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VOLUME THREE OF EIGHT VOLUMES

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from York County
Honorable John C. Hayes, III, Circuit Court Judge

Case No. 2004-GS-46-2614
2004-GS-46-3232,200,3233,3234,196-199,

The State,

Respondent,

versus

~~Bill Wayne Cope~~

James Edward Sanders

Appellant

RECORD ON APPEAL

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1 ITSELF?

2 A FILTHY NASTY IT WAS VERY DIRTY I DID SEE
3 SEVERAL COCK ROACHES RUNNING AROUND THE FLOOR IT
4 WAS JUST, IT WAS FILTHY

5 Q ALL RIGHT THANK YOU NO FURTHER QUESTIONS
6 CROSS EXAMINATION BY MR WOODS

7 Q GOOD AFTERNOON, OFFICER JORDAN HOW YOU DOING?

8 A FINE, SIR

9 Q GOOD YOU WROTE A STATEMENT SOMETIME ABOUT
10 NOVEMBER 29, DID YOU WRITE THAT STATEMENT THE SAME
11 DAY?

12 A IT WAS THE NEXT, THE SAME NIGHT, YES, SIR

13 Q THE NEXT DAY, OKAY AND YOU PUT EVERYTHING YOU
14 THOUGHT WAS IMPORTANT ABOUT WHAT YOU OBSERVED AND SAW
15 IN THAT STATEMENT, CORRECT?

16 A EVERYTHING I CAN REMEMBER, YES, SIR

17 Q BUT YOU DIDN'T MENTION ANYTHING ABOUT ANY COCK
18 ROACHES OR BUGS IN THIS STATEMENT, DID YOU?

19 A NO, SIR, I DIDN'T

20 Q NOW MR COPE, CONSENTED TO THE SEARCH OF HIS
21 HOME?

22 A YES, SIR, HE DID

23 Q IN FACT, HE VOLUNTARILY ACCOMPANIED YOU DOWN TO
24 THE LAW ENFORCEMENT CENTER, CORRECT?

25 A YES, SIR, HE DID

1 Q HE WAS COOPERATIVE?

2 A YES, SIR

3 Q DID EVERYTHING YOU ASKED OF HIM?

4 A YES, SIR

5 Q NOW HE WASN'T UNDER ARREST WHEN HE WENT DOWN TO

6 THE STATION WITH YOU, WAS HE?

7 A NO, SIR

8 Q AND HE DIDN'T HAVE TO GO WITH YOU, DID HE?

9 A NO, SIR

10 Q BUT HE DID?

11 A YES, SIR

12 Q AND HE COOPERATED?

13 A YES, SIR

14 Q ANSWERED ALL YOUR QUESTIONS?

15 A I DIDN'T ASK HIM ANY QUESTIONS

16 Q OKAY YOU HAD A CHANCE TO SEE HIM UP CLOSE THAT

17 DAY, DIDN'T YOU?

18 A YES, SIR

19 Q DID YOU NOTICE ANY BLOOD ON HIS HANDS?

20 A NO, I DIDN'T

21 Q ANY BLOOD ON HIS ARMS?

22 A NO, SIR, I DIDN'T

23 Q ANY BLOOD ON HIS CLOTHES?

24 A NO, SIR, I DIDN'T

25 Q DID YOU NOTICE ANY SCRATCHES, ABRASIONS, CUTS?

1 A NO, SIR, I DIDN'T

2 Q NOTHING FURTHER THANK YOU, SIR

3 MR GREELEY I DON'T HAVE ANY QUESTIONS

4 REDIRECT EXAMINATION BY MR THOMPSON

5 Q JUST ONE OTHER THING THIS TALK ABOUT INCLUDING
6 A NUMBER OF IMPORTANT THINGS IN YOUR SUMMARY DO YOU
7 HAPPEN TO HAVE YOUR SUMMARY UP THERE WITH YOU?

8 A NO, SIR, I DON'T

9 (HANDED DOCUMENT TO WITNESS)

10 Q GO DOWN ABOUT THREE QUARTERS OF THE WAY WHERE IT
11 SAYS SIX A M

12 A YES, SIR

13 Q IN YOUR SUMMARY, DID YOU NOTE WHAT THE DEFENDANT
14 SAID AS FAR WHEN HE WENT TO WAKE UP AMANDA HOW HE
15 WOKE HER UP?

16 A YOU TALKING ABOUT WHERE IT SAYS I SHOOK HER?

17 Q YES

18 A HE JUST STATED TO ME ABOUT SIX A M HE SHOOK
19 AMANDA TO WAKE HER UP FOR SCHOOL AND HE NOTICED SHE
20 WAS COLD

21 Q ALL RIGHT THANK YOU NO FURTHER QUESTIONS

22 MR WOOD NO QUESTIONS, YOUR HONOR

23 MR GREELEY NONE

24 THE COURT ANY OBJECTION TO THIS WITNESS
25 BEING EXCUSED?

1 MR WOOD NONE FROM THE DEFENSE, YOUR
2 HONOR

3 MR GREELEY NO OBJECTION

4 MR BRACKETT NO OBJECTION

5 THE COURT THANK YOU FEEL FREE TO
6 LEAVE YOU CAN BE EXCUSED

7 MR THOMPSON YOUR HONOR, I WOULD ASK TO
8 PUBLISH THE PHOTOGRAPHS TO THE JURY AT THIS TIME

9 THE COURT YES

10 (PHOTOGRAPHS ARE HANDED TO THE JURY)

11 MR THOMPSON WHILE THOSE ARE BEING
12 PUBLISHED MAY WE APPROACH THE BENCH

13 (BENCH CONFERENCE)

14 THE COURT MEMBERS OF THE JURY PANEL, I
15 UNDERSTAND THE NEXT WITNESS IS GOING TO BE DR
16 MAYNARD WHO DID THE AUTOPSY

17 MR THOMPSON YES, YOUR HONOR

18 THE COURT I ANTICIPATE THAT TAKING SOME
19 PERIOD OF TIME WE STILL HAVE A FEW MATTERS TO TAKE
20 UP OUTSIDE YOUR PRESENCE SO I THINK IT BEST FOR US TO
21 STOP NOW, IT'S A LITTLE EARLIER THAN I LIKE TO STOP,
22 BUT AT LEAST AS FAR AS UTILIZING YOU AS I SAY, WE
23 STILL GOT A FEW THINGS TO TAKE UP, SO WE'LL START
24 BACK AT NINE IN THE MORNING SO REPORT BACK TO THE
25 JURY ROOM AND BE READY TO GO AT NINE O'CLOCK AND

1 WE'LL PROCEED FROM THEN KEEPING IN MIND THOSE
2 THINGS I TOLD YOU ABOUT NOT MAKING UP YOUR MIND OR
3 DISCUSSING THE CASE OR LETTING YOURSELF BE EXPOSED TO
4 ANY NEWS COVERAGE THANK YOU

5 (THE JURY EXITS THE COURTROOM AT
6 4 50)

7 THE COURT WE'LL TAKE A REAL SHORT BREAK
8 AND THEN COME BACK AND TAKE CARE OF A COUPLE THINGS
9 THAT I NEED TO ADDRESS

10 (COURT'S IN RECESS)

11 (COURT RESUMES AT FIVE O'CLOCK)

12 THE COURT LET'S COME BACK TO ORDER
13 LET'S SEE IF THERE IS ANYTHING WE CAN TAKE CARE OF
14 WITH DR MAYNARD BEING THE NEXT WITNESS WE STILL HAVE
15 THE, I DON'T THINK I RULED, HELP ME KEEP UP WITH IT,
16 ON THE MOTION TO, MOTION IN LIMINE BY BILLY WAYNE
17 COPE TO NOT ALLOW DR MAYNARD TO GO INTO ANY EVIDENCE
18 CONCERNING CONTINUAL NATURE OF THE INJURY TO HER
19 RECTUM AND VAGINA AREA IS THAT STILL OUTSTANDING

20 MR BAITY WELL, YOUR HONOR, I HOPE IT
21 IS I THOUGHT YOU HAD RULED AGAINST ME BUT I
22 CERTAINLY HOPE

23 THE COURT I STILL HAD THE MOTION HERE
24 OKAY

25 MR BAITY AND I WOULD RENEW IT AT THIS

1 TIME

2 THE COURT WELL, I'LL STICK BY MY EARLIER
3 RULING

4 MR BAITY JUST, IF I MAY WITHOUT
5 IRRITATING YOU, I DO WANT TO RENEW THAT IN THE
6 MORNING AND I HAVE SOMETHING MORE I WANT TO SAY ABOUT
7 IT BEFORE THE JURY IS BROUGHT IN

8 THE COURT WELL, YOU WANT TO BE HERE AT
9 8 30 BECAUSE WE'RE GOING TO START AT NINE

10 MR BAITY I WOULD LIKE SOME VOIR DIRE
11 YOU TALKING ABOUT SUBJECT TO HIS LAYING A PROPER
12 FOUNDATION AND THAT SORT OF THING AND APPARENTLY HIS
13 TESTIMONY HASCHANGED SOMEWHAT AND I WOULD LIKE AN
14 OPPORTUNITY TO TALK TO HIM ABOUT THAT

15 THE COURT WHAT TIME IS DR MAYNARD GOING
16 TO BE HERE?

17 MR THOMPSON WE HADN'T TOLD HIM YET,
18 JUDGE, BECAUSE WE WEREN'T QUITE SURE WHAT TIME WE'D
19 BE STARTING

20 THE COURT WELL, CAN YOU BE HERE A LITTLE
21 EARLIER AND LET MR BAITY TALK TO HIM AND THEN SEE IF
22 THEY NEED

23 MR BAITY THAT WOULD BE WONDERFUL

24 MR THOMPSON IT'S MOST LIKELY HE CAN BE
25 I PLAN ON CALLING HIM FIRST THING IN THE MORNING

1 WHICH FOR HIM IS LIKE 7 30 OR SO

2 THE COURT TRY TO HAVE HIM HERE ABOUT
3 QUARTER OF NINE

4 MR BAITY THANK YOU, YOUR HONOR

5 MR BRACKETT FROM A SCHEDULING
6 STANDPOINT TWO ISSUES I HAVE A WITNESS FLYING IN
7 FROM ORLANDO SHE IS FLYING IN IN THE MORNING, HER
8 FLIGHT LEAVES OUT IN MIDAFTERNOON, SO I JUST WANT TO
9 LET EVERYBODY, SHE IS A SHORT WITNESS SHE IS ONE OF
10 THE FIRST RESPONDERS, SO SHE SHOULDN'T BE ANY LONGER
11 THAN ANY OF THESE PEOPLE WHO JUST TESTIFIED, BUT I
12 DON'T KNOW HOW LONG THESE CROSSES ARE GOING TO TAKE
13 OF DR MAYNARD, BUT IF IT TURNS INTO AN ALL DAY THING
14 OR SOMETHING, AT SOME POINT I NEED TO GET HER IN AND
15 BACK TO THE AIRPORT I JUST WANT TO GIVE EVERYONE A
16 HEADS UP ON THAT

17 MR GREELEY I DON'T OBJECT TO THAT EVEN
18 IF WE INTERRUPT DR MAYNARD'S TESTIMONY IF NEED BE

19 MR BRACKETT HOPEFULLY IT WON'T COME TO
20 THAT

21 MR BAITY I THINK MY CROSS IS GOING TO
22 LAST ALL DAY, YOUR HONOR

23 THE COURT WE'LL WORK HER IN AT SOME
24 POINT THEN LIKE RIGHT BEFORE LUNCH

25 MR BRACKETT I APPRECIATE THAT THE

1 SECOND THING BOTH COUNSEL FOR MR COPE AND
2 MR SANDERS HAVE KINDLY AGREED, WE HAVE ONE WITNESS
3 WHO IS IN MOBILE, ALABAMA SHE IS ABOUT 30 WEEKS
4 PREGNANT AND HER DOCTOR HAS ADVISED HER NOT TO FLY SO
5 WE ARE IN THE PROCESS OF TRYING TO ORGANIZE WITH
6 COMPORIUM TO DO A VIDEO CONFERENCE HER IN AND BOTH
7 COUNSEL FOR MR COPE AND MR SANDERS HAVE AGREED TO
8 ALLOW US TO EXAMINE HER IN THAT FASHION WE'LL HAVE
9 HER ON A TELEVISION SET AND SHE'LL BE THERE IN
10 ALABAMA AT A VIDEO CONFERENCING SITE IN MOBILE AND
11 WE'RE ORGANIZING THAT RIGHT NOW I DON'T KNOW
12 EXACTLY WHEN WE ARE GOING TO BE ABLE TO GET COMPORIUM
13 OUT HERE TO PUT SOMETHING TOGETHER FOR US, BUT I
14 WANTED TO LET THE COURT TO KNOW WE NEEDED TO DO THAT
15 AND COMPORIUM WILL HAVE TO SET UP A CABLE LINK AND
16 BRING THE TELEVISION IN AND FACILITATE THAT
17 THE COURT ALL RIGHT
18 MR GREELEY I HAVE NO OBJECTION I WANT
19 TO SEE THEM GET COMPORIUM TO DO IT I'M IMPRESSED
20 MR BRACKETT IT HASN'T HAPPENED YET
21 THEY HAVE BEEN VERY KIND SO FAR, NOTHING BUT GOOD
22 THINGS TO SAY ABOUT THEM THE WITNESS IS REBECCA
23 HERRING
24 THE COURT ALL RIGHT NOW WE STILL HAVE
25 NOT RESOLVED, I DON'T THINK, SUBJECT TO MY BEING

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1 CORRECTED BY COUNSEL, THE ISSUE OF THE PSYCHOLOGICAL
2 EVALUATIONS OF THE TWO OTHER COPE CHILDREN THAT'S
3 STILL OUTSTANDING, CORRECT?

4 MR SMITH YES, SIR

5 THE COURT WELL, I HAVE LOOKED AT THE
6 CASES THAT WERE HANDED UP AND I HAVE TWO CONCERNS,
7 MAYBE WE DON'T NEED TO ADDRESS THEM COMPLETELY
8 TONIGHT, BUT I'LL AT LEAST TELL YOU WHAT I SEE IN
9 HERE FIRST, OF COURSE, IS THREE-TWO DECISION WITH A
10 VERY STRONG DISSENT FROM THE CHIEF JUSTICE BUT IT IS
11 STILL A THREE-TWO DECISION THE TWO KIND OF
12 THRESHOLD QUESTIONS I HAVE ONE IS, THIS CASE DEALS
13 SOLELY WITH THE RIGHT OF THE TRIAL JUDGE TO ORDER THE
14 INDEPENDENT PSYCHOLOGICAL EVALUATION OF A CHILD
15 VICTIM NOW THIS CASE ISN'T ABOUT THESE TWO OTHER
16 GIRLS, KYLA AND JESSICA THEY ARE NOT CHILD VICTIMS
17 THEY ARE APPARENTLY IN SOME OTHER INDICTMENTS HAVE
18 THEY BEEN INDICTED?

19 MR BRACKETT YES, SIR

20 THE COURT THERE ARE SOME OTHER
21 INDICTMENTS BUT THEY ARE NOT CHILD WITNESSES IN THIS
22 CASE SO THE FIRST QUESTION IS WHETHER ANY INTEREST
23 OF MICHAEL H THE SUPREME COURT OPINION WHETHER OR NOT
24 IT EVEN APPLIES AND THE SECOND QUESTION IS, NOT A
25 QUESTION BUT SECOND OBSERVATION, AND I DON'T KNOW

1 WHEN THIS WILL BE DONE, BUT WE'LL HAVE TO DO IT AT
2 SOME POINT, IS IF WE HAD DECIDE THAT A MERE WITNESS,
3 NOT A VICTIM WITNESS, A CHILD WITNESS AS OPPOSED TO A
4 CHILD VICTIM WITNESS, WHETHER OR NOT THE STATE CAN
5 REQUIRE AN INDEPENDENT PSYCHOLOGICAL EVALUATION,
6 STILL HAVE TO GET, CONVINCE THE COURT OF THESE THREE
7 DELANEY FACTORS OF THE WEST VIRGINIA SUPREME COURT,
8 AND THE WORD THAT KEEPS POPPING UP IN WITH EMPHASIS
9 IN THIS OPINION IS COMPELLING AS AN ADJECTIVE FOR
10 REASON SO FIRST WE GOT TO DECIDE WHETHER OR NOT THE
11 COURT EVEN HAS THE ABILITY TO ORDER AN EVALUATION AND
12 SECOND WHETHER OR NOT THERE IS A COMPELLING REASON
13 THE COURT CAN FOR THE COURT TO EXERCISE ITS
14 DISCRETION AND DO SO YOU WANT TO ADDRESS ANY OF
15 THAT TONIGHT OR DO YOU WANT TO WORK ON THAT

16 MR SMITH LET'S WORK ON IT, YOUR HONOR
17 WE'LL ADDRESS IT FIRST THING TOMORROW MORNING

18 THE COURT ANYTHING ELSE TONIGHT

19 MR POPE NO, SIR, YOUR HONOR

20 THE COURT ALL RIGHT BEFORE WE ADJOURN
21 MR THOMPSON, I THOUGHT YOUR USE OF THAT EXHIBIT WAS
22 VERY EFFECTIVE AND IT REMINDED ME OF ONE OF MY
23 PERSONAL PHILOSOPHIES AND THAT IS DON'T EVER DO MATH
24 OR SPELL IN PUBLIC BECAUSE YOU GET IT WRONG

25 MR THOMPSON THAT'S CORRECT I DIDN'T

1 DO IT

2 THE COURT WELL, YOU BETTER HAVE YOUR
3 MATHEMATICIAN DOUBLE CHECK THEIR MATH

4 MR POPE WE ARE GOING TO TALK TO THE
5 PERSON IN CHARGE OF THE JAM BOX AND IN CHARGE OF THE
6 MATH

7 THE COURT ALL RIGHT WE'LL BE AT EASE
8 UNTIL NINE IN THE MORNING

9 (COURT'S IN RECESS AT 5 10)

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2
3 I, JANET RICH, OFFICIAL COURT REPORTER FOR
4 THE SIXTEENTH CIRCUIT OF THE STATE OF SOUTH CAROLINA,
5 DO HEREBY CERTIFY THAT THE FORGOING IS A TRUE,
6 ACCURATE, AND COMPLETE TRANSCRIPT OF RECORD OF ALL
7 THE PROCEEDINGS HAD AND EVIDENCE INTRODUCED IN THE
8 TRIAL OF THE CAPTIONED CASE, RELATIVE TO APPEAL, IN
9 THE CIRCUIT COURT FOR YORK COUNTY, SOUTH CAROLINA, ON
10 THE 8TH DAY OF SEPTEMBER 2004

11 I DO FURTHER CERTIFY THAT I AM NEITHER KIN,
12 COUNSEL, NOR INTEREST TO ANY PARTY HERETO
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JANET M RICH

1 IN THE CIRCUIT COURT OF YORK COUNTY, SOUTH CAROLINA

2 STATE OF SOUTH CAROLINA

3 VERSUS

4 BILLY WAYNE COPE &
5 JAMES EDWARD SANDERS

6 INDICTMENT NUMBERS 2002-GS-46-3232-3234
7 2003-GS-46-1843-1844
8 2004-GS-46-2614-2618
9 2004-GS-46-196-199

10 HEARD AT THE MOSS JUSTICE CENTER,
11 1675 YORK HIGHWAY, YORK, SOUTH CAROLINA, ON
12 THURSDAY, SEPTEMBER 9TH, 2004, BEFORE THE
13 HONORABLE JOHN C HAYES, III AND A JURY

14 APPEARANCES

15 TOMMY POPE
16 KEVIN BRACKETT
17 WILLY THOMPSON
18 16TH CIRCUIT SOLICITOR'S OFFICE
19 1675 YORK HIGHWAY
20 YORK, SC 29745
21 REPRESENTING THE STATE

22 JAMES MORTON
23 DAVID WOOD
24 MICHAEL SMITH
25 MORTON & GETTYS
1051 OAKLAND AVENUE
ROCK HILL, SC 29732

A PHILIP BAITY
POST OFFICE BOX 275
FORT MILL, SC 29715
REPRESENTING BILLY WAYNE COPE

LELAND GREELEY
128 E MAIN STREET SUITE 102
ROCK HILL, SC 29732
REPRESENTING JAMES EDWARD SANDERS

REPORTED BY JANET M RICH
CIRCUIT COURT REPORTER
1992 DOWNEY STREET
ROCK HILL, SC 29732

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JERRY WALDROP

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1 (COURT RESUMES ON 9-9-04)

2 THE COURT IS THE STATE READY

3 MR THOMPSON YES, YOUR HONOR

4 THE COURT DEFENSE FOR MR COPE

5 MR BAITY YES, YOUR HONOR WE DO HAVE A

6 MATTER WE'D LIKE TO TAKE UP OUTSIDE THE PRESENCE OF

7 THE JURY BEFORE WE BRING THEM IN

8 THE COURT MR GREELEY

9 MR GREELEY MR SANDERS IS READY

10 THE COURT MR BAITY, YOU MAY PROCEED

11 MR BAITY PLEASE THE COURT, YOUR HONOR

12 VERY BRIEFLY I WISH TO RENEW MY MOTION IN LIMINE THAT

13 WAS HANDED UP YESTERDAY I KNOW YOU HAVE ALREADY

14 RULED ON THIS, BUT THERE HAS BEEN SOMETHING I

15 CONSIDER TO BE NEW YESTERDAY I ASKED THE COURT TO

16 LIMIT ANY REFERENCE TO THE AUTOPSY REPORT OR ANY

17 TESTIMONY REGARDING THE POSSIBILITY OF SEXUAL ABUSE

18 OCCURRING BEFORE THE RAPE AND MURDER THAT OCCURRED ON

19 NOVEMBER 29, 2001, AND I HANDED UP IN MY MOTION

20 VERBATIM QUOTE FROM THE TRANSCRIPT OF THE FAMILY

21 COURT CASE IN WHICH DR MAYNARD, THE STATE'S WITNESS,

22 THE AUTHOR OF THE AUTOPSY REPORT, WAS EXAMINED BY

23 BOTH MYSELF AND THE DSS ATTORNEY AS TO HIS OPINION AS

24 TO PRIOR SEXUAL ABUSE IS WHAT I'LL CALL IT NOW

25 SPECIFICALLY WHAT THE DOCTOR SAID, HE SAW A SMALL

1 RING OR SMALL AMOUNT OF INFLAMED TISSUE ON THE INSIDE
2 OF AMANDA'S VAGINA AND ON THE INSIDE OF HER ANUS AND
3 HE SAID THAT HE BELIEVED THAT THIS WAS CHRONIC, IT
4 WAS A CHRONIC INFLAMMATION WHICH MEANS IT HAD NOT
5 JUST RECENTLY HAPPENED DURING THE RAPE AND HE SAID
6 THAT HE BELIEVED THE MEDICAL CAUSATION OF THE
7 INFLAMMATION IN THE VAGINA COULD POSSIBLY HAVE BEEN
8 THE RESULT OF PENETRATION OF AN OBJECT WHICH COULD
9 POSSIBLY MEAN SEXUAL ACTIVITY OR SOMETHING OF THAT
10 AREA IN THE VAGINA, BUT IT COULD ALSO BE THE RESULT
11 OF THE USE OF A TAMPON, IT COULD BE THE RESULT OF
12 DISEASE, IT COULD BE THE RESULT OF VAGINITIS, AN
13 ALLERGY, AND HE WENT ON AND LISTED SEVERAL OTHER
14 POSSIBILITIES WHICH COULD CAUSE, WHICH COULD
15 MEDICALLY CAUSED THIS INFLAMMATION SO I ASKED HIM
16 COULD HE STATE WITH A REASONABLE DEGREE OF MEDICAL
17 CERTAINTY THE MEDICAL CAUSATION OF THIS INFLAMED
18 TISSUE, CAN HE STATE THAT IT WAS SEXUAL ABUSE, AND HE
19 SAID NO HE COULDN'T AND DSS' ATTORNEY ASKED HIM THE
20 SAME QUESTION ON THE REDIRECT AND AGAIN HE SAID THAT
21 I CANNOT SAY THAT TO A REASONABLE DEGREE SO THE
22 MEDICAL CAUSATION OF THIS IRRITATION WHICH TAKEN
23 ANOTHER STEP MIGHT INDICATE SEXUAL ABUSE BUT, AND
24 HE'S IN THE COURTROOM DR MAYNARD IS IN THE
25 COURTROOM

1 THE COURT DR MAYNARD, WOULD YOU STEP
2 OUTSIDE WHILE WE TALK ABOUT YOU

3 (WITNESS EXITS THE COURTROOM)

4 MR BAITY SO, YOUR HONOR, THIS IS A
5 MEDICAL CAUSATION ISSUE AS TO THE INFLAMED TISSUE IN
6 HER VAGINA THE SAME THING GOES WITH THE INFLAMED
7 TISSUE INSIDE HER ANUS HE SAID THIS COULD BE THE
8 RESULT OF A BOWEL DISORDER THIS COULD BE THE RESULT
9 OF DIARRHEA IT COULD BE THE RESULT OF ALLERGIES, IT
10 COULD BE THE RESULT OF RINGWORM, AND A NUMBER OF
11 OTHER THINGS AND AGAIN I ASKED HIM TO A REASONABLE
12 DEGREE OF MEDICAL CERTAINTY CAN YOU SAY THAT THE
13 MEDICAL CAUSATION OF THIS INFLAMED TISSUE WAS SEXUAL
14 ABUSE AND HE SAID NO, SIR, I CANNOT DO THAT HE SAID
15 IT COULD BE ANY NUMBER OF THOSE THINGS AND HE DID
16 ELIMINATE A NUMBER OF THEM HE LOOKED TO SEE IF SHE
17 HAD A VIRAL INFECTION HE SAID HE SAW NO EVIDENCE OF
18 IT HE LOOKED TO SEE IF, HE TALKED ABOUT ELIMINATING
19 A NUMBER OF THE OTHER POSSIBILITIES AS CAUSATION, BUT
20 HE WAS NOT CONVINCED MEDICALLY THAT THE CAUSATION OF
21 THIS INFLAMED TISSUE WAS THE RESULT OF SEXUAL ABUSE
22 AND SO IT'S CONJECTURE OR SPECULATION TO ALLOW THAT
23 IN AND IN THIS CASE WHERE SEXUAL ACTIVITY IS
24 CERTAINLY VERY IMPORTANT, I THINK IT'S EXTREMELY
25 DAMAGING TO MR COPE PARTICULARLY SINCE HE IS NOT

1 CHARGED WITH OR INDICTED WITH THE CRIME OF SEXUALLY
2 ABUSING HIS DAUGHTER EXCEPT ON THE NIGHT OF THE RAPE
3 AND MURDER AND THAT IS, THE INDICTMENT IS LIMITED TO
4 THAT THE INDICTMENT ON THE OTHER GIRLS QUITE
5 FRANKLY WHICH WAS SEVERED FROM THIS CASE DID MAKE
6 REFERENCE TO OCTOBER AND NOVEMBER, BUT THIS
7 INDICTMENT ONLY SAYS NOVEMBER 29 SO, YOUR HONOR,
8 AGAIN I WOULD ASK THAT IN LIGHT OF WHAT'S REALLY IN
9 ISSUE HERE AND IN LIGHT OF THE STATE'S WITNESS TO,
10 HIS INABILITY TO GIVE A MEDICAL CAUSATION FOR IN THIS
11 OBSERVATION HE'S MADE, TO ALLOW HIM TO CONJECTURE OR
12 SPECULATE AS TO POSSIBLE SEXUAL ABUSE APPEARS TO BE
13 PREJUDICIAL TO THE DEFENDANT

14 THE COURT ALL RIGHT, MR THOMPSON

15 MR THOMPSON YOUR HONOR, THERE IS A
16 COUPLE THINGS ONE I THINK THE ONLY WAY TO SETTLE
17 THIS IS TO HAVE DR MAYNARD COME UP AND TESTIFY

18 THE COURT I THINK BECAUSE MY RULING WAS
19 BASED ON THE FACT THAT THE STATE WAS ASSERTING THAT
20 THERE HAD BEEN SOME FURTHER DEVELOPMENT AS FAR AS HIS
21 TESTIMONY

22 MR THOMPSON IT'S NOT NECESSARILY
23 FURTHER DEVELOPMENT, IT'S JUST MORE QUESTIONING THAT
24 NEEDS TO SHOW MORE EVIDENCE

25 THE COURT WE'LL TAKE A PROFFER

1 MR THOMPSON IN ADDITION I WOULD LIKE
2 TO --

3 THE COURT LET ME FINISH AND THAT WAS
4 MY UNDERSTANDING IS WHY IT WAS ASKING DR MAYNARD TO
5 BE AVAILABLE FOR A LITTLE BIT OF TIME PRIOR TO THIS
6 SO MR BAITY COULD DISCUSS THIS MATTER WITH HIM BUT

7 MR BAITY YOUR HONOR, I LEFT THE COURT
8 HOUSE YESTERDAY, I WENT TO THE HOSPITAL AND JUST
9 MISSED HIM, I CAUGHT HIM AT HOME, AND I ASKED HIM IF
10 HE WAS GOING TO CHANGE HIS TESTIMONY WITH RESPECT TO
11 HIS OPINION, MEDICAL OPINION ON THESE SUBJECTS, AND
12 HE SAID ABSOLUTELY NOT AND I MEANT TO SAY THAT IN MY
13 ARGUMENT

14 THE COURT LET'S HAVE A PROFFER THEN

15 MR THOMPSON I WOULD LIKE TO BRING THIS
16 TO THE COURT'S ATTENTION AS WELL, ONCE AGAIN THE
17 DEFENSE HAS OBVIOUSLY, WE HAVE CONFESSIONS AT LEAST
18 TWICE THE CONFESSIONS THAT THE DEFENDANT HAS SAID HE
19 HAD BEEN DOING THIS TO AMANDA FOR SOME PERIOD OF TIME
20 PRIOR THE NIGHT OF HER DEATH HE ALSO IS SAYING THAT
21 HE IS ATTACKING THE VALIDITY OF THE STATEMENTS
22 THEMSELVES SAYING THEY ARE NOT VOLUNTARILY GIVEN
23 THESE ALSO GOES TO PROVE THAT HIS STATEMENTS WERE
24 VOLUNTARILY GIVEN AND WERE NOT FALSE CONFESSIONS
25 BECAUSE THEY ARE EVIDENCE SHOWING THAT HIS STATEMENTS

1 ARE TRUE AND I'LL ARGUE THAT BUT I'LL BE HAPPY TO
2 CALL DR MAYNARD AND QUESTION HIM AT THIS TIME

3 MR GREELEY YOUR HONOR, IF I MAY BE
4 HEARD AND THE STRANGE DYNAMICS OF THIS CASE AND WHERE
5 WE HAVE THREE THEORIES THAT MAYBE FLYING AROUND, I
6 WOULD ASK THAT MR COPE'S MOTION BE DENIED AND I
7 WOULD JUST FOLLOW UP WITH WHAT THE STATE HAS ALREADY
8 SAID I BELIEVE THAT THE EVIDENCE THAT DR MAYNARD
9 WILL INTRODUCE WILL HELP CORROBORATE THE TRUTHFULNESS
10 OF THE CONFESSIONS THAT HAVE BEEN GIVEN BY MR COPE
11 AND THEY WILL BE CONSISTENT WITH HIS WORDS

12 THE COURT I BELIEVE THAT HE EVEN THOUGH
13 HE CANNOT TESTIFY TO A REASONABLE DEGREE OF MEDICAL
14 CERTAINTY THAT THAT DOESN'T END THE INQUIRY BECAUSE
15 THERE IS GOING TO BE OTHER EVIDENCE THAT IN FACT THIS
16 DID OCCUR AND IT HAS TO DO WITH THE VERY SUBSTANTIAL
17 ISSUE AS TO THE VOLUNTARINESS OF THE CONFESSION IF
18 I RECALL IN OPENING STATEMENTS ONE OF THE ATTACKS ON
19 THE CONFESSIONS WERE THAT THERE WERE SO MUCH, THERE
20 WAS SO MUCH INCONSISTENCY, THAT IS, THE STORY
21 CHANGED, THE STORY CHANGED, AND THE STORY CHANGED, SO
22 I THINK THE STATE DOES HAVE THE RIGHT TO SHOW THAT TO
23 SOME DEGREE THE THEORY THAT THAT STATEMENT DOES
24 CONTAIN INFORMATION WHICH HAS BEEN CORROBORATED

25 MR BAITY YES, YOUR HONOR

1 THE COURT SO I DENY IT

2 MR BAITY BUT IF I COULD JUST PUT THIS
3 ON THE RECORD, THAT CERTAINLY WHATEVER MEDICAL
4 EVIDENCE OR EXPERT TESTIMONY THAT THEY PRESENT THAT'S
5 IN FURTHERANCE OF THAT END HAS TO BE RELIABLE
6 INFORMATION AND IT HAS TO BE RELIABLE EXPERT OPINION
7 AND NOT BASED ON CONJECTURE OR SPECULATION

8 THE COURT I UNDERSTAND AGAIN WE'RE NOT
9 GOING COMPLETELY TO A QUESTION OF CAUSATION AS TO THE
10 PRIOR OR THE POST, THE PRE-NOVEMBER 29 EVENT IT'S
11 NOT GOING TO THAT ISSUE, TO SOME DEGREE IT MIGHT BE,
12 BUT IT'S MORE GOING TO CORROBORATION OF OTHER
13 EVIDENCE THAT SHOWS -- THE FACT THAT HE CAN'T REACH
14 IS HE CANNOT RENDER AN OPINION TO A REASONABLE DEGREE
15 OF MEDICAL CERTAINTY IF THAT WAS ALL THERE WAS,
16 THEN I WOULD AGREE WITH YOU, BUT HERE THERE IS OTHER
17 CORROBORATING EVIDENCE TO SHOW THAT HE SAYS THAT IS A
18 POSSIBLE CAUSE AND THE STATE CAN PRESENT EVIDENCE
19 THROUGH THE MOUTH OF THE DEFENDANT AS TO WHAT THAT
20 OTHER CAUSE, THAT THE CAUSE WAS

21 MR BAITY NOT TOO FINE OF A POINT BUT
22 I'M TALKING ABOUT THE MEDICAL CAUSATION OF A
23 PHENOMENA THAT HE'S OBSERVED THAT GIVES HIM THE IDEA
24 THAT SEXUAL ABUSE MAY HAVE OCCURRED SO IT'S THE
25 JUSTIFICATION FOR THE JUSTIFICATION, IT'S ONE STEP

1 REMOVED I'M NOT JUST ASKING ABOUT SEXUAL ABUSE, I'M
2 SAYING THAT SEXUAL ABUSE CAUSED THIS INFLAMED TISSUE
3 THAT YOU ARE TALKING ABOUT, AND HE SAYS WELL, I DON'T
4 KNOW I CAN'T SAY THAT

5 THE COURT WELL --

6 MR BAITY IT'S ONE OF MANY
7 POSSIBILITIES

8 THE COURT I UNDERSTAND AND THEN WE GOT
9 SOMEBODY ELSE SAYING WHAT ONE OF THOSE POSSIBILITIES
10 IS I'VE BEEN DOING THIS SO I'M GOING TO ALLOW IT
11 I DENY THAT MOTION YOU READY FOR THE JURY?

12 MR THOMPSON THE STATE IS READY, YOUR
13 HONOR

14 MR SMITH JUDGE, WE LEFT THE QUESTION OF
15 THE PSYCHOLOGICAL EXAMINATION OF THE GIRLS OPEN LAST
16 NIGHT

17 THE COURT LET'S DO THAT DURING A BREAK
18 BECAUSE I'D LIKE TO GET THE JURY TO WORK

19 MR SMITH YES, SIR

20 THE COURT THANK YOU FOR REMINDING ME

21 (THE JURY RETURNS TO THE COURTROOM AT

22 9 21)

23 THE COURT GOOD MORNING ALL RIGHT

24 (JURORS GOOD MORNING)

25 MR THOMPSON PLEASE THE COURT, YOUR

1 HONOR THE STATE WOULD CALL DR JAMES MAYNARD TO THE
2 STAND

3 THE COURT PLEASE COME UP AND BE SWORN
4 JAMES MAYNARD, BEING FIRST DULY
5 SWORN TESTIFIES AS FOLLOWS

6 DIRECT EXAMINATION BY MR THOMPSON

7 Q DR MAYNARD, WOULD YOU STATE YOUR NAME FOR THE
8 COURT PLEASE?

9 A JAMES LEWIS MAYNARD

10 Q AND DR MAYNARD, WHAT DO YOU DO FOR A LIVING?

11 A I AM PHYSICIAN I WORK MORE SPECIFICALLY AS A
12 PATHOLOGIST IN YORK COUNTY

13 Q CAN YOU DESCRIBE TO US WHAT A PATHOLOGIST DOES,
14 WHAT ARE SOME OF THE THINGS YOU DO AS A PATHOLOGIST?

15 A YES A PATHOLOGIST IS A PHYSICIAN OR MD WHO HAS
16 GONE TO FOUR YEARS OF MEDICAL SCHOOL AND THEN HAD
17 ADDITIONAL TRAINING IN PATHOLOGY, USUALLY FOUR TO
18 FIVE YEARS OF TRAINING AFTER MEDICAL SCHOOL
19 PATHOLOGY DEALS WITH DISEASE AT THE TISSUE, BLOOD
20 FLUID LEVELS IT DEALS WITH PAP SMEARS IT DEALS
21 WITH BIOPSIES TAKEN OR ORGANS REMOVED DURING SURGERY
22 DIAGNOSIS OF CANCER WE ALSO DO AUTOPSIES,
23 DETERMINING THE CAUSE AND MANNER OF DEATH THERE ARE
24 SEVERAL SUBSPECIALITIES IN PATHOLOGY FROM BLOOD
25 BANKING TO FORENSIC PATHOLOGY AND FORENSIC PATHOLOGY

1 DEALS MORE WITH CAUSE AND MANNER OF DEATH USUALLY OF
2 A VIOLENT OR UNNATURAL OR UNUSUAL METHODS

3 Q CAN YOU TELL ME, DR MAYNARD, DO YOU HAVE
4 OCCASIONS TO PERFORM AUTOPSIES HERE IN YORK COUNTY?

5 A YES

6 Q HOW MANY AUTOPSIES ABOUT HAVE YOU PERFORMED HERE
7 IN YORK COUNTY?

8 A I'VE BEEN IN YORK COUNTY FOR 28 YEARS AND
9 PROBABLY DONE 1500 AUTOPSIES SINCE I'VE BEEN HERE

10 Q AND WHAT TYPE OF TRAINING DO YOU HAVE IN THE
11 PERFORMING OF AUTOPSIES?

12 A I WENT TO MEDICAL SCHOOL AT THE UNIVERSITY OF
13 NORTH CAROLINA, PROCEEDED TO DO MY PATHOLOGY
14 RESIDENCY AT THE UNIVERSITY OF NORTH CAROLINA, AND
15 THEN DID ADDITIONAL WORK IN FORENSIC PATHOLOGY AT
16 THAT TIME

17 MR BAITY YOUR HONOR, TO SAVE TIME, WE
18 CERTAINLY WOULD STIPULATE TO DR MAYNARD'S
19 QUALIFICATIONS HE'S A FORENSIC PATHOLOGIST

20 MR GREELEY I JOIN IN THE STIPULATION
21 THE COURT I FIND HE IS QUALIFIED

22 Q DR MAYNARD, DID YOU HAVE OCCASION TO PERFORM
23 THE AUTOPSY ON AMANDA COPE?

24 A YES, SIR, I DID

25 Q NOW AS WE WERE ABOUT TO GET INTO THAT, BUT AS WE

1 GET INTO IT, DID YOU ACTUALLY END UP GOING TO THE
2 SCENE THE DAY THAT SHE WAS DISCOVERED?

3 A YES, SIR, I DID

4 Q AND CAN YOU TELL ME WHAT HAPPENED AS, WHAT YOU
5 RECALL HAPPENING WHEN YOU FIRST ARRIVED AT THE HOME?

6 A I WAS CALLED THAT MORNING TO COME TO THE SCENE
7 BY LAW ENFORCEMENT BECAUSE OF AN UNUSUAL DEATH THAT
8 OCCURRED I ARRIVED AT THE SCENE, WAS MET OUTSIDE BY
9 AN OFFICER, AND THEN TAKEN INTO THE HOUSE

10 Q OKAY NOW WHEN YOU WENT IN HOUSE AT THAT TIME
11 DID YOU NOTICE THE CONDITION OF THE HOUSE?

12 A YES, SIR, I DID

13 Q AND WHAT WAS THE CONDITION OF THE HOUSE?

14 A IT WAS AWFUL, EXTREME FILTH THERE WAS BUGS,
15 ROACHES, ALL OVER THE PLACE THERE WAS SEVERAL CATS
16 IN THE HOUSE, FECAL MATERIAL FROM THE CATS WAS ABOUT
17 THE HOUSE, EXTREME DISARRAY

18 Q ALL RIGHT WAS THERE ANY SMELL TO THE HOUSE?

19 A THERE WAS AN ODOR OF THE CATS BUT ALSO AN ODOR
20 OF SPOILED FOOD

21 Q ALL RIGHT AND CAN YOU TELL ME WHAT WAS THE
22 CONDITION OF THE APPEARANCE OF THE HOUSE ITSELF?

23 A IT WAS UNINHABITABLE TO ME THERE WAS CLOTHING,
24 FURNITURE, ALL AROUND, GARBAGE, OLD FOOD, SPOILED
25 FOOD, LEFT OUT

1 Q AS PART OF YOUR JOB AS A FORENSIC PATHOLOGIST,
2 HAVE YOU HAD TO GO TO A NUMBER OF CRIME SCENES IN
3 THIS COUNTY?

4 A YES, SIR, A REASONABLE NUMBER

5 Q AND DOING THAT HAVE YOU EVER BEEN IN A HOUSE
6 THAT YOU CONSIDERED AS FILTHY AS THIS ONE?

7 A NO, SIR, I HAVE NOT

8 Q ALL RIGHT WHAT WAS MR COPE DOING UPON YOUR
9 ARRIVAL DO YOU RECALL?

10 A HE WAS, I THINK, OUTSIDE WHEN I FIRST ARRIVED

11 Q OKAY

12 A WE THEN TALKED A LITTLE BIT ON THE INSIDE OF THE
13 HOUSE

14 Q AND WHAT WAS YOUR DISCUSSION WITH HIM?

15 A HOW HE FOUND AMANDA, WAS THERE ANYTHING ELSE
16 HAPPENING AT THE TIME, AND YOU KNOW JUST SORT OF THE
17 GENERAL CONDITION OF HER

18 Q OKAY NOW WHEN YOU WENT INTO WHERE AMANDA WAS
19 IN THE ROOM WHERE SHE WAS, WHAT WAS HER CONDITION,
20 WHAT DID YOU FIRST NOTICE ABOUT HER ON YOUR ARRIVAL?

21 A SHE WAS LYING ON THE BED FACE UP, LYING ON HER
22 BACK THE BEDROOM LOOKED SIMILAR TO THE REST OF THE
23 HOUSE, VERY SQUALID, A LOT OF CLOTHES, A LOT OF TRASH
24 LYING AROUND SHE WAS LYING ON HER BED PARTIALLY
25 CLOTHED THERE WAS A LOT EXTRANEIOUS MATERIAL IN THE

1 BED FROM BOOKS TO STAPLERS TO METAL INSTRUMENTS, ET
2 CETERA, IN THE BED ONE OF THE, I THINK THERE WAS A,
3 THE LEFT FRONT FOOT OF THE BED WAS BROKEN, SO THE BED
4 WAS SOMEWHAT AT A DOWNWARD ANGLE

5 Q AND WHEN YOU BEGAN TO LOOK AT HER AT THAT POINT
6 IN TIME IS THERE ANYTHING SPECIFIC YOU NOTICED ABOUT
7 HER CLOTHING?

8 A YES, SIR, IT WAS

9 Q AND WHAT DID YOU NOTICE?

10 A THE CLOTHING WAS SORT OF PLACED ON THE BODY MORE
11 THAN REALLY DRESSED BY HER THE LEFT BREAST WAS
12 EXPOSED BOTH THE BRA AND THE BLOUSE WERE PULLED UP
13 SHOWING THE NIPPLE OF THE LEFT BREAST WHEN I LOOKED
14 FURTHER THE BRA WAS NOT HOOKED BUT JUST LAID OVER THE
15 BODY AND THE SNAP WAS IN HER LEFT ARMPIT ON ONE SIDE
16 THE PANTS WERE JUST UP TO HER PUBIS, JUST BARELY
17 COVERING OR NOT QUITE COVERING HER PUBIC HAIR, BUT
18 THEY WERE ROLLED INSTEAD OF PUTTING HER PANTS ON
19 STRAIGHT UP WITH THE BELT LINE BEING FLAT, THESE WERE
20 ROLLED INWARDS RATHER THAN, YOU KNOW, BEING OUTWARD
21 AS SOMEONE WOULD PULL THEIR OWN PANTS UP THEY WERE
22 LOWER IN THE FRONT AND HIGHER IN THE BACK WHICH WAS A
23 SUSPICIOUS SIGN TO ME AND TO THE REST OF US THAT
24 THESE HAD BEEN PULLED UP ON HER RATHER THAN HER
25 DRESSING HERSELF

1 Q DID YOU EXAMINE AS WELL HOW HER UNDERWEAR WAS
2 ON?

3 A YES, SIR IT WAS THE SAME WAY, PARTIALLY PULLED
4 UP WITH THE PANTS AND AGAIN ROLLED INWARDS RATHER
5 THAN ROLLED OUTWARD

6 Q AND WERE YOU PRESENT WHEN PHOTOGRAPHS WERE TAKEN
7 OF THAT?

8 A YES, SIR, I WAS

9 Q SHOW YOU STATE'S EXHIBIT NUMBER 24, 25, AND 26,
10 AND ASK IF YOU CAN IDENTIFY THOSE FOR ME?

11 A YES, SIR, I CAN

12 Q ALL RIGHT AND TELL ME WHAT THEY ARE?

13 A EXHIBITS 24 A PICTURE OF AMANDA'S ABDOMEN AND
14 THE PANTS WHICH SHOW THE ROLLING OF THE PANTS INWARD
15 THIS IS A WARM UP SUIT OR A JOGGING BOTTOM WITH THE
16 ROLLING INWARD, THE PUBIC HAIRS THIS BARELY VISIBLE
17 ON THIS ONE

18 Q IF YOU WOULD LOOK ON THE BACK OF THAT AND TELL
19 ME WHICH EXHIBIT THAT IS?

20 A THAT IS 24

21 Q 24 DOES THAT FAIRLY AND ACCURATELY DEPICT HOW
22 YOU SAW HER THAT MORNING?

23 A YES, SIR, IT DOES IT ALSO SHOWS THE LEFT
24 NIPPLE BEING EXPOSED UP THERE WITH THE BRA AND THE
25 BLOUSE BEING ABOVE THE NIPPLE

1 Q AS A MATTER OF FACT BEFORE YOU EXPLAIN WHAT'S IN
2 EACH OF THOSE PICTURES AND HAVING LOOKED AT THEM
3 YOURSELF, DO EACH OF THOSE FAIRLY AND ACCURATELY
4 DEPICT THE BODY AS YOU SAW IT THAT MORNING?

5 A YES, IT DOES

6 MR THOMPSON YOUR HONOR, I ASK TO ENTER
7 THESE IN EVIDENCE AT THIS TIME

8 MR BAITY WE'VE SEEN THEM WE HAVE NO
9 OBJECTION

10 MR GREELEY NO OBJECTION

11 (STATE EXHIBITS 24-26 RECEIVED INTO
12 EVIDENCE)

13 THE COURT ADMITTED WITHOUT OBJECTION

14 Q DOCTOR, IF YOU WOULD --

15 THE COURT MAKE SURE THEY ARE MARKED

16 A YES, SIR, THEY ARE

17 Q DR MAYNARD, IF YOU WOULD, IF YOU COULD HOLD
18 THEM UP AND KIND OF EXPLAIN TO THE JURY WHAT YOU ARE
19 SEEING IN THOSE PHOTOGRAPHS?

20 A YES EXHIBIT 24 AS YOU CAN SEE IS A PICTURE OF
21 THE ABDOMEN, WE CAN SEE THE BELLY BUTTON HERE THE
22 NIPPLE IS EXPOSED ON THE LEFT SIDE HERE THE BRA IS
23 JUST ABOVE THE NIPPLE, THE BLOUSE HERE THE PANTS
24 ARE DOWN SOMEWHAT AND IS PROBABLY DIFFICULT TO SEE
25 MAY I?

1 MR THOMPSON YOU CAN STEP DOWN

2 THE COURT YOU CAN STEP DOWN

3 A OKAY THANK YOU THE PANTS SPECIFICALLY ON
4 THE RIGHT SIDE, SEE THE ROLL THE ROLL IS INWARD ON
5 THE PANT THERE YOU CAN SEE THE LITTLE TOY TRAIN
6 THERE IN THE BED TOO

7 EXHIBIT 25 IS A PICTURE OF AMANDA'S
8 ABDOMEN AND IN PULLING THE PANTS DOWN JUST A LITTLE
9 BIT TO SEE IF SHE HAD UNDERWEAR ON AND YOU CAN SEE
10 THE UNDERWEAR AND AGAIN THE ROLLING ON BOTH THE RIGHT
11 AND THE LEFT SIDES

12 EXHIBIT 26 IS A PICTURE MORE OF HER
13 CHEST AND FACE THERE WERE SEVERAL THINGS IN THIS
14 PICTURE ONE YOU CAN SEE THE LEFT NIPPLE IS EXPOSED
15 THE BRA, AS YOU CAN SEE IS LOOSE, YOU CAN SEE THE
16 HOOK ON THE LEFT SIDE JUST AT HER ARMPIT LEVEL, AND
17 IT SORT OF LOOKS, YOU KNOW, THIS HAS BEEN PUSHED UP
18 SOMEHOW OR ANOTHER EXPOSING THAT LEFT BREAST IF YOU
19 LOOK AT HER FACE YOU CAN SEE THE LIPS ARE QUITE
20 SWOLLEN AND THERE IS A HEMORRHAGE

21 ON THE LEFT YOU SEE A LITTLE BLOODY
22 FLUID COMING OUT THE LEFT SIDE OF THE MOUTH AND IF
23 YOU LOOK ON THE BED THERE IS A VERY BLOODY FLUID IN
24 ADDITION THIS IS THE BLOOD COMING OUT OF HER MOUTH,
25 THE BLOODY FLUID, AND BLOOD ON THE BED ON THE LEFT

1 SIDE

2 Q NOW THAT AREA OF THE BLOOD ON THE BED, DOES THAT
3 CORRESPOND TO WHERE SHE WAS LYING BEFORE SHE WAS
4 ROLLED OVER?

5 A YES, SIR SHE HAD BEEN LYING FACE, WITH THE
6 FACE DOWN WITH THE MOUTH OVER HERE WHICH CAUSED THE
7 FLUID TO LEAK OUT OF HER MOUTH THEN SATURATE THE
8 CLOTHING THAT WAS UNDERNEATH THE BED

9 Q WHEN YOU ARRIVED SHE WAS IN THE POSITION SHE IS
10 CURRENTLY IN THAT PICTURE, CORRECT?

11 A YES, SIR, THAT IS CORRECT SHE WAS ON HER BACK

12 Q NOW YOU MENTION THAT AREA OF BLOOD THAT YOU SAW
13 THAT WAS TRANSFERRED FROM THE MOUTH TO THE BED, WAS
14 THERE OTHER BLOOD SPLATTER THROUGHOUT THE ROOM OR ON
15 THE BED?

16 A NO, SIR, THERE WAS NOT

17 Q WOULD YOU DESCRIBE THIS AS A BLOODY CRIME SCENE?

18 A NO, SIR, I WOULD NOT THERE WAS NO EVIDENCE OF
19 BLOOD ON THE BED, ON THE WALLS, ON THE FLOOR, OR ON
20 THE BED SHEETS THAT WE SAW AT THE TIME OTHER THAN
21 JUST RIGHT THERE AT THE HEAD

22 Q ALL RIGHT NOW DID YOU OBSERVE THE BLANKET THAT
23 WAS WITH THE PIECE OF TRIM THAT WAS UNDONE ON IT?

24 A YES, SIR, I DID AS A MATTER OF FACT, IT'S IN
25 ONE OF THESE PICTURES

1 Q OKAY AND HAVE YOU BEEN TOLD BY MR COPE
2 WHETHER THAT BLANKET WAS USED IN ANY WAY ON HER OR
3 HOW HE FOUND THAT BLANKET ON HER?

4 A MR COPE SAID THAT THE BLANKET WAS WRAPPED
5 AROUND HER NECK FIVE TO SIX TIMES

6 Q ALL RIGHT

7 A OR THE I GUESS THE SATIN AREA, THE TRIM, ON THE
8 BLANKET

9 Q NOW IN VIEWING AMANDA ON THE BED AT THAT TIME
10 WERE YOU ABLE TO DETERMINE IF SHE ACTUALLY WAS KILLED
11 ON THAT BED?

12 A SHE WAS ALIVE DURING AT LEAST PART OF THE
13 ASSAULT ON THE BED THERE WERE ABRASIONS ON HER THAT
14 WERE CONSISTENT WITH SOME OF THE OBJECTS IN THE BED
15 INDICATING THAT THERE WAS A STRUGGLE ON THE BED SHE
16 APPEARED TO HAVE DIED IN THE BED

17 Q AS A MATTER OF FACT, IF I COULD SHOW YOU A
18 COUPLE OTHER EXHIBITS, STATE'S EXHIBITS 27 AND
19 STATE'S EXHIBIT 20 STATE'S EXHIBIT 27 DOES THAT
20 DEPICT THE ITEMS THAT WERE LYING ON THE BED AROUND
21 HER AT THE TIME YOU WERE THERE?

22 A YES, SIR, IT DOES THIS IS WITH US ROLLING HER
23 ON HER LEFT SIDE TO SEE WHAT WAS UNDERNEATH HER
24 THERE ARE A NUMBER OF THINGS

25 Q OKAY AND CAN YOU TELL ME WERE YOU ABLE TO

1 MATCH UP ANY OF THOSE THINGS WITH MARKS ON HER BODY?

2 A THERE WAS A LARGE STAPLER GUN ON THE BED THAT
3 MATCHED SOME OF THE ABRASIONS ON HER BODY

4 Q OKAY AND ON THE OTHER EXHIBIT I BELIEVE
5 EXHIBIT NUMBER 20?

6 A YES, SIR

7 Q CAN YOU TELL ME WHAT THAT IS?

8 A YES THERE WERE ABRASIONS ALONG WITH
9 HEMORRHAGES INDICATING THAT SHE WAS ALIVE AT THIS
10 TIME AND THESE, WHEN YOU PUT THE STAPLE GUN ON THIS,
11 MATCH WHAT WAS THERE ON HER BODY

12 Q AND WHAT IF ANYTHING DOES THAT INDICATE TO YOU?

13 A THIS INDICATES THAT A STRUGGLE OCCURRED ON THE
14 BED, SHE WAS ALIVE AT THE TIME, SIGNIFICANT FORCE WAS
15 APPLIED TO HER THAT CAUSED ABRASIONS BY THE STAPLE
16 GUN UNDERNEATH HER

17 Q WOULD THAT BE CONSISTENT WITH SOMEONE FORCIBLY
18 HOLDING HER DOWN TO JUMPING ON TOP OF HER?

19 A YES, SIR, IT WOULD

20 Q DO THOSE PICTURES FAIRLY AND ACCURATELY DEPICT
21 THE BODY AND THE BOTTOM PICTURE NUMBER 20 WITH THE
22 ABRASIONS, DOES THAT FAIRLY AND ACCURATELY DEPICT THE
23 ABRASIONS THAT YOU NOTICED ON HER BODY ON HER THIGH
24 AT THAT TIME?

25 A YES, IT DOES

1 MR THOMPSON YOUR HONOR, I ASK TO
2 ENTER THAT INTO EVIDENCE AT THIS TIME

3 MR BAITY NO OBJECTION

4 MR GREELEY NO OBJECTION

5 THE COURT BE RECEIVED WITHOUT OBJECTION

6 Q AND THE OTHER ONE STATE'S EXHIBIT 27 IS THAT
7 CORRECT OR 28?

8 A 27

9 MR BAITY CAN I CONFER WITH COUNSEL
10 ABOUT THESE EXHIBITS WITHOUT OBJECTION, YOUR
11 HONOR

12 MR GREELEY NO OBJECTION

13 THE COURT BE RECEIVED

14 (STATE'S EXHIBITS 20 & 27 RECEIVED
15 INTO EVIDENCE)

16 Q DOCTOR, IF YOU WOULD STEP DOWN PLEASE ONCE AGAIN
17 AND KIND OF SHOW THE PHOTOGRAPH NUMBER 27 TO THE JURY
18 AND DESCRIBE WHAT YOU ARE SPEAKING OF IN THAT
19 PHOTOGRAPH?

20 A 27 IS AMANDA'S BODY BEING ROLLED TO THE LEFT
21 SIDE AND YOU CAN SEE THE CLUTTER THAT'S ON THE BED
22 THE STAPLE GUN THAT I'M REFERRING TO IS THERE JUST
23 UNDERNEATH HER AGAIN THE STAPLE GUN AND A LOT OF
24 OTHER ITEMS THAT ARE IN THE BED THE PICTURE STATE'S
25 EXHIBIT 20 IS OF HER THIGH AND YOU CAN SEE THE

1 ABRADED AREA THAT THERE ARE SPOTS THERE THERE IS
2 HEMORRHAGE BETWEEN THE AREAS INDICATIVE OF HER (A)
3 BEING ALIVE BUT ALSO HAVING FORCED PRESSED DOWN ON
4 THE STAPLE GUN AND THEN MOVEMENT OCCURRED TO CAUSE
5 THESE ABRASIONS

6 Q WHEN YOU SPEAK OF MOVEMENT OCCURRING WOULD THAT
7 BE CONSISTENT WITH HER STRUGGLING WHILE LYING ON TOP
8 OF THE BED?

9 A YES, SIR, IT WOULD BE SO WHEN YOU TAKE THIS
10 AND PUT IT WITH THE STAPLE GUN IT FIT PERFECTLY

11 Q NOW I NOTICE ON STATE'S EXHIBIT 27 WHERE YOU HAD
12 ROLLED HER BODY UP A LITTLE BIT WHEN THE PHOTOGRAPH
13 WAS TAKEN THERE WAS SOME REDNESS ON HER BACK, CAN YOU
14 DESCRIBE WHAT THAT IS?

15 A YES, SIR, I CAN THE REDNESS ON HER BACK WHICH
16 BEGINS ABOVE THE BUTTOCK CREASE IS WHAT WE TERM AS
17 LIVOR MORTIS WHICH IS SIMPLY THE SETTLING OF BLOOD IN
18 THE TISSUE AFTER DEATH THAT BLOOD WILL BEGIN TO,
19 WELL IT STOPS FLOWING, AND IT STARTS SETTLING WITH
20 GRAVITY AT THIS TIME

21 Q ALL RIGHT AND CAN YOU TELL ME DOES THAT
22 INDICATE THAT SHE SPENT SOME TIME AFTER DEATH ON HER
23 BACK?

24 A YES, SIR, IT DOES

25 Q WAS THERE ANY INDICATION TO YOU THAT SHE HAD

1 SPENT ANY TIME ON HER STOMACH AFTER DEATH?

2 A YES, SIR, THERE IS AND EXHIBIT 26 THE PICTURE OF
3 HER FACE AND UPPER CHEST AND BREAST YOU CAN ALSO SEE
4 SOME OF THIS REDNESS OR LIVOR OVER HER FACE AND OVER
5 HER LEFT FLANK AND LEFT BREAST

6 Q SO IN YOUR OPINION WAS THERE SOMETIME AFTER
7 DEATH THAT SHE SPENT BOTH ON HER FACE AND ON HER
8 BACK?

9 A YES, SIR, IN ADDITION TO THIS BLOODY FLUID WE
10 SEE ON THE LEFT SIDE OF HER FACE

11 Q SO YOU SAY IN ADDITION TO THAT BLOODY FLUID THAT
12 INDICATE THAT SHE WOULD HAVE BEEN TURNED MORE THAN
13 ONCE?

14 A YES, SIR

15 Q OKAY AND THAT'S BEFORE YOU ARRIVED THAT SHE
16 WOULD HAVE BEEN TURNED OVER MORE THAN ONCE?

17 A YES, SIR, SHE WAS ON HER BACK WHEN I ARRIVED

18 Q OKAY NOW DID YOU USE ANY SORT OF ALTERNATE
19 LIGHT SOURCE TO TRY TO DETERMINE ANYTHING WHILE YOU
20 WERE THERE?

21 A YES, SIR, WE DID

22 Q CAN YOU DESCRIBE HOW YOU DO THAT?

23 A LAW ENFORCEMENT FORENSICS HAD SOME BLACK LIGHTS
24 OR LIGHTS THAT WE LOOK FOR ITEMS THAT MAY FLUORESCENCE
25 YOU PUT ON A SET OF SPECIAL GLASSES AND CUT OFF ALL

1 THE LIGHTS AND CUT THIS LIGHT ON AND CERTAIN THINGS
2 WILL FLUORESCCE IN THE ROOM AND WE EXAMINED THE BED
3 AND AMANDA SHE WAS IN THE BED AT THAT TIME

4 Q OKAY AND WHAT DOES THAT SHOW TO YOU, WHAT DID
5 IT SHOW TO YOU AT THE TIME?

6 A THAT THERE WERE A NUMBER OF AREAS THAT WERE
7 FLUORESCING A NUMBER OF THINGS CAN FLUORESCCE BUT IT
8 GIVES YOU AN AREA OR AN IDEA OF WHERE TO LOOK A
9 LITTLE CLOSER SEMEN BEING ONE OF THE MOST COMMON
10 THINGS THAT FLUORESCCES

11 Q DO THINGS LIKE URINE ALSO FLUORESCCES?

12 A OTHER THINGS CAN, YES, SIR

13 Q IS IT MOSTLY BODY FLUIDS?

14 A MOSTLY BODILY FLUIDS, OCCASIONALLY FOREIGN
15 MATERIAL MAY FLUORESCCE

16 Q FOREIGN MATERIAL, SPILLED MILK, SOMETHING LIKE
17 THAT, MAY FLUORESCCE?

18 A SOME OTHER THINGS, YES, SIR

19 Q NOW AFTER YOU HAD NOTICED THAT, WAS THERE ANY
20 TIME WHILE YOU WERE THERE AT THE HOUSE THAT YOU ENDED
21 UP DETERMINING, I KNOW YOU DIDN'T DO A FULL EXAM
22 THERE, DID YOU DETERMINE ANYTHING ABOUT A SEXUAL
23 ASSAULT AT THE HOUSE INITIALLY?

24 A THERE WAS OBVIOUS EVIDENCE OF ASSAULT ON AMANDA
25 THERE WERE BRUISING ABOUT THE HEAD, ESPECIALLY OF THE

1 FACE THERE WAS SWELLING OF THE LIPS, A LOT OF
2 DISCOLORATION OF THE LIPS THERE WAS ABRASIONS ON
3 THE BACK THAT WE NOTED AND THE WAY THE CLOTHING WAS
4 ARRANGED WITH THE BRA UNHOOKED, THE LEFT BREAST
5 EXPOSED, THE PANTS PULLED UP IN A UNUSUAL FASHION, WE
6 WERE VERY CONCERNED ASSAULT HAD OCCURRED AND A
7 HOMICIDE HAD TAKEN PLACE

8 Q SO YOU DIDN'T ACTUALLY UNDESS HER THERE AT THE
9 SCENE, DID YOU?

10 A NO, SIR, WE DIDN'T

11 Q AT THAT POINT YOU RECALL HOW THE BODY WAS OR
12 WHAT WAS DONE WITH THE BODY AT THAT POINT AFTER YOU
13 EXAMINED HER INITIALLY?

14 A THE BODY ALONG WITH THE BED CLOTHES WERE ALL PUT
15 TOGETHER, PLACED IN A BAG SO NOTHING WOULD BE LOST,
16 ALL THE EVIDENCE WOULD BE RETAINED FROM THE BED, AND
17 THEN TAKEN TO THE MORGUE

18 Q ALL RIGHT AND DID YOU THEN GO TO THE MORGUE TO
19 LATER ON TO PERFORM THE AUTOPSY THAT DAY?

20 A YES, SIR, I DID

21 Q NOW BEFORE YOU PERFORM THAT AUTOPSY THOUGH, DID
22 MR COPE ONCE AGAIN DID YOU HAVE OCCASION TO MEET HIM
23 AT YOUR LAB AT PIEDMONT?

24 A YES, SIR, A LITTLE LATER THAT MORNING

25 Q AND CAN YOU TELL ME WHAT THE SITUATION WAS IN

1 WHICH YOU MET HIM AT THAT TIME?

2 A HE WAS BROUGHT OVER WITH SEVERAL POLICE OFFICERS
3 FOR ME TO OBTAIN BLOOD AND OTHER POTENTIAL HAIRS, ET
4 CETERA, FROM HIM

5 Q THIS IS STATE'S EXHIBIT NUMBER 33

6 MR BAITY NO OBJECTION, YOUR HONOR

7 THE COURT MR GREELEY

8 MR GREELEY NO OBJECTION

9 THE COURT BE RECEIVED WITHOUT OBJECTION

10 (STATE'S EXHIBIT 33 SLED BLOOD
11 COLLECTION KIT RECEIVED INTO EVIDENCE)

12 MR THOMPSON DOES THAT MEAN I DON'T
13 HAVE TO MOVE IT INTO EVIDENCE, IT'S ALREADY THERE,
14 THEN I AM MOVING IT IN OFFICIALLY THEN AT THIS TIME

15 THE COURT IT'S RECEIVED

16 Q DR MAYNARD, IF YOU COULD TELL ME WHAT THAT IS?

17 A YES, SIR STATE'S EXHIBIT 33 IS A STATE LAW
18 ENFORCEMENT ENVELOPE THAT CONTAINS BLOOD TUBE
19 DIFFERENT ENVELOPES FOR THE COLLECTION OF BLOOD
20 SALIVA, HEAD HAIR, PUBIC HAIRS, ET CETERA

21 Q ALL RIGHT AND YOU TAKE THOSE SAMPLES FROM HIM
22 AT THAT TIME?

23 A YES, SIR, I DID

24 Q WHEN YOU TAKE THOSE DO YOU SEAL THEM UP IN THE
25 ENVELOPES THAT ARE PROVIDED?

1 A YES, SIR THESE COME IN AN ENVELOPE WHICH IS
2 SEALED, WE OPEN THIS, AND THEN THERE ARE INDIVIDUAL
3 ENVELOPES IN HERE WHICH WE PLACE THE APPROPRIATE
4 MATERIAL IN THESE ARE RESEALED WITH EVIDENCE TAPE
5 THEN THE EVIDENCE TAPE IS PLACED ON THE BACK OF THE
6 ENVELOPE IN THE PRESENCE OF EVERYONE MY INITIALS
7 ARE ON THE EVIDENCE TAPE TO PROVE IT HADN'T BEEN
8 TAMPERED WHEN IT ARRIVES AT SLED THEN ON THE FRONT
9 OF IT IS MY SIGNATURE FROM ME TO OFFICER DAVIS AT
10 NOVEMBER 29, 2001 AT 10 07 A M
11 Q DID MR COPE SAY ANYTHING TO YOU WHEN HE ARRIVED
12 TO TAKE THIS KIT?
13 A YES, SIR, HE DID
14 Q WHAT DID HE SAY?
15 A HE ASKED HAD I FOUND ANY DNA, ANY OF HIS DNA ON
16 AMANDA NAILS
17 Q WHICH NAILS?
18 A AND I ASKED HIM ABOUT THIS BECAUSE SOMEWHAT
19 UNUSUAL, HE ASKED DID ANY OF HIS DNA SHOW UP
20 UNDERNEATH HER NAILS AND WHEN I ASKED HIM WHY HE WAS
21 ASKING ME THAT HE SAID WELL HIS BACK HAD BEEN ITCHING
22 AND SHE WAS SCRATCHING HIS BACK THE NIGHT BEFORE
23 Q ALL RIGHT DID YOU AT THAT POINT HAVE OCCASION
24 TO LOOK AT HIS BACK?
25 A YES, SIR I ASKED HIM DID HE HAVE A RASH OR

1 SOMETHING AND HE SAID HE DID HE THEN PULLED HIS
2 SHIRT OFF AND LET ME LOOK AT HIS BACK

3 Q AND WHAT DID YOU EXAMINE AT THAT TIME?

4 A THERE WAS A MINIMUM BUMPS, EVIDENCE OF MILD
5 SCRATCHING

6 Q OKAY NOW AFTER YOU TOOK THOSE SAMPLES AT THAT
7 TIME DO YOU HAND THEM OVER TO LAW ENFORCEMENT THEN?

8 A YES, SIR, I DID

9 Q AND I BELIEVE THERE IS ACTUALLY A PLACE WHERE
10 YOU SIGN ON THERE THAT IT'S TURNED OVER?

11 A YES, SIR, IT WAS TURNED OVER TO DAVIS

12 Q OFFICER DAVIS?

13 A OFFICER DAVIS

14 Q ALL RIGHT THANK YOU NOW WHEN YOU FIRST
15 EXAMINED AMANDA DID YOU TAKE NOTE OF HER HEIGHT AND
16 WEIGHT AT THAT TIME?

17 A YES, SIR, I DID

18 Q WHAT WAS YOUR DETERMINATION AS FAR AS HEIGHT AND
19 WEIGHT?

20 A SHE WAS 63 INCHES IN HEIGHT AND WEIGHED
21 APPROXIMATELY 160 TO 170 POUNDS

22 Q AND DID YOU EXAMINES HER HAIR FOR ANY SIGNS OF
23 BUGS OR VERMIN OR ANYTHING LIKE THAT?

24 A YES, SIR, I DID

25 Q DID YOU FIND ANYTHING?

1 A YES, SIR SHE HAD LICE, HEAD LICE

2 Q AT THAT POINT DID YOU FURTHER EXAMINE HER
3 CLOTHING?

4 A YES, SIR, WE DID

5 Q AND IN REMOVING HER CLOTHING, DID YOU NOTICE
6 WERE THE BRA THAT SHE WAS WEARING WERE THE STRAPS HER
7 ARMS THROUGH THE BRA ITSELF, DO YOU RECALL?

8 A THE STRAPS WERE ON THE SHOULDER SO THE BRA WAS
9 BACK ON AMANDA BUT WAS NOT HOOKED

10 Q OKAY NOW IN EXAMINING THE CLOTHING AS WELL DID
11 YOU FIND ANYTHING THAT INDICATED TEARS OR ANYTHING OF
12 THAT NATURE ON THE CLOTHING?

13 A THERE WERE NO TEARS IN THE CLOTHING

14 Q ALL RIGHT DID YOU FIND ANY HAIRS OR ANYTHING
15 OF THAT NATURE BEFORE YOU ACTUALLY STARTED INTO THE
16 SEXUAL ASSAULT KIT WITH AMANDA?

17 A YES, SIR, I DID THERE WERE SEVERAL SCATTERED
18 HAIRS ON BOTH THE BLOUSE AND THE PANTS

19 Q AND DID YOU COLLECT THOSE AT THAT TIME?

20 A YES, SIR, I DID

21 Q IN COLLECTING THOSE WOULD THEY BE SEPARATELY
22 SEALED FROM EACH OTHER?

23 A YES, SIR, THAT'S CORRECT

24 Q AND ULTIMATELY GIVEN TO THE POLICE DEPARTMENT?

25 A YES, SIR

1 Q NOW AS YOU STARTED TO THE AUTOPSY IF YOU COULD,
2 WOULD JUST GO THROUGH WHAT YOU FOUND NOW, THE
3 EXTERNAL INJURIES THAT YOU FOUND REGARDING THE FACE
4 IN THAT AREA, WHAT TYPE OF INJURIES DID YOU OBSERVE
5 WITH HER HEAD AND FACE?

6 A THERE WAS BRUISING BENEATH THE RIGHT EYE THERE
7 WAS A FAINT AREA OF BRUISING OVER THE LEFT CHEEK AND
8 FACE AND THE EYES, THE WHITE PART OF THE EYES WE
9 CALL THE SCLERA, HAD AREAS OF HEMORRHAGE IN THEM
10 THIS IS UNUSUAL AND THERE WAS SOME AREAS UP TO A
11 QUARTER INCH IN SIZE WHICH WAS FAIRLY SIGNIFICANT
12 INJURIES DIRECTLY TO THE EYES OR THE TISSUE AROUND
13 THERE

14 THE MOUTH, THERE WAS THIS BLOODY FLUID
15 COMING OUT OF IT, A LITTLE FROTHY FLUID, BUT THERE
16 WAS SWELLING OF BOTH THE UPPER AND LOWER LIPS, AND
17 HEMORRHAGE ALONG THESE AREAS INDICATING CONTUSIONS OR
18 BLOWS THAT OCCURRED TO THE LIPS THERE WAS A TEAR OF
19 ALMOST A HALF INCH IN LENGTH ON THE INNER ASPECT OF
20 THE LOWER LIP IN THE MIDLINE THERE WAS EITHER A
21 SPLITTING OR ONE OF HER TEETH THAT ACTUALLY CUT IT
22 FROM A BLOW TO THE LIP ON THE OUTSIDE OF THE LIP
23 THEY HAD APPEARANCE OF POSSIBLY A SMALL BITE MARK,
24 PROBABLY AMANDA'S, WHEN SHE WAS BITING DOWN ON HER
25 LIP HERSELF

1 Q ALL RIGHT AND IF YOU COULD TELL ME AS FAR AS
2 THE INJURIES TO THE EYES THEMSELVES, DID YOU LOOK
3 FURTHER INTO THESE INJURIES AS FAR AS
4 MICROSCOPICALLY, DID YOU EXAMINE SOME OF THESE
5 INJURIES?

6 A YES, SIR, WE DID

7 Q AND WHAT RESULTED FROM THAT?

8 A DUE TO THE, WE LOOKED IN THE EYES AND THERE WAS
9 EVIDENCE OF HEMORRHAGE BACK ON THE RETINA INTO AT
10 LEAST ONE EYE, AND WE ENDED UP TAKING THE EYES OUT
11 WHICH IS TYPICALLY WHAT YOU DO WITH A SHAKEN BABY
12 SYNDROME WHERE YOU SEE INJURIES THERE, WE EXAMINE THE
13 TISSUE AROUND THE EYES, AND THERE WAS EVIDENCE OF
14 HEMORRHAGE BEING AROUND THE EYES INDICATIVE OF
15 SIGNIFICANT FORCE BEING APPLIED TO THE FACE WHEN WE
16 ACTUALLY DID THE MICROSCOPIC EXAMINATION OF THE EYE
17 TISSUE ITSELF THERE WAS HEMORRHAGE IN THE RETINA OF
18 THE LEFT EYE AND IN THE SOFT TISSUE THERE THE RIGHT
19 EYE THERE WAS HEMORRHAGE IN THE TISSUE AROUND IT BUT
20 THERE WAS NO EVIDENCE OF RETINA HEMORRHAGE IN THE
21 RIGHT EYE

22 Q ON THE HEAD ITSELF DID YOU EXAMINE ANY INJURIES
23 ON THE HEAD?

24 A THERE WAS NOTHING ON THE HEAD THAT I CAN SEE
25 RIGHT NOW

1 Q NOTHING VISIBLE ON THE OUTSIDE OF THE HEADS?

2 A NO, SIR, NOTHING ON THE OUTSIDE OF THE HEAD

3 Q HOW ABOUT YOUR INTERNAL INVESTIGATIONS OF THE
4 INJURIES ON THE HEAD, WHAT RESULTED FROM THAT?

5 A INTERNALLY THERE WAS SIGNIFICANT BRUISING ON THE
6 LEFT SIDE OF THE HEAD PREDOMINATELY BUT ALSO ON THE
7 RIGHT SIDE OF THE HEAD THIS IS WHAT WE DETERMINED
8 THE TEMPORALIS MUSCLE OR THE BIG MUSCLE THAT GOES UP
9 IN FRONT OF YOUR EAR AND ATTACHES TO YOUR SCALP ON
10 BOTH SIDES OF THE HEAD THERE WAS ALSO SOME
11 HEMORRHAGE OVER THE MIDFRONT OF THE SCALP THERE WAS
12 NOTHING ON THE BACK OF THE SCALP THAT WE DETERMINED

13 Q NOW THE HEMORRHAGES THAT WE'RE TALKING ABOUT SO
14 FAR I'M REFERRING TO A BLEEDING?

15 A YES, SIR I'M SORRY BRUISING IN THE TISSUE

16 Q AND WITH THE BRUISING AND THE HEMORRHAGING THAT
17 YOU ARE DISCUSSING SO FAR, DID YOU NOTICE ANYTHING
18 ABOUT THE FRESHNESS OF THOSE PARTICULAR WOUNDS?

19 A THESE ALL APPEAR TO BE FRESH AT THE TIME OF THE
20 AUTOPSY AND DETERMINED TO BE FRESH WHEN WE DID THE
21 MICROSCOPIC EXAMINATION

22 Q ALL RIGHT AND IN LOOKING AT BOTH THE FACE AND
23 THE HEAD AND THOSE INJURIES, DO YOU HAVE AN OPINION
24 AS TO WHAT WOULD BE, WHAT TYPE OF FORCE WAS USED TO
25 CAUSE THOSE INJURIES?

1 A YES, SIR, I DID

2 Q AND WHAT IS THAT OPINION?

3 A SIGNIFICANT BLUNT FORCE INJURY WAS USED THERE
4 WAS NO EVIDENCE OF A KNIFE WHERE LACERATIONS
5 OCCURRED, BUT A SOLID OBJECT STRIKING THESE AREAS
6 WITH SUCH FORCE TO CAUSE BREAKING OF THE VESSELS, THE
7 BRUISING, THE BLEEDING IT TAKES A SIGNIFICANT
8 AMOUNT OF FORCE TO CAUSE HEMORRHAGE AROUND SOMEONE'S
9 EYES ESPECIALLY THE RETINA IN THE BACK OF EYE, THE
10 VISUAL PORTION OF THE EYE, SO SIGNIFICANT FORCE
11 WHETHER WITH A FIST, WITH A FOOT, WITH AN OBJECT

12 THAT'S NOT GOING TO LACERATE OR TEAR THE SKIN ITSELF
13 Q SO BY OBJECT YOU ARE NOT TALKING LIKE A BASEBALL
14 BAT, BUT RATHER SOMETHING LIKE A HAND OR A FOOT,
15 THINGS LIKE THAT?

16 A TYPICALLY YOU WOULD NOT SEE THIS TYPE OF INJURY
17 WITH A BASEBALL BAT ON THE HEAD

18 Q OKAY WOULD THAT BE CONSISTENT WITH BEING HIT
19 WITH AN OPEN HAND AS WELL WITH GREAT FORCE?

20 A YES, SIR, IT CERTAINLY COULD BE

21 Q ALL RIGHT AND YOU HAD MENTIONED THE FACT THAT
22 WHEN TALKING ABOUT THE EYES AND SOME OF THE
23 HEMORRHAGING THERE, ABOUT SHAKEN BABY SYNDROME THAT
24 WAS SIMILAR TO THAT, CAN YOU DESCRIBE WHAT YOU MEAN
25 BY THAT?

1 A YES, SIR THERE WERE SEVERAL THINGS THE
2 SHAKEN BABY SYNDROME IS WHERE AN INFANT IS SHAKEN SO
3 VIOLENTLY THAT HIS HEAD IS MOVING BACK AND FORTH AND
4 HIS BRAIN IS MOVING EVEN FASTER, SO THE BRAIN IS
5 BOUNCING AROUND THE INSIDE WITH THE FAST SPEED UP
6 AND SLOWING DOWN WITH THE SHAKING THAT YOU'LL
7 ACTUALLY HAVE THE EYES MOVING TOO AND GET HEMORRHAGES
8 IN THE EYES, BUT YOU ALSO HAVE THESE SHEARING FORCES,
9 BLOOD VESSELS ARE VERY DELICATE, THE SMALL BLOOD
10 VESSELS, AND SHEARING OR TWISTING MOTIONS ARE MOVING
11 FRONTWARDS AND BACKWARDS IN A RAPID RATE WILL START
12 TEARING THESE VESSELS AND HENCE YOU GET THE BLEEDING
13 OR THE BRUISING AND THE HEMORRHAGE OCCURRING SO
14 VIOLENT FORCE THAT WILL SNAP THE HEAD BACK AND FORTH
15 OR PUT DIRECT PRESSURE ON THE EYES WOULD CAUSE
16 HEMORRHAGE LIKE THIS

17 Q SO IN AMANDA'S CASE IS IT YOUR OPINION THEN THAT
18 VIOLENT FORCE WAS USED TO CAUSE THESE INJURIES?

19 A YES, SIR

20 Q WOULD IT BE CONSISTENT WITH SOMEONE STRIKING HER
21 HEAD FROM ONE SIDE TO THE OTHER CONTINUOUSLY?

22 A YES, SIR, IT WOULD BE

23 Q DO YOU HAVE AN OPINION AS FAR AS THE INJURIES ON
24 THE HEAD AND INTERNAL INJURIES WITHIN THE HEAD YOU
25 JUST DISCUSSED, COULD THIS HAVE HAPPENED WHILE SHE

1 WAS ON HER BACK OR WAS IT LIMITED TO WHILE SHE WAS
2 ON, LAYING ON HER FRONT OR COULD IT BE IN BOTH
3 SITUATIONS THAT THESE COULD BE DONE TO HER?

4 A THE INJURIES TO HER LIPS WOULD BASICALLY BE FROM
5 THE FRONT AREA WHEN HER FACE WAS EXPOSED SHE COULD
6 BE FACING FORWARD AND SOMEBODY COMING FROM THE FRONT
7 STRIKING HER TO CAUSE THAT, BUT SOME BLOWS OCCURRED
8 DIRECTLY FROM THE FRONT NOW SHE COULD HAVE BEEN ON
9 HER FACE OR ON HER ON BACK WHEN THE BLOWS OCCURRED TO
10 THE SIDES OF THE HEAD WHERE THERE WERE HEMORRHAGE OR
11 BRUISING IN THE MUSCLES THEMSELVES

12 Q NOW HOW ABOUT THE INJURIES WITHIN THE HEAD
13 ITSELF, WOULD THOSE INJURIES, COULD THEY BE SUSTAINED
14 WHILE SHE WAS ON HER STOMACH OR ON HER BACK?

15 A IN ADDITION TO THE BRUISING ON THE OUTSIDE OF
16 THE BODY, THE BRAIN HAD AREAS OF HEMORRHAGE PRESENT
17 TOO THERE WAS SOME BLOOD OVER THE SURFACE OF THE
18 BRAIN BOTH WHAT WE CALL SUBDURAL HEMATOMA THERE WHICH
19 THE BRAIN IS VERY TIGHT IN THE SKULL AND YOU REALLY
20 DON'T HAVE MUCH SPACE TO DEAL WITH THERE WERE
21 SEVERAL COVERINGS OF THE BRAIN ONE CALLED THE DURA
22 WHICH IS A THICK OUTER COVERING AND THEN THERE IS A
23 LEPTOMENINGES OR A REAL THIN COVERING WHICH IS
24 ACTUALLY SITTING ON TOP OF THE BRAIN WHEN YOU GET
25 HEMORRHAGE BETWEEN THIS DURA, THE OUTER SURFACE OF

1 THE BRAIN, AND THE BRAIN, THERE IS BASICALLY NO SPACE
2 FOR IT TO GO EXCEPT COMPRESS THE BRAIN SHE HAD
3 HEMORRHAGE, AND WE DO IT IN CCS, 30 CCS WHICH IS OH
4 ABOUT SIX TABLESPOONS OF FLUID OR BLOOD THAT WAS
5 LYING ON THE SURFACE OF THE BRAIN IT TAKES A LOT OF
6 FORCE TO DO THIS IN ADULT TO CAUSE THAT MUCH BLEEDING
7 AND OF COURSE IT COMPRESSES THE BRAIN

8 SHE ALSO HAD THIS SUBHEMORRHAGE
9 BETWEEN THE THINNER COVERING OF THE BRAIN WHAT
10 HAPPENS THE BRAIN STARTS GETTING COMPRESSED, IT
11 STARTS SWELLING, AND WITH THE MORE HEMORRHAGE, THE
12 MORE SWELLING OF THE BRAIN, YOU START LOSING FUNCTION
13 OF THE BRAIN THE BRAIN OF COURSE CONTROLS THE
14 RESPIRATORY CARDIAC ACTIVITY AND CONSCIOUSNESS AND AT
15 SOME POINT WITH THE SWELLING AND THE HEMORRHAGE THERE
16 YOU MAY LOSE CONSCIOUSNESS OR DIE

17 Q ALL RIGHT NOW THE INJURIES THAT YOU ARE
18 DESCRIBING NOW WITHIN THE BRAIN, DO YOU HAVE, DID YOU
19 MAKE A DETERMINATION AS TO WHETHER THOSE WERE FRESH
20 INJURIES OR NOT?

21 A YES, SIR, THEY WERE ALL FRESH

22 Q THEY WERE ALL FRESH AND THE INJURIES SO FAR WE
23 DISCUSSED ARE THEY CONTEMPORANEOUS WITH EACH OTHER
24 IN OTHER WORDS, DID THEY HAPPEN AROUND THE SAME TIME
25 EACH OF THOSE INJURIES?

1 A YES, SIR, THEY DID

2 Q ALL RIGHT IF YOU COULD NOW GO TO DISCUSS THE
3 INJURIES THAT YOU FOUND ON HER NECK BOTH EXTERNAL AND
4 YOUR INTERNAL INVESTIGATION

5 A THE NECK HAD WHAT WE CALL PETECHIAE OR THIS IS
6 FOCAL MINUTE HEMORRHAGES OVER THE LEFT SIDE OF THE
7 NECK THESE WERE IN SOMEWHAT OF A V-SHAPE FASHION
8 WITH BEING PROMINENT UNDERNEATH ANGLE OF THE JAW
9 ALONG THE LEFT MANDIBLE

10 Q DOCTOR, I'M SORRY TO INTERRUPT YOU, BUT STATE'S
11 EXHIBIT NUMBER 23 THE DEFENSE HAS ALREADY SEEN
12 THIS DOES THIS HELP YOU IN DESCRIBING TO THE JURY
13 THE INJURIES ON HER NECK?

14 A YES, SIR, IT WOULD

15 MR THOMPSON I WOULD ASK TO MOVE IT
16 INTO EVIDENCE AT THIS TIME

17 MR BAITY NO OBJECTION, YOUR HONOR

18 MR GREELEY NO OBJECTION

19 THE COURT BE RECEIVED WITHOUT
20 OBJECTION

21 (STATE'S EXHIBIT 23 PHOTO RECEIVED IN EVIDENCE)

22 Q IF YOU CAN STEP DOWN AND I'LL PLACE IT UP SO YOU
23 CAN LOOK AT IT

24 A THIS IS THE LEFT NECK YOU'LL SEE THE EAR HERE
25 AND THE JAW HERE THERE IS A RULER WITH INCHES

1 THERE THERE IS A LITTLE SWELLING RIGHT HERE, A
2 LITTLE AREA OF BRUISING HEMORRHAGE THERE, BUT YOU SEE
3 THESE LITTLE SPOTS, THESE ARE WHAT WE CALL PETECHIAE
4 OR SIMPLY BLOOD VESSELS THAT HAD RUPTURED BUT IF
5 YOU LOOK YOU CAN SEE A BROADER AREA OF HEMORRHAGE
6 BENEATH THE SKIN THAT'S IN SOMEWHAT OF A V-SHAPE
7 FASHION WITH AN AREA THERE THAT'S PALE AND THEN AGAIN
8 MORE OF THESE LITTLE SMALL PETECHIAE OR MINUTE
9 HEMORRHAGES WE'RE SEEING DOWN AT THE BOTTOM IT
10 COMES TO THE, APPROXIMATELY THE MIDLINE HERE THAT
11 MAYBE ANOTHER ONE THERE AND THERE, AND THEN THEY TEND
12 TO DISAPPEAR IN THOSE AREAS

13 Q ALL RIGHT WHAT DOES THAT INDICATE TO YOU?

14 A THIS SUGGESTS THAT POSSIBLY A HAND HAS BEEN
15 PLACED WITH FINGERS UP HERE AND FINGERS DOWN HERE,
16 AND THIS BEING THE PALM AREA THAT'S NOT HAVING
17 PRESSURE THAT THE FINGERS WOULD APPLY THERE

18 Q ALL RIGHT

19 A THERE IS NO EVIDENCE OF REAL ABRASIONS OR LOSS
20 OF THE SKIN SURFACE IN THERE

21 Q ALL RIGHT YOU CAN GO AND HAVE A SEAT I DON'T
22 BELIEVE I HAVE A PHOTOGRAPH OF THE OTHER SIDE OF THE
23 NECK, BUT IS THERE ANYTHING ON THE OTHER SIDE OF THE
24 NECK THAT INDICATED AS WELL THAT A HAND HAD BEEN USED
25 AS WELL TO STRANGLE HER?

1 A ON THE RIGHT MIDNECK THERE WAS APPROXIMATELY
2 THREE-EIGHTHS OF ONE HALF INCH SMALL HEMORRHAGE AREA,
3 BRUISED AREA TOO

4 Q WHAT WOULD THAT INDICATE TO YOU?

5 A THIS WAS MORE ROUND OVAL AND IS SUGGESTED
6 DISCREET PRESSURE BEING APPLIED TO THIS AREA,
7 POSSIBLY THE THUMB

8 Q IS THAT CONSISTENT WITH THE HAND BEING PLACED ON
9 THE NECK, THUMB ON ONE SIDE AND FINGERS ON THE OTHER?

10 A YES, SIR, CERTAINLY COULD BE

11 Q AND WOULD THAT, THE INDICATION THAT YOU SHOWED
12 US, IS THAT AN INDICATION OF GREAT PRESSURE BEING
13 APPLIED WITH THAT HAND BEING THERE?

14 A YES, SIR IT REQUIRES SIGNIFICANT PRESSURE OR
15 STRUGGLE TO CAUSE HEMORRHAGES OR TEARING TO OCCUR

16 Q NOW IN YOUR OPINION WOULD THAT NECESSARILY HAVE
17 TO BE ONE HAND THAT WAS THERE OR COULD IT BE TWO
18 HANDS, ONE ON TOP OF THE OTHER, THAT COULD CAUSE THE
19 PRESSURE?

20 A IT COULD BE TWO HANDS

21 Q AND ONCE AGAIN IN THE ASPECT OF WHETHER SHE WAS
22 LAYING FACE UP OR FACE DOWN IS IT POSSIBLE THAT IF
23 SHE WAS LAYING FACE DOWN SOMEONE COULD HAVE THEIR
24 HAND AROUND HER NECK AND STRANGLE HER THAT WAY AS
25 WELL?

1 A YES, SIR, IT COULD BE

2 Q NOW I THINK YOU HAD MENTIONED AS WELL DEEP
3 BRUISING OF THE NECK MUSCLES?

4 A YES, SIR

5 Q AND WHAT IF ANYTHING DOES THAT INDICATE TO YOU?

6 A WHEN WE OPEN UP OR PULL THE SKIN BACK TO LOOK
7 INTERNALLY THERE WAS SIGNIFICANT HEMORRHAGE IN THE
8 NECK MUSCLES INDICATIVE OF SIGNIFICANT FORCE BEING
9 APPLIED TO HER NECK, THAT WAS A LOT HEMORRHAGE ON THE
10 LEFT SIDE, BROADER HEMORRHAGE, BUT ALSO AREA OF
11 HEMORRHAGE ON THE RIGHT SIDE AND THIS WAS NOT
12 SUPERFICIAL BUT DEEP DOWN THE MUSCLES THAT BACK DOWN
13 TO YOUR SPINE HAD THE HEMORRHAGE IN THEM

14 Q NOW WERE THERE ANY ABRASIONS AROUND HER NECK?

15 A NO, SIR, THERE WERE NO ABRASIONS

16 Q AND WHAT IF ANYTHING DOES THAT INDICATE TO YOU?

17 A THE LACK OF ABRASIONS SUGGEST MORE OF A HAND OR
18 SOMETHING SOFT BEING APPLIED TYPICALLY WITH A ROPE
19 OR LIGATURE THAT YOU WILL FIND ABRASIONS OR ROUGHING
20 OF THE SKIN AND YOU'LL SEE ACTUAL LINEAR OR STRAIGHT
21 LINES AREAS WHERE A LIGATURE HAS BEEN WITH THE
22 BRUISING AND FREQUENTLY IT'S ALL THE WAY AROUND THE
23 NECK WITH LIGATURE VERSUS A HANGING IT'S USUALLY JUST
24 ON THE FRONT OF THE NECK

25 Q AND WERE THERE ANY MARKS ON THE BACK OF THE

1 NECK?

2 A NO, SIR, THERE WERE NOT

3 Q SO YOU SAW THE BLANKET THAT THE DEFENDANT HAD
4 TOLD YOU THAT WAS WRAPPED AROUND HER NECK, CORRECT?

5 A YES, SIR

6 Q IN YOUR OPINION COULD IT HAVE BEEN THAT BLANKET
7 THAT ACCIDENTALLY STRANGLED HER?

8 A THERE WAS A BORDER ON THE BLANKET WHICH WAS
9 SATIN, THE REST OF THE BLANKET WAS ROUGH, THE ROUGH
10 PORTION WOULD HAVE CERTAINLY CAUSED SOME ABRASIONS IF
11 SHE WAS ALIVE AND STRUGGLING THE SATIN PORTION,
12 AGAIN THERE WAS NO EVIDENCE OF THESE LINEAR
13 HEMORRHAGES TO SUGGEST A LIGATURE, SO IN MY OPINION
14 THE BLANKET DID NOT CAUSE HER DEATH

15 Q SO WHEN YOU ARE TALKING ABOUT LIGATURE MARKS IF
16 WE CAN GET YOU TO BREAK THAT DOWN A LITTLE BIT AND
17 MAKE IT EASIER TO UNDERSTAND, ARE THOSE JUST
18 BASICALLY CIRCULAR MARKS THAT WOULD COME AROUND THE
19 NECK?

20 A YES, SIR

21 Q FROM SOMEONE WHEN ITEM AROUND THE NECK?

22 A YES, SIR IF YOU TOOK A BLANKET, FOR INSTANCE,
23 THIS BLANKET WRAPPED SEVERAL TIMES AROUND THE NECK
24 AND PULLED IT TIGHT, IF SHE WAS ALIVE OR CONSCIOUS
25 THERE SHOULD BE SOME EVIDENCE OF STRUGGLING WITH THE

1 ABRASIONS I'M REFERRING TO BUT ALSO SHOULD BE SOME
2 LINES MORE UNIFORM AROUND THE NECK WITH PULLING OF
3 THE BLANKET FROM END TO END AND TIGHTENING TO
4 STRANGLE HER LIKE THIS

5 Q ALL RIGHT SO IN YOUR OPINION, DR MAYNARD, WAS
6 SHE STRANGLED?

7 A IN MY OPINION SHE WAS STRANGLED AT SOME PORTION
8 AT SOME TIME SIGNIFICANT ENOUGH TO EITHER CAUSE DEATH
9 OR CAUSE SIGNIFICANT HEMORRHAGE IN HER NECK

10 Q ALL RIGHT AND CAN YOU TELL ME IN YOUR OPINION
11 WAS THE STRANGULATION DONE BY AN OBJECT OR BY A, DONE
12 BY SOMETHING ELSE OTHER THAN AN OBJECT?

13 A THE INJURIES THAT I HAVE BEEN TALKING ABOUT AND
14 REFER TO APPEAR TO BE BY A HAND RATHER THAN BY A
15 LIGATURE OR A BLANKET

16 Q ALL RIGHT NOW IF WE COULD GO ON DOWN TO THE
17 EXAMINATION OF HER BREAST AREA CAN YOU TELL ME WHAT
18 IF ANYTHING DID YOU DETERMINE FROM YOUR EXAMINATION
19 IN THAT AREA?

20 A THE BREASTS WERE EXAMINED THE LEFT BREAST WAS
21 APPROXIMATELY ONE HALF THE SIZE OF THE RIGHT BREAST
22 WHICH IS NOT UNCOMMON IN PEOPLE WHO ARE JUST STARTING
23 THE ESTROGEN FLOW THERE WAS A DARKER AREA TO THE
24 RIGHT OF THE RIGHT NIPPLE AND LOOKING AT THIS IT
25 APPEARED PROBABLY TO BE SOME DEEP BRUISING, BUT IN

1 ADDITION THERE APPEARED TO BE TEETH IMPRINT OR
2 SUGGESTIVE OF A POSSIBLE BITE MARK

3 Q AND DID YOU EXAMINE THAT CLOSELY WHEN YOU
4 NOTICED THIS?

5 A YES, SIR, WE CERTAINLY DID WE TOOK SOME SWABS
6 OF THE SURFACE OF THAT THE IMPRESSIONS THERE
7 SUGGEST THE TEETH WERE NOT GOOD ENOUGH TO PHOTOGRAPH
8 EVEN THOUGH I THINK WE TRIED, BUT SOMETIMES YOU CAN
9 GET DENTAL IMPRESSION, THERE WAS NOT ENOUGH THERE

10 Q THERE WAS NOT ENOUGH OF THE MARK TO GET ANY
11 IMPRESSIONS OFF OF THE MARK?

12 A NO, SIR THERE WAS NOT WE THEN SIZE THIS AREA
13 AND THERE WAS DEFINITE HEMORRHAGE OR DEEPNESS
14 INDICATIVE OF FORCE BEING APPLIED, YOU KNOW, TO THIS
15 AREA AND IT APPEARING TO BE BY MOUTH SIMPLY BECAUSE
16 THERE APPEARING TO BE TEETH MARKS THERE

17 Q OKAY AND NOW THE BITE MARK THAT WE'RE TALKING
18 ABOUT, YOU MENTIONED COULDN'T QUITE PICK IT UP ON A
19 PHOTOGRAPH, IS THIS SOMETHING THAT APPEARED TO BE A
20 VERY LIGHT BITE MARK OR A VERY HEAVY BITE MARK OR
21 WHAT'S YOUR OPINION?

22 A THE TEETH WERE NOT APPLIED VERY HEAVILY THIS
23 COULD BE A PUSHING HARD BY THE MOUTH OF THE LIPS OR
24 POSSIBLY SUCKING

25 Q OKAY AND AS FAR AS SUCKING GOES, WAS THERE ANY

1 INDICATION FOR LACK OF A BETTER TERM A HICKEY ON HER
2 BREAST AT THAT TIME?

3 A THERE WAS AREA OF DISCOLORATION BUT NOT A
4 CLASSIC OR TYPICAL HICKEY WHICH YOU AND I MAY KNOW

5 Q ALL RIGHT NOW YOU MENTIONED SOME DEEP
6 BRUISING, CAN YOU DESCRIBE THE DEEP BRUISING IN HER
7 BREAST?

8 A YES, SIR WE CUT INTO THE BREAST TISSUE AND
9 HEMORRHAGE EXTENDED INTO THE DEEPER PORTION OF THE
10 BREAST TISSUE ITSELF

11 Q NOW IN EXAMINING THAT DID YOU ULTIMATELY END UP
12 USING AN ALTERNATE LIGHT SOURCE AGAIN THERE AT THE
13 AUTOPSY?

14 A YES, SIR, WE DID

15 Q AND WHAT IF ANYTHING DID YOU NOTICE ABOUT THE
16 BREAST WHEN USING THAT?

17 A THERE WAS NO EVIDENCE OF ANYTHING NOTHING I
18 PUT IN MY REPORT ON THE BREAST

19 Q OKAY DID YOU TAKE A SWABBING FROM THAT RIGHT
20 BREAST WHERE YOU NOTICED THE POSSIBILITY OF A BITE
21 MARK?

22 A YES, SIR, I DID

23 Q AND IS THAT ONE OF THE THINGS THAT YOU ALSO
24 PACKED UP INDIVIDUALLY AND SEALED AND GAVE TO THE
25 POLICE?

1 A YES, SIR, THAT'S CORRECT

2 Q NOW THE BREAST THAT WE'RE TALKING ABOUT WITH
3 THESE INJURIES ON IT IS THE RIGHT BREAST, CORRECT?

4 A YES, SIR, IT IS

5 Q NOW THIS WAS NOT THE BREAST THAT WAS EXPOSED,
6 WAS IT, AT THE SCENE WHEN YOU WENT THERE?

7 A NO, SIR IT WAS THE LEFT BREAST THAT WAS
8 EXPOSED

9 Q ALL RIGHT AND THE LEFT BREAST THAT WAS
10 EXPOSED, DID YOU SEE ANY INJURY TO THAT BREAST?

11 A NO, SIR, THERE WERE NONE

12 Q IF YOU WOULD CONTINUE AND DISCUSS WITH ME NOW
13 SOME OF THE INJURIES THAT YOU EXAMINED AS FAR AS HER
14 SHOULDERS AND OTHER PARTS OF HER UPPER BODY?

15 A THE TOP OF THE LEFT SHOULDER HAD A THREE QUARTER
16 INCH AREA OF BRUISING BENEATH THE SKIN BUT SOME
17 CONTUSION, A LITTLE IRREGULARITY OF THE SKIN ON THE
18 SURFACE WHEN WE CUT INTO THIS AREA, THE BRUISING
19 EXTENDED DOWN TO THE BONE, SO THIS IS DEEP BRUISING,
20 SIGNIFICANT FORCE BEING APPLIED TO THE LEFT SHOULDER

21 Q TO HER LEFT SHOULDER?

22 A YES, SIR

23 Q NOW DO YOU HAVE AN OPINION AS TO WHAT WOULD HAVE
24 CAUSED THAT PARTICULAR INJURY?

25 A YES, SIR, I DO

1 Q AND WHAT IS THAT OPINION?

2 A THIS WOULD EITHER BE A BLUNT FORCE TRAUMA,
3 SIGNIFICANT BLOW, OR SIGNIFICANT PRESSURE BEING
4 APPLIED DIRECTLY ON TO THIS WITH SUCH FORCE THAT
5 WOULD CAUSE THE BLOOD VESSELS TO BREAK OR START
6 HEMORRHAGING

7 Q AND ONCE AGAIN IS THIS THE TYPE OF INJURY THAT
8 COULD BE SUSTAINED EITHER LYING ON HER FACE FACE DOWN
9 OR LAYING FACE UP?

10 A YES, SIR, IT COULD BE

11 Q NOW AS FAR AS THE RIBS AND HER SIDES, WERE THERE
12 ANYTHING THAT YOU NOTICED AS FAR AS HER INJURIES
13 THERE?

14 A THERE WAS AN AREA OF RIGHT LATERAL FLANK WHICH
15 APPEARED TO BE POSSIBLY SOME SUBSTANCE, WE TOOK SOME
16 SWABS OF THIS THE REMAINDER OF THE ABDOMEN AND
17 CHEST DID NOT SHOW ANY EXTERNAL INJURIES

18 Q ALL RIGHT NOW DID YOU EXAMINE HER FINGERNAILS
19 AT ALL?

20 A YES, SIR, I DID

21 Q AND DID YOU TAKE SWABBINGS FROM THE FINGERNAILS
22 AS WELL?

23 A YES, SIR SHE HAD VERY SHORT POLISHED NAILS, WE
24 SCRAPED THESE, AND ALSO CLIPPED THEM

25 Q AND JUST GOING ASIDE FOR A SECOND, WAS SHE

1 WEARING ANY JEWELRY OR ANYTHING LIKE THAT DURING THE
2 AUTOPSY? A WATCH OR ANYTHING OF THAT NATURE?

3 A I DON'T THINK SHE WAS I WOULD HAVE TO GO BACK
4 TO THE PICTURE TO REFRESH MY MEMORY

5 Q ALL RIGHT

6 A I'M SORRY SEVERAL RINGS AND A WATCH ON THE
7 BODY NO JEWELRY ABOUT THE NECK

8 Q THAT'S ALL RIGHT YOU HAD NOTED THAT SHE HAD
9 THOSE THINGS ON AT THE TIME?

10 A YES, SIR, I DID

11 Q NOW IS THERE ANYTHING YOU NOTICED ABOUT HER ARMS
12 AND ANY INJURIES TO HER ARMS?

13 A THE LEFT SHOULDER WE TALKED ABOUT THE
14 EXAMINATION OF THE UPPER EXTREMITIES DID NOT REVEAL
15 ANY CONTUSIONS, ABRASIONS, LACERATIONS, AND THE HANDS
16 WERE UNREMARKABLE

17 Q NOW I BELIEVE ON ONE OF HER ARMS ULTIMATELY DID
18 YOU NOTICE ANY BRUISING AROUND THE FOREARM OR WRIST
19 AREAS?

20 A YES, SIR, WE DID EVENTUALLY

21 Q AND WHAT WAS THAT DID YOU NOTICE?

22 A WE KEPT AMANDA FOR A COUPLE OF DAYS TO
23 RE-EXAMINE SOMETIMES BRUISING DOESN'T INITIALLY
24 SHOW UP BUT WITH MORE OF THE SETTLING OF THE BLOOD
25 THAT LIVOR MORTIS THAT I WAS TALKING ABOUT WITH THE

1 GRAVITY BRUISING WILL BECOME MORE APPARENT WE
2 LOOKED AT HER BODY 24 HOURS, AGAIN 48 HOURS LATER --
3 Q SO ONE AND TWO DAYS LATER YOU EXAMINED THE BODY
4 AGAIN?

5 A YES, SIR

6 Q OKAY

7 A AND DID NOTE THE AREA OF BRUISING THAT WAS VERY
8 FAINT ON THE PICTURE THAT WE WERE LOOKING AT A MINUTE
9 AGO WAS MORE PROMINENT AND THERE WAS AN AREA OF
10 BRUISING ON HER LEFT ELBOW AND THERE WAS ADDITIONAL
11 AREA IN THE UPPER INNER ARM JUST ABOVE THE ELBOW
12 APPROXIMATELY ONE INCH IN SIZE

13 Q ALL RIGHT NOW AS TO ONE OF THE BRUISING I
14 BELIEVE WAS ONE OF HER ARMS AROUND THE WRIST OR
15 FOREARM AREA WAS, DID ANYTHING STAND OUT TO YOU ABOUT
16 THE APPEARANCE OF THAT PARTICULAR BRUISE?

17 A THE ONE ON THE LOWER UPPER OF HER ARM IS
18 APPROXIMATELY ONE INCH IN SIZE WHICH SUGGESTS
19 PRESSURE BEING APPLIED TO THIS AREA

20 Q OKAY I GUESS I DON'T WISH TO PUT THIS
21 PHOTOGRAPH IN EVIDENCE, BUT I WOULD LIKE YOU TO
22 DESCRIBE IT TO ME THIS IS NOT TO BE PLACED IN
23 EVIDENCE HOWEVER I DO WISH YOU TO LOOK AT THAT
24 PHOTOGRAPH AND PARTICULARLY THE BRUISE ON THAT ARM,
25 IF YOU CAN DESCRIBE IS THAT ONE OF BRUISES ON HER

1 ARMS THAT YOU DISCUSSED WITH US TODAY?

2 A I HAVE NOT BROUGHT THIS UP TODAY, NO, SIR

3 Q PLEASE GO AHEAD AND TELL ME ABOUT THAT BRUISE ON
4 HER ARM?

5 A THIS IS A PICTURE OF HER LEFT WRIST THERE WERE
6 TWO AREAS OF BRUISING ON THE OUTSIDE OF THE LEFT
7 WRIST JUST ABOVE THE HAND BOTH OF THESE --

8 Q WHAT IF ANYTHING DO THOSE BRUISES INDICATE TO
9 YOU?

10 A THEY WERE FAIRLY ROUND TO OVAL INDICATIVE OF
11 SOME PRESSURE BEING APPLIED TO THAT AREA SIGNIFICANT
12 TO CAUSE UNDERNEATH BLEEDING

13 Q ALL RIGHT AND WOULD THAT BRUISE I BELIEVE IT'S
14 NEAR HER WRIST, IS THAT CORRECT?

15 A YES, SIR

16 Q WOULD THAT BRUISE BE CONSISTENT WITH SOMEONE'S
17 HAND HOLDING HER TIGHTLY IN THAT SPOT?

18 A YES, SIR, IT COULD BE

19 Q THANK YOU IF WE CAN DOWN GO TO HER LEGS AND
20 THIGHS WHAT IF ANYTHING DID YOU NOTICE ABOUT
21 BRUISES OR INJURIES IN THOSE AREAS?

22 A THERE WAS A SMALL AREA OF BRUISING ON THE LEFT
23 LATERAL THIGH, SOME OF THE PICTURES WE SHOWED EARLIER
24 OF THE ABRASIONS FROM THE OBJECTS IN THE BED, THERE
25 WERE AN AREA OF BRUISING AROUND HER LEFT KNEE

1 THAT'S ALL I SEE IN MY REPORT

2 Q AND HOW ABOUT IN HER INNER THIGHS AND IN HER
3 VAGINAL AREA, WERE THERE ANY BRUISING OR ANYTHING YOU
4 NOTED THAT WERE OBSERVED THERE?

5 A YES, SIR THERE WAS A LITTLE FLUID WE NOTICED
6 ON HER LEFT INNER THIGH AGAIN WHICH WAS, A PORTION OF
7 THIS WERE OBTAINED FOR FUTURE ANALYSIS

8 Q YOU OBTAINED THOSE SAMPLES AND ALSO GAVE THOSE
9 TO THE POLICE?

10 A YES, SIR, I DID

11 Q ALL RIGHT WOULD IT HELP TO HAVE YOUR
12 PHOTOGRAPHS OF THE AUTOPSY TO HELP IN YOUR --

13 A YES, SIR, IT WOULD THIS AUTOPSY IS VERY LONG

14 Q ALL RIGHT I DON'T INTEND TO ENTER THESE IN
15 EVIDENCE BUT WILL ASSIST YOU IN YOUR TESTIMONY IF
16 YOU'LL GO TO THE PHOTOGRAPHS OF THE VAGINAL AREA

17 A YES, SIR I WAS STILL TALKING ABOUT THE THIGHS
18 INSTEAD OF THE VAGINAL AREA

19 Q THAT IS ALL RIGHT

20 A YES, SIR, DEFINITION IS A LITTLE DIFFERENT

21 Q IF COULD YOU THEN DESCRIBE TO ME ANY OF THE
22 INJURIES THAT YOU OBSERVED AROUND THE VAGINAL AREA?

23 A THERE WAS SOME AREAS OF EITHER HYPEREMIA WHICH
24 MEANS JUST VERY CONGESTED VESSELS OR POSSIBLY SOME
25 BRUISING ON THE LEFT SIDE OF THE LABIA OR THE OPENING

1 OF THE VAGINAL AREA THERE WAS A SMALL AMOUNT OF
2 BLOODY MATERIAL THAT APPEARED TO BE COMING OUT OF THE
3 VAGINAL AREA AT THE TIME THERE WAS SOME IRREGULAR
4 CONGESTION OR HEMORRHAGE ON THE LEFT UPPER INNER
5 THIGH THAT WE'RE SEEING THAT WERE LATER DETERMINED TO
6 BE AREAS OF BRUISING

7 Q NOW GOING JUST BRIEFLY BACK JUST TO TOUCH ON
8 THIS, THE CLOTHING THAT YOU REMOVED FROM HER AT THE
9 AUTOPSY ULTIMATELY WAS THAT, DID YOU HAVE THAT PACKED
10 UP AND GIVEN TO THE POLICE AS WELL?

11 A YES, SIR, I DID

12 Q ALL RIGHT AND IN ADDITION I BELIEVE HER
13 UNDERWEAR, DID YOU ALSO OBTAIN THAT AND PACK IT UP
14 AND HAVE IT GIVEN TO THE POLICE?

15 A YES, SIR, THAT ALONG WITH A MENSTRUAL PAD THAT
16 SHE HAD ON

17 Q ALL RIGHT SHE HAD A MENSTRUAL PAD ON AT THAT
18 TIME?

19 A YES, SIR, SHE DID

20 Q SO WAS THERE ANYTHING ON THAT PAD WHEN YOU
21 OBSERVED IT?

22 A MINIMAL FLUID THE PAD INSTEAD OF BEING FLAT
23 WAS ROLLED THERE WAS NO TAPE OR STRAPS OR ANYTHING
24 HOLDING IT IN PLACE

25 Q OKAY AND DID YOU ALSO SAVE THAT AND TURN THAT

1 IN TO THE POLICE TO BE SENT FOR ANALYSIS?

2 A YES, SIR, I DID

3 Q WERE YOU ABLE TO DETERMINE AT THAT TIME WAS SHE
4 IN THE PROCESS OF HAVING A PERIOD?

5 A SHE APPEARED TO BE HAVING A PERIOD BASED ON THE
6 MENSTRUAL PAD BEING THERE AND THE SMALL AMOUNT OF
7 BLOODY MATERIAL BEING PRESENT

8 Q DID THAT IN ANY WAY AFFECT OR DETER YOU FROM
9 BEING ABLE TO CONDUCT A PROPER EXAM OF HER?

10 A NO, SIR

11 Q NOW THE BRUISING SO FAR THAT WE TALKED ABOUT
12 OVER THE ENTIRE BODY AT THIS POINT, ONCE AGAIN WERE
13 YOU ABLE TO DETERMINE IF THESE BRUISES WERE FRESH?

14 A YES, SIR THEY WERE ALL FRESH AND ALL THE SAME
15 AGE

16 Q ALL RIGHT ALL THE SAME AGE EACH THROUGHOUT THE
17 BODY THE SAME AGE BRUISING FROM BASICALLY HEAD TO
18 TOE?

19 A YES, SIR, THAT'S CORRECT

20 Q NOW AS PART OF YOUR EXAM DO YOU ALSO DO A SEXUAL
21 ASSAULT EXAMINATION ON THE VICTIM AT THE TIME OF
22 AUTOPSY?

23 A YES, SIR, WHEN INDICATED

24 Q ALL RIGHT AND DID YOU DO THAT IN AMANDA'S
25 CASE?

1 A YES, SIR, I DID

2 Q AND I BELIEVE I HAVE IT HERE, STATE'S EXHIBIT
3 NUMBER 28, THE SEXUAL ASSAULT KIT OF AMANDA COPE
4 WOULD YOU LOOK AT THAT FOR ME PLEASE DOES THAT
5 APPEAR TO BE THE KIT THAT YOU USED AT THAT TIME?

6 A YES, SIR, IT IS

7 Q CAN YOU DESCRIBE TO ME BRIEFLY ABOUT WHAT IS
8 ENTAILED IN TAKING A SEXUAL ASSAULT EXAM ON A VICTIM?

9 A THE SEXUAL ASSAULT COLLECTION KIT COMES FROM
10 SLED THESE ARE RECEIVED BY LAW ENFORCEMENT BY
11 HOSPITALS INCLUDING US THEY COME SEALED THE SEALS
12 HAVE BEEN BROKEN TO INSURE THE INTEGRITY OF THE KIT
13 ON THE INSIDE OF THE KIT THERE IS A NUMBER OF
14 DIFFERENT PAPERS DESCRIBING HOW TO DO THE EXAM, WHAT
15 MATERIAL TO TAKE, AND WHAT IS FOUND DURING THE
16 EXAMINATION WITHIN THIS THERE ARE SWABS, THERE ARE
17 SLIDES, AND OTHER BAGS FOR COLLECTION OF EVIDENCE AS
18 NEEDED ON THESE THINGS

19 Q AND DID YOU TAKE THE VARIOUS SWABS FROM HER AND
20 COLLECT VARIOUS EVIDENCE THAT'S REQUIRED UNDER THE
21 KIT?

22 A YES, SIR, I DID THESE WERE PLACED IN DIFFERENT
23 ENVELOPES, SEALED, AGAIN I INITIALED THE SEALING OF
24 THE DIFFERENT ENVELOPES

25 Q ALL RIGHT

1 A THEN AGAIN ALL THIS WAS PUT IN THE BIG BOX AND
2 SENT TO SLED

3 Q AND AFTER YOU PERFORMED THAT KIT AND SEAL IT IN
4 THE BIG BOX, IS IT SEALED AT THAT POINT COMPLETELY
5 FOR NO ONE TO GET IN AT THAT POINT?

6 A YES, SIR, THAT IS CORRECT

7 Q AND WHEN YOU HAND IT TO LAW ENFORCEMENT, IS IT
8 SEALED THAT WAY?

9 A YES, SIR, IT IS

10 Q SO YOU WOULD HAVE SEALED THIS BOX PRIOR TO
11 GIVING IT TO LAW ENFORCEMENT?

12 A YES, SIR, I WOULD

13 Q AND DOES IT INDICATE WHO YOU GAVE IT TO ON THE
14 BOX?

15 A THE, I RECOVERED THE EVIDENCE AT 11/29/01 I
16 GAVE IT TO TODD GARDNER ON 11/30/01 AT 11 30 A M

17 Q ALL RIGHT SO YOU GAVE THAT TO TODD GARDNER THE
18 NEXT MORNING WITH THE ROCK HILL POLICE DEPARTMENT?

19 A YES, SIR, I DID

20 Q ALL RIGHT NOW SOME OF THE EVIDENCE I BELIEVE
21 YOU GAVE TO THE POLICE THE DAY OF THE AUTOPSY?

22 A YES, SIR

23 Q THE 29TH AND SOME WAS GIVEN THE NEXT DAY?

24 A YES, SIR

25 Q CAN YOU TELL ME THE REASON FOR THAT?

1 A PART OF IT IS SOME OF THE SWABS THAT, YOU HAVE
2 TO AIR DRY THE SWABS OR THE FLUID THAT YOU OBTAIN
3 IF IT'S PUT INTO A SEALED ENVELOPE OR A SEALED
4 CONTAINER THAT MOLD WILL GROW, BACTERIA WILL GROW AND
5 YOU MAY DESTROY THE EVIDENCE

6 Q ALL RIGHT

7 MR THOMPSON YOUR HONOR, I ASK TO PLACE
8 STATE'S EXHIBIT NUMBER 28 INTO EVIDENCE AT THAT TIME

9 MR BAITY NO OBJECTION

10 MR GREELEY NO OBJECTION

11 THE COURT BE RECEIVED

12 (STATE'S EXHIBIT 28 RAPE KIT RECEIVED
13 IN EVIDENCE)

14 Q NOW IN ADDITION TO THAT I THINK YOU HAD ALSO
15 MENTIONED THAT YOU DONE A COUPLE OF OTHER SWABS OR
16 TAKEN A COUPLE OF OTHER SAMPLES, IS THAT CORRECT?

17 A YES, SIR, IT IS

18 Q THIS IS STATE'S EXHIBIT NUMBER 29 AND IF YOU CAN
19 JUST TAKE A LOOK AT, I BELIEVE THOSE ARE SWABS AS
20 WELL THAT YOU HAVE TAKEN?

21 A IT'S NOT OPEN, BUT THESE ARE SWAB, RECTAL SWAB
22 AND VAGINAL SWABS THAT I TOOK PRIOR TO THE COLLECTION
23 KIT ARRIVING LABELED AND SEALED

24 Q ALL RIGHT AND WERE THOSE GIVEN TO THE POLICE
25 AS WELL?

1 A YES, SIR, THEY CERTAINLY WERE

2 Q ALL RIGHT AND YOU I BELIEVE COLLECTED SOME
3 HAIR AT THE TIME AS WELL THIS IS STATE'S EXHIBIT
4 30?

5 A YES, SIR

6 Q AND CAN YOU TELL ME DOES IT LIST ON THERE WHERE
7 THAT WAS COLLECTED FROM?

8 A HAIR FOUND ON VICTIM'S LEFT SIDE

9 Q ALL RIGHT AND YOU SEALED THAT UP AND GAVE THAT
10 TO THE POLICE AS WELL?

11 A YES, SIR

12 Q DOES IT HAVE A CHAIN OF CUSTODY ON THAT AS WELL?

13 A YES, SIR, TODD GARDNER

14 Q ALL RIGHT AND THEN STATE'S EXHIBIT NUMBER 31
15 IF YOU CAN TELL ME WHAT YOU COLLECTED INTO THAT?

16 A THIS IS A HAIR FROM THE CHEST AREA

17 Q ALL RIGHT ONCE AGAIN WAS THAT HANDED OVER TO
18 THE POLICE AFTER YOU COLLECTED IT?

19 A YES, SIR, THAT'S CORRECT

20 Q AND STATE'S EXHIBIT NUMBER 32?

21 A YES, SIR THIS IS A HAIR FROM THE RIGHT CHEEK
22 AND FACE

23 Q ALL RIGHT AND AS WELL DID YOU GIVE THAT TO THE
24 POLICE AFTER YOU COLLECTED IT?

25 A YES, SIR

1 MR THOMPSON YOUR HONOR, I ASK TO MOVE
2 THESE INTO EVIDENCE AS STATE'S EXHIBITS 29, 30, 31,
3 32

4 MR BAITY NO OBJECTION, YOUR HONOR

5 MR GREELEY YOUR HONOR, THE ONLY
6 QUESTION I HAVE AT THIS TIME IS IDENTIFICATION I
7 DON'T HAVE AN OBJECTION TO, BUT AT THIS POINT IN THE
8 TRIAL I DON'T UNDERSTAND THE RELEVANCY OF IT

9 THE COURT WELL, I OVERRULE YOUR
10 OBJECTION I'M ALLOWING IT INTO EVIDENCE

11 (STATE'S EXHIBITS 29-32 SAMPLES
12 RECEIVED INTO EVIDENCE)

13 Q ALL RIGHT AS WELL WE HAD TALKED ABOUT THE
14 CLOTHING BEING COLLECTED, HOW ABOUT THE BED LINENS
15 AND THE THINGS THAT WERE WITHIN THE BED THAT WERE
16 TAKEN TO THE AUTOPSY, WERE THOSE COLLECTED BY THE
17 POLICE AT THAT TIME AS WELL?

18 A YES, SIR

19 Q NOW IF WE COULD GO TO THE INTERNAL EXAM AS TO
20 THE VAGINAL AREA OF AMANDA COPE WHAT ARE YOUR
21 INITIAL ASSESSMENTS, WHAT DID YOU INITIALLY SEE AS
22 YOU BEGAN TO EXAMINE HER VAGINAL AREA?

23 A THE EXTERNAL EXAM REVEALED AN AREA OF HEMORRHAGE
24 OVER THE LEFT SIDE OF HER LEFT LABIA WHICH IS THE LIP
25 OF THE VAGINAL OPENING OF THE LEFT SIDE THE HYMEN

1 WAS NOT PRESENT THE HYMEN WAS ABSENT THERE WAS NO
2 EVIDENCE OF THIS HAVING RECENTLY OCCURRED THERE
3 WERE NO FRAGMENTS OF TISSUE OR EVIDENCE OF HEMORRHAGE
4 TO SUGGEST THE HYMEN WAS TORN AT THIS TIME

5 Q CAN YOU TELL US WHAT THE HYMEN IS?

6 A THE HYMEN IS A MEMBRANE THAT COVERS A VARIABLE
7 AMOUNT OF THE VAGINAL OPENING IN WOMEN THERE ARE
8 SEVERAL TYPES OF HYMEN BUT MOST WILL COVER THE HALF
9 OR TWO THIRDS OF THE VAGINAL OPENING THESE ARE
10 TISSUES SORT OF LIKE A MEMBRANE THAT DOES COVER OR
11 PROTECT THE VAGINAL OPENING

12 Q AND YOU ARE SAYING THAT THERE WAS NO HYMEN
13 PRESENT IN AMANDA?

14 A THAT'S CORRECT, SIR

15 Q WAS THERE ANY SIGN OF A HYMEN?

16 A NO, SIR, THERE WAS NOT

17 Q OKAY IS THAT UNUSUAL IN YOUR OPINION ON A 12
18 YEAR OLD GIRL?

19 A FOR A 12 YEAR OLD GIRL VERY UNUSUAL

20 Q AND WHY IS THAT?

21 A THE HYMEN VIRTUALLY WOMEN HAVE A HYMEN THE
22 TYPICAL TIME THE HYMEN IS RUPTURED OF COURSE IS
23 DURING INTERCOURSE WITH THE INITIAL SEXUAL ACT THAT
24 OCCURS THE HYMEN CAN BE VERY THIN, TORN VERY EASILY
25 OR COULD BE VERY DENSE AND THICK WITH THE TEARING

1 OF THE HYMEN THERE IS BLEEDING THAT OCCURS AND THEN
2 YOU GET GRANULATION TISSUE OR HEALING OF THE TEAR AND
3 MOST WOMEN IT DISAPPEARS OCCASIONALLY YOU'LL HAVE A
4 LITTLE REMNANT OR A LITTLE BUMP ON THE SIDE OF THE
5 VAGINAL OPENING WHERE THE HYMEN WAS

6 Q WILL THE HYMEN GENERALLY DISAPPEAR JUST AFTER
7 ONE TIME OF PENETRATION?

8 A IT COULD IN THE PAST

9 Q IN THE PAST I'M SORRY?

10 A YES, SIR, THE HYMEN, THERE WAS NO EVIDENCE OF
11 HYMEN AT THE TIME OF THIS ASSAULT THERE WAS NO
12 EVIDENCE OF A FRESH TEAR OR REMNANTS OF HYMENAL
13 TISSUE

14 Q SO IF SHE HAD HAD A HYMEN WHEN THIS ALL BEGAN
15 THERE WOULD BE SOME REMNANT OF IT, YOU WOULD HAVE
16 BEEN ABLE TO SEE IT?

17 A YES, SIR

18 MR BAITY OBJECTION TO THE LEADING
19 THE COURT THAT IS A LEADING QUESTION
20 DISREGARD THE QUESTION AND ANSWER REPHRASE YOUR
21 QUESTION

22 Q I GUESS IF YOU WOULD EXPLAIN TO US WHAT YOU MEAN
23 BY AS FAR AS NO HYMEN PRESENT AT THAT TIME AND
24 WHETHER THERE WAS ANY EVIDENCE OF PRIOR PENETRATION
25 AS A RESULT OF THAT?

1 A THERE WAS NO EVIDENCE OF FRAGMENTS OF A HYMEN
2 IF A HYMEN HAD BEEN PRESENT AT THE TIME OF THIS
3 ASSAULT THERE WOULD HAVE BEEN FRAGMENTS OF IT,
4 TYPICALLY TEARS THAT WOULD OCCUR, NOT ALL THE HYMEN
5 WOULD BE GONE YOU WOULD SEE AREAS OF REDNESS OR
6 ACTUAL TEARS IN THE TISSUE AND A LITTLE FRAGMENTS
7 THAT MAY SORT OF BE HANGING THERE THERE WAS NO
8 EVIDENCE OF THAT NOR WAS THERE ANY EVIDENCE OF
9 FRAGMENTS FROM ANYTHING VERY RECENTLY IT TAKES TIME
10 FOR, ONCE YOU INJURY A TISSUE FOR IT TO HEAL AND
11 BECOME SMOOTH AGAIN AND THIS DID NOT OCCUR AT THIS
12 TIME BUT AT SOME PAST FROM SEVERAL WEEKS TO MONTHS TO
13 POSSIBLY YEARS

14 Q ALL RIGHT SO IN YOUR OPINION IS THERE EVIDENCE
15 OF PRIOR PENETRATION?

16 A THERE IS

17 Q TO THE VAGINA?

18 A TYPICALLY A HYMEN IS TORN FROM PENETRATION

19 Q ALL RIGHT AND SO WOULD THERE BE EVIDENCE THEN,
20 WOULD THAT BE EVIDENCE OF PRIOR PENETRATION?

21 A THERE IS EVIDENCE OF LOSS OF A HYMEN MOST
22 TYPICALLY FROM PENETRATION THERE ARE OTHER INJURIES
23 THAT MAY CAUSE IT

24 Q ALL RIGHT NOW DID YOU NOTICE ANYTHING ABOUT
25 THE SIZE OF VAGINAL OPENING?

1 A AMANDA WAS A BIG GIRL THE VAGINAL OPENING WAS
2 OVAL AND CERTAINLY LARGER THAN TYPICAL FOR A 12 YEAR
3 OLD BUT AGAIN SHE WAS A BIG GIRL

4 Q AND CAN YOU TELL ME WERE THERE ANY TEARS OR
5 ANYTHING OF THAT NATURE WITHIN THE VAGINA?

6 A YES, SIR, THERE WERE EXTERNALLY THERE WAS THIS
7 HEMORRHAGE THAT I WAS TALKING ABOUT ON THE LEFT SIDE
8 AND WHEN WE CUT INTO IT THERE WAS DEFINITE HEMORRHAGE
9 IN THIS AREA WHEN WE OPEN THE VAGINAL CANAL THERE
10 WAS EXTENSIVE HEMORRHAGE IN THE WALL OF THE VAGINA,
11 BUT THERE WAS ALSO SEROSAL SURFACE TEARS THAT WERE
12 PRESENT IN THE VAGINAL MUCOSA

13 Q NOW YOU TALKED ABOUT EXTENSIVE HEMORRHAGE IN THE
14 WALLS OR BRUISING WITHIN THE WALLS OF THE VAGINA, DID
15 THAT INCLUDE JUST THE OUTER LAYER OF THE FLESH THERE
16 OR DOES THAT ALSO INCLUDE DEEPER THAN THAT IN TO THE
17 WALL?

18 A THERE WAS EXTENSIVE HEMORRHAGE DEEP INTO THE
19 WALL IT WENT TO THE OUTER ASPECT THE VAGINAL WALL
20 THE VAGINA WALL IS A QUARTER TO MAYBE THREE-EIGHTHS
21 INCH IN THICKNESS DEPENDING ON THE LOCATION THERE

22 Q SO THE BRUISING WENT FARTHER THAN QUARTER TO
23 THREE-EIGHTHS INCH?

24 A IT WENT TO THE LIMITS OF THAT, YES, SIR

25 Q TO THE LIMITS OF THAT OKAY WHAT IF ANYTHING

1 DOES THAT INDICATE TO YOU?

2 A SIGNIFICANT FORCE HAD BEEN APPLIED INSIDE THE
3 VAGINAL CANAL WITH PUSHING AND STRETCHING THE WALL TO
4 CAUSE TEARING OF THE BLOOD VESSELS AND HEMORRHAGE

5 Q HOW FAR INTO THE VAGINA DID THE BRUISING EXTEND?

6 A THERE WAS A SMALL TEAR APPROXIMATELY THREE
7 INCHES INWARD ON THE SURFACE THE HEMORRHAGE
8 OCCURRED ALL THE WAY TO THE END OF THE VAGINA TO THE
9 SURFACE AND ACTUALLY THERE WAS HEMORRHAGE IN THE
10 UTERUS AND OVARY OF COURSE THAT'S ATTACHED TO THE
11 SURFACE IN THE BACK OF VAGINA

12 Q ALL RIGHT AND HOW FAR UP IS THAT INTO THE
13 VAGINA TO CAUSE THAT SORT OF INJURY?

14 A FOUR INCHES OR MAYBE A LITTLE MORE THE VAGINA
15 WILL STRETCH OF COURSE FOR CHILD BIRTH AND SUCH SO
16 YOU DO HAVE SOME STRETCHABILITY AND MAYBE A LITTLE
17 BIT FURTHER

18 Q ALL RIGHT NOW AS TO AMANDA'S, PARTICULARLY
19 WITH HER VAGINA, THE BRUISING THAT YOU EXAMINED DOES
20 IT GO, I GUESS, I'M TRYING TO FIND OUT HOW FAR THIS
21 CAVITY GOES WITHIN HER IS IT BRUISED TO THE TOP OF
22 THIS OR IS IT BRUISED JUST PART OF THE WAY OR HOW
23 BRUISED ARE WE TALKING ABOUT?

24 A IT'S BRUISED ALL THE WAY BACK WITH VARYING
25 VARIOUS OF BRUISING AND THEN AS I WAS MENTIONING

1 ADJACENT TO THE CERVIX YOU HAVE THE UTERUS SITTING
2 BEHIND THE CERVIX OR THE WOMB AND THE OVARIES ARE
3 BESIDE THE CERVIX AND THERE IS HEMORRHAGE OR BRUISING
4 IN THE TISSUE THAT HOLDS THE OVARY TO THE UTERUS OR
5 TO THE CERVIX THERE TOO

6 Q SO THESE ARE ORGANS THAT ARE ACTUALLY UP ABOVE
7 THE CAVITY OF THE VAGINA, CORRECT?

8 A YES, SIR, THAT'S CORRECT

9 Q SO THOSE ARE INJURED IN YOUR OPINION FROM WITHIN
10 FROM ACCESS TO THE VAGINA?

11 MR BAITY OBJECTION, LEADING AGAIN

12 THE COURT REPHRASE YOUR QUESTION

13 Q YOU MENTION THAT THESE ARE ORGANS THAT ARE ABOVE
14 THE VAGINA, IN YOUR OPINION WHERE DO THE INJURIES TO
15 THESE ORGANS, WHERE WOULD THEY HAVE COME FROM?

16 A THEY WOULD HAVE COME FROM FORCIBLY APPLIED TO
17 THE VAGINA THERE WAS NO EVIDENCE OF ANY EXTERNAL
18 INJURIES ON THE ABDOMEN THAT COULD HAVE CAUSED THAT
19 SIGNIFICANT FORCE THE UTERUS IS TYPICALLY BENEATH
20 THE PUBIC BONE AND SOMEWHAT PROTECTED THERE EXCEPT
21 FROM DOWN OR OBLIQUE BLOWS, SO THESE HAD TO OCCUR
22 FROM THE VAGINAL ORIFICE UP THE VAGINA AND PUTTING
23 PRESSURE ON THE TISSUE ADJACENT TO THE VAGINA IN THE
24 BACK SIDE OF THE VAGINA

25 Q AND IN AMANDA HOW FAR INTO HER VAGINA WOULD YOU

1 HAVE TO GO BEFORE YOU REACHED THE TOP BASICALLY WHERE
2 THESE ORGANS REST?

3 A PROBABLY FOUR INCHES

4 Q ALL RIGHT

5 A MAYBE THREE INCHES FROM WHERE THE TEAR IS BUT
6 AGAIN THE VAGINA DOES STRETCH SOME, SO YOU DO HAVE
7 SOME STRETCHABILITY ABOVE IT

8 Q NOW I THINK IN THE AUTOPSY YOU MENTION SOMETHING
9 EPITHELIUM LOSS, CAN YOU TELL ME WHAT IF ANYTHING IS
10 SIGNIFICANT ABOUT THAT?

11 A ON THE MICROSCOPIC EXAMINATION OF THE VAGINA AND
12 UTERUS

13 Q YES

14 A EPITHELIUM LOSS TYPICALLY YOU HAVE A LINING OF
15 THE ORIFICE FROM YOUR MOUTH TO YOUR VAGINA AND WHAT'S
16 LINING THAT IS EPITHELIUM THERE ARE DIFFERENT TYPES
17 OF EPITHELIUM AND THIS, THE VAGINA LINING IS SIMILAR
18 TO YOUR SKIN BUT A LITTLE SOFTER AND WHEN YOU ABRAD
19 IT FROM EITHER FORCE BEING APPLIED OR AN OBJECT
20 MOVING OVER THIS, IT WILL TAKE SOME OF THE CELLS OFF
21 AND WE'LL SEE A LITTLE LOSS OF THE CELLS ON THE
22 SURFACE MEANING SOMETHING HAS RUBBED ACROSS IT

23 Q AS A MEDICAL DOCTOR HOW WOULD YOU DESCRIBE THE
24 INJURIES TO HER VAGINA IF YOU WERE TO DESCRIBE THEM
25 GENERALLY TO SOMEONE AS FAR AS THE SEVERITY?

1 A THEY WERE SIGNIFICANT, MUCH MORE HEMORRHAGE,
2 FORCE BEING APPLIED THAN YOU WOULD NORMALLY HAVE IN A
3 SEXUAL ACT

4 Q OKAY AND IN YOUR OPINION FROM THE INJURIES
5 THAT YOU NOTED, LET ME BEFORE I GO TO THAT TALK ABOUT
6 A COUPLE OTHER THINGS AS FAR AS YOUR MICROSCOPIC
7 EXAMINATION OF THE VAGINA I KNOW, I SAW YOU NOTED
8 NO ACUTE INFLAMMATION PRESENT, WOULD YOU DESCRIBE
9 WHAT YOU MEAN BY THAT?

10 A YES, SIR THE BODY'S RESPONSE TO AN INJURY OR
11 TO INFECTION IS TO MOUNT AN INFLAMMATORY RESPONSE
12 THIS IS LIKE ASTHMA, ALLERGIES, OR IF YOU GET A CUT
13 OR AN INJURY SOMEWHERE THAT THE BODY HAS A RESPONSE
14 TO IT PART OF THIS RESPONSE IS INFLAMMATORY CELLS
15 AND THERE ARE SEVERAL TYPES OF INFLAMMATORY CELLS
16 THERE ARE WHAT WE CALL THE ACUTE INFLAMMATORY CELLS
17 OR POLYS YOU GET A COMPLETE BLOOD COUNT YOU'LL SEE
18 POLYMORPHONUCLEAR LEUKOCYTES OR, AND THEN LYMPHOCYTES
19 OR SUCH ON THIS COUNT THE POLYS ARE THE ACUTE
20 INFLAMMATORY CELLS AND THEY GO THERE FIRST WE GET
21 INITIAL HEMORRHAGE THEN THE POLYS TO GO THERE TO HELP
22 START CORRECTING THAT HEMORRHAGE AND THEN LATER THE
23 LYMPHOCYTES OR THE OTHER INFLAMMATORY CELLS OR
24 MACROPHAGE WILL GO THERE AND FORM A REACTION AND THEY
25 EACH HAVE DIFFERENT ROLES TO ENGULFING BACTERIA TO

1 TEARING THE DAMAGED TISSUE OUT AND REBUILDING NEW
2 TISSUE THERE

3 Q ALL RIGHT NOW WHAT IS THE SIGNIFICANCE OF
4 THAT?

5 A THE SIGNIFICANCE OF THE ACUTE INFLAMMATORY CELLS
6 IS THAT THIS RESPONSE OCCURS WITHIN A FEW HOURS
7 DEPENDING ON THE SEVERITY OF THE INJURY SHE HAD NO
8 EVIDENCE OF ACUTE INFLAMMATORY CELLS THERE INDICATING
9 THAT SHE'S GOT HEMORRHAGE WHICH IS FRESH BUT THE BODY
10 HAS NOT HAD TIME TO MOUNT A RESPONSE TO THAT INJURY

11 Q ALL RIGHT AND YOU HAD MENTIONED I BELIEVE WITH
12 SOME OF THE OTHERS WE'VE ALREADY TALKED ABOUT, DID
13 YOU IN YOUR MICROSCOPIC EXAMINATION OF THOSE WERE YOU
14 ABLE TO DETERMINE IF THERE WERE ACUTE INFLAMMATORY
15 CELLS PRESENT IN THOSE INJURIES?

16 A NO, SIR, THERE WERE NOT

17 Q OKAY SO IS THAT WHAT YOU MEAN BY SAYING THESE
18 INJURIES ARE FRESH?

19 A YES, SIR, THAT'S CORRECT

20 Q AND GOING THEN BACK TO THE VAGINA ITSELF DID
21 YOU DISCOVER ANY SPERM PRESENT WITHIN THE VAGINA?

22 A SMEARS THAT I OBTAINED I DID NOT FIND ANY SPERM

23 Q ALL RIGHT NOW IN YOUR MICROSCOPIC EXAMINATION
24 OF THE VAGINA ITSELF, WERE YOU ABLE TO FIND ANY OTHER
25 INJURIES THAT DIDN'T APPEAR TO BE FROM THAT

1 PARTICULAR BED?

2 A THERE WERE SOME AREAS OF CHRONIC INFLAMMATION
3 THERE

4 Q AND CAN YOU DESCRIBE WHAT YOU MEAN BY THAT?

5 A CHRONIC INFLAMMATION OF CELLS, AS I WAS TALKING
6 A MINUTE AGO THE LYMPHOCYTES AND OTHER CELLS THAT
7 COME IN LATER TO AN INJURY, CHRONIC INFLAMMATORY
8 CELLS TYPICALLY SEEM PEOPLE WITH BRONCHITIS OR ASTHMA
9 THAT YOU'LL SEE, IT'S AN ONGOING THING THAT CAUSE
10 IRRITATION, A CHRONIC TYPE OF INFECTION, SO THERE IS
11 INDICATIONS THAT THERE HAS BEEN SOME IRRITATION OR
12 INFECTION IN THE VAGINA TRACT

13 Q ALL RIGHT AND BY CHRONIC, YOU KNOW, YOU ARE
14 SAYS IT'S CHRONIC IRRITATION?

15 A YES, SIR

16 Q AND BY CHRONIC DO YOU MEAN SOMETHING THAT WOULD
17 IRRITATE IT MORE THAN ONCE? IF YOU CAN DESCRIBE IT?

18 A YES, SIR IT'S USUALLY ONGOING OR HAS BEEN
19 GOING ON FOR MORE THAN A FEW DAYS

20 Q ALL RIGHT WOULD THAT BE CONSISTENT WITH
21 PENETRATION INTO THE VAGINA THAT HAD HAPPENED
22 BEFOREHAND?

23 A IT COULD BE CONSISTENT WITH ANY SORT OF
24 IRRITANT PENETRATION CAN BE AN IRRITANT, YES

25 Q FOR INSTANCE, WOULD THAT BE CONSISTENT WITH THE

1 USE OF A DILDO?

2 MR BAITY OBJECTION, YOUR HONOR

3 THE COURT THAT'S A LEADING QUESTION I
4 SUSTAIN THE OBJECTION

5 MR THOMPSON YOUR HONOR, I'M SIMPLY
6 ASKING AN OPINION

7 THE COURT I MADE MY RULING I SUSTAIN
8 THE OBJECTION

9 Q CAN YOU TELL ME DID YOU EXAMINE HER FOR OTHER
10 POSSIBILITIES THAT NATURALLY COULD HAVE CAUSED THAT
11 IRRITATION?

12 A YES, SIR, I DID

13 Q ALL RIGHT AND WHAT DID YOU DETERMINE FROM
14 BEING ABLE TO EXAMINE THAT?

15 A THERE WAS NO EVIDENCE OF ANY VIRAL OR TYPICAL
16 BACTERIA OVERGROWTH, A LOT OF BACTERIA IN THERE TO
17 HAVE CAUSED THE IRRITATION

18 Q ALL RIGHT SO DID YOU FIND ANYTHING OF A
19 NATURAL CAUSE THAT COULD HAVE CAUSED THAT?

20 A NO, SIR

21 Q ALL RIGHT DOES IT MAKE ANYMORE CONSISTENT WITH
22 PRIOR PENETRATION?

23 A IT'S CERTAINLY CONSISTENT WITH AN IRRITANT BEING
24 IN THERE, PENETRATION BY AN OBJECT COULD BE
25 CONSIDERED AN IRRITANT, SO YES, IT'S CERTAINLY A

1 POSSIBILITY

2 MR BAITY YOUR HONOR, AT THIS TIME WITH
3 THIS LINE OF QUESTIONING I JUST RENEW MY OBJECTION

4 THE COURT I OVERRULE

5 Q HOW FAR INTO THE VAGINA WAS THIS CHRONIC
6 IRRITATION THAT YOU OBSERVED?

7 A MY REPORT DOES NOT HAVE IN IT THERE, BUT IT WAS
8 UP INTO THE CANAL I DON'T RECOLLECT WHERE THERE WAS
9 PROFUSELY THROUGHOUT THE VAGINAL AREA OR JUST IN ONE
10 AREA

11 Q OKAY IT WAS UP INTO THE CANAL?

12 A YES, SIR, IT WAS UP THERE A WAYS

13 Q SO WE'RE NOT TALKING ABOUT AROUND THE LABIA OR
14 THE OUTSIDE OF THE VAGINA, CORRECT?

15 A THAT'S CORRECT IT'S MORE UP IN THE CANAL IN
16 ADDITION

17 Q ALL RIGHT NOW YOU HAD MENTIONED THAT THAT
18 COULD BE CONSISTENT WITH PRIOR PENETRATION WOULD
19 THAT ALSO BE CONSISTENT WITH PRIOR PENETRATION OF A
20 SEXUAL NATURE?

21 MR BAITY OBJECTION, YOUR HONOR

22 THE COURT I SUSTAIN THE OBJECTION

23 MR THOMPSON COURT'S INDULGENCE ONE
24 MOMENT, YOUR HONOR

25 Q IF YOU COULD, DR MAYNARD, IF YOU COULD KIND OF

1 LIST SOME OF THE POSSIBLE CAUSES THAT IRRITATION,
2 THAT CHRONIC IRRITATION THAT YOU ARE TALKING ABOUT,
3 AND THEN WE'LL KIND OF GO THROUGH THOSE ONE BY ONE
4 AND SEE WHAT YOU DID TO DETERMINE WHETHER OR NOT
5 THOSE EXISTED AT THE TIME?

6 A OKAY FIRST AND FOREMOST WOULD BE INFECTIONS,
7 WHETHER BACTERIAL INFECTIONS, VIRAL INFECTIONS, BEING
8 CAUSED BY BOTH ACUTE INFLAMMATION AND THEN IF THEY
9 ARE MORE ONGOING MORE OF A CHRONIC TYPE OF
10 INFLAMMATION THE USE OF A TAMPON WHICH IS A
11 PENETRATION OR IRRITANT COULD CERTAINLY CAUSE THESE
12 THINGS TO OCCUR DOUSING WITH CERTAIN CHEMICALS IN
13 THE VAGINAL CANAL COULD CAUSE THE BODY TO REACT TO
14 THEM THE INSERTING OF AN OBJECT FROM A PENIS TO A
15 DILDO CAN CERTAINLY, WITH FORCE, YOU KNOW, OR
16 REPEATEDNESS CAN CAUSE AN IRRITATION THERE

17 Q ALL RIGHT AND YOUR OPINION AS A DOCTOR WITH A
18 12 YEAR OLD GIRL IS IT UNUSUAL TO HAVE THAT TYPE OF
19 IRRITATION, THAT CHRONIC IRRITATION?

20 A IT'S UNUSUAL BUT GIRLS GET INFECTIONS

21 Q ALL RIGHT DID YOU NOTICE ANY SIGN OF
22 INFECTION?

23 A I SAW NO EVIDENCE OF INFECTION EITHER VIRAL OR
24 SIGNIFICANT BACTERIAL INFECTION THERE

25 Q ALL RIGHT AND DID YOU FIND ANY OTHER NATURAL

1 CAUSE THAT MAY HAVE CAUSED THE CHRONIC NATURE OF THAT
2 IRRITATION?

3 A NO, SIR, I DID NOT

4 Q DID SHE APPEAR TO BE USING A TAMPON AT ALL AT
5 THAT TIME?

6 A SHE HAD A MENSTRUAL PAD ON HER WHEN WE FOUND
7 HER

8 Q BUT NO TAMPON?

9 A NO, SIR, THERE WAS NO TAMPON PRESENT

10 Q NOW IF WE COULD GO TO THE INJURIES AS THEY WERE
11 SUSTAINED AS TO THE ANUS AND THE RECTUM I HAVE A
12 COUPLE OF OTHER PHOTOGRAPHS I WOULD LIKE TO PRESENT
13 TO YOU TO ALLOW YOU TO EXAMINE THEM

14 MR BAITY MAY WE APPROACH, YOUR HONOR
15 (BENCH CONFERENCE)

16 THE COURT MEMBERS OF THE JURY PANEL, I
17 WAS GOING TO WAIT A LITTLE BIT LONGER BEFORE WE TOOK
18 A BREAK BUT WE NOW HAVE SOME MATTERS TO TAKE UP
19 OUTSIDE OF YOUR PRESENCE SO WE'LL TAKE A BREAK AT
20 THIS TIME AND I DON'T KNOW IF THERE ARE ANY
21 SMOKERS, I'M NOT ENCOURAGING YOU, BUT IF DO WE HAVE
22 ANY SMOKERS YOU CAN TAKE A SMOKE BREAK

23 (THE JURY EXITS THE COURTROOM AT
24 10 46)

25 THE COURT I HAVE IN MY HAND EXHIBIT 22

1 AND THEN AN UNMARKED EXHIBIT WITH NO OBJECTION TO 22
2 THE UNMARKED IS, OF COURSE, IN ANY EVENT BE MADE PART
3 OF THE RECORD BUT IT APPEARS TO BE THE OPENED ANUS
4 SHOWING BRUISING WHY DON'T YOU DO A PROFFER ON
5 THAT I'M NOT A DOCTOR

6 (STATE'S EXHIBIT 35 PHOTOGRAPH FOR
7 IDENTIFICATION)
8 IN CAMERA DIRECT

9 Q DR MAYNARD, THIS IS STATE'S EXHIBIT 35, CAN YOU
10 LOOK AT THAT PLEASE?

11 A YES, SIR

12 Q IN YOUR EXAMINATION, CAN YOU TELL ME WHAT THAT
13 PICTURE IS FIRST OF ALL?

14 A YES, SIR THIS IS THE ANUS OR RECTUM THAT'S
15 BEEN REMOVED FROM AMANDA AND HAS BEEN OPENED THERE
16 IS AT THE UPPER RIGHT PORTION IS THE ANAL RECTUM
17 JUNCTURE FROM THE ANUS AND RECTUM AND THEN THERE IS A
18 LARGE AREA OF HEMORRHAGE THAT EXTENDS SIGNIFICANTLY
19 INTO THE RECTUM TISSUE HERE

20 Q AND THAT, IF YOU COULD DESCRIBE THAT
21 HEMORRHAGING TO US IN YOUR EXAMINATION?

22 A YES, SIR THE PICTURE SHOWS A SMALL TEAR AT THE
23 JUNCTURE BETWEEN THE ANUS AND THE RECTUM THEN THERE
24 IS SOME FOCAL HEMORRHAGE GOING UP OR GOING DEEP INTO
25 THE RECTUM AND THEN THERE IS A LARGE AREA OF

1 HEMORRHAGE APPROXIMATELY FIVE INCHES IN SIZE THAT'S
2 THROUGHOUT THE RECTUM, ALL THE WAY AROUND THE RECTUM,
3 AND INTO THE WALL OF THE RECTUM

4 Q AND HOW FAR UP INTO THAT RECTUM DOES THAT
5 HEMORRHAGING GO?

6 A UP TO 8 INCHES

7 Q OKAY AND CAN YOU TELL ME WHERE, BASICALLY
8 WHERE IS THE TOP OF THE RECTUM AS FAR AS AMANDA GOES?

9 A THE LEFT SIDE LET'S SEE, THE RIGHT SIDE OF THE
10 PICTURE HERE IS THE ANUS AND THIS IS THE RECTUM GOING
11 INTERNALLY INTO AMANDA

12 Q SO THAT IS THE ENTIRE RECTUM AS SHOWN IN THE
13 PICTURE?

14 A THERE IS A LITTLE BIT MORE LEFT BUT THIS IS
15 WHERE THE INJURY OCCURRED

16 Q AND I GUESS WHAT I'M TRYING TO GET AT THROUGH
17 THAT QUESTION, IN THAT BRUISING IS THAT BASICALLY THE
18 ENTIRE RECTUM IS THAT BRUISED?

19 A YES, SIR, IT IS

20 Q AND YOU SAID THAT, IS THAT ON ALL SIDES OF THE
21 RECTUM THAT IT'S BRUISED?

22 A YES, SIR ON THE PICTURE YOU CAN SEE IT GOES
23 COMPLETELY AROUND THE RECTUM THE RECTUM BEING A
24 HOLLOW TUBE-TYPE LIKE ORGAN, AND THERE IS HEMORRHAGE
25 IN ALL DIRECTION FROM 3 INCHES TO 8 INCHES IN THE

1 RECTUM

2 Q AND WHAT TYPE OF INJURY DOES THAT INDICATE TO
3 YOU?

4 A THAT SIGNIFICANT FORCE HAS BEEN APPLIED WITH A
5 BLUNT OBJECT THAT EXTENDED UP TO 8 INCHES INTO HER

6 Q IN ORDER FOR A BLUNT OBJECT TO DO THAT WOULD IT
7 HAVE TO BE INSERTED INTO THE RECTUM?

8 A YES, SIR, THAT'S CORRECT

9 Q SO THIS ISN'T SOMETHING THAT COULD HAPPEN
10 EXTERNALLY FROM BEATINGS OUTSIDE OF THE BODY?

11 A NO, SIR, IT WOULD NOT

12 Q ALL RIGHT AND IN YOUR OPINION DOES THAT
13 CONSISTENT WITH A BROOM BEING USED TO --

14 MR BAITY YOUR HONOR, I UNDERSTAND

15 THE COURT WELL, THIS IS A PROFFER
16 THOSE ARE LEADING QUESTIONS I KNOW YOU SAY YOU ARE
17 JUST ASKING FOR AN OPINION BUT IF YOU SUGGEST THE
18 ANSWERS ARE LEADING QUESTIONS

19 MR THOMPSON I WOULD ASK --

20 THE COURT I'M NOT GOING TO ARGUE WITH
21 YOU, MR THOMPSON YOU KNOW HOW TO ASK A QUESTION

22 Q DO YOU HAVE ANY OPINION AS TO WHAT COULD HAVE
23 CAUSED THAT?

24 A YES, SIR, I DO

25 Q AND WHAT IS THAT?

1 A THIS WOULD BE AN OBJECT THAT DOES NOT HAVE SHARP
2 BORDERS OR POINTS ON IT, NOT A KNIFE, NOT A
3 SCREWDRIVER IT WOULD TYPICALLY BE OVAL TO ROUND
4 OBJECT, AGAIN NOT TYPICALLY A SQUARE OBJECT WHERE YOU
5 GOT SHARP CORNERS ON IT IT COULD BE A DILDO IT
6 COULD BE A BROOM HANDLE IT COULD BE A BATON YOU
7 KNOW, ANYTHING ALONG THOSE LINES, POSSIBLY A BASEBALL
8 BAT EVEN

9 Q WHAT TYPE OF FORCE WOULD BE NEEDED TO CREATE
10 THAT TYPE OF INJURY WITH THAT TYPE OF OBJECT?

11 A SIGNIFICANT FORCE THIS IS EXTREME FORCE BEING
12 USED TO CAUSE THAT MUCH HEMORRHAGE

13 Q AND CAN YOU TELL ME FROM THAT PHOTOGRAPH AS WELL
14 NEAR THE OPENING OF THE ANUS DOES IT TELL YOU
15 ANYTHING THAT AREA?

16 A YES, SIR, IT DOES

17 Q WHAT DOES IT TELL YOU?

18 A THERE IS SOME HEMORRHAGE AT THE ANAL OPENING
19 ALONG WITH A SMALL TEAR BEING PRESENT

20 Q ALL RIGHT THE INJURIES THEMSELVES, THERE ARE
21 THEY, AS YOU'VE BEEN DISCUSSING EARLIER, ARE THEY
22 FRESH OR ARE THEY NOT? WHAT TYPE OF INJURIES ARE
23 THOSE WHEN YOU EXAMINED HER?

24 A THESE ARE FRESH INJURIES

25 Q IN YOUR LINE OF WORK AS A PATHOLOGIST IN THE

1 SEXUAL ASSAULT CASES HOW MANY ANAL AREAS HAVE YOU
2 EXAMINED?

3 A WE LOOK AT EVERY ANAL AREA AT EVERY AUTOPSY WE
4 DO

5 Q AND COMPARE IT TO THE INJURIES WITH WHAT YOU SEE
6 HERE, HOW ARE THESE INJURIES COMPARE TO THE OTHER
7 EXAMS THAT YOU'VE DONE?

8 A THESE ARE SOME OF THE MOST TRAUMATIC OR DAMAGING
9 INJURIES I'VE EVER SEEN

10 Q IN YOUR OPINION, DR MAYNARD, WILL THAT PICTURE
11 HELP THE JURY TO UNDERSTAND THE EXTENT OF THE
12 INJURIES TO THE ANUS OF AMANDA COPE?

13 A YES, SIR, IT WOULD

14 Q AND IN YOUR OPINION WOULD IT BE MORE VALUABLE
15 THAN YOUR ACTUAL TESTIMONY IN SEEING WHAT THE
16 INJURIES ARE?

17 A YES, SIR, IT NOT ONLY SHOWS THE EXTENT OF THE
18 INJURIES BUT THE FORCE THAT HAD TO BE APPLIED TO
19 CAUSE THAT MUCH HEMORRHAGE

20 Q THANK YOU NO FURTHER QUESTIONS

21 MR BAITY LET ME SEE THE PICTURE

22 CROSS EXAMINATION IN CAMERA BY MR BAITY

23 Q DOCTOR, I SEE A GREAT DEAL OF, FOR LACK OF A
24 BETTER TERM, BLOOD AND GORE IN THIS PICTURE, AND THIS
25 IS BASICALLY SOMETHING THAT'S BEEN, THIS BLOODINESS

1 AND THIS GORE IS SOMETHING THAT HAD BEEN BROUGHT
2 ABOUT AS A RESULT OF AN AUTOPSY WHERE SOMEONE'S ANUS
3 HAS BEEN REMOVED FROM THEIR BODY?

4 A YES, SIR

5 Q THIS IS NOT THE WAY YOU FOUND THIS WOMAN?

6 A NO, SIR, I TOOK THE ANUS AND THE RECTUM OUT OF
7 THE BODY

8 Q DURING THE AUTOPSY YOU CUT HER OPEN WITH THE
9 SCALPEL AND CUT HER ANUS OUT AND THAT'S WHAT THIS
10 PICTURE DEPICTS?

11 A YES, SIR THAT IS THE ONLY WAY TO BE ABLE TO
12 GET THE ANUS AND RECTUM OUT PROPERLY

13 Q AND IS THERE ANYWAY FOR YOU TO DESCRIBE A BRUISE
14 TO THE RECTUM WITHOUT PUTTING THIS PICTURE IN
15 EVIDENCE OR SHOWING IT TO THE JURY?

16 A IT WOULD BE DIFFICULT THAT PICTURE SAYS IT ALL
17 RIGHT THERE

18 Q WELL, I'M SURE IT DOES, BUT YOU COULD SAY THAT
19 IT WAS A BRUISE THAT WAS APPROXIMATELY SO LONG AND IT
20 STARTED SO MANY INCHES IN AND IT ENDED SO MANY INCHES
21 IN, COULDN'T YOU?

22 A YES, SIR, THAT IS A DESCRIPTION OF WHAT I ---

23 Q DO YOU THINK THE LADIES AND GENTLEMEN OF THE
24 JURY DON'T KNOW WHAT A BRUISE IS?

25 A I'M JUST HERE TO DESCRIBE WHAT I SAW

1 Q ALL RIGHT BUT I MEAN DO YOU THINK IF YOU SAID
2 BRUISE THEY WOULD UNDERSTAND WHAT THAT MEANS

3 MR THOMPSON OBJECTION

4 THE COURT I SUSTAIN THE OBJECTION YOU
5 CAN'T DELVE INTO WHAT THESE PEOPLE I THINK I CAN
6 ALMOST TAKE JUDICIAL NOTICE THAT EVERYBODY KNOWS WHAT
7 A BRUISE IS BUT THERE ARE DEGREES IN BRUISES AND I
8 DON'T KNOW WHETHER THE JURY HAS EVER SEEN AN INTERNAL
9 BRUISE I'M QUITE FRANKLY NOT SURE I EVER HAVE

10 Q ARE YOU SAYING THAT YOU COULD NOT DESCRIBE THIS
11 INJURY WITHOUT THE USE OF THIS PHOTOGRAPH?

12 A I CAN MAKE A DESCRIPTION, BUT I THINK THE
13 PHOTOGRAPH IS MUCH BETTER THAN MY DESCRIPTIONS

14 MR BAITY YOUR HONOR, I WOULD SIMPLY SAY
15 THAT THIS IS AN EXHIBIT THAT IS EXTREMELY UPSETTING,
16 EXTREMELY OFFENSIVE, THAT IT IS NOT AN ACTUAL
17 DEPICTION OF THE VICTIM AS SHE WAS FOUND THAT THE,
18 THAT THE SHOCK VALUE OF THIS PHOTOGRAPH IS SO
19 PREJUDICIAL THAT IT GOES BEYOND ANY PROBATIVE VALUE
20 CERTAINLY THE LADIES AND GENTLEMEN OF THE JURY WOULD
21 KNOW EXACTLY WHAT A BRUISE WAS AND THE DOCTOR COULD
22 USE ALL SORTS OF DESCRIPTIVE LANGUAGE TO EXPLAIN HOW
23 EXTENSIVE IT WAS, HOW BAD IT WAS, HOW MUCH FORCE WAS
24 USED NEEDED TO CREATE IT, AND I WOULD JUST ASK THAT
25 THIS PHOTOGRAPH COULD CERTAINLY BE USED BY THE DOCTOR

1 FOR HIS REFERENCE AND FOR HIS DESCRIPTION, BUT THAT
2 IT'S PROBATIVE VALUE IS OUTWEIGHED BY THE SHOCK VALUE
3 OF IT

4 THE COURT YOU DON'T OBJECT TO NUMBER 22?

5 MR. BAITY NO, SIR, I DO NOT

6 THE COURT DOES THE STATE PLAN TO PUT IN
7 NUMBER 22 WHY DON'T YOU ASK HIM WHAT 22 IS

8 MR. THOMPSON YES, YOUR HONOR

9 Q DR. MAYNARD, STATE'S EXHIBIT 22 IF YOU LOOK AT
10 THAT PHOTOGRAPH FOR ME AND TELL ME WHAT THAT IS?

11 A THIS IS A PICTURE OF HER ANUS OR MORE
12 SPECIFICALLY HER ANAL OPENING

13 Q OKAY AND FROM THAT PHOTOGRAPH ITSELF WHAT IF
14 ANYTHING CAN YOU TELL ABOUT HER ANAL OPENING FROM THE
15 PHOTOGRAPH ITSELF?

16 A THE ANAL OPENING IS MUCH LARGER THAN WOULD BE
17 TYPICAL IN EITHER A 12 YEAR OLD OR A YOUNG ADULT

18 Q OKAY AND FROM THAT INJURY THERE IS IT, CAN YOU
19 TELL ME, IS THERE ANYTHING YOU CAN DETERMINE ABOUT
20 THE ANAL TONE ITSELF?

21 A THE ANAL TONE IS MORE RELAXED THERE IS
22 EVIDENCE OF DILATATION OF THE ANUS THAT HAS OCCURRED
23 OVER TIME

24 Q ALL RIGHT AND THAT PICTURE DOES IT SHOW
25 BRUISING OR ANYTHING LIKE THAT WITHIN THE ANUS?

1 A UNLESS THERE IS SOMETHING ON THE LEFT THERE, I'M
2 NOT QUITE SURE IN THIS PICTURE, OTHERWISE IT DOES
3 NOT

4 Q AND YOU HAD MENTIONED THE SHOWING KIND OF A LAX
5 TONE, IN YOUR OPINION WHAT SHOULD HER ANAL TONE BE AT
6 THIS POINT?

7 A THE ANAL TONE EVEN AFTER DEATH AT THIS LENGTH OF
8 TIME SHOULD STILL BE FIRM WITH THE ANUS ESSENTIALLY
9 CLOSED

10 Q EVEN WITH THE TYPE OF ASSAULT SHE HAD SUSTAINED
11 AT THAT TIME?

12 A THIS INDICATES THAT DILATATION OF THE ANUS HAS
13 OCCURRED AND USUALLY REPEATED DILATATIONS TO HAVE
14 MORE RELAXING OF ANAL MUSCULATURE

15 THE COURT I THINK YOU ARE GOING BEYOND
16 WHAT WE NEED FOR THE PROFFER I JUST WANTED TO KNOW
17 WHAT THAT WAS A PICTURE OF AND YOU DIDN'T ASK HIM SO
18 APPARENTLY ---

19 MR THOMPSON WELL, I DID ASK HIM WHAT
20 THAT WAS A PICTURE OF

21 THE COURT I KNOW, BEFORE I JUST WANTED
22 TO KNOW WHAT THAT WAS A PICTURE OF AND HE'S ANSWERED
23 THAT

24 MR THOMPSON THAT'S ALL

25 THE COURT ANY OTHER QUESTIONS

1 MR BAITY I HAVE NO QUESTIONS AND NO
2 OBJECTION TO THAT PHOTOGRAPH, YOUR HONOR

3 THE COURT ALL RIGHT OKAY

4 MR THOMPSON YOUR HONOR, THE STATE'S
5 ARGUMENT AS TO THE --

6 THE COURT I'M GOING TO RULE IN YOUR
7 FAVOR, MR THOMPSON, IF YOU CAN JUST GIVE ME A
8 MINUTE

9 MR GREELEY IF I CAN JUST BE ON THE
10 RECORD IN REGARDS TO 23 I WOULD INTERPOSE AN
11 OBJECTION BUT I KNOW THAT I'VE SEEN WORSE PICTURES
12 PUT INTO EVIDENCE AND IT'S IN THE JUDGE'S DISCRETION
13 SO I'M JUST ON THE RECORD

14 THE COURT WELL, I'M GOING TO ALLOW THE
15 PICTURE IN, BUT IT'S NOT TO PROVE WHO DID THIS TO HER
16 BUT TO PROVE THAT THE DEGREE OF THE INJURY IT DOES
17 HAVE SIGNIFICANT PROBATIVE VALUE ESPECIALLY IN LIGHT
18 OF EVIDENCE WHICH HAS NOT ACTUALLY COME BEFORE THE
19 JURY BUT WILL BE PRESENTED AS THE COURT KNOWS
20 INVOLVING THE USE OF A BROOM THRUST INTO AMANDA
21 COPE'S ANUS ON THE EVENING OF HER DEATH, EARLY
22 MORNING PREJUDICIAL VALUE, THE PICTURE IS GRAPHIC,
23 VIVID, STARK, PERHAPS TO A DEGREE OF EVEN BORDERING
24 ON BEING SICKENING, BUT BASED ON THE FACTS OF WHICH
25 THE COURT IS AWARE THE PREJUDICIAL VALUE DOES NOT

1 OUTWEIGH THE PROBATIVE VALUE IT IS I THINK VERY
2 PROBATIVE ON THE ISSUE OF THE DEGREE OF DAMAGE DONE
3 TO THIS YOUNG GIRL, THE EXTENT OF THE DAMAGE, IT DOES
4 EXHIBIT THE FORCE ON CROSS EXAMINATION THE DEFENSE
5 CAN DIFFERENTIATE BETWEEN DAMAGE RENDERED PRE-AUTOPSY
6 AND POST-AUTOPSY AND THAT WAS PARTICULARLY WHY I
7 WANTED TO HAVE MY QUESTION ABOUT PICTURE NUMBER 22
8 BECAUSE I THINK THAT SHOWS WHAT THE DEFENSE SAYS IS
9 ALL THAT IS NEEDED TO BE SHOWN AND I THINK IT, THAT
10 THE SECOND ONE NUMBER 23 OR THE ONE THAT'S OFFERED IS
11 ADMISSIBLE FOR THE REASONS I STATED ALL RIGHT
12 WE'LL TAKE A SHORT BREAK

13 (COURT'S IN RECESS AT 11 O'CLOCK)

14 (COURT RESUMES AT 11 24 AND THE JURY
15 RETURNS TO THE COURTROOM)

16 THE COURT YOU MAY CONTINUE

17 MR THOMPSON THANK YOU, YOUR HONOR
18 DIRECT EXAMINATION CONTINUED BY MR THOMPSON
19 Q JUST BRIEFLY BEFORE WE GET BACK INTO SOME OF THE
20 AUTOPSY STUFF DID YOU AT THIS POINT ALSO HAVE A
21 CHANCE TO GET BLOOD SAMPLES FROM JAMES SANDERS?

22 A YES, SIR, I DID

23 Q AND DID YOU HAND THOSE OVER TO THE POLICE AS
24 WELL?

25 A YES, SIR, I DID

1 Q ALL RIGHT THANK YOU NOW WE HAD JUST BEGUN TO
2 DISCUSS THE INJURIES TO THE ANUS AND THE RECTUM I
3 BELIEVE AT THE TIME WE TOOK A BREAK IF WE COULD
4 START THERE AGAIN PLEASE I'M GOING TO PROVIDE YOU
5 WITH A COUPLE OF OTHER PHOTOGRAPHS, STATE'S 22 AND
6 35, THAT I'M GOING TO REFER TO AT SOME POINT DURING
7 THE EXAMINATION IF YOU CAN TELL ME WHAT IS THE
8 FIRST THING YOU NOTICED ABOUT HER ANUS WHEN YOU BEGAN
9 THE EXAMINATION?

10 A THE EXTERNAL EXAMINATION OF THE ANUS BEFORE WE
11 DID ANY INTERNAL EXAMINATION REVEALED THE ANAL
12 OPENING WAS ENLARGED OR WAS LARGER THAN TYPICALLY IN
13 BOTH A CHILD AND IN AN ADULT OR A YOUNG ADULT WOMAN

14 Q ALL RIGHT AND I BELIEVE IS THAT EVIDENCED IN
15 STATE'S EXHIBIT 22 THE PHOTOGRAPH IN FRONT OF YOU?

16 A YES, SIR, THAT IS EXHIBIT 22

17 Q DOES THAT FAIRLY AND ACCURATELY DEPICT HOW THE
18 ANUS LOOKED AT THE TIME YOU EXAMINED HER?

19 A YES, SIR, IT DOES

20 MR THOMPSON YOUR HONOR, I ASK TO ENTER
21 THAT INTO EVIDENCE AT THIS TIME

22 MR BAITY WITHOUT OBJECTION

23 THE COURT WITHOUT OBJECTION

24 (STATE'S EXHIBIT 22 PHOTO RECEIVED INTO
25 EVIDENCE)

1 Q DR MAYNARD, IF YOU COULD STEP DOWN FOR JUST A
2 MOMENT AND ACTUALLY PUT OUT WHAT YOU MEAN BY THE, YOU
3 SAID DILATION --

4 A YES, SIR, OR THE LIPS OF THE ANUS BEING APART

5 Q ALL RIGHT

6 A THIS IS THE ANAL OPENING HERE YOU CAN SEE IT'S
7 OPENED WIDE APART WHERE IT'S TYPICALLY EVEN IN A
8 DECEASED PERSON THIS WOULD BE CLOSED OR THIS HAVE A
9 MINIMAL OPENING THERE, BUT THIS IS CONSIDERABLY
10 LARGER THAN TYPICALLY SEEN ALSO RIGHT ALONG THIS IS
11 THE JUNCTION BETWEEN THE OUTER SKIN OF THE ANUS AND
12 THE JUNCTION WITH THE RECTUM, A LITTLE DIFFERENT
13 COLOR

14 Q AND WHAT IF ANYTHING DOES THAT INDICATE TO YOU?

15 A THIS INDICATES THAT THE RECTUM HAS BEEN DILATED
16 AND TYPICALLY REPEATEDLY DILATED SUCH THAT THE MUSCLE
17 THERE IS MORE PRONE TO ACCEPT THE DILATATION WITHOUT
18 SIGNIFICANT SPASM

19 Q COULD YOU DEFINE WHAT YOU MEAN BY THE
20 DILATATION, WHAT IS THAT EXACTLY?

21 A OBJECTS BEING PLACED IN THERE TO EXPAND THE
22 RECTUM THAT THE RECTUM HAS A SPHINCTER OR A CIRCLE
23 OF MUSCLE AROUND THAT TENDS TO KEEP IT CLOSED EXCEPT
24 IN CERTAIN CONDITIONS AND THE RECTUM WILL ACCEPT
25 OBJECTS SLOWLY AND THAT REPEATED DILATATION OF A

1 RECTUM WILL OPEN UP THE OR OPEN THE OPENING WIDER
2 THAN NORMALLY SEEN SO OBJECT CAN BE INSERTED EASIER

3 Q BY DILATATION ARE YOU REFERRING TO PENETRATION?

4 A YES, SIR, THAT IS CORRECT, PENETRATION BY
5 SOMETHING

6 Q OKAY NOW IN, DO YOU HAVE AN OPINION ABOUT,
7 WHETHER HER RECTUM WAS PENETRATED DURING THIS
8 ASSAULT?

9 A YES, SIR, I DO

10 Q AND WHAT IS THAT OPINION?

11 A THE RECTUM WAS PENETRATED AND WITH SIGNIFICANT
12 FORCE

13 Q ALL RIGHT AND DO YOU HAVE AN OPINION AS TO
14 WHETHER THE, I GUESS THE OPENNESS OF THE ANUS THAT
15 YOU OBSERVED IN THAT PICTURE, WOULD THAT HAVE ALL IN
16 YOUR OPINION BEEN CAUSED BY THE ASSAULT?

17 A YES, SIR, BUT REPEATED DILATATIONS OR
18 PENETRATIONS OF THE RECTUM IN ADDITION

19 Q OKAY WHEN YOU MEAN REPEATED WOULD THIS, I
20 GUESS I'M TRYING TO GET YOUR DEFINITION OF WHAT
21 REPEATED IS, IS THAT REPEATED AS IN OTHER TIMES OR
22 REPEATED AS IN JUST THAT NIGHT?

23 A YES, SIR, AT OTHER TIMES MY APOLOGIES THE
24 DILATING THE RECTUM ABLE TO OPEN WIDER THAN A NORMAL
25 CHILD OR A YOUNG ADULT RECTUM WOULD BE ABLE TO DO

1 Q IS THERE ANY SIGNIFICANCE TO YOU AS TO HER AGE
2 BEING AT 12 WITH THE WAY THAT HER RECTUM LOOKED AT
3 THAT TIME?

4 A A 12 YEAR OLD CERTAINLY IS RIGHT AT THE JUNCTION
5 OF CHILDHOOD OF YOUNG ADULthood THIS IS THE TIME
6 WHEN YOU ARE STILL FIT, A LOT OF MUSCLE TONE IN THE
7 BODY, AND THE RECTUM'S TYPICALLY ARE VERY TIGHT OR
8 THE ANUS' ARE VERY TIGHT IN KIDS, AND THE FACT THAT
9 THIS IS SO WIDE OPEN INDICATES THAT REPEATED
10 DILATATIONS OR STRETCHING OF THE RECTUM HAS OCCURRED

11 Q OKAY AND AGAIN BY REPEATED YOU MEAN EVEN PRIOR
12 TO THIS NIGHT?

13 A YES, SIR, I DO

14 Q OKAY NOW IF YOU WOULD, WERE THERE ANY TEARS
15 THAT YOU NOTED WITHIN THE ANUS OR THE RECTUM?

16 A YES, SIR, THERE WAS THERE WAS AN AREA OF
17 HEMORRHAGE AT THE JUNCTION BETWEEN THE ANUS AND THE
18 RECTUM, THE PART OF THE PICTURE I WAS JUST POINTING
19 OUT THERE WITH THE CHANGE OF COLOR OF THE SURFACE,
20 THERE WAS A SMALL TEAR APPROXIMATELY QUARTER INCH
21 THERE, BUT THERE WAS A HALF INCH AREA OF HEMORRHAGE
22 IN THIS AREA

23 Q ALL RIGHT NOW AS YOU EXAMINED WITHIN THE ANUS
24 ITSELF, HOW DID THAT PROCEED TO GO? WHAT DID YOU
25 HAVE TO DO IN ORDER TO EXAMINE HER INTERNALLY THERE?

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1 A WE HAD TO TAKE OUT THE ANUS AND RECTUM IN ONE
2 ORGAN PIECE SUCH THAT WE WOULD BE ABLE TO OPEN IT UP
3 AND EXAMINE IT

4 Q IS STATE'S EXHIBIT NUMBER 35 A PICTURE WE HAVE
5 UP THERE, WOULD THAT ASSIST YOU IN DESCRIBING THE
6 INJURIES OF HER RECTUM?

7 A YES, SIR, IT CERTAINLY WOULD

8 Q WAS THAT A PHOTOGRAPH TAKEN AT THE TIME THAT YOU
9 WERE PERFORMING THE AUTOPSY?

10 A YES, SIR, IT IS

11 Q DOES IT FAIRLY AND ACCURATELY DEPICT WHAT THE
12 RECTUM LOOKED LIKE AS YOU EXAMINED IT?

13 A YES, SIR, IT DOES

14 MR THOMPSON YOUR HONOR, I ASK TO MOVE
15 STATE'S EXHIBIT NUMBER 35 INTO EVIDENCE AT THIS TIME

16 MR BAITY NO OBJECTION, YOUR HONOR

17 MR GREELEY NO OBJECTION

18 THE COURT BE RECEIVED

19 (STATE'S EXHIBIT 35 PHOTO RECEIVED IN
20 EVIDENCE)

21 Q DR MAYNARD, IF COULD YOU STEP DOWN AND ONCE
22 AGAIN DESCRIBE TO US THE INJURIES THAT ARE EVIDENT ON
23 THIS PICTURE AND THAT WERE EVIDENT TO YOU THAT NIGHT
24 OR THE AFTERNOON THAT YOU EXAMINED AMANDA FIRST OF
25 ALL COULD YOU ORIENT US AS TO WHAT EXACTLY THIS ORGAN

1 IS AND WHERE?

2 A THIS IS THE ANUS OF THE ANAL OPENING WOULD BE
3 HERE YOU CAN SEE THIS MUCOSA HERE AND RIGHT THERE
4 YOU SEE A CHANGE IN THE COLOR OR THE SHININESS OF
5 THIS THIS IS THE JUNCTION BETWEEN THE ANUS AND
6 RECTUM THIS IS THE AREA WHERE HEMORRHOIDS TYPICALLY
7 OCCUR HERE THIS IS THE RECTUM GOING INWARD, SO
8 WE'RE GOING INWARD AND UPWARD IN AMANDA

9 Q IS THIS BASICALLY HER ENTIRE RECTUM?

10 A YES, SIR, IT IS

11 Q HOW LONG IS IT ALL TOGETHER?

12 A THIS PROBABLY ABOUT 12 INCH SPECIMEN HERE

13 Q OKAY GO AHEAD AND IF YOU COULD DESCRIBE THE
14 INJURY?

15 A YES, SIR THE ANORECTAL JUNCTION IS JUST INSIDE
16 THE ANUS AS YOU WERE SHOWN ON THIS OTHER PICTURE A
17 MINUTE AGO YOU CAN SEE THAT JUNCTION FROM
18 EXTERNALLY AND THEN FROM HERE INWARD IS THE RECTUM,
19 THE REST OF THE RECTUM THERE IS AREAS OF HEMORRHAGE
20 ON BOTH SIDES HERE THERE IS A SMALL TEAR THAT I WAS
21 DESCRIBING A MINUTE AGO, A LITTLE QUARTER INCH TEAR,
22 IN THE MUCOSA THERE THERE IS A LITTLE STREAKINESS
23 OF HEMORRHAGE OR BRUISING IN THERE THEN YOU COME
24 INTO THIS HUGE AREA OF HEMORRHAGE THIS BEGINS THREE
25 INCHES FROM THIS JUNCTION, THIS ANORECTAL JUNCTION, 3

1 INCHES HERE TO 8 INCHES DEEP, SO A DEEP PENETRATION
2 BUT THE AMOUNT OF HEMORRHAGE, THIS IS OPEN, THIS IS
3 NORMALLY A TUBULAR STRUCTURE, THE AMOUNT OF
4 HEMORRHAAGE IS ALL THE WAY AROUND THIS TUBULAR
5 STRUCTURE SO FORCE AND SIGNIFICANT FORCE HAS BEEN
6 APPLIED TO CAUSE THAT MUCH HEMORRHAGE AND DAMAGE TO
7 THE SURFACE, THE MUCOSA SURFACE, BUT ALSO THIS IS THE
8 OUTSIDE WHAT WE CALL THE OUTER COVERING OF THE TUBE
9 AND YOU SEE HEMORRHAGE ON THE OUTER SIDE SO THIS
10 HEMORRHAGE AND FORCE HAS BEEN APPLIED COMPLETELY
11 THROUGH THE WALL OF THE RECTUM SO SIGNIFICANT FORCE
12 FROM 3 INCHES TO 8 INCHES DEEP IN THERE HAS OCCURRED
13 THERE IS NO PENETRATION OR PERFORATION OR TEARING OF
14 THE WALL WHERE SOMETHING HAS GONE THROUGH THE WALL
15 AND OUT INTO THE ABDOMINAL CAVITY, BUT SIGNIFICANT
16 FORCE TO CAUSE ALL OF THAT HEMORRHAGE AND BLEEDING IN
17 THERE

18 Q NOW IS IT DISCOLORATION THAT YOU WERE JUST
19 POINTING OUT WITH THE POINTER, WAS THAT, IS THAT THE
20 HEMORRHAGE YOU ARE TALKING ABOUT, THAT KIND OF
21 PURPLISH --

22 A YES, SIR ALL THIS DARK LOOKING MATERIAL HERE
23 IS ALL HEMORRHAGE THERE IS ANOTHER LITTLE SPOT
24 THERE, ONE THERE, AND THEN THIS LITTLE AREA OF
25 HEMORRHAGE AT THE JUNCTION OF THE ANUS AND RECTUM UP

1 IN THIS AREA

2 Q ALL RIGHT THANK YOU DR MAYNARD, YOU HAD
3 SAID THAT THE HEMORRHAGING EXTENDED UP TO 8 INCHES
4 INTO THE RECTUM, BASICALLY WHERE WOULD BE THE TOP OR
5 CEILING OF HER RECTUM BE WITHIN HER BODY?

6 A THIS WOULD BE UP AT THE PELVIC BRIM OR IF YOU
7 FEEL ON THE FRONT OF YOURSELF THE BONE THAT GOES
8 ACROSS THEN FEEL A BONE GOING UPWARD AND THE RECTUM
9 STOPS ABOUT MIDWAY BETWEEN THE PUBIC BONE AND THAT
10 TOP OF THE BONE GOING UP ON YOUR LEFT SIDE

11 Q NOW WHERE THESE INJURIES END IS THAT NEAR THE
12 TOP OF THE RECTUM?

13 A YES, SIR, IT IS

14 Q DO YOU HAVE AN OPINION OR LET ME GO THIS WAY
15 THE INJURIES THEMSELVES, DID YOU SEE ANY, AS WE
16 TALKED BEFORE WITH THE VAGINA AND THE ACUTE
17 INFLAMMATION, ANY OF THOSE CELLS THAT YOU TALKED
18 ABOUT THAT COME TO REPAIR, DID YOU NOTICE ANY OF THAT
19 HERE IN THE RECTUM?

20 A NO, SIR, I DID NOT

21 Q SO WOULD THESE BE CONSIDERED FRESH?

22 A THESE WERE FRESH HEMORRHAGES, FRESH BRUISING
23 WITHOUT THE ACUTE INFLAMMATORY CELLS OR BODY RESPONSE
24 TO IT

25 Q IN YOUR EXAMINATION IN DOING AUTOPSIES DO YOU

1 ALWAYS EXAMINE THE RECTUM WHEN YOU HAVE TO DO AN
2 AUTOPSY?

3 A WE DO TAKE OUT THE RECTUM IF IT'S A COMPLETE
4 AUTOPSY AND FORENSIC CASE IS A COMPLETE AUTOPSY WE
5 DO NOT TAKE OUT THE ANUS AND RECTUM AS WE DID IN THIS
6 CASE UNLESS THERE IS EVIDENCE OF INJURY OR PROBLEMS
7 DOWN THERE

8 Q DO YOU HAVE AN ESTIMATION OF HOW MANY CASES THAT
9 YOU PULLED AND HAD TO ACTUALLY TAKE OUT THE RECTUM
10 AND EXAMINE IT?

11 A NO, I DON'T IT'S BEEN A NUMBER OF THEM

12 Q YOU'VE BEEN DOING THIS HOW LONG AGAIN?

13 A 28 YEARS HERE IN ROCK HILL OR YORK COUNTY

14 Q IN YOUR EXPERIENCE HAVE YOU EVER SEEN INJURIES
15 AS SUCH AS THIS?

16 A THIS IS THE MOST HEMORRHAGE I HAVE SEEN IN A
17 RECTUM I'VE SEEN SOME PERFORATIONS BUT AS FAR AS
18 HEMORRHAGE AND TRAUMA, THIS IS PROBABLY THE MOST I'VE
19 SEEN

20 Q DO YOU HAVE AN OPINION AS TO WHAT COULD HAVE
21 CAUSED THE INJURIES IN HER RECTUM?

22 A YES, SIR, I DO

23 Q AND WHAT IS THAT OPINION?

24 A MY OPINION THE INJURIES IN THE RECTUM WERE
25 CAUSED BY BLUNT OBJECT OF EITHER A ROUND OR A SMOOTH

1 SURFACE, THAT THERE WAS NO EVIDENCE OF PENETRATION OF
2 THE WALL TO SUGGEST A SHARP OBJECT BEING APPLIED
3 THIS WOULD BE A HARD OBJECT, TYPICALLY A BROOM
4 HANDLE, BATON, DILDO, ANYTHING THAT WOULD MORE OF A
5 SMOOTH SURFACE THE FORCE WOULD HAVE HAD TO BE
6 EXTENSIVE TO CAUSE THIS MUCH HEMORRHAGE AND BRUISING
7 IN THE RECTUM

8 Q ALL RIGHT NOW YOU HAD MENTIONED BASICALLY AT
9 THE TOP OF THE RECTUM, ARE THERE AREAS THE PANCREAS
10 AND THE SPLEEN AREAS THERE RIGHT ABOVE THE RECTUM?

11 A YES, SIR, THERE ARE OTHER INJURIES INTERNALLY IN
12 THE ABDOMINAL CAVITY

13 Q CAN YOU TELL ME WHAT THOSE ARE?

14 A THERE WERE FOCAL AREAS OF HEMORRHAGE, AGAIN THE
15 BRUISING AROUND THE PANCREAS THIS IS JUST BEHIND
16 THE STOMACH ABOUT JUST BELOW YOUR RIBS IN THE
17 MIDLINE THERE WAS A HEMORRHAGE ON THE SPLEEN THE
18 SPLEEN BEING YOUR LEFT FLANK JUST BENEATH THE RIB,
19 THE LOWER RIBS ON THE LEFT SIDE AGAIN THERE WAS
20 SOME HEMORRHAGE INDICATIVE OF TRAUMA BEING DONE TO
21 THIS AREA THERE WERE ALSO SOME AREA OF HEMORRHAGE
22 OTHERWISE IN THE INTESTINAL TRACK THE CECUM OR THE
23 FIRST PART OF THE LARGE INTESTINE THIS IS THE RIGHT
24 LOWER QUADRANT THIS IS WHERE THE APPENDIX IS
25 THERE WAS AREAS OF HEMORRHAGE THERE

1 Q WHAT IF ANYTHING DID THOSE AREAS OF HEMORRHAGE
2 INDICATE TO YOU?

3 A THE AREAS OF HEMORRHAGE ARE INDICATIVE OF BLUNT
4 FORCE TRAUMA AGAIN BLOWS TO THE ABDOMINAL CAVITY OR
5 TO THE FLANKS OR TO THE BACK OF SUFFICIENT FORCE TO
6 CAUSE TEARING OF BLOOD VESSELS OR HEMORRHAGE INTO THE
7 TISSUE THERE

8 Q SO THOSE BLOWS COULD NOT ONLY BE CAUSED FROM THE
9 FRONT BUT ALSO FROM THE BACK?

10 MR BAITY YOUR HONOR, OBJECTION,
11 LEADING

12 THE COURT THAT'S A LEADING QUESTION I
13 SUSTAIN THE OBJECTION REPHRASE YOUR QUESTION OR ASK
14 ANOTHER ONE

15 Q WHAT, FROM WHAT DIRECTION IF YOU HAVE AN IDEA
16 WOULD ANY OF THOSE BLOWS BE ABLE TO BE SUSTAINED?

17 A TYPICALLY THE RIGHT LOWER QUADRANT WOULD BE
18 FRONTAL BLOWS OR BLOWS FROM THE FRONT OR BLOWS FROM
19 THE SIDE, TYPICALLY THE RIGHT SIDE, CAUSING THE
20 INJURIES THE AREAS AROUND THE PANCREAS CAN BE FROM
21 THE FRONT OR FROM THE BACK THE AREA AROUND THE
22 SPLEEN IS TYPICALLY FROM THE LEFT SIDE WITH THE
23 SPLEEN BEING ON THE LEFT SIDE

24 Q ALL RIGHT NOW I THINK IN YOUR EXAMINATION,
25 YOUR MICROSCOPIC EXAMINATION YOU ONCE AGAIN MENTIONED

1 SOMETHING EPITHELIAL LOSS AND MARKED VASCULAR
2 CONGESTION, CAN YOU DESCRIBE AND TELL US WHAT THAT
3 MEANS?

4 A SIR, WHERE ARE YOU REFERRING TO?

5 Q I BELIEVE IT'S IN SOME OF THE MICROSCOPIC
6 EXAMINATION OF HER RECTUM?

7 A YES, SIR THE EXAMINATION OF THE TISSUE UNDER
8 THE MICROSCOPE REVEALED HEMORRHAGE WHICH WE'VE
9 ALREADY SEEN IN THE PICTURES, BUT THERE IS ALSO
10 HEMORRHAGE THAT AGAIN WAS IN THE WALLS THAT WE WERE
11 LOOKING AT THE BLOOD CELLS THERE THE AREAS OF
12 EPITHELIAL LOSS WHICH AGAIN IS IRRITANT OR SOMETHING
13 BEING RUBBED ACROSS THE SURFACE OF THE MUCOSA OR THIS
14 LINING TO CAUSE THE CELLS BEING REMOVED ON THAT

15 THE MARKED CONGESTION IS JUST BLOOD
16 BEING THERE, DISTENDED VESSELS IT'S USUALLY A FIRST
17 INDICATION OF INJURY OR AT LEAST SLOWING DOWN OF THE
18 HEART RATE

19 Q NOW YOU HAD MENTIONED WHEN WE FIRST DISCUSSED
20 THE OPENING OF THE ANUS AND YOU HAD MENTIONED
21 SOMETHING ABOUT THE PAST PENETRATION, WAS THERE
22 ANYTHING ELSE SUGGESTIVE OF PAST PENETRATION THAT YOU
23 WERE ABLE TO DETERMINE IN YOUR EXAMINATION?

24 A THERE WAS EVIDENCE OF DILATATION OF THE ANAL
25 OPENING

1 Q RIGHT

2 A THEN THERE WAS PROMINENCE OF WHAT WE CALL
3 PEYER'S PATCHES IN THE INTESTINAL TRACT OR IN THE
4 RECTUM AT LEAST THERE IS LITTLE AGGREGATES OR GROUPS
5 OF LYMPHOID CELLS, AGAIN THESE CHRONIC INFLAMMATORY
6 CELLS, THEY WERE MORE PROMINENT THAN TYPICALLY SEEN
7 IN SOMEBODY

8 Q CAN YOU DESCRIBE WHAT YOU MEAN BY CHRONIC
9 INFLAMMATORY CELLS?

10 A AGAIN THESE ARE PREDOMINANTLY THE LYMPHOCYTES
11 BEING THE CELLS ARE IN OUR BLOOD NORMALLY AND SOME OF
12 OUR TISSUE SUCH AS A SPLEEN AND THESE COME INTO PLAY
13 WITH REACTIVE CHANGES OR IF WE'RE FIGHTING OFF
14 INFECTIONS OR SO, THAT WE'LL HAVE LYMPH GLANDS OR
15 THIS NODULES AROUND THE BODY THAT THESE CONTAINS
16 LYMPHOCYTES AND THEY HAVE WHAT ARE CALLED LYMPHOID
17 FOLLICLES FOLLICLES ARE JUST DIFFERENT TYPES OF
18 LYMPHOCYTES WHERE THEY FORM A NICE LITTLE ROUND AREA
19 THERE AND THEY REACT IF YOU GET A VIRUS OR YOU GET
20 AN INFECTION THESE THINGS WILL SWELL OUT, THEY ARE
21 PUTTING OUT CELLS, PUTTING OUT PROTEINS OR ANTIBODIES
22 THAT FIGHT OUT THE INFECTIONS OR IF THERE IS IRRITANT
23 THERE THAT THEY WILL SOMETIMES GROW IN SIZE AND IN
24 HER RECTUM AND ANUS THERE WERE, THESE WERE MUCH MORE
25 PROMINENT THAN TYPICALLY SEEN

1 Q ALL RIGHT CAN YOU DESCRIBE WHAT YOU MEAN BY AN
2 IRRITANT WHAT WOULD CAUSE IT?

3 A ANYTHING FROM INFECTIONS TO DISEASES,
4 INFLAMMATORY BOWEL DISEASE, CROHN'S DISEASE, CAN
5 CERTAINLY SEE THIS, CHRONIC DIARRHEA IF WE HAVE
6 BACTERIAL INFECTIONS OR SOME SORT OF PARASITE THAT IS
7 IN THERE WILL DO IT OR, YOU KNOW, OTHER IRRITANTS
8 SUCH AS SOMETHING BEING PLACED IN THERE

9 Q SOMETHING BEING PLACED IN THERE?

10 A YES, SIR, FROM PENETRATION BY SOME OBJECT OR
11 REPEATED ENEMAS

12 Q CAN YOU TELL WAS THERE ANY INDICATION OF DISEASE
13 THAT YOU WERE ABLE TO DETERMINE?

14 A THERE WAS NO EVIDENCE OF DISEASE THERE WAS NO
15 EVIDENCE OF CROHN'S DISEASE WHICH IS A TYPICAL THING
16 WHICH IS A, SOMEWHAT OF AN AUTOIMMUNE, AUTOIMMUNE
17 DISEASE IS DEFINED AS SOMETHING THAT YOU GET
18 NARROWING PROLIFERATION OF SCAR TISSUE IN THE
19 INTTESTINAL TRACT THERE WAS NO EVIDENCE OF CHRONIC
20 TYPE OF DIARRHEA THE STOOL PRESENT WAS FORMED
21 THERE WAS NO EVIDENCE OF PARASITES IN THERE WHICH
22 WOULD BE THE BIG THREE THAT COULD CAUSE THOSE
23 IRRITANTS

24 Q SO AS FAR AS WHAT YOU WERE ABLE TO TELL THERE
25 WERE NO NATURAL IRRITANTS THAT YOU COULD OBSERVE?

1 MR BAITY LEADING OBJECTION, LEADING
2 THE COURT REPHRASE THE QUESTION

3 Q WERE THERE ANY NATURAL IRRITANTS?

4 A THERE WAS NO EVIDENCE OF ANY INFECTIONS OR
5 PARASITES TO CAUSE THE IRRITATION

6 Q HOW FAR UP INTO HER, HOW FAR UP INTO HER RECTUM
7 WERE THESE, WAS THIS CHRONIC INFLAMMATION THAT WE'RE
8 DISCUSSING?

9 A THE PEYER'S PATCHES WERE THROUGHOUT THE RECTUM,
10 BUT MOST PROMINENTLY IN THE LOWER PORTION OF AWAY
11 FROM THE HEMORRHAGE WHERE YOU COULD YOU SEE THEM

12 Q WERE THERE ANY OTHER SPOTS OF CHRONIC
13 INFLAMMATION THAT YOU WERE ABLE TO DETERMINE?

14 A THERE WERE SOME SCATTERED CHRONIC INFLAMMATORY
15 CELLS, YES, IN THE RECTUM AND ANUS

16 Q THROUGHOUT THE RECTUM?

17 A YES, SIR I JUST GOT IT SCATTERED IN THERE

18 Q ALL RIGHT NOW IF YOU COULD YOU HAD MENTIONED
19 SOMETHING I BELIEVE IN THE AUTOPSY ABOUT THE
20 GASTROINTESTINAL TRACT CAN YOU DESCRIBE SOME OF THAT
21 TO US?

22 A YES, SIR WE EXAMINED THE ENTIRE
23 GASTROINTESTINAL TRACT STARTING WITH THE UPPER
24 PORTION LOOKING AT THE ESOPHAGUS, THE STOMACH, THEN
25 THE SMALL INTESTINE, THEN THE LARGE INTESTINE THE

1 ESOPHAGUS WAS UNREMARKABLE THE STOMACH HAD A SMALL
2 AMOUNT OF PARTIALLY DIGESTED FOOD IN IT THEN WE GO
3 DOWN AFTER THE STOMACH THE DUODENUM WHICH IS THE
4 FIRST PART OF THE SMALL INTESTINE THERE WAS A TEAR
5 IN THE DUODENUM MESSENTERY THE MESSENTERY IS THE
6 FIBER AND FATTY TISSUE THAT HOLDS THE INTESTINES IN
7 PLACE BUT IT ALSO SUPPLIES THE BLOOD AND MUCUS TO THE
8 INTESTINE BUT ALSO TAKES AWAY THE MUCUS FROM OUR FOOD
9 THAT BREAKDOWN THAT WE OBTAIN BUT THIS MESSENTERY
10 HAD A TEAR IN IT THERE IS SOME HEMORRHAGE THERE AND
11 THERE WAS HEMORRHAGE ON DUODENUM OR THIS PORTION OF
12 THE SMALL INTESTINE

13 THE THIRD PORTION WAS UNREMARKABLE
14 THE SMALL INTESTINE WAS ESSENTIALLY UNREMARKABLE
15 EXCEPT FOR WHAT WE CALL MECKEL'S DIVERTICULUM WHICH
16 IS JUST SIMPLY AN OUTPOUCHING THAT YOU SEE IN ONE OR
17 TWO PERCENT OF PEOPLE WHICH IS JUST A DEVELOPMENTAL
18 ABNORMALITY

19 AND THEN WHEN WE GOT DOWN TO THE CECUM
20 THE RIGHT LOWER QUADRANT AGAIN WHERE THE APPENDIX IS
21 THERE WAS HEMORRHAGE IN THE CECUM WALL INDICATIVE OF
22 BLUNT FORCE TRAUMA BEING SUSTAINED TO THE RIGHT LOWER
23 QUADRANT THEN THE COLON FROM THE RIGHT LOWER
24 QUADRANT AFTER THE CECUM FORMS THE ASCENDING COLON,
25 TRANSVERSE COLON, AND THE DESCENDING COLON SIMPLY

1 MEANS THAT IT COMES UP ON THE RIGHT SIDE, GOES ACROSS
2 THE BODY, THEN DESCENDS ON THE LEFT SIDE THESE
3 AREAS LOOKED OKAY

4 Q NOW AS FAR AS FOOD BEING PRESENT WITHIN THAT
5 TRACT, DID YOU MAKE ANY DETERMINATIONS OF THAT?

6 A YES, SIR, I DID

7 Q AND WHAT IS THAT?

8 A THAT WAS APPROXIMATELY 100 CCS OR SIX OUNCES OR
9 SO OF FOOD THAT CONTAINED PARTIALLY DIGESTED
10 MATERIAL, RICE, PEAS, CARROTS, AND OTHER THINGS WE
11 COULD IDENTIFY

12 Q WHAT IF ANYTHING DOES THAT INDICATE TO YOU AS
13 FAR AS TIME OF DEATH BEING?

14 A TIME OF DEATH OCCURRED SEVERAL HOURS AFTER THE
15 MEAL DEPENDING ON HOW MUCH SHE ATE WHAT SHE ATE
16 TYPICALLY A STOMACH TAKES FOUR TO SIX HOURS TO EMPTY,
17 SO WE GOT A STOMACH THAT DOESN'T HAVE MUCH FOOD IN
18 IT, THERE IS STILL SOME PARTICLES YOU ARE ABLE TO
19 IDENTIFY, AND THIS INDICATES WE'RE APPROACHING THAT
20 FOUR HOUR WINDOW BETWEEN THE TIME SHE LAST ATE AND
21 DEATH HAD OCCURRED

22 Q ALL RIGHT AND CAN YOU TELL ME AS WELL WHAT
23 OTHER INDICATIONS DID YOU USE TO LOOK AT AS FAR AS
24 TIME OF DEATH?

25 A SEVERAL THINGS ONE ANY WITNESSES, WHAT PEOPLE

1 MAY HAVE NOTED AT THE SCENE, BUT ALSO WHAT HER BODY
2 CONDITION WAS, THAT WE WERE TALKING ABOUT THIS LIVOR
3 MORTIS OR THE SETTLING OF THE BLOOD THAT STARTS
4 OCCURRING, THEN THERE IS RIGOR MORTIS WHICH IS THE
5 STIFFENING OF THE MUSCLES IN THE BODY AND THIS
6 USUALLY STARTS OCCURRING WITHIN A COUPLE HOURS, FOUR
7 HOURS BEING TYPICAL, AND REACHES A MAXIMUM AT 12 TO
8 24 HOURS AND THEN STARTS BECOMING SOFTER THAT THE
9 MUSCLES WILL NOT BE AS RIGID AND WE GRADE IT ON A ONE
10 TO FOUR SCALE AS TO HOW MUCH RIGIDITY THERE IS AND IT
11 GIVES YOU A ROUGH ESTIMATE OF TIME OF DEATH
12 TEMPERATURE, ENVIRONMENTAL TEMPERATURE, WHETHER OR
13 NOT THE PERSON WAS EXERCISING OR SO, YOU KNOW COME
14 INTO PLAY, AND CHANGE TIMES ON THIS

15 Q AND HAVE YOU PROVIDED AN OPINION AND DO YOU HAVE
16 AN OPINION OF THE TIME OF DEATH?

17 A YES, SIR, I DO

18 Q AND WHAT IS THAT?

19 A SHE DIED EARLY IN THE MORNING ON 11/29 AND BASED
20 ON THE AMOUNT OF FOOD FROM MY RECOLLECTION OF HER
21 EATING LATE AT NIGHT AND THE AMOUNT OF RIGOR THERE,
22 SOME TIME AROUND TWO TO FOUR IN THE MORNING AGAIN
23 THERE IS SOME LEEWAY THERE OBVIOUSLY

24 Q OKAY NOW GOING BACK TO THE PHOTOGRAPH I
25 BELIEVE IT WAS STATE'S EXHIBIT 22 THE ONE OF THE

1 OPENING OF THE ANUS IF YOU COULD TELL ME LOOKING AT
2 THAT PHOTOGRAPH HAD YOU CLEANED HER UP AT ALL AT THE
3 TIME THAT YOU WERE PERFORMING THAT EXAMINATION WHEN
4 THAT PHOTOGRAPH WAS TAKEN?

5 A NO, SIR, I HAVE NOT

6 Q ALL RIGHT WHAT IF ANYTHING DOES THAT INDICATE
7 TO YOU?

8 A WE HAVE TAKEN OFF HER CLOTHES AND THEN WE'RE
9 DOING AN EXAMINATION OF THE BODY THERE IS NO
10 EVIDENCE OF BLOOD, FECAL MATERIAL, OR ANY FOREIGN
11 MATERIAL AROUND THE ANAL OPENING

12 Q ALL RIGHT CONSIDERING THE VIOLENCE OF THE
13 ASSAULT YOU DESCRIBED, WHAT IF ANYTHING DOES THAT
14 MEAN TO YOU OR DOES IT SUGGEST ANYTHING TO YOU?

15 A THE ANUS IS CLEAN, THERE IS NO EVIDENCE OF BLOOD
16 OR FECAL MATERIAL AROUND IT, THIS INDICATES TO ME
17 THAT ANY MATERIAL THAT HAD BEEN THERE HAS BEEN
18 REMOVED

19 Q ALL RIGHT

20 A OR CLEANED UP

21 Q CLEANED UP DID YOU CLEAN UP ANY OF THAT
22 MATERIAL?

23 A NO, SIR, I DID NOT

24 Q AND I BELIEVE YOU REMOVED HER CLOTHING AS WELL?

25 A YES, I DID

1 Q DID YOU NOTICE ANY AMOUNT OF FECES IN HER
2 CLOTHING?

3 A NO, SIR, I DID NOT

4 Q DO YOU FIND THAT UNUSUAL CONSIDERING THE ASSAULT
5 THAT SHE HAD SUFFERED THAT NIGHT?

6 A UNCOMMON THAT FECAL WILL TYPICALLY SOIL THEIR
7 PANTS IN AN ASSAULT OR FREQUENTLY DO IT WITH AN
8 ASSAULT OCCURRING TO THE RECTUM THERE WOULD TYPICALLY
9 BE FECAL MATERIAL BROUGHT BACK OUT AND LEFT AROUND
10 THE ANAL OPENING

11 Q AND DO YOU RECALL WHEN YOU EXAMINED THE BEDDING
12 UNDERNEATH HER AT THE SCENE, DID YOU HAPPEN TO NOTICE
13 ANY FECAL MATERIAL OR ANYTHING OF THAT NATURE ON THE
14 BEDDING WHILE YOU WERE THERE?

15 A NO, SIR, I DID NOT

16 Q DOCTOR, DO YOU HAVE AN OPINION AS TO WHETHER OR
17 NOT A PENIS COULD HAVE CAUSED THIS INJURY TO HER
18 RECTUM?

19 A I HAVE AN OPINION, YES, SIR

20 Q AND WHAT IS THAT?

21 A MY OPINION A PENIS, AN ERECT PENIS, WOULD NOT
22 HAVE CAUSED THE DEGREE OF INJURY TO THE RECTUM THIS
23 WOULD BE A SOLID OBJECT, A SIGNIFICANTLY SOLID OBJECT
24 THAT'S NOT FLEXIBLE, A SMOOTH SURFACE THERE IS
25 EXTENSIVE HEMORRHAGE IN THE SIDE WALLS OF THE RECTUM

1 A PENIS WOULD NOT CAUSE THE AMOUNT OF HEMORRHAGE
2 THERE COULD NOT BE ENOUGH THRUST FROM A PENIS GOING
3 UP INTO A RECTUM SUCH AS THIS TO CAUSE THAT AMOUNT OF
4 HEMORRHAGE

5 Q ALL RIGHT HOW ABOUT A VERY LARGE PENIS, DOES
6 THAT CHANGE YOUR OPINION IN ANY WAY?

7 A NO, SIR, IT DOESN'T

8 Q OKAY AND ONCE AGAIN GOING BACK TO THE
9 FRESHNESS OF THE INJURIES, ALL THE INJURIES WE
10 DISCUSSED SO FAR FROM THE BEGINNING OF YOUR DIRECT
11 EXAMINATION UNTIL NOW, DO YOU HAVE AN OPINION AS TO
12 HOW FRESH THOSE INJURIES WERE?

13 A YES, SIR

14 Q AND WHAT IS THAT?

15 A ALL THE INJURIES ARE FRESH, ALL APPEAR TO BE THE
16 TEMPORAL RELATIONSHIP, THE SAME TIME THAT OCCURRED
17 THERE IS AGAIN NO EVIDENCE OF ANY BODY RESPONSE TO
18 ANY OF THESE INJURIES

19 Q ALL RIGHT AND CAN YOU TELL ME AS WELL ARE THEY
20 CONTEMPORANEOUS OR ARE THEY AT THE SAME TIME AS THE
21 TIME OF DEATH IN YOUR OPINION?

22 A YES, SIR THESE ALL OCCURRED PRIOR TO DEATH AND
23 WITHIN A SHORT TIME PRIOR TO HER DEATH

24 Q OKAY NOW DID YOU FIND ANY EVIDENCE OF ANY
25 LUBRICANT OR LUBRICATION AT ALL EITHER IN THE ANUS OR

1 THE VAGINA?

2 A NO, SIR, I DID NOT

3 Q DID SHE HAVE ANY BROKEN BONES OR ANYTHING OF
4 THAT NATURE IN YOUR EXAMINATION?

5 A NO, SIR, SHE DID NOT

6 Q I'D LIKE TO ASK YOU A HYPOTHETICAL QUESTION, AND
7 FIND OUT IF YOU HAVE AN OPINION AS TO THIS COULD A
8 THREE HUNDRED POUND PLUS MAN KNEELING ON THE ABDOMEN
9 OR THE BACK CAUSE THE INTERNAL ABDOMINAL INJURIES
10 THAT YOU HAVE OBSERVED?

11 A YES, SIR, IT COULD WITH SUFFICIENT FORCE
12 APPLIED THREE HUNDRED POUNDS IS A LOT OF WEIGHT

13 Q WOULD THAT BE EVEN WITH HER LYING ON HER BED?

14 A YES, SIR, IT COULD

15 Q DR MAYNARD, I BELIEVE AFTER THE AUTOPSY YOU
16 WENT TO THE ROCK HILL POLICE DEPARTMENT, IS THAT
17 CORRECT?

18 A YES, SIR, LATER THAT DAY

19 Q AND WHAT DID YOU DO THERE?

20 A THERE WAS A MEETING OF FORENSIC TEAM, PATHOLOGY,
21 CORONER, AND INVESTIGATORS TO DISCUSS ALL THE
22 FINDINGS IN THE CASE

23 Q DID YOU TELL THEM YOUR FINDINGS AT THAT TIME?

24 A YES, SIR, I DID

25 Q WHAT DID YOU ADVISE THEM, IF ANYTHING, AS TO THE

1 POSSIBLE CAUSES OF THE INJURIES TO HER INTERNALLY
2 BOTH VAGINALLY AND ANALLY?

3 A AMANDA WAS ASSAULTED VAGINALLY, ANALLY, AND OVER
4 HER ENTIRE BODY WITH NUMEROUS BRUISES, INJURIES,
5 HEMORRHAGES THAT OCCURRED THE ASSAULTS WERE OF
6 EXTREME VICIOUS NATURE TO CAUSE THE AMOUNT OF RECTAL
7 BLEEDING THAT WE SAW IN THE RECTUM HEMORRHAGES THAT
8 I DESCRIBED THAT THIS WAS DONE WITH A FOREIGN OBJECT
9 RATHER MOST LIKELY THAN NOT A PENIS, BUT A FOREIGN
10 OBJECT WITH SUFFICIENT FORCE TO CAUSE THE DEEP
11 INTERNAL HEMORRHAGES THAT OCCURRED

12 Q DR MAYNARD, DID YOU COME THROUGH YOUR
13 EXAMINATION OF AMANDA COME TO AN OPINION AS TO THE
14 CAUSE OF DEATH?

15 A YES, SIR, I DID

16 Q AND WHAT IS YOUR OPINION AS TO THE CAUSE OF
17 DEATH?

18 A APPARENT CAUSE OF DEATH IS STRANGULATION

19 Q DID YOU HAVE AN OPINION AS TO THE MANNER OF
20 DEATH?

21 A THE MANNER OF DEATH WAS HOMICIDE

22 Q THANK YOU, DR MAYNARD PLEASE ANSWER ANY
23 QUESTIONS THE DEFENSE HAS

24 CROSS EXAMINATION BY MR BAITY

25 Q DR MAYNARD, YOU'RE A MEDICAL DOCTOR THAT

1 STUDIES AMONG OTHER THINGS UNNATURAL OR VIOLENT
2 DEATH, THAT'S WHAT YOU DO FOR A LIVING, IS THAT
3 CORRECT?

4 A YES, SIR, THAT'S CORRECT

5 Q AND YOU ARE NOT A SEXUAL ASSAULT EXPERT PER SE?

6 A I HAVE DEALT WITH A NUMBER OF SEXUAL ASSAULT
7 CASES, YES, SIR

8 Q BUT YOU'RE NOT A GYNECOLOGIST OR ANYTHING SUCH
9 AS THAT?

10 A I'M NOT A GYNECOLOGIST, NO

11 Q AND YOU'RE A PATHOLOGIST, A FORENSIC
12 PATHOLOGIST?

13 A YES, SIR, THAT'S CORRECT

14 Q ARE YOU BOARD CERTIFIED?

15 A I'M BOARD CERTIFIED IN PATHOLOGY

16 Q IN PATHOLOGY AND YOU WORK VERY CLOSELY WITH
17 THE ROCK HILL POLICE DEPARTMENT, ISN'T THAT CORRECT?

18 A YES, WE DO FROM TIME TO TIME

19 Q THEY CALL YOU TO PLACES TO WHERE THEY FIND
20 VIOLENT OR UNNATURAL DEATHS?

21 A WHERE THE SCENES ARE SOMEWHAT CONFUSING THEN
22 THEY REQUEST THAT ONE OF US COME OUT, YES, SIR

23 Q AS A MATTER OF FACT THAT'S ALMOST EXCLUSIVELY
24 HOW YOU FIND OUT ABOUT IT AND ARE CALLED TO THE
25 SCENE, ISN'T THAT RIGHT?

1 A THAT EITHER THE POLICE DEPARTMENT OR THE CORONER
2 OR SHERIFF'S DEPARTMENT WILL CALL US

3 Q BUT LAW ENFORCEMENT IN GENERAL?

4 A YES, SIR, WHEN REQUESTED

5 Q AND IN THIS PARTICULAR CASE YOU WERE CALLED TO
6 THE SCENE BY THE ROCK HILL POLICE DEPARTMENT?

7 A I THINK SO, YES, SOMEONE FROM LAW ENFORCEMENT

8 Q AND I BELIEVE YOU JUST TESTIFIED THAT ON THE DAY
9 OF THE DISCOVERY OF AMANDA'S BODY AND AFTER YOU
10 COMPLETED YOUR EXAMINATION YOU WENT TO THE POLICE
11 DEPARTMENT AND REPORTED ALL THIS TO THEM, DID YOU
12 NOT?

13 A YES, SIR

14 Q DO YOU REMEMBER WHEN YOU MADE THAT REPORT TO
15 THEM?

16 A IT WAS THAT AFTERNOON OR THAT EVENING

17 Q THE SAME DAY?

18 A THE SAME DAY CERTAINLY LATER AFTER I HAD TIME
19 TO GO OVER MY AUTOPSY FINDINGS TO BE ABLE TO PRESENT
20 TO THE TASK FORCE

21 Q AND THE OPINION YOU JUST STATED IN THE RECORD
22 TODAY WAS THE SAME OPINION THAT YOU GAVE TO THEM AT
23 THAT TIME, IS THAT RIGHT?

24 A YES, SIR, IT IS

25 Q OKAY AND YOU'VE BEEN WORKING WITH THE POLICE

1 DEPARTMENT FOR A NUMBER OF YEARS, IS THAT NOT
2 CORRECT?

3 A 28 YEARS IN YORK COUNTY

4 Q YOU DEVELOPED PERSONAL RELATIONSHIPS AND SO
5 FORTH WITH OFFICERS AND PEOPLE OVER THERE?

6 A YES, SIR

7 Q AND WHEN YOU MENTION IN YOUR TESTIMONY 'WE' WERE
8 CONCERNED ABOUT THIS BEING A SEXUAL ASSAULT, WHO ARE
9 YOU REFERRING TO AS 'WE'?

10 A WELL, THE CORONER, MYSELF, THE POLICE OFFICERS
11 THERE, TO EVENTUALLY MY PARTNERS

12 Q YOU ALSO SAID SOMETHING IN YOUR TESTIMONY, YOU
13 SAID THAT THIS WAS AN OBVIOUS ASSAULT, YOU NOTICED
14 THAT AT THE SCENE?

15 A YES, SIR, THAT IS CORRECT

16 Q IT WOULD HAVE BEEN OBVIOUS TO ANYONE YOU THINK?

17 A I THINK SO WITH THE INJURIES TO HER FACE

18 Q YES, SIR YOU DID MENTION THAT YOU HAVE
19 ESTIMATED THE TIME OF DEATH WAS BETWEEN TWO AND FOUR,
20 IN THE MIDDLE OF THE NIGHT?

21 A YES, SIR, APPROXIMATELY AGAIN THERE IS SOME
22 LEEWAY THERE

23 Q BUT THAT'S NOT AN EXACT SCIENCE?

24 A NO, SIR, IT'S NOT

25 Q IT'S PLENTY OF LEEWAY ON BOTH ENDS OF THAT?

1 A SEVERAL HOURS

2 Q IS THAT CORRECT AND OF COURSE, YOU DID NOT
3 ARRIVE AT THE SCENE OF THE CRIME UNTIL 8 30 A M THAT
4 MORNING, CORRECT?

5 A YES, SIR

6 Q AND AMANDA'S BODY WAS DISCOVERED AT 6-6 05,
7 SOMETHING LIKE THAT?

8 A I DON'T KNOW

9 Q OKAY BUT IT HAD BEEN EARLIER THAT DAY?

10 A YES, SIR, IT HAS

11 Q WHEN YOU GOT THERE WERE THERE VERY MANY PEOPLE
12 AT THE SCENE?

13 A THERE WERE SEVERAL POLICE OFFICERS, FORENSICS,
14 CORONER

15 Q WAS IT A CROWD OF PEOPLE?

16 A THERE WERE SEVERAL THERE THE SCENE HAD ALREADY
17 BEEN TAPED OFF

18 Q WERE THERE PEOPLE COMING IN AND OUT OF THE
19 HOUSE?

20 A OTHER THAN POLICE OFFICERS, NO

21 Q WELL, I'M TALKING ABOUT POLICE OFFICERS?

22 A YEAH, THERE WERE SEVERAL FOLKS THERE

23 Q SIGNIFICANT NUMBER OF POLICE OFFICERS SEARCHING
24 THROUGH THE HOUSE?

25 A I REMEMBER PROBABLY THREE OR FOUR POLICE

1 OFFICERS IN THE HOUSE THERE MAY HAVE BEEN MORE

2 Q AND YOU DID SAY THAT YOU SAW THE GREEN BLANKET
3 NEXT TO THE BODY?

4 A YES, SIR, IT WAS ON THE BED AT SOMETIME

5 Q IT WAS ON THE BED WAS IT TOUCHING ANY PART OF
6 HER?

7 A I THINK IT WAS DRAPED ON HER LEFT ARM OR
8 UNDERNEATH HER LEFT ARM

9 Q OKAY BUT YOU DON'T BELIEVE THAT THE BLANKET OR
10 A STRIP FROM THE BLANKET OR ANYTHING LIKE THAT WAS
11 SIGNIFICANT IN HER DEATH?

12 A IT WOULD BE HIGHLY UNUSUAL

13 Q ALL RIGHT NOW YOU MENTION THAT YOU SAW
14 MR COPE AT THE HOSPITAL, THAT WAS ABOUT MIDDAY I
15 SUPPOSE?

16 A YES, IT WAS LATE MORNING

17 Q DO YOU KNOW WHY HE WAS THERE?

18 A HE CAME IN WITH I THINK TWO OR THREE POLICE
19 OFFICERS REQUESTING THAT A SUSPECT KIT BE OBTAINED
20 FROM HIM

21 Q AND A SUSPECT KIT WOULD BE BLOOD, HAIR?

22 A HAIR

23 Q OTHER TYPE OF BODILY SAMPLES?

24 A YES, SIR

25 Q AND WERE YOU AWARE THAT HE VOLUNTEERED TO DO

1 THAT?

2 A I DON'T REMEMBER

3 Q OKAY AND HE WOULD HAVE CERTAINLY BEEN ASKED AT
4 THAT POINT TO HAVE GIVEN A DNA SAMPLE, RIGHT?

5 A YES, SIR, THAT'S CORRECT

6 Q SO IT WOULDN'T BE UNUSUAL FOR HIM TO MENTION
7 SOMETHING ABOUT DNA TO YOU, WOULD IT?

8 A IT WAS UNUSUAL WHEN HE ASKED DID I FIND ANY OF
9 HIS DNA UNDERNEATH HER NAILS

10 Q BUT I MEAN DNA WAS THE SUBJECT THAT HE WAS THERE
11 FOR, WASN'T IT?

12 A YES, SIR

13 Q SO THAT WOULDN'T BE ALL THAT UNUSUAL TO SAY,
14 WELL, SHE WAS SCRATCHING MY BACK YESTERDAY, WILL THAT
15 SHOW UP?

16 A THAT'S THE FIRST TIME I'VE EVER HAD THAT ASKED
17 OF ME

18 Q OKAY

19 A I MUST ADMIT

20 Q DOCTOR, WHAT IS DNA?

21 A DEOXYRIBONUCLEIC ACID WHICH IS THE CONTROL OF
22 OUR BODY ALL MATERIAL HAS DNA IN IT AND THIS IS OUR
23 GENETICS, THAT'S WHAT MAKES US WHAT WE ARE, OUR HAIR
24 COLOR, OUR EYE COLOR, SIZE IT ALSO CONTROLS, YOU
25 KNOW, DO WE GET CANCER, DO WE NOT GET CANCER, AND

1 MAKES ALL PROTEINS IN ALL PARTS OF THE BODY

2 Q WHY IS IT SIGNIFICANT IN CRIME SCENE
3 INVESTIGATION AND ANALYSIS?

4 A IT'S UNIQUE EACH PERSON HAS INDIVIDUAL DNA
5 THAT STATISTICALLY THERE IS NO SUCH THING AS TWO
6 PEOPLE HAVING THE SAME DNA THE DNA IS RECORDED ONE
7 IN A MILLION OR ONE IN A BILLION OR WHATEVER OR
8 HOWEVER THE REPORTS COME BACK

9 Q SORT OF LIKE FINGERPRINTS?

10 A YEAH, BUT MUCH --

11 Q ---MUCH MORE?

12 A ---MUCH MORE ACCURATE BECAUSE IT'S SO UNIQUE TO
13 OUR OWN PERSONAL BODY

14 Q AND HOW IS DNA LEFT AT A CRIME SCENE OR LEFT
15 ANYWHERE FOR THAT MATTER?

16 A ANY CELLS THAT ARE LEFT WHETHER A HAIR, SALIVA,
17 HAS GOT CELLS IN IT, BLOOD BEING THE TYPICAL THING WE
18 LOOK FOR DNA, OR CELLS THAT CAN BE WIPED OFF OF
19 SOMETHING SUCH AS SKIN CELLS OR MUCOSAL CELLS CAN BE
20 WIPED OFF NAILS CAN BE USED, FINGERNAILS CAN BE
21 USED AT TIMES

22 Q I'M HOLDING THIS PEN, WOULD MY DNA BE ON THIS
23 PEN IF IT WERE TO BE EXAMINED?

24 A POSSIBLY

25 Q AND IF YOU PICK UP SOMETHING AND HOLD IT OR

1 GRASP IT TIGHTLY WOULD THAT LEAVE YOUR DNA TRACE ON
2 THAT OBJECT?

3 A IT'S POSSIBLE IF YOU ARE BLEEDING OR HAVE A TEAR
4 ON YOUR HAND

5 Q WOULD YOU HAVE TO HAVE BLOOD IN ORDER TO LEAVE
6 DNA?

7 A NO, NOT NECESSARILY YOUR PEN IT LOOKS SOMEWHAT
8 SMOOTH THERE, SO IT MAY OR MAY NOT PICK UP ANYTHING

9 Q IT'S KIND OF GOT A RUBBER GRIP ON IT, WOULD THAT
10 FACILITATE IT?

11 A I DON'T KNOW

12 Q OKAY NOW AT SOME POINT YOU MADE A COMPLETE
13 PHYSICAL EXAMINATION OF THE BODY AND YOU NOTICED
14 BRUISES TO AMANDA'S FACE, IS THAT CORRECT?

15 A YES, SIR

16 Q TO HER RIGHT EYE, HER CHEEK, HER LIPS, AND THE
17 SIDE OF HER HEAD?

18 A YES, SIR

19 Q ALL RIGHT AND I BELIEVE YOU ALSO EXAMINED HER
20 NECK AND THAT'S WHERE YOU NOTICED THE V-SHAPE
21 PATTERN --

22 A YES, SIR

23 Q ---ON HER NECK NOW THE V-SHAPE PATTERN, WOULD
24 THAT SUGGEST THAT SOMEONE HAD PLACED A HAND OVER THIS
25 YOUNG LADY'S NECK?

1 A IN MY OPINION IT HAD THE APPEARANCE OF THE
2 PATTERN OF A HAND BEING PLACED ON HER NECK

3 Q ALL RIGHT AND YOU CAME TO THAT CONCLUSION
4 BECAUSE YOU SAW A THUMB MARK ON ONE SIDE OF HER NECK
5 AND FINGER MARKS ON THE OTHER SIDE OF HER NECK?

6 A THERE WAS A SINGLE HEMORRHAGE AREA ON HER RIGHT
7 NECK THAT HAD THIS V-SHAPED AREA ON THE LEFT NECK
8 WHICH SUGGESTS, YEAH, A FINGER OR THE POSSIBILITY OF
9 A HAND BEING PLACED

10 Q COULD YOU SAY THAT THAT SINGLE SPOT, I THINK YOU
11 DESCRIBED IT IN THE AUTOPSY REPORT AS A QUARTER SIZE
12 SPOT ON THE RIGHT SIDE OF HER NECK, IS THAT RIGHT?

13 A YES, SIR I DON'T REMEMBER THE SIZE

14 Q AND COULD THAT BE SUGGESTIVE OF A THUMB BEING
15 PLACED VIOLENTLY ON HER NECK RIGHT THERE?

16 A IT SUGGESTS PRESSURE BEING APPLIED THERE WHEN
17 LOOKED AT WITH THE INJURIES ON THE LEFT SIDE OF THE
18 NECK, IT WOULD SUGGEST A THUMB AND A HAND BEING
19 APPLIED TO THE NECK

20 Q I MEAN, THAT'S WHAT YOU SAID IN THE AUTOPSY
21 REPORT?

22 A YES, SIR

23 Q AND THAT'S WHAT YOU TESTIFIED TO BEFORE IN OTHER
24 PROCEEDINGS ON THIS MATTER?

25 A YES, SIR

1 Q AND YOU ONLY FOUND ONE OF THOSE THUMB MARKS,
2 DIDN'T YOU?

3 A ONE DEEP IMPRESSION ON THE RIGHT NECK, YES, SIR

4 Q AND SO ISN'T IT YOUR CONCLUSION THAT AMANDA WAS
5 STRANGLED, SHE WAS STRANGLED FROM THE FRONT BY THE
6 USE OF A SINGLE HAND, AND THAT BEING A RIGHT HAND?

7 A THE HAND WITH THE THUMB BEING ON THE RIGHT SIDE,
8 THE FINGERS BEING ON THE LEFT, COULD HAVE BEEN FROM
9 THE FRONT OR COULD HAVE BEEN FROM THE BACK IN A SORT
10 OF A CHOKING TYPE HOLD

11 Q WELL, YOU'VE TESTIFIED BEFORE, HAVEN'T YOU, THAT
12 THIS WAS A SINGLE HANDED FRONTAL ATTACK NOW HAVEN'T
13 YOU SAID THAT? YOU DIDN'T SAY ANYTHING ABOUT A,
14 ANYTHING FROM THE REAR?

15 A MOST TYPICALLY A FRONTAL ATTACK, BUT IT COULD BY
16 THE SAME TAKING A HAND AND GOING AROUND THE NECK FROM
17 THE BACK

18 Q STILL A ONE HAND IS WHAT WE'RE TALKING ABOUT?

19 A YES, SIR

20 Q NOT TWO?

21 A DOESN'T APPEAR TO BE TWO BUT POSSIBLY IT COULD
22 BE TWO

23 Q BUT YOU HAVE TESTIFIED BEFORE THAT IT WAS A ONE
24 HANDED FRONTAL ATTACK, DIDN'T YOU DO THAT IN THE
25 FAMILY COURT?

1 A IT'S MORE TYPICAL OF A ONE HANDED ATTACK

2 Q AND YOU'VE NEVER SUGGESTED ANYTHING ELSE UNTIL
3 TODAY? NOT IN YOUR AUTOPSY REPORT, NOT IN YOUR
4 FAMILY COURT TESTIMONY, ISN'T THAT CORRECT, SIR?

5 A I DON'T REMEMBER ALL MY TESTIMONY IN FAMILY
6 COURT

7 Q WELL

8 A I MEAN IT'S POSSIBLE THAT COULD HAVE BEEN ONE
9 THUMB ON ONE SIDE AND YOU KNOW FINGERS ON THE OTHER
10 SIDE, BUT IT'S MORE TYPICAL OF A SINGLE HAND

11 Q I'M JUST TRYING TO GET YOU WHEN YOU WERE ASKED
12 THIS SAME QUESTION IN THE FAMILY COURT --

13 THE COURT MR BAITY, IF YOU ARE GOING TO
14 IMPEACH HIM ON SOME PRIOR TESTIMONY, YOU NEED TO ASK
15 AND LET HIM SEE WHAT HE SAID

16 Q CAN I HAND YOU A COPY OF YOUR TESTIMONY, SIR?

17 A YES, SIR

18 THE COURT TELL HIM PAGE AND LINE

19 Q IF YOU LOOK ON PAGE 354, DOCTOR, AND LOOK ON
20 LINE 17 AND DID I NOT ASK YOU DOES THIS APPEAR TO
21 BE A SINGLE HANDED RIGHT HANDED FRONTAL ATTACK ON
22 THIS POOR GIRL'S NECK, SHE WAS NOT STRANGLED WITH A
23 LIGATURE, AND SHE WAS SEXUALLY ASSAULTED AND YOUR
24 ANSWER WAS IN MY OPINION, YES, SIR, THAT'S CORRECT

25 A YES, SIR, THAT IS

1 Q AND YOU DIDN'T SAY ANYTHING -- WELL, NO, IT
2 COULD HAVE BEEN FROM A SOME OTHER ANGLE OR SOME OTHER
3 SIDE, I ASKED YOU IF IT WAS A SINGLE HANDED FRONTAL
4 ATTACK AND YOU SAID, YES, SIR, THAT'S CORRECT, DIDN'T
5 YOU?

6 A THE QUESTION SAYS THIS APPEARS TO BE AND IT DOES
7 APPEAR TO BE

8 Q ALL RIGHT, SIR THANK YOU NOW YOU ALSO
9 EXAMINED HER CHEST, HER BREASTS, RIGHT?

10 A YES, SIR

11 Q AND YOU FOUND A BITE MARK ON HER RIGHT NIPPLE,
12 CORRECT?

13 A WE FOUND AN AREA ON THE RIGHT BREAST WITH
14 HEMORRHAGE AND A SUGGESTION OF A BITE MARK

15 Q ALL RIGHT, SIR AND YOU TOOK A SWAB FROM
16 THAT --

17 A YES, SIR

18 Q ---CORRECT WHAT DID YOU SUSPECT YOU WERE
19 TAKING THERE? WHAT DID THAT APPEAR TO YOU?

20 A IF THAT WAS INDEED A TOOTH MARK THEN WE WOULD
21 TAKE A SWAB

22 Q OKAY DO YOU KNOW WHAT THE RESULTS OF THAT
23 WERE?

24 A I UNDERSTAND THEY WERE, THEY MATCHED ONE OF THE
25 DEFENDANTS

1 Q WELL, I MEAN, BUT IT TURNED OUT TO BE SALIVA,
2 DIDN'T IT?

3 A I DON'T KNOW THAT

4 Q OKAY AND THEN YOU ALSO EXAMINED HER ABDOMEN ON
5 THE FRONT PART OF HER BODY, CORRECT?

6 A YES, SIR

7 Q AND IT WAS SIGNIFICANTLY BRUISED, WAS IT NOT?

8 A THERE WAS NO EVIDENCE OF EXTERNAL ABDOMINAL
9 BRUISING

10 Q WELL, BUT INTERNALLY YOU FOUND A SIGNIFICANT
11 BRUISE THERE --

12 A YES, SIR

13 Q ---AND NOT SO I MEAN, I'M JUST ASKING YOU,
14 DID SHE HAVE A BLOW, A SIGNIFICANT BLOW, TO HER
15 ABDOMEN?

16 A YES, SIR, SHE DID

17 Q OKAY AND I BELIEVE THAT YOU HAVE SPEC -- OR
18 YOU STATED THAT YOU BELIEVE THAT TO BE SOMETHING THAT
19 WAS BLUNT FORCE, CORRECT?

20 A YES, SIR

21 Q AND THAT WAS PERHAPS A KNEE OR A FOOT?

22 A KNEE, FOOT, FIST

23 Q RIGHT ON THE FRONT PART OF HER BODY, CORRECT?

24 A THE INJURIES TO HER PANCREAS CAN BE FROM THE
25 FRONT OR THE BACK THE INJURY TO HER CECUM AND THE

1 RIGHT LOWER QUADRANT IS TYPICALLY FROM THE FRONT
2 THE INJURY TO HER SPLEEN WITH THE TEARS IS TYPICALLY
3 FROM THE SIDE OR THE BACK

4 MR BAITY BEG THE COURT'S INDULGENCE
5 PLEASE

6 Q YOU TESTIFIED BEFORE THAT A SIGNIFICANT BLOW
7 OCCURRED TO THE RIGHT LOWER PORTION OF THE ABDOMEN
8 I'M JUST TRYING TO GET THAT ACROSS

9 A YES, SIR, I AGREE WITH THAT

10 Q CAUSING TEARING OF BLOOD VESSELS AND REACHING
11 EVEN TO THE COLON ITSELF?

12 A YES, SIR, THAT'S THE CECUM, THAT'S THE FIRST
13 PART OF THE COLON

14 Q AND THAT WOULD BE A BLOW TO THE ABDOMEN WHICH IS
15 ON THE FRONT SIDE OF THE BODY, ISN'T THAT CORRECT,
16 DOCTOR?

17 A YES, SIR

18 Q NOW YOU ALSO EXAMINED HER BACK AND I BELIEVE
19 THAT YOU STATED IN YOUR AUTOPSY REPORT THAT THE BACK,
20 THE BACK OF AMANDA, WAS UNREMARKABLE, WAS THAT
21 CORRECT?

22 A YES, SIR, THAT'S CORRECT

23 Q UNREMARKABLE, THAT MEANS YOU SAW NOTHING AT ALL?

24 A YES, SIR, NOTHING EXTERNALLY

25 Q OKAY NO, NO, NOTHING ON HER UPPER BACK OR

1 NOTHING ON HER MIDBACK?

2 A NO, SIR THERE IS SOME DISCOLORATION I DESCRIBE
3 OVER THE RIGHT LATERAL FLANK

4 Q AND ONE OF THE PHOTOGRAPHS AROUND HERE HAS SOME
5 DISCOLORATION IN THE BACK BUT THAT'S BECAUSE OF BLOOD
6 SETTLING IN THE BODY?

7 A YES, SIR, THE LIVOR MORTIS

8 Q BUT THERE WERE NO BRUISES ON THE UPPER PORTION
9 OR THE MID-PORTION OF THE BACK AT ALL?

10 A NO, SIR, THERE WAS NOT

11 Q COMPLETELY UNREMARKABLE AND NORMAL?

12 A YES, SIR

13 Q AND THE ONLY THING YOU FOUND ON THE LOWER BACK,
14 DOCTOR, WAS THIS IMPRINT OF THIS STAPLER AND THIS
15 SHEET MUSIC HOLDER, ISN'T THAT CORRECT?

16 A YES, IT IS

17 Q THAT'S THE ONLY THING YOU FOUND ON THE BACK
18 SIDE --

19 A WELL, THERE ARE ABRASIONS AND SOME HEMORRHAGE
20 AROUND THOSE

21 Q RIGHT NOW DID YOU FIND ANYTHING SIMILAR TO
22 THAT ON THE FRONT SIDE OF AMANDA?

23 A NO, SIR, I DID NOT

24 Q SO IF SHE HAD BEEN LAYING FACE DOWN WITH SOMEONE
25 SITTING ON HER AND PRESSING HER INTO THESE SAME

1 THINGS, YOU WOULD EXPECT THERE WOULD BE SOME TYPE OF
2 ABRASIONS ON THE FRONT SIDE OF HER BODY, WOULDN'T
3 YOU?

4 A IT'S POSSIBLE THE ABDOMEN IS A LOT SOFTER AND
5 CAN GIVE

6 Q WHAT ABOUT HER THIGHS? WHAT ABOUT HER --

7 A HER THIGHS --

8 Q THAT'S NOT SO SOFT?

9 A YOU TYPICALLY SEE, NO

10 Q YOU DIDN'T FIND ANY ABRASIONS OR IMPRINTATIONS
11 ON HER THIGHS?

12 A NOT ON THE FRONT OF HER THIGHS

13 Q WHICH WOULD HAVE CORRESPONDED WITH WHERE THE
14 IMPRINTS THAT YOU FOUND ON THE BACK SIDE OF HER?

15 A YES, SIR

16 Q IS THAT CORRECT?

17 A YES, SIR IF SHE WAS IN THE SAME SPOT

18 Q IN ADDITION TO A PHYSICAL EXAM PERFORMED BY, YOU
19 PERFORMED AN AUTOPSY, IS THAT CORRECT? WHERE YOU
20 LITERALLY DISSECTED PORTIONS OF HER BODY?

21 A YES, SIR

22 Q AND WE'VE ACTUALLY SEEN A PICTURE OF THAT TODAY
23 WE PUT UP ON THE SCREEN?

24 A YES, SIR

25 Q THAT WAS THAT HORRIBLY BLOODY PICTURE WHERE YOU

1 SHOWED THE RECTUM THAT HAD BEEN SURGERICALLY REMOVED
2 FROM AMANDA AND TAKEN OUT AND PUT ON THE TABLE?

3 A YES, SIR

4 Q OKAY AND THAT, YOU DID THAT?

5 A YES, SIR, I DID

6 Q ALL RIGHT AND DOCTOR, AS PART OF THE AUTOPSY
7 YOU STUDY INJURIES TO AMANDA'S VAGINA, IS THAT
8 CORRECT?

9 A YES, SIR, WE DID LOOK AT THAT

10 Q AND YOU FOUND INJURIES TO THE VAGINAL WALL OR
11 WALLS?

12 A YES, SIR THERE WERE AREA OF HEMORRHAGE AND
13 FOCAL TEARING

14 Q RIGHT AND THESE ARE NOT SEVERE PUNCTURES OR
15 PENETRATIONS BUT JUST TEARING, SMALL TEARS IN THE
16 VAGINAL WALL?

17 A VERY SUPERFICIAL TEARS AGAIN JUST OF THE MUCOSA
18 BUT NOT THROUGH THE VAGINAL WALL

19 Q AND THEN FURTHER INSIDE AMANDA YOU FOUND A LOT,
20 A LARGE AMOUNT OF HEMORRHAGE, IS THAT CORRECT?
21 FURTHER UP THE VAGINA INTO THE UTERUS AND SO FORTH?

22 A YES, SIR I'M SORRY I DIDN'T QUITE UNDERSTAND
23 THE QUESTION

24 Q I'M SORRY I'M TRYING TO BE PLAIN IT'S KIND
25 OF HARD TO DO THIS WHEN TALKING TO A DOCTOR SO YOU

1 HAD -- I MEAN, I'M A LAYMAN I'M DOING THE BEST I
2 CAN SO YOU HAVE THE INJURIES TO THE VAGINAL WALLS
3 AND THEN YOU HAVE A DEEPER INJURY TO THE UTERUS, IS
4 THAT CORRECT?

5 A YES, SIR

6 Q OKAY NOW, DOCTOR, HAVE YOU EVER KNOWN OF A
7 CASE WHERE VAGINAL WALLS, JUST VAGINAL WALLS, HAD
8 BEEN TORN IN THE MANNER YOU'VE DESCRIBED IN AMANDA
9 WHEN THERE WAS NO OBJECT USED BUT JUST SIMPLY A
10 PENIS?

11 A A PENIS CAN PERFORATE OR ACTUALLY TEAR A VAGINAL
12 WALL, YES, SIR

13 Q AND YOU'VE ACTUALLY SEEN CASES OF THAT AND
14 YOU'VE TESTIFIED TO THAT?

15 A YES, SIR, I HAVE

16 Q AND I BELIEVE YOU'VE ALSO STATED IN YOUR REPORT
17 AND IN YOUR EARLIER TESTIMONY THAT HER VAGINA WAS
18 PENETRATED NO MORE THAN THREE OR FOUR INCHES OR MAYBE
19 A LITTLE BIT MORE THAN THAT?

20 A THE VAGINAL CANAL WAS APPROXIMATELY THREE OR
21 FOUR INCHES IN LENGTH IN HER

22 Q NOW LET'S GO TO THE SECOND TYPE OF INJURY, THE
23 INJURY TO THE UTERUS AND OVARIES THAT YOU MENTIONED,
24 THERE WAS BLEEDING IN THAT AREA, CORRECT?

25 A YES, THE OVARIES TO THE UTERUS

1 Q AND THAT COULD HAVE BEEN CAUSED BY THE INSERTION
2 OF SOME OBJECT THROUGH THE VAGINA --

3 A YES, SIR, THAT'S CORRECT

4 Q ---RIGHT? BUT IT COULD ALSO HAVE BEEN CAUSED BY
5 AN EXTERNAL BLOW TO THE ABDOMEN?

6 A POSSIBLY, BUT THE UTERUS IS SOMEWHAT PROTECTED
7 BY THE PUBIC BONE

8 Q WELL, YOU TESTIFIED IN THE FAMILY COURT THAT A
9 DESCENDING BLOW COULD HAVE CAUSED THAT?

10 A THAT DESCENDING OBLIQUE BLOW COULD POSSIBLY DO
11 THAT

12 Q SO YOU CAN'T STATE, STATE TO A DEGREE OF MEDICAL
13 CERTAINTY THAT THAT PARTICULAR INJURY TO HER UTERUS
14 AND OVARY WAS CAUSED BY THE INSERTION OF AN OBJECT OR
15 IT WAS CAUSED BY AN OBLIQUE EXTERNAL BLOW?

16 A NO, SIR, I CAN'T

17 Q SO IT'S ENTIRETY POSSIBLE THAT THE INJURIES TO
18 AMANDA'S VAGINA WERE NOT CAUSED BY THE INSERTION OF A
19 FOREIGN OBJECT, BUT WERE CAUSED BY THE COMBINATION OF
20 A VIOLENTLY INSERTED PENIS AND AN EXTERNAL BLOW TO
21 HER ABDOMEN, CORRECT?

22 A AN OBJECT OR A PENIS WAS INSERTED INTO HER
23 VAGINA WITH SUCH FORCE TO CAUSE HEMORRHAGE AND
24 SUPERFICIAL TEARING THE HEMORRHAGE IN THE LIGAMENT
25 HOLDING TO THE OVARY TO THE UTERUS WOULD BE MORE

1 TYPICAL OF PRESSURE FROM THE VAGINA, BUT I COULD NOT
2 EXCLUDE AN EXTERNAL BLOW

3 Q SO AN EXTERNAL BLOW COULD HAVE CAUSED IT --

4 A ---COULD BE BUT IT WOULD BE UNUSUAL

5 Q SO AGAIN ---EXCUSE ME TO REPEAT MY QUESTION IT
6 IS POSSIBLE THAT THE INJURIES TO HER VAGINA DID NOT
7 NECESSARILY INVOLVE THE INSERTION OF A FOREIGN
8 OBJECT, ISN'T THAT CORRECT, DOCTOR?

9 A A PENIS IS A FOREIGN OBJECT I DON'T --

10 Q I'M SORRY OTHER THAN A PENIS A FOREIGN
11 OBJECT OTHER THAN A PENIS?

12 A A PENIS OR A FOREIGN OBJECT WAS INSERTED INTO
13 HER VAGINA

14 Q ALL RIGHT, SIR I'M GOING TO ASK IT ONE MORE
15 TIME IT IS POSSIBLE, IS IT NOT SIR, THAT THE
16 INJURIES TO AMANDA COPE'S VAGINA WERE CAUSED BY THE
17 INSERTION OF AN ERECT PENIS AND AN EXTERNAL BLOW TO
18 HER ABDOMEN, IS THAT POSSIBLE?

19 A YES, SIR, THAT'S POSSIBLE

20 Q THANK YOU AND YOU'VE TESTIFIED TO THAT IN
21 FAMILY COURT?

22 A YES, SIR

23 Q AND IN FACT, YOU'VE ALREADY TESTIFIED THAT
24 AMANDA DID HAVE A SIGNIFICANT BLOW TO THE ABDOMEN
25 AREA WITH SOME --

1 A YES, SIR

2 Q ---WITH SIGNIFICANT FORCE BEHIND IT?

3 A SEVERAL SIGNIFICANT BLOWS

4 Q ON THE FRONT OF HER BODY?

5 A THERE WAS BLOWS TO THE RIGHT LOWER QUADRANT AND
6 SOMEWHERE AROUND THE MID-PORTION OF THE ABDOMEN AND
7 THE LEFT SIDE OF HER BACK

8 Q NOW WITH RESPECT TO THE ANUS, DOCTOR, I BELIEVE
9 YOU DESCRIBED THE TEAR IN THE ANAL OPENING?

10 A YES, SIR, SMALL TEAR AT THE OPENING

11 Q OKAY AND THEN YOU TESTIFIED THAT IT, THAT
12 GOING INTO THE RECTUM YOU BELIEVE THAT SOMETHING WAS
13 INSERTED FOR 7 OR 8 INCHES?

14 A YES, SIR THE UPPER END OF THE HEMORRHAGE WAS
15 APPROXIMATELY 8 INCHES FROM THE OPENING

16 Q ALL RIGHT NOW IN THE FAMILY COURT YOU SAID OR
17 DID YOU NOT SAY 7 OR 8 INCHES?

18 A YEAH, THAT'S TO BE SOME STRETCHING

19 Q DID YOU TAKE A RULER OUT AND MEASURE THIS?

20 A YES, SIR, I DID

21 Q WAS THAT IN ANY OF THE PHOTOGRAPHS?

22 A I DON'T REMEMBER

23 Q WELL, IF YOU USED A RULER OR A MEASUREMENT WHY
24 WOULD YOU SAY 7 OR 8 INCHES WHY WOULDN'T YOU SAY
25 7 2 OR 8 OR 6 OR WHAT? WHY WOULD YOU SAY 7 OR 8 IN

1 THE AUTOPSY?

2 A THE RECTUM CAN STRETCH, IT CAN SHRINK, SO
3 APPROXIMATELY, YOU KNOW, 7 INCHES OR 7 TO 8 INCHES,
4 YOU KNOW, UP IN THERE

5 Q SO IT COULD BE SEVEN?

6 A IT COULD BE SEVEN IT COULD BE EIGHT

7 Q AND I BELIEVE WHEN YOU AND I TALKED YESTERDAY
8 YOU SAID IT COULD BE EVEN LESS THAN THAT IF THE
9 CHEEKS OF THE BUTTOCKS HAD BEEN SPREAD BY WHOMEVER
10 WAS DOING THAT?

11 A YES, SIR, IT COULD BE A LITTLE BIT LESS BECAUSE
12 THE OPENING IS CLOSER TO THE END OF THE RECTUM

13 Q NOW YOU DON'T KNOW EXACTLY WHAT WAS INSERTED
14 INTO AMANDA'S RECTUM, DO YOU?

15 A NO, SIR, I DO NOT

16 Q YOU MENTION THAT IT COULD BE A FOREIGN OBJECT
17 THAT'S SMOOTH, CORRECT?

18 A THAT'S CORRECT

19 Q A BROOM HAS BEEN MENTIONED IN THIS COURTROOM
20 TODAY, IS THAT POSSIBLE?

21 A YES, SIR, SURE

22 Q WHAT ABOUT THE HANDLE OF A SCREWDRIVER FOR
23 EXAMPLE, NOT THE SHARP PART, BUT THE HANDLE?

24 A THE HANDLE OF IT, IT COULD BE

25 Q THAT COULD, THAT COULD HAVE CAUSED THE DAMAGE

1 THAT YOU DESCRIBED TO THIS JURY?

2 A YES, SIR

3 Q AND AT ONE TIME, DOCTOR, YOU HAVE TESTIFIED
4 UNDER OATH THAT IT WAS POSSIBLE THAT THIS DAMAGE TO
5 HER RECTUM WAS CAUSED BY AN ERECT PENIS? YOU HAVE
6 MADE THAT STATEMENT UNDER OATH, HAVE YOU NOT?

7 A YES, SIR, I DID

8 Q AND YOU FOUND NO SPLINTERS OR PAINT CHIPS OR ANY
9 THING THAT ANY TYPE OF A FOREIGN OBJECT LEFT BEHIND?

10 A NO FOREIGN MATERIAL LEFT, NO, SIR

11 Q NOW THE ANUS DOES IT NOT NATURALLY DILATE DURING
12 DEATH?

13 A OVER TIME BUT NOT AT THIS LENGTH OF TIME

14 Q AND, DOCTOR, YOU HAVE TESTIFIED BEFORE, HAVE YOU
15 NOT, THAT THIS DILATION, THIS INJURY TO AMANDA'S
16 ANUS, WAS SOMETHING THAT HAPPENED CLOSE TO THE TIME
17 OF HER DEATH, DIDN'T YOU?

18 A THE TEARS AND THE HEMORRHAGE THERE, YES, SIR

19 Q WELL, TURN TO PAGE 325 OF YOUR TESTIMONY PLEASE
20 ARE YOU THERE YET?

21 A YES, SIR

22 Q AND YOU ARE LOOKING AT PICTURE 52 IN THAT WHICH
23 IS THE SAME ONE YOU GOT TODAY, IT'S JUST A DIFFERENT
24 NUMBER, AND IT SAYS PICTURE 52 OF THE ANUS, DOES IT
25 NOT, WHICH IS DEPICTING A VERY OPEN ANAL, A VERY OPEN

1 ANUS THAT SUGGESTS POSSIBILITY OF SOMETHING PUT IN
2 THERE TO HAVE DILATED THE ANUS, THAT WAS THE QUESTION
3 AS BADLY PUT AS IT WAS, CORRECT?

4 A YES, SIR

5 Q OR EXCUSE ME THAT WAS YOUR ANSWER?

6 A THE ANSWER

7 Q THEN IT SAYS WHAT WAS, I'M SORRY THIS IS SO
8 BADLY WRITTEN BUT WAS THAT, COULD YOU BASED ON YOUR
9 EXAMINATION AUTOPSY DO YOU HAVE AN OPINION WITHIN A
10 REASONABLE DEGREE OF MEDICAL CERTAINTY AS TO THE TIME
11 OF THE INJURY TO THE ANUS IN RELATION TO THE TIME OF
12 HER DEATH, REFERRING TO THE VERY OPEN ANUS, AND WHAT
13 WAS YOUR ANSWER, DO YOU REMEMBER?

14 A WELL, THE QUESTION WAS AS TO THE INJURY TO THE
15 ANUS NOT TO THE OPENING OF THE ANUS

16 Q WELL, HE WAS TALKING, RIGHT BEFORE THAT HE WAS
17 REFERRING TO YOU ---

18 THE COURT WAIT WAIT IF YOU ARE GOING
19 TO USE THAT, USE IT LIKE IT'S SUPPOSED TO BE USED

20 Q ALL RIGHT HE DID ASK YOU, DID HE NOT, DOCTOR,
21 ABOUT WHY THE ANUS WAS SO OPEN OR DILATED?

22 A YES, SIR, HE DID

23 Q OKAY AND YOUR RESPONSE IS CONTAINED IN THE
24 ANSWER ON PAGE -- I MEAN, ON LINE 15 YOU SAID THAT
25 INJURY, THAT OPENNESS, OCCURRED CLOSE TO THE TIME OF

1 HER DEATH?

2 A THE QUESTION ON LINE 9 THAT YOU JUST READ WAS
3 THAT, COULD YOU BASED UPON YOUR EXAMINATION AUTOPSY,
4 DO YOU HAVE AN OPINION WITHIN THE REASONABLE DEGREE
5 OF CERTAINTY AS TO THE TIME OF THE INJURY TO THE ANUS
6 IN RELATION TO TIME OF HER DEATH AND AFTER THE YES,
7 SIR, AND WHAT IS THAT, ALL THESE ARE CLOSE TO THE
8 TIME OF THE DEATH AND THEN THE QUESTION, ALL OF
9 INJURIES WE'VE TALKED ABOUT SO FAR

10 Q EXACTLY ALL OF THE INJURIES AND YOUR ANSWER TO
11 THAT QUESTION?

12 A WAS YES, SIR, THERE

13 Q YES, SIR NOW YOU DIDN'T SAY ANYTHING AT THAT
14 POINT ABOUT ANY PRIOR OR PREVIOUS INSERTIONS OR
15 ANYTHING THAT WOULD HAVE INJURED THE ANUS AND MADE IT
16 OPEN OR DILATED, YOU DIDN'T SAY ONE WORD ABOUT IT
17 THERE?

18 A NO

19 Q BUT TODAY YOU HAVE?

20 A I WAS ANSWERING THE QUESTIONS ABOUT THE INJURIES
21 TO THE RECTUM AND ANUS

22 Q YES, SIR NOW, DOCTOR, WITH RESPECT TO THE
23 CHRONIC INFLAMMATION THAT YOU SAW IN AMANDA'S VAGINA?

24 A YES, SIR

25 Q OKAY WHAT'S THE DIFFERENTIAL DIAGNOSIS AND ALL

1 THAT? WHAT ARE THE POSSIBLE THINGS THAT COULD HAVE
2 CAUSED THE INFLAMMATION THAT YOU FOUND IN HER VAGINA?

3 A A NUMBER OF THINGS COULD CAUSE THAT FROM VAGINAL
4 INFECTIONS TO DOUCHING TO USE OF TAMPONS TO INSERTING
5 FOREIGN OBJECTS TO, YOU KNOW, POSSIBLY REACTION TO
6 CONTINUED BLEEDING IF SHE WAS HAVING ABNORMAL PERIODS
7 WHEN IT CONTINUED TO GO DOWN FLOWING OVER THE VAGINAL
8 INFECTION

9 Q AN ALLERGY PERHAPS?

10 A I'M SORRY?

11 Q COULD AN ALLERGY OF SOME TYPE HAVE CAUSED THAT
12 AS WELL?

13 A YES, SIR, IT COULD HAVE

14 Q ALL RIGHT NOW YOU HAVE STATED THAT YOU
15 ELIMINATED SOME OF THOSE CAUSES YOU DIDN'T SEE ANY
16 SIGN OF DISEASE, IS THAT RIGHT?

17 A THAT'S CORRECT

18 Q AND YOU DIDN'T SEE ANY SIGNS OF RINGWORMS?

19 A NO, SIR, OR PINWORMS

20 Q BUT YOU COULD NOT ELIMINATE THE POSSIBILITY THAT
21 A TAMPON OR THAT DOUCHING COULD HAVE CAUSED THESE
22 IRRITATIONS AT ALL?

23 A NO, SIR, I COULD NOT

24 Q YOU COULDN'T ELIMINATE THAT IN ANY WAY, SHAPE,
25 OR FORM?

1 A NO, SIR, OTHER THAN A TAMPON WAS NOT PRESENT

2 Q BUT SHE WAS OF AGE TO MENSTRUATE?

3 A YES, SIR

4 Q AND YOU DON'T KNOW WHAT SHE USED DURING THE DAY?

5 A NO, SIR, I DO NOT

6 Q SO YOU COULDN'T ELIMINATE A TAMPON, DOUCHING,
7 COULD YOU ELIMINATE THE ALLERGY THAT YOU MENTIONED IN
8 YOUR PREVIOUS TESTIMONY?

9 A NO, SIR

10 Q AND IF THIS IRRITATION CAME AS A RESULT OF THE
11 INSERTION OF SOMETHING, AS YOU SUGGEST, DO YOU HAVE
12 ANY IDEA WHO MIGHT HAVE INSERTED THAT?

13 A NO, SIR, NOT AT ALL

14 Q IT COULD HAVE BEEN MASTURBATION, COULD IT NOT?

15 A YES, SIR

16 Q AUTO-EROTICISM?

17 A YES, SIR

18 Q DID YOU SEE ANY OF THE CLASSIC SIGNS OF SEXUAL
19 ABUSE, TRANSMITTED DISEASES, SEXUAL TRANSMITTED
20 DISEASES, DID YOU SEE ANY OF THAT THERE?

21 A THERE WAS NO EVIDENCE UNDER MICROSCOPIC WE DID
22 NOT TEST FOR MOST OF THOSE DISEASES

23 Q DID YOU SEE ANY EVIDENCE OF BIRTH CONTROL BEING
24 USED IN ANY WAY, SHAPE, OR FORM?

25 A THERE WAS NO IUD PRESENT, BUT PILLS I WOULDN'T

1 KNOW

2 Q BUT THE FACT IS, DOCTOR, THAT YOU CANNOT SAY TO
3 A REASONABLE DEGREE OF MEDICAL CERTAINTY THAT
4 ANYTHING IN PARTICULAR HAD BEEN INSERTED TO CAUSE
5 THAT INFLAMMATION?

6 A NO, SIR, I CANNOT

7 Q AND IF THAT INFLAMMATION HAD BEEN CAUSED BY AN
8 ALLERGY OR SOME TYPE OF ILLNESS OR CONDITION THERE
9 WOULDN'T HAVE TO BE ANY INSERTION AT ALL, WOULD
10 THERE?

11 A NO, SIR, IF THERE WAS DISEASE PROCESS GOING ON

12 Q NOW YOU CANNOT SAY TODAY TO A REASONABLE DEGREE
13 OF MEDICAL CERTAINTY THAT AMANDA COPE HAD EVER BEEN
14 SEXUALLY ABUSED PRIOR TO THIS HORRIBLE THING THAT
15 HAPPENED TO HER?

16 A NOT TO A REASONABLE DEGREE, NO, SIR

17 Q YOU REFERRED TO THE CHRONIC INFLAMMATION IN HER
18 RECTUM AS WELL, CORRECT?

19 A YES, SIR

20 Q AND AGAIN THE DIFFERENTIAL DIAGNOSIS OF THAT
21 WOULD BE ALLERGY, DISEASE, RINGWORM, DIARRHEA,
22 INFLAMED BOWELS, VIRAL INFECTION, OR INSERTION OR
23 SEXUAL ACTIVITY, CORRECT?

24 A YES, SIR, THAT'S CORRECT

25 Q SOME OF THOSE THINGS WOULD INVOLVE PENETRATION

1 AND SOME OF THOSE THINGS WOULDN'T, CORRECT?

2 A THAT'S CORRECT

3 Q AND YOU ELIMINATED SOME OF THOSE BY YOU DIDN'T
4 FIND ANY EVIDENCE OF WORMS, YOU DIDN'T FIND ANY
5 DISEASE, YOU DIDN'T FIND ANY VIRAL INFECTION,
6 CORRECT?

7 A YES, SIR

8 Q BUT HOW COULD YOU ELIMINATE SAY, FOR EXAMPLE, AN
9 ALLERGY?

10 A YOU CANNOT COMPLETELY ELIMINATE IT IT WOULD BE
11 UNUSUAL TO HAVE AN ALLERGY OF THE RECTUM

12 Q CAN -- YOU ELIMINATED DIARRHEA, HOW COULD YOU DO
13 THAT?

14 A THE STOOL THAT WAS PRESENT IN HER INTESTINE WAS
15 FORMED THERE WAS NO EVIDENCE OF DIARRHEA ON THE DAY
16 OF HER DEATH

17 Q AND I GUESS THAT'S MY NEXT QUESTION IF SHE HAD
18 IT RECENTLY, SOME OF THESE OTHER CONDITIONS THAT
19 DIDN'T INCLUDE PENETRATION, COULD THERE HAVE BEEN
20 SOME RESIDUE OF THESE THINGS?

21 A YES, SIR

22 Q SO YOU CAN'T SAY TODAY TO A REASONABLE DEGREE OF
23 MEDICAL CERTAINTY THAT THIS INFLAMED CELL, THE PATCH
24 OF INFLAMED CELLS YOU FOUND IN HER ANUS WAS CAUSED BY
25 PENETRATION OR SEXUAL ABUSE?

1 A NO, SIR, I CANNOT
2 Q NOW YOU SAID THAT YOU SAW NO HYMEN PRESENT, IS
3 THAT CORRECT?
4 A YES, SIR
5 Q AND YOU NOT ONLY DIDN'T SEE ANY HYMEN, BUT YOU
6 DIDN'T SEE ANY HYMEN OR HYMENAL REMNANTS?
7 A THAT'S CORRECT
8 Q YOU DIDN'T SEE ANY SCARING OR SCAR TISSUE AS TO
9 WHERE MAYBE A HYMEN HAD BEEN THERE BUT IT HAD BEEN
10 SOMEHOW REMOVED?
11 A THAT'S CORRECT, NOTHING RECENT
12 Q I'M SORRY I DIDN'T MEAN TO INTERRUPT
13 A NO, SIR, NOTHING RECENT AS EVIDENCE OF SCAR
14 TISSUE
15 Q SO NO SCARING AT ALL THAT YOU SAW?
16 A NO, SIR
17 Q CORRECT NOW HYMENS CAN BE BROKEN, CAN THEY
18 NOT, BY A NUMBER OF THINGS THE USE OF A TAMPON FOR
19 EXAMPLE?
20 A IT WOULD BE VERY UNUSUAL BUT IT'S POSSIBLE
21 Q IT'S POSSIBLE AN ACCIDENT OF SOME TYPE?
22 A YES, SIR, POSSIBLE
23 Q AN INJURY?
24 A POSSIBLE
25 Q BUT ISN'T IT UNUSUAL TO HAVE NO HYMEN OR NO

1 HYMENAL TISSUE AT ALL, NO SCARING, NO NOTHING, ISN'T
2 THAT PRETTY UNUSUAL?

3 A NO, SIR, I DON'T THINK SO

4 Q WOULD YOU SAY THAT MANY PEOPLE WHO HAVE BEEN
5 SEXUALLY ACTIVE FOR YEARS STILL HAVE SOME VESTIGE OF
6 THE HYMEN?

7 A MOST WOMEN LOSE THE HYMEN THERE ARE SOME WOMEN
8 THAT THE HYMEN WILL STILL REMAIN EVEN IN SPITE OF
9 SEXUAL ACTIVITY OR IN SPITE OF HAVING BIRTH

10 Q WE HAD THAT CONVERSATION THIS MORNING AND LAST
11 NIGHT, DIDN'T WE?

12 A YES, SIR

13 Q THERE IS WOMEN WHO HAVE GIVEN BIRTH AND STILL
14 HAVE REMNANTS OR VESTIGES OF THEIR HYMEN?

15 A YEAH, IT'S VERY UNUSUAL

16 Q ALL RIGHT AND WE ALSO HAD A CONVERSATION THAT
17 SOME PEOPLE YOU'VE READ, YOU HADN'T OBSERVED, BUT
18 SOME PEOPLE, SOME LADIES, DON'T HAVE A HYMEN AT ALL,
19 THEY ARE NOT BORN WITH ONE?

20 A READING FURTHER THAT'S EXTREMELY RARE BUT THERE
21 ARE REPORTS SO IT IS A POSSIBILITY

22 Q SO YOU CAN'T TELL THE LADIES AND GENTLEMEN OF
23 THIS JURY TODAY TO A REASONABLE DEGREE OF MEDICAL
24 CERTAINTY THAT THE REASON AMANDA COPE DIDN'T HAVE A
25 HYMEN WAS THE RESULT OF SEXUAL ABUSE OR SEXUAL

1 ACTIVITY?

2 A NO, SIR, I CANNOT

3 Q DOCTOR, YOU SAID THAT WHEN YOU WERE EXAMINING
4 AMANDA'S ANUS THAT THERE WAS NO EVIDENCE OF HER, OF
5 ANYTHING COMING OUT OF THE ANUS, ANY KIND OF
6 DEFECATION, OR ANYTHING SUCH AS THAT?

7 A THERE WAS NO FECAL MATERIAL OR BLOOD WHEN WE
8 EXAMINED HER

9 Q RIGHT DID YOU EXAMINE HER PANTIES?

10 A YES, SIR, I'M SURE I DID

11 Q YOU DIDN'T SEE ANY SOILED PANTIES WHEN YOU
12 EXAMINED THOSE?

13 A THERE WAS NO SIGNIFICANT STOOL GIVE ME A
14 MINUTE TO FIND WHERE WE ARE I MENTIONED NOTHING
15 ABOUT IT

16 Q WELL, WOULD IT SURPRISE YOU THAT THE PANTIES
17 THAT WERE TAKEN OFF OF HER BY THE POLICE WERE
18 DESCRIBED TO HAVE BEEN SOILED?

19 A IT'S CERTAINLY POSSIBLE

20 Q AND URINE SOAKED?

21 A IT'S POSSIBLE

22 Q NOW MR THOMPSON ASKED YOU IF A LARGE MAN HAD
23 SAT ON AMANDA WOULD IT BE POSSIBLE TO INFLICT THE
24 TYPE OF INJURIES ON HER TO HER ABDOMEN THAT YOU
25 OBSERVED AND I BELIEVE YOUR ANSWER THOUGH TO THAT WAS

1 THAT IT WASN'T SO MUCH THE WEIGHT BUT IT WAS THE
2 FORCE APPLIED?

3 A YES, SIR, THAT'S CORRECT

4 Q SO THE REAL FACTOR IS NOT HOW MUCH SOMEBODY
5 WEIGHED, THE REAL FACTOR IS HOW MUCH SOMEBODY PUT
6 BEHIND WHATEVER IT WAS THEY STRUCK HER WITH?

7 A HOW QUICKLY THE FORCE IS APPLIED

8 Q SO IT COULD HAVE BEEN A PERSON OF 200 POUNDS OR
9 150 POUNDS IF THE FORCE HAD BEEN SIGNIFICANT ENOUGH
10 TO HER ABDOMEN THEN THAT COULD HAVE CAUSED WHAT YOU
11 OBSERVED IN THIS VICTIM?

12 A YES, SIR

13 Q ISN'T THAT CORRECT?

14 A THAT'S CORRECT

15 Q SO YOU DON'T HAVE TO BE A BIG 400 POUND MAN TO
16 HAVE DONE THIS --

17 A NO, SIR, YOU DON'T

18 Q ---ISN'T THAT CORRECT?

19 MR BAITY INDULGENCE, YOUR HONOR

20 Q THANK YOU, DOCTOR

21 THE COURT MR GREELEY

22 MR BRACKETT WE MAY APPROACH ON ONE
23 ISSUE BEFORE MR GREELEY'S CROSS EXAMINATION

24 (BENCH CONFERENCE)

25 THE COURT DR MAYNARD, BEFORE WE DO YOUR

1 CROSS BY MR GREELEY, WE'VE GOT AN OUT OF TOWN
2 WITNESS WHO HAS A FLIGHT THIS AFTERNOON AND SO WE'RE
3 GOING TO LET HER IN AND TESTIFY I DON'T THINK SHE
4 WILL BE LENGTHY SO WE'LL TAKE A BREAK AND LET YOU
5 REST A LITTLE BIT CALL YOUR WITNESS I'LL TELL YOU
6 THIS TOO, DR MAYNARD, AFTER WE DO THIS WE'RE GOING
7 TO BREAK FOR LUNCH SO IF YOU WANT TO GO AHEAD AND
8 HAVE SOMETHING ELSE TO DO UNTIL 2 30
9 DOCTOR OKAY THANK YOU
10 MR BRACKETT THE STATE WOULD CALL
11 TIFFANY BARNETT
12 TIFFANY BARNETT, BEING FIRST
13 DULY SWORN, TESTIFIED AS FOLLOWS
14 DIRECT EXAMINATION BY MR BRACKETT
15 Q MA'AM, WOULD YOU PLEASE STATE YOUR FULL NAME AND
16 SPELL YOUR LAST FOR THE COURT REPORTER?
17 A TIFFANY ANNE BARNETT, B-A-R-N-E-T-T
18 Q AND THAT CHAIR DOESN'T MOVE FORWARD AND THE MIC
19 DOESN'T COME OVER SO YOU HAVE TO LEAN INTO IT SO WE
20 CAN HEAR YOU BECAUSE YOU HAVE A SOFT VOICE WHERE DO
21 YOU LIVE?
22 A ORLANDO, FLORIDA
23 Q YOU SURVIVED THE HURRICANE ALL RIGHT?
24 A SO FAR
25 Q I HOPE YOU ARE RECOVERING WELL DOWN THERE

1 WHERE DID YOU LIVE BACK IN 2001?

2 A 220 SHEFFIELD DRIVE IN YORK, SOUTH CAROLINA

3 Q WHERE DID YOU WORK BACK IN NOVEMBER OF 2001?

4 A ROCK HILL FIRE DEPARTMENT

5 Q WHAT DID YOU DO FOR THE FIRE DEPARTMENT?

6 A I WAS FIRE FIGHTER EMT

7 Q AND AS PART OF YOUR RESPONSIBILITIES WHAT DID
8 YOU GET CALLED OUT TO EMERGENCIES, MEDICAL AND FIRE
9 EMERGENCIES?

10 A YES

11 Q OKAY TURNING YOUR ATTENTION SPECIFICALLY TO
12 THE EARLY MORNING HOURS OF NOVEMBER 29, 2001, ABOUT
13 SIX O'CLOCK IN THE MORNING, DID YOU GET CALLED OUT TO
14 A EMERGENCY CALL AT 470 RICH STREET IN ROCK HILL?

15 A YES, I DID

16 Q DO YOU REMEMBER THAT CALL?

17 A YES

18 Q ALL RIGHT NOW TELL ME WHAT YOUR
19 RESPONSIBILITIES WERE THAT MORNING?

20 A I WAS FIRE FIGHTER IN THE BACK I WAS ACTUALLY
21 ON THE DRIVER'S SIDE JUMP SEAT IT'S MY
22 RESPONSIBILITY WAS TO OBTAIN ANY MEDICAL EQUIPMENT WE
23 NEEDED FOR THE CALL AND TO FOLLOW THE OTHER FIRE
24 FIGHTER IN

25 Q WHEN -- TELL US WHAT HAPPENED WHEN YOU GUYS

1 ARRIVED AT 407 RICH STREET?

2 A I EXITED THE FIRE APPARATUS, GRABBED THE MEDICAL
3 BAG, AND THE ADD, AND WALKED INTO THE RESIDENCE

4 Q THE ADD?

5 A IT'S THE AUTOMATIC ELECTRIC DEFIBRILLATOR

6 Q IS THAT THE THING YOU TRY AND GET SOMEBODY'S
7 HEART STARTED?

8 A YES, SIR

9 Q AND THE OXYGEN BAG?

10 A AND THE OXYGEN BAG, YES

11 Q WHAT DOES THAT DO?

12 A CONTAINS OXYGEN BOTTLE THAT WE USE FOR ANYONE
13 THAT MAY BE UNCONSCIOUS OR NEEDED OXYGEN SO WE CAN
14 APPLY THAT

15 Q AND WHO ELSE WAS WITH YOU GOING INTO THE HOUSE?

16 A FIRE FIGHTER DILLON

17 Q DILLON?

18 A YEAH, JASON DILLON

19 Q ALL RIGHT WHO WENT INTO THE HOUSE FIRST?

20 A JASON DILLON DID, PROCEEDED IN BEFORE I DID

21 Q ABOUT HOW LONG AFTER MR DILLON WENT IN DID YOU
22 GO IN?

23 A PROBABLY NOT EVEN A MINUTE

24 Q WHERE DID YOU GO, WHAT DID YOU SEE WHEN YOU
25 FIRST WALKED INTO THE HOUSE

1 A WHEN I FIRST WALKED INTO THE HOUSE THERE WERE
2 TWO LITTLE GIRLS SITTING ON THE COUCH TO MY LEFT AND
3 ONE OF THE LITTLE GIRLS STATED TO ME THAT HER SISTER
4 WAS DEAD I PROCEEDED INTO THE VICTIM'S ROOM

5 Q WHAT WAS THE GIRLS CONDITION? WHAT WERE THEY --

6 A THEY WERE VERY VISIBLY UPSET THEY WERE CRYING
7 THEY WERE KIND OF SITTING NEXT TO EACH OTHER

8 Q AGAIN I'M HAVING A LITTLE HARD TIME HEARING YOU
9 SO I CAN ONLY IMAGINE THAT THEY ARE TOO JUST SPEAK
10 UP A LITTLE BIT AND SLOW DOWN EVERYTHING IS FINE?

11 A OKAY SORRY

12 Q NOW YOU SAW THE GIRLS ON THE COUCH, WHERE DID
13 YOU GO AFTER YOU ENTERED THE LIVING ROOM?

14 A AFTER I ENTERED THE LIVING ROOM, I PROCEEDED
15 INTO THE BEDROOM OF THE VICTIM

16 Q WHAT DID YOU SEE WHEN YOU WALKED IN THE BEDROOM?

17 A THE LITTLE GIRL WAS LAYING SUPINE ON HER BACK
18 SHE BASICALLY HAD HER SHIRT PULLED UP TOWARD THE TOP
19 OF HER CHEST AND WAS VISIBLY DISCOLORED IN THE FACE

20 Q OKAY WAS THERE ANY NEED FOR THE DEFIBRILLATOR
21 OR THE OXYGEN?

22 A NOT AT THAT POINT SHE HAD NO SIGNS OF LIFE AT
23 THAT POINT SHE HAD NO VITAL SIGNS AT ALL

24 Q DID YOU SEE ANYBODY ELSE IN THE BEDROOM? WHO
25 ELSE WAS IN THERE WHEN YOU WALKED IN?

1 A HER FATHER WALKED IN AS SOON AS I WALKED IN
2 Q HER FATHER?
3 A YES
4 Q WHO'S FATHER?
5 A AMANDA COPE'S FATHER
6 Q MR BILLY COPE THE DEFENDANT SEATED HERE?
7 A YES
8 Q ALL RIGHT AND WHO ELSE WAS IN THE ROOM?
9 A FIRE FIGHTER DILLON
10 Q OKAY DID YOU HAVE OCCASION TO TALK TO THE
11 FATHER?
12 A AS SOON AS I WAS WALKING INTO THE BEDROOM HE WAS
13 WALKING OUT HE STATED TO ME, SHE'S DEAD, WALKED
14 PAST ME, AND I PROCEEDED IN WHERE I MET UP WITH FIRE
15 FIGHTER DILLON IN THE BEDROOM
16 Q HOW LONG WERE YOU IN THE BEDROOM AFTER THAT
17 POINT?
18 A PROBABLY JUST TWO - THREE MINUTES
19 Q ALL RIGHT DID YOU DISTURB ANYTHING WHILE YOU
20 WERE IN THERE?
21 A NO, SIR
22 Q DID YOU SEE MR DILLON DISTURB ANYTHING?
23 A NO, SIR
24 Q WHEN YOU AND MR DILLON LEFT THE SCENE OF THE
25 BEDROOM AND IN DEED THE WHOLE HOUSE, WAS IT LEFT IN

1 THE SAME CONDITION YOU FOUND IT?

2 A YES, SIR

3 Q DID YOU HAVE OCCASION TO TALK TO THE FATHER
4 ANYMORE?

5 A I DID NOT SPEAK TO HIM FIRE FIGHTER DILLON WAS
6 THE ONE ADDRESSING HIM HE WAS THE ONE WHO WAS
7 ASSESSING THE PATIENT AND HE ASKED HOW LONG HE HAD OR
8 THE LITTLE GIRL HAD BEEN LIKE THAT AND THE FATHER
9 STATED ABOUT FOUR HOURS WE ASKED YOU KNOW WHAT
10 HAPPENED AND HE STATED THAT HE WENT IN TO CHECK ON
11 HER, FOUND THAT SHE HAD A BLANKET WRAPPED AROUND HER
12 NECK, THAT HE HAD DRESSED HER, AND CALLED 911 AT THAT
13 POINT

14 Q DID HE COMMENT ON THE POSITION OF THE CLOTHING?
15 WHAT HER CLOTHING STATUS WAS?

16 A HE, OTHER THAN THE FACT THAT HE HAD TO PUT
17 CLOTHING ON HER

18 Q DID HE SAY THAT SHE WAS, HOW DID HE DESCRIBE AS
19 BEST YOU CAN RECALL WHAT DID HE SAY?

20 A THE BEST OF MY RECOLLECTION IS THAT HE SAID THAT
21 SHE WAS NAKED WHEN HE FOUND HER AND HE HAD TO PUT
22 CLOTHING ON HER

23 Q DID YOU FIND THAT UNUSUAL?

24 A YES, SIR

25 Q AND DID YOU HAVE OCCASION TO TALK WITH

1 MR DILLON ABOUT THAT?

2 A YES, SIR ACTUALLY I EXITED ROOM WHEN ONE OF
3 THE OTHER PARAMEDICS ARRIVED FIRE FIGHTER DILLON
4 EXITED THE ROOM AFTER I DID AND ACTUALLY STATED THAT
5 HE DID SAY WHAT I THOUGHT HE SAID AND REPEATED AND I
6 SAID YES HE DID

7 Q AND AS A RESULT OF YOUR TIME IN THE HOUSE WERE
8 YOU ASKED TO PREPARE A REPORT IN THIS MATTER?

9 A YES, SIR

10 Q AND DID YOU IN FACT DO THAT?

11 A YES, SIR

12 Q OKAY AND WHEN DID YOU PREPARE THAT REPORT,
13 APPROXIMATELY HOW LONG AFTER THE INCIDENT?

14 A AS SOON AS WE GOT BACK TO THE STATION, MAYBE 15
15 MINUTES AFTER WE

16 Q WHEN IT WAS FRESH IN YOUR MIND?

17 A YES

18 Q IS THERE ANY QUESTION IN YOUR MIND AS YOU SIT
19 THERE NOW AND RECOLLECT BACK ON THIS WAS HE TALKING
20 ABOUT THE NUMBER FOUR WHEN HE WAS SPEAKING ABOUT THE
21 HOURS OR DID HE SAY FOR HOURS?

22 A I TOOK IT AS HE WAS SPEAKING ABOUT A NUMBER
23 FOUR

24 Q ALL RIGHT DID HE TALK ANYTHING ABOUT HER SLEEP
25 HABITS? DID HE COME OVER AND SAY ANYTHING ABOUT HOW

1 SHE NORMALLY SLEPT?

2 A HE STATED THAT SHE HAD A TENDENCY OF ROLLING
3 OVER IN HER SLEEP WHICH IS HOW SHE HAD THE BLANKET
4 WRAPPED AROUND HER NECK AND HE WAS STATING THAT WHEN
5 ASKING HIM WHAT HAD HAPPENED WITH THE LITTLE GIRL

6 Q THANK YOU, MS BARNETT PLEASE ANSWER ANY
7 QUESTIONS THE DEFENSE MAY HAVE

8 MR WOOD PLEASE THE COURT
9 CROSS EXAMINATION BY MR WOOD

10 Q DID YOU TAKE ANY NOTES WHEN YOU WENT TO THE COPE
11 HOME?

12 A NO, SIR

13 Q YOU DIDN'T DO YOU KNOW WHAT TIME YOU ARRIVED?

14 A IT WAS EARLY IN THE MORNING

15 Q DO YOU KNOW WHAT TIME YOU LEFT?

16 A I WOULD HAVE TO LOOK AT THE REPORT I DON'T
17 REMEMBER THAT FAR BACK

18 Q WHEN BILLY SAID FOR HOURS, DID YOU ASK HIM IF HE
19 MEANT FOUR AS IN THE NUMBER OR FOR AS IN F-O-R?

20 A NO, SIR, WE DIDN'T ASK HIM THAT I MEAN JUST
21 THE WAY HE STATED IT, HE SAID IT WAS ABOUT FOUR HOURS
22 WHICH MADE IT SEEM LIKE TO US LIKE IT WAS A NUMBER
23 FOUR AS OPPOSED TO JUST A GENERALIZED STATEMENT

24 Q SO YOU DIDN'T CLARIFY THAT?

25 A NO, SIR

1 Q SO IT'S YOUR OPINION THAT HE SAID F-O-U-R?
2 A IT WAS WHAT I INTERPRETED FROM HIS COMMENTS,
3 YES, SIR
4 Q YOU DIDN'T CLARIFY IT WITH HIM?
5 A YES, SIR
6 Q YOU DID CLARIFY IT WITH HIM?
7 A NO, SIR, I DID NOT CLARIFY IT WITH HIM
8 Q NOW YOU GOT THE OPPORTUNITY TO SEE BILLY UP
9 CLOSE THAT MORNING, DID YOU SEE ANY BLOOD ON HIS
10 ARMS?
11 A NO, SIR
12 Q AND YOU DIDN'T SEE ANY BLOOD ON HIS HANDS?
13 A NO, SIR
14 Q AND DID YOU HAVE AN OPPORTUNITY TO SEE AMANDA'S
15 BODY THAT MORNING?
16 A YES, SIR
17 Q AND WAS THERE BLOOD ON AMANDA?
18 A TO MY RECOLLECTION SHE DID HAVE SOME BLOOD ON
19 THE SIDE OF HER FACE
20 Q WAS THAT BLOOD SMEARED?
21 A IT WAS KIND OF LIKE LOOKING AT IT KIND OF RUN
22 DOWN
23 Q KIND OF RUN DOWN HER FACE BUT NOT SMEARED?
24 A NO, SIR
25 Q AND IF YOU FOUND HER BODY WITH NO CLOTHES ON IT

1 AND THEN PUT HER SHIRT BACK ON THAT BLOOD WOULD BE
2 SMEARED, WOULDN'T IT?

3 A I --

4 MR BRACKETT OBJECTION, CALLS FOR
5 SPECULATION

6 THE COURT I OVERRULE THE OBJECTION GO
7 AHEAD ANSWER HIS QUESTION IF YOU CAN

8 A I WOULD HAVE NO IDEA HOW IT

9 Q BUT BILLY DIDN'T HAVE ANY BLOOD ON HIS HANDS OR
10 ARMS?

11 A NONE THAT I SAW

12 Q DID HE HAVE A SHIRT ON?

13 A NO, SIR

14 Q DID HE HAVE ANY BLOOD ON HIS CHEST?

15 A NONE THAT I SAW

16 Q ABDOMEN?

17 A NONE THAT I SAW

18 Q PLEASE ANSWER ANY QUESTIONS MR GREELEY HAS FOR
19 YOU

20 MR GREELEY I DON'T HAVE ANY QUESTIONS,
21 YOUR HONOR

22 THE COURT ALL RIGHT FEEL FREE TO
23 LEAVE

24 A THANK YOU

25 THE COURT ANYBODY OBJECT TO HER BEING

1 EXCUSED

2 MR GREELEY NO OBJECTION FROM

3 MR SANDERS

4 MR WOOD NONE

5 THE COURT MEMBERS OF THE JURY PANEL,
6 WE'LL BREAK FOR LUNCH UNTIL 2 30 WE'LL SEE YOU BACK
7 IN THE JURY ROOM AT 2 30 HAVE A PLEASANT LUNCH
8 (THE JURY EXITS THE COURTROOM AT
9 12 51)

10 MR BRACKETT I JUST WANTED TO POINT OUT
11 A COUPLE THINGS PURSUANT TO THE COURT'S ORDER
12 YESTERDAY REGARDING THE REDACTION OF SOME OF THE
13 INFORMATION FROM THE INTERVIEWS REGARDING THE
14 COMPUTER AND SOME MAGAZINES AND VIDEOS FOUND IN HIS
15 HOUSE, WE HAVE GONE THROUGH AND DONE THE BEST WE CAN,
16 IT'S A FOUR HOUR TAPE, WE'VE GONE AND FOUND EVERY
17 REFERENCE AS BEST WE CAN I PROVIDED A COPY OF THE
18 FINAL VERSION OF THE TRANSCRIPT TO MR COPE WHO IS
19 THE PRIMARY PARTY CONCERNED WITH THIS ISSUE AND I'LL
20 PROVIDE ONE TO MR GREELEY WE'RE IN THE PROCESS OF
21 MAKING TAPES IT'S ARDUOUS PROCESS TO GO THROUGH AND
22 FIND LITTLE SNIPPETS AND RECORD OVER THEM SO IT'S
23 SILENT I WILL GIVE THE COURT A COPY AS WELL JUST SO
24 YOU HAVE A FINAL DRAFT THAT IS THE AGREED COPY OF
25 THE TRANSCRIPT BUT I WOULD LIKE COUNSEL FOR MR COPE

1 TO GO THROUGH THAT AS WELL IF I MISSED SOMETHING,
2 WE HIGHLIGHTED THE PORTIONS WE FELT WERE NECESSARY TO
3 BE REDACTED IN ORDER TO COMPLY WITH THE COURT'S
4 ORDER IF THERE IS SOMETHING ADDITIONAL THAT'S WHAT
5 WE'RE REDACTING AS OF NOW IF THERE IS SOMETHING
6 ADDITIONAL THAT I MISSED OR THEY FEEL SHOULD BE
7 REDACTED THAT I FELT DIDN'T NEED TO BE REDACTED I
8 WANT TO TRY TO GET THAT RESOLVED BEFORE BECAUSE ONE
9 OF OUR WITNESSES THIS AFTERNOON IS GOING TO BE, I
10 PREDICT JERRY WALDROP, WE'LL START WITH HIM, THE TAPE
11 WILL BE PLAYED, AND SO I WANT TO MAKE SURE THAT WE
12 GOT THAT SQUARED AWAY SO WE'RE NOT IN THIS HOLDING
13 PATTERN WHILE WE'RE WAITING

14 THE OTHER ISSUE I NEED TO TALK ABOUT
15 IS THE TELECONFERENCING OF MRS HERRON FROM ALABAMA
16 AND THE SCHEDULING OF THAT I HAVE MR BURRIS,
17 DETECTIVE BURRIS TO TAKE UP NEXT, AND THEN I CAN DO
18 MRS HERRON, BUT IT'S GOING TO TAKE COMPTON ABOUT
19 AN HOUR

20 MR POPE THE BIGGEST ISSUE WE NEED TO
21 GIVE ALABAMA THEM SOMEWHAT OF A SPECIFIC TIME

22 THE COURT WHY CAN'T WE SAY NINE O'CLOCK
23 IN THE MORNING THEN THEY CAN COME IN AND DO IT LATER
24 TONIGHT OR DO IT AT 8 IN THE MORNING I DON'T WANT
25 TO HAVE THE JURY SITTING OUT THERE FOR AN HOUR

1 MR BRACKETT THAT'S WHY

2 THE COURT WHEN IT IS PROBABLY A TEN OR
3 FIFTEEN MINUTE EXAMINATION

4 MR BRACKETT YES, SIR WE CAN DO IT
5 FIRST THING IN THE MORNING, SUITS US

6 THE COURT WHY DON'T CONFIRM THAT ALABAMA
7 CAN BE READY AND WE CAN BE READY OF COURSE, THAT
8 WILL BE 8 O'CLOCK FOR THEM I GUESS

9 MR POPE I'LL CONFIRM OVER LUNCH

10 THE COURT MR BRACKETT, ANYTHING ELSE?

11 MR MORTON WE'RE GOING TO TRY AND PLAY
12 THAT FOUR HOUR TAPE THIS AFTERNOON?

13 MR BRACKETT WE'RE GOING TO START I
14 UNDERSTAND THAT THE DEFENSE WANTS IT PLAYED SO WE
15 MINE AS WELL ROLL THROUGH IT AND PLAY IT AND GET IT
16 OUT OF THE WAY

17 THE COURT ALL RIGHT YOU APPEAR AS
18 THOUGH YOU WANT TO MAKE SOME COMMENTS ABOUT THAT

19 MR MORTON WELL, I WAS JUST WONDERING IF
20 MR WALDROP WAS GOING TO TESTIFY AND THEN I GUESS
21 HE'S GOING TO PUT THE TAPE UP DURING YOUR DIRECT OF
22 HIM

23 MR BRACKETT NO, I WAS GOING TO WAIT AND
24 PUBLISH AT THE CONCLUSION OF THE TESTIMONY SO HE
25 DIDN'T HAVE TO SIT ON THE STAND FOR FOUR HOURS

1 MR MORTON SO WE DO DIRECT AND THEN

2 CROSS

3 MR BRACKETT THEN PUBLISH THE TAPE

4 THE COURT WHY DON'T YOU WORK THAT OUT
5 AND SEE IF THAT PRESENTS A PROBLEM THAT WOULD MAKE
6 SOME SENSE BUT THEN I DON'T WANT TO INTERFERE WITH

7 MR MORTON I DON'T SEE ANY IMMEDIATE
8 NEED FOR HIM -- WELL, I DON'T KNOW IF I WANT TO
9 EXCUSE HIM BUT

10 THE COURT WE'LL MAKE HIM AVAILABLE WE
11 CAN ALWAYS HAVE HIM SUBJECT TO BEING RECALLED

12 MR BRACKETT YES, SIR I WAS JUST AS A
13 COURTESY TO HIM I MEAN

14 THE COURT WELL, I GUESS WHAT I'M
15 THINKING STRATEGICALLY, I DON'T KNOW HOW, I'M NOT
16 TRYING TO GUESS Y'ALL'S STRATEGY I CAN SEE WHERE
17 YOU MAY WANT TO WAIT AND EXAMINE HIM AFTER THE TAPE
18 IS PLAYED YOU GOT EVERY RIGHT TO DO THAT SO IT'S
19 HOW Y'ALL WANT TO DO IT

20 MR MORTON ALL RIGHT, SIR

21 THE COURT BOTH OF YOU HAVE AN ABSOLUTE
22 RIGHT TO EXAMINE HIM AFTER EVERYBODY HAS HEARD THAT
23 TAPE

24 MR MORTON YES, SIR

25 THE COURT NOW WE BRIEFLY IN CHAMBERS HAD

1 DISCUSSION WITH SEATING ARRANGEMENTS ANYBODY WANT
2 TO PUT ANYTHING ON THE RECORD ABOUT THAT? ANYTHING
3 FROM THE STATE?

4 MR BRACKETT NO, SIR

5 THE COURT YOU WERE THERE

6 MR BRACKETT YES, SIR

7 THE COURT ALL RIGHT MR MORTON

8 MR MORTON YOUR HONOR, JUST THAT MY
9 CLIENT WOULD LIKE TO HAVE A SCREEN PUT UP BETWEEN HIM
10 AND MR SANDERS AND I UNDERSTAND THAT WAS DENIED

11 THE COURT I DENY THAT REQUEST

12 THE COURT ALL RIGHT MR GREELEY, YOU
13 HAVE ANYTHING TO SAY ABOUT ANY OF THAT?

14 MR GREELEY NO, SIR

15 THE COURT WE'LL SEE YOU AT 2 30 THEN
16 HAVE A GOOD LUNCH

17 (COURT'S IN RECESS AT 12 50)

18 (COURT RESUMES AT 2 34)

19 THE COURT THE STATE READY

20 MR BRACKETT THE STATE IS READY

21 MR BAITY YES, YOUR HONOR WE'RE READY

22 MR GREELEY MR SANDERS IS READY

23 THE COURT BRING IN THE JURY

24 (THE JURY ENTERS THE COURTROOM)

25 THE COURT COME ON AND HAVE A SEAT, DR

1 MAYNARD, YOU ARE STILL UNDER OATH, AND WE'RE SORRY WE
2 HAD TO INTERRUPT YOU WE APPRECIATE YOUR PATIENCE
3 MR GREELEY

4 MR GREELEY MAY IT PLEASE THE COURT
5 CROSS EXAMINATION BY MR GREELEY

6 Q DR MAYNARD, GOOD AFTERNOON?

7 A GOOD AFTERNOON, SIR

8 Q THE FIRST THING I WOULD LIKE TO ASK YOU ABOUT IS
9 TO GO BACK TO YOUR TESTIMONY IN REGARDS TO THE
10 DAMAGE, THE CONTUSIONS IN THE ABDOMEN THAT YOU HAVE
11 TALKED ABOUT, JUST THE VARIOUS ONES?

12 A YES, SIR

13 Q I WANT TO ASK YOU WOULD IT BE CONSISTENT WITH
14 THOSE INJURIES IF A PERSON WEIGHING APPROXIMATELY
15 THREE HUNDRED POUNDS WENT AND HOPPED ON THE BED,
16 LEADING WITH THEIR LEFT KNEE ON TOP OF THIS 12 YEAR
17 OLD GIRL, WITH ALL HIS WEIGHT COMING DOWN, WOULD
18 THOSE BE CONSISTENT WITH SUCH AN ACTION LIKE THAT?

19 A YES, SIR, IT WOULD BE

20 Q OKAY NOW IN REGARDS TO YOUR FINDINGS ON THE
21 NECK OF AMANDA, WOULD IT BE CONSISTENT IF A PERSON
22 AFTER HOPPING ON THE BED, IF THEY GRABBED HER NECK
23 EITHER WITH ONE OR TWO HANDS, AND BEGAN TO CHOKE HER
24 WITH ONE OR TWO HANDS, WOULD THAT BE CONSISTENT WITH
25 THE FINDINGS ON THE NECK THAT YOU FOUND?

1 A YES, SIR, IT WOULD

2 Q OKAY IN REGARDS TO THE DAMAGE TO THE BRAIN I
3 THINK SHE HAD A SUBDUEER HEMATOMA AS WELL YOU SAW SOME
4 EVIDENCE OF THE SHAKEN BABY SYNDROME?

5 A YES, SIR, THAT'S CORRECT

6 Q AND YOU TALKED ABOUT HOW THE BRAIN GOES BACK AND
7 FORTH INSIDE THE SKULL AND MOVES FASTER THAN THE
8 SKULL ITSELF AND THUS IT'S DAMAGED?

9 A YES, SIR

10 Q WHAT YOU FOUND IN REGARDS TO THE BRAIN, WOULD
11 THAT BE CONSISTENT WITH SOMEONE SITTING ON TOP OF
12 THIS 12 YEAR OLD GIRL WITH THEIR HAND OR HANDS AROUND
13 THEIR THROAT AND PULLING OR BANGING THE BED AGAINST
14 THE BED?

15 A SOME OF THE INJURIES WOULD BE

16 Q OKAY IN REGARDS TO THE DAMAGES THAT YOU FOUND
17 ON THIS GIRL TO HER MOUTH AND HER SHOULDER, THE
18 CONTUSIONS AND THE BRUISING IN THE FACE, WOULD THAT
19 BE CONSISTENT WITH SOMEONE SITTING ON TOP OF THIS
20 GIRL AND HITTING HER EITHER OPEN HAND OR WITH A FIST
21 IN HER FACE AND IN HER SHOULDER AREA?

22 A YES, SIR, IT WOULD

23 Q IN REGARDS TO THE DAMAGES THAT YOU FOUND TO THIS
24 GIRL'S ANUS AND RECTUM, WOULD IT BE CONSISTENT IF A
25 PERSON STOOD UP AND WALKED TO THE END OF THE BED AND

1 GRABBED A BROOM STICK AND THEN WITH APPROXIMATELY 380
2 POUNDS OF FORCE PUT THE BROOM STICK IN HER ANUS AND
3 PUSHED, WOULD THAT BE CONSISTENT WITH WHAT YOU FOUND?

4 A YES, SIR, IT WOULD

5 Q AND HE PUSHED UNTIL IT STOPPED, WOULD THAT BE
6 CONSISTENT?

7 A YES, SIR, OR UNTIL HE STOPPED

8 Q AND WITH THE DAMAGES THAT YOU FOUND IN HER
9 VAGINA, WOULD IT BE CONSISTENT IF THAT SAME BROOM
10 STICK WAS THEN REMOVED FROM THE ANUS AND PUT INTO THE
11 VAGINA IN THE SAME FASHION AND THAT FORCE PUSHED INTO
12 THE VAGINA, WOULD THAT BE CONSISTENT WITH THE DAMAGES
13 THAT YOU FOUND IN THE VAGINA?

14 A YES, SIR, A BROOM STICK WOULD CAUSE THE DAMAGES
15 OR COULD CAUSE THE DAMAGE IN THE VAGINA

16 Q OKAY NOW WHEN YOU GOT THERE THAT DAY YOU WERE
17 GOING TO DO A CRIME SCENE ANALYSIS ESSENTIALLY, IS
18 THAT CORRECT?

19 A ESSENTIALLY TO LOOK AT THE CRIME SCENE AND OFFER
20 MY INPUT AS TO CAUSE AND MANNER OF DEATH

21 Q AND I NOTICED IN YOUR REPORT THAT YOU TALKED
22 ABOUT WHEN YOU GOT INTO THE BEDROOM THERE WERE A
23 NUMBER OF ITEMS ON THE BED, IS THAT CORRECT?

24 A YES, SIR, THERE CERTAINLY WERE

25 Q IN FACT, THERE WAS A METAL MUSIC STAND, IS THAT

1 ONE OF THOSE THAT FOLDS UP?

2 A YES, SIR, IT APPEARED TO US TO BE A MUSIC STAND
3 TO WILL HOLD FLAT MUSIC

4 Q AND IT WAS ON THE BED?

5 A YES, SIR

6 Q AND THERE WAS ALSO, WAS IT A STAPLER, A STAPLE
7 GUN?

8 A YES, SIR, A STAPLE GUN

9 Q AND THERE WAS A STAPLE GUN ON THE BED AND I
10 THINK IN YOUR REPORT YOU SAID THERE WERE HOMEWORK
11 PAPERS UNDERNEATH HER BODY, IS THAT CORRECT?

12 A YES, SIR, PAPERS THAT APPEARED TO BE SCHOOL
13 PAPERS

14 Q BOOKS WERE BESIDE HER RIGHT SIDE AND ADJACENT TO
15 HER LEFT SHOULDER, IS THAT CORRECT?

16 A YES, SIR

17 Q OKAY SO THIS BED WAS FULL OF ITEMS, IS THAT A
18 FAIR STATEMENT?

19 A YES, SIR, IT CERTAINLY WAS

20 Q NOW THE INDENTATIONS OR BRUISING THAT YOU FOUND
21 ON THE UNDER SIDE OF AMANDA'S BODY, I BELIEVE THAT
22 YOU SAID IT WAS CONSISTENT WITH THE MUSIC STAND, IS
23 THAT CORRECT?

24 A YES, SIR, THE MUSIC STAND AND A STAPLER

25 Q SO THERE WERE ACTUAL INDENTATIONS THAT YOU COULD

1 SEE THAT TRIGGERED YOU TO THESE ITEMS?

2 A YES, SIR THEY APPEARED TO BE WHEN YOU PLACE
3 ITEMS OVER THE ABRASIONS TO BE CONSISTENT WITH THOSE
4 ITEMS

5 Q OKAY AND NORMALLY IF A PERSON WERE TO
6 ACCIDENTALLY LIE DOWN ON AN ITEM SUCH AS THAT, IT
7 WOULDN'T MAKE THE TYPE OF ABRASION OR BRUISES THAT
8 YOU SAW IN YOUR EXAMINATION?

9 A NO, SIR, IT WOULD NOT THESE WERE TRUE
10 ABRASIONS OR ACTUAL TEARING OR ROUGHING OF THE SKIN
11 ALONG WITH HEMORRHAGE BENEATH IT

12 Q SO WOULD IT BE CONSISTENT THAT THOSE ITEMS COULD
13 HAVE CAUSED THOSE BRUISES DUE TO A LARGE AMOUNT OF
14 WEIGHT BEING ON HER BODY AND A STRUGGLE DURING THAT
15 PERIOD OF TIME?

16 A YES, SIR, THAT IS CORRECT

17 Q OKAY ALSO DURING YOUR EXAMINATION YOU CHECKED
18 HER MOUTH FOR SEMEN, DID YOU NOT?

19 A YES, SIR

20 Q AND YOU CHECKED HER ANUS FOR SEMEN?

21 A YES, SIR

22 Q AND YOU CHECKED HER VAGINA FOR SEMEN?

23 A YES, SIR WE TOOK SWABS FROM ALL AREAS

24 Q AND NO SEMEN WAS FOUND IN ANY OF THOSE THREE
25 ORIFICES?

1 A I FOUND NO SPERMATOZOA THE SEMEN ANALYSIS
2 WOULD HAVE BEEN DONE AT SLED OR ELSEWHERE

3 Q ALL RIGHT BUT YOU YOURSELF ON YOUR INITIAL
4 INVESTIGATION DID NOT FIND THIS SPERMATOZOA?

5 A NO, SIR, I DID NOT

6 Q OKAY THE CLOTHES THAT SHE WAS WEARING WHEN YOU
7 FOUND HER NOW I NOTICED IN YOUR TESTIMONY YOU MENTION
8 Y'ALL TOOK INTO POSSESSION HER BED CLOTHES, BUT THESE
9 WERE CLOTHES THAT COULD HAVE BEEN WORN TO SCHOOL,
10 WEREN'T THEY?

11 A WE TOOK EVERYTHING THAT IS ON THE BED THERE
12 WAS SOME CLOTHES ON THE BED, ALONG WITH A SHEET, A
13 BLANKET, AND OF COURSE WHAT SHE WAS WEARING

14 Q BUT I'M FOCUSING ON WHAT SHE WAS WEARING AT THE
15 TIME THEY WERE CLOTHES THAT SHE, THESE WEREN'T
16 PAJAMA TOPS I MEAN IT WASN'T PAJAMAS THAT SHE WAS
17 WEARING, WAS IT?

18 A THERE WAS A BLOUSE THEN THE BRA THAT WAS LAYING
19 OVER IT AND THEN A WARM UP SUIT OR A JOGGING TYPE
20 PANTS

21 Q AND THESE WERE CLOTHES THAT SHE COULD HAVE
22 CONCEIVABLY WORN, A TYPE OF CLOTHES THAT SHE COULD
23 HAVE CONCEIVABLY WORN TO SCHOOL, WEREN'T THEY?

24 A YES, SIR, I ASSUME SO DEPENDING ON WHAT THE
25 SCHOOL REQUIRES

1 Q THESE WERE NOT CLOTHES THAT WERE SPECIFICALLY
2 MADE FOR SLEEPING IN, WERE THEY?

3 A NO, SIR, THEY WERE NOT

4 Q AND SO HER ATTIRE WHEN YOU FOUND HER WAS THE
5 SAME TYPE OF ATTIRE THAT SHE MAY HAVE WORN DURING THE
6 DAY?

7 A YES, SIR, CONSISTENT WITH STREET ATTIRE

8 Q OKAY YOU MENTIONED IN YOUR REPORT THAT THERE
9 WERE CLOTHES ON HER BED THAT WERE NOT HER SIZE, WERE
10 THEY LARGER THAN SHE WAS?

11 A I BELIEVE THEY WERE SMALLER

12 Q SMALLER NOW WAS TRANSLUCENT LIGHT USED AT THE
13 SCENE AT THE BEDROOM?

14 A YES, SIR, A FLORESCENT LIGHT WAS

15 Q FLORESCENT LIGHT?

16 A YES, SIR

17 Q EXPLAIN TO THE JURY IF YOU WOULD ONCE AGAIN AND
18 A LOT OF PEOPLE SEE THOSE TV SHOWS THEY HAVE NOW AND
19 I CAN'T EVEN REMEMBER THE NAME OF ONE OF THEM, BUT IN
20 REGARDS TO FORENSICS AND A LOT OF PEOPLE HAVE SEEN
21 THOSE, BUT WHAT ARE THE FLORESCENT LIGHTS USED FOR
22 AND HOW DO YOU USE THEM?

23 A THESE ARE THE BLACK LIGHTS THAT REALLY DON'T PUT
24 OUT MUCH LIGHT BUT PUT OUT A CERTAIN WAVE LENGTH OF
25 LIGHT SUCH THAT WHEN IT STRIKES AN OBJECT THAT YOU

1 LOOK THAT YOU MAY OR MAY NOT SEE THE OBJECT BECOME
2 VERY BRIGHT IN COLOR BY LOOKING THROUGH A PAIR OF
3 GLASSES YOU CAN SEE THE BRIGHTNESS AND THE DULLNESS
4 AND THE BRIGHT AREAS ARE WHAT WE ARE LOOKING FOR
5 THESE AREAS WE MARK ARE LOOKED CAREFULLY TO BE SURE
6 THERE IS SOMETHING THERE THEN IF THERE IS SOMETHING
7 THERE WE TAKE A PORTION OF THIS

8 Q OKAY SO IF SOMETHING IS THERE MORE TIMES THAN
9 NOT IT'S GOING TO SHOW UNDER THAT LIGHT?

10 A DEPENDING ON WHAT THE MATERIAL IS

11 Q OKAY LET'S SAY FOR EXAMPLE SEMEN?

12 A YES, SIR

13 Q IF SEMEN IS PRESENT IN A PLACE MORE TIMES THAN
14 THAT NOT IT'S GOING TO FLUORESCENCE?

15 A YES, SIR, THAT'S CORRECT

16 Q I MEAN THAT'S WHAT THIS LIGHT IS FOR, IS THAT
17 CORRECT?

18 A YES, SIR, IT IS

19 Q AND WHEN YOU USE THESE LIGHTS WHAT YOU DO IS YOU
20 DON'T ONLY USE THEM ON THE BODY OR AROUND THE BODY OF
21 THE PERSON, BUT THEY CAN BE USED ALSO TO SCAN ACROSS
22 THE BED OR THE FLOORS TO TRY AND PICK UP ANY OTHER
23 BODY FLUIDS THAT WOULD BE PRESENT, ISN'T THAT
24 CORRECT?

25 A YES, SIR, IT IS

1 Q AND Y'ALL DID THAT IN THIS CASE, DIDN'T YOU?

2 A YES, SIR

3 Q YOU WENT OUTSIDE THE BODY?

4 A YES, SIR, WE DID THE BED

5 Q OKAY SO YOU LOOKED ON THE BED AND IT WAS A

6 RATHER LARGE BED I MEAN IT WASN'T A SINGLE BED?

7 A IT WAS A DOUBLE BED

8 Q IT WAS A DOUBLE BED, OKAY SO ANY SEMEN THAT

9 HAD BEEN PUT AT ANY PLACE AROUND HER YOU WOULD THINK

10 WOULD HAVE FLUORESCED, ISN'T THAT CORRECT?

11 A YES, SIR, THAT'S CORRECT

12 Q AND IN FACT YOU DID HAVE SOMETHING FLUORESCENCE,

13 DIDN'T YOU?

14 A YES, SIR WE HAD SEVERAL AREAS OF FLORESCENCE

15 Q AND ONE OF THE AREAS OF FLORESCENCE WAS ON HER

16 PANTS, IS THAT CORRECT?

17 A YES, SIR, IT WAS

18 Q AND IT WAS IN THE CROUCH AREA OR THE

19 THIGH/CROUCH AREA ON HER PANTS, ISN'T THAT CORRECT?

20 A YES, SIR, THE LEFT UPPER THIGH

21 Q OKAY AND ANOTHER AREA THAT FLUORESCED I

22 BELIEVE WAS ON THE BACK OF HER PANTS, IS THAT

23 CORRECT?

24 A EXCUSE ME JUST A MINUTE YES, SIR, THERE IS A

25 AREA ON THE RIGHT LATERAL FLANK AND I DID NOT SEE ANY

1 REFERENCE IN HERE, THE THIGHS HAVE A SMALL AREA OF
2 FLUORESCENCE I DON'T SEE ANYTHING ON THE BACK IN MY
3 REPORT

4 Q ALL RIGHT BUT YOU GOT THESE FLUORESCING SOME
5 OF THE FLUORESCENCE THAT YOU GOT WERE ON THE PANTS?

6 A YES, SIR, THAT'S CORRECT

7 Q OKAY NOW DO YOU KNOW HOW LONG IT TAKES SEMEN
8 TO DRY?

9 A NO, SIR, I DON'T

10 Q OKAY DOES IT EVENTUALLY DRY?

11 A YES, SIR, IT DOES

12 Q BUT WHEN IT IS FIRST EJACULATED IT IS WET,
13 STICKY SUBSTANCE, IS THAT CORRECT?

14 A YES, SIR, THAT'S CORRECT

15 Q AND IN REGARDS TO WHEN A PERSON EJACULATES OR A
16 MAN EJACULATES, DO YOU KNOW HOW MUCH EJACULATE MAYBE
17 PRODUCED?

18 A THE NORMAL RANGE FOR A PERSON THAT HAS NOT HAD
19 AN EJACULATION IN THREE DAYS IS THREE AND A HALF TO
20 FIVE CCS OR LESS THAN A TEASPOON IF YOU'VE HAD
21 EJACULATION FREQUENTLY YOU'LL HAVE LESS PRODUCED JUST
22 SIMPLY BECAUSE THERE IS LESS IN YOUR BODY

23 Q OKAY AND GIVEN THE NATURE OF THE EJACULATION
24 PROCESS, IT'S NOT ALL PUT INTO ONE PLACE WHEN IT'S
25 EJACULATED NORMALLY, IS IT?

1 A THERE ARE SEVERAL CONTRACTIONS WHICH INITIALLY
2 THAT THIS SEMINAL FLUID COMES OUT AND THEN THE SPERM
3 COMES OUT AND THEN ADDITIONAL FLUID COMES OUT

4 Q RIGHT SO YOU WILL HAVE POTENTIALLY MULTIPLE
5 SPLATTERS?

6 A YES, SIR, OR MULTIPLE THE EXTRUSIONS FROM THE
7 PENIS

8 Q OKAY NOW DO YOU KNOW HOW LONG IT TAKES FOR
9 SALIVA TO DRY?

10 A NO, SIR, I DON'T

11 Q OKAY BUT IT DOES DRY?

12 A YES, SIR, IT DOES

13 Q IS THAT CORRECT? NOW I BELIEVE YOU ALSO HAD
14 PREVIOUSLY TESTIFIED IN REGARDS TO THE ODOR OF
15 AMANDA'S BODY, THAT IT WAS YOUR BELIEF THAT SHE HAD
16 NOT BATHED IN A DAY OR TWO DAYS, IS THAT CORRECT?

17 A YES, SIR, IN MY OPINION

18 Q OKAY AND YOU SAID THAT YOU HAD THE, YOU HAD
19 AMANDA'S BODY THAT Y'ALL VIEWED FOR 24 TO 48 HOURS?

20 A YES, WE DID

21 Q AND THE PURPOSE OF THAT WAS TO SEE WHAT BRUISING
22 WAS GOING TO BASICALLY CHANGE?

23 A YES, SIR IF ADDITIONAL BRUISES WOULD BE SEEN

24 Q AND IN SOME AREAS THERE WERE ADDITIONAL
25 BRUISING, ISN'T THAT CORRECT?

1 A THE BRUISING BECAME MORE PRONOUNCED IN SOME
2 AREAS THAT WE DID NOT SEE INITIALLY, YES, SIR

3 Q AND I BELIEVE THAT YOU TESTIFIED THAT THE
4 BRUISING BECAME MORE PRONOUNCED IN THE NECK AREA?

5 A YES, SIR, ESPECIALLY BEHIND THE EAR

6 Q AFTER ABOUT TWO DAYS NOW I WANT TO ASK YOU
7 SPECIFICALLY ABOUT THE ALLEGED BRUISES TO THE BREAST
8 IT WAS EITHER THE RIGHT OR THE LEFT?

9 A THE RIGHT BREAST

10 Q RIGHT BREAST FORENSICALLY THERE ARE TIMES WHEN
11 PEOPLE ARE ABLE TO DO A BITE MARK COMPARISON IF THERE
12 IS A BITE MARK IN REGARDS TO AN ASSAULT OR A
13 HOMICIDE, ISN'T THAT CORRECT?

14 A YES, SIR, IT IS

15 Q AND IT'S VERY SIMILAR TO THE PHOTOGRAPH THAT YOU
16 SHOWED OF THE NECK THAT HAD A RULER SHOWING THE
17 LENGTH, IS THAT CORRECT?

18 A YES, SIR, IT WOULD BE

19 Q SO IF YOU HAVE A PRONOUNCED BITE MARK, A
20 PHOTOGRAPH CAN BE TAKEN OF THAT BITE MARK AND IT CAN
21 BE BLOWN UP AND IN SOME CASES IT CAN BE USED TO MATCH
22 AGAINST THE MOULD OF A MOUTH, IS THAT CORRECT?

23 A YES, SIR, IN INSTANCES A PHOTOGRAPH CAN BE USED

24 Q AND THAT'S AN ACCEPTED FORENSIC PRACTICE?

25 A YES, SIR, IT IS

1 Q IS THAT CORRECT? NOW IN THIS PARTICULAR CASE
2 YOU DID NOT TAKE A PHOTOGRAPH OF THE ALLEGED BITE
3 MARK, IS THAT CORRECT?

4 A WE ATTEMPTED TO TAKE A PHOTOGRAPHS BUT IT WAS SO
5 FAINT THE PHOTOGRAPHS JUST DIDN'T COME OUT

6 Q OKAY SO IT WAS FAINT AND WAS NOT AS PRONOUNCED
7 AS THE BRUISES ON THE NECK?

8 A THAT'S CORRECT

9 Q OKAY NOW I NOTICE ON PAGE THREE IN REGARDS TO
10 THIS BRUISE ON LINE FIVE OF YOUR REPORT UNDER
11 DESCRIPTION OF INJURIES YOU SAY THERE IS A ONE
12 CENTIMETER POSSIBLE HEMORRHAGIC AREA LATERAL TO THE
13 RIGHT NIPPLE, IS THAT CORRECT?

14 A YES, SIR, THAT IS

15 Q AND THAT'S FROM AN EXTERIOR VIEW?

16 A YES, SIR, EXTERIOR ONLY

17 Q THAT'S BEFORE YOU DID AN INCISION, IS THAT
18 CORRECT?

19 A YES, SIR, IT IS

20 Q OKAY AND SO IT WAS VISIBLE BUT IT WAS FAINT?

21 A YES, SIR

22 Q CORRECT AND ON PAGE SIX UNDER INTERNAL
23 EXAMINATION THERE IS BLOCK SUMMARY DOWN THERE BELOW,
24 NUMBER TWO YOU SAY POSSIBLE RIGHT BREAST INJURY, IS
25 THAT CORRECT?

1 A YES, SIR, IT IS

2 Q OKAY NOW EVENTUALLY YOU GET TO YOUR FINAL
3 SUMMARY IN THE REPORT, PAGE 11, AND AT THE BEGINNING,
4 I MEAN THE LAST LINE OF THE SECOND PARAGRAPH SAYS
5 THERE WAS ALSO HEMORRHAGE IN THE DEEP RIGHT BREAST
6 TISSUE BENEATH THE BRUISE OR IRREGULARITY NOTED?

7 A YES, SIR, IT DOES

8 Q OKAY NOW YOU'VE ALSO TESTIFIED THAT YOU
9 BELIEVE THAT ALL OF THESE INJURIES WERE THE SAME AGE?

10 A YES, THAT'S CORRECT

11 Q OKAY AND THAT'S BASED UPON YOUR EXAMINATION
12 AND I BELIEVE AS I RECALL YOU TESTIFYING THE ACUTE
13 INFLAMMATION CELLS, IS THAT RIGHT?

14 A YES, SIR, THE LACK OF THEM

15 Q THOSE ARE THE FIRST ONES ON THE SCENE?

16 A YES, SIR, AFTER THE BLOOD CELLS

17 Q OKAY AND IF YOU LOOK AT YOUR REPORT ON PAGE
18 11, IT'S THE SECOND SENTENCE ABOUT FOUR LINES FROM
19 THE BOTTOM, AND IT STATES THE INJURIES ARE FRESH
20 INDICATIVE OF OCCURRING UP TO APPROXIMATELY FOUR
21 HOURS PRIOR TO DEATH OR JUST PRIOR TO DEATH SO YOU
22 CAN'T SAY FROM A SCIENTIFIC BASIS THAT ALL OF THESE
23 INJURIES OCCURRED IN THE SAME INSTANCE OR THE SAME
24 HAPPENING?

25 A NO, SIR, THEY ARE ALL CONSISTENT WITH BEING OF

1 THE SAME TIMEFRAME

2 Q RIGHT

3 A THERE IS NOT ONE YESTERDAY, ONE TODAY, BUT THEY
4 ARE ALL WITHIN A FEW HOURS OR ALL AT THE SAME TIME

5 Q AND I BELIEVE IN YOUR REPORT YOU SAID UP TO FOUR
6 HOURS?

7 A TYPICALLY YOU START SEEING THE INFLAMMATORY
8 CELLS COME IN, AGAIN DEPENDING UPON THE EXTENT OF THE
9 INJURIES, SOMETIMES IN SURGERY IF THEY PUT A CLAMP ON
10 IT TISSUE YOU CAN SEE INFLAMMATORY CELLS COME FAIRLY
11 QUICKLY, BUT USUALLY IT'S ABOUT FOUR HOURS BEFORE
12 THEY START MOBILIZING AND COMING IN

13 Q BUT IF YOU HAVE A MINOR INJURY IT COULD TAKE
14 THEM LONGER?

15 A YEAH, VERY, VERY LIGHT INJURY

16 Q OKAY AND SO WITH ANY OF THESE INJURIES WE'RE
17 TALKING ABOUT ANYWHERE FROM THE TIME OF AMANDA'S
18 DEATH UP TO FOUR HOURS PROCEEDING ROUGHLY?

19 A YES, SIR, ROUGHLY

20 Q AND WITH THE MORE EXTREME INJURIES YOU BELIEVE
21 THAT THE ACUTE INFLAMMATION CELLS COME IN QUICKER AND
22 WITH LESSER INJURIES THEY MAY NOT COME IN AS RAPIDLY
23 AS WITH?

24 A YES, SIR, THAT'S MY OPINION

25 Q OKAY IN YOUR INVESTIGATION OF THIS MATTER HAVE

1 YOU HAD AN OPPORTUNITY TO SEE AMANDA'S MEDICAL
2 HISTORY OR PART OF IT?

3 A NO, SIR, I HAVEN'T

4 Q YOU HAVEN'T?

5 A NO, SIR

6 Q YOU HAVEN'T SEEN A MEDICAL HISTORY IN REGARDS TO
7 AN EXAMINATION OF HER IN 1999?

8 A YES, I BELIEVE I DID

9 Q OKAY

10 A IT WAS A SIMPLE EXAM, NOT A MEDICAL HISTORY

11 Q IT WAS A MEDICAL EXAM?

12 A A MEDICAL EXAM

13 Q AND SO YOU DID REVIEW THAT?

14 A I SAW IT I I DON'T REMEMBER REVIEWING THE
15 ENTIRE

16 Q AND ISN'T IT TRUE IN THAT MEDICAL EXAM THAT HER
17 HYMEN WAS INTACT IN 1999?

18 A YES, SIR, IT WAS I REMEMBER THAT

19 Q SO JUST TO GO BACK BRIEFLY IN REGARDS TO THE
20 BRUISES ON THE BREAST THAT YOU SAW YOU CAN'T TESTIFY
21 THAT YOU KNOW THAT THAT OCCURRED AT THE SAME TIME
22 THAT THIS ASSAULT ON HER OCCURRED, CAN YOU?

23 A THE BRUISE ON THE BREAST IS A SIMILAR AGE AS THE
24 REST OF THE INJURIES IT MAY HAVE OCCURRED IN THIS
25 FOUR HOUR WINDOW OR APPROXIMATE FOUR HOUR WINDOW, BUT

1 THEY ALL SEEM TO BE OF THE SAME AGE

2 Q AND THAT'S FROM THE TIME OF DEATH AND THE TIME
3 OF DEATH YOU HAVE SAID YOU BELIEVE BETWEEN TWO AND
4 FOUR IN THE MORNING, BUT THERE IS STILL SOME LEEWAY?

5 A YES, SIR, CERTAINLY IS

6 Q COULD HAVE BEEN A LITTLE EARLIER IN THE MORNING
7 OR A LITTLE LATER IN THE MORNING?

8 A YES, SIR

9 Q THANK YOU, DOCTOR

10 THE COURT REDIRECT

11 MR THOMPSON YES, YOUR HONOR

12 REDIRECT EXAMINATION BY MR THOMPSON

13 Q DR MAYNARD IF YOU WOULD IF COULD YOU JUST
14 EXAMINE THIS IS THIS THE 1999 EXAM THAT YOU WERE
15 ABLE TO LOOK AT?

16 A YES, SIR, IT IS

17 Q AND DR MAYNARD, DOES IT INDICATE THE CONDITION
18 OF AMANDA'S HYMEN AT THAT TIME IN JULY OF 1999?

19 MR BAITY APPROACH THE BENCH, YOUR
20 HONOR

21 (BENCH CONFERENCE)

22 THE COURT MR IVEY, I'M GOING TO LET YOU
23 TAKE TO THE JURY TO THE JURY ROOM WHILE WE TAKE UP A
24 MATTER OF LAW

25 (THE JURY EXITS THE COURTROOM AT

1 3 06)

2 THE COURT ALL RIGHT IT'S YOUR WITNESS

3 MR BAITY YES, YOUR HONOR WE WOULD

4 OBJECT TO AN INTRODUCTION OR REFERENCE TO THIS 1999

5 REPORT WHICH IS NOT PART OF THIS CASE IT'S, WE

6 BELIEVE THAT IT'S AN ATTEMPT TO IMPLY SOME PRIOR BAD

7 ACTS ON THE PART OF OUR CLIENT IN THAT THE

8 IMPLICATION IS THAT IF SHE HAD A HYMEN IN 1999 AND

9 DOES NOT HAVE ONE NOW THAT SOMEONE HAS BEEN SEXUAL

10 ACTIVE WITH HER, WE JUST BELIEVE THIS IS PREJUDICIAL

11 AND WHICH OUTWEIGHS THE PROBATIVE VALUE

12 THE COURT WELL, FIRST I FIND THE MOTION

13 IS UNTIMELY BECAUSE IT'S ALREADY BEEN ASKED, NOBODY

14 OBJECTED WHEN IT WAS BROUGHT UP, AND THE STATE

15 CERTAINLY HAS A RIGHT, AS MR COPE, TO GO INTO IT NOW

16 THAT IT'S BEEN BROUGHT UP, SO I DENY THE MOTION

17 MR BAITY THANK YOU

18 MR THOMPSON YOUR HONOR, TO LET THE

19 COURT KNOW AND DR MAYNARD, WE DON'T INTEND TO OFFER

20 THIS, OTHER THAN THAT IT SHOWS A PRIOR MEDICAL REPORT

21 AND THE CONDITION OF HER HYMEN AND CONDITION OF HER

22 ANUS AT THAT TIME NOT WHERE IT CAME FROM, NOT WHY

23 IT WAS DONE, IT COULD BE ANY MEDICAL EXAM THAT SHE

24 HAD HAD

25 THE COURT OKAY BRING IN THE JURY I

1 FEEL LIKE IT HAS PROBATIVE VALUE REGARDING THE DEPTH
2 TO WHICH THIS WITNESS WAS EXAMINED AS TO THE LACK OF
3 PRESENCE OF A HYMEN AND THE MANY REASONS FOR WHICH
4 THAT COULD HAVE BEEN INCLUDING THAT THERE WAS NO
5 HYMEN EVER EXISTING IN THIS YOUNG LADY, SO IN
6 ADDITION TO IT NOT BEING TIMELY ON ITS, I OVERRULE
7 THE MOTION ON THE SUBSTANCE OF IT IN ADDITION TO THE
8 UNTIMELINESS

9 (THE JURY RETURNS TO THE COURTROOM)

10 THE COURT MR THOMPSON, YOU MAY PROCEED
11 REDIRECT CONTINUED BY MR THOMPSON

12 Q DR MAYNARD, I BELIEVE I WAS ASKING YOU FROM THE
13 EXAM THAT YOU LOOKED AT THAT OCCURRED WITH AMANDA
14 BACK IN 1999 IF YOU WOULD, DOES IT DESCRIBE THE
15 CONDITION OF HER HYMEN AT THAT TIME?

16 A YES THIS EXAM IS DATED 7/1/99 DESCRIBES THE
17 EXAM AS NORMAL GENITAL EXAM THE LABIA, CLITORIS,
18 PER HYMENAL TISSUE AND HYMENAL AND CLITORIS ARE
19 CONSIDERED WITHIN NORMAL THE HYMEN IS ANGULAR AND
20 REDUNDANT THIS JUST DESCRIBE THE TYPE OF HYMEN THAT
21 WAS THERE

22 Q SO FROM THAT EXAM WERE YOU ABLE TO TELL WHETHER
23 SHE ACTUALLY HAD A HYMEN?

24 A YES, SIR, SHE DID BASED ON THIS EXAM

25 Q AND AS WELL LOOK AT THE, DID IN THAT EXAM DID IT

1 MENTION ANYTHING ABOUT WHETHER SHE HAD AN ANAL EXAM
2 AT THAT TIME?

3 A YES, SIR, SHE DID

4 Q AND WHAT DOES IT SAY ABOUT THAT?

5 A THE ANAL EXAM IS DESCRIBED AS A NORMAL ANAL
6 EXAM

7 Q ALL RIGHT IS THERE ANY INDICATION ON THERE AS
8 FAR AS TONE?

9 A THERE IS REFLEX DILATATION IT SAYS NO AND STOOL
10 AND RECTUM IT SAYS YES

11 Q SO DOES THAT INDICATE IT TO BE WITHIN NORMAL
12 LIMITS?

13 A IT SAYS METHOD FOR ANAL TONE IT DOESN'T SAY WHAT
14 TYPE OR OBSERVATION, SO IT'S NORMAL LIMITS

15 Q NORMAL LIMITS, OKAY DR MAYNARD, WHEN YOU
16 RETRIEVED THE PANTIES FROM THE VICTIM THAT DAY WERE
17 THEY IN THE CONDITION THAT, DID YOU GIVE THEM THE
18 CONDITION YOU FOUND THEM TO THE POLICE AND THEN TO
19 SLED?

20 A YES, SIR, THEY WERE JUST TAKEN AND PLACED
21 STRAIGHT IN THE PAPER BAG

22 Q ALL RIGHT AND DO YOU RECALL SEEING ANY FECES
23 IN THE PANTIES?

24 A NOT THAT I RECALL

25 Q ONE OTHER THING, DR MAYNARD IN YOUR

1 EXPERIENCE WITH WHAT YOU TOLD US ABOUT THE INJURIES
2 THAT AMANDA HAD SUFFERED COULD THOSE INJURIES HAVE
3 BEEN INFLICTED BY A SEVEN YEAR OLD CHILD?

4 A BY -- I'M SORRY?

5 Q BY A SEVEN YEAR OLD CHILD?

6 A IT WOULD BE DIFFICULT UNLESS A BASEBALL BAT OR
7 SOME OTHER HEAVY OBJECT WAS USED

8 Q IN YOUR OPINION WAS A BASEBALL BAT OR ANYTHING
9 LIKE THAT USED?

10 A NO, IT WAS NOT

11 Q AND THE INJURIES THAT SHE SUSTAINED IN YOUR
12 OPINION BE POSSIBLE FOR A 11 YEAR OLD FEMALE TO DO
13 THAT TO HER?

14 A IT WOULD BE VERY DOUBTFUL

15 Q OKAY THANK YOU NO FURTHER QUESTIONS?

16 RECROSS EXAMINATION BY MR BAITY

17 Q DR MAYNARD, IF A 380 POUND MAN LEAPED ON THE
18 BED THAT AMANDA WAS ON AND SHE WAS LYING FACE DOWN
19 AND HE LANDED ON HER WITH HIS KNEE WHICH WAS
20 SUGGESTED IN AN EARLIER QUESTION, WOULD THAT HAVE
21 DONE THE DAMAGE TO THE ABDOMEN THAT YOU HAVE OBSERVED
22 IN THIS?

23 A IT COULD HAVE DONE THE DAMAGE TO THE SPLEEN,
24 POSSIBLY BRUISING AROUND THE PANCREAS IT WOULD BE
25 UNLIKELY IN THE RIGHT LOWER QUADRANT, THE CECUM, BUT

1 AGAIN I GUESS IT'S POSSIBLE

2 Q BUT I MEAN WOULD IT HAVE DAMAGED THE ABDOMEN I'M
3 TALKING ABOUT, THE FRONT OF THE BODY THAT YOU
4 NOTICED?

5 A I DID NOT SEE ANY INJURIES TO THE SKIN ON THE
6 FRONT OF THE ABDOMEN

7 Q BUT THERE WAS A DEEP BRUISE IN THE ABDOMEN, WAS
8 THERE NOT?

9 A YES, SIR, AGAIN IN THIS RIGHT LOWER QUADRANT
10 AREA AND THEN ON THE PELVIC WALL

11 Q AND DO YOU BELIEVE THAT WAS THE RESULT OF A
12 DIRECT BLOW TO HER ABDOMEN?

13 A IT'S MORE --

14 Q OR WAS IT SOMETHING THAT OCCURRED WHEN SHE WAS
15 HIT IN THE BACK?

16 A MORE CONSISTENT WITH THE DIRECT BLOW TO THE
17 ABDOMEN

18 Q AND YOU TESTIFIED TO THAT IN YOUR FAMILY COURT?

19 A YES, SIR

20 Q YOU SAID THAT YOU THOUGHT IT WAS A DIRECT BLOW,
21 A KNEE TO THE ABDOMEN OR FALLING AGAINST SOMETHING,
22 ISN'T THAT WHAT YOU SAID IN YOUR FAMILY COURT
23 TESTIMONY?

24 A YES, SIR, OR SOME BLOW TO THE ABDOMEN

25 Q WHICH WOULD BE CONSISTENT WITH A FRONTAL ATTACK

1 AND NOT A ATTACK FROM THE REAR?

2 A YES, IT WOULD BE MORE TYPICAL OF A FRONTAL
3 ATTACK

4 Q AND YOU DIDN'T BELIEVE THAT THIS LADY WAS
5 STRANGLED WITH TWO HANDS YOU BELIEVE SHE'S
6 STRANGLED WITH ONE, DON'T YOU?

7 A IT'S MORE PROBABLE ONE BUT TWO COULD BE USED

8 Q BUT YOU DON'T SEE ANY EVIDENCE OF TWO HANDS, DO
9 YOU?

10 A I SEE NO OTHER MARKS ON HER RIGHT NECK OTHER
11 THAN THAT ONE SPOT

12 Q AND YOU HAVE TESTIFIED BEFORE UNDER OATH THAT IT
13 APPEARED TO BE A ONE HANDED FRONTAL ATTACK?

14 A YES, SIR, MOST --

15 Q AND THAT'S STILL YOUR OPINION TODAY?

16 A YES, SIR

17 Q NOW IF A BROOM WAS INSERTED IN THE ANUS OF POOR
18 AMANDA, WOULD, AND WAS INSERTED WITH A GREAT DEAL OF
19 FORCE THE TYPE OF FORCE TO MAKE THE BRUISING THAT YOU
20 HAVE ALREADY OBSERVED AND EXPLAINED TO US, IS THERE
21 ANYTHING THAT WOULD HAVE STOPPED THE BROOM OR COULD
22 IT HAVE JUST KEPT ON GOING FOR A WHILE

23 A DEPENDING ON THE FORCE BEHIND IT, IT COULD HAVE
24 KEPT ON GOING AND ACTUALLY GONE THROUGH THE COLON

25 Q SO THERE WAS NO BONE OR ANY SOLID SUBSTANCE THAT

1 WOULD HAVE STOPPED IT?

2 A THERE IS BONE AT THE END OF THE RECTUM WHERE IT
3 STARTS TURNING INTO ANOTHER PART OF THE COLON, BUT
4 AGAIN A STRAIGHT SIGMOIDOSCOPE OR A SCOPE WHERE A
5 DOCTOR LOOKS IN THERE CAN BE INSERTED, YOU KNOW, UP
6 TO 60 CENTIMETERS OR YOU KNOW A FOOT AND A HALF

7 Q AND THE 6 TO 8 INCHES THAT IT WAS INSERTED,
8 THERE WAS NOTHING, THERE WAS NO BLOCKAGE OR ANYTHING
9 PREVENTING IT FROM GOING ANY FURTHER?

10 A NO, SIR, THERE WAS NOT

11 Q I BELIEVE YOU SAID THAT WHOEVER DID IT HE
12 STOPPED, NOTHING STOPPED THE THRUST?

13 A YES, SIR

14 Q AND THE SAME TYPE OF QUESTION ABOUT THE VAGINA
15 IF A LARGE MAN TOOK A BROOM AND INSERTED IT INTO THE
16 VAGINA WITH A GREAT DEAL OF FORCE WOULD THERE BE
17 ANYTHING TO STOP IT AFTER THREE TO FOUR INCHES?

18 A THERE IS THE BACK WALL OF THE VAGINA WHICH DOES
19 HAVE SOME ELASTICITY

20 Q RIGHT BUT WAS IT PUNCTURED?

21 A NO, SIR, IT WAS NOT

22 Q AND COULD IT HAVE BEEN PUNCTURED BY A VIOLENT
23 THRUSTING?

24 A YES, SIR, IT COULD HAVE

25 Q AND YOU SAW NO EVIDENCE OF THAT OCCURRING?

1 A SAW NO EVIDENCE OF A PUNCTURE

2 Q SO BASICALLY WHAT YOU SAW WAS A FOUR INCH
3 INSERTION INTO HER VAGINA?

4 A APPROXIMATELY

5 Q AND THAT'S AS FAR AS IT WENT IN?

6 A APPROXIMATELY, YES, SIR

7 Q AND AGAIN THE INDENTIONS YOU SAW ON THE BACK
8 SIDE YOU DID NOT SEE ON THE FRONT SIDE?

9 A NO, SIR, I DID NOT

10 Q THE INDENTIONS OF THE THINGS THAT SHE WAS LYING
11 ON WERE CONSISTENT TO NOT ONLY BEING UNDER HER WHEN
12 SHE WAS LAYING IN THE BED, BUT WHEN SHE WAS BEING
13 VIOLENTLY MOVED AROUND?

14 A WHEN THERE WAS A STRUGGLE OCCURRING

15 Q AND YOU SAW NOTHING OF THAT ON HER FRONT?

16 A NO, SIR

17 Q ON ANY PART OF HER BODY?

18 A NO, SIR, ON THE OUTSIDE OF THE LEFT LEG AND ON
19 THE BACK

20 Q I BELIEVE IN YOUR AUTOPSY REPORT YOU MENTION
21 AREAS OF FLUID THAT YOU DETECTED BY USE OF THE
22 FLUORESCENT LIGHT AND YOU NOTED THAT THERE WERE AREAS
23 OF FLUID OVER THE FRONT OF THE BLOUSE AND OVER THE
24 LEFT SHOULDER, RIGHT? AND ALSO ON THE LEFT GROIN
25 AREA OF THE PANTS, IS THAT CORRECT?

1 A YES, SIR THE LEFT GROIN DEFINITELY FLUORESCED

2 Q NOW WAS THAT ON THE OUTSIDE OF THE PANTS OR THE
3 INSIDE OF THE PANTS?

4 A OUTSIDE OF THE PANTS

5 Q NOW LET ME JUST ASK YOU THIS, WHEN YOU SAY THE
6 OUTSIDE OF THE PANTS AND THE GROIN AREA, ARE YOU
7 TALKING ABOUT IN HERE?

8 A YES, SIR, THAT'S CORRECT

9 Q OKAY NOW IF SOMEONE HAD PULLED THIS GIRL,
10 THESE PANTS DOWN, GET THEM OUT OF THE WAY SO THAT A
11 SEXUAL ASSAULT COULD OCCUR, AND THEN PERHAPS PULLED
12 HER PANTS BACK UP AND EJACULATED, WOULD THAT BE
13 CONSISTENT?

14 A YES, SIR

15 Q WITH WHAT YOU OBSERVED?

16 A YES, SIR, IT COULD BE

17 Q SO WAS IT CONSISTENT WITH YOUR OBSERVATIONS THAT
18 PERHAPS THE PERSON THAT PULLED THE PANTS UP WAS ALSO
19 THE PERSON WHO EJACULATED IN THAT ROOM THAT NIGHT?

20 A IT'S POSSIBLE

21 Q WELL, IF HER PANTS WERE DOWN AROUND HER ANKLES
22 WOULD THAT MAKE SENSE FOR HIS EJACULATE TO BE RIGHT
23 THERE ON THE GROIN AREA?

24 A THE EJACULATE THERE MAY BE THE RESULT OF LEAKAGE
25 AFTER A CLIMAX OR THE INITIAL EJACULATE THAT STILL

1 MAY BE LEAKING, COULD BE JERKING OFF A PENIS, SO
2 THERE ARE A NUMBER OF WAYS IT COULD BE THERE

3 Q OKAY BUT IT WAS RIGHT ON THE GROIN AREA?

4 A YES, SIR, ON THE PANTS

5 Q NOW YOU ALSO MENTION THAT I BELIEVE ON -- OF
6 COURSE THERE WAS THE BITE MARK ON THE RIGHT NIPPLE
7 AND THAT FLUORESCED, CORRECT? I MEAN, SOMEHOW YOU
8 DISCOVERED IT?

9 A NO, IT WAS LOOKING, I DON'T BELIEVE IT
10 FLUORESCED

11 Q SO YOU SAW THAT WITH THE NAKED EYE?

12 A YES, SIR

13 Q OKAY

14 A WHAT APPEARED TO BE A BITE MARK AND WHAT
15 APPEARED TO BE A BRUISE WHICH DID OF COURSE TURN OUT
16 TO BE A BRUISE

17 Q AND YOU TOOK A SWAB FOR DNA PURPOSES?

18 A YES, SIR, I DID

19 Q CORRECT AND YOU TURNED THAT INTO THE POLICE OF
20 COURSE

21 A YES, SIR

22 Q AND YOU MENTION, ALSO ON PAGE THREE, SAYS
23 EXAMINATION OF THE CHEST REVEALS A SMALL LEFT BREAST?

24 A YES, SIR

25 Q AND APPROXIMATELY TWICE THE SIZE, THE RIGHT

1 BREAST IS TWICE THE SIZE OF THE LEFT BREAST, IS THAT
2 CORRECT?

3 A YES, SIR

4 Q AND SO THE LARGE BREAST IS THE ONE THAT HAD BEEN
5 BITTEN?

6 A YES, SIR, THAT'S CORRECT

7 Q NOW THEN ON PAGE OF SIX OF YOUR AUTOPSY REPORT
8 YOU MENTION IN YOUR BLOCK SUMMARY POSSIBLE RIGHT
9 BREAST INJURY, NOW WOULD THERE BE ANY CONNECTION
10 BETWEEN THE ENLARGED BREAST AND THE BITE MARK AND
11 THIS COMMENT THAT THERE IS A POSSIBLE RIGHT BREAST
12 INJURY?

13 A NO, SIR, IT APPEARED TO US TO BE ACTUAL
14 HEMORRHAGE OR BLEEDING THERE BUT MICROSCOPIC WE
15 WANTED TO CONFIRM THAT

16 Q OKAY WELL, WHAT WAS YOUR CONCLUSION THERE?
17 WHAT MADE ONE BREAST LARGER THAN THE OTHER?

18 A YOU'LL FREQUENTLY HAVE BREASTS OF DIFFERENT
19 SIZES ESPECIALLY AT THE TIME THAT THE HORMONES START
20 FLOWING THAT ONE BREAST MAY REACT A LITTLE BIT MORE
21 TO THE HORMONES THAN THE OTHER THAT'S NOT THAT
22 UNUSUAL

23 Q WELL, DID YOU RULE OUT AN INJURY TO HER RIGHT
24 BREAST?

25 A OTHER THAN BITE MARK THERE WAS NO OTHER PROBLEMS

1 WITH HER BREAST

2 Q BUT YOU DID TAKE A SAMPLE OFF OF THAT AND YOU
3 DID CONCLUDE THAT THERE WAS SOME FLUID LEFT ON THAT
4 AND IT WAS TURNED OVER TO THE POLICE FOR DNA TESTING?

5 A I TOOK A SWAB OF THAT AREA IN CASE THERE WAS
6 FLUID THERE

7 Q ALL RIGHT AND I'M GOING TO ASK YOU ONE MORE
8 TIME CONCERNING THE HYMEN YOU CANNOT SAY TO A
9 REASONABLE DEGREE OF MEDICAL CERTAINTY THAT AMANDA
10 COPE'S LACK OF A HYMEN WAS THE RESULT OF SEXUAL
11 ABUSE, CAN YOU?

12 A NO, SIR, I CANNOT

13 Q THANK YOU NO FURTHER QUESTIONS

14 THE COURT MR GREELEY

15 MR GREELEY I DON'T HAVE ANYTHING
16 FURTHER

17 THE COURT DR MAYNARD, WE APPRECIATE
18 YOUR TIME

19 A THANK YOU, SIR

20 THE COURT PLEASE FEEL FREE TO LEAVE AND
21 BE EXCUSED THANK YOU

22 A OKAY

23 THE COURT CALL YOUR NEXT WITNESS

24 MR BRACKETT THE STATE WOULD CALL
25 DETECTIVE WILLIE BURRIS

1 WILLIE BURRIS, BEING FIRST DULY
2 SWORN, TESTIFIED AS FOLLOWS
3 DIRECT EXAMINATION BY MR BRACKETT
4 Q GOOD AFTERNOON, DETECTIVE BURRIS
5 A GOOD AFTERNOON
6 Q WOULD YOU PLEASE STATE YOUR FULL NAME FOR THE
7 COURT REPORTER?
8 A MY NAME IS WILLIAM BURRIS
9 Q AND WHERE ARE YOU EMPLOYED, SIR?
10 A CITY OF ROCK HILL, ROCK HILL POLICE DEPARTMENT
11 Q WHAT DO YOU DO AT THE POLICE DEPARTMENT?
12 A INVESTIGATE CRIMES
13 Q OKAY HOW LONG HAVE YOU BEEN A POLICE OFFICER,
14 SIR?
15 A APPROXIMATELY 34 YEARS
16 Q OKAY ALWAYS AT THE ROCK HILL POLICE
17 DEPARTMENT?
18 A THAT'S CORRECT
19 Q AND YOU'RE ASSIGNED TO THE DETECTIVE DIVISION?
20 A THAT'S CORRECT ALSO
21 Q AND YOU ARE A DETECTIVE?
22 A I AM
23 Q WERE YOU INVOLVED IN THE INVESTIGATION OF THE
24 DEATH OF AMANDA COPE?
25 A I WAS, YES, SIR

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1 Q AND ON NOVEMBER 29, 2001, WERE YOU AT WORK THAT
2 MORNING?

3 A I WAS

4 Q WHAT TIME DO YOU TYPICALLY ARRIVE AT WORK?

5 A NORMALLY WE ARRIVED AT 8 O'CLOCK BUT WE CALLED
6 OUT EARLIER FOR THIS INCIDENT

7 Q ALL RIGHT THAT MORNING DID YOU HAVE OCCASION
8 TO INTERVIEW THE DEFENDANT IN THIS CASE MR BILLY
9 WAYNE COPE WHO IS SEATED OVER HERE?

10 A YES, SIR, I DID

11 Q WHERE DID THAT INTERVIEW TAKE PLACE?

12 A IN THE DETECTIVE DIVISION

13 Q DO YOU REMEMBER HOW HE GOT TO THE DETECTIVE
14 DIVISION?

15 A I DON'T REMEMBER HOW HE GOT THERE

16 Q OKAY DO YOU RECALL IF AT THE TIME OF THE
17 INTERVIEW WAS HE UNDER ARREST?

18 A NO, SIR, HE WAS NOT

19 Q AT THAT TIME DID YOU KNOW IN FACT THAT AMANDA
20 COPE HAD BEEN MURDERED?

21 A I KNEW SHE WAS DEAD I DIDN'T KNOW THE
22 CIRCUMSTANCES

23 Q SO IT WAS A DEATH AND YOU WERE INVESTIGATING IT
24 AND THAT'S ALL?

25 A THAT'S CORRECT

1 Q ALL RIGHT NOW WHERE DID THIS INTERVIEW
2 ACTUALLY TAKE PLACE?

3 A IN ONE OF OUR INTERVIEW ROOMS INSIDE THE
4 DETECTIVE DIVISION

5 Q CAN YOU DESCRIBE THAT FOR US?

6 A IT'S A SMALL ROOM, I'D SAY ABOUT 8 BY 12, OR
7 SOMETHING LIKE THAT

8 Q AND WHO ELSE WAS PRESENT?

9 A AT THE TIME JUST MR COPE AND MYSELF

10 Q NOW GIVEN THAT MR COPE WAS NOT UNDER ARREST DO
11 YOU TYPICALLY READ MIRANDA WARNINGS TO AN INDIVIDUAL
12 WHO IS NOT BEING CHARGED?

13 A NO, SIR

14 Q DID YOU READ MR COPE MIRANDA WARNINGS?

15 A I DID NOT

16 Q CAN YOU TELL THE JURY SOMETHING ABOUT HIS
17 Demeanor, HOW DID HE APPEAR TO YOU THIS MORNING, AND
18 WHAT TIME WAS THIS YOU ACTUALLY STARTED TALKING TO
19 HIM?

20 A I THINK IT WAS AROUND 8 A M

21 Q TELL US SOMETHING ABOUT HIS Demeanor, HOW WAS HE
22 ACTING? HOW WAS HE BEHAVING? HOW DID HE APPEAR?

23 A HE WAS NORMAL HE WASN'T EMOTIONALLY UPSET OR
24 ANYTHING LIKE THAT IF THAT'S WHAT YOU ARE ASKING
25 ABOUT ABOUT THE WAY HE IS NOW

1 Q OKAY DID THE INTERVIEW, ABOUT HOW LONG DID
2 THAT LAST?

3 A ABOUT 35-40 MINUTES I IMAGINE

4 Q OKAY AND THEN DID YOU TAKE A FORMAL STATEMENT
5 FROM HIM?

6 A I DIDN'T TAKE A FORMAL STATEMENT I JOTTED
7 DOWN

8 THE COURT YOU NEED TO SPEAK UP, MR
9 BURRIS

10 A I DIDN'T TAKE A FORMAL STATEMENT IF YOU MEAN
11 GET HIM TO SIGN ANYTHING, I DIDN'T DO THAT I JUST
12 ASKED HIM WHAT HAPPENED AND I JOTTED IT DOWN

13 Q DID HE DESCRIBE TO YOU WHAT HAPPENED, WHAT HAD
14 HAPPENED AT HIS HOUSE THAT MORNING?

15 A YES, HE DID

16 Q CAN YOU TELL THAT TO THE JURY? WHAT -- CAN YOU
17 RELATE TO THE JURY WHAT HE TOLD YOU ABOUT WHAT
18 HAPPENED AT HIS HOUSE WHEN HE WOKE UP THAT MORNING?

19 A OKAY HE TOLD ME HE WOKE UP ABOUT SIX A M THAT
20 MORNING AND HE CALLED FOR HIS DAUGHTER AMANDA AND
21 WHEN SHE DIDN'T ANSWER HIM, HE WENT INTO THE ROOM AND
22 SAW HER LYING THERE WITH THE STRIP FROM A BLANKET
23 WRAPPED AROUND HER NECK AND LOOKED LIKE SHE TURNED
24 THE COLOR PURPLE HE WENT OVER TO CRADLE HER IN HIS
25 ARM AND SCREAMED OUT AND TWO YOUNGER DAUGHTERS CAME

1 INTO THE ROOM AND HE TOLD THEM TO GO BACK INTO THE
2 LIVING ROOM AND HE CALLED 911 EMERGENCY

3 Q OKAY DID HE TELL YOU ANYTHING, DID YOU ASK HIM
4 ANYTHING ABOUT WHAT HAD HAPPENED THE PREVIOUS NIGHT?

5 A I DID

6 Q OKAY?

7 A I ASKED, IN FACT, I THINK I ASKED HIM WHAT TIME
8 DID HE LAST SEE HER AND HE TOLD ME SHE WENT TO BED
9 AROUND 12 30 THAT NIGHT AND SHE AND THE OTHER, ONE OF
10 THE OTHER DAUGHTERS, WENT TO BED 12 30 THAT NIGHT AND
11 THE OTHER DAUGHTER WENT TO BED ABOUT 9 30

12 Q HOW MANY DAUGHTERS DID HE HAVE ALL TOGETHER?

13 A HE HAD THREE

14 Q ALL RIGHT DID HE INDICATE WHETHER OR NOT
15 ANYBODY ELSE HAD BEEN IN THE HOME BESIDES HIS THREE
16 DAUGHTERS AND HIM?

17 A NO, I ASKED HIM IF HE HAD HAD ANY GUESTS THAT
18 NIGHT OR ANYBODY ELSE HAD BEEN IN THE HOUSE AND HE
19 SAID NO

20 Q DID HE SAY WHY?

21 A YEAH, HE SAID HE NORMALLY DON'T HAVE VISITORS
22 BECAUSE OF THE ROACH PROBLEM IN THE HOUSE, SAID THEY
23 DON'T HAVE ANY VISITORS IN THE HOUSE BECAUSE THEY HAD
24 A ROACH PROBLEM, PROBLEM WITH ROACHES

25 Q OKAY DID HE DISCUSS THE EVENTS OF THE NIGHT

1 BETWEEN THE TIME THEY WENT TO BED AND THE TIME THEY
2 WOKE UP, DID HE DESCRIBE HIS SLEEP AT ALL?

3 A YES, HE--I ASKED HIM IF HE HEARD ANYTHING, ANY
4 KIND OF NOISE OR ANYTHING IN THE HOUSE, AND HE TOLD
5 ME ABOUT HIS HAVING SLEEP APNEA AND HE SLEEP WITH
6 SOME TYPE OF MASK OR MACHINE ON HIS FACE MAKES SOME
7 TYPE OF WHIRLING NOISE AND HE DIDN'T HEAR ANYTHING

8 Q AT SOME POINT IN TIME DID YOU GO TO THE HOSPITAL
9 WITH HIM?

10 A I DID

11 Q AND WHY WAS THAT?

12 A I GOT A CALL FROM, HE WAS LIEUTENANT HERRING AT
13 THAT TIME, HE'S A DETECTIVE NOW, BUT HE WAS
14 LIEUTENANT AT THE TIME, MY SUPERVISOR, HE CALLED ME
15 FROM THE SCENE AND HE TOLD ME IT WOULD BE GOOD IDEA
16 TO FIND OUT, HE DIDN'T GO INTO DETAILS WHAT IT WAS,
17 BUT THAT I WOULD ASK MR COPE IF HE WOULD ACCOMPANY
18 ME TO THE HOSPITAL TO DO A RAPE KIT

19 Q OKAY AND DID HE AGREE TO DO THAT?

20 A YES, HE DID

21 (STATE'S EXHIBIT NUMBER 36 FORM MARKED
22 FOR IDENTIFICATION)

23 Q SIR, I'M SHOWING YOU WHAT'S BEEN MARKED STATE'S
24 EXHIBIT 36 AND I'LL ASK YOU, CAN YOU IDENTIFY TO THE
25 JURY WHAT THAT DOCUMENT IS?

1 A THIS IS AN AUTHORIZATION TO OBTAIN BLOOD SAMPLES
2 AND OTHER SPECIMEN FROM AN INDIVIDUAL

3 Q OKAY AND WHO COMPLETED THAT DOCUMENT AND WHEN
4 WAS IT COMPLETED?

5 A THIS WAS COMPLETED DATED NOVEMBER 29, 2001,
6 SIGNED BY MR COPE, MYSELF

7 Q OKAY AND IS THAT THE DOCUMENT THE CONSENT
8 DOCUMENT THAT YOU OBTAINED THAT MORNING?

9 A THAT'S EXACTLY WHAT IT IS, YES

10 MR BRACKETT I ASK STATE'S EXHIBIT 36 BE
11 MOVED INTO EVIDENCE

12 MR GREELEY NO OBJECTION

13 MR SMITH NO OBJECTION

14 THE COURT BE RECEIVED WITHOUT OBJECTION

15 (STATE'S EXHIBIT 36 FORM RECEIVED IN
16 EVIDENCE)

17 Q WHO ACTUALLY CARRIED THE DEFENDANT TO THE
18 HOSPITAL?

19 A I TRANSPORTED HIM UP THERE

20 Q DID YOU GO WITH ANYONE ELSE?

21 A CRIME SCENE OFFICER ROBIN DAVIS DROVE HIS
22 VEHICLE AND MET ME UP THERE

23 Q AND WHERE DID YOU GO AT THE HOSPITAL, WHO DID
24 YOU SEE THERE?

25 A DR MAYNARD

1 Q DR JIM MAYNARD WHO JUST WALKED OUT OF THE
2 COURTROOM?

3 A YES, SIR

4 Q HOW LONG DID THE COLLECTION PROCEDURE TAKE?

5 A A FEW MINUTES IT WASN'T LONG

6 Q DID THE DEFENDANT MAKE ANY COMMENTS DURING THE
7 COLLECTION PERIOD, DURING THAT TIME THAT HE WAS AT
8 THE HOSPITAL?

9 A AFTER THE COLLECTION WAS DONE HE MADE A COMMENT

10 Q OKAY WHAT DID HE SAY?

11 A HE SAID HE KNEW THERE WAS GOING TO BE AUTOPSY,
12 IF THAT WAS DONE AND SKIN WAS FOUND UNDERNEATH HIS
13 DAUGHTER'S FINGERNAIL IT WOULD BE FROM HER SCRATCHING
14 HIS BACK THE NIGHT BEFORE

15 Q OKAY DID HE MAKE ANY OTHER COMMENTS ABOUT THE
16 CPAP SLEEP MACHINE WHILE HE WAS AT THE HOSPITAL?

17 A ABOUT THE SLEEP APNEA

18 Q YES

19 A I DON'T REMEMBER ANY OTHER REMARKS AT THE
20 HOSPITAL ABOUT THE MACHINE

21 Q OKAY YOU PREPARED A SUMMARY IN THIS CASE?

22 A YES

23 Q AND IT WAS PREPARED SHORTLY AFTER THIS INCIDENT?

24 A THAT'S RIGHT

25 Q ALL RIGHT, SIR I'LL SHOW YOU THIS DOCUMENT AND

1 ASK YOU IF YOU WOULD JUST REVIEW THIS SECTION HERE
2 AND DOES THAT REFRESH YOUR MEMORY?

3 A YES, IT DOES

4 Q PLEASE RELATE TO THE JURY ANY OTHER ADDITIONAL
5 COMMENTS THAT THE DEFENDANT MADE WHILE HE WAS AT
6 PIEDMONT MEDICAL CENTER DURING THIS COLLECTION
7 PROCEDURE?

8 A HE SAID IF ANYONE HAD CAME INTO THE HOUSE HE
9 WOULDN'T HAVE HEARD IT BECAUSE OF THE MACHINE MAKING
10 THE WHIRLING NOISE

11 Q THAT THE MACHINE MIGHT HAVE OBSCURED HIM HEARING
12 THEM?

13 A THAT'S RIGHT

14 Q WHEN YOU LEFT OUT OF THE HOSPITAL WHERE DID YOU
15 GO?

16 A BACK TO THE LAW CENTER

17 Q AND DID THE DEFENDANT COME WITH YOU?

18 A YES, HE DID

19 Q WAS THAT THE END OF THE INTERVIEW?

20 A THAT WAS

21 Q AT THAT TIME?

22 A AT THAT TIME

23 Q OKAY AND AT THAT TIME WAS THE DEFENDANT FREE
24 TO LEAVE?

25 A HE WAS

1 Q OKAY AND DID HE IN FACT?

2 A I THINK HE DID

3 Q ALL RIGHT DID YOU HAVE OCCASION TO SEE HIM
4 AGAIN LATER THAT DAY?

5 A I DID

6 Q WHAT TIME WAS THAT?

7 A THAT WAS NOON

8 Q ALL RIGHT AND WHERE WAS THIS?

9 A THAT'S BACK AT THE ROCK HILL LAW CENTER

10 Q AND WHAT WAS THE -- DESCRIBE THE CIRCUMSTANCES,
11 WHAT HAPPENED, HOW DID YOU ENCOUNTER HIM AGAIN?

12 A LIEUTENANT HERRING, LIKE I SAID HE HAD BEEN DOWN
13 ON THE SCENE AND HE WANTED TO INTERVIEW HIM AGAIN,
14 ASK SOME MORE QUESTIONS, SO I SAT IN ON THE INTERVIEW
15 WITH HIM AND LIEUTENANT HERRING

16 Q AND DID, WAS THERE ANOTHER SUMMARY OF THIS
17 PREPARED?

18 A YES, BY LIEUTENANT HERRING

19 Q AND HAVE YOU REVIEWED THAT?

20 A I REVIEWED IT

21 Q OKAY WAS THIS A MORE DETAILED INTERVIEW?

22 A IT WAS

23 Q ALL RIGHT CAN YOU RELATE TO THE JURY BETWEEN
24 THE INTERVIEW THAT WAS DONE AT 8 O'CLOCK IN THE
25 MORNING AND THE ONE THAT WAS DONE SHORTLY AFTER NOON

1 THE SAME DAY, WERE THERE ANY SIGNIFICANT ADDITIONS OR
2 CHANGES IN WHAT THE DEFENDANT WAS TELLING LAW
3 ENFORCEMENT?

4 A WELL, IT WAS A DIFFERENCE IN THE TIME THAT HIS
5 DAUGHTER WENT TO BED, INSTEAD OF AT 12 30 HE SAID SHE
6 WENT TO BED AT ONE, AND INSTEAD OF JUST WALKING IN
7 THE ROOM HE SAID SOMETHING ABOUT HAVING TO KICK THE
8 DOOR IN BECAUSE THE BEDROOM DOOR WAS AGAINST THE
9 CLOSET DOOR AND HE HAD TO KICK IT IN

10 Q WHEN DID HE SAY THAT?

11 A THIS WAS DURING THE SECOND INTERVIEW THE FIRST
12 INTERVIEW --

13 Q WHAT DID HE SAY ABOUT THAT?

14 A HE SAID HE WENT INTO THE BEDROOM, HE DIDN'T MAKE
15 ANY REMARKS ABOUT KICKING THE DOOR IN

16 Q WHAT OTHER DIFFERENCES BETWEEN THE TWO
17 STATEMENTS? WERE THERE ANY OTHER DIFFERENCES THAT
18 YOU CAN RECALL?

19 A I DON'T REMEMBER TOO MUCH THAT WAS SIGNIFICANT

20 Q WOULD IT HELP IF I SHOWED YOU A COPY OF THE
21 SUMMARY, WOULD IT REFRESH YOUR MEMORY?

22 A IT COULD

23 Q AT SOME POINT IN TIME DID YOU INQUIRE?

24 MR SMITH JUDGE, WE DON'T MIND IF THE
25 STATE INTRODUCES IN EVIDENCE IN THIS CASE

1 THE COURT HE HADN'T OFFERED IT ALL HE
2 WAS DOING WAS USING IT TO REFRESH HIS MEMORY

3 MR BRACKETT I THINK THE ORIGINALS ARE
4 WITH THE COURT REPORTER

5 THE COURT MR GREELEY

6 MR GREELEY NO OBJECTION

7 THE COURT YOU OFFERING IT?

8 MR BRACKETT I THINK I PROBABLY WILL

9 MR SMITH JUDGE, THAT WOULD GO FOR BOTH
10 STATEMENTS

11 THE COURT I DON'T THINK THEY ARE
12 STATEMENTS THEY ARE SUMMARIES

13 MR SMITH I'M SORRY

14 THE COURT I DON'T THINK THEY ARE
15 STATEMENTS THEY ARE SUMMARIES

16 MR SMITH YES, THAT'S CORRECT

17 THE COURT WANT TO HAVE THEM MARKED

18 MR BRACKETT YES, SIR, I JUST WANTED TO
19 MAKE SURE, THERE IS SOME WRITING ON A STICKY PAD

20 THE COURT LET THEM SEE IT

21 MR BRACKETT I ASK THEY BE MARKED
22 STATE'S EXHIBIT 37 AND 38

23 THE COURT WITHOUT OBJECTION

24 MR SMITH WITHOUT OBJECTION

25 (STATE'S EXHIBIT 37 AND 38 SUMMARIES

1 RECEIVED INTO EVIDENCE)

2 Q NOW TURNING YOUR ATTENTION TO WHAT'S NOW BEEN
3 MARKED AND INTRODUCED AS STATE'S EXHIBIT 38 I'LL
4 TURN YOUR ATTENTION TO THIS PARTICULAR SENTENCE HERE,
5 WHAT DID HE JUST SAY ABOUT WHEN HE WOKE UP AND CALLED
6 HER NAME?

7 A OKAY THAT'S WHEN, WHEN SHE DIDN'T ANSWER HIM
8 AFTER ABOUT THREE CALLS, HE THOUGHT THAT THE RAPTURE
9 HAD TAKEN PLACE, AND SHE HAD BEEN TAKEN

10 Q OKAY AND FINALLY DID YOU OR LIEUTENANT HERRING
11 ASK HIM ABOUT WHAT HE THOUGHT HAD HAPPENED THAT
12 NIGHT? ON THE SECOND PAGE, THE SECOND TO THE LAST
13 PARAGRAPH, TAKE A LOOK AND SEE

14 A YEAH HE WAS ASKED WHAT HE THOUGHT HAPPENED TO
15 HIS DAUGHTER AND HE SAID IT MUST HAVE BEEN AN
16 ACCIDENT BECAUSE HE DIDN'T HEAR ANYBODY DURING THE
17 NIGHT AND THAT'S WHEN HE SAID HE SLEEP WITH TWO FANS
18 ON DURING THE SLEEP

19 THE COURT THE JURY IS HAVING TROUBLE
20 HEARING YOU, MR BURRIS IF YOU'LL SPEAK UP PLEASE

21 A MR COPE WAS ASKED WHAT HAPPENED, HE THOUGHT
22 HAPPENED TO HIS DAUGHTER, AND HE SAID HE THOUGHT IT
23 MUST HAVE BEEN AN ACCIDENT BECAUSE HE DIDN'T HEAR
24 ANYTHING DURING THE NIGHT HE SAID HE ALWAYS SLEEP
25 WITH TWO FANS ON ALONG WITH SLEEP MASK THAT HE WEARS,

1 BUT HE COULDN'T BELIEVE HE COULDN'T HAVE HEARD HIS
2 OWN DAUGHTER IF THERE HAD BEEN ANY KIND OF STRUGGLE
3 OR HER CHOKING ACCIDENTALLY

4 Q HE INDICATED TO YOU HE SHOULD HAVE BEEN ABLE TO
5 HEAR SOMETHING IF THERE HAD BEEN A STRUGGLE?

6 A YES THAT'S WHAT HE SAID, YES

7 Q OR EVEN CHOKING ACCIDENTALLY?

8 A YES

9 Q AND HOW DID YOU GUYS LEAVE THAT INTERVIEW WITH
10 HIM, WHAT YOU TELL HIM AS HE LEFT THE INTERVIEW?

11 A WELL, WE TOLD HIM WE'D GET BACK IN TOUCH WITH
12 HIM AFTER THE AUTOPSY WAS DONE IF WE HAD ADDITIONAL
13 INFORMATION FOR HIM

14 Q ALL RIGHT

15 MR BRACKETT COURT'S INDULGENCE ONE
16 MOMENT I HAVE NO FURTHER QUESTIONS

17 Q DETECTIVE BURRIS, PLEASE ANSWER ANY QUESTIONS
18 MR SMITH MAY HAVE FOR YOU

19 CROSS EXAMINATION BY MR SMITH

20 Q MR BURRIS, YOUR FIRST CONTACT WITH MR COPE WAS
21 ON NOVEMBER 29, IS THAT RIGHT?

22 A THAT'S RIGHT

23 Q AND YOU STATED THAT HE WAS NOT UNDER ARREST AT
24 THAT TIME?

25 A HE WAS NOT

1 Q SO HE VOLUNTARILY CAME DOWN TO THE POLICE
2 DEPARTMENT TO TALK WITH YOU, IS THAT CORRECT?

3 A THAT'S CORRECT

4 Q HE CAME BY HIS OWN FREE WILL AND ACCORD?

5 A YES

6 Q NOW HE GOT THERE AROUND 8 O'CLOCK THAT MORNING?

7 A I BELIEVE AROUND 8 O'CLOCK

8 Q AND YOU SAID IT WAS ABOUT 35 TO 40 MINUTES
9 INTERROGATION?

10 A MORE OR LESS

11 Q NOW YOU TYPED A REPORT THAT'S BEEN INTRODUCED
12 INTO EVIDENCE, IS THAT RIGHT?

13 A THE FIRST INTERVIEW I TYPED IT UP THE SECOND
14 INTERVIEW LIEUTENANT HERRING, LIEUTENANT HERRING
15 TYPED THAT ONE

16 Q OKAY NOW HOW LONG DID YOU WAIT AFTER YOU MET
17 WITH MR COPE BEFORE YOU TYPED THAT REPORT UP? THE
18 FIRST ONE?

19 A YOU MEAN THE FIRST ONE

20 Q YES, SIR

21 A I'M NOT SURE I MIGHT HAVE DONE IT AFTER TAKING
22 NOTES

23 Q DID YOU TAKE NOTES?

24 A IF I DID I DON'T HAVE THEM SOMETIME I TYPE
25 WHEN I'M TALKING TO THE INDIVIDUAL, SOMETIMES I TAKE

1 NOTES, AND WRITE IT UP LATER

2 Q BUT YOU DON'T KNOW IF YOU DID THAT IN THIS CASE?

3 A I'M NOT SURE

4 Q AND YOU DON'T REMEMBER WHEN YOU TYPED THIS
5 STATEMENT?

6 A I'M NOT SURE WHETHER IT WAS THAT DAY OR THE NEXT
7 DAY

8 Q SO IT MAY HAVE BEEN A DAY OR TWO LATER?

9 A I DON'T WAIT THAT LONG IT MIGHT HAVE BEEN---
10 THE COURT MAKE SURE YOU KEEP YOUR VOICE
11 UP

12 Q IT MAY HAVE BEEN A DAY LATER?

13 A IT MIGHT HAVE BEEN A DAY

14 Q AND AGAIN THIS STATEMENT IS MORE OF A SUMMARY
15 THAN IT IS A STATEMENT BY MR COPE, IS THAT CORRECT?

16 A THAT'S RIGHT

17 Q IT'S WHAT YOU REMEMBERED HIM TELLING YOU?

18 A YES

19 Q SO IT MAY NOT HAVE EVERYTHING THAT MR COPE SAID
20 TO YOU IN THERE, IS THAT RIGHT?

21 A IT'S A POSSIBILITY IT MAY NOT

22 Q OKAY SO IT'S NOT NECESSARILY AN ACCURATE
23 STATEMENT AS TO EVERYTHING MR COPE SAID?

24 A IT'S WHAT CALLED A FOLLOW UP INCIDENT REPORT

25 Q NOW WENT THROUGH THAT STATEMENT WITH

1 MR BRACKETT, LET'S GO THROUGH IT REAL QUICK?

2 A WHICH ONE ARE YOU REFERRING TO

3 Q THE FIRST STATEMENT, SIR DO YOU HAVE THAT?

4 A I HAVE IT

5 Q NOW MR COPE SAID HE WOKE UP AT SIX O'CLOCK THAT
6 MORNING, CALLED OUT TO HIS DAUGHTER, AND WHEN SHE
7 DIDN'T ANSWER HE WENT INTO HER BEDROOM?

8 A THAT'S RIGHT

9 Q HE FOUND HER THERE WITH A STRIP OF BLANKET, EDGE
10 OF A BLANKET WRAPPED AROUND HER NECK?

11 A YES

12 Q AND HE REALIZED THAT SHE WAS DEAD, IS THAT
13 RIGHT?

14 A THAT'S CORRECT

15 Q AND WHAT DID HE DO? HE PICKED HER UP IN HIS
16 ARMS, RIGHT?

17 A THAT'S WHAT HE SAID

18 Q NOW TWO LITTLE GIRLS CAME INTO THE ROOM AT THAT
19 POINT AND HE SAID Y'ALL GO SIT IN THE LIVING ROOM?

20 A HE SAID HE SCREAMED OUT AND THE TWO LITTLE GIRLS
21 RAN INTO THE ROOM AND HE TOLD THEM TO GO SIT IN THE
22 LIVING ROOM

23 Q MR COPE SCREAMED OUT?

24 A THAT'S WHAT HE SAID, YES

25 Q AFTERWARDS HE THEN CALLED 911, IS THAT RIGHT?

1 A THAT'S RIGHT

2 Q NOW HE TOLD YOU DURING THAT FIRST, FIRST MEETING

3 WITH HIM THAT HE HAD SLEEP APNEA, IS THAT RIGHT?

4 A YES

5 Q AND HE TOLD YOU THAT BECAUSE OF THAT HE HAS TO

6 WEAR A MASK OVER HIS FACE, CORRECT?

7 A THAT'S RIGHT

8 Q AND IT'S GOT A HOSE ATTACHED TO IT WHICH GOES TO

9 A MACHINE THAT BLOWS AIR INTO HIS FACE, IS THAT

10 RIGHT?

11 A RIGHT

12 Q AND HE SAID THAT MACHINE MAKES A --

13 A WHIRLING NOISE

14 Q A LOUD WHIRLING NOISE?

15 A THAT'S RIGHT

16 Q AND HE SAID THAT HE DIDN'T HEAR ANYTHING BECAUSE

17 OF THIS WHIRLING NOISE THAT WAS CREATED BY THIS SLEEP

18 APNEA MACHINE?

19 A THAT'S CORRECT

20 Q OKAY NOW DURING THIS INTERVIEW YOU RECEIVED

21 INFORMATION FROM THE INVESTIGATION THAT AMANDA COPE

22 MAY HAVE BEEN SEXUALLY ABUSED, IS THAT RIGHT,

23 SEXUALLY ASSAULTED?

24 A POSSIBLY THAT SHE MAY HAVE BEEN SEXUALLY

25 ASSAULTED, YES

1 Q ALL RIGHT AND RELAYED THIS INFORMATION TO
2 MR COPE AND YOU TOLD HIM THAT THERE WAS A
3 POSSIBILITY THAT SHE MAY HAVE BEEN SEXUALLY
4 ASSAULTED?

5 A YES, I DID

6 Q AND AT THAT POINT YOU ASKED HIM IF HE WOULD
7 AGREE TO SUBMIT TO A SUSPECT RAPE KIT, CORRECT?

8 A YES

9 Q AND HE VOLUNTEERED TO DO THAT, RIGHT?

10 A HE DID

11 Q HE SIGNED A CONSENT, I BELIEVE MR BRACKETT HAS
12 ALREADY INTRODUCED THAT INTO EVIDENCE?

13 A HE SIGNED IT, YES

14 Q AND HE WENT DOWN TO PIEDMONT MEDICAL CENTER WITH
15 YOU AND SUBMITTED THE TO SUSPECT RAPE KIT?

16 A THAT'S CORRECT

17 Q OKAY NOW AT THIS POINT MR COPE WAS A SUSPECT,
18 IS THAT RIGHT?

19 A HE WAS NOT A SUSPECT TO ME

20 Q BUT HE WAS SUBMITTING TO A SUSPECT RAPE KIT,
21 CORRECT?

22 A YES

23 Q OKAY NOW AFTER RECEIVING THIS INFORMATION THAT
24 AMANDA COPE MAY HAVE BEEN SEXUALLY ASSAULTED AS A
25 CRIMINAL INVESTIGATOR YOURSELF YOU STARTED LOOKING

1 FOR SIGNS THAT MR COPE COULD HAVE BEEN INVOLVED IN
2 THIS, IN THIS SEXUAL ABUSE, DID YOU NOT?

3 A IT WAS A POSSIBILITY

4 Q DID YOU LOOK TO SEE IF HE HAD ANY BLOOD ON HIS
5 CLOTHING?

6 A I DIDN'T

7 Q YOU DIDN'T? YOU DIDN'T --

8 A I DIDN'T EXAMINE HIM I COULD SEE HIM, BUT I
9 DIDN'T EXAMINE HIM

10 Q DID YOU SEE ANY BLOOD ON HIS CLOTHING?

11 A I DIDN'T SEE ANY

12 Q DID YOU LOOK FOR ANY SCRATCHES OR BRUISES OR ANY
13 OTHER MARKS THAT MAY HAVE BEEN ON HIM?

14 A ONLY PART OF HIS BODY THAT I COULD SEE HIS FACE
15 AND HANDS I DIDN'T, LIKE I SAY I DIDN'T EXAMINE
16 HIM

17 Q MR BURRIS, AGAIN IF YOU WOULD MAKE SURE THAT
18 YOU ARE SPEAKING INTO THAT MICROPHONE

19 A I'LL TURN THIS THING AROUND OKAY

20 Q SO YOU COULD SEE, I THINK YOU SAID, HIS FACE AND
21 HANDS?

22 A YES

23 Q AND ON HIS HANDS OR FACE YOU DIDN'T OBSERVE ANY
24 SCRATCHES, MARKS, OR BRUISES, DID YOU?

25 A I DIDN'T

1 Q YOU DID NOT?

2 A I DID NOT

3 Q OKAY DID YOU HAPPEN TO TAKE ANY PICTURES OF
4 HIS HANDS?

5 A I DID NOT

6 Q YOU DID NOT NOW SINCE HE WAS SO AGREEABLE WITH
7 YOU TO THIS POINT AS FAR AS COMING DOWN TO THE
8 STATION AND AGREEING TO SUBMIT TO THIS SUSPECT RAPE
9 KIT DID YOU ASK HIM IF POSSIBLY YOU COULD TAKE HIS
10 CLOTHING OR TAKE HIS UNDERWEAR INTO EVIDENCE OR IF HE
11 WOULD AGREE TO TURN THAT OVER TO YOU?

12 A NO, I DID NOT

13 Q NOW YOU STATED I BELIEVE IN YOUR STATEMENT YOU
14 SAID THAT MR COPE MADE A STATEMENT WHILE HE WAS AT
15 PIEDMONT THAT IF HIS SKIN WAS OR DNA WAS FOUND
16 UNDERNEATH AMANDA'S FINGERNAILS THAT IT WAS BECAUSE
17 SHE SCRATCHED HIS BACK, IS THAT RIGHT?

18 A THAT'S RIGHT

19 Q NOW YOU'RE AWARE THAT AMANDA'S FINGERNAILS WERE
20 COLLECTED AND EXAMINED AND THAT HIS DNA WAS NOT
21 UNDERNEATH HER FINGERNAILS, IS THAT RIGHT?

22 A I'M NOT AWARE OF IT

23 Q YOU WEREN'T AWARE OF THAT?

24 A I AM NOT

25 Q OKAY NOW LATER ON THAT DAY YOU ASKED MR COPE

1 TO COME BACK TO THE STATION, IS THAT RIGHT?

2 A HE WAS ASKED I'M NOT SURE IF I AM THE ONE THAT
3 ASKED HIM TO COME BACK OR LIEUTENANT HERRING

4 Q BUT HE WAS ASKED TO COME BACK TO THE STATION?

5 A YES

6 Q WHAT TIME WAS THAT?

7 A IT WAS THAT AFTERNOON, IT WAS AFTER 12 O'CLOCK
8 I'M SURE

9 Q AFTERNOON?

10 A YES

11 Q HOW LONG WAS HE DOWN THERE FOR THIS SECOND
12 INTERVIEW?

13 A MORE OR LESS THE SAME AMOUNT OF TIME I ASSUME

14 Q 35-40 MINUTES?

15 A PROBABLY SO

16 Q NOW AGAIN HE WAS ASKED TO COME DOWN AND HE
17 VOLUNTARILY WENT DOWN TO THE STATION TO SPEAK TO YOU
18 AGAIN, IS THAT RIGHT?

19 A EACH TIME HE CAME DOWN VOLUNTARILY, YES

20 Q OKAY NOW DURING THIS SECOND INTERVIEW I THINK
21 MR BRACKETT DESCRIBED THE STATEMENT AS BEING
22 DIFFERENT FROM THE FIRST ONE DID HE SAY THAT OR DID
23 I JUST MISINTERPRET THAT?

24 A HE SAID IT WAS MORE DETAILED THAN THE FIRST ONE

25 Q OKAY IT'S MORE DETAILED IT'S NOT NECESSARILY

1 DIFFERENT IT JUST HAS MORE DETAIL IN IT, RIGHT?

2 A YES

3 Q AND THIS WAS FOLLOW UP INTERVIEW TO THE FIRST
4 ONE, RIGHT?

5 A THAT'S RIGHT

6 Q SO Y'ALL WERE TRYING TO FIND MORE ANSWERS, MORE
7 CLARIFICATIONS FROM HIS, FROM HIS FIRST INTERVIEW,
8 RIGHT?

9 A YES

10 Q OKAY SO THERE WOULD HAVE BEEN MORE DETAILS IN
11 IT, CORRECT?

12 A YES

13 Q NOW IN THIS STATEMENT MR COPE AGAIN TALKS ABOUT
14 OR IN THIS INTERVIEW RATHER MR COPE TALKS AGAIN
15 ABOUT THE SLEEP APNEA AND THE CPAP OR SLEEP APNEA
16 MACHINE, RIGHT?

17 A YES

18 Q IN ADDITION TO THAT THOUGH HE ALSO SAYS THAT
19 THERE WERE TWO FANS GOING ON, IS THAT RIGHT?

20 A YES, HE DID SAY SOMETHING ABOUT TWO FANS

21 Q AND THAT CREATED EXTRA NOISE WHY HE MAY NOT HAVE
22 HEARD SOMETHING THAT NIGHT?

23 A I IMAGINE IT WOULD

24 Q OKAY BUT MR COPE DIDN'T SAY THAT?

25 A HE SAID HE SLEPT WITH THE TWO FANS ALONG WITH

1 THE MASK

2 Q OKAY SO THERE WERE TWO ADDITIONAL FANS GOING
3 ON?

4 A YES

5 Q NOW YOU STATED ON YOUR DIRECT EXAMINATION THAT
6 MR COPE SAID HE SHOULD HAVE HEARD SOMETHING THAT
7 NIGHT, THAT'S NOT CORRECT, IS IT?

8 A DURING THE FIRST?

9 Q NO, SIR, DURING THE SECOND INTERVIEW WHAT HE
10 ACTUALLY SAID WAS THAT HE COULDN'T BELIEVE THAT HE
11 DIDN'T HEAR ANYTHING?

12 A THAT'S WHAT HE SAID, HE COULDN'T BELIEVE HE
13 COULDN'T HAVE HEARD HIS OWN DAUGHTER IF THERE HAD
14 BEEN SOME KIND OF A STRUGGLE

15 Q THAT'S RIGHT HE WAS SURPRISED HE DIDN'T HEAR
16 ANYTHING, RIGHT?

17 A THAT'S WHAT HE SAID, YES

18 Q OKAY NOW IN THIS SECOND STATEMENT OR IN THIS
19 SECOND INTERVIEW MR COPE SAID OR ASKED IF ANY DNA
20 HAD BEEN FOUND, RIGHT?

21 A I THINK HE DID

22 Q OKAY NOW THIS WAS AFTER HE HAD ALREADY BEEN
23 EXPLAINED THAT AMANDA HAD BEEN OR MAY HAVE BEEN
24 SEXUALLY ASSAULTED, RIGHT?

25 A YES

1 Q AND IT WAS AFTER HE HAD ALREADY BEEN TAKEN TO
2 PIEDMONT FOR DNA SAMPLES, IS THAT RIGHT?

3 A THAT'S RIGHT

4 Q OKAY THANK YOU, MR BURRIS I HAVE NO FURTHER
5 QUESTIONS FOR YOU AT THIS TIME

6 MR GREELEY I DON'T HAVE ANY QUESTIONS
7 THE COURT REDIRECT

8 MR BRACKETT NO, SIR, YOUR HONOR

9 THE COURT YOU CAN STEP DOWN AND BE
10 EXCUSED WE APPRECIATE YOUR TIME

11 MR BRACKETT ASK THIS WITNESS BE
12 EXCUSED

13 THE COURT THIS WITNESS CAN BE EXCUSED
14 LET'S TAKE OUR AFTERNOON BREAK LET'S TAKE ABOUT A
15 TEN MINUTE BREAK

16 (THE JURY EXITS THE COURTROOM AT 3 51)

17 (COURT'S IN RECESS)

18 (COURT RESUMES)

19 THE COURT MR BRACKETT, THE FIRST
20 QUESTION IS HOW WE'RE COMING WITH THE TELECONFERENCE
21 FOR IN THE MORNING

22 MR BRACKETT I BELIEVE WE'LL BE ABLE TO
23 ARRANGE THAT FOR NINE A M TOMORROW THAT'S WHAT WE
24 ARE PLANNING AND WORKING TOWARDS COMPORIUM IS GOING
25 TO HAVE TO SET UP THEIR END OF IT, BUT WE WORKED WITH

1 ALABAMA AND WE HAVE A PLACE IN ALABAMA THAT CAN DO
2 IT WE HAVE LINED UP A COURT REPORTER DOWN IN
3 ALABAMA TO SWEAR IN THE WITNESS IN ALABAMA SHE WILL
4 HAVE A BIBLE AND THEY WILL BE SET TO GO THERE

5 THE COURT ALL RIGHT WELL, IT'S 4
6 O'CLOCK WHAT DO WE HAVE FOR THIS AFTERNOON, NOT A
7 FOUR HOUR TAPE I'M SURE

8 MR BRACKETT WELL, I HAVE ONE SHORT
9 WITNESS THAT'S PROBABLY GOING TO BE ABOUT TEN MINUTES
10 AND THEN JERRY WALDROP I CAN DO MY DIRECT OF HIM
11 AND NOT PLAY THE TAPES BUT THEN I WOULD PUBLISH THE
12 TAPES AND I UNDERSTAND MR MORTON WANTS TO PUBLISH
13 THE TAPES BEFORE HE DOES HIS CROSS EXAMINATION

14 THE COURT YOU FINISH YOURS, WE WILL
15 LISTEN TO A COUPLE OF HOURS, ALTHOUGH WE ARE NOT
16 GOING TO STAY PAST SIX

17 MR BRACKETT ONE ISSUE THAT HAS COME UP,
18 MR SMITH AND MYSELF DURING THE BREAK CONCERNING
19 REDACTION OF THOSE TAPES MR SMITH OF OUR OFFICE IS
20 WORKING ON GETTING THAT TAKEN CARE OF RIGHT NOW
21 HE'S DONE THE MAJORITY OF IT THERE IS ONE ISSUE
22 THAT WE DISAGREE WITH AND IS GOING TO REQUIRE SOME
23 JUDICIAL INTERVENTION

24 THE COURT LET'S INTERVENE RIGHT NOW
25 WHAT'S THE PROBLEM?

1 MR SMITH YES, SIR THE COURT RULED
2 THAT ANY REFERENCE TO INTERNET PORNOGRAPHY SHOULD BE
3 DELETED DOES YOUR HONOR HAVE A COPY?

4 THE COURT I DO WHAT PAGE?

5 MR SMITH STARTS ON PAGE 83 THERE IS A
6 DIALOGUE ABOUT COMPUTER PORNOGRAPHY THE SOLICITOR'S
7 OFFICE HAS SOME MARKED OUT AND WE AGREE IT SHOULD BE
8 MARKED OUT AND THEN YOU GO TO PAGE 84 TOWARDS THE
9 TOP OF THAT, IT SAYS YOU KNOW HOW TO GO INTO YOUR
10 OPTIONS AND DELETE ANYTHING THAT HAS BEEN BROUGHT UP
11 ON THE INTERNET WHERE IT DON'T SHOW UP THERE ANYMORE,
12 RIGHT JUDGE, YOU KNOW, THE CONTEXT IS THAT IT'S
13 PORNOGRAPHY IF WE PULL OUT THE OTHER REFERENCES TO
14 PORNOGRAPHY AND LEAVE THIS STATEMENT IN THERE THAT'S
15 GOING TO BE THE INFERENCE THAT THE JURY GETS, THAT
16 THERE IS SOMETHING IN THERE THAT'S NOT SUPPOSED TO BE
17 THERE AND MR COPE IS DELETING IT WE WOULD ASK THE
18 COURT TO STRIKE FROM THAT STATEMENT DO YOU KNOW HOW
19 TO GO IN YOUR OPTIONS AND DELETE ANYTHING

20 THE COURT LET ME ASK THE STATE, WHAT'S
21 THAT RELEVANT TO

22 MR BRACKETT AT 3 40 IN THE MORNING OUR
23 COMPUTER EXPERT TELLS US THAT SOMEBODY DELETED FILES
24 OFF OF THAT COMPUTER MR COPE CLAIMS HE WAS ASLEEP
25 AT THAT TIME MY COMPUTER EXPERT IS TELLING ME THAT

1 THAT COULD NOT HAVE --

2 THE COURT I'LL ALLOW IT IN IF IT TIES
3 INTO SOME OTHER TESTIMONY I'LL LEAVE IT IN ALL
4 RIGHT READY FOR THE JURY

5 MR BRACKETT YES, SIR

6 THE COURT ALL RIGHT BRING IN THE JURY

7 MR BRACKETT MR PHIL SMITH IS WORKING
8 ON REDACTING SOME OF THOSE, HE MAY NOT BE DONE BY THE
9 TIME I'M DONE WITH MY DIRECT OF MR WALDROP IT'S A
10 TIME CONSUMING PROCESS TO LOCATE THE EXACT SPOT AND
11 TAPE OVER IT SO THAT IT IS SILENT HE'S WORKING ON
12 IT

13 THE COURT YOU GAVE ME THIS SEVERAL HOURS
14 AGO OR SOMEBODY DID

15 MR BRACKETT WE HAVE AGREED TO SOME
16 ADDITIONAL REDACTIONS JUST NOW WE ONLY HAD ONE
17 DISPUTED ONE THAT WE WANTED TO BRING TO YOUR
18 ATTENTION BUT I CONSENTED TO SOME OTHER ONES AND HE'S
19 TAKEN CARE OF THOSE

20 THE COURT ALL RIGHT

21 (THE JURY RETURNS TO THE COURTROOM)

22 THE COURT CALL YOUR NEXT WITNESS

23 MR BRACKETT THE STATE WOULD CALL
24 OFFICER JOHN HEWITT

25 JOHN HEWITT, BEING FIRST DULY

1 SWORN, TESTIFIED AS FOLLOWS

2 DIRECT EXAMINATION BY MR BRACKETT

3 Q GOOD AFTERNOON, SIR

4 A GOOD AFTERNOON

5 Q WOULD YOU PLEASE STATE YOUR FULL NAME AND SPELL
6 YOUR LAST FOR THE COURT REPORTER?

7 A JOHN STEPHENS HEWITT H-E-W-I-T-T

8 Q WHERE ARE YOU EMPLOYED, SIR?

9 A THE ROCK HILL POLICE DEPARTMENT

10 Q WHAT DO YOU DO FOR THE ROCK HILL POLICE
11 DEPARTMENT?

12 A I'M CURRENTLY ASSIGNED TO THE PATROL

13 Q WERE YOU ASSIGNED TO THE PATROL BACK IN NOVEMBER
14 OF 2001?

15 A YES, SIR

16 Q OKAY TURNING YOUR ATTENTION SPECIFICALLY TO
17 NOVEMBER 29 OF 2001 ABOUT THREE O'CLOCK IN THE
18 AFTERNOON OR 3 30, WERE YOU WORKING THAT DAY AT THAT
19 TIME?

20 A YES, SIR

21 Q OKAY AND DID YOU RECEIVE DIRECTIONS TO ASSIST
22 DSS IN A INTERVIEW THAT THEY NEEDED TO CONDUCT?

23 A YES, SIR

24 Q CAN YOU RELATE TO THE JURY WHAT YOUR
25 INSTRUCTIONS WERE AS FAR AS ASSISTING DSS?

1 A I WAS DISMATCHED TO GO TO 950 LUCAS STREET IN
2 ROCK HILL TO MEET WITH DSS AGENTS TO SPEAK WITH
3 MR COPE FOR THEIR INVESTIGATION IT'S JUST PART OF
4 DSS' POLICY THAT WHEN THEY GOT TO HOMES THEY USUALLY
5 HAVE LAW ENFORCEMENT WITH THEM JUST AS A PRECAUTION
6 DUE TO EMOTIONAL SITUATIONS, THINGS BECOME QUITE
7 EMOTIONAL AT TIMES AND THEY LIKE TO HAVE US AROUND

8 Q AND WHAT WERE, WHAT WERE YOU CHARGED WITH ANY
9 RESPONSIBILITIES AS FAR AS INTERVIEWING OR ANYTHING
10 LIKE THAT?

11 A NO, SIR

12 Q WHAT WERE YOU BASICALLY THERE TO DO?

13 A I WAS JUST THERE AS AN ESCORT FOR DSS

14 Q DID YOU KNOW THE LADY FROM DSS, DID YOU KNOW HER
15 PERSONALLY?

16 A NO I CAN'T RECALL HER NAME, BUT NO, I DIDN'T
17 KNOW HER PERSONALLY

18 Q OKAY WHAT TOOK PLACE, WHAT DID YOU OBSERVE
19 WHEN YOU ARRIVED AT THE HOME?

20 A I HAD ARRIVED DSS WAS ALREADY THERE THEY
21 WERE WAITING IN THEIR CAR WE GOT OUT THEY HAD
22 IDENTIFIED WHO THEY WERE, TALKED TO MR COPE AND HIS
23 WIFE, EXPLAINED TO THEM THEY WERE JUST DOING THEIR
24 INVESTIGATION, EXPLAINED TO THEM I WAS THERE JUST AS
25 PART OF THEIR POLICY, AND THEY PROCEEDED TO GO INTO A

1 INTERVIEW WITH THEM

2 Q DO YOU REMEMBER APPROXIMATELY HOW LONG THIS
3 LASTED, CAN YOU REMEMBER?

4 A I WOULD SAY IN THE NEIGHBORHOOD OF MAYBE AN
5 HOUR

6 Q OKAY

7 A GIVE OR TAKE A FEW MINUTES

8 Q DO YOU KNOW ABOUT WHAT TIME THIS STARTED?

9 A NO, SIR, NOT RIGHT OFF THE TOP OF MY HEAD I
10 DON'T

11 Q DID YOU ASK ANY QUESTIONS DURING THIS TIME
12 PERIOD, DURING THIS HOUR?

13 A NO, SIR

14 Q WERE YOU ABLE TO HEAR THE QUESTIONS BEING ASKED
15 AND ANSWERS BEING GIVEN?

16 A YES, SIR

17 Q AND CAN YOU DESCRIBE FOR THE JURY WHAT WAS
18 MR COPE'S DEMEANOR DURING THIS INTERVIEW?

19 A HE WAS VERY CALM, VERY CALM, ANSWERED THE
20 QUESTIONS THAT DSS AGENTS HAD ASKED VERY LITTLE
21 EMOTION CONSIDERING THE CIRCUMSTANCES

22 Q NOW WHAT ABOUT MRS COPE?

23 A SHE WAS PHYSICALLY UPSET SHE WAS SHAKING,
24 SOBBING, CRYING YOU COULD TELL SHE WAS BOTH
25 PHYSICALLY AND EMOTIONALLY JUST DISTRAUGHT

1 Q NOW TURNING YOUR ATTENTION TO THE ACTUAL
2 INTERVIEW BETWEEN THE DSS WORKER AND MR COPE, DID
3 YOU HEAR EITHER MR COPE OR THE DSS WORKER DISCUSS
4 THE EVENTS OF THE NIGHT BEFORE?

5 A YES, SIR

6 Q OKAY AND WAS THERE ANY DISCUSSION ABOUT THE
7 BED TIMES FOR THE CHILDREN?

8 A YES, SIR

9 Q WOULD YOU RELATE TO THE JURY WHAT THAT, THE
10 SUBSTANCE OF THAT PART OF THE CONVERSATION?

11 A THE DSS AGENT HAD ASKED MR COPE WHAT TIME THE
12 KIDS USUALLY GO TO BED AND HE HAD SAID THE YOUNGEST
13 AT 8 30, THE MIDDLE AT 9 30, AND OLDEST AT 10 30 SHE
14 THEN SAID IS THAT WHAT TIME THEY WENT TO BED AND HE
15 SAID YES 8 30, 9 30, AND 10 30 WERE THE TIMES THEY
16 HAD ALL GONE TO BED

17 Q AND WHICH NIGHT WERE THEY REFERENCING?

18 A THE PREVIOUS NIGHT ON THE 28, ON NOVEMBER 28

19 Q OKAY DID MR COPE DISCUSS WITH THE DSS WORKER
20 WHAT TIME HE WENT TO BED?

21 A HE SAID IT WAS AFTER THE OLDEST AMANDA HAD GONE
22 TO BED HE SAID IT WAS AROUND 11 OR 11 30

23 Q THAT HE WENT TO BED OR AMANDA WENT TO BED?

24 A IT WAS 11 OR 11 30 WHICH WAS AFTER THE TIME THAT
25 AMANDA HAD GONE TO BED AMANDA HAD GONE TO BED AT

1 10 30

2 Q I SEE DID HE MENTION AT ALL WHAT HAD HAPPENED
3 THE NEXT MORNING? DID HE DESCRIBE TO THEM WHAT
4 HAPPENED THE NEXT MORNING?

5 A HE HAD SAID THAT HE HAD WOKEN UP SIX O'CLOCK,
6 RIGHT AROUND IN THERE, CALLED FOR AMANDA TWICE SHE
7 NEVER ANSWERED WHEN HE CALLED HER A THIRD TIME SHE
8 DIDN'T ANSWER, HE GOT OUT OF THE BED, WENT TO HER
9 ROOM, SAID THAT AMANDA WAS LAYING ON HER STOMACH, HE
10 TOUCHED HER, SAID SHE WAS COLD, HE ROLLED HER OVER,
11 SAID THAT AMANDA'S HANDS WERE UP AROUND HER NECK, HER
12 SHIRT WAS PULLED UP, HER RIGHT BREAST WAS EXPOSED,
13 AND THE OTHER TWO DAUGHTERS CAME INTO THE ROOM AND
14 SAID AMANDA'S DEAD

15 Q ALL RIGHT WHEN THE CONCLUSION OF THIS
16 INTERVIEW WHERE DID YOU GO?

17 A I WENT IMMEDIATELY BACK TO THE POLICE
18 DEPARTMENT I SPOKE WITH ONE OF THE DETECTIVES THAT
19 WAS WORKING ON THE CASE, GAVE THEM A BRIEF RUN DOWN
20 ON WHAT HAD TAKEN PLACE, THAT I HAD JUST LEFT WITH
21 DSS, TOLD THEM THE EVENTS OF WHAT HAD TAKEN PLACE
22 THEY SAID JUST TYPE UP A QUICK STATEMENT FOR US AND
23 WE'LL, YOU'RE INVOLVED IN EVERYTHING NOW SO, AND
24 THAT'S WHAT I HAD DONE

25 Q AND WHEN DID YOU TYPE UP THIS SUMMARY OF EVENTS?

1 A IMMEDIATELY AFTER I HAD SPOKEN WITH THE
2 DETECTIVES THAT, AS SOON AS I HAD LEFT THE CALL DOWN
3 LUCAS STREET

4 Q THANK YOU VERY MUCH, OFFICER PLEASE ANSWER ANY
5 QUESTIONS MR WOOD MAY HAVE FOR YOU

6 A YES, SIR

7 CROSS EXAMINATION BY MR WOOD

8 Q GOOD AFTERNOON, OFFICER HEWITT HOW YOU DOING?

9 A DOING FINE, SIR

10 Q GOOD GOOD YOU DIDN'T RECORD THIS INTERVIEW,
11 DID YOU?

12 A NO, SIR

13 Q AND YOU DIDN'T TAKE ANY NOTES DURING THE
14 INTERVIEW?

15 A NO, SIR

16 Q AND MR COPE, HE DIDN'T HAVE TO BE THERE, DID
17 HE?

18 A NO, SIR

19 Q HE VOLUNTARILY ANSWERED QUESTIONS?

20 A YES, SIR

21 Q I MEAN, YOU DIDN'T HAVE TO FORCE HIM, DID YOU?

22 A I DIDN'T ASK HIM ANYTHING IT WAS DSS
23 INTERVIEW I JUST WAS THERE AS A CUSTOMARY THING FOR
24 DSS I JUST OVERHEARD THE ENTIRE CONVERSATION

25 Q AND HE WAS COOPERATIVE?

1 A YES, SIR

2 Q NOW THIS STATEMENT YOU WROTE, YOU SAY YOU WROTE
3 IT RIGHT AFTER THIS INTERVIEW, CORRECT?

4 A YES, SIR

5 Q AND YOU DID THAT SO IT WOULD BE ACCURATE,
6 CORRECT?

7 A YES, SIR

8 Q AND YOU DIDN'T MENTION IN HERE THAT MR COPE
9 WENT TO BED AT 11 OR 11 30, DID YOU?

10 A I BELIEVE IT'S IN THERE THAT HE WENT TO BED
11 AFTER AMANDA HAD GONE TO BED AT 11 OR 11 30 I
12 BELIEVE IT'S ON THERE

13 Q NOW THIS ISN'T A TRANSCRIPT OF EVERYTHING THAT
14 HAPPENED?

15 A NO, SIR

16 Q AND IT WAS AN HOUR LONG INTERVIEW?

17 A I WOULD SAY ROUGHLY GIVE OR TAKE I MEAN

18 Q SO THERE IS A LOT OF TALKING WENT ON IN AN HOUR?

19 A YES, SIR

20 Q A LOT MORE THAN A HALF A SHEET OF PAPER?

21 A YES, SIR

22 Q NOW YOU MENTIONED THAT DSS WORKERS ASKED WHAT
23 TIME THE CHILDREN USUALLY WENT TO BED, CORRECT?

24 A YES, SIR

25 Q AND HE SAID 8 30, 9 30 AND 10 30?

1 A YES, SIR

2 Q ANY CHANCE YOU GOT CONFUSED AND THAT THE TIMES
3 THAT--THE GIRLS WENT TO BED THE NIGHT BEFORE ON THE 28
4 WERE DIFFERENT?

5 A NO, SIR, BECAUSE THE DSS WORKER HAD GONE BACK
6 AND SAID IS THAT WHAT TIME THEY WENT TO BED HE SAID
7 YES, THAT'S WHAT TIME THEY HAD GONE TO BED

8 Q DID HE TELL YOU ABOUT WHAT OR DO YOU REMEMBER
9 WHAT AMANDA DID AFTER MRS COPE WENT TO WORK?

10 A SHE HAD SAID OR HE HAD SAID THAT AMANDA HAD GONE
11 TO HELP ONE OF HER SISTERS WITH HOMEWORK AND WENT TO
12 PLAY THE VIOLIN IN HER ROOM

13 Q SO SHE HAD BEEN PRACTICING HER VIOLIN THAT
14 NIGHT?

15 A YES, SIR, ACCORDING MR COPE

16 MR WOOD NOTHING FURTHER, YOUR HONOR

17 MR GREELEY NO QUESTIONS

18 MR BRACKETT JUST ONE

19 REDIRECT EXAMINATION BY MR BRACKETT

20 Q MR WOOD ASKED YOU ABOUT THE, YOUR CERTAINTY OF
21 WHETHER OR NOT THE FATHER SAID 11 OR 11 30 AND
22 WHETHER THAT WAS EVEN IN YOUR REPORT I'M SHOWING
23 YOU A COPY OF YOUR REPORT WOULD YOU REVIEW THAT,
24 SIR?

25 A YES, SIR IT SAYS MR COPE SAID HE WENT TO BED

1 AFTER THAT AROUND 11 OR 11 30

2 Q OKAY

3 A THAT'S THE SENTENCE WHICH IS DIRECTLY AFTER
4 STATING WHAT TIME THE KIDS WENT TO BED 8 30, 9 30,
5 10 30

6 Q SO IT IS IN FACT IN YOUR REPORT?

7 A YES, SIR, IT IS

8 Q THANK YOU VERY MUCH, SIR

9 THE COURT YOU CAN STEP DOWN THANK YOU
10 YOU CAN BE EXCUSED WE APPRECIATE YOUR TIME THANK
11 YOU VERY MUCH CALL YOUR NEXT WITNESS

12 MR BRACKETT LIEUTENANT JERRY WALDROP
13 JERRY WALDROP, BEING FIRST DULY
14 SWORN, TESTIFIED AS FOLLOWS

15 DIRECT EXAMINATION BY MR BRACKETT

16 Q GOOD AFTERNOON, SIR HOW ARE YOU?

17 A JUST FINE

18 Q AND WOULD YOU PLEASE STATE YOUR FULL NAME AND
19 TELL THE COURT REPORTER HOW TO SPELL YOUR LAST

20 A JERRY W WALDROP W-A-L-D-R-O-P

21 Q ALL RIGHT, SIR WHERE ARE YOU EMPLOYED?

22 A CITY OF ROCK HILL POLICE DEPARTMENT

23 Q WHAT DO YOU DO AT THE CITY OF ROCK HILL POLICE
24 DEPARTMENT

25 A I'M LIEUTENANT IN THE DETECTIVE DIVISION

1 Q HOW LONG HAVE YOU BEEN A POLICE OFFICER?

2 A 30 YEARS TODAY

3 Q TODAY? _ _

4 A TODAY

5 Q ALL RIGHT IS THERE A PARTICULAR SECTION OF THE
6 DETECTIVE DIVISION THAT YOU ARE RESPONSIBLE FOR?

7 A I'M LIEUTENANT IN CHARGE OF PROPERTY CRIME
8 SECTION

9 Q OKAY APPROXIMATELY HOW MANY BURGLARIES HAVE
10 YOU INVESTIGATED IN YOUR 30 YEARS?

11 A THAT WOULD BE HARD TO SAY I MEAN HUNDREDS

12 Q AND HOW MANY MURDERS?

13 A I CAN'T ANSWER THAT WITH A NUMBER BUT IT'S BEEN
14 NUMEROUS I MEAN, IF IT'S HAPPENED IN ROCK HILL I'VE
15 BEEN INVOLVED IN IT IN SOME WAY, SHAPE, FASHION, OR
16 FORM OVER THE LAST 15 OR 20 YEARS

17 Q WERE YOU INVOLVED IN THE INVESTIGATION OF THE
18 DEATH OF AMANDA COPE?

19 A I WAS

20 Q DID YOU HAVE OCCASION TO GO TO 407 RICH STREET?

21 A I DID

22 Q THE MORNING OF NOVEMBER 29, 2001?

23 A THAT'S CORRECT

24 Q OKAY ABOUT WHAT TIME DID YOU GET THERE?

25 A PROBABLY 7 50 A M

1 Q ABOUT TWO HOURS AFTER THE CRIME WAS REPORTED?

2 A THAT'S CORRECT

3 Q WHAT DID YOU SEE WHEN YOU GOT THERE? WHAT WAS
4 THE CONDITION OF THE HOUSE AND THE CRIME SCENE?

5 A OKAY WHEN I ARRIVED THE CRIME SCENE, THE HOUSE
6 HAD BEEN ROPED OFF WITH THE CRIME SCENE TAPE I
7 ENTERED THE CRIME SCENE, WAS LISTED ON THE CRIME
8 SCENE LOG BY THE OFFICER THAT WAS MAINTAINING THE
9 LOG I DID NOT ENTER THE RESIDENCE IMMEDIATELY I
10 DID GO IN LATER FOR A VERY SHORT PERIOD BUT WHEN I
11 ARRIVED ON THE SCENE AFTER TALKING WITH LIEUTENANT
12 HERRING AND SOME OF THE OFFICERS ON THE SCENE, I
13 PROCEEDED TO CHECK THE EXTERIOR OF THE HOUSE FOR ANY
14 SIGNS OF FORCED ENTRY OR DAMAGE TO THE RESIDENCE

15 Q DESCRIBE THAT PROCESS FOR THE JURY, TELL THEM
16 EXACTLY WHAT YOU DID THAT MORNING?

17 A I APPROACHED THE HOUSE FROM THE FRONT AND WENT
18 TO THE RIGHT, STARTED ON THE RIGHT SIDE OF THE
19 RESIDENCE AND WENT ALL THE WAY AROUND I CHECKED
20 EVERY WINDOW OF THE HOUSE, EVERY DOOR OF THE HOUSE
21 EVERY WINDOW ON THE EXTERIOR OF THE HOUSE WAS
22 SECURED AND I'M NOT SAYING LOCKED OR NAILED DOWN,
23 BUT IT WAS SECURED IN SOME FASHION OR FORM IT
24 EITHER HAD SCREENS, PLASTIC, OR WAS NAILED DOWN OR
25 SHUT THERE WAS NO SIGNS OF FORCED ENTRY TO ANY OF

1 THE WINDOWS I CHECKED THE BACK DOOR ALL OF THE
2 WINDOWS, THEY WERE DIRTY, SOOTY, SPIDER WEBS
3 ANYBODY CLIMBING IN ANY OF THESE WINDOW WOULD HAVE
4 BEEN EXTREMELY OBVIOUS AND THERE WAS NO SIGNS OF
5 ANYBODY ENTERING ANY OF THE WINDOWS OF THIS RESIDENCE
6 AT ALL

7 Q OKAY NOW YOU SAID YOU'VE LOOKED AT A LOT OF
8 BURGLARIES?

9 A THAT'S CORRECT

10 Q YOU LOOKED AT A LOT OF WINDOWS?

11 A YES, SIR

12 Q DO YOU KNOW WHAT YOU ARE LOOKING FOR WHEN YOU
13 ARE LOOKING FOR SIGNS OF A BREAK-IN?

14 A I DO

15 Q AND DRAWING ON YOUR 30 YEARS OF EXPERIENCE DID
16 YOU SEE ANYTHING THAT LEAD YOU TO BELIEVE THAT
17 ANYBODY HAD GONE THROUGH ANY OF THOSE WINDOWS WITHIN
18 THE PAST 48 HOURS?

19 A NO THERE WAS NO WINDOW IN THAT HOUSE THAT HAD
20 ANYTHING DISPLACED, MOVED, SIGNS OF SMUDGING, WIPAGE
21 LIKE WHEN YOU CRAWL THROUGH A WINDOW IT WILL WIPE THE
22 DUST, SPIDER WEBS, THERE WAS NOTHING TO INDICATE THAT
23 ANYBODY WENT THROUGH ANY OF THOSE WINDOWS

24 Q AND THE CONDITIONS OF EACH WINDOW WAS SUCH THAT
25 IT WOULD HAVE REVEALED THAT?

1 A OH, YEAH, VERY MUCH SO

2 Q HOW ABOUT THE DOORS, WHAT DID YOU DO AS FAR AS
3 THE DOORS WERE CONCERNED?

4 A I CHECKED THE BACK DOOR ALL I DID TO THE BACK
5 DOOR WAS CHECK AND IT WAS SHUT THE FRONT DOOR, I
6 DID NOT CHECK DURING A CONVERSATION LATER, YOU
7 KNOW, I LEARNED THAT IT WAS SUPPOSEDLY LOCKED, BUT I
8 DID NOT CHECK THE FRONT DOOR

9 Q ALL RIGHT, SIR ANYTHING WHEN YOU EXAMINED THE
10 BACK DOOR, WHAT DID YOU EXAMINE IT FOR?

11 A I LOOKED TO SEE IF THERE WAS ANYTHING THAT
12 INDICATED THAT THE BACK DOOR HAD BEEN FORCED OPEN OR
13 PRIED OPEN OR KICKED OPEN, YOU KNOW STUFF THAT YOU
14 WOULD NORMALLY LOOK FOR TO SEE IF ANYBODY HAD BROKEN
15 INTO THAT HOUSE

16 Q AND DESCRIBE SOME OF THOSE THINGS, YOU SAID A
17 FEW OF THOSE, WHAT SPECIFICALLY WOULD YOU BE LOOKING
18 FOR? WHAT WOULD HAVE BEEN PRESENT HAD ANY OF THOSE
19 THINGS ---

20 A IF THE DOOR HAD BEEN PRIED OPEN, IT WOULD HAVE
21 HAD FRESH PRY MARKS INDICATING THAT SOMETHING HAD
22 BEEN WEDGED INTO THE DOOR TO PRY IT OPEN IF IT HAD
23 BEEN KICKED OPEN, THE DOOR JAMB AND ALL WOULD HAVE
24 BEEN SPLINTERED OR SHATTERED INDICATING THAT IT HAD
25 BEEN FORCED OPEN OR IF IT HAD BEEN JIMMIED IN SOMEWAY

1 ALONG THE EDGE OF THE DOOR, IT WOULD HAVE SHOWN
2 SCRAPINGS OR MARKINGS THAT THE DOOR HAD BEEN JIMMIED
3 IN SOME WAY

4 Q NOW YOU'VE SEEN THIS HOUSE?

5 A YES, SIR

6 Q WHAT WAS THE GENERAL CONDITION OF THE HOUSE AS
7 FAR AS ITS UPKEEP?

8 A THE INTERIOR?

9 Q THE INTERIOR AND PARTICULARLY ALONG THE DOOR
10 JAMBS AND THE LOCKS?

11 A THE HOUSE WAS IN, IN MY OPINION, JUST IN TOTAL
12 DISARRAY INTERIOR THE DOOR JAMBS, IT WAS OBVIOUS
13 THAT IT WAS A WORN USED HOUSE, REPAIRS HAD BEEN MADE
14 TO THE DOORS THEY HAD BEEN, YOU KNOW, REPAIRED,
15 NAILED UP, FIXED OR REPAIRED, BUT NOTHING TO INDICATE
16 TO ME THAT THEY HAD BEEN BROKEN INTO RECENTLY

17 Q WHAT WERE THE DIFFERENATED IN YOUR MIND A RECENT
18 BREAK-IN FROM AN OLDER BREAK-IN OR PRY MARK?

19 A EVERYTHING THAT HAD BEEN DONE TO THE DOOR
20 APPEARED TO ME TO HAVE BEEN REPAIRED NOTHING
21 INDICATED ANY FRESH MARKINGS SUCH AS SPLINTERING OF
22 THE WOOD OR PRYING OR JIMMYING OF THE DOOR

23 Q SO YOU CAN ACTUALLY SEE THE AGE OF A BREAK IN
24 THE WOOD OR A CRACK?

25 A I WOULD SAY YES BECAUSE ANYTHING THAT'S FRESH AS

1 WOOD HAS BEEN PRIED OPEN OR LEFT ON FOR AWHILE IT'S
2 BEEN DONE SOME PRYING OR MARKINGS PUT ON IT, THE WOOD
3 BEGINS TO AGE AND TURN A DIFFERENT COLOR ANYTHING
4 THAT'S FRESH WOULD STILL HAVE THAT FRESH APPEARANCE
5 AND LOOK OF JUST BEING PRIED OPEN OR MARKED ON

6 Q AND YOU EXAMINED FOR THIS?

7 A I DID

8 Q OKAY AND DID YOU SEE ANY EVIDENCE OF IT?

9 A NO, SIR

10 Q OKAY NOW TURNING YOUR ATTENTION PARTICULARLY
11 TO THE INTERIOR OF THE HOME DID YOU INSPECT THE
12 INTERIOR OF THE HOME?

13 A I DIDN'T DO A THOROUGH INSPECTION I DID ENTER
14 THE CRIME SCENE FOR JUST A SHORT PERIOD AND LEFT BACK
15 OUT, BUT THE HOUSE WAS IN EXTREME DISARRAY DIRTY,
16 FILTHY, BUCKETS OF, NO OTHER WAY OF PUTTING IT BUT
17 FILTH JUST SITTING AROUND THE HOUSE, IT WAS JUST A
18 TOTAL FILTHY RESIDENCE

19 Q NOW WHAT IS STANDARD CRIME SCENE PROTOCOL, WHO
20 NEEDS TO BE IN THAT HOUSE AT THIS POINT? 7 50 IN THE
21 MORNING, HER BODY IS FOUND TWO HOURS EARLIER, IT'S
22 TAPED AND SECURED, TYPICALLY --

23 MR MORTON YOUR HONOR, I OBJECT TO THE
24 LEADING

25 THE COURT REPHRASE YOUR QUESTION

1 Q WHAT IS POLICE PROTOCOL FOR CONTAINING A SCENE
2 SUCH AS THIS?

3 A THE SCENE SHOULD BE CONTAINED BY AN EXTERIOR
4 OFFICER WHO IS THE CONTROLLING OFFICER OF THE CRIME
5 SCENE HE HAS THE CRIME SCENE LOG HE CONTROLS AND
6 WRITE DOWN AND LOGS WHOEVER GOES IN AND OUT AND THE
7 ONLY PEOPLE THAT SHOULD BE IN THE CRIME SCENE AT THIS
8 POINT SHOULD BE PEOPLE THAT NEED TO BE IN THERE THE
9 CRIME SCENE OR FORENSICS SERVICES UNIT, ANY
10 DETECTIVES THAT IS WORKING ON THE CASE OR SUPERVISORS
11 THAT ARE HAVE A REASON TO GO IN

12 Q OKAY AND WHY DID YOU ONLY STAY FOR A SHORT
13 PERIOD OF TIME?

14 A I HAD NO REASON TO STAY IN I WENT IN AS ONE OF
15 THE SUPERVISORS ON THE SCENE JUST TO OBSERVE THE
16 SCENE AND I HAD NO OTHER REASON TO STAY IN THERE SO I
17 WENT BACK OUTSIDE AND STAYED.

18 Q WAS AMANDA STILL IN THE HOME?

19 A YES, SHE WAS

20 Q WHERE DID YOU GO AFTER THAT?

21 A I STAYED OUTSIDE I JUST HUNG AROUND OUTSIDE
22 UNTIL LATER IN THE MORNING AND THEN I WENT BACK TO
23 THE POLICE STATION

24 Q THROUGHOUT THE DAY AS SUPERVISOR WHAT WERE YOUR
25 RESPONSIBILITIES IN SO FAR AS THE INVESTIGATION?

1 A I DIDN'T HAVE A LOT OF RESPONSIBILITIES AFTER I
2 LEFT THE CRIME SCENE UNTIL LATER IN THE DAY WE HAD A
3 MEETING AT THE LAW CENTER AND WE, DURING THAT MEETING
4 WE MADE ASSIGNMENTS AS TO WHO WAS GOING TO CARRY OUT
5 CERTAIN FUNCTIONS AND WE MET WITH THE PATHOLOGIST AND
6 AFTER THAT LIEUTENANT HERRING AND MYSELF WERE
7 ASSIGNED OR WERE TO INTERVIEW MR COPE AGAIN

8 Q AND WHAT WAS LIEUTENANT HERRING'S POSITION AT
9 THAT TIME?

10 A HE WAS THE LIEUTENANT OVER PERSONS CRIMES HE
11 WOULD HAVE BEEN THE SUPERVISOR IN CHARGE OF THE
12 INVESTIGATION

13 Q ALL RIGHT, SIR NOW AT SOME POINT YOU SAID THAT
14 YOU AND LIEUTENANT HERRING WERE TO INTERVIEW HIM?

15 A THAT'S CORRECT

16 Q OKAY DID YOU IN FACT DO THAT?

17 A WE DID

18 Q AT WHAT TIME WAS THIS?

19 A WE PICKED HIM UP PROBABLY AT HIS MOTHER'S
20 RESIDENCE SOMEWHERE IN THE NEIGHBORHOOD OF 10 50 P M

21 Q WAS THERE A REASON FOR THE LATE TIME?

22 A WELL, THAT'S JUST, THAT'S WHEN WE GOT TO GOING
23 TO PICK HIM UP AFTER MEETING WITH THE PATHOLOGIST
24 AND MEETING WITH THE OTHER INVESTIGATORS AT THE LAW
25 CENTER AND ALL, THAT'S JUST WHEN WE WENT TO PICK HIM

1 UP

2 Q HOW IMPORTANT IS SPEED IN A MURDER

3 INVESTIGATION? - -

4 A SPEED IS IMPORTANT BUT TAKING YOUR TIME AND
5 BEING THOROUGH AND DOING IT RIGHT IS MORE IMPORTANT

6 Q WHERE WAS HE LOCATED WHEN YOU, WHERE DID YOU
7 LOCATE HIM, HOW DID YOU KNOW HE WAS WHERE HE WAS?

8 A THROUGH LIEUTENANT HERRING AND THE PRIOR
9 INTERVIEWS WITH HIM I THINK HE TOLD THEM THAT HE WAS
10 GOING TO BE AT HIS MOTHER'S RESIDENCE ON LUCAS
11 STREET I WASN'T PRESENT I WASN'T SURE BUT
12 THAT'S WHERE WE WERE TOLD HE WOULD BE

13 Q WHERE IS LUCAS STREET?

14 A ON LUCAS STREET IN THE CITY OF ROCK HILL

15 Q IS THAT OVER NEAR THE Y?

16 A CORRECT OFF OF CHARLOTTE AVENUE JUST NORTH OF
17 GLENCAIRN GARDENS BEHIND THE Y, THAT'S CORRECT

18 Q AND WHO WENT TO GET HIM?

19 A LIEUTENANT HERRING AND MYSELF

20 Q ALL RIGHT AND WHAT -- DESCRIBE WHAT HAPPENED
21 WHEN YOU ARRIVED AT THE RESIDENCE?

22 A WE ARRIVED AT THE RESIDENCE LIEUTENANT HERRING
23 AND MYSELF ARRIVED IN THE SAME VEHICLE WE ARRIVED
24 AT THE FRONT OF THE RESIDENCE WE GOT OUT IF I
25 REMEMBER CORRECT MR COPE WAS SITTING ON THE FRONT

1 PORCH WITH SOME OTHER PEOPLE WE WALKED UP ON THE
2 PORCH AND I ASKED HIM IF HE WOULD MIND ACCOMPANYING
3 US TO THE STATION THAT WE'D LIKE TO TALK TO HIM WE
4 ADVISED HIM THAT OR WE ASKED HIM IF HE HAD
5 TRANSPORTATION, IF HE WANTED TO DRIVE HIMSELF OR HE
6 WANTED TO RIDE WITH US, AND I'M PRETTY SURE IT WAS
7 HIS MOTHER SAID SOMETHING LIKE, GO AHEAD AND RIDE
8 WITH THEM, OR RIDE WITH THEM, AND HE WENT INSIDE, GOT
9 SOME CLOTHES OR WHATEVER, AND CAME BACK OUT AND GOT
10 IN OUR CAR

11 Q GOT SOME CLOTHES WAS HE DRESSED?

12 A I THINK HE PUT ON A SHIRT HE HAD ON SOME PANTS
13 BUT I THINK HE HAD PUT ON A SHIRT OR CHANGED SHIRTS
14 OR SOMETHING HE WENT INSIDE THE RESIDENCE AND HE
15 CAME BACK OUT AND WENT WITH US

16 Q WHAT WAS HIS CONDITION AT THIS TIME?

17 A UH

18 Q HIS DEMEANOR, HIS APPEARANCE?

19 A HE WAS DIRTY HE WAS NOT VERY TALKATIVE HE
20 WAS, I MEAN, JUST NO EMOTION JUST--HE WENT WITH US
21 FREELY AND VOLUNTARILY

22 Q WAS HE UNDER ARREST?

23 A NO, SIR

24 Q DO YOU TYPICALLY READ MIRANDA WARNINGS TO A
25 PERSON WHO IS NOT UNDER ARREST?

1 A NO, SIR

2 Q WHERE DID YOU GO FROM THAT HOUSE?

3 A WE LEFT HIS MOTHER'S HOUSE AND WENT TO THE
4 POLICE STATION

5 Q AND WHERE IN THE POLICE STATION DID YOU TAKE
6 MR COPE?

7 A TO THE DETECTIVE DIVISION

8 Q WAS MR COPE FREE TO LEAVE AT THIS TIME? IF HE
9 DIDN'T WANT TO STAY THERE WHAT WOULD YOU HAVE DONE?

10 A THERE IS NOTHING WE COULD HAVE DONE

11 Q OKAY NOW WHERE IN THE POLICE DEPARTMENT DID
12 YOU SAY YOU WENT?

13 A WE WENT TO THE DETECTIVE DIVISION

14 Q OKAY IS THERE A PARTICULAR PLACE IN THE
15 DETECTIVE DIVISION YOU WENT?

16 A THAT IS CORRECT LIEUTENANT HERRING'S OFFICE

17 Q CAN YOU DESCRIBE THAT OFFICE TO THE JURY?

18 A IT'S PROBABLY, I HAVEN'T MEASURED IT I'D SAY
19 IT'S 12 BY 12 OR 10 BY 12 ROOM JUST A SQUARE OFFICE
20 WITH TWO DOORS

21 Q AND WHAT WAS HIS ATTITUDE TOWARDS YOU? WAS HE
22 COOPERATIVE, COMPLIANT, WHAT WAS HIS?

23 A HE WAS COOPERATIVE, WILLING TO TALK, DID SO
24 FREELY AND VOLUNTARILY WE STARTED THE INTERVIEW
25 TALKED TO HIM FOR PROBABLY THREE AND HALF HOURS

1 Q ALL RIGHT IS IT YOUR TYPICAL PROCEDURE TO TAPE
2 AN INTERVIEW?

3 A IT'S NOT UNHEARD OF, BUT IT'S, YOU KNOW, WE DO
4 IT BUT WE DON'T TYPICALLY DO IT, NO

5 Q IN THIS PARTICULAR INSTANCE DID YOU DO IT?

6 A WE DID

7 Q AND WAS THERE A PARTICULAR REASON WHY YOU DID
8 THIS TIME?

9 A NOTHING IN PARTICULAR WE JUST WERE
10 ANTICIPATING THAT IT WAS GOING TO BE A LENGTHY
11 INTERVIEW AND IN MY OPINION AND LIEUTENANT HERRING IT
12 WOULD BE EASIER TO TAPE IT THAN IT WOULD BE TO TRY TO
13 WRITE AND TAKE NOTES AND WRITE DOWN WHAT WAS BEING
14 SAID

15 MR BRACKETT YOUR HONOR, I ASK THIS
16 ENVELOPE BE MARKED AS STATE'S EXHIBIT 39

17 THE COURT ANY OBJECTION?

18 MR MORTON NO, SIR, YOUR HONOR

19 MR GREELEY NONE FROM MR SANDERS

20 (STATE'S EXHIBIT 39 AUDIO TAPES
21 RECEIVED INTO EVIDENCE)

22 Q I SHOW YOU WHAT'S BEEN MARKED STATE'S EXHIBIT 39
23 AND ASK IF YOU CAN IDENTIFY THE CONTENTS OF THAT
24 ENVELOPE?

25 A THAT'S CORRECT

1 Q WHAT ARE THOSE ITEMS?

2 A THAT'S THREE AUDIO TAPES THAT WERE TAPED THE
3 NIGHT OF THIS INTERVIEW

4 Q OKAY ARE THOSE THE ORIGINAL TAPES?

5 A THAT'S CORRECT

6 Q ALL RIGHT, SIR DO THOSE TAPES REFLECT THE
7 ENTIRETY OF THE CONVERSATION THAT YOU HAD WITH
8 MR COPE THAT NIGHT?

9 A WITH THE EXCEPTION OF MAYBE A FEW WORDS THAT
10 WERE SPOKEN WHEN THE TAPE ENDED OR BEING RESTARTED,
11 YES, IT DOES

12 Q IN OTHER WORDS, WAS THERE ANY INTERVIEW OF THE
13 DEFENDANT PRIOR TO THE START OF THE FIRST TAPE?

14 A NO, SIR

15 Q AND AT THE CONCLUSION OF THE FINAL TAPE HOW MUCH
16 DISCUSSION WAS THERE AFTER THAT?

17 A WHEN THAT TAPE ENDED, YOU KNOW, WE TOLD MR COPE
18 THAT THAT WAS THE END OF THE INTERVIEW WE DIDN'T
19 HAVE ANOTHER TAPE AND WE WERE BASICALLY THROUGH WITH
20 THE INTERVIEW

21 Q OKAY

22 MR BRACKETT YOUR HONOR, I WOULD LIKE TO
23 CONTINUE MY DIRECT AT THE CONCLUSION OF THE
24 PUBLICATION OF THE TAPES THERE WILL BE SOME, WE'LL
25 NEED TO MAKE SOME ARRANGEMENTS TO GET THESE

1 PUBLISHED I THINK YOU ARE AWARE WE NEED A WORKING
2 JAM BOX WOULD BE A GOOD THING

3 THE COURT MEMBERS OF THE JURY PANEL, THE
4 NEXT PART OF THIS PRESENTATION WILL BE THE PLAYING OF
5 THOSE TAPES AND IT WILL TAKE US A MINUTE TO GET THAT
6 SET UP, NOT REAL LONG, AND IT IS LENGTHY WE'RE NOT
7 GOING TO LISTEN TO ALL OF IT TONIGHT, I CAN TELL YOU
8 THAT, IT WOULD RUN US TOO LATE, BUT I WOULD LIKE TO
9 GET INTO IT

10 NOW I WILL TELL YOU THAT ON THE TAPE
11 THERE WILL BE SOME BLIPS, SOME DELETIONS, OR SOME
12 REDACTIONS, THAT IS, SOME THINGS THAT ARE SOME
13 MOMENTS OF SILENCE DURING THAT THOSE ARE THINGS
14 THAT HAVE BEEN REMOVED BECAUSE THEY WERE NOT RELEVANT
15 TO YOUR DECISION SO DON'T BE CONCERNED THAT THERE ARE
16 THINGS THAT ARE REDACTED AS LAWYERS CALL IT, BUT
17 BLIPPED OUT IS THE BEST WAY I CAN SAY IT SO IF
18 YOU'LL GO TO THE JURY ROOM, WE'LL SEND FOR YOU AS
19 SOON AS WE GET IT FIXED UP

20 (THE JURY EXITS THE COURTROOM AT
21 4 40)

22 MR BRACKETT DOES MR WALDROP NEED TO
23 SIT ON THE WITNESS STAND DURING THE ENTIRE PLAYING OF
24 THE TAPES OR

25 MR MORTON NO

1 THE COURT NO, HE CAN SIT DOWN

2 THE COURT ANYBODY OBJECT TO HIM BEING
3 BACK AT NINE IN THE MORNING YOU CAN LEAVE I'LL
4 EXPLAIN TO THE JURY, YOU CAN LEAVE, AND COME BACK AT
5 NINE IN THE MORNING IF YOU WISH OF COURSE, YOU CAN
6 STAY

7 MR MORTON YOUR HONOR, WE WERE JUST --
8 HE UNDERSTANDS HE'S STILL UNDER OATH AND HE CAN'T
9 DISCUSS THE CASE WITH ANYBODY

10 THE COURT RIGHT YOU ARE STILL UNDER
11 OATH, DETECTIVE WALDROP, AND YOU CAN'T DISCUSS THE
12 CASE WITH ANYBODY UNTIL AFTER YOU FINISH YOUR
13 TESTIMONY

14 MR WALDROP I UNDERSTAND, YOUR HONOR
15 THE COURT THANK YOU

16 (COURT'S IN RECESS)

17 (COURT RESUMES)

18 THE COURT WE THOUGHT WHILE WE HAD A FEW
19 MINUTES WE COULD LOOK INTO THE PSYCHOLOGICAL
20 EVALUATION OF THE OTHER TWO COPE CHILDREN

21 I EXPRESSED MY CONCERN OR MAYBE CONCERN
22 ISN'T THE RIGHT WORD, BUT MY INTEREST IN THE TWO
23 ASPECTS OF THE EVALUATION ISSUE MR SMITH, YOU
24 HANDLING THAT FOR YOUR TEAM?

25 MR SMITH YES, YOUR HONOR I BELIEVE

1 THE TWO ISSUES THAT THE COURT INFORMED ALL THE
2 PARTIES OF YESTERDAY WAS ONE WHETHER A, I GUESS, A
3 NON-VICTIM COULD BE COMPELLED TO SUBMIT PSYCHOLOGICAL
4 EXAMINATIONS IN REGARD, TO THAT, YOUR HONOR, WHILE
5 THE ALLEGED OR THE VICTIMS OR JESSICA AND KYLA ARE
6 NOT THE ALLEGED VICTIMS IN THE CHARGES THAT ARE
7 BEFORE THE COURT RIGHT NOW, THEY ARE THE ALLEGED
8 VICTIMS OF OTHER CRIMES THAT MR COPE HAS BEEN
9 CHARGED WITH COMMITTING SO YOU HAVE THE SAME
10 ALLEGED PERPETRATOR FOR THESE LITTLE GIRLS WHICH
11 CREATES A MOTIVE FOR THEM TO TESTIFY DIFFERENTLY IN
12 THIS CASE THEY CAN BENEFIT BY CHANGING THEIR
13 TESTIMONY IN THIS CASE TO HELP THEIR, TO ASSIST THEM
14 IN FUTURE PROSECUTION ON THE CHARGES THAT ARE PENDING
15 AGAINST MR COPE JUDGE, THESE WITNESSES ARE GOING
16 TO, IF THEY TESTIFY, ARE GOING TO PROVIDE INCULPATORY
17 TESTIMONY WHICH AGAIN COULD POTENTIALLY BENEFIT THEM
18 IN THESE ADDITIONAL CHARGES

19 IN THE CASE THAT WE HANDED UP TO THE
20 COURT IN THE INTEREST OF MICHAEL H THE COURT FOCUSING
21 MORE SO ON THE RELIABILITY AND THE TRUSTWORTHINESS OF
22 THE TESTIMONY THAN THE NATURE OF THE PARTY THAT
23 THERE WAS A STATEMENT IN THE CASE THAT THE COURT
24 WANTS TO MAKE SURE THAT THE TRUTH OF THE MATTER IS
25 BROUGHT TO LIGHT AND THAT JUSTICE IS SERVED TO ALL

1 PARTIES IT'S AN ESSENTIAL REQUIREMENT THAT A
2 DEFENDANT BE AFFORDED A FAIR TRIAL WE DON'T BELIEVE
3 MR COPE CAN BE AFFORDED A FAIR TRIAL IF THESE
4 WITNESSES SLASH VICTIMS ARE ABLE TO GET ON THE STAND
5 AND CHANGE THEIR STORY

6 AND THAT GOES TO THE SECOND PRONG OF
7 THE COURT OR THE SECOND CONCERN THE COURT HAD
8 YESTERDAY AND THAT'S WHETHER THERE IS COMPELLING NEED
9 FOR THE PSYCHOLOGICAL EXAMINATION THE CASE SET
10 FORTH SIX DIFFERENT CRITERIA THAT MIGHT INDICATE
11 WHETHER THERE IS A COMPELLING NEED ONE IS THE
12 NATURE OF THE EXAM AND, JUDGE, ALL WE'RE ASKING FOR
13 IS JUST A PSYCHOLOGICAL EXAMINATION BY OUR EXPERT
14 THE GIRLS WERE, THESE GIRLS WERE GIVEN AN EXAMINATION
15 IN FEBRUARY OF 2004 AT THE REQUEST OF DSS WHO HAD
16 CUSTODY OF THE GIRLS AT THAT TIME

17 THE SECOND OR SECOND CONCERN ARE THE
18 AGES OF THE VICTIMS AND IN THIS CASE THEY ARE 9 AND
19 14 ONE IS A MIDDLE AGE TEENAGER, SHE IS RIGHT THERE
20 IN THE MIDDLE OF 14

21 THE THIRD CONCERN ARE THE AFFECTS OF
22 THE EXAMINATION JUDGE, THAT'S MINIMAL WE'RE NOT
23 TALKING ABOUT ANY PHYSICAL TESTING, ANYTHING THAT'S
24 GOING TO CAUSE ANY PAIN WE'RE JUST TALKING ABOUT
25 JUST QUESTIONING BY A PSYCHOLOGIST WHO IS,

1 SPECIALIZES OR IS KNOWLEDGEABLE IN THE AREA OF
2 REPRESSED MEMORIES

3 - --- NUMBER FOUR IS THE PROBATIVE VALUE OF
4 SUCH EXAMINATION WHAT WE'RE TALKING ABOUT HERE,
5 JUDGE, IS THE CREDIBILITY OF THESE WITNESSES WE
6 DON'T HAVE, WE CAN'T FULLY IMPEACH THEM WITHOUT AN
7 EXAMINATION IF THESE ARE IN FACT REPRESSED MEMORIES
8 THEN THAT'S A SPECIALIZED SCIENTIFIC FIELD THAT WE
9 CAN'T IMPEACH THEM WITHOUT HAVING THE PSYCHOLOGIST
10 DETERMINE WHY THEY ARE NOW CHANGING THEIR TESTIMONY
11 OR CHANGING THEIR STATEMENTS

12 NUMBER FIVE IS THE REMOTENESS OF THE
13 EXAM IT WAS OUR UNDERSTANDING THAT THE GIRLS
14 STATEMENTS CHANGED JUST I THINK APPROXIMATELY TWO
15 WEEKS PRIOR TO THE START OF THIS TRIAL THAT'S
16 PRETTY REMOTE, YOUR HONOR OR NOT VERY REMOTE
17 RATHER, AND I THINK IS A MORE COMPELLING REASON TO
18 GRANT THE EXAMINATION SO THAT WE CAN DETERMINE
19 EXACTLY WHY THEY ARE CHANGING THEIR STATEMENTS AT
20 THIS POINT

21 THE COURT THAT SAYS REMOTENESS IN TIME
22 TO THE ALLEGED CRIMINAL ACT

23 MR SMITH YES, SIR I UNDERSTAND THAT,
24 BUT I WOULD SUGGEST THAT IT'S MORE APPROPRIATE IN
25 THIS CASE TO CONSIDER THE TIME THAT THEY CHANGED

1 THEIR TESTIMONY THEY JUST CHANGED THEIR TESTIMONY
2 AFTER TWO AND A HALF YEARS OF SAYING THE SAME THING
3 SO THEY WAIT TWO WEEKS BEFORE TRIAL STARTS AS THEY
4 SIT IN ONE OF THE COURTROOMS HERE AT THE MOSS JUSTICE
5 CENTER IN THE PRESENCE OF THE ASSISTANT SOLICITORS
6 AND CHANGE THEIR STATEMENTS

7 THE COURT LET ME ASK YOU THIS ARE
8 THESE STATEMENTS THEY CHANGED MEMORIALIZED IN ANY
9 WAY?

10 MR SMITH NO, SIR, YOUR HONOR THE ONLY
11 KNOWLEDGE THAT WE HAVE OF THAT COMES FROM THE
12 SOLICITORS THEMSELVES THAT THE GIRLS HAVE CHANGED
13 THEIR STATEMENTS, THEY HAVE, THAT NEW STATEMENTS HAVE
14 BEEN GIVEN BY THE GIRLS WE'RE NOT CERTAIN WHAT THEY
15 ARE, AND I THINK WE WILL BE JUST SEVERELY PREJUDICED
16 IF THEY WERE ALLOWED TO GET ON THE WITNESS STAND
17 BEFORE GIVING US THAT INFORMATION WITHOUT, AT THAT
18 POINT IT WOULD BE TOO LATE FOR US TO HAVE A
19 PSYCHOLOGICAL EXAMINATION TO EXPLAIN WHY THOSE
20 STATEMENTS HAVE CHANGED

21 JUDGE, THE SIXTH CONCERN IS WHETHER
22 THE EVIDENCE IS ALREADY AVAILABLE OR HAS BEEN MADE
23 AVAILABLE TO THE DEFENSE WE NEVER HAD ACCESS TO THE
24 GIRLS, WE NEVER HAD THE OPPORTUNITY TO SPEAK TO THE
25 GIRLS, THAT WAS DENIED THROUGHOUT THE FAMILY COURT

1 CASE DSS REFUSED TO ALLOW US TO HAVE ANY ACCESS TO
2 THE GIRLS WE HAD ATTEMPTED TO QUESTION THEM THROUGH
3 DEPOSITIONS, THAT WAS NOT ALLOWED WE NEVER HAD ANY
4 ACCESS TO THE GIRLS

5 JUDGE, WHAT IS EVEN MORE COMPELLING IS
6 THAT WHEN THE GIRLS WERE EXAMINED IN FEBRUARY OF 2004
7 BY DR GOLDSMITH DOWN IN LANCASTER IS THAT HE
8 DIAGNOSED BOTH OF THOSE GIRLS WITH HAVING POST
9 TRAUMATIC STRESS SYNDROME THEN IN JUNE OF 2004 WHEN
10 IN THE FAMILY COURT ACTION KYMRA STEWART WHO IS
11 COUNSELOR TO THESE GIRLS, SHE'S BEEN THEIR THERAPIST
12 THROUGHOUT OUT OR SINCE LATE 2001, SHE TESTIFIED THAT
13 BOTH GIRLS DO HAVE POST TRAUMATIC STRESS SYNDROME AND
14 SHE STATED, SHE TESTIFIED, THAT BOTH GIRLS WERE
15 TRAUMATIZED AND WERE AFFECTED AND/OR THEIR MEMORIES
16 WERE AFFECTED BECAUSE OF THAT TRAUMA SHE SAID THAT
17 THEY CAN FUNCTION EVEN THOUGH THEY'VE BEEN
18 TRAUMATIZED BUT THEIR MEMORY IS SHUT DOWN JUDGE, I
19 WOULD SUGGEST TO THE COURT THAT THESE WITNESSES MAY
20 NOT EVEN BE COMPETENT TO TESTIFY WE HAVE TWO
21 DIAGNOSES OF POST TRAUMATIC STRESS SYNDROME AND
22 TESTIMONY THAT THEIR MEMORIES HAVE BEEN AFFECTED
23 THE COURT SO WHAT YOU ARE TELLING ME IS
24 YOU DO HAVE EVIDENCE ALREADY AVAILABLE FOR USE
25 MR SMITH NO, SIR

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1 THE COURT OH, YOU CAN'T USE IT

2 MR SMITH NO, SIR THE PSYCHOLOGICAL
3 EVALUATION WAS MY UNDERSTANDING IS A STANDARD FAMILY
4 COURT PSYCHOLOGICAL EVALUATION WHAT WE WOULD ASK
5 FOR --

6 THE COURT I KNOW THAT, BUT I'M JUST
7 SAYING THAT ONE OF THE FACTORS I'VE GOT TO LOOK AT IS
8 IS THERE EVIDENCE ALREADY AVAILABLE FOR YOUR USE AND
9 YOU JUST CITED ME TWO PIECES OF EVIDENCE FOR YOUR
10 USE

11 MR SMITH YES, SIR, BUT THEY DON'T
12 REGARD REPRESSED MEMORIES WHAT THESE WITNESSES
13 TESTIFIED TO WAS THAT THESE GIRLS DIDN'T HAVE THEIR
14 MEMORIES AT THAT POINT, THAT THE MEMORIES WERE STILL
15 REPRESSED, AND WHAT THE SOLICITOR'S OFFICE HAS
16 SUGGESTED IS THAT THEIR MEMORIES HAVE RECENTLY SPRUNG
17 FORWARD THAT THEY ARE NOW REMEMBERING THINGS THAT
18 THEY COULDN'T BEFORE

19 THE COURT ALL RIGHT THE STATE

20 MR POPE PLEASE THE COURT YOUR HONOR,
21 KIND OF WORKING BACKWARDS NEVER HAS THERE BEEN,
22 SPRINGING FORWARD WHEN THEIR FINALLY OUT FROM UNDER
23 THE THREAT OF THIS MAN HAVING THEM BACK IN HIS HOME
24 IS DIFFERENT THAN REPRESSED MEMORY THEY ARE TRYING
25 TO CARVE IN SOME PSYCHOLOGICAL NICHE OF REPRESSED

1 MEMORIES BUT LOOKING AT THE CASE WE HAVE BECAUSE
2 WE'VE GONE REALLY FAR AFIELD IN RE IN THE INTEREST
3 OF MICHAEL H THE NICHE THAT THE COURT, AND
4 OBVIOUSLY THEY --

5 THE COURT A VERY NARROW NICHE

6 MR POPE A VERY NARROW NICHE I NOTICED
7 THE TERMS IN THERE, ON THE RARE TIME, THE RARE
8 OCCASIONS WHEN IT IS USED THEY INDICATED, YOU KNOW,
9 THAT IT IS UNLIKELY THE RARE OCCASIONS WHEN IT IS
10 USED THAT THE COURT WOULD ORDER THEM, AND AGAIN HERE
11 AS THE COURTS RECOGNIZE, ON A COMPLAINING VICTIM,
12 OKAY NOW EVEN THOUGH WE ARE APPLYING THESE FACTORS
13 WE ARE NOW, YOU'VE REMOVED THEM FROM BEING
14 COMPLAINING VICTIMS BASED ON YOUR RULING WITH THE
15 SEVERANCE

16 THE COURT AT THEIR REQUEST

17 MR POPE AT THE DEFENSE REQUEST, YES,
18 SIR YOUR HONOR, IRONICALLY I WAS LOOKING AT THE
19 DIFFERENT FACTORS AND GOING THROUGH THE YOUNG AGE
20 ISSUE, ACTUALLY THEY RECOGNIZE THE FACT IF THEY HAD
21 BEEN YOUNGER MADE IT MORE LIKELY THAT THEY NEEDED TO
22 BE EVALUATED AS I READ MICHAEL H BECAUSE WHEN THEY
23 MADE THEIR DECISION THEY LOOKED AT THE FACTORS AND
24 WHEN THEY MADE THEIR MODIFICATION ONE OF THE MAIN
25 FACTORS THEY WERE LOOKING AT, IF YOU REMEMBER THAT

1 CASE IT WAS ABOUT HEARING VOICES AND THAT THE VOICE
2 WAS ACTUALLY TELLING HIM TO BASICALLY SAY BAD THINGS
3 ABOUT OTHER PEOPLE, AND SO THAT'S WHY IT BROUGHT IT
4 TO THIS PARTICULAR CIRCUMSTANCE, YOUR HONOR

5 THE COURT WASN'T THERE ALSO SOME CONCERN
6 ABOUT HIS IQ OR HIS

7 MR POPE I THINK THAT IT WAS, I HAD THAT
8 PAGE HIGHLIGHTED BUT WHEN THEY FINALLY --

9 THE COURT NOT HIS IQ, BUT HIS MENTAL
10 ACUITY

11 MR POPE YES, SIR AGAIN I THINK THEY
12 RECOGNIZE THAT HE WAS FOUR WHEN THE CRIMES HAD TAKEN
13 PLACE AND SIX WHEN THIS WAS IN FACT TAKING PLACE

14 THE COURT ALL RIGHT I DIDN'T MEAN TO
15 GET OFF TRACK

16 MR POPE YOUR HONOR, ALSO WHEN WE'RE
17 TALKING ABOUT RARITY IT ALSO TALKS ABOUT COMPELLING
18 NEED YOUR HONOR, THEY SAID THAT HE WAS VERY YOUNG
19 AGE, HEARING VOICES, UNDERGOING COUNSELING, AND THE
20 WHOLE ISSUE IS TRYING TO DECIDE IF THOSE VOICES
21 SOMEHOW PUT HIM IN THE POSITION OF TELLING THIS
22 THING AS FAR AS HAVING MATERIALS THAT ARE
23 ACCESSIBLE AS THE COURT NOTED AND THE DEFENSE NOTED,
24 NOBODY DISPUTES AND ACTUALLY THE ISSUE OF NEW
25 INFORMATION THAT WE DISCLOSED WERE ACTUALLY ABOUT

1 WHETHER THIS MAN HAD MOLESTED THESE TWO GIRLS AND
2 AGAIN YOU HAVE SEVERED THAT, BUT NOBODY DISPUTES THAT
3 THEY HAD ACCESS AND CONTINUAL INFORMATION AND AMPLE
4 AMMUNITION IF YOU WISH TO USE THAT TERM IN WHICH TO
5 IMPEACH THESE YOUNG LADIES SHOULD THEY TESTIFY ON ANY
6 ISSUES THAT, THEY'VE BEEN IMPEACHING EVERY OTHER
7 WITNESS ON THINGS THAT THEY MAY HAVE SAID PREVIOUSLY
8 THAT WERE DIFFERENT SO, YOUR HONOR, I SUBMIT ONE
9 THE DELANEY FACTORS DON'T APPLY

10 IF YOU DO GO THROUGH THE DELANEY
11 FACTORS, THERE IS EVIDENCE AVAILABLE. THE REMOTENESS
12 IN TIME THROUGH THE EXAMINATION, IT DOESN'T SOMEHOW
13 RESTART THE CYCLE IF THEY ARE TESTIFYING ABOUT THE
14 CRIMES BECAUSE AGAIN WE'RE REMOVING THE SEXUAL
15 ASPECT, THEY ARE NOT A VICTIM IN THIS PARTICULAR CASE
16 FROM THE SEXUAL ASPECT, REMOVING THAT, IT IS
17 EXTREMELY REMOTE THE PROBATIVE VALUE OF AN
18 EXAMINATION, BASED ON THE ARGUMENT THEY ARE MAKING,
19 YOU REALLY OUGHT TO LET THEM EXAMINE EVERY SINGLE
20 WITNESS BECAUSE YOU'D SAY WELL WE CAN ALWAYS FIND WHY
21 IT IS THEY ARE SAYING WHAT THEY ARE SAYING WELL,
22 THAT'S THAT CROSS EXAMINATION IS FOR YOU DON'T
23 AUTOMATICALLY GET TO DO THAT IF THERE IS ANY
24 QUESTION ABOUT THESE YOUNG LADIES' COMPETENCIES I
25 THINK IT IS THE COURT, INCUMBENT UPON THE COURT AS

1 YOU DO WITH EVERY SINGLE WITNESS TO MAKE THAT
2 DETERMINATION SO I SUBMIT, YOUR HONOR, THIS IS
3 NARROWLY TAILORED AND EVEN IF IT WASN'T JUST TAILORED
4 TO VICTIMS IN SEXUAL ASSAULTS AS IT CLEARLY IS AND I
5 THINK IT EVEN SAID JUVENILE VICTIMS IN SEXUAL
6 ASSAULTS BEEN TAILORED EVEN IF IT WASN'T TAILORED,
7 EVEN IF YOU APPLIED THE DELANEY FACTORS I SUBMIT IT
8 WOULD NOT APPLY THAT WOULD FORCE THESE GIRLS TO FACE
9 BASICALLY A DEPOSITION OR TRAUMATIC EXPERIENCE IN
10 THIS EVALUATION, YOUR HONOR

11 THE COURT ALL RIGHT BRIEF RESPONSE
12 MR SMITH JUDGE, THE DISTINCTION BETWEEN
13 THESE WITNESSES AND IMPEACHING ANY OTHER WITNESSES
14 THAT THERE IS LIKELY A PSYCHOLOGICAL REASON FOR THEIR
15 TESTIMONY OR CHANGE IN TESTIMONY AND WE NEED TO BE
16 ABLE TO BRING THAT OUT WE CAN'T DO THAT WITHOUT
17 HAVING A PSYCHOLOGIST EXAMINE THEM AND EXPLAIN WHY
18 THEIR TESTIMONY HAS CHANGED

19 JUDGE, IF THE COURT DOESN'T GRANT THE
20 MOTION FOR THE EVALUATION OR EXAMINATION, WE WOULD
21 ASK JUST THAT WE BE GIVEN SOME KIND OF NOTICE OF WHEN
22 THESE GIRLS ARE GOING TO TESTIFY SO THAT WE CAN HAVE
23 OUR EXPERT HERE IN COURT AVAILABLE TO LISTEN TO THEIR
24 TESTIMONY AND POSSIBLY USE THAT TESTIMONY, USE THAT
25 EXPERT TO EXPLAIN WHY ANYTHING HAS CHANGED IF IT

1 HAS

2 THE COURT WELL, I WAS CORRECT FIRST IT
3 SAYS IN THE CASE DUE TO PREMATURE BIRTH AND
4 COMPLICATIONS RESPONDANT, WHO IS IN THAT CASE THE
5 VICTIM, I'M SORRY THE RESPONDENT IS MICHAEL H I'M
6 SORRY I MISREAD THAT BUT FIRST, I DON'T BELIEVE
7 OUR COURT, PARTICULARLY IN LIGHT OF THE STRONG
8 DISSENT, I KNOW DISSENT DOESN'T MAKE A LAW, BUT
9 DISSENT I THINK SHOWS WHY THIS IS NOT DONE WITH
10 REGULARITY AND IS DONE ONLY UPON COMPELLING REASONS
11 AS FAR AS LOOKING AT THE DELANEY FACTORS, THE
12 EXAMINATION REQUESTED IS AN INTRUSIVENESS IS FAIRLY
13 LIMITED IN THIS CASE I'LL AGREE WITH THAT THE
14 VICTIMS AGES ARE NOWHERE NEAR AS YOUNG AS, THE
15 YOUNGER ONE WHICH I BELIEVE IS KYLA IS CLOSE TO THE
16 AGE OF THE VICTIM IN THE MICHAEL H CASE

17 MR POPE SHE WAS SEVEN AT THE TIME, YOUR
18 HONOR, AND NINE CURRENTLY AND THE OTHERS ARE 11 AND
19 13 CURRENTLY

20 THE COURT ALL RIGHT SO I HAVE TAKEN
21 INTO CONSIDERATION THE VICTIM'S AGE AND I FIND THAT
22 SORT OF BORDERLINE WHEN YOU APPLY THE FACTORS AT
23 LEAST AS TO THE YOUNGER ONE

24 RESULTING PHYSICAL OR EMOTIONAL
25 EFFECTS OF THE EXAMINATION, I DON'T KNOW HOW A COURT

1 CAN EVEN WEIGH THAT FACTOR HOW DO I KNOW WHAT, IF
2 YOU GOT SOME TRAUMATIZED KIDS AND YOU WANT TO RUN
3 THEM THROUGH, YOU ALREADY HAD TWO PSYCHOLOGICAL
4 EVALUATIONS AND YOU WANT TO RUN THEM THROUGH A THIRD
5 WHETHER THAT WILL HAVE AN EMOTIONAL EFFECT ON,
6 RESULTING PHYSICAL OR EMOTIONAL EFFECT ON THEM IT
7 HADN'T BEEN SHOWN THAT IT WOULDN'T AND I CAN'T FIND
8 THAT IT WON'T

9 THE PROBATIVE VALUE OF THE
10 EXAMINATION, I HAVE NO IDEA WHAT PROBATIVE VALUE IT
11 WOULD BE IN THIS CASE IT'S TANTAMOUNT TO A FISHING
12 EXPEDITION WE JUST WANT TO FIND OUT, THE DEFENSE
13 JUST WANTS TO FIND OUT IF, SOME AMMUNITION FOR CROSS
14 EXAMINATION AND I DON'T MEAN THAT IN A DEROGATORY
15 MANNER, BUT THAT'S WHERE I FEEL LIKE WE ARE

16 THE TIME BETWEEN THE CRIME AND THE
17 TESTIMONY, I DON'T KNOW HOW TO FACTOR THAT IN WHERE
18 YOU GOT ALLEGEDLY REPRESSED MEMORY, SO I'M NOT GOING
19 TO CONSIDER THAT ONE WAY OR THE OTHER AND I BELIEVE
20 THERE IS EVIDENCE ALREADY AVAILABLE FOR THE
21 DEFENDANT'S USE THERE IS A PSYCHOLOGICAL
22 EVALUATION THERE IS, NOW THIS ISN'T EVIDENCE, BUT
23 ALSO EVIDENTIARY TOOLS AVAILABLE TO CROSS EXAMINATION
24 OF THE WITNESS, AND SO, WITHOUT -- I'M AVOIDING
25 DECIDING WHETHER IT WOULD EVEN APPLY BECAUSE I DON'T

1 THINK IT APPLIES IN THESE NON-VICTIM, IN THIS CASE
2 NON-VICTIM CHILD WITNESSES BUT IF IT DID APPLY I
3 WOULD STILL FIND APPLYING THE DELANEY FACTORS AND
4 I'VE GONE THROUGH THEM, THAT THE RIGHT OF THE
5 VICTIM'S PRIVACY, OR NOT THE VICTIM BUT HERE THE
6 WITNESSES, THE PRIVACY OUTWEIGHS ANY, DOES NOT GIVE
7 RISE TO ANY COMPELLING OR OTHER REASONS TO JUSTIFY
8 SUCH AN EXAMINATION, SO I DENY THE MOTION

9 MR POPE YOUR HONOR, I DO WANT TO PUT ON
10 THE RECORD, I THINK I FAILED WHEN I WAS SPEAKING, IT
11 IS MY UNDERSTANDING IS IN THE FAMILY COURT MR MORTON
12 DID IN FACT CROSS EXAMINE EXTENSIVELY BOTH OF THE
13 WITNESSES IN QUESTION, AND I JUST WANTED TO PUT THAT
14 AGAIN AS FAR AS AVAILABILITY

15 THE COURT I ASKED ABOUT THAT BUT WAS
16 TOLD THEY DIDN'T HAVE THAT

17 MR POPE THAT'S MY UNDERSTANDING

18 THE COURT THAT'S WHY I WAS ASKING FOR,
19 SO I DON'T KNOW I'M IN THE DARK HAS ANYBODY
20 EXAMINED THESE CHILDREN IN ANY COURT PROCEEDINGS?

21 MR MORTON YES, I HAVE

22 THE COURT OKAY

23 MR MORTON NOT SINCE THEY CHANGED THEIR
24 STORY

25 THE COURT WELL, I KNOW IT AND YOU CAN

1 CERTAINLY SAY, WELL, THAT'S HELPS ME, THAT BOLSTERS
2 MY OPINION BECAUSE I WAS FISHING FOR THAT AND
3 MR SMITH I KNOW DIDN'T MEAN TO NOT TELL ME THAT, BUT
4 I THINK THAT'S VERY IMPORTANT BECAUSE THAT'S ANOTHER
5 PIECE OF EVIDENCE YOU HAVE THE GOOD OLD ART OF
6 IMPEACHMENT THAT I'VE SEEN COUNSEL USE EFFECTIVELY ON
7 DR MAYNARD AND SEEN ALL OF YOU USE IN MANY, MANY
8 CASES SO THAT EVEN BOLSTERS BY MY RULING

9 ALL RIGHT I HAVE NO CONTROL OVER
10 WHETHER YOU HAVE A PSYCHOLOGIST IN THE ROOM I KNOW
11 WE HAVE, I THINK IT'S SEQUESTRATION ORDER I CAN'T
12 EVEN REMEMBER SO FAR BACK I DON'T REMEMBER MAKING A
13 SEQUESTRATION ORDER, QUITE FRANKLY I DON'T REMEMBER
14 ANYBODY REQUESTING IT, BUT I NOTICED ALL THE
15 WITNESSES SEEM TO HAVE BEEN SEQUESTERED, SO IT'S
16 EITHER BEEN DONE BY CONSENT OR BY COURT ORDER, BUT I
17 DON'T REMEMBER ORDERING IT

18 MR BAITY YOU ORDERED IT
19 THE COURT I DID, OKAY SO YOU HAVE --
20 MR MORTON WE WOULD ASK YOU TO ORDER IT
21 IF YOU HAVEN'T

22 MR BRACKETT IT WAS ORDERED FOR PRETRIAL
23 HEARINGS TWO WEEKS AGO AND WE JUST SAID OUT OF
24 ABUNDANCE OF PRECAUTION JUST KEEP EVERYBODY OUT
25 THE COURT WELL, WHERE I'M HEADED WITH

1 ALL OF THAT IS I DON'T KNOW HOW IF THIS LADY IS GOING
2 TO BE A WITNESS IF YOU BRING HER IN UNLESS YOU CAN
3 GET SOME PERMISSION OF THE COURT TO EXCISE HER FROM
4 THE SEQUESTRATION ORDER, BUT IF SHE COMES IN AND
5 LISTENS TO THE TESTIMONY AND THEN SHE WANTS TO
6 TESTIFY WELL SHE CAN'T UNLESS

7 MR SMITH JUDGE, THAT'S WHAT WE'RE
8 ASKING FOR IS PERMISSION TO ALLOW HER TO SIT IN
9 DURING THE --

10 THE COURT LET ME HEAR FROM THE STATE ON
11 THAT ANY OBJECTION?

12 MR POPE BEG THE COURT'S INDULGENCE
13 YOUR HONOR, I THINK TRADITIONALLY EXPERTS ON THAT
14 GIVEN SUBJECT BECAUSE IT'S NOT A QUESTION OF HER
15 COMING IN AND HEARING

16 THE COURT IT'S NOT A FACTUAL QUESTION

17 MR POPE I KNOW FOR EXAMPLE THE DNA
18 EXPERTS SAT IN WHEN OUR DNA EXPERT OR LIKEWISE WE HAD
19 THEM REMAIN AND THAT WOULD BE OUR INTENTION ALSO AND
20 TO RECIPROCATE IF THEY HAVE A DNA EXPERT, THEN I MAY
21 WANT SLED DNA EXPERT PRESENT, FOR EXAMPLE

22 THE COURT IT DOESN'T PREVENT YOU FROM
23 HAVING YOUR PSYCHOLOGICAL EXPERT SIT IN FOR THIS
24 TESTIMONY TOO

25 MR POPE HE MIGHT TESTIFY ABOUT ME

1 THE COURT I'M GOING TO ALLOW YOUR EXPERT
2 TO SIT IN

3 MR SMITH THANK YOU, YOUR HONOR WE
4 JUST ASK FOR A LITTLE NOTICE SO WE CAN MAKE
5 ARRANGEMENTS

6 MR BRACKETT PLEASE THE COURT, MONDAY
7 MORNING

8 MR MORTON YOUR HONOR

9 THE COURT YES, SIR

10 MR MORTON I SORRY I DIDN'T MEAN TO
11 IF WE WERE GOING ON TO THE TAPE AND I APOLOGIZE FOR
12 THIS, BUT IT MAYBE THAT WE CAN, I DON'T THINK IT
13 WOULD DELAY US ANY AS FAR AS TODAY BECAUSE ON PAGES
14 41 AND 62 THERE ARE REFERENCES BY MR WALDROP TO THE
15 PATHOLOGIST 62 OR 66 66 THE PATHOLOGIST,
16 LIEUTENANT WALDROP, AS HE'S ADDRESSING THE DEFENDANT,
17 SAYS ON THOSE TWO OCCASIONS THAT MR COPE IS, SAYS A
18 FORENSIC PATHOLOGIST IS GOING TO COME IN AND TESTIFY
19 THAT THIS HAS BEEN AN ONGOING THING FOR SEVERAL
20 YEARS I WOULD OBJECT I WOULD MOVE TO HAVE THAT
21 REDACTED NUMBER ONE, IT WOULD BE HEARSAY TESTIMONY
22 BY HIM, AND NUMBER TWO IT INDICATES, AS WE'VE
23 OBJECTED TO PREVIOUSLY, SOME KIND OF PRIOR BAD ACT
24 THE EVIDENCE OF WHICH IS CERTAINLY NOT CLEAR AND
25 CONVINCING CERTAINLY NOT CLEAR AND CONVINCING THAT

1 THIS MAN HAS DONE ANYTHING

2 THE COURT I'LL ALLOW THAT TO BE REDACTED
3 ALSO BUT I THINK WE CAN GO AHEAD TODAY IF THE TAPE
4 IS READY, WHY DON'T WE GO AHEAD WE'RE GOING NOT TO
5 REACH PAGE 66 TODAY

6 MR MORTON IT'S PAGE 41

7 THE COURT TELL ME WHAT YOU ARE LOOKING
8 AT ON 41 I LOOKED AT THAT AND I CAN'T FIND
9 ANYTHING

10 MR MORTON PAGE 42 I'M SORRY, YOUR
11 HONOR

12 MR WOOD ABOUT TWO-THIRDS OF THE WAY
13 DOWN, THERE IS A-W TO THE LEFT OF IT AND ON PAGE 66

14 THE COURT 42 AND 66

15 MR WOOD THANK YOU, SIR

16 THE COURT ALL RIGHT

17 MR BRACKETT LET ME MAKE SURE WE
18 UNDERSTAND EXACTLY WHAT'S GOING ON WITH THIS AND I
19 KNOW, WE'VE BEEN TRYING TO GET THIS TOGETHER THIS
20 IS LIKE ONE OF THE SEVEN LABORS OF HERCULES GETTING
21 THE SPECIFIC SECTIONS OF THESE TAPES REDACTED AND
22 COUNTING THE SECONDS THAT THEY RUN FOR AND GOING BACK
23 DELETING THEY ARE WORKING AS HARD AS THEY CAN
24 THEY HAVE ONE SIDE WE CAN DO THE FIRST SIDE

25 THE COURT THAT'S ALL YOU CAN PROBABLY

1 GET IN TODAY I KNOW OUR SOLICITOR'S OFFICE ON MANY
2 TIMES TO OVERCOME HERCULEAN TASKS

3 MR BRACKETT I APPRECIATE YOU TAKING
4 NOTICE OF THAT FACT FOR THE RECORD

5 MR POPE HERCULES IS DEAD NOW, DID YOU
6 KNOW THAT?

7 MR BRACKETT IS HE THE ONE THAT CLEANED
8 OUT THE STAPLES, IS THAT THE ONE? THESE ARE NOT THE
9 COMPLETE TRANSCRIPT WE HAVE THE REDACTED
10 TRANSCRIPTS AS WELL BUT WE'VE ONLY GONE UP THROUGH
11 THE END OF THE FIRST TAPE BECAUSE IT'S OVER 14 --

12 THE COURT IT'S 5 15 IF WE CAN DO ONE
13 TAPE WHICH IS ABOUT A HALF AN HOUR

14 MR BRACKETT YES, SIR, ONE SIDE OF ONE
15 TAPE NOW I JUST TO WANT MAKE SURE THAT WE CAN LOOK
16 AT IT WE HAVE 14 COPIES WE'LL HAND OUT TO THE JURY
17 THEY CAN READ ALONG WITH IT

18 THE COURT ANY OBJECTIONS TO THE JURY
19 HAVING A HAND OUT?

20 MR BAITY NO, SIR

21 THE COURT OKAY BRING IN THE JURY

22 (THE JURY RETURNS TO THE COURTROOM AT
23 5 15)

24 MR BRACKETT PLEASE THE COURT

25 THE COURT WE'RE GOING TO LISTEN THE

1 FIRST SIDE OF ONE TAPE I THINK THAT WILL TAKE US TO
2 TIME TO STOP WE HAVE A TRANSCRIPT OF THIS FOR YOU
3 TO FOLLOW ALONG BECAUSE IT IS NOT ALWAYS EASY TO HEAR
4 IT AS IT IS TO READ, SO YOU CAN HEAR IT BUT YOU'LL
5 ALSO HAVE A TRANSCRIPT TO FOLLOW

6 MR BRACKETT YOUR HONOR, AT THE
7 APPROPRIATE TIME WE WILL MARK A COMPLETE TRANSCRIPT
8 AS AN EXHIBIT SO THAT WHAT WE HAVE 14 COPIES OF A
9 TRANSCRIPT OF THE FIRST TAPE SIDE A AND B, THEY ARE
10 NUMBERED 1 THROUGH 14, WE ASK TO PUBLISH THESE TO THE
11 JURY PRIOR TO THE PUBLISHING OF THE TAPE AND WE'LL
12 COLLECT THEM BEFORE THEY LEAVE THE COURTROOM

13 THE COURT WE'LL GIVE THEM TO YOU TO
14 FOLLOW ALONG WITH BUT THEY WILL BE TAKEN UP WHEN YOU
15 LEAVE, JUST LEAVE THEM IN YOUR SEAT

16 (TRANSCRIPT IS HANDED TO THE JURY)

17 (THE TAPE IS PLAYED FOR THE JURY)

18 THE COURT MEMBERS OF THE JURY PANEL,
19 WE'LL STOP FOR THE DAY AND WE'LL START BACK AT NINE
20 IN THE MORNING PLEASE BE BACK IN THE JURY ROOM AT
21 NINE DON'T DISCUSS THE CASE, DON'T LET ANYONE
22 DISCUSS THE CASE WITH YOU, AND DON'T LET YOURSELF BE
23 EXPOSED TO ANY NEWS COVERAGE WE'LL SEE YOU AT NINE
24 IN THE MORNING

25 (THE JURY EXITS THE COURTROOM AT

1 5 45)

2 THE COURT ANYTHING FROM THE STATE BEFORE
3 WE LEAVE TODAY?

4 MR POPE YES, SIR, JUST BRIEFLY FOR
5 CONVENIENCE OF ALL PARTIES INVOLVED WE'VE GOT A GREAT
6 AMOUNT OF EVIDENCE ALL OF WHICH MAY OR MAY NOT COME
7 IN AND THE CLERK HAS BEEN RETAINING IT THROUGH
8 CONSENT OF ALL PARTIES IN THE CLERK'S EVIDENCE ROOM
9 WE USE HERE IT'S OUR INTENTION WITH CONSENT OF THE
10 PARTIES TO DO THAT AGAIN TODAY TOMORROW AT SOME
11 POINT WHEN THE CRIME SCENE OFFICERS TESTIFY THE
12 MAJORITY OF THE ITEMS WILL IN FACT COME IN,
13 UNFORTUNATELY, IN THE CUSTODY OF THE COURT REPORTER
14 OR THE CLERK AT THAT POINT THERE REMAINS ITEMS THAT
15 WE MAY, THE DEFENSE HAD DIFFERENT QUESTIONS ABOUT AND
16 THINGS OF THAT NATURE, MY INTENTION, WITH CONSENT OF
17 THE PARTIES, IS TO RETAIN ALL PHYSICAL EVIDENCE,
18 COMPUTERS, EVERYTHING, UP HERE WITH THE CLERK LIKE WE
19 HAD DONE LAST NIGHT, BUT ALLOW SOME TYPE CUSTODY
20 OFFICER GO, THEY MAY WANT THEM LATER AND I HAVE NO
21 OBJECTION FROM THE STANDPOINT OF THEM HAVING ACCESS
22 IF WE NEED TO AND KEEP IT PHYSICALLY HERE WITHOUT
23 HAVING SOMEBODY FROM ROCK HILL TO BRING IT

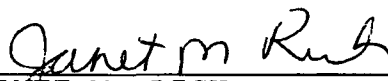
24 THE COURT ANY PROBLEM WITH THAT ON
25 BEHALF OF MR COPE

1 MR WOOD NOTHING FROM THE DEFENSE
2 MR GREELEY NO, YOUR HONOR
3 MR POPE I'LL MAKE THE ARRANGEMENTS
4 SOMETHING THEY NEED
5 THE COURT I DON'T HAVE ANY OBJECTION TO
6 THE CLERK
7 THE CLERK THAT'S FINE
8 THE COURT THAT'S FINE ALL RIGHT
9 WE'LL SEE Y'ALL AT NINE IN THE MORNING
10 (COURT'S IN RECESS AT 5 50)
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001270

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2
3 I, JANET RICH, OFFICIAL COURT REPORTER FOR THE
4 SIXTEENTH CIRCUIT OF THE STATE OF SOUTH CAROLINA, DO
5 HEREBY CERTIFY THAT THE FORGOING IS A TRUE, ACCURATE,
6 AND COMPLETE TRANSCRIPT OF RECORD OF ALL THE
7 PROCEEDINGS HAD AND EVIDENCE INTRODUCED IN THE TRIAL
8 OF THE CAPTIONED CASE, RELATIVE TO APPEAL, IN THE
9 CIRCUIT COURT FOR YORK COUNTY, SOUTH CAROLINA, ON THE
10 9TH DAY OF SEPTEMBER 2004

11 I DO FURTHER CERTIFY THAT I AM NEITHER KIN,
12 COUNSEL, NOR INTEREST TO ANY PARTY HERETO

13
14
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JANET M RICH

1 IN THE CIRCUIT COURT OF YORK COUNTY, SOUTH CAROLINA
2 STATE OF SOUTH CAROLINA
3 VERSUS

4 BILLY WAYNE COPE &
5 JAMES EDWARD SANDERS

6 INDICTMENT NUMBERS 2002-GS-46-3232-3234
7 2003-GS-46-1843-1844
8 2004-GS-46-2614-2618
9 2004-GS-46-196-199

10 HEARD AT THE MOSS JUSTICE CENTER,
11 1675 YORK HIGHWAY, YORK, SOUTH CAROLINA, ON
12 FRIDAY, SEPTEMBER 10, 2004, BEFORE THE HONORABLE
13 JOHN C HAYES, III AND A JURY

14 APPEARANCES

15 TOMMY POPE
16 KEVIN BRACKETT
17 WILLY THOMPSON
18 16TH CIRCUIT SOLICITOR'S OFFICE
19 1675 YORK HIGHWAY
20 YORK, SC 29745
21 REPRESENTING THE STATE

22 JAMES MORTON
23 DAVID WOOD
24 MICHAEL SMITH
25 MORTON & GETTYS
1051 OAKLAND AVENUE
ROCK HILL, SC 29732

A PHILIP BAITY
POST OFFICE BOX 275
FORT MILL, SC 29715
REPRESENTING BILLY WAYNE COPE

LELAND GREELEY
128 E MAIN STREET SUITE 102
ROCK HILL, SC 29732
REPRESENTING JAMES EDWARD SANDERS

REPORTED BY JANET M RICH
CIRCUIT COURT REPORTER
1992 DOWNEY STREET
ROCK HILL, SC 29732

I N D E X

REBECCA HERRON

DIRECT EXAMINATION 36

CROSS EXAMINATION 87

JERRY WALDROP

DIRECT EXAMINATION 110

CROSS EXAMINATION 67

JERRY WALDROP

DIRECT EXAMINATION 57

CROSS EXAMINATION 67

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E X H I B I T S

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S-40

REDACTED DSS REPORT

15

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C-7

TAPE TRANSCRIPT

46

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D-8-25

PHOTOS

91

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D-26

PHOTO

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1 (COURT RESUMES AT 9 13 ON FRIDAY,
2 SEPTEMBER 10, 2004)

3 THE COURT THE STATE READY

4 MR MORTON I'VE GOT A COUPLE MORE THINGS
5 ABOUT THE TAPE

6 THE COURT THE INTERVIEW TAPE?

7 MR MORTON YES, SIR

8 THE COURT HAVE YOU DISCUSSED IT WITH --

9 MR MORTON NO, SIR, I HADN'T EVEN SEEN
10 KEVIN

11 MR BRACKETT DOES IT INVOLVE ANYMORE
12 DELETIONS, WITH TREPIDATION

13 THE COURT I WISH YOU HAD DONE THIS THIS
14 MORNING BEFORE WE GOT STARTED WHEN WE GOT THE JURY
15 WE NEED TO USE THEM

16 MR MORTON I APOLOGIZE

17 MR POPE WE NEED TO DEAL WITH IT SO WE
18 CAN HAVE SOMEBODY WORKING ON IT

19 THE COURT I REALLY WOULD LIKE TO START,
20 THE POOR LADY WHO HAS BEEN SITTING THERE FOR A GOOD
21 WHILE, NOT POOR LADY I SHOULDN'T SAY THAT I DON'T
22 WANT TO SAY ANYTHING INCRIMINATING THIS NICE LADY
23 HAS BEEN WAITING FOR A LONG TIME

24 MR BRACKETT I DON'T THINK HOW MUCH TIME
25 WE'D BE SAVING

1 THE COURT LET'S GO AHEAD AND FINISH UP
2 WITH HER TESTIMONY THEN I'LL TELL THE JURY WE'VE GOT
3 A MINOR THING

4 MR BRACKETT BEFORE WE BRING THEM IN I
5 NOTE FOR THE RECORD THAT ALL OF THIS EQUIPMENT WAS
6 PROVIDED BY COMPORIUM THEY CAME, SET IT ALL UP,
7 THEY ARE NOT CHARGING THE COUNTY AND AS FAR AS, THIS
8 IS THE FIRST TIME IN MY KNOWLEDGE THAT THIS KIND OF
9 THING HAS EVER BEEN DONE AND I JUST WANT TO EXPRESS
10 MY GRATITUDE FOR COMPORIUM FOR PROVIDING THE SERVICE
11 TO US

12 THE COURT AND YOU ARE ALLOWING THEM TO
13 USE THIS STATEMENT IN FUTURE ADVERTISEMENTS?

14 MR BRACKETT MY GRATITUDE RUNS THAT
15 DEEP

16 MR POPE I'M WORRIED HE'S GOING TO USE
17 IT IN HIS CAMPAIGN

18 THE COURT LET'S BRING IN THE JURY MY
19 THANKS GO OUT TO COMPORIUM ALSO

20 (THE JURY RETURNS TO THE COURTROOM AT
21 9 20)

22 THE COURT GOOD MORNING

23 (JURORS GOOD MORNING)

24 THE COURT MEMBERS OF THE JURY PANEL, I
25 CAN'T REMEMBER WHETHER I TOLD YOU OR NOT YESTERDAY

1 BUT WE'VE GOT A WITNESS WHO IS IN I BELIEVE ALABAMA
2 AND WE'RE GOING TO DO HER TESTIMONY, BY THE WAY, THIS
3 IS HER INCIDENTALLY SHE CAN SEE US THROUGH THAT
4 CAMERA, THAT SAID, SHE'S NODDING, BUT WE'RE GOING TO
5 DO THIS THROUGH THE VIDEO AND OF COURSE AUDIO AND
6 THIS IS QUITE FRANKLY A NOVEL THING I'M SURE WILL
7 BE DONE MUCH MORE IN THE FUTURE, BUT THIS IS THE WAY
8 WE'RE GOING TO BE DOING SOME WITNESS THIS IS THE
9 ONLY ONE IN THIS CASE, BUT HER TESTIMONY IS TO BE
10 DEEMED AS THOUGH SHE WAS SITTING FIVE FEET OVER IN
11 THAT CHAIR AND WERE HERE AND SHE'LL BE SWORN IN OUT
12 THERE BY SOMEONE WHO IS LICENSED TO ADMINISTER AN
13 OATH THERE IN ALABAMA AND I ASK THAT YOU PAY
14 ATTENTION THIS WAS SET UP FOR US BY COMPORIUM
15 COMMUNICATIONS AND THEY HAVE DONE A VERY GOOD JOB AND
16 WE APPRECIATE THEIR ASSISTANCE AND DID NOT CHARGE OUR
17 COUNTY ANYTHING TO DO IT SO THEY ARE NICE THANK
18 YOU

19 MR BRACKETT THANK YOU, YOUR HONOR
20 MAY IT PLEASE THE COURT THE STATE WOULD CALL
21 REBECCA HERRON

22 THE COURT MRS HERRON, IS SEATED I
23 BELIEVE, WE CAN SEE HER, AND I GUESS YOU CAN SEE US
24 IF SHE WOULD NOW, THE INDIVIDUAL WHO IS THERE WOULD
25 SWEAR HER IN, THE PERSON WHO IS AUTHORIZED TO

1 ADMINISTER AN OATH

2 REBECCA HERRON, BEING FIRST DULY SWORN
3 IN ALABAMA VIA VIDEO CONFERENCE BY A QUALIFIED COURT
4 REPORTER TESTIFIED AS FOLLOWS

5 DIRECT EXAMINATION BY MR BRACKETT

6 Q GOOD MORNING, MA'AM

7 A GOOD MORNING

8 Q WOULD YOU PLEASE STATE YOUR FULL NAME AND SPELL
9 YOUR LAST NAME FOR OUR COURT REPORTER SO SHE CAN GET
10 THAT RIGHT

11 A IT'S REBECCA L HERRON H-E-R-R-O-N

12 Q AND WHERE ARE YOU CURRENTLY LOCATED,
13 MRS HERRON?

14 A I'M IN MOBILE, ALABAMA

15 Q ALL RIGHT AND I BELIEVE YOU ARE PREGNANT, IS
16 THAT RIGHT?

17 A YES

18 Q AND YOUR DOCTOR'S ADVISED YOU NOT TO TRAVEL?

19 A YES

20 Q OKAY WHERE DO YOU CURRENTLY WORK?

21 A I WORK FOR A DEPARTMENT OF HUMAN RESOURCES FOR
22 THE STATE OF ALABAMA

23 Q AND WHERE DID YOU WORK BEFORE THAT?

24 A BEFORE THAT I WORKED IN GASTON COUNTY, NORTH
25 CAROLINA, AT THE DEPARTMENT OF SOCIAL SERVICES

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1 Q AND AT SOME POINT IN TIME DID YOU WORK FOR
2 DEPARTMENT OF SOCIAL SERVICES HERE IN YORK COUNTY?

3 A YES, I DID BEFORE GASTON COUNTY

4 Q ALL RIGHT WERE YOU WORKING FOR DSS IN YORK
5 COUNTY IN NOVEMBER OF 2001?

6 A YES, I WAS

7 Q DID YOU HAVE OCCASION TO INTERVIEW A MR BILLY
8 WAYNE COPE IN REGARDS TO A DSS INVESTIGATION RELATED
9 TO THE DEATH OF HIS DAUGHTER AMANDA COPE?

10 A YES, I DID

11 Q I'M GOING TO BE QUESTIONING YOU ABOUT THAT
12 SPECIFIC INTERVIEW CAN YOU TELL US APPROXIMATELY
13 WHAT TIME YOU WENT TO INTERVIEW MR COPE, IF YOU CAN
14 REMEMBER?

15 A IT WAS IN THE AFTERNOON THE DAY THAT THEY HAD
16 FOUND THE CHILD

17 Q THE AFTERNOON OF NOVEMBER 29, 2001?

18 A YES

19 Q OKAY DO YOU REMEMBER WHERE THIS INTERVIEW TOOK
20 PLACE?

21 A IT WAS NOT AT THE HOME IT WAS, I BELIEVE, AT A
22 RELATIVE'S HOME

23 Q OKAY

24 A OF MR COPE OR MRS COPE, ONE OF THE TWO

25 Q AND WHERE DID YOU ACTUALLY, WHO WAS PRESENT FOR

1 THIS INTERVIEW? WHO DID YOU ACTUALLY?

2 A MYSELF RIGHT IT WAS MYSELF AND MR COPE,
3 MRS COPE, ANOTHER CASE MANAGER KATIE SARR, AND A
4 POLICE OFFICER

5 Q DO YOU REMEMBER THE POLICE OFFICER'S NAME?

6 A I DON'T RECALL AT THIS TIME

7 Q WAS THE POLICE OFFICER THERE TO PARTICIPATE IN
8 THE INTERVIEW?

9 A HE WAS THERE TO ESCORT US TO THE SCENE IN CASE
10 THERE WAS ANY REASON THAT WE WOULD BE IN DANGER

11 Q I SEE DID HE PARTICIPATE IN THE INTERVIEW IN
12 ANY WAY?

13 A HE DID NOT ASK QUESTIONS TO MY KNOWLEDGE, NO

14 Q HOW LONG DID THIS INTERVIEW TAKE PLACE? HOW
15 LONG WAS IT?

16 A UM, HOW LONG THE INTERVIEW LASTED?

17 Q YES, MA'AM

18 A I DON'T KNOW FOR SURE I MEAN AT LEAST 45
19 MINUTES TO AN HOUR

20 Q ALL RIGHT AND HOW DO YOU TYPICALLY TAKE NOTES
21 DURING AN INTERVIEW LIKE THIS?

22 A IN AN INTERVIEW LIKE THIS OR ANY CASE THAT I
23 WORK ON I TAKE NOTES, I HAVE A CLIPBOARD WITH A LEGAL
24 PAD, AND I WRITE DOWN JUST ABOUT VERBATIM WHAT
25 WHOEVER I'M INTERVIEWING SAYS

1 Q DID YOU PREPARE A REPORT FOR LAW ENFORCEMENT IN
2 REGARDS TO WHAT YOU FOUND IN THIS INTERVIEW AND WHAT
3 YOU HEARD?

4 A I DID

5 Q AND WHO DID YOU DIRECT THAT REPORT TO?

6 A DETECTIVE CHARLENE BLACKWELDER

7 Q DO YOU HAVE A COPY OF THAT REPORT IN FRONT OF
8 YOU?

9 A I DO

10 Q CAN YOU IDENTIFY IT FOR ME BY READING THE FIRST
11 SENTENCE?

12 A MY NAME IS REBECCA L HERRON AND I AM AN
13 INVESTIGATOR WITH THE DEPARTMENT OF SOCIAL SERVICES

14 MR BRACKETT DOES MR GREELEY HAVE AN
15 OBJECTION TO ME MARKING THIS AND INTRODUCING IT?

16 MR GREELEY I HAVE NO OBJECTION

17 MR SMITH I DO HAVE AN OBJECTION, YOUR
18 HONOR

19 MR BRACKETT THAT'S FINE

20 THE COURT YOU WANT TO TAKE THAT UP AT
21 THIS TIME?

22 MR BRACKETT NO, SIR LET ME GO THROUGH
23 MY DIRECT FIRST AND WE'LL SEE HOW THAT PROCEEDS

24 Q WHAT WERE YOU THERE TO QUESTION THEM ABOUT?

25 A I WAS THERE TO FIND OUT WHAT HAPPENED THE NIGHT

1 BEFORE WE FOUND THE CHILD, BEFORE THE CHILD WAS
2 FOUND

3 Q OKAY CAN YOU RELATE TO THE JURY WHAT DID HE
4 TELL YOU HAD TAKEN PLACE THE NIGHT BEFORE? WHAT DID
5 MR COPE DESCRIBE TO YOU HAD TAKEN PLACE THE NIGHT
6 BEFORE?

7 A BASICALLY THAT IT WAS A NORMAL NIGHT LIKE ANY
8 OTHER NIGHT THE CHILDREN ALL WENT TO BED AT THEIR
9 RESPECTIVE BED TIMES AND HE WENT TO BED SHORTLY
10 AFTERWARDS

11 Q WHAT DID HE SAY THEIR RESPECTIVE BED TIMES WERE?

12 A THE YOUNGEST WENT TO BED AT 9 30, JESSICA AT
13 10 30, AND AMANDA AT 11 30

14 Q ARE YOU CERTAIN THAT THOSE ARE THE TIMES HE TOLD
15 YOU THAT THEY WENT TO BED THE EVENING OF NOVEMBER 28,
16 2001?

17 A YES

18 Q DID HE DESCRIBE ANYTHING THAT OCCURRED DURING
19 THE EVENING, AFTER EVERYBODY HAD GONE TO BED DID HE
20 RELATE THAT THERE HAD BEEN ANY EVENTS DURING THE
21 EVENING?

22 A NO HE SAID IT WAS JUST THE NORMAL EVENING

23 Q AND HOW ABOUT WHEN HE WOKE THE NEXT MORNING,
24 WHAT DID HE DESCRIBE TO YOU OCCURRED FROM THE TIME HE
25 AWOKE FORWARD?

1 A HE SAID THAT HE HAD WOKEN UP AND CALLED FOR
2 AMANDA TO GET HIM SOME WATER AND THAT SHE DID NOT
3 RESPOND AND HE CALLED A COUPLE MORE TIMES AND THEN
4 FINALLY GOT UP AND WENT TO HER ROOM AND HAD TO KICK
5 THE DOOR IN AND THAT'S WHEN HE FOUND HER

6 Q DID HE DESCRIBE WHAT SHAPE SHE WAS IN, WHAT
7 CONDITION WAS SHE WAS IN TO YOU?

8 A HE DID HE DESCRIBED HER PHYSICAL APPEARANCE,
9 IS THAT?

10 Q YES PLEASE RELATE THAT TO US

11 A HE WAS TALKING ABOUT HOW HER LIPS WERE SWOLLEN
12 AND HER TONGUE WAS PROTRUDING FROM HER MOUTH AND THAT
13 SHE HAD PUT HER HANDS UP LIKE GRASPING AT A BLANKET
14 THAT WAS AROUND HER NECK AND HE SHOWED LIKE THIS AND
15 THAT THE EDGE OF THE BLANKET WAS WRAPPED HER AROUND
16 HER NECK HE SAID FIVE TIMES, AND THAT HER SHIRT WAS
17 UP AND THAT HER BREAST WAS EXPOSED AND THAT'S HOW HE
18 FOUND HER IN THE BED

19 Q DID HE TELL YOU ANYTHING THAT HE DID TO HER
20 ARMS?

21 A HE SAID THAT HE TRIED TO PULL HER ARMS DOWN AND
22 THEY POPPED RIGHT BACK UP IN THE SAME POSITION THAT
23 THEY WERE IN

24 Q WHAT CONDITION DID HE SAY THAT THE ROOM WAS IN?

25 A SAID THAT HE, THE ROOM WAS NORMAL FOR HER EXCEPT

1 FOR THE BED WAS PUSHED AWAY FROM THE WALL

2 Q OKAY NOW YOU SAID MR AND MRS COPE WERE THERE
3 PRESENT DURING THIS INTERVIEW?

4 A YES

5 Q OKAY WHAT WAS MR COPE'S DEemeanOR THROUGHOUT
6 THE INTERVIEW?

7 A HE WAS JUST VERY, IT'S HARD TO DESCRIBE, HE WAS
8 JUST TALKING LIKE IT WAS JUST AN EVERY DAY
9 OCCURRENCE, JUST RELATING FACTS TO ME LIKE THAT
10 ESPECIALLY WHEN HE WAS TALKING ABOUT HER APPEARANCE
11 IT WAS ALMOST LIKE HE WAS READING SOMETHING

12 Q WAS HE EMOTIONAL AT ALL?

13 A NO

14 Q HOW ABOUT MRS COPE, WHAT WAS HER DEemeanOR?

15 A SHE WAS VERY UPSET WHEN SHE HEARD ABOUT THE
16 APPEARANCE OF THE CHILD I MEAN SHE JUST, SHE
17 COULDN'T CONTROL HERSELF, SHE CRIED OUT I MEAN, SHE
18 WAS JUST OUT OF IT IT WAS AWFUL

19 Q DID MR COPE GIVE YOU AN OPINION AS TO WHAT HE
20 THOUGHT HAD TAKEN PLACE THAT NIGHT?

21 A HE SAID THAT HE FELT LIKE IF ANYTHING HAD
22 HAPPENED THAT IT WAS AN ACCIDENT

23 Q DID HE DESCRIBE THE ROOM, THE WINDOWS IN THE
24 ROOM AT ALL TO YOU, OR ANYTHING OF THAT NATURE?

25 A HE DID BECAUSE I HAD ASKED ABOUT THAT TYPE OF

1 THING AND HE SAID THAT THE WINDOWS WERE LOCKED AND
2 YOU KNOW HER DOOR HAD BEEN SHUT WHEN HE HAD GONE TO
3 GET IN THERE

4 Q DID HE DISCUSS THE NIGHT BEFORE WHEN THEY WENT
5 TO BED WHAT THE LIGHTING SITUATION WAS IN THE HOUSE?
6 AT THE TIME THAT THEY WENT TO BED, WERE ANY LIGHTS
7 LEFT ON?

8 A YES, HE DID HE SAID THAT THEY NORMALLY LEFT
9 THE HALL LIGHT ON FOR THE TWO YOUNGER GIRLS BECAUSE I
10 GUESS THEY WERE SCARED, I DON'T KNOW, BUT IT BOTHERED
11 AMANDA SO THAT'S WHY SHE SHUT HER DOOR

12 Q SO HE WAS TELLING YOU THAT HER DOOR WAS SHUT
13 WHEN THEY WENT TO BED?

14 A YES

15 Q I BELIEVE THAT'S ALL THE QUESTIONS I HAVE,
16 MRS HERRON PLEASE ANSWER ANY QUESTIONS THAT
17 MR SMITH MAY HAVE

18 (THE ATTORNEYS CONFER WITH EACH OTHER)

19 MR BRACKETT YOUR HONOR, THERE IS NO
20 OBJECTION TO THE INTRODUCTION OF THE REPORT THAT WAS
21 PREPARED BY MRS HERRON AND FORWARDED TO
22 MRS BLACKWELDER EXCEPT FOR ONE EXTRANEIOUS AND
23 IRRELEVANT SENTENCE ON THERE WHICH THE STATE AGREES
24 HAS NOTHING TO DO WITH THIS CASE AND AGREE TO REDACT
25 FOR PURPOSES

1 THE COURT WITH THAT SENTENCE OBLITERATED
2 IN SOME FASHION SO IT WILL BE NOT BE VISIBLE TO THE
3 JURY, YOU AGREE THE REST OF IT CAN COME IN WITHOUT
4 OBJECTION?

5 MR SMITH YES, SIR

6 MR GREELEY NO OBJECTION

7 THE COURT WE GOT SOME TIME, ALL RIGHT
8 (STATE'S EXHIBIT 40 DSS REPORT RECEIVED
9 INTO EVIDENCE)

10 MR BRACKETT I HAVE NO FURTHER
11 QUESTIONS, MRS HERRON PLEASE ANSWER ANY QUESTIONS
12 THAT MR SMITH WHO IS MR COPE'S ATTORNEY MAY HAVE
13 FOR YOU

14 A OKAY

15 CROSS EXAMINATION BY MR SMITH

16 Q GOOD MORNING

17 A GOOD MORNING

18 Q YOU MAY HAVE TO BEAR WITH ME HERE THIS IS THE
19 FIRST TIME I EVER INTERVIEWED A WITNESS VIA I GUESS
20 TELEVISION OR VIDEO BEFORE CONGRATULATIONS ON YOUR
21 PREGNANCY THAT'S VERY GOOD NEWS

22 A THANK YOU

23 Q NOW MRS HERRON, YOU INTERVIEWED MR COPE AND
24 HIS WIFE TOGETHER ON NOVEMBER 29, RIGHT?

25 A RIGHT THEY WERE THERE ON THE FRONT PORCH OF

1 THE HOUSE

2 Q AND YOU SAID YOU DON'T REMEMBER EXACTLY WHEN
3 THAT OCCURRED IT WAS SOMETIME IN THE AFTERNOON?

4 A IT WAS LATE AFTERNOON

5 Q YOU DON'T REMEMBER EXACTLY WHERE IT WAS, DO YOU?
6 IT WAS SOME RELATIVE'S HOME, IS THAT RIGHT?

7 A WELL, I COULD PROBABLY LOOK AT A REPORT IF I
8 HAVE IT IN THERE FOR AN ADDRESS, BUT I KNOW THAT IT
9 WAS NOT THEIR HOME

10 Q BUT YOU DON'T REMEMBER SPECIFICALLY, DO YOU?

11 A NO I KNOW IT WAS A RELATIVE'S HOME

12 Q AND HAD YOU AN OFFICER TAKE YOU OUT TO THAT
13 HOME, IS THAT RIGHT?

14 A RIGHT WE FOLLOWED AN OFFICER TO THE HOME I
15 BELIEVE THAT'S HOW IT WENT

16 Q AND THAT WAS BECAUSE IN CASE ANYTHING HAPPENED
17 THAT YOU BECAME ENDANGERED IN ANY WAY OR ANYTHING
18 LIKE THAT, IS THAT RIGHT?

19 A RIGHT IT'S JUST STANDARD PROCEDURE IN THAT
20 COUNTY THAT IF ANY TYPE OF REPORT OF THAT NATURE OR
21 ANY OTHER TYPE OF REPORT WHERE THERE MIGHT BE A
22 THREAT THAT WE HAVE A POLICE ESCORT

23 Q THAT'S RIGHT AND YOU HAD NO SPECIFIC KNOWLEDGE
24 THAT YOU WERE GOING TO BE IN DANGER AND THAT WHEN YOU
25 GOT THERE NOTHING PRESENTED ITSELF TO MAKE YOU

1 BELIEVE THAT YOU WERE IN DANGER, IS THAT RIGHT?

2 A THAT'S CORRECT

3 Q SO THE OFFICER WASN'T EVEN NECESSARY IT WAS
4 JUST A SAFETY PRECAUTION?

5 A I ASSUME YEAH, I GUESS SO

6 Q NOW --

7 A AS FAR AS WHAT WE HAD TO DO

8 Q NOW WHEN YOU GOT THERE MR COPE VOLUNTARILY
9 AGREED TO SPEAK WITH YOU, DID HE NOT?

10 A YES

11 Q HE WASN'T COMPELLED TO TALK TO YOU HE SAT DOWN
12 AND VOLUNTEERED THIS INFORMATION THAT HE GAVE YOU?

13 A RIGHT, I EXPLAINED WHY I WAS THERE AND TOLD HIM
14 THAT THERE WAS SOME QUESTIONS THAT I NEEDED TO
15 DISCUSS WITH HIM AND HE AGREED TO TALK WITH ME

16 Q NOW WHEN Y'ALL STARTED TALKING HE WAS TALKING IN
17 GENERAL TERMS AS FAR AS AMANDA HAD HER OWN BEDROOM,
18 JESSICA AND KYLA SHARED ANOTHER BEDROOM, AND THAT HE
19 AND HIS MARY SUE HAD THEIR OWN BEDROOM, RIGHT?

20 A I HAD ASKED HIM WHERE THE CHILDREN SLEPT THOSE
21 WERE RESPONSES TO MY QUESTIONS

22 Q AND JESSICA AND KYLA'S BEDROOM WAS RIGHT NEXT
23 DOOR TO AMANDA'S BEDROOM, IS THAT RIGHT?

24 A I KNOW HE WENT OVER THE LAYOUT OF THE HOUSE AND
25 I WAS IN THE HOUSE IT WOULD BE, IT WOULD BE MORE

1 SAFE TO SAY THAT IT WAS MAYBE ADJACENT FROM AMANDA'S
2 BEDROOM AND HE WAS DIRECTLY ACROSS FROM AMANDA'S
3 BEDROOM

4 Q THAT'S RIGHT, THE MASTER BEDROOM WAS ACROSS THE
5 HALLWAY FROM THE OTHER TWO OR ALL OF THE CHILDREN'S
6 BEDROOMS?

7 A RIGHT

8 Q OKAY AND HE SAID THAT AMANDA, JESSICA AND KYLA
9 SLEPT WITH THE HALL LIGHT ON AND BECAUSE OF THAT
10 AMANDA KEPT HER DOOR CLOSED, IS THAT RIGHT?

11 A THAT'S CORRECT

12 Q SO THE LIGHT WOULDN'T SHINE IN HER ROOM?

13 A CORRECT

14 Q NOW IT WAS DURING THIS CONVERSATION WHEN YOU ARE
15 TALKING ABOUT GENERAL SLEEPING ARRANGEMENTS AND
16 BEDDING ARRANGEMENTS THAT MR COPE TOLD YOU THAT KYLA
17 GOES TO BED AT 9 30, JESSICA GOES TO BED AT 10 30,
18 AND AMANDA GOES TO BED AT 11 30, IS THAT RIGHT?

19 A BASICALLY I WAS THERE TO FIND OUT WHAT HAPPENED
20 THE NIGHT BEFORE THE CHILD WAS FOUND SO I HAD ASKED
21 HIM WHEN THEY WENT TO BED

22 Q NOW YOU SAID THAT YOU HAD TAKE DOWN IN YOUR
23 NOTES ALMOST VERBATIM WHAT WAS SAID DURING AN
24 INTERVIEW, DIDN'T YOU?

25 A RIGHT

1 Q OKAY AND YOU HAVE YOUR REPORT IN FRONT OF YOU
2 THAT YOU WROTE TO MRS BLACKWELDER, IS THAT CORRECT?

3 A I DO

4 Q OKAY NOW IF YOU WOULD LOOK IN THE SECOND
5 PARAGRAPH, YOU GO THROUGH THESE GENERALIZATIONS
6 YOU SAY THAT AMANDA HAD HER OWN BEDROOM, JESSICA AND
7 KYLA SHARED A ROOM, HE AND HIS WIFE HAD A THIRD
8 BEDROOM HE GIVES THE LOCATIONS OF THESE BEDROOMS
9 THAT WE JUST TALKED ABOUT THEN HE TALKS ABOUT THE
10 LIGHTING AND THEN HE SAYS AND THEN THE STATEMENT
11 SAYS, HE STATED THAT KYLA WENT TO BED AROUND 9 30,
12 JESSICA AT 10 30, AND AMANDA AT 11 30 BECAUSE AMANDA
13 NEEDED TO PRACTICE HER VIOLIN WHILE HER MOM WAS ON
14 THE THIRD SHIFT, IS THAT RIGHT?

15 A THAT'S CORRECT THAT'S FAIR

16 Q SO THAT'S PART OF THIS GENERALIZATION, TALKING
17 IN GENERAL TERMS, NOT SPECIFICALLY TALKING ABOUT WHAT
18 WENT ON THE NIGHT OF THE 28, IS THAT RIGHT?

19 A THAT'S NOT HOW I WAS QUESTIONING HIM I WAS
20 ASKING SPECIFICS WHERE WERE THE CHILDREN SLEEPING,
21 WHERE DO THEY SLEEP, DO THEY HAVE THEIR OWN BEDROOM,
22 WHEN DID THEY GO TO BED, THE WHOLE POINT OF THE
23 INTERVIEW WAS TO FIND OUT WHAT HAPPENED THE NIGHT
24 BEFORE THE CHILD DIED

25 Q OKAY BUT THAT'S NOT REFLECTED IN YOUR

1 STATEMENT, IS IT?

2 A WELL, IT DOESN'T SAY, BECAUSE YOU READ IT, IT
3 DOESN'T SAY THAT THEY WENT TO BED THAT NIGHT, BUT THE
4 WHOLE POINT OF THE INTERVIEW WAS FOR THE NIGHT THAT
5 THE INCIDENT OCCURRED

6 Q OKAY BUT LATER IN THE STATEMENT YOU GET INTO
7 THE SPECIFICS OF WHAT HAPPENED THAT NIGHT, CORRECT?

8 A WHERE ARE YOU REFERRING TO

9 Q I'M SAYING, YOU STARTED OUT THIS STATEMENT IN
10 GENERAL TERMS TALKING ABOUT WHAT HAPPENS NORMALLY ON
11 A REGULAR NIGHT, AND THEN LATER IN THE STATEMENT YOU
12 GET INTO THE SPECIFICS OF WHAT HAPPENED ON THE NIGHT
13 OF THE 28 AND 29?

14 A WELL, NO, I HAD ASKED HIM ABOUT THE BED TIMES
15 AND I SAID WAS THIS THE SAME AS ANY NORMAL NIGHT AND
16 HE SAID THAT YES THAT IT WAS A NORMAL NIGHT AND THERE
17 WAS NOTHING ANY DIFFERENT THAN ANY OTHER NIGHT

18 Q OKAY I'M GOING TO SAY THIS ONE MORE TIME,
19 THAT'S NOT REFLECTED IN YOUR STATEMENT, IS IT?

20 A WHAT'S NOT? IT DOES SAY THAT IT SAYS NORMAL
21 EVENING

22 Q EXCUSE ME IT DOESN'T SAY THAT ON THAT SPECIFIC
23 NIGHT THOSE WERE THE BED TIMES FOR THESE THREE GIRLS?

24 A WELL, NO IT SAYS THAT HE STATED EVERYTHING WAS
25 NORMAL ON THE NIGHT OF NOVEMBER 28 AND IT WAS JUST

1 LIKE ANY OTHER NIGHT

2 Q OKAY NOW HE, WHEN HE GOES INTO THESE SPECIFICS
3 AFTER HE TALKS ABOUT WHAT NORMALLY HAPPENS HE SAYS
4 THAT HE WOKE UP THAT NEXT MORNING, HE CALLED FOR
5 AMANDA THREE TIMES, AND AFTER HE DIDN'T GET A
6 RESPONSE HE GOT UP AND WENT TO HER BEDROOM, IS THAT
7 RIGHT?

8 A THAT'S CORRECT

9 Q AND WHEN HE GOT TO HER BEDROOM HER DOOR, HER
10 BEDROOM DOOR, WAS JAMMED UP AGAINST A CLOSET DOOR
11 THAT'S INSIDE OF HER BEDROOM, IS THAT RIGHT?

12 A THAT'S WHAT HE STATED

13 Q AND HE COULDN'T GET IN, HE HAD TO KICK THE DOOR
14 IN, IS THAT RIGHT?

15 A THAT'S WHAT HE STATED

16 Q OKAY AND WHEN HE GOT INSIDE, HE SAW AMANDA ON
17 THE BED AND HE KNEW THAT SHE WAS, SHE WAS DECEASED,
18 AND HE WENT AND GRABBED HER AND ROLLED HER OVER, IS
19 THAT RIGHT?

20 A THAT'S CORRECT

21 Q AND AGAIN SHE HAD THIS RIBBON FROM A BLANKET
22 THAT WAS WRAPPED AROUND HER NECK?

23 A RIGHT

24 Q AND HER SHIRT WAS PULLED UP AND ONE BREAST WAS
25 EXPOSED AND HE YANKED THAT, JERKED THAT DOWN TO COVER

1 HER UP, RIGHT?

2 A THAT'S WHAT HE SAID

3 Q OKAY NOW INSIDE THE BEDROOM ITSELF HE NOTED
4 SOMETHING THAT WAS A LITTLE BIT UNUSUAL AND THAT WAS
5 THAT HER BED WAS SHIFTED AWAY FROM THE WALL LIKE IT
6 USUALLY IS, IS THAT RIGHT?

7 A RIGHT

8 Q NOW HE ALSO TALKED TO YOU ABOUT THE WAY HE SLEPT
9 THAT NIGHT, THAT HE HAD SLEEP APNEA AND HAD TO USE A
10 CPAP MACHINE, CORRECT?

11 A CORRECT

12 Q AND HE SAID THAT MACHINE MAKES A LOUD WHIRLING
13 NOISE WHILE HE SLEEPS?

14 A THAT'S, THAT IS CORRECT

15 Q HE ALSO SAID THAT, SAID THAT AMANDA'S WINDOWS,
16 THAT SHE HAD TWO WINDOWS IN HER BEDROOM?

17 A UH-HUH I DON'T KNOW I DON'T KNOW IF HE SAID
18 HOW MANY WINDOWS I JUST ASKED HIM ABOUT WAS THERE
19 ANYTHING DIFFERENT, WERE THE WINDOWS SHUT, YOU KNOW,
20 THAT KIND OF STUFF, AND HE SAID THE WINDOWS WERE SHUT
21 AND LOCKED

22 Q HE SAID THEY WERE SHUT AND LOCKED HE DIDN'T
23 SAY HOW HE KNEW THAT, IF HE HAD GONE AND PHYSICALLY
24 CHECKED THEM OR IF HE JUST LOOKED IN THERE AND THEY
25 WERE CLOSED, HE DIDN'T SAY THAT, DID HE?

1 A NO, I DON'T KNOW HOW HE KNEW THAT, BUT THAT'S
2 WHAT HE SAID, THAT THEY WERE SHUT AND LOCKED BECAUSE
3 I ASKED

4 Q AND YOU DIDN'T INDICATE THAT IN YOUR REPORT?

5 A NO, NOT HOW HE KNEW

6 Q NOW YOU DESCRIBE MR COPE'S EMOTIONS OR
7 MRS COPE'S EMOTIONS IN YOUR REPORT, RIGHT?

8 A RIGHT

9 Q BUT YOU DIDN'T DESCRIBE ANYTHING ABOUT
10 MR COPE'S EMOTIONS IN YOUR REPORT, DID YOU?

11 A IT WAS VERY ODD

12 Q BUT YOU DIDN'T --

13 A IT WAS VERY STRANGE

14 Q YOU DIDN'T NOTE THAT IN YOUR REPORT?

15 A NO, I DIDN'T I DIDN'T IT'S NOT WRITTEN DOWN
16 IN MY REPORT, NO

17 Q OKAY NOW IN YOUR REPORT YOU DESCRIBE AMANDA AS
18 BEING A VERY GOOD STUDENT, DON'T YOU?

19 A I DO

20 Q SHE WAS ON THE HONOR ROLL?

21 A (NODS HEAD)

22 Q PLEASE ANSWER VERBALLY SO THE COURT REPORTER?

23 A OH I BELIEVE THAT SHE WAS, FROM WHAT I
24 REMEMBERING SHE WAS, BUT I WOULD HAVE TO LOOK HERE TO
25 SEE WHAT I HAD WRITTEN I BELIEVE WE WENT THROUGH

1 ALL THAT RIGHT, SHE WAS ON THE HONOR ROLL

2 Q AND SHE PLAYED THE VIOLIN IN THE ORCHESTRA, SHE
3 DIDN'T HAVE ANY DISCIPLINE PROBLEMS, SHE WAS AN ALL
4 AROUND GOOD STUDENT?

5 A RIGHT

6 Q NOW YOU SAID THAT YOU WROTE THIS STATEMENT FOR
7 CHARLENE BLACKWELDER WHO WORKS FOR THE ROCK HILL
8 POLICE DEPARTMENT, CORRECT?

9 A CORRECT

10 Q THIS WAS AT HER REQUEST?

11 A I DON'T REMEMBER IF IT WAS AT HER REQUEST OR IF
12 IT WAS JUST SOMETHING THAT I HAD TO DO FOR MY
13 INVESTIGATION

14 Q WELL, THE --

15 A MORE THAN LIKELY IT WAS CONSIDERING IT'S
16 ADDRESSED TO HER

17 Q WELL, THE SECOND LINE OF YOUR REPORT SAYS I'M
18 WRITING THIS FOR CHARLENE BLACKWELDER WITH THE ROCK
19 HILL POLICE DEPARTMENT?

20 A WELL THAT AND THAT'S ALSO TO MAKE SURE THAT
21 NOBODY ELSE WOULD HAVE HAD BECAUSE IT'S CONFIDENTIAL
22 WE NEED IT TO BE

23 Q WELL, YOU MET WITH MRS BLACKWELDER ON A NUMBER
24 OF OCCASIONS REGARDING THIS CASE, DIDN'T YOU?

25 A YES

1 Q AND YOU WERE CONCERNED ABOUT ANY CRIMINAL
2 CHARGES THAT WERE ASSOCIATED WITH THIS CASE, WERE YOU
3 NOT?

4 A WELL, THAT'S NOT REALLY MY JOB I MEAN JUST
5 WONDERING WHEN HE GETS ARRESTED OR WHEN HE GOT
6 ARRESTED

7 Q WELL, AT THAT POINT THE CHILDREN HAD BEEN TAKEN
8 INTO DSS CUSTODY, HAD THEY NOT?

9 A RIGHT I MEAN THAT'S GOING TO HAPPEN ANYWAY
10 JUST AS A PRECAUTIONARY MEASURE

11 Q AND WHETHER MR COPE WAS IN JAIL OR NOT, YOU ARE
12 CONCERNED ABOUT THAT, RIGHT, BECAUSE YOU HAVE CUSTODY
13 OF THESE CHILDREN UNTIL HE'S RELEASED FROM JAIL?

14 A RIGHT

15 Q AND SO YOU WERE CONCERNED ABOUT THE CHARGES THAT
16 MR COPE WAS FACING, CORRECT?

17 A I GUESS SO, YEAH

18 Q NOW ONE OF THE CHARGES THAT HE WAS FACING WAS
19 UNLAWFUL AND THAT HE'S FACING HERE IN THIS COURT
20 TODAY IS UNLAWFUL NEGLECT DUE TO THE UNSANITARY
21 CONDITION OF HIS HOME, IS THAT RIGHT?

22 A I'M NOT SURE WHAT THE CHARGES ACTUALLY ARE
23 BECAUSE I HAVEN'T DEALT WITH THIS CASE IN THREE
24 YEARS I DON'T KNOW WHAT THE CRIMINAL CHARGES ARE
25 I HAVE NOT HEARD THAT

1 Q YOU DON'T REMEMBER?

2 A BUT I KNOW THAT DSS, I KNOW WHAT WE WERE
3 INVESTIGATING THROUGH DSS

4 Q BUT YOU DON'T REMEMBER A WHOLE LOT ABOUT THIS
5 CASE THAT WAS AROUND THREE YEARS AGO, IS THAT RIGHT?

6 A WELL, NO, I REMEMBER IT VIVIDLY THIS WAS A BAD
7 CASE

8 Q BUT YOU DON'T REMEMBER ANYTHING OTHER THAN
9 WHAT'S IN YOUR REPORT?

10 A WHY WOULD YOU SAY THAT?

11 Q WELL, YOU'VE TESTIFIED TO OR TESTIFIED THAT YOU
12 DIDN'T KNOW A LOT OF THE INFORMATION ABOUT THIS
13 SPECIFIC INTERVIEW EXCEPT FOR WHAT WAS IN YOUR
14 REPORT?

15 A WELL WHAT I'M TRYING TO DO IS MAKE SURE THAT
16 EVERYTHING IS AS ACCURATE AS NECESSARY THERE WERE
17 SEVERAL THINGS THAT I REMEMBER, SEVERAL DETAILS ABOUT
18 THIS CASE, JUST BECAUSE IT WAS SUCH A BAD CASE I'M
19 ANSWERING YOUR QUESTIONS

20 THE COURT LET HER CONTINUE

21 MR SMITH YES, YOUR HONOR

22 Q NOW DO YOU REMEMBER THIS DO YOU REMEMBER IF
23 MARY SUE COPE WHO LIVED IN THAT HOUSEHOLD WAS ALSO
24 CHARGED WITH UNLAWFUL NEGLIGENCE?

25 MR BRACKETT OBJECTION AS TO RELEVANCE

1 THE COURT I OVERRULE YOU CAN ANSWER
2 THE QUESTION HE ASKED YOU WAS THE MOTHER ALSO
3 CHARGED WITH UNLAWFUL NEGLIGENCE, IF YOU KNOW OR NOT

4 A I DON'T RECALL

5 Q THANK YOU I HAVE NO FURTHER QUESTIONS AT THIS
6 TIME BUT PLEASE ANSWER ANY QUESTIONS THAT MR GREELEY
7 MAY HAVE FOR YOU

8 MR GREELEY MAY IT PLEASE THE COURT

9 THE COURT CERTAINLY
10 CROSS EXAMINATION BY MR GREELEY

11 Q GOOD MORNING, MRS HERRON?

12 A GOOD MORNING

13 Q GOOD TO SEE YOU AGAIN

14 A IT'S BEEN AWHILE

15 Q YES, IT HAS YOU STATED THAT YOU WERE IN THE
16 HOUSE AT SOME POINT IN TIME, IS THAT CORRECT?

17 A YES, I DID

18 Q WHEN DID YOU GO TO THE HOUSE?

19 A I BELIEVE IT WAS THAT FRIDAY AFTERNOON I HAD TO
20 SIGN-IN TO GET IN BECAUSE IT WAS STILL THE CRIME
21 SCENE AND IT WAS AFTER MY WORK HOURS OR RIGHT AT
22 AFTER I WAS GETTING OFF FROM WORK BECAUSE I HAD TO
23 TURN BACK AROUND AND GO BACK TO THE HOUSE WHEN I GOT
24 PERMISSION TO GO IN

25 Q SO THIS WOULD HAVE BEEN EITHER THE DAY OF OR

1 RIGHT OR THE NEXT DAY AFTER THIS INCIDENT,
2 APPROXIMATELY?

3 A DAY AFTER

4 Q OKAY

5 A YEAH, APPROXIMATELY

6 Q AND IT WAS STILL A CRIME SCENE AT THAT POINT IN
7 TIME?

8 A YES

9 Q OKAY NOW YOU WORKED IN PROTECTIVE SERVICES AND
10 IN THE INVESTIGATORY ARM FOR YORK COUNTY DEPARTMENT
11 OF SOCIAL SERVICES, IS THAT CORRECT?

12 A RIGHT THAT'S, THAT'S THEN WHEN I WORKED THERE

13 Q AND PART OF YOUR RESPONSIBILITY WAS WHEN A
14 COMPLAINT OR AN ALLEGATION WOULD COME IN TO THE
15 DEPARTMENT YOU WOULD BE ONE OF THE FIRST PEOPLE TO GO
16 OUT TO BEGIN AN INVESTIGATION INTO THE COMPLAINT OR
17 ALLEGATION, IS THAT CORRECT?

18 A YES, IT IS

19 Q DID YOU DO THAT FOR GASTON COUNTY AS WELL?

20 A YES, I DID

21 Q AND SO IS IT A FAIR STATEMENT TO SAY THAT YOU
22 HAVE SOME EXPERIENCE IN THAT END OF SOCIAL SERVICES
23 IN YOUR WORK HISTORY?

24 A YES

25 Q OKAY NOW WHEN YOU WENT TO THAT HOUSE ON THAT

1 DAY YOU WENT INSIDE, CORRECT?

2 A RIGHT

3 Q AND YOU WALKED THROUGH THE HOUSE, CORRECT?

4 A I DID I HAD TO WEAR LIKE LITTLE BOOTY THINGS
5 AND NOT TOUCH ANYTHING

6 Q BUT YOU WERE ABLE TO OBSERVE THE CONDITION OF
7 THE HOME, WERE YOU NOT?

8 A YES

9 Q AND THE HOUSE WAS SQUALID, WASN'T IT?

10 A IT WAS VERY DIRTY, CLUTTER, YES

11 Q IT WAS FILTHY?

12 A YES

13 Q DID YOU SEE BUGS?

14 A YES, I DID AND THEY WERE IN THE REFRIGERATOR AS
15 WELL

16 Q AND IN YOUR EXPERIENCE IT WAS YOUR JOB TO
17 INVESTIGATE ALLEGATIONS SUCH AS THIS WHEN THEY WERE
18 BROUGHT IN ABOUT PEOPLE, IS THAT CORRECT?

19 A RIGHT I MEAN WHATEVER THE ALLEGATIONS MAYBE OF
20 THE REPORT IS WHAT I INVESTIGATE

21 Q OKAY AND THROUGH YOUR EXPERIENCE --

22 A AND I WAS --

23 Q GO AHEAD AND FINISH I'M SORRY?

24 A I WAS JUST SAYING THAT THE POINT OF THIS
25 INVESTIGATION WAS THE DEATH OF A CHILD

1 Q YES AND IN THAT INVESTIGATION OF THE DEATH OF
2 THE CHILD YOU HAD THE OPPORTUNITY TO SEE THE HOME AND
3 THE CONDITION OF THE HOME?

4 A RIGHT

5 Q AND IN YOUR EXPERIENCE AS AN INVESTIGATOR WITH
6 PROTECTIVE SERVICES YOU'VE HAD THE OPPORTUNITY TO SEE
7 SOME VERY, VERY DISTURBING AND FILTHY AND SQUALID
8 PLACES WHERE CHILDREN HAVE TO LIVE, HAVEN'T YOU?

9 A YES

10 Q AND OUT OF ALL OF YOUR EXPERIENCE IN GOING INTO
11 THESE PLACES, IN YOUR OPINION WOULD THIS HOME BE IN
12 THE TOP FIVE OF THE WORST PLACES YOU HAD EVER SEEN
13 FOR CHILDREN TO LIVE?

14 A THAT WOULD BE HARD TO ANSWER BECAUSE THERE WERE
15 A LOT OF THINGS THAT WERE IN DISARRAY JUST FOR THE
16 SIMPLE FACT THAT IT WAS A CRIME SCENE IT WAS BAD,
17 IT WAS VERY BAD, AND WOULD HAVE NEEDED SOME WORK, BUT
18 I DON'T KNOW THAT I WOULD WANT TO PUT A NUMBER VALUE
19 ON THAT

20 Q OKAY YOU MENTION THAT MR COPE TOLD YOU THAT
21 THE MORNING THAT HE DISCOVERED AMANDA THAT HE HAD
22 CALLED HER NAME, IS THAT CORRECT?

23 A UH-HUH THAT'S CORRECT

24 Q AND DID YOU SAY THAT HE HAD TOLD YOU THAT HE WAS
25 WANTING AMANDA TO GET HIM A GLASS OF WATER?

1 A THAT'S WHAT HE SAID

2 Q AND IT WASN'T UNTIL AFTER HE HAD CALLED HER NAME
3 THREE TIMES THAT HE HIMSELF GOT OUT OF HIS BED TO GO
4 CHECK ON HER, IS THAT CORRECT?

5 A THAT'S WHAT HE SAID, YES

6 Q SO IS IT A FAIR IMPLICATION THAT THAT MORNING
7 MR COPE WANTED TO WAKE UP HIS DAUGHTER SO THAT SHE
8 COULD GO AND FETCH HIM A GLASS OF WATER WITHOUT HIM
9 HAVING TO LEAVE HIS BED?

10 A THAT'S WHAT IT SOUNDS LIKE TO ME

11 Q THANK YOU AND BEST OF LUCK TO YOU?

12 A THANK YOU

13 THE COURT ANY REDIRECT?

14 MR BRACKETT NO, SIR, YOUR HONOR

15 THE COURT ANYTHING?

16 MR SMITH YES, YOUR HONOR

17 RECROSS EXAMINATION BY MR SMITH

18 Q JUST A FEW MORE QUESTIONS, MRS HERRING YOU
19 SAID YOU WENT OUT TO THE SCENE ON THE NOVEMBER 30, IS
20 THAT RIGHT?

21 A I BELIEVE IT WAS THE DAY AFTER IT WAS LATE
22 AFTERNOON I'M BELIEVING THAT'S WHEN IT WAS

23 Q YOU HAD TO ACTUALLY WAIT A FEW MINUTES BEFORE
24 YOU COULD GO IN BECAUSE THE CRIME SCENE UNIT HADN'T
25 RELEASED THE SCENE TO ANYONE AT THAT POINT, RIGHT?

1 A RIGHT

2 Q SO YOU WERE NOT ABLE TO OBSERVE THE CONDITION OF
3 THE HOME PRIOR TO THIS CRIME SCENE INVESTIGATION, IS
4 THAT RIGHT?

5 A THAT'S CORRECT

6 Q AND YOU DIDN'T KNOW WHAT CONDITION THE HOUSE WAS
7 IN BEFORE THE CRIME SCENE UNIT CAME IN?

8 A NO, I HAD NOT BEEN INSIDE THE HOUSE UNTIL I GOT
9 THERE

10 Q AND THE CRIME SCENE UNIT WAS GOING THROUGH THE
11 HOUSE SEARCHING FOR EVIDENCE, IS THAT CORRECT?

12 A YES

13 Q AND IN FACT ONE OF THE MATTRESS I BELIEVE HAD
14 BEEN PULLED OFF THE FRAME BECAUSE THE CRIME SCENE
15 UNIT WAS LOOKING UNDER THE BED FOR ANY SORT OF
16 EVIDENCE?

17 A YES

18 Q SO THE CONDITION OF THE HOME THAT YOU SAW ON THE
19 30TH WAS NOT AN ACCURATE CONDITION OF THE HOME PRIOR
20 TO THE CRIME SCENE UNIT COMING IN AND SEARCHING FOR
21 THIS EVIDENCE?

22 A RIGHT I WOULD IMAGINE THAT THE MATTRESS --

23 MR SMITH OBJECTION, YOUR HONOR, SHE IS
24 SPECULATING

25 THE COURT YEAH, DON'T GIVE US YOUR

1 IMAGINATION ASK THE QUESTION AGAIN AND LET'S SEE IF
2 SHE CAN ANSWER IT WITHOUT SPECULATION

3 Q THE CONDITION OF THE HOME WHEN YOU OBSERVED IT
4 WAS NOT AN ACCURATE PORTRAYAL OF THE CONDITION OF THE
5 HOME PRIOR TO THE CRIME SCENE UNIT INVESTIGATION?

6 THE COURT WELL, SHE WOULDN'T KNOW THE
7 ANSWER TO THAT I CAN'T --

8 MR SMITH WELL, SHE STATED THAT --

9 THE COURT I UNDERSTAND SHE TESTIFIED
10 THERE WAS SOME THINGS DIFFERENT, BUT UNLESS SHE KNEW
11 WHAT IT WAS LIKE BEFORE SHE CAN'T TESTIFY THAT IT WAS
12 DIFFERENT THAT'S WHY SHE WAS SPECULATING GO AHEAD
13 ASK THE QUESTION ANSWER THE BEST YOU CAN

14 A WELL, I DID NOT SEE IT BEFORE

15 Q SO IT WAS NOT AN ACCURATE PORTRAYAL OF WHAT IT
16 WAS BEFORE?

17 A I DON'T KNOW WHAT IT WAS BEFORE

18 Q THANK YOU

19 A I COULDN'T TELL YOU

20 MR SMITH I HAVE NO FURTHER QUESTIONS
21 FOR YOU

22 MR GREELEY BRIEFLY

23 THE COURT ALL RIGHT

24 RECROSS EXAMINATION BY MR GREELEY

25 Q BRIEFLY, MRS HERRON WHILE YOU WERE THERE AND

1 THE CRIME SCENE UNIT WAS THERE CONDUCTING THEIR
2 INVESTIGATION?

3 A UH-HUH

4 Q DID YOU OBSERVE ANYONE WITH THE CRIME SCENE UNIT
5 CARRYING BAGS OF TRASH INTO THE HOUSE IN ORDER TO
6 ASSIST THEM IN THEIR INVESTIGATION?

7 A BAGS OF TRASH, I DON'T RECALL THAT

8 Q OKAY AND DID YOU OBSERVE ANYBODY WITH THE
9 CRIME SCENE INVESTIGATION CARRYING IN BOXES OF COCK
10 ROACHES AND RELEASING THEM INTO THE HOUSE IN ORDER TO
11 HELP THEIR INVESTIGATION?

12 A NO

13 Q THANK YOU, MA'AM

14 THE COURT THANK YOU ALL RIGHT WE
15 APPRECIATE YOUR ACCOMDATING US I JOIN THE OTHERS IN
16 WISHING YOU THE BEST AND THIS ENDS THIS EXAMINATION,
17 SO I'M GOING TO LET THE JURY GO TO THE JURY ROOM JUST
18 FOR A MINUTE WHILE WE SORT OF GET BACK TO OUR NORMAL
19 STATE OF AFFAIRS THANK YOU AN AWFUL LOT

20 A THANK YOU

21 (THE JURY EXITS THE COURTROOM)

22 THE COURT I ASSUME NO ONE OBJECTS TO
23 THIS WITNESS BEING EXCUSED NO ONE OBJECTS

24 A THANK YOU ARE WE DONE?

25 THE COURT YES, MA'AM

1 MR BRACKETT THANK YOU VERY MUCH
2 THE COURT NOW I DON'T KNOW HOW LONG IT
3 WILL TAKE I DON'T WANT TO SPEND AN HOUR DISMANTLING
4 BUT WE CERTAINLY GOT TO MOVE SOME STUFF AROUND
5 DURING THIS BREAK I'M GOING TO ASK THAT WE LOOK AT
6 THAT REDACTING, IS THERE ANY OF IT IN THE NEXT
7 PORTION, LIKE THE NEXT HOUR OR SO?

8 MR MORTON YES, SIR, I'M AFRAID IT IS
9 THE COURT WELL, I'M GOING TO LET YOU
10 WORK ON THAT WHILE WE TAKE A BREAK AND THEN SEE IF
11 YOU NEED THE COURT'S INTERVENTION AND I SEE WE ARE
12 STILL ON

13 MR BRACKETT IT'S JUST US ALABAMA IS
14 OVER

15 THE COURT WELL, I DON'T WANT TO SOUND
16 LIKE A KINDERGARTEN COP BUT FOR THE COURT ROOM
17 DECORUM, JUST OUT OF COURTESY OF OTHERS, I'M GOING TO
18 ASK THAT THE AMOUNT OF ACTIVITY AT COUNSEL TABLES
19 WHEN SOMEONE ELSE IS EXAMINING THE WITNESS, I'M GOING
20 TO ASK BE LIMITED, CONVERSATIONS, FUMBLING THROUGH
21 STACKS OF STUFF, IT'S DISTRACTING AND I KNOW YOU'VE
22 GOT TO UTILIZE OTHERS WHO ARE WITH YOU, BUT IT'S JUST
23 NOT PROPER WHEN SOMEONE ELSE IS UP EXAMINING THE
24 WITNESS TO BE ENGAGED IN ACTIVITY WHICH AT LEAST
25 CATCHES MY EYE AND MAY CATCH THE JURY'S EYE THANK

1 YOU TAKE A BREAK

2 (COURT'S IN RECESS AT 10 O'CLOCK)

3 (COURT RESUMES AT 10 20)

4 MR BRACKETT YOUR HONOR, WE HAVE AGREED
5 TO TWO ADDITIONAL REDACTIONS THAT REFERENCE THE
6 PATHOLOGIST'S OPINION ON THE ONGOING SEXUAL ABUSE
7 THOSE ARE LATER IN THE TRANSCRIPT WE HAD ALREADY
8 RE-ASSEMBLED ALL THE TRANSCRIPTS AND THE BIG THICK
9 ONES SO WE HAD TO DISASSEMBLE THEM TO TAKE OUT, WE
10 HAVE SIDE B OF TAPE ONE AND WE HAVE THE TRANSCRIPT
11 FOR THAT WE'RE MAKING THE CHANGES ON THE TWO ISSUES
12 THAT MR MORTON HAD A CONCERN ABOUT AND WE AGREED TO
13 REDACT THERE WAS A THIRD ISSUE THAT REFERENCES
14 APPARENTLY A FORMER CO-WORKER OF DEFENDANT'S WHO
15 HAPPENED TO BE NAMED JAMES AND APPARENTLY REFERENCES
16 A CHICKEN RUN THAT THEY HAD MADE AND GOTTEN STIFFED
17 ON THE TIP OR SOMETHING AND THEY SAY ME AND JAMES
18 SOMETHING, WE WILL STIPULATE THAT IS NOT JAMES
19 SANDERS THAT HE TALKING ABOUT

20 MR MORTON CAN WE MAKE THAT STIPULATION
21 IN FRONT OF THE JURY NOW

22 MR GREELEY I ASK THAT WOULD BE DONE
23 THANK YOU

24 MR BRACKETT WE HAVE THE TRANSCRIPTS AND
25 THEY ARE WORKING ON THE OTHER REDACTIONS WHICH

1 HOPEFULLY BE READY BY THE TIME WE ARE READY FOR TAPE
2 TWO

3 THE COURT BRING IN THE JURY

4 (THE JURY RETURNS TO THE COURTROOM AT
5 10 21)

6 THE COURT MEMBERS OF THE JURY PANEL,
7 WE'RE GOING TO RESUME WITH LISTENING TO THE TAPES
8 YOU'LL BE HANDED TRANSCRIPTS I DON'T USUALLY
9 PREVIEW THESE BUT I WANT TO TELL YOU IN ADVANCE IN
10 THIS PARTICULAR SEGMENT I BELIEVE THERE IS AT LEAST
11 SOME POINT THERE IS A REFERENCE BY MR COPE WHO IS I
12 BELIEVE WORKING AT A PLACE CALLED STEAK OUT AT THE
13 TIME AND A REFERENCE TO MAKING A DELIVERY WITH
14 SOMEONE NAMED JAMES EVERYONE AGREES THAT THAT JAMES
15 WAS A CO-WORKER AND IS THE NOT THE DEFENDANT JAMES
16 SANDERS SO WHEN YOU HEAR THE REFERENCE TO JAMES
17 INVOLVING STEAK OUT DELIVERY TO I BELIEVE LANCASTER,
18 SOUTH CAROLINA, IT IS NOT A REFERENCE TO THE
19 DEFENDANT JAMES SANDERS

20 (THE TAPE IS PLAYED FOR THE JURY)

21 MR MORTON YOUR HONOR, WE HAVE A MATTER

22 THE COURT LET ME STOP THE TAPE

23 MR MORTON MAY WE APPROACH THE BENCH FOR
24 A MOMENT

25 THE COURT YES

1 (BENCH CONFERENCE)

2 MR BRACKETT YOUR HONOR, MAY HAVE WE A
3 BREAK FOR JUST A MINUTE

4 THE COURT YES LET THE JURY GO TO THE
5 JURY ROOM

6 (THE JURY EXITS THE COURTROOM)

7 THE COURT ALL RIGHT

8 MR BRACKETT WE'RE JUST READING AHEAD
9 TRYING TO MAKE SURE, THERE WAS SOME REFERENCE TO A
10 CONVICTION, IS THAT ON YOUR COPY?

11 MR MORTON I DIDN'T SEE IT ON MY COPY

12 MR POPE THAT SAYS BLANK SPACE ON IT I
13 JUST WANT TO CONFIRM THAT MINE IS SUPPOSEDLY

14 MR BRACKETT OUT OF AN ABUNDANCE OF
15 PRECAUTION, I DIDN'T WANT

16 THE COURT ALL RIGHT, TAKE A LOOK WE
17 WILL TAKE A BREAK AND YOU CAN LOOK

18 (COURT IS IN RECESS)

19 (COURT RESUMES AT 11 O'CLOCK)

20 THE COURT MR BRACKETT

21 MR BRACKETT YES, SIR

22 MR MORTON APPARENTLY THE TRANSCRIPTS,
23 IT WASN'T IN MY TRANSCRIPT, THAT MR POPE PICKED UP
24 ON AND IT WASN'T ON, WE HADN'T GOT TO IT ON THE TAPE
25 YET, BUT ABOUT THREE OR FOUR LINES DOWN IN THE JURY'S

1 TRANSCRIPT TALK ABOUT MY CLIENT BEING CONVICTED FOR
2 CHILD NEGLECT BEFORE AND THAT WAS PART OF THE
3 TRANSCRIPTS THAT THE JURY HAS HAD, WHICH POTENTIALLY
4 OBVIOUSLY IS A PROBLEM, BUT I'M NOT GOING TO MOVE FOR
5 A MISTRIAL OR MOVE FOR A CURATIVE INSTRUCTION OR
6 ANYTHING IT MIGHT JUST BRING MORE ATTENTION

7 THE COURT HOPEFULLY NO ONE READ THAT
8 FAR, NO ONE READ IN ADVANCE IN ANY EVENT IF THEY
9 DID I THINK A CURATIVE INSTRUCTION I AGREE WITH YOUR
10 ASSESSMENT WOULD CALL ATTENTION TO SOMETHING THAT
11 MAYBE NOBODY HAS SEEN AND BUT I MEAN THAT'S YOUR
12 DECISION BUT I CAN UNDERSTAND

13 MR MORTON ALL RIGHT, SIR

14 MR POPE YOUR HONOR, I WOULD NOTE FOR
15 THE RECORD IT APPEARS IN THE TRANSCRIPTS WE HAVE GONE
16 THROUGH AND THE TAPE AND THE TAPES WE'VE GONE
17 THROUGH, IT SEEMS ALL JURORS ARE TURNING THEIR PAGE,
18 IT SEEMS THEY ARE FOLLOWING LINE BY LINE, IT APPEARS
19 THEY ARE TEARING THEIR PAGE RIGHT WHEN WE GET TO THE
20 END OF THE PAGE

21 THE COURT WELL, I HAD NOTICED THAT BUT I
22 REACH THE CONCLUSION THAT SOMEBODY HADN'T GONE AHEAD
23 BUT I DO AGREE WITH THAT SO

24 MR MORTON YOU WOULDN'T GRANT MY
25 MISTRIAL MOTION ANYWAYS

1 THE COURT YOU ARE RIGHT, NOT BASED ON
2 THAT ALL RIGHT, BRING IN THE JURY

3 (THE JURY RETURNS TO THE COURTROOM AT
4 11 04)

5 THE COURT ALL RIGHT

6 MR BRACKETT THE BAILIFF COLLECTED UP
7 ALL THE TRANSCRIPTS, IF YOU COULD HAND THOSE BACK
8 OUT

9 (THE TRANSCRIPTS ARE HANDED TO THE
10 JURY)

11 (THE TAPE IS PLAYED FOR THE JURY)

12 MR MORTON I THINK WE NEED TO TALK TO
13 YOU

14 THE COURT I'M GOING TO LET YOU GO TO THE
15 JURY ROOM AGAIN JUST FOR A FEW MINUTES

16 MR BRACKETT BEFORE YOU SEND THEM
17 OUT, CAN WE APPROACH?

18 THE COURT JUST HAVE A SEAT

19 (BENCH CONFERENCE)

20 (ONE OF THE JURORS HAD A DIFFERENT
21 PAGE 18 THAN THE REST)

22 THE COURT I SHOULD KNOW Y'ALL NAMES BY
23 NOW BUT I APOLOGIZE I DON'T, BUT I'M GOING TO ASK YOU
24 TO STAY IN JUST A MINUTE, YOU HADN'T MISBEHAVED, I'M
25 GOING TO ASK YOU TO STAY AND LET EVERYONE ELSE GO TO

1 THE JURY ROOM JUST A MINUTE

2 (THE JURY EXITS THE COURTROOM AT 11 15
3 EXCEPT FOR ONE JUROR)

4 THE COURT I APOLOGIZE I SHOULD REMEMBER
5 YOUR NAME?

6 A DIANE

7 THE COURT YOUR LAST

8 A CANNIZZARO

9 THE COURT OKAY AS I UNDERSTAND IT IN
10 ONE SOME OF THE MATERIAL THAT WAS HANDED OUT THERE
11 WERE, SOME OF THE REDACTED MATERIAL IN YOUR WRITTEN
12 MATERIAL WASN'T ACTUALLY REDACTED, HAVE YOU READ
13 AHEAD IN YOUR?

14 THE JUROR OH, NO, SIR

15 THE COURT WERE YOU UP EVEN WITH US OR
16 HAD YOU READ AHEAD?

17 THE JUROR NO, I DIDN'T READ AHEAD

18 THE COURT OKAY ANYTHING ANYBODY WANT

19 MR BRACKETT NOTHING FROM THE STATE

20 MR MORTON WELL

21 THE COURT WHY DON'T YOU STEP OUTSIDE
22 JUST ONE MINUTE AND I KNOW THE BAILIFF IS DOING OTHER
23 THINGS, IF YOU WILL JUST STAND OUTSIDE THE DOOR FOR
24 JUST A MINUTE

25 THE JUROR SURE

1 (THE JURY EXITS THE COURTROOM)

2 MR MORTON JUDGE, I THINK UNFORTUNATELY
3 YOU DIDN'T HAVE TO READ AHEAD TO READ THAT PART I
4 MEAN IT WAS, IF I COULD SHOW THE COURT AND I'M JUST
5 TRYING, I DON'T KNOW WHAT WE NEED TO DO THIS IS THE
6 PART THAT WE WERE, THAT'S THE OBJECTIONABLE PART THAT
7 HADN'T BEEN TAKEN OUT, I KNOW THE SOLICITOR'S OFFICE
8 IS TRYING REAL HARD, I KNOW IT'S A LOGISTICAL
9 NIGHTMARE, BUT THIS IS THE END OF THE SIDE THAT WE
10 JUST GOT TO SO SHE WAS ALREADY --

11 THE COURT ALL RIGHT WHAT DO YOU WANT
12 ME DO? WHAT DO YOU WANT ME TO ASK HER? HOW DO YOU
13 WANT ME TO HANDLE IT? OBVIOUSLY I CAN'T ASK HER TO
14 READ IT AND THEN TELL ME WHETHER SHE'S READ IT BEFORE
15 OR NOT THEN SHE'S READ IT I DON'T KNOW HOW TO
16 IDENTIFY IT HOW ABOUT THIS? DO YOU MIND IF I ASK
17 HER TO TELL HER THAT THERE WAS SOME DIALOGUE
18 INVOLVING SOMETHING OR INVOLVING WHEN HIS WIFE WORKED
19 AT BI-LO AND DID SHE READ ANYTHING ABOUT THAT?
20 BECAUSE IT HAS TO DO WITH THAT IT TALKED ABOUT WIFE
21 WORKING AT BI-LO AND THE MESS AT THE HOUSE AND DIXIE
22 COMING OUT AND SPRAYING DOES THAT, THOSE ARE THE
23 TWO LONG ANSWERS THAT YOU ARE CONCERNED ABOUT

24 MR MORTON IT'S THE TWO WHOLE LONG
25 PARAGRAPHS ABOUT THE PRIOR CONVICTION AND ABOUT THE

1 DETAILS OF THE PRIOR CONVICTION

2 THE COURT WELL, I REALLY DON'T KNOW HOW
3 TO GET INTO THE SECOND ONE THE FIRST ONE GOES INTO
4 BI-LO AND THEN PROBATION OFFICERS, LANDLORD, AND
5 BUGS I'M WAITING FOR YOUR SUGGESTION

6 MR MORTON I DON'T KNOW WHAT TO DO I
7 WISH MY CO-COUNSEL WAS HERE MR BAITY

8 THE COURT I THINK I KNOW, LET ME

9 MR MORTON I DON'T WANT YOU TO DRAW MORE
10 ATTENTION TO IT THAN ALREADY IS

11 THE COURT I'M JUST GOING TO ASK IF SHE
12 HAS READ ANYTHING THAT HADN'T BEEN ORALLY ON THE
13 TAPE IS THAT OKAY

14 (MR MORTON CONFERS WITH MR SMITH)

15 THE COURT THAT'S WHAT I'M GOING TO DO
16 WHETHER IT'S OKAY OR NOT BRING HER IN

17 (THE JUROR RETURNS TO THE COURTROOM)

18 THE COURT YOU CAN JUST STAND THERE
19 ACTUALLY WHAT, THE CONCERN WAS NOT FOR SOMETHING THAT
20 HADN'T, WAS IN PAGES OVER BUT IN PAGES THAT
21 APPARENTLY HAD ALREADY BEEN IN YOUR HANDS AND I'M
22 GOING TO ASK IT LIKE THIS, DID YOU READ, HAVE YOU
23 READ ANYTHING IN THESE STATEMENTS THAT YOU DIDN'T
24 HEAR BEING PLAYED ON THE TAPE?

25 THE JUROR NO, SIR, I DID NOT

1 THE COURT OKAY ANYTHING ELSE?

2 MR BRACKETT NO, SIR

3 MR MORTON NO, SIR

4 MR GREELEY NO, YOUR HONOR

5 THE COURT I'M GOING TO LET YOU GO JOIN

6 THE JURY IN THE JURY ROOM THANK YOU

7 THE JUROR THANK YOU

8 (THE JUROR EXITS THE COURTROOM)

9 THE COURT ALL RIGHT

10 MR MORTON I WOULD LIKE JUST TO MAKE
11 THAT PART OF THE RECORD THOUGH, YOUR HONOR, IF I
12 COULD

13 THE COURT SURE

14 MR MORTON AND I'LL, FOR THE RECORD CAN
15 WE, FOR THE RECORD, YOUR HONOR, THE JURY WAS PROVIDED
16 TRANSCRIPTS OF PORTIONS OF A CONVERSATION BETWEEN,
17 THIS TAPE BETWEEN THE POLICE AND MY CLIENT MR COPE
18 THAT WAS ATTEMPTED TO BE REDACTED AND I'M NOT BLAMING
19 THEM, I KNOW HOW HARD IT IS TO DO THIS STUFF, BUT WE
20 GOT TO THE END OR THREE QUARTERS OF THE WAY DOWN PAGE
21 19 WHERE IT SAYS THE END OF SIDE B TAPE ONE, WHEN IT
22 WAS BROUGHT TO OUR ATTENTION, I CAN'T REMEMBER BY
23 WHOM, I THINK BY THE JUROR, HER NAME IS, WHATEVER SHE
24 SAID HER NAME WAS, I CAN'T REMEMBER HER NAME, THAT
25 HER TRANSCRIPT THAT SHE HAD BEEN READING FROM DID NOT

1 MATCH THE REDACTED TRANSCRIPT AND ON PAGE, I'LL
2 SUBMIT THIS AS PART OF THE RECORD, ON PAGE 18 WHICH
3 WE HAD ALREADY PASSED AND GONE THROUGH, BEFORE WE GOT
4 TO WHERE WE STOPPED, THERE WAS AND I'LL MAKE PART OF
5 THE RECORD, THE POLICE WERE ASKING HIM, MY CLIENT
6 MR COPE, ABOUT A PRIOR CONVICTION FOR UNLAWFUL
7 NEGLECT OF A CHILD THAT HE HAD IT WAS TWO FULL
8 PARAGRAPHS OF HIS DISCUSSING WHAT HAPPENED IN THAT
9 SITUATION INCLUDING THE DETAILS OF THE CONVICTION,
10 THE SENTENCE FOR THE CONVICTION, AND VARIOUS MATTERS
11 THAT I WOULD JUST LIKE TO MAKE THIS PAGE, THESE I
12 GUESS THREE PAGES, I GUESS SAFEST WAY MAKE PAGE 17,
13 18, AND 19 A PART OF THE RECORD, YOUR HONOR

14 THE COURT MAKE THEM A COURT'S EXHIBIT
15 MR MORTON AND I DON'T KNOW HOW TO DO
16 THAT BECAUSE I THINK THIS IS

17 MR BRACKETT WE WILL MAKE ANOTHER COPY
18 FOR THAT JUROR AND WE'LL DO THAT ON THIS BREAK

19 THE COURT I WASN'T GOING TO CALL THIS A
20 BREAK IF YOU NEED A MINUTE TO DO IT ---

21 MR BRACKETT WELL, SIR, TO BE HONEST
22 WE'RE RUSHING AND I THINK THAT IS PART OF THE
23 PROBLEM I WANT TO MAKE SURE THAT WHAT WE HANDED
24 OUT, BECAUSE WE ARE ABOUT TO GIVE THEM THE THICK
25 REMAINDER OF THE TRANSCRIPT AND I WANT TO TAKE JUST A

1 MINUTE TO LOOK THROUGH AND MAKE SURE WE DON'T HAVE
2 THIS PROBLEM AGAIN I THINK AN OUNCE OF PREVENTION
3 IN THIS SITUATION WILL SAVE US A LOT AND I KNOW IT'S
4 INCONVENIENT FOR THEM, BUT I THINK THE PROBLEMS THAT
5 COULD GENERATE ARE WELL WORTH

6 THE COURT WE'LL TAKE A FEW MINUTES THEN
7 BUT LET ME KNOW WHEN YOU ARE READY AND

8 MR POPE AS FAR AS MR MORTON HAVING A
9 COPY I BELIEVE YOU SAID YOU WANTED A COPY OF PAGE 18?

10 MR MORTON I WILL GIVE THE COURT
11 REPORTER THE COPY THAT I THINK SHE HAD

12 MR POPE THAT WILL BE FINE

13 THE COURT GIVE HER THE WHOLE COPY AND
14 REFERENCE PAGE, 18 IS THE OBJECTIONABLE PART TOP OF,
15 18 AND TOP OF 19

16 THE COURT THAT IS COURT'S NUMBER SEVEN
17 THE TRANSCRIPTION GIVEN TO MRS CANNIZZARO JUROR
18 NUMBER 281

19 (COURT EXHIBIT NUMBER SEVEN TAPE
20 TRANSCRIPT RECEIVED)

21 MR BRACKETT THESE ARE THE FINAL
22 TRANSCRIPTS THAT WILL TAKE THEM THROUGH THE END OF
23 THE TAPES WE'RE GOING TO ADD THESE PAGES TO THE
24 FRONT OF THIS AND CONFIRM IT'S JUST

25 THE COURT DON'T KEEP TELLING ME I'M

1 GOING TO GO OUT AND LET Y'ALL DO IT AND THEN YOU CAN
2 TELL ME WHEN IT'S DONE

3 MR BRACKETT YES, SIR

4 (COURT'S IN RECESS)

5 (COURT RESUMES AT 11 42)

6 THE COURT EVERYBODY READY TO GO?

7 MR BRACKETT YES, SIR

8 THE COURT SINCE WE ARE AND I'M NOT
9 SAYING THIS IN A FAULT FINDING WAY, BUT SINCE WE HAVE
10 LOST SOME TIME, I'M GOING TO HAVE THE CLERK SEND OUT
11 LUNCH FOR THE JURY AND HAVE IT HERE AT ONE O'CLOCK,
12 PIZZAS, SO WE CAN MAYBE JUST HAVE A HALF HOUR LUNCH
13 AND IF ANY OF YOU WANT PIZZAS JUST LET THE CLERK KNOW
14 AND WE'LL TELL YOU HOW MUCH YOU KNOW HIM, BUT I THINK
15 THIS WILL CUT DOWN OUR LUNCH TO ABOUT A HALF AN HOUR
16 SO WE CAN CATCH UP AND WE CAN STILL GET DONE WHAT WE
17 WANTED TO GET DONE TODAY ALL RIGHT BRING IN THE
18 JURY

19 (THE JURY RETURNS TO THE COURTROOM AT
20 11 43)

21 THE COURT MEMBERS OF THE JURY PANEL,
22 FIRST LET ME APOLOGIZE WE HAVE HAD TO DO A LOT OF
23 REDACTING AND EVERYONE IS WORKING AS HARD AS THEY CAN
24 TO GET IT DONE AND MAKE IT GO MORE SMOOTHLY AND MRS
25 CANNIZZARO DID NOT DO ANYTHING WRONG WE JUST WANTED

1 TO CHECK AND MAKE SURE THAT SOMETHING BY MISTAKE
2 PLACED IN HER HANDS HADN'T BEEN -- WE'RE OKAY WITH
3 IT I'M GOING TO ORDER LUNCH FOR EVERYBODY TODAY,
4 NOT EVERYBODY BUT ALL OF Y'ALL, SO THAT WE CAN,
5 RATHER THAN HAVE A LONG LUNCH, HAVE A SHORTER LUNCH
6 BECAUSE THIS IS FRIDAY AND WE'VE GOT ENOUGH STUFF
7 THAT WE THINK WE WANT TO DO THAT WE WANT TO GET IN
8 TODAY SO IT WILL GIVE US, I'M TAKING UP MORE TIME NOW
9 THAN, Y'ALL UNDERSTAND ALL RIGHT START OH, I
10 DO HAVE ONE REQUEST, WE DON'T THINK THERE ARE
11 ANYMORE MISTAKES AND BY THAT I MEAN THERE ARE THINGS
12 IN THERE, BUT I'M GOING TO ASK THAT YOU FOLLOW ALONG
13 WITH THE AUDIO THAT IS, IF SOMETHING DOES POP UP
14 AND YOU SEE SOMETHING IN THERE THAT'S WRITTEN THAT'S
15 NOT BEING TALKED ABOUT, LET US KNOW FOR ONE THING
16 JUST RAISE YOUR HAND AND SAY I'VE GOT SOMETHING HERE
17 THAT DOESN'T JIVE, BUT DON'T LET YOURSELF READ IT IF
18 IT'S NOT BEING SPOKEN THANK YOU

19 (THE TAPE IS PLAYED FOR THE JURY)

20 MR BRACKETT WE NEED TO TAKE SOMETHING
21 UP

22 THE COURT LET ME LET YOU GO TO THE JURY
23 ROOM JUST FOR A FEW MINUTES

24 (THE JURY EXITS THE COURTROOM AT

25 12 31)

001318

1 MR BRACKETT JUST OUT OF PRECAUTION I
2 THINK THEY ARE TELLING ME THAT THIS HAS BEEN
3 CORRECTED AS I LOOK OVER HERE ON THE RAIL THAT IT
4 HAS BEEN IT WASN'T ON MINE AND I JUST WANTED TO
5 MAKE SURE THIS IS ONE OF THE ISSUES THEY WANTED
6 REDACTED

7 MR MORTON IT WASN'T ON MINE EITHER
8 MR BRACKETT IT IS ON THE JURY'S
9 THE COURT WE'RE OKAY

10 MR BRACKETT YES, SIR
11 THE COURT THAT'S OKAY

12 (THE JURY RETURNS TO THE COURTROOM AT
13 12 34 AND THE TAPE IS CONTINUED TO BE PLAYED)

14 THE COURT THE JURY?

15 MR MORTON YES, SIR

16 THE COURT LET THE JURY GO TO THE JURY
17 ROOM JUST FOR A MINUTE

18 (THE JURY EXITS THE COURTROOM AT
19 12 56)

20 MR MORTON AT THE TOP OF PAGE 54, YOUR
21 HONOR, I BELIEVE NEEDS TO BE REDACTED

22 THE COURT I'M USING AN OLDER COPY SO I
23 DON'T HAVE MINE TELL ME WHAT IT WAS?

24 (HANDLED TO THE COURT)

25 THE COURT OKAY

1 MR BRACKETT THEY HADN'T EVEN FLIPPED
2 THE PAGE SO I DON'T THINK THERE IS ANY CHANCE THAT
3 THEY SAW THAT NEITHER OF US HAVE SEEN THIS BEFORE
4 AND WE'LL GET IT TAKEN CARE OF

5 THE COURT LET'S TAKE CARE OF IT I MEAN
6 RIGHT NOW

7 MR BRACKETT YES, SIR

8 MR POPE IT'S ON THE TAPE AS WELL

9 THE COURT THE PIZZAS ARE HERE, WHY
10 DON'T WE SEND WORD AND LET THEM EAT AND Y'ALL GO
11 THROUGH THIS AND CHECK FOR ANYTHING ELSE

12 MR BRACKETT WE'VE BEEN LOOKING AND
13 LOOKING AND THEY HAVE BEEN LOOKING

14 MR MORTON JUDGE, I KNOW THEY ARE DOING
15 BEST THEY CAN ARE WE ON SOME KIND OF SCHEDULE OR
16 ARE WE IN A HURRY OR SOMETHING? IS THERE SOMETHING I
17 DON'T --

18 THE COURT WELL, Y'ALL MAY NOT BE BUT I
19 DON'T THINK THE JURY WANTS TO SIT HERE FOR FOUR WEEKS
20 SO, YES, WE'RE NOT IN A HURRY BUT I WOULD LIKE TO
21 MOVE ALONG EXPEDITIOUSLY, SO WE'RE NOT IN A BIG
22 HURRY WE WANT EVERYBODY TO BE AIRED, WE DON'T WANT
23 ANYTHING IMPROPER TO GO TO THE JURY, BUT THEN AGAIN
24 WE DON'T WANT TO DAWDLE

25 MR BRACKETT WE HAVE READ THROUGH THIS

1 SEVERAL TIMES AND THEY HAVE TOO AND WE JUST MISSED IT
2 AND I'M SORRY

3 THE COURT THAT'S OKAY WELL, WE'LL TAKE
4 A HALF HOUR BREAK FOR LUNCH MR IVEY, WE'LL TAKE
5 OUR LUNCH BREAK NOW IF THE FOOD ISN'T IN, IT WILL
6 BE SENT IN MOMENTARILY

7 (COURT'S IN RECESS AT 12 58)

8 (COURT RESUMES AT 1 42)

9 THE COURT ANYTHING FROM BEFORE WE GET
10 THE JURY IN, MR BRACKETT?

11 MR BRACKETT NO, SIR

12 THE COURT MR MORTON

13 MR MORTON NO, SIR

14 MR GREELEY NO, SIR

15 THE COURT OKAY JUST SO THE

16 PARTICIPANTS WILL KNOW, THE COURT REPORTER'S MRS
17 RICH'S MOTHER IS HAVING SURGERY WE UNDERSTAND THAT
18 EVERYTHING IS GOING WELL, BUT SHE IS WAITING FOR A
19 CALL FROM HER SISTER FOR AN UPDATE AND SINCE WE ARE
20 LISTENING TO THE TAPE I HAVE TOLD HER THAT IF HER
21 PHONE VIBRATES SHE CAN SLIP OUT QUIETLY AND IF
22 WHILE SHE IS OUT SOMETHING HAPPENS, IF WE NEED TO
23 HAVE HER, WE WILL GET HER ANYBODY HAVE ANY
24 OBJECTION TO THAT?

25 MR BRACKETT NONE FROM THE STATE

1 MR MORTON NO

2 MR GREELEY NO OBJECTION

3 THE COURT THANK YOU BRING IN THE JURY

4 (THE JURY RETURNS TO THE COURTROOM AT

5 1 43)

6 THE COURT WE'LL TAKE UP WHERE WE ARE

7 THE COURT REPORTER MAY HAVE TO STEP OUT AT SOME

8 POINT IF SHE DOES, THAT'S OKAY IT SHOULDN'T

9 DISTRACT YOU SHE'LL BE QUIET

10 (THE TAPE IS PLAYED FOR THE JURY)

11 MR BRACKETT WE HAVE AN ISSUE THAT I'VE

12 JUST BEEN DISCUSSING WITH MR MORTON

13 (THE JURY EXITS THE COURTROOM AT

14 1 58)

15 THE COURT ALL RIGHT

16 MR BRACKETT WE'VE BEEN, PER YOUR

17 REQUEST, WE WENT THROUGH AND REREAD AGAIN THROUGH THE

18 STUFF AND THERE IS ANOTHER REFERENCE, THEY ARE JUST

19 SMALL SLENDER REFERENCES IN THIS NEXT PARAGRAPH

20 THAT IS ABOUT TO BE PLAYED ON THE TAPE HE SAYS, IN MY

21 HEAD I THOUGHT, YOU KNOW, THAT SOMEBODY LIKE HIM OR

22 SOMEBODY IN THE NEIGHBORHOOD COULD HAVE FOUND EASY

23 ACCESS TO OUR HOUSE I DON'T SEE HOW, I DO NOT SEE

24 HOW THERE COULD BE ANY SEXUAL ASSAULT OVER A PERIOD

25 OF TIME THERE IS THAT, THERE IS A COUPLE OF OTHER

1 SPOTS IN HERE THAT ARE SIMILAR, BUT I MEAN THEY
2 VIOLATE THE SPIRIT OF THE COURT'S ORDER

3 THE COURT YOU NEED TO TAKE THEM OUT
4 THEN

5 MR BRACKETT YES, SIR, WE'LL GET ON IT

6 MR MORTON I KNOW HOW HARD THIS IS

7 THE COURT WE'LL AT EASE FOR A FEW
8 MINUTES

9 (COURT'S IN RECESS)

10 (COURT RESUMES AT 2 17)

11 THE COURT ARE WE READY

12 MR BRACKETT GOD WILLING

13 THE COURT MR MORTON, YOU READY

14 MR MORTON YES, SIR

15 MR GREELEY MR SANDERS IS READY

16 THE COURT BRING IN THE JURY

17 (THE JURY RETURNS TO THE COURTROOM AT 2 17

18 AND THE TAPE IS PLAYED FOR THE JURY)

19 (BENCH CONFERENCE)

20 MR BRACKETT PLEASE THE COURT MAY WE
21 APPROACH

22 (THE TAPE IS STOPPED AT 3 22 AND THERE
23 IS A BENCH CONFERENCE)

24 THE COURT LET THE JURY GO TO THE JURY
25 ROOM

1 (THE JURY EXITS THE COURTROOM)
2 THE COURT HOW LONG DO YOU NEED TO
3 CORRECT IT

4 MR BRACKETT BEFORE WE GO THROUGH THAT I
5 WOULD NOTE THE OTHER ONES WE WERE TALKING ABOUT IS
6 WHAT THE PATHOLOGIST WAS SAYING THERE IS ENOUGH
7 EVIDENCE IN HERE TO INFER FROM THE EVIDENCE AND MAKE
8 AN ARGUMENT TO THE JURY, TAKING IT OFF OF HERE ISN'T
9 GOING TO KEEP FROM CLOSING ARGUMENT

10 THE COURT BUT I THOUGHT YOU DECIDED TO
11 DO IT THAT IT WAS COMING OFF BECAUSE IT WAS
12 UNDERSTANDING OF THE WHOLE PROCESS

13 MR BRACKETT WHEN WE ORIGINALLY
14 DISCUSSED IT IT WAS IN THE CONTEXT OF THE PATHOLOGIST
15 TELLS US THIS AND THE PATHOLOGIST TELLS US THAT

16 THE COURT WELL, ALSO BUT I THINK ALL OF
17 HIS RESPONSES HAVE TO DO WITH THEIR TELLING HIM THAT
18 THE PATHOLOGIST SAID THIS HAPPENED

19 MR BRACKETT YES, SIR I'LL TAKE IT
20 OFF

21 THE COURT SO IT MIGHT BE FRUIT OF THE
22 POISONOUS TREE OR SOMETHING IF THEY WANT IT OFF
23 IT'S COMING OFF ALL I WANT TO KNOW IS HOW LONG IS
24 IT GOING TO TAKE?

25 MR BRACKETT TEN MINUTES OR SO

1 THE COURT ANOTHER TEN MINUTES

2 MR MORTON YOUR HONOR, JUST WHILE WE'RE
3 HERE I JUST WANTED TO NOTE FOR THE RECORD THAT THERE
4 WAS A REFERENCE BY MY CLIENT ABOUT LIVING IN A BLACK
5 NEIGHBORHOOD AND ABOUT HIS MOTHER DIDN'T LIKE HIM
6 LIVING IN THE NEIGHBORHOOD AND SHE WAS PREJUDICED, I
7 THOUGHT THAT SHOULD HAVE BEEN STRICKEN FROM THE TAPE
8 TOO BECAUSE I DIDN'T WANT THE JURY --- WE HAVE BLACK
9 MEMBERS ON THE JURY AND INFERRING SOMETHING ABOUT MY
10 CLIENT, JUST BECAUSE HE SAID IT ON THE TAPE I DON'T
11 THINK I WOULD SAY IT COMES IN AND I WANTED TO NOTE
12 THAT I MADE MY OBJECTION AT THE APPROPRIATE TIME

13 THE COURT WELL, YOU SHOULD HAVE MADE AN
14 OBJECTION BEFORE IT CAME UP I DON'T KNOW IF THAT IS
15 AN APPROPRIATE TIME YOU HAVE HAD THAT TO READ, WE
16 LISTENED TO IT TWO WEEKS AGO, IT WASN'T BROUGHT UP
17 YOU'VE HAD IT FOR QUITE A WHILE, IT HADN'T BEEN
18 BROUGHT UP, WE'RE IN THE MIDDLE OF THIS AND YOU BRING
19 IT UP SO I FIND FIRST OFF, I'M NOT BEING HARSH, BUT I
20 DON'T THINK IT IS TIMELY TO BRING IT UP ALL OF A
21 SUDDEN WE HAVE HAD THE JURY DRAWN SINCE MONDAY AND
22 YOU KNEW THAT THERE WERE TWO BLACK JURORS SINCE
23 MONDAY AND YOU HAVEN'T ASKED FOR IT TO BE REMOVED
24 UNTIL---

25 MR MORTON WELL, YOUR HONOR, A LOT OF

1 THINGS HADN'T BEEN DONE THAT MAYBE SHOULD HAVE BEEN
2 DONE BEFORE WE PLAYED THIS TAPE, BUT I BROUGHT IT UP,
3 I WANT TO MAKE MY MOTION FOR THE RECORD THAT I PUT IT
4 UP, BROUGHT IT UP, MADE MY OBJECTION BEFORE IT'S
5 PLAYED TO THIS JURY

6 THE COURT ALL RIGHT YOUR MOTION IS FOR
7 WHAT?

8 MR MORTON MY MOTION IS FOR IT TO BE
9 REDACTED

10 THE COURT I DENY THE MOTION IN
11 ADDITION TO IT'S NOT BEING TIMELY, I ALSO FIND THAT
12 IT'S, I DON'T SEE WHERE IT'S PREJUDICE NUMBER ONE,
13 MR COPE SAID IT NUMBER TWO, HE SAYS THAT WAS HIS
14 MOTHER'S THOUGHTS NOT HIS HIS MOTHER WAS PREJUDICED
15 INDIVIDUAL HE NEVER SAID THAT HE WAS PREJUDICED AND
16 HE NEVER SAID THAT HE WAS CONCERNED LIVING THERE AND
17 HE CERTAINLY WAS LIVING THERE SO HE MUST NOT HAVE TOO
18 MUCH CONCERN ABOUT THE NEIGHBORHOOD SO FIRST I FIND
19 IT IS NOT TIMELY BUT EVEN IF IT WERE TIMELY I WOULD
20 STILL RULE THE SAME BASED ON THE FACT THAT I FIND IT
21 IS NOT, IN THE CONTEXT IT WAS STATED AND HOW IT WAS
22 STATED IT DOES NOT SHOW ANY PREJUDICE BY THIS MAN
23 IN FACT, IT ALMOST SHOWS HIM ESCHEWING PREJUDICE BY
24 SAYING IT WAS HIS MOTHER'S PREJUDICE AND NOT HIS
25 ALL RIGHT THANK YOU

1 (COURT'S IN RECESS AT 3 26)

2 (COURT RESUMES)

3 THE COURT THE STATE READY

4 MR BRACKETT JUST A QUICK OBSERVATION

5 IF ANYONE WISHES TO CROSS EXAMINE ANY OF OUR

6 DETECTIVES AS TO WHY THEY MIGHT NOT CHOOSE TO TAPE

7 RECORD AN INTERVIEW IN THE FUTURE, I'LL BE ASKING THE

8 COURT TO TAKE NOTICE OF CERTAIN FACTS

9 THE COURT BRING IN THE JURY POINT WELL
10 TAKEN

11 (THE JURY RETURNS TO THE COURTROOM AT
12 3 45 AND THE TAPE IS PLAYED FOR THE JURY)

13 THE COURT DETECTIVE WALDROP, YOU MAY
14 RETAKE THE STAND AND YOU ARE STILL UNDER OATH
15 DIRECT EXAMINATION BY MR BRACKETT

16 Q WE'VE HEARD THE ENTIRE INTERVIEW BETWEEN YOU,
17 LIEUTENANT HERRING, AND DEFENDANT BILLY COPE?

18 A THAT'S CORRECT

19 Q ALL RIGHT THEN THE TAPE ENDED RIGHT THERE?

20 A THAT'S CORRECT

21 Q WAS THAT THE END OF THE INTERVIEW OR DID IT
22 CONTINUE?

23 A NO, THAT WAS THE END OF THE INTERVIEW

24 Q ALL RIGHT NOW I WANT TO BACK UP AND GO OVER A
25 COUPLE OF THINGS WITH YOU, JUST DISCUSS IN GENERAL

1 BASICALLY WHAT YOU KNEW AT THAT TIME YOU WENT INTO
2 THE HOUSE I BELIEVE YOU TESTIFIED?

3 A THAT'S CORRECT

4 Q SO YOU WERE ABLE TO SEE THE SIZE OF THE HOUSE
5 AND THE SIZE OF THE ROOMS?

6 A YES, SIR

7 Q AND THEIR LOCATION RELATIVE TO ONE ANOTHER?

8 A YES, SIR

9 Q WHAT I WANT YOU TO DO IS TAKE THE END OF THIS
10 TAPE MEASURE HERE AND I AM GOING TO WALK AWAY FROM
11 YOU AND I WANT YOU TO TELL ME TO STOP WHEN I'M AS FAR
12 AS FROM YOU, APPROXIMATELY, AS THE DISTANCE FROM THE
13 CORNER OF AMANDA COPE'S BED TO CORNER OF BILLY COPE'S
14 BED?

15 A I'D SAY THAT IS PRETTY GOOD RIGHT THERE

16 Q OKAY WHAT'S THE DISTANCE ON THAT?

17 A ABOUT 160 INCHES

18 Q ABOUT HOW ABOUT FEET?

19 A 13 FEET

20 Q 6 INCHES

21 A 6 INCHES

22 Q NOW THE AREA THAT YOU HAVE THE WALK THROUGH JUST
23 GIVE US A DESCRIPTION FROM AMANDA'S ROOM TO GET TO
24 THE DEFENDANT'S ROOM, DESCRIBE THAT FOR THE JURY?

25 A IF YOU ARE LOOKING INTO WHAT WE CALL, BE CALLED

1 THE HALLWAY AREA, THE MASTER BEDROOM OR MR COPE'S
2 WOULD HAVE BEEN ON THE LEFT, AMANDA COPE'S WOULD HAVE
3 BEEN ON THE RIGHT, COMING OUT OF THE, MR COPE'S ROOM
4 YOU WOULD HAVE MADE JUST A SLIGHT LEFT TURN GOING IN
5 TO AMANDA COPE'S ROOM IN THE HALL AREA AND THE
6 LIVING ROOM WOULD HAVE BEEN BACK BEHIND YOU WHEN YOU
7 WERE LOOKING AT THAT AREA

8 Q SO IF I WAS WALKING IN FROM THE LIVING ROOM,
9 BILLY COPE'S ROOM HERE?

10 A WOULD HAVE BEEN ON THE LEFT, THAT IS CORRECT

11 Q AND WHAT WAS HERE ON THIS WALL?

12 A I THINK IT'S THE DOOR TO THE OTHER BEDROOM, THE
13 OTHER GIRL'S BEDROOM

14 Q AMANDA COPE'S ROOM HERE?

15 A RIGHT

16 Q WAS THERE A BATHROOM IN THERE?

17 A THE BATHROOM DOOR WOULD HAVE BEEN TO THE RIGHT
18 OF AMANDA'S ROOM IN THE HALL AREA

19 Q SO THAT WAS ON THIS WALL?

20 A RIGHT

21 Q AND THEN OVER HERE?

22 A WAS THE OTHER GIRL'S ROOM, THAT'S RIGHT

23 Q NOW THE HALLWAY THAT WE'RE TALKING ABOUT, THE
24 SIZE OF THAT, APPROXIMATELY IF I WAS STANDING IN THE
25 CENTER OF IT?

1 A PROBABLY A FOUR FOOT, FOUR AND A HALF MAYBE FIVE
2 FOOT WIDE HALL

3 Q WOULD THAT BE?

4 A A LITTLE

5 Q MORE THAN?

6 A YEAH

7 Q A LITTLE BIT LARGER?

8 A IT WOULDN'T HAVE BEEN MUCH LARGER THAN THAT IF
9 ANY

10 Q ALL RIGHT AND IN THE TAPE YOU TOLD MR COPE
11 THAT, IN THE TAPE YOU WERE TALKING TO MR COPE ABOUT
12 WHOSE DOORS WERE OPEN AND WHAT WAS YOUR UNDERSTANDING
13 AT THAT TIME OF WHOSE DOORS WERE OPEN?

14 A MY UNDERSTANDING WAS THAT ALL THE DOORS WERE
15 OPEN ORIGINALLY

16 Q AT THE BEGINNING OF THE EVENING WHEN THEY ALL
17 WENT TO BED?

18 A THAT'S CORRECT

19 Q OKAY AND WHICH LIGHTS WERE ON?

20 A I DON'T REMEMBER THE DISCUSSION EXCEPT FOR MAYBE
21 THE ONE LIGHT BEING ON, THE GIRLS LIGHTS OR SOMETHING
22 BEING ON

23 Q OKAY NOW WE'VE HEARD THE PATHOLOGIST TESTIFY
24 SO I DON'T WANT YOU, YOU DON'T NEED TO DISCUSS TO ANY
25 OF THE INJURIES TO AMANDA, BUT FROM THE SCENE IN HER

1 ROOM HOW WOULD YOU CHARACTERIZE THE ATTACK UPON
2 AMANDA FROM WHAT YOU SAW IN HER ROOM?

3 A THE ROOM WAS TORN UP THE BED WAS TORN APART
4 I WAS IN THERE FOR JUST A VERY SHORT PERIOD, FROM
5 WHAT I COULD SEE THE MATTRESS APPEARED TO BE OFF OF
6 THE BED SHE WOULD HAVE BEEN LAYING ON TOP OF THE
7 BED TO THE RIGHT HAND SIDE KIND OF CATTY CORNERED ON
8 THE MATTRESS, BUT THE ROOM WAS JUST, IT WAS IN TOTAL
9 DISARRAY, TORN UP

10 Q OKAY NOW WHAT IS MEANT WHEN SOMEBODY SAYS A
11 CRIME SCENE WAS STAGED? WHAT DOES THAT MEAN?

12 A THERE IS EVIDENCE OR THERE IS SOMETHING THERE TO
13 APPEAR THAT SOMETHING HAS BEEN DONE TO MAKE IT LOOK
14 LIKE A PARTICULAR TYPE CRIME WAS COMMITTED

15 Q OR A PARTICULAR CRIME NECESSARILY?

16 A OR A PARTICULAR INCIDENT, A PARTICULAR SCENE, OR
17 SOMETHING THAT DID NOT HAPPEN TO APPEAR TO HAVE
18 HAPPENED

19 Q YOU'VE STUDIED AT THE FBI ACADEMY?

20 A THAT'S CORRECT

21 Q AND YOU'VE STUDIED SOME OF THE CRIMINAL SCENE
22 ANALYSIS THERE?

23 A THAT'S CORRECT

24 Q ALL RIGHT, SIR AND WAS THIS CRIME SCENE
25 STAGED?

1 A FROM WHAT I SAW, I WAS NOT IN THE CRIME SCENE
2 BUT JUST A VERY FEW MINUTES

3 Q FROM WHAT YOU KNOW OF THE CRIME SCENE?

4 A BUT FROM WHAT I KNOW OF IT WITH THE INTERVIEWS
5 AND TALKING WITH THE OTHER INVESTIGATORS, YES, SIR,
6 IT WOULD APPEAR TO BE

7 Q OKAY AND THE SIGNIFICANT FACTORS IN THAT,
8 WOULD THE BED SHEET EDGING WRAPPED HER NECK, WOULD
9 THAT HAVE SIGNIFICANCE AS FAR AS THAT'S CONCERNED?

10 A YES, SIR, THAT WOULD THE FACT THAT IT APPEARED
11 HER CLOTHES HAD BEEN PUT BACK ON, THE APPEARANCE OF
12 THE BEDROOM, AND THE DOORS AS THEY WERE TOLD TO HAVE
13 BEEN PUT TOGETHER THE WAY THEY WERE

14 Q OKAY AND THE CONDITION OF THE HOUSE, DESCRIBE
15 THAT FOR US AGAIN BRIEFLY?

16 A IT WAS A TOTAL, IT WAS JUST FILTHY, DIRTY, AND
17 DISARRAY THERE WERE STUFF SITTING ALL IN THE
18 FLOORS, ALL IN THE LIVING ROOM AROUND THE HALL AREA
19 I DID NOT GO INTO THE KITCHEN AREA, BUT WHAT I DID
20 SEE OF THE LIVING ROOM, HALL, AND THE TWO BEDROOMS IT
21 WAS JUST A TOTAL MESS

22 Q ALL RIGHT, SIR NOW IN THAT INTERVIEW YOU READ
23 THE STATEMENT OF OFFICER KEVIN JONES, DO YOU RECALL
24 HEARING THAT JUST NOW?

25 A THAT'S CORRECT

1 Q YOU READ THAT STATEMENT ABOUT, IN THERE I
2 BELIEVE YOU INDICATED TO MR COPE YOU TOLD HIM THAT
3 THE SHEET WAS STILL WRAPPED AROUND HER NECK FOUR OR
4 FIVE TIMES?

5 A THAT'S CORRECT

6 Q DID YOU HAVE ANY PICTURES OF THE CRIME SCENE AT
7 THAT TIME?

8 A NO, I DID NOT

9 Q OKAY SO WHEN YOU WERE TELLING HIM THAT WHAT
10 WERE YOU RELYING ON?

11 A I WAS RELYING ON WHAT I HAD READ IN THE OFFICERS
12 STATEMENT

13 Q OKAY NOW YOU'VE SEEN THE CRIME SCENE
14 PHOTOGRAPHS, YOU'VE SEEN THE PICTURES?

15 A THAT'S CORRECT

16 Q OF AMANDA AS SHE LAY IN THE BED PARTICULARLY
17 I'M SHOWING YOU STATE'S EXHIBIT 18?

18 A YES

19 Q DID YOU HAVE ACCESS TO THIS PHOTOGRAPH AT THAT
20 TIME?

21 A NO, SIR, I DID NOT

22 Q WERE THE LINENS IN FACT WRAPPED AROUND HER NECK?

23 A NO, SIR, THEY WERE NOT

24 Q OKAY THERE WAS ANOTHER PART OF THE TAPE WHERE
25 MR COPE WAS DESCRIBING SOMETHING, HE SAID HANDS UP

1 AROUND THE NECK AND HE WAS APPARENTLY DEMONSTRATING,
2 IT SOUNDS LIKE, ON THE AUDIO TAPE BUT OF COURSE WE
3 CAN'T SEE WHAT HE WAS DOING DO YOU RECALL?

4 A YES, HE WAS INDICATING THAT HER HANDS WERE UP
5 UNDER HER NECK LIKE THIS WHEN HE ROLLED HER OVER

6 Q OKAY SO SHE WAS FACE DOWN AND HER HANDS WERE
7 LOCATED HERE?

8 A THAT'S CORRECT

9 Q ALL RIGHT DID HE MAKE THAT INDICATION WITH HIS
10 FINGERS?

11 A YES, HE DID

12 Q CURLING THEM?

13 A HE WAS INDICATING THAT HE, THAT SHE WAS IN THIS
14 POSITION INDICATING THAT SHE APPEARED TO BE PULLING
15 OR THAT'S WHAT HE WAS INFERRING THAT SHE WAS TRYING
16 TO PULL THE SELVAGE FROM AROUND HER NECK

17 Q NOW REPEATEDLY THROUGHOUT THE TAPE INTERVIEW
18 MR COPE MENTIONS POLYGRAPH?

19 A THAT'S CORRECT

20 Q AFTER THE INTERVIEW, AFTER THE TAPE, THE LAST
21 TAPE RAN OUT, DID YOU ATTEMPT TO MAKE ANY EFFORTS IN
22 REGARD TO THE POLYGRAPH?

23 A WE DID

24 Q WHAT DID YOU DO?

25 A LATER THAT AFTERNOON OR LATER AFTER THE

1 INTERVIEW WE CALLED YORK COUNTY SHERIFF'S DEPARTMENT
2 POLYGRAPH OPERATOR WHO WOULD BE DETECTIVE MIKE BAKER,
3 EXPLAINED THE SITUATION TO HIM, AND WE TOLD HIM THAT
4 WE HAD AN INDIVIDUAL WILLING AND WANTING TO TAKE THE
5 POLYGRAPH IN THE CASE WE EXPLAINED THE SITUATION,
6 WHAT TIME OF THE MORNING, HOW LONG HE HAD BEEN THERE,
7 THAT WE HAD BEEN INTO A LENGTHY INTERVIEW, HE STATED
8 THAT IT WOULD BE BEST TO LET MR COPE GO AHEAD AND I
9 GET SOME REST BEFORE WE GAVE HIM POLYGRAPH

10 Q OKAY WHAT DID YOU, NOW WHO ALL WAS THERE AT
11 THIS POINT IN TIME IN THE DETECTIVE DIVISION, WHO WAS
12 WITH YOU BESIDES MR COPE?

13 A THAT WOULD BE MYSELF, LIEUTENANT HERRING, AND
14 DETECTIVE BLACKWELDER

15 Q DETECTIVE BLACKWELDER SEATED HERE?

16 A THAT'S CORRECT

17 Q WHERE WAS MR COPE WHILE YOU WERE DISCUSSING
18 THESE ISSUES WITH DETECTIVE BAKER AND COLLEAGUES AT
19 THE ROCK HILL POLICE DEPARTMENT?

20 A HE WAS STILL IN LIEUTENANT HERRING'S OFFICE

21 Q OKAY WAS ANYBODY IN THERE WITH HIM?

22 A NO, SIR

23 Q OKAY WHAT DID YOU DECIDE TO DO AT THAT POINT
24 IN TIME AFTER HE -- DID HE GIVE YOU A TIME TO CONTACT
25 HIM REGARDING THE POLYGRAPH?

1 A I DON'T REMEMBER BECAUSE I DON'T THINK I -- I
2 DON'T REMEMBER BEING THE ONE THAT TALKED TO HIM I
3 THINK LIEUTENANT HERRING IS THE ONE WHO CALLED HIM

4 Q WHAT DID YOU DECIDE TO DO AFTER THOSE EFFORTS
5 WERE MADE AND YOU WERE NOT ABLE TO ADMINISTER THE
6 POLYGRAPH AFTER THAT?

7 A AFTER THAT DISCUSSION LIEUTENANT HERRING,
8 MYSELF, DETECTIVE BLACKWELDER PAGED OR CALLED CAPTAIN
9 CABANISS WHO WAS OUT OF TOWN AND WHO IS THE CAPTAIN
10 OVER THE DETECTIVE DIVISION AT THAT TIME AFTER A
11 CONVERSATION WITH THE CAPTAIN AND US THREE, AT THAT
12 TIME WE DECIDED THAT WE WOULD SEEK A WARRANT FOR
13 MR COPE'S ARREST FOR THE MURDER OF HIS DAUGHTER

14 Q AND DID YOU IN FACT DO THAT?

15 A WE DID

16 Q WHERE WAS MR COPE TAKEN?

17 A HE WAS TAKEN TO THE HOLDING AREA OF THE ROCK
18 HILL POLICE DEPARTMENT

19 Q WHO TOOK HIM THERE, DO YOU RECALL?

20 A I DON'T REMEMBER WHO TOOK HIM BACK

21 Q DID YOU SEE HIM AGAIN THAT NIGHT AFTER HE WAS
22 TAKING DOWN TO THE HOLDING AREA?

23 A I DID

24 Q OKAY WHEN WAS THAT?

25 A I'D SAY IT'S PROBABLY AN HOUR AND A HALF LATER

1 AFTER OBTAINING THE WARRANT AND TAKING IT BACK I WENT
2 WITH DETECTIVE BLACKWELDER BACK TO THE HOLDING AREA
3 MR COPE HAD BEEN PLACED IN WHAT WE CALL THE HOLDING
4 CELL, WHEN WE WALKED UP TO HIS CELL HE WAS LYING DOWN
5 ON THE COT OR BENCH IN THE ROOM AND APPEARED TO BE
6 ASLEEP

7 Q OKAY NOW APPROXIMATELY WHAT TIME WAS THIS?

8 A THAT WOULD HAVE PROBABLY BEEN 4 30 FIVE O'CLOCK

9 Q SO APPROXIMATELY WHAT TIME WOULD HE HAVE BEEN
10 TAKEN DOWN TO THE HOLDING CELL?

11 A PROBABLY QUARTER TO FOUR

12 Q ALL RIGHT

13 A SOMEWHERE IN THAT NEIGHBORHOOD IT MAY HAVE
14 BEEN 5 30 WHEN WE WENT BACK THERE I WOULD SAY IT IS
15 PROBABLY ABOUT AN HOUR AND A HALF BEFORE WE GOT
16 WARRANT SIGNED AND GOT BACK TO THE HOLDING AREA WITH
17 IT

18 Q ALL RIGHT THANK YOU VERY MUCH, LIEUTENANT
19 WALDROP PLEASE ANSWER ANY QUESTIONS THAT MR MORTON
20 MAY HAVE FOR YOU

21 CROSS EXAMINATION BY MR MORTON

22 Q MR WALDROP, I KNOW IT'S LATE IN THE AFTERNOON
23 ON FRIDAY AFTERNOON AND EVERYBODY IS TIRED YOU AND
24 I HAVE KNOWN EACH OTHER FOR A LONG TIME?

25 A YES, SIR

1 Q RIGHT?

2 A YES, SIR

3 Q SO I APOLOGIZE IF I SLIP IN TO CALLING YOU JERRY
4 SOMETIMES AND YOU CAN CALL ME WHATEVER YOU WANT

5 (LAUGHTER)

6 A JERRY IS FINE

7 Q HAVE YOU EVER HEARD THE PHRASE YOU CAN'T FIGHT
8 CITY HALL?

9 A CAN'T FIGHT CITY HALL, YES, SIR THAT'S QUITE A
10 COMMON PHRASE

11 Q YOU EVER TRIED TO FIGHT CITY HALL?

12 A NOT REALLY, NO, SIR

13 Q YOU'VE BEEN A POLICE OFFICER FOR 30 YEARS?

14 A THAT'S CORRECT

15 Q IT'S HARD TO FIGHT CITY HALL, YOU AGREE WITH
16 THAT?

17 A I NEVER HAD A REASON TO REALLY

18 Q MR COPE IS FIGHTING CITY HALL, YOU REALIZE
19 THAT?

20 A I DON'T UNDERSTAND THE POINT BUT IF YOU

21 Q MY POINT IS THE MISTAKE WAS MADE AND NOW YOU,
22 SOLICITORS, ARE TRYING TO COMPOUND THAT MISTAKE AND
23 HE'S HAVING TO FIGHT TO SAVE HIS LIFE

24 MR BRACKETT YOUR HONOR, I OBJECT

25 THE COURT I SUSTAIN THE OBJECTION JUST

1 ASK THE WITNESS QUESTIONS, MR MORTON

2 Q IS THAT RIGHT?

3 THE COURT NO I SUSTAIN THE OBJECTION,
4 MR MORTON

5 Q HE'S HAVING TO FIGHT TO SAVE HIS LIFE, IS THAT
6 RIGHT, MR WALDROP?

7 A HE'S HAVING TO DEFEND HIMSELF, YES, SIR

8 Q OKAY AND Y'ALL HAD YOUR MIND MADE UP ON THIS
9 THING FROM NOVEMBER 29 OF 2001, ALMOST THREE YEARS
10 AGO?

11 A HAD OUR MINDS MADE UP?

12 Q YES, SIR

13 A AT WHAT POINT? I MEAN

14 Q WELL, THAT'S WHAT I'M GOING TO ASK YOU BUT I
15 CAN TELL THAT YOU HAD YOUR MIND MADE UP WHEN YOU WENT
16 AND PICKED HIM UP THAT EVENING?

17 MR BRACKETT YOUR HONOR

18 Q IS THAT RIGHT

19 THE COURT I SUSTAIN THE OBJECTION WHAT
20 YOU CAN TELL IS NOT IMPORTANT, MR MORTON ASK HIM
21 QUESTIONS

22 Q OKAY DID YOU HAVE YOUR MIND MADE UP?

23 A WHEN WE PICKED HIM UP AT HIS MOTHER'S HOUSE?

24 Q YES, SIR?

25 A NO, SIR

1 Q YOU DID NOT HAVE YOUR MIND MADE UP?

2 A DID NOT, NO, SIR

3 Q WHAT ON THIS TAPE? WHAT ON THIS FOUR HOURS OF
4 INTERROGATION CHANGED YOUR MIND?

5 A THERE WAS A LOT OF OTHER STUFF OTHER THAN WHAT
6 IS ON THIS TAPE THAT CHANGED OUT MIND

7 Q OKAY

8 A BUT THE BIGGEST THING ABOUT THE TAPE WAS THE
9 FACT THAT MR COPE COULD NOT AND HE WOULD NOT ANSWER
10 QUESTIONS CONCERNING HIS DAUGHTER DEATH HE RAMBLED,
11 HE WAS NOT CONSISTENT, AND EVEN WHEN I SPECIFICALLY
12 PRESSED HIM ON QUESTIONS AND CONCERNS ABOUT HIS
13 DAUGHTER'S DEATH HE SHOWED NO EMOTION, HE SHOWED NO
14 CONCERN, HE WOULD NOT TALK ABOUT IT, HE RAMBLED, AND
15 JUST WOULD NOT DISCUSS THE ELEMENTS OF HOW HIS
16 DAUGHTER DIED

17 Q AND THAT'S YOUR STORY AND YOU ARE STICKING TO
18 IT?

19 MR BRACKETT AGAIN I OBJECT

20 Q IS THAT RIGHT?

21 MR MORTON I AM ASKING IS THAT RIGHT

22 THE COURT I OVERRULE THE OBJECTION THIS
23 TIME

24 A THAT'S CORRECT

25 Q OKAY AND WE HAVE THIS TAPE AND THE JURY HAS

1 HEARD THE TAPE AND WE HAVE LISTENED TO THE TAPE AND
2 THEY CAN TAKE IT BACK AND LISTEN TO IT AS MANY TIMES
3 AS THEY WANT TO, CORRECT?

4 A THAT'S CORRECT

5 Q OKAY DID YOU COUNT THE NUMBER OF TIMES THAT
6 BILLY COPE TOLD YOU HE DID NOT HARM HIS DAUGHTER,
7 KILL HIS DAUGHTER, SEXUALLY ASSAULT HIS DAUGHTER? DO
8 YOU KNOW HOW MANY TIMES THAT WAS? DID YOU COUNT
9 THEM?

10 A NO, SIR, I DIDN'T

11 Q OVER 665 TIMES?

12 MR BRACKETT YOUR HONOR, AGAIN
13 THE COURT LET'S --

14 Q IS THAT RIGHT?

15 A I DIDN'T COUNT THEM

16 Q DO YOU KNOW WHETHER THAT WOULD BE TRUE OR NOT
17 TRUE?

18 A I WOULDN'T KNOW WITHOUT COUNTING THEM

19 Q WHAT ELSE COULD HE HAVE DONE, MR WALDROP?

20 A WHAT ELSE COULD HAVE HE DONE?

21 Q I MEAN, YOU SAID THAT HE DIDN'T ANSWER YOUR
22 QUESTIONS, HE RAMBLED ON AND ON, I PERSONALLY DON'T
23 UNDERSTAND WHAT ELSE HE COULD HAVE SAID, MYSELF?

24 THE COURT I SUSTAIN THE OBJECTION
25 LET'S LET ME LET THE JURY LEAVE JUST ONE MINUTE

1 (THE JURY EXITS THE COURTROOM AT
2 4 48)

3 THE COURT JUST SO WE CAN MOVE ALONG,
4 WE'RE GOING TO TAKE A SHORT BREAK, BUT JUST ASK
5 QUESTIONS THAT HAVE ANSWERS AGAIN YOUR OPINION,
6 SAVE THAT FOR JURY ARGUMENT OF COURSE THERE ARE
7 CERTAIN THINGS UNDER OUR RULES THAT YOU CAN'T ARGUE
8 EVEN TO A JURY I THINK YOU CAN COUCH THE SAME
9 QUESTIONS WITHOUT MAKING THEM YOUR OPINIONS, SO LET'S
10 JUST, IN ORDER THAT MR BRACKETT DOESN'T HAVE TO, YOU
11 MIGHT NOT BE PLANNING ON DOING IT MORE ANYWAY, BUT SO
12 MR BRACKETT DOESN'T HAVE TO KEEP OBJECTING ALL
13 RIGHT

14 MR MORTON THANK YOU, YOUR HONOR
15 THE COURT WE'LL TAKE A SHORT BREAK
16 (COURT'S IN RECESS AT 4 49)
17 (COURT RESUMES)

18 THE COURT BRING IN THE JURY
19 (THE JURY RETURNS TO THE COURTROOM AT
20 4 55)

21 THE COURT YOU MAY CONTINUE

22 MR MORTON THANK YOU VERY MUCH, YOUR
23 HONOR

24 CROSS EXAMINATION BY MR MORTON

25 Q MR WALDROP, MR BRACKETT ASKED YOU HOW FAR THE

1 DEFENDANT'S ROOM WAS FROM, HOW FAR MR BILLY COPE'S
2 ROOM WAS FROM HIS LITTLE GIRL, RIGHT?
3 A NO, HE SAID FROM THE BED
4 Q FROM THE BED?
5 A I THINK HE SAID FROM THE BED
6 Q WELL, I WON'T DO ALL THIS HOW FAR WAS KYLA AND
7 JESSICA'S ROOM FROM AMANDA'S ROOM?
8 A I REALLY DON'T REMEMBER I DIDN'T LOOK INTO
9 THEIR ROOM BUT IF I'M NOT MISTAKEN I THINK IT WAS
10 RIGHT NEXT DOOR TO AMANDA'S ROOM
11 Q THEY WERE ALL RIGHT --
12 A THEY WERE ALL RIGHT INTO THE END OF THE HOUSE
13 THERE TOGETHER
14 Q AND KYLA AND JESSICA DIDN'T HEAR ANYTHING
15 EITHER, DID THEY?
16 A I DON'T KNOW I HADN'T TALKED TO THE GIRLS AT
17 ALL
18 Q YOU HAVE NOT TALKED TO THE GIRLS?
19 A NO, SIR
20 Q OKAY YOU ARE NOT AWARE OF THAT FACT?
21 A NO, SIR, I'M NOT
22 Q OKAY YOU WENT TO THE HOUSE THAT MORNING,
23 CORRECT?
24 A YES, SIR
25 Q YOU STAYED THERE FOR TWO HOURS AND 20 MINUTES?

1 A THAT'S CORRECT

2 Q CORRECT? WHAT DID YOU DO THERE?

3 A I WAS OUTSIDE THE ENTIRE TIME WITH THE EXCEPTION
4 OF A FEW MINUTES THAT I WAS INSIDE OF THE RESIDENT

5 Q WHAT DID YOU DO THERE?

6 A I WAS ON THE PERIMETER, THE OUTSIDE OF THE
7 HOUSE I DID CHECK THE OUTSIDE, THE PERIMETER OF THE
8 HOUSE, THE OUTSIDE, BUT OTHER THAN THAT I JUST STOOD
9 OUTSIDE WAITING FOR CRIME SCENE, THE PATHOLOGIST CAME
10 DOWN, AND I, I WAS JUST AT THE SCENE I WASN'T
11 REALLY DOING ANYTHING ELSE

12 Q AND THERE WERE A LOT OF PEOPLE LIKE YOU AT THAT
13 SCENE THAT REALLY DIDN'T DO A WHOLE LOT, RIGHT?

14 A OUTSIDE OF IT, THAT'S CORRECT

15 Q THERE WERE A LOT OF PEOPLE IN THAT HOUSE THAT
16 DIDN'T ---

17 A THERE WERE A LOT OF PEOPLE THAT WENT IN AND OUT
18 OF IT, YES, SIR I DON'T KNOW HOW MANY

19 Q A LOT OF PEOPLE WENT IN AND OUT OF THAT SCENE?

20 A THAT'S RIGHT

21 Q RIGHT? DO YOU KNOW HOW MANY FINGERPRINTS WERE
22 TAKEN IN THAT HOUSE?

23 A NO, SIR

24 Q DO YOU KNOW?

25 A I DON'T

1 Q WOULD IT SURPRISE YOU TO LEARN THAT NOT ONE
2 FINGERPRINT WAS TAKEN?

3 A I DON'T KNOW I MEAN I HAD NOTHING TO DO WITH
4 THE CRIME SCENE PROCESSING AND I HAVEN'T HEARD
5 ANYTHING ABOUT ANY FINGERPRINTS TAKEN AT THE SCENE

6 Q OKAY WOULD IT SURPRISE YOU TO LEARN THAT NO
7 FOOTPRINTS WERE TAKEN?

8 A LIKE I SAID, I DON'T KNOW

9 Q YOU TALKED TO MR BILLY COPE FOR ALMOST FOUR
10 HOURS THAT NIGHT, CORRECT?

11 A THAT'S CORRECT

12 Q AND MR BILLY COPE COOPERATED WITH YOU FOR FOUR
13 HOURS, CORRECT?

14 A THAT'S CORRECT

15 Q HE SHOWED NOTHING BUT THE UPTMOST RESPECT FOR
16 YOU DURING THAT INTERVIEW, WOULD YOU AGREE WITH THAT?

17 A THAT'S CORRECT

18 Q HE SAID SIR ON THAT TAPE JUST ABOUT EVERY TIME
19 YOU ASKED HIM A QUESTION?

20 A YES, SIR

21 Q HE COOPERATED WITH YOU TO THE BEST OF HIS
22 ABILITY AS LONG AS HE COULD, DID HE NOT?

23 A YES, SIR

24 Q AND MR WALDROP, IT'S TRUE THAT YOU JUST WEREN'T
25 GOING TO TAKE NO FOR AN ANSWER, ISN'T THAT RIGHT?

1 A IT WASN'T THE FACT THAT I WASN'T GOING TO TAKE
2 NO FOR AN ANSWER I WAS JUST TRYING TO GET TO THE
3 TRUTH OF WHAT REALLY HAPPENED IN THAT HOUSE THAT
4 NIGHT

5 Q ALL RIGHT WHAT IS THE TRUTH? WHAT IS THE
6 TRUTH? DO YOU KNOW THE TRUTH?

7 A I KNOW THE STATEMENTS THAT HE FINALLY GAVE
8 TELLING WHAT HAPPENED

9 Q ON THE NIGHT OF NOVEMBER 29, 2001, WHEN YOU
10 SUBMITTED BILLY COPE TO THIS INTERROGATION DID YOU
11 KNOW THE TRUTH?

12 A WE HAD IDEAS OF WHAT HAD HAPPENED, YES

13 Q YOU THOUGHT YOU KNEW THE TRUTH?

14 A THAT'S CORRECT

15 Q RIGHT?

16 A WE KNEW WHAT WE HAD BEEN TOLD WE KNEW WHAT THE
17 AUTOPSY HAD SHOWED WE KNEW WHAT WE HAD FOUND AT THE
18 SCENE, YES, SIR

19 Q YOU HAD AN IDEA OF WHAT THE TRUTH WAS AND YOU
20 TRIED TO MAKE BILLY COPE TELL YOU, AGREE WITH YOU,
21 WHAT YOUR IDEA OF THE TRUTH WAS?

22 A WE TRIED TO GET HIM TO TELL THE TRUTH ABOUT WHAT
23 HAPPENED, YES, SIR

24 Q SO DID YOU AND LIEUTENANT HERRING, DID Y'ALL
25 KNOW THE TRUTH?

1 A WE KNEW WHAT WE KNEW

2 Q OKAY BUT YOU DIDN'T KNOW THE TRUTH? WHO KNOWS
3 THE TRUTH?

4 A I GUESS THE ONLY PERSON, ONLY TWO PEOPLE WHO
5 REALLY KNOW THE TRUTH WOULD BE BILLY WAYNE COPE AND
6 AMANDA AND SHE CAN'T TALK

7 Q SO YOU STILL BELIEVE THAT?

8 A YES, SIR

9 Q AND THAT'S WHAT YOU STILL BELIEVE?

10 A YES, SIR

11 Q AND THAT'S ALL THESE DETECTIVES BELIEVE, RIGHT?

12 MR BRACKETT YOUR HONOR, I OBJECT

13 THE COURT YES, I SUSTAIN THE OBJECTION

14 AS TO WHAT OTHER PEOPLE

15 Q ALL RIGHT LET ME ASK YOU THIS AMANDA COPE
16 KNOWS THE TRUTH, DOES SHE NOT?

17 A SHE WOULD

18 Q THIS MAN RIGHT HERE KNOWS THE TRUTH, DOES HE
19 NOT?

20 A I CAN'T ANSWER THAT

21 Q OKAY WELL, LET ME ASK YOU SOMETHING ABOUT THE
22 TRUTH FROM THAT NIGHT IF YOU WILL

23 A OKAY

24 Q IF YOU HAD KNOWN ON NOVEMBER 29, 2001, WHEN YOU
25 SUBJECTED BILLY COPE TO THIS CROSS EXAMINATION THAT

1 MR JAMES SANDERS' SEMEN AND SALIVA ON HER, ON AMANDA
2 COPE, ON AMANDA COPE'S BITTEN BREAST WAS GOING TO
3 COME BACK LIKE BILLY COPE TOLD YOU, NOT BILLY COPE,
4 BUT TO JAMES SANDERS, WOULD THAT HAVE CHANGED YOUR
5 OPINION OF THE TRUTH?

6 A IT WOULD HAVE ADDED MORE LINES OF QUESTIONING,
7 IT WOULD HAVE ADDED MORE SUSPICION TO IT, BUT I DON'T
8 THINK I WOULD HAVE DONE THE INTERVIEW ANY DIFFERENT,
9 NO, SIR

10 Q WELL, I'M STILL AND I'M ASKING YOU TO TELL ME
11 WHAT EVIDENCE DID YOU KNOW OF THAT LINKS THESE TWO
12 MEN TOGETHER? NOW, THEN, A YEAR AGO, TWO YEARS AGO,
13 TWO MONTHS AGO?

14 A WELL, THEN I DIDN'T KNOW ANY THAT LINKED THEM
15 TOGETHER

16 Q OKAY WELL, TELL ME WHAT YOU KNOW NOW

17 A THE ONLY THING I KNOW NOW IS THE FACT THAT THE
18 DNA CAME BACK AS POSITIVE FOR JAMES SANDERS AT THE
19 SCENE THAT WAS ON HER BODY

20 Q SO WHAT'S THAT GOT TO DO WITH BILLY COPE?

21 A THAT DNA SAMPLE HAS NOTHING TO DO WITH BILLY
22 COPE

23 Q SO WHY ARE WE HERE?

24 A BECAUSE

25 Q WHY ARE WE HERE AGAINST BILLY COPE?

1 THE COURT LET HIM ANSWER THE QUESTION
2 YOU ASKED

3 MR MORTON I'M SORRY, YOUR HONOR

4 A BECAUSE OUR EVIDENCE AT THE TIME INDICATED THAT
5 BILLY COPE WAS INVOLVED IN HIS DAUGHTER'S MURDER AND
6 HE SUBSEQUENTLY ADMITTED TO THAT

7 Q AND HE -- OH, HE CONFESSED HE TOLD YOU AND THE
8 JURY IS GOING TO HEAR THAT WHEN WE COME BACK HERE
9 NEXT WEEK, THAT AFTER FOUR HOURS OF INTERROGATION BY
10 YOU THAT HE FINALLY SAID, I'LL SAY WHATEVER YOU WANT
11 ME TO SAY, IS THAT CORRECT?

12 MR BRACKETT YOUR HONOR, OBJECTION

13 THE COURT I OVERRULE THE OBJECTION IF
14 HE

15 MR BRACKETT IT IS MORE TESTIMONY THAN
16 QUESTIONING

17 THE COURT WELL, HE'S ASKING HIM IF
18 SOMETHING IS ON THE TAPE IF IT'S NOT, HE CAN SAY
19 IT'S NOT I OVERRULE THE OBJECTION

20 MR BRACKETT THANK YOU

21 MR MORTON I'LL WITHDRAW THE QUESTION,
22 YOUR HONOR

23 Q WHAT ELSE COULD HE DO, LIEUTENANT WALDROP? I
24 MEAN, THE POLICE WERE NOT GOING TO TAKE NO FOR AN
25 ANSWER?

1 A YOU HEARD THE TAPE I HEARD THE TAPE THE JURY
2 HEARD THE TAPE IF DURING THIS TAPE WHEN DURING THIS
3 INTERVIEW WHEN HE SHOULD HAVE BEEN HEARING FOR THE
4 FIRST TIME THAT HIS DAUGHTER WAS SEVERELY BEATEN OR
5 SEVERELY SEXUALLY ASSAULTED, WHICH I PRESSED SEVERAL
6 TIMES, HE NEVER ASKED A QUESTION ABOUT IT HE NEVER
7 SHOWED ANY EMOTION INSTEAD OF ASKING ME QUESTIONS
8 WHEN I SAID IT TO HIM FOR THE FIRST TIME, HE WENT OFF
9 ON SOME TANGENT RAMBLING ABOUT HIS CPAP MACHINE ON A
10 LONG DRAWN OUT CONVERSATION INSTEAD OF EVER ASKING ME
11 OR EVER SAYING ANYTHING ABOUT HIS DAUGHTER'S MURDER,
12 ASSAULT, OR SEXUAL ASSAULT

13 Q HOW MANY TIMES DID HE TELL YOU HE DIDN'T KNOW
14 WHAT HAPPENED TO HIS DAUGHTER, HE DIDN'T HEAR
15 ANYTHING, HE FELT RESPONSIBLE FOR IT, HOW MANY TIMES
16 DID HE TELL YOU THAT?

17 A OH, HE SAID THAT DOZENS OF TIMES BUT THAT
18 STILL DOESN'T EXPLAIN WHAT HAPPENED

19 Q WHAT ELSE COULD HE HAVE SAID? WHAT ELSE COULD
20 HE SAY?

21 A IN MY OPINION?

22 Q YES, SIR

23 A THE TRUTH ABOUT WHAT HAPPENED THAT NIGHT

24 Q OKAY AND IN YOUR OPINION IS THE TRUTH AND
25 THAT'S?

1 A THAT'S CORRECT

2 Q I GUESS THAT'S WHAT WE'RE HERE ARGUING ABOUT, IS

3 THAT CORRECT?

4 A THAT'S TRUE

5 Q OKAY NOW YOU TOLD ME AND YOU TOLD US THAT YOU

6 THOUGHT BILLY COPE STAGED THIS SCENE LET ME BACK

7 UP WHEN YOU WENT TO HIS HOUSE TEN O'CLOCK THAT

8 NIGHT?

9 A I WENT TO HIS MOTHER'S HOUSE

10 Q WHEN YOU WENT TO HIS MOTHER'S HOUSE ON LUCAS

11 STREET?

12 A THAT'S CORRECT

13 Q THESE WEREN'T WELL-TO-DO PEOPLE, CORRECT?

14 A YOU KNOW, I DON'T KNOW WHAT KIND OF MEANS THEY

15 HAVE I MEAN THEY LIVE ON LUCAS STREET IT'S NOT A

16 UPPER CLASS NEIGHBORHOOD, NO, SIR

17 Q AND RICH STREET IS NOT UPPER CLASS NEIGHBORHOOD

18 EITHER, RIGHT?

19 A NO, SIR

20 Q AND PEOPLE LIVE IN POOR NEIGHBORHOODS, DON'T

21 THEY?

22 A YES, SIR

23 Q AND THAT PART OF RICH STREET OFF OF SALUDA

24 STREET IS A POOR NEIGHBORHOOD, WOULD YOU AGREE WITH

25 THAT?

1 A I WOULD SAY IT'S PRETTY POOR, YES, SIR

2 Q AND THERE IS NO QUESTION ABOUT AND YOU WOULD
3 AGREE WITH ME THAT THE COPE'S HOUSE WAS FILTHY?

4 A VERY MUCH SO, YES, SIR

5 Q RIGHT PEOPLE LIVE IN DESPICABLE PLACES
6 SOMETIMES, DON'T THEY?

7 A YES, SIR

8 Q THAT DOESN'T MEAN, INVESTIGATOR WALDROP, THAT
9 YOU RAPE AND MURDER YOUR OWN DAUGHTER, DOES IT?

10 A NO, SIR, I DIDN'T IMPLY THAT

11 Q SO WHEN YOU WENT TO BILLY COPE'S PARENTS HOUSE
12 ON LUCAS STREET THAT NIGHT, YOU TESTIFIED THAT YOU
13 ASKED HIM TO COME TO THE POLICE STATION WITH Y'ALL,
14 CORRECT?

15 A THAT'S CORRECT

16 Q NOW YOU AND MR HERRING WENT THERE TOGETHER,
17 CORRECT?

18 A YES, SIR

19 Q WHAT WERE YOU DRIVING?

20 A GOLD COLORED CROWN VIC

21 Q CROWN VICTORIA?

22 A YES, SIR

23 Q POLICE CAR?

24 A YES, SIR

25 Q PULLS UP TO HIS MOTHER'S HOUSE?

1 A YES, SIR

2 Q ASKS HIM TO COME DOWN TO THE POLICE STATION WITH

3 YOU?

4 A YES, SIR

5 Q HE ASKED YOU IF HE WAS COMING BACK, DIDN'T HE?

6 A I DON'T RECALL HIM ASKING THAT, BUT I DID ASK

7 HIM IF HE WANTED TO DRIVE HIMSELF OR IF HE WANTED TO

8 RIDE WITH US OR IF HE HAD TRANSPORTATION

9 Q YOU KNEW HE WASN'T COMING BACK?

10 A NO, SIR

11 Q DIDN'T YOU?

12 A NO, SIR

13 Q YOU DIDN'T KNOW THAT?

14 A NO, SIR

15 Q WHY DIDN'T YOU JUST GIVE HIM A CALL ON THE

16 TELEPHONE AND SAY BILLY HOW ABOUT COMING ON UP HERE

17 AND TALKING TO US?

18 A ALL I KNEW IS WHERE HE IS SUPPOSED TO BE AT I

19 DIDN'T KNOW IF THEY HAD A PHONE NUMBER FOR HIM OR

20 NOT

21 Q WHY DID LIEUTENANT HERRING HAVE TO GO WITH YOU?

22 A WE WERE RIDING TOGETHER WE WERE WORKING

23 TOGETHER

24 Q HE HAD COOPERATED WITH YOU ALL DAY LONG, HAD HE

25 NOT?

1 A WELL, I HADN'T BEEN INVOLVED IN ANY OF THE OTHER
2 INTERVIEWS OR ANYTHING, BUT YOU KNOW AS FAR AS I KNEW
3 HE HAD, YES, SIR

4 Q AND IN FACT HE SAID WHEN YOU GOT THERE, CAN I
5 FOLLOW Y'ALL UP THERE, DID HE NOT?

6 A NO, SIR

7 Q HE DIDN'T SAY THAT?

8 A NO, SIR

9 Q OKAY?

10 A I THINK HIS MOTHER MADE THE STATEMENT GO AHEAD
11 AND RIDE WITH THEM, BILLY

12 Q WHAT HAPPENED, AND YOU SAID THEN THAT WHEN Y'ALL
13 WENT TO PICK HIM UP HE DIDN'T HAVE TO COME WITH YOU,
14 YOU DIDN'T HAVE A WARRANT FOR HIM?

15 A NO, SIR

16 Q HE DIDN'T HAVE TO COME UP THERE HE DIDN'T DO
17 HAVE TO DO ANY OF THE THINGS THAT HE'S DONE ON
18 NOVEMBER 29, DID HE? BY LAW HE DIDN'T HAVE TO
19 COOPERATE WITH Y'ALL AT ALL?

20 A NO, SIR

21 Q YOU COULDN'T MAKE HIM GO TO THE HOSPITAL AND
22 TAKE SEMEN AND BLOOD AND HAIR AND SALIVA FROM HIM,
23 YOU COULDN'T DO THAT ON THAT DAY, COULD YOU?

24 A NO, SIR

25 Q BECAUSE ALL THAT WAS VOLUNTARY ON HIS PART,

1 DOING THAT?

2 A TO MY UNDERSTANDING I WASN'T PRESENT, BUT YES,
3 SIR

4 Q AND IN ORDER TO, IF HE HAD REFUSED TO DO THAT
5 WHICH HE DIDN'T, BUT IF HE HAD REFUSED TO DO THAT,
6 YOU WOULD HAVE HAD TO GET SOME TYPE OF SEARCH WARRANT
7 OR AT LEAST HAVE PROBABLE CAUSE, AT LEAST HAVE
8 PROBABLE CAUSE TO ARREST HIM, CORRECT?

9 A THAT'S CORRECT

10 Q AND YOU TOLD US THAT WHEN YOU WENT AND PICKED
11 HIM UP AT HIS MOTHER'S HOUSE THAT NIGHT THAT HE
12 DIDN'T HAVE TO GO WITH YOU, CORRECT?

13 A THAT TRUE

14 Q SO I ASSUME THAT AT THAT POINT YOU DIDN'T HAVE
15 PROBABLE CAUSE TO ARREST HIM FOR ANYTHING?

16 A WE WEREN'T GOING THERE TO ARREST HIM FOR
17 ANYTHING

18 Q WELL, WHAT DID YOU LEARN IN THE FOUR HOURS OF
19 CONVERSATION WITH HIM THAT CHANGED YOUR MIND?

20 A (NO RESPONSE)

21 Q WHAT GAVE YOU PROBABLE CAUSE AFTER THIS
22 INTERROGATION THAT YOU DIDN'T KNOW BEFORE YOU WENT
23 THERE TO PICK HIM UP?

24 A WELL, THERE IS A LOT I DIDN'T KNOW BEFORE I WENT
25 THERE BECAUSE I HAD NOT BEEN INVOLVED IN THE ENTIRE

1 DAY'S OPERATION BUT

2 Q WELL, WHAT DID YOU LEARN? I GUESS MY QUESTION
3 IS WHAT DID YOU LEARN ON THAT DATE?

4 A WE LEARNED, YOU HEARD THE TAPE I TOLD YOU WE
5 LEARNED THAT HE WAS NOT COOPERATING AS FAR AS
6 ANSWERING THE QUESTIONS HE COULD NOT ANSWER THE
7 QUESTIONS HE WAS SHOWING NO CONCERN, NO EMOTION, HE
8 COULD NOT EXPLAIN ANY OF THE THINGS THAT HAPPENED
9 HIS STORY ABOUT WHAT HAPPENED IN THE HOUSE DID NOT
10 MATCH WHAT THE PATHOLOGIST HAD TOLD US

11 Q Y'ALL HAD MET WITH THE PATHOLOGIST?

12 A THAT'S CORRECT

13 Q RIGHT?

14 A THAT'S CORRECT

15 Q AND THE PATHOLOGIST HAD TOLD YOU WHAT THE
16 INJURIES SHE SUSTAINED?

17 A THAT'S CORRECT

18 Q THAT SHE HAD BEEN SEXUALLY ASSAULTED?

19 A YES, SIR

20 Q THAT SHE HAD BEEN SODOMIZED?

21 A THAT'S CORRECT

22 Q AND YOU TOLD BILLY COPE THAT?

23 A YES, SIR

24 Q YOU STILL HAVEN'T ANSWERED MY QUESTION TO MY
25 SATISFACTION I'M NOT GOING TO BEAT A DEAD HORSE

1 BUT WHAT, SO WHAT YOU ARE TELLING ME IS, LET ME GET
2 THIS STRAIGHT, THAT WHAT YOU LEARNED ON THAT TAPE WAS
3 HE DIDN'T TELL YOU BASICALLY WHAT YOU THOUGHT TO BE
4 THE TRUTH, IS THAT RIGHT?

5 A WE NEVER SAID THAT THAT TAPE WAS THE DECIDING
6 FACTOR THAT CAUSED HIM TO BE ARRESTED THE DECIDING
7 FACTOR WAS EVERYTHING ELSE THAT WAS KNOWN OR LEARNED
8 THROUGH THE PATHOLOGIST, AT THE SCENE, AND DURING
9 THAT INTERVIEW

10 Q WELL, YOU KNEW --

11 A IT WAS A COMBINATION OF ALL OF IT AFTER WE
12 FINISHED THE INTERVIEW AND TALKED AMONG OURSELVES AND
13 TALKED TO THE CAPTAIN THAT THE DECISION WAS MADE TO
14 SEEK A WARRANT FOR HIS ARREST

15 Q AND WHERE WAS THE CAPTAIN?

16 A HE WAS OUT OF TOWN I THINK HE WAS IN VIRGINIA
17 BEACH OR SOMEWHERE

18 Q AND Y'ALL WERE TALKING TO HIM ON THE PHONE?

19 A THAT'S CORRECT

20 Q AND Y'ALL WERE TRYING DESPARATELY TO GET A
21 WARRANT AGAINST THIS GUY, WEREN'T YOU?

22 A TRYING DESPARATELY

23 Q YES

24 A NO, SIR WE TALKED ABOUT IT, GOT THE WARRANT

25 Q I MEAN, LET ME SEE IF I CAN SEE, IF I CAN THINK

1 WHAT THE PROBABLE CAUSE TO EVEN ARREST THIS MAN WAS
2 WITHOUT EVEN KNOWING ABOUT JAMES SANDERS, WITHOUT
3 EVEN KNOWING THAT HIS SEMEN AND SALIVA WAS FOUND ON
4 THIS GIRL, WE DIDN'T EVEN KNOW THAT NOW THE FACT
5 THAT YOU SAY THERE WAS NO FORCED ENTRY, THE FACT THAT
6 WHAT BILLY COPE TOLD YOU WAS THAT HE DIDN'T HEAR
7 ANYTHING, HE DIDN'T KNOW ANYTHING, BUT THE
8 PATHOLOGIST SAID SHE HAD BEEN BEATEN AND RAPED I
9 GUESS THAT'S THE PROBABLE CAUSE?

10 A THE CONDITIONS OF THE HOUSE

11 Q ALL RIGHT

12 A WAIT, LET ME FINISH

13 Q OKAY

14 A THE CONDITIONS OF THE HOUSE, THERE WAS NO SIGNS
15 OF FORCED ENTRY, CHECKED ALL THE WINDOWS, ALL THE
16 DOORS, IN MR COPE'S OWN ADMISSION THE FRONT DOOR AND
17 THE BACK DOOR WAS SECURE WHEN HE GOT UP HE WAS THE
18 ONLY MALE IN THE RESIDENCE HIS STATEMENT THAT THAT
19 SWOOSHING SOUND OF HIS CPAP MACHINE WOULD HAVE
20 DROWNED OUT THE NOISE THAT IT WOULD HAVE HAD TAKEN TO
21 COMMITTED THIS CRIME, HIS STATEMENTS MADE DURING THE
22 INTERVIEW

23 Q WELL, WHAT STATEMENTS WERE THOSE?

24 A ABOUT THE CONDITION, WHAT HE ASSUMED HAPPENED IN
25 THE HOUSE ABOUT THAT SELVAGE BEING WRAPPED HER

1 AROUND NECK, ABOUT HE THINKING THAT THAT HAD CHOKED
2 HER TO DEATH, WE KNEW THAT DIDN'T HAPPEN SHE WAS
3 NOT CHOKED BY THAT SELVAGE SHE DIED AS A RESULT OF
4 THAT STRANGULATION AND BEATING SHE DID NOT DIE FROM
5 THAT CHOKING OF THAT BLANKET SELVAGE

6 Q WHEN YOU SAY THE CONDITION OF THE HOUSE, SINCE
7 YOU JUST TOLD ME THAT Y'ALL DIDN'T BASE ANYTHING ON
8 WHAT YOU WERE DOING ABOUT THE CONDITIONS OF THE HOUSE
9 ON THE INSIDE, I ASSUME THAT YOU ARE TALKING ABOUT
10 THE OUTSIDE OF THE HOUSE?

11 A THAT'S WHAT I WAS TALKING ABOUT

12 Q ALL RIGHT?

13 A THE EXTERIOR OF THE HOUSE, THE INTERIOR OF THE
14 HOUSE WHERE THE DOORS AND ALL

15 Q MR WALDROP, YOU'VE BEEN DOING THIS A LONG TIME

16 A YES, SIR

17 Q HAVEN'T YOU?

18 A YES, SIR

19 Q ISN'T IT TRUE MY THREE YEAR OLD DAUGHTER WITH A
20 PUTTY KNIFE COULD BREAK INTO THAT HOUSE, COULDN'T
21 SHE?

22 A I CAN'T ANSWER THAT QUESTION

23 Q WE'RE NOT TALKING ABOUT SOME NICE HOUSE,
24 SECURITY SYSTEMS AND ALL THAT, ARE WE?

25 A OH, NO, SIR

1 Q WE'RE NOT EVEN TALKING ABOUT BOLT LOCKS, ARE WE?

2 A I DON'T REMEMBER SEEING ANY BOLT LOCKS ON IT,

3 NO, SIR

4 Q WE'RE TALKING ABOUT OPEN WINDOWS, CORRECT?

5 A OPEN WINDOWS?

6 Q YES, SIR

7 A TALKING ABOUT A WINDOW BUSTED OUT, BUT NO OPEN

8 WINDOWS

9 Q THE KITCHEN WINDOW WAS OPEN, CORRECT?

10 A OPEN?

11 Q YES, SIR

12 A BUT COVERED

13 Q HAD A SCREEN ON IT?

14 A YES, SIR

15 Q SCREEN LATCHES WERE OFF?

16 A NO, SIR

17 Q ALL RIGHT WELL, Y'ALL TOOK PHOTOGRAPHS THAT

18 NIGHT, CORRECT?

19 A THAT'S CORRECT

20 Q OR THAT DAY?

21 A YES, SIR, SOMETIME THEY TOOK PHOTOGRAPHS OF IT

22 I'M NOT SURE WHEN WE TOOK THEM

23 Q I DON'T KNOW HOW TO WORK, KEVIN

24 MR BRACKETT BEFORE YOU DO

25 Q YOU'VE BEEN IN THAT NEIGHBORHOOD BEFORE

1 OBVIOUSLY?

2 A YES, SIR

3 Q AND YOU ARE AWARE NOW THAT THIS MAN RIGHT HERE
4 MR SANDERS LIVED TWO BLOCKS DOWN FROM AMANDA COPE?

5 A IN THE SAME ARE, GENERAL AREA, THAT'S CORRECT

6 Q ON JEFFERSON STREET?

7 A THAT'S CORRECT

8 MR MORTON YOUR HONOR, I MOVE TO
9 INTRODUCE THESE

10 THE COURT ANY OBJECTION?

11 MR BRACKETT THOSE ARE ALL CRIME SCENE
12 PHOTOGRAPHS TAKEN BY THE ROCK HILL POLICE DEPARTMENT

13 MR MORTON THAT'S CORRECT SHE CAN MARK
14 THESE AS ONE AS FAR AS I'M CONCERNED, YOUR HONOR

15 MR GREELEY NO OBJECTION

16 MR BRACKETT FOR REFERENCING THE RECORD
17 WON'T BE CLEAR

18 MR MORTON THAT'S --

19 THE COURT I THINK THEY OUGHT TO BE
20 SEPARATE

21 (DEFENSE EXHIBITS 8 THROUGH 25 PHOTOGRAPHS
22 RECEIVED INTO EVIDENCE)

23 Q INVESTIGATOR WALDROP, I'M JUST GOING TO SHOW
24 SOME OF THESE PHOTOGRAPHS TO YOU AND TO THE JURY IN
25 NO PARTICULAR ORDER BY THE WAY THAT THEY ARE MARKED

1 I'M TO SHOW YOU WHAT'S BEEN MARKED AS DEFENDANT'S
2 EXHIBIT 25 AND THESE ARE JUST GOING TO BE SCENES OF
3 THE HOUSE AND THAT'S 407 RICH STREET, RIGHT?

4 A THAT'S CORRECT

5 Q AND THAT'S WHERE THIS CRIME OCCURRED, CORRECT?

6 A THAT'S CORRECT

7 Q AND ON THE FRONT LEFT IS MR COPE'S BEDROOM? DO
8 YOU REMEMBER ENOUGH ABOUT THIS TO, IF YOU DON'T
9 WE'LL --

10 A FROM WHAT I REMEMBER THAT WOULD BE THE FRONT
11 LEFT BEDROOM, THAT'S CORRECT

12 Q AND THEN BEHIND HIS BEDROOM IS A BATHROOM,
13 CORRECT?

14 A YES, THAT'S THE WAY I RECALL IT I WAS THINKING
15 THE BATHROOM WAS OVER TOWARD THE RIGHT IN THE HALL

16 Q AND ANYWAY THIS IS RICH STREET THAT RUNS ALONG
17 FRONT HERE?

18 A THAT'S CORRECT

19 Q SALUDA STREET RUNS DOWN HERE?

20 A THAT'S CORRECT

21 Q TWO BLOCKS DOWN THIS WAY IS JEFFERSON STREET
22 WHERE MR SANDERS RESIDED?

23 A THAT'S CORRECT

24 Q OKAY THIS IS MR COPE'S BEDROOM?

25 A YES, SIR

1 Q IT'S A BATHROOM RIGHT THERE?

2 A I CAN'T SEE WHERE YOU ARE POINTING YES, SIR

3 Q AND BACK THERE IS, WAS AMANDA'S BEDROOM?

4 A YES, SIR

5 Q IS THAT RIGHT? NOW LET ME SHOW YOU THAT SCREEN
6 DOOR, DO YOU SEE THAT SCREEN DOOR?

7 A YES, SIR

8 Q OKAY DO YOU KNOW WHETHER THAT SCREEN DOOR WAS
9 LOCKED OR NOT?

10 A NO, SIR, I DO NOT

11 Q I'M GOING TO SHOW YOU WHAT'S BEEN MARKED AS
12 DEFENDANT'S EXHIBIT NUMBER 10 I BELIEVE THAT IS
13 THAT FRONT SCREEN DOOR, CORRECT?

14 A IT APPEARS TO BE, YES, SIR

15 Q OKAY AND I'M GOING TO SHOW WHAT'S BEEN MARKED
16 AS DEFENDANT'S EXHIBIT NUMBER 8, THAT'S THE FRONT
17 DOOR CORRECT, FRONT DOOR LOCKED?

18 A IF YOU SAY SO, I CAN'T --

19 Q OKAY

20 MR BRACKETT I WILL TAKE THAT AS I DON'T
21 KNOW

22 THE COURT WELL, I SUSTAIN THAT I DON'T
23 KNOW IF YOU ARE OBJECTING, BUT HE'S NOT IDENTIFIED IT
24 AS THE FRONT DOOR

25 Q MR WALDROP, I'M GOING TO PUT UP DEFENSE EXHIBIT

1 NUMBER 11, TURN IT AROUND, THAT IS, I'M NOT SURE,
2 THAT'S ONE OF THE WINDOW LATCHES THAT THE HOUSE ON
3 407 STREET, WOULD YOU DISAGREE WITH ME?

4 A I DIDN'T TAKE THE PHOTO BUT I CAN'T SAY IT IS

5 Q THAT'S OKAY I'M JUST TRYING YOU NOTICE THE
6 DIRECTION THAT THAT LOCK IS POINTED? IF WE'RE
7 LOOKING AT IT AS TO OUR LEFT, CORRECT?

8 A THAT'S CORRECT

9 Q OKAY I'LL SHOW YOU WHAT'S BEEN MARKED AS
10 DEFENSE EXHIBIT 12 YOU'LL NOTICE THAT WINDOW LOCK
11 IS POINTED THE OTHER WAY, CORRECT

12 MR BRACKETT YOUR HONOR, UNTIL A PROPER
13 FOUNDATION IS LAID THE QUESTIONS AREN'T RELEVANT
14 WE'RE GOING TO CALL THE CRIME SCENE ANALYST WHO TOOK
15 THESE PHOTOGRAPHS BUT WE DON'T KNOW WHEN AND WHERE,
16 WE DON'T EVEN KNOW WHICH WINDOWS THESE ARE, SO IT'S
17 IRRELEVANT AT THIS POINT

18 THE COURT IT'S CROSS EXAMINATION OF THIS
19 WITNESS I'M GOING TO LET HIM IF HE DOESN'T KNOW
20 THE ANSWER, I THINK YOU NEED TO SEE IF HE CAN
21 IDENTIFY WHERE, YOU HADN'T EVEN ASKED HIM IF THAT,
22 WELL, LAY A PROPER FOUNDATION YOU CAN ASK HIM THOSE
23 QUESTIONS IF HE KNOWS THOSE THE ANSWER

24 MR MORTON IF HE DOESN'T KNOW THE ANSWER
25 WE'LL MOVE ON, BUT THE OTHERS HAVE BEEN ADMITTED INTO

1 EVIDENCE

2 THE COURT I UNDERSTAND THAT THAT HOUSE
3 HAD MORE THAN ONE WINDOW, I THINK THAT'S POINT

4 MR MORTON YES, SIR, I UNDERSTAND WHAT
5 I'M TRYING TO DO IS POINT OUT IN THE LAST WINDOW THE
6 LOCK WAS POINTED ONE WAY AND IN THIS WINDOW THE LOCK
7 IS POINTED THE OTHER WAY, CORRECT?

8 A THAT'S CORRECT

9 Q OKAY THIS IS ALSO A WINDOW THERE AT 407 RICH
10 STREET, CORRECT?

11 A THAT'S CORRECT

12 Q PHOTOGRAPH TAKEN THAT DAY, CORRECT?

13 A YES, SIR

14 Q THIS IS ANOTHER ANGLE, SIDE OF THE HOUSE THAT I
15 BELIEVE SHOWS THAT WINDOW, CORRECT?

16 A THAT'S CORRECT

17 Q THIS IS DEFENSE EXHIBIT 17 IS A PHOTOGRAPH OF
18 THE BACK DOOR?

19 A IT WOULD APPEAR TO BE, YES, SIR

20 Q IT'S A PHOTOGRAPH OF ONE OF THE WINDOWS GOING TO
21 AMANDA'S ROOM?

22 A THAT'S CORRECT

23 Q I BELIEVE THE WINDOW THAT HAD THE GLASS BROKEN
24 OUT OF IT?

25 A THAT'S CORRECT

1 Q BUT IT'S GOT PLASTIC UP OVER IT?
2 A THAT'S TRUE
3 Q AND YOU CHECKED THAT?
4 A YES, SIR
5 Q AND YOU SAID THE PLASTIC WAS ALL NAILED DOWN?
6 A IT WAS INTACT, YEAH
7 Q THE BACK OF 407 RICH STREET, CORRECT?
8 A THAT'S CORRECT
9 Q AND I'M SORRY DEFENSE EXHIBIT NUMBER 20 IS THE
10 SIDE WINDOW TO AMANDA'S ROOM, CORRECT?
11 A THAT'S CORRECT
12 Q NOW WE'LL TALK ABOUT THAT WINDOW LATER COULD
13 YOU TELL IF THAT WINDOW HAD A SCREEN ON IT, DO YOU
14 REMEMBER THAT?
15 A I DON'T REMEMBER IF IT HAD SCREEN ON IT AND YOU
16 CAN'T REALLY TELL FROM THAT PICTURE
17 Q DEFENSE EXHIBIT NUMBER 21 IS THE SIDE OF
18 AMANDA'S BEDROOM RIGHT THERE?
19 A THAT'S CORRECT
20 Q THAT'S THAT PICTURE WE WERE JUST LOOKING AT,
21 CORRECT?
22 A THAT'S CORRECT
23 Q I BELIEVE THAT'S THE FRONT LIVING ROOM WINDOWS,
24 IS THAT RIGHT?
25 A WITHOUT SEEING THE WHOLE HOUSE, I --

1 Q OKAY I'M GOING TO SHOW YOU, I'M GOING TO REFER
2 TO DEFENSE EXHIBIT 22, CAN YOU TELL IF THAT ONE HAS A
3 SCREEN ON IT?

4 A NO, SIR

5 Q CAN'T TELL OR IT DOESN'T?

6 A IT A DOESN'T APPEAR TO

7 Q OKAY CAN YOU TELL WHICH WAY THE LOCKS ON THOSE
8 WINDOWS ARE POINTED?

9 A ONE, THE ONE ON THE RIGHT APPEARS TO BE POINTING
10 TO THE LEFT THE ONE ON THE LEFT I CAN'T REALLY
11 TELL

12 Q OKAY THIS IS ANOTHER DEFENSE EXHIBIT 24,
13 ANOTHER PHOTOGRAPH OF DOUBLE WINDOWS IN THE COPE
14 HOUSEHOLD, I'M NOT REALLY SURE WHICH ONE THAT IS TO
15 TELL THE TRUTH MYSELF SO BUT, IS THAT CORRECT?

16 A THAT'S CORRECT

17 Q OKAY THAT'S A PICTURE OF THE FRONT OF THE COPE
18 HOUSEHOLD, CORRECT?

19 A THAT'S CORRECT

20 Q PHOTOGRAPH OF THE FRONT DOOR LOCK, IS THAT
21 CORRECT OR IF YOU CAN'T SAY JUST?

22 A IT WOULD APPEAR TO BE I CAN'T SAY

23 Q THAT'S DEFENSE EXHIBIT 9 YOU CAN -- WELL, LET
24 ME SHOW YOU ONE MORE THING THIS IS A DIAGRAM
25 NOW THAT KITCHEN WINDOW WE JUST POINTED OUT WAS OPEN,

1 WAS IT NOT?

2 A YES, SIR

3 Q SO WE DID HAVE AN OPEN WINDOW IN THAT HOUSE?

4 A YES, SIR

5 Q AND IN FACT THE LATCHES ON THE SCREEN WERE UP,
6 CORRECT?

7 A I DON'T RECALL THEM BEING UP, NO, SIR

8 MR MORTON YOUR HONOR, I THINK WITH BOTH
9 COUNSEL'S PERMISSION I'M JUST GOING TO PUT THIS ON
10 THE DIAGRAM, JUST PUT THIS ON THE DISPLAY WITHOUT
11 PUTTING INTO EVIDENCE AT THIS TIME WELL, I THINK
12 IT'S TOO BIG

13 THE COURT YOU CAN ADJUST THAT

14 MR BRACKETT YOUR HONOR, I THINK IT'S
15 UNDERSTOOD, THIS IS NOT TO SCALE THIS IS NOT A
16 SCALED DRAWING

17 Q MR WALDROP, JUST TRYING TO SO WE CAN GET A
18 FEEL, THIS IS THE FRONT DOOR, CORRECT?

19 A THAT'S CORRECT

20 Q THE DEFENDANT'S BEDROOM I MEAN MR COPE'S
21 BEDROOM?

22 A THAT'S CORRECT

23 Q BATHROOM?

24 A YES, SIR

25 Q AMANDA'S BEDROOM?

1 A THAT'S CORRECT

2 Q KYLA AND JESSICA'S BEDROOM?

3 A I DIDN'T LOOK IN THERE, BUT YES, SIR, I WOULD

4 ASSUME SO

5 Q THE LIVING ROOM?

6 A THAT'S CORRECT

7 Q KITCHEN?

8 A I DIDN'T GO BACK THAT FAR INTO THE HOUSE EITHER

9 Q DINING ROOM?

10 A LIKE I SAID I DIDN'T DO INTO THE END OF THE

11 HOUSE

12 Q FRONT PORCH?

13 A THAT'S CORRECT

14 Q OKAY AND JUST WE CAN JUST IDENTIFY THIS IF WE

15 CAN, JUDGE, AT THIS POINT

16 THE COURT ANY OBJECTION

17 MR BRACKETT NONE

18 MR GREELEY NO, YOUR HONOR

19 (DEFENSE EXHIBIT 26 FOR I D MARKED

20 FOR IDENTIFICATION)

21 MR MORTON I DON'T THINK THAT I'M GOING

22 TO BE SHOWING ANYTHING ELSE

23 Q SO ON THAT HOUSE, MR WALDROP, YOU WOULD AGREE

24 WITH THAT WE HAD AN OPEN WINDOW?

25 A YES, SIR

1 Q WE HAD SOME PRY MARKS ON THE DOORS? SOME KIND
2 OF MARKS --

3 A THERE WERE MARKS ON THE DOOR, YES, SIR

4 Q THANK YOU MR COPE FROM THE FOUR HOURS THAT
5 YOU SPENT WITH HIM, HE ADMITTEDLY TOLD YOU THAT HE
6 THOUGHT HIS HOUSE WAS SECURE THAT NIGHT

7 A THAT'S CORRECT

8 Q HE WASN'T OFFERING ANY EXCUSES, WAS HE?

9 A ANY EXCUSES

10 Q YES, SIR

11 A NO, SIR, NOT REALLY

12 Q YOU DEAL WITH GUILTY PEOPLE, DO YOU NOT?

13 A YES, SIR

14 Q AND THERE ARE NUMEROUS TIMES ON THIS
15 INTERROGATION WHERE YOU ASKED HIM TO EXPLAIN, WHERE
16 YOU TOLD HIM, YOUR HOUSE WAS SECURE, HE THOUGHT SO
17 TOO, DID HE NOT?

18 A HE STATED SO, YES, SIR

19 Q BUT APPARENTLY IT WASN'T, WAS IT?

20 A IF YOU ARE REFERRING TO AN OPEN WINDOW, THERE
21 WAS AN OPEN WINDOW, YES, SIR

22 Q I'M REFERRING TO THIS MAN RIGHT HERE COMING IN
23 THAT HOUSE?

24 A I CAN'T ANSWER THAT

25 Q DID YOU REALIZE THAT THIS MAN'S WIFE, 33 YEARS

1 OLD, DIED ABOUT TWO MONTHS AFTER THIS CRIME?

2 A YES, SIR, I KNEW THAT

3 Q THAT SHE HAD A HYSTERECTOMY, SHE DEVELOPED A
4 FEVER, SHE WOULDN'T GO BACK TO THE HOSPITAL?

5 A I KNEW SHE DIED

6 MR BRACKETT YOUR HONOR, I OBJECT

7 THE COURT I SUSTAIN THE OBJECTION

8 Q DO YOU KNOW THAT HIS CHILDREN, HIS OTHER TWO
9 DAUGHTERS, WERE TAKEN FROM HIM ON THAT DAY?

10 MR BRACKETT AS TO RELEVANCE AGAIN

11 THE COURT I OVERRULE THE OBJECTION

12 IT'S CROSS EXAMINATION

13 A TAKEN FROM HIM ON THAT DAY?

14 Q YES, SIR, TAKEN INTO DSS CUSTODY ON THAT DAY
15 NOVEMBER 29, 2001?

16 A YES, SIR

17 Q OKAY AND YOU KNOW THAT HE HADN'T SEEM THEM
18 IN-PERSON SINCE THEN?

19 A I DON'T HAVE ANY KNOWLEDGE OF THAT

20 Q DO YOU KNOW THAT THEY'VE BEEN TOLD --

21 MR BRACKETT OBJECTION CALLS FOR
22 SPECULATION

23 THE COURT BETTER LAY A BETTER FOUNDATION
24 BEFORE YOU EVEN ASK THAT

25 MR MORTON OKAY

1 THE COURT YOU CAN ASK HIM IF HE'S TOLD
2 THEM ANYTHING OR IF HE'S BEEN IN THEIR PRESENCE WHEN
3 THEY WERE TOLD SOMETHING BUT

4 Q DID YOU TELL, OR IN YOUR PRESENCE, MARY SUE
5 COPE, HIS WIFE, TOLD THAT HER DEFENDANT, HER
6 HUSBAND'S DNA WAS FOUND ON THE BODY OF HER DAUGHTER?

7 A DO I KNOW SHE WAS TOLD THAT?

8 Q YES, SIR

9 A NO, SIR

10 Q DO YOU KNOW WHETHER HIS CHILDREN HAVE BEEN
11 TOLD --

12 A NO, SIR

13 Q ---THAT HE MURDERED THEIR SISTER?

14 A NO, SIR I NEVER MET THE OTHER TWO GIRLS

15 Q MR WALDROP, THIS TAPE RECORDING THAT YOU AND
16 MR HERRING TOOK OF YOUR INTERVIEW WITH MR COPE ON
17 THAT NIGHT WAS PUT INTO EVIDENCE WHEN?

18 A I'M NOT SURE OF THE EXACT DATE WITHOUT LOOKING
19 AT THE ENVELOPE

20 Q WHERE DID YOU THAT TAPE, I THINK IT'S IN
21 EVIDENCE STATE'S EXHIBIT 39, THESE AUDIO TAPES?

22 A YES, SIR

23 Q WERE PLACED IN EVIDENCE ON WHAT DATE?

24 A 5/21/02

25 Q SO FROM 11/29/01 TO 5/21/02 WHERE WERE THEY?

1 A THEY WERE IN MY DRAWER IN MY DESK CREDENZA

2 Q AND THIS IS A MURDER/RAPE CASE?

3 A THAT'S CORRECT

4 Q AND WE HAVE A TAPE RECORDED INTERVIEW OF A MAN
5 WHO IS LATER ARRESTED THAT NIGHT?

6 A THAT'S CORRECT

7 Q AND THESE TAPES WERE NOT EVEN PUT INTO EVIDENCE
8 FOR SIX MONTHS?

9 A THAT'S TRUE

10 Q WELL, WHY IS THAT?

11 A THEY WERE PUT IN MY DESK DRAWER THAT NIGHT AND
12 IN THE CREDENZA BEHIND MY DESK AND THEY WERE PLACED
13 INTO EVIDENCE LATER WHEN THEY WERE DISCOVERED THAT
14 THEY WEREN'T PLACED INTO EVIDENCE THAT NIGHT

15 Q Y'ALL DON'T USUALLY TAPE RECORD CONVERSATION
16 DOWN THERE, DO YOU?

17 A NO, SIR

18 Q WHY NOT?

19 A WE JUST DON'T I THINK I'VE DONE IT PROBABLY
20 TWICE OR THREE TIMES MAYBE IN MY CAREER

21 Q YOU CERTAINLY HAVE THE TECHNOLOGY, DO YOU NOT?

22 A TRUTHFULLY NOT REALLY BECAUSE I HAD TO USE THE
23 BOOM BOX THAT WAS IN MY OFFICE TO TAKE THIS ONE

24 Q THANK GOD YOU DID THAT YOU HAD TO TECHNOLOGY
25 THAT NIGHT, RIGHT?

1 A YES, SIR, I HAD A BOOM BOX

2 Q IT'S NOT HARD TO STICK A TAPE IN A RECORDER, IS

3 IT?

4 A NO, SIR

5 Q AND YOU WOULD AGREE WITH ME THAT IS PROBABLY THE

6 MOST FAIR AND ACCURATE WAY TO MEMORIALIZE A

7 CONVERSATION WITH SOMEONE, WOULD YOU AGREE WITH THAT?

8 A YOU KNOW, IT'S A TAPED CONVERSATION

9 Q YEAH

10 A IT TAPES WHAT WAS SAID, YES, SIR

11 Q I THINK MY QUESTION IS THAT IF YOU ARE GOING TO

12 COME TO MY OFFICE AND WE'RE GOING TO TALK THREE TO

13 FOUR HOURS THE FAIREST AND MOST ACCURATE WAY TO THEN

14 TELL SOMEBODY ELSE WHAT HAPPENED DURING OUR

15 CONVERSATION WOULD NOT TO BE TO RELY ON WHAT I TOLD

16 THEM MY CONVERSATION WAS, WOULD IT?

17 A (NO RESPONSE)

18 Q THE FAIREST AND MOST ACCURATE WAY WOULD BE FOR

19 ME TO RECORD IT WITH YOUR KNOWLEDGE, CORRECT?

20 A THAT WOULD BE A TRUE DEPICTION OF WHAT WAS SAID,

21 THAT'S CORRECT

22 Q BECAUSE SOMETIMES THINGS JUST DON'T GET

23 INTERPRETED THE WAY THEY REALLY HAPPENED, DO THEY?

24 A I DON'T KNOW WHAT YOU ARE TRYING TO SAY

25 Q WHAT I'M TRYING TO SAY IS THAT THE FAIREST AND

1 MOST ACCURATE WAY, IF YOU AND I ARE GOING TO HAVE A
2 CONVERSATION, IS TO JUST TURN THAT TAPE PLAYER ON?

3 A LIKE I SAID THAT GIVES A TRUE DEPICTION OF WHAT
4 WAS SAID, THAT'S CORRECT

5 Q AND WITHOUT THAT, YOU WOULD AGREE WITH ME,
6 THINGS SOMETIMES GET LOST IN THE DETAILS, DO THEY
7 NOT?

8 A THINGS CAN BE FORGOTTEN OR MISQUOTED, YEAH I
9 MEAN

10 Q OR MISINTERPRETED?

11 A THAT'S POSSIBLE

12 Q OR INACCURATELY PORTRAYED?

13 A INACCURATELY PORTRAYED WOULD BE IMPLYING THAT
14 SOMEONE WOULD HAVE DISTORTED OR CHANGED OR LIED I
15 WOULDN'T SAY THAT

16 Q IF YOU AND I, WE HEARD YOUR CONVERSATION WITH
17 MR COPE, THAT'S A POLICE INTERROGATION, IS IT? LIKE
18 MR COPE ACKNOWLEDGED, HE UNDERSTOOD YOU HAD A JOB TO
19 DO YOU WERE TRYING TO DO YOUR JOB?

20 A THAT'S CORRECT

21 Q AND YOU WERE PRESSURING HIM?

22 A WE WERE INTERVIEWSING HIM WE WERE ASKING HIM
23 QUESTIONS AND HE WAS ANSWERING

24 Q AND THAT'S WHAT POLICE OFFICERS DO?

25 A THAT'S CORRECT

1 Q RIGHT?

2 A YES, SIR

3 Q YOU ARE NOT GOING TO GIVE SOMEBODY A LOLLIPOP,
4 ARE YOU?

5 A GIVE THEM A LOLLIPOP?

6 Q YEAH

7 A NO, SIR

8 Q I MEAN THERE ARE A LOT OF TIMES IN YOUR
9 EXPERIENCE WHERE PEOPLE, GUILTY PEOPLE, COME IN AND
10 TELL YOU THEY DIDN'T HAVE ANYTHING TO DO WITH IT, AND
11 YOU ARE ABLE TO BREAK THEM DOWN AND GET THEM TO TELL
12 YOU WHAT IN FACT TURNS OUT TO BE THE TRUTH?

13 A THAT'S CORRECT

14 Q OKAY AND A LOT OF TIMES WHEN THAT HAPPENS YOUR
15 IN FACT RIGHT, CORRECT?

16 A THAT'S CORRECT

17 Q SOMETIMES YOU CAN BE WRONG, CORRECT?

18 A SOMETIMES YOU CAN BE WRONG, YES, SIR

19 Q AND SOMETIMES THE DEVIL IS IN THE DETAILS,
20 CORRECT?

21 A THE DEVIL IS IN THE DETAILS?

22 Q YES, SIR I GUESS WHAT MY QUESTION IS, THERE
23 IS NO -- FROM WHAT BILLY COPE TOLD YOU THAT NIGHT,
24 YOU DIDN'T KNOW AT THE TIME, YOU DIDN'T KNOW AT THAT
25 TIME THAT JAMES SANDERS' SEMEN AND SALIVA WAS GOING

1 TO BE FOUND ON AMANDA COPE'S THIGH AND BITTEN BREAST,
2 DID YOU?

3 A NO, SIR, I DID NOT

4 Q WOULD YOU HAVE DONE ANYTHING DIFFERENTLY IF YOU
5 HAD KNOWN THAT?

6 A WE WOULD HAD MORE PEOPLE TO TALK TO I MEAN, WE
7 WOULD HAVE DONE THE SAME INTERVIEW WE WOULD HAVE
8 DONE THE SAME THING WITH MR SANDERS

9 Q SO IF SOMEBODY ENTERS SOMEBODY, IF SOMEBODY
10 COMES IN MY HOUSE AND RAPES AND MURDERS MY LITTLE
11 GIRL TONIGHT, YOU GOING TO ARREST ME?

12 A I'M NOT GOING ARREST YOU THE FACT OF THE
13 MATTER WAS AT THAT TIME THERE WAS NO ONE ELSE IN THE
14 HOUSE, THAT WE HAD ANY IDEA ANYBODY ELSE WAS IN THE
15 HOUSE

16 Q MY QUESTION IS THEN, KNOWING NOW THAT
17 MR SANDERS' SEMEN AND SALIVA TURNED UP ON AMANDA
18 COPE'S LEG, WOULD YOU HAVE DONE ANYTHING DIFFERENTLY?

19 A KNOWING IT THEN AND KNOWING IT NOW?

20 Q YES, SIR

21 A KNOWING IT THEN WE WOULD HAVE HAD ANOTHER PERSON
22 TO INTERVIEW, YES, SIR

23 Q YOU'D STILL CHARGE BILLY COPE?

24 A YES, SIR

25 Q YOU WOULD HAVE CHARGED HIM WITH CONSPIRING WITH

1 THIS MAN RIGHT HERE?

2 A YES, SIR

3 Q BASED ON WHAT?

4 A ON WHAT WE KNEW, WHAT WE FOUND OUT, THE EVIDENCE
5 AT THE SCENE

6 Q I GUESS WHAT I'M ASKING IS, WHAT IS THAT?

7 A THE EVIDENCE RECOVERED AT THE SCENE, THE
8 CONDITION OF THE HOUSE -- WE'VE GONE OVER IT

9 Q I'M SORRY GO AHEAD LET ME REPHRASE IT A
10 CONSPIRACY IS AN AGREEMENT, A MEETING OF THE MINDS,
11 AS MR THOMPSON SAID, IT DOESN'T HAVE TO BE WRITTEN
12 DOWN, IT DOESN'T HAVE TO BE SPOKEN INTO A MICROPHONE,
13 IT CAN BE AN IMPLIED AGREEMENT EVEN, BUT IT HAS TO BE
14 AN AGREEMENT, CORRECT?

15 A RIGHT BUT --

16 Q GO AHEAD GO AHEAD

17 A AFTER THE SANDERS REVELATION CAME OUT IN THE
18 CASE, I WAS NOT INVOLVED IN THE CASE AT ALL I HAD
19 NOTHING TO DO WITH THE SANDERS CHARGE I HAD NOTHING
20 TO DO WITH THAT PART OF THE INVESTIGATION, SO I CAN'T
21 SAY WHAT THEY BASED THE CHARGE OF CONSPIRACY AND ALL
22 ON I WAS NOT INVOLVED IN IT AT ALL WHATSOEVER

23 Q FAIR ENOUGH YOU WOULD AGREE THAT THERE HAS GOT
24 TO BE SOME EVIDENCE?

25 A IN ORDER TO CHARGE THEM WITH IT THERE WOULD HAVE

1 TO BE PROBABLE CAUSE, YES, SIR

2 Q AND YOU CAN CHARGE ANYBODY FOR ANYTHING AT
3 ANYTIME, CORRECT?

4 A IF YOU ESTABLISH THE PROBABLE CAUSE AND PRESENT
5 TO IT JUDGE FOR A WARRANT, CORRECT

6 MR MORTON YOUR HONOR, I AM PROBABLY AT A
7 STOPPING PLACE IF YOU WANT

8 THE COURT WHY DON'T WE STOP IT'S
9 ALMOST SIX O'CLOCK AND WE'LL STOP FOR THE DAY AND
10 STOP FOR THE WEEKEND AND START BACK AT NINE ON
11 MONDAY I KNOW YOU PROBABLY GET TIRED OF ME SAYING
12 IT, BUT I AM GOING TO REMIND YOU AGAIN PARTICULARLY
13 SINCE IT'S THE WEEKEND, THAT YOU ARE NOT TO TRY TO
14 MAKE UP YOUR MIND, YOU ARE NOT TO DISCUSS THE CASE
15 WITH ANYONE OR LET ANYONE DISCUSS THE CASE WITH YOU,
16 REPORT BACK TO ME IF ANYONE TRIES TO DISCUSS THE CASE
17 WITH YOU AND DON'T LET YOURSELF BE EXPOSED TO ANY
18 NEWS COVERAGE, IF THERE IS ANY, DON'T LISTEN TO
19 ANYTHING, WATCH ANYTHING, OR READ ANYTHING I'M
20 GOING TO ADD ONE MORE THING, I MIGHT SHOULD HAVE SAID
21 THIS THE OTHER DAY BUT I'M GOING TO SAY IT TODAY AND
22 I DON'T KNOW THAT ANYBODY WOULD DO THIS BUT WE HAVE
23 HAD IT HAPPEN DO NOT MAKE ANY INVESTIGATION OF THE
24 SCENE THAT IS, DON'T GO TO 407 RICH STREET THIS
25 HAPPENED ALMOST THREE YEARS AGO WE DON'T KNOW

1 WHETHER THE HOUSE HAS CHANGED WE DON'T KNOW
2 ANYTHING ABOUT IT, AND IF IT HADN'T CHANGED ONE BIT
3 IT STILL WOULD NOT BE PROPER FOR YOU TO MAKE AN
4 INDEPENDENT INVESTIGATION BECAUSE AS I TOLD YOU
5 YOU'VE GOT TO MAKE YOUR VERDICT, REACH YOUR VERDICT
6 BASED ON THE EVIDENCE AND THE FACTS IN THE CASE
7 ANYTHING ELSE FROM THE STATE BEFORE WE STOP?

8 MR BRACKETT BRIEFLY, YOUR HONOR, MAY WE
9 APPROACH

10 (BENCH CONFERENCE)

11 THE COURT ALL RIGHT HAVE A PLEASANT
12 WEEKEND AND HOPE YOUR TEAM WINS I HOPE MY TEAM
13 WINS

14 (THE JURY EXITS THE COURTROOM AT
15 5 51)

16 THE COURT ANYTHING WE CAN DO, I MEAN I'M
17 READY TO GO MYSELF AND I KNOW ALL OF YOU ARE I KNOW
18 YOU ARE EXHAUSTED, BUT ANYTHING WE NEED TO BE AWARE
19 OF FOR NEXT WEEK OR FOR THE WEEKEND OR FOR THE REST
20 OF THE DAY?

21 MR BRACKETT NO, SIR

22 MR MORTON NO, SIR

23 MR GREELEY NOTHING FROM MR SANDERS

24 THE COURT ALL RIGHT HAVE A GOOD
25 WEEKEND THANK YOU APPRECIATE EVERYONE'S PATIENCE

(COURT'S IN RECESS AT 5 52)

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3 I, JANET RICH, OFFICIAL COURT REPORTER FOR
4 THE SIXTEENTH CIRCUIT OF THE STATE OF SOUTH CAROLINA,
5 DO HEREBY CERTIFY THAT THE FORGOING IS A TRUE,
6 ACCURATE, AND COMPLETE TRANSCRIPT OF RECORD OF ALL
7 THE PROCEEDINGS HAD AND EVIDENCE INTRODUCED IN THE
8 TRIAL OF THE CAPTIONED CASE, RELATIVE TO APPEAL, IN
9 THE CIRCUIT COURT FOR YORK COUNTY, SOUTH CAROLINA, ON
10 THE 10TH DAY OF SEPTEMBER 2004

11 I DO FURTHER CERTIFY THAT I AM NEITHER KIN,
12 COUNSEL, NOR INTEREST TO ANY PARTY HERETO
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14
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JANET M RICH

1 IN THE CIRCUIT COURT OF YORK COUNTY, SOUTH CAROLINA
2 STATE OF SOUTH CAROLINA
3 VERSUS
4 BILLY WAYNE COPE &
5 JAMES EDWARD SANDERS
6 INDICTMENT NUMBERS 2002-GS-46-3232-3234
7 2003-GS-46-1843-1844 2004-GS-46-2614-2618
8 2004-GS-46-196-199
9 HEARD AT THE MOSS JUSTICE CENTER,
10 1675 YORK HIGHWAY, YORK, SOUTH CAROLINA, ON
11 MONDAY, SEPTEMBER 13, 2004, BEFORE THE HONORABLE
12 JOHN C HAYES, III AND A JURY
13 APPEARANCES
14 TOMMY POPE
15 KEVIN BRACKETT
16 WILLY THOMPSON
17 16TH CIRCUIT SOLICITOR'S OFFICE
18 1675 YORK HIGHWAY
19 YORK, SC 29745
20 REPRESENTING THE STATE
21 JAMES MORTON
22 DAVID WOOD
23 MICHAEL SMITH
24 MORTON & GETTYS
25 1051 OAKLAND AVENUE
 ROCK HILL, SC 29732
 A PHILIP BAITY
 POST OFFICE BOX 275
 FORT MILL, SC 29715
 REPRESENTING BILLY WAYNE COPE
 LELAND GREELEY
 128 E MAIN STREET SUITE 102
 ROCK HILL, SC 29732
 REPRESENTING JAMES EDWARD SANDERS
 REPORTED BY JANE1 M RICH
 CIRCUIT COURT REPORTER
 1992 DOWNEY STREET
 ROCK HILL, SC 29732

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1 (COURT RESUMES AT 09 06 A M ON MONDAY,
2 SEPTEMBER 13, 2004, AND THE DEFENDANTS ARE PRESENT)
3 THE COURT ANYTHING FROM THE STATE BEFORE
4 WE GET THE JURY IN
5 MR BRACKETT NO, SIR
6 THE COURT THE DEFENSE, MR MORTON OR
7 MR SMITH?
8 MR SMITH YES, SIR, YOUR HONOR AT
9 THIS TIME, JUDGE, WE ASK THE COURT FOR A MISTRIAL IN
10 THE CASE REGARDING, THE COURT'S HEARD THE INFORMATION
11 ABOUT THE COMPUTER, EVIDENCE THAT THE STATE INTENDS
12 ON INTRODUCING I HAVE RUN THROUGH A TIME LINE WITH
13 THE COURT BEFORE AND I'LL BRIEFLY HIT ON THAT AGAIN
14 AGAIN BRIEFLY WE WERE GIVEN INFORMATION DURING THE
15 DISCOVERY PROCESS ABOUT THE COMPUTER WE WERE TOLD
16 THERE WAS NO SIGNIFICANT INFORMATION FOUND ON
17 SEPTEMBER 6 WE WERE GIVEN AN E-MAIL REPORT FROM
18 SPECIAL AGENT AMANDA SIMMONS AT SLED WHO EXAMINED THE
19 COMPUTER SHE COMPLETED HER REVIEW OF THE COMPUTER
20 ON JANUARY 9, 2002 SHE RENEWED THAT INFORMATION ON
21 TWO OCCASIONS WITH THE SOLICITOR'S OFFICE OR AGENT'S
22 OF THE SOLICITOR'S OFFICE ONCE IN AUGUST OF 2002,
23 SECONDLY IN SEPTEMBER OF 2002 WE RECEIVED THE
24 INFORMATION FROM HER REPORT WHICH WAS AN EXTENSIVE
25 REPORT, APPROXIMATELY 180 PAGES WE ACTUALLY DIDN'T

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1 RECEIVE PAGES WE RECEIVED THE DISK THE DAY THIS
2 TRIAL STARTED ON SEPTEMBER 7 AND HAD IT NOT BEEN FOR
3 THE GOOD PEOPLE AT THE PUBLIC DEFENDER'S OFFICE WE
4 WOULD NOT HAVE HAD THE ACTUAL PRINTED DOCUMENTS UNTIL
5 AFTER, THAT EVENING THE COURT ALLOWED US TO
6 IMMEDIATE ACCESS TO THE COMPUTER OR THE HARD DRIVES
7 LAST WEEK OUR COMPUTER TECHNICIAN WENT DOWN AND
8 REVIEWED THAT INFORMATION HE NEEDS TO GO DOWN AND
9 REVIEW IT AGAIN JUDGE, AT THIS POINT WE BELIEVE
10 THAT THERE IS INFORMATION ON THERE THAT HAD WE KNOWN
11 ABOUT TO START WITH WE COULD HAVE PREPARED THE JURY
12 FOR IT WE COULD HAVE INTRODUCED THAT INFORMATION IN
13 OUR OPENING STATEMENT AND PREPARED THEM FOR THAT
14 INSTEAD BECAUSE WE WERE NOT ABLE TO GIVE THAT
15 INFORMATION TO THE JURY AT THE VERY BEGINNING WE, THE
16 JURY WILL NOW HEAR THIS INFORMATION FIRST FROM THE
17 STATE WHICH WILL INFER THAT WE WERE HIDING SOMETHING
18 FROM THE VERY BEGINNING, INFORMATION THAT WE WERE NOT
19 HIDING, WE WOULD HAVE DISCLOSED THIS INFORMATION TO
20 THE JURY IT'S INFORMATION THAT WE DID NOT HAVE IN
21 OUR POSSESSION WE DID NOT HAVE IT PURSUANT TO
22 RULE FIVE THE STATE HAS TO DISCLOSE THE RESULTS OF
23 ANY EXAMS OR TESTS THAT, THAT THEY UNDERGO OR THAT
24 THEY PERFORM AND WE KNOW THAT THESE TESTS WERE
25 COMPLETED IN EARLY 2002 SO JUDGE, WE'RE ASKING THE

1 COURT AS A SANCTION -- WELL, FIRST OF ALL FOR A
2 MISTRIAL OR IN THE ALTERNATIVE AS A SANCTION FOR A
3 DISCOVERY VIOLATION TO EXCLUDE THE STATE FROM
4 PRESENTING ANY INFORMATION REGARDING THIS COMPUTER OR
5 THE EVIDENCE OR ANY RELEVANT EVIDENCE ON IT

6 THE COURT WELL, OF COURSE, I'LL BE GLAD
7 TO HEAR FROM THE STATE BUT THE STATE HAS BEEN TELLING
8 ME, I THOUGHT, THAT THERE WASN'T ANYTHING ON THERE
9 THAT THEY WANTED TO PRESENT

10 MR BRACKETT AS FAR AS PORNOGRAPHY AND
11 THAT SORT OF THING THE ONLY THING THE STATE WANTS
12 TO PRESENT AND I MENTIONED A COUPLE OF TIMES IN COURT
13 IS THE FACT THAT AT 3 40

14 THE COURT THE TIMES

15 MR BRACKETT THERE WAS SOME ACTIVITY ON
16 THE COMPUTER AND ESSENTIALLY THAT'S THE MAIN THRUST
17 OF THE COMPUTER EVIDENCE, BUT THEN THERE ALSO WILL BE
18 SOME TESTIMONY REGARDING WHAT MAY OR MAY NOT HAPPEN
19 WHEN SOMEBODY OPENS SOMETHING ON A COMPUTER, AS FAR
20 AS DOES THE COMPUTER LOG THAT FACT, AND THAT IS
21 REALLY GERMANE ONLY TO THE ISSUE OF WHETHER OR NOT HE
22 WAS TYPING ON THE COMPUTER THERE HAS BEEN SOME
23 DISCUSSIONS WITH THE FIRST RESPONDERS THAT HE WAS AT
24 THE COMPUTER THEY HAVE CHALLENGED THAT AND SAID HE
25 WAS ON THE PHONE, SO TO THE EXTENT THAT THAT IS AN

1 ISSUE IN THE CASE, WHETHER OR NOT HE WAS ACTUALLY ON
2 THE COMPUTER, THERE WILL BE SOME TESTIMONY ABOUT
3 THAT, BUT THE THRUST OF THE TESTIMONY REGARDING THE
4 COMPUTER IS THAT AT 3 40 IN THE MORNING THERE WAS
5 SOME ACTIVITY AND FILES WERE DELETED AT THAT TIME

6 THE COURT NOT THE CONTENT

7 MR BRACKETT NOT THE CONTENT EXCEPT
8 THAT AND AS I MENTIONED THIS TO MR MORTON YESTERDAY,
9 WHEN I WAS REDACTING OVER THE WEEKEND THE VIDEO TAPE
10 AND I WAS WORKING THROUGH THAT AT HOME, I HAD TO PUT
11 IT ON THE COMPUTER AND DIGITIZE IT SO I COULD GET
12 JUST THOSE SPECIFIC SECTIONS, AT THE VERY END OF THE
13 VIDEO TAPE WHICH THEY HAVE HAD IN THEIR CUSTODY SINCE
14 AT LEAST TWO AND A HALF YEARS, AT THE VERY END OF
15 THAT VIDEO TAPE MR COPE IS ASKED BY ONE OF THE
16 OFFICERS PRESENT, WHAT, DID HE DO ANYTHING ON THE
17 COMPUTER AT THREE O'CLOCK 3 45 THAT MORNING BECAUSE
18 THEY HAVE THAT INFORMATION BACK THEN AND THEY ASKED
19 HIM THAT SPECIFICALLY AND HE SAID NOT THAT I CAN
20 REMEMBER UNLESS I WENT IN TO DELETE SOME INTERNET
21 FILES, SOME PORNOGRAPHY THAT HAD BEEN ON THERE A
22 LONG, LONG TIME AGO, NOW THAT IS SPECIFICALLY
23 CORROBORATIVE OF THE STATEMENT THAT HE MADE TO MIKE
24 BAKER WHERE ON FRIDAY THE 30TH HE TOLD MIKE BAKER I
25 DELETED MY TEMPORARY INTERNET FILES WHICH IS WHAT MY

1 EXPERT SAYS IS THE FILE THAT WAS ALTERED WHICH IS THE
2 TEMPORARY INTERNET FILE SO IT'S ALL MESHEd

3 THE COURT WELL, I'M GOING TO DENY THE
4 MOTION ALL RIGHT

5 MR MORTON YOUR HONOR, IF I MIGHT THE
6 STATE HAS AN OBLIGATION TO TURN THIS INFORMATION OVER
7 TO US

8 THE COURT I KNOW AND I'M NOT HAPPY WITH
9 THAT WE'VE RUN INTO THIS TIME AND TIME AGAIN AND
10 I'M NOT HAPPY WITH IT

11 MR MORTON IT'S PREJUDICE TO US

12 THE COURT WELL, AT THIS TIME THE ONLY
13 PREJUDICE I HAVE HEARD IS THAT YOU DIDN'T GET TO
14 MENTION IT IN OPENING STATEMENT

15 MR MORTON WHICH IS HUGE PREJUDICE TO
16 US WE CERTAINLY HAVE THE RIGHT TO KNOW WHAT
17 EVIDENCE IN THIS SERIOUS CASE WE'RE GOING TO BE FACED
18 WITH BEFORE WE GO TO TRIAL

19 THE COURT WELL, I DENY THE MOTION I
20 KNOW YOUR POSITION GO AHEAD ANYTHING ELSE YOU
21 WANT TO SAY? I HEARD MR SMITH SAY THE SAME THING
22 AND I'LL BE GLAD TO, YOU CAN PUT ON THE RECORD
23 WHATEVER YOU WANT TO PUT, BUT I'M NOT GRANTING A
24 MISTRIAL AND AT THIS TIME I'M NOT GOING TO SANCTION
25 THE STATE BY NOT ALLOWING DISCOVERY BASED ON

1 DISCOVERY VIOLATION HAVING ALLEGED ANY
2 PROSECUTORIAL MISCONDUCT, I DON'T FIND ANY PLUS THE
3 ONLY EVIDENCE THAT APPEARS THAT THEY ARE GOING TO
4 PRESENT IS NOT CONTENT BUT TIME RELATED AND IN
5 ADDITION TO THAT CORROBORATING OR LACK OF
6 CORROBORATION, ONE OF THE TWO, I THINK IT'S PROBABLY
7 MORE CORROBORATING, THE STATEMENT GIVEN BY MR COPE,
8 SO I'M NOT GOING TO GRANT IT BUT I WANT YOU TO PUT ON
9 THE RECORD WHATEVER YOU WANT

10 MR MORTON THANK YOU VERY MUCH, YOUR
11 HONOR AS FAR AS THE CONTENT OF IT, YOU KNOW, I
12 AGAIN, WE OBJECT TO ANY OF IT BECAUSE WE HAVE HAD
13 FINGERPRINTS, WE HAVE HAD BROOMS, WE HAVE HAD
14 COMPUTER INFORMATION ALL GIVEN TO US AFTER THIS TRIAL
15 STARTED AND NOW THEY ARE COMING FORWARD WITH
16 INFORMATION THAT THEY PROVIDED TO US AFTER THIS TRIAL
17 STARTED THAT THEY INTEND TO USE TO IMPEACH MY CLIENT
18 THAT WE DID NOT KNOW ABOUT WE DIDN'T KNOW ABOUT IT
19 AND SO NOW THEY ARE TRYING TO SAY THAT NOT ONLY WAS
20 HE ON A COMPUTER AT A CERTAIN TIME, BUT THAT HE WAS
21 DELETING FILES WHICH IS VERY, VERY PREJUDICIAL TO,
22 INFERENCE TO THE JURY SO I WOULD ASK THAT AT THE
23 VERY LEAST THAT BE RESTRICTED FROM BEING SAID TO THE
24 JURY

25 THE COURT WELL, I DODN'T REMEMBER ALL

1 THE VIDEO BUT JUST STATED TO ME BY MR BRACKETT THAT
2 ON THE VIDEO HE INDICATED HE MAY HAVE AT A CERTAIN
3 TIME, THAT IS MR COPE, MAY HAVE AT A CERTAIN TIME ON
4 THAT EVENING DELETED SOME FILES AND THAT'S BEEN ON
5 THE, IN YOUR POSSESSION THE VIDEO FOR QUITE SOMETIME
6 AS FAR AS I KNOW

7 MR MORTON I DON'T REMEMBER THAT BUT I
8 KNOW THAT HE TOLD MR WALDROP THAT HE HAD NOT BEEN,
9 HE DOESN'T REMEMBER BEING ON THE COMPUTER DOESN'T
10 SAY ANYTHING ABOUT DELETING FILES

11 THE COURT WAIT A MINUTE, WE'RE TALKING
12 ABOUT TWO DIFFERENT THINGS NOW MY POINT IS AND WE
13 CAN GO BACK AT THE FIRST BREAK AND LOOK AT THE VIDEO
14 OR OVER LUNCH, BUT I'M BEING TOLD ON THE VIDEO A
15 STATEMENT WAS MADE BY MR COPE I MAY HAVE GONE IN AT
16 3 40 OR A CERTAIN TIME AND DELETED SOME FILES I
17 THINK THAT'S, NUMBER ONE, THAT'S SOMETHING THAT'S
18 BEEN IN YOUR POSSESSION AND WHILE IT IS PREJUDICIAL
19 OF COURSE IT CORROBORATES STUFF, THAT'S PREJUDICIAL
20 IS NOT PER SE ADMISSIBLE OR NOBODY WOULD EVER HAVE A
21 CASE, BUT I'M BEING TOLD THAT THAT INFORMATION WHICH
22 IS WHAT THEY INTEND TO PRESENT TO CORROBORATE AND
23 SHOW THAT HE IN FACT DID THAT, BUT THE FACT THAT
24 THEIR POSITION IS THAT HE MADE A STATEMENT TO THE
25 EFFECT THAT HE WAS ON THE COMPUTER AT SOME TIME OVER

1 THAT EVENING SHOULD HAVE BEEN IN YOUR POSSESSION IF
2 YOU HAD THE WHOLE VIDEO EVEN THOUGH IT'S AT THE END
3 OF THE VIDEO

4 MR MORTON WELL, WE'LL TAKE A LOOK AT IT
5 BUT MY MOTION STILL STANDS AND I UNDERSTAND THE
6 COURT'S RULING

7 THE COURT ALL RIGHT THANK YOU

8 MR MORTON YOUR HONOR, AT THIS TIME WE
9 ALSO NEED TO SETTLE THE DEFENDANT'S RECORD IF WE
10 COULD THERE MIGHT BE SOMETHING WE NEED TO ADDRESS
11 WITH THIS WITNESS WHICH IS WHY I'M BRINGING IT UP
12 NOW

13 THE COURT OKAY

14 MR MORTON HE HAS PRIOR CONVICTIONS FOR
15 UNLAWFUL NEGLECT WITH A CHILD IN 1999 IT IS OUR
16 POSITION THAT BECAUSE OF THE SIMILARITY OF THESE
17 CHARGES AND BECAUSE OF THE PREJUDICIAL EFFECT AND
18 BECAUSE OF THE FACT THAT THE IMPEACHMENT VALUE AND
19 THE ANALYSIS THAT THE COURT IS REQUIRED TO GO THROUGH
20 IT IS OF COURSE MUCH MORE PREJUDICIAL THAN IT IS
21 PROBATIVE AS TO WHETHER OR NOT THIS MAN --

22 THE COURT MR BRACKETT, KIND OF NODDED
23 I THINK HE IS AGREEING

24 MR BRACKETT AS FAR AS THE IDENTIFICATION
25 OF THE ACTUAL CHARGES, BUT WHAT WE'VE TYPICALLY DONE

1 AND WHAT I THINK WILLIAM V STATE WHICH IS THE CASE
2 THAT YOU SAYS YOU SHOULDN'T SAY, IF HE'S ON TRIAL FOR
3 X AND HE'S BEEN CONVICTED OF X PREVIOUSLY, YOU DON'T
4 SAY THAT, YOU SAY HE'S BEEN CONVICTED OF A FELONY

5 THE COURT I DON'T EVEN KNOW WHAT
6 UNLAWFUL NEGLIGENCE CARRIES

7 MR BRACKETT TEN YEARS

8 MR MORTON CONVICTED OF A FELONY?

9 MR BRACKETT THREE FELONIES HE'S BEEN
10 CONVICTED OF

11 THE COURT I THINK UNDER THE CURRENT CASE
12 LAW ANALYSIS THEY CAN ASK HIM NOT THE NATURE BUT FOR
13 IMPEACHMENT PURPOSES WHETHER OR NOT HE HAS IN FACT,
14 IF IT FALLS WITHIN THE PERIMETERS AND IT DOES CARRY
15 TEN YEARS, IT'S WITHIN THE TEN YEARS I IMAGINE TIME
16 FRAME, THEY CAN CERTAINLY ASK HIM IF HE HAS ANY PRIOR
17 RECORD INVOLVING A FELONY

18 MR MORTON WELL, A FELONIES, YOU KNOW,
19 IS AWFULLY PREJUDICIAL WHEN A JURY HEARS THAT, YOU
20 KNOW, AND IN THIS KIND OF CASE, I DON'T KNOW WHAT THE
21 IMPEACHMENT, IT'S NOT A CRIME INVOLVING MORAL
22 TURPITUDE IT'S NOT A CRIME INVOLVING ---

23 THE COURT BUT IT CARRIES OVER ONE YEAR
24 WHICH OUR COURT HAS SAID THAT'S GOOD ENOUGH

25 MR MORTON I UNDERSTAND THAT, BUT THE

1 COURT HAS ALSO SAID THAT YOU HAVE TO DO A PREJUDICIAL
2 VERSUS PROBATIVE ANALYSIS

3 THE COURT AND I HAVE DONE THAT AND I
4 DECIDED THEY CAN'T GET IN THE, I HAVEN'T DONE IT OUT
5 LOUD, BUT I HAVE DONE IT IN MY MIND AND APPARENTLY
6 MR BRACKETT HAS DONE IT ALSO AND I'M GOING TO FIND
7 THAT THEY CAN'T GO INTO THE NATURE BUT THEY STILL
8 HAVE THE RIGHT TO BRING IT OUT THAT HE HAS VIOLATED
9 THE LAWS OF THIS STATE WITHIN THE PERIMETERS SET BY
10 THE SUPREME COURT UNDER THE RULE AND THAT IS THAT HE
11 HAS A FELONY CONVICTION AND THEY CAN GO INTO THAT

12 MR MORTON IF I COULD MAKE SURE I
13 UNDERSTAND THEN THE, WHAT YOU ARE RULING IS IS THAT
14 THE STATE WOULD BE ABLE TO SAY THAT HE HAS THREE
15 PRIOR FELONY CONVICTIONS

16 THE COURT THE STATE CAN'T SAY THAT
17 YOUR CLIENT CAN BE ASKED THAT IF HE CHOOSES TO
18 TESTIFY BUT THE STATE CAN'T BRING IT UP THEY CAN'T
19 IMPEACH HIM UNLESS HE TESTIFIES

20 MR MORTON I UNDERSTAND AND IF HE
21 TESTIFIES, I'M TRYING TO GET A CLARIFICATION AS TO
22 WHAT THEY CAN THEN ASK HIM

23 THE COURT THEY CAN ASK HIM AND I'M,
24 WELL, MR BRACKETT IS GOING TO BE THE ONE TO ASK HIM
25 SO LET, RATHER THAN ME FRAME IT MYSELF, LET'S SEE

1 WHAT HE INTENDS

2 MR BRACKETT ISN'T IT TRUE THAT YOU HAVE
3 THREE PRIOR FELONY CONVICTIONS FROM 1999

4 THE COURT OKAY AND I'LL ALLOW THAT

5 MR MORTON AS PART OF THE SAME
6 TRANACT---AS PART OF THE SAME OCCURRENCE OR?

7 THE COURT I DON'T KNOW WHAT YOU ARE
8 DOING, MR MORTON, THE DILEMMA THE COURT IS IN IS YOU
9 WANT TO RESTRICT AND HAVE THEM NOT GO INTO THE NATURE
10 AND NOW YOU ARE MOVING TOWARD, WELL, MAYBE YOU BETTER
11 BE MORE DEFINITIVE, SO IT'S, YOU CAN'T HAVE IT BOTH
12 WAYS YOU CAN EITHER HAVE IT LIKE THE CASES SAY
13 WHICH IS BASICALLY WHAT, AS I UNDERSTAND IT, WHAT MR
14 BRACKETT IS SAYING I CAN JUST ASK IF HE HAS IT
15 CAN'T GO ANY FURTHER CAN'T EXPLAIN WHETHER THEY ALL
16 HAPPENED ON THE SAME DAY CAN'T EXPLAIN THE NATURE
17 OF THEM JUST CAN'T DO IT NOW HE HAS A RIGHT WHEN
18 HE TESTIFIES TO EXPLAIN IF HE WISHES YES, I DO,
19 THEY ALL HAPPENED ON THE SAME DAY, THEY INVOLVE AND
20 THIS IS, AND I DON'T EVEN KNOW BUT I WOULD GUESS
21 THERE ARE THREE CHILDREN WHICH THERE IS ONE COUNT PER
22 CHILD OR SOMETHING LIKE THAT, ONE EVENT WITH THREE
23 COUNTS ONE PER CHILD I WOULD GUESS

24 MR MORTON YES, SIR

25 THE COURT AND I THINK HE HAS A RIGHT TO

1 EXPLAIN THAT BUT THEY HAVE THE RIGHT TO ASK

2 MR MORTON IF HE THEN EXPLAINS IT THEN
3 THAT ENDS THE INQUIRY?

4 THE COURT I WOULD THINK SO THEY CAN'T
5 GO INTO THE DETAILS BUT THE QUESTION IS NOT THE
6 DETAILS, THE QUESTION IS THE CONVICTION, AND I WOULD
7 NOT, IF HE EXPLAINS YES THEY INVOLVE, I'M SORT OF IN
8 HERE MOVING OFF OF MY ROLE AS REFEREE AND PERHAPS
9 MOVING INTO THAT OF A COACH AND I DON'T WANT TO DO
10 THAT, BUT HE CERTAINLY COULD TESTIFY, YES, I DO, THEY
11 INVOLVE ONE EVENT AND INVOLVE ONE EVENT AND THREE
12 COUNTS OR SOMETHING LIKE THAT I THINK THAT WOULD
13 END IT

14 NOW MR BRACKETT IS DIGGING IN HIS
15 BOOK SO HE'S GOING TO SHOW ME THAT HE CAN GO
16 FURTHER

17 MR BRACKETT I THINK THE CASE LAW AND I
18 HAVEN'T LOOKED AT THIS IN SOME QUITE SOMETIME SO I'M
19 REFRESHING MY MEMORY, BUT THERE IS SOME LIMITATIONS
20 ON THE EXPLANATION THAT CAN BE MADE BY THE DEFENDANT
21 AND I JUST WANT TO MAKE SURE THAT WE CLEAR THAT UP
22 NOW BEFORE THE DECISION TO TESTIFY IS MADE SO HE
23 CAN'T SAY I BASED IT ON WHAT I THOUGHT I COULD DO AND
24 WHAT I --

25 THE COURT LET'S CLEAR IT UP NOW THEN

1 MR BRACKETT THE STATE VERSUS JOSEPH
2 AFTER INTRODUCTION OF --

3 THE COURT WAIT, GIVE US THE CITE AND
4 WE'LL GET THAT CASE

5 MR BRACKETT YES, SIR 391 SOUTHEAST
6 SECOND 275 I'M READING, I'M REFERENCING DANNY
7 COLLINS SOUTH CAROLINA EVIDENCE SECOND EDITION ON
8 PAGE 150 AFTER INTRODUCTION OF THE CONVICTION THE
9 WITNESS IS NOT ENTITLED TO GO INTO DETAILS OR STATE
10 MITIGATING CIRCUMSTANCES ON REDIRECT BUT I THINK --

11 THE COURT THAT'S ON REDIRECT

12 MR BRACKETT NO

13 THE COURT I THOUGHT YOU SAID ON
14 REDIRECT

15 MR BRACKETT WELL, THERE IS TWO
16 ELEMENTS AFTER INTRODUCTION OF THE CONVICTION, ONCE
17 I INTRODUCE THE EVIDENCE OF THE CONVICTION, THE
18 WITNESS IS NOT ENTITLED TO GO INTO DETAILS, IN OTHER
19 WORDS, TYPICALLY A WITNESS CAN EXPLAIN THEIR ANSWER
20 BUT A WITNESS CANNOT GO INTO DETAILS IN ANSWERING HIS
21 QUESTION AND THEN SECONDLY ON REDIRECT COUNSEL IS NOT
22 ENTITLED TO STATE MITIGATING CIRCUMSTANCES ON
23 REDIRECT OF THAT SAME WITNESS

24 THE COURT WE'RE GOING TO GET THE CASE
25 HAND UP THAT BOOK BECAUSE I DON'T EVEN KNOW WHAT BOOK

1 YOU GOT THERE

2 MR BRACKETT IT'S SOUTH CAROLINA
3 EVIDENCE DANNY COLLINS

4 (HANDED TO THE COURT)

5 THE COURT I'M GOING TO HAVE TO LOOK AT
6 THESE CASES

7 MR BRACKETT YES, SIR

8 THE COURT CAN WE GET STARTED?

9 MR BRACKETT THE STATE IS READY

10 THE COURT ALL RIGHT MR GREELEY, YOU
11 HAVE BEEN CHARACTERISTICALLY QUIET

12 MR GREELEY MR SANDERS IS READY, YOUR
13 HONOR

14 THE COURT ANYTHING ELSE, MR MORTON,
15 BEFORE WE?

16 MR MORTON ARE WE GOING TO --

17 THE COURT WELL, WE CAN DO WE NEED TO
18 BEFORE WE GET THE JURY TO WORK WE'RE TALKING ABOUT
19 HIS IMPEACHMENT NOT THIS WITNESS

20 MR MORTON WELL, IT'S SOMETHING I REALLY
21 WANT TO BRING UP

22 THE COURT LET ME LOOK AT THESE CASES

23 MR MORTON I'M SORRY, JUDGE

24 THE COURT NO

25 MR MORTON IF, AS FAR AS, WHILE HE'S OUT

1 LOOKING, AS FAR AS FELONY CONVICTIONS OBVIOUSLY THE
2 COURT'S KNOWS THAT A FELONY CONVICTION CAN RANGE FROM
3 POSSESSION OF COCAINE TO CAPITAL MURDER

4 THE COURT I UNDERSTAND THAT THE
5 PROBLEM IS, FOR THE COURT IS, THE COURT HAS CARVED
6 OUT THIS WAY, THIS METHOD, OF ALLOWING IMPEACHMENT
7 WITHOUT CROSSING INTO THAT PREJUDICIAL OUTWEIGHING
8 THE PROBATIVE VALUE BECAUSE IT'S PROBATIVE WHETHER OR
9 NOT HE VIOLATED THE LAW WITHIN THE IMPEACHMENT AREA,
10 THAT IS, ONE YEAR WITHIN A TEN YEAR PERIOD OR IN
11 SOMETHING INVOLVING MORAL TURPITUDE, SO THE COURT HAS
12 CRAFTED THIS METHOD TO DO IT NOW IT MIGHT NOT BE
13 THE IDEAL IN EVERY SITUATION BECAUSE FELONIES, WE
14 HAVE A STRANGE FELONY YOU CAN GET, I BELIEVE, UP TO
15 ANYTHING FROM MAYBE EVEN LESS THAN FIVE YEARS, I'M
16 NOT SURE OF ANYTHING UNDER FIVE YEARS WOULD BE A
17 FELONY, BUT UP TO LIFE IMPRISONMENT BUT THE STATE HAS
18 CARVED THIS OUT TO PROTECT THE DEFENDANT FROM THEM
19 GOING INTO SIMILAR, BECAUSE IF WASN'T SIMILAR, IF
20 THESE WERE DIFFERENT KIND OF FELONIES OF COURSE THE
21 JURY DOESN'T KNOW THAT, BUT IF THEY WERE DIFFERENT
22 KIND OF FELONIES THEY COULD GO INTO IT WITH
23 PARTICULARITY SO THIS IS A MECHANISM THAT THE STATE,
24 THE COURTS HAVE CREATED TO PROTECT THE DEFENDANT FROM
25 THAT PPEJUDICE OF SAYING, WELL, HE'S DONE THIS

1 BEFORE, HE'S DONE THIS BEFORE, HE'S DONE IT BEFORE,
2 OBVIOUSLY HE'S DONE IT THIS TIME SO SORT OF WHERE
3 WE ARE IS, THE COURT HAS DONE THIS TO PROTECT YOUR
4 CLIENT OR PROTECT THE DEFENDANTS IN GENERAL, BUT NOW
5 YOU ARE SEEING SOME FLAW IN IT WHICH IS NOT UNUSUAL

6 MR MORTON I UNDERSTAND

7 THE COURT BUT FOR US TO FIND A FLAW --

8 MR MORTON I'M NOT SURE HOW MUCH IT
9 PROTECTS HIM BUT

10 THE COURT THAT'S RIGHT, AND I UNDERSTAND
11 TOO THAT IT MIGHT BE BETTER TO SAY, WELL, IT WAS
12 UNLAWFUL NEGLIGENCE OF A CHILD I HAD DIRTY DISHES IN
13 THE SINK OR SOMETHING AS OPPOSED TO SAY, YEAH, I GOT
14 THREE FELONIES THAT IS PRETTY, BUT THAT'S WHERE WE
15 ARE AS I UNDERSTAND THE LAW LET'S SEE WHAT WE GOT
16 HERE WELL, HERE IN THE STATE VERSUS JOSEPH THE
17 COURT SAYS THE DETAILS OF THE CRIME FOR WHICH THE
18 WITNESS HAS BEEN CONVICTED AND I THINK, I'M NOT SURE
19 THIS IS THE DEFENDANT, IT KEEPS USING THE TERM
20 WITNESS, WHETHER THE DETAILS COULD BE CONSIDERED
21 MITIGATING OR AGGRAVATING ARE NOT ADMISSIBLE THE
22 WITNESS HAS QUOTE ALREADY BEEN AFFORDED THE
23 OPPORTUNITY TO DEFEND HIMSELF AGAINST THAT CHARGE IF
24 HIS CONVICTION IS CONCLUSIVE END QUOTE SO HE'S GOT
25 THE CONVICTION AND HE CAN'T EXPLAIN WHAT IT WAS

1 MR MORTON HE CAN IF HE WANTS TO?

2 THE COURT NO, THAT'S WHAT THEY WANT

3 WELL, LET ME THINK A MINUTE BECAUSE THIS WAS IN

4 RESPONSE TO A, JOSEPH CONTENDS TRIAL COURT ERRED BY

5 REFUSING TO ALLOW HIM TO, WAIT A MINUTE, LET'S SEE

6 I LOST MY PLACE NOW OKAY THIS WAS NOT THE

7 DEFENDANT THIS WAS ANOTHER WITNESS THE APPELLANT

8 CONTENDS THE TRIAL COURT ERRED BY ALLOWING WITNESS TO

9 EXPLAIN THE CIRCUMSTANCES SURROUNDING HIS CONVICTION

10 FOR GIVING FALSE INFORMATION WE AGREE THIS WAS ON

11 REDIRECT, AND THAT'S WHERE THEY GO INTO CONVICTION IS

12 THE CONVICTION IS THE CONVICTION IS THE CONVICTION

13 MR MORTON YOUR HONOR --

14 THE COURT GO AHEAD

15 MR MORTON IN THIS CASE, AND I

16 UNDERSTAND WHAT THE COURT HAS SAID ABOUT THE FELONY

17 THINGS, BUT AGAIN SINCE IN THIS STATE FELONIES ARE SO

18 BROAD AND IN THIS CASE THE THREE PRIOR CONVICTIONS

19 ARE, I WOULD SUBMIT, AT THE LOWER END OF THAT FELONY

20 SPECTRUM, AND SINCE THE, IF HE TAKES THE STAND THAT

21 THE, HIS CREDIBILITY IS GOING TO BE A CENTRAL

22 COMPONENT OF THIS CASE, I WOULD ASK, I THINK, THE

23 COURT TO CONSIDER THE STATE TO ELICIT THAT HE HAS

24 THREE CRIMINAL CONVICTIONS FROM '99 AS OPPOSED TO

25 MAKING THAT PREJUDICIAL FELONY STATEMENT

1 THE COURT WELL, SEE THEN YOU LEAP THE
2 OTHER WAY, THREE CRIMINAL CONVICTIONS THEY COULD
3 THINK IT'S FOR LITTERING THE COURT SET THE STANDARD
4 AND I'M GOING TO STICK WITH IT

5 MR MORTON WE'LL SUBMIT IT WASN'T
6 LITTERING

7 THE COURT IT WASN'T LITTERING I JUST
8 PICKED THAT ONE OUT OF THE AIR I DIDN'T MEAN
9 ANYTHING BY IT

10 MR MORTON I'M NOT TRYING TO BE PICKY

11 THE COURT I KNOW

12 MR MORTON I'M THEN TRYING TO FIGURE OUT
13 IF HE TAKES THE STAND THEN THE STATE WOULD BE ABLE TO
14 SAY THAT HE HAS THREE PRIOR FELONY CONVICTIONS FROM
15 THE SAME DATE

16 THE COURT MY UNDERSTANDING IS THE
17 QUESTION IS, ISN'T IT TRUE THAT YOU HAVE THREE PRIOR
18 FELONY CONVICTIONS FROM THE YEAR 1999

19 MR MORTON FROM THE YEAR 1999

20 THE COURT OR FROM 1999 AND THAT ENDS THE
21 INQUIRY

22 MR MORTON NOW IF HE WANTS TO GO INTO
23 THE DETAILS, THEN HE CERTAINLY IS ALLOWED TO,
24 CORRECT?

25 THE COURT WELL, THAT'S WHY, THAT'S

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1 WHERE, THIS COURT, THE JOSEPH CASE SAYS NO BUT JOSEPH
2 CASE DEALS WITH A WITNESS AS OPPOSED TO DEFENDANT
3 IN THERE THE DEFENDANT WAS COMPLAINING THAT THE
4 WITNESS WAS GIVEN THE OPPORTUNITY TO REHABILITATE
5 HIMSELF THEY FOUND IT TO BE HARMLESS IF I REMEMBER
6 CORRECT WHICH IS IT IS DIFFERENT HERE DO YOU HAVE
7 ANY CASES WHERE THE DEFENDANT CANNOT GO INTO, I
8 ALMOST CALL IT, A BRIEF EXPLANATION

9 MR BRACKETT I COULD --

10 THE COURT I'M GOING TO ALLOW IT I
11 BELIEVE THAT HE OUGHT TO BE ABLE TO, THIS IS NOT JUST
12 A WITNESS THIS IS THE DEFENDANT, TO STATE -- I MEAN,
13 THIS IS A FAIRNESS THING AT THIS POINT THREE FELONY
14 CONVICTIONS HE HAS THEM THERE IS NO QUESTION
15 ABOUT THAT BUT IT RELATES TO ONE INCIDENT TO MAKE
16 IT APPEAR THAT THERE MAY BE A SERIES OF EVENTS IS
17 KIND OF PILED ON

18 MR BRACKETT I WILL AGREE TO THAT I
19 DON'T HAVE A PROBLEM WITH THAT MY ONLY ISSUE IS
20 THAT IF HE OPENS THE DOOR, IF HE'S SAYING, WHEN HE
21 SAYS EXPLAIN, ARE YOU SAYING EXPLAIN THE
22 CIRCUMSTANCES OF THE CRIME?

23 THE COURT NO, I THINK WHAT -- WELL, IF
24 HE OPENS THE DOOR THEN THE DOOR IS OPEN

25 MR BRACKETT YES

1 THE COURT I THINK WHAT MR MORTON IS,
2 AND I HATE THINKING FOR PEOPLE WHEN I TELL EVERYBODY
3 ELSE NOT TO DO IT, BUT IT APPEARS TO ME THAT WHAT MR
4 MORTON WANTS HIS CLIENT TO BE ABLE TO SAY I HAVE
5 THREE CONVICTIONS, THEY ALL ARE RELATED TO ONE EVENT,
6 OR SOMETHING TO THAT

7 MR BRACKETT IS THAT CORRECT?

8 THE COURT SEE THAT'S WHY I DON'T LIKE
9 TO THINK FOR OTHER PEOPLE

10 MR BRACKETT I JUST WANT TO MAKE SURE I
11 KNOW WHAT I'M AGREEING TO

12 THE COURT MR MORTON, WHAT DO YOU INTEND
13 TO ASK? SINCE YOU HAD ALL WEEKEND TO THINK ABOUT IT
14 AND I'M THINKING ABOUT IT WHILE I'M SITTING HERE

15 MR MORTON WELL, I HADN'T HAD ALL
16 WEEKEND TO THINK ABOUT IT BECAUSE I'VE BEEN DEALING
17 WITH THIS COMPUTER STUFF UNFORTUNATELY WELL, I
18 GUESS THAT--I'M SORRY, JUDGE GIVE ME ONE SECOND

19 THE COURT SURE

20 MR MORTON I GUESS THAT'S WHAT WE'LL
21 HAVE TO DO, YOUR HONOR

22 THE COURT THAT BEING?

23 MR MORTON THREE FELONIES CHARGES IN '99
24 ALL FROM ONE EVENT

25 MR BRACKETT WHAT I WILL DO IS I WILL

1 JUST REFERENCE THE SPECIFIC DATE OF THE CRIME AND SAY
2 ISN'T IT TRUE THAT YOU WERE CONVICTED ON THREE OR
3 THREE FELONIES RELATED TO AN INCIDENT ON 07-1-1999,
4 WHATEVER DATE IT IS

5 THE COURT ALL RIGHT READY NOW?

6 MR MORTON YES, SIR

7 THE COURT BRING IN THE JURY

8 (THE JURY RETURNS TO THE COURTROOM AT
9 09 36 A M)

10 THE COURT GOOD MORNING

11 (JURY GOOD MORNING)

12 THE COURT MR BRACKETT, YOU WANT TO
13 RECALL MR WALDROP

14 MR BRACKETT YES, YOUR HONOR

15 MR WALDROP

16 THE COURT YOU ARE STILL UNDER OATH

17 MR WALDROP THAT'S CORRECT

18 CROSS EXAMINATION CONTINUED BY MR MORTON

19 Q GOOD MORNING, MR WALDROP

20 A GOOD MORNING

21 Q I UNDERSTAND YOU NEED TO LEAVE HERE BY 11

22 O'CLOCK AND SO I THINK WE'LL ALL DO OUR BEST TO

23 ACCOMMODATE YOU AND QUITE HONESTLY I CAN'T REMEMBER

24 WHERE I STOPPED I APOLOGIZE IF I'M REPEATING

25 MYSELF I'LL TRY NOT TO DO THAT JUST TO SORT OF

1 RECAP I THINK WHERE WE WERE, YOU HAD GONE AND PICKED
2 UP MR COPE FROM HIS PARENTS HOUSE THE NIGHT ON
3 NOVEMBER 29?

4 A THAT'S CORRECT

5 Q AND YOU AND DETECTIVE HERRING HAD INTERVIEWED
6 HIM, INTERROGATED HIM FOR THREE AND A HALF, FOUR
7 HOURS ON THAT NIGHT?

8 A THAT'S CORRECT

9 Q AND Y'ALL HAD DECIDED AT THE END OF THAT
10 INTERVIEW TO GO AHEAD AND ARREST HIM?

11 A THAT'S CORRECT

12 Q OKAY AND THAT DECISION WAS MADE BY WHOM?

13 A BY THE THREE OR FOUR OF US MYSELF, LIEUTENANT
14 HERRING, DETECTIVE BLACKWELDER AFTER CONFERRING WITH
15 CAPTAIN CABANISS

16 Q AND THE BASIS ON WHICH YOU DID THAT WAS THAT IN
17 YOUR OPINION HE WASN'T SHOWING THE PROPER EMOTION,
18 CORRECT?

19 A THAT WAS ONE PART

20 Q ONE OF THE FACTORS?

21 A THAT'S CORRECT

22 Q OKAY ANOTHER FACTOR WAS THAT YOU COULDN'T FIND
23 IN YOUR LOOKING ANY SIGNS OF WHAT WE CALL FORCED
24 ENTRY, CORRECT?

25 A THAT'S CORRECT

1 Q AS TO THE EMOTION, MR WALDROP, MR COPE BROKE
2 DOWN CRYING AND SOBBING SEVERAL TIMES ON THAT TAPE IF
3 I REMEMBER, WOULD YOU AGREE WITH ME ABOUT THAT?

4 A HE MADE THE APPEARANCE OF BREAKING DOWN OR
5 CRYING

6 Q WELL --

7 A BUT AT NO TIME DID HE EVER SHED A TEAR DURING
8 THIS INTERVIEW

9 Q OKAY WE'VE GOT THE TAPE THAT WE CAN LISTEN TO?

10 A YES, SIR

11 Q AND YOU DIDN'T PRESUME TO, YOU ARE NOT
12 PSYCHOLOGIST I MEAN, PEOPLE REACT TO STUFF
13 DIFFERENT WAYS?

14 A THAT'S CORRECT

15 Q HE WAS THE MAN OF THE FAMILY, CORRECT?

16 A CORRECT

17 Q HE WAS ACTUALLY TRYING TO HELP YOU FIGURE OUT
18 WHAT HAD HAPPENED? DO YOU DISAGREE WITH THAT?

19 A (NO RESPONSE)

20 Q IF I CAN, IF I CAN SAY WHAT I'M TALKING ABOUT
21 ON SEVERAL TIMES DURING THAT TAPED INTERVIEW YOU
22 SAID, YOU KNOW, MR COPE, THERE WAS, WE COULDN'T FIND
23 ANY FORCED ENTRY IN YOUR HOUSE HE WAS LIKE, YOU
24 KNOW, I -- I MEAN, I THINK, I THOUGHT MY DOORS WERE
25 LOCKED AND YOU AGREE WITH THAT?

1 A YES, SIR

2 Q CAN YOU AGREE WITH YOU ASKED HIM HOW COULD
3 SOMEBODY GET IN THIS HOUSE? AND SEVERAL TIMES HE
4 RESPONDED YOU KNOW, I DON'T KNOW DID HE NOT?

5 A THAT'S CORRECT

6 Q HE WAS AS PERPLEXED AS YOU WERE ABOUT THAT, WAS
7 HE NOT? HE WAS NOT TRYING TO OFFER ANY EXCUSES, WAS
8 HE? I THINK I BROUGHT THAT POINT UP THE OTHER DAY

9 A HE WAS NOT OFFERING ANY EXCUSES

10 Q RIGHT

11 A THAT'S CORRECT

12 Q HE WASN'T TRYING TO SAY OH I THINK THE GUY NEXT
13 DOOR DID IT OR SOMEBODY OR WHATEVER?

14 A HE BROUGHT UP THE GUY NEXT DOOR ONE TIME DURING
15 THE INTERVIEW

16 Q RIGHT AND THAT'S ON THE TAPE AND THE JURY CAN
17 LISTEN TO THE TAPE AGAIN, CORRECT?

18 A THAT'S CORRECT

19 Q AND YOU ARE AWARE THAT MR SANDERS HAD JUST
20 MOVED TO ROCK HILL AND MOVED IN THE NEIGHBORHOOD I
21 THINK THE END OF OCTOBER OF 2001, ARE YOU AWARE OF
22 THAT?

23 A NO, SIR

24 MR BRACKETT PLEASE THE COURT, I OBJECT

25 MR MORTON I'M JUST ASKING IF HE IS

1 AWARE OF IT

2 MR BRACKETT ASSUMES FACTS NOT IN
3 EVIDENCE AND I'D ASK HE BE CAREFUL WITH QUESTIONS
4 THAT CALLS FOR HEARSAY, ANSWERS THAT CONTAIN HEARSAY
5 WITH QUESTIONS

6 THE COURT I OVERRULE THE OBJECTION HE
7 JUST ASKED HIM IF HE WAS AWARE OF IT

8 MR MORTON ALL RIGHT, SIR I'LL MOVE
9 ON

10 Q LIEUTENANT WALDROP, SO HE'S NOT--WOULD YOU AGREE
11 WITH ME THAT THIS IS THE PERSON ON THAT TAPE THAT
12 DOESN'T SEEM TO BE TRYING TO SHIFT THE BLAME, RATHER
13 HE'S TRYING TO, HE'S JUST PERPLEXED AS YOU ARE?

14 A THAT WOULD BE CALLING FOR AN OPINION

15 Q RIGHT

16 A BUT IN MY OPINION, NO, SIR HE WAS GIVING NO
17 EXPLANATIONS OR NO EXCUSES, EITHER ONE

18 Q RIGHT HE WAS NOT?

19 A NO, SIR

20 Q OKAY AND WE HAVE THE TAPE TO LISTEN TO AND THE
21 TRANSCRIPT AND SO FORTH?

22 A YES, SIR

23 Q OKAY AS TO FORCED ENTRY, I THINK YOU STATED
24 YOU WERE OUT THERE ABOUT TWO AND A HALF HOURS OR I
25 DON'T THINK YOU STATED THAT BUT I BROUGHT UP THAT YOU

1 WERE OUT THERE ACCORDING TO THE LOG ABOUT 2 HOURS AND
2 20 MINUTES

3 A THAT'S CORRECT

4 Q YOU LOOKED AT THE WINDOWS AND THE DOORS AND YOU
5 SAID YOU DID NOT GO INTO THE DINING ROOM, YOU DID NOT
6 GO INTO THE KITCHEN?

7 A NO, SIR

8 Q IS THAT CORRECT?

9 A NO, SIR

10 Q THAT'S NOT RIGHT?

11 A I DID NOT GO INTO THEM

12 Q OKAY AND WHEN WE TALK ABOUT FORCED ENTRY WHICH
13 WILL BE A TERM THAT IS USED IN HERE SEVERAL TIMES I
14 BELIEVE, AREN'T WE TALKING ABOUT SIGNS OF ENTRY, FOR
15 INSTANCE, A BROKEN WINDOW OR A DOOR KICKED IN, THAT
16 KIND OF THING?

17 A THAT WOULD BE PART OF IT

18 Q RIGHT

19 A BUT I WAS ALSO REFERRING TO THE CONDITIONS OF
20 THE WINDOWS AND THE DOORS

21 Q RIGHT

22 A WHETHER THE WINDOWS WERE OPEN OR CLOSED, I'M
23 AWARE THAT THERE WAS AN OPEN WINDOW

24 Q YES, SIR

25 A BUT HAVING LOOKED AT THAT WINDOW

1 Q YES, SIR

2 A AND THE SCREEN STILL BEING ON IT AND NOTHING
3 DISPLACED ON THAT WINDOW WHATSOEVER

4 Q RIGHT

5 A DUST, SPIDER WEBS, THAT TYPE STUFF, THERE IS
6 NOTHING THAT INDICATED OF ME ANYBODY HAD GONE INTO
7 ANY OF THOSE WINDOWS

8 Q OKAY BUT THE WINDOW WAS UN ---WAS OPEN?

9 A THAT'S CORRECT

10 Q AND IT WAS, THE LATCHES ON THE SCREEN WERE UP?

11 A I CAN'T ANSWER THAT I DON'T REMEMBER THEM
12 BEING UP

13 Q OKAY PEOPLE, WOULD YOU AGREE WITH ME, BREAK IN
14 HOUSES A LOT OF TIMES WITHOUT KICKING IN A DOOR OR
15 BREAKING A WINDOW, THOUGH, CORRECT?

16 A THEY GAIN ENTRY, YEAH

17 Q YEAH OKAY THEY CAN GAIN ENTRY BY JIMMYING
18 THE LOCK, CORRECT?

19 A IT'S POSSIBLE BUT LOCK PICKING IS REAL HARD
20 USUALLY IF --

21 Q DEPENDS ON WHAT KIND OF LOCK IT IS, RIGHT?

22 A IT COULD BE, YEAH

23 Q OKAY SO YOU CAN PICK A LOCK WITH A SCREWDRIVER
24 OR LIKE I SAID A PUTTY KNIFE, CREDIT CARD, WHATEVER?

25 A IF YOU DO THAT THERE IS SOMETHING TO INDICATE,

1 SCRATCH MARKS OR PRY MARKS OR SOMETHING

2 Q THERE IS NOT ALWAYS SCRATCH MARKS OR PRY MARKS
3 WHEN YOU GAIN ENTRY INTO A DOOR LIKE THAT, MR
4 WALDROP, IS IT?

5 A NO, BUT IN MY EXPERIENCE, IF THEY GAIN ENTRY
6 WITH NO FORCED ENTRY, IT'S USUALLY WITH A KEY OR THE
7 DOOR IS LEFT UNLOCKED OR UNSECURED

8 Q OR THEY COME TO THE DOOR, KNOCK ON THE DOOR, AND
9 SOMEBODY OPENS THE DOOR?

10 A TRUE

11 Q UNDER SOME KIND OF ROUSE?

12 A THAT'S TRUE

13 Q NEED HELP, BLA-BLA-BLA?

14 A YES

15 Q SO THERE A LOT OF WAYS TO GAIN ENTRY WITHOUT
16 BREAKING THE WINDOW OR KICKING THE DOOR IN?

17 A YES, SIR

18 Q OKAY NOW YOU'VE TESTIFIED THAT YOU THOUGHT
19 THIS SCENE WAS STAGED AND I AM JUST WONDERING IF THE
20 REASON THAT YOU SAY THAT WAS THAT THE PART OF THE
21 BLANKET WAS WRAPPED AROUND HER NECK, DOES THAT?

22 A NO, SIR BY ALL INDICATIONS IN MR COPE'S
23 STATEMENT AND WHAT WAS FOUND AT THE SCENE, HIS
24 STATEMENT WAS THAT HE FOUND HER LAYING THERE WITH
25 THAT SELVAGE WRAPPED HER AROUND NECK FOUR, FIVE, OR

1 SIX TIMES

2 Q RIGHT

3 A AND ONLY PARTIALLY CLOTHED SHE HAD HER SHIRT
4 PULLED UP

5 Q RIGHT AND HAD HER SHIRT PULLED UP, AGREE WITH
6 THAT?

7 A WELL, FROM EVIDENCE FOUND BY THE PATHOLOGIST AND
8 AT THE SCENE, SHE HAD BEEN REDRESSED

9 Q OKAY

10 A THERE WAS NOTHING TO INDICATE THAT SHE WAS FOUND
11 THE WAY THE SCENE HAPPENED

12 Q EXPLAIN THAT TO ME HOW DO YOU KNOW THAT? WHY
13 DO YOU SAY THAT?

14 A BECAUSE IF SHE WAS SEXUALLY ASSAULTED THE WAY
15 SHE WAS AND SHE WAS KILLED DURING THAT SEXUAL ASSAULT
16 THEN SHE COULDN'T HAVE PUT HER CLOTHES BACK ON

17 Q WELL, WHOEVER ASSAULTED HER COULD HAVE PULLED
18 HER PANTS UP THOUGH, ISN'T THAT CORRECT?

19 A YEAH, THAT'S CORRECT

20 Q OKAY ALL RIGHT SO MR SANDERS COULD HAVE
21 DONE THAT, RIGHT?

22 A EITHER ONE OF THEM COULD HAVE DONE THAT, THAT'S
23 CORRECT

24 Q YOU ARE NOT SAYING THOUGH THAT MR COPE STAGED
25 THE SCENE?

1 A NO, SIR, I'M NOT SAYING THAT

2 Q OKAY BECAUSE I BELIEVE THE PHOTOGRAPHS
3 INDICATE THAT THE GREEN BLANKET IN FACT AND I THINK,
4 YOU KNOW, THE PHOTOGRAPHS THAT WERE TAKEN SHOW
5 EXACTLY WHAT HE TOLD YOU THAT HE HAD UNWRAPPED THE
6 GREEN BLANKET FROM HER NECK AND LEFT HER THERE, HELD
7 HER AND PUT HER DOWN, AND THE PHOTOGRAPH WILL SHOW
8 THAT THING COMING UNDERNEATH HER NECK?

9 A THAT'S CORRECT

10 Q OKAY THERE WAS TESTIMONY ON THAT TYPE THAT
11 JESSICA AND KYLA SLEPT WITH THEIR, THEIR DOOR WAS
12 OPEN AND THEIR LIGHT WAS ON, CORRECT?

13 A THAT'S CORRECT

14 Q OKAY THERE IS TESTIMONY FROM MR COPE THAT HE
15 HAD NEVER HAD ANY PROBLEMS WITH AMANDA, CORRECT? SHE
16 WAS NOT A PROBLEM CHILD?

17 A THAT'S CORRECT

18 Q THAT HE HAD HAD NO PROBLEMS FROM HER AT ALL?
19 SOMETHING ABOUT THE LIBRARY BOOK THAT HE WAS LOOKING
20 FOR, AND I GUESS WHAT I'M GETTING AT, MR WALDROP, IS
21 WHAT Y'ALL, WHAT YOUR THEORY IS IS THAT THIS MAN,
22 MR BILLY COPE, HE RAPED, SODOMIZED WITH A BROOM, HIS
23 OWN DAUGHTER, CORRECT?

24 A YES, SIR

25 Q OKAY HE WENT TO SLEEP, CORRECT?

1 A I DIDN'T SAY ANYTHING ABOUT HIM GOING TO SLEEP

2 Q HE TOLD YOU THAT -- WELL, WHETHER HE WENT TO
3 SLEEP OR NOT, HE WOKE UP OR HE CALLED THE POLICE THE
4 NEXT MORNING RIGHT AT SIX O'CLOCK?

5 A HE CALLED, YES, SIR, HE CALLED 911

6 Q WITH HIS OTHER TWO DAUGHTERS THERE?

7 A THAT'S CORRECT

8 Q HE STAYED AND HE COOPERATED, COOPERATED FULLY?

9 A HE WAS THERE HE CAME FREELY AND VOLUNTARILY

10 Q RIGHT AND HE TALKED TO YOU AND HE TALKED TO
11 DETECTIVE BURRIS AND HE TALKED TO LIEUTENANT HERRING
12 AND HE TALKED TO EVERYBODY THAT WANTED TO TALK TO
13 HIM, CORRECT?

14 A THAT'S CORRECT

15 Q HE VOLUNTARILY WENT TO THE HOSPITAL, VOLUNTARILY
16 HAD HIS BLOOD DRAWN, VOLUNTARILY HAD SAMPLES TAKEN OF
17 ANY TYPE THAT THEY WANTED TO?

18 A CORRECT

19 Q INSISTED ON TAKING THAT POLYGRAPH?

20 A YES, SIR

21 Q SO THIS IS A MAN WHO RAPES, VIOLENTLY MURDERS
22 HIS OWN DAUGHTER, IN HIS OWN HOUSE WITH HIS OTHER TWO
23 CHILDREN PREGNANT, I'M SORRY NOT PREGNANT, BUT WITH
24 HIS OTHER TWO CHILDREN THERE, CORRECT?

25 A CORRECT

1 Q CALLS THE POLICE IN THE MORNING, WAITS ON THEM
2 TO GET THERE, COOPERATES FULLY, GIVES YOU THIS
3 INTERVIEW, DOES WHATEVER HE'S ASKED?

4 A THAT'S CORRECT

5 Q YOU WOULD AGREE WITH ME AT LEAST THAT THAT IS, I
6 MEAN, DID HE THINK THEY WERE NOT GOING TO FIND HER?
7 I MEAN, DID HE, WOULD YOU AGREE WITH ME THAT'S A
8 LITTLE UNUSUAL?

9 A TRUTHFULLY, NO

10 MR BRACKETT I'M NOT SURE I UNDERSTAND
11 THE QUESTION

12 THE COURT THE QUESTION, THE WITNESS
13 APPARENTLY DID BECAUSE HE SAID, HE ANSWERED

14 Q YOU DON'T THINK SO?

15 A NO, SIR, BECAUSE WHAT ELSE COULD HE DO? IF HE
16 HAD SAID ANYTHING ELSE THEN IT WOULD HAVE LOOKED
17 TOTALLY DIFFERENT

18 Q WAS HE JUST HOPING TO GET AWAY WITH THIS AND
19 THEN JUST, LET'S SEE, I KNOW WHAT, MAYBE THEY WILL
20 FIND JAMES SANDERS' DNA ON MY DAUGHTER'S LEG AND HIS
21 SALIVA ON HER BITTEN BREAST HE WAS GOING TO DO ALL
22 THIS AND JUST OR DID HE TAKE IT BACK THERE AND
23 SPRINKLE IT BACK THERE? DOES IT MAKE SENSE?

24 A TO ME, YEAH, BECAUSE HE WAS TRYING HIS BEST

25 Q TELL ME WHAT MAKES SENSE ABOUT IT?

1 A THAT HE WAS TRYING HIS BEST TO DENY WHAT HAD
2 HAPPENED IN HIS HOUSE WHICH IS NOT UNCOMMON

3 Q WELL, HE WASN'T DENYING --

4 MR BRACKETT I'M NOT SURE HE FINISHED
5 WITH HIS QUESTION

6 Q I'M SORRY

7 A WHICH IS NOT UNCOMMON I MEAN VERY FEW TIMES DO
8 YOU WORK A CASE OF THIS MAGNITUDE WHEN HE WALKS UP TO
9 THE DOOR WHEN THE POLICE ARRIVE AND SAY, MY DAUGHTER
10 IS IN YONDER, I KILLED HER

11 Q AND DID HE SAY MY DAUGHTER IS YONDER AND I
12 KILLED HER AND JAMES SANDERS WAS THERE TOO?

13 A NO, HE DID NOT

14 Q WELL, HOW DO YOU EXPLAIN THAT?

15 A HE WAS NOT GOING TO READILY ADMIT WHAT HAD
16 HAPPENED IN THE HOUSE

17 Q HE WAS GOING READILY ADMIT THAT HE RAPED AND
18 MURDERED AND BRUTALIZED HIS OWN DAUGHTER BUT HE
19 WASN'T GOING TO SAY ANYTHING ABOUT MR SANDERS?

20 A I CAN'T ANSWER THAT I CAN'T ANSWER WHAT --

21 Q I CAN'T ANSWER IT EITHER I APOLOGIZE FOR
22 MAKING COMMENTS?

23 MR BRACKETT MOVE TO STRIKE

24 THE COURT STRIKE MR MORTON'S --

25 MR MORTON I'LL WITHDRAW IT

1 THE COURT MR MORTON'S THOUGHTS
2 Q WE'VE GOT THAT TAPE?
3 A YES, SIR
4 Q YOU HIT HIM PRETTY HARD ON THAT TAPE FOR FOUR
5 HOURS, DID YOU NOT?
6 A HIT HIM PRETTY HARD?
7 Q YEAH
8 A NO, SIR
9 Q YOU DIDN'T HIT HIM PRETTY HARD THAT'S A
10 TYPICAL POLICE INTERROGATION?
11 A YES, SIR
12 Q THAT'S HOW POLICE INTERROGATIONS WORK, RIGHT?
13 A YES, SIR
14 Q GOD IN HEAVEN, LORD ABOVE IS NOT GOING TO SAVE
15 YOU FROM THE TRUTH, NOT GOING TO SAVE YOU FROM
16 TELLING US YOU WERE NOT TAKING NO FOR AN ANSWER?
17 A I WASN'T TRYING TO TAKE NO FOR AN ANSWER I WAS
18 TRYING TO GET TO THE TRUTH OF WHAT HAD HAPPENED
19 Q BUT YOU DIDN'T KNOW THE TRUTH, DID YOU?
20 A I HAD AN OPINION
21 Q OKAY TYPICAL INTERROGATION?
22 A YES, SIR
23 Q EXPLAIN THIS TO ME EXPLAIN TO ME WHY THIS MAN,
24 WHO HAD COOPERATED FULLY WITH YOU THROUGHOUT THE
25 COURSE OF THE DAY, WITH THE POLICE DEPARTMENT

1 THROUGHOUT THE COURSE OF THE DAY, WENT HOME, CAME
2 BACK, SAT THERE AND INTERVIEWED WITH YOU, DID YOU
3 TAKE HIS CLOTHES IN TO EVIDENCE DURING THAT
4 INTERVIEW?

5 A NO, SIR

6 Q OKAY DID YOU PHOTOGRAPH IT?

7 A NO, SIR

8 Q DID YOU PHOTOGRAPH HIS HANDS?

9 A NO, SIR

10 Q DID YOU SEE ANY MARKS ON HIS HANDS?

11 A NO, SIR

12 Q OKAY ABOUT A MONTH AGO, TELL ME IF YOU ARE
13 AWARE OF THIS, HIS CLOTHES WERE TESTED?

14 A I CAN'T ANSWER THAT

15 Q YOU DON'T KNOW THAT?

16 A I DON'T KNOW

17 Q OKAY AUGUST 2004 DO YOU KNOW WHAT THE
18 RESULTS OF THOSE TESTS WERE?

19 A NO, SIR

20 Q I GUESS HE ALSO STAGED THE SCENE BY -- HOW ELSE
21 DID HE STAGE THE SCENE, DID HE CLEAN IT UP?

22 A I WOULDN'T SAY IT WAS CLEANED UP, NO, SIR

23 Q WOULDN'T SAY IT WAS CLEANED UP HE ASKED FOR
24 THAT POLYGRAPH, HE INSISTED ON THAT POLYGRAPH, HE
25 WANTED THAT POLYGRAPH, PLEASE GIVE ME THE POLYGRAPH,

1 LET'S CLEAR THIS UP, DID HE NOT?

2 A YES, SIR

3 Q HE TOLD YOU 665 TIMES I DID NOT DO ANYTHING TO
4 MY DAUGHTER, DID HE NOT?

5 A YES, SIR I MEAN, THAT'S A NUMBER YOU GAVE HE
6 DID NUMEROUS TIMES

7 Q ALL RIGHT PLEASE, PLEASE GIVE ME THE
8 POLYGRAPH, RIGHT?

9 A YES, SIR

10 Q WHY DIDN'T YOU CHARGE HIM BEFORE YOU GAVE HIM
11 THE POLYGRAPH? WHAT GOOD DOES THE POLYGRAPH DO, WHAT
12 ARE YOU GOING TO DO, RELEASE HIM? IF HE HAD PASSED
13 IT?

14 A PROBABLY NOT

15 Q OKAY SO THE POLYGRAPH IS AN INTERROGATION
16 TOOL?

17 A THAT'S CORRECT

18 Q IT'S NOT TO DETERMINE TRUTH OR INNOCENCE OR
19 ANYTHING LIKE THAT IT'S AN INTERROGATION TOOL YOU
20 ARE GOING TO GET HIM DOWN THERE AND INTERROGATE HIM
21 SOME MORE?

22 A I DON'T DO THE POLYGRAPH, BUT THEY DO ASK HIM
23 QUESTIONS

24 Q IT'S AN INTERROGATION TOOL ARE YOU TELLING US
25 THAT THE MAN THAT YOU TALKED TO ON THAT NIGHT LIED TO

1 YOU ABOUT RAPING AND MURDERING HIS DAUGHTER?

2 A YES, SIR

3 Q HE, WOULD YOU AGREE WITH ME THAT HE, --WELL,
4 WE'LL LET THE JURY HEAR THE TAPE WE'LL LET THE JURY
5 HEAR THE TAPE THEY CAN HEAR IT AGAIN ALL THEY WANT
6 TO

7 I BELIEVE THAT YOU INDICATED THAT HE
8 TOLD YOU SOME THINGS AND THEN HE CHANGED HIS STORY
9 AND THEN HE SAID -- I MEAN, YOUR IMPLICATION WAS THAT
10 HE TOLD YOU HE GOT UP AT TWO, THEN HE GOT UP AT ONE,
11 AND THEN HE WAS ON THE COMPUTER IN THE MORNING AND
12 ALL THAT STUFF, CORRECT?

13 A THAT'S CORRECT

14 Q OF ALL THAT, HE WAS ON THE COMPUTER AT 3 40

15 A M ?

16 A I CAN'T ANSWER THAT

17 Q WENT TO THE BATHROOM?

18 A HE SAID HE WENT TO THE BATHROOM AT THREE A M

19 Q WENT TO THE BATHROOM AND IN FACT HE DID GO TO
20 THE COMPUTER?

21 A I CAN'T ANSWER THAT

22 Q PEOPLE GET UP, UNFORTUNATELY FOR MR COPE THE
23 NIGHT -- LET ME ASK YOU THIS IS IT UNUSUAL FOR
24 PEOPLE TO GET UP IN THE NIGHT, THE OLDER YOU GET YOU
25 WATCH TV, READ A BOOK, IS THAT UNUSUAL?

1 A THAT'S --

2 Q WHAT IS UNUSUAL --

3 THE COURT LET HIM ANSWER.

4 MR MORTON I THOUGHT HE DID I'M SORRY

5 THE COURT I DIDN'T HEAR ANY ANSWER

6 A I SAID THAT'S POSSIBLE, YES, SIR

7 Q OKAY CERTAINLY NOT UNUSUAL TO GET UP AND GO TO
8 THE BATHROOM IN THE MIDDLE OF THE NIGHT?

9 A NO, SIR

10 Q AT OUR AGE?

11 A YOU ARE OLDER THAN I AM

12 Q OKAY THE UNUSUAL THING FOR HIM IS THAT WHEN HE
13 DID THAT WAS THE SAME NIGHT, MAY HAVE DONE IT EVERY
14 NIGHT, I DON'T KNOW, BUT ON THIS NIGHT THIS MAN RAPED
15 AND MURDERED HIS DAUGHTER?

16 A I HAD NOTHING TO DO WITH THE SANDERS END OF THIS
17 CASE

18 Q OKAY HE'S CHARGED WITH RAPE AND MURDER?

19 A THAT'S CORRECT

20 Q OKAY WOULD YOU FEEL RESPONSIBLE IF YOU WERE AT
21 HOME AND DIDN'T HEAR ANYTHING AND YOUR DAUGHTER WAS
22 RAPED AND MURDERED?

23 MR BRACKETT OBJECTION, RELEVANCE, CALLS
24 FOR AN OPINION

25 THE COURT I SUSTAIN THE OBJECTION

1 Q WOULD YOU AGREE WITH ME THAT YOU FEEL
2 RESPONSIBLE IF YOUR CHILD IS KILLED IN A CAR WRECK 20
3 MILES AWAY?

4 MR BRACKETT I OBJECT

5 THE COURT I SUSTAIN THE OBJECTION

6 Q YOU INDICATED, MR WALDROP, THAT HE ASKED YOU TO
7 TAKE FINGERPRINTS YOU INDICATED WE'VE CHECKED
8 EVERYTHING, BILLY THAT'S INCORRECT, MR WALDROP, IS
9 IT NOT?

10 A I'M NOT SURE WHAT YOU ARE REFERRING TO

11 Q I'M REFERRING TO WHETHER OR NOT FINGERPRINTS
12 WERE TAKEN, FOOT PRINTS WERE TAKEN, WHETHER THERE IS
13 ANY EVIDENCE, ANY PHYSICAL EVIDENCE THAT LINKS THIS
14 MAN TO WHAT YOU SAY IS THE TRUTH?

15 A I CAN'T ANSWER THAT I HAD NOTHING TO DO WITH
16 THE CRIME SCENE I DON'T KNOW

17 Q OKAY YOU INDICATED DURING YOUR TYPICAL
18 INTERROGATION YOU WANTED HIM TO EXPLAIN TO YOU WHAT
19 HAPPENED HE COULDN'T EXPLAIN WHAT HAPPENED TO YOUR
20 SATISFACTION, COULD YOU?

21 A NO, SIR

22 Q AND YOU REPEATED, WHAT'S STICKING TO THIS GOING
23 TO PROVE? MINDS WERE MADE UP, WERE THEY NOT,
24 MR WALDROP?

25 A MINDS WEREN'T MADE UP BUT MINDS KNEW WHAT WAS

1 FOUND AT THE SCENE AND, YOU KNOW, THAT'S WHAT WE WERE
2 REFERRING TO AND QUESTIONING HIM ON

3 Q MR COPE SAID CHECK EVERY PART OF ME YOU
4 CHECKED THE SAME CLOTHES THAT HE HAD ON, YOU CHECKED
5 EVERY PART OF ME, HE TOLD YOU THAT, DIDN'T HE?

6 A YES, SIR

7 Q AND YOU SAID, MR COPE, WHAT IF ALL THESE TESTS
8 FROM THE HOSPITAL COME BACK AND MATCH THE EVIDENCE
9 TAKEN FROM THE BODY, MATCHES YOU, WHAT IF THAT
10 HAPPENS? YOU ASKED HIM THAT, DIDN'T YOU?

11 A YES, SIR

12 Q AND HE SAID, REMEMBER WHAT HE SAID?

13 A I DON'T REMEMBER HIS EXACT ANSWER BUT

14 Q HE SAID IT WON'T IT WON'T AND THAT IS IN
15 FACT WHAT WE HAVE?

16 A THAT'S -- WELL, YEAH

17 Q HE WAS VERY, HE UNDERSTAND, I UNDERSTAND -- HE
18 SAID I UNDERSTAND YOU ARE TRYING TO DO YOUR JOB HE
19 SAID YES SIR, NO SIR, HE WAS POLITE, HE WAS
20 COOPERATIVE, WAS HE NOT?

21 A YES, SIR

22 MR MORTON BEG THE COURT'S INDULGENCE,
23 YOUR HONOR

24 Q HE SAID HIS DAUGHTER WAS A CHRISTIAN, RIGHT?

25 A THAT'S CORRECT

1 Q HE SAID THEY SAT AROUND AND WATCHED TOUCHED BY
2 AN ANGEL, CORRECT?

3 A THAT'S CORRECT

4 Q HE SAID THIS WHOLE DAY IS A SHOCK I'M STILL IN
5 SHOCK I CANNOT CONCENTRATE I HAVE TOLD THIS SAME
6 STORY OVER AND OVER AND OVER AND OVER, CORRECT?

7 A I DON'T REMEMBER HIM SAYING IT THAT MANY TIMES,
8 BUT HE DID SAY OVER AND OVER

9 Q AND HE TALKS ABOUT, YOU KNOW, HIS DAUGHTER WAS,
10 SHE WAS A CHRISTIAN, SHE PLAYED THE VIOLIN, Y'ALL
11 TALKED ABOUT BIBLICAL SCRIPTURE, CORRECT?

12 A THAT'S CORRECT

13 Q HE SAID THAT GOD WAS GOING TO SET HIM FREE HE
14 SAID GOD KNOWS THE TRUTH AND YOU SAID THAT GOD IS
15 GOING TO SET YOU FREE OVER THIS THING? HE SAID I
16 DIDN'T DO ANYTHING AND HE SAID THAT TIME AFTER TIME
17 AFTER TIME, BUT HE COULDN'T SATISFY YOU, CORRECT?

18 A THAT'S CORRECT

19 Q YOU SAID YOU WANT US TO CHARGE YOUR CHILDREN IN
20 THIS THING? YOU WANT US TO MAKE THEM SUSPECTS,
21 DIDN'T YOU?

22 A YES, SIR

23 Q PUT A LOT OF PRESSURE ON HIM THAT NIGHT,
24 MR WALDROP, DID YOU NOT?

25 A PUT SOME PRESSURE ON HIM, YES, SIR

1 Q OKAY YOU SAID YOUR DAUGHTER IS GOING TO LIVE
2 THINKING THAT SHE WAS RESPONSIBLE FOR HER DAUGHTER'S
3 DEATH?

4 A FOR HER SISTER'S DEATH OR YOUR DAUGHTER'S

5 Q FOR WHAT YOUR DAUGHTER'S DEATH IS WHAT YOU TOLD
6 HIM?

7 A SOMETHING ALONG THOSE LINES, YES, SIR

8 Q ASK YOU ASKED HIM ABOUT, AGAIN AND I'M GOING TO
9 WRAP UP, BUT YOU ASKED HIM ABOUT EVERYTHING YOU COULD
10 THINK OF AND HE DID HIS BEST, DEAD LEVEL BEST, HIS
11 HONEST BEST FROM THAT TAPE, TO ANSWER YOUR QUESTIONS
12 AND HE INSISTED THAT TAKE ANY TEST YOU WANT FROM HIM
13 AND TO GET HIM THE POLYGRAPH?

14 MR BRACKETT OBJECTION, ASKED AND
15 ANSWERED AND ABOUT FOUR QUESTIONS AND MOST OF THEM
16 HAVE BEEN ASKED AND ANSWERED

17 MR MORTON I'LL MOVE ON

18 Q AND HE SAID I'M GETTING TIRED AND Y'ALL CHARGED
19 HIM WITH MURDER AT 4 21 A M THAT MORNING, CORRECT?

20 A THAT'S CORRECT

21 Q AND BY TEN O'CLOCK THE NEXT MORNING HE WAS BEING
22 INTERROGATED AGAIN, CORRECT?

23 A I DON'T KNOW WHAT TIME IT WAS THE NEXT DAY

24 Q AND HE WAS GIVEN A POLYGRAPH AGAIN THAT MORNING?

25 A SOMETIME THAT MORNING

1 Q DO YOU HAVE ANY IDEA HOW LONG THAT INTERROGATION
2 LASTED?

3 A I DON'T HAVE A CLUE

4 MR MORTON I BEG THE COURT'S INDULGENCE
5 THAT'S ALL I HAVE, YOUR HONOR

6 THE COURT MR GREELEY

7 MR GREELEY MAY IT PLEASE THE COURT.

8 CROSS EXAMINATION BY MR GREELEY

9 Q DETECTIVE WALDROP, MR MORTON WAS ASKING YOU
10 SOME QUESTIONS ON FRIDAY IN REGARDS TO YOUR TAPE
11 RECORDING OF THIS INTERVIEW/INTERROGATION AND HE
12 ASKED YOU WHY YOU DID NOT AUDIO TAPE ALL OF THE
13 STATEMENTS THAT YOU TAKE DO YOU RECALL THAT?

14 A THAT'S CORRECT

15 Q NOW WHEN LAW ENFORCEMENT, DETECTIVES' AND POLICE
16 OFFICERS, THEY HAVE DIFFERENT WAYS THAT THEY CAN
17 MEMORIALIZE STATEMENTS THAT ARE EITHER GIVEN BY A
18 WITNESS OR BY A SUSPECT, ISN'T THAT CORRECT?

19 A THAT'S CORRECT

20 Q MANY TIMES WITH A WITNESS, ISN'T IT CORRECT,
21 THAT IF IT'S JUST A WITNESS AND THEY ARE NOT A
22 SUSPECT WHAT THE OFFICER WILL DO IS DO AN INTERVIEW
23 SUMMARY SHEET TO WHERE THE OFFICER WILL TYPE OUT WHAT
24 THE WITNESS HAS TOLD THEM, ISN'T THAT CORRECT?

25 A THAT'S CORRECT

1 Q AND A LOT OF TIMES WITH THE INTERVIEW SUMMARY
2 SHEETS THEY ARE NOT A SWORN STATEMENT AND THEY ARE
3 NOT SIGNED BY THE WITNESS, IS THAT CORRECT?

4 A THAT'S TRUE

5 Q BUT WHEN YOU HAVE A CASE TO WHERE YOU HAVE A
6 SUSPECT, SOMEONE WHO YOU BELIEVE IS INVOLVED IN A
7 CRIMINAL MATTER, THERE ARE WAYS AND YOU ALL USE
8 DIFFERENT WAYS SOMETIMES TO MEMORIALIZE THOSE
9 STATEMENTS, ISN'T THAT CORRECT?

10 A THAT'S TRUE

11 Q I BELIEVE THAT THE CITY OF ROCK HILL, Y'ALL HAVE
12 A SHEET THAT IN SOME CIRCUMSTANCES YOU FILL OUT,
13 WHICH CONTAINS DIFFERENT THINGS ON IT AND THEN IF
14 IT'S A SHORT INTERVIEW YOU CAN WRITE DOWN ON THE
15 STATEMENT WHAT YOU HAVE HEARD OR TYPE IT AND THEN
16 HAVE THE PERSON READ IT, IS THAT CORRECT?

17 A THAT'S TRUE

18 Q OKAY AND THEN AFTER THEY READ IT YOU HAVE THEM
19 NOTARIZE IT AS A SWORN STATEMENT, IS THAT CORRECT?

20 A THAT'S CORRECT

21 Q AND THAT'S A MORE OF A FORMAL STATEMENT THAT'S
22 TAKEN BY POLICE IN THEIR INVESTIGATION USUALLY
23 INVOLVING SUSPECTS TO WHERE THE INTERVIEW IS NOT A
24 LONG PROCESS, IS THAT CORRECT?

25 A THAT'S TRUE

1 Q AND ANOTHER WAY THAT YOU SOMETIMES UTILIZE THE
2 MEMORIALIZE OR WHAT YOU DO USE TO MEMORIALIZE A
3 CONVERSATION, INTERVIEW, INTERROGATION WHICH THEY
4 SHOW ON TV SOMETIMES IN THESE POLICE SHOWS, YOU JUST
5 HAVE THE PERSON WRITE IN THEIR OWN HANDWRITTING THE
6 STATEMENT THAT THEY WANT TO GIVE?

7 A THAT'S CORRECT

8 Q AND YOU HAVE THEM SIGN IT, IS THAT CORRECT?

9 A THAT'S CORRECT

10 Q AND THAT WAY IT'S MEMORIALIZED IN THEIR OWN
11 HANDWRITING AND WITH THEIR SIGNATURE?

12 A THAT'S TRUE

13 Q IS THAT CORRECT? AND THEN AGAIN IN THIS
14 PARTICULAR CASE YOU CAN DO WHAT YOU DID THAT NIGHT.
15 YOU KNEW IT WAS GOING TO BE A LONG INTERVIEW, DIDN'T
16 YOU?

17 A I ANTICIPATED IT BEING A LONG ONE, YES, SIR

18 Q SO YOU MADE THE DECISION THAT YOU WERE GOING TO
19 TAPE RECORD IT, CORRECT?

20 A WELL, WE MADE THE DECISION TOGETHER BUT THE
21 DECISION WAS MADE

22 Q YOU AND DETECTIVE HERRING?

23 A THAT'S CORRECT

24 Q SO Y'ALL MADE THE DECISION TO TAPE RECORD IT AND
25 THAT'S WHAT YOU DID?

1 A THAT'S TRUE

2 Q CORRECT? SO EVERYTHING THAT WAS SAID BETWEEN
3 YOU AND MR COPE ON THAT PARTICULAR EVENING WAS ABLE
4 TO BE MEMORIALIZED IN THIS AUDIO TAPE THAT'S BEEN
5 PLAYED FOR THE JURY, IS THAT CORRECT?

6 A THAT'S CORRECT

7 Q AND THE JURY HAS BEEN ABLE TO HEAR EVERYTHING
8 THAT YOU ASKED HIM INCLUDING THE TONE OF YOUR VOICE
9 AND THE DIFFERENT THINGS THAT YOU DID, IS THAT
10 CORRECT?

11 A THAT'S TRUE

12 Q NOW IN REGARDS TO THE DIFFERENT WAYS TO
13 MEMORIALIZE INTERVIEWS, INTERROGATIONS,
14 CONVERSATIONS, THERE IS AN ADDITIONAL WAY THAT YOU
15 SOMETIMES USE AND THAT ONE IS VIDEO TAPE, ISN'T THAT
16 CORRECT?

17 A THAT'S TRUE

18 Q AND WHEN YOU USE VIDEO TAPED TO MEMORIALIZE IT
19 YOU ARE ABLE TO SEE ALL, HEAR ALL THE QUESTIONS ASKED
20 BY THE LAW ENFORCEMENT OFFICERS, CORRECT?

21 A CORRECT

22 Q YOU ARE ABLE TO SEE THE RESPONSES GIVEN BY THE
23 SUSPECT, ISN'T THAT CORRECT?

24 A THAT'S TRUE

25 Q YOU ARE ABLE TO SEE THE SURROUNDINGS IN WHICH

1 THIS INTERROGATION AND INTERVIEW TAKE PLACE, ISN'T
2 THAT CORRECT?

3 A THAT'S CORRECT

4 Q AND YOU ARE ABLE TO SEE THE DEMEANOR OF BOTH THE
5 LAW ENFORCEMENT OFFICERS AND THE PERSON WHO IS BEING
6 INTERVIEWED OR INTERROGATED, ISN'T THAT CORRECT?

7 A THAT'S CORRECT

8 Q YOU CAN HEAR THEIR VOICE, YOU CAN SEE THEIR
9 FACE, AND ALL OF THAT IS AS IF EVERYBODY WAS IN THERE
10 WATCHING IT, ISN'T THAT CORRECT?

11 A THAT'S TRUE

12 MR GREELEY THANK YOU

13 THE COURT ALL RIGHT REDIRECT

14 MR BRACKETT BRIEFLY

15 REDIRECT EXAMINATION BY MR BRACKETT

16 Q HOW LONG HAVE YOU BEEN AN INVESTIGATOR NOW, SIR?

17 A I'VE BEEN POLICE DEPARTMENT 30 YEARS I'VE BEEN
18 IN THE DETECTIVE DIVISION SINCE 1982

19 Q INVESTIGATED A LOT OF VIOLENT CRIMES?

20 A YES, SIR

21 Q HOW MANY PEOPLE WOULD YOU SAY YOU'VE INTERVIEWED
22 IN THAT 30 YEARS IN CASES OF THIS MAGNITUDE, SERIOUS
23 CASES, MURDERS AND THAT SORT OF THING?

24 A HUNDREDS MAYBE

25 Q IS IT UNUSUAL THAT SOMEONE WOULD DENY

1 INVOLVEMENT IN A CASE LIKE THIS?

2 A OH, NO, NOT UNUSUAL AT ALL

3 Q OKAY HOW MANY TIMES HAVE YOU SENT SOMEONE FOR
4 A POLYGRAPH?

5 A HUNDREDS

6 Q HOW MANY TIMES HAS SOMEONE DENIED TO YOU BUT
7 CONFESSED AFTER POLYGRAPH?

8 A NUMEROUS TIMES

9 Q IS IT HARD FOR SOMEONE TO ADMIT TO A CRIME LIKE
10 THIS?

11 A I WOULD SAY SO, YEAH

12 Q IF YOU, WHAT WOULD YOUR REACTION AS AN
13 INVESTIGATOR HAVE BEEN IF ONE OF THE GIRLS HAD CALLED
14 AND DAD HAD BEEN ABSENT FROM THAT HOUSE THAT MORNING
15 BUT AMANDA HAD BEEN DEAD?

16 A CAN YOU REPEAT THAT

17 Q IF DAD HADN'T BEEN THERE THAT MORNING, MR COPE
18 THE DEFENDANT, IF HE HAD BEEN ABSENT FROM THAT HOUSE
19 WHEN THE POLICE ARRIVE AND IT'S JUST TWO GIRLS AND
20 AMANDA DEAD IN THE BACK BEDROOM BUT DAD IS ABSENT BUT
21 HE WAS THERE THE NIGHT BEFORE, WHAT WOULD YOUR
22 REACTION HAVE BEEN?

23 A WE WOULD INVESTIGATED IT THE SAME WAY WE
24 NORMALLY DO A CASE AND TRIED OUR BEST TO BUILD A CASE
25 ON WHAT EVIDENCE WE HAD

1 Q WOULD THAT HAVE INCREASED YOUR SUSPICIONS OF
2 MR COPE, THE FACT OF HIS ABSENCE?

3 A YES, SIR

4 Q MR MORTON ASKED YOU SOME QUESTIONS ABOUT HIS
5 CLOTHING AND TAKING THEM INTO EVIDENCE, IN FACT, WERE
6 HIS CLOTHES TAKEN INTO EVIDENCE THAT NIGHT AFTER HE
7 WAS ARRESTED?

8 A I BELIEVE SO I WASN'T A PART OF IT BUT I THINK
9 THEY WERE

10 Q MR MORTON ASKED YOU SOME QUESTIONS ABOUT
11 WHETHER OR NOT THE DEFENDANT TOLD YOU ABOUT GOING TO
12 THE COMPUTER THAT NIGHT, DO YOU RECALL WHAT THE
13 DEFENDANT SAID ABOUT WHEN HE GOT UP THAT NIGHT AND
14 WENT TO THE BATHROOM, DO YOU RECALL EXACTLY WHAT HE
15 SAID HE DID?

16 A HE SAID HE GOT UP, CHECKED IN ON HIS TWO YOUNGER
17 GIRLS, LOOKED IN ON THEM, WENT TO THE BATHROOM, CAME
18 BACK IN AND WENT STRAIGHT BACK AND WENT BACK TO BED

19 Q DID YOU SPECIFICALLY ASK HIM ABOUT GOING TO THE
20 COMPUTER?

21 A YES, SIR

22 Q AND WHAT DID HE SAY?

23 A HE DENIED IT

24 Q THANK YOU, SIR

25 MR MORTON JUST A COUPLE QUESTIONS,

1 JUDGE

2 RECROSS EXAMINATION BY MR MORTON

3 Q YOU'VE INTERVIEWED LOTS OF DIFFERENT PEOPLE?

4 A YES, SIR

5 Q 30 YEARS?

6 A YES, SIR

7 Q AND YOU'VE ONLY USED A TAPE RECORDING TWICE?

8 A I SAID TWO OR 3 TIMES I DON'T REMEMBER

9 EXACTLY IT HADN'T BEEN MANY

10 Q WHY IS THAT?

11 A JUST DON'T DO IT

12 Q WHY?

13 A NO PARTICULAR REASON

14 Q YOU DON'T HAVE A PARTICULAR REASON WHY YOU DON'T
15 TAPE RECORD INTERVIEWS WITH PEOPLE WHO ARE BEING
16 ACCUSED FOR MURDER?

17 A NO, SIR I MEAN, IT'S JUST NOT A COMMON
18 PRACTICE WE DON'T USUALLY TAPE THEM

19 Q I UNDERSTAND THAT YOU HAVE THE TECHNOLOGY, DO
20 YOU NOT? IT'S NOT HARD TO DO YOU OBVIOUSLY DID IT
21 THIS TIME, THANK GOODNESS?

22 A NO, IT'S NOT HARD TO DO

23 Q WHY DON'T YOU DO IT?

24 A JUST DON'T DO IT IT'S EASEER TO SIT DOWN ON A
25 SHORT INTERVIEW AND WRITE IT OUT OR TYPE IT OUT

1 Q DO YOU AGREE THAT IT IS THE FAIREST AND MOST
2 ACCURATE WAY FOR US TO HEAR WHAT TRANSPIRES DURING AN
3 INTERROGATION?

4 A IT CAPTURES WHAT'S ACTUALLY SAID, YES, SIR

5 THE COURT THANK YOU VERY MUCH

6 MR GREELEY

7 MR GREELEY NO QUESTIONS

8 THE COURT WE APPRECIATE YOUR TIME YOU
9 CAN FEEL FREE TO LEAVE THANK YOU CALL YOUR NEXT
10 WITNESS

11 MR BRACKETT PLEASE THE COURT THE
12 STATE CALLS DETECTIVE MIKE BAKER

13 MICHAEL BAKER, BEING FIRST DULY
14 SWORN TESTIFIED AS FOLLOWS

15 DIRECT EXAMINATION BY MR BRACKETT

16 Q SIR, WOULD YOU PLEASE STATE YOUR FULL NAME?

17 A IT'S MIKE BAKER

18 Q WHERE ARE YOU EMPLOYED, SIR?

19 A WITH THE YORK COUNTY SHERIFF'S DEPARTMENT

20 Q WHAT DO YOU DO FOR THE YORK COUNTY SHERIFF'S
21 OFFICE?

22 A I'M POLYGRAPH EXAMINER

23 Q AND HOW LONG HAVE YOU BEEN POLYGRAPH EXAMINER
24 FOR THE SHERIFF'S OFFICE?

25 A SEVEN YEARS

1 Q WOULD YOU PLEASE BE SO KIND, SIR, TO RELATE SOME
2 YOUR BACKGROUND AND TRAINING IN THE AREA OF THE
3 ADMINISTRATION OF THE POLYGRAPH EXAM?

4 A YES, SIR TO START WITH I GRADUATED FROM THE,
5 AN ACCREDITED POLYGRAPH SCHOOL ACCREDITED FROM THE,
6 IS AMERICAN POLYGRAPH ASSOCIATION THE SCHOOL'S
7 TITLE ARGENBRIGHT INSTITUTE OF POLYGRAPH IT'S A
8 CURRICULUM OF ABOUT 400 HOURS OF POLYGRAPH RELATED
9 AREAS THAT WAS IN 1997 AFTER THAT I DID AN
10 INTERNSHIP AT THE STATE LAW ENFORCEMENT DIVISION SLED
11 THAT LASTED FOR SIX MONTHS AND INCLUDED 200 POLYGRAPH
12 EXAMS THAT WERE ADMINISTERED UNDER SUPERVISION BY
13 SLED POLYGRAPH EXAMINERS

14 SINCE THAT TIME CONTINUING EDUCATION,
15 I'VE ATTENDED 6 TO 8, COULD BE EVEN MORE, POLYGRAPH
16 CONFERENCES AND SEMINARS PUT ON BY THE AMERICAN
17 POLICE POLYGRAPH ASSOCIATION, THE NORTH CAROLINA
18 ASSOCIATION FOR POLYGRAPH EXAMINERS, SOUTH CAROLINA
19 ASSOCIATION FOR POLYGRAPH EXAMINERS, AND THE NATIONAL
20 ASSOCIATION FOR IDENTIFICATION I HAVE RUN IN EXCESS
21 OF 900 POLYGRAPH EXAMS DURING THIS TIME ALSO HAVE
22 SUPERVISED ANOTHER POLYGRAPH EXAMINER, SUPERVISE HIS
23 INTERNSHIP, WHICH INCLUDED 150 POLYGRAPH EXAMS THAT
24 HE RAN UNDER MY SUPERVISION

25 Q AND THE CONTINUING EDUCATION THAT YOU'VE

1 RECEIVED IN THE AREA OF POLYGRAPH ADMINISTRATION, IS
2 THIS MANDATORY CONTINUING EDUCATION?

3 A IN THE STATE OF SOUTH CAROLINA IT IS NOT
4 MANDATED THAT YOU HAVE SO MANY HOURS OF CONTINUING
5 EDUCATION THIS IS SOMETHING THAT IS RECOMMENDED AS
6 FAR AS GUIDELINES, DOES NOT REQUIRED IT IT'S
7 SOMETHING WE DO ON OUR OWN VOLITION IN ORDER TO STAY
8 CURRENT

9 Q AND YOU, IN FACT, DO ATTEND THOSE?

10 A YES, SIR

11 Q REGARDLESS OF THE FACT THAT THERE IS NO MANDATE?

12 A THAT'S CORRECT

13 MR BRACKETT YOUR HONOR, AT THIS TIME I
14 WOULD TENDER DETECTIVE BAKER AS AN EXPERT IN
15 POLYGRAPH ADMISSION

16 THE COURT ANY DIRE, MR MORTON

17 MR MORTON NO, SIR

18 THE COURT MR GREELEY

19 MR GREELEY NO OBJECTION

20 THE COURT I FIND HE'S QUALIFIED

21 Q SIR, WERE YOU INVOLVED IN THE INVESTIGATION OF
22 THE DEATH OF AMANDA COPE?

23 A I DID BECOME INVOLVED IN THE INVESTIGATION, YES,
24 SIR

25 Q RELATE TO THE JURY PLEASE YOUR VERY FIRST

1 INVOLVEMENT IN THIS CASE, WHEN DID YOU FIRST BECOME
2 AWARE OR FIRST GET CONTACTED IN REGARDS TO THIS
3 INVESTIGATION?

4 A NOVEMBER 30, 2001, AROUND 3 A M IN THE MORNING
5 I WAS CONTACTED BY LIEUTENANT LES HERRING OF THE ROCK
6 HILL POLICE DEPARTMENT I WAS AT HOME AT THAT TIME,
7 AND HE CONTACTED ME REGARDING THIS CASE, EXPLAINED
8 THE VERY BASICS OF THE CASE, AND REQUESTED THAT I
9 COME IN AND RUN A POLYGRAPH EXAM AT THAT TIME
10 THAT'S MY INITIAL CONTACT

11 Q ALL RIGHT AND WHAT DID YOU DO IN REGARDS TO
12 THAT QUESTION?

13 A AFTER OBTAINING SOME INFORMATION FROM LIEUTENANT
14 HERRING I DECIDED THAT IT WAS NOT ADVISABLE TO RUN A
15 POLYGRAPH EXAM AT THAT TIME ON THE SUBJECT I TOLD
16 HIM THAT WE WOULD LOOK AT IT AGAIN IN THE MORNING AND
17 ADVISED HIM TO HAVE SUBJECT AT MY OFFICE THE NEXT
18 MORNING

19 Q OKAY AND WHY IS THAT?

20 A HE HAD EXPLAINED THAT HE HAD INTERROGATED THE
21 SUBJECT FOR A FEW HOURS AND IT IS ALSO LATE IN THE
22 EVENING, THE SUBJECT HAD BEEN UP MOST OF THE DAY, AND
23 THAT COULD BE DETRIMENTAL TO THE OUTCOME OF POLYGRAPH
24 EXAM FOR BOTH PARTIES, THE PARTY TAKING THE EXAM AND
25 ALSO THE PERSON REQUESTING THE EXAM, SO IT'S JUST

1 ADVISABLE IN ORDER TO GIVE THEM A FAIR AND ACCURATE
2 EXAM I KNEW THAT WE WOULD NOT ACHIEVE THOSE RESULTS
3 THAT NIGHT

4 Q ALL RIGHT, SIR WHERE ARE YOUR OFFICES LOCATED?

5 A THEY ARE LOCATED HERE IN THE SHERIFF'S OFFICE IN
6 THE MOSS JUSTICE CENTER HERE

7 Q DID YOU GO TO WORK THE NEXT MORNING?

8 A YES, SIR, I DID

9 Q DID YOU HAVE OCCASION TO SEE THE DEFENDANT BILLY
10 WAYNE COPE THAT MORNING?

11 A YES, SIR LIEUTENANT HERRING ACCOMPANIED
12 MR COPE TO MY OFFICE

13 Q AND APPROXIMATELY WHAT TIME WAS THAT IF YOU
14 RECALL?

15 A IT WAS 10 A M THE NEXT MORNING

16 Q NOW WHO DID YOU SPEAK TO FIRST, MR COPE,
17 MR HERRING, OR BOTH, WHO DID YOU TALK TO FIRST AFTER
18 THEY ARRIVED?

19 A BRIEF INTRODUCTIONS WOULD HAVE BEEN MADE BETWEEN
20 MR COPE AND MYSELF AND THEN LIEUTENANT HERRING AND I
21 WOULD HAVE TALKED FOR AWHILE

22 Q AND WHAT YOU WERE DISCUSSING WITH LIEUTENANT
23 HERRING? WHAT INFORMATION WERE YOU SEEKING FROM HIM?

24 A IN ORDER TO RUN A POLYGRAPH EXAM I WOULD NEED
25 INFORMATION AS FAR AS BASIC FACTS OF THE CASE AND WE

1 SPENT SOMETIME WITH HIM EXPLAINING THOSE FACTS TO ME

2 Q APPROXIMATELY HOW LONG?

3 A IT WAS APPROXIMATELY 45 MINUTES

4 Q WAS MR COPE PRIVY TO THIS CONVERSATION OR WHERE
5 YOU AND MR HERRING BY YOURSELF?

6 A WE WERE BY OURSELF WE HAVE A HOLDING CELL
7 ADJACENT TO MY OFFICES MY OFFICE ORIGINALLY WAS A
8 JUVENILE AREA MR COPE WAS IN THE HOLDING CELL AT
9 THAT TIME AND NOT PRIVY TO OUR CONVERSATION

10 Q ALL RIGHT NOW AT THE CONCLUSION OF YOUR
11 DISCUSSION WITH LIEUTENANT HERRING, WHAT DID YOU DO
12 NEXT?

13 A MR COPE AND I WOULD HAVE THEN GONE INTO THE
14 POLYGRAPH ROOM AND WE WOULD STARTED INTERVIEW THERE

15 Q OKAY NOW PRIOR TO ANY DISCUSSION WITH MR COPE
16 AT ALL, WHAT IS YOUR STANDARD PRACTICE? WHAT IS THE
17 VERY FIRST THING THAT YOU DO?

18 A THE VERY FIRST THING WITH MR COPE AND WITH ANY
19 INTERVIEW THAT I CONDUCT OF THIS NATURE HE WOULD HAVE
20 BEEN ADVISED OF HIS MIRANDA WARNINGS, HIS RIGHTS

21 Q SIR, I'M SHOWING YOU WHAT'S BEEN MARKED AS
22 STATE'S EXHIBIT 11 AND I'LL ASK YOU WHAT, WHAT IS
23 THAT ITEM?

24 A THIS IS THE RIGHTS FORM THAT WAS USED THAT DAY
25 WITH BILLY WAYNE COPE

1 Q ALL RIGHT AND WOULD YOU PLEASE DESCRIBE IT TO
2 THE JURY?

3 A YES, SIR THE FIRST PART, TOP PORTION OF THIS
4 FORM, LAYS OUT THE DEFENDANT'S RIGHT THESE RIGHTS
5 ARE READ TO ME IN EVERY CASE AND IN THIS CASE ALSO
6 I READ THESE OUT LOUD TO THE PERSON I'M TALKING TO
7 AND ASK THEM IF THEY UNDERSTAND THEM AND THEY SIGNIFY
8 WHETHER THEY UNDERSTAND THEM OR NOT AND THEN, THEY ARE
9 ASKED TO SIGN AND DATE IT

10 Q SIGNIFYING THEY DO UNDERSTAND THEM?

11 A YES, SIR

12 Q AND WHAT ARE THOSE RIGHTS, SIR? I THINK MOST
13 PEOPLE ARE FAMILIAR WITH THEM BUT GO AHEAD AND REVIEW
14 THEM WITH US AS YOU WOULD HAVE REVIEWED THEM THAT
15 DAY?

16 A THE FIRST THING I READ TO THEM IS YOU HAVE THE
17 RIGHT TO REMAIN SILENT THE SECOND ONE WOULD BE
18 ANYTHING YOU SAY CAN AND WILL BE USED AGAINST YOU IN
19 A COURT OF LAW THE THIRD ONE IS YOU HAVE THE RIGHT
20 TO TALK TO AN ATTORNEY AND HAVE HIM OR HER PRESENT
21 WITH YOU WHILE YOU ARE BEING QUESTIONED THE FOURTH
22 ONE, IF YOU CANNOT AFFORD TO HIRE AN ATTORNEY ONE
23 WILL BE APPOINTED TO REPRESENT YOU BEFORE ANY
24 QUESTIONING IF YOU WISH THE FIFTH ONE, YOU CAN
25 DECIDE AT ANY TIME TO EXERCISE THESE RIGHTS AND NOT

1 ANSWER ANY QUESTIONS OR MAKE ANY STATEMENTS THEN IT
2 FOLLOW UP ASKING DO YOU UNDERSTAND EACH OF THESE
3 RIGHTS AS I HAVE EXPLAINED THEM TO YOU

4 Q AND HOW DID HE ANSWER?

5 A HE ANSWERED THAT HE DID UNDERSTAND THEM

6 Q ALL RIGHT WHAT'S THE NEXT THING YOU INQUIRE
7 ABOUT?

8 A THE NEXT IS ACTUALLY A WAIVER OF RIGHTS, IT'S
9 ABOUT THREE SENTENCES, AND I ASK THE INDIVIDUAL TO
10 READ THAT BACK OUT LOUD TO ME

11 Q ALL RIGHT WHAT DID HE HAVE TO SAY IN REGARDS
12 TO HIS DESIRE TO WAIVE THE RIGHTS THAT YOU JUST READ
13 TO HIM?

14 A HE HAD NO PROBLEM WITH IT WHATSOEVER HE READ
15 THE WAIVER AND SIGNED TO THAT EFFECT

16 Q DID YOU WITNESS HIM SIGNING THAT DOCUMENT?

17 A YES, SIR, I DID

18 Q IS THAT IN FACT HIS SIGNATURE AND HIS INITIALS
19 IN VARIOUS PLACES ON THE DOCUMENT?

20 A YES, SIR

21 Q AND YOU SIGNED THE DOCUMENT AS WELL?

22 A YES, SIR

23 MR BRACKETT YOUR HONOR, I MOVE STATE'S
24 EXHIBIT 11 IN EVIDENCE

25 MR MORTON NO OBJECTION, YOUR HONOR

1 MR GREELEY NO OBJECTION

2 THE COURT BE RECEIVED

3 (STATE'S EXHIBIT 11 RIGHTS FORM
4 RECEIVED INTO EVIDENCE)

5 Q AFTER REVIEWING MIRANDA WARNINGS-- WELL, LET ME
6 ASK YOU THIS, DETECTIVE BAKER DO YOU TYPICALLY GIVE
7 MIRANDA WARNINGS TO AN INDIVIDUAL WHO IS NOT UNDER
8 ARREST AND IS FREE TO LEAVE?

9 A YES, SIR, I DO

10 Q YOU DO?

11 A YES, SIR

12 Q OKAY NOW IN SO AS FAR AS, IS IT MANDATORY?

13 A IT WOULD DEPEND ON THE CIRCUMSTANCES AS FAR AS
14 A CRIMINAL POLYGRAPH EXAM REGARDLESS THEY ARE READ
15 THEIR MIRANDA WARNINGS

16 Q YOU DO FOR POLYGRAPH?

17 A YES, SIR

18 Q I SEE WHAT IS THE NEXT STEP IN THE POLYGRAPH
19 PROCEDURE?

20 A I HAVE A CONSENT TO INTERVIEW POLYGRAPH THAT
21 EXPLAINS THE PROCEDURE WE READ THAT AND ASK THE
22 PERSON IF THEY UNDERSTAND AND THEN THEY SIGN
23 SIGNIFYING THAT THEY DO

24 Q OKAY AND I'M SHOWING YOU WHAT'S BEEN MARKED,
25 MR MORTON, AS STATE'S EXHIBIT 12?

1 MR MORTON NO OBJECTION

2 Q AND ASK IF YOU WOULD IDENTIFY THAT DOCUMENT?

3 THE COURT MR GREELEY

4 MR GREELEY NO OBJECTION

5 A YES, SIR THIS IS THE CONSENT TO INTERVIEW OF
6 POLYGRAPH THAT I USED THAT DAY

7 Q ALL RIGHT, SIR AND BASICALLY WHAT DOES THAT
8 DOCUMENT ADVISE HIM?

9 A IT EXPLAINS FIRST OFF WHY WE'RE THERE IN THIS
10 CASE IT WAS THE DEATH OF AMANDA IT EXPLAINS THEIR
11 RIGHTS IN REGARDS TO POLYGRAPH HE HAS THE RIGHT TO
12 REFUSE TO TAKE THE POLYGRAPH TEST IF YOU AGREE TO
13 TAKE THE POLYGRAPH TEST YOU HAVE THE RIGHT TO STOP
14 THE TEST AT ANY TIME IF YOU AGREE TO TAKE THE
15 POLYGRAPH TEST YOU HAVE THE RIGHT TO REFUSE TO ANSWER
16 ANY INDIVIDUAL QUESTIONS, AND THEN IT GIVES A WAIVER
17 CONSENT

18 Q DID THE DEFENDANT ACKNOWLEDGE THAT HE UNDERSTOOD
19 THOSE WARNINGS?

20 A YES, SIR, AND EXPRESSED THAT HE WANTED TO BE
21 THERE AND TAKE IT

22 Q AND DID HE SIMILARLY SIGN THAT FORM AS HE SIGNED
23 THE MIRANDA FORM?

24 A YES, SIR, HE DID

25 Q AND THAT WAS WITNESSED BY YOU?

1 A YES, SIR

2 Q OKAY WHAT IS THE PRETEST INTERVIEW?

3 A THE PRETEST INTERVIEW IS BASICALLY A FACT
4 FINDING MISSION IT GIVES ME AN OPPORTUNITY TO HEAR
5 FROM THE PERSON WHO IS ABOUT TO TAKE THE TEST AS FAR
6 AS WHAT THEY KNOW ABOUT THE CASE, IT EXPLAINS THE
7 TEST AND HOW IT'S RAN WHAT'S EXPECTED OF THEM HOW
8 THINGS ARE GOING TO GO WE EXPLAIN EVERYTHING ABOUT
9 THE TEST TO THEM AND MAKE SURE THAT WE BOTH
10 UNDERSTAND EACH OTHER SO THAT THERE IS NO
11 COMPLICATION, THERE IS NO MISUNDERSTANDING

12 Q AND GETTING THAT FORM, GETTING SIGNATURE ON THAT
13 FORM AND EXPLAINING AND GOING THROUGH THAT FORM, IS
14 THAT PART OF THE PRETEST INTERVIEW?

15 A YES, SIR

16 MR BRACKETT YOUR HONOR, I MOVE STATE'S
17 EXHIBIT 12 INTO EVIDENCE

18 MR MORTON (APPROACHING THE WITNESS) I
19 DON'T THINK I HAVE AN OBJECTION I HAVE NO
20 OBJECTION, YOUR HONOR

21 MR GREELEY NO OBJECTION

22 THE COURT BE RECEIVED

23 (STATE'S EXHIBIT 12 CONSENT RECEIVED
24 INTO EVIDENCE)

25 Q WHAT WAS THE NEXT STEP YOU TOOK WITH MR COPE

1 AFTER GOING THROUGH THAT FORM?

2 A THEN WE BEGAN TO FIND OUT WHAT MR COPE KNEW
3 ABOUT THE CASE, ASKING HIM TO EXPLAIN WHAT HAD
4 HAPPENED THE NIGHT THAT THIS TOOK PLACE THEN WE
5 BEGIN TO FORMULATE THE QUESTIONS AND I BEGAN TO
6 EXPLAIN THE EXAM TO HIM SPECIFICALLY ON THIS DATE
7 HE GAVE ME SOME STATEMENTS AND AS FAR AS WHAT HAD
8 OCCURRED THE NIGHT THAT THIS HAPPENED

9 Q ALL RIGHT, SIR PLEASE RELATE TO THE JURY THE
10 SUBSTANCE OF THE INFORMATION THAT MR COPE GAVE YOU
11 REGARDING THE ACTIVITIES OF THE NIGHT BEFORE HIS,
12 MISS AMANDA COPE WAS KILLED, AND THE EARLY MORNING
13 HOURS WHEN HE DISCOVERED HER BODY?

14 A YES, SIR MR COPE STATED THAT THEY WERE AT
15 HOME THAT NIGHT THE WIFE HAD GONE TO WORK AT SOME
16 POINT IN THE EVENING IT WAS HE AND THE CHILDREN
17 THERE AT HOME IT CHANGED A FEW TIMES AS FAR AS THE
18 SEQUENCE OF EVENTS, EXACTLY WHAT TIME AND WHO WAS
19 DOING WHAT, HE STATED THAT HE WAS WORKING ON SOME
20 BIBLE STUDIES QUIZZES AND THAT HE WAS STUDYING ON
21 THIS THAT HE ALSO TALKED ABOUT ONE OF THE CHILDREN
22 WAS NEEDING HELP WITH MATH HOMEWORK HE TALKED ABOUT
23 DIFFERENT PEOPLE IN THE HOUSEHOLD HELPING THAT CHILD
24 THAT CHANGED A FEW TIMES THEN ALSO THAT THE
25 TIMEFRAME AS FAR AS WHAT TIME HE WENT TO BED HE

1 FINALLY SAID THAT HE WENT TO BED AROUND 1 A M HE
2 HAD SET THE ALARM ON THE PORTABLE PHONE TO WAKE HIM
3 UP SIX HE STATED HE GOT UP AROUND 3 A M TO USE THE
4 RESTROOM AND HE CHECKED ON THE TWO YOUNGER CHILDREN
5 BUT DID NOT CHECK ON AMANDA AND HE REPORTED HAVING A
6 DREAM ABOUT THE RAPTURE AND IN THIS DREAM HE SAYS HE
7 HEARD GOD SAYING COME UP THAT WAS THE GIST OF, AS
8 FAR AS RELATING THE EVENTS OF THAT NIGHT

9 Q OKAY NOW ABOUT HOW LONG HAS THE PROCESS TAKEN
10 FROM THIS POINT? ABOUT WHAT TIME ARE WE AT NOW?

11 A THIS HAS NOT TAKEN TOO LONG THE ENTIRE PRETEST
12 INTERVIEW LASTS GENERALLY 45 OR SO MINUTES I THINK
13 THIS ONE WENT A LITTLE BIT LONGER THAN THAT SO FROM
14 START TO FINISH WE'RE LOOKING AT ALMOST AN HOUR AS
15 FAR AS PRETEST INTERVIEW

16 Q OKAY AND HOW LONG, YOU SAY ABOUT 45 MINUTES
17 TALKING TO DETECTIVE, LIEUTENANT HERRING?

18 A YES, SIR

19 Q SO ABOUT WHAT TIME IS IT BY THE TIME YOU ARE
20 DONE WITH THE PRETEST INTERVIEW AND YOU ARE READY TO
21 ADMINISTER THE POLYGRAPH?

22 A AROUND 11 45

23 Q AND WHAT IS YOUR PROCEDURE IMMEDIATELY PRIOR TO
24 ADMINISTERING THE POLYGRAPH EXAM?

25 A WE ASK THE PERSON IF THEY NEED A BREAK, USE THE

1 RESTROOM, GET WATER, ANYTHING LIKE THAT, AND IF SO,
2 WE DO THAT, AND MR COPE DID GO TO THE RESTROOM AND
3 TAKE A QUICK BREAK

4 Q WHAT WAS MR COPE'S DEemeanOR DURING THIS ENTIRE
5 TIME PERIOD?

6 A MR COPE WAS CALM HE WAS VERY COOPERATIVE I
7 WOULD NOT SAY JOVIAL BUT HE SEEMED TO BE UPBEAT I
8 WAS PRETTY WELL SURPRISED BY HIS DEemeanOR I WOULD
9 HAVE EXPECTED A LOT MORE EMOTION I HAD NOT SEEN ANY
10 TEARS, NO CRYING, DID NOT APPEAR TO BE UPSET I'M
11 LOOKING FOR THIS TYPE OF INFORMATION BECAUSE IF IT
12 HAD UNDULY, HE WAS UNDULY STRESSED, IF THERE WERE
13 PROBLEMS WITH HIS EMOTIONAL STATE, WE WOULD NOT HAVE
14 PROCEEDED WITH THE POLYGRAPH EXAM IT'S PART OF THE
15 PRETEST INTERVIEW

16 Q IS THAT PART OF YOUR EXPLAINING TO LOOK FOR
17 THESE THINGS?

18 A YES, SIR, THAT'S VERY IMPORTANT WE LOOK FOR
19 CERTAIN MEDICAL HISTORY IF THERE ARE CERTAIN
20 MEDICAL HISTORY THERE, WE DO NOT GO FORWARD IF THE
21 PERSON'S OVERLY STRESSED, IF HE IS OVERLY TIRED, IF
22 HE IS INATTENTIVE, IF HE'S NOT ABLE TO STAY AWAKE,
23 THERE IS A NUMBER OF PROBLEMS THAT WE'RE LOOKING FOR
24 THAT WOULD NOT GIVE US A FAIR AND ACCURATE TEST AND
25 WE WOULD NOT PROCEED IF ANY OF THOSE ITEMS CAME UP

1 Q AND YOU DID IN FACT PROCEED?

2 A YES, SIR, WE DID

3 Q WAS THERE ANY INDICATION THAT MR COPE ON, FROM
4 YOUR DISCUSSION WITH HIM, MIGHT HAVE BEEN LABORING
5 UNDER ANY KIND OF MENTAL DEFECTS SUCH AS RETARDATION
6 OR MENTAL ILLNESS OF ANY SORT?

7 A NO, SIR I HAD BEEN INFORMED THAT MR COPE HAD
8 A TWO YEAR DEGREE DURING THE INTERVIEW HE TOLD ME
9 IT WAS A FOUR YEAR DEGREE HE SEEMED TO BE OF GOOD
10 INTELLIGENCE I BELIEVE HIS SCHOOLING WAS IN THE
11 AREA OF COMPUTERS SO HE WAS INTERESTED IN THE FACT
12 THAT WE USED COMPUTERIZED POLYGRAPH, BUT, NO, HE
13 SEEMED TO BE FINE

14 Q ALL RIGHT AND WE HAVEN'T ACTUALLY DISCUSSED
15 HOW A POLYGRAPH WORKS, BUT HOW DOES THE FACT THAT
16 DISTRESS AND TIRED OR ANY OF THESE PROBLEMS, IF HE
17 WAS INTOXICATED OR UNDER THE INFLUENCE OF DRUGS, DID
18 YOU NOTICE ANYTHING THAT WOULD MAKE YOU THINK THAT
19 MIGHT BE THE CASE?

20 A NO, SIR HE WAS, DID NOT APPEAR TO BE UNDER ANY
21 TYPE OF INTOXICANT OR ANY TYPE OF DRUGS

22 Q HOW WOULD ANY OF THESE PROBLEMS THAT I HAVE JUST
23 GONE THROUGH WITH YOU, HOW WOULD ANY OF THEM AFFECT
24 THE ADMINISTRATION OF THE TEST?

25 A WELL, THAT'S INDIVIDUALIZED BUT GENERALLY WE

1 LOOK FOR IF IT'S GOING TO AFFECT THE ACCURACY OF THE
2 TEST OFTEN CAUSING WHAT WE CALL INCONCLUSIVE TEST
3 WHERE YOU CAN'T TELL BEING TIRED, BEING SLEEPY,
4 COULD CAUSE DIMINISHED RESULTS YOU COULD ACTUALLY
5 HAVE THE PERSON NODDING OFF SO THEREFORE WE WOULD NOT
6 BE GETTING INFORMATION AND WOULD NOT BE ACCURATE
7 AND INTOXICANTS, THE PERSON MIGHT NOT UNDERSTAND THE
8 QUESTIONS OR BE ERRATIC THERE ARE A LOT OF
9 DIFFERENT WAYS, BUT BASICALLY WE'RE LOOKING FOR
10 THINGS THAT WOULD AFFECT THE ACCURACY OF THE TEST
11 Q SO YOU ARE TRAINED TO SPECIFICALLY LOOK TO SEE
12 IF THEY ARE TIRED?
13 A YES, SIR
14 Q AND ANY INDICATION THAT HE WAS TOO TIRED TO TAKE
15 THIS TEST?
16 A NO, SIR THIS IS SOMETHING WE LOOK FOR IN EVERY
17 SINGLE TEST THAT WE RUN
18 Q WHAT TIME DID THE ACTUAL, DID YOU SAY YOU GAVE
19 HIM AN OPPORTUNITY USE THE BATHROOM, DID HE TAKE THAT
20 OPPORTUNITY?
21 A YES, SIR
22 Q WAS HE OFFERED ANY BEVERAGE OR ANYTHING TO MAKE
23 HIM MORE COMFORTABLE?
24 A THERE IS A WATER FOUNTAIN WITHIN A FEW FEET OF
25 WHERE WE GO TO THE RESTROOM AND HE WAS MADE AWARE OF

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1 THAT

2 Q ALL RIGHT, SIR AT WHAT TIME DID THE ACTUAL
3 ADMINISTRATION OF THE TEST ACTUALLY START?

4 A IT'S GOING TO BE LIKE 11 50 A M

5 Q AND HOW LONG DOES IT TAKE TO ADMINISTER A
6 POLYGRAPH TEST

7 A IT GENERALLY TAKES NO MORE THAN 15 MINUTES

8 Q AND HOW DO YOU DETERMINE WHAT QUESTIONS TO ASK
9 DURING A POLYGRAPH TEST?

10 A FIRST WE HAVE DEALT WITH THE INVESTIGATOR WHO IS
11 INVESTIGATING THE CASE AND WE WANT TO KNOW WHAT THEY
12 SEEK TO GET OUT OF THE TEST AS FAR AS INFORMATION, AS
13 FAR AS KNOWLEDGE, SO THAT WOULD BE ONE THING THAT
14 WILL COME INTO PLAY THEN WE WILL TALK WITH THE
15 INDIVIDUAL WHO IS GOING TO BE TESTED AND DEPENDING
16 UPON THEIR KNOWLEDGE OF THE TEST, EXCUSE ME, THEIR
17 KNOWLEDGE OF THE CASE, WE FORMULATE THE QUESTIONS AS
18 FAR AS WHAT NEEDS TO BE DETERMINED

19 Q SO HE WAS AWARE OF THE QUESTIONS YOU WERE GOING
20 TO ASK?

21 A YES, SIR ALL THE TEST QUESTIONS ARE REVIEWED,
22 WE DON'T WANT TO SURPRISE ANYONE WITH ANYTHING, SO
23 THE QUESTIONS ARE READ TO HIM IF THERE IS ANY
24 DIFFICULTIES, IF THERE ARE ANY MISUNDERSTANDINGS OVER
25 THE VERBIAGE OF THE LANGUAGE, WE MAKE THEM AS SIMPLE

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1 AND CLEAR AS CONCISE AS WE POSSIBLY CAN SO THOSE ARE
2 READ TO HIM HE IS GIVEN AN OPPORTUNITY TO ANSWER
3 THOSE QUESTIONS AND WORK OUT ANY PROBLEMS WITH THOSE
4 QUESTIONS BEFORE HE EVER SITS DOWN IN THE POLYGRAPH
5 CHAIR AND BEFORE WE EVER START

6 Q AND WHAT, WHAT DO YOU DO, I TAKE IT FROM THAT
7 /POINT YOU ADMINISTERED THE TEST, IT TOOK ABOUT 15
8 MINUTES?

9 A YES, SIR

10 Q WHERE DO YOU SCORE THE TEST AND HOW DO YOU SCORE
11 IT?

12 A AS I MENTIONED EARLIER OURS IS A COMPUTERIZED
13 POLYGRAPH WE HAVE A PRINTER WHERE THE CHARTS PRINT
14 OFF AFTER THE TEST IS RUN IT TAKES A FEW MINUTES
15 FOR THOSE TO PRINT ONCE THEY ARE THROUGH PRINTING I
16 RETRIEVE THEM AND I GO INTO AN ADJACENT OFFICE AND I
17 SIT DOWN AND ANALYZE THOSE CHARTS AND THAT TAKES
18 ROUGHLY 10 OR 15 MINUTES

19 Q WHAT IS THE POLYGRAPH ACTUALLY MEASURING?

20 A THE POLYGRAPH IS LOOKING AT THE FACT THAT WHEN
21 MOST PEOPLE TELL A LIE, ESPECIALLY IF IT'S SOMETHING
22 SERIOUS, IT CAUSES AN EMOTIONAL STATE WHEN A PERSON
23 EXPRESSES EMOTIONAL STATE IT CAUSES PHYSIOLOGICAL
24 REACTIONS WITHIN THE BODY THEIR PHYSIOLOGY CHANGES
25 IN THE BODY A TRAINED POLYGRAPH EXAMINER USES

1 POLYGRAPH TO RECORD THESE CHANGES IN PHYSIOLOGY AND
2 THEN USING THOSE CHANGES WE CAN INFER A PERSON'S
3 TRUTHFULNESS

4 Q AND WHAT EXACTLY DO YOU HAVE TO HOOK UP TO HIM
5 TO MEASURE THESE THINGS?

6 A FIRST WE HAVE A POLYGRAPH CHAIR, A CHAIR THAT'S
7 DESIGNED FOR POLYGRAPH THAT IS ACTUALLY VERY
8 COMFORTABLE AND IT HELPS TO KEEP A PERSON STILL WHILE
9 WE'RE RUNNING THE TEST, ONCE THEY ARE SEATED IN THE
10 CHAIR WE WILL ATTACH WHAT'S CALLED THE NEUMOGRAPH
11 TUBES THERE ARE TWO TUBES THAT MEASURE OR LOOK AT
12 THE RESPIRATION OF THE PERSON THEY GO ACROSS THE
13 CHEST SECONDLY, WE WILL ATTACH A BLOOD PRESSURE
14 CUFF WHICH IS A STANDARD MEDICAL BLOOD PRESSURE CUFF
15 AND THIRDLY, WHAT'S CALLED ELECTROTHERMO SENSORS WILL
16 BE ATTACHED TO TWO OF THEIR FINGERS

17 Q WHERE DID YOU SAY YOU WENT TO SCORE THE TEST
18 AFTER?

19 A I GO TO THE, I HAVE AN OFFICE ADJACENT TO THE
20 POLYGRAPH ROOM

21 Q AND HOW LONG DID THE SCORING PROCESS TAKE?

22 A IT GENERALLY WILL TAKE 10 TO 15 MINUTES

23 Q AFTER SCORING THE TEST, WHERE DID YOU THEN GO?

24 A I WENT BACK IN THE POLYGRAPH ROOM

25 Q AND WHERE WAS MR COPE DURING THIS TIME PERIOD

1 WHILE YOU WERE SCORING THE TEST?

2 A MR COPE WOULD HAVE BEEN MOVED BACK INTO THE
3 HOLDING ROOM THAT IS, THIS IS ALL WITHIN A, AN OFFICE
4 COMPLEX, SO THEY ARE JUST RIGHT NEXT TO EACH OTHER

5 Q OKAY DID YOU MAKE A DETERMINATION AS TO
6 WHETHER MR COPE PASSED OR FAILED THE POLYGRAPH?

7 A YES, SIR BASED UPON THE OUTCOME OF THE TEST,
8 INFORMATION ON THE TEST, I DETERMINED THAT
9 MR COPE --

10 MR BRACKETT IS THERE AN OBJECTION?

11 THE COURT I HADN'T HEARD ONE

12 MR BRACKETT YES, SIR

13 MR MORTON I THINK WE NEED TO DISCUSS
14 THIS WITH THE COURT

15 THE COURT ALL RIGHT I'M GOING TO LET
16 YOU GO TO THE JURY ROOM JUST FOR A FEW MINUTES

17 (THE JURY EXITS THE COURTROOM AT 10 38
18 A M)

19 THE COURT ALL RIGHT

20 MR MORTON I WOULD OFFER THIS, YOUR
21 HONOR, AS A PROPOSED LIMITING INSTRUCTION

22 THE COURT WHY DON'T WE TAKE A SHORT
23 BREAK AND I CAN READ THIS OVER AND IT'S A GOOD TIME
24 TO TAKE A BREAK ANYWAY I CAN TAKE A LOOK AT THIS
25 BECAUSE I DID ASK FOR SOMETHING ALONG THOSE LINES

1 THE STATE CAN LOOK AT IT HAVE YOU HAD A CHANCE TO
2 LOOK AT IT YET, MR BRACKETT?

3 MR BRACKETT NO, SIR

4 MR MORTON I'M SORRY I SHOULD HAVE
5 GOTTEN IT TO THEM BEFORE

6 THE COURT WE WILL TAKE A SHORT BREAK AND
7 YOU CAN STEP DOWN

8 (COURT'S IN RECESS AT 10 40 A M)

9 (COURT RESUMES AT 10 58 A M AND THE
10 WITNESS RESUMES THE WITNESS STAND)

11 THE COURT THE ISSUE IS THE LIMITING
12 INSTRUCTION WHICH I ASKED TO BE PREPARED AND IT HAS
13 BEEN PREPARED I HAVE GONE THROUGH MINE AND HAD
14 PARED IT DOWN TO WHAT I THINK REALLY WHAT IS
15 APPROPRIATE TO ADVISE THE JURY I HAVE BEEN TOLD BY
16 MY LAW CLERK THAT COUNSEL FOR THE DEFENSE APPEARS TO
17 BE OKAY WITH MY REVISIONS BUT THE STATE HAS SOME
18 CONCERNS

19 MR BRACKETT I THINK WE RESOLVED THOSE
20 WE'RE FINE

21 THE COURT ALL RIGHT MR MORTON, ARE
22 YOU OKAY WITH THE WAY I CHANGED IT?

23 MR MORTON YES, SIR

24 THE COURT MR GREELEY

25 MR GREELEY MR SANDERS HAS NO

1 OBJECTION

2 THE COURT YOU WANT ME TO CHARGE IT AT
3 THIS TIME?

4 MR MORTON YES, SIR

5 THE COURT LET'S BRING IN THE JURY

6 MR BRACKETT I NEVER GOT TO THE MONEY
7 QUESTION

8 THE COURT THE MONEY QUESTION

9 MR BRACKETT WHETHER HE PASSED OR
10 FAILED I NEVER ASKED I STOPPED

11 THE COURT ALL RIGHT YEAH, ASK HIM THE
12 MONEY QUESTION

13 MR BRACKETT THANK YOU

14 THE COURT THEN I'LL CHARGE IT OKAY
15 BRING THEM IN LET ME CHARGE THEM THIS BEFORE YOU GO
16 FORWARD

17 MR BRACKETT ALL RIGHT

18 (THE JURY RETURNS TO THE COURTROOM AT
19 11 01 A M)

20 THE COURT MEMBERS OF THE JURY PANEL,
21 YOU'VE HEARD SOME TESTIMONY REGARDING POLYGRAPH I
22 WANT TO TELL YOU AT THIS TIME THAT A POLYGRAPH IS A
23 MACHINE THAT MEASURES THE PHYSIOLOGICAL RESPONSES OF
24 A PERSON ON WHOM THE TEST IS ADMINISTERED THE
25 COURTS OF OUR STATE HAVE TRADITIONALLY NOT ALLOWED

1 THE JURY TO CONSIDER THE RESULTS OF POLYGRAPH TEST IN
2 YOUR DELIBERATIONS I AM ALLOWING THE STATE TO
3 INTRODUCE EVIDENCE OF MR BILLY WAYNE COPE, THE
4 DEFENDANT'S, SUBMITTING TO A POLYGRAPH EXAMINATION
5 AND RESULTS OF THAT TEST FOR A LIMITED PURPOSE LET
6 ME STRONGLY CAUTION EACH OF YOU FROM SUBSTITUTING THE
7 RESULTS OF THE POLYGRAPH FOR YOUR OWN JUDGMENT AND
8 COMMON SENSE YOU AND YOU ALONE ARE THE TRIERS OF
9 FACT IN THIS CASE AND YOU AND YOU ALONE WILL
10 DETERMINE WHETHER THE TESTIMONY GIVEN BY EACH AND
11 EVERY WITNESS IS TRUE AND WHAT TESTIMONY IS NOT TRUE
12 OUR SUPREME COURT HAS REPEATEDLY HELD THAT POLYGRAPH
13 EXAMINATION RESULTS ARE INADMISSIBLE TO PROVE THE
14 TRUTH OF THE MATTER WHICH THEY ASSERT THAT IS,
15 RESULTS OF A POLYGRAPH EXAMINATION MAY NOT BE USED TO
16 PROVE THE TRUTHFULNESS OR LACK OF TRUTHFULNESS OF THE
17 DEFENDANT'S STATEMENTS UNDER LIMITED CIRCUMSTANCES
18 POLYGRAPH EXAMINATION RESULTS MAY BE ADMITTED IN
19 EVIDENCE FOR OTHER PURPOSES SUCH AS IN THIS CASE
20 WHERE THE PARTIES HAVE AGREED THAT THE RESULTS WILL
21 BE ADMITTED TO SHOW THE EFFECT THE POLYGRAPH EXAM HAD
22 UPON MR COPE YOU DO NOT CONSIDER THE POLYGRAPH
23 EXAMINATION RESULTS FOR ANY OTHER REASON OR THE FACT
24 THAT THAT RESULT, THAT IS THE RESULTS OF THE TEST,
25 ADMINISTERED TO THE DEFENDANT MR BILLY WAYNE COPE

1 YOU MAY NOT CONSIDER THE RESULTS IN REGARDS TO THE
2 TRUTHFULNESS OR LACK OF TRUTHFULNESS OF MR COPE'S
3 STATEMENT

4 BY ALLOWING THE INTRODUCTION OF THIS
5 POLYGRAPH, THE COURT IS NOT VOUCHING FOR THE
6 RELIABILITY OF THE POLYGRAPH LIKEWISE, WITH THIS
7 LIMITING INSTRUCTION, THE COURT IS NOT ASSERTING THAT
8 THE POLYGRAPH IS NOT RELIABLE THE POLYGRAPH IS
9 SIMPLY A PIECE OF EVIDENCE YOU MAY CONSIDER ALONG
10 WITH THE OTHER EVIDENCE PRESENTED TO REACH A VERDICT
11 IN THIS CASE ALL RIGHT, MR BRACKETT
12 DIRECT EXAMINATION CONTINUED BY MR BRACKETT

13 Q ALL RIGHT, SIR WHEN WE, BEFORE WE BROKE YOU
14 HAD JUST SCORED THE EXAM?

15 A YES, SIR

16 Q AND YOU WENT BACK INTO THE ROOM WITH MR COPE TO
17 DISCUSS THAT WITH HIM?

18 A YES, SIR

19 Q AND DID YOU CONFRONT HIM WITH THE RESULTS OF THE
20 EXAMINATION THAT YOU HAD JUST DONE?

21 A YES, SIR, I DID

22 Q AND WHAT WERE THE RESULTS OF THE EXAMINATION
23 THAT YOU, THE POLYGRAPH EXAM THAT YOU DID ON
24 MR COPE?

25 A I ASKED HIM, MR COPE, THREE QUESTIONS RELEVANT

1 TO AMANDA'S DEATH AND THE DETERMINATION WAS DECEPTION
2 WAS INDICATED AS FAR AS HIS RESPONSES TO THOSE
3 QUESTIONS

4 Q AND WHAT WERE THE THREE QUESTIONS THAT YOU
5 ASKED?

6 A THE FIRST QUESTION WOULD HAVE BEEN DID YOU
7 CHOKE AMANDA AND HIS ANSWER WAS NO THE SECOND
8 QUESTION IN REGARD TO THAT WAS DID YOU CHOKE AMANDA
9 CAUSING HER TO DIE AND THE ANSWER WAS NO AND THE
10 THIRD QUESTION IN REGARD TO THAT WAS WERE YOU IN
11 THE ROOM WHEN AMANDA DIED AND HIS ANSWER WAS NO

12 Q ALL RIGHT NOW WHAT WAS HIS REACTION TO BEING
13 INFORMED BY YOU THAT HE HAD FAILED THE POLYGRAPH?

14 A HE DID NOT APPEAR TO BE SURPRISED WHATSOEVER

15 Q DID HE SHOW ANY EMOTIONAL REACTION AT ALL?

16 A NO, SIR HIS DEMEANOR DID NOT CHANGE HE DID
17 NOT GET UPSET BY THIS HE DID NOT ACT SURPRISED BY
18 THIS

19 Q RELATE TO THE JURY IF YOU WOULD BASICALLY HOW
20 DID YOUR CONVERSATION WITH THE DEFENDANT PROCEED FROM
21 THAT POINT?

22 A BASICALLY PROCEEDED IN THE SAME MANNER AND SAME
23 FASHION, IT WAS CONVERSATIONAL THE WHOLE TIME MY
24 INTERVIEW STYLE IS BASICALLY THAT, JUST A
25 CONVERSATION, FROM LETTING HIM KNOW THAT HE HAD

1 FAILED AND AGAIN HE WAS NOT SURPRISED THEN HE BEGAN
2 TO OFFER OR ASK QUESTIONS ABOUT HOW THIS COULD
3 HAPPENED THAT AS FAR AS HOW AMANDA COULD HAVE DIED
4 ONE OF HIS FIRST QUESTIONS TO ME WAS, COULD I HAVE
5 DONE THIS IN MY SLEEP

6 Q AND WHAT DID YOU ANSWER?

7 A I ANSWERED NO, I DID NOT BELIEVE THAT WAS
8 POSSIBLE

9 Q AND WHY IS THAT?

10 A A COUPLE OF REASONS ONE I JUST DON'T BELIEVE
11 IT'S FEASIBLE --

12 MR MORTON YOUR HONOR, I OBJECT

13 MR BRACKETT MAYBE WE SHOULD APPROACH
14 (BENCH CONFERENCE)

15 THE COURT I SUSTAIN THE OBJECTION

16 Q MR BAKER, WITHOUT DISCUSSING ANY OF THE
17 CONVERSATION THAT YOU HAD WITH MR COPE FROM ABOUT
18 FIVE MINUTES AFTER YOU ANNOUNCED THE RESULTS, DID
19 MR COPE ULTIMATELY EVER ADMIT CULPABILITY?

20 MR MORTON YOUR HONOR, I'M SORRY

21 THE COURT I SUSTAIN THE OBJECTION

22 MR MORTON I'M AFRAID AND I APOLOGIZE
23 FOR HAVING TO ASK THE JURY BUT I THINK WE HAVE A
24 MATTER OF LAW

25 THE COURT ALL RIGHT I'M GOING TO LET

1 YOU GO BACK OUT

2 (THE JURY EXITS THE COURTROOM AT 11 07
3 A M)

4 THE COURT YES, SIR

5 MR MORTON YOUR HONOR, AT THIS TIME WE
6 OBJECT TO ANY STATEMENT MADE BY MR COPE TO MR BAKER
7 OR TO MR HERRING ON THAT DAY NOVEMBER 30 BECAUSE WE
8 BELIEVE THAT THE STATE HAS NOT PROVEN THAT MR COPE
9 WAS ARRESTED WITH PROBABLE CAUSE ON THE NIGHT BEFORE
10 WE WERE HERE IN FRONT OF THE COURT TWO WEEKS AGO, I
11 BELIEVE IT WAS TWO WEEKS AGO

12 THE COURT I WAS HERE

13 MR MORTON I WAS TRYING TO REMEMBER WHEN
14 IT WAS, AND WE MADE A MOTION, OF COURSE, THAT THE
15 WARRANT WHICH I WOULD MOVE TO ADMIT AT THIS TIME
16 DOESN'T STATE ANY PROBABLE CAUSE, THAT THEY HAD NO
17 PROBABLE CAUSE TO ARREST MR COPE THAT NIGHT THAT
18 AS A RESULT OF HIS ARREST WITHOUT PROBABLE CAUSE ON
19 THE MURDER CHARGE THAT ANY STATEMENTS THAT HE MADE ON
20 NOVEMBER 30 SHOULD BE SUPPRESSED AS FRUIT OF THE
21 POISONOUS TREE THE COURT AT THAT TIME DENIED OUR
22 MOTION IT'S MY UNDERSTANDING THAT I HAD TO MAKE
23 THAT MOTION AGAIN NOW AFTER THE JURY HAS BEEN SWORN
24 AND I AM SO MAKING THAT MOTION THE COURT ALSO ASKED
25 US IF WE HAD ANY NEW INFORMATION TO PUT UP REGARDING

1 THAT

2 THE COURT YES, SIR

3 MR MORTON AND WE DO AND THE NEW
4 INFORMATION, IF YOU JUST WANT ME TO STATE IT FOR THE
5 COURT IS, IS THAT ON THAT DAY DETECTIVE BLACKWELDER
6 TESTIFIED THAT SHE SERVED MR COPE A MURDER WARRANT
7 AT 4 21 A M ON THE MORNING OF NOVEMBER 29, THAT SHE
8 THEN WORKED ALL NIGHT AND THEN SHE THEN CHARGED HIM
9 WITH UNLAWFUL NEGLECT WARRANTS AT 8 O'CLOCK THAT
10 MORNING MRS BLACKWELDER HOWEVER IN HER SYNOPSIS OF
11 THE EVENTS INDICATES IN HER OWN REPORT THAT SHE DID
12 NOT SERVE MR COPE WARRANTS FOR UNLAWFUL NEGLECT
13 UNTIL HE WAS RETURNED FROM HIS INTERVIEW WITH
14 MR COPE AND MR HERRING WHICH WOULD MAKE THE
15 STATEMENTS TO MR COPE AND MR HERRING FRUIT OF THE
16 POISONOUS TREE AS FAR AS THE LACK OF PROBABLE CAUSE
17 ON THAT DAY IN OTHER WORDS --

18 THE COURT BASED SOLELY ON THE MURDER
19 WARRANT?

20 MR MORTON YES, SIR YOUR HONOR, I
21 DON'T KNOW IF THAT'S BEEN MADE A PART OF THE RECORD
22 BUT I WOULD MAKE THE MURDER WARRANT A PART OF THE
23 RECORD AND IN MY OPINION CLEARLY DOESN'T STATE ANY
24 PROBABLE CAUSE I DON'T THINK THERE IS ANY PROBABLE
25 CAUSE TO ARREST HIM FOR MURDER

1 I WOULD ALSO LIKE TO ADMIT A INCIDENT
2 REPORT FROM MRS BLACKWELDER IN WHICH SHE STATES THAT
3 THE WARRANT WAS OBTAINED ON BILLY WAYNE COPE FOR THE
4 CHARGE OF MURDER MR COPE WAS ARRESTED FOR THE SAME
5 ON 11-30-01 BILLY COPE CONSENTED TO A POLYGRAPH AND
6 LIEUTENANT HERRING TRANSPORTED COPE TO THE MOSS
7 JUSTICE CENTER WHERE DETECTIVE MIKE BAKER DID
8 MIRANDIZE COPE AND DID COMPLETE SAME WHILE AT THE
9 SAME LOCATION WITH DETECTIVE BAKER AND LIEUTENANT
10 HERRING BILLY WAYNE COPE CONFESSED TO THE MURDER OF
11 HIS DAUGHTER AMANDA RENEE COPE COPE WAS BROUGHT
12 BACK TO THE ROCK HILL LAW CENTER WHERE HE WAS CHARGED
13 WITH MURDER, TWO COUNTS -- WHERE HE WAS CHARGED WITH
14 MURDER, TWO COUNTS OF CRIMINAL SEXUAL CONDUCT FIRST
15 DEGREE, THREE COUNTS OF, THREE COUNTS OF UNLAWFUL,
16 I'M SORRY HE'S CHARGED WITH MURDER, TWO COUNTS OF
17 CRIMINAL SEXUAL CONDUCT FIRST DEGREE, THREE COUNTS OF
18 UNLAWFUL NEGLECT THE NEXT SENTENCE IS HE WAS
19 TRANSPORTED BACK TO THE MOSS JUSTICE CENTER AFTER HIS
20 BOND WAS DENIED WHICH IS NOT WHAT WAS TESTIFIED TO
21 TWO WEEKS AGO

22 THE COURT WELL, OBVIOUSLY YOU ARE
23 CORRECT, YOU NEED TO MAKE A CONTEMPORANEOUS MOTION AT
24 THE TIME OF THE INTRODUCTION OF EVIDENCE I HEARD
25 THE EVIDENCE THERE MAY BE CONFLICTS IN THE

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1 EVIDENCE THAT'S NOT UNUSUAL PARTICULARLY IN A CASE
2 SUCH AS THIS I STAND WITH THE DECISION I MADE
3 EARLIER AND I DENY THE MOTION IN LIMINE AND WILL
4 ALLOW THE STATE TO CONTINUE THAT IS, THE RULING I
5 MADE IN LIMINE STAGE I AM STILL COMFORTABLE WITH AND
6 WILL ALLOW THE TESTIMONY FOR THE STATE TO GO FORWARD
7 BASED ON THE RULING MADE AT THAT TIME

8 MR MORTON SECONDLY, YOUR HONOR, AND I
9 THINK MY OBJECTION IS NOTED FOR THE RECORD AND I
10 WOULD LIKE TO INTRODUCE A COPY OF MRS BLACKWELDER'S
11 REPORT

12 MR BRACKETT NO OBJECTION

13 MR GREELEY NO OBJECTION

14 MR BRACKETT MY SECOND MOTION, YOUR
15 HONOR, IS I DON'T KNOW IF THE STATE INTENDS TO TRY TO
16 INTRODUCE MR BAKER SUMMARY'S OF WHAT MR COPE STATED
17 TO HIM ON THAT DAY OR NOT

18 MR BRACKETT I MIGHT WE'VE INTRODUCED
19 SEVERAL OF THEM DO YOU HAVE AN OBJECTION TO THIS?

20 MR MORTON YES, I HAVE AN OBJECTION TO
21 INTRODUCTION OF ANY SUMMARY MR BAKER MADE IT'S
22 HEARSAY IT'S NOT SIGNED BY MR COPE IT'S NOT EVEN
23 SIGNED BY MR BAKER IT'S NOT DATED NO TIME IS ON
24 IT ALL IT IS ---

25 THE COURT HE'S GOING TO CONCEDE

1 MR BRACKETT THAT'S FINE I WON'T
2 THE COURT SO IT WON'T BE INTRODUCED IT
3 WON'T BE OFFERED

4 MR BRACKETT YES, SIR

5 MR MORTON I THINK THAT'S ALL I HAVE
6 THE COURT BRING THE JURY BACK

7 MR BRACKETT BEFORE WE DO, WE HAD A
8 BENCH CONFERENCE IMMEDIATELY PRIOR TO, I WANTED TO
9 MAKE SURE I UNDERSTOOD AND MR BAKER UNDERSTOOD, I
10 WAS MOVING PAST THAT IN MY LAST QUESTION, BUT IT WAS
11 BRIEF CONVERSATION, I WANTED TO JUST APPRISE THE
12 COURT OF WHERE I WAS HEADED WITH THAT TO SEE IF
13 POSSIBLY YOU MIGHT RECONSIDER YOUR RULING BASED ON
14 WHAT I READ FROM THIS TO YOU AFTER ANNOUNCING HE
15 HAD FAILED, AND THIS IS FROM HIS REPORT, AT THIS TIME
16 DISCREPANCIES IN HIS STATEMENT WERE POINTED OUT TO
17 COPE, THE CASE FACTS WERE ALSO REVIEWED, AFTER
18 APPROXIMATELY FIVE OR TEN MINUTES COPE ASKED IF HE
19 COULD HAVE DONE THIS, REFERRING TO KILLING AMANDA,
20 AND NOT REMEMBER HAVING KILLED HER AFTER MORE
21 CONVERSATION COPE ASKED IF HE COULD HAVE KILLED
22 AMANDA IN HIS SLEEP AND NOT REMEMBER IT AFTER THESE
23 THEORIES WERE CHALLENGED HE STATED HE MUST HAVE DONE
24 IT NOW THIS IS THE, THIS IS THE LINK BETWEEN BEING
25 TOLD THAT HE'S FAILED TO HIM CONFESSING IT'S NOT

BEING OFFERED TO SAY THAT THE POLYGRAPH IS ANYMORE
RELIABLE ALL IT'S BEING OFFERED TO SHOW IS WHAT --

MR MORTON WE HAVE NO OBJECTION

THE COURT ALL RIGHT BRING IN THE JURY
MY UNDERSTANDING WAS AND THE REASON I INDICATED IT
WOULD NOT BE ADMISSIBLE, ALTHOUGH IT'S OVER NOW, WAS
THAT I THOUGHT WE WERE GOING INTO MORE EXPERT
ANALYSIS AS TO WHY HE HAD ASKED

MR MORTON THAT'S WHAT I THOUGHT

THE COURT AS TO WHY HE MADE THIS AND
WHAT THEY MEANT, NOT THAT THEY WERE MADE

MR BRACKETT YES, SIR, AND JUST WHAT THE
IMMEDIATE CONVERSATION FOLLOWING DISCUSSION OF THIS
WAS

(THE JURY RETURNS TO THE COURTROOM AT
11 15 A M)

THE COURT YOU MAY PROCEED

MR BRACKETT THANK YOU

DIRECT EXAMINATION BY MR BRACKETT

Q DETECTIVE BAKER, AGAIN WHERE WE WERE YOU HAD
JUST ANNOUNCED TO MR COPE IN THE ROOM THAT HE HAD
FAILED THE POLYGRAPH?

A YES, SIR

Q ON THE THREE QUESTIONS YOU REFERENCED EARLIER?

A YES, SIR, THAT'S CORRECT

1 Q AND YOU INDICATED THAT YOUR, HIS REACTION WAS HE
2 WASN'T SURPRISED AND SHOWED NO EMOTION?

3 A THAT'S CORRECT, NO EMOTION WHATSOEVER HE WAS
4 NOT SURPRISED

5 Q ALL RIGHT, SIR PLEASE OUTLINE FOR THE JURY
6 WHAT THE SUBSTANCE OF YOUR CONVERSATION WAS
7 IMMEDIATELY FOLLOWING THAT WHAT DID HE ASK YOU OR
8 WHAT DID YOU SAY TO HIM, TELL THE JURY WHAT WAS
9 DISCUSSED?

10 A IMMEDIATELY AFTER AND IN PART OF THE
11 CONVERSATION AS FAR AS EXPLAINING TO HIM THAT HE HAD
12 FAILED WE REVIEWED THE CASE FACTS BRIEFLY AS FAR AS
13 THE FACT THAT EVEN HE HAD SAID THAT THERE WAS NO
14 FORCED ENTRY INTO THE HOME, THE CIRCUMSTANCES
15 SURROUNDING AMANDA'S DEATH, AND WHO IS IN THE HOME
16 AND DIFFERENT THINGS THAT EVENING MR COPE ASKED
17 REFERRING TO KILLING AMANDA COULD HE HAVE DONE IT AND
18 NOT REMEMBER AFTER MORE CONVERSATION HE ASKED AGAIN
19 COULD HE HAVE DONE IT IN HIS SLEEP AND NOT REMEMBERED
20 AND I DISAGREED THAT THAT WOULD HAPPEN AND THAT HE
21 SAYS WELL I MUST HAVE DONE IT

22 Q ALL RIGHT, SIR NOW HYPOTHETICALLY AS AN EXPERT
23 IN POLYGRAPH ADMINISTRATION, WOULD SOMEONE HAVE A
24 PHYSIOLOGICAL REACTION TO AN EVENT, QUESTIONED ABOUT
25 AN EVENT, THAT THEY DIDN'T REMEMBER?

1 A THAT IS CORRECT, THEY WOULD NOT A PERSON
2 KNOWS WE ALL KNOW THINGS WE HAVE DONE OR HAVE NOT
3 DONE

4 MR MORTON YOUR HONOR --

5 THE COURT I SUSTAIN THE OBJECTION I
6 THOUGHT WE JUST DISCUSSED THAT I SUSTAIN THE
7 OBJECTION

8 Q ULTIMATELY DID HE GIVE A STATEMENT?

9 MR MORTON MY OBJECTION IS HE IS NOT
10 QUALIFIED TO STATE THAT KIND OF OPINION

11 THE COURT ALL RIGHT I SUSTAIN THE
12 OBJECTION

13 Q ULTIMATELY DID HE GIVE YOU AN INCRIMINATING
14 STATEMENT?

15 A YES, SIR, HE DID

16 Q OKAY AND APPROXIMATELY HOW LONG WAS THIS AFTER
17 YOU TOLD HIM THAT HE HAD FAILED THE POLYGRAPH?

18 A IT WAS APPROXIMATELY FIVE MINUTES, NO MORE THAN
19 TEN MINUTES, FROM THE TIME I RE-ENTERED THE ROOM AND
20 BILLY WAYNE, YOU FAILED, AND THAT BRIEF
21 CONVERSATION, SO BETWEEN FIVE AND TEN MINUTES, NO
22 MORE THAN TEN MINUTES

23 Q ALL RIGHT AND COULD YOU RELATE TO THE JURY THE
24 SUBSTANCE OF HIS STATEMENT WHAT HE TOLD YOU HAD
25 OCCURRED IN THE HOUSE THAT NIGHT?

1 A YES, SIR BILLY WAYNE THEN WENT ON TO EXPLAIN,
2 HE SAID THAT EVERYTHING HE HAD SAID WAS PRETTY MUCH
3 TRUE EXCEPT FOR SOME FACTS HE SAID THAT AFTER HE
4 HAD GOTTEN --

5 MR MORTON YOUR HONOR, I DON'T REALLY
6 OBJECT TO WHAT HE TOLD HIM, BUT AS TO THE PROCEDURE
7 THAT WE'RE NOW FOLLOWING, YOU KNOW, HE CAN REFRESH
8 HIS RECOLLECTION

9 THE COURT I THINK YOU NEED TO ASK
10 QUESTIONS AND HE CAN REFRESH HIS MEMORY USING THE
11 STATEMENT

12 Q OKAY WHAT DID HE TELL YOU THE TIME WAS THAT HE
13 WOKE UP WHEN HE WAS, PREPOLYGRAPH INTERVIEW, WHAT
14 TIME DID HE TELL YOU HE WOKE UP?

15 A HE SAID 3 A M HE WOKE UP AND WENT TO THE
16 RESTROOM

17 Q WHAT DID HE SAY HE DID AFTER HE WENT TO THE
18 RESTROOM IN THE POLYGRAPH?

19 A IN THE PRETEST INTERVIEW HE EXPLAINED THAT HE
20 HAD GOTTEN UP, USED THE RESTROOM, AND WENT AND
21 CHECKED ON THE TWO YOUNGER DAUGHTERS AND NOT CHECKED
22 ON AMANDA AND THEN RETURNED TO THE BED

23 Q ALL RIGHT NOW POST POLYGRAPH INTERVIEW, WHAT
24 DID HE TELL YOU OCCURRED AT 3 A M

25 A HE SAID AT THIS TIME HE SAID THAT HE HAD GOTTEN

1 UP TO USE THE RESTROOM AT 3 A M AND THEN ONCE HE HAD
2 USED THE RESTROOM HE STILL HAD AN ERECTION, IN HIS
3 WORDS A HARD ON, AND HE WALKED INTO AMANDA'S ROOM

4 Q AND WHAT DID HE SAY HE DID AFTER HE WALKED INTO
5 AMANDA'S ROOM?

6 A HE SAID THAT HE WENT IN THERE AND HE BEGAN TO
7 MASTURBATE HE POINTED OUT AND RE-ITERATED THAT HE
8 AND HIS WIFE HAD NOT BEEN HAVING NORMAL SEXUAL
9 RELATIONS FOR AWHILE HE SAID THAT HE WAS
10 MASTURBATING WHEN AMANDA WOKE UP AMANDA WOKE UP AND
11 SAID OH, GROSS, DADDY AND HE SAID THAT ENRAGED HIM
12 AND THAT HE JUMPED ON TOP OF HER

13 Q OKAY DID HE SAY WHETHER OR NOT, WHERE WAS HE
14 MASTURBATING, WHAT WAS HE MASTURBATING INTO?

15 A AT THAT POINT IN TIME HE WAS NOT SPECIFIC HE
16 WAS STANDING THERE AND HE SAID HE HAD MASTURBATED
17 INTO A WASH CLOTH HE WAS NOT QUITE SURE WHERE THE
18 EJACULATE WENT BUT HE WAS, EJACULATED INTO A WASH
19 CLOTH IN HER ROOM

20 Q WELL, THAT EVENING WAS HE MASTURBATING INTO A
21 WASH CLOTH OR DOES HE NORMALLY, CAN YOU --

22 A ACTUALLY IT SAID HE NORMALLY DOES AND PART OF
23 THE CONVERSATION HE HAD SAID THAT HE MASTURBATES BUT
24 THAT PARTICULAR EVENING HE WAS MASTURBATING INTO A
25 WASH CLOTH

1 Q OKAY DO YOU HAVE YOUR STATEMENT IN FRONT YOU?

2 A YES, SIR

3 Q OKAY ASK YOU TO REFRESH YOUR MEMORY LOOKING AT
4 THE THIRD, FOURTH LINE?

5 MR MORTON I THINK HE'S GOT TO ASK A
6 QUESTION AND IF HE CAN'T REMEMBER

7 THE COURT YEAH

8 MR BRACKETT YES, SIR

9 Q ARE YOU SURE ABOUT THAT? WOULD YOU PLEASE
10 REVIEW YOUR STATEMENT AND REFRESH YOUR MEMORY ON THAT
11 POINT?

12 MR MORTON I THINK HE'S ALREADY ASKED
13 AND ANSWERED IT IT'S NOT A TRY IT ONE TIME GET IT
14 RIGHT

15 THE COURT I'M GOING TO LET HIM ASK HIM
16 TO REVIEW THE STATEMENT, IF HE'S USING IT TO REFRESH
17 HIS MEMORY

18 A YES, SIR, AND I UNDERSTAND WHERE I MISSPOKE I
19 ACTUALLY SAID BOTH HE SAID HE NORMALLY MASTURBATES
20 INTO A WASH CLOTH AND I BELIEVE I SAID EARLIER HE WAS
21 NOT SURE WHERE THE EJACULATE WENT THAT'S BECAUSE HE
22 WAS NOT USING A WASH CLOTH THIS NIGHT HE DID NOT
23 REMEMBER CLEANING UP THE EJACULATE

24 Q OKAY HOW DID HE DESCRIBE THE RESULT ON AMANDA
25 TO YOU?

A HE SAID THAT HE BECAME ENRAGED, THAT WAS HIS WORDS, AND HE SAID THAT HE HAD JUMPED ON TOP OF HER AND, WHILE SHE WAS IN THE BED, AND I RECALL MR COPE AT THAT TIME WAS A RATHER BIG MAN, WELL OVER 300

POUNDS, HE SAID HE JUMPED ON TOP OF HER STRADDLING HER AND BEGAN SWINGING HIS FISTS HE VOLUNTARILY DEMONSTRATED THAT IT WAS WITHOUT BEING PROMPTED OR EVEN ASKED TO AND HE DEMONSTRATED SWINGING HIS FISTS IN FRONT OF HIS BODY AND HITTING HER IN THE HEAD

Q ALL RIGHT DID HE DESCRIBE OR HOW DID HE DESCRIBE THE STRANGULATION INJURIES TO AMANDA COPE?

A HE HAD, HE HAD TALKED ABOUT THE HITTING HER IN THE HEAD WITH HIS FIST HE ALSO TALKED ABOUT SLAMMING HER HEAD INTO A VIDEO GAME THAT WAS THERE IN THE BED WHEN TALKING ABOUT THE STRANGULATION BECAUSE THIS IS HOW I UNDERSTOOD THE CAUSE OF DEATH WAS STRANGULATION, I ASKED HIM IF HE HAD CHOKED HER WITH ONE HAND, JUST MAKING REFERENCE TO A PREVIOUS CASE THAT I HAD WORKED WHERE STRANGULATION HAD BEEN CAUSED BY ONE HAND, HE SAID NO, HE CORRECTED ME, AND HE SAID HE HAD USED BOTH HANDS, AND AGAIN UNSOLICITED HE DEMONSTRATED PUTTING HIS HANDS TOGETHER AS IF AROUND AMANDA'S NECK

Q ALL RIGHT WHAT, HOW DID SHE REACT TO THE ASSAULT? DID HE DESCRIBE THAT?

1 A VERY BRIEFLY AS FAR AS THAT SHE WAS MAKING SOME
2 NOISES AND HE TALKED TO HER ABOUT STRANGLING HER MORE
3 TO QUIET HER DOWN OR SHUT HER UP WE TALKED ABOUT
4 SOME DAMAGE TO HER STOMACH OR GROIN AREA I DID NOT
5 HAVE A LOT OF INFORMATION ABOUT THAT I ASKED HIM IF
6 HE HAD CAUSED THAT BY PUTTING A KNEE IN HER CHEST OR
7 IN HER GROIN BECAUSE AGAIN BECAUSE OF HIS LARGE SIZE
8 AND HE CORRECTED ME AND SAID NO, HE HAD STRADDLED HER
9 AND TALKED ABOUT THAT THERE WAS SOME STRUGGLE AND HE
10 HAD WRAPPED THE GREEN CLOTH HER AROUND HER NECK ALSO
11 AND STRANGLED HER UNTIL SHE QUIETED DOWN HE ALSO
12 TALKED ABOUT THAT NOT WORKING QUITE WELL, SO HE HAD
13 RE-TIED THE CLOTH AND BASICALLY USED IT AS LIGATURE
14 FASHION

15 Q HOW WAS HE BEHAVING DURING THIS DISCUSSION?

16 A PRETTY MUCH THE SAME VERY MUCH VOLUNTEERING
17 SPECIFICALLY THE INFORMATION ABOUT HOW HE WAS
18 STRIKING THE GIRL, STRANGLING THE GIRL HE WAS
19 TALKING FREELY ABOUT THIS

20 Q ALL RIGHT, SIR AND DID HE DESCRIBE THE SEXUAL
21 ASSAULT ON HER?

22 A YES, SIR WE HAD TALKED ABOUT THE FACT THAT
23 THERE WAS A SEX TOY IN THE HOME I HAD ANTICIPATED
24 THAT THIS WOULD HAVE BEEN USED IN THE SEXUAL ASSAULT
25 AND HE SAID NO, HE HAD NOT USED THE SEX TOY, THE

1 DILDO ON THE CHILD HE VOLUNTEERED THAT THERE WERE
2 TWO BROOMS IN THE HOUSE AND HE VOLUNTEERED THAT HE
3 HAD USED ONE OF THE BROOM HANDLES ON AMANDA HE
4 VOLUNTEERED THAT HE HAD USED IT BOTH ANALLY ON THE
5 CHILD AND ALSO VAGINALLY

6 Q AND PRIOR TO HIM TELLING YOU THIS WERE YOU AWARE
7 OR HAD YOU BEEN MADE AWARE OF THE EXTENT AND THE
8 VIOLENCE OF THE INJURIES OF AMANDA?

9 A NO, SIR I UNDERSTOOD THAT IT WAS OBVIOUS THAT
10 THERE WAS A, HAD BEEN SOME SEXUAL ACTIVITY OR HAD
11 BEEN A SEXUAL ASSAULT ON THE CHILD, BUT I WAS NOT
12 AWARE OF THE EXTENT OF THE DAMAGE OR HOW MUCH IT WAS
13 ALSO WAS NOT AWARE THAT WHAT THE OBJECT WOULD HAVE
14 BEEN OR WHAT TYPE OF OBJECT IT WOULD HAVE TAKEN TO
15 HAVE DONE THE DAMAGE

16 Q NOW HOW WAS HE EXPLAINING THIS TO YOU? WAS HE
17 FORTHRIGHT OR WAS HE HEDGING HIS COMMENTS IN ANY WAY?

18 A I WOULD ACTUALLY SAY A MIXTURE OF BOTH WHEN HE
19 WAS TALKING IT WAS PRETTY FORTHRIGHT WITHOUT ANY REAL
20 EMOTION THERE WAS NEVER ANY CRYING THE ONLY
21 CONCERN THAT I SAW MR COPE WAS SELF PRESERVATION
22 COMMENTS HE WOULD SOMETIMES MAKE THE COMMENT ABOUT
23 BEING ABLE TO SEE IT IN HIS MIND HE WOULD ALSO
24 REFER TO THE DREAM THAT HE TALKED ABOUT, THE RAPTURE
25 DREAM, AND SAYING COME UP AND HE SAID HE NOW

1 REALIZED THAT WAS NOW AMANDA'S VOICE THAT HE WAS
2 HEARING IN THE DREAM SOMETIMES HE WOULD PREFACE IT
3 WITH THE, YOU KNOW, BEING ABLE TO SEE IT IN OTHER
4 TIMES, IT WAS JUST A STRAIGHT OUT THIS IS WHAT
5 HAPPENED

6 Q WHEN DID HE SAY THE RELATIONSHIP BETWEEN THE
7 CONCLUSION OF HIM MASTURBATING AND THE USE OF THE
8 BROOMS, WHAT WAS THE RELATIONSHIP? DID HE CONCLUDE
9 MASTURBATING BEFORE HE USED THE BROOMS OR AFTER?

10 A HE HAD MASTURBATED BEFORE THE ATTACK BOTH
11 PHYSICALLY AS FAR AS THE ASSAULT HITTING, STRIKING,
12 AND CHOKING MASTURBATION WAS STARTING WHEN AMANDA
13 WAS ASLEEP THE PHYSICAL ATTACK WITH THE BROOM I
14 TOOK WAS AFTER, AFTER, WHEN MR COPE THOUGHT THAT THE
15 CHILD HAS ACTUALLY DEAD

16 Q DID HE SAY WHY HE DID THIS AFTER HE MASTURBATED?

17 A YES, SIR I ASKED HIM, YOU KNOW, SHE'S --
18 YOU'VE ALREADY MASTURBATED, WHY WOULD YOU CONTINUE A
19 SEXUAL ASSAULT AND HE, I QUOTE, I JUST WANTED TO PLAY
20 WITH MY DAUGHTER

21 Q ALL RIGHT, SIR DID HE DISCUSS WITH YOU
22 ANYTHING REGARDING HIS COMPUTER?

23 A YES, SIR I KNEW FROM THE CASE FACTS THAT
24 MR COPE HAD A COMPUTER IN TALKING ABOUT THAT
25 MR COPE IN EXPLAINING SOME OF HIS ACTIVITIES THAT

1 NIGHT --

2 MR MORTON YOUR HONOR, I WOULD NEED TO
3 APPROACH

4 (BENCH CONFERENCE AT 11 27 A M)

5 THE COURT YOU MAY PROCEED

6 Q MR BAKER, DID MR COPE TELL YOU AFTER THE
7 ASSAULT IN AMANDA'S ROOM HAD CONCLUDED THAT AT SOME
8 POINT IN TIME HE HAD DELETED THE TEMPORARY INTERNET
9 FILES OFF --

10 MR MORTON YOUR HONOR, I OBJECT TO THAT

11 THE COURT REPHRASE YOUR QUESTION

12 Q WHAT DID MR COPE TELL YOU IN REGARDS --

13 MR MORTON I OBJECT

14 THE COURT REPHRASE YOUR QUESTION

15 Q WHAT DID MR COPE TELL YOU IN REGARDS TO YOUR,
16 TO HIS COMPUTER?

17 MR MORTON MAY WE APPROACH?

18 Q ---AND ANY ACCESS TO --

19 (BENCH CONFERENCE AT 11 28 A M)

20 THE COURT I OVERRULE THE OBJECTION

21 Q WHAT DID MR COPE TELL YOU IN REGARDS TO THE
22 TEMPORARY INTERNET FILES ON HIS COMPUTER?

23 A HE TOLD ME THAT AFTERWARDS HE HAD GOTTEN UP AND
24 HE HAD DELETED TEMPORARY INTERNET FILES OFF OF HIS
25 COMPUTER

1 Q ALL RIGHT, SIR AND AFTER, AFTER THAT WHAT DID
2 MR COPE SAY HE DID?

3 A HE SAID HE ALSO HAD THROWN OUT THE DILDO, SAID
4 THAT HE WAS ASHAMED THAT IT WAS IN THE HOUSE AND THAT
5 HE SHOULD HAVE GOTTEN RID OF IT A LONG TIME AGO I
6 TOOK IT AS BEING ALSO AS FAR AS THE CLEANING OUT THE
7 TEMPORARY INTERNET FILES HE SAYS THAT HE HAD GONE
8 TO BED, PUT HIS FACE MASK ON, AND WENT TO SLEEP

9 Q ALL RIGHT, SIR NOW DID YOU AND LIEUTENANT
10 HERRING MEMORIALIZE THIS CONFESSION IN A WRITTEN
11 DOCUMENT?

12 A YES, SIR

13 Q ALL RIGHT, SIR

14 MR MORTON NO OBJECTION, YOUR HONOR

15 Q SHOWING YOU WHAT'S BEEN MARKED STATE'S EXHIBIT 4
16 AND ASK IF YOU WOULD TAKE A LOOK AT THAT TWO PAGE
17 DOCUMENT AND JUST TELL ME CAN YOU IDENTIFY WHAT THAT
18 DOCUMENT IS?

19 A YES, SIR, THIS IS A VOLUNTARY STATEMENT FORM,
20 IT'S A FORM THAT MY AGENCY USES FOR THIS PURPOSE, AND
21 THIS IS THE ONE THAT WAS FILLED OUT THAT DAY

22 Q OKAY, SIR AND WHOSE SIGNATURES APPEAR ON THAT?

23 A BILLY WAYNE COPE'S AND ALSO MY SIGNATURE

24 Q DID MR COPE HAVE AN OPPORTUNITY TO REVIEW THAT
25 DOCUMENT BEFORE HE SIGNED IT?

1 A YES, SIR

2 Q AND IS THAT IN FACT HIS SIGNATURE ON IT?

3 A YES, SIR, IT IS

4 Q ALL RIGHT, SIR WHO FILLED THAT OUT? WHOSE
5 HANDWRITING IS ON THAT DOCUMENT, THE STATEMENT
6 ITSELF?

7 A THIS IS LIEUTENANT HERRING'S AFTER
8 APPROXIMATELY AN HOUR OF INTERVIEW WITH MR COPE, THE
9 POST-TEST INTERVIEW, AFTER HE HAD GIVEN ME VERBAL
10 STATEMENTS EXPLAINING THE EVENTS OF THAT NIGHT I THEN
11 INVITED LIEUTENANT HERRING WHO WAS IMMEDIATELY
12 OUTSIDE MY DOOR INTO THE INTERVIEW

13 Q ALL RIGHT AND HOW LONG DID YOU AND LIEUTENANT
14 HERRING DISCUSS THE CASE WITH HIM PRIOR TO SIGNING
15 THAT FORM?

16 A WE GAVE MR COPE A BREAK AT APPROXIMATELY 1 30,
17 THAT'S AN APPROXIMATE TIME, GAVE HIM A BREAK HE HAD
18 A SOFT DRINK AT THAT TIME LIEUTENANT HERRING
19 ENTERED THE INTERVIEW AT THAT TIME AT TWO O'CLOCK
20 THE FIRST PART OF THE STATEMENT WAS FINISHED, SO
21 APPROXIMATELY 30 MINUTES

22 Q ALL RIGHT, SIR AT ANY POINT IN TIME DURING
23 MR COPE'S STAY AT YOUR OFFICE FROM APPROXIMATELY TEN
24 THAT MORNING UNTIL THE TIME THAT THAT INTERVIEW ON
25 THAT STATEMENT WAS CONCLUDED, DID ANYBODY IN YOUR

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1 PRESENCE THREATEN MR COPE?

2 A NO, SIR

3 Q DID ANYBODY USE ANY FORM OF PHYSICAL COERCION
4 UPON MR COPE?

5 A NO, SIR, NONE WHATSOEVER

6 Q WERE ANY PROMISES OF LENIENCY MADE TO MR COPE
7 TO INDUCE HIM TO GIVE AN INCRIMINATING STATEMENT?

8 A NO, SIR IN FACT, MR COPE ALMOST SEEMED TO BE
9 FISHING FOR THIS TYPE OF THING IN SOME OF HIS
10 STATEMENTS WHERE HE ASKED IF COULD HE COULD FRY, THAT
11 TYPE OF THING, AND I IMMEDIATELY MOVE THE
12 CONVERSATION AWAY FROM THAT, SO NO, SIR

13 Q ALL RIGHT, SIR WAS HE DENIED ACCESS TO
14 RESTROOM, WATER, BASIC HUMAN FACILITIES THAT MIGHT
15 MAKE HIM UNCOMFORTABLE AND FORCE HIM TO WANT TO TALK?

16 A NO, SIR IN FACT, FAR FROM DENYING, WE WOULD
17 MAKE SUGGESTIONS SUCH AS THE ONE BEFORE THE
18 POLYGRAPH, WE ASK THEM, DO YOU NEED TO GO TO THE
19 RESTROOM, DO YOU NEED SOMETHING TO DRINK, AND THEN
20 THE OTHER ONE INITIATED BY ME

21 Q ALL RIGHT WERE THE STATEMENTS THAT HE MADE TO
22 YOU THAT DAY THE ORAL STATEMENTS AND THAT WRITTEN
23 STATEMENT THERE THE PRODUCT OF HIS OWN FREE WILL?

24 A YES, SIR

25 Q DID HE EVER COMPLAIN TO YOU AT ANY POINT IN TIME

WHEN YOU WERE ALONE WITH HIM THAT ANYBODY ELSE HAD
EVER THREATENED HIM ON ANY PREVIOUS OCCASION?

A NO, SIR

Q OKAY WHEN LIEUTENANT HERRING JOINED YOU DID
MR COPE'S DEMEANOR CHANGE? DID HE APPEAR TO BE
AFRAID OF MR HERRING, DID HE, WAS HIS ATTITUDE OR
EMOTIONAL STATE CHANGE WHEN MR HERRING JOINED YOU IN
THE ROOM

A NO, SIR WHEN HE MADE THE INITIAL INTRODUCTION
FOR MR COPE AND I EVERYTHING SEEMED TO BE FINE HE
WAS JUST AS TALKATIVE AS THEN AS LATER WHEN HE WAS
WITH ME ALONE WHEN LIEUTENANT HERRING ENTERED THE
ROOM I NOTICED NO CHANGE, HE WAS STILL FORTHCOMING,
HE WAS STILL, WAS BEING VERY COOPERATIVE SO I SAW
NO CHANGE WHATSOEVER

MR BRACKETT COURT'S INDULGENCE JUST ONE
MOMENT

Q DID MR COPE TELL YOU, DO YOUR NOTES REFLECT
WHAT HE HAD DONE WITH THE BROOM AFTER HE USED IT TO
ASSAULT AMANDA?

A I DON'T BELIEVE THAT HE DID ANYTHING PARTICULAR
HE TALKED ABOUT THROWING OUT THE DILDO

Q I'M SPECIFICALLY REFERRING TO, CAN YOU LOOK
THROUGH AND SEE, IF YOU CAN'T REMEMBER INDEPENDENTLY
TO REFRESH YOUR MEMORY, TO SPECIFICALLY THAT PORTION

1 OF YOUR REPORT WHERE HE DISCUSSES THAT, WHAT DID HE
2 SAY HE DID OR IF HE DID, IF HE REMEMBERED AT ALL,
3 WHAT DID HE SAY ABOUT THAT?

4 A MR COPE STATED THERE WERE TWO BROOMS IN THE
5 HOUSE ONE BEING WOOD AND ONE BEING PLASTIC HE HAD
6 STATED HE HAD PULLED AMANDA'S PANTS AND PANTIES DOWN
7 HE POKED THE BROOM INTO HER BUTT FIRST, THAT WAS HIS
8 WORDING HE SAID THEN HE POKED HER UP FRONT, AGAIN
9 HIS WORDING REFERRING TO THE VAGINA THAT'S
10 SPECIFICALLY, HE STATED HE ONLY REMEMBERED USING THE
11 BROOM HANDLE ON HER

12 Q DID HE MAKE ANY STATEMENTS AT ALL ABOUT WHAT HE
13 DID WITH THE BROOMS AFTERWARDS?

14 MR MORTON I DON'T HAVE ANY OBJECTION TO
15 HIM REFRESHING HIS RECOLLECTION OBVIOUSLY IT'S
16 SOMETHING HE NEEDS TO DO

17 MR BRACKETT THE NEXT PARAGRAPH DOWN
18 THE FINAL SENTENCE THERE

19 A AND THE REASON WHY, THE INITIAL ANSWER, MR COPE
20 STATED HE DID NOT REMEMBER WHAT HE DID WITH THE
21 BROOM, SO I DID NOT REMEMBER ANYTHING SPECIFIC ABOUT
22 THE BROOM AS FAR AS WHAT HE HAD DONE WITH IT, ANY
23 THING SPECIFIC, BUT HE STATED HE COULD NOT REMEMBER
24 WHAT HE DID WITH THE BROOM

25 Q ALL RIGHT, SIR HOW DID THE INTERVIEW CONCLUDE?

1 A VERY CORDIAL THE VERY LAST THING THAT MR COPE
2 SAID TO ME, HE WAS ABOUT TO LEAVE THE ROOM, HE WAS
3 LEAVING WITH LIEUTENANT HERRING, HE TURNED AROUND AND
4 HE EXTENDED HIS HAND AND HE SAID THANK YOU, DETECTIVE
5 BAKER THANK YOU FOR HELPING ME GET IT OUT HE SAID
6 IT WAS ALL BOTTLED UP AND I TOOK HIS HAND, SHOOK
7 HIS HAND, AND HE AND LIEUTENANT HERRING LEFT THE
8 OFFICE

9 Q HOW DID HE APPEAR WHEN HE TELLING YOU THIS?

10 A HE APPEARED GENUINE STILL THERE WAS NO
11 OVERWHELMING EMOTION HE HAD NOT CRIED DURING THIS
12 ENTIRE TIME, HE WAS NOT CRYING AT THIS TIME, BUT HE
13 SEEMED TO BE GENUINELY THANKING ME FOR HELPING HIM
14 GET THIS OFF OF HIS CHEST

15 MR BRACKETT YOUR HONOR, I ALSO MOVE
16 STATE'S EXHIBIT FOUR INTO EVIDENCE AND I BELIEVE WE
17 NEED TO REDACT EXTRANEIOUS, IRRELEVANT MATERIAL OFF OF
18 THAT, AND WE WILL DO THAT BEFORE PUBLISHING IT TO THE
19 JURY

20 THE COURT ANY OBJECTION TO THE, SUBJECT
21 TO THE REDACTION?

22 MR MORTON NO, SIR

23 MR GREELEY NO, OBJECTION

24 THE COURT IT'S IN SUBJECT TO BEING
25 REDACTED

1 (STATE'S EXHIBIT 4 STATEMENT RECEIVED
2 INTO EVIDENCE)

3 MR BRACKETT THANK YOU VERY MUCH
4 PLEASE ANSWER ANY QUESTIONS MR MORTON MAY HAVE
5 CROSS EXAMINATION BY MR MORTON

6 Q DETECTIVE BAKER, I THINK CONGRATULATIONS MUST BE
7 IN ORDER FOR YOU, DO YOU AGREE WITH THAT?

8 A I DON'T KNOW WHERE YOU ARE GOING, SIR

9 Q WHERE I'M GOING IS THAT YOU HAVE COME IN HERE
10 AND TRIED TO CONVINCE THIS JURY THAT MR COPE HAS
11 JUST CONFESSED TO YOU VOLUNTARILY, EASILY, SIMPLY,
12 UPBEAT, JOVIALY, RIGHT?

13 A WHAT'S THE QUESTION

14 Q MY QUESTION IS IS THAT WHAT YOU ARE ATTEMPTING
15 TO DO, CONVINCE THEM?

16 A I'M RELATING THE FACTS AS THEY HAPPENED THAT
17 DAY

18 Q MY QUESTION IS ARE YOU TRYING TO CONVINCE THEM
19 THAT THAT IS HOW THIS INTERVIEW HAPPENED?

20 A NO, SIR I'M EXPLAINING THE INTERVIEW AS IT
21 HAPPENED AND THEY WILL MAKE UP THEIR MIND AS THEY SEE
22 FIT

23 Q OKAY WELL, WHY SHOULD THEY BELIEVE YOU? WHAT
24 EVIDENCE DO YOU HAVE TO PROVE THAT WHAT YOU SAY IS
25 ACCURATE?

1 A I HAVE MY STATEMENT I HAVE THE INDEPENDENT
2 STATEMENT OF A SECOND INVESTIGATOR WHO WAS THERE THAT
3 DAY

4 Q RIGHT

5 A I HAVE MY NOTES FROM THAT DAY

6 Q YOU HAVE YOUR NOTES?

7 A YES, SIR

8 Q HOW MANY TIMES HAVE YOU REFERRED TO YOUR NOTES
9 TODAY?

10 A MANY TIMES

11 Q WHY IS THAT?

12 A FOR ACCURACY SAKE

13 Q FOR ACCURACY WHAT'S THIS LADY RIGHT HERE
14 DOING?

15 A SHE IS TAKING NOTES

16 Q WHY IS SHE DOING THAT?

17 A FOR ACCURACY

18 Q WHY DIDN'T YOU DO THAT?

19 A I DID

20 Q OH WHEN DID YOU DO THAT?

21 A I DID THIS AFTER THE INTERVIEW

22 Q UM DO YOU USE A TAPE RECORDER, MR BAKER?

23 A NO, SIR

24 Q WHY NOT?

25 A ONE REASON WE DO NOT HAVE A TAPE RECORDER

1 SUITABLE FOR THIS TYPE OF INTERVIEW SECONDLY, I DO
2 NOT LIKE TO USE A TAPE RECORDER BECAUSE I FIND THAT
3 PEOPLE THAT I HAVE DEALT WITH IT USUALLY SHUTS THEM
4 DOWN MANY PEOPLE WILL NOT TALK WHEN THEY ARE ON
5 RECORD

6 Q ALL RIGHT FIRST OF ALL, YOU DON'T HAVE A TAPE
7 RECORDER SUITABLE FOR THIS KIND INTERVIEW, IS THAT
8 WHAT YOU SAID?

9 A YES, SIR

10 Q YOU ARE TELLING US THAT THE RICHLAND COUNTY
11 SHERIFF'S DEPARTMENT DOES NOT HAVE A TAPE RECORDER TO
12 TAPE RECORD AN INTERVIEW?

13 A NO, SIR, I DON'T KNOW WHAT THE RICHLAND COUNTY
14 SHERIFF'S OFFICE HAS?

15 Q WELL, I'M ASKING YOU

16 A I DON'T KNOW ABOUT THE RICHLAND COUNTY SHERIFF'S
17 DEPARTMENT

18 Q I'M SORRY YORK COUNTY SHERIFF'S DEPARTMENT

19 A THERE MAY BE I DO NOT HAVE ANYTHING BUT A
20 MICROCASSETTE AND I DO NOT CONSIDER THE QUALITY GOOD
21 ENOUGH TO TAPE AN INTERVIEW

22 Q YOU DON'T AND YOU CAN'T OBTAIN FROM YOUR
23 DEPARTMENT A TAPE RECORDER THAT IS SUITABLE TO ENSURE
24 A FAIR AND ACCURATE REPRESENTATION OF THE INTERVIEWS
25 AND INTERROGATIONS THAT YOU CONDUCT, IS THAT WHAT YOU

1 ARE TELLING US?

2 A IT'S NOT POLICY OR PROCEDURE OR NORMAL PROCEDURE
3 FOR OUR AGENCY FOR INTERVIEWS TO BE CONDUCTED THERE
4 ARE NO PROVISIONS FOR EVERY INTERVIEW TO BE CONDUCTED
5 OR EVEN SELECTIVELY I DO NOT HAVE A TAPE RECORDER
6 THAT IS SUITABLE FOR OPEN CONVERSATION THE ONLY
7 TAPE RECORDER I HAVE IS WHAT'S CALLED A MICROCASSETTE
8 THAT WE USE FOR, ACTUALLY FOR TAPING PHONE
9 CONVERSATION HARD WIRED TO THE RECORD

10 Q SO I GUESS THE ANSWER TO MY QUESTION IS NO, YOU
11 DO NOT HAVE THE ABILITY OR THE EQUIPMENT IN YOUR
12 DEPARTMENT TO TAPE RECORD A CONVERSATION WITH
13 MR COPE?

14 A I DO NOT HAVE THERE MAY BE SOMEWHERE IN OUR
15 AGENCY, I CAN'T SPEAK FOR 300-400 MAN AGENCY, BUT THE
16 PROCEDURE ARE NOT SET UP, THERE IS NOTHING
17 PROCEDURALLYLY FIXED FOR US TO TAPE RECORD
18 INTERVIEWS

19 Q WHY DON'T YOU DO IT, MR BAKER?

20 A EXCUSE ME?

21 Q WHY DON'T YOU DO IT?

22 A YOU HAVE TO TALK TO THE ADMINISTRATION AS FAR
23 AS MY PERSONAL OPINION ON TAPING INTERVIEWS IF IT WAS
24 MANDATED TOMORROW THAT WE HAVE TO TAPE ALL INTERVIEWS
25 I WOULD NOT HAVE A PROBLEM WITH THAT AGAIN I HAVE

1 SEEN SITUATIONS WHERE PEOPLE WOULD NOT WANT TO TALK
2 ON TAPE, THAT THEY WOULD YOU TO TURN IT OFF IF YOU
3 HAD IT I THINK THERE IS A LOT OF DOCUMENTATION
4 TOWARD THAT I THINK PEOPLE CAN RELATE TO THAT IF A
5 MICROPHONE IS STUCK IN FRONT OF THEIR FACE IT TENDS
6 TO SHUT THEM DOWN IF A VIDEO CAMERA IS STUCK IN
7 THEIR FACE IT TENDS TO SHUT THEM DOWN IT'S NOT
8 EVERYONE BUT FROM MY OWN PERSONAL EXPERIENCE, THAT IS
9 MY OPINION

10 Q WHY, HOW IS THAT?

11 A PERSONAL EXPERIENCE

12 Q YOU JUST SAY I'M GOING TO TAPE RECORD THIS
13 CONVERSATION AND IT'S NOT FAIR AND ACCURATE AS TO
14 Y'ALL CONVERSATION THAT IT FREEZE UP OR IS THAT WHAT
15 YOU ARE TELLING US?

16 A SOMETIMES IT HAPPENS, YES, SIR

17 Q MR BAKER, THE REASON THAT YOU DON'T TAPE RECORD
18 THESE CONVERSATIONS IS SO THAT YOU CAN COME IN HERE
19 AND TELL THIS JURY WHAT YOUR VERSION IS OF HOW THAT
20 CONVERSATION OCCURRED?

21 MR BRACKETT OBJECTION, ARGUMENTIVE

22 Q ISN'T THAT RIGHT?

23 THE COURT I OVERRULE THE OBJECTION

24 IT'S CROSS

25 Q ISN'T THAT RIGHT?

1 A NO, SIR, NOT AT ALL

2 Q YOU DENY THAT?

3 A I DENY THAT YES, SIR

4 Q THEN EXPLAIN TO ME ONCE AGAIN IF YOU DON'T MIND
5 WHY YOU DON'T DO IT YOU SAY THAT, AS I UNDERSTAND
6 IT, THAT IT'S UPSETTING TO THE PERSON THAT YOU ARE
7 INTERVIEWSING, IS THAT BASICALLY WHY?

8 A UPSETTING, YES, IT COULD BE THAT'S NOT MY
9 WORDS PEOPLE SHUT DOWN IF YOU THINK ABOUT ANY
10 TIME A PERSON HAS BEEN INTERVIEWED, THEY ARE NOT
11 PREPARED ESPECIALLY SOMEBODY WHO IS MAKING
12 INCRIMINATING STATEMENTS PEOPLE AREN'T COMFORTABLE
13 TALKING ABOUT THE FACT THAT I STRANGLED MY DAUGHTER
14 I POKED A FOREIGN OBJECT INTO HER BODY THEN YOU ADD
15 THE FACT THAT THEIR BEING TAPED OR PERMANENT RECORD
16 OF IT BEING AUDIO OR VIDEO TAPE, IT'S A PRETTY
17 DAMNING THING TO HAVE TO ADMIT I DID THIS TO SOMEONE
18 MUCH LESS MY OWN CHILD AND TO STICK A MICROPHONE IN
19 FRONT OF THEM, THEY, IN MY PERSONAL EXPERIENCE, IT
20 CAN BE VERY DETRIMENTAL TO SLOWING THEM DOWN AND
21 GETTING FREE FLOWING INFORMATION BECAUSE THEY ARE NOT
22 ONLY TALKING THEY KNOW TO YOU, SIMPLE THING AS FAR AS
23 INTERVIEWS THE MORE PEOPLE YOU HAVE IN AN INTERVIEW
24 THE MORE DIFFICULT IT IS TO GET THAT PERSON TO TALK,
25 THE MORE INTIMIDATED OR THE MORE PUT OFF OR THE MORE

1 SELF CONSCIOUS THEY BECOME IT'S THE SAME THING WITH
2 MICROPHONES OR A VIDEO CAMERAS

3 Q THIS IS A MURDER CASE, IS IT NOT, MR BAKER?

4 A YES, SIR

5 Q AND YOU'RE ASKING US TO CONVICT THIS MAN BECAUSE
6 OF WHAT YOU SAY HE TOLD YOU, THAT'S PRETTY IMPORTANT,
7 ISN'T IT?

8 A YES, SIR

9 Q VERY IMPORTANT, RIGHT?

10 A YES, SIR

11 Q BECAUSE WHAT YOU SAY HAPPENED IS VERY IMPORTANT
12 AND YOU ARE ASKING US TO TRUST YOU, RIGHT?

13 A YES, SIR

14 Q NOW HAVE YOU HEARD, CAN YOU TELL ME WHY, THE
15 FOUR HOUR INTERVIEW THAT THEY TOOK THE NIGHT BEFORE
16 WAS NOT DISCONCERTING TO MR COPE SUCH THAT HE
17 WOULDN'T TALK

18 A I'M SORRY REPHRASE THE QUESTION AGAIN

19 Q CAN YOU EXPLAIN TO ME WHY THE FOUR HOURS OF
20 TAPES THAT WE HAVE RIGHT HERE WHERE MR COPE WAS
21 RECORDED BY MR WALDROP, WAS NOT DISCONCERTING TO HIM
22 BUT YOU FEEL LIKE THAT YOUR TURNING ON A TAPE
23 RECORDER WOULD BE, CAN YOU EXPLAIN THAT?

24 A YES, SIR

25 Q OKAY

A VERY MUCH SO I THINK IT'S NOTED THAT DURING THE FOUR HOUR CONVERSATION THAT THE ATTORNEYS REFERRING TO ALTHOUGH I HAVE NOT BEEN PRIVY TO THAT, I ACTUALLY NEVER HEARD THAT TAPE, I UNDERSTAND THAT HE DID NOT MAKE ANY FORTHCOMING COMMENTS DURING THAT INTERVIEW WHETHER IT WAS BECAUSE IT WAS BEING TAPE RECORDED, I WASN'T THERE, I DIDN'T OBSERVE FIRST HAND I WILL NOTE THAT IF HE DID NOT DURING THAT TIME WHILE IT WAS BEING TAPED, WITH ME HE WAS FORTHCOMING, WE HAD BUILT A RAPPORT, HE WAS VERY COMFORTABLE, HE DID TALK COMFORTABLY TO ME

Q SO THE ANSWER TO MY QUESTION IS IS THAT, YOUR ANSWER TO MY QUESTION IS THAT WHEN HE WAS BEING TAPE RECORDED HE WASN'T BEING HONEST AND WHEN HE WASN'T BEING TAPE RECORDED HE WAS?

A AGAIN --

Q IS THAT WHAT YOU ARE SAYING?

A AGAIN I HAVEN'T BEEN PRIVY TO THOSE TAPES BECAUSE I DON'T KNOW WHAT HE'S SAYING, WHETHER HE'S BEING HONEST OR NOT

Q ALL RIGHT YOU SAID HE WASN'T FORTHCOMING ON THE FOUR HOURS BEFORE?

A THAT'S WHAT I UNDERSTAND, YES, SIR

Q SO I GUESS THE ANSWER TO MY QUESTION IS THAT WHEN HE WAS BEING RECORDED HE WASN'T BEING

1 FORTHCOMING AND WHEN HE WAS NOT BEING RECORDED HE
2 WAS?

3 A WELL, I DON'T -- YES, SIR, THAT WOULD BE
4 CORRECT

5 Q NOW MR COPE ARRIVED OVER AT YOUR DEPARTMENT AT
6 ABOUT 10 A M , CORRECT?

7 A YES, SIR

8 Q STATEMENT WAS COMPLETED ABOUT 2 25, CORRECT?

9 A YES, SIR

10 Q THE POLYGRAPH ITSELF TOOK ABOUT, I THINK YOU
11 SAID, 12 TO 15 MINUTES, CORRECT?

12 A ABOUT 15 MINUTES, YES, SIR

13 Q THERE WAS A QUOTE PRETEST INTERVIEW WITH
14 MR COPE, CORRECT?

15 A THERE WAS A PRETEST INTERVIEW, YES, SIR

16 Q YOU SPOKE WITH LIEUTENANT HERRING ABOUT THE
17 FACTS OF THE CASE BEFORE YOU SPOKE WITH MR COPE,
18 CORRECT?

19 A YES, SIR

20 Q OKAY AND DO YOU KNOW HOW LONG LIEUTENANT
21 HERRING SAID Y'ALL SPOKE?

22 A EXCUSE ME?

23 Q DO YOU KNOW HOW LONG LIEUTENANT HERRING SAYS
24 Y'ALL SPOKE?

25 A NO, SIR

1 Q BUT YOU STATED 30-45 MINUTES?

2 A APPROXIMATELY, YES, SIR

3 Q OKAY 30-45 MINUTES YOU SAY YOU SPOKE WITH
4 LIEUTENANT HERRING YOU GAVE A PRETEST INTERVIEW
5 YOU GAVE A POLYGRAPH TEST MAYBE 15 MINUTES WHAT
6 HAPPENED, MR BAKER, IN THIS UNRECORDED OTHER TWO,
7 TWO AND A HALF HOURS OF YOUR CONVERSATION WITH
8 MR COPE?

9 A WHAT HAPPENED?

10 Q EXACTLY THAT'S WHAT I'M ASKING YOU, WHAT
11 HAPPENED BECAUSE WE DON'T KNOW?

12 A YES, SIR I'VE RELATED THE CONVERSATION THAT WE
13 HAD THERE WERE BREAKS THERE WERE TIME SPANS WHERE
14 IT TOOK TIMES TO DO STUFF YOU KNOW AS FAR AS
15 RUNNING THE CHARTS, ANALYZING THE CHARTS AS I
16 RELATED EARLIER THIS IS THE CONVERSATION THAT TOOK
17 PLACE

18 Q TWO AND A HALF HOURS?

19 A ROUGHLY I BELIEVE THE, AFTER THE TEST WE'RE
20 ONLY LOOKING AT ABOUT AN HOUR OR SO

21 Q WELL, WHAT TIME DID YOU START THE TEST? THE
22 CHART SAID 12 50?

23 A THAT'S CORRECT, THE TIME STAMP IS INCORRECT
24 THE TEST, IT'S 11 50 IT HAD NOT BEEN ADJUSTED FOR
25 TO SAVING TIME

1 Q WE WEREN'T ON SAVING TIME I BELIEVE IN NOVEMBER?

2 A RIGHT, IT HAD BEEN NOT ADJUSTED EITHER FOR OR
3 FROM

4 Q OKAY

5 A BUT THE TEST --

6 Q SO HE TAKES A 15 MINUTE TEST AT 11 50, WHAT
7 HAPPENED FOR THE NEXT TWO AND A HALF HOURS?

8 A UM ---

9 Q IN OTHER WORDS, LET ME--IN THIS TWO AND A HALF
10 HOURS -- AFTER THIS TEST YOU SAY THAT MR COPE, YOU
11 TOLD HIM HE FAILED THE TEST AND HE, HE DIDN'T SEEM
12 SURPRISED, RIGHT?

13 A THAT'S CORRECT

14 Q THIS IS FROM A MAN THAT WE HEARD THE NIGHT
15 BEFORE WHO HAD INSISTED 665 TIMES ON HIS INNOCENCE
16 AND INSISTED ON THAT POLYGRAPH, THAT THAT POLYGRAPH
17 WOULD CLEAR HIM HE SAID LET ME HAVE THE POLYGRAPH,
18 IT WILL CLEAR ME, DID HE NOT?

19 A I'M SORRY I WASN'T PRIVY TO THAT, SO I DON'T
20 KNOW

21 Q THEN AFTER YOU GIVE HIM THE POLYGRAPH AND YOU
22 TELL HIM HE FAILS HE SEEMS UPBEAT, ALMOST JOVIAL IS
23 YOUR TESTIMONY DOES THAT STRIKE YOU AS STRANGE AT
24 ALL?

25 A NO, SIR

1 Q IT DOESN'T?

2 A NO, SIR

3 Q MR BAKER, FOR ALMOST TWO AND A HALF HOURS AFTER
4 THIS POLYGRAPH YOU TALKED TO MR COPE, DID YOU NOT?

5 A NO, SIR, I WOULD DIFFER FROM YOU ON THE
6 TIMEFRAME, THE TWO AND A HALF HOUR THE TEST WOULD
7 HAVE CONCLUDED APPROXIMATELY 12 05, TIME TO STUDY THE
8 TESTS, ANALYZE IT, YOU KNOW, ROUGHLY AROUND 15
9 MINUTES THAT PUTS AROUND APPROXIMATELY 12 20

10 Q WAIT A MINUTE LET ME ASK YOU YOU STARTED AT
11 11 50, RIGHT?

12 A UH-HUH

13 Q POLYGRAPH TOOK HOW LONG?

14 A ROUGHLY 15 MINUTES

15 Q SO THAT'S 12 05

16 A AND ANOTHER 15 MINUTES TO ANALYZE THE CHARTS,
17 PRINT THE CHARTS, SO WE'RE DONE AT 12 20 AT 1 30 WE
18 HAD GIVEN MR COPE A BREAK AND A SOFT DRINK

19 Q Y'ALL WERE CONSIDERATE WHAT DID YOU DO BETWEEN
20 12 20 AND 1 30

21 MR BRACKETT I OBJECT

22 THE COURT JUST DISREGARD WHAT I WOULD
23 CALL AN EDITORIAL COMMENT LET'S JUST KEEP QUESTION
24 ANSWER, QUESTION ANSWER, QUESTION ANSWER

25 MR MORTON I APOLOGIZE

1 Q WHAT DID YOU DO BETWEEN 12 20 AND 1 30?

2 A THAT'S WHERE MR COPE RELATED THE EVENTS OF THE
3 NIGHT

4 Q THAT'S WHERE MR COPE RELATED THE EVENTS OF THE
5 NIGHT?

6 A CORRECT

7 Q IN OTHER WORDS, YOU GAVE HIM THE POLYGRAPH, HE
8 FAILED IT, ACCEPTED IT, THEN HE JUST TOLD YOU THAT HE
9 RAPED AND MURDERED, RAPED WITH A BROOM STICK, THIS
10 MAN RIGHT HERE, HIS OWN DAUGHTER, RIGHT?

11 A YES, SIR

12 Q OKAY AND WHAT DID HE SAY ABOUT MR SANDERS?

13 A HE DID NOT SAY ANYTHING ABOUT MR SANDERS

14 Q HE DIDN'T THE FACT IS, MR BAKER, THAT BILLY
15 COPE BELIEVED IN THAT TEST, HE INSISTED ON THAT TEST,
16 HE WANTED THAT TEST, AND WHEN YOU TOLD HIM THAT HE
17 FAILED IT HE COULDN'T BELIEVE IT HE WAS SHOCKED
18 HE BEGAN TO DOUBT HIMSELF

19 MR BRACKETT YOUR HONOR, I AM GOING TO
20 OBJECT THIS IS ARGUMENTATIVE

21 THE COURT I SUSTAIN -- WHEN HE OBJECTS
22 YOU STOP

23 MR MORTON OKAY I'M SORRY

24 THE COURT I SUSTAIN THE OBJECTION

25 MR BRACKETT MOVE TO STRIKE

THE COURT WELL, IT WASN'T EVEN ANSWERED

Q ISN'T IT TRUE --

MR BRACKETT THE COMMENT ITSELF

Q ISN'T IT TRUE, MR BAKER, THAT THIS MAN WHO HAD
RESISTED, WHO HAD FOR FOUR HOURS SAID HE HAD NOTHING
TO DO, DIDN'T HEAR, DIDN'T KNOW ABOUT IT, INSISTED ON
POLYGRAPH, FAILED IT, THIS WAS AT SOMETIME THAT
MORNING, CORRECT? HE HAD BEEN UP ALL NIGHT FOR THE
MOST PART, CORRECT?

A I ASKED HIM HOW MUCH SLEEP HE GOT, HE SAID LESS
THAN NORMAL, BUT HE FELT FINE

Q HE HAD BEEN CHARGED WITH MURDER AND MURDER OF
HIS OWN DAUGHTER AT 4 21 A M , CORRECT?

A IF YOU SAY SO I DON'T KNOW

Q AND YOU WERE CONDUCTING A POLYGRAPH TEST ON HIM
BEGINNING AT ABOUT 10 45 THAT MORNING AND YOU WERE
POLYGRAPHING HIM ON A PRETTY EMOTIONAL SUBJECT, WOULD
YOU AGREE?

A YES, IT COULD HAVE BEEN, YES, SIR

Q YOU FEEL LIKE HE WAS A SUITABLE CANDIDATE FOR
POLYGRAPH JUST GIVEN THE BENEFIT OF THE DOUBT EVEN IF
HE SLEPT?

A YES, SIR I HAD GIVEN HIM THE BENEFIT OF DOUBT
AND DIDN'T EVEN CONSIDER GIVING THE POLYGRAPH THE
PREVIOUS NIGHT ONCE I EVALUATED, THAT IS THE WHOLE

1 PURPOSE OF PRETEST INTERVIEW, AND THERE ARE MANY
2 TIMES WHEN I HAVE TURNED OFFICERS AROUND SAYING IT'S
3 NOT GOING TO BE CORRECT TO PERFORM ONE AND THAT WOULD
4 HAVE HAPPENED THAT DAY IF MR COPE HAD GIVEN ME ANY
5 INDICATION OR ANY REASON TO THINK THAT IT WOULD HAVE
6 BEEN IMPROPER TO GO FORWARD, SO NO, HE GAVE ME NO
7 REASON WHATSOEVER ALL THESE WERE TAKEN INTO
8 CONSIDERATION

9 Q WAS HE FALLING ASLEEP AT ALL DURING THE TEST?

10 A NO, SIR, NOT AT ALL

11 Q HE DIDN'T DO THAT?

12 A NOT AT ALL

13 Q YOU ARE SURE ABOUT THAT?

14 A YES, I'M SURE ABOUT THAT

15 Q HE WAS UNDER A TREMENDOUS AMOUNT OF STRESS
16 ORDINARILY SOMEBODY WOULD BE, WOULD THEY NOT?

17 A YOU WOULD THINK THEY WOULD BE, YES, SIR

18 Q IS THAT A FACTOR?

19 A IT COULD BE, YES, SIR

20 Q IN FACT, POLYGRAPH TESTS AND EXAMINING IS A VERY
21 SUBJECTIVE ENTERPRISE?

22 A A SPECIFIC AREA THAT YOU ARE TALKING ABOUT?
23 SOME OF IT IS SUGGESTIVE, SOME OF IT IS NOT

24 Q I'M TALKING ABOUT GIVING THEM QUESTIONS YOU ASK,
25 RESPONSES, GRADING, YOU ARE ASKING, YOU ARE TRYING TO

1 DEPEND ON A MACHINE TO TELL YOU WHETHER SOMEBODY IS
2 TELLING THE TRUTH OR NOT AND THAT IS A SUBJECTIVE
3 THING, IS IT NOT?

4 A ACTUALLY THE INSTRUMENT WE USE IS ONLY RECORDING
5 THE PHYSIOLOGICAL CHANGES IT DOES NOT TELL YOU
6 WHETHER THE PERSON IS TELLING, BASICALLY IT IS
7 LOOKING AT THE PHYSIOLOGY THAT OCCURS WHILE THE TEST
8 IS BEING GIVEN, SO THAT WOULD BE INCORRECT AS FAR AS
9 RELYING ON THE MACHINE TO MAKE A DETERMINATION

10 Q AND GUILTY PEOPLE PASS POLYGRAPHS INNOCENT
11 PEOPLE FAIL THEM, CORRECT?

12 A THERE ARE ERROR RATES IN ANY SCIENCE, YES, SIR

13 Q NOW WHAT HAPPENED WAS THAT AFTER YOU GAVE HIM
14 THIS POLYGRAPH THAT HE HAD BEEN SO INSISTENT UPON,
15 YOU BEGAN TO TELL HIM THAT HE DID IT, IS THAT FAIR?

16 A NO, SIR AFTER THE POLYGRAPH WHICH AND I'LL
17 COMMENT TO YOUR PREFACE OF THE QUESTION, MANY, MANY
18 PEOPLE WHO ARE GUILTY OF CRIMES REQUEST POLYGRAPH
19 EXAMS I SOMETIMES EVEN CAUTION OUR INVESTIGATORS
20 ABOUT SEEING --

21 Q IF YOU'LL JUST ANSWER MY QUESTION

22 MR BRACKETT OBJECTION, I THINK HE'S
23 TRYING TO

24 THE COURT SUSTAINED LET HIM FINISH

25 A I SOMETIMES CAUTION OUR INVESTIGATORS ABOUT