

Testimony of Darin Routier (1)

DIRECT EXAMINATION

2 BY MR. DOUGLAS D. MULDER:

3 Q. Mr. Routier, what age man are you?

4 A. I'm 29.

5 Q. Where were you born and raised?

6 A. Lubbock, Texas.

7 Q. Okay.

8 A. Raised in Lubbock, Texas.

9 Q. Your parents, what are your parents
10 names?

11 A. Leonard and Sarilda Routier.

12 Q. And where do they live at this time?

13 A. They live in Lubbock, Texas.

14 Q. Did you grow up there?

15 A. Yes, sir, I did.

16 Q. Okay.

17 A. I left there when I was 18.

18 Q. Pardon?

19 A. I left there when I was 18.

20 Q. Okay. You graduated from high school
21 there?

22 A. Yes, sir.

23 Q. Okay. And, what high school did you
24 attend, Darin?

25 A. Lubbock and Cooper.

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1 Q. Did you play any sports?

2 A. Yes, sir.

3 Q. What sports did you play?

4 A. Football, basketball, track.

5 Q. Okay.

6 A. Weight lifting.

7 Q. Did you work while were you in school?

8 A. Yes, sir, I have been working since I
9 was 14.

10 Q. Okay. Tell the jury what sort of work
11 you did when you were 14?

12 A. Well, I started out as a dishwasher,

13 and when I left Western Sizzler in Lubbock, when I left,

14 I was the manager of the restaurant.

15 Q. Okay. And, how old were you at that
16 time?

17 A. I was 18.

18 Q. Okay. And, I'll ask you if in the

19 course of your years there in Lubbock, you had occasion
20 to meet Darlie, your wife?

21 A. Yes, sir, I met her on Mother's Day,
22 12 years ago.
23 Q. Okay. And what were the circumstances
24 under which you met her?
25 A. Her mother worked with me at the
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1 restaurant. She was a waitress, and I was a fry cooker
2 and assistant manager.
3 And, she kept telling me how beautiful
4 her daughter was, and I was like, yeah, yeah, yeah, you
5 know, every mother's daughter is beautiful. And she came
6 in on Mother's Day, and just blew me away.
7 Q. Okay. Y'all began to date, I guess?
8 A. Yes, sir, we did.
9 Q. All right. And after you graduated at
10 age 18, you moved, did you?
11 A. Yes, sir, I moved to Dallas.
12 Q. Okay. And what was your purpose in
13 moving to Dallas?
14 A. To get a higher education. I went to
15 technical school, called Video Technical Institute. I
16 took electronics.
17 Q. Okay. And how long did that take to
18 matriculate there?
19 A. Well, it was 14 months, and I went to
20 school eight hours a day, six days a week.
21 Q. Did you also work?
22 A. Yes, sir, I worked full time, the
23 whole time.
24 Q. All right. So --
25 A. I took a job making four bucks an
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1 hour, so that I could finish school. We started out with
2 112 people in my class and 12 of us graduated.
3 Q. Okay. What did you do when you
4 graduated?
5 A. I got my first job working at a
6 company called Cuplex, in Garland, Texas.
7 Q. What size business is that?
8 A. They have about four hundred
9 employees. And, they do roughly about 72 million dollars
10 a year, manufacturing printed circuit boards.
11 Q. Manufacturing what?
12 A. Printed circuit boards.
13 Q. Okay. Now, about what time -- what
14 year is it that you went to work for Cuplex?

15 A. I believe it was in '87.

16 Q. And, had you and Darlie continued your
17 relationship?

18 A. Yes, sir, we got married in '89,
19 and --

20 Q. What were the circumstances -- do you
21 remember when you got engaged?

22 A. Yes, we got engaged, actually my
23 senior year in high school. And we got engaged in
24 Purgatory, Colorado, and --

25 Q. Out there on a ski trip?

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1 A. Yes, sir, with the whole family.

2 Q. Okay.

3 A. In March.

4 Q. Are you talking about your family?

5 A. Yes, sir.

6 Q. You have a brother and a sister?

7 A. Yes, sir, I have a brother that has
8 moved to Plano, and he is in telecommunications, and also
9 a poli-sci major from Texas Tech University, in Lubbock.
10 And, my sister is a home nurse.

11 Q. All right.

12 A. She is 21.

13 Q. Okay. And, when did you and Darlie
14 get married?

15 A. August 27th.

16 Q. Of what year?

17 A. '89.

18 Q. Were you working at that time?

19 A. Yes, sir, I have always worked.

20 Q. Okay. Where were you working at that
21 time?

22 A. We were both working at Cuplex.

23 Q. Okay. And, what were your duties and
24 responsibilities there at Cuplex?

25 A. I was a test engineer. I worked in
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1 the electrical test department. And, actually they
2 pretty much let me do whatever I wanted to do, because I
3 loved being there, and so I would put in, between 75 to
4 80 hours a week.

5 Q. Okay. Now, where were you and Darlie
6 living while were you working -- while were you both
7 working at Cuplex?

8 A. We were living off of Chaha Road,

9 which is real near Rowlett. It's actually in Garland,
10 but it's in a little peninsula, right off the lake. We
11 were living in a little one bedroom apartment.
12 Q. Okay. And, I'll ask you, if a year or
13 so after you were married, if you had a child?
14 A. Yes, sir, we did. We had Devon.
15 Q. Okay. And, do you recall when he was
16 born?
17 A. June 14th.
18 Q. Where were you living at that time?
19 A. Well, we were living in the apartment,
20 and we had started looking for houses. And, the
21 apartment complexes were around 750 to 800 dollars a
22 month, and we had decided that, even though we were young
23 that we could buy our first house.
24 So, we were looking and looking, and
25 Devon was born actually two days after we had closed on
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1 our first house.
2 Q. Okay. And when Darlie came home from
3 the hospital, did you move into your new house, or did
4 you have a short delay?
5 A. We had a delay, because we were
6 painting the house, trying to get it ready to bring
7 Darlie and the baby home and, you know, we didn't want
8 either one of them to be exposed to any of the fumes or
9 anything in the house. So we had a little bit of a
10 delay. Probably about four or five days was all.
11 Q. Okay. Where was that first house
12 located, Darin?
13 A. It was on Bond Street in Rowlett.
14 Q. Okay.
15 A. About two and a half miles from the
16 house that we --
17 Q. Now, while you were working for
18 Cuplex, did you have an occasion to go into business for
19 yourself?
20 A. Actually I didn't want to be
21 self-employed. My parents and grandparents and everyone
22 in my family have been self-employed without retirement,
23 and I wanted to go to work for a company, and work for
24 you know, 25 or 30 years, you know, the American dream of
25 being able to retire at 55. Me and Darlie both have
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1 always done everything very young, and always very high
2 achievers. But I knew that I could never make the kind

3 of money that I really felt like that I deserved unless I
4 did become self-employed.

5 Q. Okay. Did you start your own
6 business?

7 A. Yes, sir, I did.

8 Q. Okay. And what business were you in?

9 A. Well, basically the same thing I was
10 doing at Cuplex, except for I was doing it for myself and
11 I was doing it for other printed circuit board shops
12 around the United States.

13 Q. Okay.

14 A. We started out real small working in
15 the apartment. Making little receptacles that a wire was
16 attached. We would hand crimp, you know, these little
17 parts together and we were making a pretty good profit
18 doing it that way. And even when Darlie was pregnant
19 with Devon, we would sit there on the couch and watch TV,
20 and we would crimp these little parts.

21 Q. Okay. Were you doing that in
22 competition with Cuplex or did you do that with --

23 A. No, I was selling them to Cuplex. So
24 while I was still working there, I was still able to
25 start a business and they were very encouraging. They
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1 are both from Lubbock, Texas. They encouraged me to kind
2 of go out on my own, but they knew that I had a family
3 that I had built and that I needed the benefits of having
4 the insurance and the benefits of working for a larger
5 company.

6 Q. Okay. So you were encouraged by the
7 owners of Cuplex?

8 A. Yes, sir, I was.

9 Q. Okay. And that is a privately owned
10 business, is it not, Cuplex?

11 A. Yes, sir.

12 Q. Okay. You said they are from Lubbock,
13 the primary -- the principals in that business?

14 A. Yes, sir, Mr. Jeff Reino and Ron
15 Reino, they were both from Lubbock, they both graduated
16 from Texas Tech University. They both had kids at Texas
17 Tech University, and they also both worked at T.I. until
18 it shut down, and then they went off into their own
19 business.

20 Q. Okay. And how long did you continue
21 working your business out of your house, the business
22 that you started and working for Cuplex?

23 A. About a year and a half. I continued
24 to work for them while I had my own business.

25 I started my business in December of
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1 '89. And, I guess it was about '91 whenever we decided
2 to go ahead and -- that I was making enough money to be
3 able to not have to worry about Cuplex as a backup.

4 Q. Okay. So you left Cuplex at that
5 time?

6 A. Yes, sir.

7 Q. And had Darlie left sometime before
8 that?

9 A. Actually, Darlie fell while she was at
10 Cuplex. They have a lot of chemicals and a lot of things
11 on the floor, and she had slipped, and they gave her
12 about a three month leave of absence, prior to that.

13 Q. Okay.

14 A. So she didn't have to work, and then
15 she worked for me from then on.

16 Q. Okay.

17 A. We worked together.

18 Q. Okay. When was it that your business
19 had grown to the extent that you were able to move your
20 business out of your home?

21 A. About four years ago, probably the end
22 of '92 or '93.

23 Q. Would that be after your second child
24 was born?

25 A. Yes, sir.

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1 Q. Okay. And when was your second child,
2 Damon, born?

3 A. He was born in '91, February.

4 Q. Okay. And, where did you move your
5 business when you moved it out of your residence?

6 A. I moved it off of Main Street, right
7 there -- there is a Main Street that goes right downtown
8 Rowlett, and we had got our own little building, and we
9 had purchased a lot of equipment to go in that. Prior to
10 that, all we had, basically, was a lot of hand tools and
11 a lot of things in the garage.

12 Q. Okay.

13 A. So that is kind of where we started,
14 and then we got into purchasing some large equipment.

15 Q. And did you, in fact, purchase some
16 large equipment?

17 A. Yes, I did.

18 Q. Okay. Did you move it into your

19 business?

20 A. Yes, sir.

21 Q. Okay. Did your business grow and

22 continue to prosper?

23 A. Yes, sir, it always has.

24 Q. Okay. You started out with how many

25 customers?

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1 A. We started out with one.

2 Q. All right. And it grew to how many?

3 A. I have got over 20 now.

4 Q. Okay. Can you give the jury some idea

5 of how much money you were taking in, in 1995?

6

7 MR. DOUGLAS D. MULDER: What was my

8 next number?

9 MR. PRESTON DOUGLASS, JR: 77.

10 THE COURT REPORTER: We already have a

11 77.

12 MR. PRESTON DOUGLASS, JR.: I don't

13 see number 77. I think we have 76-A.

14 MR. DOUGLAS D. MULDER: I'll just go

15 ahead and mark it 77.

16

17 (Whereupon, the following

18 mentioned item was

19 marked for

20 identification only

21 after which time the

22 proceedings were

23 resumed on the record

24 in open court, as

25 follows:)

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1

2 BY MR. DOUGLAS D. MULDER:

3

4 Q. Let me hand you what has been marked

5 for identification and record purposes as Defendant's

6 Exhibit No. 77. And, I'll ask you to look that over and

7 tell me whether or not that is a copy of your 1995

8 federal tax return.

9 A. Yes, sir, this is the short version.

10 Q. Okay. Well, it doesn't have all of

11 the depreciations and things like that in it, but it's

12 just the --

13 A. Right.
14 Q. It gives the basic amounts, does it
15 not?
16 A. Right. The gross income was two
17 hundred sixty-four thousand, and twenty-two dollars.
18 Q. Okay.
19 A. That is a good year.
20 Q. Okay. And in 1995; is that correct?
21 A. Yes, sir.
22 Q. And did you find -- do you know how
23 much your expenses were?
24 A. Well, I know my profit range is
25 roughly 40 percent.
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1 Q. All right. So out of two hundred and
2 sixty thousand, you would net for yourself, one hundred
3 thousand, or something like that?
4 A. Yes, somewhere around one hundred
5 thousand dollars a year.
6 Q. Does this show federal adjusted tax,
7 and adjusted gross income, of ninety-five thousand, two
8 hundred and thirty-four dollars?
9 A. Yes, sir.
10 MR. DOUGLAS D. MULDER: We will offer
11 into evidence what's been marked and identified as
12 Defendant's Exhibit No. 77.
13 MR. GREG DAVIS: No objection.
14 THE COURT: Okay. Defendant's Exhibit
15 No. 77 is admitted.
16
17 (Whereupon, the items
18 Heretofore mentioned
19 Were received in evidence
20 As Defendant's Exhibit No. 77
21 For all purposes,
22 After which time, the
23 Proceedings were resumed
24 As follows:
25
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1 BY MR. DOUGLAS D. MULDER:
2 Q. Now, Darin, by 1995 did you have the
3 majority of your equipment paid for, in your business?
4 A. Yes, sir.
5 Q. Okay. And, in the year of 1995, did
6 you add equipment? Did you add, for example, a laptop

7 computer?

8 A. Yes, sir.

9 Q. All right. Did you add forty-four
10 hundred dollars of miscellaneous equipment, and some
11 Proto-line software, in the amount of five hundred
12 dollars, and a computer and printer to the tune of
13 forty-seven hundred and thirty-six dollars, making a
14 total of equipment that you added in 1995 of eleven
15 thousand, one hundred and thirty-six dollars?

16 A. Yes, sir, that is correct.

17

18 (Whereupon, the following

19 mentioned item was

20 marked for

21 identification only as

22 Defendant's Exhibit No. 77-A

23 after which time the

24 proceedings were

25 resumed on the record

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1 in open court, as

2 follows:)

3

4 BY MR. DOUGLAS D. MULDER:

5 Q. Okay. And that is -- that equipment

6 is listed in Defendant's Exhibits 77-A, which shows all

7 of your depreciation schedules and things of that nature,

8 doesn't it?

9 A. Yes, sir.

10 Q. It's just the long version of 77?

11 A. Yes, sir.

12 Q. Okay. Now, you had -- how many

13 employees in your business?

14 A. I have one full time, myself, Darlie

15 and then I would add on some contract laborers as I

16 needed them, depending on how the flow was coming

17 through.

18 Q. All right. Who was your full time

19 employee?

20 A. Barbara Jovell.

21 Q. Is she the one also known as Basia?

22 A. Basia, yes, sir.

23 Q. Okay. And how long has she work for

24 you?

25 A. Four years.

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1 Q. All right. Where had you met her?
2 A. At Cuplex.
3 Q. Okay. And how long had she worked at
4 Cuplex?
5 A. She was there for 12 to 14 years
6 before me, so --
7 Q. All right. Had she been terminated at
8 Cuplex?
9 A. Yes, sir.
10 Q. All right. And, after she had left
11 Cuplex, had she been terminated at her next place of
12 employment?
13 A. Yes, sir. She doesn't get along with
14 people very well.
15 Q. All right. She got along with you?
16 A. Yes, sir.
17 Q. Okay. You were in the office and she
18 did a lot of the testing?
19 A. Yes, sir she did.
20 Q. And you did testing as well?
21 A. Yes, sir.
22 Q. And Darlie did?
23 A. Yes, sir.
24 Q. You didn't depend on Ms. Jovell to
25 sell your services to other companies?
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1 A. No, sir, that was my job.
2 Q. All right. And you didn't depend on
3 Ms. Jovell to do your books, or handle your accounts
4 receivable, or --
5
6 MR. GREG DAVIS: Your Honor, I'm going
7 to object to this as being leading. If the witness could
8 please just testify.
9 MR. DOUGLAS D. MULDER: Did you --
10 THE COURT: Sustained. Please,
11 rephrase your question.
12 MR. DOUGLAS D. MULDER: Yes, sir.
13
14 BY MR. DOUGLAS D. MULDER:
15 Q. Did you count on Ms. Jovell to do your
16 accounting and to keep your books, and --
17 A. No, sir, she doesn't know -- she
18 didn't write or read very well.
19 Q. Okay. She is from Poland, isn't she?
20 A. Yes, sir.
21 Q. Okay.
22 A. But I don't hold that against her.

23 Q. Well, she was a good worker, I assume?
24 A. She was a very good worker.
25 Q. And, you got along with her?
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1 A. Yes, sir, I tried.
2 Q. Were you about the only one that
3 could?
4 A. At times, yes.
5 Q. Okay.
6 A. She is very demanding.
7 Q. I'll ask you if, as you progressed in
8 business and your business prospered, if she became
9 somewhat jealous of Darlie?
10 A. Well, I think the fact that because
11 Darlie had a new baby, and, you know, we were mainly
12 taking up the slack and I was taking over a lot of things
13 that Darlie was doing at the shop, because she was
14 spending time with the baby. I think she was a little
15 bit jealous because of the fact, that of course, my
16 income went up, and I was trying to balance things out,
17 to where -- I think she felt a lot of times that she
18 deserved to be making as much money as I did. And I can
19 kind of understand that, but at the same time, I'm the
20 one who is taking all of the financial risks, and it's
21 kind of hard to understand, unless you are self-employed,
22 to understand how that -- kind of how it all works. But
23 I did pay her ten dollars an hour, and I thought at that
24 point, that was fair.
25 Q. Well, that was a raise for her from
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1 what she had been making, wasn't it?
2 A. Yes, sir, that is the highest pay she
3 has ever gotten.
4 Q. Okay. During the year of 1995 you had
5 acquired some -- you bought a boat, did you?
6 A. Yes, I did.
7 Q. All right. And you bought a -- did
8 you have to pay anything down on the boat?
9 A. No.
10 Q. Just signed the note?
11 A. Yeah, I just signed the note.
12 Q. Okay. And do you recall approximately
13 how much that was per month?
14 A. It was about three hundred and
15 forty-two dollars or something like that.
16 Q. Okay.

17 A. I'm not exactly sure, but it was in
18 the rough range of three hundred and forty to three
19 hundred and fifty dollars.

20 Q. Okay. And you had bought a car that
21 you drove, a Jaguar, had you not?

22 A. Yes, sir, I had an '86 Jaguar.

23 Q. All right. And how were you paying
24 for that?

25 A. No, I paid cash for that.

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1 Q. All right. Was that an expensive car,
2 or how much did you pay for it? Do you remember?

3 A. I paid ten thousand, eight hundred
4 dollars for it.

5 Q. Okay. So that was paid for?

6 A. Yes, sir.

7 Q. All right. When had you bought the
8 home at 5801 Eagle Drive?

9 A. Oh, it's been four years ago, in '92,
10 the end of '92 or '93.

11 Q. Okay. Do you remember approximately
12 how much you paid for that home?

13 A. Well, with upgrades and everything, it
14 was roughly around one hundred and thirty-one thousand.

15 Q. Okay. And, had you put some money
16 into it?

17 A. Oh, yes, sir.

18 Q. Okay. Had you done a lot of the work
19 on it yourself?

20 A. I redid the stairs. I put hardwood
21 floors upstairs. I did the ceramic tile, the vinyl tile.

22 We had done all of the curtains, I had taken all the old
23 stairs out and put hardwood floors going all the way up
24 it.

25 Q. Did you do that work yourself?

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1 A. Yes, sir, I did all of the work
2 myself.

3 Q. Okay.

4 A. It's kind of a hobby.

5 Q. Okay. And Darlie helped you?

6 A. Yes, sir.

7 Q. But you didn't have to pay someone to
8 come in and do that work?

9 A. No, I did it all.

10 Q. Okay.

11 A. I did have somebody come in and show
12 me how to put the hardwood floors down, but once he got
13 me started, I could do the rest.

14 Q. Okay. Darin, how did you pay
15 yourself? Monthly, or every other week, or weekly?

16 A. Well, I just kind of -- a lot of the
17 aspects that I put into my business, was what me and
18 Basia were both used to, and that was getting paid on
19 every Friday. So, I would pay myself either a thousand,
20 or up to fifteen hundred dollars a week, depending on,

21 you know, what bills I had coming up, for that particular
22 month.

23 Q. Okay. The work that you did on your
24 house, approximately how much was that, when you put in
25 hardwood floors, and the ceramic tiles, and things like
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1 that?

2 A. In materials?

3 Q. Yes.

4 A. I really couldn't even tell you.

5 Q. Did you pay cash for that or pay for
6 that as you when along?

7 A. Yes, most of it -- actually, it took
8 us a little over a year and a half to pay for the
9 curtains that we had done in one of the rooms. So, we
10 would just kind of -- it's like paying a credit card,
11 except, for we were paying these people that were going
12 to do to work for us, so that we would not have to use
13 any credit or borrow any money to do it.

14 Q. Okay.

15 A. I think the materials for the hardwood
16 floor, in one room, were like twelve or thirteen hundred
17 dollars, and I would save up, and save up, and then we
18 would have the money to go and get those materials.

19 Q. All right. Now, when was your third
20 son, Drake, born?

21 A. He was born in October.

22 Q. Of 1995?

23 A. Yes, sir.

24 Q. Okay. Sometime after Drake was born,
25 did you notice that Darlie was -- had the blues to some
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1 degree?

2 A. She did for a couple days.

3 Q. Okay.

4 A. But soon after, she got right over it.
5 Q. All right. And, did that concern you
6 at all?
7 A. Not really.
8 Q. Okay.
9 A. I mean, you kind of have to understand
10 what the circumstances was. I was kind of getting in
11 a -- I, myself, was even kind of getting into a little
12 bit of a lazy mode. It was the beginning of the summer.
13 I have this real bad habit about wanting to sleep late.
14 I like to stay up. I worked the second shift for about
15 four years. So, my day kind of doesn't get started until
16 about noon.
17 Q. Okay.
18 A. So --
19 Q. What time do your packages get there
20 from UPS?
21 A. Well, they don't get there until 10:00
22 o'clock, so my day really doesn't start until 10:00.
23 Q. Okay. Well, how does your work come
24 in?
25 A. It all comes in from out of state.
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1 And then --
2 Q. Does it come by mail?
3 A. Yes, UPS, Fed Ex, you know, Priority
4 One. We get a lot of our packages in. I don't have very
5 many local customers any more. So, most of our stuff --
6 we get a lot of things from Houston.
7 Q. Okay. It comes from out of town?
8 A. Yes, sir.
9 Q. Now, let me direct your attention,
10 Darin, to May 3rd, of 1996. I'll ask you if you were at
11 work and Darlie called?
12 A. Yes, sir.
13 Q. Okay. And do you recall the date that
14 I'm talking about?
15 A. I didn't realize what day it was.
16 Q. All right. Did Darlie call you, and
17 as a result of her phone call, did you go home?
18 A. Yes, sir, I did.
19 Q. All right. And, what did you find
20 when you went home?
21 A. Darlie was laying on the bed, and the
22 baby was in the crib, and she was crying, and she was
23 writing into a journal.
24 Q. All right. And, was that a -- was she
25 writing into the journal a note, or a letter that has

1 since been called by some as a suicide note?
2 A. I personally never read the letter, so
3 I don't really know. I mean, that was her private diary,
4 and I can respect the fact that a woman has a diary, and
5 that she can write into it whatever she wants.
6 Q. All right. Did you have a discussion
7 with Darlie when you got home?
8 A. Yes, we did.
9 Q. Okay. And, tell the jury what your
10 discussion was, and how you happened to go home?
11 A. Well, she -- she called me at work,
12 and she called me about 2:30 or 3:00 o'clock, and I was
13 really busy at work, and she said that --
14 Q. Could you tell from the tone of here
15 voice that --
16 A. That she was blue.
17 Q. All right.
18 A. I mean, it's not unusual for somebody
19 to -- but it's really unusual for her to tell me that,
20 you know, that she needs me home, that, "I need you to
21 come home and help me with the kids."
22 Q. Well, did you go home?
23 A. Yes, sir, I did.
24 Q. And when you got there she was there
25 on the bed, writing into her journal?
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1 A. She was writing into her journal, and
2 she was crying, and I went over to the bed with her, and
3 I asked her what was wrong, and she just said that she,
4 you know, was just really feeling bad.
5 Q. Why was she upset and why was she
6 feeling bad?
7 A. I don't exactly really know, but I do
8 know that she had been breast feeding the baby, and she
9 had quit breast feeding him.
10 Q. Well, Drake was now, what, eight or
11 nine months old?
12 A. No, he wasn't that old. She quit
13 breast feeding Drake when he was about four months old.
14 So, I don't know, it was just, kind of, one of those
15 situations where a husband knows when his wife is telling
16 him that -- you know, "I need you to come home."
17 And I said, "Baby, I'll see you when I
18 get there at five o'clock."

19 And she said "You'll see me."
20 And I just -- it just hit me where I
21 need to go home. I need to go home because something is
22 either wrong, or she just needs some help.
23 And so, I went straight home, and when
24 I got there, she was laying on the bed writing in her
25 journal, and she was crying, and we talked about it for a
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1 little while, and then --
2 Q. What was said?
3 A. -- that was it.
4 Q. What did y'all talk about?
5 A. We just talked about the fact that she
6 said that she needed me to spend more time with the kids.
7 That she needed me not to be so concerned about working
8 so much.
9 That she did not want me to be like my
10 father and be a workaholic, because my father works from
11 the time he wakes up, until the time he goes to bed.
12 And, I was kind of leading down that
13 same path, and that is what she was mainly concerned
14 about. That I need to spend more time, you know, being
15 able to play ball, and being able to, you know, do the
16 fun things, which a lot of that came with the boat, you
17 know, and taking them snow skiing, and things like that.
18 So --
19 Q. Okay. Did she have any pills that she
20 was going to take at that time?
21 A. I think she had some sleeping pills,
22 but I don't know if she was really going to take them or
23 not.
24 Q. Did you think she was serious about
25 committing suicide?
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1 A. No. If she was, I would have gotten
2 her help. I wouldn't have hesitated.
3 Q. Did you stay home with her the next
4 day or go to work?
5 A. I went on to work.
6 Q. Okay. And, any more --
7 A. We had a long -- we had a good, long,
8 hard, cry, and then that seemed to -- the next day was a
9 whole new day, and everything was fine.
10 Q. Okay. Did she seem to perk up?
11 A. Oh, very much so. In about two days,
12 I know she had her first menstrual cycle that she hadn't

13 had in over a year.

14 Q. All right. And did that --

15 A. That seemed to release everything that

16 was -- seemed to be bothering her.

17 Q. Was she her old self again?

18 A. Yes, sir.

19 Q. Was she generally upbeat?

20 A. Yeah, she takes care of a lot of

21 things around the house. She is usually very on top of

22 everything. And, you know, she loves all the children

23 and all of the kids in the neighborhood, and they all

24 love her. As a matter of fact, they are wanting to be

25 here really bad.

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1 Q. Now, what was her relationship with

2 your sons?

3 A. The most loving, caring woman I have

4 ever seen. She was the caretaker. The person who took

5 care of the kids. Made sure that they got bathed, and

6 they got fed. She loved them with all of her heart.

7 They were -- our whole lives revolved around those

8 babies. And that --

9 Q. You took them on trips, and did things

10 with them on the weekends, and did things with them at

11 night?

12 A. Yes. Every -- for the last seven

13 years we went to Vietnamese, which is a Vietnamese

14 restaurant, and we would take them to a dollar movie. We

15 could all go out for about 12 dollars, and I mean, just

16 have a blast.

17 They liked a lot of different

18 cultures, and we tried to initiate those different

19 cultures with them with food, because in the United

20 States that a lot of the time is the only thing that we

21 have to teach them with.

22 So they really enjoyed just about

23 everything that we did.

24 We didn't like leaving them with

25 sitters, we liked to take them with us. And, they

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1 enjoyed -- they behaved. Every time we went to the

2 movies, because they had been going to the movies ever

3 since they were, you know, babies, you know, ever since

4 they were in the little car seat.

5 Q. Okay. I'm going to direct your

6 attention to Wednesday, June 5th of 1996. And I'll ask

7 you if you went to work that morning?

8 A. Yes, sir, I did.

9 Q. All right. And did you drive your

10 car or did you drive Darlie's car?

11 A. My car was in the shop, my Jaguar had

12 broke down the day before.

13 Q. All right. What happened to the

14 Jaguar?

15 A. Oh, something was wrong with the

16 transmission. It ended up being a little three dollar

17 hose.

18 Q. Okay. And, so you left your home that

19 morning, and you went to work in her Nissan Pathfinder?

20 A. Yes, sir.

21 Q. Okay. And you worked all day, did

22 you?

23 A. Yes, sir, I did.

24 Q. Okay. About what time did you finish

25 work?

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1 A. Right around 5:30.

2 Q. All right. And, did you come directly

3 home or did you go somewhere or what?

4 A. No, actually Dana was with me,

5 Darlie's sister. And, we came straight home. I was

6 bringing her home, because she didn't have a car yet.

7 Q. Okay. Had Basia left before you did?

8 Left work before you did?

9 A. Yes, sir. She leaves at five o'clock

10 right on the dot.

11 Q. Okay. And, was her mother working

12 there at y'all's house?

13 A. Yes, sir.

14 Q. Helping Darlie out?

15 A. Yes, she had only been working there a

16 couple of days.

17 Q. All right. And, when you arrived

18 home, was Basia and her mother still there?

19 A. Yes, sir, they were. They were parked

20 where I normally park my truck.

21 Q. Okay.

22 A. Right in front of the house.

23 Q. Well, why did you park your -- are you

24 talking about the Nissan Pathfinder?

25 A. Yeah, we live on a cul de sac, and a

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1 lot of kids, including mine, would run back and forth
2 across the cul de sac, and a lot of people were always
3 concerned, and asking me why did I park my truck there,
4 wasn't I afraid that somebody was going hit my truck.
5 And, I'm like, "I would rather them
6 hit my truck than to hit my kids."
7 Q. Okay.
8 A. And, I always parked the truck
9 right out in front, just because -- just for that reason.
10 Q. Where -- I'm showing you what's been
11 marked and admitted into evidence as State's Exhibit No.
12 8. Would you show the jury where you would park your
13 truck?
14 A. Right there on the front.
15 Q. All right.
16 A. Right there by the mailbox.
17 Q. All right.
18 A. See, it would slow people down as they
19 came around this corner.
20 Q. All right.
21 A. Sometimes people are going around this
22 corner going forty miles an hour, because that was a wide
23 turn.
24 Q. Okay. And that is the reason that you
25 parked there?
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1 A. Yes, sir.
2 Q. Okay. You said Basia was there?
3 A. Yes, sir, she was parked in the place
4 that I normally park my car, so I parked on the side,
5 about where that white car is.
6 Q. Okay. And I'll ask you, if, as you
7 parked your vehicle, you noticed a black car that was
8 driving as you -- what you --
9 A. A black car came behind me, it came
10 around the corner.
11 Q. At an excessive rate?
12 A. Yes, sir, probably 30 to 35 miles an
13 hour.
14 Q. Okay. And, you thought that was too
15 fast for the circumstances?
16 A. Yes, sir, I always think it's too fast
17 when it's around my house.
18 Q. Okay. When you went into the house,
19 did you say anything to Darlie, or did y'all discuss the
20 black car?
21 A. Well, she said something about the
22 fact that Helena had seen it, and they were looking into

23 our garage. And, I heard it, but I didn't really listen
24 to it, you know, just kind of -- might have been either
25 into kind of a hectic moment, or, I just really didn't
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1 even think twice about it.

2 Q. Okay. Had you talked to a neighbor
3 approximately one week earlier, about a black car, that
4 was parked in that turn, where they were surveilling your
5 house?

6 A. Yes, sir, Karen, across the street,
7 told me that the car was --
8

9 MR. GREG DAVIS: I'm going to object
10 to that as being hearsay.

11 THE COURT: Sustained. Sir, just
12 testify to what you actually know.

13 MR. DOUGLAS D. MULDER: You can't
14 testify as to what Karen --

15 THE COURT: Just a minute. Not what
16 anybody else said. Is that clear?

17 THE WITNESS: Okay.

18 THE COURT: All right. Go ahead.
19

20 BY MR. DOUGLAS D. MULDER:

21 Q. Did you talk with Karen about a black
22 car?

23 A. Yes, sir, I did.

24 Q. Okay. Now, was that approximately
25 seven or eight days before June the 6th?

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1 A. Yes, sir.

2 Q. Okay. Now when you arrived home,
3 where were the boys?

4 A. They were outside playing, riding
5 their bikes out on the street.

6 Q. Okay. And --

7 A. On the sidewalk, they were not allowed
8 to ride their bikes on the street.

9 Q. Okay. And, were they called in, or
10 what did you do in preparation for supper that evening?

11 A. We called them in, and they both put
12 their bikes back up in the garage, and we came in, and we
13 ate chicken noodle soup, and Darlie had made homemade
14 bread, when Helena was there, and, Helena was going to
15 teach Darlie some new dishes from Poland.

16 Q. Okay. Basia and Helena had gone; had

17 they not?

18 A. Yes. They left as soon as I drove up.

19 Q. Okay. So, who was there to eat super
20 with y'all?

21 A. Me and Darlie, and both of the boys,
22 and the baby, and Dana, Darlie's sister.

23 Q. Okay. What happened after y'all
24 finished supper that evening?

25 A. Well, I went outside. We were talking
Sandra M. Halsey, CSR, Official Court Reporter
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1 about -- see, we had this little Pomeranian dog, and we
2 had bred him the day before, and he was really pretty
3 hyper. And she had asked me to go out, and asked me if I
4 would fix the fence, because the kids were going in and
5 out of it, and it was real hard to kick, and it was
6 dragging the sidewalk.

7 And so, I went out, and I got all of
8 my tools out of my shed, and I cut it, and I shaved it
9 off a little bit, so that I could make the fence fit the
10 latch better.

11 Prior to that, we always just had,
12 like a big old bag of mulch just thrown up against the
13 side of it, to keep the dogs from being able to go, but a
14 little dog like that, he can get through a hole this big.
15 (Witness indicating.)

16 Q. Okay.

17 A. So, I was trying to get the back yard
18 ready, to be able to put the dog back there.

19 Q. Okay. All right. And, what did you
20 do, after -- were you successful in getting the gate
21 fixed?

22 A. Yes, sir, I got the latch all lined
23 back up, and I got it to where the gate would swing back
24 and forth, without dragging.

25 Q. Okay. It would swing back and forth,
Sandra M. Halsey, CSR, Official Court Reporter
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1 so that you wouldn't have to push it with your foot?

2 A. Yes, sir.

3 Q. Okay. What did do you next?

4 A. Well, I came inside, and we played
5 around on the floor a little bit, and I played with the
6 baby.

7 The reason why, like I was saying
8 before, the hardwood floor is upstairs, and the tile
9 floors -- when you have a six month old baby, you can't
10 have a baby running around on a hard floor when he is

11 crawling.
12 So, all of a sudden, this room that we
13 had downstairs, we called it the Roman room. And, that
14 was kind of a place where the baby could crawl around on
15 the carpet, and the boys could lay out on the floor, and
16 it wasn't kind of -- you know, it wasn't hard, and you
17 didn't have to sit up on the furniture or anything.
18 So, that is kind of the main reason
19 why we were using that room so much.
20 Q. Okay. Played with the baby for a
21 while?
22 A. Played with the baby for a little
23 while.
24 Q. Okay.
25 A. And, we just talked and kind of
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1 visited a little bit, and then I took Dana home, at about
2 9:30.
3 Q. Did you have occasion to work in the
4 garage at all?
5 A. Yeah. We had been talking, I guess
6 after supper, about the fact that we were possibly going
7 to have a garage sale, but we were not sure if we were
8 going to have it before we went to Pennsylvania, because
9 we were supposed to go to Pennsylvania on the 14th.
10 So, we were out in the garage, and we
11 were kind of -- had been separating it. We had a lot of
12 stuff to sell, we had a lot of junk, and a lot of stuff
13 that we wanted to keep.
14 And, we wanted to be able to separate
15 what we were going to keep, and what we wanted to try to
16 sell. And, Darlie was working on trying to get the tags
17 and everything made up, so that we could kind of get rid
18 of some of that stuff.
19 Q. All right. How were you arranging the
20 stuff in the garage?
21 A. Well, we were just putting what we
22 wanted to keep on one side, and what we wanted to get rid
23 of on the other.
24 Q. Okay. Was the garage door up or down?
25 A. The garage door was up while we were
Sandra M. Halsey, CSR, Official Court Reporter
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1 working, and I kind of -- Darlie had worked on it for a
2 while, earlier in the week, and then, I was kind of going
3 through it, to see what she was going to sell, that I
4 probably wanted to keep.

5 So, I was going out there to make sure
6 that I was going to be able to kind of hold some of my
7 stuff back, and at least hide it.

8 Q. Okay.

9 A. So, but you know, it was real hot. I
10 mean, it seemed like it was in that garage, it seemed
11 like it was about 106 or 108 degrees. It was extremely
12 hot.

13 Q. Okay. Were the windows up or down?

14 A. One of windows was up, probably six
15 inches -- six to eight inches over by the cat cage. And,
16 we had kind of talked about getting into breeding cats,
17 and I had bought Darlie two cats for Christmas.

18 Q. Darlie was an animal lover, wasn't
19 she?

20 A. She has a lot of animals. She still
21 does. They are out at the farm.

22 Q. Okay. Anyway you talked about getting
23 into the cat breeding business?

24 A. Right. And I had built this cage,
25 that was huge, I mean, it's probably four foot by
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1 probably seven feet tall, and I had built it -- actually
2 Julie -- y'all met Julie, she is a big animal person too,
3 and so she kind of told me how, actually, me and her
4 worked on it quite a bit.

5 But we made it where it was bi-level
6 so we could have one cat on the top, and one cat on the
7 bottom. And we made it so that we could -- when they had
8 their babies, we could secure them down in the bottom,
9 and we were going to put lamps and everything inside of
10 them to keep them warm, and --

11 But we had this cat, this black cat,
12 that was -- he is just really a weird cat. He has got
13 fur about that long. (Witness indicating.)

14 And, his name is Bear. And he is a
15 full-blooded Persian. And that cat didn't like nobody.
16 I mean, the kids wouldn't come around that cat for
17 nothing. I mean, he would just hiss at you, like he was
18 going to come out of that cage any minute.

19 Q. Okay. Was he kept in the garage when
20 it --

21 A. He was kept in the garage, and Darlie
22 ended up going and buying another cage to put inside of
23 the house, because it was cruelty to that cat, to be
24 stuck out there in the garage, when it's a hundred
25 degrees, and it was probably 120 degrees on his skin,

1 because it was so hot out there. And --
2 Q. So the cat stayed inside?
3 A. We ended up bringing the cat in. She
4 went and bought another cat cage, and we had it inside
5 the house.
6 Q. Okay.
7 A. So that it could get some air
8 conditioning.
9 Q. Okay. Do you know how close the
10 screens -- you said on the one window, the window was up?
11 A. No, the window was down. No, it was
12 within six inches from being closed.
13 Q. All right. And how close was the
14 window to the screen itself?
15 A. Probably an inch.
16 Q. Okay. Now, when you went inside,
17 after you had finished your sorting there in the garage,
18 you went inside, did you?
19 A. Yes, sir, I did.
20 Q. And, was the window still up six
21 inches or so?
22 A. Yeah, I didn't put the window back
23 down.
24 Q. Okay. And you came inside, and about
25 what time was that, as best you recall, Darin?
Sandra M. Halsey, CSR, Official Court Reporter
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1 A. Well, I remember I took Dana home
2 right around 9:30.
3 Q. All right. So it would have been
4 dark?
5 A. Yeah, I'm sure it was.
6 Q. Okay. With all of that stuff in the
7 garage, could you keep your car in the garage?
8 A. No. Our garage was cram packed full.
9 Q. All right. Where would you keep the
10 Jaguar parked?
11 A. Around the back. Outside.
12 Q. Okay
13 A. Just in the driveway.
14 Q. All right. So if someone wanted to
15 know whether or not you were there or not, they could
16 drive by and see whether or not your Jaguar was there?
17 A. They could see my car from the street.
18 Q. Okay. But your car was never parked
19 in the garage itself?

20 A. No, sir.
21 Q. And Darlie's car -- she always drove
22 the Pathfinder; didn't she?
23 A. Yes, sir.
24 Q. Okay. She didn't like to drive the
25 Jaguar, did she?
Sandra M. Halsey, CSR, Official Court Reporter
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1 A. No, she hated the Jag.
2 Q. Okay.
3 A. She was always afraid it would break
4 down on her.
5 Q. All right. About what time did you
6 return from taking Dana home?
7 A. Oh, about 10:15 or so.
8 Q. Okay. And was -- what was Darlie
9 doing when you got home?
10 A. She was watching TV. She was -- laid
11 down on the couch downstairs, and Devon was asleep in
12 front of the big screen TV.
13 Q. You say Devon was asleep in front of
14 the big screen TV?
15 A. Yes, Devon was asleep in front of --
16 yeah, the big screen TV.
17 Q. Okay.
18 A. And Damon was kind of curled up, with
19 one -- we had a little black kitty about this big, and,
20 he was kind of curled up, right next to Damon on a
21 blanket. But Damon was still kind of awake.
22 Q. Okay. And the TV was on?
23 A. Yes, the TV was on, and she was
24 watching something on HBO.
25 Q. Okay. Where was the baby?
Sandra M. Halsey, CSR, Official Court Reporter
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1 A. The baby was asleep on Darlie's chest.
2 Q. Okay.
3 A. And he was kind of -- not sleeping
4 real, real good, so you had to be -- I was going to take
5 him back upstairs, and I went and got a bottle, and then
6 I took him from Darlie, and then I went upstairs and I
7 watched the news for a little while. And I held him in
8 the rocking chair, and I watched TV for a little while in
9 the TV room.
10 Q. Okay. Would he make noises at night?
11 A. Yeah, he would grunt. Do you know
12 what that is? (Witness demonstrates noise.) He would
13 grunt, he would kind of get in the blankets, and he would

14 wiggle, and you know, make the whole bed shake. He would
15 get really restless with all of those blankets and stuff
16 around him, and the little animals -- the stuffed animals
17 and things that were in the crib.

18 Q. Did he like to sleep under blankets?

19 A. Yes, sir.

20 Q. I mean, with his head under the
21 blanket as well.

22 A. Yeah, that is how you got him to go to
23 sleep. He had to be in complete darkness. He is still
24 like that.

25 Q. You mean right now?

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1 A. Yes, sir.

2 Q. Okay.

3 A. Actually now he kicks them off a
4 little more than what he used to, but he is a lot bigger
5 than he was then too.

6 Q. He was a big boy back then, wasn't he?

7 A. Yeah. All of my boys were big.

8 Q. All right. But, back in June he
9 weighed 18 pounds, didn't he?

10 A. Yes, about 18 pounds.

11 Q. And he would only be eight or nine
12 months old?

13 A. Yes, sir, and he also had four teeth
14 when he was -- you know -- all my boys were almost born
15 with teeth. You know, a full head of hair, and were
16 cutting teeth, almost from the time they were born.

17 Q. Was he -- was Drake pulling himself up
18 at that age?

19 A. Yes, sir, that is the reason why he
20 was -- he was really unbalanced, you know. You watch a
21 little kid, especially going through that time, he would
22 very easily grab a hold of something, and pull himself
23 up.

24 We always were kind of told by some of
25 the doctors -- well, see, my oldest son, Devon, he
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1 started walking at six months and that is really early.

2 That is way too early.

3 And, they were afraid that his feet
4 would start to turn in or out, and he walked before he
5 could crawl, and so they told us to put some shoes on
6 him, and get him to where he would stay on the floor.
7 And so, we were kind of afraid that

8 Drake was going to be that way too, because he is very
9 physically -- he is very strong.

10 Q. Okay.

11 A. Stronger than he probably should be.

12 Q. All right. How long did it take you

13 to -- once you got him upstairs and put him in his crib,

14 and gave him his bottle; how long did it take you to get

15 him down and asleep?

16 A. Probably 30 -- 30 minutes or so. I

17 watched the news. Darlie doesn't like to watch the news.

18 So, I watched the news up there with him for a little

19 while, and I finally got him to go to sleep. I put him

20 in his crib, and put his blankets on him, and he finally

21 went to sleep, and then I went back downstairs.

22 Q. All right.

23 A. And I talked to Darlie for a little

24 while.

25 Q. Okay. Were the boys asleep by that

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1 time?

2 A. Yes. Damon had fallen asleep. They

3 had played pretty hard all day.

4 Q. Okay.

5 A. Riding their bikes and roller blading,

6 and all of that.

7 Q. Okay.

8 A. Everybody knows who has kids knows

9 that the garage is kind of a toy box for kids. I mean,

10 you raise the garage door up in the morning and that's

11 where all of their toys are. So, they had bicycles, and

12 roller blades, and all of their toys and all of their

13 balls, and all of that stuff in the garage.

14 Q. Okay. You came back downstairs?

15 A. Yes, sir.

16 Q. And, did you visit with Darlie?

17 A. Yeah, we talked about our upcoming

18 trips. Things that we had planned that were coming up

19 that next week.

20 Q. What did you have coming up?

21 A. Well, the 14th we were supposed to go

22 to Pennsylvania.

23 Q. Had you already purchased your

24 tickets?

25 A. Yes, sir, we did. We purchased

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1 them -- started talking about going to Pennsylvania back
2 in January. And we had purchased our tickets, but we
3 hadn't finished paying for them yet. But, we also had a
4 trip planned. Darlie was planning a trip to go to Cancun
5 with her friend, and one of her girlfriend's daughter was
6 fixing to go into the Air Force, and so they were talking
7 about taking a quick weekend trip.
8 We had talked about going to my 10th
9 year high school reunion.

10 Q. That would be in Lubbock?

11 A. Yes, sir. And, only 16 people showed
12 up. And, also, you know, my sister was getting married
13 too. And so, we had a lot of plans. We had a whole
14 summer full. We had a lot of plans to make.

15 Q. When was your sister getting married?

16 A. Oh, I knew you would ask me that.

17 Q. That fall?

18 A. Well, if -- let's see, it was probably
19 the 26th.

20 Q. Of August?

21 A. Yeah.

22 Q. Okay. Were your boys, Devon and
23 Damon, to be --

24 A. Ringbearers. Yeah, they were going to
25 be ringbearers and --

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1 Q. Was Darlie making anything?

2 A. Yeah, she was making the pillows for
3 them that they were going to carry.

4 Q. Did y'all talk about that?

5 A. And on mine and Darlie's 10th
6 anniversary, we're having a -- we're going to get
7 remarried.

8 Q. Okay. Did you discuss that?

9 A. Yes, sir, we did.

10 Q. Okay. Did you discuss -- there's been
11 some talk that you had sixty-four dollars in the bank.
12 Could you carry off all of this stuff with sixty-four
13 dollars in the bank?

14 A. No, sir.

15 Q. Well, what --

16 A. Well, I had roughly seventy-eight
17 hundred dollars in my business account. So, that just
18 means that Friday hadn't come, and I hadn't paid myself
19 yet.

20 Q. Okay. How much did you have at that
21 time in accounts receivable in your business?

22 A. Between 18 to 20 thousand.

23 Q. Okay. So you had about eight thousand
24 in your business account?

25 A. Yes, sir.

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1 Q. And, another twenty thousand on the
2 books?

3 A. Yes, sir.

4 Q. So you had close to thirty thousand,
5 access to it if you wanted it?

6 A. I had plenty of money.

7 Q. Okay. All right.

8 A. We were talking about what we were
9 going to have to do, and what plans we were going to have
10 to make for me to be gone. Normally we always take two
11 vacations every year. We take one on our anniversary, as
12 a gift to each other. And then we take another one.

13 Q. How long are you usually --

14 A. For our anniversary we're only gone
15 for the weekend.

16 Q. All right.

17 A. I mean, sometimes we will take off
18 like late Thursday night, and take a Friday, Saturday and
19 Sunday, and back Sunday night. So, I can't usually take
20 off -- if I'm not working -- people do business with me,
21 because of me, not because of what I do.

22 Q. Okay. Do you have contracts with the
23 people that you do business with?

24 A. No, sir. I do everything on a
25 handshake.

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1 Q. Okay. You ever have trouble
2 collecting the money from them?

3 A. No, sir. Well, sometimes, just a
4 little bit.

5 Q. Well, they might be slow, but you know
6 you are going to get it?

7 A. Right. I usually look at it as I
8 don't like people to beg money from me, and so, I don't
9 want to beg them giving money to me, and so I don't like
10 to ask them for work, and then come right back, and say,
11 "But I need get paid."

12 I do a lot of work for a lot of big
13 companies, Lockheed, NASA, McDonnell Douglas. We do
14 stuff for the Air Force, we do stuff for the Army. We do
15 stuff for everybody.

16 So, just because they are slow pay,

17 doesn't mean that you are not going to get paid.

18 Q. All right. And that 18 to 20 thousand

19 that was on the books at that time, have you since
20 collected that?

21 A. Yes, sir, plus some.

22 Q. Okay. So, how long did you talk with

23 Darlie, when you came back downstairs after you put Drake
24 in the crib?

25 A. Well, we talked until about midnight

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1 and, kind of talked about a lot of different things, the
2 things we were going to have to plan. And then, I was
3 going to go up and check on him and he (sic) said -- she
4 asked me if I would go up and get her a blanket and a
5 pillow, and so I did.

6 Q. Okay.

7 A. And I came back down.

8 Q. What sort of pillow did you get for
9 her?

10 A. It's a maroon pillow with little green

11 diamonds on it, and gold trim. It matches our comforter
12 that --

13 Q. Okay.

14

15 MR. DOUGLAS D. MULDER: Do you know
16 where that pillow is?

17 THE COURT REPORTER: In that box back
18 there.

19

20 BY MR. DOUGLAS D. MULDER:

21 Q. Let me show you what's been marked for
22 identification and record purposes somewhere as
23 Defendant's Exhibit No. 53-A. And I'll ask you if you
24 recognize that?

25 A. That is the pillow I brought down to

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1 Darlie.

2 Q. All right. And brought a blanket with
3 that, did you?

4 A. Yes, sir.

5 Q. Okay. And did you continue to visit
6 with her?

7 A. Yeah, we talked until I went up to bed
8 at 1:00 o'clock.

9 Q. Do you remember how she was dressed at
10 that time?

11 A. She was wearing like a white Victoria
12 Secret, long, kind of a shirt, like a big over night
13 shirt and panties.

14 Q. All right. And, she had had that
15 Victoria Secret shirt for some time, had she?

16 A. Well, I don't think -- it was fairly
17 new.

18 Q. It had been washed, I guess?

19 A. I guess.

20 Q. Okay. About what time, as best you
21 recall, Darin, did you go upstairs to bed?

22 A. At 1:00 o'clock.

23 Q. All right. And what did do you when
24 you got up there?

25 A. Well, I checked on the baby and made
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1 sure he was okay, and I covered him back up, and I laid
2 there for a little while, and I couldn't go to sleep, and
3 so, I turned on the TV for a little while, and probably
4 watched TV for about 10 minutes, and then I went to
5 sleep.

6 Q. Okay.

7

8 MR. DOUGLAS D. MULDER: Judge, I'm
9 getting ready to get into a situation that I would rather
10 not be interrupted on.

11 THE COURT: Well, that's fine. I'm
12 all for that. Let's just keep on going.

13 All right. The jury is okay
14 break-wise?

15 All right.

16 MR. DOUGLAS D. MULDER: Okay.

17 THE COURT: Proceed on, as we say in
18 Texas.

19 MR. DOUGLAS D. MULDER: All right.
20

21 BY MR. DOUGLAS D. MULDER:

22 Q. When is the next thing that you heard
23 something of an unusual nature, Darin?

24 A. The very first thing I hear is the
25 glass break. And then, I hear Darlie screaming, I mean
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1 screaming so loud you wouldn't believe it.

2 Q. All right. What did do you?

3 A. I jumped up, and I put on my glasses,
4 and I put my pants on, and I ran down the stairs as fast

5 as I could.

6 Q. Okay. What did you find when you got
7 downstairs?

8 A. Darlie was at the bottom of the
9 stairs, and I ran into the room, and while I was running
10 down the stairs, I was thinking that the coffee table had
11 tipped over, and fallen on Devon, because she was
12 screaming, "Devon, Devon, Devon."

13 Q. Okay. What happened next?

14 A. I ran over to Devon, and I ran over
15 around the back of him, and I looked down in his chest,
16 and he had these great big, huge gashes in his chest, and
17 I was looking for the glass, and I was like -- where is
18 the glass? I mean, I knew where they were when I went to
19 sleep. And, the blood -- the blood wasn't very -- I
20 mean, there wasn't very much blood. The blood didn't
21 bother me, he had these huge gashes in his chest. Darlie
22 is screaming, and I'm screaming, and I mean, we're just
23 freaking out.

24

25 THE COURT: Sir. Ma'am, if anybody in
Sandra M. Halsey, CSR, Official Court Reporter
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1 the courtroom -- if this testimony is too emotional,
2 please leave.

3 Anybody care to leave? Let's not have
4 any disturbance, please.

5 Thank you. You may continue.

6

7 BY MR. DOUGLAS D. MULDER:

8 Q. Yes, sir. What did do you when you
9 saw Devon there, near the glass table?

10 A. Well, the first thing I did was, I was
11 looking for any glass that could have been -- fallen, or
12 broken, or went into him, and I couldn't see anything and
13 I was --

14 Q. Where was the table?

15 A. The table was completely down. It was
16 fallen. The flowers had completely fallen off of the
17 table.

18 Q. All right. The table wasn't sitting
19 slightly askew, and on its base?

20 A. No, it wasn't on its base, it was
21 completely down to the ground.

22 Q. Okay. What, if anything, did you do?

23 A. The very first thing I did was I was
24 patting him on the face, and I remember when I looked at
25 him, and he looked like he was 12 years old.

1 Q. He looked like he had aged five years?

2 Is that right?

3 A. Yes, sir.

4 Q. What, if anything, did you do?

5 A. The very first thing I did was, try to
6 give him CPR. And the very first thing I did was, I put
7 my hand over his nose, and I blew into his mouth, and
8 when I did, this blood just splattered all over my face,
9 and was blowing air right through him.

10 Q. Where was Darlie?

11 A. Darlie was running back and forth,
12 from the kitchen, over to Damon, and then she came over
13 to Devon. And she was going "Oh, my God, he is dead."

14 Q. What was she doing in the kitchen?

15 A. Getting towels.

16 Q. Wet towels?

17 A. Um-hum. (Witness nodding head
18 affirmatively.)

19 Q. Brought them to you?

20 A. Yes, sir.

21 Q. Where -- how many times did you blow
22 into Devon's mouth?

23 A. I blew into his mouth about -- at
24 least two or three times.

25 Q. Where was she when you were blowing
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1 into his mouth?

2 A. Right over the top of him.

3 Q. What was she doing?

4 A. She was trying to stop the bleeding.

5 She was trying to hold his chest together.

6 Q. Have you had courses in CPR?

7 A. I have had seven years.

8 Q. So, you know what you are doing?

9 A. Yes, sir. I knew not to blow too
10 hard, and I kept blowing, and I kept trying to hold his
11 chest closed, and then Darlie was holding one of them
12 closed, and when I knew that I couldn't get air into him,
13 I knew he had three minutes, I knew that he had just
14 died.

15 Q. Did you ever try to blow into the
16 holes in his chest?

17 A. I blew straight -- I blew straight
18 into his chest, and when I did, blood came out of his
19 mouth.

20 Q. Okay. What did you do next?

21 A. I knew that I couldn't do anything for
22 him.

23 Q. Did y'all attend to Damon?

24 A. Yes, sir, we did.

25 Q. Okay.

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1 A. I went over to Damon, and I got up
2 from Devon, and I looked up at Darlie, and I didn't even
3 see the cuts on her neck. And I looked at her, and it
4 was just this look, this contact that we had, just this
5 immediate contact. She didn't have to ask me nothing,
6 and I didn't have to ask her nothing.

7 Q. Was she on the phone?

8 A. Yes, sir, she had the phone in her
9 hand.

10 Q. Was she talking to 911?

11 A. I suppose that is who she was talking
12 to, yes, sir.

13 Q. Did she continue to get towels from
14 the kitchen?

15 A. Yes, sir, she kept running back and
16 forth, back and forth, screaming and hollering.

17 Q. Okay. Did you ever see a police
18 officer?

19 A. I did at one time.

20 Q. All right. Did you see one that you
21 now know to be David Waddell?

22 A. Yes, sir.

23 Q. Okay. Darin --

24 A. When he walked into the room --

25 Q. Darin, I want you to get a hold of
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1 yourself, and I want you to tell the jury what David
2 Waddell did when he walked into the room. Did he take
3 over, and did he start issuing orders about how to take
4 care of and attend to and render first aid to the
5 children?

6 A. As soon as he walked into the room, he
7 went -- and he froze, and he did not move.

8 Q. Did he get his gun out?

9 A. No, sir. He didn't do anything. I
10 kept screaming at him, telling him to help me, and he
11 wouldn't help me.

12 Q. Was Darlie trying to get him to go
13 back to the garage?

14 A. Yes, sir, he (sic) was.
15 Q. Did he finally go back into the
16 kitchen?
17 A. He stopped about half way into the
18 kitchen, then he came back.
19 Q. Would he go back to the garage?
20 A. No, sir, he just stood there like --
21 Q. Did he get his gun out?
22 A. No, sir.
23 Q. Okay.
24 A. I never saw a gun.
25 Q. Were all three of you in shock?
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1 A. Yes, sir.
2 Q. The police officer included?
3 A. Yes, sir.
4 Q. Did another police officer arrive on
5 the scene?
6 A. People started piling into the house
7 after that. I mean, it was chaotic, I mean, it was
8 crazy. I mean, it was flat out people just piling in, on
9 top of each other, and everybody was screaming, and
10 hollering and yelling.
11 Q. Did you see the paramedics when they
12 came in?
13 A. Yes, sir, I did.
14 Q. And how about the paramedic that went
15 first to Devon. Can you tell the jury if he had anything
16 in his hands?
17 A. Yes, one paramedic had two big old
18 boxes, like an orange box, and then like a white box, and
19 he went around the back of the house -- around the back
20 of the couches, and he was knocking over everything that
21 was in his sight.
22 Q. Okay. Do you know if he put that top
23 back up on the --
24 A. Yes, sir, he did. I saw him. He
25 picked it up and got it away from Devon, and was trying
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1 to clear his face.
2 Q. Okay. To work on Devon?
3 A. Yes, sir.
4 Q. That is his job, isn't it?
5 A. That's right. It was a very small
6 space between where he was laying, and the TV, which is
7 the side that I was on, and then the side that the

8 paramedic was trying to get on, he was just trying to
9 clear a space. I don't blame him for that.

10 Q. Okay.

11 A. Our object was to try to get those
12 boys, and if they were alive, to get them help.

13 Q. Did you, at any time, while you and
14 Waddell and Darlie were there, before the other police
15 officers and the paramedics got there, did you ever see
16 Darlie in close proximity to the vacuum cleaner?

17 A. Yes, sir, I did.

18 Q. And will you tell the jury where she
19 was, and what she was doing, with respect to this vacuum
20 cleaner?

21 A. She was standing right beside the
22 vacuum cleaner, and had it in her hand. She was hanging
23 on to it, like a cane.

24 Q. For support?

25 A. Yes, sir.

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1
2 (Whereupon, the following
3 mentioned item was
4 marked for
5 identification only as
6 Defendant's Exhibit No. 78,
7 after which time the
8 proceedings were
9 resumed on the record
10 in open court, as
11 follows:)

12

13 BY MR. DOUGLAS D. MULDER:

14 Q. Let me hand you what has been marked
15 for identification and record purposes as Defendant's
16 Exhibit No. 78. Do you recognize that exhibit?

17 A. Yes, sir.

18

19 MR. DOUGLAS D. MULDER: All right. We
20 will offer into evidence what has been marked and
21 identified as Defendant's Exhibit No. 78.

22

23 MR. GREG DAVIS: No objection.

24 THE COURT: Defendant's Exhibit 78 is
25 admitted.

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1
2 (Whereupon, the items
3 Heretofore mentioned

4 Were received in evidence as
5 Defendant's Exhibit No. 78
6 For all purposes,
7 After which time, the
8 Proceedings were resumed
9 As follows:)

10
11 BY MR. DOUGLAS D. MULDER:
12 Q. Will you tell the jury where Darlie
13 was holding on to the vacuum cleaner?
14 A. She was hanging on to the handle.
15 Q. All right. And, whereabouts in the
16 room, in the den, or in the kitchen, or whereabouts in
17 the room?
18 A. Actually right in between. Right off
19 of the linoleum floor, right where that green rug would
20 have been setting, if it was not messed up like it is in
21 that picture.
22 Q. Okay. Let me show you what's been
23 marked for identification and record purposes as State's
24 Exhibit No. 10. And I'll ask you to examine that, and
25 orient yourself to that exhibit, and see if you can show
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1 the jury, in that diagram, where Darlie was standing with
2 the vacuum cleaner?
3 A. She was standing right there.
4 Q. All right. Showing you what has been
5 marked and admitted into evidence as Defendant's Exhibit
6 No. 78, can you orient the jury with this exhibit, and
7 tell them -- can y'all see that --

8
9 THE COURT: You might hold it back a
10 little bit, Mr. Mulder, so that they can see it at that
11 end.

12
13 BY MR. DOUGLAS D. MULDER:
14 Q. All right. If you would, can you step
15 down, and show the jury.

16
17 (Whereupon, the witness
18 stepped down from the
19 witness box, and approached
20 the jury rail, for the
21 purpose of further describing

22 the exhibit to the jury.)

23

24 BY MR. DOUGLAS D. MULDER:

25 Q. First of all was the green rug like
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1 that?

2 A. No, sir, the green rug would go --
3 covered, you can see this green spot. The green rug
4 would fit right over the top of that.

5

6 THE COURT: Please speak up loudly,
7 Mr. Routier, Ms. Halsey has to take this down.

8

9 BY MR. DOUGLAS D. MULDER:

10 Q. You can see some discoloration in this
11 carpet, can you?

12 A. I can see it, yes.

13 Q. Okay. What is that discoloration
14 from? I think you are blocking the jurors right here.

15 There is discoloration in the carpet
16 in this area?

17 A. From the dye on the rug.

18 Q. Okay. Has the rug bled through, into
19 the white carpet?

20 A. (No response.)

21 Q. Darin, has the rug bled through, into
22 the white carpet, so that you can see where that carpet
23 was kept?

24 A. Yes, sir

25 Q. Okay. And was that carpet kept there
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1 to cover the green area that it had bled through and
2 discolored?

3 A. Yes, sir.

4 Q. All right. And that was partially on
5 the carpet, and partially on the linoleum?

6 A. Yes, sir.

7

8 MR. GREG DAVIS: I'm going to object
9 to that as being a leading question. Please let the
10 witness --

11 THE COURT: Rephrase your question,
12 please.

13

14 BY MR. DOUGLAS D. MULDER:

15 Q. Show the jury -- tell jury how that

16 green carpet was established there?

17 A. You mean here?

18 Q. Yes.

19 A. Well, the carpet would go right here,
20 right where that green is, and kind of covered it up,
21 half way between here and here, and laid out straight.

22 Q. Okay. And where was Darlie and the
23 vacuum cleaner?

24 A. Darlie was standing right here, and
25 the vacuum cleaner was just on the other side of that.

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1 Q. Okay. Did you later on, see that
2 vacuum cleaner, turned down, either this way, or the
3 other way, but laying down?

4 A. Yes, sir, I did.

5 Q. Okay. And, did you ever see the
6 vacuum cleaner off in the kitchen?

7 A. No, sir.

8 Q. Do you know how it got back in the
9 kitchen?

10 A. I have no idea.

11 Q. Okay. There was a -- there was a lamp
12 that was -- the lamp shade that was knocked askew. How
13 did that happen, if you know?

14 A. Well, when the paramedic was coming
15 through with all of his boxes, there was a small space
16 between the couch, where that lamp was, and where the cat
17 cage was. So, it was probably only a space of about, I
18 don't know, two feet maybe. And he just went right
19 through it, and went right around.

20 Q. Okay. Do you know how many wet towels
21 Darlie got from the kitchen or the sink area?

22 A. Just guessing about three or four was
23 what I saw.

24 Q. Okay.

25

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1 MR. DOUGLAS D. MULDER: Judge, I need
2 to look through -- and to find a photograph.

3 THE COURT: Okay.

4

5 BY MR. DOUGLAS D. MULDER:

6 Q. Is there a photograph that shows the
7 drawers in the kitchen where y'all kept your towels?

8 A. Yes, sir. I mean, I don't --

9 Q. Does it show blood on the --

10 A. Right, when we went back to the house,
11 it was very obvious, you know, everybody that we know,
12 knew where those towels were. There were kitchen towels
13 in the kitchen.

14 Q. All right. Is it apparent where those
15 towels were coming from?

16 A. No, sir. Oh, is it apparent?

17 Q. Yes.

18 A. Yes, sir.

19 Q. Okay. Is there blood on the towel
20 drawer -- we will find that photograph when we get a
21 break.

22 A. Yes, sir, that is where kitchen towels
23 belong, is in the kitchen.

24 Q. All right. Do you know how many trips
25 to and from the sink that Darlie made?

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1 A. Just guessing, probably about six or
2 seven times.

3 Q. Do you know how many towels were
4 spread out there among the boys?

5 A. Oh, I know at least three or four.

6 Q. Okay.

7 A. There was a whole bunch dropped out of
8 the drawer, and it looked like she had pulled them out so
9 fast, that she just pushed them all over the kitchen
10 floor.

11 Q. Okay. Did you have occasion, once the
12 police got there, and the paramedics got there, did you
13 have occasion to go upstairs, and to check on Drake?

14 A. Yes, sir, I did. Darlie requested me
15 to.

16 Q. And how was he doing?

17 A. He was doing fine. He was crying. It
18 was the best thing that I had ever heard.

19 Q. Okay. And was, in your judgment, was
20 Devon dead by the time the police got there?

21 A. Yes, sir. I checked his pulse, I
22 couldn't get a pulse.

23 Q. All right. And was Damon still
24 hanging on at that time.

25 A. Yes, sir. Damon was laying on his
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1 stomach, and he was laying along the wall.

2 Q. Why didn't you roll him over, and
3 start CPR on him?

4 A. Because I was always taught that if
5 you have a back injury, you are not supposed to roll them
6 over, because you could make the injuries worse.

7 Q. Okay.

8 A. I tried to see if I could get a pulse,
9 but I couldn't get anything. But by that time, people
10 were starting to pile into the house.

11 Q. Devon (sic), was it chaotic?

12 A. Very much so.

13 Q. I mean, is it even possible for you to
14 express in words, and capture the scene that you were a
15 witness to, at that time?

16 A. I think you would have to have
17 probably about 15 or 20 people in a room to make that
18 much noise, the way that it was that night.

19 Q. But I mean, are you capable of
20 relating to the jury the chaos that was going on at that
21 time?

22 A. No, sir.

23 Q. With everybody doing what they were
24 doing?

25 A. No, sir.

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1 Q. The paramedics came in, and they are
2 in a hurry?

3 A. Everybody is in a hurry.

4 Q. A lot of people there?

5 A. But it seemed like everybody was
6 moving in slow motion.

7 Q. Did you have occasion to go across the
8 street to the Neal's house?

9 A. Yes, sir, I did.

10 Q. What was your purpose in going to the
11 Neal's house?

12 A. To get help. I knew when I saw the
13 first look on Waddell's face, and I was asking him to
14 help, I knew that I had to go get somebody to help me.

15 Q. All right. Did you ultimately get
16 Karen Neal?

17 A. Yes, sir, I did.

18 Q. She is a nurse, a registered nurse?

19 A. Yes, sir.

20 Q. And you knew that?

21 A. Yes, sir.

22 Q. Okay.

23 A. She is kind of a neighborhood mom,
24 like Darlie.

25 Q. Okay. Did Darlie get along well with

1 the neighborhood children?

2 A. Yes, sir. We had the Nintendo house.

3 Q. Okay.

4 A. She fed them all, she made sure that
5 they were all -- we didn't know their parents, but --
6

7 MR. GREG DAVIS: I'm going to object
8 to this as being non-responsive.

9 THE COURT: Sustained.

10 MR. GREG DAVIS: I don't believe a
11 question has been asked.

12 THE COURT: Sustained.

13

14 BY MR. DOUGLAS D. MULDER:

15 Q. When you came back from the Neal's,
16 had Darlie been moved to the front porch?

17 A. Yes, sir, they said that she had
18 passed out inside, and they wouldn't let me back in.

19 Q. All right. And where was she on the
20 front porch?

21 A. She was right on the front porch.

22 Q. Right where?

23 A. Right in the door frame.

24 Q. All right. Were they attending to her
25 throat?

1 A. Yes, sir. Well, they were trying to.

2 Q. Okay. Do you know if Damon had been
3 removed from the house at that time?

4 A. Yes, sir, I was inside of the house
5 when they did that.

6 Q. Okay. He was in an ambulance?

7 A. Yes, sir.

8 Q. Had the ambulance left yet for the
9 hospital?

10 A. No, I think they were there for a good
11 while.

12 Q. Okay.

13 A. Nobody could tell us where they were
14 taking them.

15 Q. Okay. Did you help and assist Darlie,
16 in placing Darlie on a stretcher?

17 A. Yes, I did.

18 Q. Okay. Did you notice, at that time,
19 whether or not she still had underwear on?

20 A. She said something about her panties,
21 but I didn't understand what she was talking about.

22 Q. Could you tell whether or not she had
23 panties or underwear on at that time?

24 A. No.

25 Q. Did she have them on or not?

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1 A. No, she didn't have them on.

2 Q. Okay. Was she taken to an ambulance?

3 A. Yes, sir, she was. She was stretched
4 out.

5 Q. All right. And, did you get into the
6 ambulance yourself?

7 A. I tried to, and they kicked me out,
8 they told me that they had to work, because she was
9 bleeding really bad.

10 Q. And did -- was she subsequently taken
11 away from there?

12 A. Yes, sir.

13 Q. In the ambulance?

14 A. Yes, sir.

15 Q. Okay.

16 A. She was there for -- it's seemed like
17 forever, but, guessing, it was probably 10 or 12 minutes
18 or so.

19 Q. Did you go back into the Neal's house?

20 A. Yes, sir, I did.

21 Q. Okay. And, what was your purpose in
22 going back into the Neal's house?

23 A. Well, I needed a ride, first of all,
24 to the hospital, and we didn't know where we were going,
25 and --

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1 Q. How were you dressed when you went
2 back in the house?

3 A. All I had on was a pair of pants,
4 that's all the clothes I had on. My glasses and a pair
5 of pants, and I was cold.

6 Q. All right. What did do you in the
7 Neal's house?

8 A. Terry, he went and got me a T-shirt,
9 and, I went into the bathroom, and I thought I was going
10 to throw up.

11 Q. Why is that?

12 A. I guess, just nerves, I guess, I don't
13 know.

14 Q. Once you were in the bathroom, did you
15 get cleaned up?

16 A. Yes, sir, I did. I washed all of the
17 blood off of my face, off of my hands and off of my
18 mouth, and I had this real iron -- real dry taste in my
19 mouth.

20 Q. Okay. And you got a towel or a
21 washcloth?

22 A. Yeah, I got a towel and I washed it
23 off, and I even had some on my back, and on my shoulder,
24 and on my chest.

25 Q. Okay. In your hair?

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1 A. In my hair. On my glasses, and on my
2 face.

3 Q. You put on his T-shirt?

4 A. Yes, sir.

5 Q. All right. When you left Terry Neal's
6 house, did you go back into your residence?

7 A. I did go back into the residence, but
8 I don't know exactly when I did it. I mean, a lot of --

9 Q. Did you go back in before you left for
10 the hospital?

11 A. I went in before I went -- I went back
12 into the house, after I went and got Terry and Karen.

13 Q. Okay.

14 A. When Darlie was being put on the
15 stretcher, I went back through the house. The police
16 officer was saying something about the screen, they were
17 saying something about -- and so, I ran back through the
18 house.

19 Q. How did you go into the house?

20 A. I went through the door.

21 Q. Did you go through the front door or
22 the back door?

23 A. I went through the front door. They
24 couldn't have kept me out.

25 Q. Where did you go once you were in the
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1 front door, where did you go?

2 A. I went around to the dining room area,
3 I went to the garage, I looked, and I saw the screen, I
4 turned around, and I walked all the way back through the
5 house, through the kitchen.

6 Q. Did you go --

7 A. And back out again.

8 Q. Did you go through the den and through
9 the kitchen, and to the garage?

10 A. Through the dining room, through the
11 entrance way, around where the stairs were, I walked on
12 this little space, that it's hardwood in between, to the
13 kitchen, and I went through the kitchen, straight to the
14 garage, and then I came back through the kitchen.

15 Q. Did you come back through the -- past
16 the wine rack?

17 A. Yes, sir, I did.

18 Q. All right. Did you --

19 A. I went back out that way.

20 Q. Did you cut your feet?

21 A. No, sir, I saw glass.

22 Q. Were you barefoot?

23 A. Yes, sir.

24 Q. Okay. How long did you stay there at
25 the house before you left for the hospital?

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1 A. I don't know, it seemed like time
2 stands still when you are in a situation like that. I
3 just know that we were waiting for somebody to tell us
4 which hospital to go to. One paramedic said that they
5 were taking Damon to Baylor Hospital in Garland, and that
6 they were taking Darlie to Baylor Hospital in Dallas,
7 which I couldn't understand, because that is 45 minutes
8 away.

9 Q. Okay.

10

11 (Whereupon, the following

12 mentioned item was

13 marked for

14 identification only as

15 Defendant's Exhibit No. 79,

16 after which time the

17 proceedings were

18 resumed on the record

19 in open court, as

20 follows:)

21

22 BY MR. DOUGLAS D. MULDER:

23 Q. Let me hand you what has been marked

24 for identification and record purposes, as Defendant's

25 Exhibit No. 79, and I'll ask you if you recognize what is

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1 shown in that exhibit?

2 A. Yes, sir, that is the dish towel
3 drawer.

4

5 MR. DOUGLAS D. MULDER: Okay. We will
6 offer into evidence what has been marked and identified
7 as Defendant's Exhibit No. 79.

8 MR. GREG DAVIS: No objection.

9 THE COURT: Defendant's Exhibit 79 is
10 admitted.

11

12 (Whereupon, the items

13 Heretofore mentioned

14 Were received in evidence

15 As Defendant's Exhibit No. 79,

16 For all purposes,

17 After which time, the

18 Proceedings were resumed

19 As follows:)

20

21

22 BY MR. DOUGLAS D. MULDER:

23 Q. Can you show us, or tell the jury

24 where that -- where that drawer is?

25 A. Right here.

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1 Q. In the kitchen?

2 A. Yes, right here, actually it is right
3 there.

4 Q. Okay. You see blood on it, do you?

5 A. Yes, sir I do.

6 Q. All right. That would be the drawer

7 where you kept the towels?

8 A. Yes, sir.

9 Q. Okay. Whose car did you take to the
10 hospital?

11 A. My Pathfinder. Terry drove me.

12 Q. Do you have any idea what time you got
13 to the hospital?

14 A. I have no idea.

15 Q. Do you know whether or not it was
16 still dark?

17 A. Oh, it was dark.

18 Q. Okay.

19

20 THE COURT: Mr. Mulder, we are going

21 to take a 10 minute break now, please. Thank you.

22

23 (Whereupon, a short
24 Recess was taken,
25 After which time,
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1 The proceedings were
2 Resumed on the record,
3 In the presence and
4 Hearing of the defendant
5 And the jury, as follows:)
6
7 THE COURT: All right. Are both sides
8 ready to bring the jury back in and resume the trial?
9 MR. GREG DAVIS: Yes, sir, the State
10 is ready.
11 MR. DOUGLAS D. MULDER: Yes, sir, the
12 defense is ready.
13 THE COURT: All right. Bring the jury
14 in, please.

15
16 (Whereupon, the jury
17 Was returned to the
18 Courtroom, and the
19 Proceedings were
20 Resumed on the record,
21 In open court, in the
22 Presence and hearing
23 Of the defendant,
24 As follows:)
25
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1 THE COURT: All right. Let the record
2 reflect that all parties in the trial are present and the
3 jury is seated.
4 Mr. Mulder.
5 MR. DOUGLAS D. MULDER: Yes, sir.
6
7
8 DIRECT EXAMINATION (Resumed)
9
10 BY MR. DOUGLAS D. MULDER:
11 Q. When you got to Baylor, did you go
12 directly to see Darlie?
13 A. No, sir, she was in surgery, and they
14 took me to a room.
15 Q. Okay. And did you remain in that
16 room?

17 A. Yes, sir, I did.

18 Q. And, were you alone, or were you with
19 someone?

20 A. Chris Frosch was coming in and out,
21 and Terry came in and out, who had taken me up to the
22 hospital, and then Patterson showed up later.

23 Q. Okay.

24 A. And he was going in and out.

25 Q. Okay. Were you -- did Chris Frosch,
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1 Detective Chris Frosch, did he question you about what
2 you knew?

3 A. Yes, sir, he did.

4 Q. All right. Did you cooperate with
5 him?

6 A. Yes, sir.

7 Q. Did Patterson subsequently question
8 you about the events of that evening?

9 A. Yes, sir, he did.

10 Q. And did you cooperate with him?

11 A. Yes, sir.

12 Q. Okay. Were you later on permitted to
13 see Darlie?

14 A. Yes, sir, I was.

15 Q. And, do you recall about what time
16 that was?

17 A. Sometime that early morning.

18 Q. All right. By that time, had he
19 photographed you?

20 A. Yes, sir, they did.

21 Q. Did they take your clothes?

22 A. Yes, sir.

23 Q. And photograph you naked, or stripped
24 down, without your jeans on, and without your shirt on?

25 A. Yes, sir, they did.

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1 Q. Okay. And, I guess you were provided
2 with other clothes, were you?

3 A. Medical clothes.

4 Q. All right. When you saw Darlie, would
5 you tell the jury her emotional state?

6 A. While she was sedated, she was groggy,
7 but very hysterical and very emotional, ups and downs.

8 Kept asking about the baby. Kept saying, "Why did
9 somebody kill my babies?"

10 Q. Darin, did you know, when the

11 ambulance taking Darlie left for the hospital, did you
12 know that both of your sons were dead?

13 A. Yes, sir, I did.

14 Q. Did Darlie know that as well?

15 A. Yes, sir.

16 Q. Did you think, knowing her as you knew

17 her, did you see anything phony, or inappropriate about

18 the way she acted, when you saw her first there at

19 Baylor?

20 A. No, sir.

21 Q. Okay. Were you able to see her the

22 following day?

23 A. Yes, sir, I saw her every day.

24 Q. Okay. And, was your son, Drake,

25 brought down there by someone --

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1 A. Terry and Karen Neal brought the baby

2 up. She kept asking for him and wanting to see him, so

3 they brought him up there.

4 And, we brought the baby into the

5 room, and we kind of lifted it up on top of Darlie. Of

6 course, she was -- I don't know if y'all have seen the

7 pictures, but, I mean, she was full of tubes, and she had

8 this great big, huge, white thing on her neck, and all of

9 these gauzes and everything, all over her. And the baby

10 automatically wanted to go for her neck, and we were all

11 kind of afraid that the baby would hurt her wounds,

12 because she wasn't -- you know, she wasn't capable of

13 being able to hold him and use her arm strength to be

14 able to hold him. He squirms really a lot.

15 Q. Did she ultimately hold the baby on

16 her chest?

17 A. Yes, she held him by his fingers.

18 Q. Okay.

19 A. She wanted all of the pictures out of

20 the house that she could get of the boys. And when she

21 did, we thought that was a good idea, and then when we

22 got them to her, she just fell apart.

23 She just would go into hysterics.

24 Q. Okay. You saw her the next day?

25 A. Yes, sir.

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1 Q. Did you notice any bruising begin to

2 form on her arms?

3 A. I did, but I just assumed that it was

4 from the cut on the top.

5 Q. Okay.

6 A. She looked like a whupped little

7 puppy.

8 Q. Okay.

9 A. I mean, we were more concerned about

10 her neck and her arms, and whether or not she was going

11 to be okay, or have any permanent damage. And we were

12 worried about the boys, and worried about all the

13 arrangements and all of the family coming in from

14 Pennsylvania, and from all over the place.

15 I mean, it was just about as

16 hysterical at the hospital.

17 Q. Okay. You knew, at that time, the

18 extent of here injuries?

19 A. Yes, sir, I did.

20 Q. All right. And advised at that time,

21 now back in June, that her injuries were serious?

22 A. Yes, sir, I understood they were very

23 serious.

24 Q. Okay. It came within two millimeters

25 of cutting into the carotid artery?

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1 A. Yes, sir, that's what I understand.

2 Q. Did you continue to cooperate with the

3 police?

4 A. Yes, sir, a hundred percent.

5 Q. Okay. On June the 8th, did you

6 accompany your wife to the police station, and write out,

7 in your own handwriting, a statement?

8 A. Yes, sir, we did.

9 Q. Did you -- who was your contact with

10 at that time?

11 A. Chris Frosch.

12 Q. Okay. And, I'll ask you, if you made

13 any requests of him, that they tape record, or video tape

14 your giving of the statement?

15 A. Yes, sir, I told him that I could not

16 write as fast as I could think, and when you get to

17 thinking about something that terribly traumatic has

18 happened to you, you cannot remember everything. And,

19 every time I would go into talking about it, I would

20 start crying, and getting very angry and just sad, and

21 just all at the same time.

22 Q. All right. They had asked you for

23 permission to occupy and search your house, hadn't they?

24 A. Yes, sir, they did.

25 Q. And that was, I believe, on the 6th

1 and you had cooperated?

2 A. Yes, sir, I give them the keys to the
3 house, to the boat, to the sheds, to the business,
4 everything. I had nothing to hide.

5 Q. Okay. You gave them keys to
6 everything?

7 A. Yes, sir.

8 Q. All right. When they would call you,
9 would you go down to the police station, and drop
10 everything that you had, and go down there?

11 A. Yes, sir, whatever plans we had made,
12 we dropped those plans and went to the police station,
13 because we felt that the closer and the more information
14 we got, the closer we would get to finding the killer.

15 Q. Were you told that they had leads
16 that they were following, and that they were working hard
17 on it, and --

18 A. Yes, sir. They said that they were
19 working night and day, for days and days and days, and
20 they were telling us the things that they were missing
21 out on, as far as their kids' baseball practices, and
22 games.

23 Q. But had a lot of leads that they were
24 following?

25 A. Hundreds of leads, they said.

1 Q. And, you believed them at that time?

2 A. Yes, sir.

3 Q. Do you feel like you have been
4 betrayed?

5 A. Yes, sir, very much so.

6 Q. Do you feel like they lied to you?

7 A. Yes, sir.

8 Q. There is no question about that?

9 A. That is an understatement.

10 Q. But you continued to cooperate?

11 A. Yes, sir.

12 Q. Did you plan the boys' funeral?

13 A. Me and my mother did.

14 Q. Okay. And who selected the songs?

15 A. I did.

16 Q. Why did you select Gangsters Paradise?

17 A. Well, whether or not somebody thinks
18 that it's appropriate or not, it's not appropriate that
19 my kids were killed either. So if somebody is offended

20 about whether or not I played a song that was
21 inappropriate, that was their favorite song. Every time
22 that song came on the radio, they would say, "Daddy,
23 crank it up."
24 That was the only song that they ever
25 felt that way about. When you have children, you do
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1 things for your kids. Not for anybody else's approval,
2 and if they didn't like it, that is too bad, because this
3 was my two boys, and that was their favorite song, and we
4 played their favorite song at the funeral.
5 Q. What were the other songs that were
6 played at the funeral?
7 A. I Will Always Love You, by Celine
8 Dion. And Jesus Loves Me. Those are appropriate songs.
9 Q. By Whitney Houston?
10 A. Yes, by Whitney Houston.
11 Q. Yes.
12 A. Darlie sang those to the boys. She
13 has a beautiful voice. And they loved to listen to their
14 Mommy sing.
15 Q. When they were buried there -- there
16 has been some testimony about some Swiss Army knives, or
17 some knives that were put into the coffin?
18 A. Yes, sir, when --
19 Q. Were they buried together?
20 A. Yes, sir, they were buried in the same
21 coffin. They died together, and they went to heaven
22 together. And they loved each other.
23 Q. Why were knives put in the coffin?
24 A. Because Devon kept asking me, "Can I
25 have a Swiss Army knife for my birthday, Daddy?"
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1 And I said "No."
2 I said "It's not you that I can't
3 trust with a Swiss Army knife, it's your little brother."
4 And, I wouldn't get him one, because I
5 was afraid that they would get hurt. And, when they die,
6 if you don't give it to them, you are not ever going to
7 get a chance.
8 Q. Now, there is some testimony that
9 tarot cards were put in with the -- in the coffin.
10 A. No, sir, those were not tarot cards.
11 Tarot cards are some kind of gypsy-type cards. These
12 were -- you see, my brother-in-law is a magician, a real
13 live magician. And he does magic tricks, and he has

14 traveled all over Las Vegas, and Tahoe, and he wasn't my
15 brother-in-law yet, they didn't get married until August.

16 But, he did these magic tricks with
17 five Aces, and with -- he did one for Devon, and then
18 one for Damon, because they loved him so much, they
19 called him Magic Mark, and that is what he goes by now.

20 Q. So, they were the ones that named him?

21 A. Yes, sir, they named him Magic Mark,
22 because he wasn't an uncle yet.

23 Q. Those are cards that he had given the
24 boys?

25 A. Yes, sir. He always carries a package
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1 of cards inside of his pocket.

2 Q. And there were other mementos that you
3 put in the casket?

4 A. Yes, sir.

5 Q. Things that were favorites of the
6 boys?

7 A. Yes, sir, and there were letters from
8 all of the kids in the neighborhood, that came to the
9 funeral, and there were stuffed animals, and flowers, and
10 Basia and David put silver coins in there.

11 Q. When the residence -- the residence
12 was held by the police for a number of days?

13 A. Yes, 13 days.

14 Q. Thirteen days. All right. When
15 you -- when the residence was released back to you, did
16 you have occasion to walk through the residence?

17 A. Yes, sir, we did.

18 Q. Okay. And --

19 A. There are a lot of things, when you
20 are walking through there, that you don't realize what
21 happened and --

22

23 MR. GREG DAVIS: I'm sorry, I've got
24 to object. I didn't hear a question.

25 THE COURT: Sustained. Mr. Routier,
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1 just answer the questions.

2 THE WITNESS: Yes, sir.

3

4 BY MR. DOUGLAS D. MULDER:

5 Q. All right. Did you see the wine rack?

6 A. Yes, sir, I did.

7 Q. Okay. Do you recall, whether or not

8 you saw glass on the shelf of the wine rack?

9 A. It was on the shelf, and then as we
10 were getting the house ready to try to sell some of the
11 stuff, there were shards of glass down inside of the
12 bucket.

13 Q. What bucket?

14 A. It was an ice bucket that was sitting
15 right on top of the wine rack.

16 Q. Is that clearly visible in the
17 photographs?

18 A. Yes, sir.

19 Q. You say there were glass shards in the
20 top of that ice bucket?

21 A. In the lid, yes, sir.

22 Q. Okay. Did you ever fail to cooperate
23 with the police about anything?

24 A. No, sir. Every time they called us,
25 we were there.

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1 Q. Okay. After you had gotten possession
2 of house again, did you move back in?

3 A. No, sir, we --

4 Q. You never have moved back in?

5 A. No, sir, we couldn't move back into
6 there.

7 Q. Why?

8 A. Because of a minute's worth of
9 something terrible happens, it just covers up four years
10 of memories.

11 Q. So you never intended to move back
12 into the house?

13 A. No, sir, I just wanted to sell it.

14 Q. After you had gotten the house back,
15 did they run a search warrant on the house, and kick the
16 door down?

17 A. Yes, sir.

18 Q. Okay.

19 A. They had an emergency search warrant
20 for the black cap.

21 Q. And they had the house for what, 13
22 days?

23 A. For 13 days, and then they came and
24 kicked the back door in, and busted the whole frame, and
25 busted the door all to pieces, pried it open with a

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1 crowbar.

2 Q. I mean, if they had just asked you --

3 A. If they would have asked me, I would

4 have given them the key, they didn't have to do any more

5 damage.

6 Q. What did that door cost?

7 A. Probably five or six hundred dollars.

8 Q. All in all, how much damage was done

9 to that residence?

10 A. Between 15 to 17 thousand dollars.

11 Q. Okay. What was done with respect to

12 the ceilings, and the plumbing, and things of that

13 nature?

14 A. They took the sinks out, and all of

15 the plumbing, and all of the traps had to be taken out.

16 They put those in their custody. They didn't replace

17 them. So, what they did -- it was a hundred and

18 something degrees, and so, all of the air conditioning

19 traps were leaking into the ceilings, and all of the

20 ceilings were soaked, and the sheet rock started to fall

21 down.

22 Of course, all of the floors and

23 everything else was going to have to be replaced.

24 Q. You had insurance on that?

25 A. Yes, sir, I did.

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1 Q. But you never collected insurance, did

2 you?

3 A. No, sir, they said because of the

4 nature of the --

5

6 MR. GREG DAVIS: I'm going to object

7 to that as being hearsay. It is not relevant either.

8 THE COURT: Sustained.

9

10 BY MR. DOUGLAS D. MULDER:

11 Q. There was blood on one of the boy's

12 comforters upstairs?

13 A. Yes, sir.

14 Q. Do you know how that got there?

15 A. I know exactly how it got there.

16 Q. Tell the jury.

17 A. Well, those are bunk beds, and the

18 bottom had a full size, and the top had a twin, and

19 there's a little rail that goes across the top of the

20 railing, so that the top person doesn't fall off.

21 Well, Damon always slept on the top,

22 and Devon slept on the bottom. And, one night we heard

23 this screech, and we ran in there, and Damon had kicked
24 off that little guard, and it landed and hit Devon right
25 here in the forehead.

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1 And when it did, of course he bled,
2 and we tried to clean that up, and we tried to get him
3 comforted, and got him a little -- got him some
4 band-aids, and that was probably two years ago, and that
5 comforter had been cleaned a couple of times since then.

6 Q. Okay. Is Darlie right-handed or
7 left-handed?

8 A. She is right-handed.

9 Q. Okay.

10

11 MR. DOUGLAS D. MULDER: We will pass
12 the witness.

13 Mr. Davis will have some questions for
14 you.

15 THE COURT: Mr. Davis

16

17

18 CROSS EXAMINATION

19

20 BY MR. GREG DAVIS:

21 Q. Mr. Routier, you and I have met
22 before, haven't we?

23 A. Yes, sir, we have.

24 Q. Actually, we have met twice before,
25 haven't we?

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1 A. I believe so.

2 Q. On July 1st we met?

3 A. Yes, sir.

4 Q. In the courtroom; correct?

5 A. Yes, sir.

6 Q. And September the 12th, we met again,
7 did we not?

8 A. Yes, sir.

9 Q. Okay. You didn't look quite the same
10 in September, as you look now, did you?

11 A. Probably not.

12 Q. Sir?

13 A. Probably not, I don't know how I
14 looked.

15 Q. Well, I mean, you have changed your
16 appearance dramatically today, as opposed to the way you

17 look back in September, haven't you?

18 A. All I did was shave my beard.

19 Q. Well, shaved your beard, cut your

20 hair -- really, you don't look anything like you used to

21 look, do you?

22 A. Mr. Davis, you know --

23 Q. Sir, would you please answer my

24 question?

25 A. Yes, sir, you are right.

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1 Q. All right. I guess that is just a

2 coincidence that have you changed your appearance, before

3 you come before this jury today; is that correct?

4 A. Yes, sir.

5 Q. I don't suppose that you have given

6 Mr. Mulder or Mr. Mosty, or any of these other attorneys

7 a written statement, have you?

8 A. No, sir, I have not.

9 Q. So, as we have heard before, I don't

10 have any way of knowing, whether or not the story you are

11 telling this jury this afternoon, is the story that you

12 came up with yesterday, or the day before, or the first

13 day of trial. I don't have any way of knowing that, do

14 I?

15

16 MR. DOUGLAS D. MULDER: Excuse me,

17 Judge. He gave a written statement to the police.

18 MR. GREG DAVIS: No, sir, I'm talking

19 about one to Mr. Mulder, since the trial has begun.

20 THE COURT: I'll sustain the

21 objection. Answer the question.

22

23 BY MR. GREG DAVIS:

24 Q. So, the answer is, you have not given

25 a written statement to Mr. Mulder, or Mr. Mosty, or any

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1 other attorney representing your wife, have you?

2 A. No, sir.

3 Q. Okay. The sock that is in evidence,

4 you know which one I'm talking about, don't you? The one

5 that came from the alley?

6 A. Yes, sir.

7 Q. That sock is yours?

8 A. I don't know that.

9 Q. You don't?

10 A. I haven't seen it.

11 Q. Do you want me to show you that sock?
12 A. If you would.
13 Q. I mean, we know which sock we're
14 talking about, don't we? I'm talking about the sock that
15 the police found down the alley. Okay?
16 A. Yes, sir.
17 Q. If we're in agreement on that sock,
18 that is the one I'm talking about. That is your sock,
19 the one that the police found down the alley?
20 A. How do you know it's my sock.
21 Q. Well, because you told Corrine Wells,
22 back on December the 3rd of 1996, it was yours, didn't
23 you?
24 A. I said I wouldn't be surprised if it
25 wasn't mine.
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1 Q. No. You remember Corrine Wells, don't
2 you?
3 A. Who?
4 Q. Corrine Wells?
5 A. No, sir.
6 Q. Well, maybe -- let's take you back.
7 You know the house that you lived in on Bond Street,
8 don't you?
9 A. Yes, sir.
10 Q. Okay. Matter of fact, you went there
11 on December the 3rd of '96, didn't you?
12 A. Yes, sir, I did.
13 Q. Yeah. She caught you out there
14 looking at the window screens at that house at about 5:20
15 in the afternoon, didn't she?
16 A. Yes, sir, she did.
17 Q. And then, she started talking with you
18 and you went inside and talked with her for, what, about
19 an hour and a half to two hours, didn't you?
20 A. Yes, sir, we had a good talk.
21 Q. And among the other things that you
22 said was, that that was your sock, that it had come from
23 your utility room, inside of your house, correct?
24 A. Yes, sir.
25 Q. And you also told her that if Darlie
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1 wanted to take that sock and put it down the alley, it
2 would take her only 27 seconds to do that, didn't you?
3 A. No, sir, I didn't say that.
4 Q. That is something you didn't tell her?

5 A. No, sir.

6 Q. That screen that was out there in the
7 garage, when you were out there on June the 5th of '96
8 for the inventory for the garage sale, do you remember
9 that time?

10 A. Yes, sir.

11 Q. That screen wasn't cut then, was it?

12 A. No, it wasn't.

13 Q. Matter of fact the last time that you
14 saw that screen that evening, everything was just fine on
15 it, wasn't it?

16 A. Yes, sir.

17 Q. And yet, when you went over there to
18 Corrine Wells on December the 3rd of 1996, you went there
19 for the purpose of seeing whether you had cut screens on
20 your old house there at Bond, didn't you?

21 A. Yes, sir, I did.

22 Q. So you were trying at that time,
23 weren't you, Mr. Routier, to come up with some feasible
24 story to tell this jury, as to how that window screen got
25 cut that evening, weren't you?

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1 A. No, sir, I was just very interested.

2 Q. You were just curious?

3 A. I was very curious.

4 Q. Very curious about whether the screens
5 were cut over there on Bond Street?

6 A. Yes, sir.

7 Q. The house that you haven't lived in in
8 three years?

9 A. Yes, sir.

10 Q. Just a moment ago, when Mr. Mulder was
11 questioning you, he started asking you about your wife's
12 emotional state back in '95 and I wrote down that you
13 said that she had the blues a couple of days and that
14 that didn't concern you; is that right?

15 A. Yes, sir, it didn't.

16 Q. Okay. Was that your testimony just a
17 few minutes ago?

18 A. Yes, sir.

19 Q. Matter of fact, isn't it true, Mr.
20 Routier, that there were a lot of things that were
21 troubling your wife back then?

22 A. No.

23 Q. Do you know who Jamie Johnson is, Mr.
24 Routier?

25 A. CPS.

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1 Q. Yes, sir, do you remember talking with

2 Jamie Johnson?

3 A. Yeah, I do.

4 Q. You had to good, long conversation

5 with her, didn't you?

6 A. Too long.

7 Q. Do you remember that you and Jamie

8 Johnson discussed your wife's emotional state, and among

9 other things that you told her, that your wife was

10 depressed, tired, and was not herself, do you remember

11 making that statement to Jamie Johnson?

12 A. Yes, sir, on those two days.

13 Q. Just two days?

14 A. A few days.

15 Q. Okay. Well, two days or a few days,

16 what do you mean by a few days? Three, four, five --

17 give me a number?

18 A. Two to three probably.

19 Q. Two to three. Okay. And do you

20 remember when you talked with Jamie Johnson, that you

21 told her, that your wife said to you, "I'm sick of

22 everything. I'm having a hard time getting the house

23 cleaned."

24 Do you remember that?

25 A. It's a big house.

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1 Q. Well, I didn't ask you how big your

2 house was.

3 A. Did I say that?

4 Q. Yes, sir.

5 A. I don't know. I don't have that in

6 front of me.

7 Q. So, you don't know whether you said

8 that to her. And, do you remember also, when you

9 discussed this with Jamie Johnson that the kids came up

10 during that discussion, didn't they?

11 A. Yes, sir, they did.

12 Q. The problems that the kids were

13 causing your wife back in that time period?

14 A. Those kids didn't cause us any

15 problems at all, Mr. Davis.

16 Q. Let me ask you again: Did the kids

17 come up in your conversation that you had with Jamie

18 Johnson?

19 A. Well, I don't have that information.

20 I don't know what I said to Jamie Johnson.
21 Q. You just don't remember the
22 conversation then?
23 A. Sir, she was prying into my business.
24 Q. I didn't ask you that. I said, do you
25 remember the conversation that you had with the CPS
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1 worker?
2 A. Not all of it.
3 Q. Well, let me give you a statement
4 then. Do you remember telling Jamie Johnson that your
5 wife wanted everything perfect in that house. That she
6 was a cleanaholic, it's -- "It's kind of an obsession.
7 She will clean and clean, but the kids would be right
8 behind her making bigger messes."
9 You made that statement to Jamie
10 Johnson, didn't you?
11 A. I doubt it.
12 Q. You doubt it? Can I take that as a no
13 then, Mr. Routier, that you didn't make that statement?
14 A. I probably said some of it. She is a
15 very clean person.
16 Q. Okay.
17 A. I don't think that is --
18 Q. All right. Well, let me just take it
19 then -- what part of it did you say? Did you say the
20 word cleanaholic?
21 A. Probably.
22 Q. Okay. Yes to cleanaholic. Next
23 statement: "It's kind of an obsession." Did you say
24 that?
25 A. No.
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1 Q. That is a no. "She will clean and
2 clean." Did you say that?
3 A. Yes, sir.
4 Q. Yes. "But the kids would be right
5 behind her making bigger messes." Did you say that?
6 A. No, sir.
7 Q. Okay. So no to that. And, in that
8 same discussion, do you remember discussing with her the
9 disappointment that your wife felt, when Drake turned out
10 to be a boy instead of a girl? Do you remember that?
11 A. No.
12 Q. In fact, your wife was very
13 disappointed that she didn't have a girl when Drake was

14 born, didn't she? She very disappointed?

15 A. No, she wasn't.

16 Q. Well, in that conversation with Jamie

17 Johnson, y'all discussed that, didn't you? And didn't

18 you make --

19 A. We were both disappointed a little bit

20 whenever we had the sonogram. We knew way before Drake

21 was born that he was going to be a boy, and we were very

22 proud of having another boy.

23 Q. Okay. So the disappointment didn't

24 come at the time he was born, it came when you found out

25 that you were going to have a boy; is that right?

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1 A. It was a one day -- "Gee, we wish we

2 could have had a girl."

3 Q. Well, a blue period for one day this

4 time?

5 A. That wasn't a blue period.

6 Q. Well, what shade would you call it?

7 A. What can you do? God gave us a boy.

8 Q. Would you say disappointed, right?

9 A. Not disappointed.

10 Q. Because you told Jamie Johnson, didn't

11 you: "Of course, we wanted a little girl. We still do."

12 You told Jamie Johnson that, during

13 that interview, didn't you?

14 A. I did?

15 Q. Well, that is my question to you. Did

16 you or not?

17 A. I don't remember.

18 Q. So that is a maybe?

19 A. Mr. Davis, I don't know exactly what

20 all happened in that conversation with her.

21 Q. Okay. Would it be fair to say that

22 you just don't remember whether or not you said that,

23 right

24 A. Well, wouldn't that information be

25 given in a civil case?

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1 Q. Sir, would you please answer my

2 question? My question to you is: Do you remember making

3 that statement to Jamie Johnson?

4 A. I don't remember, no, sir.

5 Q. Okay. And in that same conversation,

6 do you remember discussing with Jamie Johnson how the two

7 boys, Devon and Damon, started to get in the way of your

8 relationship with your wife; do you remember that?

9 A. No, sir, that is not true.

10 Q. That came up in that conversation,

11 didn't it?

12 A. No, it didn't.

13 Q. And do you remember what you told

14 Jamie Johnson when you started talking about the two boys

15 and your relationship that you got with your wife; do you

16 remember what you said to her?

17 A. No.

18 Q. Let me read something: Do you

19 remember in that conversation with Jamie Johnson, that

20 you said to her: "There was no time for me and Mommy to

21 be sexy or run around in the house naked"?

22 A. No, sir.

23 Q. Okay.

24 A. That is a false statement.

25 Q. So, if that is made by Jamie Johnson,

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1 that is either incorrect, or she is lying?

2 A. She is lying.

3 Q. She is a liar?

4 A. No, lying, not a liar.

5 Q. Okay. Well, she is lying about that

6 statement there?

7 A. Yes, sir.

8 Q. Okay. And you also remember, don't

9 you, your wife really took a lot of pride in her

10 appearance, didn't she? She still does, doesn't she?

11 A. It depends on how you look at it.

12 Q. Well --

13 A. She likes to look nice.

14 Q. Okay.

15 A. She is a very beautiful girl.

16 Q. Okay. Matter of fact, when Drake was

17 born, she had a lot of trouble losing weight, didn't she?

18 A. Not a lot of trouble.

19 Q. Okay. She use to be a size 4 and she

20 went to a size 8, didn't she?

21 A. Six.

22 Q. Okay. Do you remember telling Jamie

23 Johnson about that, and you told Jamie Johnson that she

24 went from a size 4 to a size 8, you said that to her,

25 didn't you?

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1 A. Well, I don't believe so.
2 Q. So, that is a no to that one.
3 And then, it is a fact, isn't it, that
4 your wife was concerned enough about her appearance that
5 she started taking diet pills, didn't she?
6 A. Yes, sir, she did.
7 Q. She really wanted to go back to
8 looking the way she had before Drake was born, didn't
9 she?
10 A. She only had 10 or 12 pounds to lose.
11 Q. I mean, after all, what two or three
12 years earlier, y'all had spent five thousand dollars for
13 breast implants, hadn't you?
14 A. Yes, sir, we did.
15 Q. So appearance was very, very important
16 to your wife, wasn't it?
17 A. Do you want an explanation for that?
18 Q. No, sir, I want you to answer my
19 question, please. Her appearance was very important to
20 her, wasn't it?
21 A. Yes, it was.
22 Q. And it was very important to you too,
23 sir?
24 A. Yes, sir, but it wasn't everything.
25 Q. And as a result of the weight gain
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1 with the baby, do you remember telling Jamie Johnson that
2 she went into postpartum depression, that was somewhat
3 aggravated by her weight. That was part of her problem,
4 wasn't it?
5 A. No, sir, that was not it.
6 Q. Okay. So, do I understand your answer
7 to be, that you did not tell Jamie Johnson that your wife
8 was suffering from postpartum depression, somewhat
9 aggravated by her weight. You didn't make that statement
10 to her?
11 A. No, sir.
12 Q. Well, it was serious enough at that
13 time, that she began taking diet pills, didn't she?
14 A. Serious, 10 to 12 pounds serious? I
15 don't think so.
16 Q. Well, she was taking diet pills,
17 wasn't she?
18 A. Yes, sir, she was.
19 Q. So obviously, she thought it was
20 important enough to her at that time, to start
21 voluntarily taking medication to get her weight down,
22 didn't she?

23 A. Yes, sir, just like her mother.
24 Q. What, does her mother take diet pills
25 too?
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1 A. And my mother.
2 Q. Okay.
3 A. And her sister and my sister.
4 Q. So you really weren't concerned, when
5 she went to the doctor and started taking diet pills,
6 even though she had 10 or 12 pounds, I don't guess that
7 concerned you either, did it?
8 A. No, sir.
9 Q. And, when you came home that
10 afternoon, in May, on May the 3rd, and you found your
11 wife upstairs on the bed, writing that suicide note in
12 her journal, did I understand your testimony to be, that
13 you just had a good cry with her, and you woke up the
14 next day, and everything was fine?
15 A. Yes, sir.
16 Q. So, when you went off to work that
17 next day, you left convinced, that even though your wife
18 had been in the process of writing a suicide note the day
19 before, that everything is hunky-dory, and Darin just
20 goes off to work, and Darlie is left there at home. That
21 is what happened, isn't it?
22 A. Mr. Davis --
23 Q. Sir, did you go to work the next day?
24 A. Yes, sir, I did.
25 Q. And Darlie stayed at home?
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1 A. Yes, sir.
2
3 MR. DOUGLAS D. MULDER: Excuse me,
4 Judge, if he will just do him the courtesy of letting him
5 answer his questions.
6 THE COURT: Sustained. Just let him
7 answer the question.
8 MR. GREG DAVIS: Yes, sir, if he will
9 answer the question that I have asked him.
10 THE COURT: Okay.
11 MR. GREG DAVIS: Yes, sir. Thank you.
12 THE COURT: Both side, just phrase
13 your questions properly, and answer just what he asks
14 you. Please, sir.
15
16 BY MR. GREG DAVIS:

17 Q. Matter of fact, back when it all
18 happened, you were a lot more concerned about it, than
19 you let on now, weren't you?

20 A. No, sir.

21 Q. Matter of fact, back then, when it all
22 happened, you really thought that your wife needed
23 professional help to deal with her problem, didn't you?

24 A. That is not true. I would have gotten
25 it for her.

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1 Q. Because when you talked with Jamie
2 Johnson again, do you remember you discussed the problems
3 that your wife was having, and do you remember you made
4 the statement: "A light went on in my head saying she
5 needs help." That is what you told Jamie Johnson, isn't
6 it?

7 A. No, sir. Now she is becoming a liar.

8 Q. So this is the one that trips the
9 wire, and now Jamie Johnson is a liar; right?

10 A. Yes, sir.

11 Q. All right.

12 A. I wouldn't use that phrase.

13 Q. And, did I understand you to say, that
14 even though your wife -- you understood what your wife
15 was attempting to do when you came home that day, didn't
16 you?

17 A. It was not an attempt.

18 Q. Well, you understood the situation,
19 didn't you?

20 A. Contemplation is the word I would like
21 to use.

22 Q. Contemplating what?

23 A. Contemplating on when to go to sleep
24 and when to wake up.

25 Q. Suicide?

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1 A. If you want to call it that.

2 Q. Well, when you take pills, and you go
3 to sleep, and you don't wake up, wouldn't you call that
4 suicide?

5 A. She didn't attempt it.

6 Q. Well, please answer my question.

7 Wouldn't you call that suicide, Mr. Routier?

8 A. Yes, sir, if she had done it, it would
9 have been suicide.

10 Q. And you knew that on that day she was

11 contemplating suicide, right?

12 A. But I was there, she called out for
13 me.

14 Q. Sir, would you please answer my
15 question?

16 A. Yes, sir.

17 Q. And yet, you didn't even pick up the
18 journal, read anything that was being written that day?

19 I mean, this was --

20 A. No, sir, when I was there, I knew what
21 was happening.

22 Q. Okay. You didn't need to read the
23 journal, did you, to know what the situation was?

24 A. No, sir.

25 Q. And during that time period, you did
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1 real well in '95 in your business, didn't you?

2 A. Yes, sir.

3 Q. And you did gross over two hundred and
4 sixty-four thousand dollars that year, didn't you?

5 A. Yes, sir.

6 Q. '96 was a little bit different though,
7 wasn't it?

8 A. Oh, really? I did a hundred and
9 eleven thousand dollars in five and a half months.

10 Q. And '96 was going to be a little
11 slower, wasn't it?

12 A. Maybe by a couple thousand.

13 Q. And you had time periods -- really you
14 had a couple of months that were a little bit slow right
15 before the killings there in June, correct?

16 A. Sir, that had nothing to do with this.

17 Q. Sir, did I take that to be a yes then,
18 that you did have a couple of months that were a little
19 slow?

20 A. If you would let me explain, sir.

21 Q. Sir, did you have a couple of
22 months --

23

24 MR. RICHARD MOSTY: Your Honor, you
25 know, we fought this with the State's witness forever.
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1 THE COURT: Gentlemen.

2 MR. RICHARD MOSTY: Your Honor, he
3 needs to be able to explain his answers.

4 THE COURT: All right. Just answer

5 the question. Just go ahead. Ask the question, and give
6 the answer, and explain your answer, if necessary.

7 MR. GREG DAVIS: Let me -- I'll
8 restate the question.

9 MR. RICHARD MOSTY: Let him explain
10 it.

11 THE COURT: Gentlemen. Just a minute.
12 Ask the question. He can explain his answer.

13 MR. GREG DAVIS: Yes, sir.

14 MR. DOUGLAS D. MULDER: Judge, excuse
15 me. He has asked that question. Let's let him explain
16 the answer.

17 THE COURT: I'll let him explain the
18 answer. Please be seated.

19 MR. DOUGLAS D. MULDER: Thank you.

20 THE COURT: Thank you.

21

22 BY MR. GREG DAVIS:

23 Q. Mr. Routier, did you have a couple of
24 months --

25

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1 THE COURT: Explain your answer to the
2 last question. He is asking the same question again.
3 Answer it, and explain your answer. Okay?

4 THE WITNESS: Okay.

5

6 BY MR. GREG DAVIS:

7 Q. Did you have a couple of months out
8 there at your business, that were a little slow, before
9 the killings occurred in June of '96?

10 A. Mr. Davis, whenever it's slow in our
11 business, we try to enjoy it. And knowing that the --
12 that the hump is fixing to come back up, and we're fixing
13 to get blasted with work.

14 Q. So, sir, I don't know that I
15 understood. Was that a yes?

16 A. Yes, it was slow.

17 Q. Thank you.

18 A. Comfortably slow.

19 Q. Comfortably slow?

20 A. Yes, sir.

21 Q. Well, when things got comfortably slow
22 there at your business, Mr. Routier, things got a little
23 bit uncomfortable with your personal finances, didn't
24 they?

25 A. Not really.

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1 Q. I just asked you, would you consider
2 being two months in arrears on your mortgage, comfortable
3 or uncomfortable?

4 A. Well, it would be uncomfortable if it
5 was true, but it's not true.

6 Q. I'll show you, Mr. Routier, a letter.
7 This is State's Exhibit 83-B. It's addressed to you and
8 your wife from Mellon Mortgage Company. You remember
9 that letter, don't you?

10 A. I had already made that payment.

11 Q. Sir, do you recognize that?

12 A. I don't remember ever seeing it, no.

13 Q. Addressed to you?

14 A. It's addressed to me.

15 Q. And your wife?

16 A. Yes, sir.

17 Q. Correct?

18 A. Yes, sir.

19 Q. Matter of fact, this came out of your
20 Pathfinder, you know that, don't you?

21 A. No, I didn't know that is where it
22 came from.

23 Q. So now your testimony is, that even
24 though the letter is dated May the 8th of 1996, and
25 addressed to you at your home address of 5801 Eagle

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1 Drive, now you are saying that you don't recognize this
2 letter?

3 A. It doesn't mean I opened it.

4 Q. So again, your answer is, you don't
5 recognize it?

6 A. I don't recognize it, no.

7 Q. Well, let me show you another letter
8 then. This will be State's Exhibit 83-A. This is from
9 American Express, dated May the 9th about a balance of
10 nine hundred and fifty-four dollars due. It's addressed
11 to you, actually addressed to Darlie Routier at 5801
12 Eagle Drive. Do you recognize State's Exhibit 83-A?

13 A. Yes, sir, I do. Can I explain that?

14 Q. No. Do you recognize that?

15 A. Yes, sir.

16 Q. Okay.

17

18 MR. GREG DAVIS: Your Honor, at this
19 time, we will offer State's Exhibit 83-A.

20 MR. DOUGLAS D. MULDER: No objection.
21 THE COURT: State's Exhibit 83-A is
22 admitted.
23
24 (Whereupon, the items
25 Heretofore mentioned
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1 Were received in evidence
2 As State's Exhibit No. 83-A,
3 For all purposes,
4 After which time, the
5 Proceedings were resumed
6 As follows:)
7

8 MR. GREG DAVIS: Your Honor, may I
9 briefly publish this to the jury?

10 THE COURT: You may.

11 MR. GREG DAVIS: Thank you. This
12 letter is dated May the 9th, 1996, addressed to Darlie
13 Routier. It has a total undisputed balance of \$954.64.
14 "Dear Darlie Routier: Perhaps in
15 these busy times you have forgotten to pay your American
16 Express bill. Would you kindly take the time to send us
17 payment for \$954.64. Please use the enclosed envelope to
18 mail your payment for the balance due today. If you have
19 already sent your payment, thank you."

20

21 BY MR. GREG DAVIS:

22 Q. How did you describe it on the tape?

23 Living large?

24

25 MR. DOUGLAS D. MULDER: Excuse me,
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1 Judge. He asked him a question about that, and he has an
2 opportunity to explain it.

3 THE WITNESS: No, that's all right.

4 MR. GREG DAVIS: Excuse me -- I didn't
5 ask him this.

6 THE COURT: Just a minute, gentlemen.

7 That question and answer was over.

8 Mr. Davis, ask another question.

9 MR. GREG DAVIS: Thank you.

10 MR. DOUGLAS D. MULDER: Thank you,
11 your Honor.

12 THE COURT: Thank you.

13

14 BY MR. GREG DAVIS:

15 Q. Living large has its costs; doesn't
16 it, Mr. Routier?

17 A. To some people.

18 Q. Well, you and the defendant were
19 living large out there in Rowlett, weren't you?

20 A. What is living large?

21 Q. Well, you tell me. Those are the
22 words that you used on June the 14th of 1996 to Joe Munoz
23 of Channel 5. What did "living large" mean to you back
24 then?

25 A. Having a family that loves you.
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1 Having a house that could accommodate all of the family
2 members. And having the ability to be able to go on
3 trips and take them exactly where you want to go.

4 Q. Well, living large means having what
5 you want, doesn't it?

6 A. And what you need.

7 Q. And having a lot of it. Right?

8 A. Yes, sir.

9 Q. A 28 foot boat. That is a nice boat
10 out there on Lake Ray Hubbard; wasn't it?

11 A. It's a nice boat, yeah.

12 Q. A redwood spa, that was brand new, put
13 in your back yard in '95.

14 A. Yes, sir.

15 Q. Okay. A new two-door Jaguar, that was
16 a nice car to drive?

17 A. It was not new, '86.

18 Q. Sir, is that a two-door Jag that y'all
19 got?

20 A. Yes, sir, it was.

21 Q. That is just part of living large,
22 isn't it?

23 A. A 1986? No --

24 Q. Sir, is that part of living large?
25

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1 MR. RICHARD MOSTY: Your Honor, let
2 him answer the question.

3 THE COURT: Mr. Mosty. Please.

4 MR. RICHARD MOSTY: He is explaining
5 his answer.

6 THE COURT: I understand. He can
7 explain it. The question was -- re-ask the question.

8 MR. GREG DAVIS: Yes, sir.

9 THE COURT: And you answer it, any way

10 you want to answer it, but please answer his question.

11 Thank you.

12

13 BY MR. GREG DAVIS:

14 Q. Is that part of living large?

15 A. Okay. Yes, that is part of living

16 large, I guess.

17 Q. Matter of fact, during that time

18 period, it would be fair to say, wouldn't it, Mr.

19 Routier, that you and your wife really got into kind of a

20 situation where you got caught up in the material side of

21 life, didn't you?

22 A. The materialistic part of life had

23 nothing to do with that. That was the fruits of your

24 labor. When you bust your butt and you make a good

25 living, that is what you deserve.

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1 Q. Sir, did you and your wife get caught

2 up on the material side of life during 1996?

3 A. Somewhat.

4 Q. Matter of fact, isn't it true, that it

5 got to the situation where it was a little bit like a

6 materialistic tornado for the two of y'all out there on

7 5801 Eagle Drive?

8 A. No, sir.

9 Q. You know that phrase, don't you?

10 A. No, sir, I don't.

11 Q. Do you remember speaking with a Rick

12 Roberts of KRLD Radio, on November the 19th, 1996?

13 A. Yes, sir, I do.

14 Q. Do you remember stating to Rick

15 Roberts: "I think we're so wrapped up in our careers,

16 we're wrapped up as human beings. Especially in a large

17 city, that you get tied up in this materialistic whirl

18 wind, this tornado." You remember saying that to Rick

19 Roberts, don't you?

20 A. Yes, sir, and I was trying to explain

21 to people, exactly how materialistic we all become, and

22 how we need to really change our lives. That the most

23 important thing in life is our children and our family.

24 Q. That's right. That is something that

25 you all forgot in '96, isn't it? You and the defendant.

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1 You got off the track, you got on the material side of
2 life, and you lost sight of your two children for a
3 while, didn't you?

4 A. No, sir, we did not. Mr. Davis, we
5 had everything we wanted.

6

7 MR. GREG DAVIS: Sir.

8 THE COURT: Just answer the question.

9 Go ahead.

10 MR. GREG DAVIS: Thank you.

11

12 BY MR. GREG DAVIS:

13 Q. I mean, you had a lot of expenses
14 coming in that you had to deal with, didn't you?

15 A. And also I was making a lot of money.

16 Q. Well, not enough to pay all of your
17 taxes for '95, did you?

18 A. Well, I have always been behind on my
19 taxes for the last four years.

20 Q. You were behind to the tune of ten
21 thousand dollars in your '95 taxes; weren't you?

22 A. Yes, sir, I was.

23 Q. You had about twelve thousand dollars
24 in credit card debt; correct?

25 A. I'll take your word for it.

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1 Q. Well, you don't have to take my word
2 for it. Do you remember on July the 1st, that I asked
3 you about your debt situation?

4 A. At the bond trial?

5 Q. And I asked you about your bills and
6 you said the credit card debt of twelve thousand dollars.

7 Do you remember that?

8 A. Mr. Davis, when you make a thousand to
9 two thousand a --

10 Q. Sir.

11 A. Yes, sir.

12 Q. Okay. Thank you. The Jaguar, that
13 Jaguar had been broken down, and then it would be fixed,
14 and then it would be broken down, and you would have to
15 fix it again. That was kind of a long-standing problem
16 with the Jag, wasn't it?

17 A. Not really. It cost me three dollars
18 to get it fixed.

19 Q. Okay.

20 A. I usually always fixed it myself.

21 Q. Okay. Do you remember July the 1st, I
22 asked you about that Jaguar. You said that your Jaguar

23 was broken right now.
24 "How long has it been broken?"
25 "Off and on probably for the last two
Sandra M. Halsey, CSR, Official Court Reporter
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1 months."
2 Is that what you said --
3 A. Same hose.
4 Q. The three dollar hose just kept
5 breaking over and over again?
6 A. Yes, I kept burning it through, it was
7 on the back of the transmission.
8 Q. Okay. In your business, Rhett
9 Williams, you know Rhett Williams, don't you?
10 A. Yes, sir, I do.
11 Q. He does some work on your equipment,
12 doesn't he?
13 A. He did one time.
14 Q. What time did you call Rhett Williams
15 on June the 5th, or was it June the 6th when you called
16 him?
17 A. I don't know. I had a power supply
18 that went out on one of my pieces of equipment.
19 Q. Right. He was working on that, wasn't
20 he?
21 A. He was trying to fix it, yes.
22 Q. All right. That was an important
23 piece of equipment for you, wasn't it?
24 A. Yes, sir, and I had one of my
25 customers send me one of them for free.
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1 Q. So, you have got a very important
2 piece of equipment that is down, and he had had it now
3 for a couple of days by the 5th, hadn't he?
4 A. Yes, sir, he was try to fix it, but
5 didn't know how.
6 Q. All right. And so my question to you
7 is, when did you call him on the 5th? Did you call him
8 on the 5th to talk with him about the piece of equipment,
9 to see when it was coming back to you?
10 A. I don't know when I called him
11 exactly.
12 Q. Well, you called him from your home,
13 right?
14 A. I don't know.
15 Q. Okay. Well, do you remember calling
16 Rhett Williams?

17 A. I did at one time, yes, sir.

18 Q. Okay. And my question to you is,
19 where were you when you called him?

20 A. Where?

21 Q. Yes, sir.

22 A. I don't know. I know Rhett Williams

23 pretty well.

24 Q. Well, let me just ask you, after 7:00

25 P.M. on June the 5th, were you at home, from that point

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1 on, making phone calls, if you made a phone call?

2 A. On what date?

3 Q. On the 5th, on that -- what is going

4 to be on the night before the murders?

5 A. No, sir, I didn't make any phone calls

6 that I believe.

7 Q. You didn't call Rhett William that

8 day?

9 A. Oh, I may have called him that day,

10 but I don't know if I called him from home, or from work.

11 Q. Let's talk about the insurance for a

12 moment. You and the defendant had insurance policies,

13 correct?

14 A. Yes, sir.

15 Q. Both of the boys had insurance on them

16 for five thousand dollars as riders, correct?

17 A. Yes, sir, it's a family rider.

18 Q. How much insurance did have you on

19 baby Drake?

20 A. We haven't -- he would have been added

21 on to the policy, automatically.

22 Q. Well, on June the 6th of '96, he had

23 no insurance on him, did he?

24 A. I wouldn't know. I'm sure he would

25 have been covered.

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1 Q. Well, I mean, he is your child -- let

2 me just ask you --

3 A. Have we called the insurance company

4 to see?

5 Q. Sir. No, what I'm asking is, you have

6 already told me on June the 6th, '96, that you had life

7 insurance on the older boys, Devon and Damon, for five

8 thousand each; correct?

9 A. Yes, sir.

10 Q. And I'm asking you, on June the 6th,

11 '96, how much life insurance did you have on baby Drake?

12 A. He was only six months old, we hadn't

13 taken care of that yet.

14 Q. Okay. So none?

15 A. None. Actually, I think our insurance

16 company would have covered it. It's an automatic family

17 rider.

18 Q. That evening, on June 5th of '96, you

19 said that Dana came home from work with you, and she

20 stayed at your house for a period of time, and then you

21 took her back home to Garland, right?

22 A. Yes, sir.

23 Q. She had been staying there over night

24 at your house, hadn't she?

25 A. Off and on, yes, sir.

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1 Q. Okay. Actually she had been staying

2 off and for about two weeks. Actually, that is the first

3 night that your sister-in-law didn't stay over night is

4 the night of these murders, isn't it?

5 A. I wouldn't know.

6 Q. Well, weren't you staying there?

7 A. I was staying there at the house, but

8 I'm real bad with dates.

9 Q. And times?

10 A. A lot of times, yeah.

11 Q. Um-hum. (Attorney nodding head

12 affirmatively.) Just not very good on details?

13 A. No, I can remember details, I'm just

14 not real good with dates.

15 Q. Well, I'm not asking for the dates,

16 I'm just asking you, up to that time, had your

17 sister-in-law been staying over night at your house?

18 A. Off and on, yes, sir.

19 Q. She didn't stay over night that night,

20 did she?

21 A. No, sir.

22 Q. And, when you talk about your wife

23 sleeping downstairs, I mean, the reason that she was

24 sleeping downstairs is because she is a very light

25 sleeper; isn't she?

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1 A. No.

2 Q. Well, she woke up every time that baby

3 moved in its crib, didn't she?

4 A. That is a mother's instinct.

5 Q. Well --

6 A. That is something that me and you
7 don't understand.

8 Q. Well, I think I understand it. Okay.

9 I'm asking you right now, wouldn't you consider that to
10 be a light sleeper?

11 A. Someone that is a light sleeper can't
12 sleep with a TV on.

13 Q. Yeah. I was getting to that point.

14 Your wife was sleeping down there with the TV on that
15 night, wasn't she?

16 A. Yes, sir, and that's how I sleep too.

17 Q. Well, that didn't keep her from
18 sleeping; right?

19 A. Right.

20 Q. Slept down in the same room where

21 Damon was sleeping, right next to her. That didn't keep
22 her from sleeping either, did it?

23 A. Well, the boys had decided that they
24 were going to sleep in that room that night, and they had
25 already went and got their pillows and their blankets.

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1 Q. All right. Well, my question again:

2 Did Damon keep her up that night, or was she able to
3 sleep with him in the same room?

4 A. Damon?

5 Q. Damon. Your younger child. Your
6 middle child, Damon?

7 A. Did he keep her awake?

8 Q. Yes, sir.

9 A. No.

10 Q. How about Devon? He was sleeping in
11 the same room also, wasn't he?

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

14 Q. He didn't keep her up either?

15 A. Well, they don't root and grunt.

16 Q. And, apparently, wouldn't you agree
17 with me, that your wife apparently was able to sleep,
18 while your older child Devon was stabbed twice in the
19 chest; she slept through that too, didn't she?

20 A. Yes, sir, she did.

21 Q. And then she slept through your middle
22 child being stabbed four times in the back; correct?

23 A. Yes, sir.

24 Q. And then she actually slept through
25 her own stabbing, didn't she?

1 A. Mr. Davis, we don't know that
2 information.
3 Q. Oh, we do.
4 A. You do?
5 Q. Yes, sir. She has already told you.
6 Remember she told you that she woke up, and a man was
7 walking away from her?
8 A. Could I ask you a question?
9 Q. No, sir, but you can answer my
10 questions. Hadn't she already told you, Mr. Routier,
11 that when she woke up, that Damon pushed on her, woke her
12 up, and then she saw this man walking away; isn't that
13 right?
14 A. She was obviously attacked.
15 Q. While she was sleeping; right?
16 A. That's what we did. That's all we
17 did, was go to sleep that night.
18 Q. Sir, wouldn't you agree with me, that
19 your wife's story to you, means that she slept through
20 her own stabbing, and didn't wake up until your middle
21 child woke her up there on the couch?
22 A. Yes, sir.
23 Q. Let me talk to you about this window
24 for a moment, out in the garage. How good is your memory
25 of that window that night? Real good?
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1 A. Pretty good.
2 Q. Has your memory gotten better over the
3 last few months, or worse, or the same about this event?
4 A. Some things, when you talk about it
5 250 times, you start to remember things that you didn't
6 remember before.
7 Q. Well, back on September the 12th of
8 '96, Mr. Mulder was not your attorney yet, was he?
9 A. No, sir, he was not.
10 Q. Mr. Mosty wasn't on the case either,
11 right?
12 A. No, sir.
13 Q. So you had not had an opportunity to
14 talk with either of those two gentlemen; correct?
15 A. No, sir.
16 Q. Do you remember testifying just a
17 moment ago, that the window, when you saw it out there
18 that evening, was up six to eight inches, correct?
19 A. Before I went to bed, yes, sir.

20 Q. All right. And we're talking about
21 the window that your later saw the screen cut on, that is
22 the window that I'm talking about, just so we're clear.
23 Is that the one that you are talking about too?
24 A. Yes, sir.
25 Q. And you are sure it was six to eight
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1 inches up?
2 A. Um-hum. (Witness nodding head
3 affirmatively.) I'm very sure.
4 Q. Are you as sure of that, as you are
5 about the rest of the things that you have testified
6 about this afternoon?
7 A. No.
8 Q. Because, do you remember we talked
9 about that window, back on September the 12th also;
10 didn't we?

11 A. I don't remember.
12 Q. You don't remember what you told me
13 about the window and how open it was back then?
14 A. I know when I went back into the
15 house, and I saw, and I walked through there, it was open
16 all the way up.
17 Q. Correct.
18 A. With a slit all the way across from
19 one end to the other.
20 Q. That's right. Because remember I
21 asked the question: "Was the window also raised
22 somewhat?"
23 And you said: "Yes, it was, it had
24 been raised up about that much. Normally it was raised
25 the full, you know, 36 inches, or however big that window
Sandra M. Halsey, CSR, Official Court Reporter
4375

1 is"?"
2 A. Sometimes it was raised up that high.
3 Q. Well, remember you said: "It was
4 normally -- it was raised the full, you know, 36 inches
5 or however big that window is"?"
6 A. And I said that?
7 Q. Yes, sir, you did. Would you like for
8 me to show you that?
9 A. If you would, please.
10 Q. Yes, sir I'll be happy to.
11
12 THE COURT: Ladies and gentlemen, I
13 intend to continue with this witness. Thank you.

14 MR. GREG DAVIS: Thank you, Judge.

15

16 BY MR. GREG DAVIS:

17 Q. My question was on line 17, of page

18 168, and your answer began on line 19?

19 A. Look at this sentence?

20 Q. The answer is going to be, "You"?

21 A. Yes.

22 Q. Do you see that now?

23 A. Yes, sir.

24 Q. Okay. That is what you said back on

25 September the 12th, isn't it, Mr. Routier?

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1 A. Yes, sir, but I didn't say that that

2 is how far up it was that night, when I went to bed.

3 Q. Okay. The garage door, you just

4 testified a few minutes ago, that when you were out there

5 with the inventory for the garage sale, that the

6 window -- that the garage door was up; correct?

7 A. The garage door, it was up when I was

8 out there, I had pulled it down before I went to bed.

9 Q. All right. So before you ever went

10 back inside that house, you closed it, and you latched

11 it, didn't you?

12 A. Latched it from the inside.

13 Q. Matter of fact, you locked the doors,

14 you locked both the front and the back doors of the

15 residence before you went to bed, didn't you?

16 A. No, sir, I didn't. I locked the front

17 door and only the garage door. I never locked the door

18 in between the garage and the utility room.

19 Q. Sir, on September the 12th of '96 do

20 you remember me asking you the question, after we had

21 talked about the garage door: "And the other doors in

22 the house were locked when you went to sleep also?"

23 Do you remember what your answer was

24 back then, Mr. Routier?

25 A. That they were all locked.

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1 Q. Would you like for me --

2 A. I would --

3 Q. Would you like for me to show you your

4 answer?

5 A. If you would, yes, sir.

6 Q. I'll be happy to. My question begins

7 on page 168 at line 3. Your answer was at line 5. Do
8 you see your answer?

9 A. "The other doors in the house they
10 were locked when you went to bed?"

11 Q. Yes, sir. And your answer was: "Yes,
12 sir." Correct?

13 A. Yes, sir.

14 Q. Okay.

15 A. The garage door, and the front door
16 were locked.

17 Q. You see, that is not the question that
18 I asked back on September the 12th though, was it? I
19 didn't say, "Did you lock the garage door, and the front
20 door?" That is not the question that I asked, did I?

21 A. You said all doors.

22 Q. I said the other doors in the house.

23 You understood what I meant back then, didn't you?

24 A. Well, I'm not really sure if I did or
25 not.

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1 Q. Sir, that is your house. You know how
2 many doors. You have a front door, and a door to the
3 garage and you have a garage door, don't you?

4 A. And a sliding glass door, and 48
5 windows.

6 Q. That's right. Matter of fact, the
7 sliding glass was also locked, wasn't it?

8 A. Yes, sir, it was.

9 Q. Okay.

10 A. All exterior doors were locked.

11 Q. And again, I understand your testimony
12 to be that the window was not cut when you were out there
13 on June the 5th; correct?

14 A. That's correct.

15 Q. Now, kids had come in and out of that
16 window quite a bit in the past, hadn't they?

17 A. I didn't know that, I have never seen
18 them do it before.

19 Q. Well, you had heard about the kids
20 coming in to get popsicles, and other things out of the
21 freezer in the garage, hadn't you?

22 A. I had some neighborhood kids tell me
23 that.

24 Q. All right. And, as a matter of fact,
25 the window frame itself is a little bent at the bottom,

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1 where they had pulled the window screen back, and hopped
2 in the window, and then they would go across there, and
3 get popsicles and come back out; correct?

4 A. I don't know.

5 Q. That big old stain there, between the
6 freezer and the window, that was a bunch of popsicles,

7 Kool-aid, and other things, wasn't it?

8 A. I don't know. I didn't examine it.

9 Q. And that had been there for sometime,
10 hadn't it?

11 A. Probably. It would have to be washed
12 out, if it was in there.

13 Q. Okay. That evening, Mr. Routier, when
14 you came down stairs, you never saw an intruder, did you?

15 A. No, sir, I didn't.

16 Q. You never heard an intruder?

17 A. No, sir.

18 Q. You never saw a vehicle leaving your
19 residence; correct?

20 A. No, I didn't.

21 Q. And you never heard a vehicle leaving
22 from your residence; did you?

23 A. No, sir. I didn't hear anything but
24 screams.

25 Q. Now, I want to turn your attention to
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1 another area of your testimony with Mr. Mulder, where
2 we -- where you started telling about what you did with
3 Devon and with Damon, okay? And, as I understand your
4 testimony, when you were over there with Devon, you
5 testified that your wife went and got some towels, and
6 then brought them over there to you, while you were
7 actually blowing into his chest; right?

8 A. Yes, sir.

9 Q. Now, Mr. Routier, that is the first
10 time that you have told that story to anyone; isn't it?

11 A. Not into his chest. It was when I was
12 blowing into his mouth.

13 Q. All right. Into his mouth. That is
14 the first time you have ever told that, where your wife
15 is over there next to you, while you are doing that,
16 isn't it?

17 A. Well, I guess so.

18 Q. Although we have talked about that
19 subject before; haven't we?

20 A. Yes, sir, we never got into details.

21 Q. Well, let's check that out. Let me --
22 let me go into some of that with you.

23 Matter of fact, we went into pretty
24 good detail because I have asked you before, what your
25 wife was doing while you were performing CPR on Devon,
Sandra M. Halsey, CSR, Official Court Reporter
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1 haven't I? Do you remember those?
2 A. I don't remember.
3 Q. Okay. September 12th again, do you
4 remember I asked you this question: "When you came into
5 this Roman room and you went to Devon, did your wife
6 follow you over to Devon?"
7 And you said: "No, not at that point.
8 She went straight to the phone. She went straight to the
9 sink to get towels." Do you remember that?
10 A. Yes, sir.
11 Q. Is that correct?
12 A. That's correct.
13 Q. Okay. Well, that phone that we're
14 talking about, is on the wall in the kitchen; correct?
15 Close to the family room?
16 A. It was a cordless phone.
17 Q. Right. But actually it's got a little
18 cradle up on the wall; doesn't it?
19 A. Yes, sir.
20 Q. Is that where she went to get the
21 phone?
22 A. I guess. It could have been on the
23 counter or anywhere. That is just the charger.
24 Q. And, how long did you stay over with
25 Devon?
Sandra M. Halsey, CSR, Official Court Reporter
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1 A. In minutes?
2 Q. Yes, sir.
3 A. I don't know. It seemed like forever.
4 Q. Well, do you know how long you were
5 over there?
6 A. Probably two or three minutes.
7 Q. Okay. Back on September 12th, do you
8 remember I asked you, and you said, "Probably 3 to 4
9 minutes." Does that sound about right?
10 A. I have no idea.
11 Q. Well, just in general, how good a
12 recall of this evening do you have?
13 A. Mr. Davis, I have thought about this
14 for 265 days.
15 Q. Does that mean that you have a good
16 recall?

17 A. I try to remember as much as I can.
18 Q. All right. Well --
19 A. For this purpose.
20 Q. Your memory has got a lot better about
21 a lot of things since September the 12th, hasn't it?
22 A. I'm a lot more emotionally strong,
23 too.
24 Q. Okay. Well, you know, I noticed that
25 you were trying to cry up there in front of this jury.
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1 When I talked to you on September the 12th --
2 A. Trying to cry?
3 Q. Yes, sir. That is exactly right. You
4 didn't have any problems -- you didn't try to cry on
5 September the 12th with me, did you?
6 A. Well, sir, I was taking
7 antidepressants.
8 Q. You weren't crying back then, were
9 you?
10 A. Well, I don't remember. I just
11 remember being very scared.
12 Q. Do you remember back on September the
13 12th, I asked you, "How much of this evening do you
14 really remember in great detail?"
15 And, do you remember what you said to
16 me back on September the 12th?
17 A. Probably not very much.
18 Q. "I was in shock"?
19 A. Yeah.
20 Q. "Not very much."
21 A. Yeah.
22 Q. And yet today, you remember which
23 paramedic knocked over which lamp shade, and which
24 paramedic righted the coffee table.
25 A. I don't remember which one did what,
Sandra M. Halsey, CSR, Official Court Reporter
4384

1 all I can tell you is, that they were paramedics. I
2 wouldn't know their faces if they were sitting right here
3 in front of me.
4 Q. That is another thing. Back on
5 September the 12th, you didn't even recognize David
6 Waddell, did you?
7 A. No, sir, I didn't. And I looked right
8 at him.
9 Q. You do now though, don't you?
10 A. Well, I wouldn't know him unless he

11 was standing in here.

12 Q. Well, do you remember that we went on
13 and we talked for a little bit more about your wife's
14 activities while you were with Devon. And, do you
15 remember: "All right. Where was your wife during the
16 time that you were with Devon?"

17 And your answer: "She was in the
18 kitchen, getting kitchen towels out of the thing. I
19 could hear the water running, and then she took them
20 over -- she brought towels over to Damon."

21 Do you remember answering that?

22 A. Over to Damon and over to Devon. She
23 probably made six or seven trips back and forth to the
24 sink.

25 Q. Well, let me direct your attention
Sandra M. Halsey, CSR, Official Court Reporter
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1 back to your answer back on September the 12th. And your
2 answer beginning at line 20: "Mr. Routier, did you
3 mention anything about her bringing towels over to
4 Devon?"

5 And that answer, sir?

6 A. Can I see that? Yes. That is a true
7 statement. She was going back and forth from Devon to
8 Damon.

9 Q. Well, you just read that answer out to
10 this jury so they can see what your answer was back on
11 September the 12th?

12 A. Okay. You said: "All right. Where
13 was your wife during the time that you were with Devon?"
14 "She was in the kitchen getting
15 kitchen towels out of the thing. I could hear the water
16 running, and then she took him (sic) over, and brought
17 towels over to Damon."

18 Q. All right. To Damon?

19 A. Yeah, to Damon.

20 Q. Not to Damon and Devon?

21 A. Well, I didn't finish my sentence.

22 Q. Well, there is a period after that.

23 You mean you just didn't think of it back then?

24 A. Well, back then, I was not getting my
25 full statements out.

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1 Q. Well, I didn't cut you off then, did

2 I?

3 A. No, sir.

4 Q. Matter of fact, we have talked about

5 it again. That is not the last time that we talked about
6 that, back on September the 12th, is it? Do you remember
7 other questions about that?

8 A. Which hearing was that?

9 Q. This was the no bond hearing. Do you
10 remember that one?

11 A. Very well, yes, sir.

12 Q. All right. Matter of fact, do you
13 remember you told me, that during the time that you were
14 doing the CPR on Devon, that about all you could see of
15 your wife was her head as she walked between the kitchen
16 sink, and the wine rack, back and forth in the kitchen?

17 A. Yeah, back and forth about six or
18 seven times.

19 Q. Right, in the kitchen. She wasn't
20 over there where you were?

21 A. No. She was from the kitchen to
22 Damon, over to Devon. How did these towels get to me? I
23 didn't get them.

24 Q. Sir, you never did, in your testimony
25 of September 12th ever mention your wife coming over
Sandra M. Halsey, CSR, Official Court Reporter
4387

1 there, and doing anything with Devon, did you?

2 A. I wasn't asked.

3 Q. Sir, I asked you a lot of times, about
4 what your wife was doing; do you remember that?

5 A. A lot of things I don't remember.

6 Q. Well, let me go to page 143. Actually
7 page 142, I asked you again: "All right. So whatever
8 you say then is directed toward Devon, who you were
9 attending to, is that correct?"

10 "Yes, um-hum. That, and then me
11 waiting for Darlie to get off the phone, so I could find
12 out what happened."

13 I mean, your wife was on the phone to
14 911 the entire time?

15 A. I heard what happened from what Darlie
16 was saying to 911, she didn't have to repeat it to me.

17 Q. Okay. And then I asked you: "Well
18 then I take it, that during the entire time that you were
19 with Devon, she is still on the phone?"

20 And your answer to that is: "That is
21 probably about right."

22 Correct?

23 A. I wouldn't put it in those words.

24 Q. All right.

25 A. It's not what you say, it's how you

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4388

1 say it.

2 Q. Well, I want you to make sure that I
3 have not misquoted you. If you will look at page 142,
4 line 16 through 17 or 18, those are my -- that is my
5 question.

6 Your answer is: "That is probably
7 about right." Have I correctly stated what you answered
8 back on September the 12th?

9 A. Yes, sir. You just said it with some
10 sarcasm.

11 Q. Oh. The truth of the matter is, back
12 on September the 12th, your testimony -- during that
13 hearing, it was very important for you to put your wife
14 by that kitchen sink, as much as you could, wasn't it?

15 A. Not really, I wasn't even discussed
16 about it.

17 Q. Sir?

18 A. I never even talked with anyone about
19 it.

20 Q. Matter of fact, that is one of the
21 very first things that you told me that you remembered
22 about your wife that evening, wasn't it?

23 A. What?

24 Q. That she went directly to the kitchen
25 sink?

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1 A. She grabbed the phone, she went to the
2 kitchen sink, she was going from Devon and Damon, back
3 and forth rendering aid.

4 Q. Matter of fact, when you talked with
5 Jamie Johnson again, you never mentioned anything about
6 your wife being there with you, while you were doing CPR
7 on Devon, did you?

8 A. I didn't feel like I had to tell
9 anybody anything.

10 Q. Even though she is asking you
11 questions about the event, you didn't feel the need to
12 answer those questions?

13 A. Matter of fact, I wish I hadn't.

14 Q. I bet you do. You just -- matter of
15 fact, your wife, she didn't do CPR on Devon, did she?

16 A. No, sir, she doesn't know how to do
17 CPR, I did.

18 Q. That's correct. She didn't do CPR on
19 Damon either, did she?

20 A. No, she did what she could. She got
21 help there as fast as possible.
22 Q. What is it that she did with Damon?
23 A. She put towels on his back. She was
24 talking to him, trying to comfort him. She kept yelling
25 that, "He was alive just a minute ago. He was alive just
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1 a minute ago."
2 Q. All right. So she laid a towel on his
3 back; correct?
4 A. Yes, sir.
5 Q. Okay.
6 A. And when I went over, I picked up that
7 towel.
8 Q. Okay. And she didn't move Damon, is
9 that correct?
10 A. No, sir, I told her not to.
11 Q. Matter of fact, you never moved him
12 either; right?
13 A. No, sir, I was afraid to.
14 Q. You were afraid to touch him, and you
15 didn't lift up his shirt either, did you?
16 A. Yes, I did.
17 Q. Are you sure about that?
18 A. Yes, sir, I saw the blood --
19 THE COURT REPORTER: Excuse me, you
20 saw what?
21 A. I saw the wound in the center part of
22 his back.
23 Q. Do you remember on September the 12th,
24 I asked you: "Was that room pretty dark?"
25 And your answer was: "Well, once the
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1 light is off it is, but I didn't see any blood or
2 anything wrong with him" -- you are talking about
3 Damon -- "I mean, I didn't visually see it because it was
4 like Devon's wounds. But, I never lifted his shirt up or
5 anything. I was afraid to touch him."
6 A. I wasn't afraid to touch him. He was
7 my son. I lifted his shirt up. It was a black shirt, so
8 blood was not as apparent as what it would be, if you
9 were exposed to, you know, an exposed open wound.
10 Q. Mr. Routier, back on September the
11 12th, do you remember the oath that you took, as a
12 witness, don't you?
13 A. Yes, sir.

14 Q. The very same oath that you took this
15 afternoon when you hit that witness stand, wasn't it?

16 A. Yes, sir.

17 Q. And you took an oath back on September
18 the 12th, to tell the truth, the whole truth and nothing
19 but the truth, didn't you?

20 A. Yes, sir.

21 Q. Now, sir, when you said: "I never
22 lifted his shirt up or anything, I was afraid to touch
23 him," you were telling the truth back on September the
24 12th, weren't you?

25 A. Just as I am telling the truth now.

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1 Q. Well, I'm having a hard time
2 understanding how it could be true, that you never lifted
3 his shirt up, and how it could be true that you did lift
4 his shirt up?

5 A. Mr. Davis, I was there.

6 Q. Sir, did you lift it up, or did you
7 not lift it up?

8 A. Yes, sir, I did lift it up.

9 Q. All right. So when you said: "I
10 never lifted it up," on September the 12th, that was not
11 true was it?

12 A. Not all true.

13 Q. Sir?

14 A. I don't remember doing it.

15 Q. Okay.

16 A. I checked his pulse and I couldn't get
17 one.

18 Q. Okay.

19

20 THE COURT: Mr. Davis, will you be
21 much longer --

22 MR. GREG DAVIS: No, sir.

23 Well, Judge, it could be --

24 THE COURT: Well, I think the best
25 thing to do is -- the jury has been very patient with us,
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1 and I appreciate that.

2 MR. GREG DAVIS: Yes, sir.

3 THE COURT: And we will continue the
4 tomorrow morning at 9:00 o'clock.

5 Please be seated in the courtroom,

6 please. The same instructions as yesterday: Do not

7 discuss this case among yourselves. Do no investigation

8 of your own. Do not discuss this case with anybody,
9 outside of the jury. If someone tries to talk to you
10 about your testimony, tell the attorney for the side who
11 called you.
12 And, if you see this or hear it, or
13 read anything, or see any of this in the newspaper, or on
14 TV, or on radio, please ignore it.
15 We will see everybody here tomorrow
16 morning at 9:00 o'clock. The viewing audience will
17 remain seated please, until the jury clears the
18 courthouse. Thank you.
19 Oh, yes, and wear your jury badges at
20 all times in the courthouse.
21
22 (Whereupon, the jury
23 Was excused from the
24 Courtroom, and the
25 Proceedings were held
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1 In the presence of the
2 Defendant, with her
3 Attorney, but outside
4 The presence of jury
5 As follows:)
6
7 THE COURT: All right. You may step
8 down now, Mr. Routier.
9 THE WITNESS: Thank you.
10 THE COURT: Can I see both sides up
11 here a minute?
12 (Whereupon, a short
13 Discussion was held
14 Off the record, after
15 Which time the
16 Proceedings were resumed
17 As follows:
18
19 THE COURT: Mr. Biggerstaff will let
20 y'all out of the door when it's time to go, and then if
21 everybody would clear the courtroom, please. If somebody
22 wants to -- if any members of the press want to come back
23 in, that will be fine. We need the whole courtroom
24 cleared when Mr. Biggerstaff says so.
25 All right. I'm going to have the
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1 attorneys here at 8:30 in the morning. We are having
2 that hearing, on that thing with Patterson.

3 MR. GREG DAVIS: Yes, sir, that is
4 fine. All right.

5 THE COURT: If you will be here at
6 8:30.

7 MR. GREG DAVIS: Yes, sir.

8 MR. DOUGLAS D. MULDER: Yes, sir.

9 THE COURT: All right. We will see
10 everybody then. Thank you.