

Testimony of David Rogers

DIRECT EXAMINATION

16

17 BY MR. S. PRESTON DOUGLASS, JR.:

18 A. Mr. Rogers, would you tell the jury

19 what you do for a living?

20

21 THE COURT: State your name and spell

22 the last name for the court reporter.

23 THE WITNESS: I'm sorry. That's David

24 Rogers, R-O-G-E-R-S. I am the pastor of Shepherd's Heart

25 Fellowship Church in Mesquite, Texas.

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1

2 BY MR. S. PRESTON DOUGLASS, JR.:

3 Q. And how long have you been the pastor

4 there at that church in Mesquite?

5 A. Ten and a half years.

6 Q. Before that time, had you been a

7 pastor at another church?

8 A. Yes, I pastored three other churches

9 besides that.

10 Q. Where were they located?

11 A. One near Mount Vernon, Texas, and two

12 in the Tyler, Texas area.

13 Q. How many years total have you been in

14 the ministry?

15 A. In the pastorate about 12 years and in

16 the ministry, about 20.

17 Q. Okay. Are you married?

18 A. Yes, I am.

19 Q. Do you have children?

20 A. Yes, I have two.

21 Q. How many children do you have?

22 A. Two.

23 Q. What are the children's ages?

24 A. Fifteen and seven.

25 Q. Okay. How many years you been

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1 married?

2 A. Almost 22.

3 Q. All right. Now, I want to direct your

4 attention to June of 1996. I want to ask you if you were

5 requested to take part and officiate the burial service

6 for Damon and Devon?

7 A. Yes, I was.

8 Q. Now, prior to that time, had you known
9 Darlie Routier?

10 A. No, I had not.

11 Q. Had you met Darin Routier?

12 A. Yes, I had.

13 Q. Would you tell the members of the jury
14 how you had met Darin?

15 A. Darin's cousin is a good friend of
16 mine and also a member of our church. And I had met
17 Darin on two or three occasions at his cousin's home.

18 Q. So, I guess the obvious is that Darin
19 and Darlie were not members of your church; is that
20 right?

21 A. That's correct.

22 Q. You had not been to their home or
23 spent any time with them.

24 A. No, I had not.

25 Q. And you had not met the children prior
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1 to that time?

2 A. No, I had not.

3 Q. Okay. Now, when, to the best of your
4 recollection, were you approached, and I am talking about
5 a date, about officiating with the funeral? Or, let me
6 back up, was that the first time you were approached?

7 A. Well, approached --

8 Q. How did you find out about what
9 happened?

10 A. Darin's cousin called me about 4:00
11 o'clock in the morning, 4:00 A.M., the morning of the
12 murders, and told me of the murders and asked us to begin
13 to pray for the family.

14 We have a group of people at our
15 church that pray for all kinds of needs, and so we
16 contacted those people and we began to pray for the loss,
17 and the needs of the family.

18 Q. Okay. Obviously, at that time you
19 knew Darin but you had not met Darlie?

20 A. That's correct.

21 Q. Okay. And then, what was the next
22 contact you had with anybody about this matter?

23 A. Well, I went to the hospital that
24 morning. I guess I got to the hospital around 10:00
25 o'clock. I think it was, if I remember right.

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1 I visited with family members and
2 prayed with them and just offered to help in any way we
3 could.

4 Q. Okay. Did you talk to Darlie on that
5 visit?

6 A. No, I did not.

7 Q. Did you ever visit with Darlie Routier
8 while she was in the hospital?

9 A. No, I did not.

10 Q. All right. After you went to the
11 hospital, and you visited with the family --

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

14 Q. -- I'm assuming you spoke with Darin?

15 A. Yes, I did, um-hum. (Witness nodding
16 head affirmatively.)

17 Q. And did Darin pray with you on that
18 day?

19 A. Yes, we did.

20 Q. Now, for purposes of the jury
21 understanding, was there a network of family support for
22 Darlie and Darin?

23 A. At the hospital?

24 Q. Yes.

25 A. Oh, yes, there was a tremendous amount
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1 of support.

2 Q. All right. And obviously, all of
3 these people are deeply affected by what happened?

4 A. Yes.

5 Q. And they were concerned for Darlie?

6 A. Yes.

7 Q. And they were concerned for Darin; is
8 that right?

9 A. Yes.

10 Q. Now, what, if you will, jump ahead a
11 little bit, the next role that you took in this story is
12 what day?

13 A. Well, the following -- I think it was
14 the following day which, I guess, would have been on
15 Friday, Darin's cousin called me and said Darin had asked
16 him to contact me and see if I would be willing to
17 preside at the funerals.

18 Q. Now, obviously, you agreed?

19 A. Yes.

20 Q. And what after that?

21 A. I visited the hospital again that day,
22 on Friday, again, met with family members, prayed with

23 them, offered to help in any way we could.

24 Q. Would you go by yourself or with your
25 wife or how did that work?

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1 A. At the hospital I went by myself,
2 um-hum. (Witness nodding head affirmatively.)

3 Q. And, when was the first time that you
4 met Darlie Routier?

5 A. When -- the day Darlie was released
6 from the hospital, which was on Saturday, the boys'
7 bodies were prepared at the funeral home there in
8 Rockwall, and we were waiting there for the police to
9 bring her from the hospital to the funeral homes -- to
10 the funeral home for the viewing of the bodies.

11 I was waiting in the back of the
12 funeral home in the private family room entrance with,
13 her -- Darin's cousin, and one of the funeral directors,
14 one of the funeral home employees.

15 The police officers brought them to
16 the back of the funeral home, and entered through the
17 private entrance back there, and they came into the
18 private family room, and that is the first time I met
19 Darlie.

20 Q. And who was Darlie with at the time
21 she arrived for the viewing?

22 A. She was with her husband Darin, and
23 the two police officers from Rowlett, they introduced
24 themselves to me as Detective Patterson and Frosch or
25 something like that.

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1 Q. And did you get the impression that
2 those detectives had been escorting her or shepherding
3 her around or something?

4 A. Well, I mean, they said they picked
5 her up at the hospital and brought her there for the
6 viewing. Although, there was a long delay because they
7 had taken her by the police station.

8 Evidently, there had been several
9 hours of questioning, so we were there for quite a long
10 time waiting.

11 Q. Do you have any idea that you could
12 tell the jury about when you arrived at the funeral home
13 on that day?

14 A. It seems like to me that it was
15 probably late afternoon, maybe five o'clock in the
16 afternoon, if I remember correctly.

17 Q. Now, is that when you arrived or when
18 Darlie arrived?
19 A. That is when I arrived, I think.
20 Q. Okay.
21 A. I think Darlie arrived a couple of
22 hours after I arrived.
23 Q. All right.
24 A. If I remember correctly. I could have
25 the times wrong, but I was there for a couple of hours
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1 before she was.
2 Q. That is the best you recollect?
3 A. Yes. Um-hum. (Witness nodding head
4 affirmatively.)
5 Q. All right. If you would, would you
6 walk the jury through what happened next?
7 A. Well, the police officers pulled into
8 the private entrance and she and Darin got out of the
9 back seat of the car and we held the door open for them
10 to come into the family room, and we stood there, Darin's
11 cousin on one side of them and me on the other side.
12 And we laid our hands on them and we
13 prayed for them, prayed God's mercy upon them and His
14 peace upon them and His healing, and just talked with
15 them for a minute before they went in to view the boys'
16 bodies, and what they would see when they went in,
17 because we had already gone in and looked at the boys'
18 bodies, and so we knew what they would see when they went
19 in.
20 Q. All right. Mr. Rogers, over a period
21 of your career, I believe you said some 20 years, do you
22 have any idea how many funerals or memorial services you
23 may have taken part in during that time?
24 A. Dozens and dozens. I couldn't tell
25 you, lots.
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1 Q. And, is it a regular part of your
2 duties and your vocation to take part in funerals and
3 officiate at funerals?
4 A. Sure. Um-hum. (Witness nodding head
5 affirmatively.)
6 Q. Do you have any idea how many you may
7 do in a month?
8 A. Well, it's hard to say because the
9 church that we're in now is a very small congregation so
10 I don't do as many now as I did several years ago when I

11 was in larger congregations. So, I couldn't really give
12 you a number.

13 Q. All right. Have you come into a
14 number of people who were in the same situation that
15 Darlie Routier was in in losing a loved one or even a
16 child?

17 A. Yes.

18 Q. And are you familiar and have you come
19 into contact with mothers who have lost children in
20 tragic circumstances?

21 A. Yes.

22 Q. Are you familiar and do you recall the
23 way that those mothers responded to that tragic event and
24 the type of grief and the display of emotion that they
25 felt?

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1 A. Yes.

2 Q. Now, I'm going to ask you a broad
3 question first. I'm going to ask you: Based upon your
4 observations of people you have seen, mothers in these
5 same situations, and based upon your observations of
6 Darlie Routier, do you have an opinion that you can tell
7 this jury, as to whether you feel like Darlie Routier was
8 grieving appropriately?

9 A. Yes, she was grieving appropriately.

10 Q. Now, tell jury what you saw in -- I
11 jumped ahead of myself a little bit. From the time of
12 the viewing to the funeral, and did you also go to the
13 prayer service?

14 A. Yes, I did.

15 Q. So you were actively involved with the
16 family and with Darlie for a few days from the period of
17 the viewing onward; is that right?

18 A. Yes, that's correct.

19 Q. Do you believe that you can tell the
20 jury that it was not limited to a viewing and a funeral,
21 but that you spent some time with Dalie?

22 A. Yes, we did.

23 Q. Now, that has been laid out, based
24 upon the time that you spent with Darlie, what did you
25 see, what did you observe?

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1 A. Well, I observed a mother who was
2 grieving, and heartbroken, and anguishing over the loss
3 of her children.

4 Q. Did she have periods that she would

5 cry in your presence?

6 A. Oh, sure. Um-hum. (Witness nodding
7 head affirmatively.)

8 Q. Now, there has been representations

9 made that, oh, that maybe Darlie would just whine, or

10 maybe Darlie would just kind of tear up, but they weren't

11 real tears. Maybe that these were crocodile tears. That

12 maybe it was kind of an inappropriate display of grief.

13 Do you agree with that?

14 A. No, I don't agree with that at all.

15 She never whined in my presence. Her displays of grief

16 appeared to be genuine and real.

17 Q. Did you see times that she smiled?

18 A. Yes.

19 Q. Is that normal?

20 A. Sure.

21 Q. In fact, Mr. Rogers, wouldn't it be

22 abnormal for a person over a three or four day period

23 that you see them to be hysterical the whole time?

24 A. I don't see how anybody could be

25 hysterical for that length of time.

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1 Q. I don't know if this is the right word

2 to use, but sometimes your emotions just simply play out,

3 don't they?

4 A. Um-hum. (Witness nodding head

5 affirmatively.) They do.

6 Q. Sometimes you just get to the point

7 that you have to look for some stronger foothold; isn't

8 that right?

9

10 MS. SHERRI WALLACE: I'm going to

11 object to leading.

12 THE COURT: Rephrase your question.

13

14 BY MR. S. PRESTON DOUGLASS, JR.:

15 Q. In terms of a person smiling, do you

16 consider that appropriate or inappropriate, under those

17 circumstances?

18 A. Well, what happens in circumstances

19 like that is a person cries, a person grieves, a person

20 sometimes just sits and stares with almost no emotion,

21 sometimes someone mentions something sweet or a fond

22 remembrance of their loved one that they have lost and

23 they smile or they even laugh.

24 All of those things are appropriate

25 and common in grieving situations.

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1 Q. Is it correct that sometimes it's the
2 memories that get you through, isn't it?

3 A. It is sometimes the memories. And in
4 addition to that, faith gets you through.

5 Q. Now, did you go -- obviously, you
6 officiated at the funeral which is on the 10th?

7 A. It was on a Sunday. Um-hum. (Witness
8 nodding head affirmatively.)

9 Q. I may have my date wrong.

10 A. Sunday the -- I think it was the 9th,
11 but it was on Sunday.

12 Q. Right. The viewing was the 8th?

13 A. Right. On a Saturday, that's right.

14 Q. All right. And, after -- during the
15 funeral, did Darlie Routier appear to act appropriately
16 in your eyes?

17 A. Sure. She grieved and she cried and
18 acted just like dozens of other people I have seen who
19 have lost loved ones.

20 Q. And did you also take part and conduct
21 a prayer service at grave side a few days after that?

22 A. A few days after that, I didn't
23 actually conduct it, I was there at it. Okay. There was
24 another minister that Darlie's mom had asked to conduct
25 it.

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1 But, I was certainly there, and we
2 prayed, and we read Scripture, and then we talked
3 privately with the family and prayed with them and it was
4 a very meaningful and appropriate time.

5 Q. Now, did you know, of your own
6 knowledge, at that time that there was a prayer service
7 earlier in the afternoon, and that there was also what
8 has been called a birthday party that was planned later
9 that day?

10 A. I didn't know anything about that. I
11 mean, I heard at the prayer service --
12

13 MS. SHERRI WALLACE: I'll object. I'm
14 going to object to what he had heard as hearsay.

15 THE COURT: Overruled. I'll let him
16 testify. Go ahead.

17 THE WITNESS: I mean, it seems like I
18 heard some mention of that at the prayer service, but I
19 don't know anything about it, or didn't at the time.

20

21 BY MR. S. PRESTON DOUGLASS, JR.:

22 Q. Well, let me ask you, if after a
23 prayer service, the family gathered again, and placed
24 items of remembrance around the grave, some -- including
25 the balloons with the children's name on it.

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

3 Q. And had a birthday party for on the --
4 a child that was very soon dead, and was having his
5 birthday -- was scheduled, obviously, his birthday.

6 A. Right.

7 Q. They couldn't have the birthday,
8 obviously.

9 A. Right.

10 Q. Does it strike you as abnormal that
11 that type of event would take place?

12

13 MS. SHERRI WALLACE: Object to
14 leading.

15 THE COURT: Let's rephrase our
16 question.

17

18 BY MR. S. PRESTON DOUGLASS, JR.:

19 Q. Does that strike you as abnormal, yes
20 or no, whether that type of event as scheduled, from your
21 perspective?

22 A. No, it didn't strike me as abnormal.

23 Q. Now, I want to ask you if at any time
24 after coming in contact with Darlie Routier, if you
25 noticed any bruising on her arm?

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1 A. Well, when she arrived at the funeral
2 home on Saturday that -- when the police brought her from
3 the hospital to the funeral home, her arm, her right arm
4 was in a sling at that time, and, of course, not having
5 seen her before, the wounds were significant to see and I
6 believe it was Darin's cousin did help her adjust the
7 sling when we were in the family room, and there was
8 bruising on her arm.

9 Q. And that was on the right arm?

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

12 Q. And, did that bruising seem
13 significant to you?

14 A. Well, it appeared significant to me.
15 Q. And that was on the 8th?
16 A. Yes, on Saturday when she came.
17 Q. After she was escorted in by police
18 officers?
19 A. Yes, that's correct.
20 Q. I'm going to ask you perhaps one more
21 question that was -- that is: Would you agree or
22 disagree with the statement that mothers who have lost
23 their children, as a rule, are inconsolable?
24 A. Mothers who have lost their children
25 as a rule are inconsolable.
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1 Q. Can they be consoled?
2 A. Well, certainly, they can be consoled.
3
4 MR. S. PRESTON DOUGLASS, JR: Pass the
5 witness, your Honor.
6 THE COURT: Ms. Wallace.

7
8
9 CROSS EXAMINATION

10
11 BY MS. SHERRI WALLACE:
12 Q. Mr. Rogers, how large is your
13 congregation?
14 A. We probably have about 80 to 100
15 people that come to our services often.
16 Q. Okay. And then you have another
17 full-time job; isn't that right?
18 A. Yes, I do.
19 Q. What is that in?
20 A. I sell computers and software and
21 things like that.
22 Q. Who do you work for?
23 A. I work for a company called Cheetah
24 International.
25 Q. How long have you been with them?
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1 A. About a year.
2 Q. And your wife is working now a little
3 bit for the defendant's husband, isn't she?
4 A. She has done some work since the trial
5 started, to try to help him keep his business open.
6 Q. And a little bit this fall as well;
7 isn't that correct?

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

10 Q. Now, I think the defense attorney
11 brought out the fact that you had never even met the
12 defendant before the boys were murdered, had you?

13 A. No, I hadn't.

14 Q. Okay. So they weren't a member of
15 your church?

16 A. No.

17 Q. And, I assume that there wasn't a
18 pastor that they were familiar with because they had you
19 do the service; is that right?

20 A. That's correct.

21 Q. All right. And, Randy Regan is the
22 husband's cousin that you were speaking of that is a
23 member of your congregation?

24 A. Yes, that's correct. Um-hum.

25 (Witness nodding head affirmatively.)

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1 Q. How many times had you met the
2 defendant's husband before you did their funeral service
3 for their boys?

4 A. Well, are you talking about before the
5 murders themselves?

6 Q. Yeah. Well, thank you. Yes, before
7 the murders themselves.

8 A. Well, I believe it was three times, if
9 I remember correctly. It might have been just two, but
10 two or three times at Randy's house.

11 Q. All right. Would you say that y'all
12 were friends or were just acquaintances?

13 A. No, just acquaintances.

14 Q. Okay. Now, since the murders, you've
15 developed a very strong relationship with the defendant,
16 haven't you?

17 A. She needed pastoral ministry, that's
18 correct.

19 Q. So you developed a very strong
20 relationship with the defendant, haven't you?

21 A. That's correct.

22 Q. In fact, I think by my count, you
23 visited her when she was in jail in Dallas about 51
24 times; is that right? Sound about right?

25 A. Well, over the months, that's probably
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1 true.

2 Q. Okay. And then how many times did you
3 come down to Kerrville when we were in jury selection
4 back in the first -- or the latter part of October,
5 beginning of November?

6 A. One time.

7 Q. Okay. One time?

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

10 Q. And have you been to Kerrville other
11 than for your testimony, arriving, what -- you arrived
12 last night; is that right?

13 A. Yes, that's correct. Yesterday
14 afternoon we arrived.

15 Q. Where you here earlier in the trial?

16 A. No, I have not been.

17 Q. And you -- I mean, you want the truth
18 out about this crime, don't you, Mr. Rogers?

19 A. Certainly, yes.

20 Q. Okay. You would want to cooperate in
21 any investigation; is that correct?

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

24 Q. In fact, I mean, you cooperated with
25 the press in this case, haven't you?

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1 A. Well, I answered questions when asked
2 questions. Um-hum. (Witness nodding head
3 affirmatively.)

4 Q. And you and the defendant's mother
5 have met, had a specific meeting with an AP reporter;
6 isn't that correct?

7 A. Um-hum. (Witness nodding head
8 affirmatively.) That's correct.

9 Q. And, in fact, our office contacted you
10 and you spoke over the phone to Miss -- well, you first
11 spoke over the phone and then later you met you Ms.
12 Kinne, Anita Kinne?

13 A. In your office, yes, that's correct.

14 Q. And how that took place was
15 Investigator Kinne called you several times and left
16 messages, didn't she?

17 A. I don't know that she called several
18 times. I got a message and I returned her call.

19 Q. In fact, you didn't return her call,
20 she had to call you and when you finally answered the
21 phone, that's when y'all got to visit; isn't that right?

22 A. No, that is incorrect. I returned her

23 call several times.

24 Q. And, when you came to our office, fair
25 to say, you were reluctant to speak to Investigator
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1 Kinne, weren't you?

2 A. I was apprehensive.

3 Q. Okay. And you said that you were
4 concerned about talking with us because she should know
5 there is nothing you could tell her because a minister
6 counseling with people is privileged. Isn't that what
7 you told her?

8 A. That's correct.

9 Q. In fact, that is not true, is it, Mr.
10 Rogers? In a criminal case, there is no such thing as a
11 minister/parishioner privilege, is there?

12

13 MR. S. PRESTON DOUGLASS: I'll object
14 to that. It calls for a legal conclusion on his part, he
15 doesn't know that.

16 THE COURT: I'll sustain the
17 objection.

18 MR. JOHN HAGLER: Furthermore, your
19 Honor, Rule 505, there is a privilege.

20 THE COURT: I'll sustain the
21 objection.

22

23 BY MS. SHERRI WALLACE:

24 Q. Anyway, let's suffice it to say, Mr.
25 Rogers, obviously, you weren't at the crime scene when
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1 these events occurred?

2 A. That's correct.

3 Q. So all you know about what happened
4 about this crime is what the defendant has told you?

5 A. No, that is incorrect. There's been a
6 lot in the newspapers and on the television about it.

7 Q. Okay. So you gathered your
8 information from the press, and you've gathered your
9 information from the defendant, and I suppose you have
10 spoken with the defendant's husband as well?

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

13 Q. Okay. And, in that conversation you
14 had with Investigator Kinne in our office, do you
15 remember her telling you that we wanted to be very
16 careful not to overlook anything or anyone?

17 A. Yes, I do.
18 Q. And you promised her if you had any
19 further information, you would give her a call, didn't
20 you?
21 A. Um-hum. (Witness nodding head
22 affirmatively.) I did.
23 Q. And you haven't called her, have you?
24 A. No, I haven't, because I haven't had
25 any further information.
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1 Q. Okay. I want to talk to you a little
2 bit about at the viewing.
3 A. Um-hum. (Witness nodding head
4 affirmatively.)
5 Q. I think you testified that the
6 defendant had been with the police for a number of hours;
7 is that right?
8 A. I know we were there waiting for a
9 couple of hours. Um-hum. (Witness nodding head
10 affirmatively.)
11 Q. And in fact, they had requested a
12 police escort that day who had taken them and run them
13 around town and done errands for them; isn't that
14 correct?
15 A. That I don't know.
16
17 MR. S. PRESTON DOUGLASS: Objection,
18 your Honor, only if he knows that can he answer it.
19 THE COURT: If you know the answer,
20 answer it. If you don't, just say you don't know.
21 THE WITNESS: I don't know. Honestly,
22 I don't know.
23
24 BY MS. SHERRI WALLACE:
25 Q. All right. No problem.
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1 When they did arrive there at the
2 funeral home, the first people to see the casket included
3 yourself, Randy Regan, the defendant, her husband, two
4 police detectives, and then there was a funeral director
5 there as well; is that correct?
6 A. Are you talking about the first time
7 that the defendant saw the casket? Is that what you are
8 asking about?
9 Q. I am.
10 A. Okay. The first time the defendant

11 saw the casket, they went -- Randy Regan and her husband
12 and she, the funeral director, and the two detectives
13 went into the viewing room, and I didn't go in
14 immediately with them. I went in about a minute or two
15 later.

16 Q. Okay. So you didn't go in
17 immediately? You didn't see what happened when she first
18 went in?

19 A. No, because we had gone out the little
20 door and into the other door and someone had said
21 something to me and I was --

22 Q. Drew your attention away?

23 A. -- stopped there for a minute or two,
24 yes.

25 Q. Okay. Now, when you did go in to the
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1 viewing area there with the casket --

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

4 Q. -- about a minute or two later, you
5 saw the defendant at that time, correct?

6 A. Yes. And I could hear her in the
7 hallway before that even.

8 Q. She was --

9 A. Wailing.

10 Q. Wailing loudly, right?

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

13 Q. And when you went, I suppose, you
14 didn't see a tear, did you?

15 A. Well, I mean, she was crying.

16 Q. You didn't see any water on her face
17 or any tears, did you, Mr. Rogers?

18 A. I saw -- sure, she was crying, there
19 were tears.

20 Q. Well, was Randy Regan in the same
21 room?

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

24 Q. So if he never saw a tear --

25

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1 MR. S. PRESTON DOUGLASS, JR: Excuse
2 me, your Honor. Randy Regan isn't here. It's hearsay
3 whatever he said or saw.

4 THE COURT: I'll sustain the

5 objection. Let's move on.

6

7 BY MS. SHERRI WALLACE:

8 Q. Well, it's your testimony that she

9 actually had tears at that time?

10 A. She had been crying when we were

11 standing there in the family room, yes, just about a

12 minute or two before.

13 Q. Did -- you were aware, that there were

14 two pocketknives put in the casket with the boys, weren't

15 you?

16 A. I think there were. It seems like I

17 remember that.

18 Q. Okay. And, do you remember the first

19 song played at the funeral?

20 A. Yes, ma'am, I do.

21 Q. And what was that?

22 A. I don't know the name of the song

23 but --

24 Q. Let me see if I can help you. Was it

25 Gangster's Paradise?

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1 A. I think that was the name of the song.

2 Q. Now, Mr. Rogers, were you at this

3 prayer service before the birthday party, Silly String

4 party?

5 A. Yes, I was.

6 Q. And what -- there were about 12 or 15

7 people there at that time?

8 A. Something like that, yeah.

9 Q. It was in the afternoon; is that

10 right?

11 A. Yes, it was in the afternoon.

12 Q. And they had also invited a newspaper

13 reporter to be present, had they not?

14 A. Well, there was --

15

16 MR. S. PRESTON DOUGLASS: Your Honor,

17 again, only if he knows what other people did can he

18 answer.

19 THE COURT: Just a minute, sir.

20 Wait -- when they object, just stop.

21 THE WITNESS: I'm sorry.

22 THE COURT: If you know the answer

23 from your own knowledge answer it. If you don't know it

24 from your own knowledge, say so.

25 THE WITNESS: I apologize.

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1 THE COURT: You don't have to
2 apologize.
3 Now then, we have what is called
4 hearsay down here. Don't say what other people have told
5 you. Okay?
6 And only answer questions from your
7 own knowledge. If you don't know of your own knowledge,
8 just say, "I don't know".
9 THE WITNESS: Yes, sir. Thank you.
10 THE COURT: In the meantime, does any
11 member of the jury desire a break?
12 THE COURT: All right. We have one.
13 That's enough. We'll take a 10 minute break.
14 Thank you.

15
16 (Whereupon, a short
17 recess was taken, after
18 which time, the
19 proceedings were
20 resumed in open court,
21 in the presence and
22 hearing of the
23 Defendant, being
24 represented by his
25 Attorney, but outside of
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1 the presence of the jury
2 as follows:)
3
4 THE COURT: All right, are both sides
5 ready to bring the jury in and continue?
6 MR. S. PRESTON DOUGLASS, JR.: Yes,
7 sir, the defense is ready.
8 MS. SHERRI WALLACE: Yes, sir, we are
9 ready to continue.
10 THE COURT: All right. Bring the jury
11 in, please.
12
13 (Whereupon, the jury
14 was returned to the
15 courtroom, and the
16 proceedings were
17 resumed on the record,
18 in open court, in the
19 presence and hearing

20 of the defendant,
21 as follows:)
22
23 THE COURT: All right. Let the record
24 reflect all parties in the trial are present and the jury
25 is seated. Ms. Wallace.
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1 MS. SHERRI WALLACE: Thank you, your
2 Honor.

3
4
5 CROSS EXAMINATION (Resumed)

6
7 BY MS. SHERRI WALLACE:
8 Q. Mr. Rogers, I think this is where I
9 was, I'm not sure.

10 At the prayer service the day of the
11 birthday party, it was like a week --
12 A. Yes.

13 Q. -- about a week after the killing.

14 A. The following Friday.

15 Q. Okay. Yeah. Just over a week. You
16 said you were there; is that right?

17 A. Yes, ma'am.

18 Q. And are you aware that there was a
19 newspaper reporter there as well?

20 A. Yes, I am aware of that.

21 Q. Okay. And after that service, did
22 you --

23
24 THE COURT: Sir, could you please
25 speak up a little bit louder so that the lady and
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1 gentleman right there in the corner can hear you.

2 THE WITNESS: Yes, sir.

3 THE COURT: Thank you.

4
5 BY MS. SHERRI WALLACE:

6 Q. It was a pretty emotional service,
7 wasn't it?

8 A. The prayer service?

9 Q. Yes.

10 A. Yes, ma'am, it was.

11 Q. And right after, the defendant and her
12 mom spent about an hour with this newspaper reporter;
13 isn't that correct?

14 A. Everybody was around talking, and they
15 talked to him, I don't know how long.
16 Q. Did you leave before they did?
17 A. I honestly don't know because I was
18 talking to different people.
19 Q. Okay. You didn't conduct that
20 service. I think that is what you said; is that right?
21 A. That's correct.
22 Q. Okay. What denomination are you, Mr.
23 Rogers?
24 A. We're Independent.
25 Q. Okay.
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1 A. And I guess Baptist and Independent
2 kind of, so --
3 Q. I'm Baptist. Don't let the Baptists
4 hearing you saying Independent. They don't take too
5 kindly to that.
6 A. Yes, well there's all kinds of
7 Baptists, so --
8 Q. What church were you pastoring before
9 that?
10 A. What church was I pastoring before
11 this one?
12 Q. Um-hum. (Attorney nodding head
13 affirmatively.)
14 A. I pastored a church called Tyland
15 Baptist Church in Tyler, T-Y-L-A-N-D, in Tyler.
16 Q. How big is that church?
17 A. That church, at that time, probably
18 had 250 or 300 members, something like that.
19 Q. How long were you there?
20 A. About two and a half years.
21 Q. Did you do that full time? Was that
22 church large enough to support that?
23 A. Part of the time I did, and part of
24 the time I didn't.
25 Q. Okay. What business did you have
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1 there in Tyler, other than your pastoring?
2 A. Well, at that time I was working
3 part-time for Sears.
4 Q. In these -- I don't know, in my count
5 I guess it's now 52 times you visited with the defendant
6 since she has been incarcerated?
7 A. Um-hum. (Witness nodding head

8 affirmatively.)

9 Q. Have you made any notes of those
10 visits?

11 A. No.

12 Q. Okay. Have you made any notes about
13 what you have observed or anything prior to testifying
14 today?

15 A. No.

16 Q. You didn't write down what you
17 remembered for the lawyers here?

18 A. No.

19 Q. You knew that the bruises were
20 important in this trial, didn't you?

21 A. I have heard on the news that they
22 talked about bruises. Um-hum. (Witness nodding head
23 affirmatively.)

24 Q. Have you been made privy to the notes
25 the family is taking here, or have you just heard about
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1 this?

2 A. I know that it's being done. I have
3 not seen any of them.

4 Q. They told you what's going on?

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

7 Q. And I don't guess you knew that you
8 weren't supposed to talk to them about the testimony, did
9 you?

10

11 MR. RICHARD C. MOSTY: Your Honor, you
12 know, we been through this with the State's witnesses --

13 MR. GREG DAVIS: I'm going to object
14 here.

15 MR. RICHARD MOSTY: -- that until they
16 are placed under the rule.

17 MR. GREG DAVIS: If we could just have
18 an objection and no side-bars, please. If he has an
19 objection, please state it.

20 MR. RICHARD C. MOSTY: We have been
21 through this --

22 MR. GREG DAVIS: Again, if he will
23 please state his objection.

24 THE COURT: Gentlemen, please. All
25 right. Go ahead, Mr. Mosty.

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1 MR. RICHARD C. MOSTY: We have been
2 through this very subject over the Rule, and the Court
3 has already ruled, that until someone is placed under the
4 Rule that is not in play.

5 THE COURT: Yes, I understand that.
6 If that will be an objection, then the Court will sustain
7 it.

8 MR. RICHARD C. MOSTY: Thank you. And
9 may the district attorney please be instructed to quit
10 asking those questions?

11 THE COURT: Well, I think both sides
12 understand what the Rule is and the people that are not
13 under the Rule are not subject to it. So both sides will
14 just ask the questions, and let's move along.

15

16 BY MS. SHERRI WALLACE:

17 Q. Mr. Rogers, anyway, you know what has
18 been going on here in the courtroom, don't you?

19 A. To some degree, yes.

20 Q. Okay. In all of these times that you
21 have visited with the defendant, what has she told you
22 about the offense?

23 A. I can't tell you what she has told me
24 about the offense.

25

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1 MR. RICHARD C. MOSTY: May we approach
2 the bench?

3 THE COURT: You may. Come on around
4 here.

5 (Whereupon, a short

6 Discussion was held

7 Off the record, after

8 Which time the

9 Proceedings were resumed

10 As follows:)

11

12 THE COURT: All right. Back on the
13 record now.

14

15 BY MS. SHERRI WALLACE:

16 Q. Mr. Rogers, you testified just before
17 the break, I think, that you felt like that the defendant
18 had grieved appropriately. Do you remember saying that?

19 A. Yes.

20 Q. And you felt that the birthday party
21 at the grave side with the Silly String was appropriate.

22 Do you remember that?

23 A. I remember that.
24 Q. Okay. Did you also feel like the
25 pocketknives in the casket for two boys that had been
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1 stabbed was appropriate?
2 A. It was not my decision, you know, that
3 is a family matter, and I have seen families put a lot --
4 Q. I'm sorry. I'm sorry, Mr. Rogers. Do
5 you think that is appropriate?
6 A. That is their decision.
7 Q. So, you don't think it's appropriate?
8 A. If it was appropriate for them, it was
9 appropriate for that moment.
10 Q. Do you think it's appropriate to you?
11 A. I'm not a pocketknife person, so I
12 wouldn't have done that, no.
13 Q. So you think it's inappropriate; is
14 that correct?
15 A. No, that is not what I said.
16 Q. You are not a pocketknife person?
17 A. Right.
18 Q. What about the Tarot cards in the
19 casket, do you think that is appropriate?
20 A. I don't know anything about Tarot
21 cards.
22 Q. You didn't know about those?
23 A. No.
24 Q. When is the first time the defense
25 attorneys talked to you about the bruises?
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1 A. The defense attorney last night asked
2 me if I had seen any bruises.
3 Q. Is that the first time that anyone has
4 asked you about the bruises?
5 A. Yeah, the defense attorneys.
6 Q. No. Anybody?
7 A. Nobody has asked me about bruises that
8 I'm aware of.
9 Q. So, you have not talked to anyone
10 about bruises?
11
12 MR. DOUGLAS MULDER: Judge, he has
13 made that fairly clear.
14 THE COURT: I'll sustain the
15 objection. Let's move on. Let's get the next question
16 in, please.

17

18 BY MS. SHERRI WALLACE:

19 Q. And you have testified that you knew
20 bruises were important in this trial; is that correct?

21 A. Yes.

22 Q. Okay.

23

24 MS. SHERRI WALLACE: I'll pass the

25 witness.

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1

2

3 REDIRECT EXAMINATION

4

5 BY MR. S. PRESTON DOUGLASS:

6 Q. Just one last question. With respect
7 to the song, Gangster's Paradise, you knew that that was
8 one of the children's favorite songs?

9

10 MS. SHERRI WALLACE: I'll object to

11 leading.

12

13 BY MR. S. PRESTON DOUGLASS:

14 Q. Did you know?

15

16 THE COURT: All right. Thank you. If
17 you know it from your own knowledge, just answer it. If
18 you don't, just say so.

19 THE WITNESS: I was told by their
20 father that it was.

21 MR. S. PRESTON DOUGLASS, JR: That's
22 all. Thank you very much.

23 THE COURT: Thank you.

24 MR. RICHARD C. MOSTY: Your Honor, I'm
25 going to have to object to Mr. Davis. I have been
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1 holding my -- but Mr. Davis has continued to make facial
2 expressions at different times.

3 I have been trying to hold that, but
4 it's inappropriate.

5 THE COURT: Kindly, both sides do not
6 make any kind of facial expressions. Thank you.

7 MR. DOUGLAS MULDER: Judge, sometimes
8 I just can't help it.

9 THE COURT: I know that you can't, Mr.

10 Mulder. I enjoy them when they are directed at me.

11 Thank you very much.

12 If you will step down, sir. Good

13 luck.

14 All right. Call the next witness,

15 please.