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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 6 OF 14
(PAGES 2501-3000)**

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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

DR. JONATHAN H. PINCUS - DIRECT BY MR. HANCOCK

2497

1 THEN.

2 Q. YES, SIR.

3 A. THE HISTORY OF BIPOLAR ILLNESS DIDN'T DEPEND
4 UPON MY EVALUATION. THAT WAS MADE YEARS BEFORE,
5 YEARS BEFORE HE EVEN WENT TO HALL IN 1995
6 BECAUSE HE WAS ON LITHIUM THEN OR WAS SUPPOSED
7 TO BE ON LITHIUM THEN.

8 LITHIUM IS USED REALLY FOR ONLY ONE THING IN
9 MEDICINE AND THAT IS FOR TREATING BIPOLAR
10 ILLNESS, MANIC DEPRESSIVE ILLNESS. SOMEBODY HAD
11 MADE THAT DIAGNOSIS, NOT ME.

12 THE HISTORY THAT HE GAVE ME INDICATED THAT HE
13 DOES INDEED HAVE MANIC DEPRESSIVE ILLNESS.

14 AND THE HISTORY THAT I FOUND IN THE RECORDS
15 CONFIRMS THAT. SO, I BELIEVE HE IS MANIC
16 DEPRESSIVE AND HE WAS PROBABLY HAVING AN EPISODE
17 OF MANIA AT THAT TIME, AT THE TIME OF THE
18 MURDER.

19 I BASE THIS ON THE FACT THAT HE WASN'T SLEEPING.
20 I DON'T THINK HE HAD GOTTEN MORE THAN THREE
21 HOURS SLEEP IN THE 24 OR 36 HOURS THAT PRECEDED
22 THAT.

23 THE HISTORY OF GAMBLING IS THERE; THE HISTORY OF
24 DRUG USE IS THERE; THE HISTORY OF RUNNING UP
25 DEBTS IS THERE; THE HISTORY OF NOT BEING ABLE TO

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2498

1 CONCENTRATE IS THERE.

2 I SHOULD SAY THAT THERE IS ONE OTHER THING. IN
3 ABOUT 20 PERCENT OF THE CASES OF MANIC
4 DEPRESSIVE ILLNESS, THERE SEEMS TO BE A
5 COINCIDENCE OF ANOTHER ILLNESS WHICH IS
6 EXCESSIVE COMPULSIVE DISORDER AND HE SEEMED TO
7 HAVE THAT, TOO.

8 HE WOULD COUNT -- HE PLUCKED OFF, HE TOLD ME,
9 ALL THE LITTLE FUZZ BALLS OFF A COUCH THAT WAS
10 SUPPOSED TO HAVE FUZZ BALLS. HE'D COUNT THE
11 BOOKS ON THE SHELF; HE'D COUNT THE NUMBER OF
12 SPOTS ON A WALL; COUNT THE NUMBER OF TIMES THAT
13 A PATTERN OF WALLPAPER CROSSED IN AN OBSESSIVE
14 WAY.

15 THAT'S THE SORT OF THING THAT PEOPLE WITH
16 OBSESSIVE COMPULSIVE DISORDER DO. AND IT ALSO
17 CUTS DOWN ON YOUR CAPACITY TO CONCENTRATE.

18 THE INABILITY TO CONCENTRATE, WHICH HE DID NOT
19 HAVE WHEN I SAW HIM; HE WAS ABLE TO CONCENTRATE
20 PRETTY WELL EXCEPT IN THAT ONE TEST THAT I TOLD
21 YOU ABOUT. BUT HE WAS ABLE TO READ AND HE WAS
22 ABLE TO ATTEND TO WHAT WE WERE -- WHAT WAS GOING
23 ON BETWEEN THE TWO OF US. HE WAS COHERENT IN HIS
24 CONVERSATION.

25 BUT HE WAS BEING TREATED FOR MANIC DEPRESSIVE

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2499

1 ILLNESS AT THAT TIME. HE WAS ON DEPAKOTE AT
2 THAT TIME. HE WAS BEING TREATED PROPERLY AND HE
3 WASN'T TAKING ANYTHING THAT WOULD INTERFERE WITH
4 THAT TREATMENT SUCH AS RITALIN OR ALCOHOL.

5 SO, I MEAN THAT WAS A VERY DIFFERENT SITUATION.
6 BUT ON THAT NIGHT, HE HAD USED 250 MILLIGRAMS OF
7 RITALIN WHICH IS AN ENORMOUS OVERDOSE OF
8 RITALIN. IT'S 10 TIMES THE AMOUNT THAT I WOULD
9 USE IN MY ORDINARY PRACTICE OF UROLOGY. AND IT
10 HAD A TOXIC AFFECT ON HIM.

11 THE COMBINATION OF THE URGE THAT HE HAD BEEN
12 CONTROLLING UP UNTIL THAT TIME TO KILL HIS
13 PARENTS, UNDER THE INFLUENCE OF A MANIA AND THE
14 DRUG RITALIN WHICH EXACERBATES THE SYMPTOMS OF
15 MANIA, REPRODUCES THEM, ACCENTUATES THEM, I
16 THINK THAT IS THE REASON THAT AT THAT TIME HE
17 DID THAT.

18 I ALSO BASE THAT ON THE FACT OF WHAT HE DID.
19 THIS WAS NO ASSASSINATION; HE OBLITERATED THEM.
20 HE WAS IN THE GRIP OF A GLOSSAL EMOTION. THIS
21 WAS NO JUST COOL ASSASSINATION. HIS FATHER'S
22 HEAD WAS MADE TO LOOK LIKE A TOMATO THAT HAD
23 BEEN BURST BY REPEATED BEATINGS.

24 HIS MOTHER THE SAME BUT ON ONE SIDE. IT WAS
25 HORRIBLE. STABBING IN ADDITION? THIS WAS NO

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2500

1 ASSASSIN'S BULLET OR KNIFE. I MEAN THIS WAS AT
2 THE HEIGHT OF SOME -- HE WAS GRIPPED BY SOME
3 COLOSSAL EMOTION AT THAT TIME.

4 Q. AND WHAT WOULD THAT COLOSSAL EMOTION BE, DO YOU
5 KNOW?

6 A. WELL, IT WAS AN IMPULSE, AN URGE THAT WAS NOT
7 ONLY STIMULATED BY THE DRUGS HE WAS ON AND THE
8 MANIA HE WAS HAVING BUT ALSO NOT CHECKED BY THE
9 FUNCTIONING OF HIS FRONTAL LOBE AT THAT TIME
10 WHICH WAS NOT WORKING WELL BECAUSE OF THE
11 MEDICINE HE HAD TAKEN AND BECAUSE OF THE ALCOHOL
12 THAT HE HAD DRUNK AND BECAUSE OF THE STATUS OF
13 HIS BRAIN TO BEGIN WITH.

14 THE THREE THINGS COMBINED, THE DISEASE, THE
15 DRUGS HE WAS ON AND THE DAMAGE THAT HE ALREADY
16 WAS CARRYING.

17 Q. WELL IF THAT IS THE CASE, SIR, HOW WOULD YOU
18 EXPLAIN THE FACT THAT HE MAY HAVE WRITTEN A NOTE
19 THAT SAID HE WAS GOING TO DO CERTAIN THINGS AS
20 IF HE WERE PLANNING?

21 A. WELL, I DON'T THINK THAT THAT IS THE STANDARD OF
22 DETERMINING WHETHER HE WAS OUT OF CONTROL AT THE
23 TIME THAT HE DID WHAT HE DID, WHAT HE DID AFTER
24 IN OTHER WORDS.

25 FIRST OF ALL, HE MAY ACTUALLY HAVE THOUGHT OF

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2501

1 WHAT HE WAS GOING TO DO BEFOREHAND. WE KNOW
2 THAT HE HAD HAD HOMICIDAL THOUGHTS BEFOREHAND,
3 AND SO THIS WAS RATTLING AROUND. HE MAY HAVE
4 DONE SOME PART OF A PLAN THAT HE HAD ALREADY
5 WORKED OUT IN ADVANCE BUT HAD NEVER CARRIED OUT.
6 THE ISSUE IS NOT WHAT HE DID AFTERWARDS; THE
7 ISSUE IS WHAT WAS THE CRIME.
8 THE COVERING UP FOR IT -- THERE WAS SOME ATTEMPT
9 TO COVER UP FOR IT; NOT A VERY EFFECTIVE ATTEMPT
10 TO COVER UP FOR IT, BUT SOME ATTEMPT TO DO THAT,
11 DOES NOT INVALIDATE IN MY OPINION ANYTHING THAT
12 I'VE SAID.

13 Q. I BEG THE INDULGENCE OF THE COURT ONE MOMENT.

14 (AFTER A BRIEF PAUSE.)

15 Q. I DIDN'T MEAN TO MISLEAD YOU. THESE NOTES MAY
16 HAVE BEEN WRITTEN BEFOREHAND. WE DON'T KNOW
17 EXACTLY WHEN THE NOTES WERE WRITTEN, OKAY?

18 A. RIGHT.

19 MR. BRACKETT: YOUR HONOR, MR. HANCOCK IS
20 TESTIFYING. I WOULD JUST ASK THAT HE ASK QUESTIONS.

21 THE COURT: I SUSTAIN THE OBJECTION. REPHRASE
22 YOUR QUESTION.

23 Q. WOULD IT CHANGE YOUR OPINION IF THE NOTES WERE
24 WRITTEN BEFORE THE CRIME OR AFTER THE CRIME?

25 A. IF THEY WERE WRITTEN BEFORE THE CRIME, IT

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2502

1 DEPENDS ON HOW MUCH BEFORE THE CRIME. IF IT WAS
2 DONE THAT VERY DAY, AT THAT VERY TIME, I THINK
3 THERE WOULD HAVE TO BE A PRESUMPTION OF
4 PLANNING. BUT THE ASSASSINATION ITSELF ---

5 Q. THAT'S THE FOCUS?

6 A. THAT'S THE FOCUS. AND HE WAS OUT OF CONTROL.

7 Q. THIS BIPOLAR DISORDER OR MENTAL DISEASE, DOES IT
8 HAVE ANY ECONOMIC, SOCIOLOGICAL BOUNDARIES?

9 A. NO, ANYBODY CAN HAVE IT. PEOPLE AT THE UPPER
10 LEVEL OF SOCIETY OR THE VERY LOWEST LEVEL OF
11 SOCIETY.

12 Q. DOES IT HAVE ANY AFFECT ON ONE'S I.Q.?

13 A. NO, NOT AT ALL. SOME PEOPLE WITH MANIC
14 DEPRESSIVE ILLNESS, AS I SAID, ARE EXTREMELY
15 BRIGHT AND OTHER'S ARE NOT, OTHERS ARE RETARDED.
16 I MEAN IT'S INDEPENDENT OF INTELLIGENCE.

17 Q. NOW YOU SAID IN YOUR REVIEW THAT YOU HAD
18 REVIEWED THE REPORT OF, SAY, DR. WILLIAM
19 BRANNON?

20 A. YES.

21 Q. WHAT DOES THAT REPORT PRODUCE?

22 A. WELL, DR. BRANNON'S ASSESSMENT OF THE FRONTAL
23 LOBE, I THINK, WAS LESS THOROUGH THAN MINE. AND
24 I HAVE THE GREATEST RESPECT FOR DR. BRANNON, I
25 KNOW HIM PERSONALLY, WE SERVED ON A COMMITTEE

DR. JONATHAN H. PINCUS - DIRECT BY MR. HANCOCK

2503

1 TOGETHER WHEN WE WERE MAKING RECOMMENDATIONS FOR
2 NEUROLOGICAL DISABILITY SCALES THAT SHOULD BE
3 USED BY THE VETERAN'S ADMINISTRATION IN
4 DETERMINING THE PERCENTAGE OF DISABILITY THAT
5 VETERANS SUFFER. AND WE SPENT SEVERAL DAYS
6 TOGETHER DOING THAT. HE'S A GRADUATE OF
7 GEORGETOWN, BUT HE WASN'T THERE WHEN I WAS
8 THERE. SO, WE HAVE A NUMBER OF THINGS IN
9 COMMON, A FRIENDLY RELATIONSHIP ALTHOUGH WE ARE
10 NOT CLOSE FRIENDS.

11 BUT I THINK THAT HIS ASSESSMENT WAS NOT AS
12 THOROUGH AS MINE OF THE FRONTAL LOBE.

13 Q. FROM WHAT DO YOU GATHER THAT, SIR?

14 A. WELL, THE ONLY THINGS THAT REALLY SPECIFICALLY
15 REFLECTED FRONTAL LOBE FUNCTION THAT HE DID AND
16 THAT HE REFERRED TO WERE DOING A PALMOMENTAL
17 REFLEX, THE GLABELLA REFLEX AND THE SNOOT
18 REFLEX.

19 NOW, THE PALMOMENTAL REFLEX IS A VERY MISLEADING
20 REFLEX. IT IS NOT PRESENT IN A LOT OF PEOPLE
21 WITH FRONTAL LOBE DISEASE AND IT IS PRESENT IN A
22 LOT OF PEOPLE WHO DON'T HAVE FRONTAL LOBE
23 DISEASE. I DON'T LIKE IT, SO I DON'T EVEN USE
24 IT.

25 Q. YES, SIR.

DR. JONATHAN H. PINCUS - DIRECT BY MR. HANCOCK

2504

1 A. THE GLABELLA RESPONSE WHERE YOU TAP ON THE RIDGE
2 OF THE NOSE AND THE PERSON BLINKS MORE THAN
3 THREE TIMES IN RESPONSE TO THAT TAPPING IS A
4 GOOD ONE TO USE FOR FRONTAL LOBE FUNCTION. I
5 USED IT AND FOUND IT TO BE NORMAL AND DR.
6 BRANNON USED IT AND HE FOUND IT TO BE NORMAL.
7 THE SNOOT REFLEX ON THE OTHER HAND, I'M NOT
8 REALLY SURE WHAT DR. BRANNON DID BECAUSE THE
9 SNOOT REFLEX WAS ABNORMAL WHEN I SAW HIM IN
0 NOVEMBER AND IT WAS ABNORMAL THIS MORNING.
1 THAT'S THE REASON I WANTED TO SEE HIM THIS
2 MORNING WAS TO CHECK ON THAT.

3 Q. WAS THERE ANY CHANGE ---

4 A. NO.

5 Q. BETWEEN WHEN YOU SAW HIM IN NOVEMBER OF '97 WHEN
6 YOU PERFORMED THE TEST AND NOW?

7 A. HE HAS GOT IT. YOU TOUCH HIS UPPER LIP AND HIS
8 CHIN AND LOWER LIP PUCKER.

9 Q. NOW I WANT TO ASK YOU ONE OTHER QUESTION. AND I
0 AM REFERRING TO STATE'S EXHIBITS 265, 266, 252,
1 233, 213, 243 AND 210, SIR. HAVE YOU SEEN ANY
2 OF THE PHOTOGRAPHS OF THE AUTOPSIES?

3 A. NO, I HAVE NOT.

4 Q. I WANT TO PRESENT THESE TO YOU, SIR. THEY ARE
5 QUITE GRAPHIC.

DR. JONATHAN H. PINCUS - DIRECT BY MR. HANCOCK

2505

1 (AFTER A PAUSE WHILE THE WITNESS EXAMINED THE PHOTOS.)

2 Q. IN VIEWING THOSE, SIR, DO THEY IN ANY WAY
3 SUPPORT YOUR CONCLUSIONS?

4 A. YES, I THINK THEY SUPPORT MY CONCLUSION.

5 Q. I HAVE NO FURTHER QUESTIONS AT THIS TIME.

6 CROSS EXAMINATION BY

7 MR. BRACKETT:

8 Q. GOOD MORNING, DR. PINCUS.

9 A. GOOD MORNING.

10 Q. DO YOU HAVE THE NOTES AND THE UNDERLYING DATA,
11 THE UNDERLYING RESULTS OF ANY TESTS THAT YOU
12 PERFORMED WITH YOU HERE IN COURT TODAY?

13 A. I DON'T HAVE THEM IN COURT; THEY ARE IN THE NEXT
14 ROOM THOUGH.

15 Q. OKAY, COULD YOU GET THOSE FOR ME? YOUR HONOR, I
16 WOULD LIKE TO BE PROVIDED WITH THOSE AND GIVEN
17 AN OPPORTUNITY TO REVIEW THEM.

18 THE COURT: WELL, LET'S GET SOMEBODY TO GO GET
19 THEM AND YOU CAN CONTINUE ON WITH YOUR QUESTIONS WHILE
20 THAT'S BEING DONE.

21 MR. BRACKETT: WELL, ACTUALLY, YOUR HONOR, BEFORE
22 I CROSS EXAMINE HIM I WOULD LIKE TO REVIEW WHAT THE NOTES
23 AND SO FORTH SAYS SO THAT I CAN DO MY CROSS EXAMINATION
24 PROPERLY. I WOULD LIKE A BREAK IN ORDER TO REVIEW THAT
25 MATERIAL.

DR. JONATHAN H. PINCUS - CROSS BY MR. BRACKETT

2506

1 MR. HANCOCK: I WAS GOING TO SAY THAT ALSO. IT
2 MAY BE TIME TO TAKE A BREAK, YOUR HONOR.

3 THE COURT: ALL RIGHT, I WILL LET THE JURY GO TO
4 THE JURY ROOM FOR A BREAK.

5 IN CAMERA:

6 THE COURT: MR. BRACKETT, LET ME KNOW WHEN YOU'RE
7 READY.

8 MR. BRACKETT: AND, YOUR HONOR, FOR THE SAKE OF
9 EXPEDIENCY IF THEY HAVE ANY OTHER EXPERTS THAT ARE GOING TO
0 TESTIFY, IF I CAN GET THAT, THEN WE WON'T HAVE TO TAKE A
1 BREAK AGAIN. EACH TIME I'VE ASKED FOR THE INFORMATION
2 PRIOR TO TODAY, WE JUST HAVEN'T BEEN ABLE TO GET TOGETHER.
3 I DON'T WANT TO TAKE A BREAK EVERY TIME, BUT I DO FEEL I AM
4 ENTITLED TO LOOK AT THAT INFORMATION PRIOR TO MY CROSS.

5 MR. BOYD: I THOUGHT WE TOOK A BIG BOX OF ALL OF
6 THAT DOWN TO YOUR OFFICE THE OTHER DAY.

7 THE COURT: WELL, Y'ALL WORK THAT OUT.
8 AFTER THE RECESS IN CAMERA:

9 THE COURT: ARE YOU READY FOR THE JURY?

0 MR. BRACKETT: THE STATE IS READY, YOUR HONOR.

1 THE COURT: THE DEFENSE?

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

3 THE COURT: BRING IN THE JURY PLEASE.

4 IN THE PRESENCE OF THE JURY:

5 THE COURT: YOU MAY PROCEED.

DR. JONATHAN H. PINCUS - CROSS BY MR. BRACKETT

2507

1 CROSS EXAMINATION BY MR. BRACKETT:

2 Q. DR. PINCUS, YOU INDICATED DURING YOUR INITIAL
3 QUESTIONING THAT YOU WERE A MEMBER OF THE
4 AMERICAN ACADEMY OF NEUROLOGY?

5 A. I AM.

6 Q. AND YOU ARE ACTUALLY ON THE BOARD OF THAT
7 ASSOCIATION?

8 A. AS THE VICE PRESIDENT.

9 Q. AS THE VICE PRESIDENT. AND YOU WOULD AGREE THEN
10 THAT THE AMERICAN ACADEMY OF NEUROLOGY IS A WELL
11 RESPECTED INSTITUTION WITHIN THE FIELD OF
12 NEUROLOGY?

13 A. IT CERTAINLY IS.

14 Q. AND ANY PAPERS, PHYSICIAN PAPERS THAT THEY MIGHT
15 HAVE PUBLISHED WOULD CERTAINLY BE WORTHY OF
16 RESPECT?

17 A. CERTAINLY WORTHY OF RESPECT, NOT NECESSARILY.

18 Q. WELL, THEY WOULD BE SCHOLARLY DOCUMENTS WITHIN
19 THE FIELD OF NEUROLOGY?

20 A. YES.

21 Q. DO YOU KNOW DR. MARK NEWER FROM THE UCLA MEDICAL
22 CENTER, REED NEUROLOGICAL RESEARCH CENTER IN LAS
23 ANGELES?

24 A. NO.

25 Q. YOU DON'T KNOW HIM? WELL, ARE YOU FAMILIAR, NOT

DR. JONATHAN H. PINCUS - CROSS BY MR. BRACKETT

2508

1 NECESSARILY WITH THIS REPORT BUT WITH THE FACT
2 THAT THE AMERICAN ACADEMY OF NEUROLOGY AND THE
3 AMERICAN CLINICAL NEUROPHYSIOLOGY SOCIETY --
4 THAT'S A MOUTHFUL -- ISSUE REPORTS?

5 A. YES.

6 Q. AND WOULD THEY BE RESPECTED SCHOLARLY
7 PUBLICATIONS WITHIN THE FIELD OF NEUROPHYSIOLOGY
8 AND NEUROLOGY?

9 A. YES.

10 Q. OKAY, THANK YOU VERY MUCH. YOUR HONOR, I WOULD
11 ASK THAT THIS BE MARKED STATE'S EXHIBIT 282 FOR
12 IDENTIFICATION. FOR THE RECORD, THIS IS THE
13 DOCUMENT THAT YOU IDENTIFIED AS THE PUBLICATION
14 OF THE AMERICAN ACADEMY OF NEUROLOGY AND
15 AMERICAN CLINICAL NEUROPHYSIOLOGY SOCIETY.

16 Q. OKAY. NOW, I BELIEVE YOU EITHER REQUESTED OR
17 ORDERED SOME TESTS TO BE DONE IN THIS CASE, AN
18 MRI?

19 A. YES.

20 Q. I'M SHOWING YOU AN ITEM AND ASK IF YOU CAN
21 IDENTIFY THAT?

22 A. THIS IS JAMES ROBERTSON'S MRI.

23 Q. IS THERE ANYTHING ELSE IN THAT ENVELOPE THAT
24 UNRELATED TO THE MRI; DO YOU WANT TO TAKE A
25 LOOK? DON'T IDENTIFY IT; I JUST WANTED TO MAKE

DR. JONATHAN H. PINCUS - CROSS BY MR. BRACKETT

2509

1 SURE. IS IT ALL RELATED TO HIS MRI EXAMINATION?

2 A. YES, SIR.

3 Q. AND YOU'VE REVIEWED THIS?

4 A. I HAVE.

5 Q. AND FOUND IT NORMAL?

6 A. CORRECT.

7 Q. YOUR HONOR, I ASK THAT THIS BE MARKED AND MOVE
8 IT INTO EVIDENCE AS STATE'S EXHIBIT 283, THE
9 MRI.

10 THE COURT: ANY OBJECTION?

11 MR. HANCOCK: IF I MAY SEE IT.

12 (AFTER A PAUSE.)

13 MR. HANCOCK: WITHOUT OBJECTION, YOUR HONOR.

14 THE COURT: IT WILL BE RECEIVED.

15 (THE MRI WAS MARKED IN EVIDENCE AS STATE'S EXHIBIT 283
16 WITHOUT OBJECTION.)

17 Q. NO PROBLEMS NOTED ON THE MRI, RIGHT?

18 A. THAT'S CORRECT.

19 Q. NOW, I BELIEVE IT WAS YOUR TESTIMONY, SIR, THAT
20 YOU INTERVIEWED MR. ROBERTSON NOVEMBER 1ST,
21 EARLY NOVEMBER, LATE OCTOBER?

22 A. YES, THAT'S CORRECT.

23 Q. FOR ABOUT THREE HOURS?

24 A. CORRECT.

25 Q. AND THEN YOU SAW HIM AGAIN BRIEFLY THIS MORNING?

DR. JONATHAN H. PINCUS - CROSS BY MR. BRACKETT

2510

1 A. CORRECT.

2 Q. AND YOU'VE PREPARED A REPORT, HAVE YOU NOT?

3 A. I DID.

4 Q. ADDRESSED TO MS. DRUCY GLASS?

5 A. RIGHT.

6 Q. THE LADY SEATED RIGHT THERE?

7 A. RIGHT.

8 Q. OKAY AND DO YOU HAVE YOUR ORIGINAL REPORT IN
9 THIS CASE?

10 A. YES.

11 Q. MAY I SEE THAT, SIR?

12 A. YES.

13 Q. DO YOU HAVE THE ORIGINAL REPORT?

14 A. OH, NO.

15 Q. BUT THIS IS AN ACCURATE COPY?

16 A. RIGHT.

17 Q. OKAY. YOUR HONOR, I ASK THAT THIS BE MARKED AND
18 MADE EXHIBIT 284.

19 MR. HANCOCK: JUST TO CHECK AND SEE IF THERE ARE
20 ANY OTHER NOTES.

21 MR. BRACKETT: THERE ARE AND WE WOULD SUBSTITUTE
22 AN UNMARKED COPY SIMILAR TO THE OTHER ONE YESTERDAY.

23 MR. HANCOCK: THAT'S FINE, WE CAN DO IT THAT WAY.

24 THE COURT: IT WILL BE RECEIVED WITHOUT
25 OBJECTION.

DR. JONATHAN H. PINCUS - CROSS BY MR. BRACKETT

2511

1 (DR. PINCUS' REPORT WAS MARKED IN EVIDENCE AS STATE'S
2 EXHIBIT 284 WITHOUT OBJECTION.)

3 Q. SIR, REFERRING TO YOUR REPORT ON THE FIRST PAGE
4 THERE YOU INDICATE THAT YOU SAW HIM ON NOVEMBER
5 1ST, 1998; IS THAT CORRECT?

6 A. CORRECT.

7 Q. AND THE ENTIRE HISTORY THAT IS CONTAINED IN THIS
8 REPORT WAS OBTAINED FROM HIM?

9 A. RIGHT.

10 Q. SO IN THE BOTTOM PARAGRAPH THERE HE INDICATED
11 THAT HIS PARENTS HAD HIM -- HIS MOTHER HAD HAD
12 HIM INVOLUNTARILY COMMITTED AT THE WILLIAM S.
13 HALL INSTITUTE?

14 A. YES.

15 Q. IN COLUMBIA. OKAY. AND THAT HE WAS THERE
16 BECAUSE THEY DID THIS ON HIS MOTHER'S SAY SO.
17 THEY WANTED HIM TO UNDERSTAND THAT THEY FELT
18 THAT HE WAS AN ALCOHOLIC, HAD A DRUG PROBLEM AND
19 NEEDED TO TAKE MEDICATION FOR HIS MENTAL
20 ILLNESS?

21 A. CORRECT.

22 Q. THIS WAS AN INVOLUNTARY HOSPITALIZATION?

23 A. RIGHT.

24 Q. THE FIRST SEVEN DAYS THEY WERE INVOLUNTARY?

25 A. RIGHT.

DR. JONATHAN H. PINCUS - CROSS BY MR. BRACKETT

2512

1 Q. AND THEN HE MADE A DEAL TO STAY THREE MORE DAYS
2 AFTER WHICH HE WOULD BE DISCHARGED?

3 A. CORRECT.

4 Q. THAT'S WHAT HE TOLD YOU?

5 A. CORRECT.

6 Q. THEY PRESCRIBED HIM TAKING DEPAKOTE WHEN HE LEFT
7 AND WHEN HE LEFT THE HOSPITAL ON A FRIDAY HE WAS
8 TAKING THE DEPAKOTE AND WAS UNDER ORDERS TO
9 RETURN TWO DAYS LATER, BUT HE CANCELLED THAT
0 VISIT. ISN'T THAT RIGHT?

1 A. YES.

2 Q. BECAUSE HE SAID "I WASN'T A BIG FAN OF THE
3 DOCTORS OR MY PARENTS FOR FORCING ME TO BE
4 HOSPITALIZED".

5 A. RIGHT.

6 Q. LATER ON IN THE NEXT PAGE HE INDICATED THAT HE
7 REALLY DIDN'T WANT TO TAKE THE DEPAKOTE BECAUSE
8 IT WAS KIND OF A PAIN TO HAVE TO GO GET THE
9 LIVER TESTS THAT ARE ASSOCIATED WITH TAKING THAT
0 DRUG?

1 A. THAT'S WHAT HE SAID, YES.

2 Q. OKAY. SO, HE JUST DIDN'T WANT TO TAKE HIS
3 MEDICATION BECAUSE IT WAS A PROBLEM GOING IN TO
4 DO THOSE LIVER TESTS?

5 A. RIGHT.

DR. JONATHAN H. PINCUS - CROSS BY MR. BRACKETT

2513

1 Q. OKAY. NOW ---

2 A. HE SAID THE OTHER REASON FOR DOING DEPAKOTE IS
3 HE GOT THE BLOOD LEVEL OF THE MEDICATION BUT HE
4 DIDN'T WANT TO HAVE THE BLOOD TESTS. I DON'T
5 KNOW THAT IT WAS THE LIVER TEST THAT HE WAS
6 OBJECTING TO, IT WAS THE IDEA OF GETTING STUCK
7 WITH A NEEDLE FROM TIME TO TIME WHILE HE WAS ON
8 THE MEDICINE.

9 Q. HE DIDN'T WANT TO DO THAT.

10 A. RIGHT.

11 Q. HE WOULD RATHER NOT TAKE THE MEDICATION?

12 A. RIGHT.

13 Q. HIS CONDUCT IN CLASSES IN GRADE SCHOOL AND HIGH
14 SCHOOL WAS BECAUSE HE WOULD FINISH THE WORK AND
15 THEN HAVE NOTHING TO DO EXCEPT ANNOY THE
16 TEACHER?

17 A. THAT'S WHAT HE SAID.

18 Q. OKAY. HE WENT TO GEORGIA TECH BUT HE WANTED TO
19 QUIT AND FINALLY WAS EXPELLED. IS THAT RIGHT?

20 A. YES.

21 Q. AND WHILE HE WAS AT GEORGIA TECH HE DIDN'T STUDY
22 BUT HE PARTIED A GOOD DEAL, USED DRUGS AND
23 DRANK?

24 A. RIGHT.

25 Q. HE ALSO GAMBLER A LOT THERE, RIGHT?

DR. JONATHAN H. PINCUS - CROSS BY MR. BRACKETT

2514

1 A. CORRECT.

2 Q. DID YOU REVIEW ANY OF THE RECORDS FROM GEORGIA
3 TECH, SIR?

4 A. I DON'T THINK I SAW THE RECORDS FROM GEORGIA
5 TECH.

6 Q. THE ACADEMIC RECORDS OR THE PSYCHOLOGICAL
7 RECORDS, WHERE HE WENT AND SAW A COUNSELOR AT
8 GEORGIA TECH; DID YOU HAVE OCCASION TO REVIEW
9 ANY OF THE RECORDS FROM THERE, MACK BOWERS.

0 A. I DON'T RECALL; I'M SORRY.

1 Q. WOULD IT BE INTERESTING TO ANY OF YOUR
2 OBSERVATIONS THAT YOU'VE MADE OR WOULD IT IMPACT
3 ANY OF THEM IF YOU KNEW THAT DR. BOWERS HAD
4 DIAGNOSED HIM AS HAVING ANTISOCIAL TENDENCIES?

5 A. WELL, I'M SURE HE HAD ANTISOCIAL TENDENCIES. I
6 WOULDN'T DENY THAT AT ALL.

7 Q. YOU DON'T MENTION THAT IN HERE THOUGH?

8 A. WELL, HE WAS LOSING MONEY; HE WAS AN ADDICTED
9 GAMBLER; HE WROTE BACK CHECKS. I MEAN I WOULD
0 CONSIDER THOSE TO BE ANTISOCIAL TENDENCIES.

1 Q. BUT THE POINT IS THAT YOU DIDN'T MENTION THAT IN
2 YOUR REPORT, DID YOU?

3 A. NO, I DIDN'T USE THE WORD ANTISOCIAL TENDENCIES;
4 NO, I DIDN'T.

5 Q. OR ANTISOCIAL PERSONALITY DISORDER ---

DR. JONATHAN H. PINCUS - CROSS BY MR. BRACKETT

2515

1 A. NOW WAIT A MINUTE ---

2 Q. OR ANYTHING OF THAT NATURE. YOU DIDN'T DESCRIBE
3 ANY OF HIS BEHAVIOR AS ANTISOCIAL AT ALL; IS
4 THAT RIGHT?

5 A. I DIDN'T SAY THAT HE HAD ANTI -- I DIDN'T USE
6 THE WORD ANTISOCIAL AND I DON'T THINK THAT HE
7 HAS AN ANTISOCIAL PERSONALITY DISORDER TO THIS
8 DAY.

9 Q. I UNDERSTAND THAT. MY QUESTION WAS, YOU DIDN'T
10 PUT ANYTHING DOWN THERE ABOUT THAT?

11 A. PASSING BAD CHECKS ---

12 Q. RIGHT.

13 A. AN ADDICTED GAMBLER; DRINKING. THOSE ARE
14 ANTISOCIAL CHARACTERISTICS ---

15 Q. SPEEDING, PATHOLOGICAL GAMBLING.

16 A. THEY ARE IN MY REPORT.

17 THE COURT: LET HIM FINISH HIS ANSWER BEFORE YOU
18 ASK HIM THE NEXT QUESTION; I THINK THAT WOULD HELP.

19 Q. YES, SIR. ARE YOU DONE ANSWERING THE QUESTION?

20 A. YES.

21 Q. OKAY. NONE OF THAT IS MENTIONED IN YOUR REPORT
22 THOUGH ABOUT ---

23 MR. HANCOCK: HE HAS GONE BACK OVER THAT. HE
24 SAID THAT IT'S MENTIONED IN HIS REPORT; HE'S INTO
25 SEMANTICS. HE HAS ASKED THEM THIS FIVE TIMES.

DR. JONATHAN H. PINCUS - CROSS BY MR. BRACKETT

2516

1 THE COURT: ARE YOU OBJECTING?

2 MR. HANCOCK: YES, SIR, I'M OBJECTING.

3 THE COURT: OVERRULED.

4 Q. SIR, DID YOU HEAR MY QUESTION?

5 A. COULD YOU REPEAT IT?

6 Q. THERE IS NOTHING IN HERE AT ALL ABOUT ANTISOCIAL
7 PERSONALITY DISORDER IS THERE?

8 A. YES, THERE IS A LOT IN HERE ABOUT ANTISOCIAL
9 ACTS ---

10 Q. MAYBE YOU MISUNDERSTAND ---

11 A. THERE IS NO ---

12 THE COURT: EXCUSE ME. LET HIM FINISH ANSWERING
13 THE QUESTION, PLEASE.

14 MR. BRACKETT: IF HE WOULD, HE'S NOT.

15 A. I DID NOT USE THE PHRASE ANTISOCIAL PERSONALITY
16 DISORDER ANYWHERE IN MY REPORT, NOR DID I USE
17 THE WORDS ANTISOCIAL ACTS.

18 Q. THANK YOU VERY MUCH, SIR. NOW, ON THE SAME PAGE
19 FURTHER DOWN HE INDICATES THAT HIS RELATIONSHIP
20 WITH HIS FATHER DIMINISHED AFTER HE QUIT
21 COLLEGE. HIS FATHER CUT HIM OFF IN THE SENSE
22 THAT HE HAD TO PAY FOR HIS OWN HEALTH INSURANCE
23 AND FOR HIS OWN CLOTHES EVEN THOUGH HE WAS
24 ALLOWED TO LIVE AT HOME?

25 A. YES.

DR. JONATHAN H. PINCUS - CROSS BY MR. BRACKETT

2517

1 Q. OKAY. HE INDICATED THAT HIS BROTHER HAD AN
2 ALCOHOL PROBLEM AS WELL; ISN'T THAT RIGHT?

3 A. YES.

4 Q. AND HIS FATHER WANTED HIM TO GO TO ALCOHOLICS
5 ANONYMOUS TO GET TREATMENT FOR THAT?

6 A. YES.

7 Q. ON THE NIGHT OF THE MURDERS HE INDICATED HE TOOK
8 30 MILLIGRAMS OF RITALIN TO GIVE HIM ENERGY TO
9 CLEAN THE HOUSE?

10 A. YES.

11 Q. HIS PLAN WAS TO HAVE A FEW BEERS TO COME OFF THE
12 RITALIN AND GO TO SLEEP?

13 A. YES.

14 Q. HE WAS KIND OF LIKE DECIDING WHAT MEDICATIONS HE
15 SHOULD TAKE AND IN WHAT ORDER AND THAT SORT OF
16 THING?

17 A. ABSOLUTELY.

18 Q. AND IT WAS CLEAR FROM YOUR EVALUATION OF THE
19 WILLIAM S. HALL REPORTS IN 1995 THAT HE HAD BEEN
20 TOLD ABOUT THE AFFECTS OF ALCOHOL AND DRUGS ON
21 BIPOLAR?

22 A. YES.

23 Q. DOWN AT THE BOTTOM OF THE PAGE THERE WHERE HE
24 STARTS TALKING ABOUT THE KILLING ITSELF. HE
25 SAID THE ACT WAS IMPULSIVE AND NOT PREMEDITATED?

DR. JONATHAN H. PINCUS - CROSS BY MR. BRACKETT

2518

1 A. YES.

2 Q. THEN HE SAID HE THOUGHT HE COULD DO THIS AND GET
3 AWAY WITH IT.

4 A. YES.

5 Q. AND THEN HE SAYS IN THE VERY NEXT SENTENCE HE
6 DIDN'T KNOW IF IT WAS RIGHT OR WRONG?

7 A. CORRECT.

8 Q. IF SOMEBODY DOESN'T KNOW THE DIFFERENCE BETWEEN
9 RIGHT OR WRONG, ARE THEY GENERALLY CONCERNED
0 WITH GETTING AWAY WITH IT?

1 A. WELL, THE QUESTION OF GETTING AWAY WITH IT MEANS
2 WHETHER THERE'S GOING TO BE A CONSEQUENCE TO
3 THEM OF IT. THAT'S A LITTLE BIT DIFFERENT THAN
4 THINKING IT WAS RIGHT OR WRONG.

5 TO THINK THAT SOMETHING IS RIGHT OR WRONG MEANS
6 THAT YOU HAVE KIND OF AN EMOTIONAL FEELING ABOUT
7 NOT DOING -- EVERYBODY WANTS TO DO WHAT'S RIGHT
8 AND NOT DO WHAT'S WRONG AND PART OF THE THING
9 THAT KEEPS US FROM DOING THINGS THAT ARE WRONG
0 IS BECAUSE NO ONLY WILL BE PUNISHED BUT EVEN IF
1 WE COULD GET AWAY WITH IT, WE WOULD KNOW IT WAS
2 WRONG AND WOULD FEEL IT WAS WRONG.

3 IT SEEMS LIKE AN OXYMORON, BUT IT ISN'T. THAT
4 IS TO SAY, A PERSON COULD DO SOME CRIMINAL
5 BEHAVIOR OR SOME EVEN OUTRAGEOUS BEHAVIOR AND

DR. JONATHAN H. PINCUS - CROSS BY MR. BRACKETT

2519

1 GET AWAY WITH IT AND DO IT JUST BECAUSE HE COULD
2 GET AWAY WITH IT, KNOWING THAT THERE WOULD BE A
3 CONSEQUENCE IF HE WERE CAUGHT. LIKE CHEATING ON
4 INCOME TAX; THAT'S A RELATIVELY FREQUENT THING
5 THAT PEOPLE DO. IF YOU GET CAUGHT, YOU KNOW
6 YOU'LL BE PUNISHED; YOU'LL GET A FINE OR
7 POSSIBLY EVEN GO TO JAIL. PEOPLE DO IT
8 NONETHELESS AND THEY DON'T FEEL THAT WHAT THEY
9 ARE DOING IS WRONG.

10 NOW, THAT IS THE KIND OF DUALITY I THINK THAT IS
11 BEING SUGGESTED BY WHAT HE SAID TO ME. I'M JUST
12 WRITING DOWN WHAT YOU SAID. THOSE TWO THINGS
13 ARE NOT INCOMPATIBLE. PEOPLE DO THAT ALL THE
14 TIME.

15 Q. IF I DON'T KNOW THAT TAKING THIS PEN IS WRONG --
16 IF I THINK THIS IS MY PEN, IT'S NOT, IT BELONGS
17 TO THEM. BUT I THINK IT'S MY PEN. IF I TAKE
18 IT, I'M NOT GOING TO BE WORRIED ABOUT WHETHER I
19 GET AWAY WITH IT OR NOT. I'M NOT EVEN GOING TO
20 BE THINKING THERE'S NOTHING TO GET AWAY WITH;
21 I'M TAKING MY PEN, I BELIEVE THAT.

22 A. UH HUH.

23 Q. SO, I'M NOT THINKING ABOUT RIGHT OR WRONG. HE'S
24 SAYING I DIDN'T KNOW IF IT WAS RIGHT OR WRONG,
25 BUT AT THE SAME TIME HE'S THINKING ABOUT GETTING

DR. JONATHAN H. PINCUS - CROSS BY MR. BRACKETT

2520

1 AWAY WITH IT, NOT GETTING CAUGHT.

2 MR. HANCOCK: I'M GOING TO OBJECT TO THE FORM OF
3 THE QUESTION. HE'S TESTIFYING THAT IF I TAKE THIS PEN AND
4 EVERYTHING ELSE. IF HE'S DOING IT IN THE FORM OF A
5 HYPOTHETICAL, FINE; OTHERWISE, I OBJECT TO THE METHOD OF
6 QUESTIONING.

7 THE COURT: OVERRULED. GO AHEAD.

8 A. I THINK MY EXAMPLE WAS A LITTLE BETTER BECAUSE
9 PEOPLE DO CHEAT ON THEIR INCOME TAX ALL THE
0 TIME, KNOWING THAT THERE'S A PENALTY FOR DOING
1 IT AND NOT FEELING THAT IT'S WRONG.

2 Q. OKAY, DOCTOR. THE LAST LINE. THE ONLY TIME HE
3 HAD THOUGHT OF KILLING HIS PARENTS WAS WHEN HE
4 WAS TAKING RITALIN, COCAINE OR SPEED. THAT'S AN
5 IMPORTANT PART OF YOUR DIAGNOSIS IN THIS CASE
6 AND YOUR OPINION; ISN'T THAT RIGHT.

7 A. CAN YOU JUST DIRECT ME TO WHERE THAT IS?

8 Q. THE LAST LINE ON PAGE 4 OF YOUR REPORT.

9 A. OKAY.

0 Q. THE VERY LAST LINE.

1 A. YES.

2 Q. IT'S NOT EVEN FINISHED ON THAT PAGE, IT FINISHES
3 ON THE NEXT PAGE.

4 A. YES.

5 Q. THE ONLY TIME HE HAD THOUGHT OF KILLING HIS

DR. JONATHAN H. PINCUS - CROSS BY MR. BRACKETT

2521

1 PARENTS WAS WHEN HE WAS TAKING RITALIN, COCAINE
2 OR SPEED.

3 A. THAT'S WHAT HE SAID.

4 Q. THAT'S WHAT HE SAID, AND THAT'S AN IMPORTANT
5 DIAGNOSIS, IS IT NOT, IN YOUR OPINION IN THIS
6 CASE?

7 A. NO. I THINK IT WAS PRETTY CLEAR WHEN HE WAS
8 ADMITTED TO HALL, I MEAN HIS ACCOUNT OF WHAT THE
9 CIRCUMSTANCES WERE ABOUT HIS ADMISSION TO HALL
10 IN 1995 WAS NOT QUITE RIGHT. HE DIDN'T MENTION
11 HOMICIDAL OR SUICIDAL IDEATION TO ME BUT THAT
12 WAS VERY PROMINENTLY DISPLAYED IN THE RECORDS OF
13 HALL. IN OTHER WORDS, THE REASON HE WAS ADMITTED THERE
14 WAS BECAUSE OF HOMICIDAL AND SUICIDAL IDEATION
15 WITH THE DRUGS AND ALCOHOL, ET CETERA THAT WAS
16 GOING ON. HE JUST TOLD ME ABOUT THE ALCOHOL AND
17 DRUGS. THAT'S THE REASON I HAVE TO CHECK ON
18 THESE THINGS.

19
20 BUT THE FACT IS HE DID HAVE THOUGHTS, I THINK,
21 OF KILLING HIS PARENTS AND OF SUICIDE, TOO, WHEN
22 HE WAS SOBER BUT HE DIDN'T ENACT THEM. THE
23 DIFFERENCE BETWEEN THINKING SOMETHING AND DOING
24 SOMETHING IS VERY MAJOR.

25 AND THE TIMES THAT HE WOULD ACTUALLY CONSIDER

DR. JONATHAN H. PINCUS - CROSS BY MR. BRACKETT

2522

1 DOING THAT WOULD BE WHEN HE WAS INTOXICATED AND
2 UNDER THE INFLUENCE OF DRUGS. APPARENTLY THAT
3 HAD HAPPENED BEFORE.

4 Q. YOUR POSITION IS HE JUST THOUGHT ABOUT KILLING
5 HIS PARENTS, HE DIDN'T ACTUALLY DO IT?

6 A. IN 1995, YES. IN 1995 HE THOUGHT ABOUT IT
7 DEFINITELY. IT'S IN THE RECORDS THERE. I DON'T
8 HAVE TO DEPEND UPON WHAT PEOPLE SAY; IT'S IN THE
9 MEDICAL RECORDS.

0 Q. WELL, HE TOLD YOU HE KILLED HIS PARENTS, DIDN'T
1 HE?

2 A. YES, INDEED.

3 Q. OKAY. HE ALSO TOLD YOU THIS WAS NOT SOMETHING
4 HE WOULD EVER HAVE CONSIDERED IF HE WERE SOBER.
5 DOESN'T THAT JUST CONTRADICT WHAT YOU JUST SAID?

6 A. YES.

7 Q. HE ALSO DENIED ANY SERIOUS ABUSE BY HIS PARENTS
8 DID HE NOT?

9 A. HE DENIED SERIOUS ABUSE BY HIS PARENTS ALTHOUGH
0 HE DID INDICATE THAT THERE WAS SOME.

1 Q. DOCTOR, YOU PERFORMED A VARIETY OF TESTS ON THE
2 DEFENDANT?

3 A. I DID.

4 Q. INCLUDING THE -- WHAT WAS THE EYE TEST YOU
5 CALLED, THE TRACKING?

DR. JONATHAN H. PINCUS - CROSS BY MR. BRACKETT

2523

- 1 A. VISUAL TRACKING.
- 2 Q. VISUAL TRACKING AND YOU FOUND THERE WAS A
- 3 PROBLEM THERE?
- 4 A. YES.
- 5 Q. AND THAT INDICATED SOME SORT OF FRONTAL LOBE
- 6 DYSFUNCTION?
- 7 A. CORRECT.
- 8 Q. AND YOU USED THE ANALOGY OF COMPARING THE VISUAL
- 9 MOVEMENT WITH THE ABILITY OF A BOW HUNTER TO
- 10 TRACK A TARGET AS HE WAS TRYING TO STRIKE IT
- 11 WITH AN ARROW?
- 12 A. CORRECT.
- 13 Q. NOW, DOCTOR, LET ME ASK YOU A QUESTION IN A
- 14 HYPOTHETICAL FORMAT. IF I WAS TRYING TO HIT A
- 15 MAN IN THE HEAD WITH THIS BASEBALL BAT AND HE
- 16 WAS DUCKING AND WEAVING AND DODGING AND TRYING
- 17 TO AVOID ME HITTING HIM IN THE HEAD, YET I WAS
- 18 ABLE TO STRIKE HIM IN THE HEAD, THAT WOULD SEEM
- 19 TO INDICATE THAT SOMEBODY'S EYES WERE
- 20 FUNCTIONING JUST FINE, WOULDN'T IT?
- 21 A. NO.
- 22 Q. NO?
- 23 A. NO. HE COULD BE BLIND IN ONE EYE AND DO THAT;
- 24 YOU COULD BE BLIND COMPLETELY AND DO THAT; YOU
- 25 COULD HAVE FRONTAL LOBE DYSFUNCTION AND DO THAT.

DR. JONATHAN H. PINCUS - CROSS BY MR. BRACKETT

2524

1 AND THE PERSON THAT I TOLD YOU ABOUT, THE DOCTOR
2 WITH BRAIN TUMOR, WAS ABLE TO DRIVE A CAR EVEN
3 THOUGH HE HAD FRONTAL LOBE DYSFUNCTION, BUT HE
4 DROVE INTO BARRIERS.

5 YOU ARE SUGGESTING A TEST FOR FRONTAL LOBE
6 FUNCTION WHICH IS NOT VALIDATED. YOU ARE SAYING
7 IF A PERSON CAN HIT ANOTHER PERSON ON THE HEAD
8 WITH A BASEBALL BAT, THEN THEIR FRONTAL LOBE
9 MUST BE WORKING CORRECTLY. THAT IS UNTRUE. I
0 DON'T AGREE WITH THAT. THAT IS NOT A TEST.

1 Q. YOU DON'T SEE ANY SIMILARITY BETWEEN TRACKING A
2 TARGET WITH A BOW AND ARROW AND TRYING TO HIT
3 SOMEBODY WHO IS TRYING TO AVOID BEING HIT WITH A
4 BAT?

5 A. THAT'S CORRECT, IT'S NOT THE SAME THING.

6 Q. OKAY.

7 A. YOU'RE NOT TESTING THE SAME FUNCTION.

8 Q. HE TOLD YOU HE WAS TAKING DEPAKOTE AT THE TIME
9 OF THE MURDERS; IS THAT RIGHT?

0 A. YES. WELL, YES, HE WAS SUPPOSED TO BE ANYWAY.

1 Q. YOU SPENT THREE HOURS WITH HIM; IS THAT RIGHT?

2 A. YES.

3 Q. AND THEN YOU SPENT A FEW MINUTES WITH HIM TODAY?

4 A. YES.

5 Q. YOU WROTE THAT REPORT?

DR. JONATHAN H. PINCUS - CROSS BY MR. BRACKETT

2525

- 1 A. YES.
- 2 Q. AND YOU REVIEWED A FEW RECORDS?
- 3 A. YES.
- 4 Q. AND YOU WERE PAID NINE THOUSAND DOLLARS FOR
- 5 THIS, IS THAT RIGHT?
- 6 A. WHAT?
- 7 Q. HOW MUCH WERE YOU PAID, SIR?
- 8 A. I WAS PAID FOUR THOUSAND DOLLARS.
- 9 Q. YOU WERE PAID FOUR THOUSAND DOLLARS?
- 10 A. YES.
- 11 Q. HAVE YOU BEEN PAID EVERYTHING YOU'RE DUE YET?
- 12 A. I HAVEN'T BEEN PAID FOR THE EVALUATION I DID.
- 13 Q. IS A NEUROLOGIST SUCH A SPECIALTY THAT THERE ARE
- 14 ONLY A FEW OF YOU IN THE COUNTRY?
- 15 A. NO, THERE ARE MANY NEUROLOGIST IN THE COUNTRY.
- 16 AS I SAID, THERE ARE ABOUT THIRTEEN OR FOURTEEN
- 17 THOUSAND MEMBERS OF THE AMERICAN ACADEMY OF
- 18 NEUROLOGY, BUT WE SPECIALIZE IN DIFFERENT
- 19 THINGS. I THINK I AM ONE OF THE VERY FEW
- 20 NUROLOGISTS IN THE COUNTRY WHO HAVE SEEN A LARGE
- 21 NUMBER OF VIOLENT PEOPLE. THERE ARE OTHERS, BUT
- 22 VERY FEW.
- 23 Q. YOU KIND OF MAKE THAT YOUR SPECIALTY?
- 24 A. IT'S AN INTEREST OF MINE.
- 25 Q. AND YOU TRAVEL ALL OVER THE COUNTRY TESTIFYING

DR. JONATHAN H. PINCUS - REDIRECT BY MR. HANCOCK

2526

1 FOR DEFENDANTS DON'T YOU, SIR?

2 A. I'VE TESTIFIED IN ABOUT 75 TO 100 CASES OVER THE
3 LAST 25 YEARS.

4 Q. YOU'RE DUE IN MISSOURI TOMORROW; ISN'T THAT
5 RIGHT?

6 A. ACTUALLY NOT; THAT WAS DISPOSED OF. I WAS.

7 Q. I BEG THE COURT'S INDULGENCE ONE MOMENT.
8 (AFTER A BRIEF PAUSE.)

9 Q. I HAVE NO FURTHER QUESTIONS.

0 THE COURT: REDIRECT?

1 REDIRECT EXAMINATION BY

2 MR. HANCOCK:

3 Q. DR. PINCUS, YOU INDICATED IN YOUR REPORT THAT
4 JIMMY HAD TOLD YOU THAT THERE WAS ABUSE, IT JUST
5 WASN'T SERIOUS ABUSE. IS THAT RIGHT?

6 A. THAT'S A CORRECT ASSESSMENT OF THAT, CORRECT.

7 Q. DID Y'ALL GO INTO WHAT SERIOUS ABUSE WAS?

8 A. I DID GO INTO WHAT HE DID TELL ME AND HE TOLD ME
9 SOME THINGS THAT I THINK WERE A LITTLE OUT OF
0 THE ORDINARY. HIS FATHER BACKHANDED HIM IN THE
1 CAR, PUNCHED HIM IN THE CHEST WITH HIS FIST.
2 HIS MOTHER WOULD INTERVENE TO PREVENT SERIOUS
3 INJURY FROM BEING CAUSED BY THE FATHER. HIS
4 FATHER USED A BELT AND A HAIRBRUSH AND WOULD
5 BEAT HIM WITH EIGHT OR TEN BLOWS WITH THE BELT

DR. JONATHAN H. PINCUS - REDIRECT BY MR. HANCOCK

2527

1 AT A TIME WHICH RAISED RED MARKS OVER HIS BODY.
2 HE WAS BEATEN ABOUT ONCE A WEEK FROM THE AGE OF
3 FIVE TO 15, THROWN AGAINST THE WALL. AND HIS
4 FATHER HAD A BAD TEMPER, USED DEMEANING NAMES;
5 WOULD PUSH HIM DOWN THE STAIRS; GRAB HIS SHIRT.
6 AND THERE WERE A NUMBER OF SYMPTOMS, FOR EXAMPLE
7 BED WETTING UNTIL THE AGE OF 12 WHICH ARE
8 ASSOCIATED WITH ABUSE. AND THERE WERE SCARS ON
9 HIS BACK WHICH HE COULDN'T IDENTIFY THE ORIGIN
10 OF WHICH COULD HAVE BEEN FROM BEATINGS.

11 Q. DO YOU CALL THAT SERIOUS ABUSE?

12 A. WELL, I WOULD. THAT'S NOT AS BAD AS SOME THAT
13 I'VE SEEN, BUT I THINK A BEATING WITH 10 OR 12
14 STRIKES OF A BELT ONCE A WEEK BETWEEN THE AGES
15 OF 5 AND 15, I THINK THAT'S A LITTLE EXCESSIVE,
16 YEAH; I THINK THAT'S ABUSIVE.

17 Q. LET'S NOT EVEN CHARACTERIZE IT AS ABUSE; LET'S
18 JUST CHARACTERIZE IT AS DISCIPLINE.

19 A. UH HUH.

20 Q. WOULD THAT OR COULD THAT AFFECT A PERSON'S MIND
21 AND THEIR THOUGHT PROCESS?

22 A. PARTICULARLY WHEN -- YES. PARTICULARLY WHEN
23 THAT IS BEING DELIVERED AT A TIME WHEN THE BRAIN
24 IS DEVELOPING; THAT IS TO SAY, DURING CHILDHOOD.
25 YOU KNOW, THE BRAIN IS 400 GRAMS AT BIRTH AND

DR. JONATHAN H. PINCUS - REDIRECT BY MR. HANCOCK

2528

1 IT'S 1100 GRAMS AT FULL MATURITY AND YET THE
2 NUMBER OF BRAIN CELLS IS THE SAME. FULL
3 MATURITY ISN'T UNTIL AROUND AGE 20.

4 AS PEOPLE ARE GROWING UP, THEY LEARN THINGS.
5 AND ATTITUDES BECOME DEVELOPED THAT ARE VERY
6 IMPORTANT. WHEN YOU LEARN, IT MEANS YOUR ACTUAL
7 BRAIN HAS CHANGED BY WHAT YOU'VE EXPERIENCED.
8 YOU REMEMBER IT, YOU LEARN IT, THAT'S A CHANGE
9 IN THE BRAIN.

0 AND THE KIND OF ANGER THAT IS GENERATED BY A
1 CHILD WHO IS BASICALLY HELPLESS AT THE HANDS OF
2 HIS PARENTS BEING BEATEN SEVERELY 10 OR 12
3 STRIKES WITH A BELT OVER A BARE BACK ONCE A
4 WEEK, NO MATTER HOW BADLY THE CHILD HAS BEHAVED,
5 GENERATES A LOT OF ANGER AND BECOMES THE FOCUS
6 OF CONFRONTATIONAL ACTIVITY AND EXPERIENCE WITH
7 THE FATHER.

8 NOW THE REASON THAT HE WAS PROBABLY BEHAVING SO
9 BADLY AND THAT THE FATHER FELT THAT HE NEEDED TO
0 BE CORRECTED THAT WAY WAS BECAUSE THE
1 MANIFESTATION OF MANIA IN CHILDHOOD IS ATTENTION
2 DEFICIT DISORDER, HYPERACTIVITY, NOT PAYING
3 ATTENTION, GETTING AWAY WITH DOING THINGS THAT
4 ARE UNACCEPTABLE. NOT THE SAME THINGS THAT AN
5 ADULT WOULD DO THAT ARE UNACCEPTABLE, BUT THE

DR. JONATHAN H. PINCUS - RECROSS BY MR. BRACKETT

2529

1 KIND OF THINGS THAT A CHILD WOULD DO THAT ARE
2 UNACCEPTABLE AND A PARENT COULD MAKE A MISTAKE
3 AND NOT UNDERSTAND THAT; THE PEDIATRICIAN NOT
4 UNDERSTAND THAT, AND BEATING WOULD BE THE
5 RESULT.

6 AND THAT MAKES A PERSON VERY ANGRY. THE ANGER,
7 I THINK, THAT HE FELT TOWARD HIS PARENTS WAS
8 GENERATED BY THAT KIND OF INTERACTION AND IN A
9 NORMAL PERSON IF HE HAD A NORMAL BRAIN THAT WAS
10 NOT DAMAGED BY NEUROLOGICAL FACTORS OR BY
11 PSYCHIATRIC ILLNESS, WOULD NOT HAVE LED HIM TO
12 BE ANYTHING MORE THAN A SUCCESSFUL PERSON WHO
13 CARRIED THESE FEELINGS AROUND WITH HIM BUT WOULD
14 NONETHELESS BE ABLE TO FUNCTION NORMALLY IN
15 SOCIETY.

16 IT WAS THAT EXPERIENCE PLUS THE PSYCHIATRIC
17 DISEASE, PLUS THE NEUROLOGIC DISEASE AND THE
18 DRUGS THAT BROUGHT HIM TO THIS TERRIBLE,
19 TERRIBLE SITUATION AND THIS TERRIBLE, TERRIBLE
20 ACT.

21 Q. I HAVE NOTHING FURTHER, YOUR HONOR.

22 RECROSS EXAMINATION BY

23 MR. BRACKETT:

24 Q. ONE QUESTION. JIMMY ROBERTSON REPORTED ALL OF
25 THAT INFORMATION TO YOU ABOUT THE BEATINGS,

DR. JONATHAN H. PINCUS - RECROSS BY MR. BRACKETT

2530

RIGHT?

A. YES.

Q. THANK YOU.

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

MR. HANCOCK: THE DEFENDANT WOULD CALL DR. JAMES EVANS, YOUR HONOR.

THE COURT: ALL RIGHT. IF YOU WILL STEP UP HERE AND PLACE YOUR LEFT HAND ON THIS BIBLE AND RAISE YOUR RIGHT.

MR. BRACKETT: MAY IT PLEASE THE COURT, YOUR HONOR, I DON'T WANT TO BREAK COURT AGAIN BUT I HAVEN'T RECEIVED THE UNDERLYING DATA AND SO FORTH FROM DR. EVANS EITHER. IF I COULD GET THAT, I WILL TRY TO EXPEDITE MATTERS.

MR. HANCOCK: YOUR HONOR, THERE IS A TECHNICALITY THAT WE'VE RUN INTO BECAUSE DR. EVANS FEELS THAT HE CAN ONLY RELEASE THIS TO A PSYCHOLOGIST. WE'VE RUN INTO THAT AND THAT'S BEEN A PROBLEM. WE WANTED TO RELEASE IT, I BELIEVE, TO DR. MCKEE.

THE COURT: IF HE'S GOING TO TESTIFY AT ALL, HE'S GOING TO GIVE IT TO THE PROSECUTION.

MR. HANCOCK: THANK YOU, SIR.

THE COURT: IF HE DOESN'T WANT TO, DON'T TESTIFY.

MR. HANCOCK: YES, SIR. YOUR HONOR, WE WOULD ASK

2531

1 FOR A BRIEF RECESS SO THAT WE CAN COPY IT AND GIVE IT TO
2 THEM. I'M SORRY THAT IT HASN'T BEEN PROVIDED. I THOUGHT
3 IT HAD BEEN, BUT WE WOULD JUST LIKE A FEW MINUTES TO MAKE
4 SURE THAT THEY HAVE GOT ALL THE UNDERLYING DATA OF EVERY
5 EXPERT. YOU MAY WANT TO BREAK FOR LUNCH.

6 THE COURT: I DON'T THINK WE'RE READY FOR LUNCH
7 YET.

8 MR. HANCOCK: WE SHOULD BE ABLE TO DO IT IN ABOUT
9 10 MINUTES.

10 THE COURT: DO YOU HAVE ANOTHER WITNESS WHO CAN
11 TESTIFY WHILE Y'ALL ARE PREPARING THIS?

12 MR. HANCOCK: EVERY WITNESS, YOUR HONOR, IS LONG
13 THAT WE HAVE. THE OTHER WITNESSES WOULD GO PAST LUNCH,
14 WELL PAST.

15 THE COURT: I'LL LET THE JURY GO TO THE JURY ROOM
16 FOR ABOUT FIVE MINUTES.

17 IN CAMERA:

18 THE COURT: DOES THE SOLICITOR'S OFFICE FEEL THEY
19 NEED ANY FURTHER HELP IN GETTING WHAT THEY ARE ENTITLED TO?
20 IF SO, TELL ME NOW SO THAT WE CAN GET IT ALL STRAIGHT.

21 MR. BRACKETT: I SAID THAT LAST TIME. IF I CAN
22 GET ALL OF THE INFORMATION FROM ANY EXPERT THEY HAVE WHO IS
23 GOING TO TESTIFY, I WILL HAVE A CHANCE TO REVIEW THE OTHER
24 TWO OVER LUNCH AND THAT WILL BE PLENTY OF TIME.

25 I'M NOT ASKING FOR AN INORDINATE AMOUNT OF TIME,

1 FIVE MINUTES IS ALL I NEED, BUT I NEED THE MATERIALS.

2 MR. HANCOCK: WE'RE DOING EVERYTHING WE CAN TO
3 PROVIDE IT, YOUR HONOR. I'M SORRY THAT IT IS TAKING THE
4 COURT'S TIME.

5 THE COURT: YOU'RE DOING EVERYTHING YOU CAN. DO
6 YOU NEED ANY FURTHER ORDER FROM THE COURT; DO YOU NEED ANY
7 FURTHER INTERVENTION OF THE COURT? IF YOU DO, LET'S BRING
8 THOSE WITNESSES IN NOW AND ORDER THEM TO DO WHAT THEY FEEL
9 LIKE THEY CAN'T DO OR WE CAN DETERMINE NOW WHETHER THEY ARE
0 GOING TO TESTIFY OR NOT. LET'S DON'T DO IT ONE AT A TIME.
1 LET'S DO IT AND GET IT OVER WITH.

2 WHO IS YOUR OTHER EXPERTS THAT WILL TESTIFY
3 TODAY?

4 MR. HANCOCK: YOUR HONOR, IT SHOULD BE DR. JAMES
5 EVANS, DR. WILLIAM MORTON -- DR. ALEXANDER MORTON, AND TONI
6 CASCIO, DR. TONI CASCIO.

7 THE COURT: HAVE YOU PROVIDED DR. MORTON'S
8 UNDERLYING NOTES TO THE SOLICITOR?

9 MR. BRACKETT: WE DON'T HAVE ANYTHING, YOUR
0 HONOR, FROM ANY OF THE THREE ---

1 THE COURT: WELL, I'M ASKING HIM.

2 MR. BRACKETT: OH, I'M SORRY.

3 MR. HANCOCK: IF WE HAVEN'T, WE WILL GET THEM,
4 YOUR HONOR.

5 THE COURT: WELL, THAT'S THE QUESTION. DO YOU

2533

1 THINK HE'S GOING TO SAY HE CAN'T GIVE THEM? YOU BETTER
2 FIND OUT NOW.

3 MR. HANCOCK: NO, SIR.

4 THE COURT: DR. TONI CASCIO, HAVE YOU PROVIDED
5 DR. CASCIO'S NOTES TO THE PROSECUTION?

6 MR. HANCOCK: I DON'T BELIEVE SO, SIR.

7 THE COURT: DO YOU THINK HE'S GOING TO HAVE A
8 PROBLEM DOING IT?

9 MR. HANCOCK: SHE.

10 THE COURT: SHE.

11 MR. HANCOCK: NO, SIR, I DON'T THINK SO.

12 THE COURT: WELL, LET'S JUST BE AT EASE.

13 MR. HANCOCK: THERE MAY BE ONE OTHER WITNESS, IT
14 MIGHT BE COUNSELOR SKIP MEYER; I BELIEVE ALL OF THAT
15 INFORMATION, THERE ARE VOLUMES OF IT, BUT I THINK THEY'VE
16 GOT ALL OF THAT, JUDGE.

17 MR. BRACKETT: YES.

18 MR. HANCOCK: YOUR HONOR, IF THERE IS RAW DATA TO
19 BE EXCHANGED, WE SHOULD EXCHANGE IT BETWEEN EXPERTS AND
20 THAT'S WHAT WE'RE TRYING TO DO, I BELIEVE.

21 MR. BRACKETT: I INTEND TO CROSS EXAMINE HIM.

22 THE COURT: YES, I THINK THEY'VE GOT A RIGHT TO
23 HAVE IT TO CROSS EXAMINE.

24 AFTER THE RECESS IN CAMERA:

25 THE COURT: LUNCH IS GOING TO BE HERE AT 1:00.

2534

1 WE CAN GO AHEAD AND BREAK FOR LUNCH. I DON'T SEE THAT WE
2 NEED TO BRING THE JURY IN AND TELL THEM THAT IF I CAN JUST
3 SEND WORD. IS THERE ANY OBJECTION TO THAT?

4 MR. POPE: NO, SIR, YOUR HONOR, WHATEVER THE
5 COURT DEEMS APPROPRIATE. IT MIGHT BE THAT WE COULD LET
6 THEM DO THE DIRECT AND HOPEFULLY BY THEN WE COULD HAVE THE
7 DATA AND WE COULD HAVE THE CROSS AFTER LUNCH.

8 THE COURT: WELL, IT'S 12:30, WE'LL BREAK FOR
9 LUNCH UNTIL 1:30. IS THERE ANY OBJECTION TO ME JUST
0 SENDING WORD IN BY THE SECURITY PEOPLE AS OPPOSED TO
1 BRINGING THE JURY IN AND TELLING THEM THAT?

2 MR. POPE: NONE FROM THE STATE, YOUR HONOR.

3 MR. BOYD: NONE, YOUR HONOR.

4 THE COURT: ALL RIGHT, WE'LL TAKE A BREAK UNTIL
5 1:30. IT MIGHT BE A FEW MINUTES AFTER 1:30 BECAUSE I'M
6 GOING TO MAKE SURE THEY'VE HAD TIME TO EAT. AND I'M GOING
7 TO ASK AS SINCERELY AS I CAN THAT WE MOVE A LITTLE BIT MORE
8 RAPIDLY AND TAKE CARE OF ALL OF THIS. YOU SHOULD AT THIS
9 POINT KNOW WHAT'S COMING. YOU'VE BEEN WORKING ON THIS CASE
0 SINCE SHORTLY AFTER NOVEMBER OR AT LEAST JANUARY A YEAR AGO
1 AND TO HAVE THESE KIND OF BOG DOWNS, IT'S NOT FAIR TO THE
2 JURY FOR ONE THING. ALL RIGHT, 1:30.

3 AFTER THE LUNCHEON RECESS IN CAMERA:

4 MR. POPE: YOUR HONOR, WE'RE STILL WAITING ON THE
5 NOTES FROM MS. CASCIO.

2535

1 **THE COURT:** CAN WE GO AHEAD AND START WITH DR.
2 EVANS? MR. BRACKETT, SINCE YOU'RE DOING THE CROSS
3 EXAMINATION, ARE YOU READY TO GO FORWARD WITH DR. EVANS?

4 **MR. BRACKETT:** YES, SIR.

5 **THE COURT:** BRING IN THE JURY.

6 **IN THE PRESENCE OF THE JURY:**

7 **THE COURT:** CALL YOUR NEXT WITNESS.

8 **MR. HANCOCK:** WE WOULD CALL TO THE STAND DR.
9 JAMES EVANS.

10 DR. JAMES EVANS, BEING FIRST DULY SWORN,
11 TESTIFIED AS FOLLOWS:

12 DIRECT EXAMINATION BY

13 **MR. HANCOCK:**

14 Q. DR. EVANS, I HAVE NOTICED IN YOUR COMMUNICATION
15 THAT YOU ARE FAIRLY SOFT SPOKEN. IF YOU WILL,
16 SPEAK INTO THE MICROPHONE AND SPEAK LOUD ENOUGH
17 SO THAT YOU CAN BE HEARD ALL THE WAY BACK TO
18 THIS CAMERA MAN BACK HERE.

19 A. I'LL TRY.

20 Q. THANK YOU, SIR. IF YOUR VOICE STARTS GETTING
21 LOW, I'LL TRY TO REMIND YOU. DR. EVANS, CAN YOU
22 SEE THE ENTIRE JURY?

23 A. YES, I DO.

24 Q. PLEASE STATE YOUR FULL NAME FOR THE RECORD AND
25 SPELL YOUR LAST NAME, SIR.

DR. JAMES EVANS - DIRECT BY MR. HANCOCK

2536

1 A. MY NAME IS JAMES EVANS, E-V-A-N-S.

2 Q. AND WHERE ARE YOU PRESENTLY EMPLOYED?

3 A. I'M EMPLOYED AT THE UNIVERSITY OF SOUTH CAROLINA
4 IN COLUMBIA.

5 Q. AND HOW LONG HAVE YOU BEEN EMPLOYED THERE?

6 A. I'VE BEEN THERE FOR 27 YEARS.

7 Q. AND IN WHAT CAPACITY?

8 A. I'M AN ASSOCIATE PROFESSOR IN THE DEPARTMENT OF
9 PSYCHOLOGY.

0 Q. ASSOCIATE PROFESSOR?

1 A. THAT'S TRUE.

2 Q. AND HOW LONG HAVE YOU BEEN AN ASSOCIATE
3 PROFESSOR AT THE UNIVERSITY OF SOUTH CAROLINA?

4 A. WELL, ASSOCIATE PROFESSOR I GUESS 15 YEARS. I'M
5 NOT SURE OF THE EXACT YEAR.

6 Q. PLEASE RELATE TO ME YOUR EDUCATIONAL BACKGROUND,
7 SIR.

8 A. I HAVE A DEGREE IN EDUCATION FROM CLARION
9 COLLEGE IN PENNSYLVANIA; I HAVE A MASTERS DEGREE
0 IN SCHOOL PSYCHOLOGY FROM KENT STATE UNIVERSITY;
1 I HAVE A PHD IN PSYCHOLOGY FROM PEABODY COLLEGE
2 WHICH IS PART OF VANDERBILT UNIVERSITY NOW. I
3 HAVE POSTDOCTORAL WORK IN NEUROPSYCHOLOGY AT THE
4 UNIVERSITY OF CALIFORNIA IN SAN FRANCISCO; AT
5 THE MEDICAL COLLEGE OF GEORGIA AND AT THE

DR. JAMES EVANS - DIRECT BY MR. HANCOCK

2537

1 UNIVERSITY OF GEORGIA.

2 Q. COULD YOU IDENTIFY THIS DOCUMENT, SIR?

3 A. THAT'S MY VITAE.

4 Q. AND WHAT IS A VITAE?

5 A. A RESUME, A LIST OF MY EDUCATION, PUBLICATIONS,
6 EXPERIENCE.

7 Q. ANY OBJECTION?

8 MR. BRACKETT: NONE WHATSOEVER.

9 MR. HANCOCK: WE MOVE TO INTRODUCE THIS INTO
10 EVIDENCE, I BELIEVE WITHOUT OBJECTION, YOUR HONOR.

11 THE COURT: IT IS RECEIVED WITHOUT OBJECTION.

12 (THE CURRICULUM VITAE OF DR. EVANS WAS MARKED IN EVIDENCE
13 AS DEFENDANT'S EXHIBIT 3 WITHOUT OBJECTION.)

14 Q. ON WHAT YOU CALL VITAE, I BELIEVE, IS THAT THE
15 COMMON REFERENCE AND TERM?

16 A. YES, SIR.

17 Q. ON THIS VITAE YOU INDICATE THAT YOU HAVE WRITTEN
18 SEVERAL ARTICLES AND I REFER TO THE MIDDLE OF
19 PAGE 5 AS YOU HAVE IT, AND WHAT ARE THOSE
20 ARTICLES ON, SIR, AND I BEGIN WITH THE FIRST ONE
21 UNDER THE HEADING "GENERAL ARTICLES".

22 A. THE TITLE IS "QUANTITATIVE EEG FINDINGS IN A
23 GROUP OF DEATH ROW INMATES", ANOTHER ONE IS
24 "QUANTITATIVE EEG FINDINGS AMONG MEN CONVICTED
25 OF MURDER"; THE OTHER ONE IS "QUANTITATIVE EEG

DR. JAMES EVANS - DIRECT BY MR. HANCOCK

2538

1 ABNORMALITIES IN A SAMPLE OF DYSLLECTIC PERSONS";
2 ONE IS "NEUROPSYCHOLOGICAL AND ENVIRONMENTAL
3 CHARACTERISTICS OF EARLY READERS" ---

4 Q. ARE THOSE AN EXAMPLE OF SOME OF THE ARTICLES
5 THAT YOU SUBMITTED TO JOURNALS?

6 A. THESE ARE ONES THAT WERE PUBLISHED.

7 Q. AND IN WHAT JOURNALS WERE THEY PUBLISHED, SIR?

8 A. JOURNAL OF NEUROTHERAPY. EXCUSE ME, I'D LIKE TO
9 SEE THAT AGAIN BECAUSE I'VE FORGOTTEN EXACTLY
0 WHICH ONE.

1 Q. YES, SIR.

2 A. THE JOURNAL OF NEUROTHERAPY; ARCHIVES OF
3 CLINICAL NEUROPSYCHOLOGY; JOURNAL OF PSYCHO
4 EDUCATIONAL ASSESSMENT; JOURNAL OF SCHOOL
5 PSYCHOLOGY; INTERNATIONAL JOURNAL OF CLINICAL
6 NEUROPSYCHOLOGY; JOURNAL OF CLINICAL PSYCHOLOGY.

7 Q. AND ARE THOSE PUBLICATIONS THAT ARE GENERALLY
8 RECOGNIZED IN YOUR FIELDS?

9 A. YES. THE JOURNAL OF NEUROTHERAPY IS NEW, IT'S
0 ONLY BEEN OUT A COUPLE OF YEARS. THE OTHERS ARE
1 RECOGNIZED AND BEEN OUT FOR A LONG TIME.

2 Q. AND ARE THEY USED IN YOUR PARTICULAR FIELD AND
3 EXPERTISE?

4 A. YES, SIR.

5 Q. ARE THEY WIDELY USED, SIR?

DR. JAMES EVANS - DIRECT BY MR. HANCOCK

2539

- 1 A. SOME OF THEM ARE, SOME AREN'T.
- 2 Q. WHICH ONES ARE AND WHICH ONES ARE NOT; DO YOU
- 3 KNOW?
- 4 A. THE JOURNAL OF NEUROTHERAPY, AS I SAID, IS
- 5 RATHER NEW AND IT IS NOT AS WIDESPREAD
- 6 CIRCULATION. THE ARCHIVES OF CLINICAL
- 7 NEUROPSYCHOLOGY HAS BEEN AROUND FOR A LONG TIME,
- 8 IT'S WIDE SPREAD. THE JOURNAL OF CLINICAL
- 9 PSYCHOLOGY HAS BEEN AROUND FOR A LONG TIME, VERY
- 10 WIDE SPREAD USAGE.
- 11 Q. ALL RIGHT, SIR. DO YOU HAVE ANY EXPERIENCE IN
- 12 THE FIELD OF NEUROPSYCHOLOGY?
- 13 A. YES, SIR.
- 14 Q. AND HAVE YOU EVER TAUGHT NEUROPSYCHOLOGY?
- 15 A. I TEACH A COURSE CALLED THE NEUROPSYCHOLOGY OF
- 16 LEARNING DISABILITIES PART TIME. I DO IT ABOUT
- 17 EVERY OTHER YEAR, I HAVE A COURSE ON THAT.
- 18 Q. REALLY WHAT IS NEUROPSYCHOLOGY. PLEASE EXPLAIN
- 19 IT TO US.
- 20 A. NEUROPSYCHOLOGY IS THE STUDY OF BRAIN BEHAVIOR
- 21 RELATIONSHIPS; AT LEAST THAT'S THE VERY BROAD
- 22 WAY OF LOOKING AT IT. CLINICAL NEUROPSYCHOLOGY
- 23 WHICH IS WHAT WE'RE REFERRING TO HERE TODAY,
- 24 CLINICAL NEUROPSYCHOLOGY HAS TO DO WITH THE
- 25 STUDY OF VARIATIONS IN BEHAVIOR THAT ARE DUE TO

DR. JAMES EVANS - DIRECT BY MR. HANCOCK

2540

1 BRAIN DIFFERENCES.

2 LIKE ALZHEIMERS WOULD BE AN EXAMPLE OF A BRAIN
3 DIFFERENCE LEADING TO MAJOR CHANGES IN BEHAVIOR.
4 BUT SO CAN HEAD INJURIES AND OTHER BRAIN CHANGES
5 LEAD TO ABNORMAL BEHAVIORS. AND A STUDY OF THAT
6 IS KNOWN AS CLINICAL NEUROPSYCHOLOGY.

7 MR. HANCOCK: YOUR HONOR, WE WOULD MOVE TO HAVE
8 HIM QUALIFIED AS AN EXPERT IN THE FIELD OF NEUROPSYCHOLOGY
9 AND PSYCHIATRY.

0 MR. BRACKETT: NO OBJECTION.

1 THE COURT: I FIND HE IS SO QUALIFIED. YOU MAY
2 CONTINUE.

3 MR. BRACKETT: PARDON ME, YOUR HONOR, JUST FOR
4 CLARIFICATION, CO-COUNSEL DIDN'T HEAR, DID HE SAY
5 NEUROPSYCHOLOGY, NOT PSYCHIATRY?

6 MR. HANCOCK: YES, SIR.

7 THE COURT: OKAY, THAT'S FINE.

8 Q. NOW, HAVE YOU EVER HAD THE OPPORTUNITY TO
9 EXAMINE JIMMY ROBERTSON?

0 A. YES, SIR, I DID IN SEPTEMBER OF 1998.

1 Q. AND WHAT, IF ANY, TESTS DID YOU GIVE HIM?

2 A. I ADMINISTERED THE REITAN NEUROPSYCHOLOGICAL
3 TEST BATTERY; THAT IS, I ADMINISTERED SEVERAL OF
4 THE SUB-TEST FROM THE REITAN NEUROPSYCHOLOGICAL
5 TEST BATTERY.

DR. JAMES EVANS - DIRECT BY MR. HANCOCK

2541

1 Q. IS THAT A TEST WIDELY USED IN YOUR FIELD?

2 A. THAT'S THE MOST COMMONLY USED NEUROPSYCHOLOGICAL
3 TEST BATTERY. ALSO PART OF THAT INCLUDES AN
4 INTELLIGENCE TEST, SO I ADMINISTERED THE
5 WECHSLER ADULT INTELLIGENCE SCALE. ALSO I
6 INCLUDED SOME OTHER NEUROPSYCHOLOGICAL TESTS
7 THAT ARE NOT PART OF THE REITAN BATTERY. I ALSO
8 DID A CLINICAL INTERVIEW AND I ALSO USED A
9 PROCEDURE KNOWN AS QUANTITATIVE EEG.

10 Q. COULD YOU EXPLAIN THE PROCEDURE QUANTITATIVE
11 EEG?

12 A. WELL, THE QUANTITATIVE EEG IS VERY MUCH LIKE A
13 REGULAR EEG WHERE THE BRAIN ELECTRICAL ACTIVITY
14 IS SAMPLED THROUGH ELECTRODES PLACED ON THE
15 SCALP. SPECIFICALLY I USE THIS CAP WHICH YOU
16 PLACE ON THE SUBJECT'S HEAD AND THESE
17 ELECTRODES, ALL THE WHITE PARTS THERE ARE THE
18 ELECTRODES.

19 THIS THEN WILL DETECT THE BRAIN ELECTRICAL
20 ACTIVITY WHICH IS UNDER THAT SCALP SITE, AND
21 FEED IT INTO A MACHINE WHICH WILL GIVE A VISUAL
22 DISPLAY OF THE WAVE FORMS OF THE EEG, VERY MUCH
23 LIKE AN EKG ONLY IN THIS CASE IT'S BRAIN
24 ELECTRICAL ACTIVITY INSTEAD OF HEART ACTIVITY.
25 TRADITIONALLY IN THE USUAL EEG A NEUROLOGIST

DR. JAMES EVANS - DIRECT BY MR. HANCOCK

2542

1 WILL LOOK AT THOSE WAVY LINES COMING FROM THE
2 DIFFERENT SCALP SITES AND WILL MAKE A DIAGNOSIS
3 BASED ON HIS OR HER EXPERIENCE WITH IT.

4 WITH THE QUANTITATIVE EEG, THE SAME THING,
5 YOU'RE MEASURING THE BRAIN ELECTRICAL ACTIVITY
6 EXCEPT THIS TIME IT'S ULTIMATELY FED INTO A
7 COMPUTER WHERE THE COMPUTER WILL ANALYZE IT AND
8 IT CAN ANALYZE MANY, MANY MORE ASPECTS OF THE
9 EEG THAN THE HUMAN EYE COULD DO.

0 FURTHERMORE, THE REASON THEY CALL IT
1 QUANTITATIVE IS THAT AS IT ANALYZES THEM, IT
2 THEN ASSIGNS A NUMBER, LIKE A SCORE, TO EACH ONE
3 OF EIGHT HUNDRED AND SOME EEG ASPECTS, EIGHT
4 HUNDRED AND SOME ASPECTS OF THE EEG, IT WILL
5 ASSIGN A NUMBER TO IT, HENCE THE TERM
6 QUANTITATIVE.

7 A. FURTHERMORE ---

8 Q. DOCTOR, IF I MAY STOP YOU SO THAT WE CAN EXPLAIN
9 THIS. NOW, YOU INDICATED THAT YOU GET THESE
0 ANALYSES AND THEY GO INTO A COMPUTER; IS THAT
1 CORRECT?

2 A. CORRECT.

3 Q. AND IS THAT COMPUTER -- DO YOU HAVE A PROGRAM
4 FOR THAT COMPUTER?

5 A. YES, SIR.

DR. JAMES EVANS - DIRECT BY MR. HANCOCK

2543

1 Q. AND THAT IS YOUR COMPUTER DATABASE; IS THAT
2 CORRECT?

3 A. YES AND -- WELL, AFTER THE SCORES ARE
4 CALCULATED, IT'S THEN FED INTO THE DATABASE AND
5 IT'S COMPARED AGAINST OTHER PEOPLE'S EEG WHO
6 HAVE NORMAL BRAIN FUNCTIONING AND ARE OF THE
7 SAME AGE AS THE CLIENT. AND THEN IT GIVES YOU A
8 PRINTOUT SHOWING WHERE, IF ANY, THERE ARE
9 ABNORMALITIES ON ANY OF THOSE EIGHTY HUNDRED AND
10 SOME MEASURES. AND IT WILL SHOW -- IT ALSO
11 GIVES A PRINTOUT OF THE HEAD FROM THE TOP DOWN,
12 LIKE LOOKING DOWN ON THE HEAD AND IT SHOWS WHERE
13 THERE ARE ABNORMALITIES.

14 Q. OKAY, WELL LET ME ASK YOU ABOUT THAT DATABASE.
15 YOU DIDN'T WRITE THAT DATABASE, DID YOU?

16 A. NO, IT'S A ROBERT THATCHER DATABASE.

17 Q. AND IS IT CONSIDERED RELIABLE IN YOUR FIELD,
18 SIR?

19 A. YES, SIR.

20 Q. NOW, YOU ARE TESTIFYING AS TO A Q.E.E.G.; DO YOU
21 HAVE ANY SPECIAL TRAINING TO DO THIS?

22 A. I STARTED DOING EEG'S THAT WERE, WE CALL
23 QUANTIFIED EEG'S BACK IN THE '70'S WHEN I WAS AT
24 THE UNIVERSITY OF CALIFORNIA AT SAN FRANCISCO.
25 IT WAS SORT OF IN ITS INFANCY THEN. AND THEN

DR. JAMES EVANS - DIRECT BY MR. HANCOCK

2544

1 AROUND ABOUT THE LAST OF THE '80'S IT STARTED
2 BECOMING MORE POPULAR AND I STARTED TAKING
3 WEEKEND AND DURING WEEK TRAINING COURSES IN IT
4 AND DEVELOPED THE SKILLS IN THAT MANNER AND
5 BECAME CERTIFIED IN OUR ASSOCIATION AS A
6 CERTIFIED Q.E.E.G. TECHNICIAN.

7 Q. NOW, HAVE YOU HAD ANY SPECIALTY WITHIN YOUR
8 SPECIALTY OF THE Q.E.E.G.? AND I REFER TO YOUR
9 ARTICLE OF 1997 ON YOUR CURRICULUM VITAE; I
0 REFER TO PAGE 5, THE FIRST GENERAL PUBLISHED
1 ARTICLES.

2 A. THE PUBLISHED ARTICLE "QUANTITATIVE EEG FINDINGS
3 IN A GROUP OF DEATH ROW INMATES"?

4 Q. HAVE YOU STUDIED DEATH ROW INMATES?

5 A. OH, YES, I HAVE ADMINISTERED NEUROPSYCHOLOGICAL
6 TEST BATTERIES TO PROBABLY A THIRD OF THE
7 INMATES IN SOUTH CAROLINA'S DEATH ROW.

8 Q. OKAY. NOW LET ME ASK YOU, SIR, HOW MANY TRIALS
9 HAVE YOU TESTIFIED IN?

0 A. ROUGHLY 30.

1 Q. HAVE YOU TESTIFIED BOTH FOR THE DEFENSE AND THE
2 PROSECUTION?

3 A. NO, ALWAYS FOR THE DEFENSE.

4 Q. NOW, YOU INDICATED THAT YOU PERFORMED
5 NEUROPSYCHOLOGICAL PROCEDURES ON JIMMY

DR. JAMES EVANS - DIRECT BY MR. HANCOCK

2545

1 ROBERTSON; IS THAT CORRECT?

2 A. YES, SIR.

3 Q. AND HAVE YOU GIVEN US THAT DATE?

4 A. SEPTEMBER 23RD, I BELIEVE, OF 1998.

5 Q. AND HOW LONG DID YOU SPEND WITH JIMMY?

6 A. APPROXIMATELY SIX HOURS.

7 Q. IS THAT THE TIME REQUIRED TO DO YOUR PROCEDURES?

8 A. YES, SIR.

9 Q. DID YOU HAVE A CHANCE TO OBSERVE HIM AND TALK
10 WITH HIM DURING THAT PERIOD OF TIME?

11 A. YES, SIR.

12 Q. DID YOU RECEIVE ANY BACKGROUND INFORMATION ON
13 HIM OR ANYTHING OF THAT NATURE?

14 A. I HAVE REVIEWED CONSIDERABLE BACKGROUND
15 INFORMATION ON MR. ROBERTSON.

16 Q. WHAT INFORMATION HAS BEEN PROVIDED FOR YOU, SIR?
17 EXCUSE ME, AS A BACKGROUND FOR YOUR TESTING AND
18 YOUR FINDINGS.

19 A. I HAVE READ REPORTS OF TWO DIFFERENT
20 NEUROLOGIST, DR. JONATHAN PINCUS, AND DR.
21 BRANNON. I'VE READ PSYCHOLOGICAL REPORTS, BRIEF
22 ONES, FROM DR. MCKEE AND, I BELIEVE, DR.
23 ROTHSTEIN AT HALL INSTITUTE. I HAVE READ SOCIAL
24 BACKGROUND INFORMATION FURNISHED BY DR. CASCIO
25 AND I'VE READ SOME INFORMATION FROM A COUNSELOR,

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2546

1 I CAN'T REMEMBER, NANCY, I CAN'T REMEMBER HER
2 LAST NAME, WHO HAD SEEN HIM IN COUNSELING
3 SESSIONS, I BELIEVE WHILE HE WAS INCARCERATED.

4 Q. NOW, YOU DID CERTAIN PROCEDURES WITH JIMMY?

5 A. YES, SIR.

6 Q. NOW, WAS THE Q.E.E.G. THAT YOU HAVE DISCUSSED,
7 WAS THAT THE ONLY TEST THAT YOU RELIED ON?

8 A. NO. Q.E.E.G. I DON'T RELY ON AS THE MAJOR
9 DIAGNOSTIC INSTRUMENT. I USE THE MORE, SAY,
10 STANDARDS THAT HAVE BEEN USED FOR YEARS,
11 NEUROPSYCHOLOGICAL TEST BATTERY OF REITAN AND
12 THE BACKGROUND INFORMATION AND THE INFORMATION
13 FROM NEUROLOGICAL REPORTS AS THE PRIMARY MEANS
14 OF COMING UP WITH A DIAGNOSIS REGARDING BRAIN
15 DYSFUNCTION. I LIKE TO HAVE THE Q.E.E.G. AS A
16 SUPPORT SOMETIMES TO SEE DID IT SUPPORT IT. IF
17 IT DID, THEN THAT GIVES ME EVEN MORE CONFIDENCE
18 THAT I'M RIGHT IN MY DIAGNOSIS.

19 Q. ALL RIGHT, SIR, AND YOU SAY THE REITAN TEST
20 BATTERY, WHAT DID THE REITAN TEST BATTERY SHOW
21 TO YOU, SIR, IF ANYTHING?

22 A. WELL, MOST PEOPLE CONSIDER THE INTELLIGENCE TEST
23 AS A PART OF IT. REITAN'S RECOMMENDATION IS
24 THAT YOU NEED TO GIVE AN INTELLIGENCE TEST FIRST
25 AND THE INTELLIGENCE TEST THAT WOULD BE USED

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2547

1 TODAY IS THE WECHSLER ADULT INTELLIGENCE SCALE
2 THREE WHICH ---

3 Q. ARE YOU REFERRING TO THAT NOW, SIR?

4 A. YES, SIR, I'M REFERRING TO THAT NOW. DO YOU
5 WANT ME TO GO THROUGH THE RESULTS THAT WERE
6 MEANINGFUL FROM EACH TEST?

7 Q. YES, SIR.

8 A. ON THE SCALE THREE WHICH IS THE FIRST STEP IN
9 THE REITAN BATTERY IN PREPARATION FOR GIVING THE
10 REITAN BATTERY, MR. ROBERTSON SCORED AN I.Q. OF
11 112 FOR A TOTAL I.Q. HIS VERBAL -- THIS I.Q.
12 TEST IS DIVIDED INTO TWO GENERAL SECTIONS; ONE
13 IS A VERBAL SECTION AND ONE IS, THEY CALL IT A
14 PERFORMANCE SECTION BUT IT'S CLEARLY MORE NON-
15 VERBAL AS A NON-VERBAL SECTION. SO, I WILL
16 REFER TO IT AS THE VERBAL SECTION AND THE NON-
17 VERBAL SECTION.

18 ON THE VERBAL SECTION HE HAD AN INTELLIGENCE
19 QUOTIENT OF 118. NOW THIS IS GETTING CLOSE TO
20 THE SUPERIOR RANGE, IT'S ABOVE AVERAGE.

21 ON THE NON-VERBAL SECTION HE HAD 102 WHICH IS
22 PERFECTLY AVERAGE.

23 YOU MORE OR LESS AVERAGE THOSE TOGETHER TO GET
24 112 WHICH WAS THE TOTAL.

25 INTERESTINGLY, PERSONS WHO HAVE THAT BIG A

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2548

1 DISCREPANCY BETWEEN THE VERBAL AND THE NON-
2 VERBAL, THE 16 POINTS IN THIS CASE BECOME OF
3 INTEREST TO NEUROPSYCHOLOGIST BECAUSE THAT
4 SUGGESTS THAT THEY MAY HAVE SOME BRAIN
5 DYSFUNCTION. BECAUSE THE VERBAL TEST IN A
6 RIGHT-HANDED ADULT ARE BELIEVED TO REFLECT MORE
7 LEFT HEMISPHERE BRAIN FUNCTION. AND A NON-
8 VERBAL TEST IN A RIGHT-HANDED ADULT ARE
9 CONSIDERED TO REFLECT MORE RIGHT HEMISPHERE
0 DYSFUNCTION.

1 SO, THE 16 POINT DIFFERENCE WOULD SUGGEST TO ME
2 THAT HE DOES IN FACT HAVE A RIGHT HEMISPHERE
3 DYSFUNCTION RELATIVE TO THE LEFT. AND THAT IS
4 ONE IMPORTANT PIECE OF INFORMATION I GOT FROM
5 THE WECHSLER.

6 Q. THAT DOESN'T SHOW YOU THAT THERE IS ANY DISEASE
7 OF THE BRAIN, ONLY THAT THERE IS SOME -- IS IT
8 SOME DYSFUNCTION YOU SAY? EXPLAIN THAT, SIR.

9 A. YES, THAT THE RIGHT SIDE WAS NOT FUNCTIONING AS
0 EFFICIENTLY AS THE LEFT SIDE.

1 Q. AND SHOULD THE RIGHT SIDE FUNCTION ---

2 A. THERE SHOULDN'T BE THAT BIG A DISCREPANCY. THAT
3 IS JUST ONE PIECE OF EVIDENCE IN A PATTERN THAT
4 I'LL BE GETTING AT, BUT ALONE THAT WOULDN'T TELL
5 A WHOLE LOT. IT MIGHT, HOWEVER, WAVE A FLAG TO

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2549

1 SAY, WAIT, LET'S LOOK AND SEE IF WE CAN FIND ANY
2 OTHER EVIDENCE FOR RIGHT HEMISPHERE DYSFUNCTION.

3 Q. AND DID YOU DO SO IN YOUR PROCEDURES WITH JIMMY
4 ROBERTSON?

5 A. YES.

6 Q. OKAY AND WHAT WAS YOUR NEXT FINDING OR PROCEDURE
7 THAT WAS SIGNIFICANT TO YOU, SIR?

8 A. WELL, FROM THE WECHSLER I NOTED THAT DESPITE
9 HIS, I MIGHT EVEN CALL IT BLAZING SPEED IN
10 MATHEMATICS, HE WAS VERY FAST IN THE MATHEMATICS
11 SUB-TEST ON THIS WECHSLER AND IN FACT SCORED AT
12 THE 95 PERCENTILE, BUT INTERESTINGLY HE SCORED
13 ON THE LOW AVERAGE RANGE ON ONE THAT REQUIRES
14 ABSTRACT VERBAL REASONING.

15 NOW, FOR EXAMPLE, ON THAT A QUESTION IS HOW ARE
16 A POEM AND A STATUE ALIKE. NOW REMEMBERING THAT
17 THIS MAN IS QUITE INTELLIGENT OTHERWISE BUT HE
18 RESPONDS POEMS ARE WRITTEN UP AND DOWN AND
19 STATUES STAND UP AND DOWN.

20 NOW, THAT'S A VERY CONCRETE WAY OF LOOKING AT IT
21 AND IT'S NOT, THERE'S SOMETHING WRONG WITH THAT,
22 IT'S NOT THE NORMAL WAY TO RESPOND. SO, THAT'S
23 JUST AN EXAMPLE OF SEVERAL THAT GOT HIM THAT LOW
24 AVERAGE SCORE.

25 Q. HOW CAN YOU SAY IT'S NOT A NORMAL WAY TO

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2550

1 RESPOND. ON WHAT DO YOU BASE THAT, SIR?

2 A. A PERSON WITH HIS OVERALL I.Q. SHOULD HAVE
3 RESPONDED WITH SOMETHING LIKE THEY ARE ART WORK
4 OR WORKS OF ART, ABSTRACTION RATHER THAN SO
5 CONCRETE.

6 Q. YES, SIR.

7 A. AND THIS WAS JUST ONE EXAMPLE. BUT IT LED ME TO
8 BEGIN TO WONDER AT THAT TIME COULD THERE BE
9 FRONTAL LOBE DYSFUNCTION, TOO, BECAUSE THE
0 IMPAIRMENT OF WHAT PEOPLE WOULD CALL THE
1 ABSTRACT ATTITUDE IS OFTEN RELATED TO FRONTAL
2 LOBE DYSFUNCTION.

3 AND I LATER GAVE HIM ANOTHER TEST CALLED THE
4 PROVERBS TEST IN WHICH HE WAS TO EXPLAIN
5 PROVERBS. AND HE CONTINUED ON THAT ONE TO HAVE
6 TROUBLE EXPLAINING PROVERBS.

7 I CAN GIVE YOU SOME EXAMPLES OF THAT IF YOU
8 WANT.

9 Q. YOU'RE SAYING PROVERBS, WERE THEY POSITED TO HIM
0 AND DOES HE HAVE TO INTERPRET THEM; IS THAT IT,
1 SIR?

2 A. HE HAS TO READ A -- I WILL GET THE TEST IF YOU
3 WANT ME TO, TO SHOW YOU WHAT I MEAN?

4 Q. YES, SIR.

5 A. ON THAT PARTICULAR TEST HE WAS ASKED TO MAKE A

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2551

1 CHOICE, IT'S A MULTIPLE CHOICE TEST, YOU'RE
2 SUPPOSED TO GIVE THE BEST ANSWER TO VARIOUS
3 PROVERBS. HIS OVERALL SCORE WAS, I BELIEVE, THE
4 37TH PERCENTILE WHICH IS LOW BECAUSE HIS
5 INTELLIGENCE QUOTIENT OVERALL WOULD HAVE BEEN
6 MORE LIKE 70TH PERCENTILE.

7 AND SO I CAN GIVE YOU AN EXAMPLE OF SOME OF
8 THESE. HE SEEMED TO HAVE DIFFICULTY, FOR
9 EXAMPLE, WITH LET SLEEPING DOGS LIE. AND HIS
10 ANSWER, INSTEAD OF SAYING DON'T STIR UP OLD
11 TROUBLES, HIS ANSWER WAS BECAUSE HE MIGHT BITE.
12 SO, THAT'S AGAIN QUITE CONCRETE.

13 HE ALSO HAD TROUBLE WITH ---

14 Q. THEY ARE BOTH ANSWERS TO A QUESTION; IS THAT
15 CORRECT?

16 A. RIGHT, BUT ONE REQUIRES ---

17 Q. AND THERE ARE NOT INCORRECT ANSWERS -- ARE THERE
18 INCORRECT ANSWERS?

19 A. IT'S THE BEST ANSWER ---

20 MR. BRACKETT: OBJECTION TO THE LEADING.

21 THE COURT: WELL, TWO THINGS. DON'T LEAD AND
22 ALSO SLOW DOWN A LITTLE AND LET HIM GET HIS ANSWER OUT
23 BEFORE YOU ASK HIM THE NEXT QUESTION.

24 Q. ARE THEY BOTH RIGHT ANSWERS, SIR?

25 A. NO, ONE IS MUCH MORE CONCRETE THAN THE OTHER.

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2552

1 AND THE BEST ANSWER WOULD BE -- MOST PEOPLE
2 INTERPRET PROVERBS IN AN ABSTRACT SENSE. THAT'S
3 WHAT A PROVERB IS, IT'S AN ABSTRACTION RATHER
4 THAN SOMETHING CONCRETE. IF YOU SAID LET
5 SLEEPING DOGS LIE, THAT DOESN'T MEAN IT MIGHT
6 BITE YOU, IT MEANS SOMETHING MORE ABSTRACT.

7 Q. AND FROM THAT PROCEDURE WHAT, IF ANYTHING, DID
8 YOU DETERMINE, SIR?

9 A. THAT IS JUST ANOTHER PIECE OF EVIDENCE THAT HE
10 HAD PROBLEMS WITH VERBAL ABSTRACTION ---

11 Q. AND WHAT DOES THAT ---

12 A. AND PROBLEMS WITH VERBAL ABSTRACTIONS SUGGEST
13 FRONTAL LOBE DYSFUNCTION. BUT ONCE AGAIN,
14 THAT'S JUST A SECOND PIECE AIMING IN THAT
15 DIRECTION AND I'LL BE WEAVING A PATTERN HERE AS
16 WE GO ON.

17 Q. WHAT, IF ANY, OTHER PROCEDURES DID YOU USE IN
18 ORDER TO ARRIVE AT YOUR CONCLUSIONS?

19 A. I THEN WENT INTO OTHER ONES OF THE
20 NEUROPSYCHOLOGICAL TEST BATTERY OF REITAN. AND
21 SOME OTHER NEUROPSYCHOLOGICAL TESTS.

22 THESE NEUROPSYCHOLOGICAL TESTS GENERALLY ARE
23 DESIGNED TO BE QUITE EASY IF YOU DON'T HAVE
24 BRAIN DYSFUNCTION, YOU SHOULDN'T HAVE MUCH
25 TROUBLE DOING THEM. BUT IF YOU DO, YOU CAN HAVE

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2553

1 A LOT OF TROUBLE PERFORMING THEM.
2 FURTHERMORE, THE TESTS ARE DESIGNED TO
3 SELECTIVELY, AS BEST ONE CAN, SELECTIVELY SAMPLE
4 DIFFERENT PARTS OF THE BRAIN AND FUNCTION,
5 FRONTAL, TEMPORAL, PARIETAL, OCCIPITAL, CENTRAL,
6 SORT OF GOING AROUND THE BRAIN SAMPLING TO SEE
7 IF THOSE AREAS ARE DISFUNCTIONING.
8 ONE OF THE TESTS IS A VERY SIMPLE ONE AND I
9 THINK IT WILL ILLUSTRATE WHAT I'M TALKING ABOUT
10 BECAUSE IT'S SIMPLE IF YOU HAVE NO BRAIN
11 DYSFUNCTION AND CAN BE TOUGH IF YOU DO. THIS IS
12 A FINGER OSCILLATION TEST AND YOU SIMPLY TAP IT
13 WITH YOUR INDEX FINGER AND SEE HOW FAST YOU CAN
14 TAP OVER A 10 SECOND PERIOD, ANOTHER 10 SECOND
15 PERIOD, ANOTHER 10 SECOND PERIOD AND THEN YOU
16 SWITCH HIM TO THE LEFT INDEX FINGER. THIS IS
17 CONTROLLED IN PART BY THE MOTOR STRIP AREA OF
18 THE BRAIN, THE CENTRAL -- YOU MIGHT CALL IT THE
19 REAR PORTION OF THE FRONTAL LOBE, IT'S MUCH
20 INVOLVED IN THAT, AND THE MOTOR AREAS.
21 THE MAIN THING WE NOTED WITH MR. ROBERTSON WAS
22 THAT HIS TAPPING WITH HIS LEFT FINGER WAS
23 SLOWER THAN WITH THE RIGHT WHICH IS NOT UNUSUAL,
24 IT USUALLY IS SLOWER THAN WITH THE RIGHT IF
25 YOU'RE RIGHT-HANDED.

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2554

1 BUT IN HIS CASE IT WAS SIGNIFICANTLY SLOWER
2 SUGGESTING THAT SINCE THIS LEFT-HAND FINGER
3 TAPPING IS CONTROLLED PRIMARILY BY THE RIGHT
4 HEMISPHERE, THAT IS ANOTHER PIECE OF EVIDENCE
5 THAT THE RIGHT CEREBRAL HEMISPHERE IN ANOTHER
6 AREA OF IT WAS NOT FUNCTIONING NEARLY AS
7 EFFICIENTLY AS THE LEFT. IN FACT ---

8 Q. EXCUSE ME, SIR, IF I MAY INTERRUPT, WAS THAT THE
9 ONLY TEST IN THAT REITAN BATTERY THAT YOU GAVE
0 HIM OR IS THAT ILLUSTRATING ---

1 A. THAT'S JUST ILLUSTRATING.

2 Q. EXCUSE ME.

3 A. AND IT WAS THE THIRD PIECE IN A PATTERN OF
4 SUGGESTING RIGHT HEMISPHERE AND/OR FRONTAL
5 DYSFUNCTION.

6 A. ANOTHER ONE IS CALLED THE TACTUAL PERFORMANCE
7 TEST. AND HERE AGAIN IT'S FAIRLY EASY IF YOU
8 DON'T HAVE BRAIN DYSFUNCTION. A BLINDFOLD IS
9 PUT ON. A FORM BOARD IS PLACED IN FRONT OF THE
0 SUBJECT. ON THE TABLE IN FRONT OF HIM YOU PLACE
1 A LOT OF BLOCKS. THE BLOCKS ARE PLACED THERE IN
2 FRONT OF THE PERSON AND THEN BLINDFOLDED AND
3 WITH THE RIGHT HAND THEY ARE TO REACH OUT, PICK
4 UP THE BLOCK AND SEE IF THEY CAN PUT IT IN THE
5 FORM. AND THEN THEY DO THE SAME WITH THE LEFT.

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2555

1 AGAIN, PEOPLE WILL USUALLY DO BETTER WITH THEIR
2 RIGHT IF THEY ARE RIGHT-HANDED, BUT NOT ALL THAT
3 MUCH BETTER. AND HE DID POORLY WITH HIS LEFT
4 HAND SCORING IN THE ABNORMAL RANGE WITH HIS LEFT
5 HAND SO THAT WE HAVE EVIDENCE THERE, A THIRD
6 PIECE OF EVIDENCE OR FOURTH PERHAPS NOW I
7 BELIEVE, FOURTH, THAT HE HAS RELATIVE
8 DYSFUNCTION OF THE RIGHT HEMISPHERE AND/OR
9 FRONTAL LOBES AND THAT IT'S NOT JUST RELATIVE IN
10 ALL CASES. IN SOME SENSE IT WAS ABSOLUTE. EVEN
11 COMPARED TO PEOPLE HIS OWN AGE HE WAS LOW ON
12 SOME OF THOSE.

13 Q. YOU SAY FRONTAL LOBE DYSFUNCTION, WOULD YOU
14 EXPLAIN THAT?

15 A. THE FRONTAL LOBES WOULD REFER TO THE PORTION OF
16 THE BRAIN WHICH IF YOU DREW A LINE FROM THIS EAR
17 RIGHT ACROSS TO THE OTHER EAR AND THEN WENT IN
18 FRONT OF THAT LINE UP HERE, YOU WOULD HAVE THE
19 FRONTAL LOBES.

20 AND THE FRONTAL LOBES ARE SOMETIMES REFERRED TO
21 AS THE PART OF THE BRAIN THAT ALLOWS US TO HAVE
22 EXECUTIVE FUNCTIONING; ALLOWS US TO THINK AHEAD;
23 ALLOWS US TO REFRAIN OURSELVES FROM ACTING
24 IMPULSIVELY; TO REFRAIN FROM ACTING IMPULSIVELY;
25 TO RESTRAIN OURSELVES.

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2556

1 IT IS A PORTION OF THE BRAIN THAT IS INVOLVED IN
2 VERBAL FLUENCY. IT'S A PORTION OF THE BRAIN
3 THAT'S INVOLVED, AS I SAID, IN MOTOR CONTROL,
4 ESPECIALLY THE BACK PART OF THE FRONTAL LOBE.
5 IT ALLOWS YOU TO ATTEND FOR LONG PERIODS OF
6 TIME. IT MIGHT BE SAID TO BE VERY IMPORTANT FOR
7 OUR WILL POWER, TO RESIST TEMPTATION.

8 Q. FROM YOUR RESEARCH PRIOR TO THIS AND READING,
9 DID HE HAVE ANY SPECIFIC DISEASE OF THE BRAIN OF
0 WHICH YOU ARE AWARE?

1 A. YOU MEAN FROM READING THE HISTORIES?

2 Q. YES, SIR.

3 A. WELL, MANIC DEPRESSIVE DISORDER OR BIPOLAR
4 DISORDER IS CONSIDERED A DISEASE OF THE BRAIN,
5 AT LEAST OF THE BIOCHEMISTRY OF THE BRAIN, AND
6 HE HAD BEEN DIAGNOSED WITH THAT. HE ALSO HAD
7 BEEN DIAGNOSED WITH ATTENTION DEFICIT
8 HYPERACTIVITY DISORDER AND MOST PEOPLE TODAY
9 BELIEVE THAT THAT IS A BRAIN BASED DISORDER,
0 ESPECIALLY WITH MOST CASES BEING FRONTAL LOBE
1 RELATED.

2 HE HAD THOSE DIAGNOSES. HE HAD REPORTED TO ME
3 THAT HE HAD FALLEN OUT OF BED AND SUFFERED A
4 HEAD INJURY WHEN HE WAS A CHILD, I BELIEVE TWO
5 YEARS OLD. HE HAD USED A LOT OF DRUGS

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2557

1 EXCESSIVELY WHICH COULD FURTHER IMPAIR YOUR
2 BRAIN FUNCTION.

3 Q. NOW THESE TESTS THAT YOU DID, WHAT WAS YOUR
4 CONCLUSION FROM ALL OF THE TESTS?

5 A. THE CONCLUSION FROM ALL OF THE TESTS -- THE
6 CONCLUSIONS WERE THAT HE HAS BRAIN DYSFUNCTION
7 FOCUSED PRIMARILY IN THE RIGHT FRONTAL AREA, BUT
8 ALSO INVOLVING OTHER PARTS OF THE RIGHT
9 HEMISPHERE AND MOST LIKELY OTHER PARTS OF THE
10 FRONTAL LOBE ON THE LEFT SIDE.

11 Q. WHAT, IF ANYTHING, THAT YOU'RE AWARE OF IN YOUR
12 FIELD OF EXPERTISE, WHAT, IF ANY , PROBLEMS
13 WOULD THIS CAUSE MR. ROBERTSON?

14 A. WELL, IT RELATES TO WHAT I JUST SAID EARLIER.
15 IT'S A BROAD AREA OF THE BRAIN AND THERE ARE A
16 GREAT MANY DIFFERENT FUNCTIONS WHICH ARE SERVED,
17 MEDIATED BY THOSE AREAS.

18 SOME OF THE MAIN PROBLEMS THAT WOULD SHOW UP
19 BEHAVIORALLY WOULD BE PROBLEMS WITH EMOTIONAL
20 CONTROL.

21 MOST OF US CAN MODULATE OUR EMOTIONS, CAN KEEP
22 IT IN CHECK. PEOPLE WITH RIGHT HEMISPHERE
23 DYSFUNCTION OF CERTAIN TYPES OFTEN WILL LOSE IT,
24 AND MAY GO INTO EXTREMES OF FEELING.

25 A LOT OF TIMES FRONTAL LOBE DISORDERS, WE'RE NOW

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2558

1 MORE FRONTAL LOBE THAN RIGHT HEMISPHERE, BUT IT
2 WOULD BE ALSO RIGHT FRONTAL AREA, WILL HAVE
3 TROUBLE WITH IMPULSE CONTROL AND THEY WILL OFTEN
4 BE INVOLVED IN GAMBLING, UNSAFE SEX, ACTIVITIES
5 WHERE THEY DON'T STOP TO CONSIDER THE
6 CONSEQUENCES.

7 AS CHILDREN, THEY ARE OFTEN THE ONES WHO BLURT
8 OUT THINGS IN SCHOOL WITHOUT RAISING THEIR HAND.
9 IF THEY FEEL LIKE PUNCHING SOMEBODY, THEY PUNCH
10 THEM. THIS IMPULSIVE TYPE RESPONDING, DOING IT
11 WITHOUT STOPPING TO THINK. THAT WOULD BE
12 SOMETHING THAT WOULD BE MEDIATED BY THE FRONTAL
13 LOBES. AND MY EXPERIENCE HAVING THE RIGHT
14 FRONTAL AND THE RIGHT TEMPORAL AREA INVOLVED IS
15 PUTTING ONE FURTHER AT RISK FOR EXTREMES OF
16 ANGER, EXTREMES OF NEGATIVE EMOTION ESPECIALLY.

Q. NOW, WOULD YOU JUST BRIEFLY -- YOU SAID THAT YOU
DID THE Q.E.E.G.?

A. YES, SIR.

Q. AND THAT MEASURES ACTUAL WAVES THROUGH THE
BRAIN; IS THAT WHAT IT IS, SIR?

A. YES, SIR. IT'S MEASURING THE BRAIN ELECTRICAL
ACTIVITY. THE ELECTRICAL ACTIVITY MANIFESTS
ITSELF ON AN E.E.G. AS A WAVE FORM.

Q. YES, SIR.

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2559

1 A. AND THEY CAN BE VERY COMPLEX WAVE FORMS
2 CONTAINING SLOW FREQUENCIES, MIDDLE FREQUENCIES,
3 HIGH FREQUENCIES.

4 Q. CAN YOU IDENTIFY THIS?

5 A. THAT IS A BLOW-UP OF THE PRINTOUT THAT COMES
6 FROM THE Q.E.E.G.

7 Q. DO YOU HAVE THE SMALL ---

8 A. I HAVE IT.

9 MR. HANCOCK: I'D LIKE THIS MARKED AS AN EXHIBIT.

10 THE COURT: DO YOU WANT IT IN OR MARKED FOR
11 IDENTIFICATION?

12 MR. HANCOCK: FOR IDENTIFICATION.

13 MR. BRACKETT: I HAVE NO OBJECTION.

14 (THE CHART WAS MARKED FOR IDENTIFICATION AS DEFENDANT'S
15 EXHIBIT NUMBER 4.)

16 Q. DR. EVANS, WOULD YOU JUST COME STEP UP BRIEFLY
17 AND BRIEFLY EXPLAIN TO THE JURY WHAT THAT IS.

18 A. THIS ---

19 THE COURT: HE'S GOT TO POSITION HIMSELF WHERE
20 EVERYBODY CAN SEE.

21 Q. I THINK YOU'RE GOING TO HAVE TO POSITION
22 YOURSELF OVER HERE.

23 THE COURT: CAN ALL OF THE JURY SEE IT NOW? IT'S
24 COCKEYED TO THE JURY I BELIEVE.

25 A. AS I MENTIONED EARLIER, THE EEG MANIFESTS AS A

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2560

WAVE FORM.

Q. WHAT IS THE EEG, SIR?

A. WELL, IT'S THE BRAIN'S ELECTRICAL ACTIVITY, GOING POSITIVE NEGATIVE, POSITIVE NEGATIVE. ALL OF OUR BRAINS HAVE ELECTRIC ENERGY JUST LIKE THE HEART DOES AND IT CAN BE DETECTED IF YOU PUT ELECTRODES ON THE SCALP AND THAT WOULD BE FED INTO THE COMPUTER, AS I TOLD YOU EARLIER, AND THE COMPUTER WOULD THEN SHOW EITHER TO A NEUROLOGIST WHO IS STANDING THERE WATCHING A MOVING PAPER WITH THE NEEDLES, THE PINS AND NEEDLES, YOU KNOW, GOING UP AND DOWN. HE CAN LOOK AT THAT OR SHE CAN LOOK AT THAT EEG WAVE FORM AND SOMETIMES DETECT WHERE THERE IS AN ABNORMALITY.

THIS ONE DOES THE SAME THING EXCEPT AFTER IT REACHES THAT POINT OF BEING FED INTO THE EEG MACHINE THAT ALLOWS IT TO BE SEEN, IT ALSO ENTERS INTO A COMPUTER AND THE COMPUTER ANALYZES A GREAT MANY DIFFERENT SCORES. ANALYZES A GREAT MANY DIFFERENT ASPECTS, I GUESS I SHOULD SAY, OF THE EEG.

AND AS I ANALYZES THOSE, IT ALSO ASSIGNS A NUMBER TO THEM. IT'S JUST LIKE GETTING SCORES. IT'S LIKE TAKE 832 TESTS, THEY'RE TESTING YOUR

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2561

1 BRAIN ELECTRICAL ACTIVITY. AND EACH ONE OF
2 THOSE MEASURES, THAT'S WHY THEY CALL IT
3 QUANTITATIVE EEG, EACH ONE OF THOSE MEASURES CAN
4 ALSO BE COMPARED AGAINST A DATABASE.
5 MEANING THAT BOB THATCHER WHO DEVELOPED THE
6 DATABASE AND HIS ASSOCIATES TOOK HUNDREDS OF
7 PEOPLE WHO HAD NO HISTORY OF ANY KIND OF BRAIN
8 DYSFUNCTION, NEVER BEEN BRAIN HURT, WERE DOING
9 FINE IN SCHOOL OR FINE AS ADULTS, NO PROBLEMS,
10 FOUND OUT WHAT THEIR TYPICAL EEG LOOKED LIKE AND
11 THEN PUT THAT INTO A DATABASE.
12 NOW A COMPUTER THEN WOULD TAKE, IN THIS CASE MR.
13 ROBERTSON'S, EEG SAMPLE AND COMPARE IT TO PEOPLE
14 WHO ARE HIS AGE, TO MEN WHO ARE HIS AGE AND TELL
15 YOU ARE THERE ANY OF THOSE EIGHT HUNDRED AND
16 SOME MEASURES THAT DEVIATED SIGNIFICANTLY FROM
17 THE NORM. AND IF THEY DID, IT WOULD SHOW ON
18 HERE WHERE THERE WAS A SIGNIFICANT DEVIATION AND
19 WE'LL SEE THAT ON THE SECOND AND THE THIRD
20 SLIDE.
21 IN THIS CASE IT DOES NOT SHOW THAT THERE WERE
22 ANY SIGNIFICANT DEVIATIONS; HOWEVER, IT SHOWS IN
23 THE ALPHA BAND. LET ME BACK UP A MINUTE AND
24 EXPLAIN ALPHA BAND.
25 AS I SAID, THE EEG WAVE FORMS AND THERE'S A WAVE

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2562

1 FORM COMING FROM EVERY ONE OF THOSE ELECTRODES
2 ON THE HEAD, A DIFFERENT WAVE FORM. AND EACH
3 WAVE FORM IS A VERY COMPLEX WAVE FORM. IT'S
4 MADE UP OF SOME SLOW FREQUENCY, SOME A LITTLE
5 BIT FASTER FREQUENCY AND SO ON.

THE VERY SLOWEST FREQUENCY IS CALLED DELTA
FREQUENCY. AND A LITTLE BIT FASTER IS THE THETA
FREQUENCY AND A LITTLE FASTER YET IS ALPHA, AND
A LITTLE FASTER IS BETA.

NOW IN THIS CASE IT IS SHOWING HOW MUCH POWER --
YOU THINK ABOUT HOW MUCH ENERGY, HOW MUCH POWER
WAS IN THE WAVE FORM AND DIFFERENT PIECES OF THE
WAVE FORM, THE DELTA PIECE, THE THETA PIECE, THE
ALPHA PIECE OR THE BETA PIECE, DIFFERENT
FREQUENCY PIECES, HOW MUCH WAS IN EACH ONE OF
THOSE RELATIVE TO THE TOTAL THING. AND IT'S
SHOWING THAT HE HAD A LOT OF ALPHA RELATIVE TO
THE TOTAL.

AND YOU CAN SEE HERE IT'S GETTING AWAY FROM THE
BLUES GETTING INTO THE OTHER COLORS HERE.
THAT'S SHOWING THAT HE HAD A CONSIDERABLE AMOUNT
OF ENERGY IN THE BANDS, IN THE DIFFERENT
FREQUENCY BANDS, DELTA, THETA, ALPHA, BETA.

NOW AS I SAID EARLIER, LOOKING DOWN ON THIS,
THIS IS LIKE LOOKING DOWN ON THE TOP OF A HEAD.

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,
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VOLUME XI

DR. JAMES EVANS - DIRECT BY MR. HANCOCK

2563

1 SO, THIS WOULD BE THE FRONTAL AREA AND YOU CAN
2 SEE THAT HE HAD QUITE A LOT OF THETA ACTIVITY IN
3 THERE RELATIVELY, RELATIVE TO THE TOTAL AMOUNT
4 OF ENERGY IN HIS EEG.
5 HE ALSO HAD QUITE A LOT OF ALPHA. NOW THOSE
6 HAVE SOME CLINICAL SIGNIFICANCE, ESPECIALLY WHEN
7 YOU CONSIDER THE RATIOS, AND THIS IS FREQUENCY
8 RATIOS HERE, WHETHER COMPARING THE AMOUNT OF
9 ENERGY IN DELTA VERSUS BETA, DELTA VERSUS ALPHA
10 AND SO ON. THE ONE THAT HAD THE MOST FREQUENT
11 DUPLICITY AND THE MOST OFTEN REPLICATED FINDINGS
12 HAS BEEN THE THETA TO BETA RATIO. THE AMOUNT OF
13 ENERGY IN THE THETA PORTION OF HIS EEG RELATIVE
14 TO THE AMOUNT OF ENERGY IN THE BETA PORTION.
15 AND YOU CAN SEE HERE THAT HE HAD IN THE FRONT
16 THETA -- THIS IS THETA TO BETA. THETA TO BETA
17 RATIOS OF 3.0, 3.3, 3.7. 3.3, 2.7, 3.7, 3.5.
18 AND HERE ON THE RIGHT-HAND SIDE ARE -- THIS IS
19 THE RATIO THAT WOULD BE EXPECTED FROM A PERSON
20 OF HIS AGE. 1.3, 1.2, 1.3, ET CETERA.
21 SO YOU CAN SEE THAT HE HAD CONSIDERABLY HIGHER
22 THETA TO BETA RATIO THAN OTHER MEN ON THE
23 AVERAGE OF HIS AGE.
24 THE CLINICAL SIGNIFICANCE OF THAT IS THAT HIGH
25 THETA TO BETA RATIO IS COMMONLY ASSOCIATED WITH

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2564

1 ATTENTION DEFICIT HYPERACTIVITY DISORDER.

2 IT'S NOT THE ONLY THING YOU FIND IN ATTENTION
3 DEFICIT HYPERACTIVITY DISORDER, BUT SEVERAL
4 STUDIES HAVE NOW FOUND THAT THAT'S A VERY
5 FREQUENT FINDING, VERY FREQUENT ACCOMPANIMENT OF
6 ATTENTION DEFICIT HYPERACTIVITY DISORDER.

7 I FURTHER NOTE THAT IT'S IN THE FRONTAL LOBE
8 WHERE THERE ARE DIFFERENCES IN THE THETA TO BETA
9 RATIO WERE FOUND.

10 THE ONLY OTHER CLINICAL SIGNIFICANCE OF THIS
11 PARTICULAR CHART HERE IS HE HAD A LOT OF ALPHA
12 POWER OVER HIS ENTIRE HEAD. AND I, IN MY
13 EXPERIENCE, HAVE FOUND THAT PEOPLE WHO HAVE A
14 LOT OF RESTING ALPHA POWER, ESPECIALLY IN
15 FRONTAL AREAS, TEND TO BE PEOPLE WHO WILL GO
16 INTO TRANCE STATES RATHER EASILY, DISASSOCIATED
17 TYPE STATES. THAT'S JUST A FINDING THAT I HAVE
18 COME ACROSS IN SEVERAL THAT I HAVE DONE. I
19 DON'T KNOW OF ANY REPLICATIONS OF THAT BUT IT IS
20 SOMETHING THAT I HAVE NOTED.

21 AND THAT THEN IS THE EXPLANATION OF THIS CHART
22 RIGHT HERE.

23 MR. HANCOCK: YOUR HONOR, I MOVE TO HAVE THIS
24 MARKED AS A DEFENSE EXHIBIT.

25 MR. BRACKETT: NO OBJECTION.

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2565

1 THE COURT: IT WILL BE RECEIVED WITHOUT
2 OBJECTION.

3 (THE CHART WAS MARKED IN EVIDENCE AS DEFENDANT'S EXHIBIT 4
4 WITHOUT OBJECTION.)

5 Q. CAN YOU BRIEFLY EXPLAIN THIS ONE?

6 A. THIS ONE DOES SHOW AREAS OF STATISTICAL
7 ABNORMALITY. AND THIS ONE IS ANOTHER ASPECT OF
8 THE EEG CALLED COHERENCE.

9 COHERENCE REFERS TO THE SIMILARITY IN APPEARANCE
10 OR SIMILARITY IN SHAPE BETWEEN TWO WAVE FORMS.

11 SO IF THE WAVE FORM COMING FROM HERE, FOR
12 EXAMPLE, WAS COMPARED WITH THE WAVE FORM COMING
13 FROM HERE, THERE IS SOME DEGREE OF SIMILARITY
14 EXPECTED BUT THEY SHOULDN'T BE EXTREMELY
15 SIMILAR. THERE'S A RANGE OF SIMILARITY.

16 IT'S LIKE LOOKING TO SEE DOES THIS WAVE FORM --
17 IF YOU JUST LOOKED AT THE WAVE FORM AVERAGE SAY
18 OVER THREE MINUTES, THAT AVERAGE WAVE FORM DOES
19 IT LOOK LIKE THIS OTHER WAVE FORM.

20 IF THEY LOOK TOO MUCH ALIKE, THEY ARE SAID TO
21 HAVE TOO MUCH COHERENCE; THAT IS, THEY ARE TOO
22 MUCH ALIKE FOR NORMAL.

23 ON THE OTHER HAND, IF THEY DON'T LOOK ANYTHING
24 ALIKE, THEN THEY WOULD BE TOO UNLIKE FOR NORMAL
25 AND THAT WOULD BE SHOWN THEN IN THIS.

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2566

1 AND WHEN I SAY TO NORMAL, IT WOULD BE COMPARED
2 TO THE NORMS OF THE DATABASE.

3 SO, IT PRINTS OUT HERE WITH COLOR SHOWING WHERE
4 THE ABNORMALITIES WERE BETWEEN WHAT BRAIN AREAS,
5 OR MORE SPECIFICALLY BETWEEN WHAT ELECTRODE
6 SITES.

7 IT ALSO PRINTS OUT DOWN HERE SHOWING THE
8 FREQUENCY BAND, AGAIN DELTA, THETA, ALPHA, BETA,
9 IN WHICH THERE WERE ANY COHERENCE ABNORMALITIES
10 AND BETWEEN WHAT SITES.

11 WE DON'T PAY ANY ATTENTION TO THIS ROW HERE,
12 IT'S JUST SHOWING THE TOTAL AMOUNT OF COHERENCE
13 IN EACH ONE. BUT THIS ONE SHOWS WHERE THE
14 ABNORMALITIES WERE.

15 AND NOTE THAT MOST OF HIS ABNORMALITIES WERE
16 BETWEEN A FRONTAL SITE, F-2 DOWN HERE TO A
17 TEMPORAL SITE, ANOTHER FRONTAL, ANOTHER FRONTAL,
18 TEMPORAL, THIS ALL YOU CAN THINK OF AS FRONTAL
19 FROM THERE UP. AND THE MAJORITY OF THEM WERE ON
20 THE RIGHT FRONT -- THE MAJORITY OF THE COHERENT
21 ABNORMALITIES.

22 NOW WE ARE READY FOR THE NEXT ONE.

23 MR. HANCOCK: YOUR HONOR, I HAVE NOT MARKED THIS
24 FOR IDENTIFICATION BUT I WOULD MOVE TO PUT IT INTO
25 EVIDENCE.

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2567

1 MR. BRACKETT: I HAVE NO OBJECTION.

2 THE COURT: IT WILL BE RECEIVED INTO EVIDENCE.

3 MR. HANCOCK: AS, I BELIEVE, DEFENSE 5, SIR.

4 (THE CHART WAS MARKED IN EVIDENCE AS DEFENDANT'S EXHIBIT
5 NUMBER 5 WITHOUT OBJECTION.)

6 Q. NOW AGAIN, DR. EVANS, ARE THESE THE DEPICTIONS
7 OF THE RESULTS OF THE TESTS ON JIMMY ROBERTSON?

8 A. YES, SIR. THIS IS ANOTHER ASPECT OF THE
9 Q.E.E.G. IT WAS ANOTHER POWER AND DIFFERENT
10 FREQUENCY BANDS THAN I FIRST SHOWED YOU AND THE
11 RATIO OF POWER IN ONE FREQUENCY BAND TO ANOTHER
12 WHICH WAS ON THAT VERY FIRST ONE I SHOWED YOU
13 SHOWING THE FRONTAL EXCESS OF THETA TO BETA.

14 THE SECOND ONE WAS THE APPEARANCE OF THE WAVES,
15 THE WAVE SHAPES, HOW MUCH ALIKE WERE THEY; WERE
16 THEY TOO FAR APART IN APPEARANCE OR WERE THEY
17 TOO CLOSE IN APPEARANCE AND IF SO, EITHER WAY
18 THEY WOULD HAVE BEEN ABNORMAL AND THAT'S THE
19 COHERENCE.

20 THIS TIME WE'RE TALKING ABOUT PHASE AND PHASE IS
21 THE DEGREE OF TIMING BETWEEN THE WAVE FORMS. IN
22 OTHER WORDS HERE GOES ONE WAVE UP AND DOWN LIKE
23 THIS. NOW THE NEXT ONE IF IT'S PEAKING AT THE
24 SAME TIME AS THIS ONE AND DROPPING AS THE SAME
25 TIME AS THIS ONE AND THEY ARE GOING PERFECTLY

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2568

1 TOGETHER IN SYNCHRONY, THEN YOU HAVE PERFECT
2 PHASE, AND THAT WOULD BE UNLIKELY, AND IT WOULD
3 BE ABNORMAL. THERE IS USUALLY SOME DEGREE OF
4 BEING OUT OF PHASE, BUT NOT TOO MUCH OUT OF
5 PHASE. YOU WOULDN'T WANT THIS ONE TO ALWAYS BE
6 PEAKING WHEN THIS ONE WAS DROPPING AND SO ON.
7 THERE HAS TO BE SOME RANGE OF NORMALITY.

8 NOW HERE AGAIN IT SHOWS WHERE IN MR. ROBERTSON'S
9 BRAIN THE PHASE OR TIMING RELATIONSHIPS BETWEEN
10 WAVE FORMS WAS ABNORMAL. AND AGAIN IT'S RIGHT
11 SIDE PRIMARILY, AND RIGHT FRONT MORE
12 SPECIFICALLY.

13 Q. ALL RIGHT.

14 A. AND YOU CAN SEE IT ALSO NOT JUST IN THE ALPHA
15 BAND THERE, NOT JUST IN THE FREQUENCY BAND UNDER
16 ALPHA, BUT ALSO IN THAT PORTION KNOWN AS BETA
17 THE FRONTAL ABNORMALITIES OCCURRED.

18 MR. HANCOCK: I MOVE TO INTRODUCE THIS AS DEFENSE
19 NUMBER 6.

20 MR. BRACKETT: NO OBJECTION.

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

23 (THE CHART WAS MARKED IN EVIDENCE AS DEFENDANT'S EXHIBIT
24 NUMBER 6 WITHOUT OBJECTION.)

25 Q. NOW, AS A RESULT OF ALL OF YOUR TESTING, WHAT

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2569

1 WERE YOUR CONCLUSIONS, SIR?

2 A. WELL, AS A RESULT OF THE INTERVIEW AND THE
3 TESTING, I CONCLUDED THAT THE EARLIER DIAGNOSIS
4 THAT WAS GIVEN OF ATTENTION DEFICIT
5 HYPERACTIVITY DISORDER MOST LIKELY HAS A
6 PHYSIOLOGICAL CORRELATE TO IT IN THE FRONTAL
7 EXCESS OF THETA RELATIVE TO BETA POWER IN THE
8 FRONTAL AREAS.

9 I CONCLUDED THAT JUST FROM THE BEHAVIORAL SIGNS
10 THAT I HAD READ ABOUT, THAT HE CERTAINLY MUST
11 HAVE BEEN IN A MANIC STATE MOST OF THE TIME AND
12 SO THAT THE BIPOLAR DISORDER WAS ACCURATE.

13 I CONCLUDED THAT HE HAS DYSFUNCTION OF THE RIGHT
14 HEMISPHERE AS WELL AS SOME ASPECTS OF FRONTAL
15 LOBE FUNCTIONING AND THAT THIS WOULD BE LIKELY
16 TO BE A BIOLOGICAL CAUSE OF HAVING TROUBLE WITH
17 EMOTIONAL CONTROL. IN FACT, PERHAPS SOMETIMES
18 EXTREME TROUBLE WITH EMOTIONAL CONTROL BECAUSE
19 OF THE RIGHT FRONTAL FOCUS WHICH I'VE SEEN IN
20 MANY OTHER PERSONS WHO HAVE COMMITTED SERIOUS
21 CRIMES ---

22 THE COURT: YOU CAN'T SEE? OKAY. THE EXHIBIT IS
23 IN THE WAY OF THE JURORS.

24 (THE EXHIBIT WAS MOVED.)

25 THE COURT: THANK YOU.

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2570

1 A. AND I ALSO CONCLUDED -- MR. ROBERTSON TOLD ME
2 THAT HE HAS -- HE VOLUNTEERED THAT HE HAS
3 PERIODS, SOMETIMES WE CALL PERIODS OF
4 DEREALIZATION, WHERE HE FELT LIKE THE WORLD
5 WASN'T REAL. AND THAT SOMETIMES HE WOULD HAVE
6 PERIODS WHERE HE FELT LIKE HE WAS STANDING ASIDE
7 AND WATCHING HIMSELF ENGAGE IN ACTIVITIES AND
8 SOMETIMES HE WOULD FORGET PORTIONS OF HIS LIFE.
9 THESE ARE SYMPTOMS OF WHAT'S CALLED
10 DISASSOCIATION OR THEY ARE SIGNS OF
11 DISASSOCIATION AND AS I MENTIONED EARLIER, IN MY
12 OWN EXPERIENCE I HAVE SEEN SEVERAL PEOPLE WHO
13 REPORTED THAT WHO ALSO HAD THAT HIGH RESTING
14 ALPHA LEVEL. AND SO I CONCLUDED THAT HE WAS
15 PROBABLY TELLING THE TRUTH ABOUT THAT. THAT HE
16 DOES IN FACT EXPERIENCE SUCH DISASSOCIATIVE
17 EPISODES.

18 MR. HANCOCK: I BEG THE INDULGENCE OF THE COURT
19 JUST ONE MOMENT.

20 (AFTER A BRIEF PAUSE.)

21 Q. NOW, YOU'RE NOT TESTIFYING, SIR, ARE YOU, THAT
22 HE ACTUALLY HAD A DISASSOCIATIVE EPISODE, BUT HE
23 WAS CONSISTENT WITH ONE THAT MAY HAVE HAD ONE.

24 MR. BRACKETT: OBJECTION, YOUR HONOR, LEADING.

25 THE COURT: I OVERRULE THE OBJECTION.

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2571

1 Q. ISN'T THAT YOUR TESTIMONY, SIR?

2 A. WOULD YOU REPEAT IT AGAIN?

3 Q. OKAY. YOU'RE NOT TESTIFYING THAT HE ACTUALLY HAD
4 A DISASSOCIATIVE EPISODE BUT THAT HE IS
5 CONSISTENT WITH ONES THAT HAVE?

6 A. YES, SIR. THE HIGH AMOUNT OF POWER IN THE ALPHA
7 BAND I HAD SEEN IN OTHER PEOPLE WHO DID, AND
8 THEN HE REPORTED THAT HE DID HAVE -- HE DIDN'T
9 TELL ME THAT HE HAD ONE AT THE TIME OF THE
10 CRIME, BUT HE TOLD ME THAT HE HAD HAD SUCH
11 EPISODES.

12 Q. AND IS THAT CONSISTENT WITH YOUR FINDINGS?

13 A. YES, SIR.

14 Q. AND WHAT IS A DISASSOCIATIVE EPISODE?

15 A. AS I WAS SAYING A MINUTE AGO, IT'S WHERE ONE
16 PART OF YOUR CONSCIOUSNESS SEEMS TO BREAK OFF
17 FROM OTHER PARTS.

18 AND THE EXTREME, AND I'M NOT SAYING THAT THIS IS
19 TRUE IN HIS CASE, IT'S NOT THAT EXTREME
20 OBVIOUSLY, BUT THE EXTREME WOULD BE MULTIPLE
21 PERSONALITY WHERE ONE OF THE ALTERS MAY BE
22 ENGAGING IN AN ACTIVITY THE OTHER ALTERS AREN'T
23 EVEN AWARE OF.

24 THE MORE COMMON TYPE WOULD BE, THAT WE'VE ALL
25 EXPERIENCED AT TIMES, MOST ALL I BELIEVE, OF

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2572

- 1 DRIVING ALONG AND FORGETTING TO GET OFF AT AN
2 EXIT AND MAYBE GOING THREE OR FOUR EXITS DOWN
3 THE HIGHWAY AND SAYING, YOU KNOW, WHERE WAS I
4 BACK THERE. I MUST HAVE BEEN DRIVING OR I
5 WOULDN'T BE HERE, BUT I DON'T REMEMBER ANYTHING
6 FOR THE LAST SEVERAL MILES. THAT WOULD BE A
7 MILD BENIGN NORMAL CASE OF DISASSOCIATION.
8 BUT IF YOU GOT INTO MORE EXTREME TYPES OF
9 DISASSOCIATION, YOU MIGHT JUST CUT OFF FROM YOUR
10 GENERAL CONSCIOUSNESS PIECES OF YOUR PAST AND
11 NOT BE ABLE TO REMEMBER THEM.
12 YOU MIGHT SOMETIMES JUST HAVE THIS FEELING LIKE
13 YOU'RE THERE DOING SOMETHING WHEN YOU'RE JUST
14 DOING IT IN YOUR FANTASY, BUT IT'S AN EXTREME
15 FANTASY, SO REAL THAT YOU THINK THAT YOU'RE
16 ACTUALLY THERE DOING IT.
17 OR YOU MIGHT SENSE THAT YOU ARE STANDING ASIDE
18 AND WATCHING YOURSELF DO SOMETHING OR YOU MIGHT
19 SENSE THAT YOU ARE BEING DRIVEN BY EXTERNAL
20 FORCES.
21 THOSE WOULD BE SOME EXAMPLES.
22 Q. OKAY, NOW YOU'RE SAYING THAT THOSE ARE JUST
23 EXAMPLES OF ---
24 A. EXAMPLES; YES, SIR.
25 Q. YOU'RE NOT TESTIFYING THAT THAT ACTUALLY

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2573

1 HAPPENED.

2 A. NO, SIR.

3 Q. BUT THOSE WOULD BE EXAMPLES OF THE TYPE OF
4 DISASSOCIATIVE EPISODES THAT JIMMY ROBERTSON
5 MIGHT ENCOUNTER?

6 A. YES. HE SAID HE HAD HAD SOME LIKE THAT, AND
7 THAT IS CONSISTENT WITH MY PREVIOUS FINDINGS OF
8 HIGH RESTING ALPHA POWER.

9 Q. CAN YOU IDENTIFY THIS DOCUMENT, SIR?

10 A. THIS IS MY NEUROPSYCHOLOGICAL EVALUATION REPORT
11 ON MR. ROBERTSON.

12 MR. HANCOCK: YOUR HONOR, I WOULD HAVE THIS
13 MARKED FOR IDENTIFICATION.

14 (THE REPORT WAS MARKED DEFENDANT'S EXHIBIT 7 FOR
15 IDENTIFICATION.)

16 MR. BRACKETT: WE HAVE NO OBJECTION TO THE REPORT
17 COMING IN.

18 THE COURT: IT WILL BE RECEIVED WITHOUT
19 OBJECTION.

20 MR. HANCOCK: I MOVE TO INTRODUCE THIS INTO
21 EVIDENCE AND IT'S RECEIVED WITHOUT OBJECTION.

22 (THE REPORT WAS MARKED IN EVIDENCE AS DEFENDANT'S EXHIBIT
23 NUMBER 7 WITHOUT OBJECTION.)

24 Q. THANK YOU, SIR. I HAVE NO FURTHER QUESTIONS.

25 PLEASE ANSWER ANY QUESTIONS THE SOLICITOR MAY

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2574

1 HAVE OF YOU, DR. EVANS.

2 A. YES, SIR.

3 CROSS EXAMINATION BY

4 MR. BRACKETT:

5 Q. GOOD AFTERNOON, DOCTOR.

6 A. GOOD AFTERNOON.

7 Q. DO YOU HAVE YOUR REPORT IN FRONT OF YOU? I'LL
8 SHOW YOU WHAT'S BEEN MARKED AS DEFENDANT'S
9 EXHIBIT NUMBER 7. THAT'S YOUR REPORT; ISN'T
10 THAT RIGHT?

11 A. YES, SIR.

12 Q. OKAY, AND YOU WERE RETAINED BY THE DEFENSE IN
13 THIS CASE TO HELP THEM PREPARE FOR THIS TRIAL?

14 A. THAT'S CORRECT.

15 Q. AND JIMMY WAS CERTAINLY AWARE OF THAT WHEN HE
16 SPOKE WITH YOU, RIGHT?

17 A. YES, SIR.

18 Q. HE KNEW THE THINGS THAT YOU TOLD HIM WERE GOING
19 TO HELP IN BUILDING HIS DEFENSE IN THIS CASE?

20 A. I DON'T REMEMBER TELLING HIM THAT SPECIFICALLY,
21 BUT I ASSUME YOU KNEW THAT.

22 Q. THAT'S PRETTY BASIC. HE KNEW YOU WERE ON THE
23 DEFENSE TEAM.

24 A. RIGHT.

25 Q. AND YOU WERE PREPARING HIS DEFENSE?

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2575

1 A. AND HE WAS TOLD THAT THE PROSECUTION WOULD
2 PROBABLY -- WOULD HAVE ACCESS TO ANY FINDINGS IF
3 THEY SO DESIRED.

4 Q. SO, WHEN HE TOLD YOU, IN THE FIRST PAGE OF YOUR
5 REPORT, HAD OUT OF BODY TYPE EXPERIENCES
6 SOMETIMES ---

7 A. RIGHT.

8 Q. --- WHERE HE SEEMED TO BE WATCHING HIMSELF
9 ENGAGING IN VARIOUS BEHAVIORS?

10 A. YES, SIR.

11 Q. HE COULD HAVE BEEN MOTIVATED IN SAYING THAT BY A
12 DESIRE ON HIS PART TO HELP ESTABLISH SOME KIND
13 OF MENTAL DEFENSE IN THIS CASE, RIGHT?

14 A. HE COULD HAVE; YES, SIR.

15 Q. BY AND LARGE, THE EVALUATIONS THAT YOU DID IN
16 THIS CASE, SIR, THE WECHSLER ADULT INTELLIGENCE
17 SCALE, HE FELL WITHIN THE NORMAL RANGE?

18 A. YES, IN TERMS OF TOTAL SCORE.

19 Q. MR. ROBERTSON'S SCORES OVERALL WERE IN THE HIGH
20 AVERAGE RANGE.

21 A. YES.

22 Q. THE SUB-TEST SCALES SCORES RANGED FROM LOW
23 AVERAGE TO VERY SUPERIOR?

24 A. YES, SIR.

25 Q. THE WIDE RANGE ACHIEVEMENT TEST PERFORMED AT THE

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2576

1 EXPECTED LEVEL EXCEPT FOR THE ARITHMETIC SCORE,
2 HOWEVER, WHICH WAS IN THE VERY SUPERIOR RANGE.

3 A. THAT'S CORRECT.

4 Q. PROVIDING FURTHER EVIDENCE THAT HE HAS SPECIAL
5 TALENTS IN THE AREA OF MATHEMATICS.

6 A. YES, SIR.

7 Q. YOU GAVE HIM THE REITAN NEUROPSYCHOLOGICAL TEST
8 BATTERY?

9 A. YES.

10 Q. AND HE DID WELL ON THE TRAIL MARKING TEST, PARTS
11 AND A AND B.

12 A. YES.

13 Q. THE SPEECH SOUNDS PERCEPTION TEST.

14 A. YES.

15 Q. USING THE HEATON AND GRANT AND MATTHEWS
16 COMPREHENSIVE NORMS, HE SCORED WITHIN NORMAL
17 LIMITS ON MOST OF THESE TESTS; RIGHT?

18 A. ON MOST OF THEM; YES, SIR.

19 Q. THE WISCONSIN CART SORTING TEST, SCORED WITHIN
20 NORMAL LIMITS.

21 A. EXCEPT FOR HAVING TROUBLE COMING TO THE VERY
22 FIRST CATEGORY. HE TOOK 27 TRIALS WHICH IS
23 BELOW THE FIRST PERCENTILE WHICH IS VERY
24 UNUSUAL, SUGGESTING HE HAD A LOT OF TROUBLE
25 GETTING INTO THE ABSTRACT ATTITUDE THAT WOULD BE

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2577

- 1 REQUIRED TO SORT BY COLOR.
- 2 Q. SORTING BY COLOR, OKAY. THE INTERMEDIATE VISUAL
- 3 AND AUDITORY CONTINUOUS PERFORMANCE TEST.
- 4 A. YES.
- 5 Q. SCORED WITHIN NORMAL LIMITS.
- 6 A. HE HAD SOME PROBLEMS THERE IN TERMS OF RESPONSE
- 7 CONTROL. HIS RESPONSE CONTROL QUOTIENT OF 87
- 8 WAS BELOW AVERAGE, ESPECIALLY FOR AUDITORY
- 9 INPUT, INDICATING THAT HE WAS RESPONDING
- 10 IMPULSIVELY TO THE AUDITORY INPUT.
- 11 Q. OKAY. BUT ON ALL THESE TESTS, DOCTOR, HE DID
- 12 PRETTY MUCH NORMAL EXCEPT FOR HERE AND THERE HE
- 13 HAD SOME PROBLEMS WHICH YOU'VE OUTLINED IN YOUR
- 14 DIRECT EXAMINATION, RIGHT?
- 15 A. THAT STATEMENT AS IT STANDS IS TRUE. THE
- 16 DIFFERENCE WHERE I NEED TO ELABORATE ON THAT,
- 17 HOWEVER, IS THAT THE EXCEPTIONS FIT A PATTERN.
- 18 Q. OKAY.
- 19 A. FIT A PATTERN OF RIGHT HEMISPHERE FRONTAL LOBE
- 20 DYSFUNCTION.
- 21 Q. AND THIS WAS ALSO PART OF THE WHOLE Q.E.E.G.,
- 22 THIS STUFF THAT YOU JUST WENT THROUGH ---
- 23 A. RIGHT. I DON'T USE THAT TO MAKE THE INITIAL
- 24 DIAGNOSIS, BUT AFTER GIVING THE OTHER TESTS AND
- 25 THE PATTERN WHERE HE DID HAVE PROBLEMS POINTED

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2578

1 TOWARD FRONTAL AND RIGHT HEMISPHERE, THEN WHEN I
2 LOOKED AT THIS Q.E.E.G. IT GAVE ME ADDITIONAL
3 CONFIDENCE IN MY FINDINGS.

4 Q. NOW, SIR, YOU ARE NOT A PHYSICIAN; IS THAT
5 RIGHT?

6 A. THAT'S CORRECT.

7 Q. DID YOU DO AN E.E.G. AT THE SAME TIME AS YOU DID
8 THIS?

9 A. AS I WAS TESTIFYING EARLIER, THIS IS AN E.E.G.,
10 IT'S JUST ONE THAT IS SCORED BY A COMPUTER
11 RATHER THAN BY VISUAL INSPECTION OF A
12 NEUROLOGIST.

13 Q. YOUR POSITION IS THAT YOU DON'T HAVE TO DO AN
14 E.E.G. AT THE SAME TIME ON A Q.E.E.G.?

15 A. I WOULDN'T SAY YOU DON'T HAVE TO; I WOULD SAY
16 THAT THE WAY I USE IT IS AS SUPPORT FOR OR A
17 REPETITION OF MY NEUROPSYCHOLOGICAL TEST
18 FINDINGS.

19 Q. OKAY.

20 A. IT WOULD BE NICE TO HAVE AN ADDITION, A REGULAR
21 E.E.G., BUT THEY AREN'T THE SAME IN TERMS OF
22 WHAT THEY FIND. THE REGULAR E.E.G. IS USUALLY
23 USED TO FIND GROSSER, MORE OBVIOUS ABNORMALITIES
24 LIKE A BRAIN TUMOR.

25 THIS ONE DETECTS -- IS MUCH MORE SUBTLE IN WHAT

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2579

1 IT CAN DETECT, MUCH SUBTLER DYSFUNCTIONS.

2 Q. ALL RIGHT, SIR. I'M SHOWING YOU WHAT'S BEEN
3 MARKED STATE'S EXHIBIT 282 WHICH HAS PREVIOUSLY
4 BE IDENTIFIED AS A SCHOLARLY PUBLICATION ON THE
5 SUBJECT OF DIGITAL E.E.G. AND QUANTITATIVE
6 E.E.G. AND E.E.G. BRAIN MAPPING.

7 A. RIGHT.

8 Q. AND I WOULD ASK YOU, SIR, TO TURN YOUR ATTENTION
9 TO THAT TO THE -- THE PAGES ARE SMALL, THE
10 NUMBERS ON THE PAGES ARE SMALL, BUT IT'S PAGE
11 284, IT'S IN THE LOWER LEFT-HAND CORNER AND I'LL
12 SHOW YOU WHICH PAGE I'M TALKING ABOUT. THIS ONE
13 RIGHT HERE.

14 MR. HANCOCK: YOUR HONOR, I'M NOT SURE WHAT HE
15 HAS. I KNOW IT'S BEEN IDENTIFIED BUT I'M NOT SURE WHAT
16 HE'S LOOKING AT.

17 THE COURT: WHY DON'T YOU LET HIM SEE IT?

18 MR. BRACKETT: YES, SIR.

19 (THE EXHIBIT WAS SHOWN TO DEFENSE COUNSEL.)

20 Q. SIR, REFERRING TO THAT PAGE OF THIS ARTICLE OF
21 THE AMERICAN ACADEMY OF NEUROLOGY, THE FIRST
22 FULL PARAGRAPH. DO YOU SEE THE ONE I'M TALKING
23 ABOUT?

24 A. "UPON THE BASIS OF"?

25 Q. NO, SIR, "THE AMERICAN PSYCHIATRIC ASSOCIATION

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2580

1 TASK FORCE ON QUANTITATIVE ELECTRO PHYSIOLOGICAL
2 ASSESSMENT"; DO YOU SEE THAT PARAGRAPH, SIR?

3 A. I SEE IT.

4 Q. THE LAST SENTENCE IN THAT? "THEY FURTHER
5 EMPHASIZE THAT THE ABILITY OF ANY Q.E.E.G.
6 PROCEDURE TO MAKE PSYCHIATRIC DIAGNOSIS OR TO
7 DISCRIMINATE BETWEEN VARIOUS GROUPS OF
8 PSYCHIATRIC PATIENTS AND NORMAL SUBJECTS IS NOT
9 WELL ESTABLISHED".

10 A. I SEE WHAT YOU'RE SAYING.

11 Q. YES, SIR. AND FURTHER DOWN THERE DO YOU SEE "A
12 MAJOR DISADVANTAGE OF THESE TESTS IN LEGAL
13 DISPUTES IS THE OCCURRENCE OF FALSE POSITIVE
14 RESULTS, I.E., ABNORMAL RESULTS IN NORMAL
15 SUBJECTS AND INCORRECT DIAGNOSIS IN PATIENTS".

16 A. I SEE THAT.

17 Q. AND FURTHER DOWN, "WHEN STATISTICAL TESTING IS
18 USED TO COMPARE A PATIENT TO A NORMATIVE
19 DATABASE, STATISTICAL ABNORMALITIES DETECTED MAY
20 BE CLINICALLY MEANINGLESS. AUTOMATED Q.E.E.G.
21 PROCESSES FAILED TO TAKE THIS INTO ACCOUNT AND
22 INSTEAD FLAGGED THESE E.E.G. FEATURES AS
23 ABNORMAL".

24 A. I REALIZE THAT. I AM IN FACT FAMILIAR, I'VE
25 READ THIS ARTICLE.

DR. JAMES EVANS - CROSS BY MR. BRACKETT

2581

- 1 Q. OKAY, THEN YOU ARE ALSO AWARE THAT IT SAYS "THE
2 USE OF THESE TECHNIQUES TO SUPPORT ONE SIDE OR
3 THE OTHER IN COURT PROCEEDINGS CAN READILY
4 RESULT IN CONFUSION, ABUSE AND FALSE
5 IMPRESSIONS".
- 6 A. I KNOW THAT.
- 7 Q. YOU'RE USING THIS TO SUPPORT YOUR FINDINGS
8 AREN'T YOU, SIR?
- 9 A. THAT'S CORRECT.
- 10 Q. AND ALSO RIGHT BELOW THAT, "INDEED THESE
11 PROBLEMS AND A LACK OF GENERAL ACCEPTANCE WERE
12 CITED IN STATE AND FEDERAL COURT DECISIONS
13 DISALLOWING THE USE OF E.E.G. BRAIN MAPPING AS
14 EVIDENCE", AND THEN IT GOES ON TO SAY "Q.E.E.G.
15 IS NOT RECOMMENDED FOR USE IN CIVIL OR CRIMINAL
16 JUDICIAL PROCEEDINGS".
- 17 A. I KNOW THAT.
- 18 Q. YOU'RE AWARE THAT THIS IS A CRIMINAL PROCEEDING?
- 19 A. I'M AWARE OF THAT.
- 20 Q. AND FINALLY DOWN THERE IN THE SUMMARY IT SAYS,
21 "E.E.G. BRAIN MAPPING AND OTHER ADVANCED
22 Q.E.E.G. TECHNIQUES SHOULD BE USED ONLY BY
23 PHYSICIANS HIGHLY SKILLED IN CLINICAL E.E.G.".
24 YOU'RE NOT A PHYSICIAN, ARE YOU, SIR?
- 25 A. I'M NOT A PHYSICIAN. IF I CAN ADD TO THAT, I

DR. JAMES EVANS - CROSS BY MR. BRACKETT

2582

1 WOULD LIKE TO.

2 Q. PLEASE.

3 A. THE AUTHOR OF THE DATABASE THAT I USE, ROBERT
4 THATCHER, WHO IS A PHD BUT IS A MEMBER OF THE
5 GROUP OF Q.E.E.G. SPECIALISTS WHO ARE PRESENTLY
6 RE-WRITING THE RULES OF ITS USE TO ALLOW PHD'S
7 TO -- PRESENTLY THEY ARE ALLOWED TO DO IT, BUT
8 TO MAKE IT ACCEPTABLE FOR PHD LEVEL PSYCHOLOGIST
9 WITH PROPER TRAINING TO USE IT, ROBERT THATCHER
10 AND OTHERS ARE DOING THAT AT THE PRESENT TIME.

11 I WAS ON THE PHONE WITH HIM ABOUT -- WELL,
12 DURING THE LUNCH HOUR AND TALKING WITH HIM ABOUT
13 THIS VERY SITUATION.

14 HE TOLD ME THAT IN FEBRUARY OF THIS YEAR, TWO
15 MONTHS AGO, THE SAME ISSUE CAME UP IN A COURT IN
16 TEXAS WHERE HE AND SEVERAL OTHERS WERE CALLED TO
17 TESTIFY REGARDING IT.

18 THE ARTICLE BY NEWER, THE ONE THAT I HAVE IN MY
19 HAND HERE, WAS IN FACT NOT ALLOWED AS EVIDENCE
20 BY THE JUDGE IN THIS CASE OF COUNTY COURT AT
21 LAW, TRAVIS COUNTY, TEXAS, DONNA MORRELL VERSUS
22 CALLIE ANN RICKEY, BUT IN FACT THE Q.E.E.G. DATA
23 WAS ALLOWED BECAUSE DR. THATCHER AND OTHERS
24 PROVIDED EIGHT SCIENTIFIC ARTICLES ATTESTING TO
25 ITS RELIABILITY ---

DR. JAMES EVANS - CROSS BY MR. BRACKETT

2583

1 Q. WHERE ARE YOU, SIR? YOU'RE NOT IN TEXAS, ARE
2 YOU?

3 A. I'M JUST TELLING YOU WHAT I GOT FROM THIS MAN.

4 Q. YES, SIR. I'M GOING TO OBJECT TO ANYMORE; THIS
5 IS HEARSAY.

6 THE COURT: I SUSTAIN THE OBJECTION.

7 MR. HANCOCK: WELL, AN EXPERT CAN TESTIFY TO
8 HEARSAY.

9 THE COURT: IF IT IS SOMETHING THEY USED TO RELY
10 ON TO REACH THEIR OPINION. HE IS USING IT NOW -- OBVIOUSLY
11 HE HAD HIS OPINION BEFORE OR HOPEFULLY HE HAD HIS OPINION
12 BEFORE HE TALKED TO THIS MAN AT LUNCH. IF HE DID NOT FORM
13 HIS OPINION UNTIL AFTER HE TALKED TO THIS MAN AT LUNCH,
14 THEN HE CAN TELL US THAT, HE CAN GO INTO IT. BUT IF IT IS
15 NOT SOMETHING THAT HE BASED HIS OPINION ON, HE CANNOT.

16 MR. HANCOCK: THANK YOU, SIR.

17 THE COURT: YOU CAN PROCEED FROM THERE.

18 Q. BASICALLY, THE MAJORITY OF HIS TEST RESULTS WERE
19 NORMAL EXCEPT FOR A FEW AND IT'S UPON THOSE FEW
20 THAT YOU GOT THIS OPINION HERE THAT HE'S GOT
21 RIGHT HEMISPHERE AND FRONTAL LOBE PROBLEMS?

22 A. IT WAS THOSE FEW FITTING INTO A PATTERN
23 INDICATING RIGHT HEMISPHERE AND FRONTAL, ALONG
24 WITH THE NEUROLOGICAL FINDINGS OF DR. PINCUS,
25 ALONG WITH THE HISTORY OF ATTENTION DEFICIT

DR. JAMES EVANS - CROSS BY MR. BRACKETT

2584

1 DISORDER DIAGNOSES IN THE PAST AND THE PROBLEMS
2 WITH -- APPARENT PROBLEMS WITH IMPULSE CONTROL
3 THAT WERE SHOWN IN MANY OF HIS BEHAVIORS IN THE
4 PAST.

5 Q. DID YOU TALK WITH HIM ABOUT WHAT HE DID IN THE
6 HOUSE?

7 A. NO, SIR.

8 Q. YOU DIDN'T DISCUSS ANY OF THAT?

9 A. NO, SIR.

10 Q. SO, YOU DON'T KNOW WHAT HIS MENTAL STATE WAS AT
11 THAT TIME?

12 A. I DO NOT.

13 Q. NOW THE EXAMPLE YOU USED WAS DRIVING DOWN THE
14 HIGHWAY -- CAN YOU DISTINGUISH FROM WHAT YOU
15 DESCRIBED FROM THIS DISASSOCIATIVE STATE FROM
16 JUST BEING PREOCCUPIED? YOU'RE NOT SAYING THAT
17 EVERY TIME SOMEBODY WAS PREOCCUPIED WITH
18 SOMETHING, THEIR THINKING ABOUT A PROBLEM THEY
19 MIGHT HAVE AND THEY JUST FORGET, THAT THEY ARE
20 HAVING A DISASSOCIATIVE STATE?

21 A. OF COURSE NOT. THAT WOULD BE LIKE SAYING EVERY
22 TIME SOMEONE COUGHS THEY HAVE PNEUMONIA. THAT'S
23 JUST SOMETHING THAT OCCURS TO ALL OF US AT
24 TIMES, WE HAVE THESE STATES THAT ARE KIND OF
25 LIKE A TRUE DISASSOCIATIVE STATE. I USE THAT AS

DR. JAMES EVANS - CROSS BY MR. BRACKETT

2585

1 AN EXAMPLE TO TRY TO CLARIFY WHAT IT MIGHT BE
2 LIKE BECAUSE WE'VE ALL EXPERIENCED THAT.
3 HOWEVER, THE EXTREME CASES -- THE OTHER END OF
4 THE CONTINUUM WOULD BE A FULL BLOWN MULTIPLE
5 PERSONALITY DISORDER. BUT SOMEWHERE DOWN THE
6 LINE THERE ARE ABNORMAL, THERE ARE -- AND TO GO
7 INTO THE DIAGNOSTIC STATISTICAL MANUAL OF THE
8 AMERICAN PSYCHIATRIC ASSOCIATION AS A DISEASE,
9 AND I'M SAYING THAT HE TOLD ME THAT HE HAD
10 SEVERAL EPISODES OF THINGS LIKE THAT THAT ARE
11 WELL BEYOND THE DRIVING DOWN THE HIGHWAY AND
12 FORGETTING TO GET OFF. AND I'M SAYING THAT IN
13 MY EXPERIENCE PEOPLE WHO HAVE HIGH FRONTAL ALPHA
14 CONCENTRATIONS OF POWER IN A Q.E.E.G. VERY OFTEN
15 REPORTS SUCH EXPERIENCES.

16 Q. DID YOU TESTIFY EARLIER THAT THE DEFENDANT TOLD
17 YOU HE REMEMBERED DAMAGING HIS HEAD AT THE AGE
18 OF TWO?

19 A. HE TOLD ME THAT -- I CAN SAY EXACTLY WHAT HE
20 SAID, I BELIEVE, IF I CAN FIND THAT.

21 (AFTER A PAUSE.)

22 A. HE SAID HE HAD BEEN -- I DON'T KNOW WHETHER HE
23 TOLD ME HE KNEW IT -- I DON'T THINK THAT HE TOLD
24 ME KNEW IT BECAUSE MOST PEOPLE WOULDN'T KNOW IT
25 AT THAT AGE. HE SAID "I HAD A CONCUSSION AT AGE

DR. JAMES EVANS - CROSS BY MR. BRACKETT

2586

1 TWO WHEN I FELL OUT OF BED". I DON'T KNOW HOW
2 HE KNEW IT.

3 Q. AGAIN, LIKE ALL THE OTHER INFORMATION, THIS IS
4 WHAT HE REPORTED TO YOU?

5 A. THAT IS WHAT HE REPORTED TO ME.

6 Q. IN PREPARATION FOR HIS DEFENSE HERE.

7 A. THAT WAS ONE THING; YES, SIR.

8 Q. HE CERTAINLY HAS A STRONG MOTIVE NOT TO TELL YOU
9 THE TRUTH DOES HE NOT?

10 A. THAT'S TRUE.

11 Q. YOU ALSO SAID THAT HE HAD SOME PROBLEMS
12 ABSTRACTING PROVERBS; HE HAD SOME PROBLEMS
13 GETTING PROVERBS ABSTRACTED?

14 A. VERBAL ABSTRACTIONS HE SEEMED TO HAVE DIFFICULTY
15 WITH; YES, SIR.

16 Q. WITH THE POEM AND STATUE, AND LET SLEEPING DOGS
17 LIE BECAUSE IT MIGHT JUMP UP AND BITE YOU.

18 A. THOSE WERE SOME EXAMPLES.

19 Q. DID YOU REVIEW HIS RECORDS FROM WILLIAM S. HALL
20 FROM HIS 1995 COMMITMENT?

21 A. YES, SIR.

22 Q. OKAY. DID YOU SEE THE MENTAL STATUS
23 EXAMINATION, THE PROVERB INTERPRETATION IN THAT?

24 A. I READ THAT.

25 Q. HE WAS ABLE TO INTERPRET THE PROVERB WHAT GOES

DR. JAMES EVANS - REDIRECT BY MR. HANCOCK

2587

1 AROUND COMES AROUND QUITE WELL, WASN'T HE?

2 A. I DIDN'T LOOK AT THE SPECIFIC PROVERBS. I JUST
3 SAW THAT THEY SAID THAT HE -- THAT MENTAL STATUS
4 EXAM IS A VERY QUICK MEASURE AND I DON'T KNOW
5 HOW MANY PROVERBS THEY GAVE HIM.

6 Q. WELL, LET ME REFRESH YOUR MEMORY. WHAT DID HE
7 SAY WHAT GOES AROUND COMES AROUND MEANS?

8 A. "IT MEANS WHAT YOU DO OR SAY MAY COME BACK TO
9 HAUNT YOU".

10 Q. YES, SIR. I HAVE NO FURTHER QUESTIONS

11 THE COURT: REDIRECT?

12 MR. HANCOCK: VERY BRIEFLY, YOUR HONOR.

13 REDIRECT EXAMINATION BY

14 MR. HANCOCK:

15 Q. REGARDING THE Q.E.E.G., I BELIEVE YOUR TESTIMONY
16 EARLIER IS THAT YOU MAKE YOUR EVALUATION, FORM
17 YOUR OPINION AND YOU USE THIS?

18 A. I LIKE TO GIVE THAT ADDITIONALLY TO SEE IF IT
19 BACKS UP THE NEUROPSYCHOLOGICAL TEST FINDINGS.
20 IF IT DOES, I FEEL MORE CONFIDENT IN THE
21 NEUROPSYCHOLOGICAL TEST FINDINGS BECAUSE -- ONE
22 REASON IS THAT -- WELL, IT POINTS OUT THE AREA
23 OF BRAIN THAT IS NOT FUNCTIONING APPROPRIATELY
24 AS I ILLUSTRATED EARLIER.

25 A. BUT IN ADDITION TO THAT, AS WAS MENTIONED, ONE

DR. JAMES EVANS - REDIRECT BY MR. HANCOCK

2588

1 IN TRYING TO SAVE THEIR LIFE MIGHT TRY TO FAKE
2 THINGS. AND IT'S POSSIBLE TO FAKE THE
3 NEUROPSYCHOLOGICAL TEST. IF YOU'RE AN
4 INTELLIGENT PERSON, YOU MIGHT BE ABLE TO FAKE
5 IT. BUT YOU CANNOT FAKE YOUR OWN BRAIN WAVES.
6 AND SO I LIKE TO USE THAT AS A CHECK ON
7 MALINGERING.

8 Q. I HAVE NO FURTHER QUESTIONS.

9 RECROSS EXAMINATION BY

10 MR. BRACKETT:

11 Q. IF THEY'RE RELIABLE; ISN'T THAT RIGHT?

12 A. AND THIS ONE IS. I WOULD CONSIDER IT VERY
13 RELIABLE BECAUSE I TOOK TWO SAMPLES AND I ONLY
14 USED THE ABNORMALITIES THAT WERE FOUND IN BOTH
15 SAMPLES. HAD THOSE ABNORMALITIES BEEN BASED ON
16 ARTIFACTS OR SOME OTHER RANDOM NOISE, THEY WOULD
17 HAVE CANCELLED OUT IN THE TWO. WHEN YOU DO THE
18 TWO SAMPLES, IT CANCELS OUT ANY EFFECTS OF
19 ARTIFACTS. SO, I FEEL THOSE WERE QUITE RELIABLE
20 FINDINGS.

21 Q. DR. EVANS, HIS MRI DIDN'T REVEAL ANY PROBLEMS,
22 DID IT?

23 A. I UNDERSTAND IT DID NOT, WHICH IS NOT AT ALL
24 UNCOMMON. THE MRI WOULD ONLY DETECT ACTUAL
25 BRAIN DAMAGE IN THE SENSE OF STRUCTURAL DAMAGE

DR. JAMES EVANS - RECROSS BY MR. BRACKETT

2589

1 AND WE'RE TALKING HERE ABOUT BRAIN DYSFUNCTION
2 WHICH MAY OR MAY NOT BE RELATED TO STRUCTURAL
3 DAMAGE.

4 Q. I HAVE NO FURTHER QUESTIONS.

5 THE COURT: YOU CAN STEP DOWN. WE APPRECIATE
6 YOUR TIME, AND YOU CAN BE EXCUSED. CALL YOUR NEXT WITNESS.

7 MR. BOYD: YOUR HONOR, WITH THE NEXT WITNESS WE
8 HAVE SEVERAL EXHIBITS AND WE NEED TO SET UP THE EXHIBITS TO
9 MAKE THINGS GO SMOOTHLY.

10 THE COURT: ALL RIGHT. I'LL LET THE JURY GO TO
11 THE JURY ROOM FOR JUST A SHORT BREAK.

12 MR. HANCOCK: MAY THIS WITNESS BE EXCUSED, SIR?

13 THE COURT: I TOLD HIM HE COULD, YES.

14 IN CAMERA:

15 THE COURT: WE'RE STILL IN COURT, STILL IN ORDER;
16 WE'RE SUPPOSED TO BE ANYWAY.

17 MR. BOYD: YOUR HONOR, THE NEXT WITNESS WILL BE
18 DR. MORGAN. I PROVIDED MR. POPE WITH A COPY OF THE PROPOSED
19 EXHIBITS THAT HE WOULD USE FOR DEMONSTRATIVE EVIDENCE.

20 HE HAS MARKED SOME THAT HE WOULD OBJECT TO. I
21 THINK WE CAN GO OVER THEM AT THIS TIME, LET HIM MAKE A
22 PRESENTATION.

23 THE COURT: SLIDES?

24 MR. POPE: YES, SIR. IF WE COULD JUST GO THROUGH
25 EACH ONE THAT'S MARKED.

2590

1 MR. BOYD: YOUR HONOR, I AM PREPARED.

2 THE COURT: ALL RIGHT. I HAVE THE DOCUMENT
3 ENTITLED "COPIES OF SLIDES" FOR PROFESSOR MORTON'S
4 TESTIMONY. THE FIRST OBJECTION WAS THAT IT WAS NOT
5 DIVULGED IN RECIPROCAL DISCOVERY AND I'M GOING TO DENY THAT
6 MOTION. I AM GOING TO ALLOW IT IN. BUT THEN THERE WERE
7 OBJECTIONS TO CERTAIN PORTIONS. THE FIRST ONE I SEE IS ON
8 PAGE 4, METHYLPHENIDATE. IS THAT A COMPONENT OF RITALIN?
9 IS THAT WHAT RITALIN IS?

10 MR. BOYD: YES, SIR.

11 THE COURT: WHAT'S YOUR OBJECTION TO THAT THEN?

12 MR. POPE: YOUR HONOR, I APOLOGIZE.

13 THE COURT: ALL RIGHT, PAGE 4.

14 MR. POPE: I THINK I'M WITH YOU EXCEPT FOR WHICH
15 ONE?

16 THE COURT: YOU'VE GOT ALL THREE MARKED, I WAS
17 JUST GOING TO START AT THE TOP. HAVE YOU GOT MORE THAN ONE
18 PAGE 4?

19 MR. POPE: WELL, IT LOOKS LIKE THE FIRST FOUR
20 PAGES DEAL WITH THAT, THAT'S THE PROBLEM, YOUR HONOR.

21 THE COURT: ONE HAS TO DO WITH DOSAGE.

22 MR. POPE: AND THE DOSAGE IS NOT MARKED, I
23 BELIEVE.

24 THE COURT: RIGHT.

25 MR. POPE: YES, SIR. ONCE WE GET TO THAT SECOND

1 PAGE, YOUR HONOR, IT SAYS "GIVE CAUTIOUSLY TO EMOTIONALLY
2 UNSTABLE PATIENTS SUCH AS THOSE WITH A HISTORY OF DRUG
3 DEPENDENCE OR ALCOHOLISM BECAUSE SUCH PATIENTS MAY INCREASE
4 DOSAGE ON THEIR OWN INITIATIVE". I HAVE AN OBJECTION TO
5 THAT ONE, YOUR HONOR.

6 THE COURT: ALL RIGHT, WHAT IS THE OBJECTION?

7 MR. POPE: YOUR HONOR, I THINK THEY CAN TESTIFY
8 TO THAT. I DON'T KNOW THAT THAT IS APPROPRIATE TO BRING IN
9 BUT -- AND THIS IS COMING, I UNDERSTAND, FROM "DRUG FACTS
10 AND COMPARISONS", BUT I THINK IT IS FACTS SPECIFIC TO THIS
11 CASE AND I WOULD OBJECT TO IT ON THAT GROUND, YOUR HONOR.

12 THE COURT: WELL, IT WASN'T PRESCRIBED TO HIM.
13 NOBODY HAS TESTIFIED THAT IT WAS PRESCRIBED IN ANY EVENT.

14 MR. BOYD: NO, SIR, NOT TESTIMONY IT'S
15 PRESCRIBED, IT'S GOING TO ---

16 THE COURT: IT STARTS OFF SAYING "GIVE
17 CAUTIOUSLY"; ISN'T THAT DIRECTING SOMEBODY WHO PRESCRIBES
18 IT?

19 MR. BOYD: THAT'S CORRECT. BUT THE EMPHASIS IS
20 GOING TO BE EVEN IF IT'S PRESCRIBED IT SHOULD BE GIVEN
21 CAUTIOUSLY TO EMOTIONALLY UNSTABLE PEOPLE. OF COURSE THE
22 TESTIMONY HERE IS THAT MR. ROBERTSON WAS PRESCRIBED IT,
23 IT'S JUST SHOWING THAT THIS IS A DANGEROUS DRUGS FOR
24 EMOTIONALLY UNSTABLE PEOPLE.

25 THE COURT: I'M GOING TO ALLOW IT IN. ALL RIGHT,

2592

1 WHAT ABOUT THE NEXT, COCAINE?

2 MR. POPE: YOUR HONOR, I DIDN'T OBJECT, I GAVE
3 SOME LEEWAY IN SAYING THE AFFECTS WERE LIKE COCAINE BUT NOW
4 WE'VE GOT INTO, YOU KNOW "COCAINE WHICH IS ONE OF THE MOST
5 REINFORCING AND ADDICTIVE OF THE ABUSED DRUGS" -- IT'S
6 REPETITIVE, YOUR HONOR, IS ONE OBJECTION. IT'S ALREADY
7 BEEN CITED RIGHT AT THE BEGINNING, "METHYLPHENIDATE EQUALS
8 AMPHETAMINES EQUALS COCAINE". ORIGINALLY I HAD OBJECTED TO
9 THAT ONE AND I ALLOWED THAT ONE TO REMAIN IN, YOUR HONOR,
10 BUT AT THIS POINT THIS APPEARS TO JUST BEING A RESTATEMENT
11 SAYING THE SAME THING.

12 AND ALSO IT GOES ON TO SAY "MOST COMMONLY
13 PRESCRIBED PSYCHOTROPIC MEDICATION FOR CHILDREN IN THE
14 UNITED STATES", YOUR HONOR, AND I WOULD OBJECT TO THAT ONE.

15 THE COURT: THERE IS NO TESTIMONY THAT COCAINE
16 WAS INVOLVED IN THIS.

17 MR. BOYD: THERE IS EVIDENCE THAT HE HAD BEEN A
18 COCAINE USER IN THE PAST.

19 THE COURT: I'M TALKING ABOUT AT THE TIME OF THE
20 EVENT.

21 MR. BOYD: WELL, I THINK WE'RE GOING THROUGH THE
22 WHOLE SUBSTANCE ABUSE AND GOING THROUGH HIS WHOLE HISTORY
23 OF SUBSTANCE ABUSE, THE FACT THAT HE HAD USED ILLEGAL
24 SUBSTANCES AND LEGAL SUBSTANCES IN THE PAST IS RELEVANT TO
25 THIS WHOLE SITUATION.

1 THE COURT: MY CONCERN ABOUT THAT THOUGH IS IT'S
2 TALKING ABOUT PHARMACOLOGICAL ACTIONS THAT ARE SIMILAR TO
3 THOSE OF -- SO, THE FACT THAT HE HAD TAKEN IT BEFORE UNLESS
4 THERE WAS SOME IN HIS SYSTEM AT THE TIME, BUT OTHERWISE I
5 DON'T SEE WHERE THAT'S RELEVANT.

6 MR. BOYD: WELL, IT'S RELEVANT THAT HE USES
7 COCAINE AND THEN HE STARTS USING ANOTHER SUBSTANCE WHICH
8 HAS THE SAME AFFECT. BASICALLY THE TESTIMONY IS, WELL,
9 HERE'S RITALIN, IT'S AVAILABLE, YOU CAN GET IT WITHOUT
10 GOING OUT ON THE STREET AND BUYING IT, RIGHT THERE IN THE
11 HOME. THAT TYPE OF THING. AND IT GIVES A SIMILAR AFFECT
12 AS COCAINE.

13 THE COURT: WELL, DOESN'T HE TESTIFY TO THAT OVER
14 HERE ON -- SOME OF THESE PAGES ARE UN-NUMBERED. IT TALKS
15 ABOUT AMPHETAMINE LIKE DRUGS ARE SIMILAR TO COCAINE.

16 MR. BOYD: IT IS REPETITIVE, I DON'T ARGUE WITH
17 THAT.

18 THE COURT: WELL, I'M NOT GOING TO ALLOW IT IN.
19 THAT ONE'S OUT. ALL RIGHT, SUBSTANCE ABUSE IN SWEDEN.

20 MR. POPE: I WOULD OBJECT TO RELEVANCE, YOUR
21 HONOR.

22 THE COURT: WHAT IS THAT RELEVANT TO?

23 MR. BOYD: IT JUST SHOWS THE STRENGTH AND HOW
24 THIS DRUG CAN BE MISUSED BASED ON OTHER STUDIES HAVE SHOWN
25 THAT IT IS MISUSED.

2594

1 THE COURT: THAT'S OUT; I'M NOT GOING TO ALLOW
2 THAT IN. ALL RIGHT, THE NEXT PAGE. ABOUT THE SENIORS AND
3 WE DETERMINED THAT IT WAS NOT MY KIND OF SENIOR, BUT HIGH
4 SCHOOL SENIORS?

5 MR. BOYD: THAT'S CORRECT, YOUR HONOR.

6 MR. POPE: I WOULD SUBMIT ON EITHER OCCASION IT
7 WOULD NOT BE RELEVANT HERE, YOUR HONOR.

8 THE COURT: I AGREE. I'M NOT GOING TO ALLOW THAT
9 IN. ALL RIGHT, HOW ABOUT DEATHS IN MISSISSIPPI AND
10 VIRGINIA?

11 MR. POPE: YOUR HONOR, AGAIN ---

12 THE COURT: LET HIM JUSTIFY THEM. SOME OF THESE
13 I'VE ALREADY SAID I HAD TROUBLE WITH.

14 MR. BOYD: YOUR HONOR, THAT SHOWS BASED ON THE
15 STUDIES, THIS IS FROM A STUDY THAT HE'S REVIEWED AND IT
16 SHOWS THAT THE DRUG IS A DANGEROUS DRUG. THAT IT IS A DRUG
17 THAT IS USED BY TEENAGERS AND YOUNG PEOPLE. IT'S A
18 COMMONLY ABUSED DRUG.

19 THE COURT: WELL, WHAT DOES THAT HAVE TO DO WITH
20 -- THE FACT THAT IT IS COMMONLY ABUSED, WE'RE TALKING ABOUT
21 MR. ROBERTSON.

22 MR. BOYD: WELL, IT GOES TO THE WHOLE ISSUE OF
23 SUBSTANCE ABUSE AND HOW HE IN PARTICULAR BECAME ADDICTED
24 AND THE WHOLE NATURE OF ADDICTION.

25 THE COURT: I'M NOT GOING TO ALLOW THAT IN.

1 NEXT, TWO PHARMACISTS BECOME ADDICTED. ONE WAS VIDEOTAPED
2 CRUSHING THE TABLETS AND SNORTING THE POWDER AT WORK. I'M
3 NOT GOING TO ALLOW THAT IN. I FIND IT IS NOT RELEVANT.

4 NEXT, AND THE PAGES AREN'T NUMBERED. AS WITH
5 MOST THINGS, WHEN WE DEAL WITH MATTERS IN COURT, IT SURE IS
6 HELPFUL TO HAVE THEM NUMBERED BUT PEOPLE CONTINUE TO CHOOSE
7 NOT TO.

8 THERE'S A MARK ON AN UNNUMBERED PAGE, IT STARTS
9 OUT WITH "THE PARANOID DELUSIONS CAN BE VERY FRIGHTENING TO
10 THE PATIENT".

11 MR. BOYD: YOUR HONOR, MAY WE APPROACH JUST TO
12 SEE WHAT PAGE YOU'RE ON?

13 THE COURT: ALL RIGHT.

14 (MR. BOYD APPROACHED THE BENCH.)

15 THE COURT: OKAY. LOOKING AT THAT, ARE THEY
16 TALKING NOW ABOUT RITALIN? MR. BOYD?

17 MR. BOYD: YES, SIR, THAT'S CORRECT.

18 THE COURT: WHAT'S THE OBJECTION TO THAT?

19 MR. POPE: YOUR HONOR, AGAIN -- I HEAR MR. BOYD
20 SAYING THAT, BUT I'M NOT SURE WHERE THE CONNECTION IS MADE
21 IF THEY ARE TALKING ABOUT RITALIN THERE. ALSO I'M NOT SURE
22 THAT THERE IS ANY INDICATIONS THAT PARANOID DELUSIONS HAVE
23 OCCURRED IN THIS PARTICULAR CASE, YOUR HONOR.

24 THE COURT: WELL, I'M GOING TO ALLOW IT IN. YOU
25 CAN CROSS EXAMINE ON IT.

2596

1 MR. POPE: BECAUSE THE ONE ABOVE IT TALKS ABOUT
2 PSYCHOSIS STIMULANTS.

3 THE COURT: WELL, IF THE PROPER FOUNDATION IS
4 LAID -- I HAVEN'T READ ALL THE ONES IN FRONT OF IT.

5 MR. POPE: YES, SIR.

6 THE COURT: BUT JUST ON ITS FACE I HAVE NO
7 PROBLEM WITH THAT, SO I'M GOING TO LEAVE IT IN. IF YOU
8 FEEL THAT THE FOUNDATION IS NOT THERE, THEN WE WILL DEAL
9 WITH IT ON AN INDIVIDUAL BASIS.

10 THE NEXT PAGE, MIDDLE OF THE PAGE,
11 "AMPHETAMINES".

12 MR. POPE: WE'RE NOW TALKING ABOUT 13 PEOPLE WHO
13 COMMITTED HOMICIDE ---

14 THE COURT: I'M NOT GOING TO ALLOW THAT IN.

15 MR. BOYD: YOUR HONOR, IF I MAY BE HEARD JUST ON
16 THE RECORD ON THAT.

17 THE COURT: SURE.

18 MR. BOYD: THAT BASICALLY IS A STUDY WHICH MY
19 CLIENT BASIS AN OPINION ON AS AN EXPERT CONCERNING THE
20 LINKAGE OF THIS TYPE OF DRUG WITH HOMICIDES. I MEAN THAT
21 GOES DIRECTLY TO THE ISSUES IN THIS CASE.

22 THE COURT: WELL, BUT IT ALSO SAYS "THE AUTHOR
23 DESCRIBES THE HISTORY OF 13 PERSONS" -- "IN MOST OF THE
24 CASES THE EVENTS LEADING TO THE HOMICIDAL ACT WERE DIRECTLY
25 RELATED TO AMPHETAMINE-INDUCED PARANOID THINKING, PANIC,

1 EMOTIONAL LIABILITY, OR LOWERED IMPULSE CONTROL. THE MOST
2 IMPORTANT VARIABLES ASSOCIATED WITH THE CASES INCLUDED
3 PREDISPOSING PERSONALITY, ENVIRONMENTAL CIRCUMSTANCES, AND
4 THE USE OF OTHER DRUGS".

5 MR. BOYD: THAT GOES DIRECTLY TO THIS CASE. THE
6 TESTIMONY HAS BEEN ALREADY TO A PREDISPOSING PERSONALITY,
7 AND THEN THERE HAS BEEN TESTIMONY ABOUT THE DRUG USAGE. I
8 MEAN THAT'S CERTAINLY SOMETHING THAT CAN BE CROSS EXAMINED
9 ON BY THE SOLICITOR.

10 THE COURT: I THINK MY CONCERN IS WITH THE
11 BROADNESS OF IT. IT TALKS ABOUT 13, THE NUMBER DOESN'T
12 BOTHER ME, BUT THEN HE SAYS MOST OF THE CASES AND HE
13 TESTIFIES AS TO HOW MANY OF THESE CASES WERE DIRECTLY
14 RELATED TO AMPHETAMINE INDUCED PARANOID THINKING.

15 MR. BOYD: MY WITNESS DIDN'T DO THE STUDY.

16 THE COURT: I UNDERSTAND THAT.

17 MR. BOYD: YES, SIR, HE DIDN'T DO THE STUDY.

18 THE COURT: THAT'S MY POINT.

19 MR. BOYD: I THINK AS AN EXPERT HE CAN BASE AN
20 OPINION ON OTHER STUDIES. IF THE STATE FEELS THE STUDY IS
21 FLAWED, THEY HAVE A RIGHT TO CROSS EXAMINE ON THAT ISSUE.

22 THE COURT: ALL RIGHT. THE LAST QUESTION THEN,
23 AND WE'LL SEE WHERE WE ARE, "DIRECTLY RELATED TO
24 AMPHETAMINE-INDUCED PARANOID THINKING". IS THERE ANY
25 TESTIMONY THAT MR. ROBERTSON WAS AT THE TIME OF THIS ACT

2598

1 SUFFERING UNDER PARANOID THINKING?

2 MR. BOYD: I BELIEVE THERE HAS BEEN TESTIMONY
3 FROM BOTH DR. EVANS AND DR. PINCUS THAT THAT'S ONE OF THE
4 SYMPTOMS OF BIPOLAR DISORDER WHICH HE WAS DIAGNOSED AS
5 HAVING.

6 THE COURT: WHAT DO YOU HAVE TO SAY ABOUT THAT,
7 MR. POPE?

8 MR. POPE: YOUR HONOR, MY OBJECTION STILL WOULD
9 BE IT'S TOO GENERAL. WE'RE NOW TALKING ABOUT 13 OTHER
10 HOMICIDES THAT WE DON'T REALLY KNOW ANYTHING ABOUT THAT
11 BECAUSE THIS GUY MAY HAVE BEEN BIPOLAR MIGHT HAVE INDUCED
12 PARANOID THINKING. I SUBMIT IT'S TRYING TO MAKE INTO A FACT
13 SOMETHING THAT'S TOO GENERAL. IF HE WANTS TO BASE AN
14 OPINION ON THAT, THAT'S ONE THING, BUT TO PROJECT IT UP AS
15 THIS IS THE STATE OF AFFAIRS, I SUBMIT, WOULD BE INCORRECT.

16 THE COURT: I'M NOT GOING TO ALLOW THAT ONE IN.
17 ALL RIGHT, THE NEXT PAGE, AT THE BOTTOM OF THE PAGE IT
18 TALKS ABOUT HALLUCINATIONS. I HAVEN'T HEARD ANY TESTIMONY
19 ABOUT HALLUCINATIONS.

20 MR. BOYD: YOUR HONOR -- IF THE COURT WILL
21 INDULGE ME ONE MINUTE, I WANT TO SEE ONE OF THE OTHER
22 EXHIBITS.

23 (AFTER A BRIEF PAUSE.)

24 MR. BOYD: YOUR HONOR, IN DR. PINCUS' REPORT
25 WHICH HAS BEEN ADMITTED INTO EVIDENCE, HE REPORTS "I CAN

1 SEE MYSELF AS IT WAS HAPPENING, IT WAS AS IF A THIRD
2 PERSON, ME, WAS WATCHING WHAT I WAS DOING. THERE WAS ANGER
3 AND RAGE IN MY EYES; I COULD SEE MYSELF RUNNING DOWN THE
4 HALL LIKE A MADMAN". I SUBMIT TO YOU, THAT DIRECTLY SHOWS
5 A PSYCHOTIC STATE.

6 ALSO, I BELIEVE DR. MORTON'S TESTIMONY WOULD BE
7 HE HAS SEEN IN THE REPORTS OR JIMMY ROBERTSON TOLD HIM
8 HIMSELF THAT HE COULD SEE HIMSELF WITH A DISTORTED FACE;
9 THAT'S IN DR. PINCUS' RECORD THAT'S IN EVIDENCE. SO, I
10 SUBMIT THAT IS PROPER.

11 MR. POPE: YOUR HONOR, WE JUST HAD TESTIMONY
12 ABOUT THAT AS A DISASSOCIATIVE STATE. I'M NOT SAYING
13 THERE'S NOT TESTIMONY OF A DISASSOCIATIVE STATE. THIS
14 TALKS ABOUT HALLUCINATIONS. IT TALKS ABOUT AUDITORY
15 HALLUCINATIONS, VISUAL HALLUCINATIONS. AND THE DOCTOR WAS
16 EXPLAINING THAT A DISASSOCIATIVE STATE IS SEPARATE.

17 MR. BOYD: I THINK THAT WOULD BE SUBJECT TO CROSS
18 EXAMINATION. DR. MORTON'S TESTIMONY, AND I MAY NEED TO GET
19 HIM IN HERE TO PUT THIS ON THE RECORD, THAT HE CONSIDERS
20 THIS REPORT OF HIM SEEING HIMSELF LIKE THAT IS RELATED TO
21 A PSYCHOTIC TYPE HALLUCINATION STATE.

22 THE COURT: IF THE PROPER FOUNDATION IS LAID, IF
23 HE IS GOING TO TESTIFY TO THAT -- YOU MAY WANT TO GET HIM
24 TO ESTABLISH THAT BEFORE YOU GO INTO IT, BUT WITH A PROPER
25 FOUNDATION, I'LL ALLOW IT IN.

2600

1 ALL RIGHT, NEXT, "EFFECTS OF CHRONIC COCAINE
2 USE".

3 MR. BOYD: AGAIN, HE'S GOING TO COMPARE COCAINE
4 WITH RITALIN. THAT THESE ARE THE SAME TYPE OF PROBLEMS
5 THAT YOU SEE WITH RITALIN AND WITH COCAINE.

6 MR. POPE: YOUR HONOR, THEY'RE SAYING IT HAS A
7 SIMILAR EFFECT AND NOW WE'RE TALKING ABOUT THE EFFECTS OF
8 CHRONIC COCAINE USE. THERE IS NO INDICATION THAT RITALIN
9 USE OR WHATEVER THE PROPER NAME IS, METHYLPHENIDATE, IS THE
10 SAME THING.

11 THE COURT: I THINK THERE'S A LOT OF TESTIMONY
12 ABOUT COCAINE USE TOO, IS THERE NOT?

13 MR. POPE: IN THIS CASE, YOUR HONOR?

14 THE COURT: YES.

15 MR. POPE: NOT THAT I'M AWARE OF SURROUNDING THE
16 CRIME, YOUR HONOR.

17 THE COURT: NO, NOT AT THE TIME OF THE CRIME, BUT
18 REPORTS THAT HE'D BEEN USING IT IN THE PAST.

19 MR. POPE: YES, SIR.

20 THE COURT: WELL, I'M GOING TO LET IT IN.
21 NOTHING ON THE NEXT PAGE AND THEN WE GET TO "PEOPLE WITH
22 SUBSTANCE ABUSE IN YORK COUNTY".

23 MR. BOYD: YOUR HONOR, I'LL WITHDRAW THAT ONE.

24 THE COURT: ALL RIGHT. AND THEN WE GET OVER TO
25 "ANIMALS WILL WORK MORE AVIDLY FOR COCAINE THAN ANY OTHER

1 DRUG" .

2 MR. BOYD: YOUR HONOR, HE IS JUST REFERRING TO
3 STUDIES ON THAT AS WELL AS THE ONE BELOW THAT. STUDIES
4 HAVE BEEN DONE SHOWING THE EFFECTS OF ADDICTION. AND,
5 AGAIN, HE WOULD BE COMPARING COCAINE TO RITALIN AND JUST
6 THE LENGTHS THAT PEOPLE WILL GO TO TO GET THE DRUG. IT'S
7 BEEN TESTED IN LABORATORY ANIMALS. AND THAT'S PART OF THE
8 WAY THEY STUDY ITS EFFECTS ON HUMANS IS STUDYING LABORATORY
9 ANIMALS.

10 THE COURT: BUT THERE IS NO TESTIMONY THAT ANY
11 EVENT THAT OCCURRED ON THIS NIGHT WAS AN EFFORT TO GET
12 COCAINE.

13 MR. BOYD: NO, SIR. BUT THAT'S NOT THE POINT.
14 THE POINT IS, THIS IS A LONG STANDING SUBSTANCE ABUSE
15 PROBLEM WITH MR. ROBERTSON AND THIS IS TO EXPLAIN HOW HE
16 CAME TO BE AND THE STRENGTH THAT HAVING A CHEMICAL
17 DEPENDENCY PROBLEM WILL HAVE ON AN INDIVIDUAL LIKE HIM
18 GOING THROUGH HIS LIFE.

19 THE COURT: I'M GOING TO RULE OUT "ANIMALS
20 WORKING MORE AVIDLY". THE ONE BELOW THAT ALSO IS TALKING
21 ABOUT PREFERRING COCAINE TO A RECEPTIVE FEMALE. AND THE
22 ONE ON THE NEXT PAGE THAT SAYS THAT HUMANS WOULD -- WELL,
23 I'M NOT GOING TO GO INTO THAT. I'M NOT GOING TO ALLOW THE
24 ONE ABOUT MONKEYS.

25 MR. POPE: YOUR HONOR, I WOULD ALSO NOTE IT SAYS

2602

1 "FOR COCAINE THAN ANY OTHER DRUG". BY THE VERY NATURE OF
2 THAT, IT ELIMINATES ALL OTHER DRUGS AND IT SPECIFICALLY
3 REFERENCES COCAINE.

4 THE COURT: ALL RIGHT, THE NEXT PAGE NO
5 OBJECTION; NEXT, NO OBJECTION; NEXT, NO OBJECTION; NEXT, NO
6 OBJECTION. NOW WE ARE OVER TO ANOTHER GRAPH, "PEOPLE WITH
7 DEPRESSION OR MANIA IN YORK COUNTY".

8 MR. BOYD: YOUR HONOR, I WITHDRAW THAT ONE.

9 THE COURT: ALL RIGHT. THEN THE LAST IS THE
10 ROBERTSON SORT OF FAMILY TREE.

11 MR. BOYD: YOUR HONOR, I HAVE A LARGER EXHIBIT I
12 CAN PULL OUT TO SHOW THE COURT. THIS WOULD BE THE EXHIBIT
13 -- AND WE WOULD WISH TO PUT THIS ONE INTO EVIDENCE.

14 THIS WAS PREPARED ON MONDAY IN AID OF THE
15 TESTIMONY. THERE HAS BEEN TWO CHANGES TO IT SINCE THE
16 PAPER. THERE IS A QUESTION MARK BESIDE THIS AND THIS
17 BECAUSE THE TESTIMONY WOULD BE THAT THERE WAS SIGNS SHOWN
18 OF THAT FROM HIS REVIEW OF THE RECORDS, BUT NOT A
19 DEFINITIVE DIAGNOSIS FOR ADHD AND BIPOLAR.

20 THE COURT: TELL ME AGAIN THE RELEVANCE?

21 MR. BOYD: YOUR HONOR, THE RELEVANCE IS TO SHOW
22 THE ROBERTSON FAMILY AND HOW ALL THE PSYCHOLOGICAL PROBLEMS
23 IN BOTH PARENTS HAVE EFFECTED THE ENTIRE FAMILY, INCLUDING
24 JIMMY ROBERTSON.

25 THERE HAS ALREADY BEEN TESTIMONY FROM BOTH

1 EXPERTS ABOUT THIS CONDITIONS. BIPOLAR BEING INHERITED;
2 ABOUT ADHD BEING INHERITED; IT SHOWS HOW IT IS PASSED DOWN
3 FROM THE FAMILY TO BOTH CHILDREN.

4 THE COURT: WHAT HAS THAT GOT TO DO, AND YOU MAY
5 BE ABLE TO CONVINCE ME, BUT WHAT'S THAT GOT TO DO WITH
6 JIMMY ROBERTSON ON THE NIGHT IN QUESTION? HE HAD THOSE
7 THINGS, WHAT DIFFERENCE DOES IT MAKE WHY HE HAD THEM?

8 MR. BOYD: HIS MENTAL ILLNESS, OF COURSE, HAS
9 SOMETHING TO DO WITH WHETHER HE SHOULD BE PUT TO DEATH OR
10 NOT.

11 THE COURT: I UNDERSTAND THAT. BUT WHAT
12 DIFFERENCE DOES IT MAKE WHERE IT CAME FROM?

13 MR. BOYD: IT MAKES ALL THE DIFFERENCE IN THE
14 WORLD, YOUR HONOR. IS IT SOMETHING THAT HE DID TO HIMSELF
15 TO GIVE HIM THIS CONDITION OR IS IT SOMETHING THAT HE IS
16 GENETICALLY PREDISPOSED TO.

17 I MEAN IF I'M ON A JURY DECIDING IF SOMEONE IS
18 GOING TO LIVE OR DIE, I'M CERTAINLY GOING TO -- IF
19 SOMEBODY, FOR INSTANCE, JUST DECIDES TO START TAKING DRUGS
20 AND KILLS SOMEBODY, I'M GOING TO BE A LOT LESS LENIENT ON
21 IT THAN IF IT TURNS OUT THAT THEY'VE GOT SOMETHING IN THEIR
22 BRAIN THAT MAKES THEM PREDISPOSED TO DO THAT, IT LESSENS
23 HIS MORAL RESPONSIBILITY WHICH IS THE VERY BASIS OF
24 MITIGATION.

25 THE COURT: MR. POPE?

2604

1 **MR. POPE:** YOUR HONOR, THE GREATEST CONCERN I
2 HAVE AND, OF COURSE, IN OTHER DEATH PENALTY CASES I'VE SEEN
3 THIS TYPE OF EVIDENCE, THE GREATEST CONCERN I HAVE MAY BE
4 IN IT COMING THROUGH FROM THE PHARMACOLOGIST ON THE SLIDE
5 AS ONE OF THOSE PRESENTATIONS.

6 IT MAY BE THAT THEIR PSYCHOSOCIAL EXPERT, MS.
7 CASCIO, IF SHE'S GOING TO SAY IN HER RESEARCH SHE'S
8 DETERMINED THIS AND DETERMINED THIS, I'LL PROBABLY GET A
9 CHANCE TO CROSS EXAMINE AND WOULD NOT HAVE AN OBJECTION TO
10 IT. MY INITIAL OBJECTION WAS COMING FROM A PHARMACOLOGIST.

11 **THE COURT:** HOW IS A PHARMACOLOGIST GOING TO
12 TESTIFY TO THAT?

13 **MR. BOYD:** WELL, YOUR HONOR, I WILL HAVE TO
14 QUALIFY HIM AS AN EXPERT TO BE ABLE TO GET THAT IN. HE IS
15 FAR MORE THAN JUST A PHARMACOLOGIST. HE TREATS PEOPLE WITH
16 MENTAL DISORDERS. HE IS DIRECTLY INVOLVED IN THAT. HE'S
17 AN ASSISTANT PROFESSOR OF PSYCHIATRY AT THE UNIVERSITY. HE
18 WORKS WITH PSYCHIATRISTS DIRECTLY IN TREATING PEOPLE WITH
19 MENTAL ILLNESS. OF COURSE, I CAN BRING HIM IN HERE -- I'LL
20 HAVE TO GET HIM QUALIFIED AS AN EXPERT IN THOSE AREAS.

21 **THE COURT:** WELL, I'LL RESERVE RULING ON THAT
22 UNTIL WE FIND OUT IF HE CAN TESTIFY TO THOSE THINGS.

23 **MR. POPE:** YOUR HONOR, WHILE THE JURY IS OUT, WE
24 HAVE NOT RECEIVED MS. CASCIO'S UNDERLYING DATA AT THIS
25 POINT. WE DID RECEIVE I THINK, MR. BOYD, IF THAT'S

1 CORRECT, THREE CHARTS AND WE HAVE EXCERPTS, I BELIEVE, FROM
2 NOTES OF ANOTHER DOCTOR. I THINK POSSIBLY IT COULD BE
3 TESTIFIED TO ACCORDING TO HOW HER TESTIMONY DEVELOPS, BUT
4 I WOULD OBJECT TO CHARTS THAT SINGLE OUT EXCERPTS OF
5 ANOTHER DOCTOR'S WORK, EXCERPTING IT OUT IN THE FORM OF A
6 CHART. SO EACH OF THOSE I WOULD OBJECT TO, YOUR HONOR.

7 THE COURT: WELL, WE'LL GET TO THOSE. I'M STILL
8 GOING TO HAVE TO SEE THE RELEVANCE. EVERYTHING IN HERE
9 APPARENTLY DEALS WITH REFERENCES MADE BY THE VICTIM TO A
10 THIRD PARTY. LET'S DON'T ARGUE THOSE YET. LET'S TAKE IT
11 ONE AT A TIME. BUT I HAVE SOME CONCERN WHAT RELEVANCE THEY
12 WOULD HAVE ALSO, MR. BOYD.

13 MR. BOYD: I CAN ARGUE NOW OR IF YOU WANT TO
14 WAIT.

15 THE COURT: IS SHE GOING TO BE HERE TODAY?

16 MR. BOYD: YES, SIR.

17 THE COURT: HAVE YOU GIVEN THEM THE REST OF HER
18 NOTES?

19 MR. BOYD: NO, YOUR HONOR. SHE LEFT THOSE IN
20 COLUMBIA. SHE LEFT RIGHT AFTER WE BROKE FOR LUNCH TO GET
21 THOSE AND SHE'S ON HER -- SHE MAY BE BACK BY NOW; I HAVEN'T
22 CHECKED. IF NOT NOW, SHORTLY. I TOLD MR. POPE ABOUT THIS
23 AT LUNCH AND THAT SHE HAD GONE TO GET THE NOTES.

24 THE COURT: ALL RIGHT, WE ARE GOING TO TAKE A
25 BREAK IN A MINUTE. DO Y'ALL WANT TO GO AHEAD AND DISPOSE

2606

1 OF THESE NOW?

2 MR. POPE: THE STATE'S PREPARED, YOUR HONOR.

3 MR. BOYD: YOUR HONOR, I WOULD RATHER HAVE THE
4 WITNESS HERE TO MAKE A PROFFER AND EXPLAIN HOW THIS IS
5 RELEVANT TO HER TESTIMONY.

6 THE COURT: WHAT CERTIFICATION DOES SHE HAVE?

7 MR. BOYD: SHE'S A SOCIAL WORKER.

8 THE COURT: JUST SO I CAN BE THINKING ABOUT IT,
9 TELL ME WHAT'S THE TIE-IN TO THESE ---

10 MR. BOYD: HER TESTIMONY WILL BE ABOUT THE FAMILY
11 HISTORY; HOW MR. JIMMY ROBERTSON GREW UP AND HOW THE MENTAL
12 ILLNESS OF THE PARENTS EFFECTED HIM IN GROWING UP; HOW THE
13 THERAPIST'S NOTES SHOWED THE CONDITION OF THE VICTIM
14 CONCERNING HER RELATIONSHIP WITH THE CHILDREN.

15 AGAIN, THE EVIDENCE ALSO SHOWS, IS BACKED UP
16 ABOUT THE MENTAL ILLNESS RUNNING IN THE FAMILY. ALSO, YOUR
17 HONOR, THE STATE HAS PRESENTED EVIDENCE ABOUT MS.
18 ROBERTSON'S CHARACTER AND WHAT A WONDERFUL PERSON SHE WAS
19 AND ALL OF THAT. THAT IS IN REBUTTAL TO THE EVIDENCE THAT
20 THE STATE HAS PRESENTED.

21 THE COURT: YOU'RE GOING TO TRY TO DEMEAN THE
22 CHARACTER OF A VICTIM?

23 MR. BOYD: I'M NOT DEMEANING HER CHARACTER, BUT
24 I THINK -- IF THE STATE INTRODUCES CHARACTER, I THINK WE
25 HAVE THE RIGHT TO -- I MEAN IF THE STATE IS INTRODUCING

1 EVIDENCE AS TO THE VICTIM AND THE LOSS THAT THIS VICTIM HAS
2 ON -- HOW IT AFFECTED PEOPLE AND ALL OF THAT, I THINK WE'RE
3 ENTITLED TO GO INTO OTHER ASPECTS ---

4 THE COURT: THAT SOCIETY HAS NOT SUFFERED A LOSS
5 BY HER DEATH?

6 MR. BOYD: THAT'S NOT IT, YOUR HONOR. THE POINT
7 IS THAT IT COULD BE IN REBUTTAL. THAT'S FROM A LEGAL
8 STANDPOINT. I'M CERTAINLY NOT GOING TO ARGUE THAT SOCIETY
9 HASN'T LOST ANYTHING FROM MRS. ROBERTSON BEING KILLED, FAR
10 FROM THE CONTRARY; HOWEVER, ANY EVIDENCE -- THE STATE HAS
11 PRESENTED EVIDENCE, FOR EXAMPLE, THAT MRS. ROBERTSON WAS A
12 WONDERFUL PARENT AND ALL OF THAT ---

13 THE COURT: EVEN ABSENT THAT, WHAT IF SHE WAS THE
14 WORST PARENT IN THE WORLD? WHAT IF SHE WAS A THIEF AND A
15 ROBBER AND HAD ESCAPED FROM JAIL AND BEEN HIDING AT HOME
16 AND SHE SHOULD HAVE BEEN IN PRISON. I MEAN DOES THAT MEAN
17 HER LIFE ---

18 MR. BOYD: ABSOLUTELY NOT. BUT IF ALL THAT WAS
19 TRUE, IT DOES SHOW WHAT EFFECT HER CHILD REARING HAD ON
20 WHAT MR. JIMMY ROBERTSON BECAME.

21 THE COURT: WELL, ALONG THOSE LINES, BUT JUST
22 LOOKING AT THIS, YOU'RE GOING TO HAVE TO LAY SOME
23 FOUNDATION ON THAT POINT AS TO HOW THESE ITEMS BECAME
24 KNOWLEDGE OF YOUR CLIENT. THAT IS -- AGAIN, THAT'S WHY I
25 SAID EARLIER THESE ARE REFERENCES BY HER TO A THIRD PARTY.

2608

1 IF YOU'RE GOING TO SHOW IT ON HER CHARACTER, WELL, THAT'S
2 ONE THING, WE CAN LOOK AT IT FOR THAT. IF YOU WANT TO SHOW
3 THE EFFECT THAT IT HAD ON HER SONS, ON THIS PARTICULAR SON,
4 YOU'RE GOING TO HAVE TO SHOW THAT HE KNEW IT.

5 MR. BOYD: NO, SIR. THAT'S NOT THE POINT,
6 WHETHER HE KNEW IT OR NOT. SHE CAN TESTIFY AS AN EXPERT
7 HOW THE EFFECT OF PEOPLE WITH THESE KIND OF MENTAL
8 DISORDERS, WHAT KIND OF EFFECT THIS HAS ON THEIR CHILD
9 REARING ABILITY AND HOW IT EFFECTS OUR CLIENT.

10 THE COURT: WE'LL HAVE TO WALK THROUGH HER
11 TESTIMONY I'M AFRAID. ALL RIGHT, LET'S TAKE A SHORT BREAK.

12 AFTER THE BREAK IN CAMERA:

13 THE COURT: ALL RIGHT, EVERYONE IS PRESENT.
14 BEFORE WE HEAR ANYTHING, WE HAD ONE JUROR WHO HAD A LITTLE
15 DISCOMFORT FROM LUNCH, SO I HAVE LEFT WORD THAT IF SHE
16 NEEDED TO GET UP AND LEAVE, SHE COULD DO SO. IF SHE DOES,
17 THEN WE'LL JUST STOP. SO, IF YOU SEE A JUROR GET UP IT
18 WON'T BE BASED ON SOMETHING YOU'VE SAID OR DONE PROBABLY,
19 IT WILL PROBABLY BE DUE TO HER CONDITION.

20 RATHER THAN HAVE HER HAND UP AND SHUFFLE
21 EVERYBODY OUT, SHE CAN JUST LEAVE.

22 ALL RIGHT, ARE YOU READY TO PROCEED?

23 MR. BOYD: YOUR HONOR, BEFORE THE JURY COMES IN,
24 YOU HAD RULED OUT SEVERAL OF THE SLIDES.

25 THE COURT: YES, SIR.

1 MR. BOYD: AND I WANT THE COPY MADE A PART OF THE
2 RECORD.

3 THE COURT: CERTAINLY, PLEASE.

4 MR. BOYD: AND ALSO, YOUR HONOR, I WOULD LIKE ON
5 THREE OF THEM, THE THREE CONCERNING THE EFFECTS OF THE
6 COCAINE ON THE MONKEYS, THAT DR. MORTON MAKE A BRIEF OFFER
7 OF PROOF ON THOSE IN TESTIMONY.

8 THE COURT: LET'S GET HIM IN AND DO THAT FIRST
9 THEN.

10 MR. POPE: YOUR HONOR, WHILE HE'S COMING FORWARD,
11 MR. BOYD HAS HANDED ME THREE MORE EXHIBITS THAT HE INTENDS
12 TO USE WITH MS. CASCIO. I HAVE NO OBJECTION TO THEM BEING
13 USED AS EXHIBITS, BUT I WOULD HAVE AN OBJECTION TO THEM
14 GOING INTO EVIDENCE. I DON'T HAVE AN OBJECTION AS TO THEM
15 BEING USED AS DEMONSTRATIVE AND MR. BOYD MAY WANT TO BE
16 HEARD ON THAT, TOO.

17 MR. BOYD: YOUR HONOR, IF I COULD ARGUE THAT
18 AFTER THIS WITNESS TESTIFIES.

19 THE COURT: YES, LET'S WAIT FOR THAT UNTIL LATER,
20 MR. POPE

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

22 MR. BOYD: YOUR HONOR, INSTEAD OF GOING THROUGH
23 THE WHOLE QUALIFICATION PROCESS, I'M GOING TO DO THAT IN
24 FRONT OF THE JURY, AND JUST MAKE THE PROFFER AT THIS TIME.

25 THE COURT: ALL RIGHT.

2610

1 W. ALEXANDER MORTON, BEING FIRST DULY SWORN,
2 TESTIFIED IN CAMERA AS FOLLOWS:

3 DIRECT EXAMINATION BY

4 MR. BOYD:

5 Q. DR. MORTON, I'M GOING TO REFER YOU TO THREE
6 SLIDES THAT HIS HONOR HAS ALREADY RULED
7 INADMISSIBLE THAT DEAL WITH THE EFFECT OF
8 COCAINE INTOXICATION ON ANIMALS, PARTICULAR
9 PRIMATES. CAN YOU TELL THE COURT WHY THAT IS
10 RELEVANT TO THIS CASE?

11 A. YES. I THINK THAT'S EXTREMELY RELEVANT BECAUSE
12 WHEN WE TALK ABOUT RITALIN, EVERY PLACE YOU LOOK
13 IN ANY PHARMACOLOGICAL TEXTBOOK, IT REFERS TO
14 THE EFFECTS OF RITALIN BEING SIMILAR TO
15 AMPHETAMINES AND COCAINE.

16 SO, WHEN THOSE WORDS ARE USED TOGETHER, THEY
17 ESSENTIALLY MEAN THE SAME THING.

18 WHEN YOU SAY RITALIN, YOU CAN ALSO TALK ABOUT
19 THE PHARMACOLOGICAL EFFECT OF COCAINE. WHEN YOU
20 TALK ABOUT THE SIDE EFFECTS OF RITALIN, YOU CAN
21 TALK ABOUT THE SIDE EFFECTS OF COCAINE.

22 AND THAT PARTICULAR, THOSE THREE SLIDES, I
23 THOUGHT WERE PARTICULARLY IMPORTANT BECAUSE IT
24 GIVES PEOPLE SOME GLIMPSE OF WHAT PEOPLE ARE UP
25 AGAINST WHEN THEY BECOME PHYSICALLY ADDICTED TO

DR. W. ALEXANDER MORTON - DIRECT BY MR. BOYD

2611

1 ONE OF THESE SUBSTANCES, WHETHER IT BE COCAINE,
2 AMPHETAMINES OR RITALIN.

3 SO, IT'S A PARTICULARLY GOOD QUOTE, I THINK,
4 BECAUSE IT HAS TO DO WITH THE WAY ANIMALS OR
5 MONKEYS BEHAVE WHEN THEY ARE ADDICTED TO THESE
6 DRUGS. AND IT'S ALARMINGLY SIMILAR TO WHAT WE
7 SEE WITH HUMANS WHEN THEY ARE ALSO ADDICTED TO
8 THESE DRUGS.

9 SO, IN MY OPINION WHEN I LOOK AT THE
10 PHARMACOLOGICAL LITERATURE, WHEN I STUDY THIS
11 DRUG, THOSE THREE DRUGS, RITALIN, AMPHETAMINE
12 AND COCAINE ARE USED INTERCHANGEABLY, ESPECIALLY
13 WHEN WE TALK ABOUT TOXICITY.

14 SO, I'D HOPED TO GIVE PEOPLE SOME IDEA ABOUT
15 THAT. BASICALLY, ONE OF MY ROLES IS AN EDUCATOR
16 AND HOPEFULLY I WOULD LIKE TO EDUCATE EVERYBODY
17 IN THIS COURTROOM ABOUT THE EFFECTS OF RITALIN.
18 I REALLY DO NEED TO USE THE WORD COCAINE TO GET
19 THAT ACROSS BECAUSE RITALIN HAS SOME INCREDIBLY
20 TOXIC EFFECTS.

21 AND IF YOU LOOK AT THE LITERATURE, YOU WON'T
22 FIND AS MUCH DATA AS YOU WILL ABOUT COCAINE.

23 WHAT JIMMY DID WILL NOT BE WRITTEN UP IN THE
24 MEDICAL LITERATURE, UNLESS I WRITE IT UP AND I
25 DOUBT THAT I WILL, I MAY. BUT IT DID HAPPEN.

DR. W. ALEXANDER MORTON - DIRECT BY MR. BOYD

2612

1 SO, JUST BECAUSE IT'S NOT WRITTEN UP DOESN'T
2 MEAN IT DIDN'T HAPPEN. AND SO WHEN YOU LOOK IN
3 THE LITERATURE THERE IS MORE WRITTEN ABOUT
4 COCAINE BECAUSE MORE PEOPLE HAVE GOTTEN ADDICTED
5 TO COCAINE.

6 SO, I JUST THOUGHT IT WAS INCREDIBLY IMPORTANT
7 AND I'VE HAD PEOPLE SAY I UNDERSTAND, I
8 UNDERSTAND WHAT YOU MEAN WHEN PEOPLE DO THE
9 THINGS THAT THEY DO WHEN THEY ARE ADDICTED TO
10 THESE DRUGS.

11 AND, AGAIN, WHEN I SAY THESE DRUGS, I'M TALKING
12 ABOUT RITALIN, ALSO KNOWN AS METHYLPHENIDATE,
13 ALL OF THE AMPHETAMINES AND COCAINE.

14 Q. LET ME ASK YOU THIS. ARE THESE STUDIES THAT
15 WERE DONE WITH THESE ANIMALS THE TYPE THAT IS
16 REASONABLY RELIED UPON BY EXPERTS IN YOUR FIELD
17 IN BASING CONCLUSIONS ABOUT ADDICTION?

18 A. I THINK THEY ARE INCREDIBLY RELIABLE. I THINK
19 IT'S ---

20 Q. I DIDN'T SAY RELIABLE. ARE THEY RELIED UPON BY
21 EXPERTS IN YOUR FIELD.

22 A. YES.

23 Q. THAT'S THE PROFFER, YOUR HONOR.

24 THE COURT: ANY QUESTIONS?

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

DR. W. ALEXANDER MORTON - DIRECT BY MR. BOYD

2613

1 THE COURT: I STAND BY MY EARLIER RULING AND WILL
2 RULE THOSE THREE SLIDES OUT.

3 MR. POPE: YOUR HONOR, I WANT TO MAKE IT CLEAR AS
4 FAR AS THE SLIDES, AND I UNDERSTAND HERE FROM THE TESTIMONY
5 ASSERTED -- I OBJECT TO THE SLIDES, OBVIOUSLY I'VE MADE
6 THAT CLEAR AND THE COURT HAS RULED THEM OUT. BUT AS FAR AS
7 TESTIMONY IN THAT AREA, HE CAN TALK ABOUT HIS OPINION AND
8 THINGS OF THAT NATURE. I'M NOT ASKING THE COURT TO RULE
9 OUT THAT HE CAN'T TALK ABOUT ANY BASIS OF HIS OPINION, BUT
10 JUST AS TO THE PARTICULAR DEMONSTRATIVE EXHIBITS WE HAD
11 AND, OF COURSE, THE RELEVANCE OF SOME OF THE DATA
12 CONCERNING YORK COUNTY.

13 THE COURT: ARE YOU READY TO GO FORWARD?

14 MR. BOYD: YES, WE ARE, YOUR HONOR. I ASSUME I
15 SHOULD HAVE HIM STEP DOWN.

16 THE COURT: YES, PLEASE STEP DOWN AND WE'LL HAVE
17 YOU COME BACK UP AND BE SWORN AGAIN WHEN THE JURY COMES IN.

18 IN THE PRESENCE OF THE JURY:

19 THE COURT: CALL YOUR NEXT WITNESS.

20 MR. BOYD: DR. ALEXANDER MORTON, JR.

21 W. ALEXANDER MORTON, BEING FIRST DULY SWORN,
22 TESTIFIED AS FOLLOWS:

23 DIRECT EXAMINATION BY

24 MR. BOYD:

25 Q. TELL US YOUR NAME, PLEASE.

DR. W. ALEXANDER MORTON - DIRECT BY MR. BOYD

2614

1 A. MY NAME IS WILLIAM ALEXANDER MORTON, JR.

2 Q. AND WHERE ARE YOU EMPLOYED?

3 A. I'M A TEACHER AT THE MEDICAL UNIVERSITY OF SOUTH
4 CAROLINA IN CHARLESTON, SOUTH CAROLINA.

5 Q. AND HOW LONG HAVE YOU BEEN EMPLOYED THERE?

6 A. I'VE BEEN THERE ALMOST 24 YEARS.

7 Q. AND WHAT IS YOUR POSITION THERE?

8 A. I'VE GOT SEVERAL POSITIONS. I SAID I WAS A
9 TEACHER, THAT'S THE PRIMARY THING THAT I DO. I
10 TEACH ABOUT PSYCHOPHARMACOLOGY. I AM A FULL
11 PROFESSOR OF PHARMACY PRACTICE AND AN ASSOCIATE
12 PROFESSOR OF PSYCHIATRY AND BEHAVIORAL SCIENCES.
13 I'M AN ASSOCIATE MEMBER IN THE COLLEGE OF
14 GRADUATE STUDIES AND A CONSULTANT AND STAFF
15 MEMBER IN THE PROGRAM FOR ALCOHOL AND DRUG
16 STUDIES CENTER THERE THAT'S AT THE MEDICAL
17 UNIVERSITY.
18 I TEACH MAINLY ABOUT DRUGS THAT EFFECT THE HUMAN
19 BRAIN, THE MIND, VARIOUS BEHAVIORAL EFFECTS OF
20 THOSE DRUGS. AND THAT'S WHAT I HAVE BEEN DOING
21 FOR THE LAST 24 YEARS.
22 I'M INVOLVED IN TEACHING MEDICAL STUDENTS ABOUT
23 INTERVIEWING SKILLS. I'M INVOLVED WITH TEACHING
24 PSYCHIATRIC RESIDENTS ABOUT INTERVIEWING SKILLS
25 AND THE EFFECTS OF MEDICINES ON THEIR PATIENTS

DR. W. ALEXANDER MORTON - DIRECT BY MR. BOYD

2615

1 AS WELL AS PHARMACY STUDENTS IN THE BACHELOR
2 PROGRAM AS WELL AS THE DOCTOR OF PHARMACY
3 PROGRAM AS WELL AS CONTINUING EDUCATION THERE
4 WITH THE ATTENDING PSYCHIATRISTS AND SOME OTHER
5 GROUPS THAT ASK ME TO COME TALK TO THEM.
6 I WORK MAINLY IN OUT-PATIENT PSYCHOPHARMACOLOGY.
7 I STARTED THE PSYCHOPHARMACOLOGY CLINIC WITH ONE
8 OF MY COLLEAGUES, DR. LYDIA, BACK IN '85 WHERE
9 WE SUPERVISE BETWEEN 10 AND 12 THIRD YEAR
10 PSYCHIATRIC RESIDENTS AND WE'VE BEEN DOING THAT
11 FOR ALMOST 15 YEARS NOW. WE SEE ABOUT 300
12 PATIENTS THERE THAT ARE ACTIVE OVER A YEAR, AND
13 THEY WOULD BE SEEN EVERY WEEK OR EVERY TWO WEEKS
14 OR EVERY MONTH. SO, I SUPERVISE THEM.
15 I'M ALSO -- I'M A CLINICIAN IN THE SENSE THAT
16 I'M INVOLVED IN A NUMBER OF CLINICAL STUDIES. I
17 SCREEN PATIENTS TO BE INVOLVED IN NUMEROUS
18 CLINICAL STUDIES AND THAT INVOLVES GENERALLY A
19 ONE AND A HALF TO TWO HOUR INTERVIEW TO SEE IF
20 THEY ARE APPROPRIATE TO BE IN A STUDY.
21 I AM NOT A PSYCHIATRIST AND I DO NOT DIAGNOSE,
22 BUT I SEE THAT PEOPLE MEET DIAGNOSTIC CRITERIA.
23 AND THEN IN CONJUNCTION WITH THE PSYCHIATRISTS,
24 I WOULD SEE IF THEY COULD COME INTO THE STUDY.
25 WHEN THEY COME INTO THE STUDY, I WOULD BE THEIR

DR. W. ALEXANDER MORTON - DIRECT BY MR. BOYD

2616

1 PRIMARY PRACTITIONER.

2 AND A COUPLE OF PATIENTS THAT I'M SEEING NOW, I

3 WOULD SEE WEEKLY FOR MAYBE 12 TO 14 WEEKS AND IF

4 THEY ARE RESPONDING, THEY MIGHT CONTINUE ON ON A

5 MONTHLY BASIS FOR A YEAR.

6 WE ARE CURRENTLY DOING ABOUT 26 STUDIES THERE.

7 SO, I'M INVOLVED IN VARIOUS CAPACITIES. MOST OF

8 THEM AS A CLINICAL INVESTIGATOR WHERE I SEE

9 PATIENTS. AND THEN WHEN THEY COME OUT OF THE

10 STUDY, WHEN THEY ARE FINISHED, I GENERALLY WILL

11 SEE THEM THREE TO SIX TIMES. THAT'S WHAT WE

12 OFFER THEM FOR BEING -- FREE VISITS AND FREE

13 MEDICATION FOR PARTICIPATING IN THE STUDY.

14 I GUESS TUESDAY I SAW TWO PEOPLE THAT I'VE BEEN

15 SEEING FOR UP TO ABOUT SIX YEARS. MAINLY BECAUSE

16 THEY HAVE BEEN STABLE ON THEIR MEDICATION.

17 PHARMACISTS TRAINED IN MY AREA ARE EXPERTS IN

18 MEDICATION AND WE DO MANAGE THEIR MEDICATION, IN

19 CONJUNCTION WITH THE PSYCHIATRISTS.

20 SO, I'M A CLINICIAN IN THAT SENSE. MOST OF THE

21 RESEARCH THAT I DO IS INVOLVING SEEING PATIENTS

22 THAT ACTIVELY HAVE A PSYCHIATRIC PROBLEM,

23 DEPRESSION, MANIC DEPRESSION, PANIC, SOCIAL

24 PHOBIA, SOME OF THESE DISORDERS.

25 AND IN GENERAL I MIGHT SEE BETWEEN -- ON A LIGHT

DR. W. ALEXANDER MORTON - DIRECT BY MR. BOYD

2617

1 WEEK I WOULD SEE MAYBE EIGHT PATIENTS AND ON A
2 HEAVY WEEK I MIGHT SEE 15 TO 18 PATIENTS DURING
3 THE WEEK.

4 Q. LET ME -- ARE YOU ACTIVELY INVOLVED IN TREATING
5 PATIENTS THAT HAVE PSYCHIATRIC DISORDERS SUCH AS
6 BIPOLAR DISORDER?

7 A. YES, I AM CURRENTLY ACTIVE DOING THAT. BOTH I
8 SEE THE PATIENTS AS THE PRIMARY PRACTITIONER AND
9 IF THERE ARE PROBLEMS, I HAVE PSYCHIATRISTS THAT
10 I CONSULT WITH. THEY OFTEN WILL CONSULT WITH ME
11 ABOUT THEIR PATIENTS. IT'S A GROUP THAT WE'VE
12 WORKED TOGETHER FOR A WHILE. I'VE TAUGHT SOME
13 OF THEM.

14 I'M CURRENTLY SEEING THREE OR FOUR PATIENTS --
15 THREE PATIENTS RIGHT NOW THAT HAVE BIPOLAR
16 ILLNESS, THREE IN THE MANIC STAGE. AND ONE
17 PATIENT THAT'S IN THE DEPRESSED PHASE.

18 Q. COULD YOU GO OVER YOUR EDUCATIONAL BACKGROUND,
19 PLEASE?

20 A. YES. I RECEIVED MY BACHELOR OF PHARMACY AT THE
21 UNIVERSITY OF NORTH CAROLINA IN CHAPEL HILL IN
22 1972. I THEN RECEIVED MY DOCTOR OF PHARMACY
23 FROM THE UNIVERSITY OF TENNESSEE IN 1975. I
24 WENT ON TO DO A RESIDENCY AT THE UNIVERSITY OF
25 CALIFORNIA IN SAN FRANCISCO, FINISHING UP IN

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2618

1 1976.

2 AFTER THAT, I THEN TOOK A BRIEF VACATION AND
3 WENT TO WORK AT THE MEDICAL UNIVERSITY WHERE I
4 HAVE BEEN FOR THE LAST 24, ALMOST 24 YEARS.

5 AND THAT'S PRETTY MUCH MY EDUCATION OTHER THAN
6 ATTENDING REGULAR CONTINUING EDUCATION PROGRAMS.

7 Q. ARE YOU LICENSED TO PRACTICE PHARMACY IN ANY
8 STATES?

9 A. YES. I'M LICENSED TO PRACTICE IN SOUTH CAROLINA,
10 IN NORTH CAROLINA AND IN CALIFORNIA. I'M ALSO
11 BOARD CERTIFIED IN PSYCHIATRIC PHARMACY
12 PRACTICE.

13 THERE ARE APPROXIMATELY, A LITTLE LESS THAN 300
14 OF US THAT ARE BOARD CERTIFIED IN THE WORLD.

15 AND THAT'S BASICALLY LOOKING AT THE EFFECTS OF
16 DRUGS ON THE BRAIN, THAT WOULD BE BOTH
17 PRESCRIBED DRUGS AS WELL AS DRUGS THAT PEOPLE
18 MIGHT ABUSE THAT HAVE BEEN PRESCRIBED FOR
19 OTHERS, AS WELL AS DRUGS THAT HAVE NO MEDICAL
20 USE THAT PEOPLE USE.

21 MR. BOYD: YOUR HONOR, AT THIS TIME I WOULD OFFER
22 DR. MORTON AS AN EXPERT IN THE FIELD OF PSYCHOPHARMACOLOGY.

23 THE COURT: ANY VOIR DIRE?

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

25 THE COURT: I FIND HE IS SO QUALIFIED AND MY

DR. W. ALEXANDER MORTON - DIRECT BY MR. BOYD

2619

1 TESTIFY AND GIVE OPINIONS IN THAT AREA.

2 MR. BOYD: YOUR HONOR, AT THIS TIME I WOULD OFFER
3 THE C.V. OF DR. MORTON INTO EVIDENCE.

4 MR. POPE: I HAVE NOT SEEN A COPY OF THAT.
5 (THE COPY WAS SHOWN TO MR. POPE.)

6 MR. POPE: NO OBJECTION.

7 THE COURT: ENTERED WITHOUT OBJECTION.
8 (THE CURRICULUM VITAE OF DR. MORTON WAS MARKED IN EVIDENCE
9 AS DEFENDANT'S EXHIBIT 8 WITHOUT OBJECTION.)

10 Q. COULD YOU TELL THE JURY WHAT RECORDS AND WHAT
11 YOU HAVE DONE IN REVIEWING THIS CASE ON JIMMY
12 ROBERTSON?

13 A. YES, THE RECORDS THAT I HAVE REVIEWED HAVE
14 INCLUDED PRESCRIPTION RECORDS FROM AT LEAST TWO
15 SOURCES, CVS PHARMACY AND PHARMACY EXPRESS. I
16 REVIEWED HIS MEDICAL RECORDS FROM DR. MCMEEKIN,
17 MR. MEYER; I'VE REVIEWED DR. PRYOR'S RECORDS;
18 I'VE ALSO REVIEWED DR. GUELLER'S RECORDS, DR.
19 MCCOY'S RECORDS; I'VE REVIEWED HIS SCHOOL
20 RECORDS; I'VE REVIEWED HIS EMPLOYMENT RECORDS.
21 I'VE REVIEWED HIS RECORDS WHILE HE WAS AT THE
22 STATE HOSPITAL BESIDES DR. PRYOR'S REPORT. I'VE
23 REVIEWED SOME OF HIS RECORDS SINCE HE HAS BEEN
24 INCARCERATED AFTER THE CRIME, THAT WAS AT
25 TRENTON, I BELIEVE. MAYBE THAT WAS BEFORE.

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2620

1 THERE WAS ANOTHER TIME THAT I READ SOME RECORDS
2 AT TRENTON FACILITY AS WELL AS SOME RECORDS AT
3 YORK COUNTY, HERE.

4 I'VE MET WITH MR. ROBERTSON ONE TIME ON MARCH
5 11TH FOR APPROXIMATELY AN HOUR AND A HALF AND
6 REVIEWED SOME QUESTIONS REGARDING HIS SUBSTANCE
7 USE, MEDICATION USE, GETTING SOME SENSE OF THE
8 DIAGNOSES THAT WERE DEVELOPED AND GIVEN TO HIM
9 BY A NUMBER OF PRACTITIONERS.

10 I REVIEWED HIS RECORDS AT GEORGIA TECH WHERE HE
11 HAD SOME COUNSELING THERE WHILE HE WAS
12 ATTENDING, AND I ALSO REVIEWED THOSE MEDICAL
13 RECORDS THERE.

14 I REVIEWED SOME OF HIS FAMILY'S MEDICAL RECORDS
15 ALSO.

16 Q. OKAY. AND LET ME ASK YOU, BASED ON YOUR REVIEW
17 OF THE RECORDS AND YOUR INTERVIEW WITH JIMMY
18 ROBERTSON, DID YOU FIND WHETHER OR NOT HE HAD
19 ANY SUBSTANCE ABUSE PROBLEMS?

20 A. ABSOLUTELY. HE HAS SEVERAL PROBLEMS AND WHAT I
21 WOULD SAY IS HE MEETS CRITERIA FOR THESE
22 PROBLEMS AND I WOULD SAY THE DIAGNOSES THAT HAVE
23 BEEN GIVEN TO HIM BY OTHER DOCTORS SEEM PRETTY
24 ACCURATE.

25 HE HAS A PROBLEM WITH ALCOHOL, ALCOHOL ABUSE

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2621

1 PROGRESSING ON TO ALCOHOL DEPENDENCE. AND
2 THAT'S KIND OF ON A CONTINUUM WHERE SYMPTOMS GET
3 MORE SEVERE, WHERE HE'S USING A LOT AND
4 DEPENDENCE IS MORE SIGNIFICANT.

5 AND YOU DON'T HAVE TO BE PHYSICALLY DEPENDENT TO
6 HAVE THAT DIAGNOSIS OF DEPENDENCE. A LOT OF
7 PEOPLE THINK THAT, BUT YOU DON'T ACCORDING TO
8 THE AMERICAN PSYCHIATRIC ASSOCIATION THEIR DSM-4
9 WHICH IS A DIAGNOSTIC AND STATISTICAL MANUAL
10 THAT THEY USE TO SAY WHAT IS A DIAGNOSIS.

11 SO, HE MEETS DIAGNOSIS FOR ALCOHOL ABUSE AND
12 DEPENDENCE. HE MEETS DIAGNOSTIC CRITERIA FOR
13 STIMULANT ABUSE AND INTOXICATION IN THE PAST
14 WHICH IS MAINLY WITH RITALIN.

15 HE ALSO MEETS CRITERIA FOR POLYSUBSTANCE USE
16 WHICH WOULD INCLUDE VARIOUS HALLUCINOGENIC
17 DRUGS.

18 HE WOULD ALSO MEET DIAGNOSTIC CRITERIA FOR
19 MARIJUANA ABUSE.

20 Q. NOW, YOU MENTIONED RITALIN A MINUTE AGO. I WANT
21 YOU TO EXPLAIN WHAT RITALIN IS AND WHAT EFFECT
22 IT HAS. AND I'LL ASK YOU FIRST, DID YOU PREPARE
23 SOME SLIDES TO AID IN UNDERSTANDING THIS?

24 A. I DID; I PREPARED SLIDES AND I GUESS THAT'S
25 BECAUSE I HAVE SLIDES EVERY TIME I TALK.

DR. W. ALEXANDER MORTON - DIRECT BY MR. BOYD

2622

1 Q. AND WOULD THOSE SLIDES AID YOU IN EXPLAINING
2 THIS TO THE JURY?

3 A. YES.

4 MR. BOYD: YOUR HONOR, WITH THE COURT'S
5 PERMISSION I WOULD LIKE THE WITNESS TO STEP DOWN, AND IF WE
6 COULD DIM THE LIGHTS PLEASE.

7 THE COURT: YES, YOU CAN STEP DOWN.

8 Q. I BELIEVE YOUR FIRST SLIDE IS TO EXPLAIN WHAT
9 RITALIN IS AND WHAT EFFECT RITALIN HAS IF YOU
10 COULD TESTIFY TO THAT, PLEASE, USING YOUR
11 SLIDES.

12 A. WELL, SOMETIMES PEOPLE USE THE NAMES OF DRUGS
13 INTERCHANGEABLY AND SOMETIMES I MIGHT, BUT
14 RITALIN IS THE TRADE NAME, METHYLPHENIDATE IS
15 THE GENERIC NAME AND SOMETIMES PEOPLE USE THOSE
16 INTERCHANGEABLY.

17 THIS IS A STIMULANT DRUG THAT'S PRIMARILY USED
18 IN THE UNITED STATES TO TREAT CHILDREN AND YOUNG
19 ADULTS WITH ATTENTION DEFICIT DISORDER AND ALSO
20 HYPERACTIVITY.

21 WHEN YOU LOOK AT IT IN THE MEDICAL LITERATURE AS
22 FAR AS WHAT EFFECT DOES IT HAVE, YOU QUICKLY
23 FIND OUT THAT IT'S VERY SIMILAR TO OTHER THINGS
24 AND THEY ARE OFTEN USED INTERCHANGEABLY AS FAR
25 AS WHAT EFFECT DOES THAT DRUG HAVE ON VARIOUS

DR. W. ALEXANDER MORTON - DIRECT BY MR. BOYD

2623

1 PARTS OF THE BRAIN, BRAIN NERVE CELLS.
2 AT THIS POINT, ALMOST ALL EXPERTS TALK ABOUT
3 METHYLPHENIDATE PRODUCING THE SAME
4 PHARMACOLOGICAL EFFECTS AS AMPHETAMINES WHICH
5 ARE THE SAME PHARMACOLOGICAL EFFECTS AS COCAINE.
6 GOODMAN AND GILMAN IS A TEXTBOOK THAT EVERY
7 MEDICAL STUDENT AND PHARMACY STUDENT USES TO
8 LEARN THEIR PHARMACOLOGY. IT'S KIND OF LIKE THE
9 NUMBER ONE. SO, EVERYONE HAS PROBABLY LOOKED AT
10 IT IF THEY HAVE GONE TO PHARMACY SCHOOL OR
11 MEDICAL SCHOOL, THEY HAVE LOOKED AT THIS TEXT.
12 AND WHEN YOU LOOK AT WHAT IT TALKS ABOUT THESE
13 DRUGS, THE STIMULANTS, IT SAYS THE SUBJECTIVE
14 EFFECTS, MEANING HOW IT MAKES YOU FEEL ARE
15 SIMILAR TO COCAINE. AND THESE EFFECTS ARE
16 PRODUCED BY AMPHETAMINES, DEXTROAMPHETAMINE,
17 METHAMPHETAMINE, PHENMETRAZINE, METHYLPHENIDATE
18 AND DIETHYPROPION.
19 ALL OF THESE DRUGS HAVE BEEN USED FOR WEIGHT
20 LOSS, ATTENTION DEFICIT DISORDER AND COCAINE.
21 THEY ARE ALMOST ALL THE SAME.
22 AGAIN, REFERENCING GOODMAN AND GILMAN, IT TALKS
23 ABOUT THE PHARMACOLOGICAL PROPERTIES ARE
24 ESSENTIALLY THE SAME AS THOSE OF THE
25 AMPHETAMINES. METHYLPHENIDATE ALSO SHARES THE

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2624

1 ABUSE POTENTIAL OF THE AMPHETAMINES IN THAT IT
2 HAS A VERY HIGH POTENTIAL FOR ABUSE AND MISUSE.

3 Q. AGAIN, THIS IS RITALIN YOU'RE TALKING ABOUT?

4 A. THIS IS RITALIN, METHYLPHENIDATE, YES.

5 Q. AND DESCRIBE WHAT YOU MEAN BY AMPHETAMINES AS IT
6 RELATES TO RITALIN.

7 A. AMPHETAMINES ARE STIMULANT DRUGS THAT HAVE BEEN
8 ABUSED IN THE PAST. IT CAUSES PEOPLE TO FEEL
9 EUPHORIC, TO FEEL GOOD, IT GIVES THEM A LOT OF
10 ENERGY. I THINK THEY WERE USED IN WORLD WAR II
11 FOR PILOTS IN THE JAPANESE ARMY TO FLY LONG
12 DISTANCES, SO THEY WOULD NOT FALL ASLEEP.
13 THEY HAVE BEEN ABUSED BY OUR TRUCK DRIVERS TO
14 DRIVE LONG DISTANCES BECAUSE IT KEEPS THEM UP
15 AND IT GIVES THEM A LOT OF ENERGY.
16 THESE DRUGS ALSO HAVE POTENTIAL TO CAUSE A LOT
17 OF SIDE EFFECTS AS YOU ABUSE THEM. AT LOW DOSE,
18 THEY MAY NOT.

19 Q. WHAT KIND OF SIDE EFFECTS DO YOU SEE. CAN YOU
20 REFER TO SOME OF THE SIDE EFFECTS?

21 A. AGAIN, MR. POPE JUST HAD THAT BOOK A MINUTE AGO,
22 THE DSM-4 WHICH IS THE DIAGNOSTIC AND
23 STATISTICAL MANUAL FOR MENTAL DISEASES. AGAIN
24 IT TALKS ABOUT THE CLASS OF AMPHETAMINES AND
25 AMPHETAMINE-LIKE SUBSTANCES, INCLUDING ALL

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2625

1 SUBSTANCES WITH, AND IT GETS TECHNICAL HERE, A
2 SUBSTITUTED PHENYLETHYLAMINE STRUCTURE, SUCH AS
3 AMPHETAMINE, DEXTROAMPHETAMINE, AND
4 METHAMPHETAMINE, SPEED. ALSO INCLUDED ARE THOSE
5 SUBSTANCES THAT ARE STRUCTURALLY DIFFERENT BUT
6 ALSO HAVE AMPHETAMINE-LIKE ACTION, SUCH AS
7 METHYLPHENIDATE AND OTHER AGENTS USED AS DIET
8 PILLS.

9 AGAIN, IN THE DIAGNOSTIC AND STATISTICAL MANUAL,
10 THEY SAY MOST OF THE EFFECTS OF AMPHETAMINE AND
11 AMPHETAMINE-LIKE DRUGS ARE SIMILAR TO COCAINE.
12 AND WHAT THEY TALK ABOUT, AMPHETAMINE-LIKE
13 DRUGS, IS METHYLPHENIDATE, RITALIN.

14 SO, I HAVE SLIDES THAT REFER TO COCAINE AND I
15 WILL TALK ABOUT COCAINE BECAUSE THEY CAN
16 LITERALLY BE USED IN THE SAME CONTEXT

17 Q. WHAT IS THE PROPER USE OF RITALIN?

18 A. THE PROPER USE IS USED IN A COUPLE OF DIFFERENT
19 AREAS. ONE, IT'S REALLY ONLY APPROVED FOR
20 TREATING KIDS AS WELL AS -- WELL, IT'S REALLY
21 JUST KIDS BUT SOME KIDS GO ON TO HAVE IT AS
22 ADULTS, ATTENTION DEFICIT DISORDER; THAT'S A
23 HYPERACTIVE KID THAT CAN'T SIT STILL, CAN'T
24 LISTEN, MOVES ABOUT, CANNOT MAINTAIN HIS
25 ATTENTION TO WHAT'S GOING ON, OFTEN GETS IN

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2626

1 TROUBLE IN THE CLASSROOM.

2 AT DOSES OF 20 OR 30 MILLIGRAMS A DAY,
3 PARADOXICALLY, MEANING YOU WOULDN'T EXPECT IT,
4 THIS DRUG HELPS PEOPLE FOCUS. AND THAT'S
5 BECAUSE ONE PART OF THE BRAIN IN THESE KIDS IS
6 NOT TALKING TO ANOTHER PART OF THE BRAIN. AND
7 THIS DRUG STIMULATES THIS PART OF THE BRAIN TO
8 TALK TO THAT PART OF THE BRAIN.

9 SO, IT'S UNUSUAL THAT A STIMULANT DRUG WOULD
10 CALM SOMEONE DOWN, BUT INDEED IT DOES IN KIDS.
11 SOME PEOPLE HAVE TO GO UP AS HIGH AS 40 TO 60
12 MILLIGRAMS, BUT GENERALLY NOT THAT MUCH.

13 SIDE EFFECTS IN KIDS ARE NOT TOO MUCH. THERE
14 ARE A FEW SIDE EFFECTS, YOU CAN LOSE WEIGHT.
15 YOU TAKE THEM OFF DURING THE SUMMER, THEY GAIN
16 THAT WEIGHT BACK. IT MIGHT KEEP THEM UP LATER.
17 ON THE AVERAGE, IT TAKES ABOUT AN HOUR LONGER
18 FOR THOSE KIDS TO FALL ASLEEP.

19 BUT WHAT'S IMPORTANT TO KNOW, I THINK ABOUT THIS
20 DRUG, IS WE'RE TALKING ABOUT TAKING IT ORALLY.
21 WHEN STIMULANT DRUGS ARE TAKEN IN A WAY SUCH AS
22 INHALING IT, SNORTING IT OR USING IT
23 INTRAVENOUSLY, THE EFFECTS ARE ALMOST
24 INSTANTANEOUS.

25 AND THAT IS WHERE WE START SEEING A LOT OF ABUSE

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2627

1 POTENTIAL.

2 GENERALLY, KIDS WITH ATTENTION DEFICIT DISORDER
3 ARE NOT GETTING HIGH, THEY ARE NOT LIKING THE
4 DRUG, THEY ARE JUST ABLE TO CONCENTRATE. IN
5 FACT, THEY ARE PROBABLY A LITTLE EMBARRASSED
6 THAT THEY HAVE TO GO AND TAKE A TABLET TO HELP
7 THEM SIT IN THEIR SEATS. I KNOW I HEAR THAT
8 FROM KIDS A LOT, DON'T LET ANYBODY KNOW THAT I'M
9 TAKING THIS. BECAUSE IT'S EMBARRASSING THAT
10 THEY HAVE TO GO TO THE SCHOOL NURSE TO TAKE
11 THEIR MORNING DOSE OR AFTERNOON DOSE.

12 GENERALLY YOU SHOULDN'T GO OVER 60 MILLIGRAMS.
13 THAT'S AGAIN FROM GOODMAN AND GILMAN, AND THAT'S
14 PRETTY CONSISTENT. IN MOST BOOKS IT SAYS 10 TO
15 60, 20 TO 30 IS USUALLY WHAT YOU NEED, DON'T GO
16 OVER 60.

17 Q. AND WHAT ABOUT PEOPLE WHO ARE EMOTIONALLY
18 UNSTABLE. WHAT CAUTION SHOULD YOU USE, IF ANY,
19 IN GIVING RITALIN TO THOSE PEOPLE?

20 A. WELL, YOU WOULD WANT TO BE MORE CAUTIOUS BECAUSE
21 THEY WOULD BE MORE EMOTIONALLY UNSTABLE. SO,
22 THAT WOULD BE SOMETHING YOU WOULDN'T WANT TO
23 THINK ABOUT. YOU'D WANT TO SAY, OKAY, ARE THE
24 BENEFITS GOING TO OUTWEIGH THE PROBLEMS BY
25 GIVING RITALIN. WHAT IS THE NEXT DRUG TO USE

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2628

1 BESIDES RITALIN.

2 AND THERE'S CERTAINLY A STATEMENT IN ONE OF THE
3 MAIN TEXTS THAT WE RELY ON, GIVE CAUTIOUSLY TO
4 EMOTIONALLY UNSTABLE PATIENTS SUCH AS THOSE WITH
5 A HISTORY OF DRUG DEPENDENCE OR ALCOHOLISM
6 BECAUSE THEY WILL ABUSE IT ON THEIR OWN. AND
7 THAT'S NOT UNCOMMON.

8 I THINK ONE OF THE BIGGEST PROBLEMS WE HAVE IS
9 THAT KIDS FIND THESE DRUGS; THEY'RE NOT TALKED
10 ABOUT AS A REAL DANGEROUS DRUG, THEY WOULDN'T BE
11 RECEIVING IT IF IT WAS REAL DANGEROUS DRUG. SO,
12 THEY FIND OUT THAT THEY CAN SELL IT TO THEIR
13 FRIENDS. AND IT HAS A STREET VALUE ANYWHERE
14 FROM FIVE TO EIGHT TO TEN DOLLARS, A 20
15 MILLIGRAM TABLET.

16 Q. IS THIS DRUG COMMONLY -- IS RITALIN COMMONLY
17 ABUSED?

18 A. IT IS WITH TEENAGERS. TEENAGERS GENERALLY TALK
19 ABOUT IT BEING THE IN-THING. THEY TALK ABOUT
20 SNORTING IT. IN FACT AT WANDO HOSPITAL, THAT'S
21 NEAR WHERE I LIVE, THERE WAS A BIG TO DO BECAUSE
22 A LOT OF KIDS GOT BUSTED AT SCHOOL WITH THIS
23 SELLING IT. AND WHAT I REMEMBER AT THAT TIME
24 WAS THAT THEY SAID, OH, WE'VE BEEN SNORTING IT
25 FOR YEARS.

DR. W. ALEXANDER MORTON - DIRECT BY MR. BOYD

2629

1 SNORTING THE DRUG GETS IT TO THE BRAIN IN ABOUT
2 TWO MINUTES, AND THAT GETS THE BRAIN'S
3 ATTENTION. ANYTHING THAT OCCURS THAT QUICK WILL
4 MAKE AN IMPRESSION ON THE BRAIN.
5 NOW, COCAINE TAKES SOMEWHERE BETWEEN FIVE AND
6 EIGHT SECONDS TO GO FROM FEELING BLAH TO FEELING
7 ON TOP OF THE WORLD. AND THAT'S PART OF WHAT
8 GETS THE BRAIN'S ATTENTION ALSO AND PART OF WHY
9 PEOPLE MIGHT GO BACK TO CONTINUE TO USE IT.
10 SO, YOU KNOW, KIDS USE IT ALL THE TIME BUT ALL
11 PEOPLE CAN BE AT RISK FOR IT. I THINK MEDICAL
12 PRACTITIONERS ARE AT RISK FOR ABUSING THIS DRUG.
13 IN FACT, I WAS LOOKING AT THE DEA REPORT WHEN
14 THEY WERE TRYING TO RECLASSIFY THIS DRUG TO A
15 LESS STRINGENT CONTROL, GOING FROM A SCHEDULE 2
16 DRUG TO A SCHEDULE 3 DRUG, THE DEA, THE DRUG
17 ENFORCEMENT AGENCY, WAS JUST AMAZED BECAUSE OF
18 THE ABUSE POTENTIAL THAT CURRENTLY EXISTS, YOU
19 CAN IMAGINE IF THIS DRUG'S REGULATION WERE EVEN
20 MORE LAX WHAT WOULD HAPPEN.
21 AND IN THAT THERE WERE REFERENCES TO TWO
22 PHARMACISTS USING IT, SNORTING IT, CAUGHT ON
23 VIDEOTAPE.
24 SO, IT'S NOT LIKE PEOPLE IN MY AREA, IN THE
25 MEDICAL AREA ARE IMMUNE FROM ANY OF THESE

DR. W. ALEXANDER MORTON - DIRECT BY MR. BOYD

2630

1 BIOLOGICAL PROBLEMS, WHETHER IT BE SUBSTANCE
2 ABUSE PROBLEMS OR MENTAL PROBLEMS, BUT ALL ARE
3 POTENTIALLY AT THAT RISK. SOME OF US MORE SO
4 THAN OTHERS.

5 Q. DO YOU HAVE SOME SLIDES TO SHOW?

6 A. I DON'T KNOW; I HAD SOME SLIDES. THIS SLIDE --
7 A LITERATURE SEARCH REVEALED ONE PREVIOUS CASE
8 REPORT OF INTRANASAL ABUSE.
9 LET ME SAY THAT WHEN I LOOKED AT ALL OF THE
10 LITERATURE, THERE ARE ONLY TWO CASES REPORTED IN
11 THE MEDICAL LITERATURE OF PEOPLE SNORTING.
12 THERE ARE LOTS OF CASES OF PEOPLE SHOOTING IT
13 AND THERE ARE SOME CASES OF PEOPLE TAKING IT
14 ORALLY. BUT THERE ARE ONLY TWO CASES REPORTED.
15 AGAIN, UNLESS I OR ONE OF MY STUDENTS DECIDES TO
16 WRITE UP JIMMY'S CASE, IT WILL NOT BE IN THE
17 MEDICAL LITERATURE EITHER, BUT IT DID HAPPEN,
18 BUT IT'S NOT IN MEDICAL LITERATURE.
19 SO, HERE'S ONLY TWO CASES. WHAT DO WE HAVE TO
20 RELY ON? WE CAN RELY ON INFORMAL SURVEYS OF
21 ADOLESCENTS THAT SAY, YEAH, WE SNORT IT, IT'S A
22 WELL KNOWN ABUSE PATTERN AMONG KIDS.
23 FURTHERMORE, THE INCREASED PRESCRIPTION OF
24 STIMULANTS FOR ADHD HAS MADE THIS MORE AVAILABLE
25 LOCALLY.

DR. W. ALEXANDER MORTON - DIRECT BY MR. BOYD

2631

1 IT'S STAGGERING TO THINK ABOUT -- IT STAGGERS ME
2 TO HEAR PEOPLE TALK ABOUT HOW MANY TONS WERE
3 MANUFACTURED THIS YEAR. NOT MILLIGRAMS, HOW
4 MANY TONS OF THIS DRUG.

5 I THINK WE ARE BETTER AT SAYING, YES, THIS CHILD
6 HAS ATTENTION DEFICIT DISORDER. I THINK WE ARE
7 GETTING BETTER AT THAT AND THAT'S CAUSED MORE
8 KIDS TO BE DIAGNOSED THAT, WHICH IS GOOD, BUT
9 THERE IS MORE DRUG OUT THERE AVAILABLE.

10 IN MOST OF THESE CASES YOU SEE THAT MOMS AND
11 DADS DIDN'T PAY MUCH ATTENTION TO IT BEING A
12 PROBLEM.

13 I CERTAINLY DON'T WANT TO GIVE THE IMPRESSION
14 THAT THIS DRUG IS HARMFUL FOR KIDS THAT ARE OUT
15 THERE TAKING IT THAT ARE STABLE ON IT AND DOING
16 WELL AND BETTER IN SCHOOL, BUT HAVING SOME JUST
17 SITTING THERE UNCONTROLLED AND HANDLED KIND OF
18 LACKADAISICALLY IS A REAL SET UP FOR PROBLEMS.

19 THIS IS MEDICAL TALK HERE. IT'S BASICALLY
20 TALKING ABOUT WHERE THE DRUG WORKS AND WHY IT'S
21 POTENTIALLY A HIGH ABUSE POTENTIAL. IT SAYS THE
22 ABUSE POTENTIAL OF INTRANASAL METHYLPHENIDATE OR
23 RITALIN IS CONSISTENT WITH THE RECEPTOR EFFECTS
24 OF THIS DRUG.

25 AND THEN IT TALKS ABOUT THE LOCALIZATION OF

DR. W. ALEXANDER MORTON - DIRECT BY MR. BOYD

2632

1 METHYLPHENIDATE BINDING WITH DOPAMINERGIC
2 PATHWAYS -- DOPA MEANS IT'S A PLEASURE DRUG.
3 WHEN YOU USE A DRUG AND IT SQUIRTS OUT A WHOLE
4 LOT OF DOPAMINE, PEOPLE SAY WHOA, I ENJOY THIS.
5 THEY CAN BECOME BANKRUPT WITH DOPAMINE, BUT
6 THAT'S THE SAME WAY, IT'S IDENTICAL WITH THAT OF
7 COCAINE. HOW IT WORKS, HOW IT MAKES PEOPLE
8 HIGH, HOW IT MAKES PEOPLE CRAZY IS ESSENTIALLY
9 THE SAME.
10 SO, THAT'S -- I THINK IN TERMS OF ALL THREE
11 BEING THE SAME; AGAIN, RITALIN, COCAINE,
12 AMPHETAMINES BEING BASICALLY THE SAME, HAVING
13 THE SAME EFFECTS, AND SOME OF THE SAME ABUSE
14 FACTORS.
15 I THINK PEOPLE DON'T SET OUT TO HAVE A LIFE OF
16 DRUG ABUSE. IN ALMOST A THOUSAND PERCENT OF
17 PEOPLE, THE FIRST USE IS VOLUNTARY. PEOPLE
18 CHOOSE TO DO IT. SOME PEOPLE CHOOSE NOT TO DO
19 IT. SOME PEOPLE THAT CHOOSE TO DO IT THAT HAVE
20 A PREDISPOSITION OF DEVELOPING CHEMICAL
21 DEPENDENCY PROGRAMS AND YOU HAVE TO KIND OF LOOK
22 IN YOUR FAMILY TO SEE WHO IS THERE, THEY WOULD
23 BE MORE LIKELY TO BECOME ADDICTED TO THIS DRUG.
24 IF THEY HAVE A LOT GOING ON IN THEIR FAMILY; A
25 LOT MEANS A LOT OF STRESSORS OR NOT GETTING A

DR. W. ALEXANDER MORTON - DIRECT BY MR. BOYD

2633

1 LOT OF SOMETHING IN THEIR FAMILY, THIS DRUG
2 MIGHT PRODUCE A FEELING THAT'S NOT BEING
3 PRODUCED BY LIVING IN THE HOUSEHOLD.

4 SO, IT CATCHES PEOPLE'S ATTENTION. WE TALK
5 ABOUT REINFORCING PROPERTIES OF THE DRUG,
6 MEANING IT MAKES YOU WANT TO GO BACK AND DO IT
7 AGAIN.

8 AND SOME OF THE REINFORCING PROPERTIES ARE BEST
9 SEEN WITH ANIMALS BECAUSE ANIMALS DON'T HAVE
10 PERSONALITIES. ANIMALS GENERALLY DON'T HAVE BAD
11 MOMS AND BAD DADS. ANIMALS DON'T HAVE STRESSES
12 AT WORK; THEY DON'T HAVE THIS GOING ON.

13 WHAT HAPPENS, IF YOU TAKE A RHESUS MONKEY AND
14 THAT'S GENERALLY WHAT MOST PEOPLE USE BUT YOU
15 CAN DO IT WITH ALMOST ANY -- YOU CAN DO IT WITH
16 RATS, YOU CAN DO IT WITH DOGS. BUT MOSTLY IT'S
17 RHESUS MONKEYS, THEY ARE AS CLOSE TO US AS YOU
18 CAN GET WITH ANIMALS.

19 YOU PUT A NEEDLE INTO THE BRAIN WHERE THE DRUG
20 IS ADMINISTERED IMMEDIATELY AND YOU CAN TEACH
21 THE ANIMAL TO PUSH SOMETHING AND THEY WILL GET A
22 DRUG INJECTION INTO THEIR BRAIN. THEY WILL THEN
23 LEARN TO DO THAT. THEY WILL PUSH IT AND THEY
24 WILL GET AN INJECTION. THEY WILL PUSH IT, THEY
25 WILL GET AN INJECTION.

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2634

1 WHAT'S REMARKABLE TO ME IS THAT EVERY BIOLOGICAL
2 DRIVE THAT IS SEEN IN ANIMALS, SUCH AS FEEDING,
3 DRINKING, REPRODUCING IS OVERRIDDEN BY THIS
4 DRUG. ANIMALS DIE BECAUSE THEY DON'T EAT.
5 ANIMALS DIE BECAUSE THEY DON'T DRINK. ANIMALS
6 DO NOT HAVE SEX. EVEN WHEN A RECEPTIVE FEMALE
7 AND A RECEPTIVE MALE ARE PUT TOGETHER, THEY
8 WOULD RATHER PUSH THE LEVER THAT GIVES THEM A
9 JOLT OF COCAINE OR METHYLPHENIDATE. IT'S BEST
10 DESCRIBED WITH COCAINE THOUGH.
11 AND THEN IF YOU DECIDE, OKAY, THE PROBLEM HERE
12 WITH THIS EXPERIMENT IS THAT ALL OF THE ANIMALS
13 ARE DYING, WE DON'T WANT THAT TO HAPPEN BECAUSE
14 IT'S EXPENSIVE. WE'RE GOING TO TURN OFF, CUT
15 OFF THE COCAINE, AND SO THAT IT CAN'T GET IT
16 ANYMORE. HOW MANY TIMES WILL THEY THEN PUSH THE
17 LEVER BEFORE THEY GAVE UP IS PRETTY AMAZING TO
18 ME. THEY WOULD PUSH THE LEVER TWELVE THOUSAND
19 EIGHT HUNDRED TIMES WITHOUT GETTING ANY.
20 WHEN I LOOK AT PEOPLE'S BEHAVIOR -- AND I EQUATE
21 THIS DRUG SIMILAR TO AFFECTION A LOT OF TIMES
22 BECAUSE IT WORKS ON THE SAME PATHWAY. IF YOU
23 MET SOMEONE YOU WERE REALLY IN LOVE WITH, LOVE
24 AT FIRST SIGHT AND YOU SAID, OH, I CAN'T BELIEVE
25 IT, I'VE FINALLY MET THE PERSON OF MY DREAMS.

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2635

1 AND HE SAYS I WOULD LIKE TO GO OUT WITH YOU AND
2 THEY SAID, WELL, I DON'T WANT TO GO OUT WITH
3 YOU, WOULD YOU CALL -- HOW MANY MORE TIMES WOULD
4 YOU CALL THEM TO SAY I THINK YOU WERE PROBABLY
5 HAVING A BAD DAY, I'D LIKE TO GO OUT WITH YOU,
6 MAYBE JUST FOR A CUP OF COFFEE. AND THEY SAID,
7 NO, YOU ARE HORRIBLE; I DON'T WANT YOU TO CALL;
8 I'M NEVER GOING TO GO OUT WITH YOU. WOULD YOU
9 CALL THEM AGAIN? SOME PEOPLE MIGHT, BUT WOULD
10 YOU CALL THEM TWELVE THOUSAND, SEVEN HUNDRED AND
11 NINETY-SEVEN MORE TIMES BEFORE YOU GAVE UP?
12 ANIMALS WILL DO IT BECAUSE THIS MADE SUCH AN
13 IMPRESSION ON THEIR BRAIN.

14 THAT'S KIND OF WHAT WE'RE DEALING WITH. WHY DO
15 PEOPLE DO DRUGS? BECAUSE THAT'S THEIR LIFE AT
16 THAT POINT. IT'S IMPULSIVE, COMPULSIVE
17 BEHAVIORS. ALL THEY CAN THINK ABOUT IS THE
18 DRUG. AND THAT'S WHAT YOU GET WITH ANIMALS.

19 Q. TURNING YOU TO RITALIN. WHAT KIND OF EFFECTS
20 DOES RITALIN USE HAVE. HAVE YOU GOT A SLIDE ON
21 THAT TO SHOW?

22 A. I'LL HAVE TO CHECK. I DO. THIS IS FROM MARK
23 SHUCKETT'S TEXTBOOK ON HOW TO TREAT PEOPLE WITH
24 ALCOHOL AND DRUG PROBLEMS.

25 I HAD A CHANCE TO WORK WITH HIM, HE WAS A

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2636

1 CONSULTANT AT FINWICK HALL HOSPITAL WHICH IS AN
2 ALCOHOL AND DRUG TREATMENT CENTER THERE IN
3 CHARLESTON. I WORKED THERE FOR ABOUT 14 YEARS
4 AND PROBABLY LEARNED THE MOST ABOUT ADDICTION
5 THERE.

6 I'VE GOT MAYBE AN HOUR TO AN HOUR AND A HALF
7 WITH YOU AND I'D SAY IT TOOK ME ABOUT FOUR AND A
8 HALF YEARS TO LEARN WHAT I'M TEACHING YOU IN
9 ABOUT THIRTY MINUTES. SO. LISTEN CAREFULLY.

10 DRUG-INDUCED PSYCHIATRIC DISTURBANCES ARE
11 PROBABLY MORE PREVALENT AMONG ABUSERS OF CNS
12 STIMULANTS THAN ANOTHER TYPE OF DRUG. THE
13 DIFFICULTIES CAN INCLUDE MANIC-LIKE STATES --
14 THAT IS NOT TO EVEN ADDRESS WHAT IT DOES TO
15 SOMEONE WHO HAS MANIC DEPRESSIVE ILLNESS BUT IT
16 CAN PRODUCE A MANIC-LIKE STATE, SERIOUS
17 PSYCHOSES RESEMBLING SCHIZOPHRENIA, DEPRESSIONS
18 THAT ARE ALMOST IDENTICAL TO MAJOR AFFECTIVE
19 DISORDERS, ESPECIALLY DURING WITHDRAWAL, AND
20 OTHER TYPES OF ANXIETY DISORDERS.

21 MOST OF THESE AFFECTS, THESE PSYCHOTIC STATES
22 WHERE PEOPLE ARE NOT THEIR NORMAL SELF, TEND TO
23 BE TRANSITORY, JUST LASTING A BRIEF PERIOD OF
24 TIME, AND WILL USUALLY DISAPPEAR, WHETHER IT'S
25 HOURS OR WEEKS.

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2637

1 ALTHOUGH DSM-4 LISTS COCAINE AND AMPHETAMINE
2 PROBLEMS SEPARATELY, THE CLINICAL PICTURE ARE SO
3 SIMILAR THAT THE TWO DRUGS ARE DISCUSSED
4 TOGETHER HERE.
5 SO, THEY DON'T HAVE ONE CHAPTER FOR RITALIN AND
6 ONE CHAPTER FOR AMPHETAMINES AND ONE CHAPTER FOR
7 COCAINE. THEY HAVE ONE CHAPTER ON STIMULANTS
8 BECAUSE THEY PRODUCE BASICALLY THE SAME PICTURE.
9 SO, THIS IS THE PICTURE. STIMULANT-INDUCED
10 PSYCHOSIS GIVES A TEMPORARY BUT POTENTIALLY
11 DRAMATIC PICTURE. THE CLINICAL STATE CAN BE
12 SEEN WITH ALL THE MAJOR STIMULANTS, INCLUDING
13 METHYLPHENIDATE, PEMOLINE, AMPHETAMINES,
14 PRESCRIPTION AND NON-PRESCRIPTION WEIGHT-REDUCING
15 DRUGS WHICH ARE OVER THE COUNTER, DEXATRIM YOU
16 CAN GET PSYCHOTIC FROM THAT, AND COCAINE.
17 AGAIN FROM MARK SHUCKETTS' BOOK HERE, HE TALKS
18 ABOUT PEOPLE GET CRAZY. NOW, WHAT'S PSYCHOSIS?
19 I USE IT BECAUSE YOU USE THE TERM PRETTY
20 FREQUENTLY. MOST OF OUR STUDIES, WE HAVE TO
21 MAKE SURE IF THEY'RE COMING INTO A STUDY, THAT
22 THEY CAN'T BE PSYCHOTIC. BECAUSE IF YOU'RE
23 PSYCHOTIC, YOU DON'T UNDERSTAND HOW THE WORLD
24 WORKS; YOU DON'T KNOW WHAT THE RULES ARE, YOU
25 CAN'T COMMUNICATE. YOU MIGHT BE SEEING OR

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2638

1 HEARING THINGS THAT AREN'T THERE. YOU MIGHT BE
2 PARANOID; YOU MIGHT HAVE YOUR OWN VERY PRIVATE
3 WAY OF THINKING.
4 SO, ON SOME PATIENTS I MIGHT HAVE TO MAKE SURE
5 THAT THEY ARE PSYCHOTIC TO BE IN THE STUDY WHEN
6 WE'RE USING ANTI-PSYCHOTIC DRUGS, BECAUSE THAT'S
7 WHAT WE'RE TREATING; WE'RE TREATING PSYCHOSIS.
8 SO, IT WOULD VARY FROM INDIVIDUAL TO INDIVIDUAL
9 BUT IN GENERAL THEY WOULDN'T BE ABLE TO MAKE
10 SENSE OUT OF THINGS THE WAY WE ARE GENERALLY
11 MAKING SENSE.
12 ORGANICITY IS A TERM, GENERALLY WE'RE TALKING
13 ABOUT -- LET ME JUST SAY THAT THE TERMS ORGANIC
14 OR FUNCTIONAL USED IN PSYCHIATRY MEAN --
15 ORGANIC, WE KNOW WHAT THE CAUSE IS, WHY SOMEONE
16 IS HALLUCINATING. FUNCTIONALLY, WE DON'T KNOW;
17 WE HAVE SOME IDEAS. ONE CAN HALLUCINATE FROM
18 DEPRESSION, FROM MANIA, FROM SCHIZOPHRENIA, FROM
19 -- THOSE ARE THE MAIN THREE. YOU CAN
20 HALLUCINATE AND BECOME PSYCHOTIC FROM ALL OF
21 THOSE.
22 ORGANICITY YOU'RE TALKING ABOUT WE KNOW WHAT THE
23 CAUSE IS. IT COULD BE TOO MUCH SALT, TOO MUCH
24 WATER, A BRAIN TUMOR, TOO MUCH STEROIDS, TOO
25 MUCH ALCOHOL, TOO MUCH COCAINE. WE KNOW WHAT IT

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2639

1 IS.
2 SO, IN THAT CONTEXT ORGANICITY TENDS TO BE
3 TRANSIENT, JUST LASTING A BRIEF PERIOD OF TIME,
4 AND IT CONSIST OF WHAT? CONFUSION,
5 DISORIENTATION, HALLUCINATIONS -- AGAIN, SEEING
6 THINGS, HEARING THINGS, FEELING THINGS, FEELING
7 LIKE THINGS ARE ON YOU THAT AREN'T THERE; IT'S
8 NOT THINKING YOU SAW SOMETHING AND THEN LOOKING
9 AGAIN AND SAYING, NO, IT WASN'T ANYTHING --
10 DELUSIONS ARE FIXED FALSE BELIEFS. FIXED MEANS
11 IT DOESN'T CHANGE. FALSE, THERE'S NO WAY THAT
12 YOU CAN TALK SOMEONE OUT OF IT, AND IT DOESN'T
13 CHANGE.
14 SO, SOMEONE MIGHT THINK THEY CAN CONTROL SOMEONE
15 ELSE'S THOUGHTS; THEY MIGHT THINK THAT SOMEONE
16 CAN CONTROL THEIR THOUGHTS -- PARANOID, THINKING
17 PEOPLE ARE OUT TO GET THEM.
18 PARANOIA, WHEN I SEE THE WORD PARANOIA, WHEN I
19 ASK PATIENTS THAT HAVE BEEN USING COCAINE OR
20 BEEN USING STIMULANT DRUGS, THEY OFTEN THINK
21 THAT I CAN READ THEIR MIND.
22 AND IT'S NOT THAT I CAN READ THEIR MIND, IT'S
23 THAT CHEMICAL DEPENDENCE IS SO CONSISTENT WITH
24 WHAT HAPPENS THAT IF YOU USE, THAT I CAN BE
25 NINETY-NINE PERCENT RIGHT IN SAYING ARE YOU

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2640

1 PEEKING OUT THE WINDOWSILL. YEAH, HOW DID YOU
2 KNOW THAT. HOW DID YOU KNOW I WAS THINKING
3 SOMEONE WAS ON THE PHONE. JUST BECAUSE A
4 THOUSAND PEOPLE BEFORE YOU SAY IT.

5 SO, TO ME IN THE MEDICAL FIELD I LIKE
6 CONSISTENCY. SOMEONE HAS A HEART ATTACK, YOU
7 DON'T KNOW WHAT'S GOING TO HAPPEN. SOME WILL
8 DIE AND SOME WILL NOT DIE.

9 SOMEONE HAS AN ANTI-DEPRESSANT DISORDER, YOU
10 KIND OF KNOW WHAT'S GOING TO HAPPEN. IF
11 SOMEBODY HAS A PANIC DISORDER, YOU KIND OF KNOW
12 WHAT'S GOING TO HAPPEN.

13 SOMEONE WITH COCAINE DEPENDENCE OR ALCOHOL
14 ABUSE, I'M NOT SAYING IT'S EASY WHEN THEY GET
15 WELL, BUT WE KNOW WHAT'S GOING TO HAPPEN IF THEY
16 QUIT; WE KNOW WHAT'S GOING TO HAPPEN IF THEY
17 CONTINUE. IT'S VERY PREDICTABLE.

18 I THINK MOST PEOPLE IN THE MEDICAL FIELD LIKE
19 PREDICTABILITY. MOST PEOPLE THINK THAT DOCTORS
20 KNOW EVERYTHING AND WE HARDLY KNOW ANYTHING
21 SOMETIMES. THE MORE WE KNOW, THE LESS WE KNOW.
22 BUT THERE ARE PATTERNS, AND THIS IS ONE THAT IS
23 CONSISTENT.

24 PEOPLE THAT USE THESE DRUGS GET PSYCHOTIC AND
25 GET PARANOID. LOOSE ASSOCIATIONS, MEANING THAT

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2641

1 THEY WOULDN'T MAKE MUCH SENSE. BEHAVIORAL
2 PROBLEMS, BRUXISM, THAT'S GRINDING YOUR TEETH;
3 AND REPEATED TOUCHING ARE STEREOTYPE BEHAVIOR.
4 STEREOTYPE BEHAVIOR MIGHT BE DOING SOMETHING
5 LIKE THAT, TAKING A PEN APART AND PUTTING IT
6 TOGETHER OVER AND OVER. IT REALLY DOESN'T SERVE
7 ANY PURPOSE, BUT YOU SEE PEOPLE DOING THIS WHEN
8 THEY ARE INTOXICATED WITH THESE DRUGS.
9 METHYLPHENIDATE TOXICITY; AGAIN, RITALIN
10 TOXICITY. WHAT YOU SEE IN OVERDOSE, AND WHAT
11 WE'RE TALKING ABOUT HERE WITH JIMMY IS USING
12 DOSES FOUR TIMES WHAT HAS BEEN SAID IS PRETTY
13 MUCH THE UPPER LIMIT. HE WAS USING SOMEWHERE
14 BETWEEN 240 AND 300 MILLIGRAMS. IT RESULTS IN
15 SYMPTOMS SIMILAR TO THOSE OF ACUTE AMPHETAMINE
16 INTOXICATION. MENTAL DISTURBANCES SUCH AS
17 CONFUSION, DELIRIUM, EUPHORIA, FEELING ON TOP OF
18 THE WORLD, HALLUCINATIONS AND TOXIC PSYCHOSIS
19 MAY ALSO OCCUR.
20 AGAIN, THIS IS OUT OF AMERICAN HOSPITAL
21 FORMULARY SERVICE WHICH IS THE MAIN TEXTBOOK
22 THAT WE USE IN MOST HOSPITALS.
23 Q. LET ME ASK YOU THIS. IF A PERSON HAS A PRE-
24 EXISTING ILLNESS, WHAT IS THE EFFECT -- A
25 PREEXISTING PSYCHOSIS, WHAT EFFECT WOULD RITALIN

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2642

1 HAVE?

2 A. IT WOULD GENERALLY MAKE IT WORSE.

3 Q. DO YOU HAVE A SLIDE ON THAT?

4 A. YES. THIS IS LOOKING AT DEPSTRO AND LEBO
5 AMPHETAMINE. DRUGS CAN HAVE A LEFT AND RIGHT
6 HAND. IN SOME THE LEFT SIDE MIGHT BE MORE
7 POTENT THAN THE RIGHT SIDE. PEOPLE ARE STARTING
8 TO TRY TO SEPARATE THEM OUT NOWADAYS. LIKE
9 PROZAC, THEY'RE GOING TO USE THE D SIDE OF
10 PROZAC INSTEAD OF THE D AND L PROZAC.

11 THERE WAS SOME ARTICLE ABOUT RITALIN THE OTHER
12 DAY ABOUT TRYING TO SEPARATE OUT THE GOOD FROM
13 THE BAD. I DON'T KNOW MUCH ABOUT THAT; I
14 HAVEN'T HEARD ABOUT THAT.

15 BUT EVERYBODY IS TRYING TO FIGURE OUT HOW TO
16 MAKE A DRUG THAT HAS THE SAME EFFECTS BUT
17 DOESN'T HAVE THE SIDE EFFECTS.

18 SO, HERE'S D AND L AMPHETAMINE COMPARING IT TO
19 METHYLPHENIDATE AND PEOPLE THAT ALREADY HAVE
20 PSYCHOSIS, THAT ARE PSYCHOTIC, OUT OF TOUCH WITH
21 REALITY, IT LOOKS LIKE IN THIS STUDY THAT
22 METHYLPHENIDATE MAKES PEOPLE MORE PSYCHOTIC.

23 SO, D AND L AMPHETAMINE ACTIVATED PREEEXISTING
24 PSYCHOSIS, ALTHOUGH BOTH DRUGS WERE LESS ACTIVE
25 THAN METHYLPHENIDATE OR RITALIN IN THIS REGARD,

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2643

1 IN THIS TYPE RATIO. SO, METHYLPHENIDATE WAS 3
2 AND THE D WAS 2 AND THE L WAS 1.

3 Q. DO YOU HAVE A SLIDE SHOWING THE EFFECT ON PEOPLE
4 WHO HAVE A PREEEXISTING PSYCHOSIS?

5 A. IT TALKS ABOUT IN CONTRAST TO THE EFFECT OF
6 ACUTELY ADMINISTERED LOW DOSES OF PSYCHO
7 STIMULANTS, LIKE GIVING A KID RITALIN. HIGH
8 DOSES OF VIRTUALLY ALL AMPHETAMINE-LIKE DRUGS,
9 INCLUDING METHYLPHENIDATE, AMPHETAMINE
10 DERIVATIVES AND COCAINE INDUCE PSYCHOTIC
11 SYMPTOMS IN PRESUMABLY NON-SCHIZOPHRENIC
12 INDIVIDUALS.

13 NOW THE REASON THIS SENTENCE IS SO LONG IS
14 BECAUSE IT'S TAKEN VERBATIM FROM THESE
15 REFERENCES. AND SO I'M NOT LEAVING ANYTHING OUT
16 AND THAT'S WHY IT TALKS ABOUT SOME OF THOSE
17 OTHER DRUGS.

18 IT'S ESSENTIALLY THE SAME. YOU USE LARGE DOSES,
19 YOU'LL GET PSYCHOTIC MOST OF THE TIME.

20 Q. AND WHAT EFFECT DO THESE HAVE ON THE PATIENT?

21 A. PEOPLE WHEN WE GET PSYCHOTIC -- AGAIN, I THINK
22 WE ARE LOOKING AT SOME OF THOSE EFFECTS.
23 PARANOIA, THAT'S AGAIN THINKING THAT PEOPLE ARE
24 OUT TO GET THEM. THEY CAN BE QUITE FRIGHTENING.
25 PEOPLE SAY WOW, I KNOW WHY I'M PARANOID NOW, I

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2644

1 STAYED UP TOO LATE AND I TOOK THAT DRUG; THAT'S
2 WHY I THINK PEOPLE ARE AFTER ME. THEY DON'T
3 HAVE THAT KIND OF INSIGHT. THEY ARE TALKING
4 ABOUT JUST BEING VERY, VERY SUSPICIOUS AND THERE
5 ARE CERTAINLY REPORTS THAT HAVE BEEN KNOWN TO
6 RESULT IN UNPROVOKED VIOLENCE, ACTUALLY TO THE
7 POINT OF MURDER.

8 IN AMPHETAMINE PSYCHOSIS THERE IS A STUDY, AND I
9 THINK I HAVE A SLIDE HERE, THAT TALK ABOUT
10 PEOPLE THAT HAD COMMITTED HOMICIDE AND 13 OF
11 THOSE PATIENTS THAT WERE LOOKED AT HAD DONE HIGH
12 DOSE AMPHETAMINE AND IT RESULTED IN A MURDER OR
13 A KILLING. EIGHT OF THOSE, IT WAS RELATED TO
14 PEOPLE BEING PARANOID, ONE WAS RELATED, I THINK,
15 TO EMOTIONAL LIABILITY, HAD UPS AND DOWNS. TWO
16 WERE PANICKY, THEY WERE ROBBING A BANK HIGH ON
17 AMPHETAMINES AND THEY GOT PANICKED AND THEY SHOT
18 SOMEONE. AND THEN THE OTHER ONE WAS A
19 COMBINATION OF PARANOIA AND AN UNSTABLE OR
20 IMPULSIVE DISORDER.

21 SO, THESE DRUGS DO PRODUCE PROBLEMS. AGAIN,
22 COCAINE PROBABLY PRODUCES THE MOST PROBLEMS AS
23 FAR AS HOMICIDE.

24 PEOPLE THAT ARE ADDICTED TO COCAINE WILL DO
25 GENERALLY WHATEVER THEY HAVE TO DO USUALLY TO

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2645

1 GET MORE COCAINE.

2 IT'S KIND OF LIKE AN ANIMAL THAT HAS NOT HAD ANY
3 WATER FOR TWO OR THREE DAYS. IF I WAS STANDING
4 IN FRONT OF AN ANIMAL THAT WAS THIRSTY AND I
5 SAID NO, HE WOULD PROBABLY HURT ME TO GET THAT.

6 Q. WHAT ARE THE THINGS THAT AMPHETAMINES CAN CAUSE?

7 A. WELL, THEY CAN CAUSE INTOXICATION; THEY CAN
8 CAUSE DELIRIUM. DELIRIUM IS A STATE WHERE YOU
9 COULD BE PSYCHOTIC, BUT YOU WOULD JUST NOT KNOW
10 WHERE YOU ARE; YOU WOULDN'T KNOW WHAT YOU WERE
11 DOING, WHAT WAS GOING ON.

12 SOMEBODY THAT IS PSYCHOTIC MIGHT INDEED KNOW
13 EXACTLY WHERE THEY ARE AND THE DATE AND
14 EVERYBODY'S NAME IN THE CLASSROOM, BUT THEY ARE
15 STILL RECEIVING SIGNALS FROM SOME PLANET ABOUT A
16 Y-2K PHENOMENON WILL TAKE OVER WHEN ALL THE
17 COMPUTERS ARE DOWN AND THAT SORT OF THING. THEY
18 MIGHT THINK THEY ARE THE CENTRAL PERSON, REALLY
19 OUTRAGEOUS TYPE THOUGHTS.

20 AND, AGAIN, WHAT YOU SEE WITH AMPHETAMINES AND,
21 AGAIN, RITALIN ARE PEOPLE THAT GET DELUSIONAL,
22 GET INTOXICATED, AND IT'S NOT MUCH DIFFERENT
23 THAN PEOPLE USING COCAINE.

24 THAT'S WHY I HAD SOME SLIDES HERE TALKING ABOUT
25 COCAINE BECAUSE THEY ARE ESSENTIALLY THE SAME,

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2646

1 EXCEPT MORE PEOPLE ARE IN LOVE WITH COCAINE THAN
2 THEY ARE WITH RITALIN BECAUSE COCAINE TAKES FIVE
3 SECONDS TO DO IT AND RITALIN TAKES ONE MINUTE.
4 AND IF YOU WERE TO SNORT COCAINE, IT MIGHT TAKE
5 ONE TO TWO MINUTES. SOMETIMES IT TAKES FIVE
6 MINUTES, BUT THERE'S NOTHING THAT GETS THE
7 BRAIN'S ATTENTION ANY FASTER THAN COCAINE WHEN
8 YOU SMOKE IT. THAT'S WHY IT'S ABUSED SO MUCH.
9 I THINK JIMMY TALKS ABOUT THEM ESSENTIALLY BEING
10 THE SAME WHEN I INTERVIEWED JIMMY TALKING ABOUT
11 CRACK COCAINE WHICH IS THE MOST ADDICTING THING.
12 SIMILAR EFFECTS, BUT NOT AS QUICK AS CRACK.
13 CRACK IS OUT IN THE COMMUNITY, RITALIN IS IN A
14 BAG SITTING IN A DRAWER. I MEAN IT'S JUST RIGHT
15 THERE, ALL YOU HAVE TO DO IS KIND OF GRIND IT UP
16 AND THEN SNORT IT UP YOUR NOSE. AND, YEAH,
17 YOU'RE TALKING ABOUT A MATTER OF SECONDS BUT
18 YOU'RE ALSO TALKING ABOUT IT BEING AVAILABLE.
19 Q. AND COULD YOU DESCRIBE, DO YOU HAVE A SLIDE
20 SHOWING THE EFFECTS OF RITALIN?
21 A. GENERALLY PEOPLE WOULD START FEELING HIGH
22 INITIALLY. PEOPLE FEEL GOOD WHEN THEY FIRST
23 START DOING IT. THEY'RE ON TOP OF THE WORLD,
24 THEY TALK FAST, THEY MOVE FAST, THEY MOVE ABOUT
25 QUICKLY, THEY'VE GOT A LOT OF ENERGY, VERY

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2647

1 HYPERACTIVE, RESTLESS, TALKATIVE. THEY MIGHT
2 HAVE, AGAIN, STEREOTYPE BEHAVIOR. PUTTING
3 THINGS IN, TAKING THINGS OUT. ANGER, IMPAIRED
4 JUDGMENT. AND JUDGMENT IS NOT VERY GOOD WHEN
5 YOU'RE USING THESE DRUGS.

6 Q. DESCRIBE WHAT HAPPENS DURING AMPHETAMINE
7 INTOXICATION AND CAN YOU REFER TO YOUR SLIDES?

8 A. AGAIN, THIS IS KIND OF WHAT I'M TALKING ABOUT.
9 PEOPLE GET THAT HIGH FEELING WITH AMPHETAMINE
10 INTOXICATION. AND, AGAIN, THIS IS FROM DSM-4
11 DIAGNOSTIC AND STATISTICAL MANUAL, AND I HAD A
12 SLIDE EARLIER WHERE IT SAYS AMPHETAMINE AND
13 METHYLPHENIDATE ARE THE SAME.
14 AND SO WHEN THEY TALK ABOUT AMPHETAMINE
15 INTOXICATION, THEY COULD EASILY BE TALKING ABOUT
16 METHYLPHENIDATE OR RITALIN BEHAVIOR.
17 SOME PEOPLE ARE ANGRY, FIGHTING; VERY IMPAIRED
18 JUDGMENT. AND PLUS ALL OF THESE PHYSICAL
19 SYMPTOMS THAT I MENTIONED EARLIER.
20 DURING INTENSE AMPHETAMINE INTOXICATION,
21 PARANOID IDEATION, AUDITORY HALLUCINATIONS IN A
22 CLEAR SENSORIUM, THAT MEANS YOU KNOW WHERE YOU
23 ARE, WHAT'S HAPPENING. TACTILE HALLUCINATIONS
24 MAY BE EXPERIENCED, THAT'S FEELING THINGS
25 CRAWLING ON YOU. FREQUENTLY THE PERSON USING

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2648

1 THE SUBSTANCE RECOGNIZES THESE SYMPTOMS AS
2 RESULTING FROM THE STIMULANTS. EXTREME ANGER
3 WITH THREATS OF ACTING OUT OF AGGRESSIVE
4 BEHAVIOR MAY OCCUR. AND THIS IS COMING FROM
5 DSM-4.

6 SO, THEY WARN PEOPLE, IF YOU'RE EXAMINING
7 SOMEONE IN THE EMERGENCY ROOM, BE CAREFUL
8 BECAUSE YOU COULD GET BEAT UP REAL EASY. THAT'S
9 MORE SEEN WITH COCAINE, ESPECIALLY IN ATLANTA.
10 THERE ARE JUST A LOT OF HEALTHCARE PRACTITIONERS
11 GETTING ASSAULTED AND BEAT UP WHEN THEY'RE
12 TRYING TO HELP PEOPLE WHO COME INTO THE
13 EMERGENCY ROOM.

14 SO, HOPEFULLY YOU KNOW TO BE CAREFUL ABOUT THIS
15 AND NOT BE CONFRONTED WITH SOMEONE THAT'S
16 PSYCHOTIC AND INTOXICATED ON THESE THINGS.

17 Q. AND, AGAIN, WHAT KIND OF STATES ARE SEEN WITH
18 INTOXICATION AFTER THE INGESTION OF THIS
19 SUBSTANCE?

20 A. WELL, YOU SEE HALLUCINATIONS. YOU CAN SEE
21 AGGRESSIVENESS, PANIC STATE. TYPICALLY IF
22 SOMEONE HAS A PANIC STATE, THEY ARE ALL OF A
23 SUDDEN FEELING LIKE THEY ARE TOTALLY OUT OF
24 CONTROL, THEY CAN'T GET ENOUGH AIR, THEIR HEART
25 IS THUMPING VERY WILDLY. THEY DON'T KNOW WHY

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2649

1 THIS IS HAPPENING. BUT HALLUCINATIONS, AGAIN
2 SEEING OR HEARING THINGS.

3 AND THIS IS SOMETHING WHEN I EXAMINED JIMMY,
4 CERTAINLY HE HAD SOME HALLUCINATIONS THE NIGHT
5 OF THE CRIME WHEN HE WAS USING RITALIN. YEAH, I
6 THINK ---

7 Q. BEFORE YOU GO TO THE NEXT SLIDE, CAN YOU
8 DESCRIBE WHAT THAT WAS?

9 A. JIMMY -- THAT NIGHT?

10 Q. YES.

11 A. JIMMY OVER A COURSE OF SOME HOURS REPORTS USING
12 RITALIN, BOTH THE IMMEDIATE RELEASE AND
13 SUSTAINED RELEASE, GRINDING THEM UP AND SNORTING
14 ANYWHERE FROM 30 TO 60 MILLIGRAMS AT A TIME,
15 ALONG WITH USING ALCOHOL, MAYBE TO BRING DOWN
16 SOME OF THAT PANICKY LIKE FEELING BECAUSE
17 ALCOHOL IS A DEPRESSANT DRUG AND WOULD HAVE A
18 TENDENCY TO SLOW YOU DOWN A LITTLE BIT OR AT
19 LEAST THE PANIC. HE WAS USING THAT THROUGHOUT
20 THE NIGHT, FEELING JUST LIKE HE'S GOT THE MOST
21 ENERGY IN THE WORLD. FEELING LIKE HE COULD DO
22 MOST ANYTHING; HAVING SOME PARANOIA.

23 LATER ON HE DESCRIBED DURING THE CRIME ALMOST
24 LIKE HE WAS DEPERSONALIZED. AND DEPERSONALIZED
25 MEANS HERE I AM TALKING, BUT I'M ALSO STANDING

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2650

1 OVER HERE WATCHING MYSELF TALK. I'M OUTSIDE MY
2 BODY SAYING I CAN'T BELIEVE YOU'RE TALKING THIS
3 SLOW OR YOU'RE TALKING THIS MUCH. BUT IT'S
4 OUTSIDE THE BODY WATCHING THIS GO ON,
5 HALLUCINATING, SEEING HIMSELF AS HE STANDS HERE,
6 SWEATING, INTENSE, WORRYING ABOUT IS HE GOING TO
7 TURN ON HIMSELF.

8 THAT IS A STATE THAT I WOULD SAY IS CONSISTENT
9 WITH WHAT A LOT OF PEOPLE FIND IN A TOXIC STATE
10 WITH THE STIMULANTS, BUT THEY ARE JUST -- THEY
11 SEE DISTORTIONS IN PEOPLE'S FACES; THEY
12 HALLUCINATE AND THEY ARE PARANOID.

13 Q. WOULD THAT BE WHAT YOU WOULD CONSIDER
14 AMPHETAMINE PSYCHOSIS?

15 A. THAT WOULD BE ONE FACET OF AMPHETAMINE
16 PSYCHOSIS, SURE.

17 Q. DO YOU HAVE A SLIDE ON THAT?

18 A. THIS IS ONE STUDY OF -- IT'S OLD BECAUSE BACK IN
19 THE SIXTIES YOU COULD GET AS MANY AMPHETAMINES
20 AS YOU WANTED FOR THE MOST PART, THEY WERE NOT
21 CONTROLLED. THEY WERE ALMOST LIKE WHAT SOME
22 PEOPLE WOULD LIKE TO DO WITH RITALIN.

23 PEOPLE GET PSYCHOTIC AND THEY HALLUCINATE. OVER
24 HALF THE PEOPLE IN THIS PARTICULAR STUDY THAT HE
25 LOOKED AT WHEN THEY GOT PSYCHOTIC, THEY WOULD

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2651

1 SEE THINGS, ALSO HEAR THINGS.

2 AND THAT'S VERY CONSISTENT WITH WHAT JIMMY WAS
3 REPORTING AS FAR AS HIS HALLUCINATIONS.

4 Q. CAN YOU DESCRIBE THE EFFECTS OF CHRONIC RITALIN
5 USE AND COCAINE USE THAT HE DESCRIBED? I
6 BELIEVE YOU HAVE A SLIDE ON THAT?

7 A. AGAIN, I'M LOOKING AT -- I PULLED THIS FROM AN
8 ARTICLE THAT TALKS ABOUT THE NEUROPSYCHIATRY OF
9 CHRONIC COCAINE ABUSE. AND IT'S VERY SIMILAR,
10 AGAIN, I THINK THE SAME. AND WE'RE LOOKING AT
11 JUDGMENT HERE.

12 WHEN YOU TAKE ALL THESE STUDIES AND YOU THROW
13 THEM ALL IN THE POT AND SEE WHAT YOU'VE GOT,
14 WHAT ARE THE EFFECTS OF COCAINE ON THE BRAIN AS
15 FAR AS NEUROCHEMICALLY HOW PEOPLE THINK.

16 WHAT IT APPEARS, LONG TERM USE, CHRONIC USE OF
17 THESE DRUGS EFFECT A PART OF THE BRAIN THAT HAVE
18 TO DO WITH WHAT WE CALL EXECUTIVE FUNCTIONING
19 WHERE PEOPLE MAKE DECISIONS, WHERE PEOPLE TAKE
20 THE DATA THAT THEY HAVE AND SAY, OKAY, I'M GOING
21 TO DO THIS, I'M NOT GOING TO DO THAT, BEING ABLE
22 TO ATTEND, HAVING THAT MENTAL FLEXIBILITY TO SAY
23 I SHOULD; NO, NO, I SHOULDN'T DO THAT BECAUSE
24 THESE ARE THE CONSEQUENCES IF I DO THAT, SO I
25 WILL NOT DO IT, I'M GLAD I THOUGHT THAT THROUGH.

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2652

1 THAT DOESN'T WORK; IT JUST DOESN'T WORK.
2 THE THREE FRONTAL LOBES ARE NOT WORKING. THAT
3 PART OF THE BRAIN THAT HELPS YOU MAKE DECISIONS
4 HAVE BEEN BLOWN BY THESE DRUGS.
5 THE DOCTORS I WORK WITH CURRENTLY ARE GIVING A
6 LOT OF MRI SCANS -- I'M NOT GOING TO BRING A MRI
7 SCAN UP HERE AND TALK ABOUT IT BECAUSE I DON'T
8 KNOW HOW THEY WORK, MRI SCANS. I HAVE SOME
9 LITTLE BIT OF KNOWLEDGE, BUT THEY TALK ABOUT THE
10 LITTLE MICRO CLOTS IN PEOPLE'S BRAIN SECONDARY
11 TO COCAINE, KIND OF LIKE A SWISS CHEESE EFFECT
12 BECAUSE COCAINE CAUSES BLOOD VESSELS TO
13 STRENGTHEN DOWN.
14 AND PEOPLE HAVE STROKES, BUT SOME PEOPLE JUST
15 HAVE LITTLE TINY STROKES, HAVE ENOUGH STROKES TO
16 KIND OF -- PEOPLE COULD HAVE MICRO-STROKES.
17 YOU'RE WELL AWARE THAT PEOPLE CAN HAVE STROKES
18 AND THEY WILL ESSENTIALLY BE NORMAL LATER ON
19 AFTER RECOVERY.
20 SO, PEOPLE CAN HAVE LITTLE TINY STROKES IN THEIR
21 BRAIN. AND IT'S BEEN FOUND THAT INDEED IN THE
22 FRONTAL LOBE WHERE WE MAKE DECISIONS, YOU COULD
23 FIND THESE LITTLE AREAS.
24 SO, THAT'S WHY WHEN YOU LOOK AT COCAINE, AGAIN I
25 CAN'T SAY FOR ABSOLUTE SURE THAT IT OCCURS WITH

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2653

1 RITALIN BECAUSE THERE AREN'T AS MANY PEOPLE
2 ABUSING RITALIN AS THERE ARE COCAINE. IT'S ON
3 THE INCREASE.

4 I THINK I HAVE A SLIDE HERE THAT LOOKS AT
5 SENIORS GRADUATING FROM HIGH SCHOOL THAT FILLED
6 OUT A QUESTIONNAIRE THAT SAID HAVE YOU EVER USED
7 AMPHETAMINES OR HAD ONE PRESCRIBED FOR YOU.
8 SIXTEEN PERCENT OF THEM SAID YES AND THEY HAD
9 BEEN USING RITALIN. SO, IT IS TAKING OFF THAT
10 WAY, BUT IT'S NOT ANYWHERE LIKE COCAINE WOULD
11 BE.

12 SO, I'M MAKING A JUMP HERE. I'M CERTAINLY
13 MAKING A JUMP AND I'M MAKING THAT JUMP BECAUSE
14 REPEATEDLY WHEREVER I LOOK IN THE LITERATURE IT
15 SAYS COCAINE, RITALIN, AMPHETAMINE, THE
16 PHARMACOLOGY IS THE SAME, THE EFFECTS ARE THE
17 SAME, THE SIDE EFFECTS ARE THE SAME, THE
18 PSYCHOSIS IS THE SAME, THE HALLUCINATIONS ARE
19 THE SAME; YOU CAN'T TELL ONE FROM THE OTHER. I
20 CAN'T ABSOLUTELY SAY THAT RITALIN DOES THIS TO
21 THE BRAIN.

22 I DO KNOW THAT PEOPLE THAT ARE TOXIC ON RITALIN
23 DO NOT MAKE GOOD DECISIONS.

24 Q. CAN YOU GO THROUGH THE DIAGNOSTIC CRITERIA FOR
25 AMPHETAMINE INTOXICATION AS IT RELATES TO JIMMY,

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2654

1 SHOW WHAT CRITERIA HE MEETS?

2 A. I WILL, AND I'M DOING THIS BECAUSE IT DOESN'T
3 SAY DIAGNOSTIC CRITERIA FOR METHYLPHENIDATE
4 INTOXICATION, BUT VERY QUICKLY IT SAYS TO MEET
5 THIS CRITERIA FOR BEING INTOXICATED ON
6 AMPHETAMINE OR A RELATED SUBSTANCE, FOR EXAMPLE
7 METHYLPHENIDATE, YOU HAVE TO BE HAVING USED IT
8 RECENTLY. THAT KIND OF MAKES SENSE.

9 A CLINICALLY SIGNIFICANT MALADAPTIVE BEHAVIORAL
10 -- WHAT ARE WE TALKING ABOUT HERE? WE'RE
11 TALKING ABOUT EXCESSIVE ANGER, STEREOTYPE
12 BEHAVIORS.

13 AND I HAVE SEEN THESE PICTURES AND THEY ARE
14 HORRIBLE. AND I THINK HOW DID THIS PERSON DO
15 THIS OVER AND OVER AND OVER AGAIN. I MEAN IT'S
16 NOT THAT HE HIT HIS PARENTS ONCE, BUT HE HIT
17 THEM REPEATEDLY. HOW DOES SOMEONE DO THIS? IS
18 THIS WHAT WE'RE TALKING ABOUT STEREOTYPED
19 BEHAVIOR? I THINK IT IS. DID HE HAVE IMPAIRED
20 JUDGMENT? I THINK HE DID.

21 I THINK WE ALL HAVE IMPULSES, WE ALL HAVE
22 THOUGHTS AND MOST OF US SAY, WOW, I CAN'T
23 BELIEVE I THOUGHT THAT, I CERTAINLY WON'T DO IT.
24 HE DIDN'T HAVE THE ABILITY, I DON'T THINK, TO
25 SAY, NO, I THINK I WON'T DO THAT. MY BODY IS

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2655

1 OUT OF CONTROL, I'M INCREDIBLY ANGRY. I HAVE
2 THESE STEREOTYPED BEHAVIORS, I'M HALLUCINATING.
3 SOME OF THESE ARE PHYSICAL SYMPTOMS. YOU HAVE
4 TO HAVE TWO OR MORE OF THESE WHILE YOU'RE TAKING
5 IT. HE DESCRIBES RAPID HEARTBEAT; HE DESCRIBES
6 EXCESSIVE PERSPIRATION. I WASN'T ABLE TO LOOK
7 AT THE SIZE OF HIS PUPILS. I WASN'T ABLE TO
8 MEASURE HIS BLOOD PRESSURE THERE. MY GUESS IS,
9 THE WAY HE DESCRIBES IT, IT WAS PROBABLY UP.
10 BUT YOU ONLY HAVE TO HAVE TWO.
11 SO, FROM WHAT HE REPORTS, IT SOUND LIKE HE HAS
12 TWO. HAS HE LOST WEIGHT? CERTAINLY HE'S NOT
13 THE BIGGEST GUY. HE'S LOST A LOT OF WEIGHT I
14 THINK FROM EITHER NOT EATING REGULARLY BECAUSE
15 OF HIS MANIC DEPRESSANT ILLNESS OR HIS
16 STIMULANTS AND ALCOHOL USE.
17 AND THEN THE LAST THING IS THAT THESE SYMPTOMS
18 ARE NOT DUE TO A GENERAL MEDICAL CONDITION AND
19 NOT THAT ARE ACCOMPANIED BY ANOTHER MENTAL
20 DISORDER.
21 IF SOMEONE HAD A BRAIN TUMOR, THAT'S WHAT WE'RE
22 TALKING ABOUT. IF YOU HAD A BRAIN TUMOR, YOU
23 COULDN'T CALL IT AMPHETAMINE INTOXICATION EVEN
24 IF YOU WERE USING AMPHETAMINES AT THAT TIME. IS
25 IT ACCOUNTED FOR BY ANOTHER MENTAL DISORDER.

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2656

1 I DO KNOW THAT JIMMY HAD OTHER MENTAL DISORDERS.
2 I DO KNOW THAT HE WAS USING MORE THAN ONE DRUG;
3 HE WAS DRINKING, BUT I DON'T THINK HE WAS GOING
4 THROUGH ALCOHOLIC HALLUCINOSIS BASED ON HIS AGE
5 AND BASED ON HIS PATTERN OF USE.

6 I DON'T KNOW WHAT PART MANIC DEPRESSIVE ILLNESS
7 PLAYED IN THIS. IT'S AN INCREDIBLE DIFFICULT
8 MOOD DISORDER THAT IF NOT TREATED, PRODUCES
9 STATES ALMOST IDENTICAL TO A PSYCHOTIC
10 CONDITION.

11 Q. NOW, COULD YOU GO THROUGH AND DESCRIBE,
12 PARTICULARLY AS IT RELATES TO JIMMY ROBERTSON,
13 HOW A PERSON BECOMES ADDICTED TO A CERTAIN
14 SUBSTANCE? I BELIEVE YOU HAVE SOME SLIDES.

15 A. WELL, I THINK I MENTIONED THIS EARLIER. I DON'T
16 THINK ANYBODY SAYS, HEY, I WANT TO BECOME A DRUG
17 ADDICT WHEN I GROW UP. IF I KNEW THE ANSWER TO
18 THIS, I WOULD CLEARLY GET A NOBEL PRIZE AS FAR
19 AS WHAT CAUSES DRUG ABUSE.

20 I THINK THERE ARE LOTS OF DIFFERENT THINGS. I
21 THINK PART OF IT HAS TO DO WITH ARE YOU
22 PREDISPOSED. I THINK PART OF IT HAS TO DO WITH
23 WHAT DOES IT DO WHEN YOU TAKE IT.

24 SOME PEOPLE USE COCAINE AND IF THEY ARE ANXIOUS
25 OR USE RITALIN AND IT CAUSES THEM TO HAVE A

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2657

1 PANIC ATTACK, THEY NEVER USE IT EVER AGAIN. IT
2 WAS TOTALLY UNPLEASANT.
3 SOME PEOPLE TAKE THESE DRUGS AND IT PRODUCES A
4 SENSE OF WELL BEING AND THEY FEEL GOOD. AND
5 THAT MIGHT BE THE ONLY TIME THAT THEY FEEL GOOD.
6 OR IF SOMEONE IS DRINKING ALCOHOL, THAT MIGHT BE
7 THE ONLY TIME THAT THEY ARE EVER RELAXED.
8 FINALLY THEY ARE NOT ABLE TO HAVE THEIR MIND
9 ROLLING CONTINUOUSLY, WORRYING ABOUT THINGS.
10 SO, IT DEPENDS ON WHAT YOU'RE DEALING WITH.
11 THERE ARE SO MANY FACTORS, AND I JUST GUESS,
12 GENETICS, YOUR DEVELOPMENT. WHAT HAPPENED IN
13 THE FIRST TWO YEARS; WHAT HAPPENED IN THE NEXT
14 10 TO 12 YEARS; WHAT DO YOU GET FROM YOUR PEERS.
15 PEERS ARE INCREDIBLY DIFFICULT PEOPLE TO DEAL
16 WITH IN HIGH SCHOOL AND ONE WAY TO LESSEN THAT
17 UNCOMFORTABLENESS IN HIGH SCHOOL IS YOU CAN
18 DRINK OR YOU CAN SMOKE DOPE WHILE YOU'RE THERE
19 AND IT DOESN'T MATTER IF ANYBODY SAYS ANYTHING
20 TO YOU.
21 THERE ARE LOTS OF REASONS PEOPLE START BUT BY
22 THE TIME PEOPLE GET GOING, USUALLY THEY'VE
23 CAUSED A BIOCHEMICAL CHANGE IN THEIR BRAIN THAT,
24 THIS IS HARD TO BELIEVE, IT REALLY DOESN'T HAVE
25 ANY REASON WHY PEOPLE FIRST STARTED OFF, THAT

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2658

1 PEOPLE OBSESSIVELY USE.

2 BY THE TIME PEOPLE GET TO ME, THEY ACTUALLY
3 BELIEVE THEY HAVE A BIOLOGICAL ILLNESS. THAT
4 ONLY TOOK ABOUT TWO YEARS FOR ME TO BELIEVE. I
5 HAD TO SEE ABOUT 200 PATIENTS DO THE SAME THING
6 BEFORE I REALIZED THAT THERE IS SOMETHING
7 BIOLOGICAL HERE. THERE IS SOMETHING
8 CONSISTENTLY GOING ON HERE.

9 YOU MAY BE WONDERING WHAT ABOUT DRUG ABUSE, IS
10 THIS SOMETHING RARE. NO, IT AFFECTS ABOUT 26
11 PERCENT OF US IN OUR LIFETIME.

12 IT MIGHT NOT AFFECT US, BUT IF WE KNOW THREE
13 OTHER PEOPLE, ONE OF THOSE PEOPLE PROBABLY HAS A
14 CHEMICAL DEPENDENCY PROBLEM.

15 IF WE'RE TALKING ABOUT WHAT'S THE POPULATION OF
16 YORK COUNTY, I'M JUST GUESSING, I WAS GUESSING
17 BASED ON A 1990 CENSUS. I WAS WONDERING, WOULD
18 IT BE A HUNDRED AND THIRTY-ONE THOUSAND, MORE OR
19 LESS? OKAY. I MEAN IN 1990 IT WAS A HUNDRED
20 AND THIRTY-ONE THOUSAND PEOPLE WHICH BASICALLY
21 MEANS THERE ARE THIRTY-FIVE THOUSAND PEOPLE IN
22 YORK COUNTY WITH AN ALCOHOL OR DRUG PROBLEM.

23 SO, WE MAY NOT HAVE IT, BUT WE PROBABLY WILL
24 KNOW SOMEONE THAT WILL HAVE IT AND WE'LL BE
25 AFFECTED BY SOMEONE THAT HAS IT. IT'S NOT A

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2659

1 RARE CONDITION.
2 AND THESE ARE NOT PEOPLE THAT ARE INTENTIONALLY
3 WANTING TO BE OUT THERE BEING A SUBSTANCE
4 ABUSER.
5 THERE ARE APPROXIMATELY -- THIS IS IN THE
6 LIFETIME, NOT CURRENTLY RIGHT NOW, BUT IN OUR
7 LIFETIME THERE WILL BE APPROXIMATELY EIGHTEEN
8 THOUSAND PEOPLE THAT HAVE ALCOHOL DEPENDENCE AND
9 NINE THOUSAND PEOPLE THAT HAVE DRUG DEPENDENCE
10 HERE IN YORK COUNTY. IF WE BELIEVE THE RESEARCH
11 THAT HAS CONSISTENTLY BEEN DONE, LOOKING AT
12 SURVEYS.
13 WE'RE STARTING TO ADDRESS THESE BIOLOGICAL
14 ISSUES. SOME PEOPLE STILL THINK OF IT AS A
15 MORAL ISSUE. THEY JUST NEED TO DEAL WITH THEIR
16 STUFF DIFFERENTLY. THAT'S SO FAR FROM WHAT
17 HAPPENS. AND I THINK THAT'S WHY WE WANTED TO
18 HAVE SOME OF THE ANIMAL DATA BECAUSE ANIMALS
19 DON'T SAY, MAN, I'VE GOT TO HAVE A DRINK BECAUSE
20 I'VE GOT TO GO WORK THE 11:00 O'CLOCK SHIFT OR
21 I'VE GOT TO GO WITH MY MOM AND DAD AND THEY'LL
22 BE PICKING ON ME OR MY GIRLFRIEND HAS LEFT ME.
23 THEY DON'T HAVE THESE THINGS THAT GENERALLY YOU
24 FIND WHEN PEOPLE ARE --- I'VE LEARNED A LOT FROM
25 GOING TO AA AND HEARING HOW PEOPLE DID IT.

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2660

1 THEY SAY, HERE IS THE WAY I DID IT. HERE'S WHAT
2 HAPPENED; HERE'S WHAT FINALLY HAD TO HAPPEN
3 BEFORE I GOT INTO TREATMENT. HERE'S HOW I GOT
4 BETTER AND HERE'S HOW I AM TODAY.

5 WHEN YOU LISTEN TO PEOPLE AND LISTEN TO THEM AND
6 THEY TELL YOU, AND THEY WILL KIND OF EXPLAIN THE
7 BIOLOGY TO YOU.

8 WHAT IS DEPENDENCE. YOU ONLY HAVE TO HAVE THREE
9 ACCORDING TO DSM-4. AND THAT IS YOU CAN BE
10 TOLERANT, MEANING YOU START OFF DRINKING ONE
11 BEER TO GET AN AFFECT AND NOW YOU HAVE TO DRINK
12 THREE OR FOUR BEERS TO GET THE SAME AFFECT.

13 OR YOU START OFF USING A LITTLE BIT OF COCAINE
14 AND NOW YOU HAVE TO USE A COUPLE OF LINES OF
15 COCAINE.

16 Q. LET ME ASK YOU THIS, AS FAR AS JIMMY, DID HE
17 SHOW ANY OF THOSE?

18 A. FOR ALCOHOL HE CERTAINLY DID. I THINK HE WAS
19 DEVELOPING TOLERANCE. HE'S DRINKING 12 TO 14
20 BEERS ON A REGULAR EVENING. HE DIDN'T EVER
21 EXPERIENCE SEIZURES FROM WITHDRAWAL. SOMETIMES
22 PEOPLE THINK ABOUT THAT. BUT WAS HE IRRITABLE
23 IN THE MORNING WHEN HE WAS GETTING UP? I THINK
24 HE WAS NOT FEELING PARTICULARLY PEPPY.
25 I DON'T KNOW IF HE EVER TRIED TO CUT DOWN

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2661

1 HIMSELF. I THINK HE WAS AT THE POINT THAT HE
2 WAS STILL ENJOYING THE DRUG, BUT DID HE SPEND A
3 LOT OF TIME DRINKING, DID HE SPEND A LOT OF TIME
4 GETTING THE DRUG? YES, HE WAS ALMOST ALWAYS
5 DRINKING WHEN HE WASN'T WORKING.
6 THAT SAYS COCAINE. DID HE CONTINUE TO USE ANY
7 SUBSTANCE KNOWING THAT IT WAS CAUSING -- THAT HE
8 WAS OUT OF CONTROL.
9 SOME PEOPLE IF THEY GET A DUI THEY MIGHT SAY,
10 HEY, I THINK I'VE GOT A PROBLEM.
11 SOME PEOPLE IF THEY GO INTO JAIL THEY MIGHT SAY,
12 HEY, I REALLY DO HAVE A PROBLEM WITH THIS. AND
13 THEN SOME PEOPLE DON'T.
14 DOES HE GIVE UP IMPORTANT ACTIVITIES? I THINK
15 HE DOES. I DON'T THINK HE SPENT ANY TIME WITH
16 HIS FAMILY; I DON'T THINK HE PLAYS BASKETBALL; I
17 DON'T THINK HE DOES THE THINGS THAT HE USED TO
18 ENJOY DOING. HE HAS GIVEN UP THOSE BECAUSE HE'S
19 DRINKING AND DRUGGING.
20 DOES HE CONTINUE TO USE IT DESPITE HAVING
21 PSYCHOLOGICAL AND MEDICAL CONSEQUENCES?
22 CERTAINLY PSYCHOLOGICAL. HE'S GOT BIPOLAR
23 DISORDER WHICH CONSISTS OF BOTH UPS AND DOWNS,
24 UNCONTROLLABLE UPS AND DOWNS. THERE ARE A LOT
25 OF SYMPTOMS THERE.

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2662

1 DOES HE HAVE IRRITABILITY? YEAH. IS HE DOING
2 POORLY IN SCHOOL? YEAH. HOW DOES IT MIX IN
3 WITH GAMBLING? I DON'T KNOW, BUT PEOPLE WHEN
4 THEY ARE INTOXICATED MAY GAMBLE.

5 Q. SO, IN CONCLUSION TO THAT, YOU SAID THAT'S A
6 DISEASE?

7 A. YES, IT IS A MEDICAL DISEASE. I THINK IT DOES
8 HAVE A BIOLOGICAL BASIS. ONE HAS TO SUSPEND
9 LOGIC TO BELIEVE THAT. AND EVERYONE IN HERE
10 HOPEFULLY IS WORKING ON A BASIS OF LOGIC. BUT
11 WHEN YOU TRY TO MAKE SENSE OUT OF WHY PEOPLE DO
12 THE THINGS THEY DO, IT DOESN'T MAKE SENSE.
13 AND PEOPLE SAY, WELL, THEY JUST NEED TO STOP OR
14 THEY NEED TO GO TO CHURCH MORE OR THEY NEED TO
15 WORK HARDER. AND THAT'S NOT WHAT WE'RE TALKING
16 ABOUT. BIOLOGY, OUT OF CONTROL. AND REALLY THE
17 ONLY WAY TO TREAT IT IS TO STOP USING. AND TO
18 STOPPING USING IS A MASSIVE TASK.

19 Q. I WAS GOING TO ASK YOU, HOW CAN IT BE TREATED?

20 A. YOU CAN TREAT IT A NUMBER OF DIFFERENT WAYS.
21 ONE IS GOING INTO TREATMENT FACILITY. I THINK
22 I'M BIASED TOWARD IN-PATIENT BECAUSE ONE THING
23 YOU CAN DO IN AN IN-PATIENT FACILITY IS YOU CAN
24 ALMOST ALWAYS KEEP THE DRUG AWAY FROM THE
25 PERSON. NOT ABSOLUTELY ALWAYS, BUT YOU CAN GET

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2663

1 THE DRUG AWAY FROM THEM. YOU CAN GET THEM
2 THROUGH THEIR WITHDRAWAL, THEIR CRAVING. YOU
3 CAN GET THEM TO START LOOKING AT SOME ISSUES.
4 YOU CAN FORCE THEM TO GO TO AN AA GROUP BECAUSE
5 WE HAVE AA GROUPS RIGHT HERE. THERE ARE THREE
6 ON CAMPUS.
7 I DON'T THINK ANYONE WANTS TO GO TO AN AA
8 MEETING ON THEIR OWN. AT LEAST I HAVEN'T SEEN
9 ANYBODY SAY, HEY, LET'S GO CATCH US AN AA
10 MEETING TONIGHT. UNLESS THEY ARE TRULY IN
11 RECOVERY. AND RECOVERY TAKES A WHILE. SO, IT
12 TAKES A WHILE FOR PEOPLE TO START GETTING SOME
13 INSIGHT INTO THEIR PROBLEM.
14 SOME OTHER TREATMENTS THAT I THINK ARE IMPORTANT
15 INCLUDE -- I THINK A 12-STEP GROUP IS IMPORTANT,
16 AA, CA, NA. IT DOESN'T MATTER WHICH. 12-STEP
17 GROUPS ARE IMPORTANT. THEY ARE NOT THE ONLY
18 THINGS THAT WORK, BUT IT'S IMPORTANT THAT PEOPLE
19 GO.
20 SUPPORTIVE COUNSELING, IDEALLY WITH SOMEONE
21 THAT'S A RECOVERING COUNSELOR BECAUSE PEOPLE
22 HAVE LOTS OF WAYS TO PULL THE WOOL OVER A
23 THERAPIST'S EYES.
24 STRESS MANAGEMENT. AVOID SITUATIONS, CUE
25 AVOIDANCE. I MEAN SOMETIMES I'LL BE DOING A

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2664

1 GROUP ON THE IN-PATIENT UNIT AND PEOPLE WILL GET
2 UP AND LEAVE BECAUSE I'VE SAID THE WORD COCAINE
3 TOO MANY TIMES OR I SAID ALCOHOL TOO MANY TIMES
4 AND THEY START CRAVING, SO THEY HAVE TO LEAVE.
5 YOU NEED TO HAVE PEOPLE GET OUT OF THOSE TYPE
6 SITUATIONS THAT CAUSES CRAVING.
7 TEACHING SOME PROBLEM SOLVING. IF YOU'VE BEEN
8 DRINKING AND DRUGGING THROUGH THIS PERIOD OF
9 TIME WHERE YOU LEARN HOW THE WORLD WORKS WHICH I
10 THINK FOR ME IT WOULD BE LIKE FROM 12 TO 20, YOU
11 LEARN HOW THE WORLD WORKS. YOU LEARN HOW TO
12 DEAL WITH YOUR PARENTS; YOU LEARN HOW TO DEAL
13 WITH PEERS, AND YOU LEARN HOW TO DEAL WITH THE
14 OPPOSITE SEX. YOU LEARN HOW THINGS WORK. AND
15 YOU FIGURE OUT IF THEY DIDN'T WORK, HOW TO SOLVE
16 IT.
17 IF YOU'RE DRINKING AND DRUGGING, YOU NEVER
18 LEARNED IT. SO, HERE YOU ARE A 50 YEAR OLD MAN
19 DEALING WITH THESE ISSUES THAT A 14 YEAR OLD IS
20 DEALING WITH AND LEARNS AT 14 BUT IF YOU'RE
21 DRINKING AND USING DRUGS, YOU DON'T EVER LEARN.
22 SOMETIMES WE HAVE TO TEACH PEOPLE, HOW DO YOU GO
23 ABOUT SOLVING THIS PROBLEM.
24 AND, OBVIOUSLY, ACTIVITY THERAPY. IN MY MIND YOU
25 CAN'T JUST HAVE PEOPLE SITTING AROUND. THEY

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2665

- 1 HAVE TO DO SOMETHING, GET INVOLVED.
- 2 YOU HAVE TO ALSO MEDICATE PEOPLE. YOU HAVE TO
- 3 MEDICATE THEIR WITHDRAWAL, AND YOU ABSOLUTELY
- 4 HAVE TO MEDICATE THEIR PSYCHIATRIC DISORDERS
- 5 BECAUSE IF THEY HAVE A PSYCHIATRIC DISORDER,
- 6 THEY ARE GOING TO RELAPSE VERY QUICKLY.
- 7 IF I AM WORKING WITH SOMEONE THAT HAS SOCIAL
- 8 PHOBIA AND THEY'VE BEEN DRINKING SO THEY CAN
- 9 WALK INTO A RESTAURANT WITHOUT FEELING
- 10 EMBARRASSED AND THEIR DRINKING GETS OUT OF
- 11 CONTROL NOW THEY'RE DRINKING EVERY NIGHT EIGHT
- 12 OR TEN BEERS. IF YOU GET THEM INTO TREATMENT
- 13 AND YOU DON'T TREAT THEIR SOCIAL PHOBIA, YOU
- 14 CAN'T GO TO AA AND WALK IN AND SAY, HEY, I'M
- 15 JIM, I'VE GOT AN ALCOHOL PROBLEM. THAT'S THEIR
- 16 MAIN PROBLEM. SO, YOU'VE GOT TO TREAT IT AND
- 17 THE SAME WAY AS WITH BIPOLAR DISORDER,
- 18 DEPRESSIVE DISORDERS, ALL OF THE PSYCHIATRIC
- 19 DISORDERS. YOU CAN'T TREAT ONE WITHOUT TREATING
- 20 THE OTHER.
- 21 Q. LET ME ASK YOU, YOU'VE REVIEWED THE RECORDS OF
- 22 JIMMY AND HIS TREATMENT. IN YOUR OPINION DID HE
- 23 RECEIVE PROPER TREATMENT FOR HIS DRUG PROBLEM?
- 24 A. I DON'T THINK HE EVER RECEIVED TREATMENT FOR HIS
- 25 DRUG PROBLEMS. I THINK IT WAS TALKED ABOUT. IT

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2666

1 WAS TALKED ABOUT THAT HE SHOULD QUIT DRINKING
2 WHEN HE CAME OUT OF THE STATE HOSPITAL. IT WAS
3 TALKED ABOUT VARIOUS THERAPISTS, THAT HE SHOULD
4 STOP DRINKING, HE SHOULD ATTEND AN AA MEETING.
5 I DON'T KNOW THAT HE WAS EVER GIVEN AN ULTIMATUM
6 TO GO INTO A TREATMENT PROGRAM. I DON'T KNOW
7 THAT HE WAS EVER FORCED INTO A TREATMENT PROGRAM
8 WITH CONSEQUENCES, IF YOU DON'T DO THIS, THEN
9 YOU CAN'T DO THAT.

10 ONE OF THE BEST WAYS TO GET PROFESSIONALS INTO A
11 TREATMENT PROGRAM IS TO SAY YOUR LICENSE IS
12 GOING UNLESS YOU GO INTO A TREATMENT PROGRAM.
13 SO, NO, HE DIDN'T RECEIVE TREATMENT.

14 Q. WHAT ARE THE COMPLICATIONS OF NON-TREATMENT? I
15 BELIEVE YOU HAVE A SLIDE?

16 A. WELL, I WOULD SAY IF YOU DON'T TREAT THE
17 CHEMICAL DEPENDENCE, IT'S GOING TO GET WORSE.
18 AND WHAT YOU MIGHT SEE WITH RITALIN IS THAT
19 YOU'D SEE MORE PARANOIA. THE MORE YOU USE, THE
20 MORE PARANOIA YOU'RE GOING TO GET.
21 THE SAME WITH COCAINE. THE MORE COCAINE THAT
22 PEOPLE USE, THE MORE PARANOIA THEY WILL GET.
23 PARANOIA WILL PROGRESS ONTO A PSYCHOTIC STATE;
24 MAYBE NOT PSYCHOTIC ALL THE TIME, BUT THIS DRUG
25 HAS THE CAPACITY TO VERY QUICKLY PUT YOU IN A

DR. W. ALEXANDER MORTON - DIRECT BY MR. BOYD

2667

- 1 PSYCHOTIC STATE, AGAIN WHERE YOU'RE NOT IN TOUCH
2 WITH REALITY.
- 3 VIOLENCE. VIOLENCE IS SO COMMON WITH COCAINE.
4 IT'S JUST AMAZING HOW MANY VIOLENT CRIMES THAT
5 ARE COMMITTED. NOT ALL OF THEM RESULT IN
6 HOMICIDE; A GOOD DEAL OF THEM DO. BUT VIOLENCE
7 IS MORE THE RULE WHEN YOU SEE SOMEONE USING THE
8 STIMULANTS, WHEN YOU SEE SOMEONE ABUSING THESE
9 DRUGS BECAUSE THEY CAUSE SO MUCH HYPERACTIVITY.
10 THEY CAUSE PEOPLE'S JUDGMENT TO BE IMPAIRED. I
11 WOULDN'T WANT TO CROSS SOMEONE THAT --- I
12 WOULDN'T EVEN WANT TO SAY, HEY, COME BACK HERE
13 BECAUSE I MIGHT GET BEAT UP.
14 HOMICIDE. I THINK IN THIS CASE PARTICULARLY, IT
15 WAS A MAJOR FACTOR THAT INFLUENCED WHAT HAPPENED
16 TO HIS PARENTS.
- 17 Q. NOW YOU HAVE ALSO -- WELL, THE JURY HAS HEARD
18 CONCERNING JIMMY'S BIPOLAR DISORDER AND
19 GENERALLY DID YOU -- THE JURY HAS ALREADY BEEN
20 DESCRIBED WHAT THAT IS. COULD YOU BRIEFLY TELL
21 THE JURY ABOUT BIPOLAR DISORDER? I BELIEVE YOU
22 HAVE SOME SLIDES CONCERNING THAT.
- 23 A. BIPOLAR DISORDER IS OF PARTICULAR INTEREST TO ME
24 BECAUSE EFFECTIVELY TREATED, 80 PERCENT OF
25 PEOPLE CAN RESPOND.

DR. W. ALEXANDER MORTON - DIRECT BY MR. BOYD

2668

1 I HAD A CHANCE TO WORK WITH DR. HAGER IN
2 TENNESSEE IN 1975 AND WHAT HE WAS DOING WAS
3 GOING THROUGH OUR CLINICS AND SAYING THESE
4 PEOPLE ARE NOT THIS, BUT THEY ARE BIPOLAR. THEY
5 ARE NOT SCHIZOPHRENIC, THEY ARE BIPOLAR.
6 THAT WAS WHEN LITHIUM WAS JUST COMING OUT;
7 PEOPLE WERE SCARED TO USE IT. SOME PEOPLE ARE
8 STILL SCARED TO USE IT.
9 BUT I THINK I GOT A CHANCE TO BE ON THE
10 FOREFRONT FOR A WHILE AND MAYBE I STILL AM
11 BECAUSE WE ARE DOING SOME STUDIES WITH SOME NEW
12 ANTI-CONVULSANTS WITH THE TREATMENT OF BIPOLAR
13 DISORDER.
14 THESE ARE SOME SLIDES. IT AFFLICTS ABOUT ONE
15 PERCENT OF THE POPULATION. IT OFTEN GETS WORSE.
16 IF YOU HAVE FIVE EXAMS ON THE SAME WEEKEND, THAT
17 WOULD BE AN ENVIRONMENTAL STRESSOR, THAT MIGHT
18 WOULD BE SOMETHING THAT WOULD PUSH SOMEONE OVER
19 THE EDGE. BUT THERE ARE STRESSORS THAT WE CAN
20 FIND THAT MAKE PEOPLE MANIC.
21 THERE'S CERTAINLY A GENETIC RISK OF -- AND ONE
22 DAY I THINK WE'LL BE ABLE TO GO AND SAY HERE'S
23 THE GENE THAT PREDISPOSES THIS PERSON TO
24 DEVELOPING THIS. IT'S NOT ALWAYS, BUT SOME
25 PEOPLE HAVE TWO BIPOLAR PATIENTS WHICH MIGHT PUT

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2669

1 YOU UP INTO THE 30 TO 40 PERCENT LIKELIHOOD OF
2 YOU BEING BIPOLAR, BUT IT'S NOT 100 PERCENT, SO
3 THERE'S SOME OTHER FACTOR THERE. PROBABLY THE
4 SAME WAY WHAT MAKES SOMEONE AN ALCOHOLIC, BUT
5 THERE IS A GENETIC RISK THERE.
6 IT'S A DISORDER OF YOUNG PEOPLE. PEOPLE GET ALL
7 RIGHT WHEN THINGS START TO GO WELL FOR THEM.
8 AND A GOOD 50 PERCENT OF PEOPLE ABUSE ALCOHOL
9 AND OTHER DRUGS IN A WAY TO TRY TO CONTROL THE
10 HIGHS. AND THE HIGHS MIGHT BE FUN INITIALLY BUT
11 SELDOM ARE THE HIGHS SUCH THAT PEOPLE ARE
12 ENJOYING THEM. BECAUSE THEY DON'T REALLY HAVE
13 CONTROL OVER THE HIGHS.
14 UNFORTUNATELY, ONE OUT OF THREE PEOPLE RECEIVE
15 APPROPRIATE TREATMENT. THAT WAS NOT JIMMY; HE
16 DIDN'T RECEIVE APPROPRIATE TREATMENT. I'M NOT
17 SURE HIS DOCTOR COULD DELIVER APPROPRIATE
18 TREATMENT. AND I'M NOT SURE THAT THIS IS THE
19 PLACE TO RAISE WHO IS GOING TO DEAL WITH THE
20 DOCTOR WHO PRESCRIBED ALL THESE DRUGS, BUT
21 HOPEFULLY SOMEONE HERE WILL BE CONCERNED ABOUT
22 WHAT THIS MAN AND HIS FAMILY WERE RECEIVING AND
23 THE AMOUNTS OF DRUGS THAT THEY WERE RECEIVING.
24 I DON'T KNOW WHO'S GOING TO RAISE THAT ISSUE. I
25 WOULD BE CONCERNED ---

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2670

1 MR. POPE: YOUR HONOR, I OBJECT, HE IS GOING FAR
2 AFIELD.

3 THE COURT: I SUSTAIN THE OBJECTION. DON'T GO
4 INTO THAT. JUST GO ON AND ASK THE NEXT QUESTION.

5 Q. HOW DOES BIPOLAR DISORDER ADDRESS -- I BELIEVE
6 THAT'S ON YOUR NEXT SLIDE?

7 A. THE MORE YOU HAVE, THE MORE YOU'RE GOING TO
8 HAVE. THIS WOULD BE A PICTURE OF SOMEONE BEING
9 BORN AND TYPICALLY THE EPISODES NOT BEING
10 PARTICULARLY BAD; THEY MIGHT BE LITTLE SMALL
11 DEPRESSIONS INITIALLY, BUT NOTHING THAT YOU
12 WOULD WANT TO TREAT OR YOU MIGHT TREAT IT
13 YOURSELF. AND THEN THERE MIGHT BE A LITTLE HIGH
14 AND THAT MIGHT BE JUST FEELING TOO GOOD FOR A
15 WHOLE WEEKEND. AND IT STARTS A CYCLING PICTURE
16 TO THE POINT THAT PEOPLE WOULD BASICALLY BE IN
17 THE HOSPITAL MOST OF THE TIME UNTREATED. THE
18 CYCLE FREQUENCY GETS WORSE.

19 IT COULD BE REVERSED, JUST THE OPPOSITE WITH
20 APPROPRIATE TREATMENT.

21 AND MAYBE, I TELL SOME PATIENTS, MAYBE YOU WON'T
22 HAVE ANOTHER EPISODE FOR ANOTHER 50 YEARS, BUT
23 MAYBE YOU WILL HAVE ONE. OR SOMEONE IS HAVING
24 FOUR EPISODES A YEAR AND IF THEY GO DOWN TO
25 HAVING ONE EPISODE A YEAR, IN MY MIND THAT'S

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2671

- 1 GOOD. BUT IF IT'S NOT TREATED, THEN IT GETS
2 WORSE.
- 3 Q. WOULD YOU DESCRIBE HOW BIPOLAR DISORDER RELATES
4 TO OTHER PROBLEMS? I BELIEVE YOUR NEXT SLIDE
5 SHOWS THAT?
- 6 A. THIS IS JUST KIND OF LOOKING AT SOME OF THE
7 DIAGNOSTIC CRITERIA, WHAT'S BIPOLAR. I THINK
8 YOU KNOW WHAT THAT IS, BUT IT'S EITHER BEING
9 IRRITABLE OR EXPANSIVE AS FAR AS MOOD ELEVATED;
10 FEELING VERY GRANDIOSE; NOT NEEDING ANY SLEEP;
11 BEING TALKATIVE; RACING THOUGHTS, BEING
12 DISTRACTED; GETTING INVOLVED IN SOCIAL
13 ACTIVITIES THAT HAVE PAINFUL CONSEQUENCES,
14 GAMBLING, DRINKING, DRIVING TOO FAST.
- 15 Q. DID JIMMY HAVE ALL OF THOSE SYMPTOMS OR ANY OF
16 THOSE SYMPTOMS?
- 17 A. WELL, YEAH. HE CERTAINLY HAD IRRITABLE MOOD
18 MOST OF THE TIME. DECREASED NEED FOR SLEEP, I
19 WOULD SAY HE DID. IF YOU CAN GO FOR 30 TO 40
20 HOURS AT A TIME ONLY NEEDING A HALF AN HOUR OF
21 SLEEP, I WOULD SAY THAT WAS DECREASED SLEEP.
22 MORE TALKATIVE THAN USUAL.
- 23 HE WASN'T THAT TALKATIVE WHEN I TALKED WITH HIM
24 HERE A COUPLE OF WEEKS AGO. THERE WAS A LITTLE
25 BIT OF PRESSURE BUT NOTHING THAT WOULD BE

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2672

1 ABNORMAL THAT YOU WOULD SAY, HEY, HE'S TALKING
2 TOO FAST. BUT I WAS LOOKING FOR IT. THERE'S A
3 LITTLE BIT OF A HUM TO HIM. HE'S TAKING
4 EFFECTIVE ANTI-MANIC MEDICINE NOW AND IT'S
5 HELPING HIM I BELIEVE.
6 FLIGHT OF IDEAS. HE CERTAINLY TALKS ABOUT THAT.
7 YOU CAN SEE THAT IN THE RECORDS, TOO, THROUGH
8 THE NUMEROUS THERAPY TREATMENTS THAT HE HAD. DR.
9 PRYOR TALKED ABOUT SOME THOUGHTS RACING.
10 IS HE DISTRACTIBLE? I THINK SO. DOES HE FINISH
11 WHAT HE'S DOING BEFORE HE GOES ON TO THE NEXT
12 TASK. I DON'T HAVE MUCH INFORMATION ABOUT THAT.
13 INCREASE IN GOAL-DIRECTED ACTIVITY. I KNOW THAT
14 HE WAS, I WOULD SAY, WORKING 30 HOURS -- 20 TO
15 30 HOURS OVERTIME AT THE BAGEL SHOP. THAT WOULD
16 BE AN INCREASE IN GOAL-DIRECTED ACTIVITY. JUST
17 CRANKING OUT THE BAGELS REPEATEDLY. THAT'S WHAT
18 THEY'RE TALKING ABOUT HERE.
19 AND DID HE GAMBLE? YEAH. DID HE GET DUI'S? HE
20 SHOULD HAVE. I THINK HE WAS GIVEN ONE, BUT
21 THERE WAS A TECHNICALITY.
22 IS HE HERE NOW? YES. I'M NOT SAYING IT'S
23 PLEASURABLE, BUT HE WAS IN SITUATIONS THAT HAVE
24 CAUSED HIM -- HE'S MADE POOR DECISIONS.
25 Q. AGAIN, WOULD YOU DESCRIBE THE BIPOLAR DISORDER

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2673

1 AS IT RELATES TO THE OTHER DEPENDENCIES AND
2 DISORDERS?
3 A. IT IS CALLED COMORBIDITY. CO MEANING OCCURRING
4 ALONG WITH. MORBIDITY, SICKNESS. WHAT DOES
5 BIPOLAR OCCUR WITH OTHER SICKNESSES, OTHER
6 DISORDERS, NOT CAUSING IT BUT AT THE SAME TIME.
7 IT'S TYPICAL THAT YOU WOULD FIND PEOPLE -- I SAY
8 TYPICAL, 39 TO 60 PERCENT, IF SOMEONE IS
9 BIPOLAR, THEY ARE ALSO USING ALCOHOL, EITHER
10 ABUSIVELY OR THEY ARE USING IT IN A DEPENDENT
11 FASHION, USUALLY TO TRY TO TREAT THEIR MOODS. 8
12 TO 60 PERCENT OF PEOPLE USING DRUGS.
13 OBSESSIVE-COMPULSIVE DISORDER, ANYWHERE FROM 8
14 TO 35 PERCENT OF PEOPLE HAVING OBSESSIONS WHERE
15 YOU CAN'T GET A THOUGHT OUT OF YOUR MIND, AND
16 COMPULSION WHERE YOU EITHER HAVE TO COUNT,
17 CHECK, WASH, DO THINGS REPEATEDLY OVER AND OVER.
18 IF YOU DIDN'T, YOU'D FEEL VERY ANXIOUS.
19 AND I DON'T THINK JIMMY HAS A DISORDER, BUT HE
20 TALKS ABOUT HAVING TO COUNT THINGS AND HE HAS TO
21 HAVE THINGS A CERTAIN WAY.
22 MIGRAINE HEADACHES, 1 OUT OF 4 PEOPLE MIGHT HAVE
23 MIGRAINE HEADACHES. AND I DID SEE ONE REFERENCE
24 TO DR. MCCOY TALKING ABOUT HIM HAVING MIGRAINES.
25 I HAVEN'T SEEN MIGRAINES MENTIONED SINCE THAT

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2674

1 TIME AS A CHILD.
2 IMPULSE CONTROL DISORDER. CAN HE CONTROL HIS
3 IMPULSES? I DON'T THINK HE CAN; I DON'T THINK
4 HE DID. WHETHER IT WAS GAMBLING OR ANGER.
5 DOES HE HAVE PANIC DISORDER? HE DOESN'T
6 DESCRIBE IT.
7 DOES HE HAVE BULIMIA? HE DOESN'T DESCRIBE IT,
8 BUT THOSE ARE SOME COMMON THINGS WE MIGHT SEE
9 COMORBID. SO, IF SOMEONE IS BIPOLAR, YOU'VE GOT
10 TO TREAT THEIR EATING DISORDER, TOO, OR THEY
11 WILL RELAPSE IS WHAT BASICALLY WE'RE SAYING.
12 IF SOMEONE IS ALCOHOL DEPENDENT, YOU'VE GOT TO
13 TREAT THAT OR THEIR BIPOLAR WILL RELAPSE.
14 Q. AND IN YOUR FEELING WHAT IS THE TREATMENT FOR
15 BIPOLAR DISORDER?
16 A. IT IS ALMOST ALWAYS MEDICATION IN SOME CAPACITY.
17 THEY CAN ALWAYS PUT IT OFF, BUT THAT USUALLY
18 INVOLVES PAINFUL CONSEQUENCES, HOSPITALIZATIONS.
19 THERE ARE PHARMACOLOGIC AGENTS AND
20 NONPHARMACOLOGIC AGENTS.
21 ALMOST ALWAYS WE USE LITHIUM INITIALLY. THERE
22 ARE SOME PROBLEMS WITH USING LITHIUM IN THAT
23 PEOPLE MAY NOT LIKE IT; IT MAY CAUSE THEM TO
24 HAVE SIDE EFFECTS.
25 WE ARE INVESTIGATING SOME OF THE ANTI-CONVULSANT

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2675

1 DRUGS BECAUSE THEY ARE VERY EFFECTIVE AND INDEED
2 JIMMY IS ON ONE OF THOSE ANTI-CONVULSANTS NOW
3 AND HAS BEEN APPROVED FOR TREATING BIPOLAR
4 DISORDER. IT'S CALLED DEPAKOTE.
5 AND THE REASON PEOPLE THOUGHT ABOUT USING ANTI-
6 CONVULSANTS IS BECAUSE PEOPLE THAT HAVE
7 SEIZURES, THE MORE SEIZURES THEY HAVE, THE MORE
8 THEY'RE GOING TO HAVE. AND SOMETIMES WE SAID I
9 WONDER IF THIS IS SIMILAR TO BIPOLAR DISORDER
10 BECAUSE THE MORE STIMULATION TO A BIPOLAR
11 DISORDER THAT YOU HAVE, THE MORE YOU'RE GOING TO
12 HAVE; COULD THEY BE HAVING A LITTLE TINY SEIZURE
13 IN THEIR MOOD CONTROL AREA. NOT A MAJOR MOTOR
14 SEIZURE, WE'RE TALKING ABOUT ARMS AND MUSCLES
15 MOVING AND TIGHTENING, THEY'RE NOT HAVING THAT,
16 BUT COULD SOMEONE BE HAVING A LITTLE TINY
17 ACTIVITY THAT FIRES OFF IN THE BRAIN THAT SETS
18 OFF THIS MANIC PICTURE. I THINK IT MAKES SENSE
19 AND THAT'S WHY ANTI-CONVULSANTS ARE SO
20 EFFECTIVE.

21 Q. IN YOUR REVIEW OF THE RECORDS, DID JIMMY RECEIVE
22 PROPER TREATMENT FOR HIS BIPOLAR DISORDER?

23 A. IN MY PROFESSIONAL JUDGMENT, HE NEVER RECEIVED
24 PROPER TREATMENT FOR HIS BIPOLAR DISORDER UNTIL
25 HE WAS HOSPITALIZED OR INCARCERATED HERE. HE

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2676

1 WAS INITIALLY GIVEN LITHIUM. HIS BLOOD LITHIUM
2 LEVEL, WE CAN MEASURE HOW MUCH LITHIUM GETS IN
3 THE BLOOD, HIS BLOOD LEVELS WERE .4 AND .5. THE
4 DRUG DOESN'T REALLY START WORKING UNTIL YOU GET
5 TO THE LEVEL OF .8 TO .1; SO, WHEN HE SAYS IT
6 DOESN'T WORK, I WOULDN'T BE SURPRISED THAT IT
7 DOESN'T WORK, HE'S NOT TAKING ENOUGH. SO, HE'S
8 NOT GOING TO TAKE IT.
9 LITHIUM, YOU WOULDN'T NOTICE ANY EFFECTS EXCEPT
10 YOU'D SAY, WOW, I'M SLEEPING BETTER, I'M NOT
11 HAVING AS MANY HOSPITALIZATIONS, I'M NOT AS
12 VIOLENT, MY TEMPER IS NOT AS OUT OF CONTROL, BUT
13 I DON'T THINK I'M TAKING ANYTHING. AND
14 CONSEQUENTLY, A LOT OF TIMES PEOPLE WILL JUST
15 SAY, WELL, I'M NOT GOING TO TAKE THIS MEDICINE
16 BECAUSE IT'S NOT DOING ANYTHING FOR ME, I'M JUST
17 FEELING BETTER, I'VE JUST CURED MYSELF BECAUSE
18 NOW I'M WORKING HARD OR SOMETHING LIKE THAT.
19 HE DIDN'T EVER GET ENOUGH LITHIUM IN HIS BLOOD
20 TO HELP HIM. HE GOT DEPAKOTE -- HE GOT TWO
21 MEDICINES IN THE HOSPITAL, THE STATE HOSPITAL;
22 ONE WAS TEGRETOL AND THAT HAD TO BE STOPPED,
23 UNFORTUNATELY, BECAUSE HE DOES HAVE A CARDIAC
24 PROBLEM, THAT'S A HEART MURMUR, I THINK HE
25 PROBABLY HAD AN ABNORMAL EEG THERE. BUT FOR

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2677

1 WHATEVER REASON, THEY DID NOT WANT TO USE IT
2 BECAUSE OF SOME HEART PROBLEMS AND THEY
3 RECOMMENDED THAT HE BE ON DEPAKOTE.

4 WHETHER HE TOOK IT CORRECTLY, I DOUBT, BECAUSE
5 HE'S DRINKING AND HE'S USING MARIJUANA. HE
6 DOESN'T THINK HE'S GOT A PROBLEM, SOMEONE JUST
7 WANTED TO PUT HIM IN THE HOSPITAL.

8 Q. WHAT ARE THE FACTORS THAT AFFECTED HIM, HAVE YOU
9 GOT A SLIDE ON THAT?

10 A. WELL, ANYWHERE FROM 40 TO 75 PERCENT OF PEOPLE
11 THAT HAVE BIPOLAR ILLNESS DO NOT TAKE THEIR
12 MEDICINE.

13 I'M PARTICULARLY INTERESTED BECAUSE I WORK SO
14 MUCH WITH THESE FOLKS AND WE TALK ABOUT A FORTY
15 THOUSAND DOLLAR HOSPITALIZATION, SO IT COMES
16 DOWN TO YOU TAKING THIS TABLET THREE TIMES A
17 DAY, THAT'S ALL YOU HAVE TO DO AND IT WILL KEEP
18 YOU OUT. AND IF YOU DON'T DO IT, THEN YOU'LL
19 COME BACK IN FOR ANOTHER FORTY THOUSAND DOLLAR
20 HOSPITALIZATION.

21 SO, WHAT'S GOING ON THERE. SO, I'M TRYING TO
22 LOOK AT WHY DON'T PEOPLE TAKE THEIR MEDICINE.

23 WELL, I THINK SOME PEOPLE DON'T WANT TO TAKE
24 MEDICINES. SOME PEOPLE INHERENTLY FEEL LIKE, I
25 DON'T NEED A MEDICINE, I JUST NEED A LITTLE

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2678

1 REST.

2 SIDE EFFECTS. I MEAN IF YOU'RE TAKING A

3 MEDICINE AND YOU DON'T THINK IT'S WORKING AND

4 IT'S CAUSING SIDE EFFECTS AND YOU QUIT TAKING IT

5 AND YOU FEEL BETTER, YOU THINK YOU DON'T HAVE TO

6 TAKE IT ANYMORE.

7 IF LITHIUM PREVENTS FUTURE EPISODES, IT DOESN'T

8 REALLY HELP THE PRESENT EPISODE, BUT IT HELPS AN

9 EPISODE NEXT SPRING AND NEXT FALL AND THE FALLS

10 AFTER THAT. AND THAT'S WHAT YOU'RE WORKING FOR.

11 AND IF YOU HAVE A LOT OF SIDE EFFECTS, YOU DON'T

12 APPRECIATE IT.

13 I THINK SOME PEOPLE ARE DRINKING AND DRUGGING,

14 THEY'RE USING AND IF YOU'RE USING, YOU'RE NOT

15 USING THESE MEDICINES CONSISTENTLY.

16 BEING HIGH WITH MANIA SOUNDS LIKE ONE OF THE

17 BEST THINGS IN THE WORLD. YOU COULD HAVE

18 UNLIMITED ENERGY, COULD FEEL GOOD ALL THE TIME,

19 WOULD NOT NEED MUCH SLEEP, BE ABLE TO GET A LOT

20 OF THINGS DONE. AND IT WOULD BE IF YOU HAD

21 CONTROL OF IT, IF YOU COULD SAY, OKAY, I'M

22 STOPPING RIGHT HERE.

23 UNFORTUNATELY IT JUST CONTINUES TO GET WORSE AND

24 WORSE AND WORSE AND IT'S KIND OF LIKE A

25 LOCOMOTIVE OUT OF CONTROL. YOU CAN'T STAND

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2679

1 THERE AND SAY, OKAY, WE'RE GOING TO HAVE TO STOP
2 THAT TRAIN NOW. IT ALMOST REQUIRES A
3 HOSPITALIZATION TO STOP SOMEONE, USUALLY WITH
4 PRETTY POTENT MEDICATIONS, ANTI-PSYCHOTICS.
5 SOMETIMES PEOPLE HAVE TO BE HOSPITALIZED, I
6 DON'T KNOW HOW MANY TIMES, TWO, THREE, FOUR,
7 SEVEN TIMES BEFORE PEOPLE GET THE IDEA THAT THIS
8 IS WORKING. I'VE GOT A BIOLOGICAL PROBLEM, IT'S
9 CALLED BIPOLAR DISORDER AND THERE'S A WHOLE LOT
10 OF INFORMATION ABOUT IT AND IT SAYS IF I TAKE
11 THIS MEDICINE, I'LL DO BETTER. OKAY, I'M GOING
12 TO DO IT THIS TIME.
13 BUT PEOPLE MISS THE HIGHS. YOU HAVE TO TAKE THE
14 MEDICINE THREE OR FOUR TIMES A DAY, PEOPLE DON'T
15 DO IT. I MEAN IF YOU CAN SIMPLIFY A PERSON'S
16 MEDICINE REGIMEN SO THEY TAKE IT IN THE MORNING
17 AND THE EVENING, YOU'VE DONE WELL.
18 IT HELPS TO HAVE SOMEONE BELIEVE THAT YOU HAVE A
19 PROBLEM, NOT SOMEONE SAYING, YOU DON'T REALLY
20 HAVE A PROBLEM, YOU JUST NEED A BETTER SLEEP
21 PATTERN, YOU NEED TO GET ON A BETTER SLEEP
22 SCHEDULE. IT DOESN'T HELP IF YOUR SPOUSE DOES
23 NOT BELIEVE THAT YOU HAVE A PROBLEM. IT DOESN'T
24 HELP IF YOUR FAMILY DOESN'T SAY BIPOLAR ILLNESS,
25 LET'S FIGURE OUT WHAT THIS IS. IT SAYS HERE

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2680

1 THAT YOU SHOULDN'T EVER DRINK ALCOHOL WITH
2 BIPOLAR ILLNESS.

3 WHAT I SAY TO MY PATIENTS ABOUT BIPOLAR ILLNESS
4 IS I SAY, I'M NOT SAYING YOU'RE AN ALCOHOLIC,
5 I'M NOT EVEN SAYING THAT YOU HAVE A PROBLEM WITH
6 ALCOHOL. I'M SAYING THAT ALCOHOL IS GOING TO
7 MAKE YOUR ILLNESS WORSE. AND THAT'S WHY I WANT
8 YOU TO STOP. I'M NOT SAYING YOU'RE AN
9 ALCOHOLIC, BUT I DON'T WANT YOU TO USE ANY
10 ALCOHOL BECAUSE IT'S GOING TO MAKE YOU WORSE.

11 Q. I'D LIKE TO SKIP THE NEXT ITEM AND GO DIRECTLY
12 TO THE RELATIONSHIP OF BIPOLAR AND SUBSTANCE
13 ABUSE.

14 A. THIS IS A STUDY THAT SUSAN SONNET, KELVIN BEADY
15 AND I DID IN OUR PSYCHIATRIC PROGRAM, SUBSTANCE
16 ABUSE PROGRAM.

17 WE FOUND THAT PEOPLE THAT BOTH HAD BIPOLAR
18 ILLNESS AND ALSO HAD SUBSTANCE ABUSE DISORDER,
19 THEY MAY OR MAY NOT HAVE BEEN SELF-MEDICATING
20 THEIR SYMPTOMS, THEY ARE GOING TO HAVE A WORSE
21 COURSE WITH THEIR AFFECTIVE MOOD DISORDER,
22 BIPOLAR DISORDER THAN THE PEOPLE THAT WERE NOT
23 USING.

24 AND WHAT YOU SEE IS THAT PEOPLE HAVE AN EARLIER
25 ONSET OF THEIR MOOD DISORDER; THEY ARE MORE

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2681

1 DYSPHORIC, MEANING DYSPHORIA IS A STATE OF
2 FEELING BAD, DOWN, IRRITABLENESS. THEY ARE NOT
3 THAT HAPPY PERSON, BUT THEY ARE THAT IRRITABLE
4 PERSON. THEY ARE TWICE AS LIKELY TO EXPERIENCE
5 RAPID MOOD SWINGS AND THEY HAVE MORE
6 HOSPITALIZATIONS.

7 NOW THAT WAS RETROSPECTIVELY ASKING PATIENTS,
8 LOOKING AT THEIR HISTORIES, GETTING THEIR
9 HISTORIES. WE HAVEN'T FOLLOWED PEOPLE FOR FIVE
10 AND 10 YEARS, NOT THAT ANYONE HAS BECAUSE IT IS
11 SO EXPENSIVE TO DO THAT KIND OF STUDY, BUT OUR
12 CONCLUSIONS WERE THAT SUBSTANCE USE MAKES
13 BIPOLAR ILLNESS WORSE.

14 Q. OKAY AND IF YOU WOULD GO TO THE NEXT SLIDE, I
15 THINK IT TALKS ABOUT BIPOLAR DISORDER, WHAT IS
16 THE EFFECT OF NON-COMPLIANCE.

17 A. DR. BRADY WHO I ALSO WORK WITH, SHE AND TWO
18 OTHER CO-WORKERS, JUST DID THIS REVIEW OF MANIC
19 DEPRESSIVE DISORDER, IT CAME OUT IN FEBRUARY OF
20 '99. AND THERE WAS AN IMPORTANT STATEMENT
21 THERE. SUBSTANCE ABUSE AMONG PATIENTS WITH
22 BIPOLAR DISORDER SHOULD NOT BE IGNORED BECAUSE
23 IT IS ONE OF THE MAJOR FACTORS IN MEDICATION
24 NONCOMPLIANCE AND SUICIDALITY. UP TO 25 PERCENT
25 OF PEOPLE WITH BIPOLAR DISORDER WILL THINK ABOUT

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2682

1 TAKING THEIR LIFE. APPROXIMATELY 15 PERCENT
2 WILL BE SUCCESSFUL.

3 SO, HURRIED DEATH IS RELATED TO ALCOHOL AND
4 OTHER SUBSTANCE USE.

5 Q. AND, AGAIN, SHOULD ANY KIND OF SUBSTANCE ABUSE
6 BE DONE BY PEOPLE WITH BIPOLAR DISORDER?

7 A. I THINK YOU REALLY HAVE TO AVOID EVERYTHING.
8 THIS SLIDE COMES FROM A TREATMENT GUIDELINE THAT
9 WE GIVE TO PATIENTS AND FAMILIES. IT'S ABOUT A
10 12 PAGE PACKET OF INFORMATION THAT TALKS ABOUT
11 WHAT YOU'VE GOT AND HOW YOU NEED TO TREAT IT.
12 AND I PULLED FROM THE PART ABOUT USING ALCOHOL.
13 DO NOT USE ALCOHOL OR ILLICIT DRUGS. THESE
14 CHEMICALS CAUSE AN IMBALANCE IN HOW THE BRAIN
15 WORKS. THIS CAN, AND OFTEN DOES, TRIGGER MOOD
16 EPISODES AND INTERFERES WITH YOUR MEDICATIONS.
17 YOU MAY SOMETIMES FIND IT TEMPTING TO USE
18 ALCOHOL OR ILLICIT DRUGS TO TREAT YOUR OWN MOOD
19 OR SLEEP PROBLEMS, BUT THIS ALMOST ALWAYS MAKES
20 MATTERS WORSE. IF YOU HAVE A PROBLEM WITH
21 SUBSTANCES, ASK YOUR DOCTOR FOR HELP AND
22 CONSIDER SELF-HELP THROUGH GROUPS SUCH AS
23 ALCOHOLICS ANONYMOUS.
24 SO, SOME THINGS TO STAY AWAY FROM, AND THIS EVEN
25 GOES FURTHER THAT TINY AMOUNTS, EVERY DAY USE OF

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2683

1 SMALL AMOUNTS OF ALCOHOL, CAFFEINE -- THAT'S
2 WHAT I WAS SAYING EARLIER, DON'T DRINK ANY;
3 DON'T DRINK A CUP OF COFFEE; BE CAREFUL ABOUT
4 TAKING SUDAFED; BE CAREFUL OF THESE COLD
5 MEDICINES BECAUSE THEY CAN PUT YOU INTO A MANIC
6 EPISODE.

7 IT MAY NOT SEEM FAIR THAT YOU HAVE TO DEPRIVE
8 YOURSELF OF A COCKTAIL BEFORE DINNER OR A
9 MORNING CUP OF COFFEE, BUT FOR MANY PEOPLE THAT
10 CAN BE THE STRAW THAT BREAKS THE CAMEL'S BACK.
11 MELLOW YELLOW IS JIMMY'S SODA OF CHOICE AND HE
12 DRINKS ANYWHERE FROM 10 TO 12 OF THOSE A DAY.
13 MELLOW YELLOW AND THAT OTHER ONE THAT'S KIND OF
14 SIMILAR, I CAN'T THINK OF IT RIGHT NOW ---

15 Q. MOUNTAIN DEW?

16 A. MOUNTAIN DEW, HAVE ABOUT THE MOST CAFFEINE OF
17 SOFT DRINKS, ANYWHERE FROM 40 TO 60 MILLIGRAMS
18 PER SOFT DRINK. YOU'RE TALKING ABOUT A BIG JOLT
19 OF CAFFEINE IN SOMEONE THAT'S BARELY BEING
20 CONTROLLED -- WELL, HE'S NOT CONTROLLED WITH
21 BIPOLAR DISORDER.

22 SO, THERE ARE SO MANY FACTORS THAT ARE ROCKING
23 HIS BRAIN, IT'S PRETTY AMAZING THAT HE'S STILL
24 HERE.

25 Q. YOU CAN TURN OFF THE PROJECTOR NOW.

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2684

1 A. OKAY. I MADE NEED IT TO COOL DOWN A LITTLE.

2 Q. YOU CAN TAKE YOUR SEAT AND YOU CAN CUT ON THE
3 LIGHTS, PLEASE.

4 (THE WITNESS RESUMED THE WITNESS STAND AND THE LIGHTS WERE
5 TURNED BACK ON IN THE COURTROOM.)

6 Q. DID YOU REVIEW THE PHARMACY RECORDS OF THE DRUGS
7 BEING TAKEN IN THE ROBERTSON FAMILY?

8 A. I DID REVIEW THEM.

9 Q. AND DID YOU FIND ANY SIGNIFICANCE IN THOSE
10 PHARMACY RECORDS?

11 A. I FOUND A NUMBER OF THINGS THAT WERE SURPRISING
12 AND SIGNIFICANT. I FOUND THAT THE QUANTITIES OF
13 DRUGS COMING INTO THE HOUSEHOLD WAS PRETTY
14 IMPRESSIVE. I HAD TO RE-EDUCATE MYSELF TOWARD
15 MAIL PHARMACY PHARMACIES -- MAIL ORDER
16 PHARMACIES.

17 I GUESS I NAIVELY LIVED THINKING THAT PEOPLE
18 WERE GETTING ALL OF THEIR PHARMACY PRODUCTS FROM
19 A PHARMACIST AND TALKING TO A PHARMACIST AND
20 GETTING INFORMATION FROM A PHARMACIST, BUT THEY
21 WERE GETTING LARGE SUMS OF DRUGS THROUGH
22 PHARMACY EXPRESS IN PITTSBURGH. BECAUSE THEY
23 WERE ABLE TO DO THAT, THEY WERE ABLE TO GET A
24 THREE MONTHS SUPPLY OF DRUGS EACH TIME.

25 SO, THERE WERE LARGE AMOUNTS OF RITALIN, 250

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2685

1 TABLETS OF RITALIN AT A TIME COMING INTO THE
2 HOUSE, ALONG WITH LARGE AMOUNTS OF ANTI-
3 DEPRESSANTS FOR VARIOUS MEMBERS OF THE FAMILY.
4 JUST LARGE, LARGE SUMS OF MEDICATIONS BEING
5 PRESCRIBED AND DISPENSED TO EVERY MEMBER OF THE
6 FAMILY.

7 Q. LET ME SHOW YOU THESE DOCUMENTS AND I BELIEVE
8 THESE ARE DOCUMENTS FROM CVS REVCO. DID YOU
9 REVIEW THESE DOCUMENTS IN YOUR REVIEW OF THIS
10 CASE?

11 A. THESE ARE ALL DOCUMENTS THAT I DID REVIEW FROM
12 CVS REVCO PHARMACY.

13 Q. AND LET ME ASK YOU, IF YOU COULD JUST DESCRIBE
14 WHAT FAMILY MEMBERS ARE NAMED IN THESE RECORDS.

15 A. TERRY ROBERTSON, THE MOTHER, IS NAMED IN THESE
16 RECORDS.

17 Q. IS THERE ONE SHEET FOR HER?

18 A. NO, THERE ARE THREE SHEETS.

19 Q. I KNOW THERE ARE THREE SHEETS, BUT IS THERE A
20 SEPARATE SHEET FOR MRS. ROBERTSON?

21 A. YES.

22 Q. AND THEN WHO ELSE?

23 A. THERE IS A SEPARATE SHEET FOR CHIP ROBERTSON;
24 THERE IS A SEPARATE SHEET FOR EARL ROBERTSON,
25 I'LL SAY SENIOR BECAUSE A LOT OF TIMES THERE'S

DR. W. ALEXANDER MORTON - DIRECT BY MR. BOYD

2686

1 SOME CONFUSION. AND THEN THERE'S A SEPARATE
2 SHEET FOR JIMMY ROBERTSON.

3 Q. OKAY. AND WHAT KIND OF DRUGS WAS JIMMY
4 ROBERTSON RECEIVING, BASED ON YOUR REVIEW?

5 A. JIMMY WAS TAKING AT TIMES LITHIUM. THAT WAS
6 FIRST PRESCRIBED FOR HIM BY DR. MCMEEKIN, BUT
7 THAT WAS A DRUG THAT HE QUIT TAKING AND NEVER
8 WAS PRESCRIBED ENOUGH TO HAVE AN AFFECT.
9 HE WAS ALSO PRESCRIBED DEPAKOTE BY DR. GUELLER
10 AND DR. PRYOR WHICH IS WHAT HE IS CURRENTLY
11 TAKING NOW AND SOME ANTIBIOTIC AND
12 ANTI HISTAMINES.

13 Q. AND HOW ABOUT EARL ROBERTSON, THE FATHER.

14 A. THE FATHER. EARL IS PRESCRIBED RITALIN, AND I'M
15 NOT SURE IF HE'S TAKING IT OR NOT OR IF HE'S
16 JUST GETTING IT FOR HIS SON CHIP. BUT HE'S ALSO
17 BEEN PRESCRIBED TEGRETOL. DR. MCMEEKIN THOUGHT
18 THAT -- ACTUALLY THE TEGRETOL WAS PRESCRIBED FOR
19 CHIP, BUT IT'S ON EARL'S RECORD AND THAT THREW
20 ME OFF A BIT, BUT I FINALLY SAW IT IN THE NOTE
21 THAT EARL WAS NOT TAKING IT, BUT CHIP WAS BEING
22 GIVEN THAT FOR BIPOLAR ILLNESS.

23 HE IS ALSO BEING PRESCRIBED ZOLOFT, AN
24 ANTIDEPRESSANT; SERZONE, AN ANTIDEPRESSANT; SOME
25 ANTIBIOTICS AS WELL AS SOME SKIN PRODUCTS.

DR. W. ALEXANDER MORTON - DIRECT BY MR. BOYD

2687

1 Q. NOW WHEN YOU SAY "HE", WHO ARE YOU REFERRING TO?

2 A. EARL.

3 Q. EARL, SENIOR?

4 A. EARL, SENIOR, BUT HE HAS GOTTEN SOME RITALIN AND
5 SOME TEGRETOL FILLED UNDER HIS NAME, BUT I DON'T
6 THINK HE'S TAKING IT.

7 Q. ALL RIGHT. AND BASED ON YOUR REVIEW OF THE
8 RECORDS, WHAT OTHER DRUGS WAS HE PRESCRIBED,
9 REFERRING TO EARL, SENIOR.

10 A. EARL WAS -- EARL, SENIOR WAS PRESCRIBED TWO
11 ANTIDEPRESSANTS, AND I THINK THE MAIN
12 ANTIDEPRESSANT THAT HE WAS FINALLY TAKING AND
13 FELT LIKE IT WAS HELPING HIM WAS SERZONE, A
14 RELATIVELY NEW ANTIDEPRESSANT.

15 Q. OKAY. AND HOW ABOUT TERRY ROBERTSON?

16 A. TERRY HAS THREE PAGES AND SHE'S TAKING MOSTLY
17 MEDICINES FOR HER OBSESSIVE COMPULSIVE DISORDER,
18 ANAFRANIL. SHE'S ALSO TAKING SOME MEDICINES FOR
19 HER BIPOLAR DISORDER, DEPAKOTE, THE SAME AS WHAT
20 JIMMY HAS BEEN PRESCRIBED.

21 SHE'S BEEN PRESCRIBED SOME SLEEPING MEDICINES,
22 RESTORIL; SHE'S BEEN PRESCRIBED SOME MEDICINES,
23 ANTIPSYCHOTIC, RISPERDAL FOR TREATING PSYCHOTIC
24 SYMPTOMS. SHE'S BEEN PRESCRIBED SOME
25 ANTIDEPRESSANTS, PROZAC. SHE'S ALSO BEEN

DR. W. ALEXANDER MORTON - DIRECT BY MR. BOYD

2688

1 PRESCRIBED LITHIUM. SHE'S BEEN PRESCRIBED SOME
2 NON-PSYCHIATRIC MEDICATIONS, SOME HIGH BLOOD
3 PRESSURE MEDICINES, SOME CHOLESTEROL LOWERING
4 MEDICINES, A WEIGHT REDUCTION MEDICINE, SOME
5 ESTROGEN REPLACEMENTS, ANTIBIOTICS, VARIOUS
6 ANTIBIOTICS AND COLD PREPARATIONS, AND VARIOUS
7 NON -- DRUGS THAT DON'T AFFECT THE BRAIN THAT
8 WOULD BE USED FOR PHYSICAL COMPLAINTS.

9 Q. ALL RIGHT, AND HOW ABOUT CHIP ROBERTSON, WHAT
10 WAS HE TAKING?

11 A. CHIP HAS NUMEROUS PRESCRIPTIONS FOR RITALIN, THE
12 IMMEDIATE RELEASE AS WELL AS THE SUSTAINED
13 RELEASE TABLETS. HE IS GETTING ALSO SERZONE FOR
14 HIS DEPRESSION. AND HE'S ALSO BEEN PRESCRIBED
15 ANOTHER ANTIDEPRESSANT, WELLBUTRIN.

16 AND ACCORDING TO DR. MCMEEKIN'S NOTE, HE WAS
17 PRESCRIBED TEGRETOL ALSO, BUT THAT APPEARS ON
18 EARL, SENIOR'S PRESCRIPTION RECORD. BUT HE WAS
19 -- IT SAYS IN THE NOTE THAT IT WAS PRESCRIBED
20 FOR CHIP.

21 Q. AND DID YOU ALSO REVIEW RECORDS FROM EXPRESS
22 PHARMACY SERVICES?

23 A. YES, I DID.

24 Q. I'LL SHOW YOU THESE, AND WHAT DO THEY SHOW?

25 A. THESE ARE THE RECORDS THAT I REVIEWED. WHAT

DR. W. ALEXANDER MORTON - DIRECT BY MR. BOYD

2689

1 THEY SHOW ARE RECEIVING LARGER QUANTITIES LIKE
2 ZANTAC FOR THE STOMACH, 180 OF THEM. SELDANE,
3 AN ANTIHISTAMINE, 180. CORDIOZYME FOR THE
4 HEART, 90 OF THEM AT A TIME. LARGE AMOUNTS.
5 THAT'S FOR TERRY. SHE'S TAKING A NUMBER OF
6 MEDICATIONS. IT LOOKS LIKE IF YOU BUY THEM IN
7 QUANTITY FROM EXPRESS PHARMACY MAYBE THEY GIVE
8 YOU A BETTER PRICE.

9 Q. HOW DO YOU SEND OFF FOR DRUGS THROUGH A MAIL
10 ORDER?

11 A. I THINK YOU HAVE TO HAVE A PRESCRIPTION WRITTEN
12 BY A PHYSICIAN AND BASICALLY YOU SET UP A
13 PROGRAM. I DON'T KNOW. I DON'T KNOW; I'M NOT
14 THAT FAMILIAR WITH IT. I DON'T ADVOCATE MAIL
15 ORDER PHARMACY. I TEACH PHARMACISTS AND I TEACH
16 WHAT PHARMACISTS SHOULD DO WITH THEIR PATIENTS.
17 I WOULD TEACH PHARMACISTS TO QUESTION SOME OF
18 THESE THERAPEUTICS THAT WE SEE HERE. YOU CAN'T
19 REALLY DO THAT IF YOU'RE GETTING IT THROUGH THE
20 MAIL THOUGH. I DON'T KNOW HOW IT WORKS. I KNOW
21 YOU CAN GET LARGE QUANTITIES.

22 HERE CHIP IS GETTING 250 20 MILLIGRAM RITALIN
23 AND 250 10 MILLIGRAM RITALIN; HE'S GETTING 400
24 SERZONE TABLETS; HERE HE'S GETTING 180 RITALIN
25 TABLETS OF THE 20 AND 180 RITALIN OF THE 10

DR. W. ALEXANDER MORTON - DIRECT BY MR. BOYD

2690

1 MILLIGRAM TABLETS, FAIRLY LARGE QUANTITIES IN
2 1997.

3 Q. AND HAVE YOU SEEN ANYTHING IN THE RECORDS THAT
4 INDICATED THAT CHIP WAS TAKEN OFF RITALIN AT
5 SOME POINT BY A DOCTOR?

6 A. HE WAS TAKEN OFF RITALIN BECAUSE HE WAS ABUSING
7 IT WITH ALCOHOL WHICH IS WHAT YOU DON'T WANT TO
8 DO.

9 SO, ONE PHYSICIAN STOPPED THAT. AND THEN - THAT
10 WAS DR. MCMURRAY THAT STOPPED IT AND ALSO GOT
11 THE PRESCRIPTION THAT HE HAD GIVEN TO CHIP BACK
12 BECAUSE CHIP SAID HE HAD LOST ONE PRESCRIPTION
13 AND HE HAD GIVEN HIM ANOTHER PRESCRIPTION, SO HE
14 GOT THAT BACK. HE WAS ABLE TO GET SOME MORE
15 RITALIN, THOUGH.

16 Q. HOW DID HE GET SOME MORE RITALIN?

17 A. HE WAS ABLE TO GET IT FROM DR. MCMEEKIN.

18 Q. AND HOW SOON AFTER THAT DID HE ---

19 A. IT WAS A COUPLE OF DAYS, I BELIEVE.

20 Q. DID YOU SEE ANYTHING IN DR. MCMEEKIN'S RECORDS
21 AS TO HOW HE WAS ABLE TO GET THAT?

22 A. HE SAID THAT HE NEEDED IT TO GO BACK TO SCHOOL
23 TO PENNSYLVANIA AND DR. MCMEEKIN THOUGHT THAT --
24 HE DIDN'T WANT TO BASICALLY ROCK THE BOAT AT
25 THAT POINT BECAUSE GOING BACK TO SCHOOL IS

DR. W. ALEXANDER MORTON - DIRECT BY MR. BOYD

2691

1 STRESSFUL AND EVEN THOUGH DR. MCMEEKIN KNEW THAT
2 HE WAS SNORTING IT BECAUSE THAT'S IN HIS RECORDS
3 ALSO. IT SAYS SNORTING COCAINE -- I'M SORRY,
4 SNORTING RITALIN.

5 AND IT'S NOT EXACTLY CLEAR WHO HE'S TALKING
6 ABOUT, WHETHER IT'S JIMMY OR CHIP, BUT CHIP IS
7 THE ONLY ONE THAT'S BEING PRESCRIBED IT. BUT IT
8 IS IN HIS RECORDS THAT HE'S SNORTING IT.

9 Q. SO, IT'S IN DR. MCMEEKIN'S RECORDS THAT ONE OF
10 THEM IS SNORTING RITALIN?

11 A. YES.

12 Q. AND AFTER THAT HE PRESCRIBED MORE RITALIN?

13 A. IT WAS ACTUALLY IN TERRY'S NOTES. I THINK HE
14 WAS SEEING ALL THE FAMILY AT ONE TIME OR
15 ANOTHER, SOMETIMES TOGETHER AND SOMETIMES
16 SEPARATELY. IT WAS CONFUSING FOR ME -- IT'S
17 KIND OF LIKE HAVING ONE ATTORNEY TRY THIS CASE
18 AND DO BOTH SIDES. I THINK YOU LOSE SOME
19 OBJECTIVITY WHEN YOU HAVE ONE PHYSICIAN SEEING
20 EVERYBODY IN THE FAMILY.

21 I'M INVOLVED IN TEACHING PSYCHIATRIC RESIDENTS
22 HOW TO BE A PSYCHIATRIST AND WHEN THEY ARE
23 SEEING SOMEONE AND THEY SAY I WANT TO SEE THEIR
24 CHILD, WE DON'T DO THAT. WE WOULD REFER THEM TO
25 SEE SOMEONE ELSE. OR I WANT TO SEE THEIR

DR. W. ALEXANDER MORTON - DIRECT BY MR. BOYD

2692

1 HUSBAND, TOO. WE DON'T DO THAT.

2 NOW, MAYBE WE'RE LIVING IN A LITTLE IDEAL WORLD
3 THERE, BUT YOU LOSE OBJECTIVITY WHEN YOU'RE
4 TREATING EVERYBODY IN THE FAMILY AS FAR AS
5 WHAT'S ACTUALLY GOING ON BECAUSE YOU'RE HEARING
6 FOUR STORIES AND YOU MAY NOT -- WHICH ONE IS
7 ACCURATE.

8 Q. AGAIN, MY QUESTION ---

9 A. I'M SORRY.

10 Q. DID DR. MCMEEKIN PRESCRIBE RITALIN AFTER ---

11 A. YES, DR. MCMEEKIN DID PRESCRIBE RITALIN AFTER
12 THAT NOTE IN THERE.

13 MR. BOYD: YOUR HONOR, AT THIS TIME I WOULD OFFER
14 THE PHARMACY RECORDS INTO EVIDENCE.

15 THE COURT: ANY OBJECTION?

16 MR. POPE: MAY IT PLEASE THE COURT, YOUR HONOR,
17 I HAVE NO OBJECTION TO THE DEFENDANT'S RECORDS; AS TO THE
18 OTHERS, I KNOW HE'S TESTIFIED EXTENSIVELY ON IT, I'M NOT
19 SURE OF THE RELEVANCE OF THE RECORDS OF EARL AND TERRY AND
20 CHIP.

21 THE COURT: HE TESTIFIED FROM THEM, SO I OVERRULE
22 THE OBJECTION.

23 (THE PHARMACY RECORDS WERE MARKED IN EVIDENCE AS
24 DEFENDANT'S EXHIBITS 9, 10, 11, 12, 13 AND 14 OVER
25 OBJECTION.)

DR. W. ALEXANDER MORTON - DIRECT BY MR. BOYD

2693

1 THE COURT: MR. BOYD, WE MIGHT TAKE A BREAK AT
2 THIS TIME IF IT'S GOING TO TAKE ---

3 MR. BOYD: YOUR HONOR, I THINK I'M GOING TO BE
4 FINISHING UP WITH THIS WITNESS WITHIN ABOUT 10 MINUTES.

5 THE COURT: CAN THE JURY WAIT ANOTHER 10 MINUTES?
6 I WAS GOING TO TAKE A BREAK BEFORE WE GET INTO CROSS.

7 Q. DOCTOR, IF YOU COULD STEP DOWN FOR A MINUTE.
8 THESE ARE SOME BLOW-UPS OF THE RECORDS THAT HAVE
9 BEEN ADMITTED INTO EVIDENCE.

10 A. YES.

11 Q. I WOULD ASK YOU, WHAT DOES THAT SHOW?

12 A. THIS IS JIMMY'S RECORDS FROM CVS PHARMACY AND IT
13 SHOWS THE MEDICINES WE WERE TALKING ABOUT.

14 Q. WHAT DOES THIS RECORD SHOW?

15 A. THIS IS CHIP'S PHARMACY RECORDS FROM EXPRESS
16 PHARMACY SERVICE IN PITTSBURGH. IT SHOWS HIM
17 RECEIVING 250 OF RITALIN SUSTAINED RELEASE 20
18 MILLIGRAM SIZE. THE DATE ON THAT IS 1-28-99,
19 COST HERE, HOW MUCH THE CUSTOMER PAID.

20 Q. AND I'LL SHOW YOU THIS EXHIBIT, WHAT IS THAT?

21 A. THIS IS CHIP'S, HE'S TAKING RITALIN, SUSTAINED
22 RELEASE IN SMALLER QUANTITIES BECAUSE THE
23 PHARMACY HERE IN TOWN FOLLOWING STATE LAW WILL
24 NOT GIVE MORE THAN IS PRESCRIBED, FOR MORE THAN
25 A MONTH. AND IT SHOWS HIM TAKING RITALIN,

DR. W. ALEXANDER MORTON - DIRECT BY MR. BOYD

2694

1 SERZONE, THE ANTIDEPRESSANT, RITALIN, RITALIN,
2 RITALIN, SERZONE ANTIDEPRESSANT, SOMETHING FOR
3 FUNGUS, AN ANTIDEPRESSANT CALLED WELLBUTRIN ALSO
4 USED TO TREAT CIGARETTE WITHDRAWAL. RITALIN,
5 RITALIN, RITALIN, WELLBUTRIN AGAIN THE
6 ANTIDEPRESSANT, RITALIN, WELLBUTRIN.

7 Q. YOU SAID STATE LAW PROVIDES ONLY A CERTAIN
8 AMOUNT TO BE PRESCRIBED?

9 A. YOU CAN ONLY PRESCRIBE A MONTH'S SUPPLY OR 120,
10 WHICHEVER IS LARGER AND I THINK THAT'S BEING
11 AMENDED NOW WHERE PEOPLE MIGHT BE ABLE TO GET
12 MORE. FOR INSTANCE, IF SOMEONE IS TAKING 60
13 MILLIGRAMS A DAY, IT WOULD BE HARD -- AND THEY
14 ONLY HAD 20 MILLIGRAM TABLETS, OR IF THEY WERE
15 TAKING 80 MILLIGRAMS A DAY, THEY ALWAYS HAVE TO
16 GO AND GET A NEW PRESCRIPTION, SO IT MIGHT BE
17 HARD TO GET THAT NUMBER.

18 Q. WELL, HOW ABOUT EXPRESS PHARMACY, HOW DO THEY
19 GET AROUND THE SOUTH CAROLINA LAW?

20 A. SOUTH CAROLINA LAW DOESN'T APPLY TO THEM BECAUSE
21 -- I DON'T KNOW THE INS AND OUTS OF THAT. I
22 INITIALLY WAS SHOCKED AND I THINK EVERYONE THAT
23 I'VE ASKED ABOUT THAT WAS SHOCKED THAT THEY
24 COULD SEND A SCHEDULE 2 SUBSTANCE WHICH IS --
25 SCHEDULE 2 MEANS IT HAS A HIGH HIGH DEGREE OF

DR. W. ALEXANDER MORTON - DIRECT BY MR. BOYD

2695

1 ABUSE POTENTIAL BUT IT DOES HAVE MEDICAL USE.
2 SO, YOU HAVE TO USE A LOT OF STRICT CONTROLS.
3 IT'S SCARY TO ME.

4 Q. ALL RIGHT. AND WHAT DOES THIS SHOW?

5 A. THIS SHOWS TERRY ROBERTSON'S MEDICATIONS FROM
6 EXPRESS PHARMACY, TAKING STOMACH MEDICINES,
7 TAKING ANTIHISTAMINE MEDICINES, BLOOD PRESSURE
8 MEDICINES, CHOLESTEROL MEDICINES, CARDIAC
9 MEDICINES, ESTROGEN MEDICINES, POTASSIUM
10 SUPPLEMENTS, WATER PILL SUPPLEMENTS -- WATER
11 PILLS TO TAKE WATER OFF OF YOU. SELDANE FOR
12 ANTIHISTAMINE; AND PREMARIN AS AN ESTROGEN
13 REPLACEMENT. DO YOU WANT ME TO GO ON?

14 Q. LET'S GO THROUGH THESE THAT HAVE ANY EFFECT AS
15 FAR AS ANY PSYCHOLOGICAL ASPECTS.

16 A. THERE ARE NOT SO MANY THERE; THOSE ARE MOSTLY
17 MEDICINES THAT DON'T AFFECT THE BRAIN UNLESS YOU
18 GET TOO MANY. ANY DRUGS CAN MAKE YOU HAVE SOME
19 PSYCHOLOGICAL AFFECTS.

20 Q. AND THAT -- AGAIN, IS THAT TERRY ROBERTSON?

21 A. THAT IS TERRY ROBERTSON. SHE'S TAKING ZOLOFT AT
22 THIS TIME. DEPAKOTE PROBABLY FOR MANIC
23 DEPRESSIVE SYMPTOMS. AND ANAFRANIL FOR
24 EXCESSIVE COMPULSIVE SYMPTOMS. MAYBE A SLEEPING
25 MEDICINE IN THERE.

DR. W. ALEXANDER MORTON - DIRECT BY MR. BOYD

2696

1 Q. AND THIS IS FROM ---

2 A. THIS IS THE CVS PHARMACY WHERE SHE'S TAKING
3 RESTORIL FOR SLEEP, ANAFRANIL FOR OBSESSIVE
4 COMPULSIVE DISORDERS, CHECKING, MAKING LISTS AND
5 COUNTING. RESTORIL FOR SLEEP, NOT SLEEPING VERY
6 GOOD. LAMICTAL, THAT WAS THE MEDICINE THAT I
7 WAS REFERRING TO THAT WE'RE CURRENTLY GIVING A
8 STUDY ON FOR MANIC DEPRESSIVE SYMPTOMS.
9 SLEEPING MEDICINES, OBSESSIVE COMPULSIVE
10 DISORDER MEDICINES; DEPAKOTE FOR MANIC
11 DEPRESSIVE DISORDER; SLEEPING MEDICINE AND
12 OBSESSIVE COMPULSIVE DISORDER MEDICINE.

13 Q. AGAIN, THAT'S TERRY ROBERTSON'S?

14 A. THIS IS TERRY'S. SLEEPING MEDICINES, WEIGHT
15 REDUCTION MEDICINE WHICH IS OFF THE MARKET;
16 OBSESSIVE COMPULSIVE DISORDER MEDICINE;
17 ANTIPSYCHOTIC MEDICINE IF YOU'RE HALLUCINATING,
18 SEEING THINGS, WHICH I BELIEVE SHE DID. THIS
19 WOULD HELP REDUCE THAT AND MAKE YOU LESS UPSET
20 ABOUT WHAT YOU'RE SEEING. PROZAC FOR
21 DEPRESSION; PROZAC FOR DEPRESSION; PONDIMIN FOR
22 WEIGHT LOSS; ANAFRANIL FOR OBSESSIVE COMPULSIVE
23 DISORDER; DEPAKOTE FOR MANIA; PROZAC FOR
24 DEPRESSION; TEMAZEPAM FOR SLEEP; ANTIBIOTIC,
25 ANTIBIOTIC; LITHIUM FOR MOOD; TEMAZEPAM FOR

DR. W. ALEXANDER MORTON - DIRECT BY MR. BOYD

2697

- 1 SLEEP; JUST A LOT HERE; PREMARIN, THOSE ARE
2 MEDICINES FOR NON-PSYCHIATRIC PURPOSES.
- 3 Q. AGAIN, THAT'S MORE OF TERRY ROBERTSON'S?
- 4 A. TERRY'S, YES. THIS IS DARVOCET, THAT'S FOR PAIN
5 FOR SOMETHING. JUST FOR PHYSICAL PROBLEMS.
- 6 Q. AND THIS AGAIN, THIS IS EARL ROBERTSON.
- 7 A. THIS IS EARL, BIG EARL. HE'S GOT RITALIN HERE
8 BUT I DON'T THINK IT WAS PRESCRIBED FOR HIM.
9 HE'S GOT TEGRETOL, THAT'S FOR MANIC DEPRESSIVE
10 DISORDER; PERIDEX FOR TEETH; ZOLOFT FOR
11 DEPRESSION; SERZONE FOR DEPRESSION; SERZONE FOR
12 DEPRESSION. THAT'S IT.
- 13 Q. AND THIS IS EARL ROBERTSON?
- 14 A. MORE -- HE'S GETTING RITALIN FROM DR. MCMURRAY.
15 AND I'M A LITTLE CONFUSED HERE WHETHER HE WAS
16 GETTING IT FOR HIM OR IF HE WAS GETTING IT FOR
17 CHIP. BECAUSE CHIP AND EARL WERE ALSO TAKING
18 SERZONE, BUT THIS IS EARL'S PRESCRIPTION RECORD.
19 HE COULD HAVE BEEN TAKING THAT, I DON'T KNOW,
20 BUT I DIDN'T SEE IN HIS RECORDS THAT HE WAS
21 TAKING RITALIN, BUT HE COULD HAVE BEEN.
- 22 Q. ALL RIGHT, HAVE A SEAT.
- 23 (THE WITNESS RESUMED THE WITNESS STAND.)
- 24 Q. BASED ON YOUR REVIEW OF THE RECORDS, THE MEDICAL
25 RECORDS, THE PHARMACY RECORDS, DID YOU ---

DR. W. ALEXANDER MORTON - DIRECT BY MR. BOYD

2698

1 THE COURT: THEY CAN'T SEE.

2 (THE CHARTS WERE MOVED.)

3 Q. BASED ON YOUR REVIEW OF THE PHARMACY RECORDS AND
4 THE MEDICAL RECORDS THAT YOU REVIEWED, WERE YOU
5 ABLE TO DETERMINE WHAT PSYCHOLOGICAL PROBLEMS
6 THAT THE DIFFERENT MEMBERS OF THE FAMILY HAD?

7 A. I WAS ABLE TO LOOK THROUGH A REVIEW OF THE
8 RECORDS AND SEE WHAT DIAGNOSES THE VARIOUS
9 PRACTITIONERS HAD GIVEN THEM AS WELL AS SOME
10 THAT THEY WERE QUESTIONING, AS WELL AS LOOKING
11 AT THE MEDICATIONS THAT THEY WERE TAKING FOR
12 THOSE DISORDERS; YES.

13 Q. AND DID YOU PREPARE A CHART SHOWING THE FAMILY
14 AND THE DIFFERENT PSYCHOLOGICAL DISORDERS THEY
15 HAD?

16 A. I DID.

17 Q. WOULD THAT BE HELPFUL IN YOUR TESTIMONY?

18 A. I THINK IT WOULD BE HELPFUL TO GET AN
19 UNDERSTANDING OF TWO THINGS; ONE, THE
20 PSYCHOLOGICAL AND PSYCHIATRIC PROBLEMS IN THAT
21 FAMILY AND THE AMOUNT OF DRUGS THAT WERE
22 PROBABLY COMING INTO THAT FAMILY BECAUSE IT'S
23 HARD -- WHEN YOU'RE LOOKING AT RECORDS, IT'S
24 HARD TO MAKE SENSE OUT OF ACTUALLY WHAT'S GOING
25 ON.

DR. W. ALEXANDER MORTON - DIRECT BY MR. BOYD

2699

1 I THINK THE GENETIC FACTORS THAT ARE THERE ARE
2 REALLY IMPORTANT. BECAUSE YOU CAN START SEEING
3 SOME OF HOW OUR BIOLOGY IS TRANSFERRED TO OUR
4 KIDS.

5 Q. AND LET ME ASK YOU THIS, ARE YOU QUALIFIED BY
6 YOUR TRAINING AND EXPERIENCE TO DETERMINE THOSE
7 MATTERS FROM REVIEWING THOSE RECORDS?

8 A. YES, I AM.

9 Q. YOUR HONOR, AT THIS TIME I WOULD LIKE TO REFER
10 TO A CHART THAT HAS BEEN PREVIOUSLY MARKED AS AN
11 EXHIBIT.

12 THE COURT: ANY OBJECTION?

13 MR. POPE: YOUR HONOR, I DO HAVE AN OBJECTION. I
14 DON'T THINK A SUFFICIENT FOUNDATION HAS BEEN LAID. HE
15 INDICATED AT ONE POINT, I BELIEVE, SOME OF THE THINGS THEY
16 MIGHT HAVE BEEN LOOKING AT; HE SAID PROBABLY SEVERAL TIMES.
17 HE ALSO SAID THAT BY HIS TRAINING HE WAS ABLE TO EVALUATE
18 THAT, BUT THERE IS NO INDICATION OF ANY TRAINING THAT
19 ALLOWS HIM TO DO A SOCIAL HISTORY OF THIS FAMILY. SO,
20 THEREFORE, I OBJECT, YOUR HONOR.

21 THE COURT: I DIDN'T THINK HE WAS GOING TO DO A
22 SOCIAL HISTORY; I THINK HE WAS JUST GOING TO EXPLAIN THAT
23 CHART.

24 MR. BOYD: THAT'S CORRECT.

25 THE COURT: I OVERRULE THE OBJECTION.

DR. W. ALEXANDER MORTON - DIRECT BY MR. BOYD

2700

1 Q. IF YOU WOULD COME DOWN AGAIN. STAND TO THE SIDE
2 SO THAT ALL THE JURY CAN SEE. COULD YOU JUST
3 EXPLAIN THIS CHART FOR US?

4 A. THIS IS A CHART OF THE ROBERTSON FAMILY AND IT
5 ATTEMPTS -- IT MAY OR MAY NOT ATTEMPT TO
6 APPROXIMATE THE SEVERITY OF THE PROBLEM. IT
7 APPROACHES THAT, BUT IT'S BASED ON THE DIAGNOSES
8 THAT WERE IN ALL OF THEIR CHARTS. I SAID
9 PROBABLY BECAUSE THAT'S WHAT THE PHYSICIAN SAID.
10 IF THEY SAID PROBABLY, I SAY PROBABLY. AND I
11 PUT A QUESTION MARK HERE. HE GIVES CHIP A LITTLE
12 BIT OF TEGRETOL BECAUSE HE THINKS HE MIGHT BE
13 KIND OF BIPOLAR; HE THINKS THERE'S SOME
14 BIPOLARITY THERE.

15 Q. OKAY. IF YOU COULD JUST START WITH EARL AND
16 JUST EXPLAIN WHAT YOU HAVE THERE.

17 A. EARL HAS DEPRESSION. EARL ALSO HAS A HISTORY OF
18 ATTENTION DEFICIT DISORDER HYPERACTIVITY. HE
19 ALSO HAS SOME ANXIETY, WHETHER THAT'S TREATED
20 CONTINUOUSLY OR NOT, IT'S NOT CLEAR. HE'S
21 GENERALLY TREATED WITH THE DIAGNOSIS OF
22 ADJUSTMENT DISORDER, EITHER WITH DEPRESSED MOOD
23 OR WITH ANXIETY.

24 THIS DOES HAVE SOME GENETIC FACTORS HERE AS FAR
25 AS DEPRESSION. DEPRESSION IS A COMPONENT OF

DR. W. ALEXANDER MORTON - DIRECT BY MR. BOYD

2701

1 MANIC DEPRESSION OR BIPOLAR DISORDER WHICH JIMMY
2 HAS WHICH MAYBE CHIP HAS.
3 TERRY HAS EXCESSIVE COMPULSIVE DISORDER ALMOST
4 IMMOBILIZING HERE WHERE SHE CAN HARDLY MOVE AT
5 SOMETIMES, WHERE HER OBSESSIONS JUST ABOUT
6 FREEZE HER; THAT SHE DOESN'T DO ANYTHING. THAT
7 HER DEPRESSION EQUALLY FREEZES HER. SHE HAS
8 SOME BIOLOGICAL BIPOLAR SYMPTOMS THAT DR.
9 MCMEEKIN TRIES TO TREAT THAT IN GENERAL ARE NOT
10 AS MUCH OF A PROBLEM AS THE DEPRESSIVE SYMPTOMS.
11 BUT SHE DOES HAVE THAT HISTORY OF HAVING BIPOLAR
12 DISORDER.
13 THEY MEET AND HAVE TWO KIDS. THE FIRST KID HAS
14 SOME OF THE SAME GENETICS. HE ALSO HAS
15 ATTENTION DEFICIT DISORDER. AND MIXED IN WITH
16 THAT ---
17 Q. NOW, YOU'RE REFERRING TO JIMMY ROBERTSON?
18 A. I'M REFERRING TO JIMMY. JIMMY, THE OLDEST SON,
19 HAS ATTENTION DEFICIT DISORDER WHICH COULD BE,
20 COULD BE A COMPONENT OF THIS OR COULD BE
21 SEPARATE OF BIPOLAR DISORDER. IT'S HARD TO
22 KNOW, IT'S HARD TO DIAGNOSE. CHILDREN WHEN THEY
23 ARE SIX OR SEVEN MOVING AROUND, WE THINK ABOUT
24 IT BEING ATTENTION DEFICIT BUT IT COULD LATER --
25 WE COULD BE WRONG AND MAYBE IT WAS BIPOLAR

DR. W. ALEXANDER MORTON - DIRECT BY MR. BOYD

2702

1 DISORDER.

2 HE CERTAINLY HAS MANIA. HE HAS A LITTLE BIT OF
3 OBSESSIVE COMPULSIVE SYMPTOMS. HE DOESN'T HAVE
4 ENOUGH THAT WE WOULD SAY MEET THE CRITERIA FOR
5 DISORDER; THAT'S GENERALLY HAVING FAULTS AND
6 COMPULSIONS THAT TAKE OVER AN HOUR A DAY TO DO
7 AND COMPLETE. HE JUST HAS THEM -- HE HAS TO
8 COUNT AND IT DOESN'T REALLY INTERFERE, SO IT'S
9 REALLY NOT A DISORDER, BUT IT'S THERE.

10 HE HAS ALCOHOL ABUSE AND ALCOHOL DEPENDENCE. HE
11 CERTAINLY HAS RITALIN ABUSE, RITALIN
12 INTOXICATION ON THE NIGHT OF THE CRIME IN MY
13 OPINION; MARIJUANA ABUSE.

14 CHIP ON THE OTHER HAND PRIMARILY SEEMS TO HAVE
15 DEPRESSION AND ATTENTION DEFICIT DISORDER, BUT
16 CHIP IS YOUNGER AND IT MAY BE PLAYING OUT MORE
17 AS HE GETS OLDER. THAT'S WHAT I THINK DR.
18 MCMEEKIN WAS THINKING ABOUT WHEN HE SAID LET'S
19 ADD SOME TEGRETOL TO THIS MAN'S RITALIN AND
20 PROZAC AND TEGRETOL.

21 Q. OKAY AND ---

22 A. AND HE HAS ABUSE PROBLEMS. ALCOHOL ABUSE OR
23 DEPENDENCE. AGAIN, SOME OF THE PRACTITIONERS
24 ARE BASING THAT ON WHAT THEY HEAR HAPPENING IN
25 PENNSYLVANIA. AND HE'S NEVER GONE AND SAID,

DR. W. ALEXANDER MORTON - DIRECT BY MR. BOYD

2703

1 DOCTOR, I HAVE A PROBLEM WITH MY ALCOHOL, I'D
2 LIKE TO TREAT IT AND THEY SAID OKAY, LET'S SEE
3 IF YOU DO HAVE THAT PROBLEM AND LET'S GO THROUGH
4 THE DIAGNOSTIC CRITERIA. WELL, IT DOES SEEM
5 LIKE YOU DO HAVE THAT PROBLEM, SO WE'LL HAVE YOU
6 GO TO THIS TREATMENT CENTER. IT WAS ALWAYS
7 TALKED ABOUT THAT HE WOULD GO TO A TREATMENT
8 CENTER, BUT HE NEVER WENT.

9 Q. OKAY. THANK YOU; YOU MAY BE SEATED. YOUR
10 HONOR, I WOULD OFFER THIS IN EVIDENCE, THIS
11 EXHIBIT.

12 MR. POPE: OVER MY PREVIOUS OBJECTION, YOUR
13 HONOR.

14 THE COURT: ALL RIGHT, IT WILL COME IN AS A
15 DEFENSE EXHIBIT.

16 (THE CHART WAS MARKED IN EVIDENCE AS DEFENDANT'S EXHIBIT
17 NUMBER 15 OVER OBJECTION.)

18 Q. DOCTOR, IN YOUR OPINION, IF JIMMY ROBERTSON IS
19 IN PRISON, CAN HIS BIPOLAR DISORDER AND
20 DEPENDENCY PROBLEM BE SUCCESSFULLY TREATED?

21 A. ABSOLUTELY, HIS PROBLEMS CAN BE TREATED, THEY
22 ARE BEING TREATED. BIPOLAR DISORDER DOES
23 RESPOND TO MEDICATIONS. HE'S ON A MEDICATION.
24 HE MAY NEED ADJUSTMENTS AS HE GETS OLDER, AS HE
25 GROWS; AS HIS BODY CHANGES HE MAY NEED MORE, HE

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2704

1 MAY NEED LESS AT SOME POINT.

2 HIS CHEMICAL DEPENDENCY DISORDERS ARE IN
3 REMISSION BECAUSE HE HAS NO ACCESS TO THOSE
4 RIGHT NOW.

5 HIS OBSESSIVE COMPULSIVE DISORDER IS NOT A MAJOR
6 -- WELL, HE DOESN'T HAVE A DISORDER; HE HAS A
7 SYMPTOM, BUT THEY WOULD FEED EACH OTHER.
8 BIPOLAR MIGHT MAKE OBSESSIVE COMPULSIVE WORSE;
9 OBSESSIVE COMPULSIVE MIGHT MAKE BIPOLAR WORSE.
10 SO, IT SHOULDN'T BE IGNORED.

11 HE CAN BE TREATED; HE IS BEING TREATED AND
12 TREATED SUCCESSFULLY I BELIEVE.

13 Q. THANK YOU. THAT'S ALL THE QUESTIONS I HAVE.

14 THE COURT: MEMBERS OF THE JURY PANEL, WE'LL TAKE
15 A BREAK BEFORE CROSS EXAMINATION.

16 IN CAMERA:

17 THE COURT: JUST FOR PLANNING PURPOSES, HOW LONG
18 DO YOU THINK CROSS EXAMINATION WILL TAKE?

19 MR. POPE: YOUR HONOR, I THINK WE'VE HAD, WHAT,
20 THREE HOURS OF TESTIMONY? I THINK PROBABLY -- WELL,
21 ACTUALLY PROBABLY NOT MORE THAN 15 MINUTES OR SO.

22 THE COURT: IT'S ALREADY AFTER 6:00. HOW LONG IS
23 MS. CASCIO'S TESTIMONY ANTICIPATED TO BE?

24 MR. BOYD: YOUR HONOR, SHE IS TRYING TO WORK OUT
25 COMING BACK IN THE MORNING. WE CAN CHECK ON THAT. IF YOU

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2705

1 WANT TO GO LATER ---

2 THE COURT: WE'VE ALREADY HAD ONE JUROR WHO HAS
3 HAD AN UPSET STOMACH. I'D LIKE TO LET HER GET SOME REST.

4 MR. BOYD: I WOULD THINK HER DIRECT EXAMINATION
5 WOULD TAKE APPROXIMATELY ONE HOUR.

6 THE COURT: I THINK WE BETTER WAIT AND HAVE THAT
7 IN THE MORNING. AND WITH THAT IN MIND, WHAT ELSE -- IF WE
8 START AT 9:00 AND FINISH UP WITH HER AROUND 10:30, WHERE DO
9 WE GO FROM THERE?

10 MR. HANCOCK: IF WE START TOMORROW, I DO NOT
11 BELIEVE SHE WILL BE THE FIRST WITNESS. THE FIRST WITNESS
12 WILL PROBABLY BE SKIP MEYER.

13 THE COURT: WELL, LET ME JUST APPROACH IT THIS
14 WAY. WITHOUT TELLING ME WHO AND WHEN, HOW LONG?

15 MR. BOYD: YOUR HONOR, THE GENTLEMAN WITH THE
16 PRISON RECORDS IS HERE AGAIN THAT WE DIDN'T RELEASE THE
17 OTHER DAY AND WE WANTED TO PUT IN SOME RECORDS THROUGH HIM
18 AND HIS TESTIMONY WOULD BE RELATIVELY BRIEF IF WE COULD GET
19 TO HIM TODAY.

20 THE COURT: OKAY, WHEN WE FINISH UP WITH THE --
21 WE'LL FINISH THIS WITNESS ON CROSS AND THEN LET THE PRISON
22 RECORD KEEPER, CUSTODIAN, TESTIFY.

23 MR. BOYD: THANK YOU.

24 THE COURT: ALL RIGHT, LET'S TAKE ABOUT 10
25 MINUTES.

DR. W. ALEXANDER MORTON - CROSS BY MR. POPE

2706

1 AFTER THE BREAK IN CAMERA:

2 THE COURT: COUNSEL AND THE DEFENDANT ARE PRESENT
3 AND THE WITNESS IS BACK ON THE STAND. ALL RIGHT, BRING IN
4 THE JURY.

5 IN THE PRESENCE OF THE JURY:

6 THE COURT: ALL RIGHT, MR. POPE?

7 CROSS EXAMINATION BY

8 MR. POPE:

9 Q. MR. MORTON, IF YOU'LL BEAR WITH ME.

10 A. YES, SIR.

11 Q. IT'S KIND OF LIKE I DID IN SCHOOL, A THREE HOUR
12 LECTURE, I TOOK NOTES ON THE FIRST HALF. DURING
13 YOUR PRESENTATION YOU TALKED ABOUT A NUMBER OF
14 FACTORS AND PARTICULARLY YOU WERE TALKING ABOUT
15 RITALIN AND YOU EQUATED IT TO THE EFFECTS OF
16 COCAINE. IS THAT CORRECT?

17 A. YES, SIR.

18 Q. AND ULTIMATELY YOU WENT INTO THE EFFECTS OF
19 COCAINE AND COCAINE TOXICITY AND PSYCHOSIS AND A
20 NUMBER OF AREAS IN THAT REGARD; IS THAT CORRECT?

21 A. YES, SIR.

22 Q. AND I UNDERSTAND BASED ON THAT YOU HAVE
23 DETERMINED, AGAIN I WANT TO MAKE CLEAR, YOU'VE
24 DETERMINED THAT THAT'S WHAT HAPPENED TO THE
25 DEFENDANT THAT NIGHT. IS THAT WHAT YOUR

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2707

1 TESTIMONY IS?

2 A. I'M BASING IT ALSO ON METHYLPHENIDATE OR RITALIN
3 CASES THAT CAUSE PSYCHOSIS ALSO. I USED COCAINE
4 AND AMPHETAMINE EXAMPLES BECAUSE THEY ARE OUT
5 THERE ALSO.

6 Q. OKAY. AND, AGAIN, TO TAKE WHAT YOU SAID
7 EARLIER, THE TRUTH OF THE MATTER IS THERE IS NOT
8 A LOT OF MATERIAL OUT THERE THAT SHOWS RITALIN
9 WITH THE SAME EFFECTS. I KNOW YOU'RE EQUATING
10 IT TO IT, BUT YOU SAID THERE WAS MATERIAL OUT
11 THERE ALL ABOUT COCAINE AND ALL THESE THINGS,
12 BUT THERE'S NOT MATERIAL THAT SAYS THAT AS TO
13 RITALIN. IS THAT CORRECT?

14 A. THERE'S SOME RITALIN -- THERE ARE CASES OF
15 PEOPLE BECOMING PSYCHOTIC ON RITALIN,
16 ABSOLUTELY.

17 Q. OKAY.

18 A. BUT IT'S NOT AS BIG A PROBLEM AT THIS PRESENT
19 TIME, AT LEAST REPORTED IN THE LITERATURE, THE
20 MEDICAL LITERATURE. WHEN YOU LOOK IN THE DRUG
21 ENFORCEMENT LITERATURE, THERE SEEMS TO BE MORE
22 REPORTS OF IT.

23 Q. OKAY. AND YOU HAD INDICATED -- YOU KNOW YOU
24 WERE TALKING ABOUT PSYCHOSIS AND PSYCHOTIC, TELL
25 ME, WHAT DOES THAT ACTUALLY MEAN?

DR. W. ALEXANDER MORTON - CROSS BY MR. POPE

2708

1 A. IT MEANS NOT BEING IN TOUCH WITH REALITY.

2 Q. OKAY. AND, AGAIN, I WANT TO MAKE SURE THAT I
3 UNDERSTAND AND THE JURY UNDERSTANDS THE
4 SIMILARITIES BETWEEN AMPHETAMINES AND COCAINE
5 AND RITALIN AS TO WHAT? IS IT AS TO THE ACTUAL
6 FEEL OR AFFECT OR IS IT AS TO THE ABUSE OF IT.
7 YOU KNOW, WHEN YOU USED IT AND USED AN EXAMPLE,
8 HOW WERE YOU SAYING IT'S SIMILAR?

9 A. IT'S SIMILAR IN WHAT IT DOES TO THE BRAIN
10 CHEMICALS. IT'S SIMILAR TO THE PHYSICAL EFFECTS
11 ON THE BODY; IT'S SIMILAR ON THE MENTAL EFFECTS
12 OF THE BODY; IT'S SIMILAR ON THE MENTAL EFFECTS
13 WHEN PEOPLE GET PSYCHOTIC AND IT WOULD BE
14 SIMILAR IF THEY WENT THROUGH WITHDRAWAL, THOSE
15 WOULD BE SIMILAR. AND THERE ARE SIMILARITIES
16 WHEN PEOPLE BECOME INTOXICATED FROM TOO MUCH,
17 IT'S VERY SIMILAR.

18 Q. OKAY AND WOULD YOU SAY THAT -- IS IT A FAIR
19 STATEMENT THAT COCAINE IS MORE POWERFUL THAN
20 RITALIN?

21 A. IT DEPENDS ON HOW YOU USE IT.

22 Q. OKAY. USED IN THE SAME FORM, SNORTED OR
23 INJECTED OR WHATEVER EQUIVALENTLY -- I THINK YOU
24 INDICATED THAT COCAINE WOULD GET TO YOU IN FIVE
25 TO EIGHT SECONDS ---

DR. W. ALEXANDER MORTON - CROSS BY MR. POPE

2709

- 1 A. RIGHT.
- 2 Q. --- AND RITALIN WOULD GET TO YOU IN TWO TO THREE
- 3 MINUTES?
- 4 A. RIGHT.
- 5 Q. AND YOU WERE SAYING ONE THING THAT THE BRAIN
- 6 APPRECIATED A QUICKER RUSH, IT MADE A BIGGER
- 7 DEAL FOR THE BRAIN SITUATION, RIGHT?
- 8 A. YES.
- 9 Q. WHAT IS IT THAT YOU'RE BASING THE FACT THAT
- 10 YOU'RE SAYING JIM WAS PSYCHOTIC THAT NIGHT; WHAT
- 11 IS IT YOU'RE BASING THAT ON?
- 12 A. PRIMARILY HIS SELF-REPORT.
- 13 Q. OKAY.
- 14 A. AS WELL AS WHAT'S IN THE LITERATURE WHEN PEOPLE
- 15 TAKE LARGE AMOUNTS.
- 16 Q. OKAY. THIS LITERATURE YOU'RE TALKING ABOUT,
- 17 WHERE IS THAT AVAILABLE?
- 18 A. UH ---
- 19 Q. IS IT AVAILABLE ON THE INTERNET OR THE LIBRARY
- 20 OR THOSE TYPE THINGS?
- 21 A. EACH ONE OF THOSE SLIDES HAS A REFERENCE TO IT
- 22 AND IT'S IN THE MEDICAL LITERATURE -- IT'S ON
- 23 THE INTERNET THROUGH THE LIBRARY OF MEDICINE.
- 24 SO, IF YOU WENT AND DID A SEARCH IN THE LIBRARY
- 25 OF MEDICINE, IT WOULD BE THERE. IT WOULD BE IN

DR. W. ALEXANDER MORTON - CROSS BY MR. POPE

2710

1 THREE OR FOUR TEXTBOOKS. FOR EACH SIDE EFFECT,
2 FOR DOSE, I USED FOUR TEXTBOOKS, AND EACH ONE OF
3 THOSE STATEMENTS WOULD REFERENCE TO WHERE I GOT
4 THAT MATERIAL.

5 Q. SO, IN OTHER WORDS, I AS A CITIZEN, IF I WANTED
6 TO, COULD GO FIND OUT THE EFFECTS OF RITALIN, BE
7 IT THE INTERNET, THE LIBRARY OR WHATEVER THE
8 CASE MAY BE?

9 A. YES.

10 Q. OKAY. A DEFENSE ATTORNEY COULD FIND THAT IF
11 THEY CHOSE TO; IS THAT CORRECT?

12 A. (NO RESPONSE)

13 Q. THEY ARE CITIZENS, AREN'T THEY, AND YOU WOULD
14 AGREE WITH THAT.

15 A. THEY ARE CITIZENS, THEY ARE.

16 Q. AND HOW LONG HAVE YOU BEEN INVOLVED IN THIS
17 CASE?

18 A. I'VE BEEN INVOLVED IN IT FOR A RELATIVELY SHORT
19 PERIOD OF TIME, ABOUT 20 DAYS.

20 Q. SO, YOU ACTUALLY TALKED TO THE DEFENDANT ON
21 MARCH 11TH, IS THAT CORRECT?

22 A. MARCH 11TH, YES.

23 Q. AND, OF COURSE, YOU INDICATED THE MATERIAL YOU
24 REVIEWED LIKE DR. PINCUS' REPORT AND ALL THE
25 OTHER DOCTORS THAT YOU INDICATED YOU REVIEWED;

DR. W. ALEXANDER MORTON - CROSS BY MR. POPE

2711

- 1 IS THAT CORRECT?
- 2 A. I REVIEWED DR. PINCUS' REPORT; YES.
- 3 Q. AND I BELIEVE IT'S DR. EVANS, HIS REPORT?
- 4 A. YES.
- 5 Q. MS. CASCIO'S REPORT, YOU REVIEWED HER'S?
- 6 A. YES.
- 7 Q. OKAY. AND SO YOUR DESCRIPTION TO THE JURY TODAY
- 8 OF THE DEFENDANT'S PSYCHOSIS THAT NIGHT IS BEING
- 9 BASED, AT LEAST IN LARGE PART, HIM RELATING TO
- 10 YOU WHAT HAPPENED; IS THAT CORRECT?
- 11 A. IT'S BASED PRIMARILY ON MY CLINICAL EXPERIENCE
- 12 OF WORKING WITH APPROXIMATELY FOUR THOUSAND DRUG
- 13 ADDICTS THAT HAVE COCAINE AS THEIR MAJOR DRUG
- 14 AND TO KNOW COCAINE INSIDE AND OUT, AND SEE THE
- 15 CONSEQUENCES OF COCAINE INTOXICATION. AND THEN
- 16 SEEING THE FEW PEOPLE -- I ONLY HAVE PROBABLY
- 17 TWO PATIENTS IN THE CLINIC THAT ARE BIG PEOPLE
- 18 THAT ARE TAKING METHYLPHENIDATE FOR ATTENTION
- 19 DEFICIT DISORDER.
- 20 SO, IT'S MOSTLY IN ADOLESCENTS WHERE THE ABUSE
- 21 IS, AND YOUNG FOLKS.
- 22 Q. YES, SIR.
- 23 A. MY POPULATION OF FOLKS IS NOT -- ARE NOT USING
- 24 RITALIN AS FREQUENTLY AS SOME OF THE YOUNGER
- 25 ADOLESCENTS.

DR. W. ALEXANDER MORTON - CROSS BY MR. POPE

2712

1 Q. I UNDERSTAND THAT, SIR, AND AGAIN TO BRING YOU
2 BACK TO MY QUESTION.

3 A. OKAY.

4 Q. LARGELY IT CAME FROM THIS DEFENDANT AS FAR AS
5 THE ACTS HE COMMITTED THAT NIGHT; IT CAME FROM
6 THE DEFENDANT AND THE STATEMENTS THAT HE HAD
7 GIVEN THESE OTHER DOCTORS AS TO WHAT HAPPENED.
8 IS THAT CORRECT?

9 A. IT CAME PRIMARILY FROM HIS REPORT AND PAST
10 CLINICAL EXPERIENCE WITH IF YOU USE THIS DRUG IN
11 LARGE AMOUNTS, THIS WILL HAPPEN.
12 WHEN I WAS DOING MY TRAINING IN THE SEVENTIES,
13 WE WERE TRYING TO UNDERSTAND WHAT SCHIZOPHRENIA
14 IS ALL ABOUT AND IT WAS COMMONLY SAID IF YOU
15 WANT TO SEE WHAT SCHIZOPHRENIA IS ABOUT, YOU
16 LOOK AT AMPHETAMINE INTOXICATION. IT WAS A
17 MODEL TO STUDY AND THAT'S HOW WE FOUND SOME OF
18 THE DRUGS THAT WORK IN SCHIZOPHRENIA.

19 Q. ARE YOU SAYING THAT HE IS SCHIZOPHRENIA?

20 A. NOT AT ALL. I ---

21 Q. OKAY. I DIDN'T MEAN TO INTERRUPT YOU, SIR, IF
22 YOU NEED TO EXPLAIN.

23 A. NO.

24 Q. YOU SAID BASED ON YOUR EXPERIENCE OF WHAT
25 HAPPENS WHEN PEOPLE TAKE LARGE DOSES OF THE

DR. W. ALEXANDER MORTON - CROSS BY MR. POPE

2713

1 DRUG, THEN AGAIN, I'M NOT TRYING TO PUT WORDS IN
2 YOUR MOUTH, BUT THAT'S HOW YOU KNOW HE'S
3 PSYCHOTIC THE NIGHT HE'S KILLING HIS PARENTS
4 BECAUSE HE TOLD YOU HE TOOK LARGE AMOUNTS OF THE
5 DRUG. IS THAT CORRECT?

6 A. YES. I'M RELYING TOTALLY ON HIS SELF-REPORT AND
7 THE FACT THAT THERE WERE LARGE AMOUNTS OF DRUGS
8 COMING INTO THE HOUSE. IT LOOKED KIND OF LIKE A
9 DRUGSTORE ACTUALLY. I DON'T MEAN TO BE
10 FACETIOUS, BUT I'VE NEVER SEEN EVER THAT MANY
11 PRESCRIPTIONS IN THOSE QUANTITIES BEING
12 DISPENSED TO A HOUSEHOLD.

13 Q. YES, SIR, AND YOU DISCUSSED THAT AND YOU WENT
14 THROUGH THE DIFFERENT THINGS AS FAR AS TELLING
15 THE JURY AS FAR AS THE VARIOUS DRUGS THAT HAD
16 COME IN THE HOUSE, CORRECT?

17 A. RIGHT.

18 Q. AND YOU WERE FAIR IN SAYING THAT SOME OF THEM
19 WERE FOR UPSET STOMACHS, ZANTAC AND JUST ALL
20 KINDS OF THINGS, RIGHT?

21 A. RIGHT.

22 Q. COULD YOU ALSO TELL THE JURY, ISN'T IT TRUE THAT
23 THIS IS OVER A FOUR YEAR PERIOD?

24 A. SOME OF THOSE ARE OVER A FOUR YEAR PERIOD; SOME
25 OF THEM ARE LESS THAN A YEAR.

DR. W. ALEXANDER MORTON - CROSS BY MR. POPE

2714

1 Q. OKAY.

2 A. RITALIN IS LESS THAN A YEAR.

3 Q. AND WHEN YOU HAVE MULTIPLE ENTRIES, AS I
4 UNDERSTOOD WHAT YOU SAID FROM SOUTH CAROLINA
5 LAW, YOU HAVE TO GO GET IT NEXT MONTH AND THEN
6 THE NEXT MONTH AND THE NEXT MONTH.

7 A. RIGHT.

8 Q. AND SO THESE DOCUMENTS ULTIMATELY SOME OF THEM
9 INDICATE A YEAR'S WORTH OF RITALIN AND SOME OF
10 THEM INDICATE EVERY MEDICINE TO CLARITON TO
11 EVERYTHING ELSE THEY'VE HAD OVER THE YEARS?

12 A. THAT WAS RECORDED ON THAT CVS, YES.

13 Q. AND ALSO YOU INDICATE THERE MAY IN FACT BE SOME
14 ERRORS HERE AND SOME CONFUSION PERHAPS, FOR
15 EXAMPLE, WITH EARL, SENIOR AND EARL, JUNIOR,
16 CHIP BEING EARL, JUNIOR, THAT THERE WAS LIKE A
17 RITALIN ENTRY ON EARL'S; IS THAT CORRECT?

18 A. RIGHT.

19 Q. SO YOU, BASED ON THIS, YOU CAN SAY THAT THESE
20 DRUGS WERE SENT TO THIS RESIDENCE OR THESE
21 PEOPLE. YOU CAN'T SAY WHETHER THEY TOOK THEM,
22 DIDN'T TAKE THEM OR ANYTHING ELSE; IS THAT
23 CORRECT?

24 A. OH, THAT'S ABSOLUTELY CORRECT. I CAN'T SAY WHO
25 TOOK WHAT. I DO KNOW THAT THAT'S A RECORD THAT

DR. W. ALEXANDER MORTON - CROSS BY MR. POPE

2715

1 SAYS THAT THEY WERE DELIVERED THERE.

2 Q. YES, SIR, EITHER THE MAIL OR SOMEBODY PICKED
3 THEM UP AT THE PHARMACY?

4 A. YES.

5 Q. YOU REFERRED TO THE DSM-4 AND THAT WAS EARLY IN
6 PRESENTATION WHEN YOU WERE TALKING ABOUT, I
7 THINK IT WAS THE DRUG DEPENDENCE DISORDERS, IF
8 YOU WOULD BEAR WITH ME. YOU SAID MEETS THE
9 CRITERIA. TELL THE JURY WHAT THAT MEANS. WHEN
10 YOU SAY LIKE MEETS THE CRITERIA OF ALCOHOL
11 ABUSE.

12 A. I'M TALKING ABOUT THAT THEY MEET CERTAIN
13 DESCRIPTORS THAT ARE LISTED THERE.

14 Q. THAT'S KIND OF LIKE A LAUNDRY LIST, ISN'T IT?

15 A. RIGHT.

16 Q. AND YOU LOOK AND YOU SAY, WELL, IF HE'S GOT THIS
17 AND THIS, HE WOULD FIT THAT CRITERIA; IS THAT
18 CORRECT?

19 A. THAT'S GENERALLY WHAT I'M TRAINED TO DO AND
20 TRAIN OTHER -- I TRAIN PSYCHIATRIC PERSONNEL TO
21 DO THAT FOR CLINICAL STUDIES. AND RIGHT NOW I'M
22 WORKING ON ABOUT 26 CLINICAL STUDIES AND IT'S
23 ESSENTIAL THAT PEOPLE MEET CERTAIN CRITERIA
24 BEFORE YOU TREAT IT.

25 IF SOMEONE COMES IN AND THEY'RE JUST TOO HAPPY

DR. W. ALEXANDER MORTON - CROSS BY MR. POPE

2716

1 BUT THEY DON'T HAVE ANY OF THE OTHER SYMPTOMS OF
2 MANIA, YOU WOULDN'T WANT TO PUT THEM IN A STUDY
3 TO TREAT MANIA.

4 SO, IT IS A LIST, IT IS A CHECKLIST THAT THEN A
5 PHYSICIAN WOULD TAKE THAT INFORMATION AND BASED
6 ON HIS CLINICAL JUDGMENT WOULD SAY HE HAS THE
7 DIAGNOSIS OF THIS, BUT IT'S ---

8 Q. SO, YOU'RE NOT MAKING THE DIAGNOSIS, YOU'RE
9 SAYING THE THRESHOLD MEETS THE CRITERIA; IS THAT
10 CORRECT?

11 A. RIGHT.

12 Q. SO, YOU'RE SAYING HE MEETS THE CRITERIA FOR
13 ALCOHOL ABUSE HEADING TOWARD DEPENDENCY. HE
14 MEETS THE CRITERIA FOR STIMULANT ABUSE,
15 POLYSUBSTANCE ABUSE, MARIJUANA ABUSE AND DID YOU
16 EVEN SAY MELLOW YELLOW AND MOUNTAIN DEW ---

17 A. I WAS SAYING ---

18 Q. AS FAR AS THE ---

19 A. THAT'S POTENTIALLY ABUSE IN VIEW OF HIM HAVING
20 MANIC DEPRESSIVE DISORDER, THAT CAFFEINE WOULD
21 MAKE HIM POTENTIALLY MORE MANIC, YEAH. I
22 WOULDN'T SAY THAT HE HAS CAFFEINE ABUSE UNLESS
23 IT DID, BUT IT COULD.

24 Q. OKAY. AND, AGAIN, YOU'RE TAKING IT FROM WHAT HE
25 RELATED TO YOU AS FAR AS THE DIFFERENT HABITS HE

DR. W. ALEXANDER MORTON - CROSS BY MR. POPE

2717

1 HAS AND THE THINGS HE LIKES TO DO, WHETHER IT'S
2 DRINK OR SMOKE OR WHATEVER THE CASE MAY ---

3 A. I'M LOOKING AT HIS RECORDS AND SEEING WHAT HIS
4 PATTERN IS OVER THE LAST THREE OR FOUR YEARS AND
5 SEEING IS THAT CONSISTENT WITH WHAT GOES ON --
6 AGAIN, I FIND SUBSTANCE ABUSE TO BE INCREDIBLY
7 CONSISTENT WITH WHAT HAPPENS IF YOU USE --
8 INCREDIBILITY CONSISTENT WITH WHAT HAPPENS IF
9 YOU QUIT USING. AND HE FITS ALONG WITH THOSE
10 PATTERNS.

11 Q. AND WHEN YOU LOOK, AGAIN WITH THESE VARIOUS
12 DIAGNOSTIC CRITERIA, IT WILL SAY, AND I THINK
13 YOU SHOWED US ON ONE EXAMPLE THAT YOU HAVE, TO
14 HAVE LIKE TWO OR MORE OR THREE OR MORE OR
15 WHATEVER THE CASE MAY BE. IS THAT CORRECT?

16 A. RIGHT.

17 Q. OKAY. FOR EXAMPLE, IT SAYS BASIC PATTERN OF
18 DISREGARD FOR VIOLATION OF RIGHTS OF OTHERS
19 OCCURRING SINCE AGE 15 YEARS AS INDICATED BY
20 THREE OR MORE OF THE FOLLOWING CRITERIA. AND
21 THAT WOULD BE A MEANS OF CHECKING THE CRITERIA;
22 IS THAT CORRECT?

23 A. RIGHT.

24 Q. OKAY. FAILURE TO CONFORM TO SOCIAL NORMS WITH
25 RESPECT TO LAWFUL BEHAVIOR AS INDICATED BY

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2718

1 REPEATEDLY PERFORMING ACTS THAT ARE GROUNDS FOR
2 ARREST; DECEITFULNESS AS INDICATED BY REPEATED
3 LYING, USING OF ALIASES OR CONNING OTHERS FOR
4 PERSONAL PROFIT OR PLEASURE. THREE, IMPULSIVITY
5 OR FAILURE TO PLAN AHEAD; FOUR, IRRITABILITY AND
6 AGGRESSIVENESS AS INDICATED BY REPEATED PHYSICAL
7 FIGHTS OR ASSAULTS. FIVE, RECKLESS DISREGARD
8 FOR THE SAFETY OR HEALTH OF OTHERS. SIX,
9 CONSISTENT IRRESPONSIBILITY AS INDICATED BY
10 REPEATED FAILURE TO SUSTAIN CONSISTENT WORK
11 BEHAVIOR OR HONOR FINANCIAL OBLIGATIONS.

12 Q. THAT LIST, AGAIN, YOU CHECK OUT AND SAY, WELL,
13 HE MEETS THAT -- IN THIS CASE DID HE MEET MORE
14 THAN ONE OF THOSE?

15 A. YES.

16 Q. HE MET UP TO THREE OF THOSE.

17 A. I THINK HE DID; YES.

18 Q. YES, SIR. OF COURSE, HE'S AT LEAST 18 YEARS OF
19 AGE.

20 A. YES.

21 Q. OKAY. AND HE HAS HAD CONDUCT DISORDER DURING
22 THE HISTORY THAT YOU HAVE SEEN; IS THAT RIGHT?

23 A. RIGHT.

24 Q. SIR, COULD YOU TELL THE JURY WHAT ANTISOCIAL
25 PERSONALITY DISORDER IS?

DR. W. ALEXANDER MORTON - CROSS BY MR. POPE

2719

1 A. BASICALLY IT'S WHAT YOU DESCRIBED, ANTISOCIAL
2 PERSONALITY IS A MALADAPTIVE PATTERN OF
3 BEHAVIORS THAT GET ONE INVOLVED WITH THE LAW;
4 THERE IS A DISREGARD FOR VARIOUS SOCIAL NORMS.
5 IT'S NOT UNUSUAL TO MAKE THAT DIAGNOSIS,
6 ESPECIALLY IN PEOPLE THAT ARE USING SUBSTANCES
7 IN AN UNCONTROLLABLE FASHION. AND IT'S
8 CERTAINLY NOT UNUSUAL TO SEE THAT IN SOMEONE
9 THAT HAS BIPOLAR DISORDER THAT'S NOT BEING
10 TREATED.

11 Q. SO, YOU WOULDN'T DISPUTE THAT HE FITS ANTISOCIAL
12 DISORDER ---

13 A. I THINK HE COULD MEET CRITERIA ALONG WITH THE
14 OTHERS, AND THAT WOULD BE ANOTHER CIRCLE TO PUT
15 ON THAT CHART. YES, SIR.

16 Q. OKAY.

17 A. I NEVER SAW HIM GIVEN THAT DIAGNOSIS. I DID SEE
18 PEOPLE TALK ABOUT SOCIOPATHIC TRAITS.

19 Q. YES, SIR. AND, AGAIN, BASED ON YOUR EXPERIENCE
20 AND WHAT YOU'VE JUST HEARD AND WHAT YOU KNOW
21 ABOUT HIM AND WHAT HE HAS RELATED TO YOU, HE
22 FITS IN THAT CRITERIA; IS THAT CORRECT?

23 A. HE CERTAINLY MEETS SOME OF THOSE CRITERIA, YES.

24 Q. YOU WERE TALKING ABOUT COCAINE AND I THINK YOU
25 EVEN TALKED ABOUT THE MONKEY WITH THE NEEDLE IN

DR. W. ALEXANDER MORTON - CROSS BY MR. POPE

2720

1 ITS HEAD OR SOMETHING AND KEPT PRESSING.

2 A. YES.

3 Q. AND DID I UNDERSTAND, AND I APOLOGIZE IF I'M
4 GETTING MIXED UP, THAT THE COCAINE PSYCHOSIS OR
5 IN THIS CASE WE'RE GOING TO SAY RITALIN
6 PSYCHOSIS, IS SUCH THAT IT BRINGS US TO THE
7 POINT THAT YOU'LL DO ANYTHING YOU NEED TO GET --
8 YOU USED THE WORD COCAINE AGAIN, BUT YOU WOULD
9 DO ANYTHING YOU NEED TO TO GET MORE COCAINE, IS
10 THAT CORRECT?

11 A. SOMETIMES WHEN PEOPLE ARE PSYCHOTIC, THEY WILL.

12 Q. OKAY, SO THAT WOULD MANIFEST ITSELF IN
13 PSYCHOSIS. THAT DRIVE, LIKE YOU SAY, LIKE AN
14 ANIMAL TO TRY TO GET IT; THAT WOULD MANIFEST
15 ITSELF; IS THAT CORRECT?

16 A. PEOPLE DO UNCONTROLLABLE THINGS THAT'S
17 UNBELIEVABLE.

18 Q. AND, OF COURSE, YOU SAID THAT YOU HAD SEEN THE
19 PICTURES AND PART OF YOUR DIAGNOSIS IS BASED ON
20 THERE MUST BE SOMETHING WRONG WITH HIM, HE MUST
21 HAVE SOMETHING BECAUSE HE'S DONE SOMETHING THIS
22 BAD; IS THAT CORRECT?

23 A. I SAW THE PICTURES AND THEY WERE HORRIBLE.

24 Q. AND THAT'S WHAT YOU INDICATED, RIGHT? THAT YOU
25 SAW IT, SO THERE'S GOT TO BE SOME DRUG

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2721

1 EXPLANATION OR SOME EXPLANATION ---

2 A. IT DOESN'T HAVE TO BE, BUT HERE IS SOMEONE THAT
3 HAS BIPOLAR DISORDER AND SOMEONE THAT HAS
4 ADDICTIVE DISORDERS, BOTH OF WHICH CAN BE
5 TREATED, AND I WOULD JUST LIKE TO HAVE A CHANCE
6 TO EDUCATE PEOPLE THAT IF WE'RE GOING TO TAKE
7 HIS LIFE, I WANT TO MAKE SURE THAT THERE'S NO
8 QUESTION THAT HE DOESN'T HAVE A DISORDER THAT WE
9 COULD TREAT.

10 IF HE DOESN'T HAVE A DISORDER, THEN THAT'S --
11 THEN YOU MAKE YOUR OWN DECISIONS. BUT I THINK
12 HE HAS A BIOLOGICAL DISORDER, TWO OF WHICH HAVE
13 CAUSED HIM INCREDIBLY BAD BEHAVIOR AND I THINK
14 IT NEEDS TO BE LOOKED AT. IF IT WASN'T LOOKED
15 AT HERE AT SOME POINT, IT WOULD HAVE TO BE
16 LOOKED AT AGAIN I'M AFRAID.

17 Q. BASICALLY YOU'RE SAYING THAT HE DIDN'T RECEIVE
18 SUFFICIENT TREATMENT IN YOUR JUDGMENT TO THIS
19 POINT. IS THAT CORRECT?

20 A. HE DID NOT RECEIVE SUFFICIENT TREATMENT. THERE
21 HAVE BEEN OTHER PATIENTS THAT DID NOT RECEIVE
22 ADEQUATE TREATMENT FROM THAT PHYSICIAN. I
23 LOOKED AT A DOCUMENT FROM FREEDOM OF INFORMATION
24 ACT AND DR. MCMEEKIN INDEED WAS PUBLICLY
25 REPRIMANDED FOR HIS BREACH OF ETHICS WITH TWO

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2722

1 PATIENTS AND HIS LICENSE WAS PUT UNDER REVIEW
2 FOR TWO YEARS, FROM '96 TO '98, BECAUSE OF THE
3 WAY THAT HE PRESCRIBES MEDICATIONS AND THE WAY
4 THAT HE INDEED DOES NOT DOCUMENT WHAT'S GOING
5 ON.

6 SO, I DON'T THINK HE RECEIVED GOOD TREATMENT,
7 NO.

8 Q. OKAY, NOT IN THAT REGARD, AND NOW THAT YOU'VE
9 HANDED DOWN YOUR INDICTMENT ON DR. MCMEEKIN,
10 TELL ME ABOUT DR. PRYOR AT THE STATE HOSPITAL.

11 A. I DON'T KNOW DR. PRYOR. I ONLY STUDIED THAT
12 DISCHARGE SUMMARY.

13 Q. ALL RIGHT, SIR, SO YOU ARE AWARE -- ARE YOU
14 AWARE THAT HE MADE A DEAL WITH DR. PRYOR,
15 BASICALLY PLAYED THE GAME SO THAT HE COULD GET
16 OUT; ARE YOU AWARE OF THAT?

17 A. NO.

18 Q. YOU'RE NOT AWARE OF THAT, SIR?

19 A. NO, I'M NOT.

20 Q. OKAY.

21 A. I AM AWARE THAT PATIENTS WHEN THEY ARE
22 INVOLUNTARILY COMMITTED AND I HAVE COMMITTED MY
23 SHARE INVOLUNTARILY, THAT THEY QUICKLY LEARN
24 THAT YOU CAN STAY THERE OR YOU CAN SAY THE RIGHT
25 THINGS TO GET OUT.

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2723

- 1 Q. AND I THINK YOU INDICATED THAT, MAYBE IN ONE OF
2 YOUR SLIDES, YOU WERE TALKING ABOUT TREATMENT,
3 THEY CAN ALWAYS SAY WHAT NEEDS TO BE SAID TO GET
4 OUT OF SOMETHING.
- 5 A. THEY CAN.
- 6 Q. AND YOU SAID THAT YOU DID REVIEW DR. PINCUS'
7 REPORT. WOULD YOU LIKE TO SEE IT AGAIN AND
8 REFRESH YOUR MEMORY, SIR?
- 9 A. I WOULD LIKE TO RESERVE THAT POSSIBILITY.
- 10 Q. OKAY. AND IN PARTICULAR I WAS ASKING YOU, IT
11 SAID IN THAT REPORT, THIS IS IN EVIDENCE, THAT
12 THE FIRST SEVEN DAYS THEY WERE INVOLUNTARY, AND
13 HE MADE A DEAL TO STAY THREE MORE DAYS AFTER
14 WHICH HE WOULD BE DISCHARGED. NOW, YOU SAID YOU
15 REVIEWED THAT. THAT'S WHY I'M SAYING DO YOU
16 NEED TO REFRESH YOURSELF ON THAT?
- 17 A. YES. I HAVE QUESTIONS ABOUT IT; YES, SIR.
- 18 Q. I CALL YOUR ATTENTION TO THE BOTTOM OF THE
19 PARAGRAPH. AGAIN, I APOLOGIZE, IT'S SOMEWHERE
20 UNDER HERE IN EVIDENCE.
- 21 (AFTER A PAUSE.)
- 22 A. IT DOES SAY THAT. THE FIRST SEVEN DAYS WERE
23 INVOLUNTARY AND THEN HE MADE A DEAL TO STAY
24 THREE MORE DAYS AFTER WHICH HE WOULD BE
25 DISCHARGED.

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2724

1 Q. AND THEN I THINK HE GOES ON TO SAY SOMETHING TO
2 THE EFFECT THAT HE WAS SUPPOSED TO FOLLOW UP THE
3 NEXT WEEK AND DIDN'T OR SOMETHING TO THAT
4 EFFECT.

5 A. RIGHT.

6 Q. OKAY. SO, HE HAS BEEN GIVEN SOME OPPORTUNITIES
7 TO CORRECT HIS PROBLEM; YOU WOULD AGREE WITH
8 THAT, WOULD YOU NOT?

9 A. HE HAS HAD AN OPPORTUNITY. IT'S NOT UNLIKE MOST
10 ADOLESCENTS, IT'S NOT UNLIKE MOST PEOPLE WITH
11 BIPOLAR DISORDER THAT THEY DON'T FOLLOW THROUGH
12 WITH TREATMENT. I WOULD HOPE THAT HE WOULD HAVE
13 SOME GUIDANCE THERE FROM EITHER HIS DOCTORS TO
14 BE FORCED INTO MORE REGULAR TREATMENT AROUND HIS
15 ALCOHOL AND DRUG AND FORCED INTO TAKING HIS
16 MEDICATIONS ON A REGULAR BASIS.

17 Q. OR PERHAPS MORE ASSISTANCE FROM HIS FAMILY IN
18 TRYING TO URGE THAT, TOO; WOULD THAT BE FAIR?

19 A. I THINK FAMILY IS IMPORTANT TO HAVE THAT; YEAH,
20 I THINK FAMILY IS IMPORTANT.

21 Q. AND YOU HAD INDICATED THAT AS FAR AS THE
22 ASSISTANCE FROM THE FAMILY, THAT THAT COULD BE
23 PERCEIVED BY A PATIENT -- YOU KNOW, WHEN YOU
24 WENT THROUGH THE LIST OF THE BEST COURSE OF
25 TREATMENT.

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2725

1 A. RIGHT.

2 Q. A PATIENT COULD CONSIDER FAMILY MEMBERS OR YOU
3 OR I AS PRESSURING THEM OR RAGGING ON THEM OR
4 PUSHING THEM TO TRY TO GET TREATMENT. IS THAT A
5 FAIR STATEMENT?

6 A. SURE.

7 Q. OKAY. YOU HAD INDICATED, AND AGAIN I APOLOGIZE
8 FOR KIND OF MOVING AROUND IN YOUR TESTIMONY, YOU
9 WERE TALKING ABOUT COCAINE AND YOU WERE TALKING
10 ABOUT THE MRI, I WANTED TO UNDERSTAND, YOU SAID
11 IT ALMOST MAKES -- COCAINE, IS IT LIKE MESSING
12 UP YOUR, YOU SAID LITTLE ---

13 A. SWISS CHEESE?

14 Q. YEAH, LITTLE SPOTS IN THE BRAIN OR SOMETHING?

15 A. SMALL MICRO-TYPE STROKE.

16 Q. ALMOST LIKE LITTLE HEMORRHAGES OR SOMETHING.
17 OKAY, AND WHAT'S THAT CAUSED FROM?

18 A. IN COCAINE IT'S CAUSED FROM HIGH BLOOD PRESSURE
19 WHERE LITTLE BLOOD VESSELS WILL POP.

20 A LARGE NUMBER OF PEOPLE DIE ON THE SPOT FROM
21 COCAINE USE BECAUSE IT CAUSES A RUPTURE OF THEIR
22 BLOOD VESSEL.

23 Q. OKAY.

24 A. A LOT OF PEOPLE DIE FROM COCAINE.

25 Q. OKAY. AND TO YOUR KNOWLEDGE RITALIN DOES THE

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2726

1 SAME TYPE THING?

2 A. I DON'T KNOW. I DON'T KNOW.

3 Q. YOU'VE BEEN USING COCAINE AS YOUR EXAMPLE.

4 A. RIGHT.

5 Q. AND YOU'RE SAYING RITALIN IS SIMILAR TO COCAINE.

6 A. RIGHT.

7 Q. BUT SELECTIVELY, THERE ARE SOME THINGS THAT
8 RITALIN IS LIKE BUT THE REST YOU JUST DON'T KNOW
9 ABOUT?

10 A. I'LL HAVE TO REFRESH MY MEMORY ON THAT BECAUSE I
11 THINK I SPECIFICALLY SAID THAT I WASN'T SURE IF
12 RITALIN DID THAT, BUT WE WOULD JUST KIND OF
13 GUESS THAT IT COULD POSSIBLY CAUSE THAT PROBLEM
14 AS FAR AS THE MICROSCOPIC STROKES ON THE MRI AS
15 FAR AS AFFECTING THE FRONTAL LOBE THOUGH IT
16 CLEARLY CAUSES PEOPLE TO HAVE PROBLEMS WITH
17 DECISION MAKING.

18 NOW, WHETHER THAT'S JUST INTERFERENCE,
19 ELECTRICAL NOISE OR INTERFERENCE GOING ON THERE
20 OR WHETHER IT'S LACK OF BLOOD GETTING THERE OR
21 LACK OF OXYGEN GETTING THERE, I DON'T KNOW, BUT
22 PEOPLE DO HAVE PROBLEMS MAKING GOOD DECISIONS
23 WHEN THEY ARE HIGH ON STIMULANTS.

24 Q. OKAY. SO, THE FACT THAT HE HAS A PERFECTLY
25 CLEAN MRI WOULDN'T CHANGE YOUR OPINION ANY FROM

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2727

1 WHAT YOU'VE TOLD THIS JURY TODAY; IS THAT
2 CORRECT?

3 A. I'M NOT AN EXPERT IN MRI'S FOR SURE. AND I
4 THINK I QUALIFIED THAT.

5 Q. BUT THAT WOULD BE SOMETHING YOU'D CERTAINLY WANT
6 TO CONSIDER.

7 A. YOU'D WANT SOMEONE TO LOOK AT HIS MRI AND SEE IF
8 THERE IS ANYTHING BAD THERE, YEAH.

9 Q. THANK YOU, SIR. I HAVE ONE MORE QUESTION ABOUT
10 THE THING ABOUT COCAINE AND IT'S JUST LIKE
11 RITALIN. WE'RE SAYING IT'S LIKE RITALIN AND
12 IT'S NOT LIKE RITALIN AND IT'S STRONGER AND IT'S
13 NOT. RITALIN, I THINK YOU EXPLAINED, AND I
14 APOLOGIZE, YOU EXPLAINED ONE TIME TALKING ABOUT
15 KIDS AND GIVING IT TO THEM AND IRONICALLY IT
16 ALMOST SLOWS THEM DOWN; IS THAT CORRECT?

17 A. YES.

18 Q. WHY DON'T THEY GIVE KIDS COCAINE?

19 A. WHY DO THEY GIVE -- WHY DON'T THEY?

20 Q. IF IT'S THE SAME AS RITALIN AND VICE VERSA, WHY
21 DON'T THEY PRESCRIBE COCAINE FOR KIDS AT SCHOOL?

22 A. A COUPLE OF REASONS. ONE WOULD BE THE ABUSE
23 POTENTIAL.

24 Q. SO, COCAINE HAS MORE OF AN ABUSE POTENTIAL THAN
25 RITALIN?

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2728

1 A. IT HAS A HIGH ABUSE POTENTIAL. THE SECOND
2 REASON IS TAKEN ORALLY IT DOESN'T WORK VERY
3 WELL, WE HAVE ENZYMES IN OUR BODY THAT BREAK THE
4 COCAINE DOWN SUCH THAT HARDLY ANY GETS IN THERE.
5 SO, YOU MIGHT HAVE TO TAKE A HUNDRED TIMES TO
6 GET THE EFFECT. SO, IF YOU HAVE ENOUGH MONEY
7 AND YOU WANT TO USE A THOUSAND DOLLARS WORTH OF
8 COCAINE TO GET A TEN DOLLAR COCAINE HIGH, YOU
9 COULD DO THAT.

10 THE ENZYME ISSUE IS IMPORTANT BECAUSE PEOPLE ARE
11 WORKING ON AN ENZYME TO VACCINATE PEOPLE -- I
12 DON'T KNOW IF YOU HAVE ANY KIDS, BUT IT MIGHT BE
13 JUST LIKE YOU GET MUMPS, MEASLES AND SUCH,
14 VACCINATIONS, THAT ONE DAY YOUR KID WILL GET A
15 COCAINE VACCINATION. AND WHAT THAT WILL DO BY
16 THE TIME THEY ARE BIG ENOUGH THAT IF THEY USE
17 COCAINE, IT WILL DESTROY THE DRUG BEFORE IT
18 WORKS. THAT'S IN THE BLOOD; THAT HAPPENS IN THE
19 STOMACH NOW. SO, PEOPLE CAN SWALLOW COCAINE BUT
20 IT DOESN'T DO ANY GOOD. PEOPLE SWALLOW RITALIN
21 AND IT DOES GET IN THE BLOOD AND IT GETS IN
22 THERE SLOWLY.

23 IF YOU SNORT COCAINE, IT GETS IN THERE FAIRLY
24 QUICKLY. AND JIMMY INDICATED TO ME THAT THE
25 EFFECT THAT HE GETS FROM SNORTING COCAINE IS

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2729

1 ESSENTIALLY THE SAME AS USING -- COCAINE AND
2 RITALIN ARE ESSENTIALLY THE SAME, IT'S JUST A
3 MATTER OF A TWO MINUTE ONSET.

4 SO, THE EFFECT THAT HE GETS IS THE SAME, IT'S
5 JUST NOT AS QUICK.

6 Q. IS IT FAIR TO SAY -- WHAT YOU'RE SAYING IS THE
7 HIGH, THE BUZZ IS THE SAME BETWEEN RITALIN AND
8 COCAINE; IS THAT CORRECT?

9 A. IT CAN BE IF YOU SNORT IT OR IF YOU INJECT IT.

10 Q. OKAY. YOU HAD GONE THROUGH TALKING ABOUT
11 AMPHETAMINE INTOXICATION, AGAIN YOU'RE EQUATING
12 THAT TO RITALIN INTOXICATION; IS THAT CORRECT?

13 A. YES, SIR, BASED ON DSM-4 THEY USE IT IN THE SAME
14 BREATH THERE; AS THEY SAY, ON THE SAME PAGE
15 YOU'VE GOT IT THERE. IT SAYS E.G.
16 METHYLPHENIDATE WHEN IT TALKS ABOUT AMPHETAMINE
17 INTOXICATION.

18 Q. AND YOU WERE TALKING ABOUT INTOXICATION AND
19 PSYCHOSIS I THINK AND I HAVE IN MY NOTES THAT
20 YOU HAD INDICATED THAT PART OF IT WAS THAT JIMMY
21 WAS WORRIED ABOUT HE WAS GOING TO TURN ON
22 HIMSELF?

23 A. RIGHT.

24 Q. AND YOU GOT THAT FROM TALKING TO HIM ALSO?

25 A. TALKING TO HIM ABOUT THAT EXPERIENCE BECAUSE I

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2730

1 ASKED HIM SPECIFICALLY DOING A DRUG HISTORY,
2 WHAT DID YOU TAKE THAT NIGHT, HOW OFTEN WERE YOU
3 TAKING IT, WHAT WERE THE EFFECTS. NO LEADING
4 QUESTIONS SPECIFICALLY ASKING FOR SYMPTOMS AND
5 THOSE WERE THE SYMPTOMS THAT HE TOLD ME ABOUT,
6 PARANOIA, WHAT I WOULD CONSIDER HALLUCINATIONS
7 IN THE CONTEXT OF SEEING HIS FACE CHANGE AS WELL
8 AS BEING OUTSIDE OF HIS BODY, A
9 DEPERSONALIZATION. SOMETHING THAT I GUESS HE
10 COULD HAVE INHERITED FROM HIM MOM BECAUSE HIS
11 MOM ALSO EXPERIENCED THAT AT TIMES ALSO AND THAT
12 MIGHT BE PART OF HER BIPOLAR DISORDER ALSO. BUT
13 PEOPLE DO EXPERIENCE DEPERSONALIZATION WHEN THEY
14 ARE VERY FRIGHTENED AND VERY PANICKY AND ARE
15 PSYCHOTIC. THEY CAN SEE THEMSELVES OUTSIDE OF
16 THEIR BODY.

17 Q. AND AGAIN IN RELATING THAT, THIS WAS RELATED TO
18 YOU AT THE BEGINNING OF THIS MONTH; IS THAT
19 CORRECT?

20 A. THIS?

21 Q. THIS WHOLE THING WITH JIMMY ---

22 A. I TALKED TO HIM ON THE 11TH, THAT'S WHEN I GOT
23 THAT.

24 Q. YES, SIR.

25 A. RIGHT. WHEN I WAS FIRST INVOLVED WITH THIS WAS

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2731

1 RIGHT AT THE FIRST OF MARCH, THE FIRST PART OF
2 MARCH.

3 (AFTER A PAUSE.)

4 A. IT WAS FORTUNATELY EASY FOR ME TO MAKE A
5 TRANSITION BECAUSE I HAD JUST COME BACK FROM A
6 NATIONAL MEETING WHERE I WAS TALKING ABOUT THE
7 EFFECTS OF COCAINE. I THINK THE TITLE WAS "WHY
8 PEOPLE DO THE THINGS THEY DO", AND A LOT OF THE
9 SLIDES THAT I USED ---

10 THE COURT: JUST WAIT; HE'LL ASK YOU A QUESTION.

11 A. OKAY.

12 Q. SIR, I WANTED TO ASK YOU ABOUT THE CHART THAT
13 YOU PREPARED.

14 A. YES, SIR.

15 Q. AGAIN, YOU PREPARED THIS BASED ON WHAT JIMMY
16 TOLD YOU AND ON REVIEWING THE MEDICATIONS AND
17 THE DOCTORS, RIGHT?

18 A. I BASED IT PRIMARILY ON THE MEDICAL RECORDS
19 ABOUT -- PROBABLY EIGHT TO NINE MEDICAL
20 PRACTITIONERS, THEIR RECORDS, THEIR DIAGNOSES.
21 THE ONLY THING I BASED ON JIMMY'S PRESENTATION
22 THERE WAS MAYBE O.C.D., MAYBE HE'S GOT OBSESSIVE
23 COMPULSIVE DISORDER.

24 Q. SO, THE REST OF THIS STUFF COMES FROM THE
25 DOCTORS' NOTES. SO, IF WE'RE TALKING ABOUT THE

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2732

1 DOCTOR YOU SAID THAT WASN'T DOING A GOOD JOB, I
2 MEAN HE MIGHT HAVE DIAGNOSED HIM FOR ALL KIND OF
3 THINGS THAT WEREN'T ACCURATE DIAGNOSES.

4 A. THAT'S POSSIBLE.

5 Q. SO ALL YOU REALLY HAVE HERE IS A COMPILATION OF
6 WHAT YOU'VE SEEN THAT DIFFERENT PEOPLE SAY MIGHT
7 BE THE CASE, AND I THINK YOU GOT ON ME WHEN I
8 SAID "PROBABLY", BUT ---

9 A. WHAT'S THERE ---

10 Q. I'M SORRY, SIR, IF YOU WOULD ANSWER MY QUESTION
11 AND THEN YOU CAN EXPLAIN.

12 A. WHAT WAS THE QUESTION.

13 MR. BOYD: YOUR HONOR, I BELIEVE HE CAN EXPLAIN
14 HIS ANSWER.

15 THE COURT: HE HASN'T EVEN ASKED HIM THE QUESTION
16 YET. LET HIM FINISH THE QUESTION.

17 Q. WHEN I ASKED EARLIER ABOUT "PROBABLY" AND YOU
18 HAD INDICATED THAT'S WHAT THE DOCTORS' NOTES HAD
19 SAID, "PROBABLY", IS THAT CORRECT?

20 A. FOR ONE DIAGNOSIS.

21 Q. SO EVERYTHING ELSE IS EITHER A CONCRETE
22 DIAGNOSIS BUT MAY BE BY A DOCTOR THAT YOU DON'T
23 PUT A LOT OF STOCK IN; IS THAT A FAIR STATEMENT?

24 A. SOME OF THOSE, THAT'S CORRECT.

25 Q. I BELIEVE I'M ABOUT TO FINISH UP. SO, YOU'VE

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2733

1 REVIEWED THE MATERIALS, YOU'VE REVIEWED THE
2 PRESCRIPTION INFORMATION AND YOU TALKED TO HIM
3 FOR APPROXIMATELY AN HOUR AND A HALF ONE TIME;
4 IS THAT CORRECT?

5 A. YES, SIR.

6 Q. AND BASED ON THAT, YOU HAVE DETERMINED WHAT
7 HAPPENED THAT NIGHT IN NOVEMBER; IS THAT
8 CORRECT?

9 A. I BASED THAT ON PROBABILITIES. I BASED THOSE
10 DIAGNOSES ON THREE OR FOUR DOCTORS MAKING THOSE
11 DIAGNOSES. SO, WHEN HE COMES WITH A DIAGNOSIS
12 OF BIPOLAR DISORDER, IT'S COMING FROM ABOUT FOUR
13 DIFFERENT PHYSICIANS, NOT ONE PHYSICIANS, BUT IT
14 IS CONSISTENTLY SHOWING UP.

15 SO, SOME OF THOSE DIAGNOSES ARE BASED ON ONE
16 PERSON BUT SOME OF THEM ARE BASED ON A NUMBER OF
17 PEOPLE. I SAW HIM FOR ABOUT AN HOUR AND A HALF
18 WHICH IS GENERALLY THE AMOUNT OF TIME THAT WE
19 WOULD SPEND DOING AN INITIAL SCREEN WITH SOMEONE
20 TO SEE WHAT THEY HAVE. PRIMARILY JUST DISCUSSED
21 WITH HIM HIS BIPOLAR DISORDER AND HIS SUBSTANCE
22 USE DISORDERS.

23 Q. OKAY, BUT YOU ARE TELLING US TODAY THAT YOU HAD
24 AMPHETAMINE INTOXICATION OR THE EQUIVALENT OF
25 THAT; IS THAT CORRECT?

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2734

1 A. YES.

2 Q. AND YOU ARE NOT A PHYSICIAN; IS THAT CORRECT?

3 A. I AM NOT A PHYSICIAN.

4 Q. AND THE SUM TOTAL OF THE NOTES THAT YOU TOOK
5 THAT DAY TO ARRIVE AT THIS DECISION CONCERNING
6 HIM ARE TWO PAGES; IS THAT CORRECT?

7 A. THAT'S CORRECT.

8 Q. OKAY. SO, FINALLY YOU HAD INDICATED THAT THERE
9 IS NOT A GREAT DEAL, AND I THINK YOU SAID THIS
10 ONCE OR TWICE, THERE WASN'T A GREAT DEAL OF PEER
11 REVIEW ARTICLES OUT THERE ABOUT THE WHOLE
12 RITALIN ABUSE, RITALIN PSYCHOSIS THAT WOULD
13 CAUSE SOMEBODY TO DO THIS.

14 A. NO, SIR, I DID NOT SAY THAT. COULD I SAY WHAT I
15 DID SAY?

16 Q. OH, YES, SIR.

17 A. I SAID THERE WAS NOT A GREAT DEAL OF INFORMATION
18 ABOUT INTRANASAL ABUSE OF METHYLPHENIDATE.
19 THERE'S A TRUCK LOAD OF INFORMATION ABOUT ABUSE
20 OF METHYLPHENIDATE TAKEN INTRAVENOUSLY AS WELL
21 AS TAKEN ORALLY, BUT THERE'S ONLY TWO REPORTS IN
22 THE LITERATURE OF PEOPLE SNORTING IT.

23 Q. SIR, YOU INDICATED THAT YOU -- THAT MAYBE YOU OR
24 ONE OF YOUR ASSISTANTS NEEDED TO WRITE AN
25 ARTICLE ON THIS; IS THAT CORRECT, ON JIMMY'S

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2735

1 CASE I THINK YOU SAID.

2 A. NEEDED?

3 Q. SIR?

4 A. NEEDED? I WILL NEVER WRITE AN ARTICLE ON JIMMY
5 AND PROBABLY NO ONE ELSE WILL. WHY I WAS SAYING
6 THAT WAS THAT WHAT'S IN THE LITERATURE DOES NOT
7 NECESSARILY REFLECT WHAT'S HAPPENING IN REAL
8 LIFE AND NO ONE'S GOING TO WRITE AN ARTICLE
9 ABOUT HIM UNLESS YOU DO.

10 MR. POPE: YOUR HONOR, I OBJECT TO HIM BEING
11 ARGUMENTATIVE, BUT ---

12 A. OKAY.

13 Q. MY QUESTION AGAIN, SIR, DID YOU NOT TELL THIS
14 JURY THAT PERHAPS YOU OR ONE OF YOUR ASSISTANTS
15 OUGHT TO WRITE AN ARTICLE ON THIS. DID YOU NOT
16 SAY THAT, SIR?

17 A. I THINK I DID, OUGHT TO, BUT I CAN TELL YOU NOW
18 I'M NOT.

19 Q. OKAY AND CERTAINLY IF THE JURY DOESN'T BUY THIS
20 INTOXICATION ARGUMENT, THEN THERE WILL BE NO
21 NEED FOR THAT ARTICLE; IS THAT CORRECT?

22 MR. HANCOCK: YOUR HONOR, I OBJECT.

23 THE COURT: I OVERRULE YOUR OBJECTION.

24 Q. I MEAN THE TRUTH OF THE MATTER IS IF JIMMY'S
25 CASE IS NOT ONE OF RITALIN INTOXICATION, IF

2736

1 INSTEAD JIMMY CHOSE TO KILL HIS PARENTS FOR THE
2 MONEY AND RITALIN IS JUST A BY-PRODUCT OF IT,
3 THEN THERE WOULD BE NO NEED FOR THAT ARTICLE,
4 WOULD IT?

5 A. I THINK THAT'S SOMETHING THAT THESE PEOPLE ARE
6 GOING TO HAVE TO CONSIDER. HOPEFULLY THEY ARE
7 GOING TO CONSIDER ALL THE ISSUES THAT CAME UP.
8 AND HOPEFULLY I'VE EDUCATED THEM SOME ABOUT
9 BIPOLAR DISORDER, SUBSTANCE ABUSE DISORDER ---

10 MR. POPE: YOUR HONOR, I APOLOGIZE, BUT IF HE
11 WOULD ANSWER MY QUESTION, THEN CERTAINLY HE CAN EXPLAIN.

12 THE COURT: GO AHEAD AND ANSWER THE QUESTION.

13 A. I DON'T KNOW WHAT THE QUESTION WAS.

14 MR. POPE: YOUR HONOR, I HAVE NO FURTHER
15 QUESTIONS.

16 THE COURT: ALL RIGHT. ANY REDIRECT?

17 MR. BOYD: NO FURTHER QUESTIONS.

18 THE COURT: ALL RIGHT, YOU CAN STEP DOWN AND BE
19 EXCUSED. THANK YOU FOR YOUR TIME.

20 MEMBERS OF THE JURY PANEL, IT IS LATER THAN WE
21 USUALLY WORK. WE HAVE ONE SHORT WITNESS I'M TOLD, IN
22 LAWYER'S TERM SHORT WITNESS, AND THEN WE'LL STOP FOR THE
23 EVENING.

24 ALL RIGHT, CALL YOUR WITNESS.

25 MR. BRACKETT: YOUR HONOR, WE JUST GOT THIS AND

1 I DON'T ---

2 MR. HANCOCK: Y'ALL HAVE HAD IT; WE GOT IT FROM
3 Y'ALL.

4 MR. BRACKETT: BUT WE DON'T KNOW THAT HE'S GOING
5 TO PUT THIS IN UNTIL HE GIVES IT TO US. I MEAN WE'VE GOT
6 ---

7 THE COURT: LET ME LET YOU GO TO THE JURY ROOM
8 FOR JUST A MINUTE.

9 IN CAMERA:

10 THE COURT: MR. BRACKETT, ARE YOU TELLING ME THAT
11 YOU ARE SEEING THIS FOR THE FIRST TIME?

12 MR. BRACKETT: NO, SIR, YOUR HONOR, THAT'S NOT
13 THE ISSUE. UNDOUBTEDLY I HAVE THIS; I REALLY CAN'T SAY OFF
14 THE TOP OF MY HEAD. ALL I WOULD LIKE IS ENOUGH OPPORTUNITY
15 TO LOOK AT THIS AND SAY DO I HAVE AN OBJECTION TO IT. I
16 MEAN I HAVE FOUR VOLUMES OF STUFF BUT NOT ALL OF IT IS
17 ADMISSIBLE. I DON'T KNOW IF THIS IS RELEVANT. I MEAN I
18 GET IT IN TWO MINUTES AND I'VE GOT 25 PAGES OF STUFF TO
19 LOOK THROUGH TO SEE WHETHER I HAVE A RELEVANCY OBJECTION.
20 I CAN'T MAKE THAT DECISION.

21 HE'S GOING TO CALL THIS WITNESS IN HERE AND WE'RE
22 SUPPOSED TO DECIDE THAT IN FIVE MINUTES? IT'S NOT FAIR.

23 THE COURT: ALL RIGHT, WE WILL LET YOU ---

24 MR. HANCOCK: YOUR HONOR, WE HAVE THE SAME
25 OBJECTION. THEY DID THE SAME THING TO US YESTERDAY AND

2738

1 PULLED OUT RECORDS THAT WERE SELECTIVE AND BECAUSE WE
2 DIDN'T HAVE A CHANCE TO REVIEW THEM AND MAYBE WE SHOULD
3 HAVE MADE AN OBJECTION, WE HAD TO BRING THE GENTLEMAN BACK.
4 SO, YOU KNOW, IT'S GOOSE AND GANDER I THINK.

5 THE COURT: IS THIS THE SAME WITNESS THAT Y'ALL
6 CALLED YESTERDAY?

7 MR. BRACKETT: MR. STOBBE.

8 THE COURT: IT IS?

9 MR. BRACKETT: I BELIEVE IT IS.

10 MR. HANCOCK: YES, SIR.

11 THE COURT: CALL HIM THEN. I'M GOING TO BRING
12 THE JURY BACK IN. IF YOU'VE ALREADY HAD HIM UP ON THE
13 STAND ONE TIME, I'M NOT GOING TO GIVE YOU AN OPPORTUNITY TO
14 GO THROUGH ALL THAT STUFF.

15 MR. BRACKETT: THIS IS NOT THE SAME RECORDS.
16 THIS IS SOME OTHER RECORDS FROM, YOU KNOW, ANOTHER BRANCH.
17 WE KNEW WHAT WE WERE GOING TO PUT UP, IF THEY HAD AN
18 OBJECTION, THEY COULD HAVE OBJECTED YESTERDAY. THEY JUST
19 DROP THIS ON OUR DESK AND EXPECT US TO DECIDE WHETHER IT'S
20 RELEVANT, ADMISSIBLE, HEARSAY OR BASED ON SOMETHING -- HOW
21 CAN BE DECIDE THAT IN TWO MINUTES.

22 MR. HANCOCK: IF I MAY ARGUE, IT'S THEIR
23 DEPARTMENT OF CORRECTION RECORDS GIVEN TO US AS
24 AUTHENTICATED FROM THE DEPARTMENT OF CORRECTIONS AS
25 DISCOVERY TO US. AND THEY'RE SAYING IT'S HEARSAY?

1 MR. BRACKETT: AM I TO BE RESPONSIBLE FOR EVERY
2 STATE DEPARTMENT AGENCY AND EVERY RECORD ON MR. ROBERTSON
3 THAT'S EVERYWHERE?

4 I MEAN I AGREE THAT THIS MAY VERY WELL BE
5 RELEVANT. ALL I'M ASKING FOR IS THE TIME TO LOOK AND SAY
6 DO I HAVE AN OBJECTION TO THIS.

7 THEY CAN'T CULL SELECT DOCUMENTS, THROW THEM ON
8 THE DESK AND EXPECT ME TO DECIDE IN THE TIME THAT IT TAKES
9 HIM TO WALK IN HERE AND TAKE THE STAND WHETHER OR NOT I'VE
10 GOT AN OBJECTION TO THIS.

11 I MEAN I MAY VERY WELL NOT, BUT I DON'T KNOW AND
12 YOU'RE GOING TO BE SITTING THERE AND THE JURY IS GOING TO
13 BE SITTING THERE AND I'M GOING TO BE LOOKING THROUGH TRYING
14 TO FIGURE OUT IS THERE A PROBLEM, IS THERE SOMETHING IN
15 HERE.

16 THERE ARE THINGS THAT ARE HIGHLIGHTED IN THIS.
17 THAT'S ONE OBJECTION THAT I HAVE. DO THEY HAVE CLEAN
18 COPIES?

19 THE COURT: HOW LONG DO YOU NEED.

20 MR. BRACKETT: ONLY FIVE MINUTES. I HATE TO SAY
21 IT, BUT IT'S NOT A WHOLE LOT OF TIME.

22 THE COURT: ALL RIGHT, GO AHEAD.

23 AFTER THE BREAK IN CAMERA:

24 MR. HANCOCK: ALL RIGHT, LET'S MAKE SURE
25 EVERYBODY'S GOT THEIR COPIES. THIS IS A PLAIN COPY TO GO

2740

1 INTO EVIDENCE.

2 THE COURT: BRING IN THE JURY.

3 IN THE PRESENCE OF THE JURY:

4 THE COURT: CALL YOUR NEXT WITNESS.

5 MR. HANCOCK: THE DEFENSE WOULD CALL MICHAEL
6 STOBBE.

7 MICHAEL J. STOBBE, BEING FIRST DULY SWORN,
8 TESTIFIED AS FOLLOWS:

9 DIRECT EXAMINATION BY

10 MR. HANCOCK:

11 Q. STATE YOUR NAME FOR THE RECORD.

12 A. MICHAEL JOHN STOBBE.

13 Q. AND YOU'VE ALREADY SPELLED IT.

14 A. I IMAGINE SO.

15 Q. ALL RIGHT, SIR, AND WHAT IS YOUR POSITION?

16 A. I'M THE BRANCH CHIEF FOR RELEASE AND DOCUMENT
17 PROCESSING WITH THE INMATE RECORDS OFFICE.

18 Q. AND ARE YOU THE KEEPER OF THE RECORDS FOR SOUTH
19 CAROLINA?

20 A. YES, SIR.

21 Q. AT THE DEPARTMENT OF CORRECTIONS.

22 A. YES, SIR.

23 Q. YOU HAVE BEFORE YOU CERTAIN RECORDS IN YOUR
24 HAND; IS THAT CORRECT?

25 A. YES, SIR.

MICHAEL J. STOBBE - DIRECT BY MR. HANCOCK

2741

1 Q. AND I'M REFERRING TO THE RECORDS OF 9-3-96,
2 WE'LL START WITH THE FIRST PAGE, SOUTH CAROLINA
3 DEPARTMENT OF CORRECTIONS; IS THAT CORRECT?

4 A. DID YOU SAY 9-3, SIR?

5 Q. I'LL GIVE YOU THAT COPY. IT'S A SHEET THAT'S
6 DATED 9-3-96.

7 A. YES, SIR, THIS ONE IS DATED 9-3-96.

8 Q. AND IS THAT IDENTIFIED AS THE MEDICAL SCREEN OF
9 JAMES ROBERTSON?

10 A. IT'S A DEPARTMENT OF CORRECTIONS FORM 2411.

11 Q. AND WHAT DOES THAT REFLECT AS FAR AS THE MEDICAL
12 SCREEN?

13 A. IT INDICATES A DIAGNOSIS AND A LISTING OF MENTAL
14 AND PHYSICAL ATTRIBUTES OF THE INMATE, JAMES
15 ROBERTSON.

16 Q. AND WHAT WAS THE DIAGNOSIS PER THE SOUTH
17 CAROLINA DEPARTMENT OF CORRECTIONS?

18 A. BIPOLAR MANIC DEPRESSANT DISORDER.

19 Q. ALL RIGHT, SIR. AND NOW I REFER, AS YOU GO
20 THROUGH THERE, TO A DOCUMENT OF 9-19-96.

21 A. YES, SIR.

22 Q. THAT'S FROM DR. ED BRADLEY?

23 A. YES, SIR.

24 Q. AND WHAT IS UNDER HIS REMARKS?

25 A. HISTORY OF BIPOLAR DISEASE. IT NOTES THAT HE'S

MICHAEL J. STOBBE - DIRECT BY MR. HANCOCK

2742

1 NOT CAPABLE OF RIGOROUS PHYSICAL ACTIVITY.

2 Q. AND AS YOU GO THROUGH THESE RECORDS, ARE THESE
3 ACTUAL MEDICAL RECORDS OF JIMMY ROBERTSON?

4 A. YES, SIR, VARIOUS FORMS FOR VARIOUS PURPOSES.
5 PHYSICIAN NOTES, COUNSELOR NOTES.

6 Q. BUT HE IS DIAGNOSED IN '96 BY THE DEPARTMENT OF
7 CORRECTIONS WITH BIPOLAR DISEASE; IS THAT
8 CORRECT, SIR?

9 A. YES, SIR.

10 MR. HANCOCK: YOUR HONOR, I WOULD MOVE THESE INTO
11 EVIDENCE.

12 THE COURT: ANY OBJECTION?

13 MR. BRACKETT: NO, YOUR HONOR.

14 THE COURT: RECEIVED WITHOUT OBJECTION.

15 MR. HANCOCK: I'M GOING TO MAKE SURE THIS IS A
16 CLEAN COPY.

17 (THE MEDICAL RECORDS FROM THE DEPARTMENT OF CORRECTIONS WAS
18 MARKED IN EVIDENCE AS DEFENDANT'S EXHIBIT 16 WITHOUT
19 OBJECTION.)

20 Q. YOU HAVE ANOTHER PACKET IN YOUR HAND, I BELIEVE?

21 A. YES, SIR.

22 Q. AND ON YOUR TOP PAGE, I BELIEVE, IS FOR
23 IDENTIFICATION; ON THE RIGHT-HAND SIDE IT HAS 3-
24 4-99; IS THAT CORRECT, SIR?

25 A. YES, SIR.

MICHAEL J. STOBBE - DIRECT BY MR. HANCOCK

2743

- 1 Q. AND THE DOCUMENT IS ACTUALLY GENERATED -- IF YOU
2 WILL GO DOWN TO THE LEFT IT SAYS ENCOUNTER, IT
3 HAS STARS BY IT?
- 4 A. YES, SIR.
- 5 Q. WOULD THAT INDICATE THAT THE DOCUMENT IS
6 GENERATED ON 12-22-98, DECEMBER 22, 1998?
- 7 A. THAT IS CORRECT; THIS IS AN AUTOMATED COMPUTER
8 GENERATED MEDICAL HISTORY.
- 9 Q. ALL RIGHT. AND IS THIS THE MEDICAL HISTORY OF
10 JIMMY ROBERTSON?
- 11 A. JAMES D. ROBERTSON; YES, SIR.
- 12 Q. JAMES D. AND ON THE PAGE THAT I HAVE JUST
13 INDICATED, WHAT DOES THAT RECORD INDICATE AS FAR
14 AS HIS TREATMENT IN THE DEPARTMENT OF
15 CORRECTIONS AND HIS RESPONSE TO THAT TREATMENT?
- 16 A. (NO RESPONSE)
- 17 Q. DOES IT DESCRIBE HIS SITUATION THERE? LET'S
18 MOVE ON THROUGH THIS.
- 19 A. IT BASICALLY INDICATES THE MEDICATIONS THAT HE
20 IS OR IS NOT ON.
- 21 Q. AND IT INDICATES ALSO THAT HE IS SEEING
22 ENCOUNTER GROUPS; IS THAT CORRECT?
- 23 A. YES, HE'S IN A GROUP THERAPY GROUP.
- 24 Q. AND IS THAT SEEN THROUGHOUT THESE RECORDS, SIR?
- 25 A. YES, SIR, I'VE READ EACH OF THE 24 PAGES AND

MICHAEL J. STOBBE - DIRECT BY MR. HANCOCK

2744

1 THROUGHOUT HIS INCARCERATION HE HAS PARTICIPATED
2 IN VARIOUS GROUP THERAPY AND INDIVIDUAL
3 COUNSELING SESSION.

4 Q. OKAY, AND THAT'S HIS INCARCERATION SINCE JULY OF
5 1998; IS THAT CORRECT?

6 A. YES, SIR, IT'S 1998. IF YOU'LL GIVE ME A
7 SECOND, JULY SOUNDS ABOUT RIGHT.

8 Q. OKAY, SIR.

9 A. YES, SIR, IT BEGINS IN MAY OF 1998.

10 Q. MAY OF 1998?

11 A. YES, SIR.

12 Q. AND THIS DESCRIBES AN INMATE THAT IS RECEIVING
13 TREATMENT FOR A BIPOLAR DISEASE AS DIAGNOSED BY
14 THE DEPARTMENT OF CORRECTIONS. IS THAT CORRECT,
15 SIR?

16 A. THAT IS CORRECT, SIR.

17 Q. AND IT APPEARS THAT HE IS RESPONDING TO THAT
18 TREATMENT?

19 A. YES, SIR.

20 Q. AND DOING WELL?

21 A. YES, SIR.

22 MR. HANCOCK: WE WOULD OFFER THESE INTO EVIDENCE.

23 THE COURT: ANY OBJECTION?

24 MR. BRACKETT: NO OBJECTION, YOUR HONOR.

25 THE COURT: IT'S RECEIVED WITHOUT OBJECTION.

MICHAEL J. STOBBE - DIRECT BY MR. HANCOCK

2745

1 (THE RECORDS FROM THE DEPARTMENT OF CORRECTIONS WERE MARKED
2 IN EVIDENCE AS DEFENDANT'S EXHIBIT 17 WITHOUT OBJECTION.)

3 Q. NOTHING FURTHER, YOUR HONOR.

4 THE COURT: CROSS?

5 MR. BRACKETT: JUST BRIEFLY, YOUR HONOR.

6 MR. HANCOCK: IF I MAY. I'M SORRY TO INTERRUPT,
7 BUT I HAVE HANDED -- YOUR HONOR, HE WAS NOT ALLOWED TO --
8 WE DIDN'T PUT IN THE ORIGINAL, THEY WERE MARKED ON, SO WE
9 PUT IN A CLEAN COPY FOR THE RECORD.

10 MR. BRACKETT: NO OBJECTION.

11 CROSS EXAMINATION BY

12 MR. BRACKETT:

13 Q. MR. STOBBE, DO YOU HAVE THE WHOLE RECORD HERE
14 WITH YOU TODAY FOR MR. ROBERTSON? OR WERE YOU
15 JUST ASKED TO BRING UP SELECT RECORDS?

16 A. I WAS GIVEN THESE BY DEFENSE COUNSEL.

17 Q. BUT THOSE ARE TRUE AND ACCURATE COPIES?

18 A. OH, YES, THEY CERTAINLY ARE DEPARTMENT OF
19 CORRECTIONS DOCUMENTATION, YES.

20 Q. WELL, MR. STOBBE, YOU'RE NOT AWARE BY ANY CHANCE
21 OF ANY DRUG AND ALCOHOL REHABILITATION TREATMENT
22 THE DEFENDANT WAS GIVEN WHILE HE WAS IN THE
23 SOUTH CAROLINA DEPARTMENT OF CORRECTIONS FOR HIS
24 1996 BURGLARY FOR THAT FIRST YEAR, WERE YOU?
25 YOU DON'T KNOW THAT OFF OF THE TOP OF YOUR HEAD,

MICHAEL J. STOBBE - CROSS BY MR. BRACKETT

2746

1 DO YOU?

2 A. NOT OFF THE TOP OF MY HEAD; NO, SIR.

3 Q. MR. STOBBE, I HAVE BAD NEWS. YOU MIGHT HAVE TO

4 COME BACK. YOUR HONOR, I HAVE NO FURTHER

5 QUESTIONS BUT I WOULD ASK THAT WE RESERVE ---

6 WELL, WAIT JUST A MINUTE.

7 (AFTER A BRIEF PAUSE WHILE COUNSEL WENT THROUGH SOME
8 DOCUMENTS.)

9 MR. HANCOCK: YOUR HONOR, THEY'RE THROWING
10 SELECTED DOCUMENTS AT US, BUT WE DO NOT OBJECT TO THOSE
11 BEING ENTERED INTO EVIDENCE.

12 THE COURT: ARE THEY BEING OFFERED INTO EVIDENCE?

13 MR. BRACKETT: YES, SIR, I'M GOING TO OFFER THEM
14 INTO EVIDENCE. CAN YOU IDENTIFY THOSE DOCUMENTS?

15 A. YES, SIR. THE INITIAL DOCUMENT IS A PROGRAM
16 STATUS REVIEW, BASICALLY A CLASSIFICATION
17 DOCUMENT AND THE SECOND ONE IS AN AUTOMATED
18 SUMMARY OF THE PROGRAMS IN WHICH HE PARTICIPATED
19 IN DURING BASICALLY LATE CALENDAR YEAR '96 AND
20 EARLY TO MID 1997.

21 Q. THANK YOU. YOUR HONOR, I WOULD OFFER THOSE INTO
22 EVIDENCE. I WOULD ASK THAT THEY BE APPENDED ONE
23 TO THE OTHER AND THEN MOVED INTO EVIDENCE AS
24 STATE'S EXHIBIT 285.

25 MR. HANCOCK: WITHOUT OBJECTION.

MICHAEL J. STOBBE - CROSS BY MR. BRACKETT

2747

1 THE COURT: ENTERED WITHOUT OBJECTION.

2 (RECORDS FROM THE DEPARTMENT OF CORRECTIONS WERE ENTERED
3 INTO EVIDENCE AS STATE'S EXHIBIT 285 WITHOUT OBJECTION.)

4 MR. BRACKETT: YOUR HONOR, WE HAVE NO FURTHER
5 QUESTIONS.

6 THE COURT: REDIRECT?

7 MR. HANCOCK: NOTHING, YOUR HONOR.

8 THE COURT: MR. STOBBE, YOU CAN BE EXCUSED.
9 THANK YOU FOR YOUR TIME.

10 MEMBERS OF THE JURY PANEL, WE WILL STOP FOR THE
11 EVENING AND WE'LL START BACK AT 9:30 IN THE MORNING. WE
12 WORKED A LITTLE LATE TONIGHT BUT WE HOPE TO BE WELL ON OUR
13 PATH TOMORROW. SO, WE WILL SEE YOU AT 9:30 IN THE MORNING.
14 HAVE A PLEASANT EVENING.

15 IN CAMERA:

16 THE COURT: ANYTHING FROM THE STATE?

17 MR. POPE: YOUR HONOR, AT WHAT POINT DO YOU WANT
18 TO TRY TO GET TOGETHER FOR THE CHARGE? I KNOW WE'RE NOW
19 POSSIBLY LOOKING AT FRIDAY, MAYBE SOMETIME DURING A BREAK
20 TOMORROW?

21 THE COURT: I'LL GET TO THAT IN JUST A MINUTE.
22 ANYTHING OTHER THAN THAT?

23 MR. POPE: NO, SIR.

24 THE COURT: ANYTHING FROM THE DEFENSE?

25 MR. HANCOCK: NOTHING, YOUR HONOR.

2748

1 **THE COURT:** I THOUGHT WE WOULD BE DOING ARGUMENTS
2 AND CHARGE TOMORROW BUT I DON'T SEE ANY WAY TO DO THAT.
3 WHY DON'T WE PLAN ON MAYBE AT LUNCH SPENDING SOME TIME
4 GOING OVER CHARGES, GOING OVER STATUTORY INSTRUCTIONS,
5 GOING OVER THE -- I THINK I'VE ALREADY HANDED YOU MY CUT ON
6 THE STATUTORY INSTRUCTIONS AND VERDICT SHEETS
7 RECOMMENDATION. AND ANY OTHER ISSUES WE NEED TO GO OVER,
8 MAYBE WE CAN WORK ON THAT DURING LUNCH. BUT, YEAH, I WOULD
9 LIKE TO START PUTTING ALL THAT TOGETHER.

10 WHAT TIME DO YOU THINK YOU'LL BE THROUGH
11 TOMORROW?

12 **MR. HANCOCK:** YOUR HONOR, WE PROBABLY -- I WOULD
13 SAY -- IT'S ACCORDING TO CROSS EXAMINATION BUT MORE THAN
14 LIKELY SOMETIME AROUND 3:00 OR 4:00 TOMORROW AFTERNOON,
15 SIR. THAT'S WHAT IT LOOKS LIKE RIGHT NOW.

16 **THE COURT:** WELL, IF WE DO, WE'RE NOT GOING TO
17 ARGUE AND CHARGE AT 4:00 OR 5:00 IN THIS CASE TOMORROW
18 AFTERNOON. SO, LET'S JUST PLAN ON ARGUMENTS AND CHARGE ON
19 FRIDAY. I'D RATHER NOT SEND A TIRED JURY OUT TOMORROW. I
20 KNOW Y'ALL WANT SOME TIME TO ACCUMULATE YOUR THOUGHTS AND
21 QUITE FRANKLY, I PROBABLY NEED A LITTLE TIME -- MY CHARGE,
22 OF COURSE, IS NOT THAT LENGTHY IN THIS PHASE.

23 SO, RIGHT NOW IT LOOKS LIKE MAYBE STARTING AT
24 9:30 OR 10:00 ON FRIDAY WITH ARGUMENT AND CHARGE.

25 **MR. POPE:** YOUR HONOR, AGAIN, CALLING TO THE

1 COURT'S ATTENTION, THERE WILL BE REPLY TESTIMONY, PROBABLY
2 NOT EXTENSIVE, BUT I JUST WANTED TO TELL YOU.

3 THE COURT: WELL, HOPEFULLY WE CAN GET THROUGH
4 WITH ALL OF THAT TOMORROW. BUT IF WE CAN'T, IF WE STILL
5 HAVE A WITNESS OR TWO ON FRIDAY MORNING, THAT'S FINE.

6 MR. POPE: OUR PLAN WILL BE TO TRY TO HAVE IT
7 DONE TOMORROW IF POSSIBLE.

8 ALSO, WHILE WE'RE ON THE RECORD OR OFF THE RECORD
9 EITHER ONE ---

10 THE COURT: NO, WE'RE ON THE RECORD AND LET'S
11 STAY ON IT.

12 MR. POPE: MS. CASCIO'S UNDERLYING DATA, I KNOW
13 Y'ALL HAVE BEEN WORKING; I KNOW SHE HAD TO GO BACK AND
14 FORTH, BUT WE STILL NEED TO TRY TO GET THAT SO THAT WE
15 DON'T RUN INTO THAT PROBLEM TOMORROW.

16 MR. BOYD: WE'VE GOT A COPY OF THAT TO GIVE YOU
17 RIGHT NOW.

18 THE COURT: ALL RIGHT; WE'LL BE AT EASE UNTIL
19 9:30 IN THE MORNING.

20 MARCH 25, 1999 IN CAMERA:

21 THE COURT: IS THE STATE READY TO PROCEED?

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

23 THE COURT: LET'S GET MR. ROBERTSON IN HERE.

24 (THE DEFENDANT ENTERED THE COURTROOM.)

25 THE COURT: THE DEFENDANT IS PRESENT. ARE YOU

JULIUS F. MEYER, JR. - DIRECT BY HANCOCK

2750

1 READY FOR THE JURY?

2 MR. HANCOCK: WE'RE READY, YOUR HONOR.

3 THE COURT: BRING IN THE JURY.

4 IN THE PRESENCE OF THE JURY:

5 THE COURT: GOOD MORNING. MR. HANCOCK?

6 MR. HANCOCK: MAY IT PLEASE THE COURT, WE CALL TO
7 THE WITNESS STAND SKIP MEYER.

8 JULIUS F. MEYER, JR., BEING FIRST DULY SWORN,
9 TESTIFIED AS FOLLOWS:

10 DIRECT EXAMINATION BY

11 MR. HANCOCK:

12 Q. MR. MEYER, I NOTICE YOU HAVE A LARGE ENVELOPE
13 WITH YOU. THAT CONTAINS YOUR RECORDS IN THIS
14 CASE; IS THAT CORRECT, SIR?

15 A. THAT IS CORRECT.

16 Q. THEY HAVE BEEN TURNED OVER TO BOTH THE STATE AND
17 THE DEFENSE IN THIS MATTER; ISN'T THAT CORRECT,
18 SIR?

19 A. YES, SIR.

20 Q. NOW I AM GOING TO SHOW YOU THIS. THIS IS A
21 NOTEBOOK OF THOSE RECORDS ORGANIZED IN
22 CHRONOLOGICAL ORDER SO THAT IT WILL MAKE IT
23 EASIER TO REFER TO YOUR RECORDS IN THIS. I HAVE
24 SPOKEN WITH THE SOLICITOR SO THAT WE CAN
25 FACILITATE THE TESTIMONY HERE. AND I BELIEVE,

JULIUS F. MEYER, JR. - DIRECT BY HANCOCK

2751

1 YOUR HONOR, WE HAVE AGREED TO DO IT IN THIS
2 MANNER. IS THAT CORRECT?

3 MR. BRACKETT: THAT IS CORRECT.

4 Q. MR. MEYER, IF YOU WILL, PLEASE IDENTIFY
5 YOURSELF; GIVE YOUR FULL NAME AND SPELL YOUR
6 LAST NAME FOR THE COURT REPORTER.

7 A. JULIUS FREDERICK MEYER, M-E-Y-E-R, JUNIOR.

8 Q. MR. MEYER, WHERE ARE YOU CURRENTLY EMPLOYED?

9 A. WITH CAROLINA COUNSELING CENTER.

10 Q. AND HOW LONG HAVE YOU BEEN EMPLOYED THERE?

11 A. APPROXIMATELY 10 YEARS.

12 Q. AND WHAT IS YOUR EDUCATIONAL BACKGROUND, SIR?

13 A. I HAVE A MASTERS DEGREE IN COUNSELING THAT I GOT
14 FROM THE UNIVERSITY OF NORTH FLORIDA IN 1978. I
15 HAVE COMPLETED ALL OF MY DISSERTATION WORK FOR A
16 DOCTOR OF ---

17 MR. BRACKETT: MAY IT PLEASE THE COURT, THE STATE
18 WILL STIPULATE THAT MR. MEYER IS AN EXPERT IN THE AREA OF
19 PSYCHOLOGICAL COUNSELING, MARRIAGE AND FAMILY THERAPY.

20 MR. HANCOCK: YOUR HONOR, I WAS NOT EVEN GOING TO
21 QUALIFY HIM AS AN EXPERT AT THIS TIME. I JUST WANTED HIS
22 EDUCATIONAL BACKGROUND.

23 THE COURT: ALL RIGHT; GO AHEAD.

24 Q. IF YOU WILL, JUST GIVE US YOUR EDUCATION.

25 A. I HAVE DONE ALL OF MY DISSERTATION WORK AT THE

JULIUS F. MEYER, JR. - DIRECT BY HANCOCK

2752

1 UNIVERSITY OF FLORIDA FOR A DOCTORATE DEGREE IN
2 COUNSELING. I'VE DONE EXTENSIVE TRAINING WITH
3 JAY HAILEY AND COY MADONIS, FAMILY THERAPISTS IN
4 WASHINGTON, D. C. JAY HAILEY IS ONE OF THE
5 FOUNDING FATHERS OF MARRIAGE AND FAMILY THERAPY
6 IN THE UNITED STATES ---

7 THE COURT: YOU NEED TO SPEAK UP.

8 A. THE MOST CITED FAMILY THERAPIST IN THE WORLD.

9 Q. AND YOU'RE WITH THE CAROLINA COUNSELING CENTER
10 HERE IN ROCK HILL?

11 A. THIS IS CORRECT.

12 Q. AND HOW LONG HAVE YOU BEEN THERE, SIR?

13 A. APPROXIMATELY 10 YEARS.

14 Q. AND WHAT WERE YOUR DUTIES AT CAROLINA COUNSELING
15 CENTER, SIR?

16 A. TO PROVIDE INDIVIDUAL AND MARRIAGE AND FAMILY
17 THERAPY; TO DO SUPERVISION FOR FOLKS WORKING ON
18 GETTING LICENSED IN MARRIAGE AND FAMILY THERAPY;
19 TO DO TRAINING PROGRAMS FOR THE COMMUNITY.

20 Q. OVER 10 YEARS DO YOU HAVE ANY IDEA OF HOW MANY
21 PERSONS YOU MAY HAVE COUNSELED IN FAMILY AND
22 MARITAL THERAPY, SIR?

23 A. NO, I DO NOT.

24 Q. NOW, YOU HAD OCCASION TO COUNSEL JIMMY
25 ROBERTSON; IS THAT CORRECT, SIR?

JULIUS F. MEYER, JR. - DIRECT BY HANCOCK

2753

- 1 A. THIS IS CORRECT.
- 2 Q. AND YOU HAD OCCASION TO COUNSEL EARL ROBERTSON
- 3 ALSO; IS THAT CORRECT, SIR?
- 4 A. YES, SIR.
- 5 Q. AND YOU HAD OCCASION TO COUNSEL TERRY ROBERTSON;
- 6 IS THAT ALSO CORRECT?
- 7 A. THIS IS CORRECT.
- 8 Q. AND DID YOU ALSO COUNSEL THEM IN GROUP OR FAMILY
- 9 THERAPY AT THE SAME TIME, SIR?
- 10 A. OCCASIONALLY; MOST OF THAT WAS DONE IN
- 11 CONJUNCTION WITH JAMES ROBERTSON.
- 12 Q. AND IN DOING SO -- AND HOW LONG DID YOU COUNSEL
- 13 EACH OF THESE; DO YOU KNOW?
- 14 A. I WOULD HAVE TO REFER TO THE CHARTS.
- 15 Q. WE'LL GET BACK TO THAT IN A MINUTE.
- 16 A. ALL RIGHT.
- 17 Q. YOU COUNSELED JIMMY YOU SAID; IS THAT CORRECT?
- 18 A. THIS IS CORRECT.
- 19 Q. ALL RIGHT. IN YOUR NOTEBOOK AS YOU LOOK AT IT,
- 20 YOU HAVE A TAB THAT SAYS JIMMY. CAN YOU FIND
- 21 THAT, SIR?
- 22 A. YES, SIR. I'M GOING TO PUT THESE OTHER CHARTS
- 23 DOWN ON THE FLOOR, OKAY?
- 24 Q. YES, SIR. ALL RIGHT, YOU HAVE YOUR NOTEBOOK AND
- 25 WE'RE ON THE SAME PAGE HERE?

JULIUS F. MEYER, JR. - DIRECT BY HANCOCK

2754

1 A. I BELIEVE SO, STARTS WITH SUBPOENA IN A CRIMINAL
2 CASE?

3 Q. YES, SIR. I'M GOING TO REFER, JUST SO THAT WE
4 GET STARTED HERE ON THE SAME PAGE AND KNOW HOW
5 WE'RE DOING THIS, ON 2-3-96 DO YOU HAVE THOSE
6 NOTES?

7 A. YES, SIR.

8 Q. AND WAS THIS A COUNSELING SESSION WITH JIMMY
9 ROBERTSON?

10 A. I BELIEVE SO.

11 Q. WOULD YOU PLEASE READ THOSE NOTES TO THIS JURY,
12 SIR?

13 A. "DAD WOULD FIND A WAY TO PLAY GOLF. YOU'RE
14 STUPID. YOU DON'T MAKE GOOD DECISIONS. YOU
15 NEVER LEARN. PATERNAL GRANDPARENT THREATENED
16 EARL TO BE CUT OUT OF HIS WILL, 25 PERCENT WOULD
17 GO TO JIMMY, 25 PERCENT TO CHIP, 50 PERCENT TO
18 EARL DUE TO THEM BEING BAD PARENTS. MOM IS A
19 PEOPLE PERSON. I HAVE A SNEAKY SUSPICION THAT
20 MOM WOULD BE WORSE. I DON'T THINK SHE CAN TAKE
21 THEM BEING GONE."

22 Q. AND THAT'S TAKEN FROM JIMMY'S COUNSELING
23 SESSION; IS THAT RIGHT, SIR?

24 A. THIS IS CORRECT.

25 Q. DO YOU HAVE ANY RECOLLECTION OUTSIDE OF YOUR

JULIUS F. MEYER, JR. - DIRECT BY HANCOCK

2755

1 NOTES IN THIS PARTICULAR COUNSELING SESSION?

2 A. NOTHING IS RINGING A BELL.

3 Q. YES, SIR. I REFER TO 11-14-95.

4 A. YES, SIR.

5 Q. AND WOULD YOU READ THOSE NOTES, SIR?

6 A. "IT'S A COLLATERAL SESSION. JIMMY HAS GOTTEN NEW
7 JOB AT HOT AND WILD AS A MANAGER. PERHAPS HE'S
8 IN A MANIC PHASE. HOPEFUL. HOLIDAYS ARE COMING
9 UP. CONFLICT WILL EMERGE WITH PARENTS."

10 Q. ALL RIGHT, SIR. AGAIN, DO YOU HAVE AN
11 INDEPENDENT RECOLLECTION OF WHAT ELSE MAY HAVE
12 BEEN GONE INTO IN THAT SESSION THAT WOULD BE
13 EXPLANATORY OF WHAT YOUR NOTES SAY?

14 A. WELL, LIKE THE STATEMENT "CONFLICT WILL EMERGE
15 WITH PARENTS", I IMAGINE THAT'S ONE OF MY
16 ASSUMPTIONS AND THOUGHTS ABOUT THE ON-GOING
17 RELATIONSHIP AND DURING THE HOLIDAYS WHAT THE
18 PARENTS WANT AND WHAT JIMMY WOULD WANT AND HOW
19 THAT WOULD BE CONFLICTUAL BETWEEN THE TWO OF
20 THEM AND PROBABLY HARD ON JIMMY. I MEAN HIS MOM
21 AND FATHER WOULD DISAGREE ON HOW MUCH LENIENCE
22 TO GIVE JIMMY.

23 Q. AND THERE WAS A GREAT DEAL OF FAMILY CONFLICT AT
24 THIS PARTICULAR TIME THAT WE'RE TALKING ABOUT,
25 1995, ISN'T THAT CORRECT, SIR?

JULIUS F. MEYER, JR. - DIRECT BY HANCOCK

2756

1 A. AS WELL AS THIS PARTICULAR TIME OF THE SEASON
2 BECAUSE THIS IS THE TIME OF THE YEAR THAT HER
3 MOTHER HAD DIED, ON THE 14TH, I BELIEVE OR 17TH
4 OF NOVEMBER AND THIS WAS ALWAYS AN EMOTIONAL
5 TIME FOR TERRY ESPECIALLY IN THE INITIAL PHASES
6 OF THERAPY.

7 Q. ALL RIGHT, SIR. AND HER MOTHER HAD DIED SOME
8 FIVE YEARS BEFORE; IS THAT CORRECT?

9 A. I BELIEVE THAT'S CORRECT.

10 Q. ABOUT 1990? ALL RIGHT, LET'S GO TO 8-9-95, SIR.

11 A. I FOUND IT.

12 Q. DO YOU HAVE IT, SIR?

13 A. YES, SIR. I FOUND IT.

14 Q. WOULD YOU PLEASE READ THAT, SIR?

15 A. "TERRY'S MOM STRUGGLED WITH DEPRESSION, WHEN 39
16 YEARS OLD HAD A MASTECTOMY FOR BREAST CANCER
17 WHEN TERRY WAS 12. FEARED TERRY MAY BE SEXUALLY
18 ACTIVE. SHE WAS REAL CROSS WHEN TERRY MARRIED
19 EARL IN INDOCHINA."

20 Q. NOW, YOU HAVE OTHER SESSIONS IN BETWEEN THESE
21 AND AS YOU LOOK AT YOUR RECORDS, I HAVE NOT
22 REFERRED TO SOME OF THEM AND THAT WOULD BE, SAY,
23 ON 8-28-95, 8-25-95, 8-24-95. SO, I AM NOT
24 REFERRING TO EACH AND EVERY COUNSELING SESSION
25 AM I, SIR?

JULIUS F. MEYER, JR. - DIRECT BY HANCOCK

2757

1 A. NO, SIR. A COUPLE OF THOSE WERE TELEPHONE
2 CONVERSATIONS THAT I HAD WITH THE TREATMENT
3 FACILITY THAT JIMMY WAS IN AT THE TIME.

4 A. YES, SIR.

5 Q. 5-8-95, I WILL REFER TO THAT.

6 A. YES, SIR.

7 Q. WOULD YOU PLEASE RELATE THAT TO THIS JURY, SIR?

8 A. "A ONE HOUR INDIVIDUAL SESSION. JIMMY APPEARED
9 TO BE DOING WELL. CONTINUES TO SHOW
10 RESPONSIBILITY FOR MONEY MANAGEMENT. WORKING,
11 FOLLOWING WITHIN THE GUIDELINES OF WORK AS FAR
12 AS NOT WORKING TOO MANY HOURS. HE DID INDICATE
13 THAT HE FEELS LIKE THE COMPANY THAT HE IS
14 WORKING FOR IS GOING TO CHANGE THEIR EMPLOYMENT
15 SITUATION TO SUCH AS WHERE HE WON'T BE GETTING
16 OVERTIME. HE FEELS LIKE HE NEEDS THE OVERTIME
17 IN ORDER TO MAKE ENDS MEET. JIMMY IS TALKING
18 MORE AT RETURNING TO COLLEGE. IT APPEARS THAT
19 HE IS BEGINNING TO REALIZE THE IMPORTANCE OF
20 EDUCATION AND NOT WANTING TO STAY IN A BLUE
21 COLLAR TYPE PLACE OF EMPLOYMENT. HIS BROTHER IS
22 COMING BACK FROM PHILADELPHIA THIS WEEKEND.
23 COMING UP AND WE WILL SEE HOW THIS INTERFERES
24 WITH THEIR RELATIONSHIP."

25 Q. DO YOU REMEMBER WHAT THAT MEANS "HOW THAT

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2758

1 INTERFERES WITH THEIR RELATIONSHIP", ABOUT WHOM
2 ARE WE SPEAKING THERE, SIR?

3 A. MY ASSUMPTION WOULD BE THAT I WAS SPEAKING ABOUT
4 THE RELATIONSHIP BETWEEN THE CHILDREN AND THEIR
5 PARENTS BECAUSE WHEN CHIP AND JIMMY GOT
6 TOGETHER, IT SEEMED TO CAUSE CONFLICTS AND
7 PROBLEMS.

8 Q. ALL RIGHT, SIR. 5-8-95, SIR.

9 A. WE JUST DID THAT ONE, SIR.

10 Q. WAS THAT 5-8-95?

11 A. YES, SIR.

12 Q. DOES THAT HAVE IN IT ---

13 A. OH, THERE'S ANOTHER ONE DOWN BELOW THAT'S NOT
14 DATED.

15 Q. YES, SIR, I THOUGHT THERE WAS.

16 A. I DON'T KNOW WHY THAT IS. "JIMMY WAS SEEN ON AN
17 EMERGENCY BASIS FOR A HALF HOUR. HE WAS MISSING
18 TODAY AND HIS MOTHER BECAME VERY VIGILANT AND
19 NERVOUS THAT HE WAS OUT GAMBLING. CONFINED HER
20 AND MADE HER ALTER HER PLANS. JIMMY REPORTEDLY
21 LEFT WORK, TOOK SOME CO-WORKERS HOME WITH HIM.
22 STOPPED OFF AT THEIR PLACE AND DRANK SOME BEERS
23 AND REPORTED HE FELL ASLEEP. I DON'T KNOW ABOUT
24 THE FALLING ASLEEP PART. HE APPEARS TO BE GOING
25 INTO A MANIC PHASE. AGREED THAT HE NEEDS TO

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2759

1 CONTINUE TO TAKE HIS LITHIUM AND I WILL SEE HIM
2 SATURDAY WHEN THE PARENTS ARE OUT OF TOWN, BUT
3 THEY NEED TO FOLLOW THROUGH WITH THEIR PLANS TO
4 GO OUT OF TOWN."

5 Q. WHEN IT APPEARS THAT SOMEONE IS GOING INTO A
6 MANIC PHASE THERE, WHO DID IT APPEAR WAS GOING
7 INTO THE MANIC PHASE?

8 A. JIMMY.

9 Q. ALL RIGHT, SIR. I'LL REFER TO 4-20-95.

10 A. I SEE IT, SIR.

11 Q. WILL YOU PLEASE RELATE THAT TO US?

12 A. "JIMMY WAS SEEN INDIVIDUALLY AND COLLATERALLY
13 WITH HIS PARENTS. REAL CONCERN FOR JIM IS THAT
14 HE HAS BEEN WORKING AN INCREDIBLE NUMBER OF
15 HOURS. REPORTS TO HAVING WORKED 33 STRAIGHT
16 HOURS ON HIS JOB. OF COURSE, I FIND THIS
17 REMARKABLE IF NOT IMPOSSIBLE. STRESSED HOW
18 JIMMY STARTS BEHAVING AND DOING THIS, THAT IT'S
19 ILL ADVISED BECAUSE HE LACKS JUDGMENT AND IT
20 WILL INTERFERE WITH HIS PERCEPTION THAT HE CAN
21 DO ANYTHING AND DO IT ALL. THAT KIND OF
22 MENTALITY HAS GOTTEN HIM INTO SERIOUS TROUBLE IN
23 THE PAST. KIND OF CORRELATES WITH THE JUDGMENT
24 HAVING EXTREME" -- I'M SORRY. "KIND OF
25 CORRELATES THAT WITH HAVING AN EXTREME POSITIVE

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2760

1 SELF-CONCEPT THAT SOMETIMES INTERFERES WITH HIS
2 JUDGMENT AND HE DOES NOT THINK FOR HIMSELF
3 CLEARLY. THE RELATIONSHIP BETWEEN HIM AND HIS
4 FATHER SEEM TO HAVE DRAMATICALLY IMPROVED. THEY
5 ARE TALKING MORE AND MOM IS BECOMING LESS
6 INVOLVED IN THEIR RELATIONSHIP. NO GAMBLING.
7 NO INDICATIONS OF BEHAVIOR RELATED TO GAMBLING
8 AND OVERALL FEEL THAT THINGS ARE GOING WELL."
9 Q. AND ON 3-23-95.
10 A. READ THIS ONE?
11 Q. YES, SIR, IF YOU WILL.
12 A. "JIM WAS SEEN IN CONJUNCTION WITH HIS PARENTS
13 ONE HOUR COLLATERAL THERAPY SESSIONS. OVERALL
14 TRYING TO IDENTIFY A SCENARIO FOR JIM'S
15 DEPRESSION, HIS IRRESPONSIBLE BEHAVIOR, HIS
16 INABILITY TO MANAGE MONEY AND GAMBLING
17 DIFFICULTIES. OVERALL IT APPEARS THAT HIS
18 FATHER IS EXTREMELY FRUSTRATED WITH HIS SON'S
19 BEHAVIOR AND THE MOTHER IS VERY TIMID OF HOW TO
20 DEAL WITH HIM. ENDED THE SESSION BY HAVING THE
21 SON GIVE HIS ATM CARDS TO HIS FATHER. HE DOES
22 NOT HAVE ACCESS TO THESE CARDS. AGREED TO LET
23 HIM MAINTAIN CONTROL OF HIS CHECKING ACCOUNT
24 WITH THE EXPLICIT AGREEMENT THAT BOTH PARENTS --
25 WITH BOTH PARENTS THAT IF HE WRITES BAD CHECKS,

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2761

1 FORGES ANY NAMES, THAT HE WILL HAVE TO SUFFER
2 THE CONSEQUENCES WITHOUT HIS PARENTS' HELP. JIM
3 ACKNOWLEDGES THAT HE BELIEVES THAT HIS PARENTS
4 ARE SERIOUS AT THIS POINT IN TIME. HE INDICATED
5 THAT IN THE PAST HIS PARENTS WOULD HAVE MADE
6 SUCH A STATEMENT, HE WOULD NOT HAVE PUT MUCH
7 FAITH IN IT. ALSO PUT THE FATHER IN CHARGE OF
8 HIS PAYCHECK. THIS SEEMED TO BE AGREEABLE WITH
9 ALL PARTIES ALTHOUGH JIM WAS SOMEWHAT RESISTANT
10 TO THIS IDEA. I WILL SEE THEM BACK HOPEFULLY
11 WITHIN A WEEK. I THINK THIS IS A CRITICAL TIME
12 IN TREATMENT."

13 Q. ALL RIGHT, SIR. I AM GOING TO ASK THAT YOU
14 LEAVE JIMMY'S RECORDS AND GO TO EARL ROBERTSON'S
15 RECORDS. YOU WILL FIND THEM ON A TAB IN THERE,
16 SIR.

17 A. YES, SIR.

18 Q. DO YOU HAVE THOSE?

19 A. I BELIEVE SO.

20 Q. LET'S START WITH, AND THIS WILL PROBABLY BE
21 TOWARDS THE BACK, 7-24-96. DO YOU HAVE THOSE
22 RECORDS?

23 A. YES, WOULD YOU LIKE ME TO READ THIS AGAIN?

24 Q. YES, SIR, IF YOU WOULD.

25 A. "STRESSED, ANGRY, FEELING FED UP WITH CHILDREN'S

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2762

1 IRRESPONSIBLE BEHAVIOR, SENSE OF BEING OUT OF
2 CONTROL AS FAR AS HOW TO DEAL AND MANAGE WITH
3 HIS CHILDREN. SPOUSE DIFFERS ON HIS VIEWS."

4 Q. ALL RIGHT, SIR. AND WOULD YOU GO TO 8-9-96?

5 A. "STRESSED; FAMILY'S FALLING APART; COSTING A LOT
6 OF MONEY; TAKING AN EMOTIONAL TOLL ON WIFE AND
7 SELF. ENCOURAGED EARL TO DO WHAT IS IN JIMMY'S
8 BEST INTEREST. FEELS OVERWHELMED WITH SHAME AND
9 EMBARRASSMENT AND HUMILIATION. FEELS THAT HE
10 HAS WORKED HIS WHOLE LIFE TO BE AN UPSTANDING
11 CITIZEN AND NOW HE FEELS HE NEEDS TO MOVE DUE TO
12 THE EMBARRASSMENT HE FEELS. CONFLICT OVER HOW
13 TO DEAL WITH THE CHILDREN."

14 Q. IT SAYS CHILDREN THERE, DOESN'T IT?

15 A. YES, SIR.

16 Q. BOTH OF THEM?

17 A. THIS IS CORRECT. I BELIEVE THIS IS THE TIME
18 THEY WERE IN TROUBLE FOR BREAKING IN THE NEXT
19 DOOR NEIGHBOR'S HOUSE.

20 Q. THEY BOTH WERE IN TROUBLE FOR THAT, WEREN'T
21 THEY?

22 A. I BELIEVE SO.

23 Q. AND JIMMY IS THE ONE THAT WENT TO JAIL FOR IT,
24 ISN'T HE?

25 A. THAT'S MY UNDERSTANDING.

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2763

- 1 Q. AND AS FAR AS YOU KNOW, CHIP NEVER WAS CHARGED
2 OR EVEN HELD RESPONSIBLE IN ANY WAY, WAS HE?
3 A. THAT'S MY UNDERSTANDING.
4 Q. 3-11-97.
5 A. OKAY.
6 Q. ALL RIGHT, WOULD YOU GO THROUGH THAT WITH US,
7 SIR?
8 A. STRESSED, ANGER, FEELS LIKE LIFE HAS BEEN RUINED
9 BY SON. NOT AN HOUR GOES BY WITHOUT FEELING SAD
10 OR ANGERED AT HIS SON. UNABLE TO DIFFERENTIATE
11 JIMMY FROM SELF. FEELS GUILTY, SHAME AND
12 HUMILIATION.
13 Q. 2-24-97 PLEASE, SIR.
14 A. I DON'T SEE THAT. IS THAT 2-24?
15 Q. I HAVE 4-30-97.
16 A. 4-30?
17 Q. YES, SIR.
18 A. OKAY. "ANIMATED; FEELS OVERWHELMED WITH SON
19 COMING HOME; FEELS EASILY HURT; ANGERS OVER
20 JIMMY EASILY; FEELS TOTAL EMBARRASSMENT. HOW TO
21 BE PROTECTIVE, PROACTIVE WITH THE FAMILY."
22 Q. LET'S GO TO 11-7-97 PLEASE, SIR. THAT WOULD BE
23 TOWARD THE LAST OF THE COUNSELING SESSIONS.
24 A. PRESENTS WITH ANGER, HOPEFULNESS, FEARS THE
25 WORST FOR CHIP. JUST WANTS TO BE DONE WITH HIS

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2764

1 CHILDREN. THINKS JIMMY MIGHT BE DETERIORATING.
2 QUESTIONS HOW WELL SPOUSE IS DOING. FEARS SHE
3 WILL OVER COMMIT SELF WITH THE HOLIDAYS. DATES
4 OF HER MOTHER'S BIRTHDAY AND HOLIDAYS WITHOUT
5 HER PARENTS WILL CREATE STRESS. YET ALL THE
6 PRESSURE IS ON HIM TO DELIVER. AND THEY WANT TO
7 MAKE HIM THE FALL GUY. WHAT DO THEY EXPECT.
8 HOPE TO GET A REFUND FROM CHIP'S SCHOOL. GOOD
9 SIGN, HE WAS GOING OUT TO THE SCHOOL BAND
10 PRESENTATION LAST NIGHT. THINKING ABOUT TONIGHT
11 GOING TO THE ROCK HILL NORTHWESTERN GAME. WORK
12 STRESS IS TOLERABLE, HOWEVER EXPRESSES
13 HUMILIATION OVER CHIP'S PHONE CALLS. SUPPORTS
14 LIMITS HE IS CONTEMPLATING SETTING."

15 Q. ALL RIGHT, SIR. I WANT TO GO BACK TO 4-30-97
16 AND CHECK ON YOUR NOTES THERE. THERE'S
17 SOMETHING I WANT TO CLARIFY.

18 A. YES, SIR.

19 Q. YOU INDICATE THERE, I BELIEVE, "ANIMATED, FEELS
20 OVERWHELMED WITH SON COMING HOME". IS THAT SON
21 REFERRING TO JIMMY OR TO CHIP, SO YOU KNOW?

22 A. I WOULD HAVE TO REVIEW IT TO KIND OF GET THE
23 CHRONOLOGY OF THAT. I'M NOT SURE IF THAT'S WHEN
24 CHIP WAS FAILING OUT OF SCHOOL OR IT WAS THE
25 TIME WHEN JIMMY HAD MOVED OUT OR HE WAS GETTING

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2765

- 1 OUT OF JAIL.
- 2 Q. WELL, LET'S GO TO TERRY'S RECORDS IF WE MAY,
- 3 SIR.
- 4 A. YES, SIR.
- 5 Q. LET'S GO TO 8-8-95.
- 6 A. "DEPRESSING, GRAND RAPIDS ---
- 7 Q. HOLD ON IF YOU WILL JUST A MINUTE.
- 8 A. YES, SIR.
- 9 Q. WE'RE NOT ON THE SAME PAGE. 8-8-95, SIR. IF
- 10 YOU WILL, RELATE THOSE TO US.
- 11 A. "DEPRESSED IN GRAND RAPIDS OVER FEELING THAT SHE
- 12 HAS BAD CHILDREN. DEPRESSED ON AND OFF.
- 13 CURRENTLY NO INTEREST IN OUTSIDE ACTIVITIES,
- 14 FRIENDS. RECENT LOSS OF APPETITE. MEDICAL
- 15 PROBLEMS. FEARS FUTURE OF HER HEALTH. PROBABLY
- 16 WILL BE HAVING SURGERY. CHECK ON MARITAL
- 17 PROBLEMS WHEN JIMMY WAS ONE YEAR OLD."
- 18 Q. ALL RIGHT IN 8-8-95, DO YOU KNOW WHEN THEY WERE
- 19 IN GRAND RAPIDS, MICHIGAN?
- 20 A. NO, I DO NOT. I DON'T KNOW THE TIME PERIOD. IT
- 21 WAS AFTER THEY WERE IN CALIFORNIA.
- 22 Q. BUT SHE INDICATED THAT SHE WAS DEPRESSED IN
- 23 GRAND RAPIDS OVER FEELING SHE HAD BAD CHILDREN?
- 24 A. THAT'S WHAT MY NOTES INDICATE.
- 25 Q. DO YOU KNOW HOW OLD HER CHILDREN WERE THEN?

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2766

1 A. NO, I WOULD GIVE A GUESSTIMATE OF SOMEWHERE 6 TO
2 8 OR SOMEWHERE IN THAT NEIGHBORHOOD.

3 Q. SO, SHE WAS INDICATING THAT SHE HAD BAD CHILDREN
4 BACK THEN?

5 A. THAT'S WHAT THIS WOULD REFLECT.

6 Q. WELL, I WANT TO CLARIFY SOMETHING. THERE WAS
7 SOMETHING IN THERE, A REFERENCE TO WHEN JIMMY
8 WAS ONE YEAR OLD. COULD YOU CLARIFY THAT
9 PLEASE, SIR?

10 A. THAT WAS A NOTE TO MYSELF PROBABLY AT THAT TIME.
11 BEING A FAMILY THERAPIST, I LOOK FOR MAJOR LIFE
12 CYCLE EVENTS THAT OCCUR THAN CHANGE FAMILY
13 DYNAMICS AND USUALLY THE BIRTH OF A CHILD IS ONE
14 OF THOSE LIFE CHANGING EVENTS IN A FAMILY.

15 Q. LET'S GO TO 8-9-95.

16 A. I GOT IT.

17 Q. PLEASE RELATE THAT TO US.

18 A. "CONTINUE TO TRACK THE HISTORY OF MOVEMENT OF
19 HER FAMILY. CALIFORNIA WAS A POSITIVE
20 EXPERIENCE. IT HELPED GETTING AWAY FROM HER
21 FAMILY. IT SOUNDED AS WHEN JIMMY WAS BORN SHE
22 FELT A GREAT DEAL OF PRESSURE OF HOW TO PROPERLY
23 RAISE JIMMY FROM HER OWN MOTHER, FROM HER
24 MOTHER. THIS APPEARED TO CAUSE SOME TYPE OF
25 FEAR, FEAR OF DOING THE WRONG THING WITHHOLDING

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2767

1 HIM. IT SOUNDS AS IF THEY WERE THE NORMAL TYPES
2 OF MARITAL ADJUSTMENTS TO A NEW BABY TO BE MADE.
3 ACCEPT MORE OUTSIDE INFLUENCES. APPEARED THAT
4 HER FAMILY OF ORIGIN HAD MORE INPUT ON PARENTING
5 THAN HER SPOUSE WHO EVIDENTLY WAS PUSHED ASIDE
6 AND HE WAS ALSO COOPERATIVE. THERE WAS A CHANGE
7 IN THEIR SEXUAL RELATIONSHIP DURING AND AFTER
8 PREGNANCY WHICH WERE EVIDENTLY HARD FOR TERRY TO
9 ADJUST TO. TEARFUL AT TIMES. STARTS OUT
10 BLAMING HER PARENTING. APPEARS TO CREATE SOME
11 TANGENTIAL THOUGHTS ABOUT HER CHILDHOOD AND
12 RELATED PAIN."

13 Q. NOW I WOULD LIKE TO -- YOU SAID TANGENTIAL
14 THOUGHTS -- WELL, I'LL ASK FIRST IN YOUR
15 EXPERIENCE AS A FAMILY COUNSELOR, THERE'S
16 NOTHING UNUSUAL ABOUT A CHANGE OF SEXUAL
17 PATTERNS BETWEEN PEOPLE AFTER A CHILD IS BORN IS
18 IT, SIR?

19 A. NO, SIR, IT'S PRETTY COMMON.

20 Q. IT'S A USUAL OCCURRENCE?

21 A. YES, SIR.

22 Q. ALL RIGHT. NOW YOU SAID TANGENTIAL THOUGHTS
23 ABOUT CHILDHOOD AND RELATED PAIN. DO YOU HAVE
24 ANY FURTHER RECOLLECTION OF WHAT WE'RE TALKING
25 ABOUT, CHILDHOOD AND RELATED PAIN?

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2768

1 A. WELL, I CAN GIVE SOME ASSUMPTIONS. I CAN'T TELL
2 YOU IF IT'S BASED ON THIS PARTICULAR SESSION OR
3 ACCUMULATION OF THINGS THAT SHE TALKED ABOUT.

4 Q. WELL, I WOULD JUST LIKE, IF YOU CAN, GO TO THIS
5 SESSION IF YOU REMEMBER, IS THIS PAIN RELATED TO
6 HER CHILDHOOD?

7 A. EVIDENTLY SHE WAS TALKING ABOUT THAT.

8 Q. DO YOU KNOW OF ANY SPECIFIC TYPES OF PAIN THAT
9 SHE MAY HAVE SPOKEN OF? THAT YOU REMEMBER, SIR.

10 A. ONCE AGAIN, I CAN'T SAY THAT SHE TALKED ABOUT IT
11 ON THIS PARTICULAR DATE. BUT CERTAINLY WHEN HER
12 MOTHER HAD CANCER IT WAS A VERY EMOTIONAL TIME
13 WHEN THEY LIVED IN FRANCE. THAT WAS AN
14 EMOTIONAL TIME. SHE FELT ISOLATED, LEFT ALONE A
15 GREAT DEAL.

16 Q. ALL RIGHT. ON 8-17-95, IF YOU WILL.

17 A. YES, SIR.

18 Q. WOULD YOU PLEASE RELATE THAT TO US?

19 A. "GOVERNOR'S ISLAND DURING THE FIFTH GRADE; PRIOR
20 TO THAT, IN FRANCE; STRESSFUL; SCHOOL TRAUMATIC;
21 FAILED, SKIPPING; TEACHER WOULD CALL ON HER TO
22 READ AND SHE WOULD CRY. I WOULD DO ANYTHING TO
23 KEEP FRIENDS. MY DAD WAS A COLONEL SO WE HAD A
24 21 ROOM HOUSE. MOM THOUGHT IT WAS BARBARIC TO
25 EAT AT 5:00 P.M. SEVENTH GRADE FIRST KISS, SHE

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2769

1 CRIED. MY UNCLE DIED THAT YEAR. THEY MOVED TO
2 ATLANTA. I WAS THROWN BACK IN THE PUBLIC
3 SCHOOL. IN NEW YORK CITY DAD WAS SIGNIFICANTLY
4 LESS INVOLVED. MOM'S BREAST CANCER WAS A
5 HORRIBLE, HORRIBLE YEAR. I WANTED TO TALK ABOUT
6 IT. MOM WAS VERY IRRITABLE IN GEORGIA FOLLOWING
7 THE BREAST SURGERY. MOM WAS SUPPOSED TO HAVE
8 PAINTED NAILS AND PLAY THE PIANO. WHEN I WAS
9 LEARNING TO DRIVE, MY MOM WOULD BE ON THE BACK
10 FLOOR COVERING HER HEAD AND SCREAMING. AT EIGHT
11 YEARS OLD I WROTE A CARD FOR MY MOM THAT I KNOW
12 YOU WILL HAVE A GOOD DAY BECAUSE I'M GOING TO BE
13 SO GOOD. CAMP COUNSELOR FRESHMAN SUMMER OF
14 COLLEGE. MET EARL THE SENIOR YEAR. DATED ALL
15 THE TIME. MOM SPENT EXCESSIVELY AT TIMES."

16 Q. YOU SAID THAT WHEN SHE WAS LEARNING TO DRIVE HER
17 MOTHER WAS IN THE BACK FLOOR SCREAMING; IS THAT
18 THE WAY SHE EXPLAINED IT?

19 A. THIS IS CORRECT.

20 Q. DO YOU REMEMBER ANYTHING ABOUT THAT?

21 A. WELL, I THINK SHE WAS GIVING ME EXAMPLES OF HOW
22 CRITICAL HER MOTHER WAS OF HER AND WHAT A
23 TRAUMATIC THING THAT WAS AND WHAT THAT DID TO
24 HER TO HAVE HER MOTHER ON THE BACK FLOOR
25 SCREAMING AND YELLING AND HOW MUCH ANXIETY AND

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2770

1 STUFF THAT CREATED WITHIN HER.

2 Q. LET'S GO TO 9-26-95, SIR.

3 A. "DEPRESSION CONTINUES. FEELS HOPELESS. BACK
4 FROM A TRIP, SOMEWHAT SUCCESSFUL; HOWEVER, GIVES
5 HER MORE FEELING THAT THINGS ARE NOT GOING TO
6 GET BETTER.

7 Q. ALL RIGHT, SIR. LET'S GO TO 11-7-95.

8 A. YES, SIR. READ IT?

9 Q. PLEASE RELATE THAT TO US.

10 A. CONTINUE TO STRUGGLE WITH WHAT HAPPENED TO ME.
11 THIS IS BLOCKED AS SHE TRIES TO COMPASSIONATELY
12 UNDERSTAND HER PARENTS' UPBRINGING, VAGUE ABOUT
13 THAT. HER FATHER WAS SO SUCCESSFUL IN THE
14 MILITARY AND EVIDENTLY THE FAMILY WAS ORGANIZED
15 AND DIRECTED ON HOW TO ACT AND BEHAVE AND
16 SUPPORT, LITTLE FREEDOM. WONDERED WHERE THE
17 GENETIC STUFF COMES FROM. CAN IT BE IN BOTH MOM
18 AND DAD, BOTH COPE WITH IT BETTER THAN SHE.
19 DOUBTS SHE COULD EVER HURT EARL ENOUGH TO
20 SEPARATE OR DIVORCE EARL. STARTS CRYING AT THE
21 THOUGHT OF HURTING HIM. CHILDREN OVERWHELM HER.
22 FEARS SAYING NO. THIS IS COMBINED WITH GUILT
23 THAT SHE EVIDENTLY CANNOT, CAN'T TOLERATE."

24 Q. LET'S GO TO 9-19-96, SIR.

25 A. 9-19 YOU SAID?

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2771

1 Q. YES, SIR.

2 A. "SADNESS, DEPRESSION, STILL FUNCTIONING. EARL'S
3 MOTHER CONTINUES TO CALL. WHAT JIMMY NEEDS WAS
4 BRAIN FOOD. MAKES ME FEEL MAD AND SAD TO THINK
5 WHAT DADDY DID. I USED TO THINK HE HUNG THE
6 MOON. MOTHER ALWAYS SAID DADDY WAS NOT THE MOST
7 DEMONSTRATIVE MAN. EARL'S FATHER'S DEATH
8 BROUGHT UP ISSUES OF HER FATHER'S LOSS AND IF
9 THERE WAS EVER ANY ABUSE."

10 Q. IS THERE ANY EXPLANATION OF THAT, IT SAID "IT
11 MAKES ME MAD AND SAD WHAT DADDY DID"; IS THERE
12 ANY EXPLANATION OF WHAT THAT REFERRED TO, SIR?

13 A. NO, I DON'T HAVE ANY -- I THINK IT WAS A VARIETY
14 OF THINGS AS FAR AS HIM BEING REAL RIGID AND
15 STRUCTURED AND EMOTIONALLY UNAVAILABLE AND HIM
16 NOT LIKING AFFECTION AND NOT BEING ABLE TO HUG
17 HIM.

18 Q. LET'S GO TO 8-19-97 -- IF I MAY, BEFORE THAT I
19 WANT TO CHECK AND SEE WHAT YOU'VE GOT ON 3-7-97,
20 SIR.

21 A. "REVIEWED HISTORY OF CHILDHOOD TRAUMAS. COPING
22 WELL. TROUBLE WITH SPOUSE SEEMS EASED. FEAR
23 FOR JIMMY AND CHIP. DOG CHEWED THE BOTTOM OF
24 THE MILK" -- I CAN'T MAKE OUT THAT WORD, OH,
25 "BOTTOM OF THE MINK COAT; THIS WAS TRAUMA.

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2772

1 STARES OFF INTO THE WALLS WHEN RETELLING EVENTS.
2 MOM THE LOSER; FEAR THAT SHE WOULD NOT COME BACK
3 FROM THAT, FROM LOSING HER. REPORTED INCIDENTS
4 OF MOM'S IRRATIONAL REACTIONS. G.A.F. WAS 65.
5 TIME OF BEING OXYGENATED APPEARS TO BE REAL
6 TRAUMATIZING FOR TERRY."

7 Q. IF I MAY, YOU SAID SHE REVIEWED A HISTORY OF HER
8 CHILDHOOD TRAUMA. DO YOU KNOW WHAT THAT IS?

9 A. NO, I DO NOT.

10 Q. AND IT SAYS FEARS FOR CHILDREN; DO YOU KNOW WHAT
11 THAT IS IN REFERENCE TO, SIR?

12 A. PROBABLY WHAT WAS GOING TO HAPPEN TO THEM IN
13 THEIR LIFE.

14 Q. BUT YOU DON'T KNOW?

15 A. NO, I WOULDN'T KNOW SPECIFICALLY.

16 Q. ALL RIGHT, SIR. LET'S GO TO 1-19-96 IF YOU
17 WOULD.

18 A. ALL RIGHT. 1-19-96?

19 Q. YES, SIR.

20 A. "TEARFUL; REVIEWED SOME VERY UPSETTING COMMENTS
21 MADE BY SPOUSE WHICH WERE INAPPROPRIATE.
22 REVIEWED MMPI RESULTS. SHE INDICATED NOT HAVING
23 RESULTS REVIEWED IN HOSPITAL. EARL APPEARS NOT
24 TO VALUE WOMEN. HE VIEWS THEM AS COMPETITORS OR
25 COMPETITION."

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2773

1 Q. ALL RIGHT, LET'S GO TO 1-26-96.

2 A. "IS SUICIDE GETTING BACK AT EARL. OCD BEHAVIOR.
3 TOUCH SOMETHING WRONG, SOMETHING BAD WILL
4 HAPPEN. APPEARS HAVING HALLUCINATIONS. SEX
5 DRIVE. WANTS TO TIE ALL THESE CRAZY CRUMBS
6 TOGETHER. HOW FRIENDS FEEL ABOUT EARL. IT'S
7 HARD TO BELIEVE THAT ANYTHING GOOD WILL HAPPEN
8 IN THE FUTURE WHEN THE PAST HAS BEEN BAD. I'M
9 REALLY NOT SURE IF I WANT EARL'S LOVE ANYMORE.
10 CRITICISM ABOUT WEIGHT. EARL'S ALWAYS RIGHT.
11 ARGUES ABOUT MONEY. EARL IS A FLIRT. EARL IS A
12 BULLY."

13 Q. DO YOU KNOW WHAT THAT IS REFERRING TO, SIR?

14 A. WHICH COMMENT?

15 Q. DO YOU HAVE ANY OTHER COMMENTS ON YOUR RECORD?

16 A. CAN YOU HELP ME OUT WHAT YOU'RE LOOKING FOR?

17 Q. ON THE 1-26-96 YOU SAID "EARL WAS ALWAYS RIGHT.
18 EARL WAS A BULLY".

19 A. YEAH.

20 Q. IS THERE ANY EXPLANATORY MATTER THERE, SIR?

21 A. TERRY'S VIEW WAS THAT EARL'S PERSPECTIVE WAS I
22 WAS THE CRACKED ONE; THAT IF HE WAS CHALLENGED,
23 HE WOULD GET DEFENSIVE.

24 Q. DID SHE SAY HOW HE WOULD REACT IF HE WERE EVER
25 CHALLENGED IN HIS PERSPECTIVES, DO YOU REMEMBER?

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2774

1 A. I THINK HE WOULD RAISE HIS VOICE OR YELL, OR HE
2 WOULD ISOLATE HIMSELF AND POUT, SIT IN HIS CHAIR
3 AND WATCH GOLF OR A BASKETBALL OR FOOTBALL GAME.

4 Q. LET'S GO TO 3-5-96.

5 A. "EARL BELIEVES THAT TERRY FEELS SORRY FOR
6 HERSELF, LAYS AROUND AND SLEEPS ALL THE TIME.
7 ONE-HALF HOUR SNUDDLING TIME FOR ANY TIME SHE
8 CUTS HERSELF. EARL THINKS OF MY BREAST AS HIS.
9 MAYBE THAT'S WHY I SLICED MY BREAST. HAVE
10 OBSESSIVE THOUGHTS WANTING TO DIE. ABLE TO
11 CONTRACT FOR NO HARM. EARL AND I HAVE HAD
12 HORRIBLE FIGHTS BEFORE, PUSHING, SHOIVING AND
13 CLAWING. EARL MOSTLY TRIES TO KEEP ME OFF OF
14 HIM INSTEAD OF HURTING ME, BUT IT STILL SCARES
15 ME."

16 Q. AS A FAMILY COUNSELOR, YOU MENTION IN THERE THAT
17 THERE IS CUTTING BEHAVIOR.

18 A. YES, SIR.

19 Q. DOES THAT DISTURB YOU AT ALL, SIR?

20 A. OF COURSE, SIR. MOST OF HER CUTS WERE VERY
21 SUPERFICIAL IN NATURE. I NEVER SAW ANY CUTS
22 THAT WERE NOT.

23 Q. IN YOUR COUNSELING SESSIONS THERE WERE OTHER
24 EXAMPLES OF SELF-MUTILATION OF THIS SORT WAS IT
25 NOT, SIR?

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2775

1 A. THIS IS CORRECT.

2 Q. SO, THIS IS NOT AN ISOLATED INCIDENT?

3 A. IT WAS A PERIOD IN THE THERAPY SESSION THAT SHE
4 WAS DOING THAT. IT SEEMED TO BE RELATED TO
5 STRESS AND IT SEEMED TO BE RELATED TO HAVING
6 SOME OBSESSIONAL THOUGHTS.

7 Q. IT ALSO SAID THAT SHE AND EARL HAD HORRIBLE
8 FIGHTS, PUNCHING, SHOIVING AND CLAWING AND EARL
9 HAD TO KEEP HER OFF OF HIM. IS THAT CORRECT,
10 SIR?

11 A. THAT IS CORRECT.

12 Q. DO YOU HAVE ANY INDICATION AS TO WHERE -- IF THE
13 CHILDREN OBSERVED THIS OR IF THEY WERE AROUND IN
14 ANY MANNER?

15 A. NO MEMORY OF THAT, NO KNOWLEDGE OF THAT.

16 Q. DO YOU REMEMBER ANYTHING FROM THE CHILDREN'S OR
17 FROM JIMMY'S SESSIONS THAT HE INDICATED THAT HE
18 WAS A WITNESS TO ANY OF THAT, SIR?

19 A. NO, I DO NOT.

20 Q. DID SHE SAY TO YOU AS PER YOUR MEMORY, DID SHE
21 SAY TO YOU HOW OFTEN THIS MAY HAVE TAKEN PLACE,
22 SIR?

23 A. NO, MY PERSPECTIVE, AT LEAST DURING THE TIME OF
24 TREATMENT, WAS IT WAS FAIRLY ISOLATED. THAT WAS
25 NOT A COMMON OR DAILY OCCURRENCE.

JULIUS F. MEYER, JR. - DIRECT BY HANCOCK

2776

1 Q. LET'S GO TO 11-14-97, SIR.

2 A. I DON'T SEE ANYTHING FOR TERRY THEN, 10-14. I
3 DON'T SEE 11-14 UNDER TERRY. THAT MIGHT HAVE
4 BEEN UNDER EARL'S.

5 Q. WOULD YOU LOOK THROUGH THERE, SIR. I HAVE AN
6 ENTRY FOR 11-14.

7 A. '97?

8 Q. TRY '96.

9 A. OKAY.

10 (AFTER A PAUSE.)

11 A. I'VE GOT 11-4-, 11-18, 12-19 -- UNLESS THEY ARE
12 OUT OF ORDER, I DON'T SEE THAT. I CAN TRY 11-
13 14-95.

14 (AFTER A PAUSE.)

15 Q. IF YOU'VE NOT FOUND AN ENTRY, WE'LL MOVE ON TO
16 SOMETHING AND PERHAPS COME BACK TO THAT.

17 A. OKAY, SIR. I APOLOGIZE.

18 Q. 4-22-97. AND AFTER YOU FIND THAT, WILL YOU
19 PLEASE TELL ME, SIR?

20 A. YES, SIR, I FIND IT.

21 Q. IF I MAY LOOK AND SEE IF WE ARE ON THE SAME PAGE
22 HERE.

23 A. '97 YOU SAID?

24 Q. WE ARE ON THE SAME PAGE, SIR, BUT IF YOU WILL AS
25 YOU READ THAT, AS YOU READ THIS THERE IS A NAME

JULIUS F. MEYER, JR. - DIRECT BY HANCOCK

2777

1 INVOLVED IN THE LOWER PART?

2 A. YES, IT'S HIGHLIGHTED.

3 Q. AND I WOULD ASK THAT YOU DO NOT MENTION THAT
4 PARTICULAR NAME, SIR.

5 A. ALL RIGHT.

6 Q. WOULD YOU PLEASE RELATE TO US WHAT WE HAVE
7 THERE.

8 A. 4-22, "MISSING MOM A LOT. FEARS JIMMY WON'T GET
9 HIS SENTENCE COMMUTED. REVIEWS HISTORY OF HER
10 PARENTING. REFLECTS ON WHAT MOOD SHE IS IN.
11 ABLE TO IDENTIFY WHAT FRUSTRATING ASPECTS WISH
12 SHE WOULD HAVE PROVIDED. WOULD COME HOME AND
13 CRY ALL DAY WHEN EARL'S PARENTS CAME." I CAN'T
14 MAKE OUT THIS WORD. "WHEN DISCUSSING STRESSFUL
15 TOPICS, EARL TOLD HER THAT BLANK WAS A BETTER
16 LOVER. THIS HAD TO BE ONE OF THE MORE STRESSFUL
17 TIMES OF HER LIFE."

18 Q. AND IS THE NAME THAT YOU REDACTED FROM THAT A
19 FEMALE NAME, SIR?

20 A. THIS IS CORRECT.

21 Q. AND AGAIN YOU SAID "EARL TOLD ME THAT BLANK WAS
22 THE BETTER LOVER"?

23 A. THIS IS CORRECT, SIR.

24 Q. I APPARENTLY CAN'T READ MY OWN WRITING. I THINK
25 I WAS LOOKING FOR 1-14-96, NOT 11-14-96, SIR.

JULIUS F. MEYER, JR. - DIRECT BY HANCOCK

2778

- 1 A. 1-14-96. '97 OR '96?
- 2 Q. '96.
- 3 A. ALL RIGHT. I DON'T SEE IT, I SEE ---
- 4 Q. 1-14-97.
- 5 A. '97.
- 6 Q. I'M SORRY, SIR, I DON'T MEAN TO CONFUSE YOU.
- 7 A. I UNDERSTAND.
- 8 Q. 1-14-97 IF YOU WOULD, RELATE THAT TO THE JURY.
- 9 A. "I HAVE A LOT OF ANGER TOWARDS EARL. I AM
- 10 FURIOUS AT EARL FOR WHAT I THINK HE HAS DONE TO
- 11 THE KIDS. CHIP NEVER COMFORTABLE ABOUT DAD EVER
- 12 SINCE SEVENTH GRADE AND A TRIP TO THE MOUNTAINS
- 13 DUE TO A PHYSICAL CONFRONTATION. I STILL FEEL
- 14 LIKE I'M WALKING ON EGGSHELLS. WOULD LIKE HIM
- 15 TO BE MORE LOVING. HE'S SO HARD ON THE KIDS.
- 16 HOW TO SHOW HIS SOFT SIDE. HAS A PLAYFUL SIDE
- 17 INSTEAD OF A SOFT SIDE."
- 18 Q. IF I MAY JUST REVIEW PART OF THAT WITH YOU?
- 19 A. YES, SIR.
- 20 Q. YOU SAID THAT SHE WAS FURIOUS WITH EARL WHEN I
- 21 THINK ABOUT WHAT HE HAS DONE TO THE KIDS?
- 22 A. THIS IS CORRECT.
- 23 Q. IS THERE ANY ELABORATION ON THAT, SIR?
- 24 A. MY MEMORY WAS THAT THEY WENT ON SOME SORT OF
- 25 VACATION TO THE MOUNTAINS AND THAT EARL HAD

JULIUS F. MEYER, JR. - DIRECT BY HANCOCK

2779

1 GRABBED CHIP BY THE SHIRT AND PUT HIM UP AGAINST
2 THE WALL AND SAID SOMETHING TO THE EFFECT THAT
3 IF YOU THINK YOU'RE MAN ENOUGH OR SOMETHING,
4 THEN TAKE ME ON OR PAY ATTENTION TO ME ONE WAY
5 OR THE OTHER.

6 Q. AND SO IT MAKES OTHER REFERENCE TO PHYSICAL
7 CONFRONTATIONS; IS THAT CORRECT, SIR?

8 A. YES, SIR.

9 Q. ON 2-6-97, SIR.

10 A. "FROM AGE 8 -- I COULD USE SOME WATER PROBABLY.

11 Q. YES, SIR.

12 A. THANK YOU.

13 Q. YES, SIR.

14 A. "FROM AGE 8 REMEMBERS ENGAGING IN SELF-PUNITIVE
15 BEHAVIOR IN APPARENT REACTION TO PARENTAL
16 CONFLICTS. GENERALIZED HER BEHAVIOR TO JIMMY.
17 COMPARE INCIDENTS WHEN 15 ABOUT MALE. ABOUT A
18 FAR OFF LOOK WHEN TALKING ABOUT GUILT AND
19 EMBARRASSMENT."

20 Q. SO, SHE SAID SHE ENGAGED IN SELF-PUNISHMENT
21 BEHAVIOR AS EARLY AS AGE 8. IS THAT CORRECT,
22 SIR?

23 A. THAT'S CORRECT.

24 Q. DO YOU HAVE ANY DEFINITION OF WHAT THAT SELF-
25 PUNISHING BEHAVIOR MIGHT HAVE BEEN?

JULIUS F. MEYER, JR. - DIRECT BY HANCOCK

2780

1 A. I THINK IT WAS HITTING HERSELF.

2 Q. HITTING HERSELF? IS THERE ANY MEMORY OF HER IN
3 SELF-MUTILATION OR ANYTHING AT THAT EARLY AGE?

4 A. OTHER THAN HITTING HERSELF; THAT'S ALL THAT I
5 CAN RECALL.

6 Q. OKAY, SIR. 8-26-97 IF YOU WILL.

7 A. THERE'S SOME OTHER INFORMATION I GUESS I PUT ON
8 HERE THAT'S IRRELEVANT, SOMEBODY'S ADDRESS AND
9 IT'S CROSSED OUT. "SUGGESTS EARL LIE ACROSS THE
10 BED AND READ WHILE TERRY READS. IT'S REALLY
11 GREAT HAVING JIMMY HOME, HE IS HELPFUL. NOT
12 PRESENTLY PARTICULARLY OVERWHELMED; HOWEVER, SHE
13 GOT FLUSHED SEVERAL TIMES DURING THE SESSION.
14 SHE WOULD START SHAKING, ESPECIALLY IN RESPONSE
15 TO DISCUSSING SPOUSES ANGER. CONTINUED TO SET
16 GOALS, TO STRIVE FOR MEETING HER CHILDREN'S
17 NEEDS. WANTS TO BE BLIND TO THEIR BEHAVIOR BUT
18 HAS MADE EXCELLENT PROGRESS, A B.A. DEGREE IN
19 ENGLISH."

20 Q. CAN WE GO TO 10-27-95?

21 A. "DEPRESSED A LOT. WORRYING; TRYING TO KEEP IN
22 CHECK; TRYING TO IDENTIFY WHAT SHE HAS CONTROL
23 OVER, YET CAN'T HELP. CONTINUES TO HEAR HER
24 MOM'S VOICE. OF COURSE, EARL'S MOTHER DOESN'T
25 OFFER MUCH SUPPORT. HOLIDAY SPIRIT IS EVIDENT.

JULIUS F. MEYER, JR. - DIRECT BY HANCOCK

2781

1 MUST PUT LIMIT ON WHAT HELP TO GIVE JIMMY AND
2 CHIP. STRESSED ISSUES OF ALCOHOL AND DRUGS.
3 THEY MUST DO SOMETHING ABOUT THAT BEFORE YOU CAN
4 HELP."

5 Q. LET'S GO TO 2-14-96.

6 A. "HAS CUT ON SELF, ARM, LOOKING FOR A VEIN; FELT
7 UNLOVED; NO ONE CARES. THIS HAPPENED TWO WEEKS
8 AGO. SOMETIMES FORGETS TO TAKE MEDICATION.
9 GEE, THIS ISN'T MY ARM", IN QUOTES, "THIS IS OUR
10 ANNIVERSARY OF BEING ENGAGED. I'M STUCK
11 DEVELOPMENTALLY. IF I WERE MATURE, I WOULDN'T
12 ACT SILLY ALL THE TIME, BE A BETTER WIFE. ALL
13 THESE YEARS I NEVER HAD CONTROL OF MY EMOTIONS.
14 I NEED TO HAVE CONTROL OF MY EMOTIONS AROUND THE
15 ADULT WORLD. EARL HATES HIS JOB. I WAS PLAYING
16 AT HOUSEKEEPING."

17 Q. SHE SAID EARL HATES HIS JOB?

18 A. THIS IS CORRECT.

19 Q. AND THAT'S BACK IN '96?

20 A. UH HUH.

21 Q. ALL RIGHT, SIR, LET'S GO TO 3-2-96.

22 A. "DEPRESSED; FASCINATED ABOUT DEATH; CUT SELF ON
23 LEG AND ARM. NOT WILLING TO GO TO THE HOSPITAL.
24 SOME OBSESSIONAL THINKING OR THOUGHTS."

25 Q. ALL RIGHT, SIR. LET'S GO TO 5-31-96.

JULIUS F. MEYER, JR. - DIRECT BY HANCOCK

2782

1 A. "HAVING COMPULSIVE BEHAVIOR; HANGING UP THE
2 TELEPHONE OVER AND OVER; LOOKING AT THE CLOCK
3 THOUSANDS OF TIMES TO SEE IF SHE CAN TELL IF ONE
4 MINUTE HAS ELAPSED. STILL THINKING ABOUT
5 SUICIDE. WHEN DRINKING LEMONADE SHE WAS GOING
6 TO HAVE ICE CUBES TURNED INTO BABIES, FROZEN
7 BABIES; SEEING FACES ALL THE TIME; CONCERNED
8 OVER JIMMY, NO GOALS."

9 Q. THOSE, SIR, IN YOUR EXPERIENCE, ARE THEY SAMPLES
10 OF EXCESSIVE COMPULSIVE BEHAVIOR?

11 MR. BRACKETT: YOUR HONOR, I HAVE ---

12 THE COURT: I SUSTAIN AS TO THE LEADING QUESTION.
13 REPHRASE YOUR QUESTION.

14 MR. BRACKETT: I DON'T OBJECT EVEN TO THE
15 LEADING, YOUR HONOR. I OBJECT TO HIM GIVING AN OPINION
16 WITHOUT BEING QUALIFIED. IF HE WANTS TO QUALIFY HIM, THEN
17 HE'S ASKING ---

18 THE COURT: YOU DID NOT QUALIFY HIM AS AN EXPERT.
19 IN FACT WHEN THAT WAS OFFERED, YOU TURNED THE OFFER DOWN.
20 SO, I SUSTAIN THE OBJECTION.

21 MR. HANCOCK: WE WILL NOW OFFER HIM AS AN EXPERT
22 AT THIS TIME, YOUR HONOR.

23 MR. BRACKETT: I WILL GLADLY CONCEDE THAT HE IS
24 AN EXPERT AND ALLOW THE QUESTION AND ANSWER.

25 THE COURT: I FIND THAT HE IS QUALIFIED AS AN

JULIUS F. MEYER, JR. - DIRECT BY HANCOCK

2783

1 EXPERT IN THE AREA OF COUNSELING, PARTICULARLY IN FAMILY
2 COUNSELING.

3 Q. IN YOUR EXPERIENCE IS THAT AN EXAMPLE OF THE
4 TYPE OF BEHAVIOR THAT YOU CAN DESCRIBE, SIR?
5 AS BEING OBSESSIVE OR COMPULSIVE?

6 A. YES, SIR.

7 Q. AND THE ICE CUBES TURNING INTO, WHAT WAS IT,
8 SIR?

9 A. FROZEN BABIES.

10 Q. AND WHAT WOULD THAT BE AN EXAMPLE OF, SIR?

11 A. HAVING A VISUAL HALLUCINATION.

12 Q. COULD YOU GO TO 6-17?

13 A. AT THAT TIME I FELT THAT WAS A RESULT OF THE
14 MEDICATION THAT SHE WAS ON.

15 Q. SO, YOU'RE INDICATING -- WHAT TYPE OF MEDICATION
16 WAS SHE ON?

17 A. I WAS NOT SURE; I REFERRED HER TO TALK TO DR.
18 MCMEEKIN ABOUT IT AT THAT TIME.

19 Q. BUT YOU ARE AWARE THAT CERTAIN MEDICATIONS CAN -
20 - AND YOU ARE AWARE THAT SHE WAS BIPOLAR AND
21 CERTAIN MEDICATIONS PRESCRIBED FOR THAT CAN
22 CAUSE VISUAL HALLUCINATION; ISN'T THAT CORRECT,
23 SIR?

24 A. I DON'T KNOW ABOUT FOR BIPOLAR BECAUSE THAT'S
25 OUT OF MY REALM OF EXPERTISE AS FAR AS

JULIUS F. MEYER, JR. - DIRECT BY HANCOCK

2784

1 MEDICATION, BUT IT WAS A CONCERN TO ME AND I
2 FELT IT PROBABLY WAS A MEDICATION ISSUE.

3 Q. YES, SIR. OKAY, LET'S GO TO 6-17-96.

4 A. YES, SIR.

5 Q. WOULD YOU PLEASE RELATE THAT TO US?

6 A. "NO CUTTING BEHAVIOR. NOT SLEEPING TWO NIGHTS,
7 THURSDAY AND FRIDAY. REVIEWED THE M.M.P.I. TEST
8 RESULTS. WORKING ON WRITING THE LETTER. NO
9 REAL HAPPY DAYS. STILL FEEL LIKE SHE NEEDS TO
10 TELL ME SOMETHING IMPORTANT, SHE'S JUST NOT
11 READY TO DEAL WITH. STILL COUNTING STUFF, GOING
12 OVER STUFF. FEELS LIKE SHE HAS MORE CONTROL OF
13 THE VOICES. STILL FEELS LIKE SHE IS A BAD
14 MOTHER. CHIP APPEARS TO BE DOING WELL. WE'LL
15 LOOK AT HAVING SEX WITHIN A MONTH. HOW TO
16 INITIATE. HOW TO THINK PLEASANT THOUGHTS. HOW
17 TO STAY TOGETHER AND BE HAPPY OTHER THAN
18 EXISTING."

19 Q. ALL RIGHT, SIR, NOW THERE ARE A COUPLE OF THINGS
20 YOU SAID, THE VOICES; DO YOU HAVE AN EXPLANATION
21 OF THOSE VOICES?

22 A. ONCE AGAIN I CAN'T BE SPECIFIC. A LOT OF TIMES
23 WHEN SHE TALKED ABOUT THAT IT WAS HER MOTHER'S
24 VOICE TELLING HER SHE'S BAD OR HER MOTHER'S
25 VOICE SAYING YOU NEED TO DO THIS. THAT'S MY

JULIUS F. MEYER, JR. - DIRECT BY HANCOCK

2785

1 RECOLLECTION OF THE VOICES THAT SHE HEARD.

2 Q. IS THAT, IN YOUR EXPERIENCE, SIR, IS THAT A
3 NORMAL TYPE PROBLEM THAT YOU WOULD HEAR YOUR
4 MOTHER'S VOICE FIVE YEARS AFTER SHE HAD PASSED
5 AWAY?

6 A. I WOULD SAY IN THE PSYCHIATRIC POPULATION I
7 WOULD SAY IT'S COMMON. I CERTAINLY DON'T LIKE
8 TO SEE IT THOUGH.

9 Q. IT'S DISTURBING TO YOU AS A FAMILY COUNSELOR?

10 A. YES, I WOULD LIKE THAT TO BE ELIMINATED. IT'S
11 ONE OF THOSE KIND OF BEHAVIORS YOU WANT TO
12 EXTINGUISH.

13 Q. YES, SIR. I REFER TO 10-29-96, SIR.

14 A. 10-29-96?

15 Q. YES, SIR.

16 A. "HAVING VISUAL HALLUCINATIONS. RED PILLS LOOK
17 LIKE WORMS. I USED TO THINK I WAS THE ONE WHO
18 WAS WRONG MOST OF THE TIME. THAT MOM HAD THE
19 RIGHT ANSWERS. MOM NEVER TAUGHT ME HOW TO MAKE
20 MY OWN DECISIONS; SHE MADE THEM FOR ME. SHE
21 WOULD BELITTLE MY EFFORTS. I SHOULD BE
22 INTRODUCED TO THE REAL WORLD, HOW TO WORK.
23 PARENTS PROTECTIVE NATURE."

24 Q. HAVE YOU SPOKEN AND DISCUSSED THESE RECORDS WITH
25 AN INDIVIDUAL NAMED TONI CASCIO?

JULIUS F. MEYER, JR. - DIRECT BY HANCOCK

2786

1 A. YES, SIR.

2 Q. AND DID Y'ALL DISCUSS THESE AT LENGTH?

3 A. I WOULD SAY WE HAD A HALF HOUR CONVERSATION.

4 Q. AND Y'ALL REVIEWED SOME OF THE RECORDS TOGETHER,
5 DIDN'T YOU?

6 A. SHE ASKED ME SOME QUESTIONS. I DON'T THINK I HAD
7 THE RECORDS IN FRONT OF ME AT THE TIME.

8 Q. ALL RIGHT, SIR. AND AT THAT TIME DID YOU TELL
9 MS. CASCIO THAT YOU SUSPECTED THAT TERRY
10 ROBERTSON WAS POSSIBLY A VICTIM OF SEXUAL ABUSE
11 WHEN SHE WAS YOUNG DUE TO YOUR COUNSELING AND
12 KNOWLEDGE THAT YOU HAD OF HER?

13 A. THAT I SUSPECTED THAT THAT WAS A PROBABILITY.

14 Q. YES, SIR. AND WOULD THAT IN ANY WAY DESCRIBE
15 PART OF THE BEHAVIOR THAT YOU HAVE SEEN IN THIS
16 LADY?

17 A. IT COULD BE AN EXPLANATION.

18 Q. OKAY, SIR. I BEG THE INDULGENCE OF THE COURT
19 ONE MOMENT, SIR.

20 (AFTER A BRIEF PAUSE.)

21 Q. I WILL ASK THAT YOU TURN TO THE, I BELIEVE IT'S
22 THE VERY FRONT OF MRS. ROBERTSON'S NOTES, PAST
23 THE CHRONOLOGY, SIR. I AM REFERRING TO THE
24 THIRD PAGE PAST THE CHRONOLOGY AND COULD YOU
25 TELL ME WHAT THAT IS?

JULIUS F. MEYER, JR. - DIRECT BY HANCOCK

2787

1 A. THIS IS A NOTE THAT SHE BROUGHT TO A SESSION ---

2 MR. HANCOCK: YOUR HONOR, IF I MAY INTERRUPT THIS
3 WITNESS SO THAT WE CAN GET THIS. WHAT DO YOU HAVE THERE,
4 SIR?

5 A. IT'S A NOTE THAT SHE BROUGHT TO A SESSION AFTER,
6 I THINK, SHE GOT OUT OF THE HOSPITAL.

7 Q. AND IS IT IN HER HANDWRITING?

8 A. YES, SIR, TO MY MEMORY OF IT.

9 Q. TO YOUR MEMORY OF IT, BUT IT CAME FROM YOUR
10 RECORDS?

11 A. YES, SHE GAVE IT TO ME AND I PUT IT IN MY
12 RECORD.

13 Q. WOULD YOU READ THAT NOTE PLEASE, SIR?

14 A. I CAN'T MAKE OUT THE FIRST SUB-SECTION. IT
15 SAYS, "FUTURE HOPELESSNESS, BAD MOTHER, BAD
16 WIFE, END MISERY, NO ANTICIPATION, DREAD EVERY
17 DAY, HATES MYSELF."

18 Q. THERE'S SOMETHING UP TO THE RIGHT HERE, TOO,
19 SIR.

20 A. "TO LIVE" OR SOMETHING, SHE SAYS "LIFE OR LIVE,
21 DON'T WANT ME TO DIE."

22 Q. YOU MIGHT CAN MAKE IT OUT FROM THAT, "PEOPLE WHO
23 LOVE ME"?

24 A. "PEOPLE WHO LOVE ME."

25 Q. AND THEN GO TO THE MIDDLE OF THE PAGE PLEASE,

JULIUS F. MEYER, JR. - DIRECT BY HANCOCK

2788

1 SIR.

2 A. MIDDLE OF THE PAGE, "REASONS I'M A BAD MOTHER.
3 HIT THEM, VERBAL ABUSE, TEND TO ALWAYS HELP
4 BUILD THEIR SELF-ESTEEM, THEN TEACH THEM RIGHT
5 FROM WRONG, THEN PROTECT THEM. BOYS FAILED IN
6 SCHOOL WORK. NOT A GOOD ROLE MODEL."

7 Q. IT SAYS "HIT THEM". DO YOU KNOW WHETHER THAT
8 REFERS TO HER, EARL OR TO WHOM IT REFERS?

9 A. I WOULD ASSUME IT'S REFERRING TO HER.

10 Q. THE VERBAL ABUSE. DO YOU KNOW WHETHER THAT
11 REFERS TO HER OR TO EARL?

12 A. I WOULD THINK IT REFERS -- YOU KNOW, THESE ARE
13 REASONS FOR HER BEING A BAD MOTHER, HER YELLING
14 AND SCREAMING AT THE BOYS.

15 Q. I NOW REFER TO A LETTER THAT I BELIEVE IS THE
16 FIRST PAGE.

17 A. YES, SIR.

18 Q. I BELIEVE A PORTION OF THAT IS HIGHLIGHTED, SIR,
19 AND IN THAT HIGHLIGHTED PORTION THERE IS A NAME
20 AND I AM ASKING, SIR, THAT YOU NOT MENTION THAT
21 NAME.

22 A. THERE ARE TWO NAMES.

23 Q. THERE ARE TWO NAMES AND I DON'T WANT EITHER NAME
24 MENTIONED.

25 A. ALL RIGHT.

JULIUS F. MEYER, JR. - DIRECT BY HANCOCK

2789

- 1 Q. IS THAT ALL RIGHT, SIR?
- 2 A. YES.
- 3 Q. WOULD YOU READ THE -- START WITH THE HIGHLIGHTED
- 4 PORTION.
- 5 A. "OUR EARLY MARRIED YEARS WERE OKAY, BUT OTHER
- 6 PROBLEMS. THEN CAME BLANK AND BLANK."
- 7 Q. AND IS THAT THE NAME OF A MALE AND A FEMALE?
- 8 A. THIS IS CORRECT.
- 9 Q. AND IS THE FEMALE NAME THE SAME NAME AS THE ONE
- 10 THAT WE REDACTED EARLIER, SIR?
- 11 A. THIS IS CORRECT.
- 12 Q. NOW, SIR, IN YOUR OPINION TERRY ROBERTSON WAS
- 13 NOT A BAD PERSON, WAS SHE, SIR?
- 14 A. NO, SIR.
- 15 Q. SHE WAS A TROUBLED PERSON, WASN'T SHE, SIR?
- 16 A. YES, SIR.
- 17 Q. HIGHLY TROUBLED?
- 18 A. MOST DEFINITELY, A VERY DEPRESSED PERSON.
- 19 Q. AND WITH THAT TROUBLE STARTING IN EARLY
- 20 CHILDHOOD; ISN'T THAT CORRECT?
- 21 A. THAT WOULD BE MY ASSUMPTION.
- 22 Q. FROM YOUR COUNSELING AND FROM WHAT YOU HAVE
- 23 SEEN?
- 24 A. THIS IS CORRECT, FOR A VARIETY OF REASONS.
- 25 Q. AND WHAT WOULD BE THOSE REASONS, SIR?

JULIUS F. MEYER, JR. - DIRECT BY HANCOCK

2790

1 A. VERY STRICT PARENTS; VERY CONFLICTUAL HOME; HER
2 MOTHER'S ILLNESS, THE BREAST CANCER; HER FATHER
3 BEING UP IN THE MILITARY AND BEING EMOTIONALLY
4 UNAVAILABLE. I THINK THE PRESSURE OF THAT
5 LIFESTYLE, ENTERTAINING, PROFESSIONALISTIC
6 LIFESTYLE THAT GOES WITH THAT. AND ALSO HER
7 BEING AN ONLY CHILD AND TAKING ON A GREAT DEAL
8 OF RESPONSIBILITY FOR WHETHER OR NOT HER PARENTS
9 HAD A GOOD MARRIAGE.

10 Q. BUT, AGAIN, THAT SURELY DID NOT MAKE TERRY
11 ROBERTSON A BAD PERSON, DID IT, SIR?

12 A. NO, IT MADE HER HAVE EMOTIONAL PROBLEMS.

13 Q. AND ALSO ON BEHALF OF EARL ROBERTSON, HE WAS NOT
14 A BAD PERSON, WAS HE, SIR?

15 A. NO, SIR.

16 Q. HE WAS A GENTLEMAN. HE WAS ALSO A GOOD PERSON
17 THAT WAS TROUBLED BY WHAT WAS GOING ON AROUND
18 HIM, WASN'T HE, SIR?

19 A. WHAT WAS GOING ON WITH HIS FAMILY.

20 Q. YES, SIR. I BEG THE INDULGENCE OF THE COURT.

21 (AFTER A BRIEF PAUSE.)

22 Q. I HAVE NOTHING FURTHER OF THIS WITNESS, YOUR
23 HONOR.

24 THE COURT: CROSS?

25 MR. BRACKETT: YES, SIR, YOUR HONOR. BEFORE I

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2791

1 CROSS, COULD WE TAKE A MORNING BREAK?

2 THE COURT: ALL RIGHT, WE'LL TAKE A SHORT BREAK
3 THEN.

4 AFTER THE BREAK IN CAMERA:

5 THE COURT: IS THE DEFENSE READY?

6 MR. HANCOCK: YES, YOUR HONOR.

7 THE COURT: MR. BRACKETT?

8 MR. BRACKETT: YES, SIR, YOUR HONOR.

9 THE COURT: BRING THE JURY BACK IN.

10 IN THE PRESENCE OF THE JURY:

11 THE COURT: MR. BRACKETT?

12 CROSS EXAMINATION BY

13 MR. BRACKETT:

14 Q. GOOD MORNING, MR. MEYER. YOU, SIR, OF COURSE,
15 KNOW ME, DON'T YOU?

16 A. YES, SIR.

17 Q. I'M KEVIN BRACKETT. AND YOU KNOW THE DEFENSE
18 OVER THERE?

19 A. YES, SIR.

20 Q. AND YOU HAVE SPOKEN WITH ME ABOUT THIS SITUATION
21 IN THIS CASE?

22 A. YES, SIR.

23 Q. AND YOU MET WITH ME AT YOUR OFFICE?

24 A. THIS IS CORRECT.

25 Q. AND YOU'VE MET WITH THE DEFENSE?

JULIUS F. MEYER, JR. - CROSS BY MR. BRACKETT

2792

1 A. YES.

2 Q. AND EXPLAINED ALL THE THINGS THAT YOU'VE BEEN
3 HERE TESTIFYING?

4 A. THIS IS CORRECT.

5 Q. AND IT'S HARD TO BE HERE TODAY FOR YOU, ISN'T
6 IT?

7 A. YES, SIR.

8 THE COURT: KEEP YOUR VOICE LEVEL UP.

9 Q. YES, SIR. THIS GOES AGAINST THE GRAIN OF
10 EVERYTHING A COUNSELOR IS TAUGHT IN TERMS OF
11 CONFIDENTIALITY AND PRIVACY.

12 A. THIS IS CORRECT.

13 Q. AND TERRY ROBERTSON WAS AN EXCEEDINGLY PRIVATE
14 WOMAN, WASN'T SHE?

15 A. VERY MUCH SO.

16 Q. SHE WOULD BE MORTIFIED TO KNOW WHAT IS GOING ON
17 IN THIS COURTROOM TODAY, WOULDN'T SHE?

18 A. YES, PERSONAL APPEARANCES MEANT A GREAT DEAL TO
19 HER.

20 Q. AND YOU STARTED SEEING HER IN 1995?

21 A. THIS IS CORRECT.

22 Q. AND TO YOUR KNOWLEDGE SHE NEVER RECEIVED ANY
23 COUNSELING BEFORE THAT; IS THAT RIGHT?

24 A. THIS IS CORRECT. AT LEAST DURING THE INITIAL
25 INTERVIEW SHE INDICATED NO PREVIOUS THERAPY.

JULIUS F. MEYER, JR. - CROSS BY MR. BRACKETT

2793

- 1 Q. AND SHE HAD HAD THESE PROBLEMS, THE BIPOLAR AND
2 THE OTHER THINGS BUT SHE HAD FUNCTIONED PRETTY
3 WELL UP TO THAT POINT, HADN'T SHE?
- 4 A. I'M NOT SURE; I THINK IT WAS THERE FOR A LONG
5 TIME, BUT SHE DID NOT BRING IT TO THE ATTENTION
6 OF MENTAL HELP.
- 7 Q. SHE WASN'T MUTILATING HERSELF IN THE SEVENTIES,
8 WAS SHE?
- 9 A. NOT THAT I KNOW OF.
- 10 Q. OR THE EIGHTIES.
- 11 A. NOT THAT I KNOW OF.
- 12 Q. SHE DIDN'T REQUIRE ANY HOSPITALIZATION IN THE
13 SEVENTIES OR EIGHTIES?
- 14 A. NOT THAT I KNOW OF.
- 15 Q. SHE WAS GETTING ALONG PRETTY WELL?
- 16 A. YES, SIR.
- 17 Q. FOR SOMEONE WITH HER CONDITION. NOW, HER MOTHER
18 DIED IN THE EARLY NINETIES; ISN'T THAT RIGHT?
- 19 A. I BELIEVE SO. APPROXIMATELY FIVE YEARS.
- 20 Q. OKAY, THAT WOULD HAVE BEEN IN '92, FIVE YEARS
21 BEFORE HER DEATH?
- 22 A. I THINK IT WAS FIVE YEARS BEFORE '95, SO I THINK
23 1990.
- 24 Q. OKAY. AND THAT WAS VERY TRAUMATIC FOR HER.
- 25 A. YES, I THINK THAT WAS A MAJOR DOWNTURN IN HER

JULIUS F. MEYER, JR. - CROSS BY MR. BRACKETT

2794

1 LIFE.

2 Q. AS IT IS FOR ANYBODY.

3 A. THIS IS CORRECT.

4 Q. MR. HANCOCK HAS QUESTIONED YOU A LOT ABOUT SOME
5 INDIVIDUAL COUNSELING NOTES THAT YOU MADE IN THE
6 COURSE OF SEEING TERRY ROBERTSON. AND THOSE
7 COUNSELING NOTES WERE WRITTEN BY YOU. ISN'T
8 THAT RIGHT?

9 A. YES, SIR.

10 Q. OKAY. AND YOU READ A LOT OF THEM VERBATIM FROM
11 YOUR NOTES AND THEY SEEMED TO HAVE ALMOST A
12 STREAM OF CONSCIOUSNESS, YOU'RE WRITING THINGS
13 DOWN AS SHE'S SAYING THEM?

14 A. QUITE FREQUENTLY.

15 Q. AND WOULD IT BE FAIR TO SAY, SIR, THAT WHEN
16 YOU'RE TRYING TO ASSESS THE BIG PICTURE, AS IT
17 WERE, ABOUT SOMEBODY. IS IT MORE IMPORTANT TO
18 FOCUS ON THE DETAILS OF WHAT SHE MIGHT SAY IN
19 ANY ONE COUNSELING SESSION OR KIND OF LOOK AT
20 THE OVERALL TRENDS IN HER THERAPY?

21 A. MY APPROACH IS TO LOOK FOR MORE OF THE OVERALL
22 TREND; SOME OF THAT COMES FROM BEING A FAMILY
23 THERAPIST.

24 Q. AND THAT'S PRETTY MUCH STANDARD IN YOUR
25 PROFESSION?

JULIUS F. MEYER, JR. - CROSS BY MR. BRACKETT

2795

1 A. I WOULD THINK SO.

2 Q. ANY COUNSELING PROFESSION. SHE MIGHT SAY
3 SOMETHING ONE DAY BUT IT MIGHT NEVER BECOME A
4 PROBLEM.

5 A. THIS IS CORRECT.

6 Q. SO, GIVEN THAT FACT, SOME OF THESE THINGS COULD
7 BE TAKEN OUT OF CONTEXT; ISN'T THAT RIGHT?

8 A. IT'S A POSSIBILITY.

9 Q. AN EXAGGERATED -- TO BE MORE THAN THEY ACTUALLY
10 ARE.

11 A. IT'S A POSSIBILITY.

12 Q. NOW, EARL AND TERRY ROBERTSON LOVED THEIR
13 CHILDREN VERY MUCH, DIDN'T THEY?

14 A. I BELIEVE SO.

15 Q. THEY CARED ABOUT THEM; CARED ABOUT THEIR FUTURE;
16 IS THAT CORRECT?

17 A. VERY MUCH SO. I THINK PROBABLY MORE SO THAN THE
18 CHILDREN THEMSELVES.

19 Q. THEY WERE CONCERNED ABOUT WHAT WAS GOING TO
20 BECOME OF THEM.

21 A. DEFINITELY.

22 Q. JUST LIKE ANY PARENT IS.

23 A. YES, SIR.

24 THE COURT: MR. BRACKETT, I AM GOING TO ASK --
25 MAKE SURE THESE ARE QUESTIONS. YOU'VE MADE A LOT OF JUST

JULIUS F. MEYER, JR. - CROSS BY MR. BRACKETT

2796

1 STATEMENTS.

2 MR. BRACKETT: YES, SIR.

3 THE COURT: JUST ASK QUESTIONS.

4 MR. BRACKETT: YES, SIR.

5 Q. WOULD IT BE FAIR TO SAY, SIR, THAT TERRY'S
6 EMOTIONAL AND MENTAL PROBLEMS WERE AGGRAVATED --
7 THAT THE EXISTING AND MENTAL AND EMOTIONAL
8 PROBLEMS WERE AGGRAVATED BY WHAT CHIP AND JIMMY
9 DID?

10 A. YES, I THINK SO.

11 Q. DO YOU THINK IT WOULD BE FAIR TO SAY THAT HER
12 PROBLEMS BEFOREHAND WERE BASICALLY UNDER CONTROL
13 PRIOR TO HER MOTHER'S DEATH?

14 A. YES. SHE INDICATED THAT HER FATHER'S DEATH WAS
15 ALSO A TREMENDOUS LOSS. SHE HAD A FATHER THAT
16 DIED AND THEN HER GRANDMOTHER AND THEN HER
17 MOTHER, ALL THREE OF THOSE COMBINED WERE VERY
18 DIFFICULT FOR HER.

19 Q. WOULD IT BE FAIR TO SAY, SIR, THAT WHAT CHIP AND
20 JIMMY WERE DOING IN THE EARLY TO MID-NINETIES
21 MADE HER CONDITION, ALL THE THINGS THAT YOU'VE
22 DESCRIBED, THE SELF-MUTILATION, THE
23 HOSPITALIZATION, THAT THOSE WERE CAUSED BY WHAT
24 CHIP AND JIMMY WERE DOING?

25 A. I DON'T KNOW THAT I COULD SAY THAT. I SAW WHAT

JULIUS F. MEYER, JR. - CROSS BY MR. BRACKETT

2797

1 SHE WAS DOING AS A WAY OF COPING WITH WHAT WAS
2 GOING ON IN HER LIFE AND CERTAINLY SOME OF THAT
3 WAS WHAT CHIP AND JIMMY WERE DOING, HOW THEY
4 WERE NOT MOVING ON WITH THEIR LIFE IN A FASHION
5 THAT THEY WOULD LIKE TO SEE THEM.

6 Q. SO WHILE YOU COULDN'T SAY IT WAS AN EXCLUSIVE
7 CAUSE, IT CERTAINLY AGGRAVATED ANY EXISTING
8 CONDITION?

9 A. I WOULD AGREE WITH THAT.

10 Q. NOW, I DON'T WANT TO GO INTO TOO MUCH DETAIL
11 ABOUT THESE INDIVIDUAL NOTES, BUT I WOULD LIKE
12 TO CLEAR UP A COUPLE OF THINGS THAT MR. HANCOCK
13 ASKED YOU ABOUT. DO YOU STILL HAVE THE NOTEBOOK
14 IN FRONT OF YOU?

15 A. IT'S THERE ON THE TABLE.

16 Q. 11-7-97.

17 A. UNDER WHICH CHART?

18 Q. ON EARL'S CHART.

19 A. YES, SIR.

20 Q. MR. HANCOCK ASKED YOU TO READ THAT ACCOUNT AND
21 YOU TALKED ABOUT HOPING TO GET A REFUND FROM
22 CHIP'S SCHOOL. DO YOU KNOW WHERE CHIP WAS GOING
23 TO SCHOOL?

24 A. I THINK HE WAS GOING TO WHARTON BUSINESS
25 COLLEGE, A PART OF PENN STATE UNIVERSITY.

JULIUS F. MEYER, JR. - CROSS BY MR. BRACKETT

2798

1 Q. AND DO YOU KNOW HOW MUCH THEY WERE PAYING TO
2 HAVE CHIP GO THERE?

3 A. IT'S SOME PLACE IN MY NOTES HERE, I CAN'T TELL
4 YOU UNLESS I LOOKED AT IT, BUT SOMEWHERE IN THE
5 NEIGHBORHOOD OF FIFTY THOUSAND DOLLARS.

6 Q. SO, IT WASN'T UNREASONABLE FOR EARL TO EXPECT,
7 TO HOPE TO GET A REFUND IF CHIP DROPPED OUT; IS
8 THAT RIGHT?

9 A. MOST DEFINITELY HE WAS EXCITED ABOUT THAT
10 POSSIBILITY.

11 Q. THAT'S A LOT OF MONEY; ISN'T THAT RIGHT?

12 A. YES.

13 Q. NOW, HE SAID HE WAS HUMILIATED OVER THE PHONE
14 CALLS. ISN'T IT TRUE THAT CHIP WAS CALLING HIM
15 AT WORK DRUNK?

16 A. I HAD HEARD THAT.

17 Q. AND THAT'S WHAT IS REFERRED TO THERE?

18 A. I BELIEVE SO.

19 Q. NOW, BACKING UP FROM THE INDIVIDUAL NOTES.
20 ISN'T IT FAIR TO SAY THAT EARL WAS A GOOD MAN?

21 A. I THINK SO.

22 Q. HE CARED ABOUT HIS KIDS?

23 A. YES.

24 Q. AND THE ANGER ---

25 THE COURT: WAIT A MINUTE. LET HIM ANSWER.

JULIUS F. MEYER, JR. - CROSS BY MR. BRACKETT

2799

1 Q. I THOUGHT HE SAID "YES". DID YOU HAVE ANYTHING
2 YOU WANTED TO ADD?

3 A. NO, I THOUGHT HE WAS A GOOD MAN.

4 Q. OKAY. THE ANGER AND THE FRUSTRATION THAT HE
5 FELT WAS A REASONABLE RESPONSE TO THEIR
6 BEHAVIOR; IS THAT CORRECT?

7 A. I WOULD SAY SO. I MEAN I THINK IT WAS PRETTY
8 INTENSE AT TIMES. BUT I THINK OVERALL IT WAS A
9 RESPONSE TO HIM FEELING LIKE HE GAVE A LOT TO
10 HIS FAMILY AND HE HAD A WIFE THAT WAS VERY
11 DEPRESSED AND TWO CHILDREN THAT WERE NOT BEING
12 LAUNCHED INTO ADULTHOOD VERY SUCCESSFULLY.

13 Q. DID YOU EVER GET THE IMPRESSION FROM ANY OF YOUR
14 CONVERSATIONS WITH ANYBODY THAT EARL WAS AN
15 ABUSIVE FATHER?

16 A. NO.

17 Q. THE SITUATION WHERE THEY WENT TO THE MOUNTAINS
18 AND HE DISCIPLINED CHIP, DID YOU GET THE
19 IMPRESSION FROM TALKING WITH HIM OR TERRY OR
20 ANYONE ELSE THAT THAT WAS AN ACT OF PHYSICAL
21 ABUSE THAT WAS PERPETRATED ON HIM?

22 A. THAT WAS A REPORT, FROM MY MEMORY, FROM TERRY.
23 BUT I DID NOT SEE THIS AS ABUSE.

24 Q. OKAY. IN TERRY'S NOTES FROM 8-8-95, YOU SAID
25 SHE WAS DEPRESSED IN MICHIGAN; SHE WAS AFRAID

JULIUS F. MEYER, JR. - CROSS BY MR. BRACKETT

2800

1 SHE HAD BAD CHILDREN?

2 A. YES, SIR.

3 Q. WAS THAT BECAUSE THEY WERE ACTING OUT AND
4 GETTING IN TROUBLE EVEN IN MICHIGAN?

5 A. THAT WOULD BE MY ASSUMPTION, BUT I DON'T REALLY
6 REMEMBER ANY DETAILS ABOUT IT.

7 Q. DURING THIS TIME PERIOD FROM '95 TO '97, HOW OLD
8 WERE CHIP AND JIMMY?

9 A. I WOULD HAVE TO LOOK AND SEE.

10 Q. COULD YOU GIVE ME A GUESSTIMATE?

11 A. I THINK CHIP MUST HAVE BEEN 18 OR 19 IN '95, HE
12 WAS GETTING READY TO GO TO COLLEGE. AND JIMMY
13 MUST HAVE BEEN 21.

14 Q. SO WHEN MR. HANCOCK WAS SAYING THEY WERE DOING
15 THESE THINGS AROUND THE KIDS AND THIS WAS
16 HAPPENING TO THE KIDS, THEY WEREN'T CHILDREN
17 BACK THEN, WERE THEY?

18 A. THEY WERE OF AGE.

19 Q. YES, SIR. AND AS A MATTER OF FACT, THEY WERE
20 HELPING THEM EVEN AFTER THEY WERE OLD ENOUGH TO
21 BE KICKED OUT OF THE HOUSE BY BRINGING THEM TO
22 YOUR OFFICE AND TRYING TO GET COUNSELING FOR
23 THEM AND SO FORTH. IS THAT CORRECT?

24 A. CORRECT.

25 Q. AND YOU SPOKE TO MS. CASCIO WITH THE DEFENSE

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 XII

JULIUS F. MEYER, JR. - CROSS BY MR. BRACKETT

2801

1 Q. TEAM, IS THAT CORRECT?

2 A. YES.

3 Q. HOW WOULD YOU CHARACTERIZE HER QUESTIONING OF
4 YOU REGARDING THESE NOTES AND SO FORTH?

5 A. SHE WAS PLEASANT, POLITE.

6 Q. WAS SHE REALLY INTERESTED IN GETTING AT THE
7 BOTTOM OF THIS OR WAS SHE DIGGING FOR DIRT?

8 MR. BOYD: YOUR HONOR, I'M GOING TO OBJECT.

9 THE COURT: NO, SIR, I OVERRULE IT; IT'S CROSS
10 EXAMINATION. GO AHEAD.

11 A. SHE APPEARED TO BE INTERESTED IN WHETHER OR NOT
12 I FELT TERRY WAS SEXUALLY ABUSED IN LOOKING AT
13 SOME PASSAGES AND AS FAR AS AGGRESSIVE OR THE
14 SCREAMING AND YELLING AND THE ANGER IN THE HOME.

15 Q. BUT IT'S FAIR TO SAY THAT SHE DID NOT HAVE ANY
16 REAL INTEREST -- WOULD IT BE FAIR TO SAY THAT
17 SHE DIDN'T REALLY HAVE ANY INTEREST IN GETTING A
18 TRUE PICTURE OF WHAT THEIR HOME LIFE WAS LIKE.

19 MR. HANCOCK: YOUR HONOR, I'M GOING TO OBJECT AS
20 TO WHAT SHE WAS TRYING TO DO.

21 MR. BRACKETT: I THINK HE CAN ANSWER THAT JUDGING
22 FROM HER QUESTIONS OF HIM.

23 THE COURT: REPHRASE YOUR QUESTION. I SUSTAIN
24 THE OBJECTION.

25 Q. DID IT APPEAR FROM HER QUESTIONING OF YOU THAT

JULIUS F. MEYER, JR. - CROSS BY MR. BRACKETT

2802

1 SHE WAS TRYING TO GET A TOTAL PICTURE?

2 A. I THINK SHE WAS FOCUSING ON PROBLEM AREAS.

3 Q. ALL RIGHT. WERE YOU AWARE, SIR, THAT TERRY WAS
4 ALSO SEEING YOUR ASSOCIATE, DR. HAYNE MCMEEKIN?

5 A. YES, SIR.

6 Q. AND ARE YOU AWARE THAT SHE WAS RECEIVING
7 AUGMENTATION THERAPY INVOLVING COMBINATIONS OF
8 DIFFERENT MEDICATIONS TO HELP STABILIZE HER
9 PSYCHOLOGICAL PROBLEMS?

10 A. YES, SIR.

11 Q. SEVERAL MEDICATIONS TO HELP WITH THESE PROBLEMS?

12 (THE WITNESS NODDED IN THE AFFIRMATIVE.)

13 THE COURT: WAS THERE AN ANSWER? I DIDN'T HEAR
14 HIS ANSWER.

15 A. YES. I'M SORRY; I JUST NODDED MY HEAD. YES,
16 SIR.

17 Q. AND SO WOULD IT BE FAIR TO SAY THAT TOWARDS THE
18 END OF THEIR LIVES, IN THE LAST MONTH OR SO,
19 MAYBE TWO MONTHS, THAT TERRY AND EARL WERE
20 STARTING TO GET A GRIP ON THEIR LIVES AND THEIR
21 RELATIONSHIP WITH THE BOYS?

22 A. I FELT SO. I FELT THAT THEY WERE DOING BETTER
23 AT SETTING BOUNDARIES. SOME OF THE THINGS THAT
24 TERRY HISTORICALLY PROBABLY WOULD HAVE KEPT FROM
25 EARL AS FAR AS SENDING MONEY TO CHIP OR THINGS

JULIUS F. MEYER, JR. REDIRECT BY MR. HANCOCK

2803

1 LIKE THAT, SHE HAD STOPPED DOING, AND THEY WERE
2 WORKING TOGETHER MORE AS A UNIFIED PARENT TEAM
3 TO SET GUIDELINES AND GOALS, BOUNDARIES ON THEIR
4 CHILDREN, HAVING THEM LIVE THEIR OWN LIFE.

5 Q. WOULD IT BE FAIR TO SAY THAT THEY WERE GOING TO
6 START MAKING THEM TAKE RESPONSIBILITY FOR THEIR
7 OWN LIFE?

8 A. THEY WERE WORKING IN THAT DIRECTION.

9 Q. THANK YOU VERY MUCH, SIR.

10 THE COURT: REDIRECT?

11 REDIRECT EXAMINATION BY

12 MR. HANCOCK:

13 Q. MR. MEYER, WE HAD QUITE A LENGTHY DISCUSSION BUT
14 I WILL ASK YOU AGAIN. NOW, YOU INDICATED THAT
15 YOU WERE TREATING ALL THREE MEMBERS OF THE
16 FAMILY; IS THAT CORRECT, SIR?

17 A. THIS IS CORRECT.

18 Q. AND I HAD NOTICED SOMETHING, AND I'LL JUST ASK
19 SINCE THEY SAID THE LAST TWO MONTHS OF THEIR
20 LIVES, I HAVE NOTICED THAT THERE ARE SOME
21 RECORDS FOR EARL ---

22 MR. BRACKETT: I OBJECT TO THE LEADING.

23 THE COURT: I OVERRULE YOUR OBJECTION.

24 Q. BECAUSE WE HAVE ALREADY DISCUSSED THOSE RECORDS
25 OF EARL IN THE MONTH OF NOVEMBER, 1997, BUT

JULIUS F. MEYER, JR. REDIRECT BY MR. HANCOCK

2804

1 THERE ARE NO RECORDS FOR TERRY ROBERTSON IN THE
2 MONTH OF NOVEMBER OF '97; IS THAT CORRECT?

3 A. THIS IS CORRECT.

4 Q. SO AT THAT TIME WAS SHE STILL EMPLOYED BY YOU,
5 SIR?

6 A. I THINK SHE WAS STILL DOING SOME VOLUNTEER WORK.

7 Q. SO, IN THE COUNSELING -- IN YOUR POSITION AS A
8 COUNSELOR, YOU DON'T KNOW WHAT WAS HAPPENING
9 REALLY WITH HER IN A COUNSELING METHOD DURING
10 THE MONTH OF NOVEMBER BECAUSE YOU HAD NO
11 SESSIONS WITH HER, DID YOU, SIR?

12 A. SHE DID COME IN PROBABLY WITH EARL ON ONE OR TWO
13 OF THOSE SESSIONS THAT I SAW EARL IN NOVEMBER.

14 Q. NOW YOU ALSO -- YOU SAID THAT YOU BEGAN SEEING
15 THEM WHEN?

16 A. AS FAR AS TERRY?

17 Q. YES, SIR, LET'S START WITH TERRY.

18 A. HER FIRST SESSION WAS JULY 12TH, 1995.

19 Q. SO IF SHE WAS SELF-MUTILATING OR DOING THAT TYPE
20 OF BEHAVIOR, YOU WOULD NOT HAVE KNOWN ABOUT IT;
21 ISN'T THAT CORRECT, SIR?

22 A. THIS IS CORRECT. AT THAT TIME I WOULD HAVE HAD
23 NO KNOWLEDGE OF THAT.

24 Q. AND SO IT'S NOT THAT YOU'RE SAYING IT DID NOT OR
25 COULD NOT HAVE HAPPENED, ONLY THAT IT WAS NOT

JULIUS F. MEYER, JR. REDIRECT BY MR. HANCOCK

2805

1 MENTIONED IN YOUR NOTES ---

2 A. AND SHE DIDN'T REPORT IT. SHE WAS A VERY
3 PRIVATE PERSON. SHE DID NOT TALK ABOUT THINGS
4 THAT WERE EMBARRASSING TO HER.

5 Q. SO YOU MAY NOT -- AND THERE WERE NO DATES ON
6 EARL'S ANGER ---

7 MR. BRACKETT: I OBJECT TO THE LEADING.

8 THE COURT: REPHRASE YOUR QUESTION.

9 Q. SHE WAS A VERY PRIVATE PERSON; IS THAT WHAT WE
10 HAVE ESTABLISHED?

11 A. VERY MUCH SO.

12 Q. AND SO YOUR PICTURE MAY NOT BE THE MOST COMPLETE
13 PICTURE THAT WE HAVE, IS IT, SIR?

14 MR. BRACKETT: I OBJECT TO THE LEADING, YOUR
15 HONOR.

16 THE COURT: I SUSTAIN THE OBJECTION.

17 Q. THEN CAN YOU SAY FROM YOUR KNOWLEDGE AS AN
18 EXPERT THAT YOU HAVE THE ENTIRE PICTURE OF WHAT
19 MAY HAVE BEEN GOING ON?

20 A. NO, I WOULD NOT SAY THAT I DO.

21 Q. AND WOULD YOU SAY IN YOUR OPINION AS AN EXPERT
22 THAT SOMETIMES LIKE A PUZZLE YOU HAVE TO TAKE
23 DIFFERENT PIECES AND PUT IT TOGETHER FROM ALL
24 OVER TO GET A TRUE PICTURE.

25 MR. BRACKETT: I OBJECT TO THE LEADING AGAIN.

JULIUS F. MEYER, JR. REDIRECT BY MR. HANCOCK

2806

1 THE COURT: I SUSTAIN THE OBJECTION. REPHRASE
2 YOUR QUESTION.

3 Q. NOW YOU HAVE BEEN READING FROM A NOTEBOOK THAT
4 WAS PRESENTED TO YOU; IS THAT CORRECT, SIR?

5 A. THIS IS CORRECT, SIR.

6 Q. AND ARE THESE YOUR NOTES?

7 A. YES, SIR. THEY ARE COPIES OF MY NOTES.

8 Q. AND YOU HAVE BEEN READING FROM THOSE NOTES AND
9 THESE ARE TRUE AND CORRECT COPIES OF YOUR NOTES;
10 IS THAT RIGHT, SIR?

11 A. TO THE BEST OF MY KNOWLEDGE.

12 Q. YOUR HONOR, WE WOULD MOVE TO PUT THESE INTO
13 EVIDENCE.

14 THE COURT: ANY OBJECTION?

15 MR. POPE: I BEG THE COURT'S INDULGENCE?
16 (AFTER A BRIEF PAUSE)

17 MR. BRACKETT: YOUR HONOR, THE NOTEBOOK IS RATHER
18 LARGE; THERE ARE DIFFERENT SECTIONS. WHICH PORTIONS?

19 MR. HANCOCK: YOUR HONOR, WE HAVE THESE HERE AND
20 THESE ARE THE ENTIRE NOTES ---

21 MR. BOYD: THIS IS THE ORIGINALS AND THESE ARE
22 COPIES.

23 MR. HANCOCK: THESE ARE CLEAN COPIES OF BOTH
24 EARL'S, TERRY'S AND JIMMY'S NOTES THAT HAVE BEEN REFERRED
25 TO AND WE ASK THAT THEY BE MOVED INTO EVIDENCE, YOUR HONOR.

JULIUS F. MEYER, JR. REDIRECT BY MR. HANCOCK

2807

1 WE WILL PULL THE SUBPOENAS AND THAT SORT OF THING OUT OF
2 THERE FOR THE COURT SO THAT NOTHING GOES BACK TO THE JURY
3 THAT THEY SHOULD NOT BE ALLOWED TO SEE.

4 MR. BRACKETT: I HAVE NO OBJECTION, YOUR HONOR.

5 THE COURT: ALL RIGHT, IT WILL BE RECEIVED
6 WITHOUT OBJECTION.

7 MR. BRACKETT: TO THESE DOCUMENTS HERE, NOT THE
8 NOTEBOOK ITSELF.

9 MR. HANCOCK: WE WILL HAVE THESE MARKED, YOUR
10 HONOR, AND WE WILL MAKE SURE THAT THEY ARE IN PROPER FORM.
11 (THE NOTES OF MR. MEYER WERE MARKED DEFENDANT'S EXHIBIT 18
12 WITHOUT OBJECTION.)

13 Q. DO YOU HAVE AT THIS TIME -- HAVE YOU COUNTED THE
14 NUMBER OF TIMES IN YOUR RECORDS THAT TERRY
15 ROBERTSON MAY HAVE REFERRED TO SUICIDE?

16 A. NO, I HAVE NOT.

17 MR. BRACKETT: YOUR HONOR, I OBJECT; I THINK THIS
18 EXCEEDS THE SCOPE OF MY CROSS EXAMINATION.

19 THE COURT: I SUSTAIN THE OBJECTION.

20 MR. HANCOCK: I HAVE NO FURTHER QUESTIONS.

21 MR. BRACKETT: NO RECROSS.

22 THE COURT: YOU MAY STEP DOWN AND BE EXCUSED. WE
23 APPRECIATE YOUR TIME. ALL RIGHT, CALL YOUR NEXT WITNESS.

24 MR. MEYER: DOES THAT MEAN THAT I WILL NOT BE
25 COMING BACK?

JULIUS F. MEYER, JR. REDIRECT BY MR. HANCOCK

2808

1 MR. HANCOCK: THE WITNESS MAY BE EXCUSED.

2 MR. BRACKETT: WE HAVE NO INTENTION OF CALLING
3 HIM, YOUR HONOR.

4 THE COURT: SO, THAT MEANS THAT YOU ARE NOT
5 COMING BACK. THANK YOU. CALL YOUR NEXT WITNESS.

6 MR. HANCOCK: WE CALL TO THE WITNESS STAND DR.
7 GEORGE HOOK.

8 DR. GEORGE HOOK, BEING FIRST DULY SWORN,
9 TESTIFIED AS FOLLOWS:

10 DIRECT EXAMINATION BY

11 MR. HANCOCK:

12 Q. PLEASE STATE YOUR NAME FOR THE COURT.

13 A. GEORGE HOOK.

14 Q. GEORGE, WHERE DO YOU LIVE?

15 A. I LIVE IN ROCK HILL AT 2145 REGENCY COURT.

16 Q. ARE YOU MARRIED?

17 A. YES.

18 Q. TO WHOM?

19 A. TO LINDA HOOK.

20 Q. AND DO YOU HAVE ANY CHILDREN?

21 A. I HAVE THREE CHILDREN AND THREE GRANDCHILDREN.

22 Q. AND DID YOU KNOW JIMMY AND EARL AND TERRY
23 ROBERTSON?

24 A. YES.

25 Q. HOW DID YOU KNOW THEM?

DR. GEORGE HOOK - DIRECT BY MR. HANCOCK

2809

- 1 A. I'VE KNOWN THEM FOR OVER 20 YEARS. OUR CHILDREN
2 WENT TO SCHOOL TOGETHER. I WAS A GOOD GOLFING
3 BUDDY WITH EARL. WE WENT ON SEVERAL TRIPS A
4 YEAR TOGETHER AND PLAYED REGULARLY TOGETHER.
- 5 Q. AND DID YOU KNOW JIMMY AND CHIP?
- 6 A. JIMMY AND CHIP, OUR CHILDREN WENT TO SCHOOL
7 TOGETHER. I COACHED JIMMY IN BIDDY BASKETBALL IN
8 THE YMCA CHURCH LEAGUE; THE SAME WITH CHIP. I
9 HELPED CHAPERON SCOUTING TRIPS WITH CHIP AND
10 JIMMY.
- 11 Q. WERE YOU EVER IN THE ROBERTSON HOME?
- 12 A. OFTEN.
- 13 Q. HOW OFTEN, SIR?
- 14 A. PARTIES, DINNER PARTIES, ALWAYS VERY CONGENIAL.
- 15 Q. DID YOU ALL GO OUT TOGETHER SOCIALLY, SIR?
- 16 A. YES, FISH CAMPS WAS THE FAVORITE THING TO DO.
- 17 Q. AND YOU SAY YOU WERE EARL'S GOLFING BUDDY?
- 18 A. YES.
- 19 Q. HOW OFTEN DID YOU PLAY GOLF WITH HIM, SIR?
- 20 A. SEVERAL -- AT LEAST ONCE OR TWICE A MONTH AND
21 LIKE I SAID, WE WENT ON TRIPS SEVERAL TIMES A
22 YEAR. I'M NOT SURE, BUT I THINK I MIGHT HAVE
23 BEEN WITH EARL THE LAST TIME THAT HE PLAYED. WE
24 WENT OUT ON A SUNDAY AFTERNOON AND HE PROBABLY
25 PLAYED THE BEST THAT I THINK I CAN EVER

DR. GEORGE HOOK - DIRECT BY MR. HANCOCK

2810

1 REMEMBER. HE EAGLED THE NINTH HOLE. I MISSED A
2 LITTLE SHORT PUTT ON THE LAST HOLE AND HE WON
3 ALL THE BETS AND THIS LED TO A FUNNY THING
4 LATER.

5 JIMMY CAME TO THE OFFICE ABOUT THREE WEEKS
6 BEFORE THIS TRAGEDY. HE HAD SOME TERRIBLE GUM
7 PROBLEMS THAT HAD ACCUMULATED OVER TIME. EARL
8 WANTED TO TAKE CARE OF IT; HE WANTED TO NOT HAVE
9 JIMMY GO ON WITH ANY PROBLEMS. AT THE END OF
10 THE GOLF MATCH EARL LOOKED AT ME AND SMILED AND
11 SAID "IT'S ALWAYS NICE TO TAKE MY DENTIST'S
12 MONEY.

13 AFTER I SAW JIMMY AT THE OFFICE AND RELATED TO
14 EARL OVER THE PHONE WHAT NEEDED TO BE DONE, HE
15 SAID "LET'S DO IT, I WANT TO TAKE CARE OF IT".
16 THERE WAS A LITTLE SILENCE AND HE SAID "I KNEW I
17 WOULDN'T KEEP THAT MONEY IN MY POCKET VERY
18 LONG".

19 EARL HAD A REALLY GOOD SENSE OF HUMOR. BUT THIS
20 SHOWED ME, YOU KNOW, TO THE END THAT WHAT WAS
21 IMPORTANT WAS MAKING SURE THAT THINGS WERE TAKEN
22 CARE OF.

23 Q. WHAT ARE YOU ASKING THIS JURY FOR IN REGARD TO
24 JIMMY ROBERTSON WITH YOUR KNOWLEDGE OF THE
25 FAMILY?

DR. GEORGE HOOK - DIRECT BY MR. HANCOCK

2811

1 A. I'M ASKING THIS JURY FOR MERCY. MAY I EXPOUND?

2 THE COURT: JUST LET HIM ASK A QUESTION.

3 Q. GO AHEAD.

4 (THE WITNESS GOT EMOTIONAL AT THIS POINT AND WAS GIVEN A
5 CUP OF WATER BY ATTORNEY HANCOCK.)

6 A. I KNEW EARL; HE WAS A VERY GOOD FRIEND. I KNOW
7 THAT HE CARED. I'M ASKING YOU, NOT AS THE JURY
8 BECAUSE YOU REPRESENT ALL OF US NOW, YOU'RE THE
9 JURY, YOU'LL MAKE THE FINAL DECISION, BUT YOU'RE
10 REPRESENTING ALL OF US, LET'S JUST NOT BE THE
11 LAST ONES TO THROW THE STONE. PLEASE SHOW
12 MERCY.

13 Q. GEORGE, ARE YOU UNEQUIVOCALLY OPPOSED TO THE
14 DEATH PENALTY ---

15 MR. POPE: YOUR HONOR, I OBJECT; THAT HAS NO
16 RELEVANCE.

17 THE COURT: I SUSTAIN THE OBJECTION.

18 Q. THANK YOU, GEORGE, YOU CAN COME DOWN.

19 THE COURT: WELL, WAIT FOR CROSS EXAMINATION.

20 MR. HANCOCK: I'M SORRY.

21 CROSS EXAMINATION BY

22 MR. POPE:

23 Q. DR. HOOK, HAVE YOU BEEN IN THE COURTROOM THIS
24 WEEK TO HEAR WHAT TRANSPIRED, WHAT ACTUALLY TOOK
25 PLACE IN THIS CASE?

DR. GEORGE HOOK - CROSS BY MR. POPE

2812

1 A. NO, I HAVE NOT.

2 Q. THANK YOU, SIR; I HAVE NO FURTHER QUESTIONS.

3 THE COURT: ANYTHING ON REDIRECT?

4 MR. HANCOCK: YOU CAN COME DOWN, GEORGE.

5 THE COURT: THANK YOU. WE APPRECIATE YOUR TIME
6 AND YOU CAN FEEL FREE TO LEAVE. CALL YOUR NEXT WITNESS.

7 MR. HANCOCK: YOUR HONOR, COULD WE HAVE A SHORT
8 BREAK PRIOR TO THE NEXT WITNESS?

9 THE COURT: ALL RIGHT. I'LL LET YOU GO TO THE
10 JURY ROOM FOR JUST A FEW MINUTES.

11 IN CAMERA:

12 MR. HANCOCK: YOUR HONOR, I KNOW THESE ARE
13 TORRENCE ISSUES AND I WOULD JUST LIKE TO CLEAR THEM UP FOR
14 THE COURT SO THAT WE CAN SEE HOW FAR WE CAN GO. YOU HAVE
15 INDICATED THAT WE CANNOT EVEN ASK A WITNESS IF THEY ARE
16 UNEQUIVOCALLY OPPOSED TO THE DEATH PENALTY?

17 THE COURT: SHOW ME SOME LAW ON IT.

18 MR. HANCOCK: I DON'T HAVE ANY CASE LAW. I HAVE
19 TORRENCE BUT IT DOES NOT SAY THAT YOU CANNOT DO THAT AND I
20 BELIEVE THAT WOULD BE IN CLARIFICATION OF THE WITNESS AND
21 ANY IMPLICATION THAT IT MAY HAVE THAT THAT WITNESS ACROSS
22 THE BOARD IS OPPOSED.

23 THE COURT: WELL, I THOUGHT THE TORRENCE
24 WITNESSES WERE HERE TO ASK FOR MERCY, NOT TO GIVE
25 PHILOSOPHIES?

DR. GEORGE HOOK - CROSS BY MR. POPE

2813

1 MR. HANCOCK: NO, SIR. THAT TO ME, IF I MAY,
2 THAT DOESN'T SHOW A PHILOSOPHY. ALL IT DOES IS WE ARE
3 ACTUALLY PUTTING BEFORE THE JURY A WITNESS THAT IS IN THEIR
4 SAME POSITION. IF THEY ARE COMPLETELY OPPOSED TO THE DEATH
5 PENALTY, WE WOULD JUST LIKE TO BE ABLE TO POINT THAT OUT.

6 THE COURT: WELL, A WITNESS IS NOT IN THE SAME
7 POSITION AS THE JURY. THE WITNESS DOESN'T HAVE TO MAKE A
8 DECISION.

9 MR. HANCOCK: YES, SIR.

10 THE COURT: I'M NOT GOING TO ALLOW IT.

11 MR. HANCOCK: YES, SIR. ANOTHER ISSUE, AND I
12 DON'T ASK TO RESTRICT CROSS EXAMINATION BUT IF YOU WOULD
13 REMIND THE JURY THAT THESE WITNESSES COULD NOT BE IN HERE
14 TO HEAR BECAUSE THEY HAVE BEEN SEQUESTERED. I BELIEVE IT
15 IS UNFAIR THAT HE CAN ASK THAT WHEN THEY CAN'T COME IN
16 HERE.

17 THE COURT: YES, I THINK ---

18 MR. POPE: YOUR HONOR, THEY CAN CERTAINLY EXPLAIN
19 THAT THEY WEREN'T ALLOWED TO BE HERE. THE POINT IS NOT
20 WHETHER THEY WERE ALLOWED TO BE HERE OR NOT BE HERE. THE
21 POINT IS WHEN THEY ARE ASKING FOR MERCY, I THINK I CAN SHOW
22 THAT THEY DON'T KNOW WHAT THIS JURY KNOWS. AND I THINK
23 THAT'S PROPER CROSS, YOUR HONOR.

24 I'LL EVEN ASK THEM, I'LL LEAD AND SAY WERE YOU
25 SEQUESTERED AND UNABLE TO BE IN HERE. I DON'T HAVE A

DR. GEORGE HOOK - CROSS BY MR. POPE

2814

1 PROBLEM WITH THAT. I'M NOT TRYING TO HINT THAT THEY DIDN'T
2 CHOOSE TO BE HERE, YOUR HONOR. AND I THINK THAT'S RELEVANT
3 TO THE JURY IN THEIR ASSESSMENT OF THE REQUEST OF THESE
4 INDIVIDUALS.

5 THE COURT: WELL, THE IMPLICATION IS THAT IF YOU
6 HAD BEEN IN HERE, YOU WOULDN'T BE ON THE STAND.

7 MR. POPE: YES, SIR, AND I THINK THAT'S PROPER.

8 THE COURT: I'M NOT GOING TO ALLOW THAT.

9 MR. POPE: CAN I ASK THEM IF THEY HAVE KNOWLEDGE
10 OF THE SPECIFIC FACTS OF THIS CASE?

11 THE COURT: YES.

12 MR. HANCOCK: NOW, YOUR HONOR, I THINK WE'RE
13 GOING AFIELD HERE BECAUSE IF I HAVE TO DO THAT, THEN I
14 WOULD LIKE TO START -- IF YOU HAVE TO SIT HERE AND
15 INTRODUCE EVIDENCE UNTIL THEY KNOW THE SPECIFIC FACTS AND
16 THEN TURN AROUND AND LOOK AND SAY, OKAY, NOW DO YOU
17 RECOMMEND MERCY.

18 I'M NOT TRYING TO HIDE THEM. THEY GENERALLY KNOW
19 THE FACTS. THEY MAY NOT HAVE SEEN THE PICTURES THAT HAVE
20 AFFECTED THE JURY, BUT IF THAT'S THE WAY WE HAVE TO DO IT
21 THEN WE'RE GOING INTO A SITUATION WHERE I WOULD LIKE THE
22 TIME TO PRESENT EACH WITNESS WITH THE EVIDENCE THAT THEY
23 HAVE BEEN PRECLUDED FROM SEEING AT THIS TIME.

24 MR. POPE: YOUR HONOR, IF HE WANTS TO ASK EVERY
25 WITNESS ABOUT EVERY FACT IN THE CASE, THAT'S HIS BUSINESS.

DR. GEORGE HOOK - CROSS BY MR. POPE

2815

1 BUT ULTIMATELY I CAN CROSS THESE WITNESSES -- FOR EXAMPLE
2 I CAN ASK THEM WERE YOU THERE THE NIGHT THAT JIMMY KILLED
3 HIS PARENTS. YOU KNOW, THERE'S A WHOLE PLETHORA OF THINGS
4 THAT I COULD ASK THEM ABOUT, YOU KNOW, IF IT WOULD AFFECT
5 THEIR DECISION AND THE JURY CAN JUDGE THAT ACCORDINGLY.

6 IF MR. HANCOCK WANTS TO GO OVER EVERY PIECE OF
7 EVIDENCE WITH THEM, THEN THAT'S HIS PREROGATIVE.

8 THE COURT: I'M GOING TO ALLOW THE QUESTION. ARE
9 YOU READY FOR YOUR NEXT WITNESS?

10 MR. HANCOCK: YES, SIR. YOUR HONOR, IF I MAY, I
11 AM TRYING TO FIGURE OUT HOW TO DO THIS IN THAT THEY HAVE
12 NOT BEEN HERE AS A JURY TO SEE IT BECAUSE OF OUR RULES AND
13 YET NOW --

14 THE COURT: I'M NOT GOING TO LET HIM ASK ABOUT
15 WHETHER THEY WERE PRESENT. HE CAN ASK WHAT THEY KNOW ABOUT
16 THE CASE.

17 MR. HANCOCK: AND THEN IS HE GOING TO OBJECT ON
18 HEARSAY WHEN THEY KNOW, THEY'VE READ THE PAPER AND THEY
19 KNOW THEY'VE HAD THEIR HEADS BASHED IN?

20 THE COURT: NOT IF HE ASKS THE QUESTION. YOU CAN
21 CERTAINLY OBJECT TO HEARSAY.

22 MR. HANCOCK: YES, SIR.

23 THE COURT: ARE YOU READY FOR THE JURY? MR.
24 HANCOCK IS DISAPPEARING ON ME. ARE YOU READY FOR THE JURY?

25 MR. BOYD: I BELIEVE SO, YOUR HONOR.

DR. GEORGE HOOK - CROSS BY MR. POPE

2816

1 THE COURT: ARE YOU READY FOR THE JURY?

2 MR. HANCOCK: YES, SIR.

3 THE COURT: BRING THE JURY IN.

4 IN THE PRESENCE OF THE JURY:

5 THE COURT: CALL YOUR NEXT WITNESS.

6 MR. HANCOCK: WE CALL TO THE WITNESS STAND LINDA
7 HOOK.

8 LINDA HOOK, BEING FIRST DULY SWORN, TESTIFIED AS
9 FOLLOWS:

10 DIRECT EXAMINATION BY

11 MR. HANCOCK:

12 Q. PLEASE STATE YOUR NAME FOR THE COURT.

13 A. LINDA HOOK.

14 Q. AND, LINDA, TO WHOM ARE YOU MARRIED?

15 A. GEORGE HOOK.

16 Q. AND YOU LIVE IN ROCK HILL; IS THAT CORRECT?

17 A. THAT'S CORRECT.

18 Q. HOW MANY CHILDREN DO YOU HAVE?

19 A. THREE AND THREE GRANDCHILDREN.

20 Q. BEFORE THEIR DEATH, DID YOU KNOW TERRY AND EARL
21 ROBERTSON?

22 A. VERY WELL.

23 Q. HOW WELL, MA'AM?

24 A. WELL, WE GO BACK TO WHEN OUR YOUNGEST SON WAS
25 ABOUT 10 YEARS OLD, SO ABOUT 15 YEARS.

LINDA HOOK - DIRECT BY MR. HANCOCK

2817

1 Q. AND DID YOU GO OUT WITH THEM SOCIALLY?

2 A. YES, WE DID.

3 Q. WERE YOU EVER IN THEIR HOME?

4 A. YES, WE WERE.

5 Q. DID YOU HAVE AN OPPORTUNITY TO OBSERVE THEIR
6 LIVES AND THE LIVES OF THEIR CHILDREN, MA'AM?

7 A. I DID.

8 Q. AND YOU SAID YOU KNEW THEM FOR HOW LONG?

9 A. FROM ABOUT THE AGE THAT THE BOYS WERE ABOUT 10,
10 ABOUT FIFTEEN YEARS.

11 Q. AND ARE YOU AWARE THAT THEY WERE KILLED BY THEIR
12 SON, JIMMY?

13 A. I AM.

14 Q. ARE YOU AWARE OF EVERY DETAIL OF THAT MURDER?

15 A. WELL, JUST -- NOT -- WELL, I WOULD SAY, NO, NOT
16 EVERY DETAIL.

17 Q. BUT IN YOUR KNOWLEDGE AND FROM WHAT YOU KNOW,
18 WHAT ARE YOU ASKING THIS JURY TO DO, MA'AM?

19 A. I WOULD ASK YOU THE JURY REPRESENTING THE
20 CITIZENS OF YORK COUNTY TO PLEASE HAVE SOME
21 MERCY ON THIS YOUNG MAN.

22 Q. I HAVE NO FURTHER QUESTIONS.

23 CROSS EXAMINATION BY

24 MR. POPE:

25 Q. MRS. HOOK, YOU SAID YOU DON'T HAVE ALL THE

LINDA HOOK - CROSS BY MR. POPE

2818

1 DETAILS OF THIS CASE; IS THAT RIGHT?

2 A. RIGHT. LIKE I HAVEN'T READ ALL THE PAPERS AND I
3 HAVEN'T WATCHED A LOT OF TELEVISION. JUST FOR
4 MY OWN PEACE OF MIND, I HAVEN'T DONE IT.

5 Q. OKAY. AND AS FAR AS EVEN THINGS THAT ARE IN
6 EVIDENCE, YOU DON'T KNOW ABOUT ALL OF THOSE. YOU
7 KNOW MINIMALLY WHAT'S IN THE PAPER. I MEAN I
8 KNOW YOU KNOW WHAT HAPPENED.

9 A. EXACTLY.

10 Q. THANK YOU, MA'AM. I APPRECIATE IT.

11 MR. HANCOCK: THAT'S ALL I HAVE, YOUR HONOR.

12 THE COURT: WE APPRECIATE YOUR TIME. YOU CAN
13 STEP DOWN AND BE EXCUSED. THANK YOU. ALL RIGHT, CALL YOUR
14 NEXT WITNESS.

15 MR. HANCOCK: WE WOULD CALL MAC MCLAUGHLIN TO THE
16 STAND, YOUR HONOR.

17 JULIAN M. MCLAUGHLIN, BEING FIRST DULY SWORN,
18 TESTIFIED AS FOLLOWS:

19 DIRECT EXAMINATION BY

20 MR. HANCOCK:

21 Q. PLEASE STATE YOUR FULL NAME FOR THE COURT AND
22 SPELL YOUR LAST NAME.

23 A. JULIAN MADISON MCLAUGHLIN, JR. THE LAST NAME IS
24 M-C- CAPITAL L-A-U-G-H-L-I-N.

25 Q. AND ARE YOU REFERRED TO AS MAC?

JULIAN M. MCLAUGHLIN - DIRECT BY MR. HANCOCK

2819

- 1 A. YES, AND IT'S M-A-C.
- 2 Q. MAC, WHERE DO YOU LIVE?
- 3 A. WE LIVE AT 2989 DEVONSHIRE DRIVE, ROCK HILL.
- 4 Q. AND HOW LONG HAVE YOU LIVED THERE?
- 5 A. THERE SINCE 1987.
- 6 Q. AND WHERE DO YOU WORK?
- 7 A. I'M BASICALLY SELF-EMPLOYED.
- 8 Q. AND WHAT DO YOU DO, SIR?
- 9 A. I'M A SAFETY CONSULTANT.
- 10 Q. AND ARE YOU MARRIED?
- 11 A. OH, YES.
- 12 Q. AND HOW LONG HAVE YOU BEEN MARRIED?
- 13 A. ABOUT 29 YEARS.
- 14 Q. ANY CHILDREN?
- 15 A. YES, TWO.
- 16 A. AND WHO ARE THEY?
- 17 A. BOTH BOYS, DOUGLAS AND BRYANT.
- 18 Q. HOW OLD ARE THEY?
- 19 A. ONE IS 25, THE OTHER ONE IS 23.
- 20 Q. ANY GRANDCHILDREN?
- 21 A. NOT YET.
- 22 Q. MAC, ARE YOU FAMILIAR WITH TERRY AND EARL
- 23 ROBERTSON?
- 24 A. YES, I AM.
- 25 Q. HOW WERE YOU FAMILIAR WITH THEM, SIR?

JULIAN M. MCLAUGHLIN - DIRECT BY MR. HANCOCK

2820

1 A. MOSTLY WITH TERRY. WE WENT TO THE SAME CHURCH.
2 OUR BOYS WERE THE SAME AGES AND INVOLVED IN
3 SCOUTING AND BASKETBALL AND SCHOOL AND
4 EVERYTHING LIKE THAT.

5 Q. AND HOW LONG HAVE YOU KNOWN THEM?

6 A. I'M GUESSING, I THINK -- THINKING OF JIMMY,
7 PROBABLY WHEN HE WAS ABOUT 11, MAYBE 10, RIGHT
8 IN THAT TIME FRAME.

9 Q. AND WHAT INTERACTION HAVE YOU HAD WITH JIMMY?

10 A. BASICALLY IT WAS WITH SCOUTING AND SOME WITH
11 CHURCH I RECKON, BUT IT'S MOSTLY SCOUTS.

12 Q. SO, YOU KNEW JIMMY AND YOU KNEW EARL AND TERRY?

13 A. UH HUH. BUT I DIDN'T KNOW TERRY -- I MEAN EARL
14 VERY WELL, BUT I KNEW TERRY.

15 Q. WERE YOU EVER IN THEIR HOME?

16 A. YES.

17 Q. AND DID YOU SEE THEM SOCIALLY?

18 A. OCCASIONALLY.

19 Q. AND ARE YOU AWARE OF THE DETAILS OF THIS CASE?

20 A. WELL, IN A GENERAL NATURE, YES.

21 Q. HAVE YOU SEEN ALL THE GRAPHIC EVIDENCE OR
22 ANYTHING OF THIS NATURE?

23 A. NO.

24 Q. WHAT ARE YOU ASKING THIS JURY TO DO NOW?

25 A. WELL, I'M CALLING UPON MY KNOWLEDGE OF EARL AND

JULIAN M. MCLAUGHLIN - DIRECT BY MR. HANCOCK

2821

1 TERRY AND MYSELF AND JUST ASKING BASICALLY FOR
2 MERCY FOR JIMMY.

3 Q. HAS THIS BEEN WELL THOUGHT OUT, SIR?

4 A. I DID A LOT OF THINKING ABOUT IT AND MAYBE PUT
5 SOME OF MY OWN PERSONAL THOUGHTS ASIDE AND
6 THINKING MORE OF WHAT TERRY AND EARL ---

7 MR. POPE: YOUR HONOR, I'M GOING TO OBJECT TO
8 THIS.

9 THE COURT: I SUSTAIN THE OBJECTION. DON'T GO
10 INTO THAT.

11 A. WELL, YES, I'VE DONE A LOT OF THINKING ABOUT IT.

12 Q. AND AFTER THINKING ABOUT IT -- AND HAVE YOU BEEN
13 ABLE TO REVIEW THE NEWSPAPERS. ---

14 A. NO, I'LL MAYBE CATCH SOMETHING ON T.V.
15 OCCASIONALLY.

16 Q. HAVE YOU HEARD ANYTHING ABOUT THIS CRIME, WHAT
17 HAPPENED?

18 A. WELL, IT'S KIND OF HARD NOT TO.

19 Q. IN THE COMMUNITY?

20 A. WELL, YES, IN THE COMMUNITY.

21 Q. AND, AGAIN, WHAT ARE YOU ASKING THIS JURY TO DO,
22 SIR?

23 A. I'M ASKING THEM TO SHOW MERCY FOR JIMMY.

24 Q. THANK YOU, SIR. PLEASE ANSWER ANY QUESTIONS
25 THAT THE SOLICITORS MIGHT HAVE.

JULIAN M. MCLAUGHLIN - DIRECT BY MR. HANCOCK

2822

1 A. YES, SIR.

2 THE COURT: CROSS EXAMINATION?

3 CROSS EXAMINATION BY

4 MR. POPE:

5 Q. MR. MCLAUGHLIN, YOU SAID YOU KNEW MOSTLY TERRY;
6 IS THAT RIGHT?

7 A. YES.

8 Q. AND THAT WAS BACK -- AGAIN, I DON'T WANT TO PUT
9 WORDS IN YOUR MOUTH, BUT THAT WAS BACK WHEN JIM
10 WAS INVOLVED IN SCOUTING; IS THAT RIGHT?

11 A. YES, MOSTLY.

12 Q. SO THAT WAS BACK LIKE WHEN JIM WAS 11; IS THAT
13 CORRECT?

14 A. WELL, LET'S SAY 11 UP THROUGH 15.

15 Q. OKAY. SO, THE 23, 24 YEAR OLD JIM THAT KILLED
16 HIS PARENTS THAT NIGHT AT WESTMINSTER, YOU DON'T
17 KNOW AS MUCH ABOUT HIM. IS THAT A FAIR
18 STATEMENT?

19 A. NOT ABOUT JIMMY, YES.

20 Q. AND AS YOU TOLD MR. HANCOCK, AS FAR AS THE FACTS
21 OF WHAT HE DID THAT NIGHT, YOU DON'T KNOW THAT
22 MUCH ABOUT THAT?

23 A. NO.

24 Q. THANK YOU, SIR. I APPRECIATE IT.

25 MR. HANCOCK: NO FURTHER QUESTIONS, YOUR HONOR.

2823

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

3 MR. HANCOCK: YOUR HONOR, AT THIS TIME WE WOULD
4 ASK FOR A BRIEF RECESS OR IF WE COULD TAKE A LUNCH BREAK
5 UNTIL WE CAN GET THE EXPERT WITNESS HERE, SIR.

6 THE COURT: I UNDERSTAND WE'RE HAVING LUNCH
7 COMING AT 1:00. IT'S 12:30 NOW, SO WE WILL RECONVENE AT
8 1:30 OR WHENEVER YOU ARE THROUGH WITH LUNCH. SO, WE WILL
9 BE AT EASE.

10 MR. HANCOCK: THANK YOU, SIR.

11 IN CAMERA:

12 THE COURT: ANYTHING FROM THE STATE?

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

14 THE COURT: THE DEFENSE?

15 MR. HANCOCK: YOUR HONOR, I'M GOING TO ASK THE
16 GUIDANCE OF THE COURT. WE HAVE WITNESSES AND WE HAVE MERCY
17 WITNESSES THAT ARE ALLOWED BY TORRENCE WHICH ARE LIMITED.
18 AT THIS POINT THEY ARE BEING CROSS EXAMINED ON DO YOU KNOW
19 THE FACTS OF THE CASE.

20 IN THE INTEREST OF TIME, MAYBE WE CAN GO THROUGH
21 A PROFFER AND START SHOWING THEM SOME OF THE EVIDENCE SO
22 THEY CAN SAY THEY SAW THE EVIDENCE AND DO IT NOW OR ALLOW
23 ME TO BRING THEM IN AND SHOW THEM THE PICTURES, SHOW THEM
24 THE BRUTALITY OF IT AND ALLOW THEM TO SAY THAT THEY KNOW IT
25 AND THEY STILL THINK THAT OR THEY DO NOT.

2824

1 THE COURT: THEY'VE MADE THEIR MIND UP OR THEY
2 WOULDN'T BE HERE.

3 MR. HANCOCK: MR. POPE THOUGH IS SAYING YOU DON'T
4 HAVE A MIND TO BE MADE UP BECAUSE YOU HAVE NOT BEEN
5 SUBJECTED TO THE EVIDENCE AND THAT WOULD PUT US IN A
6 SITUATION WHERE IF WE HAD TO GO THROUGH THE WHOLE CASE WITH
7 EACH WITNESS TO ALLOW THEM TO KNOW THE FACTS OF THE CASE,
8 GENERALLY KNOW, THEN WE'RE TALKING ABOUT ENORMOUS AMOUNTS
9 OF TIME. AGAIN, I'M JUST TRYING TO SAVE TIME.

10 THE COURT: I'M NOT GOING TO ALLOW YOU TO DO
11 THAT. YOU'VE HAD TIME TO TELL THEM ABOUT THE FACTS.

12 MR. HANCOCK: YOUR HONOR, JUST FOR CLARIFICATION
13 THERE, IN DISCUSSIONS WITH WITNESSES THAT ARE SEQUESTERED
14 I NORMALLY DON'T -- AFTER THE TRIAL STARTS AND THE EVIDENCE
15 BEGINS TO GO IN, I DON'T TRY TO INFLUENCE THEM WITH A
16 RECOUNTING OF THE EVIDENCE ---

17 THE COURT: I WOULD HOPE YOU WOULDN'T TRY TO
18 INFLUENCE THEM EVEN BEFORE THE TRIAL IS STARTED.

19 MR. HANCOCK: WELL, NO, SIR. I'M JUST SAYING AM
20 I ALLOWED AT THIS POINT TO DISCUSS THE EVIDENCE THAT THEY
21 HAVE NOT SEEN WITH THEM AND INDICATE WHAT IS THERE, BECAUSE
22 I DON'T WANT TO UNDULY INFLUENCE THEM OR TELL THEM
23 SOMETHING WRONG THAT MAY COME OUT BEFORE THIS COURT AND
24 REFLECT ON MY CLIENT.

25 THE COURT: WELL, WHAT THE CONCERN IS WE'RE AT

2825

1 THE END OF THE TRIAL.

2 MR. HANCOCK: YES, SIR, I KNOW. AND I THINK THE
3 STATE DOES HAVE THE RIGHT TO ASK THEM IF THEY KNOW THE
4 FACTS. AND IF THEY COME IN HERE TO TESTIFY AND THEY DON'T
5 KNOW THE FACTS, THEN I THINK THE STATE HAS THE RIGHT TO
6 CALL THAT TO THEIR ATTENTION. I DON'T BELIEVE THAT THEN
7 THROWS THE BALL INTO THE DEFENSE COURT TO SHOW THEM THE
8 PHOTOGRAPHS AND SHOW THEM EVERYTHING AND SAY DOES THAT
9 CHANGE YOUR OPINION.

10 I'M JUST TRYING TO FIND MY PARAMETERS, YOUR
11 HONOR, NOT TO BELABOR THE POINT. BUT IF I SIT DOWN WITH
12 THESE PEOPLE WHO ARE FINE PEOPLE OF THE COMMUNITY AND JUST
13 SAY, OKAY, THIS IS A BRUTAL MURDER, THERE ARE PICTURES
14 WHERE HIS HEAD -- CAN I REFER TO THE NEWSPAPERS AND WHAT IS
15 THERE THAT WOULD GIVE THEM A ---

16 THE COURT: YOU CAN GIVE THEM THE NEWSPAPER
17 ARTICLES IF YOU WANT TO. THEY HAVE BEEN SEQUESTERED, BUT
18 THEY HAVEN'T BEEN ---

19 MR. HANCOCK: I'M JUST GETTING MY BOUNDARIES
20 BECAUSE WE WILL BE CALLING SOME WITNESSES LATER IN THE
21 MERCY PHASE FOR MERCY WITNESSES.

22 THE COURT: ALL RIGHT.

23 MR. POPE: YOUR HONOR, YOU BROUGHT OUT A POINT
24 THAT'S NOT REALLY DIRECTLY ON THIS. YOU HAD INDICATED THEY
25 COULD READ THE PAPER AND THINGS OF THAT NATURE. SOMEHOW

1 OUR SEQUESTERED WITNESSES, WHICH TRULY MAY BE FOR THE BEST,
2 WERE UNDER THE IMPRESSION THAT YOU SAID DON'T WATCH T.V.,
3 DON'T READ THE PAPER.

4 THE COURT: I HAVEN'T TOLD ANY WITNESSES THAT TO
5 MY KNOWLEDGE.

6 MR. POPE: MS. COLLINS MAY OUT OF AN ABUNDANCE OF
7 CAUTION TOLD THEM THAT BUT EVERY DAY THEY ASK ME WHY THEY
8 CAN'T READ THE PAPER. SO, AS FAR AS THE WITNESSES READING
9 THE PAPER, THEY CAN READ A WHOLE STACK OF THEM IF THEY WANT
10 TO. IS THAT CORRECT?

11 THE COURT: WELL ---

12 MR. POPE: I JUST THOUGHT MAYBE I DIDN'T HEAR.

13 THE COURT: NO, THE JURY CAN'T READ THE NEWSPAPER
14 BUT THE WITNESSES COULD.

15 MR. POPE: I THOUGHT THAT WOULD BE THE CASE BUT
16 I WAS AFRAID I JUST MISSED IT WHEN YOU ORALLY INSTRUCTED
17 THAT WHEN WE TALKED ABOUT SEQUESTRATION.

18 MR. HANCOCK: THANK YOU VERY MUCH, YOUR HONOR.

19 THE COURT: AND IF THAT WAS A PART OF THE
20 SEQUESTRATION ORDER, THEN IN ORDER THAT THESE WITNESSES CAN
21 HAVE SOME KNOWLEDGE IF THEY HAVEN'T BEEN READING IT, I WILL
22 LIFT IT TO THAT EXTENT SO THAT WE WILL NOT HAVE TO RETRY
23 THE ENTIRE TWO WEEKS LONG CASE BEFORE EACH WITNESS.

24 MR. POPE: YES, SIR.

25 THE COURT: WHICH IS WHAT IN ESSENCE MR. HANCOCK

2827

1 IS SAYING NEEDS TO BE DONE.

2 MR. HANCOCK: YES, SIR.

3 MR. POPE: I HAVE NO OBJECTION TO THAT, YOUR
4 HONOR, IF MR. HANCOCK WANTS TO SHOW PICTURES TO THEM WHEN
5 THE JURY IS HERE, I WOULD HAVE NO OBJECTION TO THAT. LIKE
6 YOU SAY, WE DON'T WANT TO RETRY THE CASE. I'M GOING TO ASK
7 THE QUESTIONS THAT I'VE ASKED, BUT I DON'T HAVE ANY
8 OBJECTION WITHIN CERTAIN LEADING PARAMETERS FOR HIM TO GO
9 AHEAD AND DO WHATEVER HE FEELS HE NEEDS TO DO TO REPRESENT
10 HIS CLIENT.

11 THE COURT: WELL, THEY ARE HERE TO TESTIFY SO
12 THEY'VE OBVIOUSLY COME TO CERTAIN CONCLUSIONS BASED ON
13 SOMETHING AND IF THAT DID NOT FACTOR IN THE CIRCUMSTANCES
14 OF THE CRIME, THEN I THINK THE STATE HAS THE RIGHT TO DO
15 THAT.

16 ALL RIGHT, WE ARE AT EASE UNTIL 1:30.

17 MR. HANCOCK: THANK YOU, YOUR HONOR.

18 THE COURT: PLEASE HAVE A WITNESS HERE AT 1:30.

19 MR. BOYD: YOUR HONOR, WE'VE GOT OTHER WITNESSES
20 IF THAT ONE IS NOT HERE.

21 AFTER THE LUNCHEON RECESS IN CAMERA:

22 THE COURT: IS THE STATE READY?

23 MR. POPE: THE STATE IS READY, YOUR HONOR.

24 THE COURT: THE DEFENSE?

25 MR. BOYD: THE DEFENSE IS READY, YOUR HONOR.

MICHAEL FAULKNER - DIRECT BY MR. BOYD

2828

1 THE COURT: BRING IN THE JURY.

2 IN THE PRESENCE OF THE JURY:

3 THE COURT: THE JURY IS PRESENT. CALL YOUR NEXT
4 WITNESS.

5 MR. BOYD: THE DEFENSE CALLS MICHAEL FAULKNER.
6 PLEASE COME UP AND BE SWORN, SIR.

7 MICHAEL FAULKNER, BEING FIRST DULY SWORN,
8 TESTIFIED AS FOLLOWS:

9 DIRECT EXAMINATION BY

10 MR. BOYD:

11 Q. TELL US YOUR NAME, PLEASE.

12 A. MICHAEL FAULKNER.

13 Q. MR. FAULKNER, DO YOU LIVE HERE IN YORK COUNTY?

14 A. YES, I DO.

15 Q. WHAT IS YOUR PROFESSION AT THIS TIME?

16 A. I'M A DISTRICT ADMINISTRATOR FOR THE CLOVER
17 SCHOOL SYSTEM.

18 Q. HOW LONG HAVE YOU BEEN IN THAT POSITION?

19 A. APPROXIMATELY ONE YEAR.

20 Q. AND PRIOR TO THAT WHERE DID YOU WORK?

21 A. PRIOR TO THAT I WAS A SELF-EMPLOYED MINISTER.

22 Q. AND PRIOR TO THAT WHERE DID YOU WORK?

23 A. I WAS WITH THE GASTON COUNTY SCHOOLS AND PRIOR
24 TO THAT WITH CATAWBA SCHOOL IN ROCK HILL.

25 Q. AND WHAT DID YOU DO AT THE CATAWBA SCHOOL IN

MICHAEL FAULKNER - DIRECT BY MR. BOYD

2829

1 ROCK HILL?

2 A. AT THAT TIME I WAS A TEACHER AND OFTENTIMES
3 HALF-TIME ADMINISTRATOR.

4 Q. DID YOU HAVE OCCASION WHILE YOU WERE WORKING AT
5 THE CATAWBA SCHOOL TO COME IN CONTACT WITH JIMMY
6 ROBERTSON?

7 A. YES, I DID.

8 Q. AND HOW DID YOU COME TO KNOW JIMMY ROBERTSON?

9 A. I WAS FIRST INTRODUCED TO HIM AS A STUDENT IN MY
10 CLASS AND THAT LASTED IN THAT RELATIONSHIP AS I
11 SERVED HIM WITH INSTRUCTION FOR TWO YEARS.

12 Q. AND WHAT GRADES DID YOU HAVE HIM?

13 A. SEVENTH AND EIGHTH.

14 Q. SO, HE WOULD HAVE BEEN HOW OLD DURING THE TIME
15 THAT YOU TAUGHT HIM?

16 A. WELL, GIVEN HIS BIRTH DATE, I WOULD SAY 11, 12.

17 Q. DID YOU ALSO KNOW HIS PARENTS, TERRY AND EARL
18 ROBERTSON?

19 A. YES, I DID.

20 Q. CAN YOU TELL US, WHAT KIND OF STUDENT WAS JIMMY?

21 A. JIMMY WAS ONE OF MY BRIGHTER STUDENTS.
22 ACADEMICALLY HE DID VERY, VERY WELL. NOT ONLY
23 DID HE DO WELL, BUT HE DID WELL WITH MINIMAL
24 EFFORT. I THINK HE HAD A NATURAL CURIOSITY FOR
25 LEARNING, A DESIRE FOR LEARNING. HE WAS VERY

MICHAEL FAULKNER - DIRECT BY MR. BOYD

2830

1 RESPONSIVE TO ME AND WE, I WOULD SAY, HAD A VERY
2 ACKNOWLEDGED RELATIONSHIP DURING THAT TWO YEAR
3 PERIOD.

4 Q. AND WHAT KIND OF STUDENT WAS HE OTHERWISE?

5 A. OTHERWISE, JAMES WAS VERY TEMPERAMENTAL; HE WAS
6 VERY PRESSED WITH GETTING HIS WAY OFTEN. HE
7 FOUND DISAPPOINTMENT IN WHAT I WOULD CONSIDER
8 AND ANY EDUCATOR WOULD CONSIDER A MINOR SETBACK.
9 THERE WERE OCCASIONS WHEN JAMES WOULD SCORE VERY
10 HIGH ON AN EVALUATION OR A TEST AND HIS RESPONSE
11 WOULD BE AS IF HE HAD SCORED VERY POOR. HE WAS
12 DRIVEN TOWARD PERFECTION, QUITE OBSESSED WITH
13 PERFECTION.

14 AND THERE WERE OCCASIONS, SEVERAL OF THEM DURING
15 MY TIME SERVING AS HIS TEACHER, WHERE THERE WAS
16 A CONDUCT PROBLEM IN CLASS WITH HIM, GENERALLY
17 IN THE AFTERNOON.

18 I TAUGHT HIM BOTH MORNING SESSIONS AND AFTERNOON
19 SESSIONS DURING THIS PERIOD. DURING THE
20 MORNINGS HE WAS GENERALLY AS A TEACHER MIGHT
21 EXPECT OF A STUDENT. IN THE AFTERNOONS IT WAS
22 AS IF HE WAS A DIFFERENT PERSON IN TERMS OF HIS
23 DESIRE TO LEARN, IN TERMS OF HIS CLASS CONDUCT.
24 DURING THOSE AFTERNOON, EARLY AFTERNOON CLASSES
25 THERE WERE SEVERAL OCCASIONS WHEREBY WHEN

MICHAEL FAULKNER - DIRECT BY MR. BOYD

2831

1 ASSIGNMENTS OR ACTIVITIES IN CLASS WERE NOT
2 APPROPRIATE IN TERMS OF WHAT HE FELT HE WANTED
3 TO DO, THERE AT TIMES WOULD BE SOME EMOTIONAL
4 OUTBURSTS. THERE WOULD BE A VERY NOTICED ANGER
5 ABOUT HIM.

6 I REMEMBER THERE WERE TIMES WHEN HIS CHEEKS
7 WOULD BLUSH, HIS EYES WOULD SEEM TO WATER JUST A
8 LITTLE, NOT AS IF HE WERE CRYING BUT JUST A
9 PASSION OF ANGER I WOULD THINK, AND HE WOULD
10 JUST BE ISOLATED THEN AND WITHDRAW COMPLETELY
11 FROM THE REST OF THE CLASS ACTIVITIES BECAUSE --
12 WELL, SIMPLY BECAUSE SOMETHING DID NOT GO AS HE
13 WANTED IT TO.

14 Q. WHEN YOU SAY ISOLATED FROM THE REST OF THE CLASS
15 ACTIVITIES, WHAT DO YOU MEAN BY THAT?

16 A. THAT WAS TWO-PART, COUNSELOR. I WOULD
17 ACKNOWLEDGE THAT HE WAS HAVING A DIFFICULTY ON A
18 GIVEN DAY. AND I WOULD SIMPLY WITHDRAW FROM HIM
19 AND HE FROM ME, AND HE WOULD HAVE HIS TIME JUST
20 TO BE ALONE. I WOULD NOT REQUIRE ANYTHING MORE
21 OF HIM DURING THE CLASS. AND HE WAS WELL AWARE
22 OF MY PRACTICE OF THAT AND QUITE OFTEN HE FOUND
23 HIMSELF, I THINK, MORE PLEASED TO BE WITHDRAWN
24 THAN TO TAKE PART.

25 HE WAS VERY CONCERNED ABOUT NOT SHINING THROUGH

MICHAEL FAULKNER - DIRECT BY MR. BOYD

2832

1 AS THE VERY BEST IN THE CLASS AT WHATEVER
2 ACTIVITY IT MAY BE, ESPECIALLY DURING THE TIMES
3 OF REVIEW. IF HE WOULD MISS A REVIEW QUESTION
4 THAT WAS JUST SPOKEN AND HE WOULD MISS THAT
5 QUESTION, IT WAS AS IF HE COULD NOT BELIEVE IT
6 WAS THE WRONG ANSWER.

7 I'VE DEALT A LOT WITH HIM ON A PERSONAL BASIS AS
8 WELL. I BELIEVE ACTUALLY DURING THAT TIME WE
9 BECAME QUITE CLOSE. I PROBABLY DISCIPLINED HIM
10 IN TERMS OF CONDUCT ACCORDING TO SCHOOL POLICY
11 MORE SO THAN OTHERS OF MY PEERS AT THE TIME.
12 AND I BEGAN TO FIND THAT WITH THAT DISCIPLINE
13 THAT WAS MAINTAINED CONSTANT BY MYSELF, HE WOULD
14 ACTUALLY SOMEWHAT RESPOND TO ME IN MORE OF A
15 POSITIVE NATURE DUE TO THE DISCIPLINE.

16 Q. AND CAN YOU GIVE US SOME EXAMPLES CONCERNING HIS
17 BEHAVIOR IN CLASS, SOME THINGS THAT HAPPENED?

18 A. WELL, TO ADD TO WHAT I'VE ALREADY SUBMITTED, I
19 WOULD SAY THAT, IF WE CAN BE MORE DETAILED AND
20 ACCURATE, THERE WAS A PARTICULAR OCCASION WHEN
21 STUDENTS HAD BEEN LED TO BELIEVE SIMPLY BECAUSE
22 OF THE WEATHER THAT SCHOOL WAS GOING TO BE
23 DISMISSED EARLY AND WHEN THE WEATHER CLEARED UP
24 IT WAS ANNOUNCED THAT SCHOOL WAS NOT TO BE
25 DISMISSED EARLY, I REMEMBER JAMES STANDING,

MICHAEL FAULKNER - DIRECT BY MR. BOYD

2833

1 SEEMINGLY VERY, VERY EMOTIONAL, ANGRY, EITHER
2 PUSHING OVER OR KICKING A DESK, NOT IN SEVERE
3 HOSTILITY BUT JUST OUT OF SHEER DISAPPOINTMENT
4 THAT SCHOOL WAS NOT GOING TO BE DISMISSED EARLY
5 THAT DAY.

6 HE HAD A VERY DIFFICULT TIME ACCEPTING ANY
7 CHANGE OF WHAT HE WOULD EXPECT TO BE GOOD FOR
8 HIM. HE COULD NOT HANDLE DISAPPOINTMENT VERY
9 WELL. AND TO ADD TO THIS, HE HAD A REAL PROBLEM
10 AT THAT TIME WITH ANGER MANAGEMENT, I BELIEVE.

11 Q. AND DID YOU EVER HAVE AN OCCASION TO TALK TO HIS
12 PARENTS? DID YOU KNOW THEM?

13 A. I KNEW THEM QUITE WELL AND HAD THE OCCASION TO
14 SPEAK WITH THEM OFTEN IN THE CAPACITY THAT I
15 SERVED.

16 Q. DID EARL ROBERTSON HAVE ANY POSITION AT THE
17 CATAWBA SCHOOL?

18 A. YES, FOR A PERIOD OF TIME HE WAS CHAIRMAN OF THE
19 BOARD OF TRUSTEES FOR THE DURATION OF THE LENGTH
20 OF THAT OFFICE, ONE TERM.

21 Q. AND DID YOU HAVE OCCASION ALSO TO HAVE CONTACT
22 WITH TERRY ROBERTSON?

23 A. YES, MORE SO THAN MR. ROBERTSON.

24 Q. DID YOU EVER HAVE OCCASION TO DISCUSS WITH HIS
25 PARENTS JIMMY'S BEHAVIOR IN CLASS AND AT SCHOOL?

MICHAEL FAULKNER - DIRECT BY MR. BOYD

2834

1 A. YES, I HAVE AND INDEED THIS IS THE FOCUS OF MY
2 TESTIMONY I BELIEVE TODAY. JAMES, UPON THE
3 OCCASION OF MISCONDUCT -- WE'LL BEGIN WITH THAT
4 BEFORE WE APPROACH ACADEMICS. UPON THE OCCASION
5 OF MISCONDUCT, A TEACHER NORMALLY WOULD UTILIZE
6 CLASSROOM DISCIPLINE AND THEN IF THAT WAS NOT
7 SUCCESSFUL, THEN PARENT CONTACT AND, OF COURSE,
8 A ROUTINE WITH THAT.

9 AND WHENEVER IT REACHED THE LEVEL OF PARENT
10 CONTACT, I CAN REMEMBER SEVERAL OCCASIONS,
11 NUMEROUS OCCASIONS WHEN MRS. ROBERTSON WOULD
12 COME TO ME PERSONALLY, NOT VIA THE TELEPHONE,
13 BUT COME TO ME PERSONALLY AND ACCOST ME AS TO
14 WHY I DID WHAT I DID IN TERMS OF DISCIPLINE,
15 WELL WITHIN SCHOOL CODE AND POLICY SUCH AS
16 STAYING AFTER SCHOOL OR AFTER CLASS OR MANY OF
17 THE DISCIPLINARY MEASURES THAT ARE VERY COMMON
18 TO US ALL, NOTHING ABNORMAL.

19 AND SHE WOULD JUST BE VERY, VERY OFFENDED IN
20 THAT HER SON WOULD EVEN BE ACCUSED OF MISCONDUCT
21 IN CLASS.

22 AND YET IT WAS QUITE COMMON WITH MYSELF AND A
23 FEW OTHER TEACHERS AT THE SCHOOL THAT THEY HAD
24 SOME DIFFICULTY WITH JAMES. JAMES WAS OFTEN THE
25 TOPIC OF DISCUSSION IN OUR FACULTY LOUNGE.

MICHAEL FAULKNER - DIRECT BY MR. BOYD

2835

1 AND MRS. ROBERTSON'S RESPONSE TO DISCIPLINARY
2 MEASURES WAS OFTEN THE TOPIC OF CONVERSATION IN
3 THE LOUNGE.

4 I REMEMBER QUITE VIVIDLY A CONVERSATION ONE DAY
5 IN THE LOUNGE THAT A COUPLE OF TEACHERS SAID
6 WELL, THEY ARE JUST GOING TO ---

7 MR. POPE: YOUR HONOR, I OBJECT. THIS IS NOT
8 JUST HEARSAY, BUT IT IS DOUBLE HEARSAY.

9 THE COURT: I SUSTAIN THE OBJECTION. DON'T GO
10 INTO THAT.

11 A. OKAY. I REMEMBER QUITE WELL ---

12 MR. POPE: YOUR HONOR, I APOLOGIZE, BUT AT SOME
13 POINT IF MR. BOYD COULD ASK A QUESTION.

14 THE COURT: YES, LET'S DO IT QUESTION AND ANSWER.

15 Q. SO, WHAT WAS THE RESPONSE OF YOU AND THE OTHER
16 TEACHERS AT THE CATAWBA SCHOOL?

17 MR. POPE: YOUR HONOR, I OBJECT.

18 THE COURT: I SUSTAIN THE OBJECTION. JUST ASK
19 WHAT HIS RESPONSE WAS, UNLESS HE OBSERVED SOMETHING.

20 Q. THAT'S FINE. DID YOU OBSERVE THE RESPONSE OF
21 OTHER TEACHERS AT THE CATAWBA SCHOOL?

22 A. YES, I DID.

23 Q. WHAT WAS THAT RESPONSE?

24 A. COMPLIMENTARY, ON THE SAME PAGE.

25 Q. WHAT WAS YOUR RESPONSE?

MICHAEL FAULKNER - DIRECT BY MR. BOYD

2836

1 A. MY RESPONSE WAS THAT IF THERE WAS NOT SOME
2 INTRODUCTION OF ANGER MANAGEMENT, MEDICATION TO
3 HELP JAMES FOCUS MORE WITH HIS STUDIES AND WITH
4 ANGER MANAGEMENT THAT SHOULD IT CONTINUE
5 UNADDRESSED AND ON A PARTICULAR OCCASION -- NO,
6 THREE OCCASIONS AT LEAST, I ADDRESSED MRS.
7 ROBERTSON ABOUT THIS AND NO WAY WOULD SHE HEAR
8 TO IT THAT HE WOULD HAVE ANY NEED FOR ANY
9 MEDICATION. IT WAS AS IF IT WOULD BE ADMITTING
10 THAT THERE WAS A PROBLEM. AND SHE WAS JUST THE
11 PERSON WHO WOULD NOT WANT TO SEE ANYTHING LESS
12 THAN PERFECTION IN HER CHILDREN ---

13 MR. POPE: YOUR HONOR, I APOLOGIZE AGAIN, BUT I
14 OBJECT TO ANY OPINION.

15 THE COURT: YES, YOU CAN'T GO INTO WHAT WAS IN
16 HER MIND. I SUSTAIN THE OBJECTION.

17 Q. WHAT WAS HER RESPONSE TO YOU?

18 MR. POPE: YOUR HONOR, THAT IS HEARSAY.

19 THE COURT: I SUSTAIN THE OBJECTION; THAT'S
20 HEARSAY.

21 MR. BOYD: I NEED TO MAKE AN OFFER OF PROOF THEN.

22 THE COURT: ALL RIGHT. I'LL LET THE JURY GO TO
23 THE JURY ROOM FOR JUST A MINUTE.

24 IN CAMERA:

25 THE COURT: UNDER WHAT RULE?

MICHAEL FAULKNER - DIRECT BY MR. BOYD

2837

1 MR. BOYD: 803. YOUR HONOR, IT WOULD BE A
2 STATEMENT ---

3 THE COURT: WHAT SUB-SECTION?

4 MR. BOYD: 3. A STATEMENT OF DECLARANT'S THEN
5 EXISTING STATE OF MIND, EMOTION, SENSATION AND PHYSICAL
6 CONDITION.

7 THE COURT: ALL RIGHT, LET ME HEAR THE PROFFER.
8 CONTINUED DIRECT IN CAMERA:

9 Q. I BELIEVE MY QUESTION WAS WHAT WAS MRS.
10 ROBERTSON'S RESPONSE TO YOU.

11 A. TO MY SUGGESTION OF MEDICATION?

12 Q. THAT'S CORRECT.

13 A. SHE WOULDN'T HEAR TO IT. SHE WOULD NOT BELIEVE
14 IN ANY FASHION THAT THIS WAS NEEDED. HER WORDS
15 TO ME AT THE TIME, AND I REMEMBER QUITE WELL,
16 HE'S JUST A GROWING BOY; I HAVE TWO BOYS AND I
17 DON'T WANT ANYTHING TO AFFECT THEIR MIND AND THE
18 WAY THEY THINK. AND THERE AGAIN I MAY BE
19 PARAPHRASING, BUT SHE JUST FELT THAT SHE DID NOT
20 WANT -- ACCORDING TO THE WAY SHE ADDRESSED ME, I
21 INTERPRETED THAT AS BEING IN NO WAY WOULD SHE
22 TOLERATE HER CHILDREN ON MEDICATION.

23 MR. BOYD: THAT'S THE OFFER OF PROOF.

24 MR. POPE: YOUR HONOR, ONE, I DON'T THINK IT
25 FITS; TWO, HE'S MAKING AN INTERPRETATION OF WHAT SHE SAID.

MICHAEL FAULKNER - DIRECT BY MR. BOYD

2838

1 I THINK THERE ARE ABOUT THREE OBJECTIONS, REASONS THAT IT
2 SHOULD NOT BE ADMISSIBLE.

3 THE COURT: WELL, I THINK IT MIGHT COME IN AS A
4 DIRECT STATEMENT BUT NOT A PARAPHRASE. SO, I SUSTAIN THE
5 OBJECTION.

6 MR. BOYD: SO I CAN ASK IT AS A DIRECT STATEMENT,
7 WHAT SHE TOLD HIM?

8 THE COURT: HE CAN TESTIFY AS TO HER STATE OF
9 MIND AT THAT TIME.

10 MR. POPE: AND AS FAR AS WHAT HE DISCUSSED, WHAT
11 IS HE SAYING AS TO THE STATE OF MIND? I MEAN BASED ON THE
12 TESTIMONY HE JUST GAVE WITH HIS INTERPRETATION OF SHE WAS
13 OR WASN'T GOING TO HAVE DRUGS OR WHAT ---

14 THE COURT: THAT'S HER STATE OF MIND.

15 MR. POPE: THAT WAS HER STATE OF MIND?

16 THE COURT: WELL, WHAT ELSE WOULD IT BE?

17 MR. POPE: WELL, IF THAT'S THE CASE, THEN
18 ANYTHING SHE SAYS IS HER STATE OF MIND, YOUR HONOR.

19 THE COURT: BUT THIS IS DIRECTED TOWARD A
20 SPECIFIC OBJECT. I'M GOING TO ALLOW A DIRECT STATEMENT IN
21 BUT NO PARAPHRASE; NO SHE WASN'T THE KIND OF PERSON THAT
22 WOULD DO THIS. IF SHE MADE A STATEMENT AND HE CAN TESTIFY
23 UNDER OATH VERBATIM TO THE STATEMENT, I WILL ALLOW IT IN.
24 BRING IN THE JURY.

25 IN THE PRESENCE OF THE JURY:

MICHAEL FAULKNER - DIRECT BY MR. BOYD

2839

1 THE COURT: YOU MAY PROCEED.

2 Q. I HAD ASKED YOU, TO YOUR SUGGESTION TO MRS.
3 ROBERTSON THAT JIMMY NEEDED MEDICATION, WHAT WAS
4 HER RESPONSE TO YOU?

5 A. SHE WOULDN'T HEAR OF IT.

6 Q. AND DID SHE TELL YOU ANYTHING ELSE CONCERNING
7 THAT?

8 A. YES, SHE DID. SHE INFORMED ME THAT THERE WAS
9 NOTHING WRONG WITH HER CHILDREN, AND
10 PARTICULARLY JAMES. AND I DID NOT SUBMIT TO HER
11 OR SUGGEST TO HER THAT ANYTHING WAS WRONG
12 NEUROLOGICALLY, MENTALLY. THAT'S WHAT HER
13 CONCERN WAS WHICH SHE EXPRESSED TO ME THAT SHE -
14 - WELL, SHE JUST SAID "THERE'S NOTHING WRONG
15 WITH HIM" IS WHAT SHE SAID.

16 Q. NOW, DID JIMMY PLAY ANY SPORTS WHILE HE WAS AT
17 THE CATAWBA SCHOOL?

18 A. HE WAS INVOLVED IN THE INTERMURAL ACTIVITIES.
19 YET THE COMPETITION, SCHOOL TEAM LEVEL, NO. IN
20 FACT THERE WAS AN OCCASION WHEN THERE WAS AN
21 ATTEMPT TO TRY OUT FOR THE BASKETBALL TEAM AND I
22 HAD BEEN IN CONVERSATION WITH THE HEAD COACH AT
23 THE TIME WHEN THE SEASON WAS JUST GETTING
24 UNDERWAY IN TERMS OF PRACTICE AND GETTING READY
25 FOR THE SEASON AND I REMEMBER QUITE WELL

MICHAEL FAULKNER - DIRECT BY MR. BOYD

2840

1 SPEAKING WITH THE COACH AND THE COACH KNEW MRS.
2 ROBERTSON AS WELL AND I REMEMBER STANDING
3 ADJACENT TO HIM WHEN THE QUESTION CAME TO HIM BY
4 MRS. ROBERTSON THAT IF JAMES DID NOT PLAY ON THE
5 STARTING TEAM THAT IT WOULD NOT BE WORTH HIS
6 TIME OR HER'S.

7 Q. OKAY. NOW, I WANT YOU TO THINK A MINUTE ABOUT
8 JIMMY'S PERFORMANCE IN SCHOOL. YOU TALKED ABOUT
9 THE DISCIPLINARY PROBLEMS. DID YOU ALSO HAVE
10 CONTACT WITH MRS. ROBERTSON CONCERNING HIS
11 GRADES OR DID SHE HAVE CONTACT WITH YOU?

12 A. YES.

13 Q. AND COULD YOU DESCRIBE WHAT THOSE CONTACTS WERE
14 ABOUT?

15 A. CONCERNING ACADEMICS?

16 Q. THAT'S CORRECT.

17 A. AS I TESTIFIED EARLIER, JAMES WAS A VERY BRIGHT
18 STUDENT. HE WAS A SELF-SEEKING, CURIOUS,
19 QUESTION ASKING STUDENT WHICH IS CONSIDERED BY
20 EDUCATORS A VERY GOOD CHARACTERISTIC. BUT YET
21 IN TERMS OF GRADES, ALTHOUGH HE DID WELL, ON
22 SEVERAL OCCASIONS JAMES WOULD SCORE HIGH AND
23 MRS. ROBERTSON WOULD CONTACT ME, GENERALLY WITH
24 HER PRESENCE, SHE WAS QUITE OFTEN AT THE SCHOOL,
25 I WOULD SAY THREE TO FOUR DAYS PER WEEK, AND SHE

MICHAEL FAULKNER - DIRECT BY MR. BOYD

2841

1 WOULD QUESTION ME AS TO, ALTHOUGH HE MADE A 98,
2 WHAT DID YOU NOT DO IN CLASS AS A TEACHER THAT
3 HE WOULD MISS THESE TWO POINTS.

4 AND THROUGHOUT MY TENURE AS TEACHER THERE, JAMES
5 WAS NOT DISCIPLINED BY HIS PARENTS IN TERMS OF
6 BEING SUPPORTIVE OF EDUCATORS WITH CONDUCT OR
7 GRADES.

8 EVERY INCIDENT, WHETHER CONDUCT, GRADE, WHAT-
9 HAVE-YOU, WAS CHALLENGED TO WHERE ON A COUPLE OF
10 OCCASIONS I WAS NEARLY INTERROGATED AS TO WHY I
11 WOULD SUGGEST THAT HIS BEHAVIOR WAS LESS THAN
12 ADMIRABLE.

13 Q. WHO WOULD INTERROGATE YOU?

14 A. MRS. ROBERTSON.

15 Q. DID YOU EVER HAVE CONTACT WITH EARL ROBERTSON
16 CONCERNING JIMMY'S BEHAVIOR OR GRADES?

17 A. YES, I DID BUT NOT NEARLY AS MUCH AS MRS.
18 ROBERTSON SIMPLY BECAUSE OF HIS EMPLOYMENT AND
19 SHE WAS FREE TO BE AT SCHOOL.

20 BUT ON A COUPLE OF OCCASIONS IN TERMS OF CONDUCT
21 ONLY, NOT WITH GRADES, BUT IN TERMS OF CONDUCT
22 WITH MR. ROBERTSON THE ONLY TIME THAT I SPOKE
23 WITH HIM WOULD BE IN THE COMPANY OF MRS.
24 ROBERTSON AND I REMEMBER VERY BRIEFLY HIM
25 SPEAKING TO ME WITH REGARD TO HOW JAMES LIKED ME

MICHAEL FAULKNER - DIRECT BY MR. BOYD

2842

1 AS A TEACHER, HOW HE FELT THAT I WAS DOING A
2 GOOD JOB WITH AND FOR HIM. AND ALSO THAT IF I
3 COULD FIND SOME WAY TO EVEN MAKE HIM BETTER
4 ACADEMICALLY.

5 BUT YET THESE TYPES OF COMMENTS MADE TO ME,
6 COUNSELOR, WERE COMMENTS MADE TO ME WHEN MRS.
7 ROBERTSON WOULD ALLOW HIM TIME TO SPEAK WITH ME.
8 BECAUSE LIKE I SAID, I SPOKE WITH HIM ONLY AS A
9 COUPLE, NEVER ALONE WITH HIM. SEVERAL TIMES
10 ALONE WITH HER, BUT NEVER ALONE WITH HIM. AND
11 WHEN I WAS ADDRESSING HIM IN CONVERSATION, THEY
12 WERE ALWAYS TOGETHER AND SHE PRETTY WELL
13 DOMINATED THE FOCUS OF THE CONVERSATION.

14 Q. YOU WEREN'T ON OUR ORIGINAL WITNESS LIST.

15 A. NO.

16 Q. WHEN DID YOU FIRST CONTACT US?

17 A. THE DAY BEFORE YESTERDAY.

18 Q. AND WHAT WAS YOUR REASON FOR CONTACTING US?

19 A. BECAUSE OF MY ASSOCIATION WITH THE SCHOOL AND
20 PARTICULARLY WITH JAMES, BECAUSE OF OUR PAST
21 RELATIONSHIP THAT I CONSIDERED EXCEPTIONAL,
22 NURTURING ALTHOUGH WE LOST TOUCH AFTER MY TENURE
23 ENDED THERE. UPON READING FROM THE PRESS THE
24 GENERAL PROGRESS OF THE TRIAL AND THE TESTIMONY
25 EXCERPTS, I NEVER FOUND ANYWHERE -- NOW I WASN'T

MICHAEL FAULKNER - DIRECT BY MR. BOYD

2843

1 HERE, IT MAY HAVE BEEN AND MAYBE IT JUST WASN'T
2 PRINTED, BUT I NEVER READ ANYTHING WHERE ANYONE
3 SUGGESTED WHAT I FELT -- NOT WHAT I FELT, WHAT I
4 KNOW WITHIN MY CONSCIENCE, DEEP WITHIN MY
5 CONSCIENCE I CAN SAY TO YOU THAT JAMES, UPON MY
6 OBSERVATION, BOTH IN TERMS OF SUPPORT FROM
7 PARENTS AS WELL AS OBSERVATION FIRSTHAND JAMES
8 AND MOTHER, AND EVEN SOMETIMES WITH THE STUDENTS
9 IN A CONVERSATION, NOT THAT THE STUDENTS WERE
10 PART OF IT, THEY WOULD BE WITNESSES BECAUSE
11 THERE WERE TIMES THAT MRS. ROBERTSON WOULD COME
12 INTO CLASS, JAMES WAS NEVER FORCED TO BE
13 ACCOUNTABLE OR RESPONSIBLE FOR HIS MISBEHAVIORS
14 WHEN THEY WERE OUTRIGHT, WHEN THEY WERE ACTUAL,
15 WHEN THEY WERE WITNESSED BY EVEN MORE THAN ONE
16 ADULT.
17 THERE WAS AN ARGUMENT FROM MRS. ROBERTSON. IT
18 WAS AS IF -- NOT AS IF, IT WAS TO THE POINT OF
19 WHERE SHE WOULD QUESTION AND WANT TO GO INTO
20 DETAIL AS IF SHE HERSELF WAS PRACTICING SOME
21 SORT OF EDUCATIONAL LAW. SHE MENTIONED ON AT
22 LEAST A FEW OCCASIONS OF PEOPLE THAT SHE KNEW,
23 ALTHOUGH SHE DID NOT SAY, BUT PEOPLE THAT SHE
24 KNEW THAT WOULD NOT ALLOW THIS KIND OF THING TO
25 TAKE PLACE.

MICHAEL FAULKNER - DIRECT BY MR. BOYD

2844

1 MR. POPE: YOUR HONOR, I AM GOING TO OBJECT.

2 THE COURT: I SUSTAIN THE OBJECTION. LET'S MOVE
3 ON.

4 Q. SO, YOU WOULD HAVE CONVERSATIONS WITH HER, IS
5 THAT RIGHT, ABOUT JIMMY?

6 A. THAT'S CORRECT.

7 Q. WOULD SHE SAY ANYTHING TO YOU THAT WOULD CAUSE
8 YOU TO BE CONCERNED CONCERNING YOUR POSITION?

9 MR. POPE: OBJECTION TO THE LEADING.

10 THE COURT: I SUSTAIN THE OBJECTION.

11 Q. LET ME ASK YOU, DID YOU HAVE ANY CONVERSATIONS
12 WITH HER THAT CAUSED YOU CONCERN?

13 MR. POPE: YOUR HONOR, AGAIN, I DON'T WANT TO
14 WASTE THE COURT'S TIME OR THE JURY'S TIME BUT IF WE ARE
15 GOING TO GO THROUGH ALL THE HEARSAY ISSUES AGAIN, JUST
16 CONVERSATIONS WHICH ARE SO FAR REMOVED FROM ---

17 THE COURT: I SUSTAIN THE OBJECTION.

18 Q. LET ME ASK YOU THIS. DID YOU CONTACT -- WELL,
19 LET ME REPHRASE IT. DID THE DEFENSE CONTACT
20 YOU?

21 A. NO.

22 Q. AND YOU OF YOUR OWN VOLITION CALLED US; IS THAT
23 CORRECT?

24 A. THAT IS CORRECT.

25 Q. THANK YOU. PLEASE ANSWER ANY QUESTIONS THAT MR.

MICHAEL FAULKNER - CROSS BY MR. POPE

2845

1 POPE MAY HAVE.

2 A. YES, SIR.

3 CROSS EXAMINATION BY

4 MR. POPE:

5 Q. MR. FAULKNER, YOU SAY YOU CONTACTED THE DEFENSE
6 TWO DAYS AGO?

7 A. THAT'S CORRECT.

8 Q. SO, THAT'S THE FIRST INDICATION YOU HAD AS FAR
9 AS ANY INVOLVEMENT IN THIS TRIAL, THE FIRST TIME
10 YOU THOUGHT ABOUT CONTACTING THEM WAS TWO DAYS
11 AGO; IS THAT CORRECT?

12 A. NO, SIR.

13 Q. OKAY, WELL WHEN WAS THE FIRST TIME YOU CONTACTED
14 THEM?

15 A. WHEN I BEGAN TO READ ABOUT THE PRELIMINARIES
16 LEADING TO THE TRIAL, WAITING FOR SOMETHING TO
17 BE SAID IN THE PAPER, THE MEDIA ABOUT JAMES'
18 PSYCHOLOGICAL STATE AND BACKGROUND.

19 Q. SIR, YOU'RE NOT A PSYCHOLOGIST, IS THAT CORRECT?

20 A. THAT IS EXACTLY RIGHT.

21 Q. AND I RESPECT -- YOU WERE A TEACHER AT THE
22 CATAWBA SCHOOL FOR HOW LONG?

23 A. TWO YEARS.

24 Q. SO, THE TWO YEARS YOU WERE AT THE CATAWBA SCHOOL
25 WAS THE TWO YEARS YOU KNEW JIMMY, THE SEVENTH

MICHAEL FAULKNER - CROSS BY MR. POPE

2846

1 AND EIGHTH GRADE?

2 A. THAT IS CORRECT.

3 Q. DID YOU KNOW HIM PRIOR TO THAT TIME?

4 A. NO.

5 Q. DID YOU HAVE ANY ASSOCIATION WITH HIM AFTER THE
6 EIGHTH GRADE?

7 A. NO, SIR.

8 Q. OKAY. SO, YOUR ENTIRE ASSESSMENT OF THE FAMILY
9 IN TERMS OF HOLDING HIM ACCOUNTABLE IS BASED ON
10 THAT TWO YEAR PERIOD; IS THAT RIGHT?

11 A. THAT'S CORRECT.

12 Q. AND IT SOUNDS LIKE PRIMARILY ON YOUR
13 CONVERSATIONS WITH MRS. ROBERTSON; IS THAT
14 CORRECT?

15 A. PRIMARILY, YES.

16 Q. AND YOU SAID YOU DID TALK TO EARL ROBERTSON AND
17 I WANT TO, AGAIN I'VE BEEN TRYING TO TAKE NOTES,
18 I DON'T WANT TO PUT WORDS IN YOUR MOUTH, BUT YOU
19 SAID EARL ROBERTSON WOULD BE THERE SOMETIMES,
20 BUT TERRY WOULDN'T HARDLY EVER LET YOU TALK TO
21 HIM ALONE; IS THAT CORRECT?

22 A. THAT IS CORRECT.

23 Q. AND THAT MRS. ROBERTSON NORMALLY DOMINATED THAT
24 SITUATION, TRIED TO DOMINATE EARL TO TRY TO KEEP
25 YOU FROM TALKING TO HIM; IS THAT CORRECT?

MICHAEL FAULKNER - CROSS BY MR. POPE

2847

- 1 A. NOT TO KEEP HIM FROM TALKING TO ME, BUT THAT SHE
2 WAS MORE CONCERNED WITH SPEAKING ON THE SUBJECT
3 THAT WE WERE ADDRESSING.
- 4 Q. NOW DID YOU HAVE THE OPPORTUNITY TO TALK --
5 SINCE YOU CALLED THE DEFENSE TWO DAYS AGO, HAVE
6 YOU HAD AN OPPORTUNITY TO TALK WITH ONE OF THEIR
7 DEFENSE TEAM, MS. CASCIO? DID YOU HAVE AN
8 OPPORTUNITY TO TALK WITH HER?
- 9 A. THERE HAVE BEEN AT LEAST TWO FEMALES THAT HAVE
10 CONTACTED ME, BUT I CAN'T RECALL A PARTICULAR
11 NAME.
- 12 Q. BUT PEOPLE THAT ARE ASSOCIATED WITH THE DEFENSE?
- 13 A. YES, ASSOCIATED WITH HIS COUNSEL, RIGHT.
- 14 Q. AND THIS IS WITHIN THE LAST TWO DAYS; IS THAT
15 CORRECT?
- 16 A. THAT IS CORRECT.
- 17 Q. HOW DID YOU KNOW THEY WERE FROM THE DEFENSE, YOU
18 SAID YOU COULD NOT RECALL THEIR NAMES.
- 19 A. THEY IDENTIFIED THEMSELVES WITH WORKING THIS
20 TRIAL AND THEY SPECIFICALLY MENTIONED THE
21 DEFENDANT'S NAME.
- 22 Q. AND YOU TOLD THEM THAT THE DEFENDANT WAS SPOILED
23 AND HOSTILE WHEN NOT GETTING HIS WAY; IS THAT
24 CORRECT?
- 25 A. THE LAST PORTION?

MICHAEL FAULKNER - CROSS BY MR. POPE

2848

1 Q. SPOILED AND HOSTILE WHEN NOT GETTING HIS WAY?

2 A. I SAID SPOILED AND HOSTILE -- WOULD LEAD TO
3 HOSTILITY WHEN NOT GETTING HIS WAY ON A
4 CONTINUAL BASIS; CORRECT.

5 Q. AND I THINK YOU DESCRIBED THAT IN YOUR DIRECT
6 TESTIMONY TALKING ABOUT LIKE WHEN SCHOOL WAS
7 SUPPOSED TO GET OUT AND DIDN'T GET OUT, HE'D GET
8 MAD AND KICK THE DESK OVER AND ALL THOSE THINGS.
9 IS THAT RIGHT?

10 A. UH HUH; THAT'S CORRECT.

11 Q. AND I THINK YOU WERE TALKING ABOUT THAT TERRY
12 AND EARL -- BASED ON YOUR OBSERVATION DURING
13 THAT TWO YEAR PERIOD, THAT THEY WOULD NOT
14 PARTICIPATE IN DISCIPLINING HIM; IS THAT
15 CORRECT?

16 A. THEY WOULD NOT PARTICIPATE IN SUPPORTING THE
17 SCHOOL IN TERMS OF ITS POLICY FOR DISCIPLINE.
18 IT WAS ALWAYS CHALLENGED.

19 Q. WAS THAT JUST AS FAR AS YOUR CLASS OR AS FAR AS
20 ALL THE TEACHERS?

21 A. A HUNDRED PERCENT OF MY CLASS, AND IN THE TOPIC
22 OF CONVERSATION, SEVERAL OF THE FACULTY MEMBERS.

23 Q. I APOLOGIZE IF I HAVE ALREADY ASKED YOU THIS.
24 DO YOU KNOW MS. LOU WYLIE WHO WAS JIM'S
25 COUNSELOR THERE AT THE SCHOOL?

MICHAEL FAULKNER - CROSS BY MR. POPE

2849

- 1 A. SHE WAS THERE FOR ONE YEAR WHILE I WAS THERE,
2 YES.
- 3 Q. OKAY. SO, SHE WAS ONLY THERE AT THE SCHOOL FOR
4 ONE YEAR?
- 5 A. SHE WAS THERE LONGER THAN THAT, BUT I THINK SHE
6 BEGUN HER YEAR OF SERVICE THERE MY LAST YEAR.
7 SO, WE WORKED ONE YEAR TOGETHER IS WHAT I'M
8 SAYING.
- 9 Q. OKAY. SO, IT OVERLAPPED. YOU WERE THERE TWO
10 YEARS, SHE WAS THERE YOUR SECOND YEAR ONWARD.
11 AND, OF COURSE, YOU WENT YOUR SEPARATE WAY SO
12 YOU DON'T KNOW HOW LONG SHE WAS THERE?
- 13 A. THAT'S CORRECT.
- 14 Q. SO, SHE WAS ACTUALLY THERE AND MORE INVOLVED AS
15 JIM FURTHER DEVELOPED THROUGH SCHOOL. WHEN I
16 SAY DEVELOPED THROUGH SCHOOL, NINTH GRADE, TENTH
17 GRADE, SO ON AND SO FORTH.
- 18 A. ASSUMING THAT SHE WAS STILL THERE, YES.
- 19 Q. AND DID YOU ALSO TELL THE DEFENSE THAT THERE WAS
20 A TIME -- YOU WERE TALKING ABOUT JIMMY KIND OF
21 GETTING OUT OF PUNISHMENT. THERE WAS A TIME
22 WHEN JIM WAS SUPPOSED TO CLEAN THE BATHROOMS AND
23 TERRY EVEN CLEANED THE BATHROOMS FOR HIM?
- 24 A. THERE WAS AN OCCASION -- IT WAS A PRACTICE AT
25 THE SCHOOL AT THE TIME WHICH WAS NOT TYPICAL AS

MICHAEL FAULKNER - CROSS BY MR. POPE

2850

1 COMPARED TO PUBLIC SCHOOL IN THAT IT WAS LIGHT
2 DUTY WITH CLEANING THE SCHOOL WHICH INCLUDED
3 REST ROOM AREAS AND THERE WAS A PARTICULAR
4 OCCASION, YES INDEED, COUNSELOR, WHERE MOTHER SO
5 DISAGREED WITH THIS, THE HEAD MISTRESS AT THE
6 TIME, MS. ROBERTS, NONETHELESS WOULD NOT BACK
7 OFF, INSISTED THAT HE FOLLOW THROUGH WITH HIS
8 ASSIGNED DISCIPLINE AND MOTHER CAME AND DID IT
9 FOR HIM.

10 Q. YOU SAW HER DO THAT?

11 A. WITH MY OWN EYES.

12 Q. OKAY, SAW HER CLEAN UP FOR HIM?

13 A. AT 4:30 ON A FRIDAY AFTERNOON; YES, SIR.

14 Q. YOU SAID ALSO THAT HIS MAMA WOULD COME THERE AT
15 LUNCH AND TAKE HIM TO BURGER KING AND BUY HIM
16 LUNCH, BUY HIM WHATEVER HE WANTED; IS THAT
17 CORRECT?

18 A. WELL, I JUST SUGGESTED BURGER KING, BUT A FAST
19 FOOD ESTABLISHMENT NEARBY.

20 Q. SO WHAT YOU'RE SAYING BASICALLY IS IT'S ALMOST
21 THE OPPOSITE EXTREME, INSTEAD OF BEING TOO HARD
22 ON HIM, SHE LOVED HIM TOO MUCH. SHE CAME AND
23 TOOK HIM TO LUNCH AND REALLY PROTECTED HIM TOO
24 MUCH. IS THAT CORRECT?

25 A. THERE'S NO DOUBT IN MY MIND THAT SHE LOVED HER

MICHAEL FAULKNER - CROSS BY MR. POPE

2851

1 SON.

2 Q. TOO MUCH?

3 A. WHAT IS TOO MUCH? SHE LOVED HER SON; SHE DID
4 NOT MISTREAT HIM.

5 Q. AND YOU KNEW HIM FOR TWO YEARS; IS THAT CORRECT?

6 A. TWO YEARS.

7 Q. AND YOU HAD NO CONTACT WITH HIM, SAY IN NOVEMBER
8 OF '97; IS THAT CORRECT?

9 A. '97, NO, SIR.

10 Q. THANK YOU. I APPRECIATE IT.

11 THE COURT: REDIRECT?

12 REDIRECT EXAMINATION BY

13 MR. BOYD:

14 Q. HE ASKED YOU HOW LONG YOU KNEW JIMMY ROBERTSON.
15 DID YOU TESTIFY EARLIER THAT YOU FELT CLOSE TO
16 HIM?

17 A. I TESTIFIED EARLIER THAT I FELT CLOSE TO HIM IN
18 A VERY HEALTHY WAY AS A TEACHER AND STUDENT AND
19 WOULD BENEFIT IN THAT RELATIONSHIP.

20 Q. AND DID YOU FEEL LIKE THAT HE FELT CLOSE TO YOU?

21 A. I SENSED THAT.

22 Q. THAT'S ALL THE QUESTIONS I HAVE.

23 THE COURT: RECROSS?

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

25 THE COURT: YOU CAN STEP DOWN. YOU CAN FEEL FREE

2852

1 TO LEAVE AND WE APPRECIATE YOUR TIME. CALL YOUR NEXT
2 WITNESS.

3 MR. BOYD: YOUR HONOR, NEXT WE WOULD CALL DR.
4 TONI CASCIO. DR. CASCIO, JUST COME ON UP HERE AND BE
5 SWORN BY THE CLERK PLEASE.

6 DR. TONI CASCIO, BEING FIRST DULY SWORN,
7 TESTIFIED AS FOLLOWS:

8 DIRECT EXAMINATION BY

9 MR. BOYD:

10 Q. TELL US YOUR NAME, PLEASE.

11 A. TONI CASCIO.

12 Q. AND WHAT IS YOUR JOB?

13 A. I AM AN ASSISTANT PROFESSOR AT THE UNIVERSITY OF
14 SOUTH CAROLINA COLLEGE OF SOCIAL WORK.

15 Q. AND WHAT IS YOUR EDUCATIONAL BACKGROUND?

16 A. I RECEIVED MY BACHELOR'S DEGREE IN SOCIOLOGY
17 FROM THE JOHNS HOPKINS UNIVERSITY; I RECEIVED MY
18 MASTER'S DEGREE IN SOCIAL WORK FROM THE
19 UNIVERSITY OF MARYLAND; AND MY P.H.D. IN SOCIAL
20 WELFARE FROM THE UNIVERSITY OF PENNSYLVANIA.

21 Q. ARE YOU ASSOCIATED WITH ANY PROFESSIONAL
22 ORGANIZATIONS?

23 A. YES, I A VARIETY OF THEM. FOR EXAMPLE, THE
24 NATIONAL ASSOCIATION FOR SOCIAL WORKERS AND
25 COUNSELING IN SOCIAL WORK EDUCATION.

DR. TONI CASCIO - DIRECT BY MR. BOYD

2853

1 Q. HAVE YOU PUBLISHED IN ANY PROFESSIONAL JOURNALS
2 IN YOUR FIELD?

3 A. YES, I HAVE SEVEN PUBLICATIONS.

4 Q. AND WHAT ARE SOME OF THE PUBLICATIONS WHICH YOU
5 HAVE PUBLISHED?

6 A. THE JOURNAL OF TEACHING IN SOCIAL WORK; THE
7 JOURNAL OF MULTI-CULTURAL SOCIAL WORK; THE
8 JOURNAL OF SOCIAL SERVICES SEARCH; FAMILIES IN
9 SOCIETY; AND THE JOURNAL OF JEWISH COMMUNAL
10 SERVICE.

11 Q. AND YOU SAID YOU'RE AN ASSISTANT PROFESSOR AT
12 THE UNIVERSITY OF SOUTH CAROLINA?

13 A. YES.

14 Q. AND WHAT COURSES DO YOU TEACH?

15 A. I TEACH A VARIETY OF COURSES, MOSTLY IN HUMAN
16 BEHAVIOR AND THERAPY AREAS. I TEACH SOCIAL WORK
17 712 WHICH IS FAMILY DEVELOPMENT AND INTERACTION.
18 IN THAT COURSE WE LOOK AT NORMAL INDIVIDUAL
19 HUMAN DEVELOPMENT, FAMILY DEVELOPMENT, THE
20 INFLUENCES OF ENVIRONMENT ON THE FAMILY, STAGES
21 OF THE FAMILY, LIFE CYCLE, THOSE KINDS OF
22 THINGS.

23 I TEACH SOCIAL WORK 725 WHICH IS FAMILY THERAPY.

24 I TEACH SOCIAL WORK 705 WHICH IS INTRODUCTION TO
25 SOCIAL WORK. SOCIAL WORK 722 WHICH IS

DR. TONI CASCIO - DIRECT BY MR. BOYD

2854

1 INTRODUCTION TO MICRO SOCIAL WORK PRACTICE, AND
2 THAT LOOKS AT THINGS LIKE TEACHING YOU HOW TO DO
3 A SOCIAL HISTORY, SKILLS THAT YOU NEED TO
4 EFFECTIVELY INTERVIEW CLIENTS, DIFFERENT BASIC
5 THEORIES IN SOCIAL WORK; HOW TO PROPERLY
6 DOCUMENT THE INFORMATION THAT YOU GET FROM
7 CLIENTS. ESSENTIALLY HOW TO DO THERAPY.

8 I ALSO TEACH SOCIAL WORK 723 WHICH IS ADVANCED
9 CLINICAL SOCIAL WORK WITH INDIVIDUALS, AND THAT
10 MOSTLY HAS TO DO WITH A LOT OF DIFFERENT
11 THEORIES. AND THEN I ALSO TEACH COURSES ON
12 GROUP THERAPY.

13 Q. OKAY. IS THERE ANY LICENSING BOARD FOR SOCIAL
14 WORKERS IN SOUTH CAROLINA?

15 A. YES, THERE IS.

16 Q. ARE YOU LICENSED IN SOUTH CAROLINA?

17 A. YES, I AM A LICENSED INDEPENDENT SOCIAL WORKER.

18 MR. BOYD: YOUR HONOR, AT THIS TIME I WOULD OFFER
19 THE WITNESS AS AN EXPERT IN THE FIELD OF SOCIAL WORK.

20 THE COURT: ANY VOIR DIRE?

21 MR. POPE: JUST BRIEFLY, YOUR HONOR.

22 CROSS EXAMINATION BY

23 MR. POPE:

24 Q. MS. CASCIO, HOW MANY TIMES HAVE YOU TESTIFIED IN
25 THE PAST IN THIS FIELD?

DR. TONI CASCIO - CROSS BY MR. POPE

2855

1 A. I HAVE NEVER TESTIFIED BEFORE.

2 Q. AND I SEE THAT YOU HAVE GIVEN EXPERT WITNESS
3 TESTIMONY FROM 1997 TO THE PRESENT FOR THE
4 CAPITAL LITIGATION CASES AT THE CENTER OF
5 LITIGATION. SO, IN OTHER WORDS, YOU'VE ASSISTED
6 THEM BUT YOU HAVE NEVER TESTIFIED OR BEEN
7 QUALIFIED AS AN EXPERT. IS THAT CORRECT?

8 A. RIGHT. YES, I WORKED ON ONE OTHER CASE BUT DID
9 NOT END UP TESTIFYING.

10 MR. POPE: NO OTHER QUESTIONS, YOUR HONOR.

11 THE COURT: I FIND THAT SHE IS QUALIFIED AS AN
12 EXPERT IN SOCIAL WORK, AND MAY TESTIFY TO OPINIONS IN THAT
13 AREA.

14 CONTINUED DIRECT BY MR. BOYD:

15 Q. YOU MENTIONED A MINUTE AGO THAT YOU TEACH
16 COURSES ON HOW TO CONDUCT THERAPY?

17 A. YES, I DO.

18 Q. AND IS THAT PART OF SOCIAL WORK?

19 A. YES; YES, IT IS.

20 Q. SO, BASICALLY YOU TEACH PEOPLE HOW TO BECOME
21 GOOD THERAPISTS?

22 A. YES, SIR.

23 Q. HAVE YOU EVER DONE THERAPY YOURSELF?

24 A. YES, I HAVE. I WORKED DURING MY MASTER'S DEGREE
25 AT THE HARTFORD COUNTY HEALTH DEPARTMENT IN

DR. TONI CASCIO - DIRECT BY MR. BOYD

2856

1 MARYLAND. I ALSO WORKED AT THE UNIVERSITY OF
2 MARYLAND HOSPITAL. AND I WORKED FOR TWO YEARS
3 IN A PRIVATE PRACTICE AFTER MY MASTER'S DEGREE.

4 Q. COULD YOU DESCRIBE, PLEASE, WHAT IS A SOCIAL
5 WORKER?

6 A. A SOCIAL WORKER IS SOMEONE WHO IS TRAINED IN A
7 VARIETY OF AREAS. IN A SOCIAL WORK PROGRAM YOU
8 LEARN ABOUT NORMAL HUMAN DEVELOPMENT, FAMILY
9 DEVELOPMENT; YOU'RE TAUGHT TO DO COMMUNITY AND
10 INDIVIDUAL ASSESSMENTS; YOU LEARN ABOUT SOCIAL
11 POLICY, RESEARCH, PSYCHOPATHOLOGY, A VARIETY OF
12 AREAS.

13 Q. AND WHAT WERE YOU ASKED TO DO IN REFERENCE TO
14 THIS CASE?

15 A. I WAS ASKED TO CONDUCT A SOCIAL HISTORY
16 ASSESSMENT.

17 Q. OF WHO?

18 A. OF JIMMY ROBERTSON.

19 Q. OKAY. AND WHAT IS A SOCIAL HISTORY ASSESSMENT?

20 A. IN A SOCIAL HISTORY ASSESSMENT WHAT YOU DO IS
21 YOU GATHER A VARIETY OF DATA FROM A NUMBER OF
22 DIFFERENT SOURCES. YOU SIT DOWN, YOU ANALYZE
23 IT, YOU SYNTHESIZE IT; YOU TRY TO COME UP WITH A
24 WORKING DEFINITION OF THE PROBLEM. AND THEN YOU
25 LOOK AT WHAT FACTORS CONTRIBUTED TO THAT PROBLEM

DR. TONI CASCIO - DIRECT BY MR. BOYD

2857

1 AND HAVE MAINTAINED THAT PROBLEM.

2 Q. AND WHAT DID YOUR ASSESSMENT IN THIS CASE
3 CONSIST OF IN GENERAL TERMS AND HOW DID YOU GO
4 ABOUT IT?

5 A. I LOOKED AT A VARIETY OF DOCUMENTS HAVING TO DO
6 WITH THE ROBERTSON FAMILY. I LOOKED AT MEDICAL
7 AND PSYCHOLOGICAL RECORDS FROM ALL MEMBERS OF
8 THE FAMILY. I ALSO EXAMINED EARL ROBERTSON'S
9 WORK DOCUMENTS; SOME OF JIMMY'S INCARCERATION
10 DOCUMENTS; PERSONAL NOTEBOOKS OF TERRY
11 ROBERTSON. AND I ALSO CONDUCTED ABOUT 13
12 INTERVIEWS WITH PEOPLE FROM A VARIETY OF AREAS
13 IN JIMMY'S LIFE.

14 Q. IS THIS THE TYPE OF INFORMATION NORMALLY RELIED
15 UPON BY EXPERTS IN THE FIELD OF SOCIAL WORK?

16 A. YES, IT IS.

17 Q. AND ONCE YOU PUT ALL THIS MATERIAL TOGETHER,
18 WHAT DO YOU DO WITH IT?

19 A. BASICALLY YOU TRY TO SORT IT OUT, SEE HOW THE
20 PIECES FIT TOGETHER, HOW THEY HAVE CONTRIBUTED
21 TO THE PROBLEM AND HELPED TO MAINTAIN IT.

22 Q. AND IS THIS THE PROCEDURE YOU USED IN JIMMY
23 ROBERTSON'S CASE?

24 A. YES, IT IS.

25 Q. AND IS THAT STANDARD PROCEDURE IN THE FIELD OF

DR. TONI CASCIO - DIRECT BY MR. BOYD

2858

1 SOCIAL WORK?

2 A. YES, IT IS.

3 Q. COULD YOU -- WHAT WERE YOUR MAIN FINDINGS?

4 A. OVERALL I FOUND THAT JIMMY CAME FROM A VERY
5 CHAOTIC HOME. THERE WERE A VARIETY OF THINGS
6 GOING ON. FOR EXAMPLE, PHYSICAL ABUSE AND
7 EMOTIONAL ABUSE. AND THERE IS DEFINITELY MENTAL
8 ILLNESS THROUGHOUT THE FAMILY.

9 Q. AND IS THERE ANY PARTICULAR FORMAT YOU'RE GOING
10 TO USE IN DISCUSSION OF THESE CONCLUSIONS?

11 A. WHAT I WOULD LIKE TO DO IS TALK ABOUT EACH
12 MEMBER OF THE FAMILY INDIVIDUALLY AND THEN KIND
13 OF PULL THOSE THEMES IN AS I GO ALONG.

14 Q. OKAY. AND COULD YOU FIRST TELL US ABOUT THE
15 FAMILY STARTING WITH TERRY ROBERTSON.

16 A. OKAY. ETHEL TERRY DEJARNETTE WAS BORN ON MARCH
17 28TH, 1948. SHE WAS BORN INTO A WEALTHY FAMILY.
18 HER FATHER WAS IN THE MILITARY SO THEY TRAVELED
19 A WHOLE LOT.

20 TERRY WAS AN ONLY CHILD. HER MOM WAS A BIT
21 SICKLY. SHE HAD BREAST CANCER WHEN TERRY WAS A
22 CHILD AND WAS HOSPITALIZED FOR A MASTECTOMY.
23 TERRY HAD A VERY CLOSE RELATIONSHIP WITH HER
24 MOTHER, BUT AT THE SAME TIME IT WAS VERY
25 CONFLICTUAL AS WELL.

DR. TONI CASCIO - DIRECT BY MR. BOYD

2859

1 TERRY FELT THAT HER MOM WAS VERY CRITICAL OF
2 HER. SO EVEN THOUGH THEY HAD A LOT OF CONTACT
3 AND THEY WERE VERY CLOSE, IT WAS STILL A VERY
4 DIFFICULT RELATIONSHIP FOR HER.

5 THERE ARE ALSO A VARIETY OF INDICATORS THAT
6 SUGGEST THAT TERRY WAS SEXUALLY ABUSED AS A
7 CHILD.

8 Q. LET ME ASK YOU, HAVE YOU GONE OVER SOME EXHIBITS
9 IN THAT REGARD?

10 A. YES, I HAVE.

11 Q. WOULD THOSE HELP YOU IN EXPLAINING THIS TO THE
12 JURY?

13 A. YES, THEY WOULD.

14 Q. YOUR HONOR, MAY I APPROACH THE BENCH WITH MR.
15 POPE A SECOND?

16 (COUNSEL APPROACHED THE BENCH AND HAD A CONFERENCE WITH THE
17 COURT OFF THE RECORD AND OUT OF THE HEARING OF THE JURY.)

18 Q. COULD YOU JUST STEP DOWN A MINUTE AND TELL US
19 WHAT THESE EXHIBITS ARE?

20 A. SURE.

21 Q. JUST DESCRIBE IN GENERAL WHAT THEY ARE FIRST.

22 A. THIS IS A LIST OF QUOTATIONS FROM SKIP MEYER'S
23 THERAPY NOTES WITH TERRY.

24 Q. AND THAT IS DEFENSE EXHIBIT NUMBER -- WELL, WE
25 HAVE MARKED THIS AS 1, BUT WE WOULD OFFER THIS,

DR. TONI CASCIO - DIRECT BY MR. BOYD

2860

1 YOUR HONOR, AS DEFENSE EXHIBIT NUMBER 19.

2 MR. POPE: MAY IT PLEASE THE COURT, YOUR HONOR,
3 IT IS MY UNDERSTANDING THAT THESE ARE JUST ENLARGEMENTS OF
4 THINGS THAT ARE ALREADY IN EVIDENCE. I THINK THOSE RECORDS
5 ARE IN EVIDENCE.

6 MR. BOYD: THESE RECORDS ARE IN EVIDENCE. NOW,
7 THESE ARE TYPED UP FROM MR. MEYER'S HANDWRITTEN NOTES.

8 MR. POPE: SURE, I UNDERSTAND. THEY WERE
9 EXTRACTED FROM HIS NOTES.

10 MR. BOYD: THAT'S CORRECT.

11 MR. POPE: I HAVE NO OBJECTION TO THAT.

12 THE COURT: IT WILL BE RE RECEIVED WITHOUT
13 OBJECTION.

14 (A BLOW-UP OF DR. MEYER'S NOTES WAS MARKED IN EVIDENCE AS
15 DEFENDANT'S EXHIBIT NUMBER 19 WITHOUT OBJECTION.)

16 A. THIS IS AN UNDATED LATER THAT WAS IN SKIP
17 MEYER'S RECORDS WRITTEN FROM TERRY TO SKIP.

18 MR. BOYD: I WOULD OFFER THIS, YOUR HONOR, AS
19 DEFENSE EXHIBIT NUMBER 20.

20 MR. POPE: I BEG THE COURT'S INDULGENCE.
21 (AFTER A BRIEF PAUSE.)

22 MR. POPE: NO OBJECTION.

23 THE COURT: IT WILL BE RECEIVED.

24 (THE EXHIBIT WAS SO MARKED.)

25 Q. NOW YOU HAVE JUST TESTIFIED THAT IT'S LIKELY

DR. TONI CASCIO - DIRECT BY MR. BOYD

2861

1 THAT TERRY ROBERTSON WAS SEXUALLY ABUSED. WILL
2 THESE EXHIBITS HELP YOU EXPLAIN THAT?

3 A. IN PART, YES.

4 Q. COULD YOU EXPLAIN HOW?

5 A. SURE. THEY CONTAIN A LOT OF DIFFERENT QUOTES
6 THAT WOULD LEAD ME TO BELIEVE THAT THERE WAS
7 SOMETHING OF A SEXUAL ABUSIVE NATURE GOING ON IN
8 HER FAMILY.

9 FOR EXAMPLE, ONE NOTE DATED SEPTEMBER 19TH, '96
10 READS "IT MAKES ME MAD AND SAD TO THINK WHAT
11 DADDY DID". SEPTEMBER 24TH, 1996, "A LOT OF
12 CONFUSION, WHY SHE DIDN'T PROTECT ME". 9-18-97,
13 "FEARS WHAT MOM KNEW ABOUT HER CHILDHOOD". AND
14 HER UNDATED LETTER, THE HIGHLIGHTED PORTION
15 READS: "I PLAYED AROUND WITH SEX ALL DURING MY
16 GROWING UP YEARS".

17 Q. WHY WOULD THAT BE SIGNIFICANT?

18 A. WELL, THAT IN COMBINATION WITH A LOT OF OTHER
19 THINGS WOULD LEAD YOU TO BELIEVE THAT THERE WAS
20 SEXUAL ABUSE GOING ON.

21 FOR EXAMPLE, I MENTIONED BEFORE THAT HER MOTHER
22 WAS IN THE HOSPITAL WHEN SHE WAS A CHILD FOR A
23 LONG PERIOD OF TIME. A LOT OF TIMES IN SEXUALLY
24 ABUSIVE FAMILIES THE MOMS ARE INCAPACITATED AND
25 OFTEN FOR HEALTH REASONS.

DR. TONI CASCIO - DIRECT BY MR. BOYD

2862

1 ANOTHER INDICATION IS THE SELF-MUTILATION THAT
2 TERRY ENGAGED IN.

3 Q. OKAY. IF YOU WOULD HOLD ON ONE SECOND. IF WE
4 COULD PUT UP THE NEXT EXHIBIT. JUST LET ME SHOW
5 YOU THIS AND ASK IF YOU CAN IDENTIFY THIS?

6 A. YES.

7 Q. WHAT IS THIS?

8 A. THEY ARE ALSO EXCERPTS FROM SKIP MEYER'S NOTES
9 THAT PERTAIN TO TERRY SELF-MUTILATING.

10 MR. BOYD: YOUR HONOR, I WOULD OFFER THIS AS A
11 DEFENSE EXHIBIT.

12 MR. POPE: YOUR HONOR, AS FAR AS ANY OF THE
13 EXCERPTS -- I KNOW HE HAS A NUMBER OF OTHER EXHIBITS. AS
14 FAR AS ANY OF THE EXCERPTS, THE STATE HAS NO OBJECTION AS
15 LONG AS THEY ACCURATELY REFLECT WHAT WAS IN THOSE RECORDS.

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

18 (ANOTHER BLOW-UP OF EXCERPTS OF MR. MEYER'S NOTES WERE
19 MARKED IN EVIDENCE AS DEFENDANT'S EXHIBIT NUMBER 21 WITHOUT
20 OBJECTION.)

21 THE COURT: LET ME SEE COUNSEL UP HERE FOR JUST
22 A MINUTE.

23 (COUNSEL APPROACHED THE BENCH AND HAD A CONFERENCE WITH THE
24 COURT OFF THE RECORD AND OUT OF THE HEARING OF THE JURY.)

25 Q. I THINK YOU HAD JUST DISCUSSED THE SELF-

DR. TONI CASCIO - DIRECT BY MR. BOYD

2863

1 MUTILATION?

2 A. YES.

3 Q. WHAT'S THE SIGNIFICANCE OF THAT?

4 A. IN SKIP MEYER'S NOTES IT IS MENTIONED THAT TERRY
5 CUT ON HERSELF WITH RAZOR BLADES ON HER ARMS,
6 THIGHS AND BREASTS.

7 FOR EXAMPLE, ON 10-27-95 SHE SAID THAT SHE CUT
8 HERSELF ON HER LEG. ON 2-14-96, "CUT SELF ON
9 ARM LOOKING FOR VEIN". 3-5-96, "EARL THINKS OF
10 MY BREASTS AS HIS, MAYBE THAT'S WHY I SLICED MY
11 BREAST".

12 AND SELF-MUTILATION OF THIS KIND IS VERY
13 CONSISTENT WITH CHILDHOOD SEXUAL ABUSE.

14 Q. AND WHAT OTHER SIGNS DID YOU FIND IN YOUR REVIEW
15 OF THE RECORDS?

16 A. DEPRESSION IS ALSO ANOTHER SYMPTOM OR ANOTHER
17 SIGN OF SEXUAL ABUSE. GIRLS AND BOYS WHO ARE
18 MOLESTED AS CHILDREN OFTEN GO ON TO BE DEPRESSED
19 LATER IN LIFE.

20 Q. AND LET ME SHOW YOU THIS. IS THIS AN EXHIBIT
21 WHICH SHOWS REFERENCES TO SUICIDE FROM THE
22 RECORDS OF SKIP MEYER?

23 A. YEAH, THAT'S MY NEXT POINT.

24 MR. BOYD: YOUR HONOR, I WOULD ALSO OFFER THIS
25 INTO EVIDENCE.

DR. TONI CASCIO - DIRECT BY MR. BOYD

2864

THE COURT: WITHOUT OBJECTION.

(ANOTHER EXCERPT OF SKIP MEYER'S NOTES WAS MARKED IN EVIDENCE AS DEFENDANT'S EXHIBIT 22 WITHOUT OBJECTION.)

A. ALONG WITH DEPRESSION -- SEXUAL ABUSE IS SUCH A DEVASTATING THING TO HAPPEN TO A CHILD THAT OFTEN LATER IN LIFE THESE CHILDREN WILL BECOME SUICIDAL AND YOU CAN SEE A VARIETY OF QUOTES UP THERE THAT TALKED ABOUT TERRY THINKING ABOUT KILLING HERSELF IN VARIOUS WAYS, HANGING HERSELF FROM TREES; SHE WANTED TO SET HERSELF ON FIRE. SHE THOUGHT ABOUT TAKING A HAIR DRYER IN THE BATHTUB; TAKING PILLS. JUST A VARIETY OF METHODS THAT SHE THOUGHT ABOUT KILLING HERSELF. ALSO FROM SKIP MEYER'S RECORDS THERE IS AN INDICATION THAT TERRY BEGAN WETTING THE BED AT AGE SIX. THIS IS VERY UNUSUAL FOR KIDS TO SUDDENLY BEGIN WETTING THE BED AFTER THEY'VE BEEN POTTY TRAINED FOR SEVERAL YEARS, AND IT IS, AGAIN, CONSISTENT WITH SEXUAL ABUSE IN PRE-SCHOOL AND SCHOOL AGE CHILDREN.

Q. AND DO YOU HAVE ANY INFORMATION CONCERNING TERRY AS SHE GREW OLDER AND STARTED REACHING ADULTHOOD?

A. RIGHT. WELL, TERRY FIRST MENTIONED THAT SHE STARTED BECOMING DEPRESSED IN ABOUT NINTH GRADE.

DR. TONI CASCIO - DIRECT BY MR. BOYD

2865

1 AND THEN AS SHE WENT ON TO COLLEGE SHE STARTED
2 SHOWING SYMPTOMS OF MANIA.

3 TERRY WENT TO AGNES SCOTT COLLEGE IN ATLANTA AND
4 SHE TALKS IN HER NOTES ABOUT -- EXCUSE ME, IN
5 SKIP'S NOTES ABOUT GOING ON SPENDING SPREES,
6 JUST SPENDING LOTS AND LOTS OF MONEY AND HER DAD
7 COVERING THE CHECKS FOR HER. AND THOSE KINDS OF
8 BEHAVIOR ARE VERY COMMON IN PEOPLE WHO ARE IN
9 THE MANIC PHASE OF BIPOLAR DISORDER.

10 Q. WHEN DID SHE MEET EARL ROBERTSON?

11 A. SHE MET EARL WHILE THEY WERE IN COLLEGE AND THEY
12 DATED THROUGHOUT COLLEGE AND MARRIED SHORTLY
13 THEREAFTER ON AUGUST 29TH, 1970 WHICH WAS A BIT
14 OF A PROBLEM FOR HER MOM BECAUSE SHE DID NOT
15 LIKE THE FACT THAT EARL WAS WORKING CLASS.

16 Q. NOW, DID YOU ALSO LOOK AT THE SOCIAL HISTORY
17 INVOLVING EARL ROBERTSON?

18 A. YES, I DID.

19 Q. AND WHAT DID YOU FIND CONCERNING EARL ROBERTSON?

20 A. EARL LAMAR ROBERTSON WAS BORN ON MAY 12TH, 1948.
21 BASICALLY, COMPARED TO TERRY, HE WAS BORN ON THE
22 WRONG SIDE OF THE TRACKS. HE GREW UP IN NOONAN,
23 GEORGIA. HIS DAD WORKED AT THE MILL AND HIS MOM
24 WORKED AT THE DRUGSTORE AND THEY LIVED IN THE
25 MILL VILLAGE IN THAT AREA.

DR. TONI CASCIO - DIRECT BY MR. BOYD

2866

1 EARL WAS VERY BRIGHT. HE GRADUATED AT THE TOP OF
2 HIS CLASS IN HIGH SCHOOL. HE WORKED HIS WAY
3 THROUGH COLLEGE AND HE GRADUATED FROM GEORGIA
4 TECH TOP IN HIS CLASS IN ENGINEERING.

5 VERY SHORTLY AFTER GRADUATING FROM GEORGIA TECH
6 HE BEGAN WORKING AT SPRINGS INDUSTRIES.

7 LIKE I SAID, HE MARRIED TERRY THAT AUGUST AND
8 THEN IN SEPTEMBER HE BEGAN HIS MASTER'S DEGREE
9 IN BUSINESS ADMINISTRATION AT THE UNIVERSITY OF
10 SOUTH CAROLINA WHICH HE COMPLETED IN DECEMBER OF
11 1972.

12 EARL ROSE VERY QUICKLY AT THE BEGINNING AT
13 SPRINGS INDUSTRIES. AND THEN IN 1982 WE START
14 SEEING THAT HE IS HAVING COMMUNICATION PROBLEMS
15 THAT ARE KEEPING HIM FROM DOING QUITE AS WELL AT
16 HIS JOB AS HE COULD HAVE.

17 THE EMPLOYMENT RECORDS INDICATE THAT EARL HAD A
18 DOMINEERING NATURE. HE NEEDED TO IMPROVE HIS
19 LISTENING SKILLS AND THEY ACTUALLY SUGGESTED A
20 COMMUNICATIONS CLASS FOR HIM.

21 IN 1989 THEY DECIDED THAT HE WAS NOT LEADERSHIP
22 MATERIAL. AND IN 1994 HE WAS SWITCHED TO A NEW
23 POSITION WHICH WAS A DECREASE IN A PAY SCALE BUT
24 NOT AN ACTUAL DECREASE IN THE AMOUNT OF DOLLARS
25 MADE.

DR. TONI CASCIO - DIRECT BY MR. BOYD

2867

1 BASICALLY THE OVERALL COMMENTS ABOUT EARL WAS
2 THAT HE WAS VERY CONFRONTATIONAL; HE WASN'T ABLE
3 TO COMMUNICATE WITH HIS SUBORDINATES AND THEY
4 REALLY DIDN'T THINK HE WAS CAPABLE OF CHANGING.
5 AND A LOT OF THE PEOPLE ALSO TO WHOM I SPOKE
6 SAID THEY HAD THE IMPRESSION OF EARL BEING PUSHY
7 AND KIND OF DOMINEERING.

8 Q. AND WHEN WAS JIMMY ROBERTSON BORN?

9 A. JAMES DEJARNETTE ROBERTSON WAS BORN ON NOVEMBER
10 17TH, 1973. THERE WAS A PREMATURE RUPTURE OF
11 THE MEMBRANES SURROUNDING HIS BIRTH. THE
12 UMBILICAL CORD WAS WRAPPED AROUND HIS NECK TWICE
13 AND HE WAS DELIVERED BY FORCEPS.
14 ACCORDING TO HIS GRANDMA, HE WAS A VERY HAPPY
15 OUTGOING CHILD ALTHOUGH HE DID HAVE SOME DELAYED
16 DEVELOPMENT. FOR EXAMPLE, HE WAS SLOW TO TALK
17 AND HIS PEDIATRICIAN HAD SUGGESTED THAT HE BE
18 SEEN AT A SPEECH AND HEARING CLINIC.
19 HE ALSO HAD ALOPECIA ON HIS BANG AREA AND HE HAD
20 TIGHT HEEL CORDS WHICH KIND OF MADE HIM WALK ON
21 HIS TIPTOES FOR A LOT OF HIS CHILDHOOD.

22 Q. OKAY. WHAT IS ALO -- WHAT DID YOU SAY? I CAN'T
23 PRONOUNCE IT.

24 A. ALOPECIA, IT'S LIKE NO HAIR.

25 Q. OKAY.

DR. TONI CASCIO - DIRECT BY MR. BOYD

2868

1 A. IN MARCH OF 1975 TERRY AND EARL WENT TO
2 INDONESIA FOR ABOUT SIX TO EIGHT WEEKS AND THEY
3 LEFT JIMMY IN THE CARE OF TERRY AND EARL'S
4 PARENTS.

5 Q. AND WHAT INDICATORS DO YOU FIND IN THAT HISTORY?

6 A. WELL, SOME OF THE THINGS THAT SEEM TO COME UP IS
7 THAT THERE SEEMED TO BE POOR ATTACHMENT BETWEEN
8 JIMMY AND HIS PARENTS.

9 Q. AT WHAT POINT?

10 A. AT A VERY YOUNG AGE.

11 Q. AND WHAT DO YOU MEAN BY ATTACHMENT?

12 A. WHEN I'M TALKING ABOUT ATTACHMENT, I'M TALKING
13 ABOUT A VERY NURTURING BOND BETWEEN AN ADULT
14 CARE GIVER AND AN INFANT. USUALLY IT'S THE MOM
15 BUT IT CAN BE, YOU KNOW, JUST ANY ADULT CARE
16 GIVER, A FATHER, AN ADOPTED MOTHER, ET CETERA.
17 IN THE PROCESS OF ATTACHMENT WHAT HAPPENS IS
18 THAT KIDS NEED TO LEARN THAT THEIR NEEDS ARE
19 GOING TO BE MET. AND WHEN I'M TALKING ABOUT
20 NEEDS, I'M NOT JUST TALKING ABOUT PHYSICAL NEEDS
21 LIKE CHANGING OR TAKING THEM TO THE DOCTOR OR,
22 YOU KNOW, FEEDING THEM. I'M TALKING ABOUT THEIR
23 EMOTIONAL NEEDS. THEY NEED TO REALIZE THAT, YOU
24 KNOW, WHEN THEY CRY THEY ARE GOING TO BE
25 COMFORTED. THEY NEED TO BE HELD; THEY NEED TO

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2869

1 BE CUDDLED; THEY NEED TO HAVE A LOT OF OTHER
2 EMOTIONAL STUFF GOING ON ALONG WITH THE PHYSICAL
3 CARE.

4 Q. AND WHAT HAPPENS TO CHILDREN WHO AREN'T ABLE TO
5 FORM ATTACHMENTS?

6 A. THEY HAVE A LOT OF PROBLEMS LATER ON IN LIFE.
7 THEY USUALLY HAVE DIFFICULTY FORMING
8 RELATIONSHIPS BECAUSE THEY JUST DON'T HAVE A
9 BASIS FOR IT. THEY TEND TO BE VERY MISTRUSTFUL
10 OF OTHER PEOPLE. THEY TEND TO BE ANGRY,
11 AGGRESSIVE, AND THEY OFTEN HAVE PROBLEMS WITH
12 SELF-CONTROL.

13 Q. AND WHAT MAKES YOU SAY THAT JIMMY SEEMED TO HAVE
14 PROBLEMS WITH ATTACHMENT?

15 A. WELL, ONE OF THE THINGS THAT CAME UP IS THAT
16 JIMMY USED TO BANG HIS HEAD WHEN HE WAS A SMALL
17 CHILD, YOU KNOW, ONEISH, TWOISH YEARS OLD. WHAT
18 HE WOULD DO IS HE WOULD GET ON HIS HANDS AND
19 KNEES AND KIND OF ROCK BACK AND FORTH TO LULL
20 HIMSELF TO SLEEP AND IN THE PROCESS HE WOULD BE
21 SMACKING HIS HEAD UP AGAINST THE HEADBOARD IN
22 THE BED.

23 HEAD BANGING IS OFTEN A SIGN OF POOR ATTACHMENT.
24 IT'S USUALLY SEEN IN KIDS WHO ARE RAISED IN
25 ORPHANAGES OR INSTITUTIONAL SETTINGS. THEY TEND

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2870

1 TO ROCK AND HEAD BANG.

2 IT'S ALSO CHARACTERISTIC OF OTHER CONDITIONS.

3 FOR EXAMPLE, MENTAL RETARDATION, AUTISM, NEITHER

4 OF WHICH JIMMY HAD. AND YOU ALSO SEE IT IN

5 CHILDREN SOMETIMES WHO HAVE VERY SEVERE EAR

6 INFECTIONS BUT THERE WAS ABSOLUTELY NO HISTORY

7 OF THAT IN JIMMY'S MEDICAL RECORDS.

8 Q. AND ARE THERE ANY OTHER THINGS THAT MADE YOU
9 BELIEVE THAT JIMMY WAS POORLY ATTACHED?

10 A. YES. THERE IS A VERY STRONG ASSOCIATION BETWEEN
11 MATERNAL DEPRESSION AND POOR ATTACHMENT IN
12 CHILDREN.

13 Q. LET ME SHOW YOU THESE EXHIBITS. I'LL SHOW YOU
14 THIS. IS THIS AN EXHIBIT THAT'S BEEN PREPARED
15 SHOWING THE RELATIONSHIP OF MATERNAL DEPRESSION
16 AND ATTACHMENT?

17 A. YES.

18 Q. YOUR HONOR, AT THIS TIME I WOULD OFFER THIS
19 EXHIBIT INTO EVIDENCE.

20 MR. POPE: YOUR HONOR, IS THIS FOR DEMONSTRATIVE
21 PURPOSES OR ACTUALLY FOR AN EXHIBIT TO GO BACK?

22 MR. BOYD: THIS IS AN EXHIBIT TO GO BACK.

23 THE COURT: DO YOU OBJECT?

24 MR. POPE: YOUR HONOR, I OBJECT; I DON'T THINK
25 IT'S EVIDENCE. I THINK SHE CAN USE IT TO TESTIFY AND

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2871

1 EXPLAIN, BUT I DON'T THINK IT'S EVIDENCE IN THIS CASE.

2 THE COURT: I SUSTAIN THE OBJECTION. IT CAN BE
3 USED FOR DEMONSTRATIVE PURPOSES BUT NOT GO INTO EVIDENCE.

4 Q. LET ME SHOW YOU THIS EXHIBIT ALSO AND ASK YOU IF
5 THIS IS AN EXHIBIT SHOWING THE RESULTS OF POOR
6 ATTACHMENT?

7 A. YES.

8 MR. BOYD: YOUR HONOR, UNDERSTANDING YOUR PRIOR
9 RULING, I ALSO OFFER THIS AS AN EXHIBIT.

10 MR. POPE: THE SAME OBJECTION.

11 THE COURT: IT WILL NOT BE ALLOWED INTO EVIDENCE;
12 IT WILL BE ALLOWED FOR DEMONSTRATIVE PURPOSES.

13 Q. AND WOULD YOU DESCRIBE THE RELATIONSHIP OF
14 MATERNAL ATTACHMENT AND -- I'M SORRY, MATERNAL
15 DEPRESSION AND ATTACHMENT?

16 A. OKAY. CAN I GO OVER THERE?

17 Q. CERTAINLY.

18 A. MOTHERS WHO ARE DEPRESSED HAVE BEHAVIOR THAT'S
19 DIFFERENT FROM OTHERS WHO ARE NOT DEPRESSED.
20 FIRST OF ALL THEY TEND TO BE LESS RESPONSIVE;
21 THEY MISS INFANTS' CUES. YOU KNOW HOW MOMS KIND
22 OF KNOW WHEN THEIR KIDS NEED SOMETHING. MOMS
23 WHO ARE DEPRESSED TEND TO BE KIND OF WRAPPED UP
24 IN THEIR OWN PROBLEMS. THEY HAVE THEIR OWN
25 ISSUES, SO THEY TEND TO MISS THOSE CUES. SO,

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2872

1 THEY ARE LESS RESPONSIVE. THEY ALSO ARE LESS
2 ATTENTIVE TO THE CHILD. THEY DON'T SPEND AS
3 MUCH TIME WITH THE CHILD. THEY ARE LESS
4 INTERESTED IN THE CHILD. THEY ARE ALSO LESS
5 ENERGETIC. SO, YOU KNOW, WHEN YOU HAVE A BABY
6 THEY HAVE A LOT OF ENERGY THERE, ALL OVER THE
7 PLACE AND MOMS HAVE A HARDER TIME KEEPING UP
8 WITH THAT. THEY DON'T HAVE AS MUCH EMOTIONAL
9 ENERGY TO ATTEND TO THE CHILDREN. THEY ARE LESS
10 POSITIVE.

11 THERE HAVE BEEN STUDIES SHOWING THAT MOMS WHO
12 ARE DEPRESSED TEND TO USE MORE NEGATIVE
13 LANGUAGE; THEY TEND TO COMPLAIN MORE; THEY TEND
14 TO FAULT FIND MORE; THEY ARE MORE HOSTILE; THEY
15 ARE MORE IRRITABLE; THEY ARE IN BAD MOODS MORE
16 OFTEN. AND ALL OF THIS AFFECTS THE CHILD.

17 THEY ALSO ARE MORE HARSH IN THEIR DISCIPLINE AND
18 THEY ALSO ARE MORE ARBITRARY IN THEIR
19 DISCIPLINE.

20 AND AS ANYBODY WHO HAS HAD KIDS KNOWS, YOU NEED
21 TO BE VERY CONSISTENT WITH CHILDREN. YOU KNOW,
22 YOU NEED TO TELL THEM THIS IS WRONG AND KEEP
23 SAYING THIS IS WRONG IN DIFFERENT SITUATIONS.
24 AND MOMS WHO ARE DEPRESSED JUST DON'T TEND TO DO
25 THAT QUITE AS OFTEN.

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2873

1 SO THEN YOU GET POOR ATTACHMENT AND THEN FROM
2 POOR ATTACHMENT YOU GET A LOT OF THE PROBLEMS
3 THAT I'VE TALKED ABOUT BEFORE. YOU HAVE LOW
4 SELF-ESTEEM; YOU HAVE A LACK OF SELF-CONTROL.
5 AGAIN, THE DISCIPLINE IS MORE ARBITRARY SO THEY
6 DON'T TEND TO COMPLY WITH THE RULES QUITE AS
7 MUCH. THEY TEND TO BE ANGRY, MISTRUSTFUL AND
8 THEY OFTEN ACT THIS OUT IN AGGRESSIVE WAYS.
9 Q. THANK YOU; YOU CAN BE SEATED. WHAT ELSE DID YOU
10 FIND?
11 A. I ALSO FOUND INDICATORS OF PHYSICAL ABUSE WITH
12 JIMMY.
13 Q. AND WHAT WERE THOSE INDICATORS?
14 A. FIRST OF ALL HE HAD SCARS. I BELIEVE DR. PINCUS
15 MENTIONED THAT HE HAD SCARS ON HIS BACK AND HIS
16 BUTTOCKS, AND JIMMY HAS NO MEMORY OF HOW HE GOT
17 THESE SCARS. AND JUST AS AN ASIDE, A LOT OF
18 TIMES NOT REMEMBERING THINGS CAN BE AN INDICATOR
19 OF TRAUMA.
20 BOTH CHILDREN CONFIRMED THAT THEY WERE ROUTINELY
21 BEATEN WITH A BELT TWO TO THREE TIMES A WEEK
22 DURING THEIR YOUNGER YEARS LIKE PRE-SCHOOL AND
23 GRADE SCHOOL.
24 ALSO I MENTIONED JIMMY WOULD BANG HIS HEAD
25 BEFORE AND HE SHARED WITH ME THAT WHEN HE WOULD

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2874

1 DO THIS A LOT OF TIMES HIS DAD WOULD COME IN AND
2 WOULD BEAT HIM WITH A BELT TO MAKE HIM STOP
3 SMACKING HIS HEAD UP AGAINST THE HEADBOARD. AND
4 THAT'S PARTICULARLY DAMAGING BECAUSE, I MEAN IF
5 YOU ARE KIND OF DRIFTING OFF TO SLEEP OR ASLEEP,
6 THAT'S VERY UNEXPECTED AND SO IT JUST MAKES IT
7 THAT MORE TRAUMATIC.

8 HE HAD THROWN JIMMY AGAINST THE WALL. THERE WAS
9 ALSO ANOTHER INCIDENT WHEN JIMMY WAS
10 APPROXIMATELY 11 YEARS OLD WHEN HE WAS JUMPING
11 UP AND DOWN ON THE NEW SOFA WITH HIS SHOES ON
12 AND EARL TACKLED HIM. HE CAME UP BEHIND HIM,
13 TACKLED HIM AND HELD HIM TO THE GROUND. AND
14 THIS INCIDENT WAS WITNESSED BY SCOTT LANGLEY AND
15 I DID SPEAK WITH SCOTT AND GET CONFIRMATION OF
16 THAT.

17 WHEN JIMMY WAS AROUND 13 YEARS OLD THERE WAS
18 ALSO AN INCIDENT WHERE HIS FATHER HELD HIM BY
19 HIS NECK OVER THE BALCONY.

20 ALSO THERE WAS AN INCIDENT THAT INVOLVED CHIP
21 THAT ALSO I BELIEVE WAS RELEVANT AND THAT WAS
22 WHERE HE WAS TEASING HIS DAD ABOUT HIS WEIGHT.
23 THEY WERE AWAY AT THE MOUNTAINS, THEY WERE ON
24 VACATION, AND HE WAS TEASING HIS DAD AND HIS DAD
25 STARTED HITTING HIM AND HE LITERALLY TORE THE

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2875

1 SHIRT OFF OF HIS BACK. AND THAT INCIDENT SENT
2 THE FAMILY INTO COUNSELING FOR A FEW TIMES.

3 Q. ALL RIGHT. LET ME SHOW YOU THIS EXHIBIT AND
4 WHAT DOES THAT DESCRIBE?

5 A. THIS IS A DESCRIPTION OF THAT INCIDENT WITH CHIP
6 IN SKIP MEYER'S NOTES. CAN I READ THIS?

7 Q. WELL, LET'S MARK IT AS AN EXHIBIT FIRST.

8 A. OKAY.

9 MR. BOYD: I WOULD OFFER THIS AS AN EXHIBIT.

10 MR. POPE: YOUR HONOR, AS LONG AS IT ACTUALLY
11 REFLECTS HIS NOTES, BUT IT APPEARS TO BE AN EXACT BLOW-UP.

12 A. RIGHT, IT'S FROM HIS NOTES.

13 THE COURT: ALL RIGHT, IT IS ALLOWED INTO
14 EVIDENCE.

15 (ANOTHER EXCERPT FROM SKIP MEYER'S NOTES WAS MARKED IN
16 EVIDENCE AS DEFENDANT'S EXHIBIT NUMBER 23 WITHOUT
17 OBJECTION.)

18 Q. LET'S PUT IT ON THE BOARD AND IF YOU DON'T MIND,
19 WOULD YOU COME DOWN?

20 A. SURE. THIS SAYS "I HAVE A LOT OF ANGER TOWARDS
21 EARL. I'M FURIOUS AT EARL WHEN I THINK OF WHAT
22 HE HAS DONE TO THE KIDS. CHIP NEVER FELT
23 COMFORTABLE ABOUT DAD EVER SINCE SEVENTH GRADE
24 AND THE TRIP IN THE MOUNTAINS DUE TO PHYSICAL
25 CONFRONTATION".

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2876

1 I ALSO HEARD THAT JIMMY WAS ALSO HIT IN THE
2 CHEST BY HIS FATHER AND CHIP WAS PUSHED DOWN THE
3 STAIRS BY HIS FATHER. AND THEN FINALLY ON 2-1-
4 88 IN JIMMY'S PEDIATRIC RECORDS THERE IS AN
5 ENTRY WHERE HE STATES -- HIS MOM BROUGHT HIM IN
6 BECAUSE HE WAS HIT WITH A FIST. AND HE HAS NO
7 MEMORY OF THIS, STILL DOESN'T, STILL CAN'T SAY
8 WHO HIT HIM. ALSO IN THAT ENTRY HIS MOM SAID HE
9 HAD A HISTORY OF TWO OTHER HEAD INJURIES, TWO
10 CONCUSSIONS, AND THIS ALSO COULD HAVE BEEN AN
11 INDICATION OF ABUSE.

12 Q. AND HOW SEVERE WAS THIS ABUSE?

13 A. IN MY OPINION IT WAS NOT THE MOST SEVERE ABUSE
14 THAT I HAVE EVER SEEN IN MY CAREER AS A SOCIAL
15 WORKER. HOWEVER, WHAT MAKES THIS DIFFICULT IS
16 THAT THERE WERE MULTIPLE ABUSES IN THE HOME.
17 AND WHEN YOU HAVE PHYSICAL ABUSE COMBINED WITH
18 PSYCHOLOGICAL ABUSE, THEN YOU HAVE MORE NEGATIVE
19 OUTCOMES FOR THE CHILDREN. AND ALSO WHEN YOU
20 HAVE A HIGH LEVEL OF STRESS IN THE HOME OR
21 PARENTAL DEPRESSION, THAT ALSO LEADS TO MORE
22 NEGATIVE OUTCOMES FOR CHILDREN.

23 Q. AND THE ---

24 A. ALSO ONE OF THE OTHER THINGS ABOUT THIS WAS
25 THERE SEEMED TO BE AN ATMOSPHERE OF FEAR IN THE

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2877

1 HOUSE. ALSO IN THAT SAME EXHIBIT TERRY SAYS
2 THAT SHE FELT LIKE SHE WAS WALKING ON EGGSHELLS
3 AT HOME AND THAT ACTUALLY IS PRETTY MUCH WHAT
4 ALL OF THE FAMILY MEMBERS SAID WHEN I SPOKE TO
5 THEM.

6 IN TWO OTHER LITTLE DISPLAYS THAT WE HAVE THERE
7 SHE ALSO SAYS THAT ---

8 Q. WAIT A MINUTE BEFORE YOU GO INTO THAT.

9 A. OKAY.

10 Q. LET ME SHOW YOU THIS AND CAN YOU IDENTIFY THIS?

11 A. YES, THAT IS AN UNDATED NOTE FROM TERRY IN SKIP
12 MEYER'S RECORDS.

13 Q. YOUR HONOR, I OFFER THIS INTO EVIDENCE.

14 MR. POPE: THE SAME OBJECTION, YOUR HONOR. AS
15 LONG AS IT'S AN ACCURATE DEPICTION, NO OBJECTION.

16 THE COURT: IT WILL BE RECEIVED.

17 (THE EXCERPT FROM SKIP MEYER'S NOTES WAS MARKED IN EVIDENCE
18 AS DEFENDANT'S EXHIBIT 24 WITHOUT OBJECTION.)

19 Q. COULD YOU TELL US WHAT THAT SAYS?

20 A. ON THAT PARTICULAR ONE SHE MENTIONS FIRST OF ALL
21 THAT SHE DID NOT PROTECT THE BOYS. AND IN OTHER
22 ENTRIES IN HER PERSONAL NOTES AND ALSO SKIP
23 MEYER'S NOTES SHE SAYS TWICE THAT SHE WAS AFRAID
24 OF EARL'S TEMPER.

25 AND SHE ALSO SAYS IN ANOTHER NOTE IN SKIP

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2878

1 MEYER'S NOTES THAT SHE FEELS LIKE SHE DIDN'T DO
2 A GOOD JOB PROTECTING THE BOYS AS WELL.

3 Q. WERE THERE ANY OTHER TYPES OF ABUSE THAT YOU
4 FOUND?

5 A. YES. THERE WAS PSYCHOLOGICAL ABUSE.

6 Q. COULD YOU EXPLAIN WHAT YOU MEAN BY PSYCHOLOGICAL
7 ABUSE?

8 A. SURE. PSYCHOLOGICAL ABUSE TAKES A LOT OF
9 DIFFERENT FORMS. FOR EXAMPLE THERE IS SOMETHING
10 CALLED MISSOCIALIZATION AND THIS IS WHEN YOU
11 EITHER ALLOW OR ENCOURAGE KIDS TO ENGAGE IN
12 ANTISOCIAL ACTS.

13 THERE'S ALSO ISOLATING WHICH IS WHERE YOU DON'T
14 ALLOW CHILDREN TO DO THINGS THAT ARE
15 DEVELOPMENTALLY APPROPRIATE, YOU KNOW, LIKE JOIN
16 AFTER SCHOOL CLUBS OR OTHER THINGS ALONG THOSE
17 LINES.

18 AND THERE'S ANOTHER FORM OF PSYCHOLOGICAL ABUSE
19 CALLED DEGRADING AND THAT IS WHERE YOU CALL KIDS
20 NAMES, YOU CONSTANTLY CRITICIZE THEM, YOU
21 BELITTLE THEIR EFFORTS, YOU YELL AT THEM, YOU
22 SWEAR AT THEM, AND THIS IS ON A CONSTANT BASIS
23 THAT TAKES ITS TOLL OVER THE YEARS.

24 Q. AND WHAT, IF ANY, TYPE OF PSYCHOLOGICAL ABUSE
25 DID YOU FIND IN THE ROBERTSON FAMILY?

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2879

1 A. DEGRADATION. THERE WAS A LOT OF NAME CALLING.
2 EARL WOULD CALL JIMMY NAMES LIKE STUPID AND
3 IDIOT AND WORTHLESS, AND HE WOULD KIND OF GET UP
4 IN HIS FACE AND YELL.

5 ALSO TERRY AT ONE POINT TOLD JIMMY SHE WISHED
6 THAT HE HAD NEVER BEEN BORN. AND ALSO ON THAT
7 EXHIBIT TERRY DOES SAY THAT SHE VERBALLY ABUSED
8 THE BOYS AS WELL.

9 Q. AND WHAT AFFECT DOES PSYCHOLOGICAL OR
10 MALTREATMENT HAVE ON SOMEONE.

11 A. A LOT OF DIFFERENT AFFECTS. JUST LIKE MATERNAL
12 DEPRESSION, IT CONTRIBUTES TO PROBLEMS OF
13 DETACHMENT. KIDS WHO WERE PSYCHOLOGICALLY
14 ABUSED TENDS TO HAVE DIFFICULTIES WITH THEIR
15 PEERS, THEY HAVE PROBLEMS AT SCHOOL. THEY TEND
16 TO BE MORE AGGRESSIVE. THEY DO THINGS LIKE
17 SELF-INJURIES BEHAVIOR. THEY TEND TO BE VERY
18 ANXIOUS, HOSTILE, MORE PESSIMISTIC AND THEY ALSO
19 TEND TO BE VERY DEPENDENT.

20 Q. AND WHAT OTHER PROBLEMS DID YOU FIND IN THE
21 ROBERTSON FAMILY?

22 A. THERE WAS ALSO A QUESTION AS TO WHETHER OR NOT
23 THEY HAD WITNESSED DOMESTIC VIOLENCE AS WELL.
24 IN SKIP MEYER'S NOTES ON MARCH 5TH, 1996 HE
25 DESCRIBES THE PHYSICAL CONFRONTATION BETWEEN

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2880

1 TERRY AND EARL. TERRY APPARENTLY ATTACKED EARL
2 PHYSICALLY AND HE WAS KIND OF FIGHTING HER OFF.
3 AND ANOTHER THING IS THAT CHIP, JIMMY'S BROTHER,
4 HAS BEEN KNOWN TO HIT WOMEN. AND OFTEN THAT
5 KIND OF BEHAVIOR COMES FROM WITNESSING VIOLENCE
6 IN THE HOME.

7 Q. SO, WHAT ELSE DID YOU FIND?

8 A. THERE IS ALSO ONE INTERESTING THING THAT I GUESS
9 I REALLY HAVEN'T CLASSIFIED AND THAT IS PROBLEMS
10 WITH JIMMY'S MEMORY. FOR EXAMPLE, JIMMY WHEN HE
11 WAS IN KINDERGARTEN AND FIRST GRADE LIVED IN
12 CALIFORNIA AND HE COULD NOT REMEMBER WHERE HE
13 WENT TO SCHOOL DURING THOSE YEARS OR EVEN WHERE
14 HE LIVED. EVEN WHEN HE WAS SHOWN THOSE SCHOOL
15 RECORDS, HE STILL COULDN'T REMEMBER. AS OPPOSED
16 TO CHIP ON THE OTHER HAND WHEN I SPOKE WITH
17 CHIP, CHIP DESCRIBED THINGS IN GREAT DETAIL. HE
18 TOLD ME THAT THEY BOTH LEARNED TO SWIM AT THE Y,
19 THAT THEY HAD A SWIMMING POOL IN THEIR BACK YARD
20 AND THAT THEY USED TO PLAY WITH THE LITTLE
21 NEIGHBORHOOD GIRL ACROSS THE STREET AND ONE TIME
22 THEY ALL GOT TOGETHER AND THEY WRAPPED JIMMY UP
23 IN TOILET PAPER TO MAKE HIM LOOK LIKE HE WAS IN
24 A BODY CAST BECAUSE THEY WERE PLAYING HOSPITAL.
25 AND THOSE ARE VERY VIVID MEMORIES AND CHIP IS

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2881

1 TWO YEARS YOUNGER THAN JIMMY. SO, THAT GAP IN
2 MEMORY IS A BIT ODD AND SOMETIMES IT CAN BE
3 INDICATIVE OF TRAUMA.

4 Q. AND SO BASICALLY COULD YOU SUMMARIZE THE TYPES
5 OF ABUSE YOU FOUND IN THE ROBERTSON HOME?

6 A. I FOUND PHYSICAL ABUSE, PSYCHOLOGICAL ABUSE AND
7 POSSIBLE WITNESSING OF DOMESTIC VIOLENCE ALL OF
8 WHICH HAVE VERY NEGATIVE OUTCOMES ON CHILDREN.

9 Q. WERE THERE ANY OTHER PROBLEMS GOING ON IN THE
10 ROBERTSON FAMILY?

11 A. DEFINITELY, YES. BASICALLY EVERYONE IN THE
12 FAMILY HAD A HISTORY OF MENTAL ILLNESS. FROM
13 THE RECORDS THAT I SAW, TERRY WAS DIAGNOSED AS
14 HAVING OBSESSIVE COMPULSIVE DISORDER AND BIPOLAR
15 DISORDER.

16 EARL WAS DESCRIBED AS HAVING DEPRESSION, PANIC
17 DISORDER AND ATTENTION DEFICIT DISORDER.

18 JIMMY HAD BIPOLAR DISORDER AND ATTENTION DEFICIT
19 DISORDER.

20 CHIP HAD ATTENTION DEFICIT DISORDER AND ALSO
21 THERE WAS A QUESTION AS TO WHETHER OR NOT HE HAD
22 BIPOLAR DISORDER AS WELL.

23 Q. OKAY. WHAT ABOUT TERRY ROBERTSON'S ILLNESS.
24 CAN YOU TELL US MORE ABOUT THAT?

25 A. SURE, TERRY'S DEPRESSION WAS VERY SEVERE. I

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2882

1 THINK WE HAVE SOME DISPLAYS HERE.

2 Q. I'M GOING TO SHOW YOU THREE DISPLAYS AND JUST
3 ASK IF YOU CAN IDENTIFY THEM? WHAT IS THIS
4 DISPLAY?

5 A. THIS IS A CHART MARKING ALL OF THE PSYCHOLOGICAL
6 VISITS EITHER WITH SKIP MEYER OR DR. MCMEEKIN
7 FOR TERRY AND EARL DURING 1997.

8 Q. AND WHAT IS THIS CHART?

9 A. IT'S THE SAME FOR 1996.

10 Q. AND THIS CHART?

11 A. THE SAME FOR 1995.

12 MR. BOYD: YOUR HONOR, AT THIS TIME I WOULD OFFER
13 THESE THREE CHARTS INTO EVIDENCE.

14 MR. POPE: YOUR HONOR, NO OBJECTION TO THE EXTENT
15 THAT THEY ACCURATELY REFLECT THE RECORDS THAT ARE ALREADY
16 IN EVIDENCE.

17 THE COURT: THEY WILL BE RECEIVED.

18 (THE CHARTS REPRESENTING PSYCHIATRIST'S VISITS OF EARL AND
19 TERRY ROBERTSON WERE MARKED IN EVIDENCE AS DEFENDANT'S
20 EXHIBITS 25, 26 AND 27 WITHOUT OBJECTION.)

21 Q. CAN YOU DESCRIBE WHAT THESE CHARTS SHOW?

22 A. YES, EACH BLOCK INDICATES A VISIT TO EITHER DR.
23 MCMEEKIN OR MR. MEYER. THE YELLOW BLOCKS ARE
24 FOR EARL; THE WHITE BLOCKS ARE FOR TERRY. AND
25 THEY INDICATE THAT TERRY WAS SEEN IN THERAPY

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2883

1 APPROXIMATELY 170 TIMES OVER A THREE YEAR
2 PERIOD.

3 Q. OKAY. WHAT PROBLEMS FROM THOSE RECORDS DID
4 TERRY HAVE?

5 A. SHE HAD A VARIETY OF PROBLEMS. AS I MENTIONED
6 BEFORE, SHE WAS DIAGNOSED WITH OBSESSIVE
7 COMPULSIVE DISORDER. SHE WOULD DO THINGS LIKE
8 COUNT THINGS REPEATEDLY. IN ONE ENTRY IN SKIP'S
9 NOTES SHE TALKED ABOUT HOW SHE WOULD LIE IN BED
10 AND SHE WOULD HAVE TO SWALLOW 10 TIMES. SHE
11 WOULD WALK SO AS NOT TO STEP ON CRACKS. SO, IT
12 WAS A VARIETY OF BEHAVIORS ASSOCIATED WITH THAT.

13 Q. OKAY. AND DID YOU ALSO REVIEW THE RECORDS FOR
14 ANY OTHER PROBLEMS?

15 A. YES. TERRY HAD HALLUCINATIONS. FOR EXAMPLE, IN
16 ONE ENTRY SHE SAW ICE CUBES TURN INTO BABIES;
17 SHE SAW RED PILLS TURN INTO WORMS; AND IN
18 ANOTHER SHE SAW A CHILD WITH A TAIL.

19 AND THEN, OF COURSE, THERE WAS THE SELF-
20 MUTILATION THAT WE MENTIONED BEFORE WHICH IS
21 ALSO A SIGN OF SERIOUS MENTAL ILLNESS.

22 AND ALSO AS WE MENTIONED BEFORE, TERRY WAS VERY
23 SUICIDAL.

24 Q. DID YOU FIND ENTRIES IN THE RECORD SHOWING THAT?

25 A. A NUMBER OF THEM, YES.

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2884

1 Q. LET ME SHOW YOU THIS. WHAT DOES THIS EXHIBIT
2 SHOW?

3 A. THESE ARE ENTRIES THAT REFER TO SUICIDE AND
4 HALLUCINATIONS FROM SKIP MEYER'S RECORDS.

5 MR. BOYD: YOUR HONOR, I WOULD OFFER THIS INTO
6 EVIDENCE.

7 MR. POPE: NO OBJECTION AS LONG AS IT REPRESENTS
8 ACCURATELY THE RECORDS THAT ARE IN EVIDENCE.

9 THE COURT: IT WILL BE RECEIVED.
10 (ANOTHER EXCERPT FROM MR. MEYER'S RECORDS WAS MARKED IN
11 EVIDENCE AS DEFENDANT'S EXHIBIT NUMBER 28 WITHOUT
12 OBJECTION.)

13 Q. WHAT KIND OF INDICATION IN HIS RECORDS DID YOU
14 FIND?

15 A. TERRY WAS QUITE SUICIDAL A NUMBER OF TIMES. SHE
16 WOULD LOOK THROUGH THE NEWSPAPER AT GUN ADS AND
17 DECIDE WHETHER OR NOT SHE WANTED TO BUY ONE.
18 SHE WOULD LOOK AT TREES GOING DOWN THE STREET
19 AND TRY TO DECIDE IF ONE WAS HIGH ENOUGH TO HANG
20 HERSELF FROM. FOR A WHILE SHE CARRIED AROUND A
21 BAG THAT CONTAINED ASPIRIN, RAZOR BLADES AND, AS
22 I MENTIONED BEFORE, A HAIR DRYER WITH AN
23 EXTENSION CORD THAT SHE COULD PUT INTO THE
24 BATHTUB WITH HER.

25 IN ONE ENTRY SHE TALKS ABOUT WANTING TO SET

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2885

1 HERSELF ON FIRE. AND, INDEED, IN 1995 SHE WAS
2 HOSPITALIZED ON THE PSYCHIATRIC FLOOR FOR
3 SUICIDAL IDEATION AND AT THAT POINT SHE HAD
4 APPARENTLY GOTTEN UP ON THE ROOF AND WAS
5 THREATENING TO JUMP OFF.

6 AND THEN FINALLY SHE WAS ALSO ON A VARIETY OF
7 PSYCHOTROPIC MEDICATIONS KIND OF STOCK PILED
8 AROUND THE HOUSE THAT I BELIEVE YOU TALKED
9 ABOUT.

10 Q. WHAT DOES ALL THIS MEAN FOR JIMMY ROBERTSON?

11 A. BASICALLY JIMMY LIVED IN A VERY CHAOTIC HOME.
12 THERE WAS THE THREAT OF VIOLENCE FROM A VERY
13 EARLY AGE. THERE WAS PSYCHOLOGICAL ABUSE.
14 THERE WERE QUESTIONS ABOUT ATTACHMENT AND ALL OF
15 THIS KIND OF SET THE STAGE FOR SOMETHING TO GO
16 WRONG IN ADOLESCENCE.

17 Q. WHY ADOLESCENCE?

18 A. BECAUSE ADOLESCENCE IS A VERY DIFFICULT TIME FOR
19 PARENTS AND KIDS REALLY. CHILDREN GO THROUGH
20 THREE MAIN TASKS IN ADOLESCENCE. FIRST OF ALL
21 THEY ARE DEALING WITH SEXUAL MATURITY AND
22 PUBERTY. NEXT THEY ARE ALSO DEALING WITH ISSUES
23 OF AUTONOMY; YOU KNOW, THEY ARE TRYING TO BECOME
24 MORE INDEPENDENT, MAKE THEIR OWN DECISIONS, DO
25 THINGS MORE ON THEIR OWN. AND THEY ARE ALSO

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2886

1 TRYING TO FIGURE OUT THEIR IDENTITY. THEY ARE
2 TRYING TO DECIDE WHAT THEY WANT TO DO, WHAT KIND
3 OF PEOPLE THEY WANT TO BECOME, THEY ARE WORKING
4 ON THEIR VALUES.

5 NORMALLY THIS IS A DIFFICULT TIME IN ANY
6 FAMILY'S LIFE. YOU KNOW, IF ANYBODY HAS HAD AN
7 ADOLESCENT, YOU KNOW IT'S NOT THE BEST TIME FOR
8 KIDS. BUT ESPECIALLY WHEN YOU HAVE PARENTS WITH
9 SEVERE PROBLEMS. ESPECIALLY PROBLEMS WITH SOME
10 OF THESE ISSUES, THEN IT JUST REALLY MAKES
11 THINGS MUCH MORE DIFFICULT AND IN FACT
12 ADOLESCENCE IS THE PEAK TIME FOR PEOPLE TO COME
13 IN TO THERAPY.

14 Q. OKAY. AND WHAT CAN YOU TELL US ABOUT JIMMY'S
15 ADOLESCENCE?

16 A. IT WAS VERY DIFFICULT. YOU KNOW, IN TERMS OF
17 HIS CHILDHOOD JIMMY WAS OFTEN AN OUTCAST IN
18 SCHOOL, HE WAS TEASED BY THE KIDS; HE WASN'T
19 READILY ACCEPTED. HE HAD A LOT OF PROBLEMS WITH
20 HIS PEERS. HE HAD ALL OF THE PROBLEMS THAT I
21 MENTIONED AT HOME. AS I BELIEVE MIKE FAULKNER
22 MENTIONED, THREE TIMES HE HAD TOLD THE
23 ROBERTSONS THAT HE THOUGHT THAT THEY SHOULD TAKE
24 JIMMY FOR PSYCHOLOGICAL HELP EARLIER AND THEY
25 DID NOT. IN NINTH GRADE JIMMY WAS SUICIDAL.

DR. TONI CASCIO - DIRECT BY MR. BOYD

2887

1 HE WENT TO GERMANY FOR HIS SENIOR YEAR IN SCHOOL
2 WHICH WAS WHERE HE BEGAN DRINKING ALTHOUGH I'M
3 TOLD THAT AT THAT TIME HE REALLY WASN'T DRINKING
4 ANY MORE THAN OTHER KIDS HIS AGE.

5 HE WENT TO GEORGIA TECH AFTER HE GRADUATED FROM
6 HIGH SCHOOL. THAT'S WHERE HE STARTED USING
7 ILLEGAL DRUGS. HE BECAME MORE AND MORE
8 DEPRESSED. HIS GEORGIA TECH RECORDS INDICATE
9 THAT HE WAS VERY SUICIDAL AT THAT TIME.

10 HE ALSO STARTED HAVING ISSUES THAT INDICATED
11 MANIA. FOR EXAMPLE HE WOULD SPEND LARGE SUMS OF
12 MONEY AND HIS PARENTS WOULD COVER THE CHECKS
13 JUST LIKE HAD HAPPENED TO TERRY IN COLLEGE. AND
14 HE ALSO STARTED GAMBLING A WHOLE LOT AT THAT
15 TIME.

16 Q. DID HE HAVE ANY PSYCHIATRIC ATTENTION AT THAT
17 TIME?

18 A. WELL, IN 1994 DR. MCMEEKIN DIAGNOSED HIM AS
19 BEING DEPRESSED. IN 1995 HE HAD A DUI AND WAS
20 ALSO ADMITTED TO WILLIAM S. HALL AND THERE HE
21 WAS DIAGNOSED AS BEING BIPOLAR, ALCOHOL
22 DEPENDENT AND HAVING MENTAL ILLNESS WITH SEVERE
23 FAMILY STRIFE.

24 AND I THINK THAT KIND OF -- ALL OF THIS LED HIM
25 TO BEGIN USING DRUGS MORE HEAVILY.

DR. TONI CASCIO - DIRECT BY MR. BOYD

2888

1 Q. HOW DOES ALL THIS LEAD UP TO WHAT HAPPENED IN
2 NOVEMBER OF 1997?

3 A. WELL, AGAIN I THINK THAT IT DOESN'T NECESSARILY
4 GIVE A DIRECT EXPLANATION BUT I THINK THAT WHEN
5 PEOPLE HAVE PROBLEMS A LOT OF TIMES THEY DO TURN
6 TO DRUGS AND ALCOHOL AS A WAY OF GETTING
7 THROUGH.

8 AND LIKE I SAID, HE HAD A LOT OF PSYCHOLOGICAL
9 PROBLEMS; HE HAD DIFFICULTY WITH HIS PARENTS.
10 HE WAS WITNESSING VIOLENCE POSSIBLY; HE WAS
11 PHYSICAL ABUSED AND EMOTIONALLY ABUSED. HIS
12 MOTHER WAS, IN A SENSE, DECOMPENSATING AT THAT
13 TIME.

14 AFTER HER MOM DIED SHE STARTED HAVING MANY MORE
15 PROBLEMS. SHE WASN'T COOKING; THE KIDS WERE
16 CLEANING THE HOUSE. SHE GAINED 80 POUNDS IN A
17 YEAR.

18 JIMMY, LIKE I MENTIONED, HE DIDN'T HAVE VERY
19 MANY FRIENDS, WAS KIND OF AN ODD KID, A BIT OF
20 AN OUTCAST.

21 SO, ALL OF THESE FACTORS, I BELIEVE, LED HIM TO
22 START RELYING MORE HEAVILY ON DRUGS WHICH THEN
23 IN TURN LED TO WHAT HAPPENED LATER ON.

24 Q. NOW, WHAT WAS JIMMY'S RELATIONSHIP WITH HIS
25 BROTHER, CHIP, LIKE?

DR. TONI CASCIO - DIRECT BY MR. BOYD

2889

1 A. IT WAS A CLOSE RELATIONSHIP. PEOPLE DESCRIBED
2 THEM AS SPENDING A LOT OF TIME TOGETHER, YOU
3 KNOW, DOING A LOT OF THINGS TOGETHER. AND IT
4 WAS ALSO A VERY PROTECTIVE RELATIONSHIP WITH
5 JIMMY PROTECTING CHIP.

6 Q. WHAT DO YOU MEAN BY THAT?

7 A. IF THEY WOULD DO SOMETHING TOGETHER, IF THEY
8 WOULD MISBEHAVE, JIMMY WOULD USUALLY STICK UP
9 FOR CHIP AND HE WOULD BE THE ONE TO GET IN
10 TROUBLE.

11 Q. CAN YOU GIVE ANY EXAMPLES OF THAT?

12 A. I THINK A VERY GOOD EXAMPLE IS WHAT HAPPENED
13 WHEN JIMMY HAD BROKEN INTO THE NEXT DOOR
14 NEIGHBOR'S HOUSE. CHIP WAS INVOLVED LATER ON IN
15 THAT PROCESS BUT JIMMY ULTIMATELY WAS THE ONE
16 WHO KIND OF TOOK THE FALL AND DID THE TIME IN
17 JAIL.

18 Q. AND BASED ON YOUR RECORDS, DID THE PARENTS KNOW
19 ABOUT CHIP'S INVOLVEMENT?

20 A. YES.

21 Q. DOES CHIP SHOW ANY SIMILAR PROBLEMS WITH THE
22 PROBLEMS JIMMY HAS HAD?

23 A. DEFINITELY. CHIP HAS A LOT OF SUBSTANCE ABUSE
24 PROBLEMS. HE ALSO HAD EXPERIENCED PHYSICAL
25 ABUSE AND PSYCHOLOGICAL ABUSE AND I BELIEVE HE

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2890

1 IS INCARCERATED -- HE IS INCARCERATED NOW.

2 Q. THANK YOU. ANSWER ANY QUESTIONS THE PROSECUTOR
3 MAY HAVE.

4 A. OKAY.

5 MR. POPE: YOUR HONOR, I DON'T KNOW IF YOU WANT
6 A BRIEF RECESS FOR THE JURY. I'M READY TO GO FORWARD, BUT
7 THIS MAY TAKE A LITTLE WHILE.

8 THE COURT: DO YOU NEED A BREAK? YEAH, LET'S
9 TAKE ABOUT A 10 MINUTE BREAK.

10 AFTER THE BREAK IN CAMERA:

11 THE COURT: ALL RIGHT, THE DEFENDANT AND COUNSEL
12 ARE PRESENT. YES, SIR, MR. BOYD?

13 MR. BOYD: YOUR HONOR, I REALIZED THERE WERE
14 EXHIBITS I NEGLECTED TO PUT IN ON MY DIRECT. I KNOW AT THE
15 CLOSE I SAID NO FURTHER QUESTIONS, BUT I WOULD LIKE TO ASK
16 A FEW MORE QUESTIONS ON DIRECT BEFORE PROCEEDING WITH CROSS
17 EXAMINATION.

18 THE COURT: ALL RIGHT, I'LL LET YOU. DOES THAT
19 MESS UP YOUR CROSS OR WE DON'T KNOW YET?

20 MR. POPE: YOUR HONOR, I AM SO BRILLIANTLY
21 FOCUSED AT THIS POINT THAT I'M CERTAIN IT WILL MESS IT UP.

22 THE COURT: BRING IN THE JURY.

23 IN THE PRESENCE OF THE JURY:

24 THE COURT: MR. BOYD HAD INDICATED THAT HE WAS
25 THROUGH BUT OVER THE BREAK HE HAS THOUGHT OF A COUPLE OF

DR. TONI CASCIO - DIRECT BY MR. BOYD

2891

1 MORE THINGS THAT HE WANTED TO COVER AND I'M GOING TO ALLOW
2 HIM TO DO IT.

3 CONTINUED DIRECT EXAMINATION:

4 Q. FIRST I'M, GOING TO REFER YOU BACK TO
5 DEFENDANT'S EXHIBITS 25, 26 AND 27 AND I ASK YOU
6 WERE THESE A COMBINATION OF VISITS TO JULIUS
7 SKIP MEYER, DR. HAYNE MCMEEKIN AND ALSO DR. JOHN
8 SIMPSON?

9 A. YES.

10 Q. ALL OF THEM COMBINED?

11 A. YES.

12 Q. AND IF YOU COULD STEP DOWN A MINUTE I WANT TO
13 SHOW YOU A FEW OTHER ITEMS. LET ME ASK YOU
14 THIS. WAS THIS AN EXHIBIT THAT WAS PREPARED
15 FROM SKIP MEYER'S RECORDS?

16 A. YES.

17 Q. WHAT DID THAT SHOW?

18 A. THIS SAYS ---

19 THE COURT: MR. BOYD, I DON'T THINK THE JURORS
20 CAN SEE.

21 MR. BOYD: I WAS GOING TO IDENTIFY IT FIRST.

22 THE COURT: WELL, THEY CAN'T SEE THE WITNESS.

23 Q. I'M SORRY.

24 A. THESE ARE MORE QUOTES FROM SKIP MEYER'S RECORD.

25 A LOT OF THEM HAVE TO DO WITH THE PROBABLE

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2892

1 SEXUAL ABUSE AND THE ONE THAT'S HIGHLIGHTED
2 MENTIONS THAT TERRY BELIEVES HER DEPRESSION
3 BEGAN IN THE NINTH GRADE.

4 Q. I WOULD OFFER THIS INTO EVIDENCE.

5 MR. POPE: YOUR HONOR, WITH THE SAME OBJECTION.
6 IF IT'S ACCURATE AS TO THE RECORDS, NO OBJECTION.

7 THE COURT: IT WILL BE RECEIVED.
8 (EXCERPTS FROM MR. MEYER'S NOTES WERE MARKED IN EVIDENCE AS
9 DEFENDANT'S EXHIBIT 29 WITHOUT OBJECTION.)

10 Q. I WANT TO SHOW YOU A SERIES OF FOUR EXHIBITS AND
11 ASK IF YOU CAN IDENTIFY THESE ITEMS?

12 A. YES, THESE ARE PAGES FROM TERRY'S NOTEBOOKS.

13 Q. AND WHAT DO THEY REFLECT?

14 A. THIS PARTICULAR ONE IS REFLECTING THAT SHE WAS
15 HAPPY ON THE OUTSIDE BUT VERY SAD INSIDE. YOU
16 KNOW, SHE WAS SAYING THAT APPEARANCES WEREN'T
17 ACCURATE.

18 Q. I'D OFFER THIS INTO EVIDENCE.

19 MR. POPE: THE SAME OBJECTION.

20 THE COURT: IT WILL BE RECEIVED.

21 (THE EXCERPTS FROM TERRY'S NOTEBOOK WAS MARKED IN EVIDENCE
22 AS DEFENDANT'S EXHIBIT 30 OVER OBJECTION.)

23 Q. I'LL SHOW YOU THIS. CAN YOU IDENTIFY THIS?

24 A. THE SAME THING. IT'S A PAGE FROM TERRY'S
25 NOTEBOOK AND BASICALLY IT'S SAYING THAT WHAT

DR. TONI CASCIO - DIRECT BY MR. BOYD

2893

1 PEOPLE WERE SEEING IS NOT WHAT WAS GOING ON
2 INSIDE.

3 Q. I WOULD OFFER THAT INTO EVIDENCE.

4 MR. POPE: THE SAME OBJECTION, YOUR HONOR.

5 THE COURT: IT'S RECEIVED.

6 (THE EXCERPT FROM TERRY'S NOTEBOOK WAS MARKED IN EVIDENCE
7 AS DEFENDANT'S EXHIBIT 31 OVER OBJECTION.)

8 Q. I'LL SHOW YOU THIS EXHIBIT AND ASK IF YOU CAN
9 IDENTIFY IT?

10 A. THIS IS ALSO PART OF TERRY'S NOTEBOOK. ON THESE
11 PAGES SHE TALKS ABOUT JIMMY'S BIPOLAR DIAGNOSIS
12 AND THIS IS ALSO A DISCUSSION OF HER SUICIDE
13 MALADY AND HER SELF-MUTILATION. DO YOU WANT ME
14 TO READ IT?

15 Q. YES -- WELL, LET ME MARK IT AS AN EXHIBIT FIRST.

16 MR. POPE: THE SAME OBJECTION.

17 THE COURT: IT WILL BE RECEIVED.

18 (ANOTHER EXCERPT FROM TERRY'S NOTEBOOK WAS MARKED IN
19 EVIDENCE AS DEFENDANT'S EXHIBIT 32 OVER OBJECTION.)

20 Q. CAN YOU READ THAT EXHIBIT. STAND BACK SO THAT
21 THE JURY CAN SEE IT.

22 A. THIS SAYS THAT JIMMY HAD BEEN DIAGNOSED AS
23 HAVING BIPOLAR DISORDER. AND THEN THERE WAS
24 SOMETHING ABOUT MANIA DOWN HERE. BUT THIS QUOTE
25 SAYS "I SHOULD PUT MYSELF IN HOSPITAL, BUT I

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2894

1 CAN'T. EVEN HAVING PEOPLE HERE WATCHING ME IS
2 TOO MUCH HURT. YOU'RE RIGHT, I MADE IT. EARL
3 SAID AT WORK -- EXCUSE ME. "EARL SORT OF LIKE
4 IF YOU'RE STUPID ENOUGH, GO AHEAD. IT IS SO
5 HARD GETTING THROUGH THE DAYS AND NIGHTS
6 ESPECIALLY SINCE I CAN JUST SLEEP MY LIFE AWAY.
7 IN COLLEGE THAT'S HOW I HANDLED IT OR IT HANDLED
8 ME".

9 SO, SHE'S TALKING ABOUT WHEN SHE WAS SUICIDAL
10 AND ALSO THAT SHE WAS DEPRESSED IN COLLEGE AND
11 SHE WOULD BASICALLY JUST SLEEP ALL THE TIME TO
12 DEAL WITH THE DEPRESSION.

13 AND THEN SHE SAYS WHEN SHE GETS HOME SHE CUTS
14 AND SHE STILL WANTS TO DIE.

15 Q. LET ME SHOW YOU THIS EXHIBIT. CAN YOU IDENTIFY
16 THIS?

17 A. ANOTHER PAGE FROM TERRY'S NOTEBOOK.

18 Q. I OFFER THAT INTO EVIDENCE.

19 MR. POPE: THE SAME OBJECTION, YOUR HONOR.

20 THE COURT: IT WILL BE RECEIVED.

21 (ANOTHER EXCERPT FROM TERRY'S NOTEBOOK WAS MARKED IN
22 EVIDENCE AS DEFENDANT'S EXHIBIT NUMBER 33 OVER OBJECTION.)

23 Q. AND CAN YOU DESCRIBE THAT FOR THE JURY?

24 A. THIS IS TALKING ABOUT EARL, DEPRESSION IN HIGH
25 SCHOOL AND THEN MORE ABOUT EARL. IT SAYS "EARL

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2895

1 HURTS MY FEELINGS, BELITTLES MY EFFORTS; I'M
2 SCARED OF EARL'S TEMPER. EARL IS IN A BAD MOOD
3 MOST OF THE TIME. EARL IS DICTATORIAL. EARL IS
4 NOT PATIENT."

5 THEN OVER HERE SHE SAYS SHE WAS DEPRESSED IN
6 HIGH SCHOOL AND SHE WOULD SIT AROUND LISTENING
7 TO RICKY NELSON AND JUST LAYING AROUND.
8 AND DOWN HERE IT SAYS "I'M MAD AT EARL FOR ALL
9 THE ANGER HE HAS BUT I ALWAYS WANT -- WAS A GOOD
10 WIFE. HE SCARES ME. I FEEL I HAVE TO PROTECT
11 THE BOYS".

12 Q. YOU CAN HAVE A SEAT. THANK YOU. NOW THAT'S
13 REALLY ALL THE QUESTIONS I HAVE.

14 CROSS EXAMINATION BY

15 MR. POPE:

16 Q. MS. CASCIO, AS PART OF YOUR EMPLOYMENT WITH THE
17 DEFENSE TEAM, DID YOU ALSO PRESENT A PRELIMINARY
18 REPORT AT THE BEGINNING OF THIS MONTH THAT ---

19 A. YES, I DID.

20 Q. AND IT BASICALLY SUMMARIZES THE THINGS YOU'VE
21 TESTIFIED TO TODAY; IS THAT CORRECT?

22 A. YES.

23 Q. DO YOU HAVE A COPY OF YOUR REPORT HERE WITH YOU
24 TODAY?

25 A. NO, I'M SORRY, I DO NOT.

DR. TONI CASCIO - CROSS BY MR. POPE

2896

1 Q. OKAY. I'LL SHOW YOU THIS DOCUMENT AND THEN I'LL
2 HAVE IT MARKED FOR IDENTIFICATION. I'LL ASK IF
3 YOU COULD LOOK AT THAT AND TELL ME IF THAT IS
4 THE REPORT AND IF THAT ACCURATELY REFLECTS YOUR
5 FINDINGS?

6 A. YES.

7 Q. YOUR HONOR, THIS IS STATE'S FOR IDENTIFICATION
8 286 AND I WOULD MOVE IT INTO EVIDENCE.

9 MR. BOYD: YOUR HONOR, I DON'T THINK THE DOCUMENT
10 ITSELF IS ADMISSIBLE. IF HE WANTS TO CROSS HER ON IT,
11 THAT'S FINE.

12 THE COURT: LET ME SEE IT.
13 (THE REPORT WAS SHOWN TO THE COURT)

14 THE COURT: WHY WOULD IT NOT COME IN; SHE HAS
15 IDENTIFIED IT AS A REPORT SHE GENERATED FOR THIS TRIAL.

16 MR. BOYD: MY UNDERSTANDING IS A REPORT ITSELF IS
17 NOT ADMISSIBLE. THERE ARE PARTICULAR PORTIONS THAT YOU
18 COULD CROSS EXAMINE FROM BUT ---

19 THE COURT: WELL, JUST GO AHEAD AT THIS POINT, SO
20 I WON'T HAVE TO LET THE JURY GO OUT, JUST CROSS EXAMINE ON
21 IT AND I'LL MAKE A DECISION LATER.

22 Q. YES, SIR. MS. CASCIO, I'M GOING TO HAND THIS
23 BACK TO YOU, STATE'S EXHIBIT 286 FOR
24 IDENTIFICATION AND ALLOW YOU TO REFER TO IT.

25 A. UH HUH.

DR. TONI CASCIO - CROSS BY MR. POPE

2897

1 Q. BY THE WAY, I'D ASK, I NOTICE YOU HAVE A NUMBER
2 OF ITEMS IN YOUR LAP. COULD YOU TELL ME WHAT
3 THAT IS PLEASE, MA'AM?

4 A. THESE ARE JUST NOTE CARDS, DATES, THINGS TO JOG
5 MY MEMORY.

6 Q. AND DID YOU USE THOSE IN REFERRING TO YOUR
7 TESTIMONY WHEN YOU WERE TESTIFYING BEFORE THE
8 JURY?

9 A. YES.

10 Q. COULD I LOOK AT THOSE PLEASE, MA'AM?

11 A. SURE.

12 (THE NOTES WERE GIVEN TO MR. POPE.)

13 Q. THIS IS JUST A LIST OF THE VARIOUS ITEMS AS YOU
14 WENT THROUGH YOUR TESTIMONY WITH MR. BOYD; IS
15 THAT CORRECT?

16 A. YES.

17 Q. MA'AM, I WANT TO, IF WE COULD, FIRST TO GO
18 THROUGH -- LET'S BEGIN WITH JUST BASICALLY YOUR
19 TESTIMONY AND THEN WE WILL GET INTO YOUR ACTUAL
20 REPORT, OKAY?

21 A. OKAY.

22 Q. FIRST, AS I UNDERSTOOD YOU TOLD THE JURY THAT
23 YOU WENT THROUGH BASICALLY A LARGE VOLUME OF
24 DOCUMENTS; IS THAT CORRECT?

25 A. YES.

DR. TONI CASCIO - CROSS BY MR. POPE

2898

1 Q. YOU WENT THROUGH BASICALLY TERRY AND EARL'S
2 PSYCHOLOGICAL RECORDS, JIMMY'S PSYCHOLOGICAL
3 RECORDS, CHIP'S AND JIMMY'S MEDICAL RECORDS,
4 BUSINESS RECORDS. YOU SAID YOU TALKED TO A
5 NUMBER OF PEOPLE. COULD YOU TELL ME SOME OF THE
6 PEOPLE YOU ACTUALLY TALKED TO?

7 A. JIMMY ROBERTSON, CHIP ROBERTSON, CHRISTINE
8 ROBERTSON THEIR GRANDMOTHER. I SPOKE WITH GENE
9 SULLIVAN WHO IS A FAMILY FRIEND AND ALSO JIMMY'S
10 LITTLE LEAGUE COACH. I SPOKE WITH JANE ROBERTS
11 WHO WAS THE SCHOOL PRINCIPAL AT CATAWBA AND ALSO
12 A FRIEND OF TERRY'S. I SPOKE WITH SCOTT LANGLEY
13 WHO IS A CHILDHOOD FRIEND OF JIMMY'S. KYLE HOOK
14 WHO WAS A CHILDHOOD FRIEND OF JIMMY'S. THOMAS
15 WHINEHART WHO WAS IN JIMMY'S EXCHANGE FAMILY
16 WHEN HE WAS IN GERMANY IN JIMMY'S SENIOR YEAR.
17 I SPOKE WITH SKIP MEYER. I SPOKE WITH MIKE
18 FAULKNER.

19 Q. THAT WAS MR. FAULKNER WHO WAS HERE AND I THINK
20 TESTIFIED RIGHT BEFORE YOU DID?

21 A. YES, YES. I ALSO SPOKE WITH DOROTHY DAVIS WHO
22 WAS A FRIEND AND FORMER GIRLFRIEND OF JIMMY'S.
23 JACK TUCKER WHO WAS A FRIEND OF THE FAMILY. AND
24 ONE MORE PERSON WHOSE NAME I'M BLANKING ON AT
25 THE MOMENT.

DR. TONI CASCIO - CROSS BY MR. POPE

2899

1 Q. OKAY. SO IN OTHER WORDS, YOU TALKED WITH SOME
2 PEOPLE THAT WERE INVOLVED IN VARIOUS STAGES OF
3 VARIOUS FAMILY MEMBERS' LIFE?

4 A. YES.

5 Q. IN CONJUNCTION WITH THE THINGS YOU'VE TESTIFIED
6 TO, IS THAT CORRECT?

7 A. YES, SIR.

8 Q. AND BASED ON YOUR REVIEW AND THAT DETERMINATION,
9 AND AGAIN WHAT I'M DOING NOW IS KIND OF JUST
10 RECOUNTING THE TESTIMONY AS I HEARD IT. AGAIN
11 IF I SAY IT WRONG, I WAS TAKING NOTES FROM WHAT
12 YOU WERE SAYING, YOU CORRECT ME ON IT, OKAY?

13 A. OKAY.

14 Q. TERRY, YOU DETERMINED, WAS SEXUALLY ABUSED; IS
15 THAT CORRECT?

16 A. MOST LIKELY, YES. SHE SHOWS A NUMBER OF
17 INDICATORS.

18 Q. SO, IN OTHER WORDS YOU'RE NOT SAYING -- YOU'RE
19 SAYING BASED ON A NUMBER OF INDICATORS, IT'S
20 MOST LIKELY SHE WAS. YOU'RE NOT SAYING SHE WAS,
21 YOU'RE JUST SAYING MOST LIKELY. IS THAT
22 CORRECT?

23 A. THERE WAS NOTHING DEFINITE WRITTEN THAT SHE WAS,
24 BUT, YES, THERE ARE MANY INDICATORS THAT SHE
25 WAS.

DR. TONI CASCIO - CROSS BY MR. POPE

2900

1 Q. AND, MA'AM, IN YOUR TESTIMONY YOU SAID PROBABLY
2 AND MAY AND OFTEN AND SOMETIMES IT CAN BE
3 INDICATIVE BECAUSE THE TRUTH OF THE MATTER ON
4 MANY OF THESE ABSOLUTES THAT YOU'VE GIVEN, YOU
5 DON'T KNOW. JUST AS YOU SAID, IT COULD BE MOST
6 LIKELY BASED ON INDICATORS BUT YOU CAN'T SAY SHE
7 WAS SEXUALLY ABUSED BECAUSE JUST AS YOU SAID,
8 YOU HAVE NO DIRECT EVIDENCE.

9 A. YES.

10 Q. AND YOU TALKED ABOUT EARL AND YOU SAID THAT IT
11 WAS LIKE TERRY WAS THE RICH PRINCESS AND EARL
12 WAS THE GUY FROM THE OTHER SIDE OF THE TRACKS.
13 IS THAT RIGHT?

14 A. THAT'S HOW IT WAS DESCRIBED TO ME, YES.

15 Q. OKAY. AND EARL WAS A WORKING CLASS GUY, I
16 THINK; IS THAT RIGHT?

17 A. IN HIS GROWING UP YEARS.

18 Q. AND WHERE DID YOU GET THAT INFORMATION?

19 A. JIMMY, HIS MOM, CHRISTINE.

20 Q. CHRISTINE IS EARL'S MOTHER.

21 A. YES.

22 Q. SO, DID YOU ACTUALLY GO TALK WITH CHRISTINE?

23 A. I SPOKE WITH HER ON THE TELEPHONE, YES.

24 Q. AND HOW LONG DID YOU GET TO TALK TO MS.
25 CHRISTINE?

DR. TONI CASCIO - CROSS BY MR. POPE

2901

- 1 A. IT WAS ABOUT AN HOUR.
- 2 Q. AND ARE YOU AWARE -- I THINK SHE STILL LIVES
3 LIKE ON THE MILL HILL DOWN IN NOONAN; IS THAT
4 RIGHT?
- 5 A. YES.
- 6 Q. SO, YOU DIDN'T PHYSICALLY GO AND TALK TO HER?
- 7 A. NO.
- 8 Q. WHEN YOU TALKED TO HER DID SHE TELL YOU THAT
9 TERRY DIDN'T FEED THE BOYS RIGHT; DID SHE TELL
10 YOU THAT?
- 11 A. YES.
- 12 Q. DID SHE TELL YOU THAT TERRY BOUGHT THE KIND OF
13 JUICE THAT THE KIDS DIDN'T LIKE BECAUSE IT WOULD
14 LAST LONGER?
- 15 A. YES.
- 16 Q. SHE NEVER DID THINK THAT TERRY WAS PUTTING
17 ENOUGH MEAT ON THESE BOYS' BONES, DID SHE?
- 18 A. NO.
- 19 Q. OKAY. IN FACT, MRS. CHRISTINE IS QUITE
20 INTERESTING TO TALK TO, ISN'T SHE?
- 21 A. YES.
- 22 Q. SHE'S SOMEWHAT OF A CHARACTER ACTUALLY WHEN YOU
23 TALK TO HER, ISN'T SHE?
- 24 A. YES.
- 25 Q. SO, LET ME ASK YOU THIS, THE GRANDMOTHER, SHE

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2902

1 LIVES BY HERSELF NOW, SHE'S LOST HER HUSBAND;
2 THAT'S EARL'S MOTHER, IS THAT RIGHT?

3 A. YES.

4 Q. BASED ON YOUR EVALUATION IN TALKING TO HER, DID
5 YOU BASE ANYTHING SOLELY ON WHAT JUST MRS.
6 CHRISTINE SAID?

7 A. NO.

8 Q. YOU COULDN'T VERY WELL AFTER HAVING A
9 CONVERSATION WITH HER, COULD YOU?

10 A. NO. I TRIANGULATED DATA.

11 Q. OKAY. YOU WOULD ADMIT THAT SOME OF WHAT MRS.
12 CHRISTINE MAY RELATE TO YOU MAY BE FAULTY BASED
13 ON HER DEMEANOR AND THE WAY YOU TALKED TO HER?

14 A. COULD BE.

15 Q. OKAY, THANK YOU. NOW, WE WERE TALKING ABOUT
16 EARL. YOU TALKED A LITTLE BIT ABOUT HIS WORK
17 RECORDS. YOU REVIEWED HIS WORK RECORDS; IS THAT
18 CORRECT?

19 A. UH HUH.

20 Q. DID YOU ALSO TALK TO MILLER DEATON WHO WAS HIS
21 SUPERVISOR?

22 A. NO, I DID NOT.

23 Q. DID YOU HAVE KNOWLEDGE OF ANYTHING THAT HIS
24 SUPERVISOR HAD TO ADD AS FAR AS THIS CASE?

25 A. MY INFORMATION ABOUT HIS WORK HISTORY CAME FROM

DR. TONI CASCIO - CROSS BY MR. POPE

2903

1 THE RECORDS ONLY.

2 Q. OKAY. SO, ARE YOU AWARE OF ANY OF YOUR COHORTS
3 THAT MAY HAVE TALKED TO MR. DEATON?

4 A. I BELIEVE THAT ONE OF THE INVESTIGATORS MIGHT
5 HAVE TALKED TO HIM.

6 Q. OKAY. DID YOU DISCUSS THE INFORMATION HE MIGHT
7 HAVE ABOUT EARL CONCERNING HIS BUSINESS AND
8 CONCERNING HIS PERSONALITY AND THE FACT THAT
9 THESE ISSUES THAT YOU TALKED ABOUT, THESE
10 COMMUNICATION PROBLEMS, WERE NEVER PERSONAL
11 ISSUES, IT WAS ABOUT BUSINESS ISSUES BECAUSE
12 EARL WAS SO GOAL ORIENTED IN HIS BUSINESS. DID
13 YOU HAVE THAT DISCUSSION WITH THE INVESTIGATOR
14 CONCERNING MR. DEATON?

15 A. I DON'T RECALL HAVING A DISCUSSION ABOUT THAT,
16 NO.

17 Q. CERTAINLY WHEN YOU ARE DISCUSSING EARL AND
18 BASING THINGS ON THE WAY HE ACTED AT WORK, YOU
19 WOULD WANT TO KNOW ALL THE INFORMATION ABOUT
20 EARL THAT YOU COULD POSSIBLY GATHER. IS THAT A
21 FAIR STATEMENT?

22 A. YES.

23 Q. AS FAR AS THE INFORMATION -- YOU TALKED ABOUT
24 JIM, AND AGAIN I THINK YOU TOLD ME THIS JUST A
25 MINUTE AGO, A LOT OF WHAT YOU HAVE -- I MEAN

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2904

1 CERTAINLY YOU GOT A GOOD DEAL OF RECORDS AND YOU
2 GOT TERRY IN HER DESPAIR AND THE THINGS SHE TOLD
3 HER COUNSELOR; IS THAT CORRECT?

4 A. YES.

5 Q. IN VARIOUS COUNSELING SESSIONS. THE MAJORITY OF
6 THE INFORMATION, AT LEAST AS FAR AS WHEN THESE
7 COUNSELING SESSIONS ARE OCCURRING, IS OCCURRING
8 '95, '96, '97; IS THAT CORRECT?

9 A. YES.

10 Q. AND OF COURSE, YOU KNOW, WE HAVE THE VARIOUS
11 CHARTS AND THE DOCTORS' APPOINTMENTS. LET ME
12 ASK YOU, ON THE DOCTORS' APPOINTMENTS, WHEN YOU
13 DERIVED THAT CHART, I THINK ON THE CHART IT SAID
14 SOMETHING ABOUT BASED ON THE INSURANCE AND
15 MEDICAL RECORDS, IS THAT CORRECT?

16 A. RIGHT. HOW THOSE CHARTS WERE CONSTRUCTED WAS BY
17 GOING THROUGH THE DATES IN SKIP MEYER'S NOTES
18 AND ALSO THE INSURANCE COMPANY RECORDS OF WHEN
19 THEY MADE PAYMENT.

20 Q. OKAY, SO YOU DIDN'T TAKE IN CONSIDERATION
21 TERRY'S CALENDAR, LIKE FOR DAYS WHEN SHE SAID
22 SHE WAS GOING TO THE DOCTOR?

23 A. NO.

24 Q. YOU JUST DID IT STRAIGHT ON THE MEDICAL RECORDS?

25 A. YES.

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2905

1 Q. OKAY. AND YOU WOULD AGREE WITH ME THAT AT THE
2 TIME -- BECAUSE SEVERAL TIMES DURING YOUR
3 TESTIMONY YOU WERE TALKING ABOUT AFFECTS
4 DIFFERENT THINGS HAVE ON CHILDREN.

5 A. YES.

6 Q. AND DIFFERENT IMPACTS THAT IT HAS ON CHILDREN.

7 A. YES.

8 Q. YOU'LL AGREE WITH ME THAT AT LEAST FOR THE TIME
9 PERIOD WHEN WE'RE NOW TALKING ABOUT THE
10 COUNSELING WHICH IS '95, '96 AND '97, CHIP WAS
11 WHAT, ABOUT 19 OR 20, AND JIM WAS ABOUT 21, 22,
12 23?

13 A. YES.

14 Q. SO, THEY ARE BASICALLY EMANCIPATED; THEY ARE OLD
15 ENOUGH TO BE OUT, BOTH, ON THEIR OWN IF THEY
16 CHOSE TO BE. IS THAT CORRECT?

17 A. THEY WERE BOTH IN THE LATER STAGES OF
18 ADOLESCENCE, YES.

19 Q. YOU WOULD AGREE WITH ME THAT PRETTY MUCH ONCE
20 YOU'RE 18, YOU'RE NOT YOUR PARENTS'
21 RESPONSIBILITY ANYMORE. IS THAT A FAIR
22 STATEMENT?

23 A. YES AND NO. IF YOU LOOK AT DEVELOPMENTAL
24 PSYCHOLOGY LITERATURE BECAUSE MORE AND MORE
25 CHILDREN ARE GOING TO COLLEGE, THEY ARE NOW

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2906

1 EXTENDING THE PERIOD OF ADOLESCENCE UNTIL
2 APPROXIMATELY 21 OR 22. SO, THEY ARE KIND OF
3 CHANGING THEIR IDEA A BIT OF ADOLESCENCE.

4 Q. BUT EVEN IF YOU CHANGE THAT IDEA TO THAT, TRULY
5 JIM WAS PAST THAT AGE EVEN AT THAT POINT; IS
6 THAT CORRECT? IF HE WAS 24 WHEN THE CRIME WAS
7 COMMITTED?

8 A. YES, YES.

9 Q. OF COURSE, WHEN YOU TALK ABOUT CHANGING IT, AS
10 FAR AS PARENTAL RESPONSIBILITY IN ADOLESCENCE,
11 DO THEY MAKE A DISTINCTION? IN OTHER WORDS, THE
12 KID THAT LEAVES THE HOUSE WHEN HE'S 18 AND GOES
13 TO WORK AND STARTS FENDING FOR HIMSELF VERSUS
14 THE KIDS THAT THE PARENTS STILL SUPPORT IN
15 COLLEGE, DO YOU VIEW THEM DIFFERENT AS FAR AS
16 DEVELOPMENT?

17 A. FROM A DEVELOPMENTAL PERSPECTIVE, THEY ARE STILL
18 WORKING ON THE SAME TASKS. THEY ARE STILL
19 WORKING ON IDENTITY DEVELOPMENT. THEY ARE STILL
20 WORKING ON BEING AUTONOMOUS; THEY ARE STILL
21 DEALING WITH SEXUAL ISSUES. THEY ARE JUST DOING
22 IT IN DIFFERENT AREAS. YOU KNOW, ONE PERSON IS
23 LIVING BY THEMSELVES, ONE PERSON LIVES AT
24 COLLEGE. BUT THE TASKS ARE STILL THE SAME.

25 Q. OKAY. AND REGARDLESS, AT LEAST AT THE POINT

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2907

1 THAT WE'RE NOW TALKING AT THE END OF TERRY AND
2 EARL'S DEATH, JIM WAS OUT OF THAT RANGE. YOU
3 WOULD AGREE WITH ME ON THAT?

4 A. CHRONOLOGICALLY, YES.

5 Q. YOU HAD INDICATED, AND I APOLOGIZE THIS JUMPS
6 AROUND A LITTLE BIT, BUT YOU HAD INDICATED THE
7 PHYSICAL ABUSE AND SOMETHING ABOUT JUMPING ON
8 THE SOFA?

9 A. RIGHT.

10 Q. AND EARL TACKLED HIM?

11 A. RIGHT.

12 Q. ISN'T IT TRUE THAT MR. LANGLEY ALSO TOLD YOU THE
13 WHOLE STORY ABOUT THE BRAND NEW COUCH AND EARL
14 TELLING THEM ABOUT NOBODY GET ON THEIR COUCH
15 WITH THEIR SHOES AND ALL OF THAT AND THEN TURNS
16 AROUND AND IN DIRECT CONTRADICTION OF WHAT HE
17 SAID, JIM'S JUMPING ON THE COUCH?

18 A. YES.

19 Q. OKAY. AND YOU SAID HELD BY THE NECK OVER THE
20 BALCONY. ARE YOU SAYING HE'S OVER THE BALCONY
21 AND HE'S GOT HIM JUST BY THE NECK HANGING OVER
22 THE BALCONY?

23 A. KIND OF LIKE AROUND THE NECK AND PUSHED
24 BACKWARDS OVER THE BALCONY.

25 Q. SO, LIKE THIS OVER THE BALCONY. NOT LIKE THIS,

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2908

1 HELD OVER THE BALCONY. IS THAT CORRECT?

2 A. YES.

3 Q. YOU WOULD AGREE THERE'S SOME DISTINCTION THERE,
4 WOULDN'T YOU?

5 A. YES.

6 Q. AND I THINK YOU EVEN AGREE THAT YOU DIDN'T SEE
7 MAJOR PHYSICAL ABUSE HERE; IS THAT CORRECT?
8 AGAIN, I DON'T WANT TO PUT WORDS IN YOUR MOUTH,
9 I'M JUST TRYING TO TAKE WHAT YOU TOLD US.

10 A. I SAID THAT THE PHYSICAL ABUSE WAS NOT THE WORST
11 THAT I HAD EVER SEEN.

12 Q. OKAY.

13 A. HOWEVER, I ALSO SAID THAT WHEN YOU COMBINE
14 PHYSICAL ABUSE AND EMOTIONAL ABUSE AND OTHER
15 DIFFICULTIES IN THE FAMILY, YOU GET MORE
16 NEGATIVE OUTCOMES.

17 Q. NOT ALWAYS A NEGATIVE OUTCOME, BUT THAT GOES IN
18 THAT RANGE OF OFTEN AND PROBABLY AND MAY AND
19 SOMETIMES. IT IS AN INDICATOR AND A POSSIBILITY
20 THAT MAY MORE LIKELY INDICATE THAT. IS THAT
21 CORRECT?

22 A. YES.

23 Q. OKAY. ALL RIGHT, YOU WERE TALKING ABOUT THE
24 BASIC PSYCHOLOGICAL ABUSE WAS DEGRADING
25 BEHAVIOR?

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2909

1 A. UH HUH.

2 Q. AND YELLING AND SAYING YOU'RE DUMB OR IDIOT OR
3 WHATEVER YOU SAID. ISN'T THE TRUTH OF THE
4 MATTER, BASED ON YOUR INVESTIGATION, THE CONTEXT
5 OF THAT WAS NORMALLY WHEN SOMETHING HAD OCCURRED
6 IN LATER LIFE WHEN JIM WASN'T CARRYING HIS
7 RESPONSIBILITY OR WASN'T DOING WHAT HE WAS
8 SUPPOSED TO?

9 A. NO. MY UNDERSTANDING WAS THAT IT WAS ALL
10 THROUGHOUT HIS CHILDHOOD.

11 Q. AND YOUR UNDERSTANDING WOULD BE DERIVED FROM
12 WHOM?

13 A. DISCUSSIONS WITH JIMMY. AND ALSO CHIP.

14 Q. AND YOU WERE TALKING ABOUT ---

15 MR. HANCOCK: IF I MAY, I DIDN'T HEAR THE LAST
16 PART OF HER ANSWER.

17 THE COURT: "ALSO CHIP".

18 Q. OKAY, YOU WERE TALKING ABOUT YOUR DISCUSSIONS
19 WITH JIMMY AND CHIP -- OF COURSE, YOU'VE ALSO
20 REVIEWED THE VARIOUS RECORDS AND, OF COURSE,
21 YOU'VE REVIEWED THE RECORDS AND REPORTS OF THE
22 OTHER EXPERTS THAT THE DEFENSE HAS CALLED, TOO,
23 BECAUSE I THINK YOU MENTIONED LIKE DR. PINCUS OR
24 SOMEBODY OF THAT NATURE. YOU'VE REVIEWED THEIR
25 EXPERTS' RECORDS ALSO?

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2910

1 A. DR. PINCUS', YES.

2 Q. AND DR. EVANS'?

3 A. I DON'T BELIEVE I SAW DR. EVANS' REPORT.

4 Q. DO YOU NOT THINK THAT WOULD BE OF INTEREST IN
5 MAKING YOUR DETERMINATION?

6 A. YES. I DID SPEAK WITH DR. EVANS, BUT I DID NOT
7 ACTUALLY SEE THE PHYSICAL REPORT.

8 Q. AS FAR AS THE OTHER INFORMATION, FOR EXAMPLE YOU
9 HAD MENTIONED HIS GEORGIA TECH RECORDS AND
10 DIFFERENT INFORMATION AS FAR AS HIS GAMBLING AND
11 ALL OF THAT.

12 A. YES.

13 Q. AND I THINK -- I APOLOGIZE, THE NAME ESCAPES ME,
14 DR. BOWERS I BELIEVE, DOES THAT SOUND CORRECT,
15 MACK BOWERS?

16 A. I BELIEVE SO.

17 Q. DOES THAT APPEAR TO BE CORRECT?

18 A. YES.

19 Q. DID YOU TALK TO HIM OR DID YOU REVIEW HIS
20 INFORMATION?

21 A. I REVIEWED THE RECORDS FROM GEORGIA TECH.

22 Q. AND YOU MENTIONED THAT HE WAS INTO PATHOLOGICAL
23 GAMBLING.

24 A. UH HUH.

25 Q. AT GEORGIA TECH. DID YOU ALSO NOTE THAT IT WAS

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2911

- 1 INDICATED THAT HE HAD ANTISOCIAL FEATURES?
- 2 A. YES.
- 3 Q. OKAY. I DON'T THINK YOU TESTIFIED TO THAT
- 4 ORIGINALLY; IS THAT CORRECT?
- 5 A. I DON'T THINK I MENTIONED THAT, NO.
- 6 Q. THANK YOU, MA'AM. ALSO, AND AGAIN I APOLOGIZE
- 7 FOR JUMPING AROUND SOME, YOU WERE TALKING ABOUT
- 8 -- DIDN'T YOU MENTION THAT YOU TALKED TO THE
- 9 HEADMASTER, MS. JANE ROBERTS?
- 10 A. YES, I DID.
- 11 Q. AND YOU ALSO TALKED TO MR. FAULKNER WHO I ASSUME
- 12 SAID THE SAME THING AS FAR AS TESTIFYING WHEN HE
- 13 TALKED ABOUT HIS PARENTS NOT HOLDING HIM
- 14 RESPONSIBLE, NOT HELPING THE SCHOOL AND THAT WAS
- 15 LIKE IN THE SEVENTH AND EIGHTH GRADE.
- 16 A. YES. THAT'S ---
- 17 Q. AND -- I'M SORRY, MA'AM?
- 18 A. I'M SORRY. I ALSO SPOKE WITH DANIEL FORREST;
- 19 THAT'S WHOSE NAME I FORGOT AND HE WAS A HIGH
- 20 SCHOOL TEACHER.
- 21 Q. OKAY. AS TO JIM ROBERTSON AND BEING DISCIPLINED
- 22 AS FAR AS THE SCHOOL, THE TRUTH OF THE MATTER IS
- 23 JIMMY WAS PLACED ON HONOR PROBATION THERE AT THE
- 24 SCHOOL WAS HE NOT?
- 25 A. UH HUH.

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2912

1 Q. AND MS. ROBERTS IS ACTUALLY THE ONE THAT SENT
2 THE LETTER TO TERRY AND EARL AND THAT WAS
3 BECAUSE HE HAD SUPPLIED A TEST ANSWER TO ANOTHER
4 STUDENT; IS THAT CORRECT?

5 A. I DON'T KNOW WHAT YOU ARE REFERRING TO.

6 Q. OKAY, I'M SORRY, MA'AM. WOULD THAT ASSIST YOU?

7 A. THANK YOU.

8 Q. DO YOU RECALL THAT NOW?

9 A. NO, ACTUALLY I DON'T; THAT DOESN'T LOOK
10 FAMILIAR.

11 Q. SO, YOU HAVE NOT REVIEWED -- BUT CERTAINLY THAT
12 WOULD BE SOMETHING YOU WOULD WANT TO KNOW IF IN
13 FACT HE HAD BEEN HELD ACCOUNTABLE WHILE MR.
14 FAULKNER WAS TELLING YOU HE HADN'T BEEN HELD
15 ACCOUNTABLE. THAT WOULD CERTAINLY FACTOR IN
16 WOULD IT NOT?

17 A. THERE WERE SOME MISSING RECORDS FROM THE CATAWBA
18 SCHOOL. WE DID NOT RECEIVE, OR I DID NOT
19 RECEIVE ALL OF THE RECORDS. AND THAT I DID NOT
20 SEE.

21 Q. OKAY. I KNOW I GAVE IT TO YOU PRETTY QUICK. DO
22 YOU NEED ANOTHER SECOND TO LOOK AT IT?

23 A. YES, PLEASE.

24 Q. THAT'S FINE.

25 (AFTER A BRIEF PAUSE.)

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2913

1 A. OKAY.

2 Q. AND SO THE POINT I'M MAKING HERE AND, OF COURSE,
3 YOU SAID YOU DIDN'T HAVE AN OPPORTUNITY TO SEE
4 THAT ORIGINALLY, IS CONTRARY TO WHAT MR.
5 FAULKNER WAS SAYING, THERE WERE SOME TIMES WHEN
6 JIM WAS DISCIPLINED DURING THAT TIME PERIOD; IS
7 THAT CORRECT?

8 MR. BOYD: YOUR HONOR, I OBJECT TO THE FORM OF
9 THE QUESTION. I DON'T BELIEVE THERE WAS TESTIMONY THAT HE
10 WAS NEVER DISCIPLINED.

11 THE COURT: I OVERRULE THE OBJECTION.

12 A. I'M SORRY, COULD YOU PLEASE REPEAT THAT
13 QUESTION?

14 A. I'LL MAKE IT A SIMPLE QUESTION, MA'AM. ISN'T IT
15 CLEAR THAT JIM WAS IN FACT DISCIPLINED AT
16 CATAWBA SCHOOL WITH HIS PARENTS' KNOWLEDGE. IS
17 THAT CORRECT?

18 A. HE WAS DISCIPLINED AT THE SCHOOL WITH HIS
19 PARENTS' KNOWLEDGE. HE WAS DISCIPLINED A NUMBER
20 OF TIMES AT THE SCHOOL, BUT THAT, TO MY
21 UNDERSTANDING, DOES NOT MEAN THAT HE NECESSARILY
22 WAS HELD ACCOUNTABLE AT HOME FOR THOSE SAME
23 ACTIONS.

24 Q. AND YOU SAY TO YOUR UNDERSTANDING. WHAT IS THAT
25 BASED ON?

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2914

1 A. I HAD A CONVERSATION WITH MIKE FAULKNER. HE
2 SAID THAT JIMMY WOULD BE DISCIPLINED AT SCHOOL,
3 FOR EXAMPLE THEY WOULD GIVE KIDS TASKS TO DO IF
4 THEY GOT IN TROUBLE INSTEAD OF GIVING THEM LIKE
5 DETENTION.

6 Q. RIGHT.

7 A. AND AT ONE POINT JIMMY WOULD -- HE GOT IN
8 TROUBLE, HE WAS SUPPOSED TO CLEAN THE BATHROOMS
9 IN THE SCHOOL AND TERRY WOULD NOT ALLOW HIM TO
10 DO THAT AND SO SHE TOOK HIS DETENTION FOR HIM
11 AND SHE CLEANED THE BATHROOMS.

12 Q. BUT THAT WAS AT SCHOOL, RIGHT?

13 A. RIGHT. BUT I'M SAYING THAT TERRY DID NOT MAKE
14 JIMMY REMAIN ACCOUNTABLE FOR THAT ACTION. SHE
15 TOOK HIS PUNISHMENT FOR HIM. AND IN MY
16 CONVERSATIONS WITH MS. ROBERTS SHE ALSO SAID
17 THAT ALTHOUGH TERRY WOULD SOMETIMES HAVE
18 CONVERSATIONS WITH HER ABOUT DISCIPLINING THE
19 KIDS, SHE DIDN'T REALLY FOLLOW THROUGH WITH
20 THAT.

21 Q. OKAY. I APOLOGIZE, I WANT TO BACKTRACK. FIRST
22 YOU SAID CONVERSATION WITH MS. ROBERTS, WHO WAS
23 THAT?

24 A. JANE ROBERTS.

25 Q. OKAY.

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2915

- 1 A. THE HEADMASTER.
- 2 Q. AT SCHOOL?
- 3 A. YES, SIR.
- 4 Q. OKAY, I THOUGHT WE WERE TALKING ABOUT GRANDMA
- 5 AGAIN; WE'RE TALKING ABOUT THE TEACHER?
- 6 A. RIGHT.
- 7 Q. BUT YOU SAID YOU HAD THE INDICATION -- OF
- 8 COURSE, MS. ROBERTS WAS THE HEADMASTER, I SAID
- 9 TEACHER, BUT THE HEADMASTER AT THE SCHOOL; IS
- 10 THAT CORRECT?
- 11 A. YES.
- 12 Q. SO, YOU SAID HE DIDN'T GET DISCIPLINE AT HOME.
- 13 THE TRUTH OF THE MATTER IS YOU HAVE NO
- 14 INFORMATION THAT HE WASN'T DISCIPLINED AT HOME
- 15 BASED ON HIS MISCONDUCT AT SCHOOL, DO YOU? MR.
- 16 FAULKNER CERTAINLY DOESN'T KNOW, DOES HE?
- 17 A. FROM THE EXAMPLES THAT HE GAVE ME -- FOR
- 18 EXAMPLE, THE INCIDENT WITH TERRY CLEANING FOR
- 19 HIM AND OTHER EXAMPLES, HIM TALKING ABOUT TERRY
- 20 COMING IN OR THE FATHER COMING IN AND HAVING
- 21 HEATED DISCUSSIONS WHEN THE TEACHERS WOULD
- 22 DISCIPLINE, IT DID NOT SOUND AS THOUGH HE WAS
- 23 DISCIPLINED AT HOME.
- 24 Q. AND, MA'AM, IN FAIRNESS TO THIS JURY, THAT'S
- 25 SPECULATION ON YOUR PART JUST BASED ON THE FACT

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2916

1 THAT THE PARENTS CAME AND STOOD UP FOR THEIR
2 KIDS AT SCHOOL; IS THAT CORRECT?

3 A. YES.

4 Q. MA'AM, I WANT TO ASK YOU, AS PART OF YOUR
5 RESEARCH DID YOU ALSO REVIEW BECAUSE YOU TOOK
6 INTO ACCOUNT I THINK WHEN YOU TOLD MR. BOYD
7 ABOUT THE DRUG AND ALCOHOL ABUSE THINGS, TOO; IS
8 THAT CORRECT?

9 A. YES.

10 Q. DID YOU ALSO REVIEW HIS RECORDS, FOR EXAMPLE AT
11 KEYSTONE, THE TREATMENT FACILITY HERE IN TOWN --
12 LET ME BACK UP A LITTLE BIT. YOU REVIEWED THE
13 RECORDS WHEN HE WAS COMMITTED TO THE STATE
14 HOSPITAL?

15 A. YES, I DID.

16 Q. AND YOU REVIEWED, I BELIEVE IT'S DR. PINCUS'
17 REPORT WHEN DR. PINCUS TALKS ABOUT AT SOME POINT
18 HE MADE A DEAL TO GET OUT OF THE STATE HOSPITAL,
19 I'LL TAKE TREATMENT OR SOMETHING OF THAT NATURE?

20 A. UH HUH.

21 Q. DID YOU ALSO HAVE AN OPPORTUNITY TO LOOK AT THE
22 KEYSTONE RECORDS, THE INFORMATION FROM KEYSTONE
23 AS FAR AS JIMMY FOLLOWING UP ON THAT DEAL HE
24 MADE?

25 A. I DON'T BELIEVE I DID. MAY I SEE THAT?

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2917

1 Q. YES, MA'AM. IF YOU WOULD TAKE A LOOK AT THOSE,
2 AND TAKE YOUR TIME AND SEE IF THAT WOULD HELP
3 YOU.

4 (AFTER A BRIEF PAUSE.)

5 A. NO, I DID NOT SEE THOSE.

6 Q. THIS PARTICULAR INFORMATION, WOULD IT ASSIST OR
7 AFFECT -- YOU KNOW, WHEN YOU TALK ABOUT HIM
8 HAVING PROBLEMS, DOES IT ALSO IMPINGE ON YOUR
9 DECISION OR YOUR EVALUATION WHETHER OR NOT HE
10 SEEKS HELP OR RECEIVES HELP OR ANYTHING OF THAT
11 NATURE?

12 A. YES. AND ALTHOUGH THAT INDICATES THAT HE DID
13 NOT FOLLOW UP, WE DO HAVE RECORDS THAT HE DID
14 ATTEND SESSIONS WITH SKIP MEYER.

15 Q. OKAY. SO, HE FOLLOWED UP SOMETIMES AND
16 SOMETIMES HE DIDN'T; IS THAT CORRECT?

17 A. YES.

18 Q. OKAY. AND PARTICULAR IN THESE KEYSTONE THINGS
19 AND AGAIN IF YOU NEED THEM, I'LL HAND THEM BACK
20 TO YOU, HE HAD AN APPOINTMENT SCHEDULED ON
21 SEPTEMBER 20TH; IS THAT CORRECT?

22 THE COURT: WHAT YEAR?

23 Q. 1995, I BELIEVE, YOUR HONOR. IS THAT CORRECT?

24 A. YES.

25 Q. AND THEY ACTUALLY SENT HIM A LETTER, REMINDED

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2918

1 HIM THAT HE HAD MISSED THAT APPOINTMENT AND
2 TELLING HIM TO CALL AND RESCHEDULE; IS THAT
3 CORRECT?

4 A. AS FAR AS WHAT YOU'RE SHOWING ME, YES.

5 Q. LIKewise, ON OCTOBER 6TH OF 1995 AGAIN AS A
6 REMINDER OF THAT SAME APPOINTMENT, HE WAS AGAIN
7 GIVEN THE OPPORTUNITY TO CALL AND RESCHEDULE THE
8 APPOINTMENT?

9 A. YES.

10 Q. AND, AGAIN, THIS IS CONNECTED WITH THAT DEAL HE
11 MADE TO GET OUT OF THE STATE HOSPITAL. YOU
12 UNDERSTAND THAT, THAT TREATMENT.

13 A. UH HUH.

14 Q. AND FINALLY, BETWEEN SEPTEMBER 13TH OF '95,
15 OCTOBER 23RD OF '95, THE CLIENT NEVER CAME FOR
16 AN ASSESSMENT APPOINTMENT AND SO HE VOLUNTARILY
17 WITHDREW FROM KEYSTONE. IS THAT CORRECT?

18 A. ACCORDING TO THAT, YES.

19 Q. AND, MA'AM, CERTAINLY, AS YOU SAID HE DID GO TO
20 SKIP MEYER, BUT TREATMENT AND THE OPPORTUNITIES
21 FOR TREATMENT, THINGS OF THAT NATURE, WOULD BE
22 THE ONE THING YOU WOULD WANT TO CONSIDER WOULD
23 YOU NOT?

24 A. YES.

25 Q. IN YOUR OVERALL EVALUATION.

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2919

1 A. YES.

2 Q. MA'AM, NOW IF WE COULD, I'D LIKE TO REFER TO
3 YOUR ACTUAL PRELIMINARY REPORT.

4 A. YES.

5 Q. DO YOU HAVE THAT IN YOUR HAND?

6 A. UH HUH.

7 Q. I JUST WANT TO GO THROUGH IT BRIEFLY. I REALIZE
8 I'M PUTTING MY BACK TO THE JURY AGAIN. YOU SAID
9 JAMES ROBERTSON WAS AN INTELLIGENT, COOPERATIVE
10 25 YEAR OLD WHITE MALE INCARCERATED AT LEE
11 CORRECTIONAL. IS THAT CORRECT?

12 A. YES.

13 Q. SO, YOU ACTUALLY TALKED TO HIM -- I'M LOSING
14 TRACK OF TIME, BUT THE BEGINNING OF THIS MONTH;
15 IS THAT RIGHT?

16 A. NO, SIR.

17 Q. IS THIS MARCH 1ST OF '99?

18 A. THAT'S THE DATE OF THE REPORT. THE DATES THAT I
19 SAW JIMMY WERE A FEW MONTHS BEFORE THAT.

20 Q. OKAY. I THINK THAT'S REFLECTED IN YOUR NOTES.
21 IS IT LIKE NOVEMBER ---

22 A. NOVEMBER 30TH, DECEMBER 7TH, DECEMBER 9TH.

23 Q. NOVEMBER 30TH, DECEMBER 7TH, DECEMBER 9TH, OKAY.
24 YOU RELATED HIS HISTORY THAT WE'VE HEARD
25 INCLUDING BIPOLAR DISORDER, OBSESSIVE COMPULSIVE

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2920

1 DISORDER AND ATTENTION DEFICIT. YOU TALKED
2 ABOUT THE HOSPITALIZATION. BASICALLY YOU TALKED
3 ABOUT THE THINGS THAT ARE ALREADY IN EVIDENCE
4 HERE THAT YOU REVIEWED, BUT THEN YOU GO ON INTO
5 YOUR AREA OF SPECIALTY; IS THAT CORRECT?

6 A. THE ---

7 Q. MORE ABOUT WHAT YOU SAID THAT YOU WOULD FOCUS
8 ON, THE TROUBLED FAMILY HISTORY?

9 A. YES.

10 Q. YOU INDICATED THERE WERE SEVERAL THINGS, AND I
11 THINK THAT'S WHAT YOU WERE TESTIFYING WHEN YOU
12 TALKED ABOUT THE DIFFERENT AREAS, THERE WERE
13 SEVERAL THINGS THAT HAD OCCURRED?

14 A. YES.

15 Q. AND THEY INCLUDE DOMESTIC VIOLENCE, PHYSICAL,
16 EMOTIONAL AND POSSIBLE SEXUAL ABUSE AND IMPAIRED
17 PARENTAL BONDING?

18 A. UH HUH.

19 Q. OKAY AND THAT WAS DUE PARTIALLY TO THE MENTAL
20 ILLNESS IN THE FAMILY; IS THAT CORRECT?

21 A. YES.

22 Q. OKAY. AND, AGAIN, MA'AM, I HAD ASKED YOU
23 EARLIER, ON MANY OF THE THINGS YOU SAID OFTEN,
24 PROBABLY, MAY, SOMETIMES. AS WE GO THROUGH
25 THESE ITEMS IF YOU HAVE SOMETHING THAT IS

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2921

1 CONCRETE, IN OTHER WORDS SOMETHING WHERE YOU CAN
2 SAY THIS IS ABSOLUTELY THE ONLY THING THIS COULD
3 BE, THE ONLY INDICATION, IF YOU WOULD TELL ME
4 THAT PLEASE, MA'AM. DO YOU UNDERSTAND WHAT I'M
5 ASKING?

6 A. I UNDERSTAND WHAT YOU ARE ASKING AND IT KIND OF
7 DOESN'T WORK THAT WAY.

8 Q. OKAY. SO THE TRUTH OF THE MATTER IS YOU CAN
9 ONLY SAY MAY AND MIGHT AND PROBABLY BASED ON
10 YOUR ASSESSMENT HERE; IS THAT CORRECT?

11 A. LIKELY.

12 Q. I'M SORRY?

13 A. LIKELY.

14 Q. LIKELY ALSO OR -- ARE YOU SAYING LIKELY THAT'S
15 ALL YOU CAN SAY OR ARE YOU SAYING LIKELY IS
16 ANOTHER TERM THAT YOU COULD USE.

17 A. LIKELY IS ANOTHER TERM, YES.

18 Q. OKAY, THANK YOU. AS FAR AS THE DOMESTIC
19 VIOLENCE, YOU INDICATED THAT THERE WERE PHYSICAL
20 CONFRONTATIONS BETWEEN EARL AND TERRY ROBERTSON?

21 A. YES.

22 Q. OKAY. I HEARD YOU INDICATE FROM THE MEDICAL
23 RECORDS YOU HAD UP HERE THAT THERE WAS A
24 PHYSICAL CONFRONTATION.

25 A. YES.

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2922

1 Q. BECAUSE YOU TALKED ABOUT TERRY PULLING HAIR -- I
2 ASSUME THAT'S THE SAME ONE ---

3 A. YES.

4 Q. --- WHERE EARL WOULDN'T EVER HIT HER, SHE SAID,
5 BUT TRIED TO HOLD HER OFF OR FEND HER OFF OR
6 DEFEND HIMSELF OR SOMETHING OF THAT NATURE; IS
7 THAT CORRECT?

8 A. YES.

9 Q. WHERE ARE THE OTHER PHYSICAL CONFRONTATIONS
10 BETWEEN TERRY AND EARL?

11 A. THAT WAS THE ONE THAT I WAS REFERRING TO.

12 Q. OKAY AND THIS SAYS CONFRONTATIONS, PLURAL. WAS
13 THERE NOT MORE THAN ONE; WAS THAT A MISTAKE OR
14 IS THAT A GENERALIZATION?

15 A. THAT WAS THE ONE I WAS REFERRING TO.

16 Q. SO, INSTEAD OF THERE WERE PHYSICAL
17 CONFRONTATIONS, THERE WAS A PHYSICAL
18 CONFRONTATION; IS THAT CORRECT?

19 A. A KNOWN PHYSICAL CONFRONTATION.

20 Q. I'M SORRY, MA'AM?

21 A. A KNOWN PHYSICAL CONFRONTATION.

22 Q. SO, YOU'VE GOT ONE KNOWN PHYSICAL CONFRONTATION?

23 A. YES. BUT USUALLY IN FAMILIES WHERE THESE THINGS
24 OCCUR, THERE USUALLY IS NOT JUST ONE.

25 Q. OKAY. SO, IF I HAVE ONE PHYSICAL CONFRONTATION

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2923

1 AT MY HOUSE, THEN THERE'S PROBABLY BEEN A WHOLE
2 HISTORY OF THEM; IS THAT WHAT YOU'RE SAYING?

3 A. THAT IS STATISTICALLY HOW IT PLAYS OUT, YES.

4 Q. OKAY. BUT AGAIN IN FAIRNESS AND NOT TRYING TO
5 NEEDLE YOU ON IT, BUT THERE IS NO INDICATION OF
6 BUT ONE IN THEIR WHOLE RANGE OF MARRIAGE AND IN
7 ALL THE RECORDS YOU HAVE. IS THAT A FAIR
8 STATEMENT, MA'AM?

9 A. YES.

10 Q. IN THAT FIRST DOMESTIC VIOLENCE, YOU HAVE THAT
11 ONE INCIDENT AND IN THAT ONE INCIDENT, TELL ME,
12 DOES IT SAY THAT THE CHILDREN WERE PRESENT?

13 A. NO, IT DOES NOT.

14 Q. OKAY. DOES IT SAY WHEN EXACTLY IT HAPPENED?

15 A. I DON'T RECALL THE EXACT DATE IN SKIP MEYER'S
16 NOTES BUT IT WAS IN THE NOTES, SO, YES, IT DOES
17 HAVE A DATE.

18 Q. I BEG THE COURT'S INDULGENCE.

19 (AFTER A BRIEF PAUSE.)

20 Q. OKAY, SO AS FAR AS DOMESTIC VIOLENCE IN THAT
21 SUMMARY, YOU HAVE ONE INCIDENT AND FROM THERE
22 YOU SAY THAT CHILDREN WHO WITNESS DOMESTIC
23 VIOLENCE MANIFEST A VARIETY OF DIFFICULTIES
24 LATER IN LIFE, MORE LIKELY TO HAVE SOCIAL SKILL
25 DEFICITS, LOW SELF-ESTEEM, DEPRESSION, ANGER,

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2924

1 LOW EMPATHY, AGGRESSION, ALCOHOL AND DRUG ABUSE.
2 AND THAT'S BASED ON, LIKE YOU SAID, THE
3 STATISTICS AND INFORMATION?

4 A. YES.

5 Q. BUT YOU WOULD CERTAINLY AGREE ONE INCIDENT IS
6 SOMEWHAT A LEAP FROM THE ONE INCIDENT TO SAY
7 THAT THIS MAN HAS THOSE PROBLEMS BASED ON THAT
8 ONE INCIDENT. AND I'M NOW JUST TALKING ABOUT AS
9 FAR AS DOMESTIC VIOLENCE. IS THAT A FAIR
10 STATEMENT?

11 A. IN THIS REPORT I WAS NOT SAYING THAT HIS
12 PROBLEMS WERE JUST FROM THAT ONE INCIDENT.

13 Q. YES, MA'AM. AND I THINK YOU'VE TESTIFIED THAT
14 THERE'S A VARIETY OF FACTORS THAT YOU'RE PULLING
15 TOGETHER TO INDICATE HIS PROBLEMS; IS THAT
16 CORRECT?

17 A. YES.

18 Q. THE POINT I'M MAKING NOW WHILE WE ARE JUST
19 TALKING ABOUT DOMESTIC VIOLENCE, ONE INCIDENT
20 DOES NOT, THAT WE CAN'T EVEN SHOW WHETHER OR NOT
21 THE KIDS WERE EVEN AROUND OR PRESENT, DOES NOT
22 RISE TO THE LEVEL THAT YOU CAN ATTRIBUTE ANY OF
23 THAT TO HIM ON THE ONE INCIDENT. ISN'T THAT A
24 FAIR STATEMENT, MA'AM?

25 A. IF IT WERE ONLY THE ONE INCIDENT AND IF THE

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2925

1 CHILDREN DIDN'T SEE IT. BUT WE DON'T KNOW THAT.

2 Q. THAT'S EXACTLY WHAT I'M SAYING, MA'AM. WE HAVE
3 NO INDICATION OF MORE THAN ONE INCIDENT AND WE
4 HAVE NO INDICATION THAT THE KIDS SAW THAT. SO,
5 IT'S REALLY NOT FAIR FOR THIS JURY TO DRAW FROM
6 THAT -- IT'S SPECULATION ON THAT SUBJECT IS IT
7 NOT?

8 A. YES.

9 Q. OKAY. THANK YOU. ALL RIGHT, WE GO DOWN TO THE
10 PHYSICAL ABUSE. YOU SAY JIMMY ROBERTSON WAS
11 BEATEN BY BOTH PARENTS. TERRY WAS KNOWN TO HIT
12 JIMMY AND PULL HIS HAIR. EARL'S PHYSICAL ABUSE
13 WAS MORE SEVERE; IT BEGAN IN EARLY CHILDHOOD.
14 AND JIMMY REPORTED -- WELL, LET ME STOP RIGHT
15 THERE.

16 JIMMY ROBERTSON WAS BEATEN BY BOTH PARENTS AND
17 TERRY WAS KNOWN TO HIT JIMMY AND PULL HIS HAIR.
18 EARL'S PHYSICAL ABUSE, HOWEVER, WAS MORE SEVERE.
19 ISN'T THE TRUTH OF THE MATTER THAT IN YOUR NOTES
20 JIMMY DENIED PHYSICAL ABUSE FROM HIS PARENTS?

21 A. YES, HE DID, BUT THAT IS NOT UNCOMMON AMONG
22 CHILDREN WHO ARE PHYSICALLY ABUSED. THEY WILL
23 SAY THEY ARE NOT ABUSED BUT THEN HE GOES ON AND
24 HE DESCRIBES BEING, YOU KNOW, PUSHED OVER THE
25 RAILING WITH HIS DAD'S HAND AROUND HIS NECK.

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2926

1 AND, YOU KNOW, CHIP WILL SAY, NO, I'M NOT
2 PHYSICALLY ABUSED BUT HIS FATHER BEAT HIM AND
3 RIPPED HIS SHIRT OFF.

4 THAT'S JUST PART OF THE PATTERN. THAT'S HOW
5 KIDS REACT.

6 Q. LET ME MAKE SURE I UNDERSTAND. THE ARGUMENT
7 WITH THE PUSHING OVER THE RAIL WITH THE HANDS
8 AROUND THE NECK, WAS THAT JIMMY THAT WAS THE
9 VICTIM OR CHIP?

10 A. THAT WAS JIMMY.

11 Q. OKAY, SO WE'VE GOT JIMMY IN THAT ONE INCIDENT
12 AND WE'VE GOT CHIP SOMETIME -- AND WHAT AGE ARE
13 THEY AT THIS TIME?

14 A. JIMMY -- YOU HAVE MY NOTE CARDS.

15 Q. I'M SORRY, MA'AM.

16 A. I CAN'T REMEMBER EXACTLY. I BELIEVE JIMMY WAS
17 ABOUT 13 AT THAT INCIDENT.

18 (THE NOTE CARDS WERE GIVEN BACK TO THE WITNESS.)

19 A. THANK YOU.

20 Q. YES, MA'AM.

21 A. JIMMY WAS ABOUT 13 WITH THE BALCONY INCIDENT.

22 Q. OKAY, JIMMY WAS 13. WHAT ABOUT CHIP IN THE
23 SHIRT TEARING INCIDENT?

24 A. CHIP I BELIEVE WAS IN ABOUT THE SEVENTH GRADE.

25 Q. I'M SORRY, WHAT AGE DOES THAT PUT YOU, ABOUT THE

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2927

- 1 SAME AGE?
- 2 A. ROUGHLY.
- 3 Q. OKAY. AS FAR AS THE SEVERE PHYSICAL ABUSE FROM
- 4 EARL, IN ALL THESE RECORDS THAT'S THE TWO
- 5 INCIDENTS THAT YOU HAVE; IS THAT CORRECT?
- 6 A. ALSO REPORTS OF EARL PUSHING CHIP DOWN THE STEPS
- 7 AND ALSO HITTING JIMMY IN THE CHEST. THOSE ARE
- 8 THE DEFINITE ONES, YES.
- 9 Q. OKAY, PUSHING CHIP DOWN THE STEPS. YOU SAID
- 10 REPORTS, WHO REPORTS THAT?
- 11 A. CHIP.
- 12 Q. HITTING JIMMY IN THE CHEST, WHO REPORTS THAT?
- 13 A. JIMMY.
- 14 Q. ALL RIGHT, YOU GO ON TO SAY AND I BELIEVE, DID
- 15 YOU SAY THAT YOU DID REVIEW DR. PINCUS' REPORT?
- 16 A. YES, I DID.
- 17 Q. OKAY. I BELIEVE HE HAD INDICATED -- AGAIN HE
- 18 DENIED ABUSE THERE BUT YOU'VE EXPLAINED THAT,
- 19 THAT SINCE HE DENIES ABUSE, IT MAY BE EVEN MORE
- 20 OF AN INDICATION THAT IT REALLY IS ABUSE. IS
- 21 THAT CORRECT?
- 22 A. WHAT I SAID WAS THAT CHILDREN WHO ARE IN THESE
- 23 KINDS OF SITUATIONS DON'T OFTEN DESCRIBE --
- 24 DON'T OFTEN SEE THESE INCIDENTS AS ABUSE WHEN IN
- 25 FACT THEY ARE.

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2928

1 Q. MA'AM, HOW DO YOU DISTINGUISH BETWEEN TWO
2 PEOPLE, ONE WHO SAYS I HAVE NOT BEEN ABUSED AND
3 THEY ARE ABUSED AND ONE PERSON WHO SAYS I HAVE
4 NOT BEEN ABUSED AND THEY AREN'T ABUSED. HOW DO
5 YOU MAKE THAT DISTINCTION BASED ON THEIR
6 REPORTING?

7 A. YOU GO ON AND YOU ASK THEM OTHER QUESTIONS.

8 Q. OKAY AND WHAT OTHER QUESTIONS WOULD THAT BE?

9 A. ABOUT HOW THEY WERE DISCIPLINED; WHAT FORM DID
10 THE DISCIPLINE TAKE; HOW OFTEN WAS IT. AND THEN
11 FOLLOW UP QUESTIONS TO THAT BASED ON WHAT THEY
12 ANSWER.

13 Q. OKAY AND WHEN YOU DID ALL OF THAT, AS I
14 UNDERSTAND YOU HAVE THE PUSHING OVER THE RAIL
15 INCIDENT WITH JIM WHEN HE'S A YOUNG TEENAGER;
16 YOU HAVE A SHIRT TEARING INCIDENT WITH CHIP WHEN
17 HE'S A YOUNG TEENAGER. AND THEN CHIP SAYS A
18 PUSH DOWN THE STAIRS AS AN ADDITIONAL. AND JIM
19 SAYS A PUNCH IN THE CHEST AS AN ADDITIONAL. IS
20 THAT CORRECT, MA'AM?

21 A. UH HUH.

22 Q. SO FOR THIS WHOLE CROWD, THIS WHOLE FAMILY, THIS
23 WHOLE LIFE WE'VE GOT TWO INCIDENTS FOR EACH OF
24 THE BOYS. IS THAT CORRECT?

25 A. AND THERE'S ALSO BEING HIT WITH A BELT WHEN HE

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2929

1 WAS HEAD BANGING AS A CHILD.

2 Q. OKAY.

3 A. AND THEY ALSO REPORTED BEING DISCIPLINED WITH
4 THE BELT SEVERAL TIMES A WEEK AS CHILDREN.

5 Q. LET ME ASK YOU THIS, MA'AM. SO, THEY WERE
6 DISCIPLINED AS CHILDREN; IS THAT CORRECT? IS
7 THAT WHAT YOU SAID?

8 A. YES.

9 Q. SO ---

10 A. ALTHOUGH I THINK THE ISSUE WAS WHETHER OR NOT
11 THE DISCIPLINE WAS CONSISTENT.

12 Q. WELL, YOU SAID SEVERAL TIMES A WEEK.

13 A. UH HUH.

14 Q. OKAY. BUT THERE'S MORE TO CONSISTENCY THAN JUST

15 A. BUT THERE'S MORE TO CONSISTENCY THAN JUST
16 FREQUENCY.

17 Q. WELL, IF THEY DO IT TOO OFTEN THEN THEY ARE
18 PROBABLY ABUSING THEM MORE. IF THEY DO IT TOO
19 LESS, THEN THEY ARE NOT DISCIPLINING; IS THAT
20 RIGHT?

21 A. BUT THERE'S ALSO THE MATTER OF WHAT ARE THEY
22 DISCIPLINING THEM FOR. YOU KNOW, ARE THEY
23 DISCIPLINING THEM FOR REAL INFRACTIONS OR ARE
24 THEY DISCIPLINING THEM FOR SMALL THINGS.

25 Q. OKAY. AND WHO DETERMINES WHAT'S SMALL IN THE

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2930

1 HOUSEHOLD AND WHAT'S REAL?

2 A. IN THE HOUSEHOLD? I SUPPOSE IT WOULD BE THE
3 PARENT.

4 Q. OKAY. YOU SAID JIMMY REPORTED; IS THAT THE
5 DEFENDANT?

6 A. YES.

7 Q. OKAY. JIMMY REPORTED OF HAVING A HABIT OF
8 POSITIONING HIMSELF ON HIS HANDS AND KNEES AND
9 BANGING HIS HEAD AGAINST HE HEADBOARD AS A WAY
10 OF ROCKING HIMSELF TO SLEEP.

11 A. YES.

12 Q. HE WOULD SOMETIMES CONTINUE ROCKING AGAINST THE
13 HEADBOARD AFTER HE DRIFTED OFF TO SLEEP. IS
14 THAT RIGHT?

15 A. YES.

16 Q. AND WHO TOLD YOU THAT?

17 A. JIMMY REPORTED THE DETAILS. THERE ARE ALSO
18 INDICATIONS IN TERRY'S RECORDS THAT JIMMY WAS A
19 HEAD BANGER AND I ALSO CONFIRMED THIS WITH SKIP
20 MEYER.

21 Q. OKAY. AND, OF COURSE, SKIP MEYER WOULD BE
22 CONFIRMING WHAT YOU JUST SAID TERRY SAID; RIGHT?

23 A. YES.

24 Q. THAT JIMMY WAS A HEAD BANGER. AND YOU SAID LIKE
25 WHEN HE WAS TWO YEARS OLD HE WAS DOING THIS AND

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2931

1 EARL WOULD COME IN AND SNATCH HIM OUT OF BED OR
2 BEAT HIM BECAUSE HIS HEAD WAS BANGING?

3 A. UH HUH.

4 Q. AND JIMMY RELATED THIS TO YOU AS FAR AS THE --
5 LET ME LOOK AT YOUR REPORT TO BE SURE I SAY IT
6 RIGHT. "JIMMY REPORTED HAVING A HABIT OF
7 POSITIONING HIMSELF ON HIS HANDS AND KNEES IN
8 BED AND BANGING HIS HEAD AGAINST THE HEADBOARD
9 AS A WAY OF ROCKING HIMSELF TO SLEEP AS A SMALL
10 CHILD".

11 A. YES.

12 Q. "HE WOULD SOMETIMES CONTINUE ROCKING AGAINST THE
13 HEADBOARD AFTER HE DRIFTED OFF TO SLEEP ---

14 A. AS HE WAS GOING TO SLEEP, YES.

15 Q. HOW DOES JIMMY KNOW WHAT HE DID AFTER HE GOES TO
16 SLEEP. HOW IS HE TELLING YOU THAT HE'S BANGING
17 HIS HEAD? IS THAT NOT A LITTLE BIT SELF-SERVING
18 THAT HE WOULD TELL YOU, OH, I WAS BANGING MY
19 HEAD AFTER I WAS ASLEEP, TOO, AND THAT'S WHY
20 DADDY COMES IN? HOW CAN HE RELATE THAT TO YOU?

21 A. I'M SORRY. COULD YOU REPEAT THAT?

22 Q. YES, MA'AM. YOU SAID THAT HE SAYS HE BANGS HIS
23 HEAD.

24 A. RIGHT.

25 Q. THIS IS WHEN HE'S TWO YEARS OLD. HE BANGS HIS

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2932

1 HEAD AND THEN HE FALLS OFF TO SLEEP AND
2 CONTINUES TO BANG HIS HEAD AND BECAUSE OF THAT
3 EARL COMES IN AND BEATS HIM.

4 A. UH HUH.

5 Q. OKAY. HOW CAN HE KNOW THAT IF HE'S ASLEEP? HOW
6 CAN HE KNOW HE'S BANGING HIS HEAD?

7 A. WELL, THIS APPARENTLY WENT ON FOR A FEW YEARS,
8 SO HE WAS PROBABLY A LITTLE BIT OLDER WITH THIS
9 AND ALSO HE COULD HAVE HEARD LATER, YOU KNOW,
10 DISCUSSING THIS IN THE FAMILY.

11 Q. THE TRUTH OF THE MATTER IS YOU'RE SPECULATING;
12 YOU DON'T KNOW HOW HE KNOWS THAT. IS THAT
13 CORRECT?

14 A. YES.

15 Q. YOU'RE JUST TRULY BASING IT ON WHAT HE HAS TOLD
16 YOU; ISN'T THAT CORRECT?

17 A. AND THAT TERRY'S REPORT IS THAT HE DID BANG HIS
18 HEAD, YES.

19 Q. DID TERRY'S REPORT SAY THAT EARL USED TO GO IN
20 AND BEAT HIM?

21 A. NO.

22 Q. AND YOU SAID THIS PARTICULAR VIOLENCE IS
23 DAMAGING GIVEN ITS UNEXPECTED NATURE. IN OTHER
24 WORDS, BEING WOKE UP FROM SLEEP AND BEING
25 BEATEN?

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2933

- 1 A. YES.
- 2 Q. OKAY. BUT, OF COURSE, WE DON'T HAVE ANY CLEAR
- 3 INDICATION THAT THAT HAPPENED DO WE, MA'AM?
- 4 A. NO.
- 5 Q. OKAY. YOU ALSO SAID THAT JIMMY HAS A HISTORY OF
- 6 THREE UNEXPLAINED HEAD INJURIES.
- 7 A. UH HUH.
- 8 Q. TWO OF THE THREE WERE CONCUSSIONS AND THE THIRD
- 9 HE WAS HIT WITH A FIST. HE CANNOT REMEMBER THE
- 10 DETAILS OF THESE INCIDENTS.
- 11 A. UH HUH.
- 12 Q. AND I THINK YOU CHECKED THE MEDICAL STUFF, TOO,
- 13 AND CONFIRMED -- THE MEDICAL HISTORY THAT HE HAD
- 14 HAD TWO PREVIOUS HEAD INJURIES AND THE THIRD WAS
- 15 HIT WITH A FIST?
- 16 A. UH HUH.
- 17 Q. ARE YOU TRYING TO TELL THIS JURY THAT EARL HIT
- 18 HIM WITH A FIST?
- 19 A. I DID NOT SAY THAT, NO.
- 20 Q. SO, WHEN YOU TALK ABOUT -- BUT THAT IS UNDER
- 21 YOUR CATEGORY OF PHYSICAL ABUSE, CORRECT?
- 22 A. YES. I SAID THAT THAT MAY HAVE BEEN ANOTHER
- 23 INDICATOR, YES.
- 24 Q. BUT THE TRUTH OF THE MATTER IS THE NEIGHBORHOOD
- 25 BULLY MAY HAVE HIT HIM OR HE MAY HAVE -- THERE'S

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2934

1 NO TELLING, IS IT; IT'S SPECULATION; IS THAT
2 CORRECT?

3 A. THAT'S CORRECT.

4 Q. SO IT'S REALLY NOT FAIR TO INCLUDE THAT IN
5 SAYING THAT THERE WAS PHYSICAL ABUSE IN THIS
6 FAMILY JUST BECAUSE THIS YOUNG MAN HAD BEEN HIT
7 WITH A FIST AT SOME POINT IN HIS LIFE, IS IT?

8 A. I'M SORRY; COULD YOU REPEAT THAT?

9 Q. YES, MA'AM, I'LL BE GLAD TO. IT'S REALLY NOT
10 FAIR TO INCLUDE THIS IN SAYING THIS FAMILY IS
11 INVOLVED IN PHYSICAL ABUSE WHEN THE TRUTH OF THE
12 MATTER IS ALL YOU CAN SAY IS HE WAS HIT WITH A
13 FIST SOME TIME IN HIS LIFE AND WE DON'T KNOW WHO
14 IT CAME FROM.

15 A. NO, WE DO NOT KNOW WHO IT CAME FROM.

16 Q. SO, THAT'S NOT REALLY A FAIR INCLUSION IN HERE
17 EITHER IS IT?

18 A. IT COULD BE OR IT COULDN'T BE.

19 Q. THERE'S NO WAY TO KNOW, IS THERE?

20 A. YES.

21 Q. AND THIS KIND OF GOES BACK AND FORTH AS A THEME,
22 BUT I UNDERSTAND YOU GET DIFFERENT THEMES
23 BECAUSE YOU'RE TAKING THE WHOLE TOTALITY IN
24 TRYING TO FIGURE OUT WHERE IT'S AT.

25 A. YES.

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2935

1 Q. "JIMMY REPORTED THAT SOME OF HIS ANGER TOWARD
2 HIS MOTHER WAS DUE TO HER FAILURE TO PROTECT HIM
3 AND CHIP FROM THEIR FATHER." IS THAT CORRECT?

4 A. YES.

5 Q. BUT IN THE STATEMENT, AND I THINK THIS IS AGAIN
6 WITH DR. PINCUS, TOO, HE TELLS HIM THAT MOTHER
7 ALWAYS INTERVENED AND SAVED HIM WITH THE
8 ARGUMENTS WITH DADDY, DID HE NOT?

9 A. I DON'T RECALL THAT LINE FROM DR. PINCUS'
10 REPORT.

11 Q. AS QUICK AS I CAN, I'LL SEE IF I CAN FIND IT FOR
12 YOU.

13 (AFTER A PAUSE.)

14 Q. I'LL SHOW YOU DR. PINCUS' REPORT. OF COURSE, THE
15 ACTUAL COPY IS IN EVIDENCE. I'LL SHOW YOU
16 REFERRING TO HIS PAGE 5. THIS ALSO REFLECTS HE
17 DENIED SERIOUS ABUSE BY HIS PARENTS AND IT SAYS
18 "HIS MOTHER ALWAYS SAVED THEM FROM GETTING INTO
19 A SERIOUS FIGHT"; IS THAT CORRECT?

20 A. THAT IS WHAT IT SAYS.

21 Q. SO THAT REPORT FROM DR. PINCUS AND WHAT JIMMY
22 TOLD THEM IS DIFFERENT FROM EITHER WHAT HE TOLD
23 YOU OR WHAT'S WRITTEN IN YOUR REPORT; IS THAT
24 CORRECT, MA'AM?

25 A. JIMMY ALSO WOULD SAY THAT HIS MOTHER WOULD

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2936

1 INTERVENE BUT, YOU KNOW, I THINK IT'S CERTAINLY
2 POSSIBLE THAT SHE MIGHT HAVE INTERVENED
3 SOMETIMES AND NOT OTHERS AND IN HER OWN
4 HANDWRITING WE HAVE THE STATEMENT THAT SHE SAID
5 SHE DID NOT PROTECT THE BOYS.

6 Q. YES, MA'AM. I THINK THAT WAS THAT LIST WHEN SHE
7 WAS SAYING WHY SHE WASN'T A GOOD MOTHER.

8 A. YES.

9 Q. AND YOU WOULD AGREE, BASED ON YOUR REVIEW OF
10 THESE RECORDS, THAT WOMAN WAS IN THE DEPTH OF
11 DESPAIR WHEN SHE WAS WRITING THESE THINGS WAS
12 SHE NOT?

13 A. SHE WAS DEPRESSED, YES.

14 Q. ALL RIGHT, NOW WE GO TO THE EMOTIONAL ABUSE AND
15 IT SAYS THIS IS THE MOST PREVALENT IN THE
16 FAMILY. IS THAT CORRECT?

17 A. UH HUH.

18 Q. AND JIMMY REPORTED ALMOST CONTINUAL VERBAL ABUSE
19 PRIMARILY BY EARL?

20 A. YES.

21 Q. "EARL WOULD STAND CLOSE TO JIMMY AND GET UP IN
22 HIS FACE AND YELL AND CALL HIM NAMES, STUPID,
23 IDIOT, WORTHLESS; THESE INCIDENTS WERE NUMEROUS
24 THROUGHOUT THE YEARS"; IS THAT CORRECT?

25 A. YES.

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2937

1 Q. NOW AS FAR AS THEM BEING NUMEROUS THROUGHOUT THE
2 YEARS, AGAIN, IS IT NOT TRUE THAT THEY WERE
3 CONNECTED -- OF COURSE, YOU ARE OVERLAYING
4 THINGS, YOU'RE HAVING TO LOOK AT THINGS THAT ARE
5 GOING ON. JIMMY GOING TO JAIL; JIMMY BREAKING
6 IN THE NEIGHBOR'S HOUSE; JIMMY GETTING DUI'S;
7 ALL THE THINGS THAT JIMMY WAS DOING. DID YOU
8 FIND ANY CONNECTION BETWEEN THESE OR IS EARL
9 JUST RANDOMLY CALLING HIM AN IDIOT?

10 A. AS FAR AS MY UNDERSTANDING, THIS WAS THROUGHOUT
11 THE CHILDREN'S ENTIRE LIFETIME, NOT JUST THOSE
12 INCIDENTS THAT YOU MENTIONED.

13 Q. OKAY, MA'AM, AND AGAIN WHEN YOU SAY YOUR
14 UNDERSTANDING, WHO DOES THAT COME FROM?

15 A. JIMMY AND CHIP.

16 Q. YOU HAD INDICATED THAT JIMMY REPORTED HE HAD
17 NEVER TRULY FELT LOVED BY HIS FATHER AND
18 BELIEVED HIS MOTHER LOVED HIM ONLY BECAUSE SHE
19 HAD TO. IS THAT CORRECT?

20 A. UH HUH.

21 Q. "AS THE RESULTS OF THE FATHER'S VERBAL ABUSE AS
22 REPORTED BY JIMMY AND CHIP, JIMMY FELT
23 REJECTED"?

24 A. UH HUH.

25 Q. NOW THIS IS THE SAME FATHER THAT YOU CLEARLY

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2938

1 REVIEWED BAILS HIM OUT TIME AND TIME AGAIN,
2 FINANCIALLY, LETS HIM MOVE BACK IN THE HOUSE,
3 ALL THOSE THINGS; THAT'S THE SAME SITUATION, THE
4 SAME FATHER WE'RE TALKING ABOUT. IS THAT
5 CORRECT?

6 A. THE SAME FATHER BUT YOU CAN CERTAINLY DO THOSE
7 THINGS AND STILL BE EMOTIONALLY UNAVAILABLE OR
8 ABUSIVE AT THE SAME TIME.

9 Q. AND SO AGAIN -- LET'S SEE. JIMMY RECALLED AN
10 ARGUMENT IN WHICH TERRY SLAPPED HIM AND SAID SHE
11 WISHED HE HAD NEVER BEEN BORN, AND YOU INCLUDED
12 THAT?

13 A. YES.

14 Q. OKAY. AND I THINK YOU PUT THAT IN YOUR NOTES,
15 TOO. YOU TOOK NOTES WHEN YOU INTERVIEWED JIMMY
16 CONCERNING THAT, RIGHT?

17 A. YES.

18 Q. AND I BELIEVE, IS IT NOT CORRECT, DID HE NOT --
19 WHATEVER ARGUMENT THEY WERE HAVING, AS SOON AS
20 SHE SLAPPED HIM AND SAID SHE WISHED HE HAD NEVER
21 BEEN BORN, SHE APOLOGIZED TO HIM AS SOON AS SHE
22 SAID THAT, DIDN'T SHE?

23 A. I BELIEVE SHE DID.

24 Q. AND YOU DID NOT PUT THAT IN HERE, DID YOU?

25 A. NO, BUT SHE STILL SAID IT AND THE DAMAGE WAS

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2939

1 STILL DONE.

2 Q. SO THE FACT THAT THERE MAY BE RECONCILIATION
3 REALLY HAS NO EFFECT OR NO BEARING ON ANYTHING
4 THAT YOU WOULD MAKE A DETERMINATION OF. IS THAT
5 CORRECT?

6 A. NO.

7 Q. SO, THAT WOULD BE SOMETHING TO CONSIDER IF IT'S
8 NOT INCLUDED IN THIS REPORT ---

9 THE COURT: YOU'RE GOING TO HAVE TO SPEAK UP,
10 MA'AM. THE JURORS ARE TELLING US THAT THEY CAN'T HEAR YOU.

11 A. OKAY. I'M SORRY, COULD YOU REPEAT THE QUESTION?

12 Q. I SAID THAT WOULD BE SOMETHING TO CONSIDER THAT
13 WAS NOT INCLUDED IN THIS; IS THAT CORRECT,
14 MA'AM?

15 A. IT MIGHT BE BUT LIKE I SAID, THE DAMAGE HAD BEEN
16 DONE ONCE IT HAD BEEN SAID.

17 Q. SO, THE TRUTH OF THE MATTER IS IF YOU EVER SAY
18 THAT, THEN YOU COULD NEVER CHANGE IT, YOU COULD
19 NEVER TAKE IT BACK AND HE'S OFF ON WHATEVER
20 COURSE HE'S GOING TO BE ON NO MATTER WHAT LOVE
21 AND CARE AND NURTURING YOU GIVE HIM. IS THAT
22 CORRECT?

23 A. NOT NECESSARILY BUT THIS WASN'T AN ISOLATED
24 INCIDENT.

25 Q. OKAY, MA'AM, YOU SAY IT WASN'T AN ISOLATED

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2940

1 INCIDENT, THEN WHAT OTHER INCIDENTS DO YOU HAVE
2 WHERE SHE DID THAT?

3 A. I'M NOT TALKING ABOUT JUST THOSE PARTICULAR
4 WORDS. I'M SAYING THAT THERE WERE OTHER
5 EMOTIONAL ABUSES GOING ON IN THE FAMILY, THE
6 REJECTION AND THE DEGRADATION THAT I HAD ALREADY
7 MENTIONED.

8 Q. AND THAT WAS, OF COURSE, THE -- IS IT
9 DEGRADATION?

10 A. DEGRADATION.

11 Q. OKAY, THAT WAS REPORTED BY JIMMY AND CHIP; IS
12 THAT CORRECT.

13 A. YES.

14 Q. SO, BASICALLY, AS FAR AS THE AREA OF EMOTIONAL
15 ABUSE, AND AGAIN YOU'VE GOT YOUR REPORT, CORRECT
16 ME IF I'M WRONG, WHAT YOU HAVE IS JIMMY AND CHIP
17 REPORTING THE EMOTIONAL ABUSE IN THE HOME. IS
18 THAT CORRECT?

19 A. AS WELL AS THE REPORT IN SKIP MEYER'S RECORDS
20 SAYING THAT TERRY FELT THAT THEY WERE VERBALLY
21 ABUSED AND THAT THEY WERE AFRAID OF EARL AS
22 WELL.

23 Q. AND, AGAIN, THAT CAME DURING THAT THREE YEAR
24 PERIOD WE'RE TALKING ABOUT; IS THAT CORRECT?

25 A. YES.

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2941

1 Q. AND THAT WAS '95, '96, '97; DOES THAT SOUND
2 RIGHT?

3 A. UH HUH, YES.

4 Q. OKAY. IF WE COULD MOVE ON DOWN NOW TO SEXUAL
5 ABUSE.

6 A. UH HUH.

7 Q. I THINK THIS IS KIND OF LIKE, I CAN'T REMEMBER
8 IF IT WAS PHYSICAL ABUSE OR DOMESTIC ABUSE, IN
9 OTHER WORDS THIS IS ONE OF THE AREAS THAT IF YOU
10 DENY IT, IT MAY BE MORE LIKELY THAT IT HAPPENED.
11 IS THAT CORRECT?

12 A. IT'S VERY SIMILAR IN THAT WAY.

13 Q. OKAY. SO, WE START WITH THE BASIC PREMISE THAT
14 JIMMY DOES NOT REPORT ANY RECOLLECTIONS OF
15 SEXUAL ABUSE. IS THAT CORRECT?

16 A. HE DOES NOT REMEMBER ANY SPECIFIC RECOLLECTIONS
17 BUT AT THE SAME TIME HE DID REPORT SOMETHING
18 THAT WAS INAPPROPRIATE THAT MAY HAVE INDICATED
19 IT, YES.

20 Q. NOW WHAT WAS THAT; THAT HE AND CHIP SAID THEY
21 WOULD TAKE SHOWERS WITH THEIR PARENTS WHEN THEY
22 WERE 11?

23 A. YES.

24 Q. OKAY. AND I THINK FROM YOUR NOTES IT SAID THAT
25 THEY WOULD TAKE SHOWERS -- HE COULDN'T REMEMBER

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2942

1 WHO TOOK A SHOWER WITH WHO OR ANYTHING OF THAT
2 NATURE, BUT HE JUST REMEMBERED THAT THEY WOULD
3 TAKE SHOWERS AND THAT'S INAPPROPRIATE?

4 A. THEY WOULD TAKE SHOWERS WITH THEIR PARENTS AND
5 THIS WAS GOING ON AT THE AGE OF 11 OR 12 AND,
6 YES, IT IS DEVELOPMENTALLY INAPPROPRIATE AT THAT
7 AGE FOR PARENTS TO SHOWER WITH THEIR CHILDREN.

8 Q. OKAY. AND YOU HAD USED THE EXAMPLE -- YOU WERE
9 TALKING ABOUT JIMMY AND CHIP -- THAT THE OTHER
10 REASON YOU THOUGHT MAYBE HE WAS SEXUALLY ABUSED
11 IS BECAUSE JIMMY CAN'T RECALL WHERE HE WENT TO
12 KINDERGARTEN IN THE FIRST GRADE; HE MISTAKENLY
13 BELIEVED THEY WERE IN MICHIGAN AND THEY WERE
14 REALLY IN CALIFORNIA.

15 SO, THE SEXUAL ABUSE, AS I UNDERSTAND IT, YOU
16 SAID THIS LAPSE IN MEMORY IS OFTEN
17 CHARACTERISTIC OF TRAUMA, ESPECIALLY EARLY
18 SEXUAL ABUSE?

19 A. YES.

20 Q. SO, OF COURSE, JIMMY CAN'T REMEMBER WHERE HE
21 WENT TO KINDERGARTEN BUT THIS IS THE SAME JIMMY
22 THAT CAN REMEMBER BANGING HIS HEAD WHEN HE'S
23 FALLING ASLEEP WHEN HE'S TWO YEARS OLD; IS THAT
24 CORRECT?

25 A. YES.

DR. TONI CASCIO - CROSS BY MR. POPE

2943

1 Q. OKAY. SO BASICALLY JIMMY SAYS THERE WAS NO
2 SEXUAL ABUSE, BUT BASED ON THE FACT THAT HE
3 CAN'T REMEMBER WHERE HE WENT TO KINDERGARTEN AND
4 THE FACT THAT THEY TOOK SHOWERS INAPPROPRIATELY
5 -- NOW YOU'RE NOT SAYING THERE WAS ANY TOUCHING
6 OR ANYTHING, YOU'RE JUST SAYING IT'S NOT
7 APPROPRIATE TO BE TAKING A SHOWER WITH A PARENT
8 AT THAT AGE; IS THAT CORRECT?

9 A. YES. THAT WOULD BE DEFINED AS COVERT SEXUAL
10 ABUSE BECAUSE IT IS VERY DEVELOPMENTALLY
11 APPROPRIATE AT THAT AGE.

12 Q. YOU MEAN INAPPROPRIATE, IS THAT RIGHT?

13 A. YES, INAPPROPRIATE; EXCUSE ME.

14 Q. SO, THE BOTTOM LINE ON THE SEXUAL ABUSE IS HE
15 SAYS THERE'S NONE, NO MEMORY, AND THEY TAKE
16 SHOWERS TOGETHER; IS THAT CORRECT?

17 A. UH HUH.

18 Q. AND THAT'S THE ONLY INDICATION. THERE'S NO
19 INDICATION OF ANY PHYSICAL ASPECT OF SEXUAL
20 ABUSE OR ANYTHING OF THAT NATURE; IS THAT
21 CORRECT?

22 A. NO, I SAID IT WAS POSSIBLE.

23 Q. YOU FINALLY TALKED ABOUT IMPAIRED BONDING. AND
24 YOU WERE SAYING, AGAIN, BECAUSE OF THE HEAD
25 BANGING, THAT MAY INDICATED IMPAIRED BONDING; IS

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2944

1 THAT CORRECT?

2 A. YES.

3 Q. AND YOU EXPLAINED THAT'S THE THEME THAT LIKE YOU
4 TAKE CARE OF YOUR KIDS BUT IF YOU DON'T NURTURE
5 THEM AND LOVE THEM, THAT THAT WOULD BE IMPAIRED
6 BONDING.

7 A. UH HUH.

8 Q. AND SINCE TERRY HAD DONE THE DIFFERENT THINGS,
9 THAT SHE WAS BIPOLAR AND OBSESSIVE -- IN OTHER
10 WORDS, BECAUSE OF TERRY'S MENTAL STATE THAT WE
11 HAVE HERE, THAT THAT WOULD HAVE AFFECTED THE
12 BONDING. IS THAT CORRECT?

13 A. IT VERY OFTEN DOES. WHEN MOTHERS ARE DEPRESSED,
14 THERE IS VERY OFTEN IMPAIRED BONDING; YES.

15 Q. YOU WOULD AGREE WITH ME FROM READING TERRY'S
16 NOTES AND EVERYTHING ELSE, ALL OF THESE THINGS,
17 AND OF COURSE SHE TALKED ABOUT MANY, MANY
18 PERSONAL THINGS WITH HER COUNSELOR AS FAR AS HER
19 LIFE AND HER CHILDHOOD AND HER PARENTS AND
20 EVERYTHING, YOU WOULD AGREE THAT BASED ON THAT
21 STILL THERE IS NO INDICATION THROUGHOUT HER LIFE
22 THAT COMPARES WITH WHAT SHE WENT THROUGH THOSE
23 LAST THREE YEARS MENTALLY AND EMOTIONALLY. IS
24 THAT A FAIR STATEMENT? I MEAN SHE WAS A WRECK
25 HERE, WAS SHE NOT?

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2945

- 1 A. YES, SHE WAS.
- 2 Q. OKAY.
- 3 A. AND WE JUST DON'T HAVE RECORDS FROM EARLIER, BUT
- 4 IT'S POSSIBLE THAT SHE WAS VERY DEPRESSED
- 5 EARLIER AS WELL.
- 6 Q. IT'S POSSIBLE BUT AGAIN WE WOULD BE SPECULATING,
- 7 WE DON'T HAVE ANY INDICATION OF THAT; IS THAT
- 8 CORRECT?
- 9 A. WE DO KNOW IN HER WRITINGS SHE SAYS THAT SHE HAD
- 10 BEEN DEPRESSED AS FAR BACK AS NINTH GRADE.
- 11 Q. AND THEN WE GO ULTIMATELY TO YOUR CONCLUSIONS.
- 12 AND BEFORE WE GET THERE, I WANT TO UNDERSTAND.
- 13 AS FAR AS DOMESTIC ABUSE, THE TRUTH OF THE
- 14 MATTER IS YOU'VE AGREED THAT THERE'S REALLY NOT
- 15 MUCH TO SUPPORT THAT; IS THAT CORRECT?
- 16 A. I THINK THAT THE INDICATORS ALL TOTAL, IT'S KIND
- 17 OF LIKE THE SUM IS GREATER THAN -- THE WHOLE IS
- 18 GREATER THAN THE SUM OF ITS PARTS. JIMMY SHOWS
- 19 CHARACTERISTICS OF PEOPLE WHO HAVE BEEN THROUGH
- 20 THESE THINGS.
- 21 Q. SO, IT'S KIND OF A CENTRICITY THING, EACH PART
- 22 GRABBING ON TO THE NEXT PART, RIGHT?
- 23 A. UH HUH.
- 24 Q. BUT AS YOU BREAK DOWN THE PARTS, NOT ONLY DOES
- 25 IT NOT STAND ALONE, IT DOESN'T EVEN STAND UP.

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2946

1 IS THAT CORRECT? DOMESTIC VIOLENCE? I MEAN
2 WE'VE GOT TO THE POINT WE'VE GOT ONE INCIDENT
3 OUT OF THEIR WHOLE LIFETIME; IS THAT CORRECT?

4 A. THAT WE KNOW OF.

5 Q. OKAY. OTHERWISE WE'RE SPECULATING, RIGHT? SO
6 WHAT WE'RE TRYING TO DO IS FIGURE OUT -- YOU'RE
7 GOING BACKWARD, YOU'RE SAYING WELL HE'S HERE
8 TODAY SO THERE MUST HAVE BEEN SOMETHING WRONG.
9 IS THERE AN EVALUATION FOR JUST PLAIN MEAN OR
10 JUST PLAIN GREEDY?

11 A. (NO RESPONSE)

12 Q. IS THERE AN EVALUATION THAT EXPLAINS HOW THAT
13 OCCURS?

14 A. I THINK THAT -- I DON'T -- I GUESS I DON'T
15 UNDERSTAND WHAT YOU MEAN BY THAT.

16 Q. WE DON'T HAVE DOMESTIC VIOLENCE OTHER THAN THE
17 ONE INCIDENT, CORRECT?

18 A. NO.

19 Q. OKAY. WE DON'T HAVE PHYSICAL ABUSE EXCEPT FOR
20 THE TWO INCIDENTS, ONE EACH WITH JIMMY AND CHIP
21 AND THEN THE OTHER THAT EACH RELATED -- I DIDN'T
22 MEAN TO INTERRUPT YOU, MA'AM, GO AHEAD.

23 A. AND WE ALSO KNOW FROM DR. PINCUS' REPORT THAT HE
24 DOES HAVE MARKS ON HIM THAT APPEAR TO BE FROM A
25 BELT.

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2947

- 1 Q. AND, OF COURSE, HE TOLD YOU THAT HIS DADDY
2 WHIPPED HIM WITH A BELT; RIGHT?
- 3 A. I DON'T KNOW IF HE TOLD DR. PINCUS THAT.
- 4 Q. DID HE TELL YOU THAT?
- 5 A. YES, HE DID.
- 6 Q. DO YOU KNOW IF MAYBE THAT WAS A BELT FROM A
7 FIGHT THAT HE HAD IN HIGH SCHOOL?
- 8 A. NO, I DO NOT KNOW.
- 9 Q. OR WHEN HE WAS DOWN IN PRISON?
- 10 A. I HAVE NO IDEA WHEN HE ---
- 11 Q. SO, BASICALLY, AND I'M NOT BEING DISRESPECTFUL,
12 BUT BASICALLY YOU'RE EITHER SPECULATING OR
13 RELYING ON HIS WORD; IS THAT CORRECT?
- 14 A. FOR THAT.
- 15 Q. SO, AS FAR AS THE PHYSICAL ABUSE, IT REALLY
16 DOESN'T STAND OTHER THAN THOSE INCIDENTS. THE
17 DOMESTIC ABUSE DOESN'T STAND. THE EMOTIONAL
18 ABUSE SOLELY COMES FROM CHIP AND JIMMY RELATING
19 THOSE; IS THAT CORRECT?
- 20 A. AS WELL AS THE RECORDS THAT WE HAVE FROM TERRY.
- 21 Q. THAT SAY WHAT?
- 22 A. THAT SAY THAT THE BOYS WERE AFRAID OF EARL'S
23 TEMPER; THAT SHE WAS AFRAID OF EARL'S TEMPER.
24 THAT SHE FELT LIKE SHE WAS WALKING ON EGGSHELLS;
25 THAT SHE DIDN'T PROTECT THE BOYS. COMING FROM A

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2948

1 VARIETY OF THINGS.

2 Q. MA'AM, HOW MANY DAYS OF NOTES WERE THERE AS FAR
3 AS TERRY'S LIFE THAT YOU WERE DEALING WITH HERE?

4 A. I'M SORRY, I DID NOT COUNT EVERY DAY.

5 Q. OKAY. HOW MANY DAYS WAS SHE WALKING ON
6 EGGSHELLS THAT YOU SAW IN THIS REPORT?

7 A. I SAW ONE REPORT OF THAT TERM. AND SEVERAL
8 OTHERS ABOUT HER BEING AFRAID OF EARL'S TEMPER.

9 Q. AND, OF COURSE, YOU'VE MADE DOCUMENTS THAT TOOK
10 EXCERPTS OUT OF THE TOTALITY OF THOSE THINGS; IS
11 THAT CORRECT?

12 A. YES.

13 Q. MA'AM, THE SEXUAL ABUSE YOU SAY IS BASED ON HE
14 DOESN'T KNOW AND THEY TOOK A SHOWER. SO, THE
15 TRUTH OF THE MATTER, THAT'S JUST SPECULATION
16 ALSO. HE EVEN DENIES THERE WAS SEXUAL ABUSE,
17 DOESN'T HE?

18 A. YES.

19 Q. THE IMPAIRED BONDING IS PRIMARILY BASED ON THE
20 FACT THAT HE BANGED HIS HEAD AND SHE HAD BIPOLAR
21 DISORDER AND DEPRESSION; IS THAT CORRECT?

22 A. AND THAT MOTHERS WHO HAVE DEPRESSION OFTEN DO
23 HAVE DIFFICULTY BONDING WITH THEIR CHILDREN,
24 YES.

25 Q. ARE THERE GOOD MOTHERS THAT ARE DEPRESSED?

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2949

1 A. YES.

2 Q. AND GOOD MOTHERS THAT KIDS GROW UP AND GO TO
3 COLLEGE AND LEAD PRODUCTIVE LIVES?

4 A. YES.

5 Q. OKAY. SO, AGAIN IN FAIRNESS, THIS WOULD BE
6 SPECULATION AS FAR AS IMPAIRED BONDING. IS THAT
7 A FAIR STATEMENT?

8 A. I'M SAYING THAT JIMMY SHOWS EVIDENCE OF THAT.

9 Q. SHOWS EVIDENCE OF IMPAIRED BONDING?

10 A. YES.

11 Q. BASED ON HIS ACTIONS?

12 A. YES.

13 Q. YOUR CONCLUSIONS ULTIMATELY WERE, AND I'M
14 TURNING TO YOUR LAST PAGE NOW.

15 A. UH HUH.

16 Q. THAT HIS FAMILY WAS QUITE CHAOTIC. AND, OF
17 COURSE, THAT'S BASED ON WHAT WE'VE JUST GONE
18 THROUGH. IS THAT CORRECT?

19 A. UH HUH.

20 Q. ALTHOUGH THEY APPEARED TO BE A WELL FUNCTIONED
21 FAMILY TO THE OUTSIDE WORLD, THERE WERE SOME
22 SERIOUS PROBLEMS IN THE HOUSEHOLD?

23 A. UH HUH.

24 Q. AND WE KIND OF DISSECTED THOSE AS WE'VE GONE
25 THROUGH THIS, IS THAT CORRECT?

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2950

1 A. YES.

2 Q. ANY ONE OF THESE AS AN ISOLATED INCIDENT WOULD
3 BE UNREMARKABLE; ISN'T THAT WHAT YOU SAID?

4 A. UH HUH.

5 Q. AND THE TRUTH OF THE MATTER IS IN EACH CATEGORY
6 WE'RE DEALING WITH ISOLATED INCIDENTS, AREN'T
7 WE?

8 A. BUT WHEN YOU COMBINE THEM ALTOGETHER, YOU'RE
9 GETTING A DIFFERENT PICTURE.

10 Q. SO, IN OTHER WORDS IF YOU HAVE ONE ISOLATED
11 INCIDENT IN EACH CATEGORY, THAT GIVES YOU A
12 DIFFERENT PICTURE?

13 A. YES, IT DOES.

14 Q. HIS INABILITY TO FORM SOCIAL RELATIONSHIPS LEFT
15 HIM ISOLATED, THEREBY COMPOUNDING THE PROBLEM.

16 A. UH HUH.

17 Q. IS THAT CORRECT?

18 A. YES.

19 Q. ARE YOU AWARE HE HAD A BEST FRIEND DURING THIS
20 TIME, CLAY?

21 A. YES, I KNOW THAT HE DID HAVE FRIENDS, BUT THEY -
22 - WELL, YES, I KNOW THAT HE DID HAVE FRIENDS.

23 Q. SO, HE DID FORM SOCIAL RELATIONSHIPS, DIDN'T HE?

24 A. YES.

25 Q. YOU SAID THIS LACK OF ATTACHMENT IS ALMOST AN

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2951

1 IRONIC DISORDER ---

2 A. UH HUH.

3 Q. --- IN THAT YOU CAN FEEL YOUR PAIN BUT CANNOT
4 FEEL THE PAIN OF OTHERS?

5 A. YES; THAT'S WHERE THE LACK OF EMPATHY COMES IN.

6 Q. SO, YOU'RE SAYING THAT JIM LACKS EMPATHY? HE
7 CAN FEEL HIS OWN PAIN, BUT HE CAN'T FEEL THE
8 PAIN OF OTHERS?

9 A. WHAT I'M SAYING IS THAT WHEN YOU HAVE PROBLEMS
10 WITH ATTACHMENT, LACK OF EMPATHY IS USUALLY A
11 PROBLEM, YES.

12 Q. OKAY. AND SO YOU ARE SAYING THAT'S WHAT YOU SEE
13 IN HIM?

14 A. SOMEWHAT.

15 Q. I'M SORRY?

16 A. YES, SOMEWHAT.

17 Q. SOMEWHAT?

18 A. YES.

19 Q. OKAY. NOW "ATTEMPT TO DEAL WITH THE PAIN OF
20 VIRTUAL EMOTIONAL ABANDONMENT", THAT WAS
21 EXPLAINED WITH THE EMPATHY THING, RIGHT?

22 A. YES.

23 Q. "HE SOUGHT SOLACE IN SUBSTANCE ABUSE WHICH ONLY
24 INTENSIFIED HIS IMPULSIVITY"?

25 A. UH HUH.

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2952

1 Q. OKAY. "THUS, JIMMY SOUGHT VIOLENCE AS HIS ONLY
2 AVAILABLE ALTERNATIVE".

3 SO, I WANT TO UNDERSTAND, MA'AM, BASED ON YOUR
4 REVIEW OF ALL THIS DATA, BASED ON THESE
5 DIFFERENT ASPECTS WE WENT THROUGH, BASED ON THAT
6 AND YOUR EVALUATION OF HIM, YOU TALKING TO HIM,
7 YOU'RE SAYING VIOLENCE IS HIS ONLY ALTERNATIVE?

8 A. NO. I'M SAYING THAT AT THAT TIME, GIVEN THAT
9 COMBINATION OF FACTORS, HE MIGHT HAVE FELT THAT
10 IT WAS. I'M NOT SAYING THAT IT WAS.

11 Q. OKAY, AND AGAIN I DON'T WANT TO PUT WORDS IN
12 YOUR MOUTH, BUT HE MIGHT HAVE FELT -- THE TRUTH
13 OF THE MATTER IS, THERE IS NO INDICATION OF
14 THAT. YOU'RE JUST SAYING THAT BASED ON THOSE
15 FACTS, HE MIGHT HAVE FELT THAT WAY. IS THAT
16 CORRECT?

17 A. (THE WITNESS NODDED IN THE AFFIRMATIVE.)

18 Q. SO, THE TRUTH OF THE MATTER ---

19 THE COURT: I DIDN'T HEAR THE ANSWER.

20 MR. POPE: SHE JUST NODDED HER HEAD.

21 THE COURT: YOU NEED TO ANSWER WITH WORDS.

22 A. OKAY.

23 Q. SO, THE TRUTH OF THE MATTER IS THAT THAT VERY
24 NIGHT ON THE 25TH, VIOLENCE MAY NOT HAVE BEEN
25 HIS ONLY ALTERNATIVE. IS THAT CORRECT?

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2953

1 A. YES.

2 Q. MA'AM, I'M GOING TO SHIFT GEARS RIGHT HERE.

3 HAVE YOU GOT A COPY OF YOUR NOTES?

4 A. WHICH NOTES?

5 Q. THE NOTES THAT YOU TOOK, THE UNDERLYING DATA FOR

6 ALL THE THINGS YOU REVIEWED IN THIS CASE.

7 A. NOT WITH ME HERE NOW.

8 Q. DO YOU HAVE THEM PHYSICALLY HERE IN THE
9 COURTROOM?

10 A. NO, NOT IN THE COURTROOM, BUT THEY'RE IN THE
11 LIBRARY.

12 Q. YOUR HONOR, I WANT TO PURSUE THROUGH THE NOTES.

13 I WOULD LIKE TO GIVE HER A BRIEF OPPORTUNITY TO
14 RETRIEVE HER NOTES PLEASE, SIR.

15 THE COURT: ALL RIGHT. WE'LL TAKE A SHORT BREAK.

16 I'LL LET YOU GO TO THE JURY ROOM WHILE WE GET THE NOTES AND
17 GIVE THE SOLICITOR TIME TO LOOK AT THEM.

18 MR. POPE: YOUR HONOR, IT WON'T BE LONG. I'VE
19 GOT THE NOTES, I JUST WANTED HER TO BE ABLE TO HAVE A COPY
20 OF THEM.

21 THE COURT: WELL, WE'LL TAKE A BREAK ANYWAY.

22 AFTER THE BREAK IN CAMERA:

23 THE COURT: MR. ROBERTSON AND COUNSEL ARE
24 PRESENT. BRING IN THE JURY.

25 IN THE PRESENCE OF THE JURY:

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2954

1 THE COURT: YOU MAY CONTINUE.

2 Q. MS. CASCIO, HAVE YOU HAD AN OPPORTUNITY TO
3 RETRIEVE YOUR NOTES?

4 A. YES.

5 Q. AND I BELIEVE YOU PROVIDED ME WITH A COPY OF
6 THESE YESTERDAY?

7 A. YES.

8 Q. I'M GOING TO ASK YOU A COUPLE OF THINGS ABOUT
9 YOUR NOTES. SOMETIMES YOU HAVE THINGS IN QUOTES
10 AND, OF COURSE, I KNOW YOU HAD INTERVIEWS WITH
11 JIMMY BUT THEN YOU HAD INTERVIEWS WITH OTHER
12 PEOPLE, TOO; IS THAT CORRECT?

13 A. YES.

14 Q. WHEN IT IS IN QUOTES DOES THAT MEAN THAT WHOEVER
15 YOU'RE TALKING TO SAID IT OR IS THAT FOR
16 INFERENCES?

17 A. THOSE ARE DIRECT QUOTES.

18 Q. OKAY. I WANT TO CALL YOUR ATTENTION BEGINNING
19 WITH YOUR INTERVIEW, I THINK THIS PROBABLY WOULD
20 END UP BEING ON YOUR YELLOW SHEETS BUT THIS IS
21 THE INTERVIEWS WITH THE DEFENDANT. IT SAYS 11-
22 30, I GUESS NOVEMBER 30TH?

23 A. YES.

24 Q. I JUST WANT TO CUT THROUGH A COUPLE OF THINGS
25 THAT HE HAD RELATED. YOU TOOK THESE NOTES AS

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2955

1 PART OF ASSISTING YOU IN MAKING YOUR
2 PRESENTATION, IN MAKING THE DETERMINATION -- I
3 MEAN YOU DID LOTS OF THINGS. YOU TALKED TO
4 PEOPLE, YOU TOOK NOTES, TOOK INTERVIEWS, BUT YOU
5 ALSO INTERVIEWED DOCUMENTS.

6 A. YES.

7 Q. BUT THIS WAS AN INTEGRAL PART, JUST AS THESE
8 DOCUMENTS OR AS THE DIAGRAMS THAT YOU USED
9 TODAY. IS THAT CORRECT?

10 A. (THE WITNESS NODDED IN THE AFFIRMATIVE.)

11 Q. I'M SORRY, MA'AM, BUT YOU'VE GOT TO ANSWER OUT.

12 A. YES. SORRY; YES.

13 Q. OKAY, JUST GOING THROUGH THIS 11-30 INTERVIEW,
14 THAT WAS AN INTERVIEW WITH THE DEFENDANT?

15 A. YES.

16 Q. YOU HAD IN QUOTES THAT HE WAS A PRETTY SMART
17 GUY. WERE YOU SAYING THAT OR WAS HE SAYING
18 THAT?

19 A. I ASKED HIM TO DESCRIBE HIMSELF.

20 Q. OKAY. HE SAID HE WAS A PRETTY SMART GUY? OKAY.
21 HE SAID HE DIDN'T LIKE COLLEGE?

22 A. UH HUH.

23 Q. THAT IT WAS FORCED DOWN HIS THROAT?

24 A. YES.

25 Q. AND THAT HE REBELLED AGAINST IT?

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2956

1 A. YES.

2 Q. CALLING YOUR ATTENTION ON DOWN THE PAGE, AND
3 YOU'RE JUST GETTING KIND OF SOME GENERAL
4 BACKGROUND INFORMATION ABOUT HIM, ABOUT HIS
5 EDUCATION AND THINGS OF THAT NATURE; IS THAT
6 RIGHT?

7 A. YES.

8 Q. IN COLLEGE -- HE SAID "HE PUT THE WORK ETHIC IN
9 ME, WANTED TO TAKE IT OUT OF ME BY SENDING ME TO
10 COLLEGE". IS HE TALKING ABOUT HIS DADDY?

11 A. YES.

12 Q. OKAY. SO, EARL PUT A WORK ETHIC IN HIM BUT THEN
13 WANTED TO TAKE IT OUT OF HIM BY SENDING HIM TO
14 COLLEGE?

15 A. BECAUSE THAT WASN'T WHAT JIMMY WANTED TO DO.

16 Q. OKAY. JIMMY WAS PRETTY INCLINED TO DO WHAT
17 JIMMY WANTED TO DO WAS HE NOT?

18 A. JIMMY, JUST LIKE EVERYBODY, HAS IDEAS ABOUT WHAT
19 HE WANTS TO DO WITH HIS LIFE.

20 Q. THIS IS THE GUY THAT CAN FEEL HIS OWN PAIN, BUT
21 CAN'T FEEL THE PAIN OF OTHERS; IS THAT CORRECT?

22 A. THIS IS JIMMY.

23 Q. AND SO HE SAID THEIR IDEAL VIEW -- IS THAT HIS
24 PARENTS' IDEAL VIEW WAS COLLEGE FROM 18 TO 22
25 AND THEN MARRIAGE AND KIDS AT 25?

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2957

- 1 A. YES.
- 2 Q. SO, THAT'S WHAT HE WAS RELATING TO YOU, THAT HIS
- 3 PARENTS' ASPIRATIONS AND DREAMS FOR HE AND CHIP
- 4 WERE THE KIND OF STANDARD AMERICAN PIE THING OF
- 5 GO TO COLLEGE, HAVE SOME KIDS, THEY'D HAVE
- 6 GRANDKIDS, THAT TYPE THING; IS THAT RIGHT?
- 7 A. YES.
- 8 Q. OKAY. HE SAID BY THE TIME THEY REALIZED HE
- 9 WOULDN'T DO GREAT THINGS, THE GREAT THINGS THEY
- 10 WANTED HIM TO -- LET ME BE SURE I'M SAYING THIS
- 11 RIGHT. BY THE TIME THEY REALIZED HE WOULDN'T DO
- 12 THE GREAT THINGS THEY WANTED HIM TO, IT WAS TOO
- 13 LATE. IS THAT RIGHT?
- 14 A. UH HUH.
- 15 Q. AND, AGAIN, THAT'S HIM TELLING YOU THIS?
- 16 A. YES.
- 17 Q. OKAY. NOW I'M HAVING A LITTLE TROUBLE READING
- 18 THIS. DOWN AT THE BOTTOM OF THE PAGE?
- 19 A. UH HUH.
- 20 Q. DOES THAT SAY THAT HE FAILED OUT ON PURPOSE TO
- 21 PROVE A POINT?
- 22 A. YES, IT DOES.
- 23 Q. IS THAT TALKING ABOUT COLLEGE?
- 24 A. YES.
- 25 Q. OKAY. SO, HE FAILED OUT OF COLLEGE TO PROVE A

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2958

1 POINT. TO PROVE A POINT TO WHO?

2 A. HIS PARENTS.

3 Q. IS THAT THE SAME PARENTS THAT WERE PAYING FOR
4 HIS COLLEGE EDUCATION?

5 A. YES. I THINK THIS WHOLE CONVERSATION REFLECTS
6 THAT JIMMY WAS NOT BEING ABLE TO DO WHAT HE
7 WANTED TO DO, OR FELT WAS RIGHT FOR HIS LIFE.

8 Q. AND OF COURSE AT THAT POINT OLD JIM WAS HOW OLD
9 NOW? 23, 24, SOMETHING LIKE THAT?

10 A. AT WHAT TIME, WHEN I INTERVIEWED HIM?

11 Q. NO, MA'AM.

12 A. OR WHEN HE WAS IN COLLEGE?

13 Q. YES, MA'AM, NOT BEING ABLE TO DO WHAT HE WANTED
14 WITH HIS LIFE. WHAT AGE IS HE THEN THAT YOU'RE
15 TALKING ABOUT?

16 A. THIS WAS COLLEGE YEARS, SO THAT WOULD BE 18 TO
17 22 I IMAGINE.

18 Q. OKAY. BUT HE'S STILL OLD ENOUGH, OBVIOUSLY --
19 WE'VE KIND OF GONE THROUGH THAT; HE'S OLD ENOUGH
20 TO BE OUT ON HIS OWN IF HE CHOSE TO; IS THAT
21 RIGHT? MAKE HIS OWN WAY IN THE WORLD?

22 A. HE'S OLD ENOUGH TO GET A JOB, YES.

23 Q. BUY A HOUSE, GO TO WORK, VOTE, ALL OF THOSE
24 THINGS, RIGHT?

25 A. HE'S 18.

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2959

1 Q. YES, MA'AM. AND GOING TO THE TOP OF THE SECOND
2 PAGE, I BELIEVE IT SAYS JIMMY WAS NOT ABLE TO --
3 HE'S TALKING ABOUT EARL NOW, I ASSUME. HE SAYS
4 "WHAT HURT MOST WAS HIS IMAGE".

5 A. YES.

6 Q. TALKING ABOUT JIMMY PURPOSELY FLUNKING OUT OF
7 SCHOOL, WHAT JIMMY RELATED TO YOU WAS THAT WHAT
8 THAT REALLY HURT WAS EARL'S IMAGE, RIGHT?

9 A. WHAT HE WAS SAYING HERE WAS THAT THAT WAS WHAT
10 HIS FATHER WAS MOST UPSET ABOUT.

11 Q. OKAY. IS THAT HE COULDN'T BRAG?

12 A. YES.

13 Q. IN OTHER WORDS, EARL COULDN'T BRAG THAT HE WAS
14 PROUD OF HIS SON; IS THAT CORRECT?

15 A. AND THAT'S WHAT EARL -- THAT'S WHAT JIMMY FELT
16 EARL'S MAIN CONCERN WAS.

17 Q. OKAY. AND COMING ON DOWN YOU START TALKING
18 ABOUT HIS MOM AND HE SAID THAT HIS MOM, "SHE
19 ALWAYS TRIED TO LOOK OUT FOR ME"; IS THAT RIGHT?

20 A. UH HUH.

21 Q. HE SAID "MOST OF THE TIME SHE WAS A PEACEMAKER"?

22 A. YES.

23 Q. AND, AGAIN I APOLOGIZE, BUT "SHE USED TO
24 SUBSIDIZE MY INCOME STRAIGHT OUT OF HER POCKET"?

25 A. YES.

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2960

1 Q. SHE GAVE HIM A HUNDRED DOLLARS JUST FOR CLEANING
2 THE KITCHEN FLOOR?

3 A. YES.

4 Q. IT GOES BACK REFERRING TO DAD AND SAYS "NEITHER
5 ONE WOULD LET ME FAIL IN THE REAL WORLD"?

6 A. I THINK THAT SAYS FALL.

7 Q. OH, I'M SORRY, MA'AM.

8 A. BUT THE SAME THING.

9 Q. SO, HIS PARENTS TOOK CARE OF HIM EVEN OUT IN THE
10 REAL WORLD; IS THAT RIGHT?

11 A. I'M SORRY?

12 Q. HIS PARENTS TOOK CARE OF HIM EVEN OUT IN THE
13 REAL WORLD?

14 A. YES, HIS PARENTS DID PAY FOR HIM FINANCIALLY.

15 Q. OF COURSE, HE'S NOT JUST SAYING FINANCIALLY
16 THERE, HE'S TALKING ABOUT TAKING CARE OF HIM;
17 RIGHT?

18 A. WELL, I THINK IT WAS REFERRING TO THE PREVIOUS
19 STATEMENT WHICH WAS TALKING ABOUT THE MONEY.

20 Q. I GOT YOU; THANK YOU. AND THEN RIGHT AFTER THAT
21 HE SAID "DAD WAS ALWAYS THERE TO SAVE ME
22 FINANCIALLY".

23 A. YES.

24 Q. OKAY. AND THEN I THINK ---

25 A. AND THEN HE SAYS "LOVE WAS FINANCIAL IN TERMS TO

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2961

1 HIM".

2 Q. HIS FATHER?

3 A. YES.

4 Q. IN OTHER WORDS HIS FATHER FELT BY PROVIDING FOR
5 HIM, GIVING HIM MONEY, THAT WAS A WAY OF SHOWING
6 HIM LOVE; IS THAT CORRECT?

7 A. INSTEAD OF OTHER WAYS, YES.

8 Q. NOW, DID HE SAY INSTEAD OF OTHER WAYS OR ARE YOU
9 ASSUMING THAT?

10 A. THAT WAS PART OF THE CONVERSATION, YES.

11 Q. DID YOU TAKE NOTES THAT SAID THAT?

12 A. NO, I DID NOT WRITE THAT DOWN.

13 THE COURT: YOU'VE GOT TO KEEP YOUR VOICE UP.

14 A. I'M SORRY.

15 Q. OKAY. AT THE BOTTOM OF THE PAGE IT TALKS ABOUT
16 CHIP?

17 A. UH HUH.

18 Q. IT GOES OVER AND TALKS ABOUT CHIP. AND THEN HE
19 STARTS TALKING ABOUT MID-PAGE DIFFERENT THINGS
20 ABOUT DRUGS. HE SAYS "WE WERE LIKE HEROIN TO
21 MOM AND DAD"?

22 A. YES.

23 Q. THE SECOND SENTENCE, "THEY WERE SO CLUELESS"?

24 A. YES.

25 Q. WHAT WAS THAT CONVERSATION ABOUT?

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2962

1 A. HE WAS SAYING THAT HE FELT THAT THINGS WERE KIND
2 OF RELATIVELY NORMAL, EXPERIMENTATION WITH DRUGS
3 FOR AN ADOLESCENT WERE SEEN BY HIS PARENTS -- HE
4 FELT THAT HIS PARENTS OVER-REACTED.

5 Q. HIS PARENTS OVER-REACTED WHEN THEY FOUND OUT HE
6 WAS USING DRUGS, BASICALLY? I DON'T WANT TO PUT
7 WORDS IN YOUR MOUTH; IS THAT WHAT YOU'RE SAYING
8 OR THAT'S WHAT AT LEAST HE WAS SAYING?

9 A. I THINK WHAT HE WAS SAYING WAS THAT MOST
10 ADOLESCENTS DO AT SOME POINT TRY DRUGS AND WHEN
11 HIS PARENTS FOUND OUT, THEY OVER-REACTED.

12 Q. BECAUSE THEY WERE SO CLUELESS. THAT WAS HIS
13 WORD?

14 A. THOSE WERE HIS WORDS, YES.

15 Q. NOW, AGAIN, I MAY NOT HAVE BEEN FAIR TO YOU ON
16 THIS. THE ACTUAL TIME YOU TALKED TO HIM -- I
17 REALIZE YOU'RE KIND OF GETTING A HISTORY FROM
18 HIM, IS THAT RIGHT?

19 A. YES.

20 Q. AND YOU'RE TALKING ABOUT COLLEGE ---

21 A. WE WERE TALKING ABOUT HIS WHOLE LIFE.

22 Q. OKAY. THIS SAYS 11-30, IT DOESN'T HAVE A YEAR
23 AND HIS HONOR CALLS IT TO MY ATTENTION WHEN I
24 DON'T MENTION YEARS. NOVEMBER 30TH, WHEN WAS
25 THIS NOVEMBER 30TH ---

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2963

- 1 A. 1998.
- 2 Q. SO, BACK LAST NOVEMBER?
- 3 A. YES, YES.
- 4 Q. OKAY. AND HE SAID -- HE MENTIONED THE CHURCH
- 5 WOULD HELP HIM, BUT HE DOESN'T WANT HELP FROM
- 6 THEM. IS THAT CORRECT?
- 7 A. I DON'T KNOW WHERE YOU ARE.
- 8 Q. I'M SORRY, MA'AM, I'VE JUMPED. BACK WHERE WE
- 9 WERE TALKING ABOUT HIS PARENTS BEING SO
- 10 CLUELESS? IT'S RIGHT DOWN BELOW THERE AT THE
- 11 BOTTOM OF THAT LITTLE PARAGRAPH ABOUT THE CENTER
- 12 OF THE PAGE?
- 13 A. YES.
- 14 Q. OKAY. AND THEN THAT'S CORRECT THAT HE SAID HE
- 15 DIDN'T WANT ANY HELP FROM THEM?
- 16 A. THAT'S WHAT IT SAYS.
- 17 Q. SO, THERE WERE PEOPLE AVAILABLE TO HELP HIM, BUT
- 18 HE DIDN'T WANT THEIR HELP; IS THAT RIGHT?
- 19 A. THAT'S WHAT IT SAYS.
- 20 THE COURT: KEEP YOUR VOICE LEVEL UP; YOU KEEP
- 21 TRAILING OFF.
- 22 A. I'M SORRY. MAY I MOVE CLOSER?
- 23 Q. YES, MA'AM. WELL, THE CHAIR WON'T ROLL, MA'AM.
- 24 A. OH, OKAY, I'LL JUST KIND OF LEAN THIS WAY.
- 25 THANK YOU.

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2964

1 Q. OKAY, MA'AM, AND WHEN YOU SAID THAT'S WHAT IT
2 SAYS, EXPLAIN TO THE JURY AGAIN, THESE ARE NOTES
3 YOU WROTE WHEN YOU INTERVIEWED THIS MAN; IS THAT
4 RIGHT?

5 A. YES.

6 Q. OKAY. AND SO YOU PRIDE YOURSELF, I WOULD THINK,
7 ON TAKING ACCURATE NOTES TO THE BEST OF YOUR
8 ABILITY DO YOU NOT?

9 A. YES.

10 Q. AND PART OF WHAT YOU BASE THIS WHOLE SITUATION
11 ON WAS THOSE NOTES, TOO; IS THAT CORRECT?

12 A. YES.

13 Q. OKAY, THANK YOU. AND AFTER THAT IT STARTS
14 TALKING ABOUT HE HAD JUST GOTTEN OUT OF JAIL. I
15 ASSUME THIS IS WHEN HE GOT OUT IN '97, IS THAT
16 RIGHT?

17 A. UH HUH.

18 Q. OKAY. AND HE COULD SMOKE A LITTLE WEED AND
19 DRINKING -- IS THAT WHAT THAT'S SAYING? THAT
20 AFTER HE GOT OUT OF JAIL, AFTER HE HAD THE
21 TREATMENT IN JAIL AND EVERYTHING, HE GETS OUT
22 AND HE'S SMOKING A LITTLE WEED, HE SAID
23 CELEBRATED FOR HIS BIRTHDAY?

24 A. YES.

25 Q. OKAY. SO, HE GETS OUT OF JAIL AND HE'S ON

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2965

1 PAROLE AND HE SMOKES A LITTLE WEED TO CELEBRATE
2 HIS BIRTHDAY AND DRINKS; IS THAT CORRECT?

3 A. YES.

4 Q. BUT HE DOES SAY "I LEFT CRACK AND ACID BEHIND
5 ME". IS THAT RIGHT? DOES THAT MEAN HE QUIT
6 CRACK AND ACID?

7 A. YES.

8 Q. OKAY. AND IT'S IN QUOTES, IT SAYS "THAT WAS A
9 DREAM COME TRUE FOR MOM AND DAD"?

10 A. YES.

11 Q. AND WHAT WAS HE SAYING, THAT THEY WERE GLAD THAT
12 HE QUIT THOSE THINGS?

13 A. YES.

14 Q. AND THAT MADE THEM HAPPY?

15 A. YES.

16 Q. AND THAT ULTIMATELY HE WAS CONTENT WITH -- ETLH,
17 THAT'S ALCOHOL?

18 A. YES, IT IS.

19 Q. HE WAS CONTENT WITH ALCOHOL AND A LITTLE WEED?

20 A. YES.

21 Q. SO, THAT'S WHERE JIMMY'S AT NOW IN 1997, HE GETS
22 OUT OF JAIL, HE'S CONTENT WITH ALCOHOL AND A
23 LITTLE WEED, HIS PARENTS ARE HAPPY HE'S NOT
24 DOING CRACK AND DRUGS ANYMORE; IS THAT RIGHT?

25 A. YES.

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2966

1 Q. OKAY AND THE NEXT PAGE IS JUST REALLY HIM GIVING
2 YOU A HISTORY ABOUT LEARNING TO DRINK IN EUROPE
3 AND HE CAME BACK FROM COLLEGE AND HE WAS ARGUING
4 WITH HIS PARENTS ABOUT HIS DRINKING; IS THAT
5 CORRECT?

6 A. YES.

7 Q. WHEN YOU SAY ARGUING ABOUT HIS DRINKING, WHAT
8 WAS IT, AGAIN HIS PARENTS NOT WANTING HIM TO DO
9 IT AND HIM WANTING TO DO IT? IS THAT THE
10 SITUATION?

11 A. YES.

12 Q. OKAY. AND IT SAYS HIS BUDDIES WERE NOT THE
13 PARTYING TYPE THAT WENT TO PRIVATE COLLEGES, SO
14 THEY ENDED UP GOING THEIR SEPARATE WAYS; IS THAT
15 RIGHT?

16 A. THAT'S HIGH SCHOOL BUDDIES, YES.

17 Q. LIKE ALL THE BUDDIES THAT HE GREW UP WITH IN
18 HIGH SCHOOL, HE CAME BACK AND WANTED TO PARTY
19 AND THEY HAD GONE ON TO OTHER THINGS; IS THAT
20 RIGHT?

21 A. YES.

22 Q. OKAY. HE SAID, "IF I COULD HAVE LEFT ROCK HILL,
23 I WOULD COME OUT A WHOLE LOT BETTER, BUT I WAS
24 NEVER FINANCIALLY SECURE ENOUGH". IS THAT
25 CORRECT?

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2967

1 A. YES.

2 Q. WHAT KEPT HIM FROM LEAVING ROCK HILL?

3 A. IT SAYS THAT HE WAS NEVER FINANCIALLY SECURE
4 ENOUGH.

5 Q. SO, HE DIDN'T HAVE THE MONEY TO DO WHAT HE
6 WANTED TO DO BASICALLY; IS THAT RIGHT?

7 A. I ALSO THINK THAT EMOTIONALLY JIMMY WAS NOT
8 CAPABLE OF SEPARATING FROM HIS PARENTS AT THAT
9 TIME.

10 Q. IS THAT BASED ON SOMETHING HE TOLD YOU?

11 A. MY OVERALL IMPRESSION OF JIMMY IS THAT HE IS
12 RATHER IMMATURE DEVELOPMENTALLY, EMOTIONALLY.
13 AND ALSO AS I MENTIONED BEFORE, DEPENDENCY IS
14 ALSO OFTEN ASSOCIATED WITH SOME KINDS OF ABUSE.

15 Q. OKAY. BECAUSE HE NEEDS HIS PARENTS, THAT MAY BE
16 AN INDICATION HE'S BEEN ABUSED?

17 A. NO. I'M SAYING THAT PEOPLE WHO ARE EMOTIONALLY
18 ABUSED OFTEN HAVE DIFFICULTY MAKING DECISIONS
19 AND THEY BECOME EMOTIONALLY DEPENDENT.

20 Q. HE SAID -- AND I GUESS NOW WE'RE DESCRIBING THAT
21 HE EVEN TALKS ABOUT ONE TIME -- I GUESS IT'S
22 PART OF YOUR UNDERSTANDING OF THE HOUSEHOLD, HE
23 SAYS, "EVER SINCE I WAS REAL YOUNG EVERYTHING
24 WAS A BIG DEAL. IF I DIDN'T MAKE MY BED, THE
25 ROOF CAME OFF".

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2968

1 A. UH HUH.

2 Q. SO, THEY HAD PROBLEMS AT THE HOUSE WHEN HE
3 WOULDN'T OBEY HIS PARENTS ON SIMPLE THINGS LIKE
4 EVEN MAKING A BED; IS THAT CORRECT?

5 A. YES, THERE WERE PROBLEMS.

6 Q. AND THEN HE GETS TO TALKING ABOUT THE DIFFERENT
7 DISCIPLINES AND YOU'VE RELATED THE THINGS AND
8 THIS IS WHERE HE TOLD ABOUT THE STAIRS AND THE
9 BELT AND THE SCREAMING IN HIS FACE AND THINGS OF
10 THAT NATURE. IS THAT RIGHT?

11 A. YES.

12 Q. OKAY. AND HE SAID "IT MADE YOU FEEL LIKE A PURE
13 IDIOT", AND HE LAUGHED. IS THAT RIGHT?

14 A. IT WAS KIND OF A SAD LAUGH, IT WASN'T A HA HA
15 LAUGH, IT WAS ---

16 Q. BUT, MA'AM, OF COURSE WHEN YOU WROTE YOUR NOTES
17 YOU DIDN'T PUT SAD LAUGH, YOU PUT LAUGHS; IS
18 THAT CORRECT?

19 A. THEY WERE MY NOTES TO ME, AND I KNEW WHAT THAT
20 MEANT.

21 Q. SO, LAUGHS TO YOU MEANS SAD LAUGH?

22 A. IN THIS INSTANCE THAT'S WHAT I KNEW IT MEANT,
23 YES.

24 Q. ALL RIGHT, THANK YOU. AND THEN HE EXPLAINS TO
25 YOU THAT AT 20 HE STOOD UP TO HIM. I ASSUME --

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2969

- 1 IS THAT TALKING ABOUT EARL?
- 2 A. YES.
- 3 Q. HE TOLD EARL TO NEVER LAY A HAND ON HIM AGAIN.
- 4 IS THAT RIGHT?
- 5 A. YES.
- 6 Q. AND IT SAYS, GO TO JAIL FOR ASSAULT OR EMERGENCY
- 7 ROOM WITH A BROKEN JAW.
- 8 A. YES.
- 9 Q. IS HE SAYING THAT HE, JIMMY, WOULD GO TO JAIL
- 10 FOR ASSAULT OR EARL WOULD GO TO THE EMERGENCY
- 11 ROOM WITH A BROKEN JAW?
- 12 A. YES.
- 13 Q. OKAY. SO, HE STOOD UP TO HIM AT 20; RIGHT?
- 14 A. YES.
- 15 Q. OKAY. THIS IS STILL THE GUY THAT'S DEPENDENT
- 16 WITH THEM, NEEDS THEM, BUT HE'S GOING TO STAND
- 17 UP AND LAY DOWN THE LAW TO THEM; IS THAT
- 18 CORRECT?
- 19 A. JIMMY AT ONE POINT WAS ABLE TO SET SOME
- 20 BOUNDARIES, YES.
- 21 Q. OKAY. IT SAYS EARL KNEW THAT JIMMY WAS SERIOUS
- 22 SO HE NEVER LAID A HAND ON HIM AGAIN. IS THAT
- 23 RIGHT?
- 24 A. UH HUH; YES.
- 25 Q. AGAIN I'M HAVING TROUBLE AT THE BOTTOM. DOES

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2970

1 THIS SAY, AND THIS IS JIMMY TALKING, CAME CLOSE
2 TO PULLING OUT KNIVES IN THE KITCHEN AND HAVING
3 A SHOWDOWN BUT MOM STOPPED THEM?

4 A. YES.

5 Q. SO, JIMMY WAS GOING TO PULL OUT A KNIFE AND HAVE
6 A SHOWDOWN WITH DADDY?

7 A. AS I RECALL THIS MEANT BOTH OF THEM.

8 Q. SO, THEY WERE BOTH GOING TO PULL KITCHEN KNIVES
9 OUT?

10 A. YES.

11 Q. AND YOU RECALL THAT THAT'S BASED ON WHAT?
12 THAT'S BASED ON JIMMY SAYING THAT?

13 A. YES, THESE ARE ALL NOTES FROM MY CONVERSATION
14 WITH JIMMY.

15 Q. OKAY. AND NOW YOU TALK ABOUT THE LACK OF EARL
16 AND IT GOES BACK TO THE THINGS EARL CALLED HIM
17 AND TALKED ABOUT HIS RELATIONSHIP AND HE SAID
18 "EVERY ONCE IN A WHILE HE COULD MAKE YOU FEEL
19 LIKE YOU WERE SOMEBODY".

20 A. UH HUH.

21 Q. THAT'S TALKING ABOUT HIS DADDY?

22 A. YES.

23 Q. OKAY. ARE YOU AWARE OF THE INVOLVEMENT HIS
24 FATHER HAD IN HIS EAGLE SCOUT PROJECT?

25 A. I KNOW THAT JIMMY WAS AN EAGLE SCOUT, YES.

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2971

1 Q. DID YOU KNOW THAT EARL WAS AN EAGLE SCOUT?

2 A. YES, I DID.

3 Q. DID YOU KNOW HOW MUCH EARL HELPED HIM TO DO HIS
4 COMMUNITY PROJECT TO GET IT?

5 A. YES, AND I THINK HE WORKED WITH PEOPLE -- I'M
6 NOT SAYING THEY NEVER SHOWED ANY AFFECTION; I'M
7 NOT SAYING THAT EVERYTHING THEY DID WAS WRONG.

8 I'M SAYING THAT THERE WERE OTHER THINGS THAT
9 WENT ON. YOU CAN STILL HELP SOMEBODY WITH A
10 PROJECT AND STILL DO OTHER INAPPROPRIATE THINGS.

11 Q. AND THE INAPPROPRIATE THINGS WOULD HAVE BEEN
12 GOING ALL THE WAY BACK TO THE REPORT, THE ITEMS
13 THAT WE ISOLATED IN THAT REPORT?

14 A. YES.

15 Q. AND, AGAIN, IN THIS AREA IS WHEN IT SAID THE
16 MOTHER SAYING IT WOULD HAVE BEEN BETTER IF HE
17 HADN'T BEEN BORN AND THEN RIGHT THERE SHE TOOK
18 IT BACK. BUT LIKE YOU SAY, ONCE YOU SAY THAT,
19 THE DAMAGE IS DONE.

20 A. YES.

21 Q. HE EVEN SAID SHE SLAPPED HIM ONCE?

22 A. UH HUH.

23 Q. OKAY. BUT SHE CRIED AFTERWARDS, RIGHT?

24 A. UH HUH.

25 Q. NOW AGAIN IN YOUR REPORT IN MAKING THESE

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2972

1 FINDINGS YOU SAY THAT SHE SAID SHE WISHED HE
2 HADN'T BEEN BORN, BUT YOU DON'T TELL THAT SHE
3 TOOK IT BACK. YOU SAY THAT SHE SLAPPED HIM,
4 BUT YOU DON'T SAY THAT SHE CRIED AFTERWARDS.
5 SO, YOU DIDN'T SHOW THE APOLOGETIC, REMORSEFUL
6 SIDE OF TERRY IN YOUR REPORT; DID YOU?

7 A. I'M SAYING THAT THOSE ACTIONS HAD AN AFFECT ON
8 HIM, ASIDE FROM ---

9 THE COURT: HIS QUESTION WAS DID YOU PUT THOSE
10 THINGS IN YOUR REPORT.

11 A. NO, I DID NOT PUT THEM IN THE REPORT.

12 Q. AND I THINK HE WAS TALKING ABOUT HIS MOM BEING
13 BIG-HEARTED AND GENEROUS?

14 A. YES.

15 Q. THAT'S TERRY ROBERTSON HE'S TALKING ABOUT?

16 A. UH HUH.

17 Q. OKAY. YOU COME ON DOWN AND NOW YOU GET INTO
18 OTHER AREAS -- OF COURSE, YOU TOOK INTO
19 CONSIDERATION, LIKE THE DOCTOR WHO SPOKE ABOUT
20 PHARMACOLOGY AND DRUG PSYCHOSIS AND ALL OF THAT,
21 DID YOU TAKE THAT INTO CONSIDERATION, TOO?

22 A. WHAT ASPECT DO YOU MEAN?

23 A. DID YOU TAKE INTO CONSIDERATION HIS DRUG ABUSE
24 AND ALL OF THAT IN THE WHOLE EQUATION WHEN YOU
25 SAY THAT THIS WAS HIS ONLY ALTERNATIVE? I THINK

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2973

1 IN YOUR REPORT YOU SAID VIOLENCE WAS HIS ONLY
2 ALTERNATIVE. WAS THAT A FACTOR THAT YOU
3 CONSIDERED?

4 A. I SAID THAT HE SAW IT THAT WAY.

5 Q. I'M SORRY, MA'AM?

6 A. I SAID THAT I THOUGHT HE SAW IT THAT WAY, NOT
7 THAT IT WAS HIS ONLY ALTERNATIVE.

8 Q. THAT HE SAW IT THAT WAY?

9 A. YES.

10 Q. I APOLOGIZE. OKAY, IT SAYS RIGHT HERE,
11 "LEARNING A LOT FROM DRUCIE".

12 A. UH HUH.

13 Q. WHO IS DRUCIE?

14 A. DRUCIE GLASS IS AN INVESTIGATOR.

15 Q. WHAT KIND OF AN INVESTIGATOR?

16 A. SHE WORKS ON THE CASES AND DOES INTERVIEWS FOR
17 THIS CASE.

18 Q. OKAY. IS THAT THE SAME DRUCIE GLASS THAT DR.
19 PINCUS WROTE THE LETTER TO, THE REPORT?

20 A. YES, YES.

21 Q. WHERE IS IT SHE'S AT, AT THE, I'M SORRY, AT THE
22 CENTER FOR CAPITAL LITIGATION?

23 A. YES.

24 Q. THAT'S THE SAME PLACE THAT YOU WERE INVOLVED
25 WITH THAT YOU SAID YOU HAD BEEN INVOLVED WITH

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2974

1 ONE CASE BUT DIDN'T TESTIFY IN IT?

2 A. YES.

3 Q. WHAT IS THE CENTER FOR CAPITAL LITIGATION?

4 A. IT'S AN ORGANIZATION THAT WORKS WITH PEOPLE WHO
5 ARE FACING DEATH PENALTY CHARGES.

6 Q. AND HE INDICATED ON NOVEMBER, I'M SORRY, MA'AM,
7 NOVEMBER 30TH OF THIS LAST YEAR THAT HE WAS
8 LEARNING A LOT FROM DRUCIE; IS THAT CORRECT?

9 A. UH HUH, ABOUT HIS MOTHER.

10 Q. ABOUT HIS MOTHER?

11 A. YES.

12 Q. SO, HOW DO WE KNOW THAT THE THINGS HE RELATED
13 THAT YOU'RE BASING YOUR DECISION ON, WHETHER
14 THEY CAME FROM DRUCIE OR WHETHER THEY CAME FROM
15 JIM'S OWN KNOWLEDGE?

16 A. BECAUSE A LOT OF THINGS I CORROBORATED WITH
17 STATEMENTS FROM SKIP MEYER'S NOTES AND FROM
18 TERRY'S OWN NOTEBOOKS.

19 Q. I UNDERSTAND THAT, MA'AM, BUT WHEN YOU'RE SAYING
20 THAT JIM TOLD ME THIS BECAUSE JIM REMEMBERED
21 THIS AND JIM REMEMBERED THAT, HOW DO YOU KNOW
22 DRUCIE DIDN'T JUST TELL HIM THOSE THINGS IN
23 PREPARATION FOR THIS CASE?

24 A. I DON'T, BUT I DON'T BELIEVE THAT SHE DID.

25 Q. YOU'D LIKE TO BELIEVE THAT SHE DIDN'T, BUT YOU

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2975

1 DON'T KNOW IS THE TRUTH OF THE MATTER; IS THAT
2 RIGHT?

3 A. YES.

4 THE COURT: KEEP YOUR VOICE LEVEL UP.

5 A. YES, SIR.

6 Q. I'LL REFER YOU OVER TO THE NEXT PAGE AND AGAIN
7 I WANT TO UNDERSTAND THIS, IS THIS YOUR
8 ASSESSMENTS OR IS THIS WHAT HE'S TELLING YOU?

9 A. THESE ARE THINGS THAT HE'S TELLING ME.

10 Q. OKAY. HE WAS MAINLY WORKING -- WHAT TIME OF
11 LIFE IS THIS NOW, YOU SEE WHERE IT'S TALKING
12 ABOUT MAINLY WORKING, POKER MACHINES?

13 A. UH HUH.

14 Q. WHEN IS THIS IN HIS LIFE, MA'AM?

15 A. THIS IS AROUND COLLEGE AGE.

16 Q. KIND OF AROUND THE SAME TIME THAT WE'RE TALKING
17 ABOUT, THIS WHOLE SITUATION?

18 A. YES.

19 Q. '94, '95, '96, '97, AROUND IN THAT AGE?

20 A. ROUGHLY.

21 Q. HE SAID HE WAS MAINLY WORKING, POKER MACHINES.
22 WHAT DOES THAT MEAN, THAT'S WHAT HE WAS DOING,
23 WORKING AND PLAYING THE POKER MACHINES?

24 A. YES.

25 Q. HE HAD NO UNDERSTANDING OF MONEY; HE WAS NEVER

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2976

1 TAUGHT THE VALUE OF A DOLLAR?

2 A. YES.

3 Q. AND THAT COMES FROM HIM?

4 A. YES.

5 Q. HE'S SAYING HE DOESN'T UNDERSTAND MONEY?

6 A. YES.

7 Q. AGAIN, THAT'S NOT YOU SAYING THAT; YOU'RE JUST
8 SAYING THAT'S WHAT HE RELATED TO YOU?

9 A. YES.

10 Q. OKAY. HE SAID HE WOULD MAKE A THOUSAND A WEEK
11 AFTER TAXES AND SPEND FIVE THOUSAND.

12 A. YES.

13 Q. DO YOU KNOW, AS FAR AS THE EDUCATION, WASN'T HE
14 SUPPOSED TO BE REAL GOOD IN MATH?

15 A. YES.

16 Q. OKAY. AND SO YOU CAN'T MAKE ONE THOUSAND AND
17 SPEND FIVE THOUSAND CAN YOU?

18 A. NO, BUT THAT'S ALSO A VERY -- IT'S A SIGN OF
19 MANIA, DOING THINGS LIKE GAMBLING AND SPENDING
20 OVER YOUR LIMITS. THAT'S WHAT I WAS TALKING
21 ABOUT WHEN WE WERE LOOKING HERE. IF YOU LOOK AT
22 THE FIRST SENTENCE IN THAT BLOCK, IT SAYS MANIA.

23 Q. OKAY. EARLIEST MANIA, HE SAYS THAT?

24 A. UH HUH.

25 Q. HE SAYS MY EARLIEST MANIA ---

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2977

- 1 A. I ASKED HIM WHAT HIS EARLIEST RECOLLECTIONS OF
2 MANIC BEHAVIOR WERE.
- 3 Q. WHO SAYS MANIA? DO YOU SAY MANIA OR HE SAYS
4 MANIA?
- 5 A. I ASKED.
- 6 Q. SO, HE DIDN'T COME UP WITH MANIA; YOU SAID, TELL
7 ME ABOUT YOUR MANIA OR YOUR EARLIEST -- I'M
8 SORRY, YOUR EARLIEST RECOLLECTIONS OF MANIC
9 ACTIONS?
- 10 A. YES. HE WAS DIAGNOSED BIPOLAR.
- 11 Q. DID YOU EXPLAIN TO HIM WHAT MANIC ACTIONS WERE?
- 12 A. HE HAD ALREADY BEEN DIAGNOSED BIPOLAR, SO I
13 ASSUMED HE WAS FAMILIAR WITH THAT TERM.
- 14 Q. OKAY. AND AS I UNDERSTOOD AGAIN, THAT'S LIKE AN
15 INDICATOR, THE OVERSPENDING IS YET ANOTHER
16 INDICATOR OF WHAT? AGAIN I DON'T WANT TO
17 MISCONSTRUE WHAT YOU'RE SAYING.
- 18 A. WHEN PEOPLE ARE IN A MANIC EPISODE, THEY HAVE
19 BEHAVIORS THAT ARE OFTEN SELF-DESTRUCTIVE,
20 THINGS THEY WOULDN'T DO NORMALLY AND SPENDING
21 THOUSANDS OF DOLLARS IN A VERY SHORT TIME IS NOT
22 UNCOMMON. EXCESSIVE GAMBLING DURING THE MANIC
23 EPISODE, THAT'S NOT UNCOMMON. IT'S, LIKE YOU
24 SAID, A VARIETY OF BEHAVIORS, BUT THAT'S ONE
25 THAT'S COMMONLY ASSOCIATED WITH MANIC ---

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2978

1 Q. YOU WOULD AGREE WITH ME THAT IF MY WIFE PUTS
2 THOUSANDS OF DOLLARS ON THE CREDIT CARD EVERY
3 MONTH DOESN'T MEAN SHE'S MANIC AUTOMATICALLY,
4 DOES IT?

5 A. NO, BUT WE'RE NOT LOOKING AT THIS AS JUST AN
6 ISOLATED INCIDENT.

7 Q. I UNDERSTAND THAT, MA'AM, AND I'M NOT TRYING TO
8 MAKE LIGHT OF YOUR PRESENTATION BUT THE TRUTH OF
9 THE MATTER IS WE'RE TAKING A TOTALITY BUT WHEN
10 YOU LOOK AT THE TREES INSTEAD OF THE FOREST, NO
11 BRANCH HAS ANY LEAVES ON IT, DOES IT? EACH ITEM
12 WE GO TO AS WE GO THROUGH ONE AREA, THERE'S ONE
13 ISOLATED INCIDENT, AND THAT'S IT. IS THAT A
14 FAIR STATEMENT?

15 A. I DON'T BELIEVE SO, NO. IN MY PROFESSIONAL
16 OPINION IN LOOKING AT JIMMY'S CHARACTERISTICS,
17 WHAT WAS RELATED TO ME THROUGH THE DOCUMENTS I
18 READ, THE PEOPLE I TALKED TO, THESE ARE THE
19 THINGS I FOUND.

20 Q. EVEN THOUGH THERE MAY NOT BE THE EVIDENCE TO
21 BACK IT UP; WE'RE BASING IT ON PROBABLYS AND
22 MAYBES AND THINGS OF THAT NATURE; IS THAT
23 CORRECT?

24 A. I THINK THERE WERE SOME VERY DEFINITE INDICATORS
25 IN THERE.

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2979

- 1 Q. AND WE'VE BEEN THROUGH THE ISOLATED INCIDENTS?
- 2 A. YES.
- 3 Q. MA'AM, CALLING YOUR ATTENTION DURING THE TIME
- 4 PERIOD WHEN HE'S TALKING ABOUT SPENDING THE
- 5 MONEY AND GAMBLING, HE STILL WANTED TO PARTY.
- 6 HE'D RUN TABS AT BARS ---
- 7 A. UH HUH.
- 8 Q. AND IF I MISSTATE YOUR WRITING, IF YOU WOULD
- 9 CORRECT ME PLEASE, MA'AM.
- 10 A. YES.
- 11 Q. BILLS NEVER GOT PAID?
- 12 A. UH HUH.
- 13 Q. HE SAID "CREDIT ALREADY SHOT, SO WHAT'S ONE MORE
- 14 COMPANY REPORTING IT"; IS THAT RIGHT?
- 15 A. YES.
- 16 Q. AND THEN THAT LED TO STEALING HIS FATHER'S
- 17 CREDIT CARDS?
- 18 A. YES.
- 19 Q. AND THEN HE SAID "THAT WASN'T THE END OF THE
- 20 WORLD"?
- 21 A. UH HUH.
- 22 Q. WAS HE TALKING ABOUT STEALING HIS FATHER'S
- 23 CREDIT CARDS WASN'T THE END OF THE WORLD?
- 24 A. I BELIEVE SO, YES.
- 25 Q. WASN'T THE END OF THE WORLD FOR EARL OR WASN'T

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2980

1 THE END OF THE WORLD FOR JIM?

2 A. EITHER ONE AS FAR AS I KNOW.

3 Q. OKAY, BUT HE WOULD STEAL MONEY OUT OF HIS DAD'S
4 WALLET ALSO; IS THAT RIGHT?

5 A. UH HUH.

6 Q. AND THIS WAS AGAIN DURING THIS TIME FRAME?

7 A. YES.

8 Q. OKAY. AND THEN HE SAID HE TRIED TO STRAIGHTEN
9 OUT OR WOULD TRY TO STRAIGHTEN OUT -- I DON'T
10 WANT TO CHARACTERIZE THAT WRONG. IS THAT "TRY TO
11 STRAIGHTEN OUT AND PARENTS WILLING TO HELP"?

12 A. YES.

13 Q. SO, IT'S CLEAR INDICATION EVEN FROM HIM THAT HIS
14 PARENTS WERE WILLING TO HELP; IS THAT RIGHT?

15 A. IN SOME WAYS, YES.

16 Q. YOU SAID IN SOME WAYS. IS THAT WHEN YOU SAID
17 IT'S ALL FINANCIAL?

18 A. YES.

19 Q. SO IN OTHER WORDS, THEY ARE WILLING TO PUT THE
20 MONEY TO DO WHATEVER THEY CAN TO HELP HIM, BUT
21 THERE MAY BE OTHER WAYS THAT YOU DON'T FEEL LIKE
22 THEY'RE ---

23 A. YES.

24 Q. ACCORDING TO YOUR NEXT PAGE, HE SAID HE HAD JUST
25 BEGUN ---

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2981

- 1 A. EXCUSE ME; CAN I SAY SOMETHING?
- 2 Q. YES, MA'AM, I'M SORRY.
- 3 A. CAN I JUST READ THE REST OF THAT PART THAT YOU
- 4 LEFT OUT? IT DOES SAY IT WAS ALL FINANCIAL;
- 5 WHEN IT CAME TO THE IMPORTANT THINGS, THE FATHER
- 6 WAS NOT THERE FOR THAT.
- 7 Q. YES, MA'AM.
- 8 A. AND THAT'S KIND OF WHAT I WAS REFERRING TO.
- 9 Q. CERTAINLY, AND AGAIN ANY TIME WHEN WE'RE GOING
- 10 THROUGH THIS IF I LEAVE OUT SOMETHING THAT YOU
- 11 THINK HELPS EXPLAIN IT BETTER TO THE JURY, FEEL
- 12 FREE TO CALL THAT TO MY ATTENTION.
- 13 A. THANK YOU.
- 14 Q. GOING TO THE NEXT PAGE IT SAYS AND AGAIN, MA'AM,
- 15 I APOLOGIZE, SOME OF THIS I'M HAVING TROUBLE
- 16 READING IT, IT SAYS "ONCE STUPID COMES OUT OF
- 17 HIS MOUTH, I GET PRETTY BELLIGERENT". HE'S
- 18 TALKING ABOUT IF HIS DADDY SAYS YOU'RE STUPID
- 19 FOR NOT STAYING IN SCHOOL OR WHATEVER, THEN AT
- 20 THAT POINT HE GETS BELLIGERENT.
- 21 A. YES.
- 22 Q. HE BEING JIM; IS THAT RIGHT?
- 23 A. YES.
- 24 Q. OKAY. AND IT SAYS HE HAD JUST BEGUN AT 24 TO
- 25 PAY HIS OWN BILLS?

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2982

1 A. YES, JUST LIKE TERRY'S PARENTS COVERED HER BILLS
2 WHEN SHE WAS IN COLLEGE, TOO.

3 Q. BUT JIM, OF COURSE, WASN'T IN COLLEGE THEN; IS
4 THAT RIGHT?

5 A. NO, BUT HE WAS STILL ROUGHLY AT THAT AGE.

6 Q. SO, HE WAS AT THAT AGE AND KIND OF FLOUNDERING
7 AROUND; IS THAT RIGHT?

8 A. HE WAS WORKING.

9 Q. DID YOU CHECK TO SEE HOW MANY JOBS HE HAD DURING
10 THAT TIME PERIOD?

11 A. HE HAD A FEW DIFFERENT ONES, YES; I CAN'T GIVE
12 YOU A SPECIFIC NUMBER.

13 Q. ABOUT 10 MAYBE, DOES THAT SOUND RIGHT?

14 A. BUT HE WORKED SOME OF THOSE CONCURRENTLY.

15 Q. HE KEPT THEM FOR SHORT PERIODS OF TIME AND HE'D
16 LEAVE FOR ONE REASON OR ANOTHER OR FAIL A DRUG
17 TEST AND THEN HE'D GO ON TO THE NEXT ONE? DID
18 YOU REVIEW THAT IN THIS MATERIAL?

19 A. I DON'T THINK -- I ONLY SAW JIMMY'S EMPLOYMENT
20 INFORMATION FROM THE BAGEL WORKS.

21 Q. JUST ONE PLACE?

22 A. YES.

23 Q. BUT YOU AGREE, IF YOU'RE GIVING AN OVERALL
24 ASSESSMENT FOR THIS JURY, THAT WOULD BE A GOOD
25 THING TO SEE, TOO, HIS OVERALL WORK RECORD AND

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2983

1 HOW IT COMPARED. YOU KNOW, WHEN WE'RE TALKING
2 ABOUT THESE INDIVIDUAL FACTORS THAT GIVE A TOTAL
3 PICTURE, THAT WOULD BE SOMETHING YOU WOULD WANT
4 TO CONSIDER WOULDN'T IT?

5 A. IT WOULD BE HELPFUL.

6 Q. NEXT I THINK IT RELATES, YOU'RE TALKING ABOUT
7 THE BALCONY INCIDENT AND IT SAYS SUPPOSED TO
8 DELEGATE WORK, NOT TO DO IT. IS THAT A SCOUT
9 TRIP? IS THAT ON THE SAME THING, ON A CAMPING
10 TRIP OR AM I RUNNING THOSE TOGETHER?

11 A. YES, I BELIEVE IT WAS RELATED TO THE CAMPING
12 TRIP.

13 Q. WHAT DOES IT MEAN, SUPPOSED TO DELEGATE WORK AND
14 NOT TO DO IT?

15 A. I HONESTLY CAN'T RECALL.

16 Q. YOU CAN'T REMEMBER?

17 A. NO.

18 Q. BUT HE SAID HE GOT IN AN ARGUMENT -- SAID JIM
19 GOT INTO AN ARGUMENT WITH SOMEBODY AND HIS
20 FATHER JUMPED IN THE MIDDLE OF IT ---

21 A. NO, HE AND HIS FATHER STARTED ARGUING OR HE
22 STARTED GETTING UPSET, HIS FATHER JUMPED IN AND
23 THAT'S THE INCIDENT WHERE HE BENT HIM OVER THE
24 BALCONY.

25 Q. OH, OKAY. SAID HALF HIS BODY WAS BENT BACKWARDS

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2984

1 OVER THE BALCONY OVER A TENT GETTING CLEANED
2 OUT; IS THAT RIGHT.

3 A. YES.

4 Q. OKAY. READ THAT, YOU'VE GOT, AND AGAIN IF YOU
5 WOULD FOLLOW ALONG WITH ME.

6 A. UH HUH.

7 Q. --- GOT INTO AN ARGUMENT, COMMA, OR GOT INTO
8 ARGUMENT, COMMA.

9 A. UH HUH.

10 Q. --- FATHER JUMPED IN, COMMA, GOT HUNG OVER
11 BALCONY.

12 A. YES.

13 Q. SO, HE WAS ARGUING WITH SOMEBODY ELSE BEFORE HIS
14 FATHER JUMPS IN ---

15 A. NO, HE WAS ARGUING WITH HIS FATHER. I MAY NOT
16 HAVE WRITTEN THIS CLEARLY BUT THAT WAS
17 DEFINITELY THE INCIDENT HE WAS DESCRIBING.

18 Q. I MEAN HIS FATHER CAN'T JUMP INTO THE ARGUMENT
19 HE'S ALREADY IN; YOU'D AGREE WITH ME ON THAT,
20 RIGHT?

21 A. I MIGHT HAVE PUT IN THE WRONG WORD; I MIGHT HAVE
22 MISSED PART OF THE SENTENCE, BUT IN THAT
23 INCIDENT HE WAS ARGUING WITH HIS FATHER. HIS
24 FATHER DID PUSH HIM -- HOLD HIM OVER THE
25 BALCONY.

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2985

1 Q. I UNDERSTAND THE END RESULT.

2 A. YES.

3 Q. SO, YOU DON'T KNOW WHAT PRECIPITATED THE
4 ARGUMENT; IS THAT WHAT YOU'RE SAYING?

5 A. THAT WAS THE ARGUMENT THAT WAS RELATED TO THE
6 CAMPING TRIP AND THE TENT GETTING OR NOT GETTING
7 CLEANED OUT. THEY WERE ALL RELATED.

8 Q. SO THE FATHER JUMPING IN HERE IS REALLY NOT
9 CORRECT?

10 A. I DON'T RECALL WHAT THAT WAS, WHAT THOSE THREE
11 WORDS WERE, BUT THAT WAS RELATED TO THAT
12 PARTICULAR INCIDENT THAT I DESCRIBED.

13 Q. I MEAN YOU REMEMBER THAT PART.

14 A. YES, I DO REMEMBER THAT PART.

15 Q. OKAY. RIGHT AFTER THAT HE SAYS, "HE USED TO
16 PROVOKE IT".

17 A. UH HUH.

18 Q. "USED TO SAY WHAT'S GOING TO HAPPEN WHEN I ROB A
19 BANK".

20 A. UH HUH.

21 Q. WHAT WAS THAT ALL ABOUT?

22 A. ARGUMENTS WITH HIS FATHER.

23 Q. SO, WHAT HE'S SAYING, WHAT YOU'VE GOT THERE IS
24 HE USED TO PROVOKE ARGUMENTS WITH HIS FATHER AND
25 THEN SAY WHAT'S GOING TO HAPPEN WHEN I ROB A

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2986

1 BANK. IS THAT CORRECT?

2 A. MAYBE IN ONE INSTANCE.

3 Q. IN ONE INSTANCE?

4 A. I DON'T RECALL ANY PARTICULARS, SPECIFICS THAT
5 HE GAVE ME ABOUT PROVOKING ARGUMENTS.

6 Q. AND SO HAVING THIS HERE ISOLATED BY ITSELF, IT
7 WOULDN'T BE FAIR FOR ME TO SAY JIMMY ALWAYS
8 PROVOKED ARGUMENTS ---

9 A. NO.

10 Q. --- BASED ON ONE INCIDENT. IS THAT CORRECT?

11 A. POSSIBLY.

12 Q. JUST LIKE IT WOULDN'T BE FAIR TO SAY THAT EARL
13 BEAT THE KIDS BASED ON ONE INCIDENT, WOULD IT?

14 A. THERE WERE OTHER INDICATORS THAT LED ME TO THAT
15 CONCLUSION, NOT ONLY JIMMY'S REPORT.

16 Q. OKAY, MA'AM, THE TRUTH OF THE MATTER IS THERE
17 WERE OTHER INDICATORS THAT JIMMY AND CHIP BOTH
18 USED TO LIKE TO TAKE THE TROUBLE THEY GOT INTO
19 AND THROW IT UP IN TERRY AND EARL'S FACE, WASN'T
20 IT?

21 A. WHAT DO YOU MEAN BY THROWING IT UP IN THEIR
22 FACE?

23 A. THEY USED TO MAKE SURE THAT TERRY AND EARL KNEW
24 ABOUT THEIR PROBLEMS BECAUSE JUST LIKE YOU SAID,
25 IT WAS A SITUATION OF TRYING TO HURT TERRY AND

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2987

1 EARL MORE BY NOT MEETING THEIR EXPECTATIONS, BY
2 NOT STAYING OUT OF TROUBLE. ISN'T THAT TRUE
3 FROM WHAT YOU SAW?

4 A. I CAN'T REALLY SAY THAT HURTING TERRY AND EARL
5 WAS THE PURPOSE OF JIMMY'S BEHAVIOR. I THINK
6 JIMMY WAS SELF-DESTRUCTIVE. I MEAN HE WAS
7 HURTING HIMSELF, TOO. I DON'T THINK THAT ALL OF
8 HIS ACTIONS WERE JUST TO GET AT TERRY AND EARL,
9 THEY WERE HURTING HIMSELF.

10 Q. BUT USING YOUR LANGUAGE, IT MAY WELL BE THAT A
11 LARGE NUMBER OF THEM WERE; IS THAT CORRECT?

12 A. A LARGE NUMBER OF?

13 Q. HIS ACTIONS WERE TO GET AT TERRY AND EARL. HE
14 SAID HE LIKES TO PROVOKE THEM; IS THAT CORRECT?

15 A. HE SAID THAT HE USED TO PROVOKE IT, BUT I DON'T
16 KNOW HOW OFTEN. I DON'T KNOW HOW MANY OF HIS
17 ACTIONS WERE TO PROVOKE AND HOW MUCH WERE JUST
18 SIMPLY SELF-DESTRUCTIVE.

19 Q. I UNDERSTAND, WE'LL MOVE ON. YOU'RE TALKING
20 ABOUT SCHOOL. "HE WAS THE TYPE GUY THAT NEVER
21 HAD TO STUDY, DID WELL WITHOUT OPENING BOOKS".

22 A. YES.

23 Q. "EDUCATION WAS HIS THING". IN THAT CONTEXT,
24 THAT'S DOWN AT THE VERY BOTTOM OF YOUR PAGE, IS
25 THAT TALKING ABOUT EARL?

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2988

1 A. YES.

2 Q. BECAUSE EARL LIKE GRADUATED FIRST IN HIS CLASS,
3 SO I GUESS EDUCATION WAS EARL'S THING, RIGHT?

4 A. YES.

5 Q. NOW EARL GREW UP DOWN ON THE MILL HILL AND ENDED
6 UP GRADUATING FIRST IN HIS CLASS AT GEORGIA
7 TECH; RIGHT?

8 A. YES.

9 Q. SO, EARL WANTED BETTER FOR HIS KIDS; HE WANTED
10 HIS KIDS TO EXCEL EVEN BETTER THAN WHERE HE HAD
11 COME FROM. IS THAT A FAIR STATEMENT?

12 A. HE WANTED HIS CHILDREN TO DO WELL IN SCHOOL,
13 YES.

14 Q. OKAY. HOPEFULLY SOME END RESULT CERTAINLY,
15 RIGHT? NOT JUST FOR THE SAKE OF DOING WELL IN
16 SCHOOL, RIGHT?

17 A. YES.

18 Q. AND WE MOVE OVER TO THE NEXT PAGE AND I WANT TO
19 MOVE A LITTLE BIT SLOW IN THERE. NOW EARL, AS
20 LONG AS GRADES WERE GOOD, JIMMY GOT -- IS THAT
21 WHAT THIS IS SAYING, JIMMY GOT A CAR, HE GOT
22 CLOTHES, HE GOT A SPRING BREAK AT CANCUN; IS
23 THAT RIGHT?

24 A. YES.

25 Q. BUT THEN IF HE WASN'T IN SCHOOL, AND AGAIN I'M

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2989

1 READING THAT INTO IT, EVERYTHING WAS ON HIS OWN.

2 A. YES.

3 Q. BUT EVERYTHING ON HIS OWN -- OH, I'M SORRY, I
4 DID IT BACKWARDS. EVERYTHING IS ON HIS OWN ONCE
5 HE QUIT COLLEGE?

6 A. UH HUH.

7 Q. SO IF YOU STAY IN SCHOOL, WE'LL PAY FOR
8 EVERYTHING. IF YOU QUIT SCHOOL, YOU'RE ON YOUR
9 OWN, RIGHT?

10 A. YES.

11 Q. BUT THE TRUTH OF THE MATTER, ON YOUR OWN REALLY
12 MEANT HE HAD TO START PAYING HIS OWN HEALTH
13 INSURANCE AND HIS OWN CAR INSURANCE. THEY STILL
14 EITHER PAID TO HAVE HIM A PLACE TO LIVE, LET HIM
15 LIVE AT THE HOUSE OR WERE GOING TO GET HIM
16 ANOTHER PLACE. ISN'T THAT TRUE?

17 A. YES.

18 Q. OKAY. AND I THINK EARL EVEN TOOK HIM TO DR.
19 HOOK BEFORE HE GOT HIM OFF THE INSURANCE TO GET
20 HIS DENTAL WORK TAKEN CARE OF, DID HE NOT?

21 A. I DID NOT REVIEW ANY DENTAL RECORDS; I DON'T
22 KNOW.

23 Q. OKAY, THANK YOU. AND AS A MATTER FACT, HE EVEN
24 INDICATED HE HAD SOME GOOD MEMORIES OF DAD; IS
25 THAT RIGHT? HE SAID IT WASN'T ALL HIS FAULT?

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2990

1 A. YES.

2 Q. OKAY. GOOD MEMORIES OF HIM WHEN THEY WERE
3 YOUNG?

4 A. UH HUH.

5 Q. OF COURSE HE SAID THAT WAS BACK BEFORE GRADES
6 MATTERED?

7 A. YES.

8 Q. AND YOU COULDN'T SPEND MONEY. HE WAS TALKING
9 ABOUT WHEN HE WAS A KID, RIGHT?

10 A. YES.

11 Q. HE WAS AN EAGLE SCOUT AT 14, HE WAS FOLLOWING IN
12 HIS DAD'S FOOTSTEPS?

13 A. YES.

14 Q. AND THEN THE PROBLEMS BASICALLY BEGIN -- HE WAS
15 OKAY UNTIL JUNIOR OR SENIOR IN HIGH SCHOOL AND
16 HIS PROBLEMS BECAME COMPOUNDED BY DRUGS AND
17 MONEY. IS THAT CORRECT?

18 A. HIS PROBLEMS, YES.

19 Q. HIS BEING JIM'S?

20 A. JIM'S.

21 Q. HE GOES TO EUROPE, THE BEST 12 MONTHS OF HIS
22 LIFE, HIS FIRST CHANCE AT FREEDOM?

23 A. YES.

24 Q. AND WHEN HE WAS IN EUROPE, THAT WAS WHEN HE WAS
25 A SENIOR AND HE WENT OVER TO GERMANY AND STAYED

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2991

1 WITH THIS FAMILY, KIND OF AN EXCHANGE STUDENT
2 THING; IS THAT RIGHT?

3 A. YES.

4 Q. SO, THAT WAS THE BEST TIME OF HIS LIFE BECAUSE
5 HE HAD ALL THIS FREEDOM. SO WHEN HE COMES BACK
6 AND HE'S NOW A YOUNG ADULT AND CHOSE NOT TO GO
7 TO COLLEGE, THERE'S NOTHING PREVENTING HIM FROM
8 GOING OUT AND HAVING MORE FREEDOM, GET OUT FROM
9 UNDER HIS MAMA AND DADDY'S TABLE AND GO TO WORK.
10 THERE WAS NOTHING PREVENTING HIM FROM DOING
11 THAT, WAS IT?

12 A. NOT THAT I'M AWARE OF.

13 Q. BASED ON YOUR REVIEW THERE WAS NOTHING
14 PROHIBITING HIM FROM DOING THAT. HE DIDN'T HAVE
15 TO STAY HOME AND TAKE CARE OF A SICK MOTHER OR
16 AN AILING FATHER OR HE DIDN'T HAVE TO QUIT A JOB
17 OR ANYTHING LIKE THAT. HE WAS FREE TO PURSUE
18 HIS DREAMS, WAS HE NOT?

19 A. EXCEPT FOR HIS EMOTIONAL DEPENDENCE, YES.

20 Q. HIS EMOTIONAL DEPENDENCE ON WHAT?

21 A. ON HIS PARENTS.

22 Q. OKAY, SO WHEN HE WENT TO GERMANY HE SAID HE
23 SPENT, AND AGAIN IF I'M MISCONSTRUING THIS, HE
24 SPENT A THOUSAND DOLLARS A MONTH FOR ELEVEN
25 THOUSAND DOLLARS TOTAL ONLY THIRTY DOLLARS A

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2992

1 DAY. IS THAT RIGHT?

2 A. YES.

3 Q. HE SAW ALL OF EUROPE AND DID A LOT FOR ALL THAT
4 HE DID; IS THAT CORRECT?

5 A. YES.

6 Q. BUT THEN HE SAID -- I KNOW YOU'VE GOT AN ARROW
7 COMING UP TO SHOW HOW THIS FITS TOGETHER -- "HE
8 KICKED ME IN THE TEETH". DOES THAT MEAN HE WAS
9 KICKED IN THE TEETH OR IS THAT PROVERBIAL?

10 A. PROVERBIAL.

11 Q. OKAY. "HE KICKED ME IN THE TEETH WHEN I WENT
12 OVER THERE AND HE BOUGHT CHIP A CONVERTIBLE".
13 IS THAT CORRECT?

14 A. YES.

15 Q. AND HE HAD TO DRIVE AN OLD BUICK; RIGHT?

16 A. YES.

17 Q. SO, HIS PARENTS SPENT ELEVEN THOUSAND DOLLARS
18 KEEPING HIM UP IN GERMANY BUT HE RESENTED THAT
19 MEANWHILE BACK IN THE STATES CHIP GOT A
20 CONVERTIBLE. IS THAT CORRECT?

21 A. YES.

22 Q. AND HE RESENTED THAT, DIDN'T HE?

23 A. YES.

24 Q. I THINK HE IN FACT SAID THAT HE NEVER UNDERSTOOD
25 THE REASON BEHIND THAT; IS THAT RIGHT?

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2993

- 1 A. YES.
- 2 Q. OKAY.
- 3 Q. AND THE SENTENCE RIGHT UNDER THAT WHERE HE SAID
- 4 HE NEVER UNDERSTOOD THE REASON BEHIND IT, WHAT
- 5 DOES THAT NEXT SENTENCE SAY?
- 6 A. THE ONE, YOU SKIPPED THE LINE?
- 7 Q. YES, MA'AM, BETWEEN THE GAP, WHAT DOES THE NEXT
- 8 SENTENCE SAY? HE ---
- 9 A. ALWAYS KEPT IN BACK OF HEAD.
- 10 Q. TALKING ABOUT THE WHOLE THING, ABOUT CHIP AND
- 11 THE CAR, HE ALWAYS KEPT IT IN THE BACK OF HIS
- 12 HEAD?
- 13 A. YES. CAN I ALSO READ ANOTHER SENTENCE?
- 14 Q. MA'AM, YOU CAN READ WHATEVER YOU THINK IS
- 15 APPROPRIATE TO PUT IT IN CONTEXT.
- 16 A. IT SAYS THAT -- TALKING ABOUT HIS PARENTS --
- 17 GAVE HIM EVERYTHING TANGIBLE BUT DIDN'T GET
- 18 LOVE.
- 19 Q. AND THAT'S FROM JIMMY, RIGHT?
- 20 A. YES.
- 21 Q. AND YOU TALKED TO HIM AFTER HE TALKED TO MS.
- 22 DRUCIE GLASS; IS THAT RIGHT?
- 23 A. YES.
- 24 Q. OKAY. AND I THINK THIS AREA IS WHERE YOU START
- 25 TALKING ABOUT EARL AND GROWING UP AGAIN AND HE

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2994

1 WAS RELATING ABOUT EARL AND GROWING UP IN THE
2 COUNTRY; MAMA BEING THE RICH FAMILY AND EARL
3 BEING THE POOR FAMILY; RIGHT?

4 A. YES, UH HUH.

5 Q. I THINK HE EVEN TALKED ABOUT HIS GRANDMOTHER, HE
6 SAID GRANDMOTHER WOULD SEND TWENTY DOLLARS HERE
7 AND THINK THAT'S A LOT.

8 A. UH HUH.

9 Q. HE SAID "GRANDMA'S NOT REALLY IN TOUCH WITH THE
10 EIGHTIES AND NINETIES"; IS THAT RIGHT?

11 A. RIGHT.

12 Q. THE TRUTH OF THE MATTER, YOU TALKED TO GRANDMA
13 ON THE PHONE, RIGHT?

14 A. YES.

15 Q. GRANDMA'S NOT REALLY IN TOUCH WITH A LOT, IS
16 SHE?

17 A. OH, HE WAS TALKING ABOUT WHAT IT WAS LIKE IN THE
18 1980'S AND 1990'S. DO YOU UNDERSTAND WHAT I
19 MEAN?

20 Q. YES, MA'AM. THE DECADES OF THE EIGHTIES AND
21 NINETIES, NOT THE AGE IN THE EIGHTIES AND
22 NINETIES.

23 A. RIGHT.

24 Q. YES, MA'AM. LET ME ASK YOU, DID YOU EVER -- DID
25 MS. GLASS TALK TO CHRISTINE, THE GRANDMOTHER, DO