

Testimony of Denise Faulk

DIRECT EXAMINATION

12

13 BY MR. TOBY L. SHOOK:

14 Q. State your name, please.

15 A. My name is Denise Rene Faulk.

16 Q. Would you spell last name, please.

17 A. F-A-U-L-K.

18 Q. And how are you employed?

19 A. I'm a registered nurse.

20 Q. And where do you work?

21 A. I work at Baylor Health Care System.

22 Q. Okay. Tell the jury your educational

23 and professional training for the position that you hold

24 as a nurse, please.

25 A. I attended Texas Tech University and
Sandra M. Halsey, CSR, Official Court Reporter

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1 I did some undergraduate work there. And I have my RN

2 diploma from the Methodist School of Nursing in Lubbock.

3

4 THE COURT: Can everyone hear the

5 witness? Okay.

6

7 BY MR. TOBY L. SHOOK:

8 Q. Okay. How long have you worked at

9 Baylor?

10 A. A year and a half.

11 Q. And what section of that hospital are

12 you assigned?

13 A. I'm assigned to the Four North ICU,

14 which is trauma/neuro ICU.

15 Q. And what are your duties there?

16 A. I care for the critically ill, and

17 make sure that my patients are hemodynamically stable.

18 Q. All right. Let me turn your attention

19 to the 6th day of June, of 1996, and ask you if you came

20 on duty that day?

21 A. Yes.

22 Q. What time did you come to work?

23 A. I came to work at 6:45.

24 Q. Okay. In the evening?

25 A. Yes.

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1 Q. And how long a shift were you working?

2 A. I worked 12 hours.

3 Q. Okay. Sometime during that day, did
4 you have Darlie Routier as your patient?
5 A. Yes.
6 Q. What time did you get her as a
7 patient?
8 A. I had her at 11:00 o'clock that night.
9 Q. Okay.
10 A. Until 7:00 in the morning.
11 Q. Until 7:00 o'clock the next morning?
12 A. Um-hum. (Witness nodding head
13 affirmatively).
14 Q. And were you her nurse the rest of the
15 evening and all through the morning?
16 A. Yes.
17 Q. Okay. Did you have any other
18 patients?
19 A. Yes.
20 Q. How many other patients did you have?
21 A. I had one.
22 Q. Okay. And did you speak to Ms.
23 Routier while you worked there through the morning hours?
24 A. Yes, I did.
25 Q. Describe her condition at the time
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1 that you spoke to her when you were her nurse.
2 A. She was very stable and very much in
3 her right mind.
4 Q. Okay. Were you able to understand her
5 and she able to understand you?
6 A. Yes, sir.
7 Q. Y'all had no trouble communicating?
8 A. No.
9 Q. Sometime during the evening, did you
10 speak to her about what had happened to her?
11 A. Yes.
12 Q. Okay. About what time was that?
13 A. It was around 4:00 o'clock in the
14 morning.
15 Q. Okay. And where were you?
16 A. I was at her bedside.
17 Q. Standing or sitting?
18 A. I was sitting in the chair.
19 Q. Okay. And what position was she in?
20 A. She was laying on her right side in
21 her bed, just kind of -- we lay patients propped up with
22 pillows, laying on her right side looking at me, talking.
23 Q. How far away from her were you?
24 A. Probably from like here to the end of

25 this right here.
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1 Q. Okay. About two or three feet?

2 A. Um-hum. (Witness nodding head
3 affirmatively).

4 Q. Okay. You will have to answer yes or
5 no.

6 A. Yes.

7 Q. Okay. And you had her -- was she
8 propped to one side, you say?

9 A. She was laying on her right side, kind
10 of propped in bed.

11 Q. Okay. During the day, do y'all move
12 patients from one side to the other, prop them up?

13 A. Yes, we do.

14 Q. What is the purpose of that?

15 A. The purpose of that is so they will
16 have circulation to their skin and they won't have any
17 skin breakdown.

18 Q. Okay. And as she was there on her
19 right side talking to you, did the subject of why she was
20 there and what had happened to her come up?

21 A. Yes, it did.

22 Q. How did it come up?

23 A. I had asked her if she remembered
24 anything that happened.

25 Q. Okay. And, was she able to relate to
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1 you what happened?

2 A. Yes.

3 Q. Okay. What did she say, or where was
4 she when this all started?

5 A. She said that she was downstairs in
6 her house, sleeping on the couch. And her two boys were
7 downstairs and they had been watching TV, a big screen
8 TV. And that what started waking her up was her little
9 boy started crying.

10 Q. Okay. Did she say where her husband
11 was when all of this was going on?

12 A. She said that he was upstairs with the
13 little baby.

14 Q. Okay. So she had been downstairs with
15 her two boys watching TV?

16 A. Yes.

17 Q. And then what woke her up was her 5
18 year old crying?

19 A. Yes.

20 Q. Okay. Then what did she say happened?

21 A. She said that her -- she felt a

22 struggle like at her neck.

23 Q. Okay.

24 A. And the man started wrestling with

25 her.

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1 Q. Okay. Did she say where she was when

2 this struggle at her neck and the wrestling occurred?

3 A. She was on the couch.

4 Q. Okay. What's the next thing that she

5 told you?

6 A. She said that she started yelling and

7 that he ran off and he had dropped the knife and she

8 picked it up.

9 Q. Okay. Did she say which way that he

10 ran?

11 A. No, sir.

12 Q. Okay. Did she describe to you where

13 she went to pick up the knife?

14 A. No.

15 Q. Did she tell you anything that

16 happened when he was running away after she yelled out?

17 A. She said that he ran into a wine rack

18 holder.

19 Q. Okay.

20 A. And that it made a big crack noise.

21 Q. He ran into a wine rack holder?

22 A. Um-hum. (Witness nodding head

23 affirmatively).

24 Q. Okay. And, what happened when he ran

25 into the wine rack holder?

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1 A. Well, that's when she really -- I

2 think that's when she started really waking up. That's

3 what she said.

4 Q. She heard a loud crack noise?

5 A. Um-hum. (Witness nodding head

6 affirmatively).

7 Q. And then he dropped the knife; is that

8 right?

9 A. Um-hum. (Witness nodding head

10 affirmatively).

11 Q. Did she -- well, what's the next thing

12 she told you?

13 A. She said that she remembered that it
14 was -- the knife came from her butcher block from her
15 kitchen because it had a white handle on it.

16 Q. Okay. Now, were you asking her
17 questions during this?

18 A. The only one that I asked her was how
19 she knew it was hers. She said because it had a white
20 handle.

21 Q. Oh, okay, regarding the knife?

22 A. Um-hum. (Witness nodding head
23 affirmatively).

24 Q. What did she say she did then?

25 A. She turned the light on and she saw
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1 her two boys laying on the floor and she screamed. And
2 she just -- when she was telling me this, she just kept
3 saying there was just blood everywhere.
4 And then, she said her husband came
5 downstairs, and that's when she had realized she had been
6 stabbed. And he started doing CPR on the little boy and
7 she called 911.

8 Q. Her husband came down after she
9 screamed?

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

12 Q. And did CPR on the little boy?

13 A. Um-hum. (Witness nodding head
14 affirmatively.)?

15 Q. And she called 911?

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

18 Q. Did she tell you anything else about
19 what happened?

20 A. Well, she just said when her husband
21 was doing CPR that he kept saying, "Hang in there,
22 babies. Hang in there." And she said there was just
23 blood everywhere.

24 Q. Okay. When she told you this story,
25 what was her demeanor?

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1 A. She was pretty calm when she was
2 talking. I just remember looking at the cardiac monitor
3 and her heart rate had gone up just a little bit.

4 Q. Okay. Was she crying at all when she
5 told you the story?

6 A. No, sir.

7 Q. Okay. Did you see her cry some during
8 the night when you were with her?

9 A. I saw -- her eyes would get a little
10 wet, but I never really saw tears go down her face.

11 Q. Okay. Have you dealt with people
12 before that have lost loved ones, or close relatives?

13 A. Yes, sir.

14 Q. Children?

15 A. Yes, sir.

16 Q. And have you come in contact with them
17 and observed their reactions?

18 A. Yes, sir.

19 Q. What is the usual reaction in a
20 situation like that?

21 A. The usual reaction when someone loses
22 someone, close family members, they can be ballistic or
23 just beside themselves. Usually they're in disbelief or
24 in denial. And a lot of people get very angry.

25 Q. Okay. Did Darlie Routier's reaction
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1 differ from what you had seen in your experience?

2 A. Well, it was different in that she
3 didn't portray those characteristics.

4 Q. Okay. Now, during the evening did you
5 say that you bathed her?

6 A. Yes, sir.

7 Q. Okay. And about what time did that
8 take place?

9 A. That was -- I had got her at 11:00
10 o'clock that night. And we bathed her pretty soon after
11 that, probably around midnight.

12 Q. Okay. And during your shift, did you,
13 you know, take careful notice of her injuries and care
14 for her?

15 A. Yes, sir.

16 Q. Did you ever notice -- well, was there
17 an injury to her right arm?

18 A. She had a stab wound to her right arm.

19 Q. Okay. Did you see any other injuries
20 to her right arm?

21 A. No, sir.

22 Q. Okay. Let me show you what's been
23 marked as State's Exhibit 52-B. Do you recognize that as
24 a photograph of the defendant?

25 A. Yes.

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1 Q. Do you see her right arm there?
2 A. Uh-huh. (witness nodding head
3 affirmatively.)
4 Q. Do you see that large bruising down
5 the right arm?
6 A. Um-hum. (Witness nodding head
7 affirmatively).
8 Q. Did you see any evidence of that type
9 of injury at any time during your shift?
10 A. I didn't. I did not.
11 Q. Okay. When you bathed her, was her
12 right arm bathed?
13 A. Yes.
14 Q. And was it moved about?
15 A. Um-hum. (Witness nodding head
16 affirmatively).
17 Q. Did she ever complain of any pain
18 other than the cut she received?
19 A. No, not through the night.
20 Q. Okay. That type of bruising, have you
21 seen that type of bruising before in your nursing?
22 A. Working in trauma I have seen blunt
23 trauma to the face, in like, in car accidents, but not
24 that big to the arm.
25 Q. Okay. That's a pretty large bruise,
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1 is it not?
2 A. Yes, sir, it is.
3 Q. Okay. You didn't see any evidence of
4 that whatsoever?
5 A. No.
6
7 MR. DOUGLAS MULDER: Object to
8 leading.
9 THE COURT: Overruled. Go ahead.
10
11 BY MR. TOBY L. SHOOK:
12 Q. Is that the kind of thing you look for
13 when you're caring for someone in ICU?
14 A. Yes. In our assessment we do a head
15 to toe assessment.
16 Q. Okay. And if you had seen something
17 like that, do you take note of it?
18 A. Yes.
19 Q. Okay. Now, Mrs. Faulk, after -- well,
20 after your shift, or sometime after your shift, did you
21 make some personal notes about what you talked about with
22 Mrs. Routier?

23 A. Yes, I did.

24 Q. When was that?

25 A. That was the weekend after I took care
Sandra M. Halsey, CSR, Official Court Reporter
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1 of her.

2 Q. Okay. And where did you make those
3 notes?

4 A. In my apartment.

5 Q. Okay. Did you do that at anyone's
6 request?

7 A. No.

8 Q. Just did that on your own?

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

11 Q. Okay. And, why did you decide to make
12 some notes?

13 A. I got home and started thinking about
14 what she had said. And I thought it was weird that, when
15 she was telling me that she was laying on her right side
16 that her -- the way her stab wounds were -- she had a
17 dressing on them most of the night, so I didn't look at
18 them until that morning, when the doctor had come in to
19 take the dressing off. But I didn't get a very close
20 look at it, but from what I heard they were pretty
21 straight cuts.

22 And, I just thought it was weird that
23 she would be laying on her right side the way her cuts
24 were.

25 Q. Okay. So you made these notations of
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1 the story she had told you?

2 A. Yes, sir.

3 Q. Okay. Now, did you call up the police
4 and tell them you had some notes for them or anything
5 like that?

6 A. No.

7 Q. Where did you keep them?

8 A. I kept them in my little safety thing
9 in my closet.

10 Q. Okay. When is the first time you
11 brought those out again?

12 A. I brought them out -- well, when y'all
13 had contacted me.

14 Q. Okay. And when you say "y'all," are
15 you referring to myself and Investigator Bosillo?

16 A. Yes.

17 Q. Do you recall about when that was?
18 A. Around October.
19 Q. Okay. And, did we come and visit you
20 there at your apartment?
21 A. Yes, sir.
22 Q. And then did you show us the notes
23 that you had made and turn those over to us?
24 A. Yes, I did.
25 Q. And we have talked on a couple of
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1 other times, have we not?
2 A. Yes, sir.
3 Q. Do you remember how many times that I
4 have met with you?
5 A. Probably about four times.
6 Q. Okay. Couple of times in your
7 apartment?
8 A. Um-hum. (Witness nodding head
9 affirmatively).
10 Q. And then since you were down here in
11 Kerrville, we have met?
12 A. We met on Tuesday, around noon, and
13 then Tuesday evening.
14 Q. Okay. And Tuesday at noon there were
15 other nurses, other people from Baylor there; is that
16 right?
17
18 MR. DOUGLAS MULDER: Object to the
19 leading, Judge. If he's going to continue to lead and
20 just ask the witness to agree with him, he ought to be
21 sworn in one way or the other.
22 THE COURT: The leading objection is
23 sufficient, Mr. Mulder. Thank you. Sustained.
24 Let's rephrase our question.
25
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1 BY MR. TOBY L. SHOOK:
2 Q. About how many people were there
3 Tuesday at noon?
4 A. About 10.
5 Q. Okay. And did I ask you some -- well,
6 what went on? Were questions asked at that meeting?
7 A. The pictures were shown and we were
8 asked if we had ever seen the bruise before.
9 Q. Okay. Did I go over some of the same
10 questions that you answered to this Jury?

11 A. A little bit at noon.
12 Q. Okay. Did I talk with you at greater
13 length that evening?
14 A. Yes, sir.
15 Q. Okay. Who all was present when we
16 talked later that evening?
17 A. Tuesday evening?
18 Q. Yes.
19 A. You and Mr. Bosillo.
20 Q. Okay.
21 MR. TOBY L. SHOOK: Mark this, please.
22
23
24 (Whereupon, the following
25 mentioned item was
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1 marked for
2 identification only
3 after which time the
4 proceedings were
5 resumed on the record
6 in open court, as
7 follows:)
8
9

10 BY MR. TOBY SHOOK:
11 Q. Let me show you a three page document
12 that has been marked as State's Exhibit 57. And let you
13 take a look at those three pages and see if you recognize
14 them.
15 A. Yes, I do.
16 Q. Are those the personal notes that you
17 made in regards to the things that Mrs. Routier told you
18 that evening on that shift as you cared for her?
19 A. Yes, sir.
20 Q. Okay.
21
22 MR. TOBY SHOOK: Judge, we will pass
23 the witness.
24 MR. RICHARD C. MOSTY: May I read
25 this?
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1 THE COURT: You may, indeed.
2
3
4 CROSS EXAMINATION

5

6 BY MR. RICHARD MOSTY:

7 Q. Mrs. Faulk, how are you this morning?

8 A. Fine. Thank you.

9 Q. How long have you been in Kerrville?

10 A. I've been in Kerrville since Monday

11 night.

12 Q. Are you anxious to get home?

13 A. Yes, sir.

14 Q. Okay. Let me make sure that I

15 understand where your notes are. Mrs. Faulk, I'm going

16 to show you what is in evidence as hospital records. And

17 I just want to see if I know where your notes start --

18 A. Okay.

19 Q. -- and where they end. And I think I

20 have handed you one that --

21 A. Um-hum. (Witness nodding head

22 affirmatively).

23 Q. When you first sign in your notes, do

24 you put your full name?

25 A. Yes. You put your initial and last

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1 name and RN, or whatever your license is.

2 Q. And do yours start by, "We agree with

3 the shift assessment done by P. Campbell"?

4 A. Yes.

5 Q. Is that your first notation?

6 A. Yes.

7 Q. And that's Paige Campbell?

8 A. Yes, sir.

9 Q. Who was immediately before you?

10 A. Yes.

11 Q. Now, is she your supervisor, or is she

12 over you? I didn't understand that.

13 A. Paige Campbell, she was just charge

14 nurse that night and she's a fellow employee.

15 Q. Okay.

16 A. With me.

17 Q. She's a charge nurse?

18 A. She was that night. Just on my shift

19 from 7-P. to 7-A.

20 Q. So is that who you would report to for

21 lack of a better term, your superior, on that shift?

22 A. Yes, sir.

23 Q. Okay. Now, then show me where your

24 last note is then?

25 A. The next page where I discontinued her

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1 Foley catheter.

2 Q. Okay. Is that a 7:10 AM?

3 A. Yes, sir.

4 Q. And then, I guess, you went off duty

5 then about 7:10 AM?

6 A. Um-hum. (Witness nodding head

7 affirmatively).

8 Q. Correct?

9 A. Yes.

10 Q. So that's all within about 24 hours,

11 in the first 24 hours of her stay in the hospital?

12 A. Yes, sir.

13 Q. And if I understand at some time in

14 that evening you bathed her?

15 A. Yes, sir.

16 Q. What time?

17 A. It was around midnight.

18 Q. Okay. And when you bathed her, she

19 was -- she stayed in the bed?

20 A. Yes, sir.

21 Q. Was she laying down essentially?

22 A. Yes, sir.

23 Q. And I think you said that part of your

24 duties were, in fact, to move her to different positions?

25 A. Yes, sir. We help assist patients if

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1 they're not mobile.

2 Q. You want patients to move around so

3 that they don't get bed sores and things like that, don't

4 you?

5 A. Yes, sir.

6 Q. And you said -- I think you used the

7 phrase, "She was in her right mind"?

8 A. Yes.

9 Q. So I take it by that you think she was

10 acting appropriately?

11 A. Yes.

12 Q. To whatever the circumstances that

13 were going on, you thought that her behavior or her

14 responses were appropriate for the circumstances?

15 A. No. I didn't think her responses were

16 appropriate. I thought she was coherent.

17 Q. Okay. And, is that because you, how

18 did you say, on how she reacted, not emotionally?

19 A. I just remember when I was bathing her

20 that she -- there was no remorse, no tears, just -- that
21 just really stood out in my mind. That we were cleaning
22 blood from her feet and she was very unemotional.

23 Q. Okay. And I think you said something
24 about that she was making some kind of statements of
25 denial about -- how did you say that?

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1 A. I said that that's normal for people
2 to be in denial.

3 Q. To make --

4 A. But she never said any statements
5 about being in denial over the loss of her sons.

6 Q. Was she holding -- did she have those
7 pictures there of the boys with her?

8 A. She asked for them one time when we
9 were bathing her.

10 Q. And she would look at them?

11 A. She looked at them and kind of whined
12 a little bit.

13 Q. Kind of whined? Where does that word
14 whine come from?

15 A. Pretty subjective.

16 Q. It's pretty subjective?

17 A. Yes.

18 Q. Sort of, would you think it unusual
19 that two people might -- two or three, or however many
20 people, might choose that subjective phrase "whine," to
21 describe what happened?

22 A. Not if that's what she was doing.

23 Q. And do you think that I might think
24 that whining was different than what you might think
25 whining is?

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1

2 MR. TOBY SHOOK: Judge, I'll object.

3 That question calls on what Mr. Mosty thinks is improper
4 and speculative.

5 THE COURT: Sustained.

6 Rephrase your question.

7

8 BY MR. RICHARD MOSTY:

9 Q. Now you have some training in grief,
10 don't you?

11 A. Dealing with families that are
12 grieving.

13 Q. And you understand that people do

14 different grieving. They grieve in different ways, don't
15 they?

16 A. Yes, sir.

17 Q. And you understand that there are
18 different -- sort have been identified as stages of
19 grief?

20 A. Yes, sir.

21 Q. Do you remember how many there are?

22 A. There's about four stages.

23 Q. And people go through those in
24 different ways, don't they?

25 A. Some people, yes, sir. They can.

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1 Q. And sometimes they do them in
2 different orders?

3 A. Not necessarily.

4 Q. You disagree with that?

5 A. Yes.

6 Q. Okay. Tell me what is the first stage
7 of grief for all people then?

8 A. Well, the first stage would be
9 disbelief.

10 Q. Disbelief. That's true in every
11 circumstance?

12 A. Yes.

13 Q. Okay. What's the second one?

14 A. It would be that they would get angry.

15 Q. Okay. And what's the third one?

16 A. The third one is that they would come
17 to acceptance.

18 Q. To acceptance?

19 A. Yes.

20 Q. All right. And what is the fourth
21 one?

22 A. The fourth one is that they console.

23 They would have some kind of resource.

24 Q. Okay.

25 A. To -- for comfort.

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1 Q. Is that it?

2 A. That I'm aware of.

3 Q. And everyone goes through those in the
4 same order?

5 A. Well, in my opinion, yes.

6 Q. And how long does each of them last?

7 A. I don't know.

8 Q. Well, is that the same for everybody?

9 A. I honestly don't know.

10 Q. Okay.

11

12

13 (Whereupon, the following

14 mentioned item was

15 marked for

16 identification only

17 after which time the

18 proceedings were

19 resumed on the record

20 in open court, as

21 follows:)

22

23 BY MR. RICHARD MOSTY:

24 Q. Let me talk to you a little bit about

25 that then. Let me show you what I have marked as

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1 Defendant's Exhibit 18. Have you seen -- in part of your

2 training have you seen pamphlets like that on dealing

3 with grief?

4 A. I have, yes.

5 Q. Okay. Let me ask you if you agree

6 with this statement. "That in shock and denial" --

7

8 MR. TOBY SHOOK: Judge, I'll object to

9 him reading from a document not in evidence. And also

10 she hasn't recognized this particular pamphlet as anyone

11 that she's used or is familiar with.

12 THE COURT: I'll sustain the

13 objection.

14

15 BY MR. RICHARD MOSTY:

16 Q. Do you agree with the statement that

17 shock and denial often follow grief? Follow the loss of

18 a loved one?

19 A. Yes, I do.

20 Q. Do you agree with the statement that

21 that is especially true if a loss occurs suddenly?

22 A. Yes.

23 Q. Do you agree with the statement that

24 an emotional numbness may set in in that shock and denial

25 stage?

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1 A. Yes, I do. But I don't think starting
2 out.
3 Q. Okay. You don't think that that
4 emotional -- when does that emotional numbness set in?
5 A. I honestly don't know.
6 Q. But you know it doesn't set in within
7 24 hours?
8 A. I don't know.
9 Q. Okay. You don't know when someone
10 might go into emotional numbness, do you?
11 A. No.
12 Q. And do you agree with the statement
13 that that emotional numbness may last from hours to weeks
14 or longer?
15 A. You're saying that emotional numbness
16 can be --
17 Q. That it might last a matter of hours,
18 might last an hour (sic) of days, might last weeks.
19 A. I don't know how long. I think it's
20 very individualistic.
21 Q. All right. And so, if someone is
22 emotionally numb, is that sort of what you would
23 characterize as -- how would I say, stone-faced?
24 A. Yes.
25 Q. That's emotional numbness?
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1 A. Yes.
2 Q. Sort of like in a stupor, right?
3 A. When, I think of stupor, I think of
4 close to comatose, and I don't think that's normal for
5 someone that's just lost.
6 Q. Okay. And that's sort of -- you
7 agree, that the emotional stupor might be sort of a blank
8 look on someone's face?
9 A. That stupor is?
10 Q. Emotional numbness might have, just
11 sort of, no reaction?
12 A. Yes, they can.
13 Q. If I'm emotionally numb?
14 A. Yes.
15 Q. And that's -- in nursing terms you
16 would call that a flat affect, wouldn't you?
17 A. Yes.
18 Q. Okay. And that's what she was
19 exhibiting that night, wasn't it? A flat affect?
20 A. Yes.
21 Q. A numbness?
22 A. I would say a flat affect.

23 Q. Okay. Well, you agreed with me a
24 minute ago that that was -- that numbness, that
25 stone-face, that lack of expression, all of those are
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1 indicative of flat affect, aren't they?

2 A. Characteristics, yes.

3 Q. Okay. Just one point of

4 clarification. In this description you talked about the
5 TV. And, is it your understanding that the TV was on?
6 That they had fallen asleep while watching TV?

7 A. I do not know that.

8 Q. Oh.

9 A. She didn't say.

10 Q. So you don't know whether it was on or
11 off?

12 A. No, sir.

13 Q. Now, let's talk a little bit about

14 stupor. When someone is awoken -- I guess people awake
15 differently, don't they?

16 A. Awakened from sleep or --

17 Q. Well, just this morning probably
18 everybody here woke up somewhat differently?

19 A. Yes, sir.

20 Q. Some pop right out of bed, some don't?

21 A. Yes, sir.

22 Q. And that depends, no matter whether
23 you're a heavy or a light sleeper, there's something
24 known as when you get into a deep sleep?

25 A. Yes.

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1 Q. Even people that sleep just three or
2 four hours a night have some time of deep sleep?

3 A. I don't know. I know that deep sleep
4 is called REM. But I don't know exactly how long that
5 takes to take place.

6 Q. Yeah. Okay. And if someone wakes
7 from a deep sleep they -- have you ever woken up in the
8 night, sort of walking around and not knowing what room
9 you were in?

10 A. Yes, sir.

11 Q. You've gone and -- I've ended up,
12 like, in a room, and I'm feeling around, and then in a
13 little while you sort of wake up and realize where you
14 are and go back to bed?

15 A. Yes, sir.

16 Q. Okay. And that -- I would sort of

17 call that like almost a stupor, would you?

18 A. No, sir, I wouldn't call it stupor.

19 Q. Okay. It was just, as you wake up,

20 sometimes you're not real clear on what you're doing?

21 A. Exactly, yes.

22 Q. As a matter of fact, what you said was

23 that what Darlie described to you was that it wasn't

24 until she was already up and moving that she -- that she

25 really sort of woke up and figured out what was going on?

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1 A. I would have to look at my notes.

2 Q. You don't remember testifying to that?

3 A. I would have to look at my notes at

4 what she said.

5 Q. I'm not asking you about your notes,

6 I'm asking you if you remember, just --

7

8 MR. TOBY SHOOK: Judge -- Judge, the

9 witness has asked if she could review her notes to answer

10 his question, and I submit she should be allowed to do

11 that.

12 MR RICHARD C. MOSTY: Well, I'm not

13 asking about her notes, Your Honor.

14 THE COURT: Well, let's go on to the

15 next question then.

16

17 BY MR. RICHARD C. MOSTY:

18 Q. I'm asking you if you remember that

19 less than 15 minutes ago, stating that that was -- that

20 he ran into the wine rack holder, and there was a big

21 crash, and that's when she really woke up.

22 A. She told me that she --

23 Q. Wait, Mrs. Faulk, my question is: Do

24 you remember testifying to that not 15 minutes ago?

25 A. Yes, sir.

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1 Q. Okay. And so that is consistent with

2 someone who awakes and is not fully awake, who, in a

3 moment really comes awake. Right?

4 A. Can you repeat the question, I'm

5 sorry.

6 Q. Okay. Well, what Mrs. Routier

7 described to you was that something was happening before

8 she was fully awake.

9

10 MR. TOBY SHOOK: Judge, I'll object to

11 speculation. He's trying to go into an interpretation of
12 what Mrs. Routier told this witness. She's only repeated
13 what she told her. She can't interpret what she meant by
14 it.

15 THE COURT: Well, I understand. I'll
16 overrule that objection, but I'll -- answer the questions
17 as succinctly and accurately as you know how. When a
18 question has been answered, Mr. Mosty, please go on to
19 your next question.

20

21 BY MR. RICHARD MOSTY:

22 Q. That's what Mrs. Routier described to
23 you, wasn't it? Being awakened with something happening,
24 but not fully awake?

25 A. She could have been, but I don't know
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1 her state.

2 Q. Well, I'm just asking you what she
3 said. That's when she really woke up?

4 A. Yes. That's what she said.

5 Q. So until she really woke up, she was
6 not really awake; is that right?

7 A. Correct.

8 Q. Okay. So what happened -- while she
9 was describing what happened on the couch, was a time
10 when she said she was not fully awake?

11

12 MR. TOBY SHOOK: Judge, I'll object
13 again. He's going into speculation.

14 THE COURT: All right.

15 MR. TOBY SHOOK: It's just his
16 interpretation.

17 THE COURT: I'll overrule that
18 objection, as the question is couched. If you know that
19 question -- if you know the answer, answer it. But let's
20 get brief questions, brief answers. Move on to the next
21 question.

22 Go ahead, please.

23

24 BY MR. RICHARD MOSTY:

25 Q. Could you answer the question?
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1 A. Can you repeat the question?

2 Q. Before the wine rack, Mrs. Routier
3 told you that she was not fully awake?

4 A. Yes, sir. She said that what kind of

5 woke her up was her boys crying. And then what really
6 woke her up was the loud crack noise.

7 Q. All right. And that sort of like when
8 you're walking around your house, you're kind of awake,
9 and you kind of know, but until you're fully awake, you
10 don't really know where you are or what you've been
11 doing?

12 A. Yes, sir.

13 Q. Now, you told me you bathed her about
14 midnight; is that right?

15 A. Yes, sir.

16 Q. And when you bathed her, were her feet
17 bloody?

18 A. Yes, sir.

19 Q. So, it's fair to say that when you
20 bathed her at midnight, no one had washed her feet at
21 that point?

22 A. No, sir.

23 Q. You were the first person to wash
24 those bloody feet?

25 A. Yes, sir.

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1 Q. And you know that for a fact, don't
2 you?

3 A. Yes, sir, I do.

4 Q. You remember that you -- you were by
5 yourself?

6 A. I was with Paige Campbell.

7 Q. But Paige Campbell had not washed her
8 feet off earlier, had she?

9 A. No.

10 Q. I guess Paige was helping you?

11 A. Yes.

12 Q. And you were sort of in charge of
13 that?

14 A. Yes, of the bath.

15 Q. Okay. But you were the one who washed
16 the blood off of her feet?

17 A. From what I remember Paige and I --
18 usually when you have somebody helping you bathe, you
19 just kind of both take one side of the body. So she took
20 the one leg and I took the other one.

21 Q. Okay. But there's no question that
22 her feet had not been washed before that, had they?

23 A. No, sir, they had not.

24 Q. And that's the kind of thing that sort
25 of stands out in your memory, doesn't it?

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1 A. Yes, sir.

2 Q. I mean, blood on someone and having to
3 wash it off?

4 A. Um-hum. (Witness nodding head
5 affirmatively).

6 Q. And that's not something that an ICU
7 nurse would get wrong, would they? I mean, you wouldn't
8 forget --

9

10 MR. TOBY SHOOK: Again, I'll object to
11 speculation as to what --

12 THE COURT: Sustained.

13 Please answer the questions as precise
14 as you can. Give precise answers and move on to the next
15 question.

16

17 BY MR. RICHARD MOSTY:

18 Q. Well, for instance, do you think
19 that -- you know what nurses do in ICU, don't you?

20 A. Yes.

21 Q. And you know what the people that
22 you're with do, don't you?

23 A. I know their duties. I don't know
24 exactly what they do all the time.

25 Q. Well, I understand. But you know that
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1 they're accurate and that they're very attentive to
2 detail?

3 A. Yes, sir.

4 Q. ICU nurses are, aren't they?

5 A. Yes.

6 Q. And record things in these notes that
7 are significant, don't they?

8 A. Yes, sir.

9 Q. Matter of fact, that's part of your
10 training is to be very accurate and be very observant of
11 your patients?

12 A. Yes.

13 Q. And that's one of the reasons that you
14 only have one or two people, is so that you can't -- that
15 you do have the time to devote to those people?

16 A. Yes.

17 Q. And to be observant of what they're
18 doing?

19 A. Yes.

20 Q. And you know Paige Campbell to be that
21 same way, don't you?

22 A. Yes, sir.

23 Q. Now, did you -- when you washed her,
24 did you notice any blood on the right forearm?

25 A. I don't remember. I'm sure she had
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1 blood, but from what I remember, when I got report, they
2 had said that they had kind of cleaned her hands off and
3 her arms, I believe.

4 Q. So you do not remember any blood on
5 her arms?

6 A. There could have been, but I don't
7 remember seeing it specifically that stood out in my
8 mind.

9 Q. So there are some things of this visit
10 that you remember and some things that you don't
11 remember?

12 A. Some things are vague. Some things
13 stand out.

14 Q. But on the blood on the arm, you can't
15 be clear about that?

16 A. Correct.

17 Q. Now, do you know, after your shift,
18 did Mrs. Routier stay in ICU? Can you tell that from the
19 notes?

20 A. After my shift?

21 Q. Yes.

22 A. Yes, she stayed. I don't know how
23 long.

24 Q. Okay. Now, I guess part of what you
25 do with trauma people is you want to observe and see if
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1 they start feeling some pain that they didn't feel
2 before, that kind of thing?

3 A. Yes. We monitor their comfort.

4 Q. What's their progress, and do they
5 have some different complaint or a new complaint or
6 something?

7 A. Yes.

8 Q. And is it your experience that
9 sometimes as people are in a -- in the room for a while
10 they will complain about, you know, something else is
11 bothering me?

12 A. Yes.

13 Q. If a person did have injury to the

14 right arm or so, would you expect them to complain of
15 pain in that arm?

16 A. Yes, I would.

17 Q. And at various times Mrs. Routier

18 complained of pain in her right arm, didn't she, in your
19 notes?

20 A. No, she -- I remember asking her a

21 couple times through the night if she was hurting and it

22 wasn't until that morning. Her mother came in the room

23 and she was asking for some pain medicine.

24 Q. Okay. And that's not unusual that

25 someone has been given pain medication earlier in the

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1 day, they do well, it wears off and they ask for more

2 pain medication?

3 A. That's normal, yes.

4 Q. So a person will have a period where

5 there is no pain, they're moving fine?

6 A. Yes.

7 Q. Now, you know, for instance, do you

8 not, that right after your shift that Mrs. Routier did

9 complain of pain in her right shoulder, didn't she?

10 A. No, I did not know that.

11 Q. Don't know that from the notes?

12 A. Not after my shift. I didn't read.

13 Q. You didn't read the next -- who

14 followed you?

15 A. The next nurse after me was Agnes.

16 Q. Is that -- is Agnes this first note:

17 7:20?

18 A. Yes, sir.

19 Q. Okay. Read the note at the bottom of

20 that page that Agnes made. What does the "D" stand for?

21 A. Data.

22 Q. Okay. And the CO?

23 A. Complained of.

24 Q. And that's the patient complaining of

25 something?

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1 A. Yes.

2 Q. And what is the patient complaining

3 of?

4 A. Complained of right shoulder pain.

5 Q. Okay. And earlier in the day she had

6 been complaining of pain in her right arm when she got

7 the Demerol? You knew that, I guess, when you took over?

8 A. When I took over from --
9 Q. -- from Mrs. Campbell?
10 A. Well, I don't remember right now.
11 Q. Well, when you took over for Mrs.
12 Campbell, did you review the focus notes?
13 A. I remember glancing over them, yes.
14 Q. But you don't remember any specifics
15 of that at this time?
16 A. I would have to look.
17 Q. Okay. Of your own memory right now?
18 A. My own memory right now, I don't
19 remember.
20 Q. You don't remember that?
21 A. No.
22 Q. Okay. Now, you -- when is the first
23 time that you ever saw these pictures of Mrs. Routier in
24 the hospital and afterwards?
25 A. Which pictures exactly?
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1 Q. I think Mr. Shook showed you some
2 of -- I'm not sure how many he showed you of these 52-A,
3 B?
4 A. I saw them Tuesday.
5 Q. Had you ever seen them before that?
6 A. No, sir.
7 Q. Where were you when you saw them?
8 A. We met in the hotel conference room.
9 Q. How did you happen to meet?
10 A. What do you mean exactly "how"?
11 Q. Why did you go to that room?
12 A. Because we were called to meet them.
13 Q. Who called you? Who told you to go?
14 A. From what I remember there was just a
15 message at the hotel to meet in room so and so at noon.
16 Q. You're not real clear about how --
17 A. I don't remember exactly who left the
18 message, but there was a message at the hotel for me.
19 Q. And where did you go to meet?
20 A. We met in their little conference room
21 off one of the hotel rooms.
22 Q. And who was present at that meeting?
23 A. Me and the other nurses.
24 Q. Who? Give me their names. Tell me
25 everybody whose name you can remember in there.
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1 A. Mr. Shock, Mr. Bosillo was there,
2 Paige Campbell, Diane Hollon, Jody Cotner, Phyllis -- and
3 I don't know her last name. I'm drawing a blank.
4 Q. Phyllis, where does Phyllis work?
5 A. Phyllis is one of the Baylor police.
6 Q. Okay. So Phyllis -- and did
7 Phyllis -- well, did y'all get the pictures out and put
8 them on a table?
9 A. Yes, sir.
10 Q. Who told you what the purpose of the
11 meeting was when you got there?
12 A. I don't remember.
13 Q. You don't remember who did that?
14 A. I don't remember.
15 Q. Okay. Did y'all lay out pictures on
16 the table?
17 A. Yes, sir.
18 Q. Everybody talked about them?
19 A. We looked at them and discussed what
20 we saw.
21 Q. Discussed what you observed?
22 A. Yes, sir.
23 Q. And did you point out what you
24 observed?
25 A. I just was really kind of quiet, and
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1 just kind of sat back. I saw them, but I didn't --
2 wasn't very verbal.
3 Q. Did other people point out what they
4 observed?
5 A. Yes, sir.
6 Q. Was this a square table or a round
7 table?
8 A. I don't remember.
9 Q. You don't remember the shape of the
10 table?
11 A. No.
12 Q. Now, did Phyllis Jackson, the Baylor
13 security guard, did she also look at the pictures?
14 A. Yes, sir.
15 Q. When she came down here the other day,
16 she was in her uniform. Was she in her uniform then?
17 A. Well, I really don't remember. I
18 don't think so.
19 Q. You don't think she was in her
20 uniform?
21 A. I don't remember.
22 Q. I guess you have known Phyllis Jackson

23 for a while because of working at Baylor?
24 A. No, actually I just met her this week.
25 Q. Okay. And -- but that is all you can
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1 remember being there at that meeting?
2 A. Um-hum. (Witness nodding head
3 affirmatively). Just looked at pictures.
4 Q. You don't remember Dr. Dillawn being
5 there, do you?
6 A. Yes, sir, he was there.
7 Q. Oh, you do?
8 A. Yes.
9 Q. You forgot that a minute ago?
10 A. Yes. Now that you said that.
11 Q. Okay.

12
13 MR. RICHARD C. MOSTY: I'll pass the
14 witness.

15
16
17 REDIRECT EXAMINATION

18
19 BY MR. TOBY L. SHOOK:
20 Q. When Mrs. Routier told you this story
21 in the hospital, you didn't cross-examine her or question
22 her or anything like that, did you? As to its truth or
23 veracity, did you?
24 A. No. The only question that I asked
25 her was how she knew it was her knife.
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1 Q. Okay. Did I -- at any of our meetings
2 that we have had, and gone over your testimony, and
3 questions I've asked you, did I ever try to get you to
4 lie or shade your testimony in any way?

5
6 MR. DOUGLAS MULDER: Object to
7 leading.
8 THE COURT: Overruled. Go ahead.
9 MR. DOUGLAS MULDER: He's bolstering
10 the witness.

11 THE COURT: Thank you, Mr. Mulder.
12 Ask your question.

13
14 BY MR. TOBY L. SHOOK:
15 Q. Have I ever tried to get you to do
16 anything like that, Mrs. Faulk?

17 A. No, sir.

18 Q. Okay.

19

20 MR. TOBY SHOOK: That's all the

21 questions I have, Judge.

22 MR. RICHARD C. MOSTY: Nothing

23 further.

24 THE COURT: You may step down, ma'am.