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S.C. SUPREME COURT

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from York County
Capital Action
Honorable R. Keith Kelly, Circuit Court Judge

JAMES ROBERTSON,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2023-000505

**APPENDIX
VOLUME 4 OF 14
(PAGES 1501-2000)**

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INDEX

INDEX	i

VOLUME 1

TRANSCRIPT OF TRIAL AND PRE-TRIAL MOTIONS	1

VOLUME 2

TRANSCRIPT OF TRIAL AND PRE-TRIAL MOTIONS CONT.	501

VOLUME 3

TRANSCRIPT OF TRIAL AND PRE-TRIAL MOTIONS CONT.	1001

VOLUME 4

TRANSCRIPT OF TRIAL AND PRE-TRIAL MOTIONS CONT.	1501

VOLUME 5

TRANSCRIPT OF TRIAL AND PRE-TRIAL MOTIONS CONT.	2001

VOLUME 6

TRANSCRIPT OF TRIAL AND PRE-TRIAL MOTIONS CONT.	2501

VOLUME 7

TRANSCRIPT OF TRIAL AND PRE-TRIAL MOTIONS CONT.	3001

APPLICATION FOR POST-CONVICTION RELIEF DATED MARCH 1, 2006	3251

RETURN	3259

POST-CONVICTION RELIEF HEARING DATED JANUARY 29-31, 2007	3270

VOLUME 8

POST-CONVICTION RELIEF HEARING DATED JANUARY 29-31, 2007 CONT	3501

ORDER OF DISMISSAL	3657

PETITION FOR WRIT OF CERTIORARI DATED APRIL 15, 2009	3763

RETURN TO PETITION FOR WRIT OF CERTIORARI DATED JULY 15, 2009.....	3778
ORDER DENYING PETITION FOR WRIT OF CERTIORARI.....	3806
MOTION TO STAY PROCEEDINGS PENDING EXHAUSTION OF STATE REMEDIES.....	3808
PETITION FOR WRIT OF HABEAS CORPUS.....	3815
RESPONSE IN OPPOSITION TO MOTION TO STAY DATED JANUARY 24, 2011.....	3849
REPLY TO OPPOSITION TO MOTION TO STAY DATED FEBRUARY 1, 2011	3865
RETURN AND MOTION TO DISMISS DATED MARCH 24, 2011.....	3874

VOLUME 9

MOTION FOR SUMMARY JUDGMENT DATED MARCH 28, 2011	3896
RETURN AND MEMORANDUM OF LAW IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT DATED MARCH 28, 2011	3897
ORDER GRANTING STAY DATED APRIL 8, 2011.....	4028
MOTION TO RECONSIDER ORDER GRANTING STAY PROCEEDINGS PENDING EXHAUSTION OF STATE COURT REMEDIES DATED APRIL 15, 2011.....	4035
ORDER APPOINTING PCR COUNSEL DATED JULY 5, 2011.....	4052
TRANSCRIPT OF HEARING JULY 5, 2011	4054
AMENDED PCR APPLICATION DATED JULY 26, 2011	4066
RESPONSE IN OPPOSITION TO MOTION TO DISMISS.....	4073
REPLY TO APPLICANT’S RESPONSE TO RETURN AND MOTION TO DISMISS DATED AUGUST 15, 2011	4250
ORDER DENYING POST CONVICTION RELIEF DATED SEPTEMBER 20, 2011	4276
MOTION TO ALTER OR AMEND THE JUDGMENT.....	4312
MOTION TO CORRECT FILING.....	4334
MOTION TO SUPPLEMENT	4338

ORDER MAINTAINING STAY DATED NOVEMBER 30, 2011	4346
ORDER DENYING MOTION TO RECONSIDER DATED DECEMBER 8, 2011	4351
RESPONSE TO TEXT ORDER AND MOTION FOR COURT TO LIFT STAY	4355
<u>VOLUME 10</u>	
NOTICE OF APPEAL.....	4358
SUPPLEMENTAL NOTICE OF APPEAL.....	4422
MOTION TO DISMISS PCR APPLICATION AS SUCCESSIVE DATED FEBRUARY 14, 2012.....	4431
US DISTRICT COURT ORDER DENYING MOTION FOR RECONSIDERATION AND GRANTING MOTION TO STAY DATED FEBRUARY 15, 2012	4439
RETURN TO MOTION TO DISMISS DATED FEBRUARY 29, 2012	4441
NOTICE OF SUPPLEMENTAL AUTHORITY	4454
ORDER DENYING MOTION TO DISMISS.....	4459
PETITION FOR WRIT OF CERTIORARI DATED SEPTEMBER 14, 2012.....	4461
RETURN TO PETITION FOR WRIT OF CERTIORARI DATED JANUARY 25, 2013	4489
REPLY TO RETURN DATED FEBRUARY 19, 2013.....	4533
ORDER GRANTING CERTIORARI	4546
BREIF OF PETITIONER.....	4548
BRIEF OF RESPONDENT	4583
REPLY BRIEF OF PETITIONER	4655
S.C. SUPREME COURT OP. NO. 27691, <u>ROBERTSON V. STATE</u> , 418 S.C. 505	4669
STATUS CONFERENCE TRANSCRIPT DATED JULY 14, 2020	4689
FIFTH AMENDED APPLICATION FOR PCR DATED JULY 20, 2021.....	4709
MERITS HEARING TRANSCRIPT DATED AUGUST 9-11, 2021	4727

VOLUME 11

MERITS HEARING TRANSCRIPT DATED AUGUST 9-11, 2021 CONT.	4858
ORDER DENYING RELIEF	5210
APPLICANT’S 59(e) MOTION TO RECONSIDER DATED SEPTEMBER 1, 2022	5265
ORDER DENYING 59(e) MOTION	5291
MERITS HEARING EXHIBIT	5293

AFFIDAVITS

1. Cascio Affidavit Trial Attorneys	5297
2. Cascio Affidavit Post Conviction Attorneys.....	5299
3. Cascio Supplemental Affidavit with Exhibit	5302
4. Trial Jury Question	5306
5. Hendrix Affidavit with Exhibits	5307
6. Hendrix Second Affidavit	5338
7. Hendrix Third Affidavit.....	5340
8. Hendrix Fourth Affidavit with Exhibit (8-A)	5343
9. First James Boyd Affidavit	5345
10. Second James Boyd Affidavit with Exhibit.....	5346

VOLUME 12

11. Geoffrey McKee Affidavit with Exhibit 11-A.....	5351
12. Joseph Savitz Affidavit including Exhibits A, B, C, D, E and F	5359
13. McLaughlin Business Records Affidavit with Excel Spreadsheets 13-A	5371

TRIAL TRANSCRIPT

14. Pages where McKee states he had read Cascio notes just prior to taking the witness	

stand. Appendix 3067	5420
JUDGE HAYES' ORDERS	
15. Psychological Evaluation Orders; 15-A; 15-B	5421
INITIAL POST-CONVICTION RELIEF HEARING TRANSCRIPT & EXHIBITS	
16. PCR Transcript 3452-3456 Court questions Hancock on reading Cascio notes	5430
17. Pages 3491-3494 Commingle Notes and Misrepresenting Visitation Dates	5435
18. Pages 3552-3554 Brown to Boyd Cascio was not to get into details of crime	5439
19. Pages 3631-3634 Few challenging Brown on McKee and Cascio	5442
BROWN MATERIALS	
20. Initial PCR Application.....	5446
JUDGE FEW'S ORDER OF DISMISSAL	
21. Pages 3730-3757	5456
TRIAL EXHIBITS	
22. State's 286 as given by Solicitor Brackett, Transcript pages confirming Cascio's notes of November 30 were part of Exhibit 286, email between Ehliess and Brackett regarding missing November 30 notes from Exhibit 286; 22-A; 22-B; 22-C; 22-D; 22-E; 22-F	5484
23. Defense Brady Motions and Rule 5; 23-A; 23-B.....	5514
INITIAL POST-CONVICTION RELIEF APPLICATION	
24. Court Reporter Exhibit List	5527
25. Applicant's #5 Cascio's Typed Report and Commingled Night of Crime.....	5528
26. Applicant's #6 Cascio Cover Letter to Hancock Typed Preliminary Report Only	5535
27. Applicant's #7 Catherine Hendrix Notes.....	5536
28. Respondent's #8 Detention Center Visitation Log	5562
INEFFECTIVE ASSISTANCE OF APPELLATE COUNSEL	

29. Supreme Court of SC Order of Remand to Judge Hayes April 26, 2001	5580
30. Order of Appointment of Bruce Poore by Judge Hayes July 16, 2002.....	5584
31. October 28, 2002 Letter from Judge Hayes re: Robertson Competency Hearing ...	5585
32. Transcript pages Oct. 10, 2002 Competency Hearing	5592
33. Transcript pages Feb. 22, 2005 Competency to waive Appellate Review	5626

EXPERT CURRICULUM VITAE

34. Robert Burke	5654
35. John Bailey.....	5664
36. Charles Ewing, Ph.D.....	5733

ORIGINALLY PRODUCED ON THUMB DRIVES

37. Pope Cascio Cross Examination (EX. 37 - TO BE PROVIDED BY THE YORK COUNTY CLERK OF COURT).....	5746
38. Robertson Summary of Records (EX. 38 - TO BE PROVIDED BY THE YORK COUNTY CLERK OF COURT).....	5747
39. Bracket File.....	5748
40. Photos of Restraint Injuries.....	5749-A

APPELLATE COUNSEL IAC EXHIBITS

41. Letter Robertson to Dudek February 10, 2000	5750
42. Judge Hayes to Hancock May 2, 2000.....	5751
43. Letter Robertson to Dudek July 6, 2000	5754
44. Letter Dudek to Shearouse August 22, 2000	5757
45. Letter Robertson to Shearouse August 28, 2000	5759
46. Dudek Return to Motion September 11, 2000.....	5762

47. Letter McRight to Chief Justice Toal September 12, 2000	5772
48. Letter AG to Judge Hayes January 12, 2001	5773
49. Letter AG to Judge Hayes February 13, 2001	5775
50. Letter AG to Dr. Pamela Crawford March 2, 2001	5780
51. Letter DMH to AG March 28, 2001	5782
52. Letter AG to DMH April 2, 2001	5784
53. Letter AG to SCDC April 2, 2001	5786
54. Letter Judge Hayes to Chief Justice Toal	5788
55. Letter SCSC to Dudek November 15, 2001.....	5790
56. Letter Chief Justice Toal to Robertson May 16, 2002	5793
57. Letter Savitz to Shearous June 12, 2002.....	5795
58. Letter and Report from Judge Hayes to SCSC October 28, 2002	5796
59. Order SCSC December 30, 2002.....	5803
60. Letter and Order from SCSC to Robertson February 5, 2003	5805
61. Letter Robertson to SCSC March 19, 2003	5807
62. Order of Dismissal May 27, 2003.....	5811
63. Letter Savitz to SCSC May 30, 2003.....	5813
64. Letter and Order SCSC to Robertson June 25, 2003	5814
65. Letter to SCSC from Robertson June 30, 2003.....	5816
66. Letter and Order SCSC to Robertson July 9, 2003	5818
67. Letter Savitz to SC Court of Appeals January 30, 2004.....	5821
68. Letter and Record on Appeal from Robertson to SCSC May 6, 2004.....	5822
69. Letter and Order SCSC to Robertson May 13, 2004	5827

70. Letter Robertson to SCSC May 17, 2004	5830
71. Letter Robertson to Savitz June 7, 2004	5832
72. Letter Savitz to Clerk Richstad January 30, 2004.....	5834

VOLUME 13

73. Initial Brief of Robertson <i>pro se</i> July 28, 2003	5835
74. Letter Supreme Court to Robertson May 13, 2004.....	5869
75. Letter Robertson to Supreme Court May 17, 2004.....	5872
76. Letter Savitz to Robertson June 7, 2004	5874
77. Justice Toal to Robertson September 28, 2004.....	5876
78. Zalenka to Judge Hayes (with ORDER) October 13, 2000	5879
TRANSCRIPT OF PRETRIAL HEARING NOVEMBER 20, 1998	5882
TRANSCRIPT OF PRETRIAL HEARING DECEMBER 18, 1998	5922
TRANSCRIPT OF PRETRIAL HEARING FEBRUARY 12, 1999.....	5960
INITIAL PCR HEARING WITH FEW DATED JANUARY 29, 2007	5986

VOLUME 14

INITIAL PCR HEARING WITH FEW DATED JANUARY 29, 2007 CONT	6335
EMAIL FROM JUDGE KELLY LAW CLERK DENYING RELIEF	6378
EMAILS DENYING APPLICANT'S RULE 59(E)	6382
LETTER OBJECTING TO AG PREPARING ORDER DENYING RELIEF	6386
JOSEPH MATLOCK'S TIME SHEETS	6393
MICHAEL BROWN'S TIME SHEETS	6397
ORDER GRANTING PARTIALSUMMARY JUDGMENT FILED NOVEMBER 28, 2017.....	6401
ORDER FOR EVALUATION AS TO COMPENTENCY AND CRIMINAL	

RESPONSIBILITY FILED FEBRUARY 17, 1999	6406
ORDER FOR EVALUATION AS TO COMPETENCY AND CRIMINAL RESPONSIBILITY FILED MARCH 3, 1999	6410
MOTION FOR APPLICATION TO BE PRESENT AT HEARING FREE OF PHYSICAL RESTRAINTS FILED JULY 20, 2021	6413
RESPONDENT’S POST HEARING MEMORANDUM FILED AUGUST 31, 2021	6418

JOHN HOWE - DIRECT BY MR. POPE

1501

1 MR. POPE:

2 Q. WOULD YOU STATE YOUR NAME, AND SPELL YOUR LAST
3 NAME FOR THE COURT REPORTER, PLEASE?

4 A. JOHN HOWE, H-O-W-E.

5 Q. BY WHOM ARE YOU EMPLOYED?

6 A. THE YORK COUNTY SHERIFF'S DEPARTMENT, ASSIGNED
7 TO CRIMES AGAINST PERSONS.

8 Q. COULD YOU RELATE TO THE JURY WHAT YOUR
9 INVOLVEMENT WAS IN THIS CASE?

10 (END OF STIPULATION.)

11 A. RECEIVING EVIDENCE AS WELL AS ATTENDING THE
12 AUTOPSIES AND COLLECTING SOME OF THE EVIDENCE
13 FROM THERE.

14 Q. WERE YOU INVOLVED IN VARIOUS PIECES OF THESE
15 EVIDENCE, WHAT'S CALLED THE EVIDENCE CHAIN IN
16 THAT YOU WOULD RECEIVE IT FROM SOMEBODY AND TAKE
17 IT TO SOMEBODY ELSE?

18 A. YES, SIR.

19 Q. AND HAVE YOU HAD THE OPPORTUNITY TO LOOK AT THE
20 VARIOUS ITEMS AND REVIEW THE ITEMS THAT YOU WERE
21 INVOLVED WITH DURING THE BREAK WHILE THE JURY
22 WAS OUT?

23 A. YES, SIR.

24 Q. OKAY. AND THESE VARIOUS ITEMS, DID THEY APPEAR,
25 OTHER THAN THE TESTING THAT WAS OBVIOUSLY DONE

JOHN HOWE - DIRECT BY MR. POPE

1502

1 ON SOME ITEMS, DO THEY APPEAR TO BE IN THE SAME
2 STATE AS YOU RECOVERED THEM?

3 A. YES, SIR, THAT'S RIGHT.

4 Q. OKAY. I'M GOING TO CALL YOUR ATTENTION FIRST
5 PARTICULARLY TO STATE'S EXHIBIT 1 AND 2 FOR
6 IDENTIFICATION, AND DID YOU HAVE AN OPPORTUNITY
7 TO LOOK AT THESE ITEMS DURING THE BREAK?

8 A. YES, SIR.

9 Q. OKAY. AND WHAT ARE THESE TWO ITEMS?

10 A. THAT'S A RAKE AND A BROKEN HANDLE FROM THE RAKE
11 THAT WAS RECOVERED FROM THE ROBERTSON HOME.

12 Q. OKAY AND DID YOU RECEIVE THOSE FROM DETECTIVE
13 HAGER PURSUANT TO THE SEARCH OF THAT HOME?

14 A. YES, SIR.

15 Q. AND DID YOU HAVE AN OPPORTUNITY TO TAKE THOSE
16 ITEMS, TURN THEM IN TO DETECTIVE MITCHUM FOR
17 SAFEKEEPING?

18 A. YES, SIR.

19 Q. AND ULTIMATELY DID YOU TRANSPORT THESE ITEMS
20 DOWN TO THE STATE LAW ENFORCEMENT DIVISION FOR
21 TESTING?

22 A. YES, SIR, THAT'S CORRECT.

23 Q. OKAY. I'LL NOW CALL YOUR ATTENTION ALSO TO --
24 DID YOU HAVE THE OPPORTUNITY TO ATTEND THE
25 AUTOPSY ON 11-26-97?

JOHN HOWE - DIRECT BY MR. POPE

1503

1 A. YES, SIR, I DID.

2 Q. IN PARTICULAR I CALL YOUR ATTENTION TO ITEMS,
3 STATE'S EXHIBITS 3, 4, 5, 6, 7, 8, 9, 10 AND 11,
4 YOU AGAIN HAVE REVIEWED THESE ITEMS?

5 A. YES, SIR.

6 Q. DID YOU HAVE THE OPPORTUNITY TO RECOVER THESE
7 ITEMS AT THE AUTOPSY?

8 A. YES, SIR, I DID.

9 Q. AND THOSE ITEMS, DID YOU TRANSPORT THEM BACK TO
10 DETECTIVE MITCHUM AND, AGAIN, ULTIMATELY TAKE
11 THEM TO SLED ON DECEMBER 1ST OF '97?

12 A. YES, SIR, THAT'S CORRECT.

13 Q. THE ONE EXCEPTION BEING THE VICTIMS' WEDDING
14 RINGS, WERE THEY RETAINED AT YOUR DEPARTMENT?

15 A. YES, THEY WERE.

16 Q. THANK YOU. DETECTIVE HOWE, I'M GOING TO SHOW
17 YOU THESE ITEMS. AGAIN, THEY ARE STATE'S
18 EXHIBITS 3 WHICH IS THE UNDERWEAR OF THE
19 DECEDENT, EARL ROBERTSON; STATE'S EXHIBIT 4
20 WHICH IS THE FLORAL NIGHTGOWN OF TERRY
21 ROBERTSON; STATE'S EXHIBIT 5 WHICH WAS THE BLOOD
22 SAMPLE FROM EARL ROBERTSON; STATE'S EXHIBIT 6,
23 PULLED HAIR OF EARL ROBERTSON; STATE'S EXHIBIT
24 7, HAIR THAT WAS RECOVERED FROM HIS RIGHT HAND;
25 STATE'S EXHIBIT 8, LOOSE HAIR THAT WAS RECOVERED

JOHN HOWE - DIRECT BY MR. POPE

1504

1 FROM HIS LEFT HAND; STATE'S EXHIBIT 9, A BLOOD
2 SAMPLE FROM TERRY ROBERTSON; STATE'S EXHIBIT 10
3 A PULLED HAIR SAMPLE OF TERRY ROBERTSON; AND
4 STATE'S EXHIBIT 11 WHICH WERE THE WEDDING RINGS
5 OF BOTH THE DECEDENTS. DID YOU RECOVER THOSE
6 ITEMS?

7 A. YES, SIR.

8 Q. THANK YOU. AND YOU RECOVERED THEM PHYSICALLY AT
9 AUTOPSY, IS THAT CORRECT?

10 A. YES, SIR, THAT'S CORRECT.

11 Q. FROM THE BODIES OF THE VICTIMS THERE IN YOUR
12 PRESENCE?

13 A. YES, SIR.

14 MR. POPE: YOUR HONOR, AT THIS TIME I WOULD MOVE
15 THESE ITEMS INTO EVIDENCE.

16 THE COURT: ANY OBJECTION?

17 MR. HANCOCK: WITHOUT OBJECTION, YOUR HONOR.

18 THE COURT: THEY WILL BE RECEIVED WITHOUT
19 OBJECTION, 3 THROUGH 11.

20 (THE EXHIBITS WERE SO MARKED WITHOUT OBJECTION.)

21 Q. ALSO, DETECTIVE HOWE, AS PART OF YOUR
22 INVESTIGATION, AND THIS ITEM IS ALREADY IN
23 EVIDENCE, STATE'S EXHIBIT 89, THE VIDEO TAPE OF
24 THE PEACH STAND, DID YOU HAVE AN OPPORTUNITY TO
25 GO THERE AND RECEIVE THAT?

JOHN HOWE - DIRECT BY MR. POPE

1505

1 A. YES, SIR, I DID.

2 Q. AS WELL AS STATE'S EXHIBIT 90 WHICH WAS THE
3 CREDIT CARD RECEIPT FROM THE PEACH STAND, YOU
4 ALSO RECEIVED THAT?

5 A. YES, SIR.

6 Q. DID YOU ALTER OR CHANGE THOSE IN ANY WAY OR
7 TAMPER WITH THEM IN ANY WAY?

8 A. NO, SIR.

9 Q. OKAY. ALSO AS PART OF YOUR INVESTIGATION DID
10 YOU HAVE AN OPPORTUNITY TO GET HANDWRITING
11 SAMPLES FROM MEREDITH MOON AS WELL AS
12 FINGERPRINTS FROM MEREDITH MOON?

13 A. I GOT THE HANDWRITING SAMPLES FROM HER. I
14 BELIEVE DETECTIVE WILLIAMS COLLECTED THE
15 FINGERPRINTS FROM HER ON THE SAME DAY.

16 Q. OKAY. AND SO Y'ALL RECOVERED THEM TOGETHER.
17 DID YOU ULTIMATELY HAVE THEM AS PART OF YOUR
18 CUSTODY -- DETECTIVE WILLIAMS TURNED THEM INTO
19 YOUR DEPARTMENT; IS THAT CORRECT?

20 A. THAT'S CORRECT.

21 Q. AND THEY WERE ULTIMATELY SENT TO SLED?

22 A. YES, SIR.

23 Q. I BELIEVE THERE WAS ONE ITEM THAT WAS RECOVERED
24 AT AUTOPSY ALSO, STATE'S EXHIBIT 47 AND STATE'S
25 EXHIBIT 86 WHICH WERE THE FINGERPRINTS OF THE

1 VICTIMS WHICH WERE ROLLED OFF THEIR BODY AT
2 AUTOPSY, THAT WAS NOT RECOVERED BY YOU, THAT WAS
3 ACTUALLY RECOVERED BY SLED; IS THAT CORRECT?

4 A. THAT'S CORRECT.

5 Q. OKAY, THANK YOU. YOUR HONOR, WE WILL WAIT AS
6 FAR AS THE FINGERPRINTS UNTIL THE SLED AGENT
7 THAT RECEIVED THEM TO MOVE 86 AND 47, THE ITEMS
8 THAT WE JUST MENTIONED. I BEG THE COURT'S
9 INDULGENCE.

10 (AFTER A BRIEF PAUSE.)

11 Q. LIKEWISE, I ASKED ABOUT THE HANDWRITING SAMPLES,
12 DID YOU ALSO HAVE AN OPPORTUNITY TO RECEIVE A
13 SUSPECT KIT THAT WAS RECOVERED FROM MOON,
14 VARIOUS SAMPLES, BLOOD SAMPLES AND THINGS THAT
15 WERE RECOVERED FROM MEREDITH MOON?

16 A. YES, SIR.

17 Q. AND DID YOU GIVE THOSE TO JOHN WILLIAMS AND WERE
18 THEY ULTIMATELY TURNED INTO THE SHERIFF'S
19 DEPARTMENT?

20 A. YES, SIR, THAT'S RIGHT.

21 Q. THANK YOU, SIR. ANSWER ANY QUESTIONS THE
22 DEFENSE MAY HAVE.

23 MR. HANCOCK: WE HAVE NO QUESTIONS AT THIS TIME,
24 YOUR HONOR.

25 THE COURT: THANK YOU, YOU MAY STEP DOWN. WE

1507

1 APPRECIATE YOUR TIME. YOU CAN BE EXCUSED. CALL YOUR NEXT
2 WITNESS.

3 MR. POPE: THE STATE WOULD CALL JOHN WILLIAMS.

4 JOHN WILLIAMS, BEING FIRST DULY SWORN, TESTIFIED
5 AS FOLLOWS:

6 DIRECT EXAMINATION BY

7 MR. POPE:

8 Q. DETECTIVE WILLIAMS, IF YOU COULD, STATE YOUR
9 NAME AND OCCUPATION FOR THE JURY PLEASE.

10 A. JOHN WILLIAMS, I'M CRIME SCENE TECH FOR YORK
11 COUNTY SHERIFF'S OFFICE.

12 Q. AND HOW LONG HAVE YOU BEEN WITH THE YORK COUNTY
13 SHERIFF'S DEPARTMENT?

14 A. ABOUT 16 YEARS.

15 Q. AND COULD YOU TELL THE JURY WHAT YOUR DAY TO DAY
16 DUTIES ARE AT THE SHERIFF'S DEPARTMENT?

17 A. BASICALLY I LOOK AT FINGERPRINTS THAT THE
18 OFFICERS RECOVER EVERY DAY, CHECK THEM AGAINST
19 POSSIBLE SUSPECTS. ALSO WORK ANY CRIME SCENES
20 THAT THEY NEED ME TO COME OUT ON, PHOTOGRAPHY,
21 LATENT PRINTS, COLLECTING EVIDENCE.

22 Q. IN YOUR CAPACITY WITH THE SHERIFF'S DEPARTMENT,
23 DID YOU HAVE AN OPPORTUNITY TO RECOVER EVIDENCE
24 OR BE INVOLVED IN THE CHAIN OF SOME EVIDENCE IN
25 THIS CASE?

JOHN WILLIAMS - DIRECT BY MR. POPE

1508

1 A. YES, SIR, I DID.

2 Q. AND WHILE THE JURY WAS OUT OF THE COURTROOM, DID
3 YOU HAVE A CHANCE TO REVIEW THE EVIDENCE THAT
4 YOU'D BEEN IN CONTACT WITH AND THAT YOU DEALT
5 WITH?

6 A. YES, I DID.

7 Q. AND OTHER THAN ANY TESTS THAT MAY HAVE ACTUALLY
8 BEEN DONE ON THE ITEMS, DID THE ITEMS APPEAR TO
9 BE IN THE SAME CONDITION IN WHICH YOU HAD
10 RETRIEVED THEM OR THEY HAD COME INTO YOUR
11 CUSTODY?

12 A. THAT'S CORRECT.

13 Q. I'LL CALL YOUR ATTENTION PARTICULARLY TO STATE'S
14 EXHIBIT 96 AND 97 WHICH WERE THE SUSPECT KIT
15 FROM MEREDITH MOON AND THE MAJOR CASE PRINTS
16 FROM MEREDITH MOON, WERE YOU INVOLVED WITH JOHN
17 HOWE ON THE RECOVERY OF THOSE ITEMS?

18 A. YES, SIR, I WAS.

19 Q. AND ON 7-28-98 DID YOU TURN THESE TWO ITEMS INTO
20 THE SHERIFF'S DEPARTMENT?

21 A. YES, I DID.

22 Q. SO, THESE ITEMS WERE ACTUALLY RECOVERED, TO YOUR
23 KNOWLEDGE, FROM MEREDITH MOON; IS THAT CORRECT?

24 A. THAT IS CORRECT

25 Q. THAT WOULD BE STATE'S EXHIBIT 97 AND 96, THE

JOHN WILLIAMS - DIRECT BY MR. POPE

1509

1 MAJOR CASE PRINTS AND THE SUSPECT KIT. WE WOULD
2 MOVE THEM INTO EVIDENCE, YOUR HONOR.

3 MR. HANCOCK: WITHOUT OBJECTION, YOUR HONOR.

4 THE COURT: IT WILL BE RECEIVED WITHOUT
5 OBJECTION.

6 (THE EXHIBITS WERE SO MARKED WITHOUT OBJECTION.)

7 Q. ALSO, DETECTIVE, DID YOU HAVE THE OPPORTUNITY TO
8 TAKE HANDWRITING STANDARDS THAT HAD BEEN
9 RECOVERED FROM MEREDITH MOON, KNOWN HANDWRITING
10 STANDARDS, DID YOU HAVE THE OPPORTUNITY TO TAKE
11 THOSE TO SLED BACK IN FEBRUARY OF THIS YEAR AS
12 WELL AS IN JULY OF LAST YEAR RECOVER SOME OR BE
13 INVOLVED IN THE CHAIN THAT WAS SENT TO SLED THAT
14 WAS HER HANDWRITING SAMPLE?

15 A. THAT'S CORRECT.

16 Q. DID YOU ALTER OR CHANGE THESE IN ANY WAY?

17 A. NO, SIR, I DIDN'T.

18 Q. THAT WOULD BE STATE'S EXHIBIT 98, WE WOULD MOVE
19 INTO EVIDENCE, YOUR HONOR.

20 MR. HANCOCK: WITHOUT OBJECTION, YOUR HONOR.

21 THE COURT: IT WILL BE RECEIVED WITHOUT
22 OBJECTION.

23 (THE EXHIBIT WAS SO MARKED WITHOUT OBJECTION.)

24 Q. MR. WILLIAMS, TO CLARIFY FOR THE DEFENSE, AS TO
25 ONE SET OF HANDWRITING SAMPLES, THEY WERE

1 RECOVERED BY DETECTIVE HOWE; AS TO THE OTHER
2 SET, YOU WERE ACTUALLY JUST THE OFFICER THAT
3 TRANSPORTED THOSE. IS THAT CORRECT?

4 A. THAT IS CORRECT.

5 Q. AND THEY WERE RECOVERED BY DETECTIVE HAGER?

6 A. THAT'S CORRECT.

7 Q. I'LL SHOW YOU ALSO WHAT'S BEEN MARKED STATE'S
8 EXHIBIT 98 AND STATE'S EXHIBIT 98-27 AND I HAVE
9 STATE'S EXHIBIT 98-EX FOR I.D. THE STATE'S
10 EXHIBIT 98-EX THAT WAS RECOVERED BY DETECTIVE
11 HAGER, YOU ALSO TRANSPORTED THOSE?

12 A. THAT'S CORRECT.

13 Q. ALL RIGHT, THANK YOU. I MOVE STATE'S EXHIBITS
14 98-27 AND 98-EX FOR IDENTIFICATION INTO
15 EVIDENCE.

16 MR. HANCOCK: WITHOUT OBJECTION.

17 THE COURT: RECEIVED WITHOUT OBJECTION.

18 (STATE'S EXHIBITS 98-27 AND 98-EX WERE MARKED IN EVIDENCE
19 WITHOUT OBJECTION.)

20 Q. DETECTIVE WILLIAMS, IF YOU WOULD, ANSWER ANY
21 QUESTIONS THE DEFENSE MAY HAVE.

22 A. YES, SIR.

23 MR. BOYD: NO QUESTIONS, YOUR HONOR.

24 THE COURT: THANK YOU. WE APPRECIATE YOUR TIME,
25 YOU CAN STEP DOWN AND BE EXCUSED. THANK YOU. CALL YOUR

1511

1 NEXT WITNESS.

2 MR. POPE: THE STATE WOULD CALL DETECTIVE TIM
3 HAGER TO THE STAND.

4 JAMES T. HAGER, BEING FIRST DULY SWORN, TESTIFIED
5 AS FOLLOWS:

6 DIRECT EXAMINATION BY

7 MR. POPE:

8 Q. DETECTIVE HAGER, IF YOU WOULD, STATE YOUR NAME
9 AND SPELL YOUR LAST NAME.

10 A. LIEUTENANT JAMES T. HAGER, H-A-G-E-R.

11 Q. LIEUTENANT HAGER, COULD YOU TELL THE JURY YOUR
12 OCCUPATION?

13 A. I AM A LIEUTENANT WITH THE INVESTIGATIVE
14 DIVISION OF THE YORK COUNTY SHERIFF'S OFFICE.

15 Q. AND CAN YOU TELL THEM WHAT DUTIES YOU HAVE AS
16 FAR AS THE SHERIFF'S DEPARTMENT, PARTICULARLY AS
17 THEY RELATE TO THIS CASE?

18 A. I AM A SUPERVISOR OF A FOUR MAN UNIT THAT'S
19 ASSIGNED TO INVESTIGATE ARMED ROBBERIES,
20 HOMICIDES AND SERIOUS ASSAULTS.

21 Q. AS FAR AS YOUR INVOLVEMENT IN THIS CASE, DID YOU
22 ALSO HAVE THE OPPORTUNITY, INDEPENDENT OF YOUR
23 SUPERVISOR DUTIES, TO BE INVOLVED WITH DIFFERENT
24 PIECES OF EVIDENCE AS FAR AS TRANSPORTING THEM,
25 TAKING THEM INTO CUSTODY OR TRANSPORTING THEM TO

JAMES T. HAGER - DIRECT BY MR. POPE

1512

1 SLED OR WHAT HAVE YOU?

2 A. YES, SIR, I DID.

3 Q. PARTICULARLY I WANT TO CALL YOUR ATTENTION TO
4 STATE'S EXHIBITS 1 AND 2 AND ASK IF YOU CAN
5 IDENTIFY THESE TWO ITEMS FOR ME?

6 A. YES, I CAN.

7 Q. AND WHAT ARE THESE ITEMS?

8 A. THAT'S A YARD RAKE AND ALSO A HANDLE THAT WAS
9 RETRIEVED FROM THE RESIDENCE ON WESTMINSTER
10 DRIVE.

11 Q. AND WHO RETRIEVED THESE ITEMS?

12 A. I DID PERSONALLY.

13 MR. POPE: YOUR HONOR, AT THIS TIME I WOULD MOVE
14 STATE'S EXHIBITS 1 AND 2 INTO EVIDENCE.

15 THE COURT: ALL RIGHT, WHICH IS WHICH?

16 MR. POPE: STATE'S EXHIBIT 1 IS THE RAKE HEAD,
17 STATE'S EXHIBIT 2 IS THE RAKE HANDLE.

18 MR. HANCOCK: WITHOUT OBJECTION, YOUR HONOR.

19 THE COURT: THE EXHIBITS WILL BE RECEIVED WITHOUT
20 OBJECTION.

21 Q. LIEUTENANT HAGER, DID YOU ALSO HAVE THE
22 OPPORTUNITY TO COLLECT HANDWRITING STANDARDS
23 FROM MEREDITH MOON ON JANUARY 25TH, 1999 AND
24 SUBMIT THOSE STANDARDS THROUGH THE CHAIN OF
25 EVIDENCE TO BE EVALUATED BY SLED?

JAMES T. HAGER - DIRECT BY MR. POPE

1513

1 A. YES, SIR, I DID.

2 Q. AND HAVE YOU HAD AN OPPORTUNITY TO REVIEW THE
3 ITEMS AGAIN DURING THE BREAK TO CONFIRM THAT
4 THOSE ARE THE ITEMS THAT YOU RECOVERED?

5 A. YES, SIR, I DID.

6 Q. AND, AGAIN, DID YOU ALTER THOSE OR CHANGE THEM
7 OR TAMPER WITH THEM IN ANY WAY?

8 A. NO, SIR, I DID NOT.

9 Q. AND THAT WOULD BE STATE'S EXHIBIT 98, ITEMS THAT
10 WERE REFERRED TO EARLIER?

11 A. YES, SIR.

12 Q. ALSO DID YOU HAVE THE OPPORTUNITY TO RECEIVE
13 FROM CURTIS RICHARDSON VIA U.S. MAIL, THE
14 TROOPER FROM LADYSMITH, DID YOU HAVE AN
15 OPPORTUNITY TO RECEIVE FROM HIM THE SHELL
16 STATION CREDIT CARD RECEIPT, STATE'S EXHIBIT 91,
17 THAT HE RECOVERED?

18 A. YES, SIR, I DID.

19 Q. DID YOU ALSO TURN THAT INTO YOUR EVIDENCE
20 DEPARTMENT THERE AT THE SHERIFF'S DEPARTMENT?

21 A. YES, SIR, WE DID.

22 Q. AND FINALLY, DID YOU ALSO HAVE THE OPPORTUNITY
23 TO RECOVER STATE'S EXHIBIT 95 WHICH CONTAINED A
24 NUMBER OF WRITING SAMPLES OF THE DEFENDANT, AND
25 I BELIEVE THAT WAS ON NOVEMBER 30TH OF '98; DID

JAMES T. HAGER - DIRECT BY MR. POPE

1514

1 YOU HAVE THE OPPORTUNITY TO RECOVER THAT AND
2 SUBMIT IT TO PETE MITCHUM TO BE SENT TO SLED?

3 A. YES, SIR, SEVEN LETTERS.

4 Q. AND THOSE ITEMS, DID YOU ALSO HAVE AN
5 OPPORTUNITY TO REVIEW THEM AND MAKE SURE THEY
6 HADN'T BEEN ALTERED IN ANY WAY?

7 A. YES, SIR.

8 Q. THANK YOU. THAT'S ALL I WOULD HAVE. I MAY HAVE
9 MORE OF THIS WITNESS AT A LATER TIME, YOUR
10 HONOR, BUT AT THIS POINT THAT WOULD BE ALL.
11 ANSWER ANY QUESTIONS THE DEFENSE MAY HAVE.

12 MR. BOYD: NO QUESTIONS, YOUR HONOR.

13 THE COURT: YOU MAY STEP DOWN. WE APPRECIATE
14 YOUR TIME, AND YOU CAN'T BE EXCUSED.

15 MR. POPE: THE STATE WOULD CALL RENE SEALEY TO
16 THE STAND, YOUR HONOR.

17 RENE SEALEY, BEING FIRST DULY SWORN, TESTIFIED AS
18 FOLLOWS:

19 DIRECT EXAMINATION BY

20 MR. POPE:

21 Q. OFFICER SEALEY, IF YOU WOULD, STATE YOUR NAME
22 AND OCCUPATION FOR THE JURY PLEASE.

23 A. MY NAME IS RENE SEALEY. I'M EVIDENCE TECHNICIAN
24 OF THE YORK COUNTY SHERIFF'S OFFICE; I RECEIVE
25 EVIDENCE IN THE EVIDENCE ROOM.

RENE SEALEY - DIRECT BY MR. POPE

1515

1 Q. AND HOW LONG HAVE YOU BEEN WITH THE SHERIFF'S
2 DEPARTMENT?

3 A. 14 YEARS.

4 Q. AND YOU SAID YOU RECEIVE EVIDENCE IN THE
5 EVIDENCE ROOM. DO YOU ALSO HAVE AN OPPORTUNITY
6 TO DELIVER IT DOWN, SAY FOR EXAMPLE, TO THE
7 STATE LAW ENFORCEMENT DIVISION FOR TESTING?

8 A. YES, I DO.

9 Q. AND WERE YOU INVOLVED IN A NUMBER OF ITEMS OF
10 EVIDENCE IN THIS PARTICULAR CASE?

11 A. YES, SIR.

12 Q. AND WHILE THE JURY WAS OUT, DID YOU HAVE AN
13 OPPORTUNITY TO REVIEW THOSE ITEMS AND MAKE SURE
14 THEY WERE IN THE SAME CONDITION THEY WERE WHEN
15 THEY CAME TO YOU?

16 A. YES, SIR.

17 Q. WHILE YOU HAD ANY OF THESE ITEMS IN YOUR
18 POSSESSION, DID YOU ALTER OR CHANGE ANY OF THE
19 ITEMS OR TAMPER WITH THEM IN ANY WAY?

20 A. NO, SIR.

21 Q. PARTICULARLY I WANT TO CALL YOUR ATTENTION TO A
22 NUMBER OF ITEMS, STATE'S EXHIBITS 96 AND 97 THAT
23 ARE IN EVIDENCE THAT WERE THE FINGERPRINTS OF
24 MEREDITH MOON AND THE SUSPECT KIT, COLLECTION
25 KIT FROM MEREDITH MOON. DID YOU HAVE AN

RENE SEALEY - DIRECT BY MR. POPE

1516

1 OPPORTUNITY TO RECEIVE THEM ON JULY 28TH OF '98
2 FROM JOHN WILLIAMS?

3 A. YES, SIR, I DID.

4 Q. AND COULD YOU EXPLAIN TO THE JURY, IS THERE
5 SOMEBODY ELSE THAT WORKS IN THE EVIDENCE ROOM
6 WITH YOU?

7 A. YES, SIR, MY SUPERVISOR, PETE MITCHUM.

8 Q. AND ARE Y'ALL THE ONLY TWO PEOPLE THAT ACTUALLY
9 HANDLE THE EVIDENCE THERE AT THE SHERIFF'S
10 DEPARTMENT?

11 A. YES, SIR.

12 Q. SO, IF SOMETHING COMES INTO THE SHERIFF'S
13 DEPARTMENT AS EVIDENCE, FOR EXAMPLE, YOU MAY
14 RECEIVE, AS YOU DID ON ITEM 96, YOU MAY RECEIVE
15 IT BUT ULTIMATELY MR. MITCHUM MAY ACTUALLY
16 DELIVER IT TO SLED. YOU HAVE JOINT CUSTODY; IS
17 THAT CORRECT?

18 A. YES, SIR.

19 Q. AND THIS PARTICULAR ITEM YOU RECEIVED INTO
20 EVIDENCE, STATE'S EXHIBIT 96 AND 97 WHICH WERE
21 THE PRINTS AND KIT OF MS. MOON; IS THAT CORRECT?

22 A. YES, SIR.

23 Q. ALSO, DID YOU HAVE THE OPPORTUNITY TO RECEIVE
24 THERE INTO EVIDENCE THE HANDWRITING SAMPLES OF
25 MS. MOON, STATE'S EXHIBIT 98, AGAIN, THAT YOU

RENE SEALEY - DIRECT BY MR. POPE

1517

1 REVIEWED DURING THE BREAK?

2 A. YES, SIR.

3 Q. AND DID YOU CHANGE OR ALTER THOSE IN ANY WAY?

4 A. NO, SIR.

5 Q. ALSO, I CALL YOUR ATTENTION TO STATE'S EXHIBIT
6 91 WHICH IS THE SHELL STATION RECEIPT FROM
7 LADYSMITH, VIRGINIA THAT WAS MAILED TO DETECTIVE
8 HAGER. DID YOU ULTIMATELY HAVE AN OPPORTUNITY
9 TO TAKE THAT FROM THE EVIDENCE ROOM AND TAKE IT
10 TO THE STATE LAW ENFORCEMENT DIVISION FOR
11 TESTING ON NOVEMBER 13TH OF '98?

12 A. YES, SIR.

13 Q. AND, AGAIN, YOU REVIEWED THAT ITEM AND IT
14 APPEARS AS YOU REMEMBER IT?

15 A. YES, SIR.

16 Q. ALSO I CALL YOUR ATTENTION TO STATE'S EXHIBIT
17 90, THE PEACH STAND CREDIT CARD RECEIPT DATED
18 11-25 THAT WAS TURNED INTO THE EVIDENCE ROOM,
19 DID YOU ALSO HAVE THE OPPORTUNITY TO TAKE IT TO
20 SLED FOR TESTING ON THAT SAME DATE, ON 11-13-98?

21 A. YES, I DID.

22 Q. AND FINALLY, AS THE EVIDENCE CUSTODIAN RECEIVING
23 EVIDENCE THERE AT THE SHERIFF'S OFFICE, DID YOU
24 ALSO HAVE THE OPPORTUNITY TO RECEIVE THE BROWN
25 WALLET, STATE'S EXHIBIT 88, FROM BOBBY BROWN OF

RENE SEALEY - DIRECT BY MR. POPE

1518

1 SLED AND RETAIN IT THERE AT THE SHERIFF'S
2 DEPARTMENT UNTIL IT WAS BROUGHT TODAY?

3 A. YES, SIR.

4 Q. ALL RIGHT, THANK YOU. ANSWER ANY QUESTIONS THE
5 DEFENSE MAY HAVE, PLEASE.

6 MR. BOYD: NO QUESTIONS.

7 THE COURT: WE APPRECIATE YOUR TIME. YOU CAN
8 STEP DOWN AND BE EXCUSED. CALL YOUR NEXT WITNESS.

9 MR. POPE: THE STATE WOULD CALL PETE MITCHUM TO
10 THE STAND.

11 CLYDE J. MITCHUM, JR., BEING FIRST DULY SWORN,
12 TESTIFIED AS FOLLOWS:

13 DIRECT EXAMINATION BY

14 MR. POPE:

15 Q. OFFICER MITCHUM IF YOU COULD, STATE YOUR NAME
16 AND OCCUPATION FOR THE JURY, PLEASE.

17 A. CLYDE JOHNSON MITCHUM, JR., SUPERVISOR OF THE
18 FORENSIC SERVICES DEPARTMENT OF THE YORK COUNTY
19 SHERIFF'S OFFICE.

20 Q. TELL THE JURY WHAT IT IS YOU DO DAY TO DAY
21 PLEASE, SIR?

22 A. I RECEIVE THE IN-TAKE OF EVIDENCE, DISTRIBUTION
23 OF EVIDENCE AS FAR AS TESTING WHETHER IT BE
24 WITHIN OUR OWN DEPARTMENT OR THE SOUTH CAROLINA
25 LAW ENFORCEMENT DEPARTMENT, OVERSEE THE CHEMICAL

CLYDE J. MITCHUM, JR. - DIRECT BY MR. POPE

1519

1 LAB AT OUR DEPARTMENT, THE CRIME I.D. SECTION
2 AND ALSO THE POLYGRAPH EXAMINER.

3 Q. AND THE EVIDENCE THAT WAS ACTUALLY HERE IN THE
4 COURTROOM TODAY, DID YOU PHYSICALLY BRING ALL OF
5 THE EVIDENCE TO US HERE THIS MORNING?

6 A. YES, I DID.

7 Q. AND HAVE YOU HAD AN OPPORTUNITY WHILE THE JURY
8 WAS OUTSIDE THE COURTROOM AGAIN TO REVIEW THE
9 VARIOUS PIECES OF EVIDENCE AND ASSURE THEY WERE
10 IN THE CONDITION THAT THEY WERE WHEN YOU FIRST
11 RETAINED THEM?

12 A. YES, I DID.

13 Q. OF COURSE, THAT WOULD BE WITH THE EXCEPTION OF
14 ANY TESTING OR CUTTING THAT HAD BEEN DONE TO ANY
15 ITEMS AT SLED; IS THAT CORRECT?

16 A. THAT WOULD BE CORRECT.

17 Q. OKAY. I WANT TO CALL TO YOUR ATTENTION, AND
18 AGAIN DURING THE BREAK YOU'VE REVIEWED THE
19 VARIOUS ITEMS. AS I CALL THE ITEMS, I WOULD ASK
20 YOU TO CONFIRM THAT YOU HAVE IN FACT LOOKED AT
21 THEM AGAIN DURING THE BREAK. I'M GOING TO GO
22 THROUGH A NUMBER OF ITEMS AND IF YOU HAVE ANY
23 QUESTIONS, IF YOU WOULD JUST STOP ME, OKAY?

24 A. YES, SIR.

25 Q. ALSO AS FAR AS ANY ITEMS, OTHER THAN SOME

CLYDE J. MITCHUM, JR. - DIRECT BY MR. POPE

1520

1 VARIOUS PACKAGING AND ORGANIZATION THAT'S BEEN
2 DONE, DID YOU ALTER OR CHANGE ANY CONTENTS OR
3 ANYTHING OF THAT NATURE OF ANY OF THE BAGS OR
4 ANY OF THE ITEMS?

5 A. NO, OTHER THAN REORGANIZATION TO BRING THEM TO
6 COURT.

7 Q. FIRST I CALL YOUR ATTENTION TO STATE'S EXHIBITS
8 1 AND 2 THAT ARE IN EVIDENCE. DID YOU HAVE THE
9 OPPORTUNITY TO RECEIVE, WHICH IS THE RAKE HEAD
10 AND RAKE HANDLE, DID YOU HAVE THE OPPORTUNITY TO
11 RECEIVE THAT FROM TIM HAGER THERE IN YOUR
12 EVIDENCE ROOM?

13 A. YES, SIR, IN PERSON.

14 Q. AND DID YOU ULTIMATELY GIVE IT TO JOHN HOWE ON
15 DECEMBER 1ST OF '97 TO GO TO SLED FOR FURTHER
16 TESTING?

17 A. YES, SIR.

18 Q. LIKEWISE, I'LL REFER YOU TO STATE'S EXHIBIT S-3
19 THROUGH S-10 WHICH CONSISTS OF VARIOUS ITEMS
20 WHICH WERE RECOVERED AT AUTOPSY.

21 A. YES, SIR.

22 Q. THE ITEMS RECOVERED AT THE AUTOPSY, DID YOU HAVE
23 THE OPPORTUNITY TO RECEIVE THOSE ITEMS FROM JOHN
24 HOWE AND TO ULTIMATELY TRANSPORT THOSE ITEMS
25 BACK TO JOHN HOWE THAT HE MAY TAKE THEM TO SLED

CLYDE J. MITCHUM, JR. - DIRECT BY MR. POPE

1521

1 FOR TESTING?

2 A. THAT'S CORRECT.

3 Q. DID YOU ALTER OR CHANGE THOSE THINGS IN ANY WAY?

4 A. NO, SIR.

5 Q. STATE'S EXHIBIT S-11 IS ACTUALLY THE VICTIMS'
6 WEDDING RINGS, DID YOU ALSO RECEIVE THOSE AT
7 YOUR EVIDENCE AREA?

8 A. AT THE SAME TIME AS THE OTHER ITEMS FROM THE
9 AUTOPSY WERE TURNED IN; YES, SIR.

10 Q. AND THEY WERE NOT SENT TO SLED FOR TESTING, IS
11 THAT CORRECT?

12 A. NO, SIR.

13 Q. I'LL CALL YOUR ATTENTION NOW TO STATE'S EXHIBIT
14 89 WHICH IS THE VIDEO TAPE FROM THE PEACH STAND
15 THAT'S NOW IN EVIDENCE, DID YOU ALSO RECEIVE
16 THAT FROM JOHN HOWE WHEN HE RECOVERED IT FROM
17 THE PEACH STAND AND RETAIN IT IN THE SHERIFF'S
18 OFFICE?

19 A. YES, SIR.

20 Q. I ALSO CALL YOUR ATTENTION TO STATE'S EXHIBITS
21 96 AND 97 WHICH WERE THE MAJOR CASE PRINTS OF
22 MEREDITH MOON AND THE SUSPECT EVIDENCE
23 COLLECTION KIT OF MEREDITH MOON, DID YOU HAVE AN
24 OPPORTUNITY TO RECEIVE THAT THERE AT THE
25 SHERIFF'S DEPARTMENT, RENE SEALEY RECEIVED IT,

CLYDE J. MITCHUM, JR. - DIRECT BY MR. POPE

1522

1 DID YOU HAVE AN OPPORTUNITY TO ULTIMATELY TAKE
2 IT TO SLED ON JULY 30TH OF '98 FOR FURTHER
3 TESTING?

4 A. YES, SIR.

5 Q. I'LL ALSO REFER YOU TO STATE'S EXHIBIT 98, AND
6 AGAIN THAT WAS A STANDARD HANDWRITING OF
7 MEREDITH MOON, DID YOU HAVE THE OPPORTUNITY TO
8 RECEIVE THAT AGAIN ON JULY 30TH AND TAKE THAT
9 ITEM ALONG WITH OTHER ITEMS DOWN TO SLED?

10 A. YES, SIR.

11 Q. I CALL YOUR ATTENTION NOW TO STATE'S EXHIBIT 91,
12 THE SHELL STATION CREDIT CARD RECEIPT, DID YOU
13 HAVE AN OPPORTUNITY TO RECEIVE THAT FROM
14 DETECTIVE HAGER WHEN IT WAS MAILED TO HIM AND
15 RETAIN IT IN THE SHERIFF'S DEPARTMENT EVIDENCE
16 LOCK-UP UNTIL IT WAS TAKEN BY RENE SEALEY DOWN
17 TO SLED FOR TESTING?

18 A. YES, SIR.

19 Q. LIKEWISE, STATE'S EXHIBIT 90 WHICH IS THE PEACH
20 STAND CREDIT CARD RECEIPT, DID YOU ALSO HAVE THE
21 OPPORTUNITY TO RECEIVE THAT FROM JOHN HOWE WHEN
22 HE RECOVERED IT FROM THE PEACH STAND AND
23 ULTIMATELY FOR RENE SEALEY TO TAKE TO SLED FOR
24 FURTHER TESTING?

25 A. THAT'S CORRECT.

CLYDE J. MITCHUM, JR. - DIRECT BY MR. POPE

1523

1 Q. ALSO YOU HAD A MANILA ENVELOPE WITH LETTERS
2 ENCLOSED AS THE KNOWN WRITING OF JAMES
3 ROBERTSON, STATE'S EXHIBIT 95, DID YOU HAVE AN
4 OPPORTUNITY TO RECEIVE THAT FROM DETECTIVE HAGER
5 AND TAKE THAT TO SLED ON DECEMBER 3RD OF '98?

6 A. YES, SIR.

7 Q. DETECTIVE, AS FAR AS ALL OF THE EVIDENCE THAT
8 HAS BEEN INVOLVED HERE THAT YOU'VE HAD CUSTODY
9 AND CONTROL OF, THE ITEMS THAT WERE TAKEN FROM
10 SLED, THERE WERE SOME ITEMS, FOR EXAMPLE, THAT
11 WERE RECOVERED AT THE HOUSE THAT YOU DID NOT
12 HAVE CONTACT WITH UNTIL AFTER THEY CAME BACK
13 FROM SLED; IS THAT CORRECT?

14 A. THEY WERE COLLECTED DIRECTLY BY THE SLED AGENTS,
15 YES, SIR.

16 Q. SO, THE ITEMS THAT WERE COLLECTED DIRECTLY BY
17 THE SLED AGENTS, YOU HAD NO INVOLVEMENT WITH
18 TRANSPORTING THEM TO SLED, THEY WERE TRANSPORTED
19 BY THEM?

20 A. THAT'S CORRECT. OUR ONLY INVOLVEMENT IS
21 RECEIVING THEM BACK FROM SLED AFTER THEY HAVE
22 BEEN ANALYZED.

23 Q. OKAY. AS FAR AS ANY OF THE ITEMS YOU'VE HAD IN
24 YOUR POSSESSION, ANY OF THE ITEMS WE HAVE
25 PRESENT IN THE COURTROOM, ANY OF THE ITEMS THAT

CLYDE J. MITCHUM, JR. - DIRECT BY MR. POPE

1524

1 HAVE BEEN MENTIONED, HAVE YOU ALTERED OR CHANGED
2 THEM IN ANY WAY WHATSOEVER IN YOUR CUSTODY AT
3 THE SHERIFF'S OFFICE?

4 A. NO, SIR.

5 Q. THANK YOU. ANSWER ANY QUESTIONS THE DEFENSE MAY
6 HAVE.

7 MR. HANCOCK: WE HAVE NO QUESTIONS, YOUR HONOR.

8 THE COURT: YOU MAY STEP DOWN. WE APPRECIATE
9 YOUR TIME; THANK YOU. CALL YOUR NEXT WITNESS.

10 MR. POPE: I BEG THE COURT'S INDULGENCE, YOUR
11 HONOR.

12 (AFTER A BRIEF PAUSE.)

13 MR. POPE: YOUR HONOR, WE MAY BE AT A GOOD
14 STOPPING POINT.

15 THE COURT: ALL RIGHT, IT'S 5:38 AND Y'ALL
16 HAVEN'T CHECKED INTO YOUR NEW HOME YET, SO WE WILL STOP.
17 THIS IS ABOUT THE TIME WE STOP ANYWAY. YOU MIGHT THINK
18 SINCE WE'RE IN A MULTI-DAY TRIAL THAT WE OUGHT TO GO LONGER
19 AND MAY CUT A DAY OFF, BUT YOU WILL FIND THAT YOU WILL NEED
20 TO STOP ABOUT THIS TIME EACH DAY AND RESTING.

21 SO, GO TO THE JURY ROOM AND THEN WHEN SECURITY IS
22 READY, THEY WILL TRANSPORT YOU AND GET YOU SET UP. MS.
23 ZAPATA, IF YOUR HUSBAND OR SOMEONE AT YOUR WORK WERE ABLE
24 TO BRING TO YOUR LODGING, WOULD YOU BE ABLE TO -- CAN THEY
25 BRING THE STUFF THAT YOU CAN DO IT THERE?

1525

1 THE JUROR: NO, SIR, I'LL JUST HAVE TO HANDLE IT
2 OVER THE PHONE I GUESS.

3 THE COURT: OKAY. WELL, THEY'VE PROBABLY ALREADY
4 TOLD YOU THAT IT WILL BE MONITORED.

5 THE JUROR: YES, THAT'S FINE.

6 THE COURT: OKAY, WELL I TRIED. ANYTHING FROM
7 THE STATE BEFORE THE JURY LEAVES?

8 MR. POPE: NO, SIR, YOUR HONOR.

9 THE COURT: THE DEFENSE?

10 MR. HANCOCK: NOTHING, YOUR HONOR.

11 THE COURT: ALL RIGHT. I HOPE Y'ALL HAVE A
12 PLEASANT EVENING AND WE'LL SEE YOU BACK AT -- IS THERE ANY
13 REASON THAT WE CAN'T START AT 9:00 IN THE MORNING?

14 MR. POPE: NO, SIR, YOUR HONOR, THE STATE WILL BE
15 READY.

16 THE COURT: I TELL YOU, LET'S SAY 9:30 BECAUSE
17 Y'ALL HAVE GOT TO HAVE BREAKFAST AND GET THE GROUP OF YOU
18 TOGETHER. WE'LL SAY 9:30. YOU MAY LEAVE NOW.

19 IN CAMERA:

20 THE COURT: ANYTHING FROM THE STATE BEFORE WE
21 RECESS?

22 MR. POPE: NO, SIR, YOUR HONOR.

23 THE COURT: ANYTHING FROM THE DEFENSE?

24 MR. HANCOCK: NOTHING FURTHER, YOUR HONOR.

25 THE COURT: ALL RIGHT, WE WILL SEE Y'ALL AT 9:30

1 IN THE MORNING. THANK YOU.

2 MARCH 19, 1999 IN CAMERA:

3 THE COURT: I RECEIVED FROM THE FOREMAN OF THE
4 JURY, JERRY GWINN THIS NOTE, IT'S ON MICROTEL INN AND
5 SUITES PAPER, I'M GOING TO MAKE IT A COURT'S EXHIBIT, IT
6 SAYS: "YOUR HONOR, PLEASE ADVISE EVERYONE TO SPEAK
7 CLEARLY", I GUESS THAT INCLUDES MYSELF, "THERE WAS SOME
8 DIFFICULTY HEARING SOME OF THE TESTIMONY AND ATTORNEYS.
9 THANK YOU, FOREMAN JERRY GWINN."

10 (THE NOTE WAS MARKED COURT'S EXHIBIT 12.)

11 THE COURT: IS THE STATE READY TO PROCEED?

12 MR. POPE: YES, SIR, YOUR HONOR.

13 THE COURT: THE DEFENSE?

14 MR. BOYD: THE DEFENSE IS READY YOUR HONOR.

15 THE COURT: ALL RIGHT, AND THE DEFENDANT IS
16 PRESENT. BRING IN THE JURY.

17 IN THE PRESENCE OF THE JURY:

18 THE COURT: GOOD MORNING. ALL 14 MEMBERS OF THE
19 JURY ARE PRESENT AND ACCOUNTED FOR AND I HAVE DISCUSSED
20 WITH COUNSEL YOUR CONCERNS ABOUT SPEAKING DISTINCTLY AND
21 LOUDLY. WITH EACH WITNESS I'LL HAVE TO TRY TO MONITOR THAT
22 AND ASK THEM TO SPEAK LOUDER IF THEY ARE NOT. DO THIS OR
23 THIS IF YOU'RE HAVING TROUBLE HEARING, AND THIS IF YOU'RE
24 HAVING TROUBLE SEEING AND WE'LL MAKE EVERY EFFORT.

25 ALL RIGHT, CALL YOUR NEXT WITNESS.

1527

1 MR. BRACKETT: MAY IT PLEASE THE COURT, THE STATE
2 WOULD CALL PAM CARROLL.

3 PAMELA CARROLL, BEING FIRST DULY SWORN, TESTIFIED
4 AS FOLLOWS:

5 DIRECT EXAMINATION BY

6 MR. BRACKETT:

7 Q. GOOD MORNING, MA'AM. WOULD YOU PLEASE STATE
8 YOUR FULL NAME AND SPELL YOUR LAST FOR THE COURT
9 REPORTER?

10 A. OKAY. MY NAME IS PAMELA CARROLL, C-A-R-R-O-L-L.

11 Q. WHERE ARE YOU EMPLOYED, MA'AM?

12 A. I'M EMPLOYED BY NATIONS BANK IN COLUMBIA.

13 Q. AND WHAT DO YOU DO FOR NATIONS BANK?

14 A. AS A PART OF MY DUTIES I SETTLE ESTATES FOR THE
15 BANK.

16 Q. AND WHAT DOES THAT INVOLVE, SETTLING ESTATES?

17 A. THAT INVOLVES THE ENTIRE PROBATE PROCESS,
18 COLLECTING ASSETS, PAYING THE DEBTS.

19 Q. ARE YOU FAMILIAR WITH THE ESTATE LEFT BY EARL
20 AND TERRY ROBERTSON?

21 A. YES, SIR.

22 Q. HOW ARE YOU FAMILIAR WITH THAT?

23 A. I HAVE COMPLETED AND WORKED ON ALL OF THE
24 PROBATE FILINGS WITH THE PROBATE COURT.

25 Q. AND WHAT IS THE STATUS OF THAT ESTATE RIGHT NOW?

PAMELA CARROLL - DIRECT BY MR. BRACKETT

1528

1 A. THE STATUS IS WE HAVE JUST COMPLETED SOME
2 INITIAL FILINGS AND WE HAVE FILED THE TAX
3 RETURNS FOR THE ESTATE; WE HAVE ALSO FILED
4 INCOME TAX RETURNS.

5 Q. ALL RIGHT, MA'AM. CAN YOU TELL THE JURY WHAT
6 THE APPROXIMATE WORTH OF THE ESTATE WAS AT THE
7 TIME OF EARL AND TERRY ROBERTSON'S DEATH?

8 A. YES, THEIR COMBINED GROSS ESTATES ARE
9 APPROXIMATELY TWO MILLION TWO HUNDRED THOUSAND.

10 Q. AND CAN YOU TELL THE JURY WHO THE BENEFICIARIES
11 OF THAT ESTATE WERE?

12 A. YES, THEIR CHILDREN.

13 Q. I'M SHOWING YOU AN ENVELOPE THAT'S BEEN MARKED
14 STATE'S EXHIBIT 100 FOR IDENTIFICATION, COULD
15 YOU OPEN THAT ENVELOPE AND EXAMINE THE CONTENTS?

16 A. YES.

17 Q. CAN YOU IDENTIFY THE ITEMS IN THAT ENVELOPE?

18 A. YES. THERE IS A CERTIFIED COPY OF EARL
19 ROBERTSON'S WILL, A CERTIFIED COPY OF TERRY'S
20 WILL, A COPY -- ORIGINAL CERTIFIED COPY OF THE
21 INVENTORY APPRAISEMENT WHICH WAS FILED FOR EACH
22 OF THE ESTATES.

23 Q. ALL RIGHT, MA'AM. ARE THOSE ACCURATE COPIES OF
24 THEIR WILLS?

25 A. YES, THEY ARE.

PAMELA CARROLL - DIRECT BY MR. BRACKETT

1529

1 Q. YOUR HONOR, AT THIS TIME I WOULD MOVE STATE'S
2 EXHIBIT 100 INTO EVIDENCE.

3 MR. HANCOCK: WITHOUT OBJECTION, YOUR HONOR.

4 THE COURT: IT WILL BE RECEIVED.

5 (THE WILLS AND INVENTORY APPRAISALS WERE MARKED IN EVIDENCE
6 AS STATE'S EXHIBIT 100 WITHOUT OBJECTION.)

7 Q. MS. CARROLL, COULD YOU TELL THE JURY, DID THE
8 ESTATE HAVE ANY CREDITORS, DID EARL AND TERRY
9 OWE ANYBODY ANY MONEY?

10 A. YES, THEY HAD SEVERAL CREDITORS; THEY HAD TWO
11 MORTGAGE COMPANIES THAT THEY OWED AND SEVERAL
12 CREDIT CARD COMPANIES.

13 Q. ARE YOU FAMILIAR WITH THE CREDIT CARD ACCOUNTS?

14 A. YES, SIR, I AM.

15 Q. DID YOU HAVE TO SETTLE THOSE AS PART OF YOUR
16 DUTIES?

17 A. YES, SIR, I DID.

18 Q. CAN YOU TELL ME, WAS THERE A NATIONS BANK VISA
19 ACCOUNT?

20 A. YES, THERE WAS.

21 Q. AND YOU'RE FAMILIAR WITH THAT ACCOUNT.

22 A. YES.

23 Q. DID YOU SETTLE THAT PARTICULAR ACCOUNT AS PART
24 OF THIS?

25 A. YES.

PAMELA CARROLL - DIRECT BY MR. BRACKETT

1530

1 Q. DO YOU HAVE INFORMATION REGARDING THAT VISA
2 ACCOUNT?

3 A. YES, I HAVE THE LAST BILLING.

4 Q. IS THE ACCOUNT NUMBER 4356007704058152?

5 A. THAT'S CORRECT.

6 Q. CAN YOU TELL ME, YOU SAID YOU HAVE THE LAST
7 BILLING?

8 A. YES.

9 Q. CAN YOU TELL ME WHAT THE LAST TWO CHARGES TO
10 THAT ACCOUNT WERE?

11 A. YES, THERE WERE TWO ON 11-25, ONE WAS TO A SHELL
12 STATION IN LADYSMITH, VIRGINIA; AND ANOTHER WAS
13 TO AN EXXON IN FORT MILL, SOUTH CAROLINA.

14 Q. AND WHAT WERE THE AMOUNTS ON THOSE CHARGES?

15 A. ON THE SHELL IT WAS THIRTEEN DOLLARS AND SIXTY-
16 EIGHT CENTS. AND ON THE EXXON IT WAS THIRTY
17 DOLLARS AND TWENTY-ONE CENTS.

18 Q. AS PART OF SETTLING THIS ACCOUNT, DID YOU GET
19 THE ACCOUNT AUTHORIZATION INFORMATION?

20 A. YES, I DID.

21 Q. AND CAN YOU TELL THE JURY WHO, IF ANYONE, WAS
22 AUTHORIZED TO USE THAT VISA ACCOUNT?

23 A. THERE WERE TWO PEOPLE THAT WERE ON THE
24 APPLICATION AND AUTHORIZED TO USE IT, EARL
25 ROBERTSON AND TERRY ROBERTSON.

PAMELA CARROLL - DIRECT BY MR. BRACKETT

1531

1 Q. COURT'S INDULGENCE ONE MOMENT.

2 (AFTER A BRIEF PAUSE.)

3 Q. I'M SHOWING YOU, TAKING THE CARD FROM STATE'S
4 EXHIBIT 88 IN EVIDENCE, I'LL ASK YOU, MA'AM, IS
5 THAT THE CARD FROM THE ACCOUNT YOU JUST
6 REFERENCED?

7 A. I CAN TELL IT'S THE CARD, BUT THE CARD NUMBER
8 DOESN'T MATCH THE ACCOUNT NUMBER.

9 Q. DO YOU KNOW OF YOUR OWN KNOWLEDGE ---

10 THE COURT: KEEP YOUR VOICE LEVEL UP. I KNOW
11 YOU'RE TALKING TO HER, BUT THEY'VE ALREADY TOLD YOU THAT
12 THEY CAN'T HEAR.

13 Q. DO YOU KNOW, DO THEY USUALLY MATCH?

14 A. YES, THEY USUALLY DO.

15 Q. COURT'S INDULGENCE ONE MOMENT.

16 (AFTER A BRIEF PAUSE.)

17 Q. CAN YOU READ THE NUMBERS OFF OF THAT CARD?
18 WHICH NUMBERS DON'T MATCH?

19 A. THE LAST SET OF DIGITS; THE FIRST FOUR NUMBERS
20 MATCH. THEY ACTUALLY HAVE TWO ACCOUNTS, ONE WAS
21 A VISA AND ONE WAS A MASTERCARD AND THE FIRST
22 FOUR DIGITS ARE THE SAME ON EACH.

23 Q. OKAY. THANK YOU VERY MUCH, MS. CARROLL. PLEASE
24 ANSWER ANY QUESTIONS DEFENSE COUNSEL MAY HAVE
25 FOR YOU.

PAMELA CARROLL - CROSS BY MR. BOYD

1532

CROSS EXAMINATION BY

MR. BOYD:

Q. GOOD MORNING, MS. CARROLL.

A. GOOD MORNING.

Q. I NEED TO ASK YOU JUST A FEW QUESTIONS IF YOU
DON'T MIND. YOU MENTIONED THE TWO CHARGES, ONE
FROM LADYSMITH AND ONE AT THE EXXON STATION AND
THAT WAS LISTED AS PART OF THE DEBTS THAT WERE
SETTLED UP BY THE ESTATE, IS THAT CORRECT?

A. YES, IT IS.

Q. SO, THE ESTATE PAID THOSE TWO CHARGES, IS THAT
CORRECT?

A. YES, THEY HAVE BEEN PAID AS A PART OF THE TOTAL
BILLING.

Q. ALL RIGHT. AND SO THE ESTATE DIDN'T PUT IN
ANYTHING THAT THESE WERE USED FRAUDULENTLY,
SHOULDN'T BE PAID LIKE YOU NORMALLY DO WHEN A
CREDIT CARD IS STOLEN?

A. RIGHT. THERE WAS A STATEMENT ON HERE THAT SOME
OF THE CHARGES HAD BEEN TRANSFERRED FROM A PRIOR
ACCOUNT.

Q. OKAY, BUT MY PARTICULAR QUESTION IS TO THOSE TWO
CHARGES, THE LADYSMITH CHARGE AND THE EXXON
CHARGE, THERE WAS NOTHING PUT IN THAT THAT
SHOULDN'T BE PAID BECAUSE IT WAS FRAUDULENTLY

PAMELA CARROLL - CROSS BY MR. BOYD

1533

1 USED OR STOLEN OR ANYTHING OF THAT NATURE?

2 A. THAT'S CORRECT.

3 Q. IT WAS NOT; IS THAT CORRECT?

4 A. CORRECT.

5 Q. AND SO THE ESTATE DID PAY THOSE TWO ITEMS LIKE
6 ANY NORMAL CHARGE; IS THAT CORRECT?

7 A. THEY HAVE BEEN PAID.

8 Q. NOW, I WANTED TO ASK YOU CONCERNING -- THE BANK
9 IS THE ADMINISTRATOR OF THE ESTATE, IS THAT
10 CORRECT?

11 A. RIGHT, WE HAVE BEEN DESIGNATED PERSONAL
12 REPRESENTATIVE.

13 Q. OF THE ESTATE?

14 A. RIGHT.

15 Q. AND IF -- SO IF WHAT I UNDERSTAND ABOUT PROBATE
16 LAW IS CORRECT, Y'ALL ARE CHARGED WITH SETTling
17 THE ESTATE, HANDLING IT, SEEING ALL THE
18 BENEFICIARIES GET PAID AND ALL THE CREDITORS GET
19 PAID; IS THAT RIGHT?

20 A. RIGHT.

21 Q. AND YOU SAID THAT THE VALUE OF THE ESTATE WAS,
22 WHAT, TWO MILLION SOMETHING DOLLARS?

23 A. APPROXIMATELY TWO MILLION TWO HUNDRED THOUSAND.

24 Q. OKAY, AND THAT INCLUDES THE VALUE OF ALL REAL
25 ESTATE AND MONEY AND EVERYTHING ELSE THAT IS IN

PAMELA CARROLL - CROSS BY MR. BOYD

1534

1 THE ESTATE; IS THAT CORRECT?

2 A. THAT INCLUDES EVERYTHING THAT THEY HAVE AN
3 INTEREST IN, INCLUDING LIFE INSURANCE, PROFIT
4 SHARING ACCOUNTS OF THE EMPLOYER.

5 Q. AND UNDER THE TERMS OF THE WILL -- WELL, LET ME
6 ASK YOU ABOUT THE WILL FIRST. THE ORIGINAL
7 WILL, I ASSUME, WAS FILED WITH THE PROBATE
8 COURT, IS THAT CORRECT?

9 A. THAT'S CORRECT.

10 Q. DO YOU KNOW WHERE THE ORIGINAL WILL WAS LOCATED
11 THAT WAS FILED WITH THE PROBATE COURT AFTER
12 THEIR DEATH?

13 A. WHERE IT WAS FOUND?

14 Q. YES, MA'AM.

15 A. NO, I DON'T. THE ATTORNEY THAT WE HAVE BEEN
16 USING IN THE ESTATE FOR PROBATE PURPOSES CALLED
17 US SAYING THAT IT HAD BEEN LOCATED, BUT I'M NOT
18 SURE WHERE IT WAS LOCATED.

19 Q. SO, YOU DON'T KNOW WHERE IT WAS LOCATED?

20 A. NO.

21 Q. WHO IS THAT ATTORNEY?

22 A. JOSEPH RADD.

23 Q. AND SO THE ORIGINAL WAS FILED WITH THE PROBATE
24 COURT, IS THAT CORRECT?

25 A. THAT'S RIGHT.

PAMELA CARROLL - CROSS BY MR. BOYD

1535

1 Q. OKAY. SO, YOU DON'T KNOW WHETHER EITHER JIMMY
2 ROBERTSON OR CHIP ROBERTSON KNEW WHERE THE WILL
3 WAS?

4 A. I HAVE NO IDEA.

5 Q. ALL RIGHT. NOW, UNDER, OF COURSE, SOUTH
6 CAROLINA LAW, IF JIMMY IS CONVICTED OF THE
7 MURDER OR DETERMINED TO HAVE ANYTHING TO DO WITH
8 OR CONVICTED OF KILLING HIS PARENTS, HE DOESN'T
9 GET ANY OF THAT MONEY. IS THAT CORRECT?

10 A. THAT'S MY UNDERSTANDING.

11 Q. HE CANNOT INHERIT FROM THE ESTATE.

12 A. THAT'S MY UNDERSTANDING.

13 Q. SO, EVERYTHING THAT HE HAD, WHAT WOULD HAVE GONE
14 TO HIM, WOULD GO OVER TO CHIP ---

15 MR. BRACKETT: YOUR HONOR, I'M GOING TO OBJECT AS
16 TO RELEVANCE. THIS HAS NOTHING TO DO WITH THE GUILT OR
17 INNOCENCE OF THE DEFENDANT.

18 THE COURT: WELL, I OVERRULE THE OBJECTION.

19 Q. EVERYTHING WOULD GO OVER TO CHIP, IS THAT
20 CORRECT?

21 A. THAT'S WHAT I UNDERSTAND.

22 Q. OKAY. SO, IF JIMMY IS CONVICTED OF MURDER, CHIP
23 MAKES OVER A MILLION DOLLARS; IS THAT CORRECT?

24 A. YES, THAT'S CORRECT.

25 Q. THANK YOU.

PAMELA CARROLL - REDIRECT BY MR. BRACKETT

1536

1 REDIRECT EXAMINATION BY

2 MR. BRACKETT:

3 Q. ALONG THE LINES OF WHAT MR. BOYD WAS ASKING YOU,
4 IF JIMMY HADN'T BEEN CONVICTED, WOULD HE HAVE
5 INHERITED?

6 A. YES.

7 Q. THE CREDIT CARD ACCOUNT, I'M SHOWING YOU A
8 DOCUMENT, DO YOU RECOGNIZE THAT?

9 A. YES.

10 Q. CAN YOU READ THE ACCOUNT NUMBER AT THE TOP
11 RIGHT-HAND CORNER OF THAT DOCUMENT?

12 A. YES. 435600770405 ---

13 THE COURT: JUST ONE SECOND. I'M GOING TO LAY A
14 FEW GROUND RULES. ONE IS LET'S KEEP OUR VOICE LEVEL UP.
15 AND THE OTHER IS, AND I KNOW YOU'RE USING THESE BAGS TO
16 HELP, BUT THEY ARE CRINKLY.

17 MR. BRACKETT: YES, SIR.

18 THE COURT: WHEN SOMEBODY IS TESTIFYING, DON'T BE
19 CRINKLING.

20 MR. BRACKETT: YES, SIR.21 THE COURT: GO AHEAD.

22 Q. READ THE ACCOUNT NUMBER AGAIN LOUDLY FOR THE
23 JURY.

24 A. OKAY. 4356007704058152.

25 Q. OKAY, NOW YOU SAID THERE WERE TWO CARDS LISTED

PAMELA CARROLL - REDIRECT BY MR. BRACKETT

1537

1 ON THAT ACCOUNT?

2 A. RIGHT.

3 Q. CAN YOU EXPLAIN HOW THIS NUMBER COULD BE
4 DIFFERENT?

5 A. YES, BECAUSE THEY COME IN BILLED UNDER TWO, A
6 VISA CARD AND A MASTERCARD EACH HAVE THEIR
7 SEPARATE NUMBER BUT THEY ROLL UP INTO ONE
8 ACCOUNT.

9 Q. OKAY. WOULD CHARGES MADE ON THAT CARD APPEAR ON
10 THAT STATEMENT?

11 A. YES.

12 Q. AND IS THAT THE SAME STATEMENT YOU REFERRED TO
13 EARLIER IN YOUR TESTIMONY?

14 A. YES, IT IS. I HAVE THE ORIGINAL OF IT.

15 Q. THANK YOU.

16 THE COURT: RECROSS?

17 MR. BOYD: NOTHING, YOUR HONOR.

18 MR. BRACKETT: I HAVE NO FURTHER QUESTIONS. MAY
19 I ASK THAT THIS WITNESS BE EXCUSED?

20 THE COURT: YOU MAY STEP DOWN, AND BE EXCUSED.
21 WE APPRECIATE YOUR TIME. CALL YOUR NEXT WITNESS.

22 MR. BRACKETT: THE STATE CALLS ERIN SAVAGE.
23 ERIN ELIZABETH SAVAGE, BEING FIRST DULY SWORN,
24 TESTIFIED AS FOLLOWS:

25 DIRECT EXAMINATION BY

ERIN E. SAVAGE - DIRECT BY MR. BRACKETT

1538

1 MR. BRACKETT:

2 Q. MA'AM, WOULD YOU PLEASE STATE YOUR FULL NAME AND
3 SPELL YOUR LAST FOR THE COURT REPORTER?

4 A. ERIN ELIZABETH SAVAGE, S-A-V-A-G-E.

5 Q. HOW OLD ARE YOU, MS. SAVAGE?

6 A. 21 YEARS OLD.

7 Q. AND WHERE DO YOU LIVE?

8 A. 1230 LAKEHURST DRIVE, ROCK HILL.

9 Q. HOW LONG HAVE YOU LIVED IN ROCK HILL?

10 A. I'VE LIVED HERE ABOUT TWO YEARS.

11 Q. AND WHERE ARE YOU EMPLOYED RIGHT NOW?

12 A. ECKERD'S ON EAST MAIN STREET IN ROCK HILL.

13 Q. DO YOU KNOW THIS INDIVIDUAL SEATED RIGHT OVER
14 HERE?

15 A. YES, SIR, I DO.

16 Q. THE GENTLEMAN TO THE FAR RIGHT?

17 A. YES, SIR.

18 Q. WHO IS HE?

19 A. JIM ROBERTSON.

20 Q. AND HOW LONG HAVE YOU KNOWN HIM?

21 A. FOUR TO FIVE YEARS.

22 Q. AND CAN YOU TELL US ABOUT WHEN YOU FIRST MET HIM
23 AND KIND OF GO THROUGH HOW YOU GOT TO KNOW EACH
24 OTHER?

25 A. I MET HIM WORKING AT PAPA JOHN'S IN ROCK HILL IN

ERIN E. SAVAGE - DIRECT BY MR. BRACKETT

1539

1 JUNE OR JULY OF 1995. I WORKED THERE FOR A YEAR.

2 HE WAS THERE FOR A FEW MONTHS THAT I WAS.

3 WE DATED FOR SEVERAL MONTHS THAT SUMMER. AND WE

4 CONTINUED TO BE FRIENDS AFTER OUR RELATIONSHIP.

5 Q. AND CAN YOU DESCRIBE THE COURSE OF YOUR
6 RELATIONSHIP OVER THE NEXT FEW YEARS LEADING UP
7 TO NOVEMBER OF 1997 JUST BRIEFLY IF YOU WOULD.

8 A. WE HAD SEVERAL FRIENDS IN COMMON, AND WE STAYED
9 IN TOUCH, DID THINGS TOGETHER OFTEN ON A WEEKLY
10 BASIS.

11 Q. OKAY. TURNING YOUR ATTENTION SPECIFICALLY TO
12 NOVEMBER 24TH OF 1997, CAN YOU TELL THE JURY
13 WHAT YOU DID THAT EVENING STARTING AT ABOUT 7:00
14 OR 8:00 O'CLOCK.

15 A. ABOUT 7:00 O'CLOCK I WAS AT WORK AT OUTBACK
16 STEAK HOUSE WHERE I WAS A WAITRESS. MY SHIFT
17 DIDN'T END UNTIL 11:30 AND AFTER CLEANING UP MY
18 SECTION, I WENT HOME, CHANGED CLOTHES, PICKED UP
19 MEREDITH AT HER HOUSE WHICH IS JUST RIGHT AROUND
20 THE CORNER FROM MY APARTMENT. WE BOTH WENT BACK
21 TO MY APARTMENT, PLAYED GAMES ON MY COMPUTER,
22 LISTENED TO MUSIC, THAT SORT OF THING, RELAXING.
23 PROBABLY ABOUT A HALF AN HOUR AFTER WE WERE
24 THERE ---

25 Q. WHAT TIME DID YOU GET HOME, CAN YOU GIVE ME AN

ERIN E. SAVAGE - DIRECT BY MR. BRACKETT

1540

1 APPROXIMATE?

2 A. IT WAS PROBABLY 12:00 O'CLOCK BY THE TIME THAT I
3 HAD PICKED UP MEREDITH AND WE HAD BOTH RETURNED
4 TO MY APARTMENT.

5 Q. ARE YOU SURE OF THE TIME?

6 A. THAT'S APPROXIMATE.

7 Q. AND CONTINUE, YOU GOT HOME ABOUT 12:00 O'CLOCK
8 AND WHAT DID YOU DO?

9 A. AFTER WE PLAYED A FEW GAMES AND WATCHING T.V.,
10 THE PHONE RANG AND IT WAS JIM. HE WANTED TO
11 KNOW IF WE WOULD BOTH COME OVER AND WE SAID THAT
12 WE WOULD. I HAD JUST BOUGHT A POOL CUE FOR A
13 CHRISTMAS PRESENT FOR MY BOYFRIEND AND HE HAD A
14 POOL TABLE AND HE KNEW A LOT MORE ABOUT THAT
15 SORT OF THING THAN I DID, SO WE WENT OVER THERE
16 WITH THAT TO LET HIM LOOK AT IT AND JUST, YOU
17 KNOW, TO HANG OUT AND TALK.

18 Q. APPROXIMATELY WHAT TIME DID YOU ARRIVE OVER
19 THERE?

20 A. PROBABLY 12:30.

21 Q. AND HOW DID YOU GET OVER THERE?

22 A. I DROVE IN MY CAR.

23 Q. CAN YOU DESCRIBE YOUR CAR, PLEASE?

24 A. IT'S A CHEVY X-10 '97.

25 Q. WHAT COLOR?

ERIN E. SAVAGE - DIRECT BY MR. BRACKETT

1541

1 A. GREEN.

2 Q. WHERE DID YOU PARK WHEN YOU ARRIVED AT THE
3 HOUSE?

4 A. IF YOU'RE FACING THE FRONT OF THE HOUSE ON THE
5 LEFT-HAND SIDE ON THE SIDE OF THE ROAD, KIND OF
6 OFF OF THE SIDE OF THE HOUSE NOT TO WAKE ANYONE
7 UP.

8 Q. AND WHICH DOOR DID YOU GO TO WHEN YOU WENT IN
9 THE HOUSE?

10 A. THE DOWNSTAIRS DOOR LEADING TO THE BASEMENT
11 WHERE JIM'S ROOM WAS.

12 Q. AND YOU SAID THIS WAS APPROXIMATELY WHAT TIME?

13 A. 12:30.

14 Q. EXPLAIN TO THE JURY WHAT HAPPENED AFTER YOU
15 ARRIVED AT MR. ROBERTSON'S RESIDENCE.

16 A. WE CAME IN AND HE WAS CLEANING UP THE DOWNSTAIRS
17 OF THE HOUSE. THEY HAD A FAMILY COMING FOR
18 THANKSGIVING.

19 Q. WE WATCHED T.V. FOR A WHILE. HE SHOT A FEW
20 GAMES WITH THE POOL CUE, YOU KNOW, LOOKED AT IT
21 FOR ME. WE JUST SAT THERE FOR A WHILE.
22 MEREDITH AND JIM TALKED. I WAS BORED, SO I GOT
23 MEREDITH AND WE WENT BACK TO MY APARTMENT.

24 Q. AND APPROXIMATELY HOW LONG DID YOU SPEND AT THE
25 HOUSE THERE WITH JIM?

ERIN E. SAVAGE - DIRECT BY MR. BRACKETT

1542

1 A. I WOULDN'T SAY MUCH MORE THAN 30 MINUTES.

2 Q. DID ANYTHING UNUSUAL HAPPEN THERE AT THE HOUSE?

3 A. NOTHING UNUSUAL, NO.

4 Q. WAS JIM OR MEREDITH OR YOURSELF, WERE YOU
5 DRINKING ANYTHING AT THAT TIME?

6 A. I WAS NOT DRINKING, AND TO MY KNOWLEDGE JIM
7 HADN'T BEEN AND MEREDITH HADN'T BEEN.

8 Q. DID YOU SEE ANYBODY -- STRIKE THAT. WHAT
9 HAPPENED AFTER YOU ARRIVED HOME?

10 A. I DROPPED MEREDITH OFF -- AFTER SHE PICKED HER
11 PURSE UP FROM MY APARTMENT, I DROPPED HER BACK
12 OFF AT HER HOUSE. I WENT IN, GOT INTO MY
13 PAJAMAS AND WATCHED T.V. ON MY COUCH.

14 Q. DID YOU SPEAK TO EITHER JIM OR MEREDITH AGAIN
15 THAT NIGHT?

16 A. JIM CALLED PROBABLY AROUND 3:30, APPROXIMATELY,
17 THAT MORNING. I WAS STILL UP WATCHING T.V. WHICH
18 IS USUAL. HE ASKED ME IF MEREDITH WAS STILL
19 THERE AND I TOLD HIM THAT I'D TAKEN HER HOME.
20 AND HE ASKED IF HE CALLED HER HOUSE, WOULD HER
21 FATHER BE THERE. AND I SAID THAT I DIDN'T KNOW.

22 Q. WAS THERE ANYTHING ELSE IN THAT CONVERSATION?

23 A. NO, THERE WAS NOT.

24 Q. DID YOU SPEAK WITH EITHER JIM OR MEREDITH THAT
25 EVENING?

ERIN E. SAVAGE - DIRECT BY MR. BRACKETT

1543

1 A. NO, I DID NOT, NOT THAT EVENING.

2 Q. WHEN WAS THE NEXT TIME YOU SPOKE WITH EITHER HIM
3 OR MEREDITH?

4 A. MY PHONE RANG THAT MORNING, I WOULDN'T BE SURE
5 WHAT TIME; IT WAS PROBABLY 7:30 MAYBE. I WAS
6 STILL ASLEEP AND IT WOKE ME UP. MEREDITH
7 CALLED; SHE WAS AT A PAY PHONE AT A GAS STATION
8 AND SAID SHE WAS ---

9 MR. HANCOCK: OBJECTION.

10 THE COURT: I SUSTAIN ---

11 MR. BRACKETT: YOUR HONOR, PURSUANT TO -- WE WILL
12 CALL MS. MOON, SHE WILL TESTIFY TO THIS FACT AND SHE WILL
13 BE AVAILABLE FOR CROSS EXAMINATION.

14 THE COURT: I OVERRULE THE OBJECTION.

15 Q. GO AHEAD AND TELL US WHAT MEREDITH SAID.

16 A. SHE SAID THAT THEY WERE AT A GAS STATION HALFWAY
17 TOWARDS PENNSYLVANIA AND THEY WERE GOING TO PICK
18 UP JIM'S YOUNGER BROTHER, CHIP, TO BRING HIM
19 HOME FOR THANKSGIVING.

20 I ASKED HER NOT TO GO, AND SHE SAID, WELL, WE'RE
21 ALREADY HALFWAY THERE. AND THAT WAS THE END OF
22 THE CONVERSATION.

23 Q. DID YOU SPEAK WITH EITHER OF THEM AGAIN THAT
24 MORNING?

25 A. NO, I DID NOT.

ERIN E. SAVAGE - DIRECT BY MR. BRACKETT

1544

1 Q. WHO WAS THE NEXT PERSON YOU SPOKE WITH ABOUT JIM
2 OR MEREDITH?

3 A. MEREDITH'S FATHER CALLED ME SEVERAL HOURS LATER
4 AND SAID THAT THE POLICE WERE AT HIS HOUSE AND
5 THEY WANTED TO SPEAK WITH ME AND THEY ---

6 Q. DON'T TELL US WHAT MR. MOON SAID.

7 A. OKAY.

8 Q. BUT YOU SPOKE WITH MR. MOON?

9 A. YES, AND THE POLICE WERE AT HIS HOUSE AND THEY
10 SPOKE WITH ME ON THE PHONE JUST BRIEFLY AND SAID
11 THAT THEY WERE COMING TO MY APARTMENT ---

12 MR. HANCOCK: OBJECTION, YOUR HONOR.

13 THE COURT: I SUSTAIN THE OBJECTION.

14 Q. DON'T TELL US WHAT THE POLICE SAID EITHER. WHAT
15 HAPPENED AFTER THE PHONE CALL WITH MR. MOON?

16 A. THE POLICE CAME TO MY APARTMENT AND QUESTIONED
17 ME ABOUT INCIDENTS PRIOR ---

18 Q. APPROXIMATELY WHAT TIME WAS THIS?

19 A. BETWEEN 11:30 AND 12:00.

20 Q. AND WHAT DID YOU TELL THE POLICE?

21 A. I TOLD THEM WHERE I HAD BEEN THE NIGHT BEFORE,
22 ABOUT GOING TO JIM'S HOUSE AND ABOUT THE PHONE
23 CALL THAT MEREDITH HAD MADE THAT MORNING.

24 Q. OKAY. DID YOU TELL THEM THE SUBSTANCE OF THE
25 PHONE CALL?

ERIN E. SAVAGE - CROSS BY MR. HANCOCK

1545

1 A. YES, I DID.

2 Q. DID YOU TELL THEM WHERE, TO THE BEST OF YOUR
3 KNOWLEDGE, THEY WERE GOING?

4 A. YES, I DID, PENNSYLVANIA.

5 Q. AND DO YOU REMEMBER THE NAME OF THE
6 INVESTIGATORS THAT YOU SPOKE WITH?

7 A. THE ONLY NAME THAT I CAN REMEMBER IS DETECTIVE
8 JOHN HOWE.

9 Q. OKAY. I BEG THE COURT'S INDULGENCE ONE MOMENT.
10 (AFTER A BRIEF PAUSE.)

11 Q. WHEN YOU SPOKE WITH MEREDITH, DO YOU KNOW FOR
12 SURE WHAT TIME YOU SPOKE WITH HER?

13 A. NO, I DO NOT. I DIDN'T EVEN LOOK AT THE CLOCK.

14 Q. WHAT WAS YOUR CONDITION WHEN THE PHONE RANG,
15 WHAT WERE YOU DOING?

16 A. I WAS SLEEPING.

17 Q. THANK YOU VERY MUCH, MS. SAVAGE. PLEASE ANSWER
18 ANY QUESTIONS COUNSEL FOR THE DEFENSE MAY HAVE.

19 THE COURT: YOU SAID THAT YOU RECEIVED THIS PHONE
20 CALL FROM MS. MOON AT 11:00. THEY DIDN'T ASK YOU WHETHER
21 THAT WAS 11:00 A.M. OR 11:00 P.M. WHICH WAS IT?

22 A. IT WAS 11:00 THAT MORNING.

CROSS EXAMINATION BY

24 MR. HANCOCK:

25 Q. MS. SAVAGE, YOU HAVE INDICATED THAT YOU WERE AT

ERIN E. SAVAGE - CROSS BY MR. HANCOCK

1546

1 JIMMY ROBERTSON'S HOUSE AT APPROXIMATELY 3:30 IN
2 THE MORNING. IS THAT THE TIME YOU LEFT?

3 A. NO, SIR, THAT'S WHAT TIME I RECEIVED THE PHONE
4 CALL FROM HIM.

5 Q. WHAT TIME WERE YOU AT HIS HOUSE?

6 A. UNTIL APPROXIMATELY 1:00 O'CLOCK, MAYBE LATER.

7 Q. AND AT THAT TIME YOU INDICATED, I BELIEVE, THAT
8 HE AND MEREDITH HAD BEEN DRINKING?

9 A. THEY HAD NOT BEEN DRINKING.

10 Q. THEY HAD NOT BEEN DRINKING.

11 A. TO MY KNOWLEDGE.

12 Q. NOW, YOU ARE FAMILIAR WITH JIMMY, IS THAT
13 CORRECT?

14 A. YES, SIR, I AM.

15 Q. AND HAVE YOU KNOWN HIM OVER THE YEARS TO DRINK
16 AND DRINK HEAVILY?

17 A. YES, I HAVE.

18 Q. HE HAS AN ALCOHOL PROBLEM, IS THAT CORRECT? OR
19 WOULD YOU DESCRIBE IT THAT WAY?

20 A. I WOULDN'T SAY IT'S A PROBLEM; HE DOES ENJOY TO
21 DRINK AND HE DOES DO IT QUITE OFTEN, BUT NOT SO
22 MUCH THAT I WOULD SAY THAT HE HAS TO.

23 Q. AND ALSO, I BELIEVE YOU HAVE GIVEN A STATEMENT
24 THAT HE USED DRUGS ALSO, AND YOU ARE AWARE OF
25 THAT; IS THAT CORRECT, MA'AM?

ERIN E. SAVAGE - CROSS BY MR. HANCOCK

1547

1 A. YES, SIR.

2 MR. BRACKETT: I DON'T BELIEVE THERE WAS ANY
3 TESTIMONY REGARDING THAT. I SPECIFICALLY AVOIDED THAT.

4 THE COURT: REPHRASE YOUR QUESTION.

5 Q. YOU'RE HIS FRIEND, IS THAT CORRECT?

6 A. YES, SIR.

7 Q. YOU'VE BEEN OUT WITH HIM, HAVE YOU NOT?

8 A. YES, SIR.

9 Q. AND YOU'VE BEEN OUT WITH HIM WHEN HE WAS
10 DRINKING?

11 A. YES, SIR.

12 Q. AND YOU'VE BEEN OUT WITH HIM WHEN HE USED DRUGS,
13 ISN'T THAT CORRECT?

14 A. YES, SIR.

15 Q. AND WHAT KIND OF DRUGS DOES HE USE, MA'AM?

16 A. I WOULDN'T KNOW, TO BE HONEST WITH YOU.

17 Q. HOW DO YOU KNOW HE WAS ON DRUGS?

18 A. I WOULD SEE HIM DOING THINGS THAT WERE CLEARLY,
19 I MEAN YOU COULD TELL HE WAS SNORTING SOMETHING,
20 SMOKING SOMETHING, BUT I WOULDN'T KNOW THE
21 SPECIFICS.

22 Q. YOU COULD CLEARLY TELL THAT. YOU'RE FAMILIAR
23 ENOUGH WITH DRUGS THAT YOU CAN TELL WHEN
24 SOMEBODY IS ON DRUGS, MA'AM?

25 A. NOT SO MUCH FROM THE EFFECTS, BUT HE WASN'T SHY

ERIN E. SAVAGE - CROSS BY MR. HANCOCK

1548

1 ABOUT DOING THE DRUGS IN FRONT OF YOU. IT
2 WASN'T FROM THE EFFECTS THAT I COULD TELL HE WAS
3 DOING DRUGS.

4 Q. NOW, WAS THAT DURING THE ENTIRE TIME YOU KNEW
5 HIM?

6 A. MOST OF THE TIME I KNEW HIM, YES, SIR.

7 Q. AND IS THAT THE SAME FOR MS. MOON?

8 A. NO, SIR.

9 Q. DID SHE DRINK HEAVILY?

10 A. NO, SIR.

11 Q. DID SHE USE DRUGS?

12 A. SOME.

13 Q. WHAT KIND?

14 A. I DON'T KNOW, SIR.

15 Q. YOU WERE HER -- WERE YOU HER BEST FRIEND?

16 A. YES, SIR, I WOULD LIKE TO THINK SO.

17 Q. AND WHAT DID YOU CALL HER?

18 A. DOLL.

19 Q. YOU CALLED HER DOLL?

20 A. YES.

21 Q. AND YOU GOT A PHONE CALL YOU SAY AT 3:30 FROM
22 JIMMY?

23 A. APPROXIMATELY, YES, SIR.

24 Q. WAS IT NORMAL FOR HIM TO CALL YOU AT 3:30 IN THE
25 MORNING?

ERIN E. SAVAGE - CROSS BY MR. HANCOCK

1549

1 A. YES, SIR, BECAUSE I USUALLY WORKED SOMETIMES
2 UNTIL 2:00 IN THE MORNING ON THE WEEKENDS, SO IT
3 WAS THE USUAL HOUR.

4 Q. SO, Y'ALL KEPT THESE LATE HOURS IN THE MORNING -
5 - DID Y'ALL DO THAT REGULARLY, MA'AM?

6 A. CAN YOU REPHRASE THE QUESTION; I DIDN'T
7 UNDERSTAND.

8 Q. WELL, HE CALLED YOU AT 3:30 AND YOU SAID THAT
9 WAS NOT UNUSUAL.

10 A. YES, SIR.

11 Q. AND DID YOU CALL MEREDITH LATE IN THE EVENING ON
12 OCCASION?

13 A. I DIDN'T BECAUSE, I MEAN HER FATHER WORKED ODD
14 HOURS AND I NEVER KNEW WHEN HE WOULD BE ASLEEP,
15 SO I NEVER CALLED HER LATE.

16 Q. DID JIMMY OFTEN, TO YOUR KNOWLEDGE, STAY UP LATE
17 IN THE EVENINGS?

18 A. YES, SIR.

19 Q. DID HE STAY UP ALL NIGHT?

20 A. NOT ALL NIGHT.

21 Q. OR DO YOU KNOW?

22 A. NOT ALL NIGHT. I MEAN IT WASN'T UNCOMMON FOR
23 EITHER ONE OF US NOT TO BE GOING TO SLEEP UNTIL
24 4:00 OR 5:00 IN THE MORNING. IT WAS NOT
25 UNCOMMON.

ERIN E. SAVAGE - CROSS BY MR. HANCOCK

1550

1 Q. DID YOU EVER WORK WITH JIMMY?

2 A. YES, I DID, AT PAPA JOHN'S.

3 Q. AT PAPA JOHN'S?

4 A. YES, SIR.

5 Q. AT PAPA JOHN'S DID YOU EVER HAVE THE OCCASION TO
6 EXPERIENCE THE FACT THAT HE MAY WORK, SAY, 36 OR
7 40 HOURS CONSECUTIVELY?

8 A. NOT QUITE THAT LONG, BUT LONG HOURS
9 CONSECUTIVELY, YES.

10 Q. HE WORKED LONG HOURS CONSECUTIVE, DIDN'T HE?

11 A. YES, SIR.

12 Q. AND YOU'RE NOT SURE ABOUT THE TIME THAT YOU
13 RECEIVED THE PHONE CALL FROM, I BELIEVE MEREDITH
14 MOON?

15 A. THAT MORNING?

16 Q. YES.

17 A. NO, SIR, I'M NOT.

18 Q. YOU STARTED OFF AT 7:30?

19 A. IT WOULD BE ABOUT THAT TIME. I HADN'T GOT MANY
20 HOURS OF SLEEP AND I DIDN'T LOOK AT THE CLOCK;
21 IT'S ON THE OTHER SIDE OF THE BED FROM MY PHONE.
22 SO, I DIDN'T LOOK OVER TO SEE THIS IS WHAT TIME
23 THE PHONE IS RINGING.

24 Q. SO, YOU REALLY DON'T KNOW WHAT TIME THAT PHONE
25 CALL WAS MADE?

ERIN E. SAVAGE - CROSS BY MR. HANCOCK

1551

1 A. NOT FOR SURE; NO, SIR.

2 Q. NOW AS FAR AS MS. MOON IS CONCERNED, SAY FOR
3 APPROXIMATELY A MONTH BEFORE THIS HAPPENED, DID
4 SHE DEVELOP A DRINKING PROBLEM?

5 A. NOT A DRINKING PROBLEM. OFTEN IF SHE WAS WITH
6 JIM, SHE WAS WITH A LOT OF PEOPLE WHO WERE
7 DRINKING AND BEING HER AGE, YOU KNOW, EVERYONE
8 ELSE IS DOING IT, SHE WOULD DRINK AND SHE DIDN'T
9 HOLD LIQUOR VERY WELL.

10 Q. SHE WOULD GET DRUNK?

11 A. SHE WOULD GET DRUNK.

12 Q. WOULD SHE GET BAD DRUNK?

13 A. YES, SIR. SHE WOULD GET SICK.

14 Q. TO THE POINT THAT PROBABLY THREE WEEKS BEFORE
15 THIS YOU HAD TO GO TO JIM'S APARTMENT, SHE WAS
16 PASSED OUT ON THE FLOOR. ISN'T THAT CORRECT?

17 A. SHE WASN'T, I MEAN SHE WAS ON THE FLOOR SICK TO
18 HER STOMACH.

19 Q. FROM DRINKING.

20 A. SHE WAS NOT PASSED OUT, SHE WAS CONSCIOUS.

21 Q. AND TO YOUR KNOWLEDGE AT THAT TIME WAS SHE DOING
22 ANY DRUGS?

23 A. NOT TO MY KNOWLEDGE. I HADN'T BEEN THERE. THE
24 ONLY THING I KNOW IS THAT MR. ROBERTSON HAD
25 BOUGHT HER A BOTTLE OF JAGERMEISTER AND LEFT HER

ERIN E. SAVAGE - REDIRECT BY MR. BRACKETT

1552

1 ALONE AT THE APARTMENT AND SHE DRANK IT WHILE
2 THEY WERE GONE. AND WHEN HE CAME BACK, SHE WAS
3 THAT DRUNK AND THEY CALLED ME THEN.

4 Q. TO HELP HER OUT?

5 A. YES, SIR.

6 Q. I HAVE NOTHING FURTHER, YOUR HONOR.

7 **THE COURT:** YOUR HONOR, I BELIEVE HE HAS OPENED
8 THE DOOR ON THE DRUG USE AND I'M GOING TO MAKE SOME
9 INQUIRIES REGARDING THAT THAT I DID NOT ASK HER ON DIRECT.

10 **REDIRECT EXAMINATION BY**

11 **MR. BRACKETT:**

12 Q. THE EVENING WHEN YOU WERE AT JIM'S HOUSE WITH
13 MEREDITH, THE NIGHT OF THE 24TH, EARLY MORNING
14 OF THE 25TH, WAS ANYBODY USING DRUGS IN THE
15 HOUSE THAT NIGHT?

16 A. JIM AND MEREDITH BOTH WERE AFTER WE GOT THERE.

17 Q. DID YOU SEE WHAT THEY DID?

18 A. I KNOW THEY WERE SNORTING A POWDER SUBSTANCE,
19 WHITE, BUT I DON'T KNOW WHAT IT WAS. I KNOW IT
20 CAME FROM A PILL THAT THEY HAD CRUSHED UP, BUT I
21 DON'T KNOW WHAT THE PILL WAS.

22 Q. COULD YOU TELL WHAT EFFECT -- DID IT CHANGE
23 THEIR DEMEANOR AFTER THEY DID THAT?

24 A. NO, IT DIDN'T. THERE WASN'T ANY VISIBLE EFFECT
25 THAT IF YOU HAD SEEN THEM, YOU WOULD HAVE NEVER

ERIN E. SAVAGE - REDIRECT BY MR. BRACKETT

1553

1 KNOWN THAT THEY WERE DOING ANYTHING. THEY WERE
2 PRETTY NORMAL, QUIET, RESERVED, JUST WATCHING
3 T.V., HANGING OUT.

4 Q. OKAY. NOW, MR. HANCOCK ASKED YOU ABOUT MEREDITH
5 DRINKING. HOW LONG HAVE YOU KNOWN MEREDITH?

6 A. I'VE KNOWN HER FOR SIX YEARS.

7 Q. AND HOW OLD WAS SHE AT THE TIME THAT THIS WAS
8 GOING ON?

9 A. THE DRINKING?

10 Q. YES.

11 A. SHE WAS 18.

12 Q. DO YOU KNOW WHERE SHE WAS GETTING THE ALCOHOL?

13 A. YES, MR. ROBERTSON WAS BUYING IT.

14 Q. OKAY. AND DID SHE DRINK A LOT BEFORE SHE MET
15 MR. ROBERTSON?

16 A. THE YEARS THAT I KNEW HER THAT SHE WAS NOT
17 HAVING CONTACT WITH MR. ROBERTSON, I NEVER SAW
18 HER DRINK AT ALL.

19 Q. THANK YOU VERY MUCH.

20 THE COURT: RECROSS?

21 MR. HANCOCK: NOTHING FURTHER, YOUR HONOR.

22 THE COURT: YOU CAN STEP DOWN. WE APPRECIATE
23 YOUR TIME, YOU CAN BE EXCUSED.

24 MR. BRACKETT: YOUR HONOR, I WOULD ASK THAT THIS
25 WITNESS BE SUBJECT TO RECALL.

1 **THE COURT:** YOU CAN BE EXCUSED BUT THEY MAY WISH
2 TO RECALL YOU AT A LATER TIME. JUST MAKE SURE THEY KNOW
3 HOW TO REACH YOU.

4 **MR. BRACKETT:** THE STATE WOULD CALL MARGARET
5 SMITH.

6 MARGARET W. SMITH, BEING FIRST DULY SWORN,
7 TESTIFIED AS FOLLOWS:

8 DIRECT EXAMINATION BY

9 **MR. BRACKETT:**

10 Q. MA'AM, WOULD YOU PLEASE STATE YOUR FULL NAME FOR
11 THE JURY?

12 A. MARGARET WILLIS SMITH.

13 Q. MA'AM, WHERE DO YOU LIVE?

14 A. I LIVE IN ROCK HILL.

15 Q. HOW LONG HAVE YOU LIVED IN ROCK HILL?

16 A. 29 YEARS.

17 Q. WHERE ARE YOU EMPLOYED?

18 A. AT WINTHROP UNIVERSITY.

19 Q. AND WHAT DO YOU DO FOR WINTHROP UNIVERSITY?

20 A. I'M A LOCATION MANAGER AT THE FOOD SERVICE.

21 Q. WHERE IS THAT ON THE CAMPUS?

22 A. IT'S AT DINKENS FOOD COURT IN DINKENS.

23 Q. HOW LONG HAVE YOU HAD THAT JOB?

24 A. 20 YEARS.

25 Q. DO YOU KNOW THE DEFENDANT, JIMMY ROBERTSON, OVER

MARGARET W. SMITH - DIRECT BY MR. BRACKETT

1555

1 HERE?

2 A. YES, I DO.

3 Q. HOW DO YOU KNOW HIM?

4 A. JIMMY WORKED FOR ME.

5 Q. OKAY, WHAT DID HE DO FOR YOU?

6 A. HE WAS MY GRILL COOK.

7 Q. WHEN DID HE WORK THERE; WHEN DID HE START?

8 A. HE WAS HIRED AUGUST 23RD OF '97.

9 Q. WAS HE SCHEDULED FOR WORK ON NOVEMBER 25TH OF
10 1997?

11 A. YES, SIR, HE WAS.

12 Q. WHAT TIME WAS HE SUPPOSED TO COME IN?

13 A. 1:00 O'CLOCK.

14 Q. DID HE COME TO WORK THAT DAY?

15 A. NO, SIR.

16 Q. DID YOU SPEAK WITH HIM?

17 A. YES, SIR, I DID.

18 Q. WHAT WAS THE SUBSTANCE OF YOUR CONVERSATION?

19 A. JIMMY CALLED TO TELL ME THAT HE WOULD NOT BE AT
20 WORK THAT DAY BECAUSE HE WAS GOING TO
21 PHILADELPHIA TO SEE HIS BROTHER.

22 Q. WHAT TIME WAS THAT?

23 A. BETWEEN 9:00 AND 10:00 O'CLOCK.

24 Q. DID YOU NOTICE ANYTHING UNUSUAL ABOUT HIM WHEN
25 HE CALLED?

MARGARET W. SMITH - DIRECT BY MR. BRACKETT

1556

1 A. NO, SIR, I DID NOT.

2 Q. THANK YOU VERY MUCH. PLEASE ANSWER ANY
3 QUESTIONS DEFENSE COUNSEL MAY HAVE FOR YOU.

4 CROSS EXAMINATION BY

5 MR. BOYD:

6 Q. HOW ARE YOU DOING?

7 A. FINE, HOW ARE YOU?

8 Q. FINE. HOW LONG DID HE WORK FOR YOU THERE, DO
9 YOU REMEMBER?

10 A. HE STARTED THE 23RD OF AUGUST.

11 Q. OF '97?

12 A. '97, RIGHT.

13 Q. DID HE EVER SHOW UP FOR WORK IN AN INTOXICATED
14 CONDITION OR ANYTHING LIKE THAT?

15 A. NOT TO MY KNOWLEDGE; NO, SIR.

16 Q. AND WERE YOU HIS DIRECT SUPERVISOR?

17 A. YES, I WAS.

18 Q. DO YOU REMEMBER A TIME WHEN HE WORKED ABOUT 22
19 DAYS STRAIGHT?

20 A. YES, I DO.

21 Q. WAS THAT ABOUT 12 HOUR DAYS?

22 A. HE DID WORK SOME 12 HOUR DAYS; YES, SIR.

23 Q. AND WORKED OR DID WORK 22 DAYS STRAIGHT, IS THAT
24 CORRECT?

25 MR. BRACKETT: YOUR HONOR, I'M GOING TO OBJECT AS

MARGARET W. SMITH - DIRECT BY MR. BRACKETT

1557

1 TO RELEVANCE.

2 THE COURT: OVERRULED.

3 Q. HE WORKED ABOUT 22 DAYS ---

4 A. HE DID WORK SEVERAL DAYS IN A ROW, YES.

5 Q. OKAY. YOU GOT A CALL THAT MORNING; IS THAT
6 CORRECT?

7 A. YES.

8 Q. ALL HE TOLD YOU HE WASN'T COMING IN TO WORK, HE
9 WAS GOING ---

10 A. HE WAS GOING TO SEE HIS BROTHER IN PHILADELPHIA;
11 YES, SIR.

12 Q. THANK YOU. THAT'S ALL I HAVE.

13 REDIRECT EXAMINATION BY

14 MR. BRACKETT:

15 Q. ALONG THE LINES OF WHAT MR. BOYD WAS ASKING YOU,
16 MA'AM, WAS HE A GOOD EMPLOYEE?

17 A. YES, HE WAS.

18 Q. WAS HE ALWAYS ON TIME?

19 A. NO, SIR, NOT ALWAYS; WE HAD SOME PROBLEMS WITH
20 HIM BEING LATE AT TIMES.

21 Q. THANK YOU VERY MUCH.

22 A. UH HUH.

23 THE COURT: RECROSS?

24 MR. BOYD: NO, SIR.

25 THE COURT: YOU MAY STEP DOWN AND BE EXCUSED. WE

1 APPRECIATE YOUR TIME. CALL YOUR NEXT WITNESS.

2 MR. POPE: YOUR HONOR, THE NEXT WITNESS WILL BE
3 EXTENSIVE. WE ALSO HAVE THE IN CAMERA ISSUES THAT THE
4 COURT MIGHT ADDRESS.

5 THE COURT: ALL RIGHT. WE HAVE SOME LEGAL
6 MATTERS TO TAKE UP BEFORE THE NEXT WITNESS, SO WE ARE GOING
7 TO LET YOU GO TO THE JURY ROOM.

8 IN CAMERA:

9 THE COURT: ALL RIGHT?

10 MR. POPE: MAY IT PLEASE THE COURT, YOUR HONOR,
11 THIS IS IN REFERENCE TO THE IN CAMERA HEARING, THE JACKSON
12 VERSUS DENNO HEARING YESTERDAY. THERE WAS TESTIMONY BY THE
13 DEFENDANT THAT HE WAS QUESTIONED IN PHILADELPHIA AND
14 ASSERTED HIS RIGHTS AND I'D LIKE AN OPPORTUNITY TO PRESENT
15 EVIDENCE IN REGARD TO THAT MATTER.

16 THE COURT: CALL YOUR WITNESS.

17 MR. POPE: THE STATE WOULD CALL MICHAEL SYLVESTER
18 TO THE STAND.

19 MICHAEL SYLVESTER, BEING FIRST DULY SWORN,
20 TESTIFIED IN CAMERA AS FOLLOWS:

21 DIRECT EXAMINATION BY

22 MR. POPE:

23 Q. OFFICER SYLVESTER, YOU TESTIFIED YESTERDAY
24 CONCERNING THE ARREST OF JAMES ROBERTSON; IS
25 THAT CORRECT?

MICHAEL SYLVESTER (IN CAMERA) - DIRECT BY MR. POPE

1559

1 A. YES, SIR.

2 Q. IN YOUR TESTIMONY YOU SAID THAT YOU ARRESTED HIM
3 AND YOU PHYSICALLY TRANSPORTED HIM TO
4 PHILADELPHIA POLICE DEPARTMENT?

5 A. CORRECT.

6 Q. AND WHOSE CUSTODY DID YOU TURN HIM OVER TO THERE
7 AT THE POLICE DEPARTMENT?

8 A. THE HOMICIDE UNIT.

9 Q. AND WAS THAT DETECTIVE JERRY ROBISON, IS THAT
10 THE OFFICER THAT'S HERE WITH Y'ALL THAT
11 TESTIFIED YESTERDAY?

12 A. YES.

13 Q. AND I WOULD ASK YOU FROM THE TIME THAT YOU
14 ARRESTED HIM, YOU INDICATED THAT YOU DID SEARCH
15 THE DEFENDANT, IS THAT CORRECT?

16 A. THAT'S CORRECT.

17 Q. DID YOU QUESTION THE DEFENDANT IN ANY MANNER
18 WHILE YOU HAD HIM IN YOUR CUSTODY?

19 A. NO, I DID NOT.

20 Q. DID YOU READ MIRANDA WARNINGS TO HIM WHILE YOU
21 HAD HIM IN YOUR CUSTODY?

22 A. NO, I DID NOT.

23 Q. WOULD YOU EXPLAIN TO US WHY YOU DIDN'T READ THE
24 MIRANDA WARNINGS?

25 A. BASICALLY ON THE STREET WE DON'T DO THAT; WE

MICHAEL SYLVESTER (IN CAMERA) - DIRECT BY MR. POPE

1560

1 DON'T ASK THEM ANY QUESTIONS, IT'S FOR A
2 DETECTIVE TO DO.

3 Q. SO, HE WAS IN CUSTODY, BUT YOU DIDN'T
4 INTERROGATE HIM; IS THAT CORRECT?

5 A. THAT'S CORRECT.

6 Q. OKAY. UNTIL YOU TURNED HIM OVER TO THE HOMICIDE
7 DIVISION, YOU HAD MENTIONED YESTERDAY SOMETHING
8 ABOUT YOUR PARTNER BEING THERE ALSO, DID ANYBODY
9 INTERROGATE HIM OR READ HIM MIRANDA WHILE IN THE
10 CUSTODY OF THE UNIVERSITY POLICE DEPARTMENT?

11 A. NO.

12 Q. AND YOU WERE WITH HIM THE ENTIRE TIME UNTIL HE
13 WAS TURNED OVER?

14 A. YES.

15 Q. ANSWER ANY QUESTIONS THE DEFENSE MAY HAVE.

16 CROSS EXAMINATION BY

17 MR. BOYD:

18 Q. MR. SYLVESTER, YOU SAID YOU ARRESTED HIM AND
19 WHERE DID YOU TAKE HIM AFTER YOU ARRESTED HIM?

20 A. HE WAS TAKEN DOWN TO THE HOMICIDE UNIT WHICH
21 WOULD BE LOCATED AT EIGHTH AND REIS IN
22 PHILADELPHIA.

23 Q. SO, YOU PUT HIM IN YOUR CAR AND TOOK HIM
24 DIRECTLY THERE. IS THAT CORRECT?

25 A. THAT'S CORRECT.

MICHAEL SYLVESTER (IN CAMERA) - CROSS BY MR. BOYD

1561

1 Q. WHO DID YOU TURN HIM OVER TO THERE?

2 A. HE GOT TURNED OVER TO THE DETECTIVE ASSIGNED, AT
3 WHICH TIME HE'S PLACED IN A ROOM LIKE A CELL-
4 TYPE ROOM IN THE HOMICIDE UNIT.

5 Q. DID YOU GO THERE WITH HIM TO THAT CELL-TYPE
6 ROOM?

7 A. HE WAS TAKEN TO THE ROOM AND THAT'S WHERE HE WAS
8 TURNED OVER.

9 Q. AND WHO WAS THE PERSON YOU TURNED HIM OVER TO IN
10 THAT ROOM?

11 A. IT WAS DETECTIVE JERRY -- I FORGET HIS LAST
12 NAME.

13 Q. WAS ANYONE ELSE THERE AT THE TIME WHEN YOU
14 TURNED HIM OVER?

15 A. THAT WAS THE ONLY PERSON HE WOULD BE TURNED OVER
16 TO. THERE ARE MORE HOMICIDE DETECTIVES IN THE
17 UNIT, BUT THAT WOULD BE THE ONLY PERSON HE WOULD
18 BE TURNED OVER TO.

19 Q. DID YOU WALK STRAIGHT TO THAT HOLDING AREA WITH
20 HIM?

21 A. WHEN WE WALKED IN, STANDARD PROCEDURE WOULD BE
22 WHERE DO YOU WANT THE PERSON, AND THEY WOULD
23 DIRECT YOU.

24 Q. OKAY.

25 A. SO, AT THAT POINT HE WOULD BE TAKEN OVER THERE,

1 HANDCUFFS WOULD BE TAKEN OFF OF HIM.

2 Q. DID YOU LEAVE AFTER YOU WENT IN THAT ROOM?

3 A. AFTER MY HANDCUFFS WERE GIVEN BACK AND THE DOOR
4 WAS CLOSED, YES. I STAYED IN THE HOMICIDE UNIT
5 TO GIVE A STATEMENT, BUT I LEFT THAT ROOM AT
6 THAT POINT.

7 Q. YOU LEFT THAT ROOM, SO YOU WEREN'T IN THERE WITH
8 HIM AFTER THAT POINT?

9 A. THAT'S CORRECT.

10 Q. NO FURTHER QUESTIONS.

11 REDIRECT EXAMINATION BY

12 MR. POPE:

13 Q. OFFICER, ONE FINAL QUESTION. ANYTIME WHILE HE
14 WAS IN YOUR PRESENCE -- BASICALLY WHAT YOU DO,
15 YOU CAPTURE HIM AND YOU DELIVER HIM AND THAT'S
16 THE END OF YOUR INVOLVEMENT; IS THAT CORRECT?

17 A. THAT'S CORRECT.

18 Q. DID HE ASSERT HIS RIGHTS OR SAY ANYTHING ABOUT
19 AN ATTORNEY OR ANYTHING OF THAT NATURE TO YOU AT
20 ANY TIME?

21 A. NO.

22 Q. OKAY. THANK YOU, SIR, NO FURTHER QUESTIONS.

23 THE COURT: ANYTHING ELSE?

24 MR. BOYD: NOTHING ELSE.

25 THE COURT: ALL RIGHT, YOU MAY STEP DOWN. THANK

1563

1 YOU; WE APPRECIATE YOUR TIME.

2 MR. POPE: HOPEFULLY, YOUR HONOR, THIS WITNESS
3 CAN TRULY BE EXCUSED NOW AT THIS POINT. THE STATE WOULD
4 CALL JERRY ROBISON.

5 THE COURT: YOU'RE STILL UNDER OATH.

6 JERRY ROBISON, HAVING ALREADY BEEN SWORN,
7 TESTIFIED IN CAMERA AS FOLLOWS:

8 DIRECT EXAMINATION BY

9 MR. POPE:

10 Q. DETECTIVE ROBISON, AS YOU TESTIFIED YESTERDAY,
11 YOU WERE THE PRIMARY OFFICER FROM YOUR
12 DEPARTMENT, THAT'S THE PHILADELPHIA POLICE
13 DEPARTMENT, IS THAT CORRECT?

14 A. YES.

15 Q. AND DID YOU HAVE THE OPPORTUNITY TO RECEIVE THE
16 DEFENDANT FROM THE CUSTODY OF THE UNIVERSITY OF
17 PENNSYLVANIA?

18 A. UNIVERSITY OF PENNSYLVANIA POLICE DEPARTMENT,
19 YES.

20 Q. AND PARTICULARLY FROM OFFICER MICHAEL SYLVESTER,
21 DID HE BRING HIM TO YOUR HOMICIDE UNIT?

22 A. YES.

23 Q. COULD YOU RELATE TO THE COURT WHAT, IF ANY
24 CONVERSATIONS YOU HAD WITH THE DEFENDANT ONCE HE
25 WAS IN YOUR CUSTODY?

JERRY ROBISON (IN CAMERA) - DIRECT BY MR. POPE

1564

1 A. HE WAS PLACED IN ONE OF OUR INTERVIEW ROOMS AND
2 I HAD TALKED TO HIM FOR ANYWHERE, I THINK MAYBE
3 A HALF HOUR TO AN HOUR IN OUR INTERVIEW ROOM.

4 Q. COULD YOU TELL THE COURT, DID YOU READ HIM HIS
5 RIGHTS?

6 A. NO, I DID NOT.

7 Q. AT ANY TIME IN DISCUSSIONS WITH HIM DID HE MAKE
8 ANY STATEMENTS OR DID YOU DOCUMENT ANY
9 INCRIMINATING STATEMENTS THAT HE MADE?

10 A. NO, I DID NOT.

11 Q. WOULD YOU EXPLAIN TO THE COURT, YOU SAID THAT
12 YOU DID NOT READ HIM HIS RIGHTS, AT ANY TIME DID
13 HE ASSERT HIS RIGHTS AND SAY THAT HE WANTED TO
14 SPEAK TO AN ATTORNEY?

15 A. NO, HE DID NOT.

16 Q. COULD YOU TELL THE COURT, YOU SAY YOU TALKED TO
17 HIM FOR AN HOUR, WHAT WAS THE BASIS OF THE
18 CONVERSATION. IF YOU DIDN'T READ HIM HIS
19 RIGHTS, WHAT WAS THE DISCUSSION. COULD YOU
20 RELATE THAT TO THE COURT.

21 A. BASICALLY WHY HE WAS THERE, AND WENT INTO A
22 LITTLE BIT OF WHAT I WAS INVESTIGATING. I TOLD
23 HIM THAT AT THIS POINT WHAT WE SAID BETWEEN THE
24 FOUR WALLS WAS BETWEEN ME AND HIM AND IT
25 WOULDN'T GO ANY FURTHER THAN THAT. AND I WOULD

STATE OF SOUTH CAROLINA	)	
COUNTY OF YORK	)	IN COURT OF GENERAL SESSIONS
	)	
THE STATE,	)	INDICTMENT NOS. 98-GS-46-1020
	)	1021, 1022, 1023
PLAINTIFF,	)	
	)	
VS.	)	TRANSCRIPT OF TRIAL AND
	)	PRE-TRIAL MOTIONS (7-17-98,
JAMES DEJARNETTE	)	9-22-98, 9-25-98, 11-2-98,
ROBERTSON,	)	AND 12-4-98)
	)	MARCH 15, 1999
DEFENDANT.	)	YORK, SOUTH CAROLINA

VOLUME VII

JERRY ROBISON (IN CAMERA) - DIRECT BY MR. POPE

1565

1 ASK CERTAIN QUESTIONS AND HE WOULD GO OFF ON A
2 TANGENT, HE WOULDN'T ANSWER MY QUESTIONS.
3 AND AFTER A WHILE I HAD A FEELING THAT I WASN'T
4 GOING TO GET WHAT I WANTED OUT OF HIM, WHAT I
5 WAS IN THERE FOR, SO WE BASICALLY HAD A
6 CONVERSATION ABOUT WHAT WENT DOWN HERE. AND
7 AFTER A WHILE, I DECIDED -- I DON'T LIKE TO GIVE
8 UP AFTER A SHORT TIME, BUT ONCE I GOT PAST THE
9 HALF HOUR, I KNEW THAT I WASN'T GOING TO GET
10 ANYWHERE WITH WHAT I WANTED TO DO, AND I ENDED
11 THE CONVERSATION THEN.

12 Q. BASED ON THAT CONVERSATION, DID YOU EVER GET TO
13 THE POINT WHERE THERE WAS A NEED TO READ HIM THE
14 MIRANDA WARNINGS?

15 A. I NEVER GOT TO THAT POINT. NORMALLY WHAT I DO
16 IS, WE USE A STANDARDIZED FORM, THE WARNING
17 SHEET AND SEVEN QUESTIONS AND THEN WE HAVE A
18 STANDARD INTERVIEW SHEET THAT WE USE. AND IF I
19 WAS GOING TO GET TO THAT POINT, I WOULD STOP --
20 IF SOMEBODY WAS TO ASK FOR AN ATTORNEY, I WOULD
21 STILL DO THE FIRST THREE QUESTIONS AND I WOULD
22 STOP AT THAT POINT. I NEVER EVEN GOT TO THAT
23 POINT WHERE I WOULD USE THOSE FORMS.

24 Q. OKAY. THE FOLLOWING DAY WHEN DETECTIVE MISLE
25 AND SLED AGENT BROWN CAME FROM SOUTH CAROLINA,

JERRY ROBISON (IN CAMERA) - DIRECT BY MR. POPE

1566

1 WAS ANYBODY ALLOWED TO QUESTION, INTERROGATE
2 THIS DEFENDANT, READ HIM HIS RIGHTS OR ANYTHING
3 FURTHER AFTER THE CONVERSATION THAT YOU HAD WITH
4 HIM?

5 A. NOT THAT I KNOW OF.

6 Q. WHEN YOU SAY NOT THAT YOU KNOW OF, COULD YOU
7 EXPLAIN TO THE COURT THE BASIS OF YOUR SYSTEM,
8 WHAT'S DONE WITH HIM. YOU WERE IN CHARGE OF THE
9 HOMICIDE DIVISION?

10 A. IN THE FUGITIVE SQUAD AREA THAT I WORK OUT OF,
11 THE INTERVIEW ROOMS ARE OFF TO THE NEXT ROOM TO
12 US. AT THE END OF THE DAY I WOULD LEAVE AND I
13 WOULD INSTRUCT THE SUPERVISOR THAT WAS ON AT
14 THAT TIME WHO THIS PERSON WAS AND WHAT WAS GOING
15 ON WITH HIM. AND THEN THE NEXT DAY DETECTIVE
16 MISLE CAME UP.

17 Q. OKAY. THE INTERVIEW ROOMS, ARE THEY CELLS, ARE
18 THEY ACTUALLY LOCKED IN THERE OR DO YOU REMOVE
19 THEM TO THE JAIL?

20 A. THEY ARE NOT CELLS, THEY ARE JUST HOLDING ROOMS
21 BASICALLY. ONCE HE HAS BEEN PROCESSED, HE'S
22 TAKEN DOWNSTAIRS INTO THE BASEMENT INTO THE
23 POLICE DETENTION UNIT AND THAT'S WHERE HE'S
24 FINGERPRINTED AND PHOTOGRAPHED, AND FROM THERE
25 HE GOES TO THE BAIL COMMISSIONER.

JERRY ROBISON (IN CAMERA) - DIRECT BY MR. POPE

1567

1 Q. AND SO WHEN HE IS IN THE DETENTION UNIT, IS
2 THERE ANYBODY THERE THAT INTERVIEWS OR WOULD
3 INVESTIGATE ---

4 A. THERE'S AN R.O.R. UNIT THAT WOULD INTERVIEW HIM
5 AS FAR AS COULD HE AFFORD AN ATTORNEY; THEY'LL
6 ASK HIM BASIC QUESTIONS ON A FORM THAT GOES TO
7 THE BAIL COMMISSIONER AND THE BAIL COMMISSIONER
8 USES THAT TO DETERMINE WHETHER HE'S GOING TO
9 APPOINT OR IF THE PERSON SAYS HE HAS AN ATTORNEY
10 THAT HE CAN AFFORD HIMSELF.
11 GENERALLY WHAT THE BAIL COMMISSIONERS DO IN
12 CASES THAT DEAL WITH THE FUGITIVE SQUAD, THEY
13 APPOINT ATTORNEYS FROM THE PUBLIC DEFENDER'S
14 OFFICE JUST ON THE CASE THAT WHEN HE DOES GO TO
15 A HEARING, A PRELIMINARY HEARING THAT HE'S TO
16 GET WITHIN 10 DAYS SO THAT IF THE PRIVATE
17 ATTORNEY THAT HE SAID HE HAD DOESN'T SHOW UP,
18 THERE'S A PUBLIC DEFENDER THAT'S GOING TO BE
19 THERE.

20 Q. OKAY. FROM ANY OF THE DOCUMENTATION IN THE
21 FILE, ANY OF THE INVESTIGATION IN THIS CASE, DO
22 YOU HAVE ANY INDICATION ANYWHERE THAT THIS
23 DEFENDANT EVER REQUESTED AN ATTORNEY?

24 A. NO.

25 Q. THANK YOU. ANSWER ANY QUESTIONS THE DEFENSE MAY

JERRY ROBISON (IN CAMERA) - CROSS BY MR. HANCOCK

1568

1 HAVE.

2 A. YES.

3 CROSS EXAMINATION BY

4 MR. HANCOCK:

5 Q. DETECTIVE, I WANT TO GET SOMETHING STRAIGHT, AND
6 I WAS LISTENING TO YOU. THIS GENTLEMAN HAS BEEN
7 BROUGHT INTO YOUR HOLDING AREA; IS THAT CORRECT?

8 A. IT'S OUR OFFICE AND WE HAVE FOUR INTERVIEW ROOMS
9 THAT WE USE.

10 Q. YOU DIDN'T BRING HIM IN THERE?

11 A. NO, I DID NOT.

12 Q. BUT YOU CAME IN THERE?

13 A. INTO THE INTERVIEW ROOM, YES.

14 Q. NOW THIS IS A GENTLEMAN THAT YOU'RE AWARE, ARE
15 YOU NOT, THAT HIS CAR HAS BEEN IMPOUNDED AT THAT
16 POINT IN TIME?

17 A. YES.

18 Q. YOU'RE AWARE THAT HE'S FROM SOUTH CAROLINA ON A
19 BOLO FOR MULTIPLE MURDERS?

20 A. YES.

21 Q. AND YOU'RE IN AN INTERVIEW ROOM WITH HIM AND YOU
22 BEGIN TO TALK TO HIM -- HE'S IN CUSTODY AT THAT
23 POINT AND HE'S NOT GOING ANYWHERE, IS HE?

24 A. CORRECT.

25 Q. AND YOU BEGIN TO TALK TO HIM AND QUESTION HIM

JERRY ROBISON (IN CAMERA) - CROSS BY MR. HANCOCK

1569

1 BUT YOU DO NOT AT THAT POINT READ HIM HIS
2 RIGHTS?

3 A. I DON'T QUESTION HIM DIRECTLY ABOUT THE MURDER.
4 I EXPLAIN TO HIM WHY HE'S THERE. WHEN I START
5 TO TALK TO HIM ABOUT THAT HE SAID, WELL, OKAY,
6 LET'S TALK ABOUT IT. AND WHEN HE SAYS THAT AND
7 THEN I GO INTO MORE ABOUT IT, HE'S NOT ANSWERING
8 ANY OF MY QUESTIONS. IF I ASKED HIM A QUESTION
9 ABOUT IT, HE WOULD ANSWER, HE WOULD GO OFF
10 SOMEWHERE ELSE WITH HIS ANSWER. AND HE WAS LIKE
11 PLAYING A GAME WITH ME WITH THE QUESTIONS AND
12 ANSWERS WE WERE DOING.

13 Q. WELL, LET ME THINK ABOUT IT. IF I REMEMBER
14 MIRANDA RIGHTS CORRECTLY, THEY SAY ANYTHING YOU
15 SAY -- NOT ANY ANSWER TO A QUESTION, BUT
16 ANYTHING YOU SAY CAN AND WILL BE HELD AGAINST
17 YOU IN A COURT OF LAW AND USED AGAINST YOU IN
18 THAT COURT OF LAW. ISN'T THAT CORRECT?

19 A. THIS IS TRUE.

20 Q. SO, HE DOESN'T HAVE TO RESPOND TO ANYTHING, IT'S
21 ANYTHING HE SAYS WILL BE USED AGAINST HIM IN A
22 COURT OF LAW AND YOU WILL USE IT. ISN'T THAT
23 CORRECT, SIR?

24 A. AFTER I WARN HIM.

25 Q. RIGHT. BUT YOU DIDN'T WARN HIM.

JERRY ROBISON (IN CAMERA) - CROSS BY MR. HANCOCK

1570

1 A. NO, I DID NOT.

2 Q. AND WHEN HE LEFT THERE, YOU'RE NOT AWARE OF
3 WHETHER ANYBODY ELSE WARNED HIM OR NOT, ARE YOU?

4 A. NOT TO MY KNOWLEDGE.

5 Q. BECAUSE YOU WEREN'T THERE.

6 A. NOT TO MY KNOWLEDGE.

7 Q. NO FURTHER QUESTIONS, YOUR HONOR.

8 MR. POPE: NO FURTHER QUESTIONS, YOUR HONOR.

9 THE COURT: YOU CAN STEP DOWN. WE APPRECIATE YOUR
10 TIME. YOU CAN BE EXCUSED. CALL YOUR NEXT WITNESS.

11 MR. POPE: YOUR HONOR, YOU PREVIOUSLY HEARD RALPH
12 MISLE AND THE READING OF THE RIGHTS AND THAT WOULD BE THE
13 TESTIMONY IN THIS REGARD, YOUR HONOR.

14 THE COURT: ANYTHING FROM THE DEFENSE?

15 MR. BOYD: YOUR HONOR, IT STILL HASN'T BEEN
16 ESTABLISHED ---

17 THE COURT: NO, FIRST ANY WITNESSES?

18 MR. BOYD: NO WITNESSES.

19 THE COURT: ALL RIGHT.

20 MR. BOYD: YOUR HONOR, IT STILL HAS NOT BEEN
21 ESTABLISHED THAT NO ONE ELSE TALKED TO HIM LIKE HE
22 TESTIFIED TO. I MEAN HE WASN'T THERE WITH HIM THE WHOLE
23 TIME.

24 MR. POPE: COULD I BE HEARD, YOUR HONOR?

25 THE COURT: YES, SIR.

1571

1 MR. POPE: MAY IT PLEASE THE COURT, YOUR HONOR,
2 OUR BURDEN IN THIS CASE, IN THIS ISSUE IS THE PREPONDERANCE
3 OF THE EVIDENCE. THEY SAY THERE IS NO ASSERTION OF HIS
4 RIGHTS ON THE RECORD. OTHERWISE, EVERY CASE YOU EVER HAD
5 A DEFENDANT COULD COME UP AND SAY AT SOMETIME SOMEBODY CAME
6 AND I SAID I WANTED A LAWYER. THEY COULD DO IT EVERY TIME
7 AND REFUTE EVERY WAIVER OF RIGHTS.

8 THE COURT HAS GOT TO LOOK AT IT IN THE TOTALITY
9 AND ALSO LOOK AT IT CONCERNING THE VOLUNTARY WAIVER THAT
10 WAS PRESENTED TO DETECTIVE MISLE, YOUR HONOR.

11 THE FACT THAT THE DEFENDANT CHOOSES TO TAKE THE
12 STAND AND SAYS THAT SOMEBODY, AND HE CAN'T REMEMBER WHAT
13 THEY LOOKED LIKE, BUT AT SOMETIME AND SOMEWHERE AND HE
14 CAN'T REMEMBER IF THEY WERE SHORT OR TALL OR BLACK OR WHITE
15 SAID, YOU KNOW, THAT HE TALKED TO THEM ABOUT HIS RIGHTS AND
16 TOLD THEM THAT HE WANTED A LAWYER. IF WE ALLOW THAT TO
17 HAPPEN, IT WILL HAPPEN IN EVERY CASE, YOUR HONOR. AND
18 EVERY TIME THE DEFENDANT CAN GET UP AND JUST SAY AT SOME
19 OTHER TIME, NOT WHEN I WAS TALKING TO THEM, BUT SOME OTHER
20 TIME THAT I ASSERTED MY RIGHTS AND, THEREFORE, IF ANYBODY
21 TALKED TO ME AFTERWARDS EVEN THOUGH I SIGNED A VOLUNTARY
22 WAIVER OF RIGHTS, SHOULDN'T BE ALLOWED TO TALK TO HIM.

23 I SUBMIT THAT JUST THE LIMITED STATEMENT THAT HIS
24 PARENTS WERE ALIVE WHEN HE LEFT SOUTH CAROLINA SHOULD BE
25 ADMISSIBLE, YOUR HONOR.

1572

1 THE COURT: WELL, I'M NOT WORRIED TODAY ABOUT ANY
2 CASE BUT THIS ONE, AND IN THIS ONE I STAND BY THE RULING
3 YESTERDAY. I FIND THAT I'M NOT GOING TO ALLOW THE
4 STATEMENT IN, AND REITERATE MY RULING FROM YESTERDAY. I
5 FIND BY A PREPONDERANCE OF THE EVIDENCE THAT HE DID AT SOME
6 POINT ASK SOMEONE FOR COUNSEL AND UNDER EDWARDS VERSUS
7 ANDREWS OR ANDERSON OR WHATEVER THAT CASE IS ---

8 MR. BOYD: ANDERSON.

9 THE COURT: ANDERSON. THAT FROM THAT POINT ON
10 ANY INFORMATION WOULD HAVE HAD TO HAVE BEEN AT HIS
11 INITIATION. AND THAT'S NOT THE CASE. SO, I'M NOT GOING TO
12 ALLOW THOSE STATEMENTS IN.

13 NOW, YOU SAY THE NEXT WITNESS IS GOING TO BE
14 FAIRLY LONG. SHOULD WE TAKE ABOUT A FIVE MINUTE REFRESHER
15 BREAK?

16 MR. POPE: YES, SIR.

17 THE COURT: LET'S DO THAT THEN. WE'LL TAKE ABOUT
18 FIVE MINUTES.

19 AFTER THE BREAK IN CAMERA:

20 THE COURT: IS THE STATE READY TO PROCEED?

21 MR. BRACKETT: THE STATE IS READY.

22 THE COURT: THE DEFENSE?

23 MR. HANCOCK: THE DEFENSE IS READY, YOUR HONOR.

24 THE COURT: BRING IN THE JURY.

25 MR. POPE: YOUR HONOR, THE DEFENSE HAS REQUESTED,

1 AND I'M TRYING TO ---

2 THE COURT: WAIT JUST A MINUTE; HOLD THE JURY.
3 LET ME GO OVER SOMETHING. WHEN I SAY IS THE STATE READY
4 AND IS THE DEFENSE READY AND I GET A YES, I'M SENDING FOR
5 THE JURY. SO, IF IT'S NOT YES, TELL ME THAT.

6 MR. POPE: YES, SIR. WE'RE TRYING TO ACCOMMODATE
7 THE DEFENSE AND THE COURT. THE DEFENSE HAD ASKED US TO
8 FIND A PIECE OF EVIDENCE FOR THEM.

9 THE COURT: OKAY.

10 MR. POPE: WE DON'T WANT TO RATTLE PAPER BEFORE
11 THE JURY.

12 THE COURT: I APPRECIATE THAT, TOO.
13 (AFTER A BRIEF PAUSE.)

14 MR. BRACKETT: YOUR HONOR, THE NEXT WITNESS IS
15 MEREDITH MOON. BEFORE I CALL HER TO THE STAND, I WANTED TO
16 BRING SOMETHING UP. I HAVE INSTRUCTED MS. MOON NOT TO
17 DISCUSS ANY PRIOR BAD ACTS ON THE PART OF THE DEFENDANT,
18 INCLUDING ANY PRIOR CRIMINAL ACTS. SHE HAD KNOWLEDGE OF A
19 WIDE VARIETY OF THINGS.

20 I AM GOING TO TRY TO TAKE HER BRIEFLY THROUGH HER
21 RELATIONSHIP WITH HIM TO ILLUSTRATE TO THE JURY HER
22 KNOWLEDGE OF HIM, HOW LONG SHE HAS KNOWN HIM AND THAT SORT
23 OF THING TO LAY THE BASIS FOR HER NEXT TESTIMONY.

24 HOWEVER, IN ORDER TO MAKE SURE SHE DOES NOT GO
25 INTO ANY PRIOR BAD ACTS, I MAY LEAD HER AROUND THAT A

1574

1 LITTLE BIT. SO, I WANTED TO ALERT THE DEFENSE THAT IF I
2 LEAD HER IN ANY OF THE PRELIMINARY QUESTIONING, IT'S JUST
3 TO GET AROUND THOSE ISSUES. THAT WILL ALL BE INSIGNIFICANT
4 TESTIMONY FOR OUR PURPOSES ANYWAY.

5 MR. HANCOCK: WE WILL UNDERSTAND AND ACCOMMODATE
6 BECAUSE IT IS IN OUR BEST INTEREST, BUT WE STILL AT SOME
7 POINT MAY OBJECT IF HE STARTS LEADING HER DOWN THE PRIMROSE
8 PATH, JUDGE.

9 THE COURT: WELL, I'LL RULE WHEN NEED TO. AND
10 KEEP IN MIND THE LATEST NOTE FROM THE JURY IS A REQUEST
11 THAT WITNESSES USE FULL NAMES WHEN THEY ARE TESTIFYING.
12 THAT IS INSTEAD OF JUST SAYING MEREDITH, SAY MEREDITH MOON.
13 AND INSTEAD OF SAYING JIMMY, SAY JIMMY ROBERTSON OR EARL
14 ROBERTSON. SO THAT THE JURY CAN FOLLOW IT. JUST LIKE THE
15 THING ABOUT THE TIME. I THINK WE ALL KNEW, MR. BRACKETT,
16 THAT YOU WERE TALKING ABOUT 11:00 IN THE MORNING, BUT I
17 THINK WE NEED TO SAY THAT.

18 MR. BRACKETT: YES, SIR. I TRY TO BE COGNIZANT
19 OF ALL OF THAT.

20 THE COURT: I UNDERSTAND AND I'M NOT FINDING ANY
21 FAULT WITH THAT WHATSOEVER.

22 (THE NOTE FROM THE JURY WAS MARKED COURT'S EXHIBIT 13.)

23 THE COURT: ALL RIGHT, BRING IN THE JURY.

24 IN THE PRESENCE OF THE JURY:

25 THE COURT: ALL 14 JURORS ARE PRESENT, AND I HAVE

1575

1 PASSED THE OBSERVATION OFF TO COUNSEL AND I AM SURE THEY
2 WILL TAKE THAT INTO CONSIDERATION. CALL YOUR NEXT WITNESS.

3 MR. BRACKETT: MAY IT PLEASE THE COURT, THE STATE
4 WOULD CALL MEREDITH MOON.

5 MEREDITH L. MOON, BEING FIRST DULY SWORN,
6 TESTIFIED AS FOLLOWS:

7 DIRECT EXAMINATION BY

8 MR. BRACKETT:

9 THE COURT: MS. MOON, I'M GOING TO ASK YOU TO USE
10 A GOOD STRONG VOICE, YOU DON'T HAVE TO SHOUT, BUT A GOOD
11 STRONG VOICE AND SPEAK INTO THE MICROPHONE SO WE CAN ALL
12 HEAR YOU. THANK YOU.

13 Q. PLEASE STATE YOUR FULL NAME.

14 A. MEREDITH LEEANN MOON.

15 Q. HOW OLD ARE YOU, MS. MOON?

16 A. 19.

17 Q. WHERE DO YOU LIVE RIGHT NOW?

18 A. AT THE DETENTION CENTER.

19 Q. HOW LONG HAVE YOU BEEN LIVING THERE?

20 A. FOR ABOUT 15 MONTHS.

21 Q. WHERE DID YOU LIVE BEFORE THAT?

22 A. 2343 BURTNEY COURT IN ROCK HILL.

23 Q. WHERE IS THAT IN ROCK HILL?

24 A. IT'S BEHIND OFFICE DEPOT ON CHERRY.

25 Q. CAN YOU TELL ME IF YOU KNOW THE DEFENDANT, JAMES

MEREDITH L. MOON - DIRECT BY MR. BRACKETT

1576

1 ROBERTSON?

2 A. YES.

3 Q. HOW DO YOU KNOW HIM?

4 A. HE DATED MY BEST FRIEND, ERIN.

5 Q. WHEN DID YOU FIRST MEET HIM?

6 A. ABOUT MID-'95.

7 Q. AND CAN YOU EXPLAIN BRIEFLY FOR THE JURY HOW
8 YOUR RELATIONSHIP WITH MR. ROBERTSON EVOLVED
9 FROM THE TIME YOU MET HIM UP THROUGH NOVEMBER
10 1997, JUST DESCRIBE IT BRIEFLY.

11 A. WE PARTIED TOGETHER A LOT AFTER WORK, HUNG OUT
12 AT HIS APARTMENT. MOSTLY JUST HUNG OUT
13 TOGETHER, WORKED TOGETHER.

14 Q. WHEN DID YOU START WORKING TOGETHER?

15 A. IN THE FALL OF '97.

16 Q. WHEN DID YOU START TO GET TO KNOW HIM WELL?

17 A. DURING THE FALL OF '97.

18 Q. AND WHERE DID YOU WORK TOGETHER?

19 A. AT DINKINS AT WINTHROP AT THE FOOD COURT.

20 Q. WHAT WAS YOUR JOB THERE?

21 A. I WAS WORKING AT THE PIZZA HUT.

22 Q. WHEN DID YOU GET THAT JOB?

23 A. I WOULD SAY SEPTEMBER OF '97.

24 Q. AND WHEN DID YOU LOSE THE JOB?

25 A. IN NOVEMBER OF '97.

MEREDITH L. MOON - DIRECT BY MR. BRACKETT

1577

1 Q. I WANT YOU TO TURN YOUR ATTENTION TO NOVEMBER
2 24TH, 1997, MONDAY NOVEMBER 24TH. TELL US
3 BRIEFLY WHAT YOU DID FROM THE TIME YOU GOT UP
4 UNTIL ABOUT 8:00 OR 9:00 P.M. THAT EVENING.

5 A. WELL, I WOKE UP THAT MORNING AND I GOT READY AND
6 I PICKED JIM UP AT HIS HOUSE AND WE WENT TO
7 CHARLOTTE TO DO SOME SHOPPING. WE WERE UP THERE
8 FOR ABOUT AN HOUR AND A HALF. AND WE CAME BACK,
9 AND I DROPPED HIM OFF AT DINKENS AND I WENT TO
10 APPLY FOR A JOB AT VILLAGE PIZZA IN FORT MILL.
11 AND FROM THERE I WENT HOME.

12 Q. DID YOU STAY AT HOME AFTER YOU GOT HOME OR DID
13 YOU GO ANYWHERE ELSE?

14 A. FOR A COUPLE OF HOURS I DID, AND THEN ME AND MY
15 FRIEND, JIMMY MARTIN, WE WENT OUT TO EAT AT
16 OUTBACK.

17 Q. APPROXIMATELY WHAT TIME WAS THAT?

18 A. BETWEEN 7:30 AND 8:30.

19 Q. DID YOU SEE YOUR FRIEND, ERIN SAVAGE?

20 A. YES, SIR, I DID.

21 Q. WHAT TIME DID YOU SEE HER, APPROXIMATELY?

22 A. IT WAS AROUND 11:30, BETWEEN 11:30 AND 12:30,
23 LATER THAT NIGHT.

24 Q. DID YOU WEAR A WATCH THEN?

25 A. NO, SIR, I DID NOT.

MEREDITH L. MOON - DIRECT BY MR. BRACKETT

1578

1 Q. ARE YOU CERTAIN OF THE TIMES?

2 A. NO, SIR.

3 Q. OKAY. WHERE DID YOU MEET UP WITH ERIN, DO YOU
4 REMEMBER?

5 A. I BELIEVE SHE CAME AND PICKED ME UP AT MY HOUSE.

6 Q. OKAY, AND WHERE DID YOU GO?

7 A. WE WENT BACK TO HER APARTMENT AND WE STAYED
8 THERE FOR A COUPLE OF MINUTES.

9 Q. AND WHAT DID YOU DO WHILE YOU WERE THERE?

10 A. WE JUST MOSTLY HUNG OUT.

11 Q. OKAY. WHERE DID YOU GO AFTER YOU LEFT ERIN'S
12 HOUSE?

13 A. WE WENT TO JIM'S HOUSE.

14 Q. WHERE IS THAT?

15 A. ON WESTMINSTER DRIVE.

16 Q. CAN YOU TELL THE JURY APPROXIMATELY WHERE THAT
17 IS IN ROCK HILL?

18 A. IT'S OFF INDIA HOOK, NEAR THE HARRIS TEETER OFF
19 OF CELANESE.

20 Q. OKAY. NOW, APPROXIMATELY WHAT TIME DID YOU
21 ARRIVE AT JIMMY'S HOUSE?

22 A. I WOULD SAY BETWEEN 12:30 AND 1:30 THAT MORNING.

23 Q. AND ABOUT HOW LONG DID YOU STAY?

24 A. 30 TO 45 MINUTES.

25 Q. WHAT DID YOU DO WHILE YOU WERE THERE?

MEREDITH L. MOON - DIRECT BY MR. BRACKETT

1579

1 A. WE JUST HUNG OUT; WE DIDN'T DO ANYTHING
2 SPECIFIC.

3 Q. WHO WAS WITH YOU?

4 A. ERIN SAVAGE.

5 Q. HOW DID YOU GET THERE?

6 A. WE DROVE IN ERIN'S TRUCK.

7 Q. WHO WAS AT THE HOUSE WHEN YOU ARRIVED THERE?

8 A. JIM WAS. HIS PARENTS WERE UPSTAIRS.

9 Q. AND DID YOU SEE THEM THAT NIGHT?

10 A. NO, SIR, I DID NOT.

11 Q. WAS ANYONE ELSE THERE WITH JIM WHEN YOU ARRIVED?

12 A. NO, SIR.

13 Q. DO YOU REMEMBER WHAT JIM WAS DOING WHEN YOU GOT
14 THERE?

15 A. NO, SIR, I DON'T. TO MY KNOWLEDGE HE WAS JUST,
16 YOU KNOW, HANGING OUT.

17 Q. WHAT WAS THE PURPOSE OF YOU GOING THERE?

18 A. ERIN WANTED TO SHOW JIM A POOL STICK THAT SHE
19 BOUGHT FOR HER BOYFRIEND.

20 Q. WERE YOU DRINKING THAT NIGHT?

21 A. NO, SIR, I WAS NOT.

22 Q. WAS JIM DRINKING WHEN YOU GOT THERE?

23 A. NOT THAT I'M AWARE OF.

24 Q. WERE YOU USING DRUGS THAT NIGHT?

25 A. YES, SIR, I WAS.

MEREDITH L. MOON - DIRECT BY MR. BRACKETT

1580

1 Q. WHEN DID YOU USE DRUGS?

2 A. WHILE I WAS OVER THERE.

3 Q. WHERE DID YOU GET THE DRUGS?

4 A. FROM JIM.

5 Q. WHAT KIND OF DRUGS WERE THEY?

6 A. IT WAS RITALIN.

7 Q. HOW DO YOU TAKE RITALIN?

8 A. WE CRUSHED IT UP AND SNORTED IT.

9 Q. HOW MUCH RITALIN DID YOU DO?

10 A. A COUPLE OF LINES.

11 Q. DID JIM DO ANY RITALIN?

12 A. YES, SIR, HE DID.

13 Q. HOW MUCH DID HE DO?

14 A. I WOULD SAY A COUPLE OF LINES ALSO.

15 Q. WHERE DID YOU GO WHEN YOU LEFT FROM JIM'S?

16 A. WE WENT BACK TO ERIN'S APARTMENT. I HAD LEFT MY
17 PURSE AT HER APARTMENT AND WE WENT BACK OVER
18 THERE SO I COULD PICK IT UP.

19 Q. HOW LONG DID YOU STAY AT ERIN SAVAGE'S
20 APARTMENT?

21 A. JUST ENOUGH TIME FOR ME TO RUN UPSTAIRS TO GET
22 MY PURSE AND I CAME RIGHT BACK DOWNSTAIRS.

23 Q. AND WHERE DID YOU GO AFTER THAT?

24 A. SHE TOOK ME BACK HOME.

25 Q. OKAY. DID YOU HAVE YOUR CAR WITH YOU AT THIS

MEREDITH L. MOON - DIRECT BY MR. BRACKETT

1581

1 TIME?

2 A. NO, SIR; IT WAS AT MY HOUSE.

3 Q. WHAT HAPPENED WHEN YOU GOT TO YOUR HOUSE?

4 A. I WENT IN; I SPOKE WITH MY DAD FOR A COUPLE OF
5 MINUTES, AND THEN I WENT UPSTAIRS.

6 Q. WHAT DID YOU DO?

7 A. I WAS JUST SITTING UP THERE WATCHING T.V.

8 Q. DID YOU GO TO SLEEP?

9 A. NO, SIR.

10 Q. COULD YOU GO TO SLEEP?

11 A. NO, SIR, I COULD NOT.

12 Q. WHY NOT?

13 A. THE RITALIN THAT I HAD SNORTED CAUSED INSOMNIA.

14 Q. DID YOU SPEAK TO ERIN AGAIN THAT NIGHT?

15 A. NO, SIR.

16 Q. DID YOU SPEAK TO JIM THAT NIGHT?

17 A. YES, I DID.

18 Q. APPROXIMATELY WHAT TIME DID YOU SPEAK TO JIMMY?

19 A. HE CALLED ME AROUND 3:00 OR 3:30 THAT MORNING.

20 Q. AND WHAT WAS THE SUBSTANCE OF THAT CONVERSATION?

21 A. HE WANTED TO USE MY MOM'S CREDIT CARD SO THAT HE
22 COULD BUY A BUS OR PLANE TICKET FOR HIS BROTHER,
23 CHIP, TO COME DOWN FOR THANKSGIVING.

24 Q. AND WHAT DID YOU TELL HIM?

25 A. I TOLD HIM NO.

MEREDITH L. MOON - DIRECT BY MR. BRACKETT

1582

1 Q. HOW LONG DID THAT CONVERSATION LAST?

2 A. I WOULD SAY AROUND FIVE MINUTES.

3 Q. DID YOU SPEAK WITH JIM AGAIN THAT NIGHT?

4 A. YES, I DID.

5 Q. APPROXIMATELY WHAT TIME WAS THAT?

6 A. AROUND 5:00.

7 Q. AND WHAT WAS THE SUBSTANCE OF THAT CONVERSATION?

8 A. HE TOLD ME TO COME OVER TO HIS HOUSE AND BRING
9 SOME TRAVELING CLOTHES.

10 Q. DID HE SAY ANYTHING ELSE?

11 A. NO, SIR, HE DID NOT.

12 Q. DID HE TELL YOU WHY?

13 A. NO, SIR.

14 Q. WHAT DID YOU UNDERSTAND?

15 A. IT WAS UNDER MY ASSUMPTION THAT WE WERE GOING TO
16 PHILADELPHIA TO PICK UP HIS BROTHER.

17 Q. ALL RIGHT. NOW, WHAT DID YOU DO AS A RESULT OF
18 THAT PHONE CONVERSATION?

19 A. I WENT IN AND I TOLD MY DAD THAT MY GIRLFRIEND,
20 ERIN, HAD CUT HER FINGER AND THAT SHE NEEDED TO
21 BE TAKEN TO THE HOSPITAL BECAUSE I DIDN'T WANT
22 TO TELL HIM THAT I WAS GOING UP TO PHILADELPHIA
23 WITH SOMEBODY THAT HE DID NOT EVEN KNOW TO PICK
24 UP SOMEBODY THAT HE DIDN'T KNOW. THEREFORE, I
25 DID LIE TO HIM.

MEREDITH L. MOON - DIRECT BY MR. BRACKETT

1583

1 Q. OKAY. AND WHAT DID YOU DO AFTER YOU SPOKE TO
2 YOUR DAD?

3 A. I LEFT MY HOUSE AND I STOPPED AND I BOUGHT A
4 PACK OF CIGARETTES AND THEN I WENT TO JIM'S
5 HOUSE.

6 Q. WHEN JIM CALLED YOU THE SECOND TIME AT
7 APPROXIMATELY 5:00, WERE YOU AWAKE OR ASLEEP
8 THEN?

9 A. I WAS AWAKE.

10 Q. WHERE DID YOU GO -- HOW DID YOU DRIVE FROM YOUR
11 HOUSE TO THERE?

12 A. I'M SORRY?

13 Q. HOW DID YOU DRIVE -- WHICH CAR DID YOU TAKE?

14 A. I TOOK MY HONDA ACCORD.

15 Q. OKAY. DID YOU STOP ANYWHERE OR DID YOU GO
16 STRAIGHT THERE?

17 A. I STOPPED AT THE CIRCLE K.

18 Q. AND WHAT DID YOU GET THERE?

19 A. A PACK OF CIGARETTES.

20 Q. AND THEN WHERE DID YOU GO?

21 A. TO JIM'S HOUSE.

22 Q. NOW, WHEN YOU DRIVE TO JIM'S HOUSE, WHAT ROAD DO
23 YOU TAKE TO GET TO WESTMINSTER?

24 A. I TOOK CHERRY ROAD TO MT. GALLANT, MT. GALLANT
25 TO CELANESE AND THEN CELANESE TO INDIA HOOK.

MEREDITH L. MOON - DIRECT BY MR. BRACKETT

1584

1 Q. AND THEN INDIA HOOK?

2 A. TO WESTMINSTER.

3 Q. TO WESTMINSTER. WHERE DID YOU PARK YOUR CAR
4 WHEN YOU GOT TO THE DEFENDANT'S HOUSE?

5 A. I PARKED IT ON THE SIDE OF THE ROAD A COUPLE OF
6 HUNDRED FEET BACK FROM THE HOUSE.

7 Q. OKAY. AND WHERE DID YOU GO IN THE HOUSE; WHAT
8 PART OF THE HOUSE DID YOU GO TO AFTER YOU GOT
9 OUT OF THE CAR?

10 A. THE DOWNSTAIRS BACK ENTRANCE.

11 MR. HANCOCK: YOUR HONOR, I HAVE INDICATED THAT
12 IN CERTAIN MATTERS THAT WE WOULD NOT OBJECT TO THE LEADING,
13 BUT ---

14 THE COURT: I UNDERSTAND.

15 Q. WHAT PART OF THE HOUSE DID YOU GO TO?

16 MR. HANCOCK: YOUR HONOR, HE'S STILL LEADING.

17 MR. BRACKETT: THAT DOESN'T SEEM LIKE ---

18 THE COURT: WELL, LET'S DON'T DEBATE IT, JUST GO
19 AHEAD AND ASK ANOTHER QUESTION.

20 Q. HOW MANY DOORS ARE ON THE HOUSE?

21 A. I'M NOT SURE.

22 Q. WHICH DOOR DID YOU GO TO?

23 A. TO THE BACK DOOR.

24 Q. OKAY.

25 A. THAT'S IN THE BACK OF THE HOUSE.

MEREDITH L. MOON - DIRECT BY MR. BRACKETT

1585

1 Q. TELL US WHAT HAPPENED WHEN YOU GOT TO THAT DOOR?

2 A. WHEN I GOT TO THE DOOR, JIM WAS WAITING FOR ME
3 AT THE DOOR.

4 Q. DO YOU REMEMBER HOW HE WAS DRESSED?

5 A. NO, SIR.

6 Q. TELL US -- GO AHEAD AND TELL US WHAT YOU DID AND
7 WHAT HE DID.

8 A. HE OPENED THE DOOR AND I WENT INSIDE AND WE SAT
9 DOWN AND WE WERE TALKING FOR A FEW MINUTES.

10 Q. OKAY. COURT'S INDULGENCE FOR ONE MOMENT, I'M
11 GOING TO TURN ON SOME EQUIPMENT HERE TO ASSIST
12 THE JURY. MS. MOON, WOULD YOU PLEASE STEP OFF
13 THE WITNESS STAND?

14 MR. HANCOCK: IF I MAY, YOUR HONOR. THIS HAS NOT
15 BEEN INTRODUCED IN EVIDENCE THAT I KNOW OF, BUT I'M
16 ASSUMING THAT IT IS RECONSTRUCTION OF WHAT IS IN EVIDENCE.

17 MR. BRACKETT: IT'S THE SAME THAT HAS BEEN
18 INTRODUCED IN EVIDENCE. THIS IS JUST -- IT'S THE SAME
19 THING, ONLY SMALLER SO THAT I DON'T HAVE TO SET SOMETHING
20 UP AND SHE DOESN'T HAVE TO STAND IN FRONT OF THE JURY.

21 THE COURT: SO THIS IS, WHAT YOU'RE SHOWING,
22 EXHIBIT NUMBER WHAT?

23 Q. I'M SHOWING YOU ON THE PROJECTOR WHAT IS MARKED
24 AS STATE'S EXHIBIT 101 IN EVIDENCE. DO YOU
25 RECOGNIZE THAT DIAGRAM?

MEREDITH L. MOON - DIRECT BY MR. BRACKETT

1586

1 A. YES, SIR, I DO.

2 Q. OKAY, STEP OVER HERE IF YOU WOULD. I'M NOW
3 SHOWING YOU WHAT'S BEEN MARKED AS STATE'S
4 EXHIBIT 150 THROUGH 165, WOULD YOU TAKE A LOOK
5 AT THOSE PHOTOGRAPHS?

6 (AFTER A BRIEF PAUSE.)

7 Q. DO THESE PICTURES ACCURATELY REFLECT THE
8 INTERIOR OF THE DOWNSTAIRS OF THE ROBERTSON HOME
9 AS IT WAS ON THE EVENING OF NOVEMBER 25TH, 1997?

10 A. YES, SIR.

11 Q. YOUR HONOR, AT THIS TIME I WOULD MOVE STATE'S
12 EXHIBIT 150 THROUGH 165 FOR IDENTIFICATION INTO
13 EVIDENCE.

14 MR. HANCOCK: WITHOUT OBJECTION, YOUR HONOR.

15 THE COURT: IT WILL BE RECEIVED WITHOUT
16 OBJECTION.

17 (THE PHOTOS OF THE DOWNSTAIRS WERE MARKED IN EVIDENCE AS
18 STATE'S EXHIBITS 150 THROUGH 165 WITHOUT OBJECTION)

19 MR. BRACKETT: MADAM CLERK, COULD YOU PLEASE DIM
20 THE LIGHTS?

21 (THE LIGHTS IN THE COURTROOM WERE DIMMED.)

22 Q. I'M GOING TO SHOW YOU THESE PHOTOGRAPHS HERE AND
23 WHAT I WOULD LIKE YOU TO DO IS AFTER I SHOW EACH
24 ONE, SHOW THE JURY WHERE IN THIS DIAGRAM, THE
25 PHOTOGRAPH I SHOWED THEM DEPICTS AND WHICH

MEREDITH L. MOON - DIRECT BY MR. BRACKETT

1587

1 DIRECTION YOU WOULD BE LOOKING FROM. STATE'S
2 EXHIBIT 150. CAN YOU IDENTIFY WHAT THAT
3 PHOTOGRAPH IS AND WHAT IT DEPICTS?

4 A. THAT'S THE DOWNSTAIRS LIVING ROOM AS VIEWED FROM
5 THE FRONT DOOR.

6 Q. AND WHERE ON THAT DIAGRAM IS THE DOOR YOU ARE
7 TALKING ABOUT?

8 A. RIGHT THERE.

9 Q. AND WHICH DIRECTION DOES IT SHOW?

10 A. THAT WAY.

11 Q. I'M SHOWING YOU STATE'S EXHIBIT 151, AND ASK IF
12 YOU CAN IDENTIFY THAT PHOTOGRAPH?

13 A. THAT'S THE SAME LIVING ROOM, JUST A DIFFERENT
14 VIEW FROM THE BACK OF THE WALL.

15 Q. SHOW THEM ON THE DIAGRAM WHERE STATE'S EXHIBIT
16 151 WOULD BE.

17 A. IT'S VIEWED FROM THERE.

18 Q. OKAY. STATE'S EXHIBIT 152, CAN YOU IDENTIFY
19 THAT?

20 A. YES, SIR, THAT'S THE SAME VIEW FROM THE LIVING
21 ROOM TAKEN FROM THE LEFT OF THE FIREPLACE.

22 Q. AND SHOW THEM ON THERE; WHERE'S THE FIREPLACE?

23 A. RIGHT HERE.

24 Q. AND WHERE WOULD YOU BE STANDING IF YOU WERE
25 SEEING THAT VIEW?

MEREDITH L. MOON - DIRECT BY MR. BRACKETT

1588

1 A. I WOULD SAY AROUND IN THIS AREA SOMEWHERE
2 LOOKING THAT WAY.

3 Q. STATE'S EXHIBIT 153, DO YOU RECOGNIZE THAT?

4 A. THAT'S THE VIEW OF THE DOOR STANDING AGAINST THE
5 ENTERTAINMENT CENTER.

6 Q. IS THAT THE CONDITION THE DOOR WAS IN WHEN YOU
7 ARRIVED THERE?

8 A. NO, SIR, IT WAS NOT.

9 Q. WHERE, AGAIN, WOULD YOU BE STANDING IF YOU WERE
10 LOOKING AT THIS?

11 A. RIGHT HERE.

12 Q. AND LOOKING IN WHICH DIRECTION?

13 A. THIS WAY.

14 Q. AND STATE'S EXHIBIT 154, WHAT DOES THAT DEPICT?

15 A. THAT'S THE LIVING ROOM AS VIEWED FROM THE
16 KITCHEN AREA.

17 Q. AND WHERE WOULD YOU BE STANDING IF YOU WERE
18 LOOKING AT THAT AND LOOKING AT WHAT DIRECTION?

19 A. HERE.

20 Q. OKAY. STATE'S EXHIBIT 155, CAN YOU TELL THE
21 JURY WHAT THAT PICTURE DEPICTS?

22 A. THAT'S A VIEW OF THE HALLWAY LEADING TOWARD THE
23 STAIRS AS VIEWED FROM THE KITCHEN AREA.

24 Q. OKAY. AND WHERE WOULD YOU BE STANDING IF YOU
25 WERE LOOKING THERE?

MEREDITH L. MOON - DIRECT BY MR. BRACKETT

1589

1 A. ABOUT THERE.

2 Q. STATE'S EXHIBIT 156, WHAT DOES THAT DEPICT?

3 A. THAT'S THE HALLWAY. THAT RIGHT THERE -- I'M
4 ASSUMING THAT'S GOING INTO THE LIVING ROOM.

5 Q. DO YOU KNOW?

6 A. I CAN'T TELL.

7 Q. DO YOU KNOW WHERE THAT HALLWAY IS ON THIS
8 DIAGRAM?

9 A. YES, SIR. IT WOULD BE THE HALLWAY RIGHT HERE.

10 Q. LOOKING WHICH DIRECTION?

11 A. I'M THINKING IT'S LOOKING IN THAT DIRECTION.

12 Q. STATE'S EXHIBIT 157, CAN YOU IDENTIFY THAT
13 PHOTOGRAPH?

14 A. THAT'S A PICTURE LOOKING INTO JIM'S BEDROOM FROM
15 THE END OF THE STAIRS.

16 Q. WHERE WOULD YOU BE STANDING?

17 A. HERE.

18 Q. LOOKING WHICH DIRECTION?

19 A. HERE.

20 Q. OKAY. STATE'S EXHIBIT 158 FOR IDENTIFICATION.

21 A. THAT'S A PICTURE OF JIM'S ROOM AND LOOKING INTO
22 THE HALLWAY TOWARD THE STAIRS.

23 Q. AND WHICH ROOM IS JIM'S ROOM ON THIS DIAGRAM?

24 A. RIGHT HERE.

25 THE COURT: LET ME JUST CORRECT ONE THING. YOU

MEREDITH L. MOON - DIRECT BY MR. BRACKETT

1590

1 SAID 158 FOR IDENTIFICATION; THEY ARE IN EVIDENCE.

2 Q. YES, SIR, I APOLOGIZE. STATE'S 158 IN EVIDENCE,
3 WHERE WOULD YOU BE STANDING IF YOU WERE LOOKING
4 AT THAT PHOTOGRAPH?

5 A. RIGHT THERE.

6 Q. AND LOOKING WHERE?

7 A. TOWARD THE STAIRS TO THE HALLWAY.

8 Q. STATE'S 159 IN EVIDENCE, DO YOU RECOGNIZE THAT?

9 A. THAT IS LOOKING FROM CHIP'S BEDROOM LOOKING INTO
10 JIM'S BEDROOM.

11 Q. SHOW THE JURY WHERE YOU WOULD BE STANDING.

12 A. RIGHT THERE, LOOKING THERE.

13 Q. STATE'S 160 IN EVIDENCE, WHAT DOES THAT DEPICT?

14 A. JIM'S BEDROOM.

15 Q. WHERE WOULD YOU BE STANDING IF YOU WERE LOOKING
16 AT THAT?

17 A. I'D SAY AROUND THERE, RIGHT THERE.

18 Q. OKAY. STATE'S 161 IN EVIDENCE, WHAT DOES THAT
19 DEPICT?

20 A. THAT'S JIM'S BEDROOM.

21 Q. WHAT'S THAT DOOR ON THE RIGHT SIDE?

22 A. RIGHT THERE?

23 Q. YES, MA'AM.

24 A. IT'S LEADING INTO A LITTLE HALLWAY, THE BATHROOM
25 WOULD BE TO THE LEFT.

MEREDITH L. MOON - DIRECT BY MR. BRACKETT

1591

1 Q. CAN YOU SHOW THE JURORS ON THE DIAGRAM?

2 A. THAT LITTLE HALL RIGHT THERE.

3 Q. AND WHERE IS THE BATHROOM?

4 A. RIGHT THERE.

5 Q. STATE'S 162?

6 A. THAT'S JIM'S BEDROOM WITH A VIEW FROM THE
7 BATHROOM HALLWAY INTO HIS ROOM.

8 Q. THE HALLWAY YOU JUST POINTED OUT?

9 A. YES.

10 Q. STATE'S 164 IN EVIDENCE, DO YOU RECOGNIZE THAT?

11 A. NO, SIR, I DON'T.

12 Q. DOES THAT ASSIST YOU?

13 A. NO, SIR.

14 Q. AS YOU SEE THE PICTURE ITSELF, DOES THAT HELP
15 YOU?

16 A. OH, I SEE IT NOW. THAT WOULD BE JIM'S BEDROOM -
17 - I'M REALLY NOT SURE.

18 Q. OKAY. AND STATE'S 165?

19 A. THAT WOULD BE THE BATHROOM.

20 Q. CAN YOU POINT TO THAT ON THE DIAGRAM AGAIN?

21 A. RIGHT THERE.

22 Q. IS THE DOOR YOU CAME IN DEPICTED ON THIS
23 DIAGRAM?

24 A. YES, SIR, IT IS.

25 Q. WOULD YOU PUT THE DOT ON IT?

MEREDITH L. MOON - DIRECT BY MR. BRACKETT

1592

1 A. HERE.

2 Q. AND WHERE DID YOU GO WHEN YOU CAME IN?

3 A. I WENT AND SAT RIGHT THERE ON THE SOFA.

4 Q. WHERE DID JIM GO?

5 A. HE WAS RIGHT THERE.

6 Q. WHAT HAPPENED AFTER YOU GOT IN THE HOUSE; WHAT
7 DID YOU GUYS DO OR TALK ABOUT?

8 A. I CAN'T REMEMBER EXACTLY WHAT WE WERE TALKING
9 ABOUT. I SAW -- I LOOKED OVER TO THE COFFEE
10 TABLE WHICH WAS RIGHT THERE, AND I SAW A NOTE
11 AND IT HAD A COUPLE OF THINGS LISTED. IT SAID
12 TRASH BAG, I CAN'T TELL YOU THE WHOLE LIST.

13 Q. WHAT HAPPENED WHEN YOU LOOKED AT THAT?

14 A. HE SAID SOMETHING TO THE EFFECT OF I'M GOING TO
15 DO IT, I'M GOING TO KILL MY PARENTS.

16 Q. WHO SAID THAT?

17 A. JIM.

18 Q. THE DEFENDANT?

19 A. YES, SIR.

20 Q. WHERE WAS HE WHEN HE SAID THAT?

21 A. RIGHT HERE.

22 Q. OKAY. WHAT DID YOU SAY WHEN HE SAID THAT?

23 A. I TRIED TO TALK HIM OUT OF IT.

24 Q. DID THAT COME AS A SHOCK TO YOU, HAD HE EVER
25 SAID ANYTHING LIKE THAT BEFORE?

MEREDITH L. MOON - DIRECT BY MR. BRACKETT

1593

- 1 A. HE HAD TALKED ABOUT IT MANY TIMES.
- 2 Q. CAN YOU DESCRIBE WHAT HE SAID PREVIOUSLY TO YOU?
- 3 A. HE SAID SOMETHING TO THE EFFECT THAT HE WAS
- 4 GOING TO KILL HIS PARENTS FOR THE INSURANCE
- 5 MONEY.
- 6 Q. DID HE EVER TELL YOU HOW MUCH MONEY HE WAS GOING
- 7 TO GET?
- 8 A. HE SAID IT WAS A COUPLE OF MILLION.
- 9 Q. HOW LONG A PERIOD OF TIME HAD HE SAID THIS?
- 10 A. I DON'T KNOW, SINCE I HAD KNOWN HIM, FOR ABOUT A
- 11 YEAR AND A HALF.
- 12 Q. APPROXIMATELY HOW MANY TIMES HAD HE SAID THIS?
- 13 A. MANY TIMES.
- 14 Q. WHAT WAS HIS CONDITION WHEN HE WOULD SAY THESE
- 15 THINGS?
- 16 A. HE SAID IT DRUNK, HE SAID IT SOBER.
- 17 Q. IN BOTH CONDITIONS?
- 18 A. YES, SIR.
- 19 Q. AFTER HE SAID THAT, YOU SAID YOU TRIED TO TALK
- 20 HIM OUT OF IT?
- 21 A. YES, SIR, I DID.
- 22 Q. HOW DID THAT GO?
- 23 A. IT DIDN'T; I WAS UNSUCCESSFUL.
- 24 Q. WHAT DID HE SAY HE WAS GOING TO DO, DID HE SAY
- 25 SPECIFICALLY?

MEREDITH L. MOON - DIRECT BY MR. BRACKETT

1594

1 A. HE SAID THAT HE WAS GOING TO WAIT FOR HIS DAD,
2 HE WAS GOING TO WAIT FOR THE ALARM CLOCK TO GO
3 OFF AND HE WAS GOING TO GO UPSTAIRS -- AS SOON
4 AS THE ALARM CLOCK WENT OFF, HE WAS GOING TO
5 WAIT FOR HIS DAD TO GET IN THE SHOWER AND THEN
6 HE WAS GOING TO GO UPSTAIRS AND KILL HIS MOTHER.

7 Q. DID HE TELL YOU ANYTHING TO DO? WHAT WERE HIS
8 INSTRUCTIONS, IF ANY, TO YOU?

9 A. HE TOLD ME TO PUT SOME SOCKS ON MY HANDS AND TO
10 TAKE TWO BOTTLES OF TILEX AND POUR THEM INTO ONE
11 ANOTHER, THERE WASN'T MUCH IN THEM.

12 Q. DID YOU DO THAT?

13 A. YES, SIR.

14 Q. WHAT WERE YOU WEARING?

15 A. BROWN CORDUROY PANTS AND A STRIPED SWEATER.

16 Q. WHERE DID YOU DO THIS?

17 A. IN THE BATHROOM.

18 Q. SHOW THE JURY AND TELL THE JURY WHAT HAPPENED
19 OVER THE COURSE OF THE NEXT 45 MINUTES. USING
20 THE DIAGRAM SHOW THEM WHERE YOU WENT AND WHAT
21 YOU DID AND WHAT HAPPENED.

22 A. OKAY. I STARTED POURING THE TILEX INTO ONE
23 BOTTLE RIGHT THERE IN THE BATHROOM. I KNOW WE
24 SNORTED SOME RITALIN IN THE LIVING ROOM AND
25 AGAIN IN CHIP'S ROOM WHICH IS THIS BEDROOM RIGHT

MEREDITH L. MOON - DIRECT BY MR. BRACKETT

1595

1 HERE.

2 Q. WHERE DID THE RITALIN COME FROM?

3 A. IT CAME FROM JIM; I DON'T KNOW EXACTLY WHERE IT
4 CAME FROM IN THE HOUSE.

5 Q. WAS HE SNORTING RITALIN AS WELL?

6 A. YES, SIR.

7 Q. AND YOU WERE SNORTING RITALIN?

8 A. YES, SIR.

9 Q. WERE YOU SNORTING EVERY TIME HE SNORTED?

10 A. YES, SIR, I MATCHED HIM LINE FOR LINE.

11 Q. HOW MANY LINES DO YOU THINK YOU DID IN TOTAL?

12 A. I'D SAY BETWEEN SIX AND TEN.

13 Q. OVER WHAT PERIOD OF TIME?

14 A. TWO HOURS.

15 Q. ALL RIGHT. AND WHERE AGAIN, SHOW THEM ON THE
16 DIAGRAM WHERE YOU DID THE RITALIN?

17 A. RIGHT THERE IN THE LIVING ROOM AND IN CHIP'S
18 BEDROOM WHICH IS RIGHT THERE.

19 Q. OKAY. AND GO AHEAD AND TELL THE JURY WHAT
20 HAPPENED NEXT -- HOW LONG DID YOU SPEND IN
21 CHIP'S BEDROOM?

22 A. I'M REALLY NOT SURE OF THE EXACT TIME. I WOULD
23 SAY IT WAS BETWEEN 10 AND 20 MINUTES.

24 Q. WHERE DID YOU GO WHEN YOU LEFT CHIP'S BEDROOM?

25 A. I WENT INTO JIM'S BEDROOM WHICH IS RIGHT HERE.

MEREDITH L. MOON - DIRECT BY MR. BRACKETT

1596

1 Q. OKAY. HOW LONG DID YOU SPEND IN JIM'S BEDROOM?

2 A. I WOULD SAY ABOUT 20 MINUTES OR SO.

3 Q. WAS JIM WITH YOU THE ENTIRE TIME?

4 A. NO, SIR, HE WAS NOT.

5 Q. DO YOU KNOW WHERE HE WAS?

6 A. NO, SIR, I DON'T.

7 Q. CAN YOU DESCRIBE HIS CONDITION?

8 A. HIS CONDITION AS Demeanor?

9 Q. YES. WHY DON'T YOU GO AHEAD AND HAVE A SEAT.

10 (THE WITNESS RESUMED THE WITNESS STAND.)

11 Q. WHAT WAS HIS CONDITION, STARTING WHEN YOU FIRST
12 ARRIVED. WHAT WAS HIS Demeanor, WHAT WAS HIS
13 ATTITUDE?

14 A. HE WAS ACTING NORMAL; HE WAS A LITTLE MORE
15 HYPER, MORE HIGH STRUNG, BUT HE WAS ACTING
16 PRETTY MUCH THE WAY HE ALWAYS DOES.

17 Q. AND THEN THROUGHOUT THE EVENING, WHERE DID YOU
18 DO MOST OF THE RITALIN?

19 A. IN THE LIVING ROOM.

20 Q. AND HOW MUCH DID YOU DO BACK IN CHIP'S BEDROOM?

21 A. A COUPLE OF LINES.

22 Q. DID YOU DO ANY IN JIM'S BEDROOM?

23 A. NOT THAT I CAN REMEMBER; NO, SIR.

24 Q. WHAT DID JIM TELL YOU, AGAIN, WAS HIS PLAN?

25 A. HE WAS GOING TO WAIT UNTIL THE ALARM CLOCK WENT

MEREDITH L. MOON - DIRECT BY MR. BRACKETT

1597

1 OFF AND HIS DAD GOT IN THE SHOWER, AND THEN HE
2 WAS GOING TO GO UPSTAIRS TO KILL HIS MOM.

3 Q. ALL RIGHT. WHY DID YOU GO INTO JIM'S BEDROOM?

4 A. BECAUSE HE TOLD ME TO GO IN THERE AND SIT ON THE
5 COUCH.

6 Q. WERE YOU IN THERE BY YOURSELF?

7 A. YES, SIR, I WAS.

8 Q. DID HE EVER JOIN YOU?

9 A. NO, SIR.

10 Q. WHERE WERE YOU WHEN THE ALARM CLOCK WENT OFF?

11 A. SITTING ON THE COUCH.

12 Q. WHERE, WHAT ROOM?

13 A. IN JIM'S BEDROOM.

14 Q. THE BOTTOM RIGHT-HAND CORNER THERE?

15 A. YES, SIR.

16 Q. AND WHO WAS IN THERE -- WAS ANYONE IN THERE WITH
17 YOU?

18 A. NO, SIR.

19 Q. WHAT HAPPENED NEXT? DESCRIBE WHAT HAPPENED
20 AFTER THE ALARM CLOCK WENT OFF.

21 A. AFTER THE ALARM CLOCK WENT OFF, I HEARD SOME
22 FOOTSTEPS UPSTAIRS AND THEN I HEARD THE SHOWER
23 START RUNNING. IN A COUPLE OF MINUTES AFTER THE
24 SHOWER STARTED RUNNING, I HEARD LIKE SOUNDS OF A
25 STRUGGLE AND I HEARD HIS MOM SCREAMING.

MEREDITH L. MOON - DIRECT BY MR. BRACKETT

1598

1 (THE WITNESS STARTED CRYING AT THIS POINT.)

2 Q. WHAT WAS SHE SCREAMING?

3 A. SHE WAS SCREAMING FOR EARL. AND SHE KEPT
4 SAYING, "NO, JIMMY; NO, JIMMY".

5 Q. WHERE WERE YOU WHEN THIS WAS GOING ON?

6 A. IN THE LIVING ROOM -- I'M SORRY, SITTING ON THE
7 COUCH IN THE BEDROOM.

8 Q. WHAT WERE YOU DOING?

9 A. I HAD MY HANDS OVER MY EARS AND I WAS ROCKING
10 BACK AND FORTH.

11 Q. COULD YOU HEAR THROUGH THE HANDS OVER YOUR EARS?

12 A. YES, SIR, I COULD.

13 Q. HOW LONG DID THIS GO ON?

14 A. I WOULD SAY FOR ABOUT A MINUTE.

15 Q. WHAT HAPPENED AFTER THE SCREAMING STOPPED?

16 A. I WENT OUTSIDE AND I SMOKED A CIGARETTE.

17 Q. WHERE OUTSIDE?

18 A. OUTSIDE ON THE PATIO, ON THE DECK DOWNSTAIRS,
19 RIGHT OUTSIDE THE DOOR.

20 Q. HAD YOU SEEN JIMMY YET?

21 A. NO, SIR, I HAD NOT.

22 Q. HOW LONG DID YOU STAY OUT THERE?

23 A. LESS THAN A MINUTE.

24 Q. WHERE DID YOU GO AFTER YOU WENT BACK IN?

25 A. I WENT BACK IN AND I SAT ON THE COUCH IN JIM'S

MEREDITH L. MOON - DIRECT BY MR. BRACKETT

1599

1 BEDROOM.

2 Q. WAS ANYBODY OUTSIDE WHEN YOU WERE OUT THERE?

3 A. NO, SIR.

4 Q. WAS ANYTHING GOING ON OUT THERE, COULD YOU SEE
5 OR HEAR ANYTHING?

6 A. THEY HAVE A RABBIT IN A CAGE, AND IT WAS RUNNING
7 AROUND IN CIRCLES IN THE CAGE.

8 Q. AFTER YOU WENT BACK IN JIM'S BEDROOM, WHEN IS
9 THE NEXT TIME YOU SAW OR HEARD ANYTHING?

10 A. JIM CALLED ME FROM UPSTAIRS.

11 Q. WHAT DID HE SAY?

12 A. HE SAID LIKE MEREDITH, LIKE IN A WHISPER, BUT IN
13 A LOUD WHISPER, LOUD ENOUGH THAT I COULD HEAR IT
14 DOWNSTAIRS.

15 Q. WHAT DID YOU DO?

16 A. I WENT UPSTAIRS AND I SAW HIM AT THE END OF THE
17 HALLWAY AND HE HAD BLOOD ALL OVER HIM, AND HE
18 TOLD ME TO GO GET HIM A KNIFE FROM THE KITCHEN.
19 AND I WENT INTO THE KITCHEN AND I TRIED TO GO
20 OUT THE GARAGE DOOR WHICH IT WAS LOCKED BECAUSE
21 IT TAKES A KEY FROM BOTH SIDES. SO, I GOT HIM
22 THE KNIFE AND I GAVE IT TO HIM. I WENT BACK
23 THROUGH THE DEN AND I GAVE IT TO HIM AND HE TOLD
24 ME TO GO SIT BACK DOWNSTAIRS ON THE BEDROOM
25 SOFA.

MEREDITH L. MOON - DIRECT BY MR. BRACKETT

1600

1 Q. COULD YOU HEAR ANYTHING WHEN YOU WERE UPSTAIRS
2 BESIDES JIM?

3 A. I COULD HEAR THE SHOWER STILL RUNNING.

4 Q. DID YOU GO BACK DOWNSTAIRS AS HE TOLD YOU?

5 A. YES, SIR, I DID.

6 Q. WHAT WAS THE NEXT THING YOU HEARD OR SAW?

7 A. I HEARD A THUMPING NOISE LIKE A ---

8 Q. HOW LONG AFTER YOU WENT BACK DOWNSTAIRS?

9 A. WITHIN A COUPLE OF MINUTES.

10 Q. COULD YOU HEAR THE SHOWER FROM WHERE YOU WERE
11 DOWNSTAIRS?

12 A. YES, SIR, I COULD.

13 Q. WAS THE SHOWER STILL ON WHEN YOU WENT
14 DOWNSTAIRS?

15 A. YES, SIR.

16 Q. YOU HEARD A THUMPING NOISE?

17 A. YES, SIR.

18 Q. WAS THE SHOWER STILL ON WHEN THAT HAPPENED?

19 A. NO, SIR, IT WAS NOT.

20 Q. HOW LONG AFTER THE SHOWER WENT OFF DID YOU HEAR
21 THE THUMPING NOISE?

22 A. WITHIN ABOUT A MINUTE TO TWO MINUTES.

23 MR. HANCOCK: YOUR HONOR, I'M HAVING TROUBLE
24 SEEING THE WITNESS, IF WE COULD GET THE LIGHTS BACK ON
25 UNLESS HE IS GOING TO USE THE PROJECTOR.

MEREDITH L. MOON - DIRECT BY MR. BRACKETT

1601

1 MR. BRACKETT: FOR NOW.

2 (THE LIGHTS WERE TURNED UP IN THE COURTROOM.)

3 Q. ABOUT A MINUTE, A COUPLE OF MINUTES?

4 A. YES, SIR.

5 Q. CAN YOU DESCRIBE THE THUMPING SOUND, HOW LOUD
6 WAS IT?

7 A. IT WAS LOUD ENOUGH FOR ME TO HEAR IT DOWNSTAIRS;
8 IT WAS LIKE A HAND BEATING A PILLOW, BEATING ON
9 A PILLOW.

10 Q. HOW LONG DID THAT GO ON?

11 A. I WOULD SAY FOR ABOUT A MINUTE.

12 Q. COULD YOU HEAR ANY VOICES OR ANY WORDS?

13 A. NO, SIR.

14 Q. WHAT HAPPENED AFTER THAT?

15 A. AFTER THAT JIM CAME BACK DOWNSTAIRS AND HE
16 STARTED JUST WALKING AROUND, I WASN'T PAYING
17 MUCH ATTENTION TO WHAT HE WAS DOING.

18 Q. WHERE WERE YOU WHEN HE CAME BACK DOWNSTAIRS?

19 A. I WAS SITTING ON THE COUCH IN HIS BEDROOM.

20 Q. DID YOU SEE HIM IN HIS BEDROOM, DID HE COME TO
21 HIS BEDROOM?

22 A. YES, SIR, HE DID.

23 Q. WHAT DID HE LOOK LIKE WHEN HE CAME IN?

24 A. HE HAD BLOOD ALL OVER HIM, ALL OVER HIS CLOTHES,
25 ALL OVER HIS SHIRT AND PANTS.

MEREDITH L. MOON - DIRECT BY MR. BRACKETT

1602

1 Q. DID YOU TALK WITH HIM AT ALL?

2 A. NOT THAT I CAN REMEMBER.

3 Q. WHAT DID HE OR YOU DO NEXT?

4 A. I WENT INTO THE LIVING ROOM, AND THEN HE WAS IN
5 THE LIVING ROOM ALSO AND HE THOUGHT HE HEARD
6 SOMETHING UPSTAIRS AND HE TOLD ME TO, YOU KNOW,
7 BE QUIET FOR A SECOND. AND HE THOUGHT HE HEARD
8 SOMETHING UPSTAIRS, SO HE WENT BACK UPSTAIRS.

9 Q. HOW LONG WAS HE GONE THAT TIME?

10 A. I WOULD SAY ABOUT FIVE MINUTES.

11 Q. AND WHEN DID YOU SEE HIM NEXT, WHERE WAS THAT?

12 A. HE CAME BACK DOWNSTAIRS IN THE LIVING ROOM.

13 Q. DID HE HAVE ANY WEAPONS OR ANYTHING ELSE, ANY
14 PERSONAL PROPERTY IN HIS HANDS?

15 A. NOT THAT I CAN REMEMBER.

16 Q. OKAY. WHERE DID HE GO WHEN HE CAME BACK
17 DOWNSTAIRS?

18 A. HE WAS IN THE HALLWAY RIGHT AT THE SHOWER AT THE
19 BATHROOM AND HE TOOK OFF ALL HIS CLOTHES AND GOT
20 IN THE SHOWER.

21 Q. UP TO THAT POINT HAD YOU EVER SEEN HIM WITH ANY
22 OF HIS PARENT'S PERSONAL PROPERTY?

23 A. NO, SIR.

24 Q. WHAT DID HE DO -- YOU SAY HE WENT TOWARD THE
25 SHOWER?

MEREDITH L. MOON - DIRECT BY MR. BRACKETT

1603

- 1 A. YES, SIR.
- 2 Q. DESCRIBE WHAT HE DID THEN.
- 3 A. HE TOOK OFF ALL HIS CLOTHES AND THEN HE GOT IN
- 4 THE SHOWER.
- 5 Q. HOW LONG WAS HE IN THE SHOWER?
- 6 A. I WOULD SAY FOR ABOUT FIVE MINUTES.
- 7 Q. WHAT DID HE DO WHEN HE CAME OUT OF THE SHOWER?
- 8 A. HE PUT ON CLOTHES; HE PUT ON NEW CLOTHES.
- 9 Q. WHAT DID HE DO WITH HIS OLD CLOTHES?
- 10 A. HE PLACED THEM IN A GARBAGE BAG.
- 11 Q. WHERE WAS THAT GARBAGE BAG LOCATED?
- 12 A. IN FRONT OF THE FIREPLACE.
- 13 Q. DID YOU SEE ANYTHING ELSE GO IN THE GARBAGE BAG?
- 14 A. I DIDN'T SEE HIM PUT ANYTHING ELSE IN THE
- 15 GARBAGE BAG, BUT I KNOW THAT THERE WERE OTHER
- 16 THINGS IN THE GARBAGE BAG. BUT I CAN'T RECALL
- 17 PERSONALLY SEEING HIM PUT THEM IN THE GARBAGE
- 18 BAG.
- 19 Q. DO YOU KNOW APPROXIMATELY WHAT TIME THIS WAS?
- 20 A. I WOULD SAY AROUND 7:45 IN THE MORNING, BETWEEN
- 21 7:30 AND 8:00 O'CLOCK.
- 22 Q. WHAT HAPPENED AFTER HE GOT OUT OF THE SHOWER AND
- 23 CHANGED, WHAT DID YOU TWO DO?
- 24 A. WE WENT AND HE TOLD ME TO GET THE BAG AND WE
- 25 WENT OUT THE DOOR, OUT THE DOWNSTAIRS DOOR. AND

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1604

1 WHEN WE GOT OUT THERE, HE PICKED UP A RAKE AND
2 HE BASHED THE WINDOW IN WITH THE END OF THE
3 RAKE.

4 Q. IS THAT THE WINDOW YOU SAW IN THE PICTURE
5 EARLIER?

6 A. YES, SIR, THE SHATTERED WINDOW.

7 Q. WHAT HAPPENED THEN -- WHO HAD THE BAG?

8 A. I DID.

9 Q. WHAT DID YOU GUYS DO AFTER THE WINDOW WAS
10 BROKEN?

11 A. WE WALKED UP TO THE DRIVEWAY IN THE FRONT OF THE
12 HOUSE AND I PUT THE BAG IN THE TRUNK OF THE CAR.

13 Q. WHAT CAR?

14 A. THE RED MAZDA.

15 Q. AND WHAT WAS JIMMY DOING AT THIS TIME?

16 A. I'M REALLY NOT SURE.

17 Q. DID YOU SEE ANYONE OUTSIDE AT THIS POINT?

18 A. WE SAW A NEIGHBOR ACROSS THE STREET.

19 Q. OKAY. DID YOU TALK TO HIM OR HAVE ANY
20 CONVERSATION WITH HIM?

21 A. NO, SIR. WE WAVED.

22 Q. AFTER YOU PUT THE BAG IN THE TRUNK, WHAT DID YOU
23 GUYS DO?

24 A. WE GOT IN THE CAR AND WE DROVE TO A GAS STATION..

25 Q. WHO WAS DRIVING?

MEREDITH L. MOON - DIRECT BY MR. BRACKETT

1605

1 A. I BELIEVE I WAS.

2 Q. WHERE DID YOU DRIVE TO?

3 A. WE DROVE ON CELANESE AND WE GOT ON 77 AND WE GOT
4 OFF ON FORT MILL AND TEGA CAY EXIT AND WE WENT
5 TO THAT BP. JIM SAID THAT HE HAD RECOGNIZED
6 SOMEBODY AT THE BP SO HE HAD ME PULL OUT. AND
7 THEN WE WENT TO THE PEACH STAND.

8 Q. HOW LONG WERE YOU AT THE PEACH STAND?

9 A. I'D SAY BETWEEN FIVE AND SEVEN MINUTES.

10 Q. WHAT DID YOU DO AT THE PEACH STAND?

11 A. HE GOT GAS AND WE BOUGHT SOME NEOSPORIN AND SOME
12 BAND-AIDS.

13 Q. WHY DID YOU BUY THOSE?

14 A. BECAUSE IN THE PROCESS OF BUSTING OUT THE
15 WINDOW, HE CUT HIS FINGER PRETTY BADLY.

16 Q. SO YOU BOUGHT SOME ITEMS?

17 A. YEAH, TO TAKE CARE OF THAT.

18 Q. DID YOU DO ANYTHING ELSE AT THE PEACH STAND?

19 A. WE BOUGHT SOME OTHER ITEMS AND THEN I MADE A
20 PHONE CALL TO MY BEST FRIEND, ERIN.

21 Q. WHAT DID YOU TELL HER?

22 A. I TOLD HER THAT I WAS GOING UP TO CHIP'S HOUSE
23 IN PHILADELPHIA AND THAT I WAS ALREADY HALFWAY
24 THERE.

25 Q. DID YOU TELL HER WHO YOU WERE WITH?

MEREDITH L. MOON - DIRECT BY MR. BRACKETT

1606

1 A. YES, SIR, I TOLD HER I WAS WITH JIM.

2 Q. OKAY, WHO PAID FOR THE ITEMS THAT YOU BOUGHT?

3 A. JIM DID.

4 Q. HOW DID HE PAY?

5 A. WITH HIS DAD'S CREDIT CARD.

6 Q. WHERE DID YOU GO WHEN YOU LEFT THE PEACH STAND?

7 A. WE GOT ON 77 AND WE DROVE UP AND WE GOT ON 85
8 AND PROCEEDED NORTHBOUND.

9 Q. WHO WAS DRIVING AT THIS TIME?

10 A. I CAN'T RECALL.

11 Q. YOU WENT NORTH ON 85?

12 A. YES, SIR.

13 Q. AND WHERE DID YOU GO NEXT?

14 A. THEN WE GOT ON 95 AND I CAN'T REMEMBER IF IT WAS
15 ON 85 OR 95 THAT WE STOPPED AT A REST AREA AND
16 JIM CALLED IN TO HIS WORK AND SAID THAT THERE
17 WAS A FAMILY EMERGENCY AND HE WOULDN'T BE ABLE
18 TO COME INTO WORK TODAY.

19 Q. NOW, CAN YOU RECALL WHO WAS DRIVING FROM THE
20 TIME YOU LEFT OUT OF THE PEACH STAND UNTIL ABOUT
21 THE TIME YOU GOT TO THAT REST AREA?

22 A. NO, SIR, I CANNOT.

23 Q. DID YOU DRIVE AT ALL OR DID HE DRIVE?

24 A. WE BOTH DROVE; I'M NOT SURE OF WHO DROVE WHEN
25 BUT WE BOTH DROVE.

MEREDITH L. MOON - DIRECT BY MR. BRACKETT

1607

1 Q. DID YOU MAKE ANY OTHER STOPS AFTER THE REST AREA
2 WHERE HE MADE THE PHONE CALL?

3 A. WE STOPPED FOR GAS. AND THAT WAS ABOUT IT.

4 Q. DO YOU REMEMBER WHERE YOU STOPPED FOR GAS?

5 A. SOMEWHERE IN VIRGINIA. WE ALSO STOPPED AT A
6 REST AREA IN VIRGINIA.

7 Q. DO YOU RECALL WHO PAID FOR THE GAS IN VIRGINIA?

8 A. JIM DID.

9 Q. DO YOU REMEMBER HOW HE PAID FOR THE GAS?

10 A. NO, SIR, I WAS IN THE CAR.

11 Q. AFTER YOU LEFT OUT OF VIRGINIA, DID YOU MAKE ANY
12 OTHER STOPS BEFORE PHILADELPHIA?

13 A. WE STOPPED AT A REST AREA IN MARYLAND.

14 Q. WHAT ROADWAY WAS THAT ON?

15 A. IT WAS ON 95 I DO BELIEVE, INTERSTATE 95.

16 Q. CAN YOU DESCRIBE THE REST AREA YOU STOPPED AT?

17 A. IT WAS CALLED, I DO BELIEVE, THE CHESAPEAKE
18 HOUSE. IT WAS A REALLY BIG REST AREA IN THE
19 MIDDLE OF THE ROAD, IT WAS LIKE IN THE MEDIAN;
20 YOU HAD TO EXIT OFF FROM THE LEFT. IT HAD A GAS
21 STATION AND A CONVENIENCE STORE AND A RESTAURANT
22 AND SOME OTHER THINGS.

23 AND I WENT INTO THAT CONVENIENCE STORE TO USE
24 THE REST ROOM.

25 Q. WHAT ELSE DID YOU DO THERE?

MEREDITH L. MOON - DIRECT BY MR. BRACKETT

1608

1 A. I GOT BACK IN THE CAR AND JIM DROVE A LITTLE
2 WAYS TO A -- IT WAS BESIDE A MECHANICS, AN AUTO
3 SHOP AND THERE WAS A BIG GREEN TRASH DUMPSTER
4 AND HE GOT THE BAG OUT OF THE CAR AND PUT IT IN
5 THE DUMPSTER.

6 Q. HOW LONG DID YOU SPEND AT THE REST AREA?

7 A. I WOULD SAY NO MORE THAN 10 MINUTES,

8 Q. WHERE DID YOU GO AFTER THAT?

9 A. WE PROCEEDED ON TO PHILADELPHIA.

10 Q. DID YOU KNOW WHERE YOU WERE GOING?

11 A. NO, SIR.

12 Q. HAD YOU BEEN TO PHILADELPHIA BEFORE?

13 A. NO, SIR, I HAD NOT.

14 Q. DID JIM KNOW EXACTLY WHERE YOU WERE GOING?

15 A. HE SAID HE DID, BUT WE GOT LOST.

16 Q. WHAT DID YOU DO WHEN YOU GOT TO PHILADELPHIA?

17 A. HE STOPPED AT A CONVENIENCE STORE AND ASKED FOR
18 DIRECTIONS.

19 Q. AND WHERE DID YOU GO?

20 A. WE WENT TO CHIP'S HOUSE, TO CHIP'S APARTMENT.

21 Q. WHAT HAPPENED WHEN YOU ARRIVED AT CHIP'S
22 APARTMENT?

23 A. WE PARKED THE CAR AND WE WENT -- IT WAS LIKE A
24 LOT OF HOUSES THAT HAS APARTMENTS IN THEM AND WE
25 HAD TO BUZZ A BUZZER TO BE LET IN, AND HE KEPT

MEREDITH L. MOON - DIRECT BY MR. BRACKETT

1609

1 BUZZING CHIP'S APARTMENT AND NOBODY WAS THERE.
2 AND SO WE WALKED AROUND OUT BACK TO THE BACK OF
3 THE HOUSE AND JIM WAS KNOCKING ON THE WINDOW AND
4 YELLING FOR CHIP.

5 Q. DID YOU EVER SEE CHIP THERE AT HIS APARTMENT?

6 A. NO, SIR, I DID NOT.

7 Q. AND WHERE DID YOU GO FROM THERE?

8 A. WE WENT TO GRAB A BITE TO EAT AT FIESTA PIZZA.

9 Q. NOW, PRIOR TO ARRIVING IN PHILADELPHIA -- HOW
10 LONG DID IT TAKE YOU TO DRIVE FROM FORT MILL,
11 SOUTH CAROLINA TO PHILADELPHIA, APPROXIMATELY?

12 A. ABOUT 10 HOURS.

13 Q. OKAY, SO YOU WERE IN THE CAR WITH JIM FOR 10
14 HOURS?

15 A. YES, SIR.

16 Q. DID YOU GUYS DISCUSS WHAT HAD HAPPENED BACK AT
17 THE HOUSE?

18 A. HE SAID A COUPLE OF THINGS. WE DIDN'T HAVE A
19 DISCUSSION, HE WAS MORE OR LESS TALKING TO
20 HIMSELF.

21 Q. WHAT DID HE SAY?

22 A. HE SAID THAT IN THE COURSE OF KILLING HIS MOTHER
23 THAT HE HAD BROKE A KNIFE BLADE OFF IN HIS
24 MOTHER'S NECK.

25 Q. OKAY.

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1610

1 A. AND HE KEPT SAYING THAT CHIP WAS GOING TO BE SO
2 PROUD; CHIP WAS GOING TO BE SO PROUD. HE KEPT
3 SAYING THAT OVER AND OVER AND OVER. AND HE SAID
4 THAT HE WAS GLAD THAT IT WAS OVER. AND THEN HE
5 WAS TALKING ABOUT WHAT HE WAS GOING TO DO WITH
6 THE INSURANCE MONEY.

7 Q. WHAT DID HE SAY HE WAS GOING TO DO?

8 A. HE SAID THAT HE WAS GOING TO BUY A HOUSE ON THE
9 LAKE AND RENOVATE A CLUB IN ROCK HILL.

10 Q. DID HE HAVE ANY IDEA OR DID HE DISCUSS WITH YOU
11 WHAT WAS SUPPOSED TO HAPPEN NEXT, I MEAN WHERE
12 WERE THEY SUPPOSED TO GO, HOW WOULD THEY GET
13 BACK TO ROCK HILL. WHAT WAS THE PLAN, DID HE
14 DISCUSS ANYTHING ABOUT THAT?

15 MR. HANCOCK: YOUR HONOR, I'M GOING TO OBJECT TO
16 THE LEADING.

17 THE COURT: REPHRASE YOUR QUESTION.

18 Q. WAS THERE ANY DISCUSSION ABOUT YOUR RETURN TO
19 ROCK HILL?

20 A. YES, SIR. HE SAID THAT HE WAS GOING TO PICK
21 CHIP UP AND WE WERE GOING TO DRIVE BACK. HE WAS
22 GOING TO LET ME OUT AND I WAS TO GO HOME AND
23 THAT HIM AND CHIP WERE GOING TO GO INTO THE
24 HOUSE AND DISCOVER THE BODIES AND CALL 911 ET
25 CETERA, ET CETERA.

MEREDITH L. MOON - DIRECT BY MR. BRACKETT

1611

1 Q. YOU LEFT OUT OF CHIP'S PLACE WHEN HE WASN'T
2 THERE. WHERE DID YOU GO AGAIN?

3 A. TO GRAB A BITE TO EAT.

4 Q. HOW LONG DID YOU STAY AT THE RESTAURANT?

5 A. I'D SAY ABOUT 30 MINUTES.

6 Q. WHERE DID YOU GO WHEN YOU LEFT THE RESTAURANT?

7 A. WE WENT BACK TO CHIP'S APARTMENT.

8 Q. TELL US WHAT HAPPENED WHEN YOU GOT BACK TO
9 CHIP'S APARTMENT?

10 A. WE WERE -- IT WAS A ONE WAY STREET. JIM WAS
11 DRIVING AND HE WAS TRYING TO PARALLEL PARK AND I
12 NOTICED A CAR COMING IN THE WRONG DIRECTION AND
13 RIGHT AS HE STARTED BACKING IN, TWO MEN GOT OUT
14 AND CAME AT US WITH GUNS.

15 Q. WHAT HAPPENED NEXT?

16 A. I WAS PLACED UNDER ARREST. I WAS YANKED OUT OF
17 THE CAR BY MY HAIR, SLAMMED ON THE PAVEMENT,
18 HANDCUFFED AND I WAS PUT INTO THE BACK OF A CAR.

19 Q. AND DID YOU HAVE A CHANCE TO TALK TO JIM?

20 A. NO, I DID NOT.

21 Q. DID JIM SAY ANYTHING TO YOU FROM THE TIME YOU
22 FIRST SAW THE PEOPLE RUNNING UP WITH THE GUNS
23 AND SO FORTH, DID HE SAY ANYTHING AT ALL UP TO
24 THE POINT WHERE YOU WERE ARRESTED?

25 A. NO, HE DID NOT.

MEREDITH L. MOON - DIRECT BY MR. BRACKETT

1612

1 Q. WHERE WERE YOU TAKEN FROM THERE?

2 A. TO THE PHILADELPHIA POLICE STATION.

3 Q. AND WHAT HAPPENED WHEN YOU GOT THERE?

4 A. I WAS PUT IN AN INTERROGATION ROOM IN HOMICIDE.

5 Q. AND TELL US WHAT HAPPENED IN THERE.

6 A. I GAVE A STATEMENT TO THE PHILADELPHIA POLICE.

7 Q. OKAY, TELL US ABOUT THAT STATEMENT. WHO DID YOU
8 GIVE IT TO?

9 A. I'M UNAWARE OF THE NAME OF THE PERSON WHO I GAVE
10 IT TO.

11 Q. THE STATEMENT THAT YOU GAVE TO THE POLICE, DID
12 YOU TELL THEM THE TRUTH?

13 A. I DIDN'T TELL THEM EVERYTHING. I TOLD THEM THAT
14 I WAS IN THE CAR DURING THE TIME OF THE
15 KILLINGS.

16 Q. CAN YOU SUM UP ESSENTIALLY WHAT YOU TOLD THEM,
17 TELL THE JURY?

18 A. I TOLD THEM THAT, YES, I WAS AT THE HOUSE BUT
19 THAT I HAD REMAINED IN THE CAR DURING THE TIME
20 OF THE KILLING. AND THAT'S ABOUT IT.

21 Q. DID YOU SAY WHO DID DO THE KILLING?

22 A. YES, I DID. I TOLD THEM THAT JIM HAD KILLED HIS
23 PARENTS.

24 Q. AND WHAT DAY DID YOU GIVE THIS STATEMENT ON?
25 WAS IT THE SAME DAY YOU WERE ARRESTED, THE NEXT

MEREDITH L. MOON - DIRECT BY MR. BRACKETT

1613

1 DAY, THE DAY AFTER, WHEN DID YOU GIVE IT?

2 A. I THINK IT WAS PROBABLY THE DAY AFTER. I WAS IN
3 THAT INTERROGATION ROOM FOR ABOUT TWO DAYS.

4 Q. OKAY. DID YOU GIVE ANY OTHER STATEMENTS TO ANY
5 OTHER LAW ENFORCEMENT PERSONNEL?

6 A. YES, SIR, I DID.

7 Q. AND TO WHOM DID YOU GIVE IT?

8 A. I GAVE A STATEMENT TO RALPH MISLE AND ROBERT
9 BROWN.

10 Q. WHEN WAS THAT, HOW LONG AFTER YOUR FIRST
11 STATEMENT?

12 A. I WOULD SAY ABOUT A DAY.

13 Q. AND WHAT DID YOU SAY IN THAT STATEMENT?

14 A. I TOLD THEM THE TRUTH, THAT I WAS IN THE HOUSE
15 DURING THE KILLINGS. THAT JIM HAD KILLED HIS
16 PARENTS. I TOLD THE TRUTH.

17 Q. DID YOU TELL THEM ABOUT GOING UPSTAIRS?

18 A. NO, SIR, I DID NOT.

19 Q. WHY NOT?

20 A. I WAS TRYING TO -- I DIDN'T WANT TO INCRIMINATE
21 MYSELF.

22 Q. HOW LONG DID YOU STAY IN PHILADELPHIA AFTER YOU
23 WERE ARRESTED?

24 A. ABOUT FORTY-SOMETHING DAYS.

25 Q. WHERE DID YOU GO WHEN YOU LEFT?

MEREDITH L. MOON - DIRECT BY MR. BRACKETT

1614

1 A. I WAS BROUGHT BACK HERE TO THE DETENTION CENTER.

2 Q. AND I BELIEVE YOU TESTIFIED EARLIER YOU'VE BEEN
3 HERE EVER SINCE THEN IN THE DETENTION CENTER?

4 A. YES, SIR.

5 Q. DO YOU HAVE AN ATTORNEY?

6 A. YES, I DO.

7 Q. WHO IS THAT?

8 A. HARRY DEST.

9 Q. THE PUBLIC DEFENDER, HARRY DEST?

10 A. YES, SIR.

11 Q. MEREDITH, WHEN IS THE LAST TIME YOU WERE IN THIS
12 COURTROOM?

13 A. YESTERDAY.

14 Q. WHAT WERE YOU DOING IN HERE YESTERDAY?

15 A. I WAS PLEADING GUILTY.

16 Q. WHAT DID YOU PLEAD GUILTY TO?

17 A. TWO COUNTS OF ACCESSORY AFTER THE FACT AND ARMED
18 ROBBERY.

19 Q. WHAT WERE YOU CHARGED WITH ORIGINALLY?

20 A. TWO COUNTS OF MURDER AND ARMED ROBBERY.

21 Q. AND SO YOU PLED TO ACCESSORY AFTER THE FACT?

22 A. YES, SIR, I DID.

23 Q. WHY DID YOU PLEAD TO THESE CHARGES?

24 A. BECAUSE I WAS OFFERED A PLEA BARGAIN BY THE
25 SOLICITOR'S OFFICE, BY YOUR OFFICE.

MEREDITH L. MOON - DIRECT BY MR. BRACKETT

1615

1 Q. YOU SPOKE WITH OUR OFFICE BEFORE YOU TESTIFIED?

2 A. YES, I DID.

3 Q. AND YOU HAD A PLEA BARGAIN YOU SAY?

4 A. YES, SIR, I DID.

5 Q. WHAT WERE THE TERMS OF THAT PLEA BARGAIN?

6 A. THAT I WAS TO TESTIFY TRUTHFULLY AT ALL TIMES AS
7 NEEDED, TO COOPERATE WITH LAW ENFORCEMENT, ANY
8 LAW ENFORCEMENT.

9 Q. AND AS FAR AS A SENTENCE TO BE IMPOSED, HOW MUCH
10 TIME ARE YOU LOOKING AT?

11 A. A MINIMUM OF 20 YEARS, A MAXIMUM OF 60.

12 Q. DID YOU STRIKE ANY BLOWS IN THAT HOUSE THAT
13 NIGHT?

14 A. NO, SIR, I DID NOT.

15 Q. DID YOU HURT ANYBODY, YOU YOURSELF?

16 A. NO, SIR, I DID NOT.

17 Q. WERE YOU STANDING BY WATCHING WHILE SOMEONE WAS
18 HURT?

19 A. NO, SIR, I DID NOT.

20 Q. COURT'S INDULGENCE ONE MOMENT.

21 (AFTER A BRIEF PAUSE.)

22 Q. DID YOU SEE WHERE JIMMY GOT THE CREDIT CARD THAT
23 HE WAS USING?

24 A. FROM HIS DAD'S WALLET.

25 Q. DID YOU SEE HIM GET IT FROM THERE?

MEREDITH L. MOON - DIRECT BY MR. BRACKETT

1616

1 A. YES, SIR, I DID.

2 Q. WHEN WAS THAT?

3 A. I'M NOT SURE OF THE TIME, BUT I REMEMBER SEEING
4 HIS MOM'S PURSE AND HIS DAD'S WALLET BY THE POOL
5 TABLE.

6 Q. AND WHAT WAS HIS DEMEANOR ON THE RIDE FROM FORT
7 MILL TO PHILADELPHIA, HOW WAS HE ACTING?

8 A. HE WAS FINE; HE WAS SINGING ALONG TO THE RADIO.
9 HE WAS FINE.

10 Q. ONE FINAL QUESTION, MEREDITH. YOU WENT OUTSIDE
11 TO SMOKE A CIGARETTE AFTER HIS MOTHER WAS
12 MURDERED?

13 A. YES, SIR.

14 Q. WHEN YOU WERE STANDING OUT THERE, WHY DIDN'T YOU
15 RUN; WHY DIDN'T YOU RUN BACK TO YOUR CAR OR RUN
16 OVER TO A NEIGHBOR'S HOUSE?

17 A. THIS IS THE ONE QUESTION THAT'S BEEN HOUNDING ME
18 FOR OVER A YEAR, ALMOST A YEAR AND A HALF. I
19 WAS TERRIFIED, I WAS IN SHOCK. YOU'VE GOT TO
20 UNDERSTAND THAT DURING MY RELATIONSHIP,
21 FRIENDSHIP, WHATEVER IT WAS WITH JIM, HE TOOK
22 ADVANTAGE OF ME; HE MANIPULATED ME, AND HE
23 PLAYED ME. THAT MADE ME MORE TERRIFIED OF WHAT
24 WOULD HAPPEN IF I DID RUN. IT MADE ME TERRIFIED
25 OF WHAT WOULD HAPPEN IF I DIDN'T. I DID NOT

MEREDITH L. MOON - DIRECT BY MR. BRACKETT

1617

1 KNOW WHAT TO DO, SO I DID NOTHING. I WAS SO
2 SCARED THAT I WENT ALONG WITH WHATEVER HE DID
3 BECAUSE THAT WAS THE ONLY THING THAT I KNEW TO
4 DO.

5 Q. DID YOU GO TO THAT HOUSE WITH THE INTENTION OF
6 HURTING ANYBODY?

7 A. NO, SIR, I DID NOT.

8 Q. PLEASE ANSWER ANY QUESTIONS DEFENSE COUNSEL
9 MIGHT HAVE.

10 MR. HANCOCK: MAY IT PLEASE THE COURT, COULD WE
11 TAKE ABOUT A FIVE MINUTE RECESS?

12 THE COURT: I'LL BE GLAD TO. GO TO THE JURY ROOM
13 FOR ABOUT FIVE MINUTES; WE'LL TAKE A REFRESHER BREAK.

14 IN CAMERA: [FADING VOICES]

15 THE COURT: WILL FIVE MINUTES BE ENOUGH?

16 MR. HANCOCK: FIVE OR TEN, YOUR HONOR.

17 THE COURT: ALL RIGHT. MS. MOON, YOU CAN STEP
18 BACK IN THERE AND USE THE FACILITIES IF YOU NEED TO AND
19 HAVE SOME WATER.

20 AFTER THE BREAK (IN CAMERA):

21 THE COURT: ARE YOU READY FOR THE JURY?

22 MR. BRACKETT: THE STATE IS READY.

23 MR. HANCOCK: THE DEFENSE IS READY, YOUR HONOR.

24 THE COURT: BRING IN THE JURY.

25 IN THE PRESENCE OF THE JURY:

MEREDITH L. MOON - CROSS BY MR. HANCOCK

1618

THE COURT: MR. HANCOCK OR MR. BOYD?

MR. HANCOCK: MAY IT PLEASE THE COURT?

THE COURT: CERTAINLY.

CROSS EXAMINATION BY

MR. HANCOCK:

Q. MS. MOON, YOU JUST TESTIFIED THIS ISN'T THE FIRST TIME YOU'VE BEEN IN THIS COURTROOM IN THE PAST SEVERAL DAYS; ISN'T THAT CORRECT?

A. YES, SIR, IT IS.

Q. YOU WERE IN THIS COURTROOM YESTERDAY PLEADING GUILTY TO A COUPLE OF COUNTS OF ACCESSORY AFTER THE FACT OF MURDER AND ARMED ROBBERY; IS THAT CORRECT, MA'AM?

A. YES, SIR, IT IS.

Q. PRIOR TO THAT, YOU WERE IN THIS COURTROOM, I BELIEVE, FRIDAY NIGHT REHEARSING YOUR -- FRIDAY EVENING OR FRIDAY AFTERNOON REHEARSING YOUR TESTIMONY; ISN'T THAT CORRECT, MA'AM?

A. YES, SIR, IT IS.

Q. SO YOU HAVE BEEN OVER AND OVER THIS TESTIMONY HOW MANY TIMES?

A. A COUPLE.

Q. WITH THE SOLICITOR'S OFFICE OR WHOM?

A. JUST ONCE WITH THE SOLICITORS.

Q. DO YOU NORMALLY USE THE WORDS OR HAVE YOU JUST

MEREDITH L. MOON - CROSS BY MR. HANCOCK

1619

1 LEARNED THE WORDS DEMEANOR AND THAT SORT OF
2 THING?

3 A. I'VE ALWAYS USED THEM, SIR.

4 Q. YOU'VE ALWAYS USED THEM?

5 A. YES, SIR.

6 Q. NOW, WHEN YOU PLED GUILTY YESTERDAY, YOU PLED
7 GUILTY TO TWO COUNTS OF ACCESSORY AFTER THE FACT
8 OF MURDER AND ONE COUNT OF ARMED ROBBERY. AND
9 THAT WAS UNDER AN AGREEMENT BY THE SOLICITOR'S
10 OFFICE. IS THAT CORRECT?

11 A. YES, SIR, IT WAS.

12 Q. AND YOU KNEW THAT YOU COULD HAVE BEEN CHARGED
13 WITH THE DEATH PENALTY AND RECEIVED DEATH FOR
14 YOUR PARTICIPATION HERE, DIDN'T YOU?

15 A. YES, SIR.

16 Q. AND YOU KNEW THAT YOU COULD EITHER GO TO THE
17 ELECTRIC CHAIR OR POSSIBLY RECEIVE LIFE IN
18 PRISON WITHOUT THE POSSIBILITY OF PAROLE, DIDN'T
19 YOU?

20 A. THAT WAS WHAT I WAS FACING, YES, SIR.

21 MR. BRACKETT: YOUR HONOR, THAT'S NOT A CORRECT
22 STATEMENT OF THE LAW. I HAVE A MATTER OF LAW.

23 THE COURT: I OVERRULE THE OBJECTION.

24 Q. SO YOU KNEW THAT THAT WAS A POSSIBILITY, DIDN'T
25 YOU?

MEREDITH L. MOON - CROSS BY MR. HANCOCK

1620

1 A. YES, SIR.

2 Q. AND YOU PLED GUILTY ALSO TO ARMED ROBBERY?

3 A. YES, SIR.

4 Q. MS. MOON, LET'S GO OVER A PORTION OF YOUR
5 TESTIMONY. NOW, AS YOU SIT HERE BEFORE US, YOU
6 DON'T HAVE THE SAME APPEARANCE THAT YOU DID IN
7 NOVEMBER OF 1997, DO YOU?

8 A. NO, SIR, I DON'T.

9 Q. YOU'VE LOST APPROXIMATELY 90 POUNDS, HAVEN'T
10 YOU?

11 A. ABOUT THAT; YES, SIR.

12 Q. AND HOW MUCH DID YOU WEIGH ON NOVEMBER 25TH,
13 1997?

14 A. I WOULD SAY AROUND 270, 280.

15 Q. NOW I WILL ALSO ASK YOU TO CLARIFY SOME THINGS
16 FOR ME. YOU SAY YOU GOT A PHONE CALL FROM JIMMY
17 AT 5:00 IN THE MORNING. IS THAT RIGHT?

18 A. YES, SIR, THAT IS CORRECT.

19 Q. OKAY. AND HE ASKED YOU TO COME OVER; IS THAT
20 CORRECT?

21 A. YES, SIR.

22 Q. AND BEFORE THAT YOU HAD BEEN IN JIMMY'S
23 APARTMENT SNORTING RITALIN. IS THAT CORRECT?

24 A. DO YOU MEAN HIS PARENT'S HOUSE SNORTING RITALIN
25 EARLIER THAT EVENING?

MEREDITH L. MOON - CROSS BY MR. HANCOCK

1621

1 Q. I'M SORRY, I SAID HIS APARTMENT; I MEANT HIS
2 PARENT'S HOUSE. OKAY, Y'ALL HAD BEEN SNORTING
3 RITALIN EARLIER THAT EVENING?

4 A. YES, SIR, WE HAD.

5 Q. OKAY. WHEN YOU SAY A LINE OF RITALIN, THE WAY
6 YOU DO THAT IS YOU CRUSH UP TABLETS AND PUT IT
7 OUT IN A LINE AND YOU SNORT IT THROUGH A STRAW
8 OR WHAT?

9 A. IT CAN BE THROUGH A STRAW OR IT CAN BE THROUGH A
10 PIECE OF PAPER.

11 Q. AND HOW MUCH IS A LINE, ONE TABLET, TWO TABLETS,
12 FOUR TABLETS?

13 A. I'M REALLY NOT SURE; I'VE NEVER CRUSHED ONE UP.

14 Q. SO, JIMMY CRUSHED THEM UP?

15 A. YES, SIR, THAT'S CORRECT.

16 Q. HAD Y'ALL BEEN DOING THAT AS A REGULAR COURSE OF
17 Y'ALL'S ACTIVITY OVER A PERIOD, SAY, OF SIX
18 MONTHS?

19 A. I WOULDN'T SAY REGULAR, ON OCCASION.

20 Q. HOW MANY OCCASIONS?

21 A. A COUPLE, TWO OR THREE OR FOUR.

22 Q. TWO, THREE OR FOUR; IT WAS NOT A CONSTANT TYPE
23 THING?

24 A. NO, SIR, IT WAS NOT.

25 Q. BUT YOU DID THIS SO THAT YOU COULD GET A HIGH;

MEREDITH L. MOON - CROSS BY MR. HANCOCK

1622

1 IS THAT CORRECT?

2 A. YES, SIR, THAT'S CORRECT.

3 Q. AND HAVE YOU EVER DONE COCAINE?

4 A. NO, SIR, I HAVE NOT.

5 Q. SO YOU WOULDN'T KNOW IF THE RITALIN EQUATES
6 COCAINE IN ITS HIGH; YOU'VE NEVER BEEN HIGH ON
7 ANY TYPE OF COCAINE, CRACK OR OTHERWISE?

8 A. CRACK, YES, SIR.

9 Q. OKAY. SO, YOU'VE BEEN HIGH ON CRACK?

10 A. YES, SIR.

11 Q. AND DOES THE HIGH ON CRACK COCAINE, DOES IT KIND
12 OF EQUAL THE HIGH ON RITALIN?

13 A. NO, SIR, IT DOES NOT.

14 Q. IT DOES NOT?

15 A. NO, SIR.

16 Q. IS THE HIGH ON RITALIN HIGHER OR A LITTLE LOWER?

17 A. A LITTLE LOWER.

18 Q. A LITTLE LOWER, BUT NOT MUCH LOWER?

19 A. YES, SIR.

20 Q. YOU'RE STILL SEEKING THAT HIGH, TO GET HIGH AT
21 THAT TIME; IS THAT CORRECT?

22 A. YES, SIR.

23 Q. ON THAT NIGHT AT 3:30 IN THE MORNING IF I'M
24 CORRECT WAS THE CALL, AND YOU WERE THERE AT WHAT
25 TIME?

MEREDITH L. MOON - CROSS BY MR. HANCOCK

1623

1 A. WHAT TIME DID I ARRIVE AT MY DAD'S HOUSE?

2 Q. NO, AT JIMMY'S HOUSE.

3 A. I ARRIVED THERE BETWEEN, I WOULD SAY 12:30 AND
4 1:30.

5 Q. AND YOU DID LINES OF RITALIN, AND DID YOU TAKE
6 RITALIN HOME WITH YOU?

7 A. NO, SIR, I DID NOT.

8 Q. BUT YOU WERE UNABLE TO SLEEP BECAUSE YOU WERE
9 UNDER THE INFLUENCE OF RITALIN; IS THAT CORRECT,
10 MA'AM?

11 A. THAT IS CORRECT.

12 Q. AND WHEN JIMMY CALLED, YOU WENT TO JIMMY'S HOUSE
13 OR EARL AND TERRY'S HOUSE; IS THAT CORRECT?

14 A. THE SECOND TIME HE CALLED; YES, SIR, THAT IS
15 CORRECT.

16 Q. AND UNTIL THAT TIME YOU INDICATE THAT YOU HAD NO
17 IDEA THAT THERE WAS ANYTHING PLANNED OTHER THAN
18 TO GO SEE CHIP IN PHILADELPHIA?

19 A. THAT IS CORRECT.

20 Q. HAD JIMMY TALKED TO YOU PRIOR TO THIS CONCERNING
21 CHIP AND CHIP GETTING HOME FOR THANKSGIVING?

22 A. YES, SIR.

23 Q. AND IT CONCERNED HIM GREATLY; IS THAT CORRECT?

24 A. YES, SIR, IT DID.

25 Q. AND SO WHEN HE CALLED, YOU HAD NO IDEA THAT

MEREDITH L. MOON - CROSS BY MR. HANCOCK

1624

1 ANYTHING ELSE WAS GOING TO GO ON OTHER THAN YOU
2 GOING TO PHILADELPHIA; AM I CORRECT IN THAT
3 STATEMENT?

4 A. YES, SIR.

5 Q. AND WHEN YOU GOT TO HIS HOUSE, WHERE WAS HE?

6 A. HE WAS STANDING AT THE DOOR WAITING FOR ME, OR
7 IT APPEARED HE WAS WAITING FOR ME.

8 Q. AND WHEN IS THE FIRST TIME YOU REALIZED THAT
9 THERE MIGHT BE SOME HARM COMING TO HIS PARENTS?

10 A. AFTER I HAD GOT TO THE HOUSE; WITHIN A COUPLE OF
11 MINUTES AFTER I HAD WENT IN AND SAT DOWN.

12 Q. WHAT ALERTED YOU?

13 A. I SAW A NOTE ON THE COFFEE TABLE THAT HAD A LIST
14 OF THINGS THAT WERE WRITTEN ON THE PIECE OF
15 PAPER. IT SAID TWO TRASH BAGS, NEEDED TO SCRUB
16 OUT THE SHOWER FOR BLOOD; IT SAID A COUPLE OF
17 OTHER THINGS.

18 Q. SO, AT THAT TIME YOU WERE AWARE THAT SOMETHING
19 WAS GOING TO HAPPEN AND IT WAS GOING TO BE BAD;
20 IS THAT RIGHT?

21 A. YES, SIR.

22 Q. AND AFTER THAT, DID Y'ALL DRINK ANY BEER OR
23 SNORT ANY RITALIN? YOU DID, DIDN'T YOU?

24 A. YES, SIR, WE DID.

25 Q. NOW, I DON'T REMEMBER EVERYTHING, BUT YOU

MEREDITH L. MOON - CROSS BY MR. HANCOCK

1625

1 HAVEN'T SAID THAT Y'ALL WERE DRINKING ANY BEER
2 THAT NIGHT AS I REMEMBER.

3 A. I WAS NOT.

4 Q. WAS JIMMY?

5 A. NOT THAT I CAN REMEMBER; NOT THAT I WAS AWARE
6 OF.

7 Q. OKAY. WHEN YOU STEPPED OUTSIDE TO SMOKE A
8 CIGARETTE, DID YOU SEE ANY BEER CANS LYING
9 AROUND, ICEHOUSE OR OTHERWISE?

10 A. NOT THAT I'M AWARE OF.

11 Q. OKAY.

12 Q. SO, AT THAT TIME YOU KNEW SOMETHING BAD WAS
13 GOING TO HAPPEN?

14 A. YES, SIR.

15 Q. AND YOU WEIGHED WHAT, 250 POUNDS?

16 A. AROUND THAT.

17 Q. THAT'S A GOOD BIT LARGER THAN JIMMY, RIGHT?

18 A. YES, SIR.

19 Q. BUT YOU CHOSE AT THAT TIME NOT TO LEAVE?

20 A. THAT IS CORRECT.

21 Q. YOUR CAR WAS IN OPERABLE CONDITION, IS THAT
22 CORRECT?

23 A. YES, SIR, IT WAS.

24 Q. SO, YOU COULD HAVE WALKED OUT OF THERE AND
25 DRIVEN OFF?

MEREDITH L. MOON - CROSS BY MR. HANCOCK

1626

1 A. I COULD HAVE.

2 Q. BUT YOU CHOSE NOT TO.

3 A. I CHOSE NOT TO BECAUSE I WAS SCARED.

4 Q. WELL, YOU NEVER TESTIFIED THAT JIMMY GRABBED YOU
5 OR THREW YOU AROUND OR ANYTHING ELSE, YOU WERE
6 MUCH BIGGER THAN HE WAS, BUT HE DIDN'T DRAG YOU
7 UP ANY STAIRS OR DRAG YOU IN THE DOOR, DID HE?

8 A. NO, SIR, HE DID NOT.

9 Q. SO THEN YOU STILL CHOSE NOT TO LEAVE?

10 A. YES.

11 Q. ALL RIGHT. AND AT SOME POINT JIMMY WENT
12 UPSTAIRS; IS THAT CORRECT?

13 A. YES, SIR.

14 Q. AND YOU WENT OUTSIDE TO SMOKE A CIGARETTE AND
15 YOU'RE STANDING OUTSIDE SMOKING THE CIGARETTE,
16 PRESUMABLY KNOWING BUT NOT KNOWING WHAT WAS
17 GOING ON, RIGHT?

18 A. I KNEW, I THINK I WAS IN SHOCK, I WAS IN MORE
19 DENIAL OF WHAT WAS HAPPENING. I WAS TRYING NOT
20 TO -- I WAS TRYING TO FORGET WHAT WAS HAPPENING.
21 I DIDN'T WANT IT TO BE TRUE.

22 Q. WAS RITALIN AFFECTING YOUR JUDGMENT AT THAT
23 TIME?

24 A. YES, SIR, IT WAS.

25 Q. BUT AT THAT TIME YOU COULD HAVE TAKEN A RIGHT,

MEREDITH L. MOON - CROSS BY MR. HANCOCK

1627

- 1 WALKED UP THE STEPS, WALKED OUT THE DRIVEWAY,
2 TAKEN ANOTHER RIGHT, GOTTEN IN YOUR CAR AND GONE
3 HOME, COULDN'T YOU?
- 4 A. YES, SIR, I COULD HAVE.
- 5 Q. YOU CHOSE NOT TO DO IT?
- 6 A. THAT IS CORRECT.
- 7 Q. WHAT AFFECT DOES RITALIN HAVE ON YOU?
- 8 A. ON ME PERSONALLY?
- 9 Q. YES, MA'AM.
- 10 A. IT DULLS MY SENSES, MY PERCEPTION AND AWARENESS;
11 IT CAUSED INSOMNIA FOR ME; IT MADE ME FEEL LIKE
12 I WAS SORT OF DETACHED.
- 13 Q. IT DOES GIVE YOU THOSE FEELINGS AND YOU TAKE IT
14 FOR THAT REASON, DON'T YOU?
- 15 A. YES, SIR.
- 16 Q. NOW, DO YOU SUFFER FROM ANY MENTAL DISORDER OR
17 MENTAL DISEASE?
- 18 A. NO, SIR, I DO NOT.
- 19 Q. DO YOU SUFFER FROM ANYTHING THAT WOULD OBSCURE
20 YOUR MEMORY, MA'AM?
- 21 A. OBSCURE IT? NO, SIR, I DON'T.
- 22 Q. SO, THE ONLY THING -- WOULD THE RITALIN OBSCURE
23 YOUR MEMORY?
- 24 A. I DON'T THINK SO.
- 25 Q. YOU DON'T THINK SO, BUT IT'S A DRUG AND IT'S A

MEREDITH L. MOON - CROSS BY MR. HANCOCK

1628

1 POWERFUL DRUG, ISN'T IT?

2 A. YES, SIR.

3 Q. SO, IT COULD ALTER THE WAY YOU LOOK AT THINGS
4 AND ALTER YOUR MEMORY, COULDN'T IT, MA'AM?

5 A. THAT'S A POSSIBILITY; YES, SIR.

6 Q. WELL, THAT'S WHY YOU TAKE IT, ISN'T IT?

7 A. YES.

8 Q. DO YOU HAVE ANY IDEA THAT NIGHT HOW MANY
9 MILLIGRAMS OF RITALIN YOU MAY HAVE SNORTED?

10 A. NO, SIR, I DO NOT.

11 Q. DO YOU HAVE ANY IDEA HOW MANY MILLIGRAMS JIMMY
12 WOULD HAVE SNORTED?

13 A. NO, SIR.

14 Q. SO, YOU WEREN'T THERE THE WHOLE TIME?

15 A. NO, SIR.

16 Q. IN YOUR DISCUSSIONS DID HE TELL YOU HOW MUCH
17 RITALIN HE MAY HAVE SNORTED THAT EVENING?

18 A. NO, SIR.

19 Q. NOT IN ANY OF THE DISCUSSIONS GOING UP TO
20 PHILADELPHIA OR COMING BACK?

21 A. NO, SIR.

22 Q. PARDON ME, YOU DIDN'T COME BACK WITH HIM. BUT
23 GOING TO PHILADELPHIA, IS THAT CORRECT?

24 A. THAT'S CORRECT.

25 Q. AT ANY TIME WHEN Y'ALL WERE IN THE HOUSE DID HE

MEREDITH L. MOON - CROSS BY MR. HANCOCK

1629

- 1 INDICATE HOW MUCH RITALIN MAY HAVE BEEN SNORTED?
- 2 A. BY JUST HIM OR BY BOTH OF US?
- 3 A. BY HIM OR YOU OR BOTH.
- 4 A. NO, SIR.
- 5 Q. NOW, YOU ARE FAMILIAR WITH ALCOHOL ARE YOU NOT?
- 6 A. YES, SIR, I AM.
- 7 Q. AND YOU'RE FAMILIAR WITH THE SMELL OF ALCOHOL ON
- 8 A PERSON'S BREATH AND OTHERWISE?
- 9 A. YES, SIR.
- 10 Q. DID YOU SMELL ANY ALCOHOL ON HIS BREATH, IS THAT
- 11 A WAY YOU COULD HAVE DETERMINED WHETHER HE HAD
- 12 DRUNK ANYTHING?
- 13 A. THAT'S RIGHT, I DID NOT SMELL IT.
- 14 Q. YOU DID NOT.
- 15 A. RIGHT.
- 16 Q. IS THERE CERTAIN ALCOHOL THAT YOU DON'T DETECT
- 17 ON THE BREATH VERY READILY?
- 18 A. NOT THAT I'M AWARE OF.
- 19 Q. SAY VODKA?
- 20 A. I'M SORRY?
- 21 Q. SAY VODKA?
- 22 A. I'M SURE I COULD PROBABLY SMELL VODKA ON
- 23 SOMEBODY'S BREATH.
- 24 Q. YOU THINK SO?
- 25 A. YES, SIR, I DO.

MEREDITH L. MOON - CROSS BY MR. HANCOCK

1630

1 Q. NOW, ON THIS EVENING YOU DON'T SEEM TO HAVE --
2 DID YOU MAKE IT A HABIT OF LYING? DO YOU MAKE
3 THAT A HABIT, MA'AM?

4 A. NO, SIR, I DO NOT.

5 Q. YOU DO NOT. WELL, ON THIS EVENING JUST TO
6 START, YOU LIED TO YOUR DADDY, IS THAT CORRECT?

7 A. YES, SIR. BUT UNDER THE CIRCUMSTANCES I FELT IT
8 WAS OKAY; I DID NOT WANT MY PARENTS -- I DID NOT
9 WANT MY DAD TO THINK THAT I WAS GOING UP TO
10 PHILADELPHIA WITH A GUY WHO HE DID NOT KNOW.
11 SO, I CHOSE TO TELL A LIE TO HIM.

12 Q. OKAY. AND YOU ALSO CHOSE, TO FURTHER WHAT YOU
13 WERE DOING, YOU CHOSE TO TELL A LIE TO YOUR BEST
14 FRIEND, ERIN; IS THAT CORRECT?

15 A. YES, SIR, THAT IS CORRECT.

16 Q. AND YOU HAD NO TROUBLE DOING THAT EVIDENTLY.

17 A. ACTUALLY I DID; I DO NOT LIE TO MY BEST FRIEND,
18 BUT I DID ON THAT OCCASION.

19 Q. BUT YOU DECIDED SINCE IT WAS CONVENIENT THAT YOU
20 WOULD JUST GO AHEAD AND TELL THAT LIE; IS THAT
21 RIGHT?

22 A. TO SOME EXTENT.

23 Q. IT WAS EASIER TO TELL A LIE THAN IT WOULD HAVE
24 BEEN TO FACE THE CONSEQUENCES, WOULDN'T IT?

25 A. THAT IS CORRECT.

MEREDITH L. MOON - CROSS BY MR. HANCOCK

1631

1 Q. IS THAT WHAT YOU'RE DOING NOW?

2 A. NO, SIR, IT'S NOT.

3 Q. IT'S NOT?

4 A. EVERYTHING THAT I HAVE SAID TODAY, I HAVE ALSO
5 TOLD MY ATTORNEYS. I AM NOT SAYING ANYTHING JUST
6 BECAUSE MR. POPE OR MR. BRACKETT WANT ME TO.
7 EVERYTHING THAT I'VE SAID TODAY AND WILL SAY
8 TODAY I HAVE SAID TO MY ATTORNEYS BEFORE MANY
9 TIMES.

10 Q. BECAUSE IT'S TO YOUR ADVANTAGE.

11 A. NOT NECESSARILY. I HAVE SAID STUFF TODAY THAT
12 HAS INCRIMINATED MYSELF.

13 Q. YES, MA'AM, BUT YOU ALSO GAVE A STATEMENT TO THE
14 PHILADELPHIA POLICE THAT WAS NOT THE ENTIRE
15 TRUTH. AND YOU'VE SAID THAT, HAVEN'T YOU?

16 A. YES, SIR.

17 Q. AND IN THAT STATEMENT YOU MENTIONED THAT JIM
18 SAID HE WAS GOING TO KILL HIS PARENTS, I
19 BELIEVE, BECAUSE OF EMOTIONAL ABUSE?

20 A. HE HAD MENTIONED THAT ALSO.

21 Q. BUT NOWHERE IN THERE DO YOU SAY ANYTHING ABOUT
22 THE INSURANCE, DO YOU?

23 A. I DON'T BELIEVE I DID.

24 Q. AND NOWHERE IN ANY OTHER STATEMENT PRIOR TO THIS
25 HAVE YOU SAID ANYTHING ABOUT ANY INSURANCE OR

MEREDITH L. MOON - CROSS BY MR. HANCOCK

1632

1 OTHERWISE, HAVE YOU, MA'AM?

2 A. I DON'T THINK I HAVE.

3 Q. NOW, YOU SAID SOMETHING THAT I JUST WANT TO
4 CLARIFY. WHEN Y'ALL WERE GOING UP THE ROAD TO
5 PENNSYLVANIA YOU SAID THAT JIMMY SAID -- NOW,
6 CHIP'S HIS BROTHER, RIGHT?

7 A. YES, SIR.

8 Q. AND CHIP IS THE ONE THAT Y'ALL WERE GOING TO SEE
9 IN PHILADELPHIA?

10 A. YES, SIR.

11 Q. AND HE SAID THIS WOULD MAKE CHIP PROUD?

12 A. HE SAID, AND THESE ARE HIS WORDS EXACTLY BECAUSE
13 I REMEMBER IT VERY WELL, "CHIP'S GOING TO BE SO
14 PROUD". HE SAID THAT OVER AND OVER AGAIN.

15 Q. THAT'S RIGHT BECAUSE YOU SAID IN YOUR STATEMENT
16 -- EARLIER YOU SAID CHIP WAS GOING TO BE SO
17 PROUD OR CHIP -- JUST GIVE ME EXACTLY WHAT YOU
18 REMEMBER.

19 A. "CHIP'S GONNA TO BE SO PROUD".

20 Q. CHIP'S GONNA BE SO PROUD.

21 A. IT COULD HAVE BEEN GONNA, IT COULD HAVE BEEN
22 GOING, BUT IT WAS SOMETHING TO THAT EXTENT.

23 Q. BUT THAT'S THE SUBSTANCE OF THAT STATEMENT?

24 A. YES, SIR, IT WAS.

25 Q. DID THAT NOT STRIKE YOU AS STRANGE?

MEREDITH L. MOON - CROSS BY MR. HANCOCK

1633

1 A. YES, IT DID.

2 Q. DID THAT STRIKE YOU AS A RATIONAL THOUGHT?

3 A. FROM TALKS THAT JIM HAD HAD WITH OTHER PEOPLE
4 AND MYSELF OVER THE PAST COUPLE OF MONTHS, NO,
5 THAT REALLY DID NOT STRIKE ME AS AN IRRATIONAL
6 THOUGHT.

7 Q. SO, WHAT MAY BE RATIONAL TO JIM WOULD APPEAR
8 IRRATIONAL TO EVERYONE ELSE; IS THAT CORRECT?

9 A. NO, SIR.

10 Q. BUT THAT'S RATIONAL THAT HE WOULD KILL HIS
11 PARENTS SO THAT HE COULD GET THE APPROVAL OF HIS
12 BROTHER? YOU'RE SAYING THAT'S RATIONAL?

13 A. NOT TO ME, MAYBE TO HIM.

14 Q. SO WHAT IS RATIONAL TO YOU MAY NOT BE THE SAME
15 THING -- WOULD BE RATIONAL TO HIM AT THAT TIME;
16 IS THAT CORRECT, MA'AM?

17 A. THAT'S A POSSIBILITY.

18 Q. IN FACT, IT'S BIZARRE, ISN'T IT; IT'S WEIRD.

19 A. TO SOME EXTENT.

20 Q. NOW YOU ALSO INDICATED THAT YOU SAW CHIP WITH
21 HIS DAD'S WALLET, IS THAT CORRECT?

22 A. NO, SIR.

23 Q. I MEAN NOT CHIP, I'M SORRY, JIMMY.

24 A. THAT IS CORRECT.

25 Q. DID YOU ACTUALLY SEE HIM -- YOU DIDN'T SEE HIM

MEREDITH L. MOON - CROSS BY MR. HANCOCK

1634

1 TAKE THE CREDIT CARD OUT OF THE WALLET, DID YOU?

2 A. YES, SIR, I DID.

3 Q. YOU SAW HIM TAKE THE CREDIT CARD PHYSICALLY OUT
4 OF THE WALLET?

5 A. YES, SIR, I DID.

6 Q. YOU DIDN'T SAY WHERE HE PUT IT. WHERE DID HE
7 PUT IT?

8 A. I DON'T KNOW.

9 Q. WELL, YOU SAW HIM TAKE IT OUT OF THE POCKET, YOU
10 SAW HIM PUT IT SOMEWHERE.

11 MR. BRACKETT: OBJECTION. THAT'S A
12 MISCHARACTERIZATION; SHE NEVER TESTIFIED SHE SAW HIM TAKE
13 IT OUT OF A POCKET.

14 Q. OUT OF THE WALLET. WELL, IF HE TOOK SOMETHING
15 OUT OF THE WALLET, WHAT DID HE DO WITH THE
16 WALLET?

17 A. I DON'T KNOW.

18 Q. SO, YOU'RE TELLING US THAT YOU SAW HIM TAKE THE
19 CREDIT CARD OUT OF THE WALLET. WHICH HAND DID
20 HE TAKE THE CREDIT CARD OUT OF THE WALLET WITH
21 MA'AM?

22 A. I WASN'T PAYING THAT MUCH ATTENTION, SIR.

23 Q. AND IN WHICH HAND DID HE HAVE THE WALLET?

24 A. I COULDN'T TELL YOU.

25 Q. AND WHERE DID HE PUT THE WALLET?

MEREDITH L. MOON - CROSS BY MR. HANCOCK

1635

1 A. I HAVE NO IDEA.

2 Q. SO, YOU HAVE NO IDEA -- YOU'RE TELLING THIS JURY
3 THAT YOU SAW HIM TAKE A CREDIT CARD OUT OF HIS
4 FATHER'S WALLET, BUT YOU DON'T KNOW WHERE THE
5 WALLET WAS, YOU DON'T KNOW WHERE HE PUT THE
6 WALLET, YOU DON'T KNOW WHICH HAND HE HAD THE
7 WALLET IN, YOU DON'T KNOW WHERE HE PUT THE
8 CREDIT CARD, BUT YOU SAW HIM DO IT.

9 A. YES, SIR. I ALSO SAW HIM DUMP EVERYTHING OUT OF
10 HIS MOM'S PURSE WHICH WAS RIGHT BY THE POOL
11 TABLE.

12 MR. HANCOCK: THAT'S NOT THE QUESTION, YOUR
13 HONOR. SHE'S GOING FURTHER THAN THE QUESTION. I WOULD ASK
14 THAT SHE RESTRICT HER ANSWERS JUST TO MY QUESTION.

15 THE COURT: JUST ANSWER THE QUESTION.

16 A. YES, YOUR HONOR.

17 MR. BRACKETT: YOUR HONOR, SHE IS ALLOWED TO
18 EXPLAIN HER ANSWER. I DON'T WANT HER TO WALK AWAY WITH THE
19 MISCONCEPTION THAT SHE CAN'T DO THAT.

20 MR. HANCOCK: I DON'T EITHER, YOUR HONOR, AS LONG
21 AS IT IS RESPONSIVE.

22 THE COURT: I THINK SHE KNOWS. GO AHEAD.

23 MR. HANCOCK: I BEG THE INDULGENCE OF THE COURT
24 FOR ONE MOMENT.

25 (AFTER A BRIEF PAUSE.)

MEREDITH L. MOON - CROSS BY MR. HANCOCK

1636

1 Q. I'M REFERRING TO STATE'S EXHIBIT 25, IS THIS FOR
2 I.D. OR HAS IT BEEN MOVED INTO EVIDENCE?

3 MR. POPE: IT'S FOR I.D. AT THIS TIME.

4 Q. FOR I.D. AT THIS TIME, YOUR HONOR.

5 MR. POPE: THE STATE HAS NO OBJECTION TO THE
6 DEFENSE MOVING IT INTO EVIDENCE, BUT IT HAS NOT BEEN MOVED
7 IN YET.

8 Q. MS. MOON, DO YOU RECOGNIZE THIS AND I'M
9 REFERRING TO -- EXCUSE ME. THERE'S MORE THAN
10 ONE OBJECT IN HERE, THERE'S A NOTEBOOK BUT IT'S
11 ALL DESIGNATED AS STATE'S 25 FOR I.D. AT THIS
12 TIME.

13 Q. DO YOU RECOGNIZE THIS LIST?

14 A. NO, SIR, I DO NOT.

15 Q. THAT'S NOT A LIST THAT YOU RECOGNIZE AT ALL?

16 A. NO, SIR.

17 Q. OKAY, THE LIST THAT WAS ON THE TABLE, YOU
18 INDICATED -- DID YOU WRITE THAT LIST?

19 A. NO, SIR, I DID NOT.

20 Q. DID YOU WRITE ANY LIST THAT EVENING AT ALL?

21 A. I WROTE SOMETHING ON A PIECE OF PAPER, YES.

22 Q. AND WHAT WAS IT?

23 A. IT SAID ALARM CLOCK, WIPE BLOOD FROM DOWNSTAIRS
24 DOORKNOB AND DISPOSE OF YARD RAKE.

25 Q. WAS THAT WHAT YOU PLANNED TO DO?

MEREDITH L. MOON - CROSS BY MR. HANCOCK

1637

1 A. NO, SIR.

2 Q. WELL, THEN WERE YOU NOT USING THAT LIST AS A
3 REMINDER OF WHAT YOU HAD TO DO?

4 A. JIM TOLD ME TO WRITE THAT ON THE LIST.

5 Q. HAVE YOU SEEN THAT LIST?

6 A. I DON'T THINK I HAVE SEEN AN ORIGINAL COPY OF IT
7 YET.

8 Q. WELL, EXACTLY, AND I DON'T REMEMBER YOU TELLING
9 THE SOLICITOR AND MAYBE MY MEMORY IS AT FAULT,
10 BUT I DON'T REMEMBER YOU TELLING THE SOLICITOR
11 THAT YOU SAT DOWN WITH JIMMY AND WROTE A LIST.
12 YOU DIDN'T TELL HIM THAT, RIGHT?

13 A. NO, SIR. I CANNOT REMEMBER THE TIME NOR THE
14 PLACE THAT I WROTE ON THAT LIST.

15 Q. SO YOU'VE WRITTEN A LIST NOW AND YOU DON'T
16 REMEMBER A TIME OR A PLACE THAT YOU WROTE THE
17 LIST?

18 A. NO, SIR, I DO NOT.

19 Q. MA'AM, I'M NOT GOING TO BROWBEAT YOU, I JUST
20 WANT TO ASK ONE OTHER QUESTION. YOU'VE WRITTEN A
21 LIST THAT YOU'RE SUPPOSED TO CLEAN UP BLOOD AT
22 JIMMY'S PARENTS AND YOU'RE TELLING THIS JURY YOU
23 DON'T REMEMBER WHERE OR WHEN YOU WROTE THIS
24 LIST?

25 A. THAT IS CORRECT. AND IT WASN'T A LIST THAT I

MEREDITH L. MOON - CROSS BY MR. HANCOCK

1638

1 WAS SUPPOSED TO DO; IT WAS A LIST OF WHAT JIM
2 WAS SUPPOSED TO DO.

3 Q. BUT YOU REMEMBER THAT SUCCINCTLY, DON'T YOU?

4 A. YES, I DO.

5 Q. NOW, AGAIN -- YOU WERE WEARING A SWEATER THAT
6 EVENING, IS THAT CORRECT?

7 A. THAT IS CORRECT.

8 Q. AND I BELIEVE IN YOUR STATEMENT TO THE
9 PHILADELPHIA POLICE, THE POLICE OFFICER LOOKED
10 AT YOU AND SAID THERE'S BLOOD ON THAT SWEATER
11 YOU'VE GOT ON; ISN'T THAT CORRECT?

12 A. YES, SIR, THERE WAS A LITTLE SMUDGE OF BLOOD.

13 Q. A LITTLE SMUDGE OF BLOOD?

14 A. YES.

15 Q. IT WAS ON WHICH ARM?

16 A. I DO BELIEVE THE RIGHT UPPER ARM RIGHT THERE.

17 Q. WHERE DID THAT BLOOD COME FROM?

18 A. TO TELL YOU THE TRUTH, I HAVE NO IDEA. IT COULD
19 HAVE CAME -- THERE COULD HAVE BEEN A LOT OF
20 PLACES WHERE IT COULD HAVE COME FROM. THE BEST
21 GUESS I HAVE IS THAT IT CAME FROM THE BAG WHEN I
22 WAS TOTING THE BAG.

23 Q. BUT YOU DON'T KNOW, IS THAT RIGHT? BUT YOU HAD
24 BLOOD ON YOU.

25 A. RIGHT.

MEREDITH L. MOON - REDIRECT BY MR. BRACKETT

1639

1 Q. THE END RESULT IS THAT YOU GOT BLOOD ON YOUR
2 SWEATER, ISN'T IT?

3 A. RIGHT.

4 Q. I HAVE NOTHING FURTHER, YOUR HONOR.

5 THE COURT: REDIRECT?

6 MR. BRACKETT: YES, SIR, YOUR HONOR. YOUR
7 HONOR, I WOULD ASK THAT THIS PHOTOGRAPH BE MARKED AS
8 STATE'S EXHIBIT, I DON'T KNOW WHAT NUMBER WE'RE UP TO, BUT
9 FOR IDENTIFICATION. 169.

10 THE COURT: FOR I.D.?

11 MR. BRACKETT: YES, SIR.

12 (A PHOTOGRAPH OF MEREDITH MOON WAS MARKED STATE'S EXHIBIT
13 169 FOR IDENTIFICATION.)

14 REDIRECT EXAMINATION BY

15 MR. BRACKETT:

16 Q. MS. MOON, I'M SHOWING YOU A PHOTOGRAPH THAT'S
17 BEEN MARKED STATE'S EXHIBIT 169 FOR
18 IDENTIFICATION. TAKE A LOOK AT THAT PHOTOGRAPH
19 AND TELL ME IF YOU RECOGNIZE WHO'S IN IT?

20 A. I RECOGNIZE FOUR OUT OF THE SIX PEOPLE.

21 Q. ARE YOU IN THAT PHOTOGRAPH?

22 A. YES, I AM.

23 Q. IS JIMMY IN THAT PHOTOGRAPH?

24 A. YES, HE IS.

25 Q. AS YOU APPEAR IN THAT PHOTOGRAPH, IS THAT HOW

MEREDITH L. MOON - REDIRECT BY MR. BRACKETT

1640

1 YOU APPEARED AROUND THE TIME OF THE MURDER?

2 A. YES, SIR, IT WAS.

3 Q. AND IS THAT YOUR APPROXIMATE SIZE? MR. HANCOCK
4 WAS ASKING YOU ABOUT YOUR WEIGHT; IS THAT ABOUT
5 HOW BIG YOU WERE?

6 A. YES, SIR, IT WAS.

7 MR. BRACKETT: YOUR HONOR, I ASK THAT STATE'S
8 EXHIBIT 169 FOR IDENTIFICATION BE MOVED INTO EVIDENCE AT
9 THIS TIME.

10 MR. HANCOCK: WITHOUT OBJECTION, YOUR HONOR.

11 THE COURT: IT WILL BE RECEIVED WITHOUT
12 OBJECTION.

13 MR. BRACKETT: WOULD YOU HAND IT TO THE COURT
14 REPORTER, PLEASE?

15 (THE PHOTOGRAPH OF MEREDITH MOON WAS MARKED IN EVIDENCE AS
16 STATE'S EXHIBIT 169 WITHOUT OBJECTION.)

17 Q. MR. HANCOCK ASKED YOU ABOUT TAKING RITALIN AND
18 ITS AFFECTS ON YOU. DID YOU KNOW WHAT WAS GOING
19 ON AT 2506 WESTMINSTER DRIVE IN THE EARLY
20 MORNING HOURS OF NOVEMBER 25TH, 1997?

21 A. YES, I DID.

22 Q. DID YOU REALIZE WHAT WAS GOING ON WAS WRONG?

23 A. YES, SIR, I DID.

24 Q. DID YOU KNOW WHERE YOU WERE?

25 A. YES, SIR.

MEREDITH L. MOON - REDIRECT BY MR. BRACKETT

1641

1 Q. DID YOU KNOW WHAT WAS HAPPENING?

2 A. YES, SIR.

3 Q. WERE YOU SCARED?

4 A. YES, SIR, I WAS.

5 Q. MR. HANCOCK ASKED YOU ALSO ABOUT INSURANCE, THE
6 QUESTION ABOUT INSURANCE AND NOT HAVING THAT IN
7 YOUR STATEMENT. I'M CALLING YOUR ATTENTION TO
8 THAT ASPECT OF HIS CROSS EXAMINATION. WHEN WAS
9 THE FIRST TIME YOU WERE ASKED ABOUT INSURANCE?
10 WHO ASKED YOU FOR THE FIRST TIME ABOUT
11 INSURANCE?

12 A. ACTUALLY I REALLY CAN'T REMEMBER.

13 Q. DID ANY LAW ENFORCEMENT OFFICERS EVER ASK YOU
14 ABOUT INSURANCE?

15 MR. HANCOCK: YOUR HONOR, SHE'S ALREADY ANSWERED
16 THE QUESTION.

17 THE COURT: I SUSTAIN THE OBJECTION.

18 Q. MR. HANCOCK ASKED YOU ABOUT THE STATEMENTS HE
19 WAS MAKING, THIS IS GOING TO MAKE CHIP PROUD,
20 AND ABOUT THOSE BEING IRRATIONAL STATEMENTS.
21 AND YOU SAID IN YOUR CROSS EXAMINATION TESTIMONY
22 THAT THAT DID NOT STRIKE YOU AS IRRATIONAL AND
23 YOU TALKED ABOUT THINGS THAT HAD HAPPENED IN THE
24 MONTHS BEFORE. ELABORATE ON THAT FOR THE JURY
25 PLEASE, AND TELL THEM WHY THAT DID NOT STRIKE

MEREDITH L. MOON - REDIRECT BY MR. BRACKETT

1642

1 YOU AS IRRATIONAL.

2 A. CHIP HAD -- I'M SORRY. JIM HAD TALKED ABOUT
3 KILLING HIS PARENTS MANY TIMES BEFORE. I GUESS
4 IT JUST BECAME HABIT TO HEAR THAT COMING FROM
5 HIS MOUTH. IT DIDN'T STRIKE ME AS ODD ANYMORE
6 THAN IF HE WAS SAYING I'M GOING TO GO TO THE
7 STORE AND GET SOME BEER. IT DID NOT STRIKE ME
8 AS ODD.

9 Q. WHAT ABOUT CHIP BEING PROUD, WHY ISN'T THAT
10 IRRATIONAL?

11 A. CHIP'S NAME HAD BEEN MENTIONED IN HIS
12 CONVERSATIONS QUITE A FEW TIMES.

13 Q. OKAY. NOW, MR. HANCOCK ALSO ASKED YOU ABOUT
14 EMOTIONAL ABUSE AND JIMMY HAVING SAID SOMETHING
15 ABOUT EMOTIONAL ABUSE AS A REASON FOR KILLING
16 HIS PARENTS. COULD YOU EXPLAIN IN A LITTLE MORE
17 DETAIL, WHAT DID JIMMY SAY ABOUT HIS PARENTS
18 WHEN HE TALKED ABOUT THEM?

19 A. HE SAID THAT WHEN HE WAS GROWING UP IN HIGH
20 SCHOOL THAT THEY DIDN'T GIVE HIM MUCH FREEDOM
21 THAT MOST PARENTS DO TO GO OUT AND PARTY AND DO
22 A LOT OF THINGS WITH FRIENDS. HE SAID THAT HE
23 DIDN'T HAVE THAT KIND OF FREEDOM THAT MOST
24 TEENAGERS HAD.

25 Q. AND THIS STATEMENT WAS SAID IN THE CONTEXT OF

MEREDITH L. MOON - REDIRECT BY MR. BRACKETT

1643

1 WHAT CONVERSATION?

2 A. MANY CONVERSATIONS.

3 Q. BUT WAS IT -- YOU TESTIFIED THAT THIS WAS DURING
4 WHEN HE WAS TALKING ABOUT KILLING HIS PARENTS?

5 MR. HANCOCK: OBJECTION, YOUR HONOR.

6 THE COURT: I SUSTAIN THE OBJECTION.

7 Q. WHEN WAS HE SAYING THIS TO YOU?

8 A. HE HAD NOT SAID IT ON THAT NIGHT OR THAT
9 MORNING, HE HAD SAID IT ON PREVIOUS OCCASIONS.

10 Q. HOW MANY TIMES?

11 A. I'D SAY THREE OR FOUR.

12 Q. MR. HANCOCK ASKED YOU ABOUT A LIST, WIPE
13 DOORKNOB, ALARM CLOCK AND WHAT WAS THE OTHER
14 THING?

15 A. DISPOSE OF YARD RAKE.

16 Q. OKAY. YOU INDICATED THAT YOU WROTE A LIST OUT
17 SAYING THOSE THINGS?

18 A. I WROTE -- YES. IT WASN'T A LIST OF ITS OWN,
19 BUT IT WAS ON ANOTHER PIECE OF PAPER.

20 Q. ON A PIECE OF PAPER.

21 A. THAT HAD MORE ITEMS ON IT.

22 Q. NOW, WHEN WAS THE LAST TIME YOU SAW THE SWEATER
23 THAT THEY TOOK OFF OF YOU?

24 A. WHEN I WAS UP IN PHILADELPHIA.

25 MR. BRACKETT: COURT'S INDULGENCE.

MEREDITH L. MOON - REDIRECT BY MR. BRACKETT

1644

(AFTER A BRIEF PAUSE.)

Q. I'M SHOWING YOU WHAT'S BEEN MARKED STATE'S
EXHIBIT 87 IN EVIDENCE. WHAT IS THIS ITEM?

A. THAT'S THE SWEATER THAT I WAS WEARING.

Q. AND CAN YOU DESCRIBE -- DO YOU KNOW WHERE THE
BLOOD WAS ON THE SWEATER?

A. IT WAS ON THE SLEEVE, RIGHT THERE.

Q. DO YOU KNOW HOW BIG THE SPOT WAS?

A. I WOULD SAY MAYBE ABOUT THE SIZE OF A QUARTER.
THAT'S HOW I REMEMBER IT.

Q. AND ON THE FRONT IS THERE ANY BLOOD?

A. NOT THAT I CAN SEE.

Q. DID YOU EVER CHANGE CLOTHES FROM THE TIME YOU
WENT TO JIMMY'S TO THE TIME THEY TOOK THIS OFF
OF YOU IN PHILADELPHIA?

A. NO, SIR, I DID NOT.

Q. THANK YOU VERY MUCH.

THE COURT: RECROSS?

RECROSS EXAMINATION BY

MR. HANCOCK:

Q. MS. MOON, I'LL JUST ASK YOU, YOU SAY THAT YOU
HAD THESE CONVERSATIONS WITH JIMMY CONCERNING
HIS PARENTS; IS THAT CORRECT?

A. YES, SIR.

Q. AND YOU NEVER WARNED ANYBODY?

MEREDITH L. MOON - RECROSS BY MR. HANCOCK

1645

1 A. NO, SIR, I DID NOT.

2 Q. YOU NEVER TOLD HIS PARENTS?

3 A. NO, SIR. ONLY BECAUSE THAT I HAD HEARD ---

4 MR. HANCOCK: YOUR HONOR, SHE'S NOT ANSWERING THE
5 QUESTION.

6 THE COURT: LET HER FINISH HER ANSWER. GO AHEAD,
7 ANSWER THE QUESTION.

8 A. ONLY BECAUSE IT HAD COME -- NOBODY TOOK HIM
9 SERIOUSLY. I MEAN LIKE HE WAS TALKING OUT OF
10 HIS HEAD. NOBODY TOOK -- I'M NOT THE ONLY ONE
11 THAT HE HAD THESE CONVERSATIONS WITH.

12 Q. LIKE HE WAS TALKING OUT OF HIS HEAD?

13 A. RIGHT.

14 Q. DID HE DO THAT OFTEN?

15 A. TO SOME EXTENT, YES, SIR, HE DID.

16 Q. TO SOME EXTENT HE RANTED, HE RAVED, HE WAS KIND
17 OF MANIC, WASN'T HE?

18 A. I WOULDN'T GO SO FAR AS TO SAY HE WAS RANTING
19 AND RAVING; NO, SIR.

20 Q. THEN HOW WOULD YOU DESCRIBE HIM WHEN YOU SAY
21 HE'S OUT OF HIS HEAD?

22 A. JUST TALKING LIKE, LIKE HE REALLY WASN'T GOING
23 TO DO IT, LIKE HE WASN'T REALLY SERIOUS.

24 Q. SO, THE WHOLE THING, DID IT SEEM WEIRD TO YOU?

25 A. AT FIRST.

MEREDITH L. MOON - RECROSS BY MR. HANCOCK

1646

1 Q. AND YOU SAID IT WASN'T IRRATIONAL?

2 A. BUT I HAD HEARD IT SO MANY TIMES. A LOT OF
3 PEOPLE HAD HEARD IT SO MANY TIMES.

4 Q. I HAVE NO FURTHER QUESTIONS.

5 THE COURT: YOU MAY STEP DOWN. THANK YOU.
6 MEMBERS OF THE JURY PANEL, I BELIEVE YOUR LUNCH, IF IT'S
7 NOT HERE, IT SHOULD BE HERE SHORTLY. WE'RE USUALLY GOING
8 TO TRY TO STICK TO AN HOUR FOR LUNCH BUT WE'RE GOING TO
9 TAKE A LITTLE BIT LONGER TODAY, PROBABLY AN HOUR AN A HALF
10 BECAUSE OUR NEXT WITNESS, AS I UNDERSTAND IT, IS GOING TO
11 BE TESTIFYING, MR. POPE AM I CORRECT, ABOUT SOME OF THESE
12 EXHIBITS.

13 MR. POPE: YES, SIR.

14 THE COURT: AND AS YOU'VE SEEN, THERE ARE QUITE
15 A FEW AND I'M GOING TO GIVE THE PROSECUTION A LITTLE BIT OF
16 TIME TO GET EVERYTHING SORT OF ORGANIZED SO THAT IT CAN BE
17 PRESENTED IN A MORE PROMPT FASHION. SO, WE WILL TAKE A
18 LITTLE EXTRA LONGER THAN WE USUALLY DO AT LUNCH.

19 FOLLOW THE BAILIFFS TO THE JURY ROOM.

20 IN CAMERA:

21 THE COURT: ANYTHING FROM THE STATE BEFORE WE
22 BREAK FOR LUNCH?

23 MR. POPE: NO, SIR, YOUR HONOR.

24 THE COURT: ANYTHING FROM THE DEFENSE?

25 MR. HANCOCK: NOTHING, YOUR HONOR.

BRETT BAKER - DIRECT BY MR. POPE

1647

1 THE COURT: WE WILL BE AT EASE UNTIL 2:00
2 O'CLOCK.

3 AFTER THE LUNCHEON RECESS (IN CAMERA):

4 THE COURT: IS THE STATE READY FOR THE JURY?

5 MR. POPE: YES, YOUR HONOR.

6 THE COURT: THE DEFENSE?

7 MR. BOYD: YES, SIR, YOUR HONOR.

8 THE COURT: BRING IN THE JURY.

9 IN THE PRESENCE OF THE JURY:

10 THE COURT: ALL 14 JURORS ARE PRESENT. GOOD
11 AFTERNOON. MR. POPE?

12 MR. POPE: MAY IT PLEASE THE COURT, YOUR HONOR,
13 THE STATE WOULD CALL BRETT BAKER TO THE STAND.

14 BRETT BAKER, BEING FIRST DULY SWORN, TESTIFIED AS
15 FOLLOWS:

16 DIRECT EXAMINATION BY

17 MR. POPE:

18 Q. OFFICER BAKER, IF YOU COULD, STATE YOUR NAME AND
19 SPELL YOUR LAST NAME FOR THE COURT REPORTER
20 PLEASE, SIR.

21 A. MY NAME IS BRETT BAKER, THE LAST NAME B-A-K-E-R.

22 Q. OFFICER BAKER, COULD YOU TELL THE JURY WHERE
23 YOU'RE EMPLOYED?

24 A. I WORK AT THE SOUTH CAROLINA LAW ENFORCEMENT
25 DIVISION, COMMONLY KNOWN BY THE ACRONYM SLED,

BRETT BAKER - DIRECT BY MR. POPE

1648

1 MORE SPECIFICALLY I WORK IN THE LATENT PRINT
2 CRIME SCENE DEPARTMENT.

3 Q. COULD YOU TELL THE JURY HOW LONG YOU'VE BEEN
4 WITH THE SOUTH CAROLINA LAW ENFORCEMENT
5 DIVISION?

6 A. I'VE BEEN WITH THE SOUTH CAROLINA LAW
7 ENFORCEMENT DIVISION FOR APPROXIMATELY SEVEN
8 YEARS.

9 Q. YOU TALKED ABOUT A PARTICULAR DEPARTMENT, LATENT
10 AND CRIME SCENE; IS THAT CORRECT?

11 A. YES, SIR. I WORK IN THE LATENT PRINT CRIME
12 SCENE DEPARTMENT.

13 Q. COULD YOU TELL THE JURY WHAT THAT FIELD ENTAILS,
14 WHAT IT IS YOU ACTUALLY DO?

15 A. CERTAINLY. SIMPLY PUT, THE LATENT PRINT CRIME
16 SCENE DEPARTMENT IS THAT DEPARTMENT WHICH WILL
17 ASSIST STATE, LOCAL AND FEDERAL LAW ENFORCEMENT
18 AGENCIES. IT WILL ASSIST THEM WITH CRIME SCENE
19 PROCESSING AND/OR CRIME SCENE RECONSTRUCTIONS.
20 AND THAT'S STATEWIDE AUTHORITY.

21 Q. AND WHAT TYPE OF BACKGROUND, EDUCATION AND
22 TRAINING DO YOU HAVE THAT ALLOWS YOU TO DO THIS?

23 A. AGAIN, I'VE BEEN AT SLED FOR SEVEN YEARS. PRIOR
24 TO SLED, I GRADUATED FROM WESTERN CAROLINA
25 UNIVERSITY WITH A BACHELOR OR SCIENCE DEGREE IN

BRETT BAKER - DIRECT BY MR. POPE

1649

1 CRIMINAL JUSTICE.

2 ONCE YOU ENTER THE LATENT PRINT CRIME SCENE
3 DEPARTMENT, THERE'S A TWO YEAR TRAINING PROGRAM
4 THAT WE MUST COMPLETE. BASICALLY THAT'S AN
5 APPRENTICESHIP WHERE YOU WORK UNDER OTHER COURT
6 QUALIFIED SENIOR EXAMINERS. IN OTHER WORDS, YOU
7 WORK AT THEIR GUIDANCE ON CASES, ACTUAL CASES.
8 I'VE ALSO ATTENDED THE SOUTH CAROLINA CRIMINAL
9 JUSTICE ACADEMY WHERE I RECEIVED MY BASIC
10 TRAINING AS WELL AS MY BASIC TRAINING ALSO IN
11 FINGERPRINTS. I'VE ATTENDED SEVERAL OTHER
12 ADVANCE COURSES, SOME PUT ON BY THE F.B.I.,
13 NUMEROUS OTHER COURSES. CURRENTLY I HAVE
14 SOMEWHERE IN THE NEIGHBORHOOD OF FOUR THOUSAND
15 FORMALIZED HOURS OF TRAINING IN IMPRESSION
16 EVIDENCE AND CRIME SCENE EXAMINATIONS.

17 MR. POPE: YOUR HONOR, AT THIS TIME I TENDER
18 AGENT BAKER AS AN EXPERT IN LATENT PRINTS AND CRIME SCENE
19 ANALYSIS.

20 MR. BOYD: NO OBJECTION.

21 THE COURT: ALL RIGHT, I FIND WITHOUT OBJECTION
22 THAT HE IS AN EXPERT IN LATENT PRINT AND CRIME SCENE
23 ANALYSIS.

24 MEMBERS OF THE JURY PANEL, YOU REMEMBER WEDNESDAY
25 I GAVE YOU -- I GUESS IT WAS YESTERDAY MORNING ACTUALLY,

BRETT BAKER - DIRECT BY MR. POPE

1650

1 THE ANALOGY ABOUT SOMEONE WHO COULD GIVE OPINIONS AND I
2 GAVE YOU THE ANALOGY OF A PHYSICIAN. WELL, THIS IS ONE OF
3 THOSE WITNESSES THAT'S QUALIFIED AS AN EXPERT AND,
4 THEREFORE, CAN RENDER OPINIONS.

5 AND, AGAIN, WHEN I CHARGE YOU THE LAW, I WILL
6 TELL YOU HOW YOU ASSESS AND WEIGH AND FACTOR, LOOK AT SUCH
7 TESTIMONY.

8 BUT I HAVE QUALIFIED HIM IN THE AREA OF LATENT
9 PRINT AND CRIME SCENE ANALYSIS AND, THEREFORE, HE CAN GIVE
10 OPINIONS IN THAT FIELD.

11 Q. AGENT BAKER, AS PART OF YOUR DUTIES, DID YOU
12 HAVE AN OPPORTUNITY TO BE INVOLVED IN THE CASE
13 AT HAND, PARTICULARLY AS IT BEGAN NOVEMBER 25TH,
14 1997?

15 A. YES, SIR, I DID. AGAIN, THE LATENT PRINT CRIME
16 SCENE DEPARTMENT WILL ASSIST LOCAL AGENCIES WITH
17 CRIME SCENE PROCESSING AND/OR CRIME SCENE
18 RECONSTRUCTION.

19 SO, AT THEIR REQUEST, I RESPONDED TO YORK
20 COUNTY. MY PRIMARY RESPONSIBILITY AT THAT POINT
21 IS TO LOCATE, DOCUMENT AND COLLECT ANY AND ALL
22 PHYSICAL EVIDENCE WHICH MAY BE RELATED TO THE
23 CRIME OR CRIMES COMMITTED. AND ULTIMATELY CARRY
24 THAT EVIDENCE BACK TO THE STATE CRIME LABORATORY
25 UNTIL SUCH TIME AS IT CAN BE ANALYZED.

BRETT BAKER - DIRECT BY MR. POPE

1651

1 Q. IN ADDITION TO YOUR DEPARTMENT AT SLED, ARE
2 THERE OTHER VARIOUS DEPARTMENTS LIKE SEROLOGY OR
3 TRACE, VARIOUS OTHER DEPARTMENTS THAT DO FURTHER
4 EXAMINATION ONCE YOU RETURN THAT EVIDENCE?

5 A. THAT'S CORRECT. ANY EVIDENCE, FOR EXAMPLE
6 BALLISTICS, FIREARMS EXAMS, I WOULD BRING THE
7 EVIDENCE BACK FROM THE SCENE AND THEN MAKE SURE
8 THAT EVIDENCE IS DISTRIBUTED TO ITS RESPECTIVE
9 DEPARTMENTS, FIREARMS, ANYTHING WITH FIREARMS I
10 WOULD SEND TO THE FIREARMS DEPARTMENT.
11 SEROLOGY, DNA, I WOULD SEND THEIR APPROPRIATE
12 STUFF; TRACE ANALYSIS, YOU KNOW, THEIR PORTION
13 OF THE CRIME SCENE TO THEM. AS WELL AS ANY
14 FABRIC IMPRESSION, TIRE WEAR, FOOTWEAR, BLOOD
15 SPATTER EVIDENCE I WOULD KEEP. I ACTUALLY
16 CONDUCT THOSE EXAMINATIONS MYSELF AT SLED.

17 Q. SO, YOU GO OUT AND COLLECT IT. VARIOUS PEOPLE
18 TEST IT, BUT YOU ALSO HAVING A TESTING JOB, TOO,
19 AT SLED; IS THAT CORRECT?

20 A. THAT'S CORRECT. IN ADDITION TO WORKING CRIME
21 SCENES, I ALSO PERFORM ANALYSES. AGAIN, ON
22 FINGERPRINTS, TIRE TREADS, FOOTWEAR, BLOOD
23 SPATTER RECONSTRUCTIONS.

24 Q. OKAY. WHAT I WANT TO DO NOW, BEFORE WE GET INTO
25 SPECIFIC EVIDENCE, IF YOU COULD, WERE YOU

BRETT BAKER - DIRECT BY MR. POPE

1652

1 INVOLVED ON A NUMBER OF DAYS IN THIS PARTICULAR
2 CASE?

3 A. YES, SIR. APPROXIMATELY IT WAS -- IT WAS
4 APPROXIMATELY ABOUT FIVE DAYS.

5 Q. FIVE DIFFERENT DAYS?

6 A. FIVE DIFFERENT DAYS, CORRECT. I WAS INITIALLY
7 CALLED, I THINK IT WAS NOVEMBER 25TH OF '97.

8 Q. AND COMING IN AT NOVEMBER 25TH, DID YOU HAVE AN
9 OPPORTUNITY TO GO TO THE RESIDENCE AT 2506 AND
10 ACTUALLY DO WHAT YOU CALL PROCESS THE CRIME
11 SCENE?

12 A. YES, SIR. THAT WOULD ENTAIL FIRST AND FOREMOST
13 DOCUMENTING THE SCENE. SO, I WOULD GO THROUGH
14 IN A METHODICAL MANNER, LOOK FOR EVIDENCE, FIND
15 POTENTIAL EVIDENCE, PHOTOGRAPH THAT EVIDENCE AS
16 IT IS WHEN I ARRIVE.

17 Q. OKAY. AND LIKEWISE, THE CRIME SCENE, THE HOUSE
18 ITSELF, DID YOU ALSO HAVE AN OPPORTUNITY TO
19 PROCESS VEHICLES IN THIS CASE?

20 A. YES, SIR, I SURE DID.

21 Q. AND CAN YOU DESCRIBE FOR THE JURY WHAT THAT
22 ENTAILS, PROCESSING A VEHICLE, WHAT THAT MEANS.

23 A. PROCESSING A VEHICLE MEANS, BASICALLY AGAIN YOU
24 WOULD WANT TO DOCUMENT IT. AND THAT'S OF UTMOST
25 IMPORTANTANCE, IS TO DOCUMENT IT AS YOU FIND IT.

BRETT BAKER - DIRECT BY MR. POPE

1653

1 THEN YOU WOULD LOOK FOR OTHER PHYSICAL EVIDENCE,
2 YOU KNOW, ANY SEROLOGICAL FLUIDS, YOU KNOW,
3 WHETHER IT BE, DEPENDING ON THE APPROPRIATE
4 CASE, BLOOD, HAIRS, ANY BALLISTICS, ANYTHING
5 THAT MAY BE RELATED TO THE CRIME OR CRIMES
6 THAT'S RELEVANT TO THAT INVESTIGATION.
7 FINGERPRINTS, WE'D SEARCH FOR FINGERPRINTS,
8 THINGS OF THAT NATURE.

9 Q. IN PARTICULAR IN THIS CASE, DID YOU HAVE AN
10 OPPORTUNITY TO PROCESS MEREDITH MOON'S CAR THAT
11 WAS THERE AT THE SCENE?

12 A. YES, SIR, I DID.

13 Q. AND SUBSEQUENTLY, DID YOU HAVE THE OPPORTUNITY
14 TO GO UP TO PHILADELPHIA AND PROCESS THE RED
15 MAZDA THAT'S INVOLVED IN THIS CASE?

16 A. CORRECT, I DID GO TO PHILADELPHIA AND PROCESS
17 THE MAZDA.

18 Q. AND AGAIN, IN LIGHT OF THOSE DUTIES, AS YOU
19 EXPLAINED TO THE JURY, DID YOU ALSO HAVE AN
20 OPPORTUNITY TO RETRIEVE EVIDENCE, BOTH IN
21 PHILADELPHIA AND IN MARYLAND AND BRING THAT
22 EVIDENCE BACK TO SLED FOR TESTING?

23 A. YES, SIR. AGAIN, THE CRIME OCCURRED ON TUESDAY.
24 I THINK IT WAS A SATURDAY I LEFT EARLY THAT
25 MORNING, STOPPED IN MARYLAND WHERE I MET

BRETT BAKER - DIRECT BY MR. POPE

1654

1 DETECTIVE SERGEANT JOE BARKER WITH THE MARYLAND
2 STATE POLICE, OBTAINED THE EVIDENCE THAT WAS
3 RETRIEVED IN MARYLAND. I OBTAINED THAT EVIDENCE
4 FROM HIM.

5 FROM THERE I WENT ON TO PHILADELPHIA P.D. WHERE
6 I WAS ASSISTED BY SOME OF THEIR OFFICERS WITH
7 OBTAINING THE NECESSARY PAPERWORK, YOU KNOW,
8 SEARCH WARRANTS TO DO THE ANALYSIS OR PROCESSING
9 OF THE VEHICLE, AT WHICH POINT THEY TOOK ME TO
10 THE VEHICLE AND I PROCESSED THAT VEHICLE.

11 SO, IT WAS SEVERAL PLACES I DID GO AND COLLECT
12 EVIDENCE.

13 Q. I WANT TO CALL YOUR ATTENTION NOW BACK TO WHEN
14 YOU FIRST BECAME INVOLVED IN THE CASE AND
15 PARTICULARLY WHEN YOU WERE CALLED TUESDAY,
16 NOVEMBER 25TH, 1997 TO PROCESS THE HOUSE IN THIS
17 CASE.

18 COULD YOU RELATE TO THE JURY WHAT HAPPENED, HOW
19 YOU FOUND THE CRIME SCENE, WHAT OCCURRED WHEN
20 YOU ARRIVED?

21 A. AGAIN, I GOT THE CALL AT APPROXIMATELY 11:25
22 A.M. THAT MORNING. I ARRIVED ON THE SCENE
23 APPROXIMATELY 12:40 THAT SAME DAY, YOU KNOW, A
24 LITTLE OVER AN HOUR LATER.

25 WHEN I ARRIVED ON THE SCENE, I WAS MET BY

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1655

1 SEVERAL OFFICERS, INCLUDING OFFICER TIM HAGER
2 WITH THE YORK COUNTY SHERIFF'S OFFICE.

3 AT THAT TIME I WAS APPRISED OR BRIEFED ON WHAT
4 INFORMATION THEY HAD AT THAT POINT. I WAS
5 ADVISED THAT IT WAS A DOUBLE HOMICIDE SCENE. TO
6 BACK UP, I WAS ACTUALLY ADVISED WHEN I WAS
7 CALLED WHAT TYPE SCENE I WAS GOING TO, SO AT
8 THAT POINT I REQUESTED, I CALLED A SEROLOGIST,
9 TWO SEROLOGISTS AND TOOK ANOTHER ACTUAL EXAMINER
10 WITH ME.

11 IT'S MY DISCRETION ON ANY SCENE THAT I GO ON
12 WHAT MANPOWER IS ACTUALLY NEEDED TO, YOU KNOW,
13 PROPERLY DOCUMENT AND COLLECT EVIDENCE.

14 IN ANY EVENT, WE ARRIVED ON THE SCENE, WAS ONCE
15 AGAIN BRIEFED TO WHAT HAD BEEN FOUND, THE
16 CIRCUMSTANCES SURROUNDING THE FINDING OF THE
17 VICTIMS. AT WHICH POINT I THEN DID A WALK
18 THROUGH AND, YOU KNOW, THAT'S A CHANCE FOR AN
19 OFFICER TO SAY -- THE FIRST OFFICER THAT ARRIVED
20 ON THE SCENE CLEARED THE HOME AND SECURED IT, WE
21 WALKED ON THIS PATH, SO I COULD SEE IF ANYTHING
22 IS DISTURBED.

23 SO IT GIVES ME A CHANCE ALSO TO VISUALLY SEE
24 WHERE THE VICTIMS WERE LOCATED, ANY POTENTIAL
25 EVIDENCE AND ASSESS WHAT EVIDENCE NEEDS TO BE

BRETT BAKER - DIRECT BY MR. POPE

1656

1 COLLECTED FIRST TO REDUCE THE POTENTIAL FOR LOST
2 EVIDENCE.

3 Q. IN THIS PARTICULAR CASE, DID YOU ALSO PREPARE
4 THE DIAGRAMS THAT ARE STATE'S EXHIBIT 101 AND
5 102, AND WOULD THAT ASSIST YOU IN EXPLAINING TO
6 THE JURY WHAT YOU DID IN THE RESIDENCE?

7 A. YES, IT SURE WOULD.

8 MR. POPE: MAY IT PLEASE THE COURT, WE'RE TRYING
9 TO ATTEMPT TO NOT DIM THE LIGHTS BECAUSE WE'VE GOT A NUMBER
10 OF ITEMS OF EVIDENCE. WE ARE GOING TO TRY TO USE THIS
11 DIAGRAM WITH THE EASEL AND WE'LL PUT THE OTHER ONE UP AND
12 SEE HOW IT DOES.

13 MR. BOYD: COULD WE PUT THAT DOWN AT THE END
14 WHERE THE OTHER ONE WAS?

15 THE COURT: YES, SO THE DEFENDANT WILL BE ABLE TO
16 SEE. MOVE A LITTLE FURTHER BACK BECAUSE I'M NOT SURE THAT
17 ALL THE JURORS CAN SEE.

18 MR. POPE: YOUR HONOR, IT MAY BE BEST, THEN, THAT
19 WE JUST USE THE OVERHEAD THAT MR. BRACKETT USED BUT THE
20 DIFFICULTY WE'RE GOING TO HAVE IS THAT HE ALSO HAS A NUMBER
21 OF ITEMS OF EVIDENCE AND PHOTOS THAT WILL BE PRESENTED ON
22 THE SCREEN.

23 (AFTER A BRIEF PAUSE.)

24 Q. OFFICER, FIRST I'D ASK IF YOU COULD INDICATE TO
25 THE JURY, DID YOU ENTER ON THE UPPER FLOOR OR

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1657

1 THE LOWER FLOOR?

2 A. THIS IS A TWO STORY HOME ON THE SIDE OF A HILL,
3 BEING THAT THE UPPER LEVEL WOULD BE HERE, AND
4 THE LOWER LEVEL YOU WOULD ENTER FROM THE
5 BASEMENT.

6 I ENTERED FROM THE REAR LEVEL WHICH IS HERE.

7 MR. HANCOCK: IF YOU WILL MOVE JUST A LITTLE THIS
8 WAY.

9 A. I APOLOGIZE.

10 MR. HANCOCK: THANK YOU, SIR.

11 A. AGAIN, THIS IS A VIEW OF THE LOWER LEVEL, SO THE
12 DRIVEWAY WOULD ACTUALLY BE ON THIS SIDE HERE.
13 SO, I ARRIVED, WALKED DOWN THE DRIVEWAY. I
14 WALKED AROUND DOWN THE SIDE LOOKING FOR ANY
15 POSSIBLE EVIDENCE OUTSIDE THE HOME. AND WHAT WE
16 LOOK FOR THERE IS ANY FOOTWEAR OR TIRE TREAD
17 MARKS INDICATING THAT A VEHICLE HAD BACKED UP TO
18 A DOOR OR WHAT HAVE YOU. AND IT'S JUST STANDARD
19 THAT YOU DO A COMPLETE CIRCLE OF THE HOME
20 LOOKING FOR ANY POTENTIAL EVIDENCE.

21 I ENTERED THROUGH A LOWER LEVEL DOOR JUST TO THE
22 RIGHT OF THE FIREPLACE. THE SCREEN DOOR WAS
23 OPEN, THE INTERIOR DOOR WAS ALSO OPEN. THE
24 WINDOW WAS BROKEN OUT.

25 AS I ENTERED THE LOWER LEVEL, I COULD TELL THAT

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1658

1 THERE WERE SEVERAL MISCELLANEOUS ITEMS, CLOTHING
2 ON THE FLOOR, GLASS TRACKED ACROSS THE FLOOR
3 HERE.

4 AT THIS POINT, AGAIN, I WALKED THROUGH EVERY
5 ROOM JUST TO LOOK, TRYING TO GET A FEEL FOR HOW
6 THE PERSON LIVES, YOU KNOW. THERE IS NO ONE
7 THERE TO TELL YOU WHAT'S OUT OF PLACE, SO YOU
8 TRY TO GET A FEEL FOR WHAT'S OUT OF PLACE.

9 AGAIN, I WALKED THROUGH THE HOME LOOKING IN
10 EVERY ROOM, LOOKING IN THE BATHROOMS, CHECK THE
11 BATHTUB TO SEE IF IT'S DAMP TO THE TOUCH TO SEE,
12 YOU KNOW, HOW LONG POSSIBLY BEFORE A PERSON HAS
13 TAKEN A SHOWER, ANYTHING LIKE THAT. TO GIVE ME
14 SOME TYPE INDICATION OF WHAT'S GONE ON.

15 I WALKED DOWN THE HALL, UP THE STEPS. AGAIN,
16 THIS IS A POOL TABLE HERE. THIS IS LIKE A WET
17 BAR, STORAGE, THIS IS A SOFA, THIS WAS A TABLE
18 JUST INSIDE THE DOOR, THIS IS THE HALLWAY. HERE
19 IS A SMALL HALLWAY THAT ENTERS TO THE BATHROOM,
20 SO YOU COULD ENTER FROM THE GAMEROOM OR FROM THE
21 BEDROOM. THIS WAS ANOTHER GAMEROOM AND ALSO A
22 BED HERE.

23 I WENT INTO THE HALL, WENT UP THE STEPS -- DO
24 YOU WANT TO SHOW THE UPPER LEVEL?

25 Q. YES, SIR.

BRETT BAKER - DIRECT BY MR. POPE

1659

1 A. AGAIN, THE SAME ORIENTATION. YOU WOULD DRIVE
2 DOWN THE DRIVE, PULL INTO THE GARAGE IN THIS
3 MANNER HERE. AGAIN, I WALKED DOWN, ENTERED
4 THROUGH THAT LOWER LEVEL AND AS I DESCRIBED,
5 WALKED THROUGH THE HOME.
6 AS YOU COME UP THE STAIRS, THIS IS THE STAIRCASE
7 HERE. I'M JUST GOING TO BRIEFLY DESCRIBE EVERY
8 ROOM.
9 THIS IS A BACK PATIO, A BACK DECK. THIS IS THE
10 DEN, KITCHEN, EAT IN KITCHEN, A LAUNDRY ROOM,
11 GARAGE. THIS IS THE DINING ROOM HERE, A FORMAL
12 LIVING ROOM, A FOYER, A BATHROOM UPSTAIRS, THE
13 HALLWAY. YOU HAVE TWO BEDROOMS TO THE LEFT AND
14 THE MASTER BEDROOM TO THE RIGHT AND THEN, OF
15 COURSE, THE MASTER BATHROOM.
16 AGAIN, AS I ENTERED UP THE TOP OF THE STEPS IT
17 WAS IMMEDIATELY APPARENT THAT THERE'S BLOOD ALL
18 ABOUT THE UPPER PORTION OF THE STAIRCASE. AS I
19 CUT THE DOOR, I FOUND THE FIRST VICTIM. IT WAS
20 A WHITE MALE VICTIM LAYING FACE DOWN IN A POOL
21 OF BLOOD WITH HIS HANDS UP UNDER HIS CHEST, UP
22 UNDER HIS BODY.
23 AGAIN, I WALKED TO THE BACK MASTER BEDROOM AT
24 WHICH POINT I FOUND THE SECOND VICTIM WHICH WAS
25 LAYING JUST TO THE RIGHT OF THIS BED HERE. SHE

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1660

1 WAS LAYING FACE UP, HER FACE SLIGHTLY TURNED
2 TOWARDS THE BED, MULTIPLE WOUNDS AND BLOOD
3 THROUGHOUT, ALL OVER THE BED.

4 AGAIN, YOU KNOW, I WALKED THROUGH TRYING TO GET
5 A GENERAL FEEL TO SEE IF ANYTHING IS OUT OF
6 PLACE. THE CALL THAT WE GOT WAS INITIALLY A
7 BURGLARY, A POSSIBLE BURGLARY AND MURDER, A
8 DOUBLE HOMICIDE.

9 SO, I'M LOOKING FOR ANYTHING AND I CHECK EVERY
10 WINDOW AND EVERY DOOR. ALL THE DOORS EXCEPT THE
11 LOWER EXTERIOR LEVEL DOOR THAT I ENTERED WERE
12 KEY LOCKED FROM THE INSIDE. SO, EVERY DOOR WAS
13 LOCKED.

14 EVERY WINDOW WAS OPEN, I MEAN LOCKED, EXCUSE ME.
15 EVERY WINDOW WAS LOCKED EXCEPT A LOWER WINDOW
16 NEAR THE TABLE IN THE KITCHEN. AND, YOU KNOW, I
17 ASKED ABOUT THAT AND I THINK THAT THE OFFICER
18 TOLD ME THAT THEY HAD COAXED THE PERSON WHO
19 ACTUALLY FOUND ---

20 MR. HANCOCK: YOUR HONOR, I'M GOING TO OBJECT.

21 THE COURT: I OVERRULE THE OBJECTION. GO AHEAD.

22 A. AT THAT POINT I WAS ADVISED THAT THE OFFICER HAD
23 TALKED A WITNESS WHO HAD FOUND THE PERSONS OUT
24 OF THE WINDOW THERE. SO, AT WHICH POINT, YOU
25 KNOW, I NOTED THAT IN MY CRIME SCENE NOTES.

BRETT BAKER - DIRECT BY MR. POPE

1661

1 AND, AGAIN, WE'RE LOOKING FOR GENERAL SECURITY
2 OF THE HOME, ANYTHING OUT OF PLACE, ANYTHING
3 BROKE.

4 Q. OFFICER, ONCE YOU DO YOUR OVERVIEW AND NOTES,
5 WHAT IS THE NEXT STEP, WHAT DID YOU DO NEXT?

6 A. MY NEXT STEP, AND AGAIN, AS I SAID, OF THE
7 UTMOST IMPORTANCE IS DOCUMENTATION. I COME BACK
8 AND PHOTOGRAPH EVERY ROOM. WELL, FIRST OF ALL,
9 I PHOTOGRAPHED THE OUTSIDE OF THE HOME, THE
10 PERIMETER.

11 IF THIS WAS THE STREET, WESTMINSTER, OUT HERE,
12 THERE'S ALSO A VEHICLE FOUND DOWN THE ROADWAY ON
13 THE SAME SIDE OF THE ROAD POINTING IN THE
14 DIRECTION OF THE HOME. THERE WAS A VEHICLE
15 FOUND DOWN THERE. I BELIEVE IT WAS A MAZDA, A
16 RED MAZDA.

17 Q. I'LL SHOW YOU STATE'S EXHIBIT 115.

18 A. THAT'S EXACTLY RIGHT. THIS IS THE VEHICLE THAT
19 WAS PARKED ON THE SIDE OF THE ROAD. WE LOOK FOR
20 THOSE TYPE THINGS. WE HAD THEM RUN THE TAG TO
21 SEE WHO IT WOULD COME BACK TO. WE NOTICED IT
22 WAS THERE, SO WE PHOTOGRAPHED IT.

23 WE PHOTOGRAPHED THE COMPLETE EXTERIOR OF THE
24 HOME. AT WHICH POINT, AFTER THAT'S COMPLETE, I
25 WOULD COME BACK AND PHOTOGRAPH EVERY ROOM IN THE

BRETT BAKER - DIRECT BY MR. POPE

1662

1 HOME. AND WE TRY TO DO THAT USING THE POINTS OF
2 THE COMPASS. SAY THE LIVING ROOM HERE FOR
3 EXAMPLE, I WOULD DO IT AT NORTH, SOUTH, WEST AND
4 EAST. AND THEN I MAY COME BACK AT THE OTHER
5 CORNERS HERE, AND PHOTOGRAPH ACROSS TO MAKE SURE
6 YOU DOCUMENT ANYTHING THAT COULD BE IN THAT ROOM
7 THAT'S NEEDED LATER.

8 AND AT THAT POINT DURING YOUR WALK THROUGH IT
9 GIVES YOU AN OPPORTUNITY AGAIN, THE SECOND TIME
10 TO LOOK AT THE SCENE, TO TRY TO FIGURE OUT WHERE
11 BLOOD IS LOCATED AND WHAT NEEDS TO BE DOCUMENTED
12 OR POSSIBLY COLLECTED.

13 AT THAT POINT, YOU KNOW, I OBSERVED SEVERAL
14 THINGS. I OBSERVED ITEMS OF EVIDENCE, ONE BEING
15 A TOWEL UP UNDER THE LOWER RIGHT-HAND CORNER OF
16 THE SOFA THAT HAD BLOOD ON IT.

17 THE BLOOD WAS STRICTLY LIMITED TO THE AREAS
18 AROUND THE VICTIMS. I SAY IMMEDIATELY AROUND
19 THE VICTIMS, YOU KNOW, JUST OUTSIDE THE
20 BATHROOM, THE HALL HERE, AROUND THE BOOKCASE.
21 THERE WAS BLOOD STREWN ABOUT FROM ONE END OF THE
22 HALLWAY COMPLETELY TO THE OTHER END AND ON THE
23 CEILING. BUT THEN AROUND THE BED HERE, AROUND
24 THE BOOKCASE.

25 SO, YOU KNOW, WHEN YOU SEE BLOOD ON A TOWEL, YOU

BRETT BAKER - DIRECT BY MR. POPE

1663

1 COLLECT THAT TYPE OF THING. SO, THAT'S WHAT I'M
2 LOOKING FOR AS I WALK THROUGHOUT THE HOUSE.

3 Q. YOU SAID YOU PHOTOGRAPHED THE ENTIRE HOUSE, SO
4 THE PHOTOS WE HAVE IN THIS CASE ARE PHOTOS THAT
5 YOU ACTUALLY TOOK YOURSELF?

6 A. CORRECT. YES, SIR, THOSE ARE PHOTOGRAPHS I HAD
7 TAKEN.

8 Q. AND PRIOR TO ANY PROCESSING YOU DO, THE PHOTOS
9 HAVE BEEN TAKEN PRIOR TO YOU LIFTING OR REMOVING
10 ANYTHING, IS THAT CORRECT?

11 A. CORRECT. THE PHOTOGRAPHS, AGAIN, IS OF UTMOST
12 IMPORTANCE BECAUSE WHEN YOU GO IN TO DO A CRIME
13 SCENE RECONSTRUCTION IF ANYTHING IS MOVED OR
14 TAMPERED WITH OR TOUCHED, IT CAN ALTER YOUR
15 PERCEPTION OF WHAT'S HAPPENED THERE.

16 SO, AGAIN, I WOULD DOCUMENT IT; PHOTOGRAPH IT
17 THAT IS, SKETCH THE SCENE SO I CAN PUT BACK ANY
18 PIECE OF EVIDENCE IN CASE THERE IS A QUESTION
19 THE DAY OF COURT OR IF THERE IS ANOTHER
20 EXAMINER, SOMEBODY WHO WANTS TO COME BEHIND ME
21 AND LOOK AND VERIFY MY WORK. IT'S AN
22 OPPORTUNITY TO, YOU KNOW, DOCUMENT AS IS. SO,
23 THERE IS NOTHING TAMPERED WITH, NOTHING LIFTED,
24 NOTHING REMOVED UNTIL IT IS PHOTOGRAPHED.

25 Q. DO YOU KNOW APPROXIMATELY HOW MANY PHOTOS YOU

BRETT BAKER - DIRECT BY MR. POPE

1664

1 HAD IN THIS CASE?

2 A. I WANT TO SAY IN THE NEIGHBORHOOD OF THREE
3 HUNDRED AND SOMETHING.

4 Q. YOU ALSO TAKE PHOTOS, FOR EXAMPLE, AFTER THE
5 BODY IS REMOVED?

6 A. CORRECT. I TAKE PHOTOGRAPHS, IF REQUESTED, AT
7 THE AUTOPSIES AS WELL. IN THIS PARTICULAR CASE
8 I WASN'T REQUESTED BUT I ATTENDED THE AUTOPSY.
9 I TAKE PHOTOGRAPHS, FOR EXAMPLE, OF THE VEHICLE
10 THAT WAS SHOWN, WE PROCESSED IT LATER THAT NIGHT
11 AT THE SHERIFF'S OFFICE OR EARLY MORNING HOURS
12 OF THE NEXT DAY. I WOULD PHOTOGRAPH THAT VEHICLE
13 AGAIN FROM ALL FOUR CORNERS, DOCUMENT INSIDE AND
14 OUT IN CASE THERE IS SOMETHING THAT, YOU KNOW,
15 THAT YOU NEEDED LATER.

16 Q. BASED ON YOUR PROCESSING OF THE SCENE, DID YOU
17 RETRIEVE A NUMBER OF ITEMS FROM THE HOUSE, FROM
18 THE SCENE?

19 A. YES, SIR. I RETRIEVED NUMEROUS ITEMS, NUMEROUS
20 ITEMS FROM THE SCENE.

21 Q. AND, AGAIN, ARE THOSE ITEMS -- ARE SOME THE TYPE
22 THAT YOU WOULD TEST IN LATENT PRINTS AND OTHERS
23 ARE THE TYPE THAT OTHER PEOPLE WOULD TEST AT
24 SLED?

25 A. CORRECT. THE FINGERPRINT WORK OR THE

BRETT BAKER - DIRECT BY MR. POPE

1665

1 FINGERPRINTS THAT ARE LIFTED FROM THE SCENE, OF
2 COURSE, I WOULD LIFT THOSE. ANY FABRIC
3 IMPRESSION, TIRE TREAD, FOOTWEAR OR BLOOD
4 SPATTER THAT'S ON THE WALL THAT NEEDS TO BE
5 DOCUMENTED, I WOULD DOCUMENT. I WOULD DO THE
6 EXAMINATIONS ON THOSE LATER.
7 AGAIN, I DID HAVE TWO OTHER AGENTS ASSIST ME, OR
8 THREE OTHER AGENTS. SPECIAL AGENT DAVID BLACK
9 WHO ALSO WORKS WITHIN MY DEPARTMENT, I ALWAYS
10 TAKE A SECOND SCENE EXAMINER WITH ME WHEN I GO
11 ON A SCENE. FOR SECURITY REASONS, BUT THE
12 MASSIVE AMOUNT OF WORK THAT'S NEEDED AT THE
13 SCENE.
14 ON THIS PARTICULAR CASE I ASSESSED THE FACT THAT
15 SINCE IT WAS TWO VICTIMS, BLOODLETTING THAT
16 OCCURRED, I ASKED FOR TWO SEROLOGISTS TO ASSIST
17 ME ON THE SCENE, SPECIAL AGENT LORRI JOHNSON,
18 SPECIAL AGENT GRAY AMICK ALSO ASSISTED ME ON THE
19 SCENE.
20 ANY EVIDENCE THAT'S COLLECTED IS COLLECTED AT MY
21 DIRECTION OR I ACTUALLY PHYSICALLY COLLECT IT.
22 SO, THEREFORE, IF THERE IS BLOOD NOTED IN THE
23 HOMES I'M GOING THROUGH -- AGAIN YOU HAVE BLOOD
24 ALL IN THE HALL, IN THE BEDROOM AND YOU FIND
25 BLOOD IN THE DEN, I MAY COLLECT THAT OR I MAY

BRETT BAKER - DIRECT BY MR. POPE

1666

1 SAY, YOU KNOW, AFTER IT'S PHOTOGRAPHED, COLLECT
2 THAT AND LABEL WHERE IT CAME FROM. SO, IT'S
3 DONE AT MY DIRECTION.

4 Q. AND THEN ONCE ALL THE EVIDENCE IS COLLECTED, IN
5 THIS PARTICULAR CASE DID YOU ACTUALLY TRANSPORT
6 IT YOURSELF, THE EVIDENCE FROM THE HOME, DID YOU
7 TRANSPORT IT TO SLED TO BE LOGGED IN TO BE
8 TESTED?

9 A. CORRECT. AGAIN, ONCE ALL OF THE EVIDENCE IS
10 COLLECTED, KIND OF STAGE TWO OF MY JOB, THAT'S
11 TRANSPORTING THE EVIDENCE, MAKING SURE IT'S
12 SECURE. AGAIN, FIRST PACKAGING IT PROPERLY TO
13 PRESERVE THE EVIDENCE, TRANSPORTING THAT
14 EVIDENCE TO THE STATE CRIME LABORATORY.

15 AT THAT POINT I WOULD LOG IT IN OR TAKE IT TO
16 THE EVIDENCE LOG-IN DEPARTMENT, EVIDENCE CONTROL
17 DEPARTMENT. IT'S A CENTRAL DEPARTMENT WHICH I
18 ACTUALLY SIT DOWN AND WRITE UP EVERY PIECE OF
19 EVIDENCE I HAVE. AND AT THAT POINT I TAKE IT
20 THERE, I PUT WHAT REQUESTS, WHETHER OR NOT WE
21 NEED LATENT PRINTS ON IT, SEROLOGY, DNA
22 REQUESTS. SO THAT THEY WILL KNOW WHAT TO DO
23 WITH IT WITHIN SLED.

24 I TAKE IT TO THAT DEPARTMENT. OF COURSE, I
25 PACKAGE IT, SEAL IT, YOU KNOW, EVIDENCE TAPE TO

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1667

1 MAKE SURE IT'S TAMPER PROOF, IT'S THEN SENT TO
2 ITS RESPECTIVE DEPARTMENTS.

3 SO, TO ANSWER YOUR QUESTION, YES, SIR, I'M
4 RESPONSIBLE FOR CARRYING THAT BACK TO SLED.

5 Q. AGENT, AS YOU SAID, YOU PROCESSED THIS SCENE,
6 YOU TAKE EVIDENCE TO SLED, YOU ALSO TESTED SOME
7 EVIDENCE THAT CAME TO SLED THAT YOU WEREN'T IN
8 THE CHAIN OF CUSTODY BUT ACTUALLY CAME TO YOU TO
9 BE TESTED, IS THAT CORRECT?

10 A. CORRECT. AGAIN, MY JOB PRIMARILY -- WELL, NOT
11 PRIMARILY, IT'S KIND OF A DUAL JOB. ONE IS I
12 ASSIST WITH PROCESSING CRIME SCENES. THE SECOND
13 FUNCTION I HAVE AT SLED IS ACTUALLY DOING
14 SCIENTIFIC ANALYSES ON THOSE AREAS. AGAIN,
15 FINGERPRINT, TIRE TREAD, FOOTWEAR, BLOOD
16 SPATTER.

17 WHETHER I WORKED THE CASE OR WORKED THE ACTUAL
18 CRIME SCENE OR NOT, AGENCIES IN SOUTH CAROLINA
19 HAVE PERSONS WHO ARE COMPETENT AND CAN WORK
20 CRIME SCENES, THEY WORK THEM SOMETIMES
21 THEMSELVES IF THEY FEEL LIKE THEY NEED TO. THEY
22 CAN WORK THE SCENE AND ACTUALLY SUBMIT THE
23 EVIDENCE FOR ANALYSIS TO ME.

24 SO, THERE ARE TIMES WHEN I WILL ACTUALLY WORK
25 THE SCENE, THERE ARE TIMES WHEN I WILL NOT WORK

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1668

1 THE SCENE AND THE EVIDENCE IS STILL SUBMITTED TO
2 ME.

3 Q. AND YOU HAVE SOME OF BOTH IN THIS CASE?

4 A. IN THIS CASE -- IF I ACTUALLY WORK THE ORIGINAL
5 SCENE, ANY EVIDENCE, SUBSEQUENT EVIDENCE THAT
6 COMES IN FOR THOSE AREAS THAT I MENTIONED,
7 FINGERPRINTS AND SO ON, THEY WOULD BE SENT TO ME
8 SINCE I'M THE PRIMARY AGENT. I WOULD BE
9 CONSIDERED THE PRIMARY OR LEAD AGENT.

10 Q. APPROXIMATELY HOW MUCH TIME DID Y'ALL SPEND AT
11 THE HOUSE THAT DAY?

12 A. AGAIN, I ARRIVED AT APPROXIMATELY 12:40. THE
13 BODIES WERE REMOVED, I BELIEVE, AROUND 9:40 THAT
14 EVENING. I LEFT SOMETIME AFTER MIDNIGHT TO GO TO
15 THE YORK COUNTY SHERIFF'S OFFICE, MIDNIGHT,
16 CLOSE TO 1:00 TO THE YORK COUNTY SHERIFF'S
17 OFFICE WHERE WE PROCESSED THE VEHICLE. LEFT
18 THERE AT 2:15 TO 2:30 IN THE MORNING WHERE I
19 WENT HOME -- WELL, I DIDN'T ACTUALLY GO HOME, I
20 WENT FROM THERE TO THE AUTOPSY WITH A FEW STOPS.

21 Q. OKAY. AND COULD YOU TELL THE JURY AT AUTOPSY,
22 WHAT DID YOU RETRIEVE AT THE AUTOPSY?

23 A. AT THIS PARTICULAR CASE I WAS THERE MAINLY TO
24 OBTAIN WHAT WE CALL INKED FINGER AND PALM
25 PRINTS. ALL PERSONS ARE FAMILIAR WITH ON T.V.

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1669

1 HOW THEY INK THE FINGERS AND ROLL THEM ON A
2 FINGERPRINT CARD. WELL, IN MAJOR CASES, IT'S
3 WHAT WE REFER TO AS MAJOR CASE PRINTS. WE
4 ACTUALLY OBTAIN THE ENTIRE PALMS AND FINGERS
5 BECAUSE NOT ONLY IS THE FINGERPRINT IMPORTANT
6 BUT THE PALMS ARE IMPORTANT. THE PALMS ARE
7 UNIQUE TO EACH INDIVIDUAL JUST LIKE EACH FINGER
8 IS UNIQUE. SO, I WENT THERE WITH THE SOLE
9 PURPOSE TO OBTAIN FINGERPRINTS FROM THE VICTIMS
10 BECAUSE IT ALSO WILL ASSIST YOU SOMETIMES WITH
11 IDENTITY. IN THIS CASE WE WERE HOPING FOR
12 IDENTITY ALSO.

13 Q. AND YOU DID IN FACT OBTAIN THOSE FINGERPRINTS IN
14 NEWBERRY AT THE AUTOPSY AND BROUGHT THEM BACK TO
15 SLED?

16 A. CORRECT; YES, SIR.

17 Q. ALSO, SUBSEQUENTLY DID YOU HAVE AN OPPORTUNITY
18 TO COME BACK TO THE HOUSE THAT FRIDAY FOR A
19 SEARCH WARRANT FOR SOME ADDITIONAL EVIDENCE?

20 A. CORRECT. THAT WAS TUESDAY. I FINISHED THE
21 SCENE EARLY WEDNESDAY, FINISHED THE AUTOPSY
22 ROUGHLY NOON OR A LITTLE AFTER, WENT HOME, GOT
23 SOME SLEEP, SPOKE WITH AGENT TIM HAGER FROM THE
24 YORK COUNTY SHERIFF'S OFFICE. THEY WANTED US TO
25 GO BACK INTO THE HOME FOR A SUBSEQUENT SEARCH

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1670

1 AND WE DID THAT ON FRIDAY.

2 Q. AND SO THERE WERE SOME ITEMS THAT WERE RECOVERED
3 THERE THAT YOU TOOK TO SLED ALSO?

4 A. YES, I PHOTOGRAPHED THOSE ITEMS WHERE THEY WERE
5 COLLECTED AND CARRIED THOSE BACK AS WELL.

6 Q. AND THEN YOU'VE ALREADY TESTIFIED TO THE JURY
7 THAT SATURDAY YOU THEN WENT UP THE COAST, I-95
8 TO MARYLAND AND ULTIMATELY TO PENNSYLVANIA; IS
9 THAT CORRECT?

10 A. CORRECT.

11 Q. AND THE ITEMS THAT YOU RETRIEVED IN MARYLAND,
12 THAT WERE RECOVERED BY LAW ENFORCEMENT THERE,
13 YOU TOOK THEM BACK TO SLED AS WELL?

14 A. CORRECT. I TOOK CUSTODY OF THOSE ON THE WAY UP
15 TO PHILADELPHIA, AGAIN, THROUGH MARYLAND. I TOOK
16 CUSTODY OF THOSE AS WELL AS PICK UP THE OTHER
17 EVIDENCE IN PENNSYLVANIA AND TOOK IT BACK TO
18 SLED.

19 Q. AND COULD YOU TELL THE JURY JUST BRIEFLY IN
20 PENNSYLVANIA, AS FAR AS THE RED MAZDA, WHAT IT
21 WAS YOU ACTUALLY DID THERE?

22 A. AGAIN, THERE THE SOLE PURPOSE IS TO DOCUMENT AND
23 LOOK FOR ANY PHYSICAL EVIDENCE. IN THIS
24 PARTICULAR CASE, WE'D LOOK FOR ANY CHANCES OF
25 BLOOD IN THE VEHICLE OR ANYTHING THAT MAY LINK

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1671

1 THAT VEHICLE BACK TO THE PARTICULAR CRIMES
2 COMMITTED.
3 STANDARD PROCEDURE, REGARDLESS OF WHAT YOU'RE
4 LOOKING FOR, I'M GOING TO PUT FINGERPRINT POWDER
5 AND TRY TO LIFT FINGERPRINTS OFF ANY CAR. I
6 PHOTOGRAPH EVERYTHING IN THE CAR AND LIFT
7 FINGERPRINTS. SO, THAT'S PRIMARILY WHAT IT
8 ENTAILS.

9 Q. OKAY. OFFICER, IF YOU WOULD HAVE A SEAT NOW.
10 (THE WITNESS RESUMED THE WITNESS STAND.)

11 MR. POPE: YOUR HONOR, WE WILL CONTINUE TO USE
12 THE OVERHEAD, SO I'M GOING TO LEAVE IT ON.

13 THE COURT: ALL RIGHT.

14 Q. I'M GOING TO SHOW YOU A SERIES OF PHOTOS, ASK IF
15 YOU'D LOOK AT THAT AND TELL ME IF THEY WOULD
16 ASSIST YOU IN IDENTIFYING TO THE JURY THE
17 PROCESSING OF THE HOUSE.

18 A. YES, SIR. THESE ARE VARIOUS ITEMS WHICH I
19 COLLECTED AND THINGS I HAD DOCUMENTED IN THE
20 ACTUAL RESIDENCE AT WESTMINSTER.

21 Q. OKAY. YOUR HONOR, WHILE THE DEFENSE IS
22 REVIEWING THOSE, I HAVE FIVE MORE THAT I'M GOING
23 TO HAVE MARKED FOR IDENTIFICATION.

24 (AFTER A PAUSE.)

25 MR. HANCOCK: WITHOUT OBJECTION, YOUR HONOR.

BRETT BAKER - DIRECT BY MR. POPE

1672

1 THE COURT: THEY WILL BE RECEIVED WITHOUT
2 OBJECTION NUMBERS WHAT?

3 MR. POPE: YOUR HONOR, SOME ARE IN AND SOME ARE
4 NOT. I WILL GO THROUGH THE RECORD WITH THE COURT REPORTER
5 AND MAKE SURE WE HAVE EACH ONE. STATE'S EXHIBIT 179,
6 STATE'S EXHIBIT 149, STATE'S EXHIBIT 172, STATE'S EXHIBIT
7 173, STATE'S EXHIBIT 176, STATE'S EXHIBIT 177, STATE'S
8 EXHIBIT 178, STATE'S EXHIBIT 175, STATE'S EXHIBIT 117,
9 STATE'S EXHIBIT 118, STATE'S EXHIBIT 119, STATE'S EXHIBIT
10 120, STATE'S EXHIBIT 121, STATE'S EXHIBIT 122, STATE'S
11 EXHIBIT 116, STATE'S EXHIBIT 170, STATE'S EXHIBIT 171,
12 STATE'S EXHIBIT 174 AND THE DEFENSE HAS FIVE OTHERS, YOUR
13 HONOR, THAT I WILL HAND UP AND HAVE IDENTIFIED ALSO.

14 MR. HANCOCK: I BEG THE INDULGENCE OF THE COURT
15 ONE MOMENT, SIR?

16 THE COURT: CERTAINLY.
17 (AFTER A PAUSE.)

18 MR. HANCOCK: YOUR HONOR, WE HAVE A MATTER WE
19 NEED TO TAKE UP OUTSIDE THE PRESENCE OF THE JURY.

20 THE COURT: ALL RIGHT. I'LL LET THE JURY GO TO
21 THE JURY ROOM JUST FOR A FEW MINUTES.

22 IN CAMERA:

23 THE COURT: ALL RIGHT?

24 MR. HANCOCK: YOUR HONOR, I HAVE NOT MADE A
25 CONTEMPORANEOUS OBJECTION BUT THE OTHER PHOTOS THAT HAVE

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1673

1 JUST BEEN ENTERED INTO EVIDENCE, I'M GOING TO HAVE TO
2 OBJECT TO THOSE. I HAVE ALLOWED THEM INTO EVIDENCE, I
3 WITHDRAW THAT AGREEMENT. I DON'T THINK THEY HAVE
4 ESTABLISHED AT THIS TIME THAT THIS IS THE CRIME SCENE AS IT
5 WAS WITHOUT ANY DISTURBANCE, THAT THERE WERE NO PERSONS IN
6 THE HOUSE THAT COULD HAVE DISTURBED THE CRIME.

7 I MEAN WE KNOW THERE WERE OTHER PEOPLE THERE. AND
8 HE HAS NOT EVEN TESTIFIED THAT THESE ARE AN ACCURATE
9 DEPICTION AS TO WHEN HE GOT THERE, AS I REMEMBER, SIR.

10 MR. POPE: YOUR HONOR, I BELIEVE HE HAS CLEARLY
11 TESTIFIED TO THAT. HE TESTIFIED HE MADE THEM BEFORE ANY
12 DISTURBANCE.

13 WE ALSO HAVE THE ONLY OTHER TWO PEOPLE THAT WERE
14 IN THE HOUSE WHO TESTIFIED PREVIOUSLY THAT THEY DIDN'T
15 DISTURB ANYTHING. I SAY THE OTHER TWO PEOPLE, COUNTING THE
16 CORONER AS THE THIRD PERSON, EACH HAS SAID THEY DIDN'T
17 ALTER OR CHANGE ANYTHING IN ANY WAY. AND THIS MAN HAS NOW
18 SAID THAT BEFORE HE REMOVES ANYTHING, HE TAKES THE
19 PICTURES. HE'S TOLD US THAT THERE WERE OVER 300 PICTURES
20 THAT HE TOOK.

21 THE COURT: THE DEFENSE OBJECTS TO THE
22 INTRODUCTION OF ALL OF THE PHOTOGRAPHS?

23 MR. HANCOCK: YES, SIR.

24 THE COURT: THAT'S OVERRULED. THEY WILL BE
25 ALLOWED IN. BRING THE JURY BACK IN.

BRETT BAKER - DIRECT BY MR. POPE

1674

1 IN THE PRESENCE OF THE JURY:

2 THE COURT: MEMBERS OF THE JURY PANEL, THE
3 PHOTOGRAPHS, THAT FIRST SET, ARE IN EVIDENCE.

4 CONTINUED DIRECT OF BRETT BAKER:

5 Q. OFFICER, WERE THESE ITEMS ALSO PHOTOS THAT YOU
6 TOOK OF THE CRIME SCENE BEFORE YOU PROCESSED IT?

7 A. YES, SIR. THESE ARE ACCURATE DEPICTIONS OF THE
8 SCENE AS IT WAS WHEN I FOUND IT, AS I ARRIVED AT
9 THE SCENE.

10 Q. WOULD THESE ALSO ASSIST YOU IN EXPLAINING YOUR
11 TESTIMONY TO THE JURY?

12 A. YES, SIR.

13 MR. POPE: YOUR HONOR, THAT WOULD BE STATE'S
14 EXHIBIT 180, 181, 182, 183, 184 THAT THE STATE WOULD MOVE
15 INTO EVIDENCE.

16 MR. BOYD: SUBJECT TO PRIOR OBJECTION.

17 THE COURT: I OVERRULE THE OBJECTION AND ALLOW
18 THEM INTO EVIDENCE.

19 ((THE PHOTOGRAPHS OF THE SCENE WERE MARKED IN EVIDENCE AS
20 STATE'S EXHIBITS 180, 181, 182, 183 AND 184 OVER
21 OBJECTION.))

22 MR. POPE: YOUR HONOR, AT THIS POINT WE ARE GOING
23 TO BEGIN GOING THROUGH PROBABLY CLOSE TO 100 OR SO ITEMS
24 THAT THIS OFFICER DEALT WITH, AND WE ARE GOING TO GO
25 THROUGH THEM IN SOME DETAIL.

BRETT BAKER - DIRECT BY MR. POPE

1675

1 AT SOME POINT I MAY ASK MY INVESTIGATIVE
2 ASSISTANT, MARY COLLINS, TO STEP UP TO FACILITATE THE SPEED
3 OF ACTUALLY REMOVING THEM AND REDUCE THE PAPER CRINKLING.

4 THE COURT: ALL RIGHT.

5 Q. OFFICER, YOU HAVE TESTIFIED IN ADDITION TO
6 PROCESSING THE SCENE AND CARS, YOU ALSO DO
7 TESTING BACK AT SLED. IS THAT CORRECT?

8 A. YES, SIR, THAT'S CORRECT.

9 Q. AND DID YOU RECEIVE, AGAIN A NUMBER OF ITEMS,
10 THE ITEMS THAT YOU RETRIEVED AND THE ITEMS THAT
11 WERE BROUGHT TO SLED FOR YOU TO TEST, DID YOU IN
12 FACT HAVE AN OPPORTUNITY TO TEST VARIOUS ITEMS?

13 A. YES, SIR, VARIOUS, VARIOUS ITEMS.

14 Q. AND DID YOU IN FACT PRODUCE AN EXTENSIVE REPORT
15 THAT INDICATES YOUR VARIOUS TESTING ON VARIOUS
16 ITEMS?

17 A. YES, SIR.

18 Q. FIRST OF ALL, I'LL DRAW YOUR ATTENTION TO
19 STATE'S EXHIBIT 2 AND ASK IF YOU COULD LOOK AT
20 THIS ITEM THAT'S IN EVIDENCE, THE SECOND HALF OF
21 THE YARD RAKE, AND TELL THE JURY THE RESULTS OF
22 THAT TEST AND WHAT THAT MEANS.

23 A. CERTAINLY. THIS WAS A YARD RAKE THAT WAS FOUND
24 AT THE LOWER LEVEL OF THE HOME, OUTSIDE THE
25 HOME. IT WAS TESTED FOR FINGERPRINTS. AND THE

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1676

1 MEANS OF TESTING IT FOR FINGERPRINTS -- IT'S A
2 POROUS ITEM, IT'S MADE OF WOOD.

3 TO GIVE YOU SOME BACKGROUND ON FINGERPRINTS,
4 FINGERPRINTS THAT ARE LEFT BEHIND AT A CRIME
5 SCENE ARE WHAT WE REFER TO AS LATENT
6 FINGERPRINTS. LATENT, A LATIN WORD MEANING
7 HIDDEN. SO, THEY ARE HIDDEN FINGERPRINTS. THEY
8 ARE OFTENTIMES NOT VISIBLE TO THE HUMAN EYE
9 WITHOUT SOME PRIOR PROCESSING OR SOME PRIOR
10 CHEMICALS BEING APPLIED.

11 FINGERPRINTS ARE APPROXIMATELY 99 PERCENT
12 MOISTURE, AND THE OTHER PERCENT BEING ORGANIC
13 AND INORGANIC MATTER. HALF A PERCENT BEING THE
14 ALPHA AMINO ACIDS AND THE OTHER BEING SALTS.

15 SO, WHEN A PERSON TOUCHES AN ITEM, THE ACTUAL
16 CONTAMINANTS, WHETHER IT BE SWEAT THAT
17 CONSTANTLY EXUDES FROM THE HANDS, OTHER
18 CONTAMINANTS WHERE YOU'RE TOUCHING YOUR FACE.

19 WHEN YOUR HANDS TOUCH OTHER ITEMS, AN EXACT
20 MIRROR IMAGE OF YOUR FINGERPRINTS CAN BE LEFT
21 BEHIND ON THOSE ITEMS. NOT ALWAYS, BUT MANY
22 TIMES CAN. THERE ARE SEVERAL FACTORS THAT
23 DETERMINE WHETHER THEY ARE GOING TO BE LEFT
24 BEHIND.

25 ONE TECHNIQUE THAT IS USED ON POROUS ITEMS,

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1677

1 POROUS MEANING THAT THINGS CAN ABSORB INTO IT,
2 WOOD BEING A POROUS ITEM, IS A CHEMICAL CALLED
3 AN INHYDRANT. IT REACTS WITH THE ALPHA AMINO
4 ACIDS.

5 THIS PARTICULAR ITEM, I TREATED IT WITH AN
6 INHYDRONE. AT THAT POINT I ADDED HEAT AND
7 HUMIDITY TO IT WHICH ACTUALLY IS THE AGENT THAT
8 CAUSES IT TO REACT; IT WILL TURN A PURPLE COLOR.
9 IN THIS PARTICULAR CASE, I DID NOT DEVELOP ANY
10 RIDGE DETAIL. THAT MEANS -- NO RIDGE DETAIL
11 DEVELOPMENT MEANS THERE WAS NONE DEVELOPED.
12 THAT DOESN'T MEAN SOMEONE DIDN'T TOUCH IT; IT
13 JUST MEANS THERE WAS NONE LEFT BEHIND.

14 Q. I'LL SHOW YOU WHAT'S BEEN MARKED AS STATE'S
15 EXHIBIT 3 AND ASK IF YOU WOULD TAKE A LOOK AT
16 THAT ITEM AND TELL ME IF YOU CAN IDENTIFY THIS
17 ITEM, PLEASE?

18 A. YES, SIR. THESE ARE UNDERGARMENTS FROM EARL
19 ROBERTSON. AGAIN, I PREVIOUSLY VIEWED THIS
20 PRIOR TO COURT. THEY BEAR THE ITEM NUMBER, THE
21 SLED CASE NUMBER WHICH IS L97-14792, ALSO MY
22 INITIALS. THESE ARE SOME ITEMS THAT I HAD
23 COLLECTED.

24 Q. AND THIS PARTICULAR ITEM, YOU ALSO HAVE A PHOTO
25 OF IT, IS THAT CORRECT?

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1678

1 A. CORRECT, THAT'S A PHOTOGRAPH OF -- AGAIN, MR.
2 ROBERTSON WAS LAYING FACE DOWN, FACE TURNED TO
3 HIS LEFT, HANDS UP UNDER THE BODY. THERE'S
4 MASSIVE AMOUNTS OF BLOOD. I OBSERVED AN
5 IMPRESSION, WHAT APPEARED TO BE SOME TYPE OF
6 IMPRESSION ON THE UNDERGARMENTS FROM THE
7 WAISTBAND ONTO THE LEFT SIDE OF THE BUTTOCKS.
8 AT THAT TIME I PHOTOGRAPHED IT ON THE SCENE AS
9 WELL AS AT AUTOPSY I MADE SURE THEY NOTED THAT.
10 AGAIN, WHEN THEY TRANSPORTED MR. ROBERTSON TO
11 AUTOPSY, I MADE SURE THEY DIDN'T PLACE HIM ON
12 HIS BACK TO DISTURB IT; I MADE SURE THEY PLACED
13 HIM IN THE BODY BAG FACE DOWN.
14 AT AUTOPSY I MADE SURE THEY COLLECTED THIS
15 EVIDENCE AND SENT IT TO SLED SO THAT I COULD
16 FURTHER EXAMINE IT. AGAIN, THAT BEING AN
17 IMPRESSION EVIDENCE ---

18 Q. AND THAT IS A PHOTO OF ITEM, I BELIEVE THAT'S
19 ITEM 3, IS THAT CORRECT.

20 A. CORRECT. WE CALL IT 3.1 WHICH IS -- 3 WOULD BE
21 THE ACTUAL HANES UNDERWEAR; 3.1 WOULD BE THE
22 IMPRESSION ON THE UNDERWEAR.

23 Q. SO, THIS IS 3, THIS WOULD BE ---

24 A. 3.1.

25 Q. IF I COULD HAVE THIS MARKED AS STATE'S EXHIBIT

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1679

1 3.1 PLEASE.

2 THE COURT: FOR I.D.?

3 MR. POPE: YES, SIR, FOR I.D. AND I'LL SHOW IT TO
4 THE DEFENSE, YOUR HONOR. WOULD THIS ASSIST YOU IN
5 EXPLAINING TO THE JURY THE NATURE OF THE IMPRESSION THAT
6 YOU HAD?

7 A. YES, SIR.

8 MR. POPE: YOUR HONOR, I MOVE STATE'S 3.1 FOR
9 IDENTIFICATION INTO EVIDENCE.

10 MR. HANCOCK: WITHOUT OBJECTION, YOUR HONOR.

11 THE COURT: IT WILL BE RECEIVED WITHOUT
12 OBJECTION.

13 (THE IMPRESSION WAS MARKED IN EVIDENCE AS STATE'S EXHIBIT
14 3.1 WITHOUT OBJECTION.)

15 Q. OFFICER IF YOU NEED TO STEP DOWN, IF YOU WOULD
16 EXPLAIN TO THE JURY BASICALLY WHAT THIS DEPICTS.

17 A. AGAIN THIS WOULD BE THE LEFT PORTION OF THE
18 BUTTOCKS BETWEEN THE WAISTBAND. CLEARLY WHEN
19 OBSERVING THE BODIES, BESIDES THE MASSIVE TRAUMA
20 OF THE BEATING OF SOME TYPE, I NOTED THIS
21 IMPRESSION. IT WAS EXAMINED BACK AT SLED. AT
22 THAT TIME I WAS CONCERNED WHETHER OR NOT IT
23 COULD BE THE HEEL OF A SHOE OR SOME OTHER OBJECT
24 THAT'S COME IN CONTACT WITH BLOOD AND THEN TO
25 THE UNDERGARMENTS.

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1680

1 I WAS NOT ABLE TO DEFINITELY CONCLUDE, DUE TO
2 THE NATURE OF THE IMPRESSION, IT'S WHAT WE WOULD
3 SAY IT'S TOO PARTIAL TO RENDER A MEANINGFUL
4 CONCLUSION.

5 IN OTHER WORDS, IT'S AN IMPRESSION OF SOME TYPE
6 BUT IT WAS NEVER IDENTIFIED AS BEING LINKED TO A
7 PARTICULAR ITEM OR ITEMS.

8 Q. COULD YOU EXPLAIN -- YOU KNOW, YOU'VE TALKED
9 ABOUT RIDGE DETAIL, AND YOU'VE TALKED ABOUT TOO
10 PARTIAL, AND I REALIZE WE'RE TALKING ABOUT A PRINT AS
11 OPPOSED TO A FINGERPRINT, CAN YOU TELL THE JURY WHAT YOU'RE
12 ACTUALLY LOOKING FOR OR AT WHEN YOU'RE MATCHING THESE
13 THINGS?

14 A. CERTAINLY. FABRIC IMPRESSION EXAMINATIONS ARE
15 VERY SIMILAR TO FINGERPRINT EXAMINATIONS. SO,
16 THE FABRIC IMPRESSION -- LET ME BACK UP.
17 FINGERPRINT IMPRESSIONS, THERE ARE CERTAIN
18 UNIQUE IDENTIFYING CHARACTERISTICS THAT ARE
19 PRESENT IN EVERY PERSON'S FINGER; IT MAKES THEM
20 UNIQUE TO THEMSELVES. THEY ARE TRANSFERRED BY
21 CONTAMINANTS BEING ON THE RAISED PORTIONS OF THE
22 SKIN WHICH IS THE FINGERS, THE RAISED RIDGES AND
23 IT BEING TRANSFERRED MUCH LIKE AN INK STAMP.
24 WHEN YOU TOUCH SOMETHING, IT'S A MIRROR IMAGE OF
25 WHAT'S ON YOUR FINGER.

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1681

1 IF YOU WERE TO INK A STAMP, STAMP A PIECE OF
2 PAPER, IT'S AN IMAGE. SO, YOU HAVE AN EXACT
3 DUPLICATE OR MIRROR IMAGE OF THE FINGER.
4 IMPRESSION EVIDENCE IS MUCH THE SAME, IT'S
5 TRANSFERRED THE SAME WAY. IT'S WHAT WE REFER TO
6 AS TRANSFER OR FABRIC IMPRESSION TRANSFER.
7 IF YOU HAVE A COAT, YOU HAVE A PAIR OF SHOES OR
8 WHAT HAVE YOU AND YOU HAVE CONTAMINANTS ON THEM
9 AND YOU WALK ACROSS A FLOOR, YOU WALK ACROSS MUD
10 AND YOU WALK ACROSS A FLOOR, THE ACTUAL DESIGN
11 OF YOUR SHOE CAN BE LEFT BEHIND.
12 MORE SPECIFICALLY IN BLOOD, THERE ARE TESTS THAT
13 WE DO TO DETERMINE WHETHER OR NOT WE CAN ENHANCE
14 THE IMPRESSION, TRY TO IDENTIFY THE IMPRESSION.
15 SO, WHAT I WAS DOING HERE IS ATTEMPTING TO
16 IDENTIFY THE IMPRESSION.
17 IF IT'S FABRIC, FABRIC HAS PARTICULAR WEAVE
18 PATTERNS. YOU MAY HAVE A ZIGZAG PATTERN IN A
19 WEAVE; YOU MAY HAVE HORIZONTAL, VERTICAL WEAVES;
20 YOU MAY HAVE RIGHT SLANT, LEFT SLANT WEAVES IN A
21 PARTICULAR MAKE OF A COAT OR PAIR OF PANTS OR
22 SOCKS OR WHAT HAVE YOU OR EVEN IN THE TENNIS
23 SHOES.
24 SO, I WAS LOOKING FOR THIS TYPE OF EVIDENCE THAT
25 MAY HELP ME LINK IT BACK TO THAT PARTICULAR

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1682

1 SOURCE THAT LEFT IT.

2 Q. AND ON THIS PARTICULAR ITEM, THE FATHER'S
3 UNDERWEAR, EARL ROBERTSON'S UNDERWEAR, IT WAS
4 TOO PARTIAL FOR YOU TO MAKE ANY SUFFICIENT
5 COMPARISON?

6 A. CORRECT. IN SCIENCE THERE ARE SEVERAL
7 CONCLUSIONS THAT WE CAN COME UP WITH. ONE, THAT
8 IT WAS IDENTIFIED DEFINITELY TO THIS PERSON.
9 TWO, THAT IT WAS NOT IDENTIFIED BY THIS OBJECT
10 OR ONE THAT WAS NOT PRODUCED BY THIS OBJECT.
11 ANOTHER, THAT IT'S TOO PARTIAL. IN THE FABRIC
12 IMPRESSION IT WAS TOO PARTIAL.
13 SO, THERE WE CAN'T SAY DEFINITELY IT DID OR WE
14 CAN'T EVEN SAY IT WAS CONSISTENT WITH. WE CAN
15 ONLY SAY IT WAS TOO PARTIAL TO ACTUALLY SAY WHAT
16 IT WAS.

17 Q. OKAY; THANK YOU, SIR.

18 (THE WITNESS RESUMED THE WITNESS STAND.)

19 Q. I'LL CALL YOUR ATTENTION TO THE NEXT ITEM. YOU
20 PREVIOUSLY TESTIFIED THAT YOU ACTUALLY WENT TO
21 THE AUTOPSY AND PHYSICALLY RECOVERED THE
22 FINGERPRINTS OF THE DECEASED, EARL ROBERTSON,
23 AND THE DECEASED TERRY DEJARNETTE ROBERTSON. IS
24 THAT CORRECT?

25 A. THAT IS CORRECT.

BRETT BAKER - DIRECT BY MR. POPE

1683

1 Q. I'LL SHOW YOU STATE'S EXHIBIT 47 AND 86 FOR
2 IDENTIFICATION AND ASK IF YOU WOULD LOOK AT
3 THOSE AND TELL ME ARE THOSE THE ONES THAT YOU
4 RECOVERED AND USED FOR YOUR COMPARISON?

5 A. YES, SIR, I PREVIOUSLY VIEWED THESE. THESE BEAR
6 OUR ITEM NUMBER AS WELL AS CASE NUMBER, MY
7 INITIALS.

8 MR. POPE: YOUR HONOR, STATE'S NUMBER 47 AND 86
9 FOR IDENTIFICATION, WE MOVE INTO EVIDENCE.

10 MR. HANCOCK: NO OBJECTION, YOUR HONOR.

11 THE COURT: THEY WILL BE RECEIVED WITHOUT
12 OBJECTION.

13 (THE CASE PRINTS OF TERRY ROBERTSON WAS MARKED IN EVIDENCE
14 AS STATE'S EXHIBIT 47, AND THE CASE PRINTS OF EARL
15 ROBERTSON WAS MARKED IN EVIDENCE AS STATE'S EXHIBIT 86
16 WITHOUT OBJECTION.)

17 Q. NOW, OFFICER, THE PRINTS THAT YOU RECOVERED AT
18 AUTOPSY, COULD YOU TELL THE JURY WHAT PURPOSE
19 YOU PUT THOSE PRINTS TO, WHAT YOU DO WITH KNOWN
20 PRINTS?

21 A. YES, SIR. AGAIN, THERE ARE SEVERAL TYPES --
22 THERE ARE TWO BASIC TYPES OF PRINTS. THERE'S
23 LATENT PRINTS WHICH ARE THOSE THAT WE TRY TO
24 RECOVER AT A CRIME SCENE. THOSE WE REFER TO AS
25 UNKNOWNNS BECAUSE WHEN I LIFT THEM, I DON'T HAVE

BRETT BAKER - DIRECT BY MR. POPE

1684

1 ANY IDEA WHO LEFT THOSE PRINTS.

2 IN ANY CASE, WHETHER IT BE VIOLENT CRIMES,
3 PROPERTY CRIMES, WE NEED KNOWN STANDARDS, KNOWN
4 FINGERPRINTS IF WE'RE DEALING WITH FINGERPRINT
5 EVIDENCE.

6 SO, I WENT TO THE AUTOPSY TO PRINT THOSE
7 INDIVIDUALS BECAUSE THEY LIVED IN THE HOME. IF
8 I DEVELOPED FINGERPRINTS IN THE HOME, I WOULD
9 WANT TO EXCLUDE THEIR PRINTS BECAUSE NATURALLY
10 YOU WOULD HAVE YOUR OWN PRINTS IN YOUR HOME, YOU
11 TOUCH THINGS EVERY DAY.

12 SO, IF WE'RE LOOKING FOR A PERPETRATOR, SOME
13 TYPE INTRUDER COMING IN, COMMITTING A CRIME, YOU
14 WANT TO BE ABLE TO ELIMINATE THE VICTIMS, AS
15 THOSE PRINTS BEING THE VICTIM'S.

16 SO, THAT WAS THE PURPOSE OF GOING TO THE AUTOPSY
17 AND OBTAINING THOSE PRINTS. IT WAS FOR
18 ELIMINATION.

19 Q. SO, IN ADDITION TO THE KNOWN PRINTS, THE VICTIMS
20 IN THIS CASE, YOU ALSO HAD THE FINGERPRINTS OF
21 THE DEFENDANT; IS THAT CORRECT?

22 A. THAT'S CORRECT.

23 Q. GOING IN THE ORDER OF ITEMS THAT YOU HAVE, YOU
24 ALSO -- NOW, GOING TO PROCESSING THE CRIME
25 SCENE, ACTUALLY AT THE RESIDENCE. AGAIN, AS

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1685

1 YOU'VE TESTIFIED, THERE ARE A NUMBER OF ITEMS
2 THAT YOU RETRIEVED TO TAKE FOR OTHER PARTS OF
3 SLED TO TEST AND THEN A NUMBER OF ITEMS THAT YOU
4 RETRIEVED TO DO SOME TESTING AND MAY ULTIMATELY
5 BE TESTED BY ANOTHER PART OF THE AGENCY; IS THAT
6 CORRECT?

7 A. CORRECT; THAT'S CORRECT.

8 Q. I CALL YOUR ATTENTION NOW TO STATE'S 12, 15, 16,
9 17, 29 AND 30. THIS IS A SERIES OF SWABS AND
10 ITEMS THAT WERE RECOVERED FROM THE RESIDENCE.
11 HAVE YOU HAD AN OPPORTUNITY TO REVIEW THOSE?

12 A. YES, PRIOR TO COURT I DID HAVE AN OPPORTUNITY TO
13 REVIEW THOSE ITEMS.

14 Q. AND WITH THE EXCEPTION OF THE TESTING OF THESE
15 INDIVIDUAL ITEMS, DID THEY APPEAR TO BE IN THE
16 SAME CONDITION AS WHEN YOU RECOVERED THEM?

17 A. THAT'S CORRECT.

18 Q. WHEN YOU TOOK THEM TO SLED, DID YOU ALTER OR
19 TAMPER WITH THEM IN ANY WAY?

20 A. NO, SIR. THE PROCEDURE IS THAT WE SEAL THOSE
21 WITH TAMPER PROOF TAPE AND SEND THEM TO THE
22 RESPECTIVE DEPARTMENTS.

23 Q. TO AVOID REPETITION ON ALL OF THESE, AS FAR AS
24 ANY OF THE EVIDENCE YOU RECOVERED, ANY OF THE
25 EVIDENCE YOU WERE IN THE CHAIN, DID YOU ALTER OR

BRETT BAKER - DIRECT BY MR. POPE

1686

1 CHANGE OR TAMPER WITH IT IN ANY WAY, OTHER THAN
2 ANY TESTING YOU MIGHT HAVE DONE ON ANY OF THESE
3 ITEMS?

4 A. NO, SIR. PRIOR TO GETTING TO SLED, AGAIN, I'M
5 RESPONSIBLE FOR COLLECTION, AND ULTIMATELY
6 PACKAGING AND PRESERVING THAT EVIDENCE UNTIL I
7 CAN GET IT TO SLED AND ITS SENT TO ITS
8 RESPECTIVE DEPARTMENTS. THAT'S ONE OF MY
9 PRIMARY RESPONSIBILITY, THE EVIDENCE, THE CHAIN
10 OF CUSTODY, MEANING THE INTEGRITY OF THE
11 EVIDENCE, WHERE I GOT IT FROM.

12 Q. AND I'LL CALL YOUR ATTENTION SPECIFICALLY TO
13 STATE'S EXHIBIT 12. WHAT IS YOUR DESCRIPTION OF
14 THAT EXHIBIT? DO YOU HAVE THAT MATERIAL WITH
15 YOU?

16 A. DO YOU KNOW WHAT LAB NUMBER THAT WAS?

17 Q. YES, SIR, IT WOULD BE SLED NUMBER 22, STATE'S
18 NUMBER 12.

19 A. I NEED TO REFER TO MY NOTES.

20 Q. AGENT, IN ADDITION TO YOUR REPORT CONCERNING THE
21 THINGS YOU TESTED, DO YOU ALSO HAVE A SERIES OF
22 DOCUMENTATION THAT COVERED EVERY ITEM THAT YOU
23 TURNED INTO SLED?

24 A. YES, SIR.

25 Q. IS THAT WHAT YOU ARE REFERRING TO AT THIS TIME?

BRETT BAKER - DIRECT BY MR. POPE

1687

1 A. YES, SIR. THIS WOULD BE PART OF MY ACTUAL CASE
2 FILE AND NOTES FOR EVERY ITEM THAT I BROUGHT IN
3 OR EVERY ITEM THAT'S LOGGED IN UNDER THIS CASE
4 WOULD BE CONTAINED IN THIS FILE.

5 AND ITEM 22, THIS WAS ONE SWAB FROM KITCHEN
6 FLOOR.

7 Q. AND YOU TOOK THAT TO SLED FOR TESTING BY OTHER
8 DEPARTMENTS, IS THAT CORRECT?

9 A. CORRECT. IT'S STANDARD PROCEDURE THAT WHATEVER
10 SEROLOGIST OR DNA PERSON IF WE COLLECT A SWAB,
11 THAT PERSON ON THE SCENE DOES THE ANALYSIS. SO,
12 YES, SIR, I WOULD TAKE THAT AND TURN IT OVER TO
13 WHATEVER SEROLOGIST ASSISTED ME ON THAT SCENE.

14 MR. POPE: YOUR HONOR, HE HAS TESTIFIED AS TO THE
15 AUTHENTICITY OF STATE'S EXHIBITS 12, 15, 16, 17, 29 AND 30.
16 ULTIMATELY I WILL REFER TO THEM AGAIN BUT AT THIS POINT
17 BASED ON HIS REVIEW OF THEM, I WOULD MOVE THESE INTO
18 EVIDENCE.

19 THE COURT: ANY OBJECTION?

20 MR. HANCOCK: WITHOUT OBJECTION.

21 THE COURT: THEY WILL BE RECEIVED WITHOUT
22 OBJECTION.

23 (BLOOD SAMPLES WERE MARKED IN EVIDENCE AS STATE'S EXHIBITS
24 12, 15, 16 AND 17 AND 30 AND A HAIR SAMPLE WAS MARKED
25 STATE'S EXHIBIT 29, ALL WITHOUT OBJECTION.)

BRETT BAKER - DIRECT BY MR. POPE

1688

1 MR. POPE: YOUR HONOR, ALSO WE HAVE CROSS
2 REFERENCED AND MADE A COPY FOR THE DEFENSE OF THE STATE
3 NUMBERS AND THE SLED NUMBERS; A CROSS REFERENCE SHEET THAT
4 WOULD DENOTE BOTH OF THEM. WITHOUT OBJECTION FROM THE
5 DEFENSE, I WILL PRESENT THAT TO HIM TO AID IN CROSS
6 REFERENCING THE TWO NUMBERS.

7 MR. HANCOCK: WITHOUT OBJECTION.

8 THE COURT: ALL RIGHT.

9 Q. WOULD THAT ASSIST YOU?

10 A. YES, SIR. THANK YOU VERY MUCH.

11 Q. AGAIN, OFFICER, THAT SWAB, THE SWABS YOU SAID
12 WENT TO SEROLOGY, YOU DIDN'T DO ANYTHING WITH
13 THOSE?

14 A. NO, SIR. IT WOULD BE NOTHING BUT COLLECTION.
15 EITHER I WOULD HAVE COLLECTED THAT ITEM OR I
16 WOULD HAVE INSTRUCTED THE SEROLOGIST ON THE
17 SCENE TO COLLECT THAT ITEM.

18 SO, AGAIN, THAT BLOOD WAS FOUND IN THE KITCHEN
19 AREA OF THE HOME, THE DOOR LEADING TO THE FORMAL
20 DINING ROOM BETWEEN THE KITCHEN.

21 Q. I'LL CALL YOUR ATTENTION NOW TO WHAT'S BEEN
22 MARKED AS STATE'S EXHIBIT 13, IT WOULD BE SLED
23 NUMBER 23, AND ASK IF YOU'VE HAD AN OPPORTUNITY
24 TO LOOK AT THAT AND IF YOU COULD IDENTIFY THAT
25 FOR ME, PLEASE?

BRETT BAKER - DIRECT BY MR. POPE

1689

1 A. YES, SIR, I REVIEWED THIS PRIOR TO COURT. THIS,
2 AGAIN, IS THAT HAND TOWEL THAT I SAID I FOUND
3 UNDER THE RIGHT OF THE SOFA, RIGHT UP UNDER THE
4 EDGE OF THE DEN AREA ON THE UPPER LEVEL OF THE
5 HOME.

6 Q. OKAY, AND CAN YOU REMOVE THAT AND SHOW IT TO THE
7 JURY PLEASE? I APOLOGIZE. FIRST, IS IT IN THE
8 SAME CONDITION, OTHER THAN TESTING, AS IT WAS
9 WHEN YOU RETRIEVED IT?

10 A. THAT'S CORRECT.

11 MR. POPE: YOUR HONOR, I WILL NOT ASK EVERY TIME
12 DID HE ALTER IT BECAUSE HE HAS ALREADY ADDRESSED ALL ITEMS,
13 BUT STATE'S EXHIBIT 13 FOR IDENTIFICATION I WOULD MOVE INTO
14 EVIDENCE.

15 MR. HANCOCK: WITHOUT OBJECTION, YOUR HONOR.

16 THE COURT: RECEIVED WITHOUT OBJECTION.

17 (THE WHITE HAND TOWEL WAS MARKED IN EVIDENCE AS STATE'S
18 EXHIBIT 13 WITHOUT OBJECTION.)

19 Q. I'D ASK IF YOU COULD REMOVE THAT AND DISPLAY IT
20 TO THE JURY PLEASE.

21 A. THIS ITEM WAS RECOVERED IN THE UPPER LEVEL OF
22 THE HOME, THE DEN RIGHT HERE TO THE RIGHT. THIS
23 PICTURE HERE, THE STAIRCASE IS LOCATED BEHIND
24 THIS WALL. AROUND HERE YOU HAVE THE FIRST
25 VICTIM WITH HIS FEET TOWARDS THIS AREA, HEAD

BRETT BAKER - DIRECT BY MR. POPE

1690

1 FACING THIS WAY. AS YOU COME IN THIS ROOM, I
2 OBSERVED THE TOWEL THAT WAS LAYING HERE ON THE
3 FLOOR, THIS BEING THE TOWEL. THIS TOWEL, EXCEPT
4 FOR THE AREAS OF BLOOD THAT WERE CONTAINED WERE
5 CUT OFF FOR ANALYSIS, THIS TOWEL IS THE TOWEL
6 THAT WAS FOUND THERE AT THE SCENE.

7 Q. IN THE PHOTOGRAPH WHICH IS STATE'S EXHIBIT 118,
8 COULD YOU INDICATE WHERE THE VICTIM, EARL
9 ROBERTSON, WAS LOCATED IN THAT PHOTOGRAPH?

10 A. AGAIN, THE VICTIM, EARL ROBERTSON, IS JUST
11 OUTSIDE THIS DOOR. IF I WAS WALKING AND
12 STANDING IN THE DOOR, I'VE GOT DOUBLE DOORS IN
13 FRONT OF ME WHICH ENTERS THE FOYER TO THE FRONT
14 OF THE HOME, THIS IS THE LONG HALLWAY, YOU'VE
15 GOT TWO ROOMS ON THE LEFT, IF I WAS TO TURN
16 RIGHT, YOU HAVE THE BATHROOM, STAIRCASE, THE
17 VICTIM WAS RIGHT HERE AT MY FEET, HIS FEET
18 TOWARD MINE, HIS HEAD POINTING DOWN THE HALL.
19 SO, HE WOULD BE LAID OUT THIS WAY IN THE
20 HALLWAY.

21 Q. THANK YOU, SIR. YOU CAN HAVE A SEAT. NOW I'LL
22 REFER YOU TO STATE'S EXHIBIT 14 FOR
23 IDENTIFICATION.

24 A. YES, SIR, THAT'S THE FLORAL FLAT SHEET THAT WAS
25 FOUND AT THE TOP OF THE STAIRCASE LEADING TO THE

BRETT BAKER - DIRECT BY MR. POPE

1691

1 BASEMENT. AGAIN, I HAD THE OPPORTUNITY TO
2 REVIEW THIS PRIOR TO TRIAL. DO YOU WANT ME TO
3 PULL THIS OUT?

4 Q. NO, SIR. STATE'S EXHIBIT 14 FOR IDENTIFICATION,
5 THE STATE WOULD MOVE INTO EVIDENCE.

6 MR. BOYD: NO OBJECTION.

7 THE COURT: IT WILL BE RECEIVED WITHOUT
8 OBJECTION.

9 (THE FLORAL SHEET WAS MARKED IN EVIDENCE AS STATE'S EXHIBIT
10 14 WITHOUT OBJECTION.)

11 Q. IF YOU COULD DESCRIBE BRIEFLY WHAT THIS IS AND
12 WHAT, IF ANYTHING, UNUSUAL YOU NOTED ABOUT THIS
13 ITEM?

14 A. AGAIN THIS IS A FLORAL FLAT SHEET. AGAIN, AS I
15 DO MY WALK THROUGH OF THE HOME, AS I'M ENTERING
16 UP THE STAIRCASE FROM THE LOWER LEVEL, AGAIN IF
17 I WAS TO GO UP HERE, THE BATHROOM'S HERE, TURN
18 RIGHT, THE VICTIM IS DOWN THE HALL THIS WAY.
19 BACK TO THE LEFT IS THE DEN AREA.

20 AS I ENTERED THE TOP OF THE STEPS, AGAIN, YOU
21 KNOW, YOU LOOK FOR ANYTHING THAT MAY BE OUT OF
22 PLACE. OF COURSE, THERE'S SOME BLOOD ON THE
23 WALLS HERE, BUT I HAD NOTED SOME TYPE OF FABRIC
24 IMPRESSION, IT APPEARED TO BE SOME TYPE OF
25 FABRIC IMPRESSION ON THE FLORAL SHEET, MUCH LIKE

BRETT BAKER - DIRECT BY MR. POPE

1692

1 THE IMPRESSION ON THE BACK OF MR. ROBERTSON'S
2 UNDERWEAR. I NOTICED AN IMPRESSION, SO AT THAT
3 POINT I WOULD PHOTOGRAPH IT, DOCUMENT IT.
4 ULTIMATELY I CARRIED THIS BACK TO SLED TO DO
5 SOME COMPARISONS ON SOME ITEMS THAT WERE
6 RETRIEVED OUT OF MARYLAND.

7 Q. AND THE ITEMS THAT YOU'RE DISCUSSING THAT WERE
8 RETRIEVED FROM MARYLAND THAT ARE IN EVIDENCE,
9 WHAT PARTICULAR ITEM DID YOU COMPARE THE
10 IMPRESSION ON THIS STATE'S EXHIBIT TO?

11 A. WELL, I COMPARED THOSE TO SOME SOCKS. IT'S KIND
12 OF LIGHT AND YOU CAN'T SEE IT UNFORTUNATELY.

13 Q. CAN YOU DEMONSTRATE IT ON THE EXHIBIT THERE?

14 A. THE SHEET WAS LAID HERE AT THE TOP OF THE
15 STAIRCASE TO THE RIGHT FACE UP AND ON THE SHEET
16 WE HAVE IMPRESSIONS, OKAY? THOSE IMPRESSIONS
17 ARE WHAT I WAS LOOKING AT AND COMPARED TO THE
18 ITEMS RECOVERED OUT OF MARYLAND. AND THESE
19 IMPRESSIONS WERE CONSISTENT WITH SOME ITEMS
20 RETRIEVED OUT OF MARYLAND.

21 Q. AND WHEN YOU SAY ITEMS IN MARYLAND, WHAT TYPE
22 ITEMS ARE YOU TALKING ABOUT?

23 A. MORE SPECIFICALLY, THE IMPRESSIONS THAT WERE
24 LEFT ON THE TOP OF THIS FLORAL SHEET THAT WAS
25 LOCATED AT THE TOP OF THE STAIRS WERE CONSISTENT

BRETT BAKER - DIRECT BY MR. POPE

1693

1 WITH THE FABRIC WEAVE DESIGN OF SEVERAL PAIRS OF
2 SOCKS RETRIEVED OUT OF MARYLAND WHICH I
3 RETRIEVED FROM SERGEANT JOE BARKER OUT OF
4 MARYLAND.

5 Q. I'LL SHOW YOU WHAT WILL BE MARKED STATE'S
6 EXHIBITS 14.1, 14.2, 14.3 FOR IDENTIFICATION AND
7 ASK YOU IF RECOGNIZE THAT?

8 A. YES, THESE ARE THE ACTUAL PHOTOGRAPHS THAT I HAD
9 TAKEN; THESE ARE ACTUAL PHOTOGRAPHS OF THE
10 IMPRESSIONS ON THE TOP OF THE SHEET THAT I USED
11 FOR COMPARISON.

12 AND WHAT WE DO IS WE'LL PUT A SCALE ON THERE, A
13 ONE INCH SCALE WHEN YOU PHOTOGRAPH IT SO THAT
14 WHEN YOU DO THE ENLARGEMENT OF THE PHOTOGRAPH,
15 YOU CAN BRING IT BACK UP TO SCALE. AGAIN, YOU
16 WOULD WANT TO COMPARE APPLES TO APPLES AND
17 ORANGES TO ORANGES, SO YOU WOULD WANT IT BACK TO
18 ORIGINAL SIZE.

19 Q. WOULD THIS ASSIST YOU IN EXPLAINING THE
20 IMPRESSIONS TO THE JURY?

21 A. YES, SIR.

22 MR. POPE: YOUR HONOR, THE STATE WOULD MOVE 14.1,
23 14.2 AND 14.3 INTO EVIDENCE.

24 MR. HANCOCK: NO OBJECTION.

25 THE COURT: WILL BE RECEIVED WITHOUT OBJECTION.

BRETT BAKER - DIRECT BY MR. POPE

1694

1 (THE PHOTOS OF THE SHEET WERE MARKED IN EVIDENCE AS STATE'S
2 EXHIBITS 14.1, 14.2 AND 14.3 WITHOUT OBJECTION.)

3 Q. AGENT, IF YOU COULD, EXPLAIN TO THE JURY WHEN
4 YOU TALK ABOUT COMPARING, FOR EXAMPLE THIS PRINT
5 WITH PRINTS FROM THE SOCKS FROM MARYLAND, CAN
6 YOU EXPLAIN HOW YOU ACTUALLY DID THAT, WHAT THE
7 PROCESS ACTUALLY WAS?

8 A. AGAIN, I WOULD PHOTOGRAPH THE ACTUAL IMPRESSION.
9 OF COURSE, THIS LOOKS A LITTLE LARGER BECAUSE OF
10 THE SCREEN. THEY ARE ACTUALLY ONE TO ONE, BEING
11 ONE INCH EQUALS ONE INCH IF YOU WERE TO HOLD THE
12 PICTURE. I HAD THOSE ENLARGED TO SCALE. HERE
13 YOU CAN SEE THE FABRIC DESIGN AND WEAVES.
14 FROM THE EVIDENCE RETRIEVED OUT OF MARYLAND,
15 THERE WERE SOCKS, NINE SOCKS THAT HAD VARIOUS
16 AMOUNTS OF BLOOD CONTAINED ALL OVER THE SOCKS.
17 I ACTUALLY HAD TAKEN AND, AGAIN, MUCH LIKE A
18 FINGERPRINT, IF YOU HAVE CONTAMINANTS OVER THE
19 TOP PORTIONS OF YOUR FINGER AND YOU TOUCH
20 SOMETHING, IT LEAVES A MIRROR IMAGE OF YOUR
21 FINGERPRINT BEHIND IT. FABRIC IMPRESSIONS ARE
22 THE SAME WAY. IF YOU HAVE CONTAMINANTS OVER THE
23 FABRIC AND YOU TOUCH SOMETHING, IT'S CALLED A
24 COMPRESSION TRANSFER, COMPRESSION BEING THE
25 FORCE OF YOUR HAND TOUCHING SOMETHING, ITS

BRETT BAKER - DIRECT BY MR. POPE

1695

1 COMPRESSING THE ACTUAL CHARACTERISTICS OR THE
2 DESIGN OF THE WEAVE, IT'S TRANSFERRED TO THAT
3 ITEM.

4 SO, IN THAT CASE I ACTUALLY PLACED PLASTIC
5 GLOVES OR LATEX GLOVES OVER MY HANDS, INSERTED
6 THE SOCKS ON MY HANDS, SLIGHTLY DAMPENED THE
7 SOCKS, APPLIED FINGERPRINT POWDER ON THOSE AND
8 THEN PLACED MY HAND ONTO A LIGHT, WHAT WE REFER
9 TO AS ROLLER TRANSPORT FILM, IT'S BASICALLY A
10 TRANSPARENCY. SO AT THAT POINT I WOULD HAVE NOW
11 A KNOWN IMPRESSION, A KNOWN IMPRESSION FROM THE
12 SOCK, AND I COMPARE IT TO THE UNKNOWN QUESTIONED
13 IMPRESSION THAT WAS FOUND ON THIS FLORAL FLAT
14 SHEET. AND IN THIS PARTICULAR CASE IT WAS FOUND
15 TO BE CONSISTENT WITH SEVERAL OF THE SOCKS
16 LOCATED OUT OF MARYLAND.

17 Q. THANK YOU, SIR. YOU CAN HAVE A SEAT. I'M GOING
18 TO TURN YOUR ATTENTION NOW TO STATE'S EXHIBIT 15
19 WHICH IS SLED EXHIBIT 25 AND I BELIEVE IT IS
20 ALREADY IN EVIDENCE AS ONE OF THE SWABS. COULD
21 YOU INDICATE WHERE YOU RETRIEVED THAT ITEM?

22 A. YES, SIR. THE SWAB WAS RETRIEVED FROM THE UPPER
23 LEVEL -- AGAIN IF I WAS TO WALK UP THE STEPS
24 FROM DOWNSTAIRS, IMMEDIATELY TO MY LEFT AT THE
25 TOP OF THE STEPS IS THE BATHROOM; IMMEDIATELY TO

BRETT BAKER - DIRECT BY MR. POPE

1696

1 MY RIGHT IS THE VICTIM LAYING DOWN THE HALL.
2 DURING MY OVERVIEW IN LOOKING THROUGH THE HOME
3 AND PHOTOGRAPHING, I OBSERVED BLOOD ON THE SINK
4 AREA -- AND THIS BATHROOM IS DESIGNED WHERE YOU
5 WALK IN THERE ARE SINKS AND THEN THERE'S ANOTHER
6 LITTLE DOORWAY, AND THEN THERE IS A TOILET AND
7 TUB, THIS BEING THE OTHER PORTION OF THE
8 BATHROOM.

9 SO, I OBSERVED BLOOD HERE ON THE SINK. BEING
10 THAT FAR REMOVED FROM THE BODY, IT'S REFERRED TO
11 AS A TRANSFER, IT IS NOT FROM ACTUAL BLOOD
12 LETTING OCCURRING. SO, YOU KNOW, I DOCUMENTED
13 THAT, WE TRIED TO COLLECT IT.

14 Q. DID YOU RECOVER THAT ALSO TO BE SENT TO SLED OR
15 DID YOU AND A SEROLOGIST?

16 A. YES, SIR, THAT'S CORRECT.

17 Q. I WILL NOW CALL YOUR ATTENTION TO STATE'S
18 EXHIBITS 16 AND 17, SWABS THAT I BELIEVE EARLIER
19 WERE ALSO INTRODUCED, CAN YOU INDICATE WHAT
20 THOSE SWABS ARE?

21 A. YES, SIR. WITH THE MASSIVE TRAUMA THAT WAS
22 OBSERVED TO THE VICTIMS IN THIS CASE, IT IS
23 STANDARD PRACTICE TO COLLECT WHAT WE REFER TO AS
24 A STANDARD. OKAY?

25 LIKE FINGERPRINTS, I CAN'T LOOK AT AN UNKNOWN

BRETT BAKER - DIRECT BY MR. POPE

1697

1 AND TELL YOU WHO IT BELONGS TO UNLESS I HAVE
2 KNOWN TO LOOK AT, STANDARDS. AND IF I CAN
3 COMPARE IT TO IT AND IF I ACTUALLY FIND ONE THAT
4 MATCHES, THEN YOU HAVE AN IDENTIFICATION.

5 WELL, LIKEWISE, WITH THE MASSIVE AMOUNT OF
6 TRAUMA INVOLVED IN THIS SCENE, OFTENTIMES IT IS
7 VERY DIFFICULT OR THERE MAY BE NO BLOOD LEFT IN
8 THE VICTIMS TO BE RETRIEVED AT AUTOPSY. SO, IF
9 THERE ARE SEROLOGICAL OR DNA STANDARDS AND
10 THINGS THAT NEED TO BE COMPARED LATER IF THERE'S
11 NO BLOOD AND THERE'S NO BLOOD COLLECTED AT
12 AUTOPSY, YOU HAVE NOTHING TO COMPARE IT TO. SO,
13 YOU COULDN'T ELIMINATE -- AGAIN, IF I DIDN'T
14 HAVE THE FINGERPRINTS OF THE VICTIMS, I COULDN'T
15 ELIMINATE THEIR FINGERPRINTS IN THE HOME. IF WE
16 DIDN'T HAVE SAMPLES OF THEIR BLOOD, I COULDN'T
17 ELIMINATE THEIR BLOOD AS BEING -- OR INCLUDE
18 THEIR BLOOD ON CERTAIN PARTS OF EVIDENCE.

19 SO, WITH THE MASSIVE AMOUNT OF INJURIES AND
20 TRAUMA TO THE VICTIMS, IT WAS MY CONCERN WHETHER
21 OR NOT THERE WOULD BE ANY BLOOD LEFT IN THE
22 VICTIMS. SO, AT THAT POINT I TOOK SWABS ---

23 MR. HANCOCK: YOUR HONOR, I HAVE AN OBJECTION.

24 THE COURT: LET'S LET THE JURY GO TO THE JURY
25 ROOM JUST FOR A MINUTE. I KNOW WE'RE IN THE MIDDLE OF A

BAKER - DIRECT BY MR. POPE

1698

~~IT'S~~NESS, BUT WE MIGHT GO AHEAD AND LET THIS BE AN AFTERNOON
~~RECESS~~ SINCE WE'VE BEEN AT IT FOR A LITTLE OVER AN HOUR.

CAMERA:

THE COURT: ALL RIGHT?

MR. HANCOCK: YOUR HONOR, I AM JUST GOING TO
~~I~~JECT TO THE CONSTANT REFERRING TO THE MASSIVE AMOUNT OF
~~TRAUMA~~. AND I AM ALSO GOING TO OBJECT, THERE'S BEEN
~~NOTHING~~ PROVEN THAT THERE WAS NO BLOOD IN THE BODIES AT
~~THE~~OPSY. I UNDERSTAND THAT HE SAYS THAT, BUT I THINK IT IS
~~NOT~~DULY PREJUDICIAL AT THIS POINT. IT MAY COULD COME IN
~~THE~~TER, BUT I WOULD OBJECT TO THAT TERMINOLOGY AT THIS
~~THE~~ INT.

THE COURT: WELL, SUBJECT TO IT BEING TIED UP --

THERE GOING TO BE TESTIMONY TO THAT EFFECT AT A LATER

~~THE~~ME?

MR. POPE: THAT THEY WERE DRAINED OUT AT AUTOPSY,
~~YOUR~~ HONOR; IS THAT THE QUESTION?

THE COURT: TWO THINGS. ONE, HE OBJECTS TO HIM
~~THE~~YING THERE WAS MASSIVE TRAUMA.

MR. POPE: YES, SIR, THERE WILL BE TESTIMONY AND
~~THE~~ THINK HE CAN TESTIFY FROM PROCESSING THE CRIME SCENE
~~THE~~ERE. SECONDLY, AS TO THE AUTOPSY SITUATION, THERE WAS
~~THE~~LOOD DRAWN AT AUTOPSY, KNOWN SAMPLES, AND KNOWN SAMPLES
~~THE~~KEN HERE. SO, THEY WERE DRAWN BOTH PLACES, YOUR HONOR.

THE COURT: I OVERRULE THE OBJECTION.

BRETT BAKER - DIRECT BY MR. POPE

1699

1 MR. HANCOCK: THANK YOU, YOUR HONOR.

2 THE COURT: LET'S GO AHEAD AND TAKE ABOUT A 10
3 MINUTE BREAK. AND LET ME SEE COUNSEL IN CHAMBERS FOR JUST
4 A MINUTE.

5 AFTER THE RECESS IN CAMERA:

6 THE COURT: IS THE STATE READY TO PROCEED?

7 MR. POPE: YES, YOUR HONOR.

8 THE COURT: IS THE DEFENSE READY TO PROCEED?

9 MR. HANCOCK: YES, YOUR HONOR.

10 THE COURT: BRING IN THE JURY.

11 IN THE PRESENCE OF THE JURY:

12 THE COURT: ALL THE JURORS ARE PRESENT, YOU MAY
13 PROCEED.

14 Q. AGENT BAKER, WHEN THE JURY LEFT I WAS ASKING YOU
15 AS TO THE SWABS AND YOU HAD INDICATED THAT YOU
16 RETRIEVED THE SWABS FROM UNDER THE BODY OF EACH
17 OF THE VICTIMS, EARL ROBERTSON AND TERRY
18 ROBERTSON; IS THAT CORRECT?

19 A. THAT'S CORRECT. AND THAT'S COLLECTED, AGAIN,
20 FOR STANDARD PURPOSES.

21 Q. AND DID YOU IN FACT TAKE THAT TO SLED ALSO TO BE
22 TESTED?

23 A. YES, SIR, I CARRIED THAT TO SLED ALSO.

24 Q. I'LL NEXT CALL YOUR ATTENTION TO STATE'S EXHIBIT
25 18 FOR IDENTIFICATION AND 18.1 AND ASK IF YOU

BRETT BAKER - DIRECT BY MR. POPE

1700

1 WOULD LOOK AT THESE ITEMS AND TELL ME IF YOU CAN
2 IDENTIFY THEM?

3 A. YES, SIR, I REVIEWED THESE. THIS IS THE TOP
4 FITTED PINK SHEET OFF THE MASTER BEDROOM NEXT TO
5 THE VICTIM TERRY ROBERTSON. THIS HERE IS A
6 PHOTOGRAPH OF THE IMPRESSIONS THAT WERE ON THE
7 TOP FITTED PINK SHEET IN THE MASTER BEDROOM.
8 AGAIN, THESE IMPRESSIONS HAD BEEN LEFT IN BLOOD.
9 THESE ARE SOME IMPRESSIONS I ACTUALLY COMPARED.

10 Q. IF YOU COULD INDICATE, TOO, WE HAVE STATE'S
11 EXHIBIT 176, AND WHAT DOES THIS DEPICT?

12 A. IF YOU WERE TO WALK DOWN THE HALL OVER THE
13 VICTIM, THE FIRST VICTIM, MR. ROBERTSON, THE
14 MASTER BEDROOM COMES UP ON YOUR RIGHT, IF YOU
15 WALK INTO THE MASTER BEDROOM, THE BED SITS IN
16 THIS DIRECTION HERE.

17 THIS IS A PICTURE TAKEN ACROSS THE ROOM AND THEN
18 ACROSS THE BED, OF COURSE. IT'S DEPICTING, HERE
19 BEING A KNIFE, THIS IS MASSIVE AMOUNTS OF BLOOD,
20 ALONG UP HERE THERE'S SOME BLOOD ON THE WALL.
21 THE VICTIM, TERRY ROBERTSON, IS ON THE FLOOR
22 BETWEEN THE WALL AND THE BED. THESE IMPRESSIONS
23 WERE LOCATED IN APPROXIMATELY THIS AREA OF THE
24 BED.

25 Q. AND COULD YOU SHOW THE JURY ON -- THIS WILL BE

BRETT BAKER - DIRECT BY MR. POPE

1701

1 STATE'S EXHIBIT 102, IF YOU COULD INDICATE TO
2 THE JURY WHERE THIS ITEM WOULD BE.

3 A. AGAIN, IF YOU WALKED UP THE STEPS, TAKE A RIGHT
4 AND YOU HAVE THE FIRST VICTIM HERE, MR. EARL
5 ROBERTSON, YOU WALK DOWN AND THE BEDROOM IS HERE
6 ON THE RIGHT. THIS PICTURE WOULD BE TAKEN IF I
7 WAS STANDING HERE PHOTOGRAPHING ACROSS THE BED.
8 AGAIN, THIS BEING THE BOOKCASE OVER HERE, AND
9 THE VICTIM WOULD HAVE BEEN LAYING HERE AND THE
10 ACTUAL IMPRESSIONS WERE SOMEWHERE APPROXIMATELY
11 THAT SIDE OF THE BED CLOSEST TO THE VICTIM.

12 Q. OKAY, AND THE ITEMS YOU HAVE, 18 AND 18.1, WHAT
13 DO THEY DEPICT?

14 A. AGAIN, 18 WOULD BE THE ACTUAL SHEET ITSELF. FOR
15 EVIDENTIARY PURPOSES, I WOULD CALL THE
16 IMPRESSION ON THE SHEET 18.1. IT'S PART OF 18.
17 AND THIS IS ACTUALLY DEPICTING THE ACTUAL FABRIC
18 IMPRESSIONS LEFT THERE ON THE BED.

19 Q. AND YOU TOOK THIS AND IT IS ACTUALLY DEPICTED AS
20 YOU OBSERVED IT?

21 A. YES, SIR, THAT'S EXACTLY .

22 MR. POPE: YOUR HONOR, I MOVE STATE'S EXHIBIT 18
23 AND 18.1 -- I BELIEVE THE DEFENSE, I'VE TALKED TO THEM,
24 THEY HAVE SEEN A NUMBER OF THESE ITEMS, THEY HAVE SEEN ALL
25 OF THE ITEMS.

BRETT BAKER - DIRECT BY MR. POPE

1702

1 MR. HANCOCK: WITHOUT OBJECTION, YOUR HONOR.

2 THE COURT: IT WILL BE RECEIVED.

3 (THE PINK SHEET AND THE PHOTO OF THE IMPRESSION ON THE
4 SHEET WERE MARKED STATE'S EXHIBITS 18 AND 18.1 IN EVIDENCE
5 WITHOUT OBJECTION.)

6 Q. OFFICER, DUE TO THE SIZE, IF YOU COULD JUST STEP
7 DOWN AND SHOW THE JURY BASICALLY WHAT 18.1
8 DEPICTS. YOU CAN AGAIN EXPLAIN THE PROCESS YOU
9 DO IN MATCHING ITEMS, PLEASE.

10 A. AGAIN, AS I DESCRIBED, THE IMPRESSION LEFT ON
11 THE BED WOULD BE WHAT WE REFER TO AS A
12 COMPRESSION TRANSFER. A COMPRESSION TRANSFER,
13 AGAIN, IS MUCH LIKE AN INK STAMP OR YOUR
14 FINGERPRINTS ---

15 MR. HANCOCK: YOUR HONOR, EXCUSE ME. COULD HE
16 BACK UP SO THAT WE COULD SEE IT.

17 MR. POPE: YOUR HONOR, ONCE HE SHOWS IT, I WILL
18 BE GLAD TO PLACE IT ON HERE, BUT IT'S SO LARGE THAT IT MAY
19 NOT BE ENCOMPASSED TOTALLY ON HERE.

20 A. AGAIN, THESE ARE THE FABRIC WEAVE COMPRESSIONS
21 LEFT. A COMPRESSION TRANSFER, AGAIN, WOULD
22 CONSIST OF AN ITEM BEING CONTAMINATED AND BEING
23 TOUCHED ON SOMETHING. SO IF I WAS TO HAVE A
24 PARTICULAR FABRIC WEAVE OVER MY HAND OR ON MY
25 FOOT, WHATEVER THE CASE MAY BE, AND I WAS TO

BRETT BAKER - DIRECT BY MR. POPE

1703

1 LEAN OVER ON THE BED AND THIS IS CONTAMINATED,
2 I.E., WITH BLOOD OR GREASE OR WHAT HAVE YOU, THE
3 FABRIC WEAVE PATTERN WOULD TRANSFER TO THE BED.
4 AND THAT'S WHAT I DO IN A COMPARISON. I LOOK AT
5 CERTAIN ITEMS OF EVIDENCE TO SEE IF THEY ARE
6 CONSISTENT WITH FABRIC WEAVE IMPRESSIONS THAT
7 ARE FOUND ON THE BED.

8 IN THIS PARTICULAR CASE I DID IDENTIFY THESE
9 TWO, OR FOUND THAT THEY WERE CONSISTENT WITH
10 THREE WHITE ATHLETIC SOCKS THAT WERE RETRIEVED
11 FROM MARYLAND.

12 Q. OKAY, AND AGAIN MARYLAND, THAT WAS RETRIEVED
13 FROM THE DUMPSTER; THIS IS NOT PHILADELPHIA FROM
14 THE ARREST?

15 A. CORRECT.

16 Q. THIS IS MARYLAND.

17 A. CORRECT. THE ITEMS RECEIVED FROM THE TRASH AT
18 THE REST STOP IN MARYLAND, THERE WERE LIKE NINE
19 PAIRS OF SOCKS THAT WERE TRANSFERRED TO ME.
20 THREE OF THE NINE PAIRS OF SOCKS WERE CONSISTENT
21 WITH THESE IMPRESSIONS, AND THEY WERE THREE
22 WHITE ATHLETIC SOCKS THAT WERE CONSISTENT WITH
23 THIS IMPRESSION ON THE BED.

24 Q. I'M SORRY, AGENT, YOU SAID THREE PAIRS OR THREE

25 -- -

BRETT BAKER - DIRECT BY MR. POPE

1704

1 A. NINE SOCKS, EXCUSE ME, NOT PAIRS, THEY WERE
2 ACTUALLY SOCKS, THERE WERE NINE SOCKS.

3 Q. SHOWING, AT LEAST HALF OF STATE'S EXHIBIT 18.1,
4 COULD YOU EXPLAIN TO THE JURY AGAIN WHAT IT IS
5 YOU'RE LOOKING AT?

6 A. IF YOU LOOK ALONG HERE, YOU HAVE THESE
7 STRIATIONS. THAT'S THE PATTERN. AS I TOLD YOU,
8 THE PATTERN IN A PARTICULAR WEAVE, WHETHER IT BE
9 MY SHIRT HERE, YOU COULD HAVE CROSS PATTERN SUCH
10 AS IN CROSS STITCHING. YOU COULD HAVE, YOU
11 KNOW, VERTICAL, HORIZONTAL PATTERNS; YOU COULD
12 HAVE ZIGZAG PATTERNS WHICH IS REFERRED TO AS A
13 HERRINGBONE PATTERN; YOU COULD HAVE INTERLOCKING
14 PATTERNS, SAY L'S, A L THIS WAY AND A L THIS
15 WAY.

16 SO, THERE ARE DIFFERENT PATTERNS. SO, WE FIRST
17 LOOK TO SEE IF THE PATTERN IS CONSISTENT WITH
18 THE KNOWN SOCK OR PARTICULAR ITEM WE'RE
19 COMPARING. IN THIS CASE IT WAS SOCKS. I LOOK
20 TO SEE IF THE PATTERN WAS THE SAME. AND THEN
21 YOU ACTUALLY HAVE STITCHING THAT OCCURS, WHAT
22 HOLDS THE FABRIC TOGETHER, DIFFERENT TYPES OF
23 STITCHING. AGAIN, THE STITCHING CAN ENCOMPASS
24 ALL THE DIFFERENT TYPES OF PATTERNS. YOU CAN
25 HAVE CROSS STITCHING; YOU CAN HAVE LEFT SLANT OR

BRETT BAKER - DIRECT BY MR. POPE

1705

1 RIGHT SLANT.

2 IN THIS PARTICULAR CASE I COMPARED THE ACTUAL
3 PATTERN AS WELL AS THE ACTUAL STITCHING OF THE
4 QUESTIONED IMPRESSION FOUND ON THE BED AND FOUND
5 THEM TO BE CONSISTENT WITH THREE PAIRS OF
6 ATHLETIC SOCKS THAT WERE RETRIEVED OUT OF THE
7 DUMPSTER IN MARYLAND.

8 Q. OKAY. I NOW SHOW YOU STATE'S EXHIBIT 19. HAVE
9 YOU HAD AN OPPORTUNITY TO REVIEW THIS ALSO?

10 A. YES, SIR, THERE WAS ONE PAIR OF NIKI TENNIS
11 SHOES THAT WAS LOCATED NEAR THE VICTIM, EARL
12 ROBERTSON.

13 Q. OKAY AND WHERE IN THE HOUSE WOULD THAT HAVE BEEN
14 LOCATED?

15 A. IT WOULD HAVE BEEN LOCATED IN THE HALLWAY.

16 Q. OKAY, AND WHAT WAS YOUR PURPOSE IN RETRIEVING
17 THESE, WHAT EVIDENTIARY VALUE?

18 A. WELL, AGAIN, AS YOU WALK THROUGH A SCENE YOU
19 LOOK FOR VARIOUS THINGS THAT MAY BE OUT OF
20 PLACE. THESE PAIRS OF SHOES WERE TREAD SIDE
21 DOWN SITTING JUST TO THE RIGHT OF THE HEAD OF
22 THE VICTIM, EARL ROBERTSON. THERE WAS MASSIVE
23 AMOUNTS OF BLOOD ON TOP OF THE SHOES. EVERYTHING
24 ELSE -- THERE WAS OTHER CLOTHING IN THAT CLOSE
25 PROXIMITY. SOME CLOTHES LOOKED LIKE IT HAD BEEN

BRETT BAKER - DIRECT BY MR. POPE

1706

1 MOVED, POSSIBLY IN A STRUGGLE. AND YOU HAVE A
2 VOID SPOT.

3 IF YOU TOOK UP A COKE AND TOOK IT AND SPRAYED IT
4 AGAINST THIS WALL, YOU'RE GOING TO HAVE COKE
5 HERE AND YOU'LL HAVE A VOID SPOT WHERE THAT WAS
6 SITTING, OKAY? SO, I COULD SEE THAT THE PANTS
7 HAD BEEN MOVED BECAUSE YOU HAVE THE OUTLINE OF
8 THE BLOOD. BUT ON THESE PARTICULAR PAIR OF
9 SHOES, I NOTICED THAT THERE WAS BLOOD UNDER THE
10 SHOES AS WELL AS ON TOP OF THE SHOES WHICH JUST
11 STOOD OUT A LITTLE PECULIAR. I WASN'T SURE IF
12 THESE PARTICULAR SHOES COULD HAVE BEEN WORN BY
13 SOMEONE AT THE SCENE OR MAYBE LATER PLACED
14 THERE.

15 SO, THEY WERE COLLECTED FOR EVIDENCE PURPOSES
16 AND TO CHECK FOR BLOOD.

17 Q. OKAY, ULTIMATELY, AS FAR AS YOUR TESTING IN YOUR
18 LAB, THERE WAS NO RESULT OR ANYTHING CONNECTING
19 THOSE TO ANYBODY, IS THAT CORRECT?

20 A. THAT'S CORRECT. I COULD NOT CONNECT THEM TO
21 ANYONE AND I'M NOT SURE WHAT THE EXAMINATIONS
22 RESULTED FROM LATER TESTING, BUT FOR MY PURPOSE
23 THERE WAS NOT.

24 Q. OKAY, THANK YOU. I WOULD MOVE STATE'S EXHIBIT
25 19 INTO EVIDENCE.

BRETT BAKER - DIRECT BY MR. POPE

1707

1 MR. HANCOCK: WITHOUT OBJECTION, YOUR HONOR.
2 (THE TENNIS SHOES WERE MARKED IN EVIDENCE AS STATE'S
3 EXHIBIT 19 WITHOUT OBJECTION.)

4 Q. I CALL YOUR ATTENTION TO STATE'S EXHIBIT 20 FOR
5 IDENTIFICATION. IF YOU WOULD LOOK AT THIS ITEM,
6 DESCRIBE IT AND TELL THE JURY WHERE YOU
7 RECOVERED IT, PLEASE.

8 A. YES, SIR. IT'S A BROWN MAN'S WALLET; HAD I.D.
9 BELONGING TO EARL ROBERTSON. THIS WAS FOUND AT
10 THE END OF THE HALLWAY. ON THIS PARTICULAR
11 PICTURE HERE, IT WAS FOUND JUST PAST THE OPENING
12 OF THE DOOR, THE MASTER BEDROOM DOOR AT THE END
13 OF THE HALLWAY. OF COURSE, IT WAS OUTSIDE THE
14 ROOM IN THE HALLWAY. THE VICTIM WAS IN HIS
15 UNDERWEAR; IT LOOKED TO BE OUT OF PLACE. I
16 DIDN'T KNOW IF SOMEONE COULD HAVE HANDLED IT; I
17 COLLECTED IT FOR EXAMINATION.

18 Q. AND WERE YOU ABLE TO ASCERTAIN ANY LATENT PRINTS
19 ON THERE OR WHAT WERE THE RESULTS OF YOUR
20 TESTING?

21 A. LET ME FIND WHAT ACTUAL ITEM THAT WOULD BE; I'M
22 SORRY.

23 Q. IT WOULD BE STATE'S 20, YOUR ITEM 30.

24 A. THIS CONTAINS INSUFFICIENT RIDGE DETAIL FOR
25 COMPARISON. THAT MEANS SOMEONE HANDLED IT, BUT

BRETT BAKER - DIRECT BY MR. POPE

1708

1 THERE WAS NOT ENOUGH OF A FINGERPRINT LEFT
2 BEHIND FOR ME TO SCIENTIFICALLY SAY THAT IT WAS
3 ANY PARTICULAR PERSON.

4 Q. OKAY.

5 A. THAT'S THE BASIC RESULT, IT WAS INSUFFICIENT
6 RIDGE DETAILED DEVELOPED.

7 Q. STATE'S EXHIBIT 20 WE'D MOVE INTO EVIDENCE, YOUR
8 HONOR.

9 MR. HANCOCK: WITHOUT OBJECTION, YOUR HONOR.

10 THE COURT: RECEIVED.

11 (THE WALLET WAS MARKED IN EVIDENCE AS STATE'S EXHIBIT 20
12 WITHOUT OBJECTION.)

13 Q. I CALL YOUR ATTENTION NOW TO STATE'S EXHIBIT 21,
14 AND ASK IF YOU CAN IDENTIFY THIS ITEM AND WHERE
15 IT WAS LOCATED.

16 A. THIS IS A WOMAN'S PURSE; THIS WAS LOCATED AT THE
17 BOTTOM OF THE BED. THIS BEING THE PURSE, THIS
18 IS THE BOOKCASE, HERE'S THE FOOT OF THE FEMALE
19 VICTIM HERE, FEET HERE, HEAD HERE, THIS WAS AT
20 THE BOTTOM OF THE BED, THE CONTENTS SOMEWHAT
21 HANGING OUT. IT WAS COLLECTED FOR TESTING.

22 Q. IN PARTICULAR, ALSO IN GOING THROUGH THE
23 POCKETBOOK ITSELF, WERE THERE ANY ITEMS IN THE
24 POCKETBOOK?

25 A. YES, SIR, THERE WERE VARIOUS CONTENTS IN THE

BRETT BAKER - DIRECT BY MR. POPE

1709

1 PURSE THAT WOULD APPEAR TO BE NORMAL IN A PURSE.

2 Q. AND AMONG THOSE CONTENTS, I'LL SHOW YOU STATE'S
3 21.1 AND ASK IF THOSE ITEMS WERE ALSO RECOVERED
4 FROM THE PURSE?

5 A. YES, SIR, THEY WERE. THEY ARE CHECK BOOKS,
6 VARIOUS CHECK BOOKS BEARING THE VICTIMS' NAMES
7 THAT WERE ALSO CONTAINED IN THE PURSE.

8 Q. WE WOULD MOVE STATE'S EXHIBIT 21 AND 21.1 INTO
9 EVIDENCE.

10 MR. HANCOCK: WITHOUT OBJECTION, YOUR HONOR.

11 THE COURT: IT WILL BE RECEIVED.

12 (THE PURSE WAS MARKED STATE'S EXHIBIT 21 AND THE CHECK
13 BOOKS WERE MARKED STATE'S EXHIBIT 21.1 IN EVIDENCE WITHOUT
14 OBJECTION.)

15 Q. AGENT, COULD YOU TELL THE JURY THE RESULTS OF
16 ANY TESTS THAT YOU PERFORMED ON THE POCKETBOOK;
17 WERE YOU ABLE TO DERIVE ANYTHING FROM THE
18 POCKETBOOK?

19 A. BASICALLY IT SAID NO RIDGE DETAIL DEVELOPED.
20 AGAIN, THAT DOESN'T MEAN SOMEONE DIDN'T HANDLE
21 IT; IT JUST MEANS THAT I COULD NOT DEVELOP A
22 RIDGE DETAIL ON THE PURSE.

23 Q. OKAY, I NOW CALL YOUR ATTENTION TO STATE'S
24 EXHIBIT 22, A BOX, AND ASK IF YOU CAN IDENTIFY
25 THIS?

BRETT BAKER - DIRECT BY MR. POPE

1710

1 A. YES, THIS IS A GRAY METAL BOX SITTING IN CLOSE
2 PROXIMITY TO THE WALLET AT THE END OF THE
3 HALLWAY. I COLLECTED THIS FOR FINGERPRINT
4 PURPOSES MAINLY BECAUSE I FOUND THE BOX SITTING
5 UPRIGHT, BUT WHEN I MOVED THE BOX AND LOOKED AT
6 IT, THERE WAS BLOOD OR WHAT APPEARED TO BE BLOOD
7 ON THE BOTTOM SIDE OF THE BOX. INDICATING TO ME
8 THAT IT COULD HAVE POSSIBLY BEEN MOVED.

9 I DID PROCESS THIS BOX AND THERE WAS
10 INSUFFICIENT RIDGE DETAIL DEVELOPED. THAT MEANS
11 SOMEONE HANDLED IT, BUT IT WASN'T ENOUGH
12 FINGERPRINT THERE TO TELL YOU WHO DID IT.

13 Q. OKAY, I CALL YOUR ATTENTION TO STATE'S 102 AGAIN
14 IN EVIDENCE, IF YOU COULD JUST BRIEFLY INDICATE
15 TO THE JURY, YOU SAID THE END OF THE HALL, WHERE
16 THAT WAS LOCATED.

17 A. TOP LEVEL AGAIN. THE WALLET WAS FOUND JUST
18 OUTSIDE THE MASTER BEDROOM; THIS GRAY BOX WAS
19 FOUND JUST OUTSIDE THE MASTER BEDROOM IN THE
20 HALL.

21 AGAIN, IT WAS RIGHT SIDE UP, BUT BLOOD
22 UNDERNEATH WHICH INDICATED TO ME THAT AT SOME
23 POINT IT WAS IN A DIFFERENT POSITION BECAUSE
24 BLOOD, FOLLOWING THE LAWS OF PHYSICS, COULDN'T
25 CRAWL UNDER IT. SO, THAT'S THE REASON I

BRETT BAKER - DIRECT BY MR. POPE

1711

1 COLLECTED IT.

2 MR. POPE: YOUR HONOR, AT THIS TIME I MOVE
3 STATE'S EXHIBIT 22 INTO EVIDENCE.

4 MR. HANCOCK: WITHOUT OBJECTION.

5 THE COURT: IT WILL BE RECEIVED.

6 (THE GRAY METAL BOX WAS MARKED IN EVIDENCE AS STATE'S
7 EXHIBIT 22 WITHOUT OBJECTION.)

8 A. AND THE BOX WAS LOCKED, SO I NEVER ACTUALLY
9 LOOKED IN THE BOX.

10 Q. I'LL CALL YOUR ATTENTION TO STATE'S EXHIBIT 23.
11 I'LL ASK YOU IF YOU OBSERVED THIS AND INDICATE
12 WHAT THIS ITEM IS AND WHERE IT WAS LOCATED.

13 A. AGAIN, ON A PREVIOUS PICTURE, THIS WAS ALSO
14 SHOWN IN THE HOME. THIS WAS A KNIFE WITH A
15 BROKEN TIP, IT WAS BROKEN OFF. THIS WAS
16 LOCATED, AGAIN, ON THE BED. THERE'S THE KNIFE
17 LOCATED ON THE BED. OF COURSE, IMPRESSIONS I
18 DISCUSSED WERE HERE, THE VICTIM OVER HERE, AND
19 THIS IS THE BLOOD.

20 THIS ITEM WAS ALSO PROCESSED FOR PRINTS,
21 FINGERPRINTS. FINGERPRINTS WERE FOUND, BUT
22 AGAIN THEY WERE INSUFFICIENT, MEANING THERE WAS
23 NOT ENOUGH FINGERPRINT THERE TO SAY CONCLUSIVELY
24 ONE INDIVIDUAL TOUCHED IT.

25 Q. OKAY, AND ALSO I'LL SHOW YOU WHAT'S BEEN MARKED

BRETT BAKER - DIRECT BY MR. POPE

1712

1 STATE'S EXHIBIT 23.1 AND ASK IF YOU CAN IDENTIFY
2 THAT?

3 A. YES, SIR. THIS IS A TO SCALE PHOTOGRAPH
4 DEPICTING THE ACTUAL SIZE OF THE KNIFE WHICH I
5 USED LATER FOR COMPARISON AGAINST ANOTHER PIECE
6 OF ITEM FOUND IN THE HOME.

7 MR. POPE: YOUR HONOR, I MOVE STATE'S EXHIBIT 23
8 AND 23.1 INTO EVIDENCE.

9 MR. HANCOCK: NO OBJECTION.

10 THE COURT: IT WILL BE RECEDED.

11 (THE KNIFE WAS MARKED IN EVIDENCE AS STATE'S EXHIBIT 23 AND
12 THE PHOTO OF THE KNIFE WAS MARKED IN EVIDENCE AS STATE'S
13 EXHIBIT 23.1 WITHOUT OBJECTION.)

14 Q. I CALL YOUR ATTENTION NOW TO STATE'S EXHIBIT 24.
15 I WOULD ASK YOU TO LOOK AT THIS ITEM AND TELL ME
16 IF YOU CAN IDENTIFY THAT.

17 A. YES, SIR. I PREVIOUSLY LOOKED AT THIS AND THIS
18 IS ALSO SOMETHING THAT I COLLECTED AT THE
19 ORIGINAL SCENE THAT NIGHT. IT'S A NOTE THAT
20 READS "MOM AND DAD, GONE TO GET CHIP IN HIS CAR.
21 SORRY, BUT HE NEEDS ME RIGHT NOW. LOVE, JIM".
22 THIS WAS FOUND ON THE KITCHEN TABLE RIGHT BEFORE
23 YOU'D EXIT TO THE CARPORT.

24 THIS BEING THE KITCHEN TABLE, RIGHT HERE IS THE
25 NOTE THAT WAS FOUND -- BASICALLY YOU CAN SEE

BRETT BAKER - DIRECT BY MR. POPE

1713

1 WHERE IT WAS LOCATED ON THE TABLE ADJACENT TO
2 THE GARAGE.

3 MR. POPE: I WOULD MOVE STATE'S EXHIBIT 24 INTO
4 EVIDENCE.

5 MR. HANCOCK: WITHOUT OBJECTION.

6 THE COURT: IT WILL BE RECEIVED.

7 (THE HANDWRITTEN NOTE WAS MARKED IN EVIDENCE AS STATE'S
8 EXHIBIT 24 WITHOUT OBJECTION.)

9 Q. COULD YOU TELL THE JURY THE RESULTS OF ANY
10 TESTING IN THAT REGARD ON THAT ITEM?

11 A. YES, SIR. ON THIS PARTICULAR ITEM, I IDENTIFIED
12 THE RIGHT PALM OF JAMES D. ROBERTSON. AGAIN,
13 THE RIGHT PALM BEING APPROXIMATELY THIS PORTION
14 HERE. IT WAS DEVELOPED ON THE NOTE AND
15 IDENTIFIED TO HIM.

16 Q. AND WHEN YOU SAY IDENTIFIED TO HIM, AGAIN, IS
17 THAT BASED ON WHAT YOU EXPLAINED TO THE JURY
18 EARLIER USING KNOWN AND ---

19 A. YES, SIR. I OBTAINED KNOWN STANDARDS FROM MR.
20 ROBERTSON. THAT IS, I WENT AND FINGERPRINTED
21 HIM MYSELF AT A LATER DATE AND TIME, COMPARED
22 THEM TO THE FINGERPRINTS DEVELOPED ON THIS NOTE.
23 AGAIN, I DEVELOPED THE PRINT, IT'S IN A PURPLE
24 COLOR, THEY ARE THEN PHOTOGRAPHED. THE
25 PHOTOGRAPH AND THE IMPRESSION DEVELOPED BEING A

BRETT BAKER - DIRECT BY MR. POPE

1714

1 FINGERPRINT IS COMPARED BACK TO YOUR KNOWN OR
2 THE INK PRINTS THAT YOU HAVE AND THEY WERE FOUND
3 TO BE -- THE PRINTS FOUND ON THE NOTE WERE
4 PRODUCED BY JAMES D. ROBERTSON. SO, WHEN I SAY
5 THEY WERE IDENTIFIED, THAT MEANS THOSE PRINTS ON
6 THAT NOTE WERE IDENTIFIED BY HIM OR PRODUCED BY
7 HIM TOUCHING THAT PIECE OF PAPER.

8 Q. NOW I CALL YOUR ATTENTION TO STATE'S EXHIBIT 26
9 AND ASK IF YOU RECOGNIZE THAT ITEM?

10 A. YES, SIR, THIS IS WHAT LOOKED TO BE AN INSURANCE
11 APPRAISAL FORM. THIS WAS FOUND IN THE HOME IN
12 THE DEN AREA. YOU REMEMBER WHERE I SHOWED YOU
13 THERE WAS A TOWEL FOUND OUTSIDE THE SOFA, JUST
14 BELOW THE SOFA? JUST BELOW THE SOFA YOU HAVE A
15 TOWEL DOWN HERE, THIS APPRAISAL IS RIGHT HERE ON
16 THIS TABLE.

17 AGAIN, I COLLECTED IT FOR EVIDENCE PURPOSES IN
18 CASE LATER INVESTIGATION SHOWED THAT IT HAD SOME
19 VALUE.

20 SO, A LOT OF THINGS THAT WE COLLECT AND DOCUMENT
21 ARE JUST FOR EVIDENTIARY PURPOSE. WE COLLECT IT
22 IN CASE.

23 MR. POPE: WE OFFER IN EVIDENCE STATE'S EXHIBIT
24 26.

25 MR. HANCOCK: WITHOUT OBJECTION.

BRETT BAKER - DIRECT BY MR. POPE

1715

1 THE COURT: WITHOUT OBJECTION, IT IS RECEIVED IN
2 EVIDENCE.

3 (THE INSURANCE APPRAISAL WAS MARKED IN EVIDENCE AS STATE'S
4 EXHIBIT 26 WITHOUT OBJECTION.)

5 Q. I CALL YOUR ATTENTION NOW TO STATE'S EXHIBIT 27
6 AND STATE'S EXHIBIT 27.1 AND ASK IF YOU CAN
7 IDENTIFY THESE ITEMS, PLEASE?

8 A. YES, SIR. 27 WOULD BE A PIECE OF A KNIFE. 27.1
9 IS THE ACTUAL PHOTOGRAPH AGAIN. WE JUST CALLED
10 IT .1 TO DENOTE THAT IT WAS PHOTOGRAPH. .1 IS A
11 PHOTOGRAPH OF THE TIP OF THE KNIFE AS IT RELATES
12 TO ITEM -- TO STATE'S EXHIBIT 23. SO, 27 AND
13 23, WHAT I DID IN THIS PARTICULAR CASE, THIS
14 PIECE OF METAL OR TIP OF A BLADE, AT THE POINT
15 DURING THE NIGHT WHEN IT WAS ---

16 Q. LET ME ASK YOU FIRST AS TO THESE ITEMS, WOULD
17 THAT ASSIST YOU IN EXPLAINING TO THE JURY WHAT
18 TESTING YOU DID ON THESE TWO ITEMS?

19 A. YES, SIR.

20 MR. POPE: ALL RIGHT, I WOULD MOVE STATE'S
21 EXHIBIT 27 AND 27.1 INTO EVIDENCE.

22 MR. HANCOCK: WITHOUT OBJECTION, YOUR HONOR.

23 THE COURT: IT WILL BE RECEIVED WITHOUT
24 OBJECTION.

25 (THE PIECE OF BROKEN METAL WAS MARKED IN EVIDENCE AS

BRETT BAKER - DIRECT BY MR. POPE

1716

1 STATE'S EXHIBIT 27 AND THE PHOTO OF SAME WAS MARKED AS
2 STATE'S EXHIBIT 27.1 WITHOUT OBJECTION.)

3 Q. IF YOU COULD, IF YOU COULD EXPLAIN TO THE JURY
4 THE ACTUAL TESTING, WHAT YOU ACTUALLY DID. AND
5 THIS WAS DONE IN YOUR DEPARTMENT; IS THAT
6 CORRECT?

7 A. CORRECT, THIS WAS DONE BY MYSELF. IT'S WHAT IS
8 REFERRED TO AS A FRACTURE MATCH. IT'S
9 IDENTIFYING WHETHER TWO PIECES WERE ONCE JOINED.
10 AGAIN, THIS LONG PORTION BEING THE HANDLE, BEING
11 THE BLADE AND THE HANDLE WAS FOUND ON THE BED IN
12 THAT PICTURE WE HAD SHOWN EARLIER. THE TIP
13 PORTION WAS ACTUALLY -- AT THE POINT WHEN WE GOT
14 TO WHERE WE COULD MOVE THE VICTIM THAT NIGHT,
15 MRS. TERRY ROBERTSON, WHEN WE MOVED HER AND AS I
16 WAS GOING THROUGH THE BLOOD UP UNDER THE VICTIM,
17 I FOUND THE TIP PIECE OF METAL AND IT WAS
18 IDENTIFIED AS BEING ONCE JOINED TO THIS OTHER
19 KNIFE.

20 SO, BASICALLY I IDENTIFIED THAT THE PIECE OF
21 METAL FOUND UNDER THE VICTIM WAS ONCE JOINED TO
22 THE KNIFE THAT WAS NOW FOUND ON THE BED NEXT TO
23 THE VICTIM.

24 AND, AGAIN, THAT PIECE OF EVIDENCE WAS PROCESSED
25 FOR FINGERPRINTS AND THERE WAS NONE FOUND,

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1717

1 IDENTIFIABLE PRINTS.

2 Q. I NOW CALL YOUR ATTENTION TO STATE'S EXHIBIT 28
3 FOR IDENTIFICATION AND ASK IF YOU RECOVERED
4 THAT?

5 A. YES, SIR. THIS IS A TYLEX BOTTLE. THIS BOTTLE
6 WAS FOUND AT THE FEET NEAR THE FOYER AT THE FEET
7 NEAR THE -- RIGHT IN THE HALLWAY. YOU HAVE THE
8 DOUBLE DOORS. THIS TYLEX BOTTLE WAS FOUND THERE
9 RIGHT AT THE FEET OF EARL ROBERTSON.

10 AGAIN I COLLECTED THIS TO CHECK FOR PRINTS
11 MAINLY BECAUSE THERE WAS THE SMELL OF SOME TYPE
12 CLEANER FLUID IN THE HOME WHEN WE ARRIVED THERE.
13 THE CAP WAS PARTIALLY OFF, THE FLOOR WAS A
14 LITTLE DAMP NEAR THE BOTTLE. AGAIN, HERE'S THE
15 FEET OF THE VICTIM, YOU CAN SEE THE AMOUNT OF
16 BLOOD HERE. THIS WAS ALSO COVERED WITH LOTS OF
17 BLOOD.

18 I COLLECTED IT AND CHECKED FOR PRINTS AND THERE
19 WERE PRINTS DEVELOPED BUT NONE THAT WERE
20 IDENTIFIABLE.

21 Q. OKAY.

22 A. AND I TREATED THAT ALSO WITH A CHEMICAL THAT'S
23 KNOWN AS AMINO BLACK WHICH DYES THE PROTEINS IN
24 BLOOD IN CASE THERE WAS A FINGERPRINT IN BLOOD
25 OR WHAT HAVE YOU.

BRETT BAKER - DIRECT BY MR. POPE

1718

1 AGAIN, THERE WAS NOTHING DEVELOPED THAT I COULD
2 IDENTIFY TO ANY PERSON.

3 Q. OKAY. STATE'S EXHIBIT 29 AND 30 THAT ARE
4 ALREADY IN EVIDENCE, 29 IS THE HAIR FROM THE
5 FLOOR IN FRONT OF THE HALLWAY TOP BATHROOM.
6 COULD YOU DESCRIBE WHERE YOU RECOVERED THAT?

7 A. AGAIN, THIS PICTURE HERE IS PHOTOGRAPHED AS IF
8 YOU WERE STANDING IN THE DEN LOOKING TO THE
9 HALL. HERE ARE DOUBLE DOORS THAT WOULD GO BACK
10 OUT OF THE HOME IN THE FRONT. IF I WAS TO TURN
11 THIS CORNER, AGAIN, YOU HAVE A BATHROOM STRAIGHT
12 IN FRONT OF YOU, IMMEDIATELY TO THE LEFT WOULD
13 BE THE STAIRS THAT LEAD TO THE BASEMENT.
14 IN THIS BATHROOM ON THE FLOOR THERE WAS SOME
15 HAIR, IT APPEARED TO BE CUT HAIR OF SOME TYPE ON
16 THE FLOOR. THAT WAS COLLECTED. THERE WAS SWABS
17 COLLECTED OFF THE SINK WHERE THERE HAD BEEN SOME
18 BLOOD TRANSFER THERE.

19 Q. ALSO STATE'S EXHIBIT 30 THAT IS ALREADY IN
20 EVIDENCE, YOU HAD THE OPPORTUNITY TO ALSO SWAB
21 THE TELEPHONE RECEIVER, IS THAT CORRECT?

22 A. YES, SIR. AGAIN AS YOU WALKED THROUGH THE HOME,
23 I NOTICED THAT THERE WAS SOME BLOOD ON THE
24 TELEPHONE RECEIVER. THIS TELEPHONE IS IN THE
25 KITCHEN.

BRETT BAKER - DIRECT BY MR. POPE

1719

1 AGAIN, THE VICTIM BEING HERE AND THE VICTIM
2 BEING HERE, BLOOD PRIMARILY ISOLATED TO THESE
3 TWO AREAS EXCEPT FOR THE BATHROOM, A TOWEL AND
4 RIGHT HERE ON THE TELEPHONE IN THE KITCHEN.

5 IF YOU WERE TO WALK FROM THE DEN INTO THE
6 KITCHEN IMMEDIATELY TO YOUR LEFT AS YOU GO IN
7 HANGING ON THE WALL IS A TELEPHONE. THIS WAS --
8 THIS IS A PHOTOGRAPH OF THE BLOOD THAT WAS ON
9 THE TELEPHONE. SO, I COLLECTED A SWAB OFF
10 THERE.

11 Q. ALSO, YOU'VE EXPLAINED TO THE JURY PREVIOUSLY
12 LATENT LIFTS.

13 A. YES.

14 Q. DID YOU MAKE A NUMBER OF LIFTS IN THE HOUSE?

15 A. YES, SIR, I MADE MANY LIFTS OUT OF THE HOUSE,
16 THROUGHOUT THE HOME FROM BOTH LEVELS.

17 Q. PARTICULARLY I CALL YOUR ATTENTION TO STATE'S 31
18 AND 32, 33, 34, 35, 36, 37, 38, 39, 40 AND 41,
19 ALL FOR IDENTIFICATION. DID YOU RAISE THOSE
20 LIFTS AND WERE ABLE TO MAKE MATCHES ON THOSE
21 LIFTS?

22 A. YES, SIR. I PREVIOUSLY REVIEWED THOSE PRIOR TO
23 COURT TODAY, THOSE ARE THE LIFTS THAT I OBTAINED
24 FROM THE HOME AND I DID IDENTIFY THEM TO
25 PERSONS.

BRETT BAKER - DIRECT BY MR. POPE

1720

1 Q. WITH YOUR KNOWN SAMPLES?

2 A. WITH THE KNOWN SAMPLES; YES, SIR.

3 Q. OKAY, LET ME ASK YOU THIS. I CALLED, I BELIEVE,
4 ABOUT 10 LIFTS, DID YOU ACTUALLY MAKE MORE LIFTS
5 THAN THAT WITH VARIOUS RESULTS?

6 A. YES, SIR, VARIOUS RESULTS. THERE WERE MORE
7 LIFTS TAKEN.

8 Q. AND WHEN I SAY VARIOUS RESULTS, YOU'VE INDICATED
9 PARTIAL AND IMPARTIAL AND NO RIDGE DETAIL ---

10 A. YES, SIR. WITH FINGERPRINTS, THERE ARE THREE
11 BASIC CONCLUSIONS YOU CAN COME TO. IT'S
12 IDENTIFIED BY A PARTICULAR INDIVIDUAL; IT'S NOT
13 IDENTIFIED BY THAT PARTICULAR INDIVIDUAL, OR
14 IT'S INSUFFICIENT, MEANING THAT I CANNOT TELL
15 YOU THAT IT WAS IDENTIFIED BY THAT PARTICULAR
16 INDIVIDUAL. THE FOURTH ONE WOULD BE THERE WAS
17 NOTHING DEVELOPED. AND, THEN AGAIN I COULDN'T
18 TELL YOU IF THEY HANDLED IT. THERE ARE THREE
19 BASIC CONCLUSIONS.

20 Q. AND BASED ON THAT, STATE'S EXHIBITS 31 THROUGH
21 41 ARE THE LIFTS YOU MATCHED. I WOULD MOVE
22 STATE'S EXHIBITS 31 THROUGH 41 FOR
23 IDENTIFICATION INTO EVIDENCE.

24 MR. HANCOCK: WITHOUT OBJECTION, YOUR HONOR.

25 THE COURT: IT WILL BE RECEIVED.

BRETT BAKER - DIRECT BY MR. POPE

1721

1 (THE LATENT PRINTS WERE MARKED IN EVIDENCE AS STATE'S
2 EXHIBITS 31 THROUGH 41 WITHOUT OBJECTION.)

3 Q. NOW, BASED ON YOUR EXPERIENCE, IS IT UNUSUAL TO
4 FIND PEOPLE'S FINGERPRINTS IN THEIR OWN HOMES?

5 A. NO, SIR. BASED ON MY EXPERIENCE, AND AGAIN I'VE
6 WORKED HUNDREDS OF DEATH INVESTIGATIONS IN MY
7 THREE AND A HALF YEARS AND ASSISTED WITH VARIOUS
8 INVESTIGATIONS, YOU GO TO A HOME, ITS COMMON TO
9 FIND ANY INDIVIDUAL WHO HAS EVER HAD ACCESS TO
10 THAT HOME. SCIENTIFICALLY THERE IS NO WAY TO
11 AGE A FINGERPRINT. SO, IN THEORY ANY PERSON WHO
12 HAS EVER ENTERED THAT HOME COULD HAVE LEFT A
13 FINGERPRINT BEHIND. ~~WHICH I CAN IDENTIFY~~
14 SO, ALL I CAN TELL YOU IF I DEVELOP IT AND
15 IDENTIFY IT TO SOMEBODY, THAT THEY WERE AT SOME
16 POINT IN THAT HOME AND TOUCHED THAT PARTICULAR
17 ITEM OR DOOR OR WHAT HAVE YOU. I CAN'T TELL YOU
18 WHEN THEY LEFT IT NOR IS IT UNCOMMON TO FIND ANY
19 PERSON'S WHO HAS EVER HAD ACCESS TO THE HOME.
20 SO, ANY PERSON LIVING IN THE HOME COULD HAVE
21 LEFT A PRINT.

22 Q. AND WHOSE PRINTS DID YOU GET THAT YOU MATCHED?

23 A. I IDENTIFIED THE SUSPECT, JAMES ROBERTSON, AS
24 WELL AS EARL ROBERTSON, THE VICTIM, AND TERRY
25 ROBERTSON, THE MOTHER.

BRETT BAKER - DIRECT BY MR. POPE

1722

1 Q. OKAY.

2 A. SO, ALL PERSONS WERE IDENTIFIED IN THE HOME AT
3 SOME POINT.

4 MR. POPE: LIKEWISE, YOUR HONOR, I MAY HAVE
5 GOTTEN AHEAD OF MYSELF, STATE'S EXHIBIT 28, THE TYLEX
6 BOTTLE, I WOULD MOVE INTO EVIDENCE.

7 THE COURT: ANY OBJECTION?

8 MR. POPE: I KNOW MR. HANCOCK HAS ALREADY SEEN
9 IT.

10 MR. HANCOCK: I THOUGHT HE HAD ALREADY MOVED IT
11 INTO EVIDENCE, YOUR HONOR, BUT IT'S WITHOUT OBJECTION.

12 THE COURT: ALL RIGHT.

13 (THE TYLEX BOTTLE WAS MARKED IN EVIDENCE AS STATE'S EXHIBIT
14 28 WITHOUT OBJECTION.)

15 Q. YOU'VE INDICATED PREVIOUSLY THAT YOU USED KNOWN
16 PRINT CARDS, YOU TALKED ABOUT THE PRINTS AT
17 AUTOPSY, YOU TALKED ABOUT COMPARING THEM,
18 STATE'S EXHIBIT 42, THE KNOWN CARD OF JAMES
19 ROBERTSON, DID YOU ALSO USE THAT CARD?

20 A. YES, I USED THAT CARD ALONG WITH THE PRINTS THAT
21 I ASCERTAINED FROM MR. ROBERTSON MYSELF. I
22 FOUND THAT THOSE PRINTS WERE PRODUCED BY MR.
23 ROBERTSON ALSO. I ACTUALLY DID NOT TAKE THAT
24 PARTICULAR SET OF PRINTS, BUT I COMPARED THEM TO
25 THE PRINTS THAT I HAD TAKEN FROM HIM AND FOUND

BRETT BAKER - DIRECT BY MR. POPE

1723

1 THAT THEY WERE PRODUCED BY HIM.

2 SO, IT'S A WAY OF AUTHENTICATING THAT THOSE
3 FINGERPRINTS THAT YOU ARE HOLDING HERE TODAY
4 WERE IDENTIFIED TO HIM.

5 MR. POPE: WE OFFER STATE'S EXHIBIT 42 INTO
6 EVIDENCE.

7 MR. HANCOCK: WITHOUT OBJECTION, YOUR HONOR.

8 THE COURT: RECEIVED INTO EVIDENCE.

9 (THE FINGERPRINT CARD OF THE DEFENDANT WAS MARKED IN
10 EVIDENCE AS STATE'S EXHIBIT 42 WITHOUT OBJECTION.)

11 Q. OKAY, AGENT BAKER, AS FAR AS THE EVIDENCE THAT
12 YOU RECOVERED FROM THE CRIME SCENE THERE AT THE
13 HOUSE ON THAT DATE, DOES THAT REPRESENT THE
14 EVIDENCE -- REALIZING NOT EVERY ITEM, LIKE YOU
15 SAID YOU TOOK A NUMBER OF LATENTS THAT WE DIDN'T
16 GO THROUGH AND A NUMBER OF ITEMS.

17 A. YES.

18 Q. BUT THE ITEMS THAT WE HAVE GONE THROUGH AT THIS
19 POINT ARE ALL THE ITEMS THAT WERE RECOVERED FROM
20 THE HOUSE THAT DAY; IS THAT CORRECT?

21 A. THAT'S CORRECT.

22 Q. AND YOU TRANSPORTED ALL OF THEM TO SLED?

23 A. YES, SIR, THESE ITEMS THAT WE'VE DISCUSSED ALONG
24 WITH THE OTHERS I PERSONALLY TRANSPORTED TO SLED
25 WHERE THEY WERE TURNED OVER TO THEIR RESPECTIVE

BRETT BAKER - DIRECT BY MR. POPE

1724

1 DEPARTMENTS.

2 Q. YOU HAD THE OPPORTUNITY TO GO BACK TO THE HOUSE
3 YOU INDICATED ON THE SEARCH WARRANT THAT FRIDAY,
4 THE FRIDAY OF THE END OF THAT WEEK AND OBTAINED
5 SOME ADDITIONAL ITEMS?

6 A. YES.

7 Q. I'LL CALL YOUR ATTENTION QUICKLY TO STATE'S
8 EXHIBIT 43 WHICH IS A PAINT STANDARD, AND
9 STATE'S EXHIBITS 44 AND 45 THAT ARE MEDICINE
10 BOTTLES AND STATE'S EXHIBIT 46 THAT'S A MEDICINE
11 BOTTLE. IN ADDITION, NOT A STATE'S NUMBER, BUT
12 YOU ALSO COLLECTED SOME CUTTINGS FROM THE PILLOW
13 CASE IN THE DEFENDANT JIM ROBERTSON'S BEDROOM,
14 IS THAT CORRECT, A GREEN PILLOW CASE?

15 A. THAT IS CORRECT.

16 Q. COULD YOU RELATE THROUGH YOUR NUMBERS AND
17 STATE'S NUMBERS, FOR EXAMPLE STATE'S 43, THE
18 PAINT SAMPLE, COULD YOU INDICATE WHERE THAT WAS
19 RECOVERED FROM?

20 A. YES, SIR. ITEM 43 WAS COLLECTED FROM THE LOWER
21 DOOR THAT HAD THE WINDOW BROKEN OUT WHAT WE
22 BELIEVED TO BE A POINT OF ENTRY AT THAT TIME. I
23 COLLECTED THE ACTUAL PAINT SAMPLE OFF THE DOOR.

24 Q. STATE'S EXHIBIT 44, TWO MEDICINE BOTTLES, COULD
25 YOU INDICATE WHERE YOU COLLECTED THOSE?

BRETT BAKER - DIRECT BY MR. POPE

1725

1 A. THEY WERE COLLECTED FROM THE LOWER LEVEL
2 BATHROOM SINK AREA. SO, THE LOWER LEVEL OF THE
3 HOME IN THE BATHROOM.

4 Q. STATE'S EXHIBIT 45 IS THE SECOND BOTTLE OF THOSE
5 TWO BOTTLES, IS THAT CORRECT?

6 A. CORRECT.

7 Q. AND STATE'S EXHIBIT 46, A MEDICINE BOTTLE, WHERE
8 WAS THAT LOCATED?

9 A. THAT WAS COLLECTED OUT OF THE KITCHEN CABINET IN
10 THE KITCHEN AREA.

11 Q. AS TO THE PAINT SAMPLE, DOES YOUR DEPARTMENT DO
12 THE PAINT SAMPLE COMPARISONS?

13 A. MY PARTICULAR DEPARTMENT? NO, SIR.

14 Q. WHAT DEPARTMENT DOES THAT?

15 A. THAT WOULD BE THE TRACE EVIDENCE DEPARTMENT OR
16 TRACE DEPARTMENT.

17 Q. AND DID YOU TAKE THAT ITEM TO SLED TO BE
18 PROCESSED?

19 A. YES, SIR.

20 Q. AS FAR AS 86, 87 AND 88, THE MEDICINE BOTTLES,
21 DID YOU TEST THOSE FOR LATENT PRINTS?

22 A. YES, SIR.

23 Q. AND COULD YOU TELL THE JURY THE RESULTS OF THE
24 TESTS OF THOSE MEDICINE BOTTLES COLLECTED.

25 A. JUST A SECOND.

BRETT BAKER - DIRECT BY MR. POPE

1726

1 Q. THAT WOULD BE YOUR ITEMS 86, 87 AND 88.

2 A. THEY ALL CONTAINED RIDGE DETAIL -- IN OTHER
3 WORDS, THEY WERE INSUFFICIENT FOR
4 IDENTIFICATION. I COULD NOT TELL YOU WHO
5 HANDLED THEM.

6 MR. POPE: YOUR HONOR, THAT WOULD BE STATE'S
7 EXHIBITS 43, 44, 45 AND 46 THAT WERE RECOVERED BY BAKER ON
8 THE SECOND SEARCH WARRANT AND TAKEN TO SLED. I WOULD MOVE
9 THOSE INTO EVIDENCE.

10 MR. HANCOCK: WITHOUT OBJECTION, YOUR HONOR.

11 THE COURT: RECEIVED.

12 (THE PAINT SAMPLE WAS MARKED STATE'S EXHIBIT 43 AND THE
13 MEDICINE BOTTLES WERE MARKED STATE'S EXHIBITS 44, 45 AND 46
14 WITHOUT OBJECTION.)

15 Q. AGENT, YOU ALSO INDICATED THAT YOU WENT TO
16 PHILADELPHIA AND PROCESSED THE RED MAZDA; IS
17 THAT CORRECT?

18 A. YES, SIR, THAT'S CORRECT.

19 Q. AND IN PROCESSING THAT RED MAZDA DID YOU RECOVER
20 A NUMBER OF ITEMS FROM THAT VEHICLE?

21 A. YES, SIR, I DID.

22 Q. I CALL YOUR ATTENTION PARTICULARLY TO STATE'S
23 EXHIBIT 90 AND ASK IF YOU COULD LOOK AT THIS AND
24 IDENTIFY THOSE ITEMS.

25 A. YES, SIR, I HAVE PREVIOUSLY REVIEWED THESE,

BRETT BAKER - DIRECT BY MR. POPE

1727

1 REVIEWED THESE PRIOR TO COURT. THESE ARE
2 SEVERAL ITEMS WHAT I LISTED AS MISCELLANEOUS
3 PAPER ITEMS FROM THE MAZDA PROTEGE, ONE BEING A
4 MAP OF THE GENERAL AREA I-95 TO PENNSYLVANIA,
5 ONE BEING A FRED PRYOR SEMINAR BOOKLET, HOW TO
6 MANAGE CONFLICT, ANGER AND EMOTIONS WITH
7 HANDWRITTEN NOTES ON THE BACK. THOSE ARE SOME
8 OF THE VARIOUS ITEMS THAT WERE COLLECTED FROM
9 THE VEHICLE OUT OF PENNSYLVANIA.

10 Q. AND THE PRYOR MANUAL WAS MARKED AS 48.1 FOR
11 IDENTIFICATION?

12 A. CORRECT.

13 Q. ALSO COULD YOU TELL ME, IT WOULD BE STATE'S
14 EXHIBIT 48.2, COULD YOU TELL ME WHAT THIS ITEM
15 IS?

16 A. THIS IS A RECEIPT, SHELL STATION RECEIPT THAT
17 WAS LOCATED AT LADYSMITH, VIRGINIA OFF I-95 IN
18 THE AMOUNT OF THIRTEEN SIXTY-EIGHT BEARING THE
19 DATE OF 11-25-97.

20 Q. AND YOU RECOVERED THAT FROM THE VEHICLE ALSO?

21 A. YES, SIR. I RECOVERED THIS FROM THE VEHICLE IN
22 PENNSYLVANIA AS WE PROCESSED IT.

23 MR. POPE: IT WOULD BE STATE'S EXHIBIT 48, .1 AND
24 .2, WE WOULD OFFER INTO EVIDENCE.

25 MR. HANCOCK: WITHOUT OBJECTION.

BRETT BAKER - DIRECT BY MR. POPE

1728

THE COURT: RECEIVED INTO EVIDENCE.

(THE MISCELLANEOUS PAPERS WERE MARKED STATE'S EXHIBIT 48;
THE PRYOR MANUAL WAS MARKED STATE'S EXHIBIT 48.1; AND THE
SHELL STATION RECEIPT WAS MARKED STATE'S EXHIBIT 48.2 IN
EVIDENCE WITHOUT OBJECTION.)

Q. PARTICULARLY I WANT TO CALL YOUR ATTENTION -- IF
YOU COULD STEP DOWN JUST BRIEFLY. YOU HAD THE
OPPORTUNITY TO PROCESS THAT VEHICLE IN
PHILADELPHIA AT THE POLICE IMPOUND GARAGE, IS
THAT CORRECT?

A. YES, SIR. THE POLICE IMPOUND LOT IS LOCATED
OUTSIDE THE CITY LIMITS. IT WAS IN A SECURE
AREA. THIS IS THE BUILDING THAT IT WAS HOUSED,
AND THIS IS THE VEHICLE THAT WE PROCESSED THAT
NIGHT. I WAS ASSISTED BY TWO OFFICERS FROM THE
PHILADELPHIA P.D.

Q. I SHOW YOU NOW WHAT'S BEEN MARKED STATE'S
EXHIBIT 135 FOR IDENTIFICATION. I WOULD ASK YOU
TO LOOK AT THESE PHOTOS AND I ASK IF THEY
ADEQUATELY DEPICT THE PROCESSING OF THE CAR AND
WOULD THEY ASSIST YOU IN YOUR TESTIMONY?

A. YES, SIR. THESE ARE ACCURATE DEPICTIONS OF THE
ITEMS OF EVIDENCE FOUND IN THE VEHICLE, SOME
BEING AN OVERALL GENERAL VIEW OF THE VEHICLE,
SOME BEING SOME ITEMS OF EVIDENCE THAT WAS

BRETT BAKER - DIRECT BY MR. POPE

1729

1 CONTAINED WITHIN THE VEHICLE SUCH AS CHECKS.

2 MR. POPE: YOUR HONOR, I WOULD MOVE STATE'S
3 EXHIBITS 136 FOR IDENTIFICATION, 137, 138, 128, 129, 130,
4 131, 132, 133, 134, 135 AND 127 I BELIEVE IS ALREADY IN.

5 MR. HANCOCK: WITHOUT OBJECTION, YOUR HONOR.

6 THE COURT: THEY WILL BE RECEIVED.

7 (THE PHOTOS OF THE VEHICLE AND ITEMS LOCATED IN THE VEHICLE
8 WERE MARKED STATE'S EXHIBITS 128, 129, 130, 131, 132, 133,
9 134, 135, 136, AND 137 IN EVIDENCE WITHOUT OBJECTION.)

10 Q. AGENT, IF YOU COULD, I'M GOING TO ASK IF YOU
11 COULD INDICATE TO THE JURY WHAT EACH ONE OF
12 THESE DEPICT. STATE'S EXHIBIT 136.

13 A. THIS IS A PHOTOGRAPH OF THE LEFT-HAND SIDE OF
14 THE VEHICLE. A PHOTOGRAPH TAKEN FROM THE POINT
15 OF VIEW FROM THE OUTSIDE BACK DOOR BEHIND THE
16 DRIVER'S SEAT INDICATING JUST GENERAL CONDITION
17 AND WHERE ITEMS WERE FOUND IN THE VEHICLE.

18 Q. AND DID YOU IN FACT RECOVER SOME OF THESE PAPER
19 ITEMS?

20 A. YES, SOME OF THESE WOULD BE WHAT WE LISTED AS
21 MISCELLANEOUS PAPER ITEMS SUCH AS THE MAP.

22 Q. I'LL SHOW YOU NOW STATE'S EXHIBIT NUMBER 130,
23 COULD YOU TELL US WHAT THIS DEPICTS?

24 A. THAT'S DEPICTING THE LADYSMITH VIRGINIA, RIGHT
25 OFF I-95, RECEIPT.

BRETT BAKER - DIRECT BY MR. POPE

1730

1 Q. STATE'S EXHIBIT 129?

2 A. THIS IS JUST DEPICTING THE GENERAL CONDITION OF
3 THE TRUNK, WHAT ITEMS WERE IN THE TRUNK, GOLF
4 CLUBS, WHAT HAVE YOU.

5 Q. I'LL CALL YOUR ATTENTION TO STATE'S EXHIBIT 128.

6 A. THESE ARE INDICATING SOME CRUMPLED UP PIECES OF
7 PAPER WHICH WERE PHOTOGRAPHED AGAIN, ALSO IN THE
8 TRUNK.

9 Q. THE PIECES OF PAPER, DID YOU ULTIMATELY UNFOLD
10 THEM AND PHOTOGRAPH THOSE ALSO?

11 A. YES, SIR, WE SURE DID.

12 Q. STATE'S EXHIBIT 134?

13 A. THIS IS MR. AND MRS. EARL ROBERTSON, CHECK
14 NUMBER 5233, THIS IS A DUPLICATE PORTION OF A
15 CHECK.

16 Q. STATE'S EXHIBIT 133?

17 A. AGAIN THIS IS A DUPLICATE PORTION OF CHECK
18 NUMBER 5221, ALSO BEARING THE SAME NAME.

19 Q. AND STATE'S EXHIBIT 135?

20 A. A CHECK THAT WAS PARTIALLY WRITTEN OUT BEGINNING
21 WITH THE NAME JIM ROBERTSON NOVEMBER 10TH. THIS
22 WAS BEARING CHECK NUMBER 5221, THIS IS THE TOP
23 PORTION OF ONE OF THE DUPLICATES BEARING THE
24 SAME NAMES.

25 Q. AND THESE ITEMS THAT YOU RECOVERED IN PROCESSING

BRETT BAKER - DIRECT BY MR. POPE

1731

1 THE CAR, DID YOU ALSO HAVE AN OPPORTUNITY TO GET
2 A LIST FROM THAT CAR ALSO?

3 A. YES, SIR, I DID.

4 Q. I'LL REFER YOU TO STATE'S 49, 50 AND 51. HAVE
5 YOU ALREADY LOOKED AT THOSE ITEMS? IT'S YOUR
6 ITEMS 95, 98 AND 100?

7 A. YES, SIR, I PREVIOUSLY VIEWED THOSE ITEMS.

8 Q. AND AS TO THOSE ITEMS, DID YOU RETRIEVE THEM
9 FROM THE CAR WHEN YOU PROCESSED IT IN
10 PHILADELPHIA?

11 A. YES, SIR.

12 MR. HANCOCK: WITHOUT OBJECTION, YOUR HONOR.

13 THE COURT: IT WILL BE RECEIVED.

14 (LATENT PRINTS WERE MARKED STATE'S EXHIBITS 49, 50 AND 51
15 WITHOUT OBJECTION.)

16 Q. AND CAN YOU TELL THE JURY THE RESULTS OF THE
17 PROCESSING OF THAT VEHICLE IN PHILADELPHIA?

18 A. IN PROCESSING THE VEHICLE, AGAIN WE'RE LOOKING
19 FOR VARIOUS THINGS, ONE BEING BLOOD, ANY OTHER
20 SEROLOGICAL FLUIDS, FINGERPRINTS, ANYTHING THAT
21 MAY BE RELEVANT TO THE CRIME OR CRIMES THAT WERE
22 COMMITTED. WE DID RETRIEVE FINGERPRINTS
23 IDENTIFIED, LIKE 95 IDENTIFIED TO JAMES D.
24 ROBERTSON, LIKE HIS RIGHT FINGER. IDENTIFIED
25 MS. MOON ALSO IN THE VEHICLE, YOU KNOW, THAT'S

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1732

1 PRETTY MUCH IT WHAT WE GOT OUT OF THE VEHICLE AS
2 FAR AS -- WE COLLECTED SOME EVIDENCE TO BE HELD
3 FOR LATER TESTING IF NEEDED. BUT, YOU KNOW, WE
4 PROCESSED THE VEHICLE, PHOTOGRAPHED IT TO DEPICT
5 THE GENERAL CONDITION.

6 Q. AND YOU DID DETERMINE EACH DEFENDANT AND CO-
7 DEFENDANT'S PRINTS IN THE VEHICLE AT SOME POINT,
8 IS THAT CORRECT?

9 A. YES, SIR, THEY BOTH WERE FOUND EITHER ON THE
10 VEHICLE OR ON ITEMS CONTAINED WITHIN THE
11 VEHICLE.

12 Q. I'M NOW GOING TO CALL YOUR ATTENTION TO THE
13 ITEMS THAT YOU RETRIEVED IN MARYLAND.

14 A. YES, SIR.

15 Q. HAVE YOU HAD AN OPPORTUNITY TO REVIEW THESE
16 ITEMS?

17 A. YES, SIR, I HAVE.

18 Q. STATE'S EXHIBITS 52 THROUGH 85 ALREADY IN
19 EVIDENCE, AS TO THOSE ITEMS, DID YOU ALTER OR
20 TAMPER WITH THEM IN ANY WAY BEFORE YOU DELIVERED
21 THEM TO SLED?

22 A. NO, SIR. THEY WERE ACTUALLY CONTAINED STILL IN
23 THE ORIGINAL PACKAGING AS I RECEIVED THEM FROM
24 MARYLAND.

25 Q. OKAY, AND DID YOU DO ANY TESTING ON ANY OF THOSE

BRETT BAKER - DIRECT BY MR. POPE

1733

1 ITEMS BACK AT YOUR DEPARTMENT?

2 A. YES, SIR, I DID TESTING ON VARIOUS PORTIONS OF
3 THESE ITEMS.

4 Q. CAN YOU TELL THE JURY THE RESULTS OF ANY OF THE
5 TESTING YOU ACTUALLY DID ON THE MARYLAND ITEMS?

6 A. YES, SIR, LET ME REFER BACK TO MY REPORT.

7 CONTAINED WITHIN THE ITEMS OF EVIDENCE FROM
8 MARYLAND WERE SOME YELLOW UNION BAY PANTS THAT
9 ALSO HAD SOME FORM OF FABRIC IMPRESSION ON THE
10 PANTS AND THEY WERE FOUND ON THE FRONT PORTIONS
11 OF THE PANTS AS WELL AS THE BACK PORTIONS OF THE
12 PANTS.

13 AGAIN, THEY WERE COMPRESSION TRANSFERS, MEANING
14 THAT THERE WAS BLOOD ON THE SURFACE AND THAT IT
15 WAS TOUCHED.

16 THESE ARE THE YELLOW UNION BAY PANTS. ON THOSE
17 PANTS THERE WERE, AGAIN, IMPRESSIONS THAT WERE
18 IDENTIFIED OR WERE CONSISTENT RATHER WITH SOME
19 OF THE SOCKS THAT WERE ALSO FOUND IN THAT BAG.
20 SO, IN OTHER WORDS, THEY WERE CONSISTENT WITH
21 IMPRESSIONS LEFT.

22 Q. AND IS THAT, AGAIN, USING THE PROCESS YOU HAD
23 EXPLAINED WHERE YOU MADE A KNOWN SAMPLE WITH THE
24 SOCKS AND COMPARED IT?

25 A. CORRECT. I USED THE SAME TECHNIQUE I USED WHEN I

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1734

1 IDENTIFIED SOME OF THE SOCKS OUT OF THIS BAG TO
2 THE IMPRESSIONS ON THE BED, THE SAME TECHNIQUE
3 WAS USED AS COMPARING THE SOCKS TO THE
4 IMPRESSIONS ON THE PANTS.

5 AGAIN, I PROCESSED VARIOUS OTHER ITEMS WITHIN
6 HERE, NONE OF THEM YIELDING ANY POSITIVE
7 RESULTS. MEANING THERE WERE NO FINGERPRINTS
8 IDENTIFIED TO ANY PARTICULAR INDIVIDUAL ON ANY
9 ITEM WITHIN THE BAG.

10 Q. OKAY.

11 A. I DID HAVE SOME PARTIAL FINGERPRINTS ON THE
12 ACTUAL PLASTIC BAGS THE ITEMS WERE CONTAINED IN.
13 A PORTION OF THE ITEMS WERE CONTAINED IN ONE
14 BAG, THAT BAG WAS THROWN INSIDE OF ANOTHER BAG
15 AND WITHIN THAT BAG THERE WERE OTHER ITEMS. AND
16 I DID HAVE FINGERPRINTS ON THOSE BAGS, BUT THEY
17 WERE INSUFFICIENT FOR IDENTIFICATION IN THAT
18 PARTICULAR CASE.

19 Q. I'LL CALL YOUR ATTENTION NOW TO STATE'S EXHIBITS
20 92, 93, AND 94. DID YOU HAVE THE OPPORTUNITY
21 AUGUST 18TH OF 1998 TO GO AND GET VARIOUS
22 SAMPLES, INCLUDING THE HANDWRITING, FINGERPRINTS
23 AND A SUSPECT KIT FROM THE DEFENDANT, JAMES
24 ROBERTSON?

25 A. YES, SIR, I DID.

BRETT BAKER - DIRECT BY MR. POPE

1735

1 Q. AND DID YOU ALTER OR TAMPER WITH THOSE IN ANY
2 WAY?

3 A. NO, SIR, I DID NOT.

4 Q. WERE THOSE DELIVERED TO SLED FOR COMPARISON BY
5 YOURSELF OR OTHER PEOPLE IN OTHER DEPARTMENTS?

6 A. YES, SIR. THE PORTIONS OF THE FINGERPRINTS
7 WOULD HAVE BEEN SENT TO ME. ANYTHING THAT WAS
8 RELEVANT TO TRACE SUCH AS HAIR WOULD HAVE BEEN
9 SENT TO THEM. SEROLOGICAL SAMPLES WOULD HAVE
10 BEEN SENT TO THE SEROLOGY DEPARTMENT.

11 Q. OKAY. AND YOU'VE HAD AN OPPORTUNITY TO LOOK AT
12 THESE ITEMS AND DETERMINE IF THEY'RE IN THE SAME
13 CONDITION LESS ANY TESTING THAT WOULD HAVE BEEN
14 DONE?

15 A. YES, SIR.

16 MR. POPE: YOUR HONOR, I MOVE STATE'S EXHIBIT 92,
17 93 AND 94 INTO EVIDENCE.

18 MR. HANCOCK: WITHOUT OBJECTION, YOUR HONOR.

19 THE COURT: THEY WILL BE RECEIVED.

20 (THE EXHIBITS WERE SO MARKED IN EVIDENCE WITHOUT
21 OBJECTION.)

22 Q. FINALLY I'LL CALL YOUR ATTENTION -- NEXT TO THE
23 LAST, I WILL CALL YOUR ATTENTION TO STATE'S
24 EXHIBIT 96 AND 99 WHICH WOULD BE YOUR 175 AND
25 181, THE CASE PRINTS OF MEREDITH MOON, DID YOU

BRETT BAKER - DIRECT BY MR. POPE

1736

1 ALSO USE THOSE IN YOUR VARIOUS COMPARISONS?

2 A. YES, SIR, I RECEIVED THOSE AND THOSE WERE USED
3 ALSO, YOU KNOW, TO HELP IDENTIFY OR EXCLUDE
4 CERTAIN FINGERPRINTS.

5 Q. AND ARE THEY IN THE SAME CONDITION THEY WERE, AS
6 FAR AS LESS ANY TESTING?

7 A. YES, SIR, THAT'S CORRECT.

8 Q. THAT WOULD BE STATE'S EXHIBIT 96 AND 99, 96
9 ALREADY BEING IN EVIDENCE.

10 MR. HANCOCK: WITHOUT OBJECTION, YOUR HONOR.

11 THE COURT: IT WILL BE RECEIVED.

12 (THE FINGERPRINT CARD OF MEREDITH MOON WAS MARKED IN
13 EVIDENCE AS STATE'S EXHIBIT 99 WITHOUT OBJECTION.)

14 Q. FINALLY, STATE'S EXHIBIT 25, A PAD WITH A TO DO
15 LIST ON IT, 25 FOR IDENTIFICATION. I'D ASK THAT
16 YOU LOOK AT THAT AND TELL ME IF YOU CAN IDENTIFY
17 THAT?

18 A. YES, SIR. I HAD A PREVIOUS OCCASION TO REVIEW
19 THAT PRIOR TO TRIAL.

20 Q. WHERE WAS THAT ACTUALLY RECOVERED?

21 A. THAT WAS RECOVERED FROM THE LOWER LEVEL OF THE
22 HOME. IF YOU WERE TO ENTER THE BROKEN DOOR, AS
23 YOU GO IN THERE IS A TABLE IMMEDIATELY TO YOUR
24 RIGHT, A SOFA, POOL TABLE, BAR AREA BEING TO
25 YOUR LEFT AS YOU ENTER, THIS IS THE TABLE AND

BRETT BAKER - DIRECT BY MR. POPE

1737

1 THAT'S ACTUALLY THE PAD AS I FOUND IT.

2 Q. IF YOU COULD INDICATE ON STATE'S EXHIBIT 101
3 WHERE APPROXIMATELY THAT WOULD BE LOCATED TO THE
4 JURY PLEASE, SIR.

5 A. YES, SIR. AS YOU ENTER THE BACK DOOR, THE TABLE
6 IS RIGHT HERE THAT'S INDICATED. THIS WOULD BE
7 CONSIDERED THE TABLE HERE, THAT'S WHAT THAT IS
8 DEPICTING THERE.

9 Q. WHAT IS THIS ITEM RIGHT HERE AT THE END OF THE
10 COUCH?

11 A. THAT WOULD BE ANOTHER END TABLE THAT YOU SEE.
12 IF YOU ZOOMED OUT, IT WOULD BE RIGHT HERE.

13 Q. THIS WAS ON THE TABLE ON THE FAR ---

14 A. CORRECT, BEHIND THE DOOR. IF YOU WERE TO OPEN
15 THE DOOR, THE DOOR WOULD HIT THAT TABLE THAT IT
16 CAME OFF OF. AND I PUT VARIOUS ITEMS IN HERE
17 JUST AS POINTS OF REFERENCE JUST BECAUSE IT'S
18 IMPRACTICAL TO PUT EVERY PIECE OF ITEM ON THAT
19 ACTUAL DIAGRAM.

20 Q. NOW, HAVING GONE THROUGH -- OF COURSE WE DIDN'T
21 GO THROUGH INDIVIDUALLY THE SOCKS THAT WERE
22 RECOVERED FROM MARYLAND, THE VARIOUS SOCKS THAT
23 WERE RECOVERED FROM MARYLAND, COULD YOU GIVE THE
24 JURY JUST AN OVERVIEW OF YOUR RESULTS COMPARING
25 THE SOCKS FROM MARYLAND TO THE ITEMS IN THE

BRETT BAKER - DIRECT BY MR. POPE

1738

1 HOUSE?

2 A. THERE WERE VARIOUS COMPRESSIONS, TRANSFER
3 PATTERNS WHICH WOULD APPEAR TO BE IN BLOOD LEFT
4 WITHIN THE HOME.

5 AS I SAID, I DID MY GENERAL WALK THROUGH. AS
6 YOU WALK THROUGH THE HOME, YOU CAN SEE VARIOUS
7 THINGS. AT THE TOP OF THE STEPS YOU HAD FLORAL
8 FLAT SHEET SITTING AT THE LOWER RIGHT HAND THAT
9 HAD SOME IMPRESSIONS.

10 THERE WERE ALSO SOME IMPRESSIONS ON THE
11 UNDERWEAR OF EARL ROBERTSON ON THE LEFT-HAND
12 SIDE. THERE WERE ALSO SOME IMPRESSIONS LEFT ON
13 THE FITTED PINK SHEET IN THE MASTER BEDROOM.

14 AGAIN, OUT OF THE ITEMS COLLECTED OUT OF
15 MARYLAND THAT WERE FOUND IN THE DUMPSTER, YOU
16 HAD COMPRESSION TRANSFERS ON THE UNION BAY
17 PANTS.

18 THERE WERE NINE DIFFERENT SOCKS COLLECTED OUT OF
19 THE DUMPSTER. ALL OF THOSE SOCKS AT ONE POINT
20 IN TIME WERE CONSISTENT WITH MAKING SOME OF
21 THOSE IMPRESSIONS. IN OTHER WORDS, THOSE SOCKS
22 WERE CONSISTENT WITH IMPRESSIONS LEFT AT THE
23 HOME; THEY WERE CONSISTENT WITH IMPRESSIONS LEFT
24 ON THE PANTS IN THE BAG IN MARYLAND.

25 Q. THANK YOU ---

BRETT BAKER - DIRECT BY MR. POPE

1739

1 A. I'M SORRY, SOME OF THOSE IMPRESSIONS AGAIN, THE
2 ONE ON THE SHORTS, WERE NOT OF SUFFICIENT
3 QUALITY THAT I COULD DETERMINE WHERE THEY CAME
4 FROM.

5 Q. THANK YOU, SIR. ANSWER ANY QUESTIONS THE
6 DEFENSE MAY HAVE.

7 MR. HANCOCK: YOUR HONOR, WE BEG THE INDULGENCE
8 OF THE COURT ONE MOMENT.
9 (AFTER A BRIEF PAUSE.)

10 CROSS EXAMINATION BY

11 MR. BOYD:

12 Q. YOU SAID THERE WERE NINE SOCKS RECOVERED FROM
13 THE BAG, IS THAT CORRECT?

14 A. YES, SIR. THERE WERE THREE WHITE, THREE BLUE,
15 TWO PINK AND ONE BEIGE SOCK.

16 Q. AND YOU SAID EACH ONE OF THOSE SOCKS MATCHED
17 SOME IMPRESSION SOMEWHERE OR WERE CONSISTENT
18 WITH SOME IMPRESSION SOMEWHERE.

19 A. RIGHT, THEY WERE CONSISTENT WITH SOME
20 IMPRESSIONS LEFT EITHER ON THE PANTS, ON THE
21 SHEET AT THE TOP OF THE HALL ON THE FLORAL SHEET
22 OR IN THE BEDROOM.

23 Q. OKAY. NOW WHEN YOU SAY CONSISTENT, YOU'RE NOT
24 TALKING ABOUT A MATCH, THERE'S A DIFFERENCE
25 ISN'T THERE?

BRETT BAKER - CROSS BY MR. BOYD

1740

1 A. EXACTLY. AND THE MAJOR DIFFERENCE IS THIS. IF
2 IT WAS AN IDENTIFICATION I WOULD BE SAYING THAT
3 IMPRESSION WAS LEFT BY THAT SOCK. SAYING
4 CONSISTENT MEANS I'M INCLUDING THAT PIECE OF
5 FABRIC. I'M SAYING THAT FABRIC COULD HAVE LEFT
6 IT OR ANOTHER FABRIC EXACTLY THE SAME IN WEAVE
7 AND PATTERN DESIGN.

8 I'M NOT SAYING ABSOLUTELY. I'M SAYING THAT I
9 CAN'T INCLUDE IT AS MAKING IT AND I COULDN'T
10 EXCLUDE IT.

11 Q. OKAY. SO, LET ME JUST TRY TO FIGURE OUT WHAT
12 YOU'RE STATING. FOR INSTANCE, IF I'M WALKING
13 AROUND IN A PAIR OF, SAY, AMHURST SOCKS OR ANY
14 BRAND OF SOCKS, AND I MAKE AN IMPRESSION. YOU
15 CAN'T, BY TAKING THAT PAIR OF SOCKS SAY THAT
16 THAT'S A DIFFERENT IMPRESSION FROM ANOTHER PAIR
17 OF THE SAME BRAND I MAY HAVE IN MY DRAWER; IS
18 THAT CORRECT?

19 A. IT IS POSSIBLE IF YOU HAVE WHAT WE REFER TO AS
20 RANDOM IDENTIFYING CHARACTERISTICS.
21 SIMPLY PUT, IF YOU HAVE ON A PAIR OF SOCKS AND
22 LET'S SAY YOU WORE OUT THE HEEL ON THEM. IF
23 WITHIN THE IMPRESSION LEFT AT THE SCENE YOU HAVE
24 ALSO THAT WORN OUT SPOT, I MIGHT COULD SAY THAT
25 SOCK LEFT THAT ONE. BUT IN THESE PARTICULAR

BRETT BAKER - CROSS BY MR. BOYD

1741

1 CASES, THERE WERE NO RANDOM IDENTIFYING
2 CHARACTERISTICS, AND I COULD NOT CONCLUSIVELY
3 SAY THESE SOCKS LEFT THOSE IMPRESSIONS. I COULD
4 ONLY SAY THEY ARE CONSISTENT WITH THEM MEANING
5 THAT I COULD INCLUDE THEM AS POSSIBLY LEAVING
6 THEM BUT NOT DEFINITELY.

7 Q. OKAY, SO IT'S NOT DEFINITE THAT THESE SOCKS MADE
8 THOSE IMPRESSIONS?

9 A. NO, SIR, IT'S NOT DEFINITE; IT WOULD BE CALLED
10 CONSISTENT; THAT'S CORRECT.

11 Q. THEY COULD HAVE, BUT IT'S NOT DEFINITE?

12 A. CORRECT; YES, SIR.

13 Q. NOW, YOU ALSO TESTIFIED SOME ABOUT FINGERPRINTS,
14 BUT YOU CANNOT TELL WHEN FINGERPRINTS WERE MADE
15 WHEN YOU FIND THE PRINTS; IS THAT CORRECT?

16 A. THAT'S CORRECT. CURRENTLY IN THE SCIENCE OF
17 FINGERPRINTS TODAY, THERE'S NO SCIENTIFIC WAY TO
18 AGE A FINGERPRINT.

19 Q. SO, YOU EVEN SAID CONCEIVABLY FINGERPRINTS FROM
20 ANYBODY THAT'S BEEN IN THAT HOUSE THAT HAS BEEN
21 LEFT THERE COULD BE FOUND.

22 A. CONCEIVABLY, YES, SIR, THEY COULD BE.

23 Q. AND DID YOU FIND OTHER UNIDENTIFIED PRINTS IN
24 THE HOUSE?

25 A. YES, SIR, I SURE DID.

BRETT BAKER - CROSS BY MR. BOYD

1742

1 Q. SO, YOU FOUND PRINTS THAT YOU COULD NOT IDENTIFY
2 FROM OTHER PEOPLE WHO MAY HAVE BEEN IN THE HOUSE
3 AT ONE TIME OR ANOTHER?

4 A. CORRECT, THERE WAS NO WAY FOR ME TO DETERMINE
5 HOW MANY PERSONS HAD BEEN IN THE HOUSE, SO I
6 COMPARED THEM TO THE SAMPLES GIVEN TO ME, BEING
7 THE VICTIMS AS WELL AS THE TWO SUSPECTS.

8 Q. OKAY. I WANTED TO ASK YOU IN PARTICULAR ABOUT
9 THE PRINTS YOU FOUND ON STATE'S EXHIBIT 23. I
10 DON'T KNOW IF I CAN FIND THAT.

11 A. IT WAS THE KNIFE FOUND IN THE MASTER BEDROOM
12 BED?

13 Q. NO, THAT'S NOT WHAT I WAS WANTING. I'M TALKING
14 ABOUT A NOTE.

15 A. A NOTE TO MOM AND DAD?

16 Q. YES.

17 A. THAT WOULD BE STATE'S EXHIBIT 24.

18 Q. 24, OKAY. ON THAT NOTE -- ALL RIGHT, THIS IS IT
19 -- YOU FOUND A PRINT ON THIS; IS THAT CORRECT?

20 A. YES, SIR, A PRINT WAS DEVELOPED ON THIS NOTE AND
21 SUBSEQUENTLY IDENTIFIED AS HAVING BEEN LEFT BY
22 MR. ROBERTSON. AND THE PRINT IS RIGHT UNDER THE
23 WORD "HE".

24 Q. SO, THERE IS NO WAY FROM THIS PRINT THAT YOU
25 COULD TELL WHETHER THAT PRINT WAS PUT ON THERE,

BRETT BAKER - CROSS BY MR. BOYD

1743

1 OR MAYBE YOU CAN, BEFORE OR AFTER THE NOTE WAS
2 WRITTEN?

3 A. NO, SIR, I COULDN'T TELL YOU WHETHER IT WAS PUT
4 THERE BEFORE OR AFTER.

5 Q. OKAY. SO, ALL THAT TELLS YOU IS THAT HE AT SOME
6 POINT TOUCHED THIS PIECE OF PAPER?

7 A. AT SOME POINT HE HANDLED THAT PIECE OF PAPER,
8 THAT'S CORRECT.

9 Q. BUT YOU CAN'T TELL WHETHER HE HANDLED THIS PIECE
10 OF PAPER BEFORE THE NOTE WAS WRITTEN OR AFTER
11 THE NOTE WAS WRITTEN?

12 A. ABSOLUTELY.

13 Q. EXHIBIT NUMBER -- THIS IS EXHIBIT 44 AND 45 THAT
14 ARE MEDICINE BOTTLES. I BELIEVE BOTH OF THESE
15 WERE -- ONE OF THEM IS A SMALL BOTTLE OF
16 RITALIN, IS THAT CORRECT?

17 A. YES, SIR, HAVING THE NAME OF CHIP ROBERTSON ON
18 IT ALSO.

19 Q. OKAY, AND HOW ABOUT THE LARGE BOTTLE OF RITALIN?

20 A. IT ALSO BEARS THE NAME CHIP ROBERTSON.

21 Q. AND THAT'S ALSO A BOTTLE WITH A RITALIN
22 PRESCRIPTION LABEL ON IT; IS THAT CORRECT?

23 A. TO BE HONEST WITH YOU, SIR, I DON'T SEE IT
24 UNLESS THEY ARE USING A GENERIC NAME THAT I
25 WOULD NOT BE FAMILIAR WITH. I'M NOT SURE

BRETT BAKER - CROSS BY MR. BOYD

1744

1 EXACTLY WHAT TYPE MEDICINE IS CONTAINED WITHIN
2 IT. BUT IT IS A BOTTLE OF MEDICINE OF SOME
3 SORT.

4 Q. IT SAYS WELLBUTRIN, IS THAT CORRECT?

5 A. YES, SIR, AND I'M NOT REAL SURE WHAT EXACTLY
6 THAT WOULD BE.

7 Q. I UNDERSTAND THAT, BUT THE PRESCRIPTION LABEL IS
8 TO CHIP ROBERTSON; IS THAT CORRECT?

9 A. YES, SIR, THAT'S CORRECT.

10 Q. I'LL REFER YOU TO STATE'S EXHIBIT 30 WHICH I
11 BELIEVE IS A TELEPHONE RECEIVER?

12 A. YES, SIR.

13 Q. WHERE DID YOU FIND THAT?

14 A. SWABS OFF TELEPHONE RECEIVER ON KITCHEN WALL.

15 Q. THE TELEPHONE RECEIVER, THAT WAS THE TELEPHONE
16 ON THE KITCHEN WALL?

17 A. CORRECT. ACTUALLY IF YOU HAD THE HANDSET, THE
18 PICTURE DISPLAYED, BLOOD BEING ON THE OUTER
19 PORTION BETWEEN THE SPEAKING AND THE HEARING
20 PIECE.

21 Q. AND DID YOU ALSO RETRIEVE ANY BEER CANS FROM THE
22 SCENE OR BEER BOTTLES?

23 A. YES, SIR, I THINK THERE WERE SOME BEER BOTTLES.
24 I BELIEVE THERE WAS ONE THAT WAS QUARTER FULL
25 LOCATED NEAR THE VEHICLE JUST PARKED ROUGHLY 60

BRETT BAKER - CROSS BY MR. BOYD

1745

1 OR 70 YARDS DOWN THE ROAD ON THE SAME SIDE. I
2 THINK THERE WAS A BEER CAN OUTSIDE NEAR THE
3 CHIMNEY AS WELL AS VARIOUS OTHER ITEMS SUCH AS
4 BEER CAPS AND CIGARETTE BUTTS.

5 Q. YOU SAID BEER BOTTLES NEAR WHAT CAR?

6 A. IT WAS NEAR THE CAR -- I BELIEVE WE HAD A
7 PICTURE THAT DEMONSTRATED THAT EARLIER. IF YOU
8 WERE RIDING UP THE STREET AND THE RESIDENCE OF
9 THE VICTIMS COMES UP ON YOUR LEFT, JUST PRIOR TO
10 THE VICTIMS' HOME THERE ARE WOODS, ALMOST AT THE
11 END OF THE WOODS PARKED OFF THE LEFT SIDE, ON
12 THE SAME SIDE, POINTING IN THE DIRECTION TOWARDS
13 THE HOME WAS A VEHICLE. AND I DON'T REMEMBER IF
14 THAT WAS -- THAT WAS THE HONDA ACCORD, I BELIEVE
15 IS WHAT IT WAS.

16 Q. I WAS GOING TO ASK YOU, WAS THAT THE HONDA
17 ACCORD?

18 A. YES, SIR. THE MAZDA WAS PROCESSED IN
19 PENNSYLVANIA.

20 Q. DID YOU DO ANY TESTING ON THOSE BEER BOTTLES OR
21 BEER CANS FOR FINGERPRINTS?

22 A. YES, SIR.

23 Q. DID YOU FIND ANY?

24 A. I BELIEVE THERE WERE FINGERPRINTS THAT WERE
25 DEVELOPED BUT NOT IDENTIFIED TO ANY PARTICULAR

BRETT BAKER - CROSS BY MR. BOYD

1746

1 PERSON.

2 Q. SO, THEY WERE UNIDENTIFIED PEOPLE.

3 A. UNIDENTIFIED PRINTS.

4 Q. UNIDENTIFIED PRINTS, YOU COULDN'T IDENTIFY ---

5 A. MEANING THAT I COULD NOT EITHER INCLUDE OR
6 EXCLUDE THE SUSPECT OR ANY PERSON HAD LEFT THOSE
7 PRINTS. WHEN A PRINT IS INSUFFICIENT FOR
8 IDENTIFICATION, THAT MEANS THAT THERE'S JUST NOT
9 ENOUGH THERE TO IDENTIFY IT. NO PERSON IN
10 SCIENCE COULD IDENTIFY IT. I NEITHER CAN INCLUDE
11 OR EXCLUDE ANY PERSON IN THE WORLD AS LEAVING
12 THOSE PRINTS.

13 Q. OKAY, THAT WAS MY QUESTION. I DIDN'T UNDERSTAND
14 WHETHER YOU JUST COULDN'T HAVE ENOUGH DETAIL TO
15 IDENTIFY A PRINT OR WHETHER YOU DID FIND A PRINT
16 THAT YOU COULDN'T IDENTIFY WITH A KNOWN SAMPLE.

17 A. I'VE GOT TO GO BACK AND TRY TO FIND EACH
18 INDIVIDUAL LIFT. LET ME SEE IF I CAN FIND THE
19 ITEM NUMBERS.

20 MR. POPE: I MIGHT BE ABLE TO ASSIST, MR. BOYD.
21 IT'S 77 AND 78.

22 A. YES, SIR, BOTH OF THOSE ITEMS, ONE WAS OFF OF A
23 FULL BEER CAN THAT WAS LOCATED OUTSIDE NEAR THE
24 CHIMNEY JUST TO THE LEFT OF THE POINT OF ENTRY
25 OR WHERE THE BROKEN WINDOW WAS. THE OTHER ONE

BRETT BAKER - CROSS BY MR. BOYD

1747

1 WAS FOUND JUST IN THE WOOD LINE FROM THE
2 VEHICLE, IT WAS ABOUT A QUARTER FULL. ONE WAS A
3 BOTTLE, ONE WAS A CAN.

4 BOTH OF THEM HAD INSUFFICIENT RIDGE DETAIL FOR
5 IDENTIFICATION, MEANING IT WASN'T A UNKNOWN
6 PRINT, IT'S STILL UNKNOWN, IT JUST WASN'T ENOUGH
7 THERE TO SAY WHOSE IT WAS.

8 Q. YOU MAY HAVE MENTIONED THIS, WAS THERE BROKEN
9 GLASS AT THE ENTRANCE WHERE YOU WENT IN?

10 A. YES, SIR.

11 Q. COULD YOU DESCRIBE WHERE THAT GLASS WAS?

12 A. THERE WAS BROKEN GLASS -- YOU HAD A SCREEN DOOR
13 THAT WAS OPEN, THE INTERIOR DOOR HERE ON THIS
14 PICTURE WAS SLIGHTLY SWUNG IN. THESE IS THE
15 GRATE OR THE WINDOW CASING. THERE WAS GLASS
16 HERE, A LITTLE BIT ON THE OUTSIDE AND THERE WAS
17 GLASS THAT ACTUALLY LED ALL THE WAY ACROSS THE
18 ROOM TO THE POOL TABLE AND NEAR THE SOFA AREA.

19 Q. ONE MOMENT, PLEASE.

20 (AFTER A PAUSE.)

21 Q. FROM THE MARYLAND ITEMS, YOU WERE NOT ABLE TO
22 DEVELOP ANY KNOWN FINGERPRINTS FROM THOSE ITEMS,
23 IS THAT CORRECT?

24 A. THAT'S CORRECT. THERE WAS INSUFFICIENT RIDGE
25 DETAIL ON A FEW ITEMS AND THERE WAS NO RIDGE

JOHN C. BARRON - DIRECT BY MR. POPE

1748

1 DETAIL ON MANY OF THE ITEMS IN THERE, MEANING
2 THAT THERE WAS NOTHING DEVELOPED.

3 Q. THANK YOU.

4 THE COURT: REDIRECT?

5 MR. POPE: NO, SIR, YOUR HONOR.

6 THE COURT: YOU CAN STEP DOWN. THANK YOU. WE
7 APPRECIATE YOUR TIME, YOU CAN BE EXCUSED. CALL YOUR NEXT
8 WITNESS.

9 MR. POPE: THE STATE WOULD CALL JOHN BARRON TO
10 THE STAND, YOUR HONOR.

11 JOHN C. BARRON, BEING FIRST DULY SWORN, TESTIFIED
12 AS FOLLOWS:

13 DIRECT EXAMINATION BY

14 MR. POPE:

15 Q. MR. BARRON, IF YOU WOULD, STATE YOUR NAME AND
16 OCCUPATION TO THE JURY PLEASE, SIR.

17 A. MY NAME IS JOHN C. BARRON, B-A-R-R-O-N, AND I'M
18 A FORENSIC SCIENTIST EMPLOYED AT SOUTH CAROLINA
19 LAW ENFORCEMENT DIVISION OTHERWISE KNOWN AS
20 SLED.

21 Q. CAN YOU TELL THE JURY WHAT PARTICULAR DIVISION
22 YOU'RE EMPLOYED AS A FORENSIC SCIENTIST?

23 A. YES, I'M A SCIENTIST IN THE TRACE EVIDENCE
24 DEPARTMENT.

25 Q. AND CAN YOU TELL THE JURY WHAT TRACE EVIDENCE

JOHN C. BARRON - DIRECT BY MR. POPE

1749

1 IS, WHAT YOU REALLY DO?

2 A. YES, THE TRACE EVIDENCE DEPARTMENT IS INVOLVED
3 IN THE ANALYSIS OF SEVERAL DIFFERENT TYPES OF
4 EVIDENCE, BUT THE MAJORITY OF OUR WORK HAS TO
5 DEAL WITH THE IDENTIFICATION AND COMPARISON OF
6 HUMAN AND ANIMAL HAIRS, NATURAL AND SYNTHETIC
7 FIBERS, PAINTS AND GUNSHOT RESIDUE. WE DO SOME
8 OTHER MISCELLANEOUS ANALYSES AS WELL.

9 Q. COULD YOU TELL THE JURY JUST BRIEFLY -- YOUR
10 HONOR, I AM GOING TO GO TO HIS BACKGROUND,
11 TRAINING AND EDUCATION FOR QUALIFICATION. I
12 DON'T KNOW IF THE DEFENSE NEEDS ME TO DO THAT.
13 I'LL BE GLAD TO DO THAT.

14 MR. BOYD: NO, SIR, I'M AWARE OF HIS
15 QUALIFICATIONS.

16 THE COURT: DO YOU STIPULATE HIS QUALIFICATIONS
17 AS AN EXPERT IN TRACE EVIDENCE, MR. BOYD?

18 MR. BOYD: YES, SIR.

19 THE COURT: THIS IS ANOTHER GENTLEMAN TESTIFYING
20 AS AN EXPERT.

21 Q. MR. BARRON, DID YOU HAVE THE OPPORTUNITY TO
22 REVIEW, PRIOR TO THE JURY COMING IN, A NUMBER OF
23 ITEMS?

24 A. YES, SIR, I DID.

25 Q. THAT YOU TESTED?

JOHN C. BARRON - DIRECT BY MR. POPE

1750

1 A. YES, SIR.

2 Q. AND YOU WERE TALKING ABOUT THE DIFFERENT TYPE OF
3 TESTS THAT YOU DO. THE FIRST I'M GOING TO CALL
4 YOUR ATTENTION TO IS A PAINT SAMPLE. COULD YOU
5 EXPLAIN TO THE JURY, YOU RECEIVED A KNOWN PAINT
6 SAMPLE FROM THE HOUSE AND AN UNKNOWN ON THE RAKE
7 HANDLE, COULD YOU TELL THE JURY WHAT YOU DID AND
8 WHAT THE RESULTS OF THAT TEST WERE?

9 A. YES. A PAINT ANALYSIS INVOLVES THE COMPARISON
10 OF A KNOWN TO AN UNKNOWN SAMPLE. IN THIS
11 PARTICULAR CASE, I RECEIVED A KNOWN PAINT
12 SAMPLE FROM THE OUTSIDE DOOR OF THE RESIDENCE OF
13 THE VICTIM. AND ALSO A YARD RAKE HEAD AND A
14 BROKEN HANDLE THAT CONTAINED SOME PAINT SMEARS.
15 AND THE REQUEST WAS TO COMPARE THE PAINT, THE
16 KNOWN PAINT SAMPLE FROM THE OUTSIDE DOOR OF THE
17 HOUSE TO THESE PAINT SAMPLES THAT WERE FOUND ON
18 THE RAKE.

19 I DID COMPARE THE WHITE PAINT SMEAR THAT WAS ON
20 THE YARD RAKE HEAD AND FOUND IT TO BE DIFFERENT,
21 TOTALLY DIFFERENT PAINT. AND SO IT COULD NOT BE
22 FROM THAT SOURCE.

23 Q. AND AGAIN THAT WAS ON THE HEAD, STATE'S EXHIBIT
24 1?

25 A. WELL, YEAH, MY ITEM NUMBER 1. AND MY ITEM

JOHN C. BARRON - DIRECT BY MR. POPE

1751

1 NUMBER 2 WAS A BROKEN HANDLE. IT ALSO CONTAINED
2 A SMEAR. AND IN OUR TESTING WE ARE TESTING FOR
3 THE ELEMENTAL COMPOSITION, IN OTHER WORDS WHAT
4 ELEMENTS MAKE UP THIS PAINT SAMPLE, ALONG WITH
5 WHAT WE CALL THE BINDER, WHAT HOLDS THE PAINT
6 TOGETHER. LIKE SOME OF YOU ARE FAMILIAR WITH
7 LATEX PAINT OR ACRYLIC PAINT. WELL, THAT BINDER
8 IS IMPORTANT TO DETERMINE WHETHER OR NOT THE
9 PAINT MATCHES.

10 WELL, IN THIS PARTICULAR CASE THE SMEAR WAS SO
11 SMALL, BUT I WAS ABLE TO COMPARE THE ELEMENTAL
12 CONTENT AND FOUND OUT IT WAS CONSISTENT, BUT THE
13 OTHER TESTS I COULD NOT GET ANY RESULTS AND SO I
14 COULD NOT MAKE ANY CONCLUSIONS. BUT THERE IS
15 ENOUGH SIMILARITIES TO SAY, YOU KNOW, IT'S
16 POSSIBLE THAT THAT COULD BE THE SOURCE OF THE
17 PAINT.

18 Q. THE SAME ORIGIN AS THE KNOWN SAMPLE FROM THE
19 HOUSE?

20 A. THAT'S CORRECT.

21 Q. ALSO DID YOU HAVE THE OPPORTUNITY TO RECEIVE
22 KNOWN SAMPLES OF THE VICTIM EARL ROBERTSON AND
23 THE VICTIM TERRY ROBERTSON'S HAIR; DID YOU HAVE
24 THE OPPORTUNITY TO RECEIVE THOSE SAMPLES FROM
25 THE AUTOPSY?

JOHN C. BARRON - DIRECT BY MR. POPE

1752

1 A. YES, I DID. I RECEIVED KNOWN PULLED HEAD HAIR
2 SAMPLES FROM EARL AND TERRY ROBERTSON.

3 Q. AND ALSO DID YOU RECEIVE HEAD HAIR SAMPLES OR A
4 HAIR SAMPLE FROM EARL ROBERTSON THAT WAS
5 RECOVERED FROM HIS RIGHT HAND AT AUTOPSY?

6 A. YES, I DID.

7 Q. LIKEWISE, DID YOU HAVE THE OPPORTUNITY TO
8 RETRIEVE HAIR SAMPLES FROM THE HAMMER THAT WAS
9 RECOVERED IN MARYLAND AND THE SOCKS THAT WERE
10 RECOVERED IN MARYLAND?

11 A. YES, SIR.

12 Q. AND FINALLY DID YOU ALSO RECEIVE FROM BRETT
13 BAKER A HAIR SAMPLE THAT WAS RECOVERED IN THE
14 HALL BATHROOM OF THE CRIME SCENE?

15 A. THAT'S CORRECT; YES, SIR.

16 Q. OKAY. AND COULD YOU TELL THE JURY THE RESULTS -
17 - AS TO EACH ITEM WHAT THE RESULTS OF YOUR
18 COMPARISONS WERE IN THAT REGARD?

19 A. WHICH ONE DO YOU WANT ME TO GO OVER FIRST?

20 Q. IF YOU COULD BEGIN FIRST WITH THE LOOSE HEAD
21 HAIR FROM THE RIGHT HAND OF EARL ROBERTSON THAT
22 WA RETRIEVED AT AUTOPSY.

23 A. OKAY. I FOUND THREE CAUCASIAN HEAD HAIRS OR
24 HAIRS FROM A WHITE PERSON, ANGLO-SAXON, THAT
25 WERE CONSISTENT WITH THE VICTIM HIMSELF.

JOHN C. BARRON - DIRECT BY MR. POPE

1753

1 Q. NOW I CALL YOUR ATTENTION TO STATE'S EXHIBIT 29,
2 WHICH WOULD BE YOUR EXHIBIT 41, THE HAIR
3 RECOVERED FROM THE HALL BATHROOM. WHAT WAS THE
4 RESULT OF THAT?

5 A. I FOUND NUMEROUS BROWN AND GRAY CAUCASIAN HEAD
6 HAIRS THAT WERE CONSISTENT WITH THE VICTIM, EARL
7 ROBERTSON.

8 Q. I CALL YOUR ATTENTION NOW TO THE TEST -- DID YOU
9 HAVE THE OPPORTUNITY TO TEST HAIR THAT WAS
10 RECOVERED FROM STATE'S EXHIBIT 64, THIS CLAW
11 HAMMER?

12 A. YES.

13 Q. STATE'S EXHIBIT 64, YOUR EXHIBIT 114.

14 A. UH HUH.

15 Q. AND COULD YOU TELL THE JURY THE RESULTS OF YOUR
16 TESTING OF THE HAIRS ON THOSE ITEMS?

17 A. I FOUND NUMEROUS BROWN CAUCASIAN HEAD HAIRS THAT
18 WERE CONSISTENT WITH BOTH VICTIMS IN THIS CASE,
19 JAMES ROBERTSON AND TERRY ROBERTSON.

20 THE COURT: WAIT JUST A MINUTE.

21 A. EXCUSE ME, EARL ROBERTSON AND TERRY ROBERTSON.

22 Q. OKAY. AND, AGAIN, COULD YOU EXPLAIN TO THE JURY
23 WHEN YOU SAY CONSISTENT ON HEAD HAIR, WHAT ARE
24 YOU ACTUALLY DOING? CAN YOU EXPLAIN THAT TO
25 THEM?

JOHN C. BARRON - DIRECT BY MR. POPE

1754

1 A. YES, SIR. HAIR COMPARISON INVOLVES PUTTING THE
2 HAIRS ON MICROSCOPE SLIDES USING A SPECIAL
3 MOUNTING MEDIUM TO ENABLE US TO VISUALIZE THE
4 INTERNAL STRUCTURE OF THE HAIR. SO, WE NOT ONLY
5 COMPARE THE HAIR VISUALLY WITH THE NAKED EYE,
6 BUT WE USE MICROSCOPES.

7 MANY CHARACTERISTICS ARE VISUALIZED THROUGH THE
8 USE OF MICROSCOPY. THE KNOWN HAIR SAMPLES ARE
9 PUT ON SLIDES. THE QUESTIONED HAIR SAMPLES FROM
10 EVIDENCE IS PUT ON SEPARATE SLIDES BUT WE USE A
11 MICROSCOPE THAT ENABLES US TO VIEW BOTH OF THEM
12 AT THE SAME TIME.

13 AND SO WE BEGIN FROM THE ROOT END OR THE TIP
14 END, IT DOESN'T MATTER WHICH WAY YOU BEGIN, BUT
15 FROM ONE END TO THE OTHER, WE'RE COMPARING THESE
16 INTERNAL CHARACTERISTICS THAT ARE PRESENT, AND
17 THERE ARE MANY VARIATIONS THAT ARE PRESENT IN
18 HUMAN HAIR.

19 AND BASICALLY THE RESULT OF THE COMPARISON IS IS
20 IT CONSISTENT WITH OR INCONSISTENT WITH. IF
21 IT'S CONSISTENT, THAT MEANS WE'RE SAYING THAT
22 THE QUESTIONED HAIR COULD HAVE COME FROM THAT
23 SOURCE. WE'RE NOT SAYING ABSOLUTELY IT CAME
24 FROM THAT SOURCE BECAUSE THE SCIENCE OF HAIR
25 COMPARISONS THROUGH A MICROSCOPE IS NOT AN

JOHN C. BARRON - DIRECT BY MR. POPE

1755

1 ABSOLUTE TEST, BUT WE ARE SAYING THAT THAT
2 PERSON IS INCLUDED AS A POSSIBLE SOURCE OF THE
3 HAIR.

4 IF IT IS INCONSISTENT, THEN WE ARE EXCLUDING
5 THAT PERSON; WE'RE SAYING THAT THAT HAIR COULD
6 NOT HAVE COME FROM THAT PERSON. AND WE CAN DO
7 THAT. BUT WHEN IT IS CONSISTENT, THEN WE HAVE
8 TO SAY THAT THAT PERSON IS A POSSIBLE SOURCE OF
9 THE HAIR.

10 Q. AND THAT WAS THE RESULT ON THE HAMMER,
11 CONSISTENT WITH EARL ROBERTSON AND TERRY
12 ROBERTSON; IS THAT CORRECT?

13 A. THAT'S CORRECT.

14 Q. AND FINALLY I'LL CALL YOUR ATTENTION TO STATE'S
15 EXHIBIT 65 THROUGH 73, YOUR NUMBERS 115 THROUGH
16 123, THAT WAS THE SOCKS THAT WERE RECOVERED IN
17 MARYLAND.

18 A. YES, SIR. I FOUND NUMEROUS CAUCASIAN HEAD HAIR
19 FRAGMENTS, SMALL PIECES OF HAIR.

20 A. IN A HAIR COMPARISON IT IS IMPORTANT WHEN YOU
21 GET A CONSISTENT WITH TO HAVE ALL OF THE HAIR OR
22 AT LEAST MOST OF IT. BUT IN THIS CASE THEY WERE
23 SMALL FRAGMENTS. BUT THERE WAS ENOUGH THERE FOR
24 ME TO SAY THAT IT WAS SIMILAR AND THESE TWO
25 VICTIMS COULD NOT BE ELIMINATED AS A SOURCE OF

JOHN C. BARRON - CROSS BY MR. HANCOCK

1756

1 THESE HAIRS. IN OTHER WORDS, I COULDN'T SAY THAT
2 THEY WERE TOTALLY OUT OF THE RANGE AND WERE
3 INCONSISTENT WITH. BUT THEY WERE FRAGMENTS AND
4 THEY WERE SMALL, SO I JUST DIDN'T QUITE GO TO
5 THE LEVEL THAT I COULD ON THE OTHERS.

6 Q. OKAY, AND FINALLY THERE WERE JUST VARIOUS OTHER
7 HAIRS AND ITEMS THAT YOU RECEIVED AND YOU
8 EXPLAINED TO THE JURY ABOUT FRAGMENTS, DID YOU
9 ALSO HAVE OTHER FRAGMENTS THAT WERE RECOVERED
10 FROM VARIOUS PLACES THAT WERE JUST INCONSISTENT
11 FOR COMPARISON?

12 A. YES, SIR. SOMETIMES FRAGMENTS ARE JUST SO SMALL
13 OR OTHER CONSIDERATIONS, TOO, LIKE OTHER HAIRS
14 FROM OTHER PARTS OF THE BODY THAT AREN'T HEAD
15 HAIRS, FOR INSTANCE YOUR ARMS OR YOUR LEGS,
16 THOSE TYPES OF HAIRS ARE JUST INCONSISTENT FOR
17 COMPARISON.

18 Q. ALL RIGHT; THANK YOU, SIR. ANSWER ANY QUESTIONS
19 THE DEFENSE MAY HAVE.

20 CROSS EXAMINATION BY

21 MR. HANCOCK:

22 Q. MR. BARRON, LET'S TALK ABOUT THE PAINT SAMPLES.
23 YOU'RE INDICATING THERE THAT THE PAINT SAMPLES
24 ON THE RAKE HANDLE COULD POSSIBLY COME FROM THE
25 PAINT SAMPLES THAT YOU RECOVERED. IS THAT

JOHN C. BARRON - CROSS BY MR. HANCOCK

1757

1 CORRECT, SIR?

2 A. THAT'S CORRECT. BECAUSE ALL OF THE TESTS WERE
3 NOT ABLE TO BE COMPLETED THAT WE USE TO
4 DETERMINE, YOU KNOW, THAT IT'S THE SAME TYPE OF
5 PAINT, I COULD NOT MAKE A DETERMINATION, BUT I
6 CERTAINLY COULDN'T ELIMINATE IT EITHER.

7 Q. RIGHT. SO, YOU'RE NOT TELLING THIS JURY THAT
8 YOU IN ANY WAY CAN SAY THAT THAT RAKE HANDLE
9 CAME IN CONTACT WITH ANY PAINT ON THAT HOUSE.
10 IS THAT CORRECT?

11 A. NO, NOT REALLY. WELL, PAINT ON THE RAKE, THERE
12 WAS ENOUGH OF IT THERE THAT I COULD MATCH UP TO
13 SAY THAT IT CERTAINLY COULD BE.

14 Q. ALSO IN YOUR EXAMINATION OF THE RAKE HANDLE YOU
15 HAVE NOT SAID ANYTHING TO THE SOLICITOR THAT YOU
16 RECOVERED GLASS SAMPLES, GLASS FRAGMENTS FROM
17 THAT RAKE HANDLE?

18 A. NO, SIR.

19 Q. THERE WEREN'T ANY THERE, WERE THERE?

20 A. WELL, OUR LAB DOESN'T DO GLASS ANALYSIS.

21 Q. WELL, YOU CAN LOOK AT IT AND SEE IF THERE IS
22 GLASS IN IT, CAN'T YOU? JUST BY YOUR PERSONAL
23 OBSERVATION WITHOUT SCIENTIFIC ENDEAVOR.

24 A. WELL, YOU CAN CERTAINLY LOOK AT IT AND SAY THERE
25 MIGHT BE SOMETHING THERE THAT LOOKS LIKE GLASS,

JOHN C. BARRON - CROSS BY MR. HANCOCK

1758

1 YES.

2 Q. RIGHT. AND YOU HAVEN'T TESTIFIED THAT THERE WAS
3 ANYTHING THAT LOOKED LIKE GLASS HAVE YOU, SIR?

4 A. NO, SIR.

5 Q. NOW, YOU RECEIVED THE HAIR SAMPLES. YOU'RE
6 SAYING THAT EVERYTHING IS CONSISTENT WHEN YOU
7 LINE IT UP AND YOU LOOK AT IT. AND I BELIEVE
8 YOU SAID THAT THERE IS NO ABSOLUTE TEST?

9 A. MICROSCOPICALLY THERE IS NOT.

10 Q. MICROSCOPICALLY. IS THERE AN ABSOLUTE TEST
11 THOUGH?

12 A. I UNDERSTAND THAT THERE IS DNA TECHNOLOGY BEING
13 DONE ON HAIR, BUT I'M NOT A DNA EXPERT. I'LL
14 LET THEM ANSWER THAT TYPE QUESTION.

15 Q. SO, AGAIN, YOU'RE NOT TELLING US THAT YOU CAN
16 POSITIVELY IDENTIFY THE HAIR THAT YOU HAVE
17 INDICATED IN APPROXIMATELY THREE DIFFERENT
18 PLACES AS BEING THAT OF EARL OR TERRY ROBERTSON,
19 ARE YOU, SIR?

20 A. I'M SAYING THAT IT'S MICROSCOPICALLY CONSISTENT
21 WITH THEM.

22 Q. IT'S CONSISTENT, BUT YOU CAN'T ---

23 A. THEY CAN BE CONSIDERED AS A SOURCE OF THAT HAIR,
24 THEY ARE CERTAINLY NOT ELIMINATED, BUT I AM NOT
25 SAYING THAT IT IS ABSOLUTELY THEIR HAIR.

JOHN C. BARRON - CROSS BY MR. HANCOCK

1759

1 Q. AND YOU'RE EVEN SAYING THAT THE FRAGMENTS OF
2 HAIR ON THE SOCKS, YOU'RE NOT EVEN SAYING THERE
3 IS NOT AN ELIMINATION, YOU'RE JUST SAYING THERE
4 IS A SIMILARITY; IS THAT CORRECT?

5 A. THEY ARE SIMILAR ENOUGH TO CERTAINLY INCLUDE
6 THEM AS A POSSIBLE SOURCE, YES.

7 Q. OKAY. THEY ARE SIMILAR ENOUGH TO THEIR HAIR.
8 WELL, THEY ARE SIMILAR ENOUGH TO HOW MANY OTHER
9 PEOPLE'S HAIR?

10 A. I COULDN'T TELL YOU THAT.

11 Q. IT COULD BE ANY BROAD NUMBER, COULDN'T IT?

12 A. IT CERTAINLY COULD BE. IT JUST DEPENDS ON THE
13 NUMBER OF PEOPLE I WERE TO GET TO AND COMPARE IT
14 WITH. AND, OF COURSE, THESE WERE THE ONLY ONES
15 I HAD TO COMPARE IT WITH.

16 Q. DO YOU HAVE ANY TYPE OF DATABASE OR ANYTHING
17 ELSE THAT YOU PUT IN THE COMPUTER THAT GIVES YOU
18 ANY RATIO, WHAT THE POSSIBILITIES ARE HERE?

19 A. NO, SIR, WE DON'T HAVE A DATABASE ON HAIR
20 COMPARISONS. THE REASON BEING IS BECAUSE HUMAN
21 HAIR IS NOT TOTALLY CONSISTENT FROM ONE END TO
22 THE OTHER. AND ALSO YOU HAVE MANY DIFFERENT
23 TYPES OF HAIR ON YOUR HEAD.

24 YOU CAN LOOK AROUND YOU AND LOOK AT SOMEBODY
25 VISUALLY AND SEE DIFFERENT COLORS WITH THE SAME

JOHN C. BARRON - CROSS BY MR. HANCOCK

1760

1 PERSON. SO, OBVIOUSLY, YOU KNOW, HAIRS HAVE
2 DIFFERENT CHARACTERISTICS.

3 A COMPARISON OF HAIRS INVOLVES, YOU KNOW,
4 GETTING A REPRESENTATIVE SAMPLE FROM A PERSON
5 AND JUST SEEING IF THE CHARACTERISTICS OF THE
6 UNKNOWN OR QUESTIONED SAMPLE, IF THOSE
7 CHARACTERISTICS FALL WITHIN THE RANGE THAT ARE
8 EXHIBITED BY AN INDIVIDUAL, THEN WE WOULD
9 INCLUDE THAT INDIVIDUAL AS A POSSIBLE SOURCE.

10 Q. SO, WHEN YOU'RE SAYING THEY ARE CONSISTENT, IT'S
11 NOT A POSITIVE IDENTIFICATION IN ANY MANNER;
12 ISN'T THAT CORRECT, SIR?

13 A. THAT'S CORRECT, SIR.

14 Q. I HAVE NO FURTHER QUESTIONS.

15 MR. POPE: I WOULD ASK THAT THIS WITNESS BE
16 EXCUSED YOUR HONOR.

17 THE COURT: I APPRECIATE YOUR TIME, AND YOU CAN
18 BE EXCUSED. CALL YOUR NEXT WITNESS.

19 MR. POPE: YOUR HONOR, COULD WE HAVE A BRIEF
20 BREAK?

21 THE COURT: ALL RIGHT, I'LL LET THE JURY GO TO
22 THE JURY ROOM JUST FOR A FEW MINUTES. I KNOW IT'S GETTING
23 ON TOWARD 5:00 O'CLOCK. WE'LL DECIDE SORT OF WHERE WE'RE
24 HEADED.

25 AFTER THE RECESS IN CAMERA:

1761

1 THE COURT: IS THE STATE READY?

2 MR. POPE: YOUR HONOR, IF I CAN LAY MY HANDS ON
3 ONE MORE PIECE OF EVIDENCE, I WILL BE READY.

4 THE COURT: ALL RIGHT. IS THE DEFENSE READY?

5 MR. HANCOCK: THE DEFENSE IS READY, YOUR HONOR.

6 THE COURT: BRING IN THE JURY.

7 IN THE PRESENCE OF THE JURY:

8 THE COURT: CALL YOUR NEXT WITNESS.

9 MR. POPE: THE STATE WOULD CALL PATTI RUFF TO THE
10 STAND.

11 THE COURT: FOR THE RECORD, ALL 14 JURORS ARE
12 PRESENT.

13 PATTI B. RUFF, BEING FIRST DULY SWORN, TESTIFIED
14 AS FOLLOWS:

15 DIRECT EXAMINATION BY

16 MR. POPE:

17 Q. MS. RUFF IF YOU COULD, STATE YOUR NAME AND SPELL
18 YOUR LAST NAME FOR THE COURT REPORTER, PLEASE.

19 A. PATTI B. RUFF, R-U-F-F.

20 Q. MS. RUFF, COULD YOU TELL THE JURY WHERE YOU ARE
21 EMPLOYED?

22 A. I'M EMPLOYED WITH THE SOUTH CAROLINA LAW
23 ENFORCEMENT DIVISION.

24 Q. IN PARTICULAR, COULD YOU TELL THE JURY WHAT YOUR
25 DUTIES ARE WITH THE SOUTH CAROLINA LAW

PATTI B. RUFF - DIRECT BY MR. POPE

1762

1 ENFORCEMENT DIVISION?

2 A. I'M A FORENSIC EVIDENCE TECHNICIAN AND I AM
3 RESPONSIBLE FOR PROCESSING EVIDENCE SUCH AS
4 HAIR, FIBERS, BLOOD AND SEMEN.

5 Q. OKAY AND WHEN YOU SAY PROCESSING, CAN YOU TELL
6 THE JURY WHAT YOU ACTUALLY DO WITH THE ITEMS
7 THAT YOU PROCESS?

8 A. I DO A VISUAL EXAM FOR HAIRS AND FIBERS AND I
9 CONTAINERIZE THESE ITEMS THAT I FIND AND SEND
10 THEM TO THE TRACE DEPARTMENT FOR FURTHER
11 ANALYSIS.

12 FOR BLOOD I DO A PRESUMPTIVE TEST WITH
13 PHENOLPHTHALEIN. AND WITH SEMEN I DO A
14 LUMILIGHT TEST WHERE SEMEN FLUORESCES IN THE
15 DARK. AND THEN I DO A CHEMICAL TEST WHICH
16 CONSIST OF ACID PHOSPHATASE SPOT TEST. AND
17 THESE SAMPLES THAT I COLLECT I SEND FOR FURTHER
18 TESTING TO THE DNA DEPARTMENT.

19 Q. SO, YOUR DEPARTMENT, YOU RECEIVE EVIDENCE SUCH
20 AS THE EVIDENCE THAT BRETT BAKER BROUGHT TO
21 SLED, IS THAT CORRECT?

22 A. THAT'S CORRECT.

23 Q. AND YOU WOULD DO INITIAL TESTS AND ACCORDING TO
24 THOSE RESULTS, PASS IT TO DIFFERENT PARTS OF
25 SLED; IS THAT TRUE?

PATTI B. RUFF - DIRECT BY MR. POPE

1763

1 A. THAT'S TRUE.

2 Q. AND CAN YOU TELL THE JURY HOW LONG YOU'VE BEEN
3 EMPLOYED WITH THE SOUTH CAROLINA LAW ENFORCEMENT
4 DIVISION?

5 A. 16 YEARS.

6 Q. COULD YOU TELL THE JURY WHAT TRAINING YOU HAVE,
7 SPECIFICALLY IN YOUR TRAINING INVOLVING EVIDENCE
8 PROCESS.

9 A. I RECEIVED SOME TRAINING AT THE F.B.I. CRIME LAB
10 IN WASHINGTON, D.C., AND I RECEIVED EXTENSIVE
11 TRAINING FROM A DNA ANALYST AND A TRACE ANALYST
12 WITHIN SLED DIVISION. I'M A MEMBER OF THE
13 INTERNATIONAL ASSOCIATION FOR IDENTIFICATION
14 EDUCATIONAL ASSOCIATION. I'VE ATTENDED SEMINARS
15 SUCH AS THE FORENSIC SCIENTIST IN A COURTROOM.
16 SEMINAR ON EVIDENCE COLLECTION AND PRESERVATION
17 AND EXPERT WITNESS IN THE COURTROOM.

18 MR. POPE: YOUR HONOR, AT THIS TIME I WOULD
19 TENDER AGENT RUFF AS AN EXPERT IN EVIDENCE PROCESSING.

20 THE COURT: ANY VOIR DIRE?

21 MR. HANCOCK: NO OBJECTION.

22 THE COURT: ALL RIGHT, WITHOUT OBJECTION I FIND
23 SHE IS QUALIFIED.

24 Q. AGENT IF YOU COULD, DID YOU HAVE THE OPPORTUNITY
25 TO RETRIEVE A NUMBER OF ITEMS IN THIS CASE FROM

PATTI B. RUFF - DIRECT BY MR. POPE

1764

1 BRETT BAKER OF SLED?

2 A. YES, I DID.

3 Q. AND PARTICULARLY I'M GOING TO CALL YOUR
4 ATTENTION TO A NUMBER OF ITEMS. DID YOU HAVE AN
5 OPPORTUNITY TO REVIEW THESE VARIOUS ITEMS OVER
6 THE BREAK WHEN THE JURY WAS NOT PRESENT?

7 A. NO, I DID NOT.

8 Q. I'M GOING TO CALL YOUR ATTENTION TO EACH ITEM.
9 FIRST I CALL YOUR ATTENTION TO STATE'S EXHIBIT 3
10 THAT YOU RECEIVED AS WHITE UNDERWEAR. COULD YOU
11 TELL THE JURY WHAT YOU DID WITH STATE'S EXHIBIT
12 3?

13 A. I EXAMINED THE WHITE UNDERWEAR FOR BLOOD. I MADE
14 TWO CUTTINGS FROM THE UNDERWEAR AND SENT THEM TO
15 THE DNA DEPARTMENT.

16 Q. OKAY. STATE'S EXHIBIT 4 LISTED AS A FLORAL
17 NIGHTGOWN, WHAT DID YOU DO ON THAT ITEM?

18 A. I ALSO EXAMINED IT FOR BLOOD AND MADE TWO
19 CUTTINGS FROM THE NIGHTGOWN AND SENT IT TO DNA.

20 Q. STATE'S EXHIBIT 23 -- I'M SORRY, YOUR EXHIBIT
21 23, STATE'S EXHIBIT 13 WHICH IS A WHITE HAND
22 TOWEL.

23 A. I MADE ONE CUTTING FROM THE HAND TOWEL FOR
24 BLOOD.

25 Q. OKAY. STATE'S EXHIBIT 14, THE FLORAL FLAT

PATTI B. RUFF - DIRECT BY MR. POPE

1765

1 SHEET, YOUR EXHIBIT 24.

2 A. I DID NOT EXAMINE THIS ITEM; IT WAS TRANSFERRED
3 TO BRETT BAKER.

4 Q. OKAY, SO THAT MEANS IT WENT STRAIGHT ON TO --

5 A. STRAIGHT TO BRETT.

6 Q. OKAY. STATE'S EXHIBIT 18, YOUR EXHIBIT 28, THE
7 TOP FITTED SHEET?

8 A. I EXAMINED THIS ITEM FOR BLOOD AND I MADE THREE
9 CUTTINGS. ONE CUTTING WENT TO BRETT BAKER FOR
10 FOOTWEAR IMPRESSION AND TWO CUTTINGS WENT TO THE
11 DNA DEPARTMENT.

12 Q. STATE'S EXHIBIT 19, YOUR EXHIBIT 29, A PAIR OF
13 NIKI SHOES.

14 A. I EXAMINED THIS ITEM FOR BLOOD ALSO AND I GOT
15 FOUR SWABS WHICH I SENT TO DNA.

16 Q. STATE'S EXHIBIT 52 WHICH IS THE BEACH TOWEL FROM
17 MARYLAND.

18 A. I ALSO EXAMINED IT FOR BLOOD AND HAIR. THE HAIR
19 WAS SENT TO THE TRACE DEPARTMENT AND I MADE FOUR
20 CUTTINGS WHICH I SENT TO THE DNA DEPARTMENT.

21 Q. AND YOU'VE SAID NUMEROUS TIMES CUTTINGS, CAN YOU
22 TELL THE JURY WHAT THAT REALLY IS, WHAT YOU
23 ACTUALLY DO?

24 A. WHEN I SEE A STAIN ON AN ITEM, I'LL WET A COTTON
25 SWAB WITH SALINE. I'LL RUB THAT STAIN, AND THEN

PATTI B. RUFF - DIRECT BY MR. POPE

1766

1 I'LL PUT A DROP OF PHENOLPHTHALEIN, THEN I PUT
2 HYDROGEN PEROXIDE ON IT. IF IT TURNS A BRIGHT
3 FLORESCENT COLOR, THAT MEANS THAT IT'S A
4 POSSIBILITY THAT IT IS BLOOD. I'LL CUT THAT
5 AREA OUT AND GIVE IT AN ITEM NUMBER AND TRANSFER
6 IT TO THE DNA DEPARTMENT.

7 Q. OKAY. I WANT TO CALL YOUR ATTENTION FOR A
8 SECOND BACK TO THE TOP FITTED SHEET, STATE'S
9 EXHIBIT 28.

10 A. UH HUH.

11 Q. YOU INDICATED THAT CUTTINGS WERE SENT TO THE DNA
12 DEPARTMENT, IS THAT CORRECT?

13 A. THAT'S CORRECT.

14 Q. WHEN YOU HAVE AN EXHIBIT SUCH AS STATE'S EXHIBIT
15 28 THAT HAS -- I'M SORRY, YOUR EXHIBIT 28,
16 STATE'S EXHIBIT 18, THAT HAS A LARGE SURFACE
17 AREA OF SUSPECTED STAIN, HOW DO YOU MAKE A
18 DETERMINATION OF WHERE YOU MAKE THAT CUTTING?

19 A. IN A CASE WHERE IT'S A STABBING, IT'S VERY
20 LIKELY THAT THE SUSPECT COULD CUT HIMSELF. SO,
21 WE GO OUT OF THE REALM OF THE LARGE STAIN WHICH
22 IS MOST LIKELY THE VICTIM'S. WE LOOK FOR MAYBE
23 DROPPINGS OR SOME SMEARED BLOOD OUT TO THE SIDE
24 AND WE TAKE THE CUTTINGS FROM THERE.

25 Q. OKAY. GOING TO YOUR EXHIBIT 103, STATE'S

PATTI B. RUFF - DIRECT BY MR. POPE

1767

1 EXHIBIT 53, WHAT DID YOU DO WITH THAT ITEM?

2 A. I'M SORRY, WHICH ITEM?

3 Q. 103.

4 A. ITEM 103.1 AND 103.2 ON MY LIST WERE PACKAGED
5 TOGETHER.

6 Q. RIGHT, AND WHAT WERE THOSE ITEMS?

7 A. THAT WAS THE GRAY T-SHIRT AND MAROON SWEAT
8 SHIRT.

9 Q. YES, MA'AM.

10 A. I FOUND HAIR ON THOSE AND I SENT THAT TO DNA --
11 I'M SORRY, SENT THAT TO THE TRACE DEPARTMENT. I
12 MADE THREE CUTTINGS OFF OF THE GRAY T-SHIRT AND
13 I MADE FOUR CUTTINGS -- THREE CUTTINGS, EXCUSE
14 ME, OFF THE MAROON SWEAT SHIRT.

15 Q. AND THOSE WERE SENT TO DNA ALSO?

16 A. THAT'S CORRECT.

17 Q. YOUR EXHIBIT 104, STATE'S EXHIBIT 54, THE TISSUE
18 PAPER THAT WAS RECOVERED, WHAT DID YOU NOTE ON
19 THAT?

20 A. I DID NOT FIND ANY HAIR OR BLOOD ON THE PAPER.

21 Q. OKAY. GOING NOW TO EXHIBIT 105, THE WHITE T-
22 SHIRT, STATE'S EXHIBIT 55, WHAT WERE THE RESULTS
23 OF THAT?

24 A. THE HAIR I FOUND WAS SENT TO THE TRACE
25 DEPARTMENT AND THE ONE CUTTING THAT I FOUND WAS

PATTI B. RUFF - DIRECT BY MR. POPE

1768

1 SENT TO THE DNA DEPARTMENT.

2 Q. OKAY. YOUR EXHIBIT 106, STATE'S EXHIBIT 56,
3 WHAT WERE THE RESULTS OF THAT. THAT WOULD HAVE
4 BEEN WHICH ITEM?

5 A. THAT WOULD HAVE BEEN THE GREEN FLANNEL BOXER. I
6 DID NOT SEE ANY BLOOD ON THIS ITEM, BUT I DID
7 FIND HAIR AND IT WAS SENT TO THE TRACE
8 DEPARTMENT.

9 Q. NOW, YOUR NUMBER 107, STATE'S EXHIBIT 57, THE
10 PAIR OF YELLOW PANTS.

11 A. I MADE FOUR CUTTINGS FOR BLOOD AND I SENT THEM
12 TO THE DNA DEPARTMENT AND I FOUND HAIR AND SENT
13 IT TO THE TRACE DEPARTMENT.

14 Q. I'LL SHOW YOU STATE'S EXHIBIT 57 AND ASK IF YOU
15 COULD INDICATE TO THE JURY WHERE YOU MADE THE
16 CUTTING?

17 A. I MADE ONE CUTTING RIGHT HERE, ONE CUTTING HERE
18 ON THE HIP, MADE ONE AT THE KNEE AND ONE AT THE
19 BACK OF THE KNEE.

20 Q. AND THE NUMBERS THAT ARE WRITTEN IN INK, WHO
21 PLACES THOSE NUMBERS ON THEM?

22 A. I DO THAT.

23 Q. WHAT IS THE PURPOSE OF THAT?

24 A. EACH ITEM THAT WE CUT, WE GIVE EACH CUTTING A
25 SUB-ITEM AND THAT GIVES IT SOME KIND OF IDENTITY

PATTI B. RUFF - DIRECT BY MR. POPE

1769

1 THAT WE SEND TO THE TRACE DEPARTMENT. SO, THIS
2 WOULD BE CUTTING 107.4, FOR EXAMPLE.

3 Q. OKAY. I CALL YOUR ATTENTION NOW TO YOUR ITEMS
4 115 THROUGH 123 WHICH WOULD BE STATE'S 65
5 THROUGH STATE'S 73 WHICH WERE THE SOCKS AND I'LL
6 ASK WHAT, IF ANYTHING, YOU OBSERVED ON THAT?

7 A. 115 WAS A WHITE SOCK; I MADE ONE CUTTING FROM
8 THE SOCK AND SENT IT TO THE DNA DEPARTMENT.
9 I DO NEED TO MAKE NOTE THAT ALL OF THESE SOCKS
10 WERE PACKAGED TOGETHER, SO I FOUND HAIR, SO THEY
11 WERE SENT TO THE TRACE DEPARTMENT.
12 I MADE A CUTTING FROM 116 FROM THE INSIDE OF THE
13 SOCK AND ALSO THERE WAS A CHECK INSIDE.

14 Q. YES, MA'AM. NOW, 116 WHICH IS STATE'S EXHIBIT
15 66 WAS ONE OF THE SOCKS; IS THAT CORRECT?

16 A. THAT'S CORRECT.

17 Q. AND YOU INDICATED THAT THERE WAS A CHECK INSIDE.
18 COULD YOU EXPLAIN THAT TO THE JURY?

19 A. I MADE A NOTE ON MY WORK SHEET THAT INSIDE THE
20 SOCK WAS A BLANK CHECK FROM AMANDA CHARLENE
21 HILL, CHECK NUMBER 0617.

22 Q. AND I'LL SHOW YOU WHAT'S BEEN MARKED STATE'S
23 EXHIBIT 116.1 FOR IDENTIFICATION AND ASK IF YOU
24 WOULD LOOK AT THAT AND TELL ME IF YOU CAN
25 IDENTIFY THAT ITEM?

PATTI B. RUFF - DIRECT BY MR. POPE

1770

1 A. YES, I CAN.

2 Q. WHAT IS THAT ITEM?

3 A. THIS IS A CHECK FROM AMANDA CHARLENE HILL'S
4 ACCOUNT, CHECK NUMBER 0617.

5 Q. AND YOU RECOVERED THAT, IT WAS INSIDE ONE OF THE
6 SOCKS THAT CAME FROM MARYLAND?

7 A. THAT'S CORRECT, IT WAS INSIDE 116.

8 Q. OKAY. YOUR HONOR, I WOULD MOVE STATE'S -- I
9 APOLOGIZE. AGAIN I'VE REFERRED TO THE SLED
10 NUMBER. MADAM COURT REPORTER, IT WOULD BE 66.1,
11 THE CHECK THAT WAS RECOVERED FROM STATE'S
12 EXHIBIT 66.

13 MR. HANCOCK: WITHOUT OBJECTION, YOUR HONOR.

14 THE COURT: IT WILL BE RECEIVED WITHOUT
15 OBJECTION.

16 (THE CHECK WAS MARKED STATE'S EXHIBIT 66.1 IN EVIDENCE
17 WITHOUT OBJECTION.)

18 Q. YOU INDICATED ON THE SOCKS YOU SENT HAIRS TO THE
19 TRACE LAB. WHAT, IF ANYTHING, DID YOU DO TO THE
20 SOCKS?

21 A. I MADE ONE CUTTING FROM EACH SOCK.

22 Q. AND WHERE WAS THAT SENT?

23 A. TO THE DNA DEPARTMENT.

24 Q. OKAY. NOW, REFERRING TO YOUR EXHIBIT 125,
25 STATE'S EXHIBIT 75, THE PAIR OF BROWN MOCCASINS.

PATTI B. RUFF - DIRECT BY MR. POPE

1771

1 WHAT, IF ANY, TESTING OR OBSERVATION DID YOU
2 MAKE ON THAT?

3 A. I DID FIND HAIR WHICH I SENT TO THE TRACE
4 DEPARTMENT. I MADE ONE CUTTING FROM THE RIGHT
5 SHOE IN THE TONGUE AREA AND I GOT TWO SWABS FROM
6 THE SOLE OF THE RIGHT SHOE. AND I GOT TWO SWABS
7 FROM THE SOLE OF THE LEFT SHOE.

8 Q. OKAY. REFER TO YOUR EXHIBIT 60, STATE'S EXHIBIT
9 80 AND I'LL ASK YOU WHAT, IF ANYTHING, WAS DONE
10 WITH THAT?

11 A. WHICH ONE?

12 Q. I'M SORRY, YOUR EXHIBIT 130, STATE'S EXHIBIT 80
13 AND ASK WHAT, IF ANYTHING WAS DONE WITH THAT?

14 A. THE KITCHEN TOWEL, I DID NOT FIND ANY HAIR ON
15 THE KITCHEN TOWEL, BUT I MADE TWO CUTTINGS FOR
16 BLOOD AND SENT THEM TO THE DNA DEPARTMENT.

17 THE COURT: I DON'T BELIEVE SHE SAID WHAT, IF
18 ANYTHING, SHE DID WITH THE CUTTINGS FROM THE MOCCASINS.

19 MR. POPE: OKAY, YOUR HONOR, I APOLOGIZE IF I
20 DIDN'T ASK THAT. I WILL ADDRESS THAT.

21 Q. THE CUTTINGS THAT YOU MADE -- IN ANY OF THESE,
22 THE CUTTINGS, CUTTINGS ARE WHAT IF YOU WILL TELL
23 THE JURY AGAIN?

24 A. THESE ARE SAMPLES THAT I TOOK FROM THE ITEMS IN
25 EVIDENCE THAT I WAS SENDING TO THE DNA

LORRI M. JOHNSON - DIRECT BY MR. POPE

1772

DEPARTMENT FOR BLOOD TESTING.

Q. SO IN EACH ITEM THAT YOU MAKE A CUTTING, IT GOES
TO THE DNA DEPARTMENT?

A. THAT'S CORRECT.

Q. AND PARTICULARLY AS TO THE MOCCASINS WHICH
REFERS TO STATE'S EXHIBIT 75, THOSE CUTTINGS
ALSO WENT TO DNA?

A. THAT'S CORRECT.

Q. AND FINALLY I WILL CALL YOUR ATTENTION TO YOUR
EXHIBIT 172, STATE'S EXHIBIT, IT APPEARS TO BE
87 WHICH IS THE STRIPED SWEATER RECOVERED FROM
MEREDITH MOON, AND WHAT DID YOU DO THERE?

A. I MADE TWO CUTTINGS FROM THE SWEATER, ONE FROM
THE RIGHT FRONT SLEEVE, ONE FROM THE RIGHT BACK
SLEEVE. I SENT THESE CUTTINGS TO THE DNA
DEPARTMENT.

Q. ANSWER ANY QUESTIONS THE DEFENSE MAY HAVE.

MR. HANCOCK: WE HAVE NO QUESTIONS, YOUR HONOR.

THE COURT: YOU MAY STEP DOWN AND BE EXCUSED. WE
APPRECIATE YOUR TIME. CALL YOUR NEXT WITNESS.

LORRI MEDLIN JOHNSON, BEING FIRST DULY SWORN,
TESTIFIED AS FOLLOWS:

DIRECT EXAMINATION BY

MR. POPE:

Q. MS. JOHNSON, IF YOU WOULD, STATE YOUR NAME AND

LORRI M. JOHNSON - DIRECT BY MR. POPE

1773

1 OCCUPATION FOR THE JURY.

2 A. MY NAME IS LORRI MEDLIN JOHNSON AND I'M A SENIOR
3 AGENT WITH THE SOUTH CAROLINA LAW ENFORCEMENT
4 DIVISION ALSO KNOWN AS SLED.

5 Q. CAN YOU TELL THE JURY HOW LONG YOU'VE BEEN WITH
6 SLED?

7 A. A LITTLE OVER 10 YEARS.

8 Q. AND CAN YOU TELL THE JURY WHERE YOU ARE
9 CURRENTLY ASSIGNED AT SLED?

10 A. CURRENTLY I'M THE QUALITY AND SAFETY MANAGER FOR
11 THE ENTIRE FORENSIC LABORATORY.

12 Q. AND BACK -- CALLING YOUR ATTENTION BACK TO 1997
13 AND '98, WHAT WAS YOUR JOB AT THAT TIME?

14 A. I WAS A FORENSIC SEROLOGIST AND DNA ANALYST.

15 Q. AS PART OF YOUR DUTIES DID YOU HAVE AN
16 OPPORTUNITY TO RECEIVE A NUMBER OF ITEMS IN
17 EVIDENCE IN THIS PARTICULAR CASE?

18 A. YES, SIR, I DID.

19 Q. DID YOU HAVE AN OPPORTUNITY TO REVIEW THOSE
20 ITEMS DURING THE LUNCH BREAK EARLIER TODAY?

21 A. YES, SIR.

22 Q. IN THE INTEREST OF TIME IF YOU WOULD, TELL THE
23 JURY JUST BASICALLY WHAT THE POSSIBLE RESULTS
24 ARE. ONE, TELL THEM A LITTLE BIT ABOUT WHAT YOU
25 ARE LOOKING FOR IN YOUR AREA OF EXPERTISE.

LORRI M. JOHNSON - DIRECT BY MR. POPE

1774

1 A. A FORENSIC SEROLOGIST IS ONE WHO RECEIVES
2 PHYSICAL EVIDENCE THAT'S SUBMITTED FROM AGENCIES
3 THROUGHOUT THE STATE, AND THEY EXAMINE THESE
4 ITEMS FOR THE PRESENCE OF BIOLOGICAL STAINS. AS
5 A SEROLOGIST WHAT I WOULD DO IS ATTEMPT TO
6 DETERMINE THE TYPE OF BODY FLUID STAIN IT IS.
7 IN OTHER WORDS, IS IT BLOOD. IF IT'S BLOOD, IS
8 IT HUMAN BLOOD, IS IT SEMEN. AND ONCE I'VE
9 IDENTIFIED THE TYPE OF STAIN IT IS, THEN I WILL
10 FURTHER CHARACTERIZE THE STAIN USING DOCUMENTED
11 POLICIES AND PROTOCOLS IN THE LABORATORY.
12 THE PURPOSE OF THIS CHARACTERIZATION IS TO
13 EXAMINE THE STAIN FURTHER AND TO DETERMINE
14 WHETHER OR NOT THIS STAIN IS CONSISTENT WITH THE
15 VICTIM OR VICTIMS OR THE SUSPECTS ASSOCIATED
16 WITH THE CRIME.

17 IN OTHER WORDS, DO THE CHARACTERISTICS OF THIS
18 PIECE OF EVIDENCE, ARE THEY CONSISTENT WITH OR
19 DO THEY MATCH THE VICTIMS OR SUBJECTS.

20 Q. I'VE SOMEWHAT GOTTEN THE CART BEFORE THE HORSE.
21 YOUR HONOR, I WOULD TENDER HER AS AN EXPERT IN
22 FORENSIC SEROLOGY. I WILL BE GLAD TO GO THROUGH
23 HER EXPERTISE IF THE DEFENSE REQUIRES.

24 MR. BOYD: THAT WON'T BE NECESSARY.

25 THE COURT: I FIND SHE'S QUALIFIED.

LORRI M. JOHNSON - DIRECT BY MR. POPE

1775

1 Q. AS FAR AS COMPARING THOSE DIFFERENT FLUIDS, CAN
2 YOU TELL THE JURY JUST BASICALLY THE POSSIBLE
3 RESULTS, PARTICULARLY NOW AS WE COME TO THIS
4 CASE WE'RE TALKING ABOUT BLOOD, WHAT ARE THE
5 DIFFERENT TYPE RESULTS THAT YOU WOULD REPORT
6 OUT?

7 A. FOR EXAMPLE, IF I'M LOOKING AT BLOOD STAINS, ONE
8 TEST THAT I WOULD DO IS FIRST OF ALL DETERMINE
9 THAT IT IS HUMAN BLOOD. AND ONCE I HAVE
10 DETERMINED THAT HUMAN BLOOD IS PRESENT, THEN I
11 MAY ATTEMPT TO TYPE THE BLOOD. IN OTHER WORDS,
12 IS THIS A BLOOD TYPE A, B, A-B OR O. THOSE ARE
13 THE FOUR BLOOD TYPES THAT MOST EVERYONE IS
14 FAMILIAR WITH. WHAT BLOOD TYPE IS THAT
15 PARTICULAR STAIN.

16 ANOTHER CHARACTERIZATION THAT I MIGHT DO IS AN
17 ENZYMATIC CHARACTERIZATION. WHEREAS THERE ARE
18 ONLY FOUR DIFFERENT BLOOD GROUPS IN THE
19 POPULATION, ONE OF THE ENZYMATIC TEST THAT I
20 HAVE AT MY DISPOSAL TO USE TO CHARACTERIZE THIS
21 STAIN HAS 12 DIFFERENT TYPES.

22 SO, HERE AGAIN I COULD CHARACTERIZE THIS
23 PARTICULAR EVIDENCE BASED ON THIS ENZYME TYPE,
24 AND IS THAT THE SAME TYPE AS THE VICTIM OR
25 SUSPECT, DO THOSE TYPES MATCH.

LORRI M. JOHNSON - DIRECT BY MR. POPE

1776

1 Q. IN THIS PARTICULAR CASE YOU HAD AN OPPORTUNITY
2 TO RECEIVE A GREAT NUMBER OF ITEMS OF EVIDENCE;
3 IS THAT CORRECT?

4 A. YES, SIR, THAT'S CORRECT.

5 Q. AND LET ME ASK YOU, DID YOU REPORT OUT THE
6 RESULTS OF EACH TEST; IN OTHER WORDS, WHETHER
7 YOU FOUND HUMAN BLOOD, WHETHER THERE WAS ENOUGH
8 TO GO ON TO DNA, DID YOU REPORT THOSE FINDINGS
9 AS TO EACH ITEM IN A WRITTEN REPORT?

10 A. YES, SIR, I DID.

11 Q. I BEG THE COURT'S INDULGENCE.

12 (AFTER A BRIEF PAUSE.)

13 Q. I'LL SHOW YOU WHAT'S BEEN MARKED STATE'S EXHIBIT
14 185 FOR IDENTIFICATION AND ASK IF YOU WOULD LOOK
15 AT THAT AND TELL US IF YOU CAN IDENTIFY IT.

16 A. YES, SIR, I CAN.

17 Q. CAN YOU TELL ME WHAT THAT DOCUMENT IS?

18 A. THIS IS THE ORIGINAL REPORT THAT I SIGNED ON
19 NOVEMBER 3RD, 1998. IT'S A 10 PAGE REPORT AS TO
20 MY RESULTS IN THIS PARTICULAR CASE.

21 Q. OKAY. WITH THE NUMBER OF ITEMS THAT YOU TESTED,
22 SOME INDICATIONS YOU HAVE ARE THAT HUMAN BLOOD
23 WAS IDENTIFIED. CAN YOU EXPLAIN TO THE JURY
24 WHAT THE RESULT OF THAT IDENTIFICATION MEANS?
25 YOU KNOW, YOU TALKED ABOUT HAVING A DIFFERENT

LORRI M. JOHNSON - DIRECT BY MR. POPE

1777

1 LEVEL OF TESTS?

2 A. THAT'S CORRECT.

3 Q. WHAT DOES IT MEAN IF YOU SAID THERE'S JUST HUMAN
4 BLOOD IDENTIFIED. WHAT DOES THAT MEAN?

5 A. WELL, THAT'S THE FIRST TEST I'M GOING TO DO.
6 BEFORE I ATTEMPT TO DO ANY CHARACTERIZATION, I
7 WANT TO KNOW IF IT'S HUMAN BLOOD OR NOT.

8 THE STAIN MAY HAVE BEEN SUBMITTED TO ME AND
9 PRESUMPTIVELY IDENTIFIED AS BLOOD, BUT I NEEDED
10 TO CONFIRM THAT BEFORE I WENT ANY FURTHER. SO,
11 THAT'S THE TEST THAT I PERFORMED.

12 AND MANY OF THE ITEMS THAT WERE SUBMITTED TO ME,
13 I DID IDENTIFY HUMAN BLOOD.

14 THE STANDARDS THAT WERE SUBMITTED TO ME, I ALSO
15 ATTEMPTED TO DO ADDITIONAL ---

16 THE COURT: JUST A MINUTE.

17 MR. HANCOCK: I JUST NEED TO MOVE THIS, JUDGE, I
18 CAN'T SEE.

19 THE COURT: OH, OKAY.

20 A. THE STANDARDS THAT WERE SUBMITTED TO ME IN THIS
21 CASE, I ALSO ATTEMPTED TO DO FURTHER
22 CHARACTERIZATION ON THAT AS FAR AS WHAT BLOOD
23 TYPE IS IT, A, B, A-B, OR O. AND I ALSO
24 ATTEMPTED THE ENZYMATIC CHARACTERIZATION THAT I
25 SPOKE OF EARLIER.

LORRI M. JOHNSON - DIRECT BY MR. POPE

1778

1 ASIDE FROM THAT, THE ONLY OTHER COMMENTS THAT I
2 MADE IN MY REPORT IS WHETHER OR NOT THIS
3 PARTICULAR STAIN THAT I EXAMINED WAS SUFFICIENT
4 IN QUANTITY TO PROCEED WITH FURTHER DNA TESTING.

5 Q. OKAY, AND WHEN YOU SAY YOU DESIGNATED, IN THE
6 REPORT I SEE TWO DIFFERENT DESIGNATIONS. ONE
7 THAT JUST SAYS BLOOD IS IDENTIFIED AND ANOTHER
8 SAYS THAT BLOOD IS IDENTIFIED, INSUFFICIENT
9 AMOUNT FOR DNA. SO, IF IT JUST SAYS HUMAN BLOOD
10 IS IDENTIFIED, WAS THAT SUFFICIENT TO SEND IT ON
11 TO DNA?

12 A. THAT'S CORRECT. IN MY OPINION, BASED ON MY
13 YEARS OF EXPERIENCE IN SEROLOGY AND DNA, I CAN
14 LOOK AT A STAIN AND TELL WHETHER OR NOT I THINK
15 THERE'S ENOUGH MATERIAL THERE TO ATTEMPT TO DO
16 DNA.

17 I CAN ALSO LOOK AND TELL IF THERE IS REALLY NOT
18 ENOUGH TO TRY ---

19 THE COURT: WAIT, WAIT, WAIT.

20 MR. HANCOCK: I'M NOT INTERRUPTING THE WITNESS.
21 IF WE'RE NOT USING THE OVERHEAD PROJECTOR, COULD WE CUT IT
22 OFF?

23 MR. POPE: YES.

24 A. IN MY OPINION THERE IS REALLY INSUFFICIENT
25 MATERIAL TO ATTEMPT TO DO ANY FURTHER

LORRI M. JOHNSON - DIRECT BY MR. POPE

1779

1 SEROLOGICAL WORK, FOR EXAMPLE, CHARACTERIZATION
2 OR ATTEMPT TO DO ANY RFLP DNA TESTING.

3 Q. SO, DO YOU KNOW, HAVE YOU COUNTED APPROXIMATELY
4 HOW MANY ITEMS YOU HAD, WAS IT CLOSE TO 75 OR
5 MORE?

6 A. I WOULD SAY -- OFF THE TOP OF MY HEAD I WOULD
7 SAY MORE. IT'S A 10 PAGE REPORT, I'VE GOT
8 GENERALLY OVER 10 ITEMS ON EACH PAGE. SO, 75 OR
9 80.

10 Q. AND, AGAIN, THE ITEMS THAT ARE REPRESENTED IN
11 YOUR REPORT, STATE'S EXHIBIT 185 FOR
12 IDENTIFICATION, YOU HAVE LOOKED AT THEM AND
13 CONFIRMED THAT THOSE ARE THE ITEMS THAT WE HAVE
14 HERE?

15 A. THAT'S CORRECT.

16 Q. IN PARTICULAR I WOULD CALL YOUR ATTENTION TO THE
17 RESULTS FROM THE ITEMS THAT YOU TESTED FOR
18 BLOOD, I NOTE THAT THERE ARE THREE ITEMS OUT OF
19 THIS EVIDENCE THAT YOU DID NOT FIND ANY BLOOD ON
20 OR INDICATE THERE WAS ANY BLOOD ON. IS THAT
21 CORRECT?

22 A. I BELIEVE THAT'S CORRECT. I JUST WANT TO REFER
23 TO MY REPORT JUST ONE MOMENT. ITEM 84, A
24 CUTTING FROM A GREEN PILLOW FROM A BEDROOM TO
25 THE RIGHT AT THE BOTTOM OF THE STAIRS IN THE

LORRI M. JOHNSON - DIRECT BY MR. POPE

1780

1 BASEMENT, NO BLOOD WAS DETECTED ON THAT ITEM.

2 ALSO SLED ITEMS 112 AND 113, ITEM 112 BEING ONE

3 FILE WITH A WOODEN HANDLE, NO BLOOD DETECTED.

4 AND ITEM 113, ONE SCALPEL WITH A BLACK PLASTIC

5 HANDLE, NO BLOOD WAS DETECTED.

6 Q. LET ME GO BACK. THE NUMBERS YOU REFER TO,

7 AGAIN, ARE SLED NUMBERS; IS THAT CORRECT?

8 A. YES, SIR, THAT'S CORRECT.

9 Q. SO, 84 IS THE SLED NUMBER, WHICH IS NOT IN

10 EVIDENCE, A GREEN PILLOW FROM THE BEDROOM AT THE

11 BOTTOM OF THE STAIRS?

12 A. THAT'S CORRECT.

13 Q. OKAY. NOW, YOU SAID YOUR EXHIBIT 112 WHICH IS A

14 FILE WITH A WOODEN HANDLE, I JUST WANT TO CALL

15 TO THE COURT'S ATTENTION IS STATE'S EXHIBIT 62.

16 AND THEN YOU SAID 113?

17 A. YES, SIR.

18 Q. AND THAT WOULD BE STATE'S EXHIBIT 63. AND

19 FINALLY WAS THERE ALSO ANOTHER ITEM THAT NO

20 BLOOD WAS LOCATED?

21 A. YES, SIR. SLED ITEM NUMBER 129.

22 Q. WHICH WOULD BE STATE'S 79.

23 A. DESCRIBED AS ONE KITCHEN KNIFE WITH A SERRATED

24 BLADE AND WOODEN HANDLE. NO BLOOD WAS DETECTED.

25 Q. OKAY. NOW, AS TO THE OTHER ITEMS THAT YOU

LORRI M. JOHNSON - DIRECT BY MR. POPE

1781

1 TESTED IN SEROLOGY FOR BLOOD, WHAT WOULD BE THE
2 RESULTS. WOULD IT BE ONE OF TWO THINGS, IT
3 WOULD EITHER BE BLOOD OR BLOOD INSUFFICIENT FOR
4 DNA?

5 A. THAT'S CORRECT.

6 Q. AND, AGAIN, IF IT DESIGNATES BLOOD, HUMAN BLOOD,
7 THEN THAT BELIEVES THAT IT MAY POSSIBLY BE
8 SUFFICIENT TO SEND ON TO DNA?

9 A. YES, SIR.

10 Q. AND IS THAT WHAT YOU WOULD DO WITH IT?

11 A. THAT IS WHAT I DID.

12 Q. AND YOU SAID THIS DOES ACCURATELY REFLECT IN
13 MUCH GREATER DETAIL THAN WE'VE GONE THROUGH THE
14 TESTIMONY AS TO EACH INDIVIDUAL TEST ON EACH
15 ITEM?

16 A. YES, SIR, THAT IS MY ORIGINAL REPORT THAT I
17 ISSUED ON THIS CASE.

18 Q. OKAY. STATE'S EXHIBIT 185 FOR IDENTIFICATION, I
19 MOVE INTO EVIDENCE.

20 MR. HANCOCK: WITHOUT OBJECTION, YOUR HONOR.

21 THE COURT: IT WILL BE RECEIVED WITHOUT
22 OBJECTION.

23 (THE LAB REPORT WAS MARKED IN EVIDENCE AS STATE'S EXHIBIT
24 185 WITHOUT OBJECTION.

25 Q. MS. JOHNSON, ANSWER ANY QUESTIONS THE DEFENSE

LORRI M. JOHNSON - CROSS BY MR. BOYD

1782

1 MIGHT HAVE.

2 A. YES, SIR.

3 CROSS EXAMINATION BY

4 MR. BOYD:

5 Q. MY UNDERSTANDING OF THE GIST OF YOUR TESTIMONY
6 IS THAT YOU LOOKED AT THE ITEMS TO SEE IF THERE
7 IS SUFFICIENT EVIDENCE ON STAINS TO SEND TO DNA
8 FOR ANALYSIS; IS THAT CORRECT?

9 A. THAT'S CORRECT. AFTER I DID WHETHER OR NOT
10 HUMAN BLOOD WAS IDENTIFIED, IF IT WAS
11 IDENTIFIED, THEN I EXAMINED IT, MADE A VISUAL
12 ASSESSMENT AS TO WHETHER OR NOT I FELT THERE WAS
13 SUFFICIENT QUANTITY FOR FURTHER SEROLOGICAL OR
14 RFLP OR DNA TESTING.

15 Q. AND ON SOME OF THESE ITEMS YOU SAW THERE WAS
16 SUFFICIENT AMOUNTS TO SEND ON FOR TESTING AND
17 YOU DID THAT; IS THAT CORRECT?

18 A. RIGHT. ALL THE ITEMS THAT I RECEIVED AND
19 EXAMINED, I THEN TRANSFERRED TO THE DNA ANALYST
20 ON THIS CASE.

21 Q. OKAY. SO, THERE WERE NO ITEMS OF INSUFFICIENT
22 AMOUNTS TO EXAMINE THAT YOU DID NOT FORWARD TO
23 THE DNA ANALYST; IS THAT CORRECT?

24 A. THAT'S CORRECT. I FORWARDED EVERYTHING BECAUSE
25 OF THE VOLUME OF EVIDENCE THAT I HAD IN THIS

LORRI M. JOHNSON - CROSS BY MR. BOYD

1783

1 CASE.

2 Q. ALL RIGHT, THANK YOU.

3 REDIRECT EXAMINATION BY

4 MR. POPE:

5 Q. ONE FINAL QUESTION TO MAKE SURE, I MAY HAVE
6 MISUNDERSTOOD MR. BOYD'S QUESTION. ON YOUR
7 REPORT IF YOU PUT INSUFFICIENT, THAT MEANS IT'S
8 AN INSUFFICIENT SAMPLE TO SEND ON FOR DNA
9 TESTING; IS THAT CORRECT?

10 A. RIGHT. MY ASSESSMENT WAS A VISUAL ASSESSMENT AS
11 TO WHETHER OR NOT I FELT THERE WAS SUFFICIENT
12 QUANTITY THERE FOR FURTHER SEROLOGICAL OR RFLP
13 AND DNA TESTING.
14 AS I MENTIONED WITH THE DEFENSE, I DID FORWARD
15 ALL THE ITEMS SIMPLY BECAUSE THERE WERE SO MANY
16 ITEMS IN THIS PARTICULAR CASE. I FELT IT WAS
17 MORE REASONABLE TO FORWARD EVERYTHING TO THE DNA
18 ANALYST THAN TO PULL OUT JUST THOSE ITEMS THAT
19 WERE SUFFICIENT QUANTITY.

20 Q. THANK YOU, MA'AM.

21 THE COURT: ANYTHING ELSE?

22 MR. BOYD: NO, SIR.

23 THE COURT: YOU CAN STEP DOWN; WE APPRECIATE YOUR
24 TIME, AND YOU CAN BE EXCUSED.

25 MR. POPE: YOUR HONOR, THE FINAL WITNESS THE

1784

1 STATE WOULD HAVE TODAY WOULD BE DR. JOEL SEXTON.

2 MR. HANCOCK: MAY IT PLEASE THE COURT, YOUR
3 HONOR, I NEED TO JUST WALK OUT HERE AND COME RIGHT BACK IN.

4 THE COURT: ALL RIGHT.

5 (AFTER MR. HANCOCK RETURNED TO THE COURTROOM.)

6 DR. JOEL S. SEXTON, BEING FIRST DULY SWORN,
7 TESTIFIED AS FOLLOWS:

8 DIRECT EXAMINATION BY

9 MR. POPE:

10 Q. DR. SEXTON, IF YOU WOULD, STATE YOUR NAME AND
11 SPELL YOUR LAST NAME FOR THE COURT REPORTER,
12 PLEASE.

13 A. DR. JOEL STEVEN SEXTON, IT'S S-E-X-T-O-N.

14 Q. DR. SEXTON, IF YOU WOULD, STATE FOR THE JURY
15 YOUR OCCUPATION.

16 A. I'M A PHYSICIAN WITH A SPECIALTY IN PATHOLOGY
17 AND A SUBSPECIALTY IN FORENSIC PATHOLOGY.

18 Q. COULD YOU TELL THE JURY WHAT FORENSIC PATHOLOGY
19 REALLY IS, HOW IT BECOMES A SUBSPECIALTY IN
20 PATHOLOGY?

21 A. WELL, FIRST A PATHOLOGIST IS A PHYSICIAN WHO
22 AFTER FINISHING MED SCHOOL FURTHER TRAINS IN HOW
23 TO DIAGNOSE DISEASE FROM LOOKING AT TISSUE,
24 WHETHER IT BE TISSUE REMOVED AT SURGERY TO
25 DETERMINE IF CANCER IS PRESENT OR SOME OTHER

DR. JOEL S. SEXTON - DIRECT BY MR. POPE

1785

1 CONDITION OR WHETHER IT'S TISSUE REMOVED AT AN
2 AUTOPSY TO DETERMINE WHAT MAY HAVE CAUSED THAT
3 PERSON'S DEATH.

4 A FORENSIC PATHOLOGIST HAS THAT TRAINING PLUS IN
5 MY CASE TRAINING IN UNDERSTANDING HOW TO EXAMINE
6 FLUIDS, BLOOD, URINE, SPINAL FLUIDS IN THE
7 LABORATORY AND HOW TO MAKE SURE THE TESTS RUN ON
8 THEM ARE PROPER.

9 AND THEN A FORENSIC PATHOLOGIST IN ADDITION
10 LEARNS HOW TO RECOGNIZE VARIOUS TYPES OF TRAUMA
11 ON THE BODY AND WHAT CAUSED THAT TRAUMA SO THAT
12 IF I SEE AN INJURY OF A CERTAIN TYPE, I CAN TRY
13 TO RELATE THAT TO THE PARTICULAR OBJECT. ALSO
14 WHAT VARIOUS THINGS ARE NECESSARY TO CAUSE A
15 PERSON'S DEATH, HOW TO UNDERSTAND THE EFFECTS OF
16 DRUGS AND CHEMICALS ON THE BODY, HOW TO EVALUATE
17 A BODY AT A SCENE OF DEATH TO LEARN WHETHER THE
18 BODY HAS BEEN MOVED, WHAT SORT OF INJURIES MAY
19 HAVE OCCURRED IN DIFFERENT LOCATIONS BECAUSE OF
20 BLOOD SPATTERS.

21 SO, BASICALLY FORENSIC PATHOLOGY IS USING THE
22 MEDICAL KNOWLEDGE FROM PATHOLOGY ALONG WITH THE
23 KNOWLEDGE THAT'S GAINED FROM EXAMINING DEAD
24 BODIES UNDER VARIOUS CIRCUMSTANCES, PARTICULARLY
25 AT SCENES AND AT AUTOPSIES SO THAT WE ARE ABLE

DR. JOEL S. SEXTON - DIRECT BY MR. POPE

1786

1 TO THEN GIVE A REPORT ABOUT THE CAUSE AND THE
2 MANNER OF DEATH OF THAT PARTICULAR INDIVIDUAL,
3 CAUSE RELATING TO GUNSHOT WOUNDS, STAB WOUNDS;
4 MANNER HAVING TO DO WITH WHETHER THEY INFLECTED
5 IT ON THEMSELVES, SUICIDE, OR THAT SOMEONE ELSE
6 INFLECTED IT UPON THEM, BEING A HOMICIDE,
7 WHETHER IT'S A NATURAL DEATH FROM A DISEASE OR
8 ILLNESS OR WHETHER IT'S SOME KIND OF ACCIDENTAL
9 DEATH OR WHETHER IT'S UNDETERMINED.

10 Q. DR. SEXTON, COULD YOU TELL THE JURY WHAT
11 BACKGROUND, EDUCATION AND TRAINING YOU HAVE THAT
12 ALLOWS YOU TO PERFORM THESE EVALUATIONS, THESE
13 AUTOPSIES?

14 A. AFTER GRADUATING FROM COLLEGE AND SERVING THREE
15 YEARS IN THE NAVY, I THEN ATTENDED THE MEDICAL
16 COLLEGE OF SOUTH CAROLINA AND RECEIVED A MASTERS
17 IN CHEMISTRY AND LATER WENT TO THE MEDICAL
18 UNIVERSITY AND RECEIVED A M.D. DEGREE IN ---

19 THE COURT: YES, SIR?

20 MR. HANCOCK: YOUR HONOR, WE ARE AWARE OF DR.
21 SEXTON'S QUALIFICATIONS AND STIPULATE THAT HE IS AN EXPERT
22 IN HIS FIELD.

23 THE COURT: I FIND HE IS QUALIFIED IN THE AREA OF
24 PATHOLOGY AND THE SUBSPECIALTY OF FORENSIC PATHOLOGY.

25 Q. DR. SEXTON, AS PART OF YOUR DUTIES DID YOU HAVE

DR. JOEL S. SEXTON - DIRECT BY MR. POPE

1787

1 THE OPPORTUNITY TO PERFORM AUTOPSIES ON NOVEMBER
2 26TH, 1997 OF THE DECEDENTS EARL ROBERTSON AND
3 TERRY DEJARNETTE ROBERTSON?

4 A. YES, I DID.

5 Q. FIRST I WOULD CALL YOUR ATTENTION TO YOUR
6 REPORT, F-A-97-426 OF TERRY DEJARNETTE ROBERTSON
7 AND ASK IF YOU COULD RELATE TO THE JURY WHAT
8 PROCESS YOU UNDERTOOK AND WHAT YOU OBSERVED.

9 A. WE ASK THAT BODIES THAT ARE BROUGHT TO US BE
10 BROUGHT JUST AS THEY ARE FOUND. WE THEN EXAMINE
11 THE EXTERNAL SURFACE AND PHOTOGRAPH THAT, AND
12 THEN CLEAN UP VARIOUS AREAS AFTER REMOVING THE
13 CLOTHING AND LOOK TO SEE IF THERE ARE INJURIES
14 HIDDEN BY ANYTHING ON THE SURFACE LIKE BLOOD OR
15 SOME OTHER MATERIAL, AND THEN WE PHOTOGRAPH ALL
16 OF THIS AND DOCUMENT IT WITH DRAWINGS AND WITH
17 DICTATION AND THAT WAS DONE IN THIS CASE.

18 ONCE WE'VE DONE THAT, WE DO AN INTERNAL
19 EXAMINATION LOOKING FOR INTERNAL INJURIES,
20 DISEASE, ILLNESS AND DOCUMENT THAT. ALSO WE
21 TAKE MICROSCOPIC SLIDES OF VARIOUS PORTIONS OF
22 THE INTERNAL ANATOMY TO LOOK AT UNDER A
23 MICROSCOPE TO DETERMINE IF THERE IS ANYTHING
24 THAT WE CAN RECOGNIZE ONLY BY MICROSCOPIC EXAM
25 PLUS WE COLLECT EVIDENCE ALL THROUGH THIS

DR. JOEL S. SEXTON - DIRECT BY MR. POPE

1788

1 PROCESS THAT'S THEN TURNED OVER TO SOME POLICE
2 OFFICIAL TO BE PROCESSED BY SLED. AND WE DID
3 THAT IN BOTH CASES.

4 Q. CAN YOU TELL US FIRST AS TO TERRY ROBERTSON, DO
5 YOU ALSO DO MEASUREMENTS OF HEIGHT AND WEIGHT
6 AND THINGS OF THAT NATURE?

7 A. YES, WE DO.

8 Q. WOULD YOU RELATE THAT INFORMATION AS TO TERRY
9 ROBERTSON?

10 A. WE MEASURED THE LENGTH OF THE BODY WHICH
11 GENERALLY CORRESPONDS WELL WITH THE PERSON'S
12 HEIGHT BUT IT'S NOT ALWAYS EXACTLY THE SAME AND
13 THEN WE ESTIMATE THE WEIGHT BASED ON THE LENGTH
14 AND THE APPEARANCE OF THE PERSON.

15 MRS. ROBERTSON MEASURED FIVE FEET SEVEN INCHES
16 IN LENGTH. WE ESTIMATED HER WEIGHT AT 240
17 POUNDS.

18 Q. AND COULD YOU RELATE TO THE JURY YOUR
19 OBSERVATIONS ON EXTERNAL DIAGNOSIS, WHAT YOU
20 OBSERVED CONCERNING THIS VICTIM?

21 A. THERE WAS A GREAT DEAL OF BLOOD AROUND THE HEAD
22 REGION. WHEN EXAMINING THIS AFTER CLEANING UP
23 THE BODY, IT WAS APPARENT THAT THERE WERE
24 SEVERAL TYPES OF INJURIES, MOST OF THEM WERE
25 WHAT WE CALL BLUNT FORCE INJURIES AS FAR AS

DR. JOEL S. SEXTON - DIRECT BY MR. POPE

1789

1 THOSE THAT WERE FATAL OR POTENTIALLY FATAL.
2 THESE INCLUDED BLOWS TO THE HEAD. THEY WERE ON
3 THE LEFT SIDE OF HER HEAD. SOME OF THESE WERE
4 WITH A FLAT SURFACE, BUT SOME WERE WITH A
5 SURFACE THAT WAS CONSISTENT WITH THE TINES OF A
6 CLAW HAMMER. THEY WERE MARKS THAT WERE
7 UNIFORMLY THE SAME DISTANCE APART AND TEND TO
8 DIG INTO THE SKIN BUT YET HAD ENOUGH FORCE TO
9 ACTUALLY FRACTURE THE SKULL IN MULTIPLE
10 LOCATIONS ON THE LEFT SIDE OF HER HEAD.

11 THERE WERE ALSO CUTS THAT WERE ON HER ARMS, HER
12 CHEST AND HER FACE AND NECK, AS WELL AS SOME
13 STAB WOUNDS ON HER BACK.

14 THE CUTS AND THE STAB WOUNDS APPEARED TO BE
15 PERIMORTAL, MEANING THAT THERE WAS NOT MUCH
16 HEMORRHAGE INTO THESE AREAS, INDICATING THAT THE
17 HEART HAD PROBABLY STOPPED BEFORE THAT HAD
18 OCCURRED.

19 Q. OKAY. AS TO THE SPECIFIC WOUNDS, YOU HAD
20 MENTIONED ONE CONSISTENT WITH A CLAW HAMMER.
21 WAS THERE ANYTHING UNUSUAL ABOUT THOSE
22 CONSISTENT WOUNDS THAT YOU NOTED?

23 A. THERE WAS. AS WE LOOKED AT THE MARKS ON THIS
24 DECEASED AND PARTICULARLY ON THE OTHER DECEASED,
25 IT WAS EVIDENT THAT THE CLAW HAMMER TIPS OR THE

DR. JOEL S. SEXTON - DIRECT BY MR. POPE

1790

1 TINES, IF IN FACT THAT'S WHAT IT WAS, AND THAT'S
2 MOST CONSISTENT FROM WHAT I SAW BECAUSE OF THE
3 INTERNAL FRACTURING AND THE UNIFORMITY OF THE
4 DISTANCE APART AND THEIR SHAPE, THEIR SHAPE WAS
5 RECTANGULAR IN THE CASE OF THE RIGHT HAND ONE AS
6 FAR AS THE WAY IT HIT THE SKIN. BUT THE ONE TO
7 THE LEFT AS IT HIT THE SKIN WAS IRREGULAR AND
8 APPEARED TO BE SHORTER IN SOME CASES BECAUSE IT
9 WAS LIKE HITTING ON SOME WAX OR SOME CLAY, YOU
10 COULD ACTUALLY SEE AN IMPRINT IN SOME AREAS OF
11 THE BODY, PARTICULARLY ON THE SCALP, THAT SHOWED
12 ONE TO BE UNIFORM AND THE OTHER ONE TO BE
13 SHORTER AND IRREGULAR.

14 Q. DR. I'M GOING TO SHOW YOU WHAT'S BEEN MARKED
15 STATE'S EXHIBIT 64 IN EVIDENCE AND I WOULD ASK
16 THAT BASED ON YOUR OBSERVATION OF THE WOUNDS TO
17 TERRY ROBERTSON, THE PAIRED WOUNDS YOU'RE
18 TALKING ABOUT, WOULD THAT BE CONSISTENT WITH THE
19 CONFIGURATION OF THIS HAMMER AND THE BROKEN
20 ASPECT OF THIS HAMMER?

21 A. IT WOULD. AS YOU NOTICE, THIS HAMMER HAS ONE
22 TINE THAT IS OF THE NORMAL LENGTH AND IS NOT
23 DAMAGED. THE OTHER TINE HAS BEEN BROKEN OFF AND
24 HAS A CURVED END. AND THAT'S VERY CONSISTENT
25 WITH THE MARKS THAT WE SAW ON THE BODY WHERE

DR. JOEL S. SEXTON - DIRECT BY MR. POPE

1791

1 YOU'D HAVE TWO DEPRESSIONS OR HOLES IN THE SKIN
2 THAT WERE SHAPED LIKE THIS WITH ONE OF THEM
3 BEING AT A GREATER DEPTH THAN THE OTHER, AND THE
4 SHORTER ONE HAVING AN IRREGULAR CONFIGURATION TO
5 IT.

6 SO, THIS IS IN MY OPINION VERY CONSISTENT WITH
7 THE MARKS THAT WERE FOUND ON BOTH BODIES.

8 Q. AS TO TERRY ROBERTSON, YOU HAD ALSO INDICATED
9 THAT THERE WERE LACERATIONS, IS THAT CORRECT?

10 A. THAT'S CORRECT. WHEN A RIGID OBJECT COMES
11 AGAINST THE SKIN AND THAT PORTION OF THE SKIN IS
12 OVERLYING BONE, THE RIGID OBJECT TENDS TO
13 ACTUALLY SQUEEZE THE TISSUE, THE SKIN BETWEEN
14 THE HARD OBJECT AND THE BONE AND LACERATE IT.
15 LACERATION IS WHAT WE COMMONLY CALL A CUT. WHEN
16 WE INJURE OURSELF, COMMONLY IT OCCURS HERE ON
17 THE EYEBROW IF YOU GET HIT IN THAT AREA WHERE
18 THE BONE IS RIGHT UNDER THE SKIN, BUT IT'S
19 DIFFERENT FROM A CUT THAT YOU WOULD GET WITH A
20 KNIFE. A CUT WITH A KNIFE WILL BE A CLEAN CUT
21 WITH NO DAMAGE TO THE EDGE OF THE SKIN AND NO
22 TISSUE BRIDGING THE GAP.
23 WHEREAS, A LACERATION OFTENTIMES IS RAGGED,
24 THERE WILL BE TISSUE BRIDGING THE GAP BETWEEN
25 EACH SIDE AND THE EDGES WILL BE DAMAGED OR

DR. JOEL S. SEXTON - DIRECT BY MR. POPE

1792

1 ABRADED AND THESE WERE TYPICAL OF WHAT WE CALL
2 LACERATIONS FROM SOME HEAVY OR HARD OBJECT
3 STRIKING THE SKIN AND PINCHING THE SKIN BETWEEN
4 THE HARD OBJECT AND THE UNDERLYING BONE AND IN
5 THIS CASE FRACTURING THE BONE.

6 Q. DID YOU ALSO OBSERVE, I THINK YOU INDICATED
7 INCISED WOUNDS ON TERRY ROBERTSON?

8 A. THAT'S CORRECT.

9 Q. AND CAN YOU EXPLAIN TO THE JURY WHAT INCISED
10 WOUNDS ARE?

11 A. WE'VE ALL CUT OURSELVES AT SOME TIME WITH A
12 KNIFE OR PAPER AND WE CALL THOSE INCISED WOUNDS
13 BECAUSE IN FACT THE EDGE OF THE SKIN IS NOT
14 DAMAGED, IT'S SIMPLY A CUT SEPARATING THE EDGES
15 AND THERE'S NOTHING BRIDGING THE GAP.

16 AND AN INCISED WOUND IS GENERALLY CAUSED BY A
17 KNIFE OR GLASS OR SOMETHING OF THAT SORT OR
18 SHEET METAL. AND IN THIS CASE THERE WERE
19 MULTIPLE INCISED WOUNDS ON THE NECK, ON THE FACE
20 ON EACH SIDE AND ON BOTH ARMS, AS WELL AS ON THE
21 UPPER PART OF THE RIGHT CHEST.

22 Q. LIKEWISE, DID YOU FIND ANY STABBING WOUNDS OR
23 PENETRATING AS OPPOSED TO INCISED WOUNDS ON
24 TERRY ROBERTSON?

25 A. THERE WERE THREE VERY CLEAR STAB WOUNDS ON THE

DR. JOEL S. SEXTON - DIRECT BY MR. POPE

1793

1 LOWER RIGHT BACK. ONE OF THESE ACTUALLY WENT IN
2 AND HIT THE SPINE. IT ONLY WENT IN FOR ABOUT
3 TWO AND A QUARTER INCHES WHEREAS THE OTHER TWO
4 WENT IN FOR ABOUT THREE AND A QUARTER INCHES.
5 NONE OF THESE WERE FATAL AND ALL OF THESE HAD
6 WHAT WE CALL YELLOW TISSUE IN THE AREA UNDER THE
7 SKIN. WE HAVE A SHEET OF FAT UNDER OUR SKIN
8 THAT HELPS INSULATE US. WE CALL IT THE
9 PANNICULUS.

10 AND NORMALLY IF A PERSON IS ALIVE AND THE HEART
11 IS BEATING WHEN THAT INJURY OCCURS JUST LIKE IF
12 YOU FALL ON A ROUGH SURFACE AND SKIN YOUR KNEE,
13 IT BLEEDS RIGHT AWAY AND THE APPEARANCE IS SUCH
14 OF A MAROON COLOR. IN THIS CASE IT WAS BRIGHT
15 YELLOW, THE COLOR OF THE FAT ITSELF, A LITTLE
16 PINK IN SOME AREAS INDICATING IT PROBABLY
17 OCCURRED AFTER THE HEART HAD STOPPED.

18 Q. I'LL SHOW YOU WHAT'S BEEN MARKED STATE'S EXHIBIT
19 23 AND STATE'S EXHIBIT 27 WHICH IS THE TIP OF
20 STATE'S EXHIBIT 23. BASED UPON YOUR OPINION,
21 WOULD THAT ITEM BE CONSISTENT WITH THE STAB OR
22 INCISED WOUNDS?

23 A. YES, IT WOULD. THE OBJECT THAT I'VE BEEN GIVEN
24 IS A KNIFE WITH A SERRATED BLADE. THE LENGTH OF
25 THE KNIFE LOOKS TO BE OVER SIX INCHES, A LITTLE

DR. JOEL S. SEXTON - DIRECT BY MR. POPE

1794

1 OVER EIGHT INCHES. AND THE WIDTH FROM THE BLUNT
2 EDGE TO THE SHARP EDGE IS APPROXIMATELY AN INCH
3 AND THE TIP IS VERY SHARP. THE BLADE IS BROKEN.
4 WE CALL THIS TYPE OF KNIFE A SINGLE EDGE KNIFE
5 MEANING THAT ONE EDGE IS BLUNT, ONE EDGE IS
6 SHARP. AND THE STAB WOUNDS IN THE BACK WERE
7 MADE BY THAT TYPE OF KNIFE.

8 THEY ONLY WENT IN A LITTLE DEEPER THAN THIS
9 BROKEN EDGE WHICH IS ABOUT THREE INCHES IN
10 LENGTH. AND THE WIDTH OF THIS AND THE SHAPE OF
11 THIS AS FAR AS THE BLUNT EDGE IS CONSISTENT WITH
12 THE WOUND THAT I SAW IN THE BODY.

13 I CAN'T SAY THIS IS THE BLADE BECAUSE I'M SURE
14 THERE ARE THOUSANDS MADE JUST LIKE THIS, BUT IT
15 IS CONSISTENT WITH THIS TYPE OF SINGLE EDGE
16 BLADE WITH THESE MEASUREMENTS.

17 Q. DOCTOR, AS FAR AS THE EXTERNAL EXAM, YOU
18 INDICATED THE LACERATIONS AND THE INCISED WOUNDS
19 AND THE STABBING WOUNDS, DID YOU NOTICE ANY
20 OTHER INJURIES TO THE BODY EXTERNALLY?

21 A. I THINK THAT'S ALL -- WHAT I'VE MENTIONED
22 EXTERNALLY IS ALL THAT I SAW, THE INCISED
23 WOUNDS, THE STAB WOUNDS AND THE BLUNT FORCE
24 TRAUMA TO THE HEAD.

25 Q. BEFORE WE GO INTO YOUR INTERNAL EXAMINATION, I

DR. JOEL S. SEXTON - DIRECT BY MR. POPE

1795

1 WOULD ALSO ASK YOU NOW TO REFER TO THE
2 EXAMINATION OF EARL ROBERTSON. IF YOU COULD
3 INDICATE TO THE JURY WHAT YOU OBSERVED IN THAT
4 REGARD.

5 A. ON EARL ROBERTSON THERE WERE SIMILAR INJURIES
6 BUT IN ADDITION TO THE BLUNT FORCE INJURY ON THE
7 HEAD THAT WERE TYPICAL OF BEING CAUSED BY A
8 HAMMER TINES WITH FRACTURES OF THE SKULL, THERE
9 WAS ALSO AN INCISED WOUND ON THE BACK OF THE
10 NECK THAT WAS CONSISTENT WITH BEING CAUSED BY A
11 KNIFE SUCH AS THIS OR A SIMILAR TYPE OF SHARP
12 INSTRUMENT AND THERE WERE BLUNT FORCE INJURIES
13 ON THE BACK, FOUR OF THEM, THAT WERE LINEAR
14 AREAS THAT WERE BLANCHED WITH PARALLEL AREAS OF
15 CONTUSION ON EACH SIDE OF THEM IN THE CASE OF
16 TWO OF THESE. TWO OTHERS HAD ABRADED AREAS THAT
17 WERE LINEAR.

18 WHEN A PERSON IS HIT WITH A CYLINDRICAL OBJECT
19 LIKE A FLASHLIGHT OR A TIRE IRON OR A POOL CUE
20 OR A BAT, THE ONLY THING THAT COMES IN CONTACT
21 WITH THE PERSON IS THE LEADING EDGE. IF YOU
22 LAID SOME OBJECT OF THAT SORT ON A TABLE, THE
23 ONLY THING THAT TOUCHES THE TABLE IS A VERY
24 NARROW AREA THAT'S AT THE ROUNDED EDGE.

25 AND WHAT WE SEE IN THE BODY WHEN A PERSON IS

DR. JOEL S. SEXTON - DIRECT BY MR. POPE

1796

1 STRUCK WITH AN OBJECT LIKE THAT, DEPENDING ON
2 THE WIDTH OF THE OBJECT USED TO STRIKE THEM, IS
3 A LINEAR BLANCHED AREA USUALLY WITH THE BLOOD
4 BEING FORCED OUT OF THAT AREA SO QUICKLY THAT IT
5 CAUSE HEMORRHAGE IN A PARALLEL LINE ON EITHER
6 SIDE. SO, IT GIVES A PATTERN OF THAT LINEAR
7 OBJECT.

8 OVERLYING HIS SPINE IN THE BACK WERE TWO THAT
9 WERE ABRADED. IN THAT AREA THE BONE IS DIRECTLY
10 UNDER THE SKIN AND THE FORCE WAS APPARENTLY
11 SUFFICIENT AND MAYBE AT A SLIGHTLY TANGENTIAL
12 ANGLE SO INSTEAD OF LEAVING IT BLANCHED, IT
13 ACTUALLY SCRAPED THE SURFACE OF THE SKIN.

14 SO, THERE WERE AT LEAST TWO TYPES OF BLUNT FORCE
15 INJURY, ONE WITH A LINEAR TYPE OBJECT ON THE
16 BACK IN AT LEAST FOUR LOCATIONS. THERE WAS ALSO
17 ONE ON TOP OF THE HEAD OF THE SAME TYPE THAT
18 CAUSED A DEVASTATING DEPRESSED SKULL FRACTURE,
19 MEANING THAT THE BONES WERE NOT ONLY BROKEN, BUT
20 FORCED INTO THE BRAIN.

21 IN ADDITION ON THE HEAD THERE WERE MULTIPLE TINE
22 MARKS OF THE SAME TYPE I SAW ON MRS. ROBERTSON.
23 AND THEN AS I MENTIONED, THERE WERE SOME INCISED
24 WOUNDS, TWO ON THE BACK OF THE NECK.

25 THERE WERE ALSO SOME OF THESE SAME TYPE OF

DR. JOEL S. SEXTON - DIRECT BY MR. POPE

1797

1 HAMMER-TYPE BLOWS ON THE HANDS, ON THE BACK OF
2 THE HANDS. AND A SINGLE STAB WOUND INTO THE
3 THUMB AND INDEX FINGER OF ONE HAND.

4 Q. DOCTOR, THE DESCRIPTION YOU'VE GIVEN OF THE
5 CYLINDRICAL OBJECTS, I'LL ASK YOU TO TAKE A LOOK
6 AT STATE'S EXHIBIT 81 AND ASK YOU IF IN YOUR
7 OPINION WOULD THIS BE CONSISTENT WITH THE NUMBER
8 OF WOUNDS, THE PARTICULAR WOUNDS YOU WERE
9 DESCRIBING ON EARL ROBERTSON?

10 A. THIS TYPE OF OBJECT WHICH IS AN ALUMINUM BAT IS
11 CERTAINLY CONSISTENT WITH THE WIDTH OF THE
12 ABRASION AND THE BLANCHED AREAS ON THE BACK OF
13 MR. ROBERTSON. THE AREA THAT WOULD COME IN
14 CONTACT WOULD BE JUST THE ROUNDED EDGE.
15 AS I MENTIONED, IF YOU LAID IT ON A WOODEN
16 SURFACE, YOU'D SEE ONLY A VERY SMALL AMOUNT CAME
17 IN CONTACT. IF THE SURFACE IS COMPRESSIBLE AS
18 IT WOULD BE ON THE BACK, A LITTLE GREATER AREA.
19 AND THE AREA THAT I SAW IS CONSISTENT WITH THE
20 DIAMETER OF THIS BAT. IN SOME AREAS IT WAS UP
21 TO ALMOST AN INCH IN WIDTH AS FAR AS THE AREA ON
22 THE BACK, THIS LINEAR AREA. IN OTHER AREAS OVER
23 THE SPINE, IT WAS MORE NARROW THAN IT WAS IN THE
24 OTHER AREAS WHERE IT'S MORE COMPRESSIBLE.
25 SO, THE ANSWER IS YES, THIS IS CONSISTENT, A BAT

DR. JOEL S. SEXTON - DIRECT BY MR. POPE

1798

1 LIKE THIS COULD CAUSE THOSE INJURIES ON THE
2 BACK.

3 Q. THANK YOU, SIR. YOU HAD ALSO INDICATED AS TO
4 EARL ROBERTSON THAT THERE WERE PAIRED
5 LACERATIONS ALSO ON HIM; IS THAT CORRECT?

6 A. THAT'S CORRECT.

7 Q. DID YOU OBSERVE ANY CONSISTENCY, AGAIN WITH
8 STATE'S EXHIBIT 64, AS FAR AS YOUR OPINION OF
9 THE VARIATION BETWEEN THE TINES, DID YOU OBSERVE
10 ANY MARKINGS LIKE THAT ON THE FATHER, EARL
11 ROBERTSON?

12 A. YES, THERE WERE SEVERAL THAT HAD THE SAME TYPE
13 OF VARIATION WHERE THE CONTACT WAS SUCH THAT IT
14 MADE A CLEAR IMPRINT OF A UNIFORM DEEP TINE MARK
15 AND A SHORTER OR SHALLOWER IRREGULAR TINE MARK.
16 ALSO THIS IS A HAMMER THAT HAS A STEEL HANDLE.
17 THE INJURY ON TOP OF THE HEAD COULD HAVE COME
18 EITHER FROM AN OBJECT LIKE THE BAT, THE ONE THAT
19 CAUSED THE DEPRESSED SKULL FRACTURE, OR PERHAPS
20 THE HANDLE OF THIS PARTICULAR HAMMER BECAUSE THE
21 HAMMER IS A STEEL SHAFTED HAMMER SO IF IT HIT IN
22 SUCH A FASHION THAT THE TINE HIT ON ONE EDGE AND
23 THE ROUNDED PART OF THE SKULL CAME IN CONTACT
24 WITH THE STEEL HAMMER HANDLE, THE HANDLE COULD
25 HAVE CAUSED THE DEPRESSED FRACTURE HERE.

DR. JOEL S. SEXTON - DIRECT BY MR. POPE

1799

1 ALTHOUGH NORMALLY YOU WOULD EXPECT SOMETHING
2 WITH A LITTLE MORE LEVERAGE TO CAUSE THE TYPE OF
3 DEPRESSED FRACTURE ON THE TOP OF THE HEAD SUCH
4 AS YOU WOULD GET WITH A BAT.

5 BUT CERTAINLY WITH ENOUGH FORCE, THIS COULD ALSO
6 CAUSE THAT DEEPER FRACTURE.

7 Q. THANK YOU. DR. SEXTON, AS PART OF YOUR EXTERNAL
8 EXAMINATION, DID YOU ALSO DETERMINE THE HEIGHT
9 AND WEIGHT OF EARL ROBERTSON?

10 A. YES, I DID.

11 Q. COULD YOU RELATE THAT TO THE JURY PLEASE?

12 A. WE MEASURED HIS LENGTH AT FIVE FEET TEN INCHES
13 AND ESTIMATED HIS WEIGHT AT 185 POUNDS.

14 Q. DOCTOR, AFTER THE EXTERNAL EXAMINATIONS, COULD
15 YOU RELATE TO THE JURY, PARTICULARLY AS IT
16 PERTAINS TO THE INJURIES AT HAND, WHAT IF ANY
17 INTERNAL OBSERVATIONS YOU NOTED ON TERRY
18 ROBERTSON OR EARL ROBERTSON?

19 A. THE SERIOUS INJURIES WERE THOSE THAT WERE CAUSED
20 BY BLUNT TRAUMA.

21 A. ON MR. ROBERTSON THE INJURIES ON THE BACK WERE
22 NOT FATAL INJURIES ALTHOUGH THEY COULD BE
23 INCAPACITATING INJURIES, THE LONG LINEAR AREAS
24 OF ABRASION AND CONTUSION ON THE BACK.

25 THE CUTS ON THE MR. ROBERTSON WERE NOT FATAL.

DR. JOEL S. SEXTON - DIRECT BY MR. POPE

1800

1 NEITHER WERE THE CUTS ON MRS. ROBERTSON, EVEN
2 THOUGH THEY WERE NUMEROUS.

3 IN MY OPINION AS A FORENSIC PATHOLOGIST, THE
4 CAUSE OF DEATH WITHIN REASONABLE MEDICAL
5 CERTAINTY IN EACH WAS THE BLUNT FORCE INJURY TO
6 THE HEAD.

7 OUR BRAIN IS ENCASED IN BONE. IT'S FLOATING IN
8 FLUID, THE CEREBRAL SPINAL FLUID, SO AS TO
9 PROTECT IT SO IF WE FALL AND HIT OUR HEAD,
10 BECAUSE IT'S IN THAT FLUID, IT'S SORT OF LIKE A
11 SHOCK ABSORBER, IT PREVENTS THE BRAIN FROM BEING
12 TRAUMATIZED.

13 THE BRAIN ALSO AS IT HANGS THERE HAS LITTLE
14 VESSELS GOING BETWEEN THE BRAIN AND THE
15 SURROUNDING COVERING, THE DURA AND THE PIA, AND
16 THESE LITTLE VESSELS CAN GET RUPTURED IF THE
17 BRAIN IS JOLTED SUFFICIENT. THIS PRODUCES
18 SUBARACHNOID HEMORRHAGE BETWEEN THE THIN LINING
19 OVER THE BRAIN ITSELF AND SUBDURAL HEMORRHAGE
20 BETWEEN THE DURA THAT COVERS THE INSIDE OF THE
21 SKULL.

22 AND SO WHEN WE SEE THESE HEMORRHAGES, WE KNOW
23 THAT THE BRAIN HAS BEEN SUBJECTED TO A REAL
24 SERIOUS FORCE TYPE OF INJURY.

25 AND IN BOTH CASES, THEY WERE BOTH SUBDURAL AND

DR. JOEL S. SEXTON - DIRECT BY MR. POPE

1801

1 SUBARACHNOID AREAS OF HEMORRHAGE.

2 IN ADDITION, IF THE BRAIN IS JOLTED ENOUGH, WE
3 ACTUALLY SEE BRUISING OF THE BRAIN TISSUE OR
4 LACERATION OF THE BRAIN TISSUE, THE BRAIN BEING
5 VERY SOFT BECAUSE IT'S ABOUT 80 PERCENT WATER
6 BECAUSE THERE'S SO MUCH CHEMICAL ACTIVITY GOING
7 ON IN THE BRAIN.

8 IN BOTH CASES THERE WAS CONTUSION OF THE BRAIN
9 TISSUE AND IN MR. ROBERTSON'S CASE, THERE WAS
10 ACTUALLY LACERATION WHERE THE BONE HAD BEEN
11 FORCED INTO THE BRAIN.

12 ANY TIME A PERSON EVEN HAS A SERIOUS BUMP ON
13 THEIR HEAD, IT CAN BE FATAL. THERE ARE PEOPLE
14 WHO ARE IN CARS AT 25 MILES AN HOUR, 15 MILES AN
15 HOUR DOWNTOWN IN TRAFFIC WHO GO THROUGH AN
16 INTERSECTION AND SOMEBODY ELSE T-BONES THEM, AND
17 SO THEY SUDDENLY STOP AND IF THEY DON'T HAVE
18 THEIR SEAT BELT AND SHOULDER HARNESS ON, 21
19 MILES AN HOUR YOU BECOME A FIVE THOUSAND POUND
20 OBJECT FOR A FEW MILLISECONDS. SO, YOU CAN'T
21 STAY IN THE SEAT WITHOUT THAT SEAT BELT AND
22 SHOULDER HARNESS. YOU GO INTO THE WINDSHIELD,
23 YOU GET A BUMP ON YOUR HEAD. AT AUTOPSY THAT'S
24 ALL WE SEE AND THE BRAIN HAS BECOME DEPOLARIZED
25 AND JUST STOPPED. WE CALL THAT FATAL

DR. JOEL S. SEXTON - DIRECT BY MR. POPE

1802

1 CONCUSSION, COMMOTIO CEREBRI.

2 AND SO EVEN WITHOUT ANY HEMORRHAGE OF THE BRAIN,
3 THAT CAN BE FATAL. OBVIOUSLY PEOPLE CAN RECEIVE
4 SERIOUS HEAD INJURIES AND SURVIVE. BUT IN THIS
5 CASE THE AMOUNT OF HEAD INJURY, IN MY OPINION,
6 SINCE THE OTHER INJURIES WERE NON-FATAL, WAS
7 DEFINITELY THE CAUSE OF DEATH BECAUSE OF THE
8 SERIOUS NATURE OF BOTH INDIVIDUALS' HEAD
9 INJURIES.

10 Q. SO, DOCTOR, AS A FINAL DIAGNOSIS -- OF COURSE,
11 YOU DO OTHER INTERNAL EVALUATIONS WE HAVEN'T
12 GONE INTO; IS THAT CORRECT?

13 A. THAT'S CORRECT.

14 Q. BASED ON THAT, WHAT IS YOUR FINAL DETERMINATION
15 AS TO THE CAUSE OF DEATH AND THE
16 CHARACTERIZATION OF DEATH, THE MANNER OF DEATH?

17 A. IN EACH CASE I CONSIDER THE DEATH DUE TO WHAT WE
18 CALL A CLOSED HEAD INJURY DUE TO THE BLUNT FORCE
19 TRAUMA, DUE TO THE INJURY TO THE BRAIN, THE
20 SUBDURAL, SUBARACHNOID HEMORRHAGE AND THE
21 CONTUSION OF THE BRAIN.

22 Q. THANK YOU, SIR. I BEG THE COURT'S INDULGENCE.
23 (AFTER A BRIEF PAUSE.)

24 Q. DOCTOR, YOU HAD ALSO INDICATED THAT BASED ON
25 FORENSIC PATHOLOGY, YOU ALSO MADE A

DR. JOEL S. SEXTON - DIRECT BY MR. POPE

1803

1 DETERMINATION AS TO MANNER OF DEATH?

2 A. YES, THAT'S CORRECT.

3 Q. AND WHAT IS THE MANNER OF DEATH IN THIS CASE?

4 A. MANNER IN MY OPINION IN THIS CASE WOULD BE
5 HOMICIDE. IT'S NOT IMPOSSIBLE TO INFLECT A LOT
6 OF INJURIES ON ONESELF, BUT AS I MENTIONED, EACH
7 OF THESE HAD INJURIES THAT OCCURRED, IN MY
8 OPINION, AFTER THE HEART HAD STOPPED AND
9 PRESUMABLY AFTER THE PERSON WAS DEAD OR DYING.
10 PLUS THE NUMBER OF INJURIES TO THE INDIVIDUALS'
11 HEAD AND THE LOCATION OF THOSE INJURIES, IN MY
12 OPINION IT WOULD MAKE IT EXTREMELY UNLIKELY IF
13 NOT IMPOSSIBLE FOR THEM TO HAVE DONE THIS TO
14 THEMSELVES.

15 HOMICIDE SIMPLY MEANS AT THE HANDS OF ANOTHER.
16 IN THIS CASE IN MY OPINION THEY WERE BOTH
17 HOMICIDES.

18 Q. THANK YOU, SIR. ANSWER ANY QUESTIONS THE
19 DEFENSE MAY HAVE.

20 CROSS EXAMINATION BY

21 MR. HANCOCK:

22 Q. DR. SEXTON, YOU INDICATED THAT THE HAMMER IS
23 CONSISTENT WITH THE WOUNDS THAT YOU OBSERVED; IS
24 THAT CORRECT?

25 A. YES, THAT'S CORRECT.

DR. JOEL S. SEXTON - CROSS BY MR. HANCOCK

1804

1 Q. SO, WE'RE NOT TELLING THE JURY THAT THIS IS THE
2 HAMMER THAT DID THE BLOWS, ARE WE, IT'S JUST
3 CONSISTENT; ISN'T THAT CORRECT?

4 A. CORRECT; THERE COULD BE OTHER HAMMERS THAT ARE
5 BROKEN SIMILAR TO THAT. I CAN'T SAY THAT'S THE
6 ONLY BROKEN HAMMER THAT COULD HAVE DONE IT. BUT
7 IT IS CONSISTENT.

8 Q. AND IN THAT SAME VEIN, SIR, WE'RE ALSO SAYING
9 THAT AN OBJECT SUCH AS A METAL BAT COULD HAVE
10 CAUSED THE OTHER BLOWS OF WHICH WE SPEAK; IS
11 THAT CORRECT.

12 A. THE DIAMETER AND ALL IS CONSISTENT WITH IT, BUT
13 I'M NOT SAYING IT WAS THAT SPECIFIC BAT.

14 Q. WE AREN'T SAYING IT'S THIS ONE RIGHT HERE, ARE
15 WE, SIR?

16 A. THAT'S CORRECT.

17 Q. NOW YOU INDICATED THAT CERTAIN INJURIES WERE
18 AFTER DEATH; IS THAT CORRECT, SIR?

19 A. I CALL THEM PERIMORTAL. IF A PERSON IS ON A
20 MONITOR IN A HOSPITAL AND THEIR HEART STOPS AND
21 THE NURSE WALKS IN TO CHECK ON THEM TO SEE WHAT
22 THEY CAN DO TO MAKE SURE THEY ARE ABLE TO
23 RESUSCITATE THEM IF NEED BE, THE PERSON HASN'T
24 PASSED OUT BUT GENERALLY FOR ABOUT 10 TO 15
25 SECONDS. SO, A HEART CAN STOP AND THE PERSON

DR. JOEL S. SEXTON - CROSS BY MR. HANCOCK

1805

1 CAN STILL BE ALIVE FOR SOME SECONDS AFTER THE
2 HEART HAS STOPPED. BUT THESE ARE INJURIES THAT
3 DID NOT HAVE HEMORRHAGE INTO THAT AREA, MEANING
4 THERE WAS NO BLOOD PUMPING AT THE TIME. SO
5 EITHER THE PERSON WAS DEAD AT THAT TIME OR WAS
6 DYING AT THAT TIME.

7 Q. AND YOU SAID IT WAS BY BLUNT TRAUMA TO THE HEAD;
8 IS THAT CORRECT, SIR?

9 A. BASICALLY FROM A BEATING. BLUNT FORCE INJURY IN
10 THIS CASE IS FROM STRIKING THE PERSON IN THE
11 HEAD WITH SOME OBJECT LIKE THE TWO OBJECTS THAT
12 WERE INTRODUCED.

13 Q. AND THAT COULD COME FROM A SINGLE BLOW; IS THAT
14 NOT CORRECT, SIR?

15 A. ARE YOU ASKING COULD DEATH HAVE COME FROM A
16 SINGLE BLOW?

17 Q. YES, SIR.

18 A. IT COULD HAVE, BUT JUST AS I MENTIONED THAT THE
19 INCISED WOUNDS WERE YELLOW BASED, ALL OF THE
20 BLUNT FORCE WOUNDS TO THE HEAD AND THE ONES TO
21 THE BACK HAD DEEP MAROON OR RED BASES,
22 INDICATING THE HEART WAS STILL PUMPING AT THE
23 TIME THESE WOUNDS WERE INFLICTED.

24 Q. ALL RIGHT, SIR. YOU CANNOT TELL US IN WHICH
25 ORDER ANY OF THESE WERE DONE CAN YOU, SIR?

DR. JOEL S. SEXTON - CROSS BY MR. HANCOCK

1806

1 A. THAT'S CORRECT, I CANNOT.

2 Q. SO, IF THERE WAS A BLOW TO THE HEAD, AND SEVERE
3 BLOWS TO THE HEAD CAN CAUSE AN DO CAUSE
4 UNCONSCIOUSNESS DO THEY NOT, SIR?

5 A. THAT'S CORRECT.

6 Q. SO IF THERE WAS AN INITIAL BLOW TO THE HEAD THAT
7 WAS A GREAT FORCE, FORCE ENOUGH TO CAUSE THESE
8 INJURIES OF WHICH YOU SPEAK, THEN THAT PERSON,
9 IT WOULD BE MORE LIKELY THAT THEY WOULD BE
10 RENDERED UNCONSCIOUS OR NOT?

11 A. IT VARIES. SOME PEOPLE TEND TO GO UNCONSCIOUS
12 MORE EASILY THAN OTHERS. BUT I THINK THE
13 QUESTION YOU'RE ASKING IS IF THE FIRST BLOW WAS
14 A VERY SEVERE BLOW, COULD IT HAVE RENDERED A
15 PERSON UNCONSCIOUS AND THE ANSWER IS, YES, IT
16 COULD.

17 THE FACT THAT THESE INJURIES SHOW THE HEART WAS
18 STILL BEATING, I HAVE NO WAY OF PREDICTING AT
19 WHAT POINT THE PERSON LOST CONSCIOUSNESS,
20 WHETHER IT WAS AFTER THE FIRST BLOW OR AFTER THE
21 LAST BLOW.

22 Q. SO, YOU CAN'T TELL THIS JURY AT WHICH POINT IN
23 TIME THAT THESE PEOPLE MAY HAVE BEEN UNCONSCIOUS
24 AND THEN HAD OTHER INJURIES INFLICTED UPON THEM
25 CAN YOU, SIR?

DR. JOEL S. SEXTON - CROSS BY MR. HANCOCK

1807

1 A. THAT'S CORRECT. BUT I SHOULD MENTION ON MR.
2 ROBERTSON THERE ARE INJURIES WITH THE TINES ON
3 THE BACK OF HIS HAND, IMPLYING THAT AT LEAST AT
4 ONE TIME HE WAS STRUCK ON THE HAND PRESUMABLY
5 WHEN IT WAS ON HIS HEAD SO IT WOULD HAVE ENOUGH
6 FORCE TO ACTUALLY PENETRATE THE HAND OR HE WAS
7 ON THE FLOOR. AND IT IS MORE LIKELY THAT HE WAS
8 DEFENDING HIMSELF AT THAT TIME, BUT THAT COULD
9 HAVE BEEN THE SECOND BLOW OR IT COULD HAVE BEEN
10 THE FIRST BLOW.

11 Q. YES, SIR, IT COULD HAVE BEEN. AT THAT POINT IN
12 TIME YOU CAN'T SAY WITH ANY DEGREE OF MEDICAL
13 CERTAINTY THAT HE EVEN KNEW, SAY, A SECOND BLOW
14 WAS COMING IF IT WAS A SECOND BLOW, CAN YOU?

15 A. PROBABLY HE KNEW SOMETHING WAS HAPPENING WHEN HE
16 PUT THIS HAND UP BUT I CAN'T SAY AT WHAT POINT
17 THAT WAS.

18 Q. NOW, I'M REFERRING TO A COPY OF YOUR REPORT AND
19 IT'S ON TERRY DEJARNETTE ROBERTSON AND IT
20 APPEARS FROM THAT REPORT ON ITS INITIAL PAGE,
21 SIR, IT APPEARS THAT THE WOUNDS TO THE FOREARM,
22 THE RIGHT FOREARM, THE LEFT FOREARM, THE RIGHT
23 UPPER CHEST, THE INCISED WOUNDS, AND WOUNDS TO
24 THE BACK WERE ALL WHAT YOU REFER TO AS
25 PERIMORTAL.

DR. JOEL S. SEXTON - CROSS BY MR. HANCOCK

1808

1 A. THAT'S CORRECT.

2 Q. WHICH WOULD BE AFTER SHE WAS DEAD; IS THAT
3 CORRECT, SIR?

4 A. AFTER THE HEART HAD STOPPED AND SHE WAS EITHER
5 DEAD OR DYING AT THAT TIME.

6 Q. I HAVE NOTHING FURTHER, YOUR HONOR.

7 REDIRECT EXAMINATION BY

8 MR. POPE:

9 Q. DOCTOR, YOU SAID DEAD OR DYING?

10 A. THAT'S CORRECT.

11 Q. THANK YOU, SIR.

12 MR. HANCOCK: NOTHING FURTHER, YOUR HONOR.

13 THE COURT: WE APPRECIATE YOUR TIME, AND YOU CAN
14 BE EXCUSED. ARE YOU READY TO STOP FOR THE DAY?

15 MR. POPE: YES, SIR, YOUR HONOR.

16 THE COURT: MEMBERS OF THE JURY PANEL, WE WENT A
17 LITTLE LATER TODAY BECAUSE WE HAD SOME WITNESSES WHO
18 TRAVELED FROM VARIOUS PARTS, SO WE WILL STOP. WE WILL
19 START BACK AT 9:30 IN THE MORNING. I HOPE YOU HAVE A
20 PLEASANT EVENING.

21 KEEP IN MIND EVEN THOUGH YOU HAVE HEARD A LOT
22 THAT YOU'RE NOT YET IN A POSITION TO EVEN START DECIDING
23 THE CASE. KEEP IN MIND WHAT I'VE TOLD YOU ABOUT NOT
24 DISCUSSING THE CASE AMONG YOURSELVES AND, OF COURSE, KEEP
25 IN MIND WHAT I'VE TOLD YOU ABOUT NOT LETTING ANYONE TALK TO

1809

1 YOU ABOUT THIS CASE OR LET YOURSELF BE EXPOSED TO ANY NEWS
2 COVERAGE.

3 OF COURSE, THE SECURITY PEOPLE ARE DOING THEIR
4 DARNDDEST TO MAKE SURE THAT DOESN'T HAPPEN, BUT I WANT YOU
5 TO BE ON YOUR GUARD ABOUT THAT ALSO.

6 WE'LL SEE YOU IN THE MORNING AT 9:30.

7 IN CAMERA:

8 THE COURT: FOR PLANNING PURPOSES -- MR. HANCOCK?

9 MR. HANCOCK: I WAS JUST STANDING UP, JUDGE, JUST
10 TO STAND UP.

11 THE COURT: YOU'RE WELCOME TO DO THAT. FOR
12 PLANNING PURPOSES, WHAT DOES THE STATE HAVE IN THE MORNING?

13 MR. POPE: THE STATE SHOULD FINISH PROBABLY
14 WITHIN AN HOUR TO AN HOUR AND A HALF IN THE MORNING.

15 THE COURT: SO YOU THINK EACH SIDE COULD GO AHEAD
16 AND HAVE THEIR CHARGES HANDED UP BEFORE WE START IN THE
17 MORNING SO THAT WE CAN START PUTTING THAT TOGETHER.

18 MR. POPE: YOU SAID BY IN THE MORNING?

19 THE COURT: YES.

20 MR. POPE: YES, SIR.

21 THE COURT: I'M SURE I'LL REMEMBER TO ASK IT
22 LATER, SO THAT WHEN I DO TALK TO MR. ROBERTSON WHICH IT
23 DOES APPEAR WILL BE IN THE MORNING CONCERNING YOUR RIGHTS,
24 ARE THERE ANY IMPEACHABLE OFFENSES THAT THE STATE CONTENDS
25 COULD BE INTRODUCED?

1810

1 MR. POPE: YES, SIR.

2 THE COURT: DO YOU WANT TO GO AHEAD AND TELL US
3 ABOUT THAT?

4 MR. BRACKETT: WELL, I WILL HAVE TO PULL IS
5 RECORD.

6 THE COURT: THAT'S ALL RIGHT, JUST SO THAT I WILL
7 HAVE THAT IN MY HANDS WHEN I ---

8 MR. BRACKETT: I BELIEVE THEY HAVE BEEN PROVIDED
9 WITH A COPY OF HIS RAP SHEET, THE DEFENSE IS AWARE OF
10 THOSE, AND I WILL BE ABLE TO LIST THEM FOR THE RECORD IN
11 THE MORNING.

12 THE COURT: ANYTHING ELSE BEFORE WE QUIT FOR THE
13 EVENING?

14 MR. POPE: NO, SIR, YOUR HONOR.

15 MR. HANCOCK: NOTHING FROM THE DEFENSE.

16 THE COURT: AGAIN, I APPRECIATE YOUR PATIENCE AND
17 YOUR TOLERANCE. WE'LL SEE YOU AT 9:30 IN THE MORNING.
18 MARCH 20, 1999 IN CAMERA:

19 THE COURT: IS THE STATE READY TO PROCEED?

20 MR. POPE: THE STATE'S READY, YOUR HONOR.

21 THE COURT: THE DEFENSE?

22 MR. HANCOCK: THE DEFENSE IS READY, YOUR HONOR.

23 THE COURT: THE DEFENDANT IS PRESENT IN THE
24 COURTROOM WITH COUNSEL. BRING IN THE JURY.

25 IN THE PRESENCE OF THE JURY:

JOYCE LAUTERBACH - DIRECT BY MR. BRACKETT

1811

1 **THE COURT:** GOOD MORNING, LADIES AND GENTLEMEN.
2 ALL 14 JURORS ARE PRESENT. I TRUST YOU HAD A GOOD EVENING.
3 WE ARE READY TO PROCEED AT THIS TIME.

4 **MR. POPE:** YOUR HONOR, THE STATE WOULD CALL JOYCE
5 LAUTERBACH TO THE STAND.

6 JOYCE LAUTERBACH, BEING FIRST DULY SWORN,
7 TESTIFIED AS FOLLOWS:

8 DIRECT EXAMINATION BY

9 **MR. BRACKETT:**

10 Q. MA'AM, WOULD YOU PLEASE GIVE US YOUR FULL NAME
11 AND SPELL YOUR LAST FOR THE COURT REPORTER.

12 A. MY NAME IS JOYCE LAUTERBACH; MY LAST NAME IS
13 SPELLED L-A-U-T-E-R-B-A-C-H.

14 Q. WHAT DO YOU DO FOR A LIVING, MA'AM?

15 A. I'M EMPLOYED AT THE STATE LAW ENFORCEMENT
16 DIVISION IN COLUMBIA, SOUTH CAROLINA. I'M A
17 FORENSIC DOCUMENT EXAMINER.

18 Q. WHAT ARE YOUR DAY TO DAY DUTIES?

19 A. TYPICAL EXAMINATIONS FOR A FORENSIC DOCUMENT
20 EXAMINER ARE THE EXAMINATIONS OF HANDWRITING,
21 HAND PRINTING, SIGNATURE COMPARISONS TO
22 DETERMINE SOURCE OR AUTHENTICITY. WE ALSO
23 EXAMINE TYPEWRITTEN DOCUMENTS, ERASURES,
24 ALTERATIONS, OBLITERATIONS, INDENTED IMPRESSIONS
25 WHERE SOMEONE HAS WRITTEN ON A PAD AND LEFT

JOYCE LAUTERBACH - DIRECT BY MR. BRACKETT

1812

1 IMPRESSIONS ON THE FOLLOWING SHEETS OF PAPER.

2 WE ALSO EXAMINE PRINTING METHODS, THE
3 RESTORATION OF CHARRED AND WATER SOAKED
4 DOCUMENTS, ANY EXAMINATION TO DETERMINE SOURCE,
5 AUTHENTICITY OR THE MANNER IN WHICH A DOCUMENT
6 WAS PRODUCED.

7 Q. CAN YOU DESCRIBE TO THE JURY AND THE COURT SOME
8 OF THE TRAINING AND EDUCATION THAT YOU HAVE HAD
9 THAT ALLOWS YOU TO DO THE THINGS YOU HAVE
10 DESCRIBED?

11 A. YES. I COMPLETED A TWO YEAR ON THE JOB TRAINING
12 PROGRAM AT THE IOWA DIVISION OF CRIMINAL
13 INVESTIGATION AT THE CRIMINALISTICS LABORATORY
14 IN DES MOINES, IOWA. DURING THAT PERIOD OF TIME
15 I WOULD READ BOOKS AND JOURNAL ARTICLES BY THE
16 AUTHORS IN THE FIELD OF QUESTIONED DOCUMENT
17 EXAMINERS. I WOULD EXAMINE CASES THAT CAME INTO
18 THE LABORATORY UNDER THE DIRECT SUPERVISION OF A
19 QUALIFIED EXAMINER. AND I WOULD DO PRACTICAL
20 EXAMINATION, BECOME PROFICIENT WITH EQUIPMENT
21 THAT WAS USED IN A FORENSIC DOCUMENT LABORATORY
22 AND WRITE WRITTEN EXAMS.

23 I ALSO ATTENDED THE UNITED STATES SECRET SERVICE
24 QUESTIONED DOCUMENT COURSE AT THE FEDERAL LAW
25 ENFORCEMENT TRAINING CENTER IN GLENCO, GEORGIA.

JOYCE LAUTERBACH - DIRECT BY MR. BRACKETT

1813

1 AND I ATTENDED THE F.B.I. QUESTIONED DOCUMENT
2 COURSE AT THE F.B.I. LABORATORY IN QUANTICO,
3 VIRGINIA.

4 ON-GOING TRAINING HAS INCLUDED THE TYPEWRITER
5 SEMINAR AT THE F.B.I. ACADEMY AS WELL AS MANY
6 WORKSHOPS AND TECHNICAL SESSIONS ASSOCIATED WITH
7 PROFESSIONAL SOCIETIES AND MEETINGS.

8 Q. HAVE YOU EVER INSTRUCTED IN THE AREA OF
9 QUESTIONED DOCUMENT ANALYSIS AND EXAMINATION?

10 A. YES, IN 1995 AND 1996 I WAS AN ADJUNCT
11 INSTRUCTOR AT WALLER COMMUNITY COLLEGE IN WINTER
12 HAVEN, FLORIDA.

13 Q. AND HOW MANY YEARS HAVE YOU BEEN DOING
14 QUESTIONED DOCUMENT ANALYSES AND EVALUATIONS?

15 A. SINCE I COMPLETED THE TWO YEAR ON THE JOB
16 TRAINING PROGRAM THAT STARTED IN 1986 AND
17 CONTINUED THROUGH 1988, IT'S BEEN ABOUT 11
18 YEARS.

19 Q. AND HOW MANY DOCUMENTS HAVE YOU EXAMINED IN THE
20 COURSE OF YOUR EMPLOYMENT, APPROXIMATELY.

21 A. OH, THOUSANDS.

22 MR. BRACKETT: YOUR HONOR, AT THIS TIME I WOULD
23 TENDER MS. LAUTERBACH AS AN EXPERT IN THE FIELD OF
24 QUESTIONED DOCUMENTS EXAMINATIONS.

25 THE COURT: ANY VOIR DIRE?

JOYCE LAUTERBACH - DIRECT BY MR. BRACKETT

1814

1 MR. HANCOCK: NO, SIR.

2 THE COURT: I FIND THAT SHE IS QUALIFIED IN THAT
3 AREA. AGAIN, SOMEONE WHO IS FOUND TO BE AN EXPERT AND CAN
4 GIVE OPINIONS. THANK YOU.

5 Q. MA'AM, I'M SHOWING YOU WHAT'S BEEN MARKED AS
6 STATE'S EXHIBIT 94 IN EVIDENCE AND ASK IF YOU
7 CAN IDENTIFY THE CONTENTS OF THAT DOCUMENT?

8 A. THIS EXHIBIT 94 WAS SUBMITTED TO ME AS THE KNOWN
9 HANDWRITING OF JAMES ROBERTSON. IT HAS THE
10 LABORATORY CASE NUMBER ON EACH OF THESE
11 DOCUMENTS, AN ITEM NUMBER AND MY INITIALS.

12 Q. AND I'M SHOWING YOU WHAT'S BEEN MARKED AS
13 STATE'S EXHIBIT 98-EX AND ASK IF YOU CAN
14 IDENTIFY THAT WHICH IS IN EVIDENCE AS WELL.

15 A. STATE'S EXHIBIT 98-EX WAS SUBMITTED TO ME AS THE
16 KNOWN HANDWRITING OF MEREDITH MOON. THESE
17 DOCUMENTS ALSO CONTAIN A LABORATORY CASE NUMBER
18 AND ITEM NUMBER AND MY INITIALS.

19 Q. I'LL SHOW YOU WHAT'S BEEN MARKED AS STATE'S
20 EXHIBIT 98, SUB-27 IN EVIDENCE AND ASK IF YOU
21 CAN IDENTIFY THAT?

22 A. STATE'S EXHIBIT 98-27 IS ADDITIONAL WRITING THAT
23 WAS SUBMITTED TO ME AS THE KNOWN HANDWRITING OF
24 MEREDITH MOON. THESE ALSO CONTAIN A LABORATORY
25 CASE NUMBER AND ITEM NUMBER AND MY INITIALS.

JOYCE LAUTERBACH - DIRECT BY MR. BRACKETT

1815

1 MR. BRACKETT: AND, YOUR HONOR, STATE'S EXHIBIT
2 95 HAS NOT BEEN ADMITTED INTO EVIDENCE, IT'S FOR
3 IDENTIFICATION PURPOSES; HOWEVER, DEFENSE COUNSEL AND THE
4 STATE HAVE PREVIOUSLY STIPULATED THAT THESE ARE THE KNOWN
5 HANDWRITING SAMPLES OF THE DEFENDANT, JAMES ROBERTSON, AT
6 A PRIOR HEARING AND THE DEFENSE HAS AGREED TO ALLOW THEIR
7 ADMISSION FOR THE LIMITED PURPOSE OF THIS WITNESS
8 TESTIFYING FOR COMPARISON OF THESE KNOWN SAMPLES WITH
9 SUSPECTED SAMPLES THAT ARE IN EVIDENCE NOW; HOWEVER, THEY
10 WILL NOT GO BACK TO THE JURY FOR THE CONTENT. THEY ARE
11 LETTERS, BUT THEY WILL NOT GO BACK FOR THE CONTENT.

12 MR. HANCOCK: SO STIPULATED AND AGREED IN THAT
13 MANNER, YOUR HONOR.

14 THE COURT: THANK YOU; YOU MAY PROCEED.

15 Q. YOU'VE PREVIOUSLY HAD AN OPPORTUNITY TO EXAMINE
16 95 AS WELL; HAVE YOU HAD THAT AT SLED FOR
17 PURPOSES OF YOUR EXAMINATION AS WELL?

18 A. YES, SIR, THESE ARE LETTERS THAT WERE SUBMITTED
19 TO ME AS KNOWN HANDWRITING OF JAMES ROBERTSON.

20 Q. OKAY. MA'AM, I SHOW YOU WHAT'S BEEN MARKED AS
21 STATE'S EXHIBIT 24 IN EVIDENCE AND I'LL ASK YOU
22 IF YOU HAVE HAD A CHANCE TO EXAMINE THAT
23 DOCUMENT AND COMPARE IT WITH THE KNOWN
24 HANDWRITING SAMPLES OF THE DEFENDANT?

25 A. YES, I HAVE.

JOYCE LAUTERBACH - DIRECT BY MR. BRACKETT

1816

1 Q. ALL RIGHT, AND DID YOU PREPARE ANY DIAGRAMS OR
2 CHARTS TO ASSIST YOU IN EXPLAINING TO THE JURY
3 WHAT THE NATURE OF YOUR ANALYSIS IS?

4 A. YES, I HAVE.

5 Q. WOULD THEY BE OF ASSISTANCE IN EXPLAINING IT?

6 A. YES, THEY WOULD.

7 Q. I SHOW YOU WHAT'S BEEN MARKED STATE'S EXHIBIT
8 166 FOR IDENTIFICATION AND ASK IF YOU CAN
9 RECOGNIZE THAT?

10 A. STATE'S EXHIBIT 167?

11 Q. 166.

12 A. THEY ARE PHOTOGRAPHIC ENLARGEMENTS OF WORDS FROM
13 THE NOTE IN QUESTION TO MOM AND DAD, AND IT ALSO
14 CONTAINS PHOTOGRAPHIC ENLARGEMENTS OF SAMPLES
15 FROM THE KNOWN HANDWRITINGS THAT WERE SUBMITTED
16 TO ME FOR COMPARISON.

17 Q. AND WOULD THIS ASSIST YOU IN EXPLAINING TO THE
18 JURY?

19 A. YES, IT WOULD.

20 Q. YOUR HONOR, I WOULD MOVE STATE'S EXHIBIT 166
21 INTO EVIDENCE AND ASK TO BE ALLOWED TO PUBLISH
22 IT WITH THE EXPERT'S TESTIMONY.

23 MR. HANCOCK: WITHOUT OBJECTION, YOUR HONOR.

24 THE COURT: IT WILL BE RECEIVED WITHOUT
25 OBJECTION.

JOYCE LAUTERBACH - DIRECT BY MR. BRACKETT

1817

1 (THE HANDWRITING ANALYSIS BLOW-UP WAS MARKED IN EVIDENCE AS
2 STATE'S EXHIBIT 166 WITHOUT OBJECTION.)

3 Q. IF YOU WOULD, I'LL SET THIS UP HERE AND WE'LL
4 SEE IF WE CAN WORK THIS. IF YOU COULD STEP DOWN
5 FROM THE WITNESS STAND.

6 A. YOUR HONOR, MAY I STEP DOWN?

7 THE COURT: CERTAINLY.

8 Q. COULD YOU EXPLAIN, AND YOU'RE GOING TO HAVE TO
9 BE CAREFUL NOT TO BLOCK DEFENSE COUNSEL'S VIEW
10 OF THE EXHIBIT, COULD YOU EXPLAIN THE
11 EXAMINATION THAT YOU DID ON THE NOTE AND USE THE
12 CHART THAT YOU'VE PREPARED EXACTLY HOW YOU
13 CONDUCTED THOSE EXAMINATIONS AND WHAT THE
14 RESULTS WERE?

15 A. THOSE EXAMINATIONS CONSIST PRIMARILY OF TAKING
16 THE QUESTIONED WRITING AND LOOKING AT THE
17 INDIVIDUAL CHARACTERISTICS OF THAT QUESTIONED
18 WRITING AND THEN TAKING THE KNOWN HANDWRITING
19 AND LOOKING AT THE INDIVIDUAL CHARACTERISTICS OF
20 THE KNOWN HANDWRITING AND THEN SETTING THEM SIDE
21 BY SIDE AND MAKING A SIDE BY SIDE COMPARISON.
22 IT'S A VISUAL SIDE BY SIDE COMPARISON.
23 AND WHAT THE EXAMINATION REVEALS IS A BEGINNING
24 STROKE LIKE THE CAPITAL M IN MOM THAT LEAVES AN
25 OPEN LOOP ON THE OUTSIDE OF THAT DOWNSTROKE, THE

JOYCE LAUTERBACH - DIRECT BY MR. BRACKETT

1818

1 SAME THING IN THE KNOWN HANDWRITING.

2 THERE IS THE ENDING M, TAKEN OUT OF CONTEXT THAT
3 COULD BE INTERPRETED AS A W. SAME
4 CHARACTERISTIC IN THE KNOWN HANDWRITING.

5 MOVING ON DOWN TO DAD, AGAIN THE DOWNSTROKE
6 BEGINS INSIDE AND EXTENDS BELOW THE BASELINE OF
7 WRITING, WHETHER REAL OR NOT PRESENT. AN OPEN
8 BOWL IN THE ENDING D. THE ONE OVER HERE IS
9 ALMOST CLOSED, BUT IT'S THE SAME HANDWRITING
10 MOVEMENT AND THE ENDING STROKE ENDS BEFORE IT
11 REACHES THE BASELINE IN BOTH SITUATIONS.

12 THE T O COMBINATION WITH THE ENDING STROKE OF
13 THE O THAT IS CONTINUOUS TO THE LEFT AND MAKES
14 THE T CROSSING, THE SAME CHARACTERISTIC IN THE
15 KNOWN HANDWRITING SAMPLES.

16 A G WITH A BEGINNING STROKE THAT BEGINS AT THE
17 BASELINE, JUST A CURVED BOWL, VERY SMOOTH, AND
18 HORIZONTAL WITH THE BASELINE BEFORE GOING INTO
19 THE LOWER EXTENDER, THAT WOULD BE THIS PORTION
20 OF THE G. THE SAME CHARACTERISTICS IN THE KNOWN
21 HANDWRITING. AGAIN, HERE THE T COMES TO THE
22 BASELINE, MAKES A TRIANGLE BACK UP TOWARDS THE
23 CROSSING.

24 IN THE WORD CHIP, A RATHER LARGE -- OR A
25 BEGINNING STROKE THAT BEGINS IN THE INTERNAL OR

JOYCE LAUTERBACH - DIRECT BY MR. BRACKETT

1819

1 MID-ZONE PORTION OF THAT WORD.

2 AND THEN THE CONNECTING STROKE TO THE P THAT IS
3 HORIZONTAL WITH THE BASELINE AND DOES NOT EXTEND
4 TO THE TOP PORTION OF THE P. AN OVAL LOOP THAT
5 ENDS RIGHT IN THIS AREA.

6 THE SAME CHARACTERISTICS, MOVING DOWN, AN OPEN W
7 THAT IS NOT RETRACED BETWEEN THE TWO BOWLS.

8 SIMILAR CHARACTERISTICS IN THE V IN LOVE. THESE
9 CHARACTERISTICS WERE REPEATED CONSISTENTLY
10 THROUGHOUT KNOWN HANDWRITING SAMPLES THAT WERE
11 SUBMITTED TO ME AS THE KNOWN HANDWRITING OF
12 JAMES ROBERTSON.

13 Q. ALL RIGHT. AND HAVE YOU FORMED AN OPINION AS TO
14 THE AUTHORSHIP OF STATE'S EXHIBIT 24, THE
15 DOCUMENT THAT STARTS "MOM AND DAD, GONE TO GET
16 CHIP"?

17 A. YES, SIR. IT WAS MY OPINION THAT STATE'S
18 EXHIBIT 24 THAT BEGINS "MOM AND DAD, GONE TO GET
19 CHIP", WAS WRITTEN BY JAMES ROBERTSON.

20 Q. ALL RIGHT. I'M SHOWING YOU WHAT'S NOW BEEN
21 MARKED AS STATE'S EXHIBIT 48 AND I BELIEVE IT IS
22 IN EVIDENCE. IT HAS NOT BEEN MARKED OFF, YOUR
23 HONOR, SO I WOULD ASK THE COURT REPORTER IF SHE
24 COULD CONFIRM WHETHER THIS HAS BEEN MOVED INTO
25 EVIDENCE OR NOT. I BELIEVE IT HAS.

JOYCE LAUTERBACH - DIRECT BY MR. BRACKETT

1820

1 (IT WAS INDICATED THAT IT HAD BEEN INTRODUCED INTO
2 EVIDENCE.)

3 Q. I'M SHOWING YOU WHAT'S BEEN MARKED STATE'S
4 EXHIBIT 48 IN EVIDENCE AND ASK IF YOU CAN
5 IDENTIFY THE DOCUMENT CONTAINED IN THAT PLASTIC
6 ENVELOPE.

7 A. YES, I CAN. STATE'S EXHIBIT 48 IS A FRED PRYOR
8 SEMINAR MANUAL WITH A LIST THAT'S HANDWRITTEN ON
9 THE BACK OF THE MANUAL.

10 Q. CAN YOU READ THE LIST THAT YOU EXAMINED?

11 A. OKAY. THE LIST CONSISTS OF, NUMBER ONE, ALARM
12 CLOCK; NUMBER TWO, WIPE DOWNSTAIRS DOORKNOB; AND
13 NUMBER THREE, DISPOSE OF YARD RAKE.

14 Q. DID YOU HAVE AN OPPORTUNITY TO COMPARE THAT LIST
15 WITH THE KNOWN HANDWRITING SAMPLES OF THE
16 DEFENDANT, JAMES ROBERTSON, AND ALSO MEREDITH
17 MOON?

18 A. YES, SIR, I DID.

19 Q. AND I'M SHOWING YOU WHAT'S BEEN MARKED AS
20 STATE'S EXHIBIT 168 FOR IDENTIFICATION. CAN YOU
21 IDENTIFY THIS?

22 A. YES, I CAN. STATE'S EXHIBIT 168 IS, AGAIN, A
23 PHOTOGRAPHIC ENLARGEMENT OF WORDS THAT WERE
24 TAKEN OFF OF THE BACK OF THE FRED PRYOR MANUAL.
25 ON ONE SIDE OF THAT CHART ARE PHOTOGRAPHIC

JOYCE LAUTERBACH - DIRECT BY MR. BRACKETT

1821

1 ENLARGEMENTS OF WORDS FROM JAMES ROBERTSON AND
2 THE OTHER SIDE OF THE CHART IS PHOTOGRAPHIC
3 ENLARGEMENTS OF MEREDITH MOON'S HANDWRITING.

4 Q. WOULD THIS DIAGRAM ASSIST YOU IN EXPLAINING TO
5 THE JURY WHAT YOUR EXAMINATION REVEALED?

6 A. YES, IT WOULD.

7 MR. POPE: YOUR HONOR, I WOULD MOVE STATE'S
8 EXHIBIT 168 INTO EVIDENCE AT THIS TIME.

9 MR. HANCOCK: NO OBJECTION, YOUR HONOR.

10 THE COURT: IT WILL BE RECEIVED WITHOUT
11 OBJECTION.

12 Q. ALL RIGHT, MA'AM, AGAIN I'M GOING TO TRY TO
13 PLACE THIS HERE AND IF YOU WOULD, WOULD YOU
14 EXPLAIN THE EXAMINATION YOU CONDUCTED AND THE
15 RESULTS OF THAT EXAMINATION TO THE JURY?

16 A. YES, SIR. THE WORDS IN THE MIDDLE OF THE CHART
17 WERE TAKEN FROM THE FRED PRYOR MANUAL AND THE
18 FIRST WORD IS THE WORD KNOB FROM THE WORD
19 DOORKNOB. AND THE CHARACTERISTICS HERE IS THE K
20 THAT BEGINS WITH A LITTLE TIP AT THE TOP OF THE
21 STAFF OF THE K AND THEN HAS A PEN DRAG UP INTO
22 THE BEGINNING OF THE BUCKLE OR THE ARCH -- YEAH,
23 THE BUCKLE OF THE K. THAT SAME CHARACTERISTIC
24 WAS FOUND IN THE COLLECTED WRITING SAMPLES IN
25 THE WORD LOOK, A LITTLE TIP AT THE BEGINNING OF

JOYCE LAUTERBACH - DIRECT BY MR. BRACKETT

1822

1 THE K, MOVES DOWN TO THE BASELINE AND THEN A
2 FAINT PEN DRAG UP TO THE TOP OF THE BUCKLE OF
3 THE K.

4 IN THE WORD WIPE, AGAIN THE SAME P THAT WE SAW
5 BEFORE WITH THE HORIZONTAL CONNECTING STROKE AT
6 THE BASELINE, IT'S ROUNDED AND THEN THE BULB OF
7 THE K DOES NOT CLOSE, IT'S OPEN AT THE BASELINE.

8 THE WORD OF, THE CHARACTERISTIC HERE WAS THE F
9 THAT INSTEAD OF MAKING THE UPPER EXTENSION WITH
10 A LOOP THAT COMES FROM THE BASELINE TO THE TOP
11 OF THE F, THIS ONE INSTEAD COMES FROM THE TOP OF
12 THE F, MAKES THE LOWER LOOP, AND THEN THE TOP
13 LOOP AND ENDS RIGHT HERE. THAT SAME
14 CHARACTERISTIC WAS FOUND CONSISTENTLY THROUGHOUT
15 THE KNOWN HANDWRITING OF JAMES ROBERTSON.

16 HERE IS A K THAT FORMS AN ARCH OR A VERY ANGULAR
17 BUCKLE TO THE K. THESE TWO K'S, THIS ONE AND
18 THIS ONE, WERE USED CONSISTENTLY AND
19 INTERCHANGEABLY THROUGHOUT THE KNOWN HANDWRITING
20 OF JAMES ROBERTSON.

21 THE WRITING THAT WAS SUBMITTED TO ME AS MEREDITH
22 MOON'S HANDWRITING HAS A DIFFERENT FORM -- WELL,
23 IT HAS THE SAME FORM AS THE K EXCEPT THE HEIGHT
24 RATIOS OF THE ARCH OF THE K AND THE BACK STAFF
25 OF THE K ARE -- THEY ARE THE SAME HEIGHT INSTEAD

JOYCE LAUTERBACH - DIRECT BY MR. BRACKETT

1823

1 OF THIS MID-ZONE PORTION OF THE LETTER WITH THE
2 UPPER EXTENSION MUCH TALLER THAN THE ARCH OF THE
3 K.

4 AGAIN, AN ENTIRELY DIFFERENT N THAN THIS OPEN
5 FORMATION IN THE QUESTIONED WRITING. AND IT'S
6 AN ENTIRELY DIFFERENT FORMATION OF THE B. IT
7 COMES UP AND THEN FORMS THE BULB IN A CLOCKWISE
8 MOVEMENT INSTEAD OF LEAVING AN OPEN BULB AT THE
9 BOTTOM OF THE LETTER.

10 THE P, THE CONNECTING STROKE FROM THE BASELINE
11 TO THE TOP OF THE P, RATHER THAN HORIZONTAL WITH
12 THE BASELINE BEFORE EXTENDING DOWN. AND THE P
13 CLOSES AT THE DOWN STROKE RATHER THAN REMAINS
14 OPEN.

15 THE F NEVER DID HAVE THE UPPER LOOP FORMED AT
16 THE END OF THAT LETTER.

17 AGAIN, THIS FORM OF THE K WAS NEVER FOUND IN THE
18 KNOWN HANDWRITING OF MEREDITH MOON, AND THE
19 HEIGHT RELATIONSHIPS AGAIN, THE ARCH IS THE SAME
20 HEIGHT AS THE BACK STROKE INSTEAD OF JUST COMING
21 UP INTO THE AREA OF MID-ZONE PORTIONS OF THE
22 LETTER.

23 Q. IN EXAMINING THE KNOWN HANDWRITING OF MEREDITH
24 MOON AND JAMES ROBERTSON AND COMPARING IT TO THE
25 SUSPECTED HANDWRITING ON THE FRED PRYOR MANUAL,

JOYCE LAUTERBACH - DIRECT BY MR. BRACKETT

1824

1 DID YOU FORM AN OPINION AS TO WHETHER JAMES
2 ROBERTSON OR MEREDITH MOON WROTE THAT LIST ON
3 THE FRED PRYOR MANUAL?

4 A. YES, I DID. IT WAS MY OPINION THAT THE NOTE ON
5 THE JAMES PRYOR MANUAL WAS WRITTEN BY JAMES
6 ROBERTSON -- I'M SORRY, ON THE FRED PRYOR MANUAL
7 WAS WRITTEN BY JAMES ROBERTSON.

8 Q. DID YOU COME TO AN OPINION AS TO WHETHER
9 MEREDITH WROTE IT?

10 A. MEREDITH MOON DID NOT WRITE THAT, NO.

11 Q. THANK YOU VERY MUCH, MA'AM. YOU CAN HAVE A SEAT
12 AGAIN.

13 (THE WITNESS RESUMED THE WITNESS STAND.)

14 Q. I'LL SHOW YOU WHAT'S BEEN MARKED AS STATE'S
15 EXHIBIT 83 IN EVIDENCE AND 84 IN EVIDENCE AND
16 ASK IF YOU HAVE HAD OCCASION TO EXAMINE THOSE
17 ITEMS?

18 A. YES, I HAVE. STATE'S EXHIBIT 83 IS CHECK NUMBER
19 6111 MADE PAYABLE TO JIMMY ROBERTSON IN THE
20 AMOUNT OF FIVE HUNDRED DOLLARS.

21 STATE'S EXHIBIT 84 IS THE NCR COPY OF THAT SAME
22 CHECK.

23 Q. NCR COPY?

24 A. NO CARBON REQUIRED.

25 Q. OKAY. DID YOU HAVE AN OCCASION TO EXAMINE THAT

JOYCE LAUTERBACH - DIRECT BY MR. BRACKETT

1825

1 AND DO A HANDWRITING ANALYSIS ON THE HANDWRITING
2 ON THAT CHECK, 6111?

3 A. YES, I MADE THE SAME TYPE OF COMPARISONS THAT
4 WE'VE BEEN DISCUSSING WITH THESE CHARTS.

5 Q. AND DID YOU COME TO -- WHAT WAS YOUR OPINION AS
6 TO THE AUTHORSHIP OF THE HANDWRITING ON THAT
7 CHECK?

8 A. IT WAS MY OPINION THAT JAMES ROBERTSON WROTE THE
9 ROBERTSON PORTIONS OF BOTH PAYEE LINE AND THE
10 AUTHORIZING SIGNATURE LINE ON THIS CHECK.

11 Q. AND AS FAR AS THE FIRST NAME ON THE SIGNATURE
12 LINE?

13 A. THERE WERE INDICATIONS THAT HE ALSO WROTE JIMMY.

14 Q. OKAY I'LL SHOW YOU WHAT'S BEEN MARKED STATE'S
15 EXHIBIT 25 IN EVIDENCE AND ASK IF YOU CAN
16 IDENTIFY THE DOCUMENT IN THE TOP THERE?

17 A. STATE'S EXHIBIT 25 IS A TO DO LIST THAT WAS
18 CONTAINED IN A NOTEPAD, A BOUND NOTEPAD AT THE
19 TIME THAT I RECEIVED IT AND IT BEGINS: "TUESDAY
20 MORNING, WASH CLOTHES, BATHROOM FLOOR".

21 Q. DID YOU HAVE AN OCCASION TO EXAMINE THAT
22 DOCUMENT?

23 A. YES, I DID.

24 Q. AND DID YOU FORM AN OPINION AS TO WHO AUTHORED
25 THAT DOCUMENT?

STATE OF SOUTH CAROLINA)
COUNTY OF YORK) IN COURT OF GENERAL SESSIONS

THE STATE,)
PLAINTIFF,)
VS.)
JAMES DEJARNETTE)
ROBERTSON,)
DEFENDANT.)

INDICTMENT NOS. 98-GS-46-1020
1021, 1022, 1023

TRANSCRIPT OF TRIAL AND
PRE-TRIAL MOTIONS (7-17-98,
9-22-98, 9-25-98, 11-2-98,
AND 12-4-98)
MARCH 15, 1999
YORK, SOUTH CAROLINA

VOLUME VIII

JOYCE LAUTERBACH - DIRECT BY MR. BRACKETT

1826

1 A. YES, I DID.

2 Q. CAN YOU TELL THE JURY WHAT THAT OPINION IS?

3 A. IT WAS MY OPINION THAT JAMES ROBERTSON WROTE
4 THIS LIST.

5 Q. I'M SHOWING YOU WHAT'S BEEN MARKED STATE'S
6 EXHIBIT 90 IN EVIDENCE AND ASK IF YOU CAN
7 IDENTIFY THAT DOCUMENT?

8 A. STATE'S EXHIBIT 90 IS A PEACH STAND CREDIT CARD
9 RECEIPT CONTAINING THE SIGNATURE JIM ROBERTSON.

10 Q. AND DID YOU HAVE AN OCCASION TO EXAMINE THAT
11 DOCUMENT TO DETERMINE AUTHORSHIP?

12 A. YES, I DID.

13 Q. HOW MUCH HANDWRITING IS ON THAT DOCUMENT?

14 A. ONE SIGNATURE.

15 Q. COULD YOU TELL THE JURY WHO IN YOUR OPINION
16 WROTE THAT SIGNATURE?

17 A. IN MY OPINION THERE WAS A STRONG PROBABILITY
18 THAT THIS WAS WRITTEN BY JAMES ROBERTSON.

19 Q. FINALLY I'M SHOWING YOU WHAT'S BEEN MARKED
20 STATE'S EXHIBIT 91 IN EVIDENCE. I'LL ASK YOU,
21 MA'AM, IF YOU CAN IDENTIFY THAT DOCUMENT RIGHT
22 THERE?

23 A. STATE'S EXHIBIT 91 IS A SHELL STATION CREDIT
24 CARD RECEIPT WITH THE NAME JIM ROBERTSON ON IT.

25 Q. DID YOU HAVE OCCASION TO EXAMINE THAT DOCUMENT

JOYCE LAUTERBACH - DIRECT BY MR. BRACKETT

1827

1 TO DETERMINE AUTHORSHIP?

2 A. YES, I DID.

3 Q. AND CAN YOU TELL ME HOW MUCH HANDWRITING IS ON
4 THAT DOCUMENT?

5 A. ONE SIGNATURE.

6 Q. AND WHO IN YOUR OPINION IS THE AUTHOR OF THAT
7 SIGNATURE?

8 A. AGAIN, IN MY OPINION THERE WAS A STRONG
9 PROBABILITY THAT THIS WAS ALSO WRITTEN BY JAMES
10 ROBERTSON.

11 Q. MA'AM, ON ALL OF THE EXAMINATIONS THAT YOU HAVE
12 DONE, DID YOU HAVE OCCASION TO PREPARE REPORTS
13 INDICATING THE RESULTS OF YOUR EXAMINATION?

14 A. YES, I DID.

15 Q. LET ME SHOW THIS TO DEFENSE COUNSEL.

16 (AFTER A LONG PAUSE WHILE DEFENSE COUNSEL EXAMINED THE
17 REPORTS.)

18 MR. BRACKETT: YOUR HONOR, FOR THE SAKE OF TIME,
19 WE WON'T OFFER THIS AND I HAVE NO FURTHER QUESTIONS OF MS.
20 LAUTERBACH. PLEASE ANSWER ANY QUESTIONS DEFENSE COUNSEL
21 MAY HAVE.

22 CROSS EXAMINATION BY

23 MR. BOYD:

24 Q. GOOD MORNING.

25 A. GOOD MORNING.

JOYCE LAUTERBACH - CROSS BY MR. BOYD

1828

1 Q. I WANT TO JUST ASK YOU A FEW QUESTIONS ABOUT
2 SOME OF THE ITEMS YOU HAVE TESTIFIED TO. AND
3 REFERRING TO EXHIBIT NUMBER 90 WHICH WAS THE
4 PEACH STAND CREDIT CARD RECEIPT, YOU TESTIFIED
5 EARLIER THAT SOME OF THE OTHER ITEMS IN YOUR
6 OPINION THEY WERE WRITTEN BY JAMES ROBERTSON.
7 ON THAT ONE YOU SAID IT WAS A STRONG
8 PROBABILITY THAT IT WAS WRITTEN BY HIM. IS
9 THERE A DIFFERENCE IN WHAT YOU'RE TALKING ABOUT
10 HERE?

11 A. ON THE PEACH STAND RECEIPT WITH THE JIM
12 ROBERTSON SIGNATURE, THERE WERE A COUPLE OF
13 CHARACTERISTICS THAT WERE NOT REPRESENTED IN THE
14 KNOWN WRITING SAMPLES OF JAMES ROBERTSON AND THE
15 JAMES ROBERTSON SIGNATURES IN THOSE KNOWN
16 WRITING SAMPLES WERE LIMITED. SO, I DID NOT
17 HAVE ALL THE CHARACTERISTICS REPRESENTED THERE.
18 BUT THOSE THAT WERE REPRESENTED WERE CONSISTENT
19 WITH JAMES ROBERTSON'S WRITING.

20 Q. ARE YOU SAYING THERE WERE OTHER CHARACTERISTICS
21 THAT WERE NOT REPRESENTATIVE OF HIS SIGNATURE?

22 A. THERE WERE NO DIFFERENCES; THERE WERE SOME
23 CHARACTERISTICS THAT WERE NOT REPRESENTED IN THE
24 KNOWN HANDWRITING.

25 Q. AND ALSO YOU SAID IN THE -- I'M TRYING TO REFER

JOYCE LAUTERBACH - CROSS BY MR. BOYD

1829

1 TO THE EXHIBIT. I WAS REFERRING TO CHECK NUMBER
2 6111, THE FIVE HUNDRED DOLLAR CHECK. YOU SAID A
3 PORTION OF THAT SIGNATURE YOU COULD DETERMINE
4 WAS HIS SIGNATURE AND ONE PORTION YOU COULD NOT;
5 IS THAT CORRECT?

6 A. YES. ON THE JIMMY PORTION OF THAT SIGNATURE I
7 SAID THAT THERE WERE INDICATIONS THAT JIMMY WAS
8 ALSO WRITTEN BY JAMES ROBERTSON. AND THE REASON
9 FOR THAT WAS THE CAPITAL J IN JIMMY WAS EXACTLY
10 LIKE HE WROTE CAPITAL J IN JIM OR JIMBO OR
11 JAMES. BUT IN NO CIRCUMSTANCE DID I EVER HAVE A
12 JIMMY WRITTEN OUT FOR COMPARISON PURPOSES.

13 Q. SO, YOU WERE NOT ABLE TO COMPARE THAT?

14 A. I DIDN'T HAVE ANY COMPARABLE MATERIAL WITH
15 JIMMY.

16 Q. OKAY, SO YOU COULD NOT SAY THAT THE JIMMY WAS
17 WRITTEN BY JAMES ROBERTSON?

18 A. WELL, THERE WAS NO REASON TO BELIEVE THAT
19 ANYBODY ELSE HAD WRITTEN IT, BUT ALL I HAD FOR
20 COMPARISON WAS JUST THE CAPITAL J.

21 Q. WELL, BASED ON YOUR ANALYSIS?

22 A. THAT'S CORRECT.

23 Q. THANK YOU; THAT'S ALL THE QUESTIONS I HAVE.

24 MR. BRACKETT: I HAVE NO FURTHER QUESTIONS OF MS.
25 LAUTERBACH. I WOULD ASK THAT THIS WITNESS BE EXCUSED.

1830

1 THE COURT: YOU MAY STEP DOWN AND BE EXCUSED. WE
2 APPRECIATE YOUR TIME.

3 MR. POPE: THE STATE WOULD CALL GRAY AMICK. MAY
4 IT PLEASE THE COURT, YOUR HONOR, CONCERNING HIS TESTIMONY
5 THERE WILL BE A VIDEO PRESENTATION. A COPY HAS BEEN
6 PRESENTED TO THE DEFENSE AND A COPY HAS BEEN PRINTED OUT
7 AND INCLUDED AS PART OF THE COURT'S EXHIBITS FOR THE COURT
8 RECORD.

9 GRAYSON AMICK, BEING FIRST DULY SWORN, TESTIFIED
10 AS FOLLOWS:

11 DIRECT EXAMINATION BY

12 MR. POPE:

13 Q. AGENT AMICK, IF YOU COULD, STATE YOUR NAME AND
14 SPELL YOUR LAST NAME FOR THE COURT REPORTER,
15 PLEASE.

16 A. GRAYSON AMICK, A-M-I-C-K.

17 Q. COULD YOU TELL THE JURY WHERE YOU'RE EMPLOYED?

18 A. SURE. I WORK FOR THE SOUTH CAROLINA LAW
19 ENFORCEMENT DIVISION IN THE DNA SEROLOGY
20 LABORATORY.

21 Q. COULD YOU TELL THE JURY HOW LONG YOU'VE BEEN
22 WITH THE SOUTH CAROLINA LAW ENFORCEMENT
23 DIVISION?

24 A. GOING ON SIX YEARS NOW; IT WILL BE SIX YEARS IN
25 JUNE.

GRAYSON AMICK - DIRECT BY MR. POPE

1831

1 Q. PARTICULARLY YOU SAID YOU ARE IN THE DNA
2 LABORATORY, COULD YOU TELL THE JURY WHAT TYPE
3 BACKGROUND, TRAINING AND EDUCATION YOU HAVE THAT
4 ALLOWS YOU TO PERFORM DNA TESTING?

5 A. SURE. I HAVE A BACHELOR OF SCIENCE FROM THE
6 UNIVERSITY OF SOUTH CAROLINA. I GOT A P.H.D. IN
7 CHEMISTRY FROM THE UNIVERSITY OF SOUTH CAROLINA.
8 I'M ALSO A GRADUATE OF THE CRIMINAL JUSTICE
9 ACADEMY. I HAVE BEEN TRAINED BY COURT QUALIFIED
10 EXPERTS IN THE FIELD OF FORENSIC DNA A SEROLOGY
11 WHICH WOULD INCLUDE STAIN IDENTIFICATION, SEMEN,
12 URINE, SALIVA, BLOOD AS WELL AS RFLP DNA TESTING
13 WHICH STANDS FOR RESTRICTION FRAGMENT LENGTH
14 POLYMORPHISM. I HAVE ATTENDED SEMINARS IN THE
15 FIELD, INCLUDING GENETICS WORKSHOP BY DR. BRUCE
16 WEIR AT N.C. STATE UNIVERSITY. AND A WORKSHOP
17 ON PCR DNA TESTING. I HAVE PUBLISHED IN THE
18 JOURNAL OF FORENSIC SCIENCE. AND I'VE BEEN AN
19 ADJUNCT PROFESSOR AT U.S.C. AND I'M CURRENTLY
20 INVOLVED IN METHOD DEVELOPMENT AND VALIDATION IN
21 THE LAB. I'M DEVELOPING THE PCR DNA TESTING IN
22 OUR LABORATORY.

23 MR. POPE: YOUR HONOR, AT THIS TIME I WOULD
24 TENDER DR. AMICK AS AN EXPERT IN FORENSIC DNA ANALYSIS.

25 THE COURT: ANY VOIR DIRE?

GRAYSON AMICK - DIRECT BY MR. POPE

1832

1 MR. BOYD: NO OBJECTION.

2 THE COURT: ALL RIGHT, I FIND THAT HE IS SO
3 QUALIFIED.

4 Q. AGENT AMICK, IF YOU COULD, STATE BASICALLY TO
5 THE JURY WHAT YOU DO DAY TO DAY.

6 A. WE RECEIVE CASES FROM CIRCUITS, INVESTIGATORS,
7 POLICE DEPARTMENTS AROUND THE STATE FOR THE
8 PURPOSE OF IDENTIFYING WHAT'S ON CRIME SCENE
9 EVIDENCE, ET CETERA, AS FAR AS WHAT STAIN. LIKE
10 I SAID, BLOOD, URINE, SEMEN. AND THEN WE WILL
11 TAKE THAT AND COMPARE IT TO KNOWN STANDARDS FOR
12 THE DNA TYPING TEST TO SEE IF STAINS COLLECTED
13 AT THAT CRIME SCENE MATCH SUSPECTS OR VICTIMS
14 THAT HAVE BEEN DRAWN AT AUTOPSY OR AFTERWARDS.

15 Q. AS PART OF YOUR DUTIES IN THIS CASE DID YOU
16 RECEIVE A LARGE NUMBER OF ITEMS FROM THE
17 SEROLOGY LAB, LORRI JOHNSON IN THE SEROLOGY LAB?

18 A. I DID. SHE IS IN SEROLOGY DNA, SO SHE IS IN OUR
19 LAB AND THE DNA WAS MY RESPONSIBILITY ON THIS
20 CASE. SO, YES, I RECEIVED THE SAMPLES FROM HER.

21 Q. AND BASED ON THAT, CERTAIN OF THOSE ITEMS DID
22 YOU TAKE AND BASED ON YOUR EXPERTISE TRY TO
23 DEVELOP DNA EVIDENCE FROM CERTAIN ONES OF THE
24 MASS OF EVIDENCE?

25 A. I DID.

GRAYSON AMICK - DIRECT BY MR. POPE

1833

1 Q. AND HAVE YOU HAD THE OPPORTUNITY PRIOR TO COURT
2 TO REVIEW THE ITEMS THAT YOU ACTUALLY DID
3 TESTING ON THAT YIELDED RESULTS IN THIS CASE?

4 A. I HAVE.

5 Q. I WOULD ASK YOU, IF YOU COULD, TO PLEASE STEP
6 DOWN. THESE ITEMS, IF WE COULD GO THROUGH THEM
7 AND THEN I WILL ALLOW YOU TO TAKE YOUR SEAT
8 AGAIN.

9 THE COURT: MAKE SURE THE DEFENSE CAN SEE.

10 Q. I'LL REFER YOU FIRST TO STATE'S EXHIBITS 16 AND
11 17 WHICH WERE THE SWABS FROM TERRY AND EARL
12 ROBERTSON. DID YOU HAVE THE OPPORTUNITY TO USE
13 THEM AS PART OF YOUR TESTING?

14 A. I DID.

15 Q. LIKEWISE, STATE'S EXHIBIT 21, THE PURSE OF TERRY
16 ROBERTSON, DID YOU HAVE AN OPPORTUNITY TO
17 RECEIVE A SWAB FROM THAT TO USE IN TESTING?

18 A. I DID.

19 Q. STATE'S EXHIBIT 23, THE KNIFE LOCATED IN THE
20 BEDROOM OF THE RESIDENCE, DID YOU HAVE AN
21 OPPORTUNITY TO RECEIVE A SWAB FROM THAT AND DO
22 TESTING?

23 A. I DID.

24 Q. STATE'S EXHIBIT 27, THE BROKEN TIP OF THE KNIFE,
25 DID YOU HAVE THE OPPORTUNITY TO RECEIVE A SWAB

GRAYSON AMICK - DIRECT BY MR. POPE

1834

1 AND DO TESTING ON THAT?

2 A. I DID.

3 Q. STATE'S EXHIBIT 28, THE TYLEX BOTTLE LOCATED IN
4 THE HALLWAY, DID YOU HAVE AN OPPORTUNITY TO
5 RECEIVE A SWAB AND DO TESTING ON THAT?

6 A. I DID.

7 Q. ALSO NOT AS A STATE'S EXHIBIT, BUT DID YOU ALSO
8 HAVE THE OPPORTUNITY TO RECEIVE A CUTTING FROM A
9 PILLOW CASE FROM THE BEDROOM AT THE RIGHT BOTTOM
10 OF THE STAIRS THAT WAS AT THE HOUSE?

11 A. I DID.

12 Q. LIKEWISE, AS FAR AS THE ACTUAL PROCESSING OF THE
13 HOUSE, DID YOU ALSO ATTEND THE CRIME SCENE ON
14 THE DATE IN QUESTION WITH BRETT BAKER?

15 A. YES, I RESPONDED WITH BRETT BAKER.

16 Q. NOW I WILL REFER YOU TO A NUMBER OF ITEMS THAT
17 WERE RECOVERED. FIRST DID YOU RECEIVE TWO
18 CUTTINGS FROM STATE'S EXHIBIT 57 WHICH IS THE
19 UNION BAY PANTS?

20 A. I DID.

21 Q. AND YOU'VE HAD AN OPPORTUNITY TO LOOK AT THESE
22 PANTS TODAY?

23 A. I HAVE.

24 Q. STATE'S EXHIBIT 64 ALSO RECOVERED FROM MARYLAND,
25 THE HAMMER. DID YOU HAVE THE OPPORTUNITY ALSO

GRAYSON AMICK - DIRECT BY MR. POPE

1835

1 TO RECEIVE SWABS FROM THAT HAMMER?

2 A. YES, SIR.

3 Q. LIKEWISE, AS TO STATE'S EXHIBIT 65, AND AGAIN
4 YOU'VE HAD THE OPPORTUNITY TO LOOK IN EACH
5 INDIVIDUAL ENVELOPE?

6 A. YES, SIR.

7 Q. STATE'S EXHIBIT 65 WHICH IS A WHITE SOCK FROM
8 MARYLAND, STATE'S EXHIBIT 66, A WHITE SOCK FROM
9 MARYLAND, DID YOU RECEIVE THOSE FOR TESTING
10 ALSO?

11 A. A CUTTING FROM THOSE SOCKS, YES.

12 Q. STATE'S EXHIBIT 67, A TAN OR BEIGE SOCK, DID YOU
13 RECEIVE A CUTTING ALSO FROM THAT?

14 A. I DID.

15 Q. STATE'S EXHIBIT 70 -- I APOLOGIZE. STATE'S
16 EXHIBIT 68, A PINK SOCK RETRIEVED FROM MARYLAND,
17 DID YOU RECEIVE A CUTTING FROM THAT?

18 A. THAT'S CORRECT.

19 Q. STATE'S EXHIBIT 70, A WHITE SOCK RETRIEVED FROM
20 MARYLAND, DID YOU RECEIVE A CUTTING FROM THAT?

21 A. I DID.

22 Q. STATE'S EXHIBIT 80, THE KITCHEN HAND TOWEL
23 RECEIVED FROM MARYLAND, DID YOU RECEIVE A
24 CUTTING FROM THAT?

25 A. I DID.

GRAYSON AMICK - DIRECT BY MR. POPE

1836

1 Q. STATE'S EXHIBIT 81, THE ALUMINUM BAT RECOVERED
2 FROM MARYLAND, DID YOU RECEIVE A SWAB FROM THAT?

3 A. I DID.

4 Q. AND FINALLY, STATE'S EXHIBIT 97, A SUSPECT
5 COLLECTION KIT FROM MEREDITH MOON ---

6 A. YES, I RECEIVED THAT KIT.

7 Q. AND STATE'S EXHIBIT 92, A SUSPECT KIT FROM THE
8 DEFENDANT, JAMES ROBERTSON.

9 A. YES, I RECEIVED THAT.

10 Q. OKAY, THANK YOU, SIR.

11 (THE WITNESS RESUMED THE WITNESS STAND.)

12 Q. NOW, IN ADDITION TO THESE ITEMS, YOU ALSO
13 RECEIVED VARIOUS OTHER CUTTINGS THAT HAVE BEEN
14 DETERMINED FROM SEROLOGY TO BE BLOOD THAT YOU
15 MAY HAVE DONE TESTING ON; IS THAT CORRECT?

16 A. I DID.

17 Q. DO THESE ITEMS REPRESENT THE ONES THAT YOU HAD
18 AN ULTIMATE POSITIVE RESULT WITH?

19 A. I BELIEVE THEY DO INCLUDE ALL OF THOSE ITEMS.

20 Q. AGENT AMICK, DID YOU PREPARE A DEMONSTRATION
21 THAT WILL ASSIST THE JURY IN THE EXPLANATION OF
22 WHAT FORENSIC SEROLOGY IS AND WHAT FORENSIC DNA
23 ANALYSIS IS?

24 A. I DID.

25 MR. POPE: MAY IT PLEASE THE COURT, YOUR HONOR,

GRAYSON AMICK - DIRECT BY MR. POPE

1837

1 AT THIS TIME, WE'VE HAD THE OPPORTUNITY, AGAIN, TO PREPARE
2 A PRESENTATION THAT WOULD ASSIST IN EXPLAINING BOTH
3 FORENSIC SEROLOGY, FORENSIC DNA ANALYSIS AS WELL AS WHAT
4 DNA ACTUALLY IS.

5 THE COURT: ANY OBJECTION?

6 MR. HANCOCK: WITHOUT OBJECTION, YOUR HONOR.

7 THE COURT: ALL RIGHT.

8 MR. HANCOCK: YOUR HONOR, IF WE MAY, MAY WE
9 APPROACH THE BENCH? WE'LL PUT IT ON THE RECORD LATER.

10 THE COURT: CERTAINLY.

11 (COUNSEL APPROACHED THE BENCH AND HAD A CONFERENCE WITH THE
12 COURT OFF THE RECORD AND OUT OF THE HEARING OF THE JURY.)

13 THE COURT: MEMBERS OF THE JURY PANEL, WE'RE
14 GOING TO TAKE A SHORT BREAK BEFORE WE PROCEED. IF YOU WILL
15 FOLLOW THE BAILIFF TO THE JURY ROOM PLEASE.

16 IN CAMERA:

17 THE COURT: LET'S PUT ON THE RECORD WHAT HAS
18 TRANSPIRED AT THE BENCH CONFERENCE.

19 MR. HANCOCK: FOR THE RECORD, YOUR HONOR, WE HAVE
20 A DNA EXPERT WHO IS EN ROUTE AT THIS TIME. WE HAD TROUBLE
21 GETTING IN TOUCH WITH HIM LAST NIGHT. WHEN WE APPROACHED
22 THE BENCH, WE DISCUSSED THAT WITH YOU, SIR, AND ASKED THAT
23 WE AT LEAST BE ABLE TO DETERMINE BEFORE THIS GENTLEMAN
24 STARTS EXPLAINING THIS TO DETERMINE WHERE HE IS EN ROUTE.
25 HE IS COMING FROM CHARLOTTE AND WE GOT IN TOUCH WITH HIM

GRAYSON AMICK - DIRECT BY MR. POPE

1838

1 THIS MORNING AS EARLY AS WE COULD, AND HE'S ON HIS WAY.
2 AND THAT'S WHY WE APPROACHED THE BENCH.

3 THE COURT: WE'LL TAKE A SHORT BREAK, AND ALERT
4 ME AS TO WHAT YOU FIND OUT.

5 MR. HANCOCK: YES, SIR.

6 AFTER THE BREAK IN CAMERA:

7 THE COURT: IS THE STATE READY TO PROCEED?

8 MR. POPE: THE STATE IS READY, YOUR HONOR.

9 THE COURT: IS THE DEFENSE READY TO PROCEED?

10 MR. HANCOCK: IF IT PLEASE THE COURT. YOUR
11 HONOR, WE TALKED TO OUR EXPERT AT 9:30. HE SAID HE WAS
12 GETTING IN THE CAR AND WAS GOING TO BE ON HIS WAY. HE
13 SHOULD BE HERE RIGHT NOW.

14 I HATE TO EXTEND THE PROCEEDINGS AND WASTE THE
15 COURT'S TIME, YOUR HONOR, BUT I THINK THAT HE NEEDS TO BE
16 HERE. THE SOLICITOR HAS BEEN NICE ENOUGH TO TAKE PEOPLE
17 OUT OF ORDER SO THAT WE COULD GET HIM HERE. I'M ASKING FOR
18 10 MORE MINUTES, YOUR HONOR. WE'RE WATCHING THE PARKING
19 LOT RIGHT NOW.

20 MR. POPE: YOUR HONOR, I WILL TELL YOU THAT THE
21 ASPECT NOW, AT LEAST THE INITIAL ASPECT IS BASICALLY A HIGH
22 SCHOOL PRIMER ON DNA FOR THE JURY'S BENEFIT. I'M SURE
23 THEIR DOCTOR KNOWS ALL ABOUT THAT AND THE DEFENSE HAS HAD
24 A COPY OF THESE ITEMS. ANY TIME BEFORE I GET INTO THE
25 SPECIFICS OF TESTING, I WILL BE GLAD TO NOTIFY THE DEFENSE

GRAYSON AMICK - DIRECT BY MR. POPE

1839

1 AND IF WE HAVE TO STOP THEN, IT WILL AT LEAST ALLOW SOME
2 PART OF IT TO MOVE FORWARD.

3 THE COURT: I WOULD RATHER DO IT CONTINUOUSLY, SO
4 WE'LL WAIT A FEW MOMENTS.

5 MR. HANCOCK: THANK YOU VERY MUCH FOR YOUR
6 INDULGENCE, YOUR HONOR.

7 THE COURT: WE WILL BE AT EASE FOR A FEW MORE
8 MINUTES.

9 AFTER THE RECESS IN CAMERA:

10 THE COURT: IS THE STATE READY TO PROCEED?

11 MR. POPE: THE STATE IS READY, YOUR HONOR.

12 THE COURT: IS THE DEFENSE READY TO PROCEED?

13 MR. HANCOCK: YES, SIR, YOUR HONOR.

14 THE COURT: ALL RIGHT, BRING IN THE JURY.

15 IN THE PRESENCE OF THE JURY:

16 THE COURT: YOU MAY PROCEED.

17 CONTINUED DIRECT EXAMINATION OF GRAYSON AMICK:

18 Q. AGENT AMICK, AT THE TIME THE JURY LEFT, YOU HAD
19 DEVELOPED A PRESENTATION THAT WOULD ASSIST IN
20 THE UNDERSTANDING OF DNA, FORENSIC DNA; IS THAT
21 CORRECT?

22 A. THAT'S CORRECT.

23 Q. AT THIS TIME I WOULD ASK THAT HE BE ALLOWED TO
24 STEP DOWN AND MAKE A PRESENTATION TO THE JURY.

25 THE COURT: CERTAINLY. CUT THE LIGHTS OUT.

GRAYSON AMICK - DIRECT BY MR. POPE

1840

1 A. JUST A COUPLE OF QUICK SLIDES ABOUT WHAT DNA IS.

2 DNA STANDS FOR DEOXYRIBONUCLEIC ACID.

3 IT IS A LONG CHAIN MOLECULE THAT CONTAINS OTHER

4 GENETIC INFORMATION THAT IT TAKES TO MAKE

5 ORGANISMS, IN OUR CASE HUMANS. SO, A LOT OF

6 THAT INFORMATION IS OBVIOUSLY THE SAME. WE BOTH

7 HAVE TWO ARMS, TWO LEGS, AND THAT TYPE STUFF.

8 SO, THE DNA FROM HUMANS DIFFER FROM A DNA FROM A

9 FROG. AND THERE ARE DIFFERENCES BETWEEN HUMANS

10 AS WELL. BY JUST LOOKING AT TWO DIFFERENT

11 PEOPLE, UNLESS THEY ARE IDENTICAL TWINS, YOU CAN

12 SEE THOSE DIFFERENCES.

13 AND THOSE ARE THE -- THERE ARE SOME DIFFERENCES

14 THAT WE LOOK FOR IN THE DNA MOLECULE WHEN WE DO

15 A FORENSIC TEST THAT YOU CAN'T SEE BUT THERE ARE

16 DIFFERENCES.

17 SO, AS A WHOLE, EVERYBODY HAS A DIFFERENT DNA.

18 THEY ARE PRESENT IN ALL CELLS THAT HAVE A

19 NUCLEUS. HALF OF IT COMES FROM YOUR MOTHER AND

20 HALF OF IT COMES FROM YOUR FATHER.

21 AND THERE'S ONE MORE THING THAT I KNOW YOU CAN'T

22 SEE, BUT IT'S UNIQUE TO EVERYBODY EXCEPT

23 IDENTICAL TWINS. IDENTICAL TWINS HAVE THE SAME

24 DNA.

25 WHAT WE DO WHEN WE DO A FORENSIC DNA TEST, IN

GRAYSON AMICK - DIRECT BY MR. POPE

1841

1 THIS CASE A TEST THAT'S CALLED A RFLP, AND I
2 MENTIONED THAT AT THE VERY BEGINNING, IT STANDS
3 FOR RESTRICTION FRAGMENT LENGTH POLYMORPHISM.

4 WE TAKE EVIDENCE AND BLOOD STANDARDS, EVIDENCE
5 FROM, SAY, CRIME SCENES ET CETERA, AND THEN
6 STANDARDS COLLECTED FROM VICTIMS OR SUSPECTS.

7 WE EXTRACT AND PURIFY THE DNA FROM EACH OF THOSE
8 SAMPLES AND THEN WE CUT IT UP IN A SPECIFIC WAY.
9 AND THEN WHAT WE HAVE TO DO IS SEPARATE THOSE
10 LITTLE FRAGMENTS BY SIZE AND WE DO THAT IN AN
11 ELECTRIC FIELD.

12 AND THAT'S THE DEFINITION OF ELECTROPHORESIS.
13 YOU MAY HAVE HEARD THAT TERM BEFORE. BUT ALL IT
14 IS IS SEPARATION OF FRAGMENTS BY SIZE IN AN
15 ELECTRIC FIELD.

16 AND THEN WE HAVE THESE BANDS THAT APPEAR, LARGE
17 ONES AT THE TOP, SMALL ONES AT THE BOTTOM. AND
18 WE NEED TO GET THAT FROM THIS GEL THAT WE
19 SEPARATED THEM ON TO A MORE STABLE MEDIA AND WE
20 DO THAT BY TRANSFERRING THEM TO A MEMBRANE.

21 SO, NOW WE HAVE A MEMBRANE WITH ALL THESE BANDS
22 ON THEM.

23 SO, WHAT WE WOULD DO NEXT IS TAKE THAT MEMBRANE
24 AND WASH IT WITH PROBES. NOW ALL A PROBE IS IS
25 A PIECE OF DNA THAT IS SPECIFIC TO THE PIECES

GRAYSON AMICK - DIRECT BY MR. POPE

1842

1 THAT WE HAVE ON THERE, BUT SPECIFIC TO THE PLACE
2 ON THE CHROMOSOME THAT WE'RE LOOKING FOR.

3 SO, ALL WE'RE DOING IS WE'RE DOING SEVEN
4 DIFFERENT PROBES, WE DO SEVEN DIFFERENT TESTS.
5 AND THE PROBE IS THE DNA -- IT'S LIKE THE DNA
6 THAT WE'VE SEPARATED SO THAT WE CAN SEE WHERE
7 THAT LINES UP ON, SAY, AN EVIDENCE OR A STANDARD
8 FROM THE CRIME SCENE.

9 SO, WE WILL TAKE THAT PROBED MEMBRANE, EXPOSE IT
10 TO X-RAY FILM. ANOTHER UNIQUE CHARACTERISTIC OF
11 THE PROBE IS IT HAS AN ENZYME ON IT THAT UNDER
12 CERTAIN CONDITIONS GIVES OFF LIGHT. SO, IT
13 MAKES A LITTLE DARK SPOT ON THE FILM. AND
14 THAT'S WHAT THE END PRODUCT LOOKS LIKE. IT
15 LOOKS LIKE A X-RAY FILM WITH A BUNCH OF BANDS ON
16 IT.

17 I CAN USE THIS LITTLE POINTER. THESE LANES THAT
18 HAVE TONS OF BANDS IN THEM, THOSE ARE ONES THAT
19 I PUT ON THERE THAT I KNOW THE SIZE OF ALL THOSE
20 FRAGMENTS.

21 SO, ON THE UNKNOWNNS WHICH ARE, SAY, IN THIS
22 AREA, I CAN DETERMINE THE SIZE OF THESE BASED ON
23 THESE.

24 AND SO WE VISUALLY ANALYZE THE FILMS OR X-RAYS
25 OR SOMETIMES YOU HEAR THEM CALLED AUTORADS, BUT

GRAYSON AMICK - DIRECT BY MR. POPE

1843

1 A MORE TECHNICALLY CORRECT TERM FOR US IS
2 LUMAGRAS. AUTORADS IS USED WHEN WE USED TO USE
3 P-32 OR RADIOACTIVE PROBES INSTEAD OF THIS
4 ENZYME.

5 WE LOOK AT THEM, SEE IF THEY VISUALLY MATCH. IF
6 THEY DO, THEN WE WILL ANALYZE THOSE WITH THE
7 COMPUTER TO CONFIRM THAT MATCH.

8 AND THAT'S THE FORENSIC ART OF THE DNA TYPING.

9 (THE WITNESS RESUMED THE WITNESS STAND.)

10 Q. DID YOU IN FACT GO THROUGH THOSE STEPS ON THE
11 VARIOUS SWABS, THE CUTTINGS THAT YOU HAD IN
12 EVIDENCE THAT YOU HAD INDICATED FOR THE JURY?

13 A. I DID.

14 Q. ONCE YOU GET THE END RESULT AND HAVE A MATCH OR
15 DON'T HAVE A MATCH, IS THERE ANY SIGNIFICANCE
16 THAT IS ATTACHED TO THAT, BE IT A DATABASE OR
17 NUMBERS? COULD YOU EXPLAIN THAT TO THE JURY?
18 WHAT WE DO WHEN WE VALIDATE THIS TEST IN THE LAB
19 OR ANY LAB, RUN SAMPLES FROM PEOPLE THAT ARE --
20 WE GET SAMPLES COLLECTED FROM PEOPLE AROUND THE
21 STATE AND YOU RUN THEIR SAMPLES AND YOU SEE HOW
22 FREQUENTLY YOU SEE CERTAIN BANDS. YOU SEE HOW
23 FREQUENTLY YOU SEE THOSE ALLELES.

24 SO WHEN YOU HAVE AN UNKNOWN OR A CASE SAMPLE YOU
25 CAN SAY, OKAY, THIS ALLELE SHOWED UP HOW MANY

GRAYSON AMICK - DIRECT BY MR. POPE

1844

1 TIMES IN OUR DATABASE. IT SHOWED UP ONE IN A
2 THOUSAND, SAY, OR ONE IN FIVE HUNDRED. SO THAT
3 THAT BAND OF FREQUENCY, THAT BAND IS KNOWN FROM
4 OUR DATABASE. AND WE CAN ASSIGN THAT TO THE
5 UNKNOWN AND IF THE DATABASE CONFORMS TO CERTAIN
6 PARAMETERS, THEN WE CAN MULTIPLY ALL THESE
7 FREQUENCIES TOGETHER TO TELL YOU HOW RARE A
8 PROFILE WE'RE TESTING IS.

9 SO THIS EVIDENCE PROFILE THAT WE DEVELOP, BASED
10 ON ITS FREQUENCY OF THE ALLELES IN THE DATABASE
11 WE CAN SAY THIS PROFILE IS SO AND SO RARE.

12 Q. AND DID YOU IN FACT DO THAT ALSO ON THE ITEMS
13 THAT YOU TESTED.

14 A. I DID.

15 Q. AND DID YOU REDUCE ALL OF YOUR TEST RESULTS OF
16 THE ITEMS YOU TESTED, THE ONES THAT YOU FOUND
17 RESULTS ON AS WELL AS THE ONES YOU HAD NO
18 RESULTS ON, WAS THAT ALL CONTAINED IN THE REPORT
19 THAT YOU MADE?

20 A. IT WAS.

21 Q. I'LL SHOW YOU WHAT'S BEEN MARKED AS STATE'S
22 EXHIBIT 187 FOR IDENTIFICATION AND ASK IF YOU
23 COULD LOOK AT THAT AND TELL ME IF YOU CAN
24 IDENTIFY IT.

25 A. THIS IS MY ORIGINAL REPORT WITH MY SIGNATURE.

GRAYSON AMICK - DIRECT BY MR. POPE

1845

1 Q. AND DO THE FINDINGS THERE ACCURATELY REFLECT
2 YOUR FINDINGS AS TO THE EVIDENCE IN THIS CASE?

3 A. THEY DO.

4 MR. POPE: YOUR HONOR, I PREVIOUSLY PRESENTED THE
5 DEFENSE A COPY OF 187 FOR IDENTIFICATION, AND I MOVE
6 STATE'S EXHIBIT 187 FOR IDENTIFICATION INTO EVIDENCE.

7 MR. HANCOCK: WITHOUT OBJECTION, YOUR HONOR.

8 THE COURT: IT WILL BE RECEIVED.

9 (THE REPORT OF THE DNA EXPERT WAS MARKED IN EVIDENCE AS
10 STATE'S EXHIBIT 187 WITHOUT OBJECTION.)

11 Q. AGENT AMICK, I'M GOING TO ASK IF YOU COULD IF
12 YOU WOULD RELATE TO THE JURY THE ITEMS THAT WERE
13 SUBMITTED AND THEN THE RESULTS, THE EXAMINATIONS
14 AND THE RESULTS OF YOUR EXAMINATIONS.

15 A. ITEMS THAT WERE SUBMITTED TO ME FOR DNA ANALYSIS
16 INCLUDE THE FOLLOWING:

17 ITEM 5: BLOOD STANDARD FROM EARL ROBERTSON.

18 ITEM 14: BLOOD STANDARD FROM TERRY ROBERTSON.

19 ITEM 26: SWAB FROM EARL ROBERTSON. ITEM 27:

20 SWAB FROM TERRY ROBERTSON. 176.4 IS A BLOOD

21 SAMPLE FROM MEREDITH MOON. 178.4 IS A BLOOD

22 SAMPLE FROM JAMES D. ROBERTSON.

23 ALL THOSE WERE USED AS STANDARDS IN THIS CASE.

24 THE EVIDENCE BEGINS WITH 23.1, CUTTING FROM A

25 TOWEL; 28.2, CUTTING FROM SHEET; 31.1, SWAB FROM

GRAYSON AMICK - DIRECT BY MR. POPE

1846

1 OUTSIDE PURSE STRAP; 33.2, SWAB FROM END OF
2 KNIFE BLADE; 39.2, SWAB FROM PIECE OF METAL;
3 40.2, SWAB FROM TYLEX BOTTLE; 83.1 AND 83.2, 1
4 BEING CUTTING FROM GREEN PILLOW CASE, 83.2
5 CUTTING FROM WHITE PILLOW COVER; 102.2, CUTTING
6 FROM BEACH TOWEL; 103.1.1 CUTTING FROM GRAY T-
7 SHIRT; 103.1.3, CUTTING FROM GRAY T-SHIRT;
8 103.2.1 CUTTING FROM MAROON SWEATSHIRT. 105.1 IS
9 CUTTING FROM WHITE T-SHIRT; 107.1, CUTTING FROM
10 YELLOW PANTS. 107.4, CUTTING FROM YELLOW PANTS.
11 114.2, SWAB FROM CLAW PORTION OF HAMMER; 114 --
12 NO, I'M SORRY. 115.1, CUTTING FROM WHITE SOCK;
13 116.1 CUTTING FROM WHITE SOCK; 117.1, CUTTING
14 FROM BEIGE SOCK; 118.1, CUTTING FROM PINK SOCK;
15 119.1, CUTTING FROM PINK SOCK; 120.1, CUTTING
16 FROM WHITE SOCK; 123.1, CUTTING FROM RIGHT SHOE
17 -- I'M SORRY, CUTTING FROM BLUE SOCK; 125.1,
18 CUTTING FROM RIGHT SHOE; 130.1, CUTTING FROM
19 KITCHEN TOWEL; 131.2 SWAB FROM TIP OF BAT ---

20 Q. AGENT AMICK, THE NUMBERS YOU'RE READING, THOSE
21 ARE NOT THE EVIDENCE NUMBERS, THOSE ARE THE SLED
22 NUMBERS?

23 A. THAT'S CORRECT. WHEN EVIDENCE IS SUBMITTED,
24 IT'S GIVEN AN ITEM NUMBER, SO EACH ITEM THAT I
25 HAVE OR EACH CUTTING HAS AN ITEM NUMBER.

GRAYSON AMICK - DIRECT BY MR. POPE

1847

1 Q. AND OUT OF THOSE ITEMS, WERE THERE SOME THAT YOU
2 WERE ABLE TO DEVELOP SUFFICIENT DNA AND SOME
3 THAT YOU WERE NOT?

4 A. THERE WAS.

5 Q. AND THE ITEMS THAT YOU WERE ABLE TO DEVELOP
6 SUFFICIENT DNA, ARE THOSE THE ITEMS ON THE CARD
7 THAT YOU HAD LISTED EARLIER FOR THE JURY?

8 A. YES, FOR THE MOST PART. THEY ARE ALL THERE, I
9 BELIEVE, FROM WHAT WE WENT THROUGH BEFORE.

10 Q. IF YOU COULD, RELATE TO THE JURY YOUR RESULTS.
11 AND ALSO DID YOU PREPARE A WORK SHEET AND WOULD
12 THAT ASSIST YOU IN YOUR EXPLANATION?

13 A. THAT WOULD, AND WE COULD JUST THROW IT UP THERE
14 AND I COULD SIT HERE.

15 MR. POPE: I HAVE PREVIOUSLY GIVEN DEFENSE A COPY
16 OF 186 FOR IDENTIFICATION. DOES THIS WORK SHEET ACCURATELY
17 REFLECT THE RESULTS AS FAR AS THE MATCHES ON THE TESTS THAT
18 YOU GAVE?

19 A. THE MATCHES, YES.

20 MR. POPE: YOUR HONOR, I MOVE STATE'S EXHIBIT 186
21 FOR IDENTIFICATION INTO EVIDENCE.

22 THE COURT: WHAT SAYS THE DEFENSE? HE'S OFFERING
23 IT INTO EVIDENCE.

24 MR. HANCOCK: WITHOUT OBJECTION, YOUR HONOR.

25 THE COURT: IT WILL BE RECEIVED.

GRAYSON AMICK - DIRECT BY MR. POPE

1848

1 (THE RFLP RESULTS WORK SHEET WAS MARKED IN EVIDENCE AS
2 STATE'S EXHIBIT 186 WITHOUT OBJECTION.)

3 MR. POPE: MADAM CLERK, IF WE COULD CUT THE
4 LIGHTS, PLEASE. AGENT AMICK, IF YOU WOULD STEP DOWN.

5 A. ALL RIGHT.

6 Q. IF YOU COULD INDICATE TO THE JURY THE VARIOUS
7 ITEMS AND THE RESULTS OF YOUR TESTS.

8 A. THE ITEMS I WAS READING ARE THESE SLED NUMBERS
9 HERE AND THEN THEIR DESCRIPTION. THE LITTLE S
10 MEANS SWAB AND THAT MEANS CUTTING. SO, THEY
11 WERE EITHER SWABS OR CUTTINGS.

12 AND THIS WILL SUMMARIZE THE VERBIAGE THAT -- AND
13 I'LL READ FROM THE REPORT AND I'LL READ THAT
14 NOW: THE DNA PROFILE FROM ITEMS 107.1 AND 120.1
15 MATCHES THAT OF THE DNA EXTRACTED FROM EARL
16 ROBERTSON, ITEM 26.

17 Q. AND AS FAR AS 107.1 AND 120.1, COULD YOU
18 INDICATE WHAT ITEMS THOSE WERE?

19 A. THAT'S THE FRONT OF THE PANTS AND 120 WAS THE
20 SOCK. I DON'T HAVE THE COLORS OF THE SOCKS
21 HERE.

22 Q. OKAY.

23 A. ONE OF THE SOCKS AND THE FRONT OF THIS PAIR OF
24 PANTS: THEY MATCH THE DNA FROM EARL ROBERTSON,
25 ITEM 26, THIS IS NOT LISTED ON THIS CHART, SO

GRAYSON AMICK - DIRECT BY MR. POPE

1849

1 YOU DON'T SEE THAT ITEM.

2 AT GENETIC LOW SIDE D1S7, D2S44,. D5S10, D7S467,
3 D10S28 AND D17S79, AND THOSE ARE JUST THE NAMES
4 OF THE PROBES THAT I WAS MENTIONING BEFORE.

5 RESULTS AT D4S139 WERE INCLUSIVE. THE
6 PROBABILITY OF SELECTING AN UNRELATED INDIVIDUAL
7 AT RANDOM FROM THE POPULATION HAVING A DNA
8 PROFILE MATCHING ITEMS 107.1 AND 120.1 IS
9 APPROXIMATELY ONE IN THIRTY-FIVE BILLION BLACKS
10 AND ONE IN FOUR POINT SEVENTY BILLION
11 CAUCASIANS.

12 SO, THE ITEMS ON 107.1 AND 120.1 MATCH EARL
13 ROBERTSON.

14 ALL RIGHT, THE SECOND STATEMENT UNDER RESULTS IS
15 THE DNA PROFILE DEVELOPED FROM BLOOD FOUND ON
16 ITEM 40.2 WHICH IS THE TYLEX BOTTLE AND 115.1 IS
17 ANOTHER SOCK ALSO MATCHES THE DNA PROFILE FROM
18 EARL ROBERTSON.

19 THOSE ARE ALL THE ITEMS THAT MATCH EARL
20 ROBERTSON THAT ARE QUOTED AS STATISTICS IN THIS
21 REPORT.

22 SO, THE TYLEX BOTTLE, THOSE PANTS, THIS SOCK,
23 ANOTHER SOCK -- THERE ARE TWO ITEMS ON HERE,
24 THERE'S ANOTHER PAIR LATER ON WHICH YOU WILL GET
25 IN A MINUTE.

GRAYSON AMICK - DIRECT BY MR. POPE

1850

1 BUT THIS CHART, I GUESS I SHOULD HAVE EXPLAINED
2 THIS AT THE BEGINNING, THE ITEMS HERE AND THE
3 FOUR STANDARDS THAT I TESTED, THESE X'S INDICATE
4 WHAT THE BLOOD ON THESE ITEMS, WHO THEY MATCHED.
5 LIKE I JUST READ, 40.2 TYLEX BOTTLE, MATCHED
6 EARL ROBERTSON.

7 LIKEWISE, 107.1 THE CUTTING FROM THE PANTS MATCH
8 EARL ROBERTSON.

9 SO, THAT'S WHAT THOSE X'S INDICATE.

10 THE SECOND PART OF THE RESULTS IS: THE DNA
11 PROFILE FROM ITEMS 31.1, 33.2, 39.2, 107.4,
12 116.1 AND 118.1 AND 130.1 WHICH ARE LISTED IN
13 THIS COLUMN AGAIN WITH THEIR DESCRIPTIONS
14 MATCHES THAT OF DNA EXTRACTED FROM TERRY
15 ROBERTSON, ITEM 27, AT GENETIC LOW SIDE D107,
16 D2S44, D4S139, D5S10, D7S457, D10S28 AND D17S79.

17 AGAIN, THOSE ARE THE NAMES OF THE PROBES THAT
18 WERE USED WITH THE SEVEN DIFFERENT TESTS I WAS
19 TALKING ABOUT.

20 THE PROBABILITY OF SELECTING AN UNRELATED
21 INDIVIDUAL AT RANDOM FROM THE POPULATION HAVING
22 A DNA PROFILE MATCHING THE ITEMS I JUST
23 MENTIONED IS -- I'M SORRY, I MISSED MY PLACE --
24 IS APPROXIMATELY ONE IN ONE HUNDRED AND EIGHTY-
25 EIGHT TRILLION BLACKS AND ONE IN FIVE POINT FIVE

GRAYSON AMICK - DIRECT BY MR. POPE

1851

1 TRILLION CAUCASIANS.

2 SO, TO SUMMARIZE WITH THIS CHART, THE ITEMS THAT
3 I'VE READ OUT MATCH TERRY ROBERTSON AND THE X'S
4 INDICATE THAT.

5 AGAIN, THERE'S A COUPLE OF ITEMS THAT THERE'S
6 ANOTHER PARAGRAPH ABOUT LATER.

7 SO, THESE ITEMS MATCH EARL ROBERTSON -- THE
8 BLOOD ON THESE ITEMS MATCHED EARL ROBERTSON.
9 THE BLOOD ON THE ITEMS FOR TERRY ROBERTSON ARE
10 AS INDICATED HERE.

11 AND THERE WERE TWO ITEMS THAT MATCHED JAMES
12 ROBERTSON AND THOSE WERE THE DNA PROFILE FROM
13 ITEMS 83.1 AND 83.2 WHICH THERE IS A GREEN
14 PILLOW CASE AND A WHITE PILLOW COVER. IT
15 MATCHES THE DNA EXTRACTED FROM JAMES ROBERTSON,
16 ITEM 178.4, THAT'S HIS STANDARD, A GENETIC LOW
17 SIDE D1S7, D2S44, D5S139, D7S467, D10S28 AND
18 D17S79; THE RESULTS OF D4S139 WERE INCONCLUSIVE.
19 THE PROBABILITY OF SELECTING AN UNRELATED
20 INDIVIDUAL AT RANDOM FROM THE POPULATION HAVING
21 A DNA PROFILE MATCHING ITEMS 83.1 AND 83.2 IS
22 APPROXIMATELY ONE IN ONE POINT NINE TRILLION
23 BLACKS AND ONE IN ONE HUNDRED AND NINETY BILLION
24 CAUCASIANS.

25 SO, LIKEWISE THE ITEMS THAT MATCH JAMES

GRAYSON AMICK - DIRECT BY MR. POPE

1852

1 ROBERTSON ARE INDICATED HERE. AND, AGAIN, I
2 WILL READ THE PARAGRAPH ABOUT THESE IN A SECOND.
3 THE PROFILE FROM ITEM 114.2 IS CONSISTENT WITH
4 EARL AND/OR JAMES ROBERTSON. AND THAT IS THE
5 CLAW HAMMER.

6 THE PROFILE I GOT ON THAT CLAW HAMMER AT THE LOW
7 SIDE THAT I'M TALKING ABOUT WAS THE SAME FOR THE
8 FATHER AND THE SON HERE. SO, THEY HAD THE EXACT
9 SAME PATTERN. SO, I CAN'T SAY, WELL, THAT'S
10 EARL ROBERTSON BECAUSE IT'S THE SAME AS JAMES
11 ROBERTSON. SO, THAT'S WHY THAT APPEARS THERE.
12 SO, THERE SHOULD BE AN X HERE. I JUST REALIZE
13 THERE SHOULD BE AN X THERE.

14 Q. WOULD YOU INDICATE THAT ON THE EXHIBIT.

15 A. YES, 114.2 RIGHT HERE.

16 Q. RIGHT HERE?

17 A. YEAH. SINCE I CAN'T EXCLUDE ONE OR THE OTHER, I
18 JUST LIST IT AS IT COULD BE EITHER OR. AND
19 THAT'S NOT UNCOMMON IN THIS CASE BECAUSE THE
20 SUSPECT IN THIS CASE IS THE SON OF THE VICTIMS,
21 SO THERE IS ALMOST AN INTRINSIC CONTROL HERE
22 WHICH I REALLY HAVEN'T TALKED ABOUT BUT IF YOU
23 LOOK AT THE DATA, LIKE I SAID, HALF COMES FROM
24 YOUR MOTHER, HALF COMES FROM YOUR FATHER, SO
25 EVERY ALLELE THAT I SAW IN JAMES ROBERTSON I

GRAYSON AMICK - DIRECT BY MR. POPE

1853

1 COULD SEE THE ONE THAT CAME FROM THE MOTHER AND
2 THE ONE THAT CAME FROM THE FATHER BECAUSE I HAD
3 ALL THREE OF THEIR PATTERNS THERE.

4 AND THAT'S THE CRUX OF THESE OTHER TWO ITEMS.
5 LET ME READ THAT. THE PROFILE FROM ITEMS 117.1,
6 THE SOCK, AND 131.2, THE TIP OF THE BAT, IS
7 CONSISTENT WITH BEING A MIXTURE OF PROFILES
8 GREATER THAN ONE INDIVIDUAL. EARL, TERRY AND
9 JAMES ROBERTSON CANNOT BE EXCLUDED AS POSSIBLE
10 CONTRIBUTORS OF THESE BLOOD STAINS. MEREDITH
11 MOON IS ELIMINATED AS A POSSIBLE CONTRIBUTOR.
12 SO, WHEN YOU LOOK AT THE BANDS -- THIS ITEM YOU
13 SEE FOUR BANDS. IT'S USUALLY TWO OR ONE BAND,
14 SO I KNOW FROM THE STANDARDS THAT BOTH EARL AND
15 TERRY AND JAMES HAVE TWO BANDS AT WHAT I'M
16 TALKING ABOUT FOR THAT ITEM.

17 WELL, I'VE GOT FOUR BANDS, SO I KNOW THAT IT'S A
18 MIXTURE OF TERRY OR EARL BUT I CAN'T ELIMINATE
19 JAMES BECAUSE, LIKE I SAID BEFORE, YOU GET HALF
20 FROM YOUR MOTHER AND HALF FROM YOUR FATHER. ONE
21 OF THOSE FOUR IS GOING TO BE -- WELL, ACTUALLY
22 TWO OF THOSE FOUR IS GOING TO BE JAMES, TOO.
23 SO, THAT'S WHY THAT CAVEAT IS IN THE REPORT.
24 IT'S TALKING ABOUT THE GENETIC PHENOMENON THAT
25 WE'RE SEEING HERE WITH THE PERSON BEING AN

GRAYSON AMICK - DIRECT BY MR. POPE

1854

1 OFFSPRING.

2 Q. ARE YOU SAYING BASED ON THE FACT THAT THERE IS A
3 MIXTURE AND IT'S A MIXTURE OF THE MOTHER AND
4 FATHER, YOU CAN'T ELIMINATE THE SON?

5 A. EXACTLY. I COULDN'T ELIMINATE ANY OFFSPRING
6 THAT'S A MIXTURE OF MOM AND DAD.

7 Q. I SEE.

8 A. THERE'S ONE -- THAT'S IT, THAT'S IT. THAT'S THE
9 LAST OF THE STATEMENT.

10 Q. DID YOU ALSO PREPARE AS PART OF YOUR VIDEO
11 PRESENTATION AN EXPLANATION OF THE NUMBERS AND
12 HOW YOU ARRIVED AT THE NUMBERS?

13 A. I DID. THERE ARE THREE SLIDES HERE, ONE FOR
14 EACH OF THE PEOPLE THEY WERE MATCHED TO. SO,
15 THE FIRST ONE IS EARL ROBERTSON AND INDICATE THE
16 ITEMS HERE AGAIN WHAT MATCHED. THERE'S ONE AT
17 THE BOTTOM YOU CAN'T SEE HERE, AND ACTUALLY YOU
18 CAN'T SEE THE FINAL NUMBER EITHER.

19 BUT THESE ARE THE NAMES OF THE PROBES AGAIN ---

20 MR. HANCOCK: MAY IT PLEASE THE COURT, IF HE
21 COULD JUST MOVE A LITTLE ONE WAY OR THE OTHER.

22 A. SURE, NO PROBLEM. MAYBE WE COULD MAKE THAT
23 PROJECTOR GO UP A LITTLE BECAUSE THE FINAL
24 NUMBER IS NOT SHOWING UP HERE. BUT, AGAIN, THE
25 NAMES OF THE PROBES AND THEN THE SPECIFIC

GRAYSON AMICK - DIRECT BY MR. POPE

1855

1 FREQUENCY OF THE PATTERN AT EACH PROBE FOR EACH
2 OF THE TWO DATABASES WE MENTIONED.

3 SO, IF I JUST DID ONE TEST AT THIS LOCUST, MY
4 STATISTICS WOULD BE ONE IN THIRTY-FIVE PEOPLE.

5 Q. OKAY.

6 A. SO, WE DON'T JUST DO ONE LOCUS, WE DO MANY
7 LOCUS.

8 A. THERE WE GO. AND THAT IS THE REST OF THEM
9 LISTED SO NOT TO BELABOR THIS BUT THE NEXT
10 LOCUS, D2S44, WOULD BE ONE IN TWO HUNDRED. SO,
11 WHAT WE DO IS MULTIPLY THESE FREQUENCIES AND
12 EACH OF THESE SEVEN INDEPENDENT TESTS TOGETHER
13 AND YOU GET THIS HUGE NUMBER, ONE AND FOUR POINT
14 SEVEN BILLION.

15 Q. WHAT IS THE POPULATION OF THE PLANET?

16 A. ABOUT SIX BILLION, GIVE OR TAKE A FEW. THAT'S
17 NOT AN EXACT NUMBER, BUT I BELIEVE IT'S ABOUT
18 SIX BILLION.

19 AND THE NEXT ONE WHICH IS TERRY ROBERTSON.
20 AGAIN, LISTING THE PROBES THAT I TESTED FOR,
21 SEVEN HERE, GIVING THE FREQUENCY AT EACH PROBE
22 AND THE FINAL NUMBER FIVE POINT FIVE TRILLION.
23 AND THEN THE OTHER SLIDE WAS THE ONE WITH THE
24 ITEMS MATCHING JAMES ROBERTSON.

25 AGAIN, THESE ARE THE ITEMS MATCHING TERRY

GRAYSON AMICK - DIRECT BY MR. POPE

1856

1 ROBERTSON.

2 Q. BASED ON THE NUMBER FOR TERRY ROBERTSON AND THE
3 NUMBER OF THE POPULATION, I MEAN THAT WELL
4 EXCEEDS THE POPULATION OF THE ENTIRE PLANET.

5 A. IT DOES. FIVE POINT FIVE TRILLION HAS, WHAT IS
6 IT, TWELVE DECIMAL PLACES BACK HERE. BILLION IS
7 GOING TO HAVE NINE DECIMAL PLACES.

8 Q. AND FINALLY, THE LAST ONE?

9 A. YES, THIS IS THE LAST ONE. SO, THESE ARE THE
10 TWO ITEMS THAT MATCHED JAMES ROBERTSON. AGAIN,
11 LISTED THE PROBES AND THE FREQUENCY AT EACH
12 PROBE AND THE FINAL NUMBER.

13 MR. POPE: I BEG THE COURT'S INDULGENCE.

14 (AFTER A BRIEF PAUSE.)

15 Q. AGENT AMICK, YOU RECEIVED, AGAIN, A NUMBER OF
16 ITEMS FROM SEROLOGY; IS THAT CORRECT?

17 A. THAT'S CORRECT.

18 Q. THE ONES THAT YOU WEREN'T ABLE TO DO RFLP
19 TESTING OUT OF THE ITEMS YOU HAD, DID YOU IN
20 FACT PERFORM TESTING ON THEM?

21 A. I DID.

22 Q. SO, AGAIN, THE ITEMS THAT WERE RECOVERED, JUST
23 BECAUSE YOU DON'T HAVE IT TESTED DOESN'T MEAN
24 THAT SEROLOGY DIDN'T FIND BLOOD, IT JUST MEANS
25 THAT YOU COULDN'T DO FURTHER TESTING BASED ON

SON AMICK - DIRECT BY MR. POPE

1857

RFLP?

THAT'S RIGHT, RFLP YOU HAVE TO HAVE A CERTAIN AMOUNT OF DNA ON THE ITEM AND THE ONES I HAD THAT, I DID THE RFLP TESTING ON THEM.

ALL RIGHT; THANK YOU, SIR. ANSWER ANY QUESTIONS THE DEFENSE MIGHT HAVE.

THE CLERK: DO YOU WANT ME TO TURN THE LIGHTS ON?

MR. HANCOCK: YES, FOR RIGHT NOW.

CROSS EXAMINATION BY

MR. HANCOCK:

I'M JUST REALLY CURIOUS ABOUT ONE THING. MR. AMICK, YOU'RE INDICATING THAT YOUR DATABASE -- YOUR DATABASE, ARE YOU SAYING, IS THAT IN A COMPUTER?

YOU MEAN THE FREQUENCY OF THE ALLELES?

FREQUENCY DATABASE, YES.

YEAH.

AND THAT COMPUTER, DID YOU ENTER INTO THE COMPILATION OF THE COMPUTER DATA PROGRAM THAT YOU'RE USING?

NO RESPONSE.)

DID YOU WRITE THE PROGRAM?

THE PROGRAM THAT DOES?

THAT YOU'RE USING.

TO DO WHAT?

GRAYSON AMICK - CROSS BY MR. HANCOCK

1858

1 Q. TO DETERMINE THE FREQUENCY, ONE IN FIVE TRILLION
2 OR WHATEVER.

3 A. NO, I DIDN'T PERSONALLY WRITE THE PROGRAMS.

4 Q. SO, THIS IS A DATABASE THAT'S BEEN COMPILED AT
5 SOME POINT IN TIME AND THAT YOU USE IN YOUR
6 COMPUTER. IS THAT CORRECT, SIR?

7 A. YES, IT'S A SLED DATABASE.

8 Q. RIGHT.

9 A. I DIDN'T PERSONALLY WRITE THE PROGRAM BUT, YES,
10 IT'S THE DATABASE THAT SLED DEVELOPED FROM THE
11 PEOPLE IN SOUTH CAROLINA.

12 Q. SO, YOU DON'T KNOW WHETHER -- YOU CAN'T TESTIFY
13 FROM YOUR OWN KNOWLEDGE WHETHER IT IS EXACTLY
14 CORRECT CAN YOU, SIR?

15 A. I'M NOT SURE THAT ---

16 Q. YOU DIDN'T WRITE IT, IT'S IN A COMPUTER, RIGHT?

17 THE COURT: MR. HANCOCK, THE NEXT TIME YOU ASK A
18 QUESTION, LET HIM ANSWER BEFORE YOU ASK HIM ANOTHER
19 QUESTION.

20 Q. YES, SIR.

21 A. CAN YOU REPEAT THE QUESTION?

22 Q. OKAY. YOUR DATABASE IS IN A COMPUTER. YOU KEY
23 IN THE COMPUTER, CORRECT?

24 A. THAT'S RIGHT.

25 Q. AND WHATEVER THE COMPUTER SPITS BACK OUT TO YOU

GRAYSON AMICK - CROSS BY MR. HANCOCK

1859

1 IS WHAT YOU'RE PUTTING UP HERE?

2 A. THAT'S RIGHT.

3 Q. YOU DIDN'T WRITE THE DATABASE?

4 A. I THINK THAT'S A -- I DIDN'T WRITE THE PROGRAM
5 THAT ---

6 Q. YOU DIDN'T WRITE THE PROGRAM.

7 A. THAT'S RIGHT.

8 Q. OKAY. YOU DIDN'T PROGRAM THE COMPUTER; IS THAT
9 CORRECT?

10 A. THAT'S CORRECT.

11 Q. SO, IF THERE IS ANY ERROR, YOU WOULDN'T KNOW IT,
12 YOU WOULD JUST BE TESTIFYING TO WHAT YOU GOT OUT
13 OF THE COMPUTER, RIGHT?

14 A. YOU MEAN ERROR IN THE FREQUENCY CALCULATION THAT
15 THE COMPUTER DOES?

16 Q. ERROR IN ANYTHING THAT HAS BEEN PUT INTO THAT
17 PROGRAM.

18 A. WELL, THERE ARE, I MEAN THE CASE IS PEER
19 REVIEWED TO ADDRESS THAT PARTIALLY. SO,
20 EVERYTHING I PUT INTO THE COMPUTER IS PUT INTO
21 THE COMPUTER BY A DIFFERENT ANALYST, THE SAME
22 NUMBERS AND EVERYTHING, SO THAT WOULD TAKE CARE
23 OF ANY TYPOS THAT I WOULD DO.

24 SO, THE CASE IS PEER REVIEWED IN THAT THE
25 NUMBERS ARE GENERATED INDEPENDENTLY FROM ME BY

GRAYSON AMICK - CROSS BY MR. HANCOCK

1860

1 ANOTHER ANALYST SO THAT THAT ERROR IS ACCOUNTED
2 FOR.

3 TO ADDRESS, I GUESS WHETHER I WROTE THE PROGRAM,
4 I MEAN I CALCULATED -- I DID CALCULATE BY HAND
5 THE NUMBERS ON THE SLIDE FROM FREQUENCIES IN THE
6 DATABASE, INDEPENDENT OF THE COMPUTER, AND THEY
7 DID AGREE WITH THE NUMBERS. I MEAN I DID A
8 MANUAL CALCULATION TO GENERATE THESE SLIDES THAT
9 I COMPARED TO THE NUMBERS I GOT FROM THE
10 DATABASE OF THE COMPUTER AND THEY WERE THE SAME.

11 Q. HAS YOUR DATABASE BEEN PUBLISHED IN THE PEER
12 REVIEW JOURNAL?

13 A. NO, BUT IT'S BEEN SUBMITTED TO POPULATION
14 GENETICIST, DR. BRUCE WEIR, N. C. STATE WHO
15 EVALUATED IT AND ---

16 MR. HANCOCK: YOUR HONOR, I'M GOING TO OBJECT.

17 THE COURT: I SUSTAIN THE OBJECTION.

18 MR. POPE: OBJECTION, YOUR HONOR. HE'S AN
19 EXPERT; HE CAN TESTIFY AS TO THE BASIS OF HIS KNOWLEDGE.
20 HE HAS ASKED IF IT HAS BEEN PEER REVIEWED, AND HE'S
21 EXPLAINING HOW IT'S BEEN REVIEWED, YOUR HONOR.

22 THE COURT: LET ME LET THE JURY GO TO THE JURY
23 ROOM JUST FOR A MINUTE.

24 IN CAMERA:

25 THE COURT: MR. HANCOCK, OF COURSE, AN EXPERT CAN

GRAYSON AMICK - CROSS BY MR. HANCOCK

1861

1 TESTIFY BASED ON HEARSAY AND OTHER INFORMATION THAT'S NOT
2 ALLOWED IN THE RECORD. HE CAN TESTIFY THAT IT IS THINGS ON
3 WHICH HE RELIED.

4 MR. HANCOCK: MY QUESTION WAS HAS IT BEEN
5 PUBLISHED IN THE PEER REVIEW JOURNAL AND THE ANSWER WAS NO.
6 I WENT NO FURTHER AND I DON'T KNOW WHETHER HE IS EXPLAINING
7 WHY IT WASN'T PUBLISHED, IF SO, THAT'S FINE. BUT I DON'T
8 KNOW WHERE THE OTHER DOCTOR CAME IN UNLESS HE'S GOING TO
9 SAY THIS DATA WAS NOT GOOD ENOUGH TO PUBLISH OR THIS IS AN
10 UNPUBLISHED DATABASE.

11 THE COURT: WELL, THE BOTTOM LINE IS YOU DIDN'T
12 ASK FOR THAT ANSWER. ALL YOU ASKED WAS ---

13 MR. HANCOCK: YES, SIR, ALL I ASKED HIM WAS HAS
14 IT BEEN PUBLISHED.

15 MR. POPE: YOUR HONOR, HE CAN OBVIOUSLY ANSWER
16 AND THEN EXPLAIN. IN THIS PARTICULAR INSTANCE THE
17 IMPLICATION TO THE QUESTION IS THAT THIS ISN'T A VALID
18 DATABASE. HE CAN ALWAYS UNDER RULE 705 DISCLOSE THE FACTS
19 AND DATA UNDERLYING HIS EXPERT OPINION. I MEAN THE FACT
20 THAT IT HAS BEEN AUTHENTICATED BY DR. WEIR WOULD BE AN
21 APPROPRIATE RESPONSE TO THAT QUESTION.

22 THE COURT: WELL, HE'S GOT TO RESPOND TO THE
23 QUESTION AND THEN, OF COURSE, YOU HAVE A RIGHT TO REDIRECT.

24 MR. POPE: WELL, HE ALSO HAS AN OPPORTUNITY --
25 I'M NOT BEING ARGUMENTATIVE, YOUR HONOR, BUT HE DOES HAVE

GRAYSON AMICK - CROSS BY MR. HANCOCK

1862

1 AN OPPORTUNITY TO EXPLAIN HIS ANSWER. HE'S NOT RESTRICTED
2 TO SAYING YES OR NO.

3 THE COURT: THEN HOW IS HE GOING TO EXPLAIN --
4 THE QUESTION IS HAS IT BEEN PUBLISHED AND THE ANSWER IS NO.
5 HOW DO YOU EXPLAIN THAT?

6 MR. POPE: THE ANSWER IS NO, BUT IT HAS BEEN PEER
7 REVIEWED ---

8 THE COURT: NO, THAT'S A BUT, THAT'S NOT AN
9 EXPLANATION.

10 MR. POPE: BUT IS AN EXPLANATION, YOUR HONOR.

11 THE COURT: I DISAGREE. ALL RIGHT, BRING IN THE
12 JURY.

13 IN THE PRESENCE OF THE JURY:

14 THE COURT: YOU MAY PROCEED.
15 CONTINUED CROSS BY MR. HANCOCK:

16 Q. YOU INDICATED THAT YOUR DATABASE HAS NOT BEEN
17 PUBLISHED IN A PEER REVIEW JOURNAL; IS THAT
18 CORRECT, SIR?

19 A. THAT'S A CORRECT STATEMENT.

20 Q. AND AS A DNA EXPERT, YOU ARE FAMILIAR WITH THE
21 PEER REVIEW JOURNAL, ARE YOU NOT?

22 A. WHICH ONE? YOU SAID THE PEER REVIEW, YOU MEAN
23 WITH PEER REVIEW JOURNALS?

24 Q. YES, SIR.

25 A. YEAH, I'M FAMILIAR WITH IT.

GRAYSON AMICK - CROSS BY MR. HANCOCK

1863

1 Q. AND IT'S KIND OF A BIBLE OF YOUR PROFESSION,
2 ISN'T IT?

3 A. WELL, THERE'S NOT ONE PEER REVIEW JOURNAL THAT'S
4 THE BIBLE. I MEAN THERE ARE SEVERAL JOURNALS
5 FOR THE FIELDS OF FORENSIC DNA TESTING AND
6 GENETICS. SO, THERE ARE SEVERAL JOURNALS OUT
7 THERE THAT ARE LOOKED AT, YOU KNOW, FOR RESEARCH
8 AND INFORMATION.

9 Q. THAT WOULD BE THE JOURNAL OF FORENSIC SCIENCES,
10 THE JOURNAL OF HUMAN GENETICS; IS THAT CORRECT,
11 SIR?

12 A. THOSE ARE TWO.

13 Q. AND IS YOUR DATABASE PUBLISHED IN ANY OF THOSE?

14 A. IT IS NOT PUBLISHED IN THOSE, NO.

15 Q. NOW, YOU ARE -- AND ALSO, AND I'M JUST ASKING
16 FOR AN EXPLANATION HERE, YOU'VE ALSO GONE INTO
17 THAT THIS IS A CHANCE OF ONE IN SEVENTEEN
18 TRILLION, AND THERE ARE NOT THAT MANY PEOPLE ON
19 EARTH.

20 A. WHAT'S THE QUESTION? THAT THERE ARE NOT THAT
21 MANY PEOPLE ON EARTH?

22 Q. WERE YOU PROJECTING, HOW ARE YOU ARRIVING AT
23 THAT, SIR?

24 A. THAT'S WHY WE PUT THE SLIDES THAT SHOW AT EACH
25 LOCUS THE FREQUENCY. AND WE ARE ABLE TO

GRAYSON AMICK - CROSS BY MR. HANCOCK

1864

1 MULTIPLY THOSE FREQUENCIES AND GET THAT NUMBER.
2 SO, IF YOU WERE JUST TO USE ONE OF THOSE LOCUS
3 IT WOULD BE NOT AS BIG A NUMBER, IT WOULD BE ONE
4 IN NINETY-FOUR OR ONE IN TWO HUNDRED. IT'S WHEN
5 YOU MULTIPLY THOSE NUMBERS TOGETHER THAT YOU GET
6 THIS FREQUENCY AND THE FACT THAT IT IS A VERY
7 RARE PATTERN.

8 Q. AGAIN, I THOUGHT THAT EVERYBODY HAD A DIFFERENT
9 DNA ON EARTH AND WE'VE GOT FOUR POINT FIVE
10 BILLION PEOPLE ON EARTH; IS THAT WHAT YOU SAID,
11 SIR?

12 A. NO, I SAID I THINK AROUND SIX BILLION.

13 Q. SIX BILLION. BUT YET WE'RE SPEAKING THAT IT HAD
14 TO BE WITHIN X NUMBER OF TRILLION OF PEOPLE THAT
15 ARE NOT EVEN ON EARTH AND HAVEN'T BEEN BORN YET,
16 IS THAT CORRECT?

17 A. THAT'S CORRECT. THAT MEANS IT'S A VERY, VERY
18 RARE PATTERN.

19 Q. NOW, YOU TALKED IN MATCHES AND I JUST WANT TO
20 CLARIFY SOMETHING THERE. THERE IS NOT AN EXACT
21 MATCH IN EVERY SINGLE SITUATION IS THERE, SIR?

22 A. YOU MEAN -- WHAT DO YOU MEAN, EXACT MATCH?

23 Q. WELL, YOU'RE SAYING THEY'RE MATCHING. BASICALLY
24 YOU LINE THEM UP LIKE THIS, RIGHT, AND THAT'S
25 WHAT YOU SHOWED.

GRAYSON AMICK - CROSS BY MR. HANCOCK

1865

1 A. UH HUH.

2 Q. I MEAN ARE YOU SAYING THAT IT'S EXACT OR ARE YOU
3 SAYING THAT THERE IS A PERCENTAGE THAT YOU WORK
4 WITHIN?

5 A. I THINK YOU'RE ASKING ABOUT OUR MATCH WINDOW.
6 THERE IS A PERCENTAGE THAT THAT MEASURED BAND
7 FALLS WITHIN.

8 Q. SO, YOU'RE TALKING ABOUT THAT YOU'VE GOT A
9 PERCENTAGE THAT THIS FALLS WITHIN FOR YOUR
10 MATCH; IS THAT CORRECT?

11 A. THAT'S CORRECT, SIR.

12 Q. AND WHAT PERCENTAGE ARE WE TALKING ABOUT, ABOUT
13 2.8 PERCENT, 3 PERCENT?

14 A. THAT'S EXACTLY RIGHT, PLUS OR MINUS.

15 Q. WHICH ONE?

16 A. 2.8.

17 Q. OKAY, 2.8 PERCENT. SO, THIS HAS GOT TO FALL
18 WITHIN A MATCH OF 2.8 PERCENT; IS THAT WHAT
19 WE'RE SAYING?

20 A. THAT'S RIGHT. THE BAND THAT I MEASURE AND THE
21 BAND THAT I COMPARE IT TO, THAT BAND THAT I'M
22 MEASURING HAS TO BE PLUS OR MINUS 2.8 PERCENT OF
23 THIS BAND BEFORE I CAN SAY, YES, THAT'S A
24 CONFIRMED MATCH.

25 Q. SO, IT'S REALLY NOT AN EXACT MATCH; IS THAT WHAT

GRAYSON AMICK - CROSS BY MR. HANCOCK

1866

1 WE'RE SAYING?

2 A. IT DEPENDS ON HOW YOU DEFINE EXACT.

3 Q. ALL RIGHT. WHAT YOU DO IS, YOU DON'T KNOW HOW
4 THE DNA GOT THERE?

5 A. I DON'T UNDERSTAND ---

6 Q. YOU DON'T KNOW HOW THE DNA GOT ON THE KNIFE?

7 A. NO, I MEAN ---

8 Q. YOU'RE ASSUMING, IS THAT CORRECT?

9 A. ASSUMING WHAT?

10 Q. YOU'RE ASSUMING MAYBE HOW IT GOT THERE, BUT YOU
11 DON'T KNOW; ISN'T THAT CORRECT?

12 A. NO, WHEN I GO TO A CRIME SCENE WE COLLECT
13 PROBATIVE EVIDENCE AND COMPARE IT TO STANDARDS.

14 Q. AND DNA TESTING DOESN'T TELL YOU WHEN IT GOT
15 THERE EITHER DOES IT?

16 A. NO, IT DOES NOT.

17 Q. SO, IT DOESN'T TELL YOU IF IT'S BLOOD FROM THE
18 NOSE OR FROM THE ARM OR FROM THE FOOT OR
19 ANYTHING OF THAT NATURE; IS THAT CORRECT?

20 A. THAT'S A CORRECT STATEMENT.

21 Q. AND IT WON'T TELL YOU RACE?

22 A. NO, IT WON'T.

23 Q. DID YOU FIND ANYTHING UNUSUAL IN THE DNA
24 PATTERNS OF TERRY, EARL AND JIMMY?

25 A. DID I FIND ANYTHING UNUSUAL?

GRAYSON AMICK - CROSS BY MR. HANCOCK

1867

1 Q. YES, SIR.

2 A. NOT THAT I RECALL.

3 Q. WHEN YOU WERE DOING YOUR DNA SAMPLING YOU DIDN'T
4 FIND THAT AT SOME POINT THEIR DNA WAS AWFULLY
5 CLOSE?

6 A. WELL, I WOULDN'T CALL THAT UNUSUAL. I MEAN
7 THERE ARE CERTAIN LOCUS THAT, AND THIS IS WHERE
8 THEIR FREQUENCY NUMBER COMES FROM, CERTAIN LOCUS
9 AREN'T AS POLYMORPHIC -- THEY DON'T HAVE AS MANY
10 FORMS OF THAT ALLELE; THEY DON'T HAVE AS MANY
11 FORMS OF THAT GENE, SO THE CHANCE THAT ME AND
12 ANOTHER INDIVIDUAL WILL SHARE A BAND IS COMMON.
13 AND THAT'S WHY WE DO THE SEVEN LOCUS. SO WHEN
14 YOU SEE A NUMBER, YOU KNOW, ON D-17 WHICH IS NOT
15 A REAL POLYMORPHIC PROBE, WE MAY GET A NUMBER OF
16 ONE AND TWO. THAT MEANS THERE'S A ONE IN TWO
17 CHANCE THAT ME AND SOMEBODY ELSE IN THIS ROOM
18 ARE GOING TO SHARE THAT BAND.

19 SO, IF WE JUST DID THAT ONE TEST, MY NUMBER
20 WOULD BE ONE AND TWO. OKAY? THAT'S WHY WE DO
21 THESE SEVEN DIFFERENT PROBES. SO, THE FACT THAT
22 TWO UNRELATED INDIVIDUALS SHARE A BAND, I
23 WOULDN'T FIND THAT AS UNUSUAL. IT DEPENDS ON
24 THE PROBE.

25 Q. YOU INDICATE THAT, SAY THE TIP OF THE BAT, THAT

GRAYSON AMICK - CROSS BY MR. HANCOCK

1868

1 YOU CANNOT EXCLUDE JIMMY ROBERTSON. IS THAT
2 RIGHT?

3 A. THAT'S CORRECT.

4 Q. BUT YOU DID NOT IDENTIFY HIS DNA THERE?

5 A. WELL, I CAN INCLUDE HIM, YES. HIS PATTERN WAS
6 FOUND ON THAT BAT; SO WAS TERRY'S AND SO WAS
7 EARL'S. I CAN'T TELL WHOSE IT IS BECAUSE LIKE I
8 SAID BEFORE, HE'S GOING TO HAVE ALLELES THAT
9 THEY HAVE. BUT IT IS A MIXTURE ON THAT BAT.

10 Q. SO, IT'S A MIXTURE SO YOU CAN'T TELL EXACTLY
11 WHOSE IT IS AS YOU JUST SAID. IS THAT CORRECT,
12 SIR?

13 A. I CAN'T SAY EXACTLY WHOSE IT IS, BUT I CANNOT
14 EXCLUDE THOSE THREE INDIVIDUALS.

15 Q. BUT THERE IS A LITTLE BIT OF DIFFERENCE IN
16 SAYING EXACTLY WHOSE IT IS AND NOT BEING ABLE TO
17 EXCLUDE IT, ISN'T IT?

18 A. THERE'S A LOT OF DIFFERENCE.

19 Q. A LOT OF DIFFERENCE. AND THAT ALSO TAKES PLACE
20 ON THE SOCK, IS THAT WHAT I'M LOOKING AT?

21 A. THE FOURTH ONE FROM THE BOTTOM, SOCK IS 117.1.

22 Q. WELL, HERE'S WHAT I'M TRYING TO FIGURE OUT HERE.
23 I THOUGHT THAT YOU SAID THAT IT WAS JIMMY'S DNA
24 THAT WAS ON THE GREEN PILLOW CASE AND THAT WAS
25 IDENTIFIED.

GRAYSON AMICK - CROSS BY MR. HANCOCK

1869

1 A. RIGHT.

2 Q. AND SO YOU PUT AN X OVER THERE.

3 A. YES.

4 Q. OKAY, SO THAT X DOWN THERE ON THAT BAT, THAT X
5 DOESN'T MEAN THAT IT'S THE SAME THING AS THE
6 OTHER X, IT JUST MEANS THAT HE WAS NOT EXCLUDED,
7 NOT THAT HE WAS IDENTIFIED.

8 A. HE WAS NOT EXCLUDED, THAT'S CORRECT.

9 Q. SO, THE TWO X'S REALLY DON'T MEAN THE SAME
10 THING?

11 A. TO ME THEY DO. TO ME IT MEANS THAT HIS PATTERN
12 WAS FOUND ON THAT ITEM.

13 Q. YOU'RE CONFUSING ME HERE BECAUSE I THOUGHT YOU
14 JUST TOLD ME THAT NOT EXCLUDED AND
15 IDENTIFICATION WERE ACTUALLY DIFFERENT.

16 A. NOT EXCLUDED AND INCLUDED ARE DIFFERENT.

17 Q. CAN YOU JUST TELL ME, WAS THE DNA DEPOSITED ON
18 THE PILLOW COVER, 83.1 AND 83.2, WAS IT
19 DEPOSITED AT THE SAME TIME AS THE DNA ON, SAY,
20 THE YELLOW PANTS OR THE WHITE SOCK?

21 A. I CAN'T TELL YOU THAT.

22 Q. YOU CAN'T TELL ME THAT.

23 Q. I BEG THE INDULGENCE OF THE COURT ONE MOMENT.

24 (AFTER A BRIEF PAUSE.)

25 Q. AND BECAUSE HE'S AN OFFSPRING OF EARL AND TERRY,

GRAYSON AMICK - CROSS BY MR. HANCOCK

1870

1 THEN HE COULDN'T BE EXCLUDED; IS THAT RIGHT?

2 A. ON THE TIP OF THE BAT AND THE SOCK?

3 Q. RIGHT.

4 A. NO, THAT'S JUST ANOTHER FACT. I MEAN THE FACT
5 WAS I SAW HIS STANDARD AND THEIR STANDARDS AND
6 WHEN I LOOKED AT THAT SAMPLE THAT HAD THE
7 MIXTURE, ALL THE ALLELES THAT WERE IN THEIR
8 THREE STANDARDS WERE IN THAT MIXTURE. SO, THE
9 FACT THAT HE'S AN OFFSPRING, YEAH, THAT'S NEAT
10 AS WELL, BUT FOR THAT SAMPLE, YEAH, ALL THE
11 ALLELES WERE THERE.

12 Q. RIGHT, SO YOU COULDN'T EXCLUDE ANY OFFSPRING?

13 A. THAT'S RIGHT.

14 Q. I HAVE NO FURTHER QUESTIONS, YOUR HONOR.

15 REDIRECT EXAMINATION BY

16 MR. POPE:

17 Q. AGENT AMICK, MR. HANCOCK WAS ASKING YOU ABOUT
18 THE DATABASE THAT YOU USE AND, OF COURSE, THAT'S
19 AFTER YOU DO ALL YOUR OTHER WORK AND THE TESTING
20 AND THE ACTUAL WORKING WITH THE EVIDENCE, IS
21 THAT RIGHT?

22 A. THAT'S RIGHT.

23 Q. HAS SLED ALWAYS HAD A DNA LAB?

24 A. NO, THEY HAVEN'T.

25 Q. ONE DAY DID Y'ALL JUST THROW ONE TOGETHER OR WAS

GRAYSON AMICK - REDIRECT BY MR. POPE

1871

1 THERE A PROCEDURE THAT WAS FOLLOWED IN ORDER TO
2 PUT IT IN PLACE?

3 A. YEAH, THERE WERE SEVERAL THINGS THAT HAD TO BE
4 DONE, RIGHT.

5 Q. CAN YOU EXPLAIN TO THE JURY, PARTICULARLY AS IT
6 RELATES TO YOUR DATABASE, WHAT HAS TO BE DONE
7 BEFORE SLED ACTUALLY COULD START TESTING DNA?

8 A. RIGHT. BEFORE YOU CAN TAKE AN UNKNOWN SAMPLE
9 AND ASSIGN IT A FREQUENCY, YOU HAVE TO, LIKE I
10 SAID, DEVELOP A DATABASE OF FREQUENCIES. THAT
11 IS, WHEN I RUN TWO HUNDRED, FIVE HUNDRED, A
12 THOUSAND PEOPLE, HOW MANY TIMES DO I SEE THIS
13 BAND. ONE IN A THOUSAND? THAT WOULD BE A
14 FREQUENCY OF POINT 001. ONE IN EVERY TWO, THAT
15 WOULD BE A FREQUENCY OF ONE IN TWO. AND YOU DO
16 THAT AND YOU DO A LOT OF OTHER VALIDATION AND
17 THEN AT THAT POINT WHEN YOU HAVE VALIDATED THAT
18 DATABASE, AND IN MY OPINION THE BEST WAY TO
19 VALIDATE A DATABASE WOULD BE TO GIVE IT TO A
20 GENETICIST, A POPULATION GENETICIST, LET HIM
21 EVALUATE IT, SEE IF IT CONFORMED TO THE
22 PARAMETERS IT SHOULD FOR A POPULATION DATABASE.
23 WE DID THAT AND FOUND OUT THAT OUR DATABASE WAS
24 VALID.

25 Q. COULD YOU TELL THE JURY HOW AND WHO YOU VALIDATE

GRAYSON AMICK - REDIRECT BY MR. POPE

1872

1 YOUR DATABASE WITH?

2 A. YEAH, DR. BRUCE WEIR, N.C. STATE, A WELL KNOWN
3 POPULATION GENETICIST, TOOK OUR DATABASE, LOOKED
4 AT THE NUMBERS AND MADE SURE IT CONFORMED TO
5 CERTAIN POPULATION GENETIC PARAMETERS. AND I
6 COULD THROW OUT TERMS ABOUT THAT, HARDY
7 WEINBERG, AND ALL THAT, AND HE FOUND THAT IT DID
8 CONFORM.

9 D-17 WHICH IS A LOCUS DID NOT CONFORM, AND WE
10 TAKE MEASURES TO CORRECT FOR THAT.

11 MR. HANCOCK: YOUR HONOR, I'M GOING TO OBJECT.

12 THE COURT: I SUSTAIN THE OBJECTION AT THIS
13 POINT.

14 MR. POPE: WHAT IS THE BASIS FOR THE OBJECTION,
15 YOUR HONOR, PERHAPS I CAN DEAL WITH IT APPROPRIATELY.

16 THE COURT: WELL, HE'S GONE, I THINK, BEYOND THE
17 ANSWER TO THE QUESTION. JUST ASK HIM ANOTHER QUESTION.

18 Q. DR. BRUCE WEIR, TO YOUR KNOWLEDGE IS HE THE
19 GENETICIST THAT EVALUATED YOUR DATABASE; IS THAT
20 CORRECT?

21 A. THAT'S CORRECT.

22 Q. AND TO YOUR KNOWLEDGE HAS HE ALSO EVALUATED
23 OTHER DATABASES?

24 A. HE HAS.

25 Q. DO YOU KNOW OF ANY IN PARTICULAR?

GRAYSON AMICK - REDIRECT BY MR. POPE

1873

1 A. I DON'T KNOW WHOSE HE HAS, BUT HE IS A WELL
2 KNOWN POPULATION GENETICIST THAT DOES WORK IN
3 THE FORENSIC FIELD.

4 Q. ALL RIGHT; THANK YOU, SIR.

RE CROSS EXAMINATION BY

6 MR. HANCOCK:

7 Q. YOU'VE ENTERED INTO HOW YOUR LAB WAS
8 CONSTRUCTED. YOUR LAB IS NOT CONSTRUCTED TO NEW
9 PCR DNA IS IT?

10 A. WELL, IT IS NOW, YES.

11 Q. IT IS NOW; IT HASN'T BEEN TO THIS POINT?

12 A. IT WASN'T WHEN WE RECEIVED THESE SAMPLES.

13 Q. WHEN YOU GOT THIS, IT WASN'T.

14 A. THAT'S RIGHT.

15 Q. SO, YOU HAD TO SEND ACTUALLY SOME DNA EVIDENCE
16 OFF TO ANOTHER LAB IN TENNESSEE, DIDN'T YOU?

17 A. WE DID SEND OTHER EVIDENCE OFF.

18 Q. AND IT WAS ANALYZED BY SOMEBODY ELSE, RIGHT?

19 A. THAT'S RIGHT.

20 Q. BECAUSE YOU DIDN'T HAVE THE CAPABILITY TO DO SO.
21 IS THAT CORRECT, SIR?

22 A. WE WEREN'T DOING THE PCR TESTS, THAT'S CORRECT.

23 Q. RIGHT. NOW, IS YOUR BOSS IRA JEFFCOAT?

24 A. THAT IS MY BOSS; YES. THAT'S THE DEPARTMENT
25 SUPERVISOR FOR DNA.

GRAYSON AMICK - RECROSS BY MR. HANCOCK

1874

1 Q. ARE YOU AWARE THAT HE HAS TESTIFIED THAT YOUR
2 DATABASE SAMPLES WERE BASICALLY COLLECTED RATHER
3 HAPHAZARDLY?

4 A. I'M NOT AWARE OF THAT.

5 Q. YOU'RE NOT AWARE OF THAT, OKAY. I HAVE NO
6 FURTHER QUESTIONS, YOUR HONOR.

7 THE COURT: YOU MAY STEP ---

8 MR. POPE: MAY IT PLEASE THE COURT, YOUR HONOR,
9 THEY HAVE INTERJECTED ANOTHER ISSUE AS TO PCR DNA. THIS
10 WITNESS IS AWARE OF THE PCR DNA TESTING RESULTS AND I WOULD
11 REQUEST TO GO INTO THOSE AT THIS TIME.

12 THE COURT: I DENY THAT. DO YOU WANT TO MAKE A
13 PROFFER?

14 MR. POPE: YES, SIR.

15 THE COURT: GO TO THE JURY ROOM JUST FOR A FEW
16 MINUTES WHILE WE TAKE UP A MATTER OF LAW.

17 IN CAMERA:

18 THE COURT: ALL RIGHT, ARE YOU READY TO PROCEED?

19 REDIRECT OF WITNESS AMICK (IN CAMERA):

20 Q. MR. AMICK, AT THE DEFENSE REQUEST DID YOU SEND
21 ADDITIONAL ITEMS FROM THE ITEMS YOU TESTED,
22 ADDITIONAL CUTTINGS TO THE MICRO DIAGNOSTIC
23 LABORATORY IN NASHVILLE, TENNESSEE?

24 A. I DID.

25 Q. AND BASED ON THE TESTING IN NASHVILLE, TENNESSEE

GRAYSON AMICK - REDIRECT BY MR. POPE

1875

1 DID YOU RECEIVE A REPORT BACK TO YOUR ATTENTION
2 FROM MICHAEL DEGUGLIELMO, THE DIRECTOR OF
3 FORENSIC ANALYSIS THERE?

4 A. I DID.

5 Q. AND ARE YOU AWARE OF THE RESULTS OF THAT TEST?

6 A. I AM.

7 Q. YOUR HONOR, THAT WOULD BE IT AND I WOULD TENDER
8 THOSE REPORTS.

9 THE COURT: ANY VOIR DIRE? REALLY ANY
10 QUESTIONING ON THIS ISSUE.

11 MR. HANCOCK: I BEG THE INDULGENCE OF THE COURT
12 ONE MOMENT.

13 MR. BOYD: YOUR HONOR, IF YOU WOULD INDULGE US
14 ONE MINUTE.

15 THE COURT: YES, SIR.
16 (AFTER A BRIEF PAUSE.)

17 MR. HANCOCK: WE WON'T OBJECT, YOUR HONOR.

18 THE COURT: YOU WON'T OBJECT TO WHAT?

19 MR. HANCOCK: I BELIEVE HE'S TRYING TO INTRODUCE
20 THE PCR REPORT THROUGH THIS GENTLEMAN BECAUSE IT WAS
21 BROUGHT UP AND I BROUGHT IT UP ON RECROSS.

22 THE COURT: YOU OBJECTED AND YOU'RE WITHDRAWING
23 YOUR OBJECTION?

24 MR. HANCOCK: WE'RE WITHDRAWING THE OBJECTION,
25 YOUR HONOR, IF THEY WISH TO ENTER IT.

GRAYSON AMICK - REDIRECT BY MR. POPE

1876

1 THE COURT: ALL RIGHT. BRING THE JURY BACK IN.
2 IN THE PRESENCE OF THE JURY:

3 THE COURT: YOU MAY PROCEED.

4 CONTINUED REDIRECT OF WITNESS AMICK:

5 Q. MR. AMICK, I WAS ASKING YOU ABOUT THE
6 OPPORTUNITY -- DID YOU HAVE AN OPPORTUNITY TO
7 SEND FURTHER EVIDENCE TO THE MICRO DIAGNOSTICS
8 LAB IN NASHVILLE, TENNESSEE, TO A MICHAEL
9 DEGUGLIELMO, DIRECTOR OF FORENSIC ANALYSIS THERE
10 TO REQUEST THAT SOME ADDITIONAL ITEMS BE TESTED
11 FOR PCR DNA?

12 A. I DID.

13 Q. COULD YOU TELL THE JURY, WHAT IS PCR DNA, HOW
14 DOES IT DIFFER FROM THE RFLP?

15 A. PCR DNA TESTING IS DIFFERENT IN THAT YOU'RE
16 TAKING A SMALL AMOUNT OF DNA AND AMPLIFYING THAT
17 AND, AGAIN, YOU LABEL IT IN A WAY AND DETECT THE
18 ALLELES. YOU'RE LOOKING AT DIFFERENT PLACES ON
19 THE CHROMOSOME THAN YOU ARE WHEN YOU DO A RFLP
20 TEST.

21 THE END RESULT IS YOU DO DIFFERENT ALLELES AND
22 YOU GET PROFILE FROM THOSE AND YOU GENERATE A
23 NUMBER LIKE I DID.

24 Q. OKAY, AND YOU SAID BACK WHEN YOU RECEIVED THE
25 EVIDENCE IN THIS CASE, SLED DID NOT DO PCR, IS

GRAYSON AMICK - REDIRECT BY MR. POPE

1877

1 THAT CORRECT?

2 A. THAT'S CORRECT.

3 Q. AT THE CURRENT TIME SLED DOES DO PCR?

4 A. WE ARE IN THE PROCESS OF VALIDATING PCR, YES.

5 Q. AND STATE'S EXHIBIT 188, YOU HAVE HAD AN
6 OPPORTUNITY TO LOOK AT IT. THAT IS THE REPORT
7 FROM THE PCR LAB CONCERNING VARIOUS ITEMS OF
8 EVIDENCE?

9 A. IT IS.

10 MR. POPE: YOUR HONOR, I MOVE STATE'S EXHIBIT 188
11 INTO EVIDENCE.

12 THE COURT: ANY OBJECTION?

13 MR. HANCOCK: WITHOUT OBJECTION, YOUR HONOR.

14 THE COURT: RECEIVED WITHOUT OBJECTION.

15 (THE FORENSIC REPORT FROM THE PCR DNA TESTING IN TENNESSEE
16 WAS MARKED IN EVIDENCE AS STATE'S EXHIBIT 188 WITHOUT
17 OBJECTION.)

18 Q. HAVE YOU HAD AN OPPORTUNITY TO REVIEW THAT
19 REPORT SINCE YOU RECEIVED IT?

20 A. I HAVE.

21 Q. COULD YOU DESCRIBE TO THE JURY THE FORMAT IN
22 WHICH THE REPORT IS PRESENTED? IS IT SIMILAR TO
23 YOUR REPORT?

24 A. IT'S SIMILAR, IT HAS SOME PROBES HERE ABOUT WHAT
25 MATCHED WHAT AND WHAT THE FREQUENCY IS. AND

GRAYSON AMICK - REDIRECT BY MR. POPE

1878

1 THEN THERE'S AN ATTACHMENT THAT ACTUALLY GIVES
2 SOME DATA.

3 Q. I WILL REFER YOU TO THE SECOND PAGE, TO THE
4 PARAGRAPH RELATING TO THE ACTUAL TESTING OF
5 ITEMS AND THEN THE FOLLOWING PAGES, ARE THOSE
6 CHARTS SOMEWHAT SIMILAR TO THE CHARTS THAT YOU
7 CREATED?

8 A. THEY ARE KIND OF A CHART FORM OF AN AUTORAD,
9 WHAT THEY ARE ACTUALLY CALLING AS FAR AS THE
10 DATA. SO, IT'S MORE LIKE OVERALL DATA.

11 Q. AND COULD YOU RELATE -- DID YOU ALSO HAVE THE
12 OPPORTUNITY AS PART OF YOUR PREPARATION FOR THIS
13 CASE, DID YOU ALSO HAVE THE OPPORTUNITY TO
14 CONFER WITH THE DIRECTOR OF FORENSIC ANALYSIS,
15 MICHAEL DEGUGLIELMO ON THIS MATTER, THE MAN THAT
16 TESTED THESE ITEMS, PCR TESTED?

17 A. I DID.

18 Q. AND COULD YOU RELATE TO THE JURY THE RESULT OF
19 THOSE TESTS?

20 A. HE ISOLATED DNA FROM ALL 20 ITEMS OF EVIDENCE
21 THAT WAS SUBMITTED, JUST READING HIS REPORT,
22 COMPARISONS WERE MADE USING SHORT TANDEM REPEAT,
23 STR PCR DNA ANALYSIS. RESULTS OF THE ANALYSIS
24 ARE SHOWN IN THE ATTACHMENT, THE CHART THAT
25 WE'RE TALKING ABOUT. THE PCR DNA RESULTS

GRAYSON AMICK - REDIRECT BY MR. POPE

1879

1 OBTAINED ROM ITEM NUMBER 119.1, THE CUTTING FROM
2 PINK SOCK, ITEM 125.2, THE SWAB FROM THE SOLE OF
3 RIGHT SHOE, AND ITEM NUMBER 125.3, SWAB FROM THE
4 SOLE OF LEFT SHOE ARE CONSISTENT WITH THE DNA
5 PROFILE OF EARL ROBERTSON AND OCCUR WITH A
6 FREQUENCY OF ONE IN A HUNDRED AND THIRTY-TWO
7 MILLION. THE PCR DNA RESULTS OBTAINED FROM ITEM
8 103.1.1, THE CUTTING FROM MAROON SWEATSHIRT,
9 ITEMS 121.1 AND 122.1, CUTTINGS FROM THE BLUE
10 SOCK, ITEM 172.1, THE CUTTING FROM A STRIPED
11 SWEATER, ARE CONSISTENT WITH THE DNA PROFILE OF
12 TERRY ROBERTSON AND OCCUR WITH A FREQUENCY OF
13 ONE IN FIVE HUNDRED AND NINETY-SEVEN MILLION.
14 THE PCR DNA RESULTS OBTAINED FROM ITEM 42, SWAB
15 FROM THE TELEPHONE RECEIVER, YIELDED A PARTIAL
16 PROFILE CONSISTENT WITH THE DNA PROFILE OF TERRY
17 ROBERTSON. THE PCR DNA RESULTS OBTAINED FROM
18 ITEM 103.1.1, THE CUTTING FROM THE GRAY T-SHIRT,
19 ITEM 105.1, THE CUTTING FROM THE WHITE T-SHIRT,
20 ITEM 108.1, THE SWAB FROM THE TOP OF THE
21 MEDICINE BOTTLE CAP, AND ITEM 123.1, A CUTTING
22 FROM THE BLUE SOCK ARE ALL CONSISTENT WITH A
23 MIXTURE OF DNA FROM TERRY ROBERTSON AND EARL
24 ROBERTSON. THE PCR DNA RESULTS OBTAINED FROM
25 ITEM 125.1, THE CUTTING FROM THE RIGHT SHOE, ARE

GRAYSON AMICK - REDIRECT BY MR. POPE

1880

1 NOT CONSISTENT WITH ANY OF THE INDIVIDUALS
2 TESTED IN THIS ANALYSIS. THE PCR DNA RESULTS
3 OBTAINED FROM ITEM 102.1, A CUTTING FROM A
4 TOWEL, DEMONSTRATED THE PRESENCE OF A MIXTURE OF
5 DNA FROM MORE THAN ONE INDIVIDUAL. THE RESULTS
6 OF THIS MIXTURE ARE INCONCLUSIVE. NO CONCLUSIVE
7 RESULTS WERE OBTAINED FROM ITEM 22, SWAB FROM
8 THE KITCHEN FLOOR, OR FROM ITEM 25, THE SWAB
9 FROM THE SINK BASIN IN THE HALL BATHROOM. THE
10 REMAINDER OF THE EVIDENCE AND PACKAGING IS
11 ENCLOSED.

12 Q. I'LL CALL YOUR ATTENTION -- YOU TALKED ABOUT THE
13 ATTACHMENTS, AND YOU SAID BASICALLY THIS IS LIKE
14 A WRITTEN VERSION OF YOUR AUTORAD, IS THAT
15 CORRECT?

16 A. RIGHT, AND YOU CAN EXTRAPOLATE THIS TYPE THING.
17 YOU CAN SEE BY LOOKING AT THE STANDARDS AND YOU
18 CAN COMPARE THEM TO THE EVIDENCE TO SEE WHAT
19 MATCHES.

20 Q. AND DID YOU HAVE AN OPPORTUNITY TO REVIEW HIS
21 ATTACHMENT AS WELL AS DISCUSS THE TESTING WITH
22 HIM?

23 A. I DID.

24 Q. AND I'LL CALL YOUR ATTENTION PARTICULARLY TO
25 125.1 WHICH IS THE CUTTING FROM THE RIGHT SHOE,

GRAYSON AMICK - RECROSS BY MR. HANCOCK

1881

1 INDICATED THAT IT IS NOT CONSISTENT WITH ANY OF
2 THE INDIVIDUALS TESTED. DID YOU NOTE ANYTHING,
3 OBSERVE IN THE ATTACHMENTS AND IN DISCUSSING THE
4 MATTER WITH HIM CONCERNING THAT TEST?

5 A. I DID. I TALKED WITH MIKE ABOUT THAT IT LOOKED
6 LIKE AN OFFSPRING OF EARL AND TERRY AND HE
7 AGREED THAT ALL THE ALLELES, ALL THE DATA HERE
8 ARE CONSISTENT WITH THIS PERSON POSSIBLY BEING
9 ANOTHER OFFSPRING OF THE TWO VICTIMS.

10 Q. ALL RIGHT, THANK YOU. I BEG THE COURT'S
11 INDULGENCE.

12 (AFTER A BRIEF PAUSE.)

13 Q. ANSWER ANY QUESTIONS THE DEFENSE MAY HAVE.

RECROSS EXAMINATION BY

14
15 MR. HANCOCK:

16 Q. YOU WERE JUST ASKED ABOUT, I BELIEVE, 125.1 AND
17 THAT DNA INDICATES THAT IT WAS ANOTHER OFFSPRING
18 OF TERRY AND EARL ROBERTSON, NOT JIMMY. ISN'T
19 THAT CORRECT?

20 A. IT'S CONSISTENT -- WE AGREED, ME AND MIKE AGREED
21 THAT IT IS CONSISTENT WITH POSSIBLY BEING
22 ANOTHER OFFSPRING, THAT'S CORRECT.

23 Q. NOT JIMMY?

24 A. NOT JIMMY.

25 Q. ALL RIGHT. NOW, I'M GOING TO REFER YOU TO

GRAYSON AMICK - RECROSS BY MR. HANCOCK

1882

1 RESULTS OBTAINED FROM ITEM 42, AND THAT'S THE
2 SWAB FROM THE TELEPHONE RECEIVER, YIELDED A
3 PARTIAL PROFILE CONSISTENT WITH A DNA PROFILE OF
4 TERRY ROBERTSON. REALLY IN PCR YOU CAN'T HAVE A
5 PARTIAL PROFILE CAN YOU, SIR?

6 A. IT DEPENDS ON HOW YOUR LAB DEFINES PARTIAL
7 PROFILE.

8 Q. WELL, LET'S SEE, AND I'M LOOKING AT YOUR
9 ATTACHMENT ONE NOW, TERRY ROBERTSON HAS, AND
10 I'LL JUST GO BY NUMBERS, I WON'T SAY ALLELES AND
11 ALL THESE THINGS, THERE'S A NUMBER 8 THERE.

12 A. WHICH COLUMN ARE YOU LOOKING AT?

13 Q. UNDER D13S317.

14 A. OKAY. WHAT'S THE QUESTION?

15 Q. TERRY ROBERTSON THERE, IF YOU GO ACROSS THERE
16 THEY'VE GOT EARL ROBERTSON AS A 12.

17 A. THAT'S RIGHT.

18 Q. AND THEN THEY'VE GOT TERRY ROBERTSON WITH 8.13
19 AND THEN I GO OVER TO YOUR TELEPHONE RECEIVER
20 WHICH HAS A FAINT 12 AND 13, NO 8. IT'S A
21 MISTAKE, ISN'T IT?

22 A. I DON'T KNOW HOW HE DEFINES PARTIAL. WHAT WAS
23 HIS VERBIAGE, PARTIAL PROFILE.

24 Q. WELL, YOU EITHER HAVE A MATCH OR YOU DON'T HAVE
25 A MATCH, DON'T YOU?

GRAYSON AMICK - RECROSS BY MR. HANCOCK

1883

1 A. WELL, NO. YOU COULD HAVE A NO RESULT, YOU COULD
2 HAVE A PARTIAL PROFILE.

3 Q. WHAT I'M LOOKING HERE FOR THOUGH IS EVERYTHING
4 ELSE THAT YOU'RE SAYING IS A MATCH HAS NUMBER 8
5 IN IT. AND THEN ON THE TELEPHONE RECEIVER YOU
6 DON'T HAVE A MATCH THERE.

7 A. I DON'T THINK HE CALLED THAT A MATCH, HE CALLED
8 IT A PARTIAL PROFILE. ALL THE ALLELES -- THE
9 PARTIAL PROFILE, I DON'T KNOW HOW HE DEFINES
10 PARTIAL PROFILE, BUT HE DIDN'T CALL THAT A
11 MATCH, NO.

12 Q. SO, YOU CAN'T EXCLUDE THAT THAT'S A MISTAKE, CAN
13 YOU?

14 A. WELL, NO, IT DEPENDS ON HOW HE DEFINES PARTIAL
15 PROFILE.

16 Q. SO, YOU CAN'T EXCLUDE THAT THAT WAS A MISTAKE
17 BECAUSE THAT IS NOT THERE.

18 A. SAY THAT AGAIN? I CAN'T EXCLUDE THAT ---

19 Q. YOU CAN'T EXCLUDE THAT IT'S A MISTAKE.

20 A. I CAN'T EXCLUDE THAT ON HIS REPORT THERE'S A
21 MISTAKE? I'M NOT SURE OF THE QUESTION.

22 Q. HIS ANALYSIS HAS A MISTAKE IN IT.

23 A. I MEAN I CAN'T AGREE TO THAT.

24 Q. WHY CAN'T YOU?

25 A. BECAUSE I DON'T KNOW HOW HE DEFINES PARTIAL

GRAYSON AMICK - RECROSS BY MR. HANCOCK

1884

1 PROFILE. IF THIS FALLS INTO HIS DEFINITION OF
2 PARTIAL PROFILE, THEN THERE'S NOT A MISTAKE.

3 Q. WELL, LET ME ASK YOU THIS. WHAT IS YOUR
4 DEFINITION OF A PARTIAL PROFILE IN YOUR
5 KNOWLEDGE OF PCR TESTING?

6 A. THAT'S A GOOD QUESTION. WE'RE VALIDATING PCR,
7 SO WE HAVEN'T DEFINED PARTIAL PROFILE IN OUR LAB
8 YET.

9 Q. SO IN YOUR LAB YOU HAVE NO PARTIAL PROFILE?

10 A. WELL, NO, IN OUR LAB WE'RE VALIDATING THIS TEST.
11 EACH LAB GOES THROUGH A SERIES OF VALIDATION
12 EXPERIMENTS AND DEFINES, YOU KNOW, HOW THEY'RE
13 GOING TO WRITE THEIR REPORT, HOW THEY'RE GOING
14 TO REPORT MIXTURES, HOW THEY'RE GOING TO REPORT
15 PARTIAL PROFILES, THAT TYPE STUFF. WE HAVEN'T
16 DEFINED THOSE PARAMETERS YET.

17 Q. NOW, YOUR PCR TESTING, ACTUALLY YOU INDICATED
18 THAT IF THERE WAS NOT A SUFFICIENT SAMPLE OR IF
19 IT WAS SMALL ENOUGH, YOU SENT IT OFF FOR PCR
20 TESTING. THAT'S BECAUSE PCR TESTING IS MORE
21 SENSITIVE; IS THAT CORRECT, SIR?

22 A. THAT'S CORRECT.

23 Q. NO FURTHER QUESTION, YOUR HONOR.

24 THE COURT: YOU CAN STEP DOWN. WE APPRECIATE
25 YOUR TIME. THANK YOU. CAN THIS WITNESS BE EXCUSED?

1885

1 MR. POPE: YES, SIR, YOUR HONOR.

2 MR. POPE: MAY IT PLEASE THE COURT, YOUR HONOR,
3 SUBJECT TO REVIEWING THE EVIDENCE ITEMS WITH THE COURT
4 REPORTER, ~~THE~~ STATE WOULD REST AT THIS TIME.
5 (THE STATE RESTED AT 12:50 P.M.)

6 THE COURT: MEMBERS OF THE JURY PANEL, THE STATE
7 IS RESTING. THAT IS, THE STATE IS TELLING US THAT IT HAS
8 PRESENTED THE EVIDENCE IT INTENDS TO PRESENT. AT THIS TIME
9 IT IS TIME FOR LUNCH. IT IS ALSO TIME FOR US TO TAKE UP
10 CERTAIN LEGAL MATTERS. SO, WHILE WE KIND OF HAD STARTS AND
11 STOPS THIS MORNING, WE DO HAVE A FEW MATTERS. SO, THE
12 LUNCH, I'M NOT GOING TO SAY IT WILL BE AN HOUR AND A HALF.
13 I'M GOING TO LET YOU GO AHEAD AND EAT AND RELAX AND WE'LL
14 SEND FOR YOU AS QUICKLY AS WE CAN AFTER WE TAKE CARE OF OUR
15 BUSINESS AND HAVE AN OPPORTUNITY TO EAT ALSO.

16 SO, WE WILL LET YOU GO TO THE JURY ROOM. BUT THE
17 STATE HAS PRESENTED ITS CASE ALTHOUGH UNDER CERTAIN
18 CIRCUMSTANCES THE STATE MAY PRESENT EVIDENCE AT A LATER
19 TIME, AS I SAY, UNDER CERTAIN CIRCUMSTANCES. SO, I'M GOING
20 TO LET YOU GO TO THE JURY ROOM AT THIS TIME. ENJOY YOUR
21 LUNCH.

22 IN CAMERA:

23 THE COURT: ANYTHING FROM THE STATE AT THIS TIME?

24 MR. POPE: YOUR HONOR, I THINK I HAVE DONE THIS
25 SEVERAL TIMES WITH THE COURT REPORTER BUT DUE TO THE VOLUME

1 OF THE EXHIBITS, THE ONLY CAVEAT I PUT ON THAT WAS MAKING
2 SURE THAT EVERYTHING HAS BEEN PROPERLY MOVED IN.

3 WE DID HAVE A QUESTION AND I HAVE NOT HAD A
4 CHANCE TO ADDRESS IT WITH MR. HANCOCK, THERE WAS ONE TO DO
5 LIST THAT WAS FOUND BY THE DOOR IN THE HOUSE. IT'S BEEN
6 REFERENCED SEVERAL TIMES AND THERE IS SOME QUESTION OF
7 WHETHER IT HAD BEEN MOVED INTO EVIDENCE OR NOT.

8 THERE ARE A NUMBER OF ITEMS THAT I THINK WE WANT
9 TO REVIEW AND THERE MAY BE SOME MATTERS THAT THE DEFENSE
10 WOULD PREFER NOT TO GO BACK, SO WE NEED TO ADDRESS THAT.

11 THE COURT: ALL RIGHT. MR. HANCOCK OR MR. BOYD,
12 ANYTHING AT THIS TIME?

13 MR. HANCOCK: YOUR HONOR, WE WOULD MOVE FOR A
14 DIRECTED VERDICT, FIRST ON THE CHARGE OF THE MURDER OF EARL
15 ROBERTSON IN THAT WE DON'T BELIEVE THAT THE STATE AT THIS
16 TIME HAS -- THE EVIDENCE VIEWED IN THE LIGHT MOST FAVORABLE
17 TO THE STATE, THAT THEY HAVE PRESENTED SUFFICIENT EVIDENCE
18 TO CARRY FORWARD ON THAT CHARGE ON ALL ELEMENTS OF THE
19 CHARGE, SIR.

20 THE COURT: THAT MOTION IS DENIED.

21 MR. HANCOCK: WE WILL ISSUE THAT SAME MOTION,
22 SIR, ON THE CHARGE OF MURDER OF TERRY DEJARNETTE ROBERTSON
23 IN THE SAME PARTICULARS.

24 THE COURT: THAT MOTION IS DENIED.

25 MR. HANCOCK: WE WOULD ISSUE THAT SAME MOTION,

1887

1 YOUR HONOR, ON THE CHARGE OF ARMED ROBBERY. SPECIFICALLY,
2 YOUR HONOR, IF I REMEMBER THE TESTIMONY CORRECTLY, AND I
3 DON'T BELIEVE THAT THE STATE HAS EVER TIED THAT PARTICULAR
4 CREDIT CARD AND IDENTIFIED THAT CREDIT CARD AS THE CREDIT
5 CARD THAT CAME OUT OF THE WALLET DUE TO THE FAILURE OF THE
6 TESTIMONY -- I BELIEVE THEY TRIED TO LINK IT UP BY MEREDITH
7 MOON, SIR.

8 THE COURT: WELL, I DON'T HAVE TO LOOK AT THE
9 WEIGHT TO BE GIVEN THE EVIDENCE AND ANALYZE IT IN THAT
10 LIGHT; I JUST HAVE TO LOOK TO SEE WHETHER, OF COURSE, THERE
11 IS OR IS NOT EVIDENCE ON THAT ISSUE SUFFICIENT TO GO TO THE
12 JURY AND I FIND THERE IS AND I DENY THAT MOTION.

13 MR. HANCOCK: AND WE ISSUE THE DIRECTED VERDICT
14 MOTION ALSO TO THE CREDIT CARD FRAUD, YOUR HONOR, IN THAT
15 THE STATE HAS FAILED TO MEET ITS BURDEN.

16 THE COURT: I DENY THAT MOTION.

17 MR. HANCOCK: THANK YOU, SIR.

18 THE COURT: ANYTHING FURTHER?

19 MR. HANCOCK: NOTHING FURTHER AT THIS TIME, YOUR
20 HONOR.

21 THE COURT: WHAT IMPEACHABLE OFFENSES WILL THE
22 STATE HAVE AS TO MR. ROBERTSON?

23 MR. BRACKETT: MAY IT PLEASE THE COURT, YOUR
24 HONOR, THE DEFENDANT WAS CONVICTED IN 1996 OF BREAKING INTO
25 HIS NEIGHBOR'S HOUSE AND HE PLED GUILTY TO BURGLARY IN THE

1888

1 SECOND DEGREE. THERE WAS ALSO MULTIPLE CHARGES OF GRAND
2 LARCENY. HE PLED TO SEVERAL OF THOSE CHARGES, AT LEAST
3 ONE, I DON'T HAVE THE EXACT NUMBER NOW. BUT ESSENTIALLY
4 THE CHARGES, AND I BELIEVE THE DEFENSE HAS RECEIVED THE RAP
5 SHEET, THE N.C.I.C. REPORT, THE CHARGES THAT RELATE TO THAT
6 1996 BURGLARY, THAT IS BURGLARY IN THE SECOND DEGREE, AT
7 LEAST ONE GRAND LARCENY AND SOME CREDIT CARDS WERE STOLEN,
8 FRAUDULENT USE OF A CREDIT CARD WOULD BE THE ---

9 THE COURT: I'VE GOT TO TELL HIM WITH SPECIFICITY
10 WHAT THE CHARGES ARE. I TOLD YOU YESTERDAY, AND Y'ALL KNOW
11 THIS HAPPENS EVERY TIME AT THIS PART OF THE TRIAL.

12 (AFTER A PAUSE)

13 MR. BRACKETT: YES, SIR. YOUR HONOR, HE WAS
14 CONVICTED OF ONE COUNT OF BURGLARY IN THE SECOND DEGREE;
15 TWO COUNTS OF GRAND LARCENY; TWO COUNTS OF FINANCIAL
16 TRANSACTION CARD FRAUD; AND ONE COUNT OF FORGERY. AND THE
17 STATE WOULD SEEK TO IMPEACH HIM WITH ALL OF THOSE
18 CONVICTIONS SHOULD HE CHOOSE TO TESTIFY.

19 THE COURT: ALL RIGHT. BEFORE I TALK TO MR.
20 ROBERTSON, COUNSEL, WHAT'S THE POSITION AS TO THOSE SIX
21 CHARGES?

22 MR. BOYD: WE AGREE THEY WOULD BE IMPEACHABLE
23 OFFENSES.

24 THE COURT: YOU DON'T TAKE EXCEPTION TO ANY?

25 MR. BOYD: I DON'T REMEMBER OFF THE TOP OF MY

1889

1 HEAD WHAT FINANCIAL TRANSACTION CARD FRAUD CARRIES.

2 THE COURT: WELL, I THINK THAT WOULD CERTAINLY BE
3 -- WELL, I'VE GOT IT RIGHT HERE BECAUSE IT'S ONE OF THE
4 THINGS HE'S CHARGED WITH IN THIS CASE. IT DEPENDS UNDER
5 WHICH SECTION.

6 MR. BOYD: I BELIEVE ALL OF THOSE CHARGES HAVE
7 BEEN HELD TO BE IMPEACHABLE OFFENSES.

8 MR. BRACKETT: I BELIEVE IT'S TWO OR THREE YEARS,
9 BUT REGARDLESS OF THAT, IT'S ALSO A CRIME INVOLVING
10 DISHONESTY.

11 THE COURT: I UNDERSTAND THAT. SO, YOU DON'T
12 EXCEPT TO ANY OF THOSE?

13 MR. BOYD: NO, SIR.

14 THE COURT: ALL RIGHT. MR. ROBERTSON, CAN YOU
15 HEAR ME?

16 MR. ROBERTSON: YES, YOUR HONOR.

17 THE COURT: I'M GOING TO ASK YOU TO STAND. YOU,
18 OF COURSE, ARE PRESENT HERE WITH YOUR ATTORNEYS. WE HAVE
19 REACHED THE STAGE OF THE TRIAL WHERE YOU HAVE A RIGHT TO
20 PRESENT A DEFENSE, BUT YOU DO NOT HAVE TO PRESENT A DEFENSE
21 BECAUSE UNDER OUR LAW YOU ARE PRESUMED INNOCENT OF THIS
22 CHARGE, EACH OF THESE CHARGES. YOU ARE PRESUMED INNOCENT
23 OF THE CHARGES AND I WILL, OF COURSE, TELL THE JURY THAT.

24 EVEN THOUGH YOU DO NOT HAVE TO PRESENT A DEFENSE,
25 YOU DON'T HAVE TO PROVE YOUR INNOCENCE, YOU DON'T HAVE TO

1890

1 PROVE YOURSELF TO BE NOT GUILTY, THE STATE MUST PROVE YOUR
2 GUILT BEYOND A REASONABLE DOUBT AND I WILL, OF COURSE,
3 INSTRUCT THE JURY AS TO THAT, BUT YOU HAVE A RIGHT TO
4 PRESENT WHATEVER DEFENSE YOU WISH. YOU HAVE AN ABSOLUTE
5 RIGHT TO PUT UP WHOEVER YOU WISH TO CALL AS WITNESSES THAT
6 YOU THINK WOULD BE FAVORABLE TO YOU. DO YOU UNDERSTAND
7 THAT?

8 MR. ROBERTSON: YES, YOUR HONOR.

9 THE COURT: YOU ALSO HAVE THE RIGHT TO TESTIFY.
10 IF YOU TESTIFY, YOU WILL BE SUBJECT TO BEING CROSS EXAMINED
11 BY THE STATE AS TO THESE DEFENSES AND ANYTHING RELEVANT
12 THERETO. YOU WOULD ALSO BE SUBJECT TO BEING ASKED ABOUT
13 THESE SIX OFFENSES, ONE BURGLARY IN THE SECOND DEGREE, TWO
14 GRAND LARCENIES, TWO TRANSACTION CARD FRAUDS, AND ONE
15 FORGERY BECAUSE THEY COULD BE CONSIDERED BY THE JURY ON
16 YOUR BELIEVABILITY, YOUR CREDIBILITY.

17 THE STATE COULD BRING TO THE JURY'S ATTENTION, IF
18 YOU TAKE THE STAND AND TESTIFY, THE FACT THAT YOU HAVE SUCH
19 OFFENSES IN YOUR PAST.

20 IF YOU TESTIFY AND IF THOSE CONVICTIONS COME OUT,
21 I WILL TELL THE JURY THAT THEY CANNOT CONSIDER THAT AS ANY
22 EVIDENCE REGARDING YOUR GUILT OR INNOCENCE IN THIS TRIAL,
23 BUT RATHER THEY CAN CONSIDER THAT ONLY FOR YOUR
24 TRUTHFULNESS, YOUR CREDIBILITY, YOUR BELIEVABILITY. I WILL
25 TELL THEM THAT THEY CANNOT FACTOR THAT IN AS ANY EVIDENCE

1891

1 THAT YOU COMMITTED THESE OFFENSES. DO YOU UNDERSTAND THAT?

2 MR. ROBERTSON: YES, YOUR HONOR.

3 THE COURT: MR. ROBERTSON, YOU HAVE AN ABSOLUTE
4 RIGHT TO REMAIN SILENT. YOU ARE NOT REQUIRED TO TAKE THE
5 STAND; YOU DO NOT HAVE TO TESTIFY; YOU DO NOT HAVE TO MAKE
6 ANY STATEMENT TO ANYONE CONCERNING THIS. AGAIN, IF YOU
7 TESTIFY, I'VE ALREADY GONE OVER THE FACT THAT THE STATE CAN
8 CROSS EXAMINE YOU.

9 IF YOU CHOOSE TO EXERCISE YOUR CONSTITUTIONAL
10 RIGHT TO REMAIN SILENT, I WILL INSTRUCT THE JURY, FIRST,
11 THAT YOU HAVE DONE THAT, SECOND, THAT THEY CAN IN NO WAY
12 FACTOR AND USE AGAINST YOU THE FACT THAT YOU EXERCISED YOUR
13 CONSTITUTIONAL RIGHT TO REMAIN SILENT.

14 I WILL INSTRUCT THEM THAT YOU DO NOT HAVE TO
15 PROVE YOUR INNOCENCE. I WILL INSTRUCT THEM AGAIN THAT THE
16 STATE MUST PROVE YOUR GUILT BEYOND A REASONABLE DOUBT AND
17 YOU DO NOT HAVE TO PROVE ANYTHING. AND I WILL INSTRUCT
18 THEM THAT THEY NOT ONLY CANNOT DISCUSS THE CASE AMONG
19 THEMSELVES, THEY CANNOT IN THEIR OWN MIND USE AGAINST YOU
20 IN ANY WAY WHATSOEVER THE FACT THAT YOU CHOSE TO EXERCISE
21 YOUR CONSTITUTIONAL RIGHT TO REMAIN SILENT. DO YOU
22 UNDERSTAND THAT?

23 MR. ROBERTSON: YES, YOUR HONOR.

24 THE COURT: I ALSO WILL TELL YOU AT THIS TIME
25 THAT AFTER ANY EVIDENCE IS PRESENTED AND WE REACH THE STAGE

1892

1 OF THE TRIAL WHERE ARGUMENT OF COUNSEL TAKES PLACE, BOTH
2 YOU AND YOUR ATTORNEYS HAVE THE RIGHT TO MAKE CLOSING
3 ARGUMENTS TO THE JURY. THAT IS, YOUR ATTORNEYS CAN MAKE AN
4 ARGUMENT AND YOU, JAMES ROBERTSON, CAN MAKE AN ARGUMENT.

5 I WILL TELL YOU IN THAT REGARD THAT YOU WILL NOT
6 BE ALLOWED AN OPPORTUNITY TO TESTIFY AT THAT TIME, BUT YOU
7 WILL BE ALLOWED TO ARGUE BASED ON THE RECORD AND THE LAW AT
8 THAT TIME.

9 DO YOU UNDERSTAND ALL OF THAT?

10 MR. ROBERTSON: YES, YOUR HONOR.

11 THE COURT: IS THERE ANYTHING ELSE THE STATE
12 WANTS ME TO COVER WITH MR. ROBERTSON AT THIS TIME?

13 MR. POPE: NO, SIR, YOUR HONOR.

14 THE COURT: ANYTHING ELSE THE DEFENSE WANTS ME TO
15 COVER AT THIS TIME?

16 MR. BOYD: NO, SIR.

17 THE COURT: MR. HANCOCK AND MR. BOYD, DO EACH OF
18 YOU BELIEVE THAT MR. ROBERTSON UNDERSTANDS THE THINGS THAT
19 I HAVE JUST NOW DISCUSSED WITH HIM. DO YOU, MR. HANCOCK?

20 MR. HANCOCK: I DO, YOUR HONOR.

21 THE COURT: DO YOU, MR. BOYD?

22 MR. BOYD: YES, SIR.

23 THE COURT: MR. ROBERTSON, IF YOU HAVE ABSOLUTELY
24 ANY QUESTIONS ABOUT WHAT I HAVE JUST GONE OVER, ANY
25 WHATSOEVER, NOW IS THE TIME TO ASK ME.

1893

1 MR. ROBERTSON: NO, SIR, YOUR HONOR.

2 THE COURT: ALL RIGHT. LET ME TELL YOU AT THIS
3 TIME THAT THIS IS YOUR RIGHT, JAMES DEJARNETTE ROBERTSON'S
4 RIGHT, IT'S NOT MR. BOYD'S, IT'S NOT MR. HANCOCK'S, IT'S
5 NOT THEIR PARALEGALS OR INVESTIGATORS, IT'S NOT YOUR FAMILY
6 OR FRIENDS, IT'S YOUR RIGHT. YOU HAVE THE RIGHT TO TALK TO
7 WHOMEVER YOU WISH TO OBTAIN WHATEVER ADVICE YOU WISH, BUT
8 ULTIMATELY IT IS YOUR DECISION TO MAKE AND YOUR'S ALONE.
9 DO YOU UNDERSTAND THAT?

10 MR. ROBERTSON: YES, YOUR HONOR.

11 THE COURT: ALL RIGHT, WE ARE GOING TO BREAK FOR
12 LUNCH NOW UNTIL AROUND 2:00 O'CLOCK, AND AT THAT TIME, MR.
13 ROBERTSON, I WILL CHAT WITH YOU AGAIN AND YOU CAN LET ME
14 KNOW WHETHER YOU WISH TO PROCEED TO TESTIFY OR NOT AND YOU
15 ALSO AT THAT TIME CAN ASK ME ANY QUESTIONS YOU NEED TO ASK.
16 AND, OF COURSE, THIS WILL GIVE YOU AN OPPORTUNITY, TOO,
17 OVER THIS PERIOD OF TIME TO DISCUSS ANYTHING FURTHER WITH
18 COUNSEL THAT YOU DEEM APPROPRIATE. DO YOU UNDERSTAND ALL
19 OF THAT?

20 MR. ROBERTSON: YES, SIR, YOUR HONOR.

21 THE COURT: ANYTHING ELSE BEFORE WE BREAK FROM
22 THE STATE?

23 MR. POPE: YOUR HONOR, I KNOW MR. BRACKETT HANDED
24 UP ONE CHARGE. I HAVE A CHARGE THAT I'LL GET TO YOUR CLERK
25 AS QUICK AS I CAN. I DON'T KNOW WHETHER THE COURT IS

1894

1 PLANNING ON CHARGING CIRCUMSTANTIAL EVIDENCE OR NOT ---

2 THE COURT: I AM AND RIGHT NOW I'M PLANNING ON
3 USING THE RAPON, I'LL JUST GO AHEAD AND TELL YOU THAT NOW.
4 AND, OF COURSE, THE SUPREME COURT HAS SAID THAT'S THE ONE
5 TO USE.

6 ANYTHING ELSE FROM THE DEFENSE?

7 MR. BOYD: NOTHING, YOUR HONOR.

8 THE COURT: ALL RIGHT, WE WILL BE AT EASE UNTIL
9 AROUND 2:00 O'CLOCK

10 AFTER THE LUNCHEON RECESS (IN CAMERA):

11 THE COURT: MR. ROBERTSON AND COUNSEL ARE IN THE
12 COURTROOM. MR. ROBERTSON, HAVE YOU MADE A DECISION AS TO
13 WHETHER YOU ARE GOING TO TESTIFY OR NOT?

14 MR. ROBERTSON: YES, SIR, YOUR HONOR, I HAVE MADE
15 THAT DECISION.

16 THE COURT: AND THAT DECISION IS?

17 MR. ROBERTSON: I CHOOSE NOT TO TESTIFY ON MY
18 BEHALF.

19 THE COURT: DO YOU WISH TO MAKE AT THE END A
20 CLOSING ARGUMENT ON YOUR BEHALF?

21 MR. ROBERTSON: NO, YOUR HONOR, I WAIVE THAT
22 RIGHT AS WELL.

23 THE COURT: HAVE EACH OF YOU, MR. BOYD AND MR.
24 HANCOCK, DISCUSSED THAT WITH HIM?

25 MR. BOYD: WE HAVE, YOUR HONOR.

1895

1 THE COURT: DO YOU BELIEVE HE KNOWS WHAT HE IS
2 DOING AND IS DOING IT FREELY AND VOLUNTARILY?

3 MR. BOYD: YES, SIR.

4 MR. HANCOCK: YES, SIR.

5 THE COURT: ALL RIGHT. THE DEFENSE WILL STILL
6 HAVE THE CLOSING ARGUMENTS, OF COURSE. IS THE STATE READY
7 TO PROCEED? WELL, LET ME ASK THIS. I'M MOVING TOO FAST.
8 DOES THE DEFENSE HAVE ANY WITNESSES TO PRESENT?

9 MR. BOYD: NONE, YOUR HONOR. THE DEFENSE WILL
10 REST, HOWEVER WE DID HAVE A MOTION WE WANTED TO MAKE.

11 THE COURT: ALL RIGHT.

12 MR. BOYD: IN ADDITION TO THE MOTION FOR DIRECTED
13 VERDICTS.

14 THE COURT: ALL RIGHT.

15 MR. BOYD: YOUR HONOR, WE WOULD MOVE FOR A
16 DIRECTED VERDICT ON THE MURDERS ON THE GROUNDS THAT THE
17 INDICTMENTS CHARGE OUR CLIENT WITH MURDERING JAMES
18 ROBERTSON AND TERRY ROBERTSON. THERE HAS BEEN NO EVIDENCE
19 PRESENTED THAT HAVE IDENTIFIED THE TWO PEOPLE MURDERED AS
20 JAMES ROBERTSON OR TERRY ROBERTSON. NO WITNESS TESTIFIED
21 THAT -- I'M SORRY, EARL ROBERTSON, NOT JAMES ROBERTSON.
22 I'M SORRY, I MISSPOKE. WHEN I SAID JAMES, I MEANT EARL.

23 NO WITNESSES WHO HAVE TESTIFIED HAVE IDENTIFIED
24 THE TWO BODIES AS EARL ROBERTSON AND TERRY ROBERTSON;
25 THEREFORE, WE WOULD MOVE FOR A DIRECTED VERDICT ON THAT

1 GROUND.

2 THE COURT: THAT MOTION IS DENIED. I THINK THERE
3 IS EVIDENCE IN THE RECORD FROM WHICH THE JURY COULD
4 CONCLUDE THAT THOSE ARE THE TWO INDIVIDUALS WHOSE DEATHS WE
5 ARE TALKING ABOUT.

6 MR. BOYD: AND, YOUR HONOR, JUST FOR THE COURT'S
7 INFORMATION, IT WOULD BE OUR INTENTION THAT MR. HANCOCK
8 WILL ARGUE FIRST AND I WILL ARGUE LAST.

9 THE COURT: ALL RIGHT.

10 MR. HANCOCK: AND IF WE MAY, YOUR HONOR, I DON'T
11 KNOW HOW MR. BRACKETT IS GOING TO HANDLE THE EVIDENCE BUT
12 BETWEEN THE ARGUMENTS IF WE COULD BE GIVEN JUST A MOMENT SO
13 THAT WE CAN FIND, BECAUSE WE'VE GOT A MYRIAD OF EVIDENCE IN
14 HERE ---

15 MR. BRACKETT: SIMILARLY, NOT KNOWING WHETHER
16 THEY INTENDED TO PUT UP A CASE, I DIDN'T WANT TO BRING ALL
17 THE EVIDENCE OUT IN PREPARATION FOR MY CLOSING ARGUMENT
18 ONLY TO HAVE THEM PUT UP A CASE AND HAVE IT IN THE WAY. IF
19 I COULD HAVE A FEW MOMENTS TO TAKE THINGS TO REDUCE THE
20 CRINKLE FACTOR AND GET ALL THE EVIDENCE READY TO USE DURING
21 MY CLOSING, I WOULD APPRECIATE IT.

22 THE COURT: ALL RIGHT. BEFORE WE DO THAT THOUGH,
23 THE ONLY REQUEST TO CHARGE THAT I'VE BEEN HANDED UP IS THE
24 STATE'S ON VOLUNTARY INTOXICATION. WHAT DOES THE DEFENSE
25 HAVE TO SAY ABOUT THAT?

1897

1 MR. BOYD: YOUR HONOR, I BELIEVE THAT'S A PROPER
2 CHARGE. WE HAVE REVIEWED THAT AND THAT'S THE LAW, SO WE
3 HAVE NO OBJECTION TO THAT BEING CHARGED.

4 THE COURT: THEN LET ME RUN THROUGH REAL QUICK.
5 OF COURSE THE GENERAL CHARGE, CREDIBILITY, REASONABLE
6 DOUBT, PRESUMPTION OF INNOCENCE. I WILL INCLUDE A CHARGE
7 REGARDING MS. MOON WHO HAS TESTIFIED HAS PLED GUILTY. I
8 WILL CHARGE ABOUT MR. ROBERTSON EXERCISING HIS RIGHT TO
9 REMAIN SILENT. CIRCUMSTANTIAL EVIDENCE; THE ELEMENTS OF
10 MURDER; THE ELEMENTS OF ARMED ROBBERY; AND ON THE CREDIT
11 CARD FINANCIAL TRANSACTION THE INDICTMENT DID NOT SPECIFY
12 THE SUBSECTION BUT BASED ON THE LANGUAGE, IT APPEARS TO ME
13 TO BE 16-14-60-A-2-B.

14 MR. BRACKETT: YOUR HONOR, SOLICITOR POPE WILL
15 LOOK AT THAT. YOU CAN GO AHEAD AND CONTINUE.

16 THE COURT: ALL RIGHT. AND I WILL TELL THE JURY
17 ABOUT EXPERT TESTIMONY, HOW IT IS TO BE CONSIDERED, AND
18 ALSO THAT THEY ARE TO CONSIDER EACH CHARGE SEPARATELY. OF
19 COURSE, I WILL TELL THEM THE VERDICTS MUST BE UNANIMOUS,
20 NOT BASED ON PASSION ET CETERA.

21 CAN THE STATE THINK OF ANYTHING ELSE?

22 MR. POPE: I BEG THE COURT'S INDULGENCE.
23 (AFTER A PAUSE.)

24 MR. POPE: NO, SIR, YOUR HONOR, WE CAN'T THINK OF
25 ANYTHING FURTHER.

1898

1 MR. BRACKETT: IF WE DO, THERE WILL BE ANOTHER
2 BREAK BETWEEN NOW AND THEN, BUT I CAN'T ---

3 THE COURT: WELL, I KNOW, BUT I NEED TO KNOW WHAT
4 I'M GOING TO CHARGE. 16-14-60-A-2-B?

5 MR. POPE: I THINK THAT IS CORRECT, YOUR HONOR.

6 MR. HANCOCK: IT IS, YOUR HONOR.

7 THE COURT: IS THE STATE READY?

8 MR. BRACKETT: IF I CAN JUST HAVE A FEW MOMENTS
9 TO UNPACKAGE SOME EVIDENCE.

10 THE COURT: ALL RIGHT.

11 (AFTER A SHORT BREAK)

12 THE COURT: IS THE STATE READY?

13 MR. POPE: YES, SIR, YOUR HONOR.

14 THE COURT: IS THE DEFENSE READY?

15 MR. BOYD: ONE SECOND, YOUR HONOR.

16 (AFTER A BRIEF PAUSE.)

17 THE COURT: BRING THE JURY IN, PLEASE.

18 IN THE PRESENCE OF THE JURY:

19 THE COURT: MEMBERS OF THE JURY PANEL, YOU WILL
20 RECALL THAT RIGHT BEFORE LUNCH THE STATE RESTED. THE
21 DEFENSE HAS ALSO RESTED. SO, WE WILL NOW MOVE TO THE STAGE
22 OF THE TRIAL WHERE THE ATTORNEYS WILL MAKE FOR YOU THEIR
23 CLOSING ARGUMENTS. THE STATE FIRST, AND THE DEFENSE
24 SECOND.

25 WE WILL PROBABLY, BECAUSE THERE IS SO MUCH

1899

1 EVIDENCE AND DIFFERENT ATTORNEYS MAY REFER TO DIFFERENT
2 PIECES OF EVIDENCE, WE WILL PROBABLY TAKE A BREAK BETWEEN
3 THE STATE'S ARGUMENT AND THE DEFENSE ARGUMENT.

4 AFTER YOU HAVE HEARD BOTH ARGUMENTS, I WILL
5 CHARGE YOU THE LAW WHICH YOU ARE TO APPLY, AND THEN WE WILL
6 TURN THE CASE OVER TO YOU FOR YOUR DELIBERATION.

7 IT MAY BE, DEPENDING ON THE LENGTH OF THE
8 ARGUMENTS, WE WILL TAKE A BREAK BETWEEN THOSE, BUT THOSE
9 WILL ONLY BE SHORT REFRESHER BREAKS. SO, WE ARE NOT FAR
10 FROM HAVING THIS STAGE OF THE TRIAL IN YOUR HANDS.

11 **ARGUMENT TO THE JURY BY MR. BRACKETT:**

12 LADIES AND GENTLEMEN, I'M REALLY SORRY. I WANT TO
13 APOLOGIZE TO YOU FROM THE BEGINNING HERE. I AM REALLY SORRY
14 ABOUT ALL THE CONFUSION AND ALL THE RUNNING AROUND AND THE
15 TOTING BOXES AND THE CRINKLING OF PAPER AND THE OPENING OF
16 EVIDENCE AND CARRYING EVIDENCE AND BOXES AND BAGS. I'M
17 SORRY IF IT SEEMS LIKE WE HAVE BEEN KIND OF TRIPPING OVER
18 OUR EVIDENCE HERE. IT'S BECAUSE WE HAVE. BUT THE PROBLEM
19 IS, WE HAVE SO MUCH OF IT THAT WE CAN'T HARDLY HELP BUT
20 TRIP OVER IT.

21 WE HAVE SO MUCH EVIDENCE THAT IT'S UNDERSTANDABLE
22 THAT YOU MIGHT BE A LITTLE BIT CONFUSED. IT'S
23 UNDERSTANDABLE IF SOME OF THE THINGS THAT HAVE BEEN
24 PRESENTED TO YOU DON'T QUITE MAKE SENSE.

25 MY JOB RIGHT NOW IS TO TRY TO MAKE A LITTLE BIT

1900

1 OF SENSE OUT OF WHAT HAS HAPPENED IN THIS COURTROOM IN THE
2 LAST TWO AND A HALF DAYS.

3 NOW, I AM GOING TO CAUTION YOU, I AM NOT GOING TO
4 TRY TO MAKE SENSE OUT OF WHAT HAPPENED AT 2506 WESTMINSTER
5 DRIVE ON NOVEMBER 25TH, 1997; THAT IS BEYOND MY POWER.

6 BUT WHAT I CAN DO IS EXPLAIN TO YOU EXACTLY WHAT
7 YOU HAVE SEEN IN HERE, EXACTLY WHAT THESE BOXES OF EVIDENCE
8 MEAN, WHAT THESE BAGS OF EVIDENCE MEAN, WHAT THESE
9 ENVELOPES OF EVIDENCE MEAN, WHAT ALL THAT TESTIMONY MEANS
10 AND HOW WHEN YOU ADD IT ALL UP, THE SUM YOU ARRIVE AT
11 WITHOUT ANY DOUBT, NOT A REASONABLE DOUBT, NOT A SHADOW OF
12 A DOUBT IS THAT THIS MAN RIGHT HERE, JAMES DEJARNETTE
13 ROBERTSON SEATED RIGHT HERE ON NOVEMBER 25TH, 1997 BRUTALLY
14 MURDERED HIS MOTHER AND FATHER, TERRY AND EARL ROBERTSON.
15 HIS MOTHER WHILE SHE LAY IN HER BED; HIS FATHER AS HE
16 WALKED OUT OF THE SHOWER HE HAD JUST TAKEN. AND LEFT THEIR
17 BATTERED BODIES IN THE HOUSE AND FLED UP THE EAST COAST TO
18 PHILADELPHIA, PENNSYLVANIA.

19 MARGIE JORDAN KNEW SOMETHING WAS WRONG; SHE KNEW
20 SOMETHING WAS VERY WRONG WHEN EARL DIDN'T SHOW UP FOR WORK
21 THAT DAY.

22 CISSY GEORGE KNEW SOMETHING WAS WRONG WHEN TERRY
23 DIDN'T SHOW UP TO PICK UP THAT COCONUT CAKE SHE'D MADE.

24 FRIENDS, PEOPLE THAT CARED ABOUT THEM, BECAME
25 CONCERNED AND CALLED THE LAW.

ARGUMENT TO THE JURY BY MR. BRACKETT

1901

1 DEBBIE BRISSON WAS CONTACTED AFTER CISSY CALLED
2 LINDA WEAVER AND LINDA WEAVER CALLED OVER TO DEBBIE AND
3 DEBBIE AND GREG MAGGART, WHO HAD BEEN SENT TO THE HOUSE BY
4 MARGIE JORDAN, MET THERE AT THE SAME TIME. THIS HOUSE
5 RIGHT HERE, 2506 WESTMINSTER DRIVE, THE RESIDENCE OF TERRY
6 AND EARL ROBERTSON, WHERE DEBBIE BRISSON WENT TO WAKE HER
7 FRIEND UP WHO SHE THOUGHT HAD OVERSLEPT.

8 SHE WENT IN THROUGH THE DOWNSTAIRS, CAME UP THE
9 STAIRS, TURNING RIGHT AS SHE TURNED OUT OF THE STAIRS,
10 WALKED UP THIS STAIRCASE RIGHT HERE. SHE TURNED RIGHT, IT
11 WAS DARK IN THERE, SHE COULDN'T SEE THE LEGS OF EARL
12 ROBERTSON LAYING ACROSS THE HALLWAY. SHE ALMOST FELL OVER
13 HIM. SHE LOOKED DOWN AND REALIZED WHAT IT WAS AND RAN TO
14 THE PHONE.

15 THE PHONE WAS NOT ON THE HOOK. THE TELEPHONE SHE
16 WAS RUNNING TO TO CALL FOR HELP WAS NOT WHERE IT WAS
17 SUPPOSED TO BE. INSTEAD, SHE TESTIFIED THAT SHE ALMOST
18 TRIPPED OVER THAT, TOO. SHE ALMOST TRIPPED OVER THE
19 TELEPHONE CORD BECAUSE AS YOU CAN SEE IN THIS PHOTOGRAPH
20 RIGHT HERE, THE TELEPHONE IS TO THE RIGHT OF THE DOOR, SHE
21 SAID IT WAS PULLED IN AND TUCKED UNDER A CUSHION ON THE
22 SOFA JUST PASSED THAT LAMP.

23 SHE WAS THE FIRST ONE IN THE HOUSE. SHE WAS THE
24 FIRST ONE TO FIND THE BODIES. SHE WAS IN THERE WHEN THIS
25 HOUSE WAS LEFT AS THIS MAN LEFT IT WHEN HE LEFT TO GO UP TO

ARGUMENT TO THE JURY BY MR. BRACKETT

1902

1 PHILADELPHIA. HE TOOK THAT PHONE OFF THE HOOK, LADIES AND
2 GENTLEMEN, SO THAT HIS MAMA COULDN'T CALL FOR HELP. WHEN
3 A PHONE IN A HOUSE IS OFF THE HOOK, IT'S COMMON KNOWLEDGE
4 NONE OF THE OTHER ONES WORK. THAT ONE WAS OFF THE HOOK.
5 NOBODY ANYWHERE IN THE HOUSE COULD HAVE PICKED UP THE
6 TELEPHONE TO CALL FOR HELP; NOT EARL, NOT TERRY.

7 SHE RUNS TO THE DOOR, SEES GREG MAGGART; GREG
8 MAGGART SEES HER. SHE'S PANICKING, SHE CAN'T GET OUT OF
9 THE DOOR BECAUSE ITS KEY LOCKED AND SHE DOESN'T HAVE THE
10 KEY. EVENTUALLY SHE COMES OUT, YOU KNOW WHAT HAPPENED
11 NEXT, THE POLICE COME ON THE SCENE. AND THEY BEGIN THEIR
12 INVESTIGATION.

13 NOW, EVERYBODY COULDN'T TESTIFY AS TO WHAT OTHER
14 PEOPLE TOLD THEM, SO IT HAD TO COME OUT A LITTLE BIT
15 PIECEMEAL, BUT WHAT I WANT TO DO IS EXPLAIN TO YOU EXACTLY
16 WHAT THE SUM TOTAL OF ALL THESE DIFFERENT PEOPLE'S
17 TESTIMONY IS.

18 RALPH MISLE TESTIFIED THAT HE RAN THE LICENSE
19 PLATE NUMBER, FOUND OUT IT CAME BACK TO A MR. MOON. HE
20 ALSO FOUND OUT THE VISA WAS MISSING. CHECKED OUT THE VISA
21 AND FOUND OUT IT HAD BEEN USED AT THE PEACH STAND AND LATER
22 AT LADYSMITH, VIRGINIA AT A SHELL STATION.

23 HE TALKED TO MR. MOON; EVENTUALLY HE TALKED TO
24 ERIN SAVAGE BECAUSE MR. MOON -- YOU HEARD MEREDITH TESTIFY,
25 "I TOLD MY DAD I WAS GOING TO HELP ERIN". SO, WHAT DID MR.

ARGUMENT TO THE JURY BY MR. BRACKETT

1903

1 MOON TELL THE POLICE? MY DAUGHTER SAID SHE WAS GOING TO
2 HELP ERIN SAVAGE. THE POLICE CALL ERIN SAVAGE, WHAT DOES
3 SHE SAY? I GOT A CALL FROM MEREDITH MOON; SHE TOLD ME THAT
4 SHE AND JIMMY WERE ON THEIR WAY UP TO PHILADELPHIA. THEY
5 ARE ON THEIR WAY UP TO PHILADELPHIA TO GET CHIP.

6 NOW THEY KNOW WHERE THEY ARE HEADED. THEY GO BY
7 THE PEACH STAND. YOU HEARD THE LADY WHO CAME IN HERE AND
8 TESTIFIED WHO USED THE POINTER, WALKED RIGHT UP HERE,
9 GLENDA JOHNSON, SHE CAME IN HERE AND TOLD YOU SHE
10 REMEMBERED THEM, SHE SURE DID, SHE REMEMBERED THEM; THEY
11 WERE AWFULLY FRIENDLY WHEN THEY CAME INTO THE STORE ABOUT
12 AN HOUR AFTER MR. AND MRS. ROBERTSON WERE BRUTALLY BEATEN
13 TO DEATH. THEY ARE STANDING IN THERE SMILING AND LAUGHING
14 AND TALKING ABOUT GOING UP TO PHILADELPHIA TO GET CHIP.
15 NOTHING SEEMED OUT OF THE ORDINARY TO HER. YOU SAW THE
16 VIDEO. WHO PAID FOR IT? JIMMY DID. HOW DID HE PAY FOR
17 IT? WITH HIS FATHER'S CREDIT CARD. THIS CREDIT CARD RIGHT
18 HERE THAT HE HAD JUST AN HOUR BEFORE STOLEN FROM HIS
19 FATHER'S WALLET AFTER HE BEAT HIM TO DEATH.

20 THEY DRIVE UP FROM FORT MILL TO PHILADELPHIA.
21 YOU HEARD ABOUT WHAT HAPPENED. AND, OF COURSE, AT THIS
22 TIME YOU HAVEN'T EVEN HEARD MEREDITH MOON'S TESTIMONY, BUT
23 WE NOW KNOW, FROM TALKING WITH MEREDITH WE NOW KNOW WHAT
24 HAPPENED ON THE DRIVE UP. NOTHING OUT OF THE ORDINARY.
25 SINGING ALONG ON THE RADIO; TALKING ABOUT THE CONDO HE WAS

ARGUMENT TO THE JURY BY MR. BRACKETT

1904

1 GOING TO BUY OR THE HOUSE HE WAS GOING TO BUY ON LAKE WYLIE
2 WITH THE INSURANCE MONEY THAT HE WAS GOING TO GET. TALKING
3 ABOUT THE NIGHTCLUB HE WAS GOING TO BUY IN ROCK HILL AND
4 RENOVATE.

5 DON'T YOU LOSE SIGHT OF WHAT THIS CASE IS ABOUT.
6 AS SOLICITOR POPE TOLD YOU IN THE OPENING, IT IS ALL ABOUT
7 MONEY, THAT'S WHAT IT'S ABOUT. AND THIS IS THE WILLS OF
8 TERRY AND EARL ROBERTSON. THIS CASE BOILS DOWN TO A DOLLAR
9 SIGN; THAT'S EXACTLY WHAT IT IS.

10 THIS GREEDY LITTLE MAN RIGHT HERE COULDN'T WAIT
11 FOR HIS PARENTS TO LEAVE THIS EARTH UNDER NORMAL CAUSES.
12 HE COULDN'T WAIT FOR THE MONEY TO COME TO HIM, HE WANTED IT
13 RIGHT NOW AND HE TOOK IT, HE TOOK THEM.

14 WE NOW KNOW BEFORE THEY LEFT THE HOUSE THEY
15 PACKED ALL THE MURDER WEAPONS INTO A BAG, THIS MAN DID. HE
16 PACKED HIS CLOTHES IN A BAG AND CARRIED IT ALL UP THE
17 INTERSTATE, I-95 TO THE CHESAPEAKE HOUSE.

18 YOU HEARD TROOPER GUY COX COME IN AND TESTIFY.
19 TROOPER COX TESTIFIED THAT HE WENT OVER TO THE CHESAPEAKE
20 HOUSE. HE WENT TO THE DUMPSTER AND HE LOOKED AROUND IN
21 THERE AND THAT'S WHAT HE SAW, A BAG WITH A BAT HANDLE
22 STICKING OUT OF IT, RIGHT THERE. HE SECURED IT AND I'LL
23 TALK A LITTLE BIT MORE ABOUT THAT IN MINUTE OR TWO. AND
24 THAT EVIDENCE IS IN THIS COURTROOM, YOU'VE SEEN IT, RIGHT
25 THERE.

ARGUMENT TO THE JURY BY MR. BRACKETT

1905

1 JIMMY ROBERTSON THREW THAT IN THE TRASH BARREL UP
2 IN MARYLAND. HE NEVER THOUGHT ANYBODY WOULD FIND THAT.
3 GARBAGE MEN WOULD COME PICK THAT STUFF UP, THROW IT AWAY
4 AND THAT EVIDENCE WOULD NEVER BE FOUND. HE'D BE UP IN
5 PHILADELPHIA WITH CHIP.

6 WHAT WAS HIS PLAN? TO GO UP THERE, GET CHIP,
7 COME BACK, DROP MEREDITH OFF, GO BACK TO THE HOUSE, OPEN
8 THE DOOR AND GO, OH MY GOD, WHAT'S HAPPENED TO MAMA AND
9 DADDY, WE'VE GOT TO CALL THE POLICE.

10 HOW DO WE KNOW THAT'S WHAT HE DID? WELL, LOOK
11 HERE, HE LEFT A LITTLE NOTE FOR THEM. HE LEFT A NOTE FOR
12 THEM. "MOM AND DAD, GONE TO GET CHIP IN HIS CAR. SORRY,
13 BUT HE NEEDS ME RIGHT NOW. LOVE, JIM." SO WHEN HE CAME
14 BACK TO THE HOUSE HE COULD SAY, WAIT A MINUTE, GUYS, I
15 DON'T KNOW ANYTHING ABOUT THIS. SEE, I LEFT OUT OF HERE
16 ABOUT 3:00 OR 4:00 IN THE MORNING. THEY WERE FINE. I LEFT
17 THIS NOTE FOR THEM SO THEY WOULD KNOW WHERE I HAD GONE. I
18 DON'T KNOW ANYTHING ABOUT ANY MURDER.

19 WHAT ELSE DID HE DO? WELL, HE ALSO TOOK THE RAKE
20 AND BREAKS IN THE WINDOW RIGHT OVER HERE. GLASS ALL ON THE
21 FLOOR; HE BREAKS IN THE WINDOW RIGHT THERE. IT MUST HAVE
22 BEEN A BURGLARY, OFFICER. GEEZ, THIS IS TERRIBLE. WHEN DO
23 I INHERIT THE MONEY? WHEN DO THEY CUT ME MY CHECK? I'VE
24 GOT TO GO SHOPPING FOR A HOUSE.

25 HOW DID THEY KNOW TO GO GET THIS STUFF OUT OF THE

ARGUMENT TO THE JURY BY MR. BRACKETT

1906

1 DUMPSTER OVER IN MARYLAND? MEREDITH MOON TOLD THEM. IT
2 WAS DISJOINTED BUT WHAT CAME OUT WAS MEREDITH MOON TOLD THE
3 POLICE THE TRUTH WHEN SHE WAS ARRESTED IN PENNSYLVANIA.
4 SHE DIDN'T TELL THEM THE WHOLE TRUTH THE FIRST TIME BUT
5 WITHIN 24 HOURS THE SUBSTANCE OF HER STORY THAT SHE TOLD
6 HERE TODAY OR YESTERDAY WAS ON PAPER IN LAW ENFORCEMENT'S
7 HANDS.

8 I DON'T KNOW WHAT THEY ARE GOING TO SAY ABOUT
9 MEREDITH. I HAVE NO IDEA. JUDGING FROM THE CROSS
10 EXAMINATION, IT HAS SOMETHING TO DO WITH HER WEIGHT.

11 YOU HAVEN'T SEEN THIS YET, THIS IS THE PICTURE I
12 MOVED IN THROUGH MEREDITH. TAKE A LOOK. THIS IS MEREDITH
13 RIGHT THERE; THAT'S MEREDITH MOON. THAT'S THE MEREDITH
14 MOON THAT WAS IN THE HOUSE THAT DAY. YES, SHE'S A LOT
15 HEAVIER THAN SHE WAS WHEN SHE TESTIFIED. THAT MEREDITH
16 MOON RIGHT THERE IS NOT THE SAME MEREDITH MOON YOU SAW OVER
17 HERE. THIS MEREDITH MOON OVER HERE IS A LOT WISER; SHE'S
18 A LOT WISER. SHE'S LEARNED A LOT OF LESSONS SINCE THIS
19 PHOTOGRAPH WAS TAKEN. AND SHE'S GOING TO HAVE TO PAY,
20 LADIES AND GENTLEMEN. SHE'LL PAY TO THE TUNE OF 20 TO 60
21 YEARS IN PRISON FOR BEING AT 2506 WESTMINSTER DRIVE WITH
22 THE GREEDY LITTLE MAN NAMED JIMMY ROBERTSON.

23 SO, DON'T YOU LET MR. HANCOCK OR MR. BOYD GET UP
24 HERE AND TALK ABOUT HOW SHE CUT A DEAL, AND SHE AVOIDED THE
25 DEATH PENALTY AND SHE'S JUST WALKING AWAY WITH A SLAP ON

ARGUMENT TO THE JURY BY MR. BRACKETT

1907

1 THE HANDS. 20 TO 60 YEARS.

2 AND SHE, LADIES AND GENTLEMEN, WAS NOT THE ONE
3 THAT HAD THE BAT IN HER HAND; SHE WAS NOT THE ONE THAT HAD
4 THE HAMMER IN HER HAND. THAT WAS THIS MAN OVER HERE. HE
5 WAS THE ONE WAITING FOR HIS DADDY TO FINISH SHOWERING SO
6 THAT HE COULD WISH HIM A GOOD MORNING. HE WAS THE ONE THAT
7 HIT HIS FATHER, NOT JUST WITH THIS END, NOT JUST WITH THIS
8 END, BUT WITH THIS END. HE WAS THE ONE.

9 SHE WAS DOWNSTAIRS, REMEMBER HER TESTIMONY? SHE
10 WAS DOWNSTAIRS SITTING ON THE COUCH WHEN THEY HEARD THE
11 SHOWER CUT ON. SHE WAS DOWNSTAIRS SITTING ON THE COUCH
12 WITH JIMMY WHEN THE SHOWER CUT ON.

13 THAT WAS WHEN JIMMY HEADED UP THE STAIRS TO HIS
14 MAMA WITH BLOOD IN HIS EYES. THAT WAS WHEN JIMMY WENT UP
15 THERE AND ABOUT A MINUTE LATER SHE HEARD JIMMY'S MOTHER,
16 TERRY ROBERTSON, SCREAMING FOR HER HUSBAND. SHE HEARD HER
17 SCREAMING, EARL, EARL. SHE HEARD HER SCREAMING, NO, JIMMY,
18 NO.

19 SHE WAS DOWNSTAIRS. SHE COULD HEAR EVEN THOUGH
20 SHE WAS COVERING UP HER EARS. THAT'S THE SUM AND SUBSTANCE
21 OF THE CASE.

22 YOU COULD CONVICT JIMMY ROBERTSON ON MEREDITH
23 MOON'S TESTIMONY ALONE. YOU COULD CONVICT THIS MAN RIGHT
24 OVER HERE, HAVING HEARD NOTHING ELSE BUT MEREDITH MOON'S
25 TESTIMONY. BUT MEREDITH MOON'S TESTIMONY IS JUST ONE PIECE

ARGUMENT TO THE JURY BY MR. BRACKETT

1908

1 OF THE EVIDENCE THAT WE PRESENTED TO YOU.

2 I HAVE A DIAGRAM THAT I PREPARED TO HELP ASSIST
3 YOU IN UNDERSTANDING EXACTLY WHAT THIS CASE IS ABOUT. IT'S
4 A TRIANGLE, THREE POINTS. THE TOP IS SOUTH CAROLINA AND
5 THE BOTTOM RIGHT-HAND CORNER IS MARYLAND AND PENNSYLVANIA.
6 WE'LL TAKE THEM IN TURN.

7 WHAT WAS FOUND HERE IN SOUTH CAROLINA? THE
8 VICTIMS, THEIR BLOOD, THE UNIQUE WOUNDS. YOU HEARD DR.
9 SEXTON TALK ABOUT THAT, THE TINES OF THE HAMMER WERE
10 CONSISTENT WITH THE WOUNDS THEY HAD ON THEM. THE TINES OF
11 THIS HAMMER RIGHT HERE WHICH WAS FOUND IN MARYLAND.

12 WHAT ELSE ABOUT IT? THE BLOOD, DNA TESTING. THE
13 BLOOD THAT WAS FOUND ON THIS HAMMER IS CONSISTENT WITH THE
14 BLOOD OF TERRY AND EARL ROBERTSON. THE SAME WITH THE BAT.
15 IF THAT'S NOT ENOUGH, LOOK AT THIS PIECE OF EVIDENCE RIGHT
16 HERE. THE PANTS FOUND IN MARYLAND. ONE PARENT'S BLOOD ON
17 THE FRONT; ANOTHER PARENT'S BLOOD ON THE BACK.

18 WE DON'T NEED A SOCK PRINT THAT KIND OF LOOKS
19 LIKE IT. WE DON'T NEED HAIR THAT'S SIMILAR. WE'VE GOT
20 BLOOD, DNA, ONE IN A TRILLION, ONE IN FORTY BILLION.
21 THAT'S HIS PARENTS' BLOOD THAT'S ON THESE IN MARYLAND RIGHT
22 WHERE MEREDITH SAID IT WOULD BE THE DAY AFTER SHE WAS
23 ARRESTED. THAT'S HOW THEY GOT THIS.

24 SOCK PRINTS CONSISTENT. SOCKS ARE FOUND IN
25 MARYLAND. THAT'S JUST A SMALL THING COMPARED TO THE DNA,

ARGUMENT TO THE JURY BY MR. BRACKETT

1909

1 AS I SAID.

2 WHAT ELSE DO WE HAVE IN SOUTH CAROLINA? WE'VE
3 GOT THE PEACH STAND. THEY'RE ON THE VIDEO USING DADDY'S
4 CREDIT CARD. WE'VE GOT THE RECEIPT FROM THE PEACH STAND.
5 BUT THAT'S NOT ALL. WE'VE ALSO GOT THE CARD THAT WAS USED
6 FOUND IN THE WALLET THAT WAS TAKEN OFF THIS MAN RIGHT HERE
7 IN PENNSYLVANIA. THIS CARD MADE THE CHARGE THAT OCCURRED
8 AT THE PEACH STAND.

9 IF THAT'S NOT ENOUGH, ALSO IN THE WALLET HE WAS
10 KIND ENOUGH TO TUCK THE RECEIPT, STATE'S EXHIBIT 88.3, THE
11 RECEIPT FROM THE PEACH STAND STILL IN HIS WALLET WHEN HE
12 WAS ARRESTED. HE SIGNED IT.

13 WHAT ELSE DO WE HAVE? WE HAVE DADDY'S WALLET
14 WHICH IS WHERE HE GOT THAT CREDIT CARD. WE ALSO HAVE
15 STATE'S EXHIBIT 21, MOM'S PURSE. INSIDE MAMA'S PURSE A
16 CHECKBOOK WAS FOUND. WHERE WERE DUPLICATE COPIES OF THE
17 CHECK WHEN THE CHECK ORIGINAL WAS FOUND?

18 THERE'S MAMA'S PURSE AS IT WAS FOUND RIGHT THERE.
19 IF YOU LOOK CLOSE UP RIGHT THERE AT THE BOTTOM JUST TO THE
20 LEFT, RIGHT THERE, THE CHECKBOOK. BUT THE CHECKS THAT ARE
21 FOUND, THESE ARE ALL FOUND IN PENNSYLVANIA. CHECKS JUST
22 MADE OUT TO JIM ROBERTSON; THAT ONE IS NOT FILLED OUT FOR
23 ANY AMOUNT. HOWEVER, WE DO HAVE ONE, STATE'S EXHIBIT 83
24 WHICH SHE TESTIFIED THAT ROBERTSON ON THE ENDORSEMENT WAS
25 FILLED OUT BY THIS MAN SITTING OVER HERE, PURPORTEDLY

ARGUMENT TO THE JURY BY MR. BRACKETT

1910

1 WRITTEN BY HIS FATHER, EARL, GIVING HIM FIVE HUNDRED
2 DOLLARS. HE NEVER CASHED IT.

3 AND THEN THERE'S THE NOTE. I'VE ALREADY TOLD YOU
4 ABOUT THAT, SETTING HIS ALIBI UP, THAT'S WHAT HE WAS DOING.
5 SETTING UP HIS EXCUSE, HIS STORY WHEN THE POLICE CAME AND
6 QUESTIONED HIM. ACTUALLY WHEN HE CALLED THE POLICE. WHY
7 LOOK, OFFICER, HERE'S THE NOTE RIGHT HERE. WHEN I LEFT ON
8 THE 25TH IN THE EARLY MORNING HOURS TO GO GET MY BROTHER,
9 THERE'S THE NOTE, I DIDN'T DO ANYTHING.

10 DOWN IN MARYLAND WHAT DO THE POLICE FIND? THE
11 WEAPONS THAT MATCH THE WOUNDS ON THE BODIES. THE CLOTHING
12 WITH THEIR BLOOD ON IT, THE CHECKS. BUT THAT'S NOT ALL
13 THEY FIND. AS IF THE BLOOD AND THE HAIR AND THE SOCK
14 PRINTS AND EVERYTHING LIKE THAT WASN'T ENOUGH, REMOVING ANY
15 DOUBT AT ALL, EVEN IF YOU DON'T BUY THE DNA, EVEN IF YOU
16 DON'T UNDERSTAND IT AND YOU'RE NOT QUITE WILLING TO GO WITH
17 THAT, WHAT IN THE WORLD, WHAT A TERRIBLE COINCIDENCE FOR
18 POOR MR. ROBERTSON THAT HIS BROTHER'S RITALIN BOTTLES WITH
19 HIS BROTHER'S NAME WOULD ALSO HAPPEN TO BE FOUND IN THE BAG
20 WITH ALL THE BLOODY WEAPONS AND BLOODY CLOTHES. THAT'S
21 JUST A TERRIBLE COINCIDENCE, HE DOESN'T KNOW ANYTHING ABOUT
22 THAT.

23 AND THEN THE HAIR, MICROSCOPICALLY SIMILAR.
24 NOBODY CAN SAY IT'S THE SAME HAIR.

25 AND THEN FINALLY PENNSYLVANIA. WHAT DO YOU HAVE

ARGUMENT TO THE JURY BY MR. BRACKETT

1911

1 THERE? WELL, YOU HAVE A TO DO MURDER LIST HERE. ALARM
2 CLOCK, WIPE DOWNSTAIRS DOORKNOB, DISPOSE OF YARD RAKE.
3 MEREDITH SAYS, I WROTE THAT LIST. JOYCE LAUTERBACH SAYS HE
4 WROTE THAT LIST. I DON'T KNOW HOW TO EXPLAIN THAT.
5 MEREDITH SAID SHE WROTE IT ON A PIECE OF PAPER. THIS IS A
6 15 PAGE BOOKLET. DID SHE WRITE IT DOWN ONCE AND HE WROTE
7 IT DOWN ANOTHER TIME? I DON'T KNOW. I CAN'T EXPLAIN THAT.

8 NOT EVERYTHING CAN BE EXPLAINED. DOES IT MEAN HE
9 DIDN'T KILL HIS MOTHER AND FATHER IF SHE DID WRITE THE
10 LIST? DOES IT MEAN HE DIDN'T KILL HIS MOTHER AND FATHER IF
11 HE WROTE THE LIST AND SHE'S LYING ABOUT WRITING A LIST?
12 WHY WOULD SHE LIE ABOUT WRITING THE LIST IN THE FIRST
13 PLACE? I DON'T KNOW. IT DOESN'T MATTER. IT'S IRRELEVANT
14 TO THE ISSUE OF WHETHER OR NOT HE BEAT HIS PARENTS TO
15 DEATH.

16 A SMALL SPOT OF BLOOD FOUND ON MEREDITH'S
17 SWEATER. HOW DID THAT GET ON YOUR SWEATER? I DON'T KNOW;
18 IT COULD BE FROM JIMMY, HE CUT HIS FINGER. REMEMBER?
19 THERE WAS SOME TESTIMONY ABOUT THAT. YOU SAW SOME PICTURES
20 I BELIEVE. HERE HE IS, A PICTURE WITH A CUT FINGER RIGHT
21 HERE. MAYBE IT CAME FROM THERE. PCR ANALYSIS SAYS THAT
22 IT'S HIS MOTHER'S BLOOD. SHE ALSO SPECULATED MAYBE I GOT
23 IT FROM WHEN I CARRIED THE BAG. THAT'S NOT UNREASONABLE,
24 I SUBMIT TO YOU.

25 WHEN THE OFFICER WHO PULLED THE BAG OUT OF THE

ARGUMENT TO THE JURY BY MR. BRACKETT

1912

1 DUMPSTER IN MARYLAND SAID HE TOOK THE STUFF OUT, WHAT DID
2 HE TELL YOU? HE HAD TO SPREAD IT OUT ON A BIG PIECE OF
3 PAPER OUT IN HIS OFFICE TO LET IT DRY BECAUSE THE BLOOD WAS
4 STILL WET.

5 SO, WHEN JIMMY PUT THAT STUFF IN THE BAG, DID
6 SOME OF THE BLOOD FALL OFF ONE OF THE WEAPONS, STUCK ON THE
7 OUTSIDE OF THE BAG AND WHEN SHE PICKED IT UP, IT STUCK TO
8 HER SHIRT? I DON'T KNOW. I SUBMIT THAT'S A REASONABLE
9 EXPLANATION FOR HOW THAT GOT ON HER SWEATER.

10 BUT I'LL TELL YOU THIS, IF YOU LOOK THROUGH THE
11 EVIDENCE OF THE STUFF THAT WAS FOUND IN MARYLAND, YOU DON'T
12 SEE ANY OF HER CLOTHES. THERE'S ONE PAIR OF SHOES. THIS
13 MAN'S SUEDE MOCCASINS THAT WERE TESTED. THIS MAN'S SHOES
14 ARE IN THERE. THERE ARE NO SHOES FROM HER. THERE'S NO
15 CHANGE OF CLOTHES FROM HER.

16 YOU HEARD ALSO FROM BRETT BAKER HOW MUCH BLOOD
17 WAS AT THE CRIME SCENE. THERE WAS BLOOD ON THE WALLS;
18 THERE WAS BLOOD ON THE CEILING; THERE WAS POOLS OF BLOOD ON
19 THE FLOOR. YOU SAW THE PICTURE OF THE BED; THERE WAS BLOOD
20 ON THE BED; THERE WAS BLOOD ON THE WALL BEHIND THE BED. IF
21 SHE HAD ANYTHING TO DO WITH THIS CRIME, I SUBMIT TO YOU,
22 SHE WOULD HAVE HAD TO CHANGE CLOTHES, TOO. AND THERE WOULD
23 HAVE BEEN A PAIR OF FEMALE CLOTHES AND A PAIR OF FEMALE
24 SHOES IN THAT BAG. SHE WASN'T UP IN THAT BLOODY CRIME
25 SCENE. ONLY THIS MAN RIGHT HERE WAS.

ARGUMENT TO THE JURY BY MR. BRACKETT

1913

1 MOON'S CONFESSION. THE ONE THING THAT MAKES
2 EVERYTHING IN THIS CASE COME TOGETHER. WHEN SHE CONFESSED
3 WHAT HAD HAPPENED, WHAT HER INVOLVEMENT WAS UP IN
4 PHILADELPHIA, THEY GOT THE BLOODY BAG OUT OF MARYLAND.
5 THEY KNEW EVERYTHING THAT HAD HAPPENED ALL THE WAY UP THE
6 EAST COAST. THEY KNEW THAT THE ALARM CLOCK HAD GONE OFF.
7 MAYBE THAT'S WHAT THIS MEANS. MAYBE THAT HAS SOMETHING TO
8 DO WITH THIS. ALARM CLOCK, ONE OF THE THINGS ON THE LIST.

9 REMEMBER, SHE TESTIFIED THAT HE SAID HIS PLAN WAS
10 TO WAIT FOR THAT ALARM CLOCK TO GO OFF. I'M GOING TO WAIT
11 FOR THE ALARM CLOCK TO GO OFF AND WHEN I HEAR DADDY GO INTO
12 THE SHOWER, THAT'S WHEN I'M GOING TO MAKE MY MOVE. MAYBE
13 THAT'S WHAT THE ALARM CLOCK HAD TO DO ON THERE.

14 BUT THAT CONFESSION THAT SHE GAVE UP IN
15 PENNSYLVANIA PUT THIS WHOLE CASE TOGETHER.

16 I WANT YOU TO THINK ABOUT IT THOUGH. IF YOU
17 THINK THIS WAS SUCH A HALF-BAKED SCHEME, WHEN YOU'RE BACK
18 THERE IN THE JURY ROOM THINK FOR A MINUTE WHAT WOULD HAVE
19 HAPPENED IF SHE HADN'T CONFESSED. NO BLOODY BAG. ALL OF
20 A SUDDEN THIS PLAN DOESN'T SEEM SO BAD. IT LOOKS LIKE A
21 BREAK-IN, A NOTE, I WAS UP IN PHILADELPHIA. ALL OF A
22 SUDDEN THE PLAN DOESN'T SEEM SO BAD ANYMORE.

23 MEREDITH MOON WAS THE KEY. AND EVERYTHING SHE
24 TESTIFIED TO WAS BORNE OUT BY ALL OF THIS PHYSICAL
25 EVIDENCE.

ARGUMENT TO THE JURY BY MR. BRACKETT

1914

1 IT WAS A BIG CHUNK OF OUR TIME THAT WAS TAKEN UP
2 BY THE PHYSICAL EVIDENCE. I TOLD YOU THAT I WOULD TELL YOU
3 SOMETHING ABOUT THAT AND I WANT TO TAKE JUST A MINUTE. YOU
4 HEARD A WHOLE BUNCH OF TESTIMONY, A BUNCH OF PEOPLE CAME IN
5 HERE, POLICE OFFICERS, I'VE GOT THE EVIDENCE, HE TOOK THE
6 EVIDENCE, I CARRIED THE EVIDENCE, HE BAGGED THE EVIDENCE,
7 I TOTED THE EVIDENCE UP TO THIS PERSON. SIR, DID YOU MESS
8 WITH THAT EVIDENCE. NO, I DIDN'T TAMPER WITH THAT
9 EVIDENCE, I DIDN'T ALTER THAT EVIDENCE. DID YOU ALTER THAT
10 EVIDENCE? NO, THAT EVIDENCE IS IN THE SAME CONDITION IT
11 WAS IN WHEN I GOT IT. I BAGGED THAT EVIDENCE. NOBODY
12 TAMPERED WITH THE EVIDENCE. I KEPT THE EVIDENCE LOCKED AND
13 BLAH-BLAH-BLAH.

14 WHAT DOES ALL THAT MEAN? LADIES AND GENTLEMEN,
15 WE HAVE THE BURDEN OF PROVING TO YOU THAT THE EVIDENCE THAT
16 WE BRING INTO THIS COURTROOM IS RELIABLE; THAT THE EVIDENCE
17 THAT YOU SEE IS IN THE SAME CONDITION OR BEFORE THAT
18 EVIDENCE WAS SUBJECTED TO ANY SCIENTIFIC TESTING THAT
19 NOBODY HAD A CHANCE TO TAMPER WITH THE EVIDENCE; NO MAGIC
20 BLOOD FAIRY WAS RUNNING AROUND SPRINKLING THE VICTIMS'
21 BLOOD ON ANY OF THESE ITEMS. THAT THE EVIDENCE THAT WAS
22 SEIZED WAS SECURED, THAT NOBODY TAMPERED WITH IT; THAT IT
23 WAS TRANSPORTED UNDER SECURE CONDITIONS AND WHEN IT ARRIVED
24 AT THE LABS AT SLED FOR THEIR TESTING, THAT THE EVIDENCE
25 THAT THEY TESTED WAS IN THE SAME CONDITION AS WHEN IT WAS

ARGUMENT TO THE JURY BY MR. BRACKETT

1915

1 FOUND.

2 THAT'S WHAT ALL THAT WAS ABOUT. IT'S CALLED THE
3 CHAIN OF CUSTODY AND WE'RE REQUIRED TO DO THAT IN ORDER TO
4 GET THE TEST RESULTS INTO YOU. SO IF YOU'RE WONDERING WHAT
5 ALL THAT BACK AND FORTH WAS ABOUT, THAT'S ESSENTIALLY THE
6 REASON WHY, WE HAVE TO PROVE THESE THINGS TO YOU SO THAT
7 YOU KNOW THAT THE TEST RESULTS YOU'RE HEARING ARE RELIABLE.

8 LADIES AND GENTLEMEN, I SUBMIT TO YOU THERE CAN
9 BE NO DOUBT THAT THE HORRIBLE CRIME THAT OCCURRED AT 2506
10 WESTMINSTER DRIVE ON NOVEMBER 25TH, 1997, THE BRUTAL
11 BEATINGS THAT WERE ENDURED BY TERRY AND EARL ROBERTSON WERE
12 INFLECTED BY ONE PERSON. THE EVIDENCE CAN LEAVE NO ROOM
13 FOR SPECULATION AS TO WHO THAT PERSON IS. THE BLOOD WAS
14 NOT JUST UP AND DOWN HIS CLOTHING, BUT UP AND DOWN THE EAST
15 COAST IN A BAG WITH HIS BROTHER'S PRESCRIPTION BOTTLE, ON
16 MEREDITH'S SWEATER, ON HIS PANTS, ON HIS HANDS.

17 BUT JUST IN CASE, JUST IN CASE THERE IS ONE OF
18 YOU SITTING IN THE BOX THAT SAYS I'M STILL NOT CONVINCED,
19 MAYBE THERE'S ROOM FOR DOUBT, THERE IS ONE LITTLE PRESENT
20 THAT THIS MAN PACKED AWAY IN HIS LITTLE BAG OF TRICKS
21 BEFORE HE RAN UP THE COAST TO PHILADELPHIA, STATE'S EXHIBIT
22 53, THE GRAY SWEATSHIRT, THE GRAY T-SHIRT THAT CLIPPINGS
23 WERE TAKEN FROM. EVERYBODY HAS BEEN TO MYRTLE BEACH AND
24 GATLINBURG AND SEEN THE T-SHIRT SHOPS THAT YOU CAN GO TO
25 AND HAVE A PHOTOGRAPH PUT ON THERE. WHAT SHIRT DID MR.

ARGUMENT TO THE JURY BY MR. BRACKETT

1916

1 ROBERTSON CHOOSE TO WEAR WHEN HE BUTCHERED HIS PARENTS? A
2 T-SHIRT WITH HIS PICTURE ON IT. A BLOOD SOAKED T-SHIRT
3 WITH HIM ON IT HAVING A GOOD TIME WITH A COUPLE OF HIS
4 BUDDIES.

5 LADIES AND GENTLEMEN, THEY PUT CHAIRS IN THE JURY
6 ROOM SO THAT YOU CAN SIT DOWN AND DELIBERATE OVER THE
7 EVIDENCE, SO THAT YOU CAN HAVE A PLACE TO SIT COMFORTABLY
8 AND TALK ABOUT THE EVIDENCE THAT YOU'VE HEARD. I SUBMIT TO
9 YOU THAT IN THIS CASE YOU DON'T NEED TO USE THOSE CHAIRS.
10 YOU GO IN THERE, TAKE A VOTE, YOU DON'T NEED TO SEE ANY OF
11 THIS, YOU KNOW WHAT HAPPENED; YOU KNOW IN YOUR HEARTS THIS
12 MAN IS GUILTY. DON'T YOU GIVE HIM -- DON'T YOU GIVE HIM
13 THE SATISFACTION OF FIVE MINUTES OF THINKING THAT MAYBE
14 YOU'RE OUT THERE WONDERING WHETHER HE'S GUILTY. DON'T YOU
15 GIVE HIM FIVE MINUTES. YOU GO BACK THERE; YOU TAKE YOUR
16 VOTE; YOU COME BACK IN HERE AND YOU TELL THIS FILTHY
17 MURDERER THAT YOU KNOW HE KILLED HIS PARENTS. YOU TELL HIM
18 HE'S GUILTY AND YOU DON'T GIVE HIM FIVE MINUTES
19 SATISFACTION.

20 LADIES AND GENTLEMEN, WE'VE CARRIED OUR BURDEN OF
21 PROOF; WE'VE DONE OUR JOB. WE ASK THAT YOU DO YOUR'S.
22 HURRY BACK TO THIS COURTROOM AND TELL THE WORLD THAT THIS
23 MAN IS A MURDERER. THANK YOU.

24 THE COURT: WE'RE GOING TO TAKE A SHORT BREAK SO
25 THAT THE EVIDENCE CAN GET SORT OF RELINED UP IN CASE THE

ARGUMENT TO THE JURY BY MR. BRACKETT

1917

1 DEFENSE WISHES TO USE IT.

2 DON'T START TALKING ABOUT THE CASE YET, IT'S NOT
3 TIME. DON'T BE TRYING TO MAKE UP YOUR MIND. IT WOULDN'T BE
4 FAIR. YOU HAVEN'T HEARD THE DEFENSE POSITION, YOU HAVEN'T
5 HEARD MY CHARGE ON THE LAW.

6 SO, GO BACK AND GET REFRESHED AND WE'LL SEND FOR
7 YOU. HOPEFULLY THIS WILL BE A SHORT BREAK.

8 IN CAMERA:

9 THE COURT: IF ANYBODY WANTS TO STEP OUT FOR JUST
10 A COUPLE OF MINUTES.

11 AFTER THE RECESS (IN CAMERA):

12 THE COURT: MR. HANCOCK AND MR. BOYD, ARE YOU
13 READY?

14 MR. BOYD: YES, SIR, YOUR HONOR.

15 THE COURT: THE DEFENDANT IS PRESENT WITH
16 COUNSEL. BRING IN THE JURY.

17 IN THE PRESENCE OF THE JURY:

18 THE COURT: ALL 14 JURORS ARE PRESENT. YOU MAY
19 PROCEED.

20 ARGUMENT TO THE JURY BY MR. HANCOCK:

21 LADIES AND GENTLEMEN OF THE JURY, WE HAVE BEEN
22 TOGETHER APPROXIMATELY A WEEK NOW SINCE WE STARTED VOIR
23 DIRE. YOU KNOW THAT I'M BILL HANCOCK, AND YOU KNOW THAT
24 I'M THE ATTORNEY FOR JIMMY ROBERTSON WHO IS CHARGED WITH
25 THE CRIMES OF MURDER, ARMED ROBBERY AND CREDIT CARD FRAUD.

ARGUMENT TO THE JURY BY MR. HANCOCK

1918

1 LADIES AND GENTLEMEN, YOU ALSO KNOW THAT THIS IS
2 A CASE IN WHICH THE POSSIBILITY OF DEATH HAS BEEN
3 INTERJECTED, IT'S THERE.

4 I KNOW THAT MR. BRACKETT IS A FINE ATTORNEY AND
5 I WOULD NEVER ASK YOU IN ANY WAY TO SPEND FIVE MINUTES
6 DELIBERATING ON A MATTER THIS SERIOUS WITH THIS MUCH
7 EVIDENCE.

8 IT MAY APPEAR TO BE THAT PLAIN, BUT THERE ARE
9 CERTAIN THINGS THAT WE HAVE TO GO THROUGH. I DON'T ASK YOU
10 TO RELIEVE YOURSELF OF YOUR COMMON SENSE. WHEN WE COME
11 INTO THIS JURY ROOM WE HAVE 12 PEOPLE, THAT'S 24 EYES AND
12 EARS, WITH THE ALTERNATES. AND YOU'RE TO LISTEN TO THE
13 EVIDENCE, ASSESS IT AND EVALUATE IT.

14 WHEN WE BEGAN THIS PROCESS I TOLD YOU THAT YOU
15 WERE THE SOLE AUTHORITY ON THE FACTS AND YOU'RE THE TRIER
16 OF THE FACTS. I TOLD YOU THAT THE JUDGE IS THE SOLE
17 AUTHORITY ON THE LAW. AND THAT IS THE TRUTH; HE WILL
18 EVENTUALLY INSTRUCT YOU ON THE LAW.

19 I WILL TALK WITH YOU AND THEN MR. BOYD WILL TALK
20 WITH YOU AND REFLECT ON THE EVIDENCE. AGAIN I WILL REMIND
21 YOU THAT WHEN WE BEGAN THIS PROCESS I INDICATED TO YOU THAT
22 WHAT I SAY IS NOT EVIDENCE, WHAT THE SOLICITOR SAID IS NOT
23 EVIDENCE AND WHAT MR. BOYD SAYS IS NOT EVIDENCE.

24 IT IS THE EVIDENCE THAT CAME TO YOU FROM THE
25 WITNESS STAND AND IN ALL THE PAPERWORK THAT YOU HAVE SEEN

ARGUMENT TO THE JURY BY MR. HANCOCK

1919

1 AND PICTURES THAT YOU HAVE SEEN. THERE HAS BEEN AN
2 ENORMOUS AMOUNT OF INFORMATION PUT BEFORE YOU.

3 YOUR JOB IS TO ARRIVE AT A DECISION AND A VERDICT
4 THAT SPEAKS THE TRUTH IN THIS MATTER, IN NO OTHER MATTER,
5 JUST ON THESE FOUR CHARGES, AND YOU DO IT BY AN ASSESSMENT
6 OF THE FACTS AS THEY APPLY TO THE LAW AND ARRIVE AT THAT
7 VERDICT THAT SPEAKS THE TRUTH. AND THAT'S ALL I ASK YOU TO
8 DO. THAT'S IT. THAT'S WHAT WE'VE BEEN SITTING HERE FOR A
9 WEEK FOR. THAT'S YOUR JOB.

10 MY JOB IS TO BRING OUT FACTS AND TO MAKE THE
11 STATE PROVE ITS CASE. JIMMY ROBERTSON, AND THE JUDGE WILL
12 EVENTUALLY TELL YOU, AND YOU MUST CONSIDER IT AND IT'S
13 GOING TO BE A TOUGH THING TO DO, ESPECIALLY IN THIS CASE,
14 HE'S GOING TO TELL YOU THAT JIMMY ROBERTSON HAS AN ABSOLUTE
15 RIGHT TO REMAIN SILENT. AND IT'S GOING TO BE REAL HARD FOR
16 YOU NOT TO GO BACK IN THE JURY ROOM AND SAY, WELL, WHY
17 DIDN'T HE TAKE THE WITNESS STAND. BUT YOU CAN'T EVEN DO
18 THAT BECAUSE HE HAS THAT ABSOLUTE RIGHT.

19 AND THERE IS A REASON BEHIND THAT, BECAUSE THE
20 STATE HAS THE ENTIRE BURDEN IN A CASE. THERE ARE MANY
21 HISTORICAL REASONS, GOING BACK TO DEBTORS PRISON AND PEOPLE
22 BEING THROWN IN JAIL JUST FOR A TEN CENT DEBT; THIS SORT OF
23 THING. THERE ARE HISTORIC REASONS THAT GO BACK TO WHY THE
24 STATE HAS THE BURDEN OF PROOF AND THAT BURDEN OF PROOF IS
25 TO PROVE ITS CASE BEYOND A REASONABLE DOUBT.

ARGUMENT TO THE JURY BY MR. HANCOCK

1920

1 WHEN WE SAY A REASONABLE DOUBT AND, AGAIN, I WILL
2 REMINDE YOU AS I DID WHEN WE BEGAN THAT WHAT I SAY IF IT IS
3 DIFFERENT FROM THE LAW AS THE JUDGE PRESENTS IT TO YOU OR
4 THE FACTS THAT YOU HAVE HEARD, THEN YOU TAKE WHAT YOU HAVE
5 HEARD. I AM NOT IN ANY WAY TRYING TO DECEIVE YOU. SO,
6 PLEASE DO NOT HOLD IT AGAINST JIMMY.

7 I AM SITTING HERE AND YOU CAN TELL BY THE PROCESS
8 OF THE TRIAL IN WATCHING WHAT IS GOING ON THAT WE'RE
9 WRITING; WE'RE LISTENING; WE TRY TO LISTEN WITH ONE EAR,
10 WRITE WITH ONE HAND AND DO EVERYTHING AND PEOPLE ARE
11 TALKING TO YOU AND SOMETIMES YOU MISS IT, SOMETIMES
12 SOMETHING JUST COMES IN THE WRONG WAY.

13 WELL, THAT'S WHY WE'VE GOT 12 PEOPLE SITTING HERE
14 TO USE YOUR COMMON SENSE AND YOUR COMMON EXPERIENCE AND
15 YOUR LISTENING ABILITY AND YOUR PERCEPTION TO ARRIVE AT A
16 VERDICT IN THIS MATTER.

17 NOW, YOU'VE HEARD MUCH OF THE EVIDENCE AND I WILL
18 START WITH SOMETHING I OBSERVED AND SOME OF THE THINGS THAT
19 I LISTENED TO, AND I'M NOT CHALLENGING THE SOLICITOR'S
20 ARGUMENT, BUT SOME OF THE THINGS THAT WERE SAID.

21 FIRST, THE ENTIRE CASE BASICALLY HINGES ON ONE
22 MEREDITH MOON IF I HEARD THE SOLICITOR CORRECTLY. YOU KNOW
23 THAT SHE HAS LIED; SHE LIED ALL THE WAY UP AND DOWN THE
24 EAST COAST AND THEN BY OMISSION SHE LIED TO THE POLICE, AND
25 THEN SHE DECIDED THAT, QUOTE, SHE WAS GOING TO TELL THE

ARGUMENT TO THE JURY BY MR. HANCOCK

1921

1 TRUTH BUT THEN IN HER TESTIMONY WHEN SHE WAS ASKED, SHE
2 SAID, WELL, HE SAID ABOUT THE PARENTS AND EVERYTHING THAT
3 THERE WAS MONEY INVOLVED, THEN SHE SAID -- I ASKED HER,
4 WELL, YOU GAVE A STATEMENT, YOUR STATEMENTS HAVE NEVER SAID
5 THAT. IT SAID EMOTIONAL TRAUMA. AND THEN SHE OH, OH,
6 WELL, GOLLY, I JUST MUST HAVE FORGOTTEN THAT.

7 SHE'S SITTING THERE AND SHE'S FACING, AND SHE
8 TOLD YOU SHE'S FACING THE DEATH PENALTY OR LIFE
9 IMPRISONMENT WITHOUT THE POSSIBILITY OF PAROLE AND SO SHE
10 MAKES A DEAL AND GETS UP HERE AND SITS ON THE WITNESS STAND
11 AND SHE'LL SAY ANYTHING BECAUSE IT'S HER SKIN, FOLKS.

12 I DON'T KNOW EXACTLY WHAT HAPPENED THERE. NONE OF
13 US MAY EVER KNOW WHAT HAPPENED THERE, BUT WE'RE DEPENDING
14 ON MEREDITH MOON. AND I JUST LISTENED TO SOME OF THE
15 THINGS THAT SHE WAS SAYING AS WE WENT THROUGH AND SOME OF
16 THE THINGS SHE DIDN'T SAY AND IF I REMEMBER CORRECTLY JUST
17 IN SMALL THINGS, AND I LOOK AT SMALL THINGS AND I LOOK AT
18 LARGE THINGS, AND THE SMALL THINGS -- AND SHE'S SITTING
19 THERE AND SHE IS TELLING YOU EXACTLY WHAT HAPPENED AND IN
20 EVERY SEQUENCE.

21 AND THEN ONE OF THE MAIN CHARGES HERE IS CREDIT
22 CARD FRAUD, AND IT'S ROBBERY, ARMED ROBBERY OF THAT ONE
23 CREDIT CARD. AND WHEN I CROSS EXAMINED HER, I JUST ASKED,
24 WELL MAYBE NOT POLITELY BUT NOT IN AN ABRASIVE MANNER I
25 DON'T THINK, WELL HE HAD IT IN HIS RIGHT HAND OR HIS LEFT

ARGUMENT TO THE JURY BY MR. HANCOCK

1922

1 HAND. SHE'S SAID EVERYTHING ELSE HE'S DONE RIGHT DOWN THE
2 LINE, RIGHT HAND OR LEFT HAND, WELL, I DON'T KNOW. DID HE
3 TAKE THE CARD OUT WITH HIS RIGHT HAND OR LEFT HAND? WELL,
4 I DON'T KNOW. WHERE DID HE PUT THE WALLET? WELL, I DON'T
5 KNOW.

6 WELL, I KNOW SHE DOESN'T KNOW BECAUSE THERE ARE
7 THINGS SHE DOESN'T KNOW AND DOESN'T SEE AND SHE IS
8 FABRICATING AND YOU CAN TAKE IT THAT IF SHE WILL FABRICATE
9 ONCE, SHE WILL FABRICATE ALL.

10 WHAT ABOUT THE POCKETBOOK? THEY SHOWED YOU THAT
11 POCKETBOOK FIVE OR SIX TIMES AT THE BASE OF THE BED, BUT
12 SHE SAID IT WAS DROPPED OVER THERE BY THE COUCH. WAS SHE
13 THERE? THAT'S WHAT SHE TOLD YOU. YOU TAKE IT AS YOU
14 REMEMBER IT. I'M JUST TELLING YOU WHAT I REMEMBER AS I GO
15 THROUGH HERE AND AS I HAVE WRITTEN DOWN. AND YOU WILL
16 NOTICE THAT I REFER TO NOTES BECAUSE I DON'T HAVE A
17 PHOTOGRAPHIC MEMORY. I'M LISTENING ALSO.

18 BUT SHE DOESN'T REMEMBER. THEN FOR SOME UNKNOWN
19 REASON SHE TAKES TO LYING ABOUT A NOTE. AND I DON'T SEE
20 THE NOTE. THE SOLICITOR HAS REFERRED TO IT, YOU'LL HAVE IT
21 BACK IN EVIDENCE. IT'S THE ONE WRITTEN ON THE BACK --
22 EXCUSE ME -- I'M NOT GOING TO BELABOR THE POINT BECAUSE
23 YOU'VE SEEN THE NOTE SO MANY TIMES. IT'S THE TO DO LIST.

24 AND THEN SHE TELLS YOU, SHE LIES ABOUT THAT. I
25 DON'T KNOW WHY. BUT IF YOU'RE GOING TO TAKE THAT, YOU'VE

ARGUMENT TO THE JURY BY MR. HANCOCK

1923

1 GOT TO TAKE ALL OF HER TESTIMONY AND EVALUATE ALL OF IT AND
2 EVALUATE WHERE IT IS. AND IF THERE IS ANY DOUBT THAT SHE'S
3 TELLING THE TRUTH, YOU'VE GOT TO GIVE THE DOUBT TO JIMMY
4 ROBERTSON BECAUSE THE LAW REQUIRES YOU, IT REQUIRES YOU,
5 NOT ASKS OF YOU, NOT REQUESTS OF YOU, REQUIRES YOU AS A
6 JURY THAT IF YOU FIND IN ANY ELEMENT IN EITHER ONE OF THESE
7 MURDERS, IN THE ARMED ROBBERY OR THE CREDIT CARD FRAUD, IF
8 YOU HAVE ANY REASONABLE DOUBT, THEN YOU ARE REQUIRED TO
9 WRITE DOWN NOT GUILTY. IT DOESN'T SAY YOU MAY; IT DOESN'T
10 SAY YOU CAN; IT SAYS YOU ARE REQUIRED. YOU LISTEN TO THE
11 LAW AS THE JUDGE WILL GIVE IT TO YOU.

12 THAT REASONABLE DOUBT CAN ARISE FROM THE EVIDENCE
13 OR LACK THEREOF. THE TRUTH OR CREDIBILITY OF EACH AND
14 EVERY OR ANY WITNESS. YOU CAN BELIEVE ANYTHING A WITNESS
15 SAYS, ALL OF WHAT A WITNESS SAYS OR A PORTION OF WHAT A
16 WITNESS SAYS. WELL, WHEN THAT CREDIBILITY COMES INTO PLAY,
17 YOU'RE REQUIRED TO FIND NOT GUILTY.

18 WHAT IS MEREDITH MOON'S PURPOSE? I DON'T KNOW.
19 I CAN'T ASSIGN PURPOSES BECAUSE I'M NOT THAT WISE. I DON'T
20 HAVE A CRYSTAL BALL. I CAN ONLY LOOK AND SEE WHAT IS GOING
21 ON RIGHT HERE.

22 AND I AM GOING TO REMIND YOU OF SOMETHING, TOO.
23 WHEN I SAY "I THINK", LADIES AND GENTLEMEN, I AM NOT TRYING
24 TO INTERJECT MY OPINIONS INTO YOUR DELIBERATION. I AM
25 ACTUALLY SAYING TO YOU, AND I WANT YOU TO TAKE IT IN THIS

ARGUMENT TO THE JURY BY MR. HANCOCK

1924

1 MANNER, AND IT'S NOT A LEGAL DEBATE. I'M SAYING I THINK
2 THE EVIDENCE TENDS TO SHOW, AND THAT'S WHAT I'M ACTUALLY
3 SAYING TO YOU. PLEASE DON'T THINK THAT I AM INTERJECTING
4 ANY PERSONAL OPINIONS INTO YOUR DELIBERATION. BUT THAT'S
5 WHY I'M SAYING I THINK THE EVIDENCE TENDS TO SHOW.

6 NOW, WE'VE GONE THROUGH A GREAT DEAL. WE HAVE
7 NOT ESTABLISHED SEVERAL THINGS. MR. BOYD MAY REFLECT ON
8 SOME OF THESE THINGS ALSO. WE'VE NOT EVER -- WE'VE GOT A
9 T-SHIRT AND THAT'S IT. BUT NONE OF THOSE OTHER CLOTHES --
10 MEREDITH MOON NEVER TOLD YOU WHAT THEY WERE WEARING. JIMMY
11 HAS NEVER BEEN SAID TO HAVE BEEN WEARING THE YELLOW PANTS
12 OR THE T-SHIRT OR ANYTHING THAT WAS FOUND IN THAT BAG. I
13 DON'T KNOW WHERE THE CLOTHES ARE THAT MEREDITH MOON WAS
14 WEARING BECAUSE SHE DIDN'T SAY WHAT SHE WAS WEARING THAT
15 DAY AND I DON'T ASK YOU TO SPECULATE, BUT THEY ARE NOT
16 THERE.

17 THERE WAS NO BLOOD OR ANYTHING FOUND ON THE
18 CLOTHES THAT JIMMY WAS WEARING WHEN HE WAS IN PHILADELPHIA
19 OR YOU WOULD HAVE HAD EVIDENCE TO THAT EFFECT. BUT IF YOU
20 REMEMBER THE TESTIMONY, NOBODY HAS EVER SAID THAT ON THAT
21 NIGHT JIMMY ROBERTSON WAS WEARING THOSE CLOTHES. THEY HAVE
22 NOT DONE THAT. EXCEPT FOR THE T-SHIRT AND WE DON'T KNOW
23 WHERE THAT REALLY CAME FROM, IT WAS IN THE BAG. WE DON'T
24 KNOW IF THOSE ARE HIS PANTS BECAUSE THERE WAS NEVER
25 ANYTHING ESTABLISHED THAT HE WAS WEARING THEM OR THAT HE

ARGUMENT TO THE JURY BY MR. HANCOCK

1925

1 HAD EVER OWNED ANY PANTS OR ANY CLOTHES THAT WERE
2 CONSISTENT THERETO. AND YOU'VE HEARD CONSISTENT A HUNDRED
3 OR MORE TIMES.

4 JUST REFLECT ON MEREDITH AND HER TESTIMONY AND
5 HOW VERY VALUABLE HER TESTIMONY MAY OR MAY NOT BE. I
6 LISTENED AND HEARD OR DIDN'T HEAR SOMETHING ELSE. WE'VE
7 GOT TESTIMONY AS TO WHEN THE ROBERTSONS WERE FOUND, BUT WE
8 DO NOT KNOW BY EVIDENCE WHEN THEY WERE KILLED.

9 DR. JOEL SEXTON NEVER IN HIS TESTIMONY SAID THE
10 TIME OF DEATH WAS ON OR ABOUT. ISN'T THAT IMPORTANT? SO
11 NOW YOU HAVE A SCENARIO THAT IS A SCENARIO THAT IS NOT TIED
12 IN BY ONE OF THE MAJOR PIECES OF EVIDENCE. DR. JOEL
13 SEXTON, AN EXPERT IN HIS FIELD, WELL RESPECTED AND YOU
14 HEARD WHEN HE GOT ON THE WITNESS STAND MR. BOYD AND I SAID
15 WE STIPULATE TO DR. JOEL SEXTON. AND HE TESTIFIED, I
16 BELIEVE, NOW THIS IS SOMETHING THAT IF YOU REMEMBER IT, YOU
17 TAKE IT, I CAN'T SAY, I DON'T REMEMBER IF HE SAID HOW MANY
18 TIMES HE'S TESTIFIED IN A CRIMINAL TRIAL, SO I'M NOT GOING
19 TO TELL YOU, ALTHOUGH I MIGHT KNOW, BUT I'M NOT GOING TO
20 TELL YOU BUT YOU REMEMBER IF HE SAID HOW MANY TIMES, TO
21 TELL YOU HOW MUCH AN EXPERT HE WAS.

22 DR. JOEL SEXTON, WELL RESPECTED SITTING HERE AS
23 AN EXPERT, I DON'T KNOW WHETHER IT WAS AN OVERSIGHT OR
24 WHAT, LADIES AND GENTLEMEN, BUT WE HAVE A CRIME THAT WE DO
25 NOT KNOW THE TIME OF DEATH. WE DON'T KNOW IF THEY WERE

ARGUMENT TO THE JURY BY MR. HANCOCK

1926

1 KILLED THE DAY BEFORE.

2 IT'S NOT MY DUTY TO PROVE TO YOU THAT THEY WERE
3 NOT KILLED THE DAY BEFORE. OR AT SOME TIME AFTER 9:00
4 O'CLOCK OR THE LAST PHONE CALL THAT MAY HAVE BEEN DONE
5 BECAUSE I DON'T REMEMBER ANYONE SAYING EXACTLY THE LAST
6 TIME THEY TALKED TO THE ROBERTSONS. IF YOU REMEMBER IT
7 FROM TESTIMONY, YOU TAKE IT AS YOU HEARD IT. I DON'T
8 REMEMBER, I'LL TELL YOU THE TRUTH. BUT YOU TAKE THE TRUTH
9 AS YOU HEARD IT, NOT AS I'M TRYING TO REFLECT UPON IT.

10 ALL THIS EVIDENCE, I KNOW IT OVERWHELMS YOU; IT
11 WOULD OVERWHELM MOST ANYONE, BUT IN ANY OF THIS NOBODY HAS
12 SAID WHEN THEY DIED. THAT MEANS THAT EVERYTHING THAT HAS
13 BEEN DONE OR SAID IS NOT SUBSTANTIATED THROUGH THE MOST
14 CRITICAL EVIDENCE YOU CAN FIND, THE FORENSIC PATHOLOGIST
15 THAT SPOKE WITH YOU.

16 SO, WHAT HAS HAPPENED HERE MAY NOT HAVE EVER
17 HAPPENED. AND I'M NOT STRAINING YOUR CREDIBILITY, BUT YOU
18 TAKE IT AS YOU HEARD IT. BUT YOU THINK ABOUT IT BECAUSE
19 IT'S NOT MY REQUIREMENT TO PROVE THAT TO YOU. IT'S THE
20 STATE'S REQUIREMENT TO PROVE THAT TO YOU BY CREDIBLE
21 EVIDENCE. YOU REMEMBER THE TESTIMONY AS YOU HEARD IT.

22 AGAIN, MR. BRACKETT COMES OVER TO JIMMY AND
23 BASICALLY SAYING ITS ALL ABOUT MONEY. WELL, TO DO THAT HE
24 WAS TALKING ABOUT SUPPOSEDLY FROM MEREDITH MOON, AND SHE
25 DOESN'T REMEMBER SOME OF THIS STUFF. SHE REMEMBERS SOME

ARGUMENT TO THE JURY BY MR. HANCOCK

1927

1 AND THEN DOESN'T REMEMBER OTHERS, BUT SHE SAYS HE'S TALKING
2 ABOUT -- WELL, BY IMPLICATION WHAT THE SOLICITOR IS DOING
3 IS TRYING TO GET YOU TO MAKE THAT LEAP, AND YOU CAN'T
4 SPECULATE, FOLKS. YOU'RE REQUIRED NOT TO SPECULATE.
5 YOU'VE GOT TO BASE EVIDENCE THAT YOU BASE YOUR OPINION ON.

6 YOU HAVE NO ONE ELSE THAT EVER SAID THAT JIMMY
7 ROBERTSON KNEW, ONE, OF THE WILLS OR THERE WHEREABOUTS.
8 THEY DID NOT ESTABLISH WHERE THE WILLS WERE FOUND. AND
9 THEY DID NOT ESTABLISH WHETHER JIMMY OR CHIP EVER KNEW
10 ANYTHING ABOUT ANY MONEY OR ESTATE.

11 I'M NOT ASKING YOU TO THROW AWAY YOUR COMMON
12 SENSE. I'M SURE THAT THE YOUNGSTERS KNEW THAT EVENTUALLY
13 THEY WOULD INHERIT WHATEVER THEIR PARENTS HAD BUT THERE WAS
14 NO TESTIMONY THAT WOULD LEAD YOU TO SAY THAT THESE KIDS
15 KNEW HOW MUCH MONEY WAS AVAILABLE TO THEM SHOULD THEIR
16 PARENTS DIE. THERE'S NOTHING THERE. YOU'VE GOT ONE
17 CONVERSATION THAT MEREDITH MOON SAID HE SAID SOMETHING
18 ABOUT, SUPPOSEDLY NOW, AND LIKE I SAY, YOU TAKE WHAT YOU
19 BELIEVE, BUT YOU ARE ASKED TO MAKE A SPECULATION ON THAT
20 PARTICULAR SITUATION AND YOU'RE GIVEN MONEY AMOUNTS AND
21 EVERYTHING THAT IS SUPPOSED TO TEMPER YOUR OPINION BUT THE
22 STATE HAS TO PROVE SOMEWHERE ALONG THE LINE THAT THEY KNEW
23 HOW MUCH WAS HERE TO CONVINCE YOU THAT THAT IS WHAT WAS
24 THERE OR THAT HE WAS THINKING IN THAT MANNER. THAT'S
25 PROOF.

ARGUMENT TO THE JURY BY MR. HANCOCK

1928

1 DON'T SPECULATE BECAUSE THE LAW IS GOING TO TELL
2 YOU NOT TO SPECULATE.

3 ANOTHER THING, AND I THINK THE DNA EXPERT
4 INTERJECTED -- MR. BOYD IS GOING TO CARRY FORWARD ON THIS
5 -- THE DNA EXPERT INDICATED THAT THERE WAS DNA IN THE HOUSE
6 THAT WAS CONSISTENT TO OTHER OFFSPRING OF THE ROBERTSONS
7 THAT'S NOT JIMMY'S.

8 WELL, WE'VE GOT SOMETHING ELSE THAT HASN'T BEEN
9 ESTABLISHED HERE. I'M NOT REQUIRED TO TELL YOU AND NOBODY
10 ELSE IS, BUT WE DON'T KNOW HOW MANY CHILDREN THE ROBERTSONS
11 HAD. IT'S NEVER BEEN TOLD TO YOU THAT THEY HAD ONE, TWO,
12 THREE OR FOUR CHILDREN THAT I KNOW OF, THAT IT WAS LIMITED
13 TO JIMMY AND CHIP. THAT'S JUST SOMETHING THAT I REFLECTED
14 ON AS I LISTENED TO THE EVIDENCE AND AS I LISTENED TO
15 TESTIMONY AS WE COURSED ALONG. IF YOU REMEMBER THAT AND
16 SOMEBODY SAID THAT, THEN YOU TAKE WHAT YOU HEARD, DON'T
17 TAKE WHAT I SAID.

18 ANOTHER THING THAT I WAS JUST THINKING ABOUT, THE
19 CREDIT CARD THAT HE SUPPOSEDLY USED, MEREDITH SAID, I THINK
20 IF YOU BELIEVE HER, SHE SAID THAT HE TOOK IT OUT OR TOOK A
21 CREDIT CARD OUT AND IT WENT THERE OR ANOTHER WAY. HIS
22 FATHER HAS GOT MANY, MANY CREDIT CARDS AND I DON'T KNOW,
23 AND HERE'S YOUR LIST THAT WE WERE TALKING ABOUT THAT
24 ACCORDING TO MEREDITH SHE WROTE IT; IF NOT, JIMMY WROTE IT;
25 IF NOT, THEN SOMEBODY ELSE WROTE IT. BUT I'M NOT GOING TO

MENT TO THE JURY BY MR. HANCOCK

1929

THAT. ONE OR THE OTHER WROTE THAT. THEY SAID JIMMY
WROTE IT, I THINK. THE HANDWRITING ANALYSIS IS RIGHT HERE.

THINK IT SAID THAT JIMMY WROTE IT. I DON'T KNOW WHY
EREDITH WOULD TELL YOU THAT LIE EITHER IF SHE'S THE ONE
HAT KNOWS ALL THE TRUTH. BUT THERE IS MORE HERE THAN
EETS THE EYE, LADIES AND GENTLEMEN.

ON THE CREDIT CARD ISSUE, THERE'S NOTHING THAT
HE STATE, I DON'T BELIEVE, HAS INTERJECTED THAT INDICATES
HAT THE CREDIT CARD TAKEN OUT OF THAT WALLET, AND YOU CAN
LOOK AND THERE ARE MANY, MANY, THAT JIMMY DID NOT HAVE ANY
REDIT CARD OF HIS FATHER'S OR HAD NOT EVER USED ANY CREDIT
ARD OF HIS FATHER'S OR THAT THERE IS ANY APPARENT
UTHORITY THAT HE COULD USE A CREDIT CARD OF HIS FATHER'S.
ND THIS NEEDS TO BE ADDRESSED, LADIES AND GENTLEMEN.
HAT'S SOMETHING YOU NEED TO LOOK AT. IT'S SOMETHING YOU
EED TO THINK ABOUT BECAUSE THAT GOES TO THE ARMED ROBBERY.

IF THAT'S NOT THE CREDIT CARD, THE EXACT CREDIT
ARD HE STOLE WITHOUT ANY APPARENT AUTHORITY TO USE IT,
HEN IF IT'S NOT, THEN HE DIDN'T ROB THAT CREDIT CARD. AND
HAT'S THE ONE THEY ARE SAYING, JUST THAT ONE. LOOK IN
ERE, THERE ARE MANY, MANY MORE.

I'VE JUST REFLECTED ON SOME OF THE EVIDENCE. THE
UDGE IS GOING TO CHARGE YOU AS TO MURDER, THE FELONIOUS
ILLING OF ANOTHER HUMAN BEING BY A HUMAN WITH MALICE
FORETHOUGHT.

ARGUMENT TO THE JURY BY MR. HANCOCK

1930

1 HE IS GOING TO CHARGE YOU ON ARMED ROBBERY,
2 TAKING PROPERTY OF ANOTHER WHILE ARMED WITH A DEADLY
3 WEAPON. AND CREDIT CARD FRAUD.

4 I ASK THAT YOU LISTEN VERY CLOSELY TO WHAT HE
5 SAYS WHEN HE BEGINS TELLING YOU ABOUT REASONABLE DOUBT.
6 AND I ASK THAT YOU LISTEN WHEN HE STARTS TELLING YOU ABOUT
7 EACH AND EVERY ELEMENT OF EACH OF THESE CRIMES BECAUSE IT
8 IS INHERENT UPON THE STATE TO PROVE EVERY ELEMENT. IF
9 THERE IS ONE ELEMENT MISSING THAT YOU'RE NOT CONVINCED
10 BEYOND A REASONABLE DOUBT THAT THAT WAS PROVEN TO YOU BY
11 CREDIBLE EVIDENCE EITHER HERE OR ON THE WITNESS STAND, THEN
12 YOU MUST FIND HIM NOT GUILTY ON THAT PARTICULAR CHARGE.

13 I THINK THAT HE WILL CHARGE YOU THAT REASONABLE
14 DOUBT -- HE WILL EITHER CHARGE YOU THAT REASONABLE DOUBT,
15 YOU GIVE A COMMON SENSE INTERPRETATION OF IT OR HE WILL
16 CHARGE YOU THAT REASONABLE DOUBT IS ANY DOUBT WHICH CAUSES
17 A REASONABLE JUROR TO HESITATE TO ACT, TO HESITATE TO MOVE
18 TOWARD GUILTY BECAUSE THERE IS A DOUBT IN YOUR MIND. IF
19 FROM ANY OF THE EVIDENCE OR LACK THEREOF PRESENTED TO YOU,
20 IF THAT REASONABLE DOUBT IS RAISED IN YOUR MIND, THEN
21 AGAIN, IT IS YOUR DUTY TO FIND NOT GUILTY.

22 I THANK EACH OF YOU FOR BEING HERE. THIS IS A
23 LONG AND ARDUOUS PROCESS BUT IT IS NECESSARY. WE STARTED
24 ON MONDAY, THIS IS SATURDAY. YOU HAVE GIVEN UP YOUR HOMES;
25 YOU HAVE GIVEN UP YOUR FAMILIES TO PROVIDE FOR THE DUTY OF

ARGUMENT TO THE JURY BY MR. BOYD

1931

1 A JUROR WHICH IS THE HIGHEST -- RIGHT NOW YOU SIT IN THE
2 HIGHEST OFFICE OF THE STATE BECAUSE YOU ARE A DULY SWORN
3 JUROR. AND YOU HAVE SACRIFICED GREATLY TO BE HERE.

4 I'M NOT SAYING THIS IN ANY WAY TO SWAY YOU; I'M
5 SAYING IT IN THE MANNER OF THANKS. I'VE WORKED IN CRIMINAL
6 LAW FOR 20 YEARS; I'VE TRIED A LOT OF CASES AND IF I DIDN'T
7 ENJOY IT, I WOULDN'T BE HERE, BUT I ALSO KNOW THE RESPECT
8 THAT MUST BE GIVEN TO YOU AS CITIZENS WHO HAD TO SACRIFICE
9 IN THIS MANNER TO COME IN HERE SO THAT WE CAN RESOLVE THESE
10 MATTERS ACCORDING TO THE LAW IN THE STATE OF SOUTH
11 CAROLINA. YOU ARE THE INDIVIDUALS THAT HAVE THE DIFFICULT
12 TASK.

13 I ONLY ASK THAT YOU REACH A VERDICT ON ALL
14 CHARGES THAT BY THE LAW AND THE EVIDENCE IN THIS CASE
15 SPEAKS THE TRUTH. THANK YOU FOR YOUR TIME.

ARGUMENT TO THE JURY BY MR. BOYD:

17 MR. FOREMAN, LADIES AND GENTLEMEN, YOU KNOW WHEN
18 YOU FIRST READ IN THE PAPER OR HEAR ON THE RADIO OR SEE ON
19 T.V. THAT SOMEONE HAS BEEN CHARGED WITH A CRIME, THE
20 IMMEDIATE INCLINATION YOU HAVE, AND I'M AS GUILTY OF THIS
21 AS ANYONE ELSE, IS TO THINK, WELL, THEY GOT THE PERSON WHO
22 DID THAT OR THEY CAUGHT THAT PERSON.

23 AND I THINK WE ALL TEND TO PRESUME PEOPLE ARE
24 GUILTY. I MEAN THAT IS JUST OUR NATURAL INCLINATION. BUT
25 WHEN YOU'RE SITTING ON A JURY, YOU HAVE TO TAKE THAT AWAY

ARGUMENT TO THE JURY BY MR. BOYD

1932

1 FROM YOUR MIND. YOU HAVE TO THINK IN A DIFFERENT VEIN
2 BECAUSE AS YOU'RE SITTING THERE AS JURORS, YOU HAVE BEEN
3 CALLED AND BECOME OFFICERS OF THE COURT. YOU HAVE BECOME
4 JUDGES; YOU HAVE BECOME JUDGES TO DETERMINE WHETHER
5 SOMEBODY SHOULD BE FOUND GUILTY OR NOT GUILTY. AND THE LAW
6 REQUIRES THAT ANY PERSON CHARGED WITH ANY CRIME IS PRESUMED
7 TO BE INNOCENT.

8 AND I WANT YOU TO THINK A MINUTE AND JUST THINK
9 ABOUT WHAT THAT REALLY MEANS, PRESUMPTION OF INNOCENCE,
10 BECAUSE THAT'S SOMETHING WE'VE ALL HEARD AND IT'S SOMETHING
11 THAT WE'VE ALL GIVEN LIP SERVICE TO, BUT HAVE YOU EVER
12 STOPPED AND THOUGHT ABOUT WHAT THAT REALLY MEANS?

13 THE PRESUMPTION OF INNOCENCE MEANS THAT A PERSON
14 WHO IS ACCUSED OF SOMETHING DOESN'T HAVE TO COME INTO COURT
15 AND PROVE THEMSELF INNOCENT.

16 THE STATE SAYS THAT JAMES ROBERTSON, JIMMY
17 ROBERTSON WE CALL HIM, THEY SAY THAT HE COMMITTED THE
18 MURDER OF BOTH OF HIS PARENTS AND THESE OTHER CRIMES. THEY
19 HAVE TO PROVE THAT TO YOU. HE DOESN'T HAVE TO COME INTO
20 THIS COURTROOM AND PROVE TO YOU THAT HE DID NOT COMMIT
21 THIS.

22 NOW YOU MAKE THINK, WELL, GOOD GRACIOUS, IF
23 SOMEONE IS ACCUSED OF SOMETHING LIKE THIS, SURELY THEY WANT
24 TO COME IN AND PROVE THAT THEY DIDN'T DO IT. BUT UNDER OUR
25 SYSTEM OF LAWS A PERSON WHO IS ACCUSED DOES NOT HAVE TO

ARGUMENT TO THE JURY BY MR. BOYD

1933

1 COME INTO COURT AND PROVE THEMSELF INNOCENT. THE STATE HAS
2 TO PROVE GUILT.

3 AND THERE IS A CERTAIN BURDEN THAT THE STATE HAS
4 TO REACH TO PROVE GUILT. IT'S CALLED PROOF BEYOND A
5 REASONABLE DOUBT. I WANT YOU TO THINK A MINUTE ABOUT WHAT
6 THAT MEANS. AND THE JUDGE WILL TELL YOU WHAT THAT MEANS.
7 MR. HANCOCK JUST TOLD YOU WHAT IT MEANT. IT MEANS IT'S THE
8 KIND OF DOUBT THAT WOULD MAKE SOMEONE HESITATE TO ACT.

9 SO, UNLESS YOU ARE CONVINCED BEYOND ANY
10 REASONABLE DOUBT OF JIMMY ROBERTSON'S GUILT, YOU CANNOT
11 RENDER A VERDICT OF GUILTY. A VERDICT OF GUILTY IS NOT A
12 DECLARATION OF INNOCENCE. IT'S NOT SAYING TO THE WORLD,
13 HEY, YOU'RE INNOCENT, YOU'RE WITHOUT FAULT. WHAT A VERDICT
14 OF NOT GUILTY MEANS -- IT BASICALLY MEANS NOT PROVEN. THAT
15 THE STATE HAS FAILED TO PROVE GUILT BEYOND A REASONABLE
16 DOUBT.

17 YOU CAN GO BACK IN THAT JURY ROOM AND YOU CAN
18 SAY, WELL, BASED ON THE EVIDENCE I THINK JIMMY ROBERTSON IS
19 INNOCENT OF THIS. IN THAT CASE THE CHOICE WOULD BE EASY,
20 YOU'D VOTE NOT GUILTY.

21 YOU CAN GO BACK IN THE JURY ROOM AND YOU CAN SAY,
22 WELL, YOU KNOW, HE MAY BE GUILTY, HE MAY NOT, I DON'T KNOW,
23 I'M NOT SURE. THEN YOU STILL HAVE A REASONABLE DOUBT AND
24 YOUR VOTE MUST BE NOT GUILTY.

25 AND THIS IS WHERE THE HARD PART COMES IN. YOU

ARGUMENT TO THE JURY BY MR. BOYD

1934

1 MAY GO BACK INTO THE JURY ROOM AND THINK, WELL, BASED ON
2 ALL THE EVIDENCE I'VE HEARD IN THE COURTROOM, I THINK HE'S
3 GUILTY, BUT I'M NOT SURE ABOUT IT, THERE'S STILL THAT
4 REASONABLE DOUBT. UNDER YOUR DUTY AS JURORS IN THAT EVENT
5 YOU HAVE A DUTY TO VOTE NOT GUILTY. AND THAT'S HARD TO DO
6 BECAUSE IF YOU'RE BACK IN THE JURY ROOM AND YOU THINK,
7 WELL, I THINK THE STATE HAS PROVEN THIS BY THE GREATER
8 WEIGHT OF THE EVIDENCE OR BY WHAT'S CALLED THE
9 PREPONDERANCE OF THE EVIDENCE OR MORE LIKELY THAN NOT HE'S
10 GUILTY, THE LAW SAYS THAT'S NOT ENOUGH. IT HAS TO BE BY
11 PROOF BEYOND A REASONABLE DOUBT. AND IF THE STATE HASN'T
12 COME UP TO THAT STANDARD, THEN HE IS ENTITLED TO A VOTE OF
13 NOT GUILTY.

14 I WANT TO SPEAK TO YOU FOR A MINUTE ABOUT SOME OF
15 THE EVIDENCE THAT HAS BEEN PRESENTED IN THIS CASE. MR.
16 BRACKETT TALKED TO YOU AND TALKED ABOUT THE OVERWHELMING
17 VOLUME OF EVIDENCE THAT WE HAVE IN THIS CASE. AND HE HAS
18 TALKED TO YOU, YOU SEE IT ALL OVER HERE, ALL THIS
19 OVERWHELMING AMOUNT OF EVIDENCE HE SAYS. WELL, LET'S BOIL
20 IT DOWN AND I'M NOT GOING TO TALK TO YOU PROBABLY AS LONG
21 AS THE OTHER LAWYERS DID THAT WERE UP HERE, BUT I WANT TO
22 JUST SPEAK TO YOU A FEW MINUTES ABOUT THAT.

23 THE OVERWHELMING VOLUME OF EVIDENCE. WHAT HAS
24 THE STATE PROVED? THE STATE HAS PROVED THAT JIMMY
25 ROBERTSON AND MEREDITH MOON WENT TO PHILADELPHIA.

ARGUMENT TO THE JURY BY MR. BOYD

1935

1 THE STATE HAS PROVEN THAT A GARBAGE BAG THAT
2 CONTAINED ITEMS THAT WERE CONNECTED TO THE MURDER OF EARL
3 AND TERRY ROBERTSON WERE IN A DUMPSTER IN MARYLAND ON THAT
4 ROUTE AND THE DNA EVIDENCE HAS SHOWN THAT BOTH TERRY'S
5 BLOOD IS ON SOME ITEMS AND EARL'S BLOOD IS ON SOME ITEMS.
6 THE STATE HAS PROVEN THAT.

7 I WANT YOU TO REMEMBER ONE THING. JIMMY
8 ROBERTSON IS NOT CHARGED WITH ACCESSORY AFTER THE FACT OF
9 MURDER; HE IS NOT CHARGED WITH DISPOSING OF EVIDENCE FROM
10 A MURDER. THE STATE HAS CHARGED THAT HE KILLED HIS
11 PARENTS. THEY ARE CHARGING THAT HE COMMITTED THIS ACT AND
12 THAT HE DID IT WITH MALICE AFORETHOUGHT. THAT'S WHAT THE
13 STATE HAS TO PROVE.

14 AND WHAT IS THE EVIDENCE THAT JIMMY ROBERTSON DID
15 THAT? THE EVIDENCE OF THAT IS THE TESTIMONY OF MEREDITH
16 MOON.

17 NOW, MR. HANCOCK TOLD YOU IN HIS ARGUMENT SOME
18 REASONS FOR NOT BELIEVING MEREDITH MOON. OF COURSE ONE
19 REASON IS SHE'S GOT SOMETHING TO GAIN OR LOSE FROM HER
20 TESTIMONY BECAUSE AS HE SAID, SHE WAS CHARGED WITH MURDER
21 AND UNTIL SHE REACHED THIS PLEA AGREEMENT AND PLED GUILTY,
22 SHE WAS CHARGED WITH MURDER AND ARMED ROBBERY AND SHE COULD
23 HAVE BEEN FACING THE DEATH PENALTY JUST LIKE HE IS. AND IF
24 SHE DIDN'T GET THAT, SHE COULD GET LIFE WITHOUT PAROLE.
25 SO, SHE'S GOT A REASON TO WANT TO COME IN AND TESTIFY TO

ARGUMENT TO THE JURY BY MR. BOYD

1936

1 GET A REDUCED SENTENCE.

2 LET ME JUST POINT OUT A FEW THINGS ABOUT HER
3 TESTIMONY THAT I THINK YOU SHOULD CONSIDER IN JUDGING HER.
4 ONE THING, IT'S NO QUESTION THAT MEREDITH MOON WILL LIE.
5 SHE LIED TO HER FATHER THAT NIGHT; SHE LIED TO HER BEST
6 FRIEND THAT NIGHT; SHE LIED, ACCORDING TO HER, TO THE
7 POLICE IN MARYLAND. SHE MADE ANOTHER STATEMENT, SHE SAID
8 SHE DIDN'T TELL THE WHOLE TRUTH. SO, THERE'S FOUR LIES
9 RIGHT THERE.

10 SHE SAID THAT SHE WROTE OUT THIS TO DO LIST THAT
11 THE STATE INTRODUCED INTO EVIDENCE, THIS LIST OF THINGS.
12 SHE SAID DEFINITELY SHE WROTE THAT. NOW, EITHER SHE'S
13 LYING ABOUT THAT OR SHE WAS SO DRUGGED UP THAT SHE THINKS
14 SHE DID IT AND SHE DIDN'T, OR EITHER THE SLED EXPERT IS
15 WRONG. EITHER WAY, THERE'S SOMETHING WRONG WITH THE
16 STATE'S CASE ABOUT THAT.

17 LOOK AT ALL THOSE THINGS WHEN YOU'RE JUDGING
18 MEREDITH MOON'S TESTIMONY. BUT YOU SAY, WELL, SHE LED THE
19 POLICE OR TOLD THE POLICE WHERE THE GARBAGE BAG WAS, SO ALL
20 THAT'S CORROBORATED. ALL THESE LITTLE THINGS, WELL
21 SOMETIMES YOU CAN LOOK IN A CASE AND YOU CAN FIND SOMETHING
22 SMALL, SOMETHING SMALL THAT'S IMPORTANT.

23 IN THIS CASE, I SUBMIT TO YOU, THERE IS SOMETHING
24 THAT IS IMPORTANT. THERE IS SOMETHING THAT CAME UP WITH
25 THE LAST WITNESS THAT TESTIFIED IN THIS CASE. IT'S

ARGUMENT TO THE JURY BY MR. BOYD

1937

1 SOMETHING SMALL, BUT IT IS SOMETHING THAT IS NOT REFUTED.

2 STATE'S EXHIBIT 75, GOT OUT OF THE BAG IN THE
3 DUMPSTER IN MARYLAND, MOCCASINS THAT WERE IN THE BAG WITH
4 THE HAMMER, THE BAT WITH THE BLOODY CLOTHES THAT HAVE BLOOD
5 ON THEM OF EARL ROBERTSON AND TERRY ROBERTSON. ON THIS
6 MOCCASIN, REMEMBER -- WELL, LET ME BACK UP A MINUTE.
7 REMEMBER WHEN THE SLED AGENT WAS TESTIFYING AND HE TOLD
8 YOU, WE ALSO CHECK AROUND FOR OTHER BLOOD BECAUSE IN A
9 STRUGGLE LIKE THIS OFTENTIMES MAYBE THE PERSON WHO
10 COMMITTED IT WILL BLEED, THEY CUT A SAMPLE OFF OF THIS
11 MOCCASIN, A SAMPLE OF BLOOD OFF THIS MOCCASIN THAT WAS IN
12 THIS BAG. THEY SENT THIS SAMPLE OF BLOOD OFF TO BE DNA
13 TESTED. REMEMBER WHAT HE SAID, WHAT CAME BACK? IT WASN'T
14 EITHER OF THE MURDERED PEOPLE, IT WASN'T TERRY ROBERTSON'S
15 BLOOD, IT WASN'T EARL ROBERTSON'S BLOOD AND IT WASN'T JIMMY
16 ROBERTSON'S BLOOD THAT WAS ON THIS MOCCASIN. IT WASN'T ANY
17 OF THOSE PEOPLE. IT WAS THE BLOOD THAT WAS CONSISTENT WITH
18 ANOTHER CHILD OF THE ROBERTSONS.

19 NOW, YOU CAN SAY WELL WITH ALL THIS EVIDENCE,
20 ISN'T THAT JUST A LITTLE TINY POINT? NO, BECAUSE THIS
21 BLOOD THAT WAS ON THIS MOCCASIN THAT WAS IN THAT BAG CAME
22 FROM SOMEWHERE; IT CAME FROM A PERSON. SOMEBODY BLED ON
23 THIS MOCCASIN, SOMEBODY THAT WAS NOT JIMMY ROBERTSON;
24 SOMEBODY THAT WASN'T EITHER OF THE PEOPLE THAT WERE
25 MURDERED. EVIDENCE THAT SOMEBODY ELSE WAS UP THERE.

ARGUMENT TO THE JURY BY MR. BOYD

1938

1 WE KNOW THAT THE ROBERTSONS HAD ANOTHER CHILD,
2 CHIP ROBERTSON. WE KNOW HE HAD PRESCRIPTIONS FOR RITALIN
3 BECAUSE IT WAS IN THE BAG THAT WAS TAKEN OUT OF THE
4 DUMPSTER. THE TESTIMONY IS THAT CHIP ROBERTSON WENT TO
5 SCHOOL UP IN PENNSYLVANIA. BUT THERE WAS NO TESTIMONY
6 PRESENTED AS TO CHIP ROBERTSON'S WHEREABOUTS THAT NIGHT.
7 THERE WAS NO TESTIMONY PRESENTED THAT CHIP ROBERTSON WAS UP
8 IN PENNSYLVANIA. THERE WAS NO TESTIMONY PRESENTED AS TO
9 WHERE HE WAS.

10 WELL, BLOOD CONSISTENT WITH HIS BLOOD THAT WE
11 KNOW IS NOT JIMMY ROBERTSON'S BLOOD, IS ON THAT MOCCASIN.
12 THE MOCCASIN THAT WAS IN THE BAG WITH ALL THE OTHER BLOODY
13 ITEMS.

14 HAS THE STATE EXPLAINED THAT TO YOU? THEY HAVE
15 NOT. AND THAT'S A HUGE HOLE IN THEIR CASE. IF THEY CAN'T
16 EXPLAIN THAT, GO BACK TO MEREDITH MOON'S TESTIMONY. NO
17 MATTER HOW BELIEVABLE YOU MAY THINK SHE IS, IF YOU THINK
18 THAT, IF HER TESTIMONY DOESN'T EXPLAIN THAT, I SUBMIT YOU
19 CAN TAKE IT AND YOU CAN THROW IT OUT THE WINDOW.

20 AND WHAT DID MR. BRACKETT SAY? WITHOUT MEREDITH
21 MOON , THEY DON'T HAVE A CASE.

22 NOW, YOU MAY SAY, WELL, I DON'T LIKE JIMMY
23 ROBERTSON EVEN IF THEY HAVEN'T PROVED THEIR CASE, YOU KNOW,
24 IT LOOKS TO ME LIKE IF HE WENT OFF WITH MEREDITH MOON AND
25 HE HEADED UP TO PHILADELPHIA, THIS BAG IS IN THE DUMPSTER,

ARGUMENT TO THE JURY BY MR. BOYD

1939

1 HE MUST HAVE HAD SOMETHING TO DO WITH THIS.

2 LADIES AND GENTLEMEN, HE'S NOT CHARGED, AGAIN,
3 WITH ACCESSORY AFTER THE FACT; HE'S NOT CHARGED WITH HIDING
4 EVIDENCE; HE'S NOT CHARGED WITH OBSTRUCTION OF JUSTICE.
5 HE'S CHARGED WITH MURDER; HE'S CHARGED WITH KILLING HIS
6 PARENTS WITH MALICE AFORETHOUGHT. AND IF THE STATE HASN'T
7 PROVEN THAT BEYOND A REASONABLE DOUBT, YOU HAVE A DUTY TO
8 RENDER A VERDICT OF NOT GUILTY.

9 IT MAY BE HARD TO DO, BUT YOU HAVE A DUTY TO
10 RENDER A VERDICT OF NOT GUILTY. YOU DON'T HAVE THE LUXURY
11 OF SITTING BACK AND THINKING ABOUT, WELL, THIS IS SUCH A
12 HORRIBLE CRIME, THAT THESE PEOPLE WERE BEATEN TO DEATH,
13 THAT, YOU KNOW, WE NEED TO CONVICT SOMEBODY FOR IT. YOU
14 DON'T HAVE THAT LUXURY BECAUSE YOU ARE OFFICERS OF THE
15 COURT AND YOU ARE SWORN TO DO A DUTY JUST LIKE EVERYONE
16 ELSE IN THIS COURTROOM.

17 ONE OTHER LITTLE THING ABOUT MEREDITH MOON, AND
18 AGAIN YOU TAKE THE TESTIMONY THE WAY YOU HEARD IT, BUT
19 DIDN'T SHE TESTIFY THAT SHE SAW JIMMY HAD HIS MOTHER'S
20 POCKETBOOK GOING THROUGH IT? WELL, YOU HAVE THE PHOTOGRAPH
21 THAT WAS INTRODUCED IN EVIDENCE. THE POCKETBOOK WAS
22 UPSTAIRS BY THE BED BY HER BODY. THAT COULDN'T HAVE
23 HAPPENED EITHER.

24 MR. FOREMAN, LADIES AND GENTLEMEN, I ASK YOU TO
25 CAREFULLY DELIBERATE IN THIS CASE. TAKE WHAT I'VE TOLD

CHARGE TO THE JURY BY THE COURT

1940

1 YOU; YOU CAN TAKE IT WITH A GRAIN OF SALT IF YOU WANT TO.
2 I'VE TRIED TO POINT OUT WHAT I THINK IS IMPORTANT IN THIS
3 CASE. THANK YOU.

CHARGE TO THE JURY BY THE COURT:

5 MEMBERS OF THE JURY PANEL, I AM NOW GOING TO ASK
6 YOU TO GIVE ME YOUR ATTENTION, AND I APPRECIATE THE
7 ATTENTION YOU HAVE GIVEN ALL OF US TO THIS POINT. YOU HAVE
8 FOLLOWED VERY PATIENTLY AND TREATED ME VERY PATIENTLY AND
9 FOLLOWED THE EVIDENCE AND THE ATTORNEYS' WITNESSES VERY
10 PATIENTLY AND ATTENTIVELY.

11 IT IS NOW MY DUTY TO CHARGE YOU THE LAW WHICH YOU
12 ARE TO APPLY. UNDER THE CONSTITUTION AND LAWS OF OUR
13 STATE, I AM AS TRIAL JUDGE IN THIS CASE THE SOLE JUDGE OF
14 THE LAW. YOU MUST TAKE, ACCEPT AND APPLY THE LAW AS I
15 CHARGE IT TO YOU. IF YOU THINK I CHARGE YOU THE LAW IN
16 ERROR OR IF YOU THINK THE LAW SHOULD BE DIFFERENT, YOU MUST
17 DISREGARD YOUR THOUGHTS ON THE LAW AND APPLY THE LAW JUST
18 AS I CHARGE IT TO YOU.

19 DO NOT INFER FROM ANYTHING I HAVE SAID OR DONE OR
20 NOW SAY OR DO AS BEING INDICATIVE OF AN OPINION OF MINE ON
21 THE FACTS. YOU WOULD BE WRONG IN SO DOING. I, AS TRIAL
22 JUDGE, AM NOT ALLOWED TO FORMULATE OR INTIMATE AN OPINION
23 ON THE FACTS, THAT IS SOLELY YOUR JOB.

24 YOUR DUTY IS, AS I SAY, TO BE THE SOLE JUDGE OF
25 THE FACTS IN THIS CASE. IT IS SOLELY UP TO YOU TO

CHARGE TO THE JURY BY THE COURT

1941

1 DETERMINE THE FACTUAL ISSUES.

2 IN THIS CASE MR. ROBERTSON, JAMES DEJARNETTE
3 ROBERTSON, IS CHARGED IN FOUR INDICTMENTS. I WILL TELL YOU
4 NOW YOU WILL IN THE JURY ROOM HAVE WITH YOU THESE FOUR
5 INDICTMENTS. THEY ARE NOT EVIDENCE. THEY CONTAIN THE
6 CHARGES, THE ALLEGATIONS AGAINST MR. ROBERTSON. THEY ARE
7 THE PAPERWORK BY WAY OF WHICH THIS CASE IS PROCESSED
8 THROUGH OUR COURT SYSTEM. THEY ARE WHERE YOU, MR. FOREMAN,
9 ULTIMATELY WILL ENROLL, AND I'LL TELL YOU MORE ABOUT THAT
10 LATER, THE JURY'S VERDICT. YOU WILL HAVE THEM, BUT DO NOT
11 CONSIDER THEM AS EVIDENCE.

12 I WILL TRY TO MAKE SURE THAT I REFER TO MR.
13 ROBERTSON BY NAME, JAMES D. ROBERTSON, THROUGHOUT THIS
14 CHARGE. I MAY, HOWEVER, USE THE WORD DEFENDANT AT TIMES.
15 OF COURSE WHEN I USE THE WORD DEFENDANT, I AM TALKING ABOUT
16 MR. ROBERTSON.

17 NOW THESE INDICTMENTS CHARGE THAT ON OR ABOUT
18 NOVEMBER 25TH, 1997 THAT MR. ROBERTSON DID IN YORK COUNTY
19 WITH MALICE AFORETHOUGHT KILL ONE EARL ROBERTSON, SR. BY
20 MEANS OF BEATING AND/OR STABBING HIM AND HE DIED AS A
21 RESULT THEREOF IN VIOLATION OF THE LAWS OF THIS STATE.

22 AND THAT HE DID ON THAT DATE WITH MALICE
23 AFORETHOUGHT KILL ONE TERRY ROBERTSON BY MEANS OF BEATING
24 AND/OR STABBING AND THAT SHE DIED AS A RESULT THEREOF IN
25 VIOLATION OF THE LAWS OF THIS STATE.

CHARGE TO THE JURY BY THE COURT

1942

1 AND THAT AT THAT TIME WHILE ARMED WITH A DEADLY
2 WEAPON HE DID FELONIOUSLY TAKE FROM THE PERSON OR PRESENCE
3 OF EARL ROBERTSON, SR. BY MEANS OF FORCE OR INTIMIDATION
4 GOODS OR MONIES BELONGING TO MR. ROBERTSON IN VIOLATION OF
5 THE LAWS OF THIS STATE. THAT IS CALLED ARMED ROBBERY.

6 AND HE IS ALSO CHARGED WITH FINANCIAL TRANSACTION
7 CARD FRAUD AND IT IS ALLEGED THAT AT THE TIME AND DATE HE
8 DID WILFULLY AND UNLAWFULLY WITH INTENT TO DEFRAUD USE A
9 VISA CARD ISSUED TO EARL ROBERTSON, SR. TO OBTAIN GOODS,
10 MONIES OR SERVICES OR SOME OTHER THING OF VALUE BY
11 PRESENTING THE CARD WITHOUT THE AUTHORIZATION OR PERMISSION
12 OF MR. ROBERTSON, SR. IN VIOLATION OF OUR LAWS.

13 I WILL EXPLAIN THE ELEMENTS OF EACH OF THESE
14 CHARGES TO YOU IN JUST A FEW MOMENTS.

15 AS TO EACH OF THESE CHARGES, MR. ROBERTSON HAS
16 ENTERED A PLEA OF NOT GUILTY. HIS PLEAS OF NOT GUILTY
17 PLACE ON THE STATE THE BURDEN OF PROOF; THAT IS, THE BURDEN
18 OF PROVING HIS GUILT BEYOND A REASONABLE DOUBT. MR.
19 ROBERTSON, AS IS ANYONE WHO IS CHARGED IN OUR COURT SYSTEM
20 REGARDLESS OF THE CHARGE, NO MATTER HOW SMALL OR HOW LARGE,
21 REGARDLESS OF THE CHARGE, ANYONE CHARGED IN OUR COURT
22 SYSTEM IS PRESUMED INNOCENT OF THAT CHARGE AND IS SO
23 PRESUMED UNTIL SUCH TIME AS THE STATE WERE TO BE ABLE TO
24 PROVE THAT PERSON'S GUILT BEYOND A REASONABLE DOUBT.

25 THIS PRESUMPTION OF INNOCENCE IS NOT A MERE LEGAL

CHARGE TO THE JURY BY THE COURT

1943

1 THEORY OR A MERE LEGAL PHRASE, IT IS A SUBSTANTIAL RIGHT
2 WHICH EVERYONE, INCLUDING MR. ROBERTSON, IS ENTITLED. THE
3 PRESUMPTION OF INNOCENCE ATTACHES AT THE TIME OF ONE'S
4 ARREST, HERE MR. ROBERTSON, REMAINS WITH HIM THROUGHOUT THE
5 PROCESSING OF HIS CASE, THROUGHOUT THE TRIAL OF THE CASE
6 AND THE PRESUMPTION OF INNOCENCE REMAINS IN MR. ROBERTSON'S
7 FAVOR EVEN AS YOU DELIBERATE. WHEN YOU GO INTO THE JURY
8 ROOM, THE PRESUMPTION OF INNOCENCE STILL EXISTS AND INURES
9 TO HIS BENEFIT AS YOU DELIBERATE. THE PRESUMPTION OF
10 INNOCENCE IS REMOVED IF AND WHEN AND ONLY IF AND WHEN YOU
11 AS TRIAL JURY DETERMINE THAT THE STATE HAS PROVEN TO YOUR
12 SATISFACTION HIS GUILT BEYOND A REASONABLE DOUBT.

13 NOW, THE STATE IS NOT REQUIRED TO PROVE MR.
14 ROBERTSON'S GUILT BEYOND ALL OR BEYOND EVERY DOUBT, BUT
15 BEYOND A REASONABLE DOUBT.

16 A REASONABLE DOUBT IS THE KIND OF DOUBT THAT
17 WOULD CAUSE A REASONABLE PERSON TO HESITATE TO ACT.

18 MR. ROBERTSON IS ENTITLED TO EVERY REASONABLE
19 DOUBT ARISING IN THIS WHOLE CASE. WHEN I SAY WHOLE CASE,
20 I'M TALKING ABOUT THE EVIDENCE, THE ARGUMENTS AND MY
21 CHARGE. HE IS ENTITLED TO EVERY REASONABLE DOUBT ARISING
22 IN THIS CASE.

23 IF AS TO ANY ISSUE OF FACT ESSENTIAL TO A
24 CONVICTION YOU HAVE A REASONABLE DOUBT AS TO HOW THAT ISSUE
25 SHOULD BE RESOLVED, IT WOULD BE YOUR DUTY TO RESOLVE THAT

CHARGE TO THE JURY BY THE COURT

1944

1 ISSUE IN FAVOR OF MR. ROBERTSON.

2 MR. ROBERTSON IS NOT REQUIRED TO PROVE HIS
3 INNOCENCE. THE STATE IS REQUIRED TO PROVE EACH AND EVERY
4 ESSENTIAL ELEMENT OF A CHARGE AGAINST MR. ROBERTSON BEFORE
5 YOU AS TO THAT CHARGE COULD CONVICT HIM AND FIND HIM
6 GUILTY.

7 IF AS TO A CHARGE WHEN YOU REVIEW THE WHOLE CASE
8 YOU HAVE A REASONABLE DOUBT AS TO HIS GUILT OR INNOCENCE AS
9 TO THAT PARTICULAR CHARGE, YOU MUST RESOLVE THAT REASONABLE
10 DOUBT IN HIS FAVOR AND FIND HIM NOT GUILTY.

11 ON THE OTHER HAND, WHEN YOU REVIEW THE WHOLE CASE
12 AND AS TO A PARTICULAR CHARGE IF YOU ARE CONVINCED BEYOND
13 A REASONABLE DOUBT OF HIS GUILT, IT WOULD EQUALLY BE YOUR
14 DUTY TO RETURN A VERDICT OF GUILTY.

15 NOW, I DO NOT RECALL WHETHER OR NOT THERE WAS ANY
16 EVIDENCE THAT I TOLD YOU TO DISREGARD. I THINK IN ONE
17 PARTICULAR INSTANCE THERE MAY HAVE BEEN, BUT IF THERE WAS
18 ANY EVIDENCE, TESTIMONY YOU HEARD OR SAW AND I TOLD YOU TO
19 DISREGARD IT, UNDER YOUR OATH YOU MUST DISREGARD IT AND
20 GIVE IT NO EFFECT. YOU MUST CONSIDER ONLY THE EVIDENCE
21 ALLOWED INTO THE RECORD, THE TESTIMONY AND EXHIBITS.

22 AS I TOLD YOU, I AM THE SOLE JUDGE OF THE LAW AND
23 YOU MUST TAKE, ACCEPT AND APPLY THE LAW AS I CHARGE IT.
24 YOU ARE THE SOLE JUDGES OF THE FACTS. AND I HAVE TOLD YOU
25 NOT TO INFER FROM ANYTHING I SAY OR DO AS BEING INDICATIVE

CHARGE TO THE JURY BY THE COURT

1945

1 OF A THOUGHT OF MINE ON THE FACTS, YOU WOULD BE WRONG. IT
2 IS SOLELY UP TO YOU TO EXAMINE THE EVIDENCE AND GIVE TO THE
3 EVIDENCE THE EFFECT, THE VALUE, THE WEIGHT AND THE TRUTH
4 YOU BELIEVE THE EVIDENCE SHOULD HAVE.

5 YOU MAY BELIEVE ONE WITNESS AS OPPOSED TO
6 SEVERAL, SEVERAL AS OPPOSED TO ONE; YOU MAY BELIEVE ALL,
7 PART OR NONE OF A WITNESS' TESTIMONY. USE YOUR COMMON
8 SENSE, YOUR SENSE OF LOGIC, YOUR SENSE OF REASON, YOUR
9 EXPERIENCES IN LIFE IN ANALYZING THE EVIDENCE.

10 AS JUDGES OF THE FACTS, YOU OF NECESSITY MUST
11 JUDGE THE CREDIBILITY. THAT'S A LEGAL WORD FOR
12 BELIEVABILITY OF THE WITNESSES WHO HAVE TESTIFIED. IN
13 ASSESSING CREDIBILITY YOU CAN USE THOSE THINGS WHICH I HAVE
14 ALREADY DISCUSSED WITH YOU. YOU CAN USE THOSE THINGS THAT
15 YOU FIND IN YOUR DAY TO DAY LIFE AS BEING INDICATIVE OF
16 TRUTHFULNESS.

17 AND YOU CAN USE CERTAIN EVALUATORS, A WITNESS'
18 DEMEANOR; THAT IS, HOW DOES THE WITNESS ACT WHEN THEY ARE
19 ON THE STAND, ARE THEY HESITANT OR ARE THEY
20 STRAIGHTFORWARD; IS THEIR TESTIMONY CONSISTENT OR
21 INCONSISTENT WITHIN ITSELF OR WHEN COMPARED WITH THAT OF
22 OTHERS. YOU CAN CONSIDER THE OPPORTUNITY A WITNESS HAD TO
23 KNOW THOSE THINGS TO WHICH THE WITNESS TESTIFIED. AND YOU
24 CAN CONSIDER ANY BIAS OR PREJUDICE A WITNESS MAY HAVE; THAT
25 IS, WHETHER A WITNESS WOULD WISH TO HELP OR HURT ONE SIDE

CHARGE TO THE JURY BY THE COURT

1946

1 OR THE OTHER.

2 WHAT YOU WANT TO DO IS CONSIDER THE EVIDENCE, NOT
3 ARBITRARILY, BUT YOU WANT TO CONSIDER IT, DETERMINE THE
4 TRUTH OF IT AND FIND THE TRUTH, THAT IS YOUR OBJECTIVE.

5 IN THIS CASE YOU HEARD TESTIMONY THAT ONE
6 WITNESS, IN THIS CASE MS. MOON, HAS PLED GUILTY TO A CRIME
7 ARISING OUT OF THE SAME EVENTS FOR WHICH MR. ROBERTSON IS
8 ON TRIAL. HER GUILTY PLEA IS NOT EVIDENCE AGAINST MR.
9 ROBERTSON. YOU MAY ONLY CONSIDER HER ENTERING A PLEA OF
10 GUILT IN DETERMINING HER BELIEVABILITY; THAT IS, HER
11 CREDIBILITY.

12 MR. ROBERTSON HAS EXERCISED HIS CONSTITUTIONAL
13 RIGHT TO REMAIN SILENT. HE HAS THE RIGHT TO REMAIN SILENT
14 UNDER OUR CONSTITUTION AND HE HAS EXERCISED IT. THE FACT
15 THAT HE HAS EXERCISED HIS CONSTITUTIONAL RIGHT IS NOT TO BE
16 CONSIDERED BY YOU OR USED BY YOU IN ANY FASHION WHATSOEVER.
17 IT IS NOT TO MITIGATE AGAINST HIM OR WEIGH INTO YOUR
18 CONSIDERATION OF HIS GUILT OR INNOCENCE. HE HAS AN
19 ABSOLUTE RIGHT TO REMAIN SILENT. YOU CANNOT EVEN IN THE
20 JURY ROOM DISCUSS AMONG YOURSELVES OR FACTOR IN YOUR OWN
21 MIND THE FACT THAT HE HAS EXERCISED HIS RIGHT TO REMAIN
22 SILENT.

23 AS I TOLD YOU EARLIER, HE IS PRESUMED INNOCENT.
24 HE HAS NOTHING TO PROVE; HE HAS A RIGHT TO REMAIN SILENT.
25 AFTER HE HAS DONE IT, IT IS NOT TO BE CONSIDERED BY YOU.

CHARGE TO THE JURY BY THE COURT

1947

1 AND THE STATE MUST, AS I HAVE TOLD YOU, PROVE HIS GUILT
2 BEYOND A REASONABLE DOUBT BEFORE YOU COULD FIND HIM GUILTY
3 OF ANY OF THESE CHARGES.

4 THERE ARE TWO TYPES OF EVIDENCE THAT ARE
5 GENERALLY PRESENTED IN THE TRIAL OF A CASE. THAT IS,
6 DIRECT EVIDENCE AND CIRCUMSTANTIAL EVIDENCE.

7 DIRECT EVIDENCE IS THE TESTIMONY OF A PERSON WHO
8 ASSERTS OR CLAIMS TO HAVE ACTUAL KNOWLEDGE OF A FACT SUCH
9 AS AN EYE WITNESS.

10 CIRCUMSTANTIAL EVIDENCE IS PROOF OF A CHAIN OF
11 FACTS AND CIRCUMSTANCES INDICATING THE EXISTENCE OF A FACT.

12 THE LAW MAKES ABSOLUTELY NO DISTINCTION BETWEEN
13 THE WEIGHT OR VALUE TO BE GIVEN EITHER DIRECT OR
14 CIRCUMSTANTIAL EVIDENCE. NOR IS A GREATER DEGREE OF
15 CERTAINTY REQUIRED OF CIRCUMSTANTIAL EVIDENCE THAN OF
16 DIRECT EVIDENCE. YOU SHOULD WEIGH ALL OF THE EVIDENCE IN
17 THIS CASE. AFTER WEIGHING ALL THE EVIDENCE IF YOU'RE NOT
18 CONVINCED OF MR. ROBERTSON'S GUILT BEYOND A REASONABLE
19 DOUBT, YOU MUST FIND HIM NOT GUILTY.

20 NOW, I HAVE GONE OVER THE INDICTMENTS WITH YOU
21 AND FIRST I'M GOING TO DEFINE FOR YOU THE TWO CHARGES
22 REGARDING MURDER. I WANT TO REMIND YOU, WE TALKED SO MUCH
23 THE FIRST THREE DAYS WHEN WE HAD YOU IN HERE INDIVIDUALLY,
24 THAT WE ARE NOT TALKING ABOUT SENTENCING OR PUNISHMENT.
25 YOU ARE TO DISABUSE YOUR MIND OF ANY THOUGHTS ABOUT THAT

CHARGE TO THE JURY BY THE COURT

1948

1 BECAUSE THAT'S NOT THE ISSUE BEFORE YOU. YOU ARE SOLELY AT
2 THIS POINT TO DETERMINE WHETHER OR NOT THE STATE HAS PROVEN
3 THE GUILT OF MR. ROBERTSON BEYOND A REASONABLE DOUBT. YOUR
4 SOLE TASK AT THIS TIME IS TO RETURN A VERDICT OF GUILTY IF
5 YOU FIND THE STATE HAS SO PROVEN OR NOT GUILTY IF YOU FIND
6 THE STATE HAS NOT.

7 MURDER IS DEFINED AS THE WILFUL FELONIOUS KILLING
8 OF A HUMAN BEING BY A HUMAN BEING WITH MALICE AFORETHOUGHT.
9 THUS, IN ORDER TO CONVICT MR. ROBERTSON OF MURDER AS TO
10 EITHER ONE OR BOTH OF THESE CHARGES, THE STATE MUST NOT
11 ONLY PROVE THE KILLING OF MR. AND/OR MRS. ROBERTSON BY MR.
12 ROBERTSON, BUT THAT IT WAS DONE WITH MALICE AFORETHOUGHT.
13 AND SUCH PROOF MUST BE BEYOND A REASONABLE DOUBT.

14 MALICE IS A WORD SUGGESTING WICKEDNESS, HATRED,
15 AND A DETERMINATION TO DO WHAT ONE KNOWS TO BE WRONG
16 WITHOUT JUST CAUSE OR LEGAL EXCUSE OR LEGAL PROVOCATION.
17 MALICE NEED NOT BE IN THE MIND OF THE ONE DOING THE KILLING
18 ANY PARTICULAR LENGTH OF TIME BEFORE THE ACT OF KILLING TO
19 RENDER THE KILLING MURDER. IF MALICE IS PRESENT IN THE
20 MIND OF THE ONE DOING THE KILLING FOR ANY LENGTH OF TIME
21 BEFORE THE ACT, IT WOULD BE AFORETHOUGHT, THEN ITS PRESENCE
22 WOULD BE SUFFICIENT TO RENDER THE KILLING MURDER.

23 MALICE IS SAID TO BE EXPRESSED WHERE THERE IS
24 MANIFESTED A VIOLENT, DELIBERATE INTENTION UNLAWFULLY TO
25 TAKE THE LIFE OF ANOTHER HUMAN BEING.

CHARGE TO THE JURY BY THE COURT

1949

1 MALICE MAY BE INFERRED WHEN NO EXCUSE OR LEGAL
2 PROVOCATION FOR THE KILLING APPEARS AND WHEN THE
3 CIRCUMSTANCES ATTENDING THE KILLING SHOW AN ABANDONED
4 HEART, A MALIGNANT HEART FATALLY BENT UPON MISCHIEF. SUCH
5 INFERENCE IS NOT CONCLUSIVE AND YOU MAY ACCEPT OR REJECT
6 SUCH INFERENCE.

7 THE LAW SAYS IF ONE INTENTIONALLY KILLS ANOTHER
8 WITH A DEADLY WEAPON, THE INFERENCE OF MALICE MAY ARISE.
9 IF FACTS ARE PROVEN BEYOND A REASONABLE DOUBT SUFFICIENT TO
10 RAISE AN INFERENCE OF MALICE TO YOUR SATISFACTION, THIS
11 INFERENCE WOULD SIMPLY BE AN EVIDENTIARY FACT TO BE TAKEN
12 INTO CONSIDERATION BY YOU ALONG WITH THE OTHER EVIDENCE IN
13 THE CASE AND YOU MAY GIVE IT SUCH WEIGHT, IF ANY, AS YOU
14 DEEM IT SHOULD RECEIVE.

15 IN OTHER WORDS AN INFERENCE OF MALICE IN THE USE
16 OF A DEADLY WEAPON IS SIMPLY AN EVIDENTIARY FACT TO BE
17 CONSIDERED BY YOU IN YOUR DELIBERATION ALONG WITH THE OTHER
18 CIRCUMSTANCES, EVIDENCE AND FACTS IN THE CASE.

19 A DEADLY WEAPON IS DEFINED AS ANY ARTICLE,
20 INSTRUMENT OR SUBSTANCE WHICH IS LIKELY TO PRODUCE DEATH OR
21 GREAT BODILY HARM.

22 IF THE EVIDENCE SHOULD SHOW UNDER WHAT
23 CIRCUMSTANCES A BLOW WAS DELIVERED WHICH TOOK THE LIFE OF
24 ANOTHER, THEN YOU AS TRIAL JURY WILL HAVE TO DETERMINE
25 WHETHER UNDER SUCH CIRCUMSTANCES THE ACT WAS MALICIOUS.

CHARGE TO THE JURY BY THE COURT

1950

1 AS LONG AS MALICE ACCOMPANIES THE ACT OF KILLING
2 INSTEAD OF APPEARING ONLY THEREAFTER, IT WILL SUFFICE.
3 HOWEVER, IT IS NOT SUFFICIENT THAT MALICE FORMED AFTER THE
4 ACT OF A KILLING.

5 AS I SAID EARLIER, THE INDICTMENTS AS TO THE TWO
6 MURDERS ARE NOT EVIDENCE AND THE STATE MUST PROVE THE
7 CHARGES OF MURDER BEYOND A REASONABLE DOUBT.

8 AS TO THE CHARGE OF ARMED ROBBERY. OUR STATE LAW
9 PROVIDES ANY PERSON WHO COMMITS THE CRIME OF ROBBERY WHILE
10 ARMED WITH A PISTOL OR OTHER DEADLY WEAPON HAS COMMITTED
11 THE OFFENSE OF ARMED ROBBERY.

12 IN ORDER THAT YOU MAY UNDERSTAND THE TERM ARMED
13 ROBBERY, I AM GOING TO FIRST DEFINE FOR YOU THE CRIME OF
14 LARCENY AND THEN ROBBERY AND THEN WHAT CONSTITUTES ARMED
15 ROBBERY BECAUSE LARCENY IS EMBRACED WITHIN ROBBERY AND
16 ARMED ROBBERY IS AN AGGRAVATION OF THE CRIME OF ROBBERY.

17 LARCENY IS THE FELONIOUS TAKING AND CARRYING AWAY
18 BY ANY PERSON OF THE GOODS OR PERSONAL PROPERTY OF ANOTHER
19 WITH A FELONIOUS INTENT TO PERMANENTLY DEPRIVE THE OWNER OF
20 THAT PROPERTY AND CONVERT IT TO THE TAKER'S OWN USE.

21 THE ESSENTIAL ELEMENTS OF THE CRIME OF LARCENY,
22 WHICH ORDINARILY IS REFERRED TO AS STEALING, ARE, ONE, THE
23 FELONIOUS TAKING INTO THE POSSESSION OF ONE OF THE PERSONAL
24 PROPERTY OF ANOTHER; TWO, THE CARRYING AWAY AND REMOVAL OF
25 THAT PERSONAL PROPERTY; AND, THERE, THE FELONIOUS INTENT,

CHARGE TO THE JURY BY THE COURT

1951

1 THAT IS THE INTENT TO STEAL ON THE PART OF THE TAKER; THAT
2 IS, TO PERMANENTLY DEPRIVE THE OWNER OF THEIR PERSONAL
3 PROPERTY AND TO CONVERT THE PROPERTY TO THE TAKER'S OWN
4 USE.

5 ROBBERY IS THE FELONIOUS TAKING AND THE CARRYING
6 AWAY OF THE PERSONAL PROPERTY OF ANY VALUE OF ANOTHER FROM
7 THEIR PERSON OR IN THEIR PRESENCE BY VIOLENCE OR PUTTING
8 THEM IN FEAR OF VIOLENCE.

9 ROBBERY INCLUDES LARCENY. ALL OF THE ELEMENTS
10 WHICH ARE NECESSARY TO CONSTITUTE LARCENY ARE ALSO
11 NECESSARY TO CONSTITUTE ROBBERY.

12 THE ELEMENTS OF ROBBERY ARE, FIRST, THE PROPERTY
13 TAKEN MUST BE THE SUBJECT OF LARCENY, THAT IS MUST BE
14 PERSONAL PROPERTY; SECOND, THERE MUST BE A FELONIOUS TAKING
15 AND CARRYING AWAY OF THE PERSONAL PROPERTY, THAT IS THERE
16 MUST BE A TRESPASS TO AND AN ASPORTATION OF PERSONAL
17 PROPERTY WITH INTENT TO STEAL. THE COMPLETE POSSESSION OF
18 THE PERSONAL PROPERTY BY THE TAKER, EVEN IF IT IS ONLY FOR
19 AN INSTANT, IS SUFFICIENT. AND THE CARRYING AWAY OR EVEN
20 THE SLIGHTEST REMOVAL OF PERSONAL PROPERTY IS SUFFICIENT IN
21 LAW. THIRD, THE TAKING AND CARRYING AWAY OF THE PERSONAL
22 PROPERTY MUST BE WITH A FELONIOUS INTENT; THAT IS, WITH THE
23 INTENT TO STEAL ON THE PART OF THE TAKER, THAT IS TO
24 PERMANENTLY DEPRIVE THE OWNER OF THAT PERSONAL PROPERTY AND
25 CONVERT THE PERSONAL PROPERTY TO THE TAKER'S OWN USE.

CHARGE TO THE JURY BY THE COURT

1952

1 FOURTH, THE AGGRAVATING CIRCUMSTANCES NECESSARY TO
2 CONSTITUTE ROBBERY AS DISTINGUISHED FROM JUST LARCENY ARE,
3 FIRST, THE PROPERTY MUST BE TAKEN FROM THE PERSON OF
4 ANOTHER BUT IF IT IS TAKEN IN THEIR PRESENCE, THEN IT IS
5 CONSTRUCTIVELY TAKEN FROM THEIR PERSON. AND SECOND, THE
6 TAKING MUST NOT ONLY BE WITHOUT THE CONSENT OF THE OWNER,
7 BUT IT MUST BE ACCOMPLISHED WITH VIOLENCE OR BY PUTTING THE
8 OWNER IN FEAR OF VIOLENCE.

9 NOW, IN ORDER FOR ONE TO BE GUILTY OF ROBBERY
10 WHILE ARMED WITH A DEADLY WEAPON, THE LAW REQUIRES THAT ONE
11 MUST HAVE USED A DEADLY WEAPON TO ACCOMPLISH THE PURPOSE OF
12 THE ROBBERY WHICH I HAVE JUST DEFINED FOR YOU. AND I HAVE
13 ALREADY DEFINED THE TERMS DEADLY WEAPON -- THE TERM DEADLY
14 WEAPON, AND AS I DEFINED IT IN REGARD TO MURDER APPLIES
15 EQUALLY AS TO ARMED ROBBERY.

16 THE STATE IS REQUIRED TO PROVE EACH AND EVERY
17 ESSENTIAL ELEMENT OF THE CRIME OF ARMED ROBBERY BEFORE YOU
18 COULD CONVICT MR. ROBERTSON AS TO THIS CHARGE.

19 THE FOURTH CHARGE AGAINST MR. ROBERTSON UNDER OUR
20 LAW IS UNDER SECTION 16-14-60, AND YOU NEED NOT BE
21 CONCERNED BY THE NUMBER, IT'S JUST A LAW THAT HAS BEEN
22 PASSED BY OUR LEGISLATURE. IT PROVIDES CERTAIN CONDUCT AS
23 BEING ILLEGAL INVOLVING FINANCIAL TRANSACTION CARDS.

24 I AM GOING TO DEFINE FIRST FOR YOU THREE PHRASES.
25 THE FIRST BEING FINANCIAL TRANSACTION CARD. FINANCIAL

CHARGE TO THE JURY BY THE COURT

1953

1 TRANSACTION CARD IS DEFINED BY STATUTE, AMONG OTHER THINGS,
2 AS A CREDIT CARD OR A CREDIT PLATE ISSUED WITH OR WITHOUT
3 A FEE BY AN ISSUER WITH THE USE OF A CARDHOLDER AND
4 OBTAINING MONEY, GOODS, SERVICES OR ANYTHING ELSE OF VALUE
5 ON CREDIT.

6 ISSUER MEANS ANY ORGANIZATION OR INSTITUTION
7 WHICH ISSUES A FINANCIAL TRANSACTION CARD. CARDHOLDER
8 MEANS THE PERSON NAMED ON THE FACE OF A FINANCIAL
9 TRANSACTION CARD TO WHOM OR FOR WHOSE BENEFIT THE FINANCIAL
10 TRANSACTION CARD IS ISSUED BY THE ISSUER.

11 SECTION 16-14-60 STATES THAT A PERSON IS GUILTY
12 OF FINANCIAL TRANSACTION CARD FRAUD WHEN WITH INTENT TO
13 DEFRAUD THE ISSUER OR ANY OTHER PERSON ONE OBTAINS MONEY,
14 GOODS OR SERVICES OR ANYTHING ELSE OF VALUE BY PRESENTING
15 A FINANCIAL TRANSACTION CARD WITHOUT THE AUTHORIZATION OR
16 PERMISSION OF THE CARDHOLDER.

17 THE STATE MUST PROVE, FIRST, THAT MR. ROBERTSON
18 OBTAINED GOODS OR SERVICES OR SOMETHING OF VALUE. SECOND,
19 THAT HE DID IT WITH THE INTENT TO DEFRAUD ANOTHER PERSON.
20 AND THIRD, THAT HE DID IT BY PRESENTING A FINANCIAL
21 TRANSACTION CARD WITHOUT AUTHORIZATION OR PERMISSION OF THE
22 CARDHOLDER. AND THE STATE MUST PROVE THIS BEYOND A
23 REASONABLE DOUBT.

24 CRIMINAL INTENT IS A NECESSARY ELEMENT OF EACH
25 CRIME. IT MUST BE PROVEN BY THE STATE BEYOND A REASONABLE

CHARGE TO THE JURY BY THE COURT

1954

1 DOUBT. CRIMINAL INTENT IS ALWAYS A MATTER THAT MUST BE
2 DETERMINED BY YOU FROM CIRCUMSTANCES SURROUNDING THE
3 SITUATION.

4 THERE IS NO WAY TO PROVE INTENT TO A MATHEMATICAL
5 CERTAINTY. THERE IS NO MEDICAL SCIENCE WHICH CAN DISSECT
6 ONE'S BRAIN AND DETERMINE WHY AND WHAT THEY HAD IN MIND.
7 SO THE LAW SAYS THAT CRIMINAL INTENT MAY BE INFERRED FROM
8 THE CIRCUMSTANCES SHOWN TO HAVE EXISTED. THIS IS HOW YOU
9 WOULD MAKE A DETERMINATION OF WHETHER OR NOT THE ELEMENTS
10 REQUIRING INTENT WERE PRESENT.

11 CRIMINAL INTENT IS A STATE OF MIND WHICH OPERATED
12 JOINTLY WITH AN ACT IN THE COMMISSION OF A CRIME. CRIMINAL
13 INTENT IS A MENTAL STATE, A CONSCIOUS WRONGDOING. SO, IT
14 IS UP TO YOU AS THE JURY TO DETERMINE WHAT MR. ROBERTSON
15 INTENDED TO DO, IF YOU FIND HE DID ANYTHING, BASED ON THE
16 CIRCUMSTANCES SHOWN TO HAVE EXISTED.

17 I TELL YOU THE STATE MUST PROVE CRIMINAL INTENT
18 BEYOND A REASONABLE DOUBT JUST AS THE OTHER ELEMENTS OF A
19 CHARGE.

20 NOW IN THIS CASE WE'VE HAD CERTAIN TESTIMONY OF
21 OPINIONS. I TOLD YOU EARLIER ABOUT THE EXPERT AND
22 ANALOGIZED IT TO A PHYSICIAN. IN THAT CONNECTION I TELL
23 YOU THAT AS TO THE OPINIONS EXPRESSED, THEY ARE SIMPLY
24 MATTERS OF OPINION. THEY ARE OFFERED AND ALLOWED INTO
25 EVIDENCE TO ASSIST YOU IN REACHING YOUR VERDICT AND YOUR

CHARGE TO THE JURY BY THE COURT

1955

1 DETERMINATION, NOT FOR CONTROLLING YOUR DETERMINATION. YOU
2 CAN ACCEPT OR REJECT OR USE TO WHATEVER DEGREE YOU FEEL
3 APPROPRIATE THE OPINION OF A WITNESS WHO TESTIFIED AS AN
4 EXPERT. YOU CAN CONSIDER THAT PERSON'S QUALIFICATIONS AND
5 YOU CAN CONSIDER THE REASONS THEY GAVE FOR THEIR OPINION.
6 AND YOU USE THOSE OTHER THINGS THAT I'VE TALKED ABOUT FOR
7 OTHER WITNESSES, CREDIBILITY AND ALL OF THOSE THINGS.

8 YOU CAN GIVE TO AN EXPERT'S TESTIMONY AND OPINION
9 EVIDENCE THE WEIGHT, IF ANY, YOU DEEM IS APPROPRIATE, IF
10 ANY.

11 THERE ARE FOUR INDICTMENTS, THEY ALLEGE SEPARATE
12 CHARGES. EACH IS A SEPARATE AND DISTINCT CHARGE AND A
13 SEPARATE OFFENSE. YOU MUST DECIDE EACH CHARGE SEPARATELY
14 ON THE EVIDENCE AND THE LAW APPLICABLE TO IT UNINFLUENCED
15 BY YOUR DECISION ON ANY OTHER CHARGE OR INDICTMENT.

16 THE DEFENDANT MAY BE CONVICTED OR ACQUITTED ON
17 ANY OR ALL OF THE OFFENSES AND YOU WILL BE ASKED TO WRITE
18 A SEPARATE VERDICT AS TO EACH CHARGE.

19 I CHARGE YOU THAT VOLUNTARY INTOXICATION IS NEVER
20 AN EXCUSE FOR OR A DEFENSE TO A CRIME, REGARDLESS OF
21 WHETHER THE CRIME IS ONE INVOLVING A GENERAL OR A SPECIFIC
22 INTENT.

23 A PERSON WHO VOLUNTARILY RENDERS THEMSELVES
24 INTOXICATED IS NO LESS RESPONSIBLE FOR THEIR ACTS WHILE
25 THEY ARE IN SUCH A CONDITION.

CHARGE TO THE JURY BY THE COURT

1956

1 IF ONE VOLUNTARILY IS UNDER THE INFLUENCE OF
2 DRUGS AND BECOMES INTOXICATED TO WHATEVER DEGREE AND IF
3 WHILE IN THAT CONDITION THE PERSON COMMITS AN ACCT THAT
4 WOULD BE A CRIME IF IT HAD BEEN COMMITTED BY A SOBER
5 PERSON, THE FACT OF INTOXICATION WOULD NOT RELIEVE THE
6 INTOXICATED PERSON FROM RESPONSIBILITY.

7 MR. FOREMAN, YOU WILL PRESIDE OVER THE
8 DELIBERATIONS. YOU WILL ULTIMATELY SIGN THE VERDICT, AND
9 I WILL TELL YOU MORE ABOUT THAT IN JUST A MOMENT.

10 THE VERDICT MUST BE UNANIMOUS. IN JUST A MOMENT
11 I AM GOING TO ALLOW 12 OF YOU TO GO INTO THE JURY ROOM AND,
12 MS. CHRISTENSEN AND MS. WRIGHT, I'M GOING TO HAVE YOU
13 SEGREGATED FROM THE REST OF THE JURY DURING THE
14 DELIBERATION. YOU WILL JOIN THEM AGAIN LATER.

15 WHEN YOU FIRST GO IN THE JURY ROOM THOUGH, DO NOT
16 START DELIBERATING BECAUSE I MUST GO OVER MY CHARGE WITH
17 THE ATTORNEYS. IF I HAVE MADE AN ERROR, I'LL HAVE TO BRING
18 YOU BACK IN AND CORRECT IT. I TOLD YOU THAT YOU'VE GOT TO
19 FOLLOW THE LAW EXACTLY AS I CHARGE IT TO YOU, SO IT IS
20 INCUMBENT ON ME TO MAKE SURE THAT I HAVE NOT MADE AN ERROR.

21 SO, I WILL HAVE TO GO OVER IT WITH THE ATTORNEYS.
22 IF I HAVE MADE AN ERROR, I WILL BRING YOU BACK IN. AND I
23 WILL ONLY BE A FEW MINUTES, SO DON'T START DELIBERATING, OF
24 COURSE, AND DON'T GET TOO COMFORTABLE BECAUSE IF I HAVE TO
25 SEND FOR YOU, IT WILL ONLY TAKE A FEW SECONDS.

CHARGE TO THE JURY BY THE COURT

1957

1 IF WHILE YOU ARE DELIBERATING YOU HAVE QUESTIONS,
2 MR. FOREMAN WE WILL MAKE SURE YOU HAVE PAPER AND PENCIL OR
3 PEN, WRITE THOSE QUESTIONS DOWN, KNOCK ON THE DOOR, GIVE
4 THEM TO THE BAILIFF; THE BAILIFF WILL BRING THEM TO ME; I
5 WILL CONFER WITH COUNSEL AND I WILL RESPOND TO THE
6 QUESTION. IT MAY BE ONE THAT I CAN WRITE AN ANSWER TO ON
7 THAT PIECE OF PAPER. IT MAY BE ONE THAT I WOULD HAVE TO
8 BRING YOU BACK IN.

9 AND I CAN RECHARGE YOU THE LAW IF YOU WISH ME TO.
10 I DO NOT HAVE A TRANSCRIBED WRITTEN CHARGE ON THE LAW TO
11 SEND IN TO YOU, BUT I CAN BRING YOU BACK AND CHARGE YOU ANY
12 PART OR ALL OF MY CHARGE ON THE LAW IF YOU WISH.

13 WE CAN HAVE TESTIMONY REPLAYED. YOU WILL HAVE
14 THE EXHIBITS IN THE JURY ROOM WITH YOU AND YOU CAN EXAMINE
15 THEM AS YOU WISH. YOU CAN TAKE THEM OUT OF THE BAGS. YOU
16 DON'T HAVE TO JUST LOOK AT THE BAGS, YOU CAN EXAMINE THEM
17 TO ANY DEGREE YOU WISH. BUT WE CAN HAVE TESTIMONY REPLAYED
18 IF YOU WISH. IF YOU DO WISH TO HAVE TESTIMONY REPLAYED,
19 TRY TO BE SPECIFIC, OF COURSE, AS TO WHO YOU WANT AND WHAT
20 PART OF THAT BECAUSE IT DOES TAKE US A WHILE TO FIND IT,
21 BUT WE CAN BRING YOU BACK IN AND HAVE IT PLAYED FOR YOU.

22 IF YOU WANT TO TAKE ANY BREAKS, JUST DO SO.
23 HOWEVER, YOU ARE EITHER ALL DELIBERATING OR YOU ARE ALL ON
24 BREAK. IF YOU WANT TO TAKE A BREAK, THAT'S FINE; YOU DON'T
25 HAVE TO ASK MY PERMISSION. PLEASE DO TELL THE BAILIFF IF

CHARGE TO THE JURY BY THE COURT

1958

1 YOU WANT TO GO OUT AND HAVE A SMOKE BREAK, THAT'S FINE.
2 BUT YOU EITHER ALL WORK OR YOU ARE ALL ON BREAK. I DON'T
3 WANT TWO OR THREE PEOPLE TO GO OUT AND THE OTHER TEN BE
4 WORKING. YOU NEED TO JOINTLY DELIBERATE AND RETURN A
5 UNANIMOUS VERDICT.

6 AS I SAID, YOUR VERDICT MUST BE UNANIMOUS. YOUR
7 VERDICT MAY NOT BE BASED ON PASSION, PREJUDICE, SYMPATHY,
8 SENTIMENT, PUBLIC FEELING, PUBLIC OPINION, CONJECTURE,
9 SPECULATION OR ANY MATTERS OUTSIDE THE RECORD IN THIS CASE.

10 MR. FOREMAN, AS WE SAID, YOU WILL PRESIDE. YOU
11 WILL SEE ON THE FRONTS OF THE BACKS, ON ONE SIDE OF THE
12 INDICTMENTS WITH A LOT OF LINES ON IT, NOT THE SIDE THAT
13 HAS THE CHARGE, THE OTHER SIDE, YOU WILL SEE IN THE BOTTOM
14 LEFT-HAND CORNER THE WORD VERDICT AND FOUR LINES. ON THE
15 BOTTOM LINE YOU WILL SIGN AND DATE, AND I BELIEVE TODAY IS
16 THE 20TH. ON ONE OF THE OTHER THREE LINES YOU WILL WRITE
17 THE UNANIMOUS VERDICT OF THE JURY.

18 IF THE STATE HAS FAILED TO PROVE AS TO A CHARGE
19 THE GUILT OF MR. ROBERTSON BEYOND A REASONABLE DOUBT AS TO
20 A CHARGE, YOUR VERDICT WOULD BE TWO WORDS, NOT GUILTY.
21 THAT'S WHAT YOU WOULD WRITE AND SIGN AND DATE.

22 ON THE OTHER HAND, IF THE STATE HAS PROVEN TO
23 YOUR SATISFACTION THE GUILT OF MR. ROBERTSON AS TO A
24 CHARGE, YOU WOULD USE THE ONE WORD GUILTY AND WRITE THAT.

25 NOW, I AM GOING TO SEND YOU TO THE JURY ROOM AND,

CHARGE TO THE JURY BY THE COURT

1959

1 MS. CHRISTENSEN AND MS. WRIGHT, THEY WILL TAKE YOU, I
2 BELIEVE, DOWN TO THE JURY ASSEMBLY ROOM. BUT DON'T START
3 DELIBERATING YET AND DON'T GET TOO COMFORTABLE BECAUSE I
4 MAY HAVE TO SEND FOR YOU IN JUST A SECOND.

5 IN CAMERA:

6 THE COURT: ANY EXCEPTIONS OR ADDITIONS FROM THE
7 STATE?

8 MR. POPE: NO, SIR, YOUR HONOR.

9 THE COURT: ANY EXCEPTIONS OR ADDITIONS FROM THE
10 DEFENSE?

11 MR. HANCOCK: NO ADDITIONS OR EXCEPTIONS, YOUR
12 HONOR.

13 THE COURT: ALL RIGHT, I WILL ASK YOU TO
14 COORDINATE WITH MRS. FISCHER, MAKE SURE THE EXHIBITS ARE IN
15 ORDER AND SEND THE EXHIBITS AND THE INDICTMENTS BACK AND
16 WHEN YOU DO THAT, YOU CAN TELL THEM TO START DELIBERATING.

17 MR. POPE: YOUR HONOR, WE MAY NEED TO PUT A FEW
18 ITEMS ON THE RECORD. WE CAN PROBABLY GET EVERYTHING READY
19 AND SEND IT BACK BUT THERE ARE A COUPLE OF ITEMS THAT WE
20 MUTUALLY AGREED, LIKE TO REMOVE THE CONTENTS OF THE PURSE,
21 AND THERE ARE SOME DIFFERENT ITEMS ---

22 THE COURT: WELL, I'LL SIT HERE AND YOU TELL ME
23 WHEN YOU ARE READY TO DO THAT.

24 MR. POPE: YES, SIR.

25 (AFTER THE EXHIBITS WERE ORGANIZED.)

CHARGE TO THE JURY BY THE COURT

1960

1 THE COURT: ALL RIGHT?

2 MR. POPE: YOUR HONOR, WE HAVE GONE THROUGH THE
3 ITEMS OF EVIDENCE; I'VE GONE THROUGH THEM WITH MR. BOYD AND
4 I WANTED TO LET THE COURT KNOW AS FAR AS EXACTLY WHAT HAD
5 OCCURRED. STATE'S EXHIBIT 22 IS THE METAL BOX AND IT
6 ACTUALLY HAD VARIOUS PERSONAL AND FINANCIAL RECORDS, THINGS
7 IN IT. THEY HAVE BEEN REMOVED. THE CLERK WILL RETAIN
8 THOSE BY MUTUAL STIPULATION.

9 THE CLERK HAS ALSO LABELED AND DATED VARIOUS
10 PERSONAL CONTENTS REMOVED, SO THERE WOULDN'T BE ANY
11 INDICATION THAT THE CONTENTS HAD BEEN REMOVED BY EITHER
12 PARTY OR ANYTHING OF THAT NATURE. AND I HAVE DISCUSSED
13 THAT WITH MR. BOYD AND THAT MEETS WITH THE DEFENSE
14 APPROVAL.

15 MR. BOYD: THAT'S CORRECT.

16 MR. POPE: ALSO, STATE'S EXHIBIT 21, YOUR HONOR,
17 21 ALSO CONTAINS -- 21.1 WHICH WAS THE CHECKBOOK, 21 BEING
18 THE POCKETBOOK, THERE WAS VARIOUS PERSONAL CONTENTS IN THE
19 POCKETBOOK ALSO. AGAIN, THAT HAS BEEN REMOVED AND WE ARE
20 GOING TO HAVE THE CLERK MARK THAT. SO, THE PERSONAL
21 CONTENTS HAVE BEEN REMOVED AND WILL NOT BE GOING BACK TO
22 THE JURY.

23 STATE'S EXHIBIT 76 IN EVIDENCE WHICH IS THE
24 BOTTLE OF ZYDOT MIX THAT WAS RECOVERED BY MARYLAND, BY
25 MUTUAL STIPULATION BASED ON SOME OF THE WRITING ON THE

CHARGE TO THE JURY BY THE COURT

1961

1 ZYDOT BOTTLE, IT WILL NOT GO BACK TO THE JURY IN THIS
2 PHASE. OF COURSE, THE STATE WOULD HAVE IT BACK IN EVIDENCE
3 ONCE THEY COME BACK BUT WE WILL ADDRESS THAT MATTER AT THE
4 APPROPRIATE TIME.

5 MR. BOYD: WE ARE NOT AGREEING THAT IT WILL BE IN
6 EVIDENCE ---

7 THE COURT: I UNDERSTAND, YOU'RE JUST AGREEING
8 THAT IT WILL NOT GO BACK NOW?

9 MR. BOYD: THAT'S CORRECT.

10 MR. POPE: STATE'S EXHIBIT 95, THE SEVEN LETTERS
11 -- AS A MATTER OF FACT, IT IS STILL MARKED FOR
12 IDENTIFICATION. I'M NOT SURE IF THAT'S IN EVIDENCE OR NOT,
13 BUT STATE'S EXHIBIT 95 IS THE SEVEN LETTERS THAT WAS PART
14 OF THE HANDWRITING EXEMPLARS, IT IS MY UNDERSTANDING THAT
15 THAT WILL NOT BE GOING BACK.

16 MR. BOYD: THAT'S CORRECT.

17 MR. POPE: ALSO DUE TO SOME OF THE WRITING ON
18 STATE'S EXHIBIT 25 WHICH IS THE TO DO LIST, NOT THE PRYOR
19 MANUAL LIST, BUT THE TO DO LIST, THERE ARE A NUMBER OF
20 ITEMS ON IT AND DUE TO THE NATURE OF SOME OF THE ITEMS ON
21 IT, AGAIN, IT WILL NOT GO BACK TO THE JURY AT THIS TIME.

22 MR. BOYD: THAT'S CORRECT.

23 THE COURT: NOW, WAIT JUST A MINUTE ON THAT. I
24 KNOW Y'ALL ARE SAYING THAT YOU ARE AGREEING, BUT LET ME SEE
25 WHICH LIST YOU'RE TALKING ABOUT.

CHARGE TO THE JURY BY THE COURT

1962

1 (THE EXHIBIT WAS SHOWN TO THE COURT.)

2 THE COURT: ALL RIGHT.

3 MR. POPE: AND, AGAIN, YOUR HONOR, WE HAVE GONE
4 THROUGH ALL OF THE OTHER ITEMS, MR. HANCOCK AND MR.
5 BRACKETT AND THE COURT REPORTER, AND WE BELIEVE ALL OF THEM
6 TO BE IN ORDER. AGAIN, WE WILL HAVE STATE'S EXHIBIT 22
7 WITH THE CONTENTS REMOVED; STATE'S EXHIBIT 21 WITH THE
8 CONTENTS REMOVED; 76, 95 AND 25 WILL REMAIN IN THE
9 COURTROOM.

10 MR. BOYD: THAT'S CORRECT, YOUR HONOR.

11 MR. POPE: AND THE EVIDENCE IS NOW READY TO GO
12 BACK.

13 THE COURT: THANK YOU. IS THAT IT?

14 MR. POPE: YES, SIR, YOUR HONOR.

15 THE COURT: WE WILL BE AT EASE. MR. BAILIFF,
16 WHEN THEY GET THE EXHIBITS, YOU CAN TELL THEM THAT THEY CAN
17 START DELIBERATING.

18 (THE JURY RETIRED TO BEGIN DELIBERATING AT 5:00 P.M.)

19 MR. POPE: YOUR HONOR, IS IT ALL RIGHT FOR THE
20 WITNESSES TO BE IN THE COURTROOM WHEN A VERDICT IS
21 RENDERED? WE'VE DISCUSSED IT AND THERE'S BEEN NO
22 OPPOSITION. OBVIOUSLY, THERE WILL BE NOTHING FACTUAL
23 COMING OUT.

24 THE COURT: I'LL LIFT THE SEQUESTRATION ORDER FOR
25 THAT WITH THE CONSENT OF BOTH PARTIES. THE STATE?

CHARGE TO THE JURY BY THE COURT

1963

1 MR. POPE: YES, SIR.

2 THE COURT: THE DEFENSE?

3 MR. HANCOCK: BUT PLEASE, IF YOU WILL, YOUR
4 HONOR, WE WOULD LIKE FOR THEM TO BE INSTRUCTED ---

5 THE COURT: I'LL HAVE AN ADMONITION, I WON'T DO
6 IT NOW BECAUSE SOME OF THEM MIGHT NOT BE IN HERE, BUT I
7 WILL CERTAINLY GIVE AN ADMONITION AS TO REACTIONS.

8 MR. HANCOCK: THANK YOU, SIR.

9 (THE JURY NOTIFIED THE COURT THAT THEY HAD A QUESTION AT
10 5:25 P.M.)

11 IN CAMERA:

12 THE COURT: THE JURY HAS SENT OUT A NOTE ASKING
13 FOR A RECHARGE ON THE CHARGES, AND I WILL DO THAT. THEY
14 ALSO ASKED TO BE ALLOWED TO TAKE NOTES, BUT I AM NOT GOING
15 TO DO THAT. I AM GOING TO TELL THEM THE REASON IS THAT I'M
16 AFRAID IF THEY CONCENTRATE ON TAKING NOTES, THEY MAY MISS
17 WHAT I'M SAYING. PLUS IF ONE WRITES DOWN ONE NOTE AND
18 ANOTHER ANOTHER, THEN THEY HAVEN'T ACCOMPLISHED MUCH. SO,
19 I'M NOT GOING TO ALLOW THEM TO TAKE NOTES.

20 ANYTHING FROM THE STATE BEFORE I CALL THEM IN?

21 MR. POPE: NO, SIR, YOUR HONOR.

22 THE COURT: ANYTHING FROM THE DEFENSE?

23 MR. BOYD: NO, YOUR HONOR.

24 IN THE PRESENCE OF THE JURY:

25 THE COURT: MEMBERS OF THE JURY PANEL, I RECEIVED

CHARGE TO THE JURY BY THE COURT

1964

1 YOUR NOTE AND I'M GOING TO START BY ASKING YOU NOT TO TAKE
2 NOTES. AND I KNOW THAT SOUNDS MAYBE NOT FAIR BECAUSE THE
3 LAWYERS HAVE BEEN TAKING NOTES, WHEN YOU GO TO SCHOOL THEY
4 MAKE YOU TAKE NOTES, BUT THERE ARE A COUPLE OF GOOD
5 REASONS.

6 ONE, AND I'M GOING TO GO SLOW, BUT YOU MIGHT MISS
7 SOMETHING I SAY BY WRITING A NOTE DOWN. AND I KNOW WHEN
8 YOU GET BACK THERE YOU IN YOUR MINDS ARE GOING TO REMEMBER
9 MAYBE DIFFERENT THINGS, I HOPE NOT, I HOPE YOU ALL REMEMBER
10 EXACTLY, BUT IF SOMEBODY WRITES DOWN SOMETHING ONE WAY AND
11 ANOTHER THE OTHER, THEN YOU WOULD HAVE CREATED A SITUATION
12 WHERE YOU'RE GOING TO BE ARGUING ABOUT WHAT I DID SAY. SO,
13 I WOULD RATHER YOU LISTEN AND APPROACH IT FROM THAT
14 STANDPOINT.

15 I KNOW THAT MAY SOUND UNFAIR OR SILLY, BUT WE'VE
16 FOUND -- I SAY WE, COURTS OVER TIME, SOME DO ALLOW TAKING
17 OF NOTES, BUT SO FAR WE'VE KIND OF COME UP IN OUR STATE
18 WITH IT BEING BEST IF WE LET EVERYBODY USE THEIR COLLECTIVE
19 MEMORIES AND DISCUSS IT.

20 ALSO WE BELIEVE THAT IF ONE PERSON WRITES IT DOWN
21 AND MAYBE THE REST OF YOU DON'T THEN THAT PERSON IF THEY
22 WROTE IT DOWN WRONG, IT BECOMES SORT OF THE GOSPEL. AND IF
23 IT'S WRONG, THEN YOU'RE STUCK WITH SOMETHING WRONG. THOSE
24 OF YOU WHO ARE ARGUING FROM YOUR MIND ARE FACED WITH
25 SOMEBODY WHO SAYS I'VE GOT IT IN WRITING. SO, THERE ARE

CHARGE TO THE JURY BY THE COURT

1965

1 SOME REASONS FOR NOT DOING IT.

2 YOU ASKED JUST, MR. GWINN, I BELIEVE FOR THE
3 CHARGE ON THE INDICTMENTS, THAT'S JUST THE CHARGES. YOU
4 DON'T WANT ME TO GO THROUGH THE WHOLE CHARGES, OR DO YOU?
5 I THINK IT WAS JUST ON THE CHARGES OF MURDER, ARMED ROBBERY
6 AND FINANCIAL CARD TRANSACTION FRAUD?

7 THE FOREMAN: YES, SIR.

8 THE COURT: OKAY. MURDER, TWO COUNTS OF MURDER,
9 ONE FOR MR. EARL ROBERTSON, SR. AND ONE FOR TERRY
10 ROBERTSON, IS DEFINED AS THE WILFUL, FELONIOUS KILLING OF
11 A HUMAN BEING BY A HUMAN BEING WITH MALICE AFORETHOUGHT.

12 IN ORDER TO CONVICT MR. ROBERTSON OF MURDER AS TO
13 ONE OR BOTH OF THESE INDICTMENTS, THE STATE MUST NOT ONLY
14 PROVE THE KILLING OF THE INDIVIDUAL, THE DECEASED, BY MR.
15 ROBERTSON BUT THAT SUCH KILLING WAS DONE WITH MALICE
16 AFORETHOUGHT AND THIS MUST BE PROVED BEYOND A REASONABLE
17 DOUBT.

18 MALICE IS A WORD SUGGESTING WICKEDNESS, HATRED,
19 AND A DETERMINATION TO DO WHAT ONE KNOWS TO BE WRONG
20 WITHOUT JUST CAUSE OR EXCUSE OR WITHOUT LEGAL PROVOCATION.
21 MALICE NEED NOT BE ON ONE'S MIND FOR ANY PARTICULAR LENGTH
22 OF TIME BEFORE AN ACT OF KILLING TO RENDER THE KILLING
23 MURDER. IF MALICE IS PRESENT IN THE MIND OF THE ONE DOING
24 THE KILLING FOR ANY LENGTH OF TIME BEFORE THE ACT, IT WOULD
25 BE AFORETHOUGHT, AND IT'S PRESENCE WOULD RENDER THE KILLING

CHARGE TO THE JURY BY THE COURT

1966

1 MURDER.

2 MALICE MAY BE EXPRESSED; THAT IS, WHERE THERE HAS
3 BEEN A MANIFESTATION ORALLY OR WHERE THERE HAS BEEN A
4 MANIFESTATION OF A VIOLENT DELIBERATE INTENTION UNLAWFULLY
5 TO TAKE AWAY THE LIFE OF ANOTHER.

6 MALICE MAY BE INFERRED WHEN NO EXCUSE OR LEGAL
7 PROVOCATION FOR THE KILLING APPEARS AND WHEN THE
8 CIRCUMSTANCES ATTENDING THE KILLING SHOW AN ABANDONED
9 HEART, A MALIGNANT HEART, A HEART FATALLY BENT ON MISCHIEF.
10 THIS INFERENCE IS NOT CONCLUSIVE AND YOU MAY ACCEPT OR
11 REJECT IT.

12 THE LAW SAYS THAT WHEN ONE KILLS ANOTHER WITH A
13 DEADLY WEAPON, THE INFERENCE OF MALICE MAY ALSO ARISE. IF
14 FACTS ARE PROVEN BEYOND A REASONABLE DOUBT SUFFICIENT TO
15 RAISE AN INFERENCE OF MALICE TO YOUR SATISFACTION, THIS
16 INFERENCE WOULD SIMPLY BE AN EVIDENTIARY FACT TO BE TAKEN
17 INTO CONSIDERATION BY YOU ALONG WITH ALL OF THE OTHER
18 EVIDENCE IN THE CASE AND YOU MAY GIVE IT SUCH WEIGHT, IF
19 ANY, THAT YOU DETERMINE IT SHOULD HAVE.

20 AS TO MALICE, AS LONG AS MALICE ACCOMPANIES THE
21 ACT OF KILLING INSTEAD OF APPEARING AFTER, IT WILL SUFFICE
22 AS MALICE AFORETHOUGHT. HOWEVER, IF THE MALICE APPEARS
23 AFTER THE FACT, IT IS INSUFFICIENT.

24 THE STATE MUST PROVE THESE ELEMENTS OF MURDER
25 BEYOND A REASONABLE DOUBT BEFORE YOU COULD CONVICT MR.

CHARGE TO THE JURY BY THE COURT

1967

1 ROBERTSON AS TO MURDER OF ONE OR BOTH OF THE DECEDENTS.

2 AS TO ARMED ROBBERY, ARMED ROBBERY IS THE CRIME
3 OF -- WELL, LET ME START OVER AND DESCRIBE IT THIS WAY. IN
4 ORDER TO DESCRIBE, AS I DID EARLIER, ARMED ROBBERY, I MUST
5 DEFINE LARCENY OR STEALING, THEN ROBBERY WHICH IS A FORM OF
6 STEALING AND THEN ARMED ROBBERY WHICH IS A FORM OF
7 STEALING.

8 LARCENY IS THE FELONIOUS TAKING AND CARRYING AWAY
9 OF THE PERSONAL GOODS OR PERSONAL PROPERTY OF ANOTHER WITH
10 A FELONIOUS INTENT TO PERMANENTLY DEPRIVE THE OWNER OF THE
11 PROPERTY AND CONVERT THAT PROPERTY TO THE ONE TAKING IT TO
12 ITS OWN USE. THE ESSENTIAL ELEMENT OF THE CRIME OF
13 LARCENY, AND AGAIN THAT'S SIMPLY REFERRED TO IN COMMON
14 PARLANCE AS STEALING, ARE THIS:

15 ONE, THE FELONIOUS TAKING INTO THE POSSESSION
16 PERSONAL PROPERTY OF ANOTHER. TWO, THE CARRYING AWAY AND
17 REMOVAL OF THE PERSONAL PROPERTY. AND, THREE, THE
18 FELONIOUS INTENT; THAT IS, THE INTENT TO STEAL ON THE PART
19 OF THE ONE TAKING IT; THAT IS, TO PERMANENTLY DEPRIVE THE
20 OWNER OF THAT PERSONAL PROPERTY AND THE TAKER'S INTENTION
21 TO CONVERT IT TO THEIR OWN USE. THAT IS LARCENY.

22 ROBBERY IS THE FELONIOUS TAKING AND CARRYING AWAY
23 OF ANY PROPERTY OF VALUE OF ANOTHER ACTUALLY FROM THEIR
24 PERSON OR IN THEIR PRESENCE. LARCENY IS STEALING, ROBBERY
25 IS WHERE YOU STEAL IT FROM THEM OR IN THEIR PRESENCE BY

CHARGE TO THE JURY BY THE COURT

1968

1 VIOLENCE OR PUTTING THEM IN FEAR OF VIOLENCE.

2 ALL OF THE ELEMENTS NECESSARY TO CONSTITUTE
3 LARCENY ARE NECESSARY TO CONSTITUTE ROBBERY. SO, THE
4 ELEMENTS OF ROBBERY ARE:

5 FIRST, THE PROPERTY TAKEN MUST BE SUBJECT TO
6 LARCENY, THAT IS PERSONAL PROPERTY. SECOND, THERE MUST BE
7 A FELONIOUS TAKING, THAT IS THE CARRYING AWAY OF THE
8 PERSONAL PROPERTY. THIRD, THE TAKING AND CARRYING AWAY
9 MUST BE WITH A FELONIOUS INTENT, THAT IS WITH THE INTENT TO
10 STEAL ON THE PART OF THE TAKER, THAT IS TO PERMANENTLY
11 DEPRIVE THE OWNER OF THE PERSONAL PROPERTY AND CONVERT THE
12 PERSONAL PROPERTY TO THE TAKER'S OWN USE. AND FOURTH, THE
13 AGGRAVATING CIRCUMSTANCE NECESSARY TO CONVERT LARCENY INTO
14 ROBBERY ARE THAT THE PROPERTY MUST BE TAKEN FROM THE PERSON
15 OF ANOTHER OR THEIR PRESENCE AND, SECOND, THE TAKING MUST
16 NOT ONLY BE WITHOUT THEIR CONSENT, BUT IT MUST BE
17 ACCOMPLISHED WITH VIOLENCE OR BY PUTTING THAT PERSON IN
18 FEAR OF VIOLENCE.

19 ARMED ROBBERY OR ROBBERY WHILE ARMED WITH A
20 DEADLY WEAPON IS ROBBERY AS I HAVE DEFINED IT FOR YOU, BUT
21 IT REQUIRES THAT THE ONE INSTITUTING OR INVOLVED IN THE
22 ROBBERY AT THAT TIME COMMITS THE ROBBERY BY THE USE OF A
23 DEADLY WEAPON. AND I HAVE DEFINED FOR YOU EARLIER WHEN I
24 DEFINED -- WELL, I DIDN'T. FOR SOME REASON I GOT MY NOTES
25 OUT OF ORDER. I'LL GO BACK IN JUST A MOMENT.

CHARGE TO THE JURY BY THE COURT

1969

1 BUT ARMED ROBBERY IS ROBBERY WHILE ARMED WITH A
2 DEADLY WEAPON. AND A DEADLY WEAPON -- I'LL HAVE TO GO BACK
3 TO THAT IN JUST A MOMENT. LET ME GO AHEAD AND DEFINE
4 FINANCIAL TRANSACTION CARD FOR YOU AND I'LL RETURN BACK TO
5 THAT. I DON'T KNOW HOW MY NOTES HAVE GOTTEN OUT OF ORDER
6 HERE.

7 FINANCIAL TRANSACTION CARD FRAUD IS A STATUTORY
8 CRIME; THAT IS, ONE PASSED BY OUR LEGISLATURE IN COLUMBIA.
9 I FIRST MUST DEFINE FOR YOU THREE THINGS BEFORE I CAN
10 DEFINE THIS OFFENSE.

11 FIRST, FINANCIAL TRANSACTION CARD ITSELF IS
12 DEFINED, AMONG OTHER THINGS, AS A CREDIT CARD OR CREDIT
13 PLATE ISSUED WITH OR WITHOUT A FEE BY AN ISSUER FOR THE USE
14 OF A CARDHOLDER IN OBTAINING MONEY, GOODS, SERVICES OR
15 ANYTHING ELSE OF VALUE OR CREDIT.

16 ISSUER MEANS ANY ORGANIZATION OR INSTITUTION
17 WHICH ISSUES A FINANCIAL TRANSACTION CARD.

18 CARDHOLDER MEANS THE PERSON NAMED ON THE FACE OF
19 A FINANCIAL TRANSACTION CARD TO WHOM OR FOR WHOSE BENEFIT
20 THE FINANCIAL TRANSACTION CARD IS ISSUED BY AN ISSUER.

21 SECTION 16-14-60 DEFINES THE OFFENSE OF FINANCIAL
22 TRANSACTION CARD FRAUD AND IT STATES THAT THAT OFFENSE
23 OCCURS WHEN ONE WITH INTENT TO DEFRAUD THE ISSUER OR A
24 PERSON BY OBTAINING MONEY, GOODS, SERVICE OR ANYTHING ELSE
25 OF VALUE BY PRESENTING THE FINANCIAL TRANSACTION CARD

CHARGE TO THE JURY BY THE COURT

1970

1 WITHOUT THE AUTHORIZATION OR PERMISSION OF THE CARDHOLDER.

2 THE STATE MUST PROVE BEYOND A REASONABLE DOUBT
3 THAT THE DEFENDANT OBTAINED GOODS OR SERVICES OR SOMETHING
4 OF VALUE; THAT HE DID IT WITH THE INTENT TO DEFRAUD THE
5 CARDHOLDER OR THE CARD ISSUER; AND HE DID IT BY PRESENTING
6 THE CARD WITHOUT THE AUTHORIZATION OR PERMISSION OF THE
7 CARDHOLDER, AND THEY MUST PROVE THAT BEYOND A REASONABLE
8 DOUBT.

9 NOW LET ME GO BACK. WHEN I DEFINED FOR YOU
10 EARLIER MALICE AND INFERRED MALICE, I TALKED TO YOU ABOUT
11 MALICE BEING INFERRED WHEN THERE WAS NO EXCUSE OR LEGAL
12 PROVOCATION. AND, OF COURSE, THIS HAS TO DO WITH MURDER.
13 AND WHEN THE CIRCUMSTANCES ATTENDING THE KILLING SHOW AN
14 ABANDONED HEART, A HEART FATALLY BENT UPON MISCHIEF, A
15 MALIGNANT HEART.

16 THE LAW ALSO SAYS THAT IF ONE INTENTIONALLY KILLS
17 ANOTHER WITH A DEADLY WEAPON, THE INFERENCE OF MALICE MAY
18 ALSO ARISE.

19 AND I TOLD YOU THAT BOTH OF THESE INFERENCES ARE
20 SIMPLY THAT. THEY ARE, IF YOU FIND THAT THEY DO EXIST,
21 SIMPLY EVIDENTIARY FACTS TO BE TAKEN INTO CONSIDERATION BY
22 YOU ALONG WITH THE OTHER EVIDENCE IN THIS CASE AND ARE TO
23 BE GIVEN SUCH WEIGHT AS YOU DETERMINE IT SHOULD BE.

24 A DEADLY WEAPON IS DEFINED AS ANY ARTICLE,
25 INSTRUMENT OR SUBSTANCE WHICH IS LIKELY TO PRODUCE DEATH OR

CHARGE TO THE JURY BY THE COURT

1971

1 GREAT BODILY HARM.

2 THAT DEFINITION OF DEADLY WEAPON ALSO APPLIES TO
3 ARMED ROBBERY. THAT IS, ARMED ROBBERY IS, AS I TOLD YOU
4 EARLIER, LARCENY WHICH IS THE TAKING OF SOMEONE ELSE'S
5 GOODS. ROBBERY IS THE TAKING OF IT BY FORCE OR VIOLENCE IN
6 THEIR PRESENCE. AND ARMED ROBBERY IS THE TAKING OF THEIR
7 PROPERTY IN THEIR PRESENCE BY THE USE OF A DEADLY WEAPON AS
8 I HAVE JUST DEFINED IT FOR YOU.

9 MR. FOREMAN, DO YOU BELIEVE THAT WILL BE OF SOME
10 HELP?

11 THE FOREMAN: I THINK SO.

12 THE COURT: ALL RIGHT. I'M GOING TO LET YOU GO
13 BACK TO THE JURY ROOM AND IF YOU HAVE ANY FURTHER
14 QUESTIONS, PLEASE WRITE THEM DOWN AND SEND THEM BACK OUT.
15 (THE JURY RETIRED AGAIN TO CONTINUE DELIBERATIONS AT 5:40
16 P.M.)

17 IN CAMERA:

18 THE COURT: ANYTHING FROM THE STATE?

19 MR. POPE: NO, SIR, YOUR HONOR.

20 THE COURT: ANYTHING FROM THE DEFENSE?

21 MR. HANCOCK: NOTHING, YOUR HONOR.

22 THE COURT: ALL RIGHT, WE WILL STILL REMAIN AT
23 EASE.

24 (THE JURY NOTIFIED THE COURT THAT THEY HAD AGREED ON
25 VERDICTS AT 7:05 P.M.)

1972

1 THE COURT: I UNDERSTAND WE HAVE VERDICTS. I
2 DON'T KNOW WHAT THEY ARE, OF COURSE, AND WON'T KNOW UNTIL
3 YOU KNOW. I INSTRUCT YOU AT THIS TIME IF THERE'S ANYONE
4 HERE WHO THINKS THAT WHATEVER THE VERDICTS ARE WOULD CREATE
5 SUCH AN EMOTIONAL IMPACT ON THEM THAT THEY WILL NOT BE ABLE
6 TO SIT AND REMAIN IN THE DIGNITY OF THE COURT, THEY MIGHT
7 BETTER GO AHEAD AND LEAVE NOW BECAUSE I WILL NOT ALLOW ANY
8 DISRUPTIONS, ANY EMOTIONAL OUTBURSTS AND IF THERE ARE, THAT
9 PARTICULAR PERSON WOULD HAVE TO BE HELD IN CONTEMPT OF
10 COURT.

11 SO, IF YOU DON'T THINK YOU CAN CONTROL YOUR
12 EMOTIONS, YOU'D BETTER SLIDE ON OUT NOW.

13 OKAY, BRING IN THE JURY.

14 IN THE PRESENCE OF THE JURY:

15 THE COURT: MR. FOREMAN, I UNDERSTAND THE JURY
16 HAS REACHED VERDICTS?

17 THE FOREMAN: YES, SIR, YOUR HONOR.

18 THE COURT: IF YOU WILL HAND THEM UP TO ME BY WAY
19 OF THE BAILIFF.

20 (THE INDICTMENTS WERE GIVEN TO THE COURT.)

21 THE COURT: MADAM CLERK?

22 THE DEPUTY CLERK: THE STATE OF SOUTH CAROLINA
23 VERSUS JAMES DEJARNETTE ROBERTSON UNDER INDICTMENT 98-GS-
24 46-1020, A CHARGE OF MURDER. THE VERDICT IS GUILTY.
25 SIGNED BY JERRY D. GWINN, FOREMAN OF THE JURY. IF THIS BE

1973

1 YOUR VERDICT, LADIES AND GENTLEMEN, WOULD YOU SIGNIFY BY
2 RAISING YOUR RIGHT HAND, PLEASE? LET THE RECORD SHOW THAT
3 ALL 12 JURORS AFFIRM THIS VERDICT.

4 THE STATE OF SOUTH CAROLINA VERSUS JAMES
5 DEJARNETTE ROBERTSON UNDER INDICTMENT 98-GS-46-1021, A
6 CHARGE OF MURDER. THE VERDICT IS GUILTY. SIGNED BY JERRY
7 D. GWINN, FOREMAN OF THE JURY. LADIES AND GENTLEMEN, IF
8 THIS BE YOUR VERDICT, WOULD YOU ALSO SIGNIFY BY RAISING
9 YOUR RIGHT HANDS? LET THE RECORD SHOW THAT ALL 12 JURORS
10 AFFIRM THE VERDICT.

11 THE STATE OF SOUTH CAROLINA VERSUS JAMES
12 DEJARNETTE ROBERTSON UNDER INDICTMENT 98-GS-46-1022, FOR
13 THE CHARGE OF ARMED ROBBERY. THE VERDICT IS GUILTY AND
14 SIGNED BY THE FOREMAN, JERRY D. GWINN. IF THIS BE YOUR
15 VERDICT, LADIES AND GENTLEMEN, WOULD YOU ALSO AFFIRM BY
16 RAISING YOUR RIGHT HANDS? LET THE RECORD SHOW THAT ALL 12
17 JURORS AFFIRM IT.

18 THE STATE OF SOUTH CAROLINA VERSUS JAMES
19 DEJARNETTE ROBERTSON UNDER INDICTMENT 98-GS-46-1023 FOR THE
20 CHARGE OF FINANCIAL TRANSACTION CARD FRAUD. THE VERDICT IS
21 GUILTY; SIGNED BY JERRY D. GWINN, FOREMAN. AND LADIES AND
22 GENTLEMEN, IF THIS BE YOUR VERDICT, WOULD YOU ALSO SIGNIFY
23 BY RAISING YOUR RIGHT HAND? LET THE RECORD SHOW THAT ALL
24 12 JURORS AFFIRM THESE VERDICTS.

25 THE COURT: ANYTHING FROM THE STATE AT THIS TIME?

1974

1 MR. POPE: NO, SIR, YOUR HONOR.

2 THE COURT: DOES THE DEFENSE WANT THE JURY
3 POLLED?

4 MR. HANCOCK: WE DON'T REQUIRE POLLING AT THIS
5 TIME, YOUR HONOR.

6 THE COURT: WELL, THIS WILL BE THE ONLY TIME AT
7 THIS STAGE.

8 MR. HANCOCK: WE DON'T REQUIRE IT, YOUR HONOR.

9 THE COURT: ALL RIGHT. COULD YOU GET THE TWO
10 ALTERNATES UP?

11 THE COURT: IS THERE ANYTHING FROM THE STATE
12 BEFORE THE JURY IS DISMISSED?

13 MR. POPE: NO, SIR, YOUR HONOR.

14 THE COURT: ANYTHING FROM THE DEFENSE?

15 MR. BOYD: NO, SIR, YOUR HONOR.

16 THE COURT: MEMBERS OF THE JURY PANEL, JUST BEAR
17 WITH ME A MINUTE. I HAVE A FEW INSTRUCTIONS THAT I WANT
18 ALL 14 OF YOU TO HEAR.

19 (THE TWO ALTERNATES WERE BROUGHT INTO THE COURTROOM.)

20 THE COURT: MEMBERS OF THE JURY PANEL, WE NOW
21 HAVE BEEN JOINED BY MS. CHRISTENSEN AND MS. WRIGHT, THE
22 ALTERNATES. THE VERDICTS HAVE BEEN RETURNED AND MR.
23 ROBERTSON HAS BEEN FOUND GUILTY ON ALL THOSE COUNTS. THIS
24 MEANS THAT WE WILL MOVE FORWARD WITH THE SECOND STAGE OF
25 THIS CASE.

1975

1 THIS WILL START ON MONDAY MORNING. I KNOW YOU
2 THINK WE OUGHT TO PERHAPS START TOMORROW BECAUSE WE ARE
3 TAKING YOU AWAY FROM YOUR FAMILY, BUT THE LAW REQUIRES A 24
4 HOUR WAITING PERIOD BETWEEN THE RETURN OF THE VERDICT AND
5 THE SECOND STAGE OF THE TRIAL. SO, WE WILL REST TOMORROW
6 AND THE SAME PEOPLE WHO HAVE BEEN TAKING CARE OF YOU WILL
7 CONTINUE TO TAKE CARE OF YOU.

8 I AM GOING TO INSTRUCT YOU THAT AT THIS POINT
9 DON'T DISCUSS THE CASE ANYMORE UNTIL I INSTRUCT YOU AT THE
10 END OF THE SECOND STAGE TO DISCUSS IT AGAIN. DON'T DISCUSS
11 IT. I TELL THE ALTERNATES, PARTICULARLY, THEY WERE NOT
12 PART OF THE DISCUSSIONS, NOT TO INQUIRE AS TO WHAT WAS
13 DISCUSSED. ALL OF YOU WHO WERE IN THERE KNOW WHAT WAS
14 DISCUSSED AND THERE IS NO NEED TO DISCUSS IT ANYMORE, YOU
15 HAVE RETURNED THE VERDICTS.

16 REMEMBER THAT YOU EACH TOLD US MONDAY, TUESDAY OR
17 WEDNESDAY THAT YOU WOULD ENTER THE SECOND PHASE WITH AN
18 OPEN MIND. I WILL REMIND YOU THAT THAT IS YOUR OBLIGATION
19 AND I WILL REMIND YOU OF THAT AGAIN ON MONDAY.

20 BUT DON'T DISCUSS THE CASE AMONG YOURSELVES.
21 CONTINUE NOT TO LET YOURSELF BE EXPOSED TO ANY NEWS
22 COVERAGE OF THE CASE. DON'T LET ANYONE DISCUSS THE CASE
23 WITH YOU. AGAIN, DON'T DISCUSS IT AMONG YOURSELVES.
24 YOU'VE DONE THIS PART, THERE'S NO NEED TO. YOU HAVE AN
25 OBLIGATION NOT TO UNTIL WE REACH THAT SECOND POINT.

1976

1 THE COURT: ANYTHING ELSE FROM THE STATE?

2 MR. POPE: NO, SIR, YOUR HONOR.

3 THE COURT: FROM THE DEFENSE?

4 MR. HANCOCK: NOTHING FROM THE DEFENSE.

5 THE COURT: ALL RIGHT. IF YOU WILL FOLLOW THE
6 SECURITY PEOPLE, WE WILL SEE YOU MONDAY MORNING AT 9:30.

7 IN CAMERA:

8 THE COURT: FOR THE RECORD, THE VERDICT WAS
9 RETURNED AT 7:05 P.M. ON MARCH 20TH, 1999, GUILTY ON ALL
10 FOUR INDICTMENTS. ANYTHING FROM THE STATE?

11 MR. POPE: NO, SIR, YOUR HONOR.

12 THE COURT: ANYTHING FROM THE DEFENSE?

13 MR. HANCOCK: WE JUST RENEW ALL OF OUR PREVIOUS
14 MOTIONS, YOUR HONOR.

15 THE COURT: ALL RIGHT, THOSE MOTIONS WERE, OF
16 COURSE, FOR A DIRECTED VERDICT ON VARIOUS GROUNDS AS TO
17 EACH OF THE FOUR INDICTMENTS. THEY WERE DENIED AT THAT
18 TIME, AND I DENY THEM AGAIN AT THIS TIME.

19 WE WILL THEN BE AT EASE UNTIL 9:30 ON MONDAY
20 MORNING.

21 (THERE WAS A BREAK AND THE COURT REQUESTED THAT WE GO BACK
22 ON THE RECORD.)

23 THE COURT: MR. ROBERTSON, I JUST WANT TO PLACE
24 ON THE RECORD, YOU HEARD ME MENTION THAT YOU ARE ENTITLED
25 TO A 24 HOUR WAITING PERIOD BEFORE THE NEXT STAGE OF THE

1977

1 TRIAL PROCEEDS.

2 YOUR COUNSEL EARLIER INDICATED TO ME THAT THEY
3 DID NOT INTEND TO WAIVE THAT. IT CAN BE WAIVED, BUT I JUST
4 WANT TO MAKE SURE THAT YOU UNDERSTAND THAT YOU HAVE THAT
5 RIGHT AND YOU DO WISH TO EXERCISE IT. THAT IS, HAVE THE 24
6 HOUR WAITING PERIOD. IS THAT CORRECT?

7 MR. ROBERTSON: I DEFER TO THEIR JUDGMENT.

8 THE COURT: ALL RIGHT, THANK YOU. WE WILL HAVE
9 THE 24 HOUR WAITING PERIOD; I FIND THAT THERE IS NO WAIVER.

10 MR. HANCOCK: THANK YOU, YOUR HONOR.

11 SENTENCING PHASE 3-22-99 (IN CAMERA):

12 THE COURT: THE GUILTY VERDICTS WERE RETURNED AT
13 7:05 P.M. MARCH 20TH, 1999, THAT WAS THIS LAST SATURDAY
14 EVENING. THIS IS NOW MONDAY MORNING AT 9:30 A.M. MR.
15 ROBERTSON WAS FOUND GUILTY OF TWO COUNTS OF MURDER, ONE
16 TRANSACTION CARD FRAUD, AND ONE ARMED ROBBERY -- GUILTY ON
17 ALL OF THOSE CHARGES.

18 DOES THE STATE INTEND TO OFFER ANY EVIDENCE IN
19 AGGRAVATION?

20 MR. POPE: YES, SIR, WE DO, YOUR HONOR.

21 THE COURT: DO YOU WANT TO STATE FOR THE RECORD
22 WHAT THOSE WILL BE?

23 MR. POPE: I'M SORRY, YOUR HONOR?

24 THE COURT: I KNOW YOU HANDED UP YOUR NOTICE, BUT
25 STATE FOR THE RECORD THE STATUTORY AGGRAVATING

1978

1 CIRCUMSTANCES.

2 MR. POPE: YES, SIR. MAY IT PLEASE THE COURT,
3 YOUR HONOR, ON APRIL 30TH OF 1998, PURSUANT TO SECTION 16-
4 3-26(A) OF THE SOUTH CAROLINA CODE OF LAWS AS AMENDED, THE
5 STATE OF SOUTH CAROLINA THROUGH MYSELF AS SOLICITOR OF THE
6 SIXTEENTH CIRCUIT, SERVED A NOTICE OF INTENT TO SEEK THE
7 DEATH PENALTY AGAINST THE DEFENDANT. ALSO PURSUANT TO
8 SECTION 16-320(B) WE GAVE NOTICE OF THE FOLLOWING
9 AGGRAVATING CIRCUMSTANCES:

10 THAT THE MURDER WAS COMMITTED IN THE COMMISSION
11 OF A ROBBERY WHILE ARMED WITH A DEADLY WEAPON.

12 LARCENY WITH THE USE OF A DEADLY WEAPON AND/OR
13 PHYSICAL TORTURE.

14 WE ALSO GAVE NOTICE THAT THE OFFENDER COMMITTED
15 THE MURDER FOR HIMSELF OR ANOTHER FOR THE PURPOSE OF
16 RECEIVING MONEY OR A THING OF VALUE.

17 WE ALSO GAVE NOTICE OF TWO OR MORE PERSONS WERE
18 MURDERED BY THE DEFENDANT BY ONE ACT OR PURSUANT TO ONE
19 SCHEME OR COURSE OF CONDUCT.

20 AT THE COURT'S REQUEST, I'LL BE GLAD TO HAVE A
21 COPY MADE SO THAT THE COURT CAN HAVE THAT ON THE BENCH
22 DURING THE TRIAL ALSO.

23 THE COURT: PLEASE. AND WAS THAT THE SAME DATE
24 AS THE ARRAIGNMENT?

25 MR. POPE: YES, SIR. A TRUE COPY OF THE

1979

1 INDICTMENTS WERE PROVIDED AT THAT TIME THAT THE NOTICE WAS
2 GIVEN AND THE NOTICE OF AGGRAVATING CIRCUMSTANCES.

3 SUBSEQUENTLY, THE NOTICE OF EVIDENCE IN
4 AGGRAVATION. BUT THE PARTICULAR EVIDENCE IN AGGRAVATION
5 WAS GIVEN AND SERVED NOVEMBER 2ND OF 1998.

6 I ALSO NOTE THAT PURSUANT TO THE COURT'S
7 INSTRUCTIONS MR. BOYD AND MR. BRACKETT HAVE SAT DOWN AND
8 GONE THROUGH THE ENTIRE WITNESS LIST AND THE STATE HAS
9 INDICATED THE GENERAL NATURE OF EACH OF THE WITNESS'
10 TESTIMONY. I BELIEVE, MR. BRACKETT, IS THERE ONE MORE
11 WITNESS TO BE ADDRESSED OR TWO MORE WITNESSES?

12 MR. BRACKETT: YES, SIR, THERE ARE. WE ARE
13 CONTINUING TO INVESTIGATE THE CASE AND WE UNCOVERED DURING
14 THE PROSECUTION OF THE FIRST PHASE ANOTHER WITNESS THAT MAY
15 BE A POTENTIAL WITNESS IN THIS SECOND PHASE AND I WILL GET
16 TOGETHER AT THE FIRST AVAILABLE OPPORTUNITY TO DISCUSS THAT
17 WITH MR. BOYD.

18 THE COURT: DOES THE DEFENSE INTEND TO INTRODUCE
19 ANY EVIDENCE IN MITIGATION?

20 MR. HANCOCK: WE DO, YOUR HONOR.

21 THE COURT: WHICH STATUTORY MITIGATING
22 CIRCUMSTANCES?

23 MR. HANCOCK: WE WILL INTRODUCE MITIGATING
24 CIRCUMSTANCES THAT HE HAS NO SIGNIFICANT HISTORY OF A PRIOR
25 CRIMINAL CONVICTION INVOLVING THE USE OF VIOLENCE AGAINST

1980

1 ANOTHER PERSON.

2 THAT THE MURDER WAS COMMITTED WHILE THE DEFENDANT
3 WAS UNDER THE INFLUENCE OF MENTAL OR EMOTIONAL DISTURBANCE.

4 THE AGE AND MENTALITY OF THE DEFENDANT AT THE
5 TIME OF THE CRIMES.

6 THOSE WOULD BE THE ONES THAT WE PLAN TO -- JUST
7 A MOMENT, YOUR HONOR.

8 THE COURT: ALL RIGHT.

9 MR. POPE: MAY IT PLEASE THE COURT, WHILE THEY
10 ARE LOOKING FOR THAT, THERE ARE TWO OR THREE AND I'M NOT
11 POSITIVE OF THE SPECIFIC ONES BUT ANY TIME ONE COMES IN,
12 SUCH AS THE MENTALITY, THE OTHER WOULD COME IN. IT MAY BE
13 THE CAPACITY TO APPRECIATE THE CRIMINALITY OF HIS CONDUCT.
14 I'M NOT SURE, BUT AGAIN THERE IS CASE LAW ON IT, AND THE
15 STATE WOULD CERTAINLY RECOGNIZE THAT IF ONE COMES IN, THAT
16 THE COURT WOULD INSTRUCT ON ALL THREE OF THEM.

17 I CAN PULL THE CASES ON THAT. I WILL PROVIDE
18 THAT TO THE DEFENSE, BUT I THINK ANY TIME THAT AGE
19 MENTALITY ASPECT COMES IN, I THINK THERE ARE AT LEAST THREE
20 DIFFERENT STATUTORY MITIGATING CIRCUMSTANCES THAT WOULD
21 COME IN.

22 THE COURT: AND WHICH ARE THOSE?

23 MR. HANCOCK: YOUR HONOR, THE CAPACITY OF THE
24 DEFENDANT TO APPRECIATE THE CRIMINALITY OF HIS CONDUCT OR
25 TO CONFORM HIS CONDUCT TO THE REQUIREMENTS OF THE LAW WAS

1981

1 SUBSTANTIALLY IMPAIRED.

2 THE COURT: ALL RIGHT.

3 MR. HANCOCK: I BELIEVE THAT ALSO BRINGS IN THE
4 USE OF ALCOHOL AND DRUGS.

5 MR. POPE: THE STATE WOULD AGREE THAT THAT WOULD
6 BE APPROPRIATE.

7 THE COURT: ANYTHING ELSE FROM THE DEFENSE AT
8 THIS TIME?

9 MR. HANCOCK: YOUR HONOR, WE DO HAVE SOME
10 MATTERS. ONE IS WE HAVE A WITNESS, MS. DRUCIE GLASS IS
11 SUBPOENAED BY THE STATE. SHE IS VITAL TO OUR CASE AND IS
12 OUR EMPLOYEE IN THIS PARTICULAR CASE FOR THE PURPOSE OF
13 INVESTIGATION AND WE ARE ASKING THAT THE SEQUESTRATION
14 ORDER BE LIFTED ON HER, YOUR HONOR, SO THAT SHE CAN SIT IN
15 THE COURTROOM IN THIS STAGE IN THE PROCEEDING AND ASSIST
16 WITH JIMMY'S DEFENSE.

17 MR. POPE: YOUR HONOR, OUR SPECIFIC CONCERN OR
18 OUR PURPOSE OF LISTING THAT WITNESS WAS TO ENSURE HER
19 PRESENCE IN THE COURTROOM. WE ADDRESSED THE ISSUE, WE MADE
20 A MOTION EARLIER MAKING SURE WE HAD THE UNDERLYING DATA.
21 IT'S MY UNDERSTANDING THAT MS. GLASS ASSISTED MS. CASCIO
22 WHO I EXPECT, BASED ON WHAT THE DEFENSE HAS TOLD ME, WILL
23 TESTIFY AS TO THE SOCIAL HISTORY ASPECT.

24 I HAVE NO OBJECTION TO HER BEING IN THE COURTROOM
25 DURING ANY OF THE TRIAL AND ASSISTING WITH THE EXCEPTION OF

1982

1 ANY SOCIAL HISTORY TESTIMONY. FOR THAT I WOULD ASK THAT
2 THE SEQUESTRATION ORDER BE PUT INTO PLACE SO THAT WE COULD
3 PROPERLY CROSS EXAMINE HER IF APPROPRIATE.

4 MR. HANCOCK: SHE'S NOT GOING TO BE CALLED AS A
5 WITNESS, YOUR HONOR, NOT OUR WITNESS. I DON'T SEE HOW THEY
6 CAN CALL HER; SHE'S HIRED BY US.

7 THE COURT: I'M GOING TO LIFT THE SEQUESTRATION
8 ORDER AS TO MS. GLASS. ALL RIGHT, ANYTHING ELSE?

9 MR. BOYD: YOUR HONOR, THERE ARE SOME MATTERS.
10 GOING OVER THE WITNESS LIST, I UNDERSTAND THE STATE PLANS
11 TO PRESENT EVIDENCE PURSUANT TO PAYNE VERSUS TENNESSEE.

12 YOUR HONOR, THE FIRST MOTION I WOULD HAVE IS --
13 I WILL PASS UP A COPY OF THE PAYNE CASE.
14 (THE COPY WAS GIVEN TO THE COURT.)

15 MR. BOYD: YOUR HONOR, IN RUPPE VERSUS MARYLAND,
16 THE COURT HELD THAT EVIDENCE RELATING TO THE IMPACT OF THE
17 VICTIM'S DEATH ON THE VICTIM'S FAMILY WERE INADMISSIBLE IN
18 A CAPITAL PROCEEDING.

19 THE RATIONALE OF PAYNE VERSUS TENNESSEE WAS THAT
20 THIS EVIDENCE IS NECESSARY TO REBUT MITIGATING EVIDENCE
21 PRESENTED BY THE DEFENSE.

22 THE PAYNE CASE WOULD APPEAR ON ITS FACE TO LIMIT
23 THE INTRODUCTION OF THIS TYPE OF EVIDENCE TO REBUTTAL OF
24 THE DEFENDANT'S MITIGATING EVIDENCE.

25 NOW, YOUR HONOR, I REALIZE THAT SEVERAL SOUTH

1983

1 CAROLINA CASES HAVE ALLOWED THIS EVIDENCE IN IN THE STATE'S
2 CASE IN CHIEF IN A CAPITAL SENTENCE PROCEEDING; HOWEVER,
3 YOUR HONOR, TO PROTECT THE RECORD, REALIZING THAT THE
4 FEDERAL COURTS MAY TAKE A DIFFERENT VIEW OF THIS MATTER,
5 FOR THE RECORD WE WOULD OBJECT TO ANY TESTIMONY PURSUANT TO
6 PAYNE BEING INTRODUCED IN THE STATE'S CASE IN CHIEF IN THE
7 SENTENCING PROCEEDINGS.

8 MR. POPE: MAY IT PLEASE THE COURT, YOUR HONOR,
9 I WOULD CALL THE COURT'S ATTENTION TO STATE VERSUS POWERS
10 WHICH IS A JUNE, 1998 CASE THAT RECOGNIZES THE APPLICATION
11 OF THE PAYNE TESTIMONY; IT PARTICULARLY ADDRESSED THE ISSUE
12 THAT NOTICE DID NOT EVEN HAVE TO BE PROVIDED CONCERNING
13 PAYNE TESTIMONY. IT ALSO CITED THE GENERAL PREMISE BEHIND
14 THE PAYNE TESTIMONY IN STATE V. ROACHVILLE, LITTLE V. STATE
15 AND MOST RECENTLY, 1997, THE STATE V. IVEY, AND IT SAID
16 THAT IT IS CLEARLY PRESENT TO SHOW THE UNIQUENESS OF THE
17 VICTIMS AND THE IMPACT OF THE DEATH UPON THE FAMILY. IT
18 SAYS IMPACT EVIDENCE SERVED THE PURPOSE OF SHOWING THE
19 SPECIFIC HARM COMMITTED BY THE DEFENDANT AND PORTRAYED THE
20 VICTIMS AS UNIQUE INDIVIDUALS.

21 AGAIN, IN IVEY, IT WAS RELEVANT TO ESTABLISH THE
22 VICTIM AS A UNIQUE HUMAN BEING AND SHOW THE SPECIFIC HARM
23 COMMITTED BY THE DEFENDANT. THE SPECIFIC HARM, OBVIOUSLY,
24 IS PART OF THE AGGRAVATION AND THE STATE IS GIVEN MUCH
25 WIDER LATITUDE IN ITS CASE IN CHIEF TO SHOW THE NATURE OF

1984

1 THE CRIME AS TO REFLECTS ON THE DEFENDANT'S CHARACTER, AS
2 TO REFLECTS ON THE VICTIMS.

3 AS A MATTER OF FACT, PAYNE TESTIMONY WAS COMING
4 IN REALLY BEFORE PAYNE ALL THE WAY IN THIS COUNTY BACK WITH
5 CECIL LUCAS AND RED FERGUSON. SO, YOUR HONOR, I WOULD
6 SUBMIT THAT IT IS PROPER, IT IS CLEARLY PROPER AND WE DO
7 INTEND TO OFFER IT IN OUR CASE IN CHIEF.

8 THE COURT: THE POWERS CASE, WAS IT OFFERED IN
9 THE CASE IN CHIEF OR DOES IT SAY?

10 MR. POPE: IT DOES NOT SAY, YOUR HONOR. BUT MY
11 UNDERSTANDING IS THAT IN ALL THE CASES I'VE SEEN THUS FAR
12 IT HAS BEEN OFFERED IN THE CASE IN CHIEF. BUT IT DOES NOT
13 SAY SPECIFICALLY.

14 THE COURT: THE MOTION IS NOT TO ALLOW IT UNLESS
15 IT IS IN REBUTTAL?

16 MR. BOYD: THAT'S CORRECT, YOUR HONOR.

17 THE COURT: THAT MOTION IS DENIED.

18 MR. BOYD: YOUR HONOR, ONE OTHER MOTION, AND THIS
19 ALSO REGARDS THE PAYNE EVIDENCE. THIS EVIDENCE GOES TO
20 IMPACT EVIDENCE, NOT EVIDENCE AS TO THE DEFENDANT'S
21 CHARACTER OR TO THE DECEASED'S CHARACTER, BUT JUST THAT
22 PART OF PAYNE WHICH ADDRESSES THE VICTIM'S IMPACT EVIDENCE.
23 IN PAYNE IT SPECIFICALLY LIMITED THE EVIDENCE TO THAT --
24 WELL, LET ME GO BACK A MINUTE. RUPPE VERSUS MARYLAND AND
25 SOUTH CAROLINA VERSUS GAITHERS HAVE HELD THAT EVIDENCE

1985

1 RELATING TO THE IMPACT OF THE VICTIM'S DEATH ON THE
2 VICTIM'S FAMILY WAS PER SE INADMISSIBLE.

3 PAYNE OVERTURNED THAT DECISION; HOWEVER, PAYNE,
4 THE SPECIFIC HOLDING IN PAYNE IS THAT EVIDENCE OF THE
5 IMPACT OF THE VICTIM'S DEATH ON THE VICTIM'S FAMILY IS NOW
6 ADMISSIBLE.

7 IN GOING OVER THE EVIDENCE WITH THE STATE, AND
8 I'M NOT SURE EXACTLY THE EVIDENCE THE STATE INTENDS TO CALL
9 FROM THESE WITNESSES, BUT TO THE EXTENT THAT THE STATE
10 INTENDS TO CALL ANY FRIENDS OR PEOPLE OUTSIDE THE IMMEDIATE
11 FAMILY OF THE DECEASED TO TESTIFY AS TO THE IMPACT OF THE
12 VICTIM'S DEATH ON THEM, I WOULD SUBMIT THAT THAT EVIDENCE
13 IS INADMISSIBLE. PAYNE WAS A VERY LIMITED HOLDING THAT WAS
14 LIMITED TO THE IMPACT ON THE VICTIM'S FAMILY. I THINK YOU
15 CAN READ INTO THAT THE VICTIM'S IMMEDIATELY FAMILY.

16 IF YOU GO THROUGH EACH SOUTH CAROLINA CASE, YOUR
17 HONOR, EACH SOUTH CAROLINA CASE THAT'S BEEN DECIDED AND
18 ALLOWED THIS TYPE OF TESTIMONY IN HAS BEEN CONCERNING THE
19 IMPACT ON THE VICTIM'S IMMEDIATE FAMILY, ON CHILDREN, ON
20 THE SPOUSES, ON A STEP-CHILD. NONE OF IT HAS ALLOWED
21 IMPACT ON THE VICTIM'S FRIENDS, ON THE VICTIM'S AUNTS,
22 UNCLES, COUSINS, THAT TYPE OF EVIDENCE. SO I WOULD SUBMIT
23 -- MY MOTION IS TO FORBID THE STATE FROM INTRODUCING ANY
24 EVIDENCE OF THE IMPACT OF THE MURDERS ON ANY NON-RELATIVES
25 OR ANY RELATIVES THAT ARE OUTSIDE OF THE IMMEDIATE FAMILY

1986

1 OF MR. AND MRS. ROBERTSON, THE DECEASED.

2 MR. POPE: MAY IT PLEASE THE COURT, YOUR HONOR?

3 THE COURT: ALL RIGHT.

4 MR. POPE: I CALL THE COURT'S ATTENTION TO STATE
5 VERSUS JASON SCOTT BYRUM. I WOULD FIRST SAY TO FOLLOW MR.
6 BOYD'S LOGIC THEN, IF THE DEFENDANT CAN KILL ALL THE
7 IMMEDIATE FAMILY, THEN THERE WOULD BE NO PAYNE TESTIMONY
8 WHICH WOULD OBVIOUSLY BE ABSURD, YOUR HONOR. IN JASON
9 SCOTT BYRUM, AND I WILL GET THE COURT A COPY OF THIS CASE,
10 THE VICTIM IMPACT TESTIMONY WAS HELD NOT TO BE EXCESSIVE
11 AND USED A TEACHER'S ASSISTANT WHO TESTIFIED THAT THE
12 VICTIM WAS A WONDERFUL TEACHER OF EMOTIONALLY HANDICAPPED
13 CHILDREN AND THE VICTIM'S STUDENTS WERE DEVASTATED TO LEARN
14 OF THE TEACHER'S DEATH. A PARENT OF ONE OF THE VICTIM'S
15 STUDENTS TESTIFIED THAT THE VICTIM HAD A POSITIVE IMPACT ON
16 HER SON. IT DID HAVE THE VICTIM'S SISTER AND IT DID HAVE
17 THE HUSBAND AND THE CHILDREN, BUT AGAIN THE DEFENDANT HAS
18 PREVENTED US FROM BRINGING THE DIRECT FAMILY. YOU KNOW, I
19 CAN'T BRING THE HUSBAND, I CAN'T BRING THE WIFE IN THIS
20 CASE.

21 AGAIN, I'M READING FROM THE SYNOPSIS I HAD PULLED
22 ON BYRUM, BUT IT CLEARLY ---

23 THE COURT: WILL YOU HAND IT UP?

24 MR. POPE: THIS IS THE ONLY COPY I HAVE. I HAVE
25 NOT LOOKED AT IT, AND THIS IS OUT OF THE ADVANCE SHEET SO

1987

1 I DON'T HAVE THE HEADNOTE CITE, YOUR HONOR.

2 MR. BOYD: YOUR HONOR, JUST TO CLARIFY WHAT I'M
3 ARGUING. I'M NOT ARGUING THAT THAT WOULD PREVENT THE STATE
4 FROM INTRODUCING EVIDENCE AS TO THE VICTIM'S CHARACTER.
5 I'M ARGUING THAT THIS PAYNE WOULD PREVENT THE EVIDENCE OF
6 THE IMPACT OF THE MURDERS ON PEOPLE OUTSIDE THE FAMILY.

7 THE COURT: ALONG THE LINES OF A FAMILY FRIEND
8 SAYING I'M GOING TO MISS THEM ---

9 MR. BOYD: THAT TYPE OF THING; YES, SIR.

10 MR. POPE: AND I WOULD SUBMIT, YOUR HONOR,
11 EQUALLY THAT WOULD BE CLEARLY APPROPRIATE JUST LOOKING AT
12 BYRUM.

13 THE COURT: WELL, I'M GOING TO TAKE A MINUTE AND
14 READ THE BYRUM CASE. WE'LL TAKE A SHORT BREAK AND DO THAT,
15 BUT BEFORE WE DO THAT, LET'S SEE IF THERE IS ANYTHING ELSE
16 WE NEED TO TAKE CARE OF.

17 MR. POPE: WELL, YOUR HONOR, ONE THING I CAN TELL
18 YOU THAT MAY SAVE THE COURT SOME TIME, PAYNE ISSUES, THE
19 INITIAL ISSUE WILL BE MORE FOCUSING ON THE DEFENDANT SO
20 THERE WOULD BE SOME TIME BEFORE WE COULD GET INTO THE PAYNE
21 ISSUES, YOU KNOW, AT THE MINIMUM I WOULD THINK AFTER LUNCH.
22 WOULD THAT BE FAIR, MR. BRACKETT?

23 MR. BRACKETT: YES.

24 THE COURT: IF THE COURT WOULD LIKE, I'LL TAKE
25 THAT CASE AND GO TRY TO PULL THE ACTUAL SOUTHEASTERN AND

1988

1 GET COPIES FOR EVERYBODY.

2 MR. BOYD: I HAVE ONE OTHER MOTION, YOUR HONOR.

3 THE COURT: ALL RIGHT.

4 MR. BOYD: AND, YOUR HONOR, I MENTIONED THIS I
5 BELIEVE WHEN I WAS MAKING THE MOTION CONCERNING THE
6 EVIDENCE IN AGGRAVATING CIRCUMSTANCES. THE STATE HAS TOLD
7 ME THAT THEY -- TOLD US THAT THEY INTEND TO PRESENT
8 WITNESSES REGARDING PRIOR BAD ACTS OF MR. ROBERTSON THAT
9 ARE NOT THE SUBJECT OF CONVICTION, SEVERAL ALLEGED, QUOTE,
10 STALKING TYPE INSTANCES THAT THEY INTEND TO INTRODUCE.

11 YOUR HONOR, BEFORE THE STATE INTRODUCES ANY OF
12 THOSE, I BELIEVE IT IS INCUMBENT UPON THE COURT TO FIRST
13 MAKE THE DETERMINATION WHETHER SUCH EVIDENCE IS RELEVANT
14 PURSUANT TO RULE 401.

15 THE COURT: I'LL STOP YOU THERE. I'M GOING TO
16 REQUIRE A PROFFER ON ANY OF THAT, I CAN TELL YOU THAT IN
17 ADVANCE. I HAVE ALREADY MADE THAT DETERMINATION.

18 MR. POPE: MAY IT PLEASE THE COURT, YOUR HONOR,
19 I CALL THE COURT'S ATTENTION THAT IN POWERS IT ADDRESSES
20 THAT; AS A MATTER OF FACT, IT ADDRESSES IT IN PAYNE
21 TESTIMONY. CERTAINLY IT IS IN THE COURT'S DISCRETION.

22 I ALSO CALL YOUR ATTENTION, I'LL GET A COPY OF
23 THIS, STATE V. GEORGE, IT TALKS ABOUT IT'S NOT CLEAR AND
24 CONVINCING, WE HAVE TO SHOW IT BY A PREPONDERANCE OF THE
25 EVIDENCE. AND, AGAIN, I WILL GET THE COURT THE CASE FOR

1989

1 THAT.

2 YOUR HONOR, IF THERE IS TO BE A PROFFER OF THESE
3 MATTERS, THE TRUTH OF THE MATTER IS THAT THE MAJORITY OF
4 THE WITNESSES TODAY THE COURT WILL NEED TO TAKE THEIR
5 TESTIMONY IN ORDER TO MOVE FORWARD.

6 THE COURT: YES, I'VE ALREADY THOUGHT THROUGH
7 THAT ASPECT, REALIZING THAT THAT WAS ONE OF THE ISSUES THAT
8 MAY COME UP AS TO THE STALKING. NOW, I DON'T KNOW WHAT
9 ELSE, BUT AS TO THAT ISSUE I HAD ALREADY DECIDED I'M GOING
10 TO NEED A PROFFER ON THAT. STALKING, NO QUESTION, COULD BE
11 A PRIOR BAD ACT BUT WHAT CONSTITUTES STALKING.

12 MR. POPE: YOUR HONOR, WE COULD GET THOSE
13 WITNESSES AND ADDRESS IT NOW BEFORE THE OPENING.

14 MR. BRACKETT: MY OPENING IS AN OUTLINE OF -- A
15 LARGE BODY, A LARGE PORTION OF OUR CASE DEALS WITH PRIOR
16 BAD ACTS. I WON'T HAVE MUCH TO TALK ABOUT IF I CAN'T
17 REFERENCE THOSE AND I DON'T KNOW WHAT THE COURT'S POSITION
18 IS.

19 I CAN GO THROUGH MY WITNESS LIST AND TELL YOU ---

20 THE COURT: NO, THAT'S NOT GOING TO SUFFICE.
21 THIS IS A DEATH PENALTY CASE, MR. BRACKETT.

22 MR. BRACKETT: YES, SIR, I UNDERSTAND. WE HAVE
23 THE WITNESSES RIGHT HERE; WE CAN BRING THEM OUT ONE BY ONE
24 IF YOU WANT TO DO IT. BUT I WOULD LIKE TO BE ABLE TO DO
25 THAT BEFORE THE OPENING SO THAT I WILL KNOW WHAT I CAN AND

1990

1 CAN'T TELL THEM. I MEAN I CAN'T OUTLINE EVIDENCE WHEN I
2 DON'T KNOW WHETHER IT'S COMING IN OR NOT.

3 THE COURT: I'LL BE GLAD TO GO AHEAD AND HEAR IT
4 AND MAKE A RULING SO THAT EVERYBODY WILL KNOW WHERE WE
5 STAND ON THAT. I THINK IN FAIRNESS TO THE DEFENDANT, THEY
6 OUGHT TO KNOW THAT, TOO.

7 MR. POPE: YOUR HONOR, IF WE COULD HAVE ABOUT
8 FIVE MINUTES TO GET THOSE WITNESSES ORGANIZED.

9 AGAIN, I WOULD CALL TO THE COURT'S ATTENTION
10 STATE V. POWERS WHICH IS ALSO A DEATH PENALTY CASE AND, OF
11 COURSE, THE COURT CAN HAVE AN IN CAMERA HEARING ON THE
12 ENTIRE TRIAL IF THE COURT SO CHOOSES ---

13 THE COURT: WELL, I'M NOT TRYING TO DO THAT.

14 MR. POPE: I UNDERSTAND, YOUR HONOR. I JUST
15 WANTED TO CALL YOUR ATTENTION AGAIN TO POWERS, AND I
16 PROBABLY NEED TO GET YOU A COPY OF THIS.

17 THE COURT: ALL RIGHT, GET ME A COPY OF THAT,
18 TOO, BUT I DO HAVE SOME CONCERN ABOUT STALKING. I'VE
19 THOUGHT ABOUT THAT, AND THAT'S WHERE MY CONCERN LIES RIGHT
20 NOW. AS I UNDERSTAND IT, THAT'S THE ONLY ISSUE THEY'VE
21 RAISED, PRIOR BAD ACTS IN THE CONTEXT OF THE STALKING.

22 MR. POPE: YOUR HONOR, IN FAIRNESS AND, OF
23 COURSE, YOU WILL HEAR THE TESTIMONY, BUT THE
24 CHARACTERIZATION OF WHETHER IT'S STALKING OR PEEPING TOM OR
25 WHATEVER THE ACT IS, YOU'LL HEAR THE TESTIMONY. I JUST WANT

1991

1 TO MAKE IT CLEAR THAT IT MAY NOT STATUTORILY BE STALKING,
2 IT MAY BE PEEPING TOM, BUT IT'S A BAD ACT.

3 THE COURT: I UNDERSTAND.

4 MR. POPE: YOUR HONOR, IF WE CAN HAVE A BRIEF
5 TIME TO TRY TO GET THOSE WITNESSES FOR YOU.

6 THE COURT: ALL RIGHT. BEFORE WE GET THERE,
7 LET'S MAKE SURE THAT WE'VE GOT EVERYTHING ELSE TAKEN CARE
8 OF NOW.

9 MR. BOYD: YOUR HONOR, AND THIS GOES TO A PRIOR
10 BAD ACT, WE WERE PROVIDED AN INCIDENT REPORT OF ALLEGED
11 TAKING POCKETBOOKS AT SHILAND RACQUET AND SWIM CLUB IN THE
12 PARKING LOT. IS THAT A PART OF THE PRIOR BAD ACTS THAT THE
13 STATE INTENDS TO INTRODUCE?

14 MR. BRACKETT: YES, SIR, IT IS.

15 MR. BOYD: AND IT IS MY UNDERSTANDING THAT THOSE
16 RECORDS, AND I HAVEN'T GOT A COPY OF THAT, THOSE RECORDS
17 WERE JUVENILE AND WERE CONFIDENTIAL AND UNLESS THERE WAS A
18 COURT ORDER OR SOMETHING OPENING THOSE RECORDS UP, WE WOULD
19 MOVE THAT THEY NOT BE ALLOWED INTO EVIDENCE.

20 MR. BRACKETT: THEY ARE NOT THE JUVENILE RECORDS,
21 THEY ARE THE POLICE RECORDS FROM THAT INCIDENT WHEN HE WAS
22 A JUVENILE BUT THEY ARE NOT FROM THE DEPARTMENT OF JUVENILE
23 JUSTICE; THEY ARE FROM THE ROCK HILL POLICE DEPARTMENT
24 WHICH THE SOLICITOR'S OFFICE WOULD HAVE HAD ACCESS TO IN
25 THE NORMAL COURSE OF OUR BUSINESS BECAUSE WE PROSECUTE

1992

1 JUVENILES AS WELL.

2 MR. BOYD: YOUR HONOR, I ALSO UNDERSTAND, I
3 HAVEN'T GOT AN ORDER OF EXPUNGEMENT BUT AT SOME POINT THESE
4 RECORDS WERE ORDERED TO BE EXPUNGED. IF THAT'S THE CASE,
5 I WOULD CERTAINLY OBJECT. I THINK THAT NEEDS TO BE
6 ADDRESSED.

7 THE COURT: SOMEBODY WHEN WE TAKE A BREAK, GO
8 THROUGH, I CAN'T REMEMBER THE GENTLEMAN'S NAME, BUT THERE
9 IS A GENTLEMAN AT SLED WHO RECEIVES ALL THE ONES I SIGN AND
10 SEND THEM BACK IF THERE IS SOME ERROR. HE OUGHT TO HAVE
11 SOME WAY TO HAVE THAT CATALOGED, SO I SUGGEST THAT A CALL
12 BE MADE TO HIM DURING THE BREAK.

13 MR. POPE: YOUR HONOR, JUST TO CLARIFY THAT
14 ISSUE, EVEN IF THERE WERE NO RECORDS AND, OF COURSE, WE
15 WILL GIVE THE DEFENSE WHATEVER WE HAVE COPIES OF, BUT EVEN
16 IF THERE ARE NO RECORDS, THEY HAVE BEEN PUT ON NOTICE OF
17 IT, THEY'VE BEEN GIVEN WHATEVER RECORDS WE HAVE AND IT'S MY
18 UNDERSTANDING, MR. BRACKETT CAN CORRECT ME IF I'M WRONG,
19 PART OF THE EVIDENCE WE WOULD HAVE IN THIS REGARD IS THE
20 DEFENDANT TELLING SOMEBODY HE DID IT.

21 SO, THAT TESTIMONY -- IF THE COURT NEEDS TO HEAR
22 THAT TESTIMONY -- OF COURSE, I'M TALKING ABOUT A CITIZEN,
23 I'M NOT TALKING ABOUT A DENNO ISSUE, I'M TALKING ABOUT A
24 CITIZEN. SO, THAT EVIDENCE COULD COME IN JUST FROM THE
25 FACT THAT THE DEFENDANT SAID HE DID IT INDEPENDENT IF THE

1993

~~THE~~ POLICE NEVER INVESTIGATED IT.

SO, IF WE NEED TO ADDRESS THAT ONE, WE WILL
~~ADDRESS~~ ADDRESS THAT, TOO.

YOUR HONOR, WE ALSO AT SOME POINT WILL REACH, AS
~~INDICATED~~ INDICATED EARLIER, A DENNO HEARING. I HAVEN'T HEARD ANY
~~OTHER~~ OTHER MOTIONS FROM THE DEFENSE BUT THERE IS ONE IN WHICH
 GAVE A STATEMENT THAT THE STATE WOULD INTEND TO
~~PRODUCE~~ PRODUCE ON THE CHARGES THAT HE ULTIMATELY WENT TO Y.O.A.
~~MR.~~ MR.

IF I COULD HAVE ABOUT FIVE MINUTES PROBABLY WHAT
~~COULD~~ COULD DO IS SEND MR. BRACKETT TO WORK ON THIS AND MS.
~~ELLINS~~ ELLINS AND I COULD HAVE THE DENNO HEARING SO THAT WE COULD
 GETTING SOMETHING DONE. I COULD JUST REMAIN IN THE
~~COURTROOM~~ COURTROOM AND HAVE THEM LEAVE SO THAT WE CAN BE MAKING SOME
~~PROGRESS~~ PROGRESS SINCE WE'VE GOT A JURY SITTING.

THE COURT: ALL RIGHT, YOU'VE ASKED FOR FIVE
~~MINUTES~~ MINUTES THREE DIFFERENT TIMES, IS THAT ---

MR. POPE: THAT WAS FIVE MINUTES AGO.

THE COURT: IS THAT 15 MINUTES OR ONE FIVE
~~MINUTES?~~ MINUTES?

MR. POPE: WELL, YOU KNOW EVERY FIVE MINUTES
~~WE~~ WE'VE HAD HAS TURNED INTO 15 TO 20, I BELIEVE, YOUR HONOR.
~~THE~~ THE COURT WOULD STAND DOWN AND GIVE ME JUST ENOUGH TIME
~~TO~~ TO GET THIS STARTED, ORGANIZED, AND I WILL BRING THE
~~WITNESSES~~ WITNESSES IN HERE. I JUST WANT TO GIVE THE DEFENSE NOTICE

1994

1 THAT WE WILL DO SOME WORK WHILE THESE FOLKS ARE WORKING ON
2 THIS.

3 THE COURT: ALL RIGHT, I INTEND TO DO THAT.
4 ANYTHING ELSE?

5 MR. BRACKETT: YES, SIR, WHILE WE ARE TAKING A
6 BREAK AND YOU'RE READING SOME LAW, I HAVE RESEARCHED AND
7 PULLED UP A COUPLE OF CASES.

8 THE ISSUE CAME UP IN THE GUILT PHASE OF THE TRIAL
9 AND I KNOW YOUR HONOR DIDN'T WANT TO BREAK COURT DOWN AND
10 SEND THE JURY OUT JUST TO ARGUE ABOUT WHETHER OR NOT A
11 QUESTION IS LEADING; HOWEVER, I'VE GOT STATE VERSUS TYNER
12 HERE WHICH DEFINES IT.

13 I FELT A LITTLE HAMSTRUNG IN THAT IT SEEMED THAT
14 EVERY QUESTION I WAS ASKING, IF IT DIDN'T START WITH WHO,
15 WHAT, WHERE, WHEN OR WHY IT WAS GETTING A LEADING
16 OBJECTION. AND I DON'T BELIEVE THAT THAT'S THE DEFINITION
17 AS REQUIRED BY THE SUPREME COURT ---

18 THE COURT: YOU DON'T NEED TO HAND ME THAT. I
19 THINK I KNOW A LITTLE BIT ABOUT THAT. I'LL MAKE THOSE
20 DECISIONS. THE ONLY TIME I REMEMBER IS ONE PARTICULAR
21 QUESTION YOU WOULD SAY DID YOU GO TO THE BACK DOOR. THAT
22 MAY OR MAY NOT BE LEADING BUT IT IS ASSUMING THAT HE ---

23 MR. BRACKETT: WHICH DOOR DID YOU GO TO I THINK
24 IS WHAT THE QUESTION WAS AND THAT WAS OBJECTED -- AND I
25 SAID HOW MANY DOORS ARE THERE AND SHE COULDN'T SAY. WHICH

1995

1 DOOR DID YOU GO TO ---

2 THE COURT: WELL, SHE MIGHT NOT HAVE GONE TO ANY
3 DOOR. SO, YOU ARE LEADING -- THE ASSUMPTION IN THAT
4 QUESTION IS THEY WENT TO A DOOR. AND THOSE KIND OF THINGS
5 I THINK ARE COLLATERAL ANYWAY. YOU CAN LEAD ON COLLATERAL
6 ISSUES AND ---

7 MR. BRACKETT: THAT WAS MY NEXT THING, 611-C ---

8 THE COURT: BUT I CAN'T BLAME THEM FOR OBJECTING
9 BECAUSE WHEN YOU SAY WHICH DOOR DID YOU GO TO, YOU'RE
10 ASSUMING THEY WENT TO A DOOR. TECHNICALLY ---

11 MR. HANCOCK: YOUR HONOR, I THINK I SAID THEN
12 THAT I KNOW AND FEEL THAT THESE QUESTIONS ARE LEADING TO A
13 POINT BUT WHEN YOU START ASSUMING THINGS NOT IN EVIDENCE,
14 INSTEAD OF WHERE DID YOU GO, YOU WENT TO THE BACK DOOR AND
15 WENT INSIDE, DIDN'T YOU. YOU LED HIM AROUND THE HOUSE AND
16 PUT HIM INSIDE. I FEEL WE HAVE TO OBJECT TO THAT SORT OF
17 THING.

18 THE COURT: I APPRECIATE YOU DOING THAT RESEARCH,
19 BUT YOU CAN JUST KEEP IT.

20 MR. BRACKETT: YES, SIR. WELL, IN THAT CASE I
21 WOULD JUST LIKE TO PUT ON THE RECORD THAT THE RULE SAYS
22 THAT AS LONG AS IT DOESN'T SUGGEST TO THE WITNESS THE
23 ANSWER TO BE GIVEN, I THINK IT'S NOT LEADING.

24 AND ALSO RULE 611-C SAYS LEADING IS PROPER AS
25 NECESSARY TO DEVELOP THE TESTIMONY. AND YOUR HONOR HAS

1996

1 ALREADY POINTED OUT IF IT'S A COLLATERAL ISSUE, THAT SHE
2 WENT IN THE HOUSE WAS NOT NECESSARILY IN DISPUTE IN THIS
3 CASE AND I THINK IT'S JUST A LITTLE BIT, YOU KNOW, WE CAN
4 EXPEDITE THINGS OR I CAN JUST LET THE WITNESS MEANDER
5 AROUND AND WHO KNOWS WHAT THEY ARE GOING TO SAY. BUT I'VE
6 GOT TO HAVE A LITTLE BIT OF ABILITY TO GIVE SOME DIRECTION
7 AS TO WHAT THE TESTIMONY IS GOING TO BE.

8 THE COURT: ARE YOU SUGGESTING THE COURT NEEDS TO
9 GO BACK TO LAW SCHOOL AND TAKE EVIDENCE AGAIN?

10 MR. BRACKETT: WELL, SIR, I'M JUST SUGGESTING
11 THAT SOME OF THE DEFENSE OBJECTIONS WERE NOT WELL TAKEN IN
12 THE FIRST PHASE OF THE TRIAL.

13 THE COURT: NO, WHAT YOU'RE SAYING IS YOU WEREN'T
14 HAPPY WITH MY RULINGS.

15 MR. POPE: YOUR HONOR, I WOULD SAY THAT WHEN
16 YOU'RE ON THE RECEIVING END OF TRYING TO ASK THE QUESTION,
17 THAT MAY BE CORRECT, YOUR HONOR.

18 MR. HANCOCK: I WOULD JUST POINT OUT TO YOU THAT
19 THE CASE THAT HAS BEEN HANDED UP TO YOU SAYS THE TRIAL
20 JUDGE HAS WIDE DISCRETION IN THE ADMISSIBILITY OF EVIDENCE.

21 MR. BRACKETT: THAT'S TRUE.

22 MR. HANCOCK: AND YOU HAVE SO EXERCISED IT.

23 THE COURT: ALL RIGHT, ANYTHING ELSE.

24 MR. HANCOCK: I DON'T THINK THERE IS ANYTHING
25 ELSE AT THIS TIME, YOUR HONOR.

1997

1 THE COURT: ANY STIPULATIONS?

2 MR. POPE: YOUR HONOR, WE DON'T HAVE A
3 STIPULATION. THERE ARE A NUMBER OF ITEMS THAT COME IN
4 THROUGH, I BELIEVE IT'S RULE 902, SELF-AUTHENTICATING
5 DOCUMENTS. THERE WILL BE A COUPLE OF ITEMS BUT WHAT I WILL
6 DO BETWEEN WITNESSES -- IT WILL BE THE RECORDS, THE DRIVING
7 RECORD, THE TRUE COPIES OF THE INDICTMENTS AND SENTENCING
8 SHEETS IN THE BURGLARY, THE PREVIOUS CRIMES -- I WILL JUST
9 OFFER THAT INTO EVIDENCE WITHOUT A WITNESS BECAUSE IT IS
10 SELF-AUTHENTICATING. I WOULD JUST OFFER THOSE ITEMS AS
11 APPROPRIATE DURING THE TRIAL.

12 THE COURT: ALL RIGHT. DO THE PARTIES AGREE THAT
13 THE TESTIMONY GIVEN IN THE GUILT PHASE IS INCORPORATED AND
14 CONSIDERED PART OF THE PENALTY PHASE. DOES THE STATE AGREE
15 TO THAT?

16 MR. POPE: YES, SIR. AS A MATTER OF FACT, WE
17 TRADITIONALLY MOVE TO INCORPORATE BEFORE THE JURY.

18 THE COURT: THAT'S WHY I KEPT ASKING IF THERE WAS
19 ANYTHING ELSE.

20 MR. HANCOCK: NO OBJECTION TO THAT, YOUR HONOR.

21 THE COURT: OKAY. LET'S TAKE ABOUT A 10 MINUTE
22 OR SO BREAK. I'M GOING TO SEND WORD TO THE JURY, UNLESS
23 EITHER SIDE OBJECTS, JUST THROUGH SLED JUST TO SAY WE ARE
24 TAKING CARE OF HOUSEKEEPING MATTERS SO THAT THINGS WILL GO
25 SMOOTHER AND THAT IT WILL BE ANOTHER 15 OR SO MINUTES.

1998

1 MR. HANCOCK: YES, SIR.

2 MR. POPE: THAT'S FINE.

3 THE COURT: OKAY.

4 AFTER THE RECESS IN CAMERA:

5 THE COURT: ALL RIGHT, THE STATE HAS HANDED UP TO
6 ME THE NOTICE SETTING FORTH THE STATUTORY AGGRAVATING
7 CIRCUMSTANCES AND I HAVE LOOKED AT THE CASE LAW AND WE'RE
8 GOING TO HAVE PROFFERS, I UNDERSTAND IT ON THE SO-CALLED
9 STALKING AND WHAT ABOUT THE SHILAND SWIM CLUB?

10 MR. POPE: YOUR HONOR, I'VE GOT THE DENNO WITNESS
11 FIRST; I WAS GOING TO KNOCK THAT OUT OF THE WAY. AND THEN
12 WE WOULD HAVE THE PEEPING TOM/STALKING INCIDENTS AND THE
13 SHILAND INCIDENT ALSO.

14 THE COURT: ALL RIGHT, AND AS TO THE VICTIM
15 IMPACT TESTIMONY, I AM NOT GOING TO -- I FIND THAT IT IS
16 NOT RESTRICTED SOLELY TO BLOOD FAMILY MEMBERS, THAT IT IS
17 BROADER THAN THAT; THAT THE STATE IS ENTITLED TO SHOW THE
18 SPECIFIC HARM COMMITTED BY A DEFENDANT; TO SHOW THAT PERSON
19 IS A UNIQUE HUMAN BEING; TO SHOW THE SPECIFIC HARM
20 COMMITTED BY THE DEFENDANT.

21 I THOUGHT OF, PERHAPS NOT A GOOD ANALOGY, BUT IF
22 SOMEONE HAD MURDERED MOTHER TERESA WHO HAS NO FAMILY OTHER
23 THAN THOSE WITH WHOM SHE WAS IN A CONVENT THAT IT WOULD
24 SEEM ALMOST INCONGRUOUS THAT SOME TESTIMONY REGARDING HER
25 VALUE TO THE COMMUNITY WOULD BE PROHIBITED BY LAW. SO, I