

Sandra Halsey Disciplinary Hearing (3)

1 TRANSCRIPT OF PROCEEDINGS

2

3 BEFORE THE

4

5 TEXAS COURT REPORTERS CERTIFICATION BOARD

6

7 AUSTIN, TEXAS

8

9

10

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:

CHAPMAN COURT REPORTING SERVICE

(512) 452-4072

1 APPEARANCES:

2

FRANK J. KNAPP

3 Assistant Attorney General

Administrative Law Division

4 209 W. 14th & Colorado Street

P.O. Box 12548

5 Austin, Texas 78711-2548

(512) 463-2100

6 Fax: 463-2063

FOR THE COMPLAINANT

7

GEORGE R. MILNER and RONALD L. GORANSON

8 Milner Lobel Goranson Sorrels Udashen &

Wells

9 Chateau Plaza, Suite 1500

2515 McKinney Avenue, LB 21

10 Dallas, Texas 75201

(214) 651-1121

11 Fax: 953-1366

FOR THE RESPONDENT

12
13
14
15
16
17
18
19
20
21
22
23
24
25

CHAPMAN COURT REPORTING SERVICE
(512) 452-4072

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 SUSAN SIMMONS,
7 having been first duly sworn testified as follows:

8 DIRECT EXAMINATION

9 BY MR. KNAPP:

10 Q. Ms. Simmons, would you state your full
11 name for the record?

12 A. Susan Simmons.

13 Q. Are you certified as a court reporter by
14 the court reporter's Certification Board?

15 A. Yes, I am.

16 Q. And how long have you been so certified?

17 A. Twenty-five years.

18 Q. Are you also an official court reporter at
19 this time?

20 A. Yes, I am.

21 Q. And which court are you an official court
22 reporter in?

23 A. Well, I work for the U.S. District Court.

24 It's a federal court. The judge that I worked for
25 five years, William Wayne Justice, has taken senior

CHAPMAN COURT REPORTING SERVICE
(512) 452-4072

1 status and moved here to Austin. So right now, I

2 don't have a judge. I'm just a floater at the
3 courthouse until the president appoints another
4 judge.

5 Q. How long have you been an official court
6 reporter?

7 A. I've been an official court reporter in
8 the Federal system for 10 years. And before that, I
9 worked eight years in the State system.

10 Q. Could you estimate how many reporter's
11 records you have prepared during that period? Is
12 that a fair question?

13 A. Many.

14 Q. Many. Okay. Were you designated by
15 Judge Robert Francis to review the court reporter's
16 record in the Routier case to determine if it
17 accurately reflected the evidentiary and sentencing
18 portion of the Routier case?

19 A. Yes.

20 Q. And did you conduct that review?

21 A. Yes, I did.

22 Q. How long did it take you to make that
23 review?

24 A. December through April 1st. The first --
25 about the middle of December through April 1st.

CHAPMAN COURT REPORTING SERVICE
(512) 452-4072

1 Q. And did you prepare a redline copy of that
2 reporter's record, or at least the copy that you
3 had, as to various problems with that record?

4 A. Yes.

5 MR. KNAPP: Could I get that redline,
6 counsel?

7 Q. (By Mr. Knapp) Are the documents that
8 you're looking at the redlined copy of the
9 reporter's record that you prepared in the Routier
10 case?

11 A. Yes, they are.

12 Q. Let me start by asking you: How many
13 notations of mistakes did you make -- could you take
14 an estimate -- in the record that you reviewed,
15 large and small and what have you?

16 A. Well, there were 6,000 pages that I
17 reviewed. And there were over 18,000 corrections
18 that I -- I wrote in. And that's a conservative
19 estimate.

20 Q. Could you tell the Board about some of the
21 major problems that you found with this record?

22 A. Typos, misidentification of speakers.

23 Like we would have, "THE WITNESS: I overrule that
24 objection," where obviously, it should have been the
25 Court. Left out words. Words that sounded close

CHAPMAN COURT REPORTING SERVICE
(512) 452-4072

1 but weren't the words that the participants had been
2 using. Just all kinds of errors.

3 Q. What about the index? Did you see what's
4 been described as a growing index in there?

5 A. When I got the record, the index was not
6 in there.

7 Q. What had happened to the index?

8 A. I -- I don't know. The copy that was -- I
9 was given did not have a growing index.

10 Q. Could you select one or two volumes of the
11 reporter's record and tell the Court specifically
12 some of the problems that you see at those
13 particular areas of the record?

14 A. Well, this is just an example. There were
15 just words left out. They just weren't in the
16 record. Like right here, it says, "THE WITNESS: I
17 do." And the witness actually said, "Yes, Your
18 Honor."

19 Q. What page and volume of the record is
20 that?

21 A. This is Volume 5, Page 444. Like I said,
22 lots and lots of misspellings.

23 MR. GORANSON: May I see that,
24 please?

25 THE WITNESS: Sure.

CHAPMAN COURT REPORTING SERVICE
(512) 452-4072

1 A. Especially, I noticed in the medical
2 testimony where the doctors testified, the medical
3 terminology was not correct at all. They -- what
4 was in the record is what it sounded like, not
5 necessarily what the term the doctor had actually
6 used.

7 Q. (By Mr. Knapp) Should a court reporter,
8 one way or another, find out exactly what the
9 correct terminology is --

10 A. Yes.

11 Q. -- in that situation?

12 A. Yes.

13 Q. Would you do that?

14 A. Yes. You go to a diction -- medical

15 dictionary and look that up.
16 Q. And this is something that court reporters
17 have access to one way or another, a medical
18 dictionary?
19 A. Exactly.
20 Q. Medical book, something?
21 A. Exactly. And, I know I have done this, if
22 it gets to a point where you just cannot figure it
23 out, you can call the witness and say, "I need help
24 with this word. It sounds like, da, da, da."
25 Q. Could you thumb through there and see if

CHAPMAN COURT REPORTING SERVICE
(512) 452-4072

1 you find any of those specific examples?
2 A. I don't have my copy here, so I just --
3 like I said the worst that I went through was
4 especially the medical doctors and nurses. And
5 there were lots of those in this case. And like --
6 it's all up here, if people want to look through it
7 or --
8 Q. In your opinion, without the changes that
9 you've made to the reporter's record in the Routier
10 case, would the record that Ms. Halsey submitted and
11 that was finally filed with the Court of Criminal
12 Appeals be certifiable as the -- as a correct
13 reporter's record in the Routier case?
14 A. I would not have certified to it.
15 MR. KNAPP: Pass the witness.
16 CROSS-EXAMINATION
17 BY MR. MILNER:
18 Q. Ms. Simmons, when you were appointed or
19 asked by Judge Francis to give him some assistance
20 in working on the record?
21 A. I want to say I was contacted maybe before
22 Thanksgiving.
23 Q. Is Thanksgiving of last year, '98?
24 A. Uh-huh. Uh-huh. Oh, I'm sorry. Yes.
25 I'm not -- and I should know better.

CHAPMAN COURT REPORTING SERVICE
(512) 452-4072

1 Q. I know you guys are bad about shaking your
2 head, but she's taking it down over here.
3 And what did you understand your task to
4 be that he assigned you to?
5 A. My task was to strictly go through the
6 record for mistakes. Not format, not

7 parentheticals, just mistakes in the actual
8 transcript. The written --
9 Q. The overall goal was to determine whether
10 or not there were any substantive changes in the
11 statement of facts. And you understood that, did
12 you not?
13 A. Yes.
14 Q. All right. And what all did you have to
15 work with when you created or attempted to -- or not
16 attempted, created the new record?
17 A. I had disk --
18 Q. That's the --
19 A. -- with the note --
20 Q. That's the stenographic?
21 A. That's the stenographic notes on a
22 computer disk.
23 Q. Okay.
24 A. I had the paper notes and I had the
25 audiotapes.

CHAPMAN COURT REPORTING SERVICE
(512) 452-4072

1 Q. Okay. And how long did it take you to
2 complete your work, or have you completed it now?
3 A. Well, I'm now working on the voir dire.
4 Q. Okay. Let's just limit ourselves to the
5 guilt-innocence phase of the trial. How long did it
6 take you to do that?
7 A. Four months.
8 Q. And did you have to get any extensions
9 from Judge Francis to complete your work?
10 A. No, he did not give me a date.
11 Q. So he gave you an open-ended task order?
12 A. Yes. And I -- I called every week and
13 reported to Judge Francis what my progress was.
14 Q. And was this your full-time work at --
15 during that period?
16 A. No.
17 Q. What other work were you having to do?
18 A. I was -- I work at the federal courthouse.
19 Q. All right. In Tyler?
20 A. Yes.
21 Q. Do you have any recollection of what, if
22 any, trials occurred during that period of time?
23 A. I had a Walmart case, I remember. I just
24 can't remember all of them, right now. I'm actually
25 part-time with the government. I work 20 hours a

CHAPMAN COURT REPORTING SERVICE

1 week instead of 40, until they get a judge
2 appointed.

3 Q. Okay. Is there any place in the record
4 that you can show this Board that has affected any
5 of the substantive rights of Darley Routier in her
6 appeal?

7 A. To me, that's a legal question. I mean,
8 I've marked all of this --

9 Q. Let me ask this way: You've told
10 Judge Francis that in your professional opinion this
11 record is certifiable for appellate purposes, have
12 you not?

13 A. Yes.

14 Q. And is that telling him, Judge, I have
15 done this, I've done my professional best in doing
16 it, I think it's -- will meet the standards of being
17 certifiable for an appellate record?

18 A. Yes.

19 MR. MILNER: That's all.

20 REDIRECT EXAMINATION

21 BY MR. KNAPP:

22 Q. When you prepare -- when a court reporter
23 prepares the reporter's record, they're basically
24 doing this on their own time and getting reimbursed
25 for it; is that correct?

CHAPMAN COURT REPORTING SERVICE

(512) 452-4072

1 A. Yes.

2 Q. And a record this size, have you got any
3 estimate what Ms. Halsey would have charged for a
4 record like this or another court reporter would
5 have charged?

6 A. Different areas charge different. Like in
7 Smith County, Tyler, I -- our rates, I'm sure, are
8 different from Dallas reporters. I know what
9 Ms. Halsey charged -- or I've read what she charged,
10 but I don't -- I don't know what her rates were.

11 Q. What do you believe she charged?

12 A. \$63,000.

13 Q. All right. And have you run up additional
14 costs because you're doing the review yourself?

15 A. Yes.

16 Q. And how much has it cost?

17 A. So far, it has been 32,000.

18 Q. And these will -- this will be additional
19 charges to the State; is that correct?

20 A. Yes.
21 Q. Do you have an opinion as to whether the
22 record submitted by Sandra Halsey was proofread
23 prior to being submitted to the Co
24 Appeals?
25 A. Yes, I have an opinion.

CHAPMAN COURT REPORTING SERVICE
(512) 452-4072

1 Q. What is your opinion?
2 A. It was not proofread.
3 Q. Could you define the Halsey record and the
4 Simmons' record that's been prepared in this case?
5 A. Could I define them?
6 Q. Well, defined as -- how would you
7 define -- how would you classify the record
8 submitted by Ms. Halsey and how would you classify
9 the record submitted by you with the corrections?
10 A. I don't --
11 Q. Let me ask it another --
12 A. I don't know that I understand that
13 question.
14 Q. Let me ask it a different way. Between
15 the record prepared by Ms. Halsey and the record
16 prepared by you, which do you feel is certifiable in
17 this case to be presented to the Court of Criminal
18 Appeals?
19 A. Mine, the Simmons' transcript.
20 MR. KNAPP: All right. Pass the
21 witness.
22 RECROSS-EXAMINATION
23 BY MR. MILNER:
24 Q. Ms. Simmons, Mr. Knapp asked you some
25 questions about the fees received by Ms. Halsey.

CHAPMAN COURT REPORTING SERVICE
(512) 452-4072

1 Have you told the Board the entire story about that?
2 A. I don't know the entire story.
3 Q. First of all, the scopist -- the two
4 scopist, she had to pay that out of the money she
5 received, did she not?
6 A. I assume she did.
7 Q. And you're aware that -- you said that it
8 cost 32,000 up to here. Are you aware that
9 Judge Francis has entered an order requiring
10 Ms. Halsey to pay that 32,000, are you not?
11 A. I read it in the paper. I -- I don't

12 know. I mean, Judge Francis has not told me that.

13 Q. You don't have any reason to doubt what

14 you read in the paper, do you?

15 A. Well --

16 MR. MILNER: That's all, Your Honor.

17 THE COURT: Board questions?

18 Mr. Alvarez.

19 MR. ALVAREZ: Ms. Simmons, excuse

20 me. My name is Albert Alvarez. If you did not have

21 a tape recording and only the notes, the hard steno

22 notes, would you have been able to put a record

23 together, a certifiable reco

24 THE WITNESS

25 MR. ALVAREZ: you.

CHAPMAN COURT REPORTING SERVICE

(512) 452-4072

1 THE COURT: Any other Board

2 questions? Mr. Lombard.

3 MR. LOMBARD: Ms. Simmons, my name is

4 Jim Lombard. Did I understand you correctly that

5 you said a lot of the errors that you found in the

6 transcript were misspellings? Were those primarily

7 misspellings of proper names, were they common

8 misspellings, how would you characterize those?

9 THE WITNESS: There was a little bit

10 of everything. I mean, for instance, the name of

11 Darren Routier's company was Testnic and it was

12 supposed to be spelled T-E-S-T-N-I-C, I believe. It

13 was spelled 13 different ways throughout the

14 transcript. I mean, we had Q-U-E on the end. I

15 mean, it was just spelled -- one portion, the word

16 was supposed to be runner and it was rubber. And I

17 mean, there were just things that were not right.

18 MR. LOMBARD: Okay. You said that

19 there was also a lot of errors having to do with

20 medical terminology.

21 THE WITNESS: Yes.

22 MR. LOMBARD: Is it possible that

23 the -- the medical terminology spelling could have

24 been because one person will hear something one way

25 and believe that they've heard it correctly when, in

CHAPMAN COURT REPORTING SERVICE

(512) 452-4072

1 fact, they have not?

2 THE WITNESS: Anything's possible.

3 MR. LOMBARD: Has that ever happened,

4 that you're aware of? For example, similar
5 phrases -- in heart disease, for example, there's
6 both arteriolosclerotic and atherosclerotic?
7 THE WITNESS: Could be.
8 MR. LOMBARD: Are they those type of
9 errors or different errors?
10 THE WITNESS: Not in this. And these
11 doctors -- and I wish I had mine here so I could
12 look at the index, but -- and then I could pull
13 these out. But like this would be an emergency room
14 doctor.
15 MR. LOMBARD: Uh-huh.
16 THE WITNESS: And I'm just giving
17 this as an example. And there would be some terms
18 in there that had nothing to do with -- I mean, it
19 would be like something to do with breast surgery or
20 something. I mean, it was a word that apparently
21 sounded like what he said, but it was not the right
22 word. You could tell by the context when you looked
23 up the word that it was in the transcript that was
24 not the right word.
25 MR. LOMBARD: Thank you.

CHAPMAN COURT REPORTING SERVICE
(512) 452-4072

1 THE COURT: Any other questions from
2 the Board?
3 MR. COHEN: I do.
4 THE COURT: Mr. Cohen.
5 MR. COHEN: Ms. Simmons?
6 THE WITNESS: Yes.
7 MR. COHEN: You indicated that you
8 listened to the audiotapes along with the other --
9 along with the other things that you used to create
10 the record. Was there static on those audiotapes?
11 THE WITNESS: No.
12 MR. COHEN: Were the voices legible
13 on the audiotapes?
14 THE WITNESS: Yes.
15 MR. COHEN: And did the audiotapes
16 exist for the guilt-innocence as well as punishment
17 phase of the trial or have you done the punishment?
18 THE WITNESS: I've done the
19 guilt-innocent and punishment. I'm working on the
20 voir dire.
21 MR. COHEN: Did Ms. Halsey,
22 regardless if she was under oath or if she made the
23 statements in conversations, said that -- and I
24 don't know this terminology very well, but the PZM

25 microphone

CHAPMAN COURT REPORTING SERVICE
(512) 452-4072

1 THE REPORTER: I'm sorry, I can't
2 hear you.
3 MR. COHEN: That the P, like in
4 policy, like M, microphone, I'm not sure what that
5 means, but PZM. She said that it wasn't working and
6 it needed batteries and that she had checked two of
7 the tapes and said nothing was on them but static.
8 Would that have been a truthful statement by her?
9 THE WITNESS: I found no tapes which
10 is static. Every tape that I -- that was in
11 order -- these tapes, when they came to me, were
12 like each day was rubber banded together. They had
13 a date on the end, so I knew which date it was. And
14 they had the page numbers on it. I found no tapes
15 that didn't have anything on it. All of them had
16 something on it that I used.
17 MR. COHEN: So the tapes existed,
18 they were legible?
19 THE WITNESS: Uh-huh.
20 MR. COHEN: And you were able to use
21 those to assist you to recreate the record?
22 THE WITNESS: Yes.
23 MR. COHEN: Thank you.
24 THE WITNESS: Uh-huh.
25 THE COURT: Mr. Lombard.

CHAPMAN COURT REPORTING SERVICE
(512) 452-4072

1 MR. LOMBARD: You said that when you
2 listened to the tapes, you were able to hear them
3 clearly and without static, correct?
4 THE WITNESS: (Witness nodded head
5 affirmatively.)
6 MR. COHEN: The machine that you used
7 to listen to -- I'm familiar with office dictation
8 machines.
9 THE WITNESS: Right.
10 MR. COHEN: And I'm assuming that
11 what you're using is something similar along the
12 way.
13 THE WITNESS: Right.
14 MR. COHEN: What is that device
15 called?
16 THE WITNESS: Well, what I use is a

17 Lanier transcriber.
18 MR. COHEN: A transcriber. Have you
19 ever had a transcriber that went bad on you, where
20 the -- the instrument itself was bad?
21 THE WITNESS: Sure.
22 MR. COHEN: And would possibly cause
23 you to hear static?
24 THE WITNESS: I -- when my machine is
25 broke, I would get another one. So, you know, I --

CHAPMAN COURT REPORTING SERVICE
(512) 452-4072

1 MR. COHEN: But would you know at the
2 time that you were listening to it, if the problem
3 was with your transcriber or if the problem was with
4 the tape?
5 THE WITNESS: No.
6 MR. COHEN: Okay. Thank you.
7 THE COURT: Anybody else?
8 MS. McNAMARA: Were there any
9 portions of the trial that were not audiotaped?
10 THE WITNESS: No.
11 THE COURT: Anymore Board questions?
12 If not, any follow-up the attorneys?
13 MR. KNAPP: No, Your Honor.
14 THE COURT: Okay. Thank you very
15 much.
16 MR. KNAPP: Hold it, Your Honor. One
17 second.
18 FURTHER REDIRECT EXAMINATION
19 BY MR. KNAPP:
20 Q. Let me ask you one more question: In the
21 record that you made corrections to that was
22 submitted in this case, for an. example, was there a
23 reference to Darley cussing the kids instead of
24 kissing the kids?
25 A. Yes.

CHAPMAN COURT REPORTING SERVICE
(512) 452-4072

1 Q. And were --
2 A. Yes.
3 Q. -- mistakes like this throughout the
4 record?
5 A. Yes. There was one point in the trial
6 where they talked about -- where the witness was
7 saying, "Darley brought her kids in and cussed them
8 in front of me." And that's what the audiotape

9 said. And Sandy's notes had said, "Did Darley kiss
10 the kids in the store," which, to me, is totally
11 opposite.
12 Q. Right. And is this something you would
13 have found by proofreading the --
14 THE REPORTER: Excuse me. I'm sorry,
15 I need to change my paper.
16 (Brief pause.)
17 Q. (By Mr. Knapp) Is this a mistake that you
18 would have found -- a person would have found, a
19 court reporter would have found by proofreading the
20 record?
21 A. Yes, sir.
22 MR. KNAPP: Pass the witness.
23 (Excerpt concluded.)
24
25

CHAPMAN COURT REPORTING SERVICE
(512) 452-4072

1 THE STATE OF TEXAS)
2
3 COUNTY OF TRAVIS)
4 I, CAROLINE CHAPMAN, Certified Shorthand
5 Reporter Reporter in and for the County of Travis,
6 State 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 \$54.00 and was/will be paid by
17
18 WITNESS MY OFFICIAL HAND this the 2nd day
19 of December, 1999.
20
21
22 Caroline Chapman /J.W.
23 CAROLINE CHAPMAN, Texas CSR #467
Expiration Date: 12/99
24 Certified Shorthand Reporter Travis County, Texas
25 111 W. Anderson Ln., Ste. 222
512-452-4072