

## Testimony of Tom Bevel (1)

DIRECT EXAMINATION

22

23 BY MR. GREG DAVIS:

24 Q. Mr. Bevel, would you please tell us

25 what your occupation is?

Sandra M. Halsey, CSR, Official Court Reporter

3223

1 A. Yes, sir. I'm the owner of TBI,

2 Forensic Education and Consulting.

3 Q. Okay. And what is TBI, Forensic

4 Consulting do?

5 A. About three-fourths of the work is

6 teaching, either basic or advanced 40-hour bloodstain

7 pattern analysis courses.

8 Then there is also a basic crime scene

9 reconstruction school that is 40 hours. And then simply

10 lectures. And approximately one-fourth of the work would

11 probably be case work, such as this.

12 Q. How long have you been the owner of

13 TBI?

14 A. Since 1979.

15 Q. Okay. Were you previously employed

16 with the Police Department?

17 A. Yes, sir. I retired May 1 of this

18 year from the Oklahoma City Police Department.

19 Q. Okay. And what rank did you hold at

20 the time of your retirement?

21 A. I was a captain at the time of

22 retirement. I was in charge of four units, which was

23 homicide, robbery, missing persons and major unsolved

24 cases.

25 Q. Okay. As a police officer, did you

Sandra M. Halsey, CSR, Official Court Reporter

3224

1 deal with technical investigations?

2 A. Yes, sir, I did. In fact, a great

3 amount of my time was actually assigned either in

4 technical investigation or the forensic lab. And would

5 have approximately 25 years experience in that area.

6 Q. All right. When we talk about

7 technical investigations, what are we talking about

8 there?

9 A. We're talking about the processing of

10 the crime scene, looking for evidence, the collection,

11 documentation, photography, measuring, sketching of any

12 of the physical evidence that might be related to a  
13 possible crime scene.

14 Q. All right. Do you have experience in  
15 fingerprint identification?

16 A. Yes, sir, I do.

17 Q. Do you have experience in bloodstain  
18 pattern analysis?

19 A. Yes, sir, I do.

20 Q. Do you also have experience in crime  
21 scene reconstruction?

22 A. Yes, sir, I do.

23 Q. Do you hold any certificates or  
24 degrees in those particular specialties, sir?

25 A. Yes, I do. I have a certificate for  
Sandra M. Halsey, CSR, Official Court Reporter  
3225

1 the 40-hour course in bloodstain pattern analysis.

2 Actually, I have two of them in the basic area. One of  
3 those was taught in Orlando, Florida, in conjunction with  
4 the Orlando, Florida, medical examiner's office, and the  
5 local police department.

6 And I have a 40-hour certificate,  
7 again, in bloodstain pattern analysis from the Laboratory  
8 of Forensic Science in Corning, New York. And then  
9 advanced studies again in bloodstain pattern from Elmira  
10 College in Elmira, New York.

11 Crime scene reconstruction was taught  
12 as a discipline at Hendon Police College, which is in  
13 London, England.

14 I attended a course there that was six  
15 weeks in duration on forensic science and a big portion  
16 of that was crime scene reconstruction, physical  
17 evidence.

18 A graduate of the Central U.S. Police  
19 Institute, again, a four-week course dealing specifically  
20 with physical evidence and also crime scene  
21 reconstruction, and again some others.

22 Q. Okay. Do you belong to any  
23 professional associations or societies?

24 A. Yes, sir. Member of the American  
25 Academy of Forensic Science; the Southwest Association of  
Sandra M. Halsey, CSR, Official Court Reporter  
3226

1 Forensic Scientists; was the charter president for both  
2 the Association of Crime Scene Reconstruction and for the  
3 International Association of Bloodstain Pattern Analysts.  
4 1981 was named Member for the British  
5 Academy of Forensic Science, and named also a Fellow for

6 the British Fingerprint Society. And again, some others.

7 Q. Have you taught courses in bloodstain

8 pattern analysis and crime scene reconstruction?

9 A. Yes, sir, I have.

10 Q. Okay. What type of classes have you

11 taught?

12 A. Well, they have been somewhat varied.

13 Some of them have been through colleges or universities.

14 Some of them have been through police agencies or

15 training academies. Of course, some of them are 40 hours

16 in duration, some of them are just simply a day or

17 two-day lectures, such as the National College of

18 District Attorneys, the Southern Police Institute, again,

19 various groups.

20 Q. Okay. Have you also taught courses in

21 foreign countries?

22 A. Yes, sir, I have.

23 Q. Okay. Have you had any articles

24 published in professional journals, Mr. Bevel?

25 A. Yes, I have had. Several articles

Sandra M. Halsey, CSR, Official Court Reporter

3227

1 have been published either on bloodstain pattern analysis

2 or crime scene reconstruction. They have appeared, for

3 example, in the Journal of Forensic Identification which

4 is a publication for the International Association for

5 Identification. For the Association of Crime Scene

6 Reconstruction newsletter.

7 Let's see, Southwest Association of

8 Forensic Sciences, I had some published there. And then

9 I have a book, a hardback book coming out with the CRC

10 Press, under the Forensic Science Series, is where it is

11 actually under. And the title of it is, Bloodstain

12 Pattern Analysis, with an Introduction to Crime Scene

13 Reconstruction. It will be out in May.

14 Q. Has the FBI ever referred cases to you

15 from other agencies?

16 A. Yes, sir. They have referred

17 approximately 11 or 12 cases from other agencies and then

18 I have worked on two cases that they were investigating

19 themselves.

20 Q. Have you ever had occasion to come

21 down to this part of Texas to work on any cases?

22 A. Yes, sir. A number of years ago, Camp

23 Verde, Texas, I worked a case there. Then, one for

24 Kerrville, and there is actually several different cases

25 in the general area.

1 Q. Okay. In the case in Kerrville, did  
2 you actually testify here?

3 A. Yes, sir.

4 Q. Mr. Bevel, in this case did I ask you  
5 to look at certain bloodstain patterns?

6 A. You did, sir.

7 Q. All right. And, do you recall when I  
8 first called you or contacted you about this case?

9 A. It was the 1st of September.

10 Q. All right. And before that time, had

11 you and I ever spoken to each other or met or worked on  
12 any cases together?

13 A. We have not.

14 Q. Okay. Prior to that time, had you

15 done any work for the Dallas County District Attorney's  
16 Office?

17 A. For the DA's Office, no, I have not.

18 Q. All right. After I spoke with you, at  
19 some point, did you come to my office in Dallas and meet  
20 with me?

21 A. Yes, sir, I did.

22 Q. Was that some time in September also?

23 A. I believe September 11th.

24 Q. All right. And at that time, did you  
25 have the opportunity to review certain pieces of  
Sandra M. Halsey, CSR, Official Court Reporter  
3229

1 evidence?

2 A. Yes, sir.

3 Q. Okay. For instance, did you have a  
4 chance at that point to look at the crime scene  
5 photographs?

6 A. That's correct.

7 Q. Did you also have a chance to look at  
8 the autopsy photographs regarding Devon and Damon  
9 Routier?

10 A. Yes, sir, I did.

11 Q. Did you look at a T-shirt, which in  
12 this case is State's Exhibit No. 25, a Victoria Secret  
13 nightshirt, did you look at that also?

14 A. Yes, sir.

15 Q. Did you have a chance to look at the  
16 carpet that came out of the family room at 5801 Eagle

17 Drive?

18 A. I have.

19 Q. In addition, did you have an  
20 opportunity to look at a vacuum cleaner that had been  
21 taken out of 5801 Eagle Drive?

22 A. Yes, sir, that's correct.

23 Q. Did you meet with me in my office up  
24 there at the courthouse?

25 A. Yes, sir.

Sandra M. Halsey, CSR, Official Court Reporter  
3230

1 Q. Did you also, during that trip, have  
2 an opportunity to go out to SWIFS to talk to the people  
3 out there?

4 A. Yes, sir.

5 Q. Did you also have the opportunity to  
6 go out to the Rowlett Police Department and view certain  
7 other evidence out there?

8 A. Yes, sir, I went out there.

9 Q. Now, during your trip in September,

10 did you have the opportunity to go inside the house there  
11 at 5801 Eagle Drive?

12 A. On my first trip, I did not. Access  
13 to the house was -- we didn't have permission, I guess.

14 Q. Okay. Did you have a chance to drive  
15 by the house?

16 A. I did drive by it, yes, sir.

17 Q. Now, after your trip to Dallas in  
18 September, did you come back to Dallas again?

19 A. Yes, sir.

20 Q. When did you come back?

21 A. I came back several times. I will  
22 have to get a sheet to give you the exact dates.

23 Q. Okay.

24 A. The first trip was September the 11th  
25 through the 12th. The next trip was September the 19th.

Sandra M. Halsey, CSR, Official Court Reporter  
3231

1 And then October 1st and 2nd, and then November the 26th.

2 Q. Okay. Did you ever have the  
3 opportunity to go into the house there at 5801 Eagle  
4 Drive during any of your trips?

5 A. Yes, sir, I did. And that was  
6 November the 26th.

7 Q. Mr. Bevel, I want to just kind of

8 start at the beginning here, and if you will, kind of  
9 teach me about bloodstain patterns. Are there different  
10 kinds of bloodstain patterns?

11 A. Yes, sir, there certainly are.

12 Q. What are the different kinds?

13 A. We generally, as a descriptive term,  
14 will break them down into three basic categories, which,  
15 referring to the velocity of the separation from whatever  
16 the blood source is and not how fast they are travelling  
17 in space.

18 The first category would be a low  
19 velocity. A low velocity would be, for example, if I had  
20 a cut on the end of my finger, as blood is accumulating  
21 down to the end of the finger, the molecule attraction  
22 and the surface tension of the blood droplet is actually  
23 trying to hold on, but, of course, gravity is trying to  
24 pull it downward.

25 And once it reaches a sufficient  
Sandra M. Halsey, CSR, Official Court Reporter  
3232

1 volume to where it is able to overcome the surface  
2 tension, then it will break away and it will simply fall  
3 straight downward. If it falls to, for example, the  
4 floor or if it would fall to the podium here, it would be  
5 basically round, once it gets done through the dynamics

6 of impacting and spreading out and ultimately settling.  
7 Now, if I had the same cut on my

8 finger and if I were to start swinging my hand, I am  
9 introducing additional force here other than just simply  
10 gravity.

11 And due to the centrifugal force and  
12 the movement of the blood pulling down to the end of the  
13 finger, it will break away and this blood droplet will be  
14 considerably smaller than what the low velocity blood  
15 droplet would be just simply due to gravitational  
16 separation.

17 The last category and a general  
18 descriptive term again is high velocity. High velocity,  
19 if I had my hand up and if it were to be shot with a  
20 firearm, the bullet striking the hand would be possible  
21 to produce blood that we refer to as back spatter.  
22 That would be blood coming back in the  
23 direction from where the gun was actually being fired.  
24 Upon exit of the bullet, that would be referred to as  
25 forward spatter for blood going in the same direction.

1 There are some general terms as far as  
2 definitions, for example: Low velocity is typically 5  
3 feet per second or lower, medium velocity is generally 5  
4 to 25 feet per second, and then high velocity, generally  
5 associated with firearms or high-speed machinery, that  
6 would typically be 100 feet per second or greater.  
7 To give you some ideas of what we are  
8 talking about, 100 feet per second would be approximately  
9 67 miles an hour.

10 Q. All right. Let me throw out some  
11 terms and see if you can define these for me. A  
12 transfer, what is a transfer?

13 A. Okay. Yes, sir. If I had blood on my  
14 hand and if I were, for example, to come in contact with  
15 my coat, tie and shirt, there would be a transference of  
16 blood from my bloody hand, assuming that it's still wet,  
17 to those items.

18 Now, you will never have a 100 percent  
19 transfer. Even though there may be some impression of

20 blood on the clothing, there will still be an impression  
21 of blood or residue of blood on the item that originally  
22 held the blood.

23 Q. Okay. How about the term, spatter?

24 A. Spatter is, generically, a lot of

25 people refer to spatter as just simply the overall term

1 for bloodstain pattern analysis. But within our field,  
2 it is specifically talking about blood that has been  
3 separated due to a force.  
4 So, for example, if I had blood on my  
5 hand and if it was impacted by something, the blood  
6 coming from that impact would be referred to as blood  
7 spatter.

8 Q. How about the term, cast-off?

9 A. If you have some object that has  
10 blood, and again, I can just simply use my hand, as I am  
11 swinging my hand, the centrifugal force pulling the blood  
12 away from the end of my appendages as they end up, as the  
13 blood separates, it will go out, if I am swinging hard  
14 enough, well, I doubt if it would reach this ceiling, but  
15 it could go in front of me to the area above me and also  
16 behind me.

17 Q. Okay. When you go out to a crime

18 scene and you look at bloodstain patterns, what kind of  
19 information can you obtain from looking at them?

20 A. We're trying to identify the  
21 occurrences that took place in order to produce the  
22 bloodstains as they are found. In essence, it's a form  
23 of crime scene reconstruction, but it's a narrow form  
24 because we're dealing specifically with bloodstain  
25 patterns.

Sandra M. Halsey, CSR, Official Court Reporter  
3235

1 So, as I look at a particular pattern,  
2 one of the first things I try to do is determine if it's  
3 consistent with a low, medium or a high velocity  
4 occurrence. And that will automatically include or  
5 exclude certain actions as being possible depending upon  
6 the category that it may fall in.

7 So, we're trying to determine what  
8 caused the bloodstain as it is found at the crime scene.

9 Q. What is it that allows you to do that?

10 How do you determine those types of things?

11 A. Well, it's primarily from obviously

12 the education as to the dynamics, the cause and effect,  
13 if you would. Bloodstains are uniform in character and  
14 of course, if they were not, we couldn't use it as a  
15 scientifically valid discipline.

16 What I'm saying there is, that if I  
17 have the same volume of blood on the same surface and I  
18 have the same occurrence impact it, the same type of

19 bloodstain pattern should result each and every time that  
20 I do that, providing that everything is equal; the same  
21 amount of blood, same surface, same impact.

22 Now, as you start changing that, then  
23 the bloodstain patterns, for example, their size, their  
24 distribution, the direction of travel, the numbers of  
25 them, all of those can change, and what you end up

Sandra M. Halsey, CSR, Official Court Reporter  
3236

1 finding should be consistent with the occurrence that  
2 took place in order to produce them.

3 Q. Mr. Bevel, prior to testifying today,  
4 have you had an opportunity to look at photographs taken  
5 of the utility room floor there at 5801 Eagle Drive?

6 A. Yes, sir, I have.

7 Q. Okay. Specifically, I'm showing you

8 now State's Exhibits 38-A, B, C and D. Do you recognize  
9 these photographs, sir?

10 A. I do.

11 Q. Okay. Now, looking at the blood on  
12 the floor of this utility room, sir, how would you

13 categorize the blood that we see here on the floor?

14 A. They are low velocity blood drops  
15 simply falling from above impacting the floor, just  
16 simply that, low velocity, 90 degree, blood droplets.

17 Q. Okay. Would they be consistent with  
18 an individual standing still and bleeding where she is  
19 dripping blood on the floor?

20 A. That certainly could be the cause,  
21 yes, sir.

22 Q. Now, during your trip to 5801 Eagle  
23 Drive on November 26th, Mr. Bevel, did you have an  
24 opportunity to go into the utility room itself and look  
25 at the floor?

Sandra M. Halsey, CSR, Official Court Reporter  
3237

1 A. Yes, sir, I did.

2 Q. Okay. And, looking at these  
3 photographs here, 38-A, B, C and D, let me ask you to  
4 assume that an individual standing in this utility room,  
5 that individual is holding a butcher knife, and I believe  
6 that you have actually seen that butcher knife, it's  
7 State's Exhibit No. 67. Have you actually seen that  
8 knife, sir?

9

10 MR. RICHARD C. MOSTY: Excuse me, your  
11 Honor, may we approach?

12 THE COURT: Yes, sir.

13 MR. RICHARD C. MOSTY: We need to have  
14 a hearing.

15 THE COURT: All right. Ladies and

16 gentlemen of the jury, it's necessary from time to time  
17 that we have to have hearings on points of law, outside  
18 of your presence. If you will retire to the jury room,  
19 please.

20 All right. Thank you.

21

22 (Whereupon, the jury

23 Was excused from the

24 Courtroom, and the

25 Proceedings were held  
Sandra M. Halsey, CSR, Official Court Reporter  
3238

1 In the presence of the  
2 Defendant, with her  
3 Attorney, but outside  
4 The presence of the jury  
5 As follows:)

6  
7 THE COURT: All right. Let the record  
8 reflect that these proceedings are being held outside of  
9 the presence of the jury and all parties of the trial are  
10 present.

11 All right. Mr. Hagler.  
12 MR. JOHN HAGLER: Let me just explain  
13 to the Court the nature of our request for this hearing,  
14 your Honor.

15 THE COURT: All right

16 MR. JOHN HAGLER: We're not here to

17 say that this individual is not an expert in certain  
18 areas of blood spattering. On the other hand, from what  
19 I understand, we anticipate that he is going to testify  
20 as to more than simply blood spattering in this  
21 residence.

22 We anticipate that he is going to be  
23 giving testimony, his own opinion, I guess, so-called

24 expert testimony, as to certain factors or certain events  
25 that occurred during the alleged offense.

Sandra M. Halsey, CSR, Official Court Reporter  
3239

1 And, your Honor, the State is offering  
2 this expert testimony and they are the -- being the  
3 proponent of this testimony, they bear the burden of  
4 proving that such testimony has both relevance and  
5 reliability.

6 And, if I might, I'm going to kind of  
7 give the Court an overview of what our objection is going  
8 to be. And then I would ask that the Court instruct the  
9 prosecutor to develop the testimony that he intends to  
10 elicit through this witness.

11 And then we can finish by making our  
12 objections, and the Court can rule, if that's a  
13 satisfactory proceeding.

14 THE COURT: That is fine.

15 MR. JOHN HAGLER: Your Honor, again,  
16 merely because this individual may be an expert does not

17 necessarily mean that he is an expert to testify in all  
18 areas of his necessary field.

19 In other words, there are certain  
20 areas that the State is required to establish that there  
21 is expert testimony under Section 702 that would aid and  
22 assist the jury. And furthermore, that such testimony is  
23 based on reliable testimony and the fact that it is  
24 relevant.

25 Now, I may be getting a little bit  
Sandra M. Halsey, CSR, Official Court Reporter  
3240

1 ahead of myself but we have already gotten into this  
2 matter about the T-shirt in State's Exhibit 25. And the  
3 Court, I know is well aware of our position already, and  
4 the Court has already ruled on that. But again, we want  
5 to make sure that Court is fully aware of the fact --

6 THE COURT: Yes, I am.

7 MR. JOHN HAGLER: -- that we  
8 anticipate this witness to be testifying as to evidence  
9 that was obtained off of State's Exhibit No. 25 in  
10 forming his conclusions as to things such as -- I  
11 understand he is going to testify as how the knife was  
12 allegedly used; how it was held; how it was raised;  
13 position of it, et cetera.  
14 And again, our position in this area  
15 is that he may be able to testify as to where some blood  
16 dots are on a shirt or material, on the floor or on the  
17 wall. But there has been no showing that the science has  
18 developed to the point where an individual can give an  
19 opinion supported by scientific reliability and research  
20 and what have you, that would allow him to give such an  
21 opinion under Section 702.

22 Now, I know the Court is aware of  
23 several cases, but just so the record is clear, I would  
24 like to cite these in the record for the Court.

25 Of course, one of them is the U.S.  
Sandra M. Halsey, CSR, Official Court Reporter  
3241

1 Supreme Court decision on Daubert, it's 113, Supreme

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2 Court 2786. D-A-U-B-E-R-T, 113, Supreme Court, 2786.  
3 And Daubert is a significant decision

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4 because it virtually rewrote the area of law regarding  
5 the admissibility of expert witness' testimony. The  
6 Supreme Court of the United States held that --  
7 THE COURT: The Court is familiar with  
8 the decision, but go ahead and put that in.

9 MR. JOHN HAGLER: Well, I would like  
10 to make sure that everyone is aware -- I know you have  
11 read the case, your Honor, but I just want to repeat it  
12 again.  
13 But the Court held that you as the  
14 trial judge have a responsibility and a heavy  
15 responsibility as being the gatekeeper in determining  
16 what expert testimony is both reliable and relevant. And  
17 you have to make that determination.  
18 Now, I might also mention that Daubert

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19 has also been adopted by the Texas courts in Robinson,

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20 923, Southwest, 2nd, 549.

21 Kind of basically, your Honor, in the  
22 Robinson case, what the Court stated to the -- or at

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23 least set out kind of a road map for the trial judges to  
24 follow in determining whether or not to allow so-called  
25 expert testimony, the court has to make a number of  
Sandra M. Halsey, CSR, Official Court Reporter  
3242

1 determinations.

2 And again, it's not our burden. It's  
3 the burden right over here for the prosecutor for the

4 State to establish the reliability of such testimony.

5 Again, I am zeroing in on this  
6 witness, and we anticipate his testimony as to a number  
7 of things, and I have already mentioned those. But  
8 again, some of these areas as far as expert testimony, as  
9 far as his theory, as to why he can predict.

10 And we would urge it's more in the  
11 nature of speculations as opposed to anything based on  
12 scientific principles. But several factors have been set  
13 out for this Court to consider; that being the extent to  
14 which the theory has been used and tested; the extent to  
15 which the techniques -- the technique relies upon the  
16 subjective interpretation of the expert.

17 That is one area in particular here  
18 where we're saying that in this particular area, that  
19 there is a heavy emphasis on the subjective  
20 interpretation by this witness. And there is no basis in  
21 the scientific research or data that would support his  
22 expert opinion testimony.

23

24 THE COURT: We have not heard it yet,  
25 but let's go ahead with your --

Sandra M. Halsey, CSR, Official Court Reporter  
3243

1 MR. JOHN HAGLER: Well, I understand,  
2 I kind of got this ahead, Judge, so I don't have to go  
3 backwards and kind of give the Court a road map here.

4 THE COURT: Okay. Thank you.

5 MR. JOHN HAGLER: Furthermore, one of  
6 the theories has been subjected to peer review and/or

7 publications, the techniques potential rate of error,  
8 whether the underlying theory or technique has been  
9 generally accepted as valid by the relevant scientific  
10 community.

11 That is the old Frye test which has

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12 been pretty much changed by Rule 702. In the nonjudicial  
13 uses which have been made of the theory or technique.  
14 So, again under the Daubert and

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15 Robinson line of cases, you know, we would ask that the

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16 State establish the reliability and relevance of this  
17 testimony.

18 And we would urge that it is not -- we  
19 would anticipate that our objection is going to be from  
20 what we have heard so far that it is not going to be  
21 admissible under Rule 702, 703 and 705.

22 THE COURT: All right.

23 MR. JOHN HAGLER: And furthermore, we  
24 would ask in the event that the Court does -- again, we  
25 would ask the Court to also take into mind the 403

Sandra M. Halsey, CSR, Official Court Reporter  
3244

1 balancing test rule.

2 THE COURT: All right. Thank you very  
3 much. We appreciate it. If you go ahead and question,  
4 please.

5 MR. GREG DAVIS: Yes, sir.

6

7

8 DIRECT EXAMINATION (Resumed)

9

10 BY MR. GREG DAVIS:

11 Q. Mr. Bevel, how many times have you  
12 testified as an expert witness in this area of bloodstain  
13 pattern analysis?

14 A. It's in the hundreds.

15 Q. Okay. How many times have you

16 testified in the State of Texas as a bloodstain pattern  
17 analyst?

18 A. I don't know the exact number, but  
19 probably 40 or 50 times.

20 Q. Forty to fifty times?

21 A. Yes, sir.

22 Q. Okay. Any idea of the number of  
23 states in which you have testified as an expert in  
24 bloodstain pattern analysis?

25 A. That I have actually testified, I  
Sandra M. Halsey, CSR, Official Court Reporter  
3245

1 I think somewhere in the range of probably about 18 to 22,  
2 somewhere in there.

3 Q. Okay. Now, you heard Mr. Hagler talk  
4 about the length of time that these techniques have been  
5 in use by your profession?

6 A. Yes, sir.

7 Q. How long has -- have the techniques  
8 been used for bloodstain pattern analysis?

9 A. Well, prior to the 1900's, there is a  
10 great amount of literature studying, for example, the  
11 different types of patterns that are created under  
12 certain circumstances, the directionality.  
13 Prior to the 1900's they even  
14 developed the mathematical principle of the long and the  
15 short axis, being able to do inverse arc sine, so you  
16 could determine what the impact angle was.  
17 So it certainly predates 1900's.

18 There have been some very excellent papers done, for  
19 example, by the French, well in advance of the 1900's.  
20 And then, there just is simply a whole lot more since  
21 that time.

22 Q. Now, is this a discipline in which the  
23 results are dependent upon your subjective readings or is  
24 there an objectivity to the technique also?

25 A. Well, certainly there is an  
Sandra M. Halsey, CSR, Official Court Reporter  
3246

1 objectivity, and we are primarily dealing with a cause  
2 and effect relationship.  
3 If we're not able to recognize the  
4 type of patterns that are produced, then we certainly  
5 have to go into objective testings, so that we can try  
6 and determine what occurrence may have taken place in

7 order to produce them.

8 But once you have done most of the

9 experiments that are within the basic 40-hour course, the  
10 advanced course, the additional experimentation, you have  
11 been exposed to the majority of the real common ones, so  
12 that you are able to recognize them, without actually  
13 being forced to do experimentation.

14 Q. How about peer review? Have these  
15 techniques been reviewed by peers in your field?

16 A. In many areas, yes, sir.

17 Q. Okay. And, have your techniques been  
18 accepted as scientifically valid.

19 A. They have been accepted, if not all 50  
20 states, very close to all 50 U.S. states and many foreign  
21 countries.

22 Q. Have they been accepted as  
23 scientifically valid in the State of Texas?

24 A. They have.

25 MR. GREG DAVIS: Now, if I may, I can  
Sandra M. Halsey, CSR, Official Court Reporter  
3247

1 summarize for the Court, at this time, the opinions that  
2 I expect to elicit from this witness.  
3 I expect this witness to testify that  
4 the patterns found here in the photographs 38-A through D  
5 are inconsistent with an individual dropping or throwing  
6 a bloody knife on the utility room floor.

7 I expect Mr. Bevel to testify about  
8 tests that he performed, on the utility room floor  
9 himself, on November the 26th, 1996, when he threw and  
10 dropped a bloody knife, State's Exhibit 67 on the floor.  
11 I expect for him to testify that those  
12 results are inconsistent with what we see here in 38-A  
13 through D. I expect Mr. Bevel to look at State's  
14 Exhibits 111-A and B, which are the photographs showing  
15 the imprint of the knife on the carpet.  
16 I expect for him to testify about a  
17 test he performed on November 26th, where he took State's  
18 Exhibit 67, put blood on that knife and, then laid the

19 knife on the carpet, and then also dropped or threw the  
20 knife on the carpet.

21 I expect for him to testify that in  
22 his opinion, that the imprint shown in State's Exhibit  
23 111-A and 111-B are consistent with that bloody knife,  
24 State's Exhibit Number 67, having been laid down on the  
25 carpet at 5801 Eagle Drive.

Sandra M. Halsey, CSR, Official Court Reporter  
3248

1 I expect Mr. Bevel to testify, with  
2 regard to State's Exhibit Number 93, the vacuum cleaner,  
3 that he found evidence of blood drops on the vacuum  
4 cleaner, and that those drops were deposited while the

5 vacuum cleaner was standing upright, and while it was  
6 laying down on the floor. That he found a smear on the  
7 handle consistent with an individual placing her bloody  
8 hand on that handle.

9 I also expect Mr. Bevel to testify

10 that he saw evidence of roll marks near the kitchen sink  
11 at 5801 Eagle Drive. That those marks are consistent  
12 with State's Exhibit Number 93, the vacuum cleaner having  
13 been rolled through the blood, shortly after the blood  
14 was deposited on the floor.

15 I expect Mr. Bevel to testify that he  
16 would expect the intruder to have blood on his hands, or  
17 at least on one hand, when he entered the garage when he  
18 exited out this window, and when he exited the back yard.

19 I expect Mr. Bevel to testify with

20 regards to the sock that is in evidence, that he would  
21 expect under the scenario, in which two children were  
22 stabbed, and the defendant was wounded with that knife,

23 and a struggle occurred, that he would expect to see the  
24 defendant's blood on that sock, rather than the two boys  
25 blood.

Sandra M. Halsey, CSR, Official Court Reporter  
3249

1 With regards to the T-shirt, I expect  
2 Mr. Bevel to testify with regards to the stain sample  
3 shown as T-10, that being a stain showing to be a mixture  
4 between Devon and Darlie Routier, that that is cast-off  
5 blood, that is not a transfer from one portion of the  
6 T-shirt to another, and that the movement of that stain  
7 is down to up.

8 With regards to State's Exhibit  
9 Number -- again, these are shown as on State's Exhibit  
10 120. With regards to the sample labeled T-9, that being  
11 a mixture between Damon and Darlie Routier, I expect Mr.  
12 Bevel to testify that is a cast-off, that is not a  
13 transfer from one part of the shirt to another. And that  
14 the movement of that one is down to up.  
15 I expect with regard to sample LS-1,

16 that being a mixture between Damon and Darlie Routier,  
17 that Mr. Bevel will testify that that is also cast-off  
18 blood, and that is not the product of a transfer from one  
19 part of the T-shirt to another. And with regards to  
20 stain LS-3, I expect Mr. Bevel to testify that that also  
21 is a mixture of Devon and Darlie Routier, that is  
22 cast-off, that is not the product of transfer from one  
23 portion of the T-shirt to another. And with regards to  
24 stain T-15 on State's Exhibit Number 121.  
25 MR. RICHARD MOSTY: Are you on the  
Sandra M. Halsey, CSR, Official Court Reporter  
3250

1 back now?

2 MR. GREG DAVIS: Yeah, I'm on the  
3 back. That is on the back of the T-shirt, that being a  
4 stain, coming back to Devon Routier, that that is also  
5 cast-off, that the direction on that stain is either up

6 or down, the long axis being in that direction, in an up  
7 and down fashion, and that that stain is also not the  
8 product of a transfer from one part of the shirt to  
9 another.

10 With regards to stain T-15, again on  
11 the back, I expect Mr. Bevel to testify that that stain  
12 is consistent with the defendant leaning over the victim  
13 Devon Routier and stabbing him, and that that product,  
14 that stain T-15 is the product of the withdrawal of the  
15 knife from the victim, and the blood then going over her  
16 right shoulder, and depositing on her back.  
17 T-10 and T-9, on the right front

18 portion of the T-shirt, I expect Mr. Bevel to testify  
19 that those are also the product of the defendant leaning  
20 over these two victims, Devon and Damon Routier, stabbing  
21 them, and then withdrawing the knife, and that the stains  
22 are then consistent with that motion.  
23 I expect Mr. Bevel to testify on LS-1  
24 and LS-3, that those two stains are consistent with the  
25 defendant leaning over, stabbing Devon and Damon Routier,  
Sandra M. Halsey, CSR, Official Court Reporter  
3251

1 and that the stains are consistent with the heel of her  
2 hand coming in contact with the stab wound areas of each  
3 boy producing the cast-off shown in LS-1 and LS-3.

4 I believe that concludes the opinions  
5 that I expect Mr. Bevel to testify to.

6 THE COURT: Mr. Mosty or Mr. Hagler?

7 MR. RICHARD C. MOSTY: May I inquire

8 of Mr. Davis something?

9 THE COURT: You may.

10

11 (Whereupon, a short

12 Discussion was held

13 Off the record, after

14 Which time the

15 Proceedings were resumed

16 As follows:)

17

18 THE COURT: All right. Back on the

19 record.

20 MR. RICHARD C. MOSTY: All right. May

21 I take the witness on voir dire?

22 THE COURT: You may.

23 MR. RICHARD C. MOSTY: And to focus in

24 on --

25 THE COURT: Sure.

Sandra M. Halsey, CSR, Official Court Reporter  
3252

1 MR. RICHARD C. MOSTY: -- some of

2 these particular things?

3 THE COURT: You may.

4

5 VOIR DIRE EXAMINATION

6

7 BY MR. RICHARD C. MOSTY:

8 Q. Mr. Bevel, let's just talk in general

9 of these statements, when you say that this is

10 inconsistent with a knife being dropped. Or that this

11 action is consistent with a cast-off.

12 Now, first you have identified the

13 blood and the angle and all those things, and that is not

14 what I am talking about here. Once you make that

15 statement of inconsistent -- or that it is consistent

16 with this, or it is inconsistent with that, you are not

17 excluding all other possibilities, are you?

18 A. Well, that would depend on which area?

19 Q. Okay. I was hoping we could do this a

20 little easier. But we are going to have to go through

21 them one by one then.

22 Let's talk about the knife on to the

23 linoleum. Your testimony, as I understand, would be that

24 the linoleum that you observed in November was

25 inconsistent with having a knife dropped on it.

Sandra M. Halsey, CSR, Official Court Reporter  
3253

1 A. Inconsistent with a knife dropping on  
2 to the linoleum that had blood on it.  
3 Q. Okay. Now, at that time, first, did  
4 you know, whether or not, that area had been cleaned at  
5 all? Or the linoleum that you observed?  
6 A. Well, cleaned from when? I know that  
7 there were still individual blood droplets were still  
8 there, so it had not been cleaned to get those blood  
9 droplets up.  
10 Q. It had not been cleaned completely?  
11 A. Well I don't have any knowledge that  
12 it was cleaned at all.  
13 Q. You don't know one way or another was  
14 some of it cleaned, or was some of it not cleaned?

15 A. If there was any cleaning, I am  
16 unaware of it and there is certainly no evidence that  
17 there was.

18 Q. Okay. I am not going to try to argue  
19 with you. You don't know one way or another, do you?

20 A. Well, I gave my answer.

21 Q. Do you know one way or another?

22 A. I do not know, there is no evidence to  
23 indicate that there had been any cleaning.

24 Q. So that means you don't know, right?

25 A. Well, I'll answer it again, sir.

Sandra M. Halsey, CSR, Official Court Reporter  
3254

1 Q. Well, let's don't do that. I'm not  
2 going play that game with you.

3

4 THE COURT: Well now, I think the  
5 witness understands, and I think that he has answered the  
6 question.

7

8 BY MR. RICHARD MOSTY:

9 Q. Had it been dusted for prints?

10 A. Had that -- you mean the floor itself?

11 Q. The entire linoleum floor.

12 A. I have no knowledge that it was dusted  
13 for prints.

14 Q. Don't know one way or another?

15 A. There was no evidence that there was  
16 any fingerprint powder on that area.

17 Q. Had the furniture been moved out of  
18 it?

19 A. I don't have any knowledge.

20 Q. Was there furniture in it?

21 A. I don't have any knowledge, other than

22 what the photographs depict.

23 Q. I'm talking about on the day when you

24 were there, on the 26th, was there furniture there in the  
25 room?

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3255

1 A. Oh, I'm sorry. No.

2 Q. Okay. So, if there were furniture in

3 it, at the time of the crime, then that furniture had  
4 been moved out?

5 A. That's correct.

6 Q. Okay. And, did you see evidence of

7 some of the blood on the linoleum, having been disturbed  
8 at different places?

9 A. Yes, sir.

10 Q. Were you aware, whether or not

11 originally there were or were not rugs in the room?

12 A. In the room itself?

13 Q. Yes?

14 A. I don't have any knowledge of there

15 being rugs in the room, no, sir.

16 Q. One way or another?

17 A. No, sir.

18 Q. Okay. When you were there, there

19 were no rugs?

20 A. That is correct.

21 Q. All right. Now, these experiments

22 that you did, and as I understand this is taking a knife,

23 and dropping it on the linoleum floor?

24 A. Yes, sir.

25 Q. Did you take any notes of that?

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3256

1 A. Photographs.

2 Q. Okay. Where are those photographs?

3 May I see them?

4 A. I don't have them.

5 Q. Who took them?

6 A. The Rowlett Police Department.

7 Q. Who has them?

8 A. Either the Rowlett Police Department,

9 or the prosecution I am not sure.

10 Q. You haven't seen them?

11 A. Well, I have not seen them since they

12 have been developed, no, sir.

13 Q. Okay. You don't have those

14 photographs with you?

15

16 MR. GREG DAVIS: They are back there.

17 MR. RICHARD C. MOSTY: Okay. Can we  
18 get them? We are going to need to get into all of this  
19 stuff. I was hoping to do it quicker, but I'm not going  
20 to be able to.

21 MR. GREG DAVIS: I was under the  
22 assumption that these photographs were viewed, when they  
23 came up there to my office in December, and looked at all  
24 of these photographs. But, yes, if they weren't then I  
25 will certainly be happy to bring them all out.

Sandra M. Halsey, CSR, Official Court Reporter  
3257

1 MR. RICHARD C. MOSTY: Well, I need  
2 them very briefly and I will move on to something else  
3 while we are getting them, but I need them very briefly  
4 to talk to him about this experiment.

5 THE COURT: All right. Let's bring  
6 them in.

7 MR. GREG DAVIS: Let me go see if they  
8 are back there.

9 MR. RICHARD C. MOSTY: Do you want us  
10 to go ahead?

11 MR. GREG DAVIS: You can go ahead.  
12 Toby is there.

13

14 BY MR. RICHARD MOSTY:

15 Q. You didn't take any notes of these  
16 experiments?

17 A. The only notes taken, was the fact  
18 that photographs were taken.

19 Q. Let's try to be clear. I'm talking

20 about you sitting down and saying experiment number 1,  
21 you didn't do that, did you?

22 A. I did not.

23 Q. Now, did you document, in your notes,  
24 for instance, how much blood you loaded on the knife?

25 A. By weighing it, or any manner?

Sandra M. Halsey, CSR, Official Court Reporter  
3258

1 Q. Any manner.

2 A. I just simply had the blade covered  
3 with blood.

4 Q. Had the blade covered with blood?

5 A. Yes, sir.

6 Q. Okay. And, was it dripping or not  
7 dripping?

8 A. It was not dripping in all, with  
9 exception of one.

10 Q. Okay. One time you had it dripping?

11 A. Yes, sir.

12 Q. How many experiments did you do?

13 A. Of simply dropping the knife into that  
14 area?

15 Q. On to the linoleum, that's all I'm  
16 talking about.

17 A. Okay. Well, let me be specific. In  
18 multiple areas, in other words, not just there, but on

19 the linoleum in other areas.

20 Q. I'm talking about any linoleum

21 testing, how many times did you drop the knife?

22 A. Approximately eight.

23 Q. Okay. You can't verify that?

24 A. I think we could by looking at all of  
25 the photographs. Yes, sir.

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3259

1 Q. You think you could. Well, you didn't  
2 take any notes of anything?

3 A. No, sir.

4 Q. Now, in each time, did you put the  
5 knife in both sides in the blood and completely got the  
6 knife bloody?

7 A. I did that, and then held the knife up  
8 until it ceased dripping blood.

9 Q. You tapped it?

10 A. Until it ceased dripping blood.

11 Q. You held it up, or did you tap it into  
12 the pan?

13 A. At various times I probably did both.

14 Q. Okay.

15 A. But the point was that the blood had  
16 ceased dripping.

17 Q. Okay. But sometimes you dipped it in  
18 the pan before you dropped it, and sometimes you held it  
19 over?

20 A. No, sir.

21 Q. Okay. Which did you do?

22 A. I'm not sure I understand your point.

23 Q. Well, you said sometimes you may have  
24 tapped it, and sometimes you may not have?

25 A. Yes, sir.

Sandra M. Halsey, CSR, Official Court Reporter  
3260

1 Q. Okay. Do you know how many times you  
2 tapped it in there, before which experiments you tapped  
3 it in there, and which you didn't?

4 A. No, sir, because I was always after,  
5 each time, the same result, which was the blood to cease  
6 dripping.

7 Q. Okay. So you held it up and the blood  
8 ceased dripping?

9 A. Yes, sir.

10 Q. Okay. Then what did you do?

11 A. Simply stood and dropped it on to the  
12 floor.

13 Q. The first time, how high were you when  
14 you dropped it?

15 A. Approximately waist high, each time.

16 Q. Approximately?

17 A. Yes, sir.

18 Q. You didn't verify that, how high that  
19 was?

20 A. No, sir.

21 Q. Okay. How high is that?

22 Approximately how high is approximately waist high?

23 A. Well --

24 Q. On you.

25 A. Like that.

Sandra M. Halsey, CSR, Official Court Reporter  
3261

1 Q. I presume you are talking about you.

2

3 MR. GREG DAVIS: I don't know, I mean,  
4 I have just come back in, and I was thinking that this  
5 was to test the qualifications of this witness to render  
6 a certain opinion.

7 THE COURT: Well, it is --

8 MR. RICHARD MOSTY: Well, there are

9 two phases to it. One is, he is going to testify about  
10 these experiments, that are not scientifically valid

11 experiments. That is part of it. And then the second  
12 is, then he goes on to say that this is consistent or  
13 not. There are two parts to it.

14 THE COURT: Perhaps we could have him  
15 describe in narrative form how he did these things, and

16 if you have any questions, just ask about that. Is that  
17 satisfactory?

18 MR. RICHARD C. MOSTY: I'll try to do  
19 anything that moves things along.

20 THE COURT: Let's move it along. We

21 are not letting you use this for discovery.

22 Now, I'll instruct the witness, do not

23 be evasive in your answers. Answer them straight. They

24 are pretty simple questions. Answer them straight.

25 THE WITNESS: Yes, sir.

Sandra M. Halsey, CSR, Official Court Reporter

3262

1 MR. RICHARD C. MOSTY: Thank you.

2

3 BY MR. RICHARD MOSTY:

4 Q. Of the approximate eight experiments,

5 precisely what did you do?

6 A. Each time, the knife was, or had blood

7 added to both sides, it was held in an upright position,

8 separate from the blood source, the blood was allowed to,

9 for all practical purposes, cease dripping off of the end

10 of the knife blade, as it's held in a vertical position,

11 with the point of the knife blade downward. And then, it

12 was just simply allowed to drop from approximately my

13 waist high on to the floor.

14 Q. Okay.

15 A. And, in order to do this multiple

16 times, you had to move to different areas, so that you

17 were not depositing the knife on to the same area.

18 Q. On each time?

19 A. Yes, sir.

20 Q. Okay. Now, there is no way for me now

21 to go out there, and replicate that experiment, is there?

22

23 MS. SHERRI WALLACE: Judge, we are

24 going to have to object. This is just a discovery

25 hearing, and it is not proper under 705, he's gone beyond

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3263

1 the bounds.

2 THE COURT: I understand what you --

3 I'll let him answer -- I don't know what he is going to

4 answer to this question. Go ahead.

5 Let's don't discover. We are trying

6 to get through with this hearing.

7 MS. SHERRI WALLACE: Exactly what we

8 are objecting to.

9 MR. RICHARD MOSTY: Well, I have got  
10 to get this -- this is a Daubert objection, and it is a

---

11 unique area of the law.

12 THE COURT: Well it is a unique area  
13 of the law, but it's not a discovery hearing, so let's  
14 don't make it that.

15 MR. RICHARD C. MOSTY: And I don't  
16 intend for it to be discovery.

17 THE COURT: All right. Fine. I  
18 understand what we are doing.

19

20 BY MR. RICHARD MOSTY:

21 Q. In other words, there is no way  
22 another scientist can go out there and say, "I'm going to  
23 drop this knife precisely from 34 inches"?

24 A. No, sir. But to answer your prior  
25 question, if I may.

Sandra M. Halsey, CSR, Official Court Reporter  
3264

1 Q. No, you did just answer my prior  
2 question.

3 A. Well --

4 Q. My prior question is: There is no way  
5 for another scientist to say, precisely the height from  
6 which you dropped that?

7 THE WITNESS: Your Honor, may I answer  
8 the prior question?

9

10 THE COURT: Well, go ahead and answer  
11 it. No. Just answer this and that's enough.

12 I understand where we are going.

13 Let's go.

14

15 BY MR. RICHARD MOSTY:

16 Q. There is no way to identify precisely  
17 how high you dropped it?

18 A. For each time, no, sir.

19 Q. Okay. And there is no way to identify  
20 that each time you dropped it from precisely the same  
21 height?

22 A. That's correct.

23 Q. And there is no way to determine  
24 whether each time the knife had the same volume of blood  
25 on it?

Sandra M. Halsey, CSR, Official Court Reporter  
3265

1 A. That's correct.  
2 Q. And then, the second part of this --  
3 that is the experiment part.  
4 Was a photograph taken of each and  
5 every experiment or not?  
6 A. I cannot answer that. I was not  
7 taking the photographs. I believe that most of them were  
8 photographed, yes, sir.  
9 Q. There is no written protocol that you  
10 have, that you could hand to another expert, and say,  
11 "This is the exact experiment that I did".  
12 A. I disagree with that.  
13 Q. There is a written protocol that you  
14 have for this experiment?  
15 A. I can write a protocol explaining what  
16 I did, that Mr. Labor or Epstein could then follow suit  
17 to determine whether or not it was consistent or  
18 inconsistent, with the dropping of the knife, blood  
19 covered, onto the floor.  
20 Q. Mr. Bevel, this was simply my  
21 question: Is there a written protocol that you have  
22 prepared that describes this experiment?  
23 A. That is written currently?  
24 Q. Yes.  
25 A. No, sir.  
Sandra M. Halsey, CSR, Official Court Reporter  
3266

1 Q. Okay. And the second part of that  
2 that you say you are going to testify that that is  
3 inconsistent with a knife dropping on the floor from  
4 waist high, I guess?  
5 A. No, sir, not what you stated. I'm not  
6 going to state that.  
7 Q. What is going to be your -- the sum of  
8 your opinion on that?  
9 A. That a knife that has blood on it,  
10 dropped from approximately waist high on to that floor,  
11 will produce stains that are consistent with a knife that  
12 has blood on it, falling on to the floor.  
13 Q. Okay.  
14  
15 THE COURT: The Court understands that  
16 position. Now let's move on.  
17 MR. RICHARD C. MOSTY: Okay.  
18  
19 BY MR. RICHARD MOSTY:  
20 Q. Okay. And, there is no -- there's no  
21 additional testing that can be done to independently

22 verify your opinion is there? Other than somebody  
23 else -- other than you just doing that?  
24 A. Well, somebody else can do exactly  
25 what I have described and make a determination in their  
Sandra M. Halsey, CSR, Official Court Reporter  
3267

1 opinion.  
2 Q. But there is nothing further beyond  
3 that. No additional tests that can be done other than  
4 that, to verify the accuracy of what you observed.  
5 A. Well I don't know how else you would  
6 go about doing it, no, sir, other than that.

7 Q. Now the experiment where you laid the  
8 knife on the carpet let's move to that one?

9 A. Yes, sir.

10 Q. Okay. Is that -- did I describe  
11 that correctly? What was that experiment?

12 A. Where we did basically --.

13

14 THE COURT: Ms. Wallace, can you have  
15 a seat at the counsel table, please?

16 MS. SHERRI WALLACE: I'm sorry, your  
17 Honor.

18 THE COURT: Thank you.

19 THE WITNESS: Where we basically did  
20 the same thing that we just previously talked about,  
21 where the knife, and a --

22 THE COURT: Would you get that book  
23 back from her, and bring it back up here right now.

24 MS. SHERRI WALLACE: I'm sorry, Judge.

25 She was sharing it with me.

Sandra M. Halsey, CSR, Official Court Reporter  
3268

1 THE COURT: Well, just put it there.

2 MS. SHERRI WALLACE: Yes, sir.

3 THE COURT: Now, let's get on with  
4 this hearing.

5 THE WITNESS: Basically, the same

6 thing we just described where the knife had a blood  
7 source that was added to it, it was held up to where the  
8 blood, for all practical purposes, ceased dripping and

9 then it was just simply laid down, at various times, it  
10 was just simply dropped, from approximately waist high  
11 again, and then at other times it was actually thrown.

12

13 BY MR. RICHARD MOSTY:

14 Q. Okay. So again, we have the same

15 thing with the waist high, there is no way to identify

16 exactly how high that was.

17 A. To precisely identify that, no, sir.

18 Q. And the times that it was thrown, was

19 it thrown with a hand? I mean, how did you throw it?

20 A. With my hand.

21 Q. Okay. And --

22

23 THE COURT: Well, isn't it sufficient

24 to say it was thrown, and is there a protocol to that, is

25 that the next question?

Sandra M. Halsey, CSR, Official Court Reporter

3269

1 I mean, can we just keep the question

2 in the same line? I understand what you are trying to

3 demonstrate.

4

5 BY MR. RICHARD C. MOSTY:

6 Q. How many -- how many -- how many times

7 did you toss the knife?

8 A. I would say approximately 5 to 6

9 times, somewhere in that range.

10 Q. Okay. And, again, you cannot be sure

11 of the exact number?

12 A. No, sir, I said approximately 5 to 6.

13 Q. Okay. And you -- of those, how many

14 times was it thrown -- or how many times was it simply

15 dropped from waist high?

16 A. Now, we're talking about two different

17 occurrences here, but just simply dropping again,

18 somewhere in that same range, 5 to 6 times.

19 Q. Okay. Now, what was the first 5 to 6

20 you were describing? Was that the tossing?

21 A. Tossing. They were separate, yes,

22 sir.

23 Q. All right. And, from what height did

24 you toss it?

25 A. Well, it would depend upon when it was

Sandra M. Halsey, CSR, Official Court Reporter

3270

1 let go.

2 Q. And I cannot reproduce that, can I?

3 A. To be exact, no, sir.

4 Q. Okay. I could not reproduce -- did

5 you toss it under-handed?

6 A. I did it both.

7 Q. Okay. You tossed it over-handed and  
8 under-handed?

9 A. Primarily under-handed.

10 Q. Okay. And, there is no way for me, or  
11 anyone now, to reproduce how hard you swung your arm when  
12 you --

13 A. No, sir, not precisely.

14 Q. Okay.

15

16 THE COURT: All right. I think we  
17 understand. The Court understands that. Can we move on,  
18 please?

19

20 BY MR. RICHARD MOSTY:

21 Q. With respect to the expectation of  
22 blood on the hand, there is no way of being -- on one  
23 hand, not two, is that what Mr. Davis said you were going  
24 to testify to?

25 A. I'm not --

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3271

1 Q. That you would expect blood to be on  
2 one hand -- at least on one hand is that -- am I wrong?

3 A. What are we talking about here? Blood  
4 on the hand in reference to what?

5 Q. Of the assailant?

6 A. Okay. I'm sorry, that was the part  
7 that I was not clear on. If the assailant is the person  
8 who has left the blood that is running on the door, as  
9 you exit the utility room.

10 Then, that would certainly be  
11 consistent with blood on at least one hand. Now, whether  
12 or not that means there is blood on the other hand, I do  
13 not know.

14 Q. Okay. On the sock, the statement was  
15 that you expect that -- your opinion would be that you  
16 would expect to see the defendant's blood rather than the  
17 boys?

18 A. That is incorrect.

19 Q. Okay.

20 A. I would expect to see any of their  
21 blood on it. I would expect to see more of the mother's  
22 blood. I would not testify that I would not expect to  
23 see the boys' blood.

24 Q. Okay. And there is no way to  
25 independently verify or analyze that statement is there?

1 A. Well --

2 Q. It is simply your opinion?

3 A. Well, I disagree with your statement.

4 Q. Okay.

5 A. Another person can come in with equal

6 qualifications and do an analysis of the physical

7 evidence and the information that is known, and they can

8 make that their opinion.

9 Q. Okay. But that is what it is. It's

10 an opinion?

11 A. Certainly.

12 Q. Okay. And there is no way to

13 replicate the occurrences that led to that?

14 A. Not precisely, no, sir.

15 Q. And there is no way to conduct any

16 kind of objective test that says that opinion is right,

17 or that opinion is wrong?

18 A. I would have to agree with that.

19 Q. Okay. And, with respect to this, you

20 can't exclude other possibilities, can you? For

21 instance, that only small amounts of the boys' blood is

22 on there. You cannot exclude that as being a reasonable

23 probability?

24 A. I cannot exclude that. I can simply

25 offer my opinion as to what I would expect, based upon

Sandra M. Halsey, CSR, Official Court Reporter

3273

1 the story given, the physical evidence that is there, and

2 the type of blood that has been lost.

3 Q. Okay. Now, with respect to the

4 T-shirt are you not going to testify about experiments?

5 MR. GREG DAVIS: I'm sorry?

6 MR. RICHARD C. MOSTY: With respect to

7 cast-off blood and T-shirts, we're not going to testify

8 about experiments?

9 MR. GREG DAVIS: Yes, we will be

10 talking but an experiment that he did with a T-shirt. I

11 think that is the experiment that he talked to you all

12 about.

13 MR. RICHARD C. MOSTY: That's the one

14 that I have got the video of?

15 THE COURT: Well, let's get right on

16 it, and just say what it was, and ask your questions.

17 MR. RICHARD MOSTY: Well, I know what  
18 the experiment was, so we don't need to do that.

19 THE COURT: Thank you. Let's move on.

20

21 BY MR. RICHARD C. MOSTY:

22 Q. That experiment was, when you are  
23 dipping the blood, and you come up with a motion like  
24 this? (demonstrating)

25 A. Yes, sir.

Sandra M. Halsey, CSR, Official Court Reporter  
3274

1 Q. And the -- that experiment, there is  
2 no written protocol for it, is there?

3 A. No, sir.

4 Q. And again, there is no way to identify  
5 precisely how much blood is loaded on to that knife?

6 A. Precisely, no, sir.

7 Q. And in that one in fact, sometimes you  
8 dipped it in, and then you went, pretty much straight to  
9 movement.

10 A. What are you talking about? Are you  
11 talking about the tapping?

12 Q. Tapping into the pan?

13 A. Right. Trying to again, cease the  
14 dripping.

15 Q. Okay. But every time you are tapping  
16 the pan, you are reloading the point, aren't you?

17 A. No sir?

18 Q. You're not?

19 A. No, sir.

20 Q. All right. But there is no way that  
21 someone can replicate that motion? Precisely?

22 A. Precisely, no, sir.

23 Q. Okay. And, as a matter of fact, the  
24 video that you have, doesn't have -- it can't even tell  
25 us how many times you did that motion, does it?

Sandra M. Halsey, CSR, Official Court Reporter  
3275

1 A. It can't?

2 Q. Well, not on my copy.

3 A. Well, it's all in the withdrawing --

4 Q. How many times did you do it?

5 A. Well, now you may be referring to the  
6 fact that at the end of the video I talked about going to  
7 a horizontal --.

8 Q. I'm not there yet.

9 A. Okay.

10 Q. I'm talking about this part?

11 A. Okay. That documentation, in it's  
12 entirety, was simply to show that that is an occurrence  
13 that can occur.

14 Q. But you did not document every move  
15 like that, did you? On video?

16 A. Not every single move, no, sir.

17 Q. Then, the second part of that is, and  
18 on that one, you didn't take any notes of, "I did this, 5  
19 times or 8 times or 10 times"?

20 A. No, sir.

21 Q. Okay. And, then in the second part of  
22 the video, the camera broke?

23 A. For the very last stage, the camera  
24 broke, but I do have the T-shirt that I can show you,  
25 that was done at that particular point, so I mean it is  
Sandra M. Halsey, CSR, Official Court Reporter  
3276

1 here.

2 Q. So, but as far as some other person  
3 being able to look at that, and say this is what Mr.  
4 Bevel did, and I will try to replicate it on the video,  
5 that video doesn't exist for the second part of that  
6 experiment.

7 A. For one occurrence that is correct.

8 Q. Okay. And then, let me try to focus  
9 here. You were going to testify about what you have

10 described as cast-offs on the -- can I say right front  
11 shoulder?

12 A. You can.

13 Q. Okay. What about cast-offs on the  
14 left front shoulder?

15 A. There are some stains over there that  
16 could have come from cast-off, or spatter, given the size  
17 and location as to where it is.

18 Q. Okay. But it was only mentioned the  
19 right shoulder, and that is the only one that you are  
20 going to testify about that it is consistent with?

21 A. As far as coming off of the knife?

22 Q. Yes?

23 A. In that particular movement?

24 Q. Yes.

25 A. Yes, sir.

Sandra M. Halsey, CSR, Official Court Reporter  
3277

1 Q. Okay. And, with respect to that,  
2 whether or not it's consistent or not consistent you

3 can't exclude other possibilities for that cast-off, can  
4 you?

5 A. Not exclusively, no, sir.

6

7 THE COURT: Okay. Anything else? Is  
8 that it, Mr. Mosty?

9

10 BY MR. RICHARD MOSTY:

11 Q. With respect to the statements about,  
12 that certain items are consistent with someone leaning  
13 over the victims, stabbing, those are going to be things

14 that, again you can -- that you might say are consistent,  
15 but you cannot exclude other possibilities, or other ways  
16 that those blood stains could have gotten on the back?

17 A. With complete certainty, I cannot  
18 exclude the other possibilities.

19 Q. Okay. And then all you can ever  
20 really say about those cast-offs is, that, something is  
21 consistent, or maybe there is a probability of it?

22 A. Yes, sir.

23 Q. Okay.

24

25 THE COURT: That's it for the purpose  
Sandra M. Halsey, CSR, Official Court Reporter  
3278

1 of the hearing?

2 MR. JOHN HAGLER: As far as our Voir  
3 Dire examination, your Honor.

4 THE COURT: As far as the hearing is  
5 concerned?

6 MR. JOHN HAGLER: We would like to  
7 make some objections, your Honor.

8 THE COURT: Well, please make them. I  
9 think the Court understands what you want to object to,  
10 so let's get on with it

11 MR. JOHN HAGLER: I'll be very brief,  
12 your Honor.

13 THE COURT: Thank you

14 MR. JOHN HAGLER: Your Honor, again,  
15 we would submit that the State has failed to satisfy  
16 their burden of proof under Daubert and Robinson. That

---

17 the most that we have heard, is opinion testimony, not  
18 based on a valid scientific theory of principles.

19 His opinions are no more than what the  
20 jurors themselves could conclude. They are not based  
21 on -- there is no reliance on the valid scientific  
22 principle or theory.

23 As far as the T-shirt, your Honor,  
24 again, we have already objected on the fact that it's  
25 going to be based on the evidence that has been  
Sandra M. Halsey, CSR, Official Court Reporter  
3279

1 contaminated, and no showing of the chain of custody.  
2 Therefore, this testimony is not  
3 scientifically based on a valid -- on a valid evidentiary  
4 basis.  
5 Your Honor, in particular, there are

6 areas where there has been no showing that his opinion  
7 testimony, personal opinion testimony, is based on a

8 theory that could allow him to testify, as to how the  
9 assailant was positioned, how the knife was used, how it  
10 was raised and how the victim was stabbed. There has  
11 been no showing of that.

12 Likewise, the same thing goes -- or is  
13 true, with the fact that there is no basis for his  
14 opinion, as to whether or not the knife was thrown or not  
15 thrown on the floor.

16 And finally, your Honor, as far as the  
17 areas about whether or not the intruder should have blood  
18 on his hands; or whether or not the sock should have had  
19 more of the defendant's blood or the individual's blood  
20 on the sock, that is simply no more than his personal  
21 opinion, and he is being presented as an expert witness,  
22 and certainly the jury is going to take into account his  
23 credentials, and we would submit that it is going to be  
24 confusing and misleading to the jury, and we further say  
25 that his testimony is not admissible under section 702,  
Sandra M. Halsey, CSR, Official Court Reporter  
3280

1 703 and 705.

2

3 THE COURT: All right.

4 MR. RICHARD C. MOSTY: May I ask one  
5 question on voir dire?

6 THE COURT: One question.

7

8

9 VOIR DIRE (Continued)

10

11 BY MR. RICHARD MOSTY:

12 Q. There is no academy that -- or

13 certificate that you can obtain to determine how much

14 blood somebody gets on them when they stab someone; is

15 there?  
16 A. No, sir.  
17

18 MR. JOHN HAGLER: One more objection,  
19 Your Honor.

20 THE COURT: One more objection.

21 MR. JOHN HAGLER: Your Honor, we are  
22 fully aware, that Rule 704 allows an expert, a validly,  
23 qualified expert to give an opinion, on such an issue,

24 but the fact of the matter is, in this case, with the sum  
25 total of his opinions, it's more than simply an opinion  
Sandra M. Halsey, CSR, Official Court Reporter  
3281

1 as to an ultimate issue, it is simply an opinion as to  
2 the defendant's ultimate guilt, and therefore, we would  
3 urge that the total -- the sum total of his opinion  
4 testimony before the jury, would constitute a violation  
5 of the defendant's due process of rights.

6 THE COURT: Thank you

7 MR. RICHARD C. MOSTY: And I would  
8 just like to be real clear about one thing.

9 I am not objecting to testimony, for  
10 instance, about what a cast-off is, or what,  
11 directionality is, or those things that are related to  
12 physical properties, of blood in flight, and blood, how  
13 it hits, as to, you know, angle of impact, or whatever  
14 those -- that is not our objections.  
15 Our objection is to the experiments,  
16 and the opinions or the conclusions that are drawn from

17 those areas, which I believe, do have a scientific basis.

18 THE COURT: Thank you. Is that it?

19 MR. JOHN HAGLER: Yes, sir.

20 THE COURT: All right. The defense

21 objections are overruled. The Court feels that in view  
22 of this expert's knowledge and experience, that this  
23 testimony is admissible, because it may assist the jury  
24 in reaching a just verdict in this case. And, I think  
25 that will satisfy the 401 and 403 balancing test.

Sandra M. Halsey, CSR, Official Court Reporter  
3282

1 Too, the probative value far out  
2 weighs any prejudicial effect for the reasons stated.  
3 That having been done, let's bring the  
4 jury in. We have 35 minutes left.

5

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: All right.

18 MR. JOHN HAGLER: Could the record

19 reflect a running objection, your Honor?

20 THE COURT: Oh, yes, by all means.

21 All right. Let the record

22 reflect that all parties at the trial are present and the

23 jury is seated.

24 Mr. Davis.

25

Sandra M. Halsey, CSR, Official Court Reporter

3283

1 DIRECT EXAMINATION (Resumed)

2

3 BY MR. GREG DAVIS:

4 Q. Mr. Bevel, I believe I just asked you

5 if you went out there to the residence on November 26th.

6 Did you actually go into the utility room?

7 A. Yes, sir, I did.

8 Q. Did you have a chance to look at the

9 flooring there?

10 A. Yes, sir, I did.

11 Q. What was the appearance of the utility

12 room floor there on November 26th?

13 A. There was, well, the furniture that

14 previously had been there was not still in place. Some

15 of the items, for example, in the photographs, such as a

16 cap and some other items were no longer in place. So it

17 is basically a bare room.

18 The floor was still consistent with

19 the tile that was shown in the photograph. And that is

20 basically it.

21 Q. All right. Did it appear to you that

22 the same linoleum flooring shown here in 38-A through D

23 was still present and on the floor on November 26th,  
24 1996?

25 A. Yes, sir.

Sandra M. Halsey, CSR, Official Court Reporter  
3284

1 Q. Now, when you went out there that day,  
2 sir, did you have in your possession State's Exhibit 67?

3 A. Yes, sir.

4 Q. All right. And, when you went into

5 the utility room floor (sic), did you do some testing  
6 inside the utility room, sir?

7 A. I did, sir.

8 Q. All right. Can you describe for the  
9 jury, the type of testing that you did inside of that  
10 utility room that day in November?

11 A. Yes. I took whole human blood, and  
12 insured that the knife blade on both sides was covered in  
13 blood, and then I simply held it in an upright manner

14 over the container that held the blood, allowing the  
15 blood to run down until it stopped dripping off of the  
16 pointed end of the knife.

17 At that point from approximately

18 waist-high, I just simply dropped the knife onto the  
19 floor.

20 Q. Okay. What were you attempting to do  
21 in those tests?

22 A. To, again, as a cause and effect, if  
23 there is a knife that has blood on it and it's dropped,  
24 again, from approximately waist-high, what sort of  
25 bloodstains would result from that occurrence. That is  
Sandra M. Halsey, CSR, Official Court Reporter  
3285

1 what I was looking for, was the bloodstains that may  
2 result.

3 Q. Okay. With the Court's permission,  
4 Mr. Bevel, would you please step down here in front of  
5 the jury?

6

7 THE COURT: Yes, go ahead.

8

9 (Whereupon, the witness  
10 stepped down from the  
11 witness box, and approached  
12 The jury rail, for the

13 purpose of further describing  
14 the exhibit to the jury.)

15

16 BY MR. GREG DAVIS:

17 Q. Now, taking State's Exhibit No. 67,

18 can you demonstrate here on this carpeted floor the types  
19 of movements that you did during your test on November  
20 26, '96?

21 A. Yes.

22 Q. How did you perform that test?

23 A. Okay. The first thing that I did was

24 to simply kneel down in order to get the whole human  
25 blood on both sides of the knife, and I had a container  
Sandra M. Halsey, CSR, Official Court Reporter  
3286

1 that held the whole human blood. Then I held the knife  
2 just simply in this fashion, (demonstrating), to where  
3 the blood coming down to the point ceased dripping.

4 At that point I just simply stood up

5 and turned away from where the container was and then  
6 just simply dropped it.

7 Q. Okay. Now, the record would reflect

8 the knife -- when you dropped it, you dropped it from  
9 about waist-high; is that right?

10 A. Approximately my waist, yes, sir.

11 Q. Okay. When you dropped it, did the

12 knife appear to bounce off of the carpet and then land in  
13 a second location?

14 A. It did.

15 Q. All right. What did the knife do when

16 you dropped it on the linoleum out there at 5801 Eagle  
17 Drive? Was it a similar type motion as we saw here  
18 today?

19 A. Each and every time it bounced, yes,  
20 sir.

21 Q. Okay. So it would actually fall and

22 then it would move to a -- and actually rest in another  
23 location; is that right?

24 A. It would rest in an area other than

25 the first location that it impacted.

Sandra M. Halsey, CSR, Official Court Reporter  
3287

1 Q. All right. Approximately how many

2 times did you perform those tests out there?

3 A. In that area as well as some other

4 areas, again approximately, that particular drop, 8 to 10

5 times.

6 Q. Okay. In the utility room itself; is

7 that right?

8 A. Yes, sir.

9 Q. Were certain photographs taken after

10 you had performed those tests?

11 A. They were.

12 Q. Do you recall whether or not we took

13 photographs after each and every time that you dropped

14 the knife or not?

15 A. I don't have personal knowledge of

16 that. I believe that there were, but I don't know if

17 each and every one was photographed.

18 Q. Okay.

19

20

21 (Whereupon, the following

22 mentioned items were

23 marked for

24 identification only

25 after which time the

Sandra M. Halsey, CSR, Official Court Reporter

3288

1 proceedings were

2 resumed on the record

3 in open court, as

4 follows:)

5

6 BY MR. GREG DAVIS:

7 Q. Let me now show you, Mr. Bevel, what

8 has been marked as State's Exhibit 125-A, 125-B as well

9 as 126-A and 126-B. Do you recognize these photographs,

10 sir?

11 A. Yes, sir, I do.

12 Q. Okay. Do they truly and accurately

13 depict the test that you performed out there on November

14 26th, 1996, in the utility room?

15 A. They do.

16 Q. Okay. The top photograph 125-A and

17 126-A, do we see the knife actually laying on the floor?

18

19 MR. RICHARD C. MOSTY: Excuse me.

20 Before we go into that, I need to take the witness on

21 voir dire on that exhibit very briefly.

22 THE COURT: Very well.

23

24

25

Sandra M. Halsey, CSR, Official Court Reporter  
3289

1 VOIR DIRE EXAMINATION

2

3 BY MR. RICHARD MOSTY:

4 Q. Mr. Bevel, you've just testified that

5 you have no knowledge of what the photography was doing

6 other than the photography was being done?

7 A. I'm not sure. I didn't take the

8 photographs.

9 Q. Well, for instance, on those exhibits

10 you cannot say that this photograph came from the third

11 test, the second test, the fifth test? You can't say

12 that, can you?

13 A. Well, other than the order that they

14 occurred, on the roll of film, that would be the only

15 way.

16 Q. But then you would have to go to the

17 roll of film and say, negative number 1, test number 1,

18 negative number 2 or whatever it is?

19 A. That would be the only way that I

20 could do that, yes, sir.

21 Q. Whoever was taking those, whoever was

22 creating the contact sheet, or the notes on the

23 photography would be able to say, these photographs are

24 the first test, these photographs are the second, these

25 photographs are the third?

Sandra M. Halsey, CSR, Official Court Reporter

3290

1 A. Or anybody who had access to that

2 contact sheet or negative.

3 Q. That is not you?

4 A. If I had them in my possession I could

5 tell you, yes, sir.

6 Q. Well, but as we sit here today, you

7 are not able to?

8 A. I don't have the negatives or contact

9 sheets in my possession.

10

11 MR. RICHARD C. MOSTY: We'll object to

12 what's that number?

13 MR. GREG DAVIS: 125-A, 125-B, 126-A

14 and 126-B.

15 THE COURT: Is that being offered now?

16 MR. GREG DAVIS: It will be in just a  
17 moment, your Honor. Yes, sir.

18 THE COURT: Well, whenever it gets  
19 offered, state the objection.

20 MR. RICHARD C. MOSTY: Thank you.  
21

22 DIRECT EXAMINATION (Resumed)  
23

24 BY MR. GREG DAVIS:

25 Q. Mr. Bevel, again, we've labeled these  
Sandra M. Halsey, CSR, Official Court Reporter  
3291

1 as test 1 and test 2 for the sake of simply  
2 differentiating that 125-A and 125-B belong together; is  
3 that correct?

4 A. That is correct.

5 Q. 126-A and 126-B belong together, so we  
6 have labeled that as test 2; is that right?

7 A. Yes, sir.

8 Q. Okay. And then photographs, 125-A and  
9 125-B, do we see in the first photograph the blade knife  
10 actually still laying on the floor, and then 125-B, does  
11 that represent the same floor after that knife had been  
12 removed off the floor?

13 A. It does.

14 Q. Would the same be true for State's  
15 Exhibit 126-A and 126-B? First, photographs showing the  
16 knife still on the floor, and then 126-B showing the  
17 floor after that knife has been removed; is that right?

18 A. Yes, sir, that's correct.

19 Q. And these four photographs truly and  
20 accurately depict the scenes that they purport to depict;  
21 is that correct, sir?

22 A. That is correct.

23

24 MR. GREG DAVIS: Your Honor, at this  
25 time we will offer State's Exhibit 125-A, 125-B, 126-A  
Sandra M. Halsey, CSR, Official Court Reporter  
3292

1 and 126-B.

2 MR. RICHARD C. MOSTY: We object on  
3 the basis that the witness cannot identify what is test  
4 1, test 2. He said he does not have knowledge of what

5 the photographs are, which test they are, or that you can  
6 tie those four photographs together. And for the

7 previous reasons that we mentioned earlier.  
8 THE COURT: We understand. All right.  
9 All of those are noted. Objection overruled. State's  
10 Exhibit 125-A and B, and 126-A and B are admitted.  
11 MR. GREG DAVIS: Okay.

12  
13 (Whereupon, the items  
14 Heretofore mentioned  
15 Were received in evidence  
16 As State's Exhibit Nos. 125-A,  
17 125-B, 126-A and 126-B  
18 For all purposes,  
19 After which time, the  
20 Proceedings were resumed  
21 As follows:)

22  
23 BY MR. GREG DAVIS:  
24 Q. Mr. Bevel, if you will stand here to  
25 the side here?  
Sandra M. Halsey, CSR, Official Court Reporter  
3293

1 A. All right.  
2  
3 (Whereupon, the witness  
4 stepped down from the

5 witness box, and approached  
6 The jury rail, for the  
7 purpose of further describing  
8 the exhibit to the jury.)  
9

10 BY MR. GREG DAVIS:  
11 Q. If you could, kind of walk us through  
12 these photographs and take us first to 125-A. What does  
13 that show us?

14 A. This is a photograph showing the knife  
15 laying on the tile floor in question in the utility area  
16 after it had come to rest from being dropped at  
17 approximately waist-high.

18 Q. Okay. And again, we're looking at  
19 State's Exhibit No. 67 in this photograph; is that right?

20 A. Yes, sir.

21 Q. Did you use the actual State's Exhibit  
22 for this test; is that right?

23 A. That is correct.

24 Q. Okay. And what does 125-B show then?

25 A. 125-B is the same area from  
Sandra M. Halsey, CSR, Official Court Reporter  
3294

1 approximately the same angle showing the tile, once the  
2 knife from 125 has simply been removed.

3 Q. Okay. What sort of pattern do we see  
4 there on 125-B?

5 A. On 125-B we have two different types  
6 of pattern. One of them is linear, both from where the  
7 knife originally hit as well as up above to where it  
8 ultimately comes to rest, there are linear lines

9 consistent with the edge of the knife; and then going out  
10 from the linear line in both areas, there is blood

11 spatter that has gone from that impact to the tile  
12 surrounding the linear lines.

13 Q. Okay. Now, this line here on 125-A,  
14 that we see up here, okay, some distance away from the  
15 knife tip. Do you see that, what I am indicating on the  
16 right hand portion of that photograph?

17 A. Yes, sir, I do.

18 Q. Was that blood pattern produced when  
19 you dropped the knife shown in 125-A?

20 A. It was.

21 Q. Okay. So, we have the pattern shown  
22 on the right hand portion, then we also have the pattern  
23 shown around the knife; is that correct?

24 A. That is correct.

25 Q. And they are both produced by the same  
Sandra M. Halsey, CSR, Official Court Reporter  
3295

1 drop?

2 A. Same drop of the knife, yes, sir.

3 Q. If we can, let's go to 126-A and

4 126-B. Again, what do we see in these two photographs?

5 A. The same occurrence where in 126-A,  
6 the top photograph, the knife is shown after it was

7 simply dropped from approximately waist-high on the tile  
8 floor, and then in 126-B is the same area, just simply  
9 the knife has been removed.

10 Q. Now, in State's Exhibit 126-A, I'm

11 pointing to an area here, which I am going to call the  
12 right center portion of the photograph. Do you see that,  
13 sir?

14 A. Yes, sir, I do.

15 Q. Okay. And is there blood in that  
16 area?

17 A. Yes, sir, there is.

18 Q. Okay. And, was that blood produced  
19 and actually deposited on the floor when you dropped the  
20 knife shown in State's Exhibit 126-A?

21 A. It was, sir.

22 Q. Okay. Again, looking at 126-B, do we  
23 see, again, corresponding area right center portion, and  
24 this time do we also see blood that is now from the area  
25 where the knife originally was in 126-A?

Sandra M. Halsey, CSR, Official Court Reporter  
3296

1 A. That is correct.

2 Q. Okay. Both of these patterns -- were  
3 both of them produced when you made the one drop here  
4 shown in 126-A?

5 A. Yes, sir.

6 Q. Okay. Now, if you will just hold

7 this. Now, looking at State's Exhibits 38-A through  
8 38-D, Mr. Bevel, do you see any bloodstain pattern in any  
9 of these four photographs that correspond to the types of  
10 blood patterns that you saw during your test on November  
11 26th, 1996?

12 A. No, sir.

13 Q. The blood drops that we see in 38-A

14 through 38-D, are they consistent or inconsistent with a  
15 bloody knife being dropped or thrown on to the utility  
16 room floor on June 6th, 1996?

17 A. They would be inconsistent.

18 Q. Okay. Thank you, sir.

19

20

21 (Whereupon, the witness

22 Resumed the witness

23 Stand, and the

24 Proceedings were resumed

25 On the record, as

Sandra M. Halsey, CSR, Official Court Reporter  
3297

1 Follows:)

2

3 BY MR. GREG DAVIS:

4 Q. Mr. Bevel, during your visit to 5801

5 Eagle Drive, sir, did you have a chance to go into the  
6 carpeted area of the house?

7 A. Yes, sir, I did.

8 Q. Okay. Let me back up. When you were  
9 doing the tests here shown in 125-A, 125-B and 126-A and  
10 126-B, was there any fresh blood on that floor, sir?

11 A. At the time that we began, no, sir.

12 Q. Okay. The fresh blood that was  
13 deposited, was that the product of your testing, actually  
14 dropping the blade knife on to the floor?

15 A. That is correct, sir.

16 Q. All right. Now, let me take you into  
17 the carpeted portion of the house. Did you actually look  
18 in I believe, what, the formal living area and the dining  
19 room of the house?

20 A. That is correct, sir.

21 Q. Mr. Bevel, have you had an opportunity  
22 to look at the photographs marked as State's Exhibits  
23 111-B and 111-C?

24 A. Yes, sir, I have.

25 Q. Okay. And, have you also had an  
Sandra M. Halsey, CSR, Official Court Reporter  
3298

1 opportunity, sir, to look at the carpet that was removed  
2 from the family room?

3 A. I have.

4 Q. Were you able to actually see the  
5 imprint in the carpet that we see here in State's Exhibit  
6 No. 111-B and 111-C, as you looked at the carpet out  
7 there?

8 A. That is correct, sir.

9 Q. Okay. Now, when you went out there on  
10 November 26th, did you do any testing using State's  
11 Exhibit No. 67 in any of the carpeted area of the house?

12 A. I did, sir.

13 Q. Okay. Can you describe for the  
14 members of the jury the type of testing that you did in  
15 the carpeted area of the house?

16 A. Yes, sir. The same occurrence that we  
17 previously described in taking the knife to a container  
18 that held whole human blood, to get blood coverage on  
19 both sides of the knife blade, again, holding it upright  
20 until the dripping ceased from the pointed end of the  
21 knife, and then did different experiments from different  
22 occurrences; in other words, of laying the knife down to  
23 dropping the knife to throwing the knife.

24 Q. Okay. And again, what was the purpose  
25 of that test?

Sandra M. Halsey, CSR, Official Court Reporter  
3299

1 A. To try and determine if the stain on  
2 the carpet, that we previously talked about, from the  
3 actual crime scene, if that was consistent with the type  
4 of pattern that could be left with a bloody knife, either  
5 being laid, dropped or thrown onto the carpet.

6 Q. Okay. Now, looking at State's Exhibit  
7 11-B and 11-C, the imprint there on that carpet, sir, do  
8 you have an opinion concerning what produced that  
9 imprint?

10 A. Yes, sir, I do.

11 Q. Okay. Based upon your observations of  
12 that imprint and also based on the testing that you did  
13 on November 26, 1996, what is your opinion concerning  
14 what produced the imprint shown in these two photographs,  
15 sir?

16 A. That it was done from a item that is  
17 similar in the configuration as to the knife as far as

18 the, for example, the pointed end, the wide end, the  
19 handle, that has been just simply placed in that area.

20 Q. Okay. As opposed to what?

21 A. Dropping or throwing.

22 Q. Okay. Again, would you categorize  
23 dropping as being a motion that you had shown earlier

24 with regards to the linoleum floor, where you held it at  
25 waist level and then dropped it?

Sandra M. Halsey, CSR, Official Court Reporter  
3300

1 A. That would be correct, sir.

2 Q. Okay. And again, throwing would be  
3 more of a movement of actually tossing it down on the  
4 floor, right?

5 A. With more force, yes, sir.

6 Q. Okay. And, the movement that I am now  
7 doing where I am actually just placing it down on the  
8 carpet, is that the motion that you are talking about  
9 this imprint being consistent with?

10 A. It is.

11 Q. If you either drop this or you toss  
12 this knife down on carpeting, what kind of imprint do you  
13 see?

14 A. You end up seeing the identical  
15 occurrence that you saw on the tile floor where the knife  
16 originally strikes, it then bounces to another area and  
17 you are able to see the impression from the first contact  
18 to the second contact.

19 Q. Okay. Somewhat similar to what we see

20 here in State's Exhibit 125-A, where we have a knife that  
21 is laying in one area but we have a sharp edge on another  
22 section of the flooring?

23 A. That is correct, sir.

24 Q. Did you observe the same type of thing

25 when you would toss or drop State's Exhibit 67 on the  
Sandra M. Halsey, CSR, Official Court Reporter  
3301

1 carpet?

2 A. That is correct, sir.

3 Q. Now, Mr. Bevel, let me direct your

4 attention to the vacuum cleaner, which in this case has  
5 been admitted as State's Exhibit No. 93. And let me ask  
6 you whether or not this is the vacuum cleaner that you  
7 inspected during one of your trips to Dallas?

8 A. That is correct, sir.

9 Q. Okay. And, when you looked at this

10 vacuum cleaner, sir, did you see evidence of blood on the  
11 vacuum cleaner?

12 A. Yes, sir.

13 Q. All right. And as you looked at it,

14 can you describe the type of blood that you actually saw  
15 on the vacuum cleaner?

16 A. Yes, sir. There was a bloody transfer  
17 on the handle, the upper portion of the vacuum cleaner  
18 that would be consistent, for example, with a bloody hand  
19 actually grabbing a hold of the handle.

20 Then, as you go down from the handle

21 to the front part, there is a black, plastic piece that  
22 holds the bag cover, upright. And on that black, plastic  
23 piece there are several low velocity, in other words,  
24 very good sized volume blood droplets that are just  
25 simply going down to that particular area as well as to  
Sandra M. Halsey, CSR, Official Court Reporter  
3302

1 other locations. As you go further down, there is  
2 evidence of blood just simply falling downward with the  
3 vacuum cleaner in that upright position.

4 Q. Okay. Now, did you see evidence, Mr.

5 Bevel, that blood had been dropped on to this vacuum  
6 while it was still in an upright position as it is right  
7 now?

8 A. That is correct, sir.

9 Q. And again, was that low velocity  
10 blood?

11 A. That is correct, sir.

12 Q. Which as a blood stain analyst would

13 indicate to you, what?

14 A. That the item that was -- the blood

15 was being separated from, which is simply above it in

16 this case and instead of shaking your hand or whatever

17 the blood source may be, there is little movement. It's

18 just simply gravitational pull separating the blood and

19 it falling downward as it separates from the blood

20 source.

21 Q. Okay. Would that blood be consistent

22 with an individual who is bleeding, dripping blood,

23 standing next to this vacuum cleaner and as she is doing

24 that, blood dripping from her on to this vacuum cleaner?

25 A. It certainly would.

Sandra M. Halsey, CSR, Official Court Reporter

3303

1 Q. The stain up here on the handle, would

2 that also be consistent with an individual standing next

3 to this and placing her bloody hand onto the handle of

4 the vacuum cleaner?

5 A. It would.

6 Q. Okay. Now, did you see evidence --

7 and let me just for the record, let me just place this

8 vacuum cleaner down onto the floor.

9 Did you see evidence, Mr. Bevel, that

10 blood had been deposited on this vacuum cleaner after it

11 had been laid on to the floor?

12 A. Yes, sir. There are numerous places

13 all over the vacuum cleaner as blood is found consistent

14 with it being in this position at the time that the blood

15 gets on it.

16 Q. Okay. Would that be consistent with

17 an individual standing next to this vacuum cleaner who's

18 bleeding, and as she is dripping blood, it drips onto the

19 vacuum cleaner, sir?

20 A. Well, both that and simply standing

21 next with the blood hitting the floor and then additional

22 blood droplets impacting to the still wet blood and then

23 going over or blood spatter going on to the vacuum

24 cleaner.

25 Q. Okay. So actually, that individual

Sandra M. Halsey, CSR, Official Court Reporter

3304

1 could deposit blood on to the floor next to it and then

2 that blood could impact other blood and then could

3 basically bounce up and spatter over on to this?

4 A. Yes, sir.

5 Q. Okay.

6

7 THE COURT: I think the defense wants  
8 to view.

9 MR. DOUGLAS MULDER: I just wanted to  
10 see what you were talking about.

11 THE COURT: All right. Come on  
12 around.

13 MR. DOUGLAS MULDER: Judge, we can see  
14 fine from here.

15

16 BY MR. GREG DAVIS:

17 Q. Okay. Just indicating again, Mr.

18 Bevel, am I now pointing to an area basically adjacent to  
19 the vacuum cleaner as it is on the floor here?

20 A. Yes, sir.

21 Q. And as I understood your testimony  
22 then, it's possible for that individual who is dripping  
23 blood to then drip blood on to the floor area next to the  
24 vacuum cleaner for that blood to impact blood already on  
25 the floor; is that right?

Sandra M. Halsey, CSR, Official Court Reporter  
3305

1 A. Yes, sir.

2 Q. And then as an occurrence of the  
3 collision of the two blood droplets, that that will

4 produce spatter that then can come up and then produce  
5 small drops on the back side of this vacuum cleaner; is  
6 that right?

7 A. Or various places of the vacuum  
8 cleaner, yes, sir.

9 Q. And you saw droplets on there, on this  
10 vacuum cleaner consistent with that also; is that right?

11 A. That is correct.

12 Q. Mr. Bevel, while you were out there at  
13 the scene on November 26th, did you have an opportunity,  
14 sir, to look at the portion of the kitchen floor near the  
15 sink area?

16 A. I did, sir.

17 Q. Okay. How would you describe the  
18 appearance of the flooring when you saw it?

19 A. There was evidence that, for example,  
20 a chemical, I believe amido black, that had been sprayed  
21 on the floor and it was still visible. And there was  
22 some interaction with the chemical with blood that was  
23 still there.

24 Other items originally seen in the  
25 photographs certainly were not in place; for example, the

1 vacuum cleaner was not there, a throw rug was not there.

2 So things certainly had changed from the original  
3 photography of the area.

4 Q. All right. Could you see evidence of  
5 blood on the floor?

6 A. Yes, sir.

7 Q. Okay. What types of patterns did you  
8 see on the floor in that area, sir?

9 A. There were low velocity blood  
10 droplets, there was satellite created from blood dripping  
11 into blood. There were also patterns of blood being  
12 disturbed. There were areas where blood had had  
13 something that was rolled through the blood, such as a  
14 wheel of the vacuum cleaner.

15 Q. Okay. Let me show you State's Exhibit

16 No. 43-E. Okay. Do you recognize what is portrayed  
17 there in that photograph, sir?

18 A. Yes, sir, I do.

19 Q. Okay. And, the portion of the

20 photograph that I am now pointing to, how would you  
21 categorize this, sir?

22 A. That is a source of blood that was  
23 still wet and viscous. That had an item such as the  
24 wheel of the vacuum cleaner that was rolled through it

25 and as the wheel is going through it, it's both pushing

1 blood in front of it as well as to the sides of it,  
2 leaving little ridges from where the blood has been  
3 displaced from rolling through the wet blood.

4 Q. Okay. With the amido black on the  
5 floor, were there other areas of the floor that were  
6 similar in appearance to the roll mark shown here in  
7 43-E?

8 A. That were similar in appearance as  
9 well as dimensions.

10 Q. Okay. As far as width, for instance?

11 A. Yes, sir.

12 Q. Okay. As you looked at those roll

13 marks, sir, could you make -- could you determine a  
14 direction for the roll marks?

15 A. For some of them such as that one,  
16 there certainly a direction that is obvious.  
17 Q. All right. If you could, if you could  
18 just take that photograph and just show us what direction  
19 we see in that one?  
20 A. It's the same principle if you had a  
21 paint brush that has paint on it and then as you make a  
22 mark, you go from the most paint to a smaller volume of  
23 paint. And it's the same thing we have here; the first  
24 contact is where you have the greatest volume of blood  
25 and then it dissipates, the correct term is feathering,  
Sandra M. Halsey, CSR, Official Court Reporter  
3308

1 out, as you go along.  
2 In this photograph as I am looking at  
3 it, it is going from the proximate center, downward and  
4 to the left, the actual motion.  
5 Q. Okay. So, actually as we look at it

6 then, did I understand you to say that the motion starts,  
7 what I'm going to say is the right portion of that roll

8 mark and it moves over toward the left; is that right?  
9 A. Yes, sir.

10 Q. Okay. On the other roll marks that  
11 you saw, were you able to make some determination of  
12 direction on those, also?

13 A. On some of them, not all of them.

14 Q. Okay. And, what were your findings  
15 there?

16 A. That the item creating the roll marks  
17 was going in opposing directions. In other words, if we  
18 have a motion that is in this direction that we were just  
19 simply looking at, that if you go over to another area,  
20 you have got direction going actually in a different  
21 direction or almost at a 90 degree angle to the original.

22 Q. Okay. Again, with the Court's  
23 permission, if you could just step down here and just use  
24 State's Exhibit No. 93. Demonstate the type of motion  
25 that you were seeing on that kitchen floor on November  
Sandra M. Halsey, CSR, Official Court Reporter  
3309

1 26th, '96?

2 A. Yes, sir.

3

4 (Whereupon, the witness

5 stepped down from the

6 witness box, and approached  
7 The jury rail, for the  
8 purpose of further describing  
9 the exhibit to the jury.)

10

11 BY MR. GREG DAVIS:

12 Q. All right, go ahead.

13 A. Okay. It is a motion just simply of  
14 the wheel rolling through the bloodstain. However, they  
15 are not connected. You then have another area and you  
16 would just about have to lift the vacuum cleaner and go  
17 over to another area and then proceed to roll again in a  
18 different direction from the original location or -- and  
19 original direction.

20 Q. Okay. So there were differing  
21 directions to these movements; is that right?

22 A. As well as not being connected, so

23 there has to be some movement up off of the floor with  
24 the vacuum cleaner.

25 Q. The roll marks that you saw on the  
Sandra M. Halsey, CSR, Official Court Reporter  
3310

1 floor, sir, were they consistent with State's Exhibit No.  
2 93 just simply being dumped over or knocked over in one  
3 motion?

4 A. They would not, no, sir.

5 Q. Okay. Would they be consistent with  
6 State's Exhibit No. 93 having been rolled in several  
7 different directions, in the sink area on June 6th, 1996?

8 A. That would be consistent with what was  
9 found, yes, sir.

10 Q. Okay.

11

12 THE COURT: Mr. Davis, have you  
13 completed the vacuum cleaner questions?

14 MR. GREG DAVIS: I just have one more  
15 question.

16 THE COURT: All right. That will be  
17 fine. Go ahead with that one.

18 MR. GREG DAVIS: Yes, sir, thank you.

19 THE COURT: I think we will finish  
20 that one point and then recess for the day.

21 MR. GREG DAVIS: Yes, sir. All right.

22

23 BY MR. GREG DAVIS:

24 Q. Mr. Bevel, based upon the photographs  
25 that you have seen in this area and your observations on

Sandra M. Halsey, CSR, Official Court Reporter  
3311

1 November 26th, '96, and also your examination of the  
2 vacuum cleaner, sir; do you have an opinion about the

3 amount of time that passed between the time that these  
4 blood drops are actually dropped on the floor and the  
5 vacuum cleaner is then run through the drops?

6 A. I have an approximation, yes, sir.

7 Q. Okay. And, what is your opinion  
8 concerning the time period between the dropping of the

9 blood and the rolling of the vacuum cleaner through the  
10 blood?

11 MR. RICHARD C. MOSTY: Your Honor, I  
12 am going to have to -- this is a separate objection.

13 This witness has not been shown to be an expert in blood  
14 coagulation.

15 THE COURT: Overruled. Go ahead. If  
16 you have an opinion, state it.

17 THE WITNESS: Yes, sir. It would be a  
18 relatively short period of time because there is no  
19 peripheral staining or skeletalization of the individual  
20 blood seen prior to the movement of the item through the  
21 blood.

22

23 BY MR. GREG DAVIS:

24 Q. Okay. When you talk about  
25 skeletalization of a blood drop, what do you mean?

Sandra M. Halsey, CSR, Official Court Reporter  
3312

1 A. Blood drops from the -- or excuse me,  
2 blood dries from the outside edges, and then it dries  
3 inward. Even if the blood is wiped away within 50  
4 seconds from the time that it is actually deposited, you  
5 will see a peripheral stain that is consistent with the  
6 original area of the outside edges of the blood stain.

7 Q. Okay. Do you see that kind of  
8 skeletalization of the blood as shown on the kitchen  
9 floor here in State's Exhibit No. 43?

10 A. I do not.

11 Q. Okay. And when you talk about a  
12 relatively short period of time, between the drops

13 dropping and the rollers rolling, what kind of time frame  
14 are you talking about, sir?

15 A. Because, again of the volume of blood

16 and we're not talking about an individual droplet and  
17 that is what I was talking about just a moment ago, but I  
18 would say somewhere in the range of several minutes.

19 MR. GREG DAVIS: Judge, I believe that  
20 concludes this portion of my questioning.

21 THE COURT: All right. Ladies and  
22 gentlemen of the jury, we want to thank you for staying  
23 over, and we're going recess now until 9:00 tomorrow  
24 morning. And, if we're all here on time, we're going to  
25 get going just as quick as we can.

Sandra M. Halsey, CSR, Official Court Reporter  
3313

1 Same instructions as always. Do no  
2 investigation on your own. You will decide this case on  
3 the testimony and the evidence you hear and see in this  
4 Courtroom, and nothing else. Do not discuss the case

5 among yourselves for any reason whatsoever, because it is  
6 not over yet. When the trial is over you may talk or not  
7 talk as you see fit. Do no investigation --

8 Please be seated in the audience.

9 Do no investigation on your own. This  
10 will obviously be on radio and TV and the newspapers and  
11 if you see anything like that or hear it, just please

12 ignore it. Only decide -- your verdict will be based  
13 only on the testimony you hear and the evidence you  
14 receive in this courtroom.

15 Wear your juror badge in the

16 courthouse and in the area. And other than, don't wear  
17 it out anyplace else. We will see everybody tomorrow  
18 morning at 9:00 o'clock. Thank you for coming.

19 If the audience will remain seated

20 please until the jury clears the courthouse. Then we are  
21 going to clear the courtroom and those who want to see  
22 the exhibits can step back in briefly. We know there are  
23 some here that some of the press particularly want to  
24 see.

25 All right.

Sandra M. Halsey, CSR, Official Court Reporter  
3314

1

2 (Whereupon, a short

3 Recess was taken,

4 After which time,

5 The proceedings were  
6 Resumed on the record,  
7 In the presence and  
8 Hearing of the defendant  
9 And outside the presence  
10 Of the jury, as follows:)  
11

12 THE COURT: Let's clear the room. If  
13 you will clear the room, please.  
14 Let the record reflect that these  
15 proceedings are being held outside the presence of the  
16 jury, and that all the parties in the trial are present.

17 MR. GREG DAVIS: I have all of  
18 photographs that were taken out there on 26.  
19 MR. RICHARD C. MOSTY: Mr. Davis has  
20 handed me what he says are all the photographs taken on  
21 November 26th.  
22 MR. GREG DAVIS: Right. This is just  
23 for the record, this will include the photographs that  
24 were taken in the carpeted area, the linoleum area.

25 And also there are photographs in here  
Sandra M. Halsey, CSR, Official Court Reporter  
3315

1 that were taken of the section of wall that was removed  
2 from the family room and I have also got one additional  
3 board back here that contains three photographs of the  
4 carpeted area, and I am going to leave that in here for  
5 counsel to look at also.

6 MR. RICHARD C. MOSTY: I take it there  
7 are no contact sheets?

8 MR. GREG DAVIS: No.

9 MR. DOUGLAS MULDER: There were three  
10 photographs that were taken of the defendant by  
11 Patterson, on June the 6th. And, Lloyd?

12 MR. LLOYD HARRELL: Yes, sir.

13 MR. DOUGLAS MULDER: The three  
14 Polaroid pictures that you saw that were taken by  
15 Patterson, were taken by somebody?

16 MR. LLOYD HARRELL: Beddingfield or  
17 Patterson on June the 6th.  
18 They were out at Rowlett. They have  
19 not been introduced, and we're going to need those. Do  
20 you know what I am talking about, Greg?

21 MR. GREG DAVIS: Well, I don't really.

22 THE COURT: Well, whatever is needed,  
23 please let them have it.  
24 MR. GREG DAVIS: Polaroids though,  
25 right?  
Sandra M. Halsey, CSR, Official Court Reporter  
3316

1 MR. DOUGLAS MULDER: There were three  
2 of them taken of her in the hospital.  
3 MR. GREG DAVIS: All right.  
4 THE COURT: Whatever is needed, please  
5 let them have it.  
6 MR. GREG DAVIS: Okay. We'll  
7 certainly look for those tonight.  
8 MR. DOUGLAS MULDER: Can I expect  
9 those in the morning?  
10 THE COURT: Well, I think if you will  
11 stick around, they'll probably have them at 6:30.  
12 MR. DOUGLAS MULDER: Well, I don't  
13 mind. I will be happy to stay if you are telling me they  
14 are going to get them.  
15 THE COURT: Well, can you get them in  
16 the morning?  
17 MR. GREG DAVIS: Well, I'll tell you,  
18 I don't know where they are right now. I have not talked  
19 with Detective Patterson about that, but I will speak  
20 with him when we leave the courtroom today.  
21 THE COURT: All right. Let's see if  
22 we can get some tomorrow morning. Again, do you still  
23 think you will close tomorrow?  
24 MR. GREG DAVIS: Yes, sir.  
25 THE COURT: All right. Is that all?  
Sandra M. Halsey, CSR, Official Court Reporter  
3317

1 MR. DOUGLAS MULDER: Yes, sir.  
2 THE COURT: All right. Thank you.