

Testimony of Officer David Mayne (2)

CROSS EXAMINATION (Resumed)

11

12 BY MR. RICHARD C. MOSTY:

13 Q. Did you tell me yesterday that you

14 took notes as you went through, things -- as you did

15 things you took notes?

16 A. After I got back to the station I

17 jotted down some notes.

18

19 THE COURT: What have we got here?

20 Just speak as loud as you can. I

21 think we have some electrical problems over here this

22 morning. You just have to talk as loud as you can.

23 Sorry.

24 THE WITNESS: They're computerized

25 generated. They are on the computer.

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1 BY MR. RICHARD MOSTY:

2 Q. So, it's accurate to say that

3 yesterday when you were referring to taking notes, you

4 were not talking about jotting down something at 5:50

5 a.m. or 6:15 or whenever it was?

6 A. Basically, on the notes that I had,

7 was on the evidence tags, and then I went back and did a

8 computerized, typed report.

9 Q. Okay. Let me hand you a sheet of

10 paper that was provided to me this morning. Is this what

11 you referred to as your notes?

12 A. Yes, sir.

13 Q. You referred to those yesterday?

14 A. Yes, sir.

15 Q. And those are the notes you didn't

16 have yesterday?

17 A. Yes, sir.

18 Q. And they were faxed in last night?

19 A. Yes, sir.

20 Q. And are these, likewise, kept on a

21 computer?

22 A. Yes, sir, they are.

23 Q. So, somebody -- you could just call up

24 there and somebody in Rowlett could pull this up on the

25 computer?

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1 A. Well, they did it on my computer, yes,
2 sir.

3 Q. So, somebody else can have access to
4 your reports?

5 A. That particular one, yes, sir.

6 Q. Well, what about the others?

7 A. They are in a file of mine that has my
8 password.

9 Q. Okay. But this one somebody could get
10 access to these notes?

11 A. Yes, sir.

12 Q. And, somebody could change them if
13 they got in there on that computer?

14 A. They are not changed, as I looked at
15 them.

16 Q. Well, I understand that. But someone
17 could change them, couldn't they?

18 A. They could get to it, yes, sir.

19 Q. And they are undated. It doesn't say
20 June 6th?

21 A. No, sir.

22 Q. Or January 15th?

23 A. It's just my notes.

24 Q. All right. Yesterday we talked about
25 you collecting evidence, and you described as you went
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1 through collecting towels and different stuff. We
2 haven't gotten to the blood yet, let's just talk about
3 the things you picked up.

4 And did I understand that you were
5 essentially in charge of collecting physical evidence
6 there at the scene?

7 A. Partly, yes, I was.

8 Q. Who else was?

9 A. If I am not mistaken, Officer
10 Hamilton.

11 Q. He is a fingerprint guy, isn't he?

12 A. Yes, sir.

13 Q. What about picking up things? You
14 know, glass, the wine glass?

15 A. I picked up some glass, yes, sir.

16 Q. So were you the primary one who was
17 assigned, Officer Mayne, I want you to -- you know, so we
18 can keep all this straight.

19 A. Yes, sir, I picked up most of the
20 evidence.

21 Q. You picked up everything?

22 A Yes, sir.

23 Q. Okay. And your supervisor in the
24 crime scene, or the crime evidence unit is whom?
25 A. David Nabors.
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1 Q. But he didn't really pick up much of
2 anything, did he?
3 A. No, sir.
4 Q. So, would it be fair to say that you
5 were primarily in charge of documenting what you found
6 there at the crime scene, in terms of photographs and
7 picking up of evidence?
8 A. Collecting, yes, sir.
9 Q. Collecting of evidence. And as part
10 of that, you knew, and part of your training, you knew
11 that later forensics people would be looking at some of
12 that evidence, don't you?
13 A. Yes, sir.
14 Q. And by forensic, we mean people like,
15 blood analysis, any kind of person who might look at that
16 and need to analyze that evidence?
17 A. Yes, sir.
18 Q. And that is common, isn't it?
19 A. Yes, sir.
20 Q. And, then you know, that those folks
21 are going to have to rely upon the integrity of what you
22 do?
23 A. Yes, sir.
24 Q. Don't you?
25 A. Yes, sir.
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1 Q. And that is the reason --
2
3 THE COURT: It's working now.
4 MR. RICHARD C. MOSTY: All right.
5 THE WITNESS: Okay.
6
7 BY MR. RICHARD C. MOSTY:
8 Q. And that is why you have never put,
9 for instance, like the bag you got from Zimmerman, you
10 would never put two pieces of evidence in the same bag?
11 A. For myself, there was an instance
12 where I put in some evidence. If it was collected
13 together, yes, I did put it together.
14 Q. What are you talking about? What
15 piece is that? I guess, for instance, all of these
16 papers, you put those together?

17 A. That's correct.

18 Q. What else?

19 A. There was a couple of rags in the
20 hallway.

21 Q. And those were bloody rags, weren't
22 they?

23 A. Yes, sir.

24 Q. And you know better than to put two
25 bloody items in the same bag?

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1 A. Well, they were collected together.

2 Q. But you know better than to do that,
3 don't you?

4 A. (No response.)

5 Q. Where were they collected together?

6 A. In the hallway.

7 Q. They were both in the hallway?

8 A. Yes, sir.

9 Q. I'm going to show you Exhibit No. 29.

10 And you are talking about these two items in the hallway?

11 A. Yes, sir.

12 Q. All right. So what are those?

13 A. Rags.

14 Q. Rags?

15 A. Yeah.

16 Q. One of them larger than the other?

17 A. Yes, sir.

18 Q. Is one -- does one appear to be a
19 towel?

20 A. Yes, sir, some type of towel.

21 Q. Okay. And your story right now is
22 that you picked those up and put them in the same bag
23 because they were close by each other?

24 A. Yes, sir.

25 Q. And let me show you these two --

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1 first, let me show you this bag. Is this the bag that
2 you picked up these two white towels in?

3 A. Yes, sir.

4 Q. Okay. Now, I want you to tell me how
5 different are they in size?

6 A. One is a little bit larger than the
7 other.

8 Q. Is that consistent with the difference
9 in size that you see in photograph 29?

10 A. Well, they are the same.

11 Q. So, your testimony is that the larger
12 towel, the larger of these rags, is this larger one shown
13 in Exhibit 29?

14 A. Yes, sir.

15 Q. And are you going to -- are you going
16 to stay with the idea that it is good police work to put
17 two bloody items in the same sack?

18 A. Well, again, I collected both of them
19 because they were there together.

20 Q. My question was: Is that good police
21 work?

22 A. To me, yes, sir, they were together.

23 Q. Okay. Now, and these were both
24 bloody?

25 A. A little bit, yes, sir.

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1 Q. And they were both wet with blood?

2 A. They were dry, partially, when I
3 collected them.

4 Q. Partially wet, partially dry?

5 A. Yes.

6 Q. Now, how did you pick -- did you pick
7 them up with gloves?

8 A. Yes, sir.

9 Q. How did you pick them up and put them
10 in this sack? Demonstrate that for me.

11 A. With the corners --

12 Q. You picked up a corner. Why did you
13 do that?

14 A. To not touch the majority of the --

15 Q. So you wouldn't contaminate it, right?

16 A. With my gloves, yes.

17 Q. Right. So, as you picked it up
18 carefully, did you have the bag sitting on the ground or
19 what?

20 A. It was up.

21 Q. It was like this?

22 A. Yes, sir.

23 Q. Now, pick it up like you picked it up.

24 And I know you had on gloves.

25 A. Like this.

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1 Q. You picked it up by a corner. Did you
2 drop it in there?

3 A. Yes, sir.

4 Q. Didn't do anything to fold it. And

5 the next one?
6 A. Same way.
7 Q. Okay. So, then they are in there?
8 A. Yes, sir.
9 Q. Did you seal it then?
10 A. I tagged it, yes, sir.
11 Q. Put your evidence tag on it?
12 A. Yes, sir.
13 Q. And that is the evidence tag that is
14 missing?
15 A. Yes, sir.
16 Q. Okay. And now, once those two bloody
17 items are in there together, blood from one can get on
18 blood from the other. Can't it?
19 A. Possibly.
20 Q. Drip on to the other one?
21 A. Well, like I said, they were partially
22 dry. So I'm not sure if they were dripping.
23 Q. But they were touching?
24 A. Yes, sir.
25 Q. And they could soak each other, on
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1 each other. Right?
2 A. I'm not for sure, sir.
3 Q. When you carry it out to the car and
4 you set it down, that could cause blood from one to fall
5 on to the other, couldn't it?
6 A. Possibly.
7 Q. There is nothing to prevent blood from
8 one of these getting on the other, is there?
9 A. They were together.
10 Q. And is that good police work or bad
11 police work?
12 A. I consider it good police work since
13 they were together.
14 Q. All right. You consider that good
15 police work?
16 A. Yes, sir.
17 Q. Okay. You collected these two green
18 rags, were you collecting all of the rags out there.
19 A. Not all of the rags, no, sir.
20 Q. You collected these two green ones.
21 Did you collect any other rags?
22 A. Yes, sir.
23 Q. Which one?
24 A. The one in the family room.
25 Q. Okay. And, what did it look like?

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1 A. It was a green and white checkered
2 rag.
3 Q. Did you testify about it yesterday?
4 A. Yes, sir.
5 Q. Anybody got any number idea on this
6 one? In any event, you picked up another one?
7 A. Yes, sir.
8 Q. That is in the family room?
9 A. Yes, sir.
10 Q. Did you pick up any other rags?
11 A. One out on the front porch.
12 Q. Okay. Did you pick up any other rags?
13 A. No, sir.
14 Q. There were other rags there, weren't
15 there?
16 A. Yes, sir, there was.
17 Q. By the time you were picking up these
18 rags, what time of day was it?
19 A. Which one, sir?
20 Q. Well, the first one.
21 A. It was approximately 8:20 a.m.
22 Q. Okay. And how many times had you
23 changed gloves?
24 A. I changed gloves on each -- well, each
25 instance I picked up the rags.
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1 Q. Okay. And why is that?
2 A. For -- so I won't contaminate the rags
3 with the gloves that I picked up --
4 Q. So, that blood from your hands won't
5 go from one piece of evidence to another piece of
6 evidence?
7 A. That's correct.
8 Q. Isn't that right?
9 A. That's correct.
10 Q. Contrary to how you did the two rags
11 in here?
12 A. That's correct.
13 Q. Where blood could go from one to the
14 other?
15 A. That's correct.
16
17 MR. RICHARD C. MOSTY: What is our
18 next number?
19 THE COURT: No. 30.

20
21 (Whereupon, the following
22 mentioned items were
23 marked for
24 identification only as
25 Defense Exhibits 30, 31,
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1 32, after which time the
2 proceedings were
3 resumed on the record
4 in open court, as
5 follows:)

6
7 BY MR. RICHARD MOSTY:
8 Q. Okay. Let me show you Defendant's
9 Exhibit No. 30. Can you identify that?
10 A. That is going to be the cover that
11 covered one of the victims.
12 Q. Okay. That is a photograph you took
13 on the 6th?
14 A. Yes, sir.
15
16 MR. RICHARD C. MOSTY: We will offer
17 30.
18 MR. GREG DAVIS: No objection.
19 THE COURT: Defendant's Exhibit 30 is
20 admitted.

21
22 (Whereupon, the item
23 Heretofore mentioned
24 Were received in evidence
25 As Defendant's Exhibit
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1 No. 30 for all purposes,
2 After which time, the
3 Proceedings were resumed
4 As follows:)
5
6 BY MR. RICHARD MOSTY:
7 Q. Okay. And 30 is taken during your
8 very first walk-through of the house?
9 A. Yes, sir.
10 Q. Okay. And that is the cover that is
11 over Devon's body?
12 A. Yes, sir.
13 Q. Okay. Does it show a rag in it?

14 A. Yes, sir.
15 Q. Does it show a bloody rag in it?
16 A. Yes, sir.
17 Q. And it is -- there is a yellow figure
18 on that -- I guess, that underside blanket?
19 A. Yes, sir.
20 Q. Okay. And that rag is not quite
21 touching that yellow figure?
22 A. Yes, sir.
23 Q. Okay. Let me show you Exhibit No. 31,
24 and ask you if you can identify that?
25 A. That is the covers.
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1 Q. Similar photo?
2 A. Yes, sir.
3
4 THE COURT: We will offer No. 31.
5 MR. GREG DAVIS: No objection.
6 THE COURT: Defendant's Exhibit No. 31
7 is admitted.
8
9 (Whereupon, the items
10 Heretofore mentioned
11 Were received in evidence
12 As Defendant's Exhibit No. 31
13 For all purposes,
14 After which time, the
15 Proceedings were resumed
16 As follows:)
17
18 BY MR. RICHARD MOSTY:
19 Q. Is that also taken on the 6th?
20 A. Yes, sir.
21 Q. Does that depict -- is the rag in the
22 same location as it was in the picture immediately before
23 it?
24 A. It's in the same vicinity.
25 Q. Same vicinity?
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1 A. Um-hum. (Witness nodding head
2 affirmatively).
3 Q. Okay. But not the same place?
4 A. Yes, sir.
5 Q. Care to explain? Yes, sir, it's not
6 in the same place?
7 A. Yes, sir, it is.

8 Q. Yes, sir, it is in the same place?

9 A. Yes, it is.

10 Q. How do you account for the way that
11 looks?

12 A. From the angle that I took the
13 photograph.

14 Q. Okay. Well, yesterday when I said,
15 remember when I stood right here and said, if you take --
16 that sometimes photographs are distorted by the angle.

17 Do you remember me asking you that yesterday?

18 A. I remember.

19 Q. And you didn't agree with me, did you?

20 A. Well, I don't recall.

21 Q. Don't you remember when I was talking
22 about taking 90 degree photographs? The reason is so
23 that if you get at an angle it distorts the photograph.

24 You don't remember that line of questioning yesterday?

25 A. I remember you saying something about
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1 it.

2 Q. And you didn't agree with me, did you?

3 A. To be honest with you, I don't recall.

4 Q. But now your story is that there is a
5 difference between 30 and 31, is because it's a different
6 camera angle?

7 A. Yes, it is.

8 Q. But that the -- but that the rag is
9 not moved?

10 A. No.

11 Q. All right. Now, shortly after this,
12 these photos are taken, the medical examiner came in,
13 right?

14 A. Yes, sir.

15 Q. And you saw that rag again?

16 A. Yes, sir.

17 Q. Didn't you?

18 A. Yes, sir.

19 Q. And you photographed it again?

20 A. Yes, sir.

21 Q. Okay. And then you stayed at that
22 house and started collecting rags about 9 -- or you were
23 collecting in the 9:00 o'clock range?

24 A. 8:00 o'clock, in that area.

25 Q. Okay. And you didn't collect this
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1 rag, did you?
2 A. No, sir.
3 Q. It had blood on it, didn't it?
4 A. Yes, sir.
5 Q. It was next to the body of Devon
6 Routier, wasn't it?
7 A. Yes, sir.
8 Q. It was -- you knew that the paramedics
9 had been in there and had done something in that area,
10 didn't you?
11 A. Yes, sir.
12 Q. You knew that the paramedics had
13 covered up the body, didn't you?
14 A. Well, I wasn't aware of that. I
15 wasn't there.
16 Q. Well, you knew that the medical
17 examiner, for instance, picked up the -- some of those
18 things around Devon Routier and took them to the medical
19 examiner's office, didn't you?
20 A. Yes, sir.
21 Q. You saw that happen?
22 A. Yes, sir.
23 Q. So you knew that what was next to that
24 body was important, didn't you?
25 A. Well, the blankets, yes, sir.
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1 Q. But the rag wasn't important?
2 A. I didn't say that.
3 Q. It was important, wasn't it?
4 A. Well, it could be.
5 Q. It should have been collected,
6 shouldn't it?
7 A. I didn't collect it.
8 Q. It should have been collected,
9 shouldn't it?
10 A. I gave at that point where I didn't
11 determine that it needed to be collected.
12 Q. You made that decision that it wasn't
13 important enough to collect?
14 A. I made that decision.
15 Q. And that was a conscious decision?
16 A. That was my decision.
17 Q. That was your decision that that rag
18 which has blood on it and it is next to Devon Routier's
19 body is not important enough to have forensics look at
20 it?
21 A. I made that decision.
22 Q. Let me show you Exhibit 32. Does that

23 fairly and accurately depict the scene on, two days
24 later?

25 A. I'm not for sure. I wasn't there two
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1 days later.

2 Q. Do you -- you didn't take these
3 photographs dated 6-8?

4 A. No, sir.

5 Q. Well, does that depict -- does that
6 accurately depict the living room?

7 A. That is the living room.

8 Q. Okay.

9

10 MR. RICHARD C. MOSTY: We'll offer No.
11 32.

12 MR. GREG DAVIS: I can't agree to
13 that. I'm going to object. This witness has testified
14 that he was not there on the 8th. He doesn't know how
15 this living room looked on the 8th. For that reason, we
16 will object to it. It has not been offered.

17 THE COURT: Overruled. I'll admit the
18 photo.

19 BY MR. RICHARD MOSTY: Exhibit 32?

20 THE COURT: State's (sic) Exhibit No.
21 32 is admitted.

22

23 (Whereupon, the above
24 mentioned item was
25 received in evidence
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1 as Defendant's No. 32,
2 for all purposes
3 after which time,
4 the proceedings were
5 resumed on the record,
6 as follows:)

7

8 BY MR. RICHARD MOSTY:

9 Q. Okay. Does it have a time-date on it?

10 A date stamp, I'm sorry.

11 A. Yes, sir.

12 Q. Two days later, the 8th?

13 A. Yes, sir.

14 Q. Now let me direct your attention.

15 Over here by the fireplace, are those written or printed
16 materials?

17 A. Some type of material.

18 Q. Were there some files over there by
19 that fireplace?

20 A. I don't recall.

21 Q. You don't recall?

22 A. No, sir.

23 Q. Okay. The rag that we have described

24 that wasn't important enough to pick up in Exhibits 31 --
25 30 and 31, that rag?

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1 A. Yes, sir.

2 Q. In Exhibit 32, where is it?

3 A. I'm not for sure. I wasn't there.

4 Q. You do not know where that white rag
5 is two days later?

6 A. There is a white rag on the coffee
7 table, but I'm not for sure if it's that rag.

8 Q. Well, does it appear to have blood
9 stains on the one on the coffee table?

10 A. I'm not for sure, sir.

11 Q. Can't tell?

12 A. Can't tell.

13 Q. As a reasonably prudent peace officer,
14 do you think that most likely, that that rag on the table
15 is the same one that was on the floor two days before?
16

17 MR. GREG DAVIS: I am going to object.

18 That calls for speculation. This witness has testified
19 several times now, that he wasn't there on the 8th, he
20 didn't have an opportunity to look at those items in that
21 family room, so that calls for conclusion and speculation
22 on his part.

23 THE COURT: If you know the answer
24 from -- if you know the answer from your own knowledge,
25 I'll let you answer.

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1 THE WITNESS: No, sir.

2

3 BY MR. RICHARD MOSTY:

4 Q. I'm asking as a peace officer of 10
5 years who has been trained in all this schooling. You
6 can't draw a conclusion one way or another as to whether
7 or not that is the same rag?

8

9 MR. GREG DAVIS: I'll object again.

10 It calls for speculation.

11 THE COURT: I'll sustain that
12 objection.
13 MR. RICHARD C. MOSTY: My question is:
14 Can he draw a conclusion?
15 MR. GREG DAVIS: I'm going to object,
16 it calls for a conclusion.
17 THE COURT: I'll sustain the
18 objection, unless he knows it from his own knowledge.

19
20 BY MR. RICHARD MOSTY:
21 Q. Can you give me any explanation of how
22 a white rag would jump from the floor onto the table?

23
24 MR. GREG DAVIS: I'm going to object,
25 that is arguing with the witness and calling for
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1 speculation.
2 THE COURT: Well, I'll overrule that
3 one. If he has any idea, then I'll let him answer that
4 one.

5
6 BY MR. RICHARD C. MOSTY:
7 Q. Do you have any idea how that white
8 rag jumped up on the table?
9 A. Somebody could have put it up there.
10 Q. And that would be bad police work,
11 wouldn't it?
12 A. No, sir.
13 Q. That is good police work to leave it
14 there for two days, pick it up, put it on the table. Was
15 it ever collected?

16 A. I don't know.
17 Q. I wonder where it is?
18
19 MR. GREG DAVIS: I'm going to object
20 to that.

21 THE COURT: I'll sustain the
22 objection, that is speculation.
23 MR. GREG DAVIS: That is speculation.
24 We will see in just a moment where it is.

25
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1 BY MR. RICHARD MOSTY:
2 Q. Did you collect the green container,
3 the plastic container?
4 A. No, sir.

5 Q. That is like the rag on the floor.
6 You made a decision that that wasn't important?
7 A. That's correct.
8 Q. And you didn't inventory it?
9 A. No, sir.
10 Q. Let's cover these file folders, if we
11 can. Or the papers that you collected. Again, we will
12 do State's Exhibit 150. And that is a later photo?
13 A. Yes, sir.
14 Q. That one shows what, a pad on top?
15 A. Yes, sir.
16 Q. Okay. Exhibit No. 25, that shows file
17 folders, and that is after you have picked them up and
18 moved them around?
19 A. Yes, sir.
20 Q. And photographed them?
21 A. Yes, sir.
22 Q. Exhibit 23, is -- and let me show you
23 24, too. Why don't you just tell me which is the
24 earliest order? Which is the earliest photograph we have
25 here?
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1 A. Right here.
2 Q. All right. And, tell me, how many
3 green folders are up there?
4 A. I'm not for sure, two or three, in
5 that area.
6 Q. Four, maybe?
7 A. I'm not for sure. I think there was
8 three.
9 Q. That is the condition that those
10 folders were in when you first saw them?
11 A. Yes, sir.
12 Q. They weren't like we have them here in
13 evidence, laying out, were they?
14 A. No, sir.
15 Q. All of these notes about wills and all
16 of that stuff. None of that stuff was laying out, was
17 it?
18 A. It was inside the green folders.
19 Q. It didn't appear that anybody had been
20 sitting there reading that stuff or going through it that
21 night, did it?
22 A. They could have. I don't know. I
23 wasn't there.
24 Q. Well, if they did, they would have had
25 to file it back in the folders?

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1 A. Possibility.
2 Q. A possibility?
3 A. Well, I mean, I wasn't there.
4 Q. Okay. But there are no loose papers
5 out on top of those green file folders, are there?
6 A. No, sir.
7 Q. And those file folders, did they have
8 labels?
9 A. Yes, sir.
10 Q. What were the labels?
11 A. I'll be honest will you, I don't
12 recall what was the labels on the file folders.
13 Q. And, of course, you didn't do anything
14 to inventory them?
15 A. After I got back to the station.
16 Q. Did you take them all out of the
17 files?
18 A. Yes, sir, I looked through them.
19 Q. Okay. There at the scene?
20 A. Some of them, yes, sir.
21 Q. In the living room?
22 A. Yes, sir.
23 Q. Did you spread them out on a table, or
24 what?
25 A. No, sir. I just took them out of the
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1 green folders.
2 Q. Did you put them back in the same
3 folder?
4 A. Yes, sir.
5 Q. Okay. Then you took all of the
6 folders down and you checked them all into evidence?
7 A. Yes, sir.
8 Q. Okay. Now, the second one, the
9 second, Defendant's Exhibit No. 25, is that -- no, that
10 wouldn't be second in time, would it? 24. Would that be
11 before 150, or can you tell?
12 A. I don't know if it was or not, because
13 I had different things laid out on top. I just went
14 through them and photographed them on top.
15 Q. As you moved them around, you
16 photographed them?
17 A. Yes, sir.
18 Q. Okay.
19

20 (Whereupon, the
21 following mentioned
22 Exhibits were marked
23 For identification
24 Only, as Defendant's
25 Exhibit No. 33 & 34.)
Sandra M. Halsey, CSR, Official Court Reporter
1932

1 BY MR. RICHARD MOSTY:

2 Q. I want to hand you what I have marked
3 as a green folder, Exhibit 33, with a number of papers in
4 it. And I've marked as Exhibit 34 one of those papers in
5 there. Tell me: Is that the evidence that you
6 collected? Is that the remainder of the papers?

7 Some of the papers are in evidence.

8 Is that the remainder of the papers and file folders and
9 stuff that you collected?

10 A. It appears to be some of them, yes,
11 sir.

12 Q. Some of them?

13 A. Well, there was so many, I don't know
14 if that is all of them or not.

15 Q. Is there any way to know?

16 A. With the bag that I had tagged, I
17 would be able to know. But taking it out of the bag --

18 Q. You got one of these paper sacks
19 somewhere?

20 A. I had one.

21 Q. Okay. But there is no way to know
22 today, whether or not all of these papers that were
23 there, are here. Is that what you are telling me?

24 A. No, sir. The ones -- the tag that I
25 had that was put into evidence, everything was there.

Sandra M. Halsey, CSR, Official Court Reporter
1933

1 Q. Okay. And did you identify all of
2 these things?

3 A. I looked through them. No, I didn't
4 identify everything on the tag, but I did look through
5 them, and packed them together.

6 Q. Okay. And you -- there is no way you
7 could recollect what was in there and what was not and
8 what might be gone?

9 A. Everything that I had packed is there,
10 whatever was put into the Courtroom is here.

11 Q. And that was everything you picked up?

12 A. Yes, sir.

13 Q. Okay. Now, explain to me why I don't

14 have four green folders, three or four green folders,
15 rather than just one?

16 A. I'm not for sure.

17 Q. There are three or four green folders
18 in that photo, aren't they?

19 A. Yes, sir.

20 Q. And you collected all of them?

21 A. I collected many of them, yes, sir.

22 Q. Well, did you collect all of them or
23 many of them?

24 A. I collected what I had in the bag.

25 Q. Okay. And this one, and is that what
Sandra M. Halsey, CSR, Official Court Reporter

1934

1 I am holding in my hand is Exhibit No. 33?

2 A. Yes, sir, that is some of it, yes,
3 sir.

4 Q. Is it all of it?

5 A. Everything that I had in the bag,
6 there were so many papers, I'm not for sure.

7 Q. Well, let's don't focus on papers for
8 a minute. Let's focus on green folders. This one that
9 you do have says birth certificates and licenses?

10 A. Yes, sir.

11 Q. And there are three or four others.

12 Did they have labels on them like that?

13 A. I don't think so. I'm not for sure.

14 Q. You can't remember?

15 A. I can't remember.

16 Q. And they are gone? Where are they?

17 A. I don't recollect. I don't know if

18 I -- I don't remember if I collected just one or all
19 three.

20 Q. You don't remember if you collected
21 all of these folders or not?

22 A. Correct.

23 Q. Well, then, if you didn't collect
24 them, wouldn't they show in some photograph in the room,
25 like this white rag that you didn't collect? Wouldn't we
Sandra M. Halsey, CSR, Official Court Reporter

1935

1 be able to go to some photograph and say, "There are the
2 other green folders that Officer Mayne didn't collect"?

3 A. I'm not for sure.

4

5 MR. GREG DAVIS: Your Honor, I'm going
6 to object to that. It calls for speculation. We don't

7 know which photographs, what date or anything.

8 THE COURT: I'll sustain that

9 objection as the question is phrased.

10

11 BY MR. RICHARD MOSTY:

12 Q. Are there any photographs that you are

13 aware of that photograph these file folders, after

14 Exhibit 25?

15 A. I don't know.

16 Q. You are not?

17 A. I didn't take any, no, sir. I don't

18 know.

19 Q. You didn't take any. And Exhibit 25,

20 you told me yesterday that you picked that up and you set

21 it down on the couch there and photographed it, and then

22 you took it to your car, didn't you?

23 A. I took some of it, yes, sir.

24 Q. Yesterday, did you tell me you took it

25 all?

Sandra M. Halsey, CSR, Official Court Reporter

1936

1 A. I don't remember.

2 Q. Don't you remember I was asking you, I

3 said, "What did you do?" And you said, first you said,

4 "I picked it up. I went straight to my car with it."

5 A. Yes, sir.

6 Q. And then I showed you this photograph,

7 25, and then you remembered that you had not gone

8 straight to your car, but that --

9 A. I photographed it.

10 Q. -- you had photographed it.

11 A. Yes, sir.

12 Q. You remember that?

13 A. Yes, sir.

14 Q. Okay. And now you are not sure

15 whether or not you picked all these up and took them to

16 your car or not?

17 A. I went through the papers, and the

18 papers that I felt like were pertinent, I collected.

19 Q. Okay. Well, for instance, some of

20 what you thought was pertinent is Defendant's Exhibit 21

21 and 20, right?

22 A. Yes, sir.

23 Q. You thought those were important?

24 A. Yes, sir.

25 Q. And tell the jury what 20 is.

Sandra M. Halsey, CSR, Official Court Reporter

1937

1 A. It's a Pet Rest Memorial Park Burial.
2 Q. Okay. And that is for the burial of
3 a -- of a cat, is it?
4 A. Yes, sir.
5 Q. In August of 19 -- August 1st of 1995?
6 A. Yes, sir.
7 Q. And you thought that that was
8 important and that you should collect it?
9 A. Yes, sir.
10 Q. Did you also collect a receipt? What
11 is that receipt for? Exhibit -- what is the blue Exhibit
12 No. on there?
13 A. No. 21.
14 Q. Right.
15 A. It's a bronze and granite headstone,
16 it looks like.
17 Q. Headstone?
18 A. I guess.
19 Q. For a cat?
20 A. Yes, sir.
21 Q. In July of 95?
22 A. Yes, sir.
23 Q. And you thought that was important
24 evidence?
25 A. Yes, sir.
Sandra M. Halsey, CSR, Official Court Reporter
1938

1 Q. Okay. And so you collected it?
2 A. Yes, sir.
3 Q. Now, this is at -- is this the same
4 time that you are making the decision that the bloody
5 towel by Devon is not important?
6 A. No, this was later on in the day, sir.
7 Q. This is after you have already decided
8 the towel is not important, you decide that the cat
9 burial is important?
10 A. Yes, sir.
11 Q. Okay.
12
13 MR. RICHARD C. MOSTY: We're going to
14 offer No. 33 and I marked one in there as 34.
15 THE COURT: Okay.
16 MR. GREG DAVIS: No objection.
17 THE COURT: Defendant's Exhibits 33
18 and 34 are admitted.
19
20 (Whereupon, the above
21 mentioned items were
22 received in evidence

23 as Defendant's Nos.
24 33 & 34 for all purposes
25 after which time,
Sandra M. Halsey, CSR, Official Court Reporter
1939

1 the proceedings were
2 resumed on the record,
3 as follows:)
4
5 BY MR. RICHARD C. MOSTY:
6 Q. Okay. Now, 33, and I'm not going to
7 belabor all of this stuff, but I want to point out a few
8 things.
9 All of the things that I am holding in
10 my hand on 33, those are things that you thought were
11 important to this investigation?
12 A. Yes, sir.
13 Q. And these are all of the things that
14 you collected?
15 A. Yes, sir.
16 Q. Let me show you, for instance, Exhibit
17 34. What is Exhibit 34?
18 A. It's an attorney at law addressing to
19 the Routiers.
20 Q. What is it dated?
21 A. October 5th, '95.
22 Q. Okay. Do you have a will?
23
24 MR. GREG DAVIS: Objection. It's
25 irrelevant what this witness has.
Sandra M. Halsey, CSR, Official Court Reporter
1940

1 MR. RICHARD C. MOSTY: I'll get
2 somewhere with it.
3 MR. GREG DAVIS: I'm going to object
4 again. It's irrelevant whatever he has.
5 THE COURT: I'll sustain the
6 objection. Right now, I'll sustain that objection.
7
8 BY MR. RICHARD MOSTY:
9 Q. This is a letter from a lawyer to the
10 Routiers on October 5th, 1995?
11 A. Yes, sir.
12 Q. Why don't you read it to the jury.
13 A. "Dear Mr. and Mrs. Routier, I am sorry
14 we were unable to get together recently to discuss your
15 estate plan. Enclosed is a brochure giving you an idea
16 of my areas of practice, and a map for your convenience

17 in finding my office. If you will call my office, so we
18 can reschedule you for a convenient time for you to come
19 in for a no-charge office conference, to discuss this
20 matter. I understand you are expecting a new arrival. I
21 hope everything goes well. Awaiting your call, I am very
22 truly yours, Charles Hirsch."

23 Q. Okay. And, that is a lawyer who wrote
24 them a letter about an appointment they couldn't make?

25 A. Yes, sir.

Sandra M. Halsey, CSR, Official Court Reporter
1941

1 Q. Okay. And, let me ask you, there are
2 a lot -- there are a bunch of notes in here that were
3 introduced yesterday about, what I would call, like a
4 note about something that someone wanted in a will?

5 A. Yes, sir.

6 Q. Does it appear to you that those
7 notes, about what I would like in my will, go with
8 Exhibit 34?

9

10 MR. GREG DAVIS: Objection, it calls
11 for speculation on the part of this witness.

12 THE COURT: I'll sustain that
13 objection.

14 MR. RICHARD C. MOSTY: Okay.

15

16 BY MR. RICHARD C. MOSTY:

17 Q. Were they found in the same file?

18 A. In the same area, yes.

19 Q. In the same file?

20 A. Yes, sir.

21 Q. The notes about the will were found in
22 the same file from the letter from the lawyer?

23 A. Yes, sir.

24 Q. Did you collect that file? Did it say
25 will or something on the outside of that file?

Sandra M. Halsey, CSR, Official Court Reporter
1942

1 A. I don't recall. I know I recovered --
2 or recovered some birth certificates in that area.

3 Q. Okay. Were of all the birth
4 certificates in one file?

5 A. I believe so.

6 Q. Okay. Was the marriage license in a
7 file?

8 A. I don't remember which file, but yes,
9 it was in that area.

10 Q. Okay. And, the birth certificates and

11 licenses, this green folder marked 33, is that where the
12 birth certificates and the licenses were?

13 A. Yes, sir.

14 Q. Is that where the Social Security
15 cards were?

16 A. I don't recall.

17 Q. Is that where these hospital records
18 were?

19 A. To be honest with you, I don't recall.

20 They were laying out.

21 Q. Was there a separate one that talked
22 about health, shots, children's shots?

23 A. I don't recall that.

24 Q. You don't recall a file like that?

25 A. No, sir.

Sandra M. Halsey, CSR, Official Court Reporter
1943

1 Q. All right. Let's go on to some of
2 this other stuff that you chose to collect.

3

4 MR. RICHARD C. MOSTY: May I set this
5 here?

6 THE COURT: You may indeed. That will
7 be fine.

8

9 BY MR. RICHARD MOSTY:

10 Q. Let me hand you a stack of items that
11 you collected that day. Can you see them all right?

12 A. Yes, sir.

13 Q. Okay. One is -- I didn't mean to pick
14 that up, but that is a card for an optometrist?

15 A. Yes, sir.

16 Q. Okay. And what are all of these other
17 things?

18 A. Just clippings.

19 Q. Of, of --

20 A. Magazines.

21 Q. -- of furniture, of pillows, shades,
22 of rugs. Is that what they are?

23 A. Yes, sir.

24 Q. And this is of shower curtains?

25 A. Yes, sir.

Sandra M. Halsey, CSR, Official Court Reporter
1944

1 Q. Of drapes? And this was some of the
2 evidence that you thought was important enough to
3 collect?

4 A. No, sir. It was just in the file and

5 it went along with the file. I didn't collect it just
6 because it was -- that was clippings.
7 Q. Did you pick -- so you didn't go
8 through it to decide what was important?
9 A. I went through a lot of it, yes. But
10 whatever was in the file, no, I didn't.
11 Q. Okay.
12 A. It went along with the file.
13 Q. Well, did you pick up every piece of
14 paper there or not?
15 A. I went through a lot of paper there,
16 yes, sir.
17 Q. Did you leave some?
18 A. Yes, sir.
19 Q. And you chose to keep some?
20 A. Yes, sir.
21 Q. I see a number of cards in here of --
22 here is a card of -- what is that? Ted R. Quick, some
23 kind of furniture?
24 A. Collectables, yes, sir.
25 Q. Charles Hirsh, that is the lawyer who
Sandra M. Halsey, CSR, Official Court Reporter
1945

1 talks about the estate plan?

2 A. Yes, sir.

3 Q. In Exhibit 34?

4 A. Same name.

5 Q. Okay. For instance, were the doctors'
6 cards in the same file with some of these records, some
7 of the medical records, immunization records?

8 A. I don't recall if it was in the same
9 folder.

10 Q. Do you remember brochures about going
11 on trips?

12 A. Yes, sir.

13 Q. What file were they in?

14 A. I'm not for sure. I just went through
15 different files.

16 Q. Why didn't you take an inventory of
17 what these items were with the list, so we would know
18 what you took and what you didn't take?

19 A. Because I just took a -- I wrote on
20 the evidence tag what the bag was, and that was my list.

21 Q. Did you type up a list of the items
22 taken?

23 A. Yes, sir.

24 Q. An evidence report?

25 A. Yes, sir.

Sandra M. Halsey, CSR, Official Court Reporter

1946

1 Q. Let me hand you a 6 page document, and

2 ask you if that is your evidence report?

3 A. Yes, sir.

4 Q. Can you identify on there where you

5 described all of these papers you picked up?

6 A. Yes, sir. Right here, sir, No. 69.

7 Q. No. 69?

8 A. Yes, sir.

9 Q. And your reference there is: Birth

10 certificates, steno pads, papers, insurance policies of

11 Darin and Darlie Routier?

12 A. Yes, sir.

13 Q. So you listed three things out of all

14 that you collected?

15 A. Yes, sir.

16 Q. So there is no way to verify what went

17 in that bag and what was kept out of that bag, is there?

18 A. No, sir. I can verify what I put in

19 there.

20 Q. As this, or as this?

21 A. As that.

22 Q. Where are the other green folders

23 then?

24 A. I collected just that one.

25 Q. You now know that you collected just

Sandra M. Halsey, CSR, Official Court Reporter

1947

1 this one?

2 A. Yes, sir.

3 Q. You chose that one and left the

4 others?

5 A. Yes, sir.

6 Q. What about the papers in the others?

7 Did you put it in that one?

8 A. Papers that I collected, yes, sir.

9 Q. You took them out of the green folder

10 and put them in your evidence bag?

11 A. Yes, sir, in the sack.

12 Q. So, there is no way to go back and

13 reconstruct whether the life insurance policies were in

14 an insurance file, whether the birth certificates were in

15 a certificate file, whether the medical records were in a

16 medical records file. We can't do that now, can we?

17 A. No, sir, we're not at the scene.

18 Q. Now, while you are making this

19 process, or you're going through this decision-making

20 process, what went through your mind about that bloody

21 rag, about why not to collect it?
22 A. Which bloody rag, sir?
23 Q. The bloody rag in the middle of the
24 floor that you didn't collect.
25 A. I just didn't collect it, sir.
Sandra M. Halsey, CSR, Official Court Reporter
1948

1 Q. Well, I know that. But my question
2 is: What was your thought process on June 6th when you
3 said, "I'm not going to collect that." What was your
4 thought process?
5 A. I'm not for sure. I don't recall.
6 Q. Aren't you taught at the academy to
7 inventory items, for instance, that are in a file?
8 A. No, sir.
9 Q. You are not taught to do that?
10 A. I was not, no.
11 Q. So you just picked up this big stack,
12 you put it in a paper sack, and you labeled it as,
13 insurance policies, IDs, et cetera?
14
15 MR. GREG DAVIS: Objection. That is
16 repetitious. It's been gone into two or three times.
17 THE COURT: Sustained.
18
19 (Whereupon, the following
20 mentioned item was
21 marked for
22 identification only
23 as Defense Exhibit No. 35,
24 after which time the
25 proceedings were
Sandra M. Halsey, CSR, Official Court Reporter
1949

1 resumed on the record
2 in open court, as
3 follows:)
4
5 BY MR. RICHARD MOSTY:
6 Q. Let me show you a document here. Is
7 this the actual evidence tag?
8 A. Yes, sir, it is.
9 Q. And that went on the bag?
10 A. Yes, sir.
11 Q. Stapled on the bag?
12 A. Yes, sir.
13 Q. And what is the description you put on
14 there?

15 A. Birth certificates, life insurance
16 policies, steno pad with writing, papers.
17
18 MR. RICHARD C. MOSTY: I'm going to
19 mark this as 35 and offer it, your Honor.
20 MR. GREG DAVIS: No objection.
21 THE COURT: Defendant's Exhibit 35 is
22 admitted.
23
24 (Whereupon, the item
25 Heretofore mentioned
Sandra M. Halsey, CSR, Official Court Reporter
1950

1 Was received in evidence
2 As Defense Exhibit No. 35
3 For all purposes,
4 After which time, the
5 Proceedings were resumed
6 As follows:)
7
8 BY MR. RICHARD MOSTY:
9 Q. Exhibit 35 is in your handwriting?
10 A. Yes, sir.
11 Q. Okay.
12 MR. RICHARD MOSTY: May I --
13
14 (Whereupon, the following
15 mentioned item was
16 marked for
17 identification only
18 after which time the
19 proceedings were
20 resumed on the record
21 in open court, as
22 follows:)
23
24 BY MR. RICHARD MOSTY:
25 Q. Let me show you, Exhibit Number --
Sandra M. Halsey, CSR, Official Court Reporter
1951

1 Defendant's Exhibit 36. Is that something you can
2 identify?
3 A. Yes, sir.
4 Q. Okay. And does that depict the
5 Routier home, or a portion of it, the couch?
6 A. Yes, sir.
7
8 MR. RICHARD C. MOSTY: We will offer

9 36.

10 MR. GREG DAVIS: No objection.

11 THE COURT: Defendant's Exhibit 36 is

12 admitted.

13

14 (Whereupon, the item

15 Heretofore mentioned

16 Was received in evidence

17 As Defense Exhibit No. 36

18 For all purposes,

19 After which time, the

20 Proceedings were resumed

21 As follows:)

22

23 BY MR. RICHARD C. MOSTY:

24 Q. And Exhibit 36, is it taken on the

25 8th? Is that the date stamped on it?

Sandra M. Halsey, CSR, Official Court Reporter

1952

1 A. Yes, sir.

2 Q. And is that pillow that is shown

3 there, do you know if that is the same pillow that you

4 took the pictures of the -- in -- that you took the file

5 folder pictures on on 25? Is that the same pillow?

6 A. It could be.

7 Q. Okay. Now, I just noticed this, at

8 150, in that one, the pillow's on the floor, right?

9 A. That is on the floor.

10 Q. Okay. And in 24, the pillow is on the

11 floor. Right?

12 A. Yes, sir. The pillow is on the floor.

13 Q. And on 25 the pillow is up on the

14 couch.

15 A. A pillow is on the couch, yes, sir.

16 Q. Okay. And, you have already told us

17 that you photographed the green files on top of this

18 pillow.

19 A. Yes, sir.

20 Q. So, did you pick up the pillow off the

21 floor and put it on the couch and then pick up the green

22 things and put it on the pillow?

23 A. No, sir.

24 Q. You did not do that?

25 A. No, sir.

Sandra M. Halsey, CSR, Official Court Reporter

1953

1 Q. Who did?

2 A. I don't know.

3 Q. Well, in 24 and 25, the lamp shade is
4 still, -- the lamp shade is shown, is it not?
5 A. Yes, sir.
6 Q. And it is up on the couch?
7 A. Yes, sir.
8 Q. Okay. And in Exhibit 150, it's not on
9 the couch?
10 A. No, sir.
11 Q. And we know that the latest one is 25?
12 A. Yes, sir.
13 Q. Okay. So, we have got one photograph,
14 150 -- let me see what the order is -- is, 150 comes
15 before 25, correct, showing you those?
16 A. Yes, sir.
17 Q. Okay. And Number 24 fits in there
18 where?
19 A. Where is 24?
20 Q. This is 24, is the top one. It must
21 be -- the pillow is still on the floor.
22 A. Yes, sir.
23 Q. And the files are still over there?
24 A. Yes, sir.
25 Q. So do these -- does that one fit in
Sandra M. Halsey, CSR, Official Court Reporter
1954

1 between these?
2 A. I don't recall, to be honest with you.
3 Q. You can't tell?
4 A. No, sir.
5 Q. Okay. Now, let me get one other --
6 the photograph of -- the first photograph that you
7 identified is the earliest, I think that is 19, the lamp
8 shade is up on the couch?
9 A. Yes, sir.
10 Q. From these photographs, does it appear
11 that the lamp shade is up on the couch, the lamp shade is
12 down on the floor, and then the lamp shade is back up on
13 the couch?
14 A. There are photos where they are down
15 and up, yes, sir.
16 Q. Up, down, back up?
17 A. The way you have got them, yes, sir.
18 The way you have got the pictures, since you are sorting
19 them.
20 Q. Well, I don't -- I'm just trying to
21 sort them according to how you tell me to. If you can.
22 We know that 25 is last, don't we?
23 A. Yes, sir.
24 Q. Okay. And we know that 150 is not at

25 the first.
Sandra M. Halsey, CSR, Official Court Reporter
1955

1 A. Yes, sir.

2 Q. 24, can you tell me where in the
3 sequence that goes? It's different than 150, isn't it?

4 A. Yes, sir, this is before this one
5 here.

6 Q. Okay. So, you are comfortable with
7 this order right here. Am I right?

8 A. Yes, sir.

9 Q. Okay. So, 24 is first?

10 A. Yes, sir.

11 Q. Now, let me leave them here, so that I
12 get them right. Twenty-four is first, and the lamp shade
13 is up on the couch. Correct?

14 A. It was possibly knocked over or moved
15 when I was moving the papers.

16 Q. Okay. You possibly knocked it over?

17 No. 150, the lamp shade is back, that's the second in the
18 sequence, the lamp shade is on the floor?

19 A. Yes, sir, it is.

20 Q. Okay. And the last one is 25. And

21 the lamp shade is back up on the couch. That is this
22 thing on the far right, that is the lamp shade?

23 A. Here's the tassels, yes, sir.

24 Q. So, if you knocked it over, then, I
25 guess, you picked it back up and put it back on the
Sandra M. Halsey, CSR, Official Court Reporter

1956

1 couch?

2 A. It was inspected during the day, and
3 it could have been inspected, sir.

4 Q. Okay. So somebody picked it --
5 somebody knocked it down, and somebody picked it back up
6 and put it on the couch?

7 A. Possibly, inspected, yes, sir.

8 Q. Okay. And we're not sure what that
9 sequence is, are we?

10 A. No, sir.

11 Q. Okay. This photograph dated -- No. 36
12 dated 6-8.

13 A. Yes, sir.

14 Q. Does it still appear to have some
15 files or papers there on the couch?

16 A. Yes, sir, there's some on the couch.

17 Q. Those are ones you didn't collect?

18 A. That's correct.
19 Q. And they were not on -- they were not
20 at that location on the 25th on the Exhibit 25?
21 A. They are not there, yes, sir.
22 Q. Okay. So I take it from that that
23 they are in the green folder when 25 is taken, or in
24 those green stacks?
25 A. It could be, yes, sir.
Sandra M. Halsey, CSR, Official Court Reporter
1957

1 Q. Okay. And two days later, they are
2 sitting on the couch, some of them?
3 A. Some of them.
4 Q. Did you have any explanation about how
5 some of the documents that you didn't collect get picked
6 up and put back on the couch?
7
8 MR. GREG DAVIS: I'm going to object
9 to that. That calls for speculation. He wasn't there on
10 the 8th.
11 THE COURT: Sustain the objection.
12
13 BY MR. RICHARD C. MOSTY:
14 Q. Do you know?
15
16 MR. GREG DAVIS: I'm going to object.
17 He said he was not there on the 8th.
18 THE COURT: Well, if he knows from his
19 own knowledge, I'll let him answer. Do you know from
20 your own knowledge?
21 THE WITNESS: No, sir.
22 THE COURT: Next question.
23 MR. RICHARD C. MOSTY: Mark this
24 please, Defendant's Exhibits Nos. 37, 38, and 39 and 40.
25
Sandra M. Halsey, CSR, Official Court Reporter
1958

1 (Whereupon, the following
2 mentioned item was
3 marked for
4 identification only
5 after which time the
6 proceedings were
7 resumed on the record
8 in open court, as
9 follows:)
10
11 THE COURT: Mr. Mosty, while you are

12 doing that, let's take a 10 minute break.
13
14 (Whereupon, a short
15 Recess was taken,
16 After which time,
17 The proceedings were
18 Resumed on the record,
19 In the presence and
20 Hearing of the defendant
21 And the jury, as follows:)
22
23 THE COURT: All right. Are both sides
24 ready to bring the jury back in and resume?
25 MR. GREG DAVIS: Yes, sir, the State
Sandra M. Halsey, CSR, Official Court Reporter
1959

1 is ready.
2 MR. RICHARD C. MOSTY: Yes, sir, we're
3 ready now.
4 THE COURT: All right. Bring the jury
5 back.
6
7 (Whereupon, the jury
8 Was returned to the
9 Courtroom, and the
10 Proceedings were
11 Resumed on the record,
12 In open court, in the
13 Presence and hearing
14 Of the defendant,
15 As follows:)
16
17 THE COURT: Let the record reflect
18 that all parties in the trial are present and the jury is
19 seated.
20 Mr. Mosty.
21
22
23
24
25
Sandra M. Halsey, CSR, Official Court Reporter
1960

1 CROSS EXAMINATION (Resumed)
2
3 BY MR. RICHARD MOSTY:
4 Q. You were in charge of the property
5 list; is that my understanding?

6 A. Yes, sir.
7 Q. And from that, you do not know if this
8 white rag that you didn't collect was ever collected?
9 A. With all of the evidence, I'm not for
10 sure, sir.
11 Q. Okay. Let me just cover a couple more
12 things.
13 Let me show you State's (sic) Exhibits
14 37 and 38, and ask you if they accurately depict the
15 scene at the Routier home?
16 A. Yes, sir.
17
18 MR. RICHARD C. MOSTY: We will offer
19 37 and 38.
20 MR. GREG DAVIS: We would like to take
21 the witness on voir dire, your Honor.
22 THE COURT: You may.
23
24
25
Sandra M. Halsey, CSR, Official Court Reporter
1961

1 VOIR DIRE EXAMINATION

2
3 BY MR. GREG DAVIS:
4 Q. Officer Mayne, let me ask you to look
5 at Defendant's Exhibit No. 38. Does it have a date stamp
6 on it, sir?
7 A. Yes, sir, it does.
8 Q. Can you see it there? Is it real
9 faint down there?
10 A. Yes, it is.
11 Q. This is one of the photographs that
12 you took on the 6th; is that right?
13 A. Yes, sir.
14 Q. Okay.
15
16 MR. GREG DAVIS: No objections to
17 Defendant's Exhibits 37 and 38.
18 THE COURT: Defendant's Exhibits 37
19 and 38 are admitted.
20
21 (Whereupon, the items
22 Heretofore mentioned
23 Were received in evidence
24 As Defense Exhibit No.
25 37 & 38 for all purposes,
Sandra M. Halsey, CSR, Official Court Reporter
1962

1 After which time, the
2 Proceedings were resumed
3 As follows:)

4
5

6 CROSS EXAMINATION (Resumed)

7

8 BY MR. RICHARD MOSTY:

9 Q. The one you were just talking about
10 with Mr. Davis was 38? That has the faint date stamp on
11 it?

12 A. Yes, sir.

13 Q. Is that right? Okay. That was taken
14 on the 6th?

15 A. It appears so, yes, sir.

16 Q. Okay. And it was taken after you had
17 removed the towels?

18 A. Yes, sir.

19 Q. The towels are gone by this time?

20 A. Yes, sir.

21 Q. And in fact, the runner has moved,
22 hasn't it?

23 A. Yes, sir.

24 Q. And how did that runner move?

25 A. I'm not for sure, sir.

Sandra M. Halsey, CSR, Official Court Reporter
1963

1 Q. In the earlier photographs it's
2 wrinkled up, is it not?

3 A. Yes, sir, it was.

4 Q. And in this photograph on 38, by this
5 time it's been moved, and it's actually -- it's no longer
6 wrinkled up, it's sort of straightened out?

7 A. Yes, sir.

8 Q. But it's laying up against the wall?

9 A. Yes, sir.

10 Q. It has blood on it, doesn't it?

11 A. Yes, sir, it does.

12 Q. You didn't move it, I guess?

13 A. No, sir.

14 Q. Okay. Well, here is 29, shows them
15 for comparison purposes. Number 29, the lower one, has
16 several things in it, does it not?

17 A. Yes, sir.

18 Q. It has the towels, it also has this
19 rug back there, doesn't it?

20 A. Yes, sir.

21 Q. And by 28, some of that evidence has
22 been collected?

23 A. Yes, sir, it has.

24 Q. Did you collect that rug?

25 A. No, sir.

Sandra M. Halsey, CSR, Official Court Reporter
1964

1 Q. Who did?

2 A. I'm not for sure, sir.

3 Q. Was it collected?

4 A. I'm not for sure, sir.

5 Q. Okay. Do you know where it was moved

6 to?

7 A. No, sir.

8 Q. Okay. Also, looking at 29, do you see

9 some green stains there, or some staining next to that

10 rug?

11 A. Yes, sir.

12 Q. Okay. Staining on the carpet?

13 A. Yes, sir.

14 Q. Now, when you took this photograph,

15 there had not been any testing done, had there?

16 A. No, sir.

17 Q. There had been no luminal testing or

18 any kind of chemicals put on that --

19 A. No, sir.

20 Q. -- rug that would discolor it?

21 A. No, sir.

22 Q. It was that color when you went in the

23 house?

24 A. Yes, sir.

25 Q. That discoloration? Now, Exhibit 37,

Sandra M. Halsey, CSR, Official Court Reporter

1965

1 does that depict the wine glass?

2 A. Yes, sir.

3 Q. The broken part?

4 A. Yes, sir.

5 Q. And does it show the whole stem?

6 A. Yes, sir.

7 Q. Is the base still on it?

8 A. You mean the bottom base?

9 Q. Yes, the flat part.

10 A. Let me see. No, sir.

11 Q. Okay. It's the stem and part of the

12 bowl?

13 A. Yes, sir.

14 Q. And, this, again, is a piece of

15 evidence that you chose not to collect?

16 A. That's correct.

17 Q. If someone were to pick up that and
18 leave prints on it, where would they most likely leave
19 prints?
20 A. On part of the glass.
21 Q. At the bottom of the bowl maybe?
22 A. I'm not for sure. I don't know how
23 they picked it up.
24 Q. Okay.
25 A. So, I wouldn't -- I mean, they could
Sandra M. Halsey, CSR, Official Court Reporter
1966

1 leave it on any part of the glass.
2 Q. Well, I'm just talking about as an
3 officer, would you suspect that perhaps one of the places
4 might be at the bottom where the stem joins the bowl?
5 A. It could have been.
6 Q. And you made the conscious decision,
7 it was not necessary to pick that up?
8 A. That's correct.
9 Q. Can you give any idea of how many --
10 well, that wouldn't be a fair question. I'm not going to
11 ask that. When you were -- you were moving around the
12 kitchen to photograph it?
13 A. Yes, sir.
14 Q. And you went around different places?
15 A. Yes, sir.
16 Q. When you say -- and as you went in the
17 living room, did you see evidence of foot traffic?
18 A. Of the foot traffic?
19 Q. Yes. The first time you went in, did
20 you see evidence of foot traffic?
21 A. No, sir.
22 Q. None?
23 A. None.
24 Q. You never saw that footprint behind
25 the couch?
Sandra M. Halsey, CSR, Official Court Reporter
1967

1 A. Now, you said going in, yes, I saw one
2 behind the couch.
3 Q. Okay. That was later?
4 A. Yes.
5 Q. Okay. When you first went in and you
6 saw where Damon had been, did you see any evidence of
7 foot traffic?
8 A. Walking in first to the family room?
9 Q. Yes, walking -- the first time in.
10 Now, you told me earlier you all walked in, you went

11 single file around the blood. That is during the
12 walk-through?

13 A. Yes, sir.

14 Q. Then you walked in and you take the
15 photographs?

16 A. That's correct.

17 Q. And you took some photographs right
18 there to the left, that is in State's Exhibit 11-A, it
19 looks like.

20 A. Yes, sir.

21 Q. That is a photograph to the left down
22 in this lower corner?

23 A. Yes, sir.

24 Q. That is a photograph of immediately to
25 the left as you walk past that entry hall?

Sandra M. Halsey, CSR, Official Court Reporter
1968

1 A. Yes, sir.

2 Q. Okay. Were you able to not get blood
3 on your feet when you went down that runner?

4 A. I'm not for sure, sir.

5 Q. Okay. When you turned and you looked
6 over there where Damon had been in this photograph 11,
7 did you see evidence of foot traffic down there?

8 A. I don't recall.

9 Q. You don't recall. Did you see
10 evidence of anything; any kind of activity going on at
11 that location?

12 A. Just blood.

13 Q. Okay. You saw no evidence of
14 paramedics being there and intervening?

15 A. No, sir. I was not there when they
16 were there.

17 Q. No, I'm talking about did you see
18 evidence in the blood, that somebody had been there and
19 doing something or walking through?

20 A. I think there was some gauze packages.

21 Q. But in the blood, you didn't see any
22 evidence --

23 A. No, sir.

24 Q. -- of that?

25 A. No, sir.

Sandra M. Halsey, CSR, Official Court Reporter
1969

1 Q. Okay. Did you find a blood track out
2 in the garage?

3 A. No, sir.

4 Q. Did you look at the bottom of your

5 shoe?

6 A. At what point?

7 Q. As you were coming in or out, did you

8 check the bottom of your shoes?

9 A. No, sir.

10 Q. Did not?

11 A. No, sir.

12 Q. And no photographs were taken of that,

13 I'm sure?

14 A. Not of my shoes, no, sir.

15 Q. Okay. So you don't know whether or

16 not you had blood on your feet or glass on your feet

17 because you didn't look?

18 A. No, I didn't look.

19 Q. So, you don't know?

20 A. No, sir.

21 Q. How many times have you been over your

22 testimony?

23 A. Several.

24 Q. With whom? The district attorney?

25 How many times?

Sandra M. Halsey, CSR, Official Court Reporter

1970

1 A. Approximately four.

2 Q. Approximately four. When were they?

3 A. Approximately sometime late summer.

4 Q. Where was that?

5 A. That was at the district attorney's

6 office.

7 Q. Did you make any notes of that

8 meeting?

9 A. No, sir.

10 Q. Did you go back and look at your

11 reports for that meeting?

12 A. When?

13 Q. Before or after?

14 A. I looked over my notes that I had.

15 Q. Okay. Before the meeting?

16 A. Yes, sir.

17 Q. And the next meeting was when?

18 A. Sometime in October, in that area.

19 Q. At what location?

20 A. At the -- our police station.

21 Q. Did you have an opportunity to look

22 over your notes before that meeting?

23 A. No, sir.

24 Q. These meetings were with whom? Who

25 from the district attorney's office was there?

Sandra M. Halsey, CSR, Official Court Reporter
1971

1 A. Greg Davis.
2 Q. Only Greg Davis?
3 A. No, sir, there was more people there.
4 Q. He was --
5 A. I don't recall.
6 Q. He is the only one you remember?
7 A. Yes, sir.
8 Q. Okay. And the third meeting?
9 A. Now, is this just with the district
10 attorney's office?
11 Q. With anybody from the district
12 attorney's office.
13 A. I met -- the district attorney's
14 office at the -- sometime in November or December.
15 Q. And where was that?
16 A. At the district attorney's office.
17 Q. And, who was there for that meeting?
18 A. Greg Davis, and there were several
19 other people.
20 Q. From the district attorney's office?
21 A. That's correct.
22 Q. Okay. Do you remember any of them?
23 A. Yes, sir. I don't know their names,
24 but I know their faces.
25 Q. And, that was the third meeting, that
Sandra M. Halsey, CSR, Official Court Reporter
1972

1 was in November?
2 A. Yes, sir.
3 Q. Down at the DA's office?
4 A. Yes, sir.
5 Q. And, the fourth meeting was when?
6 A. I don't recall. It was late or middle
7 winter, I guess, late fall. That was out at 5801 Eagle
8 Drive.
9 Q. Is that after the third meeting at the
10 DA's office or before?
11 A. I'm sorry?
12 Q. Is -- you told me that the third one
13 was in November at the DA's office.
14 A. November or December.
15 Q. And this is another one after that?
16 A. It could have been before or after. I
17 don't recall.
18 Q. Okay. And that is four. Any others?
19 A. Yes, sir.

20 Q. And how many others?

21 A. I have --

22 Q. Times where you have gone over your
23 testimony.

24 A. I mean, there's several other times by
25 myself that I went over my testimony. But with the
Sandra M. Halsey, CSR, Official Court Reporter
1973

1 district attorney's office it's been approximately four
2 times.

3 Q. What about since you have been down
4 here? How many times have you gone over your testimony
5 with the district attorney's office?

6 A. Couple of times.

7 Q. Okay. When were those?

8 A. That would have been last Sunday.

9 Q. Okay.

10 A. And last night.

11 Q. Okay. What about the night before
12 last, before you took the stand?

13 A. No, sir.

14 Q. Went over it last night?

15 A. Yes, sir.

16 Q. Your testimony? With who, Mr. Davis?

17 A. Yes, sir.

18 Q. About how long?

19 A. 30 or 45 minutes.

20 Q. So, if I understand, that was 6
21 meetings, about?

22 A. Yes, sir.

23 Q. Four in Dallas and two down here?

24 A. Yes, sir.

25 Q. The meeting last night, who all was
Sandra M. Halsey, CSR, Official Court Reporter
1974

1 there?

2 A. Greg Davis, and one of the other DA's
3 here.

4 Q. Mr. Shook?

5 A. No, sir.

6 Q. Not -- wasn't Mr. Shook or Ms.
7 Wallace?

8 A. It was Sherri Wallace.

9 Q. And just the three of y'all?

10 A. Yes, sir.

11 Q. Well, last Sunday when you went over
12 your testimony, how many people were there?

13 A. A couple. It was Miss Wallace and

14 Greg Davis.
15 Q. Who else?
16 A. That's it.
17 Q. Nobody else from Rowlett PD?
18 A. No, sir.
19 Q. What about the meeting in November or
20 December down at the DA's office, who was there?
21 A. There were several other officers.
22 Q. Several meaning three?
23 A. No, more.
24 Q. More than that?
25 A. Yes, sir.
Sandra M. Halsey, CSR, Official Court Reporter
1975

1 Q. Well, all of the officers who have
2 testified down here, that you have seen down here this
3 week, were all of them down there?
4 A. Yes, sir.
5 Q. And y'all were all in the room
6 together?
7 A. Yes, sir.
8 Q. Courtroom?
9 A. Yes, sir.
10 Q. Okay. And, who -- did somebody play
11 my role as the defense attorney, question you?
12 A. There was people questioning me, yes,
13 sir.
14 Q. They were cross examining you?
15 A. Yes, sir.
16 Q. And you went over all this stuff that
17 I have gone over, you went over that in great detail at
18 that meeting, didn't you?
19 A. Well, they went over some items.
20 Q. I take it there's some items I have
21 covered that they didn't?
22 A. I don't think so. I don't recall.
23 Q. You don't think so. So all of this
24 stuff, you have been over it, every bit of it, before?
25 Back in December and November, right?
Sandra M. Halsey, CSR, Official Court Reporter
1976

1 A. Most of it, yes, sir.
2 Q. And you went over most of it in the
3 presence of all those other officers, right?
4 A. Yes, sir.
5 MR. RICHARD MOSTY: That's all I have.
6 MR. GREG DAVIS: No further questions.

7 THE COURT: All right. You may step
8 down. Your next witness.