I have occasionally.

12 Q. With your hand?

13 A. Yes, sir.

14 Q. Some people could disagree with
that,

15 couldn't they?

16 A. If they wanted to.

17 Q. You do, perhaps different than
someone

18 else disciplines their children?

19 A. That is probably true.

20 Q. Okay. Does your husband spank
them?

21 A. Occasionally.
22 Q. With his hand?
23 A. Yes, sir.
24 Q. With anything else?
25 A. No, sir.

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1 Q. All right. And, how old are your
2 kids?

3 A. Nine and six.

4 Q. You ever have any hard days with
them?

5 A. Yes, I do.

6 Q. Do you ever raise your voice to
them?

7 A. Yes, I have.

8 Q. Ever get angry with them?

9 A. I get angry, yes.

10 Q. Okay. Ever do some things that
you
11 regret doing with them?

12 A. I can't say that I have.

13 Q. Nothing you regret?

14 A. Not that I can remember.

15 Q. Some people could perhaps
disagree

16 with how you handle some of those situations.

17

18 MS. SHERRI WALLACE: I'm going to
19 object to speculation on her part.

20 THE COURT: I'll sustain that.

Let's

21 move on.

22

23 BY MR. RICHARD C. MOSTY:

24 Q. Are you a perfect mother?

25 A. No, I am not.

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1 Q. Have you ever slapped your kids,
hit
2 your kids?

3

4 MS. SHERRI WALLACE: Object to
5 relevance.

6 MR. RICHARD C. MOSTY: Your
Honor,
7 this lady --

8 THE COURT: Mr. Mosty, all I need
is
9 an objection, please. Overruled.

10

11 BY MR. RICHARD C. MOSTY:

12 Q. Have you ever slapped your kids,
or
13 pushed them away, or grabbed them up by the arm?

14 A. No, sir.

15 Q. Never, never have?

16 A. No, sir.

17 Q. And, you know that a lot of
people do

18 different things, don't you?

19 A. Yes, sir.

20 Q. As a matter of fact, you know,

for

21 instance, that there was conversation, that Darin

and

22 Darlie were talking about getting speed bumps into

the

23 neighborhood?

24

25

as to

MS. SHERRI WALLACE: I'll object

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1 hearsay and speculation.

2 THE COURT: Sustained, hearsay.

Go

3 ahead.

4 MR. DOUGLAS MULDER: If she
knows.

5

6 BY MR. RICHARD C. MOSTY:

7 Q. Well, do you know whether or not
the

8 Routiers were looking into getting speed bumps in
that

9 area?

10 THE COURT: I'll let her answer
that.

11 Do you know of your own knowledge?

12 THE WITNESS: No, I do not know.

13

14 BY MR. RICHARD C. MOSTY:

15 Q. You don't know one way or the
other,

16 do you?

17 A. I know that -- it's not to my
18 knowledge that they were trying to do that, no.

19 Q. Of course, how many times have

you

20 ever been in their house?

21 A. A couple of dozen.

22 Q. A couple of dozen times you have
been

23 in their house?

24 A. Yes.

25 Q. And you don't know whether or not
they

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1 addressed the matter of cars and the speed in that
area

2 or not, do you?

3 A. I -- Darin has, in a remote way,
4 addressed the speed of the --

5 Q. In a remote way Darin addressed
it.

6 Is that what you are saying?

7 A. Yes.

8 Q. So Darin did express some concern
and

9 take some action toward speed bumps. Is that what
you

10 are telling us now?

11 A. He had -- no, not towards the
speed

12 bumps, towards the traffic that was on that corner.

13 Q. Matter of fact, what he did was,
he

14 parked his car out there, to try to slow things
down,

15 didn't he?

16

17 MS. SHERRI WALLACE: Object.

That's

18 hearsay. It's not the actions of the defendant.

19 THE COURT: Overruled. If she

20 knows -- if you know yourself or of your own

knowledge,

21 answer the question.

22 THE WITNESS: Could you repeat

the

23 question?

24

25 BY MR. RICHARD C. MOSTY:

Sandra M. Halsey, CSR, Official Court Reporter

5431

1 Q. That is why the car was parked --
that
2 is why they parked the car in front, wasn't it, to
slow
3 things down?

4 A. That was his reply when we said
to him
5 that it actually blocked the vision and especially
when
6 the children were behind it.

7 Q. Now, that conversation that you
had
8 about the children and visibility, was that with
Darin or
9 Darlie?

10 A. Actually, my conversation with --
11 about the children was directly with Darlie.

12 Q. And so, you know that apparently
13 Darlie and Darin were talking about it.

14 A. I do not know that.

15 Q. Well, you know Darin said that is
why
16 we're parking the cars in front?

17 A. That is what he said.

18 Q. That would be an appropriate

response,

19 wouldn't it?

20 A. I did not think so, I disagreed.

21 Q. You didn't like it?

22 A. No.

23 Q. Okay. Well, you know you

couldn't get

24 speed bumps on that street, don't you?

25 A. I am aware of that.

Sandra M. Halsey, CSR, Official Court Reporter

5432

1 Q. Okay. And you know that that
sort of
2 was a wide area, that was a bit of a traffic problem
3 anyway?

4 A. It's a cul-de-sac area, yes.

5 Q. And these boys were -- you live
how
6 far away?

7 A. Two blocks.

8 Q. Two blocks?

9 A. Um-hum. (Witness nodding head
10 affirmatively.)

11 Q. And the boys were riding their
bicycle
12 on that street?

13 A. Yes.

14 Q. I guess your thought was that
the boys
15 should only ride their bicycle immediately in
front of
16 the house?

17 A. Or out of the street.

18 Q. Or out of the street. What
does that
19 mean?

20 A. On the sidewalk.

21 Q. So was your concern that they

were not

22 on the sidewalk, or was your concern that they

were on

23 your street?

24 A. My concern was their safety

riding in

25 the street.

Sandra M. Halsey, CSR, Official Court
Reporter

5433

1 Q. Okay. So, if they had been
riding on

2 the sidewalk in your neighborhood on your street,
that

3 wouldn't have bothered you?

4 A. Not as much.

5 Q. Okay. Of course, it's a little
bit

6 hard -- do your kids ever ride their bicycle in
the

7 street?

8 A. Yes, they do.

9 Q. And so, it's a little bit hard
10 sometimes to cover those things, isn't it?

11 A. They ride with their parents
and with

12 helmets and to the side.

13 Q. Okay. You know that, I guess,
that

14 they never ride in the street?

15 A. That my kids never ride in the
street?

16 Q. Right.

17 A. No. I just stated that they
do, that

18 they have.

19 Q. Matter of fact, your kids ride
over to

20 the Routiers' house, wouldn't they?

21 A. Yes.

22 Q. On their bicycles?

23 A. Yes, sir.

24 Q. How old were they?

25 A. Nine and six.

Sandra M. Halsey, CSR, Official Court
Reporter

5434

1 Q. Okay. When they started riding
over

2 there, how old were they?

3 A. About eight and five.

4 Q. Okay. And you don't know
whether or

5 not they rode in the street or not, do you?

6 A. I do know that they did. I
could walk

7 to the corner and see a straight shot to the
sidewalk

8 that leads to their house.

9 Q. So you know that they rode in
the

10 street some?

11 A. Not to the Routier house.

12 Q. Do you know that?

13 A. Yes, sir.

14 Q. You watched them all the way?

15 A. Yes, sir.

16 Q. You walked down two blocks and
watched

17 them?

18 A. I watched to the -- I walked to
the

19 end of my street to make sure that they crossed
the

20 alley, and across the street, and once they were
on that

21 corner.

22 Q. Okay. And then that is how far
from

23 the Routiers, a block?

24 A. That would be one alley and one
street
25 away.

Sandra M. Halsey, CSR, Official Court
Reporter

5435

1 Q. Okay. Then, how do you know
how they

2 went on the bicycle from there?

3 A. I don't.

4 Q. And how do you know where they
rode

5 their bicycles, when they got over to the Routier
house?

6 A. Usually, they just went to the
Routier

7 house and got off their bikes.

8 Q. How do you know they didn't
ride

9 around in the cul-de-sac?

10 A. I would ask them if I wanted to
know.

11 Q. You didn't go down and watch
them, did

12 you?

13 A. No, not the whole time.

14 Q. Well, you didn't watch them
when they

15 were down at the Routiers' house, did you?

16 A. No.

17 Q. You obviously felt that it was

a safe

18 environment for your children, didn't you?

19 A. Yes.

20 Q. You would have never sent them
down

21 there -- if you had the slightest concern about
the

22 safety of your children at the Routiers' house,
you

23 wouldn't have let them go, would you?

24 A. If I had a concern for their
safety, I

25 would not have let them go.

Sandra M. Halsey, CSR, Official Court
Reporter

5436

1 Q. It wouldn't have even crossed
your
2 mind, to let them go to the Routiers' house, would
it?

3 A. No.

4 Q. If you had the slightest,
slightest
5 concern about their safety?

6 A. They had been requested at
times to
7 stay outside and not go inside.

8 Q. Ma'am, my question is real
simple.

9 A. Okay.

10 Q. You wouldn't have let your
children go
11 down there if you had the slightest concern for
their
12 well-being, would you?

13 A. That's right.

14

15 MR. RICHARD C. MOSTY: That's
all I

16 have.

17 THE COURT: You may step down,

ma'am.

18 Watch your step going off, please.

19 THE WITNESS: Okay. Thank you.

20 THE COURT: Ma'am, you are now -
- do

21 not discuss your testimony, when you are not
testifying,

22 with anybody who has testified. In other words,
don't

23 compare it.

24 You have to remain outside the
25 Courtroom when you are not testifying.

Sandra M. Halsey, CSR, Official Court Reporter

5437

1 THE WITNESS: Yes, sir.

2 THE COURT: You may talk to the
3 attorneys for either side. If someone tries to
talk to

4 you about your testimony, please tell the attorney
for
5 the side who called you. Okay?

6 THE WITNESS: Okay.

7 THE COURT: Thank you.

8 MR. TOBY L. SHOOK: We will call
Nelda
9 Watts.

10 THE COURT: Nelda Watts. Ma'am,
could
11 you raise your right hand, please.

12

13 (Whereupon, the witness
14 Was duly sworn by the
15 Court, to speak the
truth,

16 The whole truth and

17 Nothing but the truth,

18 After which, the

19 Proceedings were

20 Resumed as follows:

21

22 THE COURT: Do you solemnly swear
or
23 affirm that the testimony you are about to give will
be
24 the truth, the whole truth, and nothing but the
truth, so
25 help you God?

Sandra M. Halsey, CSR, Official Court Reporter

5438

1 THE WITNESS: I do.

2 THE COURT: Okay. Just have a
seat

3 right here, please, ma'am. Watch your step.

4 Just speak right into this
microphone,

5 and speak real loud. Your voice is going to echo,
but

6 don't be concerned, so that gentleman down there in
the

7 corner can hear you.

8 Now, both sides are going to ask
you

9 questions. Listen to the question and give them a
direct

10 answer.

11

12

13 Whereupon,

14

15 NELDA WATTS,

16

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

18 Punishment Phase, having been first duly sworn by
the

19 Court to speak the truth, the whole truth, and
nothing

20 but the truth, testified in open court, as follows:

21

22 THE COURT: State your name and
spell

23 it for the court reporter, please.

24 THE WITNESS: Nelda, N-E-L-D-A,

Watts,

25 W-A-T-T-S.

Sandra M. Halsey, CSR, Official Court Reporter

5439

1 THE COURT: Thank you. That is
good.

2

3

DIRECT EXAMINATION

4

5 BY MR. TOBY L. SHOOK:

6 Q. You are Nelda Watts; is that
right?

7 A. Yes, sir.

8 Q. Okay. Where do you live, Ms.
Watts?

9 A. 5802 Eagle Drive, Rowlett.

10 Q. How long have you lived there?

11 A. It will be three years this
month.

12 Q. Do you live there with your
husband?

13 A. Yes, I do.

14 Q. Do you have any children?

15 A. I have two that are on their
own.

16 Q. Okay. And, are you employed
right

17 now?

18 A. No, sir.

19 Q. Okay. Retired?

20

A. Yes, sir.

21

Q. What did you do before you
retired?

22

A. I was a school teacher for 34
years.

23

Q. Okay. And, what grades did you
teach?

24

A. Actually, everything from
kindergarten

25 to preschool all the way to -- I did a few months in

1 junior high.

2 Q. Okay. And you have lived over on
3 Eagle Drive for the last three years?

4 A. We moved in, in March of '94.

5 Q. Okay. Let me show you what's
been

6 marked as State's Exhibit No. 8. It's kind of an
7 overhead photo of the neighborhood there. Can you
see

8 5801 Eagle, the Routiers' home? Could you see where
your

9 house would be?

10 A. Well, yes.

11 Q. What was your address again?

12 A. 5802. I don't --

13 Q. Okay. I'll make it easy for you.

14 A. I was looking too closely. All
right.

15 Yes.

16 Q. Okay. Do you recognize this to
be at

17 least part of your house?

18 A. Yes, sir.

19 Q. And you're right across the
street

20 from the Routiers?

21 A. Yes, I am.

22 Q. Okay. Now, let me turn your
attention

23 back to June 18th of 1996. And ask you if you were
home

24 during the day on that date?

25 A. I was home most of the morning.

Sandra M. Halsey, CSR, Official Court Reporter

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1 Q. Okay. And, did you hear
something out

2 in the front yard, or towards what would be your
front

3 yard, that drew your attention to the window?

4 A. Yes, sir, from my bedroom I heard
5 sounds.

6 Q. And does your bedroom window, if
you

7 look out it, do you see the Routier home?

8 A. Yes, sir.

9 Q. Okay. When you heard some
sounds, did

10 you go to the window and look out?

11 A. I did.

12 Q. Okay. What did you see when you
13 looked out there? Who was out there?

14 A. I saw Darlie and Darin Routier.

15 Q. Okay. Do you see Darlie Routier
here

16 in the courtroom today?

17 A. I haven't even looked. Yes.

18 Q. Okay. Is that the woman seated
here

19 with the red dress on?

20 A. Yes, it is.

21

22 MR. TOBY L. SHOOK: Your Honor,

if the

23 record could reflect that the witness has identified

the

24 defendant?

25 THE COURT: Yes.

Sandra M. Halsey, CSR, Official Court Reporter

5442

1 BY MR. TOBY L. SHOOK:

2 Q. And, where was Darlie Routier and
her

3 husband, Darin Routier?

4 A. They were in the front yard.
Darlie

5 was to the south of the sidewalk, and Darin was to
the

6 north of the main
sidewalk.

7 Q.

Okay. And, was their
Pathfinder

8 parked out in the
front?

9 A.

Yes, sir.

10 Q.

Where was that parked?

11 A.

It would be almost to
the south

12 boundary of their
yard.

13 Q.

Okay. Was there

something there that
14 had been placed in
their front yard near the
fountain

15 they had?

16 A.

There were many funeral
wreaths, there

17 were stuffed
animals, flags, signs
that people had placed

18 there.

19 Q.

Okay. And as you looked
out there,

20 what were the --
Darin and Darlie Routier
doing?

21 A.

Darin was taking the
animals and flags

22 off of the wreaths.

23 Q.

What types of animals
were on the

24 wreaths?

25 A.

Well, some of them were
teddy bears

Sandra M.
Halsey, CSR, Official
Court Reporter

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1 and other kinds of
little, just small
animals.

2 Q.

And where was Darlie
when he was doing

3 this?

4 A.

Most of the time, she
was on the other

5 side of the sidewalk
that goes up to their
house.

6 Q.

Okay. Can we see it
sort of here in

7 the aerial
photograph, where they
were? I'll bring it up

8 to you.

9 A.

Yes.

10 Q.

Do you see the fountain
here?

11 A.

Yes.

12 Q.

Okay.

13 A.

Darlie was on this side,
close to this

14 tree. He was on
this side, and the
wreaths were mostly

15 on this side closer
to the fountain.

16 Q.

And you are looking out
here from your

17 window?

18 A.

Yes.

19 Q.

Okay. If you could
point again here

20 on the photograph,
and I'll bring it down to
the jurors.

21 A.

Okay.

22 Q.

This area here, is where
Darin was by

23 the fountain?

24 A.

Yes. He was on the --
the wreaths and
25 such were here, he
was on this side and she
was over

Sandra M.
Halsey, CSR, Official
Court Reporter

5444

1 closer toward this
tree.

2 Q.
Okay.

3

4 THE COURT: Mr. Mosty, can you see
5 that?

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

7 THE COURT: Okay.

8

9 BY MR. TOBY L. SHOOK:

10 Q. And your house is 5802?

11 A. Yes, sir, 5802.

12 Q. And when you -- you heard some
noises.

13 What is the first noise that you heard?

14 A. It sounded sort of like children
15 laughing, that kind of thing.

16 Q. And, what did you see then?

17 A. Well, as I watched for a few
minutes,

18 the -- Darin would take a stuffed animal off of one
of

19 the wreaths and toss it over to Darlie and she would
jump

20 up and catch it, and then she would toss it back to
him

21 and he would chuck it toward the vehicle, the back
end of

22 the vehicle was open, and if he threw it in, she
would

23 jump up and cheer.

24 Q. Okay. What else did you see?

25 A. Well, he took a flag off of one of

Sandra M. Halsey, CSR, Official Court Reporter

5445

1 them, and she cheered as he climbed up the water
fountain

2 and put it at the top of the fountain and it stayed
there

3 for several months, or weeks anyway.

4 Q. Okay. Then what did you see them
do?

5 A. Well, they started -- after they
got

6 most of the animals off and I didn't stand there the
7 whole time, but I looked again, because I was
waiting to

8 go out and get the mail. I didn't want to go out
there

9 while they were out there doing that.

10 So I looked again, and they were
11 taking the wreaths and dragging them around toward
the

12 back, I assume for the trash.

13 And so, I quickly made a run out
to

14 the mailbox to check the mail before I left.

15 Q. Okay. This was on the 18th of
June of

16 1996?

17 A. Yes, sir, it was the 18th.

18 Q. As best you recall?

19 A. I know it was.

20 Q. Okay. Did you find out later that
day

21 that Mrs. Routier was taken into custody, later on
that

22 day?

23 A. My other daughter called me at the

--

24 where I was.

25 Q. I don't want you to get into what

Sandra M. Halsey, CSR, Official Court Reporter

5446

1 anyone else told.

2 A. No, sir, I'm just --

3 Q. But did you learn that later on?

4 A. Yes, I watched it on TV.

5 Q. Okay.

6

7 MR. TOBY L. SHOOK: Okay. That's

all

8 we have, Judge.

9

10 CROSS EXAMINATION

11

12 BY MR. RICHARD C. MOSTY:

13 Q. Ms. Watts, if I understand, that's

why

14 you're positive it was the 18th, because it stuck in

your

15 mind that that's the same day of the arrest?

16 A. Yes, sir.

17 Q. That is why you are so sure about

that

18 date?

19 A. Yes, I am sure.

20 Q. Can you see this?

21 A. Not just real clearly.

22 Q. Okay. From there?

23

A. The lights are -- there's a little

24 glare.

25

Q. I'm trying to figure out some way

to

Sandra M. Halsey, CSR, Official Court Reporter

5447

1 do this without cutting off the Judge and so
everybody

2 can see.

3

4 THE COURT: That's quite all
right,

5 Mr. Mosty. Go ahead.

6 You may want to step down, ma'am.
And

7 watch your step going off there. Watch your step
going

8 down there, please. Yes. Okay. All right. Make
sure

9 that everybody can see it all right.

10

11 (Whereupon, the witness
12 stepped down from the
13 witness box, and approached
14 the jury rail, for the
15 purpose of further describing
16 the exhibit to the jury.)

17

18 BY MR. RICHARD C. MOSTY:

19 Q. Now, Ms. Watts, let's see, is
this --

20 that is the front of your house there?

21 A. Yes, sir.

22 Q. Okay. How far is that from where
the

23 Routiers were standing?

24 A. Oh, it's not very -- just a
street

25 width and our yard.

Sandra M. Halsey, CSR, Official Court Reporter

5448

1 Q. Okay. And you were upstairs in
2 your --

3 A. Oh, no, I had a downstairs
bedroom.

4 Q. Downstairs bedroom?

5 A. Yes.

6 Q. Where is it located?

7 A. Oh, he will have bring it down so
I
8 can reach it.

9 Q. All right.

10 A. My bedroom is right near this
window.

11 Q. It's on the left if I were
looking
12 from the street?

13 A. Yes, sir.

14 Q. Okay. That is where you first,
or
15 something first came to your attention?

16 A. Yes.

17 Q. Do you have curtains or blinds or
18 something?

19 A. I have mini blinds.

20 Q. Were they open?

21 A. No, I lift it up if I need to --

if I

22 hear a noise that I need to see.

23 Q. If I understand, have you ever

had a

24 conversation with Darlie Routier?

25 A. No.

Sandra M. Halsey, CSR, Official Court Reporter

5449

1 Q. Never have even talked to her?

2 A. No.

3 Q. She's never been to your house,
she
4 has never been -- vice-versa?

5 A. No.

6 Q. Okay. So you looked out this
window?

7 A. Yes, sir.

8 Q. Where was this vehicle parked?

9 A. It was parked closer down here.

10 Q. Okay.

11 A. Very close to -- I think it's a
fire
12 hydrant.

13 Q. Okay. The property -- closer to
the
14 Routiers' property line?

15 A. Yes, sir. It was not in the
front.

16 Q. Which way was it facing?

17 A. It was facing south.

18 Q. So the back of it would have
been
19 facing toward the side?

20 A. Right.

21 Q. And you saw Darin Routier in the

22 fountain area?

23 A. In front of the fountain, yes.

24 Q. What was he doing?

25 A. Well, he took the teddy bears or

other

Sandra M. Halsey, CSR, Official Court Reporter

5450

1 stuffed animals off of the wreaths, and tossed them
to
2 her.

3 Q. And she was standing over here?

4 A. Yes, sir.

5 Q. So he -- from that fountain, he
threw

6 them across?

7 A. Yes.

8 Q. To where she was standing?

9 A. Yes, sir.

10 Q. How far would that be?

11 A. Maybe 10 or 12 feet.

12 Q. That is just 10 or 12 feet?

13 A. Well, he didn't stay stationary
there.

14 He moved at times, and she moved at times.

15 Q. But she always stayed on this
side?

16 A. Until they started moving the
wreaths.

17 Q. Okay. But this teddy bear
throwing,

18 he is standing on one side, and she is standing on
the

19 other side, then you say she would pick up --

20 A. Either catch it, or if she didn't
21 catch it, she would pick it up and toss it back to
him.

22 Q. And throw it back over the
sidewalk?

23 A. Yes.

24 Q. Anybody else out there?

25 A. No, sir. I am pretty well there

--

1 during the day.

2 Q. No, I am talking about anyone
else in

3 the area?

4 A. Oh, no one was around that area,
no,

5 sir.

6 Q. Okay. And then, how many times
would

7 they throw it back and forth?

8 A. Usually she just tossed it back
once,

9 then he would throw it towards the car, the vehicle.

10 Q. So, hold that straight, Mr.
Mulder.

11 So he would get it over here?

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

14 Q. He would throw it over one
time to

15 this side?

16 A. Um-hum. (Witness nodding head
17 affirmatively.)

18 Q. She would throw it back?

19 A. Um-hum. (Witness nodding head

20 affirmatively.)

21 Q. And then Darin would throw it?

22 A. That's true.

23 Q. Way over by the car?

24 A. Yes, and sometimes it went in.

25 Q. Sometimes I guess it landed in
the

Sandra M. Halsey, CSR, Official Court
Reporter

5452

1 street?

2 A. I don't know that it went in
the
3 street, but maybe down below.

4 Q. All right. In the yard?

5 A. But not what I call in the
street.

6 Q. Okay. And how many times did
this
7 happen?

8 A. Three or four times.

9 Q. Three or four of those?

10 A. Yes, sir.

11 Q. Okay. And they all happened the
same
12 way?

13 A. Just about.

14 Q. What time of day was this?

15 A. Approximately, 10:30 or 11:00
o'clock.

16 Q. And you never saw any other cars?

17 A. No.

18 Q. Come up?

19 A. No, sir.

20 Q. How long did you watch, total?

21 A. I watched a couple of minutes and
then
22 I did some packing because I was going to be going
to my
23 daughter's. Then I looked again, because I wanted
to see
24 if they were still there. I just didn't want to go
out
25 to the mailbox at that point.

Sandra M. Halsey, CSR, Official Court Reporter

5453

1 Q. Okay. So the first part is when
they
2 are having -- throwing stuff, and then you sort of
went
3 away?

4 A. I went back to the bed to pack.

5 Q. Okay. And then you came out and
you
6 saw something with regard to the flowers?

7 A. I did not come out.

8 Q. Okay. I'm sorry. You came back
to
9 the window?

10 A. I came to the window.

11 Q. Same window?

12 A. Same, I only have one.

13 Q. Okay. You saw something
with flowers?

14 A. They took the -- well,
first, he took
15 the flag and put a flag up on top of the
fountain.

16 Q. Okay. A little flag?

17 A. It's just one of those,
maybe, 8 by

18 10s, or something like that.

19 Q. An American flag?
20 A. Yes, sir.
21 Q. He put it on top of the
fountain?
22 A. Yes.
23 Q. Then they started doing
something with
24 the wreaths?
25 A. They started dragging them,
they were

Sandra M. Halsey, CSR, Official Court
Reporter

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1 dead.

2 Q. Okay. They were dead
wreaths?

3 A. They started dragging them
around the

4 side of the house, and when they did that,
then I went

5 out.

6 Q. Okay. So the first part
was taking

7 things off of the wreaths?

8 A. Yes.

9 Q. Flags or teddy bears or
whatever might

10 be on it because the wreaths were dead?

11 A. Yes, sir.

12 Q. And then the second part of
it was

13 taking the wreaths themselves?

14 A. Yes.

15 Q. Where did they take them?

16 A. Well, they took them around
the side

17 of the house. I can't see where they put
them.

18 Q. So they went out of sight?

19

A. Yes, sir.

20

take?

Q. How many trips did that

21

A. I only waited for one.

22

Q. And then you went outside?

23

got the mail.

A. I ran to the mailbox and

24

Q. Okay. You went back in?

25

A. Yes.

Sandra M. Halsey, CSR, Official Court
Reporter

5455

1 Q. That's all you saw?
2 A. I left.
3 Q. Anything else you saw that
day?
4 A. No, sir.
5 Q. That's it?
6 A. Yes, sir.
7
8 MR. DOUGLAS MULDER: How am I
doing?
9 MR. RICHARD C. MOSTY: You are
doing
10 fine. Thank you.
11 THE COURT: All right. Ma'am, you
may
12 have a seat. Watch your step going up there, please,
13 ma'am.
14
15 (Whereupon, the witness
16 Resumed the witness
17 Stand, and the
18 Proceedings were resumed
19 On the record, as
20 Follows:)
21
22 MR. RICHARD C. MOSTY: That's all

I

23 have.

24

THE COURT: Anything else?

25

Sandra M. Halsey, CSR, Official Court Reporter

5456

1

REDIRECT EXAMINATION

2

3 BY MR. TOBY L. SHOOK:

4 Q. When you saw them doing that, how
did

5 you feel, Ms. Watts?

6

7 MR. RICHARD C. MOSTY: I'll object
to

8 that.

9 THE COURT: I'll sustain the
10 objection.

11 If you will just step, be very
careful

12 stepping down, ma'am.

13 Ma'am, I've got to warn you of one
14 more thing: When you are not testifying, you
have to

15 remain outside the courtroom. Don't talk to
anybody

16 about your testimony to anybody that has
testified.

17 In other words, don't compare it.

You

18 may talk to the attorneys for either side. If
someone

19 tries to talk to you about your testimony, tell the
side

20 who called you.

21 THE WITNESS: All right. Thank
you.

22 THE COURT: Thank you. You may
step

23 down.

24 THE WITNESS: Yes, sir.

25 THE COURT: All right. Your next

Sandra M. Halsey, CSR, Official Court Reporter

5457

1 witness.

2 MS. WALLACE: We will call Kay
Norris.

3 THE COURT: If you will come on up
4 please, ma'am. Will you raise your right hand,
please,

5 ma'am?

6

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

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

15

16 THE COURT: Do you solemnly swear
or

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

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

19 help you God?

20 THE WITNESS: I do.

21 THE COURT: Have a seat right
here,

22 please.

23 THE COURT: All right. Is this
your

24 first time to testify?

25 THE WITNESS: Yes, sir.

Sandra M. Halsey, CSR, Official Court Reporter

5458

1 THE COURT: Relax. Speak right
into
2 this microphone loudly enough so that gentleman can
hear
3 you. You will hear your voice echo. Do not be
4 distressed. Both sides will ask you questions,
listen to
5 the questions and answer them very succinctly.

6 MS. SHERRI WALLACE: Tell us your
7 name.

8 THE WITNESS: Kay Norris.

9 THE COURT: Please spell your name
for
10 the court reporter.

11 THE WITNESS: K-A-Y, N-O-R-R-I-S.

12 THE COURT: You may have a drink
of
13 water if you need it.

14

15

16 Whereupon,

17

18

KAY NORRIS,

19

20 was called as a witness, for the State of Texas,
having

21 been first duly sworn by the Court to speak the
truth,

22 the whole truth, and nothing but the truth,
testified in

23 open court, as follows:

24

25

Sandra M. Halsey, CSR, Official Court Reporter

5459

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21

DIRECT EXAMINATION

BY MS. SHERRI WALLACE:

Q. Ms. Norris, are you sick?

A. I am very sick. I have got strep throat.

Q. I'm sorry you have to be down

here. I

will try to be as brief as possible. How old are you?

A. I'm 31.

Q. Are you married?

A. I am.

Q. And, do you have any children?

A. I have three boys.

Q. Where do you work?

A. Now, I work at Glamour

Shots.

Q. Tell us what Glamour Shots

is.

A. It's you go in there and get

fixed up

and they take your picture.

Q. Kind of get dressed up like a

Hollywood movie star or something and they take your

picture?

22 A. Yes, exactly, very glamorous.

23 Q. Before that, did you work at

the

24 American Pawn Shop there in Garland?

25 A. Yes, ma'am, I did.

Sandra M. Halsey, CSR, Official Court Reporter

5460

1 Q. How long did you work at that
pawn
2 shop?
3 A. I'll say altogether, about three
and a
4 half years.
5 Q. Okay. About when did you leave
your
6 employment there?
7 A. December of '95.
8 Q. Did you work right until --
before
9 Christmas?
10 A. Yes, ma'am.
11 Q. Okay. In your three and a half
years
12 at the pawn shop, did you have an occasion to get to
know
13 Darin and Darlie Routier?
14 A. Yes, ma'am, I did.
15 Q. All right. About how often would
they
16 come in?
17 A. At least once a week, maybe more.
18 Q. How many times in the three and a

half

19 years that you worked there did you see Darin and
Darlie?

20 A. I can't tell you how many, at
least

21 over 50.

22 Q. Okay. Do you see Darlie Routier
in

23 the courtroom now?

24 A. Yes, she is right there.

25 Q. Would you point her out and
describe

1 what she is wearing.

2 A. She is over there. She has got a
red

3 and white dress on.

4 Q. Is she writing on her pad right
now?

5 A. Yes, yes, ma'am.

6

7 MS. SHERRI WALLACE: Let the
record

8 reflect that the witness has identified the
defendant.

9 THE COURT: Yes, ma'am.

10

11 BY MS. SHERRI WALLACE:

12 Q. When she would come in, who would
she

13 be with?

14 A. Darin most of the time. I have
never

15 seen her come in by herself.

16 Q. Okay. Did she ever come in with
her

17 children?

18 A. I seen her children once.

19 Q. Okay. When her and her husband
came
20 into the shop, what were they looking for?
21 A. Jewelry.
22 Q. What area of the pawn shop did you
23 work in?
24 A. I worked in jewelry.
25 Q. Were they customers of yours?

Sandra M. Halsey, CSR, Official Court Reporter

5462

1 A. Yes, ma'am.

2 Q. When the defendant would come into
the

3 shop how would she appear? How would she be dressed?

4 What did she look like?

5 A. Can I be blunt?

6 Q. Sure.

7 A. She was very tacky dressed. She
never

8 wore undergarments, no bra, everything was showing

9 usually. She always wore a big T-shirt. I have seen
her

10 a couple times in sweats, most of the time in shorts.

11 But the way she was dressed, she always wore --

she

12 always had all of her jewelry on, her hair was

never

13 fixed, she never had any makeup on. I have never

seen

14 her clean up.

15 Q. Have you ever seen her look like

that?

16 A. No.

17 Q. Did you have the opportunity to

wait

18 on the defendant quite frequently?

19 A. Oh, yes, ma'am.

20 Q. Have you worked in retail your
whole

21 life?

22 A. Yes, ma'am.

23 Q. How did the defendant treat you?

24 A. Very rude.

25 Q. Well, what do you mean?

Sandra M. Halsey, CSR, Official Court Reporter

5463

1 A. Well, she would ask to see a
specific

2 piece of jewelry, and I would go to hand it to her
and

3 she would grab it from your hand.

4 And she just -- she would look at
her

5 jewelry, and she was just like, she was just so rude
and

6 she would just like throw it back at you. She was
never,

7 you know, passionate with you, or however you say
it.

8 She was just very rude.

9 Q. Was this just one or two times,
Ms.

10 Norris?

11 A. No, ma'am, every time she came
in. In

12 fact, she had like a nickname. When she came in
because

13 there were two other people that worked --

14

15 MR. RICHARD C. MOSTY: I'll
object to

16 speculation and hearsay.

17 THE COURT: Well, if she knows
what

18 her nickname was in the establishment.

19 MR. RICHARD C. MOSTY: That would
be

20 hearsay and speculation in a place where Mrs.
Routier is

21 not present. How can that be cross examined?

22 THE COURT: Thank you very much.

23 Overruled. Answer the question, if you know.

24

25 BY MS. SHERRI WALLACE:

1 Q. Let me just ask you this, Ms.

Norris:

2 When the defendant and her husband would come in,
would

3 you all -- would you want to wait on her?

4 A. Oh, yes, ma'am. We all wanted to
wait

5 on her.

6 Q. Why is that?

7 A. Because she always bought
something.

8 I got commission off her, I didn't have anything
against

9 her. I made money off that woman.

10 Q. How often would she buy stuff?

11 A. Almost every time she came in.

12 Q. What sort of things did Mrs.

Routier

13 like to look at?

14 A. All of the big stuff. She knew
what

15 she wanted. She was very smart in what she wanted.

She

16 never looked at anything small.

17 Q. Did she pay for it?

18 A. No, Darin did.

19 Q. Okay. Did Darin ever say, "No,
you

20 can't have that"?

21 A. Oh, yes, ma'am.

22 Q. All right. What would happen
then?

23 A. She would get very, very verbal
with

24 him, cussing him, saying she wanted it now. He
would

25 say, "Let's talk about it." And she would say, "No,
I

1 want it now."

2 Q. And then what would happen?

3 A. Oh, she usually got what she
wanted.

4 Q. In 1994 you said you saw her boys
with

5 her one time; is that right?

6 A. Yes, ma'am.

7 Q. Was she also with her husband at
that

8 point?

9 A. Yes, ma'am.

10 Q. Did you know the boys?

11 A. No, ma'am.

12 Q. Okay. When they came in, what
13 happened?

14 A. She was looking at jewelry with
Darin

15 and the kids -- we had some exercise equipment that
we

16 always had out and every one of the kids that came
in

17 there always played on it. Well, they were being
loud.

18 And she had told Darin a couple

times

19 to go get them, you know, Darin -- and she was like
20 yelling at them, cussing at them across the pawn
shop. I

21 guess -- I have people that have got on to their
kids,

22 but not yelling at their kids like the way she did.

23 Q. Okay. Tell the jury exactly what
she

24 said to her children in your presence.

25 A. Word for word?

1 Q. Word for word.

2 A. The first time she told them to
get
3 their asses over there. And they did not come, and
then
4 she told them to get the fuck over there.

5 Q. And, do you know how old these
6 children were?

7 A. No, ma'am, I don't. I just knew
that
8 they were smaller. I mean, you know, when you are
9 working and there's people, I see children in there
all
10 the time. I looked over to see, you know, the kids
when
11 she was talking to them, but as far as looking at
them
12 and paying attention, I did not.

13 Q. Okay.

14

15 MS. SHERRI WALLACE: I have no
further
16 questions. Pass the witness.

17 THE COURT: Mr. Mosty.

18

19

CROSS EXAMINATION

20

21 BY MR. RICHARD MOSTY:

22 Q. What did you tell me your first
name

23 was?

24 A. Kay.

25 Q. Kay. Let's first describe
this pawn

Reporter Sandra M. Halsey, CSR, Official Court

5467

1 shop. What's the name of the place?

2 A. American Pawn.

3 Q. What all have they got there?

4 A. You name it, they had
everything.

5 Q. It's a huge store, isn't it?

6 A. It sure was.

7 Q. It's got boats?

8 A. Sometimes.

9 Q. It's like a department store of
10 second-hand stuff?

11 A. Exactly.

12 Q. How many people work there?

13 A. Oh, a bunch. On one shift, I
mean,
14 there was like 14 or 15 people there.

15 Q. I mean, is there a sporting
goods
16 section?

17 A. Yes, there sure is.

18 Q. Okay. Is there a gun section?

19 A. There sure is.

20 Q. Is there a clothing section?

21 A. Well, coats.

22 Q. Some clothing?

23

A. Exactly.

24

Q. But all sorts of sporting goods?

Golf

25 clubs?

Sandra M. Halsey, CSR, Official Court Reporter

5468

1 A. Yes.

2 Q. Archery?

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

5 Q. What else? Furniture?

6 A. Sometimes.

7 Q. And there is a jewelry department?

8 A. A big jewelry department.

9 Q. This is a big store, isn't it?

10 A. Yeah.

11 Q. Can you describe in square feet
how
12 big it is?

13 A. No, sir, I can't.

14 Q. What was your job there?

15 A. I worked in jewelry.

16 Q. Okay. What else -- you said that
you
17 had been in retail all of your life?

18 A. I sure have.

19 Q. What other jobs have you had?

20 A. I worked in cosmetics for
21 Bloomingdales and J.C. Penney's.

22 Q. Okay. What else? What other kind
of

23 work have you done?

24 A. That's it.

25 Q. That's it, just Bloomingdales?

Sandra M. Halsey, CSR, Official Court Reporter

5469

1 A. I have worked at Zales, mostly
jewelry

2 and mostly cosmetics.

3 Q. Ever hold any other part time
jobs?

4 A. Part time?

5 Q. Yeah.

6 A. No.

7 Q. Just to make extra money?

8 A. No.

9 Q. Do any extra things?

10 A. No.

11 Q. Okay. Now, how was it that -- did
12 somebody come talk to you about testifying what you
knew

13 about Darlie Routier?

14 A. They found me, yeah.

15 Q. Who was that?

16 A. Lieutenant Grant.

17 Q. Lieutenant Grant?

18 A. Yes.

19 Q. When was that?

20 A. Probably about a week or
two

21 afterward, after what happened.

22 Q. Within a week?

23 A. It was something like that. I
really

24 I can't recall exactly.

25 Q. Did you write out a statement?

Reporter Sandra M. Halsey, CSR, Official Court

5470

1 A. No.

2 Q. Never did?

3 A. No.

4 Q. Who did you talk to, Grant?

5 A. I talked to Grant and I talked
to
6 Bosillo.

7 Q. When did you talk to him?

8 A. Sir, I really can't -- I don't
recall
9 exactly the dates.

10 Q. How many times?

11 A. Once.

12 Q. And, how did they find you?

13 A. I have no idea.

14 Q. Somebody just showed up at the
-- at
15 your work?

16 A. Yes, sir.

17 Q. And said what? Tell me
everything you
18 know bad about Darlie Routier?

19 A. No, sir. They just asked me
could I
20 please go and talk to some people. They asked

me, did I

21 know her, and I said, yes, just through work. I
didn't

22 know her personally.

23 Q. Okay. And, you say that you
had

24 waited on her a number of times?

25 A. Yes, sir.

Sandra M. Halsey, CSR, Official Court
Reporter

5471

1 Q. And that when she saw jewelry,
she

2 would grab it out of your hand?

3 A. Yes.

4 Q. Every time?

5 A. Every time.

6 Q. And every time she was in there,
she

7 would throw it back at you?

8 A. Yes,
sir.

9 Q. Every
time?

10 A. Every
time.

11 Q. From how far? How wide is the
12 counter, and where did she throw it at you?

13 A. Well, the counter was like about
this

14 big and we had to reach in to get her jewelry and I
would

15 hand it to her and she would grab it.

16 Q. She would grab it out of your
hand?

17 A. Yes.

18 Q. Then she would throw it back at
you?

19 A. No, she wouldn't throw it at me.
She
20 wouldn't even touch us.

21 Q. Well, you said throw.

22 A. No, I didn't say throw. I said
she
23 threw it on the counter.

24 Q. Oh, you did not say she would
throw it
25 back at you?

1 A. Well, to me that's the way you
throw
2 something is throw it on the counter. She would not
hand
3 it back like every other customer that I had waited
on.

4 Q. If you said throw it back at you,
that
5 is a mistake?

6 A. Well --

7 Q. Is it?

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

9 Q. She didn't throw it back at you?

10 A. Yes, she did.

11 Q. She did throw it back at you?

12 A. Yes.

13 Q. But it landed on the counter?

14 A. She threw it on the counter. She
was

15 very rude in the way she handed it back.

16 Q. Okay.

17

18 THE COURT: It's been thrown on
the

19 counter. I think that has been established. Let's

go on

20 to the next question.

21 MR. RICHARD C. MOSTY: Well, your

22 Honor, I think I need to -- whatever latitude I need

to

23 do to develop this.

24 THE COURT: Well, you do.

25

Sandra M. Halsey, CSR, Official Court Reporter

5473

1 BY MR. RICHARD C. MOSTY:

2 Q. That happened every time that you
3 waited on her?

4 A. Every time.

5 Q. 50 times?

6 A. Yes.

7 Q. But nonetheless, you wanted to
wait on

8 her?

9 A. I made money off of her.

10 Q. And matter of fact, you would go
to --

11 I mean when you saw her coming, would you go to make
12 sure --

13 A. Well, actually --

14 Q. -- that you waited on her?

15 A. Well, if we didn't, we would
usually

16 half the sale because everybody wanted to wait on
her.

17 We had certain customers that came in that we wanted
to

18 wait on.

19 Q. And, did you describe her as
being

20 tackily dressed?

21 A. Very.

22 Q. Very tacky?

23 A. Yes.

24 Q. I guess that is in your opinion?

25 A. Everyone's opinion that worked
there.

Sandra M. Halsey, CSR, Official Court Reporter

5474

1 Q. Does everyone who work there
dress

2 like you do?

3 A. No, the way she was dressed,
everyone

4 talked about the way she was dressed.

5 Q. Now, let's talk about this: Who
is

6 Dan at the shop?

7 A. He was our boss.

8 Q. He was your boss?

9 A. Yes.

10 Q. Did Mrs. Routier ever deal with
him?

11 A. On the money part, yes. We
showed the

12 jewelry and then we always conversed with him on how
much

13 she was going to pay or how much they went down on
the

14 price or whatever.

15 Q. Now, then you said that there was
an

16 incident -- the only time you saw the boys in there,
you

17 said there was an incident where there was some
cussing?

18 A. Yes, sir.

19 Q. Now, describe for me -- what was
it --

20 Darin was there?

21 A. Yes, sir.

22 Q. And Darlie was there?

23 A. Yes.

24 Q. And the boys were playing on
25 something?

1 A. We had some, like, workout
equipment

2 that we always had laying to the right side of our
3 counter.

4 Q. How far away?

5 A. Well, like our counter was huge
there.

6 Q. Well, like from this far?

7 A. That's about right.

8 Q. Farther?

9 A. No.

10 Q. Okay. So Mrs. Routier was this
far,

11 as far as I am from you from the boys?

12 A. Right.

13 Q. Where is Mr. Routier?

14 A. Beside her.

15 Q. Standing right there beside you?

16 A. Um-hum. (Witness nodding head
17 affirmatively.)

18 Q. And, what is between all this?

19 A. Jewelry. It all went around, it
was

20 huge.

21 Q. Big counter?

22

A. Yes.

23

Q. Other customers were there?

24

A. Oh, yes.

25

Q. Lots?

Sandra M. Halsey, CSR, Official Court Reporter

5476

1 A. Oh, yeah.

2 Q. Other sales people there?

3 A. Yes.

4 Q. How many?

5 A. In our department or --

6 Q. No, at this incident, at the time
of
7 this incident?

8 A. Well, I'm just saying in my
department
9 or all over the store?

10 Q. No, I'm saying at the time of
this
11 incident, between where the people were?

12 A. Probably between us, probably
just
13 one.

14 Q. Okay. One salesperson?

15 A. Right.

16 Q. How many other in the immediate
area?

17 A. Well, at the pawn counter there
was
18 usually seven or eight people up there.

19 Q. Being sales people mainly?

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

22

23 THE COURT: Ma'am, if you could
please

24 say yes or no. Ms. Halsey has to take this down.

25 THE WITNESS: Okay. Sorry.

Sandra M. Halsey, CSR, Official Court Reporter

5477

1

2 BY MR. RICHARD C. MOSTY:

3 Q. Okay. And it's your statement
that

4 she said these curse words all this distance across
that

5 store?

6 A. Yes, sir.

7 Q. And there were seven or eight of
your

8 people there?

9 A. Yes, sir.

10 Q. And some customers as well?

11 A. Yes, sir.

12 Q. What did Darin say?

13 A. Nothing.

14 Q. He said nothing. Did Darin just
go

15 on, keep looking at jewelry?

16 A. Yeah. Yes, sir. I'm sorry.

17 Q. And didn't pay any
attention?

18 A. No.

19 Q. And then Darin
didn't go over and get

20 the boys?

21 A. No.

22 Q. So the boys just
kept sitting over

23 there doing whatever they were doing?

24 A. Yes.

25 Q. And the Routiers
just kept shopping

Sandra M. Halsey, CSR, Official
Court Reporter

5478

1 for jewelry?

2 A. Yes, sir.

3

4 MR. RICHARD C.

MOSTY: That's all I

5 have got.

6 MS. SHERRI WALLACE:

Thank you.

7 Nothing further. May this witness be
excused?

8 THE COURT: All

right. Ma'am, you may

9 step down. I must warn you, you must
remain outside the

10 courtroom when you are not testifying.

Don't talk to

11 anybody who is testifying. Don't
compare it.

12 You may talk to the
attorneys for

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

14 testimony, tell the attorney for the
side who called you.

15 Your next witness.

16 THE WITNESS: Thank

you.

17 BY MR. TODY L.

SHOOK: We will call

18 Halina Czaban.

19 THE COURT: May I

see both sides for a

20 minute?

21 Ladies and

gentlemen, in the interest

22 of time, we do have to break for lunch.

It's going to be

23 more convenient now to break now than

later. So we will

24 break until 1:00 o'clock, please. Be

back at 1:00

25 o'clock.

Sandra M. Halsey, CSR, Official
Court Reporter

5479

1
2 (Whereupon, a short
3 recess was taken,
after
4 which time, the
5 proceedings were
6 resumed in open
court,
7 in the presence
and
8 hearing of the
9 Defendant, being
10 represented by his
11 Attorney, but
outside of
12 the presence of the
jury
13 as follows:)
14
15 THE COURT: All right. Let's go
back
16 on the record. These proceedings are being held
outside
17 of the presence of the jury and all parties in the
trial
18 are present.

19 Will you please state your name,
20 please, ma'am?
21 THE WITNESS: My name is Halina
22 Czaban.
23 THE COURT: And your name,
Sister?
24 THE TRANSLATOR: Krystyna
Krawczyk.
25 THE COURT: All right.
Sister, you

Sandra M. Halsey, CSR, Official Court
Reporter

5480

1 are reminded that you are still under oath as an
2 interpreter in this case.

3 THE TRANSLATOR: Yes.

4 THE COURT: And ma'am, you are
5 reminded that you are still under oath as a
witness

6 because you did testify earlier.

7 THE WITNESS: Yes, sir.

8 THE COURT: And you were the
9 interpreter earlier.

10 THE TRANSLATOR: Yes.

11 THE COURT: All right. Thank
you.

12 Okay. Bring the jury in, please.

13

14 (Whereupon, the jury

15 Was returned to

the

16 Courtroom, and

the

17 Proceedings

were

18 Resumed on the

record,

19 In open court, in

the

20

Presence and

hearing

21

Of the defendant,

22

As follows:)

23

24

THE COURT: Ladies and gentlemen,

let

25 the record reflect that all parties in the trial are

Sandra M. Halsey, CSR, Official Court Reporter

5481

1 present and the jury is seated.

2 Ladies and gentlemen, these
witnesses

3 have already been sworn outside your presence. And
as

4 you may recall, the witness, Halina Czaban, while
she

5 speaks English prefers her native language of
Polish, and

6 she will speak in Polish, and Sister Krystyna, will
do

7 the translating just as it was when they previously
8 testified in these proceedings.

9 Go ahead, please, Mr. Shook.

10

11

12 Whereupon,

13

14 HALINA CZABAN,

15

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

17 punishment phase, having been first duly sworn by
the

18 Court to speak the truth, the whole truth, and
nothing

19 but the truth, testified in open court, as follows:

20

21

DIRECT EXAMINATION

22

23 BY MR. TOBY L. SHOOK:

24

Q. Would you tell us your name,

please?

25

A. Halina Czaban.

Sandra M. Halsey, CSR, Official Court Reporter

5482

1 Q. And are you the same woman that
2 testified sometime back in this same trial?

3 A. Yes.

4 Q. I want to turn your attention to
5 Wednesday, June 5th, 1996. What time did you
arrive at

6 Darlie Routier's home?

7 A. About 8:15, 8:20.

8 Q. All right. And who was in the
house

9 when you got there in the morning?

10 A. Darlie and Becky.

11 Q. Okay. Is Becky the 12-year-old
girl

12 that had been over there the previous day?

13 A. Yes.

14 Q. Where were they located in the
house?

15 A. Darlie was sitting in a big
armchair,

16 Rebecca was sitting on the couch across from Darlie.

17 Q. Let me show you what's been
marked as

18 State's Exhibit 47-A. Is this a photograph of the
room

19 where they were sitting?

20 A. Yes.

21 Q. And we see a chair here to the
side.

22 Is that where Darlie was?

23 A. Yes.

24 Q. The couch over here,

is that where

25 Rebecca was?

Sandra M. Halsey, CSR, Official
Court Reporter

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1 A. Yes.

2 Q. Okay. And, what was
going on when you

3 came in the room and they were seated
there?

4 A. They were both just
sitting.

5 Q. Okay. And what did
you say at that

6 time?

7 A. I looked around and I
was asking,

8 where was the baby.

9 Q. Okay. And what was
said when you

10 asked that question?

11 A. I asked two times and
I didn't get an

12 answer.

13 Q. Okay. Did Darlie have
anything in her

14 lap?

15 A. Yeah. She had
something that looked

16 like a bundle of laundry or clothes.

17 Q. Where was the bundle

sitting?

18 A. On her lap.

19 Q. Okay. Could you tell

what was in the

20 bundle at that time?

21 A. No.

22 Q. Okay. And you asked

twice where the

23 baby was?

24 A. Yes.

25 Q. What happened then?

Sandra M. Halsey, CSR, Official
Court Reporter

5484

1 A. Rebecca pointed her
finger towards

2 Darlie's lap.

3 Q. Rebecca pointed her
finger towards

4 Darlie's lap?

5 A. Yes.

6 Q. Okay. What did you
say then?

7 A. Then I told her that
probably inside

8 it has to be a baby.

9 Q. Okay. What did you
say?

10 A. Then two times I said,
"Please give me

11 the baby."

12 Q. Okay. Did you do
anything with your

13 arms when you said that?

14 A. I stretched my arms
towards Darlie

15 because I thought she would give me the
baby.

16 Q. Okay. And then what

happened?

17 A. She gave me in such a
way as though --

18 like she throw at me and then she went
upstairs.

19 Q. All right. We have
kind of gone over

20 how she handed you the baby, have we not?

21 A. Yes.

22 Q. Can you demonstrate,
using this doll

23 and blanket, how she was holding the
baby?

24 A. Yes. The blanket was
like this, the
25 blanket was covered in such a way.

Sandra M. Halsey, CSR, Official
Court Reporter

1 Q. And holding it just
like that on the
2 lap?

3 A. It was only -- was a
bigger blanket
4 and was double blanket.

5 Q. Okay. And show us how
she handed the
6 baby to you?

7 A. Like this.

8 Q. And then what did she
do?

9 A. And very fast she went
upstairs.

10 Q. Did she say anything
before she went
11 upstairs?

12 A. She didn't say
anything.

13 Q. And what did you do
with the baby?

14 A. I started slowly to
uncover the baby.

15 Q. Okay. And maybe you
can show us how
16 you did that?

17 A. I started slowly to
uncover the baby,

18 in such a way.

19 Q. Okay.

20 A. And the face of the
baby was very red

21 and very perspiring, and the lips were
light blue.

22 Q. Did the baby make any
noise at that

23 time?

24 A. No. When I uncovered
some more, then

25 the baby started to catch its breath.

Sandra M. Halsey, CSR, Official
Court Reporter

5486

1 Q. Then what did the baby
do?

2 A. It started to cry.

3 Q. Okay. Did you --

4 A. I would like to show how I was
5 cradling the baby.

6 Q. That was my next question. What
did
7 you do with the baby after the baby cried?

8 A. Well, I started to lullaby the
baby.

9 The baby was looking at me and crying. I took off
my
10 glasses, and started to talk to baby.

11 Q. Did that calm the baby down?

12 A. Yes, it was crying more quiet,
and

13 then it was looking at me and then started to close
its
14 eyes.

15 Q. Did you get the baby to go to
sleep
16 eventually?

17 A. Yes.

18 Q. How long was it until

Darlie came back

19 from downstairs?

20 A. Maybe 20 or 25 minutes -

- it was about

21 20 or 25 minutes.

22 Q. Okay. And what did she

tell you to do

23 with the baby when she came back

downstairs?

24 A. I asked her, where

should I put the

25 baby so the baby could sleep.

Sandra M. Halsey, CSR, Official Court
Reporter

5487

1 Q. What did she tell you?
2 A. On the carpet, on the
floor.
3 Q. Okay. What did you do
then?
4 A. I put it down.
5 Q. Okay. Now, later that morning did
you
6 go back in that same room and see Darlie and Rebecca
with
7 the baby?
8 A. Yes.
9 Q. And where were they sitting again?
10 A. In the same way, Rebecca on the
couch
11 and Darlie in the armchair.
12 Q. Where was the baby?
13 A. When they came, I only saw the
baby
14 and when baby was falling down towards the table.
15 Q. Had the baby been -- was it
standing
16 up or --
17 A. Yeah, it was standing.
18 Q. What was he near when he was
standing?

19 A. Near the glass table.

20 Q. Okay. This glass table we see in
the

21 center of the photograph?

22 A. Yes, yes.

23 Q. This area?

24 A. Yes.

25 Q. Okay. And you said you started to
see

Sandra M. Halsey, CSR, Official Court Reporter

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1 the baby fall?

2 A. Yeah, I saw when the baby was
falling

3 toward the glass table.

4 Q. What did you do?

5 A. Very quickly I came to the baby
and I

6 caught the baby and I shouted, "Oh, my God."

7 Q. What was Darlie and Rebecca's
reaction

8 when you caught the baby?

9 A. They were laughing at me.

10 Q. What did you say to them?

11 A. I told her it was not funny.

12 Q. Okay. Later on were you doing
wash

13 and doing your work there in the garage and in the
14 washroom?

15 A. Yes.

16 Q. When you came into the washroom
from

17 the garage, on one occasion did you see something
that

18 caused you some concern?

19 A. The baby in the laundry.

20 Q. Where was the baby?

21 A. In the laundry.

22 Q. In the laundry room?

23 A. Yes.

24 Q. Okay. And was he on the floor
25 crawling or standing?

5489 Sandra M. Halsey, CSR, Official Court Reporter

1 A. It was crawling.

2 Q. Okay. How did you come across
the
3 baby?

4 A. I -- when I opened the door, I
just
5 found the baby near the door and I almost stepped on
the
6 baby.

7 Q. Okay. What did you do when you
found
8 the baby on the floor there?

9 A. I picked it up, I went to the
kitchen
10 and I called Rebecca.

11 Q. Okay. Where were Rebecca and
Darlie
12 at that time?

13 A. Upstairs.

14 Q. Okay. Did Rebecca come when you
15 called her?

16 A. Yes.

17 Q. And, what did you do then?

18 A. She took the baby and she went
19 upstairs.

20 Q. After lunch, on that same day,

was the

21 baby placed in the highchair?

22 A. Yes.

23 Q. Where was this highchair located?

24 A. In the kitchen there was a table

that

25 usually they were eating by, so the chair was
standing by

Sandra M. Halsey, CSR, Official Court Reporter

5490

1 the table.

2 Q. Okay. Had the boys been in to
eat

3 lunch?

4 A. Yes.

5 Q. Is that the only time -- is that
the

6 first time you had seen them that day?

7 A. Yes.

8 Q. Okay. Did you -- after the baby
was

9 in the highchair, did you go back to your work in
the

10 laundry room?

11 A. Yes.

12 Q. Okay. Now, sometime after that,
did

13 you hear something that caused you to come into the
14 kitchen?

15 A. Cry of the baby.

16 Q. Okay. When you came in the
kitchen,

17 what did you see?

18 A. I saw that the baby had slipped
down

19 from the seat of the chair.

20 Q. Okay. How was he positioned?

21 A. The height of the baby was
resting on

22 the table and the baby just slipped down from the
seat of

23 the chair.

24 Q. The table that was part of the
25 highchair, that is where his head was?

Sandra M. Halsey, CSR, Official Court Reporter

5491

1 A. Yes.

2 Q. And the baby had slipped out of
the
3 chair itself?

4 A. Yes.

5 Q. Was the baby crying at that time?

6 A. Yes.

7 Q. Okay. And what did you do?

8 A. I came and I wanted to open the
seat,
9 but I didn't know how to do this.

10 Q. Okay. So what did you do then?

11 A. I called Rebecca.

12 Q. Where was Rebecca and Darlie at
that
13 time?

14 A. Upstairs.

15 Q. Okay. Did Darlie come down or
just
16 Rebecca?

17 A. Rebecca.

18 Q. Okay. And what happened then?

19 A. She opened the seat, she picked
up the
20 baby and I told her, "Don't do this anymore."

21 Q. Okay. Were you angry with her?
22 A. Yes, I was angry.
23 Q. Okay. Let me turn your attention
now
24 to the funeral. Did you go to the boys' funeral?
25 A. Yes.

Sandra M. Halsey, CSR, Official Court Reporter

5492

1 Q. Okay. And at the funeral, did
you see

2 Darlie?

3 A. Yes.

4 Q. And did you go to her and offer
your

5 condolences?

6 A. Yes.

7 Q. Okay. What did you say to her?

8 A. I told her that it happened, such
a

9 tragedy to her, and now she has to spend so much
money

10 for this funeral.

11 Q. Had you spoken to her a couple of
days

12 before about her money situation?

13 A. Not much, but yes.

14 Q. Okay. And what was her response
to

15 you when you said this to her?

16 A. She told me, "I am not worried
because

17 I will get five thousand apiece."

18 Q. Okay. And when you heard her say

19 that, what was your reaction? What did you do?

20 A. I told her, "Darlie, sit down
because

21 you must be very tired."

22 Q. Okay.

23

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

the

25 questions we have, Judge.

Sandra M. Halsey, CSR, Official Court Reporter

5493

1 THE COURT: Mr. Mosty.

2

3 CROSS EXAMINATION

4

5 BY MR. RICHARD C. MOSTY:

6 Q. Ms. Czaban, are you a -- do you
have

7 psychic qualities?

8

9 MR. TOBY L. SHOOK: Judge, I'll
object

10 to relevance.

11 THE COURT: I'll let him ask the
12 question. If she knows the answer, she can answer
it.

13

14 BY MR. RICHARD C. MOSTY:

15 Q. Do you have psychic abilities?

16

17 THE TRANSLATOR: Excuse me.

Could you

18 qualify this psychic word?

19

20 BY MR. RICHARD C. MOSTY:

21 Q. Ms. Czaban, do you have psychic
22 abilities?

23

A. No, sir.

24

25

do

THE COURT: Okay. We're going to

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1 this in Polish or we are not going to do it, because
that

2 is the way we're doing that.

3 MR. RICHARD C. MOSTY: Well, your
4 Honor, I don't know how to do that.

5 THE COURT: Do you waive the
6 translation for this question?

7 MR. RICHARD C. MOSTY: For this
8 question, I do.

9 THE COURT: All right. Fine. Do
you

10 know the answer to the question? Do you have
psychic

11 abilities? Answer it, if you know it.

12 THE WITNESS: Never.

13

14 BY MR. RICHARD C. MOSTY:

15 Q. Never. Have you ever told
anybody you

16 have psychic abilities?

17

18 MR. TOBY L. SHOOK: Now, Judge,
I'll

19 object to relevance.

20 THE COURT: I'll sustain that.

21 THE WITNESS: What are you trying

--

22 THE COURT: Just a minute, ma'am.

Do

23 not say anything until the question is asked,
please.

24 All right. Let's go back to the question and answer

in

25 Polish.

Sandra M. Halsey, CSR, Official Court Reporter

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1

2 BY MR. RICHARD C. MOSTY:

3 Q. I guess that that statement about
the

4 five thousand dollars bothered you?

5 A. Yes.

6 Q. It offended you?

7 A. Yes.

8 Q. And you were very upset about it?

9 A. Not so much because I thought it
was

10 just a tragedy, and during this time I heard this
words,

11 the sentence.

12 Q. Well, it made you not want to
have

13 anything to do with her?

14 A. Yes.

15 Q. But you still went to the -- on
the

16 14th, you went out to the grave site, didn't you,
for

17 Devon's birthday?

18 A. My daughter asked me to go with
her.

19 Q. And you picked up the child, and

you

20 participated, and you were there for hours, weren't
you?

21 A. Not the whole time, because I was
22 sitting under the tree, because I didn't like
what was
23 happening there.

24 Q. But this lady who had offended
you,
25 nonetheless, you went out to the -- were you
there for

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Reporter

5496

1 the prayer service?

2 A. No.

3 Q. Didn't go for the prayer
service?

4 A. No, there wasn't any prayer,
there

5 wasn't any prayer.

6 Q. There wasn't, you know that,
don't

7 you?

8 A. No.

9 Q. Okay. Now, when this five
thousand

10 dollar statement was made, where were you standing?

11 A. I was standing near her and I was
even

12 holding her.

13 Q. Where?

14 A. By the casket.

15 Q. By the caskets? Is this before
the

16 service?

17 A. No, this was the day when they
opened

18 first time the casket and when she saw for the first

time

19 the children.

20 Q. At that point she had not seen

the

21 children at all?

22 A. I don't know.

23 Q. Were you there when Darlie got to

the

24 viewing with the police officers?

25 A. I was there because there was a
lot of

1 people.

2 Q. Okay. When she first got there,
you

3 were already there?

4 A. I was standing in the hall and
people

5 were standing in the line to give -- to express
their

6 condolences.

7 Q. Okay. And did she go through the
8 line?

9 A. No, she was standing.

10 Q. Okay. And did Darlie go to the
11 casket?

12 A. She was standing there because
she

13 wanted first to greet her children.

14 Q. Is this right after she got to
the

15 funeral home?

16 A. Somebody else brought her.

17 Q. Okay. But as soon as she got
there,

18 she first went to the casket?

19 A. Because they closed it down
because

20 she first greeted children. And all of the people
were

21 waiting in a hall.

22 Q. And you were one of those people
23 waiting there?

24 A. Yes.

25 Q. Then did Darlie go to the casket?

Sandra M. Halsey, CSR, Official Court Reporter

5498

1 A. No, she was standing already
there

2 when everybody was expressing condolences.

3 Q. After the condolences, did
Darlie go

4 to the casket?

5 A. I didn't see what was happening
6 further, because the child was crying, and the
family was

7 there, and we were helping the family so the baby
would

8 not cry.

9 Q. Now, tell me, where were you and
10 Darlie standing when this five thousand dollar
statement

11 was made?

12 A. By the casket.

13 Q. By the casket. Okay. How did
you get

14 there?

15 A. I was standing in a line to
express my

16 condolences.

17 Q. And Darlie was standing at the
casket

18 and were people coming to the casket where Darlie

was?

19

20

THE TRANSLATOR: Excuse me?

Could you

21 repeat that?

22

23 BY MR. RICHARD C. MOSTY:

24

Q. Was Darlie standing at the

casket and

25 were people coming to the casket where Darlie was?

Sandra M. Halsey, CSR, Official Court Reporter

5499

1 A. Yes.

2 Q. And how many people were coming
to the
3 casket?

4 A. Very many.

5 Q. Where was Darin standing?

6

7 THE TRANSLATOR: Excuse me?

8

9 BY MR. RICHARD C. MOSTY:

10 Q. Where was Darin standing?

11 A. He was standing on the side a
little

12 farther with other men.

13 Q. Okay. Who was at the casket
when you

14 went up there?

15 A. Darlie.

16 Q. Who else?

17 A. There was some kind of men, the
men

18 were sitting on the chair, Darlie was standing, and
there

19 people were standing. And I was standing there to
say I

20 was sorry.

21 Q. Okay. And were there a lot of
22 people -- then, were there people behind you in the
line?

23 A. Yes, not so many, but they were.

24 Q. But they weren't waiting back,

were

25 they, where everybody was coming up at once?

Sandra M. Halsey, CSR, Official Court Reporter

5500

1 A. No, they were coming one by one.

2 Q. So how many people were standing
at

3 the casket -- or at the casket, were these several
men,

4 there was Darin, there was Darlie, there was you,
and who

5 else?

6 THE TRANSLATOR: Sir, could you
7 repeat, but not so much? Okay?

8

9 BY MR. RICHARD C. MOSTY:

10 Q. The people that were at or close
to

11 the casket were Darin and some men?

12 A. Darin wasn't by the casket. He
was

13 farther on the side and Darlie was standing alone.

14 Q. Darlie was standing alone. No
one was

15 holding her up, no one supporting her, no one
standing

16 beside her?

17 A. No. Maybe somebody from her
family

18 was there, but I was just paying attention to
Darlie.

19 Q. Okay. So maybe somebody was
standing

20 beside her?

21 A. When we were standing -- when I
came,

22 we were standing, just two of us and nobody was by
very

23 close.

24 Q. Okay. Did you speak to her in
25 English?

1

2

THE TRANSLATOR: Excuse me?

3

4 BY RICHARD C. MOSTY:

5

Q. Did you speak to her in English?

6

A. Yes.

7

Q. In English, what did you say,

exactly

8

your words?

9

A. In English?

10

Q. In English.

11

A. "Darlie, I am so sorry what

happened."

12

Q. That is exactly what you said?

13

A. Yes. I say, "You have many

problems,

14

and now very expensive funeral. You know I am very,

15

very, sorry." And she said --

16

Q. Now, but is that exactly what you

17

said?

18

A. Yes.

19

Q. All right. Now, let's go back to

20

Polish. Your way of expressing your condolences to

21

Darlie was to say that it was a very expensive

funeral?

22

23

THE TRANSLATOR: Sir, could you

24 repeat?

25

Sandra M. Halsey, CSR, Official Court Reporter

5502

1 BY MR. RICHARD C. MOSTY:

2 Q. Your way of expressing your
3 condolences to Darlie was to say this is a very
expensive
4 funeral?

5 A. No.

6 Q. Well, you made that statement,
didn't
7 you, just a moment ago?

8 A. Because the day before she was
telling
9 me that she didn't have money and that she needed
ten
10 thousand dollars.

11 Q. I understand you said that. But
that
12 is part of what you said, you said, "I'm sorry, this
is
13 expensive."

14 A. Yes.

15 Q. Now, this morning that you went
on
16 the -- what day was that that you described this
incident
17 with Drake?

18 A. The 5th of June.

19 Q. How did you get to the Routier
20 residence?

21 A. My daughter brought me.

22 Q. Did she leave you off at the
front

23 sidewalk?

24 A. Yes.

25 Q. And is this the second time you
had

1 been to the Routier residence?

2 A. No, one time I was there because
-- I

3 was there four times. Because Darlie asked my
daughter

4 to bring me to her house, and so I was in her house
four

5 times.

6 Q. Four times all told?

7 A. Yes.

8 Q. Correct?

9 A. Right.

10 Q. And the first two times were just
11 social visits?

12 A. We came there and they were just
13 cleaning, making bed.

14 Q. My question is: The two times --
you

15 worked two days; am I right?

16 A. Yes, two days I worked.

17 Q. And two times before that, you
had

18 been there to visit?

19 A. I didn't go, they just asked me
to go

20 there.

21 Q. My question is: How many times
had

22 you ever walked inside the Routier house?

23 A. Four times.

24 Q. Okay. Two of them were the day
you
25 worked there, right?

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5504

1 A. Yes.

2 Q. And the two other times was just
to
3 visit, is that right?

4 A. Yes, I was accompanying my
daughter.

5 Q. The first two times your daughter
went
6 with you?

7 A. Yes.

8 Q. And, the first day you worked your
9 daughter went with you, didn't she?

10 A. Yes, because she was picking up
Darin
11 to his work.

12 Q. And she went up and she actually
went
13 in the house with you?

14 A. She only entered and then soon
after,
15 Darin went with her, left with her.

16 Q. Okay. So now on this fourth
visit,

17 your daughter dropped you off at the sidewalk. The
18 fourth visit, the first time you had been to the

house,

19 your daughter dropped you off at the sidewalk?

20 A. No, we entered the house.

21 Q. Your daughter entered the house
with

22 you the fourth time?

23

24 THE TRANSLATOR: Sir, do you ask

about

25 the fourth time?

Sandra M. Halsey, CSR, Official Court Reporter

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1

2 BY MR. RICHARD C. MOSTY:

3 Q. The fourth time.

4 A. No.

5 Q. Okay. Your daughter on the fourth
6 visit, on the day you have described these instances
with

7 Drake, that day your daughter let you off at the
8 sidewalk?

9 A. No, I just opened the door and I
said
10 goodbye, and I entered the house and my daughter
left.

11 Q. When you said goodbye, you left
the
12 car and said goodbye to your daughter at the car?

13 A. By the door. My daughter didn't
want
14 to enter, but my daughter wanted to be sure that I
15 entered house.

16 Q. Okay. So now --

17

18 THE TRANSLATOR: Excuse me. The
lady
19 said the door, but she didn't say what kind of door.

I

20 just repeat exactly what she says.

21

22 BY MR. RICHARD C. MOSTY:

23 Q. Are you testifying -- is your
story

24 now that your daughter got out of her car and walked

you

25 to the door?

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1 A. No, she was in the car.

2 Q. Okay. Your daughter never got
out of

3 the car?

4 A. No, she was in a hurry to open
the

5 business.

6 Q. So you got out of the car at the
7 sidewalk and you walked up to this house by
yourself?

8 A. Yes.

9 Q. And you rang the doorbell?

10 A. The door was open.

11 Q. Standing open?

12 A. No, I opened it -- I opened the
door

13 by the handle because my daughter told me about
this.

14 Q. Did you knock?

15 A. No, because Darlie -- my
daughter told

16 me that Darlie told her, just open the door by the
handle

17 by itself.

18 Q. Oh, okay. So now the story is

that

19 you had already been told just go on in the house?

20 A. Even Darlie told me just to

enter the

21 house because the door will be open.

22 Q. When did she tell you that?

23 A. It was even when I came for the

first

24 time.

25 Q. Okay. So this is the fourth
time in

1 the house, you didn't knock, you didn't ring the
2 doorbell, you just walked in the house?

3 A. Yes.

4 Q. Okay. And you walked in the --
what

5 room first?

6 A. Well, when I entered the house,
just

7 nearby is a family room, a living room.

8 Q. Did you say when you walked in,
9 "Darlie, I'm here"?

10 A. Yes.

11 Q. Where were you when you said
that?

12 A. Just when I entered the house.

13 Q. Before you saw Darlie, you had
called

14 out to her?

15 A. No, when I entered the room I
said,

16 "Good morning."

17 Q. Well, so when you entered the
entry

18 hall you said nothing?

19 A. I entered.

20 Q. Did you call out and say,
"Darlie,

21 Mrs. Routier, I am here"?

22 A. Yes, when I was coming closer.

23 Q. But not until you saw her, you
never

24 said anything?

25

1 THE COURT: You better let
Sister

2 Krystyna get around there, where she can point to
that

3 thing too.

4 MR. RICHARD C. MOSTY: Let me
climb

5 back here. All right.

6 THE WITNESS: All right. I
don't

7 remember very well, I usually do not enter a house
if I

8 was not invited, but Darlie told me.

9

10 MR. RICHARD C. MOSTY:

11 Q. You had never entered the house
12 without knocking before, had you?

13 A. No, never. This morning I
really

14 don't remember.

15 Q. When you walked up that entry
hall,

16 you didn't say anything?

17 A. Yes.

18 Q. Not until you got to this

position?

19 A. Here, here.

20 Q. And Darlie was sitting in this
chair?

21 A. Yes.

22 Q. And Rebecca was sitting on what
couch?

23 A. Here.

24 Q. Okay. How many pounds did Drake
25 weigh?

1 A. I don't know. He was very tiny.

2 Q. Very tiny?

3 A. Not very. No, he was not fat, he

4 wasn't skinny, just like a baby.

5 Q. Okay. And, where were Darlie's

feet?

6 A. On the floor.

7 Q. On the floor?

8 A. Yes.

9 Q. Was she sitting back?

10 A. Yes.

11 Q. Okay. And the chair that she was

12 sitting in, is this chair here, ma'am?

13 A. Yes.

14 Q. Okay. That is a low chair, isn't

it?

15 A. It's normal.

16 Q. It's a thick chair, isn't it?

17 A. It's a thick chair that is

standing in

18 the room.

19 Q. Okay. And, how was she sitting?

Like

20 I am?

21 A. Yes.

22 Q. That chair is lower than this

chair,

23 isn't it?

24 A. I didn't measure it, so I don't

know.

25 Q. It's the kind of chair you sink
down

Sandra M. Halsey, CSR, Official Court Reporter

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1 in, isn't it?

2

3 THE TRANSLATOR: Excuse me?

Would you

4 repeat?

5

6 BY MR. RICHARD C. MOSTY:

7 Q. It's the kind of chair that you
sink

8 down in?

9 A. No, but she didn't sink, the
chair was

10 even.

11 Q. When you sit in that, do the
cushions

12 go down when you sit in that chair?

13 A. Yes, with my weight for sure.

14 Q. Fair enough. And Rebecca is
sitting

15 right in front of her?

16 A. Yes.

17 Q. And you are sitting over there,
you

18 are standing over there?

19 A. What are you asking?

20 Q. When you first talked to Darlie.

21 A. Darlie was sitting in the
armchair.

22 And I was standing there.

23 Q. You were standing to Darlie's
right?

24 A. Yes.

25 Q. Okay. When you first said
something

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5511

1 to her, how far away from her were you?

2 A. About so far as right now from
me.

3 Q. Okay. As far as from me to this
4 table?

5 A. A little closer.

6 Q. Closer?

7 A. Yes.

8 Q. About like this?

9 A. Yes.

10 Q. You were standing on her side?

11 A. Yes.

12 Q. And you said something to her?

13 A. Good morning.

14 Q. Okay. What is the second thing
you
15 said to her?

16 A. Nothing, because I look around,
17 because I didn't see the baby.

18 Q. Okay. She had both feet on the
19 ground?

20 A. Yes.

21 Q. Did she say good morning to you?

22 A. Yes.

23 Q. Did Rebecca say anything to you,

at

24 first?

25

and

A. I didn't say anything to Rebecca

Sandra M. Halsey, CSR, Official Court Reporter

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1 Rebecca didn't say anything to me.

2 Q. Okay. So then were you still
this

3 close when you said, "Where is Drake?"

4 A. I don't know exactly about what
date

5 you are asking about. The first day and about -- or
the

6 second day?

7 Q. I'm asking about the day that you
8 walked in and asked about Drake. Where is the
baby?

9 Which day was it?

10 A. Yes, that day I was standing in
this

11 position so close as you just are showing now.

12 Q. And you could not see Drake?

13 A. No.

14 Q. You saw a bundle in Darlie's
hands?

15 A. Cross my heart, yes.

16 Q. Where were Darlie's hands?

17 A. Like this.

18 Q. Like this?

19 A. Yes.

20 Q. And you were standing this close
and

21 you say you said, "Where is the baby," or did you
say,

22 "Where is Drake"?

23 A. No, I said where is the baby.

24 Q. Where is the baby?

25 A. Yes.

1 Q. And she did not respond?

2 A. No.

3 Q. And you said again, "Where is the
4 baby"?

5 A. Yes.

6 Q. Did you say a third time, "Where
is
7 the baby"?

8 A. Yes.

9 Q. And after the first and the
second
10 time, you got no response?

11 A. No.

12 Q. And you were standing right here
the
13 whole time?

14 A. Yes.

15 Q. You never moved?

16 A. No.

17 Q. And then after the third time,
she
18 threw the baby?

19 A. No, Rebecca pointed her finger
towards
20 Darlie's lap.

21 Q. Okay. What did you do when
Rebecca

22 pointed her finger?

23 A. Because I saw that there was no
24 movement in this bundle so I just repeated twice,
"Give
25 me the baby."

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1 Q. So when Rebecca pointed, you knew
that
2 was the baby in the bundle?

3 A. Yes.

4 Q. So you said two times, "Give me
the
5 baby"?

6 A. Three times.

7 Q. Three times? So first you said,
three
8 times, "Where is the baby," and then you said, three
9 times, "Give me the baby"?

10 A. Yes.

11 Q. And all the time you are standing
12 right here?

13 A. Yes.

14 Q. And on the third time then, she
throws
15 the baby?

16 A. No, I repeated, "Please, please
give
17 me the baby."

18 Q. Okay. And she did, she threw the
19 baby?

20 A. Yes, she gave me baby in such a

way

21 like was shown.

22 Q. Like I am showing?

23 A. No, you should get up because she
got

24 up from the chair.

25 Q. Oh, she has this 18-pound baby in
her

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1 lap sitting like I am sitting?

2 A. She wasn't sitting in exactly the
way

3 you are sitting now.

4 Q. Isn't this the position you told
me to

5 get in?

6 A. No, like me, like you see me.

7 Q. Sitting straight up?

8 A. Yes.

9 Q. But in this deep chair?

10 A. Yes, in a deep chair.

11 Q. And she stood up?

12 A. Yes.

13 Q. And threw the baby?

14 A. You may -- I may say as though
she

15 threw the baby because she was angry, because it
look

16 like -- because I felt as though she was angry or
17 something.

18 Q. So you must have run around to
get in

19 front of her?

20 A. No, she just got up from the

chair,

21 and she came to me and gave me the baby.

22 Q. So she got up like this, came to
you

23 and gave you the baby?

24 A. She gave me in such a way, as I
told

25 you before, the baby was in a double blanket.

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1 Q. And you have already told us a
number

2 of times today you all were within arm's length of
each

3 other during this whole exchange?

4

5 THE TRANSLATOR: Excuse me?

6

7 BY MR. RICHARD C. MOSTY:

8 Q. You have already told us a number
of

9 times that you and she were within arm's length of
each

10 other during this entire exchange?

11

12 THE TRANSLATOR: Excuse me, sir,

can

13 you repeat?

14

15 BY MR RICHARD C. MOSTY:

16 Q. You have already told us several
times

17 that you were within arm's length of her every time
you

18 asked her questions and when she gave you the baby?

19 A. I didn't know exactly, I don't --
how
20 should I know how far exactly I was.

21 Q. Well, Ms. Czaban, every time that
you
22 and I have talked here, I have been this far from
this
23 table. You moved me closer, didn't you?

24 A. I thought you were asking me about
the
25 baby, not about how should you move that chair. How

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1 should I tell you that you should move your chair
closer

2 to the table?

3 Q. Didn't you tell me to move my
chair

4 closer to the table?

5 A. No, I didn't say to move your
chair.

6 I just wanted to say that it was closer.

7 Q. Okay. Then, you know that the
baby

8 likes to sleep covered up, don't you?

9 A. Yes.

10 Q. You knew that, everybody knew
that,

11 didn't they?

12 A. Yes.

13 Q. And when you laid the baby down on
the

14 pillow on the floor, when you laid the baby down?

15 A. There wasn't a pillow.

16 Q. Was there a blanket?

17 A. The blanket that I had, I just
put

18 together with the baby.

19 Q. Did you put it over the baby's
head?

20 A. No.

21 Q. Did the baby pull it over his
head?

22 A. No, I just put the blanket on
the

23 floor. I just opened the blanket more.

24 Q. You didn't cover the baby?

25 A. No.

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1 Q. Now, then you say -- then what did
you

2 do in your work day? After you laid the baby down,
what

3 did you do?

4 A. I went to the laundry and I was
5 washing the rest of the clothing. I was doing the
6 laundry.

7 Q. Did the baby take a nap?

8 A. Yes.

9 Q. How long?

10 A. I don't know. I only put the
laundry

11 in the washing machine. I don't know. Maybe about
20

12 minutes, but I don't know about 20 minutes.

13 Q. Was it about 20 minutes later
when you

14 went back and saw the baby walking by the glass
table?

15 A. How -- in what way the baby was
by the

16 glass table, I don't know.

17 Q. What time of day was it? How
much

18 later was it?

19 A. It was soon after he fell asleep
and

20 then got up.

21 Q. Do you know how long that was?

22 A. I started the laundry and I put
into

23 the washing machine. And the machine started to
work.

24 And I left the laundry.

25 And I was coming close to the
chair.

1 And then I saw the baby falling, falling down and
how was

2 baby there, I don't know.

3 Q. Okay. This is after you have
done the

4 laundry and you are coming from the utility -- or
you

5 started the laundry?

6 A. Yes.

7 Q. And you were coming into the
living

8 room?

9 A. This way, I was walking.

10 Q. Why were you walking to the
living

11 room?

12 A. Why? Because I was coming here
and

13 then later I was dusting the fireplace.

14 Q. Okay. And where was Darlie?

15 A. Here.

16 Q. Still in the same chair?

17 A. Yes.

18 Q. Where was Rebecca?

19 A. Here.

20 Q. And when you were -- at what
point did

21 you see the baby falling?

22 A. Here.

23 Q. You were standing right there?

24 A. No, I was just approaching this
place.

25 Q. Where was the baby?

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1 A. Here.

2 Q. Which way was the baby falling?

3 A. On toward the table, it was
falling

4 toward the edge of the glass table.

5 Q. And you were standing about here?

6 A. Yes.

7 Q. Closer than my finger was.

8 A. Yes.

9 Q. So you were the one that was
closest

10 to the baby, weren't you?

11 A. There was Darlie, there was
Rebecca,

12 and I was there.

13 Q. Well, you have moved your finger
back

14 now. Was it here or was it here?

15 A. No, because there is -- this is
so

16 small and the room was bigger than this.

17 Q. And you were standing?

18 A. No, I was approaching and there
is a

19 difference.

20 Q. You were on your feet, weren't
you?

21 A. Yes.

22 Q. And you say that you could get
to the
23 baby the quickest?

24 A. I said that the baby was falling
25 toward the table and I moved very fast in order to
catch

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1 the baby.

2 Q. So that is the second time you
had

3 seen the baby. And then the next time you saw the
baby,

4 the baby was in the utility room?

5 A. Yes.

6 Q. And where had the baby been in
the

7 meantime?

8 A. I don't know, because there was
Darlie

9 and Rebecca and I was doing what I was supposed to
do.

10 Because Darlie said that Rebecca was a babysitter.

11 Q. Okay. And you were out in the
garage?

12 A. Yes, because she asked me --
because

13 she asked me to do something with the garbage that
was in

14 the garage.

15 Q. Had you gone out to the garage?

16 A. I entered the garage, I went
through

17 the garage.

18 Q. Did you close the utility room
behind

19 you?

20 A. Yes.

21 Q. Okay. So you went out in the
garage

22 and did whatever you were going to do?

23 A. Yes.

24 Q. And you walked back in and you
said

25 you almost stepped on the baby?

1 A. Yes.

2 Q. That utility room door opens
into the

3 utility room, doesn't it?

4

5 THE TRANSLATOR: Excuse me, sir?

6 Could you repeat that?

7

8 BY MR. RICHARD C. MOSTY:

9 Q. The door opens into the utility
room

10 doesn't it?

11 A. I have to see. There is the
door, one

12 door, that through the door you can enter laundry
or

13 garage, you just can pass by.

14 Q. So you opened this door. Where
was

15 the baby?

16 A. Right here.

17 Q. And so when you opened the door,
you

18 almost stepped on him?

19 A. Yes.

20 Q. Okay. You had opened the door
in like

21 that and you -- it was so close that you almost
stepped

22 on the baby?

23 A. Yes, because I was carrying some
kind

24 of laundry like stockings or something, and so I
just did

25 not pay attention exactly.

1 Q. Wait a minute. Why had you
carried

2 the laundry out into the garage?

3 A. You would understand me wrong.
I just

4 came from -- I just took from over there some kind
of

5 dirty laundry.

6 Q. Oh, so you picked up some dirty
7 laundry out in the garage?

8 A. In the laundry there was dirty
9 clothes. And before Darlie was checking those
clothes

10 because she was supposed to do garage sale. And
there

11 was the laundry and the trash was over there and
garbage

12 so I went to the garage too. So I picked up
whatever was

13 dirty to wash.

14 Q. Okay. Picked it up with both
hands?

15 A. No. I was just very -- I had
very

16 little of something.

17
the

Q. Of the laundry you picked up in

18 garage?

19
of

A. There was probably swimming suit

20 the babies -- of the children.

21
the

Q. And then the fourth time you saw

22 baby, he was in a highchair?

23

A. Yes.

24

Q. And no one was around?

25
they

A. First was Darlie and Rebecca and

1 were feeding the baby.

2 Q. Okay. Did you eat with them?

3 A. No. I was eating later, Darlie
gave

4 me sandwich. And I wasn't eating there because
Darlie

5 put the cake for me on the table.

6 Q. You saw the baby in the
highchair

7 eating, I guess?

8 A. Yes, because when I folded the
dry

9 clothes I brought back to the kitchen. And so when
I was

10 passing by, I saw them both standing by the child.

11 Q. Okay. And then you went on about
12 doing your laundry?

13 A. What do you mean, laundry?

14 Q. Wash.

15 A. In this day I didn't have so much
16 laundry to do, so I was dusting.

17 Q. When the baby ate, where was the
crib,

18 or the highchair?

19 A. There is a table, there is a

table.

20 Q. Where was the high chair?

21 A. Here.

22 Q. Now, then you were working in the
23 utility room?

24 A. Yes.

25 Q. And at some point Rebecca and
Darlie

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1 must have left this room?

2 A. I don't know when they left the
room.

3 Q. But you were working all the time
in
4 this utility room?

5 A. No. No. But at that time when
the
6 child was in the highchair, I was folding down
the drying
7 clothing.

8 Q. In this utility room?

9 A. Yes.

10 Q. And you don't know when
Darlie and

11 Rebecca left this room?

12 A. No, I don't know.

13 Q. How long were you in this
utility
14 room?

15

16 THE TRANSLATOR: Excuse me?

Would you

17 repeat?

18

19 BY MR. RICHARD C. MOSTY:

20 Q. How long were you in this
utility

21 room?

22 A. There wasn't so much of
laundry, so it

23 was about 15 minutes.

24 Q. Okay. And when you came
out -- you

25 heard something while you were in there?

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Reporter

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1 A. Cry of the baby.

2 Q. And you came out of the
utility room?

3 A. Yes.

4 Q. And was the highchair still
in the
5 same place?

6 A. Yes.

7 Q. And tell me: How was the
baby's head
8 again?

9 A. If you will come closer to
me, I will
10 show you.

11 Q. Reluctantly, yes.

12 A. Good. Please give me this
baby. The
13 baby was sitting on the chair. And the baby
slipped down
14 like this.

15 Q. What is under this chair?
What is in
16 the bottom of this chair?

17 A. Probably there was a belt -

18 Q. Of course --

19 A. -- protecting the child.

20 Q. Of course, Drake was a lot
bigger than

21 this doll, wasn't he?

22 A. Oh, yes, much bigger, yes.

23 Q. How had the baby gotten in
the

24 highchair? You got any idea?

25

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Reporter

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1 THE TRANSLATOR: Excuse me?

Could you

2 repeat, sir?

3

4 BY MR. RICHARD C. MOSTY:

5 Q. Do you have any idea how
the baby got

6 in the highchair?

7 A. They started to feed the
baby. They

8 were giving food to the baby.

9 Q. You saw somebody put the
baby in the

10 highchair?

11 A. Well, no, I didn't see.

12 Q. Did the baby have food on
the tray

13 while the baby was eating?

14 A. They started to feed the
baby, and I

15 saw this, but who put the baby in the
highchair, I didn't

16 see.

17 Q. Was somebody feeding the
baby?

18 A. At the beginning, I saw
when they
19 started to feed the baby. And when I saw the
cry of the
20 baby, and then I thought, there is so quiet,
and only I
21 hear the baby and --

22

23 MR. RICHARD C. MOSTY: I'll
object to

24 non-responsive, your Honor.

25 THE COURT: Well, we are
dealing with

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Reporter

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1 a translator. Just reask the question.

2

3 BY MR. RICHARD C. MOSTY:

4 Q. Ms. Czaban, I am focusing
in on

5 particularly: Did you see someone feed the
child?

6 A. I didn't see. I saw them both
when

7 they were getting ready to feed the baby, but who
was

8 feeding the baby, I didn't see.

9 Q. The baby couldn't feed himself?

10 A. No, they did not finish feeding
the

11 baby and this surprised me.

12 Q. Oh, now you know from the utility
room

13 that they didn't finish feeding the baby?

14 A. Yes, because when you start to
feed a

15 7-month-old baby, then you have to finish feeding
this

16 baby.

17 Q. Okay. Was there still food on --

when

18 you went and found the baby, was there still food on
the

19 highchair?

20 A. It was spilt on the table.

21 Q. No food?

22 A. No, because it was spilt, the
child

23 probably with its hand spilt on the table.

24 Q. So your story is, somebody fed

the

25 baby, but they didn't finish?

1 A. Yes.

2 Q. And then they took the food away,
but

3 left the baby there?

4 A. No. No, the food wasn't taken
away.

5 The food was still there.

6 Q. Was there a baby jar on the
table, on

7 the highchair?

8

9 THE TRANSLATOR: Excuse me, by
jar, do

10 you mean a bottle?

11 MR. RICHARD C. MOSTY: Yes.

12 THE WITNESS: It was a food in
the

13 bottle or something.

14

15 BY MR. RICHARD C. MOSTY:

16 Q. And that was still there when you
17 found the baby?

18 A. Yes.

19 Q. Okay. So they didn't finish
feeding

20 the baby, but they just left and left the food and
left

21 the baby in the highchair?

22 A. Yes, and they went upstairs, yes.

23 Q. And then about 20 minutes later

you

24 rescued the baby?

25 A. I don't know exactly if it was 20

Sandra M. Halsey, CSR, Official Court Reporter

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1 minutes.

2 Q. So, if I understand it, you saw
this

3 baby basically four times during the day?

4 A. Yes, in an accident.

5 Q. Okay. And these four crises, is
that

6 the only time you saw this baby that day?

7 A. During this day, yes.

8 Q. Okay. All four times you saw
the

9 baby, it was in some type of crisis?

10 A. No, I saw when Rebecca was
carrying

11 the baby.

12 Q. Okay.

13

14 MR. RICHARD C. MOSTY: That's

all I

15 have.

16 THE COURT: Anything else?

17 MR. TOBY L. SHOOK: No, sir.

18 THE COURT: Thank you. You may
step

19 down. Watch you step, ma'am.

20 THE COURT: All right. Your next

21 witness?

22 MR. GREG DAVIS: Your Honor, and

23 ladies and gentlemen of the jury, at this time the

State

24 of Texas will rest its case in chief in punishment.

25 THE COURT: All right. Ladies

and

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1 gentlemen, that's all the testimony you are going
to be

2 hearing from the State in this phase of the trial.

3 If you will step -- we will take
a

4 break now, a 15 minute break.

5 Be back at 2:45. Be ready to
go,

6 please.

7 Thank you.

8
9 (Whereupon, a short
10 Recess was taken,
11 After which time,
12 The proceedings
were

13 Resumed on the
record,

14 In the presence
and

15 Hearing of the
defendant

16 And the jury, as
follows:)

17

18 THE COURT: Are

both sides ready to

19 bring the jury in and resume?

20 MR. GREG DAVIS:

Yes, sir. The State

21 is ready.

22 MR. RICHARD

MOSTY: Yes, sir.

23 THE COURT:

We're ready. Bring the

24 jury in.

25

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Official Court Reporter

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

10
11 THE COURT: All right. Be
seated,
12 please. Let the record reflect that all parties in
the
13 trial are present and the jury is seated.
14 THE COURT: Mr. Mulder, are you
ready
15 to go forward?

16 MR. DOUGLAS MULDER: Yes, sir, we
are

17 ready.

18 THE COURT: All right. Call your
19 first witness, please.

20 If you will raise your right
hand,

21 please.

22

23 (Whereupon, the witness

24 Was duly sworn by

the

25 Court, to speak

the truth,

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Court Reporter

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1 The whole truth
and

2 Nothing but the
truth,

3 After which, the
4 Proceedings were

5 Resumed as follows:)

6

7 THE COURT: Do you solemnly
swear or

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

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

10 help you God?

11 THE WITNESS: Yes.

12

13

14 Whereupon,

15

16

17 DANA LYN ROUTIER,

18

19 was called as a witness, for the defense, in
Punishment,

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

21 truth, the whole truth, and nothing but the truth,
22 testified in open court, as follows:

23

24 THE COURT: All right. If you

will

25 have a seat right please.

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1 Go ahead, please, Mr. Mulder.

2 Now, will you please state your
name

3 and spell your name for the court reporter.

4 THE WITNESS: Dana Lyn Routier, my
5 full name, spell it?

6 THE COURT: Yes, ma'am.

7 THE WITNESS: D-A-N-A, L-Y-N,
8 R-O-U-T-I-E-R.

9 THE COURT: All right. Thank you.

10

11 DIRECT EXAMINATION

12

13 BY MR. DOUGLAS MULDER:

14 Q. Dana, will you tell the jury where
you

15 were born and raised?

16 A. I was born in Nashville,
Tennessee.

17 And I was raised in Denver, Colorado until I was 15,
and

18 then I moved to Lubbock, Texas, when I was 15.

19 Q. Okay. And, you have been called
here

20 to testify, Dana, in regards to Darlie Routier. Do
you

21 know her?

22 A. Yes, I do.

23 Q. Do you see her here on my

immediate

24 left?

25 A. Yes, I do.

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1 Q. Okay. How did you first meet her?

2 A. We met in high school. When my
sister

3 and I first moved to Lubbock, we went to school at
4 Monterey High School in Lubbock, Texas. And Darlie,

I

5 believe, she was -- had already been attending
Monterey

6 at that time. And her and I just got to be friends.

7 Q. Okay. And you had moved from out
of

8 state and so had she?

9 A. Um-hum. (Witness nodding head
10 affirmatively.) Yes, sir.

11 Q. Okay. And had a close
relationship,

12 got to know her well, did you?

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

15 Q. And then, subsequently, y'all
married

16 brothers, did you not?

17 A. Right. Well, we had kind of lost
18 track of each other because she had graduated from a
19 different high school. But when I started dating

Deon,

20 my husband -- it was kind of a joke, or not a joke
but it

21 was funny, because he had told me, "Well, guess who
my

22 brother married," and I came over to the house and
they

23 wouldn't tell me who she was and then they said

Darlie,

24 and it seemed like we picked up where we left off,
you

25 know, just immediately. It was good to be back in
touch

Sandra M. Halsey, CSR, Official Court Reporter

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1 with her. I don't know.

2 Q. Okay. When did you and Deon
marry?

3 A. October 9th of 1993.

4 Q. Okay. And, did you live there
in
5 Lubbock?

6 A. Yes.

7 Q. Would you see Darlie and Darin
8 frequently?

9 A. Um-hum. (Witness nodding head
10 affirmatively.)

11 Q. How often would you see them?

12 A. Well, about every third week of
the
13 month, about -- we would go at least once a month
to
14 Dallas from Lubbock.

15 Q. When you did, would you stay
with
16 them?

17 A. Um-hum. (Witness nodding head
18 affirmatively.)

19 Q. In Rowlett?

20 A. Um-hum. (Witness nodding head

21 affirmatively.)

22 Q. Be there for several days?

23 A. Well, we usually could just stay

the

24 weekend because we were both in school and working.

25 Q. You were both attending Texas
Tech?

Sandra M. Halsey, CSR, Official Court Reporter

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1 A. Yes.

2 Q. I guess you got to know their
children

3 well?

4 A. Yes.

5 Q. Would you say that you were
close to

6 Darlie and Darin and their three boys?

7 A. Yes.

8 Q. Did you have occasion to see
Darlie in

9 the company of her boys?

10 A. Yes.

11 Q. And see how she treated her
boys?

12 A. Yes, I did.

13 Q. On many occasions?

14 A. Um-hum. (Witness nodding head
15 affirmatively.)

16

17 THE COURT: Ma'am, could you say
yes

18 or no?

19 THE WITNESS: Okay. Okay.

20

21 BY MR. DOUGLAS MULDER:

22 Q. Can you tell the jury how she
treated

23 those youngsters?

24 A. She was -- when Deon and I first
were

25 married, I didn't have any children. And -- but
Darlie

Sandra M. Halsey, CSR, Official Court Reporter

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1 had her two boys, and she was just such an example
for
2 me.

3 I mean, it's the kind of mother
that I
4 wanted to -- how I wanted to raise my children.

She was
5 very giving and very loving and very kind with her
time

6 and herself, and the things that she wanted to
instill in
7 those children were very important to me.

8 Q. Did you ever see her have a
violent
9 moment toward them?

10 A. Never, never.

11 Q. Did you ever see her do anything
that
12 you thought was strange or unusual?

13 A. No.

14 Q. Would you talk with her
frequently by
15 telephone?

16 A. Yes.

17 Q. And when was your child born?

18 A. April 8th, 1994.

19 Q. A little boy or a little girl?

20 A. A little boy.

21 Q. Okay. Did you call on Darlie
from
22 time to time as your first child was growing?

23 A. Yes, I did.

24 Q. And, why would you do that?

25 A. Well, because I was a first-time

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1 mother, and Darlie had been, you know, had gone
through

2 this twice with Devon and Damon, and because I felt
so
3 comfortable talking with Darlie, and she was so
4 supportive with everything else.

5 And I knew, you know, I could go
to
6 her about the things that I was panicked about as far
as
7 being a first-time mother, like teething and bottles,
and
8 you know, I panicked about everything being a first-
time
9 mom, and Darlie was always real supportive.

10 And, you know, I admired her
advice on
11 how she -- you know, the example. She was a very
good
12 example for me and how -- what I wanted to instill
with
13 my children.

14 Q. Did the boys ever visit you and
Deon
15 in Lubbock?

16 A. Um-hum. (Witness nodding head
17 affirmatively.) They did.

18 Q. How long would they visit?

19 A. Well, they would go and stay
with

20 grandmother and granddaddy which is Lenny and
Sarilda

21 Routier. And they would come and stay with us, me
and

22 uncle Deon, for a night, maybe a night at a time.

23 Q. Dana, did you ever see her strike
her

24 children?

25 A. I did not, no.

1 Q. Or punish them in anger or
anything

2 like that?

3 A. No.

4 Q. When the children would visit
you,

5 would she call and check on the children?

6 A. Yes.

7 Q. Did she supervise the children
when

8 they played out of the home in your presence?

9 A. Yes, yes.

10 Q. Was there anything that went on
that

11 you thought was improper or inappropriate?

12 A. Never, no.

13 Q. Did she and Darin seem to be
getting

14 along as husband and wife?

15 A. Well, sure, yes.

16 Q. Did you feel her relationship
with her

17 children was in all ways normal, as far as you
could see?

18 A. Yes, very normal.

19 Q. You felt like she loved her
three

20 sons?

21 A. Absolutely.

22

23 MR. DOUGLAS MULDER: We will

pass the

24 witness.

25

Sandra M. Halsey, CSR, Official Court
Reporter

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18

CROSS EXAMINATION

BY MR. GREG DAVIS:

Q. Mrs. Routier, do you know why

the

defendant went to another school in Lubbock?

A. I believe it was a half-a-day

work

program where it was work and school, but, no, I'm

not

sure.

Q. Okay. Were you still

talking with the

defendant in April and May of 1996?

A. Um-hum. (Witness

nodding head

affirmatively.)

Q. Okay. In your

discussions with her,

did you ever become aware that she was

having problems

there in her home?

A. No.

MR. GREG DAVIS: No

further questions.

19 THE COURT: You may
step --

20 MR. DOUGLAS MULDER:
Wait just a
21 moment, if I might.

22 THE COURT: Sure.

23

24

25

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Reporter

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1

REDIRECT EXAMINATION

2

3 BY MR. DOUGLAS MULDER:

4 Q. When is the last time
you had seen

5 Darlie before June the 6th, before this
tragedy?

6 A. It was about a week and
a half before.

7 Q. Tell the jury what
happened.

8 A. We had gone, Deon and I
took --

9 brought Dillon to Dallas and we stayed
with them, which

10 was regular, I mean, we would do that
quite often, we'd

11 come up and stay for the weekend. But
that weekend we

12 had made plans to go to the Scarborough
Fair because I

13 had never been.

14 And, Deon and Darlie
and Darin wanted

15 to take me because I had never been, and

they took me to

16 the State Fair for my first time so they
wanted to take

17 me to the Scarborough Fair for my first
time.

18 I mean, we just had the
best time. We

19 had taken Dillon for that time that we had
gone and we

20 were there for about half a day, and we
were just, I mean

21 it was the best weekend, it was one of the
best weekends

22 we got to spend with them, and you know,
we had a

23 terrific time. And we really enjoyed
ourselves and we --

24 it was the last weekend that we were there
before this

25 happened.

Sandra M. Halsey, CSR, Official Court
Reporter

1 Q. Did they all appear to
be getting

2 along normally?

3 A. Yes, yes.

4

5 MR. DOUGLAS MULDER: We
will pass the

6 witness.

7 MR. GREG DAVIS: No
questions.

8 THE COURT: Thank you,
ma'am. Now,

9 ma'am, you must remain outside the
Courtroom when you are

10 not testifying. Don't talk about your
testimony with

11 anybody who has testified. In other
words, don't compare

12 it.

13 You may talk to the
attorneys for

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

15 testimony, tell the attorney for the side
who called you.

16 Okay?

17 THE WITNESS: Okay.

Can I take this

18 with me?

19 THE COURT: Yes, by all

means. Watch

20 your step now going down.

21 THE WITNESS: All

right.

22 THE COURT: Please

raise your right

23 hand.

24

25 (Whereupon, the witness

Sandra M. Halsey, CSR, Official Court
Reporter

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1 Was duly sworn by the
2 Court, to speak the
truth,

3 The whole truth and
4 Nothing but the truth,
5 After which, the
6 Proceedings were
7 Resumed as follows:)

8
9 THE COURT: Do you solemnly swear
or
10 affirm that the testimony you are about to give will
be
11 the truth, the whole truth, and nothing but the
truth, so
12 help you God?

13 THE WITNESS: I do.

14 THE COURT: All right. Have you
ever
15 testified before?

16 THE WITNESS: Well, it's been a
long
17 time.

18 THE COURT: Been a long time.
Okay.

19 Well, just speak up loudly into that microphone.

Speak

20 loud enough so the last two jurors can hear you.

Okay?

21 THE WITNESS: Okay.

22 THE COURT: All right. Go ahead,

23 please.

24

25

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1 Whereupon,

2

3 AMANDA GRAY,

4

5 was called as a witness, for the Defense, in
Punishment,

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

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

8 testified in open court, as follows:

9

10 DIRECT EXAMINATION

11

12 BY MR. DOUGLAS MULDER:

13 Q. Would you tell the jury your name,
14 please?

15 A. Amanda Gray.

16

17 THE COURT: How do you spell your
last

18 name?

19 THE WITNESS: G-R-A-Y.

20 THE COURT: Thank you.

21

22 BY MR. DOUGLAS MULDER:

23 Q. Where to you live, Ms. Gray?

24
25

A. McKinney, Texas.
Q. And how are you employed?

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1 A. I'm a teacher.

2 Q. Where do you teach?

3 A. Anna, Texas.

4 Q. All right. And so the jury will
have

5 some idea where that is, can you tell them where that
is,

6 in proximity to Dallas and McKinney?

7 A. It's north of Dallas, and north of
8 McKinney. It's between McKinney and Sherman.

9 Q. Okay. And for how many years have
you
10 taught school?

11 A. Eleven.

12 Q. What grade do you teach?

13 A. Sixth.

14 Q. Those children in the sixth grade
are

15 what? Eleven or twelve years old, something like
that?

16 A. Between 11 and 12.

17 Q. Okay. I guess, you, in your 11
years

18 as a teacher, have seen many, many children and many,
19 many parents with their children, I suspect?

20 A. Yes, I have.

21 Q. Okay. What is your relationship

to

22 Darlie Routier?

23 A. I am her husband's cousin.

24 Q. How old were you when -- do you

25 remember back when Darin was born?

Sandra M. Halsey, CSR, Official Court Reporter

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1 A. Yes.

2

3 THE COURT: You have to speak a
little

4 louder, ma'am, so this lady over here can hear you.

5 Okay?

6 THE WITNESS: Okay. Is this okay?

7 THE COURT: Very good. Thank
you.

8

9 BY MR. DOUGLAS MULDER:

10 Q. Would you say that you have
had a

11 close relationship with Darin?

12 A. Yes, I do.

13 Q. Kind of -- how did you look upon
14 Darin?

15 A. Well, when he was born, I was 12.
And

16 it was like somebody had given me my own little,
living

17 baby to carry around and take care of, and I have
always

18 kind of had that relationship with him.

19 Q. Have you maintained that

relationship

20 with him throughout the years?

21 A. Yes, I have.

22 Q. Okay. And you have known Darlie,

I

23 guess, since she and Darin started dating?

24 A. Yes.

25 Q. She has become a member of y'all's

Sandra M. Halsey, CSR, Official Court Reporter

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1 family, has she?

2 A. Yes, she has.

3 Q. And you love her in that way?

4 A. Yes, I do.

5 Q. Okay. Do your parents still live
in
6 Lubbock?

7 A. Yes, sir.

8 Q. Do they have occasion to visit
you?

9 A. Yes, sir.

10 Q. And when they do, do y'all always
11 visit the -- Darin and Darlie and the boys?

12 A. Yes, we do.

13 Q. Have you had many occasions, Ms.
Gray,
14 to observe Darlie in the company of her children?

15 A. Yes, our family was the kind of
family
16 that spends Christmas, Thanksgiving, we spent lots of
17 holidays altogether.

18 Q. What type of a mother was Darlie?

19 A. A very devoted, kind, concerned,
20 patient, a lot of patience with the boys.

21 Q. Can you picture in your mind her

not

22 being a caring, devoted, very loving mother?

23 A. No, when I think of her, the

memory --

24 all of the memories that come to me of her with the

boys

25 are of loving, kind, caring, taking care of them,
great

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1 concern for them.

2 Q. Did you ever have occasion to ride
3 with the boys out to Lubbock?

4 A. Yes, Sarilda and I took them to
5 Lubbock one time.

6 Q. Can you tell us, did Darlie pack
their

7 things?

8 A. Well, I was impressed by the fact
that

9 she made each one of them a little lunch kit with --
each

10 one of them had his own little special snacks in the
kit

11 and little toys, and she took a lot of care with each
one

12 of them so they would be comfortable on the trip to
13 Lubbock.

14 Q. You thought she was a very caring
15 parent?

16 A. Yes, I did.

17 Q. You have seen situations no doubt
18 where the parents have acted like they didn't want

the

19 children?

20 A. Yes, and you can usually tell by
the
21 way the children act, too, if they don't have a
caring
22 parent.

23 Q. You can tell that as a school
teacher?

24 A. Yes, sir, I feel like I can.

25 Q. And you counsel with parents and

1 children alike in the school situation, do you not?

2 A. Yes, sir.

3 Q. Okay. What was Darlie's
relationship

4 with her children?

5 A. Very, very caring with them, was
6 almost every time we got together, she would ask me
7 things as a teacher that I felt that she could do
to --

8 when they started school, to help them, I told her
she

9 needed to read to them as much as she could.

10 Damon had difficulty with his
speech

11 and she asked my opinion about what I thought she
should

12 do with that, and I said he needed to have his
hearing

13 tested, and be tested for allergies; and what kind
of

14 toys did I think would be good for them to have to
give

15 them a head start before they went to school.

Always a

16 lot of concern for them.

17 Q. Always was a very devoted and
loving

18 mother?

19 A. I never saw anything but a
loving and

20 devoted mother.

21

22 MR. DOUGLAS MULDER: We'll pass
the

23 witness.

24 MR. GREG DAVIS: No questions.

25 THE COURT: Thank you, ma'am.

Ma'am,

1 when you are not testifying, you have to remain
outside
2 of the Courtroom. Don't talk about your testimony
with
3 anybody who has testified. In other words, don't
compare
4 it. You may talk to the attorneys for either side.

If

5 someone tries to talk to you about your testimony,
please

6 tell the attorney for the side who called you. Okay?

7 THE WITNESS: Okay.

8 THE COURT: Watch your step.

9 All right. Your next witness.

10 If you will raise your right hand,
11 please, ma'am.

12

13 (Whereupon, the witness

14 Was duly sworn by the

15 Court, to speak the

truth,

16 The whole truth and

17 Nothing but the truth,

18 After which, the

19 Proceedings were

20 Resumed as follows:)

21

22

THE COURT: Do you solemnly swear

or

23 affirm that the testimony you are about to give will

be

24 the truth, the whole truth, and nothing but the

truth, so

25 help you God?

Sandra M. Halsey, CSR, Official Court Reporter

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1 THE WITNESS: I do.

2 THE COURT: Just have a seat
right

3 here, please, ma'am.

4 State your name and spell your
name

5 for the court reporter, please.

6 THE WITNESS: Melanie, M-E-L-A-N-
I-E,

7 Lynn, L-Y-N-N, Waits, W-A-I-T-S.

8 THE COURT: Mr. Glover.

9

10

11 Whereupon,

12 MELANIE LYNN WAITS,

13

14 was called as a witness, for the Defense, in
Punishment,

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

16 truth, the whole truth, and nothing but the truth,

17 testified in open court, as follows:

18

19 DIRECT EXAMINATION

20

21 BY MR. CURTIS GLOVER:

22 Q. Melanie, if you would tell the
jury

23 where you live?

24 A. 1010 Sumner in Mesquite, Texas.
25

Sandra M. Halsey, CSR, Official Court Reporter

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1 THE COURT: Ma'am, speak into
the
2 microphone loudly enough so those two people can
hear
3 you. Okay. Let's try it again.

4 THE WITNESS: 1010 Sumner in
Mesquite,
5 Texas.

6 THE COURT: All right. That's
good.

7

8 BY MR. CURTIS GLOVER:

9 Q. All right. Mesquite is a suburb
of
10 Dallas, isn't it?

11 A. Yes.

12 Q. And are you married?

13 A. Yes.

14 Q. Do you have children?

15 A. Yes.

16 Q. What kind of work do you do?

17 A. Sign, I work for a sign company.

18 Q. Work for a sign company. Is that
in

19 Dallas or in Mesquite?

20 A. Dallas.

21 Q. Okay. And, how many kiddos do
you

22 have?

23 A. Two.

24 Q. What are they, boys or girls?

25 A. I have a boy and a girl.

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1 Q. Their ages?

2 A. Six and three.

3 Q. Okay. And what does your husband
do?

4 A. He also works with the sign
company,
5 it's a family owned business.

6 Q. Okay. What do you do there at
that
7 business?

8 A. I help dispatch cranes and also
9 invoice, that kind of thing.

10 Q. Okay. You create signs for
businesses
11 there in Dallas; is that right?

12 A. That's correct.

13 Q. Okay. And you say it's family
owned?

14 A. Yes, sir.

15 Q. I'll ask you, Melanie, if you
know
16 Darlie Routier?

17 A. Yes, I do.

18 Q. How did you meet Darlie?

19 A. Through mutual friends.

20 Q. Okay. How long ago would that

have

21 been?

22 A. About five years.

23 Q. Do you recall what occasioned

y'all

24 meeting?

25 A. When we met?

Sandra M. Halsey, CSR, Official Court Reporter

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1 Q. Yes. What was the circumstance
of
2 your meeting, if you remember?

3 A. Yes. Our friends, our mutual
friend
4 were moving away to Arizona and we had a -- like a
going
5 away party with all of their friends there and that
is
6 where we met.

7 Q. Were your husbands with you?

8 A. Yes.

9 Q. Okay. I guess you met Darin at
that
10 time?

11 A. Yes.

12 Q. You all struck up a friendship?

13 A. Yes.

14 Q. And what kind of interest did you
have
15 together during the course of that friendship?

16 A. Our children, you know, we would
call
17 and get together for birthday parties and send
18 invitations, that is kind of how we started our
19 friendship, going to each other's children's

birthday

20 parties.

21 Q. Okay. Then you have had
occasion, I

22 guess, to see her around her kiddos; is that right?

23 A. That's correct.

24 Q. Okay. Tell the jury, in your own
25 words, what kind of mother you think Darlie has been
in

1 the past?

2 A. To me, she has been a very good
3 mother. Just being around her, she has acted the
same as

4 I have, you know, with my children. We would go to
these

5 parties, and everything we do is for our children.

6 Q. The parties that you're speaking
of,

7 were these parties that always included the
children?

8 A. Yes.

9 Q. They weren't just adult parties,
they

10 were adult as well as for the children?

11 A. Mostly the parties that we went
to

12 were for the children.

13 Q. They weren't adult parties?

14 A. No, Chuck E. Cheese, that kind of
15 thing.

16 Q. Chuck E. Cheese is kind of a
little

17 place where children can go and have their birthday
18 parties?

19 A. Yes.

20 Q. And you, as parents, both took
your

21 kids to those places; is that right?

22 A. Yes.

23 Q. Okay. Did Darlie delight in her
24 children?

25 A. Yes.

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1 Q. How about Darin?

2 A. Oh, yes, both of them.

3 Q. Were they a good team with their
4 children?

5 A. Yes, they were.

6 Q. Okay. It has been indicated that
7 Darlie uses or has used on occasion bad language,
8 profanity or curse words in a public place. What do
you

9 know about Darlie and any proclivity for doing that
sort
10 of thing?

11 A. I have never heard Darlie use a
cuss
12 word, not once have I ever in her company.

13 Q. Okay. Describe her personality,
if
14 you will, what kind of person is she? Rude or --

15 A. No, she is very sweet.

16 Q. Have you had occasion to shop
with
17 Darlie over the years?

18 A. Yes, I have.

19 Q. Okay. What would y'all do
together?

20 A. We went Christmas shopping, we
have
21 gone shopping for the children before. Most of the
time
22 when I was out with her, we bought clothes for the
kids,
23 things like that.

24 Q. Anything about her that was
uppity
25 or --

1 A. No.

2 Q. Or thought she was better than
other
3 people?

4 A. No, she is an easygoing, easy to
like
5 person.

6 Q. Okay.

7

8 MR. CURTIS GLOVER: We will pass
the
9 witness.

10

11 CROSS EXAMINATION

12

13 BY MR. GREG DAVIS:

14 Q. Ms. Waits, you mention these
parties

15 that you attended with the defendant, were children
16 always there at these parties?

17 A. At the children's parties, yes.

18 Q. Were there other parties that
you

19 attended with the defendant where no children
were

20 present?

21 A. At New Year's parties.

22 Q. Did you have occasion to be with
her

23 during the weekend of Mother's Day in '94 or '95?

24 A. Mother's Day?

25 Q. Mother's Day weekend.

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1 A. Yes.

2 Q. Okay. Which of those two years?

3 A. Both.

4 Q. Now, specifically, I'm talking
about

5 the Saturday night before Mother's Day. Were you
with

6 her on those occasions?

7 A. I believe so. I'm trying to
remember

8 what day that was.

9 Q. Well, in 1994, there was a party
over

10 there at 5801 Eagle Drive, was there not?

11 A. Yes.

12 Q. And certainly no children were
invited

13 to that party, were they?

14 A. No.

15 Q. Either of the defendant's two
sisters

16 present at that house?

17 A. I don't recall either of them
being

18 there.

19 Q. And in 1994, did someone come over
20 there to the house to provide entertainment?

21 A. Yes.

22 Q. Who was that?

23 A. It was a male stripper.

24 Q. Do you remember what his name was?

25 A. No, sir.

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1 Q. Master Blaster?

2 A. It could have been. I honestly
don't

3 remember.

4 Q. And that evening, did y'all rent a
5 limousine also?

6 A. Yes, we did.

7 Q. All of the girls then get in the
8 limousine and start riding around town after the
party

9 had finished up there at the residence?

10 A. Yes.

11 Q. In 1995, during that weekend,
again,

12 going back to that Saturday night, did you and the
13 defendant and the defendant -- well, going back to
1994,

14 was Darlie Kee, the defendant's mother, present at
that

15 party in 1994?

16 A. Yes, she was.

17 Q. In '95, again, you, the defendant,
her

18 mother, also present, did y'all rent a room there at
the

19 Anatole Hotel in Dallas?

20 A. Yes.

21 Q. Who else was present at that
party?

22 Who else was present with you in the room there?

23 A. I can't name everyone, but I can -

-

24 Q. Just as many as you can recall?

25 A. Michelle Ramasine (phonetic),
Basia, I

Sandra M. Halsey, CSR, Official Court Reporter

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1 don't know her last name, Basia's last name, Darlie
Kee,

2 several of the women I had not met previously so I
really

3 can't name them, you know.

4 Q. How about Dana or Danielle Stahl?

5 A. Yes.

6 Q. And let's see, Dana would have
been,

7 what, about 15?

8 A. I believe so.

9 Q. Okay.

10 A. I don't recall.

11 Q. Danielle, how old would she have
been?

12 A. I don't know how old Danielle is
now.

13 Q. Okay. And, that evening, y'all
didn't

14 stay in the hotel room the whole night, did you?

15 A. No.

16 Q. Where did y'all go to celebrate
that

17 night?

18 A. La Bare's.

19 Q. Okay. And La Bare's is what?

20 A. A gentlemen's -- or a ladies,
where

21 ladies go where gentlemen strip.

22 Q. Strip club for women?

23 A. Yeah, it's the only one in Dallas.

24 Q. And, after you finished there, did
you

25 stay the night there at the Anatole?

Sandra M. Halsey, CSR, Official Court Reporter

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1 A. Yes.

2 Q. And I guess then, y'all wouldn't
have

3 gotten back home until what, about noon on Mother's
Day?

4 A. Yes.

5 Q. And again, no children were
invited to

6 that party, were they?

7 A. No.

8

9 MR. GREG DAVIS: That's all the
10 questions I have, Judge.

11 THE COURT: You may step down.

12

13 REDIRECT EXAMINATION

14

15 BY MR. CURTIS GLOVER:

16 Q. Melanie, that was just a bunch
of

17 girls that got together and celebrated Mother's
Day; is

18 that right?

19 A. Well, it was more or less a
Mother's

20 Day Out, where once a year the women can get
together,

21 and get away from everything once a year.

22 Q. Your husbands all knew where you
were,

23 didn't they?

24 A. That's correct.

25 Q. Okay. You told your husband and
it

Sandra M. Halsey, CSR, Official Court Reporter

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1 was like a slumber party; is that right?

2 A. Yeah.

3 Q. But y'all went back to the
hotel,

4 didn't you?

5 A. Yes.

6 Q. Okay. Everybody spent the night
7 there?

8 A. Yes. We took a taxi back and
forth.

9 Q. Okay. Did you find anything
wrong

10 with that?

11 A. No. We all had a good time and
made

12 sure that no one was driving. You know, we always
made

13 sure we had transportation there and from, Darlie
took

14 care of that.

15 Q. Okay. Thank you.

16

17 MR. CURTIS GLOVER: We have no
more

18 questions.

19 MR. GREG DAVIS: No further
questions,

20 your Honor.

21 THE COURT: Ma'am, you may step
down.

22 Ma'am, when you are not testifying, you have to
remain

23 outside of the Courtroom. Don't talk about your

24 testimony with anybody who has testified. Don't

compare

25 it.

Sandra M. Halsey, CSR, Official Court Reporter

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1 You may talk to the attorneys for
2 either side. If someone tries to talk to you about
your
3 testimony, please tell the attorney for the side who
4 called you. Okay? Watch your step going down,
please.

5 Your next witness.

6 Will you raise your right hand,
7 please?

8
9 (Whereupon, the witness
10 Was duly sworn by the
11 Court, to speak the truth,
12 The whole truth and
13 Nothing but the truth,
14 After which, the
15 Proceedings were
16 Resumed as follows:)

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

22

THE WITNESS: I do.

23

THE COURT: Have a seat right

here,

24 please. Is this the first time you have ever

testified?

25

THE WITNESS: Yes.

Sandra M. Halsey, CSR, Official Court Reporter

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1 THE COURT: Okay. Just relax.

Speak

2 loudly into this microphone here so both the lady and
the

3 gentleman at the end can hear you. Okay?

4 THE WITNESS: Okay.

5 THE COURT: Please state your name
and

6 spell your name for the court reporter.

7 THE WITNESS: Deon, D-E-O-N,
Routier,

8 R-O-U-T-I-E-R.

9

10

11 Whereupon,

12

13 DEON ROUTIER,

14

15 was called as a witness, for the Defense, in
Punishment,

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

17 truth, the whole truth, and nothing but the truth,

18 testified in open court, as follows:

19

20 THE COURT: Mr. Mulder.

21

MR. DOUGLAS MULDER: Yes, sir.

22

23

DIRECT EXAMINATION

24

25 BY MR. DOUGLAS MULDER:

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1 Q. Deon, tell the jury how old you
are,

2 please?

3 A. I'm 26.

4 Q. Where were you born and raised?

5 A. Lubbock, Texas.

6 Q. Okay. You graduated from high
school

7 there?

8 A. Yes, sir.

9 Q. You went on to Texas Tech, didn't
you?

10 A. Yes, sir.

11 Q. Did you graduate from Texas Tech?

12 A. Yes, sir.

13 Q. What is your degree in?

14 A. I'm political science, pre-law and
15 telecommunications minor.

16 Q. Okay. How are you employed at
this

17 time?

18 A. I'm an RF engineer, which is radio
19 frequency, for PageMart nationwide.

20 Q. Where do you and your wife live?

21 A. In Plano, Texas.

22 Q. And that is just north of Dallas,

23 isn't it?

24 A. Yes, sir.

25 Q. Okay. How long have you lived in
the

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1 Plano area?

2 A. Ever since this happened. We
moved to

3 Dallas.

4 Q. Shortly thereafter?

5 A. Yes, sir.

6 Q. Okay. Are you and Darin close as
7 brothers?

8 A. Yes, sir.

9 Q. And are you and Darlie close as
family

10 members?

11 A. Yes, sir.

12 Q. How often would you see -- before
you

13 moved to the Dallas area from Lubbock, how often
would

14 you see your brother and Darlie?

15 A. Probably on the average of once
every

16 three weeks.

17 Q. And before you -- I guess, after
you

18 married, you and your wife would make that trip to

19 Dallas?

20 A. Yes, sir.

21 Q. And before that, how often have
you

22 made that trip?

23 A. Even before I was married, it
would

24 probably be about every three to four weeks. Ever
since

25 Darin moved to Dallas, I have gone to see him. He
has

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they

20 were your own?

21 A. Yes, sir.

22 Q. Do you think Darlie is capable

of

23 hurting them?

24 A. No, sir.

25 Q. Any question in your mind?

Sandra M. Halsey, CSR, Official Court Reporter

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1 A. No, sir.

2 Q. And you love those children like
you
3 love your own son?

4 A. Yes, sir.

5 Q. They were very close to you too,
6 weren't they?

7 A. Yes, they were.

8 Q. What type of mother was she,
Deon?

9 A. She was a very devoted mother.
She
10 did everything for those kids.

11 Q. You were in their home a weekend
once
12 a month from the time they were born, weren't you?

13 A. Yes, sir.

14 Q. So you saw the -- any bad times
along
15 with the good, I suspect, did you not?

16 A. Yes, sir.

17 Q. Did you ever see her do anything
18 violent toward the boys?

19 A. Never before.

20 Q. Did you ever do anything -- did

you

21 ever see her do anything that you, in retrospect,
maybe

22 thought was inappropriate?

23 A. No, sir.

24 Q. How would she correct the boys?

I

25 mean as boys, and I'm sure everything wasn't hunky-
dory

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1 all the time, how would she correct the boys if it
was
2 necessary to discipline them?

3 A. She always reasoned with them.
She --

4
5 THE COURT: You have to raise
your

6 voice, sir. They can not hear it.

7 THE WITNESS: She always reasoned
with
8 them. She always talked it out and kept asking them
over

9 and over, again and again. Sometimes I thought, you
10 know, too much because boys need a little more
11 discipline, but she never did. I never saw her
spank
12 those kids one time.

13

14 BY MR. DOUGLAS MULDER:

15 Q. Was she very close to them and
very

16 protective of them?

17 A. Always, always.

18 Q. You loved those two boys, didn't

you?

19 A. Yes, sir, I did.

20 Q. And you still do?

21 A. I still do.

22

23 MR. DOUGLAS MULDER: We'll pass

the

24 witness.

25 MR. GREG DAVIS: No questions.

Sandra M. Halsey, CSR, Official Court Reporter

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1 THE COURT: Thank you, sir. When
you

2 are not testifying, you have to remain outside the
3 Courtroom. Don't talk about your testimony with
anybody

4 that has testified. In other words, don't compare
it.

5 You may talk to the attorneys for
6 either side. If someone tries to talk to you about
your

7 testimony, please tell the attorney for the side who
8 called you.

9 You may step down. Thank you.
10 Your next witness.

11 MR. MULDER: Rebecca Neal.

12 THE COURT: Will you raise your
right

13 hand, please, ma'am.

14

15 (Whereupon, the witness

16 Was duly sworn by the

17 Court, to speak the

truth,

18 The whole truth and

19 Nothing but the truth,

20 After which, the

21

Proceedings were

22

Resumed as follows:)

23

24

THE COURT: Do you solemnly swear

or

25

affirm that the testimony you are about to give will

be

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

2 help you God?

3 THE WITNESS: Yes.

4 THE COURT: All right. Have a
seat

5 right here, please. Is this your first time to
testify?

6 THE WITNESS: Um-hum. (Witness
7 nodding head affirmatively.)

8 THE COURT: All right. First of
all,

9 relax. Speak into this microphone loudly so the last
10 lady and gentleman can hear you. Okay?

11 THE WITNESS: Okay.

12

13

14 Whereupon,

15

16 REBECCA NEAL,

17

18 was called as a witness, for the Defense, in
Punishment,

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

20 truth, the whole truth, and nothing but the truth,

21 testified in open court, as follows:

22

23 THE COURT: Will you please state

your

24 name and spell your name for the court reporter?

25 THE WITNESS: My last name too?

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1 THE COURT: Oh, yes, your whole
name.

2 THE WITNESS: Okay. Rebecca,
3 R-E-B-E-C-C-A, Neal, N-E-A-L.

4 THE COURT: Okay. Thank you.
5 Can you hear that?

6 You will have to raise your voice
a

7 little bit more. Can you lean up into the
microphone?

8 All right.

9 Go ahead, please.

10

11 DIRECT EXAMINATION

12

13 BY MR. RICHARD MOSTY:

14 Q. Rebecca, how old are you?

15 A. Twelve.

16 Q. All right. And you and I had an
17 opportunity to meet during lunch, didn't we?

18 A. Yes, sir.

19 Q. All right. And remember --

20

21 THE COURT: Mr. Mosty, I hate to
22 interrupt. They still cannot hear you. You are
going to

23 have to speak loud. You will hear your voice echo,
don't

24 worry about that.

25 MR. RICHARD C. MOSTY: Rebecca,
can

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1 you pull that microphone up?

2 THE COURT: Right up to you.

There

3 you go. All right.

4

5 BY MR. RICHARD C. MOSTY:

6 Q. All right. You remember I told
you to

7 just try to relax while you are here?

8 A. Yes.

9 Q. All right. And you need to try
to

10 answer out with a yes or a no or whatever the answer
is,

11 rather than saying unh-uh and um-hum. Okay?

12 A. Yes.

13 Q. Okay. And Rebecca, you
understand the

14 difference between telling the truth and telling a
lie?

15 A. Yes.

16 Q. And, you know that you are sworn
under

17 oath to tell the truth here before this jury today?

18 A. Yes.

19 Q. All right. Now, Rebecca, you're
in

20 what grade?

21 A. Sixth.

22 Q. And, where do you go to school?

23 A. Coyle Middle School.

24 Q. And Rebecca, who are your

parents?

25 A. Karen Neal and Terry Neal.

Sandra M. Halsey, CSR, Official Court Reporter

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1 Q. Do you have any brothers and
sisters?

2 A. Yes, I have one brother.

3 Q. All right. And, who lives in
your

4 house with you?

5 A. My mom, my dad and my brother.

6 Q. Do you need a Kleenex?

7 A. Yes.

8

9 THE COURT: Is there another
witness

10 you can put on?

11 MR. RICHARD C. MOSTY: Yes. Do
you

12 want to call another witness?

13 THE COURT: Why don't you step
down

14 for a minute and then we will have you come back.
Okay?

15 All right.

16 MR. RICHARD C. MOSTY: Could I
step

17 out and maybe visit with her and see if she can get
her

18 composure.

19 THE COURT: That will be fine.

20 MR. DOUGLAS MULDER: Judge, why
don't

21 we let her dad come in here and sit in the front row
with

22 her or some place where she can see him.

23 THE COURT: That will be fine.

If you

24 want him to testify, you can put him on first and
then

25 put her on. Okay?

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1 MR. DOUGLAS MULDER: I think it's
2 cumulative. If we can just have him sit in here,
that's
3 fine.

4 THE COURT: Well, that will be
fine.

5 Do both sides agree to that?

6 MR. GREG DAVIS: Yes, sir.

7 THE COURT: All right. Let's
bring

8 the father in, if that will help. All right.

9 (Witness comes back into
courtroom.)

10 THE COURT: How are you feeling?

11 THE WITNESS: Okay.

12 THE COURT: All right. Listen,
you

13 just relax. Okay?

14 THE WITNESS: Okay.

15 THE COURT: Are you ready to go
again?

16 THE WITNESS: Yes, sir.

17 THE COURT: Okay. Go ahead.

18

19 BY MR. RICHARD C. MOSTY:

20 Q. Rebecca, this is your dad sitting
here

21 on the front row, is it?

22 A. Yes, sir.

23 Q. Rebecca, I know this is hard for
you,

24 you were friends with Darlie?

25 A. Yes, sir.

Sandra M. Halsey, CSR, Official Court Reporter

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1 Q. And, since Darlie has been
arrested,

2 have you ever seen her?

3 A. No, sir.

4 Q. Until just now when you took the
5 witness stand?

6 A. Yes.

7 Q. And is that what got you upset?

8 A. Yes.

9 Q. All right. And let me try to
move

10 briefly through some of this. You live across the
street

11 from the Routiers?

12 A. Yes.

13 Q. And how was your relation with
the

14 Routier family? How frequently would you go over
there?

15 A. About every day.

16 Q. Okay. After school?

17 A. Yes.

18 Q. If I understand, your parents
both

19 work?

20 A. Yes.

21 Q. How long do you think -- I think
the

22 Routiers moved in there in '93. Did your
relationship

23 build or have you been going over there pretty much
all

24 the time?

25 A. About all the time.

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1 Q. Okay. And, you knew Devon and
Damon,
2 of course?
3 A. Yes.
4 Q. And did you play with them?
5 A. Yes.
6 Q. At the Routiers' house?
7 A. Yes.
8 Q. Were you welcome at the Routiers'
9 house?
10 A. Yes.
11 Q. Were all of the neighborhood kids
12 welcome there?
13 A. Yes.
14 Q. And what kind of relationship did
15 Darlie have with the neighborhood kids?
16 A. Pretty good.
17 Q. All right. And what kind of
18 relationship did you and Darlie have? What was that
19 like?
20 A. Well, like she was my mom.
21 Q. All right. Was it also like she
was a
22 friend of yours?
23 A. Yes.

24
25

Q. Did you value that relationship?
A. Yes.

Sandra M. Halsey, CSR, Official Court Reporter

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1 Q. Do you still value that
relationship?

2 A. Yes.

3 Q. And how did Darlie seem to get
along

4 with her kids?

5 A. Oh, she got along with them
pretty

6 good.

7 Q. Okay. As well as you and your
mom get

8 along?

9 A. Yes.

10 Q. Okay. And, did the kids appear
happy?

11 A. Yes.

12 Q. Did Devon and Damon have lots of
13 things, like Nintendos and games and TVs and those
14 things?

15 A. Yes.

16 Q. And did you go over there and
watch TV

17 and play games with them and things of that nature?

18 A. Yes.

19 Q. Rebecca, did you play outside

with the

20 boys?

21 A. Yes.

22 Q. And was Darlie -- did Darlie know

23 where y'all were or was some adult watching y'all at

all

24 times?

25 A. Yes.

Sandra M. Halsey, CSR, Official Court Reporter

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1 Q. And did you ride bikes with the
boys

2 and things of that nature?

3 A. Yes.

4 Q. Where did the boys usually ride
their

5 bicycles?

6 A. Like in the driveway or on the
7 sidewalk.

8 Q. Okay. What about back in the
alley

9 behind the house sometimes?

10 A. Yes, sometimes.

11 Q. Now, did you also have occasion
to

12 help out with Darlie in looking after the kids?

13 A. Yes.

14 Q. Did you help her sometimes
looking out

15 with baby Drake?

16 A. Yes.

17 Q. Did you have a good relationship
with

18 Drake?

19 A. Yes.

20 Q. And what would you do with Drake?
21 A. We would play with his toys.
22 Q. With him?
23 A. Um-hum. (Witness nodding head
24 affirmatively.) Yes.
25 Q. Did you -- was there always some
adult

Sandra M. Halsey, CSR, Official Court Reporter

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1 there when you were sort of looking after Drake?

2 A. Yes.

3 Q. And, I guess you were sort of
keeping

4 up with how Drake was doing?

5 A. Yes.

6 Q. Now, I want to direct your
attention

7 to June of last year. I guess you were out of
school, I

8 guess for the summer?

9 A. Yes.

10 Q. And during that period of time in
the

11 summer, how much of the day, when you were out of
school,

12 how much of the day would you spend over at the
Routiers'

13 house?

14 A. About -- I don't know.

15 Q. Most of the day?

16 A. Yes.

17 Q. Would you go over there pretty
early

18 in the morning?

19 A. Yes.

20 Q. Do your parents go to work real
early?

21 A. Yes.

22 Q. And I think maybe your mom said
that

23 she got off work at something like 2:30 or 3:00.

24 A. Yes.

25 Q. Is that about right?

Sandra M. Halsey, CSR, Official Court Reporter

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1 A. Yes.

2 Q. Now, do you remember meeting a
lady
3 named Halina?

4 A. Yes.

5 Q. On how many days did you meet
Halina?

6 A. About two.

7 Q. And would that have been right
before
8 this tragedy occurred?

9 A. Yes.

10 Q. Now, at that time do you remember
11 anything about Drake or how he was progressing as a
young
12 boy?

13 A. Well, what do you mean?

14 Q. Well, for instance, was he
walking by
15 then?

16 A. Well, you had to hold on to his
hands.

17 Q. He was trying to walk?

18 A. Yes.

19 Q. And was he crawling around on

floors

20 and moving around some?

21 A. Yes.

22 Q. Okay. What about teeth, was he?

23 A. He was getting teeth.

24 Q. Okay. And as a young girl, were

you

25 sort of paying attention to this young baby?

Sandra M. Halsey, CSR, Official Court Reporter

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1 A. Yes.

2 Q. Have you ever been around any
little

3 babies before?

4 A. Yes.

5 Q. Now, Rebecca, is there anything
that

6 you remember about Drake in terms of how he liked to
lie

7 and how he liked to sleep?

8 A. Yes.

9 Q. What was that?

10 A. He always liked a pillow -- I
mean, a

11 blanket over his head.

12 Q. Is that as long as you remember,
he

13 liked to have a blanket over his head?

14 A. Yes.

15 Q. Now, do you remember the first
day

16 that Halina ever came to the house, just in general?

17 A. Yes.

18 Q. And were you there most of that
day?

19 A. Yes.

20 Q. Now, I want to turn to the second
day

21 that Halina came to the house. Were you also there
at

22 that time?

23 A. Yes.

24 Q. Were you there most of that day?

25 A. Yes.

Sandra M. Halsey, CSR, Official Court Reporter

1 Q. Were you there when there was an
2 incident of Halina asking, where is the baby?
3 A. Yes.
4 Q. Where -- when that happened, what
were
5 you doing?
6 A. Can you repeat that, please?
7 Q. When that happened, right before
8 Halina asked, where is the baby, where were you?
9 A. I was downstairs on the
couch.
10 Q. Okay. And where was
Darlie?
11 A. She was sitting next to
me.
12 Q. On the couch?
13 A. Yes.
14 Q. And what were y'all doing?
15 A. We were looking at a photo album.
16 Q. Okay. And were y'all talking?
17 A. Yes, we were laughing.
18 Q. You were laughing?
19 A. Yes.
20 Q. Were you looking at some
photographs

21 there?

22 A. Yes.

23 Q. Where was Drake?

24 A. He was laying down on the floor

on his

25 pillow.

Sandra M. Halsey, CSR, Official Court Reporter

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1 Q. Okay. Sort of in front of the
TV?

2 A. Yes.

3 Q. Okay. And he was on a pillow?

4 A. Yes.

5 Q. Was he covered up?

6 A. Yes.

7 Q. Had the blanket all the way over
his

8 head?

9 A. It wasn't all the way over his
head.

10 It was partly over his head.

11 Q. Okay. And do you remember Halina
12 saying something like, "Where is the baby"?

13 A. Yes.

14 Q. Was it obvious where Drake was?

15 A. Well --

16 Q. Was he in the middle of the
floor?

17 A. Yeah.

18 Q. Okay. And, when Halina first
said

19 that, do you remember even hearing about it? I
mean, did

20 you hear it, did you understand what she said at

first?

21 A. No.

22 Q. Did you or Darlie respond while
you

23 were there laughing?

24 A. No, because we didn't hear her.

25 Q. Okay. And then, what did Halina
do?

Sandra M. Halsey, CSR, Official Court Reporter

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1 A. She started looking under the
couch.

2 Q. For?

3 A. The baby.

4 Q. Okay. And, did that sort of
strike

5 you as funny?

6 A. Yes.

7 Q. Okay. Did you laugh?

8 A. Yes.

9 Q. A little bit?

10 A. Yes.

11 Q. And was Drake out in the middle
of the

12 room?

13 A. Yes.

14 Q. Was anybody holding him?

15 A. Well --

16 Q. What was he doing?

17 A. He was still sleeping and then
Halina

18 finally found him and she picked him up.

19 Q. Did she appear sort of upset with
20 y'all?

21 A. Yes.

22 Q. Did you intend to laugh at

Halina?

23 A. No.

24 Q. Do you recall anything else that
day,
25 that second day of Halina saying, "Come get this
baby out

Sandra M. Halsey, CSR, Official Court Reporter

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1 of the highchair," or calling you upstairs to come
down

2 and get baby Drake?

3 A. No.

4 Q. Okay.

5

6 MR. RICHARD C. MOSTY: I think
that's

7 all I have, your Honor.

8 MR. GREG DAVIS: No questions.

9 THE COURT: Ma'am, you may step
down

10 now. I have to give you one warning. When you are
not

11 testifying, please remain outside the Courtroom.

Don't

12 talk with anybody about your testimony. If somebody

13 tries to talk to you, please tell Mr. Mosty or Mr.

14 Mulder. Will that be fair enough?

15 THE WITNESS: Yes.

16 THE COURT: Okay. Thank you.

Be

17 careful stepping down, please.

18 MR. DOUGLAS MULDER: We call

Darin

19 Routier.

20 THE COURT: If you will have a
seat

21 here, please, sir. Please state your name.

22 THE WITNESS: Darin Eugene
Routier.

23 THE COURT: You are the same
Darin

24 Routier who has testified earlier in this case?

25 THE WITNESS: Yes, sir, I am.

Sandra M. Halsey, CSR, Official Court Reporter

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1 THE COURT: You are reminded
that you
2 are still under oath.

3 Go ahead, please, Mr. Mulder.

4

5

6 Whereupon,

7

8 DARIN EUGENE ROUTIER,

9

10 was called as a witness, for the Defense, in
Punishment,

11 having been previously duly sworn to speak the
truth, the

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

13 court, as follows:

14

15 DIRECT EXAMINATION

16

17 BY MR. DOUGLAS MULDER:

18 Q. Yes, Darin, let me direct your
19 attention back to June the 17th of 1996. And I'll
ask

20 you if that is the day that your house was released
back

21 to you and Darlie?

22 A. Yes, sir, it was.

23 Q. Okay. And from the 6th of June
until

24 the 17th of June, you had not been permitted to go
into

25 your house, had you?

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1 A. No, sir, we had not.

2 Q. Okay. And, I'll ask you if you
and

3 Darlie had occasion to go to 5801 Eagle Drive, your
4 residence there, in the company of Detective
Patterson

5 and Detective Frosch?

6 A. Yes, sir, we did.

7 Q. Okay. And did you also have a
psychic

8 with you at that time?

9 A. Yes, sir, we did.

10 Q. About how much -- did you all do
a

11 walk-through of the house and Darlie explained to
12 Patterson and Frosch in person as to what happened
and

13 where it was and this and that?

14 A. Yes, sir.

15 Q. Okay. And, I'll ask you if the
16 psychic was there as well?

17 A. Yes, sir, she was.

18 Q. Okay. About how long were you
in the

19 house?

20 A. Couple of hours.

21 Q. Okay. And, from what time to
what

22 time, as best you recall?

23 A. It seemed like it was dark,
probably

24 7:30 or eight-ish. Frosch and Patterson didn't
stick

25 around very long.

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1 Q. Okay. And when you left, I
guess you

2 were staying at that time out in Plano?

3 A. Yes, sir. We never went back to
the

4 residence to stay

5 Q. Pardon?

6 A. We never went back to the
residence to

7 stay.

8 Q. Okay. Did Darlie ever go back
to the

9 residence, period, after the 17th?

10 A. No, sir, she didn't.

11 Q. She was arrested the 18th?

12 A. Yes, sir.

13 Q. You have a neighbor across the
street,

14 a Ms. Nelda Watts?

15 A. Yes, sir.

16 Q. About how long have the Watts
lived

17 there?

18 A. I don't know, seemed like it was
a

19 couple of -- two summers ago.

20 Q. Okay. Have you ever met her?

21 A. No, sir, I haven't.

22 Q. Have you met him?

23 A. No, sir.

24 Q. Do you know if Darlie has met

them?

25 A. I don't believe she has. They
weren't

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1 very social.

2 Q. All right. Stayed to
themselves, did

3 they?

4 A. Yes, sir.

5 Q. In the house primarily?

6 A. Yes, sir.

7 Q. All right. Did you have an
occasion

8 to return to your residence on the 18th?

9 A. Yes, sir, we did.

10 Q. And who was there and what was
your

11 purpose in returning?

12 A. Dana Stahl went with me. We met
13 the -- an insurance agent at the house around 10 or
10:30

14 in the morning.

15 Q. Okay. Dana Stahl would be
Darlie's

16 younger sister?

17 A. Yes, sir.

18 Q. And she is 16 or 17 years old
now,

19 something like that?

20 A. Yes, sir.

21 Q. Okay. About the same size as
Darlie?

22 A. Yes, sir.

23 Q. Okay. Did you wait out in the
front

24 yard for the insurance adjustor?

25 A. Yes, sir, we did.

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1 Q. Okay. And while you were there,
did
2 you have occasion to do any cleaning up or picking
up?

3 A. Yes, sir. There was just, oh, I
guess
4 there was probably 40 or 50 flowers that were around
the
5 fountain.

6 Q. You are talking about wreaths, and
7 bouquets, and things like that?

8 A. Wreaths and bouquets and great,
big,
9 huge things of -- and we decided to just go ahead and
10 just go ahead and clean up all the ones that were all
11 dried up and dead. And so I went around the back and
I
12 got one of the little pull-cart dumpsters and we
brought
13 it around. We were picking all the little stuff off
of
14 them, all the little signs and stuffed animals and
things
15 like that.

16 Q. And you saved those?

17 A. Yes, sir. I still have them.
18 Q. All right. And, the remainder of
the
19 things were hauled around in back?
20 A. Yes, sir.
21 Q. For trash removal?
22 A. Yes, sir.
23 Q. Approximately how much damage was
done
24 to your residence?
25 A. Between 15 to 18 thousand.

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1 Q. You have not been reimbursed for
that,
2 have you?

3 A. No, sir, I lost the house.

4 Q. Now, Darin, have you met a young
lady,
5 approximately 31 or 30 or 31 years of age, named Kay
Lynn

6 Norris who works at American Pawn?

7 A. No, I don't recall her.

8 Q. Is she here? A dark-haired, young
9 lady with long hair, worked in the jewelry department
of
10 American Pawn?

11 A. If I saw her, I would probably
know
12 her.

13 Q. Okay. What is American Pawn? Is
this
14 your typical pawn shop?

15 A. No, sir. This pawn shop is
probably
16 the size of the HEB over there. I mean, it's a
monster.

17 They sell airplanes and everything in there, boats.

It's

18 a great big, huge pawn shop. They said it's one of
the

19 largest in the nation.

20 Q. Okay. Have you had occasion to go
up

21 there from time to time?

22 A. Yes, sir.

23 Q. About how many times have you and

--

24 how many times have you been there?

25 A. Oh, I have probably been there 15
or

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1 20 times.

2 Q. How many times have you and Darlie
3 been there?

4 A. Probably about the same.

5 Q. Was she usually with you when you
6 would --

7 A. Yes, sometimes we would go for
lunch
8 or something, and just, you know, kind of go by there
and

9 see what they have got. I mean, it's kind of
interesting

10 because they have always got new stuff in there.

11 Q. Who would you deal with there?

12 A. A man named Dan. Actually Dan
would

13 call us at the office and have us come up there if
they

14 had something that was just spectacular, a really
good

15 deal.

16 Q. This was used jewelry, I assume?

17 A. Yes, sir.

18 Q. Okay. And if he thought he had
19 something that y'all liked or would like, he would

call

20 you and you would come over?

21 A. Yes, sir.

22 Q. These are not really expensive
pieces,

23 are they?

24 A. No, just, you know, a couple

hundred

25 dollars.

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1 Q. Okay. So --

2 A. Just kind of an investment. We
just,

3 you know, always liked jewelry so we'd just, you
know,

4 pick up something here and there.

5 Q. Okay. Do you remember any
occasion

6 when Darlie would snatch the jewelry out of the
7 saleswoman's hand and look at it and if she didn't
like

8 it, throw it back at her?

9 A. No, sir.

10 Q. I mean is that --

11 A. That is not even in Darlie's
12 character.

13 Q. It doesn't sound like anything
she

14 would do?

15 A. No, sir. I was there every
time, I

16 think I would have remembered that.

17 Q. I mean, there would be no reason
in

18 doing something like that, would there?

19 A. Not with a place full of guns
like

20 that.

21 Q. Do you ever recall being in
there with

22 the children?

23 A. We did take them I think once,
yeah.

24 Q. Okay. Was there any fuss with
them or

25 any problems with the children?

1 A. I just remember one time we were
in
2 there, and there was all kinds of big stuff for
them to
3 play with in there.

4 Q. Airplanes?

5 A. Well, they had like this kind
of,
6 looks like an airplane, boat-type of thing that
floats on
7 the air, and they have great big, huge toys, you
know, in
8 there to play on, and I had to kind of get on to them
a
9 little bit and tell them to get off of it because
they
10 had signs written all over them saying, "Do not climb
on
11 them. Do not get on them."

12 Q. Did you ever hear Darlie yell at
the
13 boys, "Get your asses over there"?

14 A. No, sir, she doesn't use that kind
of
15 language.

16 Q. Darin, do you know a lady by the
name

17 of Eileen Schirmer?

18 A. Yes, sir.

19 Q. And, how do you know her?

20 A. She lives a couple of blocks away
from

21 us and she also has -- they have a business that is
right

22 around the corner from ours.

23 Q. Okay. Is it related to yours,
same

24 type of business?

25 A. They are the beginning process.
They

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1 are designers. And then actually, they are the
beginning

2 and we're the end.

3 Q. Okay.

4 A. So there's a lot of -- there's
5 manufacturing in between the two of us.

6 Q. So y'all are friends and visited
in

7 each other's homes?

8 A. They have only been over to our
house

9 one time and I think we have been to their house one
10 time. They have kids about the same age as ours.

11 Q. Okay. They are not close friends?

12 A. No, sir.

13 Q. Have -- they have a boy about the
14 same -- right in between Damon and Devon?

15 A. Yes, sir.

16 Q. Okay. Do you know if your boys
would

17 ride their bicycles over in the Schirmer
neighborhood?

18 A. I don't think they would ride
their

19 bikes that far, no.

20 Q. Okay. Did the Schirmer boy ever
ride

21 his bicycle over in y'all's neighborhood?

22 A. I don't know. He seemed like a
lot

23 littler. He didn't have a lot of the older boys and

24 stuff in the neighborhood to play around with. So I
25 don't really know. I think I have seen them around,
but

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1 just a couple times, usually with their mom or their
dad.

2 Q. Okay.

3 A. They are very protective of their
4 kids.

5 Q. Did you -- were y'all protective
of
6 yours?

7 A. Yes, very much so.

8 Q. Would you allow your boys to ride
9 their bicycles in the street?

10 A. No, never.

11 Q. Of course, you don't know whether
they
12 did or not, do you?

13 A. Not exactly, no, sir.

14 Q. Well, I mean you weren't with
them all

15 the time when they were riding their bicycles?

16 A. Well, right. But from the time
they

17 were really little, they knew for a fact that they
were

18 not going to ride in the street. They had to stay
up on

19 the sidewalk.

20 Q. Did you -- were you trying to put
21 in
22 speed bumps on that street?

23 A. Yes, sir, I was. And I was also
24 responsible for having the Children At Play signs
25 put up
26 in the neighborhood.

27 Q. Okay. And what did you do with

1 respect to where you parked your Pathfinder or
Darlie's

2 car out in front?

3 A. That would keep people from going
4 around that corner going too fast. It would kind of
slow

5 them down so they would have to be careful when they
went

6 around that corner.

7 Q. How was that?

8 A. Well, just the way the corner is
9 designed, going around the outside. Sometimes
people

10 would go 35 or 40 miles an hour going around that
corner.

11 So with my truck there, it would make them slow down
12 because they knew that they couldn't see from one
side of

13 the road to the other.

14 Q. Where did the insurance people
come

15 from that were going to see your house on the 18th?

16 A. They came from Houston.

17 Q. Okay. Were they coming in
specially

18 to make their inspection and make their estimate?

19 A. Yes, sir. I don't know exactly -

-

20 there was three of them. I don't know why they came
from

21 Houston to do it, but they did. They sent some
special

22 people in.

23 Q. Okay. Darin, directing your
attention

24 to June the 5th of 1996 when you were -- you had
25 testified to this sometime back, days ago. When you
were

1 working in the garage, did you all keep the door
locked

2 from the garage to the utility room and from the
utility

3 room to the garage?

4 A. No, I never locked that door.

5 Q. Okay. Perimeter, exterior doors
were

6 locked?

7 A. Yes, sir.

8 Q. But not the door that led from
the

9 utility room to the garage?

10 A. Yes, sir.

11 Q. Okay. As you know, the jury has
found

12 Darlie guilty. And as part of our system, you have
to

13 accept that. Do you understand that?

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

15 Q. Well, that is -- what I want to
ask

16 you is simply this: Does this change your faith in
your

17 wife? You have lost more than anyone in this

situation,

18 haven't you?

19 A. Yes, sir, I have. I have lost

20 everything.

21 Q. Well, you have lost two sons and

you

22 have lost a wife, haven't you?

23 A. Yes, sir, I have.

24 Q. Are you still as confident now as

you

25 were back days ago, with respect to your faith in
Darlie

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1 and her inability to do anything like this?

2 A. Yes, sir.

3 Q. It hasn't shaken your faith?

4 A. No, sir, it has not changed one
bit.

5

6 MR. DOUGLAS MULDER: We will pass
the

7 witness.

8 MR. GREG DAVIS: No questions.

9 THE COURT: Thank you, sir. You
may

10 step down.

11 Your next witness. All right.

12 Miss, if you'll have a seat right
13 here, please. Raise your right hand, please.

14

15 (Whereupon, the witness

16 Was duly sworn by the

17 Court, to speak the

truth,

18 The whole truth and

19 Nothing but the truth,

20 After which, the

21 Proceedings were

22 Resumed as follows:)

23

24

THE COURT: Do you solemnly swear

or

25

affirm that the testimony you are about to give will

be

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

2 help you God?

3 THE WITNESS: I do.

4 THE COURT: Okay. If you will
just

5 have a seat right up here, please, ma'am. All
right.

6 And, just relax. If you will speak loudly into
this

7 microphone so the last lady and gentleman can hear
you.

8 Okay?

9 THE WITNESS: Okay.

10 THE COURT: All right. Go ahead,
11 please, Mr. Mulder. Excuse me, Mr. Douglass.

12

13

14 Whereupon,

15

16 DARLIE KEE,

17

18 was called as a witness, for the Defense, in
Punishment,

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

20 truth, the whole truth, and nothing but the truth,
21 testified in open court, as follows:

22

23 DIRECT EXAMINATION

24

25 BY MR. S. PRESTON DOUGLASS:

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1 Q. Ms. Kee, would you please
introduce

2 yourself to the jury and tell them who you are.

3 A. My name is Darlie Kee and I am
the

4 mother of Darlie Lynn Routier.

5 Q. Where do you live now?

6 A. I live in Plano, Texas.

7 Q. How long have you lived in Plano?

8 A. Since 1993.

9 Q. What do you do for a living?

10 A. I work as an executive assistant
to a

11 VP at Ericsson Incorporated in Richardson.

12 Q. What kind of company is Ericsson?

13 A. Telecommunications. They build
14 switches for mobile phones.

15 Q. And how long have you worked for
that

16 company?

17 A. Seven years.

18 Q. Is it safe to characterize your
19 position as a managerial or administrative
position?

20 A. Like office management, yes.

21 Q. Okay. And, how long -- you

use to

22 live in Lubbock; is that right?

23 A. That is correct.

24 Q. And prior to Lubbock, where

did you

25 live?

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1 A. Pennsylvania.

2 Q. And, coming from
Pennsylvania to

3 Lubbock you brought Darlie with you; is that
right?

4 A. That's correct.

5 Q. You have how many children?

6 A. I have three daughters. I
have

7 Danielle Stahl who is 14 years old, and I have Dana
Stahl

8 who will be 17 at the end of this month.

9 Q. Now, does Danielle live with you?

10 A. Yes, she does.

11 Q. Does Dana?

12 A. Yes, she does.

13 Q. Before we go any further, can you
14 describe first, Darlie, your daughter, for the
jury.

15 A. Darlie is a very kind, sweet
person.

16 She is a very good mother.

17 I am not judging you for what
your

18 opinion is. I'm telling you, I know her better

than

19 anybody else in this world.

20 I don't agree with your

verdict and we

21 will continue to support her and fight her. We

have not

22 chosen Darlie over these two little boys. They

were my

23 grandbabies, Devon and Damon. I watched them

being born,

24 along with Drake.

25 If I thought she was capable
of doing

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Reporter

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1 this --

2

3 MR. GREG DAVIS: I'm sorry.

If we

4 could just have this as question and answer,
please.

5 THE COURT: Ma'am, if you could
please

6 just answer the questions, please?

7 THE WITNESS: Okay.

8

9 BY MR. S. PRESTON DOUGLASS:

10 Q. Darlie, you have believed in, and
have

11 had faith and confidence in your daughter from the
12 beginning?

13 A. I do.

14 Q. And you understand, and you were
in

15 the courtroom when the verdict was read, and you
16 understand that all we can do is move forward?

17 A. That is correct.

18 Q. And is your confidence, and
your

19 faith, and your belief in Darlie, the same as it

was

20 before Saturday?

21 A. Absolutely.

22 Q. Okay. Describe for the jury
the

23 relationship between Dana and Danielle and
Darlie.

24 A. She was almost like a second
mother to

25 them because of the age difference. A lot of times
when

1 I traveled in my business, they would go over to
her

2 house, or I went to Sweden this year, so she came
to my

3 house and stayed with Danielle even though Danielle
is

4 14. She just felt like Danielle needed someone
there

5 rather than take her out of school and down to the
farm.

6 We have a farm also.

7 Q. So she was not only big sister,
but

8 many times she was a stand-in mom, is that right?

9 A. Oh, yes, she was. A very good
one.

10 She taught me to be a better grandmother. She
really

11 did.

12 Q. What do you mean by that?

13 A. I just think that when they were
14 growing up, you know, I had to -- I was thinking
more of

15 my career than I was of all this special moments
that I

16 have been able to enjoy with them now, because
Darlie
17 always took time with Devon and Damon and Drake. And
she
18 would play with them, you know, and on the living
room
19 floor, and cut out crafts and she did special things
at
20 the school. She was kind to everybody. She is a
very
21 good person.

22 Q. Was she devoted to her children?

23 A. Very much so. I have never seen
her

24 harm the children ever.

25 Q. Did you ever see her use, what you

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1 considered to be an inappropriate method or way to
2 discipline the children?

3 A. Never. Never.

4 Q. With respect to what lays before
us in

5 the decision of this jury, you know it means the
6 difference between life in prison and execution.

You're

7 aware of that?

8 A. Yes, I am.

9 Q. Do you have anything that you want
to

10 say to the ladies and gentlemen of the jury as to
that

11 issue?

12 A. From June 6th, this family has
endured

13 hell on earth. It has been horrible. I don't think
any

14 of you can imagine what we have been through. We
have

15 not accepted the death of Devon and Damon nor what
has

16 happened with Darlie.

17 We have to deal with that. I have

two

18 other daughters out there that will be in counselling

for

19 years over this. And I am asking you, if you have

any

20 compassion, do not put her to death because she did

not

21 do this.

22

23 MR. S. PRESTON DOUGLASS: Pass the

24 witness.

25

MR. GREG DAVIS: No questions.

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1 THE COURT: Thank you very much
for
2 coming, ma'am. We appreciate it.
3 Ma'am, I need to tell you this.
When
4 you are not testifying, please remain outside the
5 courtroom. Don't discuss your testimony with anybody
who
6 has testified. In other words, don't compare it.
You
7 may talk to the attorneys for either side. If
someone
8 tries to talk to you about your testimony, please
tell
9 the attorney for the side who called you.
10 THE WITNESS: Okay.
11 THE COURT: Your next witness.
12 MR. DOUGLAS MULDER: Judge, I
missed a
13 point with Darin Routier. If you will send him back.
14 THE COURT: Happy to recall
him.
15 Let's bring Mr. Routier back in, please.
16 In the meantime, we will take
a 10
17 minute break.

18

19

(Whereupon, a short

20

recess was taken, after

21

which time, the

22

proceedings were

23

resumed in open court,

24

in the presence and

25

hearing of the

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1 Defendant, being
2 represented by his
3 Attorney, as follows:)
4
5 THE COURT: All right. Everybody
6 ready?
7 MR. GREG DAVIS: Yes, sir, we are
8 ready.
9 MR. DOUGLAS MULDER: We are ready.
10 THE COURT: All right. Bring the
jury
11 back 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.

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1 Mr. Mulder.

2

3

4 Whereupon,

5

6 DARIN EUGENE ROUTIER,

7

8 was called as a witness, for the Defense, in
Punishment,

9 having been previously duly sworn by the Court to
speak

10 the truth, the whole truth, and nothing but the
truth,

11 testified in open court, as follows:

12

13 DIRECT EXAMINATION

14

15 BY MR. DOUGLAS MULDER:

16 Q. Darin, there was a situation that

I

17 wanted to go into. You all had a fifth birthday
party

18 for Devon and it was at a park. Do you recall that?

19 A. Yes, sir.

20 Q. Kind of a picnic buffet type of

21 situation?

22 A. Yes, sir.

23 Q. All right. Do you recall an
instance

24 where he was -- Devon was squirting people or his
mother

25 in particular?

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1 A. He was squirting everybody.

2 Q. Was that a water gun that he had
3 gotten for his birthday or something?

4 A. Yes, sir.

5 Q. Tell us about that, if you would,
6 please.

7 A. Well, he had just gotten a water
gun,

8 one of those great big, huge gushers that holds
about a

9 gallon and a half of water and he was going around
10 squirting everybody and he didn't want anybody
squirting

11 him or getting him wet or throwing balloons at him
or

12 anything else.

13 We had, you know, water fights
with

14 the balloons, and everybody had their bathing suits
on

15 and we were just playing around.

16 Q. Okay. And was this all done in
fun?

17 A. Yeah, it was all fun. I mean,
that's

18 what the birthday party was for.

19 Q. All right. Did Darlie cut the
cake?

20 A. Yes, she did.

21 Q. All right. Did she caution him
about

22 squirting her and squirting the cake?

23 A. Yeah.

24 Q. Did he go ahead and squirt both

Darlie

25 and the cake?

1 A. Yeah.

2 Q. What, if anything, happened?

3 A. She just grabbed a little piece
of the

4 icing and smeared it on his face. That was it.

5 Q. I mean, was this a -- did anybody
make

6 a big deal out of it?

7 A. No, it was actually pretty funny.

8 Ever since Devon was little, he hated having his
hands

9 dirty, and he was probably the cleanest little boy I
have

10 ever seen, but he hated being dirty and just to do
that,

11 just kind of made him -- you know.

12 Q. Just smeared some icing on his
face?

13 A. Smeared some icing on his face
and on

14 his nose. It was no big deal.

15 Q. Now, let me ask you about taking
16 the -- is it Eileen?

17 A. Yeah.

18 Q. Eileen and her husband and their

19 children --

20 A. Right.

21 Q. -- out on your boat?

22 A. Yes.

23 Q. Did you do that?

24 A. Yes, we did, one time.

25 Q. All right. What is your position
with

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1 respect to whether or not the kids would wear life
2 preservers?

3 A. Well, first all, Damon wouldn't
even
4 get into a hot tub without a life jacket. He would
wear
5 it into a bathtub if he could. So he was real --
6 scarest (sic) little kid.

7 And, you know, the rule was is
that if
8 they were above deck, because it had a lower deck to
it
9 too, so if they were above deck, they would have to
wear
10 their life jackets and if they were below deck, then
they
11 didn't have to wear them. So, you know, they wore
them
12 all around the dock or anywhere else that we would
go.
13 And we would just keep a close eye on them.

14 Q. Was that a rule that you applied
to
15 all children who were on the boat?

16 A. Yes, sir. And Eileen's kids, I

had

17 life jackets there for them too on the boat. So
they are

18 the big, orange kind, not the vest-kind like the
boys

19 had, but we let them, you know, we strapped them
into

20 their little life jackets.

21 Q. All right. And you looked after
her

22 children as well as your own, didn't you?

23 A. Yes, sir, I am the captain.

24 Q. Okay. And she had her hands full
25 with -- I believe her husband was sick most of the
time

1 on that deal, wasn't he?

2 A. Yes, he got seasick and I had to
take

3 him in and they left early.

4

5 MR. DOUGLAS MULDER: I believe
that's

6 all.

7 MR. GREG DAVIS: No questions.

8 THE COURT: Thank you, sir. You
may

9 step down. Watch your step getting off there.

10 Your next witness.

11 If you will raise your right
hand,

12 please.

13

14 (Whereupon, the witness

15 Was duly sworn by the

16 Court, to speak the

truth,

17 The whole truth and

18 Nothing but the truth,

19 After which, the

20 Proceedings were

21 Resumed as follows:)

22

23

THE COURT: Do you solemnly swear

or

24 affirm that the testimony you are about to give will

be

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

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1 help you God?

2 THE WITNESS: I do.

3 THE COURT: Have a seat right
here,

4 please. All right.

5

6

7 Whereupon,

8

9 KENNETH WAITS,

10

11 was called as a witness, for the Defense, in
Punishment,

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

13 truth, the whole truth, and nothing but the truth,

14 testified in open court, as follows:

15

16 THE COURT: All right. Please
state

17 your name and spell your name for the court
reporter.

18 THE WITNESS: Kenneth Waits,

19 K-E-N-N-E-T-H, W-A-I-T-S.

20 THE COURT: All right. Mr.

Mulder or

21 Mr. Glover, excuse me. All right.

22

23 DIRECT EXAMINATION

24

25 BY MR. CURTIS GLOVER:

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1 Q. Ken, you are Melanie's husband;
is

2 that right?

3 A. Yes.

4 Q. Melanie testified here before the
jury

5 a little bit ago just to recall to them exactly what
the

6 relationship is. You all live in Mesquite and you
have a

7 sign business there in Dallas; is that right?

8 A. Yes.

9 Q. Tell the jury how many children
you

10 have.

11 A. Two.

12 Q. And they are what, boy and girl?

13 A. One girl, six, and one boy,
three.

14 Q. Okay. You know Darlie Routier?

15 A. Yes.

16 Q. Okay. Tell the jury again how it
is

17 that you got acquainted with Darlie and her husband,
18 Darin.

19 A. Well, we first met them at a

20 going-away party for some mutual friends. We had
not

21 known them until then.

22 Q. Okay. Did y'all then get to be
social

23 friends after that time?

24 A. Yes, we did.

25 Q. Did you have occasion to meet
their

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1 two little boys, Devon and Damon?

2 A. Yes.

3 Q. Tell the jury how you got to know
the

4 two little boys.

5 A. Mostly through birthday parties
for

6 their kids and our kids. That is when we were
around

7 them the most, at the birthday parties for our
kids.

8 Q. Okay. Actually, your wife and
Darlie

9 became fairly close friends?

10 A. Yes, they did.

11 Q. You and Darin were friends, but
not so

12 much as your wives?

13 A. No.

14 Q. They shopped together and this
sort of

15 thing?

16 A. Yes, they did.

17 Q. Okay. Describe for the jury, if
you

18 would, what you observed about Darlie Routier and her
19 relationship with her children and her family in
general.

20 A. Seemed to be pretty normal
21 relationship with her family. I mean, they took the
kids
22 to do a lot of things. I mean, they took their kids
23 everywhere. They took them all kinds of -- you
know,
24 they were always with -- most of the time I was
around
25 them was like at birthday parties and stuff, so it
was

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1 with the kids almost all the time when I saw them.

2 Q. Was their devotion to their
children

3 so outstanding that it was a subject of remark on
4 occasion?

5 A. It seemed to me they really
spoiled

6 the kids pretty much. They spent a lot of time and
money

7 on the kids.

8 Q. I think you perhaps had an
occasion to

9 give a surprise birthday party for Melanie?

10 A. Yes, I did.

11 Q. When was that?

12 A. It was June the 1st, Saturday
before

13 the kids were killed.

14 Q. Okay. And, you just invited your
15 friends and your wife's friends?

16 A. Her friends and my friends. I
even

17 talked to Darlie about bringing over something, a
dish,

18 you know.

19 Q. Okay. Did Darlie and Darin come?

20 A. Yes, they did.

21 Q. Did they bring any of their
children?

22 A. They just brought the baby,
Drake.

23 Q. Okay. And why is that?

24 A. They didn't think that kids would
be
25 there. They thought it was more of an adult party.
And

1 of course, the baby was too young to leave with
anybody.

2 Q. Okay. During the course of that
3 party, did you have occasion to notice anything
about

4 Darlie as far as being concerned about the two boys
at
5 home?

6 A. Yes, she called them a couple of
times

7 that day. You know, she asked to use the phone.
She

8 wanted to check on them, seemed like one of them may
have

9 been sick or something, I don't remember why, but
she

10 called a couple of times to check on both boys.

11 Q. Okay. Did they have occasion
then to

12 leave the party early to go home?

13 A. They left. She said they had to
leave

14 because the boys wanted them to come home, come get
them.

15 Q. Were they at a babysitter?

16 A. Yes, they were.

17 Q. Okay. You know this jury has
found
18 Darlie guilty of murdering those two boys?
19 A. Yes, I do.
20 Q. Can you accept that?
21 A. No, I sure can't.
22 Q. Okay. You think she's capable of
23 doing that?
24 A. No, sir. No way.
25 Q. I guess you know yourself well.
You

1 are what age man?

2 A. Twenty-eight.

3 Q. Okay. Do you feel like you are a
4 judge of character?

5 A. Yes, I do.

6

7 MR. CURTIS GLOVER: Thank you.

Pass

8 the witness.

9

10 CROSS EXAMINATION

11

12 BY MR. GREG DAVIS:

13 Q. Sir, if you are a judge of
character,

14 what kind of person would kill these two children in
cold

15 blood the way these two were killed?

16 A. It would be a pretty heartless
person,

17 a pretty evil person, really, someone kind of out of
18 their mind.

19

20 MR. GREG DAVIS: No further
questions.

21 THE COURT: You may step down,

sir. I

22 need to warn you: When you are not testifying, you
have

23 to remain outside the courtroom. Don't talk about
your

24 testimony with anybody who has testified. In other
25 words, don't compare it.

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1 You may talk to the attorneys for
2 either side. If someone tries to talk to you about
your
3 testimony, tell the attorney for the side who called
you.

4 Okay?

5 THE WITNESS: Okay.

6 THE COURT: Good luck.

7 All right. Next witness, please.

Ms.

8 Sarilda Routier. Have a seat, please.

9 You are the same Sarilda Routier
that
10 testified earlier?

11 THE WITNESS: Yes, sir, I am.

12 THE COURT: You are reminded you
are

13 still under oath, please, ma'am.

14 THE WITNESS: Okay.

15 THE COURT: Go ahead, please.

16

17

18 Whereupon,

19

20

SARILDA ROUTIER,

21

22 was called as a witness, for the Defense, in
Punishment,

23 having been previously duly sworn by the Court to
speak

24 the truth, the whole truth, and nothing but the
truth,

25 testified in open court, as follows:

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1

DIRECT EXAMINATION

2

3 BY MR. S. PRESTON DOUGLASS:

4 Q. Sarilda, you testified earlier in
the

5 trial, but just to remind everybody, in case there's
--

6 it's been a little while, you are Darlie's mother-in-
law?

7 A. Yes, I am Darlie's mother-in-law.

8 Q. And you are grandmother of Damon
and

9 Devon?

10 A. Devon and Damon and Drake and
Dillon.

11 Q. You testified earlier in this
trial

12 that you believe very much in your daughter-in-law?

13 A. Yes.

14 Q. That you believe in Darlie?

15 A. Yes.

16 Q. And, the jury has found that --
her

17 guilty of killing your two grandchildren. I want to
ask

18 you: Do you still maintain your confidence and your

19 belief and your faith in Darlie?

20 A. I most certainly do.

21 Q. You were in here when the verdict
was

22 read?

23 A. Unfortunately, I was.

24 Q. And you understand that all that
is
25 left now is to move on; is that right?

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1 A. That's what I am told.

2 Q. You understand that the jury is
faced

3 with the decision of Darlie Routier's life, between
4 execution and imprisonment for life.

5 A. Yes.

6 Q. Now, I want to ask you if you have
any

7 thoughts you want to share with the jury?

8 A. Well, to be really truthful, I am
9 still in shock. I didn't prepare myself for that at
all.

10 I don't know where we all were. But yes, I
understand

11 that that's all over. I don't know how y'all came
to

12 that decision. But I know it wasn't easy. I'm sure
it

13 wasn't. I hope it wasn't easy.

14 But you know, of course, I don't
have

15 to tell you this: I think you are wrong. But what
I do

16 want to tell you is that, you know, you have made a
17 decision, and we all have to live with it. But

there is

18 still another decision. For goodness sakes, if you
make

19 the decision to put her to death, if something
happens

20 and we finally find this man, or whoever did this,
she

21 might could be gone. And then you will have to --

22

23 MR. GREG DAVIS: I'm sorry.

Could we

24 please have this in a question and answer.

25 THE COURT: Sustained. Please,
just

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1 ask the -- let's ask in the question-and-answer form
2 please.

3 THE WITNESS: Well, my statement -
-

4 THE COURT: Well, wait a minute
until
5 you are asked a question.

6 THE WITNESS: Okay. I'm sorry.
7

8 BY MR. S. PRESTON DOUGLASS:

9 Q. Sarilda, let me ask you this:
10 Obviously, you believe that it's important that
Darlie's
11 life be spared?

12 A. Yes.

13 Q. Okay. Tell the jury why you
believe
14 that.

15 A. Well, for one thing is that, you
know,
16 this decision wasn't just for Darlie against Darlie.
17 It's against all of us. Our whole family has been
18 through so much. I lost those two grandbabies, they
will
19 never come back to me. Please, please, don't do any

more

20 to us. I am just begging you, please. I mean, I

have a

21 daughter that's under sedation. I have a husband

that

22 may have a heart attack. They lost their home.

23 You don't know the hordes of

people

24 that you are affecting. I know you made the decision

the

25 best that you could, but you have a right to make
this

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1 decision again. This is a new decision.

2 I mean, my goodness. I mean, dig
down

3 deep in you somewhere and just don't make it any
worse,

4 please. Please, don't make it any worse. Don't do
any

5 more to us.

6 Q. Okay.

7

8 MR. S. PRESTON DOUGLASS:

Sarilda,

9 thank you.

10 I'll pass the witness.

11 THE COURT: Mr. Davis.

12

13 CROSS EXAMINATION

14

15 BY MR. GREG DAVIS:

16 Q. Mrs. Routier, you remember
in, I

17 believe it was December that you called me one
day?

18 A. Yes.

19 Q. Do you remember that conversation

that

20 you told me?

21 A. I remember well.

22 Q. That if your daughter-in-law was
23 guilty of this offense?

24 A. Yes.

25 Q. You thought she ought to die?

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1 A. I said, if she did it, but my
2 daughter-in-law didn't do it. You want to recall the
3 wording of that conversation.

4 Q. No, ma'am. Again, if she is
guilty,
5 she ought to die?

6 A. If she did it, but she did not do
it.

7

8 MR. GREG DAVIS: No further
questions.

9 THE WITNESS: She most certainly
did
10 not do it.

11 THE COURT: Thank you, ma'am. You
may
12 step down.

13 Your next witness, please.

14 MR. RICHARD C. MOSTY: Your Honor,
and
15 ladies and gentlemen of the jury, the defense rests.

16 MR. GREG DAVIS: State closes.

17 MR. RICHARD C. MOSTY: Defense
closes.

18 THE COURT: All right. Ladies and
19 gentlemen of the jury, that is all the testimony you

will

20 be hearing in this case. What has to happen now is

I've

21 got to put together a Charge of the Court. We have

it

22 done, and the lawyers are going to remain. We're

going

23 to get that ironed out tonight.

24 So you will be recessed until

9:00

25 o'clock tomorrow morning, at which time you will
hear

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1 arguments from both sides in this phase of the case.
It

2 will be yours to decide.

3 Same instructions as always.

Don't

4 discuss this among yourselves until all of you are
5 together, the Charge has been read, and you're back
in

6 the jury room. Don't discuss this with anybody,
don't

7 discuss this case with anybody else; do no
investigation

8 on your own. You are going to decide this phase of
the

9 trial like the other on the testimony you hear and
10 evidence you will receive in this courtroom.

11 Likewise, do not listen to any
radio,

12 look at any TV or read any newspapers or any other
13 periodicals concerning this case until it's over.

14 We will see everybody here
tomorrow

15 morning at 9:00 o'clock.

16 Wear the juror badges in the
17 courthouse area.

18 Thank you very much.

19

20

(Whereupon, the jury

21

Was excused from

the

22

Courtroom, and

the

23

Proceedings were

held

24

In the presence of

the

25

Defendant, with

his

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Court Reporter

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1
outside

Attorney, but

2
jury

The presence of

3
4

As follows:)

5
please

THE COURT: Will the attorneys

6 remain.
7

8
9
10
the

(Whereupon, the jury was
thereby excused for

11
the

day, to return on

12
1997,

next day, February 4,

13
14
15
16

at 9:00 A.M. at which
time the proceedings
were resumed.)

17
to

(These proceedings are continued

18 the next volume in this cause.)
19

20

21

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23

24

25

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CERTIFICATION PAGE

THE STATE OF TEXAS)
THE COUNTY OF DALLAS)

I, Sandra M. Halsey, was the Official Court
Reporter of Criminal District Court Number 3, of

Dallas

County, Texas, do hereby certify that I reported in
Stenograph notes the foregoing proceedings, and that

they

have been edited by me, or under my direction and the
foregoing transcript contains a full, true, complete

and

accurate transcript of the proceedings held in this
matter, to the best of my knowledge.

I further certify that this transcript of the
proceedings truly and correctly reflects the

exhibits, if

any, offered by the respective parties.

SUBSCRIBED AND SWORN TO, this ____ day of
_____, 1998.

Sandra M. Day Halsey, CSR
Official Court Reporter
363RD Judicial District

Court

Dallas County, Texas

22

Phone, (214) 653-

5893

23

24 Cert. No. 308

25 Exp 12-31-98

Sandra

M. Halsey, CSR,

Official Court

Reporter

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1 STATE OF
TEXAS)
2 COUNTY OF
DALLAS)

3

4

JUDGES CERTIFICATE

5

6

7

8 The above and foregoing transcript, as
certified

9 by the Official Court Reporter, having been
presented to

10 me, has been examined and is approved as a true and
11 correct transcript of the proceedings had in the
12 foregoing styled cause, and aforementioned cause
number

13 of this case.

14

15

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MARK TOLLE, JUDGE

21

Criminal District Court Number 3

22

Dallas County, Texas

23

24

25

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