

## Testimony of Robert Poole

DIRECT EXAMINATION

11

12 BY MS. SHERRI WALLACE:

13 Q. How are you employed, Mr. Poole?

14 A. I'm employed by the Institute of

15 Forensic Sciences in Dallas, also known as the Dallas

16 County Crime Laboratory.

17 Q. What I think the jurors have heard it

18 referred to is SWIFS?

19 A. Yes, ma'am. That's correct.

20 Q. You work in the crime lab portion of

21 that building?

22 A. I do, ma'am, yes.

23 Q. What job title do you have?

24 A. I am a firearm and tool mark examiner.

25 Q. What is your educational background

Sandra M. Halsey, CSR, Official Court Reporter

3093

1 and experience that qualifies you to hold that position?

2 A. I have a Masters Degree from Boston

3 University, but my technical training came as a result of

4 my active duty service in the U.S. Army.

5 In 1975, when I was on active duty I

6 was selected for and subsequently went to the U.S. Army

7 Crime Laboratory System, where I was enrolled in a

8 two-year course in firearm and tool mark identification.

9 I completed that formal training in

10 1977. And I was then, at that time, certified by the

11 Department of the Army as a firearm and tool mark

12 examiner.

13 And I did that work almost exclusively

14 until I retired from active duty in 1992 to accept the

15 position that was offered to me in Dallas.

16 Q. And so, you have been doing this work

17 for about 20 years; is that about right?

18 A. Yes, ma'am, a little over 20 years.

19 Q. Have you been published and have you

20 taught as well on this subject?

21 A. I have.

22 Q. Okay. If you would, tell the members

23 of the jury what a tool mark is.

24 A. A tool mark is really, in a forensic

25 sense, that is in doing the kind of work that I do, is

Sandra M. Halsey, CSR, Official Court Reporter

3094

1 essentially two objects that come into contact with one  
2 another, and the harder of the two has the opportunity or  
3 the ability to leave its characteristics on the softer of  
4 the two.  
5 And tool marks can include a variety  
6 of things and substances. For example, common tools that  
7 you and I know, might include screwdrivers, bolt cutters,  
8 wire cutters, pliers, those kinds of things are  
9 traditional tools that are used in burglary  
10 investigations and those are the kinds of things that I  
11 would commonly come in contact with, and do tool mark  
12 analysis.  
13 But a tool can be essentially anything  
14 that is harder than the object on which it is acting, and  
15 then leaves its marks on the softer of the two.  
16 Q. About how many tool marks have you  
17 examined, Mr. Poole?  
18 A. Over the course of my career, I have  
19 examined thousands of tools marks.  
20 Q. Let me ask you if you were asked to do  
21 that sort of testing in this type of case?  
22 A. Yes, I was.  
23 Q. I am going to show you what's been  
24 admitted into evidence as State's Exhibit 1-A. Outside  
25 the jury's presence, did I ask you to look at that  
Sandra M. Halsey, CSR, Official Court Reporter  
3095

1 picture?  
2 A. Yes, ma'am.  
3 Q. Could you step down, please. Were you  
4 given a portion of Devon Routier's chest plate to test?  
5 A. Yes, ma'am, I was.  
6 Q. On State's Exhibit 1-A, would you show  
7 the jury on this photograph what area you were given?  
8 A. The medical examiner's office  
9 submitted a portion of the chest plate that would have  
10 included these two major cut areas, and it was perhaps as  
11 much as three inches around those two marks, the chest  
12 plate itself, that was sent over to the laboratory.  
13 Q. So you were actually given the bone  
14 and the cartilage of that plate?  
15 A. Yes, ma'am.  
16 Q. Okay. Once you got that, what -- how  
17 do you go about testing markings on that chest plate?  
18 A. Well, the initial problem that I am  
19 faced with is being able to get to the markings, if, in  
20 fact, there are any there.  
21 So, what I have to do is, I have to

22 cut a plug out, actually cut out the section of rib, the  
23 section of cartilage that has the stab wound in it, in  
24 this case.

25 Once I have cut the plug, I am then  
Sandra M. Halsey, CSR, Official Court Reporter  
3096

1 interested in looking at and seeing if I can detect  
2 anything in the way of tool marks on the actual rib bone,  
3 on the cartilage that makes up the rib bone itself. And  
4 so, after having cut the plug, I then expose the portion  
5 of the -- of the rib where the instrument would have gone  
6 through. And I look at it microscopically to see if  
7 there is anything there.

8 Q. Did you find anything in the two holes  
9 in Devon Routier's chest plate?

10 A. I found significant tool marks in the  
11 lower of the two. The upper one, though it is damaged

12 and the damage is obvious, there were no tool markings  
13 there that I could use to identify the instrument that  
14 might have done it.

15 Q. Mr. Poole, when you realized in the  
16 lower hole that you had sufficient tool marks to do some  
17 analysis, were you also given some weapons, some tools?

18 A. I was.

19 Q. Let me show you what has been admitted  
20 into evidence as the Guzman -- the knives found around

21 the Guzman home, Nos. 21 and 22. And ask you if you  
22 received those?

23 A. Yes, ma'am, I did.

24 Q. Did you examine those knives to  
25 determine if they made the wound in Devon Routier?

Sandra M. Halsey, CSR, Official Court Reporter  
3097

1 A. Yes, ma'am, I did.

2 Q. And what was your conclusion?

3 A. That these knives can be excluded,  
4 that is, that these knives did not make at least one of  
5 the cuts in the chest plate of the young -- of Devon.

6 Q. So those knives did not cause that  
7 hole. Is that what you are telling us?

8 A. That's correct.

9 Q. Now State's Exhibit 67. Were you also  
10 asked to examine the weapon found in the Routier kitchen?

11 A. I was.

12 Q. And, did you have an opportunity to  
13 compare that as well to the breast plate, the hole in  
14 Devon Routier?

15 A. I did.

16 Q. What was your conclusion with that?

17 A. My conclusion was that the  
18 characteristics of the damage that was present on the  
19 cartilage, was similar to the test marks that I received  
20 in making stabs with this knife.

21 However, I was not able to  
22 conclusively determine that this was the knife that was  
23 used. But my opinion would be, that a knife with similar  
24 characteristics, specifically, a knife that would have  
25 perhaps smooth areas in between some serrations. That is  
Sandra M. Halsey, CSR, Official Court Reporter  
3098

1 the kind of instrument that was -- that would have been  
2 used, in my opinion.

3 Q. So, what you are saying is that these  
4 knives found in the Guzman home didn't do it, and that  
5 weapon No. 67 is the same class characteristics?

6

7 MR. DOUGLAS MULDER: Object to the  
8 leading.

9

10 BY MS. SHERRI WALLACE:

11 Q. Is that right?

12

13 MR. DOUGLAS MULDER: Object to the  
14 leading.

15 THE COURT: Overruled. Overruled.

16 Let's phrase our questions right.

17

18 BY MS. SHERRI WALLACE:

19 Q. Is that what you are saying?

20 A. That's correct.

21 Q. All right.

22

23 MS. SHERRI WALLACE: Pass the witness.

24

25

Sandra M. Halsey, CSR, Official Court Reporter  
3099

1 CROSS EXAMINATION

2

3 BY MR. DOUGLAS MULDER:

4 Q. Just a thing or two, Mr. Poole. You  
5 examined, I take it, both of those wounds, did you?

6 A. I did, sir, yes.

7 Q. Would we be safe in assuming that in  
8 the course of the thoroughness of your examination, you  
9 discussed those wounds with the autopsying physician?

10 A. I did not, sir.

11 Q. You did not?

12 A. No, sir.

13 Q. Okay. I was going to ask you then if

14 you had an opinion, within your field of expertise, as to  
15 whether or not the child was standing, sitting or lying  
16 down, at the time that those injuries were inflicted?

17

18 MS. SHERRI WALLACE: Your Honor, I'll  
19 object to that, he said that he didn't have the  
20 discussion.

21 THE COURT: Overruled. I'll let him  
22 answer if he knows.

23 THE WITNESS: I have no opinion as to  
24 the position of the victim at the time of the stabbing.

25

Sandra M. Halsey, CSR, Official Court Reporter  
3100

1 BY MR. DOUGLAS MULDER:

2 Q. Okay. Just out of curiosity, when  
3 were you asked to do this analysis?

4 A. My involvement was perhaps a week or  
5 maybe a week and a half before Christmas.

6 Q. In December?

7 A. Yes, sir, in December.

8 Q. Okay. And, if I understood you  
9 correctly, you were saying basically, that the lower  
10 wound, you can't tell whether it was made by that  
11 serrated-bladed knife or not?

12 A. My answer is with regard to this knife  
13 specifically, and the question being, Is this the knife  
14 that did it? My answer would be I don't know.

15 Q. So you can't tell us anything really?

16 A. I can't tell -- well, I know that it  
17 is a knife with characteristics like this knife, but I

18 cannot determine whether or not it is this knife or not.

19 Q. Could you tell whether or not both

20 punctures, both injuries, both stab wounds were made by  
21 the same instrument?

22 A. No, sir, because the upper wound  
23 didn't have any of those characteristics that I could use  
24 to discriminate the characteristics of the instrument

25 that was used.  
Sandra M. Halsey, CSR, Official Court Reporter  
3101

1 Q. Okay. I take it then, your answer is  
2 that the stab wounds as you examined them are consistent  
3 with being inflicted by separate, different weapons?  
4 A. No, sir. I'm not saying separate or  
5 different. The one has no characteristics that I could  
6 use to make any kind of judgment, other than it's there.

7 And the second one did have an abundance of markings that  
8 allowed me to identify the class or the style of the  
9 instrument that was used. But I cannot determine whether  
10 or not this was the specific instrument used.

11 Q. And you can't tell us whether these  
12 knives or knives like these could have been used to make  
13 the upper injury?

14 A. That's correct, sir. I don't have any  
15 idea about the instrument that was used to make that  
16 upper one.

17 Q. So, you are saying that these knives  
18 then could have been used to make the higher of the two  
19 injuries?

20 A. Those knives and any other instrument  
21 capable of penetrating.

22 Q. You know, I notice with interest  
23 that -- see if you notice this: You notice that these  
24 wounds are made at different angles?

25 A. Yes, sir.

Sandra M. Halsey, CSR, Official Court Reporter  
3102

1 Q. What does that -- does that tell you  
2 that the person inflicting the wound to make this one,  
3 and then if you were going to stab there you would have

4 to do that, so, to stab like that with a knife held like  
5 that, you would change your position or the body would

6 change its position or you could change the manner in  
7 which you were holding the knife?

8 A. Sir, there are a tremendous number of  
9 variables. First of all, in stabbing situations very  
10 seldom, it has been my experience, does the victim remain  
11 stationary.

12 Q. Well, that depends on the victim and  
13 it depends on the person inflicting the injuries; is that  
14 not correct?

15 A. There are a tremendous number of areas

16 that enter into the characteristics.

17 Q. I mean, you would expect different

18 injuries, perhaps if you and I were involved, you with  
19 that knife, and me with this knife, than you would if  
20 either of us were involved with a child?

21 A. Well, I think the circumstances would

22 dictate an awful lot of that, sir. Whether or not we

23 were both conscious, whether or not we would -- I mean,  
24 there's just a tremendous amount of variables that enter  
25 into what occurs during that kind of an incident.

Sandra M. Halsey, CSR, Official Court Reporter

3103

1 Q. I guess there isn't anything in your

2 vast range of experience that would permit you to

3 speculate as to how many assailants were involved in

4 these injuries?

5 A. No, sir, I wouldn't care to speculate.

6 Q. Did you examine the injuries to the

7 other child?

8 A. No, sir.

9 Q. You weren't asked to examine injuries

10 to the other child?

11 A. That's correct, sir.

12 Q. Okay. Who called you about this?

13 A. I was first brought into this aspect

14 by Mr. Linch, one of our trace evidence analysts.

15 Q. Okay.

16

17 MR. DOUGLAS MULDER: I believe that's

18 all. Thank you, Mr. Poole.

19

20

21

22

23

24

25

Sandra M. Halsey, CSR, Official Court Reporter

3104

1 REDIRECT EXAMINATION

2

3 BY MS. SHERRI WALLACE:

4 Q. Mr. Poole, that knife, is it still

5 there in front of you?

6 A. It's here on the side.

7 Q. State's Exhibit No. 67. Could that  
8 knife have caused both wounds to Devon Routier?

9 A. It could have.

10

11 THE COURT: Anything else? All right.

12 Thank you, sir. You are excused subject to recall. You

13 may return to Dallas.

14 THE WITNESS: Thank you.

15 THE COURT: All right. The next

16 witness.