

Testimony of Christopher Wielgosz

THE COURT: Spell your last name, please.

12 THE WITNESS: W-i-e-l-g-o-s-z.

13 THE COURT: Okay. What is your full name?

14 THE WITNESS: Oh, Christopher Wielgosz.

15 THE COURT: Okay.

16 MR. TOBY L. SHOOK: And it's pronounced

17 Wielgosz?

18 THE WITNESS: Wielgosz, yes.

19 MR. TOBY L. SHOOK: All right.

20

21

22 DIRECT EXAMINATION

23

24 BY MR. TOBY L. SHOOK:

25 Q. Okay. How are you employed, sir?

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1 A. I'm employed by Baylor University

2 Medical Center as a nurse in their two ICU, Intensive

3 Care Units.

4 Q. Okay. Tell the jury your educational

5 background and professional training for the position

6 that you hold.

7 A. I have a bachelor in science from

8 Pennsylvania State University in health care

9 administration. And a bachelor of nursing from the

10 College of Misericordia. I have been employed at Baylor

11 since June of 1994 as a nurse.

12 Q. And what particular section of Baylor

13 are you assigned?

14 A. It's second floor Roberts Building,

15 the cardio-thoracic vascular intensive care unit.

16 Q. Okay. And, tell the jury what your

17 duties are there.

18 A. Primarily our duties are to take care

19 of the critically ill patients that have open heart

20 surgery, or vascular-type surgery. It's primarily a post

21 operative intensive care unit, which is where they would

22 come following any procedure that would be cardiothoracic

23 or vascular in nature.

24 Q. Sometimes if there's overflow, or

25 something like that, do you receive other patients?

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1 A. That's correct. Occasionally we may

2 have a bed that is open, and we can receive overflow

3 patients from some of the other units that would normally
4 receive a trauma patient or any other, what they call off
5 service patients, something we don't normally see in that
6 particular unit.

7 Q. Okay. Let me turn your attention back
8 to June 6th, 1996 and ask you if you were working on that
9 date.

10 A. Yes, I was. I was working 7:00 PM
11 until 7:00 AM, the 5th through the 6th.

12 Q. Okay. So you started on the 5th and
13 were going through 7:00 AM on the 6th?

14 A. Correct.

15 Q. Okay. Let me ask you if you received
16 a patient that morning by the name of Darlie Routier?

17 A. Yes, I did.

18 Q. Okay. About what time did you receive
19 her?

20 A. It was approximately 05:00 on the 6th.

21 Q. Okay. So that's about five in the
22 morning?

23 A. Five o'clock in the morning.

24 Q. Okay. Do you see her here in the
25 courtroom today?

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1 A. Yes.

2 Q. Point her out, please.

3 A. She's seated right over here.

4 Q. The woman here in the green plaid
5 dress?

6 A. Yes.

7

8 MR. TOBY L. SHOOK: Your Honor, if the
9 record could reflect the witness has identified the
10 defendant.

11 THE COURT: Yes.

12

13 BY MR. TOBY L. SHOOK:

14 Q. Was she one -- I guess she wasn't one
15 of those patients that you normally receive; is that
16 right?

17 A. That is correct. I had a -- what they
18 call an available bed. Normally, we are assigned two
19 patients per nurse, and I had an available bed, which
20 meant that I was to receive any emergency or trauma
21 victims or something that the other ICUs could not
22 accommodate because they were full at that time.

23 Q. Okay. What was her condition when she
24 arrived on your floor?

25 A. They brought her into my unit, again,
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1 approximately 5:00 AM. And, at that time they brought
2 her in on a bed from the OR, the operating room.

3 At that time she was awake, alert,
4 oriented.

5 Q. Okay. Now, in your particular
6 section, do you have a lot of patients you deal with, or
7 do you have just one or two?

8 A. In that particular case, she was the
9 only patient that I had at that time.

10 Q. Okay. So, your total attention is
11 devoted to her at that time?

12 A. Correct.

13 Q. Okay. Was she the type of critically
14 ill patient that you usually take care of?

15 A. Not what we usually see, no. I would
16 not have considered her a critically ill patient.

17 Q. Okay. And you say she was alert and
18 awake; is that right?

19 A. Correct.

20 Q. She had come out of surgery; is that
21 correct?

22 A. That's correct.

23 Q. Okay. How alert was she? I mean, did
24 she answer your questions?

25 A. Yes. Answered questions
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1 appropriately, was aware of where she was, approximately
2 what time it was, that she had just left the operating
3 room. Again, was answering questions appropriately.

4 Q. Okay. Now, you've seen people that
5 have suffered the effects of anesthesia; is that right?

6 A. Yes. Very frequently.

7 Q. Okay. That's something you deal with
8 every day?

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

11 Q. Okay. Do different people react
12 differently?

13 A. They do, yes. Some people may not
14 respond as well to the anesthesia, some people do. It
15 just depends on the individual's make up and chemistry.

16 Q. Okay. Some people come out of it
17 pretty quickly?

18 A. Yes.

19 Q. Okay. How about Ms. Routier? How did
20 she appear to you? Was she under the effects of it at
21 all?

22 A. No, not as far as I could tell at that
23 point in time.

24 Q. Okay. She seemed alert and lucid?

25 A. Completely.

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1 Q. Okay. What did you do once she
2 arrived in the room? What were part of your duties?

3 A. Well, the first thing we do when a
4 patient arrives is, we connect them to our monitoring
5 system that we have, which monitors the heart rate. And
6 in her case, she had an arterial monitor that we connect
7 to our monitors also.

8 So the first thing I did was connect
9 her to our monitors to establish that her vital signs
10 were stable. And then to do a head to toe assessment on
11 her.

12 Q. Okay. What's a head to toe
13 assessment?

14 A. Where you, well, initially you will
15 look at their neurologic stats, and then you will go
16 through the different body systems and assess if there's
17 any difficulties or problems with them.

18 Q. Okay. Did you find any problems with
19 her at all?

20 A. Nothing, other than the surgical
21 dressings that she had was out of the ordinary.

22 Q. These IVs, what arm were they in?

23 A. She had IVs in her left arm, and she
24 had an arterial monitor in her left radial artery.

25 Q. Could you point on your wrist where
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1 that is?

2 A. It's inserted right in this area here.
3 And what that is, is that is a direct monitor of blood
4 pressure. It's a small catheter that they insert into
5 the radial artery, and then we connect it to our monitors
6 and it directly monitors blood pressure through the
7 catheter.

8 Q. Okay. Do you also -- she had a
9 dressing on her; is that right?

10 A. Correct. She had a dressing on her
11 right neck, right up in here, and she had a dressing on
12 her right forearm.

13 Q. Okay. Did you look over her, or
14 assess her for wounds, things like that?
15 A. Yes.
16 Q. Did you see any other injuries on her
17 other than where the dressing was?
18 A. No, I did not.
19 Q. Okay. That's something you carefully
20 check for?
21 A. Yes.
22 Q. Okay. Did she talk to you while you
23 were making your assessment?
24 A. Yes, she did.
25 Q. Okay. Now, were you asking her
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1 questions?
2 A. No, I did not.
3 Q. Okay. You were just going about your
4 business?
5 A. Um-hum. (Witness nodding head
6 affirmatively).
7 Q. Okay. What comments did she make to
8 you?
9 A. The first comment that she made was,
10 she stated, "How could anyone do this to my children."
11 Just kind of an unsolicited rhetorical type of question,
12 "How could anyone do this to my children."
13 Q. You didn't ask her how she was, or
14 what happened, anything like that?
15 A. No, I did not.
16 Q. Now, did you know what had happened,
17 why she was there in the hospital?
18 A. I was just aware that she had -- she
19 was involved in a trauma, but the extent of which and the
20 particular circumstances I was not aware of at the time,
21 no.
22 Q. Were you aware that her children had
23 died?
24 A. I was aware that her children -- at
25 the time I was under the belief that both of her children
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1 had come into our ER, and that yes, that they were both
2 dead.
3 Q. Okay. Well, did this cause some
4 concern for you?
5 A. It did. Especially before I received
6 her, because I did not know what she was aware of. I did

7 not know if she was aware that both of her children were
8 dead, or what condition they may be in. I had no
9 knowledge of what she would be aware of, and was unsure
10 what condition mentally and emotionally she would be in
11 when I received her. So I was somewhat concerned as to
12 how I was going to deal with that situation when she came
13 into the intensive care unit.

14 Q. Okay. Did she make some other
15 comments to you?

16 A. She did. Again, she stated, several
17 times, "How could anyone do this to my children?" And at
18 one point in time she also stated aloud, that she had
19 picked up the knife after the attacker dropped it, and
20 she was concerned that maybe her fingerprints had
21 obscured the attacker's fingerprints. And she was,
22 again, kind of questioning whether she should have done
23 that or not.

24 Q. Okay. Now, when she made this
25 statement about picking the knife up and obscuring the
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1 fingerprints with her prints, had you asked her anything
2 about the incident?

3 A. No, absolutely not.

4 Q. That was just an unsolicited response
5 to you?

6 A. Yes, it was.

7 Q. Now, was she just awake and alert at
8 this time?

9 A. Yes.

10 Q. She was just not -- in some type of
11 shock, and just droning on and on, in her sleep?

12 A. No, not at all. It wasn't a
13 consistent -- she wasn't speaking consistently. This
14 took place over maybe a matter of the first half hour or
15 40 minutes that she came out, because, again, initially I
16 do my assessment, and then I've got my paperwork that
17 I've got to do, which I kind of stepped away from the bed
18 at that time, and filling out my paperwork. And back and
19 forth between the little table we do our paperwork on and
20 the bed, many times through that initial half hour or so.
21 So it wasn't a continuous dialogue that she had.

22 Q. She would just make these comments --

23 A. Periodically.

24 Q. -- periodically. And where's your
25 desk when you're working at it?

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1 A. Again, it's more or less a bedside
2 table that we use. And it's within maybe 6 or 8 feet
3 from the bed.

4 Q. Okay. Do you recall -- when she says,
5 "I picked the knife up. I wondered if I obscured the
6 fingerprints." When she started wondering about that,
7 did you answer her in any way?

8 A. No, I really -- you know, I had
9 nothing to say. I couldn't -- there was absolutely no
10 response that I could give her.

11 The only thing that I did say was,
12 "That I'm sure the police will do whatever they can."

13 Q. Okay. Did she ask for, or -- complain
14 of any pain?

15 A. She did. Again, after she was in the
16 intensive care unit for approximately 45 or 50 minutes,
17 she was complaining of some pain to her right neck and
18 her right forearm and asked if she could have some pain
19 medication for that.

20 Q. Okay. Right neck and right forearm?

21 A. Right.

22 Q. Are you talking about the injury that
23 was cut?

24 A. Right. Where her injury was.

25 Q. Okay. Did she complain of pain
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1 anywhere else in her body?

2 A. No, she did not.

3 Q. Okay. Did you give her any pain
4 medication at that time?

5 A. No, I did not. I was informed that
6 the Rowlett police wanted to speak with her. And so I
7 called my administrative supervisor, who had been in
8 contact with the police, to find out if she knew when
9 they may be coming up to question her, or speak with her.
10 I was concerned that I was going to give her some pain
11 medication and it was going to make her very lethargic or
12 sleepy when they came up to speak with her.

13 So I contacted the administrative
14 supervisor. She said that the Rowlett police would be
15 there in approximately 10 minutes. And they, at the
16 time, I believe were down in the emergency room, I'm not
17 too sure. But they did not come up in the 10 minute
18 period.

19 And then she complained once again of
20 pain. We normally have a pain scale, so we have some way
21 of quantifying how much pain patients are actually
22 experiencing, because everyone experiences pain a little

23 differently. And we usually ask people to grade it on a
24 1 to 5 scale. And she graded her pain on about a 3, on a
25 1 to 5 scale.

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1 Then, at that time I did administer
2 some pain medication to her, a very small amount.

3 Q. What type of pain medication did she
4 receive?

5 A. She received Demerol, 25 milligrams,
6 and Phenergan, which are two drugs we use. They work
7 together very well to relieve pain.

8 Q. Okay. Did you give her a large dose?

9 A. I actually gave her a very small dose.

10 The normal dose -- they give you a range of normal
11 dosages with most drugs, and then the lower range for
12 Demerol is usually about 50 milligrams, and I gave half
13 of that, which was 25 milligrams.

14 So she received a very small dose.

15 And I gave that to her with the intention that -- since
16 her pain was not a real high level that it would take the
17 edge off if she was experiencing any pain, but would not
18 completely subdue her or make her lethargic or sleepy.

19 Q. Okay. You wanted her to be alert when
20 the police were coming to talk to her?

21 A. Yes.

22 Q. When you gave her the medication was
23 she alert?

24 A. Yes.

25 Q. Okay. And, were you present when
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1 investigators from the Rowlett Police Department came and
2 talked to her?

3 A. Yes, I was.

4 Q. Okay. Did she remain alert throughout
5 that interview?

6 A. Completely.

7 Q. Okay. How close were you to the
8 officers when they were interviewing her?

9 A. At times I was standing at the
10 bedside, and at other times I was at the bedside table
11 doing notes or charting.

12 Q. Okay. How many officers came and
13 talked with her?

14 A. There were two.

15 Q. Were they uniformed or plain clothes?

16 A. They were plain clothes.

17 Q. And did she agree to speak to them?

18 A. Yes.

19 Q. Okay. And approximately how long were
20 they there?

21 A. They were there until I left at about

22 7:05. I ended my shift about 7:05.

23 Q. About what time did that interview
24 begin. Do you remember?

25 A. They probably got there about 6:00

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1 o'clock, 6:05, so they were approximately an hour.

2 Q. Okay.

3 A. Fifty minutes maybe. While I was
4 there.

5 Q. Okay. Since you were in close

6 proximity, were you able to overhear their questions and
7 her answers?

8 A. Yes.

9 Q. And did they ask her questions about
10 the incident that occurred?

11 A. Yes.

12 Q. What do you remember her telling about
13 what happened there?

14 A. The two detectives were standing at
15 bedside, and they asked her to just kind of start at the
16 beginning, and proceeded in a very methodical way of
17 asking her what had happened.

18 And, I do remember much of the
19 responses that she had given, but there were times when I
20 was not standing near the bed and was busy doing
21 something else.

22 I don't remember what she exactly
23 said, as far as how it all started or how she was -- what
24 awakened her.

25 The first thing that I recall, is her
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1 stating that she was fending off an attacker with her
2 hands.

3 Q. Okay. And where was she when she was
4 fending off the attacker?

5 A. A couch, sofa, something like that.

6 Q. What's the next thing you remember her
7 telling the detectives?

8 A. She went on to talk of how she did
9 that and how the attacker at that point -- or shortly
10 after that time, left, ran out of the house from there.

11 Q. Okay. What's the next thing you
12 remember her saying?

13 A. She did say that the attacker dropped
14 the knife, I believe, in the garage.

15 Q. Okay.

16 A. And that, once again, that she picked
17 up the knife, and at that point in time she said, you
18 know, "I picked up the knife. I shouldn't have picked up
19 the knife, because that -- I probably covered up the
20 fingerprints. I shouldn't have picked up the knife."

21 Q. The same thing that she had told you
22 earlier?

23 A. Exactly.

24 Q. Did the officers ask about a
25 description of this assailant?

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1 A. Yes, they did. And initially, they
2 actually started by asking her ethnic background, skin
3 color, things like that, build, type of clothes that the
4 attacker might be wearing. And at that point in time,
5 she stated that he was wearing a dark baseball-type cap,
6 dark T-shirt and jeans.

7 Q. Okay. Did she say anything about if
8 it was a white man, black man, Hispanic man?

9 A. I don't recall. And I don't recall
10 her giving any particular description of any facial
11 features, or anything like that. The detectives did ask
12 her what the general build of the -- the attacker was.
13 And they used themselves as examples. You know, they
14 said, "Was the attacker built like" -- the two detectives
15 were Detective Frosch and Patterson. If the attacker was
16 built like either one of the two of them. And at that
17 point and time she said that the attacker was built
18 similar to Detective Frosch.

19 Q. Okay. Were Detectives Patterson and
20 Frosch, are they different sizes?

21 A. Yes. Detective Frosch is much taller
22 than Detective Patterson.

23 Q. And she said that the attacker was
24 built like Detective Frosch?

25 A. Correct.

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1 Q. Okay.

2

3 MR. TOBY L. SHOOK: Could I have just
4 a moment to have Detective Frosch brought in, Judge?

5 THE COURT: Okay.
6 As soon as he's presented, I'm going
7 to take a morning break.
8 MR. TOBY L. SHOOK: Okay, Judge.
9 THE COURT: Officer, if you will come
10 on up, please. Or Detective, excuse me.
11
12 BY MR. TOBY L. SHOOK:
13 Q. For identification purposes, is this
14 Detective Frosch?
15 A. Yes, it is.
16 Q. And, is this the man Darlie Routier
17 pointed to as having the build of the assailant?
18 A. Yes, it is.
19 Q. Okay.
20
21 MR. TOBY L. SHOOK: And, if you could
22 just turn around for us. Turn and face the jury, please.
23 Thank you.
24 THE COURT: Okay. Ladies and
25 gentlemen, let's take a 15 minute break.
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1
2 (Whereupon, a short
3 Recess was taken,
4 After which time,
5 The proceedings were
6 Resumed on the record,
7 In the presence and
8 Hearing of the defendant
9 And the jury, as follows:)
10
11
12 THE COURT: All right. Are both sides
13 ready to bring the jury in and resume?
14 MR. TOBY L. SHOOK: Yes, sir, we are
15 ready, your Honor.
16 MR. DOUGLAS MULDER: Yes, the defense
17 is ready to resume.
18 THE COURT: All right, bring the jury
19 in, please.
20
21 (Whereupon, the jury
22 was returned to the
23 courtroom, and the
24 proceedings were
25 resumed on the record,

1 in open court, in the
2 presence and hearing
3 of the defendant,
4 as follows:)
5

6 THE COURT: Let the record reflect
7 that all parties in the trial are present and the jury is
8 seated.

9 All right, Mr. Shook.

10 MR. TOBY L. SHOOK: Thank you, Judge.

11

12

13 DIRECT EXAMINATION (Resumed)

14

15 BY MR. TOBY L. SHOOK:

16 Q. I believe we left off where you were

17 explaining where Mrs. Routier had pointed to Detective

18 Frosch as having a similar build of the attacker?

19 A. Correct.

20 Q. Okay. Did the detectives ask her

21 about stolen property?

22 A. They did, in the course of their

23 questioning, ask her if she noticed anything at all was

24 stolen or missing from the home, and she said no. And

25 she went on to state how she had some jewelry laying out

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1 in the open, and how that that was not stolen. And then
2 went into great detail on the type of jewelry that it
3 was, and talking about the type of rings, different
4 baguettes, and excuse me, I'm not that well versed on
5 jewelry terminology, but she went into what seemed to me
6 to be great detail, on the actual jewelry that was laying
7 around.

8 Q. Okay. How long did the -- when you

9 left at 7:00 they were still there; is that right?

10 A. Correct.

11 Q. Could you describe how the detectives

12 conducted the interview.

13 A. Very methodical. Very -- they were

14 very unobtrusive. I mean, they just simply asked her to

15 tell them what she knew. And then after she made the

16 statement, they would go back and go over the statement

17 in more detail. For instance, asked about the attacker.

18 They took her back and asked if the attacker had a hat

19 on, what type of build, what type of skin color, facial

20 features, clothing, et cetera, et cetera.

21 Q. Okay.

22 A. That was the first time I had ever

23 heard anyone being questioned, and it seemed to be very

24 methodical.

25 Q. Did they badger her in any way or

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1 anything like that?

2 A. Not at all, no.

3 Q. Did they try to suggest answers to

4 her?

5 A. Not at all.

6 Q. Or give her answers in any way?

7 A. No.

8 Q. Okay. Did she appear during this

9 entire interview to understand the questions?

10 A. Completely.

11 Q. Did she appear to be alert in every

12 way?

13 A. Yes.

14 Q. Okay. You've seen victims of shock;

15 is that right?

16 A. Correct, yes.

17 Q. Was she under shock at all from what

18 you could tell?

19 A. No.

20 Q. Suffering in any way from this

21 anesthesia in any way?

22 A. No.

23 Q. Okay. The slight amount of pain

24 medication you gave her, did she seem to be effected by

25 that in any way?

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1 A. No.

2 Q. Okay. Now, you said there is -- is

3 there a blood pressure alarm that was hooked up to her?

4 A. Correct.

5 Q. If you could explain that to the jury.

6 How is that hooked up?

7 A. Again, it's -- you have an artery,

8 it's called your radial artery, which runs down through

9 this portion of your arm. And they have this small, what

10 they call a catheter, which is actually a small tube like

11 an IV catheter that they would insert, but they insert

12 into the radial artery. And, it directly monitors the

13 actual pressure in that artery, so it's the most accurate

14 means that we have of determining blood pressure. Is
15 gives you a direct measure of what the pressure is.

16 So she had a catheter inserted into
17 this artery, and then a line that comes out and is
18 connected to the machinery.

19 Q. Does that have an alarm installed on
20 it?

21 A. Yes, it does.

22 Q. Okay. And, what is that alarm for?

23 A. The alarms are set in case the blood
24 pressure were to drop too low or to go too high. The
25 machine will alarm to alert you, just in the event that
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1 you weren't at that particular time happening to look
2 right at the monitor, which has the readout of what the
3 blood pressure is, because it's a continuous monitor. It
4 monitors the blood continuously. So the alarm will alarm
5 to let you know something's wrong.

6 Q. Had the alarm gone off with Mrs.
7 Routier?

8 A. Yes, it did.

9 Q. When did it go off?

10 A. It went -- it alarmed when the
11 detectives were questioning her.

12 Q. Okay. And when you heard the alarm go
13 off, what did you do?

14 A. At the time I was seated at the
15 bedside table, slightly behind the detectives. They were
16 right at the bedside. And when the alarm went off I
17 immediately stood up and looked at the monitor, and it
18 was alarming what we call a false alarm. It was alarming
19 an extremely high blood pressure reading, which, in most
20 cases, is false.

21 And, as I walked over and looked, it
22 was because she was moving her left arm, and bending her
23 wrist. And with those types of monitors, essentially
24 what happens is if you move your left arm, or the arm
25 that the monitor is in, they're very sensitive, so if you
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1 bend your wrist or bend your arm up, you can essentially
2 pinch off the catheter, or fool the catheter, which will
3 cause it to read the false high pressure in there. And
4 that's what hers was doing at that point in time.

5 Q. So she's moving her arm around and
6 that's causing it --

7 A. That's causing it to alarm, yes.

8 Q. Okay. Did you explain that to her and
9 the detectives?

10 A. Yes. At that time -- I walked over
11 there, and both of the detectives turned to me and they
12 were concerned because they didn't know -- weren't
13 familiar with the equipment, they just heard the alarms
14 going off and immediately asked me if everything was
15 okay. At which time I told them, the same thing that I
16 explained to you, that it was a false alarm, and
17 explained that also to Mrs. Routier. And explained to
18 her, that if she could just keep her left arm stable and
19 relatively still, that it would no longer alarm like
20 that.

21 Q. Okay. Now, when she was in your care,
22 did you notice that -- did she seem upset to you
23 somewhat?

24 A. She was -- her eyes were tearful, but
25 she had a very flat affect.

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1 Q. Okay.

2 A. Didn't seem to have a lot of emotion.

3 Q. Okay. Is that what you mean by flat
4 affect?

5 A. Yes.

6 Q. Was that the reaction that you were
7 expecting when you heard the background of why she was
8 admitted?

9 A. Actually no. I was, again, as I
10 stated earlier, I was concerned that maybe this person
11 would be emotionally distraught or hysterical. Didn't
12 really know what to expect, but that was kind of what I
13 thought I might be experiencing and in store for. So, I
14 was thinking that I would need to prepare for a patient
15 that was in that emotional state.

16 Q. Okay. But you saw this flat affect?

17 A. Yes.

18 Q. Okay. You did see some tears; is that
19 right?

20 A. Yes.

21 Q. What type of tears did you see?

22 A. Her eyes would kind of welled up a
23 little bit with water, with tears, and an occasional tear
24 drop. And she still had on her eye makeup. And so, I
25 don't know how much of that ran from the tears at that

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1 time, or -- but, you know, some of the eye makeup was --
2 had run down onto her upper checks.

3 Q. Okay. You made note of that in your
4 nurse's notes; is that right?

5 A. Yes.

6 Q. Do y'all keep notes there by the
7 bedside?

8 A. Yes.

9 Q. What are those called?

10 A. They're our nurses' notes. They call
11 them focus notes.

12 Q. Okay. And what are the purpose of
13 focus notes?

14 A. Essentially, in the intensive care
15 unit, we have two ways of charting patient care or
16 patient condition. We have got an assessment flow sheet,
17 which saves us time. Where, as I stated earlier, we look
18 at each system, each system in the body and there are
19 different sections. And there are standard assessment
20 values that you would mark off which saves you time.

21 And then we have other sheets that are
22 called focus notes, where anything that would be out of
23 the ordinary, that didn't fit in the normal parameters,
24 or what we consider normal for that particular system, we
25 would then chart, in order to keep track of what's gone
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1 on with the patient's care.

2 That's essentially what the notes are
3 for.

4 Q. All right. Let me show you what's
5 been marked as State's Exhibit 52-A and ask you, is that
6 a photograph of Mrs. Routier?

7 A. Yes, it is.

8 Q. Okay. Do you see the large bruise
9 there all along her right arm?

10 A. Yes, I do.

11 Q. Okay. Now, as your experience as a
12 nurse there at Baylor, have you seen bruises and injuries
13 like that often?

14 A. Yes.

15 Q. Okay. Do y'all call that a blunt
16 trauma, causing this type of bruises?

17 A. Just by looking at the photograph I
18 would -- my experience would lead me to believe that that
19 was caused by some sort of blunt trauma.

20 Q. Okay. Now, while she's in your care,
21 do you make a careful assessment of her physical
22 conditions, injuries, things like that?

23 A. Yes. Yes.

24 Q. Okay. At any time, did you see any

25 injury to her right arm, that would have caused this type

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1 of bruising?

2 A. I did not. When I was taking care of

3 her, the only thing on her right arm was the actual

4 injury that she had to the upper right arm, which had a

5 dressing on it. And, I did not see any other bruising or

6 swelling that would be consistent with something like

7 that to any other areas of the arm.

8 Q. If Mrs. Routier had received some

9 severe blunt trauma, or blunt trauma, enough to cause

10 that type of bruising, let's say on the 6th of June,

11 around 2:30 in the morning, would you have seen evidence

12 of those injuries on her right arm?

13 A. I would have seen, probably not to

14 that extent, but I would have seen the beginnings of it.

15 Q. Okay. This would have been -- you saw

16 her from 5:00 to 7:00; is that right?

17 A. Right.

18 Q. So, we're talking about two and a half

19 to three and a half, almost four hours later?

20 A. Right.

21 Q. You would have seen some evidence of

22 that injury?

23 A. Right.

24 Q. And these are things you check for;

25 right?

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1 A. Correct.

2 Q. You didn't see it?

3 A. No.

4 Q. Okay. Also State's Exhibit No. 52-N.

5 Do you recognize -- it shows a photograph of a hand,

6 bruising to the left wrist and arm area?

7 A. Yes.

8 Q. Did you see any evidence of that type

9 of injury?

10 A. I did not.

11 Q. Okay.

12 A. At that time, no.

13 Q. And can we see where on that

14 particular, in this photograph, let's just assume this is

15 Mrs. Routier's hand, that -- where you had IVs hooked up?

16 A. What you can see on the photograph is,

17 if you look at this little spot here, that would have
18 been where the arterial monitor was inserted. This was
19 obviously taken after that was removed at some point in
20 time.

21 Q. Okay. She didn't have any IVs hooked
22 up to her right side, did she?

23 A. No.

24 Q. You didn't see any evidence of
25 injuries here to the left side?

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1 A. No, I did not.

2 Q. Again, is that something you would
3 have looked for?

4 A. Yes.

5 Q. Okay. Now, did the Rowlett Police
6 contact you sometime later, I think actually in July, on
7 the first day of July, and have you write out an
8 affidavit?

9 A. Yes, they did.

10 Q. Okay. And where did that take place?

11 A. At the Rowlett Police Department.

12 Q. Did you execute a three-page
13 affidavit?

14 A. Yes, I did.

15 Q. Did you just kind of write it out in
16 your own words?

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

19 Q. Do you recall who asked you to do
20 that?

21 A. Detective Frosch.

22 Q. Okay. Let me show you --
23

24 MR. TOBY L. SHOOK: If I could get
25 this marked.

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1

2 (Whereupon, the
3 exhibit were
4 marked for
5 Identification
6 only, as State's
7 Exhibit No. 55.)

8

9 BY MR. TOBY L. SHOOK:

10 Q. Let me show you a three page document

11 marked State's Exhibit 55. And take a look at those
12 three pages, please.

13 A. Okay.

14 Q. Does that appear to be a copy of the
15 affidavit that you gave to the Rowlett Police Department?

16 A. Yes, it does.

17 Q. Okay.

18

19 MR. TOBY L. SHOOK: Judge, that's all
20 the questions I have. And I will give -- turn the
21 affidavit over to him.

22 THE COURT: Mr. Mulder.

23 MR. DOUGLAS MULDER: Judge, I have not
24 seen this. Would you bear with me while I read it
25 quickly?

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1 THE COURT: All right.

2

3 (Whereupon, after

4 a short pause,

5 until the

6 defense read

7 the exhibit,

8 the proceedings

9 were resumed

10 as follows:)

11

12

13 CROSS EXAMINATION

14

15 BY MR. DOUGLAS MULDER:

16 Q. Mr. Wielgosz, you have no doubt had an
17 opportunity to read this statement, or perhaps have a
18 copy of it yourself, do you not?

19 A. Yes, I do.

20 Q. So you were able to, I guess, review
21 it as much as you wanted to in preparation for your
22 testimony today?

23 A. I did review it, yes.

24 Q. Okay. And is it fair to say, Mr.

25 Wielgosz, that prior to the time that you gave this
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1 statement, you were questioned to some degree by the
2 detectives?

3 A. Prior to that date?

4 Q. Right. In writing out the statement.

5 A. Well, that was the first time the
6 police had contacted me.

7 Q. Okay. So, you had seen them on the
8 6th of June only, and only on that date?

9 A. Correct.

10 Q. Okay. And saw them for -- I believe
11 you said you got off at 7:00 o'clock. So, whatever time
12 they got up there until your shift was over?

13 A. Right.

14 Q. You left promptly at 7:00, I assume?

15 A. Approximately 7:00, 7:05.

16 Q. Okay. And is it -- you didn't hear
17 anything from them until July the 1st of 1996?

18 A. Correct.

19 Q. Did they come to Baylor Hospital to
20 see you?

21 A. They called me and asked me if I would
22 be able to come out to the Rowlett -- they contacted me
23 at work.

24 Q. Okay.

25 A. Because I work nights. They contacted
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1 me while I was at work and asked me if I would come out
2 to the Rowlett Police Department.

3 Q. When you got off work?

4 A. No. We set up a date several days
5 after that.

6 Q. Okay. And so they contacted you a
7 couple of days before July the 1st?

8 A. Correct.

9 Q. And you made arrangements. Did you go
10 out there on your day off?

11 A. Yes.

12 Q. Okay. And, I guess renewed your
13 acquaintanceship with both Frosch and Detective
14 Patterson?

15 A. Well, presented myself to them.

16 Q. Shook hands with them?

17 A. Right.

18 Q. They said, "remember us?"

19 A. Yes.

20 Q. You said, "Yeah, I remember y'all.

21 You were the ones that came up there to see Ms. Routier?"

22 A. Right.

23 Q. Words to that effect?

24 A. Yes.

25 Q. They said, "Do you remember," I assume

1 they said, "Do you remember at that time that we were up
2 there talking to her -- do you remember back if she
3 appeared to be alert at that time?" Did they ask you
4 that?

5 A. They did ask me if she was alert at
6 that time.

7 Q. Okay. And had you, in preparation for
8 this meeting, I bet you had gone back and reviewed your
9 notes, hadn't you?

10 A. No, I had not --

11 Q. Had not? Okay.

12 A. -- had the opportunity to do that at
13 that point in time.

14 Q. Okay. But you're telling this jury
15 that prior to the time that you went out and met with
16 them July the 1st of 1996, you had not had an opportunity
17 to review your notes?

18 A. I did not review my notes.

19 Q. Okay. So, and you're sure about that?

20 A. Yes.

21 Q. Okay. So, at any rate, you visited
22 with them. About how long did y'all talk before they
23 asked you to give a statement?

24 A. I would say approximately 15 minutes.

25 Approximately 15 minutes.

1 Q. Okay. Y'all just basically chatted
2 about what had gone on, on the 6th, while they were
3 there?

4 A. I actually asked them several
5 questions, asked them why they were interested in having
6 me come out to fill out a statement.

7 Q. Okay.

8 A. And they answered my questions. And
9 then we went on to ask me -- they asked me at that point
10 in time they asked me to fill out the affidavit, fill out
11 an affidavit.

12 Q. Did they -- let me ask you this: When
13 is the last time you saw the prosecutors before today,
14 before this morning, in here in court?

15 A. I did see the prosecutors yesterday.

16 Q. Okay. And yesterday evening?

17 A. No, yesterday morning.

18 Q. Morning? Which ones did you see?

19 A. I saw Prosecutor Shook.

20 Q. Okay. You talked to him yesterday
21 morning?
22 A. Just in passing.
23 Q. Sure. Just passed the time of day
24 with him, "Good morning, how are you, Toby"?
25 A. Correct.
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1 Q. And when did you come down here?
2 A. We came down here Monday night.
3 Q. Okay. You say "we," who did -- did
4 you come down with someone?
5 A. I came down on -- we flew down out of
6 Love field in Dallas, with several other subpoenaed
7 witnesses.
8 Q. Okay. Who did y'all come down with?
9 A. There were several other Baylor
10 employees.
11 Q. Do you know who they were?
12 A. I do know who they are, yes.
13 Q. Could you share that with us, please?
14
15 MR. TOBY L. SHOOK: Judge, I'll object
16 to relevance, who he came with.
17 THE COURT: Overruled. I'll let him
18 answer that question. Go ahead.
19 THE WITNESS: I came down with several
20 of the nurses from the 4 ICU. And also a nurse from the
21 emergency room, and one of the residents.
22
23 BY MR. DOUGLAS D. MULDER:
24 Q. Do you remember what their names were?
25 A. I was not acquainted with these people
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1 before we actually came to Kerrville. So, I still am not
2 aware of all of their last names, but at this point in
3 time I do know their first names.
4 Q. Tell us their first names, if you
5 would, please.
6 A. There is a nurse, first name Paige,
7 and a nurse, first name Jody. Another nurse, first name
8 was Jody. There is a nurse Denise and Dr. Dillawn was
9 the resident.
10 Q. Okay. So we've got two Jodys, a Paige
11 and a Denise?
12 A. That's correct.
13 Q. Okay. Y'all have been staying out at

14 the Holiday Inn, haven't you?

15 A. Correct.

16 Q. I assume you have lunch together, or
17 eat dinner together, things like that while you're
18 waiting here to testify?

19 A. At times.

20 Q. Okay. Kind of allowed you to, I
21 guess, get acquainted a little bit better?

22 A. To some extent, yes.

23 Q. I mean, not much to do out there, is
24 there, except watch TV?

25 A. No, there's not a lot to do.

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1 Q. Pretty cold to go outside, rainy?

2 A. Yes.

3 Q. Have y'all talked about your
4 testimony?

5 A. Actually we have been instructed not
6 to.

7 Q. Okay. And, had you met with the
8 prosecutors back in Dallas?

9 A. Yes, I did.

10 Q. And when was that?

11 A. I don't remember the exact dates,
12 sometime in November.

13 Q. Okay. And where was it that y'all
14 met?

15 A. They had come out to my apartment.

16 Q. Okay. Who came out there?

17 A. Investigator Bosillo and Attorney
18 Shook.

19 Q. Okay. Is that the only contact you
20 had with them?

21 A. Previous to that I had contact with
22 Investigator Bosillo at Baylor Medical Center.

23 Q. And he just -- did he have your
24 affidavit with him when he came out to visit with you?

25 A. I do not recall if he had the

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1 affidavit at that time.

2 Q. But he talked to you at that time, did
3 he?

4 A. Yes, he did.

5 Q. Was that the first contact you had
6 with anyone from the DA's office?

7 A. Correct.

8 Q. Okay. So you met with Mr. Shook how
9 many times?

10 A. Once.

11 Q. Okay. And then passed the time of day
12 with him here the other day?

13 A. Correct.

14 Q. Okay. You didn't participate in any
15 dress rehearsal or anything, did you?

16 A. No.

17 Q. Okay. Now, do you have -- did the
18 detectives, when they talked to you, did they ask you,
19 "Do you recall when I questioned her about such and such?"

20 And do you recall when I asked her about the
21 description?" Did they ask you anything like that?

22 A. No, they simply asked if I recalled
23 them questioning her.

24 Q. And that's it?

25 A. The detectives?

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1 Q. Yes, sir.

2 A. When I was in Rowlett?

3 Q. Yes.

4 A. Yes.

5 Q. Okay. And you're telling the jury
6 that you didn't have -- you didn't go over your notes
7 when you -- in preparation for the -- in preparation for
8 your interview with them when you gave your affidavit?

9 A. That's correct.

10 Q. Okay. And this may be -- I don't mean
11 to be splitting hairs here, but you notice when you gave
12 a description on your affidavit how you described her?
13 Are you familiar with it enough or would you like to look
14 at it? Or do you have your own copy?

15 A. No, I would like to look at it.

16 Q. Okay. Did you find anything in there
17 where you described her as crying, visibly upset?

18 A. Yes.

19 Q. Okay. And that's what you say
20 exactly, crying, visibly upset?

21 A. Correct.

22 Q. Okay. And that was in your affidavit
23 as well?

24 A. Yes.

25 Q. Okay. You had told us something here
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1 about -- and I assume you didn't take any notes at the
2 time, did you?

3 A. Take any notes at what time?

4 Q. At the time that this interview was
5 going on at the Rowlett Police Department?

6 A. Right. No, I did not.

7 Q. And were you tending to other things
8 or were you just --

9

10 THE COURT: I think the jury is having
11 a tough time hearing. You might want to raise your voice
12 a little.

13 Can everybody hear him?

14 Okay. Speak into that microphone loud
15 then. Go ahead.

16

17 BY MR. DOUGLAS MULDER:

18 Q. Okay. They had asked you when you
19 gave your affidavit to make it as complete as you
20 possibly could, didn't they?

21 A. They simply asked if I would write an
22 affidavit.

23 Q. Okay. And were you told or did you
24 understand that you should make it as -- of course,
25 you're the type of guy that, you know, as a nurse you
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1 make things as complete as you possibly can anyway, don't
2 you?

3 A. We do, yes.

4 Q. And it is part of your business to be
5 accurate, isn't it?

6 A. That's correct.

7 Q. That's why you put, that when she came
8 into your unit she was visibly upset, and she was crying?

9 A. That's what I stated.

10 Q. Not just tears, a little water in the
11 eyes, but she was actually crying, wasn't she and that's
12 what you put down there?

13 A. I did put down that she was crying,
14 yes.

15 Q. Okay. You put it down because it's
16 true, isn't it?

17 A. She was crying.

18 Q. All right. And, you told the jury
19 about how you listened to them question her; is that
20 right?

21 A. That's correct.

22 Q. Okay. In your statement you said

23 that, and I believe you testified to this too, that you
24 had been advised by someone that the Rowlett Police
25 Department officers were there and wanted to question Ms.
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1 Routier; is that right?

2 A. That is correct.

3 Q. And you said that's why you delayed
4 giving her any medication. Correct?

5 A. Well, that's why I called to find out
6 how long they may be, yes.

7 Q. And you delayed any medication at that
8 point, did you not?

9 A. Approximately 10 minutes, yes.

10 Q. Okay. And then, so -- I think you
11 noted in there, that you were advised that they wanted to
12 question her at about 6:00 o'clock, or thereabouts?

13 A. I don't recall the exact time. At the
14 time that I called down, they said -- they said that they
15 would be there in approximately 10 minutes.

16 Q. All right. And they didn't show up,
17 did they?

18 A. Correct.

19 Q. So you went ahead and administered
20 some medication to her, some Demerol and then another
21 drug that keeps your stomach from being upset?

22 A. Correct.

23 Q. Okay. And about what time was that
24 done?

25 A. Approximately 5:50.

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1 Q. Okay. Did you chart it in there at
2 6:05?

3 A. I may have.

4 Q. Okay. And that would be the time that
5 it was actually given then, I guess, wasn't it? Wouldn't
6 it be? Whatever is the charted time?

7 A. Well, that would be the most accurate
8 time.

9 Q. Okay. And then you said it was about
10 how long before they came up?

11 A. Approximately 10 minutes.

12 Q. Okay. Of course you had other things
13 you were attending to, you weren't just standing there
14 waiting on them, were you, tapping your foot?

15 A. Waiting on the police?

16 Q. Yeah.

17 A. No, I was waiting on -- I was
18 attending to the patient.
19 Q. Okay. And you had other chores, I
20 assume, like making notes on your charts, and things like
21 that?
22 A. Yes.
23 Q. Okay. The point I'm making is, you
24 weren't just standing there tapping your foot waiting for
25 the police officers to get up there, were you?
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1 A. No, I was not.
2 Q. Okay. The police came up about 15
3 minutes or so after you had administered the Demerol?
4 A. I would say 10 to 15 minutes, yes.
5 Q. That's what you're saying, you're
6 saying 10 to 15 minutes, if I understand it correctly?
7 A. Yes.
8 Q. So that is going to put them up there
9 at about, what, 6:15, or 6:20, something like that?
10 A. Approximately, yes.
11 Q. Okay. And, did you have anything else
12 to attend to at this time?
13 A. The patient.
14 Q. And that's it?
15 A. Correct.
16 Q. Were there other patients in ICU?
17 A. Yes, there were.
18 Q. About how big is this ICU room?
19 A. The particular room has -- they're set
20 up in different pods, they call them.
21 Q. Okay.
22 A. And, each pod has four beds. In this
23 particular case, this was the only patient in this pod.
24 Q. Okay. But how many other pods did you
25 have?
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1 A. Are there on the unit or was I
2 responsible for?
3 Q. No, on the unit.
4 A. There are seven.
5 Q. Okay. I mean, I may have the wrong
6 conception of this, but I visualize a room -- is it as
7 big as this room?
8 A. Each pod?
9 Q. No, the entire room.
10 A. It's not an entire room, it's actually

11 a portion of an entire floor.

12 Q. Okay.

13 A. With a hallway. And off the hallway

14 are separate rooms which we call pods. They each have

15 four beds in them, four patients.

16 Q. All right. Well, there's some privacy

17 in there where they were able to question her; is that

18 right?

19 A. Yes.

20 Q. And you were just -- you just sat

21 there and listened? Is that your story, pretty much?

22 A. Well I was there while they were

23 questioning her performing my responsibilities.

24 Q. What were your responsibilities?

25 A. Again, tending to the patient and

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1 monitoring the patient, and doing all of the paperwork

2 required to admit the patient into the intensive care

3 unit.

4 Q. How much paperwork is involved in

5 that?

6 A. Well, do you want pages, or -- I don't

7 know how you want me to quantify that.

8 Q. Well, I want to know if you're just

9 making a couple of check marks and signing your name, or

10 if there's something that requires, you know, some

11 thinking.

12 A. Well, there's quite a bit that

13 requires a lot of thinking, yes.

14 Q. Okay. Well, all right. Well, I

15 assume you're tending to your stuff, and letting the

16 police -- you don't anticipate at that time, that you're

17 going to be down here testifying, did you?

18 A. No, I did not.

19 Q. So you're making sure that what you're

20 doing is accurate, as opposed to monitoring the police

21 interrogation? Is that fair to say?

22 A. I was not monitoring the police

23 interrogation, but I could not help but overhear portions

24 of it.

25 Q. I understand. But it's kind of like

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1 when you're working on a project and the TV set is on.

2 Something like that?

3 A. Well, I don't think that that's

4 necessarily an accurate analogy.

5 Q. You don't like that analogy?

6 A. No.

7 Q. All right. You've done that, haven't

8 you? Where you'll have the TV set on, maybe somebody

9 else is over here watching TV and they're concentrating

10 on that and you're doing paperwork, and you don't know

11 whether the Cowboys are winning or losing.

12 A. I'm not a big Cowboys fan, so I

13 wouldn't know.

14 Q. Well, that's a better analogy. You're

15 not a big Cowboy fan, so you wouldn't be paying

16 attention, so you would be tending to your business,

17 whatever you're doing. Right?

18 A. Correct.

19 Q. Okay. So you tried to be as accurate

20 as you could in this State's Exhibit No. 55. And you

21 told us -- you said something about a struggle; is that

22 right? Is that right?

23 A. I didn't use the word struggle. I

24 said that --

25 Q. What did you say? A struggle with her

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1 attacker or something like that?

2 A. Was defending herself.

3 Q. Defending herself, right. Would you

4 show me in there where you say that?

5 A. I don't have it stated in the

6 affidavit.

7 Q. Do you want to look through the whole

8 affidavit so you can make sure?

9 A. Okay. No, I don't state that

10 specifically in this affidavit.

11 Q. Okay. I guess you weren't -- that

12 didn't seem important to you at the time?

13 A. Well, I didn't think that I was going

14 to be required to state in detail their entire

15 questioning.

16 Q. Well, you know, just a casual reading

17 of this, you spend more time, really, on the jewelry and

18 rings and stuff like that, don't you?

19

20 MR. TOBY L. SHOOK: Judge, I'll

21 object, if he's going to just keep referring to the

22 document in general, then we would object to that, unless

23 it's put in evidence.

24 THE COURT: Sustained.

25

1 BY MR. DOUGLAS MULDER:

2 Q. Yes, sir. You actually -- but you do
3 address the jewelry to some extent, don't you?

4 A. I do. That was something that stuck
5 out very specifically in my mind.

6 Q. Okay. Mr. Wielgosz, in your position
7 as a nurse, you have seen, I guess, people who have been
8 victims of trauma, I guess, on a daily occurrence, do you
9 not?

10 A. Yes.

11 Q. Okay. Could you give us your -- based
12 on your expertise and experience and whatever, can you
13 give us your best estimate or guesstimate as to how old
14 these bruises are?

15 A. Can you be more specific?

16 Q. Well I don't know how.

17 A. Well, I don't understand the question:

18 "How old they are".

19 Q. Oh, okay. Can you tell us, obviously,
20 whoever -- if these are a result of trauma -- well, let
21 me put it to you this way: If these are a result of
22 trauma, are you saying that it must have happened after
23 she was discharged from your care, from your hospital?

24 A. I did not say that. I simply stated
25 that the bruising on the right arm is not consistent with
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1 anything that I assessed or noted at the time that I took
2 care of the patient.

3 Q. All right. Are you saying that you
4 would have noticed it had it been there, or are you
5 saying that you should have noticed it, had it been
6 there?

7 A. I'm saying that if there was anything
8 that would have caused that amount of bruising, that I
9 would have noticed it.

10 Q. Well, surely, if -- you have been
11 bruised before, haven't you?

12 A. Yes, I have.

13 Q. Did you ever bump yourself or run
14 against a table and bump your hip, and all of a sudden
15 you're getting out of the shower and you look down and
16 you see it, and you think, gosh, when did I do that? All
17 of a sudden it's black and blue, and you think back and
18 it was three or four days ago. Has that ever happened to
19 you?

20 A. That has happened to me, yes.

21 Q. Okay. Well, I'm not suggesting that

22 you overlooked these bruises, but it's been my

23 experience, and I suspect your experience with bruises,

24 that you get an injury and you don't see anything, maybe

25 a slight swelling immediately, and then as the hours and

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1 the days go on, it gets worse and worse and worse until

2 it finally peaks and starts to fade?

3 A. Well, it's been my experience that to

4 cause the bruising that's that severe, that there would

5 have been, at that time, a hematoma that would have been

6 apparent. That would have been a large amount of

7 localized swelling at the sight that the trauma took

8 place, and it would then have taken 24 or 48 hours for it

9 to become that apparent and severe throughout the entire

10 arm.

11 Q. Okay. Now, did you see Ms. Routier on

12 the 7th?

13 A. No, I did not.

14 Q. Did you see her on the 8th?

15 A. No, I did not.

16 Q. Okay. So, your observations of her

17 are, I guess, limited to from 05:00, as you described it,

18 until 07:00?

19 A. That's correct.

20 Q. Okay. And she wasn't up there, and no

21 one had called any attention to any bruising on her; is

22 that right?

23 A. Excuse me?

24 Q. No one had said to you that she had

25 been bruised? You didn't note that -- that was not noted

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1 in the chart when you got her, and she didn't complain of

2 bruises?

3 A. Well, I was the initial nurse that --

4 I did the initial assessment after she came out of the

5 OR. And at that time there was no bruising there and

6 nothing that would indicate any trauma.

7 Q. Okay. Did you examine her hands?

8 A. Yes, I did.

9 Q. Did you notice anything remarkable on

10 her hands, either of her hands?

11 A. There was blood on her hands, dried

12 blood.

13 Q. Okay.

14 A. The very, very slight, seemed like a
15 very slight cut, possibly, on the left hand, I believe.

16 Q. Did you note that in your chart?

17 A. That was not noted.

18 Q. How do you know it wasn't noted?

19 A. Well, I don't recall seeing that in

20 the chart --

21 Q. Have you been over your chart?

22 A. I have been -- I have since looked at

23 the chart, yes.

24 Q. And when did you last look at the

25 chart?

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1 A. Tuesday.

2 Q. Tuesday?

3 A. Yes.

4 Q. Okay. And did you go through her

5 entire chart?

6 A. No.

7 Q. Just looked at the two hour window

8 that you had?

9 A. I looked at the entries that I made on

10 the focus notes.

11 Q. Okay. So you know that you didn't

12 note the injuries to her hand?

13 A. Correct.

14 Q. Why is that?

15 A. There was a -- what looked like a very

16 minor paper cut to the hand.

17 Q. Okay. Okay. Did you notice any other

18 injuries to her hands?

19 A. No, I did not.

20 Q. Okay. Did you -- you said she was

21 bloody?

22 A. Yes.

23 Q. Did she have blood on her arms?

24 A. No, she had blood on her hands,

25 fingers and hands.

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1 Q. Had you -- and you're telling the jury

2 that somebody had apparently cleaned her arms and had not

3 cleaned her hands?

4 A. I'm not telling them that, I'm just

5 telling them that the only thing that she had on her when

6 I saw her was blood on her hands.

7 Q. Okay.

8 A. And fingers.

9 Q. Inasmuch as, and I guess you've told
10 us that you weren't attending to other patients, so other
11 than the paperwork that you had to handle, I assume,
12 before got off work, she was your only patient?

13 A. Correct.

14 Q. All right. Any reason you didn't wash
15 her hands?

16 A. That was not a priority at the time.

17 Q. Well, so, the paperwork was the number
18 1 priority?

19 A. The paperwork -- once she is stable,
20 when we assess her and determine that she is stable, her
21 vital signs are stable, then yes, we need to have our
22 charting and paperwork done.

23 Q. And that's what you were primarily
24 concerned with?

25 A. And, also to review the orders, they
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1 come out from the OR with a list of orders from the
2 physicians, which we have to check very carefully.

3 Q. Didn't say anything about cleaning her
4 hands in the physician's orders, I guess?

5 A. No.

6 Q. Okay. You know, obviously I don't
7 have your vast experience, but I couldn't assess -- if
8 someone's hand was bloody, the first thing I would do, is
9 wash it off and see if it was hurt.

10

11 MR. TOBY L. SHOOK: Judge, we'll
12 object to what Mr. Mulder might do.

13 MR. DOUGLAS D. MULDER: Well, I'm
14 suggesting to you --

15 THE COURT: Well, I think this is --
16 that's overruled. I'll let him ask the question.

17 Go ahead.

18

19 BY MR. DOUGLAS M. MULDER:

20 Q. Well, you know, again, I don't have
21 your vast experience, but if I saw blood on somebody's
22 hand, I'd probably think maybe their hand was cut. So
23 what I would probably do, was wash their hand and I could
24 assess it then. I wouldn't just eyeball it and say
25 "bloody hand". I don't understand why you didn't clean

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1 the hands.

2 A. Again, that was not a priority. And,
3 as far as the blood on the hand, her hand was not
4 completely covered with blood.

5 Q. Oh, now it just had some blood on it?

6 A. No, her hand was not completely
7 covered with blood. She had blood on the hand. And I
8 never stated that it was covered with blood.

9 Q. Okay. But -- so you could tell
10 that -- what could you tell from that? Just tell us --
11 she didn't -- her hand wasn't totally bloody?

12 A. I don't understand the question.

13 Q. Well, I mean, so -- you were the one
14 that said that she had blood on her hands.

15 A. Correct.

16 Q. Okay. I asked you simply how you
17 could assess it without washing the blood off, and you
18 said it wasn't a priority.

19 A. Washing the blood off was not a
20 priority.

21 Q. Okay. Did she have blood on her arms?

22 A. Not that I recall.

23 Q. Well, they wouldn't bathe her arms
24 while she was being operated on, would they?

25 A. Well, I don't know what they did when
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1 they operated on her.

2 Q. Okay. Well, they said when she came
3 into the emergency room, she was covered in blood. They
4 wouldn't bathe her in route from the operating room to
5 your room, would they?

6 A. Again, I have no knowledge of what was
7 done between the time the patient was admitted to the
8 hospital and they came to me in the intensive care unit.

9 Q. Are you saying that she didn't have
10 blood on her arms?

11 A. I'm saying the only blood I recall was
12 on her hands.

13 Q. Did she have blood on her feet?

14 A. She did not, that I recall.

15 Q. Well, is that a kind of a definite
16 maybe?

17 A. I do not recall blood on her feet.

18 Q. Okay. Are you saying that you looked
19 at her feet?

20 A. Yes.

21 Q. Okay. And you're telling the jury
22 under oath that she had no blood on her feet?

23 A. Correct.

24 Q. All right. I just want to make sure

25 we understand each other.

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1 This is a -- it is safe to say, a two

2 and a half page affidavit that you were asked to write?

3 A. Correct.

4 Q. Okay. Actually, the only thing that

5 it says in there, and I will hand it to you, so that you

6 can make sure that what I say is accurate, but if I read

7 that thing right, the only thing it says in there that

8 she responded to, was a description --

9

10 MR. TOBY L. SHOOK: Well, Judge, I'll

11 object to this as improper impeachment. I mean, if he's

12 got a quarrel with something that's in the affidavit, he

13 can go specifically to it, but characterizing the

14 affidavit is improper impeachment.

15 THE COURT: Sustained.

16

17 BY MR. DOUGLAS D. MULDER:

18 Q. Let me just ask you: Is there

19 anything, other -- that she describes in there, other

20 than what the assailant was wearing, and she talks about

21 the jewelry not being stolen?

22 A. In this particular affidavit?

23 Q. In the affidavit that you wrote.

24 A. That is what is stated in the

25 affidavit, no, sir.

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1 Q. Okay. So the only thing -- you just

2 talked about the police being methodical with her and

3 starting at the beginning, and a description of the

4 assailant?

5

6 MR. TOBY L. SHOOK: Again, Judge, I'll

7 object to just generally describing the affidavit. If he

8 wants to put it in evidence, that's fine, but that's

9 improper impeachment.

10 THE COURT: I'll sustain the

11 objection.

12 MR. DOUGLAS MULDER: Judge, this is

13 past recollection recorded.

14 THE COURT: Thank you.

15 MR. DOUGLAS MULDER: I'm entitled to

16 go into it.

17 THE COURT: Well, let's ask the next
18 question then. Thank you.
19
20 BY MR. DOUGLAS D. MULDER:
21 Q. Did you put anywhere in your notes, or
22 in the affidavit, anything about Mrs. Routier having a
23 flatness of affect?
24 A. No, I did not.
25 Q. That's just something that you
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1 remembered; is that right?
2 A. That's is correct.
3 Q. Okay. People deal with grief in
4 different manners, don't they?
5 A. Yes.
6 Q. Is it fair to say?
7 A. Fair to say they do that.
8 Q. And, you know, I don't know what
9 tragedy you may have experienced in your lifetime, but
10 certainly you have been in contact with those who have
11 experienced tragedy, and they can be up one minute and
12 down the next, and flat the next, and it just runs the
13 gamut of human emotion, doesn't it?
14 A. Well, I don't know if you can
15 characterize it completely that way, but it varies.
16 Q. Well, that is 95 percent correct, what
17 I said, wasn't it?
18 A. Well, I can't comment.
19
20 MR. DOUGLAS MULDER: I believe that's
21 all, thanks.
22 THE COURT: Anything, Mr. Shook?
23 MR. TOBY L. SHOOK: Judge, we will
24 offer State's Exhibit No. 55.
25 THE COURT: Any objection?
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1 MR. DOUGLAS MULDER: Judge, it's
2 improper and it's bolstering, but I don't have an
3 objection to it. And he knows it's improper, and you
4 should admonish him for doing that.
5 MR. TOBY L. SHOOK: Well, Judge, we
6 would like a legal objection.
7 THE COURT: Well, are you going to
8 object or not?
9 MR. DOUGLAS D. MULDER: No, sir, I
10 don't have an objection. In fact, I was thinking about

11 putting it in myself.
12 THE COURT: All right. Well, thank
13 you. State's Exhibit 55 will be admitted.
14
15 (Whereupon, the item
16 Heretofore mentioned
17 Was received in evidence
18 As State's Exhibit No. 55
19 For all purposes,
20 After which time, the
21 Proceedings were resumed
22 As follows:)
23
24 MR. TOBY L. SHOOK: I don't have any
25 further questions.
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1 THE COURT: All right. Thank you.
2 You may step down. You're under the
3 Rule, which simply means don't discuss your testimony
4 with anybody who has testified, don't compare it. You
5 may talk to the attorneys for either side. If someone
6 tries to talk to you about your testimony, please tell
7 the attorney for the side who calls you.
8 THE WITNESS: Thank you.
9 THE COURT: Have a nice trip back.
10 All right. Ladies and gentlemen, by
11 agreement we will break now until 1:00 o'clock for lunch.
12 Thank you.
13
14 (Whereupon, a short
15 Recess was taken,
16 After which time,
17 The proceedings were
18 Resumed on the record,
19 In the presence and
20 Hearing of the defendant
21 And outside the presence.
22 of the jury, as follows:)
23
24 THE COURT: Who is the next witness
25 Phyllis Jackson or Paige Campbell?
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1 MR. TOBY L. SHOOK: The State calls
2 Phyllis Jackson.
3 THE COURT: All right. Bring the jury
4 in, please.