

15698

VOLUME SIX 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

~~Billy Wayne Coker~~

James Edward Sanders

Appellant

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1 HAVE THOSE CASE STUDIES BASED ON THOSE CASE
2 STUDIES, BECAUSE PSYCHOLOGISTS BECAME VERY INTERESTED
3 IN WHAT ARE THE CONDITIONS UNDER WHICH YOU COULD
4 ACTUALLY DO THIS TO A PERSON, AND SO BRING IT INTO
5 THE LABORATORY AND WE NOW FIND THAT THERE ARE
6 LABORATORY EXPERIMENTS WHICH FOR EXAMPLE WE CAN GET
7 PEOPLE TO BELIEVE THAT THEY BROKE A COMPUTER THEY
8 DIDN'T BREAK, THAT THEY, WE GET PEOPLE TO CONFESS TO
9 SOME KIND OF CHEATING CRIME THAT THEY DIDN'T COMMIT,
10 AND IN SOME CASES PEOPLE ARE LEAD TO BELIEVE AND THEY
11 COME TO BELIEVE THAT THEY WERE STUCK IN A HOSPITAL
12 ONE NIGHT, THAT THEY GOT LOST IN A SHOPPING MALL AS A
13 CHILD THAT IN FACT PSYCHOLOGISTS HAVE FOUND IF YOU
14 PRESENT PEOPLE WITH FALSE EVIDENCE OF SOMETHING THEY
15 DON'T REMEMBER AND IT'S FALSE, OVER TIME THEIR MEMORY
16 STARTS HAVING A WAY OF FILLING IN THE PIECES AND OVER
17 TIME MANY PEOPLE, NOT ALWAYS, BUT MANY PEOPLE THEN
18 CONSTRUCT A MEMORY AROUND THIS NEW BELIEF

19 Q DOCTOR, WHAT MAKES PEOPLE VULNERABLE TO THIS
20 TYPE OF MEMORY ALTERATION? WHAT SPECIFICALLY MAKES
21 PEOPLE VULNERABLE TO THAT?

22 A CERTAIN TYPES OF PEOPLE ARE MORE VULNERABLE THAN
23 OTHERS YOU CAN IMAGINE, AND THERE ARE A NUMBER OF
24 CASES LIKE THIS, YOU CAN IMAGINE THAT A SIX, SEVEN,
25 OR EIGHT YEAR OLD CHILD BEING ASKED A SERIES OF VERY

1 SUGGESTIVE QUESTIONS MIGHT BE VULNERABLE TO THIS TYPE
2 OF MANIPULATION SOMEONE WHO LACKS INTELLIGENCE, WHO
3 IS MENTAL RETARDED, MIGHT BE HIGHLY SUGGESTABLE IN
4 RESPONSE TO VERY SUGGESTIVE, LEADING QUESTIONS, SO
5 YOU MIGHT GET IT WITH PEOPLE AS A FUNCTION OF THE
6 FACT THAT THEY ARE NAIVE ON THE OTHER HAND, THERE
7 ARE OTHER PEOPLE WHO ARE NOT DISPOSITIONALLY, IT'S
8 NOT SOMETHING ABOUT THEM, THEY ARE NOT SOMEONE WHO ON
9 A NORMAL BASIS YOU WALK UP TO AND SEE THAT THEY ARE
10 VULNERABLE TO MANIPULATION BUT YOU KNOW, IF YOU'VE
11 BEEN THROUGH TRAUMA, IF YOU ARE UNDER A GREAT STRESS,
12 IF YOU'RE TIRED, FATIGUED, EXHAUSTED, SLEEP DEPRIVED,
13 WHATEVER, OR IF THE CRIME THAT YOU ARE BEING ASKED
14 ABOUT OCCURRED AT A TIME WHEN YOU WERE UNDER THE
15 INFLUENCE OF DRUGS AND THE FIRST THING YOU WOULD
16 ADMIT IS I REALLY DON'T HAVE A FULL MEMORY, I WAS
17 DRINKING WITH MY BUDDY, UNDER THOSE CASES AS WELL
18 THEY ARE VULNERABLE TO MANIPULATION, THEIR MEMORY
19 BECOMES VULNERABLE TO MANIPULATION, SO THOSE ARE SOME
20 OF THE CIRCUMSTANCES THAT MAKE INDIVIDUALS
21 VULNERABLE, SOMETHING ABOUT A PERSON BUT IT CAN ALSO
22 BE ABOUT SOMETHING WITH THE SITUATION
23 Q LET'S TURN TO YOUR STUDY OF INTERROGATION
24 INTERVIEW TECHNIQUES ARE THERE TECHNIQUES THAT ARE
25 COMMONLY USED, PARTICULARLY IN A POLICE SETTING, TO

1 OBTAIN CONFESSIONS?

2 A YES, AND WE'VE KNOWN THIS FOR MANY, MANY YEARS
3 AND IN 1967 THE U S SUPREME COURT WANTED TO
4 INVESTIGATE HOW INTERROGATION TAKE PLACE BECAUSE IT
5 OFTEN TAKES PLACE BEHIND CLOSED DOORS AND A VERY
6 SECRETIVE PROCESS SO THEY TURNED TO SOME
7 OBSERVATIONAL STUDIES THAT WERE DONE, STUDIES THAT
8 ACTUALLY WENT INTO THE INTERROGATION ROOM AND
9 OBSERVED WHAT WAS HAPPENING MORE RECENTLY THERE ARE
10 OBSERVATIONAL STUDIES HERE AND IN GREAT BRITAIN AGAIN
11 CORROBORATING WHAT IS DONE IN INTERROGATION

12 WE KNOW WHAT INTERROGATION LOOKS LIKE IN
13 MOST CASES BECAUSE WE KNOW HOW PEOPLE ARE BEING
14 TRAINED TO DO IT WE KNOW WHAT THE TRAINING MANUALS
15 ARE, SO PSYCHOLOGISTS IN THIS AREA STUDY THE TRAINING
16 MANUAL

17 Q AND DO THESE TRAINING MANUALS TALK ABOUT
18 INTERVIEWS AND INTERROGATION AND THE DIFFERENCES
19 BETWEEN THOSE?

20 A YES, AND THEY ARE NOT SYNONYMOUS AN INTERVIEW
21 AND INTERROGATION IS NOT THE SAME THING NOW
22 SOMETIMES IT SOUNDS LIKE THE WORDS ARE BEING USED
23 INTERCHANGEABLY BUT IT WOULDN'T BE CORRECT
24 ESSENTIALLY, AND LET ME QUOTE THAT THERE IS A SINGLE
25 BOOK CALLED THE INBAU AND REID MANUAL THAT WAS FIRST

1 PUBLISHED IN 1962, IT'S WHAT THE U S SUPREME COURT
2 CITED IN 1967 AND IT'S NOW IN ITS FOURTH EDITION AND
3 THEY HAVE TRAINING SCHOOLS AND SEMINARS AND WORKSHOPS
4 AND THEY ARE RESPONSIBLE FOR TRAINING MORE
5 PROFESSIONAL INTERROGATORS THAN ANY OTHER
6 ORGANIZATION, NOW THEY HAVE A VERY SPECIFIC SET OF
7 STEPS THAT THEY TAKE THE FIRST THING THEY DO IS TO
8 DISTINGUISH BETWEEN INTERVIEW AND INTERROGATION AN
9 INTERVIEW IS NON-CONFRONTATIONAL YOU DON'T MAKE THE
10 ACCUSATION, YOU DON'T TELL THE PERSON YOU THINK THEY
11 ARE LYING, YOU SIMPLY ASK QUESTIONS TO SEE WHAT THE
12 SUSPECT KNOWS, AND THEN YOU LET THEM ANSWER AND YOU
13 OBSERVE THEIR BEHAVIOR AND THE REASON YOU ARE
14 OBSERVING THEIR BEHAVIOR IS YOU ARE OBSERVING BOTH
15 THEIR NON-VERBAL BEHAVIOR AND THEIR VERBAL BEHAVIOR
16 WHAT THEY SAY AND HOW THEY SAY IT AND THE REASON
17 YOU DO THAT IS YOU ARE TRYING TO DETERMINE IN THIS
18 PREINTERROGATION INTERVIEW WHETHER YOU THINK THE
19 PERSON IS TELLING THE TRUTH OR LYING IS THIS PERSON
20 TELLING THE TRUTH AND PROBABLY INNOCENT OR LYING AND
21 PROBABLY GUILTY THIS INTERVIEW STEP BECOMES A
22 PIVOTAL CHOICE POINT IN THE LIFE OF A CASE AND I SAY
23 THAT BECAUSE BASED ON THAT JUDGMENT THAT IS MADE
24 RIGHT THEN AND THERE, THE DECISION IS EITHER TO SEND
25 THAT SUSPECT HOME OR TO MOVE ONTO INTERROGATION AND

30 THAT BECOMES AN IMPORTANT PROCESS AND THAT'S WHY
IT'S AN IMPORTANT QUESTION TO ASK TO WHAT EXTENT CAN
THEY MAKE THOSE JUDGMENTS ACCURATELY, SO THAT'S THE
INTERVIEW THE INTERVIEW IS THIS NON-CONFRONTATIONAL
PROCESS IN FACT THE SUSPECT, FOR ALL PRACTICAL
PURPOSES, FEELS MORE LIKE A WITNESS THAN A SUSPECT

Q SO THE PURPOSE OF AN INTERVIEW IN THESE COMMON
TECHNIQUES WOULD BE TO DETERMINE WHETHER OR NOT YOU
ARE GOING TO HAVE AN INTERROGATION?

A CORRECT

Q DO YOU NEED SOME WATER?

A I'M GOOD

Q OKAY

A THANK YOU

Q SO HOW IS IT DONE? I MEAN, HOW DOES THIS
DECISION REACH GOING FROM THE INTERVIEW TO THE
INTERROGATION?

A WELL, THE TECHNIQUES VARY BUT IN LOOKING AT THE
INBAU AND REID BOOK WHICH IS THE MOST COMMON AND
ALWAYS THE MOST INFLUENTIAL OF THEM ALL THEY
RECOMMEND THAT INTERROGATORS ASK CERTAIN TYPES OF
PROVOKING, PROVOCATIVE BAITING QUESTIONS, AND THEY
ALSO RECOMMEND THAT INTERROGATORS PAY CLOSE ATTENTION
TO CERTAIN NON-VERBAL AND VERBAL CLUES, LIKE A
PERSON'S POSTURE OR EYE CONTACT, WHETHER THEY ARE

1 FIDGETING OR NOT, SO THERE IS A LOT TO IT BUT ONLY
2 RECENTLY HAVE WE STUDIED THOSE TRAINING SESSIONS AND
3 WHETHER THEY ACTUALLY CAN MAKE PEOPLE GOOD LIE
4 DETECTORS

5 Q LET ME ASK YOU THIS, ARE THERE THINGS THAT
6 HAPPEN IN AN INTERVIEW THAT THE SUBJECT OF THE
7 INTERVIEW MAY SHOW OR EXHIBIT, ARE THERE BEHAVIORS
8 THERE THAT ARE BELIEVED TO INDICATE A PERSON'S GUILT,
9 FOR EXAMPLE, IF A PERSON ACTS IN A CERTAIN WAY?

10 A YES

11 Q WHAT WOULD THOSE BE?

12 A WELL IMAGINE FOR EXAMPLE, AND THIS IS COMING
13 AGAIN SORT OF RIGHT OUT OF THE MANUAL, IMAGINE FOR
14 EXAMPLE THAT AN INVESTIGATOR SUGGESTS TO THE PERSON
15 THAT THEY TAKE A POLYGRAPH IF THAT INDIVIDUAL SAYS,
16 SURE, I'LL TAKE A POLYGRAPH, THE REID AND INBAU
17 PEOPLE SAY THAT'S AN INDICATION OF INNOCENCE IT
18 DOESN'T GUARANTEE INNOCENCE BUT IT SUGGESTS TO THEM
19 THAT THE SUSPECT HAS NOTHING TO HIDE OR THEY SAY IF
20 THE SUSPECT STARTS TO BECOME RETICENT AND RELUCTANT
21 AND SAY, WAIT A MINUTE, I'M NOT SURE I WANT TO DO
22 THAT I'M NOT SURE I TRUST POLYGRAPHS WELL, THAT'S
23 A PERSON WHO IS AT LEAST SHOWING SOME SIGNS OF BEING
24 MORE GUILTY AND MORE EVASIVE AGAIN, IT'S NOT A
25 GUARANTEE AND THEY'RE VERY CAREFUL TO SAY THERE IS NO

1 ONE INDICATOR THAT TELLS US EVERYTHING BUT THAT'S
2 ONE OF THOSE ISSUES

3 OR FOR EXAMPLE THEY TALK ABOUT THESE
4 BEHAVIOR PROVOKING QUESTIONS IMAGINE THEY SAY YOU
5 HAVE GOT A PERSON BEFORE YOU AND YOU ASK THAT PERSON,
6 YOU KNOW, WE'VE GOT DNA SAMPLES THAT WE'RE GOING TO
7 SEND OFF TO THE LAB FOR TESTING, WHAT ARE THEY GOING
8 TO TELL US? AND THEY SAY PAY CLOSE ATTENTION TO WHAT
9 THE PERSON, HOW THE PERSON RESPONDS BECAUSE IF THE
10 SUSPECT SAYS, NO PROBLEM, I'LL BE FINE, I'LL BE
11 EXONERATED, YOU'LL SEE I'M INNOCENT, THAT IS AN
12 INDICATION AGAIN THE SUSPECT HAS NOTHING TO HIDE IF
13 THE SUSPECT IS MORE RETICENT, MORE RELUCTANT, STARTS
14 TO ASK SOME QUESTIONS ABOUT THE TESTS AND THEY WANT
15 TO KNOW HOW THE TEST IS GOING TO BE DONE AND WHEN
16 WILL YOU GET THE RESULTS, THAT SUGGESTS A DIFFERENT
17 MORE EVASIVE MORE GUILTY PATTERN

18 Q IN YOUR STUDIES OF THESE SPECIFIC CASES
19 GENERALLY SPEAKING IF SOMEONE IS WILLING TO TAKE A
20 POLYGRAPH OR APPEARS TO BE UNCONCERNED ABOUT THE TEST
21 RESULTS OF DNA, IS THAT INDICATIVE THAT THAT PERSON
22 IS GUILTY OR IS THAT INDICATIVE THAT HE'S MORE
23 INCLINED TO BE INNOCENT?

24 A IT'S NOT CLEAR FROM RESEARCH ON THE POLYGRAPH
25 PER SE IT'S CLEAR THAT INVESTIGATORS ARE TRAINED TO

1 USE THAT AS A DIAGNOSTIC TOOL, LOOK AND SEE HOW THE
2 PERSON REACTS, AND SO IT'S INTERESTING
3 INVESTIGATORS WILL USUALLY USE THE RESPONSE AS A WAY
4 OF GAUGING THE PERSON'S ABILITY TO BE TRUTHFUL OR
5 DECEPTIVE, BUT THERE IS OTHER JUST LIKE IT, OTHER
6 BEHAVIOR PROVOKING QUESTIONS THAT DO SHOW, THAT
7 RESEARCH DOES SHOW IS DIAGNOSTIC FOR EXAMPLE, A
8 PERSON'S WILLINGNESS TO WAIVE THEIR RIGHTS TO SILENCE
9 AND TO COUNSEL AND TO TALK TO INTERROGATORS IT'S
10 INTERESTING WHEN YOU GO BACK AND LOOK AGAIN AT ALL
11 FALSE CONFESSION CASES, IN THE END WHEN THOSE PEOPLE
12 ARE INTERVIEWED, INNOCENT PEOPLE WHO GAVE CONFESSIONS
13 AND THEY ARE INTERVIEWED THEY ARE ASKED, WELL, WHY
14 DID YOU PUT YOURSELF THROUGH THIS INTERROGATION? WHY
15 DIDN'T YOU JUST SAY I WANTED A LAWYER? THEY ALL SAY
16 THE SAME THING BECAUSE I HAD NOTHING TO HIDE,
17 I KNEW I WAS INNOCENT, I FIGURED THE MORE I TALKED TO
18 THEM THEY'D SEE I WAS INNOCENT, SO THAT AIR OF
19 COOPERATIVENESS IS TYPICALLY TAKEN AS A SIGN OF
20 INNOCENCE OR AT LEAST ONE SIGNAL OF INNOCENCE AND
21 I'VE ACTUALLY DONE LABORATORY STUDIES SHOWING THE
22 SAME THING AND IT TURNS OUT NOW THAT THERE IS A
23 SUBSTANTIAL BODY OF RESEARCH SUGGESTING THAT INNOCENT
24 PEOPLE ARE MORE LIKELY TO WAIVE THEIR RIGHTS THAN
25 GUILTY PEOPLE ARE AGAIN THINKING THEY HAVE NOTHING

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1 TO HIDE OR FEAR

2 Q IN THIS INTERVIEW PROCESS THAT MAY TURN INTO
3 INTERROGATION OR MAY TURN INTO A RELEASE OF THE
4 SUSPECT, ARE POLICE OFFICERS OR TRAINED
5 INTERROGATORS, TRAINED INTERVIEWERS, MORE ABLE TO
6 DETECT TRUTH OR GUILT OR INNOCENCE THAN ANYONE ELSE,
7 JUST THE AVERAGE PERSON ON THE STREET OR A
8 PSYCHOLOGIST FOR EXAMPLE?

9 A YEAH, THAT'S A VERY INTERESTING QUESTION
10 PSYCHOLOGISTS HAVE TESTED THEMSELVES AS WELL FOR
11 MANY YEARS NOW SOCIAL PSYCHOLOGISTS HAVE TESTED
12 WHETHER PEOPLE ARE GOOD LIE DETECTORS AND THE WAY
13 THAT RESEARCH WAS DONE IN THE PAST IS YOU BRING
14 PEOPLE INTO YOUR LAB AND YOU'D INSTRUCT THEM TO TELL
15 A TRUTHFUL STORY OR LIE ABOUT THEMSELVES AND THEN YOU
16 SHOW THOSE TAPES TO OTHER PEOPLE WHO DON'T KNOW THEM
17 AND AFTER EACH TAPE THE OBSERVERS MAKE A JUDGMENT IS
18 THIS TRUE OR FALSE AND THE EXPERIMENTER OF COURSE
19 KNOWS WHAT'S TRUE AND WHAT'S FALSE THOSE KINDS OF
20 STUDIES FOR YEARS HAVE SHOWN PEOPLE ARE TERRIBLE LIE
21 DETECTORS WE'RE AWFUL NOW I SHOULD, THE
22 DISCLAIMER IS THAT WE'RE NOT BAD WHEN IT COMES TO
23 JUDGING LIES WITH PEOPLE WE KNOW VERY WELL, CLOSE
24 FRIEND, A CHILD, A SPOUSE, BUT IN TERMS OF STRANGERS
25 WHO WE'VE NEVER SEEN BEFORE WE DON'T KNOW WHAT THEIR

1 UNUSUAL BASE LINE OF BEHAVIOR IS, WE'RE TERRIBLE AT
2 IT AND TYPICALLY THE ACCURACY RATES ARE AROUND 50 OR
3 55 PERCENT NOW KEEP IN MIND 50 PERCENT IS WHAT YOU
4 GET JUST BY FLIPPING A COIN, SO A 55 PERCENT LEVEL OF
5 ACCURACY IS NOT A VERY HIGH LEVEL OF ACCURACY WELL,
6 AT ONE POINT RESEARCHERS STARTED ASKING THE QUESTION
7 WHAT ABOUT PROFESSIONALS WHO ARE TRAINED TO MAKE
8 THESE JUDGMENTS FOR A LIVING AND A PSYCHOLOGIST BY
9 THE NAME OF PAUL EICHMAN DID A STUDY WHICH HE AND
10 MARINO SULLIVAN PUBLISHED IN 1991 SHOWING THAT WHEN
11 THEY TESTED ROBBERY INVESTIGATORS, PSYCHOLOGISTS,
12 PSYCHIATRISTS, CUSTOMS INSPECTORS, THERE WERE OTHER
13 GROUPS, SECRET SERVICE AGENTS, THE ACCURACY RATES
14 WERE ALSO IN THE MID 50'S THE SECRET SERVICE AGENTS
15 ACTUALLY TOPPED OUT AT 64 PERCENT, THAT'S THE TOP
16 GROUP, AND 64 PERCENT IS ABOUT AS HIGH AS YOU EVER
17 SEE COMING OUT OF THE LABS IN LABS ALL OVER THE
18 WORLD PEOPLE SEEM TO BE PRETTY MEDIOCRE LIE DETECTORS
19 BASED ON WATCHING A PERSON IN AN ISOLATED SITUATION,
20 SO 50 TO 60 PERCENT LEVEL OF ACCURACY

21 NOW IF YOU'VE ASKED ME THIS QUESTION I
22 DON'T KNOW, WHAT ABOUT IN THIS SITUATION, WHAT ABOUT
23 SOMEBODY WHO INTERVIEWED ABOUT A CRIME HOW GOOD ARE
24 WE? THERE IS NOW A WEALTH OF RESEARCH, SOME OF IT
25 THAT I'VE PUBLISHED, OTHERS HAVE PUBLISHED IT IN

1 SWEDEN AND ENGLAND, IN CANADA, IN SPAIN, AND
2 ESSENTIALLY WHAT IT SHOWS IS THAT PEOPLE HAVE A LOT
3 OF DIFFICULTY DISTINGUISHING A TRUE DENIAL FROM A
4 FALSE DENIAL WE CAN'T TELL IF SOMEBODY IS GUILTY OR
5 INNOCENT AND TRAINED PROFESSIONALS ARE NOT ANY BETTER
6 THAN THE REST OF US THEY ARE MORE CONFIDENT IN THE
7 JUDGMENTS THEY MAKE BUT THEY DON'T MAKE THOSE
8 JUDGMENTS AT ANY HIGHER LEVELS OF ACCURACY

9 NOW YOU COULD ARGUE, WELL, THESE STUDIES
10 DON'T TAKE ACCOUNT OF THE FACT THAT THEY ARE NOT
11 DOING THE QUESTIONING IN THOSE SESSIONS BUT IN
12 STUDIES THAT ACTUALLY DO THAT IN WHICH THE
13 PROFESSIONALS ACTUALLY DO THE QUESTIONING, THEY ARE
14 STILL NO MORE ACCURATE THAN THE AVERAGE PERSON, SO IT
15 TELLS SOMETHING WE KIND OF HAVE KNOWN ALL ALONG, IT'S
16 NOT IMPOSSIBLE THAT TRAINING CAN MAKE YOU A GOOD
17 JUDGE OF TRUTH AND DECEPTION BUT THERE IS JUST NO
18 EVIDENCE TO SUGGEST, AT LEAST RIGHT NOW, THAT THAT'S
19 THE CASE AND IT DOESN'T MEAN THAT EVERYBODY IS BAD
20 AT IT BUT THERE IS NO SCIENCE TO SUGGEST THAT WE ARE
21 IN SOME WAYS HUMAN LIE DETECTORS

22 Q GETTING PAST THE INTERVIEW AND GOING TO THE
23 INTERROGATION, ONCE THAT DECISION HAS BEEN MADE
24 WHETHER IT'S BASED ON A FALSE OF SENSE OF ABILITY TO
25 TELL THE TRUTH OR NOT, ARE THERE CERTAIN COMMON

1 INTERROGATION TECHNIQUES THAT ARE TAUGHT TO POLICE
2 AND OTHER INTERROGATORS?

3 A YES

4 Q PLEASE TELL US WHAT THOSE ARE?

5 A AND AGAIN THERE ARE VARIATIONS AND THERE ARE A
6 NUMBER OF MANUALS ALL OF WHICH I'VE STUDIED BUT THE
7 MOST INFLUENTIAL OF THEM IS THE INBAU MANUAL AND
8 ESSENTIALLY WHAT THEY DO IS THEY TALK ABOUT A
9 MULTI-STEP PROCESS AND WITHOUT GETTING INTO EVERY
10 STEP BY STEP ESSENTIALLY IT'S A THREE STEP PROCESS
11 THE FIRST THING THEY DO IS ISOLATE THE SUSPECT IT'S
12 IMPORTANT, ACCORDING TO THE MANUALS, THAT THE SUSPECT
13 NOT BE SITTING IN HIS LIVING ROOM, IN A DINING ROOM,
14 IN A PLACE THAT IS COMFORTABLE, IN THE PRESENCE OF
15 LOVED ONES, IN THE PRESENCE OF THINGS THAT ARE
16 FAMILIAR, AND SO THE GOAL IS PUT THE PERSON IN A
17 PRIVATE SPACE SOMEWHERE IN THE POLICE STATION SO THAT
18 THEY DON'T HAVE ACCESS TO LOVED ONES AND IT'S A VERY
19 UNFAMILIAR SETTING THE GOAL IS CREATE ESSENTIALLY
20 AN UNPLEASANT, SOMEWHAT STRESSFUL ENVIRONMENT SO THE
21 GOAL IN ISOLATION, AND THEY ARE VERY CLEAR ABOUT
22 THIS, WE NEED TO RAISE AND INCREASE THE PERSON'S
23 INCENTIVE TO ESCAPE IF YOU CREATE A VERY RELAXED
24 ENVIRONMENT THEN THE PERSON DOESN'T CARE IF THEY ARE
25 THERE ALL DAY OR ALL NIGHT BUT IF IT'S A SITUATION

1 THEY WANT TO GET OUT OF AND THEY CAN'T MAKE A PHONE
2 CALL TO THEIR WIVES AND THEY CAN'T SEE THEIR CHILDREN
3 AND THEY ARE TIRED AND THEY WANT TO GET SOME SLEEP OR
4 WHATEVER THE ISSUES MAY BE, IN THAT KIND OF SITUATION
5 THEY NOW ARE ISOLATED AND NEED TO DO SOMETHING TO
6 CHANGE THEIR STATE AND THAT'S WHERE THE SECOND
7 SITUATION COMES IN THE SECOND PROCESS IS A PROCESS
8 OF CONFRONTATION THE INBAU AND REID PEOPLE CALL
9 FIRST STEP THE POSITIVE CONFRONTATION THE POSITIVE
10 CONFRONTATION IS THE STATEMENT, WE KNOW YOU ARE
11 GUILTY, WE KNOW YOU ARE GUILTY AND WE DON'T WANT TO
12 HEAR ANYMORE LIES KEEP IN MIND AT THE POINT AT
13 WHICH YOU ARE INTERROGATING A PERSON AND MAKING THAT
14 CONFRONTATION THE INVESTIGATOR HAS ALREADY
15 DETERMINED, SOMETIMES BASED ON A HUNCH, THAT THIS
16 PERSON IS GUILTY AND SO NOW THEY INTERROGATE
17 ACCORDINGLY THEY PUT ON THAT, THEY PUT ON THE LENS
18 THAT TELLS THEM WHATEVER I'M SEEING HERE THIS PERSON
19 BEFORE ME IS GUILTY BECAUSE THAT'S WHAT THEY BELIEVE
20 IS THE JUDGMENT THEY MADE

21 NOW THEY MAKE A POSITIVE CONFRONTATION,
22 PART OF THE TECHNIQUE IS TO NOT ALLOW THE PERSON TO
23 MOUNT A DEFENSE IF THE PERSON STARTS TO MOUNT A
24 DENIAL, THEY OFTEN WILL INTERRUPT THEM IN
25 MID-SENTENCE AND NOT ALLOW TO MAKE A FULL DENIAL

1 THERE IS A PERSISTENCE TO THE QUESTIONING NO MATTER
2 WHAT THE PERSON SAYS OR DOES THE RESPONSE IS I
3 DON'T BELIEVE YOU, YOU ARE NOT BEING COOPERATIVE, YOU
4 ARE NOT BEING FORTHCOMING, SOMETIMES THAT, THAT
5 CONFRONTATION IS BOLSTERED, AND YOU CAN TO IMAGINE IF
6 A PERSON IS BEING PARTICULARLY ADAMANT AND VEHEMENT
7 IN THEIR DENIALS, I DIDN'T DO IT, THEN HOW DO YOU
8 EXPLAIN X OR Y SOMETIMES THERE IS THE INSINUATION
9 THAT WE HAVE INDEPENDENT EVIDENCE AS A WAY OF HELPING
10 TO BREAK THAT PERSON DOWN SO THAT CONFRONTATION IS
11 DESIGNED ESSENTIALLY TO PUT THAT PERSON IN A STATE OF
12 DESPAIR THEY ARE NOW IN A BAD SITUATION, THEY WANT
13 TO GET OUT OF IT, AND DENIAL IS NOT A WAY OUT NOW
14 THEY ARE IN AND THE DENIAL DOESN'T WORK SO THE
15 THIRD STEP AND THESE STEPS INTERWEAVE THROUGHOUT THE
16 INTERACTION, THE THIRD STEP IS WHAT YOU CAN THINK OF
17 AS MINIMIZATION MINIMIZATION IS A WAY OF SUGGESTING
18 AND AGAIN THE GOAL OF INTERROGATION IS TO MAKE
19 CONFESSION LOOK LIKE THE MORE DESIRABLE THING TO DO,
20 SELF-SERVINGING THING TO DO MINIMIZATION IS, I
21 UNDERSTAND YOU'RE A GOOD PERSON AND IT LOOKS TO ME
22 LIKE THIS MIGHT HAVE BEEN AN ACCIDENT OR MAYBE YOU
23 WERE PROVOKED, OR MAYBE YOUR FRIENDS PUSHED YOU INTO
24 IT THERE IS A WAY OF PROVIDING THE SUSPECT AND
25 THERE ARE A NUMBER SPECIFIC WAYS OF DOING THIS THAT

1 ARE OFFERED TO SUGGEST TO THE SUSPECT THAT WE KNOW
2 YOU ARE A GOOD PERSON AND WHAT YOU DID WAS NOT THAT
3 BAD AND MAYBE IT WAS JUST AN ACCIDENT, MAYBE YOU WERE
4 JUST PROVOKED AS A WAY OF PROVIDING A KIND OF FACE
5 SAVING EXCUSES, SOME MORAL JUSTIFICATION IT MAY
6 MAKE IT EASIER FOR THE SUSPECT WHO NOW IS LOOKING FOR
7 A WAY OUT TO CONFESS TO THIS THIS ISN'T A
8 COLD-BLOODED CRIME THIS IS SOMETHING ELSE THIS IS
9 SOMETHING MORE MINIMAL THAN THAT AND SO THE FINAL
10 STEP IS TO MAKE CONFESSION MORE PALATABLE BY OFFERING
11 THE SUBJECT A CHOICE AND THE SUSPECT IS THEN LEAD TO
12 BELIEVE THAT THIS FACE SAVING ALTERNATIVE IS A WAY TO
13 GET A CONFESSION AND THE TRANSITION FROM DENIAL TO
14 CONFESSION TYPICALLY PROCEEDED BY THAT MINIMIZATION

15 Q NOW ARE THESE TECHNIQUES YOU JUST TALKED ABOUT,
16 ARE THEY JUST A MATTER OF COMMON SENSE OR IS THERE
17 SOMETHING BEHIND THEM?

18 A WELL, THEY MAY SOUND INTUITIVE AFTER YOU'VE
19 HEARD THEM, BUT AGAIN THE REID SCHOOL HAS TRAINED
20 OVER 150,000 LAW ENFORCEMENT PROFESSIONALS AND
21 CERTAINLY IT'S THE CASE AND I KNOW THIS FROM LECTURES
22 THAT I'VE GIVEN TO DIFFERENT PROFESSIONAL GROUPS THAT
23 THOSE WHO ARE NOT SPECIALLY TRAINED IN HOW TO DO
24 INTERROGATION DON'T KNOW THIS

25 Q WHAT IF THESE TECHNIQUES YOU ARE TALKING ABOUT

1 ARE TAKEN TO EXTREME MEASURE?
2 A WELL, IT'S NOT CLEAR I MEAN, THAT'S THE
3 IMPORTANT BOTTOM LINE QUESTION BECAUSE THE GOAL OF AN
4 INTERROGATION AND THE REID PEOPLE SAY THIS, THE GOAL
5 OF AN INTERROGATION IS CREATE ENOUGH PRESSURE TO GET
6 THE GUILTY PERSON TO FEEL TRAPPED AND CONFESS, BUT
7 NOT SO MUCH PRESSURE THAT THE INNOCENT PEOPLE COME
8 ALONG WITH THEM SO THE GOAL OF COURSE IS TO HAVE
9 SOME, TO MAKE IT SURGICALLY PRECISE, CONFESSIONS FROM
10 THE GUILTY BUT LEAVING THE INNOCENCE UNTOUCHED THE
11 PROBLEM IS WHAT HAPPENS WHEN YOU DO STEP OVER THAT
12 LINE OR WHEN THESE PRESSURE FILLED TECHNIQUES BECOME
13 EXTREME PRESSURE FILLED AND I CAN'T EVEN BEGIN TO
14 PRETEND THAT I KNOW WHAT THE LINE IS WHERE THAT
15 HAPPENS, BUT IN ALL CASES INVOLVING POLICE INDUCED
16 FALSE CONFESSIONS THEY HAPPEN UNDER EXTREME
17 CIRCUMSTANCES THE PERSON HAS BEEN THERE FOR TOO
18 LONG IF YOU LOOK AT THE DATA ON TRUE CONFESSIONS,
19 PEOPLE WHO ACTUALLY CONFESSED WHO ARE GUILTY TO
20 CRIMES THEY COMMITTED, THEY HAPPEN WITHIN THE FIRST
21 TWO HOURS OF INTERROGATION, MOST OF THEM HAPPEN
22 WITHIN TWO HOURS IF YOU LOOK AT FALSE CONFESSION
23 ALMOST ALL OF THEM, SOME 80 PERCENT OR SO, OCCUR
24 AFTER SIX HOURS OF INTERROGATION AT THE POINT IN
25 WHICH YOU BREAK A PERSON DOWN AND THEY BECOME

1 FATIGUED AND TIRED, THEY ARE NO LONGER THINKING
2 CLEARLY THEY ARE THINKING IN VERY SHORT-TERM TERMS
3 ABOUT THEIR OWN SITUATION SO DO WE KNOW WHAT THE
4 LINE IS? WELL, WE KNOW THAT LYING TO A SUSPECT,
5 PRESENTING FALSE EVIDENCE MAKES A NUMBER OF PEOPLE
6 TEETER ON THE EDGE AND HAS PRODUCED NOT ONLY FALSE
7 CONFESSIONS BUT FALSE BELIEFS ABOUT THINGS THAT NEVER
8 HAPPENED AND WE KNOW THAT TIME IS A FACTOR, BUT IN
9 TERMS OF IS THERE A MAGIC LINE THAT SAYS I CAN
10 IDENTIFY A PRECISE MOMENT? NO, THERE IS NO WAY TO DO
11 THAT

12 Q DOCTOR, WHEN YOU ARE LOOKING AT A SPECIFIC CASE
13 THAT YOU ARE STUDYING AND YOU'VE DONE A GOOD BIT OF
14 THIS, HOW DO YOU KNOW EXACTLY WHAT INTERROGATION
15 TECHNIQUES WERE USED IN ANY PARTICULAR CASE?

16 A IT VARIES IDEALLY I WOULD HAVE A FULL VIDEO
17 TAPE THAT BEGINS WHEN THE SUSPECT IS BROUGHT IN FOR
18 AN INTERVIEW AND RIGHT ON THROUGH INTERROGATION ON A
19 CONFESSION SO IN AN IDEAL SITUATION, AND I'VE OFTEN
20 ENCOUNTERED AN IDEAL SITUATION BECAUSE IN MANY
21 JURISDICTIONS AND IN SOME STATES THIS IS JUST A
22 COMMON PRACTICE, SO THE GOAL HERE WOULD BE TO SIMPLY
23 LOOK AT THE FULL TAPE WHETHER IT IS AN AUDIO TAPE OR
24 A VIDEO TAPE AND THEN YOU KNOW EVERY ASPECT OF THE
25 PROCESS THAT WAS USED TO TAPE THE CONFESSION WHAT'S

1 IMPORTANT TO REALIZE ABOUT A CONFESSION AND THIS IS
2 WHAT WE NOW KNOW FROM THE STUDY OF FALSE CONFESSIONS,
3 SOME OF THEM LOOK SO REAL AND SO PERSUASIVE AND THEN
4 TURN OUT TO HAVE BEEN FALSE THAT WHAT WE NOW REALIZE
5 IS THAT FINAL STATEMENT THAT COMES AFTER HOURS OF
6 INTERVIEWING AND HOURS OF INTERROGATION IS A LITTLE
7 BIT LIKE A HOLLYWOOD PRODUCTION IT'S SCRIPTED BY
8 WHAT IS NOW KNOWN ABOUT THE CASE, IT IS REHEARSED
9 OVER HOURS OF UNRECORDED INTERROGATION, AND THEN
10 THERE WE HAVE IT, THE FINAL PRODUCT WHICH LOOKS VERY
11 COMPELLING THE PROBLEM IS UNLESS YOU SEE THE
12 PROCESS THAT IS USED TO TAPE THAT CONFESSION, YOU
13 DON'T REALLY KNOW HOW IT GOT THERE AND WHEN I SAY YOU
14 DON'T KNOW HOW IT GOT THERE I MEAN TWO THINGS ONE,
15 YOU DON'T KNOW WHAT HAPPEN, WHAT WAS SAID, AND WHAT
16 WAS DONE, TO MOVE THAT SUSPECT FROM ADAMANT DENIAL TO
17 CONFESSION AND SECOND, IF IN FACT THE SUSPECT IS
18 CONFESSING, YOU DON'T KNOW, WHERE DO THE DETAILS COME
19 FROM? ONE OF THE PUZZLES OF FALSE CONFESSION IS THAT
20 OFTEN A CONFESSION THAT IS FALSE CONTAINS A LOT OF
21 ACCURATE INFORMATION THAT ONLY THE PERPETRATOR SHOULD
22 HAVE KNOWN AND UNLESS A JURY CAN SEE WHERE THAT
23 INFORMATION CAME FROM, AND THE ONLY WAY TO KNOW THAT
24 IS TO WATCH THE WHOLE PROCESS, IT'S CONFUSING TO BE
25 ABLE TO DIS1INGUISH THE TRUE FROM THE FALSE

1 STATEMENT

2 Q WHAT IS THE ADVANTAGE OF RECORDING AN INTERVIEW
3 WITH THE SUSPECT, INTERVIEWS OR INTERROGATION?

4 A LOTS OF ADVANTAGES IT TURNS OUT, BECAUSE THIS
5 IS A VERY IMPORTANT TOPIC RIGHT NOW, IN THE WAKE OF
6 ALL THE DNA EXONERATIONS, IN THE WAKE OF SO MANY OF
7 THOSE EXONERATIONS CONTAINING FALSE CONFESSIONS WHICH
8 HAS ASTONISHED A NUMBER OF RESEARCHERS, EVEN PEOPLE
9 LIKE MYSELF DIDN'T THINK THE NUMBER WOULD BE THAT
10 HIGH, IN THE WAKE OF THAT, ONE OF THE REFORMS THAT
11 HAS BEEN SUGGESTED IS THE VIDEO TAPING OF THE FULL
12 INTERVIEW AND INTERROGATION SO JUDGES, JURIES, AND
13 THE REST OF US CAN KNOW EXACTLY HOW THAT STATEMENT
14 WAS TAKEN A RECENT STUDY BY THOMAS SULLIVAN IN
15 WHICH HE INTERVIEWED PEOPLE FROM ABOUT A HUNDRED
16 JURISDICTIONS IN WHICH THEY VIDEO TAPED HE ASKED AND
17 THE PEOPLE HE SURVEYED WERE LAW ENFORCEMENT PEOPLE
18 WHO HAVE GONE TO THIS PROCEDURE, AND THEY WERE ASKED,
19 WHAT DO YOU THINK ABOUT THIS? IS IT BENEFICIAL? DO
20 YOU LIKE IT? ARE YOU SATISFIED WITH THE PROCESS?
21 THEY WERE ALMOST UNIFORMLY SATISFIED WITH THE
22 PROCESS THEY SAID IT WAS BENEFICIAL TO THEM BECAUSE
23 OFTEN THE DEFENSE WOULD MAKE FRIVOLOUS CLAIMS THAT
24 THE STATEMENT WAS COERCED WHEN IN FACT IT WASN'T AND
25 NOW THE JURY AND THE JUDGE GET TO SEE THAT IT WASN'T

1 OFTEN A DEFENDANT WHO DOESN'T CONFESS BUT GIVES A
2 DENIAL THAT JUST DOESN'T HANG TOGETHER IS
3 INCRIMINATING IN THAT WAY OFTEN THAT COMES ACROSS AS
4 USEFUL SO THEY HAVE FOUND IT TO BE A USEFUL
5 PROCEDURE THERE IS NO GOOD REASON AS FAR AS I COULD
6 TELL FOR NOT VIDEO TAPING AN INTERVIEW, PARTICULARLY
7 WHEN YOU KNOW THE RECORDING IS AVAILABLE IF YOU ARE
8 GOING TO VIDEO TAPE PORTIONS, AUDIO TAPE AND VIDEO
9 TAPE PORTIONS OF AN INTERVIEW, SOME INTERVIEWS BUT
10 NOT OTHERS, WHY WOULD YOU SELECTIVELY RECORD SOME AND
11 NO OTHERS AND THAT'S THE PROBLEM A FULL RECORD IS
12 WHAT WE NEED

13 Q DOCTOR, HOW DO YOU PERSONALLY GO ABOUT
14 EVALUATING A PARTICULAR CONFESSION IN YOUR MAKING A
15 CASE STUDY?

16 A IN RESEARCH, FOR RESEARCH PURPOSES?

17 Q YES

18 A THE WAY WE KNOW THAT A CONFESSION IS FALSE WHICH
19 IS WHAT MAKES THIS A CASE STUDY OF A FALSE CONFESSION
20 IS SOMETIMES YOU HAVE A CONFESSION, AGAIN ALL OF
21 THESE, IT'S REMARKABLE HOW SIMILAR THEY LOOK TO TRUE
22 CONFESSIONS IN THE SENSE THEY ARE DETAILED WHEN THEY
23 TALK ABOUT MOTIVES AND WHY I DID THESE THINGS, WHEN
24 YOU LOOK AT THEM, THEY LOOK REAL, BUT SOMETIMES THEY
25 TURN OUT TO BE FALSE HOW DO WE KNOW? BECAUSE IT

1 TURNS OUT THAT THE CRIME THAT IS BEING CONFESSED TO
2 NEVER HAPPENED AND THERE ARE NUMBERS OF INSTANCES OF
3 PEOPLE THAT CONFESS TO CRIMES AND THEN IT TURNS OUT
4 THE CRIME NEVER HAPPENED SO THE VICTIM MAY HAVE
5 TURNED UP ALIVE SOMEWHERE AS A REAL LIFE EXAMPLE
6 THEN THERE ARE CASES WHERE THE CRIME OCCURRED BUT IN
7 FACT AFTER THE CONFESSION IS TAKEN THE REAL
8 PERPETRATOR IS FOUND, SO THERE MAY BE ANOTHER CRIME
9 AND BALLISTICS EVIDENCE FROM THAT CRIME MAY SHOW A
10 MATCH TO THE ORIGINAL CRIME AT WHICH POINT THEY GO
11 AND APPREHEND THIS NEW SUSPECT WHO SEEMS TO KNOW
12 EVERYTHING THERE IS TO KNOW ABOUT THAT CASE SO WE
13 HAVE SITUATIONS WHERE THE ACTUAL CULPRIT IS
14 DISCOVERED AND OFTEN THAT CULPRIT CAN LEAD THE POLICE
15 TO EVIDENCE THAT THEY NEVER HAD LIKE A MURDER WEAPON
16 THEN FINALLY THERE ARE CASES WHERE SCIENCE, MOST
17 COMMONLY DNA IS USED TO EXONERATE A PERSON, SO AN
18 INDIVIDUAL GIVES A CONFESSION FILLED WITH DETAILS AND
19 THEN LO AND BEHOLD IT TURNS OUT THAT THE DNA THAT WAS
20 AT THE CRIME SCENE THAT EVERYBODY THOUGHT WAS THEIRS
21 BELONGS TO SOMEBODY ELSE AND THERE ARE A NUMBER OF
22 POST CONVICTION DNA CASES JUST LIKE THAT AND WHAT
23 THOSE CASES SHOW US IS THAT THE CONFESSION WHICH WAS
24 TO A STORY ABOUT ONE KIND OF CRIME ISN'T MATCHING UP
25 WITH THE PHYSICAL EVIDENCE OF WHAT ACTUALLY HAPPENED

1 AND SO THAT BECOMES WORTHY OF CASE STUDY BECAUSE YOU
2 HAVE TO LOOK AT WHERE THAT STATEMENT CAME FROM NOW
3 THAT WE KNOW IT'S A STATEMENT TO SOMETHING THAT
4 DIDN'T HAPPEN THAT WAY

5 Q SO DOCTOR, IN YOUR TESTIMONY WHEN YOU REFERRED
6 TO DOCUMENTED CASES OR WHEN YOU REFER TO A PARTICULAR
7 CASE AS A FALSE CONFESSION, YOUR JUDGMENT THAT THE
8 FALSE CONFESSIONS YOU TALKED ABOUT ARE TRULY FALSE IS
9 THAT BASED ON JUST YOUR OPINION OF THE CASE OR IS
10 THAT BASED ON SCIENTIFICALLY PROVEN OR PROVEN IN
11 OTHER WAYS THAT YOU JUST DESCRIBED?

12 A THESE ARE PEOPLE WHO WERE EXONERATED, PRISON
13 DOORS RELEASED, AND THEY WERE SET FREE AND --

14 MR BRACKETT YOUR HONOR, I OBJECT

15 THE COURT YEAH, I SUSTAIN THE OBJECTION
16 DISREGARD THAT QUESTION AND ANSWER MOVE ON

17 Q WHAT ABOUT A CONFESSION THAT IS FILLED WITH
18 VIVID DETAILS, IS THAT ONE THAT MAKES IT LESS LIKELY
19 TO BE A FALSE CONFESSION?

20 A WELL, AGAIN THE PROBLEM IS IF WE KNEW WHERE THE
21 DETAILS CAME FROM I COULD GIVE YOU A VERY AFFIRMATIVE
22 ANSWER IF YOU WATCHED AN ENTIRE INTERVIEW AND YOU
23 SAW WITHIN THAT INTERVIEW THAT THE SUSPECT HAS
24 INDEPENDENT PERSONAL KNOWLEDGE OF THINGS HE COULDN'T
25 OTHERWISE HAVE KNOWN THAT'S A GOOD CORROBORATION FOR

THAT CONFESSION HOWEVER, IF WE CAN'T BE CERTAIN
THAT THOSE DETAILS BECAUSE THE ANSWER IS YES, THEY
ARE OFTEN VERY FILLED WITH DETAILS, RIGHT DOWN TO
LIKE I SAID TO MOTIVE INFORMATION, BUT IF YOU CAN'T
BE CERTAIN, IF YOU HAVEN'T SEEN THE FULL PROCESS,
THEN IT'S NOT POSSIBLE TO KNOW WHERE THOSE DETAILS
CAME FROM AND IN SOME CASES, FOR EXAMPLE,
DEFENDANTS GIVE VERY TEXTURED STORIES ABOUT CRIME
SCENE, THEY SEEM TO KNOW EVERYTHING ABOUT IT, AND
THEN WE FIND OUT AFTERWARD THEY WERE TAKEN THERE OR
THEY SEEM TO KNOW ALL ABOUT THE VICTIM'S INJURIES AND
THEN WE FIND OUT THEY SAW PHOTOGRAPHS OR THEY GIVE
A FULL DESCRIPTION OF WHAT HAPPENED DURING THAT CRIME
SCENE AND WE FIND OUT THEY WERE SITTING IN A POLICE
STATION FOR A LONG PERIOD OF TIME OVERHEARING ALL
THIS TALK AND CONVERSATION OR THEY READ NEWSPAPERS

MR BRACKETT I OBJECT AGAIN THIS IS
THE SAME SORT OF THING

MR BAITY HE IS NOT GIVING A SPECIFIC
EXAMPLE, YOUR HONOR, BUT HE'S TALKING ABOUT CASE
STUDIES THAT HE HAS ---

THE COURT I'LL LET HIM GO ON
OVERRULED

A ANYWAY, THE POINT IS IT IS POSSIBLE FOR PEOPLE
TO GET INFORMATION ABOUT A CRIME FROM SECONDHAND

1 SOURCES, NOT FROM HAVING BEEN THERE, BUT FROM SOME
2 OTHER MECHANISM

3 Q INCLUDING THE POLICE THAT ARE INTERROGATING?

4 A IT'S AMAZING WHEN YOU ACTUALLY THINK ABOUT THE
5 WAY WE HAVE CONVERSATIONS WITH PEOPLE, OFTEN, WHEN WE
6 ASK PEOPLE QUESTIONS INHERENT IMPLICIT IN THOSE
7 QUESTIONS IS INFORMATION IT'S HARD NOT TO ASK A
8 QUESTION WITHOUT CONVEYING SOME INFORMATION, AND SO
9 WE NATURALLY DO THAT SO SOME OF THAT IS JUST A
10 NATURAL PRODUCT OF THE WAY PEOPLE HAVE CONVERSATION
11 THE PROBLEM IS IF YOU HAVEN'T SEEN THAT CONVERSATION,
12 IF YOU DIDN'T KNOW EVERY EXPERIENCE THAT THE SUSPECT
13 HAD GONE THROUGH, YOU CAN'T NECESSARILY KNOW WHERE
14 THAT FACT CAME FROM WHICH IS WHY A PARTICULARLY
15 GOOD RULE OF THUMB THAT THE POLICE USE IN VOLUNTARY
16 FALSE CONFESSIONS TO KNOW WHETHER A CONFESSION IS ANY
17 GOOD IS, IS THIS SUSPECT ABLE TO TELL THE POLICE
18 SOMETHING THEY DIDN'T ALREADY KNOW TRUE CONFESSIONS
19 ALMOST ALWAYS DO AND IS THE SUSPECT, MORE
20 IMPORTANTLY, IF IT'S AVAILABLE ABLE TO LEAD THE
21 POLICE TO A PURSE OR A MURDER WEAPON OR SOME OTHER
22 EVIDENCE THAT THE POLICE DIDN'T OTHERWISE KNOW ABOUT
23 IN THAT CASE YOU'VE GOT A SLAM DUNK CORROBORATION OF
24 THAT STATEMENT BUT IF YOU CAN'T TRACK THE SOURCE
25 THEN THOSE DETAILS ARE SIMPLY A SOURCE OF CONFUSION

1 BECAUSE WE NOW KNOW THERE ARE TOO MANY FALSE
2 CONFESSIONS THAT ARE FILLED WITH DETAILS THAT MAKE
3 THEM SOUND VERY, VERY CONVINCING

4 Q NOW LOOKING AT THIS CASE IN PARTICULAR, THIS
5 CASE WE'RE INVOLVED TODAY, DOCTOR, HOW HAVE YOU COME
6 TO KNOW WHAT WENT ON DURING THE INTERROGATIONS,
7 INVESTIGATIONS OF MR COPE?

8 A I READ POLICE REPORTS FROM NOVEMBER 29 THAT WERE
9 SENT TO ME I READ THE TRANSCRIPT AND LISTENED TO
10 THE AUDIO TAPE OF THE EVENING, FIRST REAL
11 INTERROGATION THAT IS RECORDED, THE EVENING
12 INTERROGATION ON AUDIO TAPE AND THEN TRANSCRIPT OF
13 THE DEFENDANT THAT STARTS ON THE NIGHT OF 29 AND
14 EXTENDS INTO THE EARLY MORNING HOURS OF THE 30
15 THEN I HAVE DETECTIVE BAKER'S POLYGRAPH REPORT IN
16 WHICH HE REPORTS ON AN ORAL CONFESSION THAT THE
17 DEFENDANT GAVE, AND THEN I HAVE THE DEFENDANT'S
18 STATEMENT FOLLOWING THAT WRITTEN REPORT AND THEN I
19 GUESS THERE IS THE DEFENDANT, THAT ALL HAPPENS ON A
20 FRIDAY MORNING, THE DEFENDANT IS THEN LOCKED UP FOR
21 THE WEEKEND, COMES BACK ON MONDAY, DECEMBER THIRD,
22 AND GIVES ANOTHER HANDWRITTEN STATEMENT FOLLOWED BY A
23 VIDEO TAPE REENACTMENT FOLLOWED BY ANOTHER STATEMENT
24 TYPED UP BY DETECTIVE BLACKWELDER THOSE ARE THE
25 STATEMENTS THAT I INVESTIGATED IN ADDITION TO

1 LOOKING AT THE STATEMENTS THEMSELVES I READ PRIOR
2 TESTIMONY FROM DETECTIVES BAKER, WALDROP,
3 BLACKWELDER, AND CAPTAIN CABANISS

4 Q IS THERE ANYTHING THAT WAS IN PARTICULAR MISSING
5 FROM THIS, FROM THE MATERIALS THAT WERE PROVIDED YOU
6 THAT YOU WOULD HAVE LIKED TO HAVE SEEN BUT YOU
7 COULDN'T SEE?

8 A AGAIN IDEALLY THIS COULD HAVE BEEN A LOT EASIER
9 FOR EVERYBODY HAD THERE BEEN A FULL RECORDING OF ALL
10 THAT TRANSPIRED FROM THE INTERVIEW/INTERROGATION
11 INSTEAD WHAT WE HAVE ARE SELECTED RECORDINGS WE
12 HAVE ONE PIECE THAT IS RECORDED THEN OFF TAPE
13 CONVERSATION ANOTHER PIECE THAT'S RECORDED AT THE
14 HOUSE AND THEN MORE OFF TAPE CONVERSATION SO IN
15 TRYING TO PIECE IT TOGETHER, IN CASES WHERE THERE IS
16 AGREEMENT, IF THE DEFENDANT TESTIFIED THAT CERTAIN
17 THINGS WERE SAID AND DONE AND INVESTIGATORS TESTIFY
18 CERTAIN THINGS WERE SAID AND DONE THEN THERE ARE
19 POINTS OF AGREEMENT I WOULD ACCEPT THOSE POINTS OF
20 AGREEMENT AS A WAY OF KNOWING WHAT HAPPENED BUT
21 OFTEN THERE IS A CASE OF DISAGREEMENT AND WHO KNOWS
22 IN THOSE CASES MEMORY IS FALLIBLE PEOPLE DON'T
23 ALWAYS REMEMBER EVERY DETAIL OF AN EVENT CORRECT AND
24 SO IT'S DIFFICULT IN THAT WAY

25 Q NOW YOU TESTIFIED EARLIER TODAY THAT THERE WERE

1 CERTAIN TECHNIQUES, INTERROGATION TECHNIQUES, THAT
2 ARE OFTEN USED AND PEOPLE ARE TRAINED AND SOMETIMES
3 THESE TECHNIQUES CAN BE TAKEN TO AN EXTREME, HAVE YOU
4 SEEN ANY OF THE TYPE TECHNIQUE YOU TALKED ABOUT THAT
5 HAVE BEEN, POLICE ARE TRAINED IN AND SO FORTH, THAT
6 WERE USED IN THIS PARTICULAR CASE?

7 A YES

8 Q PLEASE TELL US WHAT YOU'VE SEEN?

9 A WELL, THERE IS THE ONE TECHNIQUE THAT CREATES
10 THE MOST PROBLEMS THAT IS IMPLICATED IN THE MOST
11 FALSE CONFESSIONS AND THAT IS THE PRESENTATION OF
12 FALSE EVIDENCE THIS IS THAT TECHNIQUE THAT AFTER A
13 PERIOD OF TIME FOR SOME PEOPLE IT SOMETIMES, IT JOLTS
14 THEIR SENSE OF REALITY SO THEY BECOME UNCERTAIN EVEN
15 ABOUT THEIR OWN INNOCENCE IN THAT CASE THE
16 PRESENTATION OF FALSE EVIDENCE, WHICH IS A WAY OF
17 MISCHARACTERIZING THE EVIDENCE AND PARTICULARLY IN
18 THIS CASE THERE IS A MISCHARACTERIZATION OF AN ITEM
19 OF EVIDENCE THAT THE DEFENDANT UP FRONT, THEY WERE
20 ASKED, HE WAS ASKED, SO IT LOOKS LIKE YOU HAVE A LOT
21 OF FAITH IN THIS POLYGRAPH AND HE SAID YES HE
22 DIDN'T HEDGE, HE GAVE AN ANSWER THAT WAS PLAIN AND
23 SIMPLE YES, I BELIEVE IN THE POLYGRAPH HE SHOWED
24 NO FEAR OF ANYTHING TO HIDE AT A POLYGRAPH THAT IN
25 SOME WAYS BECAME HIS ULTIMATE SOURCE OF

1 VULNERABILITY AT THAT POINT ANY POLYGRAPH EVIDENCE
2 THAT CAME IN THAT SAID TO HIM YOU FAILED WAS GOING TO
3 SHAKE HIS WORLD IT HAD TO HE BELIEVED IN THE
4 POLYGRAPH AND HE'D BEEN THERE FOR AWHILE HE'S BEEN
5 AT THIS TRYING TO DENY HIS INVOLVEMENT NOW FOR CLOSE
6 TO 24 HOURS

7 Q WERE THERE ANY OTHER TECHNIQUES THAT YOU SAW
8 USED IN THE INTERROGATION IN ADDITION TO THIS
9 PRESENTATION OF THE RESULTS OF THE POLYGRAPH WHICH
10 MAY NOT HAVE BEEN CORRECT?

11 A THAT'S THE BIG ONE THE OTHER TECHNIQUES THAT
12 ARE CLEAR FROM LISTENING TO, FOR EXAMPLE, THE FIRST
13 INTERROGATION AUDIO TAPE, IT'S CLEAR THEY USED THE
14 POSITIVE CONFRONTATION IT IS CLEAR THAT HE WAS
15 ACCUSED OF GUILT, THAT IN FACT THESE WERE
16 INVESTIGATORS WHO HAD ALREADY DETERMINED, WITHOUT
17 HAVING TO GO THROUGH A FULL INVESTIGATION, THEY MADE
18 A JUDGMENT WITHIN 24 HOURS THAT HE WAS GUILTY AT
19 WHICH POINT THEY PUT BLINDERS ON, AND AT THAT POINT
20 ANYTHING HE SAID OR DID BECAME SIMPLY SUPPORT AND
21 CONFIRMATION FOR WHAT THEY ALREADY BELIEVED IF HE
22 DENIED TOO ADAMANTLY, THIS WAS A SIGN OF BEING
23 EVASIVE IF HE, WHEREAS THE INBAU PEOPLE WOULD SAY
24 YOU KNOW HE AGREES TO TAKE A POLYGRAPH, THAT SHOWS HE
25 HAS NOTHING TO HIDE, MAYBE YOU SHOULD STEP BACK A

1 BIT IN THIS CASE IT LOOKS AGREED TO TAKE A
2 POLYGRAPH WAS NOT VIEWED IN THAT LIGHT HE AGREED TO
3 WAIVE HIS RIGHTS TO A LAWYER, TO SILENCE, HE AGREED
4 TO PHYSICAL EXAMINATIONS, HE WAS FULLY COOPERATIVE,
5 ALL THE INDICIA THAT NORMALLY AN INVESTIGATOR IS
6 TRAINED TO LOOK FOR TO SUGGEST MAYBE I SHOULD BACK
7 UP, AND YET DESPITE HIS SHOWING ALL OF THAT, WE BEGAN
8 WITH A POSITIVE CONFRONTATION, THERE WAS PERSISTENCE,
9 NO MATTER WHAT HE SAID OR HOW HE SAID IT EVERY DENIAL
10 WAS DEEMED A LIE SO FROM HIS STANDPOINT HOW DOES HE
11 EXTRICATE HIMSELF FROM THIS SITUATION WHAT DOES HE
12 HAVE TO DO TO GET OUT OF THE SITUATION IF EVERY TIME
13 HE SAYS SOMETHING EVEN AS EXTREME AS, I SWEAR TO GOD
14 THAT DID NOT DO ANYTHING TO MY DAUGHTER, IT'S NOT
15 BELIEVED SO THE POSITIVE CONFRONTATION, THE
16 REFUSALS TO ACCEPT DENIALS, THE PRESENTATION OF FALSE
17 EVIDENCE, THERE IS A HINT OF MINIMIZATION IN THAT
18 TAPE AS WELL, THERE IS A STATEMENT THAT SUGGESTS THAT
19 MAYBE WHAT YOU DID WAS ACCIDENTAL, AND THAT MAYBE IT
20 JUST ESCALATED, SO YOU CAN SEE THE SEEDS OF ALL THE
21 INTERROGATION TECHNIQUES BEING PLANTED RIGHT THEN AND
22 THERE AND OF COURSE, THIS IS TAKING PLACE NOW
23 SHORTLY AFTER HE'S BEEN TRAUMATIZED BY WHAT HE HAS
24 SEEN AND AT NIGHT BETWEEN 10 45 AND 2 30 AM THE NEXT
25 MORNING SO AGAIN WHEN YOU TAKE ALL OF THAT INTO

1 ACCOUNT THIS WAS AN EXTREME INTERROGATION

2 Q HOW OFTEN HAVE YOU BEEN ASKED TO TESTIFY AS AN
3 EXPERT ON FALSE CONFESSIONS?

4 A ABOUT 7-800 TO A THOUSAND TIMES

5 MR BRACKETT MAY IT PLEASE THE
6 COURT I'M GOING TO OBJECT TO THE NEXT LINE OF
7 QUESTIONING AS IMPROPER SELF-BOLSTERING OF HIS
8 TESTIMONY IF HE'S GOING TO GO INTO WHY HE DOES OR
9 DOESN'T TAKE THE CASE I DON'T THINK THAT'S
10 NECESSARILY RELEVANT

11 THE COURT I SUSTAIN THE OBJECTION

12 MR BAITY COURT'S INDULGENCE NOTHING
13 FURTHER, YOUR HONOR THANK YOU PLEASE ANSWER ANY
14 QUESTIONS THE PROSECUTION WILL HAVE
15 CROSS EXAMINATION BY MR BRACKETT

16 Q AFTERNOON

17 A HI

18 Q TWO BIG THINGS TIME?

19 A YES

20 Q AND PRESENTATION OF FALSE EVIDENCE?

21 A YES

22 Q THIS WASN'T A PARTICULARLY HEINOUS AMOUNT OF
23 TIME IN THIS CASE, WAS IT?

24 A UH

25 Q FOUR HOURS THAT ONE NIGHT, FROM 10 40 UNTIL

1 ABOUT 2 45, THAT'S NOT TOO LONG?

2 A WELL, THIS TIME, THIS WASN'T CONTINUOUS HE WAS
3 QUESTIONED EARLIER IN THE DAY AND SUBMITTED TO
4 EXAMINATION SO HE HAD BEEN WITH THE POLICE FOR MANY
5 HOURS AND IT'S NOT JUST TIME BUT OF COURSE TIME OF
6 DAY

7 Q ARE YOU SURE ABOUT THAT? HE HAD BEEN THERE
8 TWICE BEFORE FOR ABOUT AN HOUR EACH TIME ONE TIME
9 WITH AN ELDERLY GENTLEMAN, OLDER GENTLEMAN DETECTIVE
10 WHO IS MORE LIKE A GRANDFATHER WHO DID A VERY
11 INFORMAL, INFORMATIONAL INTERVIEW, DIDN'T EVEN GET A
12 WRITTEN STATEMENT, JUST GOT A SUMMARY?

13 A RIGHT

14 Q YOU GOT THAT, RIGHT?

15 A BUT KEEP IN MIND THE INTERROGATION THAT YOU ARE
16 REFERRING TO DIDN'T PRODUCE A CONFESSION

17 Q NO

18 THE COURT KEEP IN MIND ISN'T AN ANSWER
19 TO THAT QUESTION HE ASKED YOU A QUESTION

20 Q IS THAT A FACT --

21 A THE INITIAL THREE AND A HALF HOUR PERIOD OF
22 INTERROGATION THAT YOU ARE QUESTIONING ABOUT FROM
23 10 45 TO ROUGHLY 2 30

24 Q NO, SIR I'M TALKING ABOUT EARLIER ---

25 THE COURT LET ME JUST KIND OF INTERVENE

1 SO WE CAN GET ON TRACK HE ASKED YOU ABOUT I THINK
2 SOMETHING ABOUT AN INTERVIEW WITH AN ELDERLY-TYPE
3 GENTLEMAN AND WAS IT A STATEMENT OR NOT AND NOW HE
4 DESERVES AN ANSWER DID THAT HAPPEN, DO YOU KNOW
5 ABOUT IT, ISN'T THAT THE QUESTION?

6 Q YES, SIR

7 A I DON'T KNOW THE AGE OF THE PEOPLE WHO WROTE
8 REPORTS BUT I ASSUME YOU ARE REFERRING TO DETECTIVE
9 BURRIS?

10 Q YES, SIR

11 A OKAY

12 Q YES, SIR YOU ARE FAMILIAR WITH THAT STATEMENT?

13 A YES

14 Q IT'S NOT EVEN A STATEMENT IT'S A SUMMARY OF
15 THE INTERVIEW?

16 A YES RIGHT

17 Q VERY, VERY GENERIC, INFORMATIONAL, GATHERING
18 SOME INFORMATION?

19 A RIGHT

20 Q THEN HE GOES HOME?

21 A RIGHT

22 Q AND THEN HE COMES BACK AT 12 40?

23 A RIGHT

24 Q AND DOES A VERY SHORT INFORMATIONAL INTERVIEW
25 AGAIN, AGAIN, NO FORMAL STATEMENT?

1 A RIGHT

2 Q CORRECT?

3 A RIGHT

4 Q JUST A BRIEF SUMMARY DETECTIVE BURRIS,
5 DETECTIVE HERRING, NON-ACCUSATORY, THEN HE GOES HOME?

6 A UH-HUH

7 Q AND HE STAYS HOME FROM ABOUT ONE O'CLOCK THAT
8 AFTERNOON UNTIL ABOUT 10 45 THAT NIGHT?

9 A THAT'S RIGHT

10 Q WITH HIS FAMILY

11 A TO ABOUT TEN O'CLOCK

12 Q HE COULD SLEEP, TAKE A NAP, RELAX IF HE WAS
13 TIRED, DISTRAUGHT, GET CONSOLED, WHATEVER?

14 A UH-HUH

15 Q EAT, RIGHT?

16 A RIGHT

17 Q THEN FROM 10 45 TO ABOUT 2 45 THEY START REALLY
18 INTERROGATING HIM?

19 A YES

20 Q AND THE FIRST HOUR OR SO OF THAT IS REALLY NOT
21 MUCH OF AN INTERROGATION, IT'S MORE OF AN INTERVIEW,
22 YOU'LL CONCEDE TO THAT SURELY?

23 A I'M NOT SURE I CAN CUT IT AT AN HOUR, BUT THERE
24 IS THE ELEMENTS OF INTERROGATION APPEAR EARLY ON

25 Q WELL, HE TALKS FOR A LONG TIME ABOUT CHICKEN

1 RUNS TO LANCASTER AND CHRISTMAS ORNAMENTS AT
2 SALVATION ARMY?

3 A RIGHT

4 Q AND HE RAMBLES ON FOR A LONG TIME?

5 A RIGHT

6 Q AND THEY LET HIM GO THEY ARE LISTENING,
7 HEARING HIM OUT, BEING PATIENT, RIGHT? AND THEN THEY
8 START TO GET A LITTLE FRUSTRATED, RIGHT?

9 A YES

10 Q ISN'T THAT A FAIR CHARACTERIZATION --

11 A BECAUSE HE'S CONTINUING TO DENY INVOLVEMENT

12 Q NOT DENY INVOLVEMENT HE'S NOT EVEN TALKING
13 ABOUT THE CASE ISN'T THAT WHAT THEY SAY ON THE
14 TAPE, YOU'RE NOT TALKING ABOUT THE CASE, LET'S --
15 DIDN'T YOU HEAR SEVERAL TIMES LET'S, LET'S TALK ABOUT
16 AMANDA ISN'T THAT WHAT YOU HEARD JERRY WALDROP SAY?

17 A YES, I HEARD A LOT OF THAT FOLLOWING FROM HIS
18 TALKING ABOUT ALL THAT HE KNEW, THE LAST I REMEMBER,
19 HAPPENED THE NIGHT BEFORE HE WASN'T BEING EVASIVE
20 HE IS SIMPLY TALKING ABOUT THE ONLY TIMEFRAME HE SAYS
21 HE KNEW ANYTHING ABOUT AND THAT WAS DEFINED AS
22 EVASIVE

23 Q WELL, SIR --

24 A I DON'T KNOW WHAT HE WAS SUPPOSED TO -- IF IN
25 FACT AN INNOCENT MAN WAS BEING INTERROGATED WHAT WAS

1 AN INNOCENT MAN SUPPOSED TO SAY ABOUT HIS INVOLVEMENT
2 WHEN HE HAD NONE

3 Q WELL, SIR, COMING BACK TO MY MAIN THRUST OF THE
4 TIME ISSUE, THE REAL INTERROGATION WASN'T UNTIL 10 45
5 THAT NIGHT --

6 A THAT'S RIGHT

7 Q THAT'S WHEN IT STARTED THE OTHER STUFF IS JUST
8 SITTING AROUND, HE WENT HOME --

9 A CORRECT

10 Q THAT'S NOT SO I MEAN WHEN WE TALK ABOUT
11 INTERROGATION TIME, REALLY 10 45 TO 2 45, FOUR HOUR
12 PERIOD?

13 A CORRECT

14 Q THAT'S WHAT WE'RE TALKING ABOUT

15 A CORRECT

16 Q AND THAT'S NOT EXCESSIVE?

17 A THAT'S NOT EXCESSIVE ALTHOUGH AT 10 45 TO 2 45
18 THE TIME OF DAY IS ANOTHER ISSUE

19 Q YES, SIR BUT HE NEVER COMPLAINED AND SAID, I'M
20 TIRED, CAN I GO TO BED, HE NEVER GAVE ANY INDICATION
21 ON THAT TAPE, CORRECT?

22 A NO NO, BUT DOES A SUSPECT HAVE TO COMPLAIN IN
23 ORDER TO ---

24 THE COURT LET'S GO BACK JUST A MINUTE
25 WE'RE GOING TO MOVE A LOT QUICKER IF YOU QUIT ASKING

1 HIM QUESTIONS AND ANSWER THE QUESTIONS HE ASKS HE'S
2 THE ATTORNEY YOU'RE THE WITNESS

3 A YEAH IT WAS THREE AND A HALF, FOUR HOURS

4 Q NOT EXCESSIVE?

5 A RIGHT

6 Q OKAY AND THEN HE'S PUT INTO A CELL AND HE GOES
7 TO BED, GOES TO SLEEP? YOU AWARE OF THAT?

8 A IT'S NOT CLEAR HOW MUCH SLEEP HE GOT BUT YES

9 Q WELL ---

10 A AND HE WAS ARRAIGNED AT 4 21 SO THE BED DOESN'T
11 BEGIN AT 2 30

12 Q NO, SIR HE WAS SERVED HIS WARRANT HE WASN'T
13 TAKEN IN FRONT OF A JUDGE DOES THAT HELP YOU
14 CLARIFY THAT?

15 A THERE IS A THREE O'CLOCK WARRANT AND ARRAIGNED
16 AT 4 21

17 Q NO, SIR THERE WAS NO ARRAIGNMENT THERE WAS
18 SERVICE OF A WARRANT LES HERRING WENT IN AND HANDED
19 HIM A WARRANT AND SAID YOU ARE UNDER ARREST FOR
20 MURDER, HERE'S YOUR WARRANT, AND HE GOES BACK TO BED
21 THAT WAS LES HERRING'S --

22 MR BAITY YOUR HONOR, I AM GOING TO
23 OBJECT HE IS NOT ASKING HIM A QUESTION HE'S
24 ARGUING WITH HIM I BELIEVE

25 THE COURT I THINK HE'S ASKING A

1 QUESTION HE'S ASKING HIM WHETHER OR NOT HE KNOWS
2 CERTAIN INFORMATION

3 Q ARE YOU AWARE OF THAT?

4 A I'M AWARE THAT HE WAS ARRESTED AT THAT POINT

5 Q OKAY THEN THAT MAKES A LITTLE BIT OF A
6 DIFFERENCE IF HE WASN'T TAKEN AND THERE WAS A BIG
7 LEGAL PROCEEDING AT FOUR O'CLOCK IN THE MORNING, HE
8 WAS JUST SERVED A WARRANT IN HIS CELL?

9 A YES

10 Q THAT'S NOT AS BAD AS BEING HAULED INTO A
11 COURTROOM, BROUGHT BEFORE A JUDGE, AND THEN HE WENT
12 BACK TO BED, RIGHT?

13 A YES

14 Q OKAY?

15 A WE DON'T KNOW HOW MUCH SLEEP HE GOT, BUT YES,
16 SIR

17 Q WELL REGARDLESS OF THAT, FOUR HOURS NOW ALL OF
18 A SUDDEN IT'S NOT HOURS AND HOURS OF INTERVIEWS SO IS
19 IT SAFE TO SAY TIME ISN'T REALLY THAT MUCH OF AN
20 ISSUE IN THIS CASE?

21 A NO, BECAUSE THERE IS NOT A CONFESSION THAT COMES
22 AFTER FOUR HOURS THE CONFESSION COMES AFTER THAT
23 ADDITIONAL TIME THE NEXT MORNING WHEN HE NOW GOES
24 INTO A SECOND SESSION

25 Q AND THAT'S WHERE WE GET THE PRESENTATION OF

1 FALSE EVIDENCE?

2 A YES

3 Q IS THAT WHAT YOU ARE CONTENDING?

4 A YES

5 Q THE POLYGRAPH?

6 A THE POLYGRAPH

7 Q AND IN FACT YOU'VE BEEN WORKING ON THIS CASE FOR
8 AWHILE NOW, HAVEN'T YOU?

9 A YES

10 Q HOW LONG HAVE YOU BEEN ON THIS CASE?

11 A I ESTIMATE SIX MONTHS

12 Q SIX MONTHS AND YOU HAD A CONVERSATION WITH MR
13 BAITY SOMETIME IN AUGUST AND YOU TOLD HIM WE NEED TO
14 GET SOMEBODY WHO WILL SAY THAT POLYGRAPH WAS WRONG,
15 DIDN'T YOU?

16 A I DON'T KNOW IF THE POLYGRAPH IS WRONG OR NOT

17 THE COURT WELL, NO, THAT'S --

18 A ABSOLUTELY NOT NO THE ANSWER IS NO

19 THE COURT ALL RIGHT JUST ANSWER IT

20 Q YOU DID NOT TELL MR BAITY TO FIND AN EXPERT TO
21 COME IN AND SAY THAT POLYGRAPH WAS WRONG?

22 A CORRECT

23 Q MAY I HAVE THAT E-MAIL? THE E-MAIL THAT YOU
24 SENT TO YOUR EXPERT MR HONTS?

25 THE COURT HONTS

1 MR BAITY I GAVE IT TO YOU

2 MR BRACKETT I GAVE IT BACK TO YOU

3 MR BAITY I DON'T RECALL RECEIVING IT

4 I'LL BE GLAD TO LOOK FOR IT, YOUR HONOR

5 MR BRACKETT I WOULD LIKE TO HAVE THAT

6 E-MAIL

7 THE COURT WE HAVE BEEN GOING ON FOR

8 AWHILE WE'LL TAKE A SHORT BREAK WHILE WE FIND THIS

9 (THE JURY EXITS THE COURTROOM AT 04 36 PM)

10 THE COURT BEFORE WE TAKE A BREAK,

11 DOCTOR, I'M NOT CHIDING YOU, BUT YOU'VE TESTIFIED

12 BEFORE AND THE FORUM HERE, THIS ISN'T A SCIENTIFIC

13 DEBATE, THE FORUM IS HE ASKS A QUESTION AND YOU

14 ANSWER IT IF YOU HAVE AN EXPLANATION AFTER YOU

15 ANSWER YES OR NO YOU CAN EXPLAIN IT

16 A OKAY

17 THE COURT AGAIN I'M NOT TRYING TO CHIDE

18 YOU BUT IT APPEARS TO THE COURT THAT WHEN HE ASKS A

19 QUESTION YOU LAUNCH INTO A DEFENSE OF YOUR ANSWER

20 BEFORE YOU EVEN ANSWER THE QUESTION, SO ANSWER THE

21 QUESTION THEN YOU CAN EXPLAIN

22 A OKAY

23 THE COURT ALL RIGHT WE'LL TAKE A

24 BREAK

25 (COURT'S IN RECESS AT 04 37 PM)

1 (COURT RESUMES AT 04 51 PM)
2 THE COURT READY FOR THE JURY
3 MR BRACKETT YES, SIR
4 THE COURT BRING IN THE JURY
5 (THE JURY RETURNS TO THE COURTROOM AT
6 04 51 PM)
7 THE COURT ALL RIGHT
8 MR BRACKETT THANK YOU, YOUR HONOR
9 CROSS EXAMINATION BY MR BRACKETT
10 Q SO, DR KASSIN, DIDN'T YOU TELL MR BAITY THAT
11 THE POLYGRAPH IS THE MOST IMPORTANT PIECE OF EVIDENCE
12 IN THIS CASE BESIDES THE DNA AND THAT HE NEEDED TO
13 GET AN EXPERT ON THAT ISSUE?
14 A YES
15 Q YOU DID TELL HIM THAT AND THIS WAS IN LATE
16 AUGUST OF THIS YEAR?
17 A THAT SOUNDS RIGHT, YES, SIR
18 Q OKAY NOW YOU DIDN'T COME DOWN HERE FOR FREE
19 EITHER, DID YOU?
20 A NO
21 Q OKAY YOU'RE NOT GETTING PAID BY THE WORD, ARE
22 YOU?
23 A EXCUSE ME?
24 Q YOU'RE NOT GETTING PAID BY THE WORD, ARE YOU?
25 A AM I WORDY?

1 Q NO, BY THE WORD?

2 A NO NO, I'M NOT

3 Q HOW MUCH DO YOU GET PAID?

4 A \$425 AN HOUR

5 Q I'M SORRY?

6 A \$425 AN HOUR

7 Q \$425 AN HOUR?

8 A YES

9 Q HOW MANY HOURS HAVE YOU GOT IN THIS CASE, SIR?

10 A PROBABLY 30-35

11 Q INCLUDING THE TESTIMONY TODAY?

12 A I HAVEN'T GONE BACK TO REDO IT BUT PROBABLY

13 ABOUT THAT AND I DON'T CHARGE EVERY MINUTE AND MY

14 TESTIMONY IS AT THE SAME RATE AS MY PREPARATION

15 Q SO --

16 A IT'S MY TIME THAT I GET PAID FOR

17 Q ---AM I GUESSING ABOUT 14 OR \$15,000?

18 A THAT'S PROBABLY HIGH IS MY GUESS

19 Q WELL, 30 HOURS WOULD BE ABOUT \$13,000?

20 A OKAY

21 Q ON THE LOW END --

22 A OKAY

23 Q ---WOULD BE ABOUT 13?

24 A OKAY

25 MR BRACKETT NOTHING FURTHER

1 THE COURT ALL RIGHT

2 CROSS EXAMINATION BY MR GREELEY

3 Q PROFESSOR KASSIN, GOOD AFTERNOON

4 A GOOD AFTERNOON

5 Q I'M LELAND GREELEY I REPRESENT MR SANDERS IN
6 THIS CASE JUST BRIEFLY, I WANT TO GO BACK TO THE
7 SECOND TYPE OF FALSE CONFESSION THAT YOU TALKED
8 ABOUT, THE COERCED COMPLIANT?

9 A CORRECT

10 Q OKAY SEE IF I UNDERSTAND THAT CORRECTLY
11 WOULD THAT BE A SITUATION WHERE LET'S SAY A PERSON
12 WAS ACCUSED OF SOMETHING AND MAYBE THEY WENT AHEAD
13 AND ADMITTED IT SO THEY COULD GO BACK TO WORK TO FEED
14 THEIR CHILDREN?

15 A YES

16 Q IF NOT ADMITTING IT WAS GOING TO KEEP THEM FROM
17 WORKING?

18 A YES NOW AGAIN IT STRIKES PEOPLE AS ODD, BUT
19 MANY FALSE CONFESSORS SAY I CONFESSED IN ORDER TO GO
20 HOME IF THEY THINK THAT'S WHAT IS GOING TO HAPPEN,
21 BUT THAT STATEMENT SHOWS THAT MINIMIZATION WORKED,
22 THAT IN FACT THEY THINK THAT WHAT THEY DID WAS NOT SO
23 BAD AND WHAT THEY ARE CONFESSING TO IS NOT SO BAD

24 Q RIGHT AND THEY HAVE A HIGHER OBLIGATION THAT
25 THEY FEEL THEY NEED TO DO?

A YES

Q SO THEY WILL MAKE THAT CONFESSION SO THAT THEY CAN, THEY ARE ENABLED TO GO AND MEET THIS OTHER OBLIGATION THEY THINK IS MORE IMPORTANT?

A CORRECT

Q YOU MENTION THAT IN REGARDS TO THE THIRD TYPE THAT YOU TESTIFIED ABOUT IT'S IMPORTANT TO KNOW AS MUCH AS YOU CAN ABOUT THE PROCESS?

A YES

Q OKAY AND I BELIEVE THAT THAT'S WHEN YOU TALKED ABOUT HOW IT WOULD BE NICE IF YOU WERE ABLE TO EITHER HAVE AN AUDIO RECORDING OR EVEN A VIDEO TAPE RECORDING OF EVERYTHING?

A CORRECT

Q BECAUSE THE MORE INFORMATION YOU HAVE ABOUT THE PROCESS THE MORE YOU ARE GOING TO BE ABLE TO ANALYZE IT?

A CORRECT

Q AND MORE ACCURATELY, IS THAT CORRECT?

A CORRECT

Q AND YOU'VE BEEN ON THIS CASE SIX MONTHS AND WOULD YOU TELL ME AGAIN WHAT YOU WERE PROVIDED IN THIS CASE? I KNOW YOU'VE GONE THROUGH IT AT LEAST THREE TIMES BUT

A IT'S OKAY

1 Q I WANT TO MAKE SURE THAT I'M NOT MISSING
2 SOMETHING

3 A I WAS PROVIDED THE POLICE REPORTS OF THE FIRST
4 DAYS

5 Q OKAY

6 A I WAS PROVIDED THE AUDIO TAPE AND TRANSCRIPT OF
7 THAT FIRST INTERROGATION SESSION BEGINNING 10 45 P M
8 ON THE 29

9 Q ALL RIGHT

10 A I WAS PROVIDED WITH DETECTIVE BAKER'S POLYGRAPH
11 REPORT IN WHICH HE SUMMARIZES AN ORAL CONFESSION HE
12 RECEIVED I WAS PROVIDED WITH MR COPE'S STATEMENT
13 THAT HE PROVIDED SHORTLY AFTER THAT I WAS PROVIDED
14 WITH A HANDWRITTEN STATEMENT SHORTLY AFTER THAT BY
15 DETECTIVE BLACKWELDER IN WHICH HE MADE SOME
16 ADDITIONAL INQUIRY ABOUT A BROOM

17 Q OKAY

18 A I RECEIVED THE 9 45 A M STATEMENT OF DECEMBER
19 THIRD, THE VIDEO TAPE THAT FOLLOWED ON DECEMBER
20 THIRD, THE VIDE TAPE RE-ENACTMENT

21 Q ALL RIGHT

22 A AND THE STATEMENT THAT FOLLOWED THE VIDEO TAPE
23 RE-ENACTMENT THAT CAPTAIN CABANISS AND DETECTIVE
24 BLACKWELDER HAD TYPED UP

25 Q SHE TYPED UP

1 A I ALSO RECEIVED PRIOR TESTIMONY FROM DETECTIVE
2 BLACKWELDER

3 Q OKAY

4 A DETECTIVE BAKER, CAPTAIN CABANISS, AND I KNOW I
5 AM MISSING SOMEONE

6 Q OKAY AND THAT WOULD HAVE BEEN TESTIMONY IN
7 ANOTHER COURT PROCEEDING?

8 A YES

9 Q ANYTHING ELSE YOU RECEIVED?

10 A CAN I CHECK?

11 Q YES, PLEASE DO ANY WRITTEN STATEMENTS, ANY
12 NOTES?

13 A I DON'T KNOW IF I MENTIONED POLICE REPORTS FROM
14 BURRIS AND HERRING

15 Q YOU DID NOT

16 A THAT I DID RECEIVE, YES

17 Q YES

18 A THAT'S IT AND THEN WHATEVER INFORMATION, I
19 RECEIVED A LOT OF INFORMATION ORALLY

20 Q FROM?

21 A FROM ATTORNEYS BAITY AND MORTON

22 Q SO YOU RECEIVED INFORMATION FROM ATTORNEYS BAITY
23 AND MORTON?

24 A CORRECT

25 Q ANY FROM ATTORNEY WOOD?

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1 A I DON'T THINK ANY FROM ATTORNEY WOOD
2 Q AND ANY FROM ATTORNEY SMITH?
3 A NO
4 Q OKAY
5 A NO
6 Q IS THIS YOUR FIRST VISIT TO YORK COUNTY?
7 A I BELIEVE IT IS
8 Q IT IS IS THIS YOUR FIRST VISIT ON THIS
9 PARTICULAR CASE?
10 A YES
11 Q OKAY NOW WOULD YOU LOOK IN YOUR BRIEFCASE AND
12 TELL ME IF YOU HAVE NOTES FROM THE DATE AND TIME THAT
13 YOU SPOKE WITH MR COPE?
14 A I DID NOT SPEAK TO MR COPE
15 Q SIR?
16 A I DID NOT SPEAK WITH MR COPE
17 Q NOW YOU JUST TESTIFIED IT'S IMPORTANT TO KNOW AS
18 MUCH AS YOU CAN ABOUT THIS PROCEEDING AND THIS
19 PROCESS AND THAT'S WHY YOU GOT THAT INFORMATION, IS
20 THAT CORRECT?
21 A CORRECT
22 Q AND MR COPE WAS THE CENTRAL ISSUE OF THIS
23 PROCESS, IS THAT CORRECT?
24 A CORRECT
25 Q AND I BELIEVE THAT YOU SAID IT WAS IMPORTANT TO

1 DETERMINE THE, FIRST OF ALL, IF A PERSON WAS
2 VULNERABLE, AND SECOND OF ALL WHAT THAT VULNERABILITY
3 MIGHT HAVE BEEN DERIVED FROM, IS THAT CORRECT?

4 A CORRECT

5 Q AND YOU MENTION WHETHER A PERSON IS MENTALLY
6 RETARDED, YOU DON'T HAVE ANY INFORMATION THAT
7 MR COPE WAS MENTALLY RETARDED OR IS MENTALLY
8 RETARDED OR HAS BEEN IN THE PAST?

9 A NO

10 Q YOU DON'T HAVE ANY INFORMATION MR COPE WAS
11 DRUNK DURING THIS PERIOD OF TIME OR INCAPACITATED DUE
12 TO ILLEGAL NARCOTICS?

13 A CORRECT

14 Q AND I BELIEVE YOU TESTIFIED ON DIRECT THAT MR
15 COPE WAS TRAUMATIZED BY THIS PROCESS, IS THAT
16 CORRECT?

17 A CORRECT

18 Q YOU NEVER ASKED HIM, DID YOU?

19 A NO

20 Q YOU NEVER ASKED MR COPE IF HE WAS TRAUMATIZED,
21 DID YOU?

22 A (NO RESPONSE)

23 Q SIR?

24 A I DID NOT IT IS ALSO --

25 Q YOU HEARD THAT --

1 MR BAITY YOUR HONOR, HE HAS AN
2 OPPORTUNITY TO EXPLAIN HIS ANSWER

3 THE COURT GO AHEAD

4 A MY OPINION ABOUT THE RELEVANCE OF THE PRINCIPLES
5 THAT I TALKED ABOUT HAVE NOTHING TO DO WITH MR COPE

6 Q WELL, ISN'T MR COPE THE WHOLE FOCUS OF YOUR
7 ANALYSIS?

8 A NO

9 Q AS TO WHETHER HE WAS TRAUMATIZED?

10 A NO NO I NEVER DID AN ANALYSIS OF WHETHER HE
11 WAS TRAUMATIZED IT WAS NEVER MY INTENTION MY
12 INTENTION WAS TO INDICATE WHAT ARE THE SITUATIONAL
13 FACTORS OF INTERVIEWING AND INTERROGATION THAT PUTS
14 PEOPLE IN GENERAL AT RISK AND AS A SOCIAL, I'M NOT A
15 CLINICAL PSYCHOLOGIST, I'M NOT A PSYCHIATRIST I
16 DON'T DO TESTING

17 Q OKAY

18 A AND I DON'T DO DIAGNOSIS SO THAT WOULD BE
19 OUTSIDE OF MY REALM IF I THOUGHT THIS WERE A CASE
20 WHERE MR COPE WAS THE ISSUE AND HIS MENTAL STATE WAS
21 THE ISSUE I WOULD HAVE REFERRED IT TO A CLINICAL
22 PSYCHOLOGIST

23 Q BUT YOU TESTIFIED MR COPE WAS TRAUMATIZED,
24 CORRECT?

25 A I'M NOT SURE THAT I DID I THINK I TALKED IN

1 HYPOTHETICAL TERMS ABOUT A PERSON IN THIS CASE MIGHT
2 BE TRAUMATIZED AND THAT MIGHT BE ONE OF THOSE FACTORS
3 THAT WOULD MAKE HIM VULNERABLE

4 Q ALL RIGHT

5 A NO, BUT I DIDN'T

6 Q SO YOU DON'T HAVE ANY INFORMATION --

7 A NO

8 Q ---ABOUT THAT?

9 A NO

10 Q AND YOU NEVER TALK, IN SIX MONTHS YOU NEVER
11 TALKED TO MR COPE AND THEY'VE NEVER OFFERED HIM TO
12 TALK TO YOU?

13 A I SAID EARLIER I TRY TO RELY ON STRICTLY
14 OBJECTIVE INFORMATION, EITHER THE TAPES OR SWORN
15 TESTIMONY I TRY NOT TO TAKE SELF-SERVING REPORTS
16 FROM A DEFENDANT AS WORD

17 MR GREELEY THANK YOU NOTHING FURTHER
18 THE COURT MR BAITY

19 MR BAITY JUST ONE, YOUR HONOR

20 REDIRECT EXAMINATION BY MR BAITY

21 Q DR KASSIN, I WANT TO SHOW YOU A COPY OF THE
22 MEMORANDUM THAT MR BRACKETT MADE REFERENCE TO, TAKE
23 A MOMENT TO LOOK AT THAT HAVE YOU EVER SEEN THAT
24 MEMORANDUM?

25 A THIS IS YOUR E-MAIL NOTE TO PROFESSOR HONTS

1 Q YES HAVE YOU EVER SEEN THAT BEFORE?

2 A I DON'T THINK SO

3 Q ALL RIGHT, SIR PLEASE TAKE A MOMENT TO SCAN IT
4 AND PLEASE TELL ME, DOES IT NOT MENTION YOU IN THERE
5 A FEW TIMES?

6 A YES, IT DOES

7 Q PLEASE TAKE A MOMENT TO LOOK AT WHAT IT SAYS
8 ABOUT YOU?

9 A OKAY

10 Q NOW DR KASSIN, DO YOU BELIEVE THAT THAT
11 MEMORANDUM IS A FAIR AND ACCURATE DESCRIPTION OF OUR
12 CONVERSATION, YOU AND I, THAT WE HAD?

13 A YES

14 Q CONCERNING THE POLYGRAPH?

15 A YES

16 Q AND DOES THAT MEMORANDUM INDICATE THAT WE'RE OF
17 THE SHARED BELIEF THAT THE POLYGRAPH IS A VERY
18 IMPORTANT PIECE OF INFORMATION IN THIS TRIAL?

19 A YES

20 Q DOES THAT MEMORANDUM AT ANY TIME SUGGEST THAT
21 YOU SUGGESTED TO ME THAT I FIND AN EXPERT WHO IS
22 GOING TO FIND THAT THE POLYGRAPH WAS IMPROPERLY
23 GRADED?

24 A NO, I WOULDN'T DO THAT

25 Q DID YOU EVER DO THAT?

1 A NO

2 Q DOES THAT MEMORANDUM SUGGEST POSSIBLE OR DR
3 HONTS AS AN EXPERT IN THE FIELD OF POLYGRAPHS?

4 A YES

5 Q ALL RIGHT AND IT DOES FAIRLY SET FORTH OUR
6 CONVERSATION WITH RESPECT TO DR HONTS?

7 A YES

8 MR BAITY YOUR HONOR, AT THIS POINT I
9 MOVE THAT IT BE MOVED INTO EVIDENCE?

10 MR BRACKETT OBJECTION, YOUR HONOR I
11 THINK THERE IS SOME ISSUES ON THIS

12 MR GREELEY OBJECTION

13 THE COURT I SUSTAIN THE OBJECTION YOU
14 MAY MAKE IT A COURT'S EXHIBIT

15 MR BAITY THANK YOU, YOUR HONOR

16 Q DR KASSIN, IS IT NECESSARY THAT SOMEONE BE
17 MENTALLY RETARDED OR DRUNK OR MENTALLY INCAPACITATED
18 IN ANY WAY TO BE, TO FALL VICTIM TO A FALSE
19 CONFESSION?

20 A NO

21 Q IS THAT NECESSARY TO THE ANALYSIS OF A
22 CONFESSION BEING FALSE THAT THE PERSON BE SOMEHOW
23 MENTALLY IMPAIRED OR ANYTHING SUCH AS THAT?

24 A NO, SOME FALSE CONFESSIONS OCCUR BECAUSE OF
25 MENTAL IMPAIRMENT IF THIS WERE A CASE WHERE THAT

1 WAS THE RISK FACTOR I WOULD HAVE REFERRED YOU TO A
2 CLINICAL PSYCHOLOGIST

3 (COURT'S EXHIBIT NUMBER NINE E-MAIL
4 MARKED FOR EVIDENCE)

5 Q HAVE YOU STUDIED CASES OF FALSE CONFESSION WHERE
6 THERE WAS NO MENTAL IMPAIRMENT, NO INTOXICATION, NONE
7 OF THE FACTORS THAT MR GREELEY WAS ASKING YOU?

8 A YES, THAT IS WHAT SOCIAL PSYCHOLOGISTS STUDY IS
9 THE WAY IN WHICH WE ARE PROFOUNDLY INFLUENCED BY
10 SOCIAL SITUATIONS AND FIGURES OF AUTHORITY THAT'S
11 WHAT WE STUDY AND IT HAPPENS TO NORMAL ORDINARY
12 PEOPLE

13 Q AGAIN YOUR EXAMINATION OF THE MATERIALS THAT
14 WERE PROVIDED TO YOU TODAY, I BELIEVE I ASKED YOU,
15 BUT DID NOT INCLUDE AN ANALYSIS OR INTERVIEW WITH
16 MR COPE?

17 A NO

18 Q WERE YOU MORE FOCUSED ON THE TECHNIQUES THAT
19 WERE USED IN THESE INTERVIEWS?

20 A YES, BECAUSE I'M INTERESTED IN THE GENERAL
21 PRINCIPLES OF INFLUENCE

22 Q AND MR COPE HAD NOTHING TO DO WITH THOSE
23 TECHNIQUES USED AGAINST HIM, THAT WAS A DECISION MADE
24 BY THE POLICE?

25 A THAT'S RIGHT

1 Q DR KASSIN, HAVE YOU RECEIVED 14 OR \$15,000
2 FROM, FOR YOUR PAYMENT IN THIS CASE?

3 A NO

4 Q DO YOU ALWAYS CHARGE THE FULL AMOUNT THAT YOU
5 COULD IN ANY CASE?

6 MR BRACKETT OBJECTION AS TO RELEVANCY
7 THE COURT I SUSTAIN THE OBJECTION

8 MR BAITY ALL RIGHT

9 Q DO YOU TESTIFY FOR A LIVING?

10 A THIS IS, I CAN PROBABLY COUNT STILL ON TWO HANDS
11 THE NUMBER OF TIMES I HAVE TESTIFIED I DON'T DO IT
12 FOR A LIVING THE CALLS I GET ARE CALLS THAT I
13 PRIMARILY REJECT AND SEND ELSEWHERE

14 Q THANK YOU, DOCTOR

15 RE CROSS EXAMINATION BY MR BRACKETT

16 Q YOU PREVIOUSLY TESTIFIED THAT YOU TESTIFIED
17 ABOUT 30 TIMES?

18 A NO I AGREED TO TESTIFY ABOUT 30 TIMES I'VE
19 TESTIFIED TEN OR TWELVE

20 Q ALL RIGHT NOW THE MEMO THAT YOU WERE SHOWN

21 A YES

22 Q OKAY IN THE PART THAT RELATES TO YOU

23 A YES

24 Q WE HAVE RETAINED, ASSOCIATED SAUL KASSIN OF
25 WILLIAMS COLLEGE TO TESTIFY AS OUR FALSE CONFESSION

1 EXPERT, CORRECT?

2 A CORRECT

3 Q WE EXPECT THE TRIAL TO BEGIN THE TUESDAY AFTER
4 LABOR DAY SAUL SUGGESTED THAT I CONTACT YOU TODAY
5 FRIDAY, AUGUST 27

6 A OKAY

7 Q DR KASSIN TELLS ME THAT THE POLYGRAPH IS THE
8 MOST IMPORTANT PIECE OF EVIDENCE IN THE CASE BESIDES
9 DNA

10 A OKAY

11 Q I NEED SOMEONE WHO CAN TESTIFY ABOUT IMPROPER
12 POLYGRAPH USE COULD YOU POSSIBLY HELP US

13 A OKAY

14 Q ISN'T THAT WHAT THAT SAYS?

15 A YES, SIR

16 MR BRACKETT NO FURTHER QUESTIONS

17 MR GREELEY I DON'T HAVE ANYTHING
18 FURTHER

19 THE COURT NO NO THAT'S IT ALL
20 RIGHT THANK YOU CAN THIS WITNESS BE EXCUSED

21 MR BRACKETT CERTAINLY

22 MR GREELEY NO OBJECTION

23 MR BAITY YES, YOUR HONOR

24 THE COURT ALL RIGHT THANK YOU FOR YOUR
25 TIME WE APPRECIATE IT HAVE A SAFE TRIP HOME

1 MR KASSIN THANKS

2 THE COURT CALL YOUR NEXT WITNESS

3 MR SMITH BILLY COPE CALLS B J

4 BARROWCLOUGH

5 THE COURT ALL RIGHT

6 B J BARROWCLOUGH, BEING FIRST DULY
7 SWORN TESTIFIES AS FOLLOWS

8 DIRECT EXAMINATION BY MR SMITH

9 Q GOOD AFTERNOON, MR BARROWCLOUGH HOW YOU
10 DOING?

11 A OKAY

12 Q GOOD IF YOU WOULD STATE YOUR FULL NAME FOR THE
13 COURT REPORTER PLEASE?

14 A BRYSON JOHN BARROWCLOUGH

15 Q IF YOU WOULD SPELL YOUR LAST NAME?

16 A B-A-R-R-O-W-C-L-O-U-G-H

17 Q WHAT'S YOUR OCCUPATION, MR BARROWCLOUGH?

18 A I WORK AS AN ATTORNEY IN THE PUBLIC DEFENDER
19 OFFICE

20 Q HOW LONG HAVE YOU BEEN LICENSED AS AN ATTORNEY?

21 A SINCE 1995

22 Q AND HOW LONG HAVE YOU WORKED IN THE PUBLIC
23 DEFENDER'S OFFICE?

24 A I STARTED WORKING THERE IN 1995

25 Q OKAY SO YOU WERE A PUBLIC DEFENDER IN, ON

1 DECEMBER THIRD 2001?

2 A YEAH

3 Q AND DO YOU KNOW MR BILLY COPE?

4 A I MEAN I KNOW WHO HE IS

5 Q YOU KNOW WHO HE IS?

6 A YEAH

7 Q HOW SO?

8 A WELL, FROM BEING APPOINTED TO REPRESENT HIM

9 Q DO YOU KNOW WHEN YOU WERE APPOINTED TO REPRESENT
10 HIM?

11 A YEAH CAN I REFER TO MY NOTES?

12 Q SURE WOULD THAT HELP REFRESH YOUR MEMORY?

13 A YES, IT WOULD

14 Q OKAY I BELIEVE THAT THE PUBLIC DEFENDER'S
15 OFFICE WAS APPOINTED TO REPRESENT HIM ON THE FIRST,
16 DECEMBER FIRST?

17 A YEAH

18 Q THAT WOULD HAVE BEEN 2001?

19 A RIGHT

20 Q AND WHAT CHARGES WERE YOU APPOINTED TO REPRESENT
21 HIM ON, THIS CASE HERE?

22 A YEAH I DON'T HAVE THE APPOINTMENT PAPERWORK
23 WITH ME, BUT I BELIEVE IT WOULD HAVE BEEN FOR A
24 CHARGE OF MURDER AND STUFF THAT Y'ALL ARE HERE FOR
25 RIGHT NOW

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1 Q OKAY WHEN DID YOU FIND OUT ABOUT THAT
2 APPOINTMENT?

3 A ON THE THIRD, DECEMBER THIRD

4 Q AND DO YOU KNOW APPROXIMATELY WHAT TIME?

5 A BASICALLY WHAT HAPPENED WAS I HEARD ABOUT IT,
6 OUR OFFICE HAD HEARD ABOUT THE CASE AND I WENT DOWN
7 TO THE YORK COUNTY DETENTION CENTER TO TALK TO MR
8 COPE AND I FOUND OUT THAT HE HAD BEEN TRANSPORTED TO
9 THE ROCK HILL POLICE DEPARTMENT, AND SO I REALIZED I
10 WAS GOING TO HAVE TO GO DOWN THERE TO SPEAK WITH HIM
11 AND I CALLED DOWN TO ROCK HILL POLICE DEPARTMENT TO
12 ASK TO SPEAK TO EITHER DETECTIVE WALDROP OR DETECTIVE
13 HERRING BECAUSE WHEN I READ ABOUT IT IN THE PAPER
14 THEY WERE QUOTED IN THE PAPER AS TALKING ABOUT THE
15 CASE SO I FIGURED THEY MIGHT BE THE ONES TO TALK TO,
16 OR DETECTIVE DUGAN BECAUSE DETECTIVE DUGAN WAS THE
17 DETECTIVE WHO HAD SIGNED MR COPE OUT OF THE
18 DETENTION CENTER, AND NONE OF THEM WERE AVAILABLE
19 SO AT THAT TIME I TOLD THE PEOPLE ON THE PHONE THAT I
20 WAS APPOINTED TO REPRESENT MR COPE AND THAT I WAS
21 COMING TO SEE HIM AND I DIDN'T WANT HIM QUESTIONED
22 AND I WAS GOING DOWN TO THE ROCK HILL POLICE
23 DEPARTMENT NOW AT THAT TIME IS WHEN I WENT, THAT IS
24 THE TIME WHEN I WENT TO THE CLERK OF COURT'S OFFICE
25 TO GET COPIES OF THE ACTUAL APPOINTMENT PAPERWORK SO

1 THAT I COULD SHOW WHOEVER I NEED TO SHOW AT ROCK HILL
2 POLICE DEPARTMENT THAT IN FACT, YES, I REPRESENTED
3 MR COPE

4 Q OKAY SO DID YOU DRIVE DOWN TO THE ROCK HILL
5 POLICE DEPARTMENT?

6 A YES, I DID

7 Q WHAT HAPPENED ONCE YOU GOT THERE?

8 A WELL, I ASKED TO SEE MR COPE AND THIS WAS AT
9 ABOUT A LITTLE AFTER TWO IN THE AFTERNOON AND A
10 SECRETARY CAME OUT AND SAID THAT CAPTAIN CABANISS AND
11 DETECTIVE BLACKWELDER WERE INTERVIEWING MR COPE AND
12 THAT I WAS NOT ALLOWED TO SEE HIM AT THAT TIME I
13 ASKED HER TO TELL THEM THAT I WANTED TO SEE HIM AND
14 SHE SAID THAT CAPTAIN CABANISS WOULD BE OUT IN A
15 LITTLE WHILE

16 Q OKAY SO YOU WEREN'T ALLOWED TO SEE YOUR
17 CLIENT?

18 A AT THAT --- NO

19 Q OKAY SO WHAT DID YOU DO AT THAT POINT?

20 A WELL, THEN I DECIDED TO TRY TO GET THE HELP FROM
21 THE SOLICITOR'S OFFICE, SO I CALLED UP TO THE
22 SOLICITOR'S OFFICE I ASKED FIRST FOR TOMMY POPE
23 SINCE HE HAS THE MOST CLOUT AND IN ORDER I ASKED FOR
24 KEVIN BRACKETT AND WILLY THOMPSON THEY ALL WERE NOT
25 AVAILABLE I TALKED TO, I ENDED UP TALKING TO PHIL

1 SMITH I EXPLAINED THE SITUATION TO HIM AND HE SAID
2 THAT HE WOULD WORK ON IT

3 Q MEANING WHAT?

4 A I GUESS WORK ON GETTING ME ACCESS TO MR COPE

5 Q OKAY

6 A I MEAN THAT'S WHAT I TOOK IT TO MEAN

7 Q OKAY

8 A THEN I WAITED ABOUT FIVE MORE MINUTES AND THEN I
9 CALLED BACK AND AT THAT TIME I SPOKE TO TOMMY POPE,
10 EXPLAINED TO HIM WHAT WAS GOING ON, MADE IT CLEAR TO
11 HIM THAT WE REPRESENTED MR COPE AND THAT I WANTED TO
12 SEE HIM, AND AT THAT TIME WAS WHEN TOMMY TOLD ME THAT
13 KEVIN BRACKETT WAS IN ROCK HILL ANYWAY AND HE WOULD
14 COME BY AND STRAIGHTEN THINGS OUT THEN --

15 MR BRACKETT YOUR HONOR, HE'S APPARENTLY
16 READING FROM HIS NOTES

17 THE COURT HE CAN REFRESH HIS MEMORY BUT
18 NOT READ FROM NOTES

19 A OKAY WELL IN ANY EVENT AFTER THAT I WAS
20 WAITING FOR MR BRACKETT TO COME BY TO THE POLICE
21 DEPARTMENT AND

22 Q WHAT TIME WERE WE TALKING ABOUT NOW?

23 A GETTING LIKE 2 30, BETWEEN 2 30 AND THREE
24 O'CLOCK AND I WAS ON THE PHONE WITH MY OFFICE
25 APPARENTLY MR BRACKETT HAD TRIED TO CALL ME ON THE

1 CELL PHONE NUMBER THAT I WAS ON BECAUSE I MISSED HIS
2 PHONE CALL THEN, OKAY, I CALLED BACK THROUGH THE
3 SOLICITOR'S OFFICE AND I TALKED TO MERRY COLLINS WHO
4 WORKS IN THE SOLICITOR'S OFFICE AND SHE SAID THAT
5 KEVIN WAS ON THE PHONE REGARDING THE COPE SITUATION
6 I LATER FOUND OUT THAT HE WAS ON THE PHONE WITH MY
7 BOSS HARRY DEST I CONTINUED TO WAIT AT ABOUT
8 THREE O'CLOCK DETECTIVE WALDROP CAME OUT OF THE
9 DETECTIVE DIVISION BECAUSE THIS WHOLE TIME I'M
10 BASICALLY IN THE WAITING AREA OF THE ROCK HILL POLICE
11 DEPARTMENT

12 Q OUT IN THE LOBBY?

13 A RIGHT

14 Q THE LOBBY AREA?

15 A RIGHT AND DETECTIVE WALDROP CAME OUT AND SAID
16 THAT KEVIN BRACKETT AT THAT TIME WAS GETTING READY TO
17 CALL ME, OKAY SO I WAITED ABOUT TEN MORE MINUTES,
18 CALLED KEVIN BACK, I DIDN'T REACH HIM, AND THEN ABOUT
19 3 15 IS WHEN CAPTAIN CABANISS CAME OUT FROM THE
20 DETECTIVE DIVISION AND HE HAD WITH HIM A PIECE OF
21 PAPER THAT BASICALLY SAID THAT I, BILLY COPE, DON'T
22 WANT TO SEE MY ATTORNEY, SOMETHING ALONG THOSE LINES,
23 AND IT WAS SIGNED BY BILLY COPE SO THEN HE GAVE ME
24 THAT PIECE OF PAPER AND SAID, YOU KNOW, HERE YOU HAVE
25 THIS, YOU ARE NOT GOING TO SEE HIM SO I SAID, WELL,

1 YOU KNOW, REALLY, I'M NOT SATISFIED BY THAT I SAID
2 JUST LET ME SEE HIM, LET ME ASK HIM IF HE TELLS ME
3 TO MY FACE THAT HE REALLY DOESN'T WANT TO SEE ME,
4 THEN I'LL GO

5 Q AT THAT POINT HAD YOU HAD ANY PRIOR CONTACT WITH
6 MR COPE?

7 A NO

8 Q HAD YOU SENT HIM A LETTER LETTING HIM KNOW THAT
9 YOU REPRESENTED HIM?

10 A NO

11 Q HAD YOU HAD ANY TELEPHONE CALLS WITH MR COPE?

12 A NO

13 Q WAS THERE ANY REASON THAT YOU ARE AWARE OF THAT
14 MR COPE SHOULD HAVE KNOWN THAT YOU WERE APPOINTED
15 TO, THAT YOU SPECIFICALLY WERE APPOINTED TO REPRESENT
16 HIM ON THESE CHARGES?

17 A NOT ME SPECIFICALLY, NO

18 Q OKAY SO WHAT HAPPENED AT THAT POINT?

19 A WELL, WHEN I, I SAID THAT, YOU KNOW, I WANTED TO
20 ASK HIM MYSELF AND CAPTAIN CABANISS SAID HE WASN'T
21 GOING TO LET ME DO THAT, AND THEN BASICALLY THAT WAS
22 IT, HE WENT BACK IN, AND CLOSED THE DOOR, AND, YOU
23 KNOW, I WAS LEFT OUT IN THE LOBBY AND AT SOME POINT
24 AFTER THAT -- THERE WAS ALSO A LITTLE CONVERSATION
25 BETWEEN CAPTAIN CABANISS AND MYSELF AS FAR AS WHAT

1 TIME I HAD GOTTEN THERE, AND THEN I BEGAN DRIVING
2 BACK TO THIS, THE MOSS JUSTICE CENTER, TO WHERE OUR
3 OFFICE IS, AND I CALLED TOMMY POPE BACK ONE MORE TIME
4 JUST TO MAKE IT CLEAR THAT WE DID IN FACT REPRESENT
5 MR COPE AND WHEN I GOT BACK TO MY OFFICE IS WHEN I
6 BEGAN TRANSCRIBING WHAT HAD HAPPENED, YOU KNOW, JUST
7 IN CASE THE CASE DID END UP GOING TO TRIAL JUST LIKE
8 IT DID

9 Q SO YOU WERE DENIED ACCESS TO MR COPE THAT DAY?

10 A YES

11 Q WERE YOU EVER ABLE TO VISIT WITH MR COPE?

12 A RIGHT WELL, AFTER I GOT BACK HERE AND I WROTE
13 EVERYTHING DOWN AND NOT MUCH TIME HAD PAST THEN I GOT
14 A CALL THAT THEY WERE DONE WITH HIM AND THAT I COULD
15 SEE HIM THEN I GOT BACK IN MY CAR AND DROVE BACK TO
16 ROCK HILL POLICE DEPARTMENT AND I GOT THERE, I WOULD
17 GUESS, AROUND FIVE O'CLOCK AND THEN THAT'S WHEN I WAS
18 ALLOWED TO GO IN AND SEE HIM

19 Q OKAY WHAT WAS MR COPE'S DEMEANOR WHEN YOU
20 FIRST SAW HIM?

21 A WELL, WHEN I FIRST SAW HIM I WENT IN, THEY LET
22 ME IN, AND OF COURSE, YOU KNOW, HE HAD GIVEN A
23 STATEMENT AND I HAD A COPY OF THE PIECE OF PAPER THAT
24 THEY HAD GIVEN ME THAT HE HAD SIGNED SAYING HE DIDN'T
25 WANT TO SEE ME, SO MY DEMEANOR AT THAT TIME WAS

1 FRUSTRATED AND ANGRY AND I WENT IN THERE AND I WAS
2 WAIVING THE PIECE OF PAPER IN MY HAND AND I SAID, I
3 WAS, I DON'T REMEMBER EXACTLY WHAT I SAID BUT
4 SOMETHING ALONG THE LINES OF DID YOU SIGN THIS AND
5 WHY DID YOU SIGN THIS?

6 MR BRACKETT PLEASE THE COURT, YOUR
7 HONOR, THE ONLY ISSUE THERE IS THE ATTORNEY-CLIENT
8 PRIVILEGE, I ASSUME BY CALLING HIM THAT HE'S WAIVING
9 THAT, BUT I THINK THAT IS AN ISSUE THAT NEEDS TO BE
10 CLEARED UP BEFORE THEY GO INTO ANY CONVERSATIONS THAT
11 HE HAD WITH HIS CLIENT AT THAT TIME

12 THE COURT DOES MR COPE WAIVE HIS
13 ATTORNEY-CLIENT PRIVILEGE WITH MR BARROWCLOUGH

14 MR SMITH YES, SIR, YOUR HONOR

15 THE COURT MR COPE, IS THAT CORRECT?

16 MR COPE YES, SIR, YOUR HONOR

17 THE COURT ALL RIGHT

18 Q MR BARROWCLOUGH, YOU WERE EXPLAINING AT THAT
19 POINT THAT YOU WERE FRUSTRATED WITH THIS PROCESS AND
20 NOT BEING ALLOWED ACCESS TO MR COPE AND I BELIEVE
21 YOU ASKED A QUESTION TO HIM?

22 A RIGHT AND, RIGHT, AND SO I WAS WAIVING AND I
23 SAID, WHY DID YOU THIS? WHY DID YOU SIGN THIS? AND
24 I WAS UPSET AND HE SAID, WELL, THEY THREATENED ME
25 WITH THE DEATH PENALTY IF I DIDN'T SIGN IT

1 Q DID HE SAY WHO THREATENED HIM WITH THE DEATH
2 PENALTY?

3 A NOT SPECIFIC HE DIDN'T NAME A NAME

4 Q BUT HE SAID THAT HE HAD BEEN THREATENED THAT THE
5 DEATH PENALTY WOULD BE USED IN THIS CASE, IN THE
6 PROSECUTION OF THIS CASE, IF HE DID NOT SIGN?

7 MR BRACKETT OBJECT TO LEADING

8 THE COURT YEAH, REPHRASE YOUR QUESTION
9 THAT'S A LEADING QUESTION

10 MR SMITH I WAS JUST TRYING TO CLARIFY
11 HIS RESPONSES, YOUR HONOR

12 THE COURT IT'S NOT IMPORTANT WHAT YOU
13 ARE TRYING TO DO IT'S A LEADING QUESTION

14 MR SMITH YES, SIR

15 Q SO WHAT WAS MR COPE'S RESPONSE TO YOUR QUESTION
16 AS TO WHY --

17 A HE SAID THEY THREATENED HIM WITH THE DEATH
18 PENALTY IF I DIDN'T SIGN THAT PIECE OF PAPER

19 Q AND THAT PIECE OF PAPER BEING?

20 A THE PIECE OF PAPER SAYING HE DIDN'T WANT TO SEE
21 ME

22 Q OKAY

23 A AND THEN --

24 Q GO AHEAD

25 A WHAT I WAS JUST GOING TO SAY AND THEN, YOU KNOW,

1 I WAS, AFTER THAT I WAS ASKING HIM ABOUT, YOU KNOW,
2 THE WHOLE GIVING OF THE STATEMENT AND I DID NOT GO
3 THROUGH THE STATEMENT WITH HIM, BUT, YOU KNOW, JUST
4 IN ANSWERING YOUR QUESTION ABOUT HIS DEMEANOR, BY THE
5 SUBSTANCE OF WHAT HE SAID I COULD TELL HE WAS UPSET,
6 BUT BY THE, BY HIS ACTIONS HE DID NOT --

7 MR BRACKETT OBJECTION --

8 A ACT UPSET

9 MR BRACKETT TO THE CONCLUSIONS, HIS
10 CONCLUSIONS AND OPINIONS IN THIS REGARD

11 THE COURT I'LL STRIKE THE RESPONSE

12 MR SMITH JUDGE, IF I MAY THE STATE
13 HAS HAD A NUMBER OF WITNESSES TESTIFY AS TO
14 MR COPE'S DEMEANOR AND APPEARANCE DURING PREVIOUS
15 INTERROGATIONS

16 THE COURT WELL, I OVERRULE MY
17 OVERRULING LET HIM ANSWER

18 MR SMITH THANK YOU, YOUR HONOR

19 A HIS DEMEANOR WAS CALM HE DIDN'T SPEAK LOUD
20 HE DIDN'T, YOU KNOW, IT WAS THE CONTENT OF WHAT HE
21 SAID REVEALED THAT HE WAS UPSET, BUT HIS DEMEANOR WAS
22 CALM IF THAT MAKES SENSE

23 MR SMITH THANK YOU, MR BARROWCLOUGH
24 I HAVE NO FURTHER QUESTIONS FOR YOU AT THIS TIME BUT
25 PLEASE ANSWER ANY QUESTIONS THAT THE STATE OR **002565**

1 MR GREELEY MAY HAVE FOR YOU
2 THE COURT MR BRACKETT
3 MR BRACKETT PLEASE THE COURT
4 CROSS EXAMINATION BY MR BRACKETT
5 Q GOOD AFTERNOON, B J HOW ARE YOU DOING?
6 A FINE HOW ARE YOU DOING?
7 Q YOU ARE NOT USED TO SITTING THERE, ARE YOU?
8 A NO
9 Q YOU'RE USED TO SITTING OVER HERE?
10 A RIGHT
11 Q YOU ARE A FULL TIME CRIMINAL DEFENSE ATTORNEY?
12 A RIGHT
13 Q AND THAT'S WHERE YOU NORMALLY ARE?
14 A RIGHT
15 Q AND OF COURSE, YOU KNOW ME?
16 A ABSOLUTELY
17 Q WE WORKED TOGETHER FOR YEARS?
18 A ABSOLUTELY
19 Q ALL RIGHT THIS WILL BE PAINLESS
20 A GOOD
21 Q NOW YOU WERE FRUSTRATED?
22 A YES
23 Q NO QUESTION?
24 A RIGHT
25 Q YOU WANTED TO GET IN TO SEE YOUR CLIENT?

1 A YUP

2 Q AND THOUGH YOU MAY NOT AGREE WITH IT YOU WOULD
3 AGREE THAT THE STATE OF THE LAW IS IS THAT THE MAN
4 HAS A RIGHT TO AN ATTORNEY, THE ATTORNEY DOES NOT
5 HAVE A RIGHT TO A CLIENT, IS THAT CORRECT?

6 A THAT'S WHAT THE LAW SAYS

7 Q YES, SIR AND IN FACT, YOU WOULD ALSO AGREE
8 THAT TYPICALLY -- WELL, I DON'T KNOW WHERE IT'S AT,
9 IT DOESN'T MATTER, AN ADVICE OF RIGHTS FORM WAS
10 PROVIDED BEFORE A CONFESSION OR A STATEMENT IS TAKEN?

11 A (NODS HEAD)

12 Q AND THAT ADVISES THEM OF THAT FACT, THAT YOU CAN
13 CALL AN ATTORNEY IF YOU WANT TO AND IF YOU CAN'T
14 AFFORD ONE WE'LL GET ONE FOR YOU RIGHT?

15 A YEAH

16 Q OKAY AND IN FACT, ONE WAS PROVIDED FOR
17 MR COPE AND IT'S NOT PROVIDED BECAUSE HE REQUESTED
18 IT YOU ARE FAMILIAR WITH THE DCM SYSTEM IN YORK
19 COUNTY?

20 A YES

21 Q ONE IS AUTOMATICALLY GIVEN TO ANYBODY, EVERY
22 TIME SOMEBODY IS PUT UNDER ARREST THEY ARE SCREENED
23 TO SEE IF THEY QUALIFY?

24 A RIGHT WHEN BOND IS SET OR NOT SET

25 Q AND THAT'S THE MECHANISM BY WHICH YOU BECAME

1 INVOLVED, NOT BECAUSE HE EVER ASKED FOR SOMEBODY?

2 A WELL, I WASN'T THERE I DON'T KNOW

3 Q WELL, THAT'S HOW THE PAPER CAME TO YOU IT WAS
4 SIGNED RAY LONG LIKE EVERYBODY ELSE?

5 A RIGHT

6 Q SO THE MAGISTRATE WHO ALWAYS SCREENS EVERYBODY
7 WAS USING THE SAME SCREENING FORM, RIGHT?

8 A RIGHT

9 Q OKAY SO YOU FIND OUT ABOUT THAT ON MONDAY
10 AFTERNOON?

11 A UH-HUH

12 Q AND YOU WANT TO GO DOWN AND SEE HIM?

13 A RIGHT

14 Q OKAY AND YOU CAN'T FIND HIM AT THE DETENTION
15 CENTER SO YOU GO DOWN TO THE ROCK HILL POLICE
16 DEPARTMENT BECAUSE THAT'S WHERE YOU UNDERSTAND HE IS?

17 A RIGHT

18 Q OKAY BUT IF HE HAD NEVER ASKED FOR YOU AND
19 NEVER WANTED TO SEE YOU, IT WASN'T IMPROPER TO KEEP
20 YOU WAITING OUT IN THE LOBBY?

21 A (NO RESPONSE)

22 Q THAT'S JUST WHAT YOU SAID THE STATE OF THE LAW
23 IS HE HASN'T ASKED FOR YOU --

24 A YOU SAID IMPROPER I MEAN IT WOULDN'T BE
25 ILLEGAL

002568

1 Q IT WOULDN'T BE ILLEGAL SO WHAT THEY DID WAS
2 COMPLETELY LEGAL? HE HASN'T ASKED FOR ANY LAWYER?

3 A AS FAR AS I UNDERSTAND THE LAW TO BE, YES

4 Q YES, SIR AND OF COURSE, IF THE VIDEO
5 CONFESSION WAS DONE IN THE MORNING, YOUR INVOLVEMENT
6 CAME AFTER THAT, IT WAS IN THE AFTERNOON, IS THAT
7 RIGHT?

8 A AT THAT TIME I DIDN'T EVEN KNOW ABOUT THE VIDEO
9 SITUATION

10 Q BUT YOU KNOW NOW?

11 A RIGHT

12 Q OKAY AND SO YOU CAME INTO THIS CASE AFTER THE
13 VIDEO WAS ALREADY TAKEN?

14 A THAT'S WHAT -- I UNDERSTAND THAT, RIGHT

15 Q THIS IS THE AFTERNOON SESSION?

16 A RIGHT

17 Q OKAY NOW AT SOME POINT IN TIME YOU'RE TRYING
18 TO GET IN THERE?

19 A UH-HUH

20 Q AND CAPTAIN CABANISS COMES OUT, PHONE CALLS ARE
21 BEING MADE BACK AND FORTH?

22 A YES

23 Q YOU WERE CALLING ME, ME CALLING HARRY, YOU
24 CALLING TOMMY, EVERYBODY CALLING EVERYBODY?

25 A RIGHT

002569

1 Q AFTER ABOUT AN HOUR AFTER YOU ARRIVED THERE
2 CAPTAIN CABANISS COMES OUT WITH A FORM THAT SAYS I
3 BILLY COPE DO NOT WISH TO SPEAK WITH MY ATTORNEY B
4 J BARROWCLOUGH AND HE SIGNED IT?

5 A RIGHT

6 Q AND THAT'S MORE THAN YOU WERE ENTITLED TO UNDER
7 THE LAW? ISN'T THAT RIGHT? THEY DIDN'T EVEN HAVE TO
8 TELL HIM YOU WERE OUT THERE UNDER THE LAW? RIGHT?

9 A I GUESS SO

10 Q BUT THEY DID, DIDN'T THEY?

11 A (NODS HEAD)

12 Q OKAY

13 THE COURT YOU GOT TO ANSWER WITH WORDS

14 A YES YES

15 Q NOW YOU WENT INTO THE, AT THAT POINT YOU SAID, I
16 WANT TO SEE HIM WITH MY OWN EYES LET HIM TELL ME TO
17 MY OWN FACE, RIGHT?

18 A RIGHT

19 Q BECAUSE YOU WANTED TO GET WITHIN EAR SHOT OF MR
20 COPE, DIDN'T YOU?

21 A YES

22 Q AND THE REASON YOU WANTED TO GET WITHIN EAR SHOT
23 OF MR COPE BECAUSE IF YOU HAD HAD ONE SENTENCE YOU
24 COULD HAVE SAID TO HIM IT WOULD HAVE BEEN, SHUT UP,
25 DON'T SAY ANOTHER WORD, ISN'T THAT RIGHT?

002570

1 A IF I WOULD HAVE THOUGHT TO HAVE SAID THAT, YES

2 Q YES OKAY SO YOU GO INTO THE ROOM, EVENTUALLY
3 YOU ARE ALLOWED TO SPEAK WITH MR COPE?

4 A RIGHT

5 Q ALL RIGHT AND YOU FIND OUT HE'S MADE THIS
6 STATEMENT?

7 A RIGHT

8 Q AND HE'S, IT'S A DAMNING, INCRIMINATING
9 STATEMENT?

10 A RIGHT I MEAN, I DIDN'T EVEN READ IT THAT
11 THOROUGHLY AT THE TIME BUT I SKIMMED IT, YEAH

12 Q BUT YOU KNEW IT WASN'T GOOD?

13 A RIGHT

14 Q HE KNEW IT WASN'T GOOD AND HE KNEW YOU'D KNOW IT
15 WASN'T GOOD, RIGHT?

16 A WELL, I INDICATED THAT IT WAS NOT GOOD TO GIVE A
17 STATEMENT

18 Q YES THEN YOU SAID, WHY DID YOU SIGN THIS?

19 A WELL ACTUALLY I DID THAT FIRST I DID THAT AS I
20 WALKED IN

21 Q OKAY

22 A BECAUSE I AM FUMING MAD

23 Q OKAY IT WAS OBVIOUS TO HIM THAT YOU WERE
24 UPSET?

25 A IT WAS OBVIOUS TO EVERYONE THAT I WAS UPSET

1 Q OKAY

2 MR BRACKETT COURT'S INDULGENCE, YOUR
3 HONOR

4 Q NOW OF COURSE YOU WEREN'T IN THERE DURING THE
5 INTERVIEWING, THE INTERROGATION?

6 A NO

7 Q YOU WERE OUT IN THE HALL?

8 A RIGHT

9 Q SO YOU DON'T KNOW WHAT WAS SAID TO MR COPE
10 THIS IS JUST WHAT MR COPE TELLS YOU?

11 A RIGHT

12 Q AFTER HE'S SIGNED THIS STATEMENT?

13 A RIGHT

14 Q THAT HE KNOWS ISN'T GOOD

15 A RIGHT, THAT'S WHAT HE TOLD ME WHEN I ASKED HIM

16 Q THANK YOU, SIR

17 THE COURT MR GREELEY

18 MR GREELEY I HAVE NO QUESTIONS OF THIS

19 WITNESS

20 THE COURT REDIRECT

21 MR SMITH YES, YOUR HONOR

22 REDIRECT EXAMINATION BY MR SMITH

23 Q MR BARROWCLOUGH, WERE YOU GETTING THE RUN
24 AROUND?

25 A THAT'S HOW I FELT

Q NOW MR BRACKETT MENTIONED THIS FORM THAT YOU WERE HANDED BY CAPTAIN CABANISS THAT SAID MR COPE DIDN'T WANT TO SPEAK TO YOU AT THAT TIME, IS THAT RIGHT?

A RIGHT

Q WAS IT ACTUALLY A FORM?

A NO

Q WHAT WAS IT?

A IT WAS, I GUESS, A PIECE OF NOTEBOOK PAPER

Q AND --

A THAT WAS WRITTEN

Q WAS IT TYPED? HANDWRITTEN?

A IT WAS HANDWRITTEN

Q DO YOU KNOW WHO WROTE IT?

A AT THE TIME, NO

Q DO YOU KNOW WHO WROTE IT NOW?

A I'VE BEEN GIVEN TO BELIEVE THAT CAPTAIN CABANISS WROTE IT AND MR COPE SIGNED IT

Q YOU ALSO TOLD MR BRACKETT THAT YOU WOULD HAVE ADVISED MR COPE TO SHUT UP, WHY WOULD YOU HAVE DONE THAT?

MR BRACKETT OBJECTION

THE COURT I OVERRULE THE OBJECTION

A WELL, AS A DEFENSE ATTORNEY ANYBODY GIVING A STATEMENT, OBVIOUSLY, IT'S GOING TO BE USED AGAINST

1 YOU IN SOME FASHION, BUT TRULY IF I HAD GOTTEN -- THE
2 QUESTION WAS IF I HAD GOTTEN IN EAR SHOT OF HIM WOULD
3 I HAVE TOLD HIM TO BE QUIET, MY ANSWER WAS IF I HAD
4 THOUGHT OF IT AT THAT TIME I WASN'T EVEN THINKING
5 ABOUT THAT I WANTED TO KNOW DID HE REALLY NOT WANT
6 TO SEE ME THAT'S WHAT WAS FIRST AND FOREMOST IN MY
7 MIND AND THAT'S, THAT WOULD HAVE BEEN THE FIRST THING
8 OUT OF MY MOUTH

9 Q HAVE YOU SEEN STATEMENTS GIVEN BY DEFENDANTS
10 USUALLY GET TWISTED AND USED AGAINST THOSE
11 DEFENDANTS?

12 A YEAH

13 Q NOW YOU ALSO MENTION SOMETHING BEING IMPROPER
14 WHAT'S THE DIFFERENCE BETWEEN IMPROPER AND ILLEGAL?

15 MR BRACKETT I OBJECT TO THIS LINE OF
16 QUESTIONING

17 THE COURT I SUSTAIN THE OBJECTION

18 MR SMITH I HAVE NO FURTHER QUESTIONS

19 THE COURT RECROSS

20 MR BRACKETT NO, SIR

21 THE COURT YOU CAN STEP DOWN AND BE

22 EXCUSED CAN THIS WITNESS BE EXCUSED

23 MR GREELEY NO OBJECTION

24 MR SMITH YES, SIR

25 THE COURT APPRECIATE YOUR TIME

002574

1 A THANK YOU, YOUR HONOR

2 THE COURT CALL YOUR NEXT WITNESS

3 MR MORTON MR BILLY COPE WOULD CALL THE
4 STATE'S CHIEF INVESTIGATOR CHARLENE BLACKWELDER

5 THE COURT PLEASE COME AROUND AND BE
6 SWORN

7 CHARLENE BLACKWELDER, BEING FIRST DULY
8 SWORN, TESTIFIED AS FOLLOWS

9 DIRECT EXAMINATION BY MR MORTON

10 Q MRS BLACKWELDER, PLEASE STATE YOUR NAME FOR THE
11 RECORD PLEASE

12 A CHARLENE BLACKWELDER

13 Q MRS BLACKWELDER, YOU ARE THE CHIEF
14 INVESTIGATING OFFICER IN THIS CASE, CORRECT?

15 A CORRECT

16 Q AND YOU ARE THE ONE RESPONSIBLE PRIMARILY FOR
17 THE INVESTIGATION AND THE ARREST OF MR BILLY COPE,
18 CORRECT?

19 A CORRECT

20 Q IN THAT REGARD YOU TALKED TO MR BILLY COPE, YOU
21 WERE INVOLVED IN SEVERAL OF THESE INTERROGATIONS,
22 WERE YOU NOT?

23 A I WAS INVOLVED IN THEM, CORRECT

24 Q OKAY AND YOU WERE INVOLVED IN ONE ON DECEMBER
25 THIRD, YOU WERE THERE AT THE VIDEO RE-ENACTMENT,

002575

1 CORRECT?

2 A CORRECT

3 Q AND YOU WERE THERE FOR THE 1 30 TO 4 55
4 INTERVIEW, CORRECT?

5 A CORRECT

6 Q NOW I BELIEVE THE VIDEO RE-ENACTMENT WAS FROM
7 UNTIL ABOUT 11-11 30, IS THAT RIGHT?

8 A SOMEWHERE AROUND THERE I BELIEVE, YES, SIR

9 Q WERE YOU, YOU WERE PRESENT AT THE ROCK HILL
10 POLICE DEPARTMENT IN BETWEEN 11 30 AND 1 30?

11 A I WOULD ASSUME SO, YES

12 Q OKAY WERE Y'ALL TALKING ABOUT THIS CASE DURING
13 THIS PERIOD OF TIME?

14 A I'M SURE WE PROBABLY WERE

15 Q OKAY WERE YOU THERE WHEN MR BARROWCLOUGH --

16 A YES, I WAS

17 Q ---CAME OKAY WERE YOU THERE AT AROUND TWO
18 O'CLOCK WHEN MR BARROWCLOUGH ASKED TO SEE HIS
19 CLIENT?

20 A I'M SURE -- I'M SURE I WAS AT THE DEPARTMENT,
21 BUT I'M NOT SURE IF I KNEW THAT MR BARROWCLOUGH WAS
22 IN THE LOBBY, NO

23 Q WELL, I THINK YOU WERE TAKING A STATEMENT FROM
24 MR COPE AT THE TIME?

25 A THAT'S CORRECT

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1 Q AND SO DO YOU NOT REMEMBER MR BARROWCLOUGH
2 TRYING TO GET IN TO SEE HIS CLIENT ABOUT TWO O'CLOCK?

3 A I WASN'T CONCERNED, NO, SIR, AT THE TIME OF MR
4 BARROWCLOUGH BEING THERE CAPTAIN CABANISS WAS ALSO
5 IN THE ROOM WITH ME AND I THINK CAPTAIN CABANISS AND
6 I'M ASSUMING MR BRACKETT OR SOMEONE FROM THE
7 SOLICITOR'S OFFICE WORKED THAT ISSUE OUT WITH HIM
8 I CONTINUED

9 Q YOU WEREN'T CONCERNED WITH MR BARROWCLOUGH
10 BEING THERE?

11 A NO, SIR

12 Q YOU DIDN'T THINK THAT IMPORTANT?

13 A NO, SIR

14 Q WHAT DID YOU THINK IMPORTANT?

15 A GETTING MR COPE'S STATEMENT HE HADN'T ASKED
16 FOR A LAWYER

17 Q OKAY BUT HIS LAWYER WAS OUT THERE KNOCKING ON
18 THE DOOR ASKING TO GET IN, RIGHT?

19 A YES, SIR

20 Q SO IT'S SAFE TO SAY THAT YOU WERE CONCERNED WITH
21 GETTING A STATEMENT FROM MR COPE, CORRECT?

22 A CORRECT

23 Q NOT PROVIDING HIM ACCESS TO HIS LAWYER?

24 A HE NEVER ASKED FOR A LAWYER, NO, SIR

25 Q OKAY DID HE EVEN KNOW THAT MR BARROWCLOUGH

1 WAS OUT THERE UNTIL 3 10 P M

2 A YOU SAID UNTIL 3 10

3 Q 3 10?

4 A I BELIEVE CAPTAIN CABANISS WHENEVER WE DECIDED,
5 WHEN CAPTAIN CABANISS WROTE ON THE NOTEBOOK PAPER AND
6 ASKED MR COPE DID HE WANT TO TALK WITH MR
7 BARROWCLOUGH WHOM WAS OUT IN THE LOBBY, MR COPE
8 RELIED, NO, I DO NOT I WANT TO CONTINUE TO TALK
9 BECAUSE HE'LL MAKE ME STOP TALKING AND I WANT TO GET
10 THIS OFF MY CHEST

11 Q WHY WERE Y'ALL CALLING THE SOLICITOR'S OFFICE
12 ABOUT MR BARROWCLOUGH'S --

13 A I DID NOT MR MORTON, I DIDN'T CALL THE
14 SOLICITOR'S OFFICE

15 Q DO YOU KNOW WHY THAT WAS DONE? WHY THERE WAS
16 CONTACT?

17 A THERE WAS AN ISSUE ABOUT A LAWYER OF SOME --

18 Q MR BARROWCLOUGH BEING THERE, RIGHT AND WERE
19 YOU ALL ADVISED THAT YOU DIDN'T HAVE TO LET MR
20 BARROWCLOUGH IN?

21 A WERE WE ADVISED?

22 Q RIGHT

23 A I THINK, MR MORTON, I'M NOT TRYING TO BE
24 SARCASTIC WITH YOU, BUT WITH ALL DUE RESPECT WE
25 DIDN'T HAVE TO EVEN ACKNOWLEDGE THAT HE WAS THERE

1 Q OKAY NOW YOU REMEMBER DECEMBER 31, 2001?

2 A YES, SIR

3 Q AND THAT WAS THE DAY THAT Y'ALL FOUND OUT THAT
4 BILLY COPE'S DNA WAS NOT ON HIS DAUGHTER'S BODY,
5 CORRECT?

6 A DECEMBER 31 I CAN'T GIVE YOU A SPECIFIC DATE
7 ON THAT WHEN THEY FOUND IT WASN'T ON HER BODY

8 Q YOU CAN'T BE SPECIFIC ABOUT WHEN YOU FOUND OUT
9 THAT --

10 A THAT IT WAS NOT MR COPE'S DNA?

11 Q RIGHT

12 A IF MAY I REFER TO MY NOTEBOOK

13 Q SURE YES, MA'AM

14 A I'LL BE GLAD TO TELL YOU THERE IS A LOT OF
15 PAPERWORK TO KEEP UP WITH I CAN'T GIVE YOU THE
16 DATE, NO, SIR

17 Q YOU CAN'T GIVE ME THE DATE THAT HAPPENED?

18 A NO, SIR

19 Q YOU ARE NOT SURE OF THE DATE THAT THE RESULTS
20 FROM SLED CAME BACK INDICATING THAT MR COPE'S SEMEN
21 OR MR COPE'S SALIVA WAS NOT FOUND ON HIS DAUGHTER'S
22 BODY? YOU CAN'T BE SURE OF THAT DATE? YOU CAN'T BE
23 SURE OF THE DATE THAT YOU RECEIVED THAT INFORMATION
24 FROM SLED?

25 A MR COPE'S SEMEN

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1 Q MR COPE'S SEMEN WAS NOT FOUND ON HIS -- IN
2 OTHER WORDS, MR COPE'S SEMEN, MR COPE'S DNA WAS
3 NOT FOUND ON HIS WIFE'S BODY, CORRECT?

4 A RIGHT

5 Q AND YOU DETERMINED THAT ON DECEMBER 31 OR SLED
6 DETERMINED THAT ON DECEMBER 31, 2001

7 A I THINK IT WAS AUGUST 2002, IF I RECALL
8 CORRECTLY, SOMEWHERE IN AUGUST

9 Q WELL, I BELIEVE THAT IN AUGUST OF 2002 IT WAS
10 DETERMINED THAT'S MR SANDERS' DNA?

11 A ACTUALLY IT WAS BEFORE THAT DAY BUT WE CAN'T GO
12 INTO THAT

13 Q IT WAS BEFORE THAT DAY THAT IT WAS DETERMINED
14 THAT MR SANDERS' DNA WAS ON --

15 A THAT'S CORRECT

16 Q ---AMANDA COPE'S BODY?

17 A YES, SIR

18 Q BUT I BELIEVE AND, AGAIN TELL ME IF I'M WRONG,
19 THAT ON DECEMBER 31, 2001, IT WAS DETERMINED THAT IT
20 WAS NOT MR COPE'S DNA?

21 A YES, SIR YOU COULD BE CORRECT ON THAT DATE,
22 YES

23 Q BECAUSE I BELIEVE THAT DAY Y'ALL STARTED PICKING
24 UP OTHER PEOPLE?

25 A CORRECT THAT'S CORRECT

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1 Q AND ASKING THEM TO SUBMIT TO DNA?

2 A YES, WE DID TO BE EXACT I BELIEVE WE DID TEN
3 MORE OVER A SPORADIC PERIOD OF TIME WE --

4 Q PICKED UP SOME MORE PEOPLE?

5 A WE COLLECTED DNA FROM TEN ADDITIONAL SUBJECTS

6 Q RIGHT SO ON DECEMBER 31, ON NEW YEAR'S EVE,
7 SAFE TO SAY WHEN THIS REPORT CAME BACK YOU KNEW YOU
8 HAD A PROBLEM?

9 A NO, SIR WE KNEW THAT THERE WAS ANOTHER SUSPECT
10 INVOLVED

11 Q OKAY AND IN FACT ON DECEMBER 31 OF 2001 YOU
12 CONTACTED MR COPE'S WIFE MARY SUE, CORRECT?

13 A CORRECT

14 Q AND ON THAT DATE YOU PICKED UP MARY SUE COPE AND
15 YOU FITTED HER WITH A SECRET RECORDING DEVICE?

16 A I DIDN'T DO IT PERSONALLY, NO, SIR, BUT, YES,
17 SIR, SHE WAS

18 Q ---FITTED WITH A SECRET RECORDING DEVICE?

19 A FITTED WITH A DEVICE, RIGHT NOT A SECRET
20 RECORDING DEVICE, SHE WAS FITTED WITH A RECORDING
21 DEVICE

22 Q WHICH WAS --

23 A ---LIKE WHAT YOU HAVE ON NOW

24 Q WHICH WAS UNKNOWN TO ANYBODY THAT TALKED TO HER,
25 CORRECT?

002581

1 A I KNEW IT, SHE KNEW IT, AND DETECTIVE KITTS KNEW
2 IT

3 Q AND SHE WAS INSTRUCTED TO COME HERE TO THE JAIL
4 WHERE HER HUSBAND WAS INCARCERATED?

5 A IT WAS, ACTUALLY IT WAS HER IDEA TO COME HERE

6 Q IT WAS HER IDEA?

7 A YES, SIR

8 Q IT WAS HER IDEA TO WEAR A WIRE, A SECRET WIRE,
9 AND COME TALK TO HER HUSBAND?

10 A WELL, WE ASKED HER WOULD SHE WEAR, NOT THE
11 SECRET WIRE, WE ASKED HER WOULD SHE WEAR THE
12 RECORDING SHE SAID SHE WOULD BECAUSE SHE HAD SOME
13 QUESTIONS IN HER OWN MIND THAT SHE WANTED TO ASK HIM
14 HERSELF

15 Q RIGHT, AND THE QUESTIONS --

16 A TO HER OWN PEACE OF MIND

17 Q AND THE REASON THAT SHE HAD A QUESTION WAS, WAS
18 THAT EVEN ON THAT DATE?

19 A UH-HUH

20 Q YOU TOLD HER THAT HER HUSBAND'S DNA WAS ON HER
21 DAUGHTER'S BODY?

22 A NO, SIR I DON'T RECALL TELLING HER HER
23 HUSBAND'S DNA --

24 Q YOU DO NOT --

25 MR BRACKETT OBJECTION

002582

1 THE COURT LET'S LET HER FINISH WE ARE
2 STARTING TO GET THIS PATTERN AGAIN

3 A THANK YOU, SIR I DON'T DENY TELLING HER THAT
4 THERE WAS SEMEN AND DNA OR WHATEVER FOUND ON AMANDA'S
5 BODY, BUT I DON'T RECALL, I DO NOT RECALL, MR

6 MORTON, TELLING HER THAT IT WAS MR COPE'S DIRECTLY

7 Q YOU DON'T DENY THAT, DO YOU, SITTING HERE UNDER
8 OATH?

9 A NO, SIR, I CAN'T DENY IT SHOW ME SOMETHING I
10 SEE YOU ARE LOOKING AT SOME PAPERS, SHOW ME SOMETHING
11 THAT SAYS SHE TOLD ME THAT

12 Q OKAY

13 A I'LL BE GLAD TO LOOK AT IT AS WELL

14 Q OKAY IN ANY EVENT WHILE I LOOK FOR THAT YOU--

15 A ARE YOU REFERRING TO THE TRANSCRIBED
16 DOCUMENTATION THAT'S IN HERE FROM THE AUDIBLE WHERE
17 MRS COPE WENT DOWN TO THE JAIL

18 Q I BELIEVE I ASKED YOU THAT IN A PREVIOUS
19 HEARING?

20 A OKAY

21 Q WHERE YOU ADMITTED THAT YOU TOLD MARY SUE
22 COPE --

23 A I HAVE THAT AS WELL I'LL BE GLAD TO LOOK WITH
24 YOU FROM FAMILY COURT OR FROM PRE-TRIAL MOTIONS?

25 Q I'M NOT SURE I KNOW IT WAS ONE OF THE TWO

002583

1 LET ME ASK YOU THIS DID NOT MARY SUE COPE WEAR A
2 WIRE TO COME TO THE JAIL AT Y'ALL'S INSTRUCTION?

3 A YES, SIR

4 Q AND WHEN SHE CAME IN, HER HUSBAND DID NOT KNOW
5 HE WAS BEING RECORDED?

6 A I WOULD ASSUME SO, THAT'S CORRECT

7 Q NOW YOU KNEW AT THE TIME THAT SHE HAD BEEN
8 APPOINTED A LAWYER?

9 A SHE HAD?

10 Q THAT HE HAD I'M SORRY

11 A YES

12 Q MR COPE HAD?

13 A YES, SIR

14 Q DID YOU KNOW AT THAT TIME THAT INITIATING
15 CONTACT WITH MR COPE AFTER HE HAD BEEN APPOINTED A
16 LAWYER WAS NOT ONLY IMPROPER BUT ILLEGAL?

17 A YES, SIR, BUT I DID NOT INITIATE THAT CONTACT
18 SHE DID

19 Q MRS COPE DID?

20 A WE ASKED HER, CORRECT

21 Q YOU ASKED HER TO GO TO THE JAIL TO SEE HER
22 HUSBAND?

23 A NO, SIR SHE WAS TALKING ABOUT HER HUSBAND AND
24 SHE WAS TALKING ABOUT SHE HAD SOME ANSWERS THAT SHE
25 WANTED TO KNOW HERSELF AND SHE SAID SHE WOULD BE

002584

1 WILLING TO COME TO THE MOSS JUSTICE CENTER TO TALK
2 WITH HER HUSBAND AND TO WEAR A WIRE TO FIND OUT WHAT
3 SHE NEEDED TO KNOW AND WE HELPED, WE ASSISTED HER
4 WITH THE RECORDING

5 Q SHE SAID SHE WOULD BE WILLING TO COME, IS THAT
6 WHAT YOU SAID?

7 A YES, SIR

8 Q WELL, IF SHE SAID SHE WOULD BE WILLING TO COME
9 WHO ASKED HER TO COME TO BEGIN WITH?

10 A SHE DID

11 Q WELL, WHY WOULD SHE SAY SHE WOULD BE WILLING TO
12 COME, WAS SHE ASKED HER, WAS SHE ANSWERING HER OWN
13 QUESTION?

14 A NO, SIR SHE WAS WANTING TO COME TO SEE, SHE
15 HAD NOT GOTTEN TO SEE MR COPE I BELIEVE PROBABLY
16 SINCE HE'D BEEN ARRESTED, SO SHE HAD SOME ANSWERS
17 HERSELF THAT SHE WANTED

18 Q THE ANSWERS THAT SHE HAD WAS THAT YOU HAD TOLD
19 HER THAT HER HUSBAND'S DNA WAS ON THE BODY?

20 A I DON'T RECALL TELLING HER THAT

21 Q DID SHE NOT ASK HER HUSBAND THAT FIRST QUESTION?
22 THEY SAID YOUR DNA WAS ON MY DAUGHTER'S BODY?

23 A LET'S LOOK AND SEE I CAN'T, IF SHE ASKED
24 MR COPE THAT HERSELF, I WASN'T THERE TO WITNESS
25 THAT

002585

1 Q OKAY WHO WIRED HER UP?

2 A ACTUALLY, HONESTLY MR KITTS, MARK KITTS WELL,
3 I CAN'T SAY FOR SURE I REALLY DON'T KNOW

4 Q YOU AND OFFICER KITTS WERE THERE?

5 A YES, SIR

6 Q PUTTING A WIRE ON MARY SUE COPE?

7 A WE BROUGHT HER HERE TO THE MOSS JUSTICE CENTER

8 Q YOU BROUGHT HER HERE?

9 A YES, SIR, AT HER REQUEST

10 Q AT HER REQUEST?

11 A AT HER REQUEST, YES, SIR

12 Q OKAY SHE COULDN'T JUST DRIVE OVER HERE BY
13 HERSELF?

14 A SHE COULD HAVE IF SHE WANTED TO

15 Q SHE COULD HAVE TALKED TO HER HUSBAND WHENEVER
16 SHE WANTED TO, RIGHT?

17 A THAT'S CORRECT

18 Q BUT YOU AND DETECTIVE KITTS BROUGHT HER OVER
19 HERE AND PUT A SECRET RECORDING DEVICE ON HER?

20 A IF I RECALL CORRECTLY MY CONVERSATION WITH
21 MRS COPE, SHE SAID SHE COULD NOT GET IN AND SEE
22 MR COPE BECAUSE OF THE VISITATION SCHEDULES HERE AT
23 THE MOSS JUSTICE CENTER, THERE IS A PROCEDURE THAT
24 THEY HAVE TO GO BY AND SO SHE WAS NOT ALLOWED TO JUST
25 COME WALK IN ANYTIME SHE WANTED TO AND TO GO AND SEE

1 MR COPE

2 Q YOUR TESTIMONY IS THAT IT WAS HER IDEA AND YOU
3 JUST ASSISTED HER?

4 A YES, SIR

5 Q OKAY

6 A THAT'S CORRECT

7 Q AND YOU ASSIST HER WITH WEARING A WIRE, RIGHT?

8 A YES, SIR YES, SIR

9 Q AND YOU TAPE RECORDED THAT CONVERSATION?

10 A IT WAS RECORDED, YES, SIR

11 Q RIGHT AND THE FIRST THING SHE SAYS ON THAT
12 CONVERSATION WAS --

13 MR BRACKETT OBJECT TO THE HEARSAY

14 THE COURT WELL, I'M GOING TO ALLOW IT

15 IN

16 Q THEY SAY YOUR DNA IS ON HER BODY?

17 A CAN I REFER --

18 Q I'M SORRY I APOLOGIZE I'VE GOT IT

19 A DO YOU HAVE IT, YES, SIR THIS IS MARY COPE'S
20 CONVERSATION WHO ELSE WAS IN THE HOUSE

21 Q RIGHT?

22 A THAT'S HER FIRST QUESTION WHO ELSE WAS IN THE
23 HOUSE THEN IT SAYS DNA DON'T LIE

24 Q RIGHT?

25 A THEN IT SAYS THEY FOUND YOUR DNA

002587

1 Q RIGHT?

2 A THEY ALSO FOUND SOMEBODY ELSE'S AND THEY WANT TO
3 KNOW WHO IT IS IT'S YOURS ALONG WITH SOMEONE
4 ELSE'S

5 Q NOW THAT'S NOT TRUE, IS IT?

6 A NO

7 Q BUT WHO TOLD HER THAT?

8 A I DON'T KNOW WHO TOLD HER THAT

9 Q HOW WOULD SHE HAVE ANY OTHER WAY OF KNOWING THAT
10 UNLESS YOU OR SOMEONE IN YOUR DEPARTMENT TOLD HER
11 THAT?

12 A SOMEONE COULD HAVE TOLD HER THAT I DID NOT
13 TELL HER THAT, MR MORTON

14 Q OKAY WELL, HOW DID THAT INFORMATION GET OUT
15 BECAUSE THAT WAS WRONG INFORMATION, WAS IT NOT? WAS
16 IT NOT?

17 A ON DECEMBER 31 WE DID NOT EVEN HAVE THE
18 INFORMATION BACK ON MR SANDERS YET

19 Q I'M NOT TALKING ABOUT MR SANDERS I'M TALKING
20 ABOUT MR COPE AND THE FACT THAT SHE WAS LEAD TO
21 BELIEVE BY YOUR DEPARTMENT THAT HER HUSBAND'S DNA WAS
22 ON HER DAUGHTER'S BODY?

23 A I CAN'T TESTIFY TO THAT, NO, SIR

24 Q OKAY IN FACT, SHE DIED THINKING THAT, IS THAT
25 RIGHT?

002588

1 A I DON'T KNOW I CAN'T ANSWER THAT I CAN'T
2 ANSWER WHAT MARY COPE WAS THINKING WHEN SHE DIED

3 Q SHE DIED IN FEBRUARY OF 2002, RIGHT?

4 A YES, SIR, THAT'S CORRECT

5 Q DID YOU TELL HER DIFFERENTLY BEFORE SHE DIED?

6 MR BRACKETT OBJECT TO RELEVANCE

7 THE COURT I OVERRULE THE OBJECTION

8 A HONESTLY I CAN'T RECALL

9 Q YOU GAVE PREVIOUS SWORN TESTIMONY AT A HEARING
10 THAT YOU SERVED A WARRANT FOR MR COPE FOR UNLAWFUL
11 NEGLECT I BELIEVE AT 9 45 AM ON THE MORNING OF
12 NOVEMBER 30 OR SOMEWHERE THAT HAD YOU WARRANT SERVED?

13 A THAT MORNING

14 Q RIGHT

15 A ON THE 30, YES, SIR

16 Q I DON'T KNOW IF YOU HEARD THE OTHER DATE BUT YOU
17 REFERRED TO YOUR INCIDENT REPORT?

18 A YES, SIR

19 Q WHERE IT SEEMS TO INDICATE OTHERWISE?

20 A WERE YOU REFERRING TO THE SUMMARY OR THE
21 INCIDENT REPORT

22 Q WELL, THE SUMMARY I GUESS IS WHAT IT IS?

23 A LET'S LOOK AT IT CAN YOU SHOW ME EXACTLY WHAT
24 IT IS YOU ARE ASKING ME I'M SORRY I DON'T KNOW
25 WHAT IT IS YOU'RE ASKING ME

002589

1 Q I KNOW I'VE GOT IT SOMEWHERE
2 A I HAVE IT HERE
3 Q LET'S SEE
4 A WARRANT WAS OBTAINED ON BILLY WAYNE COPE
5 Q YOU DON'T HAVE TO READ IT I'M GIVING YOU THAT
6 SO YOU CAN REFRESH YOUR MEMORY?
7 A YES YOUR QUESTION AGAIN?
8 Q MY QUESTION IS WHEN YOU ACTUALLY SERVED THE
9 UNLAWFUL NEGLECT WARRANT ON MR COPE?
10 A IT WOULD HAVE BEEN THE FOLLOWING MORNING THE 30
11 Q ON THE MORNING OF THE 30?
12 A YES, SIR
13 Q OKAY DOES THAT INDICATE THAT? THAT'S YOUR
14 SUMMARY I THINK?
15 A CORRECT IT DOES
16 Q IT DOES?
17 A IT DOES
18 Q DOES IT INDICATE THAT HE WAS SERVED WITH THAT
19 WARRANT WHEN HE CAME BACK FROM THE MOSS JUSTICE
20 CENTER?
21 A NO, SIR
22 Q IT DOES NOT?
23 A IT WAS BEFORE
24 Q OKAY LET ME ASK YOU IF YOU CAN READ THAT TOP
25 LINE RIGHT THERE JUST TO REFRESH YOUR MEMORY

002590

1 A IT'S JUST THE FORMATION OF THE WAY I WORDED
2 THINGS, THAT'S ALL IT SAYS COPE WAS BROUGHT BACK TO
3 THE ROCK HILL LAW CENTER WHERE HE WAS CHARGED WITH
4 MURDER

5 Q OKAY ALL RIGHT

6 A HE WAS CHARGED BEFOREHAND IT'S JUST THE WAY I
7 WORDED IT

8 Q OKAY NOW YOU, AFTER YOU RECEIVED INFORMATION
9 THAT MR COPE'S DNA WAS NOT ON HIS DAUGHTER'S BODY
10 YOU HAD OTHER PEOPLE SUBMIT TO DNA TESTING, CORRECT?

11 A YES, SIR, CORRECT

12 Q AND DID YOU ALSO GO OUT AND, WHAT OTHER KIND OF
13 INVESTIGATION DID YOU DO?

14 A A LOT WE DID INTERVIEWS WITH OTHER WITNESSES
15 AND I DIDN'T COUNT ALL THE WITNESSES TALKED TO SOME
16 OF MR COPE'S TEACHERS AT YORK TECH WE TALKED WITH
17 SOME OF AMANDA'S TEACHERS AT SCHOOL

18 Q DID YOU TALK TO ANY OF THE NEIGHBORS?

19 A WE DID I DID ATTEMPT TO TALK WITH SOME OF THE
20 NEIGHBORS, YES, SIR I CANVASSED THE AREA MYSELF,
21 DETECTIVE BURRIS, LIEUTENANT HERRING, WE WENT OUT AND
22 WE CANVASSED THE NEIGHBORHOOD BUT NO ONE WAS WILLING
23 TO ACTUALLY TALK TO US

24 Q OKAY HAVE YOU BEEN ABLE TO COME UP WITH ANY
25 KIND OF LINK BETWEEN MR COPE AND MR SANDERS?

1 A YES, SIR

2 Q WHAT WAS THAT?

3 A BASED ON THE TOTALITY OF THE CIRCUMSTANCES AND
4 HEAR ME OUT -- THE FACT THAT IT WAS MR BILLY WAYNE
5 COPE'S HOUSE ---

6 Q LET ME -- I'LL BE GLAD TO HEAR YOU OUT BUT IF
7 YOU'LL JUST ANSWER MY QUESTION AND THEN YOU CAN
8 EXPLAIN HAVE YOU BEEN ABLE TO ESTABLISH ANY KIND OF
9 CONNECTION BETWEEN THESE TWO?

10 A YES, SIR

11 Q OKAY AND TELL ME WHAT THAT IS

12 A CIRCUMSTANTIAL BUT IF YOU'LL HEAR ME OUT

13 Q OKAY

14 A THE FACT THAT IT WAS 407 RICH STREET, THERE WAS
15 NO SIGNS OF FORCED ENTRY INTO THE HOUSE, WE HAVE
16 JESSICA TELLING US THAT THE DOORS WERE LOCKED AND SHE
17 AND AMANDA MADE SURE THE DOORS WERE LOCKED THE FACT
18 THAT MR SANDERS' DNA WAS FOUND IN MISTER -- INSIDE
19 MR COPE'S HOUSE ON AMANDA'S BODY, THE INFORMATION
20 THAT I RECEIVED FROM MARY COPE AND ANOTHER FEMALE
21 INDIVIDUAL NAMED TERESA GARRISON THAT MR COPE OFTEN
22 AT TIMES --

23 MR MORTON YOUR HONOR, I DON'T ----

24 THE COURT YOU ASKED HER

25 MR MORTON I MEAN IF IT'S GOT TO DO WITH

1 JAMES SANDERS, I MEAN, I MEAN, BUT IF SHE'S GOING
2 INTO, YOU KNOW, HEARSAY STUFF THAT WE DON'T HAVE THE
3 ABILITY TO CROSS EXAMINE IF THEY WANT TO COME HERE
4 AND --

5 THE COURT WELL, LET ME LET THE JURY GO
6 TO THE JURY ROOM JUST A MINUTE

7 MR MORTON THAT'S FINE I DON'T HAVE A
8 PROBLEM WITH THAT

9 (THE JURY EXITS THE COURTROOM AT 05 55
10 PM)

11 THE COURT THE PROBLEM, MR MORTON, IS
12 YOU ASKED HER THE QUESTION

13 MR MORTON YES, SIR

14 THE COURT AND UNDER HER OATH AND BY LAW
15 SHE'S GOT TO ANSWER IT AND SHE GOT TO A POINT WHERE
16 YOU DIDN'T LIKE THE ANSWER

17 MR MORTON NO, I DON'T KNOW WHAT THE
18 ANSWER IS GOING TO BE BUT I MEAN IF SHE'S COMING IN
19 HERE TALKING ABOUT, I ASKED HER IF SHE WAS ABLE TO
20 ESTABLISH A LINK BETWEEN MR SANDERS AND MR COPE

21 THE COURT AND SHE'S TRYING HER BEST TO
22 TELL YOU WHY DON'T YOU GO AHEAD AND GIVE US THE
23 TESTIMONY AND WE'LL SEE BUT IT IS BASED ON HEARSAY
24 BUT YOU ASKED THE QUESTION

25 MR MORTON I UNDERSTAND BUT JUST

1 BECAUSE I ASKED A QUESTION DOESN'T MEAN THEY CAN GO
2 OFF IN ANY KIND OF HEARSAY TESTIMONY I'M ASKING HER
3 FOR A DIRECT LINK BETWEEN MR COPE AND MR SANDERS
4 WERE THEY FRIENDS? ARE THERE TELEPHONE RECORDS

5 THE COURT THAT'S WHAT SHE'S GETTING
6 READY TO TELL YOU IF SHE HAS TO RELY ON HEARSAY TO
7 ANSWER IT, YOU ARE THE ONE THAT ASKED THE QUESTION
8 YOU WANT TO TELL US WHAT YOU ARE GOING TO SAY
9 IN CAMERA TESTIMONY

10 A THANK YOU, SIR TO RE-ITERATE THE FACT THAT IT
11 WAS MR SANDERS' HOUSE, THERE IS NO SIGN OF FORCED
12 ENTRY --

13 THE COURT IT WASN'T MR SANDERS' HOUSE
14 WE KNOW THAT

15 A I'M SORRY, YOUR HONOR IT IS MR COPE'S
16 RESIDENCE, OKAY AMANDA AND JESSICA, JESSICA SAID
17 THAT SHE AND AMANDA MADE SURE THE DOORS WERE LOCKED
18 MR SANDERS' DNA WAS FOUND ON THE BODY OF MISS
19 AMANDA COPE, THE INFORMATION THAT I RECEIVED FROM
20 MARY COPE AND FROM TERESA GARRISON WAS THAT MR COPE
21 OFTEN FANTASIZED AND, ABOUT HAVING A TWO OR THREESOME
22 SEXUAL INVOLVEMENTS OR SEXUAL INTERCOURSE IF YOU
23 WILL, THAT HE HAD TO DO THIS BECAUSE HE HAD A PROBLEM
24 PERFORMING SEXUALLY AND IN ORDER TO GET AN ERECTION,
25 EXCUSE ME, THAT HE WOULD HAVE HER OR MS GARRISON TO

1 TALK OF TWO OR THREE, YOU KNOW, THREESOMES INVOLVING
2 SEXUAL ACTS AND THAT HE WOULD MASTURBATE AS A RESULT
3 OF THAT

4 THE COURT WELL, SHE DOESN'T HAVE
5 ANYTHING --- THAT ISN'T A LINK I SUSTAIN THE
6 OBJECTION TO YOUR OWN QUESTION I GUESS BECAUSE THAT
7 DOESN'T ANSWER THE QUESTION

8 A CAN I FINISH, YOUR HONOR?

9 THE COURT I THOUGHT YOU HAD I'M SORRY
10 A NO, YOUR HONOR I WAS JUST GOING TO RE-ITERATE
11 THE FACT OF THE CRIMINAL CONSPIRACY PART OF IT
12 BECAUSE I KNOW THAT WOULD BE SOMETHING YOU WERE GOING
13 TO ASK ME NEXT AND WHAT MY REPLY TO THAT WOULD BE THE
14 MATTER OF FACT BE LIKE MR MORTON AND I WERE WALKING
15 DOWN THE SAME ----

16 THE COURT YOU GOING, YOU ARE TRYING TO
17 CONVINCE ME NOW THAT'S NOT AN ANSWER

18 A THANK YOU YES, SIR

19 THE COURT I SUSTAIN YOUR OWN OBJECTION
20 TO YOUR OWN QUESTION BRING IN THE JURY JUST DON'T
21 GO FURTHER WITH THAT

22 (THE JURY RETURNS TO THE COURTROOM AT
23 05 58 PM)

24 THE COURT PROCEED
25 DIRECT EXAMINATION BY MR MORTON

1 Q MRS BLACKWELDER, YOU INDICATED THAT I BELIEVE
2 WHEN I'VE ASKED YOU THIS UNDER OATH BEFORE WAS IT
3 POSSIBLE FOR SOMEONE TO COME INTO A HOUSE AND LEAVE
4 NO SIGNS OF FORCED ENTRY, DO YOU REMEMBER WHAT YOUR
5 ANSWER TO THAT WAS?

6 A I THINK AFTER WE ARGUED A LITTLE BIT I SAID NO,
7 SIR

8 Q IT'S NOT?

9 A CORRECT

10 Q WHEN IN FACT MRS BLACKWELDER BETWEEN OCTOBER 23
11 OF 2001 AND --

12 MR BRACKETT OBJECTION

13 Q JANUARY 12 --

14 MR BRACKETT OBJECTION, YOUR HONOR

15 THE COURT DON'T ANSWER UNTIL YOU HEARD
16 THE WHOLE QUESTION

17 Q UNTIL JANUARY 12 OF 2002 THERE WERE SEVERAL
18 INSTANCES NEAR AMANDA COPE'S HOME, NEAR MR SANDERS
19 HOME --

20 THE COURT I SUSTAIN THE OBJECTION
21 WE'VE BEEN OVER THAT, MR MORTON

22 MR BRACKETT MOVE TO STRIKE THAT IS --
23 THE COURT JUST STRIKE -- DON'T, JUST
24 STRIKE AND JUST DISABUSE FROM YOUR MIND AND DO NOT
25 CONSIDER TO ANY DEGREE WHATSOEVER ANYTHING

002596

1 ARTICULATED IN THAT QUESTION

2 MR MORTON YOUR HONOR, MAY WE APPROACH
3 THE BENCH?

4 THE COURT NO I THINK WE'VE GONE OVER
5 THIS ENOUGH MR MORTON, YOU KNOW MY RULING

6 Q SO YOU DON'T BELIEVE THAT TO BE A FACT, IS THAT
7 WHAT YOU ARE SAYING?

8 A I DIDN'T SAY I DIDN'T BELIEVE IT TO BE A FACT
9 I'M ANSWERING YOUR QUESTION AND SAID -- YOU SAID

10 Q AND WHAT YOU ARE SAYING IS ---

11 A WOULD YOU ASK ME THE QUESTION AGAIN

12 Q OKAY ISN'T IT TRUE THAT QUITE OFTEN HOUSES ARE
13 ENTERED WITHOUT THE CONSENT OF THE HOMEOWNER AND WHEN
14 YOU INVESTIGATE YOU DON'T FIND ANY SIGNS OF FORCED
15 ENTRY QUITE OFTEN?

16 A IN ANSWER TO MY PREVIOUS TESTIMONY, NO, SIR

17 MR MORTON BEG THE COURT'S INDULGENCE
18 ONE SECOND, YOUR HONOR

19 THE COURT ALL RIGHT

20 Q YOU INDICATED PREVIOUSLY I BELIEVE MRS
21 BLACKWELDER THAT YOU BELIEVED MR COPE'S STATEMENT
22 FROM DECEMBER 3, THAT ONE FROM YOUR INTERROGATION OF
23 HIM FROM 1 30 TO 4 55?

24 A I BELIEVE, I THINK I RECALL SAYING I BELIEVED
25 PARTS OF HIS STORY YES, I DID YOU ARE CORRECT, I

1 DID

2 Q AND YOU BELIEVE IN FACT, AND IN THAT STATEMENT
3 THERE WAS NOT ANY MENTION OF ANY KIND OF BROOM THAT
4 YOU RECOUNTED?

5 A THERE WAS NOT MENTION ANY BROOM IN THAT PART OF
6 THE STATEMENT

7 Q AND SO YOU SAID THAT WHEN HE GAVE YOU THAT
8 STATEMENT ON THAT AFTERNOON THAT YOU BELIEVED THAT
9 STATEMENT, RIGHT?

10 A THAT'S CORRECT

11 Q OKAY WHICH WOULD MEAN THEN THAT YOU DON'T
12 BELIEVE THE BROOM STORY, CORRECT?

13 A THERE IS SO MUCH BITS AND PIECES OF MR COPE'S
14 STORY, WE CAN DO LIKE YOU IF YOU'D LIKE, LIKE WE DID
15 WITH CAPTAIN CABANISS, YOU AND I GO OVER IT STEP BY
16 STEP

17 THE COURT LET ME INTERVENE AND I HATE TO
18 KEEP DOING IT, BUT IF HE ASKS YOU A QUESTION AND YOU
19 ANSWER THEN YOU CAN EXPLAIN IT HE ASKED YOU DID YOU
20 OR DID YOU NOT BELIEVE THE STORY ABOUT THE BROOM

21 A I DO BELIEVE THE STORY ABOUT THE BROOM, YES

22 Q OKAY BUT THAT WASN'T IN YOUR DECEMBER THIRD
23 STATEMENT THAT YOU TOOK FROM MR COPE, CORRECT?

24 A THERE WAS NOTHING IN THERE, CORRECT

25 MR MORTON I BEG THE COURT'S INDULGENCE

1 ONE SECOND, YOUR HONOR

2 Q MRS BLACKWELDER, JUST A COUPLE QUESTIONS ABOUT
3 YOUR VISIT WITH MARY SUE COPE TO THE JAIL ON DECEMBER
4 31, WHO ELSE WAS INVOLVED IN THAT?

5 A DETECTIVE MARK KITTS

6 Q ANYBODY FROM THE SOLICITOR'S OFFICE?

7 A NO, SIR

8 Q MR NEAL INVOLVED?

9 A NO, SIR

10 Q OKAY ANYBODY ELSE KNOW ABOUT IT?

11 A OTHER THAN MYSELF AND DETECTIVE KITTS AND
12 PROBABLY CAPTAIN CABANISS AND NO MORE THAN NEEDED TO
13 KNOW ABOUT IT

14 THE COURT THAT WASN'T AN ANSWER HE
15 ASKED ---

16 A I'M SORRY

17 THE COURT NO MORE THAN NEEDED WE DON'T
18 KNOW WHO THAT INCLUDES HE WANTS YOU TO NAME NAMES
19 AND IF YOU KNOW ANYBODY THAT KNEW ABOUT IT, NAME
20 NAMES

21 A MYSELF, CAPTAIN CABANISS, LIEUTENANT HERRING,
22 THAT'S THE MOST THAT I'M AWARE KNEW ABOUT IT

23 Q THANK YOU VERY MUCH

24 THE COURT ALL RIGHT MR BRACKETT
25 CROSS EXAMINATION BY MR BRACKETT

1 Q GOOD AFTERNOON, CHARLENE GOOD EVENING

2 A GOOD EVENING

3 Q THE STATEMENT THAT YOU GOT ON THAT DECEMBER 31?

4 A CORRECT

5 Q MARY SUE CAME UP HERE WITH A WIRE ON?

6 A CORRECT

7 Q NOW YOU COULD ONLY HEAR ONE SIDE OF THAT
8 CONVERSATION, IS THAT RIGHT?

9 A CORRECT

10 Q SO IT WASN'T REALLY RECORDING BILLY WAYNE COPE?

11 A CORRECT

12 Q SHE WAS TALKING TO HIM AS A WIFE AND HE WAS
13 ANSWERING BUT THE TAPE YOU HAVE ONLY HAS HER SIDE OF
14 IT?

15 A THAT'S CORRECT

16 Q OKAY AND IN THIS, IN THIS STATEMENT, DO YOU
17 HAVE A COPY OF THIS TRANSCRIPT IN YOUR --

18 A YES

19 MR MORTON YOUR HONOR, MAY WE APPROACH A
20 MINUTE

21 (BENCH CONFERENCE AT 06 04 PM)

22 Q THAT STATEMENT THAT MR MORTON WAS JUST ASKING
23 YOU ABOUT, ASKING YOU WHETHER YOU TOLD MARY SUE COPE
24 THAT HIS SEMEN WAS ON FOUND HER BODY?

25 THE COURT HIS SEMEN WAS FOUND ON --

002600

1 Q HIS SEMEN WAS FOUND ON AMANDA'S BODY THAT
2 MR COPE'S SEMEN WAS FOUND ON AMANDA'S BODY, THEY
3 ALLEGE THAT YOU TOLD THAT TO MARY SUE COPE?

4 A NO, I DON'T RECALL TELLING HER THAT

5 Q AND THEN THEY ASKED YOU TO REVIEW THE TRANSCRIPT
6 OF THAT TO SEE IF THAT IN FACT DIDN'T THAT INDICATE
7 THAT THAT'S WHAT YOU TOLD HER?

8 A OKAY NO, SIR

9 Q ISN'T IT TRUE THAT THAT SAYS, IT DOESN'T SAY
10 ANYTHING ABOUT ON HER BODY IT JUST SAYS THAT THEY
11 FOUND HIS SEMEN, THEY FOUND YOUR DNA?

12 A CORRECT

13 Q THAT'S IT?

14 A YES, SIR

15 Q AND IN FACT YOU HAD FOUND HIS DNA ON THE WHITE
16 WASH RAG UNDERNEATH THE BOOKCASE?

17 A CORRECT

18 Q ISN'T THAT CORRECT?

19 A YES

20 Q SO HIS DNA WAS IN FACT AT THE CRIME SCENE?

21 A YES, SIR

22 Q AND YOU FOUND THAT AS A RESULT OF YOUR DECEMBER
23 THIRD INTERVIEW WITH HIM AT THE POLICE STATION?

24 A CORRECT

25 Q AND THAT WAS AFTER YOU HAD DONE THE VIDEO?

1 A THAT'S CORRECT

2 Q SO WHILE YOU WERE DOING THE VIDEO, AND LET ME
3 BACK UP FOR JUST A SECOND THAT VIDEO, YOU DIDN'T GO
4 DOWN THERE INTENDING TO REENACT ANYTHING, DID YOU?

5 A NO, SIR

6 Q DID Y'ALL HAVE ANY IDEA AT ALL THAT HE WAS GOING
7 TO JUMP ON THAT BED LIKE HE DID AND START
8 DEMONSTRATING HOW HE STRANGLED HIS CHILD?

9 A NO, SIR

10 Q NOW WHILE YOU WERE STANDING IN HIS HOUSE IN THAT
11 HALLWAY LESS THAN TWO FEET FROM WHERE YOU STOOD THAT
12 RAG LAY UP UNDERNEATH THAT BOOKCASE AND YOU HAD NO
13 IDEA OF THAT?

14 A THAT'S CORRECT

15 Q CAPTAIN CABANISS HAD NO IDEA OF THAT?

16 A THAT'S CORRECT

17 Q NOBODY HAD ANY IDEA OF THAT?

18 A CORRECT

19 Q EXCEPT BILLY WAYNE COPE?

20 A YES

21 Q AND LATER THAT AFTERNOON HE TOLD YOU WHERE TO GO
22 FIND IT?

23 A THAT'S CORRECT

24 Q HE SAID HE MASTURBATED INTO THAT RAG?

25 A CORRECT

002602

1 Q AND IN FACT HIS SEMEN WAS FOUND ON IT?

2 A CORRECT

3 Q THAT WAS A PIECE OF INFORMATION THAT YOU GOT
4 FROM YOUR INTERVIEW OF MR COPE THAT SHOWS THAT MR
5 COPE'S STATEMENT LEAD YOU TO NEW EVIDENCE?

6 A YES, SIR

7 Q ALL RIGHT NOW THERE HAS BEEN SOME TESTIMONY,
8 DETECTIVE BLACKWELDER, FROM AMY SIMMONS AND YOU'VE
9 BEEN IN THE COURT, RIGHT?

10 A YES, SIR

11 Q AMY SIMMONS HAS NO CHARGES PENDING IN THIS
12 COUNTY, DOES SHE?

13 A NO, SIR

14 Q NOT EVEN IN THIS CIRCUIT?

15 A NO, SIR, NOT TO MY KNOWLEDGE

16 Q NOW YOU COULDN'T HELP AMY SIMMONS WITH ANY
17 CHARGES SHE HAD EVEN IF SHE DID HAVE THEM IN THIS
18 CIRCUIT?

19 A I COULDN'T AND WOULD NOT

20 Q FLORENCE OR ANDERSON OR WHEREVER THEY ARE, YOU
21 DON'T HAVE ANY AUTHORITY THERE?

22 A NO, SIR

23 Q DID YOU EVER PROMISE HER ANYTHING FOR HER
24 COOPERATION?

25 A NO, SIR

002603

1 Q BUT THE FACT OF THE MATTER IS THAT SHE CALLED
2 YOU IN JANUARY OF THIS YEAR AND TOLD YOU THAT SHE HAD
3 RECEIVED AN INCRIMINATING LETTER FROM BILLY COPE?

4 A THAT'S CORRECT

5 Q AND YOU SAID I NEED TO GET A COPY OF THAT?

6 A YES, SIR

7 Q AND SHE SAID I'LL THINK ABOUT IT BUT I NEED TO
8 TALK TO MR MORTON?

9 A YES, SIR

10 Q AND SOME TIME PAST AND YOU SPOKE WITH ME?

11 A CORRECT

12 Q I NEVER TALKED TO HER?

13 A CORRECT

14 Q I WAS TALKING TO YOU AND YOU CALLED HER BACK?

15 A THAT'S RIGHT

16 Q AND SAID WHEN CAN I GET A COPY OF THAT LETTER?

17 A YES, SIR

18 Q AND SHE SAID I TURNED IT OVER TO MR MORTON?

19 A THAT IS CORRECT

20 Q HE'LL GIVE A COPY TO YOU?

21 A SHE DID

22 Q DID YOU EVER GET A COPY FROM MR MORTON?

23 A NO, SIR

24 Q THAT MONTH?

25 A NO, SIR

002604

1 Q THE NEXT MONTH?

2 A NO, SIR

3 Q THE NEXT MONTH?

4 A NO

5 Q THE NEXT MONTH?

6 A NOT UNTIL I THINK COURT

7 Q NOT UNTIL IN FACT MS SIMMONS HAD PROVIDED WITH
8 A COPY OF THE LETTER THAT SHE HAD KEPT?

9 A CORRECT

10 Q RIGHT AROUND THE TIME THAT THE OTHER
11 INCRIMINATING LETTER CAME IN IN MAY?

12 A YES, SIR

13 Q YOU WERE PRESENT DURING THE INTERVIEWS ALL DAY
14 ON 12/30 OF 2001?

15 A YES, SIR

16 Q YOU AND CAPTAIN CABANISS?

17 A CORRECT

18 Q DID ANYBODY EVER THREATEN MR COPE TO GET HIM TO
19 MAKE THOSE STATEMENTS?

20 A NO, SIR

21 Q DID ANYBODY EVER COERCE OR INTIMIDATE HIM TO
22 MAKE ANY OF THE STATEMENTS THAT HE MADE?

23 A NO, SIR

24 Q WERE THEY ALL MADE FREELY AND VOLUNTARILY?

25 A YES, SIR

002605

1 Q WAS THERE ANY KIND OF MENTION OF THE DEATH
2 PENALTY OR ANYTHING OF THAT NATURE?

3 A NO, SIR

4 Q LET'S TALK A LITTLE BIT ABOUT YOUR FOLLOW UP
5 INVESTIGATION YOU FIND OUT SOMETIME IN THE END OF
6 DECEMBER THAT THE SEMEN AND THE SALIVA FOUND ON
7 AMANDA COPE'S BODY WAS NOT IN FACT MR COPE?

8 A THAT'S CORRECT

9 Q OKAY AND SO NOW YOU'VE GOT ANOTHER MYSTERY IN
10 THIS CASE?

11 A CORRECT

12 Q YOU GOT TO SOLVE IT? YOU GOT TO FIGURE OUT WHO
13 IT DOES BELONG TO?

14 A CORRECT

15 Q YOU NOW ALSO KNEW THAT THERE HAD BEEN ANOTHER
16 PERSON INVOLVED IN THIS CASE?

17 A RIGHT

18 Q THAT THERE HAD BEEN ANOTHER PERSON INVOLVED IN
19 HER DEATH AND RAPE?

20 A CORRECT

21 Q AND YOU UNDERTOOK TO FIND, YOU AND THE ROCK HILL
22 POLICE DEPARTMENT UNDERTOOK TO LOCATE ANY MALE WHO
23 COULD POSSIBLY HAVE BEEN THE DONOR OF THE SEMEN AND
24 THE SALIVA THAT WAS FOUND ON HER?

25 A THAT'S CORRECT

002606

1 Q ISN'T IT A FACT THAT YOU WERE -- FAMILY MEMBERS?

2 A YES, SIR

3 Q FRIENDS OF THE FAMILY?

4 A YES, SIR

5 Q EVEN PEOPLE WHO HADN'T ACTUALLY BEEN IN THE
6 HOUSE WITH HER?

7 A YES, SIR

8 Q NEIGHBORS WHO WERE WILLING TO, ANYBODY THAT WAS
9 SUSPICIOUS THAT MIGHT HAVE GIVEN IT, YOU EVEN GOT
10 SOME SAMPLES FROM THE PREACHER?

11 A THAT'S CORRECT

12 Q YOU GOT SOME SAMPLES FROM ALL OF MR COPE'S
13 FAMILY?

14 A YES, SIR

15 Q TRYING TO FIND SOMEBODY, TRYING TO FIND OUT WHO
16 THIS MATCHED?

17 A YES, SIR

18 Q AND YOU EVEN WENT SO FAR AS YOU WERE TRYING TO
19 FIND OUT IF SHE HAD A BOYFRIEND SOMEWHERE?

20 A THAT'S CORRECT

21 Q WENT DOWN TO SOME SUMMER CAMP WHERE SHE WAS
22 SUPPOSED TO HAVE BEEN AND LIKED SOME BOY AND TRIED TO
23 FIND THE BOY THERE?

24 A CORRECT

25 Q A LOT OF EFFORT WENT IN TO FOLLOW UP THE

002607

1 INVESTIGATION?

2 A YES, SIR

3 Q NOW THE, ASK YOU ONE OTHER QUESTION ABOUT
4 STATEMENT OF 12/3, YOUR OFFICE, IS THAT THE LOCATION
5 OF THE INTERVIEWS THAT TOOK PLACE AT THE ROCK HILL
6 POLICE DEPARTMENT?

7 A IT IS

8 Q OKAY NOW IT DOESN'T HAVE A TABLE IN IT, BUT
9 DOES IT HAVE A DESK?

10 A IT HAS A DESK AND TWO WINDOWS AND TWO CHAIRS OR
11 COUNTING THE DESK, CHAIR, IT WOULD BE THREE

12 Q SO IT'S A LITTLE BIT LARGER THAN THE AVERAGE
13 OFFICE

14 A IT'S PROBABLY 10 BY 12

15 Q OKAY

16 A MAYBE

17 Q YOU DON'T HAVE ANY BRIGHT LIGHTS THAT SHINE DOWN
18 ON ANYBODY?

19 A NO, SIR

20 Q NO WHIPS OR HOSES?

21 A NO, SIR

22 Q THE ROLE OF THE CHIEF INVESTIGATING OFFICER, YOU
23 HAVE A BIG, BIG CASE, A MAJOR CRIME LIKE THIS, WE'VE
24 SEEN AND HEARD ABOUT A LOT OF DETECTIVES HERRING,
25 WALDROP, KITTS, CABANISS BURRIS, YOU, SOME THAT

002608

1 HAVEN'T EVEN BEEN NAMED, SONNY HUTCHINSON, HE WAS
2 INVOLVED AT SOME POINT, LOTS AND LOTS OF OFFICERS
3 INVOLVED IN THIS CASE?

4 A THAT'S CORRECT

5 Q THERE IS A LOT OF TASKS THAT NEED TO BE
6 ACCOMPLISHED IN AN INVESTIGATION, ESPECIALLY AT THE
7 EARLY PHASES OF THE INVESTIGATION, THAT'S WHEN THE
8 EVIDENCE IS MOST FRESH, THE LEADS ARE HOT, LOTS OF
9 PEOPLE TO INTERVIEW, LOTS OF PEOPLE TO TALK TO, YOU
10 ARE GATHERING INFORMATION AS QUICKLY AS YOU CAN?

11 A THAT'S CORRECT

12 Q THE PRIMARY JOB OF THE CHIEF INVESTIGATING
13 OFFICER, IT'S NOT AS IF YOU ARE THE ONLY PERSON
14 WORKING ON THE CASE, THE PRIMARY JOB IS TO COORDINATE
15 THE INFLOW OF INFORMATION AS THIS INFORMATION IS
16 COMING IN, TABULATE IT, MAKE SURE THAT IT'S
17 DOCUMENTED PROPERLY, AND INTO A CASE FILE?

18 A THAT'S CORRECT

19 Q BUT YOU HAVE SUPERVISORS?

20 A YES, SIR

21 Q AS THE CHIEF INVESTIGATING OFFICER YOU DON'T
22 HAVE ANYMORE SAY OVER LIEUTENANT HERRING OR
23 LIEUTENANT WALDROP OR --

24 A NO, SIR

25 Q CERTAINLY NOT CAPTAIN CABANISS?

002609

1 A NO, SIR

2 Q THEY ARE THE ONES WHO CAN SAY WHICH WAY AN
3 INVESTIGATION IS GOING TO GO?

4 A CORRECT

5 Q YOUR JOB IS TO MAKE SURE ALL THAT ALL THE
6 INFORMATION COMES IN, IT IS DISSEMINATED TO THE
7 APPROPRIATE PEOPLE, IT'S PROPERLY DOCUMENTED, AND
8 PROPERLY RECORDED AND KEPT IN THE NOTEBOOK SO IT'S
9 THERE WHEN YOU NEED IT?

10 A YES, SIR

11 Q IN ANY INVESTIGATION YOU CAN ALWAYS LOOK BACK
12 AND SEE THINGS THAT YOU WISH YOU HAD DONE DIFFERENT

13 A A LOTS OF TIMES, YES, SIR

14 Q ARE YOU COMFORTABLE WITH THIS INVESTIGATION, YOU
15 DID THE BEST JOB YOU COULD?

16 A YES, SIR

17 Q THANK YOU VERY MUCH

18 THE COURT MR GREELEY

19 MR GREELEY I DON'T HAVE ANY QUESTIONS

20 THE COURT ALL RIGHT MR MORTON

21 REDIRECT EXAMINATION BY MR MORTON

22 Q YOU GOT SAMPLES FROM PEOPLE THAT WERE CONNECTED
23 TO MR COPE AT THAT TIME, RIGHT?

24 A YES, SIR

25 Q YOU DIDN'T GET A SAMPLE FROM JAMES SANDERS?

002610

1 A AT THE TIME, NO, SIR WE DIDN'T GET MR SANDERS
2 UNTIL WAY AFTER

3 Q RIGHT, BECAUSE HE WASN'T CONNECTED

4 A IT WAS AFTER EVERYBODY ELSE

5 Q RIGHT

6 A YES, SIR

7 Q HE'S STILL NOT CONNECTED

8 A HE'S CONNECTED, YES, SIR

9 MR BRACKETT OBJECTION, IT'S
10 ARGUMENTATIVE

11 THE COURT SHE ANSWERED

12 Q MRS BLACKWELDER, I'M GOING TO SHOW YOU PAGE 829
13 OF MY TRANSCRIPT WHERE I HAVE EXAMINED YOU AND ASK
14 YOU TO LOOK AT THAT IF YOU DON'T MIND?

15 A IS THIS FAMILY COURT OR PRE-TRIAL MOTIONS AGAIN?

16 Q I THINK IT'S FAMILY COURT I'M NOT SURE?

17 A YES, I SEE EXACTLY WHAT YOU ARE SAYING I STAND
18 CORRECTED

19 Q I ASKED YOU IF YOU TOLD MARY SUE --

20 A DID I TELL MARY SUE THAT THEIR DAD'S DNA HAD
21 BEEN FOUND ON HER DAUGHTER AMANDA

22 Q TALKING ABOUT THE CHILDREN'S DAD?

23 A AND I SAID YES, SO I STAND CORRECTED

24 Q AND AGAIN SHE DIED THINKING THAT, DIDN'T SHE?

25 A IF SHE HAD THAT INFORMATION, YES, SIR, SHE DID

1 THE COURT MR BRACKETT

2 MR BRACKETT I DON'T HAVE ANYTHING

3 ELSE

4 THE COURT YOU CAN STEP DOWN

5 A THANK YOU

6 THE COURT WE'LL STOP FOR THE DAY AND
7 START BACK AT NINE IN THE MORNING HAVE A PLEASANT
8 EVENING AND WE'LL SEE YOU AT NINE IN THE MORNING

9 (THE JURY EXITS THE COURTROOM AT 06 15
10 PM)

11 THE COURT ANYTHING FROM THE STATE?

12 MR BRACKETT NO, SIR, YOUR HONOR

13 THE COURT MR MORTON

14 MR MORTON NO, SIR

15 THE COURT MR GREELEY

16 MR GREELEY NO, YOUR HONOR

17 THE COURT CAN I SEE COUNSEL JUST A
18 MINUTE TO SEE WHAT THE SCHEDULE WILL BE LIKE
19 TOMORROW

20 (COURT'S IN RECESS AT 06 16 PM)

21

22

23

002612

24

25

1 I, JANET RICH, OFFICIAL COURT REPORTER FOR THE
2 SIXTEENTH CIRCUIT OF THE STATE OF SOUTH CAROLINA, DO
3 HEREBY CERTIFY THAT THE FORGOING IS A TRUE, ACCURATE,
4 AND COMPLETE TRANSCRIPT OF RECORD OF ALL THE
5 PROCEEDINGS HAD AND EVIDENCE INTRODUCED IN THE TRIAL
6 OF THE CAPTIONED CASE, RELATIVE TO APPEAL, IN THE
7 CIRCUIT COURT FOR YORK COUNTY, SOUTH CAROLINA, ON THE
8 16TH DAY OF SEPTEMBER 2004

9 I DO FURTHER CERTIFY THAT I AM NEITHER KIN,
10 COUNSEL, NOR INTEREST TO ANY PARTY HERETO

11
12
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25


JANET M RICH

002C13

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
 2004-GS-46-196-199

8 HEARD AT THE MOSS JUSTICE CENTER,
9 1675 YORK HIGHWAY, YORK, SOUTH CAROLINA, ON
10 FRIDAY, SEPTEMBER 17TH, 2004, BEFORE THE
 HONORABLE JOHN C HAYES, III AND A JURY

APPEARANCES

11 TOMMY POPE
12 KEVIN BRACKETT
13 WILLY THOMPSON
14 16TH CIRCUIT SOLICITOR'S OFFICE
15 1675 YORK HIGHWAY
16 YORK, SC 29745
17 REPRESENTING THE STATE

18 JAMES MORTON
19 DAVID WOOD
20 MICHAEL SMITH
21 MORTON & GETTYS
22 1051 OAKLAND AVENUE
23 ROCK HILL, SC 29732

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

26 LELAND GREELEY
27 128 E MAIN STREET SUITE 102
28 ROCK HILL, SC 29732
29 REPRESENTING JAMES EDWARD SANDERS

30 REPORTED BY JANET M RICH
31 CIRCUIT COURT REPORTER
32 1992 DOWNEY STREET
33 ROCK HILL, SC 29732

002614

I N D E X

IN CAMERARONALD GURETTE

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CROSS EXAMINATION 25

GEORGIA POPE

DIRECT EXAMINATION 39

CROSS EXAMINATION 45

REDIRECT EXAMINATION 53

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JURY PRESENTLEILA PHIFER

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OC2616

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002617

1 (COURT RESUMES ON FRIDAY SEPTEMBER 17, 2004, AT 09 20
2 AM)

3 THE COURT THE STATE READY

4 MR THOMPSON THE STATE IS BUT WE DO HAVE
5 A MATTER TO TAKE UP BEFORE THE JURY COMES

6 THE COURT IS THE DEFENSE READY

7 MR MORTON YES, SIR

8 MR GREELEY YES, YOUR HONOR

9 THE COURT ALL RIGHT MR THOMPSON, YOU
10 SAID YOU HAVE A MATTER

11 MR THOMPSON YES, YOUR HONOR THE
12 DEFENSE CALLED MR BRACKETT LATE LAST NIGHT TO LET
13 HIM KNOW THAT THEY HAD A VIDEO TAPE THEY WISH TO
14 INTRODUCE AS PART OF THE TESTIMONY OF A CRIME SCENE
15 EXPERT WE HAD NOT, OF COURSE, SEEN IT BEFORE OR
16 HEARD OF IT THE TAPE, THEY LET US SEE IT JUST A FEW
17 MINUTES AGO, THE STATE OBJECTS TO THE PRESENTATION OF
18 THIS TAPE IT IS AT THE RESIDENCE OF THE COPE'S, IT
19 WAS TAKEN ON, DATED ON THE TAPE AUGUST 16 OF 2004,
20 AND IT'S OF THE FRONT DOOR AND IT THEN SHOWS AN
21 INVESTIGATOR BREAKING INTO THE FRONT DOOR USING A
22 CREDIT CARD AND THERE ARE A NUMBER OF THINGS
23 FOUNDATIONAL-WISE THAT I BELIEVE EXCLUDE IT, BUT IN
24 ADDITION TO THAT, IT'S ALSO A VIOLATION OF THE RULES
25 OF EVIDENCE AND RECIPROCAL DISCOVERY

002618

1 THE COURT OKAY MR MORTON

2 MR MORTON FOUNDATIONAL-WISE I DON'T
3 THINK THERE IS A PROBLEM AT ALL DISCOVERY I DON'T
4 THINK IS A PROBLEM AT ALL QUITE HONESTLY I DIDN'T
5 EVEN THINK ABOUT THIS BEING THE RESULT OF A REPORT OR
6 EXAMINATION OR TEST UNTIL ABOUT NINE O'CLOCK LAST
7 NIGHT WHEN I CALLED MR BRACKETT AND TOLD HIM THAT
8 AND OF COURSE, IT'S ABOUT A 30 SECOND VIDEO AT THE
9 MOST I THINK THE FOUNDATION CAN BE LAID THAT IT WAS
10 THE SAME DOOR, THE SAME LOCK, OBVIOUSLY, YOU KNOW, WE
11 TURNED IT OVER TO THEM WHEN WE REALIZED THAT WE
12 SHOULD KIND OF LIKE THEY HAVE DONE DURING THE TRIAL
13 OF THIS CASE WITH FINGERPRINTS, COMPUTER RECORDS,
14 TAPE RECORDINGS OF THE DEFENDANT, AND SO FORTH I
15 DON'T THINK IT'S PREJUDICIAL TO THEM I MEAN, I
16 DON'T KNOW THAT THERE IS --

17 THE COURT WELL, IF IT'S NOT GOING TO BE
18 PREJUDICIAL TO THEM WHY DO YOU WANT TO PUT IT IN?

19 MR MORTON WELL, I DON'T KNOW THAT DOING
20 IT, YOU KNOW, IN ANY MANNER ANY LATER THAN THEY HAVE
21 DONE TO US IS ANYMORE PREJUDICIAL THAN IT HAS BEEN TO
22 US

23 THE COURT YOU MEAN TIME WISE?

24 MR MORTON YES, SIR

25 THE COURT WELL, I HAVE MORE PROBLEM WITH

1 ITSELF, USUALLY REENACTMENTS ARE NOT FAVORED BY THE
2 COURT UNLESS THEY ARE REENACTMENTS BASED ON THE FACTS
3 IN EVIDENCE AND THERE IS NO FACTS IN EVIDENCE THAT
4 INDICATE THAT THIS DOOR WAS OPENED WITH A CREDIT CARD
5 OR THIS DOOR WAS OPENED IN ANY MANNER WHATSOEVER
6 OTHER THAN THE FACT THAT IT WAS A CHAIN ON IT AT
7 NIGHT AND THE CHAIN WAS LOOSE IN THE MORNING GO
8 AHEAD

9 MR MORTON WELL, WE CERTAINLY HAVE A
10 RIGHT TO PRESENT OUR THEORY OF OUR DEFENSE WHICH IS
11 THAT THAT HOUSE WAS ENTERED WITHOUT LEAVING ANY SIGNS
12 OF FORCED ENTRY AND HOW EASILY IT CAN BE ENTERED
13 THAT HOUSE COULD VERY EASILY HAVE BEEN ENTERED
14 WITHOUT LEAVING ANY KIND OF ---IF THE JURY DOESN'T
15 WANT TO BELIEVE IT THEN THEY DON'T HAVE TO BELIEVE
16 IT, BUT WE CERTAINLY HAVE A RIGHT, I THINK, TO
17 PRESENT OUR DEFENSE AND OUR THEORY OF THE DEFENSE TO
18 SHOW HOW EASY THAT HOUSE IS TO ENTER

19 MR THOMPSON IF I MAY, YOUR HONOR THE
20 DEFENSE IS WELCOME TO CALL THEIR EXPERT AND SAY I CAN
21 GET IN THE DOOR WITH A CREDIT CARD HE CAN'T SAY THE
22 COPE DOOR THIS IS THREE YEARS LATER

23 MR MORTON IT'S THE SAME LOCK IT'S THE
24 SAME DOOR

25 MR THOMPSON BECAUSE OBVIOUSLY THERE ARE

1 SIGNIFICANT CHANGES TO THAT DOOR

2 THE COURT LET ME SEE THE VIDEO REAL
3 QUICK

4 MR THOMPSON IN DOING IT, YOUR HONOR, I
5 WOULD HAND YOU STATE'S EXHIBITS 41 A THROUGH F THE
6 CLOSE UP PICTURES OF THE FRONT DOOR TAKEN THE DAY OF
7 THE CRIME THE THINGS THAT I WISH TO POINT OUT ON
8 THE VIDEO ARE STATE'S EXHIBIT 41 E WAS OVAL KIND OF
9 WASHERS THERE, THAT HAS BEEN ALTERED ON THE DOOR
10 HERE YOU CAN SEE NOW IT'S TURNED COMPLETELY
11 STRAIGHT, SO THE DOOR HAS BEEN ALTERED IN SOME FORM
12 OR FASHION IN THAT WAY AND SEE THE DOOR KNOB ITSELF
13 APPEARS TO BE COMPLETELY DIFFERENT THAN THE ONE ON
14 THAT DOOR

15 THE COURT WELL, IF IT'S NOT THE SAME
16 LOCK THEN THAT ENDS THE INQUIRY

17 MR THOMPSON THEN IF ---

18 THE COURT WELL, LET'S LOOK AT IT IS IT
19 NOT THE SAME LOCK?

20 MR MORTON IT'S THE SAME LOCK

21 MR THOMPSON BUT THERE HAS BEEN
22 OBVIOUSLY ALTERATIONS TO IT IS WHAT I'M POINTING OUT,
23 YOUR HONOR ON THIS PARTICULAR PICTURE --

24 THE COURT LET ME ASK YOU, HAVE THERE
25 BEEN ALTERATIONS TO IT?

002621

1 MR MORTON NO, SIR

2 MR WOOD NO, SIR

3 MR THOMPSON 41-C

4 MR WOOD WHAT'S BEEN ALTERED

5 MR THOMPSON I'M TELLING YOU RIGHT NOW
6 WHAT'S BEEN ALTERED

7 MR WOOD SHOW US

8 THE COURT WE WANT THIS ON THE RECORD SO
9 SPEAK UP

10 MR THOMPSON ON STATE'S EXHIBIT 41-C
11 WHICH SHOWS A CLOSE UP OF THE APSE WHERE THE LOCK
12 WOULD COME INTO ON THE DOOR, THERE IS A PIECE OF WOOD
13 AT THAT TIME THAT COMES ALL THE WAY UP THIS WAY, THAT
14 APSE LOOKS TO BE BEATEN UP VERY SEVERELY FOR ONE
15 THING IN THIS VIDEO, MORE SO THAN YOU SEE IN THIS
16 PICTURE IN ADDITION YOU HAD SOME TESTIMONY OF A
17 SMALL CRACK IN THE DOOR YOU CAN SEE HERE THERE IS A
18 SMALL CRACK HERE WHEN YOU LOOK AT THIS VIDEO THIS
19 IS A VERY LARGE CRACK AND THERE IS ANOTHER CRACK THAT
20 COMES UP COMPLETELY THE OTHER SIDE

21 MR SMITH NO, SIR WHAT IT IS ---

22 THE COURT LET ME LOOK AT THE THING
23 Y'ALL CAN, I'M GOING TO STEP DOWN, AND I'M GOING TO
24 HAVE THESE IN MY HAND, SO LET ME STEP DOWN, SO I CAN
25 GET A CLOSE UP

002622

1 MR THOMPSON THAT IS THE APSE AS YOU CAN
2 SEE HERE AND HOW IT LOOKS AS COMPARED TO THE
3 PHOTOGRAPH OF IT

4 THE COURT CAN YOU BACK UP JUST A MINUTE
5 MR THOMPSON SURE

6 THE COURT THAT LOOKS LIKE A NAIL AND
7 THIS LOOKS LIKE A SCREW AT THE TOP SEE THAT LOOKS
8 LIKE A NAIL AND THAT LOOKS LIKE A SCREW

9 MR THOMPSON YOU'LL SEE THIS CRACK
10 THAT --

11 THE COURT I GOT YOU AND

12 MR WOOD THAT'S THE SAME NAIL

13 MR THOMPSON BUT THE CONDITION OF THIS
14 AS COMPARED TO THIS, THE FACT THAT THERE IS NO CRACK
15 HERE, THERE IS A CRACK GOING UP HERE, AND YOU WILL
16 SEE THAT THIS CRACK DOWN AT THE BOTTOM IS MUCH MORE
17 PRONOUNCED YOU CAN SEE WHERE IT ACTUALLY LOOKS LIKE
18 IT'S BEEN BROKEN DOWN HERE MUCH MORE SO THAN THAT

19 MR SMITH THE WHOLE DOOR FRAME HAS BEEN
20 BROKEN, IT'S BEEN SPLIT, THAT'S WHY THERE IS THAT
21 SMALL PIECE OF WOOD RIGHT THERE HOLDING THE DOOR
22 FRAME TOGETHER

23 MR THOMPSON RIGHT, BUT IT IS SPLIT
24 MORE YOU SAW THAT CRACK WENT ON ALL THE WAY DOWN

25 MR WOOD WHAT EXACTLY---

002623

1 THE COURT LET ME JUST LET YOU RUN IT

2 MR THOMPSON OKAY

3 (PLAYS THE VIDEO TAPE)

4 THE COURT ANYTHING ELSE FROM THE STATE

5 MR THOMPSON YES, YOUR HONOR I WOULD
6 POINT AGAIN THIS IS THREE YEARS AWAY, THIS IS RENTAL
7 PROPERTY DURING THAT TIME TO MY UNDERSTANDING, WE
8 HAVE NO IDEA WHO HAS LIVED THERE, WHAT ALTERATIONS
9 HAVE BEEN MADE TO THE LOCK MY PERSONAL EXPERIENCE,
10 I'VE HAD LOCKS ON MY OWN HOUSE---

11 THE COURT DON'T GO INTO YOUR PERSONAL
12 EXPERIENCE

13 MR THOMPSON BUT THE DIFFERENT DOOR NOW
14 FOR ONE THING ON THE OUTSIDE IT APPEARS TO BE
15 DIFFERENT IT APPEARS TO BE ALTERED THE DOOR FRAME
16 ITSELF IS NOW CRACKED UP AND DOWN THE LARGE CRACK,
17 LARGER THAN ANY CRACK THAT YOU SEE IN THE ACTUAL
18 PHOTOGRAPHS ON THE DAY IT HAPPENED WHICH OF COURSE
19 WOULD MAKE IT EASIER TO JIGGLE AND EASIER TO TRY AND
20 BREAK IN THAT DOOR IN ADDITION THE ACTUAL LOCK
21 ITSELF ON THE DOOR PART OF IT WHERE THE APSE IS, THAT
22 OVAL KIND OF WASHER THAT HAD BEEN SCREWED IN IS NOW
23 IN A COMPLETELY DIFFERENT POSITION THAN IT WAS AT THE
24 TIME THIS OCCURRED OBVIOUSLY THAT LOCK HAS BEEN
25 ALTERED IN SOME FORM OR FASHION, AND EVEN IF YOU

1 COULDN'T SEE ALL THE ALTERATIONS, WHICH YOU CAN, IT'S
2 BEEN SUCH A LONG TIME, THERE IS NO FOUNDATION TO SAY
3 THAT THAT LOCK IS IN THE SAME CONDITION AS IT WAS
4 THREE YEARS AGO AND IT'S OBVIOUS THAT IT'S NOT IN THE
5 SAME CONDITION FROM THE VIDEO THAT THEY TOOK

6 THE COURT ALL RIGHT

7 MR MORTON IT'S THE SAME LOCK, YOUR
8 HONOR IT'S THE SAME CLASP THERE IS NO QUESTION
9 ABOUT THAT FROM LOOKING AT THE VIDEO AND LOOKING AT
10 THOSE PICTURES IT'S IN THE SAME CONDITION THAT IT
11 WAS THREE YEARS AGO ESSENTIALLY IF THEY WANT TO
12 ARGUE THAT THERE HAS BEEN MORE WEAR AND TEAR ON THE
13 DOOR OR SOMETHING LIKE THAT, I THINK THAT'S CROSS
14 EXAMINATION, BUT THERE IS NO QUESTION THAT THAT IS
15 THE SAME LOCK, THE SAME LOCK MECHANISM YOU CAN TELL
16 BY LOOKING AT THE VIDEO AND LOOKING AT THOSE
17 PHOTOGRAPHS THAT WERE TAKEN OF THE CRIME SCENE, IT'S
18 THE EXACT SAME, AND I THINK, YOU KNOW, WE CERTAINLY
19 HAVE A RIGHT TO PUT THAT IN IF THEY WANT TO ARGUE
20 THAT THERE IS ANOTHER CRACK IN THE WOOD OR SOMETHING
21 LIKE THAT, THEN, YOU KNOW, I THINK THAT'S CROSS
22 EXAMINATION, BUT THAT LOCK AND THAT LOCK MECHANISM IS
23 THE SAME THAT'S ON THOSE PICTURES

24 THE COURT WELL, OF COURSE, THERE HAS TO
25 BE SOME TESTIMONY TO THAT AND ABSENT ANY TESTIMONY TO

1 THAT, THEN I CAN'T LET IT IN ABSENT THAT TESTIMONY TO
2 BEGIN WITH THE SECOND THING THAT I HAD SOME
3 CONCERNS ABOUT IS JUST THE GENERAL TIME LAG OF
4 APPROXIMATELY ALMOST THREE YEARS AND JUST,
5 PARTICULARLY WHEN YOU ARE TALKING ABOUT MECHANICAL
6 DEVICE AND THE WEAR AND TEAR ON THE LOCK I DON'T
7 KNOW WHETHER OR NOT DURING THIS TIME IT'S BEEN OILED
8 OR LIQUID WRENCH SQUIRTED IN THERE THERE IS JUST
9 TOO MANY UNKNOWNNS SO AT THIS POINT, UNLESS YOU CAN
10 HAVE SOME TESTIMONY THAT TAKES CARE OF THOSE
11 PROBLEMS, I'M GOING TO EXCLUDE IT

12 MR MORTON WELL, YOUR HONOR, I WILL
13 POINT OUT FOR THE RECORD THREE YEARS BEFORE THEY TURN
14 OVER THESE COMPUTER RECORDS AND STUFF TO US TOO AND
15 WE COULDN'T GO IN THE DAY THAT HE WAS ARRESTED WE
16 WEREN'T EVEN APPOINTED FOR SEVERAL YEARS AND IF THAT,
17 IF THEY WANT TO ARGUE IT'S BEEN OILED OR IT'S NOT
18 ESSENTIALLY IN THE SAME CONDITION, I MEAN, THAT'S NOT
19 TRUE, FIRST OF ALL

20 THE COURT WELL, HOW DO YOU KNOW?
21 THAT'S --

22 MR MORTON IF I MAY FINISH IF IT HAS
23 BEEN OILED OR SOMETHING, IF THEY WANT TO CROSS
24 EXAMINE THE WITNESSES ABOUT WHETHER OR NOT SOMETHING
25 HAS BEEN DONE TO THAT OIL, BUT THE JURY SHOULD BE

1 ABLE TO LOOK AT THAT VIDEO AND LOOK AT THAT LOCK
2 MECHANISM AND DETERMINE FOR THEMSELF AND THEY HAVE A
3 RIGHT TO CROSS EXAMINE THEM THAT'S AN ESSENTIAL
4 PART OF OUR DEFENSE IS THAT THIS LOCK, THIS DOOR, IS
5 THE SAME LOCK, IT'S THE SAME DOOR YOU CAN LOOK AT
6 THE MARKINGS ALL OVER IT IF YOU WANT TO, IT'S THE
7 SAME THING

8 THE COURT YOU ARE TELLING ME THAT, BUT I
9 GOT TO HAVE EVIDENCE IN THE RECORD TO THAT AND YOU'RE
10 FLIPPING IT ON ITS HEAD FOR YOU TO GET IT IN, YOU
11 GOT TO LAY THE FOUNDATION AND YOU GOT TO SATISFY THE
12 COURT THAT ANY EXPERIMENT WAS DONE UNDER THE EXACT,
13 REALLY NOT EVEN GOING TO SAY CLOSE, BUT THE EXACT
14 CONDITIONS THAT EXISTED ON THAT DAY, AND YOU HAVEN'T
15 LAID A FOUNDATION FOR IT

16 MR MORTON WE HAVE THE PHOTOGRAPH, WE
17 HAVE THE VIDEO, OKAY

18 THE COURT AND THAT'S ON ALL THE RECORD
19 ALL RIGHT I'M GOING TO DISALLOW THE USE OF THE --
20 I'LL REVISIT IT --

21 MR MORTON YOUR HONOR, CAN WE HAVE OUR
22 CRIME SCENE EXPERT COME IN WHEN YOU SAY LAY THE
23 FOUNDATION, ARE YOU SAYING YOU WANT US TO SHOW THAT
24 EVERY OCCUPANT OF THAT HOUSE FROM NOVEMBER 29, 2001,
25 UNTIL AUGUST 22, 2004, HAS NOT DONE ANYTHING TO

1 CHANGE THAT LOCK? I'M NOT SURE WHERE, WHAT YOU MEAN
2 BY THAT?

3 THE COURT WELL, I THOUGHT I WAS FAIRLY
4 CLEAR I'M NOT A COACH AS I HAVE SAID MANY TIMES
5 DURING THIS TRIAL

6 MR MORTON YES, SIR

7 THE COURT ALL I'M SAYING IS YOU HADN'T
8 LAID THE FOUNDATION YOU HADN'T SHOWN THAT IT'S
9 EXACTLY THE SAME I DON'T HAVE TO TELL YOU HOW TO
10 PROVE THAT OR WHAT TO PROVE IT IT WOULDN'T BE FAIR
11 TO THEM TO TELL YOU WHAT I'M LOOKING FOR

12 MR MORTON ALL RIGHT, SIR

13 THE COURT I CAN JUST TELL YOU SOME
14 EXAMPLES, A COUPLE HAVE BEEN POINTED OUT, THE CRACKS
15 MAY HAVE BEEN WIDENED, THAT A WASHER MAY HAVE BEEN
16 MOVED TO SOME DEGREE AGAIN I DON'T KNOW HOW MANY
17 TIMES PEOPLE PUT KEYS IN THAT LOCK, I JUST DON'T KNOW
18 AFTER THREE YEARS

19 MR MORTON I GUESS MY QUESTION IS, OF
20 COURSE, THERE IS NO WAY TO SHOW HOW MANY TIMES A KEY
21 HAS BEEN PUT IN THAT LOCK AND HOW MANY TIMES THE DOOR
22 HAS BEEN OPENED AND IF YOU WANT US TO TRY AND LAY
23 THE FOUNDATION BEFORE THE JURY COMES IN WITH OUR
24 EXPERT WHO IS JUST GOING TO COME IN AND TESTIFY HE'S
25 LOOKED AT THE PHOTOGRAPHS, HE WENT TO THE SCENE, HE

1 VIDEO THE SCENE, HERE'S THE VIDEO, IT'S THE SAME
2 LOCK, ESSENTIALLY THE SAME CONDITION IT WAS IN THOSE
3 PHOTOGRAPHS I THINK THAT GOES TO THE WEIGHT NOT THE
4 ADMISSIBILITY IF THIS WAS OBVIOUSLY SOME OTHER DOOR
5 OR SOME OTHER LOCK MECHANISM, IT'S THE SAME THING
6 YOU CAN TELL BY LOOKING AT THE VIDEO AND LOOKING AT
7 THE PICTURE

8 THE COURT WELL, I'VE RULED I'M GOING
9 TO NOT ALLOW IT

10 MR MORTON DO YOU WANT ME TO BRING IT
11 IN?

12 THE COURT YOU CAN BRING HIM IN AND PUT
13 WHATEVER PROFFER YOU WANT AND WE'LL PUT THAT IN AS A
14 COURT'S EXHIBIT

15 MR MORTON ALL RIGHT, SIR

16 MR SMITH JUDGE, ONE QUICK ISSUE I
17 DON'T THINK IT'S THAT IMPORTANT, BUT I JUST WANTED TO
18 CLARIFY BEFORE WE CALL THE WITNESS, I HAVE A WITNESS
19 WHO DOESN'T WISH TO SWEAR ON THE BIBLE

20 THE COURT YOU CAN AFFIRM

21 MR SMITH SHE CAN AFFIRM

22 THE COURT WITHOUT TOUCHING THE BIBLE

23 MR SMITH THANK YOU, YOUR HONOR MADAM
24 CLERK, HER LAST NAME IS POPE THANK YOU

25 RONALD GUERETTE, BEING FIRST DULY

1 SWORN, TESTIFIED AS FOLLOWS

2 MR MORTON YOUR HONOR, DO YOU ME WANT TO
3 QUALIFY HIM NOW?

4 THE COURT I'M GOING TO ASSUME HE'S
5 QUALIFIED

6 MR MORTON YES, SIR

7 THE COURT OR YOU WOULDN'T HAVE BROUGHT
8 HIM IN AND EXPENDING THE MONEY THAT WE HAVE HEARD
9 THESE EXPERTS COST THAT'S NOT A FINAL RULING, BUT
10 FOR THE PURPOSES OF THIS PRESENTATION AND THIS
11 PROFFER

12 MR MORTON HE'S ONLY 500 AN HOUR, JUST
13 KIDDING

14 IN CAMERA DIRECT BY MR MORTON

15 Q MR GUERETTE, YOU, AT OUR REQUEST, WENT AND
16 PERFORMED AN EXPERIMENT ON THE DOOR AND THE DOOR LOCK
17 AT 407 RICH STREET, IS THAT CORRECT?

18 A THAT'S CORRECT

19 Q OKAY AND DO YOU REMEMBER ABOUT WHEN THAT WAS?

20 A RIGHT AFTER I GOT IN THE CASE, ABOUT THREE WEEKS
21 AGO

22 Q WAS THAT AUGUST, SOMETIME IN AUGUST OF 2004?

23 A YES, SIR

24 Q AND BEFORE YOU WENT TO THAT HOME, DID YOU HAVE
25 AN OPPORTUNITY TO VIEW CRIME SCENE PHOTOGRAPHS OF

1 THAT DOOR, THE DOOR LOCK, AND THE LOCK MECHANISM?

2 A YES, SIR, I DID

3 Q AND YOU'VE VIEWED THE, I GUESS IT'S CALLED A
4 CLASP, THAT THE LOCK FITS INTO WHEN IT CLOSES?

5 THE COURT THE STRIKE PLATE

6 A THE HINGE?

7 Q THE STRIKE PLATE I'M SORRY

8 A YES, SIR, THE STRIKE PLATE

9 Q IN OTHER WORDS --

10 A THE DOOR HINGE

11 Q OKAY YOU VIEWED THE --

12 A MECHANISM

13 Q THE LOCK MECHANISM AND HOW IT LOCKS INTO?

14 A RIGHT

15 Q OKAY AND THEN WHEN YOU WENT TO THE HOME, DID
16 YOU VIEW THAT DOOR, THAT LOCK, AND THAT STRIKE PLATE?

17 A YES, I DID

18 Q OKAY AND WAS IT IN ESSENTIALLY THE SAME
19 CONDITION AS THE PHOTOGRAPHS THAT YOU'VE REVIEWED?

20 A YES, SIR, IT WAS

21 Q AND HOW DID YOU MAKE THAT DETERMINATION?

22 A BY THE PHOTOGRAPHS AND THE SIDE OF THE DOOR,
23 YOU'VE GOT THE LOCKING MECHANISM, THE PLATE THAT GOES
24 ON THERE

25 Q OKAY I'M GOING TO SHOW YOU THESE PHOTOGRAPHS

1 AND ASK YOU --

2 MR MORTON THESE ARE IN EVIDENCE?

3 THE COURT THEY ARE IN EVIDENCE

4 Q ASK YOU TO VIEW THESE PHOTOGRAPHS WHICH ARE
5 NUMBERED 41 E, CAN YOU DESCRIBE THAT FOR US?

6 A YES, SIR 41 E IS THE PHOTOGRAPH OF THE DOOR,
7 FRONT DOOR OF THE RESIDENCE I DON'T KNOW THE NAME
8 OF THE STREET OR

9 Q AND THE, WHAT ELSE DOES THAT DEPICT? AS FAR AS,
10 GO AHEAD AND THEN DESCRIBE?

11 A WELL, IT DEPICTS THE PLATE, THE, I'M NOT A
12 LOCKSMITH, THE THING THAT GOES IN AND OUT

13 Q OKAY

14 A THE DOOR THING AND IT ALSO DEPICTS THE BOTTOM
15 PORTION HERE OF APPARENTLY SOME FORM OF A PLATE TO
16 HOLD THE SCREW IN PLACE WHICH WOULD HOLD THE DOOR
17 MECHANISM IN THE DOOR

18 Q OKAY NOW I WANT TO SHOW YOU 41 C, STATE'S
19 EXHIBIT 41 C?

20 A YES, SIR, THAT'S THE DOOR MECHANISM ON THE HOUSE
21 ITSELF THAT LOCKS THE DOOR IN AND OUT

22 Q OKAY SHOW YOU 41 D?

23 A THAT'S THE SAME PHOTOGRAPH AS PREVIOUS ONES

24 Q OKAY

25 A THE SAME DOOR, JUST A WIDER

1 Q GO AHEAD AND JUST TELL US, I DON'T THINK WE NEED
2 THAT ONE, TELL US WHAT THE REST OF THOSE ARE AND PUT
3 THE NUMBER, READ THE NUMBER OFF THE BACK IF YOU WILL?

4 A 41 B IS THE SAME PHOTOGRAPH OF THE PLATE ON THE
5 SIDE OF THE DOOR, CORRECTION, THE FRAME OF THE HOUSE
6 WITH THE SCREEN DOOR CLOSED 41 A IS A PHOTOGRAPH OF
7 THE OUTSIDE OF THE DOOR THE DOOR WAS CLOSED

8 Q OKAY

9 A AND 41 IS A PHOTOGRAPH OF THE FRONT OF THE
10 RESIDENCE AS WELL THE SCREEN DOOR CLOSED

11 Q OKAY NOW I'M GOING TO SHOW YOU A VIDEO I
12 BELIEVE IT'S YOURSELF ENTERING THAT DOOR NOW WAS
13 THAT YOU OUT HERE ON AUGUST 2004, RON?

14 A I HAVEN'T SEEN ANYTHING EXCEPT THE DOOR YET I
15 KNOW THERE WAS A VIDEO TAPE TAKEN BUT I'VE NEVER SEEN
16 IT THAT APPEARS TO BE THE SAME DOOR JAMB
17 THAT APPEARS TO BE THE SAME DOOR, THE FRONT DOOR OF
18 THE RESIDENCE

19 Q THE SAME PLATE OUT THERE?

20 A THE SAME PLATE THAT HOLDS THE SCREW IN THERE

21 Q SAME LOCK MECHANISM?

22 A YES, SIR YOU CAN SEE IT BETTER ON THERE
23 THERE IS NO NORMAL PIN THAT GOES IN BEHIND IT THE
24 PIN IS STUCK OR IT'S NOT THERE

25 THE COURT I DIDN'T CATCH IT SAY THAT

1 AGAIN, SOMETHING IS MISSING FROM THE DOOR?

2 A YOU HAVE TO GO BACK

3 THE COURT NORMAL PIN

4 MR MORTON YOUR HONOR --

5 THE COURT I'LL LET HIM TESTIFY BUT HE
6 SAID SOMETHING ABOUT NORMAL PIN

7 MR MORTON CAN I INTERRUPT AND ASK HIM
8 WHAT HE'S TALKING ABOUT

9 A YOU CAN'T SEE IT ON THOSE

10 Q I THINK YOU CAN

11 A CAN WE GO UP AND SHOW

12 Q SURE

13 (PLAYING THE VIDEO)

14 A RIGHT THERE SEE RIGHT HERE, THERE IS A LITTLE
15 INDENTATION THERE, ANY LOCKS USUALLY HAVE A PIN
16 BEHIND THAT

17 THE COURT I UNDERSTAND, YES

18 A THAT'S WHERE

19 THE COURT I SEE WHAT YOU ARE TALKING
20 ABOUT THAT'S MISSING ON THAT ONE

21 A YES, SIR IT'S EITHER MISSING OR STUCK, BUT
22 IT'S NOT WORKING I CAN'T TELL FROM THERE

23 Q IT'S MISSING ON THE CRIME SCENE PHOTOGRAPHS, IS
24 THAT RIGHT?

25 A I CAN'T SEE IT ON THE CRIME SCENE PHOTOGRAPHS

1 THE COURT WHAT IS HIS ANSWER TO THAT?

2 A I MEAN, I CANNOT SEE IT AND EVEN WITH THE DOOR
3 PIN OPEN YOU SHOULD STILL BE ABLE TO SEE IT I
4 CAN'T SEE IT ON HERE

5 Q SO YOUR TESTIMONY IS YOU DON'T SEE THE SAFETY
6 PIN?

7 A I DON'T SEE THE SAFETY PIN I GUESS THAT'S THE
8 BEST WORD FOR IT AND I DON'T KNOW IF IT'S, I KNOW
9 IT'S NOT WORKING PUT IT THAT WAY I DON'T KNOW IF
10 IT'S BROKEN IN THERE BUT IT'S NOT WORKING

11 Q DO YOU SEE THE SAFETY PIN IN THIS PHOTOGRAPH?

12 A I SEE A PLACE WHERE THE SAFETY PIN CAN BE BUT I
13 DON'T ---

14 Q DON'T SEE THE SAFETY PIN?

15 A I CAN'T TELL IF THE SAFETY PIN IS THERE OR NOT

16 Q CAN YOU SEE THE SAFETY PIN IN THESE PHOTOGRAPHS?

17 A NO

18 Q SO IS YOUR TESTIMONY THAT THAT LOCK AND THE LOCK
19 MECHANISM WAS IN ESSENTIALLY THE SAME CONDITION?

20 A YES, SIR

21 Q AS IT WAS IN THOSE PHOTOGRAPHS?

22 A YES, SIR

23 Q ANY DOUBT IN YOUR MIND ABOUT THAT?

24 A NO, SIR

25 MR MORTON YOUR HONOR, WE HAVE A --

1 A IF I CAN EXPLAIN SOMETHING RIGHT THERE

2 Q YES, SIR

3 A IF YOU CAN STOP IT A MINUTE THERE IS, THE
4 FIRST THING I NOTICED WHEN I WENT IN THE DOOR, THERE
5 IS ABOUT ALMOST HALF AN INCH PLAY FROM THE DOOR, WHEN
6 THE DOOR CLOSES LIKE THIS UP AGAINST THE MOLDING OF
7 THE INSIDE OF THE DOORWAY, WHEN I WAS CLOSING THE
8 DOOR FROM THE INSIDE AND I PULLED IT BACK, JUST
9 SUBCONSCIOUSLY I GUESS, AND WHEN I DID I NOTICED A
10 MAJOR PLAY IN IT AND THERE IS ABOUT A HALF INCH PLAY
11 FROM THE DOOR ITSELF TO WHERE THE LOCK IS IN OTHER
12 WORDS, WHEN YOU CLOSE THE DOOR, EVEN THOUGH IT'S
13 LOCKED FROM THE OUTSIDE, YOU CAN JIGGLE IT AT LEAST
14 HALF AN INCH WHICH IS A VERY IMPORTANT ISSUE AND
15 THAT'S WHEN IT STARTED ME THINKING

16 (PLAYING THE VIDEO)

17 A HERE IS MY HANDS RIGHT THERE WHAT I SHOW THERE
18 IS TWICE I USED MY CREDIT CARD AND PUT IT BETWEEN THE
19 DOOR JAMB AND THE DOOR ITSELF AND UNLOCKED THE DOOR

20 MR MORTON YOUR HONOR, WE HAVE ANOTHER
21 WITNESS, ACTUALLY A COUPLE MORE WITNESSES, WHO WOULD
22 COME IN AND TESTIFY THAT IS THE SAME LOCK, SAME LOCK
23 MECHANISM ONE WAS A FORMER RESIDENT AND ONE IS A
24 LOCKSMITH

25 THE COURT I'D HAVE TO HEAR THEIR

1 TESTIMONY TOO LET'S FINISH THIS PROFFER FIRST

2 MR MORTON OKAY

3 Q SO MR GUERETTE, YOUR TESTIMONY, YOUR TESTIMONY
4 WAS THAT THE, FROM THE PHOTOGRAPHS THAT YOU OBSERVED
5 WHICH WE HAVE PLACED IN EVIDENCE AND ALL THE
6 PHOTOGRAPHS YOU OBSERVED AT THE CRIME SCENE AND THAT
7 LOCK AND LOCK MECHANISM WAS ESSENTIALLY THE SAME AS
8 IT WAS IN THOSE PHOTOGRAPHS, RIGHT?

9 A YES, SIR

10 Q AND THE SAME ABSENCE OF A SAFETY PIN?

11 A YES, SIR

12 Q IS THAT THE SAME AS IT WAS ON THAT VIDEO?

13 A YES

14 THE COURT I THOUGHT HE SAID HE COULDN'T
15 TELL ON THAT PHOTOGRAPH I THOUGHT HE SAID HE
16 COULDN'T SEE IT

17 MR MORTON HE SAID THAT THERE WAS NO
18 SAFETY PIN VISIBLE IN THAT PHOTOGRAPH AND THERE IS NO
19 SAFETY PIN VISIBLE IN THE THING

20 THE COURT THERE ARE A LOT OF THINGS THAT
21 AREN'T VISIBLE IN THE PHOTOGRAPH

22 MR MORTON BECAUSE IT'S NOT THERE IS
23 WHAT --

24 THE COURT OKAY ALL RIGHT

25 MR MORTON THAT'S WHY IT'S NOT VISIBLE

1 THE COURT OKAY

2 MR MORTON SO THAT WOULD BE OUR PROFFER,
3 YOUR HONOR

4 THE COURT YOU WANT TO?

5 MR THOMPSON YES, YOUR HONOR

6 IN CAMERA CROSS BY MR THOMPSON

7 Q NOW YOUR EXPERTISE IS IN CRIME SCENE, CORRECT?

8 A CRIMINAL INVESTIGATOR, CRIME SCENE, AND MANY
9 CRIME SCENES

10 Q YOU ARE NOT A LOCKSMITH THOUGH, RIGHT?

11 A NO ALTHOUGH I'VE REPLACED QUITE A FEW LOCKS

12 Q WELL, I'VE DONE THAT TOO, BUT I'M NOT A
13 LOCKSMITH EITHER?

14 A NO, I SAID I'M NOT

15 Q NOW DID YOU GO BACK IN THE SCENE IN 2001 TO LOOK
16 AT THIS DOOR?

17 A NO, I DIDN'T KNOW ANYTHING ABOUT 2001 I JUST
18 GOT INVOLVED THREE WEEKS AGO

19 Q SO YOU WEREN'T IN 2002 OR 2003 EITHER, WERE YOU?

20 A NOPE

21 Q THE LITTLE THING THAT YOU ARE TALKING ABOUT, THE
22 LITTLE PIN YOU ARE TALKING ABOUT BEING IN THE BACK OF
23 THE, OF THIS LOCK I GUESS IN STATE'S EXHIBIT 41 E,
24 THAT'S THE ONE THAT YOU ARE SAYING YOU DON'T SEE THAT
25 IN, IS THAT CORRECT?

1 A YES, SIR

2 Q WHAT'S THAT THING PROTRUDING OUT BEHIND IT RIGHT
3 BACK HERE IN THE PICTURE?

4 A I DON'T BELIEVE THAT IS IT

5 Q IS THAT THE PIN YOU'RE TALKING ABOUT?

6 A PARDON?

7 Q BUT IT'S POSSIBLY THE PIN YOU WERE TALKING
8 ABOUT?

9 A IT'S EITHER POSSIBLY THE PIN OR IT'S A MARK ON
10 THE DOOR I THINK IT'S A MARK ON THE DOOR I DON'T
11 SEE WHAT YOU ARE TALKING ABOUT

12 THE COURT CAN I SEE THAT

13 (HANDED TO THE COURT)

14 Q NOW WHEN YOU LOOKED AT THE DOOR YOU TALK ABOUT
15 THERE BEING A WIGGLE

16 (LOUD NOISE)

17 THE COURT WE NEED TO FIX THIS CHAIR
18 THAT'S THE SECOND TIME IT'S DONE THAT IT'S GOING TO
19 POP ME UP ONE TIME (LAUGHTER) ALL RIGHT GO
20 AHEAD

21 Q WHEN YOU LOOKED ABOUT THE DOOR YOU TALKED ABOUT
22 THERE BEING A WIGGLE IN THE DOOR ITSELF, BEING ABLE
23 TO OPEN IT UP ABOUT A QUARTER OF AN INCH, IS THAT
24 WHAT YOU STATED?

25 A ALMOST HALF AN INCH

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1 Q ALMOST HALF AN INCH, OKAY A LOT OF THAT HAS TO
2 DO WITH THE DOOR FRAME ITSELF, DOESN'T IT? AND HOW
3 IT HOOKS INTO THAT DOOR FRAME?

4 A WELL, IT HAS A LOT TO DO WITH BOTH THINGS
5 BECAUSE I'VE HAD INSTANCES WHERE I HAD TO REPLACE MY
6 LOCK WHERE I HAD TO TAKE THAT PLATE THAT'S ON THE
7 INSIDE OF THE DOOR FRAME, MOVED IT FURTHER INSIDE THE
8 DOOR, TOWARDS THE DOOR FRAME, SO YOU WOULDN'T HAVE
9 THAT MUCH OF A PLAY

10 Q NOW LOOKING AT STATE'S EXHIBIT 41 C YOU'LL
11 NOTICE THAT STRIP OF WOOD THAT COMES BEHIND THIS BACK
12 PLATE, CORRECT? ON THE TOP OF IT, DOES THERE APPEAR
13 TO BE ANY CRACKING OF ANY SORT ON THAT?

14 A (NO RESPONSE)

15 Q THERE ISN'T, IS THERE? ON THE TOP OF THAT PIECE
16 OF WOOD UP ABOVE THIS PLATE?

17 A RIGHT HERE?

18 Q THERE DOES NOT APPEAR TO BE ANY CRACKING, DOES
19 IT?

20 A NO

21 Q HOWEVER IN YOUR VIDEO THAT'S CRACKED STRAIGHT UP
22 THROUGH THE TOP, ISN'T IT?

23 A I DON'T KNOW

24 Q ALL RIGHT WELL, LET'S LOOK

25 THE COURT HOLD IT JUST A MINUTE I WANT

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1 TO WALK DOWN WHILE YOU ARE PLAYING IT, MR THOMPSON

2 MR THOMPSON ALL RIGHT

3 THE COURT MR GREELEY, YOU WANT COME UP
4 TOO

5 MR GREELEY I'LL STRETCH MY LEGS

6 A I SEE THE CRACK YOU ARE TALKING ABOUT, YEAH

7 Q OKAY AS A MATTER OF FACT THERE IS QUITE A
8 LARGE CRACK THAT COMES UP THROUGH THE TOP OF THAT,
9 ISN'T THERE?

10 A YES, SIR, THERE IS

11 Q AND A PLACE WHERE IT LOOKS LIKE SOMETHING WAS
12 NAILED IN AND IS NO LONGER THERE, ISN'T IT?

13 A NAILED OR SCREWED

14 Q OKAY AND ACTUALLY WHEN YOU GO DOWN TO THE
15 BOTTOM OF THIS AS WELL, NOW THERE IS MAJOR CRACKS
16 MUCH MORE EVIDENT THAN IN THAT PHOTO, AREN'T THERE?

17 A I DON'T KNOW IF THAT'S NECESSARILY A CRACK OR IF
18 IT'S A RIDGE IN THE WOOD IT LOOKS LIKE HERE A RIDGE
19 IN THE WOOD IT COULD BE A CRACK I'M NOT ARGUING
20 WITH YOU

21 Q BUT IT'S MUCH MORE PRONOUNCED HERE IN THE VIDEO
22 THAN IT IS THERE, ISN'T IT?

23 A YES, AND THAT'S A DIFFERENT ANGLE OF COURSE THAN
24 THIS HERE, BUT IT IS MORE PRONOUNCED LOOKING THAT WAY
25 BUT SEE RIGHT HERE THE RIDGE

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1 Q UH-HUH

2 A I CAN'T TELL IF THAT'S A CRACK OR A RIDGE

3 Q OKAY NOW LOOKING AT THIS PHOTOGRAPH IF YOU'LL
4 LOOK AND YOU'LL COMPARE IT AGAINST THIS RIGHT HERE,
5 WHERE THE WOOD COMES UP AGAINST THE WHITE PART OF THE
6 DOOR, THE PAINTED PART, THERE IS A GAP IN THE VIDEO,
7 ISN'T THERE? BUT THERE IS NO GAP IN THAT PHOTOGRAPH,
8 IS THERE?

9 A NO LIKE THE JUDGE SAID, THERE IS A LOT OF
10 THINGS MISSING AND THIS IS A DIFFERENT ANGLE, SO I
11 CANNOT SEE THE GAP OF THIS PHOTOGRAPH IF YOU HAVE
12 ANOTHER PHOTOGRAPH SHOOTING THE SAME WAY

13 Q YOU ARE SAYING YOU CAN'T SEE THAT GAP, THAT GAP
14 LOOKS TO BE ABOUT A QUARTER OF AN INCH RIGHT HERE,
15 YOU CAN'T SEE IT ON THAT VIDEO OR THAT PICTURE?

16 A I CAN SEE IT ON THERE, SIR

17 Q BUT YOU CAN'T SEE IT IN THAT PHOTOGRAPH?

18 A HUH-UH

19 Q ALL RIGHT LET'S LOOK AT STATE'S EXHIBIT 41 B
20 DO YOU SEE IT ON THERE?

21 A I SEE WHERE THERE IS A SCREW HERE SEE THE
22 SCREW?

23 Q RIGHT

24 A APPROXIMATELY WHERE THAT HOLE IS

25 Q WHERE THAT HOLE WAS ON THE TOP, YOU SEE THE

1 SCREW?

2 A RIGHT

3 Q WHERE THAT HOLE WAS

4 A RIGHT

5 Q BUT THAT SCREW HOLE IS NO LONGER THERE IN THE
6 VIDEO THAT YOU TOOK?

7 A NO, AND APPEARS TO BE ANOTHER SCREW OR NAIL
8 RIGHT THERE TO THE RIGHT I SEE THE RIDGE, BUT I
9 CAN'T --- WHAT I'M TRYING TO EXPLAIN IS, I CAN'T SEE
10 THE CRACK HERE THAT ANGLE IS TOTALLY DIFFERENT THAN
11 THIS ANGLE IF YOU HAVE A PHOTOGRAPH SHOWING THE
12 ANGLE THAT CRACK IS PROBABLY THERE I DON'T KNOW

13 Q BUT YOU DON'T SEE IT IN THESE PHOTOGRAPHS?

14 A NO, I DON'T BECAUSE IT'S A DIFFERENT ANGLE

15 Q ALL RIGHT LET'S LOOK AT SOMETHING ELSE HERE

16 A I MEAN, IF I COULD POINT OUT THAT WOOD PART
17 RIGHT THERE

18 Q UH-HUH

19 A IF YOU LOOK AT THAT IN THE PHOTOGRAPH, I MEAN,
20 THAT'S AN UNUSUAL PART OF THE DOOR IN OTHER WORDS,
21 YOU DON'T HAVE THAT IN ANY DOORS THAT I, I CAN RECALL
22 UNLESS THE DOOR IS BEING REPLACED AND THAT PIECE OF
23 WOOD, I CAN EXPLAIN THAT ON THAT PHOTOGRAPH

24 Q PLEASE

25 A THIS WOOD RIGHT HERE THIS IS DIFFERENT THAN

1 THE DOOR FRAME SEE THIS IS A PIECE OF WOOD PUT IN
2 THERE

3 Q CORRECT

4 A WHAT I'M SAYING THIS PIECE OF WOOD APPEARS TO BE
5 THE SAME PIECE OF WOOD THERE WITH THE EXCEPTION OF
6 THE SCREW IS MISSING

7 Q AND THE LARGE CRACK?

8 A THE CRACK COULD BE THERE I DON'T KNOW

9 THE COURT HE'S NOT GOING TO CONCEDE THE
10 CRACK MOVE ON TO SOMETHING ELSE

11 A IT MAY BE THERE I JUST CAN'T TELL FROM THAT
12 PHOTOGRAPH

13 Q YOU'LL ALSO BE ABLE TO SEE FROM THAT PHOTOGRAPH
14 YOU SEE THE NAIL RIGHT HERE ON THE EXTERIOR AND THE
15 HEAD OF THAT NAIL ACTUALLY COVERS OVER THE PLATE,
16 DOESN'T IT? IT COVERS OVER THIS PLATE WHEREAS IN
17 THIS PICTURE THE HEAD OF THAT NAIL IS BEHIND THE
18 PLATE, ISN'T IT?

19 A I'D SAY THAT'S A BETTER PICTURE OF HOW THE NAIL
20 LOOKS FROM THAT ANGLE THAN THIS ANGLE IT LOOKS FROM
21 HERE IF YOU LOOK AT THE ANGLE SIDEWAYS, IT'S JUST
22 THE SAME

23 Q SO IT'S --

24 A THE SAME NAIL THE NAIL WASN'T REPLACED

25 Q YOU ARE SAYING IT'S A MATTER OF ANGLE THEN?

1 A YES, SIR, IT'S VERY MUCH A MATTER OF ANGLES
2 THAT'S WHY I CAN'T SEE THAT CRACK IF THE CRACK IS
3 THERE WHAT I'M TALKING ABOUT IS THAT WOOD PLATE,
4 THAT'S VERY UNUSUAL FOR ANY DOOR AND THAT APPEARS TO
5 BE THE SAME WOOD PLATE THAT'S IN THERE

6 Q I WANT YOU TO LOOK RIGHT HERE FOR ME SEE THIS
7 LITTLE WASHER TYPE THING RIGHT HERE?

8 A UH-HUH

9 Q IT'S STRAIGHT UP AND DOWN IN THAT PHOTOGRAPHS,
10 ISN'T IT? OR IN THAT VIDEO STATE'S EXHIBIT 41 E
11 THOUGH IT'S TO THE SIDE, IT'S DIAGONAL?

12 A WELL, I THINK IN TWO YEARS --

13 Q OR IS THAT A MATTER OF ANGLE?

14 A I THINK IN TWO YEARS, NO, IT'S NOT A MATTER OF
15 ANGLE I THINK IN TWO YEARS I'M SURE THAT DOOR HAS
16 OPENED AND CLOSED MANY TIMES AND THAT LOCKING OR THAT
17 PLATE MIGHT HAVE SLIPPED BACK AND FORTH I DIDN'T
18 TEST THAT

19 Q EXACTLY?

20 A ALL I CAN TELL YOU IS THIS PLATE IS THE SAME AS
21 THAT AND THAT'S VERY UNUSUAL TO HAVE THIS ON A DOOR
22 LOCK, HAVE THAT ON A DOOR LOCK OR MECHANISM
23 I MEAN, I'VE NOT SEEN IT BEFORE

24 Q OKAY

25 A IT'S A GOOD WAY TO HOLD IT IN WITHOUT HAVING TO

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1 REPLACE THE LOCK

2 Q BUT YOU HIT THE NAIL ON THE HEAD WHEN YOU TALKED
3 ABOUT YOU DON'T KNOW TWO YEARS AGO AS A MATTER OF
4 FACT IT WAS MORE THAN TWO YEARS AGO, IT WAS THREE
5 YEARS, WASN'T IT?

6 A WHATEVER TIME I'M NOT ARGUING WITH THE TIME
7 LIKE I SAID

8 Q AND THERE IS A LOT OF WEAR AND TEAR ON THE DOOR
9 IN THAT TIME, ISN'T THERE?

10 A THERE CERTAINLY IS

11 Q A LOT OF WEAR AND TEAR ON THE LOCK TOO, ISN'T
12 THERE?

13 A YES

14 Q AND YOU DON'T KNOW IF THIS DOOR HAS BEEN KICKED
15 OPEN BY SOMEONE OR PUSHED IN BY SOMEONE OR PRIED IN
16 IN THE MEANTIME, DO YOU?

17 A NO, SIR, I DON'T

18 Q AND THAT CAN ALL EFFECT THE LOCK, CAN'T IT?

19 A CERTAINLY, WEATHER CAN EFFECT THE LOCK

20 Q WELL, LOOK --

21 A I DO KNOW ONE THING, IF THAT DOOR WOULD HAVE
22 BEEN KICKED IN WITH THAT LOCK THERE, THEY PROBABLY
23 WOULD HAVE REPLACED THAT LOCK I MEAN, AS A POLICE
24 OFFICER, I KICKED IN MANY DOORS AND LOCKS JUST DON'T
25 STAY INTACT

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1 Q THAT DOOR KNOB RIGHT THERE, YOU CAN SEE IT
2 THE COURT COULD YOU HAND ME A PHOTOGRAPH
3 OF THAT FRONT DOOR KNOB

4 MR THOMPSON YES, SIR THAT'S WHERE I
5 WAS GOING 41 E

6 (HANDED TO THE COURT)

7 THE COURT ALL RIGHT HERE YOU GO

8 Q THAT DOOR KNOB IS ALL SHINY AND LOOKING BRAND
9 NEW, ISN'T IT?

10 A WELL, THERE IT LOOKS LIKE IT, YEAH

11 Q 41 E, LET'S LOOK AT THAT ONE IT'S A DIFFERENT
12 DOOR KNOB, ISN'T IT?

13 A (NO RESPONSE)

14 Q LOOK AT THE FACE OF THAT DOOR KNOB FLAT AND THE
15 CASE OF THIS IS ROUND?

16 A CAN I --

17 THE COURT WAIT JUST A MINUTE YOU
18 DON'T HAVE TO RAISE YOUR VOICE THERE IS NO JURY IN
19 HERE GO AHEAD

20 A YEAH, BUT THE, THAT'S ON THE INSIDE THOUGH NO,
21 THAT'S ON THE OUTSIDE

22 Q SO THERE IS A DIFFERENT DOOR KNOB ON THE
23 OUTSIDE?

24 A YEAH, THAT ONE IS ROUND AND THIS ONE IS MORE
25 OVAL

002647

1 Q SO OBVIOUSLY SOMETHING HAS BEEN DONE WITH THAT
2 LOCK, HASN'T IT?

3 A NO, SIR SOMETHING HAS BEEN DONE WITH THE
4 OUTSIDE DOOR HANDLE, BUT THAT'S NOTHING UNUSUAL TO
5 REPLACE A DOOR HANDLE AND NOT REPLACE A MECHANISM
6 THIS HERE IS THE SAME MECHANISM THAT WAS IN THERE
7 WHY WOULD THEY PUT, IF THEY PUT A NEW MECHANISM WHY
8 WOULD THEY PUT THE PLATES BACK UP THERE TO, I MEAN,
9 THAT'S JUST -- I AGREE WITH YOU THE OUTSIDE HANDLE
10 IS DIFFERENT BUT THAT'S NOTHING UNUSUAL

11 Q IN ORDER TO CHANGE THE OUTSIDE HANDLE YOU
12 ACTUALLY HAVE TO --

13 A NO, SIR

14 Q TAKE IT OFF, DON'T YOU?

15 A NO, SIR IF YOU REPLACED IT, NO, SIR, YOU
16 DON'T --

17 Q ARE YOU LISTENING TO THE QUESTION?

18 A YES, SIR

19 Q YOU ACTUALLY HAVE TO TAKE OFF OF THE HANDLE?

20 MR MORTON IF HE CAN FINISH, YOUR HONOR
21 THE COURT HE DIDN'T ANSWER THE QUESTION
22 LET'S GET IN ORDER I KNOW HE'S GOT SOME THINGS HE
23 WANTS TO SAY, BUT DO IT IN RESPONSE TO THE QUESTION
24 ASK THE QUESTION AGAIN

25 Q IN ORDER TO CHANGE THE HANDLE YOU ACTUALLY HAVE

002648

1 TO TAKE THE OTHER ONE OFF, DON'T YOU?

2 A THE OTHER HANDLE, YES, SIR

3 Q YES

4 A BUT NOT THE MECHANISM YOU CAN REPLACE HANDLES
5 ON BOTH SIDES OF THE DOOR AND NEVER TOUCH THAT
6 MECHANISM BECAUSE THEY ARE ALL UNIVERSAL BASICALLY

7 Q AND I NOTICED YOU JIGGLED THE HANDLE FROM BOTH
8 SIDES OF THAT DOOR AT ONE POINT DURING THIS VIDEO,
9 ISN'T THAT RIGHT?

10 A UH-HUH

11 Q BUT THE TRUTH IS YOU HAVE NO IDEA WHAT THOSE
12 HANDLES WERE LIKE IN 2001, DO YOU?

13 A I DON'T KNOW IF THEY JIGGLED LIKE THAT, NO

14 Q AND IN ACTUALITY YOU HAVE NO IDEA WHAT THAT LOCK
15 WAS LIKE IN 2001 OR THAT DOOR OR HOW IT OPENED OR
16 SHUT, DO YOU?

17 A NO, SIR I NEVER SAID I DID, SIR
18 ?

19 MR THOMPSON NO FURTHER QUESTIONS

20 THE COURT BRIEF REDIRECT

21 MR MORTON YOUR HONOR, I DON'T HAVE
22 ANYTHING ELSE THAT IS OBVIOUSLY THE SAME DOOR LOCK,
23 THE SAME MECHANISM IF IT WASN'T, WE WOULDN'T BE
24 HERE

25 THE COURT WELL, I DISAGREE WITH YOU

002649

1 I'M NOT GOING TO ALLOW THE VIDEO I THINK THIS
2 WITNESS CAN TESTIFY GENERALLY AS TO HOW DOORS CAN BE
3 ENTERED WITH CREDIT CARDS BUT NOT THIS PARTICULAR
4 DOOR THERE ARE QUITE A FEW DIFFERENCES THAT HAVE
5 BEEN SHOWN AND I KNOW YOUR ARGUMENT WILL BE, WELL,
6 THAT GOES TO THE WEIGHT, BUT I DON'T BELIEVE IT DOES
7 NOBODY EVEN MENTIONED THE WEATHER STRIPPING, WHICH
8 HAS BEEN, APPEARS TO BE THE SAME WEATHER STRIPPING
9 AND IS FOUR YEARS OLDER THERE IS NO TESTIMONY THAT
10 THERE WAS ANY PLAY IN THE DOOR ON DECEMBER 29, 2001
11 NOW THERE IS HALF AN INCH PLAY I THINK THAT'S VERY
12 SIGNIFICANT THE OWN WITNESS TESTIFIED THAT THE LOCK
13 CAN DETERIORATE WITH THE WEATHER THE QUESTION OF
14 THE SAFETY PIN AS IS CALLED IS QUITE FRANKLY
15 UNRESOLVED IT APPEARS TO BE FEATURED IN ONE
16 PHOTOGRAPH, BUT IT'S CERTAINLY MISSING IN THE ONE AT
17 THE DATE OF THE ENTRY AGAIN, I KNOW COUNSEL ARGUED
18 PERHAPS THAT'S A JURY QUESTION, BUT I DON'T BELIEVE
19 IT IS I BELIEVE THAT THERE ARE SUBSTANTIAL
20 DIFFERENCES IN THIS DOOR THAT THIS IS NOT
21 ESSENTIALLY THE SAME DOOR IT'S CERTAINLY NOT, IT'S
22 THE SAME DOOR, BUT THE CONDITIONS THAT EXISTED IN
23 AUGUST OF THIS YEAR, ONE THING THE WITNESS MENTIONED
24 HIMSELF THAT NOBODY HAS COVERED IS THE HINGES THERE
25 IS NO TESTIMONY THAT IT EVEN HAS THE SAME HINGES ON

002650

1 IT THERE IS NO TESTIMONY ABOUT WHETHER IT'S BEEN
2 OILED OR LUBRICATED, NOTHING ABOUT WEAR AND TEAR ON
3 THE WEATHER STRIPPING, THERE IS PLAY IN THE HANDLE
4 AND IN SPITE OF COUNSEL'S REPRESENTATIONS AND RIGHT
5 VEHEMENT WHEN WE WERE AT THE BENCH, THAT'S A
6 DIFFERENT DOOR KNOB I MEAN I CAN TELL THAT AND I'M
7 NOT A LOCKSMITH, I'M NOT A CARPENTER, AND I'M NOT
8 VERY BRIGHT, BUT IT'S A DIFFERENT DOOR KNOB EVEN I
9 CAN TELL THAT, SO I'M NOT GOING TO ALLOW THAT HE
10 CAN TESTIFY GENERALLY AS HOW ENTRY CAN BE GAINED BUT
11 NOT TESTIFY AS TO HOW ENTRY CAN BE GAINED ON THIS
12 DOOR BECAUSE THERE ARE TOO MANY DIFFERENCES IN THE
13 DOOR IN AUGUST OF THIS YEAR THERE ARE SOME
14 DIFFERENCES ACTUALLY SHOWN AND THERE IS ABSENCE OF
15 TESTIMONY THAT THE DOOR IS IN THE SAME IDENTICAL
16 CONDITION, SO I'M NOT GOING TO ALLOW THE PHOTOGRAPH
17 I MEAN, THE VIDEO

18 MR MORTON YOUR HONOR, AND WE MAY WANT
19 TO PROFFER ANOTHER WITNESS I UNDERSTAND YOUR
20 RULING, BUT THE WITNESS WE WOULD PROFFER AS TO MORE
21 TESTIMONY ABOUT THIS IS NOT HERE SO I'M JUST GOING TO
22 MOVE THIS OUT OF THE WAY

23 THE COURT OKAY LET'S TAKE A SHORT
24 BREAK AND THEN WE'LL GET THE JURY IN

25 (COURT IS IN RECESS AT 10 04 AM)

002651

1 (COURT RESUMES AT 10 12 AM)

2 THE COURT OVER THE BREAK I WAS TOLD WE
3 HAD ANOTHER PROFFER LET'S CALL YOUR WITNESS

4 MR SMITH YES, SIR, YOUR HONOR BILLY
5 COPE CALLS GEORGIA POPE

6 GEORGIA POPE, AFTER AFFIRMING TO
7 TELL THE TRUTH TESTIFIES AS FOLLOWS

8 DIRECT EXAMINATION BY MR SMITH

9 Q GOOD MORNING, MRS POPE IF YOU WOULD PLEASE
10 STATE YOUR FULL NAME FOR THE COURT

11 A GEORGIA STEVENS POPE

12 Q AND WHERE DO YOU CURRENTLY LIVE, MRS POPE?

13 A 2510 FOXHILL COURT, FORT MILL, SOUTH CAROLINA

14 Q AND WHAT DO YOU DO FOR A LIVING?

15 A I'M A LOCKSMITH

16 Q HOW LONG HAVE YOU BEEN DOING THAT?

17 A APPROXIMATELY TEN YEARS

18 Q WHO DO YOU WORK FOR?

19 A CHARLIE'S LOCK AND KEY

20 Q AND ARE YOU A CO-OWNER OF THAT BUSINESS?

21 A YES, I AM

22 Q AND WHO ELSE?

23 A MY HUSBAND CHARLES

24 Q OKAY NOW EXPLAIN EXACTLY WHAT YOU DO IN YOUR
25 BUSINESS? WHAT TYPES OF LOCKS DO YOU WORK ON?

002652

1 A MECHANICAL LOCKS, STAND ALONE ELECTRONIC LOCKS,
2 AUTOMOTIVE, COMMERCIAL, RESIDENTIAL, INDUSTRIAL

3 Q ARE THERE ANY TYPES OF LOCKS YOU DON'T WORK ON?

4 A HARD WIRED ELECTRONIC SYSTEMS

5 Q OKAY NOW YOU SAID YOU'VE BEEN DOING THIS FOR
6 ABOUT TEN YEARS, WHERE DID YOU GET YOUR TRAINING?

7 A ORIGINALLY FROM MY HUSBAND AND ADDITIONAL
8 TRAINING AT QUARTERLY MEETINGS OF THE NORTH CAROLINA
9 LOCKSMITH ASSOCIATION

10 Q ARE YOU A MEMBER OF THAT ASSOCIATION?

11 A YES, I AM

12 Q AND HOW LONG HAVE YOU BEEN A MEMBER?

13 A ABOUT 8 YEARS

14 Q NOW IS THERE ANY TYPE OF CERTIFICATION,
15 LOCKSMITH CERTIFICATION IN SOUTH CAROLINA?

16 A NO

17 Q OKAY NOW YOU SAID YOU OBTAINED YOUR TRAINING
18 FROM YOUR HUSBAND?

19 A YES

20 Q WHERE DID HE OBTAIN HIS TRAINING?

21 A HE TRAINED WITH LOCKSMITH IN MARIETTA, GEORGIA

22 THE COURT DO ANY OBJECT TO ME, AT LEAST
23 FOR PURPOSES OF PROFFER, ACCEPTING HER AS A
24 LOCKSMITH

25 MR THOMPSON NO

002653

1 MR GREELEY NO OBJECTION

2 MR SMITH THANK YOU, YOUR HONOR THAT
3 WAS MY NEXT QUESTION OR WHERE I WAS GOING NEXT

4 Q NOW MRS POPE, HAVE YOU HAD AN OPPORTUNITY TO
5 REVIEW SOME PICTURES OF A LOCK AND LOCKING MECHANISM
6 AND DOOR FRAME?

7 A YES, SIR

8 Q AND ARE THESE PHOTOGRAPHS THOSE PICTURES THAT
9 YOU HAVE REVIEWED?

10 A YES, SIR

11 Q AND FOR THE RECORD THE WITNESS HAS STATED THAT
12 SHE'S REVIEWED STATE'S EXHIBIT 41 D, 41 E, 41 C, AND
13 41 B YOU ALSO HAD AN OPPORTUNITY TO VIEW A VIDEO?

14 A YES, SIR

15 Q OKAY I'M GOING TO SHOW THAT VIDEO TO YOU RIGHT
16 NOW I'M GOING TO PAUSE IT RIGHT THERE WHAT YOU
17 SAW IN THE VIDEO, DOES THAT APPEAR TO BE WHAT'S
18 DEPICTED IN STATE'S EXHIBIT 41 B AND 41 C?

19 A YES, SIR, SHOWING THE STRIKE PLATE

20 Q AND IF YOU WOULD, DOES THE STRIKE PLATE IN THE
21 VIDEO AND THE STRIKE PLATE IN THIS, IN THESE TWO
22 PHOTOGRAPHS, DO THEY APPEAR TO BE IN SUBSTANTIALLY
23 THE SAME CONDITION?

24 A YES, SIR

25 Q DO YOU KNOW WHEN THESE PHOTOGRAPHS WERE MADE AND

1 WHEN THE VIDEOS WERE MADE?

2 A NO

3 Q DO THEY APPEAR TO BE SIMILAR --

4 A YES

5 Q ---IN CONDITION? DOES THE DOOR JAMB APPEAR TO
6 BE SIMILAR CONDITION AS IN THE PHOTOGRAPHS THAT YOU
7 HAVE IN FRONT OF YOU?

8 A YES

9 Q OKAY NOW IN THE VIDEO WE HAVE A CLOSE UP SHOT
10 HERE OF THE DOOR KNOBS, THE FACE PLATE OF THE
11 LOCKING, OF THE LATCH, AND SOME SORT OF WASHER THAT'S
12 ATTACHED TO THE FACE PLATE, IS THAT RIGHT?

13 A YES, SIR

14 Q DOES THAT APPEAR TO BE THE SAME FACE PLATE,
15 LATCH, AND WASHER MECHANISM THAT'S EXHIBITED IN
16 STATE'S EXHIBIT 41 E?

17 A YES

18 Q CAN YOU, DOES THAT APPEAR TO BE THE SAME?

19 A YES, SIR

20 Q DO YOU NOTICE ANY DIFFERENCES BETWEEN THE
21 PHOTOGRAPH AND THE VIDEO?

22 A THE DIFFERENCES, THAT'S A STRAIGHT ON SHOT AND
23 THIS IS AT AN ANGLE

24 Q BUT AS FAR AS THE HARDWARE ITSELF, ARE THERE ANY
25 DIFFERENCES THERE?

002655

1 A NO

2 Q AND NOW ARE YOU POSITIVE THAT IT APPEARS TO BE
3 THE SAME FACE PLATE AND LATCH?

4 A YES

5 Q AND NOW WHAT ABOUT THE DOOR KNOB THAT WOULD
6 PROTRUDE TO THE OUTSIDE, DOES THAT APPEAR TO BE THE
7 SAME ONE?

8 A WELL, I CAN'T SAY SEE THE WHOLE KNOB, BUT THE
9 ROSETTE AND EVERYTHING ELSE ABOUT IT APPEARS TO BE
10 THE SAME

11 Q AND WHAT'S THE ROSETTE?

12 A THIS PEACE AROUND HERE

13 Q THE RING AROUND THE BASE OF THE DOOR KNOB THAT
14 ATTACHES TO THE DOOR?

15 A YES

16 Q THAT APPEARS TO BE THE SAME?

17 A YES

18 Q DO THE MARKINGS ON THE INSIDE FACING OF THE DOOR
19 APPEAR TO BE THE SAME AS IN THE PHOTOGRAPH?

20 MR THOMPSON YOUR HONOR, I OBJECT AS TO
21 THE RELEVANCE AND THIS WOULD BE OUTSIDE HER AREA OF
22 EXPERTISE SHE'S SIMPLY COMPARING PHOTOGRAPHS TO THE
23 VIDEO WHICH I BELIEVE WE CAN DO ON OUR OWN

24 THE COURT WELL, I'M INCLINED TO AGREE
25 WITH YOU, BUT I'M GOING TO LET THEM MAKE A PROFFER

1 I GUESS WHAT YOU ARE SAYING IS THIS DOESN'T TAKE
2 SCIENTIFIC OR TECHNICAL KNOWLEDGE

3 MR THOMPSON THAT'S CORRECT, YOUR HONOR

4 Q NOW WE HAVE A BETTER SHOT OF THE DOOR KNOB?

5 A THAT'S A DIFFERENT DOOR

6 Q THAT'S A DIFFERENT DOOR KNOB WAS IT THE SAME
7 DOOR KNOB, IT'S THE SAME DOOR KNOB ON THE OUTSIDE AS
8 ON THE INSIDE?

9 A NORMALLY, YES PARTS ARE INTERCHANGEABLE

10 Q BUT IN THE VIDEO DO YOU HAVE THE SAME DOOR KNOB
11 ON THE INSIDE AS YOU DO ON THE OUTSIDE IN THIS VIDEO?

12 THE COURT YOU MEAN THE SAME KIND?

13 MR SMITH YES, SIR

14 THE COURT IT'S POSSIBLE TO HAVE THE SAME
15 ONE BOTH PLACES

16 MR SMITH WELL, THAT'S MY QUESTION

17 Q DO YOU HAVE THE SAME DOOR KNOB ON THE INSIDE AND
18 THE OUTSIDE IN THIS VIDEO?

19 A I DON'T SEE THE INSIDE

20 Q OKAY WELL, IS THAT THE INSIDE DOOR KNOB
21 THERE?

22 A YES, SIR

23 Q DOES THAT APPEAR TO BE THE SAME?

24 A YES, THAT'S A COMPLETE SET

25 Q BUT IS IT THE SAME DOOR KNOB AS THE OUTSIDE? IT

002057

1 APPEARS THAT THERE ARE TWO DIFFERENT COLORS?

2 A THERE ARE TWO DIFFERENT COLORS BUT AS LONG AS
3 THEY ARE THE SAME BRAND THAT CAN BE USED
4 INTERCHANGEABLY

5 Q SO WHAT YOU ARE SAYING IS YOU COULD HAVE AN OLD
6 DOOR KNOB SET ON YOUR DOOR AND IF ONE HALF OF THAT
7 BREAKS YOU COULD REPLACE ONLY THAT HALF WITH THE SAME
8 TYPE DOOR KNOB AS WAS ON THERE BEFORE?

9 A YES

10 Q IS THAT A POSSIBILITY?

11 A YES

12 Q OKAY AND MRS POPE, IN YOUR PROFESSIONAL
13 OPINION DOES THIS APPEAR TO BE THE SAME LOCK,
14 LATCHING MECHANISM IN THE PHOTOGRAPHS THAT YOU HAVE
15 VIEWED WITH THE LOCKING MECHANISM OR LATCHING
16 MECHANISM THAT WAS ON THE VIDEO?

17 A YES

18 Q EVEN THOUGH THE DOOR KNOB MAYBE DIFFERENT IT
19 APPEARS TO BE THE SAME LATCH?

20 A YES

21 Q OKAY PLEASE ANSWER PLEASE ANSWER ANY QUESTIONS
22 THE STATE MAY HAVE FOR YOU

23 A OKAY

24 THE COURT GO AHEAD

25 IN CAMERA CROSS BY MR THOMPSON

002658

1 Q GOOD MORNING, MRS POPE HOW ARE YOU THIS
2 MORNING?

3 A FINE

4 Q YOU'RE NOT NECESSARILY WANT BE TO HERE?

5 A NO

6 Q I WOULDN'T THINK SO NOW HAVE YOU HAD AN
7 OPPORTUNITY TO SEE THAT VIDEO BEFORE TODAY?

8 A YES

9 Q ALL RIGHT HAD YOU AN OPPORTUNITY TO SEE THOSE
10 PHOTOGRAPHS BEFORE TODAY?

11 A YES

12 Q HOW LONG AGO DID YOU SEE THOSE?

13 A ABOUT A WEEK AGO AND THEN LAST NIGHT

14 Q OKAY NOW YOU DIDN'T ACTUALLY GO OUT TO THE
15 HOUSE WHEN THIS VIDEO WAS TAKEN?

16 A NO

17 Q AND YOU DIDN'T ACTUALLY GO OUT TO THE HOUSE WHEN
18 THESE PHOTOGRAPHS WERE TAKEN BACK IN 2001, DID YOU?

19 A NO

20 Q HAD YOU EVER BEEN OUT TO THE HOUSE ON RICH
21 STREET?

22 A NO

23 Q I'M SORRY?

24 A NO

25 Q NO OKAY NOW YOU HAD MENTIONED ABOUT THE DOOR

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1 KNOB BEING DIFFERENT, RIGHT?

2 A UH-HUH

3 Q NOW WHEN YOU TAKE OFF A DOOR KNOB AND PUT ON A
4 NEW ONE, DON'T YOU HAVE TO GET A NEW KEY?

5 A NOT NECESSARILY

6 Q NOT NECESSARILY BUT --

7 A IF YOU ARE REPLACING THE INSIDE PART, THERE IS
8 NO KEY HOLE IN IT AND AS LONG AS THE PARTS ARE
9 INTERCHANGEABLE THE OUTSIDE KNOB WOULDN'T HAVE TO
10 CHANGE

11 Q OKAY WELL, IN THIS ONE, WASN'T IT THE OUTSIDE
12 KNOB THAT CHANGED?

13 A THE OUTSIDE KNOB IS A BRIGHT BRASS THE INSIDE
14 KNOB IS AN ANTIQUE BRASS

15 Q BUT THE OUTSIDE KNOB IN THE PICTURES HERE, I
16 BELIEVE THE PICTURE YOU HAVE RIGHT IN FRONT OF YOU

17 A UH-HUH

18 Q THAT'S STATE'S EXHIBIT 41 E?

19 A UH-HUH

20 Q THAT'S NOT THE SAME OUTSIDE KNOB THAT'S ON THAT
21 VIDEO, IS IT?

22 A NO

23 Q AND SO IT'S LIKE THEY HAD AT LEAST IF NOT
24 CHANGED THE KEY, ALTERED THE TRIPPINGS IN THAT LOCK
25 TO MAKE, FOR THE KEY TO FIT, THE ORIGINAL KEY TO FIT?

002660

1 A IF THEY KNEW IT COULD BE DONE, YES

2 Q BUT IF THE OUTSIDE DOOR KNOB CHANGED GENERALLY
3 YOU GOT TO HAVE A NEW KEY?

4 A WELL, WHEN YOU GO BUY AN OUTSIDE KNOB IT COMES
5 WITH KEYS

6 Q RIGHT

7 THE COURT WHAT HE'S ASKING YOU IS, COULD
8 YOU USE THE SAME KEY THAT YOU USED IN THE PREVIOUS
9 DOOR KNOB IN THE SECOND DOOR KNOB OR WOULD YOU HAVE
10 TO HAVE A NEW ONE? WITHOUT GOING INTO CHANGING ALL
11 THE LOCKING MECHANISMS IF YOU JUST --

12 A IF THE TUMBLERS ARE NOT CHANGED, UNLESS YOU
13 ACCIDENTALLY GET THE SAME KEY, NO

14 THE COURT OKAY

15 Q AND THERE ARE SOME DIFFERENCES I BELIEVE FROM
16 THE VIDEO AND THE DOOR THAT YOU SAW HERE, AREN'T
17 THERE?

18 A NOT THAT I CAN SEE

19 Q ALL RIGHT LOOK BACK AT THE VIDEO AND I THINK
20 WE'LL START OUT WITH THIS PHOTOGRAPH RIGHT HERE
21 THIS IS STATE'S EXHIBIT 41 C THIS IS THE TOP OVER
22 THAT, THE STRIKE PLATE, IS THAT WHAT THAT'S CALLED AT
23 THE BOTTOM?

24 A YES

25 Q AND IN THIS PART OF THE VIDEO, ISN'T THAT CRACK

1 ALL THE WAY UP?

2 A I DON'T KNOW

3 Q THE WOOD ABOVE THAT?

4 A I HAVE NEVER SEEN THE DOOR I COULD SEE THE
5 CRACK THERE BUT I DON'T

6 Q RIGHT BUT I'M JUST SAYING ON THE VIDEO YOU SEE
7 HERE, YOU SEE THE CRACK THAT GOES ALL THE WAY UP THE
8 STRIKE PLATE?

9 A YES

10 Q AND THAT'S NOT PRESENT IN THE PHOTOGRAPH YOU
11 HAVE BEFORE YOU, IS IT?

12 A GET THE LINES OFF OF IT

13 Q I'LL TRY I'LL REWIND IT SO YOU CAN WATCH IT
14 JUST PLAY (PLAYS THE VIDEO) YOU SEE THAT YOU
15 NEED TO SEE IT AGAIN TALKING ABOUT THIS PIECE OF
16 WOOD RIGHT IN HERE, THERE IS A CRACK THAT GOES
17 STRAIGHT UP THROUGH IT, ISN'T THERE?

18 A YES

19 Q AND THAT'S NOT PRESENT ON THAT PHOTOGRAPH?

20 A NO

21 Q NOW IF YOU LOOK AT THE BOTTOM OF THIS
22 PHOTOGRAPH, IT APPEARS TO BE A LITTLE LUMP AT THE
23 BOTTOM BUT IT APPEARS TO BE NO CRACK THAT GOES ALL
24 THE WAY THROUGH THE BOTTOM, IS THERE?

25 A NO

1 Q BUT IF WE LOOK AT THIS VIDEO AND WE LOOK AT THE
2 BOTTOM, THIS CRACK COMES ALL THE WAY DOWN ALMOST TO
3 THE VERY BOTTOM, DOESN'T IT?

4 A YES

5 Q SO THAT'S DIFFERENT THAN WHAT'S IN THIS
6 PHOTOGRAPH, ISN'T IT?

7 A THE CRACK RIGHT THERE?

8 Q RIGHT

9 A I DON'T SEE THIS UP HERE

10 Q CORRECT THERE IS PART OF ONE, BUT IT DOESN'T
11 COME ALL THE WAY DOWN THROUGH THE BOTTOM OF THE WOOD,
12 DOES IT, LIKE THE VIDEO SHOWS?

13 A NO

14 Q OKAY AND THIS GAP RIGHT HERE BETWEEN THE WHITE
15 WOOD AND I GUESS THE FRAMING ON THE INSIDE, DO YOU
16 SEE THAT GAP ON THE VIDEO?

17 A RIGHT HERE?

18 Q NO I'M TALKING ABOUT, IF YOU'LL LOOK, WHERE
19 THE WOOD STOPS, WHERE THE, THAT LITTLE PIECE OF WOOD
20 STOPS, YOU CAN SEE A GAP THIS LITTLE BLACK LINE ALL
21 WAY DOWN THROUGH YOU SEE THAT ON THE VIDEO?

22 A THERE IS A PIECE OF WOOD THIS DOESN'T GO DOWN
23 THAT FAR

24 Q THIS ONE DOESN'T GO DOWN THAT FAR?

25 A THERE IS THE BOTTOM OF THE PIECE OF WOOD

1 Q RIGHT

2 THE COURT KEEP YOUR VOICE UP SO WE CAN
3 ALL HEAR YOU

4 A SIR?

5 THE COURT KEEP YOUR VOICE UP SO WE CAN
6 HEAR YOU

7 A OKAY

8 Q LET'S LOOK AT STATE'S EXHIBIT 41 B THEN LET'S
9 SEE IF THAT ONE HELPS DO YOU SEE A GAP BETWEEN THE
10 MOLDING AND THE DOOR ITSELF IN THAT PICTURE THAT YOU
11 HAVE?

12 A I DON'T THINK I UNDERSTAND WHAT YOU ARE ASKING
13 THERE

14 Q ALL RIGHT WELL, I TELL YOU WHAT, WE'LL SKIP
15 THAT AND GO ON TO SOMETHING ELSE IF WE GO AND LOOK
16 AT THE DOOR, THE LOCKING MECHANISM ITSELF IF WE
17 LOOK AT THIS LOCKING MECHANISM RIGHT HERE, YOU SEE
18 THE LITTLE KIND OF OVAL, I DON'T KNOW WASHER THING,
19 THAT'S HOLDING IT IN?

20 A UH-HUH

21 Q IN THIS VIDEO IT GOES STRAIGHT UP AND DOWN,
22 DOESN'T IT ON THAT VIDEO?

23 A YES

24 Q BUT IN THE PHOTOGRAPH IT'S KIND OF DIAGONAL A
25 LITTLE BIT, ISN'T IT?

002664

1 A YES

2 Q SO THAT'S BEEN MOVED SOMEWHAT BETWEEN THE TIMES
3 THOSE TWO THINGS HAVE HAPPENED, ISN'T IT?

4 A YES

5 Q OKAY THEN IF WE GO, IT'S THE FRONT DOOR KNOB,
6 ACTUALLY WE'VE ALREADY TALKED ABOUT THE FRONT DOOR
7 KNOB YOU TOLD US THAT'S A DIFFERENT DOOR KNOB ON
8 THIS DOOR?

9 A YES

10 Q NOW WERE YOU ABLE TO EXAMINE ANY PHOTOGRAPHS OF
11 THE HINGES OR ANYTHING LIKE THAT ON THIS DOOR?

12 A NO

13 Q WERE YOU ABLE TO EXAMINE THE WEATHER STRIPPING
14 OR ANYTHING LIKE THAT TO SEE IF THERE WAS CHANGES IN
15 IT?

16 A NO

17 Q WERE YOU ABLE TO ACTUALLY SEE IF THE INSIDE
18 MECHANISMS OF THE DOOR IN ANY WAY AS FAR AS THE
19 LOCKING, THE LOCKING ITSELF IS DETERMINED, IF IT
20 COULD EVEN LOCK AT THAT TIME?

21 A NO

22 Q SO YOU DON'T KNOW FROM EITHER THE PHOTOGRAPHS OR
23 FROM THE VIDEO WHETHER THAT WAS AN OPERATIONAL DOOR
24 OR LOCK?

25 A NO

002665

1 Q OKAY AND AS A MATTER OF FACT, A LOT OF THINGS
2 CAN ALTER A LOCK OVER A PERIOD OF TIME, CAN'T THEY
3 WEATHER CAN EFFECT A LOCK?

4 A YES

5 Q AND JUST THE AVERAGE USE OF SOMEONE GOING IN AND
6 OUT THE DOOR EVERYDAY EFFECTS THE LOCK?

7 A NOT TO ANY GREAT EXTENT

8 Q BUT IT DOES EFFECT IT?

9 A IT DOES AFTER YEARS AND YEARS, YES

10 Q AND THAT LOCK THAT YOU SAW WAS AT LEAST YEARS
11 OLD AT THE TIME YOU FIRST SEE IT, CORRECT?

12 A YES

13 Q THANK YOU I DON'T HAVE ANY FURTHER QUESTIONS?

14 MR GREELEY NO QUESTIONS

15 THE COURT OKAY

16 MR SMITH YES, SIR, YOUR HONOR, JUST
17 QUICKLY

18 REDIRECT EXAMINATION BY MR SMITH

19 Q MRS POPE, DOES THE DOOR KNOB HAVE ANY EFFECT ON
20 WHETHER SOMEONE CAN BREAK INTO THAT LATCH USING A
21 CREDIT CARD?

22 A THE KNOB ITSELF DOES NOT

23 Q YES, MA'AM THE KNOB ITSELF, DOES THAT HAVE ANY
24 EFFECT ON WHETHER SOMEONE CAN USE A CREDIT CARD TO
25 OPEN A DOOR?

002666

1 A NO

2 Q WHAT'S THE MOST IMPORTANT PART OF SOMEONE USING
3 A CREDIT CARD TO BREAK INTO A DOOR?

4 A HAVING A SPRING LATCH IN IT

5 Q SO IT'S THE TYPE OF LATCH THAT MATTERS AND NOT
6 THE DOOR KNOB, NOT THE HINGES, NOT ANYTHING, NOT ANY
7 OTHER PART OF THE DOOR, IT'S THE LATCH?

8 A IT'S THE LATCH

9 Q OKAY AND IN THE PHOTOGRAPH OR IN THE
10 PHOTOGRAPHS AND IN THE VIDEO, WERE THE LATCH THE
11 SAME?

12 A IN THE PHOTOGRAPHS AND THE VIDEO IT SHOWS A
13 SPRING LATCH ON THE DOOR

14 Q OKAY AND THEY APPEAR TO BE THE SAME SPRING
15 LATCH?

16 A YES

17 Q THANK YOU, MRS POPE
18 RE CROSS EXAMINATION BY MR THOMPSON

19 Q NOW DOESN'T IT ALSO AFFECT WHETHER YOU CAN BREAK
20 INTO A DOOR HOW LOOSE THAT DOOR IS ON THE FRAME?

21 A (NO RESPONSE)

22 Q I MEAN, IF IT'S TIGHT UP IN THE FRAME IT IS A
23 LOT HARDER TO STICK A CREDIT CARD UP IN IT, ISN'T IT?

24 A YEAH, BUT IF IT'S PLIABLE ENOUGH YOU CAN SLIDE
25 IT IN, THE CREDIT CARD WILL BEND, CATCH THE BACK OF

002667

1 THE SPRING LATCH, AND PUSH IT IN

2 Q OKAY BUT ONE OF THE ELEMENTS OF THAT IS THAT
3 YOU HAVE TO HAVE THE DOOR PLIABLE ENOUGH FOR ABLE TO
4 MOVE OPEN ENOUGH, CORRECT?

5 A YES

6 Q AND YOU SAW THE WAY THE CRACK WENT DOWN IN THE
7 VIDEO THROUGH THAT FRAME OF THE DOOR, CORRECT?

8 A YES

9 Q AND THAT COULD VERY WELL MAKE THE DOOR LOOSE AND
10 NOT SHUT TIGHT?

11 A JUDGING FROM THE SCRUB MARKS ON THE SIDE OF THE
12 DOOR I WOULD SAY IT PROBABLY DID FIT TIGHT

13 Q OKAY THANK YOU

14 THE COURT YOU CAN STEP DOWN AND BE,
15 DON'T BE EXCUSED, JUST YOU CAN STEP OUTSIDE BACK TO
16 THE WITNESS ROOM

17 MR MORTON THAT'S THEN END OF OUR
18 PROFFER, YOUR HONOR

19 THE COURT THE ONLY THING THAT THIS
20 WITNESS TESTIFIED TO IS BASICALLY OUTSIDE THE KEEN OF
21 THE JURORS OR LAY PEOPLE WOULD BE THAT LOCKS AND
22 PARTS ARE INTERCHANGEABLE AND THAT WOULD ONLY BE
23 RELEVANT IF I WERE TO ALLOW THE PRIOR WITNESS TO
24 TESTIFY WHICH I HAVE ALREADY RULED I AM NOT, SO WHAT
25 ARE YOU CALLING FOR, TO SAY IT'S THE SAME LOCK?

002668

1 MR MORTON THE SAME LOCK, ESSENTIALLY
2 THE SAME THING AND THE THING THAT MATTERS ABOUT THE
3 LOCKING MECHANISM IS THE SPRING LATCH AND THAT'S
4 REALLY THE ONLY THING THAT MATTERS IS THE FACT THAT
5 THAT LATCH DOESN'T HAVE A SAFETY PIN MECHANISM IN IT,
6 IN EITHER OF THE PICTURES OR IN THE VIDEO, AND THEN
7 THAT'S WHAT MATTERS AS FAR AS BEING ABLE TO GET A
8 CREDIT CARD TO GO IN AND OPEN THAT DOOR

9 THE COURT WELL, I DISAGREE THAT THE
10 PICTURES SHOW THAT THAT'S MISSING I THINK THERE ARE
11 INCONCLUSIVE AND EVEN IF THEY DON'T SHOW IT, THERE
12 IS NO EVIDENCE THAT IT WASN'T HALFWAY IN, AND IT'S
13 JUST AS SPECULATIVE TO SAY WELL IF IT WASN'T SHOWING
14 IT WAS A HUNDRED PERCENT IN, IT'S JUST AS SPECULATIVE
15 AS SAYING WELL IF IT WASN'T SHOWING IT WAS HALFWAY IN
16 AND IT'S NOW STUCK THERE IS JUST NOT ENOUGH TO
17 ALLOW THIS JURY TO SEE THAT FILM

18 MR MORTON I RESPECT YOUR HONOR'S
19 OPINION, BUT AGAIN MY FEELING IT GOES TO THE WEIGHT

20 THE COURT ALL RIGHT I'M NOT GOING TO
21 ALLOW IT ALL RIGHT CAN WE TRY AGAIN AND TELL THE
22 JURY THREE MINUTES

23 (COURT'S IN RECESS AT 10 38 AM)

24 (COURT RESUMES)

25 MR BRACKETT IF THERE IS ANY ADDITIONAL

1 INFORMATION OR EVIDENCE, WE RECEIVED NOTHING THIS
2 IS ABOUT THE SECOND OR THIRD TIME THIS HAS HAPPENED

3 THE COURT NOW YOU KNOW HOW THEY FEEL

4 MR BRACKETT WELL (LAUGHTER) WE
5 DIDN'T USE THE COMPUTER STUFF I HEARD THEIR
6 COMPLAINT ABOUT THAT BUT IF THERE IS, I'M JUST
7 SAYING, IF THERE IS, IT WOULD BE NICE TO HAVE IT

8 THE COURT YOU READY

9 MR MORTON YES, SIR

10 THE COURT MR GREELEY, YOU READY

11 MR GREELEY I'M READY, YOUR HONOR

12 THE COURT ALL RIGHT BRING IN THE JURY

13 (THE JURY RETURNS TO THE COURTROOM AT
14 10 44 AM)

15 THE COURT MEMBERS OF THE JURY PANEL, IF
16 YOU RECALL A FEW DAYS BACK I TOLD THAT YOU WOULD BE
17 THE JUDGE OF THE CREDIBILITY OF THE WITNESSES WHO
18 TESTIFY I'M GLAD I'M NOT A WITNESS BECAUSE MY
19 CREDIBILITY I'M SURE IS SHOT WITH Y'ALL AT THIS
20 POINT (LAUGHTER) WE HAVE BEEN WORKING SINCE NINE
21 O'CLOCK TRYING TO GET SOME THINGS IN ORDER AND WE'RE
22 READY TO GO FORWARD AT THIS TIME CALL YOUR NEXT
23 WITNESS

24 MR SMITH THE BILLY COPE CALLS LEILA
25 PHIFER

002670

1 LEILA PHIFER, BEING FIRST

2 DULY SWORN, TESTIFIED AS FOLLOWS

3 DIRECT EXAMINATION BY MR SMITH

4 Q IF YOU'LL PLEASE STATE YOUR FULL NAME FOR THE
5 JURY

6 A LEILA PHIFER

7 Q IF YOU WOULD SPELL YOUR NAME FOR THE COURT
8 REPORTER PLEASE?

9 A L-E-I-L-A P-H-I-F-E-R

10 Q MS PHIFER, WHERE DO YOU CURRENTLY LIVE?

11 A I LIVE AT EDMORE, SOUTH CAROLINA

12 Q AND ARE YOU MARRIED AND DO YOU HAVE CHILDREN?

13 A I'M A WIDOW AND I HAVE TWO SONS

14 Q WHERE DO YOU CURRENTLY WORK?

15 A UNITED SUPPLY AT WESTINGHOUSE IN CHARLOTTE

16 Q AND WHAT DO YOU DO THERE?

17 A CUSTOMER SERVICE REP

18 Q NOW DO YOU KNOW THE COPE FAMILY, BILLY, MARY SUE
19 BEFORE SHE PASSED AWAY, JESSICA, KYLA, AND AMANDA
20 BEFORE SHE WAS, BEFORE SHE PASSED AWAY?

21 A I DO

22 Q HOW DID YOU KNOW THEM?

23 A WE WENT TO CHURCH TOGETHER

24 Q AND HOW LONG DID YOU KNOW, HOW LONG HAVE YOU
25 KNOWN THEM?

-
002671

1 A AROUND 20 YEARS

2 Q OKAY AND WHAT CHURCH DID YOU ATTEND?

3 A WEST MAIN NAZARENE

4 Q AND OUT OF THE COPE FAMILY WHO WERE YOU CLOSEST
5 TO?

6 A MARY SUE

7 Q AND THAT WAS MR COPE'S WIFE?

8 A YES, SIR

9 Q WHAT WAS YOUR RELATIONSHIP WITH HER?

10 A WE WERE REAL GOOD FRIENDS AND I HELPED HER GET A
11 JOB UP THERE WHERE I USED TO WORK AT LEINER

12 MR MORTON YOUR HONOR, I HATE TO
13 INTERRUPT BUT THERE IS SOMETHING IF --

14 THE COURT MR SMITH, MR THOMPSON
15 APPARENTLY NOW WANTS TO TALK TO YOU MR GREELEY

16 (BENCH CONFERENCE)

17 Q SORRY ABOUT THAT, MS PHIFER I BELIEVE YOU
18 WERE TALKING ABOUT YOUR RELATIONSHIP WITH MARY SUE
19 COPE?

20 A YES, SIR

21 Q AND I THINK YOU SAID THAT YOU WERE REAL CLOSE
22 FRIENDS WITH HER DID YOU SEE AND SPEAK WITH HER
23 REGULARLY?

24 A YES, SIR, I SEEN HER EVERYDAY AT WORK

25 Q OKAY NOW HOW DID YOUR RELATIONSHIP DEVELOP OR

1 WHAT HAPPENED AFTER AMANDA'S DEATH?

2 A MARY SUE COME AND STAYED WITH MY FAMILY AND I

3 Q OKAY AND THAT WAS AT YOUR CURRENT RESIDENCE?

4 A YES, SIR

5 Q NOW WHILE MARY SUE WAS STAYING THERE, DID SHE
6 EVER, DID YOU NOTICE ANY CONTACT THAT SHE HAD WITH
7 THE POLICE?

8 A YES, SIR

9 Q AND ANYONE IN PARTICULAR FROM THE POLICE
10 DEPARTMENT?

11 A SHE TALKED WITH CHARLENE BLACKWELDER

12 Q NOW WAS MARY SUE INSTIGATING THE CONTACT WITH
13 MRS BLACKWELDER OR WAS MRS BLACKWELDER INSTIGATING
14 THE CONTACT WITH MARY SUE?

15 A MRS BLACKWELDER WOULD CALL MARY SUE EITHER ON
16 MY PHONE OR EITHER HER CELL PHONE AND TELLING THAT
17 SHE NEEDED TO COME TO THE POLICE STATION

18 Q WHAT WAS MARY SUE'S REACTION OR DEMEANOR
19 WHENEVER SHE RECEIVED THESE CALLS FROM
20 MRS BLACKWELDER?

21 A SHE WOULD GET UPSET

22 Q DO YOU KNOW WHY?

23 A BECAUSE SHE DIDN'T WANT TO GO DOWN TO THE POLICE
24 STATION BECAUSE SHE WAS SCARED

25 Q I'M SORRY?

002673

1 A SHE WAS SCARED

2 Q OKAY

3 MR THOMPSON YOUR HONOR, I AM GOING TO
4 OBJECT AS TO RELEVANCE

5 THE COURT I SUSTAIN THE OBJECTION
6 DISREGARD THAT LAST QUESTION AND ANSWER SHE CAN'T
7 TELL US WHAT OTHER PEOPLE WERE THINKING

8 Q DID SHE EXHIBIT SIGNS THAT SHE WAS AFRAID?

9 A SHE WAS WORRIED ABOUT HER CHILDREN

10 THE COURT LET ME ASK ANOTHER QUESTION,
11 MA'AM, YOU CAN'T TESTIFY TO WHAT SHE THOUGHT BECAUSE
12 THAT'S JUST, OUR RULES DON'T ALLOW IT, AND YOU CAN'T
13 TESTIFY TO HEARSAY, THAT IS, WHAT OTHER PEOPLE SAID
14 SO ANSWER THE QUESTIONS WITH OUR RULES IN MIND
15 THANK YOU

16 MR SMITH THANK YOU, YOUR HONOR

17 Q WHAT WAS, I'LL ASK YOU AGAIN JUST TO CLEAR THIS
18 UP, WHAT DID YOU OBSERVE MRS COPE'S DEMEANOR TO BE
19 AFTER SHE WAS CONTACTED BY MRS BLACKWELDER? WHAT,
20 HOW DID SHE APPEAR?

21 A IF I SAY SHE'S NERVOUS THEY ARE GOING TO OBJECT

22 Q DID SHE APPEAR NERVOUS TO YOU?

23 A YES

24 Q OKAY NOW DID THE POLICE EVER COME OUT TO YOUR
25 HOUSE TO TALK TO MARY SUE?

002674

1 A THEY DID

2 Q AND WAS THAT MRS BLACKWELDER?

3 A YES

4 Q AND WHAT HAPPENED WHEN THEY CAME OUT?

5 A THEY CAME AND PICKED HER UP AND TOOK HER TO THE

6 POLICE STATION

7 Q OKAY DO YOU KNOW IF MARY SUE WAS EXPECTING

8 THEM TO COME OUT TO THE HOUSE OR NOT?

9 A THEY WOULD CALL

10 Q THE POLICE WOULD CALL MARY SUE?

11 A UH-HUH

12 Q AND HOW MANY TIMES DID THE POLICE OR

13 MRS BLACKWELDER COME OUT AND PICK MARY SUE UP?

14 A AROUND TWICE

15 Q WHEN WAS THE FIRST TIME APPROXIMATELY?

16 A SOMEWHERE IN DECEMBER

17 Q WAS IT NEAR THE TIME OF AMANDA'S MURDER?

18 A IT WAS AFTER AMANDA'S MURDER

19 Q BUT WAS IT SHORTLY AFTER, WAS IT A LONG WAYS

20 AFTER, DAYS, WEEKS?

21 A IT'S ABOUT A WEEK

22 Q AND WHAT TIME OF THE DAY DID THEY PICK, DID

23 MRS BLACKWELDER PICK MARY SUE UP?

24 A THEY CAME IN THE MORNING

25 Q AND WHAT TIME WAS, DID MARY SUE RETURN?

002675

1 A IT BE AT DARK

2 Q AND WHAT WAS MARY SUE'S DEMEANOR, WHAT DID YOU
3 OBSERVE OR HOW DID MARY SUE APPEAR WHENEVER SHE
4 RETURNED FROM THIS FIRST VISIT WITH MRS BLACKWELDER?

5 A SHE WOULD BE MENTALLY DRAINED

6 Q DID Y'ALL HAVE TO DO ANYTHING IN PARTICULAR TO
7 ASSIST HER WHENEVER SHE GOT BACK?

8 A YES SHE'D TAKE HER MEDICATION AND SHE WOULD
9 LAY DOWN

10 MR THOMPSON YOUR HONOR, I OBJECT AS TO
11 RELEVANCE TO THIS WHOLE LINE OF QUESTIONING

12 THE COURT I'M GOING TO ALLOW IT GO
13 AHEAD

14 MR SMITH THANK YOU, YOUR HONOR

15 Q AND I THINK YOU TESTIFIED THAT MRS BLACKWELDER
16 CAME OUT ON TWO OCCASIONS AND PICKED MARY SUE UP?

17 A YES, BECAUSE IT HAD SNOWED AND MARY SUE COULDN'T
18 DRIVE AND THEY CAME OUT IN A VEHICLE THAT WAS A FOUR
19 WHEEL, HAD FOUR WHEEL DRIVE

20 Q WHEN WAS THE SECOND TIME THAT MRS BLACKWELDER
21 CAME OUT?

22 A (NO RESPONSE)

23 Q WAS IT AROUND DECEMBER 31?

24 A I KNOW, I KNOW IT'S IN DECEMBER I JUST CAN'T,
25 YOU KNOW, RECALL THE EXACT DATE

002676

1 Q WHEN DID, WHAT TIME OF DAY DID MRS BLACKWELDER
2 PICK HER UP?

3 A IT WOULD BE IN THE MORNING TIME

4 Q WHAT TIME WOULD SHE RETURN?

5 A IT WOULD BE DARK TIME

6 Q AND THIS SECOND TIME THAT MRS BLACKWELDER TOOK
7 MARY SUE, WHAT WAS MARY SUE'S REACTION WHENEVER SHE
8 CAME BACK THIS TIME?

9 A SHE WAS UPSET BECAUSE SHE HAD BEEN --

10 MR THOMPSON OBJECTION, YOUR HONOR

11 THE COURT YOU CAN'T TELL US WHY SHE WAS
12 UPSET YOU CAN TELL US SHE APPEARED TO YOU TO BE
13 UPSET

14 A OKAY SHE WAS, SHE APPEARED TO BE UPSET BECAUSE
15 SHE HAD --

16 THE COURT WELL, YOU CAN'T TELL US WHY
17 YOU CAN JUST TELL US THAT SHE APPEARED TO BE UPSET

18 Q YOU CAN ONLY STATE WHAT YOU OBSERVED AND WHAT
19 DID YOU OBSERVE WHENEVER MRS OR MARY SUE CAME BACK?

20 A I AM SCARED TO SAY BECAUSE I DON'T KNOW IF I AM
21 DOING IT RIGHT OR NOT

22 THE COURT I ASSURE YOU IF YOU'RE DOING
23 IT WRONG THIS LAWYER OVER HERE IS GOING TO, IF YOU
24 SEE HIM JUMP UP, JUST STOP (LAUGHTER) GO AHEAD

25 A SHE WAS UPSET BECAUSE SHE HAD TO, SHE HAD WENT

002677

1 TO --

2 THE COURT YOU CAN'T TELL US WHY SHE WAS
3 UPSET

4 MR SMITH WE'LL MOVE ON, YOUR HONOR

5 Q NOW MS PHIFER, DO YOU ALSO KNOW AMY SIMMONS?

6 A YES, I DO

7 Q HOW DO YOU KNOW HER?

8 A SHE WENT TO CHURCH WITH US

9 Q WAS SHE ALSO IN A GROUP OF FRIENDS THAT Y'ALL
10 HAD?

11 A YES

12 Q AND WHO ALL WAS IN THAT GROUP?

13 A SUSAN AND MARY SUE AND I

14 Q AND MS SIMMONS?

15 A UH-HUH YES, SIR

16 Q ARE YOU AWARE OF ANY CONTACT --

17 MR THOMPSON OBJECTION, YOUR HONOR,
18 LEADING

19 THE COURT REPHRASE YOUR QUESTION

20 MR SMITH I'M ASKING IF SHE HAD --

21 THE COURT REPHRASE YOUR QUESTION ASK
22 IT A DIFFERENT WAY

23 Q HAS, WHAT CONTACT IF ANY WAS THERE BETWEEN
24 MRS BLACKWELDER AND AMY SIMMONS IF YOU KNOW?

25 A AMY HAD SOME PROBLEMS

002678

1 MR THOMPSON OBJECTION, YOUR HONOR, SHE
2 IS GOING TO SAY HOW SHE KNOWS BEFOREHAND OR ELSE SHE
3 COULD BE TESTIFYING TO HEARSAY

4 MR SMITH JUDGE, THAT WAS MY FIRST
5 QUESTION, ARE YOU AWARE OF ANY CONTACT BETWEEN AMY
6 SIMMONS AND MRS BLACKWELDER

7 THE COURT ALL RIGHT I'LL LET HIM ASK
8 HER THAT, BUT JUST YES OR NO ARE YOU AWARE OF ANY
9 CONTACT BETWEEN THOSE TWO LADIES?

10 A YES, SIR --

11 Q OKAY WHAT CONTACT DID THEY HAVE THAT YOU ARE
12 AWARE OF?

13 MR THOMPSON I OBJECT AGAIN HOW IS SHE
14 AWARE OF IT IS --

15 THE COURT I THINK YOU NEED TO LAY A
16 FOUNDATION

17 Q HOW WERE YOU, HOW DO YOU KNOW THAT THERE WAS
18 CONTACT BETWEEN MRS BLACKWELDER AND AMY SIMMONS?

19 A AMY WAS AT THE POLICE DEPARTMENT

20 Q YOU OBSERVED THAT?

21 A YES

22 Q OKAY AND WHEN WAS THAT?

23 A BACK LAST YEAR

24 Q WAS, WERE YOU THERE AT THE POLICE DEPARTMENT
25 ALSO?

002679

1 A YES, SIR

2 Q WAS THAT IN RELATION TO THIS CASE OR WAS IT
3 SOMETHING ELSE?

4 A IT WAS SOMETHING ELSE

5 Q OKAY WHAT WAS THAT?

6 A SHE WAS CHARGED FROM --

7 MR THOMPSON OBJECTION, YOUR HONOR,
8 RELEVANCE

9 THE COURT I SUSTAIN THE OBJECTION

10 MR SMITH YOUR HONOR, MRS BLACKWELDER
11 HAS TESTIFIED THAT THERE HAS BEEN NO CONTACT, AMY
12 SIMMONS HAS TESTIFIED ALSO THERE HAS BEEN NO CONTACT
13 OTHER THAN THIS CASE HERE REGARDING THIS CHARGE OR
14 THESE CHARGES

15 THE COURT I'LL LET YOU GO AHEAD

16 Q TELL THE JURY WHY AMY SIMMONS WAS AT THE POLICE
17 DEPARTMENT WITH MRS BLACKWELDER?

18 A SHE WAS BEEN CHARGED --

19 MR THOMPSON YOUR HONOR, I OBJECT

20 THE COURT I THINK I'M GOING TO LET YOU
21 GO TO THE JURY ROOM, SO WE CAN HEAR THIS ONE OUT
22 THANK YOU

23 (THE JURY EXITS THE COURTROOM AT 10 58
24 AM)

25 THE COURT GO AHEAD AND DO A PROFFER I

002680

1 THINK WE'RE HEADING TOWARDS SOMETHING, I CAN'T
2 CONCEIVE OF IT NOT INVOLVING HEARSAY, BUT LET'S GO
3 AHEAD

4 MR SMITH YES, SIR

5 IN CAMERA DIRECT BY MR SMITH

6 Q MS PHIFER, WHY WAS AMY SIMMONS AND/OR WHY WAS
7 AMY SIMMONS AT THE ROCK HILL POLICE DEPARTMENT
8 MEETING WITH CHARLENE BLACKWELDER?

9 A SHE GOT IN SOME TROUBLE OVER AT EDEN GARDENS
10 WHERE SHE WORKED AT

11 Q WHAT KIND OF TROUBLE WAS THAT?

12 A THAT'S WHERE THEY HAD, ONE OF THEIR PATIENTS
13 DIED AND THEY TOOK HER DOWN, THEY QUESTIONED HER AND
14 SHE WENT DOWN AND SHE CALLED SUSAN AND I TO COME DOWN
15 TO THE POLICE DEPARTMENT BECAUSE SHE WAS SCARED

16 Q LET ME ASK YOU THIS, YOU SAID THEY QUESTIONED
17 HER, WHO WAS, WHO WERE YOU REFERRING TO?

18 A SHE, AMY STATED THAT CHARLENE BLACKWELDER AND I
19 BELIEVE IT WAS CHARLES CABANISS THAT WAS THE ONE
20 TALKED WITH HER

21 Q THEY WERE QUESTIONING MS SIMMONS ABOUT THIS
22 DEATH AT THE NURSING HOME?

23 A THE DEATH UP AT EDEN GARDENS

24 Q OKAY AND MS SIMMONS WAS A NURSE AT THAT TIME
25 AT EDEN GARDENS?

002681

1 A CORRECT

2 Q AND A DEATH OCCURRED THERE?

3 A CORRECT

4 Q AND SHE WAS BEING INVESTIGATED BY

5 MRS BLACKWELDER AND YOU BELIEVE CHARLES CABANISS

6 ALSO?

7 A YES

8 Q OKAY PLEASE ANSWER ANY QUESTIONS THAT THE

9 STATE MAY HAVE FOR YOU

10 THE COURT MR GREELEY, I'M SORRY DO

11 YOU HAVE ANY QUESTIONS IF YOU DO, I'LL LET YOU GO

12 MR GREELEY NO, I DON'T HAVE ANY

13 QUESTIONS I WOULD LIKE TO BE --

14 THE COURT OKAY

15 IN CAMERA CROSS BY MR THOMPSON

16 Q NOW THE WAY, MS PHIFER, THE WAY YOU KNEW THIS

17 WAS BECAUSE YOU TALKED TO AMY?

18 A YES, SIR

19 Q AND THIS WAS SOMETHING AMY TOLD YOU?

20 A YES, SIR

21 Q ARE YOU AWARE THAT ACTUALLY NO -- I'M SORRY

22 WHAT PLACE DID YOU SAY THE DEATH OCCURRED?

23 A EDEN GARDENS

24 Q EDEN GARDENS ARE YOU AWARE THAT THE DEATH

25 ACTUALLY OCCURRED AT EBENEZER NURSING HOME AND THE

002682

1 THING AT EDEN GARDENS DIDN'T HAVE ANYTHING TO DO WITH
2 DEATH?

3 A THERE WAS A DEATH AT EDEN GARDENS MS SIMMONS
4 HAD TWO INCIDENTS ONE AT EBENEZER AND ONE AT EDEN
5 GARDENS

6 Q OKAY THAT SHE TOLD YOU ABOUT?

7 A YEAH, BECAUSE WE WERE ALL FRIENDS

8 Q OKAY AND YOU ARE JUST SAYING THAT SHE THEN
9 SAID THAT SHE TALKED TO CHARLENE BACKWELDER AND
10 CAPTAIN CABANISS?

11 A THAT'S WHAT SHE STATED

12 Q THANK YOU

13 THE COURT ALL RIGHT

14 MR SMITH ONE MORE QUESTION, YOUR HONOR
15 IN CAMERA REDIRECT BY MR SMITH

16 Q MS PHIFER, WHERE WAS MARY SUE COPE WHEN SHE
17 DIED?

18 A SHE WAS AT AMY SIMMONS' HOUSE

19 Q THANK YOU I HAVE NO FURTHER QUESTIONS

20 THE COURT ALL RIGHT HOW DO YOU, UNDER
21 WHAT RULE DOES THIS TESTIMONY COME IN?

22 MR SMITH JUDGE, WE'LL, WE HAVE NO
23 FURTHER QUESTIONS FOR THE WITNESS

24 THE COURT BEFORE THE JURY

25 MR SMITH YES, SIR

002683

1 THE COURT OKAY ALL RIGHT BRING IN
2 THE JURY YOU CAN THEY HAVE CROSS I'M SORRY
3 WAIT JUST MINUTE YOU SAID YOU HAD NO FURTHER --

4 MR SMITH I WAS JUST GOING TO SAY THAT I
5 HAVE NO FURTHER QUESTIONS

6 THE COURT ALL RIGHT BRING IN THE JURY

7 MR THOMPSON YOUR HONOR, WE WOULD ASK TO
8 STRIKE ALL OF THE MANY ATTEMPTED ANSWERS THAT SHE HAD
9 TO THESE QUESTIONS THAT WERE NOT PROFFERED AT THE
10 TIME AT THE END OF THE QUESTIONING SHE WAS TRYING
11 TO ANSWER ABOUT A NUMBER OF HEARSAY THINGS

12 THE COURT I'LL ASK THEM TO DISREGARD THE
13 TESTIMONY CONCERNING WHAT HAPPENED AT THE ROCK HILL
14 POLICE DEPARTMENT

15 (THE JURY RETURNS TO THE COURTROOM AT
16 11 02)

17 THE COURT MEMBERS OF THE JURY PANEL, I
18 WANT TO INSTRUCT YOU TO DISREGARD ANY TESTIMONY FROM
19 MRS PHIFER CONCERNING ANYTHING THAT HAPPENED
20 INVOLVING ANYONE AT THE ROCK HILL POLICE STATION
21 THANK YOU

22 MR SMITH JUDGE, WE HAVE NO FURTHER
23 QUESTIONS FOR THIS WITNESS AT THIS TIME

24 THE COURT ALL RIGHT CROSS
25 CROSS EXAMINATION BY MR THOMPSON

002684

1 Q GOOD MORNING, MS PHIFER JUST A FEW QUESTIONS
2 NOW YOU AND AMY SIMMONS AND MARY COPE WERE ALL
3 FRIENDS, RIGHT?
4 A YES, SIR
5 Q KIND OF A CLOSE KNIT GROUP OF FRIENDS?
6 A YES, SIR
7 Q DID A LOT OF STUFF TOGETHER?
8 A YEAH
9 Q RIGHT OKAY AND AS A MATTER OF FACT, MARY
10 COPE NOT ONLY STAYED WITH YOU FOR AWHILE, SHE STAYED
11 WITH AMY SIMMONS FOR A LITTLE WHILE, TOO, ISN'T THAT
12 CORRECT?
13 A CORRECT
14 Q OKAY NOW YOU'VE ACTUALLY VISITED WITH THE
15 DEFENSE ATTORNEYS A NUMBER OF TIMES, HAVEN'T YOU?
16 A NO, SIR
17 Q YOU HAVEN'T SPOKEN TO THEM ANY NUMBER OF TIMES?
18 A NO, I HADN'T SEEN THESE PEOPLE ABOUT TWICE
19 Q ABOUT TWICE WAS ANYONE THERE FILMING YOU AT
20 ANY TIME?
21 A NO
22 Q YOU NEVER WENT INTO ANYTHING WHERE YOU FILMING
23 WITH DATELINE WITH THEM?
24 A NO, SIR, I SURE WASN'T
25 Q ALL RIGHT THANK YOU NO FURTHER QUESTIONS

1 MR GREELEY YOUR HONOR, I DON'T HAVE
2 ANYTHING

3 THE COURT REDIRECT

4 MR SMITH NO, YOUR HONOR

5 THE COURT YOU CAN STEP DOWN AND BE

6 EXCUSED WE CERTAINLY APPRECIATE YOUR TIME THANK
7 YOU

8 A THANK YOU

9 THE COURT ALL RIGHT CALL YOUR NEXT
10 WITNESS

11 MR MORTON MR COPE WOULD CALL RON
12 GUERETTE

13 RON GUERETTE, BEING FIRST DULY SWORN,
14 TESTIFIED AS FOLLOWS

15 DIRECT EXAMINATION BY MR MORTON

16 Q MR GUERETTE, IF YOU'LL, THAT CHAIR DOESN'T
17 SLIDE UP YOU JUST HAVE TO LEAN UP INTO THAT
18 MICROPHONE TELL US YOUR FULL NAME AND SPELL YOUR
19 LAST NAME FOR THE COURT REPORTER IF YOU DON'T MIND?

20 A RONALD THOMAS GUERETTE G-U-E-R-E-T-T-E

21 Q MR GUERETTE, ARE YOU CURRENTLY A RESIDENT OF
22 YORK COUNTY?

23 A YES, I AM

24 Q WHERE ARE YOU ORIGINALLY FROM?

25 A MAINE ORIGINALLY

002686

1 Q HOW LONG HAVE YOU BEEN IN THIS AREA?

2 A SINCE 1972

3 Q OKAY AND YOU WERE FORMERLY WITH THE CHARLOTTE
4 POLICE DEPARTMENT?

5 A YES, SIR

6 Q AND WHEN WERE YOU WITH THE CHARLOTTE POLICE
7 DEPARTMENT?

8 A FROM I SAID '72 '73 I BELIEVE WHEN I GOT HERE
9 LATE '73 EARLY '74 UNTIL 1982

10 Q OKAY AND BEFORE THAT WHAT DID YOU DO?

11 A PRIOR TO THAT -- WELL, AFTER HIGH SCHOOL LEAVING
12 MAINE I WENT IN THE NAVY AFTER THE NAVY I WAS A COP
13 IN COLORADO

14 Q HOW LONG WERE YOU IN THE NAVY?

15 A SIX YEARS

16 Q AND WERE YOU IN, OVERSEAS ANY OF THAT TIME?

17 A YES, SIR I WAS IN VIETNAM FOR ALMOST THREE
18 YEARS

19 Q OKAY?

20 A PHILIPPINES I LEFT THE STATES IN '63 AND GOT
21 BACK IN '69

22 Q OKAY AND AFTER YOUR SERVICE IN THE MILITARY
23 FROM '63 TO '69, WHERE DID YOU GO?

24 A I WENT TO COLORADO I JOINED THE ARVADA POLICE
25 DEPARTMENT WHICH IS A SUBURB OF DENVER, AND I WAS

002687

1 THERE FOR ABOUT 12-13 MONTHS

2 Q OKAY AND DID YOU ALSO, WERE YOU ALSO A MEMBER
3 OF THE AIR FORCE AT SOME POINT?

4 A AFTER I LEFT THE ARVADA POLICE DEPARTMENT I
5 WANTED TO GO BACK IN THE MILITARY I WENT IN THE
6 MILITARY FOR AIR FORCE FOR A COUPLE OF YEARS AND I
7 WANTED TO GET INTO INTELLIGENCE AND THEY PUT ME BACK
8 IN METEOROLOGY SO I GOT OUT AND JOINED THE AIR
9 NATIONAL GUARD AND JOINED THE CHARLOTTE POLICE
10 DEPARTMENT AT THE SAME TIME

11 Q OKAY WHAT DO YOU DO CURRENTLY?

12 A I'M A PRIVATE INVESTIGATOR IN NORTH CAROLINA IN
13 CHARLOTTE

14 Q WHILE YOU WERE WITH THE CHARLOTTE POLICE
15 DEPARTMENT TELL THE JURY ABOUT YOUR EXPERIENCE WITH
16 THE CHARLOTTE POLICE DEPARTMENT?

17 A WELL, AFTER FINISHING ROOKIE SCHOOL, I WENT TO
18 PATROL JUST FOR A COUPLE OF MONTHS AFTER PATROL I
19 WAS ASSIGNED TO A HOUSEBREAKING SQUAD WHICH IS MYSELF
20 AND ANOTHER INDIVIDUAL PLAIN CLOTHES, STAKE OUTS,
21 WATCHING PEOPLE BREAK IN TO RESIDENCES, AND STUFF
22 LIKE THAT

23 Q WHEN YOU SAY WATCHING THEM BREAK IN WHAT DO YOU
24 MEAN BY THAT?

25 A WELL, WE HAD IDENTIFIED CERTAIN INDIVIDUALS WHO

1 WERE BREAKING INTO BUILDINGS IN CERTAIN AREAS AND WE
2 STAKED IT OUT AND WE ENDED UP CATCHING QUITE A FEW
3 PEOPLE BREAKING INTO THE BUILDINGS, ARRESTING THEM,
4 TAKING THEM TO COURT AFTER A COUPLE MONTHS OF THAT
5 THEN I WAS ASSIGNED TO, WE HAD A RASH OF ROBBERIES,
6 THERE WAS AN ARMED ROBBERY SQUAD I WAS PLAIN
7 CLOTHES AGAIN, STAKES OUT, INTERVIEWING PEOPLE WE
8 CAUGHT, AND THAT LASTED FOR ABOUT THREE OR FOUR
9 MONTHS THEN AFTER THAT I WAS ASSIGNED TO WORK
10 UNDERCOVER WHICH IS WHAT I HAD DONE IN COLORADO
11 WORKED UNDERCOVER AND MAINLY IN NARCOTICS I STAYED
12 UNDERCOVER FOR QUITE AWHILE AFTER COMING OUT FROM
13 UNDERCOVER, I THINK ABOUT IT'S 19 MONTHS TOTAL, I
14 THEN WAS ASSIGNED BACK TO THE PATROL FOR ABOUT A
15 MONTH, THEN I WAS ASSIGNED TO THE FRAUD UNIT FOR
16 ABOUT SIX MONTHS AT WHICH COVERED WHITE COLLAR CRIMES
17 AND CHECK FRAUD, STUFF LIKE THAT AFTER THAT I WAS
18 ASSIGNED TO WHAT WE CALL A STING OPERATION WHICH IS
19 AN UNDERCOVER OPERATION WHERE WE WENT OUT AND BOUGHT
20 STOLEN GOODS FROM PEOPLE WHO WERE BREAKING IN, BUYING
21 AS A STORE FRONT, ENDED UP ARRESTING QUITE A FEW
22 PEOPLE AFTER ABOUT NINE MONTHS OF THAT WORK AND
23 AFTER THE STING OPERATION I WAS ASSIGNED TO THE
24 HOMICIDE UNIT WITH THE CHARLOTTE POLICE DEPARTMENT,
25 ONE OF FOUR OF US WHO WERE ASSIGNED AS LEAD

002689

1 INVESTIGATORS FOR THE HOMICIDE UNIT WHICH HANDLED NOT
2 ONLY DEATHS, ANY TYPE OF DEATHS, ACCIDENTS, SUICIDE,
3 HOMICIDE, AS WELL AS VIOLENT CRIMES WHICH INCLUDED
4 RAPES AND ANY VIOLENT CRIMES AND POLICE RELATED
5 TRAGIC SITUATIONS WHETHER IT'S DELIBERATE OR NOT

6 Q APPROXIMATELY HOW MANY DEATH INVESTIGATIONS HAVE
7 YOU INVESTIGATED?

8 A IN THE THREE YEARS WE WERE REAL, REAL BUSY
9 ANYWHERE FROM 250 TO 300 DEATH INVESTIGATIONS NOT
10 ALL OF THEM WERE HOMICIDES BUT YOU START OUT AS A
11 DEATH INVESTIGATION AND THEN YOU FIND OUT WHAT
12 HAPPENS AND

13 Q SO WHEN THERE IS A DEATH, YOU BEGAN
14 INVESTIGATING?

15 A RIGHT

16 Q AND TRYING TO FIND OUT WHAT HAPPENED?

17 A RIGHT SOME ARE LABELED ACCIDENTS, SOME ARE
18 LABELED SUICIDES SOME ARE LABELED HOMICIDES, OR
19 RELATED

20 Q NOW AFTER YOUR EXPERIENCE WITH THE HOMICIDE UNIT
21 THERE IN CHARLOTTE, WHAT DID YOU DO?

22 A WELL, AFTER THREE YEARS IN THE HOMICIDE, WE HAD
23 A RASH OF BIKER GANG KILLINGS AND I WAS ONE OF TWO
24 INDIVIDUALS WHO WAS ELECTED TO START WHAT WE CALL AN
25 INTELLIGENCE DIVISION WHICH WORKS STRICTLY ON

1 MOTORCYCLE CRIMES AND I WORKED THAT FOR A YEAR AND
2 THEN I WORKED SIX MONTHS AT THE POLICE ACADEMY AS AN
3 INSTRUCTOR I HAD BEEN INSTRUCTING FOR ABOUT TWO
4 YEARS PRIOR TO THAT

5 Q YOU HAD BEEN INSTRUCTING FOR A COUPLE YEARS
6 PRIOR TO THAT?

7 A AT THE CHARLOTTE POLICE ACADEMY I'VE BEEN
8 INSTRUCTING TWO YEARS BEFORE I WAS ASSIGNED THERE
9 WELL, ALMOST TWO AND A HALF TOTAL BECAUSE A TOTAL OF
10 THREE YEARS I WAS INSTRUCTOR AT THE POLICE ACADEMY
11 SIX OF THOSE THREE YEARS I WAS ASSIGNED TO THE POLICE
12 ACADEMY TO WHERE THAT WAS MY ONLY DUTY THEN I WAS
13 ALSO INSTRUCTING AT CENTRAL PIEDMONT COMMUNITY
14 COLLEGE I DID THAT FOR ABOUT 8 YEARS BEFORE AND
15 AFTER LAW ENFORCEMENT ALSO INSTRUCTED WHAT WE CALL
16 IN SERVICE TRAINING WHICH ARE NOT ONLY ROOKIES BUT
17 POLICE OFFICERS WHO HAS BEEN IN THE FIELD FOR AWHILE,
18 THEY HAVE TO COME IN FOR CONTINUOUS TRAINING AND THEN
19 WE ALSO AT THAT TIME CERTAIN AREAS AROUND DID NOT
20 HAVE THEIR OWN ACADEMY, SO WE WOULD TEACH AT NIGHT
21 MONROE, GASTONIA, BELMONT AREA, LAW ENFORCEMENT
22 OFFICERS AS WELL SPECIAL POLICE LIKE DUKE POWER
23 POLICE, AND STUFF LIKE THAT

24 Q HOW MANY CRIME SCENES HAVE YOU BEEN TO AND
25 INVESTIGATED?

1 A MANY WELL OVER 200

2 Q OKAY

3 A IF NOT CLOSE TO 300

4 Q AND HOW MANY, WHAT WAS YOUR, WHAT WERE YOU
5 INSTRUCTED?

6 A DEATH SCENE, CRIME SCENES

7 Q DEATH SCENES?

8 A DEATH SCENES, YES

9 Q OKAY WHAT WERE YOUR DUTIES AS AN INSTRUCTOR AT
10 THE POLICE ACADEMY AND LATER AT CPCC?

11 A MOST OF, WELL, I HAD BEEN TO ADVANCED, I MEAN, I
12 HAD BEEN TO CERTIFICATION COURSE WHICH YOU HAVE TO BE
13 CERTIFIED BEFORE YOU TEACH TO THE POLICE OFFICERS
14 GOVERNED BY THE STATE OF NORTH CAROLINA AND AFTER
15 THAT I STARTED TEACHING AT THE POLICE ACADEMY MOST
16 OF MY COURSES WERE INTERVIEWING, INTERROGATION
17 TECHNIQUES, HOMICIDE INVESTIGATION WAS ONE SPECIFIC
18 COURSE WE HAD AND OTHER TYPES OF INVESTIGATIONS AT
19 ONE TIME I WAS A HOSTAGE NEGOTIATOR AND THEN I USED
20 TO TEACH THAT COURSE AS WELL AS JUST LOTS, THERE
21 WAS TYPE OF COURSE, BUT MOSTLY IT WAS CRIMINAL
22 INVESTIGATION, INTERROGATION, INTERVIEWING
23 TECHNIQUES

24 Q OKAY HAVE YOU BEEN QUALIFIED AS AN EXPERT IN
25 THIS COURT, IN YORK COUNTY?

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1 A YES, SIR, I CAN'T REMEMBER IF IT WAS THIS
2 COURTROOM BUT HERE IN YORK COUNTY

3 Q AS A?

4 A CRIMINAL INVESTIGATOR

5 Q CRIMINAL INVESTIGATOR HAVE YOU ALSO BEEN
6 QUALIFIED IN COURTS AS AN EXPERT IN THE FIELD OF
7 INTERROGATION AND INTERVIEW TECHNIQUES?

8 A YES, SIR, I HAVE

9 Q OKAY WHERE ALL HAVE YOU BEEN QUALIFIED IN
10 THOSE TWO FIELDS?

11 A WELL, I CAN'T REMEMBER EXACTLY WHAT FIELDS
12 I'VE BEEN QUALIFIED AS AN EXPERT IN CHARLOTTE A
13 NUMBER, SMALL NUMBER OF TIMES STATESVILLE IN
14 FEDERAL COURT HICKORY IN STATE COURTS BRYSON CITY
15 FEDERAL MAGISTRATE'S OFFICE UP THERE BY ASHVILLE A
16 POST CONVICTION HEARING IN MOBILE ALABAMA FEDERAL
17 COURT, AND ANOTHER POST CONVICTION HEARING IN WEST
18 VIRGINIA BECKLEY, IS IT

19 Q BECKLEY

20 A BECKLEY, WEST VIRGINIA THEN OF COURSE
21 CHARLOTTE, STATESVILLE, HICKORY

22 Q ALABAMA?

23 A HERE IN SOUTH CAROLINA MOBILE, ALABAMA

24 Q AND HERE IN THIS COURT?

25 A HERE IN THIS COURTROOM

002693

1 MR MORTON YOUR HONOR, AT THIS TIME WE
2 WOULD MOVE TO HAVE MR GUERETTE QUALIFIED AS AN
3 EXPERT IN THE FIELD OF CRIMINAL INVESTIGATIONS AND
4 CRIME SCENES AND INTERROGATION AND INTERVIEW
5 TECHNIQUES

6 THE COURT ANY VOIR DIRE

7 MR THOMPSON YES, YOUR HONOR
8 VOIR DIRE BY MR THOMPSON

9 Q MR GUERETTE, YOU TESTIFIED THAT IN YOUR
10 EXPERIENCE IN CHARLOTTE WAS FROM 1972 TO 1982, THAT
11 NINE YEARS, CORRECT?

12 A WELL, IT WAS LATE '73 EARLY '74

13 Q THAT'S WHERE YOU WENT INTO CHARLOTTE AND THEN
14 YOU STAYED THERE ABOUT NINE YEARS?

15 A I LEFT THERE IN AUGUST OF '82, YES, SIR

16 Q OKAY AND WHEN YOU WERE THERE, OF COURSE, YOU
17 STARTED OFF PLAIN CLOTHES PATROL, LIKE YOU SAID, THAT
18 SORT OF THING

19 A WELL UNIFORM PATROL FOR THE FIRST COUPLE OF
20 MONTHS AND THEN I WENT TO PLAIN CLOTHES WHICH IS YOU
21 WEAR STREET CLOTHES

22 Q AND CHARLOTTE HAS A FORENSIC UNIT, DON'T THEY?
23 A CRIME SCENE UNIT THAT GOES OUT DURING CRIMES?

24 A WHEN I FIRST GOT ON THEY HAD POLICE OFFICERS WHO
25 WERE PATROL OFFICERS WHO HAD BEEN TRAINED AS

1 COLLECTING EVIDENCE

2 Q ALL RIGHT

3 A AFTER A PERIOD OF TIME THEN THEY HIRED
4 CIVILIANS, I CAN'T REMEMBER WHAT THEY CALL THEM, BUT
5 THEY WERE CRIME SCENE TECHS I GUESS

6 Q AND THESE CRIME SCENE TECHS WOULD COME IN AND
7 PROCESS THE CRIME SCENES, CORRECT?

8 A THAT'S CORRECT THEY WOULD COLLECT THE
9 EVIDENCE

10 Q AND YOUR DUTY AT CRIME SCENE WAS AS AN
11 INVESTIGATOR, WAS IT NOT?

12 A NO, SIR YES AND NO I MEAN, WHEN I WENT TO
13 THE CRIME SCENE, WHEN I WAS ASSIGNED TO IT, THERE
14 WERE FOUR OF US WORKING HOMICIDES OR DEATH RELATED
15 INCIDENTS, AND ONE OF US WOULD BE ASSIGNED TO LEAD
16 INVESTIGATOR FOR THAT PARTICULAR SCENE AND THE LEAD
17 INVESTIGATOR WAS TO MAKE SURE THAT ALL THE WITNESSES
18 WERE INTERVIEWED, ALL THE NEIGHBORS WERE INTERVIEWED,
19 AS WELL AS COORDINATE THE CRIME SCENE TECHS AS TO
20 WHAT -- IN OTHER WORDS, WE WOULD GO IN BEFORE THE
21 CRIME SCENE TECHS, LOOK AT THE SITUATION, ANALYZE THE
22 SITUATION, AND THEN DIRECT THE CRIME SCENE TECH AS TO
23 WHAT TO COLLECT, WHAT TO LOOK FOR, AND THINGS OF THAT
24 NATURE

25 Q SO YOU WOULD KIND OF GIVE THEM AN OVERVIEW OF

1 WHAT HAPPENED IN THE CRIME SO IT COULD HELP THEM TO
2 LOOK FOR WHAT THEY WERE SUPPOSED TO LOOK FOR,
3 CORRECT?

4 A GENERALLY BY THAT TIME WE KNEW A LOT OF THE
5 THINGS EITHER FROM PAST EXPERIENCE OR OBSERVATIONS AT
6 THE SCENE AS TO WHAT NEEDED TO BE COLLECTED IN
7 OTHER WORDS, IT WAS YOUR RESPONSIBILITY AS A LEAD
8 INVESTIGATOR TO MAKE SURE THAT ALL THESE THINGS WERE
9 DONE

10 Q OKAY AND YOU ACTUALLY DID THE HOMICIDE
11 INVESTIGATIONS FOR HOW LONG IN CHARLOTTE?

12 A ALMOST THREE YEARS

13 Q THREE YEARS NOW SINCE 1982 YOU'VE ACTUALLY
14 BEEN IN YOUR OWN INVESTIGATIONS FIRM, CORRECT?

15 A YES, SIR

16 Q OKAY AND BASICALLY A PRIVATE INVESTIGATOR,
17 RIGHT?

18 A RIGHT I MEAN THAT'S WHAT I'VE BEEN

19 Q YOU DO THINGS LIKE CATCH CHEATING SPOUSES OR
20 SOMETHING LIKE THAT IF YOU ARE ASKED TO?

21 A STEALING, KILLING, CHECKING ON SPOUSES

22 Q CHECKING ON SPOUSES, YOU DO ALL THE NORMAL
23 THINGS A PI DOES, BACKGROUND CHECKS ON SOME PEOPLE,
24 THINGS OF THAT NATURE, JUST FINDING OUT ABOUT
25 WHATEVER SOMEONE HIRES YOU FOR, FIND OUT WHAT SOMEONE

002696

1 ELSE IS DOING THAT THEY NEED TO KNOW ABOUT, CORRECT?

2 A I MEAN, THAT'S A GENERAL VIEW OF WHAT WE DO

3 Q OKAY NOW WHEN YOU WERE DOING THIS IN THE
4 POLICE DEPARTMENT DNA WASN'T EVEN A FACTOR BACK THEN,
5 WAS IT?

6 A WHEN I WAS ON THE POLICE DEPARTMENT, NO, SIR,
7 DNA WAS NOT A TOOL USED AT THAT TIME IN LAW
8 ENFORCEMENT

9 Q ALL RIGHT AND IT'S BEEN SOME TIME SINCE YOU'VE
10 ACTUALLY DONE POLICE WORK, IS THAT CORRECT?

11 A I MEAN, I'VE NOT DONE ANY POLICE WORK SINCE I
12 LEFT THE POLICE DEPARTMENT BECAUSE I CAN'T I'M NOT
13 A LAW ENFORCEMENT OFFICER AND YOU CAN'T BE A PI AND
14 BE A LAW ENFORCEMENT OFFICER, NOT EVEN IN RESERVE
15 YOU HAVE TO LET YOUR CERTIFICATION GO I DON'T
16 REALLY UNDERSTAND YOUR POLICE WORK I MEAN, WE
17 HANDLE MOSTLY CRIMINAL CASES IT'S NOT POLICE WORK
18 IT'S INVESTIGATOR, CRIMINAL INVESTIGATOR WORK

19 Q INTERVIEWING PEOPLE, THINGS LIKE THAT?

20 A INTERVIEWING PEOPLE I'VE BEEN TO SOME CRIME
21 SCENES SOMETIMES I GET HIRED IMMEDIATELY, SOMETHING
22 HAPPENS, I GET THE OPPORTUNITY THEN TO GET TO GO TO
23 THE CRIME SCENE INVESTIGATE THE CASE, LISTEN TO
24 TAPE RECORDINGS, AND LISTEN TO INTERVIEWS AND READ
25 INTERVIEWS AND READ EVERYTHING THAT'S INVOLVED IN

002697

1 WHAT THE POLICE HAVE PROVIDED IN DISCOVERY

2 Q WHAT SPECIFIC TRAINING DO YOU HAVE IN CRIME
3 SCENE PROCESSING?

4 A WHEN I WAS A COP IN COLORADO WE HAD A 30 DAY
5 ACADEMY CLASS I CANNOT REMEMBER HOW MANY HOURS
6 PART OF THAT WAS LIKE ANY NORMAL POLICE OFFICER YOU
7 GET A SMALL AMOUNT OF TRAINING IN CRIME SCENE
8 PROTECTION, WHAT TO LOOK FOR, AND THINGS OF THAT
9 NATURE

10 BESIDES THAT, WHEN I GOT ON THE
11 CHARLOTTE POLICE DEPARTMENT IT'S BEEN AWHILE, IT WAS
12 ABOUT TWO MONTHS ACADEMY CLASS, WE HAD SOME HOURS
13 THERE IN THE CRIME SCENE PROTECTION, WHAT TO DO, WHO
14 TO PREVENT FROM GOING INTO THE CRIME SCENE, HOW TO
15 MARK THE EVIDENCE, HOW TO COLLECT THE EVIDENCE, AT
16 THAT TIME IN MY LAW ENFORCEMENT CAREER, A LOT OF
17 TIMES THERE WAS A RESPONSIBILITY OF POLICE OFFICERS
18 TO ASSIST IN THE COLLECTION OF EVIDENCE OUTSIDE OF
19 THAT, I WENT TO HOMICIDE SCHOOL IN LOUISVILLE,
20 KENTUCKY I THINK IT'S THE UNIVERSITY, IT'S THE
21 UNIVERSITY THERE IN LOUISVILLE, KENTUCKY IT'S A TWO
22 WEEK HOMICIDE INVESTIGATOR COURSE WHERE I THINK A
23 COUPLE DAYS, A DAY OR A COUPLE DAYS IS CRIME SCENE
24 WHAT TO RECOGNIZE, WHAT TO LOOK FOR, WHAT YOU SHOULD
25 DO, WHAT YOU SHOULDN'T DO, HOW TO COLLECT THE

1 EVIDENCE, AND THINGS OF THAT NATURE OUTSIDE OF THAT
2 I DON'T THINK I'VE HAD ANY

3 Q AND THAT WAS ALL BACK WHILE YOU WERE A POLICE
4 OFFICER?

5 A YES, SIR

6 Q OKAY WHAT SPECIAL TRAINING HAVE YOU HAD IN
7 INTERVIEW TECHNIQUES?

8 A ONCE AGAIN THROUGH THE, YOU COVER COURSE WHICH I
9 USED TO TEACH AT THE CHARLOTTE POLICE ACADEMY THAT
10 WAS A COURSE ON INTERVIEWING INTERROGATION
11 TECHNIQUES THE THINGS TO LOOK FOR WHEN YOU ARE
12 INTERVIEWING PEOPLE, WHAT TO BE CAREFUL WITH, THE
13 TYPE OF INDIVIDUALS THAT YOU ARE GOING TO INTERVIEW,
14 THE REASONS WHY PEOPLE ALLOW SOME INTERVIEW, REASONS
15 SOME MAY NOT IT'S BASICALLY A BASIC COURSE ON
16 INTERVIEW/INTERROGATION TECHNIQUES WHICH THERE IS A
17 SLIGHT DIFFERENCE BETWEEN THE COLORADO SCHOOL AND THE
18 CHARLOTTE POLICE ACADEMY THERE IS A SLIGHT BETWEEN
19 CHARLOTTE POLICE ACADEMY AND OTHER SCHOOLS, BUT
20 BASICALLY IT'S THE SAME GENERIC TYPE TEACHINGS OF
21 THIS IS WHAT YOU LOOK FOR, THIS IS WHAT HELPS YOU
22 RECOGNIZE SOMEBODY AS YOU ARE INTERVIEWING THEM IF
23 THEY ARE TELLING YOU THE TRUTH, HOW TO GO ABOUT THE
24 INTERVIEWS, AND WHAT TO DO AND NOT TO DO IN THE
25 INTERROGATION, CORRECTION, IN THE LOUISVILLE KENTUCKY

002699

1 SCHOOL IT'S QUITE A FEW DAYS OF YOU SIT THERE AND
2 INTERVIEW YOUR CLASSMATES IT'S MORE FUN THAN
3 ANYTHING ELSE BUT IT GIVES YOU TECHNIQUE AS TO WHAT
4 YOU LOOK FOR AND SOME OF THE CLASSMATES ARE TOLD TO
5 LIE TO YOU, OTHERS ARE TOLD TO BE TRUTHFUL, AND
6 THINGS OF THAT NATURE YOU HAVE THAT TYPE OF
7 TRAINING

8 I ALSO WENT TO TWO WEEKS, IN THOSE
9 DAYS USED TO CALL IT BNBD WHICH IS DEA NOW, DRUG
10 ENFORCEMENT AGENCY USED TO BE BUREAU OF NARCOTICS
11 AND DANGEROUS SCHOOLS I WENT TO A THREE DAY SCHOOL
12 IN COLORADO AND A TWO WEEK SCHOOL IN GREENSBORO
13 THERE WE ALSO HAD SOME INTERVIEWING TECHNIQUES, I
14 CAN'T REMEMBER HOW MANY HOURS IT WAS, TO WHERE YOU
15 COULD IDENTIFY INDIVIDUALS WHO BASICALLY INFORMANTS,
16 WHAT TYPE OF PEOPLE ARE YOU DEALING WITH, WHAT TO TRY
17 TO FIGURE OUT WHY THEY ARE BEING COOPERATIVE, THINGS
18 OF THAT NATURE I'VE DONE A LOT OF SELF-THOUGHT
19 RESEARCH IN INTERVIEWING/INTERROGATION TECHNIQUES
20 THAT I HAD TO DO IN ORDER TO TEACH THAT PARTICULAR
21 COURSE AT CENTRAL PIEDMONT COMMUNITY COLLEGE FOR
22 WHICH I TAUGHT FOR ABOUT 8 YEARS AND THROUGHOUT THE 8
23 YEARS YOU HAVE TO READ CONTINUOUS UPDATES ON
24 TECHNIQUES AND THINGS OF THAT NATURE TO PASS IT ON TO
25 YOUR STUDENTS I ALSO HAD TO DO THE SAME THING AT

1 THE POLICE ACADEMY

2 ADDITIONALLY, WHEN I WAS, THE SIX
3 MONTHS AT THE POLICE ACADEMY, I HAD TO, CHARLOTTE AT
4 THAT TIME WAS BELOW STANDARDS ACCORDING TO NORTH
5 CAROLINA STANDARDS AND I WAS ASSIGNED THE BORING DUTY
6 OF RESEARCHING A WHOLE BUNCH OF STUFF AND REWRITING
7 THE TRAINING MANUALS THAT WE WERE USING AS WELL THE
8 TESTS THAT WE WERE USING AND OUTSIDE OF THAT,
9 SINCE I STOPPED TEACHING AT CENTRAL PIEDMONT
10 COMMUNITY COLLEGE, I'VE HAD TO DO RESEARCH, I USUALLY
11 GIVE SOMETIMES ONCE, SOMETIMES TWICE A YEAR LECTURES
12 AT CPCC ON CRIMINAL INVESTIGATIONS AND MOST OF IT IS
13 INTERVIEWING INTERROGATION TECHNIQUES, SO I ALWAYS DO
14 SOME RESEARCH AND TRY TO KEEP AN UPDATE BEFORE I GO
15 IN

16 Q ALL RIGHT THANK YOU NO FURTHER QUESTIONS

17 THE COURT MR GREELEY.

18 MR GREELEY I HAVE NO QUESTIONS

19 MR MORTON YOUR HONOR, AT THIS TIME I
20 MOVE TO QUALIFY HIM AS AN EXPERT IN THE FIELD OF
21 CRIMINAL INVESTIGATION AND CRIME SCENES AND
22 INTERVIEWING TECHNIQUES

23 MR THOMPSON YOUR HONOR, I WOULD OBJECT
24 HE'S NOT OFFERED ANYTHING THAT WOULD SHOW HIM AN
25 EXPERT IN CRIME SCENE CRIMINAL INVESTIGATION I CAN

1 AGREE, YES, THAT'S WHAT HE DOES HE INVESTIGATES IN
2 MOSTLY CRIMINAL AS HE SAID HOWEVER, HIS CRIME
3 SCENES WAS ONLY THREE YEARS OVER 20 YEARS AGO AT THE
4 CHARLOTTE POLICE DEPARTMENT IN THE HOMICIDE DIVISION
5 AND HE DIDN'T ACTUALLY COLLECT THE THINGS AT THE
6 CRIMES SCENES

7 THE COURT MR GREELEY

8 MR GREELEY I JOIN IN THE OBJECTION, BUT
9 I WOULD OBJECT TO AN OVERALL OF NOT QUALIFYING HIM AS
10 A WITNESS AND IT'S MY POSITION IS BASED UPON, HE IS
11 NOT, A LOT HAS CHANGED IN 22 YEARS AND I COUNTED UP
12 HE HASN'T BEEN INVOLVED IN THIS LINE OF WORK FOR
13 22 YEARS AND SO I

14 THE COURT I FIND HE'S QUALIFIED AS
15 TENDERED CRIMINAL INVESTIGATION, CRIME SCENE
16 INVESTIGATION, AND INTERVIEWING AND INTERROGATION
17 TECHNIQUES

18 MR MORTON THANK YOU, YOUR HONOR
19 DIRECT EXAMINATION BY MR MORTON

20 Q MR GUERETTE, YOU WERE ASKED BY US TO ANALYZE
21 THE EVIDENCE AND THE REPORTS, STATEMENTS, ET CETERA,
22 AS BY US TO GIVE US YOUR EXPERTISE AND OPINION IN
23 THIS CASE?

24 A YES, SIR

25 Q AND IN THAT REGARD WHAT HAVE YOU HAD THE

002702

1 OPPORTUNITY TO LOOK AT AS FAR AS THE EVIDENCE IN THIS
2 CASE IS CONCERNED?

3 A I WAS GIVEN A DISK WITH DISCOVERY, WHAT WAS
4 GIVEN TO YOU AS DISCOVERY WHICH INCLUDED SOME
5 REPORTS I HAVE NOT LOOKED AT A LOT OF THOSE
6 REPORTS I JUST LOOKED AT A FEW REPORTS THAT I WAS
7 INTERESTED IN I LOOKED AT THE PHOTOGRAPHS, CRIME
8 SCENE PHOTOGRAPHS, AS WELL AS AUTOPSY PHOTOGRAPHS I
9 LOOKED AT SOME TRANSCRIPTS OF SOME PROCEEDINGS, PRIOR
10 PROCEEDINGS I LOOKED AT THE, WELL, FIRST THING I
11 DID IS I HAD MY STAFF TYPE THE TAPES, THREE HOURS OF
12 TAPES, OF THE FIRST SET OF INTERROGATIONS AND

13 Q AND THAT WOULD HAVE BEEN THE INTERROGATION BY
14 MR WALDROP AND MR HERRING?

15 A RIGHT

16 Q OKAY

17 A AND AFTER THAT WAS TYPED, I SPENT A GOOD AMOUNT
18 OF TIME LISTENING TO THE TAPE, MAKING SURE THAT
19 EVERYTHING WAS TRANSCRIBED PROPERLY, WORD FOR WORD,
20 LISTENING FOR SIGNS, ANY TYPE OF AUDIBLE SOUNDS THAT
21 MIGHT BE ON THE TAPE, AND THEN ANALYZED THAT
22 PARTICULAR TRANSCRIPT

23 Q HAVE YOU ACTUALLY BEEN TO THE SCENE?

24 A YES I WENT TO THE SCENE ONE TIME, AND CHECKED
25 THE HOUSE OUT THIS WAS JUST THREE WEEKS AGO I GOT

1 INVOLVED THREE WEEKS AGO WAS THE FIRST TIME I GOT
2 INVOLVED AND WENT TO THE SCENE THEN AND LOOKED AT THE
3 HOUSE, THE LAYOUT OF THE HOUSE, THE BEDROOMS, KITCHEN
4 DOORS, WINDOWS

5 Q DID YOU GO DOWN TO THE POLICE DEPARTMENT AND
6 LOOK ALL THE EVIDENCE THAT WAS COLLECTED?

7 A I GOT THAT I WENT TO THE DISCOVERY WHAT THEY
8 CALL, I GUESS THAT'S WHAT THEY CALL IT HERE, VIEWING
9 THE DISCOVERY, THE EVIDENCE THAT WAS SEIZED BY THE
10 POLICE, AND I DON'T KNOW IF I WENT THROUGH ALL OF IT,
11 BUT WE WENT THROUGH A GOOD PORTION OF IT AND LOOKED
12 AT ITEMS THAT WERE GIVEN TO US BY THE POLICE
13 OFFICERS

14 Q IN YOUR EXPERIENCE AS A CRIME SCENE INVESTIGATOR
15 HAVE YOU HAD THE OPPORTUNITY TO, IN YOUR TRAINING AND
16 EXPERIENCE, TO ANALYZE AND DETERMINE THE ABILITY OF A
17 HOUSE TO BE ENTERED WITHOUT SHOWING ANY SIGNS OF
18 FORCED ENTRY?

19 A YES, SIR

20 Q AND WHAT IS YOUR RESEARCH INDICATED TO YOU ABOUT
21 HOW OFTEN THAT OCCURS?

22 A PROBABLY A THIRD OF YOUR BREAKING AND ENTERINGS
23 OCCUR WITH, THERE ARE TWO CATEGORY FORCED ENTRY,
24 NON-FORCED ENTRY ABOUT A THIRD OF THE BURGLARIES I
25 WOULDN'T SAY IT'S ON A NATIONAL WIDE SCALE BUT PRETTY

1 CLOSE TO THAT ARE NOT FORCED ENTRY IN OTHER WORDS,
2 NON FORCE, YOU CAN SEE IT AS BEING NON FORCE IN
3 OTHER WORDS, USING A CREDIT CARD, USING A DRIVER'S
4 LICENSE, USING A KEY, ALL OF THESE THINGS ARE
5 CONSIDERED NON FORCED ENTRY IF SOMEBODY OPENING THE
6 DOOR FOR YOU IF YOU GO TO THE DOOR UNDER A ROUSE,
7 THAT'S CATAGORIZED AS A NON FORCED ENTRY

8 YOUR FORCED ENTRY ARE USUALLY YOUR
9 VISIBLY FORCED ENTRY WHERE YOU HAVE A WINDOW BROKEN,
10 DOOR OPEN, I MEAN, YOU KNOW, KICKED IN, THAT TYPE OF
11 STUFF

12 Q OPEN WINDOWS WOULD THAT BE NON FORCED ENTRY
13 TYPE?

14 A THAT WOULD BE CONSIDERED A NON FORCE ENTRY FOR
15 THAT CATEGORY BECAUSE NO HARD OBJECT WAS USED,
16 NOTHING WAS DAMAGED, IT DOESN'T LOOK LIKE A FORCED
17 TYPE ENTRY

18 Q SO YOU SAY IN ABOUT A THIRD OF THE BREAK INS
19 THEY ARE CLASSIFIED AS NON FORCED ENTRY IN YOUR
20 EXPERIENCE, TRAINING, AND IN THE LITERATURE?

21 A YES, SIR SOME CITIES REPORT 65 PERCENT, SOME
22 REPORT 72 PERCENT, ROUGH AVERAGE

23 Q OKAY

24 A OF THE BURGLARIES ARE OF, LIKE ROCK HILL, I
25 THINK IN 2002 HAD 700 AND SOME ODD BURGLARIES I

1 COULDN'T FIND A CATEGORY FOR NON FORCE AND FORCED
2 ENTRY ALTHOUGH I BELIEVE THE FBI KEEP A RECORD OF
3 THAT I'VE SEEN RECORDS OF THAT BETWEEN FORCE AND
4 NON FORCE BEFORE, BUT I DIDN'T SEE IT ON THE ROCK
5 HILL WEB SITE

6 Q OKAY BUT NATIONWIDE IS ABOUT A THIRD?

7 A ABOUT A THIRD

8 Q OKAY IF SOMEONE WERE TO TESTIFY THAT THAT
9 NEVER OCCURS OR VERY RARELY OCCURS THAT BEING NON
10 FORCED ENTRY ----

11 MR THOMPSON OBJECTION, YOUR HONOR,
12 LEADING QUESTION

13 THE COURT I THINK THAT IS PITTING THE
14 WITNESS I SUSTAIN THE OBJECTION

15 Q OKAY IN YOUR EXPERIENCE IS THAT A, SOMETHING
16 THAT NEVER HAPPENS OR RARELY HAPPENS, THAT BEING NON
17 FORCED ENTRY BURGLARIES?

18 A IT WOULD BE EXTREMELY UNUSUAL

19 Q NO NO MY QUESTION IS --

20 MR THOMPSON YOUR HONOR---

21 THE COURT GO AHEAD AND ANSWER THE
22 QUESTION

23 A I DON'T THINK I UNDERSTOOD THE QUESTION

24 Q IN YOUR EXPERIENCE

25 A RIGHT

002706

1 Q HOW OFTEN DO BURGLARIES OCCUR WHERE YOU DON'T
2 SEE SIGNS OF FORCED ENTRY?

3 A I THINK THE SAME QUESTION I MEAN, WHERE
4 BURGLARIES OCCUR WHERE YOU DON'T SEE IT?

5 Q YES

6 A ABOUT A THIRD

7 Q OKAY

8 A I MEAN I NEVER KEPT UP WITH IT I'D SAY 20
9 PERCENT, 30 PERCENT, SOMEWHERE AROUND THERE

10 Q OKAY

11 A I MEAN SOMETIMES PEOPLE LEAVE THE DOOR OPEN
12 SOMEBODY WALKS UP AND TWISTS THE LOCK, TWISTS THE
13 HANDLE, WALKS IN, THAT'S CONSIDERED A NON FORCED
14 ENTRY

15 Q OKAY IN YOUR INVESTIGATION OF THIS CRIME
16 SCENE, I REALIZE IT WASN'T IN NOVEMBER OF 2001, YOU
17 WENT AND LOOKED AT THIS HOME?

18 A YES, SIR, I DID

19 Q AND YOU LOOKED AT THE PICTURES, I GUESS WHAT I
20 PROBABLY SHOULD DO, YOU LOOKED AT THE PHOTOGRAPHS OF
21 THE CRIME SCENE AS IT WAS IN NOVEMBER OF 2001?

22 A YES, SIR I LOOKED AT PHOTOGRAPHS BEFORE I WENT
23 AND PHOTOGRAPHS AFTER I CAME BACK

24 Q CAN YOU RENDER AN OPINION AS TO WHETHER THIS
25 HOUSE WAS SECURE HOUSE?

002707

1 MR THOMPSON YOUR HONOR, I OBJECT
2 THERE IS FOUNDATION

3 THE COURT I SUSTAIN THE OBJECTION

4 MR MORTON OKAY

5 Q MR GUERETTE, YOU HAVE, YOU HAVE VIEWED THE
6 EVIDENCE AS FAR AS THE PHOTOGRAPHS, THE REPORTS,
7 STATEMENTS, BEEN TO THE SCENE, LOOKED AT ALL THE
8 EVIDENCE, IS THAT CORRECT?

9 A YES, SIR

10 Q AS FAR AS THE INVESTIGATION BY THE ROCK HILL
11 POLICE DEPARTMENT IN THIS CASE, WHAT WOULD YOU HAVE
12 DONE DIFFERENTLY?

13 MR THOMPSON OBJECTION, YOUR HONOR,
14 LEADING QUESTIONS

15 THE COURT WELL, I SUSTAIN THE OBJECTION

16 Q WHAT DID THEY NOT DO THAT YOU HAVE WOULD HAVE
17 DONE?

18 MR THOMPSON OBJECT AGAIN, YOUR HONOR

19 THE COURT YEAH, I SUSTAIN THE OBJECTION

20 Q WHAT SHOULD HAVE BEEN DONE IN YOUR OPINION AS AN
21 EXPERT IN THE FIELD OF CRIMINAL INVESTIGATIONS
22 REGARDING THIS CRIME?

23 A WHAT SHOULD HAVE BEEN DONE AT THE CRIME SCENE?

24 Q YES, SIR

25 A REFERENCE THIS CRIME THAT WAS NOT DONE OR SHOULD

002708

1 HAVE BEEN DONE

2 Q WELL, BOTH

3 A WELL, THE FIRST YOU DO AS AN INVESTIGATOR YOU GO
4 INTO A CRIME SCENE, THE FIRST THING A POLICE OFFICER
5 RESPONSIBILITY IS TO PROTECT THE CRIME SCENE AND THAT
6 MEANS TO PREVENT PEOPLE FROM WALKING AROUND, PREVENT
7 OTHER PEOPLE FROM GOING IN TO THE RESIDENCE, OR
8 WHEREVER THE SCENE MAYBE IF IT'S OUT ON THE LAWN,
9 BACK OF A GARAGE, WHEREVER TO PREVENT PEOPLE FROM
10 GOING INTO THE SCENE AND THE SURROUNDING AREAS
11 BECAUSE EVIDENCE HAS BEEN FOUND 10-15 MILES, TWO
12 MILES AWAY, I'M NOT SAYING YOU SURROUND THE WHOLE
13 CITY EVERY TIME THERE IS A CRIME SCENE, BUT YOU
14 SURROUND THE AREA, THE IMMEDIATE AREA, EITHER BY
15 PUTTING A TAPE UP OR SOMETHING LIKE THAT THEN YOU
16 PREVENT PEOPLE FROM COMING IN A CRIME SCENE IT'S
17 ONE OF MY BIGGEST FRUSTRATIONS AND IT'S A CONTINUOUS
18 FRUSTRATION FOR LAW ENFORCEMENT WHEN YOU HAVE A CRIME
19 SCENE EVERYBODY WANTS TO SEE THE INSIDE EVERYBODY
20 WANTS TO SEE WHAT HAPPENED WHERE THEY DON'T EVEN HAVE
21 A REASON TO BE THERE SO THE MAJORITY OF YOUR CRIME
22 SCENES, A LOT OF YOUR CRIME SCENES, ARE CONTAMINATED
23 BY POLICE OFFICERS BRINGING IN DEBRIS FROM THE STREET
24 OR MAYBE KICKING SOMETHING AS THEY ARE WALKING BY
25 THE MORE CLUTTERED THE HOUSE IS, THE MORE CAREFUL YOU

1 HAVE TO BE AND COMPARED TO WHAT IT USED TO BE
2 NOWADAYS PEOPLE WHERE, I CALL THEM BOOTIES FOR A LACK
3 OF A BETTER WORD, WHEN THEY WALK IN A CRIME SCENE,
4 THEY WEAR PROTECTIVE GEAR COVERS ON THEIR SHOES,
5 SOME PEOPLE WEAR WHITE SMOCKS OR DIFFERENT TYPES OF
6 PROTECTIVE CLOTHING WHEN THEY GO INTO AND THE REASON
7 FOR THAT IS BECAUSE THE DNA, BECAUSE OF CONTAMINATION
8 PROCESS, AND THINGS OF THIS NATURE THAT'S DEVELOPED
9 OVER THE YEARS AND THESE ARE PRECAUTIONS THAT POLICE
10 OFFICER HAVE INSTITUTED IN VARIOUS CITIES TO PREVENT
11 CONTAMINATION

12 ONCE YOU PROTECT THE CRIME SCENE AND A
13 LOT OF TIMES NOWADAYS IN A MAJORITY OF THE
14 COMMUNITIES, I DON'T KNOW WHAT THE PROCEDURES ARE IN
15 ROCK HILL, BUT THE MAJORITY OF THE COMMUNITIES THE
16 INVESTIGATOR OFFICER MAKES THE DECISION AS TO HOW TO
17 GO ABOUT, FIRST INVESTIGATING OFFICER HAS TO OBSERVE
18 IS EVERYTHING THAT'S HAPPENED IN THAT HOUSE, YOU
19 DON'T REMOVE ITEMS UNTIL IT'S PHOTOGRAPHED, YOU WALK
20 AROUND, AND YOU OBSERVE THINGS YOU OBSERVE THINGS
21 ON A VICTIM, YOU OBSERVE THINGS IN THE SURROUNDING
22 AREA, YOU OBSERVE THINGS IN THE HOUSE, THE ENTRIES,
23 THE EXITS, AND ONCE YOU'VE OBSERVED THAT AND NORMAL
24 PROCEDURE IS TO TAKE LITTLE TAGS AND MARK WHERE YOU
25 THINK THE EVIDENCE IS IMPORTANT THE MAJORITY OF

002710

1 YOUR CRIME SCENES ARE CONTROLLED BY THE INVESTIGATOR
2 YOUR CRIME TECHS ARE BASICALLY A HELPER THEY ARE
3 COLLECTOR OF THE EVIDENCE THEY MAY KNOW A LITTLE
4 BIT MORE ABOUT SOME TECHNICAL ASPECTS OF THE CRIME
5 SCENE, BUT IT'S GENERALLY INVESTIGATORS SAY SO AS TO
6 WHAT IS COLLECTED I MEAN, THERE IS NEVER ARGUMENT
7 IF SOMEONE WANTS TO COLLECT IT, YOU CAN COLLECT IT
8 THERE IS A RULE OF THUMB, COLLECT AS MUCH AS YOU CAN
9 BECAUSE YOU NEVER HAVE THE OPPORTUNITY TO GO
10 RECOLLECT AND IF YOU DO, IT COULD BE CONTAMINATED BY
11 OTHER MEANS AND SO IN ANY CRIME SCENE YOU HAVE TO
12 PROTECT THE SCENE, YOU HAVE TO MAKE SURE THAT ALL THE
13 ITEMS ARE COLLECTED, AND IT'S PARTICULARLY IMPORTANT
14 NEXT TO WHERE THE VICTIM IS FOUND IF IT'S A HOMICIDE
15 BECAUSE WHERE THE ATTACK OR WHERE THE INCIDENT
16 OCCURRED, WHICHEVER WORD YOU WANT TO USE, THAT'S
17 PROBABLY THE MOST IMPORTANT AREA THAT'S WHERE YOUR
18 CRIME SCENE TECHS WHERE THEY COME IN THERE ONCE,
19 BEFORE THE BODY IS REMOVED YOU TAKE PHOTOGRAPHS AND
20 AFTER THE BODY IS REMOVED YOU ALSO COLLECT THE
21 EVIDENCE THE NORMAL PROCEDURE WHEN YOU COLLECT A
22 BODY IS TO TAKE THE BODY AND PLACE IT ON A SHEET
23 DON'T TAKE THE WHOLE SHEET, DON'T TAKE EVERYTHING
24 ELSE, BECAUSE YOU WANT TO BE ABLE TO SEE WHAT
25 EVIDENCE IS UNDERNEATH THE BODY YOU WANT TO BE ABLE

002711

1 TO PHOTOGRAPH THE EVIDENCE AS IT STANDS AS THE BODY
2 WAS FOUND BECAUSE IT'S VERY IMPORTANT AND THEREFORE
3 YOU WANT TO BE ABLE TO COLLECT EVERY PIECE OF ITEM
4 AROUND THERE THAT MAY HAVE BEEN TOUCHED BY THE
5 INDIVIDUALS, THE ATTACKER OR WHATEVER YOU WANT TO
6 CALL THEM, AND SO THESE ARE VERY IMPORTANT STEPS THAT
7 YOU SHOULD TAKE AND YOU TAKE THE BODY, PLACE IT IN A
8 SHEET WHERE IT CATCHES ANYTHING THAT MIGHT COME OFF
9 THE BODY, OR ANYTHING THAT MIGHT BE UNDERNEATH THE
10 BODY BECAUSE YOU DON'T ROLL THE BODY OVER AND CHECK
11 THE BODY OUT HERE AND THERE BECAUSE WHAT YOU ARE
12 DOING IS YOU ARE CONTAMINATING THE OTHER OBJECTS
13 AROUND THERE AND THINGS CAN HAPPEN AND SO THAT'S
14 THE MAIN PROCEDURE THAT I WOULD HAVE DONE IN THIS
15 PARTICULAR CASE AND THEN OF COURSE HAVE YOUR CRIME
16 SCENE TECH TAKE EVERY SINGLE PIECE OF ITEM AROUND
17 THERE ITEMS THAT ARE OF IMPORTANCE EVEN ITEMS
18 THAT ARE NOT OF IMPORTANCE TO YOU AT THAT POINT
19 THEY MAY BECOME OF IMPORTANCE LATER ON FLASH
20 LIGHTS, PURSES, ANYTHING THAT WAS ON THE BED, VIDEO
21 TAPE, STAPLER, ANY OF THOSE ITEMS AND SOME OF THOSE
22 ITEMS WERE COLLECTED, SOME OF THEM WERE NOT I
23 SHOULD SAY IT THIS WAY, SOME I DID NOT OBSERVE IN THE
24 DISCOVERY I DON'T KNOW WHAT ALL WAS DISCOVERED
25 I'VE NOT GONE THROUGH THE PHOTOGRAPHS AND I CANNOT

002712

1 TELL YOU WELL THIS WAS COLLECTED, THIS WAS COLLECTED,
2 I KNOW SOME OF THE ITEMS WERE AND SOME WERE NOT, AND
3 SO ALL OF THESE ITEMS ON THE BED SHOULD HAVE BEEN
4 COVERED IT USED TO BE THAT WE USED TO VACUUM THE
5 CARPET IN AND OUT POSSIBLE EXIT WAYS TO PICK UP ITEMS
6 THAT MIGHT BE HAIRS, FIBERS, THESE ARE SMALL LITTLE
7 ITEMS THAT CAN GENERALLY BE PICKED UP BY A VACUUM
8 CLEANERS SOMETIMES YOU PICK UP BUGS NOW WHATEVER
9 YOU PICK UP IT GIVES YOU THE OPPORTUNITY TO HAVE YOUR
10 FORENSIC PEOPLE RESTUDY THOSE FIBERS, THE HAIRS AND
11 THEN OF COURSE YOU'VE GOT YOUR FINGERPRINT
12 PROCESSING EVERY ROOM SHOULD BE CHECKED FOR
13 POSSIBILITY OF SOMETHING COMING UP LATER ON IN THE
14 INVESTIGATION BECAUSE LIKE I SAID IT'S HARD TO GO
15 BACK AND REDO IT ONCE YOU HAVE FAILED TO DO CERTAIN
16 THINGS SO THERE ARE MANY THINGS THAT YOU COLLECT,
17 MANY THINGS THAT YOU DO

18 IN THIS PARTICULAR CASE I BELIEVE I'D
19 TAKEN MORE PHOTOGRAPHS OF THE AREA WHERE THE VICTIM
20 WAS LAYING AFTERWARDS THERE WAS A LOT OF WHAT I
21 CALL OUTSIDE PERIMETER PHOTOGRAPHS AND INSIDE
22 PERIMETER PHOTOGRAPHS MEANING THE DOORS, THE WINDOWS,
23 THERE WERE MORE PHOTOGRAPHS OF DOORS AND WINDOWS
24 THERE WERE AND ANY TIME YOU GO INTO ANY CRIME SCENE
25 IF YOU PREJUDGE, IF YOU ARE QUICK TO JUDGE, AS TO

002713

1 WHAT YOU ARE LOOKING FOR, YOU ARE MAKING A MISTAKE
2 BECAUSE YOU ARE OVERLOOKING OTHER TYPES OF EVIDENCE
3 AND SO IT'S GOOD TO TAKE PICTURES OF YOUR WINDOWS AND
4 DOORS AND THINGS OF THAT NATURE, BUT YOU ALSO SHOULD
5 ALSO CONCENTRATE AS MUCH EFFORT ON TAKING PHOTOGRAPHS
6 AND COLLECTING OTHER ITEMS THAT MAY BE OF SIGNIFICANT
7 VALUE IF YOU MAKE YOUR MIND UP IMMEDIATELY THAT HEY
8 NO ONE BROKE IN THIS HOME, IT'S GOT TO BE INTERNAL, I
9 THINK YOU ARE OVERLOOKING A LOT OF SITUATIONS IF
10 YOU DON'T TRY THE DOOR IS THERE A PLAY IN THE DOOR?
11 ARE THE LOCKS IN PROPER CONDITION? ARE THE LOCKS ON
12 THE WINDOWS? YOU MAY HAVE A LOOK ON THE WINDOW, IT
13 MAY NOT LOCK YOU KNOW, ALL THESE LITTLE THINGS ARE
14 THINGS THAT YOU LOOK FOR INITIALLY BECAUSE YOU HAVE,
15 IT'S HARD TO GO BACK AND REDO ONCE YOU ELIMINATE
16 THAT YOU KNOW, YOU ALLOW FOR SOME HUMAN NATURE TO,
17 YOU KNOW, SOME PEOPLE TO OVERLOOK CERTAIN THINGS, BUT
18 THE MORE THINGS ARE OVERLOOKED THE HARDER IT IS TO BE
19 ABLE TO PUT THIS SCENE BACK TO WHERE THEN EVERYTHING
20 THAT YOU ARE FINDING ARE CAN BE PASSED ON TO THE JURY
21 SO A DECISION CAN BE MADE

22 Q WHAT ARE YOU LOOKING FOR WHEN YOU GO TO A CRIME
23 SCENE AS A CRIME SCENE INVESTIGATOR, WHAT ARE YOU
24 TRYING TO DETERMINE THERE, I MEAN, OTHER THAN THE
25 COLLECTION OF EVIDENCE AND SO FORTH, AS A CRIME SCENE

002714

1 INVESTIGATOR WHAT IS YOUR DUTY OR WHAT IS YOUR ROLE,
2 WHAT PIECES OF EVIDENCE, HOW DO YOU DO THAT? WHY DO
3 YOU, YOU KNOW, ARE YOU TRYING TO DETERMINE HOW THIS
4 MIGHT HAVE OCCURRED?

5 A OH, DEFINITELY I MEAN, THAT'S WHAT YOUR JOB IS
6 IS TO FIGURE OUT WHAT HAPPENED AND ANYBODY WHOSE BEEN
7 INVESTIGATOR FOR ANY LENGTH OF TIME KNOWS THAT YOUR
8 PATHS CAN BE TAKEN TWO OR THREE DIFFERENT WAYS YOU
9 KNOW I KNOW VERY LITTLE INVESTIGATIONS WHERE THE
10 RABBITS HAVE NOT BEEN CHASED IN OTHER WORDS, A
11 SIMPLE WAY OF SAYING IT, I KNOW INVESTIGATIONS WHERE
12 A CERTAIN PIECE OF EVIDENCE MIGHT FIT FOR AWHILE,
13 THEN ALL OF A SUDDEN IT DOESN'T FIT YOUR THEORIES
14 IF YOU DON'T KEEP AN OPEN MIND GOING IN ANY CRIME
15 SCENE, YOU ARE LIKELY TO OVERLOOK A LOT OF THINGS SO,
16 AND IT'S HARD TO SIT THERE, GO IN A CRIME SCENE,
17 ESPECIALLY IF I MAY REFER TO THIS CRIME SCENE AS THIS
18 CRIME SCENE THIS CRIME SCENE WOULD BE DIFFERENT
19 THAN GOING TO A HOUSE THAT WAS CLEAN THIS CRIME
20 SCENE WOULD BE DIFFERENT THAN GOING TO A HOUSE WHERE
21 THERE WASN'T A 12 YEAR OLD LAYING IN BED AND SO YOU
22 START HAVING EMOTIONS AS YOU ARE GOING THROUGH THESE
23 CRIME SCENES AND YOU START GETTING YOUR TRAIN OF
24 THOUGHT AND IF YOU HAVE THE TUNNEL VISION YOU HAVE A
25 PROBLEM LATER ON AND ANY CRIME SCENE YOU GO TO YOU

1 SHOULD STAY AS OPEN MINDED AS YOU CAN BECAUSE ALL THE
2 PHOTOGRAPHS, ALL THE VIDEO TAPES, ALL THE WORK YOU'VE
3 DONE THERE, IS NOT GOING TO BENEFIT YOU IF YOU
4 OVERLOOK THINGS BECAUSE YOU WERE GOING ONE DIRECTION
5 AND NOT THINKING OF SOMETHING ELSE AND SO WHEN YOU
6 GO IN A CRIME SCENE ONE OF THE THINGS YOU LOOK FOR IS
7 WHAT WE CALL IN LAW ENFORCEMENT, BRIEFLY REFERRED TO,
8 A MO WHICH IS METHOD OF OPERATION METHOD OF
9 OPERATION IS DIFFERENT THINGS HOW DOES SOMEBODY
10 BREAK INTO A PLACE? HOW DOES SOMEBODY COMMIT A
11 CRIME? WHAT IS THE UNUSUAL PATTERN? YOU KNOW,
12 HISTORICALLY LAW ENFORCEMENT WILL SHOW YOU THAT, ANY
13 LAW ENFORCEMENT OFFICER WILL KNOW THAT HISTORICALLY
14 CERTAIN PEOPLE COMMIT CERTAIN CRIMES LEAVING CERTAIN
15 PIECES OF EVIDENCE BEHIND OR ARE OPERATING IN A
16 CERTAIN PROCEDURE IT'S VERY IMPORTANT TO TRY TO
17 IDENTIFY THIS AS YOU ARE GOING INTO THE SCENE AND
18 SOMETIMES YOU CAN'T ALWAYS IDENTIFY IT BUT TAKING
19 THIS SCENARIO YOU HAVE A SCENARIO OF VERY FEW PEOPLE
20 BEING IN THE HOUSE AND YOU'VE GOT SCENARIO OF SOMEONE
21 POSSIBLY ENTERING THAT HOUSE BY WHATEVER MEANS YOU
22 ALSO HAVE A SCENARIO OF A 12 YEAR OLD LAYING THERE
23 AND CERTAIN THINGS YOU LOOK AT, CERTAIN THINGS THAT
24 YOU SHOULD BE ABLE TO IDENTIFY, AND BITE MARKS ON A
25 VICTIM'S BODY IS UNUSUAL AND IT GIVES YOU A DIFFERENT

002716

1 DIRECTION AS TO WHAT TO LOOK FOR STRANGULATION IS
2 AN INDICATION OF CERTAIN THINGS THAT GIVES YOU A
3 DIRECTION AS TO WHAT TO LOOK FOR SO THE TYPE OF
4 INJURIES THAT AN INDIVIDUAL HAS IS VERY IMPORTANT
5 YOU KNOW, THERE ARE SOME CASES WHERE PEOPLE THINK
6 THAT JUST BECAUSE I HAVE A HOLE IN THEM THEY WERE
7 SHOT WELL, THERE HAS BEEN CASES WHERE A KNIFE WAS
8 USED, SO IF YOU JUST THINK THIS PERSON WAS SHOT AND
9 YOU ARE ONLY LOOKING FOR A GUN, YOU ARE NOT LOOKING
10 FOR A KNIFE, THEN YOU ARE MISSING SOMETHING THERE
11 SO IT'S, YOU HAVE TO WORK IN COMBINATION WITH YOUR
12 MEDICAL EXAMINERS, WHAT TO LOOK FOR, YOUR EXPERIENCE
13 AND LEAVE AN OPEN MIND YOUR MEDICAL EXAMINER CAN
14 HELP YOU IDENTIFY SOME OF THE ITEMS THAT YOU ARE
15 LOOKING FOR, FIND A CERTAIN FRAGMENT INSIDE OR
16 CERTAIN PIECE OF TOOL INSIDE THE VICTIM THEN YOU GO
17 BACK OUT AND LOOK FOR IT AND SO THESE ARE ALL THE
18 THINGS THAT YOU AS A POLICE OFFICER SHOULD LOOK AT AS
19 YOU ARE GOING IN THAT'S A PERFECT WORLD AND
20 THAT'S WHAT WE TRY TO DO IF YOU KEEP AN OPEN MIND
21 THE PROBLEM WE HAVE A LOT OF TIMES IS POLICE OFFICERS
22 ARE HUMAN BEINGS AND THEY LOOK AT THINGS AND AFTER A
23 PERIOD OF TIME THEY MAKE FAST CONCLUSIONS AND THEY
24 SHOULDN'T DO THAT NO MATTER HOW EXPERIENCED YOU ARE
25 MR THOMPSON YOUR HONOR, I AM GOING TO

002717

1 OBJECT AT THIS TIME I DON'T REMEMBER WHEN THE LAST
2 QUESTION WAS ASKED BUT ALL WE ARE GETTING IS THE
3 NARRATIVE

4 THE COURT LET'S STOP HERE AND HE'LL ASK
5 YOU ANOTHER QUESTION

6 Q AND YOU BELIEVE CERTAIN CONCLUSIONS WERE MADE
7 PREMATURALLY IN THIS CASE?

8 A I BELIEVE THEY WERE, YES, SIR

9 Q WOULD THE BITE MARK AND THE STRANGULATION RAISED
10 A RED FLAG TO YOU?

11 A IT CERTAINLY WOULD

12 Q WHY IS THAT?

13 A MY EXPERIENCE THAT'S A SEX CRIME THAT'S A
14 VIOLENT, MORE OF A VIOLENT TYPE SEX CRIME THAN A
15 FATHER GENERALLY CAUSES

16 Q OKAY DO YOU UNDERSTAND THE POLICE AND YOU
17 KNOW, IT WAS A DIRTY CRIME SCENE, IT WAS A HORRIBLE
18 LOOKING HOUSE, WOULD YOU AGREE WITH THAT?

19 A I WASN'T THERE THE DAY IT HAPPENED, BUT LOOKING
20 AT THE VIDEO IN MY OPINION IT'S PROBABLY ONE OF THE
21 WORST CRIMES SCENES I HAVE EVER SEEN FOR CLEANLINESS
22 I MEAN I HAVE NEVER SEEN SO MANY BUGS IN ALL MY LIFE
23 AND THAT HAS AN AFFECT ON SOMEBODY WHEN YOU WALK IN
24 IT HAS AN AFFECT ON ME WHEN I WOULD GO INTO A CLEAN
25 HOUSE VERSUS A DIRTY HOUSE AND SO WHEN THINGS LIKE

002718

1 THAT AFFECT YOU AND YOU SEE A 12 YEAR OLD AND YOU
2 DON'T UNDERSTAND EXACTLY WHAT WENT ON, YOU CAN MAKE A
3 JUDGMENT CALL THAT'S, SHOULD NOT HAVE BEEN MADE AT
4 THAT PARTICULAR TIME

5 Q LET ME TAKE YOU TO THE INTERROGATION IN THIS
6 SITUATION YOU ARE AWARE THAT -- FIRST OF ALL,
7 EXPLAIN TO THE JURY WHAT THE DIFFERENCE IN INTERVIEW
8 AND INTERROGATION IS AND WHY SOMETIMES POLICE MAKE
9 THAT DISTINCTION?

10 A WELL, THE TWO WORDS ARE DIFFERENT IN THAT AN
11 INTERVIEW IS SUPPOSED TO BE A SOFTER APPROACH IT'S
12 A PLAY OF WORDS THAT'S BEEN HAPPENING OVER THE YEARS
13 BETWEEN INTERVIEW AND INTERROGATION YOU CAN
14 INTERVIEW SOMEBODY WITHOUT ADVISING THEM OF THEIR
15 RIGHTS YOU ARE TO SUPPOSED INTERROGATE THEM, I MEAN
16 YOU ARE SUPPOSED TO ADVISE THEM OF THEIR RIGHTS
17 BEFORE YOU INTERROGATE THEM SO UNFORTUNATELY POLICE
18 OFFICERS HAVE BECOME GOOD AT EXTENDING THAT INTERVIEW
19 AND MAKING IT LOOK LIKE AN INTERVIEW VERSUS AN
20 INTERROGATION A LOT OF TIMES IT'S STATED THAT IT
21 WAS AN INTERVIEW I DON'T CARE IF THE INTERVIEW
22 LASTS FOUR OR FIVE HOURS, THE FORTUNATE THING HERE IS
23 WE HAVE A TAPE OF THE, WHAT I CALL AN INTERROGATION
24 MAYBE THE FIRST FEW MINUTES WAS AN INTERVIEW BUT THEN
25 IT LED INTO AN INTERROGATION AND INTERROGATION IS

002719

1 WHERE YOU START CONFRONTING THE SUBJECT WITH THE
2 FACTS YOU MAKE THE SUBJECT UNCOMFORTABLE, WHATEVER
3 THE MEANS IS INTERVIEW IS GENERAL, WHAT'S YOUR
4 NAME, WHERE YOU FROM, AND YOU HAVE AN INTERVIEW AND I
5 ALWAYS USED TO TEACH, YOU HAVE AN INTERVIEW BEFORE
6 INTERROGATION BECAUSE THAT'S WHERE YOU FIND OUT HOW
7 IS THAT PERSON REACTING TO ME IS THAT PERSON
8 LOOKING AT ME? IS HE LOOKING TO THE DISTANCE? IS HE
9 PAYING ATTENTION TO MY QUESTIONS? IS HE THINKING OF
10 SOMETHING ELSE WHILE I'M ASKING A PARTICULAR QUESTION
11 WHERE HE'S DOESN'T REMEMBER THE QUESTION THAT WAS
12 ASKED LIKE I DO AT TIMES IN COURT AND SO THESE ARE
13 THE THINGS THAT YOU LOOK FOR IN AN INTERVIEW THE
14 GENERAL MAKE UP OF A PERSON AND WHERE HE COMES FROM
15 AND HOW MANY, HIS FAMILY AND THINGS OF THAT NATURE
16 THEN YOU MOVE INTO THE PHASE OF WHAT HAPPENED AT THE
17 SCENE THAT'S WHEN IT BECOMES AN INTERROGATION IN MY
18 OPINION

19 Q AND EXPLAIN TO THE JURY SOME OF THE TECHNIQUES
20 THAT YOU HAVE TAUGHT AND THAT YOU HAVE EXPERIENCED IN
21 YOUR TRAINING AND YOUR EXPERIENCE AND YOUR TEACHING
22 I UNDERSTAND YOU TAUGHT INTERVIEWING AND
23 INTERROGATION TECHNIQUES?

24 A YES, I DID

25 Q AND YOU'VE DONE A LOT OF RESEARCH IN THAT FIELD?

002720

1 A I CERTAINLY HAVE

2 Q OKAY EXPLAIN TO THE JURY ABOUT INTERVIEWING
3 AND INTERROGATION TECHNIQUES THAT THE POLICE USE, WHY
4 THAT IS?

5 A WELL, THERE ARE MANY DIFFERENT THINGS TO EXPLAIN
6 IN INTERVIEW AND INTERROGATION AS THE PERSON IS
7 TALKING YOU ARE NOT ONLY OBSERVING PERSON, WHAT ARE
8 HIS HANDS, HIS FEET, HIS EYES, IT'S NOT AS
9 SIGNIFICANT AS IT USED TO BE, BUT THESE ARE THINGS
10 YOU STILL LOOK AT A VERY IMPORTANT PART OF THE
11 INTERROGATION IS LISTENING TO WHAT THE PERSON IS
12 SAYING AND HOW IS THAT PERSON SAYING BECAUSE YOU
13 TEACH POLICE OFFICERS CERTAIN PHRASES THAT GIVES YOU
14 AN INDICATION OF GUILT, CERTAIN PHRASES THAT GIVES
15 YOU AN INDICATION OF INNOCENCE CERTAIN PHRASES THAT
16 YOU MIGHT WANT TO EXPEL ON TO CONTINUE IN THAT
17 PARTICULAR DIRECTION

18 MR THOMPSON YOUR HONOR, I AM GOING TO
19 OBJECT HE ASKED HIM WHAT TECHNIQUES AND AT THIS
20 POINT I'M NOT HEARING AN ANSWER TO WHAT TECHNIQUE

21 MR MORTON I THINK HE'S EXPLAINING THE
22 PROCESS

23 THE COURT I'LL LET HIM GO A LITTLE BIT
24 FURTHER, BUT LET'S TRY TO STICK TO THE QUESTION
25 LET'S TRY TO KEEP THE ANSWER IN LINE WITH THE

002721

1 QUESTION GO AHEAD

2 Q I'M ASKING WHAT PROCESS AND I THINK YOU WERE
3 EXPLAINING IT, WHAT TECHNIQUES POLICE OFFICERS ARE
4 TAUGHT TO USE AND --

5 A WELL, MAYBE I'M CONFUSED WITH THE WORD
6 TECHNIQUES BUT I MEAN IT'S AN INVESTIGATIVE METHODS,
7 IT'S TOOLS THAT INVESTIGATOR USES I OVERLOOKED THE
8 WORD TECHNIQUE I MEAN, ALL THAT'S REFERRED TO IS
9 INTERROGATION TECHNIQUE, I THINK THAT'S JUST A PLAY
10 OF WORDS TO WHERE IT'S A MANNER AS TO HOW YOU GO
11 ABOUT INTERVIEWING SOMEBODY, SO IF I'M ON THE RIGHT
12 PATH I'LL CONTINUE

13 Q I THINK YOU ARE?

14 A SO YOU LOOK FOR CERTAIN PHRASES THEY SAY,
15 CERTAIN PHRASES THAT MEAN SOMETHING, AND DURING THE
16 PERIOD OF THE INTERROGATION SOMETHING MIGHT COME OUT
17 TO WHERE YOU NEED TO GO BACK TO THE CRIME SCENE TO
18 EITHER PROVE OR DISPROVE WHAT THE PERSON IS TELLING
19 YOU AND SO IT'S NOT AS SIMPLE AS I'M MAKING IT
20 SOUND, IT'S PRETTY INDEPTH WHEN YOU GET INTO A
21 CLASSROOM STRUCTURE BECAUSE YOU GO OVER THE EXAMPLES,
22 YOU GO OVER THE PHRASES THAT MEAN SOMETHING EITHER
23 WAY AND HOW YOU, ALSO, YOU KNOW, YOU ARE ADVISED A
24 FALSE CONFESSION, YOU ARE ADVISED OF ONE OF MY
25 FAVORITE SAYINGS OF DON'T BE THE JUDGE AND THE JURY

1 AND THE REASON I TOLD THAT TO POLICE OFFICERS IS
2 BECAUSE THEY HAVE A TENDENCY OF WANTING TO REMEMBER
3 ONLY CERTAIN THINGS AND AS A RESULT THEY DON'T GIVE
4 THE ULTIMATE INFORMATION TO THE PEOPLE WHO ARE
5 SUPPOSED TO MAKE A DECISION ON THIS, AND AFTER A
6 PERIOD OF TIME, AFTER YOU ARE A POLICE OFFICER, IT'S
7 HARDER TO STRAY AWAY FROM THAT IT'S EASIER TO
8 BECOME PROFESSIONAL IN SOME RESPECT OF BEING ABLE TO
9 IDENTIFY THE DECEITFUL THINGS TO WHERE YOU MAY
10 OVERLOOK AND REMEMBER ONLY CERTAIN PARTS OF WHAT YOU
11 WANT TO REMEMBER

12 Q YOU'VE LISTENED TO THE THREE AND A HALF HOUR
13 TAPE THAT WAS CONDUCTED BY LIEUTENANT WALDROP I
14 BELIEVE THE NIGHT BEFORE AND IN YOUR OPINION WHAT,
15 HOW DID HE CONDUCT THAT INVESTIGATION?

16 A I BELIEVE IT WAS LIEUTENANT WALDROP

17 Q LIEUTENANT WALDROP?

18 A LIEUTENANT HERRING, LIEUTENANT WALDROP DID MOST
19 OF IT I THINK HE DID AN EXCELLENT JOB IN
20 INTERROGATING ONE OF THE BEST THAT I HAVE EVER
21 SEEN ALTHOUGH NOT ALL, UNFORTUNATELY NOT ALL
22 CONFESSIONS OR INTERROGATIONS ARE RECORDED IT'S ONE
23 OF THE BEST THAT I'VE EVER HEARD DID A GREAT JOB IN
24 THAT I THINK FROM THAT POINT ON IF ANYBODY WOULD
25 LISTEN TO THAT TAPE AND PAY ATTENTION TO THEIR

002723

1 TEACHINGS IT WAS A TERRIBLE JOB IN ANALYZING WHAT THE
2 PERSON WAS SAYING AND SO

3 MR THOMPSON YOUR HONOR, I OBJECT I
4 DON'T BELIEVE HE HAS THE FOUNDATION TO TELL US THAT
5 THE COURT I THINK HE WAS ASKING ABOUT
6 TECHNIQUE

7 MR THOMPSON BUT THAT'S NOT WHAT HE IS
8 TESTIFYING TO AT THIS MOMENT

9 THE COURT MR MORTON

10 MR MORTON I THINK HE IS I THINK --

11 THE COURT I'LL LET HIM GO FURTHER I
12 OVERRULE THE OBJECTION

13 A I REALLY WAS COMPLETED

14 Q YOU SAID YOU THOUGHT HE DID A GOOD JOB OF
15 INTERROGATION BUT HE DIDN'T DO A GOOD JOB OF
16 LISTENING?

17 A UH-HUH

18 Q AND WHAT SHOULD HE HAVE BEEN LISTENING FOR THAT
19 HE DIDN'T LISTEN FOR?

20 A WELL, EITHER SIGNS GUILT OR SIGNS OF DECEPTION
21 PHRASES THAT PEOPLE MAY USE THINGS THAT YOU ARE
22 TAUGHT AS A POLICE OFFICER TO LOOK FOR THAT SHOWS
23 DECEPTION OR INNOCENCE THINGS LIKE THAT I MEAN, I
24 DON'T KNOW

25 Q SPECIFICALLY IN YOUR TRAINING AND EXPERIENCE

1 WHAT ARE YOU TRAINED TO LOOK FOR? FOR INSTANCE,
2 INSISTENCE OF A POLYGRAPH?

3 THE COURT I SUSTAIN THE OBJECTION

4 MR THOMPSON OBJECTION

5 THE COURT THAT'S A LEADING QUESTION

6 Q IN YOUR TRAINING AND EXPERIENCE SUSPECTS OR
7 PEOPLE WHO ARE BEING INTERROGATED SOMETIMES ARE ASKED
8 ABOUT A POLYGRAPH, ABOUT THEIR WILLINGNESS TO TAKE A
9 POLYGRAPH --

10 MR THOMPSON I OBJECT

11 THE COURT THAT'S A LEADING QUESTION

12 Q WHAT ARE SOME OF THE THINGS THAT THEY ARE ASKED
13 TO DO THAT ARE INDICATORS OF EITHER GUILT OR
14 INNOCENCE AND THE LANGUAGE THAT IS USED AND GO OVER
15 THAT WITH US JUST FOR A MINUTE?

16 MR THOMPSON YOUR HONOR, I OBJECT TO
17 THIS AS WELL THIS IS OUTSIDE HIS AREA OF EXPERTISE

18 THE COURT I'LL ALLOW THE QUESTION GO
19 AHEAD ANSWER THE QUESTION IF YOU DON'T UNDERSTAND
20 THE QUESTION DON'T ANSWER IT

21 A WELL, I UNDERSTAND THE QUESTION AND IT'S JUST A
22 MATTER OF A DIFFERENT WAY OF SAYING IT I MEAN, ONE
23 OF THE MAIN THINGS THAT AS AN INTERROGATOR YOU TRY TO
24 HAVE THE INDIVIDUAL TAKE A POLYGRAPH TEST AND WHEN
25 YOU, DEPENDING ON WHO APPROACHES WHO IS SIGNIFICANT

002725

1 DEPENDING ON WHAT THEY SAY WHEN THEY AGREE TO IT IS
2 SIGNIFICANT DEPENDING ON WHAT THEY SAY AFTER THEY
3 AGREE TO IT IS VERY SIGNIFICANT I MEAN, IT'S WELL
4 KNOWN THAT AN INNOCENT SUSPECT WILL CONTINUE TO WANT
5 TO TAKE THE POLYGRAPH TEST ALTHOUGH THAT'S NOT A
6 CLEAR INDICATOR, THERE IS ALSO A LOT OF PEOPLE WHO
7 KNOW THAT THEY DON'T WANT TO TAKE THE POLYGRAPH TEST
8 WILL AGREE TO IT AT FIRST, BUT THEN THEY WILL START
9 COMING WITH UP EXCUSES AFTER THE INITIAL AGREEMENT
10 I'LL TAKE THE POLYGRAPH TEST, AND THEN VARIOUS
11 ANSWERS WHICH I CAN GIVE IF THE COURTS WANT ME TO AS
12 TO WHAT THE INDIVIDUAL SAYS WHERE HE CHANGES HIS
13 MIND IN OTHER WORDS, THEY CHANGE THEIR MIND SHORTLY
14 AFTER THAT SO IT'S LIKE, IT'S NOT ONE SIGNIFICANT
15 THING, IT'S EVERYTHING THAT HAPPENS DURING THAT
16 PORTION OF TIME AS TO WHAT COUNTS WHETHER OR NOT IT
17 MEANS ANYTHING BUT IF SOMEBODY IN THIS CASE COPE
18 ASKED FOR THE POLYGRAPH TEST 13 TIMES, NEVER REFUSED
19 TO TAKE IT, NEVER STOPPED ASKING FOR IT THAT'S
20 PRETTY SIGNIFICANT IN THAT HE HAS GREAT FAITH IN THE
21 POLYGRAPH TEST IN ORDER TO WANT TO TAKE THAT
22 POLYGRAPH TEST MOST PEOPLE WILL ASK MAYBE ONCE OR
23 TWICE AND NOT EVERYBODY THAT'S INTERROGATED IS GIVEN
24 THE POLYGRAPH TEST IT'S USUALLY UNLESS THE SUSPECT
25 DISAGREES IT'S USUALLY UP TO THE POLICE OFFICER

002726

1 WHETHER TO GIVE THE POLYGRAPH BECAUSE IT'S A MAJOR
2 INVESTIGATIVE AID TOOL THAT'S WHAT IT SHOULD BE
3 USED FOR AS A TOOL TO TRY TO GET INTO THE PERSON'S
4 MIND, TO TRY TO GET THE PERSON TO MAKE A CONFESSION

5 Q AND YOU'VE LISTENED TO THE TAPE IN THIS CASE OF
6 THAT INTERROGATION AND THEN THE NEXT DAY YOU ARE
7 AWARE THAT HE WAS GIVEN A POLYGRAPH TEST AND
8 INTERVIEWED FOR SEVERAL MORE HOURS AFTER THAT LET
9 ME ASK YOU THIS, ARE POLICE OFFICERS TRAINED TO TAPE
10 RECORD INTERROGATIONS AND IF SO WHY AND IF NOT, WHY
11 NOT?

12 A IT'S ALWAYS MENTIONED AND IT HAS BEEN MENTIONED
13 EVER SINCE TAPE RECORDERS COME AROUND THAT POLICE
14 OFFICERS SHOULD RECORD COVERSACTIONS AND THE REASON
15 THAT I USED TO TELL MY STUDENTS IS IF YOU RECORD THE
16 CONVERSATION, THERE IS NO SECOND GUESSING OF WHAT THE
17 SUSPECT SAID, THERE IS NO SECOND GUESSING OF WHAT YOU
18 SAID, IT'S YOUR PROTECTION FOR AS WELL AS THE
19 SUSPECT'S PROTECTION, BUT BASICALLY IT'S A PROTECTION
20 OF THE TRUTH THAT IS HAPPENING AT THAT TIME IT'S,
21 YOU CAN'T HAVE BETTER RECORDING THAN LISTENING TO
22 SOMEONE'S VOICE OR VIDEO TAPE AND A LOT OF POLICE
23 OFFICERS, I MEAN POLICE AGENCIES, NOW HAVE ROOMS
24 WHERE YOU FLIP A BUTTOM IT'S RECORDED SOME STATES
25 ARE COME UP WHERE EVERYTHING HAS TO BE RECORDED AND

002727

1 SO IT'S A SITUATION WHERE IF YOU RECORD THE
2 CONVERSATION THEN IT'S LEFT UP TO THE PEOPLE WHO HAVE
3 THE RESPONSIBILITY OF MAKING A DECISION WHETHER OR
4 NOT THE TRUTH IS BEING TOLD IF YOU DON'T RECORD IT,
5 THEN YOU OUGHT TO SUFFER THE CONSEQUENCES OF NOT
6 BEING ABLE TO OR SUFFER THE CONSEQUENCES OF BEING
7 CRITICIZED IF SOMEONE IS GOING TO CRITICIZE YOU AND
8 A LOT OF PEOPLE WHO RECORD, I'VE HAD A LOT OF CASES
9 PEOPLE RECORDED AND EVERYTHING WAS FINE I SEE NO
10 REASON WHATSOEVER NOT TO RECORD INTERROGATION
11 TECHNIQUES OR INTERVIEWING TECHNIQUES OR THE
12 INTERVIEW OR INTERROGATION MOST OF THE INTERVIEWS
13 WE DO ARE RECORDED AND YOU DON'T HAVE TO TELL THE
14 PEOPLE THAT YOU ARE RECORDING IT BECAUSE, I MEAN,
15 WE'VE USED OUR TAPES OF CLANDESTINE RECORDINGS IN
16 FEDERAL COURTS AND STATE COURTS IN NORTH CAROLINA, I
17 DON'T KNOW THE LAW HERE IN SOUTH CAROLINA, BUT YOU
18 DON'T GENERALLY HAVE TO ADVISE THE PERSON YOU ARE
19 RECORDING IT OR YOU PUT THE RECORDING IN FRONT OF
20 THEM AND LET THEM DO IT AND I'VE SEEN CASES WHERE
21 POLICE OFFICERS HAVE PUT IT IN FRONT, THE GUY SAYS I
22 WANT IT TURNED OFF, HE TURNED IT OFF, BUT AT LEAST
23 YOU ARE GIVEN THE OPPORTUNITY TO HAVE THAT MOMENT
24 RECORDED

25 Q WHAT'S THE SIGNIFICANCE OF NOT RECORDING IT?

002728

1 A I HATE TO SAY IT THERE IS ONLY ONE SIGNIFICANCE
2 IN NOT RECORDING IT, YOU GET TO TESTIFY AS TO WHAT
3 YOU MAY REMEMBER, AS TO WHAT YOU WANT TO TESTIFY TO
4 I HATE TO SAY IT, IT'S SAD, BUT THAT'S WHAT HAPPENS
5 IT GIVES YOU THE OPPORTUNITY TO OVERLOOK SOME OF THE
6 THINGS THAT WOULD BE IMPORTANT FOR SOMEONE TO MAKE A
7 DECISION WHETHER OR NOT SOMEONE IS TELLING THE TRUTH

8 Q WHO DOES THE INTERPRETING IN THOSE SITUATIONS?

9 A WHERE?

10 Q WHEN IT DOESN'T RECORD?

11 A WHEN IT DOESN'T RECORD? I DON'T KNOW IF
12 ANYBODY IS QUALIFIED TO DO AN INTERPRETATION AFTER
13 THAT I KNOW I'M NOT I LOOKED AT THE STATEMENTS
14 THAT MR COPE GAVE WITHOUT A RECORDING AND I CANNOT
15 MAKE AN INTERPRETATION AS TO WHAT WENT ON DURING THAT
16 PERIOD OF TIME IT'S LEFT UP TO THE JUDGE AND THE
17 JURY TO TRY TO MAKE A DECISION, BALANCE IT OUT, YOU
18 KNOW, IS THE PERSON TELLING THE TRUTH, AND IT'S A BAD
19 WAY TO GO, BUT THAT'S WHAT HAPPENS

20 Q AS FAR AS THE TAPE RECORDED INTERVIEW, THE
21 INTERPRETATION THAT WE HAVE FROM THE TAPE RECORDING,
22 YOU LISTENED TO THE INTERROGATION SEVERAL TIMES I
23 BELIEVE WHAT CAN YOU TELL US ABOUT THE QUESTIONS
24 AND ANSWERS OF MR COPE ON THAT OCCASION AND WHAT
25 YOUR OPINION TELLS YOU FROM THAT?

002729

1 A WELL, I LISTENED TO THE TAPE AND I HAD TO
2 RELISTEN TO SOME PORTIONS OF IT MAYBE 10 TO 15 TIMES
3 TO UNDERSTAND A PARTICULAR WORD, ET CETERA, SO I CAN
4 PUT IT IN THE TRANSSCRIPT AND THEN I WENT AND
5 CONDUCTED AN ANALYSIS ON, FROM MY TRAINING, THE WORDS
6 OF GUILT OR INNOCENCE WHAT I CAN REFER TO PHRASES,
7 WORDS, THINGS OF THAT NATURE, AND IT'S A LITTLE BIT
8 EASIER NOW WITH COMPUTERS, BUT YOU CAN JUST PUT
9 SEARCH AND COME UP WITH CERTAIN WORDS, AND THAT'S
10 WHAT I DID AND I PREPARED A REPORT OF MY ANALYSIS
11 FROM MY NOTES TO BE USED BECAUSE I COULD NOT REMEMBER
12 EVERY SINGLE LITTLE WORD THAT WAS USED OR ANYTHING
13 LIKE THAT

14 Q OKAY ARE THERE ANY --

15 MR THOMPSON YOUR HONOR, I OBJECT AT
16 THIS TIME HE SAID HE HAS A REPORT WE'VE NOT SEEN
17 THE REPORT I ASK TO SEE IT AT THIS TIME

18 MR MORTON IT'S JUST, IT'S NOT A REPORT,
19 YOUR HONOR IT'S JUST AN ANALYSIS THAT

20 THE COURT WELL, I'LL ALLOW YOU TO GO
21 AHEAD AND I'M GOING TO REQUIRE HIM TO GIVE IT TO YOU
22 PRIOR TO CROSS EXAMINATION WE'LL TAKE A SHORT BREAK
23 BEFORE THAT

24 MR THOMPSON YOUR HONOR, I ALSO OBJECT
25 AT THIS TIME TO THE PSYCHOLOGICAL TESTIMONY AND NOT

002730

1 TESTIMONY AS TO INTERVIEW TECHNIQUES

2 THE COURT LET ME HEAR THE QUESTION AND
3 ANSWERS

4 MR MORTON OKAY

5 Q TYPICALLY IN AN INTERVIEW LIKE THIS AND
6 SPECIFICALLY AS TO THIS INTERVIEW, AS FAR AS THE TYPE
7 OF DENIALS, RESPONSE TIME BETWEEN QUESTIONS AND
8 ANSWERS, ARE THOSE SIGNIFICANT?

9 A IT'S VERY SIGNIFICANT YOU KNOW, SOMEONE WHO
10 DENIES AND CONTINUES TO DENY REPEATEDLY --

11 MR THOMPSON YOUR HONOR, I OBJECT ONCE
12 AGAIN, THIS IS SOMETHING PSYCHOLOGICAL

13 THE COURT I OVERRULE THE OBJECTION

14 Q GO AHEAD AS FAR AS THE REPETITIVE DENIALS AND
15 THE RESPONSES IN BETWEEN THE QUESTION AND DENIALS,
16 THE LENGTH OF TIME, PAUSES AND THOSE THINGS, CAN YOU
17 EXPLAIN THE SIGNIFICANCE OF THOSE?

18 A YES, SIR SOMEBODY WHO IS FIRM WILL SHOW AND
19 FIRM IN TELLING WHAT'S HAPPENED SOMEONE WHO USES
20 VERY LITTLE PAUSES TO TAKE TIME TO THINK AND SOMEBODY
21 WHO KEEPS DENYING CONTINUOUSLY, TO BE HONEST WITH
22 YOU, I HAVE NEVER SEEN SO MANY DENIALS IN MY ENTIRE
23 LIFE I DON'T KNOW, YOU CAN TAKE MANY CASES
24 COMBINED, THERE IS A LOT OF DENIALS IN THIS FOUR HOUR
25 INTERVIEW OF WHAT WORDS AND PHRASES I ACCEPT AS

002731

1 TEACHINGS AS WELL I'VE GOT, YOU KNOW, I'VE DONE
2 RESEARCH WHERE THESE BOOKS COME FROM, I MEAN WHERE
3 THESE PHRASES COME FROM, AND SO I'VE RELOOKED AT SOME
4 OF THOSE AND I COMPILED MY ANALYSIS TO WHERE I COULD
5 EXPLAIN SOME OF THE WORDS, SOME OF THE PHRASES, AND
6 SO THESE ARE SOME OF THE THINGS YOU LOOK FOR, NOT
7 ONLY THE FIRMNESS OF THE PERSON, THE DENIAL IF THEY
8 ARE FIRM, IF THEY CAN KEEP DENYING EVEN THOUGH THE
9 POLICE OFFICER KEEPS INSISTING, THAT'S USUALLY A SIGN
10 OF INNOCENCE AND YOU ARE CAUTIONED AS YOU ARE
11 INTERVIEWING PEOPLE TO LOOK FOR THESE THINGS TO WHERE
12 YOU NEED TO BE CAREFUL HOW FAR YOU GO BEYOND THAT
13 AND OF COURSE THERE ARE ALSO WHAT WE CALL SUGGESTIVE
14 WORDS, INTERROGATION SUGGESTIVE TECHNIQUES, TO WHERE
15 YOU MAY SUGGEST SOMETHING TO PEOPLE DREAM FOR
16 EXAMPLE WAS MENTIONED I THINK NINE TIMES IN HERE
17 AND SO THESE ARE THINGS THAT A SEASONED INVESTIGATOR
18 WILL LOOK AT AS WELL AS USE TO INTERROGATE PEOPLE

19 Q IS THE LENGTH OF TIME IN BETWEEN THE QUESTION
20 AND THE DENIAL SIGNIFICANT IN YOUR OPINION?

21 A MOST OF THE TIME IT'S VERY SIGNIFICANT,
22 DEPENDING ON OF COURSE WHAT THE QUESTION IS, CERTAIN
23 QUESTIONS REQUIRE MORE THOUGHT THAN OTHERS, SO A LOT
24 OF IT DEPENDS ON THE TYPE OF QUESTIONS, BUT IT'S VERY
25 SIGNIFICANT AND NOT ONLY THE AMOUNT OF DENIALS BUT

002732

1 THE WORDING OF THE DENIALS IF WE'RE REFERRING JUST
2 TO DENIALS ARE VERY SIGNIFICANT

3 Q AND WHAT DID YOU FIND SIGNIFICANT IN THIS CASE
4 ABOUT THE TYPE OF DENIALS THAT MR COPE IS USING?

5 A IF I MAY TAKE A MOMENT

6 Q YES

7 A PROBABLY THE MOST SIGNIFICANT THING WAS
8 THROUGHOUT THE ENTIRE INTERVIEW --

9 MR THOMPSON YOUR HONOR, I OBJECT ONCE
10 AGAIN IT IS BEYOND THE SCOPE OF WHAT HE'S QUALIFIED
11 TO TESTIFY TO HE'S ASKING HIM ABOUT THE TYPES OF
12 DENIALS THAT'S NOT INTERVIEW TECHNIQUES

13 MR MORTON SURE IT IS

14 THE COURT I OVERRULE THE OBJECTION

15 A I'M SORRY

16 Q GOOD AHEAD

17 A YOU KNOW, THE TEACHINGS THAT I USED TO HAVE IS
18 AN INNOCENT SUBJECT WILL USUALLY REMAIN STEADFAST
19 WITH THE DENIAL ALONE AND WILL FEEL NO NEED TO
20 EMBELLISH IT AT ALL THE SUSPECT CONSIDERS I DIDN'T
21 DO IT TO BE ENTIRETY ADEQUATE

22 THE COURT I'M GOING TO SUSTAIN THE
23 OBJECTION I THINK WE HAVE GONE OFF THE TECHNIQUE

24 Q MR GUERETTE, YOU HAVE TRAINED IN THIS FIELD AND
25 TAUGHT THIS SUBJECT, IS THIS SOMETHING THAT YOU TEACH

1 POLICE OFFICERS TO LOOK FOR, TO DETERMINE CLUES ABOUT
2 A PERSON, IS THIS SOMETHING THAT'S TAUGHT IN THE
3 LITERATURE LET ME ASK IF YOU RECOGNIZE THIS BOOK
4 AND IDENTIFY THAT FOR US?

5 A WELL, THIS IS CRIMINAL INTERROGATION THAT IS AN
6 OLDER EDITION I'VE GOT THE FOURTH EDITION, BUT
7 INBAU AND REID HAVE BEEN AUTHORS MOSTLY WIDELY USED
8 BY POLICE OFFICERS, CRIMINAL JUSTICE COURSES,
9 ACADEMIES, AND THINGS OF THAT NATURE AS IT'S
10 CONSIDERED ONE OF THE BIBLES OF POLICE OFFICER
11 TRAINING AND ALL THESE WORDS THAT I'M TALKING ABOUT
12 ARE TECHNIQUES, IF YOU WANT TO REFER TO IT AS
13 TECHNIQUES, YOU TEACH IN THE CLASS HOW TO RECOGNIZE
14 AND YOU RECOGNIZE IT BY THE WORDS, BY THEIR ACTIONS,
15 AND THESE ARE VERY EFFECTIVE WORDS THAT OVER THE
16 YEARS HAVE BEEN USED IN THE PAST 20 YEARS INBAU AND
17 REID AND DIFFERENT INTERROGATION TECHNIQUES HAVE
18 DEVELOPED BUT EVEN THE FBI ACADEMY, ALTHOUGH I DIDN'T
19 GO TO IT, I'VE SEEN SOME DOCUMENTS, THEY USE SOME OF
20 THE TEACHINGS OF INBAU AND REID, SO PEOPLE MIGHT NOT
21 REMEMBER THAT PARTICULAR TECHNIQUE I REFER TO IT AS
22 THE REID TECHNIQUE BECAUSE IT IS EASIER TO SAY THAN
23 INBAU AND REID EVERY TIME YOU WANT TO TALK ABOUT
24 SOMETHING, BUT IT'S AN INTERROGATION TECHNIQUE THAT
25 CERTAIN WORDS, CERTAIN PHRASES ARE SAID, THAT

002734

1 SIGNIFIES GUILT OR INNOCENCE AND THESE ARE THE WORDS
2 THAT YOU LOOK FOR, NOT ONLY IN ANALYZING A REPORT
3 AFTER IT'S DONE, OR RECORDING, BUT THESE ARE WORDS
4 THAT YOU USE, YOU ARE TRAINED TO USE, AS YOU ARE
5 INTERROGATING THE PERSON THAT'S WHY A LOT OF TIMES
6 YOU HAVE TWO PEOPLE SO ONE CAN LISTEN, THE OTHER ONE
7 CAN STAY ONE STEP AHEAD I DON'T KNOW WHO WAS
8 LISTENING ON THIS CASE BUT I THINK THEY MISSED QUITE
9 A FEW WORDS THAT SHOULD HAVE BEEN AN INDICATION THAT
10 THEY WERE GOING DOWN THE WRONG PATH

11 Q AND IN YOUR TRAINING AND YOUR EXPERIENCE AND
12 TEACHING THAT MANUAL, THE BIBLE AS YOU CALL IT, IS
13 SOMETHING THAT POLICE OFFICERS ALMOST UNIVERSALLY
14 TAUGHT---

15 MR THOMPSON YOUR HONOR, I OBJECT TO THE
16 LEADING

17 THE COURT THAT'S A LEADING QUESTION I
18 SUSTAIN --

19 Q DO YOU USE THAT --

20 MR THOMPSON OBJECTION, YOUR HONOR, HE'S
21 JUST CONTINUING THE QUESTION

22 THE COURT START OVER

23 Q MY QUESTION IS WHAT DO YOU USE TO TRAIN POLICE
24 OFFICERS IN WHAT TYPE OF RESPONSES TO LOOK FOR? WHAT
25 ARE THEY TAUGHT?

002735

1 A YOU USE AN OUTLINE THAT'S BEEN PREPARED BY
2 EITHER YOURSELF OR SOMEONE ELSE WHO HAS DONE THE
3 RESEARCH AND IN THAT OUTLINE YOU COVER ALL THESE DOES
4 AND DON'TS NOT ONLY DOES AND DON'TS DURING THE
5 INTERVIEWING PROCESS OR INTERROGATION, BUT ALSO THE
6 WORDS TO RECOGNIZE THAT CAN LEAD YOU TO A CERTAIN
7 DIRECTION

8 Q SO IS THAT IMPORTANT TO BE ABLE TO DETERMINE
9 WHAT WORDS ARE USED? WHAT WORDS, WHAT ANSWERS ARE
10 GIVEN?

11 A I THINK IT'S SIGNIFICANTLY IMPORTANT BECAUSE IF
12 YOU DON'T PAY ATTENTION TO WHAT THE PERSON IS SAYING
13 WHY ARE YOU INTERVIEW THEM? WHY ARE YOU
14 INTERROGATING THE PERSON? YOU OUGHT TO JUST SAY I'M
15 GOING TO PUT YOU IN JAIL NOW AND FORGET IT YOU
16 KNOW, IT'S SO IMPORTANT TO TRY TO DETERMINE WHETHER
17 OR NOT YOU ARE GOING IN THE RIGHT DIRECTION IN THE
18 DIRECTION AND WITHOUT IT I DON'T THINK YOU CAN MAKE A
19 DECISION

20 Q AND WERE THERE INDICATIONS IN THIS TAPE
21 RECORDING THAT WOULD HAVE LED YOU IN A CERTAIN
22 DIRECTION AND WHY?

23 A THERE ARE MANY INDICATIONS IN THIS RECORDING
24 THAT WOULD HAVE SENT ME IN A TOTALLY DIFFERENT
25 DIRECTION IN TRYING TO LOOK FOR SOMEONE ELSE, NOT

002736

1 TOTAL ELIMINATING MR COPE, BUT AT LEAST LOOKING AT
2 OTHER THINGS THAT SHOULD HAVE BEEN LOOKED AT AND
3 YOU ALSO HAVE TO TAKE INTO CONSIDERATION SOME OF THE
4 THINGS THAT WERE STATED THAT WERE LATER FOUND TO BE
5 INCORRECT, THAT ALSO GIVES YOU AN INDICATION THAT YOU
6 NEED TO DO SOMETHING ELSE IN THE INVESTIGATION
7 INSTEAD OF JUST THROWING IT UP IN THE AIR AND SAYING
8 WELL WE WILL LET THINGS FALL AS THEY DO

9 Q AND HIS DENIALS WOULD HAVE GIVEN YOU AN
10 INDICATION OF WHAT?

11 A INNOCENCE

12 Q OF WHAT?

13 A INNOCENCE

14 Q AND WHY IS THAT?

15 A BECAUSE THERE IS TOO MANY NOT ONLY FOR THE
16 BENEFIT --

17 MR THOMPSON ONCE AGAIN I OBJECT THIS
18 IS BEYOND THE SCOPE OF WHAT HE'S QUALIFIED TO DO

19 THE COURT I SUSTAIN THE OBJECTION

20 MR THOMPSON I ASK IT BE STRIKEN FROM
21 THE RECORD

22 THE COURT HE'S BEEN QUALIFIED TO TESTIFY
23 TO TECHNIQUE

24 MR MORTON YOUR HONOR, THE OFFICERS IN
25 THIS CASE HAVE BEEN ASKED THEIR, THEY ARE NO MORE

1 EXPERT THAN HE IS, THEY'D BEEN ASKED HIS OPINION

2 THE COURT WELL, I'M BASING MY RULING ON
3 THE OBJECTION TO WHERE WE ARE NOW

4 MR MORTON ALL RIGHT, SIR

5 Q AS FAR AS LOOKING AT THE EVIDENCE IN THIS CASE,
6 YOU HAVE TAKEN A LOOK AT THE EVIDENCE THAT WAS
7 COLLECTED IN THIS CASE?

8 A YES, SIR

9 Q YOU'VE TAKEN A LOOK AT THE STATEMENTS THAT WERE
10 ISSUED IN THIS CASE?

11 A YES, SIR

12 Q OKAY AND YOU ARE AWARE --

13 A SOME OF THEM, NOT ALL OF THEM

14 Q OKAY STATEMENTS BY MR COPE, YOU HAVE?

15 A OH, YEAH YEAH

16 Q OKAY AND THERE ARE REFERENCES IN SOME OF THESE
17 STATEMENTS TO BROOMS BEING USED, DILDOS BEING USED,
18 THAT KIND OF THING?

19 A RIGHT

20 Q WOULD YOU LOOK AT THOSE ITEMS IF YOU WERE AN
21 INVESTIGATOR IN THIS CASE TO TRY TO DETERMINE
22 EVIDENTARY VALUE OF THOSE?

23 MR THOMPSON OBJECT TO LEADING, YOUR
24 HONOR

25 THE COURT I SUSTAIN THE OBJECTION

002738

1 Q WHAT WOULD YOU HAVE LOOKED AT AS A RESULT OF HIS
2 STATEMENTS AS FAR AS THE EVIDENCE IN THIS CASE?

3 A WELL, THE FIRST THING I'D LOOK AT IS THE
4 FINDINGS OF THE SECRETION OR WHATEVER YOU WANT TO
5 REFER TO IT ON AMANDA'S BODY I WOULD DEFINITELY
6 WANT TO KNOW, YOU KNOW, WHERE THAT LEADS ME TO DOES
7 IT LEAD ME TO MR COPE OR DOES IT LEAD ME AWAY FROM
8 MR COPE CONTINUOUSLY MENTIONED THAT IT WAS NOT
9 GOING TO BE HIS IT WOULD'VE BEEN NICE, IF I'M A
10 POLICE OFFICER TRYING TO PROVE THAT HE DID IT, IT HAD
11 BEEN NICE IF IT HAD COME BACK AS HIS AND THEN I KNEW
12 I WAS ON THE RIGHT DIRECTION, SO THAT'S ONE OF THE
13 MAIN THINGS THAT SHOULD BE LOOKED AT

14 THE ITEMS PARTICULARLY SO IN THE VIDEO
15 TAPE WHERE HE DID THIS RE-ENACTMENT, THE ITEMS THAT
16 HE MENTIONED THERE, THE BROOMS, HANDLES, ALL OF THEM
17 SHOULD HAVE BEEN ANALYZED, EITHER PROVE OR DISPROVE
18 THAT'S A POLICE OFFICER'S RESPONSIBILITY NOT ONLY TO
19 PROVE BUT DISPROVE ALSO WHETHER OR NOT HE HAD
20 ANYTHING TO DO WITH THE SEXUAL ASSAULT YOU KNOW,
21 PEOPLE MAY THINK THE BROOM IS CLEAN BUT I'M NOT THE
22 TYPE PERSON BUT A FORENSIC PERSON ESPECIALLY IF THERE
23 IS A HANDLE ON THE PARTICULAR OBJECT OR A CREVICE AND
24 A MINOR CRACK, THERE IS ALWAYS SOMETHING THAT'S LEFT
25 BEHIND IT'S VERY HARD TO CLEAN AN ITEM IN MY

, 002739

1 EXPERIENCE I'VE SEEN KNIVES WASHED AND THE FORENSIC
2 PERSON HAS FOUND ITEMS ON THE KNIFE, IN THE GROOVES
3 OF THE HANDLE, WHATEVER THE CASE MAYBE, SO YOU JUST
4 DON'T LOOK AT IT AND SAY NOTHING THERE YOU HAVE TO
5 HAVE IT ANALYZED I'M TRYING TO THINK OF OTHER
6 THINGS THAT HE SUGGESTED THAT SHOULD HAVE BEEN
7 INVESTIGATED FURTHER

8 HE MENTIONED SOMEBODY POSSIBLY HIDING
9 IN A CLOSET SOMEONE SHOULD HAVE GONE BACK AND
10 LOOKED INSIDE THAT CLOSET BECAUSE THAT'S AN MO
11 THAT'S AN MO THAT YOU HAVE TO BE CAREFUL FOR AND IF
12 SOMEBODY HAS BEEN IN THE CLOSET, YOU MAY HAVE SOME
13 INDICATION, YOU MAY HAVE SOME HAIR, YOU MAY HAVE
14 OTHER ITEMS IN THAT CLOSET, SO ALL, THESE ARE SOME OF
15 THE THINGS THAT SHOULD HAVE BEEN DONE AND I KNOW SOME
16 OF IT WAS DONE I DON'T BELIEVE ALL OF IT WAS
17 DONE

18 Q WHAT ABOUT BLOOD? WOULD YOU HAVE LOOKED FOR,
19 WHAT WOULD YOU HAVE DONE TO TRY AND DETECT EVIDENCE
20 OF BLOOD BEING IN THAT HOUSE ON THAT DAY? WOULD YOU
21 HAVE GONE BACK AND TESTED OTHER ITEMS IN THE HOUSE
22 AND USED ANY KIND OF OTHER MATERIALS TO TRY AND
23 DETECT?

24 A WELL --

25 MR THOMPSON YOUR HONOR, I OBJECT

1 THE COURT THAT'S A LEADING QUESTION I
2 SUSTAIN THE OBJECTION

3 Q WHAT ELSE WOULD YOU HAVE DONE TO TRY AND CONDUCT
4 AN INVESTIGATION OF THIS HOUSE?

5 A WELL, I'M TRYING TO THINK OF THE ITEMS THEY
6 SEIZED AND I KNOW THEY SEIZED THE BLANKET AND THERE
7 IS A PHOTOGRAPH WHERE THERE WAS, WHAT IT LOOKED LIKE,
8 AND I DON'T KNOW IF IT'S BEEN TESTED OR NOT, BUT IT
9 HAD A RED SUBSTANCE TO IT IN THE BOTTOM OF THE
10 BLANKET THERE IS A PHOTOGRAPH OF WHERE HER HANDS
11 WERE BAGGED AND I CAN'T REMEMBER THE PHOTOGRAPH, BUT
12 IT'S ONE OF THE PHOTOGRAPHS I'VE SEEN, AND THE FACT
13 THAT THE LIGHTS, THERE IS AN ISSUE OF WHETHER THE
14 LIGHTS WERE ON OR OFF, I MEAN, I WORKED A MAJOR
15 HOMICIDE WHERE THAT WAS A MAJOR ISSUE ON THE LIGHT
16 SWITCH ITSELF IF SOMEBODY IS GOING TO TURN ON THE
17 LIGHT, THEY MAY NOT LEAVE BLOOD BUT THEY MAY LEAVE
18 SOME OTHER SECRETION TO WHERE LIGHT SWITCHES ARE USED
19 DAILY, IT'S NOT SOMETHING WHERE A LOT OF DUST WILL
20 GATHER, IT'S SOMETHING THAT SHOULD BE, GO BACK AND
21 TEST TO SEE IF THERE IS ANY SUBSTANCE OF DNA
22 BELONGING TO SOMEBODY ELSE I MEAN DNA IS A GREAT
23 THING AND POLICE OFFICERS NEED TO USE IT MORE AND
24 IT SHOULD HAVE BEEN USED MORE IN THIS PARTICULAR CASE
25 TO ANALYZE CERTAIN PARTS AND THEN OF COURSE ONCE

1 YOU KNOW A LITTLE BIT BETTER FROM THE MEDICAL
2 EXAMINER, FROM THE INTERVIEW, THEN YOU HAVE AN
3 OBLIGATION TO GO BACK TO THE CRIME SCENE AND LOOK FOR
4 ADDITIONAL EVIDENCE CHECKING THE DOORS

5 Q HOW IMPORTANT IS THE ANALYSIS OR THE RESULTS
6 THAT WERE DONE ON THESE BROOMS AND THE DILDO?

7 A WELL, I THINK IT'S VERY IMPORTANT IF MR COPE
8 WOULD HAVE USED IT, SOME OF HIS DNA WOULD HAVE BEEN
9 ON IT AND THE MANNER ---

10 MR THOMPSON YOUR HONOR, I OBJECT
11 THE COURT I SUSTAIN THE OBJECTION I
12 THINK WE ARE OUTSIDE HIS EXPERTISE HE'S HERE FOR
13 INVESTIGATION

14 MR MORTON BEG THE COURT'S INDULGENCE
15 FOR ONE SECOND MAY WE APPROACH THE BENCH, YOUR
16 HONOR

17 (BENCH CONFERENCE AT 12 19 PM)

18 THE COURT MEMBERS OF THE JURY PANEL, LET
19 ME LET YOU GO TO THE JURY ROOM JUST FOR A FEW
20 MINUTES

21 (THE JURY EXITS THE COURTROOM AT 12 20
22 PM)

23 THE COURT YOU WANT TO MAKE A PROFFER ON
24 WHAT ISSUE?

25 MR MORTON THE ISSUE OF, WHAT THE

1 TRAINING AND THE LITERATURE TEACHES OFFICERS ABOUT
2 THE TYPES OF DENIALS THAT YOU WOULD BE TRAINED TO
3 LISTEN FOR AS A POLICE INVESTIGATOR AND WHAT IT SAYS
4 IN THIS CASE

5 THE COURT GO AHEAD AND ASK THE QUESTION
6 IN CAMERA DIRECT BY MR MORTON

7 Q WHAT ARE POLICE OFFICERS TRAINED TO LOOK FOR AS
8 FAR AS THE, IN THE INTERROGATION PROCESS THE TYPES OF
9 DENIALS AND THE WORDS AND THE LANGUAGE THAT'S USED?

10 A WELL, ONE OF THE MAJOR ONES IS A VERY FIRM
11 DENIAL IS I DIDN'T DO IT OR I DID NOT DO IT AND
12 I'VE GOT A LIST OF EVERY TIME THESE WERE USED, BUT IN
13 COMBINATION WITH THAT IS I DID NOT DO IT, I DID NOT
14 DO ANYTHING I DID NOT I DIDN'T DO ANYTHING AND
15 THERE IS A TOTAL RESPONSE THERE IS OF I DID NOTS OF
16 74, JUST THE WORDS I DID NOT, THERE WERE 74 TIMES
17 THAT WAS USED, TOTAL OF ALL THE COMBINATIONS IS 142

18 Q WHAT'S THE SIGNIFICANCE OF THAT VERSUS SOME
19 OTHER RESPONSE?

20 A IT'S VERY SIGNIFICANT IN THAT THIS IS A SIGN OF
21 A SUSPECT ANSWERING THE QUESTION THAT YOU SHOULD
22 CONSIDER FOR THAT PERSON TO BE INNOCENT BECAUSE --

23 Q WHY IS THAT? WHAT WOULD THEY DO IF THEY
24 WEREN'T? IF YOU BELIEVE, IN OTHER WORDS, IS THERE A
25 DIFFERENCE IN JUST A SIMPLE I DID NOT OR I DIDN'T DO

1 IT VERSUS AN EXPLANATION OR AN EMBELLISHMENT OR
2 TRYING TO DO SOMETHING ELSE?

3 A OH, THERE DEFINITELY IS

4 Q EXPLAIN THAT TO US?

5 A JUST FOR EXAMPLE, WHEN WE TEACH WE TEACH DENIALS
6 OF GUILTY, DENIALS OF AN INNOCENCE, THAT'S WHAT WE'RE
7 LOOKING FOR WHEN WE'RE INTERROGATING SOMEBODY AND
8 SOME OF THE PHRASES OF DENIAL OF THE GUILTY ARE WHY
9 DO YOU THINK I DID THAT? ARE YOU SURE? HOW CAN THAT
10 BE? IT DOES? I KNEW THIS WOULD HAPPEN YOU ARE
11 JUST OUT TO GET ME I'M BEING FRAMED WE'VE ALL
12 HEARD THAT OVER PERIOD OF TIMES AS A RULE,
13 GENERALLY, TYPICALLY, THESE ARE WORDS THAT PEOPLE WHO
14 HAVE SIGNS OF GUILT USE IN DESCRIBING THEIR ACTIONS
15 AND ON THE FLIP SIDE OF THAT YOU'VE GOT OTHER WORDS
16 OF INNOCENCE I'M TELLING THE TRUTH I'M NOT LYING
17 I'M NOT LYING THESE ARE THE BASIC WORDS THAT YOU
18 ARE LOOKING FOR WHEN YOU ARE INTERVIEWING AND
19 INTERROGATING SOMEONE LIKE I SAID BEFORE, IF YOU
20 DON'T ANALYZE WHAT THE PERSON SAID, WHY ARE YOU
21 INTERROGATING THEM IT'S NOT A SIMPLE REASON OF I
22 WANT TO INTERROGATE THEM BECAUSE I'M HAVING FUN I
23 WANT TO INTERROGATE THEM BECAUSE I'M TRYING TO FIND
24 OUT WHAT HAS HAPPENED HERE AND THIS IS WHAT POLICE
25 OFFICERS ARE TAUGHT TO MAKE A DECISION ARE WE GOING

1 IN THE RIGHT DIRECTION IN THE INVESTIGATION IT'S
2 NOT A DECISION THAT I'M, YOU KNOW, YOU DON'T LOOK AT
3 IT TO BE ABLE TO SAY HEY I KNOW THIS GUY IS INNOCENT
4 WE'RE LOOKING AT IT AS A TECHNIQUE, THINGS THAT
5 PEOPLE SAY THAT ARE INDICATIONS, AND THE MORE YOU
6 HAVE THE BETTER IT IS MORE GUILT, MORE INNOCENCE
7 STATEMENT, SO EVERY CASE IS DIFFERENT AND JUST IN
8 THIS PARTICULAR CASE THERE WERE MANY, MANY DENIALS IN
9 MANY FORMS AND TRY TO BE FAIR, I ANALYZED THE ENTIRE
10 THING FOR WORDS OF GUILT AND I WASN'T SELECTIVE ABOUT
11 IT I WENT THROUGH THE CHAPTERS THAT I'M USED TO
12 CORRECTION, THE WORDS I AM USED TO AND I FOUND IT IN
13 CHAPTERS AS BEING CONCRETE WORDS THAT THE, WHATEVER
14 YOU WANT CALL THEM, EXPERTS, TEACHERS, PROFESSORS WHO
15 WRITE THESE BOOKS AS WELL AS POLICE OFFICERS WHO DO
16 RESEARCH AND HAVE THAT, THESE ARE WORDS THAT ARE VERY
17 SIGNIFICANT IN ANY INTERROGATION WHETHER YOU ARE
18 LOOKING FOR THE TRUTH OR YOU ARE LOOKING FOR
19 INNOCENCE

20 Q AND YOU SAID YOU WANT TO, WHAT DID YOU FIND?

21 A WELL, I THOUGHT THAT'S WHAT I WAS TALKING ABOUT

22 Q OKAY WHAT DID YOU FIND SPECIFICALLY AS TO THIS
23 CASE?

24 A OH, OH, OH, OH I'M SORRY THE PHRASES OF, THE
25 COMBINATIONS OF I DIDN'T DO IT, ET CETERA, OF COURSE,

1 THE MOST SIGNIFICANT ONE IS THE TERMINOLOGY THAT --

2 Q I GUESS MY QUESTION IS, WERE THERE INDICATIONS
3 FROM THE LANGUAGE THAT WERE USED, WHAT DID THAT LEAD,
4 WHAT WERE THE INDICATIONS FROM THE LANGUAGE THAT WAS
5 USED IN THE DENIALS?

6 A AFTER LISTENING TO THIS TAPE FOR FOUR HOURS THE
7 INDICATION TO ME WAS WE'RE ON THE WRONG PATH, WE
8 SHOULD LOOK ELSEWHERE, WE SHOULD TO TRY TO FIND OTHER
9 THINGS BESIDES CONCENTRATING ON MR COPE THAT'S
10 WHAT THE INDICATION THAT I RECEIVED AFTER READING
11 THIS

12 Q AND THAT'S BASED ON YOUR TRAINING AND EXPERIENCE
13 TEACHING THIS SUBJECT AND BASED UPON THE FACT THAT,
14 IS THAT BASED ON THE FACT THAT YOU ARE TAUGHT AND
15 POLICE OFFICERS ARE TAUGHT WHAT LANGUAGE TO LOOK FOR?

16 A RIGHT THEY ARE TAUGHT TO LOOK, NOT ONLY LOOK
17 AT THE LANGUAGE, BUT OTHER SIGNS OF INNOCENCE OR
18 GUILT EITHER WAY I MEAN, YOU ARE TRAINED TO
19 RECOGNIZE CERTAIN PHRASES, CERTAIN ACTIONS THAT
20 PEOPLE MIGHT DO AND SO YOU ARE TRAINED FOR THAT FOR
21 THE SIMPLE REASON OF BEING ABLE TO CONTINUE ON EITHER
22 THE COURSE THAT YOU ARE ON OR GO INTO A DIFFERENT
23 DIRECTION AND I MEAN, I DON'T KNOW HOW ELSE TO
24 EXPLAIN IT

25 MR MORTON THAT'S WHAT I WOULD PROFFER

1 AT THIS TIME, YOUR HONOR

2 THE COURT ANY OBJECTION TO THAT?

3 MR THOMPSON YES, SIR, YOUR HONOR

4 THE COURT I SUSTAIN THE OBJECTION WHAT
5 HE WOULD HAVE DONE IS NOT IMPORTANT THE QUESTION
6 IS, EXPERT'S TESTIFY AS TO OPINIONS, HE'S TESTIFIED
7 THAT HE WOULD HAVE DONE SOMETHING DIFFERENT, THAT'S
8 OF NO MOMENT

9 MR MORTON WELL, IT'S HIS OPINION

10 THE COURT HE DIDN'T SAY THAT HE DIDN'T
11 SAY IT WAS HIS OPINION

12 MR MORTON IS THAT YOUR OPINION?

13 THE COURT IT'S TOO LATE NOW, MR MORTON
14 HE'S ALREADY, YOU CAN'T LEAD HIM INTO THE ANSWER

15 MR MORTON WELL, I CAN ASK HIM ---

16 THE COURT AND YOU ---

17 MR MORTON WHAT I WAS TRYING TO DO, YOUR
18 HONOR, WAS HAVE HIM EXPLAIN WHAT HIS TRAINING AND
19 EXPERIENCE TEACHES AND IN HIS OPINION WHAT THIS
20 INTERROGATION SHOWS

21 THE COURT WELL, YOU ENDED YOUR PROFFER
22 AND HE DIDN'T TESTIFY TO HIS OPINION HE SAID THIS
23 IS WHAT I WOULD HAVE DONE AND I'M RULING THAT THAT IS
24 NOT ADMISSIBLE

25 MR MORTON CAN I ASK HIM WHAT HIS

1 OPINION WOULD BE?

2 THE COURT WELL, NOW CAN YOU, YES NOW
3 THAT HE KNOWS --

4 EXAMINATION BY MR MORTON

5 Q BASED ON YOUR EXPERIENCE AND YOUR TRAINING, WHAT
6 IS YOUR OPINION ABOUT THE RESPONSES IN THIS
7 INTERROGATION? WHAT DOES IT INDICATE?

8 A BASED ON MY EXPERIENCE, BASED ON MY TEACHINGS,
9 BASED ON EVERYTHING I LEARNED INTERROGATION,
10 INTERVIEWING TECHNIQUE MY OPINION IS THAT MR COPE
11 WAS VERY FIRM, HE MADE MANY DENIALS I DID NOT FIND
12 ANY GUILTY RESPONSES WHATSOEVER AND I CAN PROVE THAT
13 BY GOING THROUGH THE WORDS AND OF COURSE THESE ARE
14 WORDS THAT ARE ON TAPE IF NEEDS BE THAT HE STATED
15 THAT AS A PROFESSIONAL POLICE OFFICER THEY SHOULD
16 LOOK AT IN ORDER TO COMPLETE THEIR INVESTIGATION OF
17 THE CRIME TO PREVENT PEOPLE FROM BEING UNLAWFULLY
18 DETAINED, TO PREVENT PEOPLE FROM WRONGFULLY BEING
19 ACCUSED, WHATEVER THE CASE MAYBE, THESE ARE THINGS
20 THAT A POLICE OFFICER HAS THE OBLIGATION TO LOOK AT
21 TO ANALYZE AND TO MAKE A DECISION FROM THAT POINT ON
22 AS TO WHAT THE DIRECTION OF THE INVESTIGATION SHOULD
23 GO

24 Q AND IN YOUR OPINION WAS THAT DONE?

25 A NO, IT WAS NOT DONE

1 THE COURT ALL RIGHT MR THOMPSON, DO
2 YOU HAVE ANY VOIR DIRE OR COMMENT?

3 MR THOMPSON YES, SIR
4 IN CAMERA CROSS BY MR THOMPSON

5 Q NOW YOU SAID AN INDICATION OF SOMEONE WHO IS
6 INNOCENT WOULD BE TO SAY I DIDN'T DO IT, CORRECT?

7 A THAT WOULD BE ONE INDICATION

8 Q ALL RIGHT AND IN YOUR EXPERIENCE AS AN
9 INVESTIGATOR, OF COURSE, THAT WAS 72-82, IN THE
10 POLICE DEPARTMENT THERE WERE A LOT OF PEOPLE WHO TOLD
11 YOU THEY DIDN'T DO IT, RIGHT?

12 A (NO RESPONSE)

13 Q AND THEY WERE STILL GUILTY?

14 A (NO RESPONSE)

15 Q ISN'T THAT CORRECT?

16 A WELL --

17 THE COURT WELL, HE'S ASKING, ISN'T THAT
18 CORRECT? I MEAN THAT IS A YES OR NO ANSWER HAS
19 ANYBODY EVER TOLD YOU THAT THEY WERE INNOCENT AND YOU
20 LATER PROVED THAT THEY WERE GUILTY?

21 A THERE ARE PEOPLE THAT TOLD ME THEY DIDN'T DO IT
22 AND THEN CHANGED THEIR MIND

23 THE COURT I'M NOT ASKING YOU THAT
24 THAT'S NOT WHAT HE ASKED I DON'T BELIEVE HE ASKED
25 YOU HAS A SUSPECT EVER TOLD, IF I'M WRONG MR

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1 THOMPSON---

2 MR MORTON YOUR HONOR, I'M SORRY

3 THE COURT WELL, I'M JUST TRYING TO GET
4 THIS MAN TO ANSWER THE QUESTION AS I UNDERSTOOD ASK
5 IT AGAIN SO I WON'T INTERPOSE MY THOUGHTS ON THE
6 CASE

7 Q AS AN OFFICER, WHEN YOU WERE WORKING AS AN
8 OFFICER, DIDN'T YOU HAVE TIMES WHEN YOU INTERROGATED
9 SOMEONE AND THEY SAID I DID NOT DO IT, BUT YOU LATER
10 PROVED THAT THEY DID DO IT?

11 A YES, IF I CAN EXPLAIN

12 THE COURT EXPLAIN

13 A I'M NOT SAYING JUST BECAUSE SOMEBODY SAYS I DID
14 NOT DO IT AT ONE TIME DOESN'T MEAN THAT THEY DIDN'T
15 DO IT WHAT I'M SAYING IS YOU HAVE TO LOOK AT THE
16 REPETITIOUS, YOU HAVE TO LOOK AT THE TONE OF VOICE,
17 THE FIRMNESS, AND THE WAY THEY DO IT YES, I'VE HAD
18 PEOPLE TELL ME I DID NOT DO IT AND PROVE LATER ON
19 THAT THEY DID DO IT, BUT THEY CHANGE AND THERE IS NOT
20 ONLY -- I'M NOT SAYING THAT ALL YOU HAVE IN THIS
21 WORLD IS SOMEBODY SAYS I DIDN'T DO IT, YOU LET THEM
22 GO FREE THAT'S NOT WHAT I'M SAYING I'M SAYING IS
23 THESE ARE SOME OF THE THINGS THAT AS A LAW
24 ENFORCEMENT OFFICER YOU SHOULD LOOK AT, THINGS THAT I
25 USED TO TEACH, STILL TEACH, AT THE CRIMINAL

1 INVESTIGATION COURSES AT UNCC THAT I TEACH SO IT'S
2 NOT A SIMPLE I DIDN'T DO IT IT'S A COMBINATION OF
3 THINGS THAT MAKES A DIFFERENCE

4 Q ALL RIGHT AND IN THIS CASE MR COPE DID CHANGE
5 AND ULTIMATELY SAID HE DID DO IT, DIDN'T HE?

6 A WELL --

7 THE COURT THAT'S NOT --

8 A HE GAVE A --

9 THE COURT YOU CAN EXPLAIN YOUR ANSWER,
10 BUT THAT'S A YES OR NO QUESTION

11 A WELL, SIR

12 THE COURT YES OR NO, THEN YOU CAN
13 EXPLAIN

14 MR MORTON I DON'T UNDERSTAND WHY WHEN
15 I'M UP THERE ASKING HIM HE'S NOT ABLE TO GIVE HIS,
16 WHAT HE ANALYZED IN THIS CASE, HE HAS TO DO IT IN
17 PHRASE OF OPINION YET WHEN THEY DO IT --

18 THE COURT WELL, I CAN TELL YOU WHY
19 BECAUSE THEY ARE ENTITLED, JUST LIKE YOU ARE, TO A
20 YES OR NO FROM ANY WITNESS AND HE SAID DID HE LATER
21 CHANGE HIS MIND AND CONFESS, IF THIS MAN DOESN'T KNOW
22 HE CAN SAY I DON'T KNOW IF HE KNOWS HE DID, THEN HE
23 CAN EXPLAIN WELL THE CONFESSION IS FLAWED OR HE CAN,
24 YOU KNOW, I DON'T KNOW HOW FAR HE CAN GO WITH THAT
25 BECAUSE HE'S NOT QUALIFIED FOR THAT, BUT I MEAN --

1 I'M NOT TRYING TO PICK YOU OUT OR ANYBODY ELSE OR
2 THIS WITNESS OUT, BUT TRADITIONALLY WHEN A QUESTION
3 IS BEING ANSWERED YES OR NO, YOU ANSWER YES OR NO,
4 AND THEN EXPLAIN YOUR ANSWER AND I'M NOT SINGLING
5 HIM OUT BUT WHEN -- IF HE DOESN'T KNOW, YES OR NO,
6 OR I DON'T KNOW I GUESS IS THE THIRD ALTERNATIVE, SO
7 ASK THE QUESTION THEN YOU CAN, MR GUERETTE, YOU CAN
8 THEN ANSWER IT AND IF YOU HAVE AN EXPLANATION YOU CAN
9 GIVE IT, BUT YOU GOT TO ANSWER FIRST

10 A WELL, SIR, I WAS TRYING TO ANSWER BUT I DIDN'T
11 GET A CHANCE TO FINISH IT

12 THE COURT I NEVER -- OKAY TRY AGAIN
13 ASK HIM THE QUESTION AND SEE

14 Q DIDN'T HE ULTIMATELY CONFESS AND HE SAY HE DID
15 DO IT?

16 A WELL, YES, HE DID THAT'S WHAT -- I SAID WELL
17 AND I GOT STOPPED BEFORE I COULD FINISH

18 THE COURT IF YOU ARE GOING TO START
19 DEBATING ME WE'RE GOING TO HAVE A LOT OF TROUBLE

20 A I'M NOT DEBATING ANYBODY I'M JUST SAYING THAT
21 IS MY ANSWER WELL YES, HE DID I WAS TRYING TO THINK
22 OF WHAT YOUR QUESTION WAS AT THE SAME TIME I SAID
23 WELL BEFORE I SAID YES I'M SORRY

24 Q ARE YOU TRAINED IN PSYCHOLOGY?

25 A NO

1 Q PSYCHIATRY?

2 A NO

3 MR THOMPSON NO FURTHER QUESTIONS, YOUR
4 HONOR, BUT WE DO OBJECT

5 THE COURT MR GREELEY, DO YOU HAVE ANY
6 QUESTIONS?

7 MR GREELEY NO, YOUR HONOR

8 THE COURT ALL RIGHT I'M GOING TO ALLOW
9 HIM TO TESTIFY BUT IF HE GETS INTO WHAT HE WOULD DO
10 AGAIN, I'M NOT GOING TO ALLOW HIM TO TESTIFY TO THAT
11 LET'S TAKE ABOUT A TWO MINUTE REFRESHER BREAK AND YOU
12 CAN STEP DOWN, MR GUERETTE, AND USE THE RESTROOM AND
13 THEN GET THE JURY BACK IN BUT LET'S MAKE IT REAL
14 SHORT DON'T DISAPPEAR ON ME

15 (COURT IS IN RECESS AT 12 33 PM)

16 (COURT RESUMES AT 12 38 PM)

17 THE COURT LET'S BRING IN THE JURY

18 (THE JURY RETURNS TO THE COURTROOM)

19 THE COURT YOU MAY PROCEED

20 DIRECT EXAMINATION BY MR MORTON

21 Q BASED ON YOUR EXPERIENCE, MR GUERETTE, AND IN
22 YOUR PROFESSIONAL OPINION IS THERE ANY SIGNIFICANCE
23 IN THE LANGUAGE OR THE TONE OF MR COPE'S DENIALS IN
24 THIS CONVERSATION?

25 A YES, THERE IS

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1 Q AND WHAT IS THE SIGNIFICANCE OF THAT? WHAT DOES
2 THAT INDICATE TO YOU? AND WHY?

3 A THE ---

4 Q IN YOUR OPINION?

5 A I'M A LITTLE CONFUSED BUT, CAN YOU ASK ME AGAIN
6 WHAT

7 Q OKAY BASED ON YOUR EXPERIENCE AND IN YOUR
8 OPINION IS THERE ANY SIGNIFICANCE TO BE ATTACHED IN
9 THE LANGUAGE AND THE TONE OF MR COPE'S DENIALS?

10 A YES, SIR, THERE IS

11 Q OKAY AND WHAT IS THE SIGNIFICANCE OF THAT IN
12 YOUR OPINION? WHAT DOES THAT CONCLUDE? WHAT DOES
13 THAT INDICATE TO YOU IN YOUR OPINION?

14 A THE INDICATION OF THE ANALYSIS THAT I DID AND
15 THE WORDS THAT HE'S USED, THE TONES HE'S USED,
16 INDICATION THAT HE'S AN INNOCENT PERSON DURING THE
17 FOUR HOURS OF INTERVIEW INTERROGATION THAT WAS
18 CONDUCTED, BY THE WORDS THAT WERE USED, AND THE WORDS
19 WERE NOT USED AS WELL IN OTHER WORDS, WORDS OF
20 GUILT THAT WERE NOT USED BY HIM

21 Q OKAY PLEASE ANSWER ANY QUESTIONS MR THOMPSON
22 MAY HAVE

23 MR THOMPSON I ANTICIPATE THAT THIS
24 CROSS WILL BE QUITE LENGTHY AND I WOULD LIKE TO SEE
25 THE REPORT BEFORE I DO CROSS

1 THE COURT THIS PROBABLY WOULD BE A GOOD
2 TIME TO BREAK FOR LUNCH BECAUSE I TOLD HIM HE COULD
3 HAVE AN OPPORTUNITY TO REVIEW THE REPORT THAT YOU
4 HEARD US MENTION EARLIER SO WE'LL BREAK UNTIL TWO
5 O'CLOCK SEE BACK AT TWO O'CLOCK IT'S A LITTLE
6 OVER AN HOUR, QUARTER OF AN HOUR HAVE A PLEASANT
7 LUNCH

8 (THE JURY EXITS THE COURTROOM AT 12 42
9 PM)

10 THE COURT MR GUERETTE, SINCE YOU ARE
11 UNDER OATH AND ON THE STAND YOU CAN'T DISCUSS THE
12 CASE WITH ANYBODY OR OVER THE LUNCH BREAK OBVIOUSLY
13 YOU CAN GO DOWN AND HAVE LUNCH, YOU DON'T HAVE TO SIT
14 THERE WHILE WE'RE AT LUNCH, BUT DON'T DISCUSS THE
15 CASE WITH ANYONE

16 (THE JURY EXITS THE COURTROOM)

17 MR GREELEY YOUR HONOR, I'LL TAKE IT
18 UP WHEN IT'S MY TURN YOUR HONOR, IN REGARDS TO THE
19 LAST ANSWER BY THE WITNESS, THAT HAPPENED REAL
20 QUICKLY AND THE JURY WENT OUT, I WOULD JUST MAKE AN
21 OBJECTION TO THE PHRASEOLOGY AND THIS JUST MAY BE
22 SEMANTICS, IT WAS MY UNDERSTANDING THAT HE WAS GOING
23 TO TESTIFY IT WAS HIS OPINION THE POLICE SHOULD HAV
24 GONE ANOTHER WAY AND INSTEAD HE TESTIFIED THAT THE
25 INDICATION IS THAT MR COPE IS AN INNOCENT PERSON AND

1 I WOULD OBJECT TO THAT LANGUAGE AS TO HIM BEING AN
2 INNOCENT PERSON

3 THE COURT OF COURSE, OBVIOUSLY YOU CAN
4 CROSS EXAMINE HIM ALL RIGHT, WE'LL BREAK FOR LUNCH
5 UNTIL WHATEVER I SAID TWO O'CLOCK

6 (COURT'S IN RECESS AT 12 44 PM)

7 (COURT RESUMES AT 2 04 AND THE
8 DEFENDANTS ARE PRESENT)

9 MR MORTON YOUR HONOR, WE'VE GOT A
10 WITNESS WHO HAS BEEN HERE ALL MORNING AND WHO IS GOT
11 CHILDREN PROBLEMS, IT'S VERY, VERY SHORT

12 THE COURT I GOT CHILDREN PROBLEMS TOO
13 AND I DIDN'T GET TO GO HOME

14 MR MORTON WELL, IT'S A VERY, VERY
15 SHORT

16 THE COURT DO ANY OF Y'ALL OBJECT

17 MR THOMPSON NO, YOUR HONOR

18 MR GREELEY NO OBJECTION

19 THE COURT ALL RIGHT BRING IN THE JURY

20 (THE JURY RETURNS TO THE COURTROOM AT
21 02 04 PM)

22 THE COURT WE HAVE A WITNESS WE'RE GOING
23 TO TAKE OUT OF ORDER BECAUSE WE'RE NOT THROUGH WITH
24 MR GUERETTE, SO IF YOU WANT TO CALL YOUR NEXT
25 WITNESS AND THEN THIS IS BY AGREEMENT OF THE PARTIES

1 THIS IS THE WITNESS ON BEHALF OF MR COPE

2 MR BAITY PLEASE THE COURT, YOUR HONOR

3 THE COURT SURE

4 MR BAITY WE WOULD CALL FRAN MCGEE TO
5 THE STAND

6 THE COURT PLEASE COME UP AND BE SWORN

7 FRAN MCGEE, BEING FIRST DULY

8 SWORN, TESTIFIED AS FOLLOWS

9 DIRECT EXAMINATION BY MR BAITY

10 Q COULD YOU GIVE US YOUR FULL NAME AND ADDRESS?

11 A IT'S HELEN S MCGEE AND 435 SAIL BOAT DRIVE,
12 SALISBURY, NORTH CAROLINA

13 Q MRS MCGEE, WHAT DO YOU DO FOR A LIVING?

14 A ACTUALLY RIGHT NOW I'M JUST WORKING AT A REAL
15 ESTATE COMPANY

16 Q OKAY AND WHAT DID YOU DO BEFORE YOU WERE
17 EMPLOYED AT A REAL ESTATE EMPLOYEE?

18 A I WORKED AT THE YORK COUNTY DETENTION CENTER

19 Q YOU WORKED AT THE YORK COUNTY DETENTION CENTER
20 IN THIS BUILDING?

21 A YES, SIR

22 Q AND HOW LONG DID YOU WORK THERE?

23 A FROM '98 UNTIL 2003

24 Q ALL RIGHT AND WHAT, IN WHAT CAPACITY WERE YOU
25 EMPLOYED? WHAT DID YOU DO?

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1 A I WAS A CORRECTIONS OFFICER

2 Q IS THAT OTHERWISE KNOWN AS A GUARD?

3 A YES, SIR

4 Q OKAY AND DID YOU HAVE OCCASION TO MEET

5 MR BILLY WAYNE COPE WHILE HE WAS AN INMATE THERE AND

6 WHILE YOU WERE A GUARD?

7 A YES, SIR

8 Q OKAY SO HE WAS IN THE INSTITUTION WHEN YOU

9 WERE WORKING THERE?

10 A YES, SIR

11 Q DID PART OF YOUR DUTIES EVER INVOLVE HANDING OUT

12 MATERIALS TO INMATES?

13 A YES, SIR

14 Q AND WHAT TYPES OF THINGS WOULD BE HANDED OUT TO

15 THE INMATES?

16 A THEIR COMMISSARY AND THEIR MAIL

17 Q THEIR COMMISSARY AND THEIR MAIL?

18 A AND THEIR MAIL

19 Q WE OBVIOUSLY KNOW WHAT MAIL IS, BUT WHAT WOULD

20 COME FROM THE COMMISSARY?

21 A ITEMS THAT THEY WOULD ORDER WHETHER IT BE FOOD

22 ITEMS OR WRITING MATERIALS, STAMPS, ENVELOPES

23 Q ALL RIGHT NOW OTHER THAN ITEMS FROM THE

24 COMMISSARY AND ITEMS THAT THEY RECEIVED IN THE MAIL,

25 WERE INMATES GIVEN ACCESS TO ANY OTHER TYPES OF

1 MATERIALS OR WAS THAT THE ONLY WAY, THE ONLY TWO WAYS
2 THEY COULD OBTAIN MATERIALS IN THE JAIL?

3 A THE ONLY WAYS THEY CAN OBTAIN IT WAS THROUGH
4 COMMISSARY OR INDIGENT

5 Q ALL RIGHT NOW WHAT WAS AVAILABLE TO THE
6 INMATES FROM THE COMMISSARY?

7 A FOR WRITING MATERIAL, THEY WOULD HAVE A LEGAL
8 PAD THAT WAS YELLOW, A SMALL LEGAL PAD THAT WAS A
9 WHITE PAD

10 Q I DIDN'T SPECIFICALLY ASK YOU ABOUT WRITING
11 MATERIALS, WRITING MATERIALS WOULD BE AVAILABLE?

12 A RIGHT

13 Q WHAT ELSE WAS AVAILABLE THROUGH THE COMMISSARY?

14 A JUST THEIR FOOD, CRACKERS, CHIPS, THINGS LIKE
15 THAT

16 Q BUT YOU HAVE ALREADY TOLD US THAT THERE WERE
17 WRITING MATERIALS THAT WERE AVAILABLE TO INMATES
18 THEN?

19 A RIGHT

20 Q NOW WAS THAT THE ONLY WRITING MATERIALS THAT
21 WERE AVAILABLE TO INMATES?

22 A WAS THE YELLOW PAD

23 Q I'M JUST SAYING, THE ONES THEY GOT FROM THE
24 COMMISSARY --

25 A RIGHT, OTHER THAN INDIGENT UNLESS THEY WERE

1 INDIGENT THEN THEY WOULD GET WHITE COPY PAPER, PRETTY
2 MUCH LIKE TYPING PAPER

3 Q ALL RIGHT NOW IF AN INMATE OBTAINED WRITING
4 MATERIALS, FOR EXAMPLE, THAT WERE NOT FROM THE
5 INDIGENT SUPPLY OR THEY WERE NOT FROM THE COMMISSARY,
6 WOULD THAT BE ALLOWED IN THE RULES OF THE JAIL?

7 A NO, THAT WOULD BE CONTRABAND

8 Q THAT WOULD CONSIDERED CONTRABAND?

9 A RIGHT

10 Q AND HOW WAS CONTRABAND TREATED AT THE YORK
11 COUNTY DETENTION CENTER?

12 A IT WAS REMOVED FROM WHOEVER HAD IT

13 Q AND WERE THE GUARDS INSTRUCTED TO BE ON THE LOOK
14 OUT FOR CONTRABAND?

15 A YES

16 Q I'M GOING TO SHOW YOU, MAY I APPROACH THE
17 WITNESS, YOUR HONOR, THREE PIECES OF PAPER AND I WANT
18 YOU TO LOOK AT THOSE AND SEE IF YOU RECOGNIZE THEM?

19 A THIS WOULD BE THE SMALL PAPER, THEN THERE
20 ARE----

21 Q I'LL ASK YOU ABOUT THEM IN A MOMENT I JUST WANT
22 TO KNOW IF YOU RECOGNIZE THEM?

23 A YES

24 Q ALL RIGHT AND DO YOU RECOGNIZE THESE AS THE
25 TYPE OF PAPER THAT WAS AVAILABLE TO INMATES?

1 A YES

2 Q ALL RIGHT

3 THE COURT WAS THAT A YES I DIDN'T HEAR
4 AN ANSWER

5 MR BAITY I THOUGHT SHE SAID YES

6 A YES

7 MR BAITY YOUR HONOR, WE MOVE TO
8 INTRODUCE THESE AS EXHIBITS

9 MR BRACKETT WITHOUT OBJECTION

10 MR GREELEY NO OBJECTION

11 THE COURT BE RECEIVED WITHOUT OBJECTION

12 (DEFENSE EXHIBIT NUMBER 67, 68, AND 69
13 PAPERS RECEIVED INTO EVIDENCE)

14 MR BAITY I BEG THE COURT'S INDULGENCE

15 Q NOW MRS MCGEE, I'M GOING TO SHOW YOU WHAT'S
16 BEEN MARKED AS DEFENSE EXHIBIT 67, 68, AND 69 I'M
17 GOING TO ASK YOU TO TELL ME, WAS THERE ANY OTHER TYPE
18 OF WRITING MATERIALS AVAILABLE TO INMATES THROUGH ANY
19 SOURCE OTHER THAN THE THREE THAT ARE SHOWN IN THOSE
20 EXHIBITS?

21 A TO MY KNOWLEDGE, NO

22 Q I WOULD SPECIFICALLY ASK YOU REFERRING TO
23 STATE'S EXHIBIT, STATE'S EXHIBIT 90 WHICH IS ONE OF
24 THE QUESTION LETTERS, PLEASE TAKE A GOOD CLOSE LOOK
25 OF THAT?

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1 A YES

2 Q YOU SEE THE TYPE OF PAPER THAT IT IS, DO YOU

3 RECOGNIZE THAT AS BEING PART OF THAT TYPE OF PAPER?

4 A NO, SIR

5 Q SPECIFICALLY I WOULD POINT OUT THAT THIS IS, HAS

6 A RED MARGIN ON THE LEFT, YOU SEE THAT?

7 A YES, SIR

8 Q DO YOU SEE THAT? DO ANY OF THOSE DOCUMENTS HAVE

9 A RED MARGIN ON THE LEFT?

10 A NO, SIR

11 Q AND THIS IS A SMALL PIECE OF PAPER, WOULD YOU

12 AGREE WITH ME?

13 A YES, SIR

14 Q AND THIS IS A SMALL PIECE, ARE THEY THE SAME

15 SIZE?

16 A NO, SIR

17 Q I'M GOING TO SHOW YOU WHAT'S BEEN MARKED STATE'S

18 EXHIBIT 89 AND IT APPEARS TO BE A LETTER IN THERE

19 YOU SEE THAT?

20 A YES, SIR

21 Q ALL RIGHT AND I'M GOING TO POINT OUT THAT IT

22 ALSO HAS A TRIPLE MARGIN ON THE LEFT, DO YOU

23 RECOGNIZE THIS PAPER AS THE TYPE THAT WOULD BE

24 AVAILABLE TO INMATES AT THE YORK COUNTY DETENTION

25 CENTER?

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1 A NO, SIR

2 Q HAVE YOU EVER SEEN THIS TYPE OF PAPER BEING
3 AVAILABLE WITH THE RED MARGINS AND SO FORTH BEING
4 AVAILABLE FOR INMATES TO USE WHILE AT THE YORK COUNTY
5 DETENTION CENTER?

6 A NO, SIR

7 Q AND YOU WERE THERE FOR HOW LONG?

8 A FROM '98 TO 2003

9 Q SO YOU WERE THERE FROM 2001 UNTIL 2003?

10 A YES

11 Q IS THAT RIGHT? WHEN DID YOU LEAVE IN 2003?

12 A JULY

13 Q IN JULY WOULD HAVE BEEN LAST JULY?

14 A YES

15 MR BAITY COURT'S INDULGENCE, YOUR
16 HONOR YOUR HONOR, PERMISSION TO PUBLISH THE
17 EXHIBITS TO THE JURY

18 THE COURT SURE

19 MR BAITY YOUR HONOR, I WOULD ALSO SEEK
20 PERMISSION TO PUBLISH THESE EXHIBITS TO THE JURY AS
21 WELL

22 THE COURT ALL RIGHT

23 Q ONE MORE QUESTION, MRS MCGEE YOU MENTION THE
24 MAIL WAS DELIVERED TO INMATES WAS MAILED DELIVERED
25 TO INMATES THE SAME WAY THAT ITEMS FROM THE

1 COMMISSARY WERE DELIVERED?

2 A THE OFFICER GAVE THE MAIL OUT AND THEY HAD TO
3 SIGN FOR IT

4 Q AND IT WAS DELIVERED TO THEM IN A BAG?

5 A THEIR MAIL?

6 Q YES

7 A WAS DELIVERED --

8 Q OR COMMISSARY

9 A THEIR COMMISSARY COME IN A BAG THAT WAS SEALED
10 AND YOU OPENED IT AND GAVE IT TO THEM IN FRONT OF
11 THEM AND COUNTED EVERY ITEM, BUT THEIR MAIL COME IN
12 THE AFTERNOON AND YOU HANDED THEM THEIR MAIL AND THEY
13 SIGN FOR IT

14 Q AND HOW NOW WAS MAIL HANDLED? WAS IT JUST
15 HANDED TO THEM UNOPENED?

16 A BEFORE THEY GOT THE MAIL IT WAS ALREADY OPENED
17 AND THEN STAPLED BACK TOGETHER

18 Q AND WHAT WOULD BE THE PURPOSE OF OPENING THE
19 MAIL THAT WAS GIVEN TO AN INMATE?

20 A THEY CHECK TO MAKE SURE THERE IS NO CONTRABAND
21 IN THEM

22 Q AND THAT WAS DONE IN EACH AND EVERY ITEM OF MAIL
23 THAT CAME IN THERE?

24 A EXCEPT FOR LEGAL MAIL

25 Q I'M SORRY

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1 A EXCEPT FOR LEGAL MAIL

2 Q YES, MA'AM AND DID YOU PARTICIPATE IN THAT
3 ACTIVITY?

4 A YES, SIR

5 Q AND WHAT WOULD YOU DO IF YOU FOUND CONTRABAND IN
6 AN INMATE'S MAIL?

7 A YOU REMOVE IT AND TURNED IT IN TO YOUR
8 LIEUTENANT

9 Q THANK YOU ANSWER ANY QUESTIONS THE PROSECUTION
10 OR MR GREELEY MAY HAVE
11 CROSS EXAMINATION BY MR BRACKETT

12 Q HI, FRAN HOW ARE YOU?

13 A GOOD

14 Q MR BAITY WAS ASKING YOU SOMETHING ABOUT THE
15 COMMISSARY, TALKED TO YOU ABOUT THE COMMISSARY?

16 A RIGHT

17 Q AND HOW YOU ORDER ITEMS FROM THE COMMISSARY WHEN
18 YOU WERE IN THE DETENTION CENTER?

19 A RIGHT

20 Q THERE IS LIKE FOUR OR FIVE DIFFERENT PACKS OF
21 THINGS YOU CAN GET, RIGHT?

22 A RIGHT

23 Q PACK ONE CONTAINS CERTAIN THINGS, PACK TWO
24 CONTAINS CERTAIN THINGS MOST OF THE TIME THOUGH IF
25 YOU ARE BUYING A PACK OF SOMETHING, IT'S NOT A WHOLE

1 PAD OF PAPER, YOU GET THREE OR FOUR SHEETS AT A TIME,
2 ISN'T THAT RIGHT?

3 A SOME OF THE PACKS MAYBE NORMALLY IT DEPENDS ON
4 IF YOU ARE, WHICH HOUSING UNIT YOU ARE IN

5 Q WELL, LIKE YOU COULD FOR A BUCK 95 INDIGENT PACK
6 THREE FOUR SHEETS OF PAPER, TWO STAMPED ENVELOPES,
7 ONE AND A HALF OUNCES OF TOOTHPASTE?

8 A RIGHT

9 Q BUT YOU DIDN'T GET A WHOLE PAD?

10 A THAT WOULD BE WHITE COPY PAPER

11 Q OKAY WHAT THE WHITE COPY PAPER WOULD BE WHAT
12 YOU GET A PAD OF?

13 A YOU WOULD GET THE SHEETS OF

14 Q OKAY AND THAT'S WHAT YOU GET IN THESE PACKS?

15 A FOR INDIGENT

16 Q AND THAT'S THE ONLY WAY YOU CAN GET ANY KIND OF
17 PAPER, IS THAT RIGHT?

18 A IS TO ORDER IT THROUGH THE COMMISSARY OR RECEIVE
19 INDIGENT

20 Q AND FOUR SHEETS OF PAPER WITH A COUPLE OF
21 ENVELOPES AND SOME TOOTHPASTE OR WHATEVER, THAT COSTS
22 LIKE A BUCK 95?

23 A RIGHT

24 Q SO IF YOU WANT PAPER THAT'S A COMMODITY?

25 A RIGHT WHEN YOU ARE INDIGENT, THEY DO SUPPLY

1 YOU WITH PAPER

2 Q OKAY?

3 A EVEN IF YOU DON'T HAVE THE MONEY

4 Q OKAY BUT INMATES GET VISITS TOO, RIGHT?

5 A RIGHT

6 Q FROM THEIR LAWYERS?

7 A YES

8 Q AND THEY CAN ACTUALLY SIT DOWN IN THE CONFERENCE
9 ROOM AND TALK PRIVATELY, NOT MONITORED BY?

10 A YES

11 Q ANYBODY ELSE AND THEY GET, THEY HAVE LEGAL
12 FILES AND FOLDERS THAT THEY CAN CARRY THEIR LEGAL
13 PAPERS IN AND THAT SORT OF THING?

14 A YES

15 Q SO THEY ARE ALLOWED TO CARRY THOSE TYPES OF
16 THINGS AROUND?

17 A YES, SIR

18 Q ON THE GRAND SCHEME OF CONTRABAND, ON THE BIG
19 CONTRABAND SCALE, AT ONE END IS GUNS, KNIVES, DRUGS,
20 THOSE ARE THE MOST SERIOUS TYPES OF CONTRABAND?

21 A RIGHT

22 Q THAT'S WHAT YOU ARE REALLY LOOKING FOR?

23 A PRETTY MUCH

24 Q HOW INTENSIVE WERE YOUR EFFORTS TO KEEP UP WITH
25 THE FLOW OF PAPER THROUGH THE DETENTION CENTER? IS

1 THAT KIND OF LIKE DOWN LOW ON THE END OF THE SCALE?
2 YOU DON'T REALLY CARE TOO MUCH -- I MEAN, YOU DO, BUT
3 YOU ARE MORE CONCERNED ABOUT GUNS AND DRUGS, IS THAT
4 A FAIR STATEMENT?

5 A THE MAIN WAY WE WOULD CATCH IT IS WHEN THEIR
6 LEGAL MAIL COME IN, THEY HAD TO OPEN IT IN FRONT OF
7 US

8 Q OKAY

9 A THAT WOULD BE THE MAIN WAY TO CATCH IT, BUT WE
10 DID WALK AROUND AND CHECK AND MAKE SURE THEY HAD THE
11 RIGHT PAPER

12 Q OKAY WELL, IT'S NOT INCONCEIVABLE, PEOPLE DO
13 GET DRUGS IN THE JAIL, RIGHT?

14 A YES, SIR

15 Q AND PEOPLE GET WEAPONS, SHANKS?

16 A YES, SIR

17 Q IT'S NOT INCONCEIVABLE SOMEBODY COULD HAVE SOME
18 DIFFERENT PAPER?

19 A NO, SIR

20 Q OKAY NOW YOU HAD AN ENCOUNTER WITH MR COPE
21 BACK IN DECEMBER OF 2001?

22 A YES, SIR

23 Q RIGHT AFTER HE CAME TO THE DETENTION CENTER?

24 A YES

25 Q AND IT'S MY UNDERSTANDING HE CAME, HE FLAGGED

1 YOU DOWN?

2 A YES, SIR

3 Q AND SAID THAT HE WANTED TO TALK TO YOU?

4 A YES, SIR

5 Q OKAY AND HE TOLD YOU THAT HE WAS INTERESTED IN
6 TALKING TO THE DETECTIVES?

7 A YES, SIR

8 Q AT THE ROCK HILL POLICE DEPARTMENT AND HE WAS
9 WONDERING IF YOU COULD TELL HIM HELP THEM OVER THERE
10 BECAUSE HE WANTED TO TALK TO THEM AND TELL THEM SOME
11 MORE STUFF?

12 A YES, SIR

13 Q OKAY AND THIS WAS, HE VOLUNTEERED THIS, IS
14 THAT RIGHT?

15 A YES, SIR

16 Q YOU DIDN'T INSTIGATE IT?

17 A NO, SIR

18 Q AND HE NEVER ASKED FOR A LAWYER AT ANY POINT IN
19 TIME?

20 A NO, SIR

21 Q DID HE SEEM UPSET, SCARED, WAS HIS Demeanor
22 CALM?

23 A I WOULD SAY HE WAS UPSET

24 Q OKAY ANXIOUS TO TALK TO THEM?

25 A PRETTY MUCH, YES

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1 Q EAGER TO TALK TO THEM?

2 A YES

3 Q OKAY DID HE SEEM AFRAID?

4 A NO

5 Q TO TALK TO THEM?

6 A NO

7 Q OKAY THANK YOU VERY MUCH

8 CROSS EXAMINATION BY MR GREELEY

9 Q GOOD AFTERNOON

10 A HELLO

11 Q I'M LELAND GREELEY I REPRESENT MR SANDERS

12 AT THE YORK COUNTY DETENTION CENTER WHILE YOU WERE

13 THERE THEY WOULD HAVE REGULAR VISITS BY CHAPLAINS, IS

14 THAT CORRECT?

15 A YES

16 Q OKAY AND IN SOME OF THOSE VISITS BY CHAPLAINS

17 WITH THE BIBLE STUDIES AND WHATEVER, THE CHAPLAINS

18 WOULD BRING PAPER ON OCCASION, WOULDN'T THEY?

19 A FOR WHATEVER THEY WERE WORKING ON THAT NIGHT

20 Q RIGHT AND SO SOME OF THE INMATES WOULD

21 SOMETIMES GET PAPER FROM THE CHAPLAINS FOR WHATEVER

22 THEY WERE WORKING ON THAT NIGHT, IS THAT CORRECT?

23 A NORMALLY THEY HAD TO TURN IT BACK IN TO THEM

24 Q NORMALLY THEY WERE SUPPOSED TO, BUT THEY HAD

25 ACCESS TO IT, DIDN'T THEY?

1 A YES

2 Q OKAY AND IN FACT, MR COPE VOLUNTEERED FOR AND
3 BECAME THE CHAPLAIN ASSISTANT OF HIS CELL BLOCK,
4 DIDN'T HE?

5 A YES

6 Q THANK YOU

7 REDIRECT EXAMINATION BY MR BAITY

8 Q MRS MCGEE, DID YOU EVER SEE MR COPE IN THE
9 POSSESSION OF ANY TYPE OF PAPER OTHER THAN THE THREE
10 THAT ARE SHOWN IN EXHIBITS, DEFENDANT'S EXHIBIT 67,
11 68, OR 69?

12 A TO MY KNOWLEDGE, NO

13 Q THANK YOU

14 MR BAITY NO FURTHER QUESTIONS, YOUR
15 HONOR

16 MR BRACKETT NOTHING

17 MR GREELEY NOTHING FURTHER

18 THE COURT ALL RIGHT THIS WITNESS CAN
19 STEP DOWN AND BE EXCUSED AND NOT SURPRISINGLY WE HAVE
20 A MATTER TO TAKE UP, SO I'M GOING TO LET YOU GO BACK
21 TO THE JURY ROOM

22 (THE JURY EXITS THE COURTROOM AT 02 25
23 PM)

24 THE COURT I DON'T SEE MR GUERETTE IN
25 HERE HE SHOULD NOT BE HERE IN FOR THIS ALL RIGHT

1 MR GREELEY HAD APPROACHED ME AT A BENCH CONFERENCE
2 AND INDICATED THAT THE REPORT BY MR GUERETTE HAD
3 INFORMATION IN IT AS TO THE TRANSCRIPT OR AS TO THE
4 FOUR HOUR TAPE INTERVIEW ON THE 29 OVER THROUGH THE
5 30TH, DEALING WITH CERTAIN MATTERS THAT HAD BEEN
6 EXCLUDED FROM THE TRIAL, IT IS HIS POSITION THAT, AND
7 I HADN'T HEARD FROM THE STATE, AT LEAST IT IS
8 MR GREELEY'S POSITION THAT THAT PARTICULAR ISSUE IS
9 NOW IN PLAY SO TO SPEAK BECAUSE IT'S MENTIONED IN MR
10 GUERETTE'S REPORT, IS THAT CORRECT MR GREELEY?

11 MR GREELEY THAT'S CORRECT, YOUR HONOR
12 THE COURT IT'S YOUR MOTION, WOULD YOU
13 ELABORATE

14 MR GREELEY YES I HAD NOTICED DURING
15 THE BREAK I WAS GIVEN THE REPORT AND I'VE NOTICED
16 THERE WERE THREE REPORTS, THREE ANALYSIS, AND ONE
17 ANALYSIS NUMBER THREE, AND ON PAGE SIX OF ANALYSIS
18 NUMBER THREE, I SEE THAT THERE IS A PORTION OF THE
19 TRANSCRIPT OF THE TAPE THAT THE EXPERT ENTITLES AS
20 COPE'S DECEITFUL STATEMENTS, AND THEN HE GOES IN AND
21 HE QUOTES COPE'S DECEITFUL STATEMENTS AND THOSE
22 DECEITFUL STATEMENTS DEALT WITH THE ASPECT OF THE
23 MATERIAL ON HIS COMPUTER AND HIM TAKING IT OFF OF THE
24 COMPUTER AND HE ALSO MAKES A COMMENT ABOUT THE
25 PORNOGRAPHY BOOKS, THE EXPERT MAKES A COMMENT IN HIS

1 ANALYSIS ABOUT THE PORNOGRAPHY BOOKS AND HOW THEY MAY
2 HAVE PLAYED A PART AT THAT POINT IN TIME IN THIS
3 DECEITFUL STATEMENT SO

4 THE COURT ANYTHING, THE STATE HAVE A
5 POSITION ON THIS

6 MR THOMPSON I AGREE THAT THAT'S
7 CORRECT, YOUR HONOR, AS TO WHAT MR GREELEY IS
8 SAYING

9 THE COURT MR MORTON

10 MR MORTON I FEEL LIKE I'M IN A WORLD
11 WIDE WRESTLING MATCH FIRST OF ALL, THIS IS AN
12 INTERNAL DEFENSE ANALYSIS MEMORANDUM PREPARED BY HIM
13 FOR US TO ANALYZE IT IS WORK PRODUCT IT IS NOT
14 EVEN DISCOVERABLE UNDER THE RULES UNDER RULE FIVE
15 EXCEPT AS TO SCIENTIFIC OR MEDICAL REPORTS, THIS
16 SUBDIVISION DOES NOT AUTHORIZE DISCOVERY IN RESPECT
17 TO REPORTS, MEMORANDUM OR OTHER INTERNAL DEFENSE
18 DOCUMENTS MADE BY THE DEFENDANT, HIS ATTORNEYS, OR
19 AGENTS IT'S NOT IN EVIDENCE, WE HAVEN'T TRIED TO
20 INTRODUCE THIS AS EVIDENCE IT'S HEARSAY HE'S
21 NEVER MENTIONED ANYTHING ABOUT, ABOUT THIS PARTICULAR
22 THINGS, SO IN ORDER FOR THEM TO EXAMINE HIM ON A
23 REPORT THAT THEY WEREN'T ENTITLED TO IN THE FIRST
24 PLACE AS TO A MEMORANDUM THAT IS HEARSAY, TO
25 INTRODUCE CHARACTER, YOU KNOW, IT'S JUST, I THINK THE

1 RULES OF EVIDENCE DISALLOW IT

2 THE COURT WELL, I'M GOING TO ALLOW IT IN
3 FOR A COUPLE REASONS FIRST EVEN WITHOUT THE REPORT
4 IT MAY HAVE BEEN REACHED BY ARTFUL CROSS EXAMINATION
5 AND BOTH OF THESE ATTORNEYS ARE CAPABLE OF THAT
6 SIMPLE INQUIRY OF WHAT ELSE BESIDES WHAT YOU TOLD US
7 DID YOU FIND? DID YOU FIND ANY DECEITFUL, ANYTHING
8 THAT INDICATED DECEITFUL ON BEHALF OF MR COPE AND
9 BEING AN HONEST WITNESS AS HE IS HE WOULD HAVE HAD TO
10 SAY WELL YES I DID WHAT IS IT, SO THAT'S ONE
11 REASON BUT THE OTHER REASON IS, THIS MAN HAS GIVEN
12 A LITNEY OF GOLD STARS TO MR COPE AS TO HIS RESPONSE
13 AND HIS DOGGED RESPONSE BEING UP FRONT WITH THE
14 INTERVIEWERS, I THINK, I DON'T REMEMBER THE EXACT
15 WORD BECAUSE HE TRAILED OFF, BUT MR GREELEY SAYS HE
16 EVEN INDICATED AN INNOCENT MAN AND THAT PUTS THE
17 WHOLE INTERVIEW IN PLAY, JUST LIKE WE DID, THIS IS
18 VERY SIMILAR TO THE WRESTLING WE DID WITH THE
19 POLYGRAPH TEST WAY BACK IN AUGUST AS TO HOW THAT
20 COULD COME IN PLAY, WHETHER IT COULD COME INTO PLAY
21 YOU CAN'T JUST, YOU CAN'T HAVE YOUR CAKE, YOU CAN'T
22 EAT YOUR CAKE AND HAVE IT TOO IF HE, YOU FOUND SOME
23 IS DECEITFUL STUFF, THIS JURY IS ENTITLED TO KNOW IT
24 MR MORTON THEY CAN ASK HIM DID YOU FIND
25 A RESPONSE THAT WAS DECEITFUL AND HE CAN SAY YES, BUT

1 LIKE I POINTED OUT AT THE BENCH, YOUR HONOR, IF HE
2 HAD SAID ON THAT REPORT THAT HE HAD, HE WAS THE
3 BIGGEST MASS MURDERER IN THE STATE OF SOUTH CAROLINA,
4 WE DIDN'T GO INTO THAT AND I DON'T THINK THEY SHOULD
5 BE ABLE TO INTRODUCE THAT AS SOME KIND OF AN ATTACK
6 IF THEY WANT TO ASK HIM IS THERE A RESPONSE ON THIS
7 TAPE THAT YOU THOUGHT WAS DECEITFUL, HE CAN SAY YES
8 AND HE CAN BE TRUTHFUL ABOUT IT BUT IF THEY WERE TO
9 ASK HIM ABOUT, YOU KNOW, IT'S LIKE I SAY, IS HE A
10 MASS MURDERER?

11 THE COURT WELL, I DON'T THINK THEY WILL
12 ASK HIM THAT IF THEY DO, YOU CAN OBJECT AND I'LL
13 SUSTAIN---

14 MR MORTON THEN I OBJECT ON THE SAME
15 REASON AS TO THE PORN

16 THE COURT BUT ONE OTHER THING I THINK
17 YOU ARE OVERLOOKING, MR MORTON IS, SURE THEY COULD
18 ASK AND JUST SAY IS THERE ANYTHING DECEITFUL HE
19 SAYS YES AND YOU SAY THE INQUIRY STOPS THERE THAT
20 IS THERE ANYTHING DECEITFUL, YES, WEIGHED AGAINST,
21 WELL HE SAID 74 TIMES THAT HE WAS INNOCENT, HE MUST
22 HAVE BEEN INNOCENT, I MEAN

23 MR MORTON WELL, THAT'S HIS ANALYSIS

24 THE COURT OKAY ALL RIGHT WELL, I'M
25 GOING TO ALLOW IT IN ALL RIGHT LET'S GET

1 MR GUERETTE IN

2 MR MORTON YOUR HONOR, I WOULD ASSUME
3 THEN THAT WE'RE ABLE TO CALL ALL THE OTHER STATE'S
4 WITNESSES AND IMPEACH THEM ABOUT ALL THEIR REPORTS,
5 EVERYTHING THEY HAVE CONSIDERED, THAT THEY HAVE
6 WRITTEN SOMETHING IN THE REPORT THAT THEY DIDN'T
7 TESTIFY TO -- I DON'T KNOW WHY I'M PRECLUDED FROM
8 INTRODUCING SWORN STATEMENTS IN THIS COURTROOM BY
9 VICTIMS WHO HAVE TESTIFIED THAT THEIR HOUSES WERE
10 ENTERED WITHOUT ANY SIGNS OF FORCED ENTRY AS
11 EVIDENCED BY HER REPORT, HER REPORTS SAYS THAT, THEN
12 THEY COME UP HERE AND TESTIFY THAT THAT DOESN'T
13 HAPPEN

14 THE COURT ALL RIGHT I'M NOT GOING
15 ALLOW YOU TO DO THAT WE VISITED THAT ISSUE AND I
16 KNOW YOU ARE NOT HAPPY

17 MR MORTON I WANT TO BE PAINTED BY THE
18 SAME BRUSH AND I DON'T FEEL LIKE I AM

19 THE COURT WELL, FOR THE RECORD THAT'S
20 QUITE ALL RIGHT I WOULD LIKE THE RECORD TO STATE
21 OUT OF DEFENSE TO MYSELF SINCE MY ABILITY TO HANDLE
22 THIS CASE IS APPARENTLY BEING QUESTIONED THAT I FEEL
23 LIKE I, THERE ARE DIFFERENT ISSUES AND CERTAINLY
24 SEVERAL GROUNDS FOR APPEAL IN THE EVENT THAT YOUR
25 CLIENT IS FOUND GUILTY DON'T GET ME WRONG, I DON'T

1 TAKE IT PERSONAL

2 MR MORTON I DIDN'T MEAN IT PERSONAL,
3 YOUR HONOR

4 THE COURT EVERYTHING IS ON THE RECORD
5 BUT IF YOU FEEL I'M NOT BEING FAIR, THERE ARE AT
6 LEAST TWO COURTS TO GO THROUGH IF NOT ALL THE WAY TO
7 THE UNITED STATES SUPREME COURT AND THEY CAN TELL ME
8 I'M NOT BEING FAIR, BUT I'M TRYING TO PAINT EVERYBODY
9 IN THE SAME BRUSH AND THAT BRUSH IS THIS BOOK WHICH
10 IS THE RULES OF EVIDENCE, CASE LAW, INVOLVING EXPERTS
11 AND TRIALS AND ALL THAT SO GET THE WITNESS IN

12 MR MORTON THANK YOU, YOUR HONOR

13 THE COURT YOU ARE STILL UNDER OATH, JUST
14 COME UP AND HAVE A SEAT LET'S BRING IN THE JURY

15 (THE JURY RETURNS TO THE COURTROOM AT
16 02 34 PM)

17 THE COURT ALL RIGHT, MR THOMPSON

18 MR THOMPSON THANK YOU, YOUR HONOR

19 CROSS EXAMINATION BY MR THOMPSON

20 Q GOOD AFTERNOON, MR GUERETTE

21 A AFTERNOON

22 Q DO YOU HAVE YOUR CURRICULUM VITAE WITH YOU?

23 A NO, SIR, I DON'T

24 Q DO YOU HAVE A CURRICULUM VITAE?

25 A I DO

1 Q OKAY NOW YOU WERE HIRED BY THE DEFENSE IN THIS
2 CASE IN AUGUST, CORRECT, AUGUST OF THIS YEAR?

3 A RIGHT, ABOUT THREE WEEKS AGO I CAN'T REMEMBER
4 THE EXACT DATE

5 Q SO YOUR INVOLVEMENT HAS BEEN SINCE THAT POINT IN
6 TIME?

7 A YES, SIR

8 Q AND AS YOU SAID, YOU RECEIVED A NUMBER OF THINGS
9 FROM THEM, CASE FILE AND ALL THOSE THINGS,
10 CONFESSIONS, SOME TAPES, THINGS OF THAT NATURE?

11 A YES, SIR

12 Q BUT YOU DID NOT READ ALL THE PAPERS THAT THEY
13 GAVE YOU, CORRECT?

14 A NO, SIR

15 Q ALL RIGHT NOW YOU WOULD AGREE ME, WOULDN'T
16 YOU, THAT THE FILTHINESS OF THE HOUSE DOES AFFECT THE
17 WAY YOU CAN COLLECT THINGS DURING A CRIME SCENE?

18 A MAKES IT HARDER AND IT DOES AFFECT IT, YES, SIR

19 Q AS A MATTER OF FACT BECAUSE A HOUSE IS SO FILTHY
20 IT MAKES IT HARD TO TELL EXACTLY WHAT'S OUT OF PLACE,
21 DOESN'T IT?

22 A CERTAINLY

23 Q AND MOST CRIME SCENES YOU GO IN AND WHILE THERE
24 MAY BE SOME FILTH IN THE HOUSE THERE IS USUALLY AT
25 LEAST SOME THINGS THAT ARE OBVIOUSLY OUT OF PLACE,

1 AREN'T THERE?

2 A THAT IS, GENERALLY THERE IS SOMETHING OUT OF
3 PLACE, RIGHT

4 Q BUT AS YOU SAID IN A FILTHY HOUSE IT MAKES IT A
5 LOT HARDER TO TELL WHICH THINGS WOULD BE OUT OF
6 PLACE?

7 A RIGHT

8 Q NOW WHEN YOU TALKED TO OFFICER GARDNER ABOUT HIS
9 CRIME SCENE WHAT INFORMATION DID YOU GAIN FROM HIM?

10 A WHEN I SPOKE TO OFFICER GARDNER?

11 Q THE MAN WHO DID THE CRIME SCENE IN THIS CASE?

12 A I DIDN'T SPEAK TO MR GARDNER

13 Q OH, OKAY ABOUT HOW ABOUT OFFICER WILLIAMS, HIS
14 PARTNER, DID YOU SPEAK WITH HIM EITHER?

15 A NO, SIR

16 Q ALL RIGHT DID YOU SPEAK WITH LIEUTENANT
17 HERRING ABOUT THE THREE HOUR INTERVIEW?

18 A I HAVEN'T SPOKEN WITH ANY POLICE OFFICERS

19 Q SO NONE OF THE POLICE OFFICERS?

20 A NO, SIR

21 Q NOT JERRY WALDROP, CHARLENE BLACKWELDER, MIKE
22 BAKER, CAPTAIN CABANISS, NONE OF THOSE FOLKS?

23 A I HARDLY KNOW THOSE PEOPLE

24 Q AND NO ONE WHO WAS AT THE CRIME SCENE WHO
25 CONDUCTED THE INVESTIGATION OF CRIME SCENE?

1 A NO, SIR, I DID NOT

2 Q NOW THERE ARE A NUMBER OF GOOD THINGS TO DO AT A
3 CRIME SCENE SUCH AS WHEN YOU COME INTO A CRIME SCENE
4 TRY TO KEEP IT SECURE AT THAT POINT, ISN'T THAT
5 CORRECT?

6 A THAT IS CORRECT

7 Q NOW DOESN'T IT BECOME A LITTLE DIFFICULT TO KEEP
8 A CRIME SCENE OR AT LEAST TO DETERMINE THAT SOMETHING
9 IS EVEN A CRIME SCENE IF THE INFORMATION YOU HAD WHEN
10 YOU ARRIVED IS INCORRECT AND THAT IT'S NOT EVEN
11 INFORMATION----

12 MR MORTON OBJECT

13 THE COURT I OVERRULE THE OBJECTION

14 Q DOESN'T IT MAKE IT DIFFICULT TO DETERMINE A
15 CRIME SCENE IF WHEN YOU ARRIVE THE INFORMATION YOU
16 HAD IS THAT AN ACCIDENT HAS OCCURRED?

17 A (NO RESPONSE)

18 Q IF YOU ARE CALLED OUT TO A CRIME SCENE AND THEY
19 TELL YOU THERE IS AN ACCIDENTAL DEATH?

20 A RIGHT

21 Q YOU DON'T NECESSARILY THINK IT IS A CRIME SCENE
22 WHEN YOU COME OUT, DO YOU?

23 A NOT IN THE SENSE OF A CRIME SCENE WORD, BUT IT'S
24 AN ACCIDENT AND I MEAN, YOU MAY LOOK AT AN ACCIDENT A
25 LITTLE BIT DIFFERENT THAN THE CRIME SCENE

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1 Q RIGHT SO THE FIRST THING YOU DO IN AN ACCIDENT
2 THOUGH IS NOT SECURE THE SCENE NECESSARILY, IS IT?

3 A NO, WELL, I DISAGREE IF IT'S A, AN ACCIDENT
4 SCENE WHERE VEHICLES ARE INVOLVED, YES, YOU SURROUND
5 THE AREA, YOU SECURE THE AREA IF IT'S AN ACCIDENT
6 SCENE INSIDE A HOUSE, IT ALL DEPENDS ON THE
7 OBSERVATION WHEN YOU GO IN

8 Q WELL, YOU'VE TESTIFIED PARTICULARLY IN THIS
9 CASE, IN THIS CASE, OF COURSE, THEY ARE SAYING AN
10 ACCIDENT HAS OCCURRED, THIS GIRL HAS CHOKED
11 ACCIDENTALLY, CORRECT? THAT'S WHAT THE POLICE FIRST
12 HEAR, ISN'T THAT RIGHT?

13 A I MEAN IF YOU SAY THAT'S WHAT THEY SAID

14 Q DID YOU READ THAT IN THE FILE?

15 A I KNOW I DIDN'T READ IT I THINK I HEARD
16 SOMETHING IN REFERENCE TO -- WELL, I THINK IT'S IN
17 BILLY'S INTERVIEW

18 Q OKAY

19 A HE MENTIONS ACCIDENT I BELIEVE THAT'S WHERE I
20 HEARD IT FROM

21 Q SO YOU DIDN'T LISTEN TO THE 911 TAPE?

22 A NO, SIR

23 Q ALL RIGHT BUT YOU WOULD AGREE WITH ME THAT IF
24 THE POLICE ARRIVE TO WHAT THEY HEAR IS AN ACCIDENTAL,
25 CHOKING OF SOMEONE WHERE THEY ACCIDENTAL CHOKED, THE

1 FIRST THING WOULDN'T BE CRIME SCENE AND SECURITY
2 INSTEAD IT WOULD BE THE SAFETY OF THAT PERSON,
3 WOULDN'T IT, TO LOOK AT THE CONDITION OF THIS PERSON?

4 A YES, SIR, THE SAFETY OF THE PERSON IS ALWAYS THE
5 FIRST THING YOU DO AT A CRIME SCENE

6 Q ALL RIGHT

7 A YOU KNOW, TO SEE IF THE PERSON IS STILL ALIVE OR
8 WHATEVER

9 Q BUT YOU HAD SAID EARLIER SECURING THE CRIME
10 SCENE WAS THE FIRST THING?

11 A WELL, I'M SORRY I MEAN THE FIRST THING THAT A
12 CRIME SCENE OR POLICE OFFICERS ARE TOLD IS TO MAKE
13 SURE THE VICTIM, YOU KNOW, IS DECEASED IF THERE IS
14 ANY CHANCE THAT THE VICTIM IS ALIVE YOU TRANSPORT
15 HER, AND I MEAN, I JUST FORGOT ABOUT THAT BECAUSE I
16 PROBABLY MISUNDERSTOOD THE QUESTION

17 Q SO IT WOULD BE PROPER FOR THE EMTS AND WHO
18 ARRIVE TO GO IN AND TRY TO ASSIST THAT PERSON FIRST
19 THING, WOULDN'T?

20 A OH, YES, SIR

21 Q AND IN FACT THE SECOND THING YOU REALLY NEED TO
22 DO AT A CRIME SCENE IS GOING TO BE MAKE SURE THE
23 OFFICERS ARE SAFE, THAT THERE IS A SAFE SITUATION
24 THERE, CORRECT?

25 A RIGHT

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1 Q SO THEN CRIME SECURITY COMES AFTER THOSE TWO
2 ISSUES?

3 A YES OR A COMBINATION OF THEM

4 Q NOW ONE OF THE OTHER THINGS YOU TALKED ABOUT IN
5 YOUR TESTIMONY WAS THE BITE MARK AND HOW THAT SHOULD
6 HAVE TIPPED THEM OFF THAT THIS WAS SOMETHING OF A
7 SEXUAL ASSAULT, IS THAT CORRECT?

8 A THAT'S RIGHT

9 Q ARE YOU AWARE THAT THE BITE MARK WAS NOT NOTICED
10 AT THE SCENE BECAUSE THAT BREAST WAS COVERED UP IT
11 WASN'T NOTICED UNTIL THE AUTOPSY LATER THAT DAY?

12 A I DON'T RECALL, THE PHOTOGRAPH SHOW THE BITE
13 MARKS AND

14 Q THE AUTOPSY PHOTOS, CORRECT?

15 MR MORTON CAN HE FINISH HIS ANSWER,
16 YOUR HONOR

17 THE COURT LET HIM FINISH HIS

18 A NO, SIR THE, WELL THE CRIME SCENE PHOTOGRAPHS
19 IT SHOWS A PORTION OF HER LEFT BREAST WITH THE BITE
20 MARK ON HER LEFT BREAST ON THE BED

21 Q LET ME SHOW YOU THOSE PHOTOGRAPHS I WANT TO
22 SEE IF YOU COULD POINT THEM OUT TO ME IF YOU WOULD
23 THIS IS GOING TO BE STATE'S EXHIBITS 26, 27, 25, AND
24 24 IF YOU'LL LOOK AT THOSE FOR ME

25 A I'M REFERRING TO STATE'S EXHIBIT 26 THE NIPPLE

1 OF THE LEFT BREAST, THIS AREA HERE

2 Q ALL RIGHT SO THIS AREA HERE YOU ASSUME THAT TO
3 BE A BITE MARK RIGHT HERE, RIGHT UP HERE?

4 A CLOSE TO THE NIPPLE

5 Q OKAY ARE YOU AWARE THAT THE ACTUAL BITE MARK
6 WAS ON HER RIGHT BREAST?

7 A NO, I'M NOT

8 Q SO IS THAT A PIECE OF PAPER YOU DIDN'T READ IN
9 THE PACKET THAT YOU RECEIVED?

10 A I THINK I READ IT BUT I PROBABLY MISTOOK IT

11 Q OKAY NOW ONE OF THE OTHER THINGS YOU MENTIONED
12 TO BE A GOOD THING TO DO IS COLLECT ARTICLES FROM
13 AROUND THE BED, ISN'T THAT CORRECT?

14 A RIGHT OR THE AREA OF ATTACK

15 Q RIGHT AND IN FACT, THEY DO HAVE A NUMBER OF
16 ARTICLES IN STATE'S EXHIBIT 54 THAT WERE COLLECTED
17 FROM AROUND THE BED, DON'T THEY? AND YOU PROBABLY
18 SAW THOSE WHEN YOU WERE LOOKING AT THE EVIDENCE?

19 A I REMEMBER SEEING THIS BOX AT THE EVIDENCE AND I
20 BELIEVE THESE ARE SOME OF THE ITEMS THAT WERE ON THE
21 BED INCLUDING THE FLASHLIGHT AND SOME OTHER PICTURES,
22 STAPLER

23 Q IN FACT, THEY ALSO COLLECTED ALL THE BLANKETS
24 AND EVERYTHING FROM AROUND THE BED, DID THEY NOT?

25 A I CAN'T REMEMBER HOW MANY OF THE BLANKETS I

1 KNOW THEY COLLECTED THE GREEN BLANKET, I GUESS IT IS
2 GREEN, AND I THINK THERE WAS ANOTHER BLANKET, BUT I
3 CAN'T REMEMBER IF ALL THE BLANKETS WERE COLLECTED

4 Q I'M TRYING TO FIND THE EXHIBIT NUMBER ON THIS
5 SEE THE BED SPREAD THAT WAS UNDER HER, IMMEDIATELY
6 UNDER HER WAS COLLECTED, CORRECT?

7 A THAT BED SPREAD, YES, SIR

8 Q AS WELL AS STATE'S EXHIBIT NUMBER 66, IF YOU'LL
9 GLANCE IN THERE IF YOU'D LIKE SOME GLOVES, I
10 BELIEVE WE HAVE SOME

11 A THESE VARIETY OF ITEMS, PAPERWORK, THINGS OF
12 THAT NATURE, I SAW THIS BAG IN DISCOVERY ALSO

13 Q AND THOSE WERE COLLECTED FROM AROUND THE BED
14 TOO, WEREN'T THEY?

15 A I BELIEVE SO

16 Q DID YOU ALSO NOTE LOOKING THROUGH DISCOVERY THAT
17 A NUMBER OF PAPERS THROUGHOUT THE HOUSE WERE ALSO
18 COLLECTED?

19 A THERE WERE SOME PAPERS, YES, SIR

20 Q AND THERE WERE SOME, I THINK THAT'S A BOX OF
21 PAPERS FROM MR COPE'S ROOM AND THERE WERE SOME
22 PAPERS FROM, NOT COUNTERS, BUT DRESSERS AND THINGS
23 LIKE THAT AS WELL COLLECTED?

24 A I BELIEVE SO, YES, SIR

25 Q AND YOU WOULD SAY THAT THOSE ARE ALL GOOD THINGS

1 THEY COLLECTED THESE ITEMS, WOULDN'T YOU?

2 A OH, YES

3 Q NOW SOMETHING ELSE THAT WOULD BE A GOOD THING
4 THAT THEY DID AT THE CRIME SCENE WAS TO CHECK EVEN
5 BEFORE THE VICTIM WAS TAKEN AWAY WITH AN ALTERNATE
6 LIGHT SOURCE, WOULDN'T IT?

7 A YES, SIR

8 Q AND AS A MATTER OF FACT, EVEN AFTER THEY TOOK
9 HER AWAY, IT'S A GOOD THING THEY WENT BACK AND
10 CHECKED AGAIN WITH THE ALTERNATE LIGHT SOURCE?

11 A IT WOULD BE A GOOD THING, YES, SIR

12 Q ALL RIGHT ARE YOU AWARE THAT THEY DID THAT IN
13 THIS CASE?

14 A NO I THINK I'M AWARE OF THE LIGHT SOURCE BEING
15 USED, BUT I CAN'T REMEMBER WHEN IT WAS USED

16 Q OKAY DO YOU RECALL THAT THE LIGHT SOURCE WAS
17 ALSO USED DURING THE AUTOPSY?

18 A I READ THE AUTOPSY REPORT I CAN'T REMEMBER IF
19 IT IS MENTIONED IN THERE OR NOT

20 Q AND THE LIGHT SOURCE WAS ALSO USED IN MR COPE'S
21 ROOM?

22 A I'LL TAKE YOUR WORD, IF THAT'S WHAT

23 Q SO THOSE ARE SOME OTHER PIECES OF PAPER THAT YOU
24 MIGHT NOT HAVE READ, CORRECT?

25 A YEAH, FIRST OF ALL I DIDN'T HAVE TIME TO READ

1 ALL THAT STUFF IN THE THREE WEEKS TIME

2 Q NOW ANOTHER GOOD THING THAT THEY DID WAS GOOD TO
3 DO AT ALL CRIME SCENES IS TO CHECK ALL THE DOORS AND
4 WINDOWS, ISN'T THAT CORRECT?

5 A THAT IS CORRECT

6 Q AS A MATTER OF FACT, THEY PHOTOGRAPHED THOSE
7 THINGS AS WELL AND THAT'S A GOOD THING?

8 A YES, SIR, IT IS

9 Q AND ARE YOU AWARE THAT THEY ALSO SPECIFICALLY
10 LOOKED AT SUCH THINGS AS DUST AND COB WEBS WITHIN THE
11 WINDOW ITSELF?

12 A YES, SIR

13 Q AND THAT'S A GOOD THING?

14 A YES, SIR

15 Q AND YOU AWARE THAT THEY LOOKED AT THE SCREENS
16 AND HOW THE SCREENS WERE PUT ON THE WINDOWS?

17 A YES, SIR

18 Q AND THAT'S A GOOD THING?

19 A YES, SIR

20 Q ARE YOU AWARE THAT THEY WENT TO EACH WINDOW AND
21 LOOKED UNDERNEATH TO SEE IF THERE WAS SIGNS OF
22 SOMETHING BEING SET UP OR A MOVEMENT OF THE LEAVES
23 AND THOSE SORTS OF THINGS?

24 A YES, SIR

25 Q AND THAT'S A GOOD THING?

002787

1 A YES, SIR

2 Q IN ADDITION, IT'S A GOOD THING THAT THEY WENT

3 INSIDE AND LOOKED AT WHAT WAS ON THE OTHER SIDE OF

4 THE WINDOW, ISN'T IT?

5 A YES, SIR

6 Q AND IT'S A GOOD THING THAT THEY LOOKED AT THE

7 LINES IN THE VARIOUS CURTAINS ON EACH WINDOW, ISN'T

8 IT?

9 A YES, SIR

10 Q AND YOU ARE AWARE THAT THEY DID THAT IN THIS

11 CASE?

12 A YES, SIR

13 Q IT'S A GOOD THING AS WELL THAT THEY PHOTOGRAPHED

14 THOSE THINGS, ISN'T IT?

15 A YES, SIR

16 Q THEY ALSO CHECKED FOR SUCH THINGS AS WHAT MIGHT

17 BE STACKED IN FRONT OF A WINDOW, ISN'T THAT RIGHT?

18 A I NOTICE SOME PHOTOGRAPHS, I THINK THEY DID

19 Q AND THE PHOTOGRAPHS INDICATE WHAT'S IN FRONT OF

20 THE WINDOWS, DON'T THEY?

21 A YES, SIR, SOMETHING

22 Q AND ARE YOU AWARE THAT THEY LOOKED AS WELL FOR

23 THE POSSIBILITY OF SOMETHING THAT SOMEONE MIGHT HAVE

24 TRACKED IN THROUGH ANY OF THOSE AREAS?

25 A CAN YOU BE MORE SPECIFIC ON THAT?

002788

1 Q IF SOMEONE HAD COME THROUGH THOSE WINDOWS OR
2 DOORS AND THEY CHECKED TO SEE WHETHER THERE WAS
3 ANYTHING TRACKED IN FROM OUTSIDE ON THOSE AREAS?

4 A I'M AWARE OF, I'M AWARE OF THE WINDOWS ISSUE I
5 DON'T KNOW IF THEY CHECKED THE FRONT DOOR AND THE
6 BACK DOOR I BELIEVE, I THINK I'M AWARE THEY CHECKED
7 THE BACK DOOR BECAUSE THERE WAS MENTION ABOUT THE
8 LEAVES ON THE STEP IN THE BACK I'M REALLY NOT AWARE
9 OF THE FRONT DOOR

10 Q ALL RIGHT

11 A BUT I MEAN IF YOU SAY THEY DID, I CAN'T DISAGREE
12 WITH THAT

13 Q AND THAT'S SOMETHING THAT MAY HAVE BEEN HELPFUL
14 TO TALK TO TODD GARDNER, ONE OF THE CRIME SCENE
15 PEOPLE, ABOUT, WOULDN'T IT?

16 A WELL, THAT'S TRUE BUT THESE POLICE OFFICERS ARE
17 NOT GOING TO TALK TO ME

18 Q AND THAT'S BECAUSE YOU WORK FOR THE DEFENSE,
19 RIGHT?

20 A BASICALLY HI IS THE EXTENT WE GET TO

21 Q NOW ONE OF THE THINGS YOU SUGGEST IS THAT THEY
22 SHOULD HAVE FINGERPRINTED THE ENTIRE HOUSE, ISN'T
23 THAT CORRECT?

24 A I DON'T BELIEVE I SAID THAT

25 Q YOU DIDN'T SAY THAT ON YOUR --

002789

1 A THE ENTIRE HOUSE?

2 Q YOU SAID -- I'M SORRY THAT'S WHAT I THOUGHT I
3 HEARD DID YOU SAY THEY WERE SUPPOSED TO FINGERPRINT
4 THE ENTIRE HOUSE?

5 A I, I CANNOT REMEMBER SAYING -- I REMEMBER
6 TALKING ABOUT FINGERPRINTING, THEY SHOULD HAVE
7 FINGERPRINTED, BUT IF I SAID THE ENTIRE HOUSE, YOU
8 KNOW, THAT'S PRETTY BROAD

9 Q BECAUSE IN ACTUALITY YOU NEVER FINGERPRINT AN
10 ENTIRE HOUSE IN A CRIME SCENE, DO YOU?

11 A NO, BUT I JUST CANNOT RECALL YOUR MEMORY IS
12 PROBABLY BETTER THAN MINE AT THIS POINT I CANNOT
13 RECALL SAYING THAT

14 Q NOW YOU TALKED ABOUT FORCED ENTRIES AND YOU TOLD
15 US THAT ACTUALLY ONE-THIRD OF ALL CRIMES ARE NOT
16 FORCED ENTRIES WHEN THEY ARE SOME SORT OF ENTRY INTO
17 A HOUSE, CORRECT?

18 A YOU MEAN APPROXIMATELY A THIRD, YES

19 Q DID YOU ABLE TO DERIVE THAT ON YOUR OWN?

20 A I WAS ABLE TO DERIVE ON MY OWN THAT THERE WAS A
21 CERTAIN PERCENTAGE THAT I'VE HAD EXPERIENCE IN,
22 ESPECIALLY WHEN I WAS WORKING HOUSE BREAK IN DETAILS

23 Q OKAY SO BACK IN 1974?

24 A BE ABOUT '74 OR SO, '74 I GUESS

25 Q SO YOUR STATISTICS COME FROM ABOUT THEN?

002790

1 A NO NO NO

2 Q WELL, YOU JUST SAID THERE WAS A CERTAIN
3 PERCENTAGE THAT YOU WERE ABLE TO DETERMINE ON YOUR
4 OWN FROM BACK THEN, CORRECT?

5 A RIGHT, FROM BACK THEN, BUT I MEAN I'VE ALSO DONE
6 SOME RESEARCH SINCE THEN AND THE LITTLE RESEARCH I'VE
7 HAD TIME TO DO IS THEY ARE INDICATING TWO, I MEAN,
8 ABOUT A THIRD

9 Q AND --

10 A ABOUT A THIRD OF THE BURGLARIES ARE CONSIDERED
11 NON FORCED ENTRY VERSUS FORCED ENTRIES AND I MEAN
12 THAT'S NOT AN EXACT FIGURE IT'S 60, ONE REPORT WAS
13 62 PERCENT, THE OTHER ONE WAS ABOUT A THIRD, AND SO
14 WHATEVER YOU WANT TO TAKE

15 Q AND THIS IS FROM THE LITTLE BIT OF RESEARCH YOU
16 DID ON IT?

17 A RIGHT

18 Q OKAY BUT YOU DEFINED FOR US WHAT NOT FORCED
19 ENTRY MEANS, HAVEN'T YOU? AS A MATTER OF FACT, YOU
20 SAID AN OPEN DOOR IS ONE WAY OF ENTRY NOT BEING
21 FORCED, JUST WALKING THROUGH AN OPEN DOOR?

22 A RIGHT

23 Q AND IN ADDITION TO THAT, BEING LET IN NOT
24 FORCED, CORRECT?

25 A RIGHT

002791

1 Q GETTING IN BY TRICK, COMING TO THE DOOR --
2 A DECEPTION OF SOME SORT
3 Q FOR ANOTHER REASON THEY OPENED IT AND YOU PUSH
4 YOUR WAY IN, THAT'S NOT A FORCED ENTRY IN YOUR
5 THINKING?
6 A YOU ARE GETTING CLOSE TO FORCED ENTRY THERE
7 Q RIGHT AND ---
8 A DEPENDING ON HOW FAR THEY GO ----
9 Q BUT THE REPORTS YOU ARE TALKING ABOUT?
10 A PARDON?
11 Q BUT IN THE REPORTS THAT YOU ARE TALKING ABOUT
12 THAT'S CONSIDERED NOT FORCED ENTRY, GETTING IN BY
13 TRICK?
14 A YES, SIR
15 Q GETTING IN BY A KEY IS NOT FORCED ENTRY?
16 A YES, SIR
17 Q SO THIS INCLUDES A LOT OF THINGS IN THE NOT
18 FORCED ENTRY?
19 A OH, CERTAINLY, AND I THINK I EXPLAINED THAT
20 EARLIER EVEN THE USE OF A CREDIT CARD OR OTHER
21 OBJECT, TO NOT LEAVE IDENTIFYING MARKS
22 Q NOW YOU MENTION WHEN YOU WERE A POLICE OFFICER
23 YOU WENT TO A CRIME SCENE THAT THE EVIDENCE TECHS
24 WOULD ACTUALLY COLLECT THE EVIDENCE, CORRECT?
25 A YES, SIR

002792

1 Q BUT YOU WOULD TELL THEM WHAT TO COLLECT, YOU
2 WOULD GUIDE THEM ON WHAT TO COLLECT?

3 A I'D GUIDE THEM ON SOME OF IT, NOT NECESSARILY
4 THE WHOLE THING I MEAN, YOU WORK AS A GROUP

5 Q OKAY

6 A THEY MAY SEE SOME THINGS I DON'T SEE I MAY SEE
7 THINGS THEY DON'T ULTIMATELY, IN OUR JURISDICTION
8 IT WAS THE LEAD INVESTIGATOR'S

9 Q AND YOU SAID THAT THROUGH YOUR KNOWLEDGE AND
10 EXPERIENCE YOU KNEW PRETTY QUICKLY WHAT THINGS THEY
11 USUALLY HAD TO PICK UP, DIDN'T YOU?

12 A WELL, I KNEW SOME OF THE THINGS DEPENDING ON
13 WHICH CRIME SCENE I WAS ON YOU KNOW, YOU GO TO A
14 SHOOTING, THERE WAS DIFFERENT THINGS YOU LOOK FOR
15 YOU GO FOR KNIFINGS, DIFFERENT THINGS, IT'S JUST,
16 ASSAULT, YOU KNOW, PHYSICAL ASSAULT, AND YOU DON'T
17 KNOW WHICH WEAPON I MEAN EVERY CRIME SCENE IS
18 DIFFERENT, BUT YOU KNOW SOME BASICS WHAT TO LOOK FOR,
19 WHAT TO COLLECT

20 Q AND YOU KNOW THOSE THINGS PRETTY QUICKLY
21 USUALLY, RIGHT?

22 A SOME OF THEM YOU DO

23 Q NOW LET'S SWITCH GEARS A MINUTE, YOU HAD
24 MENTIONED ABOUT THE TAPE RECORDING OF INTERVIEWS
25 TELL ME WHEN YOU WERE A POLICE OFFICER DID YOU TAPE

1 RECORD ALL YOUR INTERVIEWS?

2 A NO, SIR, AND THERE IS A REASON FOR THAT

3 Q AND YOU DIDN'T VIDEO YOUR INTERVIEWS BECAUSE
4 THERE WERE NO SUCH THING AS VIDEO CAMERAS BACK THEN,
5 RIGHT?

6 A RIGHT I'M A LITTLE BIT OLDER THAN YOU THINK
7 THERE WAS VERY FEW AUDIO RECORDERS AVAILABLE AT THAT
8 TIME

9 Q THERE WAS NO TAPE RECORDINGS AVAILABLE IN THE
10 '70'S?

11 A BIG OLD BULKY ONES THE CASSETTE TAPES CAME IN
12 AFTER STARTING MY LAW ENFORCEMENT CAREER WE USED TO
13 HAVE THOSE REEL TO REEL TAPES THAT'S KIND OF BULKY
14 TO RECORD

15 Q BUT YOU WERE IN LAW ENFORCEMENT FROM '72 TO
16 ABOUT WHAT ABOUT '82?

17 A RIGHT, AND AT THE END WE STARTED USING SOME TAPE
18 RECORDINGS AFTER THE DEPARTMENT RELAXED THE POLICY
19 BECAUSE THERE WAS A POLICY FOR A LONG TIME BECAUSE
20 POLICE OFFICERS WERE MISUSING THEM, THAT WE COULD NOT
21 HAVE TAPE RECORDERS AND POLICE DEPARTMENT WOULDN'T
22 PURCHASE IT FOR US UNTIL THE LAST FEW YEARS

23 Q BECAUSE POLICE OFFICERS WERE MISUSING THEM?

24 A WELL, THEY WERE RECORDING THEIR SUPERVISORS AND
25 THEY DIDN'T LIKE THAT

1 Q AND YOU STILL DIDN'T USE TAPES IN ALL YOUR
2 INTERVIEWS, DID YOU?

3 A NOPE

4 Q AS A MATTER OF FACT, TODAY, EVEN IN YOUR
5 INVESTIGATOR CAPACITY YOU DON'T TAPE ALL YOUR
6 INTERVIEWS, DO YOU?

7 A NOT ALL BUT PROBABLY A GOOD, NOT ALL SUBJECTS,
8 WITNESSES, AND STUFF LIKE THAT ON INTERVIEW BUT WE DO
9 A LOT OF CORPORATE CRIMINAL INVESTIGATIONS AND WE
10 RECORD THOSE INTERVIEWS, USUALLY SURREPTITIOUSLY

11 Q WITHOUT THEIR KNOWLEDGE IN OTHER WORDS?

12 A RIGHT

13 Q NOW YOU CONSIDER THIS FIRST INTERVIEW AN
14 EXCELLENT INTERVIEW, DID YOU NOT?

15 A EXCELLENT INTERROGATION

16 Q EXCELLENT INTERROGATION?

17 A CORRECT

18 Q BUT YET YOU SAID THAT, I BELIEVE IT WAS THEIR
19 INTERPRETATION OF THE FACTS, IS THAT WHAT IT WAS THAT
20 WAS FLAWED?

21 A INTERPRETATIONS OF THE STATEMENTS OR WHAT
22 MR COPE WAS SAYING WAS OVERLOOKED IN MY OPINION

23 Q NOW MAYBE YOU CAN HELP ME WITH THIS, IT'S MY
24 UNDERSTANDING THAT A GOOD INTERROGATION BUILDS OFF OF
25 ITSELF, DOES IT NOT?

1 A (NO RESPONSE)

2 Q IN OTHER WORDS THE INFORMATION YOU ARE GAINING
3 CONTINUE TO USE THAT IN THE INTERROGATION, DON'T YOU?

4 A TRUE, TRUE, AND I THINK I EXPLAINED THAT

5 Q AND THAT'S WHAT THEY DID HERE?

6 A (NO RESPONSE)

7 Q AN EXCELLENT INTERROGATION, CORRECT?

8 A IT WAS AN EXCELLENT INTERROGATION, DID THEY
9 FOLLOW THROUGH, THEY FOLLOWED THROUGH ON THE DNA
10 HIS SUGGESTION THAT THERE WAS NOT GOING TO BE
11 ANYTHING THERE, THEY FOLLOWED THROUGH ON THE
12 POLYGRAPH THEY, I DON'T KNOW IF THEY FOLLOWED
13 THROUGH ON THE CLOSET I DON'T THINK, I DIDN'T SEE
14 ANYTHING IF THEY WENT BACK THEY COULD HAVE GONE
15 BACK AND CHECKED THE CLOSET LIGHTS IS REALLY NOT
16 MUCH TO FOLLOW THROUGH WITH THE EXCEPTION OF GOING
17 BACK AND DO A DNA ON THE SWITCHES

18 Q BUT WHEN YOU WERE A POLICE OFFICER THERE WAS NO
19 SUCH THING AS DNA AS FAR AS Y'ALL KNEW?

20 A NO, SIR

21 Q SO YOU HAVE NEVER BEEN EXPERIENCED IN COLLECTION
22 OF DNA AT A CRIME SCENE, HAVE YOU?

23 A I WAS NEVER EXPERIENCED IN THAT I WAS NEVER
24 EXPERIENCED IN COLLECTING BLOOD OR OTHER LIQUIDS
25 SOMEBODY ELSE ALWAYS DID THAT

002796

1 Q NOW YOU MENTIONED WHEN AN INTERVIEW IS TAPED YOU
2 CAN UNDERSTAND WHAT HAPPENED IN THAT INTERVIEW AND
3 YOU KNOW ABOUT THE STATEMENT BEING CORRECT OR NOT,
4 DON'T YOU?

5 A COULD YOU ASK THAT AGAIN PLEASE

6 Q WHEN YOU HEAR AN INTERVIEW ON TAPE YOU KNOW
7 WHETHER THE INTERVIEW WAS CORRECT OR NOT, THAT'S WHAT
8 I BELIEVE YOU WERE TESTIFYING SOMETHING OF THAT
9 NATURE?

10 A YES, SIR

11 Q BUT THEN YOU SAID WITHOUT A TAPE THERE IS NO WAY
12 YOU CAN KNOW IF THE INFORMATION IS VALID, IS THAT
13 CORRECT?

14 A WITHOUT A TAPE RECORDING OF AN INTERVIEW THERE
15 IS NO WAY OF DETERMINING EXACTLY THE PROCEDURES, THE
16 STEPS, EVERY WORD THAT WAS SAID, IMPORTANT WORDS
17 PEOPLE'S MEMORIES ARE JUST SO MUCH, THEY CAN ONLY
18 GATHER SO MUCH AS THEY ARE DOING THE INTERVIEWS,
19 ESPECIALLY IF THEY ARE DOING THE INTERVIEW

20 Q CERTAINLY, THAT DOESN'T INVALIDATE---

21 MR MORTON YOUR HONOR, I DON'T THINK
22 HE'S FINISHED WITH HIS ANSWER

23 THE COURT LET HIM FINISH HIS ANSWER

24 A I WASN'T BUT I CAN'T REMEMBER WHAT I WAS GOING
25 TO SAY AFTER THAT

002797

1 Q WELL, CERTAINLY THAT DOESN'T INVALIDATE ALL THE
2 INTERVIEWS YOU DID THAT WERE NOT RECORDED BACK WHEN
3 YOU WERE AN OFFICER, DOES IT?

4 A NO, SIR

5 Q AS A MATTER OF FACT, IT DOESN'T INVALIDATE AN
6 INTERVIEW AT ALL?

7 A WELL INVALIDATE, WHAT DO YOU MEAN? DOES IT MAKE
8 IT TRUTHFUL FOR NON-TRUTHFUL

9 Q RIGHT

10 A DEPENDS ON WHO WRITES IT DEPENDS ON THE MOTIVE
11 OF THE PERSON WHO WRITES IT DEPENDS ON HOW MUCH
12 INFORMATION IS CONTAINED IN THE STATEMENT VERSUS THE
13 INTERVIEW IF YOU'VE GOT THREE HOURS OF THE
14 CONVERSATION YOU HAVE TWO PAGES OF INTERVIEW, THERE
15 IS A LOT VOIDS THERE UNLESS THE GUY WAS JUST THINKING
16 FOR LONG PERIODS OF TIME

17 Q AND IN FACT, THERE IS LOTS OF INFORMATION ON HIS
18 INTERVIEW FROM THE NEXT DAY AT THE POLYGRAPH, ISN'T
19 THERE?

20 A IS THERE A LOT OF INFORMATION ON THE INTERVIEW
21 THE NEXT DAY AT POLYGRAPH

22 Q YES

23 A YOU MEAN WHEN MR --

24 Q DETECTIVE BAKER?

25 A BAKER

002798

1 Q CORRECT

2 A I DON'T THINK THERE IS A LOT OF INFORMATION
3 THERE

4 Q YOU DIDN'T READ THE SINGLE SPACED LARGE
5 INTERVIEW REPORT THAT HE HAD DONE AS A RESULT OF
6 THAT?

7 A WELL, READ I GUESS A SINGLE SPACE, TWO AND A
8 HALF PAGE REPORT THAT MR BAKER PREPARED AFTER HE WAS
9 DONE WITH THE INTERVIEW OF A, IF I REMEMBER
10 CORRECTLY, A THREE, THREE AND A HALF HOUR INTERVIEW
11 IT WAS ONLY THREE PAGES WHERE A FOUR HOUR INTERVIEW
12 WAS 122 PAGES RECORDED, SO THERE IS A LOT OF STUFF
13 THERE THAT'S MISSING

14 Q YOU SAY A LOT OF STUFF THAT IS MISSING AREN'T
15 YOU AWARE THAT THERE IS TIME THAT HE WOULD HAVE
16 ACTUALLY CONDUCTED THE POLYGRAPH?

17 A TRUE

18 Q AND THERE IS TIME WHERE HE ACTUALLY WOULD HAVE
19 LOOKED AT THE RESULTS OF THE POLYGRAPH?

20 A TRUE

21 Q AND THERE IS TIMES WHERE THEY ACTUALLY TOOK
22 BREAKS DURING THAT TIME AS INDICATED IN HIS NOTES?

23 A TRUE WHAT HAPPENED TO THE OTHER TWO HOURS?

24 Q AND HE'S DOCUMENTED THAT, HASN'T HE?

25 A HE DOCUMENTED TWO AND A HALF PAGES OF A THREE

002799

1 HOUR STAY

2 Q AND THAT DOES NOT MAKE THAT AN UNTRUE STATEMENT,
3 DOES IT?

4 A IT MAKES IT AN INCOMPLETE STATEMENT I'M NOT
5 SAYING IT'S UNTRUTH IT MAKES IT AN IMCOMPLETE
6 STATEMENT

7 Q AS A MATTER OF FACT, YOU WERE TALKING ABOUT A
8 NUMBER OF STATES NOW THAT HAVE GONE TO ALWAYS
9 RECORDING INTERVIEWS, CORRECT?

10 A RECORDING ALL INTERROGATIONS, YES, SIR

11 Q AND THAT NUMBER OF STATES IS THREE, IS IT NOT?

12 A TWO OR THREE, RIGHT IT'S A NEW THOUGHT IN SOME
13 STATES IT'S A NEW PRACTICE

14 Q SOUTH CAROLINA ISN'T ONE OF THOSE STATES?

15 A PARDON?

16 Q SOUTH CAROLINA, IS NOT ONE OF THOSE STATES, IS
17 IT?

18 A NO

19 Q NEITHER IS NORTH CAROLINA?

20 A NO

21 Q OR VIRGINIA?

22 A NOPE OH, THERE IS A LOT OF STATES THAT'S NOT,
23 BUT LIKE I SAID THERE IS A LOT OF STATES LOOKING AT
24 THE ISSUE

25 Q AND THIS WAS AN INTERVIEW TAKEN IN 2001,

1 CORRECT, NOT IN 2004?

2 A I BELIEVE IT'S 2001

3 Q NOW FROM THE ITEMS YOU READ ARE YOU AWARE THAT
4 MR COPE IMMEDIATELY TOLD ONE OF THE OFFICERS WHO
5 INITIALLY ARRIVED ON THE SCENE THAT ANYTHING, IS
6 ANYTHING BAD GOING TO HAPPEN TO ME BECAUSE OF WHAT
7 HAPPENED TO MY DAUGHTER

8 A I CAN'T RECALL READING THOSE SPECIFIC WORDS

9 Q SO THAT MUST BE A DOCUMENT YOU DIDN'T READ?

10 A COULD VERY WELL BE

11 Q SO YOU CAN HAVE NO OPINION THEN AS TO
12 TRUTHFULNESS ON THAT ONE?

13 A I HAVE NO OPINION ON ANY STATEMENTS THAT WASN'T
14 RECORDED BECAUSE I DON'T KNOW ENTIRELY WHAT WENT ON
15 I DON'T KNOW THE OFFICERS I DON'T KNOW THE
16 CIRCUMSTANCES AND I HAVE NO OPINION TO OFFER ON ANY
17 OF THOSE

18 Q WOULDN'T YOU AGREE IN YOUR EXPERIENCE SOMEONE
19 FROM CRIME SCENES AND INVESTIGATIONS, THAT SOMEONE
20 WHO COVERS UP PART OF A CRIME SCENE BY SAYING IT WAS
21 AN ACCIDENT AND NOT A DEATH AN INDICATION OF GUILT?

22 A NO, SIR, I CAN'T SAY THAT BECAUSE IF THAT'S THAT
23 PERSON'S IMPRESSION, IF THEY ARE NOT TRAINED IN
24 LOOKING FOR CERTAIN THINGS, THEY MAY THINK IT'S AN
25 ACCIDENT THAT DOESN'T NECESSARILY MEAN IT'S GUILT

1 YOU KNOW, YOU COULD COME HOME FIND YOUR WIFE LAYING
2 THERE IN BED AND THINK SHE WAS DEAD, DON'T SEE ANY
3 WOUNDS, AND THEN POLICE COME IN AND THEY FOUND BULLET
4 HOLES IN HER BODY SO, YOU KNOW, IT'S, I CAN'T AGREE
5 WITH THAT

6 Q NOW YOU HAD MENTION THAT HIS WILLINGNESS TO TAKE
7 A POLYGRAPH WAS A SIGN OF HIS TRUTHFULNESS, CORRECT?

8 A (NO RESPONSE)

9 Q OR HIS SUGGESTION THAT HE SHOULD TAKE A
10 POLYGRAPH WAS A SIGN OF HIS TRUTHFULNESS?

11 A YES, SIR

12 Q YOU DEALT WITH POLYGRAPH SOMEWHAT WHEN YOU WERE
13 AN OFFICER, DID YOU NOT?

14 A YES, SIR, I DID

15 Q AND CERTAINLY SOME PEOPLE DO OFFER TO TAKE A
16 POLYGRAPH TEST BUT STILL TURN OUT TO BE GUILTY, DON'T
17 THEY?

18 A TRUE

19 Q NOW YOU WORK NARCOTICS DURING SOME OF YOUR PRIOR
20 CAREER, DID YOU NOT?

21 A YES, I DID

22 Q AND AS A NARCOTICS OFFICER IT WASN'T UNUSUAL TO
23 COME ACROSS A DEFENDANT WHO YOU SUSPECTED TO HAVE
24 DRUGS, WOULD IT? NOT AN UNUSUAL THING, THAT'S WHAT
25 YOU ARE TRYING TO DO?

1 A WELL, WHAT, I MEAN AFTER I ARRESTED THEM?

2 Q NO THAT YOU SUSPECTED TO HAVE DRUGS?

3 A A PERSON

4 Q YOU SUSPECTED AND YOU SUSPECT THEY HAVE DRUGS,
5 THAT HAPPENS WHILE YOU ARE A NARCOTICS OFFICER,
6 DOESN'T IT?

7 A RIGHT RIGHT

8 Q AND LOTS OF TIMES YOU'LL ASK THEM, YOU GOT ANY
9 DRUGS ON YOU, WON'T YOU?

10 A (NO RESPONSE)

11 Q YOU'LL JUST APPROACH THEM AND START TO TALK TO
12 THEM ON THE STREET?

13 A WELL, THAT'S A NEW TECHNIQUE THAT POLICE USE AT
14 YOUR AIRPORTS AND THINGS OF THAT NATURE AND IT'S BEEN
15 A VERY EFFECTIVE TECHNIQUE THAT SOME POLICE OFFICERS
16 USE

17 Q AND IN THAT TECHNIQUE PEOPLE OFTEN DENY AND SAY
18 NO, I DON'T HAVE ANY DRUGS, AND OFFER THE OFFICER TO
19 SEARCH THEM, DON'T THEY?

20 A TRUE

21 Q THE OFFICER TAKES THEM UP ON THAT AND THEY FOUND
22 DRUGS IN MANY CASES, DON'T THEY?

23 A I DON'T KNOW THE PERCENTAGE BUT THEY DO FIND
24 DRUGS IN SOME CASES

25 Q NOW IN THE MURDERS THAT YOU WORKED WHILE YOU

1 DOING THE THREE YEARS WORKING DEATHS, SURELY YOU CAME
2 ACROSS A MURDER IN WHICH THE MURDER WEAPON WAS NEVER
3 FOUND, HAVEN'T YOU?

4 A TRUE

5 Q SO THAT'S NOT THAT UNUSUAL EITHER?

6 A NO, IT'S PROBABLY A LOT MORE TIMES THE MURDER
7 WEAPON IS MISSING THAN IT IS FOUND

8 Q NOW YOU WERE QUALIFIED AS AN EXPERT HERE TODAY,
9 BUT THERE HAVE BEEN IN THE TIMES PAST THAT COURTS
10 HAVE REFUSED TO QUALIFY YOU AN EXPERT IN THESE SAME
11 AREAS, HAVEN'T THEY?

12 A (NO RESPONSE) I DON'T KNOW WHAT YOU ARE
13 TALKING ABOUT I KNOW VERY FEW TIMES I'VE BEEN ASKED
14 TO SPEAK AS AN EXPERT AND I NEVER KNOWN A CASE WHERE,
15 THAT THERE WAS ONE ISSUE WHERE THE JUDGE WOULD NOT
16 LET ME GIVE AN OPINION AS AN EXPERT, BUT HE WOULD LET
17 ME GIVE AN OPINION AND COULD NEVER UNDERSTAND IT, BUT
18 GIVE MY OPINION AS TO MY EXPERIENCE HAD BEEN ON THE
19 STAND QUITE A FEW TIMES ON THAT PARTICULAR CASE AND
20 IT WAS CERTAIN TOPIC OF THAT PARTICULAR CASE

21 Q NOW YOUR SERVICES DON'T COME FREE, DO THEY?

22 A NOPE

23 Q WHAT DO YOU CHARGE FOR YOUR SERVICES?

24 A MY NORMAL FEES IS \$100 AN HOUR BUT FOR COURT
25 APPOINTED CASES I'VE BEEN DOING FOR YEARS AND I DID

002804

1 IT FOR THIS CASE IS \$50 AN HOUR I'M CALLED A CHEAP
2 EXPERT

3 Q DO YOU HAVE A DIFFERENT FEE WHEN YOU COME INTO
4 THE COURTROOM DURING COURT AND ACTUALLY TESTIFY?

5 A NO, SIR

6 Q HOW MANY HOURS HAVE HAD YOU IN THIS CASE?

7 A THREE WEEKS, PROBABLY AT LEAST 120 HOURS, PUT A
8 LOT TIME IN I MIGHT NOT GET PAID FOR ALL OF IT I
9 DON'T KNOW

10 Q BUT THAT WASN'T ENOUGH TO READ EVERYTHING IN THE
11 FILE, WAS IT?

12 A NOT WHEN I SPENT A LOT OF TIME TRANSCRIBING, IT
13 WASN'T --- THE ANSWER IS NO BUT I DIDN'T, IT WAS
14 JUST SO MANY HOURS AND I DID NOT HAVE THE TIME AND
15 THAT WASN'T THE REASON I WAS HIRED THE REASON I WAS
16 HIRED WAS TO LOOK AT THE INTERVIEW, TRANSCRIBE THE
17 TAPE, AND GIVE MY OPINION AFTER DOING CERTAIN THINGS

18 Q ALL RIGHT THANK YOU

19 THE COURT BEFORE, I HATE TO SEND YOU OUT
20 AGAIN, BUT LET ME LET YOU GO OUT FOR JUST A FEW
21 MINUTES

22 (THE JURY EXITS THE COURTROOM AT 03 10
23 PM)

24 THE COURT COUNSEL, OUT OF AN ABUNDANCE
25 OF PRECAUTION ON THIS ISSUE WE DISCUSSED JUST BEFORE

1 THE JURY CAME IN, I WANT TO MAKE SURE I WAS ON FIRM
2 GROUND I BELIEVE THAT AS TO THE DISCOVERY UNDER
3 RULE FIVE B ONE B THAT ASSUMING THAT UNDER RULE FIVE
4 A ONE C OR D CERTAIN REPORTS WERE REQUESTED BY
5 DEFENSE FROM THE PROSECUTION THAT THE REPORT AT ISSUE
6 IS DISCOVERABLE IN ANY EVENT IT WAS GIVEN OVER TO
7 COUNSEL I WANTED TO INCREASE MY COMFORT LEVEL AND
8 STATE VERSUS SLOCUMB 521 SOUTHEASTERN 507 COMES
9 PRETTY CLOSE TO BEING ON POINT IT DEALS, IT CITES
10 ANOTHER CASE THEREIN DEALING WITH POLYGRAPH WHICH IS
11 WHAT I PRETTY MUCH RULED IN REGARD TO USE OF
12 POLYGRAPH IN THIS CASE BUT IT DOES INDICATE THAT
13 THE COURT SHOULD ARTICULATE ON THE RECORD, AT LEAST
14 MY READING OF THIS, THAT 403 EVIDENCE, RULE OF
15 EVIDENCE 403 ANALYSIS SHOULD BE APPLIED, AND SO I
16 HAVE APPLIED THAT, AND FIND THAT EVEN THOUGH THERE IS
17 OF COURSE SOME PREJUDICE, OBVIOUSLY THEY WOULDN'T
18 WANT IT IN, THAT THIS IS, THE PROBATIVE VALUE DOES
19 NOT SUBSTANTIALLY OUTWEIGH ANY UNFAIR PREJUDICE TO
20 MR COPE AND CERTAINLY DOES NOT CAUSE CONFUSION ON
21 THE ISSUE I THINK IT IN FACT CONTRARY WISE IT
22 CLARIFIES THE ISSUE I DON'T BELIEVE IT MISLEADS THE
23 JURY IT WILL IN FACT DIRECT THE JURY INTO A FULL
24 AND COMPLETE ASSESSMENT OF THIS PARTICULAR WITNESS'S
25 TESTIMONY I DON'T BELIEVE IT CREATES ANY UNDUE

002806

1 DELAY, WASTE OF TIME, OR NEEDLESS PRESENTATION OF
2 CUMULATIVE EVIDENCE IT'S CERTAINLY NOT CUMULATIVE
3 SO I JUST WANT TO PUT THAT ON THE RECORD IN REGARD TO
4 ALLOWING CROSS EXAMINATION AS TO THE DECEPTIVE
5 PRACTICE

6 MR BRACKETT MAY IT PLEASE THE COURT
7 THE COURT YES, SIR

8 MR BRACKETT JUST BRIEFLY, I WOULD ALSO
9 SUBMIT UNDER RULE 705 OF THE RULES OF EVIDENCE,
10 DISCLOSURE OF FACTS OR DATA UNDERLYING EXPERT OPINION
11 THAT RULE SAY THE EXPERT MAY IN ANY EVENT BE REQUIRED
12 TO DISCLOSE THE UNDERLYING FACTS OR DATA ON CROSS
13 EXAMINATION I SUBMIT --

14 THE COURT AND IT DOES, BUT IT KIND OF, I
15 HAD, WE VISITED THIS ON POLYGRAPH EARLIER

16 MR BRACKETT YES, SIR

17 THE COURT AND SO I DON'T WANT TO GO BACK
18 AND THE SLOCUMB CASE DOES APPEAR TO REQUIRE AT LEAST
19 IN THAT THE JUDGE DID APPLY A 403 ANALYSIS, SO I WANT
20 TO MAKE SURE I HAD DONE THAT TO BE COMPLETELY FAIR TO
21 MR COPE ALL RIGHT LET'S TAKE A SHORT REFRESHER
22 BREAK BECAUSE I KNOW THE JURY IS GOING TO USE THE
23 RESTROOMS AND ALL WHEN THEY ARE OUT AND COME IN AND
24 DO CROSS, ANY OTHER REDIRECT AND RECROSS AND THEN
25 MOVE ON TO THE NEXT WITNESS

1 (COURT'S IN RECESS AT 03 13 PM)

2 (COURT RESUMES AT 03 19 PM AND THE

3 DEFENDANTS ARE PRESENT)

4 THE COURT BRING IN THE JURY

5 (THE JURY RETURNS TO THE COURTROOM AT

6 03 19 PM)

7 THE COURT MR GREELEY

8 MR GREELEY NO QUESTIONS, YOUR HONOR

9 THE COURT ALL RIGHT ANY REDIRECT?

10 MR MORTON NO, SIR, YOUR HONOR

11 THE COURT ANY RECROSS

12 MR THOMPSON NO, YOUR HONOR

13 THE COURT YOU CAN STEP DOWN THANK YOU

14 WE APPRECIATE YOUR TIME

15 A ALL RIGHT, SIR

16 THE COURT ANY REASON THIS WITNESS CAN'T

17 BE EXCUSED?

18 MR GREELEY NO

19 MR THOMPSON HE CAN BE EXCUSED

20 THE COURT YOU CAN BE EXCUSED CALL YOUR

21 NEXT WITNESS

22 MR BAITY YOUR HONOR, WE WOULD CALL

23 TOMMY BOATWRIGHT TO THE STAND

24 TOMMY BOATWRIGHT, BEING FIRST

25 DULY SWORN, TESTIFIED AS FOLLOWS

002808

1 DIRECT EXAMINATION BY MR BAITY

2 Q PLEASE GIVE US YOUR FULL NAME AND ADDRESS

3 A STEVE T BOATWRIGHT 500 GILL HALL DRIVE,
4 COLUMBIA, SOUTH CAROLINA

5 Q MR BOATWRIGHT, I'M GOING TO ASK YOU TO LEAN A
6 LITTLE TO YOUR LEFT AND SPEAK INTO THAT MICROPHONE SO
7 THEY CAN HEAR YOU ARE YOU HERE TODAY RESPONDING TO
8 A SUBPOENA THAT WAS SERVED ON YOU OR YOUR BUSINESS?

9 A YES, I AM

10 Q PLEASE TELL US WHAT BUSINESS YOU ARE IN?

11 A I'M MANAGER FOR SWANSON SERVICES AND WE DO THE
12 COMMISSARY FOR YORK COUNTY DETENTION CENTER

13 Q NOW WHAT IS YOUR CAPACITY AT THAT BUSINESS?

14 A I'M THE MANAGER

15 Q AND THAT BUSINESS IS LOCATED IN COLUMBIA, SOUTH
16 CAROLINA, IS THAT WHAT YOU SAID?

17 A YES

18 Q AND GENERALLY WHAT DOES YOUR COMPANY DO?

19 A WE -- INMATES ARE ALLOWED TO ORDER PRODUCTS AND
20 WE PICK AND PACK THOSE PRODUCTS AND DELIVER TO THE
21 INMATES

22 Q NOW EVEN MORE GENERALLY THAN THAT, IS IT FAIR TO
23 STATEMENT THAT YOUR COMPANY SUPPLIES ARTICLES THAT
24 FILL THE INMATES ORDERS?

25 A YES

002809

1 Q THAT THEY MAKE THROUGH THE COMMISSARY AT THE
2 JAIL THAT THEY ARE IN?

3 A THAT'S CORRECT

4 Q AND DOES YOUR COMPANY SUPPLY THE YORK COUNTY
5 DETENTION CENTER?

6 A YES, WE DO

7 Q DO YOU SUPPLY OTHER DETENTION CENTERS THROUGHOUT
8 THE STATE?

9 A YES, SIR, I DO

10 Q DID THE SUBPOENA THAT YOU WERE SERVED WITH ASK
11 YOU TO BRING ANYTHING WITH YOU?

12 A THE TYPEWRITER MATERIAL WE FURNISH TO THE
13 INMATES

14 Q ALL RIGHT AND DID YOU BRING THAT WITH YOU
15 TODAY?

16 A I DID

17 Q AND THESE ARE THE ITEMS THAT YOU BROUGHT WITH
18 YOU TODAY?

19 A THAT IS CORRECT

20 Q ARE THESE ITEMS THAT YOU BROUGHT FROM YOUR PLACE
21 OF BUSINESS PURSUANT TO THE SUBPOENA TODAY?

22 A YES

23 Q AND ARE THESE THE TYPE ITEMS THAT ARE SUPPLIED
24 TO INMATES AT THE JAILS THAT YOUR COMPANY SERVES?

25 A THOSE ARE THE ONLY ITEMS SUPPLIED

002810

1 MR BAITY I MOVE THESE BE ADMITTED INTO
2 EVIDENCE, YOUR HONOR

3 MR BRACKETT NO OBJECTION

4 MR GREELEY NO OBJECTION

5 THE COURT BE RECEIVED WITHOUT OBJECTION

6 (DEFENSE EXHIBITS 70, 71, 72 IN
7 EVIDENCE)

8 Q MR BOATWRIGHT, HOW LONG HAVE YOU BEEN EMPLOYED
9 AT SWANSON?

10 A TWO AND A HALF YEARS

11 Q AND HAS SWANSON BEEN THE SUPPLIER OF THE YORK
12 COUNTY DETENTION CENTER COMMISSARY FOR THAT ENTIRE
13 PERIOD?

14 A YES, SIR

15 Q HAVE THERE BEEN ANY OTHER AGENCY THAT SUPPLIES
16 THE COMMISSARY THAT YOU KNOW OF?

17 A NO, SIR

18 Q IS YOUR CONTRACT WITH THEM EXCLUSIVE?

19 A YES, SIR

20 Q ALL RIGHT NOW I'M GOING TO HAND YOU BACK THESE
21 ITEMS THAT HAVE BEEN MARKED AS DEFENSE EXHIBIT NUMBER
22 70 71, AND 72 I'D LIKE FOR YOU TO REFER TO THOSE
23 FIRST OF ALL IF YOU COULD SHOW US THE PLAIN WHITE
24 PIECE OF PAPER COULD YOU HOLD THAT UP TO THE JURY
25 AND PLEASE DESCRIBE WHAT THAT PARTICULAR ITEM IS?

002811

1 A THIS IS STRICTLY JUST COPY MACHINE PAPER THAT WE
2 FURNISH IN INDIGENT PACKS FOR INMATES THAT DON'T HAVE
3 MONEY, THE COUNTY IS REQUIRED TO GIVE THEM WRITING
4 MATERIAL AND PENCILS

5 Q AND THAT IS THE TYPE OF PAPER THAT YOU SUPPLY TO
6 THE YORK COUNTY DETENTION CENTER FOR THAT PURPOSE?

7 A YES, IT IS

8 Q ALL RIGHT, SIR PLEASE PUT THAT ASIDE AND WHAT
9 ARE THE OTHER TWO EXHIBITS PLEASE NOW I SEE THAT
10 YOU ARE HOLDING UP DEFENSE 72, PLEASE EXPLAIN TO THE
11 LADIES AND GENTLEMEN OF THE JURY WHAT THAT IS?

12 A IT'S WHAT WE CALL IS A LEGAL PAD THAT THEY ARE
13 ALLOWED TO ORDER THE ONLY LEGAL PAD WE CARRY

14 Q ALL RIGHT AND SHOW THE LADIES AND GENTLEMEN OF
15 THE JURY EXHIBIT NUMBER 70 AND JUST EXPLAIN WHAT THAT
16 IS?

17 A IT'S JUST A WRITING TABLET ALSO THE ONLY TABLET
18 WE CARRY THAT THEY CAN ORDER

19 Q ALL RIGHT, SIR NOW FOR THE TIME THAT YOU'VE
20 BEEN AT SWANSON WHICH I UNDERSTAND TO BE FOR THE
21 NEXT, FOR THE LAST TWO AND A HALF YEARS, HAS YOUR
22 COMPANY EVER SUPPLIED ANY TYPE OF PAPER OTHER THAN
23 THOSE THREE EXHIBITS THAT YOU JUST MENTIONED?

24 A NO, SIR

25 Q AND YOU ARE ABSOLUTELY CERTAIN OF THAT?

1 A POSITIVE

2 Q NOW I'M GOING TO SHOW YOU DEFENSE EXHIBIT 67,
3 68, AND 69 AND ASK YOU TO COMPARE THOSE TO DEFENSE
4 EXHIBITS NUMBER 70, 72, AND 71 AND TELL ME IF THEY
5 MATCH UP AND APPEAR TO BE THE SAME?

6 A THEIR WRITING TABLET LOOKS THE SAME THE LINES
7 ARE A LITTLE DARKER

8 Q AND AS TO THE OTHER TWO?

9 A THEY LOOK THE SAME TO ME

10 Q SO WOULD YOU SAY THAT THE LEGAL PAD DEFENSE
11 EXHIBIT NUMBER 72 AND DEFENSE EXHIBIT NUMBER 68
12 APPEAR TO BE MORE OR LESS THE SAME?

13 A YES

14 Q NOW I WOULD ASK THAT YOU PAY PARTICULAR
15 ATTENTION TO THIS AND I WOULD ASK YOU TO TELL ME, DO
16 YOU SEE ANY MARGINS?

17 A NO, SIR

18 Q DRAW ON EITHER OF THESE DOCUMENTS?

19 A NO

20 Q THAT WOULD BE EXHIBIT 72 AND 68?

21 A NO

22 Q HAVE YOU EVER SUPPLIED TO YORK COUNTY DETENTION
23 CENTER WITH WRITING TABLETS SUCH AS THIS, THIS LEGAL
24 PAD, THAT HAD A MARGIN OF ANY TYPE, RED, BLUE, OR ANY
25 OTHER COLOR ON THE LEFT SIDE

- 1 A NO, WE HAVE NOT CHANGED THAT SUPPLIER
- 2 Q YOU ARE ABSOLUTELY CERTAIN OF THAT?
- 3 A POSITIVE
- 4 Q I'M GOING TO ASK YOU TO TAKE A LOOK AT THE
- 5 WRITING TABLET APPEARS TO BE MEAD IN DESIGN, IS
- 6 THAT BRAND YOU CARRY?
- 7 A CORRECT
- 8 Q YOU EVER CARRY ANY OTHER BRAND?
- 9 A NO
- 10 Q I'M GOING TO ASK YOU TO TAKE PARTICULAR CLOSE
- 11 ATTENTION, DOES THIS CONTAIN A LEFT MARGIN OR RED
- 12 MARGIN OF ANY TYPE?
- 13 A NO
- 14 Q HAVE YOU EVER SUPPLIED YORK COUNTY DETENTION
- 15 CENTER WITH A TABLET SUCH AS THIS THAT HAS A MARGIN
- 16 ON THE LEFT SIDE?
- 17 A NO
- 18 Q AND ARE YOU ABSOLUTELY CERTAIN OF THAT?
- 19 A YES
- 20 Q AND THIS HAS NO MARGIN ON IT WHATSOEVER AND THAT
- 21 WOULD BE EXHIBIT NUMBER 69 AND 71?
- 22 A CORRECT
- 23 Q THESE MORE OR LESS THE SAME, CORRECT?
- 24 A CORRECT
- 25 Q AND YOU ARE ABSOLUTELY CERTAIN OF THAT?

1 A YES

2 MR BAITY PERMISSION TO PUBLISH THIS TO
3 THE JURY, YOUR HONOR

4 THE COURT CERTAINLY

5 Q NOW MR BOATWRIGHT, I'M GOING TO HAND YOU WHAT'S
6 BEEN MARKED EXHIBIT NUMBER 90, STATE'S EXHIBIT 90, I
7 WANT YOU TO CAREFULLY LOOK AT THE WRITING PAPER IN
8 THAT DOCUMENT YOU SEE IT?

9 A YES, SIR

10 Q DOES IT CONTAIN A RED MARGIN?

11 A YES, IT DOES

12 Q DO YOU RECOGNIZE IT AS THE TYPE OF PAPER THAT
13 YOUR COMPANY SUPPLIES TO THE YORK COUNTY DETENTION
14 CENTER?

15 A NO, SIR

16 Q AND AGAIN I'LL ASK YOU, HAVE YOU EVER IN YOUR
17 EXPERIENCE AT SWANSON AS THE MANAGER THERE SUPPLIED
18 PAPER TO AN INMATE SUCH AS THAT?

19 A NO, SIR

20 Q ALL RIGHT, SIR AND I'LL SHOW YOU WHAT'S BEEN
21 MARKED EXHIBIT 89, STATE'S EXHIBIT NUMBER 89, AND
22 THERE IS A TWO PAGE LETTER IN THERE, I ASK YOU TO
23 EXAMINE THAT CAREFULLY AND I WOULD POINT OUT, SIR,
24 THAT HAS A BLUE TINT ON IT THAT I'M NOT REFERRING TO
25 WHEN I ASK YOU ABOUT IT?

002815

1 A NO NO

2 Q LET ME ASK THE QUESTION DO YOU RECOGNIZE THE
3 PAPER THAT'S COMPRESSES THAT LETTER AS THE TYPE OF
4 PAPER THAT YOUR COMPANY HAS SUPPLIED TO THE YORK
5 COUNTY DETENTION CENTER AT ANY TIME WHILE YOU'VE BEEN
6 THE MANAGER THERE FOR THE PAST TWO AND A HALF YEARS?

7 A NO, SIR

8 Q AND YOU ARE ABSOLUTELY CERTAIN OF THAT?

9 A POSITIVE

10 Q IT HAS A RED MARGIN ON THAT, HAVE YOU EVER
11 SUPPLIED A RED MARGIN --

12 A NO, SIR

13 Q PIECE OF PAPER FOR INMATES IN ANY WAY, SHAPE, OR
14 FORM TO THE YORK COUNTY DETENTION CENTER

15 MR BAITY NOTHING FURTHER, YOUR HONOR
16 THANK YOU

17 THE COURT STATE

18 MR BRACKETT NO QUESTIONS

19 MR GREELEY NO QUESTIONS

20 THE COURT YOU CAN STEP DOWN AND BE
21 EXCUSED WE CERTAINLY APPRECIATE YOUR TIME THANK
22 YOU

23 THE COURT CALL YOUR NEXT WITNESS

24 MR BAITY WE'LL CALL DR CLAY NICHOLS
25 AND HE'S IN THE BACK

002816

1 THE COURT CERTAINLY

2 CLAY NICHOLS, AFTER BEING DULY

3 SWORN TESTIFIED AS FOLLOWS

4 DIRECT EXAMINATION BY MR BAITY

5 Q PLEASE GIVE US YOUR FULL NAME AND ADDRESS

6 A CLAYTON L NICHOLS N-I-C-H-O-L-S I LIVE AT 7

7 KIRKMAN COURT IN COLUMBIA 29202

8 Q COLUMBIA, SOUTH CAROLINA?

9 A YES, SIR, THAT'S CORRECT

10 Q ALL RIGHT, SIR PLEASE GIVE US YOUR PROFESSION
11 AND CURRENTLY EMPLOYER?

12 A I'M A FORENSIC PATHOLOGIST OPERATING OUT OF
13 RICHLAND MEMORIAL HOSPITAL IN COLUMBIA

14 Q AND DOCTOR, WOULD YOU JUST GIVE US THE BENEFIT
15 OF YOUR EDUCATIONAL AND PRACTICAL EXPERIENCE?

16 A YES, SIR I RECEIVED MY BACHELOR OF SCIENCE
17 DEGREE FROM THE UNIVERSITY OF OKLAHOMA IN 1981
18 AFTER THAT I ENTERED MEDICAL SCHOOL ALSO AT OKLAHOMA
19 COMPLETING THAT IN 1985 FOLLOWING THAT I ENTERED A
20 RESIDENCY PROGRAM IN PATHOLOGY AND FORENSIC PATHOLOGY
21 AT THE MEDICAL UNIVERSITY OF SOUTH CAROLINA IN
22 CHARLESTON COMPLETING THAT IN 1990 AFTER THAT I WAS
23 ON THE FACULTY FOR 10 YEARS AS AN ASSOCIATE PROFESSOR
24 WHERE I TAUGHT PATHOLOGY AND FORENSIC PATHOLOGY TO
25 MEDICAL STUDENTS, DENTAL STUDENTS, AND PATHOLOGY

002817

1 RESIDENTS, AND FELLOWS AFTER THAT I LEFT AND WENT
2 INTO PRIVATE PRACTICE AT RICHLAND PRACTICING FORENSIC
3 PATHOLOGY I'M BOARD CERTIFIED BY THE AMERICAN BOARD
4 OF PATHOLOGY IN ANATOMIC AND FORENSIC PATHOLOGY I
5 CURRENTLY HOLD AN UNRESTRICTED LICENSE TO PRACTICE
6 MEDICINE AND SURGERY IN THE STATE OF SOUTH CAROLINA
7 THE COURT I'M GOING TO ASK YOU TO SLOW
8 DOWN A LITTLE BIT

9 A I'M SORRY IN ADDITION, I ALSO TEACH COURSES IN
10 CHILD ABUSE AT THE NATIONAL ADVOCACY CENTER IN
11 COLUMBIA

12 Q DOES PART OF YOUR PROFESSION AND EXPERIENCE
13 INCLUDE PERFORMANCE OF AUTOPSIES?

14 A THAT IS MY JOB, YES, SIR

15 Q AND HOW LONG HAVE YOU BEEN PERFORMING AUTOPSIES,
16 DOCTOR?

17 A DONE MY FIRST AUTOPSY IN 1982 AS A SECOND YEAR
18 MEDICAL STUDENT

19 Q AND DOCTOR, HAVE YOU QUALIFIED AS AN EXPERT TO
20 TESTIFY IN CRIMINAL OR CIVIL PROCEEDINGS IN THE STATE
21 OF SOUTH CAROLINA?

22 A NUMEROUS TIMES

23 Q AND HAVE YOU TESTIFIED FOR THE PROSECUTION
24 BEFORE?

25 A MOST OF THE TIMES I DO

002818

1 Q AND HAVE YOU TESTIFIED FOR THE DEFENSE?

2 A RARELY, BUT, YES, I HAVE

3 Q ALL RIGHT, SIR

4 MR BAITY YOUR HONOR, AT THIS TIME I
5 WOULD OFFER HIM AS AN EXPERT IN FORENSIC PATHOLOGY

6 THE COURT ANY VOIR DIRE BY THE STATE

7 MR THOMPSON WITHOUT OBJECTION

8 MR GREELEY WITHOUT OBJECTION

9 THE COURT I FIND HE'S QUALIFIED

10 MR BAITY THANK YOU, YOUR HONOR

11 Q DR NICHOLS, COULD YOU EXPLAIN TO US THE
12 MATERIALS THAT YOU HAVE BEEN PROVIDED RELEVANT TO
13 THIS CASE FOR YOUR EXAMINATION?

14 A I'VE BEEN PROVIDED THE AUTOPSY REPORT ON AMANDA
15 COPE I WAS PROVIDED THE TESTIMONY OF DR MAYNARD
16 FROM A FAMILY COURT HEARING I ALSO RECEIVED A VIDEO
17 TAPE OF THE CONFESSIONS OF MR COPE AND ALSO THE
18 STATEMENTS OF THE CONFESSION AND THE MICROSCOPE
19 SLIDES FROM DR MAYNARD

20 Q SO YOU ACTUALLY HAD THE MICROSCOPIC SLIDES THAT
21 WERE CREATED FROM THE AUTOPSY?

22 A THAT'S CORRECT

23 Q AND DID YOU ALSO VIEW THE CRIME SCENE PHOTOS AND
24 THE AUTOPSY PHOTOS?

25 A YES, I DID

002819

1 Q THEY WERE FAIRLY NUMEROUS, IS THAT CORRECT?

2 A YES, THEY WERE

3 Q DOCTOR, DID YOU STUDY THE MATERIAL THAT WAS
4 PROVIDED TO YOU?

5 A YES, I DID

6 Q AND BY LOOKING AT THAT MATERIAL WERE YOU ABLE TO
7 DETERMINE FOR YOUR OWN UNDERSTANDING THE LOCATION OF
8 THE WOUNDS TO THE BODY OF AMANDA COPE?

9 A YES DR MAYNARD DID A VERY EXCELLENT JOB
10 DOCUMENTING THE INJURIES

11 THE COURT I'M GOING TO REMIND YOU TO
12 KINDLY SLOW DOWN A LITTLE BIT THE COURT REPORTER
13 HAS TO TAKE THIS DOWN

14 A THANK YOU

15 THE COURT GO AHEAD

16 Q AND WAS THE PATTERN OF THESE INJURIES, THESE
17 BRUISES AND INJURIES THAT YOU NOTICED ON THE BODY OF
18 AMANDA COPE, WERE THEY SUGGESTIVE OF AN ANGLE OF
19 ATTACK TO THIS YOUNG LADY?

20 A YES, THEY WERE

21 Q PLEASE TELL US WHAT ANGLE OF ATTACK YOU
22 CONCLUDED OCCURRED IN THIS?

23 A ALMOST ALL THE SIGNIFICANT INJURIES OCCURRED
24 FROM THE FRONT, THAT INCLUDE BRUISING TO THE SIDES OF
25 THE HEAD, THE FACE, THE LIPS, THE CHEST, THE ABDOMEN,

002820

1 AND OF COURSE, THE GENITAL AREAS

2 Q DOCTOR, THE AUTOPSY REPORT REFERS TO A CAUSE OF
3 DEATH, ARE YOU FAMILIAR WITH WHAT ITS CONCLUSIONS
4 WERE?

5 A YES, I AM

6 Q DO YOU AGREE WITH THOSE CONCLUSION?

7 A YES, I DO

8 Q AND THOSE CONCLUSIONS WERE STRANGULATION AND
9 BLUNT TRAUMA, IS THAT CORRECT?

10 A THAT'S CORRECT

11 Q DID YOU SEE EVIDENCE OF BOTH?

12 A YES, I DID

13 Q NOW CONCERNING THE STRANGULATION, DID IT APPEAR
14 TO YOU TO BE BY HAND OR BY LIGATURE OR BY SOME OTHER
15 MEANS?

16 A A LIGATURE WOULD LEAVE A PATTERN SUCH AS
17 WHATEVER PATTERN THE LIGATURE WAS IF A ROPE WERE
18 USED OR BELT YOU WOULD SEE THE PATTERN OF THAT
19 LIGATURE ON THE NECK YOU COULD SEE THAT THERE WAS A
20 LARGE AMOUNT OF HEMORRHAGE ON THE LEFT SIDE OF THE
21 NECK AND VERY LITTLE ON THE RIGHT SIDE OF THE NECK
22 THIS INDICATES TO ME THAT PRESSURE WAS APPLIED MORE
23 TO THE LEFT SIDE SUCH AS WITH A RIGHT HAND AND A
24 THUMB GOING OVER TO THE RIGHT SIDE CAUSING A MINOR
25 DEGREE OF HEMORRHAGE, SO IT APPEARS TO ME TO BE A ONE

1 HANDED STRANGULATION

2 Q IS THERE ANY EVIDENCE THAT YOU SAW IN THE
3 AUTOPSY PHOTOS OR IN ANY OTHER MATERIAL THAT YOU WERE
4 PROVIDED THAT INDICATED THAT THERE WAS MORE THAN ONE
5 HAND USED IN THIS STRANGULATION?

6 A NO, ONCE AGAIN, THE PATTERN IS VERY ASYMMETRIC
7 YOU HAVE FOUR FINGERS ON ONE SIDE, A THUMB ON THE
8 OTHER, A LARGE AMOUNT OF HEMORRHAGE WHERE THE GRIP
9 WAS APPLIED TO THE LEFT SIDE OF THE NECK A MINIMAL
10 AMOUNT OF HEMORRHAGE WHERE THE THUMB WAS APPLIED TO
11 THE OPPOSITE SIDE OF THE NECK

12 Q DOCTOR, WAS THERE ANY EVIDENCE OF AN ATTACK FROM
13 THE REAR OF THIS, ON THIS POOR YOUNG LADY?

14 A NO IN FACT, DR MAYNARD I BELIEVE SAYS THAT
15 THE BACK IS UNREMARKABLE IT'S INTACT THERE IS NO
16 EVIDENCE OF BRUISING IN FACT, EVEN AFTER THE HEAD
17 WAS EXAMINED, THERE WERE NO INJURIES TO THE SCALP
18 UNDERNEATH

19 Q AND DOCTOR, I WOULD ASK YOU IF AN ALMOST 400
20 POUND MAN LEAPED ON TO THE BACK OF THIS YOUNG LADY,
21 DO YOU THINK THAT THAT ALONE WOULD HAVE LEFT SOME
22 TYPE OF MARKINGS ON HER?

23 A ANY ADULT JUMPING ON THE BACK OF A CHILD WOULD
24 PROBABLY LEAVE SOME DEGREE OF MARK A 400 POUND MAN
25 WOULD CLEARLY LEAVE A MARK OF SOME SORT

1 Q AND DID YOU SEE ANY EVIDENCE OF ANY FIST BLOWS
2 OR ANY KIND OF POUNDING OR BEATING ON THE BACK SIDE,
3 PARTICULARLY THE BACK OF AMANDA COPE?

4 A NO, ONCE AGAIN THERE IS NO INJURY TO THE BACK

5 Q DOCTOR, IN STUDYING THE AUTOPSY REPORT DID YOU
6 SEE ANY REFERENCE THEREIN OR DID YOU SEE ANY OTHER
7 EVIDENCE IN THE PHOTOGRAPHS OR ANYTHING ELSE OR IN
8 THE SLIDES YOU EXAMINED OF ANY FECAL MATTER IN THE
9 VAGINA?

10 A NO IN FACT, THERE IS NO REFERENCE TO THAT AND
11 THERE WAS NO VISCERAL MATTER WHICH WOULD BE
12 INDICATIVE OF FECAL MATTER IDENTIFIED DURING THE
13 MICROSCOPE EXAMINATION

14 Q NOW DOCTOR, IF A, IF AN OBJECT, FOR EXAMPLE A
15 BROOM, WERE INSERTED FIRST INTO THE ANUS OF THIS
16 PERSON AND THEN INSERTED INTO THE VAGINA, WOULD YOU
17 EXPECT TO FIND ANY TRACE OF THAT INSERTION IN THE
18 VAGINA?

19 A THAT WOULD BE CALLED TRANSFER WHERE FOREIGN
20 MATERIAL FROM ONE PLACE IS TRANSFERRED TO ANOTHER AND
21 IN THE CASE WHERE SOMETHING LIKE A BROOM HANDLE IS
22 USED, YOU WOULD EXPECT SOME DEGREE OF TRANSFER OF
23 FECAL MATERIAL, YES

24 Q AGAIN I WOULD ASK YOU, DID YOU SEE ANY EVIDENCE
25 OF TRANSFER THAT YOU JUST DESCRIBED?

1 A NO, I DID NOT

2 Q DR NICHOLS, I'M SURE YOU NOTED DR MAYNARD'S
3 REFERENCE TO INJURIES TO THE PANCREAS AND THE SPLEEN?

4 A YES, I DID

5 Q DID THESE INJURIES AGAIN FROM THE MATERIALS YOU
6 STUDIED, THE AUTOPSY REPORTS, THE PHOTOS, OF BOTH THE
7 AUTOPSY AND THE CRIME SCENE, DID THESE INJURIES SHOW
8 ANY INDICATION OF A DIRECTION OF ATTACK?

9 A ONCE AGAIN THIS APPEARS TO BE A FRONTAL ATTACK,
10 THAT SINCE THERE ARE NO INJURIES TO THE BACK AND
11 THERE ARE DEFINITE INJURIES TO THE FRONT OF THE
12 AMANDA, THAT THIS INDICATES THAT BOTH THE PANCREATIC
13 INJURY, THERE IS ALSO SOMETHING CALLED A MESSENTERY
14 TEAR WHICH IS CONNECTIVE TISSUE THAT HOLDS TOGETHER
15 THE INTESTINES THAT WAS TORN, AND THE SPLINTER
16 HEMATOMA OR THE SMALL LACERATION TO THE SPLEEN THAT
17 INDICATES THAT THAT WAS AT LEAST A FRONTAL ATTACK AND
18 MAYBE PERHAPS A SIDE ATTACK

19 THE COURT REMEMBER, SLOW DOWN NOW

20 A YES, SIR I APOLOGIZE

21 Q AND JUST TO MAKE SURE THOSE INJURIES THAT YOU
22 SAW CAME EITHER FROM THE FRONT OR THE SIDES, IS THAT
23 WHAT YOU JUST SAID?

24 A THAT'S CORRECT

25 Q ALL RIGHT DR NICHOLS, I'M SURE YOU SAW IN THE

1 AUTOPSY REPORT A NOTATION OF MILD CHRONIC
2 INFLAMMATION OF THE VAGINA, DO YOU RECALL THAT?

3 A YES, I DO

4 Q COULD YOU GIVE THE LADIES AND GENTLEMEN OF THE
5 JURY A DIFFERENTIAL DIAGNOSIS OF THE CAUSES OF THAT
6 INFLAMMATION?

7 A WHAT WE'RE TALKING ABOUT HERE IS A TYPE OF
8 INFLAMMATION KNOWN AS CHRONIC INFLAMMATION THAT'S
9 CHARACTERIZED BY TWO DIFFERENT TYPES OF WHITE CELLS
10 KNOWN AS LYMPHOCYTES AND PLASMA CELLS

11 Q SLOW DOWN PLEASE

12 A PLASMA CELLS AND WHAT THIS INDICATES IS A MILD
13 CHRONIC IRRITATION OF SOME SORT PROBABLY BE LISTED
14 AS CHRONIC VAGINITIS THIS COULD BE ANYTHING FROM
15 FEMININE HYGIENE PRODUCTS TO SOME SORT OF OTHER
16 CHRONIC IRRITATION PERHAPS EVEN POOR HYGIENE COULD
17 CAUSE SOMETHING OF THIS NATURE

18 Q COULD AN ALLERGY OF SOME TYPE BE THE CAUSE OF
19 THAT AS WELL?

20 A AN ALLERGY IS POSSIBLE, BUT I PUT THAT DOWN ON
21 THE LIST, YES, SIR

22 Q NOW COULD SEXUAL ABUSE BE THE CAUSE OF THIS TYPE
23 OF INFLAMMATION?

24 A SEXUAL ABUSE WOULD CAUSE NOT CHRONIC IRRITATION
25 BUT ACCUMULATION OF ACUTE INJURY DURING SEXUAL

1 INTERCOURSE HAVING ACUTE INJURY THAT WOULD BE
2 REPEATED OVER A PERIOD OF TIME WOULD GIVE A DIFFERENT
3 INFLAMMATORY MIXTURE THAT WOULD CAUSE NEUTROPHILS TO
4 SHOW UP THAT IS THE FIRST TYPE OF INFLAMMATORY CELL
5 AND IT'S THE TYPE OF CELL THAT OFTEN FORMS PUSS AT
6 THE SITE OF INJURY AND I DIDN'T SEE ANY EVIDENCE OF
7 NEUTROPHILS HERE OR ANY EVIDENCE OF REPEATED ACUTE
8 INJURY THAT WOULD INDICATE CHRONIC SEXUAL ABUSE

9 Q NOW LET ME MAKE SURE THAT YOU UNDERSTAND WHAT MY
10 QUESTION WAS DID YOU SEE ANY EVIDENCE OF CHRONIC,
11 NOW I DON'T MEAN JUST RAPE, BUT OF CHRONIC SEXUAL
12 ABUSE?

13 A NO

14 Q THAT WOULD BE SEXUAL ABUSE THAT OCCURRED BEFORE?

15 A NO

16 Q AND YOU IN FACT SAW A PATTERN OF INFLAMMATION
17 THAT WOULD BE DIFFERENT FROM CHRONIC SEXUAL ABUSE?

18 A THAT IS CORRECT

19 Q WITH RESPECT TO AMANDA'S ANUS?

20 A YES

21 Q DR MAYNARD ALSO IN HIS AUTOPSY REPORT INDICATED
22 THAT HE FOUND SOME CHRONIC INFLAMMATION THERE TOO, IS
23 THAT CORRECT?

24 A YES, SIR

25 Q AND AGAIN COULD YOU GIVE US A, THE DIFFERENTIAL

1 DIAGNOSIS OF POSSIBLE CAUSE OF THAT INFLAMMATION,
2 SIR?

3 A ONCE AGAIN SOME SORT OF CHRONIC IRRITATION,
4 DEFECATION THAT WAS DIFFICULT, SOMETIMES EVEN
5 DIARRHEA, AND ONCE AGAIN POOR HYGIENE MIGHT BE CAUSES
6 OF THIS

7 Q NOW DOCTOR, COULD SEXUAL ABUSE, WOULD YOU
8 BELIEVE THAT SEXUAL ABUSE COULD HAVE CAUSED THAT TYPE
9 OF INFLAMMATION NOTED?

10 A NO, ONCE AGAIN IT WOULD BE A DIFFERENT MIXTURE
11 AND YOU WOULD HAVE THE NEUTROPHILS CELLS BEING
12 REPEATED WITH THE CHRONIC INFLAMMATORY CELLS, THE
13 MIXTURE WOULD BE DIFFERENT

14 Q AGAIN I WANT TO MAKE SURE THAT WE UNDERSTAND
15 THIS I'M NOT TALKING ABOUT THE HORRIBLE THINGS THAT
16 HAPPENED TO THAT YOUNG LADY ON THE NIGHT IN QUESTION
17 I'M TALKING ABOUT THINGS THAT HAPPENED BEFORE THEN
18 WAS THERE ANY EVIDENCE THAT ACTIVITY OF THAT TYPE WAS
19 BEING CARRIED ON?

20 A NO

21 Q AND AGAIN THE INFLAMMATION PATTERN WAS DIFFERENT
22 FROM WHAT YOU WOULD HAVE EXPECTED IN THAT CASE?

23 A THAT'S CORRECT

24 Q DOCTOR, WITH RESPECT TO THE HYMEN THAT DR
25 MAYNARD WAS LOOKING FOR IN AMANDA?

1 A YES

2 Q I BELIEVE THAT YOU AGREE WITH ME THAT THE
3 AUTOPSY REPORT STATES THAT THERE WAS NONE FOUND

4 A THAT'S CORRECT

5 Q AND NOT ONLY WAS THE HYMEN NOT FOUND BUT NO
6 REMNANTS AND NO SCARING, WOULD YOU AGREE THAT THAT'S
7 A FAIR RECITATION OF THE AUTOPSY REPORT?

8 A THAT'S MY UNDERSTANDING, YES

9 Q DO YOU FIND THAT TO BE NORMAL OR UNUSUAL OR?

10 A NO, THAT IS SOMEWHAT UNUSUAL BECAUSE EVEN THOUGH
11 HYMEN'S MAYBE RUPTURED AND ESPECIALLY DURING
12 INTERCOURSE, THAT'S KIND OF THE CLASSIC SIGN OF
13 VIRGINITY THAT HYMENS DO RUPTURE BUT THE REMNANTS ARE
14 STILL AROUND WOMEN WHO GIVE CHILDREN STILL HAVE
15 HYMENS AND TO SAY THAT NO HYMEN WAS IDENTIFIED WOULD
16 BE VERY, VERY, VERY UNUSUAL

17 Q WELL NOW DOCTOR, WHAT COULD ACCOUNT THEN FOR NO
18 HYMEN, NO SCARING, NO REMNANTS, OR NO NOTHING?

19 A A COUPLE OF THINGS FIRST OF ALL THE HYMEN IS A
20 PIECE OF TISSUE THAT VARIES IN ITS APPEARANCE AND
21 THICKNESS BASED ON THE MENSTRUAL CYCLE AT TIMES IT
22 BECOMES VERY INCONSPICUOUS AT OTHER TIMES IT'S
23 THICKER AND MORE CONSPICUOUS AND ALSO THE FACT
24 THAT, IN ALL HONESTY, THE VAGINAL AREA AMANDA WAS A
25 MESS AS A RESULT OF HER BRUTAL RAPING AND IT WOULD BE

1 VERY DIFFICULT EVEN FOR ME LOOKING AT IT TO FIND THIS
2 REMNANT IT WOULD BE EASY TO MISS AND I WOULD ADMIT
3 THAT I WOULD PROBABLY MISS IT

4 Q YOU BELIEVE IT MIGHT HAVE BEEN MISSED IN THIS
5 EXAMINATION

6 A I BELIEVE IT WAS THERE IT JUST WASN'T
7 IDENTIFIED

8 Q CONCERNING THE TRAUMATIC DAMAGE TO THE VAGINA,
9 DOCTOR, I BELIEVE THE AUTOPSY REPORT NOTED A SMALL
10 TEAR IN THE WALL OF THE VAGINA, IS THAT CORRECT?

11 A YES

12 Q NOW THIS SMALL TEAR, JUST THAT PARTICULAR
13 INJURY, WE'LL GET TO THE OTHERS LATER, BUT JUST THAT
14 SMALL TEAR IN THE WALL OF THE VAGINA I BELIEVE IT WAS
15 MAYBE THREE AND A HALF INCHES IF MEMORY SERVES, COULD
16 THIS BE CAUSED BY A ERECT PENIS?

17 A IT IS POSSIBLE IT COULD BE CAUSED BY ERECT
18 PENIS, YES

19 Q IN YOUR PRACTICE AND IN YOUR EXPERIENCE IN
20 INVESTIGATING RAPE CASES HAVE YOU SEEN TEARS OF THIS
21 TYPE?

22 A I'VE SEEN TEARS OF THE VAGINA AFTER FORCIBLE
23 INSERTION OF THE PENIS, YES

24 Q AND THEN FURTHER UP INTO THE VAGINAL CAVITY I
25 BELIEVE THE AUTOPSY REFERS TO OTHER INJURIES TO THE

1 UTERUS AND THE OVARIES, IS THAT CORRECT?

2 A THAT'S CORRECT

3 Q ALL RIGHT NOW THOSE INJURIES BASICALLY ARE
4 BLOOD MASS, IS THAT CORRECT?

5 A YES, THERE IS AREAS OF HEMORRHAGE AROUND THAT
6 AREA

7 Q COULD AN INJURY OF THAT TYPE WHICH IS BASICALLY
8 BLOOD SURROUNDING THE OVARIES AND UTERUS, COULD THAT
9 BE CAUSED BY AN EXTERNAL BLOW TO THE ABDOMEN?

10 A YES, IT COULD IN FACT, THERE IS ALREADY
11 EVIDENCE OF INJURY OF EXTERNAL BLOWS TO THE ABDOMEN
12 WITH THE TORN MESSENTERY, THE PANCREATIC INJURY

13 Q SO THE SAME TYPE OF INJURY THAT YOU DESCRIBE AS
14 PERHAPS BEING THE CAUSE OF THE INJURY TO THE SPLEEN
15 AND THE PANCREAS, COULD HAVE CAUSED THIS SAME BLOOD
16 MASS TO APPEAR NEAR THE OVARIES AND UTERUS?

17 A YES, SIR

18 Q IF, DOCTOR, THESE INJURIES WERE NOT CAUSED BY AN
19 EXTERNAL BLOW BUT WERE CAUSED BY THE PENETRATION OF
20 THE VAGINA BY A BROOM OBJECT LET'S SAY?

21 A YES

22 Q WHAT TYPE OF INJURY WOULD YOU EXPECT, WHAT TYPE
23 OF, WHAT WOULD YOU EXPECT TO SEE THERE?

24 A IN THE SEVERAL CASES I'VE SEEN WHERE YOU HAVE
25 VAGINAL OR WE'LL GET TO RECTAL PENETRATION BY AN

1 OBJECT IS OFTEN CATASTROPHIC INJURY OFTEN TIMES
2 THERE IS PERFORATION OF THE VAGINAL WALL WITH
3 INSERTION OF A FOREIGN OBJECT ALL THE WAY INTO THE
4 ABDOMEN AND SOMETIMES EVEN HIGHER AND YOU WOULD
5 EXPECT A LOT MORE DAMAGE THAN WHAT WAS IDENTIFIED
6 DURING AMANDA'S AUTOPSY

7 Q AND DOCTOR, MAKE SURE WHEN YOU SAY PERFORATION
8 WHAT DO YOU MEAN BY THAT?

9 A I MEAN THE BROOM STICK WOULD GO RIGHT THROUGH
10 THE WALL, ALL THE WAY UP INTO HER, NEAR HER LIVER AND
11 PROBABLY THROUGH IT

12 Q ALL RIGHT AND DID YOU SEE ANY SUCH WOUND ON
13 AMANDA?

14 A NO

15 Q IF A 400 POUND MAN WAS VIOLENTLY THRUSTING A
16 BROOM INTO THIS POOR YOUNG LADY'S VAGINA, IS IT YOUR
17 TESTIMONY THAT YOU WOULD EXPECT TO SEE THE
18 PERFORATION OF HER VAGINA?

19 A YES

20 Q AND YOU DID NOT NOTE THAT ON THE AUTOPSY OR ON
21 THE AUTOPSY REPORT?

22 A THAT'S CORRECT

23 Q CONCERNING THE INJURY TO HER ANUS, DR NICHOLS,
24 THE AUTOPSY REPORT ESTIMATED A PENETRATION OF
25 SOMETHING SIX TO EIGHT INCHES?

002831

1 A YES, SIR

2 Q INTO HER ANUS, IS THAT CORRECT?

3 A THAT'S CORRECT

4 Q AND THAT'S NOT AN EXACT MEASUREMENT BECAUSE OF
5 WHERE IT IS LOCATED?

6 A THAT'S CORRECT THE ANUS AND RECTUM CURVE
7 AROUND AND SOMETIMES IT MIGHT BE STRAIGHT DOWN AND
8 SOMETIMES IT MIGHT BE CURVED AND I CERTAINLY WOULD
9 ESTIMATE A DISTANCE AS WELL

10 Q ALL RIGHT, SIR NOW COULD THIS INJURY BE CAUSED
11 BY AN ERECT PENIS?

12 A IT'S POSSIBLE, YES IT'S ABOUT THE RIGHT SIZE

13 Q NOW IF A 400 MAN HAD VIOLENTLY THRUST A BROOM
14 INTO THE ANUS, WHAT TYPE OF INJURY WOULD YOU BE
15 LOOKING FOR IN THAT CASE?

16 A ONCE AGAIN A LOT MORE CATASTROPHIC INJURY, THAT
17 THE BROOM WOULD CAUSE A LOT OF DAMAGE, AND ONCE AGAIN
18 THE RISK OF PERFORATION WOULD BE VERY GREAT, AND WITH
19 THE SIZE OF THE DEFENDANT, I WOULD EXPECT A
20 PERFORATION

21 Q DID YOU SEE ANY EVIDENCE OF ANY PERFORATION OF
22 AMANDA COPE'S ANUS?

23 A NO

24 Q WAS THAT NOTED ANYWHERE IN THE AUTOPSY REPORT?

25 A NO

002832

1 Q DOCTOR, IN EVIDENCE, WHAT'S BEEN PLACED IN
2 EVIDENCE IN THIS CASE IS A FOUR AND A HALF, FIVE AND
3 A HALF INCH DILDO THAT WAS RECOVERED FROM THE HOME?

4 A YES

5 Q COULD THAT DILDO HAVE CAUSED THIS DAMAGE?

6 A FOUR AND A HALF TO FIVE AND A HALF INCHES IS NOT
7 SIX TO EIGHT INCHES, SO IT CERTAINLY WOULD NOT FIT
8 THE PATTERN

9 Q AND DOCTOR, THIS WAS AN UP CLOSE ATTACK WOULD
10 YOU AGREE WITH ME?

11 A YES, RAPE AND BEATINGS SUCH AS THIS --

12 MR THOMPSON I OBJECT TO LEADING
13 THE COURT I SUSTAIN THE OBJECTION JUST
14 REPHRASE YOUR QUESTION

15 MR BAITY YES, SIR

16 Q WHAT TYPE OF ATTACK WOULD YOU DESCRIBE THIS AS?

17 A THIS IS A VERY PERSONAL ATTACK WHERE THE
18 ASSAILANT HAS TO BE IN PHYSICAL CONTACT WITH THE
19 VICTIM

20 Q AND IN THIS TYPE OF PERSONAL OR UP CLOSE ATTACK
21 WHAT WOULD YOU BE LOOKING FOR IN THE WAY OF EVIDENCE
22 AT THE CRIME SCENE OR IN OTHER PLACES THAT WOULD BE
23 INDICATIVE OF THIS TYPE OF ATTACK?

24 A WHAT YOU WOULD BE LOOKING FOR IS A TYPE OF
25 TRANSFER OF TRACE EVIDENCE FROM THE VICTIM TO THE

002833

1 ASSAILANT AND FROM ASSAILANT TO THE VICTIM THINGS
2 SUCH AS BLOOD, SEMEN, HAIR, AND POSSIBLY FIBERS WOULD
3 BE THINGS THAT YOU WOULD NORMALLY LOOK FOR

4 Q DOCTOR, IF A MAN WERE TO HAVE MASTURBATED EITHER
5 INTO A TOWEL OR NOT INTO ONE AND THEN GONE --

6 MR THOMPSON OBJECTION AS TO LEADING,
7 YOUR HONOR

8 THE COURT HE'S GIVING A HYPOTHETICAL I
9 OVERRULE THE OBJECTION

10 MR BAITY THANK YOU, YOUR HONOR

11 Q IF A MAN WAS TO HAVE MASTURBATED INTO A TOWEL OR
12 NOT INTO A TOWEL AND THEN GONE TO BED LATER?

13 A UH-HUH

14 Q WHAT WOULD YOU EXPECT TO FIND IN HIS UNDERWEAR
15 THE NEXT DAY?

16 A YOU'D PROBABLY FIND THE DRIED REMNANTS OF THE
17 DROPS OR DROPLETS THAT, FROM THE EJACULATION THAT
18 OFTEN TIMES THERE IS A LEAKAGE OF FLUID FOR AN HOUR
19 OR SO AFTER A PERSON EJACULATES

20 Q DOCTOR, YOU'VE ALREADY SAID THAT YOU AGREED WITH
21 THE AUTOPSY AND DR MAYNARD'S REPORT AT THE
22 CONCLUSION OF THAT DEATH WAS CAUSED BY STRANGULATION
23 AND BLUNT TRAUMA, CORRECT?

24 A YES

25 Q WOULD IT BE POSSIBLE IN A MURDER THAT CAME AS A

1 RESULT OF STRANGULATION OF THE TYPE THAT YOU NOTED

2 A UH-HUH

3 Q AND THE BLUNT TRAUMA THAT YOU NOTED TAKING INTO
4 ACCOUNT THE WOUNDS THAT YOU NOTED, WOULD IT BE
5 POSSIBLE THAT AN ATTACKER WHO STRANGLED THIS POOR
6 GIRL COULD HAVE SILENCED HER IMMEDIATELY?

7 A COMPRESSION OF THE TRACHEA BY HAND WOULD STOP
8 THE FLOW OF AIR COMING FROM THE MOUTH OVER THE VOCAL
9 CHORDS INTO THE LUNGS, DURING THE COURSE OF
10 COMPRESSION OF THE TRACHEA THERE WOULD BE NO EFFORT
11 TO MAKE A SOUND, IT WOULD BE IMPOSSIBLE BECAUSE THERE
12 WOULD BE NO AIR FLOW OVER THE VOCAL CHORDS

13 Q DOCTOR, IF AMANDA WERE, WERE SILENCED IN THAT
14 WAY AND HIT OVER THE HEAD AND LOST CONSCIOUSNESS FOR
15 EXAMPLE, COULD SHE, WOULD SHE STILL HAD A HEART BEAT
16 AFTER THAT?

17 A YES

18 Q FINALLY, DOCTOR, IS THERE ANY INDICATION IN THE
19 AUTOPSY REPORT AS TO WHAT THIS YOUNG LADY HAD FOR
20 SUPPER?

21 A I BELIEVE DR MAYNARD IDENTIFIED PARTIALLY
22 DIGESTED RICE, PEAS, AND CORN EXCUSE ME, CARROTS

23 Q THANK YOU

24 MR BAITY COURT'S INDULGENCE, YOUR
25 HONOR

002835

1 Q PLEASE ANSWER ANY QUESTIONS THE OTHER LAWYERS
2 WOULD HAVE

3 CROSS EXAMINATION BY MR THOMPSON

4 Q GOOD AFTERNOON, DOCTOR

5 A GOOD AFTERNOON

6 Q NOW YOU WOULD AGREE WITH ME THAT IN PERFORMING
7 THE AUTOPSY THE PATHOLOGIST WHO ACTUALLY PERFORMS IT
8 IS THERE IS IN THE BEST POSITION TO SEE WHAT'S
9 ACTUALLY GOING ON WITH THE BODY, IS THAT NOT CORRECT?

10 A OH, ABSOLUTELY AND ONCE AGAIN DR MAYNARD DID A
11 VERY GOOD AUTOPSY AND PEOPLE OF YORK COUNTY SHOULD BE
12 VERY PLEASED TO HAVE HIS SERVICES

13 Q ALL RIGHT AND IN ADDITION THE, EVEN WITH
14 PHOTOGRAPHS IT'S MUCH BETTER TO BE THERE BECAUSE
15 PHOTOGRAPHS CAN BE HARD TO TELL THINGS ON SOMETIMES,
16 CORRECT?

17 A YES

18 Q OKAY NOW YOU'VE EXAMINED THE PHOTOGRAPHS IN
19 THIS, RIGHT?

20 A THAT'S CORRECT

21 Q AND BEFORE I GET INTO THAT THOUGH LET ME TOUCH
22 THIS JUST BRIEFLY NOW YOU WERE TALKING ABOUT SOME
23 OF THE INJURIES AND WHETHER THEY WERE CAUSED FROM THE
24 FRONT OR THE BACK NOW THE INJURY TO THE HEAD,
25 THAT'S MOSTLY WITHIN THE INTERIOR OF THE HEAD, IS IT

002836

1 NOT?

2 A WELL, IT'S TO THE FRONT UP HERE AND TO THE
3 SIDES, PLUS SHE HAD, I FORGET WHICH SIDE, A BLOODIED
4 EYE, I THINK THE LEFT, AND A BUSTED LIP

5 Q BUT THE BLOODY EYE WAS ACTUALLY INSIDE THE EYE?

6 A NO, I THINK IT WAS ON THE OUTSIDE IF YOU HAVE
7 A PICTURE, I THINK I CAN REVIEW THAT

8 Q I BELIEVE WE DO LET ME HERE'S SOME THAT ARE
9 ALREADY IN EVIDENCE STATE'S EXHIBIT 25, 24, 26, AND
10 27 I BELIEVE NOW THESE ALL DON'T SHOW HER FACE BUT
11 SOME OF THEM DO AT THE ACTUAL CRIME SCENE

12 A HAVE THESE BEEN PUBLISHED TO THE JURY

13 Q YES, THEY HAVE?

14 A OKAY NO, THEY HAVE NOT

15 Q OKAY SO THE, YOU DON'T SEE?

16 A I MAY POINT TO DR MAYNARD'S AUTOPSY, SAYS
17 EXAMINATION OF THE EYE REVEALS A LARGE OF SCLERA
18 HEMORRHAGE

19 THE COURT SLOW DOWN

20 A UP TO A HALF CENTIMETER IN SIZE

21 Q AND THAT'S HEMORRHAGE WITHIN THE EYE?

22 A WELL, IT'S A HEMORRHAGE ON THE SURFACE OF THE
23 EYE MUCH LIKE A BRUISE IS ON THE SURFACE OF THE SKIN

24 Q ALL RIGHT SO NOT NECESSARILY ONE YOU WOULD SEE
25 FROM JUST LOOKING AT HER WITH HER EYES CLOSED?

002837

1 A THAT'S CORRECT

2 Q OKAY NOW ISN'T IT POSSIBLE, DOCTOR, THAT OF
3 COURSE THOSE INJURIES COULD BE CAUSED BY SOMEONE IN
4 THE FRONT BEING ---

5 A I'M SORRY WHEN YOU WALKED AWAY I COULDN'T HEAR
6 YOU

7 Q ISN'T IT POSSIBLE THAT THOSE INJURIES COULD OF
8 COURSE BE CAUSED BY SOMEONE ON TOP OF THE PERSON
9 FACING EACH OTHER SMACKING HER BACK AND FORTH?

10 A HOW DO YOU GET TO THE FRONT OF THE FACE?

11 Q WELL, AS YOU SMACK THE FACE TURNS SOMETIMES ONE
12 WAY AND THEN --

13 A SO YOU HAVE THESE BIG SMACKS GOING BACK AND
14 FORTH TO THE FRONT AND SIDES AND THE WHOLE BACK WHICH
15 IS DIRECTLY IN FRONT OF YOU IS IGNORED

16 Q NO NO I'M TALKING ABOUT WHILE FACING YOU
17 I'M NOT SAYING THAT THEY ARE ON THEIR STOMACH?

18 A OKAY

19 Q THE PERSON THAT YOU ASSAULT IS ON THEIR BACK?

20 A RIGHT, BUT THEN IF THE VICTIM'S ON THE BACK AND
21 THE PERSON IS ON THE BACK OF THEM

22 Q NO NO I THINK YOU MISUNDERSTAND WHAT I AM
23 SAYING

24 THE COURT JUST START OVER

25 A OKAY

002838

1 Q IF THE VICTIM IS LYING ON HER BACK FACING UP?
2 A OKAY
3 Q AND THE ASSAILANT STRADDLES THAT VICTIM, ISN'T
4 IT CONSISTENT WITH THE INJURIES SHE HAD TO HER HEAD
5 THAT SOMEONE IS SMACKING HER BACK AND FORTH?
6 A SMACKING OR PUNCHING, YES, SIR
7 Q OKAY AND DOING THAT WOULDN'T NECESSARILY CAUSE
8 INJURIES TO YOUR HAND, WOULD IT?
9 A WHOSE HANDS?
10 Q THE ASSAILANT'S HANDS?
11 A IT MAY, YES
12 Q IT MAY, BUT IT WOULDN'T NECESSARILY?
13 A NO
14 Q AND SMACKS LIKE THAT WOULD BE RATHER HARD
15 SMACKS, WOULD THEY NOT?
16 A THEY WOULD HAVE TO BE HARD, YES
17 Q SO THEY WOULD MAKE NOISE WHEN THOSE SMACKS
18 OCCURRED?
19 A IF THE SMACKS WERE MADE LIKE THAT, YES
20 Q OKAY NOW THE INJURY YOU HAD MENTIONED THAT, I
21 BELIEVE THESE INJURIES ARE CONSISTENT WITH AN ASSAULT
22 FROM THE FRONT, COULD THEY NOT ALSO BE CONSISTENT
23 WITH, AT LEAST SOME OF THE INJURIES FOR INSTANCE TO
24 THE SPLEEN, COULD THAT NOT BE CONSISTENT WITH AN
25 ATTACK FROM THE SIDE OR THE BACK?

002839

1 A I THINK MAINLY THE SIDE AND THE FRONT

2 Q THE SIDE?

3 A ONCE AGAIN IF YOU PUNCH SOMEBODY IN THE BACK
4 IT'S GOING LEAVE A BRUISE THERE IS NO PHOTOGRAPH IN
5 EVIDENCE OF ANY SORT OF INJURY TO THE BACK AND DR
6 MAYNARD EVEN SAID THE BACK IS ENTACT AND
7 UNREMARKABLE, SO THERE IS NO EVIDENCE OF A BLOW TO
8 THE BACK

9 Q RIGHT BUT NOW SOME OF THE INJURIES THAT YOU
10 SAID COULD HAVE BEEN CAUSED FROM THE FRONT ON THE
11 STOMACH

12 A YES

13 Q THERE IS NO EXTERNAL BRUISING NECESSARILY THAT
14 SHOWS THOSE EITHER?

15 A THAT'S CORRECT, BUT IT'S CLEARLY THE SOFT TISSUE
16 ISSUE THAT SPEAKS TO THAT THE RIBS DO NOT PROTECT
17 THAT AREA

18 Q NOW AS WELL THE INJURIES TO THE HEAD, NOW
19 SOMEONE'S LYING, THE VICTIM LYING FACE DOWN, COULD
20 SOME OF THOSE INJURIES TO THE HEAD HAVE OCCURRED FROM
21 THE SAME TYPE OF ASSAULT, THE PERSON STRADDLING BUT
22 THIS TIME THE VICTIM FACE DOWN AND THEN SMACKS TO THE
23 SIDES OF THE HEAD?

24 A WELL, ONCE AGAIN YOU ARE TALKING ABOUT DIRECT
25 BLOWS TO THE SIDE OF THE HEAD THE BEST TARGET BEING

1 THE BACK OF THE HEAD AND THE BACKS BEING IGNORED AND
2 THEN SOMEHOW THE EYE AND THE LIP GET BUSTED AS WELL

3 Q RIGHT, BUT I'M SAYING SOME OF THOSE INJURIES TO
4 THE HEAD COULD HAVE BEEN CAUSED IN THAT MANNER,
5 CORRECT?

6 A ONCE AGAIN IGNORING THE BEST TARGET, THAT'S
7 CORRECT

8 Q BUT WHAT I'M JUST ASKING YOU THAT, SOME OF THE
9 THOSE COULD HAVE BEEN CAUSED THAT WAY?

10 A ONCE AGAIN, IGNORING THE BEST TARGET

11 Q AND AS A MATTER OF FACT THE VICTIM COULD HAVE
12 BEEN BOTH FACE DOWN DURING SOME OF THE ASSAULT AND
13 FACE DOWN DURING SOME OF THE ASSAULT, IS THAT NOT
14 CORRECT?

15 A I DO NOT SEE IT THAT WAY, SIR

16 Q BUT IT'S POSSIBLE?

17 A I DON'T SEE IT THAT WAY IF YOU WANT TO SAY
18 IT'S POSSIBLE, THAT'S ALL THAT IS IS POSSIBLE, AND I
19 THINK THE EVIDENCE CLEARLY SHOWS THAT THIS IS A
20 FRONTAL ATTACK

21 Q NOW YOU HAD MENTIONED AS WELL THE INJURY TO, I
22 GUESS, RIGHT AROUND THE OVARIES?

23 A YES

24 Q THAT THAT COULD BE CAUSED FROM THE OUTSIDE
25 EXTERNAL?

002841

1 A YES, IT COULD

2 Q NOW THAT WOULD BE A GREAT BLOW THAT COULD COME
3 DOWN ACTUALLY GOING SOMEWHAT WITHIN THE PELVIS TO
4 INJURE HER IN THAT FORM OR FASHION, WOULDN'T IT?

5 A I THINK THAT ONCE AGAIN THERE IS EVIDENCE OF
6 INTERNAL INJURY WITH THE LACERATED MESSENTERY, THE
7 SPLEEN PROBLEM, PANCREATIC LACERATION, THAT ANOTHER
8 BLOW WOULD CERTAINLY IN THE LOWER REGION WOULD CAUSE
9 HEMORRHAGE OF THAT TYPE

10 Q BUT THAT TYPE OF INJURY COULD ALSO BE CONSISTENT
11 WITH SOMETHING BEING JAMMED UP HER VAGINA RATHER HARD
12 AT THE RIGHT ANGLE, WOULDN'T IT?

13 A SUCH AS?

14 Q A BROOM OR ANOTHER, JUST A FOREIGN OBJECT OF
15 SOME SORT?

16 A WELL, ONCE AGAIN THE EXPERIENCE I HAVE HAD WITH
17 FOREIGN OBJECTS IS THAT THEY CAUSE A LOT MORE DAMAGE
18 AND WITH SOMEBODY OF THE SIZE OF THE DEFENDANT WE
19 WOULD EXPECT A PERFORATION I WOULD EXPECT A
20 PERFORATION

21 Q WELL, WOULDN'T IT BE TRUE THEN THAT ANY
22 DEFENDANT, NO MATTER WHAT THEIR SIZE, IF SOMEONE IS
23 IN A POSITION, IN THAT POSITION AFTER BEING ASSAULTED
24 IN THAT WAY, ANY MALE DEFENDANT WOULD PRETTY MUCH
25 HAVE THE STRENGTH TO DO THE TYPE OF INJURY THAT YOU

1 ARE DESCRIBING?

2 A YES

3 Q AND SO IT REALLY MATTERS AS TO HOW MUCH FORCE
4 THEY USE AS TO WHAT TYPE OF INJURY RESULTS?

5 A TO A DEGREE, YES

6 Q SO IT'S NOT UNCOMMON OR IT WOULDN'T BE
7 UNREASONABLE THAT A FOREIGN OBJECT COULD HAVE BEEN
8 USED LIKE A BROOM AND CAUSE THOSE EXACT INJURIES, IS
9 IT?

10 A IT'S MY UNDERSTANDING OF HOW THE INJURIES
11 OCCURRED FROM THE DEFENDANT'S CONFESSION THAT A GREAT
12 DEAL OF FORCE WOULD HAVE BEEN USED

13 Q AND THAT'S RELATIVE TO WHAT HE THINKS IS A GREAT
14 DEAL OF FORCE, CORRECT?

15 A WELL, I BELIEVE HE SAID HE WAS ANGRY I BELIEVE
16 HE HAD A BROOM, USING A BROOM AS A WEAPON, AND I
17 THINK ONCE AGAIN YOU WOULD SEE A LOT MORE DAMAGE AND
18 LIKELIHOOD OF PERFORATION WOULD BE EXPECTED

19 Q BUT THERE WAS A LOT OF DAMAGE, WAS THERE NOT?
20 I?

21 A I'VE SEEN A LOT MORE, SIR

22 Q I UNDERSTAND THAT

23 A YES

24 Q BUT THERE WAS A LOT OF DAMAGE?

25 A WELL, THE DEGREE OF DAMAGE WOULD BE IN EXCESS OF

1 WHAT WAS IDENTIFIED

2 Q THAT'S IF HE USED THAT DEGREE OF BRUTE FORCE?

3 A AS INDICATED IN HIS CONFESSION, YES

4 Q NOW AS TO THE ANUS ITSELF, YOU SAW THE
5 PHOTOGRAPH OF THE INTERIOR OF THE ANUS AS IT WAS LAID
6 OUT?

7 A YES, I DID

8 Q AND IT'S PRETTY MUCH THREE INCHES ON UP TO ABOUT
9 EIGHT BRUISED COMPLETELY THROUGHOUT THE ENTIRE ANUS?

10 A YES

11 Q THAT TOO COULD BE VERY CONSISTENT WITH SOMEONE
12 JAMMING A BROOM UP INSIDE OF SOMEONE?

13 A ONCE AGAIN IF A BROOM WAS USED IT WOULD GO
14 FURTHER THAN THAT, IT WOULD STRAIGHTEN OUT THE COLON,
15 AND YOU'D EXPECT A LOT MORE DAMAGE AND THE LIKELIHOOD
16 OF PERFORATION WOULD BE GREATER

17 Q BUT YOU'RE SAYING THAT BASED ON SOMEONE JUST
18 USING ALL THEIR STRENGTH TO DO IT, CORRECT?

19 A I THINK EVEN HALF THE STRENGTH THE DEGREE OF
20 DAMAGE WOULD BE SIGNIFICANT

21 Q ARE YOU TAKING INTO ACCOUNT THAT THIS IS AN 8
22 YEAR OR A 12 YEAR OLD GIRL?

23 A YES, I AM

24 Q AND THAT, ARE YOU AWARE THAT DR MAYNARD SAID
25 THAT HER VAGINAL WALL ITSELF ONLY WENT THREE OR FOUR

1 INCHES UP?

2 A THAT'S CORRECT

3 Q SO THE BRUISING WITHIN THE VAGINAL WALL IS
4 BASICALLY AS HIGH UP AS IT GOES UNLESS AS YOU SAID
5 YOU SO MUCH EXCESSIVE FORCE THAT YOU TEAR THROUGH
6 THAT?

7 A BRUISE IT OR A LARGE PENIS BEING SIX TO SEVEN
8 INCHES IN LENGTH

9 Q BUT NOW THE LARGE PENIS WOULD NOT DO THE SAME
10 TYPE OF DAMAGE TO THE ANUS THOUGH, WOULD IT?

11 A WOULD BE SIMILAR DAMAGE, YES THE ANUS IS LESS
12 ACCOMMODATING THAN A VAGINAL AREA

13 Q HAVE YOU STUDIED IN NUMOLOGY?

14 A YES, I HAVE

15 Q HAVE YOU SEEN DR MAYNARD'S TESTIMONY FROM
16 EARLIER IN THIS TRIAL, NOT FROM A PRIOR OCCASION BUT
17 FROM EARLIER IN THIS TRIAL?

18 A IF THERE IS SOMETHING SPECIFIC YOU WANT ME TO
19 ADDRESS I'LL BE HAPPY TO

20 Q WELL, I'M JUST ASKING IF YOU HAD SEEN THAT?

21 A WELL, I DON'T KNOW WHAT PART

22 Q I'M JUST SAYING FROM EARLIER IN THIS TRIAL HAVE
23 YOU SEEN ANY OF HIS TESTIMONY?

24 A YES, I HAVE

25 Q WHAT TESTIMONY HAVE YOU REVIEWED FROM THAT?

1 A I WAS ASKED TO LOOK, LET'S SEE, AREAS OF VAGINAL
2 INJURY I BELIEVE

3 Q OKAY NOW AS FAR AS THE, AS FAR AS THE ANUS IS
4 CONCERNED, SO YOUR TESTIMONY WOULD BE THAT A SIX OR
5 SEVEN INCH PENIS COULD CAUSE THE INJURIES THAT
6 RESULTED THERE AS WELL?

7 A YES

8 Q NOW DID YOU NOTICE THE AREAS OF, THE AREAS, I
9 DON'T WANT TO GET THE WRONG TERM, IT'S NOT
10 NECESSARILY LIVOR MORTIS, BUT THE AREAS THAT SHOW
11 LIVIDITY?

12 A YES, LIVOR MORTIS, YOU ARE CORRECT

13 Q DID YOU NOTICE AREAS OF LIVIDITY ON HER BACK?

14 A I DON'T RECALL EXACTLY WHERE THEY WERE, BUT I'LL
15 BE HAPPY TO REVIEW THEM

16 Q OKAY

17 A DR MAYNARD DESCRIBES LEFT SIDE LIVOR MORTIS

18 Q I'M SORRY WHAT WAS YOUR ANSWER?

19 A DR MAYNARD DESCRIBES FACIAL LIVOR MORTIS WHICH
20 MEANS THE BLOOD IS SETTLING AROUND THE FACE AND ON
21 THE LEFT SIDE

22 Q OKAY SO THAT'S AN INDICATION THAT SHE WAS FACE
23 DOWN AT SOME TIME?

24 A FACE DOWN AND ON HER LEFT, YES

25 Q AS WELL THERE WAS INDICATION OF LIVOR, OF

1 LIVIDITY ON HER BACK AS WELL, CORRECT?

2 A I DON'T SEE ANY INDICATION OF THAT

3 Q ALL RIGHT I'LL SHOW YOU A PHOTOGRAPH THAT
4 PHOTOGRAPH THERE

5 A YES, SIR

6 Q SO THERE IS SIGN OF LIVIDITY ON THE BACK AS
7 WELL?

8 A NOT ACCORDING DR MAYNARD

9 Q I'M ASKING---

10 A AND ONCE AGAIN, HE'D BE THE BEST JUDGE SINCE HE
11 DID THE INVESTIGATION

12 Q ARE YOU AWARE THAT HE TESTIFIED THAT THERE WAS
13 LIVIDITY ON THE BACK?

14 A HE IS NOT DOCUMENTING THAT ON HIS AUTOPSY
15 REPORT

16 Q I UNDERSTAND BUT THAT'S NOT MY QUESTION DOES
17 THAT APPEAR TO BE LIVIDITY ON HER BACK TO YOU?

18 A YES

19 Q OKAY SO THAT WOULD INDICATE SHE SPENT SOMETIME
20 AFTER DEATH ON HER BACK AS WELL?

21 A YES

22 Q NOW ARE YOU AWARE THAT DR MAYNARD TESTIFIED
23 THAT IT COULD NOT HAVE BEEN A PENIS THAT CAUSED THE
24 INJURY TO THE ANUS AND ONE OF THE REASONS HE GAVE FOR
25 THAT WAS THE LATERAL PRESSURE THAT WOULD HAVE BEEN

1 NEEDED TO CAUSE SOME OF THAT BRUISING?

2 A NO, I'M NOT

3 MR BAITY OBJECTION, YOUR HONOR I
4 DON'T BELIEVE HE SAID IT COULDN'T HAVE BEEN I DON'T
5 BELIEVE THAT'S THE TESTIMONY

6 THE COURT WELL, HE'S GOT IT RIGHT THERE,
7 DON'T YOU?

8 MR THOMPSON I DON'T HAVE THAT
9 PARTICULAR STATEMENT I'M JUST LOOKING AT NOTES THAT
10 I HAVE HERE, YOUR HONOR

11 THE COURT MEMBERS OF THE JURY, REMEMBER
12 AS BEST TO WHAT EXACTLY WAS TESTIFIED TO GO AHEAD
13 YOU CAN ASK HIM

14 Q I GUESS THE QUESTION, ARE YOU AWARE THAT ONE OF
15 THE REASONS THAT HE FELT THAT THERE WOULD NOT BE A
16 PENIS WAS THAT BECAUSE OF THE LATERAL PRESSURE NEEDED
17 TO CAUSE SOME OF THE INJURIES WITHIN THE ANUS?

18 A I THINK THAT AN ADULT SIZE PENIS GOING IN A 12
19 YEAR OLD ANUS WHICH BY DEFINITION IS LESS
20 ACCOMODATING THAN A VAGINAL AREA WOULD CAUSE
21 SIGNIFICANT INJURY INCLUDING THAT DESCRIBED HERE IN
22 THE AUTOPSY

23 Q AND YOU UNDERSTAND NO SEMEN WAS FOUND IN THE
24 AREA, CORRECT?

25 A EXCUSE ME

1 Q NO SEMEN WAS FOUND?

2 A THAT IS CORRECT

3 Q AND NO SEMEN WAS FOUND IN THE VAGINA EITHER?

4 A THAT'S CORRECT

5 Q YOU UNDERSTAND THAT? AND NOW SO FAR WE'VE BEEN
6 TALKING ABOUT THE POSSIBILITY OF A BROOM NOW ISN'T
7 IT POSSIBLE THAT SOME OF OTHER TYPE OF FOREIGN OBJECT
8 COULD HAVE BEEN USED?

9 A IT'S POSSIBLE, YES

10 Q AND SO IT'S POSSIBLE THAT THESE INJURIES WERE
11 NOT BY A PENIS AT ALL BUT RATHER BY SOME OTHER
12 FOREIGN OBJECT?

13 A YOU'D HAVE TO GIVE ME AN EXAMPLE

14 Q WELL --

15 A SEE I DON'T HAVE EXAMPLE WHAT I'VE GIVEN
16 BASICALLY IS A STATEMENT AND EVIDENCE THAT A BROOM
17 WAS USED THERE IS NO EVIDENCE THAT A BROOM WAS
18 USED AS FAR AS I KNOW THERE HAS BEEN NO WEAPON
19 RECOVERED THERE IS NO INDICATION ----

20 Q I'M NOT ASKING YOU TO TESTIFY AS TO WHAT THE
21 EVIDENCE IS AS FAR AS THE CRIME SCENE

22 MR BAITY HE CAN TESTIFY, YOUR HONOR, I
23 BELIEVE AS TO WHAT HE ----

24 THE COURT I THINK HE'S GONE BEYOND
25 ANSWERING THE QUESTION

002849

1 A OKAY

2 Q NOW I THINK MR BAITY SUGGESTED THAT SOME OF THE
3 THINGS THAT CAN CAUSE THE CHRONIC IRRITATION IN BOTH
4 THE VAGINA AND THE ANUS COULD BE SOMETHING
5 MASTURBATION OR AUTOEROTICISM, IS THAT CORRECT?

6 A EXCUSE ME?

7 Q SOME OF THE THINGS THAT COULD HAVE CAUSED THE
8 CHRONIC INFLAMMATION WITHIN HER VAGINA AND HER
9 RECTUM, SOME OF THOSE THINGS COULD HAVE BEEN BY
10 MASTURBATION OR AUTOEROTICISM, IS THAT WHAT MR BAITY
11 IS ASKING YOU?

12 A I DON'T THINK SO

13 Q OKAY AND YOU MENTIONED ABOUT THE FACT THAT THE
14 HYMEN WAS MISSING, IT'S YOUR OPINION THAT THIS WAS
15 JUST NOT, HE JUST DIDN'T SEE IT?

16 A YES

17 Q AND THAT'S BECAUSE OF THE EXTENT OF THE
18 INJURIES?

19 A YES

20 Q BUT YOU DIDN'T SEE IT EITHER, DID YOU?

21 A ONCE AGAIN, IT'S NOT THERE AS FAR AS I CAN TELL,
22 BUT THE ON OTHER HAND, EVEN WOMAN WHO GIVE CHILDREN
23 HAVE A HYMEN

24 Q RIGHT BUT SOMETIMES IT DISAPPEARS COMPLETELY
25 WITH WOMEN, CORRECT?

002850

1 A NO IN FACT, I'VE TALKED WITH TWO EXPERTS THAT
2 SAID THAT IT REALLY DOESN'T DISAPPEAR

3 Q NOW IF HER HYMEN WAS COMPLETELY INTACT AT THE
4 BEGINNING OF THIS ASSAULT ISN'T IT LIKELY OR AT LEAST
5 POSSIBLE THAT SOME OF IT WOULD HAVE BEEN THERE AT THE
6 AUTOPSY?

7 A THAT IS CORRECT THAT'S EXACTLY WHAT I MENTION

8 Q OKAY BUT STILL WITHOUT HAVING BEEN AT THE
9 AUTOPSY YOU'RE SAYING THAT YOU DON'T THINK, YOU JUST
10 THINK HE MISSED THE HYMEN?

11 A I WOULD HAVE MISSED IT IT'S A BLOODY MESS DOWN
12 THERE AND I'VE GIVEN SOME OTHER EXAMPLES OF WHY THE
13 HYMEN MAY NOT BE IDENTIFIABLE, BUT ON THE OTHER HAND,
14 EVEN WHEN WOMEN WHO HAVE CHILDREN STILL HAVE A HYMEN,
15 SO EVEN IN A BRUTAL ATTACK SUCH AS THIS, THERE SHOULD
16 BE REMNANTS IDENTIFIABLE

17 Q DID YOU EVER TALK DIRECTLY TO DR MAYNARD ABOUT
18 THIS?

19 A NO, I DID NOT

20 Q DID YOU EVER TALK TO HIM ABOUT THE LAX ANAL
21 OPENING?

22 A EXCUSE ME

23 Q THE LAX ANAL OPENING OF THE VICTIM?

24 A NO

25 Q ISN'T IT TRUE THAT THE, THAT EVEN WITH AN ANAL

1 ASSAULT SUCH AS THIS ONE THAT THE INJURIES THAT WERE
2 CAUSED THAT DAY IT WOULD BE UNLIKELY TO MAKE THE ANUS
3 STAY COMPLETELY OPEN ON A 12 YEAR OLD CHILD?

4 A NO, IT'S NOT IN FACT, I'VE HAD INJURIES ON
5 FIVE YEAR KIDS WHERE THE ANUS WAS OPEN AND DILATED AS
6 A ONE TIME ASSAULT IT'S KNOWN AS A PATCHALOUS ANUS

7 Q BUT WE'RE TALKING ABOUT A 12 YEAR OLD, MUCH
8 BIGGER THAN A FIVE YEAR OLD, CORRECT?

9 A WELL, AN ANUS IS AN ANUS AND WHAT I'M TALKING
10 ABOUT IS THAT A FORCIBLE PENETRATION OF A SIZABLE
11 OBJECT INTO AN UNACCOMADATING ANUS WOULD CAUSE IT TO
12 BE DILATED OR OPENED UP AND WITH THE RESULTING INJURY
13 IDENTIFIED THAT WOULD BE CONSISTENT WITH A PENIS

14 Q NOW EACH ANUS THOUGH AS A DIFFERENT LEVEL OF
15 TENSENESS?

16 A SPHINCTER TONE

17 Q HER SPHINCTER TONE, CORRECT?

18 A YES

19 Q AND SO ON A YOUNGER PERSON THAT'S ACTUALLY
20 USUALLY TIGHTER THAN AN ADULT, IS IT NOT?

21 A NOT NECESSARILY

22 Q BUT IF THAT WAS LAX THAT WOULD BE AN INDICATION
23 OF SOME SORT OF PENETRATION, WOULD IT NOT?

24 A WELL, OBVIOUSLY THERE WAS PENETRATION AND IT WAS
25 LAX, YES

1 Q NOW THE CHRONIC INFLAMMATION YOU ADDRESSED HERE,
2 YOU MENTIONED SPECIFICALLY IF THERE WAS SEXUAL
3 INTERCOURSE, THAT THIS ISN'T NECESSARILY THE TYPE OF
4 CHRONIC INFLAMMATION THAT YOU WOULD HAVE, CORRECT?

5 A THAT'S CORRECT

6 Q HOWEVER IF SOMEONE'S FINGER WAS USED TO
7 PENETRATE THAT CHILD JUST A FEW TIMES THAT COULD
8 CAUSE A IRRITATION, COULD IT NOT?

9 A NO, BECAUSE ONCE AGAIN IN ORDER TO GET TO
10 CHRONIC INFLAMMATION YOU NEED THE ACUTE INFLAMMATION
11 AND IF THE, IF IT'S REPEATED TO THE POINT WHERE YOU
12 ARE LOOKING FOR CHRONIC ABUSE, YOU WOULD SEE A
13 MIXTURE OF NEUTROPHILS AND PLASMA CELLS AND
14 LYMPHOCYTES

15 Q NOW MAYBE WE'RE MISSING THE DEFINITION OF
16 CHRONIC HERE BY CHRONIC HOW MANY TIMES DO YOU
17 CONSIDER CHRONIC?

18 A MORE THAN TWO

19 Q NOW LET ME ASK YOU THIS, GOING BACK TO RIGOR
20 MORTIS, IF RIGOR HAD SET IN TO THE POINT WHERE
21 SOMEONE WAS STIFF SO THEIR HANDS WOULD STAY IN PLACE
22 LIKE THIS?

23 A YES

24 Q REACHING UP TO THE NECK IF YOU PULLED THEIR
25 HANDS BACK, WOULD THEY POP BACK UP IF YOU DID THAT?

002853

1 A NO, THEY WOULD NOT

2 MR THOMPSON COURT'S INDULGENCE FOR JUST
3 A MINUTE, YOUR HONOR

4 Q DOCTOR, IF A 12 YEAR OLD CHILD CAME TO YOUR
5 OFFICE AND WAS ABSENT A HYMEN WHEN YOU KNEW SHE WAS
6 BORN WITH ONE JUST A COUPLE YEARS SHE HAD A NORMAL
7 HYMEN, WOULDN'T YOU HAVE AN OBLIGATION AT THAT POINT
8 TO REPORT TO DSS THAT THAT OCCURRED WITH THAT CHILD?

9 A ABSOLUTELY THAT WOULD BE A MANDATORY PELVIC
10 EXAMINATION AND WORK UP BY DSS, THAT'S CORRECT

11 Q AND THAT'S BECAUSE THAT'S A SIGN OF SEXUAL
12 ABUSE, CORRECT?

13 A THAT'S CORRECT

14 Q THANK YOU NO FURTHER QUESTIONS?

15 THE COURT MR GREELEY

16 MR GREELEY MAY IT PLEASE THE COURT
17 CROSS EXAMINATION BY MR GREELEY

18 Q GOOD AFTERNOON

19 A GOOD AFTERNOON

20 Q JUST BRIEFLY, DO YOU KNOW DR JAMES MAYNARD?

21 A I KNOW OF HIM PROFESSIONALLY

22 Q HAVE YOU MET HIM?

23 A NO

24 Q OKAY

25 A OR IF I HAVE, I DON'T REMEMBER

1 Q AND I BELIEVE YOU TESTIFIED HE'S BEEN DOING THIS
2 26 YEARS?

3 A I DID NOT TESTIFY BUT CLEARLY HE'S BEEN THE
4 FORENSIC PATHOLOGIST IN THE COUNTY FOR MANY YEARS

5 Q I WANT TO ASK YOU ABOUT ONE AREA THAT, YOU
6 INDICATED THAT IT'S YOUR OPINION THAT THERE MUST BE
7 REMNANTS OF THE HYMEN THERE BECAUSE IT'S SO UNUSUAL
8 NOT TO HAVE THAT?

9 A THAT'S CORRECT

10 Q AND YOU INDICATED THAT YOU BELIEVE THAT DR
11 MAYNARD MISSED IT BECAUSE IT WAS A BLOODY MESS DOWN
12 THERE?

13 A BLOODY MESS AND/OR UNDER THE HORMONAL INFLUENCE
14 OF THE MENSTRUAL CYCLE

15 Q OKAY NOW YOU AND DR MAYNARD ARE BOTH FORENSIC
16 PATHOLOGISTS, IS THAT CORRECT?

17 A I AM I DON'T KNOW IF HE HAS HIS BOARDS, BUT HE
18 CLEARLY PRACTICES FORENSIC MEDICINE, YES

19 Q AND Y'ALL DO INVESTIGATIONS, CORRECT?

20 A THAT'S CORRECT

21 Q AND IS IT REALLY AN ACCEPTABLE REASON THAT YOU
22 MAY NOT BE ABLE TO FIND SOMETHING IN AN AUTOPSY
23 BECAUSE YOU HAVE A BLOODY MESS?

24 A IT DOES HAPPEN, YES, SIR

25 Q BUT ISN'T THAT WHAT YOU DEAL WITH?

002855

1 A WELL, IT DEPENDS

2 Q BLOODY MESSES?

3 A IT ALL DEPENDS ON HOW BLOODY THE MESS, AND HOW
4 BIG OF A PIECE OF TISSUE YOU ARE LOOKING FOR IF YOU
5 ARE LOOKING FOR REMNANTS OF SOMETHING THIN AND SMALL
6 LIKE A HYMEN IT WOULD BE VERY DIFFICULT TO IDENTIFY
7 LIKE I SAID I PROBABLY MISS IT TOO IF I WERE ACTUALLY
8 LOOKING FOR IT

9 Q BUT YOU DON'T KNOW THAT IT WAS NOT THERE?

10 A WELL, ONCE AGAIN, IF WOMAN GIVE CHILD BIRTH AND
11 THEY ARE SUPPOSED TO HAVE A HYMEN, THAT HYMEN SHOULD
12 STILL BE THERE

13 Q BUT YOU DON'T KNOW THAT IT WAS NOT THERE?

14 A ONCE AGAIN, IT SHOULD STILL BE THERE AT LEAST
15 REMNANTS OF IT

16 Q BUT YOU DON'T KNOW THAT IT WAS NOT THERE?

17 A THAT'S CORRECT

18 Q THANK YOU

19 THE COURT REDIRECT

20 MR BAITY NOTHING ON REDIRECT

21 THE COURT YOU CAN STEP DOWN

22 A THANK YOU, YOUR HONOR

23 THE COURT THANK YOU WE APPRECIATE YOUR
24 TIME HAVE A SAFE TRIP BACK TO COLUMBIA ANY REASON
25 THIS WITNESS CAN'T BE EXCUSED?

002856

1 MR BAITY I SO MOVE, YOUR HONOR

2 MR THOMPSON NO

3 MR GREELEY NO

4 THE COURT CALL YOUR NEXT WITNESS

5 MR MORTON CAN WE APPROACH THE BENCH,
6 YOUR HONOR

7 (BENCH CONFERENCE AT 04 20 PM)

8 PETER M SKIDMORE, BEING FIRST
9 DULY SWORN, TESTIFIED AS FOLLOWS

10 DIRECT EXAMINATION BY MR SMITH

11 Q PLEASE STATE YOUR FULL NAME FOR THE COURT

12 A PETER MATTHEW SKIDMORE

13 Q AND IF YOU WOULD SPELL YOUR LAST NAME FOR THE
14 COURT REPORTER PLEASE?

15 A S-K-I-D-M-O-R-E

16 Q HOW OLD ARE YOU, MR SKIDMORE?

17 A 21 YEARS OLD

18 Q AND WHAT IS YOUR OCCUPATION?

19 A I'M A LICENSED PRIVATE INVESTIGATOR

20 Q ARE YOU ALSO IN THE MILITARY?

21 A YES, I AM

22 Q AND HAVE YOU, WHAT'S YOUR SERVICE RECORD BEEN?

23 A SERVED FIVE MONTHS IN IRAQ AND ALSO IN KUWAIT
24 WITH THE ARMY NATIONAL GUARD IN SOUTH CAROLINA

25 Q JUST RECENTLY YES, SIR

002857

1 A I GOT BACK THIS PAST SEPTEMBER A YEAR AGO

2 Q I'M GOING TO SHOW YOU THIS VIDEO HERE, ARE YOU
3 FAMILIAR WITH THE CONTENT?

4 A I AM I SHOT THAT VIDEO

5 Q YOU SHOT THIS VIDEO?

6 A YES, I DID

7 Q HAVE YOU HAD A CHANCE TO REVIEW THIS RECENTLY

8 A YES, I REVIEWED IT YESTERDAY

9 Q AND DOES IT ACCURATELY REFLECT THE VIDEO THAT
10 YOU TAPED?

11 A YES, IT DOES

12 Q OKAY

13 MR SMITH JUDGE, AT THIS TIME WE'D LIKE
14 TO PUBLISH THIS TO THE JURY

15 MR BRACKETT WHAT IS IT?

16 MR GREELEY WE DON'T KNOW WHAT IT IS

17 THE COURT LET ME LET YOU GO OUT

18 THE FOREMAN TAKE A BREAK

19 (THE JURY EXITS THE COURTROOM AT 04 23
20 PM)

21 THE COURT ALL RIGHT WHAT DO WE HAVE
22 HERE

23 MR BRACKETT YOUR HONOR, WE HAVE ANOTHER
24 DISCOVERY VIOLATION AND I KNOW, I TOOK WHAT YOU SAID,
25 WE WORKED REALLY HARD AND AT MANY POINTS MR MORTON

1 SAID I KNOW THEY HAVE DONE EVERYTHING THEY CAN, I
2 FEEL LIKE THEY HAVE GIVEN US, WHEN YOU ARE DEALING
3 WITH MASSIVE VOLUMES OF INFORMATION THERE IS ALWAYS
4 GOING TO BE A FEW THINGS THAT YOU MISSED, THIS HAS
5 GONE FROM BEING AN OVERSIGHT TO WILLFUL THIS IS NOT
6 ANYMORE, THIS IS NOT A, YOU KNOW, IT'S NOT FUNNY
7 I'VE ASKED THEM SEVERAL TIMES AND WE'RE TALKING ABOUT
8 IT AND EVERYBODY IS LAUGHING ABOUT IT AND THEY KNOW
9 GOOD AND WELL THEY HAVE IT AND THEY ARE NOT GIVING IT
10 TO US

11 THE COURT LET ASK A QUESTION WHEN WAS
12 THIS TAKEN?

13 MR SMITH THIS WAS SHOT ON SEPTEMBER 15
14 TWO, DAYS AGO

15 THE COURT OKAY ALL RIGHT AND WHY WAS
16 IT NOT PROVIDED TO, DON'T Y'ALL HAVE RECIPROCAL
17 DISCOVERY IN THIS CASE

18 MR SMITH YES, SIR IT'S A SHORT VIDEO

19 THE COURT I DIDN'T ASK YOU WHAT IT WAS

20 MR SMITH YES

21 THE COURT I WANT TO KNOW WHY YOU DIDN'T
22 GIVE IT TO THE OTHER SIDE IF YOU TOOK IT IN THE
23 MIDDLE OF THIS TRIAL

24 MR SMITH WE RECEIVED IT YESTERDAY
25 OURSELVES, YOUR HONOR

002859

1 THE COURT TODAY IS TODAY AND YESTERDAY
2 WAS YESTERDAY

3 MR SMITH YES, SIR

4 THE COURT WHY DIDN'T YOU GIVE IT TO THE
5 OTHER SIDE

6 MR SMITH WE DID NOT TURN IT OVER,
7 JUDGE

8 THE COURT I DIDN'T ASK YOU I KNOW YOU
9 DIDN'T

10 MR SMITH YES, SIR

11 THE COURT THEY WOULDN'T BE JUMPING UP
12 AND DOWN AND TURNING RED IN THE FACE MY QUESTION IS
13 WHY?

14 MR SMITH AGAIN, WE DIDN'T HAVE THIS
15 UNTIL THIS MORNING AND WE HAD NOT TURNED IT --

16 THE COURT YOU SAID A MINUTE AGO YOU HAD
17 IT YESTERDAY NOW WHICH ONE IS IT

18 MR SMITH WE GOT IT LAST NIGHT

19 THE COURT WE GOING TO TAKE A SHORT
20 BREAK

21 MR SMITH YES, SIR

22 THE COURT I'M GOING TO LET YOU TALK TO
23 SOMEBODY WHO KNOWS WHAT IS GOING ON AND WHEN WE COME
24 BACK WE'RE GOING TO GET IT CLEAR BUT YOU TOLD ME
25 TWO THINGS IN ALMOST TWO SENTENCES FOLLOWING EACH

1 OTHER THAT ARE IMPOSSIBLE YOU EITHER GOT IT
2 YESTERDAY OR THIS MORNING AND YOU TOLD ME BOTH NOW
3 THIS IS SERIOUS

4 MR SMITH WE GOT IT LAST NIGHT, JUDGE
5 THE COURT BEFORE I MAKE A RULING I WANT
6 TO KNOW A LITTLE BIT MORE AND YOU APPARENTLY DON'T
7 KNOW

8 MR SMITH. YES, SIR
9 THE COURT SO PUT SOMEBODY UP WHO DOES
10 KNOW WE'RE GOING TO TAKE A BREAK, Y'ALL CAN TALK
11 ABOUT IT, AND FIND OUT AND GET IT STRAIGHT

12 (COURT'S IN RECESS AT 04 25 PM)

13 (COURT RESUMES AT 04 32 PM)

14 THE COURT WHERE ARE WE?

15 MR SMITH JUDGE, I APOLOGIZE FOR
16 MISSPEAKING EARLIER I RECEIVED THE TAPE LAST NIGHT
17 AT APPROXIMATELY NINE O'CLOCK I PICKED IT UP AT
18 MR SKIDMORE'S OFFICE I REVIEWED IT AT THAT POINT
19 WE DID NOT TURN IT OVER TO THE SOLICITOR'S OFFICE
20 THIS MORNING AND I DON'T HAVE AN EXCUSE OR REASON WHY
21 WE DID NOT

22 THE COURT ALL RIGHT WELL, TO BEGIN
23 WITH, I'M GOING TO ASK YOU BEFORE YOU COME BACK ON
24 MONDAY LOOK AT RULE 407 3 3

25 MR SMITH YES, SIR

002861

1 THE COURT AND ALSO WHAT'S THE STATE
2 POSITION AT THIS TIME FOR IT OR AGAINST IT

3 MR BRACKETT LET ME CONSULT, I JUST SAW
4 IT WE WILL TAKE NO POSITION ON IT

5 MR GREELEY I VEHEMENTLY OBJECT

6 THE COURT WELL, I'M NOT GOING TO ALLOW
7 IT IN

8 MR SMITH YES, YOUR HONOR

9 THE COURT AND IF THEY ARE, I'M NOT GOING
10 TO ALLOW IT IN, THAT'S A SANCTION IF THERE WILL BE
11 FURTHER SANCTIONS, I'LL DEAL WITH THEM AFTER THE
12 TRIAL

13 MR SMITH YES, SIR WE HAVE NOTHING
14 FURTHER WITH THE WITNESS THEN WE HAVE NO QUESTIONS
15 FOR THE WITNESS

16 THE COURT MAKE THAT PART OF THE COURT'S
17 RECORD

18 MR SMITH NO NO WE'LL ACTUALLY
19 WITHDRAW THAT

20 THE COURT OKAY

21 MR THOMPSON TO LET THE COURT KNOW FOR
22 THE RECORD IT'S A VIDEO TAPE BASICALLY GOING FROM THE
23 COPE'S RESIDENCE TO JAMES SANDERS' RESIDENCE, SO THE
24 COURT WILL UNDERSTAND WHAT IT COMES DOWN TO IS THAT
25 INFORMATION IS ALREADY IN EVIDENCE I BELIEVE THAT'S

1 WITHIN TWO BLOCKS

2 THE COURT ALL RIGHT YOU CAN STEP DOWN

3 THANK YOU MR IVEY, YOU CAN BRING THE JURY IN

4 MR IVEY ALL RIGHT, SIR

5 THE COURT FOR THE RECORD, ULTIMATELY THE

6 STATE DID NOT REALLY OBJECT BUT IT STILL DID NOT TAKE

7 IT OUT OF VIOLATION OF RULE OF FIVE JUST BECAUSE THEY

8 CHOSE NOT TO, TO WITHDRAW THEIR OBJECTION

9 (THE JURY RETURNS TO THE COURTROOM)

10 THE COURT CALL YOUR NEXT WITNESS THAT

11 WITNESS HAS BEEN EXCUSED

12 MR SMITH YOUR HONOR, BILLY COPE CALLS

13 GEORGIA POPE

14 MR THOMPSON I BELIEVE SHE WAS CALLED

15 EARLIER I OBJECT AT THIS TIME

16 THE COURT WELL, I DON'T KNOW WHAT SHE'S

17 GOING TO TESTIFY TO

18 GEORGIA POPE, AFTER BEING DULY

19 SWORN TESTIFIES AS FOLLOWS

20 DIRECT EXAMINATION BY MR SMITH

21 Q MRS POPE, WOULD YOU PLEASE STATE YOUR FULL NAME

22 FOR THE JURY?

23 A GEORGIA STEVENS POPE

24 Q AND WHERE DO YOU CURRENTLY LIVE?

25 A 2510 FOXHILL COURT, FORT MILL, SOUTH CAROLINA

1 Q IF YOU'LL SPEAK MORE TOWARDS THE MICROPHONE
2 THERE JUST TO MAKE SURE THE JURY CAN HEAR YOU

3 A OKAY

4 Q WHAT'S YOUR OCCUPATION?

5 A I'M A LOCKSMITH

6 Q AND HOW LONG HAVE YOU BEEN DOING THAT?

7 A APPROXIMATELY TEN YEARS

8 Q WHO DO YOU WORK FOR?

9 A CHARLIE'S LOCK AND KEY

10 Q AND DO YOU OWN THAT BUSINESS, CO-OWN IT?

11 A I CO-OWN IT WITH MY HUSBAND CHARLES

12 Q AND HOW WERE YOU TRAINED AS A LOCKSMITH?

13 A I WAS TRAINED IN THE VAN WITH CHARLES TEACHING
14 ME AND BY ATTENDING QUARTERLY MEETINGS OF THE NORTH
15 CAROLINA LOCKSMITH ASSOCIATION

16 Q IS THERE ANY TYPE OF LOCKSMITH CERTIFICATION IN
17 SOUTH CAROLINA?

18 A NO

19 Q BUT YOU ARE A MEMBER OF THE NORTH CAROLINA
20 ASSOCIATION OF LOCKSMITHS?

21 A YES

22 Q AND YOU RECEIVE TRAINING THROUGH THAT
23 ORGANIZATION?

24 A WE HAVE QUARTERLY MEETINGS WITH TWO DAYS OF
25 CLASSES OF OUR CHOICE

002864

1 Q AND WHAT KIND OF CLASSES DO YOU TAKE DURING THAT
2 TIME? WHAT ARE THOSE CLASSES FOR?

3 A AUTOMOTIVE LOCKS, ELECTRONIC LOCKS, LOCKS IN
4 GENERAL

5 Q BUT YOU ARE LEARNING MORE ABOUT LOCKS, IS THAT
6 RIGHT?

7 A YES

8 Q OKAY OKAY

9 MR SMITH JUDGE, AT THIS TIME I WOULD
10 MOVE THAT MRS POPE BE QUALIFIED AS AN EXPERT
11 LOCKSMITH

12 THE COURT ANY VOIR DIRE?

13 MR POPE NONE FROM THE STATE, YOUR
14 HONOR

15 MR GREELEY NO, YOUR HONOR

16 THE COURT I FIND SHE'S QUALIFIED

17 Q MRS POPE, HAVE YOU VOLUNTEERED TO BE HERE
18 TODAY?

19 A YES, SIR

20 Q WELL, ARE YOU BEING PAID?

21 A YES, SIR

22 Q FOR YOUR TIME HERE TODAY?

23 A YES

24 Q HOW MUCH ARE YOU AN HOUR?

25 A \$60 AN HOUR

002865

1 Q IS THAT YOUR TYPICAL RATE OF PAY FOR SERVICE
2 CALLS?

3 A YES

4 Q AND HAS THE FACT THAT YOU'VE BEEN PAID TO BE
5 HERE TODAY HAS THAT AFFECTED YOUR TESTIMONY IN ANY
6 WAY?

7 A NO

8 Q ARE YOU TELLING THE TRUTH?

9 A YES, SIR

10 Q HAVE YOU EVER BEEN OUT TO 407 RICH STREET?

11 A NO

12 Q YOU HAVE NEVER BEEN THERE?

13 A NO, SIR

14 Q I WANT YOU TO TAKE A LOOK AT A COUPLE OF
15 PHOTOGRAPHS I BELIEVE YOU ALREADY LOOKED AT THESE
16 I'M GOING TO SHOW YOU WHAT'S BEEN MARKED AS STATE'S
17 41 E, 41 B, AND 41 C AND IF YOU CAN LOOK AT THESE AND
18 TELL ME WHETHER YOU'VE SEEN THOSE BEFORE?

19 A YES, SIR

20 Q CAN YOU LOOK AT ALL THREE OF THEM?

21 A YES, SIR, I HAVE SEEN ALL OF THESE

22 Q YOU'VE HAD A CHANCE TO REVIEW THOSE AND STUDY
23 THOSE?

24 A YES, SIR

25 Q OKAY

002866

1 MR SMITH JUDGE, MAY THE WITNESS STEP
2 DOWN

3 THE COURT CERTAINLY

4 Q MRS POPE, STAND DOWN HERE I WANT YOU TO POINT
5 OUT A COUPLE THINGS ON THESE PHOTOGRAPHS TO EDUCATE
6 THE JURY TO DIFFERENT PARTS OF THE DOOR I'VE GOT A
7 LASER POINTER HERE CAN YOU TELL THE JURY WHAT THIS
8 PART OF THE DOOR IS CALLED?

9 A THE JAMB

10 Q THAT'S CALL THE JAMB?

11 A YES

12 Q NOW WHAT IS THIS PIECE RIGHT HERE CALLED?

13 A STRIKE PLATE

14 Q STRIKE PLATE?

15 A YES

16 Q OKAY AND?

17 A THAT IS ALSO A STRIKE PLATE

18 Q IS THAT A CLOSE UP OF THE SAME SHOT WE JUST SAW?

19 A IT APPEARS TO BE

20 Q OKAY AND SHOW YOU 41 E NOW THIS PART IS
21 CALLED THE DOOR KNOB, RIGHT?

22 A THAT IS THE DOOR KNOB THAT IS KEY ENTRY

23 Q AND WHAT DOES THAT MEAN?

24 A IT MEANS YOU HAVE TO HAVE A KEY TO LOCK AND
25 UNLOCK IT

002867

1 Q NOW WHAT IS THIS PEACE THAT'S PROTRUDING OUT
2 RIGHT HERE CALLED?

3 A THAT IS THE LATCH

4 Q OKAY AND WHAT ABOUT THIS PIECE THAT SURROUNDS
5 LATCH?

6 A FACE PLATE

7 Q NOW WHAT IS THAT PIECE RIGHT HERE, THE WASHER
8 LOOKING PIECE?

9 A PROBABLY WHERE THE HOLE ON THE LATCH HAS GOTTEN
10 WALLERED OUT AND THEY PUT A SPACER ON IT TO FILL UP
11 THE HOLE AND TAKE UP SPACE

12 Q WHEN YOU MEAN WALLERED OUT, YOU MEAN IT'S GOTTEN
13 LOOSE?

14 A GOTTEN LOOSE ON THE DOOR AND PUT A BIGGER SCREW
15 AND WASHER TO IT

16 Q AND THAT WOULD MEAN THE LATCH WAS LOOSE THROUGH
17 THERE, IS THAT RIGHT?

18 A IT WOULD HAVE BEEN UNTIL THEY PUT THAT ON THERE

19 Q SO IS IT YOUR OPINION THAT THAT WASHER WAS
20 PLACED HERE TO TRY TO TIGHTEN UP THE WHOLE LATCHING
21 MECHANISM?

22 A YES

23 Q OKAY IF WE CAN HAVE THE LIGHTS PLEASE NOW
24 I'M NOT GOING TO ASK YOU TO STAND BACK UP BECAUSE I
25 AM GOING TO ASK YOU JUST ONE QUESTION ARE THERE

1 DIFFERENT TYPES OF LATCHES?

2 A THERE ARE TWO DIFFERENT TYPES, SPRING LATCH AND

3 A DEAD LATCH

4 Q AND DO YOU HAVE EXAMPLES OF THOSE HERE TODAY?

5 A YES

6 Q AND SHOWING THE JURY THESE LATCHES WOULD IT HELP

7 BETTER EXPLAIN YOUR TESTIMONY?

8 A YES

9 Q OKAY

10 MR SMITH JUDGE, MAY THE WITNESS

11 APPROACH THE JURY AND EXPLAIN

12 THE COURT CERTAINLY

13 A THIS LATCH IS A PLAIN SPRING LATCH WHEN YOU

14 TURN THE KNOB IT RETRACTS IT, IT GOES BACK OUT WHEN

15 THE DOOR CLOSES THIS FALLS INTO THE HOLE ON THE

16 STRIKE PLATE, BUT YOU CAN STICK SOMETHING THROUGH THE

17 EDGE OF THE DOOR, CATCH THIS, AND PULL IT LOOSE

18 THIS AS A DEAD LATCH THIS PIECE

19 DROPS INTO THE STRIKE PLATE THIS PIECE HITS AGAINST

20 THE EDGE OF THE STRIKE PLATE

21 Q NOW WHAT EXACTLY IS THAT PIECE CALLED?

22 A IT'S A DEAD LATCH PIN AND THIS PIN IS PUSHED

23 BACK AGAINST THE EDGE OF THE STRIKE PLATE YOU

24 CANNOT STICK SOMETHING IN THERE AND PUSH THIS BACK

25 Q SO WHEN THE DOOR IS CLOSED THE DEAD LATCH PIN IS

1 DEPRESSED?

2 A WHEN THE DOOR IS CLOSED THIS PIN IS DEPRESSED
3 AND RESTING AGAINST THE STRIKE PLATE

4 Q CAN YOU RUN A CREDIT CARD THROUGH THAT TO OPEN
5 IT UP?

6 A YES CREDIT CARD, DRIVER'S LICENSE

7 Q ON THE DEAD LATCH?

8 A NO, NOT ON THE DEAD LATCH BECAUSE THIS IS BACK
9 AGAINST THE STRIKE PLATE

10 Q OKAY IF YOU'LL HAVE A SEAT BACK IN THE JURY
11 BOX PLEASE NOW I'M GOING TO SHOW YOU STATE'S
12 EXHIBIT NUMBER 41 E AGAIN CAN YOU TELL FROM THIS
13 PHOTOGRAPH WHAT TYPE OF LATCH IS ON THIS DOOR?

14 A I SEE NO SIGN OF A DEAD LATCH PIN ON THAT LATCH

15 Q SO WHAT TYPE OF LATCH DO YOU THINK IT IS?

16 A IT'S A SPRING LATCH

17 Q THAT'S WHAT IT APPEARS TO YOU?

18 A THAT IS WHAT IT APPEARS TO BE

19 Q OKAY NOW IF SOMEONE USED A CREDIT CARD TO OPEN
20 A SPRING LATCH WOULD THERE BE ANY, NECESSARILY BE ANY
21 SIGNS OF FORCED ENTRY?

22 A PROBABLY BE MORE MARKS ON THE CREDIT CARD THAN
23 THERE WOULD BE ON THE LOCK

24 Q ARE THERE ANY OTHER WAYS OF ENTERING A DOOR
25 WHETHER IT IS A DEAD LATCH OR SPRING LATCH THAN USING

1 A CREDIT CARD THAT WOULDN'T SHOW SIGNS OF FORCED
2 ENTRY?

3 A PICK THE LOCK

4 Q IF YOU PICK THE LOCK?

5 A YES

6 Q ANYTHING ELSE?

7 A THAT WOULD BE ABOUT IT

8 Q WHAT IF THE DOOR WAS UNLOCKED?

9 A IF THE DOOR WAS UNLOCKED YOU TURN THE KNOB AND
10 GO IN

11 Q THAT'S RIGHT WHAT IF SOMEONE LET YOU IN?

12 A THE SAME THING

13 Q OKAY I HAVE NO FURTHER QUESTIONS FOR YOU AT
14 THIS TIME PLEASE ANSWER ANY QUESTIONS THAT THE
15 STATE OR MR GREELEY MAY HAVE FOR YOU

16 A OKAY

17 CROSS EXAMINATION BY MR POPE

18 Q MRS POPE, MY NAME IS TOMMY POPE

19 A YES, SIR

20 Q WE'RE NOT ANY KIN TO EACH OTHER I DON'T BELIEVE
21 AS FAR AS YOU KNOW?

22 A THE POPE NAME STARTED SOMEWHERE

23 Q OKAY

24 (LAUGHTER)

25 THE COURT SHE'S WILLING TO CLAIM YOU

1 Q AND ACTUALLY YOU MARRIED INTO THAT CROWD TOO,
2 DIDN'T YOU?
3 A RIGHT
4 Q OKAY WE WERE TALKING A LITTLE BIT OUTSIDE AND
5 FIRST TALKING ABOUT THE LOCKS AND YOU SAYING A SPRING
6 LOCK AND YOU SAY THIS APPEARS TO BE?
7 A YES, SIR
8 Q A SPRING LOCK NOW WHAT IS THE, I DIDN'T, I'M
9 SORRY I DIDN'T GET TO SEE THOSE SO THIS IS LIKE THE
10 KIND YOU HAVE ON THE INSIDE, BETWEEN LIKE THE
11 BATHROOM, I MEAN, NOT EVEN BATHROOM, DOORS THAT DON'T
12 HAVE LOCKS MOSTLY IN YOUR HOUSE?
13 A YES
14 Q AND THEN THIS ONE IS MORE OF A STANDARD THAT YOU
15 WOULD HAVE OF COURSE AND A LOT PEOPLE HAVE DEAD
16 BOLTS TOO, IS THAT CORRECT?
17 A YES
18 Q OKAY AND SO THE QUESTION ON THIS PICTURE
19 LOOKING IS TRYING TO ASCERTAIN FROM THE ANGLE OF THAT
20 PICTURE WHETHER THAT PIN IS IN FACT THERE OR NOT?
21 A AND I CAN'T SEE ANYTHING THERE
22 Q RIGHT
23 A SEE THAT COMES UP LEVEL WITH THIS WHEN IT'S OUT
24 Q YES, MA'AM
25 A IT'S UP LEVEL AND I DON'T SEE ANYTHING ON THERE

1 THAT SHOWS A PIN

2 Q OKAY THIS GRAY AREA, AND I'M NOT, YOU TELL ME
3 WHAT YOU SEE, NOT WHAT I SEE, THIS GRAY AREA RIGHT
4 THERE, I'M LEANING INTO YOUR LIGHT YOU WOULD AGREE
5 THIS PICTURE IS AT ANGLE, WOULD YOU NOT?

6 A YES, IT IS

7 Q AND NORMALLY WHEN YOU INSTALL, IF YOU WERE GOING
8 TO DO BETWEEN THESE TWO, WHICH WOULD YOU HAVE PUT ON?

9 A ON A ENTRY LOCK YOU ALWAYS PUT A DEAD LATCH

10 Q OKAY AND THAT'S WHAT THIS IS?

11 A YES

12 Q AND THIS IS A SAFETY MECHANISM?

13 A YES

14 Q I CAN FEEL RIGHT HERE THAT KEEPS THIS FROM
15 PUSHING IN?

16 A YES, SIR

17 Q OKAY AND THEN NORMALLY YOUR DEAD LATCHES ARE
18 THE ONES THAT WOULD HAVE KEY LATCHES IN THE FRONT?

19 A YES

20 Q OKAY LET ME ASK YOU ONE MORE THING ON THE
21 INSIDE OF THE DOOR, OF COURSE, YOU SAID YOU DIDN'T
22 GET TO GO DOWN TO THE HOUSE? YOU WERE JUST --

23 A NO

24 Q ---DEALING WITH THE PICTURES, RIGHT?

25 A YES, SIR

002873

1 Q ON THE INSIDE OF THE DOOR THERE IS ONE OF THESE
2 THINGS THAT'S, YOU KNOW, WHERE THEY HAVE LIKE A CHAIN
3 ON THE DOOR JAMB AND THEN IT GOES INTO LIKE A SLIDING
4 THING ACROSS --

5 A YES

6 Q WHAT DO YOU CALL THAT? A CHAIN?

7 A A DOOR CHAIN

8 Q A DOOR CHAIN?

9 A UH-HUH

10 Q AND WHAT IS THE PURPOSE OF THAT?

11 A YOU CAN OPEN THE DOOR A CERTAIN AMOUNT TO SEE
12 WHAT'S OUT THERE WITHOUT BEING FULLY VULNERABLE

13 Q I GOT YOU LIKE IF I WANTED TO TALK TO YOU BUT
14 YOU CAN --

15 A YES

16 Q AND HOW DO YOU UNLOCK THAT LOCK?

17 A YOU CLOSE THE DOOR, SLIDE THE CHAIN OVER, AND
18 LIFT IT OUT OF ITS SLOT

19 Q SO IF I GOT THIS DOOR OPEN, IT'S KIND OF A,
20 THAT'S THE BEAUTY OF THAT I CAN'T SLIDE IT OVER
21 BECAUSE MY ARM WOULD BE IN THE WAY TO TRY TO --

22 A YES

23 Q SO IN ORDER TO UNDO THE CHAIN LOCK YOU'D HAVE TO
24 BE INSIDE OR I'D HAVE TO LET YOU IN, IS THAT CORRECT?

25 A THAT'S CORRECT

002874

1 Q OKAY?

2 A OR YOU COULD KICK IT IN

3 Q OKAY AND IF I KICKED IT IN, ARGUABLY --

4 A YOU'D HAVE TEARING DOWN AND SPLINTERING

5 Q AND BUST THAT CHAIN OFF?

6 A YES

7 Q OKAY THANK YOU THANK YOU LET ME ASK THESE

8 SMART GUYS IF I NEED TO ASK YOU ANYTHING ELSE

9 A OKAY

10 Q THANK YOU, MA'AM THANK YOU, MA'AM

11 THE COURT MR GREELEY

12 MR GREELEY I DON'T HAVE ANY QUESTIONS,

13 MA'AM

14 THE COURT ANY REDIRECT

15 MR SMITH NO, YOUR HONOR

16 THE COURT YOU CAN STEP DOWN AND BE

17 EXCUSED YOU CAN LEAVE WE APPRECIATE YOUR TIME

18 THANK YOU MEMBERS OF JURY PANEL, WE'LL STOP --

19 MR POPE WE HAVE NO OBJECTION TO THEM

20 GOING IN?

21 THE COURT LEAVE THEM WITH THE LAWYER AND

22 THEN WE'LL DECIDE WHAT TO DO WE'LL-STOP, FOR THE

23 WEEKEND WE'LL SEE YOU BACK AT NINE ON MONDAY

24 WE'RE LOOKING LIKE AND TO BE FAIR TO YOU I WANT TO

25 TELL YOU THAT WE'LL CONCLUDE PERHAPS AROUND

002875

1 WEDNESDAY I CAN'T MAKE A COMPLETE PROMISE AS
2 YOU'VE SEEN, EVERYTHING I HAVE TOLD YOU HAS TURNED
3 OUT WRONG BUT AFTER TALKING WITH THE ATTORNEYS
4 THAT'S WHERE I THINK WE'RE HEADED YOU ARE STILL NOT
5 YET IN A POSITION TO MAKE UP YOUR MIND, YOU ARE STILL
6 NOT IN A POSITION TO DISCUSS THE CASE AMONG
7 YOURSELVES, YOU ARE STILL NOT IN A POSITION TO
8 DISCUSS THE CASE WITH ANYONE OUTSIDE THE COURTROOM,
9 OR LET ANYONE TALK TO YOU ABOUT IT, AND YOU ARE STILL
10 NOT IN THE POSITION TO READ ANYTHING, WATCH ANYTHING,
11 OR LISTEN TO ANYTHING IN THEY WAY OF NEWS COVERAGE ON
12 THIS CASE, SO HAVE A PLEASANT WEEKEND, AND WE'LL SEE
13 YOU BACK IN THE MORNING AT NINE AM THANK YOU

14 (THE JURY EXITS THE COURTROOM AT 04 49
15 PM)

16 THE COURT ANYTHING FROM THE STATE BEFORE
17 WE STOP FOR THE WEEKEND

18 MR POPE NO, YOUR HONOR

19 THE COURT ANYTHING ON BEHALF OF MR
20 COPE

21 MR MORTON NO, SIR

22 MR SMITH JUDGE, WE WOULD LIKE TO
23 INTRODUCE THESE IN EVIDENCE

24 THE COURT ANY OBJECTION?

25 MR POPE NO OBJECTION, YOUR HONOR

002876

1 MR GREELEY NONE

2 THE COURT LET'S GET THEM MARKED

3 (DEFENDANT'S EXHIBITS 73 AND 74 DOOR

4 KNOBS RECEIVED IN EVIDENCE)

5 THE COURT ANYTHING ELSE

6 MR GREELEY NO

7 MR SMITH NO, YOUR HONOR

8 THE COURT WE'LL SEE YOU AT NINE ON

9 MONDAY

10 (COURT'S IN RECESS AT 04 51 PM)

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002877

1
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
10 FRIDAY THE 17TH DAY OF SEPTEMBER 2004

11 I DO FURTHER CERTIFY THAT I AM NEITHER KIN,
12 COUNSEL, NOR INTEREST TO ANY PARTY HERETO
13
14
15
16
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20
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24
25


JANET M RICH

002878

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 MONODAY, SEPTEMBER 20TH, 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

002879

I N D E X

BILLY COPE

DIRECT EXAMINATION 18

CROSS EXAMINATION 153

002880

1 (COURT RESUMES AT 09 05 AM ON MONDAY, SEPTEMBER 20,
2 2004)

3 THE COURT STATE READY

4 MR POPE THE STATE IS READY, YOUR HONOR

5 THE COURT DEFENSE

6 MR MORTON YOUR HONOR, WE HAD SOME
7 ISSUES I THINK COME UP OVER THE WEEKEND

8 THE COURT MR GREELEY, READY

9 MR GREELEY YES, YOUR HONOR

10 THE COURT ALL RIGHT YES, SIR YOU'LL
11 NOTICE I DIDN'T KNOW SHOW ANY SURPRISE WHEN YOU SAID
12 THAT

13 MR MORTON AT THE BEGINNING OF -- WELL,
14 AS PART OF OUR NORMAL DISCOVERY MOTION AND RULE FIVE
15 WE HAD REQUESTED ANY WRITTEN OR RECORDED STATEMENTS
16 MADE BY THE DEFENDANT, I THINK IT WAS FRIDAY A WEEK
17 AGO, WHAT MONTH ARE WE IN, SEPTEMBER 10, THE
18 SOLICITOR'S OFFICE GAVE US -- I THINK WE BROUGHT THIS
19 UP TO THE COURT, A BOX OF TAPES AND CD'S OF
20 STATEMENTS THAT THEY HAD RECORDED OF THE DEFENDANT
21 SPEAKING TO HIS FAMILY, TO HIS LAWYERS, TO WHOMEVER
22 FROM JAIL WHICH WE THINK FALLS UNDER RULE FIVE AS A
23 RECORDED STATEMENT UNDER RULE FIVE THEY TOLD US I
24 THINK FRIDAY ABOUT 6 15 WE BROUGHT IT TO THE
25 COURT'S ATTENTION I BELIEVE MONDAY AND THEN LATER

002881

1 THAT WEEK WE IN OPEN COURT ASKED THE SOLICITORS ABOUT
2 THEIR INTENTION ON USING THESE THINGS AS ANY KIND OF
3 SUBSTANTIVE OR IMPEACHMENT PURPOSES THEY INDICATED
4 TO THE COURT THAT THEY HAD NOT PLANNED ON DOING THAT
5 WE GOT AN E-MAIL YESTERDAY, MR BAITY DID, HE CAN
6 ADDRESS THE SUBSTANCE OF THAT E-MAIL, I NEVER HAVE
7 SEEN IT, ABOUT THE STATE'S POSSIBLY TRYING TO USE
8 SOME OF THOSE RECORDED STATEMENTS AS IMPEACHMENT
9 EVIDENCE AGAINST OUR CLIENT IF HE WERE TO TESTIFY
10 WHICH PUTS US IN A DIFFICULT POSITION BECAUSE BASED
11 UPON THEIR FAILURE TO PROVIDE IT TO US INITIALLY AND
12 BASED UPON THEIR REPRESENTATIONS IN THIS COURT WE
13 HAVEN'T REVIEWED THIS, WE CERTAINLY HADN'T HAD A
14 CHANCE TO TALK TO OUR CLIENT ABOUT IT, WHICH DOESN'T
15 ENABLE US TO PREPARE A DEFENSE

16 THE COURT LET ME HEAR THE STATE'S
17 POSITION ON THIS

18 MR POPE PLEASE THE COURT YOUR HONOR,
19 THIS IS THE ITEMS, THE JAIL PHONE CONVERSATIONS

20 THE COURT I KNOW WHAT IT IS

21 MR POPE THAT WE HAD ADDRESSED
22 PREVIOUSLY WITH THE COURT AS A MATTER OF FACT WE
23 ADDRESSED IT BEFORE WE CAME OUT HERE AND ADDRESSED
24 IT, ADDRESSED IT IN CHAMBERS CONCERNING THAT THEY
25 WOULD IN FACT HAVE KNOWLEDGE EVERYTHING I THINK MR

002882

1 MORTON SAID IS CORRECT IN GOING THROUGH THE
2 INFORMATION THIS WEEKEND IN ANTICIPATION OF THIS WEEK
3 I WAS LOOKING AT, MR COPE TOLD HIS MOTHER THAT THERE
4 WAS ONE MORE THING I DIDN'T TELL YOU AND THE MOTHER
5 SAID WHAT AND HE SAID BECAUSE I DIDN'T REALIZE IT I
6 MASTURBATED THAT NIGHT INTO A YELLOW RAG AND THREW IT
7 IN THE FLOOR UP UNDER THE DRESSER UP UNDER THE BOOK
8 SHELF AND THERE IS A POSSIBILITY OF WHOEVER SAW ME
9 SHE SAID WHO COULD HAVE SAW YOU AND HE SAID ANYBODY
10 WHO IS IN THE DINING ROOM IF HE TAKES THE STAND AND
11 SAYS THAT HE MASTURBATED THAT NIGHT AND THEN GETTING
12 INTO THIS I WOULD SUBMIT TO BE MOOT, BUT YOUR HONOR,
13 IF HE SUDDENLY FROM OR NOT SUDDENLY, FROM THE
14 TESTIMONY AND THE QUESTIONS ELICITED FROM THEIR
15 EXPERTS IT APPEARS THEY ARE ATTEMPTING TO SAY THAT
16 THIS DID NOT COME FROM THIS NIGHT WHEN CLEARLY HE
17 SAID THAT IT WOULD I SUBMIT THE ITEMS, WE PROVIDED
18 THE ITEMS FRIDAY A WEEK AGO AND I SUBMIT THAT THEY
19 WERE NOT DISCOVERABLE REGARDLESS, THEY WERE EQUALLY
20 AVAILABLE TO THE DEFENSE, THERE ARE STATEMENTS OF
21 THEIR CLIENT, AND THE REASON I SENT THE E-MAIL OR I
22 SENT AN E-MAIL TO MR KEVIN BRACKETT AND I UNDERSTAND
23 HE FORWARDED IT TO MR MORTON AND MR BAITY IS TO
24 ADDRESS THIS VERY ISSUE WE ARE DOING RIGHT NOW SO IT
25 WOULDN'T COME UP LATER WHEN I AM CROSSING MR COPE

1 AND MR COPE SAYS NO THAT DIDN'T HAPPEN THAT NIGHT
2 AND I'M IN DIRECT POSSESSION OF THE MATERIALS THAT
3 CONTRAVENE THAT

4 YOUR HONOR, MR BRACKETT ALSO POINTED OUT
5 TO ME AND AGAIN I HAD DISCUSSED THIS PREVIOUSLY, THAT
6 ETHICALLY IF I KNOW SOMEBODY IS ON THE STAND
7 PRESENTING TESTIMONY UNDER OATH TO BE FALSE AND I
8 HAVE AN ETHICAL OBLIGATION TO CALL IT, WHETHER IT BE
9 TO THE COURT'S ATTENTION OR THEIR ATTENTION WE KIND
10 OF ADDRESSED THAT HANDWRITING STUFF EARLIER IN THIS
11 TRIAL AND SO AGAIN WE HAVE IT BEFORE THE COURT AND I
12 WANT TO BRING IT TO YOUR ATTENTION

13 MR MORTON YOUR HONOR, WHETHER WE COULD
14 HAVE GOTTEN THE TAPES OR NOT I NEVER KNEW THEY WERE
15 THERE TO BE QUITE HONEST ABOUT IT AND WE'RE NOT
16 TALKING ABOUT AN HOUR AND A HALF OF TAPES WE'RE
17 TALKING ABOUT, YOU KNOW, 80-90-100 HOURS OF TAPES
18 THAT WE DON'T KNOW THE CONTENTS OF THOSE TAPES IT
19 MAY SAY ONE THING ONE DAY AND THEN SOMETHING ELSE,
20 CERTAINLY HIS STATE OF MIND, AND, YOU KNOW, TO NOT
21 HAVE BEEN PROVIDED THAT AND NOT BE ABLE TO TALK TO
22 OUR CLIENT ABOUT IT PUTS US IN A TENUOUS POSITION AT
23 BEST

24 THE COURT WHEN DID YOU GET THE E-MAIL?

25 MR MORTON YESTERDAY AFTERNOON ABOUT

1 THREE O'CLOCK

2 THE COURT WELL, LET'S ADDRESS THAT
3 WHY --

4 MR BAITY ACTUALLY IT WAS LATER THAN
5 THAT IT WAS FOUR

6 THE COURT WHY NOT EARLIER?

7 MR POPE YOUR HONOR, I CAME INTO WORK
8 YESTERDAY AND WHEN I CROSSED THESE MATERIALS I WROTE
9 AN E-MAIL TO MR BRACKETT WHO FORWARDED IT TO THOSE
10 GUYS, BUT AS FAR AS THE DISCLOSURE EARLIER, I POINT
11 OUT ONE THAT OUR INITIAL CONVERSATION ON THIS ISSUE
12 WE DIDN'T NEED TO PROVIDE ANYTHING THAT FRIDAY
13 WHICH WAS FRIDAY I GUESS TWO WEEKS AGO NOW WE
14 PROVIDED, IT'S MY UNDERSTANDING AGAIN, THE MATERIALS
15 ALSO INCLUDE A WRITTEN VERSION AS THEY'VE
16 INDICATED, THESE TAPES ARE VOLUMINOUS, BUT THERE IS A
17 WRITTEN VERSION PROVIDED OF, A TRANSCRIPT OF SORTS,
18 OF THE VERY MATERIALS THAT WE'RE INDICATED THAT WAS
19 PROVIDED NOW TWO FRIDAY, TEN DAYS AGO

20 THE COURT SO YOU'VE HAD THE TRANSCRIPT
21 FOR TEN DAYS

22 MR BAITY YOUR HONOR, WHEN THEY GAVE
23 THIS TO US TWO FRIDAYS AGO THERE WERE A FEW PAGES OF
24 TRANSCRIPT I'D SAY 10 OR 12 AND THEN FIVE OR SIX
25 CDS AND SIX OR SEVEN CASSETTE TAPES THEY GAVE US TO

1 THEM FRIDAY AFTERNOON AND WE BROUGHT THIS UP ON THE
2 FOLLOWING MONDAY TO YOUR HONOR AND MR BRACKETT, I
3 CAN STILL HEAR HIM SAY, THIS IS NOTHING BUT
4 SELF-SERVING HEARSAY, WE DON'T INTEND TO USE IT
5 DIRECT OR ON CROSS AND, YOUR HONOR, WE DIDN'T READ
6 THE TRANSCRIPT, WE DIDN'T LOOK AT THE CDS I THINK
7 THEY ARE IN A BOX EITHER IN MY OFFICE OR MR MORTON'S
8 AND THE PROBLEM IS IS THAT HE MAY HAVE SAID WHAT THEY
9 CHERRY PICKED OUT OF THERE THEY HEARD THE THINGS,
10 WE DON'T KNOW IF HE THE NEXT DAY CALLED HIS MOTHER
11 BACK AND SAID, YOU KNOW, I'VE THINKING ABOUT THAT AND
12 THAT'S NOT WHAT HAPPENED WE HAVE NO WAY OF KNOWING
13 AND THAT'S WHAT THE PROBLEM IS, AND I GOT THE E-MAIL
14 AT FOUR O'CLOCK AND AGAIN JUST WITH ONE LINE, IT MAY
15 BE IN THE TRANSCRIPT, IT MAY NOT BE I'M NOT
16 ABSOLUTELY SURE

17 THE COURT MR BRACKETT, WHAT ABOUT THAT
18 REPRESENTATION?

19 MR BRACKETT THAT IS WHAT I SAID

20 THE COURT I'M NOT GOING TO LET IT IN
21 I'M NOT GOING TO LET THEM USE IT FOR IMPEACHMENT
22 ALL RIGHT READY FOR THE JURY

23 MR BAITY YOUR HONOR, JUST ONE OTHER
24 MATTER I ASK THE COURT TO REVISIT JUST BRIEFLY I
25 THINK WE NEED TO MAKE A RECORD OF IT THIS HAS TO DO

1 WITH THE GREEN CASE AND THE ADMISSIBILITY OF MY
2 CLIENT'S PRIOR RECORD I BELIEVE THAT IT HAS BEEN
3 MORE OR LESS STATED, I DON'T KNOW IF IT WAS IN
4 CHAMBERS OR IN THE RECORD, THAT THAT IT WOULD BE
5 PERMISSIBLE THAT THE JURY FIND OUT THAT MY CLIENT HAS
6 THREE FELONIES AND I BELIEVE THIS WAS BASED ON THE
7 GREEN CASE AND I LOOKED AT THAT

8 THE COURT COULD YOU HAND ME A COPY OF
9 THAT

10 MR BAITY I CERTAINLY COULD THAT IS
11 THE WESTLAW

12 THE COURT ALL RIGHT

13 MR BAITY YOUR HONOR, THE GREEN CASE IS
14 A PCR CASE WHICH PCR WAS GRANTED TO THE DEFENDANT ON
15 THE BASIS OF HIS COUNSEL'S FAILING TO OBJECT TO THE
16 ADMISSION OF A PRIOR CONVICTION AND ESSENTIALLY WHAT
17 THE CASE STANDS FOR IS THAT IT IS INEFFECTIVE
18 ASSISTANCE OF COUNSEL FOR DEFENSE COUNSEL TO FAIL TO
19 OBJECT TO THE ADMISSIBILITY OF A PRIOR RECORD NOW
20 IN THAT PARTICULAR CASE, IF I'VE GOT IT RIGHT, I
21 BELIEVE THERE WAS A SIMILAR CONVICTION, IT MIGHT HAVE
22 EVEN BEEN A CONVICTION ON THE SAME CHARGES THAT THE
23 DEFENDANT IN THAT CASE WAS BEING TRIED ON, AND THE
24 COURT POINTED OUT THAT A SIMILAR CONVICTION IS ALMOST
25 ALWAYS HIGHLY PREJUDICIAL AND WOULD ALMOST ALWAYS

1 OUTWEIGH THE PROBATIVE VALUE OF THE CASE I MEAN,
2 THE PROBATIVE VALUE OF THE EVIDENCE AND IT ALSO
3 POINTED OUT THAT A CONVICTION ON, IN THE GREEN CASE
4 WAS A DRUG CONVICTION, AND THEY SAID THAT'S NOT
5 PROBATIVE OF CREDIBILITY UNDER ANY CIRCUMSTANCES AND
6 SO IT GOES ON TO SAY THAT THE COURT SHOULD BALANCE
7 THE PROBATIVE VALUE VERSUS THE PREJUDICIAL VALUE AND
8 IT GOES INTO A FAIRLY LENGTHY DISCUSSION ABOUT THOSE
9 ISSUES NOW IT DOES IN A FOOTNOTE SAY THAT THE
10 FOURTH CIRCUIT FEDERAL COURT SOMETIMES ALLOWS JUST TO
11 MENTION THAT IT'S A FELONY OR IT'S A CONVICTION
12 WITHOUT DESCRIBING WHAT THE CHARGE WAS, BUT IT ALSO
13 GOES INTO A FAIRLY LENGTHY DISCUSSION OF, YOU KNOW,
14 WHAT THE CONVICTION WAS ABOUT AND WHETHER OR NOT THAT
15 CONVICTION IS PROBATIVE OF THE ISSUE OF CREDIBILITY
16 THIS IS ABOUT CREDIBILITY AND NOTHING ELSE AND IT
17 STATES AND I THINK WHAT WE'RE ON ON ALL FOURS HERE IS
18 THAT THE PRIOR CONVICTION IN THE GREEN CASE WHICH WAS
19 A NARCOTIC CASE IS NOT PROBATIVE AT ALL OF
20 CREDIBILITY AND I WOULD SUBMIT, YOUR HONOR, THAT MY
21 CLIENT'S CONVICTION OF UNLAWFUL CONDUCT OR UNLAWFUL
22 NEGLECT OR WHATEVER AGAIN IS NOT PROBATIVE ON THE
23 ISSUE OF CREDIBILITY NOW IF THIS WAS A FORGERY CASE
24 OR IF IT WERE SHOPLIFTING OR ANY TYPE OF CASE THAT
25 WOULD INVOLVE DECEIT I BELIEVE IT WOULD BE PROBATIVE,

1 WHETHER OR NOT IT WAS MENTIONED IS ANOTHER MATTER,
2 BUT THIS PRIOR CONVICTION THAT MR COPE HAS IS NOT
3 PROBATIVE OF HIS CREDIBILITY AND WE BELIEVE WOULD BE
4 HIGHLY PREJUDICIAL EVEN IF IT WERE ONLY DESCRIBED TO
5 THE JURY AS BEING A FELONY AND THEREFORE I THINK THE
6 MANDATE TO DEFENSE COUNSEL IS THAT TO AVOID PCR YOU
7 MUST RAISE THIS ISSUE AND ASK THE COURT TO GO THROUGH
8 THE BALANCING TEST IN THE FOUR OR FIVE POINTS THAT
9 ARE RAISED IN THE, RAISED IN THE CASE IT TALKS ABOUT
10 ON PAGE FOUR, WHAT I JUST HANDED UP, YOUR HONOR,
11 TALKS ABOUT IMPEACHMENT VALUE, THE POINT IN TIME, THE
12 SIMILARITY BETWEEN THE PAST CRIME AND THE CHARGED
13 CRIME AND THE IMPORTANCE OF HIS TESTIMONY AND THE
14 CENTRALITY OF THE CREDIBILITY ISSUE AGAIN I SIMPLY
15 SAY THAT IT'S OUR CONTENTION THAT HIS PRIOR
16 CONVICTION IN 1999 ON UNLAWFUL CONDUCT TOWARDS A
17 CHILD WHICH IS EXACTLY WHAT HE'S ALSO CHARGED WITH
18 HERE IS NOT PROBATIVE TO THE ISSUE OF HIS CREDIBILITY
19 WHATSOEVER AND WOULD BE PREJUDICIAL THANK YOU

20 THE COURT ALL RIGHT

21 THE COURT MR BRACKETT

22 MR BRACKETT BRIEFLY, YOUR HONOR THE
23 ANALYSIS UNDER HEADNOTES NINE AND TEN IS THE ANALYSIS
24 THAT THE COURT MANDATES THAT THIS COURT UNDERTAKE IF
25 WE WERE TO SEEK TO INTRODUCE THE FACT OF A PRIOR

1 UNLAWFUL NEGLECT CONVICTION IF WE WERE ATTEMPTING
2 TO SAY, JUDGE, WE THINK WE SHOULD BE ALLOWED TO CALL
3 THE JURY'S ATTENTION THAT THE PRIOR CONVICTIONS ARE
4 FOR UNLAWFUL NEGLECT IN THIS CASE WE'RE CONCEDING
5 THAT WE SHOULDN'T IN THAT CASE YOU BACK DOWN WHAT
6 IS CONTAINED IN FOOTNOTE NUMBER FIVE WHERE THE COURT
7 EXPLICITLY REQUIRES OR MAKES REFERENCE TO THE FACT
8 THAT THE FOURTH CIRCUIT COURT OF APPEALS ALLOWS YOU
9 TO ASK ABOUT THE GENERAL NATURE, THE GENERAL FACT OF
10 A CONVICTION IF WE WERE TRYING TO GET IN THAT THERE
11 WAS AN UNLAWFUL NEGLECT, YOU WOULD HAVE TO GO THROUGH
12 THOSE FIVE STEPS, I AGREE WE CONCEDE THAT WE
13 WOULDN'T WIN ON THOSE FIVE STEPS, SO WHAT WE'RE
14 ASKING FOR IS THAT RULE 609 WHICH I CAN UNDERSTAND
15 WHY THE DEFENDANT DOESN'T APPRECIATE OR THINK IT'S
16 PROPER TO BE CONVICTED, BUT RULE 609 DOES ALLOW FOR A
17 PRIOR CONVICTION TO USED TO IMPEACH THE CREDIBILITY
18 OF A WITNESS IF THE CONVICTION CARRIES MORE THAN A
19 YEAR REGARDLESS OF WHETHER OR NOT IT'S A CRIME THAT
20 TENDS TO SHOW DISHONESTY OR NOT RULE 609 LAYS OUT
21 THE RULES IF THE SUPREME COURT HAD DECIDED IN GREEN
22 V STATE THAT 609 WASN'T GOING TO BE APPLICABLE AT ALL
23 BECAUSE IT'S NEVER FAIR TO IMPEACH A CRIMINAL
24 DEFENDANT WITH HIS PRIOR CONVICTIONS THEY COULD HAVE
25 SAID SO BUT THEY DIDN'T IN FACT, THEY SPECIFICALLY

1 SAID THAT, THEY SPECIFICALLY CALLED TO OUR ATTENTION
2 TO UNITED STATES VERSUS BOYCE THE FOURTH CIRCUIT
3 COURT OF APPEALS CASE WHERE YOU ARE ALLOWED TO ASK
4 ABOUT THE EXISTENCE OF PRIOR CONVICTIONS BUT NOT
5 THEIR NATURE AND THAT'S WHAT WE ASK THAT WE BE
6 ALLOWED TO DO IN THIS PARTICULAR CASE

7 MR BAITY YOUR HONOR, IF I MAY BRIEFLY
8 RESPOND THE COURT TALKS ABOUT THE FEDERAL RULES AND
9 THE PRACTICE IN FEDERAL COURT BUT IT GOES TO SAY THAT
10 SOUTH CAROLINA RULE DOES NOT EXACTLY MIRROR THE
11 FEDERAL RULE, AND AGAIN THE FOOTNOTE THAT
12 MR BRACKETT IS REFERRING TO WHERE IT SAYS, WELL,
13 MAYBE YOU CAN JUST BRING IN THE FACT THAT THERE WAS A
14 CONVICTION, IT DOESN'T MANDATE THAT BY ANY MEANS IT
15 JUST SAYS THIS IS A TACTIC THAT SOMETIMES IS ALLOWED
16 IN FEDERAL COURT AND NEVER DOES IT SAY IN THERE THAT
17 OKAY, WELL, HE HAS THREE FELONY CONVICTIONS WE JUST
18 BELIEVE THAT THAT NAKED ASSERTION IS SOMETHING THAT'S
19 PREJUDICIAL AS WELL IT SEEMS TO US, YOUR HONOR,
20 THAT THE BASIC ANALYSIS IN THE VERY FIRST POINT THAT
21 THE COURT HAS ALREADY OR HAS POINTED OUT IS THIS
22 BALANCE BETWEEN THE IMPEACHMENT VALUE AND THE
23 PROBATIVE VALUE OF THE PRIOR CONVICTION AGAIN WE'RE
24 NOT, WE'RE TALKING ABOUT CREDIBILITY WE'RE TALKING
25 ABOUT THE CREDIBILITY OF THIS MAN AND IS HIS

1 TESTIMONY IMPORTANT AND OF COURSE IT IS, AND THE FACT
2 THAT HE HAS A FELONY CONVICTION FOR UNLAWFUL CONDUCT
3 TOWARD A CHILD IS NOT PROBATIVE OF HIS CREDIBILITY
4 IT IS PREJUDICIAL IT MAKES THESE FOLKS THINK THAT
5 THIS MAN IS A CRIMINAL IT'S CHARACTER EVIDENCE
6 IT'S NOT IMPEACHMENT ON THE ISSUE OF HIS CREDIBILITY
7 WHATSOEVER IT'S JUST LIKE A DRUG CONVICTION IT'S
8 A BAD THING BUT IT'S NOT APPROPRIATE IN THIS SETTING
9 AND WE WOULD, AGAIN I FEEL LIKE I HAVE AN OBLIGATION
10 TO BRING THIS AND OBJECT TO ANY MENTION OF HIS PRIOR
11 CONVICTION

12 THE COURT WELL, I'M GOING TO ALLOW IT
13 IN I FIND THAT 609 DOES ALLOW EVIDENCE OF THIS TYPE
14 OF OFFENSE I FIND THAT THERE IS A PROTECTION IN
15 THAT IT CANNOT BE REFERRED TO BY ITS NATURE, AND AS
16 FAR AS, I MEAN, CREDIBILITY OF COURSE IS A KEY ISSUE
17 IN THIS CASE IT'S, NOT ONLY THE CREDIBILITY OF THE
18 TESTIMONY BUT DIRECTLY THE CORE ISSUE OF THE
19 CONFESSIONS AND SO CREDIBILITY IS A, WELL, IN A LOT
20 OF CRIMINAL CASES IT IS A CORE ISSUE, AND I FIND HERE
21 THAT, I DON'T BELIEVE I HAVE TO GO THROUGH THIS
22 ANALYSIS BUT JUST AS OBSERVATIONS THE PRIOR CRIMES
23 DO HAVE IMPEACHMENT VALUE UNDER RULE 609 THERE IS
24 NO QUESTION THEY ARE CERTAINLY VERY, VERY CLOSE
25 THEY WERE WITHIN THE TIME LIMITS SET BY THE RULE AND

1 GOSH, IT WAS WITHIN TWO YEARS, IF I REMEMBER
2 CORRECTLY, OF WHEN THIS ALLEGEDLY OCCURRED I DON'T
3 HAVE TO GO INTO THE SIMILARITY OF THESE CHARGES, ONE
4 OF THE IDENTICAL THINGS, THAT I'M NOT GOING TO LET
5 THEM INTO THE NATURE OF THE CRIME, THE IMPORTANCE OF
6 DEFENDANT'S TESTIMONY, WELL, THAT'S KIND OF A HARD
7 ONE TO WRESTLE WITH I DON'T KNOW OF ANY CASE WHERE
8 DEFENDANT'S TESTIMONY WOULDN'T BE IMPORTANT THAT
9 ONE KIND OF BOGGLES MY MIND, BUT OBVIOUSLY THE
10 DEFENDANT'S TESTIMONY IS EXTREMELY IMPORTANT
11 PARTICULARLY, AGAIN, THAT BOGGLES MY MIND BECAUSE IF
12 IT WEREN'T, WHY WOULD ANYBODY PUT UP A DEFENDANT TO
13 TESTIFY WHEN THEY HAVE A RIGHT TO REMAIN SILENT IF
14 THEIR TESTIMONY ISN'T GOING TO BE IMPORTANT THE
15 CENTRALITY OF THE CREDIBILITY ISSUE, AGAIN I THINK
16 THAT'S A CORE ISSUE HERE, SO I'M GOING TO ALLOW THEM
17 TO IMPEACH HIM WITHOUT REFERRING TO THE NATURE OF THE
18 OFFENSE ANYTHING ELSE?

19 MR BAITY SO THAT IMPEACHMENT, COULD IT
20 JUST BE SIMPLY A CONVICTION, DOES IT HAVE TO DESCRIBE
21 IT AS A FELONY OR ANY PARTICULAR TYPE? SIMPLY JUST
22 SAY WERE YOU CONVICTED ONCE BEFORE OR SOMETHING OF
23 THAT NATURE FELONY JUST SEEMS TO BE --

24 MR MORTON A CHARGE THAT CARRIES MORE
25 THAN A YEAR OR IS FELONY MANDATED I DON'T

1 UNDERSTAND THAT

2 THE COURT I ALWAYS HAVE A LITTLE TROUBLE
3 WITH FELONY TOO BECAUSE THAT COULD BE MURDER WOULD
4 THE STATE, THESE CARRIES TEN YEARS, DOESN'T IT?

5 MR BAITY YES, SIR

6 THE COURT THE STATE, HOW DO YOU PLAN TO,
7 I KNOW YOU'VE ALREADY TOLD ME THAT, WOULD THE STATE
8 CONSIDER AND I'M JUST ASKING YOU, IS IT NOT TRUE THAT
9 YOU HAVE BEEN CONVICTED OF THREE OFFENSES FOR WHICH
10 YOU COULD HAVE RECEIVED IN EXCESS OF ONE YEAR IN
11 IMPRISONMENT

12 MR BRACKETT LET ME ASK THE STATE

13 THE COURT YOU ARE THE STATE

14 MR BRACKETT NO, HE'S THE STATE I WORK
15 FOR THE STATE

16 MR BRACKETT ABOUT HOW THIS AS A
17 COMPROMISE WE CAN EITHER SAY A CLASS E FELONY OR
18 CONVICTED OF THREE CRIMES ON EACH WHICH YOU COULD
19 HAVE BEEN SENTENCED UP TO TEN YEARS, WHICH IS WHAT
20 THE FACT

21 THE COURT WELL, NOBODY -- I DON'T EVEN
22 KNOW HALF THE TIME I CAN'T REMEMBER A CLASS E FELONY
23 IS

24 MR BRACKETT YES, SIR, THAT'S WHY THE
25 SECOND ALTERNATIVE IS PROBABLY MORE PALATABLE

1 THE COURT I'M GOING TO RESTRICT, I AM
2 GOING TO TAKE A JUDICIAL INTERVENTION AND SEEMS LIKE
3 I'VE DONE THAT SEVERAL TIMES IN THIS CASE, AND JUST
4 ALLOW THE STATE TO ASK A QUESTION THAT COMPORTS WITH
5 THE RULE AND THAT IS ISN'T IT TRUE THAT YOU'VE BEEN
6 CONVICTED IN 1999 FOR THREE OFFENSES FOR WHICH YOU
7 COULD HAVE RECEIVED IN EXCESS OF ONE YEAR
8 IMPRISONMENT

9 MR BAITY THANK YOU, YOUR HONOR

10 MR BRACKETT THANK YOU, YOUR HONOR

11 THE COURT ANYTHING FURTHER BEFORE GET
12 THE JURY IN?

13 MR POPE YES, SIR THIS COULD BE BRIEF
14 I ANTICIPATE THE DEFENSE HAVING A HANDWRITING EXPERT
15 WE HAVE AN INITIAL REPORT THAT MR BAITY HAS BEEN IN
16 CONSTANT CONTACT WITH ME ABOUT THAT THERE IS MORE
17 WORK THAT'S BEEN DONE BUT THERE IS NOT A SUBSEQUENT
18 REPORT, HE TOLD ME THAT FRIDAY, AND I HAD ACCEPTED
19 WHAT INFORMATION HE GAVE ME I CAUGHT MR BAITY AS
20 HE WAS RUSHING IN TODAY AND JUST TELL HIM I WOULD
21 LIKE TO SEE THE UNDERLYING DATA THAT THE EXPERT USED
22 THAT WE DON'T HAVE YOU KNOW, A LOT OF IT IS
23 DUPLICATIVE, BUT THERE WAS SOME THAT, THAT I THINK
24 THEY ONLY HAD IN THEIR CUSTODY AND SO JUST I MENTION
25 THAT JUST AS HE WAS COMING IN AND SETTING HIS

1 BRIEFCASE DOWN

2 MR BAITY I'LL DO THAT RIGHT NOW

3 MR POPE I WAS JUST THINKING THAT ---

4 THE COURT THAT WILL BE GOOD

5 MR BAITY YES, SIR

6 MR POPE CHARTS, DIAGRAMS, WHATEVER HE
7 INTENDS TO USE

8 THE COURT ALL RIGHT MR GREELEY,
9 ANYTHING

10 MR GREELEY NO, YOUR HONOR

11 THE COURT ALL RIGHT READY FOR THE
12 JURY

13 MR MORTON YES

14 THE COURT BRING IN THE JURY

15 (THE JURY RETURNS TO THE COURTROOM AT
16 09 27 AM)

17 THE COURT GOOD MORNING

18 (THE JURY GOOD MORNING)

19 THE COURT CALL YOUR NEXT WITNESS

20 MR MORTON THE DEFENSE CALLS BILLY COPE
21 TO THE STAND

22 BILLY COPE, BEING FIRST DULY
23 SWORN, TESTIFIED AS FOLLOWS

24 DIRECT EXAMINATION BY MR MORTON

25 Q GOOD MORNING

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1 A GOOD MORNING

2 Q HOW ARE YOU?

3 A BLESSED

4 Q BILLY, I'M GOING TO ASK YOU SOME QUESTIONS AND

5 I'M GOING TO SPEND A LITTLE BIT OF TIME ABOUT WHO YOU

6 ARE I'M NOT GOING TO GO INTO A LOT OF STUFF, BUT I

7 BASICALLY AND THEN WE'LL GET TO THE NIGHT IN QUESTION

8 AND WHAT HAPPENED AFTERWARDS DO YOU UNDERSTAND?

9 A YES, SIR

10 Q HOW OLD ARE YOU?

11 A 41

12 Q YOU BORN AND RAISED IN THIS AREA?

13 A I WAS BORN IN CHESTER, RAISED IN ROCK HILL, YES,

14 SIR

15 Q OKAY AND YOU GRADUATED HIGH SCHOOL?

16 A YES, SIR

17 Q FROM WHERE?

18 A I GRADUATED FROM NORTHWESTERN HIGH SCHOOL IN

19 1983

20 Q AND DID YOU ATTEND YORK TECHNICAL COLLEGE AT

21 SOME POINT AFTER THAT?

22 A YES, SIR I SPENT FOUR YEARS THERE I GOT AN

23 ASSOCIATE DEGREE IN ELECTRONICS ENGINEER AND AN

24 ASSOCIATE DEGREE IN COMPUTER ENGINEER

25 Q WHEN DID YOU GRADUATE FROM NORTHWESTERN? I'M

1 SORRY, FROM YORK TECHNICAL COLLEGE IN THOSE DEGREES?

2 A MAY 11 OF 2001

3 Q OKAY I'M GOING TO BRIEFLY GO THROUGH, AFTER
4 HIGH SCHOOL WHAT DID YOU DO?

5 A I WORKED FOR THE HESS STATION ON CHERRY ROAD

6 Q FOR HOW LONG?

7 A APPROXIMATELY THREE YEARS

8 Q AND WHAT DID YOU DO THERE?

9 A I WAS A THIRD SHIFT CASHIER, LATER STARTED
10 TRAINING TO BE THE HEAD CASHIER

11 Q OKAY AND WHAT DID YOU DO AFTER THAT?

12 A AFTER THAT I -- A FRIEND OF MINE ASKED ME TO
13 MOVE TO OMAHA, NEBRASKA, WITH HIM, HIM AND HIS WIFE,
14 AND I MOVED UP THERE, SPENT ABOUT 4 MONTHS UP THERE
15 I WORKED FOR A PLACE CALLED TOP DOG HOT DOG IT WAS
16 A RESTAURANT SERVED HOT DOGS THAT'S WHAT I DONE

17 Q AND THEN YOU GOT HOME SICK?

18 A HOME SICK, YES, SIR

19 Q AND CAME BACK HOME?

20 A CAME BACK TO ROCK HILL

21 Q OKAY AND YOU WERE SINGLE AT THE TIME?

22 A YES, SIR

23 Q WHAT DID YOU DO THEN?

24 A AFTER THAT I MET THIS GIRL NAMED TRACY AND KIND
25 OF MOVED IN WITH HER AS A PLATONIC RELATIONSHIP SHE

1 HAD A SMALL BOY AND SHE WANTED, SHE NEEDED SOME HELP
2 TAKING CARE OF IT AND I HELPED TAKE CARE OF IT WITH
3 HER

4 Q OKAY AND HOW LONG DID THAT GO ON?

5 A OFF AND ON ABOUT A YEAR AND A HALF

6 Q OKAY SO WHAT DID DO YOU AFTER THAT?

7 A WELL, I'VE WORKED SEVERAL PLACES WITH THE --

8 Q DO YOU HAVE SOME NOTES THERE, THAT YOU HAD FOR
9 GOTTEN IT?

10 A I DID I CAN'T IT'S HARD TO KEEP UP WITH ALL
11 THE JOBS AND ALL THE DIFFERENT PLACES

12 Q OKAY GO AHEAD TELL US AS BEST YOU CAN

13 A I WORKED FOR JACKSON'S CAFETERIA FOR AWHILE
14 WHILE I WAS LIVING WITH TRACY AS A POT WASHER THAT
15 JOB DIDN'T LAST LONG IT WAS A LOT OF WALKING
16 INVOLVED TO GET BACK AND FORTH TO WORK, SO I STARTED
17 WORKING FOR THE DINING CARD AROUND CHRISTMASTIME
18 THAT WAS IN 1986 THEY ASKED ME TO START WORKING FOR
19 THEM AT FOR WHAT IT'S WORTH, THAT WAS THE SISTER
20 COMPANY OF THEIRS, AND I WORKED THERE WITH THEM UNTIL
21 ORKIN PEST CONTROL CALLED ME AND ASKED ME TO BE A
22 TERMITE TECHNICIAN I WENT TO WORK FOR ORKIN PEST
23 CONTROL FOR A SHORT TIME WE CAUGHT UP ALL THEIR
24 WORK AND THEN THEY LAID ME OFF AND SO I FOUND WORK
25 WITH FASTFARE I WORKED FOR FASTFARE FOR A SHORT

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1 TIME THEN ORKIN PEST CONTROL CALLED ME BACK I WENT
2 BACK TO WORK FOR ORKIN PEST CONTROL AND ABOUT, I
3 GUESS IT WAS ABOUT SIX MONTHS LATER, I HAD AN
4 ACCIDENT I LOOKED DOWN AT MY CHECK STUB, I COULDN'T
5 BELIEVE THE AMOUNT OF MONEY, AND I FLIPPED ONE OF
6 THEIR TRUCKS, SO THEY FIRED ME FROM THAT, OF COURSE
7 AND SO I STARTED WORKING, I WENT TO WORK FOR THE
8 HANDY PANTRY AND BECAME THE ASSISTANT MANAGER OF THE
9 HANDY PANTRY THEY MOVED ME TO FORT MILL AND I
10 WORKED THERE FOR AWHILE, BUT I STILL LIKED ROCK HILL
11 SO I DECIDED I NEED, I WAS LIVING IN ROCK HILL AND
12 GOING BACK AND FORTH TO FORT MILL AND I DIDN'T WANT
13 TO DO THAT, SO I TOLD THEM, YOU KNOW, I HAD TO QUIT
14 SO I QUIT WORKING THERE AND I STARTED WORKING FOR THE
15 HERALD AS AN INSERTER THEN I GOT A CALL FROM TRACY
16 AND SHE ASKED ME WOULD I MOVE BACK IN WITH HER
17 BECAUSE BUT SHE WAS LIVING IN MORGANTON, NORTH
18 CAROLINA FROM THERE I, I MOVED UP THERE TO BE WITH
19 HER AND I STARTED WORKING FOR A PLACE BRENDAN'S
20 MANUFACTURING AND FAST AND FRESH, THAT WAS, I WAS
21 WORKING TWO JOBS AT ONCE ONE WAS ON THIRD SHIFT AND
22 ONE WAS ON THE FIRST SHIFT AND IT WAS AT THAT TIME
23 THAT I MET MARY SUE
24 Q HOW LONG HAD YOU BEEN IN MORGANTON BEFORE YOU
25 MET MARY SUE?

002900

1 A ABOUT THREE MONTHS

2 Q OKAY AND WHERE, AND YOU MET MARY SUE WHILE YOU
3 WERE IN MORGANTON?

4 A RIGHT SO I TOLD TRACY THAT I, YOU KNOW, I WAS
5 GOING, I MOVED OUT AND ME AND MARY SUE BECAME AN ITEM
6 AND WE STARTED DATING AND WE WERE, WE HAD PLANNED A
7 WEDDING OF JULY 18 OF 1988 BUT WE KIND OF GOT FORCED
8 INTO MARRIAGE AND THERE WASN'T A BABY OR NOTHING LIKE
9 THAT IT WAS HER FAMILY DECIDED WELL WE DON'T WANT
10 YOU TO MARRY HER AND THEN MOVE BACK TO ROCK HILL AND
11 TAKE OUR DAUGHTER WITH YOU OR OUR NIECE WITH YOU
12 THAT'S EXACTLY WHAT HAPPENED

13 Q BECAUSE SHE WAS LIVING WITH HER AUNT AND UNCLE?

14 A THAT IS CORRECT AND THAT IS EXACTLY WHAT
15 HAPPENED WE GOT MARRIED AND MOVED BACK TO ROCK
16 HILL

17 Q HOW LONG HAD YOU AND MARY SUE BEEN DATING BEFORE
18 YOU GOT MARRIED?

19 A TWO WEEKS

20 Q OKAY

21 A TWO WEEKS

22 Q AND Y'ALL GOT MARRIED WHERE?

23 A WE GOT MARRIED IN MORGANTON, NORTH CAROLINA, AT
24 THE COUNTY COURTHOUSE

25 Q OKAY AFTER YOU GOT MARRIED WHAT DID YOU DO?

1 A (NO RESPONSE)

2 Q HOW DID YOU GET BACK TO ROCK HILL?

3 A WE GOT A BUS WE GOT ON A BUS AND CAME BACK TO
4 ROCK HILL MY MOM SAID WELL, YOU KNOW, WE'LL SEND
5 FOR YOU, SO THEY SENT THE MONEY BACK TO US AND I HAD
6 MONEY AND WHAT MONEY WE HAD, WE BOTH GOT ON THE BUS
7 AND CAME BACK TO ROCK HILL WE STAYED WITH MOM FOR A
8 SHORT TIME AND THEN WE MOVED IN WITH DAD FOR A SHORT
9 TIME THEN WE FOUND OUR OWN PLACE I STARTED
10 WORKING FOR FABRIC RESOURCES IT WAS A COTTON MILL,
11 A WEAVE PLANT, AND MARY SUE WAS WORKING WITH MY MOM
12 SHE WAS WORKING AT CONSTRUCTION SITE CLEANING
13 APARTMENTS AND THINGS, AND WE BOTH, WE BOTH HAD MONEY
14 COMING IN SO WE GOT US A NICE TRAILER TO LIVE IN WE
15 WAS LIVING THERE FOR, WE LIVED THERE FOR ABOUT THREE
16 YEARS AND THEN

17 Q IN THAT TIME WHAT HAPPENED?

18 A IN THAT TIME

19 Q WHEN WAS AMANDA BORN?

20 A AMANDA WAS BORN SHORTLY AFTER THAT IN 80--WELL,
21 SHE WAS BORN RIGHT AFTER WE GOT MARRIED, ABOUT A YEAR
22 AFTER WE GOT MARRIED SHE WAS BORN ON APRIL 7 I
23 MEAN, APRIL 14 OF 1989 AND

24 Q WHEN WAS JESSICA BORN?

25 A JESSICA WAS BORN ON APRIL 4 OF 1990

1 Q OKAY SO ALMOST A FULL YEAR LATER, JUST SHORT
2 OF A YEAR LATER?

3 A LACKING EXACTLY TEN DAYS BEING

4 Q OKAY

5 A THEN AFTER THAT I WENT BACK TO THE HESS STATION,
6 STARTED WORKING FOR HESS STATION AND BECAME THE
7 ASSISTANT MANAGER THE HESS STATION

8 Q WHICH ONE?

9 A THE ONE ON SALUDA STREET AFTER I WAS THERE FOR
10 ABOUT TWO YEARS I SAW AN AD IN THE PAPER WHERE I
11 COULD MAKE MORE MONEY AS ASSISTANT MANAGER AT THE
12 CONOCO STATION ON CHERRY ROAD SO I WENT THERE AND GOT
13 A JOB, I GOT A JOB WITH THEM, AND THEN THE MANAGER,
14 SHE LOOKED AT ME, SHE LOOKED AT ME AND SAID, YOU ARE
15 NOT ASSISTANT MANAGER MATERIAL, YOU ARE MANAGER
16 MATERIAL, SO SHE ENROLLED ME IN THE MANAGER PROGRAM,
17 AND THEY MOVED ME TO CHARLOTTE TO THE GRAHAM STREET
18 STATION AS A MANAGER I STAYED THERE FOR A SHORT
19 TIME THEN MY, THE SUPERVISOR SAID, YOU NEED A
20 BIGGER STORE, SO THEY MOVED ME TO THE WILKERSON
21 BOULEVARD STORE I HAD A LACK FOR CATCHING THIEFS IN
22 A STORE, SO HE ASKED ME TO KEEP AN EYE ON THINGS AND
23 I WATCHED I WAS A MANAGER AND CAUGHT MANY PEOPLE
24 STEALING, SHOPLIFTING IN THE STORE AND AFTER THE
25 STORE GOT STRAIGHTENED OUT THEY MOVED ME BACK TO ROCK

1 HILL TO THE CONOCO STATION ON CHERRY ROAD AS A
2 MANAGER FOLLOWING AN INSPECTION WE HAD, THEY
3 DECIDED TO LET GO THE INSPECTION WASN'T AS GOOD AS
4 WHAT THEY WANTED AND --

5 Q OKAY WHERE DID YOU WORK AFTER THAT?

6 A AFTER THAT I WENT TO WORK FOR WALMART AND KYLA
7 WAS BORN SHE WAS BORN IN 1994 ON OCTOBER 24

8 Q OKAY AND THEN YOU WERE WORKING WITH WALMART,
9 WHEN DID YOU GO BACK TO SCHOOL TO YORK TECH?

10 A RIGHT AFTER I LEFT WALMART I DECIDED, THIS
11 RUNNING BACK AND FORTH, ALL THESE JOBS, I DIDN'T WANT
12 THAT I WANTED, I WANTED A GOOD STEADY INCOME I
13 KNEW I HAD TAKEN SOME ELECTRONICS IN HIGH SCHOOL, SO
14 I WANTED AND I HAD FRIENDS WHO HAD TAKEN ELECTRONICS
15 AND COMPUTER PROGRAM THAT'S AT YORK TECH AND THEY WAS
16 TELLING ME ABOUT IT I FOUND OUT THAT THE PRESIDENT
17 HAD CHANGED THE PELL GRANT PROGRAM, SO I TALKED TO
18 THE PEOPLE AT YORK TECH, I GOT A GRANT, WAS GRANTED A
19 PELL GRANT, SO I WENT BACK I WENT BACK TO SCHOOL,
20 AND ACQUIRED MY DEGREES

21 Q NOW IN 1999 BILLY, YOU AND MARY SUE Y'ALL HAD A
22 THREE CRIMINAL CHARGES?

23 A THAT'S CORRECT

24 Q RIGHT?

25 A YES, SIR, THAT'S CORRECT

002904

1 Q AND YOU PLEADED GUILTY TO THREE CRIMINAL CHARGES
2 THAT CARRIED MORE THAN A YEAR?

3 A THAT'S CORRECT

4 Q AND THAT WAS IN 1999

5 A THAT'S CORRECT

6 Q YOU AND MARY SUE?

7 A THAT'S CORRECT ME AND MARY SUE BOTH

8 Q NOW IN, AFTER YOU GOT YOUR DEGREES IN 2001, IS
9 THAT RIGHT?

10 A THAT'S CORRECT

11 Q AND THAT WAS IN MAY OF 2001?

12 A THAT'S CORRECT MAY OF 2001

13 Q OKAY AND BILLY, LET ME ASK YOU THIS, DURING
14 CAREER WITH HESS AND WITH FASTFARE AND SO FORTH, DID
15 YOU, WERE YOU EVER ASKED TO TAKE POLYGRAPHS?

16 A YES, SIR I WAS ASKED TO TAKE SEVERAL
17 POLYGRAPHS TWO OF WHICH WAS WITH THE ORKIN PEST
18 CONTROL

19 Q IS THIS, THIS WAS THE RESULT OF YOUR EMPLOYMENT
20 THERE?

21 A THAT'S CORRECT, YES

22 Q I MEAN

23 A YES

24 Q IN ORDER TO GET THE JOB?

25 A THAT'S CORRECT

002905

1 Q OKAY AND SO HOW DID YOU DO ON THOSE TESTS?

2 A PASSED THEM THEY ACCEPTED ME AND HE SAID THEY
3 HAD NO PROBLEM I HAD TO BE BONDED

4 Q OKAY DID YOU ALSO AS A RESULT OF YOUR
5 EMPLOYMENT WITH THE VARIOUS HESS STATION AND
6 FASTFARES, DID YOU RELY ON THE POLICE A LOT?

7 A OH, YES, SIR IN THE WORK WITH THE CASHIER, AS
8 A CASHIER, ANY TIME YOU WORK WITH MONEY YOU GOT
9 PROBLEMS WITH, YOU KNOW, SOME POTENTIAL THIEF OR
10 POTENTIAL ROBBER WE ALWAYS HAD COFFEE AND STUFF
11 LIKE THAT WAITING FOR THE POLICE OFFICERS WE WOULD
12 ALWAYS TRY TO KEEP THE POLICE COMING TO THE STORES TO
13 HELP US AND THERE IS MANY TIMES, I'VE HAD MANY
14 FRIENDS ON THE POLICE FORCE, SOME TO NAME A FEW LASH
15 LEROUX WAS A FRIEND OF MINE OFFICER TINKER WAS A
16 FRIEND OF MINE

17 Q THEY WOULD COME AND HELP YOU OUT WHEN YOU NEEDED
18 IT?

19 A THAT'S CORRECT I LIVED RIGHT DOWN THE STREET
20 FROM AN OFFICER HE WAS A PREACHER HE CAME BY OUR
21 CHURCH AND SPOKE SEVERAL TIMES

22 Q SO IF HAD YOU A DRIVE OFF OR SOME PROBLEM?

23 A ABSOLUTELY

24 Q OR SOMEBODY RAN OUT OF THE STORE WITH SOMETHING
25 YOU WOULD CALL THE POLICE?

002906

1 A ABSOLUTELY

2 Q AND Y'ALL --

3 A THEY WOULD COME RIGHT OUT, TAKE CARE OF WHAT HAD
4 TO BE TAKEN CARE OF, AND GET THEM A CUP OF COFFEE,
5 AND LEAVE

6 Q AND YOU FELT LIKE YOU HAD A GOOD RELATIONSHIP
7 WITH THEM?

8 A ABSOLUTELY I TRUSTED THEM

9 Q OKAY LET ME TURN YOUR ATTENTION TO, LET ME
10 TURN YOUR ATTENTION TO RICH STREET?

11 A OKAY

12 Q Y'ALL HAD A PROBLEM AT RICH STREET WITH BUGS AND
13 ROACHES?

14 A THAT'S CORRECT, WE DID WE TRIED ALL SORTS OF
15 THINGS TO TAKE CARE OF IT I EVEN HAD THE LANDLORD
16 TO CALL AN EXTERMINATOR TO COME OUT AND THEY COME OUT
17 EXTERMINATED THE HOUSE AND IT DIDN'T DO NO GOOD
18 THEY, THE EXTERMINATOR EVEN TOLD ME, MR COPE, YOU
19 ARE NOT GOING TO GET RID OF THESE ROACHES THEY ARE
20 EMBEDDED IN THE WALLS THEY'VE BEEN HERE FOR YEARS
21 WHEN WE FIRST MOVED IN THEY WASN'T OUT, YOU COULDN'T
22 SEE THEM THAT OFTEN, BUT THEN AS IT STARTED TO WARM
23 UP AND WE SAW MORE AND MORE OF THEM AND I CALLED THE
24 LANDLORD AND ASK HIM TO HAVE SOMETHING DONE ABOUT IT
25 AND HE CAME OUT AND SEEN WHAT WAS GOING ON THEN HE

1 LEFT AND WENT CALLED SOMEBODY THEY CAME OUT AND
2 THEN IT WAS A UP AND DOWN BATTLE ME AND MY WIFE WAS
3 CONSTANTLY SPRAYING OR WE HAD A FOGGER WE SET
4 FOGGERS OFF ALL THE TIME TRYING TO GET RID OF
5 ROACHES WE COULDN'T GET RID OF THEM
6 Q WHERE WAS MARY SUE WORKING?
7 A SHE WORKED FOR LEINER HEALTH PRODUCTS
8 Q HOW LONG DID SHE WORK THERE?
9 A APPROXIMATELY FOUR YEARS
10 Q OKAY AND SHE WORKED THIRD SHIFT?
11 A THAT'S CORRECT
12 Q OKAY YOU HAVE ONE BROTHER AND ONE SISTER,
13 RIGHT?
14 A THAT'S CORRECT
15 Q THEY LIVE HERE IN ROCK HILL?
16 A THAT'S CORRECT MY SISTER LIVES IN EDMORE
17 Q YOUR MOM AND DAD LIVE IN ROCK HILL?
18 A THAT'S CORRECT
19 Q WHERE DO THEY WORK?
20 A MY DAD WORKED FOR INMAN CONTAINER, BUT HE'S
21 RETIRED MY MOM SHE HASN'T WORKED SINCE SHE HAD HER
22 STROKE
23 Q OKAY SHE WAS DISABLED AS A RESULT OF THAT
24 STROKE?
25 A THAT'S CORRECT

002908

1 Q TELL US ABOUT WHAT HAPPENED THE WEEKEND BEFORE
2 AMANDA GOT KILLED?

3 A ON THE WEDNESDAY NIGHT AFTER WORK I HAD TALKED
4 WITH MY BOSS AND I ASKED HIM AND ON --

5 Q THIS WAS THANKSGIVING WEEKEND?

6 A THAT WAS THE WEEKEND OF THANKSGIVING I ASKED
7 MY BOSS COULD I HAVE THAT WEEKEND OFF BECAUSE WE WERE
8 GOING TO GO UP TO THE MOUNTAINS TO BE WITH

9 Q AND YOU WERE WORKING WHERE AT THE TIME?

10 A AT STEAK OUT

11 Q OKAY YOU HAD FINISHED YOUR DEGREES

12 A THAT'S CORRECT

13 Q AT YORK TECH IN MAY?

14 A RIGHT

15 Q AND THIS WAS NOW NOVEMBER AND IN THE MEANTIME
16 YOU WERE WORKING AT STEAK OUT WERE YOU WORKING AT
17 STEAK OUT WHEN YOU WERE AT YORK TECH?

18 A ACTUALLY YES, I WAS I WAS WORKING AT HESS, I
19 WAS WORKING AT STEAK OUT, AND I WAS GOING TO SCHOOL
20 FULL TIME

21 Q AFTER YOU FINISHED YOUR DEGREES THAT SUMMER YOU
22 WERE WORKING AT STEAK OUT?

23 A THAT'S CORRECT

24 Q OKAY SO YOU ASKED YOUR BOSS IF COULD YOU BE
25 OFF?

002909

1 A RIGHT AND HE AGREED TO LET ME GO TO THE
2 MOUNTAINS HE DIDN'T WANT TO, WAS RELUCTANT BECAUSE
3 THE BUSINESS, BUT I TOLD HIM THAT THIS WOULD BE THE
4 ONLY CHANCE THAT I'D BE ABLE TO GO UP WITH MARY SUE
5 TO SEE HER FAMILY SO WE LEFT, WE LEFT OUT ON
6 WEDNESDAY, WEDNESDAY AFTERNOON, WE RETURNED ON
7 SATURDAY

8 Q OKAY?

9 A SATURDAY NIGHT

10 Q WHAT DID YOU DO BEFORE YOU LEFT?

11 A WELL, WE THOUGHT THIS WOULD BE THE BEST TIME, SO
12 WE REMOVED STUFF FROM THE CLOSETS AND STUFF FROM THE
13 WALLS AND WE ACTUALLY SPRAYED THE HOUSE WE SET OUT
14 LIKE 8 FOGGERS THAT DAY

15 Q WHEN YOU SAY FOGGERS YOU MEAN?

16 A ROACH FOGGERS THE SPRAY, YOU SHAKE THEM AND
17 SPRAY, SET THEM ON FLOOR AND YOU SPRAY, THEY KILL A
18 LOT OF ROACHES, AND WE SET THEM OFF, WE GOT A
19 DIFFERENT BRAND WE TRIED A DIFFERENT BRAND BECAUSE
20 WE KNOW THE ROACHES WILL ACTUALLY GET USED TO WHAT
21 YOU USING ALL TIME, SO WE CHANGED A DIFFERENT BRAND
22 AT THAT TIME

23 Q SO IN ORDER TO DO THAT DID YOU PULL THINGS FROM
24 THE CABINET AND THE DRAWERS?

25 A EVERYTHING WAS PULLED AWAY FROM THE WALLS, OUT

1 OF DRAWERS, CLEANED THE CLOSETS OUT, EVERYTHING WAS
2 REMOVED SO THAT WE COULD SPRAY, MAKE SURE WE GOT RID
3 OF THE ROACHES

4 Q OKAY AND YOU GOT BACK ON WHEN SATURDAY?

5 A SATURDAY ABOUT FIVE O'CLOCK BECAUSE I HAD TO BE
6 AT WORK AT SIX

7 Q WHAT DID YOU NOTICE WHEN YOU GOT BACK?

8 A I NOTICED, FIRST THING I NOTICED WAS THAT MY
9 BACK DOOR WAS STANDING OPEN WHEN I FIRST WALKED IN
10 THE DOOR, WE PUT THE, I UNLOADED THE VAN, PUT ALL THE
11 STUFF IN THE LIVING ROOM FLOOR, AND I WALKED INTO
12 THE, INTO THE LIVING ROOM THERE TO THE TELEPHONE, AND
13 I CALLED MY MOM AND AS WHILE I WAS TALKING TO HER I
14 LOOKED OVER TOWARD THE KITCHEN AND I SAW MY BACK DOOR
15 WAS OPEN AND I SAID MOMMA HOLD A MINUTE AND I LAID
16 THE PHONE DOWN AND I WENT AND CHECKED MY BACK DOOR
17 WAS STANDING OPEN I THOUGHT AT FIRST THE WINDOW WAS
18 SO CLEAN IT LOOKED LIKE IT HAD BEEN BUSTED OUT, BUT
19 WHEN I PUT MY HAND ON IT IT WASN'T, IT WAS STILL
20 INTACT, SO BUT IT WAS OPEN ABOUT, I GUESS ABOUT 8
21 INCHES AND I SAID, I WENT BACK TO THE PHONE I SAID
22 MOMMA, MY BACK DOOR STANDING OPEN, AND SHE SAID, LET
23 ME LET ME LET YOU GO AND CALL THE POLICE AND I LOOKED
24 AROUND THE ROOM AND I SEEN ALL THE STUFF THAT WAS
25 SCATTERED AND ALL THE BUGS LAYING ON THE FLOOR AND I

002911

1 SAID, NO MOMMA, I DON'T THINK THAT IS A GOOD IDEA,
2 THE HOUSE IS A MESS RIGHT NOW BECAUSE WE GOT ROACHES
3 AND WE'RE TRYING TO GET RID OF THEM AND WE SPRAYED
4 AND THERE IS BUGS EVERYWHERE, THERE IS CLOTHES
5 EVERYWHERE, THERE IS EVERYTHING EVERYWHERE, WE CAN'T
6 DO THAT

7 Q OKAY AND THAT WASN'T JUST BECAUSE OF THE
8 ROACHES YOU ARE NOT --

9 A NO

10 Q YOU ARE NOT CLAIMING THAT YOU AND MARY SUE WERE
11 THE BEST --

12 A NO, I WAS A PACK RAT I COLLECT EVERYTHING,
13 TOYS, BOOKS, AND I HAD ALL MY SCHOOL NOTES I GOT, I
14 HAD EVERY SINGLE SCHOOL NOTE I EVER HAD, EVEN LITTLE
15 PIECES OF PAPER I KEEP STUFF BECAUSE I THINK
16 DOCUMENTING STUFF I CAN KEEP UP WITH BUT A LOT OF
17 TIMES IT GETS MISPLACED, MOVED AROUND, PUSHED AROUND,
18 SHOVED UNDER STUFF

19 Q BUT YOU WERE NOT MUCH OF A HOUSE CLEANER?

20 A NO, I WAS NOT

21 Q HOW ABOUT MARY SUE?

22 A AT FIRST WHEN WE FIRST GOT MARRIED SHE WAS BUT
23 AS SHE WAS START WORKING, AS SHE STARTED WORKING MORE
24 AND MORE THIRD SHIFT, SHE BECOME LESS OF A HOUSE
25 CLEANER

002912

1 Q WHEN Y'ALL GOT MARRIED HOW MUCH DID YOU WEIGH?

2 A WHEN I GOT MARRIED I WEIGHED 220 POUNDS

3 Q ALL RIGHT AND THEN YOU GAINED A LOT OF WEIGHT?

4 A 385 POUNDS

5 Q 385 POUNDS?

6 A 385 POUNDS THAT'S A LOT OF EATING OUT MARY
7 SUE WAS A GOOD COOK TOO SO

8 Q SO IN 2001 AMANDA WAS 12, JESSICA WAS 11, AND
9 KYLA WAS 7, IS THAT RIGHT?

10 A THAT'S CORRECT

11 Q OKAY AND 407 RICH STREET IS ABOUT WHERE OFF OF
12 SALUDA STREET?

13 A IT WAS WITHIN THAT FIRST BLOCK RIGHT THERE AT
14 THE PARKER'S FUNERAL HOME IT WAS WITHIN THAT FIRST
15 BLOCK ON THE SAME SIDE THAT PARKER'S FUNERAL HOME IS
16 ON

17 Q YOU MEAN, IF YOU GOT OUT, IF YOU ARE GOING OUT
18 SALUDA STREET TOWARD CHESTER?

19 A THAT'S CORRECT

20 Q I DON'T KNOW WHAT IT IS NOW BUT IT USED TO BE
21 FOUR LANE THAT KIND OF TURNED INTO TWO THEN, BUT
22 THERE USED TO BE --

23 A YES

24 Q AN OLD ARMORY BASEBALL PARK OVER THERE ON THE
25 LEFT, USED TO BE A WINN DIXIE OR SHOPPING CENTER OR

1 SOMETHING ON THE LEFT IF YOU ARE GOING OUT, RIGHT?

2 A RIGHT THERE WAS A PIGGLY WIGGLY THERE TOO AT
3 ONE TIME

4 Q THEN RIGHT PAST THERE IS RICH STREET, RIGHT?

5 A THAT'S CORRECT IT WAS, IT'S THE NEXT STREET,
6 NEXT STREET DOWN AFTER YOU PASS WHAT USED TO BE THE
7 VALUE, THE OLD VALUE --

8 Q THE OLD VALUE STATION AND YOU TURN RIGHT

9 A THAT'S CORRECT

10 Q TO GO TO YOUR HOUSE, RIGHT?

11 A THAT'S RIGHT

12 Q AND THEN YOUR HOUSE WAS DOWN ON THE RIGHT?

13 A NEXT TO THE LAST HOUSE ON THAT FIRST BLOCK

14 Q OKAY DID Y'ALL HAVE ANY PETS OR ANYTHING?

15 A ABOUT TWO WEEKS BEFORE, BEFORE THAT NIGHT WE HAD
16 A BLACK LAB WE CALLED HIM SAMUEL I WAS AT WORK ON
17 AFTERNOON

18 Q HE GOT RUN OVER?

19 A MARY SUE CALLED ME AND SHE SAID, SHE SAID, SHE
20 WAS CRYING AND I SAID WHAT'S WRONG AND SHE SAID UH
21 THE, SHE SAID I WAS COMING HOME, SHE SAID, WHEN WAS
22 THE LAST TIME YOU SEEN THE DOG I SAID EARLY THIS
23 MORNING BEFORE I LEFT AND SHE SAID WELL I WAS COMING
24 IN JUST THEN AND I THINK WE JUST FOUND HIM AT THE END
25 OF THE ROAD AND SHE CALLED BACK A LITTLE LATER AND

1 SAID HE HAD GOTTEN LOOSE AND HE WAS ON, THEY FOUND
2 HIM ON THE CORNER OF RICH AND SALUDA STREET, HAD BEEN
3 RUN OVER, AND I CALLED THE DOG POUND AND TOLD THEM
4 AND

5 Q HE STAYED OUTSIDE USUALLY BEFORE HE DIED, RIGHT?

6 A THAT'S CORRECT AND HE WAS, HE WAS A GOOD
7 WATCHDOG WE NEVER HAD NO PROBLEM

8 Q NOW WAS THERE A PATH BESIDE YOUR HOUSE?

9 A YES, THERE WAS AS A MATTER OF FACT, THE
10 POLICE, THE POLICE CAME TO MY HOUSE ONE NIGHT AND
11 SAID --

12 Q DON'T SAY WHAT IT WAS, JUST SAY IT WAS A PATH,
13 RIGHT?

14 A YES

15 Q OKAY

16 A YEAH

17 Q AND PEOPLE WENT BACK AND FORTH?

18 A ABSOLUTELY

19 Q AND DID YOU DO ANYTHING TO TRY AND PREVENT THAT?

20 A I, I DID I TOOK AN OLD JUMP ROPE AND A PIECE
21 OF TWINE THAT I HAD AND I TIED IT UP BETWEEN, THERE
22 WAS A FENCE, THE FENCE TO MY NEIGHBOR'S BACKYARD,
23 CAME UP TO THE FENCE OF MY, THE NEIGHBOR BESIDE OF
24 ME, THERE WAS A GAP ABOUT LIKE THIS, AND I TOOK IT
25 AND I WRAPPED THAT JUMP ROPE AROUND IT AND THEN I

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1 TIED OFF THE JUMP ROPE AND STARTED WITH A TWINE SO
2 THAT IT WOULD PREVENT ANYBODY FROM COMING IN

3 Q OKAY NOW THAT DAY ON NOVEMBER 29, HAD YOU
4 WORKED THAT DAY?

5 A I WORKED THAT MORNING

6 Q THAT WAS THE DAY YOU TOOK THE DELIVERY TO
7 LANCASTER?

8 A THAT'S CORRECT I WORKED, AT FIRST I WENT IN AT
9 8 O'CLOCK TO DO SALADS AND THINGS FOR THE NORMAL DAY
10 AND THEN AFTER THE SALADS THEY ALLOWED ME TO TAKE A
11 LONG DELIVERY SINCE I FINISHED UP MY WORK AND I HAD,
12 I HAD COMPLAINED THAT I HADN'T BEEN GETTING A LOT OF
13 DELIVERIES BECAUSE THAT'S WHERE WE MAKE OUR MONEY ON
14 THE TIPS AND STUFF, SO I ASKED ROBBY IF I COULD GO
15 AHEAD AND TAKE THIS ONE AND HE SAID ABSOLUTELY YOU
16 ARE THERE WE'LL LET YOU DO IT TROUBLE WAS I
17 HADN'T BEEN TO THAT PARTICULAR PLACE IN LANCASTER SO
18 HE SAID, WELL, I'M GOING TO SEND ANOTHER GUY WITH YOU
19 BY THE NAME OF, A GUY BY THE NAME OF JAMES CROWLEY
20 AND SO JAMES --

21 Q I'M GOING TO INTERRUPT YOU BECAUSE TELL WHAT
22 HAPPENED WHEN AFTER YOU WORKED WHAT TIME DID YOU GET
23 OFF?

24 A I GOT OFF ABOUT ONE O'CLOCK

25 Q WERE THE GIRLS IN SCHOOL?

002916

1 A THE GIRLS WERE STILL IN SCHOOL AND THE REASON I
2 GOT OFF AT ONE IS BECAUSE THE BOSS KNEW THAT I, I DO
3 HAVE TO PICK THE GIRLS UP AT SCHOOL

4 Q OKAY AND WHAT WAS MARY SUE DOING?

5 A MARY SUE WAS IN THE BED ASLEEP

6 Q BECAUSE SHE WORKED ALL NIGHT?

7 A SHE WORKED THIRD WHEN I CAME IN MY FRONT DOOR
8 WAS STANDING OPEN ABOUT THREE OR FOUR INCHES THAT
9 MORNING

10 Q THAT AFTERNOON?

11 A I MEAN, WELL, AT ONE O'CLOCK WHEN I COME IN I
12 THOUGHT, YOU KNOW, I THOUGHT SHE HAD JUST FORGET TO
13 SHUT THE DOOR, SO I DIDN'T, YOU KNOW, I EVEN
14 QUESTIONED HER ABOUT IT

15 Q NOW DID SHE GOT UP? WAS SHE UP THAT AFTERNOON?

16 A I WOKE HER UP WHEN I CAME IN WE HAD ACTUALLY,
17 I HAD ACTUALLY STOPPED BY BURGER KING AND PICKED US
18 UP, BOTH OF US UP A WHOOPER AND WE SAT DOWN ON THE
19 COUCH AND ATE A WHOOPER

20 Q THEN DID YOU PICK THE CHILDREN UP FROM SCHOOL?

21 A WELL, IT WAS A LITTLE BIT LATER I WENT OVER AND
22 I SET DOWN ON THE COMPUTER AND WAS PROGRAMMING A
23 VIDEO GAME THAT I WAS TRYING TO WORK ON AND THEN SHE
24 WENT AHEAD AND GOT DRESSED AND AT THAT POINT SHE CAME
25 BACK IN THERE AND SAID IT'S TIME TO GET THE GIRLS,

002917

1 AND SO I WENT UP BACK UP TO SYLVIA CIRCLE TO THE
2 SCHOOL HOUSE AND PICKED UP JESSICA AND KYLA, BROUGHT
3 THEM BACK TO THE HOUSE, AND SIT BACK DOWN ON THE
4 COMPUTER BECAUSE THEY GOT OUT LIKE AN HOUR BEFORE
5 AMANDA DOES AND I DON'T LIKE TO SIT THERE AND WAIT
6 AND THERE IS LIKE, YOU KNOW, THERE IS A LOT OF PEOPLE
7 AT SULLIVAN SO I USUALLY WAIT RIGHT ABOUT 330-4,
8 BETWEEN 3 30 AND FOUR O'CLOCK AND LEAVE THE HOUSE AND
9 GO GET HER SO THAT WHEN I GET HER THERE IS ONLY JUST
10 A FEW CARS IN THE PARKING LOT AND I PULL ON IN AND
11 PICK HER UP AND SHE'S READY

12 Q DID YOU AND AMANDA GO SHOPPING SOMEWHERE THAT
13 AFTERNOON?

14 A ACTUALLY WE DID, BUT I THINK I WANT TO ADD THIS
15 TOO, THERE WAS, SHE FORGET HER VIOLIN THAT DAY, SHE
16 LEFT IT AT SCHOOL BECAUSE THE TEACHER HAD, HE HAD TO
17 LEAVE THE SCHOOL HOUSE AND HE HAD LOCKED THE MUSIC
18 ROOM SHE SAID, SHE SAID DADDY I LEFT THE VIOLIN AND
19 I TOLD HER THAT WAS FINE, THAT WAS ONE NIGHT I SAID
20 WELL, YOU KNOW, WE GOT CHURCH TONIGHT, DON'T WORRY
21 ABOUT IT, YOU CAN PRACTICE TOMORROW NIGHT, EVERYTHING
22 WILL FINE, AND SHE SAID OKAY THEN WE LEFT THERE AND
23 MARY SUE HAD ASKED ME TO STOP, STOP BY AND PICK UP A
24 COUPLE OF ITEMS AT THE STORE, SOME SUGAR AND WASHING
25 POT I BELIEVE IT WAS AND

002918

1 Q SO YOU DID ALL THAT?

2 A I DID WE STOPPED, WE STOPPED AND AMANDA SAID
3 DADDY, DO YOU MIND IF I GO IN AND GET IT AND I SAID
4 NO I DON'T MIND, AND TO SAVE TIME I JUST RODE AROUND
5 AND AROUND IN THE PARKING LOT

6 Q OKAY WE'RE NOT GOING --

7 A RIGHT

8 Q OKAY SO THAT EVENING?

9 A THAT EVENING, YES

10 Q WHAT TIME DID MARY SUE HAVE TO BE AT WORK?

11 A MARY SUE HAD TO BE AT WORK, SHE LEAVES THE HOUSE
12 AT 10 O'CLOCK SHE HAD TO BE THERE AT 11

13 Q SO SHE WAS ASLEEP?

14 A THAT'S CORRECT

15 Q SHE HAD GONE BACK TO BED?

16 A THAT'S CORRECT

17 Q OKAY

18 A NO NO WHEN I GOT THERE SHE WAS UP

19 Q SHE WAS UP

20 A SHE WAS UP, YES

21 Q I UNDERSTAND, BUT SHE WENT BACK TO BED A LITTLE
22 LATER AT SOME POINT?

23 MR POPE YOUR HONOR, I OBJECT TO
24 LEADING, JUST ASK A QUESTION

25 THE COURT I SUSTAIN THE OBJECTION

1 MR MORTON I'M JUST TRYING TO ASK ---

2 THE COURT I UNDERSTAND

3 A SHE, SHE, YOU KNOW, FIXED DINNER AND THEN WE ATE
4 AND SHE WENT BACK AND GOT IN THE BED AND I WAS
5 HELPING JESSICA WITH HER HOMEWORK

6 Q OKAY TELL US ABOUT THE BAGS AND THINGS THAT
7 WERE ON THE FLOOR OR SOME OF THEM THIS WAS THE
8 WEEKEND AFTER CHRISTMAS, WHAT WERE Y'ALL IN THE
9 PROCESS OF DOING?

10 A IT WAS THE WEEKEND

11 THE COURT WEEKEND AFTER THANKSGIVING

12 A WEEKEND AFTER THANKSGIVING

13 Q I'M SORRY THANK YOU

14 A IT WAS THE WEEKEND AFTER THANKSGIVING, WE WERE
15 GETTING PREPARED TO CHANGE OUT THE CHRISTMAS STUFF
16 WELL, THE CHRISTMAS STUFF WAS STOCKED UP IN THE
17 KITCHEN IN BOXES, NOT IN THE KITCHEN BUT IN THE, WHAT
18 WAS CALLED, WOULD HAVE BEEN CALLED THE LAUNDRY ROOM
19 THERE IS FOUR BOXES STACKED UP THAT WAS OUR CHRISTMAS
20 DECORATIONS I WAS IN THE PROCESS OF TAKING ALL THE
21 STUFF OUT OF THE LIVING ROOM, WE WERE GOING TO MOVE
22 THE COMPUTER TO THE BEDROOM, THERE IS A PIECE OF
23 PLYWOOD THAT SITS BY MY DOOR, BY THE SIDE OF THE
24 HOUSE THERE, IT HAS A TRAIN TRACK OR IT HAD A TRAIN
25 TRACK ON THE OTHER SIDE AND SOME COTTON AND I HAD A

002920

1 LOT OF LITTLE BUILDINGS THAT MOM HAD GIVEN, PEOPLE
2 HAD GIVEN, AND WE WERE GOING TO SET THAT UP ON THE
3 DESK, AND WE WAS GOING TO DECORATE THE HOUSE UP FOR
4 CHRISTMAS SO WE WERE IN THE PROCESS OF TAKING THE
5 STUFF OUT, MOVING STUFF AROUND, THAT'S -- AND THERE
6 WAS BOXES, THERE WAS BAGS IN THE HALLWAY CONTRARY
7 TO WHAT'S BEEN SAID, IT WASN'T TRASH IT WAS OUR
8 CLOTHES IT WAS OUR DIRTY CLOTHES THAT WE GOT BACK
9 FROM THE MOUNTAINS IN WE, MARY SUE HADN'T WASHED
10 THEM YET THEY WERE STILL SITTING IN THE FLOOR
11 SOME OF THE CLOTHES THAT WAS IN THE FLOOR WAS OUR
12 BEDDING AND STUFF LIKE THAT FROM THE TRIP

13 Q DID YOU HAVE A ROACH PROBLEM DURING THE DAY?

14 A DURING THE DAY, NO, WE DIDN'T HARDLY SEE NO
15 ROACHES IN THE DAYTIME IT WAS AT NIGHT YOU GO
16 OVER THERE, FLIP ON THE LIGHT AND ROACHES SCATTER
17 EVERYWHERE IN THE DAYTIME YOU DIDN'T SEE ROACHES
18 THAT OFTEN

19 Q OKAY WHAT, YOU HELPED JESSICA AND AMANDA
20 HELPED JESSICA WITH HER HOMEWORK THAT NIGHT?

21 A THAT'S CORRECT

22 Q JESSICA WAS FALLING BEHIND AT SCHOOL?

23 A YES I HAD GOTTEN A LETTER FROM HER TEACHER AND
24 SHE SAID, SHE TOLD, SHE HAD TOLD HER, SHE SAID
25 MR COPE, SHE SAID, WE ARE NOT GOING TO TOLERATE

1 THIS, YOU KNOW SHE'S GOTTEN BEHIND LIKE THREE
2 DIFFERENT DAYS OF THIS LONG DIVISION AND SO I TOLD
3 HER, I SAID OKAY YOU ARE GOING SIT DOWN AND YOU ARE
4 GOING TO DO IT ALL THEY ALREADY STARTED THREATENING
5 TO GIVE HER DETENTION AND MAKE HER STAY AFTER SCHOOL
6 AND IT'S HARD FOR HER TO STAY AFTER SCHOOL BECAUSE I
7 HAD TO PICK UP AMANDA AND THEN I HAD TO COME BACK AND
8 PICK HER UP AND THEN COME HOME SO I TOLD HER, I
9 SAID, WE CAN'T DO THAT, WE GOT, AND A LOT OF TIMES I
10 HAVE TO BE WORK AT FIVE, SO AS SOON AS I GET IN FROM
11 PICKING THEM UP, THEN I HAVE TO TURN AROUND AND GO TO
12 WORK AND SO

13 Q SO YOU BEGAN, Y'ALL THAT NIGHT WAS THE NIGHT TO
14 HELP JESSICA CATCH UP ON HER HOMEWORK

15 A EXACTLY

16 Q AND YOU AND AMANDA TRIED TO HELP JESSICA WITH
17 HER HOMEWORK?

18 A MARY SUE HELP TOO SHE HELPED ABOUT TWO HOURS
19 AFTER SHE FIRST COME IN FROM WORK I MEAN AFTER SHE
20 FIRST COME IN FROM SCHOOL AND THEN I STARTED HELPING
21 HER AND IT STARTED GETTING LATE AND I SAID WE'RE NOT
22 GOING TO MAKE IT TO CHURCH AT THIS RATE, SO I CALLED
23 THE PASTOR AND HIS WIFE ANSWERED AND I SAID
24 MRS POWELL, WE'RE NOT GOING TO MAKE IT TO CHURCH
25 TONIGHT AND SHE CHEWED ME OUT SHE SAID YOU GOT TO

1 BE HERE BECAUSE, YOU KNOW, THIS IS QUIZ WEEK AND WE
2 GOT TO, WE GOT A BIG CHAPTER TONIGHT AND I SAID OKAY
3 I SAID BUT WE'RE NOT GOING TO MAKE IT BECAUSE JESSICA
4 HAS GOT A LOT OF HOMEWORK

5 Q OKAY SO, SO YOU WORKED ON THE HOMEWORK?

6 A YEAH, WE WORKED ON THE HOMEWORK MARY SUE
7 WORKED ON IT TWO HOURS I WORKED ON IT, I HELPED HER
8 FOR TWO HOURS, AND THEN I GOT TIRED AND AMANDA SAW
9 ME, SHE SAID DADDY, I'LL HELP HER, SO AMANDA STARTED
10 HELPING HER I WENT TO THE COMPUTER AND MARY SUE
11 WENT AND GOT IN THE BED

12 Q THEN MARY SUE GOT UP AND WENT TO WORK?

13 A AT TEN O'CLOCK

14 Q WHERE WAS KYLA?

15 A KYLA WAS ALREADY IN THE BED ASLEEP SHE WENT TO
16 BED LIKE AT ABOUT 9 30 I THINK NO, THAT'S WHAT MARY
17 SUE TOLD ME SHE SAID KYLA IS ALREADY IN THE BED

18 Q WHAT TIME DID MARY SUE LEAVE FOR WORK?

19 A SHE LEFT FOR WORK AT TEN O'CLOCK

20 Q OKAY AND SO DID Y'ALL TELL HER GOODBYE, WAVE
21 TO HER GOODBYE?

22 A THAT'S CORRECT WE ALL WHO WAS UP ME, JESSICA,
23 AND KYLA ALL THE, THE NORMAL ROUTINE, WE ALL STAND AT
24 THE DOOR AND WE WAVE AT HER AS SHE LEAVES, AND SHE
25 LEFT AND THEN WE WENT BACK TO WORK AND I SAT DOWN ON

1 THE COUCH I TRIED TO HELP JESSICA A LITTLE BIT MORE
2 WITH HER HOMEWORK AND THEN AMANDA SAID I'LL HELP HER
3 SOME DADDY

4 Q OKAY SO YOU HELPED HER ON UP TO A POINT OR
5 AMANDA DID AND YOU WENT AND GOT INTO THE BED OR ON TO
6 THE BED IN YOUR BEDROOM, CORRECT?

7 MR GREELEY OBJECTION, YOUR HONOR,
8 LEADING

9 THE COURT I SUSTAIN THE OBJECTION

10 Q WHAT DID YOU DO THEN?

11 A OKAY I WENT TO, I WENT OVER TO MY DESK, I
12 PICKED UP MY BIBLE I PICKED UP MY QUIZ BOOK, I'M
13 THE COACH FOR AMANDA'S QUIZ TEAM, AND I PICKED UP THE
14 BOOK, AND A LIST, A LIST OF THE QUESTIONS THAT WAS
15 GOING TO BE ASKED THEN I WENT BACK INTO THE
16 BEDROOM I SIT DOWN ON THE EDGE OF THE BED AND READ
17 THE BIBLE AND READ THE TWO CHAPTERS THAT I HAD TO
18 READ AND THEN I READ THE QUIZ QUESTIONS BY THAT
19 TIME JESSICA AND KYLA HAD ALREADY MOVED FROM THE
20 LIVING ROOM AND TURNED OUT THE LIGHTS AND MOVED TO
21 THE HALLWAY AND THEY WERE SITTING IN THE FLOOR IN THE
22 HALLWAY AND I SAID, UH, LET'S SEE THEY WERE
23 SITTING IN THE HALLWAY AND I WAS SITTING ON THE BED
24 READING AND I LOOKED AT AMANDA AND SAID, AMANDA,
25 HONEY YOU ONLY GOT LIKE 8 OR 9 QUESTIONS THIS TIME

002924

1 Q ALL RIGHT, JUST SKIP THAT AND HOW MUCH LATER
2 WERE THEY UP OR WERE YOU UP WHEN THEY WENT TO BED?
3 A I WAS UP WHEN THEY WENT TO BED I HAD, I WAS
4 SITTING ON THE BED, I HAD ACTUALLY SCOOTED UP INTO
5 THE BED, BUT I WAS SITTING IN THE BED WITH MY BIBLE
6 IN ONE HAND, I HAD A NOTEBOOK THAT I WANTING TO JOT
7 DOWN SOME OF THE THINGS THAT HAD HAPPENED THAT DAY,
8 AND THEN, UH, I SET THE PHONE, I HAD TOLD THE GIRLS,
9 I SAID, YOU ONLY HAD UNTIL ONE O'CLOCK I DIDN'T ---
10 THAT'S NOT NORMAL FOR US THEY DON'T NORMALLY STAY
11 UP THAT LATE NORMALLY THEY ARE IN THE BED AT LEAST
12 BY 11 O'CLOCK AND THAT, ON THAT NIGHT, BECAUSE OF
13 THE HOMEWORK I TOLD AMANDA THAT IT WOULD BE OKAY IF
14 Y'ALL STAY UP UNTIL ONE O'CLOCK BUT I'M NOT LETTING
15 YOU STAY UP PAST ONE BECAUSE YOU GOT TO GET THE WORK
16 DONE AND I DIDN'T WANT HER TO HAVE TO BE STAYING
17 AFTER SCHOOL AT ABOUT A FEW MINUTES TO ONE I HAD
18 SET THE TELEPHONE, I CALLED WAKE UP AND I SAID AND I
19 SET THE TELEPHONE TO WAKE, YOU KNOW, TO RING OFF AT
20 EXACTLY ONE O'CLOCK, AND I SET IT ON THE CHARGER I
21 MEAN, ON THE SIDE OF THE BED WITH ME AND THEN AT
22 ABOUT TWO OR THREE MINUTES UNTIL ONE O'CLOCK I HEARD
23 THE STAPLER AND I HEARD, I HEARD MY STAPLER STAPLING
24 PAPERS AND I SAID ARE Y'ALL FINISHED AND AMANDA SAID
25 YES, SIR, DADDY, AND I SAID GOOD COME HERE A MINUTE

1 AND SHE CAME INTO THE ROOM AND I SAID WOULD YOU DO ME
2 A FAVOR AND SHE SAID WHAT'S THAT I SAID WOULD YOU
3 CUT MY LIGHT OUT, CUT THE FAN ON, AND THE PHONE
4 PEEPED OFF AND I SAID WAIT A MINUTE AND I GOT TO SET
5 IT FOR AND I SET IT FOR SIX O'CLOCK I SET THE PHONE
6 DOWN AND THEN IT, THE BATTERY BEEPED AND I SAID WOULD
7 YOU PUT THIS ON THE CHARGER BECAUSE I DON'T WANT IT
8 TO GO DEAD TONIGHT BECAUSE I WON'T BE ABLE TO HEAR IT
9 NOT WITH THE FAN AND WITH THE, WITH MY CPAP MACHINE
10 ON SO AFTER THAT I --

11 Q WHY DO YOU WEAR A CPAP MACHINE?

12 A I HAVE SLEEP APNEA I WAS DIAGNOSED WITH SLEEP
13 APNEA

14 Q WHAT IS A CPAP MACHINE?

15 A IT'S A BREATHING MACHINE THAT PUTS AIR INTO YOUR
16 LUNGS ALL NIGHT LONG IT, WHAT HAPPENS IS I WILL BE
17 ASLEEP AND WAKE UP

18 Q OKAY AND DO YOU WEAR IT ON YOUR HEAD?

19 A IT'S A MASK THAT FITS ON YOUR HEAD AND IT, AS A
20 MATTER OF FACT, I THINK I GOT A BRUISE RIGHT THERE
21 BECAUSE I WEAR IT AND IT'S REAL TIGHT ON YOUR FACE AT
22 NIGHT AND

23 Q SO YOU PUT YOUR CPAP MACHINE ON?

24 A I PUT THE CPAP MACHINE ON AND I TAKE A BLANKET,
25 I GOT, I MEAN A TOWEL OR A SHEET WHICHEVER ONE I HAVE

1 AND I THINK THAT NIGHT I HAD A TOWEL AND I TAKE IT
2 AND I FOLD IT AND I LAY IT OVER MY FACE AND THEN I
3 PULLED THE SHEET UP AND COVER BECAUSE I HAD A WHITE
4 SPREAD ON MY BED AND THE LIGHT COMES THROUGH AND A
5 LOT OF TIME JESSICA LEAVES THEIR NIGHT ON AND I CAN'T
6 SLEEP WITH THE LIGHT ON, SO I EVEN DO THAT HERE
7 TODAY I PUT THE SHEET, I TAKE AND FOLD MY SHEET UP,
8 PUT IT OVER MY FACE, AND THEN I PULL MY BLANKET OVER
9 MY FACE AND I CAN'T SEE NOTHING
10 Q TELL ME ABOUT THE LOCKS ON THE DOOR?
11 A LOCKS THE LOCKS ON THE DOORS WE HAVE A, A
12 REGULAR LOCK, A REGULAR LOCK SYSTEM WHERE YOU LOCK
13 AND THEN WE ALSO HAVE A CHAIN LOCK, BUT BECAUSE THE
14 GIRLS HAVE BEEN TARDY TO SCHOOL BECAUSE OF ME, IT'S
15 ALL MY FAULT, I WOULD WAKE UP AT, I WOULD BE LATE
16 GETTING THEM TO SCHOOL BECAUSE MARY SUE WOULD COME
17 IN, THE CHAIN WOULD BE ON THE DOOR LOCKED, SO WE
18 COULDN'T GET IN I MEAN SHE COULDN'T GET IN SO SHE
19 COME BEAT ON THE DOOR WELL, YOU CAN'T WAKE ME UP I
20 DON'T I HEAR NOTHING I MEAN, SHE BEAT ON THE SIDE
21 OF THE HOUSE MANY TIMES TRYING TO GET MY ATTENTION
22 SHE ENDS UP GOING TO AMANDA'S ROOM AND BEATING ON THE
23 WALL AND GETTING AMANDA'S ATTENTION THE GIRLS AND I
24 WE KNOW NOT TO PUT THE CHAIN ON THE DOOR BECAUSE MARY
25 SUE CANNOT GET IN THE HOUSE AND

002927

1 Q DID JESSICA, DOES SHE GO AROUND PUTTING THE
2 CHAIN ON THE DOOR?

3 A JESSICA DOES NOT, DID NOT OR DOES NOT LOCK THE
4 DOORS AT NIGHT, SHE'S AFRAID TO GO THROUGH THE HOUSE
5 THAT'S THE REASON SHE SLEEPS WITH HER LIGHT ON I
6 HATE TO SAY ANYTHING AGAINST HER, BUT I MEAN, SHE'S
7 AFRAID TO DO OF THAT

8 Q AFRAID OF DARK?

9 A SHE WON'T GO FROM ONE ROOM TO THE NEXT AND A LOT
10 I MEAN EVEN KYLA IS MOORE APT TO GO AND DO IT BEFORE
11 SHE IS KYLA FOLLOWS, I MEAN SHE FOLLOWS KYLA AROUND
12 BECAUSE SHE'S SCARED OF THE DARK

13 Q WHEN YOU GOT UP THAT MORNING WAS THE CHAIN ON
14 THE DOOR?

15 A NO, IT WAS NOT

16 Q SO AFTER AMANDA COMES IN YOUR ROOM AND YOU GET
17 HER TO PUT THE PHONE BACK ON THE CHARGER?

18 A RIGHT, THEN I ASK HER, YOU KNOW, SHE GIVE ME A
19 KISS AND TURN, SHE TURNED MY FAN ON, TURNED THE LIGHT
20 OFF, AND SHE WENT AND GOT IN THE BED

21 Q SHE KISSED YOU ON THE CHEEK?

22 A SHE KISSED ME RIGHT THERE ON THE SIDE OF MY
23 FACE

24 Q AND SHE WENT AND GOT IN HER BED?

25 A YES, SIR

002928

1 Q WHAT'S THE NEXT THING THAT YOU REMEMBER?

2 A I WOKE UP ABOUT THREE O'CLOCK THE REASON THAT
3 I KNOW IT WAS ABOUT, IT WAS ABOUT THREE O'CLOCK IS
4 BECAUSE THAT'S ABOUT THE SAME TIME I WAKE UP EVERY
5 NIGHT I TAKE A BLOOD PRESSURE MEDICINE THAT HAS
6 DIURETIC IN IT AND THAT MEDICATION WAKES ME UP
7 BETWEEN 2 30 AND 3 O'CLOCK EVERY NIGHT I GET UP AND
8 I HAVE TO GO TO THE BATHROOM

9 Q DO YOU SLEEP WITH YOUR DOOR OPEN OR CLOSED?

10 A MY DOOR IS, IT'S OPEN IT WON'T SHUT BECAUSE
11 THE DRESSER IS PULLED UP AGAINST IT TO KEEP IT FROM,
12 IT'S NOT A SHUTABLE DOOR THE DRESSER WAS PULLED UP
13 AGAINST IT, YOU KNOW, WHEN THE DOOR WOULD COME IT
14 WOULDN'T BE ABLE TO OPEN

15 Q SO YOU ALWAYS SLEEP WITH YOUR DOOR OPEN?

16 A MY DOOR IS OPEN, YES, SIR

17 Q AND WHAT ABOUT KYLA AND JESSICA'S DOOR?

18 A KYLA AND JESSICA'S DOOR WAS OPEN ALSO THEY
19 HAVE A FAN IN FRONT OF THEIR DOOR

20 Q DO YOU HAVE A FAN IN YOUR ROOM TOO?

21 A THAT'S CORRECT

22 Q HOW MANY FANS DO YOU HAVE?

23 A WE HAD FIVE FANS WE HAD ONE IN AMANDA'S ROOM
24 WE HAVE ONE IN JESSICA AND KYLA'S ROOM ONE IN MY
25 BEDROOM, ONE --- TWO IN MY BEDROOM AND ONE IN THE

002929

1 KITCHEN THE ONE IN THE KITCHEN WE JUST PUT IT THERE
2 LIKE TWO DAYS, ABOUT TWO DAYS BEFORE THAT BECAUSE WE
3 HAD A, WE WAS COOKING AND ACTUALLY I WAS COOKING AND
4 BURNED SOMETHING AND SMOKED UP THE HOUSE SO WE TURNED
5 THE FAN ON IT TO CLEAN OUT THE SMOKE

6 Q THAT NIGHT WERE THE FANS IN YOUR ROOM ON OR OFF?

7 A THE FAN IN MY ROOM WAS ON

8 Q YOU ALWAYS SLEEP WITH THE FAN ON?

9 A I SLEEP THE FAN EVERY NIGHT I HAVE TO SLEEP
10 WITH A FAN BECAUSE I CAN'T BREATHE AND THE MACHINE
11 HAS A HIGH PITCH HUM AND THE MASK WHEN IT'S PUT ON
12 AND IT'S COVERED UP, WHEN I'M COVERED UP, AND IT
13 MAKES A SHHH, SHH, SHH, JUST ABOUT THAT LOUD SOUND,
14 COMING OVER, YOU KNOW, OVER ME AND I CAN'T HEAR, ALL
15 I CAN HEAR THAT SHHH SOUND WELL, THE FAN IS TO
16 DROWN OUT THAT AND IT, AND PLUS IT BLOWS ON THE COVER
17 AND KEEPS ME KIND OF, MAKES ME FEEL A LITTLE MORE
18 COMFORTABLE

19 Q AFTER YOU GOT UP AND WENT TO THE BATHROOM?

20 A YES, SIR

21 Q WHAT DID YOU DO?

22 A I WENT INTO THE LIVING ROOM A LOT OF TIMES I
23 GET UP AND GO TO THE BATHROOM AND THEN SOMETIMES I'LL
24 READ A BOOK I'VE BEEN READING THE LEFT BEHIND
25 SERIES, JUST FINISHED THAT I MEAN SOMETIMES I'LL

1 READ A BOOK SOMETIMES I'LL GO TO THE COMPUTER
2 SOMETIMES I'LL WATCH TV IT JUST DEPENDS ON WHAT'S,
3 WHAT'S ON OR, BECAUSE I CAN'T JUST GO RIGHT BACK TO
4 SLEEP RIGHT AWAY

5 Q WERE YOU ACCUSTOMED TO STAYING UP SOME NIGHT ALL
6 NIGHT?

7 A OH, YEAH, A LOT OF TIMES BECAUSE MARY SUE WORKED
8 THIRD AND I'D RATHER SLEEP WITH HER DURING THE DAY
9 THIS WAS BEFORE I GOT THE JOB THAT MORNING WORKING
10 SALADS, I ONLY BEEN DOING IT TWO WEEKS AT STEAK OUT,
11 SO BEFORE THAT, AFTER MY SCHOOLING WAS OVER WITH, I
12 WAS SLEEPING IN THE BED WITH MARY SUE IN THE
13 MORNINGS

14 Q AND YOU WOULD STAY UP ALL NIGHT

15 A I WOULD STAY UP ALL NIGHT

16 Q AND WHEN MARY SUE GOT HOME Y'ALL WOULD GET SOME
17 BREAKFAST?

18 A THAT'S CORRECT

19 MR POPE YOUR HONOR, MR MORTON IS
20 TESTIFYING

21 MR MORTON I'M TRYING TO JUST MOVE IT
22 ALONG

23 THE COURT I KNOW BUT THEY ARE LEADING
24 QUESTIONS

25 Q SO WAS IT YOUR CUSTOM TO STAY UP ALL NIGHT AND

002931

1 THEN GO TO BED WITH MARY SUE IN THE MORNING?

2 A THAT'S, THAT'S MY NORMAL, THAT WAS WHAT I
3 NORMALLY DID UP TO TWO WEEKS PRIOR TO THAT

4 Q OKAY

5 A I WOULD SIT UP ON THE COMPUTER I WOULD HAVE
6 WATCHED TV I MEAN IT WAS JUST, I MEAN I JUST, WAS
7 UP I ALWAYS BEEN A NIGHT OWL BECAUSE ALL MY JOBS
8 HAVE BEEN THIRD SHIFT

9 Q WHEN YOU GOT UP --

10 A ALMOST ALL OF THEM

11 Q ---THAT NIGHT AT THREE O'CLOCK IN THE MORNING?

12 A RIGHT

13 Q AND YOU WENT INTO THE, YOU WENT TO THE BATHROOM?

14 A THAT'S CORRECT

15 Q THEN YOU WENT INTO THE LIVING ROOM, RIGHT?

16 A THAT'S CORRECT AND I SIT DOWN ON THE COUCH
17 THE FIRST THING THAT I NOTICED WAS THAT MY LIVING
18 ROOM LIGHT WAS ON AND THAT WASN'T NORMAL THE HALL
19 LIGHT WAS ON WHEN I COME OUT OF THE BATHROOM THAT
20 WAS NOT NORMAL BECAUSE I HAD ASKED AMANDA DID SHE
21 TURN THEM OFF AND SHE TOLD ME THAT SHE DID AND YOU
22 KNOW, ALL THE NIGHTS WERE OUT, AND, BUT, BUT MY
23 LIVING ROOM LIGHT WAS ON, MY HALL LIGHT WAS ON, AND
24 THE PORCH LIGHT WAS ON AND I COULDN'T UNDERSTAND
25 THAT IT BOTHERED ME A LITTLE BIT

002932

1 Q HOW LONG --

2 A THEN I THOUGHT MAYBE SHE DIDN'T TURN THEM OFF,
3 SO I, AFTER A FEW MINUTES I SAT DOWN ON THE COUCH, I
4 WAS THINKING, I WAS TRYING TO THINK, I HAPPENED TO
5 LOOK INTO THE, INTO THE --

6 Q DINING ROOM

7 A DINING ROOM WHERE THE DRYER WAS AT AND I NOTICED
8 THAT THE DRYER DOOR WAS OPEN AND THE CLOTHES WERE
9 SCATTERED SO I FIGURED THAT JESSICA AND KYLA HAD WENT
10 THERE AND PULLED THEIR CLOTHES, I MEAN JESSICA AND
11 AMANDA PULLED THEIR CLOTHES OUT LOOKING FOR SCHOOL
12 CLOTHES AND DIDN'T PUT THEM BACK THEY DO THAT
13 OCCASIONALLY

14 Q HOW LONG DID YOU STAY UP THAT NIGHT?

15 A THAT NIGHT PROBABLY ABOUT 30 MINUTES

16 Q DID YOU MASTURBATE THAT NIGHT?

17 A FOR THE LIFE OF ME I CAN'T REMEMBER HONESTLY,
18 I -- THAT WASN'T, THERE WAS SOMETHING ELSE THAT I
19 NORMALLY DO AT NIGHT AND I'M KIND OF ASHAMED OF IT,
20 BUT, BUT I DO MASTURBATE EVERY ONCE IN A WHILE
21 FAIRLY OFTEN ACTUALLY

22 Q WHAT DO YOU DO WHEN YOU MASTURBATE? WHAT DO YOU
23 MASTURBATE INTO?

24 A USUALLY A WASH CLOTH OR AN OLD T-SHIRT AND I
25 DON'T JUST TAKE IT TO THE LAUNDRY BECAUSE I'M AFRAID

002933

1 THAT, FIRST OF ALL, THAT SOMEBODY MIGHT GET A HOLD TO
2 IT, SO FIRST THING I DO IS I'LL HIDE IT, THE NEXT
3 MORNING USUALLY WASH IT OUT AND THROW IT IN THE

4 Q AND WHERE DO YOU USUALLY HIDE IT?

5 A I HAVE ONE SPECIAL HIDING PLACE I HIDE UP UNDER
6 THE BOOK SHELF IN THE HALL I'VE ALWAYS DONE THAT

7 Q ALWAYS PUT IT THERE?

8 A YEAH

9 Q THEN YOU GET IT IN THE MORNING?

10 A THEN I GET IT EITHER TO, I GET UP THAT MORNING
11 OR IF I KNEW MARY SUE WAS GOING TO WASH CLOTHES IF
12 SHE WASN'T GOING TO WASH CLOTHES THEN IT MAY STAY
13 THERE A COUPLE OF DAYS AND I JUST CAN'T REMEMBER
14 I MEAN, I'VE THOUGHT ABOUT IT AND THOUGHT ABOUT IT
15 AND I JUST CAN'T REMEMBER WHETHER I DID OR NOT
16 SOMETIMES I THINK MAYBE I DID SOMETIMES MAYBE I
17 DIDN'T I REALLY DON'T KNOW I CAN'T REMEMBER

18 Q THEN WHAT YOU DID AFTER YOU STAYED UP FOR 30
19 MINUTES OR SO, WHAT DID YOU DO?

20 A I WENT TO THE COMPUTER AND TRIED TO PLAY THAT
21 GAME THAT I HAD BEEN WORKING THERE ON AND GOT BORED
22 WITH IT BECAUSE IT DIDN'T DO RIGHT IT WAS CALLED
23 AGES OF EMPIRE AND I WAS TO CREATE MY OWN LITTLE
24 SCENARIO AND I DIDN'T DO IT RIGHT SO IT MESSED UP AND
25 I GOT KILLED REAL QUICK AND I GOT MAD AND I SAID WELL

1 NEVER MIND AND I PUT THE COMPUTER UP AND I WENT BACK
2 AND GOT IN THE BED

3 Q YOU PUT YOUR CPAP MACHINE ON, RIGHT?

4 A THAT'S CORRECT

5 Q PULL YOUR COVERS OVER YOUR HEAD?

6 A THAT'S CORRECT

7 Q SORRY DID YOU CLOSE THE DOOR?

8 A NO, I DON'T CLOSE MY DOOR MY DOOR DON'T SHUT
9 AS A MATTER OF FACT --

10 Q WHAT ABOUT AMANDA'S DOOR?

11 A AMANDA'S DOOR WAS CLOSED WHEN I WENT TO THE
12 BATHROOM AND THE REASON THAT I REMEMBER THIS IS
13 BECAUSE I STEPPED OUT OF THE BATHROOM AND KYLA HAS A
14 TENDENCY TO TAKE THE COVER OFF OF HER AND THEY HAVE A
15 FAN ON, AND ONE REASON THAT THE FAN IS THERE IS TO
16 PREVENT ROACHES FROM CRAWLING ALL OVER THE BED AND
17 CRAWLING ALL OVER THEM, THE FAN'S TURNED ON THEM TO
18 KEEP THE ROACHES AWAY FROM THEM, AND AT NIGHT, THAT'S
19 THE MAIN PROBLEM I KNOW THAT ---

20 Q SO YOU LOOKED IN ON KYLA AND JESSICA?

21 A I JUST, IT WASN'T THAT I LOOKED IN AS I WALKED
22 TO THE DOOR AS I WAS WALKING OUT OF THE BATHROOM I
23 COULD PEER RIGHT ACROSS AND I SEEN, OKAY, SHE'S FINE
24 AND I'M NOT GOING TO WORRY ABOUT THEM

25 Q WERE THEIR LIGHTS ON?

002935

1 A THEIR LIGHT STAYS ON THEY ARE AFRAID OF THE
2 DARK WELL, SHE'S AFRAID OF THE DARK KYLA IS NOT
3 JESSICA IS

4 Q JESSICA IS

5 A JESSICA IS AFRAID OF DARK THEY DON'T, I DON'T
6 UNDERSTAND, YOU KNOW

7 Q SO YOU WOKE UP, YOU WENT BACK TO BED, AND YOU
8 WOKE UP THAT NEXT MORNING AT SIX O'CLOCK?

9 A THAT'S CORRECT

10 Q WHEN THE ALARM WENT OFF?

11 A THAT'S CORRECT

12 MR POPE AGAIN, I KNOW MR MORTON IS
13 TRYING TO SPEED IT UP BUT HIS CLIENT HAS GOT TO
14 TESTIFY, NOT MR MORTON

15 Q WHEN YOU DID YOU WAKE UP THAT MORNING?

16 A I WOKE UP AT WHAT I THOUGHT WAS SIX O'CLOCK IN
17 THE MORNING UH, THE REASON THAT I WOKE UP WAS THE
18 TELEPHONE, THE TELEPHONE RING, IT WOKE ME UP THE
19 ALARM CLOCK WAS ALREADY BUZZING OFF I CAN'T HEAR
20 THE ALARM CLOCK BECAUSE OF THE FAN AND THE MACHINE,
21 BUT I CAN TELL HEAR THE TELEPHONE IT HAS A DISTINCT
22 RING AND SO I, I HEARD THE PHONE I JUMPED UP AND I
23 JUST, WHAT IT WAS I ROLLED OVER, AND I JUST CALLED
24 FOR AMANDA THAT'S THE NORMAL ROUTINE I CALLED, I
25 JUST SAID, AMANDA, AND AMANDA USUALLY WILL SAY, SIR

1 AND I CAN HEAR HER, AND SHE'LL SAY THE SAME WAY, SIR
2 AND I'LL SAY IT'S TIME TO GET UP AND SHE'LL SAY
3 YES, SIR BUT THAT MORNING SHE DIDN'T SAY NOTHING

4 Q YOU HAD BEEN READING, BILLY, YOU SAID A BOOK
5 ABOUT THE LEFT BEHIND SERIES, WHAT IS THAT?

6 A IT WAS, IT'S A BOOK THAT WAS WRITTEN BY TIM
7 LAHAYE AND JERRY B JENKINS, IT'S A SERIES OF BOOKS
8 AND IT TALKS ABOUT THE RAPTURE OF THE CHURCH I HAD
9 THE, I HAD THE VIDEOS OF IT AND I HAD THE BOOKS
10 I'VE READ ALL THE BOOKS I THINK THERE ARE STILL TWO
11 LEFT IN THE SERIES THAT I HADN'T READ I READ THREE
12 I THINK SINCE I'VE BEEN IN THE JAIL

13 Q SO AFTER AMANDA DIDN'T HEAR YOUR CALL THE SECOND
14 TIME, WHAT DID YOU DO?

15 A THEN I GOT WORRIED AND THEN I STARTED TO THINK
16 ABOUT OVER IN THAT THAT NIGHT I HAD A DREAM ABOUT THE
17 RAPTURE THAT'S NOT SOMETHING NORMAL FOR ME I
18 ALWAYS CONSTANTLY THINKING ABOUT THE RAPTURE GOING TO
19 HEAVEN, AND I KNOW THAT, IN MY OPINION, THAT
20 MASTURBATION IS A SIN I MEAN STRAIGHT, THAT'S MY
21 OWN OPINION, MASTURBATION IS A SIN, AND I'VE ALWAYS
22 BEEN AFRAID THAT --

23 Q YOU WOULD BE LEFT BEHIND?

24 A I WOULD BE LEFT BEHIND AND

25 Q SO YOU CALLED AMANDA?

002937

1 A I GOT CONCERNED BECAUSE OF THE DREAM I THOUGHT
2 WELL MAYBE, YOU KNOW, MAYBE THE RAPTURE HAS TAKEN
3 PLACE OR MAYBE I'M JUST LEFT BEHIND AND I GOT UP AND
4 I STARTED TO WALK, TIP TOE TO THE GIRLS I KNEW IF
5 THE GIRLS WERE STILL IN THERE THEN EVERYTHING WAS
6 OKAY SO I STARTED WALKING, I TRIPPED OVER THE CHORD
7 OF MY FAN AND IT CAME UNPLUGGED IT WAS PLUGGED INTO
8 THAT PLUG I THINK Y'ALL SAW IT ON THE SCREEN THERE
9 WAS A DROP CHORD THAT COME OUT OF THE BATHROOM WHERE
10 THAT I HAD THE FAN PLUGGED UP IN THERE AT THE BOTTOM
11 OF THAT DROP CHORD AND THE, I TRIPPED OVER THE CHORD
12 AND I REMEMBER BECAUSE IT SCARED ME AND THEN I WENT
13 ON STARTED WALKING AND I TIP TOED INTO THE ROOM AND I
14 SEEN THEM AND I WAS, I WAS HAPPY THAT THEY WEREN'T,
15 BUT THEN I COULDN'T UNDERSTAND WHY AMANDA -- I
16 SCREAMED AMANDA'S NAME AS LOUD AS I COULD WELL, I
17 GUESS I WOKE JESSICA UP BECAUSE I STARTED PUSHING AND
18 BEATING ON THE DOOR, ON AMANDA'S DOOR, AND IT GAVE,
19 AND AS IT GAVE THERE WAS, THERE IS TWO, THE TWO DOOR
20 HANDLES, THE DOOR HANDLE THAT'S IN HER CLOSET AND THE
21 DOOR HANDLE ON HER DOOR, THEY COME AND THEY LOCKED
22 AROUND EACH OTHER AND I COULDN'T GET THE DOOR OPEN
23 I DIDN'T KNOW THAT'S WHAT IT WAS AT FIRST I THOUGHT
24 SOMEBODY OR SOMETHING WAS ON THE OTHER SIDE OF IT
25 HOLDING IT, THAT'S THE WAY IT FELT, AND I WAS PUSHING

002938

1 AND FINALLY I GOT MAD AND I KICKED THE DOOR AND WHEN
2 I KICKED THE DOOR IT SWUNG THE TWO DOORS OPEN AND
3 THAT'S WHEN I SEEN AMANDA AND I MEAN, I SAW, I SAW
4 UH, A BLUISH PURPLE CHILD LAYING THERE IN THE BED AND
5 I DIDN'T KNOW WHAT HAPPENED AND I RAN TO HER AND I
6 STARTED SCREAMING OH, AMANDA WHEN I GOT TO HER SHE
7 WAS LAYING WITH HER HANDS LIKE THIS RIGHT HERE SHE
8 WAS LAYING FACE DOWN HER SHIRT WAS RAISED UP TO
9 ABOUT WHERE HER NECK, ABOUT HER NECK LINE, AND HER
10 PANTS WAS UP HER CLOTHES WAS ON HER THERE WAS NO
11 COVER ON HER AND I TOOK HER AND I ROLLED HER LIKE,
12 JUST A LITTLE BIT, AND I SEEN THE SIDE OF HER BREAST
13 RIGHT HERE, AND I REACHED RIGHT HERE AT THIS PART OF
14 THE SHIRT AND PULLED AND WHEN PULLED, HER HANDS JUST
15 DROPPED DOWN, AND THAT'S WHEN I SAW THE GREEN THAT
16 WAS WRAPPED AROUND HER NECK AND I THOUGHT, THE FIRST
17 THING I THOUGHT WAS THAT SHE HAD GOT CAUGHT IN HER,
18 IN THE BLANKET THAT I TOLD THEM TIME AND TIME AND
19 TIME AGAIN NOT TO TAKE TO BED WITH THEM THAT WAS A
20 BLANKET THAT WE KEPT ON THE COUCH I THOUGHT SHE HAD
21 WRAPPED THAT BLANKET AROUND HER THROAT AND SHE WAS
22 STRUGGLING TO GET IT LOOSE, THAT'S WHY HER HANDS WAS
23 LIKE THIS I NOTICED HER MOUTH WAS PUFFED IN IT
24 WAS JUST PUSHED IN AND HER LIPS WERE REAL BIG AND HER
25 MOUTH WAS OPEN AND ALL I COULD SEE WAS HER TONGUE

1 LIKE THAT HERE IT LOOKED LIKE HER TONGUE ROLLED
2 BACK AND JUST STICKING UP LIKE THAT AND THERE WAS
3 BLOOD RIGHT DOWN THE SIDE OF HER MOUTH AND I
4 THOUGHT, I DIDN'T, I THOUGHT THAT SHE HAD STRUGGLED
5 AND THERE WAS A VIDEO GAME IN FRONT OF HER I KNEW
6 SHE LOVED THAT GAME IT WAS A LITTLE HAND HELD VIDEO
7 GAME AND I THOUGHT SHE HAD STRUGGLED BACK AND FORTH
8 AND TRIED TO GET IT AND BUSTED HER MOUTH I DIDN'T
9 KNOW WHAT HAPPENED I WENT STRAIGHT AND, WELL, AT
10 THAT TIME I WAS HOLDING HER AND I PICKED HER UP AND I
11 HELD HER AND I SAID OH, AMANDA AND I STARTED CRYING
12 AND JESSICA AND KYLA WALKED INTO THE ROOM WELL,
13 ACTUALLY THEY DIDN'T WALK IN THE ROOM, THEY RAN INTO
14 THE ROOM, AND ALL THIS TOOK PLACE IN JUST A, A MATTER
15 OF A FEW SECONDS IT TAKES A FEW MINUTES TO SAY IT,
16 BUT IT ALL HAPPENS SO QUICKLY I'M HOLDING HER AND
17 JESSICA WALKS IN THE ROOM AND SHE SAYS DADDY, DADDY,
18 AND SHE SCREAMS IS SHE, IS SHE DEAD AND I SAID YES
19 AND I SAID NOW GO GET ON THE COUCH AND PRAY BECAUSE
20 NOW AMANDA IS WITH JESUS AND WHEN, AFTER HER HANDS
21 HAD DONE LIKE THAT, I JUST TOOK AND LAID HER BACK
22 DOWN AND SHE ROLLED OVER ON HER BACK AND SHE WAS LIKE
23 THIS RIGHT HERE AND I RAN I SAID I GOT TO CALL
24 911 THAT'S THE FIRST THING I DONE, BUT I KNEW FROM
25 PAST EXPERIENCE THAT YOU HAVE TO BE REAL CALM WHEN

002940

1 YOU TALK TO 911 I USED TO WORK FOR THE RED CROSS
2 I WAS, THIS IS BEFORE I WAS OUT OF HIGH SCHOOL I
3 WAS A VOLUNTEER FOR THE DIASTER TEAM

4 Q SO YOU CALLED 911?

5 A AND I CALLED 911 AND I WAS BEING DESCRIPTIVE
6 TRYING TO EXPLAIN TO THEM WHAT WAS GOING ON

7 Q IS THAT THE FIRST PERSON YOU CALLED?

8 A THAT WAS THE VERY FIRST PERSON I CALLED THE
9 NEXT PERSON AND THEN WHILE I WAS ON THE PHONE WITH
10 THEM, I TOLD THEM I NEEDED TO GO AND CALL MY WIFE, SO
11 I STARTED TRYING TO GET IN TOUCH WITH MY WIFE I
12 KEPT GET AN ANSWERING MACHINE FROM HER WORK AND SO I
13 CALLED TAMMY, MY SISTER-IN-LAW, MY BROTHER WORKS
14 THERE WITH MY WIFE, SO I CALLED HER I SAID DO YOU
15 KNOW OF ANOTHER NUMBER AND SHE SAID NO SHE SAID
16 THAT'S THE ONLY NUMBER I KNOW OF AND I GAVE HER THE
17 NUMBER THAT MARY SUE HAD GIVEN ME TO CALL I SAID DO
18 YOU HAVE AN EMERGENCY NUMBER THAT I CAN CALL AND SHE
19 SAID NO AND I SAID A GUARD'S NUMBER SHE SAID NO
20 I DON'T HAVE NOBODY ELSE I CAN GIVE YOU THAT YOU CAN
21 CALL I SAID WELL SHE SAID WHAT'S WRONG AND I
22 SAID I JUST FOUND AMANDA IN THE BED AND SHE'S DEAD
23 AND SHE SCREAMED WHAT AND AFTER THAT, I SAID LOOK I
24 CAN'T TALK RIGHT NOW I'VE GOT TO CALL, I GOT TO
25 CALL MY MOMMA I HATED TO DO THAT THAT WAS THE

1 HARDEST THING I HAD TO DO WAS I CALLED MY MOM AND I
2 SAID MOM YOU NEED TO SEND DADDY OVER HERE AND SHE
3 SAID WHAT'S WRONG AND I SAID I JUST FOUND AMANDA DEAD
4 IN THE BED AND SHE SAID, SHE SAID, AND SHE, HER
5 FIRST WORD WAS, OH DEAR LORD, NO OH, NO NO AND
6 I SAID, MOMMA, I SAID, PLEASE CALM I DON'T WANT YOU
7 TO HAVE ANOTHER HEART ATTACK OR STROKE PLEASE JUST
8 CALM DOWN EVERYTHING WILL BE FINE BUT PLEASE JUST
9 GET DADDY OVER HERE HE CAME OVER AND HE GOT THE
10 GIRLS AND TOOK THEM BACK TO THE HOUSE THE POLICE
11 HAD DONE BEEN TO THE HOUSE THE FIRE DEPARTMENT WAS
12 ALREADY THERE THEY, THEY KEPT INTERRUPTING MY PHONE
13 CALLS WANTING ME TO TALK TO THEM AND I WOULD TALK TO
14 THEM FOR A FEW MINUTES AND I'D CALL THE NEXT PERSON
15 THE NEXT PERSON I CALLED WAS THE PREACHER I GOT MY
16 PREACHER TO COME OVER AND ACTUALLY HE WAS THE
17 SECOND PERSON OUT OF THE FAMILY MEMBERS AND FRIENDS
18 THAT CAME MY DAD WAS THE FIRST PERSON THEN THE
19 PREACHER GOT THERE, BUT THEY HAD ALREADY PUT THE
20 YELLOW TAPE UP

21 Q HOW MANY TIMES IN THE LAST THREE YEARS, BILLY,
22 HAVE YOU HAD TO TELL THIS STORY?

23 A I'VE HAD TO TELL THIS STORY PROBABLY, I CAN'T
24 TELL YOU I MEAN, I'VE TOLD IT TO YOU I'VE TOLD IT
25 TO PHIL I'VE TOLD IT TO MIKE I'VE TOLD IT TO

1 DAVID I'VE TOLD IT TO JOHN BLOOM I TOLD IT TO

2 CAROL I'VE TOLD IT TO A BUNCH OF PEOPLE

3 Q YOU'VE TOLD IT TO --

4 A IT WAS CONSTANTLY IT WAS JUST --

5 Q YOU TOLD IT TO FAMILY?

6 A I TOLD THE DOCTOR

7 MR POPE OBJECTION TO LEADING, YOUR

8 HONOR

9 THE COURT YES

10 A I'VE TOLD IT TO MY BROTHER ON THE JAIL PHONES

11 I'VE TOLD IT TO EVERYBODY AND

12 Q LET ME ASK YOU THIS WHAT ABOUT BEING ON THE

13 COMPUTER THAT MORNING?

14 A THE COMPUTER, THAT'S, THAT'S ABSOLUTELY NOT

15 TRUE I HEARD WHAT EVERY ONE OF THOSE GUYS SAID, AND

16 IT'S NOT TRUE I THINK ONE PERSON PICKED UP ON IT

17 AND EVERYONE WANTED TO TAKE OFF, TAKE OFF WITH THAT

18 THAT'S NOT TRUE I WAS NOT, I HAD DRUG THE PHONE, I

19 DIDN'T HAVE MY CLASSES ON I CAN BARELY MAKE OUT A

20 MAN STANDING THERE WITH MY GLASSES OFF BUT I COULD

21 NOT SEE THE PHONE I DRUG THE PHONE IN FRONT OF THE

22 COMPUTER AND LOOKED DOWN TO DIAL THE NUMBERS I

23 COULD NOT, I COULDN'T SEE THE COMPUTER I COULDN'T

24 HAVE SEEN TO GET ON THE COMPUTER AT ALL IF I WANTED

25 TO MY GLASSES WERE STILL IN THE BEDROOM

002943

1 Q DID YOU TELL THE PEOPLE THAT FIRST CAME, WHAT I
2 CALL THE FIRST RESPONDERS, THAT AMANDA HAD BEEN DEAD
3 FOR FOUR HOURS?

4 A ABSOLUTELY NOT I SAID FOR HOURS, NOT FOUR
5 HOURS I SAID -- I SAID SHE'S BEEN DEAD FOR HOURS
6 THE ONLY REASON I TELL THAT WAS BECAUSE FIRST I HAD
7 BEEN TRAINED THROUGH THE RED CROSS ABOUT THAT AND I
8 KNEW THAT SOME PART OF RIGOR MORTIS HAD SET IN WHEN
9 SHE DROPPED OVER LIKE SHE WAS AND SHE PARTIALLY
10 STIFF I KNEW SHE HAD BEEN DEAD AT LEAST AN HOUR AND
11 I SAID FOR HOURS I DIDN'T SAY FOUR HOURS

12 Q WHAT ABOUT HER CLOTHING?

13 A HER CLOTHING WAS ON HER AND I SAID COVER I
14 DIDN'T SAY NO CLOTHING I NEVER, I THINK WHAT HAPPEN
15 WAS I SAID SHE HAD NO CLOTHES I MEANT NO COVER ON
16 AND THEY WENT, AND THEN THE OTHER, THE OTHER PERSON
17 JUST FOLLOWED SUIT WITH THAT PERSON THEY GOT BACK
18 TO THE STATION AND SAID IS IT TRUE THAT SHE SAID THIS
19 AND I MEAN HE SAID THIS AND THAT'S THE WAY, THAT'S
20 NOT TRUE SHE HAD CLOTHES ON WHEN I WENT IN THAT
21 ROOM

22 Q WHAT HAPPENED AFTER EVERYBODY CAME OVER THERE?

23 A UH, AFTER EVERYBODY, THERE WAS SO MANY PEOPLE
24 COMING IN AND OUT OF THE HOUSE, ONE OFFICER WOULD
25 STOP AND TALKED A FEW MINUTES AND ANOTHER PERSON

002944

1 WOULD STOP AND TALKED TO ME A FEW MINUTES THE
2 PARAMEDICS STOPPED ME AND ASKED ME SOME QUESTIONS
3 OFFICER JORDAN STARTED TALKING TO ME AND THEN I
4 COULDN'T TAKE IT NO MORE I MEAN I WAS STILL, I
5 WAS STILL IN A STATE OF SHOCK I COULDN'T BELIEVE
6 THAT HAD HAPPENED YOU KNOW I DIDN'T KNOW, I
7 THOUGHT SHE HAD STRANGLED HERSELF AND EVEN ONE OF THE
8 OFFICER'S SAID OH, YOU MEAN, YOU THINK SHE KILLED
9 HERSELF AND I SAID I DON'T THINK SHE HAD NO TENDENCY
10 OF COMMITTING SUICIDE, IF THAT'S WHAT YOU ARE TALKING
11 ABOUT NO, I DON'T THINK THAT AND HE SAID AND HE
12 GOES WELL, WHAT DO YOU THINK HAPPENED AND I SAID,
13 EXACTLY WHAT I'VE BEEN TELLING YOU I BELIEVE I
14 THOUGHT SHE HAD ROLLED AROUND IN HER SLEEP, GOT
15 CAUGHT AND COULDN'T GET LOOSE, AND HER FINGERS, SHE
16 JUST COULDN'T GET HER AIR AND SHE DIED AND SHE DIED
17 I DIDN'T KNOW ALL THE OTHER STUFF I DIDN'T KNOW
18 ANYTHING THE POLICE STARTED PIECING THINGS
19 TOGETHER

20 Q HOW -- DID YOU TAKE THE GREEN STRIP?

21 A I TOOK THAT GREEN WRAP OFF OF HER NECK BECAUSE
22 JESSICA, JESSICA WAS STANDING THERE THAT'S WHAT I
23 WAS DOING WHEN THEY COME IN THE ROOM AND IT WAS
24 WRAPPED AROUND HER NECK AND THEY EVEN THOUGHT IT
25 JESSICA TOLD MY MOM THAT SHE THOUGHT THAT IT WAS,

002945

1 THAT IT WAS HER FAULT BECAUSE SHE WAS GOING TO CUT
2 THAT OFF A COUPLE DAYS PRIOR TO THAT AND SHE DIDN'T
3 DO IT AND SHE REALLY FELT LIKE IT WAS HER FAULT FOR A
4 LONG TIME

5 Q AT ONE POINT HOW WERE YOU REACTING THAT MORNING,
6 DID THE PREACHER HAVE TO TELL YOU TO GET OUT OF WAY
7 AT SOME POINT?

8 A LIKE I SAID I HAD, ONE OFFICER EVEN SAID IT, HE
9 QUOTED, YOU NEED TO COME HOME MY WIFE CALLED I
10 SAID YOU NEED TO COME HOME AFTER I HAD TALKED WITH
11 MY WIFE, I CAN'T COULDN'T, I COULDN'T FUNCTION NO
12 MORE I WAS, I LAID DOWN ON THE FLOOR AND WAS JUST
13 CRYING, LAYING UP AGAINST A CHAIR THE CHAIR THAT
14 WAS PUSHED UP AGAINST THE WALL THERE IN THE
15 PHOTOGRAPH, I WAS LAYING AGAINST THAT CHAIR CRYING,
16 SPRAWLED OUT IN THE FLOOR AND 385 POUNDS, I WAS
17 LAYING THERE IN THE FLOOR AND MY PASTOR SAID, MY
18 PASTER WALKED UP AND SAYS YOU NEED TO GET UP

19 MR POPE YOUR HONOR, I TRIED TO ALLOW
20 SOME LATITUDE BUT I OBJECT TO HEARSAY AGAIN WE KEEP
21 BRINGING OTHER PEOPLE IN, THE MOTHER SAID AND
22 DAUGHTER SAID AND I TRIED TO GIVE SOME LATITUDE AND I
23 OBJECT TO HEARSAY

24 MR MORTON AND I APPRECIATE IT, MR
25 POPE

002946

1 THE COURT THIS IS PROBABLY A GOOD TIME
2 TO TAKE A SHORT BREAK TOO WE CAN STOP FOR A MINUTE
3 WE'LL TAKE A SHORT REFRESHER BREAK

4 (THE JURY EXITS THE COURTROOM AT 10 39
5 AM)

6 THE COURT MR MORTON, I KNOW YOU ARE
7 TRYING TO MOVE THINGS ALONG BUT YOU HAVE ASKED AN
8 AWFUL LOT OF LEADING QUESTIONS MOST OF THEM HADN'T
9 BEEN OBJECTED TO

10 MR MORTON I'M SORRY I'M JUST TRYING
11 TO LEAD HIM ALONG

12 THE COURT BUT WHEN, BUT LET'S, AND ALSO
13 THERE HAS BEEN A LOT OF HEARSAY MOST OF IT PROBABLY
14 DOESN'T GO TO THE TRUE OF THE MATTER ASSERTED SO
15 PROBABLY NOT THAT, NOT TO SAY NOT IMPORTANT BUT IT
16 HASN'T BEEN OBJECTED TO I ANTICIPATE PROBABLY WILL
17 BE SOME MADE AND OF COURSE IF IT'S HEARSAY I'LL HAVE
18 TO GRANT THEM SO I AM JUST MAKING THOSE COMMENTS,
19 EDITORIAL I GUESS

20 MR MORTON I JUST WANT TO EXPLAIN TO
21 HIM --

22 THE COURT HE'S NOT SUBJECT TO CROSS
23 EXAMINATION YET, DO YOU MIND IF HE

24 MR POPE I DON'T THINK IT IS APPROPRIATE
25 ONCE A WITNESS IS ON THE STAND

1 THE COURT OKAY AGAIN I DON'T WANT TO
2 BE COACH BUT IF HE GETS INTO HEARSAY IT MIGHT BE
3 PRUDENT TO JUST STOP HIM

4 MR MORTON STOP HIM BEFORE THEY DO

5 THE COURT OKAY THANK YOU MR COPE,
6 YOU CAN STEP DOWN AND THEY WILL LET YOU USE THE
7 RESTROOM AND GET SOME WATER

8 (COURT IS IN RECESS)

9 (COURT RESUMES AT 10 52 AM)

10 THE COURT LET'S BRING IN THE JURY

11 (THE JURY RETURNS TO THE COURTROOM AT
12 10 53 AM)

13 THE COURT ALL RIGHT

14 DIRECT EXAMINATION CONTINUED BY MR MORTON

15 Q I THINK WE WERE AT THE POINT THAT MORNING, LET
16 ME ASK YOU, LET ME BACK UP A MINUTE SEE THESE TWO
17 LOCKS THAT HAVE BEEN INTRODUCED DEFENSE EXHIBITS 74
18 AND 73?

19 A YES, SIR

20 Q DO YOU KNOW WHAT KIND OF LOCKS WERE ON YOUR
21 FRONT DOOR?

22 A YES, SIR THIS IS A DEAD LOCK AND THIS IS A
23 REGULAR LOCK, AND I HAD, AT WALMART I'VE SEEN THE
24 TWO, THE TWO LOCKING MECHANISM AT WALMART WE HAD TO
25 GET A NEW LOCK TO PUT ON THE LOCK BECAUSE I DIDN'T

1 TRUST, YOU KNOW, THE NEIGHBORHOOD AFTER WE MOVED IN
2 SO I ASKED MY LANDLORD WILL HE PUT NEW LOCKS ON AND
3 HE ACTUALLY SAID NO, THAT WE COULD GET ANOTHER SET
4 AND PUT ON, SO WE WENT AND BOUGHT LOCK SET AND PUT
5 ON AND I DID NOT PUT A DEAD LOCK IT WOULD, THE
6 DEAD LOCK COSTED A LITTLE BIT MORE AND I DIDN'T HAVE
7 THE MONEY FOR THAT

8 Q LET ME ASK YOU ABOUT THIS FLASHLIGHT, IS THAT
9 YOUR FLASHLIGHT?

10 A NO, SIR

11 Q HAD YOU EVER SEEN THAT FLASHLIGHT BEFORE?

12 A NO, SIR WHEN I WAS ASKED ABOUT A RED
13 FLASHLIGHT I THOUGHT ABOUT THE RED FLASHLIGHT, IT'S
14 NOT A RED FLASHLIGHT, IT'S A PINKISH, HOT PINKISH
15 FLASHLIGHT THAT WE HAVE, BUT WHEN I SAW THAT ONE
16 IMMEDIATELY KNEW THAT WAS NOT OUR FLASHLIGHT I
17 DON'T KNOW WHERE THAT FLASHLIGHT COME FROM WE HAD A
18 HOT PINK ONE AND A BLACK ONE THEY COME IN A PACKET
19 EVER READY PUTS THEM OUT WITH TWO EVER READY
20 BATTERIES WE GOT THEM AT DOLLAR GENERAL ON SALUDA
21 STREET

22 Q BACK TO THAT MORNING, WERE YOU THERE WHEN MARY
23 SUE CAME HOME?

24 A I WAS SOMEBODY, I DON'T REMEMBER WHO IT WAS,
25 SOMEBODY SAID MARY SUE IS HERE AND I THOUGHT, YOU

002949

1 KNOW, I NEED, I DIDN'T EVEN PUT ON MY SHOES I WAS
2 STILL STANDING IN MY SWEAT PANTS, MY DAUGHTER'S SWEAT
3 PANTS

4 Q BLACK SWEAT PANTS?

5 A I THINK THEY WERE --

6 Q DARK GREEN COLOR

7 A DARKISH GREEN COLOR, NOT DARK BLACK, I DIDN'T
8 SAY DARK BECAUSE IT'S BEEN SO LONG

9 Q THEY ARE THE ONES THAT HAVE BEEN PUT IN EVIDENCE
10 TODAY OR TWO WEEKS AGO, WHATEVER IT WAS?

11 A YES, SIR, IT WAS THE SAME PANTS

12 Q AND THAT WAS WHAT YOU WERE WEARING THAT MORNING?

13 A I WAS ALSO WEARING A BLUE SHIRT AND

14 Q WHEN YOU GOT UP THAT MORNING WHAT WERE YOU
15 WEARING?

16 A THAT NIGHT, THAT MORNING WHEN I GOT UP THERE WAS
17 ONLY, JUST MY PANTS IS ALL I HAD ON

18 Q YOU DIDN'T HAVE A SHIRT ON?

19 A NO, I DIDN'T

20 Q DIDN'T HAVE ANY SHOES ON?

21 A NO, I DID NOT

22 Q SO WHEN MARY SUE GOT HOME, WHAT DID YOU DO?

23 A I RAN OUT THE DOOR, CRAWLED UP UNDER THE TAPE,
24 AND KEPT WALKING AND I MET HER IN FRONT OF THE
25 NEIGHBOR'S YARD JUST ON THE, BEYOND THE FENCE, AND ME

002950

1 AND HER STOOD THERE AND SHE CRIED ON MY SHOULDERS,
2 AND WE, WE, I TRIED TO EXPLAIN TO HER WHAT WAS GOING
3 ON THAT I KNEW AND I TOLD HER THE SAME THING THAT
4 I'VE BEEN SAYING ALL ALONG, THAT SHE HAD WRAPPED THAT
5 GREEN THING HER AROUND THROAT AND IT HAD, SHE HAD
6 CHOKED HERSELF I THOUGHT SHE WAS STRUGGLING WITH IT
7 TRYING TO GET IT OFF

8 Q AFTER, DID YOU STAY OUTSIDE THEN?

9 A ACTUALLY YES, I DID AS A MATTER OF FACT,
10 THAT'S WHERE THE INVESTIGATOR WAYNE JORDAN CAME AND
11 GOT ME, HE SAID MR COPE, THEY WOULD LIKE FOR YOU TO
12 COME DOWNTOWN WITH US TO TALK TO SOME OF THE PEOPLE
13 WE WOULD LIKE TO, HAVE AN FORMAL INTERVIEW WITH YOU,
14 AND I SAID OKAY SO HE SAID WOULD YOU MIND GOING
15 BACK IN THE HOUSE AND GET YOUR SHOES AND YOUR SHIRT
16 ON AND I WENT IN AND I GOT A BLUE SHIRT, A BIG, AS A
17 MATTER OF FACT, IT WAS BIGGER THAN I WAS, BUT IT WAS
18 A BLUE SHIRT THAT MARY SUE GOT ME, AND I GOT MY BLACK
19 SHOES THAT THE VOC REHAB PURCHASED FOR ME AND THE
20 THINGS COST OVER \$400 AND I MIGHT ADD, I DIDN'T SEE
21 THEM IN THE PROPERTY I WAS JUST WONDERING WHERE
22 THEY GOT TO

23 Q SO THEY TOOK YOU DOWN TO THE POLICE STATION?

24 A YES, SIR

25 Q AND DID YOU GO BACK INTO THE DETECTIVE DIVISION

1 AT THAT POINT OR DID YOU SIT IN THE LOBBY FOR AWHILE
2 OR DID THEY HANDCUFF YOU OR ANYTHING LIKE THAT?

3 A NO, SIR I JUST GOT IN THE CAR WITH HIM, WE
4 RODE UP TO THE POLICE STATION I WAS IN THE POLICE
5 STATION FOR A SHORT TIME AND THEN I TALKED, THEY PUT
6 ME IN THIS LITTLE ROOM, I GUESS IT WAS ABOUT TEN BY
7 FIVE ROOM A LITTLE SMALL ROOM ALL THEY HAD WAS A
8 CHAIR AND A CARPET AND I SAT IN THAT ROOM FOR A FEW
9 MINUTES AND THEN OFFICER BURRIS COME AND GOT ME,
10 BROUGHT ME BACK

11 Q DETECTIVE BURRIS?

12 A DETECTIVE BURRIS COME BACK AND BROUGHT ME TO
13 THE, TO HIS OFFICE OR TO A OFFICE AND I SAT DOWN AND
14 HAD A TALK WITH HIM AND I TOLD HIM THE SAME THING I
15 DIDN'T KNOW, YOU KNOW, WHAT HAPPENED HE TOLD ME
16 THAT

17 Q YOU ARE NOT SUPPOSED TO SAY WHAT SOMEBODY ELSE
18 TOLD YOU BUT AS A RESULT OF THAT CONVERSATION

19 A OKAY

20 Q WHAT DID YOU DO?

21 A I LEARNED, I LEARNED THAT MY DAUGHTER WAS
22 POSSIBLY SEXUALLY ASSAULTED I DIDN'T KNOW THAT
23 THEY ASKED ME WOULD I GO DOWNTOWN

24 Q DOWNTOWN?

25 A I MEAN DOWN TO THE HOSPITAL TO THE

1 Q PIEDMONT?

2 A TO HAVE A DNA SAMPLE DONE AND I TOLD HIM YEAH,
3 SURE, I DON'T HAVE NO PROBLEM I DON'T HAVE NOTHING
4 TO HIDE I WILL DO WHATEVER YOU WANT ME TO DO
5 DIDN'T MAKE ME NO DIFFERENCE

6 Q WHAT DID THEY DO? WHAT DID THEY TAKE FROM YOU?

7 A THEY TOOK BLOOD THEY TOOK PUBIC HAIR THEY
8 TOOK HAIR FROM HERE AND HERE THEY TRIED TO GET SOME
9 HERE BUT YOU KNOW, THERE IS NONE THERE, AND ALSO THEY
10 TOOK HAIR FROM MY CHEST THEY TOOK A PIECE OF FOAM
11 AND THEY PUT IT IN MY MOUTH AND THEY TOLD ME TO BITE
12 DOWN ON IT HARD AND I BIT DOWN ON IT AND THEN THEY
13 TOOK A SWAB, WENT IN MY MOUTH AND GOT A SWABBING FROM
14 MY MOUTH AT THAT TIME I DO A LOT, I WATCH A LOT OF
15 COURT TV AND STUFF LIKE THAT, I WANTED TO LET THEM
16 KNOW THAT IF THEY FOUND ANY KIND OF SKIN OR ANYTHING
17 UNDER AMANDA'S FINGERNAILS IT WAS PROBABLY MINE
18 BECAUSE I HAD HER SCRATCH MY BACK THAT NIGHT WHILE
19 WE WERE SITTING ON THE COUCH MY BACK STARTED ITCHING
20 AND I ASKED HER WOULD SHE SCRATCH MY BACK AND I
21 RAISED MY SHIRT UP, SHE SCRATCHED MY BACK AND THAT
22 WAS THE END OF THAT, BUT I DIDN'T WANT TO TAKE NO
23 CHANCES I WANTED TO MAKE SURE THEY KNEW EVERYTHING,
24 THAT I WAS COOPERATING THE BEST I COULD, TELLING THEM
25 EVERYTHING I KNEW

1 Q AND DID DETECTIVE BURRIS TAKE YOU BACK TO THE
2 POLICE STATION?

3 A HE DID TAKE ME BACK TO THE POLICE STATION AND
4 THEN I WAS, I WAS -- MR BURRIS TOLD ME TO STEP
5 OUTSIDE INTO THE LOBBY AND I STEPPED OUTSIDE TO THE
6 LOBBY AND SAT DOWN AND MY PASTOR WAS OUT THERE ME
7 AND HIM HAD A LITTLE BIT OF TALK HE WAS ASKING ME
8 HOW I WAS FEELING, THINGS LIKE THAT, TRYING TO
9 CONSOLE ME, AND THEN AFTER THAT THEY CALLED ME BACK
10 IN AND I WAS TO TALK WITH LIEUTENANT HERRING

11 Q HOW LONG, THIS WAS ABOUT 12 I THINK THE
12 STATEMENT SAID 12 40?

13 A THAT'S CORRECT IT, I DON'T KNOW EXACTLY HOW
14 LONG IT LASTED IT LASTED ABOUT 45 MINUTES I GUESS
15 WE SIT AND TALK AND

16 Q AND THAT WAS YOU AND DETECTIVE BURRIS?

17 A YES, SIR

18 Q AND LES HERRING?

19 A THAT'S CORRECT, YES

20 Q OKAY

21 A YEAH IT WAS MORE OF ME AND LES HERRING, JUST
22 BURRIS WAS IN THE ROOM DESCRIBING WHAT I HAD ALREADY
23 TOLD HIM, AND THEN AFTER THAT THEY TOOK ME, THEY TOLD
24 ME TO GO BACK IN THE HALL AT NO TIME DID THEY SAY
25 YOU ARE FREE TO GO, YOU CAN LEAVE, THEY SAID WOULD

1 YOU PLEASE STEP OUT THERE, WE MAY HAVE FURTHER
2 QUESTIONS FOR YOU I STEPPED OUT INTO THE LOBBY AND
3 SAT THERE FOR MAYBE A COUPLE MINUTES AND MARY SUE
4 WALKED OUT AND SAT DOWN BESIDE OF ME

5 Q DID YOU KNOW, REALIZE THAT MAY SUE WAS THERE?

6 A I DID NOT EVEN KNOW MARY SUE WAS THERE THE
7 PASTOR DIDN'T GET A CHANCE, I-- HE COULD HAVE TOLD ME
8 IF HE KNEW BECAUSE I THINK HE BROUGHT HER, IS THE ONE
9 WHO BROUGHT HER UP THERE, BUT LET'S SEE SHE LAID
10 HER HEAD ON MY SHOULDER AND SHE WAS CRYING SHE SAYS
11 AND I SAID, I PUT MY ARM AROUND HER AND I HELD HER
12 AND THEN I WASN'T SURE WHETHER WE WERE, WE COULD
13 LEAVE OR NOT I THOUGHT MAYBE THAT ALL I HAD TO WAIT
14 ON WAS MARY SUE TO COME OUT, SO I WENT TO THE WINDOW
15 THERE AND I ASKED THAT LADY THAT WAS STANDING AT THE
16 WINDOW DID SHE MIND, YOU KNOW, TO FIND OUT IF WE
17 COULD LEAVE AND SHE SAID HOLD ON A MINUTE WELL, A
18 FEW MINUTES LATER WE WAS MET BY THIS AFRICAN AMERICAN
19 LADY SHE CAME AND GOT US AND BROUGHT US TO THE,
20 BROUGHT US BACK INSIDE AND SHE SAID UH, FOR THE LIFE
21 OF ME I CAN'T REMEMBER HER NAME, I'M THINKING ABOUT
22 ALL THE REPORTS AND ALL THAT HER NAME WAS ANNETTE
23 DYE SHE SAID I'M WITH DSS AND WE'RE GOING TO HAVE
24 TO TAKE YOUR CHILDREN FROM YOU AND SO MARY SUE
25 STARTED CRYING AND THEN A FEW MINUTES LATER THEY

002955

1 SAID, AFTER WE SIGNED THE PAPERS, THEY TALKED TO US
2 AND TOLD US THAT THERE WOULD BE A HEARING IN THREE
3 DAYS AND THEY EXPLAINED TO US THAT IT WAS ALL, YOU
4 KNOW, BECAUSE OF AMANDA'S DEATH AND THEY DIDN'T KNOW
5 WHAT WAS GOING ON AND THEY WOULD BE GETTING IN TOUCH
6 WITH US SOON AND THEY GAVE US THE LITTLE PIECE OF
7 PAPER THAT STATES YOU HAVE THE COURT APPOINTMENT AND
8 ALL THAT AND THEN THEY TOLD US TO GO ON BACK OUTSIDE
9 AS A MATTER OF FACT, THEY SAID GO BACK OUTSIDE, WE'LL
10 LET YOU KNOW IF YOU CAN GO, AND ME AND MARY SUE
11 WALKED BACK OUT AND SET IN THE LOBBY AND A FEW
12 MINUTES LATER JESSICA AND KYLA CAME WALKING BY THE --

13 Q DOWN THE HALL?

14 A WELL, IT WAS OUT, IT WAS LIKE THEY COME OUT

15 Q THE BACK?

16 A OF HERRING'S ROOM OR OUT THE BACK BACK THERE AND
17 THEY COME AROUND INTO, RIGHT BY US, AND AS THEY DID
18 THEY WERE TRYING TO GET TO US AND THE WOMAN JERKED
19 THEM AROUND AND JESSICA DID LIKE THIS RIGHT HERE AND
20 KYLA SAW HER AND PUT HER HAND UP WELL, THIS, WE
21 TAUGHT OUR CHILDREN SIGN LANGUAGE AND THIS IS I LOVE
22 YOU STANDS FOR I LOVE YOU AND ALL THREE OF THEM
23 TOGETHER IS I LOVE YOU AND WE TAUGHT THEM THAT AND
24 THEY BOTH DID THAT AND WE DID IT BACK TO THEM AND
25 THEN THEY WENT ON BACK OUT THE DOOR WELL, A COUPLE

1 MINUTES LATER OUT WALKS ONE OF THE POLICE OFFICERS
2 AND SAYS Y'ALL ARE FREE TO GO AND WE GOT INTO THE
3 CAR WITH THE PASTOR AND WE WENT TO THE HOUSE, WENT TO
4 MY MOM'S HOUSE

5 Q AND YOU STAYED AT YOUR MOM'S HOUSE?

6 A THE REST OF THE NIGHT WE DIDN'T, I LEFT FOR A
7 BRIEF MAYBE 15 MINUTE RIDE DOWN TO WALGREEN'S TO PICK
8 UP SOME XANAX, SOME MEDICATION I HAD CALLED THE
9 DOCTOR AND ASKED THE DOCTOR TO GIVE ME SOME AND MY
10 COUSIN DEBBIE ASKED ME WOULD SHE MIND IF I RODE WITH
11 HER AND SHE WOULD TAKE ME AND I TOLD HER I DON'T
12 MIND SO I WAS WITH HER, SHOWED HER WHERE IT WAS AT,
13 WE WENT INTO THE DRIVE THRU AND THEY HANDED ME THE
14 PRESCRIPTION AND SHE HANDED THEM THE MONEY THERE
15 WAS AN EXCHANGE AND WE LEFT AND WENT STRAIGHT BACK TO
16 THE HOUSE

17 Q DID YOU TAKE ONE OF THOSE?

18 A I TOOK ONE ABOUT, ABOUT 30 MINUTES LATER I
19 DIDN'T, I MEAN, I SAW WHAT IT DONE TO MY WIFE I
20 DON'T KNOW WHAT MY WIFE TOOK BUT WHATEVER SHE TOOK IT
21 KNOCKED HER OUT AND I DON'T, I DON'T LIKE TO BE
22 ASLEEP I DON'T LIKE TO STAY ASLEEP I MEAN I WANT,
23 THE FAMILY WAS THERE, AND I WAS TRYING TO STAY WITH
24 THE FAMILY TRYING, YOU KNOW, TO CONSOLE THE FAMILY,
25 BE THE FAMILY, I MEAN SO I DIDN'T IMMEDIATELY TAKE

1 ONE I WAITED UNTIL ABOUT, I GUESS ABOUT 9-9 30 THAT
2 I TOOK IT AND I LAID DOWN ON THE COUCH AND I WAS JUST
3 ABOUT TO GO TO SLEEP WHEN MY MOM SHAKES ME AND SHE
4 SAYS, SON, THE POLICE ARE OUT THERE AND I GOT UP,
5 WALKED TO THE DOOR, AND HE SAID AND IT WAS OFFICER
6 HERRING AND I MEAN LIEUTENANT HERRING AND LIEUTENANT
7 WALDROP AND THEY SAID MR COPE COULD YOU PLEASE STEP
8 OUTSIDE WITH US FOR A FEW MINUTES AND I STEPPED
9 OUTSIDE DOWN PAST THE STEPS OUT OF, I GUESS HEARING
10 DISTANCE FROM EVERYBODY BECAUSE THERE WAS PEOPLE
11 STILL SITTING ON MY PORCH, ON MY MOM'S PORCH, AND I
12 SAID YES, SIR HE SAID WE'VE LEARNED A FEW MORE
13 THINGS ABOUT YOUR DAUGHTER, WE'D LIKE FOR YOU TO COME
14 DOWNTOWN WITH US, AND WE'LL TELL YOU ALL ABOUT IT
15 AT THAT TIME I SAID AM I COMING BACK AND THE REASON
16 I SAID THAT WAS BECAUSE I NEEDED TO KNOW IF THEY WERE
17 BRINGING ME BACK OR IF I WAS GOING TO HAVE TO HAVE
18 SOMEBODY ELSE COME GET ME OR WHETHER I WAS GOING TO
19 BE THERE FOR AWHILE I DIDN'T KNOW BUT SO HE SAID,
20 HE SAID WELL WE'LL DISCUSS THAT WHEN WE GET TO THE
21 STATION AND I SAID OKAY AND WE GOT INTO THE CAR
22 AND STARTED ON THE WAY WELL, THE INTERROGATION OR
23 THE INTERVIEW STARTED IN THE CAR THEY WAS ASKING ME
24 QUESTIONS ABOUT THE BLANKET THEY WERE ASKING ME
25 QUESTIONS THAT ABOUT---THEY ASKED, OH YEAH THEY

1 ASKED ME ABOUT WAS I SURE, TALKING ABOUT THE DOORS
2 BEING LOCKED AND ALL THAT, THEY WERE SAYING, YOU KNOW
3 BECAUSE EVEN IN MY INTERVIEW I MENTIONED TO THEM THAT
4 I HAD CHECKED I CHECKED THE DOORS I DID I WENT
5 TO THE BACK DOOR IT APPEARED TO BE LOCKED I WENT,
6 AND THE FRONT DOOR WAS LOCKED I MEAN THIS WAS
7 WHENEVER I COME IN THERE, I HAD TO UNLOCK THE DOOR TO
8 OPEN THE DOOR FOR THE POLICE OFFICERS, I MEAN FOR THE
9 FIRE DEPARTMENT TO COME IN, AND THE POLICE OFFICER
10 ASKED ME A QUESTION AND I THOUGHT ABOUT THE NIGHT
11 THAT MY DOOR WAS UNLOCKED AND I WENT TO, WENT TO THE
12 OR TO THE DINING ROOM AND LOOKED INTO THE KITCHEN AND
13 SEEN THAT THE DOOR WAS SHUT AND THE BLIND WAS THAT
14 WAY SO I COULD SEE THE DOOR WAS LOCKED AND ALL I
15 SAID THE DOOR IS LOCKED AND THEN HE SAID, I SAID, I
16 EXPLAINED TO HIM THAT WE HAD, THAT MY DOOR WAS OPENED
17 THAT WEEK, THE FOLLOWING WEEKEND

18 Q THE PREVIOUS WEEKEND?

19 A YEAH

20 Q BUT YOU TOLD HIM THAT NIGHT THAT YOU THOUGHT
21 YOUR DOORS WERE LOCKED?

22 A I DID I DID TELL THEM THAT BECAUSE I REALLY
23 THOUGHT THAT, BUT IN THE POLICE CAR ON THE WAY OVER
24 THERE, THEY WERE ASKING ME QUESTIONS ABOUT THAT

25 Q AFTER YOU GOT TO THE POLICE STATION THEN

002959

1 MR WALDROP AND MR HERRING, LIEUTENANT HERRING
2 STARTED ASKING YOU QUESTIONS, RIGHT?

3 A THAT'S CORRECT

4 Q AND THEY --

5 A WELL, ACTUALLY IT STARTED, THEM TWO WERE
6 STANDING IN THE OFFICE THEY HAD BROUGHT ME IN, THEY
7 PUT IN THAT SAME LITTLE ROOM AND THEY WENT INTO THE
8 OFFICE AND MUST HAVE DONE SOME TALKING, THEN OFFICER
9 I MEAN LIEUTENANT WALDROP CAME AND GOT ME AND BROUGHT
10 ME BACK IN THE ROOM AND WHILE THEY WERE SITTING THERE
11 WALDROP AND HERRING STARTED TALKING ABOUT WHETHER
12 THEY WERE TO TAPE THIS OR NOT AND OFFICER, I MEAN,
13 LIEUTENANT WALDROP SAID I THINK WE OUGHT TO TAPE
14 THIS, YOU KNOW HE SAID I GOT A TAPE RECORDER IN MY
15 OFFICE I THINK WE OUGHT TO TAPE THIS I SAID IT
16 DON'T MATTER TO ME I SAID YOU KNOW DO WHAT YOU
17 WANT HE SAID YOU DON'T MIND IF WE TAPE I SAID NO
18 I DON'T MIND YOU GO AHEAD AND HE WENT AND CAME
19 BACK WITH SOME TAPES AND CAME BACK WITH THE TAPE
20 PLAYER, SET IT UP, AND STARTED IT UP AND THE
21 INTERVIEW WAS EXACTLY WHAT YOU HEARD

22 Q THEY --

23 THE COURT EXCUSE ME MR IVEY, YOU ARE
24 CLICK SOMETHING OVER THERE

25 MR IVEY OH, I'M SORRY

002960

1 THE COURT GO AHEAD

2 Q AND THEY INTERVIEWED YOU FOR SEVERAL HOURS,
3 CORRECT? I'M NOT TRYING TO LEAD HOW LONG DID THEY
4 INTERVIEW YOU?

5 A IT WAS OVER THREE HOURS I KNOW THAT IT WAS
6 MORE, ALMOST FOUR HOURS I THINK SOMEWHERE TOWARD
7 THE END WALDROP SAID SOMETHING ABOUT IT WAS ALL
8 ALMOST FOUR HOURS

9 Q OKAY AND DURING THAT INTERVIEW, AND WE HAVE A
10 TAPE RECORDING OF IT, THEY BASICALLY ASKED YOU WHAT
11 YOU HAD HEARD AND WHEN YOU HAD BEEN UP AND SO FORTH?

12 A THAT'S CORRECT

13 Q AND YOU TOLD THEM WHAT WE HAVE HEARD ON THAT
14 TAPE?

15 A ABSOLUTELY

16 Q OKAY ON THAT TAPE OFFICER HERRING, OFFICER
17 WALDROP I BELIEVE ASKED YOU SEVERAL TIMES ABOUT THE
18 HOUSE BEING SECURE AND THAT THERE BEING NO SIGNS OF
19 ANY FORCED ENTRY, DO YOU REMEMBER THAT?

20 A RIGHT AND I AGREED WITH HIM BECAUSE I WAS
21 THINKING I ABOUT THE DOORS I KNEW THE DOORS WAS
22 LOCKED AND I AGREED WITH HIM ON THAT POINT BECAUSE I
23 REALLY THOUGHT THE DOORS, THE HOUSE WAS SECURED I
24 THOUGHT IT WAS AN ACCIDENT I DIDN'T KNOW THAT
25 SOMEBODY HAD BEEN IN MY HOME I DIDN'T KNOW THAT

1 SOMETHING HAD DONE HAPPENED TO MY DAUGHTER IN A, IN
2 THE WAY THAT THEY TOLD ME THEY TOLD ME, EVERYTHING
3 THEY TOLD ME WAS, WAS, WELL, YOU HEARD IT IN THE
4 TAPE IT WAS THERE PIECE BY PIECE THEY GIVE THESE
5 THINGS TO ME, AND I STARTED TO FORMULATE THOUGHTS
6 WELL THIS PERSON, WHOEVER COULD HAVE DONE THIS WAS, I
7 MEAN, I DIDN'T DO IT I KNEW THAT I KNEW FOR A
8 FACT I DID NOT DO IT I KNEW FOR A FACT THAT I WAS
9 IN THE BED ASLEEP JUST LIKE I SAID WITH THE MACHINE
10 ON I WOKE UP AT THREE O'CLOCK, WENT TO THE
11 BATHROOM, DONE EXACTLY WHAT I SAID, EVERYTHING I TOLD
12 YOU THIS MORNING IS THE TRUTH, EVERYTHING, AND THEN
13 THEY START, YOU KNOW, THEN I STARTED TO FORMULATE
14 THIS THOUGHT IN MY HEAD ABOUT WHO, WHO COULD HAVE
15 DONE WHAT? I DIDN'T KNOW I WAS GIVEN, DO YOU KNOW,
16 MR COPE, THAT YOUR DAUGHTER WAS SEXUALLY ASSAULTED
17 DID YOU KNOW, MR COPE, THAT YOUR DAUGHTER, WHAT --
18 WOULD YOU BE SURPRISED IF I TOLD YOU THAT YOUR
19 DAUGHTER WAS BRUTALLY BEATEN I DIDN'T KNOW THOSE
20 THINGS I WAS STILL IN SHOCK JUST FROM THIS MORNING
21 WAKING UP AND FINDING HER I DIDN'T, I MEAN THEY
22 SAID THEY WERE GOING COME DOWN AND TALK TO ME ABOUT
23 WHAT HAPPENED TO HER THEY DIDN'T SAY THEY WERE
24 GOING TO COME DOWN AND START ACCUSING ME I DIDN'T
25 KNOW WHAT HAD HAPPENED I COULD HAVE, IT DOESN'T

002962

1 MAKE SENSE TO ME BECAUSE THAT'S NOT WHAT I SAW AND
2 THEN I SAW, THEY KEPT TELLING ME, WELL MR COPE, WE
3 HAVE ONE REPORT HERE THAT SAYS YOU DIDN'T TAKE THAT
4 GREEN THING OFF I DID TAKE THAT GREEN THING OFF
5 THEY SAID WE GOT PICTURES THAT PROVE THAT THAT GREEN
6 THING WAS NEVER REMOVED FROM HER NECK I KNEW BETTER
7 THAN THAT I TOOK IT OFF I SAW IT LAYING ON THE
8 FLOOR I SAW THE REST OF IT LAYING ON THE BED I
9 SHOWED IT TO THE POLICE OFFICER I POINTED TO IT I
10 SAID THAT WAS ON HER NECK I KNEW IT WAS OFF AND I
11 COULDN'T UNDERSTAND WHY THEY KEPT ON AND KEPT ON AND
12 KEPT ON AND KEPT ON AND I KEPT ON DEFENDING MYSELF
13 CONSTANTLY AND FINALLY TOWARD THE END OF IT, I
14 MEAN, ALL THROUGH IT ACTUALLY I KEPT SAYING, LOOK,
15 FINE, LET'S TAKE A POLYGRAPH TEST Y'ALL DID SOME
16 TESTS ON ME THEY ARE GOING TO COME BACK NEGATIVE
17 AGAINST ME I DIDN'T DO NOTHING, NO

18 Q IN FACT, ONE TIME THEY ASKED YOU, MR COPE, IF
19 THE TEST RESULTS FROM THE HOSPITAL COME BACK AND SHOW
20 THAT YOUR SEMEN WAS ON AMANDA'S BODY WHAT WOULD YOUR
21 RESPONSE BE?

22 A MY RESPONSE WAS IT WON'T IT WILL NOT THERE
23 IS NO WAY IT CAN I DIDN'T DO NOTHING AND THAT,
24 THAT BOTHERED ME I MEAN, I DIDN'T DO NOTHING TO MY
25 DAUGHTER I LOVED HER SHE WAS MY DAUGHTER SHE

002963

1 WAS MY FIRST BORN I LOVED MY DAUGHTER I LOVED ALL
2 MY DAUGHTERS I LOVE THE TWO WE LOST I DIDN'T DO
3 NOTHING I DIDN'T DO NOTHING I DIDN'T DO NOTHING
4 AND TO BE TAKEN THROUGH THAT IT BOTHERED ME, IT
5 BOTHERED ME BAD AND IT JUST KEPT ON BUT THAT
6 WASN'T ALL I MEAN, IT WAS, AT THE END OF IT THEY
7 SAID WELL

8 Q WHAT ABOUT THE POLYGRAPH? DO THEY ASK YOU ABOUT
9 WHO ELSE COULD HAVE DONE IT AND ALL?

10 A SEVERAL TIMES THEY ASKED ME WHO ELSE COULD HAVE
11 DONE IT IF YOU DIDN'T DO IT, I MEAN, THEY JUST
12 WANT, THEY WANTED TO KNOW WHO DID IT AND I WANTED TO
13 HELP THEM BUT I DIDN'T KNOW I REALLY DIDN'T KNOW
14 THEY ASKED ME I MENTIONED MY NEIGHBORS ME AND
15 AMANDA WENT TO THE STORE ABOUT, IT MIGHT HAVE BEEN A
16 WEEK, I CAN'T SAY FOR SURE IT'S BEEN THREE YEARS
17 SINCE THIS HAPPENED, BUT ABOUT A WEEK OR SO BEFORE
18 THAT RANDY CROWDER MY NEXT DOOR NEIGHBOR WAS IN THE
19 STORE I DIDN'T KNOW HIS NAME AT THE TIME BUT HE WAS
20 IN THE STORE AT THE TIME AND HE HAD A CASE OF BEER
21 I DIDN'T WANT TO NOT OFFER HIM A RIDE, IT WAS POURING
22 DOWN RAIN, BUT I FELT UNEASY SO I ASKED AMANDA WILL
23 SHE SIT IN THE BACK SEAT AND LET HIM SIT IN THE FRONT
24 SEAT AND SHE SAID SHE WOULD AND SHE DIDN'T SIT
25 RIGHT BACK IN BEHIND HIM SHE WENT ALL THE WAY TO

002964

1 THE BACK OF THE VAN AND SIT AT THE VERY BACK AND THEN
2 HE --

3 Q YOU GAVE HIM A RIDE HOME FROM THE STORE?

4 A GAVE HIM A RIDE HOME FROM THE STORE

5 Q AND YOU TOLD THE POLICE THAT

6 A AND MARY SUE SAID THAT WAS FINE HE TALKS TO
7 MARY SUE, HE TALKS TO AMANDA AND ME ALL THE TIME I
8 MEAN HE'S A NEIGHBOR HE'LL COME TO THE FENCE AND
9 SAY HEY, HOW IS EVERYTHING GOING I WASN'T CONCERNED
10 ABOUT THAT BUT THEN WHEN THAT HAPPENED I WASN'T
11 SURE I SAID, WELL, DID YOU CHECK MY NEIGHBOR OUT
12 I MEAN YOU KNOW, I HEARD THAT THEY TALK ALL THE
13 TIME I DIDN'T KNOW AND I WAS SERIOUS BUT I KEPT
14 ON INSINUATING, I MEAN, INSISTING AND INSISTING AND
15 INSISTING ON THE POLYGRAPH TEST, AND FINALLY HE SAID
16 WE'LL DO IT

17 Q WHY WERE YOU INSISTING ON THE POLYGRAPH TEST?

18 A BECAUSE I TRUSTED THEM BUT ONLY THEM, I
19 TRUSTED GOD I KNEW THAT GOD WOULD GET ME OUT I
20 KNEW THAT I DIDN'T DO NOTHING WRONG I DIDN'T

21 Q SO YOU KEPT INSISTING ON A POLYGRAPH?

22 A I INSISTED ON A POLYGRAPH BECAUSE I KNEW THAT'S
23 GOT TO PROVE, THAT'S THE NEXT BEST THING, IT'S GOING
24 TO TELL THE TRUTH I TRUSTED THEM I HAVE HAD TWO
25 OR THREE BEFORE AND IT DIDN'T BOTHER ME NONE I SAID

002965

1 YEAH, LET'S DO IT LET'S DO IT I'M TIRED OF
2 WAITING I AM TIRED OF SITTING HERE I NEED TO GET
3 BACK TO MY FAMILY NO, THEY, INSTEAD THEY GO BACK IN
4 THE BACK AND THEY ARE GOING TO A FEW MINUTES, THEY
5 LEAVE ME SITTING THERE I DIDN'T KNOW THAT THAT DOOR
6 LEAD OUT, OUT THAT DOOR, LEAD RIGHT OUT OF THE
7 BUILDING, BUT I DON'T HAVE NO WAY TO GET HOME IF I
8 STARTED WALKING THEY WASN'T GOING TO LET ME GO

9 Q WERE YOU GOING TO DO THAT?

10 A NO I DIDN'T KNOW THAT WAS A DOOR BUT I
11 WOULDN'T HAVE DONE IT THAT I WANTED TO HELP THEM
12 I WANTED TO FIND OUT WHAT HAPPENED TO MY DAUGHTER

13 Q AT ONE POINT ON THAT TAPE THEY SAID, MR COPE,
14 WE HAVE A PROBLEM WE HAVE A SERIOUS PROBLEM DO
15 YOU REMEMBER WHAT YOUR RESPONSE WAS?

16 A MY RESPONSE WAS YES, SIR, WE DO YOU NEED TO
17 FIND OUT WHO DONE THIS TO MY DAUGHTER I SAID THAT
18 SEVERAL TIMES IF I CAN REMEMBER I INSISTED

19 Q AFTER, I DON'T KNOW WHAT TIME IT WAS, 2 30 OR 3
20 O'CLOCK IN THE MORNING, WHAT HAPPENED THEN?

21 A WELL, I GUESS, I CAN'T SAY EXACTLY WHAT TIME IT
22 WAS I KNOW IT WAS, IT WAS AFTER THREE THEY SAID
23 MR COPE, WE'RE GOING TO PUT YOU IN A CELL WE'RE
24 GOING TO KEEP YOU HERE OVERNIGHT THE POLYGRAPH
25 EXAMINER SAID IT WOULD BE BEST IF YOU COME UP THERE

002966

1 TOMORROW, THAT HE'S IN THE BED ASLEEP, AND I SAID,
2 OKAY AND HE SAID WE JUST GOING TO KEEP YOU HERE
3 OVERNIGHT WE'RE GOING TO SEE THAT THIS WILL COME
4 BACK NEGATIVE I WAS LAYING THERE AND I WENT BACK TO
5 THE CELL I SAID WELL DO YOU MIND IF I GET A BIBLE
6 BECAUSE I READ THE BIBLE I'VE BEEN READING THE BIBLE
7 FOR A LONG TIME AND I READ THE BIBLE THAT'S THE WAY
8 I GET MY COMFORT AND I SAID AND I SAID WOULD YOU MIND
9 IF I GET A BIBLE AND THEY BROUGHT ME A NEW TESTAMENT
10 IN THERE A LITTLE, IT'S I THINK IT SAYS SOMETHING
11 ABOUT THE HEART ASSOCIATION ON THE FRONT OF IT AND I
12 TOOK IT AND I OPENED IT UP AND I SAT ON THE BED AND
13 READ THEN I LAID BACK AND STARTED READING THE BIBLE
14 AND THEN OFFICER HERRING, I MEAN, LIEUTENANT HERRING
15 CAME TO THE DOOR HE WAS ALONE WHEN HE CAME TO THE
16 DOOR AND HE SAID, HERE YOU GO, MR COPE AND I WENT
17 WHAT'S THAT LOOKING, I DIDN'T GET UP AND GO OVER
18 AND LOOK AT THE PIECE OF PAPER HE JUST SAID IT'S A
19 WARRANT I SAID A WARRANT HE SAID YES, SIR FOR
20 YOUR ARREST HE SAID BUT -- I SAID I'M INNOCENT I
21 DIDN'T DO NOTHING WRONG AND HE SAID I KNOW THAT AND
22 HE SAID BUT WE HAVE TO GIVE YOU THIS IN ORDER TO HOLD
23 YOU AND I SAID, HE SAID, IF WE GO UP THERE AND HAVE
24 THE POLYGRAPH TEST AND IT COME BACK NEGATIVE, FINE,
25 WE'LL LET YOU GO, BUT I GOT TO DO THIS TO KEEP YOU

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1 HERE AND I SAID FINE THEN AND I LEFT IT LAYING
2 THERE ON THE TABLE AS A MATTER OF FACT A COUPLE
3 HOURS LATER WHEN I GOT UP AND EAT BREAKFAST IT WAS
4 STILL LAYING THERE I HAD TO MOVE IT IN ORDER TO GET
5 MY TRAY
6 Q HOW MUCH SLEEP DID YOU GET THAT NIGHT?
7 A ABOUT TWO, I GOT ABOUT, I LAID DOWN ABOUT
8 FIVE -- WELL, ACTUALLY THAT WARRANT CAME IN SOMEWHERE
9 AROUND FOUR O'CLOCK, THAT'S WHAT I WAS SAYING, IT'S
10 LIKE 30 MINUTES AFTER THAT I CLOSED THE BIBLE AND
11 LAID IT ASIDE AND I WENT TO SLEEP AND I SLEPT UNTIL
12 ABOUT 6 30 WHENEVER THEY WERE FIXING TO SERVE
13 BREAKFAST BETWEEN 6 30 AND 7 O'CLOCK SOMEBODY
14 RAPPED ON MY DOOR AND I ROLLED AROUND SAID AND I SAID
15 WHAT SHE SAID IT'S TIME TO GET UP AND EAT BREAKFAST
16 AND IT WAS A WOMAN AND SHE HANDED ME THE TRAY AND I
17 SAT DOWN AND I ATE THE BREAKFAST AND I SET IT BACK
18 AND I LAID DOWN AND TRIED TO GO BACK TO SLEEP ABOUT
19 9 15 - 9 30 THERE WAS ANOTHER RAP AT THE DOOR AND IT
20 WAS MISTER, IT WAS LIEUTENANT HERRING HE SAID
21 MR COPE, I'D LIKE FOR TO YOU TO GO AHEAD AND LET US
22 GO WE'RE GOING TO GO OVER AND TAKE CARE OF THIS
23 POLYGRAPH AND I SAID OKAY SO WE GOT UP I MEAN, I
24 GOT UP, AND I WAS STILL IN MY SAME CLOTHES I WAS
25 STILL IN MY SAME CLOTHES WHEN I WENT IN THAT MAN'S

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1 OFFICE

2 Q SO LIEUTENANT HERRING GAVE YOU A RIDE?

3 A THAT'S CORRECT

4 Q AND HOW DID YOU RIDE OVER THERE?

5 A WELL, I THOUGHT HE WAS GOING TO AT LEAST PUT
6 HANDCUFFS ON ME I MEAN HE SAID WARRANT FOR MY
7 ARREST AND I THOUGHT HE WAS GOING TO PUT HANDCUFFS ON
8 ME SO I HELD MY HANDS OUT HE SAID I'M NOT GOING TO
9 PUT HANDCUFFS ON YOU YOU ARE GOING TO SIT IN THE
10 FRONT SEAT WITH ME I SAT IN THE FRONT SEAT WITH HIM
11 ALL THE WAY THERE AND ALL THE WAY BACK ONLY ON THE
12 WAY BACK I HAD HANDCUFFS ON THAT'S THE ONLY
13 DIFFERENCE

14 Q AND AFTER YOU GOT TO THE, TO HERE?

15 A WHEN I GOT HERE

16 Q AT THE SHERIFF'S DEPARTMENT?

17 A YES, SIR

18 Q WHERE DID HE TAKE YOU?

19 A I WAS FIRST INTRODUCED TO MR BAKER MR BAKER
20 WAS, HE MET US AT THE FRONT OF THE SHERIFF'S
21 DEPARTMENT INSIDE AT THE FRONT OF THE SHERIFF'S
22 DEPARTMENT AND MISTER AND LIEUTENANT HERRING
23 INTRODUCED ME AND I SHOOK HIS HAND AND THEN HE
24 TURNED, TOOK ME OFF TO THE SIDE THERE, AND PUT ME IN
25 A LITTLE HOLDING CELL, LOCKED THE DOOR, AND I SAT

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1 THERE AS A MATTER OF FACT, I WANTED TO GO TO SLEEP
2 I ACTUALLY EVEN LAID DOWN AND TRIED TO GO TO SLEEP
3 AND I MAY HAVE WENT TO SLEEP THEN A FEW MINUTES
4 LATER THEY, I GUESS ABOUT BETWEEN 15-20 MINUTES THEY
5 CAME BACK AND GOT ME MR HERRING WENT AND SAT
6 SOMEWHERE ELSE AND MR BAKER TOOK ME INTO THIS OTHER
7 ROOM THIS ROOM WAS A LITTLE SMALL ROOM I GUESS,
8 IT WASN'T REAL BIG, IT HAD A DESK, IT HAD A COMPUTER,
9 IT HAD A CHAIR, A SPECIAL CHAIR WHICH I RECOGNIZE AS
10 A POLYGRAPH CHAIR, AND THERE WAS THREE OTHER, THERE
11 WAS THREE OTHER CHAIRS THE ONE BEHIND THE DESK THAT
12 MR BAKER SAT IN THEN THERE WAS TWO CHAIRS, ONE
13 SITTING LIKE RIGHT HERE, THEN THERE WAS ONE RIGHT IN
14 BEHIND, AND THAT'S WHERE MR HERRING ACTUALLY STARTED
15 SITTING AFTER AWHILE, BUT I SAT IN THE CHAIR AND WE
16 TALKED HE ASKED ME LITTLE QUESTIONS ABOUT MY, ABOUT
17 MY HABITS, YOU KNOW, EATING HABITS DID I EAT
18 BREAKFAST THIS MORNING DO I SLEEP WHAT KIND OF
19 MEDICATION AM I ON I EXPLAINED TO HIM THAT I HAVE
20 HIGH BLOOD PRESSURE I WAS ON LOWTENSON HTCZ AND
21 HE SAID OKAY WE TALKED ABOUT CPAP MACHINE HE
22 EXPLAINED TO ME THAT HE HAD ONE, THAT HE TOO WAS ON,
23 HAD SLEEP APNEA, AND THEN AFTER THAT, WE STARTED TO
24 TALK ABOUT THAT NIGHT IN PARTICULAR WELL, HE TALKED
25 A LITTLE BIT ABOUT THE FAMILY, TRYING TO GET SOME,

1 GET SOME IDEA ABOUT THE FAMILY, THEN HE STARTED
2 TALKING ABOUT THAT NIGHT IN PARTICULAR, AND I TOLD
3 HIM BASICALLY THE SAME STORY I WENT IN, I FOUND
4 AMANDA, AND THAT'S THE TRUTH I CAN'T SAY IT NO
5 OTHER WAY IT'S THE TRUTH I MAY HAVE ADDED TO IT
6 BECAUSE IT'S SOME THINGS I FORGET ABOUT AT THREE
7 O'CLOCK IN THE MORNING I DIDN'T THINK ABOUT THE FACT
8 THAT I WENT TO THE COMPUTER I WASN'T AT THE
9 COMPUTER MAYBE TEN MINUTES I TRIED TO PLAY THE
10 GAME, COULDN'T, I SHUT IT OFF I DIDN'T REALLY
11 ACTUALLY, I -- WE DON'T SHUT MY COMPUTER OFF I SHUT
12 IT OFF OF THE GAME, LEAVE THE COMPUTER ON MY
13 COMPUTER STAYS ON 24 HOURS A DAY BECAUSE I GOT
14 MAINTENANCE PROGRAMS RUNNING ON IT ALL THE TIME

15 Q SO DID MR BAKER TALK TO YOU ABOUT WHAT HAD
16 HAPPENED TO AMANDA?

17 A THAT'S CORRECT

18 Q WHAT DID HE TELL YOU?

19 A WELL, WE TALKED AND THEN WE TALKED ABOUT THE,
20 THAT NIGHT IN GENERAL I TOLD HIM ALL ABOUT THEN
21 HE SAID OKAY THEN HE ASKED ME A QUESTION AND I
22 LIED I LIED ON THIS ONE QUESTION BECAUSE IN MY OWN
23 EYES I DIDN'T LIE BECAUSE IT WASN'T MINE, BUT HE
24 ASKED ME ABOUT CERTAIN SEX TOYS IN THE HOUSE

25 Q ABOUT THE DILDO?

1 A THAT'S CORRECT HE JUST ASKED ME DO Y'ALL HAVE
2 SEX TOYS IN THE HOUSE I SAID NO, SIR MY, YOU
3 KNOW, I DIDN'T SAY MY WIFE DOES BUT THAT'S WHAT I WAS
4 THINKING MY WIFE DOES, BUT I'M NOT GOING TO GET IN
5 THERE BECAUSE THAT'S NONE OF MY BUSINESS THAT'S
6 HERS SO I LEFT THAT ALONE AND I SAID NO, SIR, I
7 DON'T AND I DON'T HE SAID, HE SAID, OKAY AND HE
8 PUT THAT DOWN AND HE IS TAKING LITTLE NOTES ON PIECE
9 OF PAPER ON, I GUESS, ON NOT JUST A PIECE OF PAPER,
10 BUT SEVERAL PIECES OF PAPER AND THEN AFTER THAT HE
11 SAID, HE STARTED TO EXPLAINING TO ME ABOUT THE
12 POLYGRAPH MACHINE WELL, I'VE TAKEN A POLYGRAPH
13 SEVERAL TIMES, SO I KNEW ABOUT THE POLYGRAPH MACHINE,
14 HE WAS EXPLAINING TO ME ABOUT THE FLIGHT OR FLEE OR
15 SOME PEOPLE SAY, I MEAN, FIGHT OR FLEE OR IN SOME
16 CASES, LIKE IN THE CASE IN SCHOOL, WE TALKED ABOUT,
17 THE FLIGHT OR FIGHT WHICH IS THE EXACT SAME PROCESS,
18 YOUR BODY TENSES UP, DOES CERTAIN THINGS BECAUSE YOU
19 DON'T KNOW WHETHER TO EITHER FIGHT OR TO RUN AND
20 YOUR BODY WORKS, THE POLYGRAPH WORKS ON THE SAME
21 PRINCIPLES AND THAT'S WHAT HE WAS EXPLAINING TO ME
22 WELL, I ALREADY KNEW IT I WAS WANTING TO GO AHEAD
23 AND GET THIS POLYGRAPH DONE SO WE TALKED I WAS A
24 LITTLE ANXIOUS ABOUT IT BUT, THEN HE SAID OKAY, NOW
25 I'M GOING TO HOOK YOU UP TO THE POLYGRAPH, SO HE TOOK

1 ME OVER, SET ME UP, HOOKED ME UP TOLD ME TO SIT
2 DEAD STILL AND HE SAID TO, YOU KNOW, KEEP MY HANDS, I
3 HAD TO KEEP MY HANDS LIKE THIS HE PUT THINGS ON MY
4 HANDS HE PUT TWO CHAINS AND THEY HOOK, ONE HOOKS
5 HERE AND ONE HOOK HAS GOT THIS, IT'S LIKE A TUBE THAT
6 AND I GUESS IT MEASURES, I DON'T KNOW EXACTLY HOW
7 THEY WORK, I JUST KNOW THAT IT MEASURES THE BREATHING
8 AND THEN WHAT, AFTER HE GOT ME SITUATED, I WAS
9 SITTING UP ON THE POLYGRAPH MACHINE LIKE THIS I GOT
10 COMFORTABLE AND HE SAID I'M GOING TO GO THROUGH THE
11 QUESTIONS WITH YOU FIRST BEFORE WE TURN THIS MACHINE
12 ON AFTER THAT I'M GOING TO ASK YOU THE QUESTIONS
13 AND I'M GOING TO ASK YOU A SERIES OF FIVE TIMES I
14 SAID OKAY I WAS, I WAS SITTING IN THE CHAIR HE
15 SAID JUST, YOU CAN BE COMFORTABLE FOR JUST A FEW
16 MINUTES AND THEN HE STARTED ASKING ME THE QUESTIONS
17 ONE AT A TIME AND THEN, AND I DON'T REMEMBER ALL
18 THE QUESTIONS I KNOW THERE WAS SOME CONTROL
19 QUESTIONS THAT I'VE HEARD ABOUT, AND OTHER QUESTIONS
20 AND I KNOW THOSE ARE THE QUESTIONS THAT WERE ASKED
21 AND THEN AFTER THAT HE SAID NOW WE'RE GOING TO START
22 THE TEST AS I SIT THERE AND GOT COMFORTABLE, AFTER
23 ABOUT THE SECOND TIME I STARTED GETTING DROWSY,
24 REALLY DROWSY I TOLD HIM, I EVEN EXPLAINED TO HIM,
25 LOOK, I DIDN'T GET MUCH SLEEP, I'M TIRED, AND I WAS

1 STARTING TO DOZE HE SAID THAT'S OKAY YOU KNOW,
2 WE'RE JUST, YOU KNOW, IT WON'T TAKE THAT MUCH TIME,
3 JUST KEEP ON, YOU KNOW, AND I SAT THERE, JUST, JUST
4 AND I WOULD, WELL, TOWARD THE END OF THE THIRD TIME I
5 ACTUALLY DOZED OFF AND WHAT GOT MY ATTENTION
6 WAS--LITTLE DEMONSTRATION, HE, ONE OF TWO THINGS, I
7 DON'T KNOW WHETHER HE WAS ACTUALLY WITH HIS PAPERS OR
8 WITH HIS HANDS, BUT HE (CLAPS HANDS) WE KNOW THE
9 TRUTH, DON'T WE (STANDS UP) THAT GOT MY
10 ATTENTION

11 Q LET ME ASK YOU THIS BEFORE THAT MR BAKER
12 ASKED YOU IF YOU FELT ALL RIGHT TO TAKE THE TEST?

13 A YEAH, I WAS EAGER TO TAKE THE TEST I WANTED TO
14 GET THE TEST DONE BECAUSE IT WOULD PROVE MY INNOCENCE
15 AND I KNEW THAT I KNEW IT WOULD PROVE MY INNOCENCE
16 BECAUSE I DIDN'T DO NOTHING TO AMANDA I DIDN'T DO
17 NOTHING TO HER EXCEPT WHAT I'VE TOLD YOU SHE KISSED
18 ME ON THE SIDE OF THE FACE I DIDN'T DO ANYTHING TO
19 HER

20 Q SO AFTER YOU WENT THROUGH THE TEST A LITTLE BIT
21 MR BAKER SAID?

22 A HE SLAMMED HIS, EITHER HIS HANDS OR HE THREWED
23 SOME BOOKS DOWN HE COULD HAVE ACTUALLY LEFT THE
24 ROOM AND CAME BACK AND THREWED THE BOOK, THREWED THE
25 BOOKS DOWN AND SAID THAT AND GOT MY ATTENTION BECAUSE

1 I DOZED OFF OR HE COULD HAVE SLAMMED HIS HANDS
2 DOWN I DON'T KNOW I JUST KNOW THAT WHENEVER I
3 TURNED AROUND HE WAS STANDING AND HE HAD MADE A LOUD
4 NOISE I THOUGHT IT WAS HIS HANDS AND HE SAID, I
5 SAID, OH WE'RE THROUGH HE SAID I DIDN'T NEED TO GO
6 ALL THE WAY THROUGH IT HE SAID I MADE IT THROUGH,
7 WE WENT THROUGH THREE ROUNDS, BUT THERE IS NO SENSE
8 IN GOING NO FURTHER, WE KNOW THE TRUTH I SAID WHAT
9 HE SAID BOTH OF US, WE KNOW THE TRUTH, DON'T WE
10 DON'T WE AND I SAID UH, WHAT I PASSED AND HE SAID
11 NO HE SAID BUT WE'LL TALK ABOUT THAT IN A MINUTE
12 HE WALKED OVER AND TOOK MY HANDS, TOOK THE THING, HE
13 WASN'T REALLY, YOU KNOW, I MEAN, HE WASN'T REALLY
14 MEAN OR ROUGH, HE JUST TOOK THEM OFF OF MY FINGERS
15 AND TOOK, UNHOOKED EVERYTHING AND HE BROUGHT ME BACK
16 OVER AND SAT ME IN THE CHAIR HE SAID YOU FAILED I
17 SAID THERE AIN'T NO WAY I KNOW BETTER I COULDN'T
18 HAVE FAILED I COULDN'T HAVE FAILED I KNEW BETTER
19 AND HE TOOK, HE TOOK A PIECE OF PAPER, WHITE PIECE OF
20 PAPER WITH WRITING ON ONE SIDE, AND HE TURNED IT OVER
21 LIKE THIS AND HE TURNED TO THE MONITOR AND HE PUT
22 THAT PIECE OF PAPER ON THE SCREEN OF THE MONITOR AND
23 HE TURNED THE MONITOR TO ME AND UP IN THE RIGHT HAND
24 CORNER WAS A GREEN 97 PERCENT THAT'S ALL THAT WAS
25 UP THERE AND I WANTED TO KNOW WHAT WAS BEHIND THERE

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1 BECAUSE I COULD SEE SOME RED AND GREEN ALL IN THE
2 WHITE OF THE PAPER AND I SAID, AND I SAID WHAT'S
3 THAT HE SAID DON'T WORRY ABOUT THAT ALL YOU GOT
4 TO WORRY ABOUT IS THIS RIGHT HERE AT THE TOP, THAT
5 MEANS YOU ARE 97 PERCENT A LIAR AND I SAID I'M NOT
6 I DIDN'T DO IT HE SAID MR COPE, YOU DID LIE YOU
7 LIED THAT POLYGRAPH DOES NOT TELL A LIE IT DON'T
8 LIE I TRUSTED IT I TRUSTED HIM I COULDN'T, I
9 KNEW IT WASN'T TRUE THERE WAS NO WAY I KNEW I
10 DIDN'T DO IT AND I SIT THERE AND THEN HE COMES OVER
11 AND SITS DOWN IN THE CHAIR AND HE STARTS TO TALK TO
12 ME AND HE GOT A SOOTHING VOICE HE TALKS NICELY
13 HE WAS TALKING REAL NICE, BUT IT WAS THE QUESTIONS HE
14 WAS ASKING HE SAID MR COPE, HE SAID, YOU FAILED
15 AND I SAID NO, I COULDN'T HAVE I COULDN'T HAVE
16 AND HE SAID BUT YOU DID AND I STARTED TO, THE FIRST
17 THING WAS I COULDN'T BELIEVE THAT, AND THEN HE SAID
18 SOMETHING THAT WE HADN'T TALKED ABOUT, BUT THE OTHER
19 TWO POLICE OFFICERS DID TALK ABOUT, AND THAT WAS THE
20 GREEN WRAP, HE SAID, AND THERE IS SOMETHING ELSE TOO
21 MR COPE, THE GREEN WRAP THAT YOU SAY WAS AROUND,
22 THAT YOU HAD TOOK OFF AMANDA'S NECK, YOU DIDN'T TAKE
23 IT OFF WE HAVE A POLICE REPORT THAT SAYS YOU DIDN'T
24 TAKE IT OFF MR HERRING SHOWED ME THE POLICE
25 REPORT AND I SAID THAT CAN'T BE THOUGH I KNOW

1 BETTER I DIDN'T DO IT I DID TAKE THE WRAP OFF OF
2 HER BUT I DIDN'T KILL AMANDA I DID NOT MOLEST
3 AMANDA I DID NOT RAPE AMANDA I DIDN'T DO NONE OF
4 THAT TO AMANDA I WAS IN THE BED ASLEEP HE SAID
5 NO, MR COPE, POLYGRAPH DON'T LIE POLYGRAPH DOES
6 NOT LIE AND I STARTED TO DOUBT, I STARTED TO DOUBT
7 MYSELF I STARTED HOW, HOW COULD THAT HAPPEN I
8 KNEW BETTER I THOUGHT I THOUGHT I KNEW BETTER I
9 THOUGHT I KNEW DIFFERENT AND I KNEW THAT I DIDN'T DO
10 NOTHING TO AMANDA BUT THEN HE KEPT SAYING, HE SAID
11 MR COPE, YOU DID AND EVEN PICTURES DON'T LIE HE
12 SAID THEY GOT PICTURES AND THEY ARE BEING DEVELOPED
13 AND IT'S GOING TO COME BACK AND IT'S GOING TO SHOW
14 THAT GREEN WRAP IS STILL ON HER NECK HE SAID IT'S
15 NOT THERE IT'S NOT THERE I DIDN'T DO IT I TOOK
16 THE WRAP OFF IT'S STILL THERE I SAID, I SAID NO,
17 IT'S NOT AND HE SAID YES, IT IS BUT HE SAID THERE
18 IS MORE THERE IS MORE AND I SAID WHAT AND HE
19 SAID YOUR WIFE TELLS US THAT YOU DO INDEED HAVE A
20 DILDO IN THE HOUSE AND IT'S MISSING I SAID IT'S
21 MISSING HE SAID YEAH, IT'S MISSING I WENT

22 Q YOU KNEW --

23 A I STARTED ASKING HIM

24 Q YOU KNEW YOU HADN'T BEEN AS FORTHCOMING ABOUT
25 THE DILDO AS WAS THE PERFECT TRUTH?

1 A I KNEW I HAD LIED TO HIM IT WAS A LIE BECAUSE
2 THERE WAS ONE IN THE HOUSE THAT'S WHAT HE SAID DO
3 YOU HAVE, IS THERE A DILDO IN THE HOUSE NOW IN MY
4 OWN WAY OF THINKING IT DON'T BELONG TO ME SO IT'S NOT
5 MINE SO I CAN SAY NO TO IT, BUT IN REALITY AND IN
6 REAL LIFE, NO, THERE IS NEVER A TIME TO LIE YOU
7 DON'T LIE FOR NO REASON THERE IS NO REASON UNDER
8 THE SUN FOR TO YOU TO LIE YOU ARE SUPPOSED TO TELL
9 THE TRUTH AND SO I TOLD, I TOLD HIM I SAID, IT CAN'T
10 BE AND I STARTED MORE AND MORE TO DOUBT EVERYTHING
11 THAT I HAD BEEN SAYING AND I HAD STARTED TO
12 FORMULATE ALL THESE IMAGES IN MY HEAD AND HE SAID,
13 YOU REALIZE MR COPE YOUR DAUGHTER WAS MOLESTED, YOUR
14 DAUGHTER WAS BEATEN, YOUR DAUGHTER WAS, SHE WAS
15 MURDERED AND I SAID YES, SIR, I UNDERSTAND THAT,
16 BUT I DIDN'T DO IT AND HE SAID YOU DID YOU AND I
17 KNOW YOU DID WE MIGHT BE THE ONLY TWO KNOW IT
18 BESIDES GOD, BUT YOU KNOW IT AND I KNOW IT I
19 STARTED TO DOUBT IT I STARTED TO DOUBT IT
20 Q HOW WERE YOU FEELING AT THAT POINT?
21 A I STARTED TO DOUBT MYSELF I FELT WEAK I FELT
22 MAYBE I DID MAYBE I DID MAYBE THIS IS, I COULDN'T
23 SAY FOR SURE I REALLY DID NOT KNOW THEN HE SAID
24 THAT GREEN WRAP IS STILL, WAS STILL ON HER NECK, AND
25 HE KEPT, THEY KEPT BRINGING THAT IT WASN'T JUST

1 HIM, BUT HERRING SAID THE SAME THING, AND I KNEW
2 BETTER BUT I COULDN'T UNDERSTAND -- I STARTED TO
3 PUT THESE IMAGES IN MY HEAD THEN I ASKED HIM, HE
4 SAID, HE SAID DID YOU REALIZE HOW BAD SHE WAS
5 BRUTALLY RAPED AND I SAID NO I MEAN, I DON'T KNOW
6 I DIDN'T SEE NO SIGNS WHEN I WENT IN THERE
7 EVERYTHING WAS FINE ALL I SAW WAS HER RIGHT BREAST
8 WAS UNCOVERED AND I PULLED HER SHIRT DOWN THAT'S
9 ALL I SAW OF ANYTHING AS FAR AS SEXUAL IN THE ROOM
10 I DIDN'T KNOW I THOUGHT MAYBE SHE STRUGGLED AND I
11 DIDN'T KNOW HER BRA WAS UNPOPPED I DIDN'T KNOW NONE
12 OF THAT ALL I KNEW WAS THAT MAYBE SHE STRUGGLED AND
13 SHE PULLED HER BRA AND HER SHIRT AND ALL JUST CAME UP
14 AND WAS UP AROUND HER NECK STRUGGLING AND THAT'S WHAT
15 I HAD TOLD HIM BUT HE KEPT INSINUATING, NO, THAT'S
16 NOT WHAT HAPPENED, MR COPE THAT IS NOT WHAT
17 HAPPENED AND I STARTED TO DOUBT EVERYTHING THAT,
18 THAT I HAD BEEN TELLING HIM

19 Q WHY DID YOU START TO DOUBT IT?

20 A I FELT VULNERABLE I LISTENED TO WHAT HE SAID
21 I TRUSTED THE MACHINE IT SAID I WAS A LIAR I
22 TRUSTED MY OWN MIND I TRUSTED MY, MY, MY MEMORY
23 BUT I HAD NO MEMORY OF THAT EVER HAPPENING I KNEW I
24 DIDN'T DO IT

25 Q WHAT ABOUT THE GREEN STRIP ON THE BLANKET?

1 A FINALLY I SAID IS IT POSSIBLE THAT I COULD HAVE
2 DONE THIS AND NOT KNOW ABOUT IT

3 Q HOW LONG WAS THIS PROCESS GOING ON?

4 A OH, THIS WENT ON, IT WAS A LONG PROCESS IT
5 WASN'T NO--IT DIDN'T LAST A LONG TIME BUT IT WASN'T
6 LIKE --

7 Q WASN'T LIKE ---

8 A LIKE LAST NIGHT EXCEPT IT WAS LIKE, THIS
9 PROCESS LASTED PROBABLY 20-25 MINUTES AND HE JUST
10 KEPT ON, KEPT ON TRYING TO PULL MORE AND MORE OUT OF
11 ME AND FINALLY I STARTED TO FORMULATE IMAGES I HAD
12 BEEN FORMULATING IMAGES, WELL, WHAT WAS SHE RAPED
13 WITH? WHAT HAPPENED TO HER? I MEAN, HE SAID THE
14 PATHOLOGIST SAID IT WASN'T A HUMAN PENIS HE SAID
15 WHATEVER IT WAS IT WAS HARD AND IT WAS LONG HE SAID
16 IT WAS RAMMED UP IN HER THAT WAS THE WORDS I GOT
17 IT WAS RAMMED UP IN HER SO I STARTED TO FORMULATE
18 AND I STARTED PUTTING THESE IMAGES INTO MY HEAD

19 Q WHY WERE YOU DOING THAT?

20 A BECAUSE I DIDN'T HAVE NO MEMORY OF IT BUT HE
21 SAID I WAS A LIAR THE MACHINE SAID I WAS A LIAR
22 HE WAS TELLING ME I DID OTHER THINGS I STARTED TO
23 FEEL LIKE I DID IT BUT I DIDN'T HAVE NO MEMORY OF
24 IT, SO I FORMULATED IMAGES IN MY HEAD I COULDN'T
25 THINK ABOUT WHAT WAS IN MY MEMORY BECAUSE THERE WAS

1 NOTHING IN MY MEMORY SO I STARTED TO COME UP WITH
2 THESE IMAGES THAT WAS THERE THAT I COULD GIVE HIM
3 AND I SAID WELL, IF THE DILDO IS MISSING, IF THE
4 GREEN WRAP IS STILL ON HER, I MUST HAVE DONE THIS I
5 MUST HAVE DONE IT AND THIS WENT ON FOR SHORT TIME AND
6 I SAID, AM I A MONSTER DID I--DID I DO THIS THEN
7 I STARTED TO BREAK DOWN HE STARTED ASKING ME
8 QUESTIONS WELL, WHAT DID YOU DO WHEN YOU GOT UP
9 AND I SAID I GOT UP AND I WENT THROUGH THAT
10 STATEMENT EVERYTHING I TOLD HIM IS THE IMAGES THAT
11 IS WAS IN MY HEAD IT WASN'T SOMETHING I DID IT
12 WASN'T SOMETHING I DID IT WASN'T FROM A MEMORY IT
13 WAS FROM THE IMAGES THAT I HAD FORMULATED I
14 COULDN'T THINK STRAIGHT I WAS SO CONFUSED BY BEING
15 TOLD ALL THIS STUFF WITHIN 24 HOURS AFTER IT
16 HAPPENED WELL, 28 HOURS AFTER IT HAPPENED ALL
17 THESE THINGS BEING, I COULDN'T, I CRIED I SAID I
18 CAN'T HANDLE NO MORE I DON'T UNDERSTAND BUT I, I,
19 I JUST DIDN'T KNOW AND THEN I JUST STARTED TELLING
20 HIM EVERYTHING THAT WAS IN MY HEAD EVERYTHING THAT
21 WAS, THESE IMAGES

22 Q WHAT DO YOU MEAN BY THAT?

23 A WELL, I FORMULATED THESE IMAGES IN MY HEAD OF
24 THE PERPETRATOR MAINLY TO TRY TO HELP THEM TO FIND
25 OUT WHO IT WAS TO SEE WHAT HAPPENED TO HER AND I

1 STARTED PUTTING THESE THINGS INTO MY HEAD YOU KNOW
2 THEY SAID IT WAS LONG I MEAN HE SAID IT WAS LONG
3 AND IT WAS RAMMED UP INSIDE HER AND IT WASN'T A HUMAN
4 PENIS AND I WENT, THE ONLY THING I COULD THINK OF
5 WAS A BROOM, AND I SAID BROOM THIS IS INCREDIBLE
6 I SAID BROOM I COULDN'T REMEMBER THEN HE SAID
7 WELL, WHAT COLOR BROOM I SAID, AND I SAID I DON'T
8 KNOW I DON'T KNOW I DIDN'T SEE THIS I MEAN ALL
9 I SAW WAS BROOM, WOODEN BROOM IS ALL I SAID, AND THEN
10 I GAVE THE CONFESSION THAT FIRST CONFESSION IT
11 WAS PREFABRICATED IT WAS A LIE BUT I GAVE IT
12 BECAUSE IT WAS THE IMAGES THAT IS IN MY HEAD IT WAS
13 ALL I HAD TO GO ON AND I GAVE IT I THOUGHT I HAD
14 DID IT I THOUGHT I WAS THE MAN AND IT HURT IT
15 HURT ME THEN I STATED NOT AM I A MONSTER I AM A
16 MONSTER AND I EVEN TOLD LIEUTENANT HERRING WHEN WE
17 GET BACK TO THE POLICE STATION I WANT YOU TO HELP ME
18 SO I DON'T HAVE TO PUT WITH EVERYBODY ELSE BECAUSE
19 THEY KILL CHILD MOLESTERS IN JAIL I DONE HEARD THE
20 STORIES AND I WASN'T, I JUST, I KNEW WHAT WOULD
21 HAPPEN TO ME AND I EXPECTED IT BECAUSE I THOUGHT I
22 WAS THE PERSON THAT DID IT I TRULY DID I THOUGHT
23 I HAD DONE IT WE GOT DONE I EVEN SHOOK HIS HAND
24 AND THANKED HIM I WAS RELIEVED I HAD GOTTEN IT OUT
25 AND NOW MY DAUGHTER'S DEATH COULD BE AVENGED AND

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1 THEN WE GOT IN THE CAR AND WE LEFT I DON'T REMEMBER
2 TELLING NOBODY NO JOKES I WAS RELIEVED I WAS, I
3 WAS GLAD TO GET THAT OFF--THE IMAGES OUT OF MY HEAD
4 I WAS ABLE TO SAY WHAT HAD BEEN FORMULATING ALL NIGHT
5 LONG IN MY HEAD IT STARTED WITH DO YOU REALIZE THAT
6 SHE WAS BRUTALLY BEATEN DO YOU REALIZE, I MEAN,
7 WOULD YOU BE SURPRISED IF I TOLD YOU THAT SHE WAS
8 BRUTALLY RAPED, SODOMIZED HE EVEN SAID I DIDN'T
9 KNOW, SO I GAVE HIM THE EXACT CONFESSION THAT IS IN
10 EVIDENCE

11 Q WHEN LIEUTENANT HERRING TOOK THAT STATEMENT FROM
12 YOU WITH INVESTIGATOR BAKER, HOW DID THEY GO THROUGH
13 THAT STATEMENT WITH YOU?

14 A WELL, I DON'T KNOW IF IT WAS A CODE OR WHAT IT
15 WAS, BUT RIGHT IN BEHIND US OVER HERE WAS A DOOR AND
16 MR BAKER WALKED UP TAPPED ON THE DOOR A COUPLE TIMES
17 AND THEN IN WALKED MR HERRING MR HERRING SAT
18 RIGHT IN BEHIND ME AND MR BAKER WENT BACK OVER THIS
19 SAID OKAY NOW MR COPE, YOU GOT UP AT 3 O'CLOCK IN
20 THE MORNING, WHAT HAPPENED AFTER THAT, AND I TOLD HIM
21 AND HE WROTE IT DOWN AND IT WAS THE SAME STORY THAT
22 I HAD JUST, I GAVE THEM IN THE, IN THE, IN HIS
23 SUMMARY THAT HE --

24 Q THAT YOU HAD BEEN TALKING TO BAKER ABOUT BEFORE?

25 A YEAH, ALL THE STUFF I TOLD HIM HE PUT IT ON THE

1 PAPER AND HE HANDS IT TO ME

2 Q HOW DID THAT STATEMENT COME ABOUT? DID YOU
3 WRITE THAT STATEMENT?

4 A NO, SIR, I DIDN'T WRITE THIS STATEMENT THAT'S
5 NOT MY HANDWRITING MR HERRING SAT IN BEHIND ME AND
6 AS BAKER TALKED TO ME AND I TOLD HIM THE SAME THING
7 THAT WE HAD ALREADY TALKED ABOUT, HE WAS TAKING
8 NOTES, HE ALREADY HAD HIS NOTES OUT, AND THEN HE JUST
9 SIT THERE AND WROTE IT BEHIND ME AS A MATTER OF
10 FACT HE STOPPED ME A COUPLE TIMES AND SAID UH, HOLD
11 UP A MINUTE, I'M STILL, AS HE WAS WRITING HE WAS
12 TRYING TO GET ALL THE WORDS DOWN, AND THAT'S WHAT I
13 GAVE HIM I WAS RELIEVED

14 Q HOW DID YOU GIVE HIM THAT STATEMENT THOUGH?
15 WHAT I'M GETTING AT, WAS THAT A FREE-FLOWING
16 STATEMENT BY YOU OR WAS THERE SUGGESTIONS MADE OR
17 QUESTIONS ASKED?

18 A THIS ONE, THIS ONE HERE, THE FIRST ONE WAS, I
19 WAS, HE, YOU KNOW, BAKER WAS SUGGESTING, YOU KNOW,
20 TRYING TO HELP ME TO, BECAUSE HE JUST KEPT SAYING I
21 WAS A LIAR AND, YOU KNOW, THE MACHINE DON'T TELL NO
22 LIES THE PICTURES DON'T TELL NO LIE I DIDN'T
23 KNOW, YOU KNOW, SO I STARTED JUST TELLING HIM WHAT
24 WAS IN MY HEAD HE WAS USING HIS NOTES AND READING
25 BACK AND SAID NOW MR COPE, REMEMBER YOU SAID THIS

1 AND YOU SAID THIS, REMEMBER AFTER THIS, AND ALL THE
2 WAY THROUGH, AND THE WHOLE STATEMENT, YOU KNOW, HE
3 TOOK IT I WAS RELIEVED I WAS RELIEVED BECAUSE I
4 THOUGHT I WAS THE MAN I THOUGHT I HAD DONE IT I
5 COULDN'T -- I EVEN ASKED HIM, AM I GOING TO FRY FOR
6 THIS BECAUSE I DIDN'T KNOW I HONEST TO GOD DIDN'T
7 KNOW I KNEW I HAD, I HAD DONE IT THAT'S WHAT WAS
8 THERE AS FAR AS I WAS CONCERNED I WAS THE MAN THAT
9 DONE THAT AND I STARTED TO FEEL A LITTLE BETTER
10 BECAUSE FIRST THEY WERE LOOKING, THEY WEREN'T HAVING
11 TO LOOK FOR NOBODY ELSE I HAD THOUGHT I HAD DONE
12 IT AND THEN WE GOT IN THE CAR

13 Q THE STATEMENT, LET ME GO BACK TO THIS A LITTLE
14 BIT?

15 A OKAY

16 Q IT TALKS ABOUT THINGS THAT YOU SAID YOU DID,
17 THAT YOU HAD AN ERECTION, YOU WENT IN HER ROOM, YOU
18 MASTURBATED, SHE WOKE UP AND SAID OH GROSS DADDY,
19 THOSE KINDS OF THINGS, HOW DID THOSE STATEMENTS GET
20 ON THAT PAPER LIKE THAT? WHAT WAS THE PROCESS BY
21 WHICH LIEUTENANT HERRING, DID LIEUTENANT HERRING TELL
22 YOU THAT HE NEEDED TO HEAR THAT FROM YOU

23 MR POPE YOUR HONOR, I OBJECT TO THE
24 LEADING

25 THE COURT YES, I SUSTAIN THE LEADING

1 Q SORRY TELL US HOW THAT GOT ON THERE, BILLY?
2 YOU UNDERSTAND WHAT I'M SAYING?

3 A YEAH, WE FINISHED THE CONVERSATION BAKER AND I
4 AND BAKER TOLD ME, HE SAID NOW MR COPE, YOU ARE
5 GOING TO HAVE TO GIVE HERRING A FORMAL STATEMENT
6 BECAUSE THIS WAS JUST, THESE ARE JUST MY NOTES, BUT
7 YOU ARE GOING TO HAVE TO GIVE A STATEMENT THAT YOU
8 CAN SIGN, AND SO HE WENT BACK THROUGH IT NOW THE
9 THINGS THAT WERE SAID IN THIS STATEMENT ARE THE
10 THINGS THAT I TOLD BAKER AND BAKER JUST REMINDED ME
11 OF THING CERTAIN THINGS HE SAID MR COPE, REMEMBER
12 YOU SAID THIS OR MR COPE, REMEMBER THIS PART ABOUT
13 THE OH GROSS DADDY HE EVEN MENTIONED THAT AND I WAS
14 KIND OF CONCERNED ABOUT IT BECAUSE I NEVER SAID
15 NOTHING TO HIM ABOUT THAT SO I ASSUME THAT THAT WAS
16 PART OF WHAT HERRING HAD TOLD HIM FROM THE NIGHT
17 BEFORE BECAUSE ON THAT VIDEO, I MEAN ON THAT TAPE
18 IT'S MENTIONED ON THERE THAT I TOLD THEM ABOUT OH
19 GROSS DADDY

20 Q IN WHAT REGARD?

21 A THAT REGARD WOULD BE TO MY WIFE EVERY TIME MY
22 WIFE AND I WOULD KISS AMANDA WOULD GO OH GROSS DADDY
23 AND PUT HER HANDS UP OR OH GROSS MOMMA

24 Q SO, SO WHEN YOU WENT THROUGH THAT STATEMENT THEY
25 WERE SAYING DO YOU REMEMBER TELLING ME AND SUCH AND

1 SUCH?

2 A IT WASN'T, IT WASN'T WHAT I WOULD CALL COACHING
3 BUT IT WAS, HE WAS TRYING TO LEAD ME TO HELP ME TO
4 SAY WHAT I HAD ALREADY TOLD HIM, BUT HE WAS LEADING
5 ME ON TRYING TO HELP ME TO, WITH THE THINGS THAT I
6 HAD TOLD HIM ALREADY

7 Q BUT AGAIN BILLY, YOU THOUGHT AT THE END OF THAT?

8 MR POPE YOUR HONOR --

9 THE COURT THAT'S A LEADING QUESTION

10 MR MORTON I'M SORRY

11 Q WHAT, HOW LONG WERE YOU OVER THERE WITH
12 MR BAKER THAT DAY, DO YOU REMEMBER?

13 A UH

14 Q DO YOU REMEMBER WHAT TIME THAT STATEMENT --

15 A WE GOT --

16 Q WHAT TIME THAT STATEMENT --

17 A WE GOT STARTED A LITTLE LATER THAN WHAT, WHAT
18 HERRING WANTED I THINK HERRING WAS GOING TO TRY TO
19 LEAVE THE STATION BY 9 30 I THINK WE LEFT LIKE 9 45
20 WE GOT THE STATION IT WAS A FEW MINUTES, JUST A FEW
21 MINUTES AFTER TEN, AND WE WENT INTO THE ROOM AND THAT
22 LASTED FROM, IT LASTED UNTIL ABOUT 2 30 THERE WAS,
23 I CAN'T REMEMBER EXACTLY CAN I SEE THE STATEMENT
24 AGAIN

25 Q THAT'S OKAY IT'S ABOUT 2 30 AGAIN I'M GOING

1 TO ASK YOU, HOW DID YOU FEEL WHEN YOU LEFT THERE
2 AFTER ---

3 A I FELT LIKE I WAS THE PERSON THAT DONE IT I
4 HAD, I HAD PRETTY MUCH CONVINCED MYSELF THAT I WAS
5 THE PERSON AND IT WAS ALL BECAUSE OF WHAT THE MACHINE
6 SAID, IT WAS ALL BECAUSE OF WHAT THE, WHAT HERRING,
7 WHAT HERRING SAID THE NIGHT BEFORE, WHAT WALDROP SAID
8 THE NIGHT BEFORE, WHAT BAKER WAS SAYING TO ME ABOUT
9 THE GREEN, THAT GREEN WRAP IS THE ONE THING I COULD
10 NOT UNDERSTAND BECAUSE I KNEW I TOOK IT OFF BUT
11 THEY SAY THEY HAVE PICTURES I TRUSTED, I TRUST
12 POLICE OFFICERS I NEVER, I NEVER THOUGHT THAT
13 PEOPLE WOULD LIE TO ME I NEVER THOUGHT FOR ONCE
14 THAT PEOPLE WOULD LIE TO ME I TRUSTED THEM

15 Q DID YOU TRUST THE MACHINE?

16 A I TRUST --

17 Q THE RESULTS OF THAT MACHINE?

18 A I TRUSTED THE MACHINE MORE SO, I ALSO FELT GOD
19 HAD LET ME DOWN I THOUGHT GOD HAD LET ME DOWN AND
20 THE REASON I SORT OF STARTED TO THINK WAS OKAY, I
21 DONE IT, AND GOD DON'T WANT NOTHING TO DO WITH ME ANY
22 MORE GOD SAYS ALL MURDERS WILL HAVE THEIR PART IN
23 THE LAKE OF FIRE AND I KNEW THAT AND I THOUGHT I
24 MUST HAVE DONE IT WHY, I MEAN, GOD AIN'T GOING TO
25 LET THESE THINGS HAPPEN TO ME I HADN'T DONE NOTHING

1 WRONG BUT THEN WHEN I LEFT THERE, I WAS CONVINCED
2 THAT I HAD DONE IT

3 Q SO LIEUTENANT HERRING TOOK YOU BACK TO THE
4 POLICE STATION?

5 A YEAH, GOT BACK TO THE STATION AND THEN THAT'S
6 WHEN I WAS, THEY TOOK MY CLOTHES, TOOK MY SHOES,
7 THEY TOOK EVERYTHING FROM ME, AND PUT IT IN A BAG AND
8 THEY TOLD ME I WAS UNDER ARREST AND THAT THE WARRANT
9 WAS, HAD STUCK AND THEN A LITTLE BIT LATER THEY
10 COME IN THERE WITH FOUR MORE WARRANTS

11 Q ALL RIGHT SO THEN YOU STAYED AT THE ROCK HILL
12 POLICE STATION THAT NIGHT?

13 A I STAYED, YEAH, THAT NIGHT I ATE DINNER THERE
14 AND THEN I READ, I READ THE BIBLE ALL NIGHT, PRETTY
15 MUCH ALL NIGHT

16 Q AND YOU STAYED THERE ALL NIGHT THE NIGHT OF THE
17 30TH OF NOVEMBER 2001?

18 A THAT'S CORRECT

19 Q AND THEN THEY TOOK YOU BACK TO THE MOSS JUSTICE
20 CENTER?

21 A WELL, ACTUALLY THEY WOKE ME UP THE NEXT MORNING
22 EARLY I WAS ARRAIGNED, I MEAN NOT ARRAIGNED BUT I
23 WAS --

24 Q TAKEN IN FRONT OF A JUDGE?

25 A TAKEN IN FRONT OF A JUDGE

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1 Q OKAY

2 A AND THEN AFTER THAT THEY TOOK ME TO, OFFICER
3 HARMON COME AND GOT ME AND TOOK ME, STARTED OUT THE
4 DOOR WITH ME, AND I TOLD HIM I SAID WAIT, WAIT A
5 MINUTE, I WANT TO TALK TO THE OFFICERS I MADE A
6 MISTAKE I HAD STARTED TO THINK, I DIDN'T HAVE
7 NOBODY SITTING THERE BEATING ON ME, NO I DIDN'T
8 HAVE HIM SITTING THERE CONSTANTLY TALKING TO ME I
9 WAS SITTING THERE MYSELF THAT CAN'T BE RIGHT THAT
10 CAN'T BE RIGHT AND SO I WENT TO, I WENT TO HARMON
11 BEFORE WE LEFT AND I SAID I WANT TO TALK TO THE
12 OFFICER THIS AIN'T RIGHT I MADE A MISTAKE AND
13 HE SAID

14 Q MADE A MISTAKE --

15 A WHAT I WAS INTENDING WHAT, WHAT MY INTENSIONS
16 WAS I SAID I MADE A MISTAKE BUT MY INTENTIONS WAS, I
17 DID MAKE A MISTAKE

18 Q WHAT DID YOU MEAN BY MISTAKE?

19 A I MADE A MISTAKE I GAVE A STATEMENT THAT I
20 DIDN'T DO NOTHING WRONG I COULDN'T HAVE DONE THAT
21 I KNOW BETTER MY MEMORY IS NOT THERE THE MEMORY
22 IS NOT THERE THERE IS NO MEMORY OF ME DOING THAT
23 AND I KNEW THAT I DIDN'T DO IT SO I TRIED TO GET
24 HIS ATTENTION AND HE WOULDN'T, HE SAID, HE SAID,
25 UH, I GUESS, HE SEEMED TROUBLED SO I THINK HE

1 PROBABLY TOOK THAT THE WRONG WAY HE PROBABLY TOOK
2 THAT THE WAY HE THOUGHT BECAUSE I SAID I MADE A
3 MISTAKE

4 Q SO HE TOOK YOU BACK TO MOSS JUSTICE?

5 A HE BROUGHT ME HERE TO MOSS JUSTICE AND THEY
6 BOOKED ME IN AND I SAT IN BOOKING I SAT IN BOOKING
7 AND I LISTENED TO, I FIRST WHILE I WAS WAITING ON
8 THEM WHILE THEY WAS BOOKING ME IN THEY WERE ASKING ME
9 QUESTIONS LIKE DO YOU HEAR VOICES AND I THOUGHT NO I
10 DON'T HEAR VOICES, BUT I GOT BACK IN THE ROOM AND I
11 STARTED THINKING, YOU KNOW

12 Q HOW LONG WERE YOU IN THAT ROOM?

13 A THAT ROOM, I WAS IN THAT ROOM FROM MONDAY
14 MORNING

15 Q NO --

16 A TUESDAY MORNING ON THE FIRST OF DECEMBER

17 Q FIRST WAS ON A FRIDAY?

18 A WAS IT FRIDAY?

19 Q OR SATURDAY

20 A OKAY IT WAS FRIDAY OKAY, YEAH, BECAUSE I
21 STAYED THE WHOLE WEEKEND

22 Q OKAY

23 A AND ON MONDAY MORNING I WAS THERE THAT WHOLE
24 WEEKEND

25 Q WAS ANYBODY IN THAT CELL WITH YOU?

1 A NO, THERE IS NOBODY IN THE CELL IT'S CLOSED
2 IN IT'S ABOUT TWICE THIS SIZE OUT IT'S ABOUT THIS
3 SIZE THERE IS A BED ON THIS SIDE AND IT'S HARD
4 CONCRETE AND THAT'S WHAT I SLEPT ON THEY GAVE ME A
5 BLANKET

6 Q WAS THERE A PAD?

7 A NO PAD, NO NOTHING LIKE THAT IN BOOKING THEY
8 DON'T GIVE YOU A PAD TO SLEEP ON THEY GIVE YOU A
9 BLANKET, A BIG WHITE BLANKET AND YOU SLEEP ON THE
10 BLANKET

11 Q SO YOU STAYED THERE FOR TWO DAYS?

12 A I STAYED THERE FOR ACTUALLY THREE DAYS FRIDAY,
13 SATURDAY, AND SUNDAY

14 Q COULD YOU, DID YOU TALK TO ANY OF YOUR FAMILY OR
15 DID YOU TALK --

16 A NO, I WAS NOT ALLOWED PHONE CALLS, NO VISITS, NO
17 NOTHING AT THAT TIME

18 Q WHAT DID YOU DO FOR THOSE TWO OR THREE DAYS?

19 A I SAT IN THE CELL AND THOUGHT ABOUT WHAT I HAD
20 SAID WHAT HAD BEEN GOING ON WHAT I TRIED TO GET
21 ACROSS TO HARMON, EVERYTHING I TOOK EVERYTHING INTO
22 CONSIDERATION I STARTED THINKING I THOUGHT I DONE
23 MADE A MISTAKE HOW AM I, I DON'T KNOW HOW TO GET
24 OUT OF THAT ONE BECAUSE I DONE CONFESSED TO SOMETHING
25 I DIDN'T DO AND THEY ARE NOT GOING TO BELIEVE ME SO

1 I STARTED TO FORMULATE MY OWN LITTLE, THE WAY, THE
2 WAY I, THE WAY I SAID WELL, IF I CAN'T, YOU KNOW, I'M
3 GOING TO HAVE TO DO SOMETHING I GOT TO GIVE THEM
4 SOMETHING DIFFERENT, GIVE THEM A SECOND STORY THAT
5 WAS THE THOUGHT THAT WAS IN MY HEAD I THOUGHT WELL
6 MAYBE, MAYBE, AND I TRIED TO STAY WITH THE SAME, THE
7 SAME IDEA I MEAN I WASN'T SURE WHAT HAPPENED I
8 DIDN'T KNOW WHAT HAPPENED BUT I HAD TO DO
9 SOMETHING I WAS SCARED I WAS SCARED I DIDN'T
10 KNOW WHAT TO DO AND I WAS AFRAID AND I WAS LOOKING
11 FOR A WAY OUT THAT'S THE TRUTH AND SO I BEAT ON,
12 I BEAT ON THE DOOR OF THE JAIL CELL I BEAT ON THE
13 DOOR MORE TIMES THAN WHAT HAS BEEN MENTIONED MANY
14 TIMES I BEAT AND THEY DIDN'T WANT TO HEAR ME THEY
15 WERE BUSY AND THEY WAS BUSY, BUT FINALLY I GOT THE
16 ATTENTION OF ONE OFFICER AND I SAID LOOK, I NEED TO
17 TALK TO OFFICER HERRING, OFFICER WALDROP OR
18 LIEUTENANT WALDROP, I THINK I SAID OFFICER WALDROP
19 AND SHE SAID WHO IS THAT I SAID HE WORKS AT THE
20 ROCK HILL POLICE DEPARTMENT I SAID I NEED TO TALK
21 TO SHE SAID WHAT ABOUT AND I SAID I NEED TO TELL
22 HIM, BECAUSE I DIDN'T KNOW WHAT ELSE TO SAY, THEY
23 WASN'T GOING TO LISTEN TO ME THEY NEVER LISTENED TO
24 ME BEFORE, SO I SAID I NEED TO TELL HIM WHAT I DID TO
25 MY DAUGHTER

1 Q MEANING WHAT?

2 A MEANING THE STORY THAT I HAD MADE UP THAT WAS
3 THE WHOLE, I DIDN'T KNOW WHAT TO DO I WAS CONFUSED
4 AND I WAS SAYING, WAIT A MINUTE, I KNOW I DIDN'T DO
5 THIS, BUT I THOUGHT THAT THE POLICE HAD TO PROVE WHAT
6 WAS SAID THEY HAD TO GO BACK THROUGH THE STATEMENT
7 AND EVERYTHING HAD TO MATCH UP AND THE WAY THEY
8 WERE TALKING AND WHAT THEY HAD ALREADY TOLD ME, THAT
9 STATEMENT MATCHED UP PERFECT BECAUSE THEY, I TOOK
10 IT STRAIGHT FROM WHAT THEY SAID WHAT THEY SAID
11 THAT'S WHAT I TOOK UP AND THAT'S WHAT I WROTE I
12 WROTE THE WAY THEY TOLD ME THAT IT HAPPENED I SAID
13 THAT, THE ONLY THING I DIDN'T KNOW WAS, I SAID WELL,
14 I, I DON'T KNOW I WASN'T SURE ABOUT, WELL, THERE IS
15 A LITTLE PLACES I DIDN'T KNOW ABOUT BECAUSE I DIDN'T
16 KNOW, BUT I, I THOUGHT WELL WAS IT IN ONE PLACE
17 BEFORE THE OTHER I DIDN'T KNOW SO I JUST MADE UP
18 THE WHOLE, YOU KNOW, THE STORY THAT PART I SAID
19 WELL, I STUCK IT IN HER BUTT FIRST THAT'S THE
20 TRUTH, OF THE STORY

21 Q YOU MEAN THAT'S THE TRUTH OF WHAT YOU TOLD THEM?

22 A OF WHAT I TOLD THEM, YEAH, OF THE STORY

23 Q ALL RIGHT

24 A OF THE STORY BECAUSE I DIDN'T KNOW I ALREADY
25 HAD ALL THE IMAGES UP HERE, BUT I DIDN'T HAVE THAT

1 ONE I DIDN'T KNOW IF WHETHER IT WAS THIS, THIS,
2 WHERE, I DIDN'T KNOW

3 Q SO OVER THOSE TWO DAYS IN THAT HOLDING CELL YOU
4 DECIDED TO DO WHAT?

5 A MADE UP ANOTHER STORY

6 Q WHAT, WHAT?

7 A MADE UP THAT STORY AND I STARTED TO THINK ABOUT
8 A DREAM

9 Q WHY DID YOU DO THAT?

10 A BECAUSE I WAS SCARED I DIDN'T KNOW WHAT ELSE
11 TO DO I KNEW I HADN'T DONE NOTHING WRONG, BUT, AND
12 I WANTED--I DIDN'T KNOW HONESTLY I DIDN'T KNOW I
13 SAID, I GOT TO GIVE THEM ANOTHER STORY SO I GAVE
14 THEM A DREAM STORY AND THE RAGE I KNEW THAT HE SAID
15 THAT IT WAS RAMMED UP IN HER PRETTY DEEP SOMEBODY
16 HAD TO BE ENRAGED FOR THAT SO I SAID I KNOW I'LL
17 SAY IT WAS A DREAM I'LL SAY IT WAS A DREAM I HAD
18 AND THAT IT WAS ALL A DREAM AND THAT ALL THESE THINGS
19 HAPPENED AS A RESULT OF A BAD DREAM I WAS HAVING AND
20 I SLEEPED WALKED AND DONE IT

21 Q DID YOU THINK THAT WOULD HELP YOU?

22 A I THOUGHT THAT IT WOULD GET ME SOME HELP I
23 THOUGHT I WOULD GO TO AN INSANE ASYLUM INSTEAD OF
24 GOING TO A PRISON AND BE RAPED OR KILLED BY SOMEBODY
25 I DIDN'T KNOW I WAS SCARED SO I STARTED TO

1 FORMULATE THIS WHOLE DREAM IDEA ON A DREAM ABOUT,
2 ABOUT HOW I GOT UP AND WALKED AND THE RAGE CAME
3 BECAUSE OF THE FEMALE THAT WAS INVOLVED, TERESA
4 TERESA GARRISON IS THE ONE I WAS TALKING ABOUT AND
5 I, ACTUALLY HER NAME WAS TERESA ALMOND, GARRISON WAS
6 HER MAIDEN NAME AND I SAID I WAS SO ENRAGED AND
7 THAT MAKES ME SO ANGRY BECAUSE I LOVE MY CHILDREN AND
8 TO EVEN THINK ABOUT THE FACT THAT SOMEBODY HAD
9 ABORTION WITH ONE OF MY CHILDREN THAT MADE ME VERY
10 MAD AND MY WIFE KNEW THAT I GOT ANGRY AND I THOUGHT
11 THAT'S THE ONLY RAGE THAT I COULD COME UP WITH THAT I
12 COULD DO SOMETHING LIKE THAT SO I MADE UP THAT
13 STORY THAT I WAS DREAMING ABOUT HER SHE, SHE WAS
14 LAUGHING AT ME, SAYING I HAD THE ABORTION AND YOUR
15 CHILD, WHICH SHE DID THESE THINGS AND SHE LAUGHED AT
16 ME AND I SAW ALL THESE IMAGES WHEN SHE DONE TOLD ME
17 ABOUT IT THE FIRST TIME

18 Q SO YOU DECIDED THAT THAT'S --

19 A SO I SAID I'M GOING TO TRY TO GET SOME HELP, SO
20 I TRIED TO GET ME SOME HELP BECAUSE I DON'T WANT TO
21 GO TO PRISON FOR SOMETHING I DIDN'T DO OR I DON'T
22 WANT TO DIE FOR SOMETHING I DIDN'T DO SO I MADE UP
23 THE STORY I STARTED LYING AND I LIED THROUGHOUT THE
24 WHOLE THING

25 Q THROUGHOUT THE THING WITH DETECTIVE --

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1 A YEAH, I'M TALKING ABOUT --

2 Q CHARLES CABANISS?

3 A YEAH, I'M TALKING ABOUT THE FIRST PART OF THAT,
4 THE FIRST PART WHEN I FIRST WENT IN, WHEN I-- WELL,
5 LET'S GO BACK I GOT THE ATTENTION OF THAT OFFICER
6 AND SHE SAID I'LL GO TALK TO LIEUTENANT WALDEN HERE
7 AT THE JAIL HE'S IN THE LIEUTENANT ON ONE OF HER
8 SHIFTS WAS HER BOSS AT THE TIME, SHE WENT AND TALKED
9 TO HIM HE CONTACTED THE ROCK HILL POLICE DEPARTMENT
10 AND THEY SAID THAT THEY WAS GOING TO, SHE COME BACK
11 AND TOLD ME AND SHE SAID MR COPE, THEY SAID THEY ARE
12 GOING TO COME BACK AND SEE YOU TOMORROW AND I SAID
13 OKAY I SAID AND SO I JUST SAT THERE IN THE JAIL I
14 HAD A LITTLE MORE TIME TO THINK THIS STORY THROUGH
15 I GOT INTO THE OFFICER DUGAN AND HANOKA THEY BOTH
16 CAME AND PICKED ME UP THEY WERE REAL QUIET, THEY
17 DIDN'T TALK, NOT LIKE THE OTHER OFFICERS WHO ALWAYS
18 TALK TO ME IN THE CAR OR IN THE VAN AND EVERYTHING
19 LIKE THAT SO I WENT, I SAT IN THE CAR ALL THE WAY
20 TO THE POLICE STATION, OVER AND OVER TRYING TO FIGURE
21 OUT WHAT I'M GOING TO SAY, HOW AM I GOING TO SAY IT
22 I GOT INTO THE POLICE STATION THEY BROUGHT ME INTO
23 THE SALLY PORT AND I WENT IN TO THE POLICE STATION
24 AND I WAS SITTING THERE WHILE I WAS SITTING THERE
25 THEY PUT ME IN A CELL I SAT THERE FOR I GUESS ABOUT

1 30 MINUTES OR SO, MAY HAVE EVEN BEEN AN HOUR, AND
2 THEN AN OFFICER COME AND GOT ME AND TOOK ME, MIGHT
3 HAVE EVEN BEEN CHARLENE BLACKWELDER, I CAN'T
4 REMEMBER, COME AND GOT ME AND TOOK ME TO CHARLENE
5 BLACKWELDER'S OFFICE AND IN THERE WAS OFFICER
6 BLACKWELDER AND CAPTAIN CABANISS, THEY BOTH WERE
7 SITTING, THERE WERE, CABANISS WAS STANDING AND SHE
8 WAS SITTING SHE SAT DOWN BESIDE ME THERE WAS
9 PROBABLY ABOUT 8 INCHES IN BETWEEN OUR CHAIRS THE
10 FIRST THING I SAID WAS I THOUGHT I'LL APPEAL ONE LAST
11 TIME AND SAY I DIDN'T DO IT AND SO I, I SAID, I DID
12 NOT DO IT AND HE SAID AND HIS EXACT WORDS WAS, WE
13 DON'T BELIEVE YOU DON'T COME HERE WITH THAT STUFF
14 WE DON'T WANT TO HEAR NO MORE ABOUT THAT AND I
15 SAID, SO I SAID OKAY AND I STARTED TELLING HIM THAT
16 STORY

17 Q THE DREAM?

18 THE DREAM THE STORY, THE STORY I MADE UP
19 ABOUT A DREAM AND I GAVE THAT STORY TO HIM AND
20 AFTER I GAVE HIM THAT STORY AND HE LOOKED AT ME AND
21 HE GOES I AIN'T BUYING THIS UNLESS, UNLESS YOU
22 ACCOMPANY US BACK TO THE HOUSE I WANT TO SEE HOW
23 YOU DID IT YOU ARE GOING TO HAVE TO SHOW ME HOW YOU
24 DID THIS ON THIS TAPE THIS DREAM, I WANT TO SEE IT
25 SO WE WENT BACK -- WELL, ACTUALLY THEY PUT ME BACK IN

1 A CELL FOR A LITTLE WHILE THEY WENT AND MADE ALL
2 THE ARRANGEMENTS AND A LITTLE LATER THEY COME AND GOT
3 ME AND WENT OVER TO THE HOUSE WHEN I GOT TO THE
4 HOUSE, THERE WAS CHARLENE BLACKWELDER, THERE WAS
5 CAPTAIN CABANISS, THERE WAS, I'M THINKING THE OFFICER
6 I'M THINKING ABOUT IS TRAVIS MCDANIEL, AND THERE WAS
7 ONE OTHER, ONE OTHER PERSON I CAN'T REMEMBER WHO IT
8 WAS, BUT I REMEMBER THEY STARTED THE VIDEO HE SAID
9 WE'RE GOING TO BE VIDEO TAPING, MR COPE THIS IS
10 GOING TO BE VIDEO TAPED, DO YOU MIND I SAID NO, I
11 DON'T MIND SO HE STARTED A VIDEO TAPE AND THEN
12 WHEN WE GOT THERE, THEY LOOKED AT EACH OTHER AND SAID
13 WHOSE GOT THE KEY WHOSE GOT THE KEY TO THE HOUSE
14 NOBODY HAD THE KEY TO THE HOUSE THEY FORGOT THE
15 KEY ONE OF THE OFFICERS WALKED AROUND TO THE BACK
16 OF THE HOUSE I DON'T KNOW HOW HE GOT IN, I DON'T
17 KNOW WHAT HE DONE, BUT HE GOT IN THE BACK DOOR OF MY
18 HOUSE, AND THEY CAME THROUGH THE BACK DOOR THAT'S
19 WHY WHEN YOU SEE THE VIDEO YOU SEE MY BACK DOOR
20 STANDING OPEN IN THAT VIDEO THEY CAME IN AT THE
21 BACK DOOR AND LEFT THE DOOR STANDING OPEN THEY
22 CAME AROUND, THEY GOT ME, I WAS SHACKLED AND
23 HANDCUFFED AND BROUGHT ME IN THE HOUSE THE FIRST
24 THING I WANTED TO DO WAS GET MY GLASSES BECAUSE I
25 COULDN'T SEE NOTHING I HADN'T BEEN ABLE TO SEE THE

1 WHOLE WEEKEND, EVER SINCE THAT TUESDAY, THAT THURSDAY
2 MORNING ACTUALLY THE LAST TIME I HAD MY GLASSES WAS
3 WEDNESDAY NIGHT BEFORE I WENT TO BED AND I TOOK, I
4 PUT MY GLASSES ON THEY ALLOWED ME TO GET MY
5 GLASSES, I PUT MY GLASSES ON I FELT A LOT BETTER,
6 BUT I HAD TO GIVE THEM A PERFORMANCE THAT'S THE WAY
7 I FELT HE SAID PROVE IT TO ME AND THAT'S WHAT I HAD
8 TO DO I MADE UP THE, THERE WAS SECTIONS IN THERE
9 THAT I WENT, UH, OR OOPS, NO THAT IN THE TAPE BECAUSE
10 I ACTUALLY FORGET WHAT I HAD WRITTEN ON THE PAPER I
11 ACTUALLY FORGETTEN WHAT I HAD WRITTEN ON THE PAPER,
12 SO I HAD TO ADD LIB SOME OF IT

13 Q DID YOU THINK THAT BY TELLING THEM THAT DREAM
14 THAT IT WOULD HELP YOU?

15 MR POPE YOUR HONOR, I OBJECT IF HE
16 WANTS TO ASK --

17 THE COURT THAT'S A LEADING QUESTION

18 Q WHAT DID YOU THINK BY TELLING THEM THIS DREAM
19 WOULD DO?

20 A I FELT LIKE THIS WOULD HELP ME GET, GET, I
21 WOULDN'T GO TO PRISON FOR THE REST OF MY LIFE IT
22 WOULD HELP ME TO, I WOULD GO TO A INSANE ASLUYM, STAY
23 THERE FOR, FOR A SHORT TIME, GET MY HEAD, THEY WOULD
24 SAY I GOT MY HEAD STRAIGHT, MY HEAD WAS STRAIGHT I
25 KNEW IT WAS STRAIGHT BUT I SAID I GET MY HEAD