

Sandra Halsey Disciplinary Hearing (2)

1 TRANSCRIPT OF PROCEEDINGS
2
3 BEFORE THE
4
5 TEXAS COURT REPORTERS CERTIFICATION BOARD
6
7 AUSTIN, TEXAS

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11 IN THE MATTER OF THE * CAUSE NO. 99-0308-07
12 DISCIPLINARY HEARING *
13 OF SANDRA HALSEY *

14 *****

15 BEFORE THE HONORABLE SID HARLE,
16 CHAIRMAN PRESIDING

17 *****

18 EXCERPT OF DISCIPLINARY HEARING

19 *****

20 BE IT REMEMBERED that on the 5th day of
21 June 1999, the above-entitled and numbered cause
22 came on for hearing in the State Bar Building, 1414
23 Colorado, Austin, Travis County, Texas, before the
24 Honorable Sid Harle, Chairman, whereupon the
25 following proceedings were had, to-wit:

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1 APPEARANCES:

2

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FOR THE COMPLAINANT

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1 (At the conclusion of a portion of this
2 trial, which is not transcribed for the
3 purposes of this record, the following
4 proceedings took place in open court with
5 all parties present:)

6 SANDRA HALSEY,
7 having been first duly sworn testified as follows:

8 DIRECT EXAMINATION

9 BY MR. KNAPP:

10 Q. Will you please state your full name for
11 the record.

12 A. Sandra Marion Day Halsey.

13 Q. Are you certified by the Court Reporter's
14 Certification Board?

15 A. Yes, I am.

16 Q. What is your certification number? Wrong
17 question.

18 A. That's right, of all questions. I think
19 it's 308. I'm not sure.

20 Q. How long have you been certified by the
21 Board?

22 A. Ever since the first year they started it;
23 25 years ago, maybe 26, 27. I don't know.

24 Q. Are you also a board member of the Court
25 Reporter's Certification Board?

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1 A. Yes, I am.

2 Q. When were you so appointed?

3 A. Two years ago.

4 Q. So you're in your second year of a
5 six-year term; is that correct?

6 A. I'm starting my third year now of a
7 six-year term.

8 Q. Okay. Third year. I'm sorry. By whom
9 are you presently employed?

10 A. Right now, Dallas County.

11 Q. And what are you doing for Dallas County?

12 A. Right now, I'm working in the -- for the
13 County Clerk's Office.

14 Q. And what is your exact job description?

15 A. Cashier.

16 Q. In 1997, were you the official court

17 reporter of the Criminal District Court No. 3 of
18 Dallas County, Texas?

19 A. That's correct.

20 Q. And were you the court reporter during the

21 trial of the State of Texas -- styled the State of
22 Texas versus Dorothy Lynn Routier under Dallas
23 County Cause No. F96-39973--MJ?

24 A. Yes, sir.

25 Q. Were you also the court reporter when this

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1 case was changed on venue to Kerr County and it was
2 continued under Cause No. A-96-253?

3 A. Yes, sir.

4 Q. And did you attend the trial of this case

5 each and every day, both in Dallas County and in
6 Kerr County?

7 A. Yes, sir.

8 Q. And Ms. Routier was found guilty of
9 capital murder; is that correct?

10 A. That's correct.

11 Q. And she appealed the decision to the Court
12 of Criminal Appeals?

13 A. Yes, sir. It's an automatic appeal.

14 Q. Just very briefly, did -- when the

15 reporter's record was due with the Court of Criminal
16 Appeals, you did not file it on time; is that
17 correct?

18 A. That's correct.

19 Q. And there were several extensions granted;
20 is that correct?

21 A. Yes, sir.

22 Q. And then you were -- let's see. You filed
23 it, I believe, on the first filing on February 23,
24 1998, with the Court of Criminal Appeals?

25 A. No, sir, that's not correct. The first

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1 filing was -- this exhibit right here -- when I took

2 the whole record that I had finished, which was

3 February 6 of 1998.

4 Q. All right. You filed it on February 6th
5 of 1998?

6 A. Yes, sir.

7 Q. And was that record returned to you as not
8 being sufficient at that time?

9 A. Yes, sir.

10 Q. And when it was returned, did the Court
11 advise you that, you had not complied with Rules 34.6
12 and 35 of the Rules of Appellate Procedure and of
13 the requirements of the appendix for criminal cases?

14 A. I'm not sure about those cites, but if you
15 say that's it. That wasn't my understanding of why
16 they returned it.

17 Q. Okay. All right. I believe I lifted that
18 right out of the language of one of the orders.

19 A. You may have. I just don't -- I don't
20 have that memorized, those numbers.

21 Q. I understand. Was a judgment of contempt
22 entered against you on March 26, 1998, for not
23 having the record in by that date?

24 A. Yes, sir.

25 Q. Did you -- were you confined to county

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1 jail or did you serve 72 hours at home or what was
2 the deal on that?

3 A. I talked to the -- the sheriff and the
4 first assistant, Chief Knolles. And they --
5 Chief Knolles told me to report to him the first
6 Monday -- I think it was Monday or Tuesday -- at
7 8:30 and that I was to be in the courtroom doing my
8 work until 4:30 for three days. That was my
9 under -- that was what happened. And then I went
10 home at 4:30.

11 Q. All right. Did you file with the Court of
12 Criminal Appeals on April 24, 1998, a reporter's
13 record that was accepted for filing at that time?

14 A. Yes, sir.

15 Q. All right. And on that record that was
16 submitted, did you proofread that record yourself?

17 A. I didn't have much time to do that because
18 my scopist finished it late. And so the answer is,
19 no, sir.

20 Q. Is that something you would customarily do
21 on a record is --

22 A. Absolutely not.

23 Q. -- proofread it?

24 A. Proofread, yes, it would. Excuse me for
25 interrupting you.

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1 Q. Isn't it true that during this period of
2 time when you were preparing the reporter's record
3 and when you initially filed it and even after that,
4 that you advised a number of people that were
5 associated with this case that there were no
6 audiotapes of the evidentiary and the sentencing
7 portion of that trial?

8 A. Repeat that question again.

9 Q. Did you not advise several people that
10 were associated in this Routier case in one way or
11 another, whether they were lawyers or court
12 reporters that were helping out or the judge, but
13 you advised a number of people associated with that
14 case that there were, in fact, no audiotape
15 recordings of the evidentiary and the sentencing
16 portion of the case.

17 A. Well, if I can make a clarification on
18 that.

19 Q. Please.

20 A. I said no usable audiotapes. I had made
21 tapes. I thought I repeated over and over. I made
22 tapes, but found out because I had changed equipment
23 from the voir dire portion of the trial until we
24 went back in January, different equipment and that
25 those -- that the jury trial portion, those tapes

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1 that I made were not -- I couldn't hear them.

2 Q. Well, let me ask you this: How many of
3 the tapes did you play back and listen to determine
4 that you could not hear them?

5 A. I put two different ones in the
6 transcriber that was in my office and I could hear
7 nothing but static. And that -- that's all I heard.

8 Q. And when did you do that, approximately,
9 approximate date?

10 A. Approximate date? Middle or end of
11 February at my office.

12 Q. Well, didn't you have a question for --
13 let me back up. Who prepared the reporter's record
14 for you?

15 A. Who prepared it?

16 Q. Well, who -- who gave you the initial
17 draft that you did not proofread?
18 A. If you mean who were my scopists?
19 Q. Who were your scopist?
20 A. I had two scopist, Michele Reynolds, who I
21 gave the voir dire portion to, and Susy Crowley, who
22 I gave the jury trial portion to.
23 Q. And is Susy Crowley related to you?
24 A. That's my daughter.
25 Q. All right. Did you have any questions

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1 when you were handed the record of -- if there
2 were -- by Susan Crowley if there were, in your
3 mind, no audiotapes that were legible, how she was
4 able to prepare the record without the audiotapes?
5 A. Well, at the time all these -- repeat your
6 question again. I want to answer that specific
7 question.
8 Q. At the time that you were presented the
9 reporter's record by Susan Crowley?
10 A. Uh-huh.
11 Q. And you are thinking that there are no
12 legible audiotapes to back it up, wouldn't one of
13 your questions be to Susan how she prepared this in
14 such detail without the audiotapes as a backup
15 resource?
16 A. No, because I wrote the trial on
17 real-time. I had a screen sitting there in the
18 courtroom that the attorneys could watch during the
19 trial. And I -- as I wrote it on real-time, I felt
20 like that it would be okay, except she was to use
21 the tapes for backup if -- if there -- normally, if
22 the tapes work. In this case, when I found out they
23 didn't work, I thought I will have to read over that
24 more carefully. But it was on real-time and nobody
25 objected to anything that they saw on the screen

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1 during the trial.
2 Q. By real-time, do you -- are you typing
3 out? I don't quite understand what real-time is.
4 A. Okay. As you're writing it down on your
5 machine, it's a computerized machine. I have a

6 screen on my writer that prints it out in transcript
7 form. It translates it internally, prints it up
8 on -- not prints, but displays it on my screen.
9 Also, I had an external screen that was for the use
10 of the attorneys. And my understanding was they
11 watched the external screen during the trial.
12 Q. On October 30, 1998, did you appear in a
13 trial proceeding in this -- or trial hearing in this
14 Routier case before Judge Robert Francis?
15 A. Yes, sir.
16 Q. And did you then deny, under oath, that
17 there were any audiotapes existing for the trial
18 portion of the Routier case?
19 A. Yes, sir.
20 Q. Did you also deny that -- that you had --
21 did you also testify that -- that you had listened
22 to some of the tapes and that they did not contain
23 any recording of the -- in other words, that the _
24 were not legible?
25 A. Yes, sir. Not audible.

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1 Q. Not audible, okay.
2 A. Yes, sir.
3 Q. Well, actually, weren't you testifying at
4 that hearing that there were no audiotapes, period?
5 You did not mention that you had somewhere between
6 100 and 150 audiotapes sitting in a warehouse, did
7 you?--
8 A. No, sir, I did not say there were no
9 audiotapes, period.
10 Q. Well, let me ask you here. On Page 11 of
11 the transcript from that hearing on October 30th,
12 which appears in the Board book -- at --
13 MR. KNAPP: Well, do you know where
14 it appears in the Board book?
15 MR. LOMBARD: 41 to 45.
16 MR. KNAPP: Okay.
17 Q. (By Mr. Knapp) Appears on Page_45 of the
18 Board book. Could you read right -- what you said
19 right there? Actually ask the Court?
20 A. Is it this page?
21 Q. It's that page, yeah. I believe it is?
22 A. Uh-huh. Start reading where?
23 Q. Well, at the top of the page where it
24 says, "the Court" and then "okay."
25 A. "Okay. So there are no --

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1 "THE WITNESS: No audiotapes for the
2 trial.
3 "THE COURT: Audlotapes for the voir dire
4 only?
5 "THE WITNESS: Correct."
6 Q. All right. And you did not qualify that
7 at that point, did you?
8 MR. MILNER: Object to that, because
9 he's taking it out of context. If you read the
10 entire thing, you'll see the sequence of the
11 questions.
12 THE COURT: I'll overrule the
13 objection. You can pick it up.
14 MR. MILNER: Yes, sir.
15 THE COURT: You'll have an
16 opportunity to cross her.
17 Q. (By Mr. Knapp) So at least in that
18 portion of the transcript, you made an unequivocal
19 statement; is that correct?
20 A. Well, the question right before it where I
21 said, "Sure, the only tapes that I had where the
22 tape recorder was actually working were the ones
23 from the jury voir dire." Is that what you're
24 referring to?
25 Q. All right, right. But you did not say in

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1 there that you had separate tapes that were not
2 working stored somewhere, you're just making a flat
3 statement, aren't you, on the next page, on Page 11?
4 A. Well, I don't guess I understand your
5 question.
6 Q. I guess my question is that: You made no
7 statement that there were 100 -- somewhere between
8 100 and 150 nonworking tapes of the trial. You just
9 make the unequivocal statement that there are no
10 tapes at that hearing?
11 A. No, sir, I did not make the unequivocal
12 statement that there were no tapes at that hearing.
13 Q. But you had not mentioned to anybody that
14 there were all these tapes sitting somewhere or
15 another, even if they worked or didn't work?
16 A. Sir, they never asked me to present the --
17 the audiotapes from the voir dire at that time. I
18 would have -- I was looking for tapes for that.

19 Q. Right.
20 A. But I didn't know where they were.
21 Q. All right. Let me ask you this: As far
22 as the tapes go, did you give those tapes to your
23 scopist to use?
24 A. Yes.
25 Q. And why did you do that, if they were

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1 non -- not audible tapes?
2 A. Okay. The box of tapes that you're
3 speaking of is every tape, the voir dire, the jury
4 trial, the entire thing, all the hearings, all the
5 tapes are in one box. And I told the two scopist, I
6 said, "This side of the box is the voir dire tapes.
7 This side of the box is the jury trial tapes. I
8 don't think these tapes on the jury trial are
9 working." And I left them there. Typically, they
10 just come and do their job each day. I don't hand
11 anything to them, they just see everything there.
12 say, "Here's the information sheet, the diskettes,
13 the notes. If you can't hear anything on the tapes,
14 go to the notes."
15 Q. Well, let me ask you: Do you have a
16 fairly close relationship with your daughter,
17 Sue Crowley?
18 A. Yes, I do.
19 Q. And you made the statement to her that you
20 thought that the audiotapes for the voir dire were
21 good tapes and that the tapes for the rest of the
22 trial portion of the case were not good audible
23 tapes, right?
24 A. That's correct.
25 Q. And wouldn't you expect your daughter to

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1 come tell you that there were good tapes and there
2 was not the problem that you anticipated with the
3 tapes?
4 A. I don't -- I mean I wouldn't necessarily
5 expect that because we were working on so many other
6 trials. During this time was when she had a lot
7 going on in her life. I had a lot going on in my
8 life. If we ever discussed it, I sure don't
9 remember it.
10 Q. When was the first time that your daughter

11 told you that there were good, audible audiotapes?
12 A. After the hearing on October 30th. It was
13 a few days after that that I talked to her.
14 Q. And you came back, then, to the -- some
15 type of a prehearing conference on November 12 of
16 1998. And at that time, you knew that there were
17 audible audiotapes of this trial, at least the
18 evidentiary and the sentencing portion?
19 A. Yes, sir, I did know that.
20 Q. And did you not go in and advise the
21 Court -- not necessarily in a formal hearing, but
22 advise the people that they were there for the
23 prehearing conference again that there were no
24 audible audiotapes for that proceeding?
25 A. Yes, sir, I did tell him that. And

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1 that -- it was just Judge Francis and myself in his
2 office. Yes, sir, I did tell him that.
3 Q. And is it not true that -- that it
4 required a conference with your daughter and various
5 discussions where you saw that you had better admit
6 this, that you did admit that there were all these
7 audiotapes available for transcribing?
8 A. Yes, sir.
9 Q. How many volumes were there of the
10 transcript in the reporter's record?
11 A. Total from start to finish?
12 Q. Yes.
13 A. Fifty-three, I think. I'm not sure.
14 Q. Why didn't you, as your daughter prepared
15 each volume, review that volume when you received it
16 as opposed to waiting up until the time when you
17 received all 50 volumes and then would have to
18 review all of them at one time?
19 A. Because in the same time that they were
20 scoping, I went -- started working for
21 Judge Johnson. And I went into a court that is an
22 extremely high volume trial court. And I just was
23 working on those other cases, because everything I
24 took had to be turned fast. I had another scopist
25 that I brought in to do that part, those other

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1 trials to help me with that. And I was editing her
2 work because she was new. I was spending more time

3 trying to get these other cases out waiting until
4 they finished, thinking I would have the time --
5 more time to spend when I started their work,
6 proofing their work.
7 Does that answer your question?
8 Q. That does. Isn't it true that your --
9 you're paid for the -- for each page of this record?
10 A. Yes, sir.
11 Q. And how much are you paid?
12 A. \$3.50 for an original and two copies. The
13 original goes to the Court of Appeals, one copy goes
14 to the trial -- well, this is in -- wait a minute.
15 I think it's an original and three. One goes to the
16 DA -- one copy goes to the DA's office. One copy is
17 for the defense attorney. And in this one, since we
18 did an original and three, the third copy was for
19 the writ attorney. Might have charged four. It
20 seems like I started charging 3.50 and then the
21 auditor's office told me I was supposed to charge
22 for an extra copy since it was an original and three
23 rather than an original and two. So I might have
24 charged four, I'm not positive about that.
25 Q. So if the record is 45 volumes as opposed

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1 to 50, you make additional money from the additional
2 volumes that are included; is that correct?
3 A. If -- yes, sir.
4 Q. And if you had extensive indexing, if you
5 had margins that were not as wide as they should be,
6 if you had blank spaces in the record, that would
7 actually add to the charges; is that right?
8 A. It would.
9 Q. Do you recollect when you initially handed
10 in the reporter's record how many volumes there were
11 and how many pages of indexes there were in the
12 various volumes?
13 A. No, sir.
14 MR. KNAPP: Would you mark this as
15 Complainant's Exhibit No. 10A.
16 (Complainant's Exhibit No. 10A was marked
17 for identification.)
18 THE COURT: We can't hear down here,
19 Mr. Knapp. What was that last --
20 MR. KNAPP: Oh, I'm sorry. I asked
21 the reporter to mark this page I handed her as
22 Exhibit 10A, Complainant's Exhibit 10A.
23 THE COURT: All right. Thank you.

24 MR. KNAPP: And could you mark the
25 remaining pages as Complainant's Exhibit IOB, IOC

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1 and IOD, please.
2 (Complainant's Exhibit Nos. IOB, IOC and
3 IOD were marked for identification.)
4 MR. KNAPP: Thank you.
5 Q. (By Mr. Knapp) Let me hand you this page
6 that's marked Complainant's Exhibit 10A and ask if
7 you can identify that.
8 A. Yes, sir.
9 Q. And what is it?
10 A. That's a statement that I turned in for
11 part of the -- I did partial billing. And that's
12 what this is, a partial billing.
13 MR. KNAPP: You all want to see
14 that?
15 Offer Complainant's Exhibit 10A into
16 evidence.
17 MR. MILNER: No objection.
18 THE COURT: It's admitted.
19 (Complainant's Exhibit No. 10A was
20 admitted into evidence.)
21 Q. (By Mr. Knapp) Let me ask you on this
22 letter that you wrote that's -- you wrote to the
23 County Auditor and is dated September 9, 1997.
24 You've got a list here of the volume number that
25 this applies to and is a charge for payment, is it

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1 not?
2 A. Yes, sir. It's a statement, a bill.
13 Q. All right. Could you read just down this
4 list on the volume that you're referencing and how
5 many pages that it says are in that volume and how
6 many pages that are in that volume are also index
7 pages?
8 A. Yes, sir. Each line?
9 Q. Please.
10 A. Okay. Volume 20, Pages -- you want me to
11 read everything on the line.
12 Q. Well, if you'll just skip over actually
13 where it references the volume, how many pages are

14 this in that volume and then on --
15 A. 98 index pages.
16 Q. And how many total pages were there
17 without the index pages?
18 A. Without it? 182.
19 Q. All right. There are 182 and then plus
20 there's 90; is that correct --
21 A. Yes, 98.
22 Q. -- index pages? All right, 98. All
23 right.
24 A. Yes, sir.
25 Q. And drop down one more to the next volume,

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1 how many pages does it say?
2 A. 68.
3 Q. And how many index pages?
4 A. 98.
5 Q. And drop down to the next one?
6 A. 290 pages.
7 Q. And how many index pages?
8 A. 98.
9 Q. Drop down to the next one?
10 A. 247 pages.
11 Q. How many index pages?
12 A. 98.
13 Q. Are there any more on there or is that it?
14 A. Yes, sir, there are more.
15 Q. Does it -- is it always 98 index pages in
16 each volume?
17 A. At this point of my billing process,
18 that's what it was, yes.
19 Q. All right. Can you account for why there
20 are 98 index pages in each volume?
21 A. Yes, sir, I can.
22 Q. What is the reason?
23 A. Well, because I had to keep an index
24 growing. According to the last record that I turned
25 in to the Court of Criminal Appeals, Mr. Miller sent

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1 it back and had me include a mass -- a complete --
2 he sent it back because he said I want a complete
3 index in every volume so that I can look in that
4 volume and see where that witness is. So I was
5 trying to comply with what my understanding was that

6 he told myself and Mr. Withrow. Mr. Withrow handled
7 all of that. And I made copies of the master
8 index. We put it back -- put that in the -- each
9 volume. And then they accepted the whole transcript
10 with a master -- complete copy of the master index
11 in every volume of the whole Jackie Barren Wilson
12 trial. That's not on this trial. It was the one I
13 did just before this one.

14 Q. Well, as I read this, it says State of
15 Texas versus Darley Lee --

16 A. Yes, sir.

17 Q. -- Lynn Routier.

18 A. Yes, sir. So I was trying to do --

19 Q. Oh, this is on --

20 A. Trying to do -- on this trial trying to
21 clear up the problems that had happened on the trial
22 before.

23 Q. I see. So you had -- but you had a
24 complete index in each one of these volumes?

25 A. Yes, sir, up to that point. Since I was

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1 doing a partial billing, that's what I had to do.

2 Q. And did you charge \$4.25 a page for each
3 one of these 98 pages of index in each separate
4 volume?

5 A. If that's what it says there.

6 Q. Well, it appears that that is what it
7 says; is that --

8 A. Yes, sir.

9 Q. And is that what you did in the case
10 before?

11 A. No, sir.

12 Q. Why did you change on this one?

13 A. Because in the case before, in the Jackie
14 Barron Wilson death penalty trial, I had followed
15 what I thought were the rules in the Code of
16 Criminal Procedure and done an index for each --
17 pertaining to each volume and then had one master
18 index. The Court of Criminal Appeals -- and then I
19 had them all numbered in Roman numerals, which is
20 what the Code of Criminal Procedure shows.

21 The Court of Criminal Procedures -- I
22 mean, the Court of Appeals returned that to
23 Mr. Blake Withrow. He called me to his office and
24 we took all the copies and his letter that he had
25 from the Court of Criminal Appeals said, and he

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1 called and talked -- Mr. Withrow talked to the clerk
2 at the Court of Criminal Appeals -- and I guess it
3 was Mr. Miller -- who said, "I want a complete, I
4 mean, a complete index in every volume of the entire
5 trial."
6 So we just made Xerox copies -- that was
7 80 volumes. We made Xerox copies of the entire
8 master index. We -- and then we renumbered ever
9 Roman numeral to Arabic numbers. And we rebound all
10 of those. And I didn't bill for those. I didn't
11 give a bill for those. I had already been paid for
12 the transcript, so I didn't rebill that. So this
13 time, I'm trying to do it right. I'm trying to show
14 that I have those index pages in every volume, which
15 was my understanding of the way he wanted it that
16 time. It's more like follow Mr. Miller's rules.
17 Q. Simply as a practical matter, do you think
18 it's fair in this situation where you charge for
19 these indexes at \$4.50 a page when all you're doing
20 is Xeroxing the same index over and over again?
21 A. I wasn't Xeroxing it, I was printing it.
22 Q. All right. When you were printing it?
23 A. Do I think that's fair?
24 Q. Yes.
25 A. Yes, sir.

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1 Q. As a charge against the State?
2 A. Yes, sir. I mean, yes, sir, I do.
3 Q. What about charging a total of
4 approximately \$25,000 simply for the index in the
5 Routier case; is that also fair?
6 A. I don't know that that's true. \$25,000.
7 I don't know that's true.
8 Q. What was your total charge for the
9 reporter's record?
10 A. I don't know, sir. You have the bills.
11 I don't have the total. It's whatever -- as I stated,
12 I did partial billing. Every time I would do
13 however many pages, 5,000 or something, I would
14 tender to bill so that I could pay my scopist and
15 pay for the copying fees and people to produce that,
16 bind it and all that.
17 Q. All right. I recollect that Ms. Sommers,
18 I believe. I may have that wrong, Simmons. I'm

19 sorry. Ms. Simmons testified that she was charging
20 \$32,000 for -- somewhere in the vicinity of \$32,000
21 for reviewing the reporter's record and making the
22 necessary changes to it for the Court of Criminal
23 Appeals. Does that sound approximately correct to
24 you?

25 A. I have no idea. I cannot guess. I mean,

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1 I think it's -- I don't know.

2 Q. You did charge a substantial amount for
3 the reporter's record, though, regardless of whether
4 it's 30 or 60,000?

5 A. Sir, I charged exactly what the Auditor's
6 office told me to charge for the record. It's set
7 out by their rules there how much they pay. And as
8 I stated, the first billing I was just charging 3.50
9 and the Auditor told me I was supposed to be
10 charging \$4 or 4.25, whatever it is.

11 Q. Well, looking up and down this list, it
12 simply from this Exhibit 10A sometimes the index is
13 greater than the pages in the volume?

14 A. I agree.

15 Q. Sometimes it's half the amount. But
16 it's -- I doubt that it's ever more than -- well,
17 couple places -- one place I see -- two places it's
18 more than -- it's about one third. But anyway,
19 would it be fair to say that your charges for the
20 index were a fairly substantial percentage of the
21 total charge for the reporter's record in this
22 particular case?

23 A. On those particular volumes?

24 Q. All right. Just on Volumes 20 through 27?

25 A. Well, sir, I didn't think it was unfair

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1 because I thought I was trying to do the record the
2 way Mr. Miller wanted it to begin with, was to
3 include that full index. I don't -- I don't do that
4 on any other records. I just did it on this one
5 because of the fact that I was trying to be overly
6 careful about everything and avoid any problems that
7 I anticipated could happen. Those were the only two
8 complaints I had before on the other record and I

9 was trying to avoid those complaints coming up. this
10 time.

11 Q. Before the Routier case and the case you
12 mentioned before, had you ever filed a growing index
13 in any case that -- where you had submitted the
14 reporter's record?

15 A. Before the Routier case and before --

16 Q. And the other case that you mentioned.

17 A. Not that I'm aware of. I don't know of
18 any. I don't know.

19 Q. It's a possibility you have, though; is
20 that correct?

21 A. I don't recall any.

22 Q. So in other cases, it has not been your
23 usual practice, though, to prepare a growing index
24 in a criminal case for appellate purposes --

25 A. No, sir.

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1 Q. -- in the reporter's record?

2 A. It is not my usual practice.

3 Q. Could you go ahead and simply identify
4 these exhibits that are marked IOB, 10C and IOD?

5 MR. MILNER: Your Honor, in the
6 interest of time, we'll stipulate that those are
7 billings that Ms. Halsey sent into the Auditor in
8 Dallas. No argument about that.

9 THE WITNESS: Yes, sir.

10 THE COURT: Any objection to that,
11 Mr. Knapp?

12 MR. KNAPP: No, Your Honor.

13 THE COURT: Okay. Then so stipulated
14 for the record. And they're admitted.

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1 (Complainant's Exhibit Nos. 10B, 10C and
2 10D were admitted into evidence.)
3 MR. KNAPP: Thank you, Your Honor.
4 That's 10B through 10D.
5 Q. (By Mr. Knapp) And we have additional
6 situations where you've charged for at least a
7 fairly substantial portion of these additional
8 volumes or the index; is that correct? On
9 Exhibits --
10 A. The same --
11 Q. -- 10B and 10D?
12 A. Yes, sir.
13 Q. Okay. And you're -- 10D simply certifies
14 to the amount charged for the record; is that
15 correct?
16 A. Yes, sir. Yes, sir. That's required by
17 the Auditor's office to attach that.
18 MR. LOMBARD: Mr. Knapp, might the
19 Board see the exhibit?
20 MR. KNAPP: Oh, certainly. I'm
21 sorry. Pass the witness.
22 CROSS-EXAMINATION
23 BY MR. MILNER:
24 Q. Ms. Halsey, at the time that the
25 Darley Routier case came up, of course, it was

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1 Initially set in Dallas County, was it not?
2 A. Yes, sir.
3 Q. And just briefly tell the Board how it got
4 moved to Kerrville?
5 A. Because there was a TV show on the nightly
6 news where the mother was at the grave side spraying
7 silly string and laughing a week after the burial of
8 the two children. And it caused an outrage in the
9 community, people calling the DA's office saying,
10 "File charges on this woman." And it became
11 apparent to Judge Tull, I'm sure, that he didn't
12 think she could get a fair trial there.
13 Q. So he decided to move it to Kerrville?
14 A. Yes, sir, out of the viewing area of that
15 TV area.
16 Q. And at that time, what was going on in
17 your life from a marriage standpoint or any other
18 particular problems you were having?
19 A. Well, at that time was when I discovered

20 that my husband was having an affair with a younger
21 woman who worked in that building. And her husband
22 worked in that same building, too. And I had
23 started confronting him about it just saying, "Just
24 break it up. She's -- you have no future with her.
25 Break it up and let's get some counseling for our

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1 marriage and move on with our marriage."
2 Q. All right.
3 A. And I knew he was going with her at the
4 time.
5 Q. Did you talk to Judge Tull about not
6 wanting to go to Kerrville?
7 A. Yes, I did. The bailiff -- female bailiff
8 and myself both went and talked to him. And said --
9 I said, "Judge, please don't make me go down there
10 Let me get Tommy Mullins to go down there, because
11 he can substitute. He can take it. Let me stay up
12 here and be the reporter up here."
13 Q. And what did Judge Tull say,
14 A. "No, I need you down there. I want my
15 staff intact."
16 Q. All right. So you went down, originally,
17 for the voir dire?
18 A. Yes, sir.
19 Q. How long did the selection of the jury
20 take or at least the interrogation of the jury?
21 A. My recollection four or five weeks,
22 something like that.
23 Q. Okay. And you used some type of equipment
24 for that portion of it?
25 A. Yes, sir, it was the new equipment that

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1 had been -- that we had gotten for Criminal District
2 Court No. 3 out of our budget, some few months,
3 maybe several months before that.
4 Q. All right. Was there some break in time
5 between the interrogation of the prospective jurors
6 and the actual beginning of the trial?
7 A. Yes, sir.
8 Q. About how much time was in between there?
9 A. My recollection is that we finished with
10 the jury voir dire portion about November 19th
11 of '96. And we were supposed to come back and

12 start the trial January 2nd, roughly.
13 Q. All right. And did the child -- did the
14 trial begin at or near that date?
15 A. Yes, sir.
16 Q. Did you have some different equipment at
17 that time?
18 A. Yes, sir.
19 Q. Tell the Board what the difference was?
20 A. Well, in that period of time, Judge -- I
21 mean, Judge Tull had officially become retired, but
22 he wanted to go ahead and try the case. And so
23 Judge McDowell assigned him, then, to go ahead and
24 finish the trial. And so Judge Bobby Francis had
25 run for and been elected to Criminal District Court

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1 No. 3. And he had Donna Hill as his court
2 reporter. So naturally, they wanted the equipment
3 that belonged to Criminal District Court No. 3. So
4 I had to use the equipment that was in -- assigned
5 to the 3 -- well, I went to use the equipment that
6 was used -- assigned to the 363rd, but the court
7 reporter that was subbing there needed that
8 equipment. So I went to the surplus to get the
9 equipment -- the recording -- Lanier recording
10 equipment out of surplus.
11 Q. Okay. And was that used in the trial, the
12 Routier trial?
13 A. Yes, sir, for the jury trial portion.
14 Q. And about how long did that portion of the
15 trial last?
16 A. Four to five weeks, a little over four
17 weeks.
18 Q. Were there hundreds, if not thousands, of
19 exhibits admitted into evidence?
20 A. Yes, sir. Thousands of pages. Hundreds
21 of actual exhibit numbers, hundreds and hundreds.
22 Q. Once you came back to Dallas, and briefly
23 as you can, just walk us through how you start
24 preparing the record for appeal?
25 A. Well, okay. When I came back, I had -- my

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1 car was full of all the photographs, the paper
2 exhibits and things that I wanted to copy. I also
3 had the boxes of notes and tapes and everything. I

4 took it all up to my office. Is this what you
5 mean?
6 Q. Office where?
7 A. In the 363rd.
8 Q. All right. That's Judge Johnson's court?
9 A. Judge Johnson's court. Judge Faith
10 Johnson's court. So I was up there sorting out
11 which boxes needed to be sent over to be copied for
12 photographs. I was sorting out which copies were --
13 I mean, which boxes were notes and tapes and
14 diskettes and all of that. So I took the box of
15 tapes and the two boxes of notes, I think it was.
16 And I was going to just take those back home to give
17 to my scopist. Is that what you mean?
18 Q. And did you take the box of tapes to your
19 home?
20 A. Yes, I did.
21 Q. How is it set up? Do you do work at your
22 home?
23 A. All the time.
24 Q. All right. And just briefly tell the
25 Board how that -- you have a separate office area

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1 or --
2 A. Yes, sir.
3 Q. -- what do you have?
4 A. I have a separate office. And I just have
5 a lot of cases going on at one time. But during the
6 day, I have a scopist that comes there and works at
7 my -- that was Michele Reynolds, who was doing the
8 voir dire. And she works on those jobs during the
9 day. And then she leaves about 4:30, 5:00, 5:30.
10 don't know, maybe 5:30 or 6:00. Because when I get
11 home, it's usually 7:00 or 8:00. And then I work
12 from then until 12:00, 1:00, 2:00, sometimes 3:00.
13 Sometimes I works all night and go back the next
14 day.
15 Q. Do Michele and your daughter both have
16 keys to the house and the office?
17 A. Yes, sir.
18 Q. So they come and go as they want to?
19 A. Yes, sir.
20 Q. All right. How did each of them come into
21 possession of the audiotapes? I realize you said
22 the voir dire went to Michele and the

23 guilt-innocence went to your daughter. How did they
24 physically get them?
25 A. I left them sitting there in my office on

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1 the floor in the boxes. I said, "These are the
2 notes. If you can't hear anything on the tape, here
3 are the notes. You can find them on the notes.
4 Here are the diskettes. Should be -- everything
5 should be on the diskettes." And Susy was going to
6 take some time and train Michele on how to use this
7 software that we had. And so I didn't -- I never
8 did know when they started -- actually started on
9 the actual part of it. But Susy took a disk, put it
10 in there and was going to show Michele how to work
11 that. I told them at that time, I said, "I want
12 Michele to do the voir dire because I know those
13 tapes are good. I don't think there's anything on
14 these tapes. I've checked a couple of them. I
15 don't think there's anything on these tapes on the
16 trial, but they're there. If you can hear anything
17 on them, fine. But I couldn't."

18 Q. Do you know whether or not Susy took those
19 tapes?

20 A. I don't remember ever noticing one way or
21 the other because they just were doing their jobs
22 and I was working on other appeals. Because the
23 first thing I took in Judge Johnson's court was a
24 week-and-a-half trial and they had to have it right
25 away. And I was more working on those, giving them

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1 time to get started on their stuff.
2 Q. As best you can, give us a time reference
3 where we are when the scopists are beginning their
4 work. About where are we there?
5 A. About the 1st of March of '97, roughly.
6 Q. All right. And how long does the
7 preparation of the court reporter's record take
8 them?
9 A. Several months.
10 Q. Roughly how many months?
11 A. Roughly 10 months.
12 Q. All right. When is the first time there
13 was some question about a missing two exhibits out
14 of all those admitted?

15 A. I would guess October 1st -- probably the
16 middle of October. I'm just guessing on that. I
17 think that's about right.
18 Q. That's October of?
19 A. Of '97.
20 Q. April?
21 A. No.
22 Q. Be '98?
23 A. '98. Yes.
24 Q. And when you -- when someone discovered
25 that two exhibits were missing and brought it to

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1 your attention, where did you think those exhibits
2 were?
3 A. I thought -- I didn't know for sure. I
4 thought they were supposed to be in the record. But
5 since they weren't in the record, I thought, well,
6 Lindsey and I talked about it and he said, "The
7 last" -- "does this ring a bell with you?" He said,
8 "The last thing it shows on the record was that the
9 Court let the defense attorneys take this Brantley
10 file to make a Xerox copy of it? Do you remember
11 them ever bringing it back?" And I said, "I don't
12 remember them bringing it back. I can't remember
13 one way or the other."
14 Q. Is that what you honestly thought at the
15 time?
16 A. I truly thought that at the time.
17 Q. All right. And what about the laser disk?
18 A. Now, the laser disk, in the very
19 beginning, I told Linda Uecker, who is the District
20 Clerk in Kerr County -- when we checked all the
21 exhibits, everything looked like it was there. And
22 as far as I knew. There's a box -- this laser disk
23 is like this big around (indicating), like an old 33
24 and a third record. And it's in a little cardboard
25 box like this deep (indicating). And the box was

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1 there. And so on that -- when we were putting it in
2 the holding place there, all the physical evidence,
3 we opened -- happened to open the box and there was
4 no disk. And so the -- I went to the courtroom and
5 all the equipment was gone. I went to the DA's
6 place where they had their quarters and all their

7 stuff was gone. They had already moved everything
8 out.

9 And Linda said -- several -- several times
10 throughout the trial, I had stayed late with the
11 investigator, Mr. Harrell and Mr. Preston Douglas,
12 who is one of the defense attorneys, so they could
13 listen to that laser disk over and over. And I --
14 and Linda said, "I'll bet Preston Douglas or
15 Lloyd Harrell may have it." I said, "Well, maybe
16 so." And she -- so we started calling them and we
17 couldn't find it. And so we couldn't find that
18 disk. And I told -- right away, she said, "Well,
19 I'll call them. And if they have it, I'll have them
20 bring it over."

21 And when I got back to Dallas, I called
22 Anita Kinney, who was the investigator. And all
23 the -- all the Assistant D.A.'s that had tried the
24 case were on vacation. And all the defense
25 attorneys were on vacation. And I called Anita and

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1 I said, "Find out" -- I said, "Do you all have the
2 equipment" -- I thought it was the DA's equipment --
3 "that they used to play this disk?" Because maybe
4 the jury played it during their deliberations and we
5 didn't know, because it had been there before they
6 started the deliberations and I -- I guess they took
7 it out of the box and put it in there and we didn't
8 know that. And she said, "Well, let me find out.
9 think they rented it somewhere."

10 So she called me back and told me that
11 there -- here is the number of the place where they
12 got the machine. And I called that business,
13 whatever the name of it. I didn't know, but it
14 was -- called that number and talked to a lady who
15 answered the phone and told her that I was the
16 reporter and that the DA's office had returned some
17 of -- asked had they returned the equipment. And
18 she said, "Yes." I said, "Would you check and see
19 if there is a laser disk in that equipment?" "Well,
20 okay. I am sure there is not, but I'll go check."
21 I said, "Just check anyway." She goes and checks
22 and there's no disk in there. She says, "No,
23 there's no disk in there."
24 So I said, "Well, Anita, will you please
25 let the DAs know and see what they want to do about

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1 it. Can they get a copy of it?" She said, "Okay.

2 I'll get back with you." And nothing ever --

3 nothing else ever happened.

4 Q. But as you later find out that Mr. Wicker,
5 who is the owner of the business, had pulled the
6 laser tape out and was keeping it himself?

7 A. Well, I've just heard that just in the
8 last few days.

9 Q. All right. Why did you not -- if two
10 exhibits are missing, why wouldn't you look where
11 they're supposed to be in the first place? That is,
12 in the District Clerk's evidence room?

13 A. I never -- Linda Uecker brought all that
14 evidence herself. She and her husband were coming
15 to Dallas. They brought all that physical
16 evidence. I never got a list of what was checked in
17 down there. I never observed it. I didn't know
18 what was down there in the District Clerk's office.
19 So I didn't expect it to be there. I thought I had
20 all the paper exhibits and everything, which should
21 have included Brantley's file, with me.

22 Q. All right. And moving forward until
23 there's some question about audiotapes. There's
24 eventually a hearing on October 30 before
25 Judge Francis, of '98; is that correct?

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1 A. Yes, sir.

2 Q. Now, what had you told Lindsey Roberts and
3 Toby Shook, if he inquired, or Steve Cooper or
4 Steve Losch or anyone who had any official
5 connection with the trial, and they asked you about
6 the audiotapes, what did you tell them?

7 A. I told them exactly what I just said. I
8 said, I made tape -- I had tape recordings and I
9 thought I made tape recordings of the whole trial,
10 but that the only ones I knew of that worked were
11 the ones of the voir dire and the hearings, but
12 not -- I didn't think that the tapes from the trial
13 had worked.

14 Q. All right. Did you believe that that was
15 true at that time?

16 A. Absolutely.

17 Q. And when you testified on October 30
18 of '98 concerning the malfunctioning of the machine,
19 the battery problem, to Judge Francis and he ends up

20 saying, well, then there are no audiotapes, at that
21 time, you thought you were being truthful, did you
22 not?
23 A. Yes, sir, that's what I meant. No -- 24 nothing on the recording.
25 Q. All right. To go forward from that. When

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1 do you find out from your daughter that that was not
2 an accurate statement?

3 A. A few -- few days after that, because at
4 that hearing, I told people -- they said, "If we
5 asked your scopist, is she going to say that?" I
6 said, "Yes, it's Susy Crowley. Call her up. Ask
7 her."

8 Q. Did you and Susy talk about or did she
9 tell you that there are actually audiotapes?

10 A. Several days after -- a few days after
11 that. I don't remember the exact day, but a few
12 days after that, after that October 30th hearing.

13 Q. Were you undergoing counseling at that
14 time?

15 A. Yes, sir, I had been in counseling since,
16 well, before July.

17 Q. And how often would you go?

18 A. Two or three times a week.

19 Q. In addition -- well, let me ask this:

20 Your husband, Steve Halsey, is a Dallas County
21 magistrate; is he not?

22 A. Yes, he is.

23 Q. Did he leave the home or did you leave the
24 home?

25 A. He left.

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1 Q. And when did he leave?

2 A. When I was down here for a Board hearing.
3 July the 9th is when I came down for a Board
4 hearing. When I got home July the 10th, he had left
5 a note and said he just wasn't happy, and whatever
6 his note said, and he needed to go figure out what
7 he wanted in life. And that was July the 10th
8 of '98.

9 Q. And so that was your notice that your
10 husband was gone?

11 A. Yes, sir.

12 Q. How long had you all been married?

13 A. Well, we've been together 23 years. We've
14 been married 17 years.

15 Q. In addition to that situation and the
16 counseling, did something else happen in your
17 personal life during that period of time?

18 A. In July

19 Q. At or near that. What happened?

20 A. You mean, when I tried to commit suicide?

21 Q. And what else happened before that,
22 what -- your father?

23 A. My father died while I was with him. I
24 was there with him and he was in the hospital. He
25 had gotten Hepatitis C several years back and we

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1 didn't know he had it. We found out about two years
2 before that he -- that he had Hepatitis C. He went
3 to a lot of doctors, they didn't have a cure for
4 it. And he started having seizures off and on which
5 put him in the hospital. And the day that he died,
6 I -- he had had a seizure and he had been in the
7 hospital for about a week. And they were going to
8 let him go, if they could get his blood count up.
9 And I was sitting there -- it was a Saturday. I was
10 sitting there talking to him by his bed. And all of
11 a sudden, he says, "Honey, hand me that basin
12 there." And I handed him the emesis basin, which is
13 the little kidney shaped thing. And he just
14 throwing up lots of blood. And his veins in his
15 esophagus all started rupturing, which is typically
16 how people with Hepatitis C die. And he just
17 started hemorrhaging. And -- and so he just threw
18 up a lot of blood there. And then he stayed in a
19 coma for about three or four days. My mom and dad
20 had their 52nd anniversary on that following Monday
21 or Tuesday and he died the next day.

22 Q. When was that?

23 A. It was during Christmas holiday. I mean.

24 During the Christmas time. December the 3rd is the
25 day he died. Their anniversary is December 2nd.

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1 Q. And what year?

2 A. Oh, was that '97 or '98? I can't -- I
3 think that was '97. That was in the middle of the
4 trial. We finished with the hearing on November --

5 with the voir dire November 19th. He went and had
6 his seizure on November 20. He died on
7 December 3rd.

8 Q. Okay. Once your daughter had told you
9 there were audiotapes did you and she go to some
10 sort of pretrial or hearing conference that
11 Judge Francis had set?

12 A. They called -- actually, his coordinator
13 called me that afternoon like about 3:30 and asked
14 me to come down there.

15 Q. Was either you or Susy subpoenaed to
16 that --

17 A. No, sir.

18 Q. -- conference?

19 A. I didn't even know they were having a
20 conference.

21 Q. So you get a call out of the blue from
22 Judge Frances' coordinator asking you to come down?

23 A. Yes, sir.

24 Q. Or telling you to come down?

25 A. Yes, sir.

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1 Q. You do -- why is Susy there with you?

2 A. Because my car, when I went -- earlier in
3 the day, when I went to get in my car, my battery
4 was dead. And so I told the coordinator, I said,
5 "Well, my battery is dead." I've got a charge --
6 my husband had this thing that you -- and I had to
7 call his son to get directions on how to do it. You
8 plug it in and you hook it -- it's a battery
9 charger. And I had put the charger on there to make
10 it start charging, but it takes several hours to
11 charge a car battery. So he said, "Well, we'll send
12 somebody to get you." And I said, "Well, let me
13 call my daughter. She lives in Carrollton. And
14 I'll get her to bring me down there, if she can."

15 Q. So that's how she got there?

16 A. Yes, sir.

17 Q. All right. On that day, did you go in and
18 meet privately with Judge Francis?

19 A. Yes, sir.

20 Q. You told him there that -- that there were
21 no usable audiotape?

22 A. Yes, sir.

23 Q. Or no audiotapes. And that was not
24 truthful, was it?

25 A. That was not truthful at that point.

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1 Q. Why did you do that?

2 A. I was so scared of Judge Francis. I had
3 already heard what a temper he has. I didn't want
4 to do anything that would upset this appeal. And I
5 hadn't listened to them. I didn't want to take --
6 have them take audio recordings if -- if there was
7 something on them which Susy had, between that time,
8 told me there was. And just pick -- had this
9 happen, what's happened. Pick apart every little
10 thing.

11 Q. So then you told Lindsey Roberts that
12 there were tapes, you didn't know exactly where they
13 were or what did you tell him?

14 A. I did tell him. He said, "Where are
15 they?" I said, "I'm not sure. I have searched
16 everywhere. I've searched my garage. I've searched
17 my office. I've searched my office down at the
18 courthouse. The only place I know of and -- and I'm
19 just guessing, could they be in storage?" He said,
20 "Oh, yeah, I'm sure. Let's go check. I'm sure
21 they're there. They've got" -- I said, "Just pray
22 that they're there, Lindsey. I don't know if
23 they're there or not." He said, "They will be." I
24 said --

25 Q. Did you find later how the tapes got

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1 removed from your home and placed in the storage
2 without your knowledge?

3 A. Yes, I did, much later. My husband had
4 put them over there.

5 Q. All right. And there's an affidavit from
6 him in the package submitted to the Board on your
7 behalf that sets that out; is there not?

8 A. Yes, sir.

9 Q. Concerning the index that the complainant
10 has asked many times about. Did you make the rule
11 that a full index had to be in each volume or is
12 that what Mr. Miller told you?

13 A. That's what Mr. Miller instructed on the
14 last appeal that I had -- last death penalty appeal
15 that I had done out of there.

16 Q. And concerning that Wilson case, did you

17 and Mr. Withrow, the attorney on the appeal for the
18 defendant. did each of you all get a letter from the
19 Court of a Criminals Appeals --

20 A. Yes, sir.

21 Q. -- instructing you to put a full index in
22 every volume in the record?

23 A. Yes, sir, we did.

24 Q. All right. And there's an affidavit from

25 Blake Withrow under Tab 5 in your packet that sets

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1 that out; is there not?

2 A. Yes, sir.

3 Q. Were you trying to do what you thought was
4 the rule?

5 A. Absolutely.

6 Q. What about margins and parentheticals.

7 What -- well, I've heard something about that.

8 What's that all about?

9 A. On the margins -- I mean, I don't -- I

10 don't know. But my margins, the only -- only thing

11 I heard anybody tell me about the margins was, when

12 Mr. Callaway said, "Well, you're supposed to have

13 one tab to start your question and two tabs to start

14 the text. And yours is two tabs to start the

15 question and three tabs to start the text."

16 And then on the parentheticals, I've never

17 seen any rules. Those parentheticals are what have

18 evolved over many years. And I followed the same

19 paren -- those are almost exactly the same

20 parentheticals that Marion McNeil and Don Hardy both

21 had taught me when I subbed for them when I first

22 came to Dallas. They're different than the

23 parentheticals I used before I came to Dallas, but

24 that's what they were using. And I used those just

25 like Marion did.

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1 Q. What's usually contained in the
2 parenthetical?

3 A. The -- they always started off, whereupon,

4 the following proceedings were -- occurred in the

5 presence and hearing of the defendant, being

6 represented by his or her attorney and a

7 representative of the State, and in the presence and

8 hearing of the jury or out of the presence and

9 hearing of the jury. In fact, we used to, at one
10 time, back when -- years ago, we used to put at the
11 top of every single page, in the presence and
12 hearing the jury or out of the presence and hearing
13 of the jury. That was your first line on every page
14 because of some federal rulings or something. I
15 don't know how it evolved, but that's what we used
16 to do. And we quit doing that several years ago.

17 We said, that's -- ridiculous.

18 Q. Had there been criminal defendants in the
19 past that might claim that they weren't present for
20 a hearing when they actually were?

21 A. Absolutely, there were.

22 Q. Is that what the parenthetical is designed
23 to cut off the argument by the criminal?

24 A. Yes, sir, that was our understanding from
25 what the judges instructed us to do that way.

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1 Q. Of course, putting the parenthetical in
2 makes a longer record?

3 A. Well, it makes it more accurate, too.

4 Q. If the Board, in its wisdom, does not
5 revoke your certification, fashions some other
6 punishment, sanction, what are your plans?

7 A. If they do not revoke my certification,
8 then, I do have a job offer pending right now.

9 Q. Are you ever going to work ever again in a
10 felony court?

11 A. No, sir, I've been wanting to get out of
12 it because of the pressure and the long, long, long
13 hours that my job has involved.

14 Q. At the present time, you're working as a
15 cashier for the Dallas County Clerk, Earle Bullock?

16 A. Yes, sir.

17 Q. What's the status of your divorce? Is
18 that final or where are you on that?

19 A. It's pending for the final hearing October
20 3rd, I think it is. It's either September or
21 October. I'm not positive. I think it's
22 October 3rd.

23 MR. MILNER: Pass the witness.

24

25

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1 REDIRECT EXAMINATION

2 BY MR. KNAPP:

3 Q. Your daughter, Susan Crowley, how long has
4 she acted as your scopist?

5 A. For about five years.

6 Q. But she's not certified by the Board as a
7 court reporter; is that correct?

8 A. No, sir.

9 Q. And when she -- as I understand it, she
10 presented you all of these various volumes at one
11 time. She was the one, at least on the evidentiary
12 portion and on the sentencing portion, that prepared
13 the entire record that was reported to you; is that
14 correct?

15 A. Off of my real-time, is that what you
16 mean?

17 Q. That's right.

18 A. Off of my real-time, yes.

19 Q. And you, as I understand it, with a very
20 preliminary look over this, signed it as the court
21 reporter certifying this; is that correct?

22 A. Yes, sir.

23 Q. Did Michele Reynolds scope any of the
24 guilt-incidence punishment phase of the trial?

25 A. To my knowledge, all. she did was the voir

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1 dire portion.

2 Q. Let me hand you this document that's been
3 admitted as Complainant's Exhibit No. 8 and simply
4 ask you that -- you see there's some writing on
5 there that's been read into the record before?

6 A. Yes, sir.

7 Q. Exactly what does that say?

8 A. The writing?

9 Q. Yes.

10 A. "Brantley note file. Defense attorneys
11 have this in their file."

12 Q. Did you write that?

13 A. Yes, sir.

14 Q. And did you write that on any other
15 portion of the reporter's record that was sent to
16 any other party or to the Court itself to be filed?

17 A. I thought it -- I don't recall. I thought

18 it should have been on everyone, because that was my
19 understanding of the time.

20 Q. But it now turns out that's, as far as
21 we're aware, the only document that it appears
22 on --

23 A. Apparently.

24 Q. -- the one that was sent to -- okay.

25 And isn't it true that -- that the record

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1 that you filed and the copies that you sent to
2 various attorneys is supposed to be exactly the same
3 in each set of the reporter's record?

4 A. Excuse me, yes. Repeat that.

5 Q. Isn't it true that you submit a reporter's
6 record to the Court of Appeals -- Court of Criminal
7 Appeals in this case and then you submit a copy of
8 that record to the various attorneys that are
9 entitled to it, that request it. And that -- those
10 copies are supposed to be exactly the same as the
11 record that you file with the Court?

12 A. Yes, sir.

13 Q. And so, at least in this one instance,
14 that was not correct?

15 A. That's correct.

16 Q. Let me ask you: On this Volume 29 of the
17 reporter's record that was -- that's dated July 7,
18 1997, on this certification that's signed by you on
19 there, did that comply with the requirements of the
20 Certification Board of a reporter's record?

21 A. My understanding, it did. It doesn't
22 state exactly verbatim what's in the Code of
23 Criminal Procedure. But the Code of Criminal
24 Procedure says, "in substantially this form." And I
25 was trying to make it more accurate, stating that it

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1 was under -- edited by other people but under my
2 direction.

3 Q. All right. But you did sign that?

4 A. Yes, sir.

5 Q. And there appears?

6 A. Yes, sir.

7 Q. All right. Thank you.

8 MR. KNAPP: Pass the witness.

9 MR. MILNER: No further questions,

10 Your Honor.
11 THE COURT: Board questions?
12 MS. MILLER: From the very beginning
13 of the trial when you were knowing that it was a
14 capital murder trial and it was going to be long,
15 was Susy the only person that you planned to have do
16 the scoping of this?
17 THE WITNESS: I don't know. I can't
18 recall that, Monica.
19 MS. MILLER: No. I was wondering
20 because she's a mother, has a small child, going to
21 court reporting school. In hindsight, do you think
22 it would have been better to probably have had two
23 or three or four scopist lined up to do the work?
24 THE WITNESS: In hindsight, yes.
25 Except that at that time, she wasn't a mother with a

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1 small child. Her baby is just now nine months old.
2 MS. MILLER: In court reporting
3 school?
4 THE WITNESS: Yes, she was going to
5 court reporting school four days a week.
6 MS. MILLER: Would it have been
7 possible that once -- I think both of them ended up
8 having family problems and gone a week or two. I
9 think one was gone for four weeks. Was it not
10 possible to bring in other people? Did work stop at
11 that point?
12 THE WITNESS: Well, when they were
13 gone for that period of time, it was day-to-day.
14 Like, Susie's --
15 MS. MILLER: You thought they would
16 be back?
17 THE WITNESS: I thought they would be
18 right back. It was -- the things that happened were
19 things like, well, if he pulls out of this, he'll be
20 okay tomorrow. And there -- their conditions of
21 their family members deteriorated rather than
22 improving.
23 MS. MILLER: This Michele Reynolds,
24 had she been working as a scopist for you before --
25 THE WITNESS: No.

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1 MS. MILLER: -- for this trial?

2 THE WITNESS: No.
3 MS. MILLER: And she was somebody
4 brand new?
5 THE WITNESS: Right.
6 MS. MILLER: And you said Susy was
7 going to train her some on the software?
8 THE WITNESS: Susy would have trained
9 her on the software.
10 MS. MILLER: She would have been
11 slower than the normal person?.

12 THE WITNESS: To begin with.
13 MS. MILLER: Maybe it would have been
14 better to have a more experienced one in tackling a
15 capital murder?
16 THE WITNESS: In hindsight, yes.
17 MR. LOMBARD: Court reporter doing
18 that asked me about representations on the tapes
19 that were in the storage unit. Someone said that
20 there were notations on the tape delineating --
21 showing that -- delineating the tapes on the trial.
22 Were those written by you?
23 THE WITNESS: No, those were not
24 written by me.
25 MR. LOMBARD: Whose handwriting was

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1 that?
2 THE WITNESS: The page numbers?
3 MR. LOMBARD: The page numbers on the
4 tapes.
5 THE WITNESS: Right. Typically, what
6 Susy does when she listens to the tapes, she writes
7 down the page numbers there, so then if I have a
8 question, I can find it on those tapes. I didn't
9 know it was on there until that night that we pulled
10 them out of the storage. I just hadn't even looked
11 at them.
12 MS. MILLER: Okay. And just, again,
13 on the parentheticals. I have a couple of pages --
14 something that I pulled off of a web page. I mean,
15 is it your normal practice to have -- like on this
16 very first page, this is the testimony of Jimmy Ray
17 Patterson. And like on this very first page, there
18 are five, six, seven blank lines. Is that a
19 normal -- your normal?
20 THE WITNESS: Seven blank lines?
21 MS. MILLER: Seven blank -- you know,

22 there's one before the "whereupon," which is on the
23 line. And then there is a blank line. And then
24 there's a blank line after the witness' name. And
25 then before the direct examination there are two

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1 blank lines and after the direct examination there
2 is another blank line.
3 THE WITNESS: Can I see that? From
4 here it looks like something on there, but it's
5 something drawn --
6 MR. GORANSON: Can I make an
7 inquiry? You said that came off the Internet?
8 MS. MILLER: From the Internet above
9 Darley Routier.org. That's the first transcript on
10 there.
11 THE WITNESS: Okay. I'm going to try
12 to explain this for people who are not reporters.
13 You have brief forms that you hit. For instance,
14 "wit wit" and that is to set up a witness. Each
15 one of those brief forms, the way mine are set up
16 say at the beginning of it, new line, paragraph and
17 at the end of it new line and paragraph. When those
18 overlap each other, it creates a blank line. And I
19 instructed my scopists to delete those lines when
20 they were editing. It wasn't -- I didn't realize
21 they weren't getting them until I just looked at it
22 one day to see how they were coming along. I said,
23 "You all delete all those blank lines in there."
24 That's what my instructions were.
25 MS. MILLER: And on the following

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1 page there, we talked about the parentheticals and
2 all the things that you thought and that are
3 commonly in the parentheticals.
4 THE WITNESS: Uh-huh.
5 MS. MILLER: Which that one has. And
6 it's, I don't know, eight or 10 lines, whatever. Is
7 there any reason why, even if you have to have all
8 that information in, that the lines can't be full?
9 I mean -- and on the right margin there are big
10 spaces where you could have had all the information
11 in that parenthetical with about three or four less

12 lines, it looks like to me.
13 THE WITNESS: When I changed
14 software, these parentheses -- when I put them --
15 when I was writing it real-time, these
16 parentheses came up different than my old
17 software. I was on Maestro. I went on 2001. And I
18 think it was the spacing of the -- of the letters,
19 you know. You know what I'm talking about, 10, 12,
20 whatever that is? And I think it was smaller and it
21 just made more gaps there, which by then, once you
22 hit it on your real-time and it's in there, then
23 you've got to manually change every single line.
24 MS. MILLER: Right. Some of those
25 pages where there are longer parentheses, there's

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1 not a whole lot of text. In other words, there's
2 not a whole lot of words on some of those pages
3 where those long parentheses are.
4 THE WITNESS: Okay.
5 MS. MILLER: That's all.
6 THE COURT: Ms. Haygood.
7 MS. HAYGOOD: Could you give us a
8 little detail about your job offer that you have?
9 THE WITNESS: It would be in a -- it
10 would be in a misdemeanor court. This may turn into
11 a probate court is what the judge is expecting.
12 He's expecting to be appointed, but he's already in
13 a misdemeanor court.
14 MS. HAYGOOD: In what, as official
15 court reporter?
16 THE WITNESS: Yes, official court
17 reporter. There wouldn't be hardly any records in
18 there. It would be a much less stressful, easier
19 job.
20 MS. HAYGOOD: Is it civil or
21 criminal?
22 THE WITNESS: It would be civil --
23 well, right now, it's misdemeanor. If he gets
24 appointed, which he thinks he will, then that
25 probate -- then that would be civil.

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1 MS. HAYGOOD: Ms. Halsey, were you
2 asked by any attorneys to print out any portions of
s roceeding, like

4 for the next day's --
5 THE WITNESS: I'm sure I was.
6 MS. HAYGOOD: -- review?
7 THE WITNESS: I'm sure I was.
8 MS. HAYGOOD: You don't really recall
9 right now if any of that got produced during the
10 trial?
11 THE WITNESS: Yes, I think it did.
12 Yes.
13 MS. HAYGOOD: So the attorneys
14 probably have possession of some written
15 transcripts --
16 THE WITNESS: I'm sure they would.
17 MS. HAYGOOD: -- that occurred,
18 right, during the trial?
19 THE WITNESS: Uh-huh.
20 MS. HAYGOOD: Would have reviewed it
21 overnight for preparation the next day perhaps?
22 THE WITNESS: Exactly, the next day,
23
24 MS. HAYGOOD: Anybody complain?
25 THE WITNESS: Nobody ever complained

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1 about anything. They never brought anything to my
2 attention that was wrong. Of course, I edited it,
3 you know. You can edit right there. And every day
4 I was trying to edit and put words in my dictionary
5 to make it come up.
6 MS. HAYGOOD: So it would make sense
7 during real-time, I would imagine?
8 THE WITNESS: Yes.
9 MS. HAYGOOD: Okay. Thank you.
10 THE COURT: Are you through? Jim,
11 did you have a follow-up.
12 MS. HAYGOOD: No, sir, I'm through.
13 THE COURT: Mr. Lombard. I'm sorry.
14 MR. LOMBARD: In taking a trial, if
15 I'm understanding all this correctly, there are a
16 number of different ways that the trial transcript
17 is recorded. I've heard you all talk about notes.
18 And I am assuming that notes are these things that
19 are these little pieces of paper, kind of narrow
20 wide that every once in awhile people will say read
21 back and the court reporter will look at and read
22 back, right?
23 THE WITNESS: Yes, sir.
24 MR. LOMBARD: And then you've talked

25 about disks. And I'm assuming that that is a

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1. computer disk that it's being kept in something
2 that, to me, who's not a court reporter, I would be
3 more familiar with like WordPerfect that is kept in
4 a text format?

5 THE WITNESS: Right. This is a disk
6 (indicating).

7 MR. LOMBARD: Right. And stored on
8 that disk is a data in word file or in files like
9 'WordPerfect or is it data as in coded information
10 that would have to be read by a specific machine?

11 THE WITNESS: I don't know how to
12 answer that.

13 MR. LOMBARD: Okay. Let me rephrase
14 it slightly.

15 THE WITNESS: Okay.

16 MR. LOMBARD: If you put the disk
17 into your machine and you pull it up, can you
18 display printed text on your screen?

19 THE WITNESS: Yes, it does that --

20 MR. LOMBARD: And then you could
21 print that same printed text?

22 THE WITNESS: Yes.

23 MR. LOMBARD: And it would be real
24 live, honest to God words and phrases as opposed to
25 the shorthand?

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1. THE WITNESS: Looks just like this
2 (indicating).

3 MR. LOMBARD: Okay.

4 THE WITNESS: As you're writing it,
5 if she had a screen here, you would be able to see
6 it just like this as she's writing it real-time.

7 MR. LOMBARD: Now, that's the other
8 thing I was going to ask you about. You talked
9 about real-time recording. Now, is the real-time
10 recording what is stored on this disk or what is --
11 no.

12 THE WITNESS: No, sir. The real-time
13 means the actual, right then, translation as this
14 court reporter is writing --

15 MR. LOMBARD: Yes, ma'am.

16 THE WITNESS: -- it -- there is a --

17 if she had a screen right here, if she were writing
18 real-time, it would come up on a screen here and it
19 would look just like this so that you and everybody
20 here could read it, depending on how many terminals
21. you have.
22 MR. LOMBARD: Now, is that
23 information saved to any type of a medium?
24 THE WITNESS: Yes, it's on a disk
25 which is --

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1 MR. LOMBARD: Another disk or the
2 same disk? We've talked about --
3 THE WITNESS: A disk. The disk is
4 usually -- I mean, in my machine, it's in my
5 machine. No, no. I take that back. I take -- I
6 put my -- it doesn't save it as I'm writing it.
7 MR. LOMBARD: Okay.
8 THE WITNESS: In that equipment. The
9 one I had before, it saved it as I was writing it.
10 This one, it saves it into the hard drive of the
11. actual writing machine, because it has the computer
12 built into it. Then to put it on a disk, I simply
13 insert the disk in the side, it copies whatever job
14 I tell it to copy. And then you can take that disk,
15 put it in another computer that has that matching
16 software --
17 MR. LOMBARD: Uh-huh.
18 THE WITNESS: -- with that
19 matching -- with the software key that allows access
20 to that, then you can pull it up and read it.
21 MR. LOMBARD: So I'm hearing you say,
22 if I'm interpreting this correctly, that there are
23 at least four different mediums and -- I'm sorry,
24 and then audio would then be a thing. So we have,
25 basically, at least four, or possibly as many as

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1. five, different mediums that it's stored on?
2 THE WITNESS: Right, right.
3 MR. LOMBARD: Okay. When Mr. Miller
4 sent you your transcript back and said that it was,
5 whatever phrase he used, not acceptable, could not
6 be accepted by the Court, however, did he send it
7 back with a letter that said this?
8 THE WITNESS: Uh-huh.

9 MR. LOMBARD: Do you have a copy of
10 the letter?
11 THE WITNESS: Yes. Where is that --
12 oh, it's in here. It was a form. I hope I can find
13 it. Here.
14 MR. LOMBARD: Is that part of the
15 information we've already been provided, sir, or is
16 that something that's going to be used?
17 MR. GORANSON: These are copies of
18 basically court orders that are already an exhibit
19 someplace else.
20 THE WITNESS: This is what he sent
21 back. It's stamped there with Mr. Bennett's stamp
22 on it. And he included this. This was when I sent
23 it to them on February the 23rd?
24 MR. LOMBARD: Okay. I have seen
25 that, then. That is the order.

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1. THE WITNESS: Uh-huh. And he said,
2 "It does not contain alphabetical, chronological
3 list of -- list of witnesses or prospective jurors,
4 nor does it have an index of the exhibits." And
5 then -- yeah.
6 MR. LOMBARD: Okay. When you're
7 working a trial, is it -- is it customary that you
8 ever check your audiotapes at the end of the day or
9 at any time along the way or do you just assume that
10 they're all working and store them in nice little
11 cassettes and --
12 THE WITNESS: I just assume they're
13 working. The only time I listen to them is, you
14 know, is if I -- when I'm back. -- usually I just
15 give them to my scopists. I never depend on the
16 audiotapes. I mean, I've heard too many stories of
17 people depending on audiotapes and then something be
16 18 wrong with the audiotapes.
19 MR. LOMBARD: Have you had a chance
20 to look at the redlined version of --
21 THE WITNESS: No, sir.
22 MR. LOMBARD: You have not. You had
23 not seen that until today at all?
24 THE WITNESS: No, sir.
25 MR. LOMBARD: During -- I don't

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1 remember if it was Ms. Simmons' or Ms. Miller's
2 testimony when we were talking about spelling
3 errors. I believe it was during Ms. Simmons'
4 errors -- or her testimony about spelling errors and
5 medical terminology. Do you have any explanation
6 for why these errors would appear?

7 THE WITNESS: Yes, either when the
8 scopists went over it, they didn't -- they didn't --
9 they thought they were correcting it the way it
10 should have been corrected. And since I didn't
11 think there were any tapes, I didn't -- I never had
12 a chance to listen to any tapes, which I would have
13 been able to catch those. If I had had enough time
14 to edit that like I wanted to -- and I know it
15 sounds like I should have had enough time. But once
16 they finished with it, if I had had enough time to
17 edit it properly, to my satisfaction, then I would
18 have been able to catch most or if not all of those
19 errors.

20 MR. LOMBARD: I only have one last
21 question: Did you ever intentionally set out to
22 defraud Dallas County of any money for these
23 transcripts?

24 THE WITNESS: Absolutely not. No,
25 sir.

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1 MR. LOMBARD: You charged what you
2 honestly thought --

3 THE WITNESS: Absolutely.

4 MR. LOMBARD: -- you were supposed to
5 be charging?

6 THE WITNESS: Yes, sir.

7 MR. LOMBARD: Thank you.

8 THE COURT: Anymore questions?

9 Ms. Coburn.

10 MS. COBURN: Ms. Halsey, on this
11 screen for real-time. You said there was a screen
12 that the attorneys could look at?

13 THE WITNESS: Yes, ma'am.

14 MS. COBURN: Was there also a screen
15 for the judge?

16 THE WITNESS: No, ma'am.

17 MS. COBURN: Or just the one

18 external?
19 THE WITNESS: In that courtroom, the
20 bench is only this wide. And he didn't want one up
21 there.
22 MS. COBURN: And second, did the
23 rules, as you understood them for the index, did
24 they change or they had changed and you didn't
25 understand that they had changed? Which -- did they

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1 change while this was going on?
2 THE WITNESS: Yes. Actually, not
3 while it was going on. We started the trial -- I
4 mean, the hearings started in July of '96. When I
5 started setting up everything, knowing they were
6 going to be seeking death. I looked at what I
7 thought the rules were in '96, which is in this Code
8 of Criminal Procedure. And that's what I thought I
9 was following -- and that's what I followed.
10 When you set up your format, you just
11 automatically include everything from then on to the
12 end. I mean, I guess you could change it if -- you
13 know, in the middle of it, but I don't know. It's
14 just automatically included in all the way through.
15 MS. COBURN: But you were going by
16 those published rules.
17 THE WITNESS: Beg your pardon?
18 MS. COBURN: You were --
19 THE WITNESS: Yes, I was going by
20 what's published here in the Code of Criminal
21 Procedure, Appellate's Rules.
22 MS. COBURN: And my last question
23 is: What was your purpose in calling Ms. Miller and
24 Mr. Callaway to go to Austin with you?
25 THE WITNESS: Thank you for asking me

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1 that question. When Mr. Miller returned the
2 statement of facts after the -- after February 22nd
3 when I sent it down there, which was my next date,
4 he returned it with that thing that said in every
5 box, "Does not contain alphabetical, chronological
6 list of witnesses" and whatever, and jurors. And I
7 sent a letter back -- I'm not sure where it is. But
8 I sent a letter back. And I mailed it back to him
9 and I -- after reviewing it. First of all, it came

10 to the wrong place. And I reviewed it. After it
11 finally got to my court, I reviewed it. And it
12 said -- and I wrote a letter. And I said, "Whoever
13 looked at this index did not see and I've now put
14 red tabs on the master index that is the
15 alphabetical, the chronological index of those
16 witnesses. They're there." And I even typed on
17 that sheet of paper like a -- what do you call --
18 glossary or something, with alphabetical on page so
19 and so. They were there. I -- I do that routinely
20 with every trial, keep an alphabetical and
21 chronological list of witnesses with the trial. We
22 have for several years. It was there.
23 And then when I -- when he sent it back
24 and I -- and after they ordered me to serve time in
25 jail because it still wasn't complete. I called

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1 Mr. Miller and I said, "Mr. Miller, tell me what you
2 want me to do to this record to make the record
3 complete so that you will accept it." And he said,
4 "Remove those pages that I've sent back with paper
5 clips on them." And wherever that thing is, there's
6 a handwritten -- is it in this? There is a
7 handwritten sheet of paper by Mr. Miller. It's not
8 in there. It's going to be in that binder right
9 there (indicating). It's that yellow. And it said,
10 "Remove these pages that have paper clips." Well,
11 I went to those pages and it was the alphabetical,
12 the chronological list of exhibits -- I mean, of
13 witnesses and of jurors.
14 And I called Jerry Callaway and I said,
15 "If I take this out of there, then I'm going to be
16 out of compliance with this first order that said it
17 wasn't there to begin with. And I don't understand
18 why they're doing this." And so we went down
19 there. I took those pages out and they are still
20 there in that binder with the same paper clips on
21 there that Mr. Miller put on them. And it's the
22 alphabetical and the chronological list of witnesses
23 and I think the -- the chronological list of
24 volumes. And I said, "I want you to go down there
25 to witness this." And he said, "Well, okay. Will

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1 you call Judy, too, because she has dealt with

2 Mr. Miller and she's going to be down there in New
3 Braunfels, I think, for some other hearing."
4 And so he asked me to call her. I really
5 didn't know her that well. But -- but I called her
6 because he asked me to. And he drove down. And I
7 think he was playing golf or something that weekend
8 anyway. He drove down. She drove down. They met
9 me there. And that's why I called them, because I
10 didn't -- I was totally frustrated. First he says
11 it's not there, then he says it's there. Then he
12 says, take it out.
13 THE COURT: Other questions from the
14 Board?
15 MR. ALVAREZ: Ms. Halsey, at any time
16 that Mr. Callaway or Ms. Miller were there with you,
17 did they ever offer any advice to you on the record?
18 THE WITNESS: No, sir.
19 MR. ALVAREZ: Or -
20 THE WITNESS: We asked Mr. Miller,
21 "Is this record okay?" And he said, "Then take out
22 these pages right here." And he counted off four or
23 five pages, three or four pages and we pulled them
24 out. They're still torn. And so he said, "Yeah,
25 just take those out of every volume." I'd have to

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1 look through that blue folder to see what those are,
2 but it was another list of either witnesses or
3 something. And we pulled them out. And they
4 assisted me in pulling those out of the volumes.
5 And I said, "Now is it okay?" "Yeah, now it's
6 fine."
7 And then he -- and that was when I got
8 upset. I was so frustrated with this whole
9 situation. My life had just been a living hell for
10 a few months there. And I couldn't seem to make
11 this man happy. Everything the paper said wasn't
12 complete. And the whole thing was exhibit,
13 alphabetical. This is what he said take out. The
14 al -- and it says, "Alphabetical list of
15 witnesses." And the same thing for chronological.
16 I don't know what he wants. I can't -- and it's not
17 set out in any rules in this (indicating).
18 THE COURT: I'm sorry, go ahead.
19 MR. ALVAREZ: If knowing the
20 responsibility that's placed on an official court
21 reporter, on you, to prepare a record, and
22 obviously, our job is to tell a story verbatim of

23 what goes on in trial so that the appellate judges
24 can review those records and decide whether justice
25 was done or not, do you believe if we were not here

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1 today and that record that you filed was accepted as
2 it was and nobody reviewed it, do you think
3 Darlene Routier, or if you were in her shoes, would
4 you be happy with that record?
5 THE WITNESS: If I were in her shoes,
6 would I be happy with the record? I don't think I
7 would happy with the trial. I mean, with the --
8 nothing. I mean, it's not --
9 MR. ALVAREZ: My question --
10 THE WITNESS: -- my impression of
11 what Darley Routier thinks. I don't know what --
12 MR. ALVAREZ: Maybe it didn't make
13 sense. If you were sitting in her shoes and you
14 knew that that record that you filed was filed as it
15 was there before everybody looked at it, would you
16 have felt that you would have gotten a fair review
17 of that case, based on the record that you filed and
18 no one had looked at it, knowing that you were going
19 to either spend the rest of your life in prison or
20 possibly be executed?
21 THE WITNESS: I don't know if I can
22 answer that question. I don't. -- I felt at the time
23 I filed the record I knew there were going to be
24 mistakes in it because I didn't have time to proof
25 it like I would any other record. And I wouldn't

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1 have turned it in that soon if they had granted me
2 some more time. It's a long record. Just for the
3 four weeks, it took Ms. Simmons four months just to
4 read it, let alone to try to produce it, copy it,
5 bind it, all that extra time that goes in it.
6 MR. ALVAREZ: Thank you.
7 MS. MILLER: Is there no reason why
8 you couldn't have an independent, just a
9 proofreader? I mean, as all the volumes were coming
10 out, why couldn't they have been passed through you
11 quickly and then -- you know, and then gone to a
12 proofreader that maybe wasn't there, but that would
13 catch typos and things?
14 THE WITNESS: Well, I tried to get

15 another proofreader. Before I went to Kerrville, I
16 had a girl who was an English major and she was my
17 proofreader. When I went to Kerrville, she moved up
18 to North Texas -- up to Denton and attended school
19 up there. And I lost that proofreader. And I
20 just -- I didn't -- I would have liked to have had
21 one, yes. But I just didn't. I never did -- never
22 could find another one who would come and proofread
23 for me. I should have. Looking back on it, I wish
24 I had.
25 THE COURT: Any. more questions? Let

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1 me ask one final question: I don't have a vote on
2 this Board unless there's a tie, but I just have one
3 issue that troubles me and I want to clarify it.
4 Have you ever worked for Judge Francis?
5 THE WITNESS: No, sir.
6 THE COURT: Okay. So you were not
7 employed by Judge Francis when this conference
8 occurred on November the 12th?
9 THE WITNESS: That's correct.
10 THE COURT: All right. Now, you've
11 referenced his temper?
12 THE WITNESS: Yes, sir.
13 THE COURT: You've referenced
14 concerns about the case being reversed?
15 THE WITNESS: Yes, sir.
16 THE COURT: And the story, the way I
17 have heard it, has gone from no audiotapes_to no
18 audible audiotapes and then at some point you found
19 out from your daughter, giving you the benefit of
20 the doubt, that there were audible audiotapes. When
21 was that?
22 THE WITNESS: It was sometime after
23 the October the 30th hearing and before the
24 November 12th.
25 THE COURT: Okay. So you were well

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1 aware of that prior to November?
2 THE WITNESS: I knew when I talked to
3 him in that office that_night,_but I was terrified
4 of him and I was in a very bad emotional place in my
5 life at that time. I was just scared of him.
6 THE COURT: Did prosecution also

7 enter into that?
8 THE WITNESS: Yes, because I was
9 afraid he would think that I had lied to him.
10 THE COURT: You did.
11 THE WITNESS: I didn't lie to him on
12 October 30th.
13 THE COURT: Okay. But ultimately, it
14 took use immunity for you to come forward and talk
15 about the availability of these audiotapes?
16 THE WITNESS: Actually, I don't
17 remember him saying anything about use immunity.
18 The way I remembered that conversation was, I said
19 "Well, what if there are tapes?" And he said,
20 "That's great. That's what we want to know." And
21 I said. "Well, I found out now that there are
22 tapes." And he said, "Well, the defense attorneys
23 are jumping up and down now wanting to file
24 perjury. But don't worry, we've already talked to
25 Norm Kinney. We are the District Attorney's

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1 Office. Nothing is going to happen to you. And we
2 are in charge of all -- of everything that goes
3 before the grand And we' r ave
4 the tapes." Now, that's the way I recall that
5 conversation with Mr. Roberts.
6 THE COURT: Okay. Thank you.
7 Anybody else from the Board and then I'll
8 let you follow-up.
9 Mr. Alvarez.
10 MR. ALVAREZ: Ms. Halsey, you just
11 said, in your answer to Judge Harle, that you did
12 not lie to the judge on the 30th of October, but yet
13 on the 12th of November, when he took you back to
14 chambers, you still would not admit that there were
15 tapes that existed. So you did lie to him at that
16 time. And it wasn't until after that --
17 THE WITNESS: On the 12th?
18 MR. ALVAREZ: Yes, ma'am.
19 THE WITNESS: That night, on the
20 12th, I did.
21 MR. ALVAREZ: Okay. Thank you.
22 THE WITNESS: But not on the 30th.
23 THE COURT: Mr. Lombard.
24 MR. LOMBARD: I'm not sure if this is
25 proper to do or not, but I would like to ask

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1 Mr. Roberts a short question, if you wouldn't mind.
2 THE COURT: Well, he's subject to
3 recall, so go ahead.
4 MR. LOMBARD: You have heard
5 Ms. Halsey's version of the conversation between you
6 and she. Do you agree or disagree with it?
7 MR. ROBERTS: I disa ree?
8 MR. LOMBARD: In what respect?
9 MR. ROBERTS: Well, it was a
10 conversation that was held between myself and
11 Toby y ook. And I made some statements, Toby Shook
12 made some statements. And what we conveyed to her
13 was that -- there was no mention about defense
14 attorneys wanting to file perjury or any -- I mean,
15 there was nothing about that, because, at least at
16 that point, no one knew there was perjury until she
17 had mentioned the statement. But what I had said
18 was -- and I believe Toby Shook may have -- he may
19 have said it first and then I probably -- I followed
20 up because he's more senior to me in the obyffice.
21 And she said, "Well, what if there are tapes?" And
22 he said, "Don't worry about it. We're not going to
23 take you to the grand jury for that statement at
24 that hearing. We want" -- and then that's when I
25 chimed in and I'm saying, "All we want are the

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1 tapes. See, at this point if we o forward without audiotapes, this case is going to be
reversed.
2 audiotapes, this case is going to be reversed.
3 There's no question"
4 MR. LOMBARD: So at the time that she
5 admitted that there were tapes, she was not saying
6 to you, if there are tapes, can I get immunity? You
7 were saying to her, if I understand --
8 MR. ROBERTS: I don't think the --
9 the word immunity wasn't used in --
10 MR. LOMBARD: Am I going to be
11 prosecuted am I going to be --
12 THE REPORTER: Excuse me, I'm sorry.
13 You'll have to speak one at a time.
14 MR. LOMBARD: I'm sorry.
15 MR. ROBERTS: It's kind of, well, if
16 there are, what now, or what -- what happens now?
17 And of course -- I mean, being a prosecutor and Toby
18 obviously being a prosecutor, I mean, I guess that

19 does convey to us a concern or at least we're
20 talking about a concern of a potential prosecution.
21 And we were thinking about those statements that she
22 had made. At least just the one under oath, not the
23 many others that she had said beforehand. And I
24 that's when, I think, Toby had said, "Don't worry
25 about it." And he did mention grand jury in some

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1 fashion. He said, "We won't go to the grand jury."
2 And that's when I chimed in and said, "Really, all
3 we want are those tapes. If we're ever going to
4 save this thing, we've got to have those tapes."

5 MR. LOMBARD: Okay. Thank you.

6 THE COURT: Any other Board
7 questions, follow-up by the lawyers? Anything
8 else?

9 Mr. Cohen.

10 MR. COHEN: Ms. Halsey, you had told
11 several persons that you didn't think there were
12 audiotapes because you didn't put batteries into a
13 microphone.

14 THE WITNESS: Right.

15 MR. COHEN: Is that right? And yet
16 I've heard today --

17 THE WITNESS: Well, not audiotapes,
18 but nothing on there because that's what I thought.
19 Nothing on that tape because there was not a battery
20 in that microphone.

21 MR. COHEN: But we've heard today
22 that wasn't the case right?

23 THE WITNESS: Well, I found out
24 subsequently later that -- I didn't put a battery in
25 there. I mean, but I found out later that -- that

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1 the tapes were audible.

2 MR. COHEN: Every portion of that
3 trial was recorded by audiotapes. We've heard that
4 today.

5 THE WITNESS: Yes, that's what I'm
6 saying.

7 MR. COHEN: And yet, you told
8 Mr. Cooper that you went back and listened to tapes
9 and all you could hear was static?

10 THE WITNESS: That's true.
11 MR. COHEN: That's not true.
12 THE WITNESS: That is true.
13 MR. COHEN: We've heard from the
14 expert that reviewed the recordings that there was
15 no static on any of those tapes.
16 THE WITNESS: That's what I heard
17 when I used the transcriber that was on my desk
18 there in Judge Johnson's court. That's what I
19 heard. That tran -- I had not worked in
20 Judge Johnson's court before then and didn't go to
21 work there -- I mean, I was on her payroll
22 January 1st of '98 -- am I right? '97, but the
23 transcriber that was on that desk there, later I
24 found out, was defective.
25 MS. HAYGOOD: I'm sorry, I didn't

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1 hear that. You later found out it was defective?
2 THE WITNESS: Yes.
3 THE COURT: There's an affidavit in
4 the paperwork that the defense has -- or the
5 respondent has filed. I read it earlier during the
6 break. But it concerns the transcriber --
7 THE WITNESS: Yes, sir.
8 THE COURT: -- a little bit?
9 MR. COHEN: So after you used that
10 transcriber, instead of telling people the
11 transcriber wasn't working, you told people you
12 didn't put batteries into a microphone. Where did
13 you get that excuse from?
14 THE WITNESS: Okay. When I came back
15 on the -- from Kerrville, I had gone -- between the
16 time of the voir dire, taking the voir dire, I had
17 used the county equipment. And I used their
18 microphones and their everything there. When I
19 turned that back into Criminal. District Court No. 3
20 and went to -- went to get the surplus, I used -- I
21 went and bought a PZM mic. I had never used one
22 before, because I've always had equipment provided
23 by the county. I bought it at Radio Shack. I --
24 that was right after I came back from my dad's
25 funeral. Bought that, went down to Kerrville.

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1 After the trial was over, I came back and

2 put the PZM mic out in the courtroom in the 363rd.
3 And at that day, Cherie Williams was working for me
4 as a substitute until I could get everything settled
5 and go start working for Judge Johnson. And when I
6 went in the courtroom, she had the microphone taken
7 apart. And I said, "What are you doing?" And she
8 said, "I'm putting a battery in here." I said,
9 "Well, why would you put a bat" -- I never heard of
10 putting a battery in a microphone. I've never done
11 it before. Never used one of those before that
12 trial. And she -- and I said, "It will work without
13 it, won't it?" And she said, "Well, mine won't."
14 And so that's when I felt this panic feeling, like,
15 oh, my gosh, I've taped this and there's nothing on
16 it.
17 I took those two tapes, went back to my --
18 there was a box of tapes there. I just picked up a
19 couple of them, put them in the transcriber. And
20 all I could hear was static, which made me think
21 there was nothing on the tapes, then, because I
22 didn't ever put a battery in the microphone to begin
23 with.
24 MR. COHEN: You know, the start of
25 all this --

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1 THE REPORTER: I'm sorry, I can't
2 hear.
3 MR. COHEN: I'm sorry.
4 THE REPORTER: Thank you.
5 MR. COHEN: What started all this the
6 portion of the defendant's read-back testimony that
7 was transcribed and viewed by the appellate
8 attorney. And he realized that what was read back
9 to the jury was different than what was in the.
10 appellate record.
11 THE WITNESS: Uh-huh.
12 MR. COHEN: Is that correct?
13 THE WITNESS: Yes, sir.
14 MR. COHEN: That's kind of what
15 started all this; isn't that true?
16 THE WITNESS: Yes, sir.
17 MR. COHEN: And that's the first time
18 you were ever questioned about the difference
19 between what people recalled being spoken at trial
20 and what was actually in the statement of facts.
21 That's kind of what started this investigation?
22 THE WITNESS: Yes.

23 MR. COHEN: And it was that that
24 caused the Appellate Board to get in touch with you
25 and say, "Why are these two things different?"

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1 THE WITNESS: Correct.

2 MR. COHEN: Is that correct?

3 And yet you're telling us, to check your
4 work, you just went and picked out two random
5 tapes --

6 THE WITNESS: No, no.

7 MR. COHEN: -- and not that portion
8 of the read-back to see if that was actually
9 recorded?

10 THE WITNESS: No, that's not what I
11 did. I went and pulled my notes. Still thinking
12 there was nothing on any of those tapes, I pulled my
13 notes. And I made Xerox copies of those notes. And
14 the notes matched the note that I sent back to the
15 jury, because I had used the -- I can't remember, I
16 think I used a typewriter in the clerk's office that
17 night or that day, whenever it was they had the jury
18 note. I typed it there. Or I -- I think this is --
19 my best memory is I typed it there and sent that to
20 the jury off of my notes.

21 MR. COHEN: But you were never
22 questioned about the existence of audiotapes until
23 that discrepancy came into light?

24 THE WITNESS: Right.

25 MR. COHEN: That was the portion of

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1 the testimony that people were wanting you to
2 explore to find out if there was a mistake or
3 something was wrong with the record?

4 THE WITNESS: Right.

5 MR. COHEN: But yet, you're telling
6 us that to investigate that, you didn't get that
7 videotape (sic), you went to two random tapes and
8 put them in a machine?

9 THE WITNESS: That's not when I did
10 that. When I put those tapes in the machine was
11 when I first came back from Kerrville. And it was
12 like February of '97 when all this discrepancy came
13 and I just assumed there was nothing on there. And
14 I never -- I never depended on them and didn't ever

15 listen to them again from then. And then in
16 October, when all this came up, I couldn't even find
17 the tapes. And I thought, I must have taped over
18 those. If Susy didn't -- you know, didn't use them,
19 I must have -- I didn't remember what I had done
20 with them.

21 MR. COHEN: Well, did you destroy the
22 tapes?

23 THE WITNESS: No, I didn't.

24 MR. COHEN: Looking at the affidavit
25 of Judge Francis, he swears under oath that -- and

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1 I'll just read a portion to you here. I don't know
2 if you have seen this or not.

3 THE WITNESS: Okay.

4 MR. COHEN: Maybe the attorneys will
5 show it to you. This is on Page 46 of our booklet.
6 In the fifth full paragraph, the Judge writes, "On
7 several occasions I met personally with Ms. Halsey
8 and she insisted that no audiotapes exist. In two
9 separate hearings, while under oath Ms. Halsey
10 persisted in her story that no other tapes existed.
11 She explained to me in great detail a completely
12 fabricated story of how she edited the record by
13 memory."

14 Now, are you saying that the Judge is
15 lying when he made this statement under oath?

16 THE WITNESS: I don't understand what
17 he's talking about I didn't fabricate a story and
18 tell him I edited by memory. He -- I think where
19 he's getting that from is where he said, "Well, if
20 it says something in the record, do you use your" --
21 "what do you use to help you distinguish a
22 difference?" And I said, "If a live reporter is
23 there, many times you just remember something being
24 said that" -- for instance, you write down, kissing
25 and later on in the trial, you realize, wait, I

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1 think she said cussing instead of kissing because
2 they say it again later and it's more clear. And
3 you realize and you go back. And that's what I
4 explained to him that night.

5 MR. COHEN: And then the last thing
6 he writes in that same paragraph, as you can see is,

7 "Finally, after being told that she in regard might
8 be prosecuted" -- 9 THE WITNESS: Excuse me, I can't hear
10 what you're saying.
11 MR. COHEN: "Finally, after being
12 told that she and her daughter might be prosecuted,
13 Ms. Halsey admitted the existence of approximately
14 150 audiotapes."
15 Now, isn't that really what happened that
16 day, November 12th?
17 THE WITNESS: On November the 12th,
18 that night, I told him -- my memory of it is that
19 when I told them there were tapes, that they went --
20 that Lindsey went and told the judge and the
21 attorney and then came back and told me that they
22 were wanting to prosecute me. I never heard
23 anything about prosecuting my daughter, ever.
24 MR. COHEN: Now, could -- I'd like to
25 refer to a portion of Mr. Robert's affidavit on

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1 Page 48, which would be in the second full paragraph
2 beginning with "November 4th, 1998." Mr. Roberts
3 says under oath in his affidavit that -- I'm just
4 going to read a portion of this. "We again asked
5 Ms. Halsey if there were any audiotapes for the
6 Routier trial because that was the only way to
7 understand the discrepancies between her
8 stenographic notes and the final transcription.
9 Ms. Halsey again specifically stated that no
10 audiotapes from the trial testimony existed."
11 That was November 4th.
12 THE WITNESS: Yes.
13 MR. COHEN: Okay. And then on
14 Page 49, in the middle of the -- or in the second
15 full paragraph -- just read a portion of this to you
16 for about the middle part of the paragraph. We also
17 told her that the District Attorney's Office would
18 not pursue perjury charges for her prior sworn
19 statement --
20 THE REPORTER: I'm sorry. I can't
21 hear you.
22 MR. COHEN: It's these motorcycles.
23 "We also told her the District Attorney's
24 Office would not pursue perjury charges for her
25 prior sworn statement concerning the audiotapes.

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1 Ms. Halsey then told us that there were audiotapes
2 for the trial on the merits, but she was not certain
3 of their whereabouts or the quality."
4 THE WITNESS: That's true.
5 MR. COHEN: So you told the judge
6 that they didn't exist. And you told the DA that
7 you didn't know the whereabouts of the tapes, so --
8 THE WITNESS: I said I'm not sure of
9 the whereabouts.
10 MR. COHEN: Well, I'm just trying to
11 figure out --
12 THE WITNESS: That's what he said.
13 MR. COHEN: -- how many different
14 stories you told these people and why these people
15 are coming forward in their affidavits under oath
16 and telling us what I think is the truth in the
17 case, that you knew these audiotapes existed and you
18 knew the whereabouts and you knew the information
19 that was on there.
20 THE WITNESS: I did not know that
21 they existed until after -- after November the 4th,
22 that -- I think it was that day, after I talked to
23 Lindsey Roberts and Sue Crowle that -- I think it
24 was that afternoon that
25 Susy. And she told me about the tapes. And then I

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1 couldn't find them. And I didn't know where they
2 were. And I didn't have any idea of where they
3 were. And it wasn't until lon after all of this,
4 that I found out my husband was the one that put
5 them over in storage when he was cleaning out our
6 garage. I didn't know they were there.
7 MR. COHEN: Which one of your
8 scopists transcribed the read-back testimony from
9 the defendant?
10 THE WITNESS: I would guess that
11 would be Susy.
12 MR. COHEN: That was, again, the
13 information that started this whole investigation?
14 THE WITNESS: Yes.
15 MR. COHEN: Are you telling us you
16 never went to one of your scopists and said, Did you
17 listen to an audiotape? Why is there more
18 information in the statement of facts than there was
19 during the trial?

20 THE WITNESS: I'm telling you that
21 because I thought she had made a mistake when she
22 was scoping.
23 MR. COHEN: A mistake by adding
24 testimony?
25 THE WITNESS: I don't --

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1 MR. COHEN: That's not a mistake.
2 THE WITNESS: I'm just saying, I just
3 thought that she had made a mistake during the --
4 all of this happened within a two-week period there,
5 from my understanding, two or three-week period in
6 October. And -- between October and November. And
7 I did not know until -- that she had actually used
8 tapes until, I think it was the night after that
9 November 4th day that we had a meeting.
10 MR. COHEN: So you knew by
11 November 4th that the tapes existed?
12 THE WITNESS: After -- after we
13 talked -- I'm thinking it was that night. I'm not
14 positive of what night I -- what day I talked to her
15 that -- in the evening about it.
16 MR. COHEN: And that's why on
17 November 12th, when you talked to Judge -- to the
18 judge, you knew you were being dishonest with him?
19 THE WITNESS: That night, yes. I
20 didn't know what to do. And I -- and I was
21 dishonest with him that night on November the 12th.
22 MR. COHEN: And then when you were
23 questioned in open court on the 13th to have an
24 opportunity to straighten all this out, you chose to
25 take the Fifth Amendment privilege against

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1 self-incrimination?
2 THE WITNESS: I wanted to explain it
3 then. And I had already talked to Mr. Milner. And
4 on that date -- no, I had not. I talked to him
5 later. On that date, I wanted to explain that whole
6 thing. In fact, that night -- I wanted to explain
7 it to Judge Francis on the 12th. And when I went
8 back in the judge's chambers, after I talked to
9 Lindsey and to Toby Shook -- Lindsey Roberts and
10 Toby Shook, I went back in there that night and he
11 said -- he just stood up and screamed at me. And he

12 said, "You lied to me." And I said, "But, Judge."
13 "Don't say another word." He screamed at me and
14 shook his finger in my face. "Don't you open your
15 mouth to me." And I looked at Lindsey because I
16 wanted them to say, "She's just found out some" --
17 they didn't -- I don't know. I just wanted to see
18 what his reaction. And he just did his fingers on
19 his lips and like, just don't make him any madder.
20 And I didn't say another word to him. I wanted to
21 tell him that night, but he didn't want to hear
22 anything from me.
23 MR. COHEN: But if you didn't think
24 you were lying on the 30th, as you claimed -- of
25 October -- excuse me, let me finish the question.

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1 THE WITNESS: I wasn't.
2 MR. COHEN: If you claimed you didn't
3 know anything on the 30th about the existence of the
4 audio working correctly on the tapes, why did you
5 choose to take the Fifth Amendment on the 12th if
6 you knew, in your mind, you hadn't lied, if that's
7 what the truth is?
8 MR. GORANSON: Do you mean the 13th?
9 MR. COHEN: Excuse me the 13th.
10 THE WITNESS: On the 13th, why did I
11 do that? The judge appointed me -- that day on the
12 13th, I expected to testify and explain the whole
13 thing. And Toby Shook and Lindsey Roberts came
14 downstairs where I was in my office on the 363rd and
15 they said, "We're going to have a stipulation to
16 your testimony." And so after every -- we thought
17 the hearing was over. Then someone came down and
18 said, "The judge wants you to come -- 'Judge
19 Francis wants you to come up to the CDC 3."
20 And I went up there and he said, "I'm
21 going to appoint you an attorney because the defense
22 attorney is going to ask you some questions." And
23 the defense attorney said, "Look, I don't know
24 anything about all this. I suggest you need to call
25 a lawyer. I'm just going to stand up and ask" --

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1 and I think that was the day he said, just ask for
2 the Fifth until you get a chance to explain it.
3 My memory was that day, that instead of me

4 saying anything that Mr. Picket, who was appointed
5 by the Court, said, "We want a continuance." And
6 then they continued it to the next week. And
7 Mr. Milner had been in several other hearings
8 involved in some other things. And he came in that
9 day and he said, "I don't know what all is going
10 on. I'm just going to tell you to plead the Fifth
11 until I can find out more about this, because I
12 don't know what they're going to ask you about." He
13 says, "I don't know anything about exhibits" and
14 something else, I don't know.

15 THE WITNESS: Before you were called
16 to testify on the 13th, though, according to
17 Mr. Roberts' affidavit here, you had already told
18 the DA's office that the tapes existed and they had
19 told you that you were not going to be prosecuted
20 for perjury.

21 THE WITNESS: On what date?

22 MR. COHEN: The day that you took the
23 Fifth Amendment before you testified --

24 THE WITNESS: Uh-huh.

25 MR. COHEN: -- you were already told

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1 you weren't going to be prosecuted for perjury.

2 THE WITNESS: Right.

3 MR. COHEN: Okay. But you then went
4 ahead and chose to take the Fifth Amendment
5 privilege. And what I don't understand is, if you
6 knew you didn't lie on the 30th and you were told by
7 the DA that you weren't going to be prosecuted for
8 the perjury that occurred on the 30th, you still
9 chose not to come forward on the 13th and say, "Here
10 is the darn tapes, you all leave me alone."

11 THE WITNESS: I wanted --

12 MR. GORANSON: Excuse me. I'm going
13 to object. It seems to me that she has stated that
14 upon advice of counsel she invoked her privilege.
15 And it seems to me that any further inquiries along
16 this line would be invading her right to counsel at
17 it this time between Mr. Milner and the witness.
18 And the witness has already said she wanted to
19 answer but the lawyer said to take the Fifth. I
20 mean, it seems to me that that's a violation of the
21 6th Amendment now.

22 THE COURT: Well, I'll overrule the
23 objection. I think the record is clear that she's
24 saying that she only asserted it because her counsel

25 advised her to do so. You can inquire but not go

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1 into communication between the attorney-client.
2 MR. COHEN: The facts there, Judge.
3 I won't go over that anymore.
4 This is the last question: I've heard
5 testimony that there were 18,000 corrections made to
6 this record you turned in. That's incredible. And
7 I'm not a court reporter, I don't know if that's
8 normal or not, but that's embarrassing to me as a
9 member of this Board. And if people are outraged in
10 the public about this record, I can understand if
11 that record looked like that, that needed 18,000
12 corrections.
13 THE WITNESS: It's embarrassing to
14 me, also. I've never done --
15 MR. COHEN: I don't understand, did
16 you proofread this record at all before you turned
17 it in.
18 THE WITNESS: Very little. I didn't
19 want that to happen. That's why I was begging for
20 more time.
21 MR. COHEN: Is it your duty to
22 proofread those records --
23 THE WITNESS: Yes, it is.
24 MR. COHEN: -- before you turn them
25 in?

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1 THE WITNESS: But when they're
2 threatening --
3 THE REPORTER: Excuse me, I'm sorry.
4 MR. COHEN: Would you agree that
5 that's a negligent violation of your duty as a
6 Certified Court Reporter, not reviewing that record
7 that contained 18,000 errors?
8 THE WITNESS: It was either that or
9 go to jail. They're threatening me with jail if I
10 didn't turn it in.
11 MR. COHEN: Well, the last time you
12 got a you got to sit in an office
13 for eight hours, you didn't go to jail.
14 THE WITNESS: That was it. But I
15 didn't know that at the time.
16 MR. COHEN: Your career at that time

17 was to be a court reporter. And you understand by
18 being negligent in your duties, you may and could
19 very well lose your license?
20 THE WITNESS: Exactly.
21 MR. COHEN: And yet you didn't take
22 the time to at least sample part of the record to
23 see if there were errors in there before you turned
24 it in?
25 THE WITNESS: They gave me a contempt

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1 of court order to get it turned in regardless, no
2 extensions. And I wanted to have the time, but it
3 takes a tremendous amount of time just to proof it,
4 print it, bind it, put all those exhibits together.
5 That -- and I didn't have time to do it all.
6 MR. COHEN: Why couldn't you just
7 maybe every now and then look at a few pages here
8 and there?
9 THE WITNESS: I did.
10 MR. COHEN: There's so many errors in
11 this thing you would have found errors just maybe by
12 reading 10, 15, 20 pages. But you didn't do that,
13 did you?
14 THE WITNESS: I didn't have the time
15 to read it like I wanted to read it.
16 MR. COHEN: It's your duty to read
17 those records and make sure they're accurate?
18 THE WITNESS: I've never had another
19 complaint on another record but this. This was only
20 because they were threatening to throw me in jail.
21 "You turn it in regardless." And I've done
22 thousands and thousands and thousand of records.
23 MR. COHEN: In this record, then, you
24 were negligent in carrying out your duties?
25 THE WITNESS: In this record, I was.

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1 MR. COHEN: Thank you.
2 THE COURT: Ms. Haygood.
3 MS. HAYGOOD: You were just speaking
4 about how it takes a long time to do certain
5 things. And one of the things you mentioned was
6 doing exhibits. Did you do the exhibit volumes?
7 THE WITNESS: Yes.
8 MS. HAYGOOD: And you didn't --

9 THE WITNESS: I had people helping
10 me.
11 MS. HAYGOOD: Well, what about the
12 two missing exhibits?
13 THE WITNESS: Well, I wasn't aware
14 that those -- one I wasn't aware that it was in
15 evidence. It was the letters. I didn't think those
16 were admitted into evidence. There was a big stack
17 of letters.
18 MS. HAYGOOD: Well, you would be the
19 one who would know that they were admitted or not?
20 THE WITNESS: Right. I thought my
21 index showed that it was a blank space where they
22 were supposed to have been admitted into evidence.
23 I didn't think that they were. So if they're not
24 admitted into evidence, then, they wouldn't have
25 been included, you know.

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1 THE COURT: Ms. Coburn.
2 MS. COBURN: This may not be a
3 question that Ms. Halsey can answer, it may have to
4 come from Ms. Simmons. What constitutes an error?
5 Of the 18,000 errors that you found. Was that
6 18,000 wrong words or was it punctuation or was it
7 spelling or --
8 MS. SIMMONS: No punctuation was
9 included in that.
10 MS. COBURN: So where you were --
11 MS. SIMMONS: Misidentification of
12 speaker, misspelled words, that type of thing.
13 MS. COBURN: So you did not just
14 count where you have a red mark?
15 MS. SIMMONS: No.
16 THE COURT: Okay. Any other Board
17 questions?
18 MS. MILLER: Did you at least run a
19 spell checker on the volumes before you turned it
20 in? That's an easy way to catch some things.
21 THE WITNESS: I don't -- my
22 experience with that, I had tried to run a spell
23 check and it would lock up because the file was too
24 big. And I was having problems with the computer
25 running a spell check on the whole thing. And I

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1 couldn't get that resolved. I talked to the
2 software people. And I just quit using it rather
3 than keep fooling with it. I just quit using that
4 spell check because it was locking up my -- freezing
5 the file, if you know what I mean.
6 MS. DOLPH: My name is Sarah Dolph
7 and this is for Ms. Simmons. Talk about the 18,000
8 errors, when you add a paragraph or a sentence or
9 two sentences, are you counting that was one error,
10 when you say 18,000?
11 MS. SIMMONS: Tell me again, I don't
12 understand.
13 MS. DOLPH: There are some places in
14 the record where you have added a whole sentence or
15 a whole paragraph. And when ou say there are
16 18,000 errors --
17 MS. SIMMONS: That would just be one.
18 MS. DOLPH: That would be one.
19 Okay. Thank you.
20 THE COURT: Okay. I think that
21 concludes the Board questioning. Brief follow-up by
22 the lawyers.
23 Mr. Knapp, go ahead.
24
25

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1 REDIRECT EXAMINATION. CONTINUED
2 BY MR. KNAPP
3 Q. Ms. Halsey, you've testified that -- at
4 some point, you listened to a couple of tapes on a
5 transcriber. Do you remember exactly when that date
6 was?
7 A. It was the first -- probably the middle --
8 first to middle part of February of '97 when I first
9 came back from Kerrville.
10 Q. And when did you learn that that
11 transcriber was not properly functioning?
12 A. Many months after that.
13 Q. Can you give us an approximate date on
14 that?
15 A. I want to say -- I don't know, maybe -- I
16 don't know. It was many months. It was even after
17 all of these hearings and everything, because I had
18 talked to Cherie. I just never used that
19 transcriber because I don't do the work there at my
20 office. I always do it at my home. And it was
21 there for substitutes or whoever. It was just

22 provided by the Court.
23 Q. So it was after the date of the hearing --
24 A. Yes.
25 Q. -- that you learned --

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1 A. Yes.
2 Q. -- the fact that the transcriber?
3 Where do you reside? Is your residence in
4 Plano, Texas?
5 A. Yes, it is.
6 Q. And during this period, were you spending
7 the night there every night, were you going home?
8 A. Yes.
9 Q. All right. And as I understand from your
10 testimony, you discovered, on approximately
11 November 4 of 1998, that there were, in fact,
12 audible audiotapes of this entire proceeding.
13 A. Somewhere around that time.
14 Q. All right. And yet -- and you're going
15 home every evening and yet, you wait up until the
16 hearing, I believe, on November 13, 1998, to
17 basically check to see where these tapes are,
18 didn't --
19 A. No, I had been looking for the tapes just
20 to show them. In fact, I told the reporters. They
21 said, "Well, it looks like there's tapes." I said,
22 "If I knew where the tapes were, it would be to my
23 advantage to show you. Here they are." I didn't
24 know where they were. I just assumed I must have
25 taped over them.

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1 Q. Well, but you knew that you had this
2 storage garage there that some of your - - not
3 necessarily tapes, but some of your possessions were
4 in that storage garage in Plano?
5 A. I've never put any of my work storage
6 stuff in that storage. No, I didn't know it was
7 over there. I didn't know it was there at all.
8 Q. Let me ask you one more question along
9 that line: In Plano basically, you had your house
10 to look in, your garage, what have you, for the
11 tapes --
12 A. Right.
13 Q. -- and you had a storage shed or a storage

14 bin?
15 A. It's not at the house, though.
16 Q. All right. But it's in Plano?
17 A. Yes.
18 Q. And so isn't that a logical place to look
19 for these tapes?
20 A. I knew I didn't put them over there. So,
21 no, it wasn't logical to me. I've never put notes
22 or tapes over there. So, no, I would have never
23 thought to look there, because I've always kept them
24 either in the District Clerk's storage area, in my
25 office at the courthouse storage area or in my

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1 garage or in my office at home. That's the only
2 places I keep them. I've never put them over there.
3 Q. Is it also your testimony that the only
4 time that you lied knowingly about the existence of
5 these audio -- audiotapes was on, I believe,
6 November 13 of 1998?
7 A. November 12th.
8 Q. November 12?
9 A. Yes, sir.
10 Q. And that was the only time that you lied
11 about their existence?
12 A. That's correct.
13 MR. KNAPP: Pass the witness.
14 A. About there being something on the tapes.
15 Q. (By Mr. Knapp) About there being
16 something on the tapes.
17 A. Right.
18 MR. MILNER: I have no further
19 questions, Your Honor.
20 MR. GORANSON: I do have one
21 housekeeping. What's our next exhibit?
22 THE REPORTER: No. 12.
23 (Respondent's Exhibit No. 12 was marked
24 for identification.)
25 MR. GORANSON: The note from

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1 Mr. Miller is -- we'd offer it, Your Honor.
2 THE COURT: Any objection?
3 MR. KNAPP: No objection, Your Honor.
4 THE COURT: Okay. It's admitted.
5 (Respondent's Exhibit No. 12 was admitted

6 into evidence.)
7 THE COURT: Let's take -- we need to
8 get some more tapes from the office and some
9 documents from across the street. And we're going
10 to take about a 15-minute recess. Let me ask any
11 Board member, participant, party or attorney that
12 wants to review the redline transcript to do so
13 during this 15 minutes, because I'm going to cut
14 Mr. Bennett loose with the transcript when we get
15 back. So anybody that wants to see it needs to look
16 at it now. We're in recess.
17 (Brief recess.)
18 (Excerpt concluded.)
19
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25

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1 THE STATE OF TEXAS)
2
3 COUNTY OF TRAVIS)
4 I, CAROLINE CHAPMAN, Certified Shorthand
5 Reporter in and for County of Travis County, State
6 of Texas, do hereby certify that the above and
7 foregoing contains a true and correct transcription
8 of all portions of evidence and other proceedings
9 requested in writing by counsel for the parties to
10 be included in this volume of the Reporter's Record,
11 in the above-styled and numbered cause, all of which
12 occurred in open court or in chambers and were
13 reported by me.
14 I further certify that the total cost for
15 the preparation of this Reporter's Record is
16 \$ _____ and was/will be paid by, _____
17 WITNESS MY OFFICIAL HAND this the 1st day
18 of December, 1999.