

Testimony of Thomas Dean Ward

DIRECT EXAMINATION

22

23 BY MR. GREG DAVIS:

24 Q. Sir, would you please tell us your

25 full name.

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1 A. My full name is Thomas Dean Ward,

2 W-A-R-D.

3 Q. Mr. Ward, how are you employed?

4 A. As a peace officer with the City of

5 Rowlett.

6 Q. How long have you been a Rowlett

7 Police Officer?

8 A. Ten years January the 8th of this

9 year.

10 Q. Are you a sergeant with the

11 department?

12 A. Yes, sir, I am.

13 Q. How long have you been a sergeant out

14 there?

15 A. Eight and a half years.

16 Q. All right. Now, you have been with

17 Rowlett for 10 years. Before going to Rowlett were you a

18 peace officer somewhere else in Dallas County?

19 A. Yes, sir, I was.

20 Q. What department did you serve at that

21 time?

22 A. Mesquite Police Department.

23 Q. How long were you a Mesquite Police

24 Officer?

25 A. Fourteen years and 8 months.

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1 Q. So you've been a police officer now

2 going on 25 years; is that right?

3 A. April 17th of this year is my 25th

4 year.

5 Q. Okay. Just a few things first.

6 Sergeant Ward, when did you get to Kerrville this week?

7 A. Sunday.

8 Q. Are you staying at the YO with the

9 rest of us?

10 A. Yes, sir.

11 Q. Prior to coming to Kerrville,

12 Sergeant, did I have an opportunity to talk to you about

13 this case?

14 A. Yes, sir.

15 Q. How many times have I talked to you

16 about your testimony prior to coming to Kerrville?

17 A. Prior to coming to Kerrville twice.

18 Q. Do you recall where those meetings

19 took place?

20 A. Both of them were at -- the first one

21 was in your office and the other one was there in the

22 building.

23 Q. Okay. My office is in the courthouse

24 in Dallas; is that right?

25 A. Yes, sir, in the courthouse.

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1 Q. So that was the first meeting. The

2 second one, did we meet in the courtroom?

3 A. The first one was the courtroom, but

4 the second one was at your office.

5 Q. All right. And, when we went to the

6 courtroom, were other Rowlett Police Officers present?

7 A. Yes, sir.

8 Q. And at that time, did we discuss the

9 testimony that would be presented in this case?

10 A. We did.

11 Q. Are there some Rowlett Police Officers

12 who have never testified in a court before?

13 A. Yes, sir.

14 Q. So we've met twice in Dallas. Have we

15 met to discuss your testimony since you've come to

16 Kerrville?

17 A. Briefly.

18 Q. All right. And when did that meeting

19 take place?

20 A. This morning.

21 Q. Were we back in the work room, I guess

22 back in the old jail is where we have got the office.

23 Right?

24 A. That's correct.

25 Q. And did we meet back there sometime

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1 after 8:00 this morning?

2 A. Yes, sir.

3 Q. Have I asked you to look at certain

4 photographs that will be offered as exhibits in this

5 case?

6 A. You have.

7 Q. Have I asked you to look at other
8 items that may be offered?

9 A. Yes, sir.

10 Q. Okay. Now, if we can, let's go back
11 to June the 6th of 1996, Sergeant Ward.

12 Let me ask you whether or not at 3:00
13 o'clock in the morning, were you on duty or were you at
14 home?

15 A. No, sir. I was at home in bed.

16 Q. All right. Were you sleeping?

17 A. Yes, sir.

18 Q. And, did you receive a phone call?

19 A. Yes, sir.

20 Q. And, was it concerning this case?

21 A. Yes, sir.

22 Q. And, were you asked to do certain
23 things in connection with this case?

24 A. Yes, sir. I was instructed to report
25 for duty.

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1 Q. All right. Did you, in fact, get up
2 and go to the police station there in Rowlett?

3 A. Yes, sir, I did.

4 Q. And do you recall about what time that
5 you got to the police station that morning?

6 A. It was shortly before 4:00 o'clock. I
7 would say somewhere around 15 till, 10 till, something
8 like that, 3:45, 3:50.

9 Q. All right. What was the purpose of
10 you going to the police station that morning?

11 A. I had to pick up a squad car, a marked
12 car. And when I got there I was also asked to pick up
13 other equipment. The officers on the scene, their
14 flashlights were running out, and they wanted new
15 flashlights. And I had some equipment to round up.

16 Q. About how long did it take you, once
17 you got up there, to round up all the stuff that you
18 needed to round up?

19 A. Not long. Probably within 10 minutes
20 I was in route.

21 Q. Okay. In route to where?

22 A. To Eagle Drive.

23 Q. All right. Would that be 5801 Eagle
24 Drive?

25 A. Yes, sir.

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1 Q. Let me ask you, when you got there,
2 did you meet with someone from the Rowlett Police
3 Department?

4 A. Yes, sir. My supervisor, Lieutenant
5 Grant Jack met me in the front yard.

6 Q. All right. And, did you give somebody
7 the supplies that you had brought up there to the
8 location?

9 A. Yes.

10 Q. Okay. After you did that, were you
11 given any instructions on what the folks up there at the
12 scene wanted you to do out there?

13 A. Yes, sir. My lieutenant instructed me
14 to supervise the outside perimeter.

15 Q. Okay. Just what does that mean
16 "supervise the outside perimeter"?

17 A. This was something like two hours
18 after the crime had been reported. And to supervise the
19 perimeter, that was my instructions. And from that what
20 I did was I placed an officer at each end of the alley
21 simply to stop people that would be going to work, the
22 residents that would be going to work. We wanted to find
23 out if they had seen anything. And then also I was to
24 make a sweep of the neighborhood.

25 Q. Okay. Do you know an Officer David
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1 Waddell?

2 A. Yes, sir, I do.

3 Q. Was he one of the officers that you
4 assigned to the alley?

5 A. Yes, sir, the north alley.

6 Q. And do you remember, just by chance,
7 do you remember the other officer that was assigned to
8 the other end of the alley?

9 A. Yes, sir, it was Dale Stevens who was
10 assigned to the south end of the alley.

11 Q. Okay. So you had the alley covered.
12 Correct?

13 A. That's correct.

14 Q. Anyone else that you gave instructions
15 to concerning the outside perimeter?

16 A. Yes, sir. There was another officer
17 at the scene, his name is Steve Ferrie. And I had
18 instructed Steve to go with me while we looked through
19 the neighborhood.

20 Q. All right. Now, do you recall at some
21 point while you were going through this neighborhood, do
22 you recall you and Officer Ferrie actually going down the

23 alley that's behind 5801 Eagle Drive?

24 A. Yes, sir.

25 Q. About what time that morning would you
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1 and Officer Ferrie have been going down that alley?

2 A. Approximately 4:30, a little after.

3 Q. And do you recall how you started --

4 let me just ask you: Is 5801 on one end of the alley?

5 A. Yes, sir.

6 Q. All right. Did you start on the end

7 of the alley closest to 5801 or did you start from the
8 opposite end of the alley?

9 A. Directly behind 5801.

10 Q. And what direction would you have been
11 going then?

12 A. South.

13 Q. Is it just you and Officer Ferrie?

14 A. Yes, sir.

15 Q. Is it still dark outside?

16 A. Yes, sir, it is.

17 Q. Were y'all using your flashlights at
18 that point?

19 A. Yes, sir.

20 Q. Just tell us what you and Officer

21 Ferrie began doing as you go down that alley. What are
22 y'all looking for?

23 A. By this time it's two hours after the
24 offense, and we're not really expecting to find our
25 suspect. What we're looking for is evidence. And,
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1 evidence that would be left by the suspect when he fled.

2 It might have been his hat. Maybe it blew off his head.

3 Maybe he dropped something. Maybe he was bleeding.

4 Maybe he left a track. Just anything that would lead us
5 back to that crime scene.

6 Q. Did you see any blood in the alley
7 that you would interpret to be the start of a trail?

8 A. No, sir.

9 Q. Did you see any blood at all at the
10 beginning of that alley, sir?

11 A. No, I did not.

12 Q. And that would have been behind 5801
13 Eagle Drive; is that right?

14 A. That's correct.

15 Q. Just if you would, describe for us
16 then, what you did back in that alley to look for

17 evidence.

18 A. You look in every backyard. If you

19 can't see in the backyard, you get to where you can.

20 There's a lot of wooden stockade fences. You check the

21 ground for blood, you look in the shrubs, you look in the

22 gutters, you look in the storm drains. You open every

23 trash can. You open every container. You look in the

24 boats. You look under cars. You search that alley.

25 Q. Okay. Were there garbage containers

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1 back there in the alley?

2 A. Yes, sir.

3 Q. Are they cans? Or are they rubber

4 containers? What sort of containers does Rowlett use for

5 the trash collection?

6 A. They're large rubber containers with a

7 lid on them.

8 Q. All right. And did you start looking

9 inside each one of those containers?

10 A. I did.

11 Q. Were there boats nearby the alley

12 close to 5801 Eagle Drive?

13 A. Yes, sir.

14 Q. Did you look in those boats for

15 evidence?

16 A. Yes, sir.

17 Q. Did you find any evidence in the

18 boats?

19 A. No, sir.

20 Q. The backyards that you started to look

21 at as you went south, did you actually then look over the

22 fence to determine whether or not you could see evidence

23 there?

24 A. We did.

25 Q. Did you find any evidence or anything

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1 that you thought might be connected with this offense?

2 A. We did not.

3 Q. And as you continued down the alley,

4 sir, did you find any blood on the pavement of the alley?

5 A. No, sir, we did not.

6 Q. Now, at some point, Sergeant Ward, did

7 you come to the portion of the alley that's behind 5709

8 Eagle Drive?

9 A. Yes, sir, we did.

10 Q. How many houses down from 5801 Eagle

11 Drive would 5709 Eagle Drive be?
12 A. I believe it's the third house.
13 Q. Okay. And as you came to that
14 particular location, let me ask you, had you found any
15 evidence prior to getting to that location?
16 A. No, sir, none at all.
17 Q. Any hats? Any clothing? Any weapons?
18 Anything at all that you would believe to be connected to
19 this offense?
20 A. None.
21 Q. Had you checked all the garbage
22 containers and all of the backyards and any vehicles that
23 you could check back there in that alley prior to getting
24 there?
25 A. Yes, sir, we had.
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1 Q. Okay. Now, when you got to 5709 Eagle
2 Drive, did you notice anything unusual at that point?
3 A. Yes. This is rear-entry houses, and
4 the alleyway in the drive to 5709 are right there. And
5 the trash was out, and beside the container was a white
6 athletic tube-sock type of sock, white sock.
7 Q. Okay. And were there any lights on
8 back there in the alley to help you find that item?
9 A. No, sir.
10 Q. Okay. Were you using your flashlight
11 still?
12 A. Yes, sir.
13 Q. Officer Ferrie still got his
14 flashlight?
15 A. Yes.
16 Q. Okay. So you actually saw it as you
17 were scanning the ground there?
18 A. That's correct.
19 Q. Okay.
20
21
22 (Whereupon, the following
23 mentioned item was
24 marked for
25 identification only
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1 after which time the
2 proceedings were
3 resumed on the record
4 in open court, as

5 follows:)

6

7

8 BY MR. GREG DAVIS:

9 Q. Sergeant Ward, if you would please

10 look at State's Exhibit 20, 20-A and 20-B.

11 A. Yes, sir.

12 Q. Are these three photographs -- first

13 of all, State's Exhibit 20, is this a true and accurate

14 depiction, an aerial shot of the portion of Eagle Drive

15 in the alleyway that you have just been testifying about?

16 A. That is correct, sir.

17 Q. State's Exhibit 20-A and 20-B, do they

18 truly and accurately depict the white sock that you found

19 as well as the garbage container, there in the alleyway

20 as they appeared on June the 6th, of 1996?

21 A. Yes, sir.

22 Q. Okay. And, these photographs here,

23 I've shown these to you prior to you testifying this

24 morning; is that right?

25 A. You have, sir.

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1 Q. All right.

2

3 MR. GREG DAVIS: Your Honor, at this

4 time we'll offer State's Exhibits 20, 20-A and 20-B.

5 MR. RICHARD C. MOSTY: No objection.

6 THE COURT: State's Exhibit 20, 20-A

7 and 20-B are admitted.

8

9 (Whereupon, the items

10 Heretofore mentioned

11 Were received in evidence

12 As State's Exhibit No. 20, 20-A

13 and 20-B for all purposes,

14 After which time, the

15 Proceedings were resumed

16 As follows:)

17

18 MR. GREG DAVIS: Your Honor, may the

19 witness please step down for a moment?

20 THE COURT: He may.

21 Please step down. Watch your step

22 there.

23

24 (Whereupon, the witness

25 Stepped down from the

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1 Witness stand, and
2 Approached the jury rail
3 And the proceedings were
4 Resumed as follows:
5
6 BY MR. GREG DAVIS:
7 Q. All right. Sergeant, if you'll step
8 back here to my side here. Again, if we could just stand
9 back so that all the jurors can see what we're talking
10 about here.
11 Again, the top photograph, this is --
12 okay. Looking at State's Exhibit 20, again, this is an
13 aerial photograph of a portion of Eagle Drive and the
14 alley behind the Eagle Drive; is that correct?
15 A. Yes, sir.
16 Q. And, we have labeled 5801 with the red
17 designation of 5801 right here; is that correct?
18 A. Yes, sir.
19 Q. And Eagle Drive runs to the front of
20 the house and then it bends around to the side; is that
21 right?
22 A. That's correct.
23 Q. All right. The -- can you just point
24 out --
25

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1 THE COURT: The jury can't -- can you
2 see? The people down there may not be able to --
3
4 BY MR. GREG DAVIS:
5 Q. Again, if you'll stand back just a
6 little bit, sir, right down here.
7 A. All right.
8 Q. Now, if you would, just point out for
9 the members of the jury where that alley is back there.
10 A. The alley we're speaking of, this is
11 5801, and the alley is a rear-entry alley and it runs
12 right here.
13 Q. All right. And where on this alley
14 did you start your search that morning?
15 A. We began to search, the actual search
16 right here at the door. We came out, checked the alley,
17 and then turned and went south.
18 Q. All right. And I understand then that
19 whatever containers, boats, vehicles, backyards that you

20 would have searched, would have been then, from the
21 beginning of this alley to 5709 down here; is that right?

22 A. And beyond.

23 Q. All right. Now, when you got down to

24 5709 Eagle Drive, does State's Exhibit 20-A, does that

25 show the trash container as well as a white object next

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1 to it that turned out to be a tube sock?

2 A. Yes, it does.

3 Q. And State's Exhibit 20-B, is that a

4 closer photograph of that tube sock as it laid on the

5 ground next to the trash container?

6 A. Yes, sir.

7 Q. A white tube sock. Correct?

8 A. That's correct.

9 Q. Okay. Could you determine whether or

10 not there was any -- or appeared to be any blood on that

11 sock?

12 A. This stain here appeared to be blood.

13 Q. Okay. And you're pointing at this red

14 area here; is that correct?

15 A. Yes, sir.

16 Q. Okay. Sergeant, was that the only

17 blood that you could see on that sock?

18 A. That's it.

19 Q. Could you tell the members of the jury

20 about how big this red spot was on this sock?

21 A. Maybe half the size of my thumb, from

22 the first joint, and I don't even know if it was that

23 big. It was a small one, an inch by a half an inch,

24 three quarters of an inch.

25 Q. Okay. Let me just -- about the size

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1 of a dime, a quarter?

2 A. An elongated nickel, probably.

3 Q. Okay. Fair enough. Go ahead and have

4 a seat back up there.

5

6 (Whereupon, the witness

7 Resumed the witness

8 Stand, and the

9 Proceedings were resumed

10 On the record, as

11 Follows:)

12

13 BY MR. GREG DAVIS:

14 Q. When you had an opportunity to look at
15 this sock, did it appear that this sock was a new sock?
16 A. It didn't appear to be a brand new
17 sock. It appeared to be one that was in good condition.
18 Q. Okay. And when you actually saw it,
19 did you look in the -- on the ground surrounding this
20 sock, to see whether or not you could find any blood in
21 that area?
22 A. Yes, sir, we did.
23 Q. On the ground?
24 A. Yes.
25 Q. Did you see any blood on the grass
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1 where this sock was actually found?
2 A. No, I did not.
3 Q. Okay. Did you look at the garbage
4 container that was right next to the sock?
5 A. Yes, sir, I did.
6 Q. Could you see any blood on the trash
7 container there?
8 A. No, sir.
9 Q. Did you look inside the garbage
10 container?
11 A. Yes, sir, I did.
12 Q. What was inside that morning?
13 A. The grass clippings.
14 Q. Okay. Was the garbage container
15 empty, just a few grass clippings on the bottom, or did
16 it appear that it was waiting to be picked up?
17 A. Half to two-thirds full.
18 Q. Half to two-thirds full?
19 A. Yes, sir.
20 Q. Had you found trash in the other
21 containers?
22 A. Yes.
23 Q. All right. It appeared that they were
24 ready to be picked up that morning?
25 A. Yes, sir.
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1 Q. Okay. Did you see any blood inside
2 the trash container?
3 A. No, sir, I did not.
4 Q. Did you find anything else inside the
5 trash container beside the grass clippings?
6 A. Just grass clippings.
7 Q. Didn't find another sock in there?

8 A. No, sir.

9 Q. Didn't find any shoes inside the
10 garbage container?

11 A. No, sir.

12 Q. How about just in the area surrounding
13 the garbage container. Did you find any other socks?

14 A. No, sir, I did not.

15 Q. How about shoes?

16 A. No, sir.

17 Q. Just this one sock?

18 A. That is correct.

19 Q. Now, if I may, let me just step back
20 so that you and the jury can see what I'm going to point
21 at here. Does there appear to be a storm sewer drain
22 here right next to the garbage container?

23 A. Yes, sir, there is.

24 Q. Okay. Is there a manhole cover right
25 there?

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1 A. Yes, sir.

2 Q. Right next to it?

3 A. Yes, sir.

4 Q. Okay. Now, let me ask you, Sergeant
5 Ward, did you ever have an opportunity to look inside
6 that storm sewer?

7 A. Yes, sir. We didn't have a key to it
8 at the time, but I laid down and shined my flashlight
9 down looking at the base, and then it, it kind of runs
10 off at a funny angle. It doesn't run true with the
11 alley, the drain doesn't. And I looked down the drain as
12 far as I could.

13 Q. Okay. When you looked inside the
14 drain, did you see any blood?

15 A. No, sir.

16 Q. Did you see any other socks?

17 A. No, sir.

18 Q. Did you see any shoes?

19 A. No, sir.

20 Q. Did you see anything inside that drain
21 when you looked in it that morning?

22 A. No, sir, I did not.

23 Q. This sock that you located by the
24 garbage container, did you take possession of it at that
25 time?

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1 A. I did not take possession of it. I
2 stood guard over it.
3 Q. All right. Do you have an officer by
4 the name of David Mayne with the Rowlett Police
5 Department?
6 A. Yes, sir.
7 Q. Is he in the Physical Evidence
8 Section?
9 A. Yes, sir.
10 Q. Did Officer Mayne come to that scene
11 and actually take possession of the sock?
12 A. That is correct.
13 Q. Did you stop your search of the alley
14 after you found that sock?
15 A. No, sir, we did not.
16 Q. Okay. How far down the alley did you
17 go?
18 A. All the way to the end.
19 Q. All right. Did you continue searching
20 garbage containers?
21 A. Yes, sir.
22 Q. Did you continue searching vehicles or
23 boats?
24 A. Yes, sir, we did.
25 Q. Did you continue searching the alley
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1 itself?
2 A. We did.
3 Q. Backyards also?
4 A. Yes, sir.
5 Q. What else did you find in your search
6 of that alley?
7 A. On this particular search?
8 Q. Yes, sir.
9 A. Nothing.
10 Q. Now, let me just ask you: Besides the
11 elongated nickel-sized blood spot on this sock, Sergeant
12 Ward, did you ever see any other blood in that alley all
13 the way from the start to the finish of your search, sir?
14 A. No, sir, we did not.
15 Q. Do you know about how long it took you
16 to search that alley?
17 A. Probably till about 5:15.
18 Q. Okay.
19 A. 5:20, something like that.
20 Q. So, you started about what time?
21 A. Shortly before 4:30, 4:25 maybe,
22 something like that.

23 Q. And you went to what time?
24 A. It was almost an hour. I think we
25 probably finished up 50, 55 minutes later.
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1 Q. All right. And was Officer Ferrie
2 with you the entire way?
3 A. Within sight of me, yes.
4 Q. Basically helping you search?
5 A. Well, yes, sir. We kind of split it
6 up. He took one side and I took the other.
7 Q. All right. Now, after you finished
8 your search of the alley, Sergeant, what did you do at
9 that point?
10 A. We began canvassing the neighborhood
11 and waking people up.
12 Q. And when you are talking about
13 canvassing the neighborhood, what's the purpose of
14 canvassing the neighborhood?
15 A. To just see if anybody throughout the
16 night had seen or heard anything suspicious, if there was
17 any unusual activity. Had there been any strange people
18 in that neighborhood, that sort of thing.
19 Q. Do you remember which houses that you
20 went to personally to canvas?
21 A. I don't remember all of them, sir. I
22 probably went somewhere around 12 to 15 houses.
23 Q. Okay. And in relation to 5801 Eagle
24 Drive, do you remember where some of these houses would
25 have been?
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1 A. Yes, sir, I do. Now, the ones
2 immediately south of, and behind the house, I personally
3 made contact with those folks.
4 Q. Okay. Let me just show you --
5
6 MR. GREG DAVIS: If the witness could
7 please step down again just a moment.
8
9 (Whereupon, the witness
10 Stepped down from the
11 Witness stand, and
12 Approached the jury rail
13 And the proceedings were
14 Resumed as follows:)
15
16 BY MR. GREG DAVIS:

17 Q. Again, Sergeant, if you'll stand back
18 here so that all of the jurors can see here.
19 You said that you started canvassing
20 the houses behind and to the south of 5801; is that
21 right?

22 A. Yes, sir.

23 Q. What area of this photograph, which is
24 State's Exhibit No. 7. Where would we see those houses?

25 A. This is 5801, and I made contact with
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1 these houses through here.

2 Q. So you have shown us the three houses
3 that -- let's see, it would be to the south on Eagle; is
4 that right?

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

7 Q. And then you have shown us the first
8 five houses on Willowbrook Drive beginning Eagle and then
9 going south; is that right?

10 A. That is correct.

11 Q. Okay. Now, when you say "canvas," did
12 you actually talk to the occupants of these houses?

13 A. Yes, sir, we did, we woke them up.

14 Q. Okay. What kind of questions were you
15 asking these people?

16 A. "Did you see anything through the
17 night? Did you hear anything through the night? Has
18 there been any unusual activity? Have strangers been in
19 the neighborhood? Is there anything, that you would be
20 able to tell us, that would help us with this?"

21 Q. Okay. I want to just ask of the, I
22 guess the eight houses that you went to right here, did
23 you get any information that would help?

24 A. No.

25 Q. All right. You did these eight houses
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1 here?

2 A. Yes.

3 Q. Did you ever canvas any other houses
4 in the neighborhood, Sergeant?

5 A. Right here where Linda Vista comes in.

6 I talked to all of these people that were immediately
7 next to them. About five houses here and over here. But
8 there were other officers that were canvassing the
9 neighborhood also. And we went to where Linda Vista came
10 in, these houses around here.

11 Q. Okay. Let me just ask you, you
12 personally, let's just deal with people that you dealt
13 with personally.

14 A. Okay.

15 Q. Of all the houses and all the
16 occupants that you talked to out there, did you
17 personally ever get any information concerning what might
18 have happened out there that night?

19 A. No, sir, I did not.

20 Q. Okay. Sergeant, you can go back up
21 there.

22

23 (Whereupon, the witness

24 Resumed the witness

25 Stand, and the

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1 Proceedings were resumed

2 On the record, as

3 Follows:)

4

5 BY MR. GREG DAVIS:

6 Q. Sergeant, let me ask you if later that
7 morning, still on June 6th, later that morning if you
8 ever had another occasion of going to the alley behind
9 5801 Eagle Drive?

10 A. Yes, sir. We wanted to redo the
11 search. And the reason being, in the middle of the night
12 you're operating by flashlight, and you miss stuff. So,
13 as soon as good daylight came, we went back through the
14 alley and repeated the procedure.

15 Q. Okay. Now, it's daylight. Did you do
16 the exact same thing that you had done between 4:25 and
17 5:20?

18 A. Yes, sir.

19 Q. Okay. Did you go back and look at the
20 garbage containers again?

21 A. Yes, sir.

22 Q. Did you look at the boats again?

23 A. Yes, sir.

24 Q. Did you look at the vehicles again?

25 A. Yes, sir.

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1 Q. Did you look in the backyards again?

2 A. Yes, sir.

3 Q. Did you look in the alleyway itself,
4 the paved portion, and the grass that surrounds the

5 alley?

6 A. Yes, sir.

7 Q. Let me ask you: Did you ever find any
8 other blood in that alley, in either the paved portion or
9 the grass that's right next to that paved part of the
10 alley?

11 A. No, sir, we did not.

12 Q. Did you ever find any other item,
13 either in that alley, garbage containers, in backyards,
14 in vehicles, boats, any other item that had blood on
15 them?

16 A. No, sir.

17 Q. Did you find any other item of
18 clothing during that search?

19 A. No, sir.

20 Q. Specifically, did you find any sock
21 that might be a match, or mate to the sock that you found
22 there at 5709 Eagle?

23 A. No, sir, we did not.

24 Q. Find any socks?

25 A. No, sir.

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1 Q. How about shoes? Did you ever find
2 any shoes back there during your search?

3 A. No, sir.

4 Q. Let me ask you: At some point in your
5 search of that alley, Sergeant Ward, did you again come
6 to the part of the alley that's there at 5709 Eagle
7 Drive?

8 A. Yes, sir.

9 Q. All right. And the next street over
10 would be Willowbrook. Correct?

11 A. That is correct.

12 Q. All right. Did you have occasion to
13 look into the backyard that would have been across the
14 alley from 5709 Eagle Drive?

15 A. Yes, sir.

16 Q. And, when you looked over there, could
17 you see any knives in the backyard?

18 A. Yes, sir.

19 Q. Okay. Describe for the jury exactly
20 what you saw, when you looked over into this backyard?

21 A. The backyard had a hedge that kind of
22 ran around the back of it. There was some rubber edging
23 or molding that people use to outline their flowerbeds.
24 It's like maybe four or five inches wide. It comes in a
25 roll and you unroll it. It's plastic. You put part of

1 it in the ground. You bury part of it.
2 And then, right at the end there was a
3 string that was on the ground; a screwdriver, a
4 yellow-handled screwdriver; a metallic knife that was
5 laying on the ground between the screwdriver and the
6 other knife.
7 The other knife was a kitchen butcher
8 knife and it was sticking in the ground.
9 Q. Okay. Now, the -- as I understood it,
10 there are hedges back there?
11 A. Yes, sir.
12 Q. And this rubber edging for flowerbeds,
13 is it back there also?
14 A. Yes, sir.
15 Q. Okay.
16 A. As a matter of fact, part of that had
17 been buried. And when you got to where the knives were,
18 it came up out of the ground and it was just a lose end
19 that hadn't been worked with yet. It was laying there by
20 the knives.
21 Q. Okay. Was there also a string back
22 there?
23 A. Yes, sir.
24 Q. How close to the edging was the
25 string?

1 A. It's kind of parallel. The string was
2 more to the center side of the yard, lawn. And it was
3 lose. It wasn't packed or anything.
4 Q. Have you ever heard of using a string
5 line to line something up?
6 A. Yes, sir, I have.
7 Q. All right. How about the knives that
8 you saw. Were they just laying loose in the backyard
9 when you could see them, or how were they located back
10 there?
11 A. Well, the metallic knife, that was
12 solid metallic, was laying on the ground. And the
13 kitchen butcher knife was sticking in the ground. About
14 half of the blade buried in the ground.
15 Q. All right. How close to the string
16 and to the rubber material were the knives?
17 A. Right adjacent to them. I mean, a
18 couple of feet.
19 Q. All right. You say that one of them

20 was laying down, the other one was actually stuck in the
21 ground?

22 A. That's correct.

23 Q. When you looked at them, the light was

24 good at that time. Right?

25 A. Yes, sir.

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1 Q. Could you see any blood on either one
2 of those two knives, sir?

3 A. No.

4 Q. Either on the handle or on the blade
5 portion of those two knives?

6 A. No, sir.

7

8

9 (Whereupon, the following
10 mentioned item was

11 marked for

12 identification only

13 after which time the

14 proceedings were

15 resumed on the record

16 in open court, as

17 follows:)

18

19 BY MR. GREG DAVIS:

20 Q. Sergeant Ward, if you would, look at

21 State's Exhibit 21, State's Exhibit 22. Have I shown you
22 these two knives before your testimony this morning?

23 A. Yes, sir, you have.

24 Q. Okay. Have I asked you to look at

25 them and tell me whether or not they look like the two
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1 knives that you saw in the backyard that morning?

2 A. Yes, sir, you have.

3 Q. All right. And just tell the members

4 of the jury whether or not these two knives look like the
5 two knives that you saw that morning?

6 A. Yes, sir.

7 Q. Okay.

8

9 MR. GREG DAVIS: Your Honor, at this
10 time we'll offer State's Exhibit 21 and 22.

11 MR. DOUGLAS MULDER: No objection.

12 THE COURT: State's Exhibit 21 and 22

13 are admitted.

14 MR. DOUGLAS MULDER: Which is which?

15 MR. GREG DAVIS: 21 is going to be all

16 steel. 22 has the wooden handle.

17

18 (Whereupon, the above

19 mentioned items were

20 received in evidence as

21 State's Exhibit Numbers

22 21 & 22, for all purposes

23 after which time,

24 the proceedings were

25 resumed on the record,

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1 as follows:)

2

3 BY MR. GREG DAVIS:

4 Q. Sergeant Ward, the -- which one of

5 these knives was actually stuck into the ground?

6 A. This one.

7 Q. All right.

8 A. As they appeared to me on the morning

9 of June the --

10

11 THE COURT: Let the record reflect

12 that the witness is referring to State's Exhibit 22.

13

14 BY MR. GREG DAVIS:

15 Q. Right.

16 A. As they appeared to me on the morning

17 of the 6th, the screwdriver would have been on the

18 right-hand side. And it was sticking in the ground. It

19 was a yellow-handled screwdriver. And this knife was

20 laying with the blade away from me like that. And this

21 knife was stuck in the ground here, with about that much

22 of the blade in the ground.

23

24 THE COURT: Okay. The first knife you

25 referred to was?

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1 THE WITNESS: 21.

2

3 BY MR. GREG DAVIS:

4 Q. 21 was the knife where the blade edge

5 was pointing away from you. Correct?

6 A. That is correct.

7 Q. And you're holding State's Exhibit No.

8 22, and you're indicating to us, if you would,
9 approximately, how many inches of the blade was into the
10 ground itself?

11 A. Three and a half to four inches.

12 Q. All right. Now, the handle of the
13 screwdriver, could you see it?

14 A. Yes, sir.

15 Q. Was there anything on the handle that
16 you could see?

17 A. It appeared as though they had --
18 somebody had been using it with muddy hands.

19 Q. Okay. Why? Why did it look that way?

20 A. When you -- when they were installing
21 this, it looked as though that they had used these items
22 or these utensils to install that rubber edging, for
23 digging, for cutting it, that sort of thing.

24 The screwdriver was sticking in the
25 ground and there was mud on the handle.

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1 Q. Okay.

2 A. There was mud on all of these items.

3 Q. Okay. Did it appear to be fresh mud
4 or dried blood -- I mean, dried mud?

5 A. It was fresh.

6 Q. Let me just ask you: Let's talk about
7 State's Exhibit No. 21. Okay. You had a chance to look
8 at both the handle and knife blade. Correct?

9 A. Uh-huh. (Witness nodding head
10 affirmatively.)

11 Q. Could you see anything on this knife,
12 No. 21?

13 A. No, sir, I could not.

14 Q. Okay. All right. No blood?

15 A. No.

16 Q. All right. Any mud that you could
17 determine that you could see on that?

18 A. Yes, sir, there was mud.

19 Q. All right. What portion of State's
20 Exhibit No. 21 could you see mud on?

21 A. There was mud all over the knife. I
22 mean, it had been used by somebody in the mud. It was
23 muddy.

24 Q. Okay. Again, was it fresh or did it
25 appear to be dried mud?

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1 A. It appeared to be fresh. It was still
2 moist-looking.
3 Q. All right. Is it on the handle up
4 here?
5 A. Yes, sir.
6 Q. As well as on the blade?
7 A. Yes, sir.
8 Q. Now we're looking at State's Exhibit
9 No. 22, of course, part of the blade is actually into the
10 ground; is that right?
11 A. That's correct.
12 Q. Okay. All right. Let's talk about
13 first then the handle portion of State's Exhibit No. 22.
14 Could you see anything on that?
15 A. Mud.
16 Q. All right. Mud again?
17 A. Yes, sir.
18 Q. Okay. Covering what portion of the
19 handle?
20 A. Almost entirely all of the handle.
21 Q. Okay. How about the portion of the
22 blade that you could see actually sticking out of the
23 ground? Was there anything on that?
24 A. That portion had some mud on it, but
25 that was the cleanest part of the knife was that portion.
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1 Q. Some mud, but not as much as on the
2 handle; is that right?
3 A. That's correct.
4 Q. All right.
5 A. Also on these knives, when you looked
6 at this knife, you could see where somebody had gripped
7 it, where they had been digging, and where their hand
8 left the imprint of their hand on the handle where they
9 had been digging with it and that sort of thing. You
10 could actually see where somebody had been using it in
11 the mud.
12 Q. Okay. A hand imprint in the mud; is
13 that right?
14 A. Yes, sir. Where you could see the
15 fingers, where the fingers were on the handle.
16 Q. All right. Sergeant Ward, when you
17 saw the screwdriver, and you saw these two knives, did
18 you retrieve them at that time?
19 A. No, sir, I did not.
20 Q. Okay. Would you just tell the members
21 of the jury why you decided not to retrieve them at that
22 time?

23 A. It was my opinion that they weren't
24 connected with the offense. Had there been any doubt in
25 my mind that either of these knives, the screwdriver, the
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1 string, or the edging, had been connected with this
2 offense we would have retrieved it. There was no
3 question in my mind then or now that they were not
4 connected.

5 Q. Okay. Let me just ask you: If you
6 would, just tell us, tell us the factors that went into
7 your decision and why you believed that these two knives
8 and the screwdriver were not connected to the offense.

9 A. At the time that I found these, I was
10 accompanied by the lead investigator, J.R. Patterson. We
11 had been, or Patterson had been told --
12

13 MR. RICHARD C. MOSTY: Objection.

14 That's hearsay, clearly.

15 THE COURT: Just state what you
16 actually know yourself. Rephrase the question.

17

18 BY MR. GREG DAVIS:

19 Q. Let me just ask you: At the time that
20 you saw these two knives, did you know whether or not a
21 knife with blood on it had been retrieved from inside the
22 residence at 5801 Eagle Drive?

23 A. Yes, sir, I did.

24 Q. So you knew that?

25 A. Yes, sir.

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1 Q. Okay. And then if you would, again,
2 what were your personal observations about these two
3 knives that led you to believe that they were not
4 connected to the offense and that you would not retrieve
5 them at that time?

6 A. There was no blood at all. That was
7 the primary.

8 Secondly, these knives, the way they
9 were arranged with the items that they were found with,
10 it was obvious that they had been used in planting that
11 edging around the flowerbed. And whoever had not
12 finished the job and they left their utensils there.

13 The edging, part of it was buried, and
14 as you got closer to the alley and it turned and went
15 south, it came up out of the ground and was still laying
16 loose, and it was kind of in a curl.

17 Looking at it, whoever was installing
18 that edging, just left the utensils that they were using
19 there.
20 Also, there was a six foot locked
21 fence that surrounded these items. The back gate was
22 locked. The fence is an iron fence that's got bars about
23 every six inches. You can see through it. It's easily
24 seen through.
25 But you can't hardly get, you know,
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1 it's hard to climb. You can't hardly get over it.
2 Q. So the fence is six feet tall. Right?
3 A. Yes, sir.
4 Q. Have you seen those fences -- the
5 fences, sometimes they'll put around apartment complexes,
6 a kind of a security fence where they've got the vertical
7 slats, the metal slats?
8 A. Yes, sir. Very similar.
9 Q. Is that very similar to that kind of
10 fence behind this yard?
11 A. Yes, sir.
12 Q. And did you actually you, yourself,
13 did you go and check the gate of that yard to make sure
14 that it was locked?
15 A. Yes, sir, I did.
16 Q. And it was locked. Correct?
17 A. Yes, sir, it was.
18 Q. Okay.
19 A. Another thing that --
20
21 MR. RICHARD C. MOSTY: Excuse me, your
22 Honor, I don't believe a question was asked of this
23 witness.
24 THE COURT: Well, I'll let him answer
25 it. Go ahead.
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1 MR. RICHARD C. MOSTY: Answer a
2 question that hadn't been asked?
3 THE COURT: Well, I think we can clear
4 it up, Mr. Mosty.
5
6 BY MR. GREG DAVIS:
7 Q. Were there any other factors that led
8 you not to collect these two knives, sir?
9 A. Yes, sir. The -- when you find
10 something that is suspicious, it has to be taken into

11 consideration of everything that was found there.

12 Everything. If you find a knife in one place, it is, and

13 another place that it isn't.

14 I was absolutely positive that those

15 things had not been used.

16 Q. Okay. Has your opinion changed?

17 A. None.

18 Q. And, again, do I understand you to say

19 that even after you saw these two knives, that you

20 continued the entire length of that alley again searching

21 in daylight?

22 A. Yes, sir, we did.

23 Q. No other items retrieved or seen; is

24 that right?

25 A. None.

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1 Q. Let me just ask you: Do you recall

2 how long that you stayed out there at the residence that

3 day before you left?

4 A. About 7:00 PM, I think.

5 Q. All right. Just in general, your

6 duties, after you went down the alley with Detective

7 Patterson, what types of things are you doing? Are you

8 part of the crime scene team out there?

9 A. No, sir. Generally what I did was I

10 facilitated the outside perimeter. I made sure that the

11 guys that were maintaining the perimeter had bathroom

12 breaks, that they had sufficient water. If somebody on

13 the inside of the house needed something, I made sure

14 that they got it, that sort of thing.

15 Q. So you're basically -- you're a

16 supervisor from that point on; is that right?

17 A. That's correct.

18 Q. Okay. Sergeant --

19

20 THE COURT: I think we'll go ahead and

21 take our morning break right now.

22 Speaking of break, we'll take one.

23 All right. Let's make it -- be back

24 at 10:45 by that clock, please.

25

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1 (Whereupon, a short

2 Recess was taken,

3 After which time,

4 The proceedings were

5 Resumed on the record,
6 In the presence and
7 Hearing of the defendant
8 And the jury, as follows:)
9
10 THE COURT: All right. Bring the jury
11 in, please. Are both sides ready to bring the jury in
12 and resume?
13 MR. GREG DAVIS: Yes, sir, the State
14 is ready.
15 MR. DOUGLAS MULDER: Yes, sir, the
16 defense is ready.
17 THE COURT: All right. Bring the jury
18 in please. Let's proceed.
19
20 (Whereupon, the jury
21 Was returned to the
22 Courtroom, and the
23 Proceedings were
24 Resumed on the record,
25 In open court, in the
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1 Presence and hearing
2 Of the defendant,
3 As follows:)
4
5 THE COURT: All right. Be seated.
6 Let the record reflect that all parties in the trial are
7 present and the jury is seated.
8 Mr. Davis.
9 MR. GREG DAVIS: Thank you, Judge.
10
11 (Whereupon, the following
12 mentioned item was
13 marked for
14 identification only
15 after which time the
16 proceedings were
17 resumed on the record
18 in open court, as
19 follows:)
20
21
22 DIRECT EXAMINATION (Resumed)
23
24 BY MR. GREG DAVIS:
25 Q. Sergeant Ward, let me show you what

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1 I've had marked for identification purposes as State's
2 Exhibit 20-C. Do you recognize that, sir, to be a report
3 that you prepared in this case?

4 A. This is my rough draft report that I
5 prepared. Yes.

6 Q. All right. And let me just ask you:

7 You say this is a rough -- rough notes of what happened.
8 Correct?

9 A. Yes, sir.

10 Q. In all fairness, did you also prepare
11 a handwritten report about what happened?

12 A. Yes, sir, I did.

13 Q. All right. And, have we looked for
14 that, and has your lead detective looked for that and can
15 we not find that?

16 A. And the secretary back home has looked
17 for that and we can't find it.

18 Q. Okay. Well, let me just ask you: You
19 know, Mr. Mulder has got a copy of 20-C, but let me just
20 ask you, did you use 20-C to prepare your handwritten
21 report?

22 A. Yes, sir, I did.

23 Q. So this is -- would it be fair to say
24 that this is the basis of the report that today we cannot
25 find; is that right?

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1 A. Yes, sir.

2 Q. All right. Do you know of any other
3 additional information in that written report, the
4 handwritten report that's not in 20-C?

5 A. Yes, sir. I did that at the end of
6 June the 6th. Probably around 8:00 PM.

7 Q. Okay.

8 A. And it starts off, you'll notice that
9 the date is blank.

10 Q. Right.

11 A. I couldn't think of it, and I just
12 skipped over it. And on my handwritten copy I went back
13 and I put the date in.

14 Q. Okay. You actually put the 6th of
15 June?

16 A. Yes.

17 Q. Instead of just leaving it, the actual
18 date blank. Right?

19 A. I went back in and filled in the date.

20 Q. Okay.

21 A. And then, at the bottom of that

22 paragraph, it says that the sock was recovered by Officer

23 Beddingfield, but it was recovered by Officer Mayne. And

24 I'm aware of that.

25 Q. Okay. So, in this one you didn't

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1 actually put in the 6th, you just left the date blank,

2 and you put in that the sock was taken by Beddingfield

3 instead of taken by David Mayne actually. Correct?

4 A. That's correct.

5 Q. Okay.

6

7 MR. GREG DAVIS: All right. Your

8 Honor, at this time we'll pass the witness.

9 THE COURT: Mr. Mosty.

10

11

12 CROSS EXAMINATION

13

14 BY MR. RICHARD MOSTY:

15 Q. Sergeant Ward, how long did you say

16 you've been an officer?

17 A. 24 years and 8 months.

18 Q. And with Rowlett, how long?

19 A. Ten years.

20 Q. And you were a supervisor of what?

21 A. Patrol.

22 Q. And how many people are under your --

23 A. It varies from what shift you're on,

24 as many as 10 and as few as 6.

25 Q. Okay. Are you in charge of all the

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1 patrol officers?

2 A. No, sir, just my shift.

3 Q. You have a shift that you're in charge

4 of?

5 A. That's correct.

6 Q. All right. And you have been trained,

7 I guess, in collection of evidence and preservation of

8 crime scenes?

9 A. Yes, sir.

10 Q. And those types of things.

11 A. Yes.

12 Q. And you understand the importance of

13 collecting all of the evidence that might be of any, even

14 questionable assistance in the case?
15 A. Yes, sir, I sure do.
16 Q. Isn't the rule that, you know, let's
17 collect it all and figure out what's important later?
18 A. Yes, sir.
19 Q. And do you instruct your patrol
20 officers in that same manner?
21 A. Yes, sir, I do.
22 Q. But I know they're not investigators
23 full time, but often times they might be the first person
24 on the scene.
25 A. That is correct.
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1 Q. So they're trained to preserve and
2 observe crime scenes?
3 A. That's correct.
4 Q. Now, did you take notes that night?
5 A. Yes, sir.
6 Q. In your whip-out book?
7 A. Not a whip-out book. I carried a big
8 notebook.
9 Q. A big note book?
10 A. Yes.
11 Q. And where are those notes?
12 A. Locked up in my file cabinet, I
13 believe.
14 Q. Okay. And when did you lock them up
15 in the file cabinet?
16 A. When I finished that report.
17 Q. Finished what report? The typewritten
18 one or the missing --
19 A. No, the handwritten.
20 Q. Okay.
21 A. So, probably since maybe June the
22 10th.
23 Q. Okay. The missing report is the
24 handwritten one?
25 A. Yes, sir.
Sandra M. Halsey, CSR, Official Court Reporter
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1 Q. And that's about June 10th?
2 A. I did the handwritten report the next
3 day.
4 Q. All right.
5 A. When I did that one that's in front of
6 you there, it was June 6th, I got up somewhere around
7 3:10 or 3:15 in the morning, somewhere around 8:00

8 o'clock when I wrote that one. When I got through with
9 that that, I was done. I went home. And I did that
10 while it was still fresh in my mind.

11 Q. Okay. So, you got some notes that are
12 in the file cabinet. From the notes you did a written
13 report? Am I right?

14 A. Yes. From my handwritten notes I did
15 a report.

16 Q. Okay. And that handwritten -- the
17 missing report was done on the 7th?

18 A. That's correct.

19 Q. Okay. And when did it turn up
20 missing?

21 A. Today.

22 Q. Today?

23 A. Today.

24 Q. When did you first go looking for it?

25 A. Today.

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1300

1 Q. You looked for your notes?

2 A. Today.

3 Q. Today?

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

6 Q. You couldn't find the notes?

7 A. I had a copy of the thing right there
8 in front of you that I reviewed.

9 Q. That's it?

10 A. That's it. That's all the review I've
11 had.

12 Q. Matter of fact, the copy that I'm
13 looking at -- well, you made a handwritten report. Is it
14 a full report? I mean --

15 A. The handwritten report --

16 Q. On the such and such day, such and
17 such I did, and it describes everything you did?

18 A. Everything of importance, yes.

19 Q. And I assume that you never have
20 looked for that until today?

21 A. That's correct. There are two things
22 in my notes --

23 Q. Well, let's talk about the handwritten
24 notes for a minute.

25 A. Okay.

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1 Q. You had not ever reviewed that from
2 June 7th?
3 A. I have never reviewed the handwritten
4 notes.
5 Q. Okay. And, when you did those
6 hands -- that handwritten report, what did you do with
7 it?
8 A. Turned it in.
9 Q. To?
10 A. When we turn in a report, you stick it
11 in a file. There's a file cabinet there for reports that
12 are going in. You put it in there. And then it's
13 dispersed throughout the department wherever it needs to
14 go.
15 Q. Is it like an in-basket?
16 A. Yes, an in-basket/out-basket.
17 Q. For daily reports?
18 A. Yes, sir.
19 Q. And then you say it's distributed
20 within the department?
21 A. Yes, sir.
22 Q. And, but if there's an investigating
23 officer, a copy of your report will go to the lead
24 detective, for instance?
25 A. Yes, sir.
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1 Q. A copy will go to the district
2 attorney?
3 A. Yes, sir. It will go in the case
4 file.
5 Q. Okay. So, anything that you have
6 noted, whether it's important, or it excludes something,
7 or whatever it is, those copies are distributed around,
8 so that the important -- so the people in charge will
9 know what's happening?
10 A. Things that are important, not
11 necessarily to exclude something, but things that are
12 important, yes.
13 Q. Okay. And then, if I understand, you
14 typed a report, after the handwritten report?
15 A. No.
16 Q. No?
17 A. I took the handwritten notes.
18 Q. Okay.
19 A. And the handwritten notes are just
20 like anybody else's handwritten notes. They're enough to
21 jog your memory.
22 Q. Okay.

23 A. They're not in detail.
24 Q. Okay.
25 A. From that, the evening of the 6th, I
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1 prepared that report that's in front of you.
2 Q. Okay. So you got your notes and
3 they're just hieroglyphics or scribbling, or whatever it
4 is to remind yourself?
5 A. They're notes to remind yourself.
6 They're not hieroglyphics.
7 Q. Okay. And if you read my writing you
8 might call it hieroglyphics.
9 Okay. And then you wrote -- would you
10 call it a narrative report?
11 A. The report that I submitted is just
12 almost verbatim of that report that's in front of you.
13 Q. Well, I understand. But let's talk
14 about on June the 6th.
15 A. June the 6th.
16 Q. When you're sitting there, and I guess
17 you've got your notes beside you, or referring to them
18 when you need to?
19 A. Yes.
20 Q. And you're handwriting out?
21 A. No.
22 Q. No?
23 A. No. I'm typing.
24 Q. Okay.
25 A. I took the handwritten notes, I typed
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1 them, and then I hand wrote them again.
2 Q. Okay. You took --
3 A. Typing is in the middle.
4 Q. Typing is in the middle?
5 A. Yes, sir.
6 Q. And then, after you had typed up this
7 report, then you sat down with this report, and got you a
8 pad of paper and commenced to handwriting out this
9 report?
10 A. Yes, sir, I did.
11 Q. But when you did that, did you put the
12 two of them together? I mean, did you take them and take
13 them to the in-box and did you throw them together in the
14 in-box?
15 A. No.
16 Q. Well, what did you do with them?

17 A. I saved one on the computer and turned
18 the other one in.

19 Q. Okay. So even the one on the
20 computer's lost?

21 A. No.

22 Q. The hard copy?

23 A. The copy that you've got this morning
24 we called back to the department and the secretary went
25 in and pulled it up off of my hard drive and faxed it to
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1 us.

2 Q. Okay. And, as a matter of fact, she
3 faxed it down here at 9:44 AM this morning?

4 A. I didn't check the time, but that's
5 close.

6 Q. All right. What time did you start
7 testifying?

8 A. Right after that.

9 Q. When you started testifying, had this
10 report even come in?

11 A. Yes, sir.

12

13 THE COURT: Let the record reflect
14 that this witness started testifying at 9:54 AM.

15 MR. RICHARD MOSTY: Okay.

16 THE WITNESS: Counselor, we didn't
17 know this thing was missing until this morning, or
18 believe me, I would have had it.

19

20 BY MR. RICHARD MOSTY:

21 Q. So you never had an opportunity to
22 look for it?

23 A. No, sir.

24 Q. Okay. But now this one -- so the hard
25 copy, did you sign the one that you typed up?
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1 A. No, sir.

2 Q. You don't sign those?

3 A. It's on my computer.

4 Q. Okay. But --

5 A. That's my rough copy of my notes.

6 That's not the one I turned in.

7 Q. You got a handwritten report that's
8 more complete than this one or not?

9 A. It's almost verbatim with what that
10 one was.

11 Q. Except you made some mistakes you
12 know.
13 A. On that one.
14 Q. On this one here?
15 A. Yes, sir.
16 Q. Yeah. Well, tell me what mistakes you
17 remember making.
18 A. On the date, which was June the 6th, I
19 left that date out.
20 Q. You couldn't remember the date?
21 A. It had been a long day, sir.
22 Q. All right.
23 A. And on the bottom one, where Officer
24 Mayne took the sock, I believe I put Officer
25 Beddingfield.
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1 Q. Okay. Was that in your notes?
2 A. No.
3 Q. Your scribble notes?
4 A. No, that came out of my head.
5 Q. Okay. That was from the halls of your
6 memory?
7 A. That's right.
8 Q. Okay. But, right then, within 12
9 hours, you couldn't remember -- you made a mistake about
10 who picked up the sock. Correct?
11 A. On the rough notes, yes.
12 Q. Right. You misdescribed the officer
13 who picked up the sock?
14 A. Misnamed him.
15 Q. Misnamed him?
16 A. Yes.
17 Q. Misdescribed him?
18 A. Misnamed him.
19 Q. Made an error?
20 A. Made an error.
21 Q. Were not accurate in your description?
22 A. In the name. Correct.
23 Q. So what you wrote down was not
24 accurate, was it?
25
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1 MR. GREG DAVIS: I'll object. It's
2 repetitious. I think that's about the fifth time on
3 that, your Honor
4 THE COURT: Sustained. I think he has

5 answered the question. Let's go on to the next one.

6

7 BY MR. RICHARD MOSTY:

8 Q. And then later on you thought a little

9 bit more about it and corrected it?

10 A. Well, the next time I read that, I

11 corrected it, yes.

12 Q. Okay. You didn't even -- until --

13 well, when did you read it?

14 A. The next day when I hand wrote it.

15 Q. Okay. You hand wrote the next day.

16 Even when you were typing it from your notes, you didn't

17 detect your error?

18 A. No.

19 Q. It wasn't until you read it again the

20 next day?

21 A. That's correct.

22 Q. And hand wrote it?

23 A. That's correct.

24 Q. Why did you hand write what had

25 already been typed up?

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1 A. Because it was a hard copy and it was

2 going on a form, and that form is not on our computer.

3 We have a supplement form, and I put it on the

4 supplement.

5 Q. And why do you do supplements? To add

6 things that you have forgotten to put in?

7 A. No, sir. You add information to the

8 offense reports or investigations.

9 Q. Okay. Sometimes to correct a

10 misstatement or something you neglected to put in an

11 earlier report?

12 A. It could be, yes, sir. That is one of

13 the many uses.

14 Q. Okay. When did you come to Kerrville?

15 A. Sunday.

16 Q. When you packed up to come, you didn't

17 think, "Let me get my file, I ought to bring my report.

18 I know I'm going to testify. I need to have my report."

19 A. Sir, what I brought with me is that

20 little note that you got right there in front of you.

21 That's all I brought.

22 Q. This one that got faxed in today at

23 9:44?

24 A. That's right.

25 Q. Well, you didn't bring that with you

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- 1 Monday, did you?
2 A. No, it was in my suitcase in my room.
3 I can tell you exactly where it's at.
4 Q. Oh, you left one out in your suitcase.
5 A. A copy of that, yes.
6 Q. And when you came down this morning,
7 you didn't have it?
8 A. That's correct.
9 Q. Is it your practice to take your
10 reports to court or not?
11 A. No, I don't take them.
12 Q. Not. Are you instructed not to?
13 A. No. I'm not instructed to do it
14 though.
15 Q. That's just your habit not to?
16 A. That's correct.
17 Q. Now you described in some detail how
18 meticulous you were in this search.
19 A. That's correct.
20 Q. And that's so that you can accurately
21 describe, accurately observe, and later accurately
22 describe what you saw?
23 A. That's correct.
24 Q. And that's why you are taking notes
25 too; isn't it?

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- 1 A. That's correct.
2 Q. So that you can accurately pull
3 that -- when the report writing time comes, that you can
4 pull that up and accurately describe it?
5 A. Yes, sir.
6 Q. And that's why one might bring a
7 report to court is so they could have that available so
8 that they could accurately describe what they saw?
9 A. That's correct.
10 Q. All right. Now, let's -- I'll try to
11 go a little bit in chronological order. If I skip around
12 the time frame, stop me and make sure that -- if I jump,
13 it's because I want to hit a few areas here with you.
14 You -- I take it you were in charge of
15 this alley search?
16 A. Yes, sir.
17 Q. That began at -- what time?
18 A. Somewhere around 4:20 or 4:25.
19 Q. Okay. That's just from your memory?

20 A. It's from when we found the sock.
21 Q. Well, what time did you find the sock?
22 A. Shortly after 4:30.
23 Q. Okay. But you didn't think that was
24 important enough to note in your report?
25 A. It's noted there.
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1 Q. That is noted?
2 A. Yes, sir.
3 Q. Okay. What time did you start?
4 A. About 10 or 15 minutes before I found
5 that sock.
6 Q. How long is this alley?
7 A. It's a block long.
8 Q. One block long. How many houses?
9 A. A guesstimate, it is probably 15,
10 maybe.
11 Q. How many boats did you look in?
12 A. I don't recall, sir, every one of
13 them.
14 Q. How many -- you don't remember how
15 many there were?
16 A. No.
17 Q. How many trash cans did you look in?
18 A. Every one of them.
19 Q. How many were there?
20 A. Every one of them. I didn't count
21 them. I looked in every one of them.
22 Q. And you were -- which side of the
23 alley, you said you and-- I'm sorry, Steve?
24 A. Steve Ferrie.
25 Q. Which side of the alley did you take?
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1 A. I took the west.
2 Q. You're going to have to help me here.
3 If I'm headed --
4 A. If you're --
5 Q. -- down Eagle.
6 A. If you walk out of the driveway at
7 5801 and you turn left, I had the right-hand side.
8 Q. Okay. The right-hand side is west and
9 the left-hand side is east?
10 A. That's correct.
11 Q. So y'all are going down the alley.
12 And opening trash cans?
13 A. Opening trash cans.

14 Q. Dumping them out?

15 A. Some of them, yes.

16 Q. Well some you didn't dump out?

17 A. Some didn't have much in them, and we
18 didn't have to dump them out.

19 Q. Did you dump them out on the ground?

20 A. Some I did. Mostly there was plastic
21 bags in them, and I'd take the plastic bag out, set it on
22 the ground, open up the bag, tried not to make a mess.

23 You know what I'm saying? And then put the stuff back in
24 there.

25 Dump them out and leave it out? No,
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1 we didn't do that. If they were laying on the ground, we
2 just took it out, opened the bags and that kind of stuff.

3 Q. Like when you've lost a Christmas

4 present, you look and you open the trash sack and you
5 sort of rifle through what's in there, just to look and
6 see if there's anything that you thought might be in
7 there?

8 A. More like you lost your paycheck and
9 you've got to find it.

10 Q. Okay. And so you're opening the trash
11 sacks and digging around to see if anything is of
12 interest to you?

13 A. That's right.

14 Q. And if you're even slightly in doubt
15 that something was of interest, you're going to pick it
16 up?

17 A. That's correct.

18 Q. All right. So, how long did it take
19 you -- you said, I think, did you tell me 45 to 55
20 minutes to do the whole alley?

21 A. That's correct.

22 Q. How long were you stopped at the sock?

23 A. Well, probably until almost 5:00
24 o'clock.

25 Q. Okay. And that was just long enough
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1 for Ferrie to go back and you stayed there?

2 A. Yes, sir.

3 Q. And he came back and then y'all went
4 on about your business?

5 A. No, we stayed there while Mayne
6 photographed the sock.

7 Q. Okay. You stayed there through the

8 photography?

9 A. Through about four or five shots of
10 it, yes.

11 Q. And then you went on about your
12 business?

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

15 Q. Now, you don't -- you say you didn't
16 see any blood except on the sock?

17 A. None at all.

18 Q. Well, you aren't expressing any
19 opinion about whether or not this assailant should have
20 been bleeding or should not have been bleeding?

21 A. No.

22 Q. You don't have any opinion one way or
23 another?

24 A. Well, at that time we -- what we knew
25 is that we had two dead, that it was a knife-type wound
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1 that caused the death, and that the house was bloody on
2 the inside.

3 Q. Okay. So you continued your search.

4 And was it after that you observed these knives?

5 A. Yes, sir.

6 Q. And after that -- how did you observe
7 these? It's dark, I guess, with a flashlight?

8 A. No. The reason -- we went back and
9 re-did the alley. We didn't do this alley once, we did
10 this alley twice. And normally, immediately after an
11 offense like this, you will do it with a flashlight. But
12 you can be scrupulous with a flashlight and miss
13 evidence.

14 Q. Well, that makes sense.

15 A. So we waited until daylight and we
16 re-did it.

17 Q. And y'all were -- the first time down
18 y'all were going methodically down this alley?

19 A. Yes.

20 Q. You weren't trying to be quiet?

21 A. No, sir.

22 Q. And after you saw the sock, then you
23 observed these knives with your flashlight?

24 A. No.

25 Q. Did not observe them?

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1 A. I saw them in daylight.
2 Q. Okay. Missed them first time through?
3 A. That's correct.
4 Q. Saw them the second time through?
5 A. That's correct.
6 Q. Again, is this you and Ferrie?
7 A. Second time it was with Jimmy
8 Patterson, J. R. Patterson, lead investigator.
9 Q. The investigator?
10 A. Yes, sir.
11 Q. And at this time you're on -- each of
12 you doing one side of the alley?
13 A. Well, when we found those knives we
14 were standing side by side.
15 Q. Okay. And you found the knives by
16 looking and seeing them?
17 A. Yes, sir.
18 Q. And how far from the fence were they?
19 A. Six feet.
20 Q. Six feet? Did you measure that?
21 A. No, that's a guess. Strictly a guess.
22 Q. And how did you observe them?
23 A. Pardon me? I don't understand.
24 Q. Well, from what vantage point did you
25 observe these knives?
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1318

1 A. I was in the alley and they were in
2 the yard, it was six feet between us.
3 Q. You observed them from six feet?
4 A. Five or six feet, something like that,
5 yes.
6 Q. And Patterson observed them from five
7 to six feet?
8 A. That's correct.
9 Q. Nobody went over the fence?
10 A. No.
11 Q. To get these knives?
12 A. No.
13 Q. And you determined that from five or
14 six feet that there was no blood on these knives?
15 A. That's correct.
16 Q. And -- but you did observe that --
17 what did you observe on the knives?
18 A. Mud.
19 Q. Mud. Okay. How much mud?
20 A. There was a lot of mud.
21 Q. When did you next see what you thought
22 were these knives?

23 A. I guess when we got down here to
24 Kerrville. I don't remember seeing them before then.
25 Q. Okay. Do you know when they were
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1 collected?

2 A. No, sir.

3 Q. They are not in the condition that you
4 observed them, are they?

5 A. No.

6 Q. Did you take photographs of the
7 knives?

8 A. No.

9 Q. Nobody did?

10 A. I don't think there was photographs
11 taken.

12 Q. Okay. And the knives weren't even of
13 such interest to you that you noted them in your
14 handwritten notes or --

15 A. That's correct.

16 Q. Or your report or anything?

17 A. There was no question in my mind those
18 knives were not associated with this crime.

19 Q. Just a non-event?

20 A. A non-event.

21 Q. And you made that subjective
22 determination to exclude that piece of evidence?

23 A. I made that based on about 25 years of
24 law enforcement, sir.

25 Q. And, could you determine from the mud
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1 on the knives, how those knives had been gripped?

2 A. What do you mean, "How they had been
3 gripped?"

4 Q. How someone was holding them. Didn't
5 you tell me you saw fingerprints?

6 A. You could tell -- you could see where
7 the fingers had molded the mud. And where somebody had
8 got their hands muddy, or the knife muddy, and they
9 picked the knife up and they would work with it. Now,
10 can I tell if it was being held this way, or that way, or
11 any other way, no. I could tell that a hand molded that
12 much.

13 Q. Okay. So there was actually mud caked
14 on which knife?

15 A. The wooden handle knife especially,
16 yes.

17 Q. But on both of them?

18 A. Yes.

19 Q. And you could actually see

20 fingerprints on both of them?

21 A. You could see, not fingerprints, but

22 where the hand had molded to mud.

23 Q. Okay. Now, this is -- let me see, we

24 have these -- on Exhibit 8-A. Now let's just talk about

25 that for a minute. Were you in charge of this perimeter?

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1 Was that part of your duty is protecting that perimeter?

2 A. The outside perimeter.

3 Q. Okay.

4 A. The outside perimeter.

5 Q. Would you say in this part where it

6 started at the alley?

7 A. I was in charge of the outside

8 perimeter. We had officers stationed on the alley and on

9 the other end of the alley. And, you know, I'm not

10 really sure about what your question is, sir.

11 Q. Now, 20-B. How many houses are there

12 in between the Routier house --

13 A. And which house?

14 Q. And the house where you found the

15 sock?

16 A. About three, I think.

17 Q. About three. And how many between

18 where you found the sock and where you saw the knives?

19 A. About the same.

20 Q. That's about three more down.

21 A. No. It's just kind across the alley

22 from it.

23 Q. The knives are across the alley from

24 the sock?

25 A. Um-hum. (Witness nodding head

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1 affirmatively.)

2 Q. Okay. Now, are you able to describe

3 -- let's see, is this the alley here that we're talking

4 about?

5 A. Um-hum. (Witness nodding head

6 affirmatively).

7 Q. And can you describe maybe two of

8 these photographs -- it looks to me like there are two

9 houses in between on 20?

10 A. Which house are you trying to find,

11 sir?

12 Q. I'm trying to find the house in which

13 you found the sock.

14 A. Right there.

15 Q. And is the sock directly -- would the

16 house that had the knives in it be directly across from

17 the sock?

18 A. Well, it's --

19

20 THE COURT: You need to get it up a

21 little more, gentlemen, so the end jurors -- so they can

22 see.

23 THE WITNESS: The sock's here.

24

25 BY MR. RICHARD C. MOSTY:

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1 Q. Okay. The sock's in the circle;

2 right?

3

4 MR. DOUGLAS D. MULDER: Let me hold it

5 for you.

6

7 BY MR. RICHARD C. MOSTY:

8 Q. Okay. The socks (sic) were in the

9 circle. Right?

10 A. And the knives are right there.

11 Q. Okay. Now let's go to this picture,

12 because that will -- this picture here, which is 7, will

13 also tell us where the knives were, won't it?

14 A. Right in here.

15 Q. Okay. So the sock is behind --

16 including the Routier home?

17

18 THE COURT: You're going to have to

19 tilt it a little more, or slant it a little more,

20 gentlemen. Thank you.

21

22 BY MR. RICHARD C. MOSTY:

23 Q. If the Routier house is the first

24 house on the block?

25 A. Yes, sir.

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1 Q. Right there?

2 A. Yes, sir.

3 Q. Okay. The sock was behind the fourth

4 house?

5 A. It was right here.
6 Q. Okay. That's behind the fourth house,
7 isn't it?
8 A. Counting the Routier house, yes, sir.
9 Q. Counting the Routier house. And the
10 knives are directly across from the sock?
11 A. That's correct.
12 Q. Okay. And that's actually on the
13 fifth house?
14 A. Yes, sir.
15 Q. On Willowbrook?
16 A. Well, yes.
17 Q. Okay. Now, in the -- you can go ahead
18 and have a seat.
19 In the neighborhood canvas, what
20 street did you do?
21 A. I did parts of Eagle and Willowbrook.
22 Q. Okay. Did it occur to you to walk
23 into the house on Willowbrook where the knives were and
24 ask the people about the knives?
25 A. I talked to those people at about 5:45
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1 that morning.
2 Q. And asked them about the knives?
3 A. No, sir. When we went back to contact
4 them, there was nobody in the house.
5 Q. You forgot to ask them about the
6 knives when you contacted them?
7 A. Didn't know about it, sir.
8 Q. Oh, you had not seen them?
9 A. No, sir.
10 Q. And they weren't there? The people
11 were gone by the time you had seen the knives?
12 A. That's correct.
13 Q. Did you go back to the house?
14 A. I don't know, I didn't.
15 Q. You didn't?
16 A. No, sir.
17 Q. Okay. Now, can you tell me what time
18 you think you saw these knives?
19 A. Ballpark at 8:30, something like that.
20 Q. So y'all waited awhile before you went
21 back on this second?
22 A. Yes, sir.
23 Q. The second time?
24 A. Yes, sir.
25 Q. Okay. All right. Mr. Davis talked to

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1 you about the dress rehearsal that y'all did?

2 A. The what?

3 Q. The dress rehearsal you did.

4 A. What's a dress rehearsal?

5 Q. Did y'all go down to the courthouse in

6 Dallas County?

7 A. Yes, sir, we did.

8 Q. Who went down there?

9 A. I don't know. I couldn't tell you all

10 the officers. I know I was there.

11 Q. You do not recall who the other

12 officers --

13 A. No, not right off the top of my head.

14 Q. Okay. Now that was a pretty important

15 event wasn't it, in your mind?

16 A. In my mind it was a review of what we

17 had done.

18 Q. Okay. And there were a lot of

19 officers from Rowlett there?

20 A. Yes, sir.

21 Q. Were there other people there?

22 A. Members of the District Attorney's

23 staff, yes.

24 Q. Okay. Now, during this -- did you

25 call it a review?

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1 A. No, sir.

2 Q. Okay.

3 A. We were told we were going to go down

4 to discuss the case with the District Attorney.

5 Q. Didn't you just describe it as we went

6 down there and reviewed?

7 A. I said we went down there and

8 reviewed.

9 Q. And reviewed?

10 A. Yes, sir.

11 Q. And it's during this review -- where

12 was the review done?

13 A. Dallas County Courthouse.

14 Q. What part of the courthouse, in Mr.

15 Davis's office?

16 A. Pardon?

17 Q. In Mr. Davis's office?

18 A. No, there's too many of us. We went

19 to a courtroom.

20 Q. Okay. You went to the courtroom for
21 your review?
22 A. Yes, sir.
23 Q. Okay. Did you get in the witness
24 stand?
25 A. Yes, sir, I did.
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1 Q. During your review?
2 A. Yes, sir.
3 Q. And where were the other officers
4 during your review?
5 A. They were moving around, different
6 parts of --
7 Q. In the courtroom?
8 A. Some were in the courtroom, some were
9 in the jury box, wherever they got comfortable.
10 Q. Some sitting in the jury box?
11 A. Uh-huh (Witness nodding head
12 affirmatively.)
13 Q. Okay. Was there somebody sitting in
14 the Judge's chair?
15 A. Yes.
16 Q. Somebody from the District Attorney's
17 office asking you questions?
18 A. Yes.
19 Q. Somebody from the District Attorney's
20 office cross-examining you?
21 A. Yes.
22 Q. And the other officers are out there
23 in the courtroom while this is happening?
24 A. They were all in the room, yes.
25 Q. And they were listening?
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1 A. Yes, sir.
2 Q. And you're listening to other officers
3 testify?
4 A. Yes.
5 Q. And are people making objections?
6 A. There was, I think, one or two
7 objections.
8 Q. And did somebody rule on them?
9 A. I don't remember if there was a ruling
10 or not.
11 Q. Well, who was the judge?
12 A. Mrs. --
13 Q. Mrs. Wallace was the judge?

14 A. Her first name is Sherri, I'm not sure
15 of her last name.
16 Q. Sherri was the judge?
17 A. Yes.
18 Q. Did she have on a robe?
19 A. No.
20 Q. Okay.
21 A. I think she was dressed -- she didn't
22 have on a robe.
23 Q. Okay. I meant a judicial robe.
24 A. No, sir.
25 Q. I didn't mean a house robe.
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1 A. No, sir.
2 Q. How many officers were in on this what
3 you have called a review?
4 A. You want -- do you want me to guess at
5 it?
6 Q. Yes.
7 A. Ten, 12 maybe.
8 Q. That's the best you can do?
9 A. Yes.
10 Q. Okay. And did they tell you how you
11 did?
12 A. No.
13 Q. Nobody told you how you did?
14 A. No, sir.
15 Q. Did you tell any of the other officers
16 how they did?
17 A. No, not that I know of.
18 Q. And when did you do this review?
19 A. A month ago.
20 Q. Okay. And, at that time, I guess
21 y'all had been instructed that we're all going to go down
22 to the courthouse at a certain time?
23 A. Yes, sir, I got a note.
24 Q. And you knew the purpose of that
25 meeting?
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1 A. I did.
2 Q. Was to go down there?
3 A. Yes.
4 Q. So you could fully and completely
5 review what you knew about the case?
6 A. Well, I knew it was my responsibility
7 to know my portion of this investigation when I went down

8 there.

9 Q. And did you think it would be your
10 responsibility to read your report prior to going down
11 there?

12 A. No, sir, I've never read a report from
13 the stand.

14 Q. No, before you went down there.

15 A. Before I went down there?

16 Q. Yes.

17 A. I reviewed that piece of paper that
18 you have.

19 Q. The lost one or the found one?

20 A. The exact copy, the one that you have
21 in front of you is what I reviewed.

22 Q. How did you do that? Did you call it
23 up on the computer?

24 A. Yes, sir.

25 Q. Okay. But the one that was most
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1 complete was the handwritten one?

2 A. That's correct.

3 Q. Okay. But you didn't think to go, to
4 be complete, and to be fair and to be full while you're
5 having your dress rehearsal with the District Attorney,
6 it didn't occur to you to go back and review your most
7 complete report?

8 A. Everything that I felt, in my opinion,
9 that was vitally important to this case was on that piece
10 of paper.

11 Q. Okay.

12 A. That's what I reviewed.

13 Q. So, you didn't -- in other words, you
14 didn't think it was important enough to go pull out the
15 written one?

16 A. I didn't have it.

17 Q. You didn't know that?

18 A. I turned the original in, sir.

19 Q. You didn't --

20 A. The handwritten one. The handwritten
21 one had been turned in. I didn't have it.

22 Q. My question is simply this: You
23 didn't think it was important enough to go and read your
24 most complete report, prior to going down for your
25 review?

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1 A. I didn't have it. It wasn't available
2 to me.
3 Q. But you didn't know that at the time,
4 did you?
5 A. No, I didn't.
6 Q. So, had you sat at this review in
7 December and said, you know, I really -- I want to be
8 complete with the DA, and I want to -- maybe I ought to
9 go read my written report. There was nothing that would
10 prevent you from doing that, was there?
11 A. No, I didn't ask for it.
12 Q. And you didn't do it?
13 A. I didn't do it.
14 Q. Didn't even occur to you to do it?
15 A. No.
16 Q. Okay. What's the purpose of reports?
17 A. To chronicle events.
18 Q. Is that because people's memories are
19 faulty?
20 A. That's true, yes.
21 Q. And so, as a matter of fact, that was
22 why you did the handwritten report, really, because you
23 thought of some things, and the handwritten report made
24 it more complete, some things that you had even
25 forgotten.
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1 A. Other than those two mistakes, my
2 handwritten report is almost verbatim with that thing in
3 front of you.
4 Q. Your testimony today is that you know
5 that the missing handwritten report is just the same as
6 this typed one, except for your errors?
7 A. Except for those two that I pointed
8 out.
9 Q. And you recall two errors?
10 A. Yes.
11 Q. You don't recall any other errors?
12 A. No.
13 Q. Is it fair to say that during this
14 exhaustive search, both in the morning, in the daylight,
15 in the dark, and in the daylight, the only significant
16 thing you saw of any significance in your judgment was
17 this sock?
18 A. That's correct.
19 Q. And that's the only thing that you
20 identified as saying, "I think this is an important piece
21 of evidence"? Or a piece of evidence, take out the word

22 important?

23 A. That's correct.

24 Q. That possibly might relate to this

25 crime?

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1 A. That's correct.

2 Q. The only one?

3 A. That's the only one.

4 Q. And the only piece of evidence that

5 you identified you made an error about who picked it up?

6 A. I misnamed the officer that picked it

7 up, that's correct.

8 Q. One piece of evidence, one error?

9 A. Yes, sir.

10 Q. Okay. Now, at the review, you didn't

11 see these knives, did you?

12 A. No, I didn't.

13 Q. They did not, as part of your

14 testimony down there, in front of Judge Wallace, nobody

15 showed you these knives and said, "Are they important?"

16 Did they?

17 A. Nope.

18 Q. They didn't say, "Did you see mud on

19 them?" Did they?

20 A. I volunteered that information.

21 Q. Did you volunteer that information

22 about the knives that weren't there?

23 A. The knives question was asked to

24 another officer.

25 Q. These knives, you were -- were not

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1 present?

2 A. They were not present.

3 Q. And you did not see them at the dress

4 rehearsal?

5 A. That's correct.

6 Q. Well, did they have a Court Reporter

7 at this dress rehearsal?

8 A. Dress rehearsal? The review?

9 Q. The review, I'm sorry. The review.

10 A. No, they didn't, that I know of.

11 Q. Well, did they video tape that?

12 A. No.

13 Q. Tape record it?

14 A. No, not that I know of.

15 Q. Okay. But those knives weren't

16 important enough to talk about at the review, were they?

17 A. They came up, but not in my testimony.

18 Q. Well, it didn't come up enough to

19 bring them down there to talk to you, did they?

20 A. To physically bring them?

21 Q. Yes.

22 A. No.

23 Q. Because you had not seen them until

24 you got to Kerrville?

25 A. That's correct.

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1 Q. So, all of this detailed description

2 that you gave us about mud and flowers, and what do you

3 call that stuff that you put in the ground?

4 A. Edging.

5 Q. Edging, that it was cut. And all of

6 those details that you have described to us that you saw

7 from six foot, you didn't testify about any of that down

8 at the review?

9 A. No.

10 Q. Okay

11

12 MR. RICHARD C. MOSTY: Pass the

13 witness.

14

15

16 REDIRECT EXAMINATION

17

18 BY MR. GREG DAVIS:

19 Q. When you came to that courtroom that

20 day, you did tell me about those knives, didn't you?

21 A. Yes, sir. I volunteered that

22 information.

23 Q. And you did tell me that they had mud

24 on them --

25

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1 MR. DOUGLAS MULDER: Judge, we are

2 going to object to the leading.

3 MR. RICHARD C. MOSTY: We object --

4 THE COURT: Can only one attorney make

5 the objection? Mr. Mosty is doing the examination. If

6 he will make an objection.

7 MR. RICHARD C. MOSTY: Your Honor, I

8 would object to that last statement as leading.

9 THE COURT: Well, I will sustain the

10 objection, and I will ask that the question be rephrased.
11 MR. GREG DAVIS: Yes, sir.
12 THE COURT: Thank you.
13
14
15
16 BY MR. GREG DAVIS:
17 Q. Sergeant Ward, would you tell me
18 whether or not that day you told me that those knives had
19 mud on them?
20 A. Yes, sir, I did.
21 Q. And tell me whether or not you told me
22 at that time where they were in the yard?
23 A. At that time, sir, I described that
24 scene exactly as I have described it today.
25 Q. Okay.
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1
2 MR. GREG DAVIS: That's all the
3 questions I have, Judge.
4
5
6 RECROSS EXAMINATION
7
8 BY MR. RICHARD MOSTY:
9 Q. Did you think it was important enough
10 at that time that maybe you ought to write a little
11 report about the knives and the mud and your conversation
12 with Mr. Davis?
13 A. At that time, sir, and today I
14 maintain those knives right there have nothing to do with
15 this crime. And I did not ever write a report on it.
16 Q. I couldn't be clearer that that's what
17 you maintained.
18 A. And I didn't write a report.
19 Q. My question is: After you and Mr.
20 Davis talked about the mud on the knives at the review,
21 you didn't think that that conversation was important
22 enough to write down in a supplemental report?
23 A. No, sir, I did not.
24 Q. Thank you.
25
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1 MR. RICHARD C. MOSTY: Pass the
2 witness.
3 MR. GREG DAVIS: No further questions

4 THE COURT: All right. Ladies and
5 gentlemen, we'll break until 1:00 o'clock, please for
6 lunch. Thank you.