

Testimony of Darlie Lynn Routier

THE COURT: Mrs. Routier, would you
19 mind raising you right hand, please.

20

21 (Whereupon, the witness

22 was duly sworn by the

23 court, to speak the truth,

24 the whole truth and

25 nothing but the truth,

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1 after which, the

2 proceedings were

3 resumed as follows:)

4

5 THE COURT: Do you solemnly swear or

6 affirm that the testimony you are about to give will be

7 the truth, the whole truth, and nothing but the truth, so

8 help you God?

9 THE DEFENDANT: I do.

10 THE COURT: All right. Thank you.

11 Ma'am, you have a right under the Fifth Amendment of the

12 Constitution of the United States not to testify in this

13 case if you so desire.

14 If you want to testify, no one can

15 stop you. If you don't want to testify, no one can make

16 you. Do you understand that?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: If you testify, you are

19 going to be considered like any other witness, and

20 anything you say can and will be used against you, plus

21 the State's attorneys will have the right to cross

22 examine you and ask you questions; do you understand

23 that?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: If you elect not to

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1 testify, and I will instruct the jury that they can not

2 hold that against you for any reason whatsoever; do you

3 understand that?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: And, I know you have

6 discussed this with Mr. Mulder, and Mr. Mosty, and Mr.

7 Glover, and Mr. Douglass, and Mr. Hagler all of your

8 attorneys.

9 THE DEFENDANT: Yes, sir.

10 THE COURT: And understanding all of
11 your rights do you wish to testify or not?
12 THE DEFENDANT: Yes, sir.
13 THE COURT: All right. Fine. And I
14 believe, you would like to be excused now for a minute,
15 which is fine.
16 Ms. Biggerstaff, if you will please
17 remove any restraints that may be on the defendant.
18 Now, I take it that Mrs. Routier will
19 be going to the ladies room in a minute, and then we will
20 get on with her testimony.
21 And, Mr. Mulder, and Mr. Mosty, and
22 all of the attorneys for the record, you are satisfied
23 that your client understands her rights?
24 MR. JOHN HAGLER: Yes, sir.
25 THE COURT: Okay. Fine. Thank you.
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1
2 (Whereupon, the defendant
3 returned to the courtroom,
4 after which time, the
5 proceedings were resumed on
6 the record in open court,
7 as follows:)

8
9
10 THE COURT: All right. Bring the
11 audience back in, please.

12
13 (Whereupon, the members of
14 the audience returned to the
15 courtroom, and the proceedings
16 were resumed as follows:)

17
18
19 THE COURT: Is everybody ready to
20 bring the jury back in?

21 MR. GREG DAVIS: Yes, your Honor, we
22 are ready.

23 MR. PRESTON DOUGLASS: Yes, your
24 Honor, we are ready.

25
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1 (Whereupon, the jury
2 Was returned to the
3 Courtroom, and the

4 Proceedings were
5 Resumed on the record,
6 In open court, in the
7 Presence and hearing
8 Of the defendant,
9 As follows:)
10
11 THE COURT: All right. Let the record
12 reflect that all parties in the trial are present and the
13 jury is seated.
14 Ladies and gentlemen of the jury, this
15 witness has already been sworn outside of your presence.
16 Mr. Mulder.
17 MR. DOUGLAS MULDER: Yes, sir.
18 THE COURT: You may proceed now.
19 MR. DOUGLAS MULDER: Yes, sir. Thank
20 you.
21
22
23
24
25
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1 Whereupon,
2
3
4 **DARLIE LYNN ROUTIER,**
5
6 was called as a witness, for the Defense, in her own
7 behalf, having been first duly sworn by the Court to
8 speak the truth, the whole truth, and nothing but the
9 truth, testified in open court, as follows:
10
11
12 DIRECT EXAMINATION
13
14 BY MR. DOUGLAS MULDER:
15 Q. You are Darlie Routier?
16 A. Yes, sir.
17 Q. And, Darlie, will you tell the jury
18 how old you are?
19 A. I'm 27.
20 Q. Okay. And are you married?
21 A. Yes.
22 Q. Tell the jury where you grew up?
23 A. Well, I was born in Altoona,
24 Pennsylvania, we moved when I was seven years old. We
25 moved to Lubbock, Texas, we came back to Pennsylvania,

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1 when I was probably about 11 and moved again when I was
2 13 back to Lubbock.

3 Q. Okay. Were you in school there in

4 Lubbock?

5 A. Yes I was.

6 Q. And, at that time, what did your

7 family consist of?

8 A. Well, it was myself and my mother and

9 my father and, my two little sisters, Dana and Danielle.

10 Q. And, how much younger were they than

11 you?

12 A. Well, Dana is 10 years younger than I

13 am. And Danielle is almost 12 years younger than I am.

14 Q. Okay. How long did you stay there in

15 Pennsylvania before you moved, if you did?

16 A. The first time? Or the second time?

17 Q. Well, as I understand it, you were

18 born there and lived there. About how long did you live

19 there?

20 A. Seven years.

21 Q. Okay. And where did you move when you

22 left Pennsylvania?

23 A. Lubbock, Texas.

24 Q. Okay. And, how long did you stay

25 there in Lubbock?

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1 A. It was just a few years at that time.

2 Q. Okay.

3 A. We moved back to Pennsylvania after

4 that.

5 Q. All right.

6 A. And then after that I believe we moved

7 back to Lubbock when I was 13.

8 Q. Okay. Were you in school there in

9 Lubbock?

10 A. Yes.

11 Q. Did you graduate from high school

12 there in Lubbock?

13 A. Yes, sir.

14 Q. All right. Did you have any further

15 or higher education other than high school?

16 A. No, sir.

17 Q. All right. Now, while were you there

18 in high school in Lubbock, did you have occasion to meet

19 Darin Routier?

20 A. Yes, I did.

21 Q. And, how old were you when you met

22 Darin?

23 A. I was 15 when I met Darin.

24 Q. All right. And, what was he doing at

25 that time?

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1 A. At that time Darin was running or

2 helping as assistant manager of a place called Western

3 Sizzler, it's a steak place in Lubbock.

4 Q. Okay. And, how did you happen to meet

5 him?

6 A. Well, it was on Mother's Day, and my

7 mother had been telling me about this great guy that

8 worked at Western Sizzler with her, and she brought me in

9 and introduced me to him, and Darin and I hit it off just

10 right away. It was automatic.

11 Q. All right. Did you begin dating?

12 A. Yes.

13 Q. Was he older?

14 A. Yes.

15 Q. How much older was he?

16 A. Two years.

17 Q. Okay. He graduated from high school,

18 did he?

19 A. Yes, he did.

20 Q. Okay. And, moved to Dallas?

21 A. Yes, sir.

22 Q. Okay. I'll ask you if you then got

23 engaged at some point?

24 A. Yes, we did.

25 Q. And do you remember where you were

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1 when you got engaged?

2 A. Yes, we were in Purgatory, Colorado.

3 We were up on a ski lift, when Darin asked me to marry

4 him.

5 Q. All right. And you agreed I take it?

6 A. Yes.

7 Q. All right. And you were married

8 sometime after you graduated from high school?

9 A. Yes, sir.

10 Q. Will you tell the jury when you were

11 married?

12 A. We were married August 27th, 1988.

13 Q. Okay. And, did you go on a honeymoon?

14 A. Yes, we did.
15 Q. Where did you go?
16 A. We went to Jamaica.
17 Q. When you got back, where did the two
18 of you reside?
19 A. We were living in an apartment --
20 actually I believe it was in Garland, but it was right
21 off of the -- there is like a peninsula off of Lake Ray
22 Hubbard, and it was right off of that in an apartment.
23 Q. Okay. And at that time were you both
24 working?
25 A. Yes.
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1 Q. And, where were you working?
2 A. We were both working at Cuplex in
3 Rowlett.
4 Q. Okay. And, what sort of business is
5 Cuplex?
6 A. Well, Cuplex is a printed circuit
7 board manufacturing place. They start from start to
8 finish.
9 Q. Okay. And what sort of work did you
10 do there?
11 A. I put the image on the printed circuit
12 boards, when you get a printed circuit board, it's just a
13 blank, pretty much, piece of fiberglass and they have
14 these machines, and you take this film and you put it on
15 to the board and the machine photosyn- -- I don't know
16 what it's called, but anyway, it puts the film on to the
17 board, and that is basically what I was doing.
18 Q. Okay. How long did you work there at
19 Cuplex?
20 A. I worked at Cuplex, I believe it was
21 about eight months.
22 Q. Okay. And, how long did Darin work
23 there?
24 A. I think Darin was there for about -- I
25 want to say like four years.
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1 Q. Okay. At some point did you all start
2 your own business?
3 A. Yes, we did.
4 Q. What was in name of your business?
5 A. Testnec Electronics.
6 Q. Okay. And, what sort of work did you
7 and Darin do?

8 A. Well, in the beginning we just started
9 out selling pins, like as a broker type.

10 Q. Okay.

11 A. As we went on, we started building
12 fixtures.

13 Q. All right. Tell us what -- you
14 started selling pins?

15 A. Yeah, pins -- just they are parts that
16 go into testing a printed circuit board, and companies
17 all over the world use them, and so in this business,
18 it's a common thing.

19 Q. Okay. So then you expanded the
20 business to include what?

21 A. Yes, we expanded the business in '91,
22 I believe.

23 Q. Okay.

24 A. In '92 we moved into a building,
25 because the business was growing.

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1 Q. Had you been operating the business
2 out of your apartment?

3 A. Yes, well at that time we had moved
4 out of the apartment and had gotten a home.

5 Q. Okay. And, where was the home
6 located?

7 A. It was on Bond Street in Rowlett.

8 Q. Okay. You operated your business, out
9 of your home?

10 A. Yes, sir.

11 Q. And what had the business expanded to
12 at that point? What were y'all doing?

13 A. While we were still in the home?

14 Q. Yes.

15 A. We were pretty much still doing the
16 same thing, selling pins and building fixtures.

17 Q. Okay. And, what is a fixture?

18 A. A fixture is a -- basically it's made
19 out of polycarbonate, which is like a plastic material,
20 and Darin drills the image of the board into the
21 polycarbonate. At that point you put the polycarbonate
22 together and then you put these pins down into the
23 polycarbonate, and that fixture is placed onto a tester,
24 and a tester then is able to test the continuity of the
25 board to make sure that it is a good board or if it's a

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1 bad board.
2 Q. Okay. You did this for a number of
3 different companies?
4 A. Yes, sir.
5 Q. Okay. By the time you moved to the
6 residence on Bond Street, had your first son been born?
7 A. No, I was pregnant at the time, and
8 it's -- I had him two days after we moved into the home.
9 Q. Okay.
10 A. It was kind of a funny moment because
11 I was at the door when my water broke and the pizza man
12 and the real estate agent were both standing at the door
13 with me at the time, so it was kind of --
14 Q. Okay. And, your first son was Devon?
15 A. Yes.
16 Q. And, when was he born?
17 A. Devon was born June the 14th, 1989.
18 Q. Okay. And, y'all continued to live at
19 the house on Bond Street?
20 A. Yes, we did.
21 Q. And was -- did your business expand to
22 the point where Darin was able to quit his job at Cuplex?
23 A. Yes.
24 Q. And work full time on your own
25 business?
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1 A. Yes, sir.
2 Q. And, were you helping him at that time
3 too?
4 A. Yes, sir.
5 Q. You all were doing the business
6 together?
7 A. Yes.
8 Q. Did the business continue to grow?
9 A. Yes, it did.
10 Q. All right. And, did y'all have a
11 second child?
12 A. Yes, sir, we did.
13 Q. And that would be Damon?
14 A. That would be Damon.
15 Q. And when was he born?
16 A. He was born February 19th of 1991.
17 Q. Okay. And, y'all were still living on
18 Bond Street at that time?
19 A. Yes, we were.
20 Q. Okay. How long was it before y'all
21 moved over on Eagle Drive?
22 A. We moved to our new home on Eagle

23 Drive in 1993.

24 Q. Okay. And, by that time were you

25 still operating your business out of your home?

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1 A. No, sir.

2 Q. All right. You had moved the business

3 to a commercial building?

4 A. Yes, we moved to -- it's like a

5 warehouse building off of Main Street.

6 Q. Okay. And the business continued to

7 prosper, did it?

8 A. Yes.

9 Q. And the boys continued to grow?

10 A. Yes.

11 Q. What sort of things did you and your

12 husband and the boys enjoy? What did you folks enjoy

13 doing?

14 A. A lot of things. Darin and I spent

15 all of our extra time that we had with Devon and Damon.

16 Devon and Damon were very much a big part of our lives.

17 I don't remember doing too many things

18 without Devon and Damon. They loved to eat out, they

19 loved different cultures. It was very important to me,

20 as human beings a lot of us are from different cultures,

21 and it was very important to me that Devon and Damon

22 understood people from different cultures. And, they

23 liked to eat, you know, Chinese food, Vietnamese food,

24 just all different kinds of things.

25 Q. Did y'all take trips together?

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1 A. Oh, yeah.

2 Q. Were you close to your family?

3 A. My family and Darin's.

4 Q. Would you travel to Lubbock, I

5 suspect?

6 A. Oh yeah, many times.

7 Q. You have relatives back in

8 Pennsylvania?

9 A. Yes.

10 Q. And would the boys go back to

11 Pennsylvania with you?

12 A. At least once a year.

13 Q. Okay. And, how often would you go to

14 Lubbock?

15 A. Several times in a year.

16 Q. Okay. And, how many brothers and

17 sisters does Darin have?

18 A. Darin has a brother Deon, and he has a
19 sister, Arenda.

20 Q. Okay. Are they younger or older?

21 A. They are both younger.

22 Q. Okay. Do you know about how old they
23 are?

24 A. Deon is 27 and Arenda is 21, I
25 believe.

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1 Q. Okay. Did the business continue to
2 prosper?

3 A. Yeah.

4 Q. And, as it did, did you -- did y'all
5 travel more and do more things with the boys?

6 A. I guess we did as the boys started to
7 get older, we started to do more things with them. I
8 don't know if it was a matter of so much the business
9 prospering, but it was just a fact that the boys were
10 getting older and were able to do more things.

11 Q. Okay. Along in the early part of 1995
12 you became pregnant with a third child?

13 A. Yes, I did.

14 Q. Okay. And, your child Drake was
15 subsequently born, I believe it was October the 18th?

16 A. Yes.

17 Q. Of 1995?

18 A. Yes, sir.

19 Q. Okay. That made three boys now?

20 A. Yes, it did.

21 Q. Y'all were still living on Eagle
22 Drive?

23 A. Yes.

24 Q. Okay. And, Drake came home with
25 the -- from the hospital?

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1 A. Yes.

2 Q. How did Drake fit in with his older
3 brothers?

4 A. Devon and Damon were very proud of
5 Drake. When I had Drake, Devon and Damon came up to the
6 hospital, they couldn't wait to get up there to see him.
7 And I have pictures of them holding Drake in their arms,
8 and I have one picture where Devon and Damon like to --
9 they are little boys, and they found one of those rubber
10 gloves from the room, and they were putting the rubber

11 gloves on their head, and acting silly and making faces
12 and stuff, trying to, you know -- I guess it was in a
13 child's way, it was their way of trying to -- they don't
14 know that a baby doesn't understand. They were being
15 brothers to him. I mean, he fit into the family
16 wonderfully.

17 Q. Okay. They loved him?

18 A. Oh, they loved him very much.

19 Q. They liked to take care of him?

20 A. Very much.

21 Q. Okay. Now, as time went on and Drake

22 came home and continued to grow, he was a good-sized

23 youngster, was he?

24 A. Yes, he got pretty big.

25 Q. All right. And by April and May, he

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1 would have weighed approximately how much? Sixteen, 17,

2 18 pounds?

3 A. Eighteen pounds I would say.

4 Q. That is big boy for an 8 month old

5 child, right?

6 A. Yeah, he was pretty big. He has big

7 hands and big feet.

8 Q. Okay. And at that point, was he -- I

9 take it he wasn't walking, but was he able to pull

10 himself up? Was he trying to walk or --

11 A. Yeah, he was getting to the point

12 where he was trying to really pull himself up, and, you

13 know, he was kind of wobbly and unbalanced.

14 Q. All right. Darlie, there has been

15 some testimony about you being -- having the blues, or

16 being moody or depressed. Tell the jury how you were

17 feeling about this time?

18 A. You are talking about the incident in

19 May?

20 Q. No, I'm talking about in April and

21 what led up to the incident in May?

22 A. Well, actually I had quit breast

23 feeding Drake in March, and I had started taking some

24 diet pills.

25 Q. Had you gained some weight?

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1 A. Yes. I had gained -- not a great deal

2 of weight. I think I had maybe 12 or 15 pounds to loose

3 after I had Drake.

4 Q. And you had lost part of it, had you?

5 A. By May I had lost almost all of it.
6 Q. Okay. You had started taking diet
7 pills; is that right?
8 A. Yes, they were prescribed by the
9 doctor, they were Pondamin and Fastin, and the reason I
10 got on those particular pills, was because, I knew a lot
11 of women that had been on these pills that had a very
12 high success rate without -- they didn't have a lot of
13 the side effects that I have been told that the older
14 diet pills have.
15 They didn't make me feel irritable or
16 jumpy or -- the only thing I really felt from them is
17 like a dryness in my mouth, so you tended to drink a lot
18 more water. But that is about it. I mean, I still ate.
19 Q. Okay. Sometimes that's good, when you
20 are trying to loose weight, to drink a lot of water?
21 A. That is what I have been told.
22 Q. Okay. But at any rate, those pills
23 didn't alter your life, did they?
24 A. No.
25 Q. Your emotions, or have any effect on
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1 you that you are aware of?
2 A. No, that is why I took them, because
3 they didn't have those side effects.
4 Q. Okay. In April and May, did you -- in
5 the first part of May were you feeling blues-y, or were
6 you feeling depressed or how were you feeling?
7 A. I was feeling somewhat -- I guess you
8 could say -- I would say moody.
9 Q. Okay. I want you to tell the jury, as
10 best you can, how you felt and what led up to the phone
11 call to Darin on May the 3rd of 1996?
12 A. I had been having a few days that were
13 really rough. I was crying a lot, well, usually I'm not
14 a big cryer.
15 Q. Are you pretty upbeat as a rule?
16 A. Yes. I am the type of person that you
17 can either look at the glass half empty or half full, and
18 I'm the type of person that looks at it as half full.
19 And, I didn't like feeling like that.
20 It really bothered me. And I started to write a letter,
21 and as I started to write the letter, I was reading it,
22 and I realized that this was, it was silly, I mean it
23 was -- I wasn't really serious or feeling that I really
24 wanted to end my life. It was, I mean, I am very
25 embarrassed. I am very embarrassed that I have to get up

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1 here and even tell you people about that part, but it is
2 something.

3 Q. Well, you were writing into a journal
4 that you didn't think anyone would ever read?

5 A. It was private. Private thoughts.

6 Q. Okay.

7 A. I did not attempt to take my life.

8 There is a difference.

9 Q. You called Darin?

10 A. I called Darin at work. I told Darin

11 that he needed to come home, that I was not feeling well,

12 and that he needed to come home.

13 Q. Okay. Prior to that entry, and I am

14 looking at what has been marked for identification and

15 record purposes and admitted into evidence as State's

16 Exhibit No. 90.

17 A. Yes, sir.

18 Q. This is your journal?

19 A. Yes, it is.

20 Q. And this was meant to be a private

21 thing?

22 A. Yes, sir. My husband didn't even read

23 that.

24 Q. And I notice that there is an entry

25 September 7th of 1995, another one September the 15th of

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1 1995, one October the 1st of 1995, and then April the

2 21st of 1996, and then April the 29th of '96?

3 A. Yes, sir.

4 Q. And then you skipped a lot of pages

5 and May 3rd of 1996, so there are approximately five or

6 six entries and --

7 A. Can I tell you why I started to write

8 a journal in the first place?

9 Q. You bet.

10 A. About two years before I started

11 writing this journal my grandfather had passed away, and

12 my grandfather and I were very close. And, my

13 grandmother was always talking about the things that they

14 did together, and all of the times that they had

15 together, and she said that she wished that she could

16 have put all of those times down on paper. I mean, she

17 had the memories, but she wished that she could have

18 something to pass on later when she wasn't around.

19 And, I was talking to my grandmother,

20 and she told me that she had started writing in a
21 journal. And so, I thought that that would be a good
22 idea for me to start writing a journal. And it helps.
23 It helps, I think at times, when you have a busy life, to
24 be able to stop and breathe for a moment, and reflect on
25 what is important in your life.

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1 Q. Well, it's almost like talking to
2 someone in a very, very private relationship?

3 A. Yes.

4 Q. Okay. And this, of course, was not
5 written for this jury or for anyone else was it?

6 A. No, sir. I am very embarrassed about
7 what --

8 Q. Would you read, Darlie, that first
9 entry?

10 A. September 7th, 1995.

11 Q. Yes.

12 A. "Today is a new day with new hopes for
13 everyone. I pray to God that Dana will open her eyes and
14 break down her walls. Devon and Damon are growing so
15 fast, and I see myself getting older each day. I am now
16 over seven months pregnant, and we're bringing Drake
17 Routier into the world. It has been almost five years
18 since I have had a baby, so I am a little worried, but
19 inside, I know, everyone will adjust fine. My life is
20 good, and I have much to be proud of, but sometimes we
21 just forget.

22 "I think of my grandmother often, and
23 I know how lonely she must be at times. I wish I could
24 take away her pain. I know pappy is watching over her.
25 I have had two dreams about death in the past several

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1 months. Both times I was hesitant to go, but when I did
2 it was such a wonderful feeling, one that you cannot
3 describe and both times I felt I was going to be with the
4 Lord. I don't know what these dreams are telling me, I
5 only know that I am not yet ready to leave my wonderful
6 life here. Time will tell the story. For now I will
7 close, for tomorrow is another day. Let it be a good
8 one."

9 Q. Okay. Your next entry is written,
10 what a week so?

11 A. September 15th, yeah.

12 Q. How much later, a week? Eight days?

13 A. Yeah, about that.

14 Q. Okay. And, read that if you would,
15 for the jury?
16 A. "Time has passed so quickly since my
17 last entrance in my journal. I have been very busy.
18 Dana seems to be adjusting fine, as well as my mom. I
19 know mom is having a hard time reliving her most unwanted
20 experiences through counselling, but I know in the end
21 maybe it will make her heart a little softer.
22 I don't understand why Denny did to me
23 what he did, so it is very hard to try and forgive him.
24 I know he must have a dark secret that happened as a
25 child and I pray to the Lord that one day he will ask for
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1 true forgiveness for his own soul."
2 Q. Let me stop you right there. Who are
3 you referring to as Denny?
4 A. Denny is my step-father, or was my
5 step-father.
6 Q. Okay. And he had, not sexually
7 molested you, but he had put his hands on you?
8 A. He fondled, tried to.
9 Q. And that is what you have reference
10 there to?
11 A. Yes.
12 Q. When you talk about Denny and how he
13 must have a dark side to him?
14 A. Yes, sir.
15 Q. To have done this to a child?
16 A. Yes, sir.
17 Q. And you resented it?
18 A. Very much so.
19 Q. And you told your mother about it?
20 A. Oh, yes,
21 Q. She felt guilty about having not --
22 A. Yes, it was an open conversation in
23 our family.
24 Q. So that is what you have reference to
25 there?
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1 A. Yeah. Yes.
2 Q. Okay. If you would just go back a
3 couple of sentences and read it where you pick up on
4 Denny, so that we will --
5 A. "I don't understand why Denny did to
6 me what he did. It is very hard to try and forgive him.
7 I know he must have a very dark secret that happened as a

8 child, and I pray to the Lord that one day he will ask
9 for true forgiveness for his own soul. Eternity is a
10 long time.
11 "Damon has been with his grandmother
12 all week and will be returning home this evening. I
13 can't wait to see him. I have really enjoyed the time
14 with Devon, but when one of my babies are away I do not
15 feel complete.
16 "I guess that it's because they are
17 such a part of my life. Sometimes I pray the Lord will
18 guide them down the right path, so that they will have a
19 prosperous life. They deserve health, happiness and
20 peace. We all deserve that. Maybe if we could all relax
21 a little more, then the world would be a much better
22 place.
23 "I will close for now. And I ask the
24 Lord to watch over us all and help us to make the right
25 decisions."
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1 Q. Okay. When is your next entry in the
2 journal, Darlie?
3 A. On October the 1st, 1995.
4 Q. All right. So that would be
5 approximately two weeks later?
6 A. Yes.
7 Q. Okay. And, read that to the jury, if
8 you would, please?
9 A. "Time is getting near, soon we will
10 have another wonderful son. I feel him growing and he is
11 getting so big. I have not been well for about a week
12 now. Everything hurts and I can't seem to get over it.
13 It's not fair to Darin or the boys, but nothing I do
14 makes me feel any better. I really love Darin with all
15 of my heart, but sometimes I feel like I'm missing
16 something. I don't know what it could be. I'm sure I
17 have everything every woman could ever wish for. Maybe
18 it's the excitement, things I used to do when I was
19 younger, the thrill of not knowing, just doing whatever
20 came up.
21 "I know I have a lot of
22 responsibilities, but a little craziness once in a while
23 sure wouldn't hurt. I want to grow old with Darin, but I
24 don't want to feel as though part of me has to die to do
25 it. I am young, and I want to feel it. Time goes too
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1 quickly not to enjoy each moment."
2 Q. Okay. What was your -- what were you
3 thinking about then?
4 A. I think I was just kind of --
5 Q. Just reminiscing?
6 A. Well, yeah, big and pregnant.
7 Q. Okay. That was -- you were about 8
8 and a half months pregnant at that time, weren't you?
9 A. I think so, yeah.
10 Q. Okay. All right. And when was your
11 next entry?
12 A. April 21st.
13 Q. Okay. Of 1996?
14 A. Yes, of 1996.
15 Q. All right. By this time Drake is six
16 months old?
17 A. Yes, sir.
18 Q. Would you read that for the jury,
19 please?
20 A. "Time has come and gone so quickly.
21 Baby Drake was born October 18th. He weighs 6 pounds and
22 6 ounces, and he left the hospital weighing 5 pounds and
23 11 ounces, and was wearing premie clothes. He was a
24 beautiful baby, all he did was sleep for the first two
25 months. He is now six months old. He has two teeth,
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1 crawls and tries to stand.
2 "Drake weighs almost 16 pounds. He
3 has brown, dark hair and very blue eyes. He is so much
4 fun and happy all the time. He smiles at everyone. I am
5 a very proud mother of three wonderful, gorgeous, healthy
6 boys.
7 "Dana has moved in with Kevin, and
8 they are now engaged to be married. They seem to be
9 having many troubles. I hope their love is strong and
10 mature enough to make it through the trials of life. My
11 thoughts are with Dana often. How young and so impatient
12 in life.
13 "Danielle is growing into a beautiful
14 young lady. It is hard to believe that she will be 14 in
15 October. She is so full of life. Sometimes it really
16 makes me see how quickly our lives pass by.
17 "I often wonder what God's purpose for
18 me being here. I know my children, of course, but I
19 really feel as though some day there is some meaningful
20 importance that God expects us to figure out. What is
21 it? I do not know. I do not yet know.
22 "I know sometimes God puts us through

23 difficult trials in our life, and it is these trials that
24 has made me such a strong and independent person. I hope
25 I can share my experiences with others, either to comfort
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1 them, or to keep them from making some of my mistakes.
2 "When I am no longer here, I want
3 people to be able to talk about the good I did while I
4 was here. I know my life has been far from perfect, but
5 I know my heart bleeds for everyone.
6 "I wish I could take away all of the
7 world's troubles. I know this is not realistic, but a
8 person has to have hope and compassion. I pray for God
9 to put his hand down upon my marriage. We need to be
10 strong and help guide each other back to the right path.
11 "Devon and Damon are growing too fast
12 and become more aware of the world every day. And
13 unfortunately children tend to be persuaded towards the
14 negative instead of being hopeful for the positive.
15 "We all have to show our children the
16 difference between right and wrong choices, and make them
17 understand that there are reactions and consequences for
18 every choice we make in life.
19 "Give them morals and values. I want
20 my children to respect the people as well as the land
21 around them. I want them to see -- I want them to see
22 past color, to see past rich or poor, and to realize that
23 we all need each other to survive. Maybe some day this
24 will happen and the world will come together.
25 "There is still a lot of good in the
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1 world. People just seem to dwell on the bad. Maybe God
2 will help us all to be better than that. For now, all I
3 can do is try to be a better person and try to teach
4 people among me to have hope and not give up. Life is
5 too short and un-lived. We need to start making it more
6 than that.
7 "For now I will end my thoughts and I
8 will pray that God will reach down and touch all of us,
9 so that we will see and understand whatever it is that we
10 may doubt.
11 "Give us strength to be better people.
12 Watch over and protect the children for they are our
13 future."
14 Q. And this was just a letter reflecting
15 and wondering, at your 26 years of age, if you have some
16 higher purpose or what -- how you fit into the grand

17 scheme of things?

18 A. I think a lot of people wonder that.

19 Q. Well, I think everybody wonders how

20 they fit in this grand scheme?

21 A. Sure.

22 Q. At any rate, that was written in

23 April?

24 A. April 21st.

25 Q. Okay. And the next entry is the entry

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1 of --

2 A. April 29th is the one after that.

3 Q. All right. Read that one for us,

4 Darlie?

5 A. "Today has been a pretty good day.

6 This weekend was a little crazy, but it was fun. We went

7 to a wedding and it really made me realize how important

8 marriage is. The commitment to one another. Darin and I

9 have decided to renew our vows to one other on our 10th

10 anniversary. So many things in our life have changed

11 since we made our first commitment. Three children, two

12 homes and a business and a lot of growing up."

13 Q. Okay. You had, as a result of that

14 wedding that y'all attended, you had made some plans?

15 A. Yes.

16 Q. And what were those plans?

17 A. Well, a couple of years before this,

18 Darin had asked me, you know how you always sit around

19 and talk, and the conversation may come up, you know,

20 "Well, would you do the same thing that you did the first

21 time around?" And, I have always told Darin, "Yes, I

22 would marry you again in a second."

23 And, after we went to this wedding,

24 one day or the day afterwards, Darin asked me seriously

25 if I would remarry him again, and, I told him yes, that I

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1 would.

2 Q. Okay. Did you start planning then, in

3 your mind, for a --

4 A. Well, yeah, in Dallas -- I know this

5 is Kerrville but in Dallas, if you want to have a

6 wedding, you have to book the place about a year or two

7 years ahead of time. So --

8 Q. Okay. So you were planning it ahead

9 of time?

10 A. Yes, sir.

11 Q. Okay. And, you had discussed this
12 with Darin?

13 A. I discussed it with many people.

14 Q. Okay. And then you were planning to
15 renew your vows on your tenth wedding anniversary?

16 A. Yes, sir.

17 Q. Okay. And were you making plans as to
18 what you would wear and what the boys would wear and what
19 part the boys would play?

20 A. Oh, yeah.

21 Q. What did you have in mind for the
22 boys?

23 A. Well, the boys were going to be ring
24 bearers, and I had bought -- they were going to be in a
25 wedding in August also, my younger sister, or
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1 sister-in-law was getting married in August, and the boys
2 were going to be ring bearers at her wedding, and so, I
3 went out and bought all of the stuff to make the boys
4 pillows to carry down the aisle.

5 Q. Okay. And, what did you plan for baby
6 Drake to do at your wedding?

7 A. He was too young. He was just going
8 to sit in the wedding and wear a little tuxedo.

9 Q. Okay. At any rate, you had made the
10 entry for May 3rd?

11 A. Yes, sir.

12 Q. Of 1996?

13 A. Yes, sir.

14 Q. And, tell the jury -- I think I
15 interrupted you and we had gone back to the journal, and
16 had read through the journal, and this brings us now up
17 to date to May the 3rd?

18 A. Yes, sir.

19 Q. And tell the jury what you were
20 thinking and why you wrote what you wrote on May the 3rd?

21 A. Well, to be honest, I mean, I don't
22 know why I wrote this, it was just -- I am embarrassed
23 that I have to sit up here and even discuss this. I
24 never planned for this to be produced in front of the
25 whole world.

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1 Q. I know it. And, as you wrote the
2 entry in your journal, when did you call Darin?

3 A. I called him during the middle, while
4 I was writing.

5 Q. Okay. And did he come home shortly
6 after that?

7 A. Directly.

8 Q. What happened when Darin got there?

9 A. Darin came up to the bedroom, Drake

10 was sleeping in the crib taking a nap. Damon was

11 watching TV. I was laying on the bed and I was crying.

12 I had my journal on the bed, but it was closed. And,

13 Darin came in, and asked my what was wrong. And --

14 Q. What did you tell him?

15 A. I told him that I didn't like the way

16 I was feeling the past couple of days, that I didn't like

17 crying, and I didn't understand why I was feeling the way

18 I was feeling. I didn't like it.

19 Q. Okay.

20 A. And I told him what I started to write

21 down in the journal. And Darin started to cry, and we

22 cried for a little while together, a couple of minutes,

23 and Darin asked me how I was thinking about doing this,

24 when I said that I have thought about taking some pills

25 when I was thinking about it and --

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1 Q. Just over the counter sleeping pills?

2 A. Yes, they were just some over the

3 counter sleeping pills that I had had.

4 Q. Okay. You didn't get anything special

5 for this deal?

6 A. What do you mean by special?

7 Q. Well, you had not gone out and made a

8 purchase just over the counter?

9 A. No, no, no, I mean I had -- I had

10 sleeping pills, I had lots of different pills in the

11 house. You know, headache pills and stuff.

12 Q. Okay. So, you told Darin and y'all

13 had a cry together, and consoled one another, I suspect?

14 A. Yes.

15 Q. Okay. And how did you resolve the

16 situation?

17 A. Well, the next day Darin went to work

18 and he asked me how I was feeling, and I told him that I

19 was feeling a lot better, and he told me that if I had

20 any problems, to call him at work, and I told him that I

21 would.

22 And, I think I was still a little bit

23 moody, a little bit "cryie" for the next couple days, but

24 soon after that I had got my first menstrual cycle that I

25 had not had in over a year, and --

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1 Q. I don't understand exactly how that
2 works, but did that change your attitude?
3 A. Yes. It made a big difference,
4 because -- I'm sure, I mean, women understand it better
5 than men, of course, but, yeah, it made a big difference.
6 I mean, I was relieved.
7 Q. You perked up?
8 A. Very much so, yes.
9 Q. Okay. And, seemed to be your old self
10 again?
11 A. Yes.
12 Q. Okay. Now, all during this time, and
13 I say that from October through May and June, you
14 continued to see your friends and have relationships with
15 the neighbors and people around you?
16 A. Oh yeah, we were very busy.
17 Q. People came in and out of your house,
18 didn't they?
19 A. Every day.
20 Q. Did you have the -- were the
21 neighborhood children, were they welcome in your home?
22 A. Yes. My home was a welcome home to
23 all of the neighborhood children. I was one of the only
24 homes on the block that would allow that many children in
25 the house at one time.
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1 Q. How many children are you talking
2 about?
3 A. Well, before Drake was born there
4 really wasn't a limit. But after I had Drake it was
5 harder, because, you know, he had his naps, and he had
6 different times, and the children needed to be quieter,
7 so at that time I limited them to having each one friend
8 in the house at a time.
9 Q. And prior to that, I mean, before
10 Drake was born?
11 A. Before Drake was born they had as many
12 as -- it was --
13 Q. Six or seven?
14 A. Yeah, it was in and out quite a bit.
15 Q. Okay.
16 A. I mean our neighborhood is full of a
17 lot of little boys. We don't have very many girls in the
18 neighborhood. It's all little boys.
19 Q. Okay. Do you have any rules about --

20 A. Yes.

21 Q. Okay.

22 A. My two rules were that they needed to
23 take their shoes off when they came in the house. I'm
24 sure, as you know, that if you have children, children,
25 you know, get outside and play and can come in and when
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1 you have a new home, you want to keep things nice. So
2 the children took their shoes off. I mean, I never
3 thought that that was a big deal. I take my shoes off
4 when I go into people's homes. I think it is a matter of
5 respecting others, you know, property.

6 Q. All right.

7 A. And the next thing was, that they were
8 not allowed to have drinks or food wherever there was
9 carpet.

10 Q. The carpet was white, wasn't it?

11 A. Yes. We didn't have as much carpet in
12 the house. Usually if the boys were in the house they
13 wanted to be up in the TV room where the TV, the big
14 screen TV was, because they had a Nintendo set, and that
15 is where they played a lot.

16 Q. What did the boys like to do at that
17 stage?

18 A. There wasn't too much they didn't like
19 to do. They just loved to play. I mean they -- was a
20 lot of times that they would ask me if they could get the
21 blankets out and make tents up, I don't know if any of
22 you ever did that when you were little, but I used to do
23 that when I was little, and --

24 Q. Did y'all go camping as a family?

25 A. Yes, a lot.

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1 Q. Liked to do that?

2 A. Yes.

3 Q. Liked to be outside?

4 A. Very much.

5 Q. Enjoyed the outdoors?

6 A. Yes.

7 Q. Did the boys like that?

8 A. Yes, very much.

9 Q. Boys like to ride in the car?

10 A. Yeah, they were very good.

11 Q. Okay.

12 A. I mean, long periods of time you get
13 two brothers cooped up together, they can get a little

14 bit irritable, but for the most part they were good.

15 Q. I guess living in Dallas y'all would

16 go to Wet and Wild or --

17 A. Oh yeah, Wet and Wild, Six Flags, the

18 zoo, Medieval Times was one of their favorites.

19 Q. The boys shared your love of animals,

20 they liked to go to the zoo?

21 A. Yes.

22 Q. Now, Darlie, moving on to June the

23 6th --

24 MR. DOUGLAS MULDER: Judge, you

25 generally take a break about this time. I don't want to

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1 get into some that will require us to take a break.

2

3 THE COURT: No problem. Just keep

4 going.

5 MR. DOUGLAS MULDER: All right.

6 THE COURT: The jurors are okay,

7 aren't they?

8 MR. DOUGLAS MULDER: If you will give

9 me a little notice before, I won't start anything --

10 THE COURT: I certainly will. Do you

11 need a break?

12 THE JUROR: I'm all right.

13

14 BY MR. DOUGLAS MULDER:

15 Q. Now, Darlie, moving on to June 5th of

16 1996, you had a lady who was there at your house, Halina,

17 I believe?

18 A. Oh yeah, yes, sir.

19 Q. Basia's mother?

20 A. Yes, sir.

21 Q. Okay. And, how long had she worked

22 with you there at the house?

23 A. Two days.

24 Q. Okay. And, Basia, her daughter had

25 been a friend of yours over the years, had she not?

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1 A. Yeah.

2 Q. And at one time y'all were quite

3 close, weren't you?

4 A. At one time.

5 Q. Okay. And as the years went by, did

6 y'all drift apart?

7 A. Yes.

8 Q. And why was that?

9 A. Well --

10

11 MR. TOBY SHOOK: Judge, could we

12 approach the bench for a moment before she answers that

13 question?

14 THE COURT: You may.

15

16 (Whereupon, a short

17 discussion was held

18 off the record, after

19 which time the

20 proceedings were resumed

21 as follows:)

22

23 THE COURT: All right. Just keep

24 going.

25

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1 BY MR. DOUGLAS MULDER:

2 Q. Let me just direct your attention back

3 to May -- excuse me, June the 5th, and I'll ask you if

4 Halina was there that day, and that afternoon?

5 A. Yes, she was.

6 Q. And do you recall about what time

7 Basia picked her up?

8 A. I want to say that it was

9 approximately like 6:00 o'clock.

10 Q. Okay. Did you recall an incident

11 where -- Halina is somewhat difficult to understand,

12 isn't she, a little bit?

13 A. She is a little bit difficult to

14 understand if you don't know her.

15 Q. Okay. But at any rate, did you have

16 occasion to have your attention directed to the alley

17 behind your garage?

18 A. Yes, sir, I did.

19 Q. Okay. And, when you did, did you

20 notice anything of an unusual nature? Was there anything

21 that attracted your attention?

22 A. Yes, sir.

23 Q. Would you tell the jury what that was?

24 A. Well, Halina was out in front of me,

25 and I was behind Halina, and when Halina started walking

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1 out, I just caught the tail end of a black car that was
2 in the alley way, and it scooted out of there pretty
3 quick, and Halina told me that the person in the car was
4 stopped in the alley looking in the garage. The garage
5 door had been open.

6 Q. Okay. And this alarmed you, I assume?

7 A. Well, I didn't think a whole lot of it
8 really. I mean, at the time I didn't. I think a lot
9 more of it now.

10 Q. But it was unusual?

11 A. Well, yeah.

12 Q. Okay. Now, Darlie, during April and
13 May had you and Darin received some telephone calls that
14 were unusual?

15 A. Yes, sir, I had been receiving a lot
16 of hang up calls. I don't know if you really want to
17 call it a hang up call, because they didn't really hang
18 up.

19 They would call, and I would be on the
20 other line and I would answer, "Hello," and I would be
21 sitting there talking to air, you know, "Hello, who is
22 this?" And they just kept staying on the line. And
23 finally, after a few seconds of, you know, just asking
24 who it was, then I hung the phone up. This went on quite
25 a bit.

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1 Q. Okay. Did you pay it any mind at that
2 time?

3 A. No, I just figured that it was kids
4 prank calling, I mean.

5 Q. Devon had been in school, had he not?

6 A. Yes, he did.

7 Q. And I reckon that a 6 year old, nearly
8 7 year old, knows his phone number.

9 A. Devon knew his phone number very well.

10 Q. Okay. So, it could have been no cause
11 for alarm at that time?

12 A. No.

13 Q. Okay. Now, about what time did Darin
14 get home from work that day?

15 A. It was probably sometime after 6:00.

16 Q. All right. What happened when Darin
17 got home?

18 A. Well, Darin came home with Dana, my
19 little sister. My little sister works at the shop for
20 us, and the boys had been outside playing, and I was
21 making dinner and --

22 Q. What were you fixing that evening, if

23 you recall?

24 A. I was fixing chicken noodle soup and
25 rolls.

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1 Q. Okay.

2 A. Darin and Dana walked in, and Basia
3 and Halina had just left, and really, I was just
4 finishing up dinner, getting it ready to eat.

5 Q. Okay. Where were the boys?

6 A. They were outside playing with their
7 friends in the back yard.

8 Q. Okay. Y'all had a spa in the back
9 yard, did you?

10 A. Yes.

11 Q. All right. Hot tub?

12 A. Yes, sir.

13 Q. And, the boys would go in there and
14 play from time to time?

15 A. Quite often.

16 Q. Okay. Was the spa full of water, or
17 how deep was it?

18 A. Well, it was. That day they had
19 emptied the spa out about half-way, playing.

20 Q. Okay.

21 A. They were --

22 Q. Which actually made it safer for them,
23 I guess?

24 A. Safer, I'm not sure.

25 Q. Well, how deep was it?

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1 A. Well --

2 Q. Two feet?

3 A. Well, the medium part of the hot tub
4 was probably three and a half feet, but all around the
5 hot tub there were seats, so it was only maybe a foot.

6 Q. Okay. And they were used to playing
7 in the hot tub, I guess?

8 A. Oh yeah. I mean, I checked on them,
9 and I wasn't, you know, too worried about, as far as the
10 safety. I mean, if I would have thought it was unsafe, I
11 never would have -- that is one of the reasons why we
12 didn't get a pool.

13 Q. Okay. At any rate, when it came time
14 for supper, did you call the boys in?

15 A. Yes.

16 Q. Okay. And did y'all eat supper

17 together?

18 A. Yes, we did.

19 Q. All right. How about baby Drake?

20 What was he --

21 A. He was sitting in the high chair, I

22 had fed him some of the chicken noodle soup.

23 Q. And where did the boys sit?

24 A. They sat at their little table, beside

25 the big table.

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1 Q. So you had a large table, and then you

2 had a little table so the boys had their own table?

3 A. Right.

4 Q. And everyone had dinner?

5 A. Yes.

6 Q. Okay. And what happened after dinner?

7 A. After dinner the boys wanted to go

8 back outside, because their friends were all outside

9 playing, and so after they finished their dinner, I told

10 them that they could, but only for a little while, so

11 they went back outside to play.

12 I talked to Darin and Dana for a

13 little while about the business, and what all had gone on

14 there that day, and what was going on. And then, after

15 that, I asked Darin if he would fix the gate, because it

16 was hard to open and close.

17 Q. Is that the gate in the back yard?

18 A. Yes.

19 Q. What was wrong with the gate?

20 A. I don't really know, I'm not a wood

21 person, but it was not opening and closing the way it

22 should have. The boys and I could manage with it, but

23 you had to pull hard to open it, and you have to push it

24 really hard to close it.

25 Q. To get it to open or close either way,

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1 was it rather difficult for you?

2 A. Yes.

3 Q. How many cars did you have back then?

4 A. We had two.

5 Q. Okay. And, which car was your car?

6 A. My car was the green Pathfinder.

7 Q. Okay. Kind of a station wagon looking

8 car?

9 A. Yeah, kind of, I guess.

10 Q. Okay.

11 A. Sports vehicle, utility vehicle.
12 Q. Okay. And, what type of car was Darin
13 driving?
14 A. Darin had a -- I think it was an '86,
15 an '86 or '87 Jaguar.
16 Q. Okay. Was his car working?
17 A. Not at that time.
18 Q. Okay. And how long had his car been
19 in the shop?
20 A. Two days.
21 Q. Okay. Do you know what was wrong with
22 his car?
23 A. I have no idea. I mean, I knew what
24 was wrong -- I have learned what was wrong with it, but
25 at that time I didn't know what was wrong with it.
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1 Q. Okay. But at any rate, when his car
2 was -- where did he ordinarily park his car?
3 A. He always parked the car in the back
4 in the driveway.
5 Q. Okay. Y'all couldn't get the car in
6 the garage?
7 A. No.
8 Q. Okay. So if his car was not in the
9 driveway, it would be an indication to the people that
10 were familiar with the area, that he was not home?
11 A. Yes, sir.
12 Q. Now, did he, in fact, get the gate
13 fixed?
14 A. Yes he did. I had a lady that had
15 just been over the night before that had a Pomeranian,
16 and I have a little Pomeranian, and we were breeding the
17 dogs, or we were trying to breed the dogs, and she was
18 going to be back Thursday night, and so I wanted to make
19 sure that the gate was locked, because the first time we
20 had to breed them in the house, and dogs are animals
21 period, and are very funny about being around people,
22 when they are breeding, and they don't like to be around
23 people, and they -- plus, they are -- they make a lot of
24 racket and a lot of noise and you want to --
25 Q. Okay. So you are going to put the
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1 dogs in the yard, and I assume you wanted to secure the
2 gate?
3 A. Yes, sir.
4 Q. So they couldn't get out?

5 A. Right, yeah, I didn't want to be
6 responsible for loosing somebody else's dog.

7 Q. And Darin was handling that chore that
8 evening?

9 A. Yes, sir.

10 Q. Okay. And did he complete that, or
11 advise you that he had completed it?

12 A. Later on he told me that he had fixed
13 it.

14 Q. Okay. Were y'all planning on having a
15 garage sale?

16 A. Yeah.

17 Q. Okay. And, tell me about what you had
18 done in preparation for the garage sale?

19 A. We had a lot of stuff since we had
20 moved into that house, and a lot of the stuff you just
21 kind of accumulate over the years. And, you know, you
22 get to a point where you realize that, you know, okay, we
23 need to get rid of some of this stuff.

24 So, we had been going through this
25 stuff for months, and just any time that we came across
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1 something we would put it out in the garage over to the
2 side, whether it was in a bag or a box, or whatever, and
3 I had been pricing some of the things out there. I had
4 not finished pricing. There was quite a bit of stuff out
5 there.

6 Q. Okay. Did Darin go into the garage to
7 work and separate?

8 A. Later on he did, after he got finished
9 with the garage.

10 Q. Okay.

11 A. I mean, the gate.

12 Q. Okay. After he had finished in the
13 garage, what is the next thing that happened? Did he
14 come inside?

15 A. Yes.

16 Q. All right. Were you still there with
17 Dana, your sister?

18 A. Yeah. Actually during that time I had
19 gone upstairs with Dana and we put the baby down for what
20 I call a power nap, it's a 30 minute little nap, it makes
21 a great difference in children. And, I put him down for
22 a nap because he was sleepy, and then I came back
23 downstairs, me and Dana, and we were talking about the
24 wedding, and Arenda's wedding, and just all different
25 kinds of things. She was engaged to be married too, so

1 we were all talking about that.

2 Q. Okay. And, along with Darin as well?

3 A. Yes, sir.

4 Q. Okay.

5 A. After he came back in the garage.

6 Q. What was the next thing that happened?

7 A. It was around, I want to say about

8 8:30, and I told the boys that they needed to tell their

9 friends, you know, that they needed to go home, that it

10 was time to come in.

11 I think Devon had said something about

12 wanting to spend the night with a friend, but he had just

13 had a little boy named Michael over the night before, and

14 plus, they had kind of gotten in a little bit of trouble,

15 for emptying out all of the water in the hot tub from

16 their father.

17 So, anyway, he was told that he

18 couldn't have Jonathan to spend the night. That he could

19 have him spend the night another night.

20 Q. Okay. Darin left to take Dana home?

21 A. Yeah. After the boys came in, I guess

22 everybody has seen the pictures, but when you walk into

23 the house through the sliding glass doors, I had these,

24 like plastic runners down on the floor, and, there was a

25 reason for that, because the boys liked to run in and out

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1 of the house soaking wet. And, they track in, you know,

2 they tracked in a lot of dirt and stuff on their feet.

3 And, when they came in, I told them

4 that they needed to go upstairs and get dry clothes on.

5 And, they went upstairs, and I vacuumed over there,

6 because they had drug in quite a bit of dirt off of their

7 feet.

8 A few minutes later, the boys came

9 downstairs with their pillows and blankets and asked if

10 they could watch TV downstairs. A little bit after that,

11 I asked Darin if he could drive Dana home. And he said

12 he would.

13 Q. Okay. About how long was Darin gone?

14 A. Maybe 30 minutes.

15 Q. Okay. And you said that you had used

16 the vacuum cleaner to sweep up there in the den; is that

17 right?

18 A. Yeah, over by the sliding glass doors.

19 Q. Okay. And, do you recall where the --

20 where you would have left the vacuum cleaner after you
21 had cleaned up? Do you remember?

22 A. I think it was right over by where the
23 outlet was, over by the -- down from the sliding glass
24 doors.

25 Q. Out by the bar?

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1 A. Yes.

2 Q. Okay. Now, Darin got home, about what
3 time is it now, Darlie?

4 A. It was probably a little bit after
5 10:00.

6 Q. Okay. And where were the boys?

7 A. Devon had fallen asleep in front of
8 the TV and Damon was laying down in front of the TV, and
9 he had not fallen asleep yet.

10 Q. Okay.

11 A. Drake was on me, laying on me. I was
12 laying on the couch.

13 Q. Okay. And, did you and Darin call
14 when he came in -- I mean, did you and Darin talk when he
15 came in?

16 A. Yeah, when Darin came in, the baby was
17 getting pretty fussy, and so I made him a bottle and
18 Darin said that he was going to take him upstairs and
19 rock him.

20 I usually rocked him every night and
21 sang to him, and Darin said that he was going to do that,
22 and he wanted to watch the news. I don't really like to
23 watch the news.

24 I think there is too much negative
25 stuff on the news. But any way, I was watching something

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1 else. I don't know what I was watching, but I was
2 watching something else on TV.

3 Q. Did you all have a big screen TV set
4 downstairs as well?

5 A. Yeah, it was an older one, but yes.

6 Q. In the family room?

7 A. Um-hum. (Witness nodding head
8 affirmatively). Yes, sir.

9 Q. Okay. And, I'll ask you if Darin
10 eventually came down from upstairs?

11 A. Yes, he did.

12 Q. And did y'all continue to talk?

13 A. Yes, we did.

14 Q. Okay. Do you recall when you decided
15 that you would spend the night downstairs?
16 A. It was sometime after that.
17 Q. Okay. And how were you dressed at
18 that time?
19 A. I just had on a T-shirt and panties.
20 Or not really a T-shirt, it was like a night shirt, a
21 little bit longer than a regular T-shirt.
22 Q. Okay. Kind of an oversized T-shirt?
23 A. Yeah.
24 Q. That ladies wear?
25 A. Yeah.
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1 Q. All right. Now, I'll ask you if we
2 have had occasion to listen to the 911 tape, Darlie?
3 A. Yes, sir, several times
4 Q. And have we -- a number of times,
5 haven't we?
6 A. Yes.
7 Q. And, have we looked at the State's
8 transcription of the 911 tape and listened to the tape
9 itself, to check its accuracy?
10 A. Many times.
11 Q. Okay. And, in listening to the 911
12 tape, have we made some corrections in the State's
13 version?
14 A. Some.
15 Q. Okay. Let me hand you what has been
16 marked for identification and record purposes, as
17 Defendant's Exhibit 96-A, and I'll ask you if this shows
18 the State's version of the transcript of the 911 tape,
19 and in -- where there is discrepancy, or we think we hear
20 something different, we have put in bold print, italics,
21 what we believe is actually said?
22 A. Right underneath it?
23 Q. Yes.
24 A. Yes, sir.
25 Q. Is that correct?
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1 A. Yes, sir.
2 Q. Okay. And then on, Defendant's
3 Exhibit 96-B, it is simply our version of what the 911
4 tape says, without calling attention to -- and we have
5 excised what the State has in places that we disagree; is
6 that correct?
7 A. Yes, sir.

8 Q. All right. All right.

9

10 MR. DOUGLAS MULDER: We would offer in
11 evidence what has been marked for identification, for
12 record purposes as, Defendant's Exhibit No. 96.

13

14 (Whereupon, the following
15 mentioned item was

16 marked for

17 identification only

18 as Defendant's Exhibits

19 No. 96 and 96-A after

20 which time the

21 proceedings were

22 resumed on the record

23 in open court, as

24 follows:)

25

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1 MR. DOUGLAS MULDER: And, Sandy, what

2 I'm going to do, is just mark this our version as 96, and

3 with the 96-A is the enhanced version.

4 THE COURT: Any objection?

5 MR. DOUGLAS MULDER: Judge, we would

6 offer in evidence --

7 MR. TOBY SHOOK: Which is it? The

8 first one or both?

9 MR. DOUGLAS MULDER: We're going to

10 offer both into evidence.

11 MR. TOBY SHOOK: May I take the

12 witness on voir dire, Judge?

13 THE COURT: You may, indeed.

14

15

16 VOIR DIRE EXAMINATION

17

18 BY MR. TOBY SHOOK:

19 Q. So I take it, Mrs. Routier, that I

20 guess, is it 96-A, has in heavy print, another

21 interpretation that you listened to, that you think the

22 911 tape says?

23 A. Yes, sir, it's not by much, but some.

24 Q. Okay. So any time we see a bold

25 printing, that is what you think is different?

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1 A. Yes.
2 Q. You think that you heard?
3 A. Yes, sir.
4 Q. And did you interpret this tape, or
5 did have you any help interpreting this tape?
6 A. As far as what I heard, I interpreted
7 it. There were other people listening as well.
8 Q. Who else was listening?
9 A. Lloyd Harrellson (sic).
10 Q. Is that Mr. Harrell?
11
12 MR. DOUGLAS MULDER: Harrell.
13 THE WITNESS: Harrell, I'm sorry. And
14 I think Preston also.
15
16 BY MR. TOBY SHOOK:
17 Q. Mr. Douglass here?
18 A. Yes, sir.
19 Q. All right. Are all of the changes
20 here, were those your ideas or did they hear things that
21 you didn't hear and have those put in also?
22 A. It was a group effort, but I went
23 through most of it, and whatever I made, I wrote down on
24 paper, next to what they said, and they went over it, and
25 then they listened to see if they could hear the same
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1 things that I heard.
2 Q. And then y'all have had this printed
3 up to show your interpretation?
4 A. Yes, sir.
5 Q. Okay.
6
7 MR. TOBY SHOOK: All right. No
8 objection then, your Honor.
9 THE COURT: All right. Both
10 Defendant's Exhibits 96 and 96-A are admitted.
11 MR. DOUGLAS MULDER: Okay. I would
12 like to pass these out to the jurors.
13 THE COURT: You may.
14 MR. DOUGLAS MULDER: All right. Let
15 me show you this, so it doesn't get any more confusing
16 than it has to. This is -- pass those around. Okay.
17 Pass those around. All right. All right.
18 Now, the one that I am handing you now
19 is -- it shows the State's version as well.
20
21
22 DIRECT EXAMINATION (Resumed)

23

24 BY MR. DOUGLAS MULDER:

25 Q. Darlie, let me ask you this: When you
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1 see something written on the TV screen, do you have a
2 tendency to hear what you read?

3 A. Yes, sir.

4

5 MR. TOBY SHOOK: Judge, we will object
6 to leading.

7 THE COURT: Sustain the objection.

8 Phrase the questions properly, please.

9 MR. DOUGLAS MULDER: What I would like
10 to do, Judge, is play this once with the jury following
11 the 911 tape. And where they can see the --

12 THE COURT: That's fine.

13 MR. DOUGLAS MULDER: I want them to
14 listen to it, and where they see the italicized part,
15 they will know that there is a discrepancy there, and
16 then I want to play it again for them, once they
17 understand where the problems are, and then I want to
18 play it again for them, looking at our version.

19 THE COURT: Okay. You are going to
20 play it three times?

21 MR. DOUGLAS MULDER: Yes, sir.

22 THE COURT: Yes, sir. Well, that is
23 fine. That is fine. All right.

24 MR. DOUGLAS MULDER: Our electrician
25 is in the process of --
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1 THE COURT: All right. While we're
2 assembling all of the mechanical devices, we are going to
3 take a 10 minute break.

4

5 (Whereupon, a short
6 Recess was taken,
7 After which time,
8 The proceedings were
9 Resumed on the record,
10 In the presence and
11 Hearing of the defendant
12 And the jury, as follows:)

13

14 THE COURT: All right. Be seated
15 please. Bring the jury in please.

16

17 (Whereupon, the jury
18 Was returned to the
19 Courtroom, and the
20 Proceedings were
21 Resumed on the record,
22 In open court, in the
23 Presence and hearing
24 Of the defendant,
25 As follows:)
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1
2 THE COURT: All right. Let the record
3 reflect that all parties in the trial are present, and
4 the jury is seated.
5 Mr. Douglass and Mr. Mulder, you may
6 both continue.
7 MR. DOUGLAS MULDER: Yes, sir.
8
9
10 DIRECT EXAMINATION (Resumed)
11
12 BY MR. DOUGLAS MULDER:
13 Q. Now, Darlie, at times on this 911 tape
14 are you carrying on a conversation with a 911 operator?
15 A. Yes, sir.
16 Q. And, at times are you also talking to
17 your husband?
18 A. Yes, sir, I was talking to at least
19 three people at once.
20 Q. And at times are you also talking to
21 the police officer after he arrives there?
22 A. Yes, sir.
23 Q. Okay. And, do you know whether or not
24 each of the people, of course, the 911 operator has no
25 idea who else is present?
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1 A. No, she is on the phone.
2 Q. Okay. So, is it fair to say that at
3 times, that it is understandable that each of these
4 people think you are talking to them, even though you may
5 just be talking to one of the three?
6 A. As chaotic as it was, I definitely
7 think that is a possibility.
8 Q. But if you're talking to Waddell, and
9 you are speaking into the phone and the communications
10 operator doesn't know but what you are talking to her?

11 A. Yeah, whatever she would be hearing.
12 Q. Okay. Likewise, if you answer your
13 husband, and you are still talking into the phone, she
14 would have reason to believe that --
15 A. Oh, that I was talking to her, yeah.
16 Q. Of course.
17 A. Yeah, yeah.
18 Q. And, at one point, toward the end,
19 initially there is a -- the communications officer says
20 "Don't touch anything." And you said something about a
21 knife, and she said, "Don't touch anything."
22 And you said, "I have already picked
23 it up," or, "I have already touched it." Words to that
24 effect?
25 A. Yes, so I have heard several times.
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1 Q. Okay. Now, in another situation in
2 there, Officer Waddell says something about a knife?
3 A. Yes, sir.
4 Q. Okay. And you made a remark to him?
5 A. Yes, sir.
6 Q. There is also, a -- in the
7 conversation there, there is a direction, and of course
8 you were here when Waddell testified and said he didn't
9 recognize his voice saying to get the rags?
10 A. Yes, sir.
11 Q. Was that Waddell? Or was that Darin?
12 A. No, sir, that was not Waddell. I know
13 my husband's voice.
14 Q. All right.
15 A. I have listened to that tape many
16 times.
17 Q. Okay.
18
19 MR. DOUGLAS MULDER: Judge, what I
20 would like to suggest to the jury, is that they listen to
21 the tape with our bold print italicized part first, so
22 that you know where our discrepancies are, and then --
23 THE COURT: All right. Roll the tape
24 then.
25 MR. DOUGLAS MULDER: And then once you
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1 have spotted that, I would like to have you play it again
2 so you can hear it again like that, and then I would like
3 to play it again for you a third time, where you can just
4 hear our version.

5 THE COURT: All right. If you will
6 proceed please, Mr. Douglass.
7 MR. DOUGLAS MULDER: Yes, sir. All
8 right. This is the right one without the cover sheet on
9 it. Everybody got it? Okay.
10 THE COURT: Okay.

11
12 (Whereupon, the tape was
13 played for the jury, after
14 which, the proceedings were
15 resumed on the record.
16 as follows:)

17
18 MR. DOUGLAS MULDER: Judge, now that
19 they have kind of identified the areas, we would like to
20 play it through one more time like this. And then
21 finally play it through with them not looking at this,
22 but just looking at our version, and so they can check
23 it.

24 THE COURT: All right. You may
25 proceed.
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1 MR. DOUGLAS MULDER: By now, if you
2 will look at this thing, now that you have identified it,
3 and then we will go through it with ours.

4 THE COURT: All right. Let's go.
5

6 (Whereupon, the tape was
7 played again for the jury,
8 after which time, the
9 proceedings were resumed
10 on the record, in open
11 court, as follows:)

12
13 THE COURT: All right.
14 MR. DOUGLAS MULDER: Judge, now we
15 would like for them to just take our version and listen
16 to it, and that is the one with the cover sheet on it.

17 THE COURT: Okay. Is everybody ready?
18

19 BY MR. DOUGLAS MULDER:
20 Q. There is a word in there, Darlie, that
21 they say is fighting and you said --
22 A. Frightened.
23 Q. Frightened? It sounds like --
24 A. I didn't say fighting.
25 Q. Okay. All right.

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1

2 THE COURT: All right. Mr. Douglass,
3 are you ready?

4 MR. S. PRESTON DOUGLASS: Yes, sir.

5 THE COURT: All right. Crank her up.

6

7 (Whereupon, the tape was
8 played again for the jury,
9 after which time, the
10 proceedings were resumed
11 on the record, in open
12 court, as follows:)

13

14 THE COURT: All right. I think,
15 ladies and gentlemen, what we will do now, we will break
16 for lunch until 1:15, and be back at that time.

17 Can you make it back at 10 after? Can

18 all of the jurors make it back by 10 after 1:00? Okay.

19 All right. The same instructions as

20 always: No discussing the case among yourselves, do no
21 investigation on your own.

22 Please remain seated, please, until

23 the jury clears the courthouse.

24 Do no investigation on your own.

25 Leave everything that you have been

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1 given right there, please.

2 All right. Do not take that with you.

3 Let the jury clear the courthouse,

4 please.

5

6 (Whereupon, the jury
7 was excused from the
8 courtroom, and the

9 proceedings were held

10 in the presence of the

11 defendant, with her

12 attorney, but outside

13 the presence of jury

14 as follows:)

15

16 THE COURT: Okay. See everybody back

17 here at 1:15. Please, ladies and gentlemen, if you would

18 let the jury leave the courthouse.

19 All right.

20

21 (Whereupon, a short recess
22 was taken, after which
23 time the proceedings were
24 resumed on the record
25 in open court, in the
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1 presence and hearing of the
2 defendant, with her attorneys,
3 as follows:)

4

5 THE COURT: All right. Are both sides
6 ready to bring the jury back in and continue?

7 MR. DOUGLAS MULDER: Yes, sir, the
8 defense is ready.

9 MR. GREG DAVIS: Yes, sir, the State
10 is ready.

11 THE COURT: All right, everyone find a
12 seat, ladies and gentlemen.

13 Let's bring the jury in, please.

14

15 (Whereupon, the jury
16 was returned to the
17 courtroom, and the
18 proceedings were
19 resumed on the record,

20 in open court, in the
21 presence and hearing
22 of the defendant,
23 as follows:)

24

25 THE COURT: Let the record reflect
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1 that all parties in the trial are present and the jury is
2 seated.

3 Mr. Mulder.

4 MR. DOUGLAS MULDER: Yes, sir.

5

6

7 DIRECT EXAMINATION (Resumed)

8

9 BY MR. DOUGLAS MULDER:

10 Q. Darlie, I think we were at that point

11 in time, where you said that Darin had come back from
12 taking Dana home?

13 A. Yes, sir, that evening.

14 Q. Yes?

15 A. Yes.

16 Q. The evening of the 5th, and he come
17 home, about what time did he get home?

18 A. I want to say it was sometime after
19 10:00.

20 Q. Okay.

21 A. A little bit after 10:00

22 Q. All right. And tell the jury what
23 happened after he got home. Where you were? Where the
24 boys were? What was going on?

25 A. Well, after we got home -- or after
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1 Darin got home, Devon was sleeping in front of the TV,
2 directly in front of the TV, Damon was lying beside the
3 couch, he wasn't asleep yet, but he was laying there with
4 his little kitten. I was laying on the couch with Drake
5 on me. Drake was awake.

6 Q. Okay. And, Darin came in and what
7 happened?

8 A. Darin came in, and after a few
9 minutes, Drake was getting a little bit fussy because he
10 was ready to go to bed. So I made Drake a bottle and
11 Darin went upstairs. He said something about he was
12 going to watch the news and that he would feed Drake and
13 put him down to sleep.

14 Q. So he took Drake with him when he went
15 upstairs?

16 A. Yes, sir, he took Drake with him.

17 Q. All right. And after a period of time
18 did he come back?

19 A. Yeah, after about 30 minutes.

20 Q. Okay. Did you all continue to talk?

21 A. Yes, sir.

22 Q. Okay. Had you -- did you talk about
23 the trip you were taking?

24 A. Yeah, we talked about many things. We
25 talked about --

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1 Q. What was said about the trip to
2 Pennsylvania?

3 A. Well, just that I had talked to my
4 father earlier, and you know, they were really looking
5 forward to us coming, and it was my grandparents' 50th
6 anniversary, and --

7 Q. When were you due out there?

8 A. We were to fly in on the 14th of June.
9 Q. Where would you fly?
10 A. We were to fly into Pittsburg,
11 Pennsylvania and then I had my relatives coming to pick
12 me up in Pittsburgh, it's about a two and a half hour
13 drive from Pittsburgh to Altoona.
14 Q. Had airplane tickets?
15 A. Yes, sir.
16 Q. Okay. And for all five of you?
17 A. Yes. Well, Drake was just an infant
18 that sat on your lap, so you didn't really have to
19 purchase a ticket for Drake.
20 Q. But tickets for the rest of y'all?
21 A. Yes, sir, we had had tickets for
22 months.
23 Q. When were you coming back from
24 Pennsylvania?
25 A. I want to say that we were coming back
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1 like on the 28th, I think, because it was a Saturday,
2 because I had a baby shower that I was going to give on
3 Sunday.
4 Q. So you were going to be gone for two
5 weeks or thereabouts?
6 A. Yes, sir.
7 Q. Okay. What else did y'all talk about?
8 A. We talked about the business a little
9 bit. We talked about business every day. Just
10 basically, you know, what was going on, you know, was it
11 busy? Was it slow? You know, what's going on, that kind
12 of thing.
13 Q. Okay.
14 A. We talked about --
15 Q. Okay. Did you still help with the
16 business some?
17 A. Some, not as much. At that time Drake
18 was getting around a lot more, and Devon was out for
19 school, and so I wanted to be, you know, at home with the
20 boys.
21 Q. Okay. Had you brought any records
22 home from the -- personal records home from the business?
23 A. Yes, sir, I had.
24 Q. Tell us about those and where were
25 they in your home.
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1 A. It was around March that I quit
2 working at the shop where I didn't go up there all the
3 time. I would drop in once in a while, but not on a
4 daily basis. And, I just took all of my personal files,
5 I mean, the files that had been mentioned during this
6 trial, were my personnel files from my office. They were
7 in folders, they had labels on them. It wasn't just
8 papers on the will or papers on insurance, or anything
9 like that.

10 Q. Well, had you consulted a lawyer about
11 estate planning?

12 A. Yes, I had done that.

13 Q. And you saw the letter that was
14 admitted into evidence?

15 A. Yes, sir.

16 Q. Now the other things that -- I guess
17 directions as to how you wanted the estate divided up in
18 the event that you died in some common disaster?

19 A. If Darin and I were to die together,
20 is mainly what I was concerned with, because on our
21 insurance policies, I think you become an automatic
22 beneficiary if your spouse dies, I think it's automatic.

23 You have it written up to where --

24 Q. Were those directions in with the
25 letter from the lawyer?

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1 A. Yes, sir, there was a lot more papers
2 in with all that stuff than what has been shown.

3 Q. And that had been done sometime back?

4 A. Yes, sir.

5 Q. Okay. Do you remember the green
6 plastic container that was pointed out to the jury, as
7 the container in which you kept your sewing equipment?

8 A. Yes, sir.

9 Q. Did you have any sewing equipment in
10 there?

11 A. No, sir.

12 Q. What was in that?

13 A. It was all files inside of that.

14 Q. And is that -- were those papers that
15 you brought home from the office?

16 A. Yes, sir.

17 Q. Personal papers that you had?

18 A. Yes, sir.

19 Q. Just hadn't found a place for them in
20 the house?

21 A. No, actually I had been talking about
22 getting a file cabinet, and I didn't want just a regular

23 plain file cabinet that sat out in the middle of the -- I
24 wanted a file cabinet that looked like a piece of
25 furniture. It is harder to find those.
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1 Q. You wanted a file cabinet that didn't
2 look like a file cabinet?
3 A. Well, yes, I guess you could say that.
4 Q. Okay. At any rate, what else did
5 y'all talk about?
6 A. We talked about the boat.
7 Q. What about the boat?
8 A. We had not been using the boat very
9 much since Drake was born, and the boat had had a problem
10 and it was going to cost, I don't know, I think Darin had
11 told me like eight hundred dollars or something to get it
12 fixed, he had just gotten an estimate from somebody. And
13 we discussed getting rid of the boat, because we weren't
14 using it any more.
15 There wasn't an argument, that's all
16 been taken out of context. There was not an argument
17 about the boat. There was not an argument about the car.
18 What I was upset about, was that a man
19 had called me earlier, and had pretty much, I mean, he
20 was very rude and had cussed me out over the phone about
21 something that I didn't even know about. My husband's
22 car was at his shop, and he wanted my husband to come and
23 pick it up, and he was very rude to me, and I was upset
24 about it.
25 Q. It wasn't your fault?
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1 A. Well, I didn't even know about it.
2 Q. Okay. Did you discuss that?
3 A. Yeah.
4 Q. And you talked about the boat?
5 A. Yes, sir.
6 Q. You thought the boat was a headache
7 that y'all didn't need?
8 A. Yes, and my husband had made plans to
9 put the boat in the boat trader. Matter of fact, I think
10 that he had spoken to somebody about that.
11 Q. All right. But it was just a normal
12 discussion between you and your husband?
13 A. Yes, sir.
14 Q. Okay. And, about what time did you
15 decide you were going to stay downstairs versus going
16 upstairs?

17 A. I don't really know, as far as what
18 time. It was sometime while we were talking.
19 Q. Okay. Did you have a pillow there?
20 A. No, Darin went upstairs and got me a
21 pillow and a blanket.
22 Q. Is that the maroon pillow that we have
23 seen here?
24 A. Yes, sir, it's got the squares or
25 diamonds on it I think.
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1 Q. Okay. And he brought that down to
2 you?
3 A. Yes, sir.
4 Q. Okay. And, did you visit some more,
5 or was that --
6 A. We were kissing for a little bit.
7 Q. Okay. And then did he go on upstairs?
8 A. Yes, sir.
9 Q. Okay. And, will you tell the jury,
10 where you were stationed on that sofa? Was your head
11 toward the TV set, or away from it?
12 A. Well my head was -- like, if I am
13 sitting like I am right now, the TV was behind me.
14 Q. Okay.
15 A. My head would be right here. (Witness
16 indicating on the diagram.)
17 Q. All right. Where would your feet be?
18 A. My feet would be down here. (Witness
19 indicating on the diagram.)
20 Q. Okay. You had a blanket?
21 A. Yes, sir.
22 Q. Okay. What color was the blanket?
23 A. The blanket was green.
24 Q. Okay. And you had the maroon pillow?
25 A. Yes, sir.
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1 Q. Anything else?
2 A. As far as what I had?
3 Q. No, as far as pillows or blankets or
4 anything of that nature?
5 A. There was another gold pillow
6 underneath me.
7 Q. Okay. Anything else?
8 A. I can tell you what the boys had.
9 Q. All right.
10 A. Devon had a Power Ranger pillow, about

11 right about here. And he had his head here, with his
12 legs going towards the TV.

13 Damon was on a gold pillow down here
14 by the couch, his head was on the gold pillow, with his
15 feet facing towards the couch, and he had a blue pillow
16 and he was laying there with his little black kitten.

17 Q. Okay. All right. And, Darin went on
18 upstairs to bed?

19 A. Yes, sir, I asked him if he had made
20 sure that the front door was locked and he said that he
21 did. And I asked him to turn off the kitchen light as he
22 was going upstairs.

23 Q. Okay. Did y'all set your alarm?

24 A. No, sir, I wish we had.

25 Q. Okay.

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1 A. We never set our alarm. We had set it
2 a couple of times, and a couple of times that we set it,
3 it went off, and I don't know if it went off because of
4 the cats or what, but it went off, and it was a real big
5 deal, and anyway we just kind of got out of the habit of
6 not setting it.

7 Q. Okay. All right. So, were you still
8 watching TV or what?

9 A. I watched TV briefly, just for a few
10 minutes.

11 Q. Okay. And then curled up with your
12 head toward the TV set and your feet away?

13 A. I went to sleep. I was tired.

14 Q. Okay. Was Devon asleep?

15 A. Both of the boys were asleep.

16 Q. All right. He was facing toward the
17 TV set?

18 A. Yes, sir.

19 Q. And the other youngster, Damon, was
20 facing away from it, as were you?

21 A. Yes, sir.

22 Q. Okay. And did you go to sleep?

23 A. Yes, sir, I did.

24 Q. All right. Darlie, what is the very
25 next thing that you remember, that you either felt or
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1 heard or saw?

2 A. The next thing that I remember is
3 Damon hitting my right shoulder, and he said "Mommy," or
4 he said "Mommy, Mommy," I'm not sure, but he said,

5 "Mommy."

6 I looked up, and you've got to

7 remember that I'm in a -- I am not completely awake, you

8 know, when you first wake up, you are not completely wide

9 awake. And there was a man, that was down, going away

10 from the couches, walking away from me.

11 I started to get up and when I stood

12 up, I heard noise like glass breaking. I started to walk

13 towards the kitchen, Damon was behind me, and when I got

14 to the kitchen, I put my hand back here for Damon to

15 stay. And when I got to the kitchen, I could see the guy

16 going into the utility room.

17 Q. Were the lights on?

18 A. No, sir, the lights were off.

19 Q. Okay. So the area was illuminated by

20 the big screen TV set only?

21 A. There was a little bit of -- yeah, I

22 mean, there was a little bit of light, I don't know what

23 you would call that, just kind of a --

24 Q. Okay.

25 A. A glare, maybe.

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1 Q. All right. Okay. What happened?

2 A. I started to take a couple of steps

3 into the kitchen, and I realized that the lights were

4 off, so I turned back around, and I flipped the lights on

5 real quick. I started to walk into the kitchen.

6 Q. Where was the man by this time?

7 A. He was gone, he was out of my sight.

8 Q. All right.

9 A. I got into the kitchen, and I got to

10 where the island is, there is an island in the middle of

11 the kitchen. I got to where the island was, and it was

12 at that moment that I realized that I had blood on me.

13 And I kept going, walking a little

14 bit, and I saw a knife laying in the utility room. The

15 knife wasn't completely the whole way in the utility

16 room, it was just like, a little bit into the doorway of

17 the utility room.

18 It was an instinct -- I picked up the

19 knife, it was an instinct to pick up the knife. I didn't

20 think about it. It was just an instinct. I picked up

21 the knife, I brought the knife back to the kitchen

22 counter, and set it up on the kitchen counter.

23 At that time, I started to walk into

24 the living room and it was at that time that I saw Devon,

25 and he was laying on the floor, and he wasn't moving and

1 his eyes were open, and he had cuts on him that were so
2 big.

3 Q. Did you say anything at that time?

4 A. I screamed "Devon." I screamed out
5 and I couldn't believe what I was seeing. It was at that
6 time that I turned back around and I went to Damon, and
7 Damon was standing up still.

8 Q. Could you see that he had been hurt or
9 cut or anything at that point?

10 A. Not at that time, I couldn't see that
11 he had been hurt. I just started checking all over him
12 and when I turned him around I could see big, huge wounds
13 through his shirt. I started screaming, and I ran into
14 the entrance way, and I flipped on the lights real quick,
15 and I was screaming Darin, Devon, Darin and Devon, and,
16 we ran back into hallway, Darin went over to Devon, I
17 went into the kitchen and flipped the lights on, and I
18 grabbed the phone, and I went to the drawer where there's
19 towels in the drawer, and I went to the drawer, and I
20 went over to the sink and I got the towels wet.

21 Q. Did you have all the lights on now?

22 A. Yes, sir.

23 Q. Okay.

24 A. Yes.

25 Q. So the area of both the den and the
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1 kitchen was fully illuminated?

2 A. Yes, sir.

3 Q. You went over to the kitchen, you got
4 the phone and then what did do you?

5 A. I went to the kitchen, and I got the
6 phone, and then I went to the drawer and I got the towels
7 and then I went to the sink.

8 Q. Okay. Why did you get the towels?

9 A. I just wanted to help to stop the
10 bleeding. I didn't know what to do. I didn't know what
11 to do. I was just reacting.

12 Q. Okay. So you got the towels?

13 A. I got the towels and I went to the
14 sink and I got the towels wet.

15 Q. All right. Were you on the phone with
16 911?

17 A. At that time -- at that time, I think
18 911 came on.

19 Q. Okay.

20 A. I don't know what I said, I mean --

21 Q. Do you know if you started -- if you

22 got the towels before you called 911, or you called 911

23 before you got the towels, or did it all happen about the
24 same time?

25 A. Yeah, I mean, I got the towels, and I

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1 was calling 911 as I got the towels.

2 Q. All right. And after you got the

3 towels wet, did you take those to Darin?

4 A. I got a couple of towels wet, I went

5 to Damon first.

6 Q. Okay.

7 A. I put a towel on Damon's back.

8 There's been a lot of controversy that I didn't do that,

9 but I did do that. I put a towel on my baby's back.

10 Q. You were the only one -- the police

11 didn't get any towels out, did they?

12 A. No, sir, the police did not get any

13 towels out.

14 Q. Darin didn't get any towels out?

15 A. Darin didn't get any towels out.

16 Darin was trying to save Devon.

17 Q. All right. So you got the towels and

18 you took them to Damon?

19 A. I put a towel on Damon, then I told

20 him to hold on. I said, "Hold on, baby." And he said,

21 "Okay, Mommy." That is the last thing that he said to

22 me.

23 Q. All right. Darlie, just tell us, as

24 best you recall, what happened after that?

25 A. I went over to Darin, and Darin was

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1 down and he was breathing into Devon's mouth, and I

2 didn't know how to do CPR, I didn't even know what I was

3 doing. When Darin was blowing into Devon's mouth, you

4 could see some blood coming out of his wounds on the side

5 of his chest.

6 Q. All right. What did you do?

7 A. I didn't know what to do. All I did

8 was just put a towel on it. I didn't know what to do.

9 Q. How did you put the towel down?

10 A. I just put the towel on top of his

11 chest wound.

12 Q. Okay.

13 A. After that, I ran back and I think

14 that is when I ran, and I screamed for Karen across the
15 street, because I didn't know what to do, and I knew that
16 we had to get help.

17 Q. Karen is the nurse?

18 A. Karen is the nurse, and she is one of
19 my best friends, and I knew that she would know what to
20 do.

21 Q. Okay.

22 A. So I called for Karen,

23 Q. Did you get more towels? Did you go
24 back and forth to the sink?

25 A. Yes, sir, I got more towels, I got
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1 another towel, I didn't know what I was doing. I got
2 another towel, and I went back to the sink, and I got
3 another towel, I put another towel beside Damon and I
4 told him to hang on again, he was still alive, he was
5 still trying to breathe.

6 Q. What was Darin doing at this time?

7 A. Darin was still with Devon.

8 Q. All right. Were y'all frantic?

9 A. Yes, sir, very much. Can you imagine,
10 your babies are dying in front of you. What do you do?
11 What do you do?

12 Q. Both of you were frantic?

13 A. Yes, sir.

14 Q. Did you keep talking to 911, or do you
15 know?

16 A. I don't even remember. There was so
17 much going on at one time it was crazy.

18 Q. Did the police come?

19 A. Yes, sir, an officer came.

20 Q. All right. Did Officer Waddell come?

21 A. Yes, sir.

22 Q. Okay.

23 A. Officer Waddell came in. I was
24 standing over at the kitchen bar, and I was leaning over
25 the vacuum cleaner that was there earlier, because I was
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1 a little dizzy and I couldn't breathe very good. That
2 vacuum cleaner right there.

3 Q. Did you know how badly you had been
4 hurt at that time?

5 A. No, I didn't know, I had seen my neck
6 in the mirror.

7 Q. Where is mirror located?

8 A. The mirror is located behind the wine
9 rack in the kitchen.

10 Q. Okay. So it's obscured somewhat by
11 the wine glasses and the wine bottles?

12 A. It's behind the wine rack.

13 Q. Okay. In this area? Can you see
14 that?

15 A. Yeah, that is where it's at.

16 Q. Okay. That is the wine rack?

17 A. Yes.

18 Q. There is a mirror back here on the
19 wall?

20 A. Yes, sir.

21 Q. Okay. Was Waddell as consumed and
22 taken aback by the horror of the scene as y'all were?

23 A. Yes, sir.

24 Q. Was he of much help?

25 A. No, sir.

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1 Q. Okay. Did you -- you heard this 911
2 tape, 20 times I bet, haven't you?

3 A. Yes, I have heard it a lot.

4 Q. Okay. When we tried to figure out

5 what was going on, and what was being said, and who was
6 saying what?

7 A. Yes, sir.

8 Q. Okay. And you talk at times to
9 Waddell, do you not?

10 A. I believe so, yes, sir.

11 Q. All right. You are carrying on a
12 number of conversations with a number of people?

13 A. I'm talking to a lot of different

14 people. I didn't even know really what was going on.

15 Q. All right. At any rate, did the
16 paramedics get there?

17 A. Waddell was in the living room, and he
18 told me to sit down or lay down, I don't remember which,
19 and I did that.

20 Q. You had been holding on to the vacuum
21 cleaner?

22 A. I had just been leaning over it for
23 support, just to keep myself up. When I sat down, I kind
24 of took the vacuum cleaner with me.

25 Q. Okay.

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1 A. I don't know which way, I don't know
2 which way, I have no idea. I mean, I don't know. I have
3 heard all kinds of stuff about that, and --
4 Q. Okay. Did you ever see the vacuum
5 cleaner in the kitchen?
6 A. No, sir.
7 Q. Was the vacuum cleaner ever in the
8 kitchen, at any time?
9 A. No, sir. The vacuum cleaner was never
10 in the kitchen while I was there.
11 Q. Okay.
12 A. I know, because I ran back and forth
13 through that kitchen, that vacuum cleaner was not in the
14 kitchen at all.
15 Q. Okay. What happened after the
16 paramedics got there, Darlie?
17 A. Sergeant Walling got there, and
18 Sergeant Walling, right away, was -- I mean he was
19 very -- they ran, he said something to Waddell, and
20 Sergeant Walling and Waddell ran through the kitchen, and
21 went into the garage.
22 Q. Do you know if they went by the wine
23 rack, or if they went by the sink?
24 A. I think that they went by the wine
25 rack.
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1 Q. Okay.
2 A. I think that they both went through
3 where the wine rack is.
4 Q. Okay.
5 A. It seemed about -- I don't know -- at
6 that time, Darin ran out of the room also. Not with
7 them, but he ran the other way, towards the front door.
8 Q. Okay. How long was it before you were
9 taken to the front porch?
10 A. I don't know, sir. I mean, when the
11 paramedics came in, one of them went back -- one of them
12 went over to Devon, and one of them went to Damon, and he
13 was doing something to Damon, and I saw him put his hands
14 on Damon's neck, Damon had his head away from me, and I
15 asked him, "Is he dead?"
16 And he wouldn't answer me. But when
17 he picked him up and turned him over, his eyes were open,
18 and he wasn't moving.
19 Q. Okay. Did they take Devon -- did they
20 take Damon out?
21 A. Yes, sir, they took Damon out.
22 Q. All right. And, moments later, did

23 they take you to the front porch?

24 A. Yes, sir, but I didn't remember

25 though.

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1 Q. Okay. You don't remember them taking

2 you from the den to the front porch?

3 A. No, sir.

4 Q. Do you remember them taking you from

5 the front porch to the ambulance?

6 A. Yes, sir.

7 Q. Okay.

8 A. Vaguely.

9 Q. Okay.

10 A. When I was out on the front porch,

11 there were so many people.

12 Q. Do you know how many paramedics came

13 into that room?

14 A. I have no idea. I know there were a

15 lot of people running in and out of that house.

16 Q. Do you know how many police officers

17 were in there?

18 A. I have no idea. I know it had to have

19 been at least, I mean, while I was there, it had to have

20 been at least two or three.

21 Q. Okay. Do you know how many

22 paramedics? Could it have been as many as six or seven

23 paramedics?

24 A. Are you talking about paramedics and

25 the --

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1 Q. I'm talking about, and firemen in the

2 house?

3 A. Yes, there were several. I mean, I

4 don't know the exact number but there were several.

5 Q. As many as five or six or so?

6 A. More.

7 Q. Okay.

8 A. I mean there was at least five or six.

9 Q. Do you remember them taking you from

10 the front porch to the ambulance?

11 A. Vaguely.

12 Q. Do you remember Darin helping you on

13 the stretcher?

14 A. Darin, and there was another -- I

15 think he was a paramedic, they tried to help me over to

16 the stretcher, and when I stood up, Darin said something

17 to me that my panties were gone.
18 Q. Is that the first that you realized?
19 A. That is the first that I realized that
20 by panties were even -- that they were gone.
21 Q. Do you -- you were taken on to Baylor
22 Hospital?
23 A. Yes, sir.
24 Q. And they bandaged your --
25 A. They bandaged my right arm at the
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1 door, I believe the paramedic told me that he was going
2 to bandage it, and that it might hurt, because he was
3 going to have to put a lot of pressure on it to stop the
4 bleeding.

5 Q. Okay.

6 A. And they also bandaged my neck at the
7 front door as well.

8 Q. Okay.

9 A. I don't remember very much because
10 there were so many people. You have got to remember
11 there were -- I mean, you kind of have to put yourself in
12 that situation. There were people running in and out and
13 screaming and yelling, it was --

14 Q. Chaotic?

15 A. It was very chaotic, and for anybody
16 to sit up here and say that it wasn't, I mean, it was
17 very chaotic.

18 Q. You talked to Darin once you were in
19 the ambulance?

20 A. Yes.

21 Q. Did you know, at that time that your
22 sons were both dead?

23 A. Yes, sir.

24 Q. Did he try to go to the hospital with
25 you in the ambulance?

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1 A. He tried to get into the ambulance, I
2 don't know what they said to him, but I know he did try
3 to get into the ambulance.

4 Q. Okay. You were taken on to the
5 hospital?

6 A. Yes, sir. It took them a little while
7 to decide where they were going. I remember the one
8 paramedic -- there was a bunch of people in there, but
9 the one paramedic was talking back with the paramedic in
10 the front that was driving, and you could hear the --

11 like the radio, I guess, where they were getting their
12 instructions of which hospital to go to, and at first
13 they were saying Baylor of Garland, something, Baylor of
14 Garland, and then they said, something like, no, Baylor
15 of Dallas, and it was like, they couldn't -- they were
16 trying to decide which -- I guess which place that they
17 were going to go to.

18 Q. Okay. Were you asked by any of the
19 police officers at the scene as to what does this man
20 look like and how much of him you saw?

21 A. Yes, sir. I believe that Sergeant
22 Walling asked me at the front door a description of the
23 man.

24 Q. Okay. What did you tell him?

25 A. I told him that I wasn't sure if he
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1 was white or black because it was dark, but that I
2 assumed that he was white because of his hair.

3 Q. What was there about his hair?

4 A. His hair was longer and it was
5 straight and he had a dark colored cap on his head.

6 Q. Okay. Could you -- did you ever see
7 the front of the cap?

8 A. No, sir, later they asked me in the
9 hospital if the cap -- if the bill of the cap, if I could
10 see it from the back, and I told them, no, that I could
11 not see the bill from the back.

12 Q. Okay. Some people wear their hat
13 backwards with the bill around the back?

14 A. My little boys wear their hats,
15 sometimes with the bill around the back.

16 Q. Okay. And, you said you didn't see
17 the bill?

18 A. No, sir.

19 Q. Do you know if the cap even had a
20 bill?

21 A. Well, I can't say for sure.

22 Q. Okay. What else did you give them?

23 What other description did you give them?

24 A. I told him that he had on a dark
25 colored T-shirt and that he had on jeans.

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1 Q. Okay. Did they ask you about how tall
2 he was, or how much he weighed?

3 A. Not until later.

4 Q. Okay.

5 A. In the hospital, somebody asked me, I
6 think somebody asked me how tall he was, I think.

7 Q. Okay. Detective Frosch is
8 considerably taller than Detective Patterson?

9 A. Yeah, he looks like it.

10 Q. All right. And, was he built more
11 along the lines of Detective Frosch than Detective
12 Patterson?

13 A. Yes, sir.

14 Q. Did you tell them that?

15 A. Yes, sir.

16 Q. All right. Did you, Darlie, when
17 Detectives Patterson and Frosch came to see you in the
18 hospital, did you cooperate with them?

19 A. As much as I could, yes.

20 Q. Did you answer the questions?

21 A. Yes.

22 Q. Okay. You stayed there in the
23 hospital for three days?

24 A. Yes.

25 Q. Okay.

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1 A. I was released on Saturday.

2 Q. Okay. Your family came down to visit
3 you?

4 A. Yes, sir.

5 Q. And your in-laws, Sarilda and, is it
6 Lenny?

7 A. Yes.

8 Q. Routier from Lubbock?

9 A. Yes, sir.

10 Q. And your sisters and your mother and
11 relatives came to see you?

12 A. I was told a lot of people came to see
13 me, I don't really remember very much of the people
14 actually being in there, but yes, that is what I was
15 told.

16 Q. You saw Drake, he was there?

17 A. Yes, I do remember Drake.

18 Q. Okay. They brought Drake down a
19 couple times, did they?

20 A. Yeah, the time that I really remember
21 being with Drake was Saturday and Karen had brought Drake
22 up to the hospital, and they had taken the last of my
23 tubes out of my arms, and Karen put him on my stomach,
24 and I fed him a bottle.

25 There was another time before that,

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1 but I really don't remember very much about it.

2 Q. Okay. Another time when Karen brought

3 Drake down?

4 A. Yes, sir.

5 Q. Okay. Darlie, you have heard

6 testimony about the bruises to your arms?

7 A. Yes, sir.

8 Q. Did you realize that your arms had

9 been bruised there in the hospital?

10 A. I realized a little bit later that

11 they had been bruised in the hospital.

12 Q. I didn't mean when you first got to

13 the hospital --

14 A. Right.

15 Q. But while you were still there at the

16 hospital?

17 A. Yes, sir.

18 Q. Okay. All right. And until you heard

19 Dr. Santos and Dr. Dillawn, and Dr. DiMaio --

20 A. Um-hum. (Witness nodding head

21 affirmatively.)

22 Q. Testify that those bruises were the

23 result of blunt trauma?

24 A. Yes, sir. I didn't know, that that is

25 what they were caused from.

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1 Q. Did you realize that you had been

2 beaten?

3 A. No, sir. I thought that the bruise on

4 my right arm was because of the wound. I had no idea

5 that it was from --

6 Q. Blunt trauma?

7 A. Yes, blunt trauma, until I heard them

8 talking about it.

9 Q. The bruise on your left arm, where you

10 had the medical intervention, the IV and the arterial

11 line?

12 A. Yes, sir.

13 Q. Did you assume that those had caused

14 the injuries to your --

15 A. I assumed that the IV did, because I

16 have had IV's before that have done that.

17 Q. I'll ask you, Darlie, while you were

18 there at the hospital, if you realized anything unusual

19 about the inside of your mouth?

20 A. Yes, sir.

21 Q. What was that?

22 A. My mouth was very sore. It felt kind
23 of raw inside.

24 Q. Do you know what caused that?

25 A. I don't know what caused it. I can
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1 I tell you what I -- I can speculate. I can tell you what
2 I think caused it.

3 Q. What do you think caused it?

4 A. I think that the man had his hand over
5 my mouth while he was attacking me.

6 Q. Okay. Do you have any recollection of
7 this man attacking you and beating you severely and
8 cutting you?

9 A. I don't have any -- what you would say
10 that, I mean, that I can remember him doing that. I have
11 assumed that that is what he has done, because common
12 sense tells you that that is what he has done.

13 Q. Well, do you have any recollection
14 of fighting with him, or struggling with him?

15 A. No.

16 Q. Okay.

17 A. Not as far as remembering.

18 Q. You can look at your arms, and at
19 your -- the bruises and the stab marks.

20 A. That's all that was ever said. I
21 mean --

22 Q. The bruises and the stab marks would
23 lead you to that inescapable conclusion, would it not?

24 A. I think it led all of us to that
25 conclusion.

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1 Q. Okay. But you have no recollection?

2 A. No, sir.

3 Q. Okay.

4 A. I have sat in a jail cell for seven
5 months, and I have tried to think very hard, I have tried
6 to do self-relaxation, I have talked to Lisa about
7 self-relaxation, kind of --

8 Q. Have you had dreams, nightmares?

9 A. Yes, sir, I have had a lot dreams. I
10 have had dreams.

11 Q. You and Darin also went to a psychic?

12 A. Well, we had a psychic come out to the
13 house.

14 Q. Okay. You had a psychic come to your
15 mother's house?

16 A. We had a psychic come to the house.

17 Q. On Eagle Drive?

18 A. Yes, sir.

19 Q. And go through the house with you?

20 A. Yes, sir. It's not something that I

21 really believe in or practice, but I think that when you

22 are a parent, and when you are desperate to find answers,

23 that you will do just about anything.

24 Q. What did the psychic tell you?

25

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1 MR. TOBY SHOOK: Judge, we will object

2 to hearsay.

3 THE COURT: Sustained.

4

5 BY MR. DOUGLAS MULDER:

6 Q. Did the psychic give you a description

7 of what had --

8

9 MR. TOBY SHOOK: Judge, we will object

10 to hearsay --

11 MR. DOUGLAS MULDER: Judge, I'm not

12 going to go into it, but I'll --

13 MR. TOBY SHOOK: About him going into

14 a description. And we will object to relevance as to

15 what a psychic told them.

16 THE COURT: Well, I'll let you

17 rephrase the question, Mr. Mulder, and before you answer,

18 ma'am, if Mr. Shook wants to make an objection, I'll let

19 him make an objection. So please state your question.

20

21 BY MR. DOUGLAS MULDER:

22 Q. Did y'all go through the house with a

23 psychic?

24 A. A little bit.

25 Q. Okay. And, did the psychic do

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1 whatever psychics do out there?

2 A. Yes.

3 Q. I guess the psychic went through the

4 house?

5 A. Yes.

6 Q. Was it a male psychic, or --

7 A. Actually she says that she is a

8 psychic.

9

10 MR. TOBY SHOOK:: Judge, I'll object

11 to the hearsay.

12 THE COURT: Sustained. Let's don't

13 say what anybody else says.

14 THE WITNESS: Okay. She is a psychic

15 and an investigator.

16

17 BY MR. DOUGLAS MULDER:

18 Q. Okay.

19 A. Not just a psychic.

20 Q. But, at any rate, did she give you her

21 impressions of what had gone on in the house?

22 A. Yes, sir.

23

24 THE COURT: That's all right. Just

25 wait until the next question comes up.

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1 THE WITNESS: Okay.

2

3 BY MR. DOUGLAS MULDER:

4 Q. And have you discussed with your

5 mother, and with your husband, and with friends what the

6 psychic said?

7 A. I have discussed it with just about

8 everybody I know.

9 Q. Okay.

10 A. What the psychic said and my dreams.

11 Q. You were released from the hospital on

12 the 8th; is that right?

13 A. Yes, sir. Saturday.

14 Q. And went to the viewing where your

15 sons' bodies were?

16 A. Didn't go directly to the viewing.

17 Q. Well, you went from there -- didn't

18 you go directly?

19 A. I went directly from the hospital with

20 the police to the police department.

21 Q. Okay.

22 A. And then from the police department to

23 the viewing.

24 Q. All right. Did the police know that

25 you had a viewing that evening?

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1 A. Yes, sir.
2 Q. Okay. And, did they tell you that it
3 was necessary for you to come by and make a statement?
4 A. Yes, sir, they were very adamant about
5 that.
6 Q. All right. Did you and Darin both go
7 by and make a statement to the police?
8 A. Yes, sir.
9 Q. Okay. Did you cooperate with the
10 police?
11 A. Very much so.
12 Q. Okay. And, after the viewing, the
13 funeral was the next day?
14 A. Yes, sir.
15 Q. Okay. And, Darin had -- Darin and his
16 mother had pretty much arranged the funeral, had they
17 not?
18 A. They arranged most of the funeral and
19 they would come back to the hospital and tell me what was
20 going on.
21 Q. All right. Did you know that they
22 were going to have the Gangster's --
23 A. I didn't know until I got there.
24 Q. Okay. But was that, in fact, your
25 boys, one of their favorite songs?
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1 A. Yes, sir, and I think that it's been
2 made way too much of an issue. Children --
3 Q. Did the boys understand the lyrics too
4 that song?
5 A. No. The boys didn't understand the
6 lyrics. They just understand the beat. The rhythm. A
7 lot of children are like that. That is how they teach
8 them in school. I have been around children a lot. I
9 have been a volunteer, and children -- communication is
10 taught through music.
11
12 MR. TOBY SHOOK: Judge, we will object
13 to the non-responsiveness of that answer.
14 THE COURT: Overruled. Go ahead.
15
16 BY MR. DOUGLAS MULDER:
17 Q. Why do the children like that music?
18 A. Children liked the music because of
19 the beat and the rhythm. A lot of communication is
20 taught to children through music.
21 Q. Did your boys like music?
22 A. Very much, I don't know too many

23 children that don't.

24 Q. They danced to the music, would they?

25 A. Oh, yes.

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1 Q. All right. And, you would sing to

2 your children, wouldn't you?

3 A. Yes, sir.

4 Q. Okay. Would you sing to them

5 frequently?

6 A. Yes, sir.

7 Q. And what would you sing to them?

8 A. I sang to them all kinds of songs.

9 Q. Okay. Did they have any favorites?

10 A. They had lots of favorites. I sang

11 Jesus Loves Me to Drake every night.

12 Q. Okay. And that was one the songs that

13 was played at the funeral, wasn't it?

14 A. Yes, sir.

15 Q. Okay. Do you recall what the other

16 song was that was played at the funeral?

17 A. I believe that it was, I Will Always

18 Love You, by Whitney Houston.

19 Q. All right. Was that one of y'all's'

20 favorites?

21 A. Yes, sir.

22 Q. Okay. After the funeral, there was

23 a -- sometime later there was a grave side service?

24 A. Yes, sir.

25 Q. Okay. And did that follow the

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1 funeral?

2 A. Well, which one are you talking about?

3 Q. Well, was there a grave side service,

4 that immediately followed the funeral?

5 A. Oh, yes, yes, there was.

6 Q. And then, there was a prayer service

7 some four or five days later?

8 A. On the 14th?

9 Q. Yes.

10 A. Yes, sir.

11 Q. Following the prayer service there,

12 Darlie, there was a birthday party?

13 A. Yes, sir.

14 Q. Or a celebration of sorts?

15 A. Yes, there was.

16 Q. Were you there for that?

17 A. Yes, I was.

18 Q. Was that your idea?

19 A. Well, no, it wasn't. It was my

20 sister's.

21 Q. How did that come about and why?

22 A. Well, it was Devon's birthday, and for

23 those of you who have children, Devon wanted nothing more

24 than to be seven. Devon asked me day in and day out, for

25 two weeks, "Mommy, am I seven yet?"

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1 And I told him, "No, not yet. But you

2 will be soon."

3 And it was a way of telling Devon

4 happy birthday. I didn't see anything wrong with it. We

5 have been criticized and ridiculed. How do you ever know

6 what you are going to do unless you are placed in the

7 same situation? And who has that right to tell you --

8

9 MR. TOBY SHOOK:: Judge, I'll object

10 to the narrative non-responsive, going into a narrative.

11 THE COURT: Ma'am, let me just caution

12 you, just answer the questions as briefly as you can.

13 Okay?

14 THE WITNESS: I'm trying to.

15 THE COURT: I know you are, and you

16 are doing a good job. Thank you. Just try to be very

17 brief.

18

19 BY MR. DOUGLAS MULDER:

20 Q. Darlie, did you love those children?

21 A. I loved those children more than my

22 life. They were the most important thing to me. And

23 what they have done is wrong.

24 Q. Did you ever, ever harm those

25 children?

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1 A. Never.

2 Q. Okay. Did you stab those children and

3 then cut yourself?

4 A. No, I did not stab those children nor

5 did I try to stab myself.

6 Q. Would you have any reason to do

7 anything like that?

8 A. No, sir.

9 Q. But to love those children?

10 A. No, sir.

11 Q. Do you know who did kill your
12 children?

13 A. No, sir.

14

15 MR. DOUGLAS MULDER: We will pass the
16 witness. They will have some questions for you.

17 THE COURT: Mr. Shook.

18 MR. TOBY SHOOK: Yes, sir.

19

20

21 CROSS EXAMINATION

22

23 BY MR. TOBY L. SHOOK:

24 Q. Mrs. Routier, you started that
25 business, Testnec, with your husband; is that right?
Sandra M. Halsey, CSR, Official Court Reporter
4898

1 A. Yes, sir.

2 Q. Okay. And you worked there along side
3 him, through the years when y'all were building it up,
4 didn't you?

5 A. Pretty much so, yes.

6 Q. Okay. I mean, it wasn't his
7 operation, you took equal part in that company, and built
8 it up with him, didn't you?

9 A. Sure.

10 Q. And, you ran, in fact, I think your
11 main, primary job in that, was running the books; is that
12 right?

13 A. Pretty much, to a certain degree, I
14 mean we had a CPA, but the daily routine, you know, the
15 daily work.

16 Q. You would keep up with that, and as
17 far as accounts go, and who owed you money, and things
18 like that, more or less the business operation?

19 A. Yes, sir.

20 Q. You also helped make some of the
21 computer parts, or whatever you did there, the circuit
22 boards?

23 A. Yeah. I didn't know a whole lot about
24 it, but I tried to help out wherever I could, wherever
25 they needed me.

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4899

1 Q. And even when you quit working there
2 as much, you still went up there on a weekly basis, did
3 you not?

4 A. Yeah, I would stop in.

5 Q. Okay. And you still helped with the
6 books if they needed it?

7 A. Well, at that time I usually brought
8 the books home, but yeah, I mean, I did the books, but I
9 did it at home.

10 Q. You would work at home with the
11 business?

12 A. Yes, sir.

13 Q. And every day you discussed what was
14 going on with the business with your husband, did you
15 not?

16 A. Pretty much.

17 Q. And the decisions made in the
18 business, those were made by Darin and yourself?

19 A. That part I would have to say more of
20 it was Darin than me, but I mean, I knew about it.

21 Q. You certainly had input in it, didn't
22 you?

23 A. Sometimes.

24 Q. That is why you discussed that even on
25 the night of 5th, y'all were talking about the business?

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4900

1 A. Yes, sir.

2 Q. Okay. And you did all this while you
3 were running the home also?

4 A. Yes, sir.

5 Q. And, as far as the home goes, you were
6 the one that decided decorating the home, making
7 purchases for the home, how it looked, and that kind of
8 thing, did you not?

9 A. Well, most of it, yes.

10 Q. And you would keep the house up, and
11 keep it clean, and that kind of thing?

12 A. Yeah, I had help.

13 Q. When did you start getting help with
14 the house?

15 A. Well actually, I had had a maid
16 service for quite sometime.

17 Q. When did that start?

18 A. I don't have any exact date for you.

19 I can say, approximately, two years ago.

20 Q. Okay. And, would they come in every
21 week?

22 A. Yes, sir.

23 Q. Okay. And then, of course the week of
24 the murder, you had Babcia come in for a couple of days?

25 A. Yeah, if I can explain. The people

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4901

1 that I was having clean, they had changed to a bunch of
2 different people, and they weren't doing as good of a job
3 as what they normally would do. And so, I had let them
4 go, and I had another lady come in and clean, and she was
5 very nice, but every time she cleaned she ended up
6 breaking something. And, it ended up costing me more
7 money to have her clean, than what it was -- what she was
8 breaking.

9 Q. So you were having people then coming
10 in for the last two years helping you clean?

11 A. Yes, sir.

12 Q. You also -- did you have some of these
13 teenage girls help you watch over the kids?

14 A. Well, I wouldn't necessarily say watch
15 over the kids. I think that they -- I think that was
16 kind of an excuse that they used to be in the house.

17 Q. Okay.

18 A. I mean, they didn't really want to say
19 that they were coming over to be with, you know, a five
20 and a six year old.

21 Q. So let me ask you. You said that
22 Darin fixed the gate that Wednesday night?

23 A. Yes, sir, he did.

24 Q. Did you go try the gate out yourself?

25 A. No, I didn't.

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4902

1 Q. Are you telling this jury then that
2 gate was swinging freely?

3 A. I don't know if it was swinging or
4 not, all I know is Darin told me that he fixed it.

5 Q. That gate was hanging on hinges by
6 shoe strings and coat hangers and things like --

7 A. Shoe strings?

8 Q. Yeah. Have you seen the photographs?

9 A. No, sir.

10 Q. Had you all been making some repairs
11 to that gate?

12 A. Yes, sir.

13 Q. Put some new poles in?

14 A. My husband I think did, I'm not too
15 sure about that.

16 Q. Okay. Do you know when those poles
17 were put in?

18 A. No, sir, I couldn't tell you that.

19 Q. Let me show you 13-D, 13-C, can you

20 see that gate there?

21 A. Yes, sir.

22 Q. Do you see the strings attached from

23 the poles to the gate?

24 A. Yes, on that one I do. I see it.

25 Q. Okay.

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4903

1 A. I think, I mean I don't know if it's a

2 shoe string, but it looks like some type of string.

3 Q. Some type of string?

4 A. Yes, sir.

5 Q. The same thing in this photograph?

6 A. Yes, sir.

7 Q. Okay. But was the gate dragging, is

8 that -- was that the problem?

9 A. Yeah, the bottom of the gate.

10 Q. Okay. And you did --

11 A. I don't know anything about the poles

12 really, I just know about the gate.

13 Q. Did you go out that gate on the date

14 of the 5th?

15 A. Did I go out the gate?

16 Q. Yes.

17 A. No, sir, I did not.

18 Q. You were home all day, weren't you?

19 A. Yes, sir, I was.

20 Q. Had you been having trouble getting

21 through that gate?

22 A. Yes, sir, we had.

23 Q. Okay. Would you have to actually,

24 what, lift the gate up, and try to put it in the air, to

25 keep it from dragging on the concrete?

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4904

1 A. Sort of. I mean, it drug. You kind

2 of had to -- I think one of the officers described it a

3 good way as kind of pushing your foot.

4 Q. Right. He -- that was Sergeant

5 Walling. He had to shove his foot, to shove the gate

6 open?

7 A. Yes, sir.

8 Q. Okay. So it was no easy task getting

9 in and out of that gate, was it?

10 A. I wouldn't say it was easy, but I

11 wouldn't say it was hard.

12 Q. Well, if you knew what you were doing,

13 it would be a lot easier, wouldn't it?

14 A. Well, I would think that anybody,
15 really -- I mean, me and my boys got it open.

16 Q. They had been in and out of it several
17 times?

18 A. Sure.

19 Q. And you knew how to get in and out of
20 it, didn't you?

21 A. Yeah, I don't think it takes too much,
22 to know how to get in and out of it.

23 Q. Okay. And the vacuum cleaner was
24 where?

25 A. The vacuum cleaner was beside the
Sandra M. Halsey, CSR, Official Court Reporter
4905

1 kitchen bar.

2 Q. Okay.

3 A. In the den side.

4 Q. Is that where you normally keep the
5 vacuum cleaner?

6 A. No, sir.

7 Q. Where do you normally keep that vacuum
8 cleaner?

9 A. Normally I keep the vacuum cleaner in
10 the cherry wood room. There was another vacuum cleaner
11 there, I think, at that time.

12 Q. What is the cherry wood room?

13 A. I'm sorry. I don't know what y'all
14 call it. The front living area.

15 Q. Okay.

16 A. The very front one in there in the
17 house.

18 Q. Okay. When you come into the house?

19 A. Yes, you go to the left.

20 Q. You go to the left?

21 A. Yes, sir.

22 Q. And you keep it in there?

23 A. Yes, sir.

24 Q. Okay. You come in the entry way, you
25 are talking about what is labeled the living room?

Sandra M. Halsey, CSR, Official Court Reporter
4906

1 A. Right here.

2 Q. That is where you keep your vacuum
3 cleaner?

4 A. Usually, yes, sir.

5 Q. Every day? I mean, that is where we
6 would find the vacuum cleaner?

7 A. Well, not every day. Sometimes it

8 would be upstairs. I have two vacuum cleaners.
9 Q. Well, do you have closets in the
10 house?
11 A. Not very many. There's one.
12 Q. One closet in the house?
13 A. One hallway closet, as far as clothes
14 closets, there's a couple.
15 Q. And, so the vacuum cleaners, they
16 don't fit in any of the closets, they have to be out all
17 the time?
18 A. I guess you could try to fit them in
19 there.
20 Q. Well, you keep a pretty neat house,
21 don't you?
22 A. To a certain extent, yes, sir.
23 Q. I mean, you are pretty famous for
24 having a very neat house, aren't you?
25 A. I like to keep a neat home.
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4907

1 Q. But you don't put your vacuum cleaners
2 away?
3 A. Well, it wasn't like an important
4 thing, that I made sure that I put my vacuum cleaner
5 away.
6 Q. And that night, I guess when you were
7 lying on the couch then, the vacuum cleaner was against
8 the bar over there?
9 A. Yes, sir. I had been vacuuming.
10 Q. Okay. And you talked about this
11 gangster rap song, that was your son's favorite song?
12 A. It was both of my sons -- one of their
13 favorite songs.
14 Q. And you don't believe that they could
15 have understood the words to it?
16 A. I don't think so.
17 Q. Did you know the words to it?
18 A. No.
19 Q. Okay.
20 A. I mean, I know the verse, the main
21 chorus verse, but I don't know all the words to it, no.
22 Q. Okay. You had said that -- well,
23 let's talk about your diary for a moment?
24 A. Okay.
25 Q. Now you got that diary in '95?
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4908

1 A. I believe so.
2 Q. Okay. And you made what four or five
3 entries in it, over a few months period?
4 A. I think so, I don't know if I had read
5 four or five, something like that.
6 Q. Well, most of the pages are blank,
7 aren't they?
8 A. Yes, sir.
9 Q. But finally at the end here, on the
10 3rd of May, is when you write this -- now you say you
11 weren't going to commit suicide?
12 A. No, sir.
13 Q. You were just feeling real moody?
14 A. I was feeling somewhat depressed, and
15 moody.
16 Q. Okay.
17 A. I mean, I think they kind of go
18 together.
19 Q. How long had you been feeling moody?
20 A. I don't know. It had been a few days.
21 Q. Okay. And, what time of the day was
22 it that you started writing this note?
23 A. I started writing the note, I think it
24 was like, I want to say like around 3:00 or 3:30.
25 Q. Did you have pills out by you?
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4909

1 A. By the note?
2 Q. Just out?
3 A. No, sir, they were in a drawer.
4 Q. They were in a drawer?
5 A. Yes, sir.
6 Q. You didn't take the pills out at all?
7 A. No, sir. We took the pills out later
8 to throw them down the toilet, to flush them down the
9 toilet.
10 Q. Had you thought about taking the
11 pills?
12 A. I think I was thinking about it while
13 I was writing the letter, yes, sir.
14 Q. To kill yourself?
15 A. To think about it.
16 Q. Well, you were going to the trouble of
17 writing this letter, right?
18 A. Yes, sir, I did, and I also went to
19 the trouble of stopping because I realized that I didn't
20 want to do that.
21 Q. I mean, the first line in here is, "I
22 hope that one day you will forgive me for what I am about

23 to do." What were you about to do?

24 A. I was contemplating suicide.

25 Q. Pretty seriously?

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4910

1 A. If it would have been seriously, I
2 wouldn't be here today.

3 Q. Well, you are writing a note?

4 A. Yes, sir.

5 Q. "I hope that one day you will forgive
6 me for what I am about to do"?

7 A. Yes, sir.

8 Q. And you have got the pills, I mean,
9 that's the way you were going to do it, right? Take
10 pills?

11 A. That's what I was thinking about.

12 Q. And you were going to the trouble of
13 writing this note?

14 A. Yes, sir.

15 Q. So we're talking about some pretty
16 serious contemplation, aren't we?

17 A. Yes, sir, but you also have to
18 consider that I stopped in the middle of that note and
19 called my husband, because I had decided that I wasn't
20 going to do that, and that it was silly.

21 Q. Now, why were you so desperate, at
22 that point in your life, one month before these murders,
23 that you were thinking about committing suicide?

24 A. I cannot answer that question for you.

25 Q. Do you have amnesia about that?

Sandra M. Halsey, CSR, Official Court Reporter
4911

1 A. No, sir.

2 Q. You don't have traumatic amnesia about
3 why you were so desperate to think about committing
4 suicide?

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

6 Q. But you didn't purchase those pills
7 while were you contemplating it?

8 A. No.

9 Q. Okay. Those had just been lying
10 around the house?

11 A. They had been in a box, in the house.

12 Q. Okay. How long had they been there?

13 A. How long had they been what, in the
14 house?

15 Q. Right.

16 A. For quite sometime.

17 Q. Okay. Do you remember the first time
18 that you met your psychiatrist on the 20th of June, she
19 asked you about your thinking about suicide?

20 A. Lisa?

21 Q. Yes.

22 A. I guess so, sir.

23 Q. You don't have any other
24 psychiatrists, do you?

25 A. No, sir.

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4912

1 Q. Okay.

2 A. Well, I mean there was different
3 people that talked to me in the jail.

4 Q. Okay. Do you remember telling her
5 that you thought about suicide, actually bought over the
6 counter pills, wrote note, but knew she couldn't, and
7 called husband?

8 A. Yes, sir.

9 Q. Okay. So you told her that you
10 actually bought over the counter pills?

11 A. I had bought over the counter pills.

12 Q. For the purpose of taking them to
13 commit suicide?

14 A. No, sir. I did not buy the pills that
15 day. If that is, I mean, what you are asking. I'm not
16 sure.

17 Q. So you felt bad enough on the 3rd of
18 May, to sit down and contemplate how you would kill
19 yourself, write a note, and then decided to call your
20 husband?

21 A. Yes, sir.

22 Q. I guess you were not very happy with
23 your life at that point?

24 A. Well, I was feeling pretty depressed.

25 Q. Have you ever thought about committing
Sandra M. Halsey, CSR, Official Court Reporter
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1 suicide at any other time in your life?

2 A. No, sir.

3 Q. You said that you mentioned on your
4 direct testimony about being molested a little by your
5 --

6 A. Step-father.

7 Q. Step-father. What's his name?

8 A. Denny.

9 Q. Okay. And, that happened when -- how
10 old were you?

11 A. The first time I was eight years old.
12 Q. Okay. And where is he now?
13 A. He lives -- I'm not exactly sure what
14 the name of the place is, but it's a little bit further
15 outside of Terrell, on one of those little tiny,
16 drive-through towns.
17 Q. Okay. When is the last time you saw
18 him?
19 A. The last time I saw him, I believe was
20 on Mother's Day, he came over to pick up Danielle, my
21 little sister.
22 Q. That is Mother's Day of this last
23 year, 1996; right?
24 A. Yes, sir.
25 Q. Which would have been how close to the
Sandra M. Halsey, CSR, Official Court Reporter
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1 murder?
2 A. Well, I don't know, about three weeks
3 maybe.
4 Q. Okay. It's in May, right?
5 A. Mother's Day is, yes, sir.
6 Q. Okay. And in fact, on that date, you
7 gave him Damon and Devon, and let them go with him to his
8 home to stay for a couple of days, didn't you?
9 A. For a day.
10 Q. For one day?
11 A. Yes, sir.
12 Q. This is the man that molested you?
13 A. Yes, sir.
14 Q. And you let him have your children?
15 A. Yes, sir. Can I explain that?
16 Q. Just answer my question. I mean, if
17 your lawyer here wants to you explain it, he can have you
18 do that.
19 A. Okay. That is fine.
20 Q. Okay. And how long were they gone?
21 A. A day.
22 Q. Okay. Incidentally, as far as that
23 accusation of the molestation, the police were never
24 called, were they?
25 A. No, sir, I was eight years old.
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4915

1 Q. Okay. When did your mother divorce
2 him?
3 A. I think I was about 17 when she got
4 the actual -- maybe 18 which I -- no, when she got the

5 actual divorce from Denny, it was about four or five
6 years ago.

7 Q. But on that Mother's Day your children
8 were with him?

9 A. Yes, sir, after Mother's Day.

10 Q. Is that your usual practice not to
11 have your children with you on Mother's Day?

12 A. No, they were with me half of the day.

13 Q. Okay. So, that is not your usual
14 practice not to be with your children on Mother's Day?

15 A. No, sir.

16 Q. Well, in '95 and '94 you weren't with
17 your children on Mother's Day, were you?

18 A. On Mother's Day?

19 Q. Yes.

20 A. In '94 and '95?

21 Q. Yes.

22 A. Where was I?

23 Q. Well, weren't you out kind of
24 celebrating with your friends on those Mother's Day?

25 A. Oh, are you talking about the night
Sandra M. Halsey, CSR, Official Court Reporter
4916

1 before Mother's Day?

2 Q. Well, the little party that you
3 planned, right?

4 A. Sure.

5 Q. Okay. I mean, that was kind of an
6 annual event with you, to go partying with some other
7 women on Mother's Day, wasn't it?

8 A. All mothers, yes, sir.

9 Q. Okay. You call that Mother's Day Out?

10 A. Yes, sir.

11 Q. Okay. Now, incidentally did you
12 attend church regularly with your boys?

13 A. No, sir.

14 Q. Okay. The Silly String party, as I
15 guess it's come to be known?

16 A. Yes, sir.

17 Q. You are saying that was not your idea?

18 A. No, sir, it was not.

19 Q. Okay. Did you not go around the
20 neighborhood telling all the kids and parents that they
21 needed to come to this party?

22 A. I called everybody, yes, sir, I did.

23 Q. I mean, you did that, didn't you?

24 A. Yes, sir.

25 Q. I mean you were physically walking

Sandra M. Halsey, CSR, Official Court Reporter
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1 around the neighborhood going around knocking on doors
2 and telling parents that they needed to bring their kids
3 to the --

4 A. To a couple of their friends' house, I
5 did.

6 Q. Okay. And, this is while the police
7 still had custody of your house; is that right?

8 A. Yes, sir.

9 Q. And, you were walking around the
10 neighborhood, knocking on doors?

11 A. I was not walking around the
12 neighborhood, I went to three homes.

13 Q. Okay. And when you -- were you on
14 some type of drugs or something at the Silly String
15 party?

16 A. I had not been taking as much
17 medication as what I was, but yes, I was still on some.

18 Q. Are you trying to blame your behavior,
19 shooting Silly String, laughing and giggling on any
20 medication?

21 A. No, I am not blaming my behavior, I
22 don't think there is anything to blame.

23 Q. Okay. And, the Silly String wasn't
24 your idea, is that right?

25 A. No, sir.

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4918

1 Q. But your certainly didn't mind
2 spraying it and things like that, did you?

3 A. I didn't think there was anything
4 wrong with it.

5 Q. And then you saw Joe Munoz out there
6 with a camera?

7 A. Yes, he was.

8 Q. And you talked to him at quite a great
9 length, didn't you?

10 A. Yes, he came over to the grave.

11 Q. You didn't mind talking to him on
12 camera, did you?

13 A. Well, actually in the beginning I
14 didn't want to, but then later on, yes, I did.

15 Q. You warmed up to him pretty quick,
16 didn't you?

17 A. Yes, he is a very nice man.

18 Q. Well, you can kind of tell that from
19 watching the videotape.

20 A. He was very nice.

21 Q. In fact, it's on that videotape, that
22 you say, that this killer, went to your children first,
23 then tried to come to you.

24 A. Yes, sir.

25 Q. But he had to go to them first?

Sandra M. Halsey, CSR, Official Court Reporter
4919

1 A. That's what I said.

2 Q. Okay. Well, were you just imagining
3 that is what happened, and assuming what had happened?

4 A. Well, I think we have all assumed that
5 that is what happened.

6 Q. Okay. So you don't remember that?

7 A. No, sir.

8 Q. You were just making that statement?

9 A. Yes.

10 Q. Because you figured that is probably
11 what happened?

12 A. We all figured that that is what
13 happened.

14 Q. Now, how long had the window been up
15 in the garage?

16 A. As to -- I mean, can you be a little
17 bit more specific?

18 Q. Well, did you usually keep that window
19 locked? This point of entry?

20 A. We didn't usually keep it locked all
21 the time. Usually it was kept open, and down -- I mean
22 it was off and on. It wasn't always up, but it wasn't
23 always down.

24 Q. Why did you keep it open?

25 A. I kept it open when we had cats out
Sandra M. Halsey, CSR, Official Court Reporter
4920

1 there, and when we would breed them.

2 Q. Okay. And, was it open on the day of
3 the 5th?

4 A. I believe it was open some.

5 Q. And had you been keeping it open for
6 that entire week?

7 A. I'm not sure about that. As a matter
8 of fact, I think I had shut it a couple of times during
9 the week.

10 Q. When had you shut it?

11 A. I couldn't tell you, sir.

12 Q. But you know it was open on Wednesday;
13 is that right?

14 A. I know it was open on Wednesday?
15 Q. Yes.
16 A. I believe so.
17 Q. And that was because you had cats out
18 there, is that right?
19 A. No, sir.
20 Q. Why was that?
21 A. It was just open, I just remember it
22 being open when I had gone out into the garage.
23 Q. Okay. So it's clear, your husband,
24 Darin, didn't commit this offense, did he?
25 A. No, he didn't.
Sandra M. Halsey, CSR, Official Court Reporter
4921

1 Q. I mean, you know that for a fact,
2 don't you?
3 A. Yes, sir.
4 Q. This jury can remove that issue from
5 their minds whatsoever, that Darin Routier did not kill
6 your sons?
7 A. Yes, sir.
8 Q. The man you saw walking away was not
9 your husband?
10 A. Yes, sir.
11 Q. You saw that man go out into the
12 garage; is that right?
13 A. Out through the utility room into the
14 garage.
15 Q. And after that, you are wide awake
16 down in the kitchen, and then in the Roman room and in
17 the hallway.
18 A. Well, not wide awake at first, but
19 yes, I did become wide awake.
20 Q. Well, there is no way that if that had
21 been Darin, that he could have snuck in the house and
22 gotten back upstairs and then come back down?
23 A. No, I don't think so.
24 Q. So we can put that issue aside. The
25 murderer of your children is not your husband?
Sandra M. Halsey, CSR, Official Court Reporter
4922

1 A. Yes, sir.
2 Q. Okay. So what it comes down to is,
3 the murderer is either this man who crept into your house
4 and murdered your children and attacked you, or you are
5 the murderer?
6 A. Sir --
7 Q. That is got to be one of two ways,

8 doesn't it?

9 A. Sir, I did not murder my children.

10 Q. It's got to be one of two ways?

11 A. I did not murder my children, sir.

12 Q. So it was this man who crept into your
13 house?

14 A. Yes, sir, it was.

15 Q. Okay. Now, at the time that this
16 happened, did you feel stalked in any way?

17 A. At the time that it --

18 Q. Of the murders.

19 A. At the time that it happened?

20 Q. Yes, on the 5th?

21 A. I didn't think about it. I mean,
22 being stalked -- after it happened?

23 Q. No, I'm talking about before?

24 A. Not really stalked, I mean, we had had
25 some phone calls and stuff, but I never really gave it a
Sandra M. Halsey, CSR, Official Court Reporter
4923

1 whole lot of thought.

2 Q. And, had Darin told you that your
3 neighbor Karen had told you about this car that was
4 watching your house?

5 A. No, sir, he didn't tell me that.

6 Q. He hadn't told you that?

7 A. No, sir.

8 Q. So the only indication that you had of
9 anyone after you, maybe were these phone calls; is that
10 right?

11 A. At the time I didn't think anything of
12 it, but yes, sir.

13 Q. Okay.

14

15 THE COURT: Mr. Shook, let's take a 10
16 minute break now, please.

17 MR. TOBY SHOOK: All right, Judge.

18 Thank you.

19 THE COURT: All right.

20

21 (Whereupon, a short
22 recess was taken,
23 after which time,
24 the proceedings were
25 resumed on the record,
Sandra M. Halsey, CSR, Official Court Reporter
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1 in the presence and
2 hearing of the defendant
3 and the jury, as follows:)

4

5 THE COURT: All right. Everybody find
6 your seats.

7 Are both sides ready to bring the jury
8 in and resume the trial?

9 MR. DOUGLAS MULDER: Yes, sir, we are
10 ready.

11 MR. TOBY SHOOK: Yes, sir.

12 THE COURT: All right. Bring the jury
13 in, please.

14

15 (Whereupon, the jury was
16 Returned to the courtroom,
17 and the proceedings were
18 resumed on the record in
19 the presence and hearing
20 of the jury as follows:)

21

22 THE COURT: Let the record reflect
23 that all the parties in the trial are present, and the
24 jury is seated.

25 All right. Mr. Shook.

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1 MR. TOBY SHOOK: Thank you.

2

3

4 CROSS EXAMINATION (Resumed)

5

6 BY MR. TOBY L. SHOOK:

7 Q. Over the break you were able to
8 consult with your attorneys again, were you not, Mrs.
9 Routier?

10 A. They told me something.

11 Q. Okay. You were able to talk with them
12 there over the break?

13 A. Yes, they told me that I was --

14 Q. I didn't ask you what they said.

15 A. Yes, sir, I was.

16 Q. I just wanted to know if you were able
17 to talk to them.

18 A. Yes, sir.

19 Q. Okay. I'll try to keep my questions
20 real simple. Okay?

21 A. Okay.

22 Q. Now, apparently this man who crept

23 into your house in the early morning hours of the 6th was
24 able to murder your children, wound you, and leave the
25 one witness that could put him on death row?
Sandra M. Halsey, CSR, Official Court Reporter
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1 A. I think that he thought I was dead.
2 Q. Okay. He left the one witness who
3 could cause his conviction and put him on death row
4 alive?
5 A. Again, I think he thought I was dead.
6 Q. Well, were you not moving or
7 something?
8 A. I don't remember that much, sir.
9 Q. Then, how would you know he would
10 think that you were dead?
11 A. Because he was walking away from me.
12 Q. And you were just laying there?
13 A. Yes.
14 Q. I mean, he had to get close enough for
15 you to be able to identify him, wouldn't he, Mrs.
16 Routier?
17 A. I would think so.
18 Q. Okay. Well, I mean you have got your
19 throat cut, he has to do that, he has to get right up on
20 you, doesn't he?
21 A. Yes, sir.
22 Q. Face to face?
23 A. Yes, sir.
24 Q. Okay. And, has to be in that room
25 while your children are killed?
Sandra M. Halsey, CSR, Official Court Reporter
4927

1 A. Yes, sir.
2 Q. Let's me ask you this, do you think
3 that you slept while that man stabbed your boys?
4 A. I have no idea.
5 Q. Well, do you think you could have
6 slept through that?
7 A. I don't know how to answer that,
8 because I don't know.
9 Q. Well, you are a light sleeper, aren't
10 you?
11 A. I wouldn't necessarily call it a light
12 sleeper.
13 Q. Well, don't you wake up whenever the
14 baby moves in his crib?
15 A. Yes, sir, but that is not exactly a
16 real light noise.

17 Q. So, when your baby rolls over, you
18 wake up?

19 A. His crib is on a hardwood floor and it
20 has rollers on it, and when he wiggles and moves, it
21 shakes the whole crib, and it makes, I mean, it's a
22 pretty loud noise.

23 Q. That is why you were sleeping
24 downstairs, right?

25 A. It's one of the reasons, yes.

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4928

1 Q. I mean, that is what you put in your
2 voluntary statement, did you not?

3 A. Yes, sir.

4 Q. I mean, no one forced you to write
5 that down, did they?

6 A. No, sir.

7 Q. I mean, this is in your handwriting?

8 A. Yes, sir.

9 Q. Okay. And don't you say, "I had been
10 sleeping on the couch the past week or so off and on
11 because the baby slept in our room, in the crib, and when
12 he moved he woke me up?

13 A. Yes, sir.

14 Q. Okay. So you are a light sleeper,
15 aren't you?

16 A. To some degree.

17 Q. And, how close would you say Damon was
18 to you when you went to sleep?

19 A. How close was Damon?

20 Q. Yes, how close was he to you?

21 A. He was very close.

22 Q. I mean within one foot, wasn't he?

23 A. Pretty much so, yes.

24 Q. Easily one foot, lying there right
25 beside you?

Sandra M. Halsey, CSR, Official Court Reporter
4929

1 A. Yes, on the floor.

2 Q. Do you think that you could have slept
3 through a man stabbing him four times in the back?

4 A. Again, I have no idea.

5 Q. Well, you know yourself pretty good,
6 do you think you could have slept through that?

7 A. Sir, I cannot answer that. I cannot
8 remember.

9 Q. Do you think you could have slept when
10 this man stabbed your seven year old, Devon?

11 A. I can't answer that question.
12 Q. He was only about four or five feet
13 away from you, wasn't he?
14 A. Yes, he was.
15 Q. Well, you are a mother, aren't you?
16 A. Yes, sir, I am.
17 Q. And don't mothers -- aren't they able
18 to tell when their children are in trouble?
19 A. I would like to think so.
20 Q. Aren't they known for being able to
21 hear those noises?
22 A. From an instinct.
23 Q. Have that instinct?
24 A. Yes, sir.
25 Q. So, don't you think that you would
Sandra M. Halsey, CSR, Official Court Reporter
4930

1 I have woken up if a man started stabbing you?
2 A. I have no idea of what happened that
3 night.
4 Q. Well, certainly you would have woken
5 up when he started beating you, wouldn't you?
6 A. I have assumed that that is what
7 happened, yes, sir.
8 Q. I mean, you would have to be awake to
9 take a beating like that?
10 A. I would assume so, yes, sir.
11 Q. And, it's your arms that were beaten,
12 weren't they?
13 A. As far as I know, yes, sir.
14 Q. Okay. I mean, you weren't hit in the
15 face, that's for sure, were you?
16 A. Directly in the face?
17 Q. Yes, we can't see any bruises on your
18 face, can we?
19 A. No, sir.
20 Q. Okay. And you weren't stabbed in your
21 face, were you?
22 A. Not stabbed. There were marks on my
23 face.
24 Q. You weren't beaten in the chest,
25 stomach, back or anything like that?
Sandra M. Halsey, CSR, Official Court Reporter
4931

1 A. I have no idea.
2 Q. Well, did you ever see any bruises in
3 your chest, in your back?
4 A. Not bruises, but there was a mark on

5 my breast.

6 Q. But no bruises?

7 A. No bruises.

8 Q. Okay. You didn't complain to the

9 doctors about a big headache, being whacked in the head,

10 or bumps on the head?

11 A. Actually I did complain about feeling

12 pain. I didn't complain specifically in what areas, I

13 was hurting all over from head to toe.

14 Q. Certainly you are not going to wake

15 up -- or you are going to wake up when he cut your

16 throat, aren't you?

17 A. I have no idea, I would assume so.

18 Q. You wouldn't sleep through that, would

19 you?

20 A. I don't know what happened. I would

21 assume so, but I cannot remember.

22 Q. Do you really think that you could

23 have slept when the man cut your throat?

24 A. I don't think so.

25 Q. You couldn't have slept when you got

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4932

1 stabbed in the arm either, could you?

2 A. I don't think so.

3 Q. Okay. And, if you had awakened, if

4 you had woken up, when your children were attacked, you

5 would have screamed, wouldn't you?

6 A. Unless my mouth was covered.

7 Q. Well, I mean that would -- I guess are

8 there more than one man attacking you?

9 A. I have no idea, sir.

10 Q. I mean, if there was just one guy, he

11 can only do one thing at a time, can't he?

12 A. Well --

13 Q. You only saw one man, didn't you?

14 A. I only saw one man, yes, sir.

15 Q. Okay. Walking away from you. And if

16 there is just one man attacking your kids, and you saw

17 him, you would jump up and defend your children, wouldn't

18 you?

19 A. I would think so, but again, I cannot

20 remember.

21 Q. You would think you would get up?

22 A. Yes, sir.

23 Q. And defend your children?

24 A. Yes, sir.

25 Q. Don't you know you would do that?

Sandra M. Halsey, CSR, Official Court Reporter
4933

1 A. Yes, sir.

2 Q. I mean, you would defend them with
3 your life, wouldn't you?

4 A. Yes, sir.

5 Q. If you saw a man attacking your
6 children, you would scream your head off, wouldn't you?

7 A. Yes, sir, unless my mouth was covered.

8 Q. You would scream for your husband,
9 wouldn't you?

10 A. Unless my mouth was covered, yes, sir.

11 Q. You didn't have any problems screaming
12 for him when he finally got up and came down there, did
13 you?

14 A. My mouth was not covered.

15 Q. Did you find any tape, or any gauze or
16 anything stuffed in your mouth that showed it to be
17 covered?

18 A. No, just except for that it was torn
19 up inside.

20 Q. Okay. It was all torn up inside.

21 A. Well, it felt raw.

22 Q. Did you talk to the doctors about
23 that?

24 A. I talked to the nurse about that, yes,
25 I did.

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4934

1 Q. There is no way you could be prevented
2 from defending your children, and sounding the alarm, if
3 you had seen them being attacked?

4 A. What do you mean -- I'm not sure I
5 understand what you mean.

6 Q. Well, if you had woken up, and some
7 man is stabbing your children, you would have tried to
8 stop him, wouldn't you?

9 A. Yes, sir.

10 Q. Okay. But you have no memory of any
11 of that?

12 A. No, sir.

13 Q. You must have been beaten first,
14 wouldn't you say?

15 A. Sir, I have no idea. I have sat for
16 seven months, and tried to think of every possible thing
17 I could think of what this man did to me.

18 Q. Okay.

19 A. I don't remember.

20 Q. You don't know if you were stabbed
21 first, or you were beaten on the arms first?
22 A. I have no idea. I don't remember.
23 Q. And what is the description that you
24 remember, the best description that you have of this man?
25 A. It's not much, he was a taller man,
Sandra M. Halsey, CSR, Official Court Reporter
4935

1 with dark hair.
2 Q. Okay. Let's start with that. How
3 tall was he?
4 A. I cannot give you an exact -- I mean,
5 I can just tell you that he was above -- I would think
6 above six foot.
7 Q. Okay. Above six foot?
8 A. Yes, sir.
9 Q. And I believe you said that he was
10 along Chris Frosch's build; is that right?
11 A. Yes, sir.
12 Q. Are you talking about height-wise?
13 A. Built-wise.
14 Q. Okay. And --
15 A. I mean, I haven't seen Chris Frosch
16 in, you know, I have just seen him in dress clothes, but
17 he seems to be about the same build.
18 Q. Okay. So he is the same height and
19 build as this man that was walking away?
20 A. Well, approximately.
21 Q. Okay. So the man is over six foot,
22 you would say?
23 A. Yes, sir.
24 Q. And he was a white male?
25 A. I don't know that for sure.
Sandra M. Halsey, CSR, Official Court Reporter
4936

1 Q. Okay. What kind of hair did he have?
2 A. He had longer hair.
3 Q. How long was it?
4 A. Like here.
5 Q. Okay.
6 A. Whatever you call that.
7 Q. To his collar?
8 A. Yeah.
9 Q. What color was it?
10 A. Well, as far as I could tell, it was
11 dark, because it was dark in there.
12 Q. Okay. And the build he had, he was
13 built like Chris Frosch?

14 A. To some degree, yes, sir.
15 Q. Okay. Well, to what degree was he
16 not?
17 A. Sir, you are asking me to be specific
18 about something that I cannot be specific about.
19 Q. Okay. And, you saw his back and that
20 was all?
21 A. Yes, sir.
22 Q. As he walked away?
23 A. Yes, sir.
24 Q. You didn't yell out for Darin when you
25 saw this man walking in your house?
Sandra M. Halsey, CSR, Official Court Reporter
4937

1 A. Actually, it happened all so quick I
2 did yell out for Darin, but it was after a couple of
3 seconds that the guy had already walked out.
4 Q. While were you still on the couch?
5 A. No, sir.
6 Q. Okay. While you were in the kitchen?
7 A. Yes, sir.
8 Q. That is when you yelled out for Darin?
9 A. That is the first time, yes, sir.
10 Q. Who -- in talking to Dr. Clayton
11 yesterday, who is Glenn?
12 A. I really don't know Glenn that well.
13 Glenn was somebody that came into the shop. I think that
14 he knew one of the men beside -- that works beside our
15 shop.
16 Q. Okay.
17 A. And he had come in, and he had said
18 some things to Basia, Barbara, and they weren't very nice
19 things, and I guess his wife was having some problems
20 with that. And, his wife called, and I told her that --
21 what he did.
22 Q. You told his wife?
23 A. Yes, sir.
24 Q. When was this?
25 A. This was about a year and a half ago.
Sandra M. Halsey, CSR, Official Court Reporter
4938

1 Q. Okay. And then, what happened? Did
2 he threaten you in some way?
3 A. Yes, he threatened me later over the
4 phone.
5 Q. Okay. How long ago was this?
6 A. It was about, oh, not quite a year and
7 a half.

8 Q. Okay. And you say that you gave the
9 police his name?

10 A. I told them Glenn. I don't think I

11 gave them the last name, because I didn't know his last
12 name at that time.

13 Q. What is his last name?

14 A. Mize.

15 Q. Okay. Now, you -- did you tell them

16 this is guy that just threatened you or did this guy look
17 like the killer?

18 A. Yeah, I just told them -- they just

19 asked me if there was anybody that we thought -- I mean,

20 they asked me and Darin together, at one time, if there

21 was anybody that we thought, you know, had ever

22 threatened us or anything like that.

23 Q. You are not saying this Glenn guy did

24 the killing, are you?

25 A. I don't know.

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4939

1 Q. Well, does he look like the guy?

2 A. Well, I have not really seen Glenn.

3 Q. Well, when you had seen him, did he

4 look like him?

5 A. Well, I haven't seen Glenn.

6 Q. Well, what does he look like?

7 A. Glenn?

8 Q. Yes.

9 A. I don't know.

10 Q. You don't know what he looks like?

11 A. Not to give you a detailed

12 description, no.

13 Q. You have never seen him before?

14 A. No. I saw him when we walked in to go

15 and to talk to Basia, but that was a year and a half ago,

16 and I really wasn't paying that much attention.

17 Q. Okay. So you really don't know what

18 this Glenn guy looks like?

19 A. Not really. No, sir. I mean, we have

20 people walk in and out of our shop.

21 Q. Okay. You can't tell us if he is a

22 tall guy, or short guy, or fat guy, or skinny guy?

23 A. No, sir.

24 Q. So you don't know if he would look

25 anything like this man you saw walking away?

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1 A. No, sir.
2 Q. Okay. So you just told that -- you
3 just told the police this Glenn guy had threatened you at
4 some point in the past?
5 A. Yes, sir.
6 Q. Do you think you would recognize Glenn
7 if you saw him again?
8 A. I don't know.
9 Q. Well, we will give it a try.
10 A. Okay.
11
12 MR. TOBY SHOOK: Y'all just come on up
13 here, please.
14
15 (Whereupon, Chris Frosch and
16 Glenn Mize entered the
17 courtroom, and the
18 proceedings were resumed on
19 the record as follows:)
20
21 MR. TOBY SHOOK: All right. Y'all
22 just come on up here please. All right. Stand right
23 here for me please. Okay?
24
25
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1 BY MR. TOBY SHOOK:
2 Q. All right. Do you recognize him as
3 being Glenn Mize?
4 A. Yeah, but the hair looks longer.
5 Q. Okay. But this is Glenn Mize?
6 A. I guess so.
7 Q. Okay.
8
9 MR. TOBY SHOOK: If y'all could
10 just -- I don't want to make it like a beauty pageant,
11 but if you could turn around with your backs to the jury,
12 and also to Mrs. Routier.
13 THE WITNESS: Okay.
14
15 BY MR. TOBY SHOOK:
16 Q. All right. They don't really have the
17 same build, do they?
18 A. No, sir.
19 Q. So can we eliminate Glenn Mize as
20 being the one?
21 A. I think so.
22

23 MR. TOBY SHOOK: Okay. All right. Y'all
24 can go on back. Thank you.

25

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1 (Whereupon, the witnesses
2 were excused from the
3 courtroom, and the
4 proceedings were resumed
5 on the record as follows:)

6

7 BY MR. TOBY SHOOK:

8 Q All right. So we got Darin out, and
9 we got Glenn out?

10 A. Yes, sir.

11 Q. Okay. Do you remember on the 18th
12 going to the Rowlett Police Department and talking to a
13 man by the name of Bill Parker?

14 A. Yes, sir.

15 Q. A private detective retired Dallas
16 homicide officer?

17 A. Yes, sir.

18 Q. Do you remember how long you talked to
19 him?

20 A. About two hours.

21 Q. Okay. You and him were in a room
22 there at the Rowlett Police Department?

23 A. Yes, sir.

24 Q. Okay. And during the course of that
25 conversation, he read you your Miranda rights, didn't he?

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1 A. Yes, sir.

2

3 MR. JOHN HAGLER: Excuse me, your
4 Honor, could we approach the bench?

5 THE COURT: Yes, you may.

6

7 (Whereupon, a short
8 discussion was held
9 off the record, after
10 which time the
11 proceedings were resumed
12 as follows:)

13

14 MR. JOHN HAGLER: Your Honor, could we
15 have just a second, please?

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

17 Members of the jury, if you will step
18 back in the jury room briefly, please.
19
20 (Whereupon, the jury
21 was excused from the
22 courtroom, and the
23 proceedings were held
24 in the presence of the
25 defendant, with her
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1 Attorney, but outside
2 the presence of the jury
3 as follows:)
4
5 THE COURT: Let the record reflect
6 that these proceedings are being held outside of the
7 presence of the jury, and that all parties in the trial
8 are present.
9 If we can get directly to the point,
10 please, gentlemen.
11 MR. TOBY SHOOK: Yes, sir.
12 THE COURT: Okay. Now, listen to
13 these questions carefully, and just answer them as
14 straight as they come. Okay?
15 THE WITNESS: Yes, sir.
16 THE COURT: All right. Thank you.
17 All right. Mr. Shook.
18 MR. TOBY SHOOK: Yes, sir.
19
20 BY MR. TOBY SHOOK:
21 Q. Do you recall, in talking to Mr.
22 Parker that he accused you of killing your children on
23 six different occasions, and when he did that you
24 answered, "If I did, I don't remember it"?
25 A. No, sir, I did not say that.
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1 Q. You didn't say that on any of the
2 times?
3 A. No, sir.
4 Q. You never said that to him?
5 A. No, sir.
6 Q. Whether it was one time or six times,
7 you never said that to him.
8 A. I never said that I don't remember.
9 Q. Okay.
10

11 MR. TOBY SHOOK: That is the statement
12 that I wanted to ask Mrs. Routier about.
13 THE COURT: And that occurred when?
14 MR. TOBY SHOOK: Oh. Also, Judge,
15 just so we won't have to have another hearing, the other
16 thing is, do you recall Mr. Parker asking you, if
17 everything here in your voluntary statement was true and
18 correct?
19 THE WITNESS: If Mr. Parker asked me
20 that?
21
22 BY MR. TOBY SHOOK:
23 Q. Yes.
24 A. I don't remember him asking me that.
25 Q. And you don't recall reading over this
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1 statement in front of him?
2 A. No, sir. He had an arrest warrant
3 affidavit with him.
4 Q. Um-hum. (Attorney nodding head
5 affirmatively.)
6 A. That's all he had with him, that I
7 saw.
8 Q. You never read over the voluntary
9 statement?
10 A. No, sir, not with Bill Parker.
11 Q. Okay.
12
13 MR. TOBY SHOOK: That is another
14 question I had.
15 THE COURT: She had been Mirandized?
16 MR. GREG DAVIS: Yes, sir.
17 THE COURT: Okay. Mr. Hagler?
18 MR. JOHN HAGLER: Well, your Honor,
19 she was -- from what I understand, the arrest warrant had
20 already been issued. She was at the police station. She
21 was -- although unbeknownst to her, she clearly was in
22 custody. Therefore, the provision 38.22 are going to be
23 applicable, your Honor. And, apparently they are going
24 to attempt to argue here, that this will be some type of
25 impeachment, and I don't think that they have laid the
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1 proper predicate for the impeachment.
2 And, furthermore, apparently -- I'm
3 not sure at what point in time she made these statements,
4 but there are certainly some issues as to whether or not

5 these statements -- that she understood what the
6 interrogation was about, and whether or not she freely
7 and voluntarily made the statements.

8 And, we would object to going into any
9 matters while she was in custody. Clearly there was an
10 arrest warrant out for her. So, these are all custodial
11 statements.

12 THE COURT: That is correct. But she
13 had been Mirandized?

14 MR. GREG DAVIS: Yes, sir, she had.

15 THE COURT: All right. Okay, fine.

16 The Court is overruling your objection and I assume you
17 want a running objection?

18 MR. JOHN HAGLER: Yes, your Honor.

19 THE COURT: You may have it. Let's
20 bring the jury back in.

21

22 (Whereupon, the jury

23 was returned to the

24 courtroom, and the

25 proceedings were

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1 resumed on the record,

2 in open court, in the

3 presence and hearing

4 of the defendant,

5 as follows:)

6

7 THE COURT: All right, you can

8 proceed, Mr. Shook.

9 Let the record reflect that all

10 parties in the trial are present and the jury is seated.

11 Continue, Mr. Shook.

12

13

14 CROSS EXAMINATION (Resumed)

15

16 BY MR. TOBY L. SHOOK:

17 Q. Do you recall talking with a man by

18 the name of Bill Parker, at the Rowlett Police Department

19 on the 18th of June?

20 A. Yes, sir.

21 Q. Okay. And, did he show you your

22 voluntary statement?

23 A. No, sir.

24 Q. Did he show you the voluntary

25 statement, and ask you to read over it?

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1 A. No, sir.

2 Q. Did he ask you, do you want to make
3 any changes in this voluntary statement?

4 A. No, sir. The only thing I saw from
5 him was an arrest warrant affidavit.

6 Q. So you are saying that he never showed
7 you any voluntary statement?

8 A. He did not ever show me my voluntary
9 statement.

10 Q. And, you didn't read over it in front
11 of him?

12 A. No, sir.

13 Q. Okay. And while you talked to him,
14 during that interview, at least six times he accused you
15 of killing your children, and in each response to him,
16 you said "If I did it, I don't remember it"?

17 A. No, sir.

18 Q. You never said that?

19 A. No.

20 Q. Okay. Not once, not twice, not six
21 times?

22 A. I never said that.

23 Q. Okay. And 76-A this is your voluntary
24 statement, isn't it?

25 A. Let me see it.

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1 Q. Is that your statement?

2 A. Yes, sir, it is.

3 Q. And you wrote that out in your own
4 handwriting?

5 A. The day before the viewing, yes, sir.

6 Q. Right. Down at the Rowlett Police
7 Department?

8 A. Yes.

9 Q. How long did it take you to write this
10 out?

11 A. I really don't remember. I know that
12 I was there a total of almost three hours.

13 Q. Okay. It's 10 pages, isn't it?

14 A. If you say so, yes.

15 Q. Okay. Well, take a look at it. Let
16 me just see that last page.

17 A. Yes, 10.

18 Q. Okay.

19 A. Yes, sir.

20 Q. Okay. And did you write it out all in
21 one sitting, just sit down and start writing?
22 A. Yes, sir.
23 Q. Okay. Was Detective Patterson asking
24 you questions?
25 A. He asked me questions before.
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1 Q. Okay. But while you wrote it out, you
2 just sat there and wrote it.
3 A. Just wrote questions.
4 Q. All 10 pages?
5 A. I mean, just wrote, yes, sir.
6 Q. You knew it was real important to get
7 all this information down, didn't you?
8 A. No, sir, I did not.
9 Q. You didn't think it was important?
10 A. Not in the way that they are saying
11 it's important.
12 Q. I mean, didn't you think it was pretty
13 important if a detective on the case is asking you to
14 write down what happened that night?
15 A. Sir, at that time, all I was concerned
16 with was getting to the viewing to see my boys.
17 Q. Well, you wrote 10 pages?
18 A. Yes, sir, I did.
19 Q. Okay.
20 A. And that is not -- if you look at that
21 and you compare that to my normal handwriting, you can
22 tell that is pretty sloppy.
23 Q. Okay. We know, that in this voluntary
24 statement, that you never mentioned going to the kitchen
25 sink, do you?
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1 A. No, sir, there's a lot of things in
2 there that are not mentioned, I believe.
3 Q. All right. Well, we will get to some
4 of those. But as far as going to the kitchen sink,
5 wetting towels, that is never mentioned in here?
6 A. I believe there is mention about
7 getting towels.
8 Q. But wetting towels?
9 A. No, sir.
10 Q. That's not mentioned in there, is it?
11 A. No, sir.
12 Q. Okay. Going to the sink?
13 A. No, sir.

14 Q. The sink is not mentioned anywhere in
15 here, is it?
16 A. No, sir.
17 Q. Of course at that time, you didn't
18 know that the police had taken your kitchen sink, had
19 you?
20 A. No, sir.
21 Q. You didn't find that out until they
22 released the house back to you?
23 A. Well, actually we were in the house
24 that night, but I didn't even recognize it that night.
25 Q. You didn't recognize the sink gone?
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1 A. No, sir.
2 Q. Didn't make any mention of the sink
3 being gone?
4 A. No, as a matter of fact, I mentioned
5 something to Chris Frosch about going to the sink, and
6 he --
7 Q. When did you do that?
8
9 MR. DOUGLAS MULDER: Excuse me, Judge,
10 if he will just do her the courtesy of -- we have been
11 very patient, if he will just do her the courtesy of
12 letting her complete her answer.
13 THE COURT: All right, that is fine.
14 Let her complete her answer. Did you have anything else
15 to say to that?
16 THE WITNESS: Yes, sir.
17 THE COURT: All right, well, go ahead
18 and say it.
19 THE WITNESS: The day the house was
20 released, Chris Frosch was standing, I believe he was in
21 the -- whatever you guys call it, in the living area, the
22 den, the family room -- he was standing in the family
23 room with me and Darin, and I had realized that I had
24 gone to the sink and gotten towels out of the drawer, and
25 I told him that.
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1
2 BY MR. TOBY SHOOK:
3 Q. That is the first time that you
4 mentioned that?
5 A. Yes, sir.
6 Q. But you didn't mention it here in your
7 voluntary statement?

8 A. No, sir.

9 Q. Okay. Of course, you didn't know, how
10 important it might be, if the police discovered that
11 there might be some clean up over there at the sink?

12 A. I didn't think any of that stuff was
13 important.

14 Q. Okay. You also don't mention leaning
15 on the vacuum cleaner at all, do you?

16 A. No, sir.

17 Q. You don't mention the vacuum cleaner
18 anywhere?

19 A. No, sir.

20 Q. Don't mention having to hold on to it
21 like a cane?

22 A. No, sir.

23 Q. Of course, at that time you didn't
24 know that your blood had dripped on it while it was
25 standing.

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1 A. At that particular time, no, sir.

2 Q. And you didn't know that your blood
3 also was shown on it when --

4 A. Sir, there were a lot of things that
5 happened that night that I didn't know of.

6 Q. Excuse me. And you had no idea that
7 the police could later discover that blood -- your blood
8 drops could be found on this vacuum cleaner, in such a
9 way that you deposited that --

10 A. Sir, my blood was everywhere in that
11 house.

12 Q. Could I finish my question, please?

13 A. Yes, sir.

14 Q. You had no way of knowing, that at
15 that time, the police would be able to go in and find
16 that you had put blood on this vacuum cleaner, that it
17 had dripped, while it was laying on the floor, you didn't
18 know that, did you?

19 A. I'm not sure. I didn't know --

20 Q. You didn't know that they could do
21 that, did you?

22 A. That they could see blood on a vacuum
23 cleaner?

24 Q. That they could tell that you had been
25 standing over it while the vacuum cleaner was laying

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1 down? I mean, you are not a blood spatter expert, are
2 you?

3 A. No, sir, I'm not.

4 Q. Okay. And you didn't know that they
5 would be able to tell that your blood was deposited on
6 this vacuum cleaner while it was standing up also, did
7 you?

8 A. No, sir.

9 Q. And you didn't know that they had
10 found the vacuum cleaner laying in the floor but, more
11 importantly what was underneath were your bloody
12 footprints?

13 A. I later found that out, yes, sir.

14 Q. But at the time you made this
15 statement, this 10 page statement, you didn't know that,
16 did you?

17 A. No, sir, I didn't know any of this
18 stuff.

19 Q. Okay.

20 A. I didn't think it was important.

21 Q. And, back on the 8th of June, when you
22 wrote out your 10 page statement, you didn't mention
23 going over to your son Devon, did you?

24 A. No, sir.

25 Q. We're not going to find that anywhere
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1 in here, are we?

2 A. No, sir.

3 Q. Okay. I mean, you mentioned laying a
4 towel on Damon, you mentioned that in here, don't you?

5 A. I believe so.

6 Q. Okay. But you never mentioned going
7 to Devon and putting a towel on him?

8 A. No, sir.

9 Q. Or leaning over to Darin?

10 A. No, sir, there's too many things to
11 remember that happened that night.

12 Q. You talk about Darin giving CPR to
13 Devon in here, don't you?

14 A. I don't know, did I?

15 Q. You describe it, don't you?

16 A. I don't know.

17 Q. Well, you can take a look and see.

18 It should be towards the back.

19 A. About Darin?

20 Q. About Darin performing CPR on Devon?

21 A. "The paramedic came in and tried to

22 work on the children and Darin was screaming, 'Who did

23 this?"

24 Q. Prior to that, do you mention Darin

25 going to the aid of your children?

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1 A. Okay. Yeah, it's right here.

2 Q. Okay. What did you say in that

3 statement?

4 A. "Darin started giving Devon CPR while

5 I put a towel on my neck and a towel over Damon's back."

6 Q. Okay. So you thought it was important

7 enough when you were writing that statement, to put that

8 you put a towel on Damon, and that Darin was giving CPR,

9 but you didn't bother to write in there that you yourself

10 went over, and put a towel on Devon, did you?

11 A. Sir, I didn't know what was important

12 and what was not important at that time.

13 Q. Okay. Well, you left it out?

14 A. Yes, sir.

15 Q. Okay. Now, you say in that statement

16 that you laid a towel on Damon. Do you mean you laid it

17 across his back?

18 A. Yes, sir.

19 Q. While he was lying on the floor there?

20 A. Yes, sir.

21 Q. Okay. You didn't bend down and apply

22 pressure to his back though, did you?

23 A. No, sir.

24 Q. You just laid it across his back?

25 A. Yes, sir.

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1 Q. Okay. That is after you had wet it,

2 right?

3 A. Yes, sir.

4 Q. Okay. So you just kind of laid it

5 down on him?

6 A. Yes, sir.

7 Q. What good would laying a towel down on

8 his back do?

9 A. Sir, I didn't know what I was doing.

10 Q. You didn't know what you were doing?

11 I mean, for that to have any effect at all, you would

12 have to put pressure on it. You would have to hold it,

13 wouldn't you?

14 A. I was trying to do the best that I

15 could in the situation that I was in.

16 Q. Okay. And you said that you wet the

17 towel first?

18 A. Yes, sir.

19 Q. Okay. Wet towels, are not going to do

20 a very good job in that situation?

21 A. Well, I didn't know that.

22 Q. You didn't know that?

23 A. No, sir. I have never had any medical

24 training or CPR training before.

25 Q. Well, your boys have gotten cuts on

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1 them, they have hurt themselves when they were growing

2 up?

3 A. Devon had gotten one cut before.

4 Q. Do you put wet bandaids or wet towels

5 on them, or do you put a dry one on them to stop the

6 bleeding?

7 A. Actually I put -- when Devon had his

8 accident, I did put a wet towel on his head.

9 Q. Doesn't common sense tell you, you

10 have to put a dry towel on something like that?

11 A. Sir, at that time there was no common

12 sense.

13 Q. Okay. Well, you had enough common

14 sense to put a towel on your wound, didn't you?

15 A. Yes, I did.

16 Q. I mean, you put a towel right on your

17 neck right away, didn't you?

18 A. Well, actually it was a couple of

19 times. I know what it says in there, but it was after I

20 had gone back and forth a couple of times.

21 Q. You didn't have any problem in the

22 world figuring out that you needed to put a towel on your

23 neck, and apply pressure to stop that bleeding?

24 A. No, sir, it was also a wet towel too.

25 Q. But you kept it on your neck, didn't

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1 you?

2 A. It was on my neck, yes, sir.

3 Q. The whole time, didn't you?

4 A. I don't know if it was on my neck the

5 whole time.

6 Q. While you were on the phone to 911,

7 you kept that towel right to your neck?

8 A. I'm not sure about that.

9 Q. You are not sure?

10 A. No, sir.

11 Q. Well, we know you kept it on there
12 some, didn't you?
13 A. Yes, sir.
14 Q. I mean, that is why you couldn't
15 put -- apply any pressure to your son Damon, was because
16 you had your hands full?
17 A. Sir, I was running back and forth,
18 doing all kinds of things.
19 Q. One hand, you had the phone?
20 A. Part of time I had the phone like
21 this. (Witness demonstrating.)
22 Q. And the other hand you had the towel
23 right to your neck?
24 A. Part of the time, yes, sir.
25 Q. You weren't about to let that towel
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1 go, and reach down and try to stop the bleeding from your
2 son, were you?
3 A. Sir, I was doing a lot of things at
4 once.
5 Q. Mainly with one hand you were holding
6 that towel?
7 A. Some of the time.
8 Q. But you never applied pressure to
9 Damon's wounds did you?
10 A. No, sir, I didn't.
11 Q. Okay. You also put in your statement
12 that while all of this is going on, let's see, Darin, he
13 is over there working on Devon, and --
14 A. Yes, sir.
15 Q. And you have laid a towel down?
16 A. I went over to Darin and helped with
17 Devon, after I saw what Darin was doing, and then I came
18 back again, and laid the towel down beside Darin, just on
19 the floor.
20 Q. And you write in your statement, "I
21 looked over at Darin and saw the glass table had been
22 knocked half way off, and the flower arrangement had been
23 knocked over?"
24 A. I think so.
25 Q. You remember that?
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1 A. Yes, sir.
2 Q. Okay.
3 A. To some degree.
4 Q. Well, you remembered it enough to be

5 able to write it down in your voluntary statement on the
6 8th?

7 A. It's in there, yes, sir.

8 Q. Okay. "I then stood up and turned
9 around and saw glass all over the kitchen floor."

10 You remember that, don't you?

11 A. If it's in there, yes, sir.

12 Q. Your memory back on the 8th was that

13 you saw all this glass on the kitchen floor?

14 A. I did see some glass on the kitchen
15 floor.

16 Q. While your son Damon is lying there
17 bleeding, and your husband was working on Devon?

18 A. Well, it was just a glance, it's

19 not -- I mean --

20 Q. Then, "I tried to glance over to see
21 if anything was out of place, or if anything was
22 missing"?

23 A. Yes, sir.

24 Q. You looked around to see if anything
25 was missing?

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1 A. Well, when I was standing where the
2 knife was placed, there was -- my jewelry was sitting
3 right beside it, and that is what I saw.

4 Q. Okay. Why would you want to glance
5 around to see if anything was missing?

6 A. Because the officer when he came in
7 told me that nothing was gone.

8 Q. Okay. So you wanted to look around
9 for that?

10 A. I didn't necessarily look around, I
11 mean, it was like right there in front of my face.

12 Q. And you knew nothing was gone?

13 A. As far as that, it didn't look like
14 anything was gone.

15 Q. You said that several times on the 911
16 tape?

17 A. Yes, sir, I was just responding to
18 what the officer told me.

19 Q. Nothing is touched, nothing is
20 touched?

21 A. I think he said, nothing is -- there
22 is nothing gone, I think those were his words.

23 Q. And, your interpretation of the 911
24 tape is that, you never used the word that "I was
25 fighting"; is that right?

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1 A. No, sir. You can hear it.

2 Q. Your interpretation is you were
3 frightening?

4 A. I was frightened.

5 Q. Frightened.

6 A. If you say it like that, but when you
7 are running back and forth, and you are out of breath.

8 Q. Okay. Let me take a moment, maybe I
9 can use one of these. All right.

10 A. What page?

11 Q. Five. Okay. About the middle of that
12 page, before we get to that?

13 A. Yes, sir.

14 Q. You are saying, I believe "Some man
15 came in, stabbed my babies stabbed me. I woke up" -- and
16 your version is, "I was frightening"?

17 A. Yes, sir.

18 Q. Frightening?

19 A. Yes, sir.

20 Q. "And he ran out and threw the knife
21 down"?

22 A. Yes, sir.

23 Q. Of course our version was, "I was
24 fighting"?

25 A. Well, you can listen to it.

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1 Q. Of course, if you said "I was
2 fighting," that would indicate that you remember what was
3 going on, right?

4 A. I'm not sure.

5 Q. Well, if you were able to say on the
6 911 tape, I was fighting him, that would mean you would
7 have a memory of that attack, wouldn't it?

8 A. Well, it does not necessarily mean
9 that.

10 Q. It doesn't?

11 A. I was talking to three different
12 people at one time.

13 Q. But, if you said on the 911 tape, if
14 you said, "I woke up, I was fighting, and he ran through
15 the garage." That would indicate that you do remember
16 what was going on, wouldn't it?

17 A. Well, sir, I don't think that it says
18 fighting.

19 Q. Oh, no.

20 A. I have listened to this tape a lot of
21 times.
22 Q. But if it did say fighting?
23 A. I don't think it does say fighting.
24 Q. If it did say fighting, wouldn't that
25 indicate that you do remember --
Sandra M. Halsey, CSR, Official Court Reporter
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1 A. I don't think it does say fighting. I
2 don't think it does say fighting.
3 Q. If it did say fighting, wouldn't that
4 be an indication that you remember what was going on?
5 A. I don't think that it does say
6 fighting.
7 Q. Can I take that as a yes then?
8 A. I think it says frightening.
9 Q. You were frightening?
10 A. Yes, sir. You can listen to it.
11 Q. Oh, I have?
12 A. I know you have.
13 Q. I have lots of times.
14 A. So have I.
15
16 THE COURT: All right. Let's just ask
17 questions and answers please.
18
19 BY MR. TOBY L. SHOOK:
20 Q. Do you remember talking to Detective
21 Waddell there when he came into your house?
22 A. Very briefly.
23 Q. Okay. Did you tell Detective Waddell
24 that you had been fighting with the man there at the
25 island area?
Sandra M. Halsey, CSR, Official Court Reporter
4968

1 A. No, sir, it would have been on the
2 call as well, and it's not on there.
3 Q. Okay. You never told him that any
4 time he was in your house?
5 A. No, sir, I didn't.
6 Q. Okay. You remember the paramedic, the
7 one with the nickname Toad?
8 A. I only remember them really by their
9 faces.
10 Q. He was the one that actually put the
11 bandage on you and walked you out?
12 A. I don't remember.
13 Q. Okay.

14 A. I thought that there were two of them.
15 Q. Did you ever make the statement, there
16 in your living room, in front of the paramedics then,
17 that the man was wearing a ball cap, and he broke out the
18 window in the garage?
19 A. I don't ever remember saying that.
20 Q. Okay. So you don't remember if you
21 said that or not?
22 A. No, sir.
23 Q. Okay. Do you remember talking to
24 Detective Patterson and Detective Frosch down there,
25 after your operation?
Sandra M. Halsey, CSR, Official Court Reporter
4969

1 A. I do remember some of that, yes, sir.
2 Q. Okay. And do you remember telling
3 them that morning, that the man was standing over you,
4 and you fought with him on the couch?
5 A. No, I heard Patterson say that, but I
6 don't remember saying anything about that.
7 Q. So it was Detective Patterson that
8 suggested that?
9 A. I think that is what -- when he came
10 up here, isn't that what he said?
11 Q. He said that -- he said, are you
12 fighting with him on the couch?
13 A. I'm not sure. He just said something
14 along those lines, I thought, when he was sitting up
15 here, when he was up here the other day.
16 Q. Well, you remember the nurse Chris
17 Wielgosz?
18 A. Again, I only remember the people as
19 they came in here by their face.
20 Q. Okay. He was the nurse with glasses
21 that tended to you, when you got out of the operating
22 room. He was the nurse present when Detective Patterson
23 and Frosch talked to you?
24 A. I really don't remember that.
25 Q. That nurse that gave you the truth
Sandra M. Halsey, CSR, Official Court Reporter
4970

1 serum?
2 A. I really don't remember him.
3 Q. Okay. Well, you remember him
4 testifying, don't you?
5 A. Well, there's been a lot of people to
6 testify.
7 Q. Do you remember his description of how

8 the detectives questioned you?

9 A. I really -- I don't remember who you
10 are talking about specifically.

11 Q. Okay. It would be the nurse that was
12 there with the detectives?

13 A. Well, I know, but there were a couple
14 of nurses.

15 Q. Well, do you remember someone
16 testifying, that said they were present while the
17 detectives were questioning you?

18 A. I think so, I sort of remember that,
19 yes.

20 Q. Okay. Well, that is who we're talking
21 about?

22 A. Okay.

23 Q. And do you remember his description
24 was that the detectives went slowly and methodically?

25 A. I really don't remember what his exact
Sandra M. Halsey, CSR, Official Court Reporter
4971

1 words were.

2 Q. That they never suggested answers to
3 you?

4 A. Sir, I don't remember what he -- I
5 mean, there's been so many people testifying, I don't --

6 Q. Okay. Are you saying then today, that
7 Detective Patterson was suggesting answers to you?

8 A. Suggesting as in, what do you mean?

9 Q. Fighting on the couch?

10 A. What do you mean? He was telling me.

11 Q. Well, I think that is what you are
12 trying to get across, that you didn't come up with the
13 word fighting, that was Detective Patterson?

14 A. Sir, I don't even remember that.

15 Q. Okay. You don't have any memory of
16 that?

17 A. As far as fighting?

18 Q. Fighting on -- telling Detective
19 Patterson that you fought with the man on the couch?

20 A. No, I don't -- I mean, I don't think
21 that I said that. I could have said that, but I don't
22 remember saying that.

23 Q. Okay. So you could have said that?

24 A. Yes, sir.

25 Q. Okay.
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4972

1 A. I mean, I think that you can have, you
2 know, memory, especially in that situation.
3 Q. Okay. Then you got transferred up to
4 the ICU floor?
5 A. I guess so.
6 Q. You don't remember that?
7 A. No, sir.
8 Q. Do you remember telling the nurse,
9 Dianne Hollon, that you felt pressure on you, and you
10 woke up and a man was standing over you?
11 A. I don't remember -- I remember their
12 faces when they came in here and when you guys were
13 talking to them, but I don't -- I mean, I don't -- when
14 you say you are familiar with them, I am not.
15 Q. She was the nurse that attended you
16 from about 8:00 in the morning until 7:00 at night, the
17 tall girl with brown hair?
18 A. Tall girl with brown hair?
19 Q. Was with you for about 11 hours?
20 A. What was her name?
21 Q. Dianne Hollon.
22 A. I don't remember, but I'll try to
23 answer your questions.
24 Q. Do you remember telling her that you
25 felt pressure on you, the man was standing over you?
Sandra M. Halsey, CSR, Official Court Reporter
4973

1 A. I do remember feeling pressure on my
2 legs.
3 Q. Do you remember telling her that the
4 man was standing over you, and you fought him off?
5 A. No, sir, I don't remember that.
6 Q. Okay.
7 A. I do remember the pressure though on
8 my legs.
9 Q. All right. Where was it on your legs?
10 A. It was on my right leg.
11 Q. On your right leg?
12 A. Yes, sir.
13 Q. Okay. Do you remember telling the
14 nurse, Paige Campbell, she is the small nurse with blonde
15 hair?
16 A. I think I remember Paige Campbell,
17 because she gave me a shower I think.
18 Q. Okay. Do you remember that you showed
19 her your hand, and you said, "This is where he cut me
20 when I tried to grab the knife"?
21 A. No, sir.
22 Q. You don't remember telling her that?

23 A. No, sir. I remember her giving me a
24 shower.

25 Q. Okay. Do you remember telling her
Sandra M. Halsey, CSR, Official Court Reporter
4974

1 that you woke up and the man was standing over you and
2 tried to stab you with a knife?

3 A. No, sir.

4 Q. Okay. Are you saying you just don't
5 remember that or that didn't happen?

6 A. I'm just saying I don't remember that.

7 Q. Okay. So you could have said that?

8 A. I suppose it's possible.

9 Q. Okay. If you had said that, would
10 that not mean that you do remember this attack?

11 A. I don't remember this attack as of
12 right now, I do not remember.

13 Q. Okay. Do you remember talking to the
14 nurse, Denise Faulk, that is the last nurse that
15 testified, the one that had you --

16 A. I remember her up here, but I don't
17 remember her in there.

18 Q. Okay. And do you remember, she is the
19 one that took the pink notes of what you said?

20 A. Yes, I remember her sitting up here.

21 Q. Okay. And, do you remember telling
22 her, about 3:00 in the morning, that when you were laying
23 on your right side that you told her, "I was laying just
24 like this"?

25 A. First of all, I can't imagine -- can I
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4975

1 see a picture of my arm? Do you have a picture of the
2 arm?

3 Q. Well, why don't you -- I'll show you a
4 picture of the arm in a minute.

5 A. Okay. I don't imagine that I would be
6 laying on the right side with my arm like that.

7 Q. So, that didn't happen?

8 A. I am just saying that I don't believe
9 that I would lay -- I mean, if you look at that picture,
10 I don't think anybody would be laying on that arm, as
11 what you are saying. I think you could lay on it like
12 this, with the arm out.

13 Q. Okay.

14 A. But not like this.

15 Q. Okay. Do you think she might have
16 been making that up?

17 A. No, sir, I think maybe either she has
18 misunderstood, or has gotten her information wrong.

19 Q. Okay. So maybe she misunderstood what
20 you said?

21 A. Yes.

22 Q. Of course, if you are laying on your
23 right side, your back never would be exposed to any blood
24 you might get on it, would it?

25 A. Well, I'm not sure I understand.

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1 Q. Do you remember telling Denise Faulk
2 that you woke up when Damon started touching you and
3 crying?

4 A. I really don't remember that.

5 Q. Do you remember telling her that you
6 felt a wrestling at your neck area?

7 A. No, sir, I don't remember that.

8 Q. You just don't remember that?

9 A. No, sir.

10 Q. Again, I guess if you did tell her
11 that, that would indicate that you did have some memory
12 of this attack, wouldn't it?

13 A. Well, I don't remember that.

14 Q. You don't know of any reason that
15 Denise Faulk would have to come down here and lie about
16 that, do you?

17 A. I don't know of any reason, no, I
18 mean --

19 Q. I mean, y'all didn't know each other
20 before this did you?

21 A. No, sir, but --

22 Q. Can you think of a good reason?

23 A. Well, I have heard a lot of things
24 that --

25 Q. Do you think all of the nurses might
Sandra M. Halsey, CSR, Official Court Reporter
4977

1 have gotten together and come down here and --

2 A. No, sir, I don't think that. That is
3 not what I'm saying. I just think that maybe a lot of
4 people, a lot of time went by, and I think that you can
5 definitely --

6 Q. Well, you heard her, she wrote it
7 down.

8

9 THE COURT: Well, let her finish her
10 answer. Do you want to add any more?

11 THE WITNESS: Well, I just think that
12 you can definitely take things out of context, after a
13 certain period of time.

14

15 BY MR. TOBY L. SHOOK:

16 Q. Well, as far as time goes by, you
17 heard her testimony. She wrote these notes down?

18 A. Yes, sir, I did.

19 Q. When she got home. Pretty fresh on
20 her mind?

21 A. She has got the notes.

22 Q. Okay.

23 A. But how do we know that those were
24 written then?

25 Q. Do you think she lied about it?

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4978

1 A. No, I'm not saying that.

2 Q. Okay. Well, do you think we can trust
3 her?

4 A. She seems like a nice person.

5 Q. Okay. Have you told any one else that
6 a man was standing over you, and you woke up, and he
7 tried to stab you?

8 A. Just as far as the dream that I had.

9 Q. Just the dream?

10 A. Yes.

11 Q. When did your memory start getting
12 better? I mean, I guess you don't remember much that
13 happened in the hospital, do you?

14 A. No, I don't even remember, as far as
15 my relatives being there. I have had a lot of different
16 people say that they talked to me, and came and saw me
17 that I don't remember.

18 Q. Okay. You remember everything up
19 until this attack, don't you? What went on in the
20 evening?

21 A. To a certain extent, I mean, yeah.

22 Q. I mean, your memory is not fuzzy on
23 when Darin got home?

24 A. No, sir.

25 Q. Or what you did all day?

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1 A. No, sir, I was conscious then, yes,

2 sir.

3 Q. Your memory is not fuzzy on having
4 your little sister Dana there, and what the boys were

5 doing, is it?

6 A. No, sir.

7 Q. It's not fuzzy as to what you and

8 Darin talked about, is it?

9 A. To a certain extent, no, sir.

10 Q. Okay. But then, as far as any of the

11 facts of this offense goes, you don't remember a thing

12 about that, do you?

13 A. No, I can speculate, but I don't know,

14 to sit her and tell you, I can't tell you that.

15 Q. Then your memory gets kind of good

16 again, because you give a lot of details in your

17 voluntary statement about what happened after you saw --

18 A. I think if I live to be a hundred, I

19 wouldn't be able to tell you everything that happened

20 that night.

21 Q. Okay.

22 A. For detail.

23 Q. Well, you gave us a lot of details?

24 A. I gave some things, yes, sir.

25 Q. And you were able to give a lot of

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1 details on the 8th, when you wrote this statement out?

2 A. Yes, sir, but I still think that

3 there's a lot of things to this day, that --

4 Q. But as far as where the paramedics

5 were, what Darin was doing, what you were doing, you were

6 able to write that all down on June the 8th, weren't you?

7 A. Not every bit of it, but some of it,

8 yes, sir.

9 Q. Well, we will be able to see for

10 ourselves what all you wrote down?

11 A. Yes, sir, I think we have already gone

12 over that.

13 Q. Okay. But then again at the hospital,

14 when all of these statements are made to these nurses?

15 A. Yes, sir.

16 Q. Your memory is gone again, isn't it?

17 A. I just don't remember now.

18 Q. You just don't remember those?

19 A. No, sir.

20 Q. It kind of goes in and out?

21 A. Yes, sir. I have been told that that

22 is common.

23 Q. Okay. But I guess it got better on

24 the 8th when you were writing this statement out?

25 A. A little bit, but not much.

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1 Q. Okay. And as far as --

2 A. Like I said, to this day, there is

3 still a lot of steps that I don't remember.

4 Q. Okay. And you remember going to the

5 police station and giving this statement, don't you?

6 A. Yes, sir, it was before the viewing.

7 Q. And then you went to the viewing after

8 that?

9 A. Yes, sir. I was almost two hours

10 late.

11 Q. And then the next day was the funeral?

12 A. Yes, sir.

13 Q. Okay. Then there was a birthday party

14 after the funeral at your mother's house, wasn't there?

15 A. That is kind of been misunderstood as

16 a birthday party.

17 Q. It wasn't a birthday party?

18 A. Well, after a funeral people go to the

19 person's home, and they get together, and eat, or talk

20 and console each other, and the kids were there, and they

21 were swimming out in the back, and I had given my little

22 sister the sand art for them to do sand art. For Devon,

23 for his birthday.

24 Q. So you are saying that there wasn't a

25 birthday party at your mother's house?

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1 A. It wasn't really a birthday party.

2 Q. Okay. I guess your good friend Karen

3 Neal was just mixed up about that?

4 A. No, sir.

5 Q. Okay. Were your aunts there, your

6 aunts from Pennsylvania, were they there at your mother's

7 house?

8 A. I don't remember.

9 Q. Okay.

10 A. I think they could have been, but I'm

11 not exactly sure.

12 Q. Okay.

13 A. I mean, because we had relatives that

14 were staying at hotels, and they were going back and

15 forth, and --

16 Q. But, by that, you do remember going to

17 the party, don't you? Your memory wasn't bad at that

18 point, was it?

19 A. Really, I don't remember much about

20 that day. I stayed in the house, and pretty much -- I
21 don't really remember too much about that.

22 Q. Well, your other good friend in the
23 neighborhood is Mercedes Adams?

24 A. Yes, sir.

25 Q. Do you remember that next week going
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1 over to her house and talking to her?

2 A. I think I went over to her house and
3 to Karen's.

4 Q. Okay. And do you remember talking to
5 her in her family room area?

6 A. I don't really remember it, but yes,
7 it is possible that I did that.

8 Q. Her house has the same exact floorplan
9 as your house does, doesn't it?

10 A. Yeah, to some extent, yes, it does.

11 Q. Okay. And back in that family room,
12 she has kind of set her furniture up, following your
13 example, hasn't she? Two couches?

14 A. Well, I don't know about that.

15 Q. Okay. Do you remember talking to her
16 about what happened there in that family room on that
17 couch?

18 A. About --

19 Q. About what happened that night?

20 A. About everything that happened that
21 night?

22 Q. Well, just describing to her what
23 happened that night. Do you remember talking to her
24 about that night?

25 A. I'm sure I did. I talked to Mercedes
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4984

1 about a lot of things. I talked to her about that, I
2 talked to her about everything that was going on.

3 Q. Okay. Well, let me talk specifically
4 about that. Do you remember telling Mercedes Adams that
5 Damon woke you up, and when you woke up, there was a man
6 standing over you, and then he tried to stab you in the
7 heart, and you were able to block his blow. And that is
8 how this cut got on your left side?

9 A. No, sir, I mean, I think I did tell
10 her that, but that was about a dream that I had.

11 Q. Okay. You did tell her that though?

12 A. I believe so.

13 Q. But that was a dream you had?

14 A. Yes, sir, just like I said before. I
15 had about seven or eight dreams just like that.
16 Q. So when you told her this, did you say
17 Mercedes, this is a dream I had about what happened?
18 A. Well, I don't know if I said it in
19 those exact words.
20 Q. You mean you might have been able to
21 tell her that, and just not mention that it was a dream
22 you were having?
23 A. I don't think so.
24 Q. You don't think so?
25 A. No, sir.
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1 Q. So, you think before you went through
2 that rendition of it, you would have told her, this is a
3 dream I had?
4 A. Well, in some perspective like that,
5 yes, sir.
6 Q. Okay.
7 A. I think that I would have said that.
8 Q. So she wouldn't have thought any way
9 that you were trying to tell her what had happened that
10 night?
11 A. No, sir, I did tell her what the
12 psychic told us about what happened.
13 Q. Well, I'm not asking you about what
14 the psychic said.
15 A. Well, it was the same thing.
16 Q. Okay. So this was just a dream you
17 were telling Mercedes about?
18 A. Yes, sir.
19 Q. Okay. Do you remember having a
20 conversation with Mercedes later, when she asked you how
21 you could sleep through this killing?
22 A. I don't really remember her asking me
23 that.
24 Q. You don't remember that?
25 A. She could have, but I really don't
Sandra M. Halsey, CSR, Official Court Reporter
4986

1 remember.
2 Q. She could have asked you that?
3 A. Yes, sir.
4 Q. Do you remember her asking how could
5 you sleep through your boys being stabbed? How did you
6 sleep through it?
7 A. That is a question I have asked myself

8 many times.

9 Q. Well, do you remember telling her,

10 "Well, I was on sleeping pills that night, Mercedes"?

11 A. No, I don't think I said that.

12 Q. You didn't say that?

13 A. No.

14 Q. I mean, you weren't on sleeping pills,

15 were you?

16 A. No, sir, I wasn't.

17 Q. Okay. When was it that you started

18 sleeping downstairs on the couch?

19 A. We had slept downstairs on the couch

20 for quite some time. I mean off and on, it wasn't an all

21 the time thing.

22 Q. That evening you were watching TV; is

23 that right?

24 A. Yes, sir.

25 Q. But your head was at this end of the

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1 couch; right?

2 A. Yes, sir, it was.

3 Q. The TV is behind you?

4 A. Yes, sir.

5 Q. How long had you been laying in that

6 position?

7 A. I had been laying that way the whole

8 time.

9 Q. How could you watch TV in that

10 position?

11 A. You are on your stomach and you are

12 looking at the TV.

13 Q. Okay. So you were laying there on

14 your stomach, watching TV that way?

15 A. Yes, sir.

16 Q. And you decided to sleep on the couch

17 downstairs?

18 A. Yes, sir.

19 Q. How many nights in a row had you done

20 that?

21 A. I didn't do it the night before. The

22 boys had a friend over. And, I may have done it before

23 that, and I may have done it the Friday, the week before

24 that, with my little sister.

25 Q. Okay. Did you not tell the police

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1 there on the 6th that you had been sleeping downstairs
2 for about the last five days?

3 A. Well, I don't remember saying the last
4 five days.

5 Q. Well, why did you choose to sleep down
6 there that night?

7 A. Well, the boys were down there
8 sleeping, and Damon, if he wakes up, he wakes up every
9 night, and he comes into our bedroom, and he gets in bed
10 with us. If Devon wakes up, he usually, wakes up and
11 then goes back to sleep, but Damon doesn't do that. And
12 so, I wanted to make sure that I was down there with
13 Damon.

14 Q. Well, why didn't you just put Damon in
15 his bed?

16 A. Because it was already late, and they
17 were already sound asleep. It was our home. It was our
18 home, sir, I didn't -- I mean, what is wrong with
19 sleeping downstairs?

20 Q. Do you usually let your children lay
21 on the floor and sleep all night?

22 A. Sometimes.

23 Q. Okay. That was a normal practice?

24 A. Yes, sir, it was.

25 Q. Okay. Why did you want to sleep
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4989

1 downstairs then?

2 A. Because, mainly my children were down
3 there.

4 Q. Okay. And, why did you want to sleep
5 down there with the children?

6 A. Because of Damon.

7 Q. Because he would wake up at night?

8 A. Yes, sir, and he would cry.

9 Q. He would cry?

10 A. Yes, sir.

11 Q. If you weren't right there?

12 A. Yes, sir.

13 Q. Okay. When he wakes up in his bed,
14 does he start crying?

15 A. In his bed?

16 Q. Yes.

17 A. No, usually he comes into our room.

18 Q. Okay.

19 A. Like if he had a bad dream, or
20 sometimes he would wet the bed.

21 Q. Okay. But you decided not to take

22 them upstairs and put them in their beds after they were

23 asleep?

24 A. No, sir.

25 Q. Okay. And you had the window open?

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4990

1 A. From what I remember, it was open.

2 Q. Okay. Now, you weren't sleeping on

3 the couch because you had had some disagreement with your
4 husband, were you?

5 A. That night, was I sleeping there?

6 Q. Yes.

7 A. No, sir.

8 Q. Okay. You weren't down there

9 sleeping separate from him because you were mad at him?

10 A. No, sir, as a matter of fact, when we

11 went to bed, we had both told each other that we loved

12 each other and we would see each other in the morning.

13 Q. Okay. And that dog you had, he barks

14 a lot at strangers, doesn't he?

15 A. He does bark a lot if he is awake.

16 Q. If he is awake?

17 A. Yes, sir.

18 Q. He is not a real old dog, is he?

19 A. No, I believe he is a couple of years.

20 Q. Okay. I guess he just slept through

21 this whole thing also?

22 A. No, actually I think when everybody

23 started arriving, he was barking. I think Karen had to

24 go up and get him.

25 Q. Okay. He can make a lot of noise when

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4991

1 he wants to, can't he?

2 A. Yes, sir.

3 Q. Okay. What about that big cat that

4 was right next to your head? Does he sleep well too?

5 A. He wasn't right next to my head, but,

6 I think animals are kind of like people.

7 Q. Well, what do you mean by that?

8 A. Well, they sleep and eat just like we

9 do.

10 Q. They don't wake up when strangers come

11 into the room?

12 A. I don't know, sir. I don't know if he

13 did or not.

14 Q. Oh, and this man that you saw, you

15 said he had a T-shirt, are you talking about a short

16 sleeve T-shirt?

17 A. I don't know for sure if it was short
18 sleeve, but --
19 Q. You think it was short sleeved?
20 A. I think it was short sleeved.
21 Q. Okay. Now, your finances, are you
22 trying to tell the jury that you didn't have any
23 financial problems at all?
24 A. No, sir, I'm not trying to say that at
25 all.
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4992

1 Q. Had business been slow?
2 A. Yes, it had.
3 Q. And how long had it been slow?
4 A. It was a little bit slow, I think
5 March and April had been slower than what we were used
6 to. May had picked up.
7 Q. Just March and April, are those the
8 only slow months you had?
9 A. That were slow.
10 Q. Okay.
11 A. Yes, sir.
12 Q. Okay. Money wasn't tight at that
13 time?
14 A. Yes, money was tight.
15 Q. Okay.
16 A. But the bills were being paid.
17 Q. Okay.
18 A. As a matter fact, I think we withdrew
19 11 thousand dollars out of our account, as far as draws
20 in May, which is one of our biggest draws that we had.
21 Q. I guess, if those are reflected in the
22 records, we could see that?
23 A. Yes, sir, they do, as a matter of
24 fact.
25 Q. Okay. Do you recognize 83-B?
Sandra M. Halsey, CSR, Official Court Reporter
4993

1 A. Yes, sir, I do.
2 Q. Okay. And, were y'all two months
3 behind on your mortgage?
4 A. No, sir, and this was found in the
5 trash that came out of our Pathfinder that the -- I guess
6 the detectives, or whoever looked for it, it was found in
7 the trash, in the garage.
8 Q. Right.
9 A. And it was in the trash, because it
10 had been paid and taken care of.

11 Q. Right. But when you received this in
12 May, had y'all been two months behind on the mortgage
13 payment?

14 A. No, sir, we weren't. We were one
15 month behind and the next one was coming up.

16 Q. And were you one month behind because
17 you all had been real short on money?

18 A. No, actually we were one month behind
19 because I completely forgot. I had just started paying
20 bills at home, when I was used to paying them at the
21 shop.

22 Q. So you had just forgotten to make that
23 payment?

24 A. Well, there was actually a couple of
25 bills that I had forgotten to make.

Sandra M. Halsey, CSR, Official Court Reporter
4994

1 Q. Same thing on the American Express
2 bill, I guess?

3 A. I'm not sure about that American
4 Express bill.

5 Q. And despite --

6 A. I do know that it was paid, but I
7 don't remember seeing that.

8 Q. Okay. Despite being strapped for
9 money, you were planning on going to Pennsylvania for two
10 weeks?

11 A. Yes, sir.

12 Q. Then you were going to go down to
13 Mexico with your good friend Mercedes?

14 A. Yes, sir.

15 Q. Was that going to be in July?

16 A. Yes, sir.

17 Q. Okay. And you had a lot of jewelry
18 out that wasn't taken in this attack; is that right?

19 A. Yes, sir.

20 Q. That was the photographs with all of
21 the jewelry that we have seen on the bar?

22 A. Yes, sir.

23 Q. And, you usually wore those on your
24 fingers, did you not?

25 A. Yes, sir.

Sandra M. Halsey, CSR, Official Court Reporter
4995

1 Q. Was it your practice to wear rings on
2 every finger?

3 A. Sometimes.

4 Q. You bought a lot jewelry, didn't you?

5 A. My husband bought me a lot of jewelry.
6 Q. Did you ever shop for jewelry
7 yourself?
8 A. Not by myself.
9 Q. You never went into these pawn shops
10 by yourself?
11 A. Not by myself, no, sir.
12 Q. Was Darin always with you?
13 A. Yes, sir.
14 Q. Did you take the children with you
15 sometimes when you went shopping?
16 A. I think there were a couple of times.
17 Q. Did you take them into the pawn shop
18 when you went shopping?
19 A. Maybe a couple of times.
20 Q. So you are saying that Darin was the
21 one that would buy the jewelry for you?
22 A. Well, we would look at it together.
23 Q. Okay. And that was one of your
24 hobbies; is that right?
25 A. Well, I don't know if you would call
Sandra M. Halsey, CSR, Official Court Reporter
4996

1 it a hobby.
2 Q. Okay. Had you not been having fights
3 up at work with your husband in '96, in March and April?
4 A. We had ups and downs, just like
5 everybody else does.
6 Q. Were you not fighting more frequently
7 over money?
8 A. No, sir.
9 Q. That just wasn't happening?
10 A. No, sir.
11 Q. You weren't having loud arguments at
12 work over money?
13 A. No, sir, if we had arguments at work,
14 usually it was about something that had happened with a
15 job.
16 Q. Okay. Not over money or anything like
17 that?
18 A. No, sir.
19
20 MR. TOBY SHOOK: Judge, could we
21 approach the bench for a second?
22 THE COURT: Certainly.
23 MR. TOBY SHOOK: Just for a moment.
24 THE COURT: Certainly.
25

Sandra M. Halsey, CSR, Official Court Reporter
4997

1 (Whereupon, a short
2 Discussion was held
3 Off the record, after
4 Which time the
5 Proceedings were resumed
6 As follows:)

7
8 THE COURT: All right. Ladies and
9 gentlemen of the jury, once more, you will have to step
10 out of the courtroom briefly, please.

11
12 (Whereupon, the jury
13 was excused from the
14 courtroom, and the
15 proceedings were held
16 in the presence of the
17 defendant, with her
18 attorney, but outside
19 the presence of the jury
20 as follows:)

21
22 THE COURT: All right. All right.
23 Just a minute.
24 Let the record reflect that all
25 parties in the trial are present, and these proceedings
Sandra M. Halsey, CSR, Official Court Reporter
4998

1 are being held outside of the presence of the jury.
2 MR. TOBY SHOOK: No, Judge, this is
3 not a hearing. I need to go back there for a moment.
4 THE COURT: All right.
5 MR. TOBY SHOOK: About 10 minutes.
6 THE COURT: Well, let's take a 10
7 minute break then. All right.

8
9 (Whereupon, a short
10 recess was taken,
11 after which time,
12 the proceedings were
13 resumed on the record,
14 in the presence and
15 hearing of the defendant
16 and the jury, as follows:)

17
18 THE COURT: All right. Are both sides
19 ready to bring the jury in and resume the trial?

20 MR. GREG DAVIS: Yes, sir. The State
21 is ready.
22 MR. DOUGLAS MULDER: Yes, sir, the
23 defense is ready.
24 THE COURT: All right. Bring the jury
25 in, please.
Sandra M. Halsey, CSR, Official Court Reporter
4999

1
2 (Whereupon, the jury
3 was returned to the
4 courtroom, and the
5 proceedings were
6 resumed on the record,
7 in open court, in the
8 presence and hearing
9 of the defendant,
10 as follows:)
11
12 THE COURT: Let the record reflect
13 that all parties in the trial are present and the jury is
14 seated.
15 Mr. Shook.
16 MR. TOBY SHOOK: Thank you.

17
18
19 CROSS EXAMINATION (Resumed)
20
21 BY MR. TOBY L. SHOOK:
22 Q. Ma'am, do you remember calling up a
23 radio show, back on December 5th and talking to a man by
24 the name of Rick Roberts up in Dallas?
25 A. Yes, sir.
Sandra M. Halsey, CSR, Official Court Reporter
5000

1 Q. Okay. Do you need me to wait? Are
2 you okay?
3 A. Yes, sir.
4 Q. Okay. I can wait if you need a
5 moment?
6 A. No, I'm fine.
7 Q. Okay. I've got a typed transcript of
8 that, but do you remember telling him -- let me show you
9 the statement, and you said, "It happened, but I just
10 want people to keep an open mind. I want people to know
11 that I did not murder my children. I know what happened
12 in that house that night"?
13 A. Yes, sir.

14 Q. Okay. And then you repeated it again.
15 "I know what happened in that house that night"?

16 A. Yes, sir.

17 Q. Okay. Now, I brought Glenn Mize in
18 here earlier and you said that he didn't match the
19 description, right? We could rule him out?

20 A. Well, he is too large.

21 Q. Okay. And we could rule him out?

22 A. Yes, sir.

23 Q. But, in the past, you have made lots
24 of statements, written letters to your family and friends
25 saying it was Glenn Mize, haven't you?

Sandra M. Halsey, CSR, Official Court Reporter
5001

1 A. I didn't say it was Glenn Mize.

2 Q. You made lots of statements in the
3 past, haven't you?

4 A. Yes, sir.

5 Q. Do you remember writing a letter to
6 your Aunt Sandy on November 1st of 1996? Do you remember
7 doing that?

8 A. Can I see the letter, please?

9 Q. Sure.

10 A. Yes.

11 Q. Do you see at the top there, Aunt
12 Sandy?

13 A. Yes, sir.

14 Q. That is a copy of a letter you wrote
15 her, isn't it?

16 A. Yes, sir.

17 Q. Okay. And do you remember telling
18 her, "We believe we know who did it. That FBI guy is
19 working on it. We have two months to work on it. We
20 already have so much on him. I really believe he did it.
21 Darin will have to tell you about him it's a long story,
22 I know it's him. I saw him and I know it's him"?

23 A. Yes, sir.

24 Q. You wrote that to your aunt?

25 A. Yes, sir, can I see this page a minute
Sandra M. Halsey, CSR, Official Court Reporter
5002

1 please?

2 Q. Sure.

3 A. Yes, sir, that's it.

4 Q. Okay. So in this letter you say, "I
5 saw him and I know it's him."

6 A. I don't think that we were talking
7 about Glenn Mize at that time.

8 Q. Well, you were talking about someone
9 that you thought did it?
10 A. Yes, sir.
11 Q. Who did you think did it back on
12 November 1st?
13 A. There was another man that lived in
14 the neighborhood that some people were telling me about.
15 Q. Okay. Well, you say in the letter,
16 "I saw him"?
17 A. Yes, sir.
18 Q. I mean that is a pretty positive
19 statement. "I saw him and I know he did it." Are you
20 talking about that other man, or are you talking about
21 Glenn Mize?
22 A. I'm talking about the other man that
23 they were telling me about.
24 Q. Okay. Then, let me show you another
25 letter to your good friend Karen?
Sandra M. Halsey, CSR, Official Court Reporter
5003

1 A. Yes.
2 Q. Do you recognize that?
3 A. May I see it?
4 Q. Sure. Do you recognize that as a copy
5 of the letter to your friend Karen?
6 A. Yes, sir, that is my handwriting.
7 Q. You say in that letter, and you even
8 underlined it: "Karen, I know who did it, I can't write
9 it down, they read my mail"?
10 A. Yes, sir, at the time I was hoping.
11 Q. You were just hoping?
12 A. Yes.
13 Q. Okay. So you --
14 A. I had been told a lot about two
15 different people.
16 Q. Okay. Let me show you another letter
17 to Karen, do you recognize that?
18 A. Let me read it.
19 Q. Okay. Do you recognize that letter to
20 your friend Karen?
21 A. Yes, sir.
22 Q. Okay.
23 A. Yes, sir.
24 Q. Okay. And in this letter, you say, "I
25 believe Glenn did it."
Sandra M. Halsey, CSR, Official Court Reporter
5004

1 A. Yes, sir.
2 Q. "Rene's old friend, Allison."
3 A. Yes, sir.
4 Q. "Well, Glenn was her stepfather. Mom
5 and Darin can give you all the details. This man is very
6 evil, and I told the police about him in the beginning."
7 A. Yes, sir.
8 Q. "And I thought the PD checked it out,
9 but they didn't."
10 A. Yes, sir.
11 Q. So we're talking about Glenn Mize
12 there, aren't we?
13 A. In that one, yes, sir, there were two
14 different people that I was told about, I was told a lot
15 of things about.
16 Q. Well, in these letters, you are saying
17 you saw the man, and he is the one that did it?
18 A. I saw the back of the man.
19 Q. Okay. Well --
20 A. I didn't know what Glenn looked like.
21 Q. Well, we have another letter here to
22 Dear Joe and Terry?
23 A. May I ask you where you are getting
24 all of these letters from, sir?
25 Q. Do you recognize this letter?
Sandra M. Halsey, CSR, Official Court Reporter
5005

1 A. I would like to know where you getting
2 the letters from.
3 Q. Do you recognize this letter?
4 A. Yes, sir.
5 Q. Okay.
6 A. Let me look at it.
7 Q. Okay. First --
8 A. Oh, the jail file in the central room,
9 isn't that illegal?
10 Q. No, it's not.
11 A. It's not? Okay. I thought it was.
12 Q. Okay. Do you recognize that letter to
13 Joe and Terry?
14 A. Just a second. Yes, sir.
15 Q. Okay.
16 A. I remember that. That is the other
17 man.
18 Q. That is the other man?
19 A. Yes, sir.
20 Q. And you described this other man?
21 A. Yes, sir.
22 Q. Okay. Y'all were working on it.

23 A. I'm sorry, what?
24 Q. Did this other man live in the
25 neighborhood you say?
Sandra M. Halsey, CSR, Official Court Reporter
5006

1 A. Yes, sir.
2 Q. Okay. And, down the street I guess;
3 is that right?
4 A. Yes, sir.
5 Q. Do you remember telling her, "We know
6 he left the sock directly in the path towards his home"?
7 A. That is what that says.
8 Q. "We know he was outside his home at
9 2:30 that morning"?
10 A. Yes, sir, that is true.
11 Q. And his wife gave a statement?
12 A. Yes, sir.
13 Q. "2:00 A.M. She heard him come back at
14 2:30 A.M., and all the people behind us gave statements
15 that they woke up at 2:30 A.M. with the dogs barking"?
16 A. That is what I was told.
17 Q. "Devon and Damon knew this man." Did
18 they know this man?
19 A. They did.
20 Q. What is his name?
21 A. His name is Gary.
22 Q. His name is Gary what?
23 A. Austin.
24 Q. Gary Austin?
25 A. Yes, sir.
Sandra M. Halsey, CSR, Official Court Reporter
5007

1 Q. Okay. "And he lives in the same house
2 as ours -- the same floorplan." What does Gary Austin
3 look like?
4 A. I don't know, sir.
5 Q. You don't know what he looked like?
6 A. No, they told me -- some people went
7 by his house and told me what he looked like.
8 Q. He fits the description. He has
9 longer hair, he has big arms and a wide back?
10 A. Yes, sir.
11 Q. Okay. And he is heavier around the
12 middle?
13 A. Yes, sir.
14 Q. Is that the description you gave the
15 police?
16 A. Yes, sir, I believe so.

17 Q. Is that what you remember?

18 A. Yes, sir.

19 Q. I mean, a while back you didn't tell

20 this jury about anyone being wide around the middle or

21 having big arms?

22 A. Well --

23 Q. Did you?

24 A. Well, as big as Chris Frosch, that is

25 pretty big to me.

Sandra M. Halsey, CSR, Official Court Reporter

5008

1 Q. And then in that same letter, you

2 said, "This man could be on his balcony and see into our

3 back yard"?

4 A. That is what I was told, sir.

5 Q. "Where the hot tub is"?

6 A. That is what I was told.

7 Q. "And who knows how many times he

8 watched me"?

9 A. Yes, sir.

10 Q. Okay. Now, you know that no one could

11 watch you from any balcony in your hot tub, don't you?

12 A. No, I don't. That is what I was told.

13 Q. Your hot tub is covered, isn't it?

14 A. Yes, it is, but it had open windows

15 all the whole way around it.

16 Q. It's all covered. We can see that in

17 these photographs?

18 A. Yes, sir, but all those windows are

19 open a lot.

20 Q. You have been in your back yard many

21 times, haven't you?

22 A. Yes, sir.

23 Q. And you know, that there is no house,

24 anywhere in your neighborhood, that has a balcony that

25 can see in your back yard?

Sandra M. Halsey, CSR, Official Court Reporter

5009

1 A. There is a house, sir.

2 Q. There is?

3 A. Down the street.

4 Q. Down the street, where is it? How far

5 down the street is it?

6 A. Down at the very end of street.

7 Q. At the end of the street?

8 A. That is what I was told.

9 Q. Can you show us?

10 A. Yes, sir.

11 Q. Okay. All right.
12 A. That is not the same.
13 Q. What is not the same?
14 A. It doesn't look the same there is a --
15 like a cut off here. This looks further to me, this is
16 further away.
17 Q. Okay. But it would be down here, way
18 down here?
19 A. Yes, sir.
20 Q. Okay. And you are saying that someone
21 could get on their balcony, and down at the end of the
22 block, look and see you inside your hot tub?
23 A. Sir, all I am saying is what I was
24 told.
25 Q. Is that possible?
Sandra M. Halsey, CSR, Official Court Reporter
5010

1 A. I'm saying what I was told.
2 Q. Well, is that possible?
3 A. I don't know, sir, I have not been out
4 there.
5 Q. You have been in your back yard?
6 A. I have not been to the other person's
7 balcony.
8 Q. Do you think that the other person, at
9 the other end of the block could see you?
10 A. I have no idea.
11 Q. What that is, is just a lie, isn't it?
12 A. It's not a lie, sir, it's what was
13 told to me.
14 Q. You are just lying to your relatives?
15 A. I'm not lying to my relatives. That
16 was told to me.
17 Q. Okay. Here is another letter to your
18 Aunt Sherry and family; do you recognize that?
19 A. Yes, sir, I do.
20 Q. Okay. And in this letter, don't you
21 say, "I know who did it, and it's driving me crazy that
22 he is out there running free. What really makes me angry
23 is that I gave the Rowlett PD his name in the beginning
24 and I assumed they would check him out, but they never
25 did. Now he has had time to make up a story, but I
Sandra M. Halsey, CSR, Official Court Reporter
5011

1 believe if he has lot a of pressure he will break"?
2 A. Sir, the man that did this, is out
3 there running free.
4 Q. Did you write that?

5 A. Yes, I did.

6 Q. That is supposed to be Glenn Mize,
7 isn't it?

8 A. Well, either Glenn Mize or Gary.

9 Q. Well, you say in this letter that you

10 gave his name to the Rowlett Police Department and you

11 have already testified that the one name you gave was

12 Glenn's; is that right?

13 A. Yes, sir.

14 Q. So you are talking about Glenn Mize in

15 this letter, aren't you?

16 A. Yes, I think so, yes, sir.

17 Q. You say, "I know who did it."

18 A. Yes, sir.

19 Q. Okay. Okay. This is a letter to your

20 friend Melanie; is that right?

21 A. Yes, sir.

22 Q. Do you recognize that?

23 A. Yes, sir.

24 Q. Okay. And in this letter, do you not

25 say --

Sandra M. Halsey, CSR, Official Court Reporter

5012

1 A. Wait, can I see the back of it?

2 Q. Sure. In this letter, don't you say,

3 "I am praying that they will be able to get a confession

4 from Glenn"?

5 A. Yes, sir.

6 Q. I can't believe the police never even

7 checked him out?

8 A. Yes, sir.

9 Q. You are talking about Glenn Mize;

10 right?

11 A. Yes, sir, the police never did check

12 him out until later.

13 Q. Well, you have told this jury that we

14 could rule out Glenn Mize; right?

15 A. Yes, sir, now that I have seen him.

16 Q. Okay. Again, here is another letter I

17 want to show you, to your Aunt LouAnn, is that your Aunt

18 LouAnn up in Pennsylvania?

19 A. Yes, sir.

20 Q. Okay.

21 A. Yes, sir.

22 Q. Okay. And in that letter, you say "We

23 know who did it, and we're trying to get more on him.

24 Unless we can get him to confess or say something to

25 someone, I'm not sure how we can get him?"

Sandra M. Halsey, CSR, Official Court Reporter
5013

1 A. Yes. Can I see that just a minute?
2 Q. Sure.
3 A. This was not to my LouAnn in
4 Pennsylvania, this is another LouAnn.
5 Q. Another LouAnn?
6 A. That is in our family.
7 Q. Now, some of these letters obviously
8 were to your friend Karen Neal; is that right?
9 A. Yes, sir.
10 Q. You said, "We know who did it, Glenn
11 did it."
12 A. Yes, sir.
13 Q. Okay. I guess she forgot about that
14 when we asked her if she remembered any other version
15 that you had told her?
16 A. Karen?
17 Q. Karen.
18 A. I don't know, you would have to -- I
19 don't remember.
20 Q. Okay. Now, Mrs. Routier, you say your
21 panties were gone?
22 A. Yes, sir.
23 Q. Were you wearing them before the
24 attack?
25 A. Yes, sir.
Sandra M. Halsey, CSR, Official Court Reporter
5014

1 Q. Okay. But they were gone, I guess,
2 when did you realize they were gone?
3 A. After I was told sometime later.
4 Q. Okay. Let me show you another letter
5 to your Aunt Sandy and Uncle Robert?
6 A. Yes, sir.
7 Q. Do you recognize that?
8 A. These are what, two letters or three
9 letters?
10 Q. Do they all seem to be in your
11 handwriting?
12 A. Yeah, but one thing I'm noticing is
13 that these letter don't have any dates, and I always put
14 dates on my letters.
15 Q. Are you saying we made these up some
16 how?
17 A. No, no. I'm just saying that they
18 don't have dates on them.
19

20 MR. JOHN HAGLER: Your Honor, could we
21 approach the bench?
22 THE COURT: Yes, you may.
23
24 (Whereupon, a short
25 discussion was held
Sandra M. Halsey, CSR, Official Court Reporter
5015

1 off the record, after
2 which time the
3 proceedings were resumed
4 as follows:)

5

6 BY MR. TOBY L. SHOOK:

7 Q. In this letter, don't you say, "Well,
8 I guess you heard that they are now saying they found a
9 small amount of one of the boy's blood on my gown. It
10 would have to be Damon's because I was trying to save
11 him"?

12 A. Yes, sir.

13 Q. That is after you heard about some of
14 the DNA results; is that right?

15 A. I don't know that, there is not a date
16 on that letter.

17 Q. Okay. But that is your letter, isn't
18 it?

19 A. Yes, sir, it is.

20 Q. But when you write to your friends and
21 relatives that you saw him, and you know it was him, you
22 were just -- that was just wishful thinking?

23 A. I was wanting to hope, yes, sir.

24 Q. Okay.

25 MR. TOBY SHOOK: Okay. That's all we
Sandra M. Halsey, CSR, Official Court Reporter
5016

1 have, Judge.

2 THE COURT: Mr. Mulder.

3 MR. DOUGLAS MULDER: Yes.

4

5

6 REDIRECT EXAMINATION

7

8 BY MR. DOUGLAS MULDER:

9 Q. Darlie, I got into this case the last
10 of October of last year; did I not?

11 A. Yes, sir.

12 Q. Okay. Prior to that time, you had a

13 lawyer who had two investigators working on this case,

14 didn't he?

15 A. Yes, sir.

16 Q. Had one by the name of Cliff Jenkins,
17 and another one by the name of Ron Cochran?

18 A. Yes, sir.

19 Q. And they funneled -- of course, they

20 were being paid, weren't they?

21 A. Yes, sir.

22

23 MR. TOBY SHOOK: Judge, I will object

24 to the leading.

25 MR. DOUGLAS MULDER: Judge, he brought

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5017

1 this up, and I feel that --

2 MR. TOBY SHOOK: Well, I still object

3 to the leading.

4 THE COURT: Gentlemen, gentlemen,

5 please.

6 MR. TOBY SHOOK: I'll object to the

7 leading, Judge.

8 THE COURT: Gentlemen, gentlemen,

9 please, phrase your questions properly. Stop the

10 bickering and let's get on with it.

11

12 BY MR. DOUGLAS MULDER:

13 Q. And, the investigators would funnel --

14 you have been locked up in jail since June the 18th,

15 haven't you?

16 A. Yes, sir.

17 Q. So you are dependent upon what is fed

18 to you?

19 A. Yes, sir.

20 Q. All right. And, as a matter of

21 fact --

22

23 MR. DOUGLAS MULDER: Mark this as my

24 next exhibit.

25

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5018

1 (Whereupon, the next

2 exhibit was marked as

3 Defendant's Exhibit

4 No. 97, after which

5 time, the proceedings were

6 resumed as follows:)

7

8

9 BY MR. DOUGLAS MULDER:

10 Q. All right. Before I get off on this,
11 he made some to do about you letting your boys go with
12 this man who molested you?

13 A. Yes, sir.

14 Q. Was your sister with them as well?

15 A. Yes, that is the only reason that I
16 let them go.

17 Q. You didn't turn them over to this man,
18 did you?

19 A. No.

20 Q. Let me show what has been marked for
21 identification for record purpose as Defendant's Exhibit
22 No. 97?

23 A. Yes, sir.

24 Q. Okay. Is that a report about the
25 Austins?

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5019

1 A. Yes, sir.

2 Q. All right. And I'll ask you if, prior
3 to the time that you wrote that letter, you received
4 information from this private investigator, that he had
5 gone down to the Austins' residence, he had heard about
6 it through the neighborhood?

7 A. Yes, sir.

8 Q. And, he had gone down to the Austins
9 down --

10

11 MR. TOBY SHOOK: Judge, I'll object to
12 his leading.

13 MR. DOUGLAS MULDER: Well, Judge, this
14 is the only way I can ask --

15 MR. TOBY SHOOK: And he is going into
16 facts not in evidence.

17 MR. DOUGLAS MULDER: Well, he brought
18 it up.

19 MR. TOBY SHOOK: And, it is hearsay.

20 THE COURT: Well, let's just phrase
21 the question right, please.

22

23 BY MR. DOUGLAS MULDER:

24 Q. Did the investigator tell you that Ms.
25 Austin had let it out to one of the people in the
Sandra M. Halsey, CSR, Official Court Reporter

5020

1 neighborhood.

2

3 MR. TOBY SHOOK: Again, I'll object to
4 leading.

5 MR. DOUGLAS MULDER: Well, this is the
6 only way I can ask the question, Judge.

7 THE COURT: Well, gentlemen, please.

8 Well, there are other ways. I'll let you ask this
9 question in the interest of time. Please.

10 MR. DOUGLAS MULDER: All right.

11

12 BY MR. DOUGLAS MULDER:

13 Q. That Ms. Austin had gone down at 2:30

14 or 2:45 in the morning and found her husband there?

15 A. Yes, sir.

16 Q. Fully dressed?

17 A. Yes, sir.

18 Q. And, as if he had been out and about
19 that evening?

20 A. That is what I was told.

21 Q. Okay. And, he had told her at that

22 time, that he had gotten up, he thought it might rain.

23

24 MR. TOBY SHOOK: Judge, again, I'll
25 object to the leading.

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1 THE COURT: I'll sustain the

2 objection. One leading question is fine. Now, phrase

3 the questions, do not testify. I will sustain the

4 objection.

5

6 BY MR. DOUGLAS MULDER:

7 Q. Well, tell us what else you were told

8 about this man Austin who lived --

9

10 MR. TOBY SHOOK: And now I'll object
11 to hearsay, Judge.

12 THE COURT: Sustained.

13

14 BY MR. DOUGLAS MULDER:

15 Q. All right. Austin lived down the way

16 from you, did he not?

17 A. Yes, sir.

18 Q. And his house is the same floorplan as
19 yours, isn't it?

20 A. Exactly the same floorplan.

21 Q. Okay. And, did you hear from this

22 investigator, that Austin had been out prowling around,

23 and was --

24 A. Yes, sir.

25 Q. Was --

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1

2 MR. TOBY SHOOK: Judge, again --

3 MR. DOUGLAS MULDER: -- caught by his
4 wife --

5 MR. TOBY SHOOK: Again, I object to --

6 MR. DOUGLAS MULDER: -- coming in at
7 2:30 in the morning?

8 THE WITNESS: Yes, sir.

9 MR. TOBY SHOOK: Judge, again I object
10 to the leading and the hearsay.

11 THE COURT: Please, Mr. Mulder, please
12 phrase your questions properly.

13 MR. DOUGLAS MULDER: Judge, I
14 understand, and I will try to put them as artfully as I
15 possibly can.

16 THE COURT: Good.

17 MR. DOUGLAS MULDER: But, you know,
18 she has a right to answer these letters.

19 THE COURT: We do understand that, and
20 if you will phrase your questions properly, she may do
21 that.

22

23 BY MR. DOUGLAS MULDER:

24 Q. Well, tell us what you understood

25 about the Austins, and what precipitated you writing this
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1 letter that you thought that Austin was one of the --
2 incidentally, we don't have that investigator any longer,
3 do we?

4 A. No, sir, we don't.

5 Q. All right. But tell the folks on the
6 jury, just what you got about this Austin fellow being
7 out and prowling around?

8 A. He told me that --

9

10 MR. TOBY SHOOK: Judge, I'll object to
11 the hearsay.

12 THE COURT: Don't say that.

13 THE WITNESS: I was told.

14 MR. TOBY SHOOK: Again, Judge, I would
15 object to the hearsay. She can't go into what this
16 investigator told her, it's clearly hearsay.

17

18 BY MR. DOUGLAS MULDER:

19 Q. Well, what prompted you to write this
20 letter?

21 A. I thought that the man had been
22 outside because he had to get laundry at 2:30 in the
23 morning.

24 Q. All right.

25 A. And, he was breathing very hard when
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1 he came in. And he was acting strange.

2 Q. Well --

3

4 MR. TOBY SHOOK: Judge, Judge, again
5 we're going all into hearsay.

6 THE COURT: Well, let's stay away from
7 hearsay, gentlemen. Just what we know, direct questions
8 and answers. Let's move along.

9 MR. DOUGLAS MULDER: Well, Judge, it
10 goes to her state of mind at the time that she wrote that
11 letter.

12 THE COURT: Well, I know it does, Mr.
13 Mulder, and if you will ask your questions in the right
14 way, we can get on with this, and you know how to do it.

15 MR. DOUGLAS MULDER: Well, Judge,
16 perhaps you can give me some guidance.

17 THE COURT: Well, I will be happy to
18 if you will both approach the bench.

19 MR. DOUGLAS MULDER: All right. I can
20 use all the help I can get.

21 THE COURT: All right.

22 MR. DOUGLAS MULDER: All right,
23

24 (Whereupon, after a
25 short discussion
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1 off the record,
2 between the attorneys
3 and the Court, after which
4 time, the proceedings were
5 Resumed on the record
6 as follows:)

7

8 MR. DOUGLAS MULDER: I'll ask it just
9 like you said, Judge.

10 THE COURT: All right. Fine.

11

12 BY MR. DOUGLAS MULDER:

13 Q. Darlie, why did you write those
14 letters?

15

16 THE COURT: Good.

17 MR. DOUGLAS MULDER: Thank you, Judge.

18

19 BY MR. DOUGLAS MULDER:

20 Q. You can go ahead and tell the jury
21 why?

22 A. Because at the time, from what I was
23 being told, that is what I thought.

24 Q. Okay. You are not out being able to

25 do any investigation on your own, are you?

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1 A. No, sir.

2 Q. And, do you know whether or not, in
3 fact, this investigator had a videotaped interview?

4 A. Yes, sir.

5

6 MR. TOBY SHOOK: Judge, I will --

7 THE WITNESS: He did.

8 MR. TOBY SHOOK: Judge, again I'll

9 object to the leading, please.

10 THE COURT: I'll let her answer the

11 question. Go on and answer it, Mrs. Routier, as

12 succinctly as possible.

13 THE WITNESS: Yes, sir, that is what I

14 was told.

15

16 BY MR. DOUGLAS MULDER:

17 Q. Where the wife said that he is out in

18 the wee hours of the morning.

19

20 MR. TOBY SHOOK: Judge, I will object

21 again, to hearsay and leading.

22 THE COURT: Well, I'm going to let him

23 (sic) answer the question, or we will be here forever.

24 Now, go ahead.

25 THE WITNESS: Yes, sir. That is what

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1 I was told.

2

3 BY MR. DOUGLAS MULDER:

4 Q. All right. Your boys had known his

5 son, hadn't they?

6 A. Yes, sir, they did.

7 Q. With respect to Mize, those

8 investigators also told you about his violent behavior,

9 didn't they?

10 A. Yes.

11

12 MR. TOBY SHOOK:: Judge, again, I'll

13 object to hearsay and to the leading nature of the

14 question.

15 THE COURT: Overruled. Let's move on

16 please.

17 THE WITNESS: Yes, sir, they did.

18

19 BY MR. DOUGLAS MULDER:

20 Q. Went down to the courthouse and

21 checked to find out where he lived, and found out about

22 him, didn't they?

23 A. Yes, sir, I didn't make up any of this

24 stuff about these people. This is what was being told to

25 me from other people.

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1 Q. Of course, you are desperate, aren't

2 you?

3 A. Yes, sir, very much.

4 Q. Okay. When you talk to your friends

5 about this, Darlie, are they interested in what happened

6 to you?

7 A. Yes.

8 Q. Do they want to hear what happened

9 that night?

10 A. Yes, sir.

11 Q. Have you told your friends about what

12 happened that evening, as best you recall?

13 A. Yes, sir.

14 Q. Cooperated with the police on every

15 instance, didn't you?

16 A. Yes, sir.

17 Q. Cooperated with Bill Parker?

18 A. Yes, sir.

19 Q. With Patterson?

20 A. Yes, sir.

21 Q. All of them?

22 A. Yes, sir.

23 Q. Have you told your friends that --

24 about the dreams that you have had, or the nightmares

25 that you have had?

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1 A. Yes, sir.

2 Q. Have you told your friends about the
3 psychic that you talked to?

4 A. Yes, sir.

5 Q. Have you told your friends that you
6 were involved in some sort of what, fight or altercation?

7 A. Yes, sir.

8 Q. Were you, in fact, involved in a fight
9 or altercation?

10 A. Yes, sir.

11 Q. Well, how do you know that?

12 A. Look at me. It's very obvious to
13 anybody with any common sense can see it.

14 Q. Do you know from the looks of your
15 arms, and from these stab wounds in your arms, and from
16 the stab wounds in your chest and the slash on your
17 throat that you have been involved in a fight with
18 someone?

19 A. Yes, sir.

20

21 MR. DOUGLAS MULDER: I believe that's
22 all. Thank you.

23 THE COURT: Mr. Shook.

24

25

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1 RECROSS EXAMINATION

2

3 BY MR. TOBY L. SHOOK:

4 Q. Well, these investigators, you make
5 the statement right here, "I know it's him, I saw him and
6 I know it's him." They are not "Darlie, you know it's
7 him. You can go ahead and tell people that"?

8 A. Yes, sir, I was hoping.

9 Q. You were just hoping?

10 A. Yes, sir.

11 Q. Okay.

12

13 MR. TOBY SHOOK: I don't have
14 anything further, Judge.

15 MR. DOUGLAS MULDER: I believe that's
16 all we have.

17 THE COURT: You may step down, ma'am.

18 Watch your step going off of there, please, ma'am. Are
19 you okay?

20 THE WITNESS: Yes, sir.
21 THE COURT: Watch your step getting
22 off of there, please, ma'am.
23 THE WITNESS: Okay.
24 THE COURT: Are you okay? Go ahead
25 and get a drink of water. Don't you worry about it.
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1 All right. Your next witness, Mr.
2 Mulder.
3 MR. DOUGLAS MULDER: Your Honor and
4 ladies and gentlemen of the jury, at this time the
5 defendant will rest her case in chief.
6 THE COURT: All right.
7 MR. GREG DAVIS: Yes, sir, may we
8 approach for just a minute?
9 THE COURT: You may.
10
11 (Whereupon, a short
12 discussion was held
13 at the side of the
14 bench, between the Court,
15 and the attorneys for
16 both sides in the case,
17 off the record, and outside
18 of the hearing of the
19 Jury, after which time,
20 the proceedings were
21 resumed on the record.)
22
23 THE COURT: All right.
24 MR. GREG DAVIS: Thank you.
25 THE COURT: All right. Members of the
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1 jury, that's all of the testimony you will be hearing
2 from the defense on their case in chief.
3 The State has a witness they want to
4 call in rebuttal, he will be here tomorrow morning at
5 9:00 and we well be -- I mean, before that, we will be
6 ready to go then.
7 So, you are excused until tomorrow
8 morning at 9:00 o'clock. Same instructions as always.
9 Do not discuss this case among yourselves, because it is
10 not over yet, or with anybody else.
11 If someone tries talk to you, tell the
12 bailiff who is with you at the time. Do no investigation
13 on your own. You will decide this case based on the

14 testimony you hear and the evidence that you will receive
15 here in this courtroom.

16 Finally, if this -- if you see any of
17 this on -- this will appear on radio, TV or in the
18 newspapers, please ignore it.

19 And, it is probably best not to read
20 any papers, or look at any TV, or listen to the radio on
21 these matters, pending the outcome of this case.

22 Until then, we will see everybody
23 tomorrow morning at 9:00 o'clock. And, if you will
24 remain seated in the courtroom, please, until the jury
25 clears the courthouse.

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1 Mr. Birdsong, hold everybody in.

2 THE BAILIFF: Yes, sir.

3

4 (Whereupon, the jury

5 Was excused from the

6 Courtroom, and the

7 Proceedings were held

8 In the presence of the

9 Defendant, with his

10 Attorney, but outside

11 The presence of jury

12 As follows:)

13

14 THE COURT: All right. All right.

15 Let the record reflect that these proceedings are being

16 held outside of the presence of the jury, and all parties

17 in the trial are present. All right.

18 MR. JOHN HAGLER: Okay. We're getting

19 together the letters that they intend to use. It will

20 just take us a second.

21 THE COURT: Well, just say all of the

22 letters.

23 MR. DOUGLAS MULDER: Okay. We are

24 ready now. All right.

25 THE COURT: Back on the record now.

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1 MR. JOHN HAGLER: Okay. Your Honor,

2 pursuant to the agreement with the Court, we make our

3 objections to the testimony, regarding the cross

4 examination of the appellant by use of --

5 THE COURT: The defendant.

6 MR. JOHN HAGLER: I'm sorry. Judge,

7 I'm just used to writing -- or dictating briefs.

8 THE COURT: I know you are, Mr.

9 Hagler.

10 MR. JOHN HAGLER: The defendant, by

11 use of her written correspondence to various individuals.

12 And, your Honor, the Court stated that we could make this

13 objection, to the use of all of those documents. At the

14 present time, we would offer into evidence those

15 documents which we have mark as -- which will be marked

16 as Defendant's Exhibit, whatever the next number is.

17 THE COURT: All right. We will make

18 it Defendant's Exhibit 98.

19

20 (Whereupon, the following

21 mentioned item was

22 marked for

23 identification only

24 as Defendant's Exhibit No. 98

25 after which time the

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1 proceedings were

2 resumed on the record

3 in open court, as

4 follows:)

5

6 MR. JOHN HAGLER: And, your Honor, we

7 would submit, that under 39.14, under the Texas Code

8 of --

9 THE COURT: Be quiet, please. Thank

10 you.

11 MR. JOHN HAGLER: All right. Thank

12 you. All right.

13 And, we're entitled to all written

14 statements made by the defendant. These statements, it

15 is our understanding, and we will ask the prosecutor the

16 question as to whether or not these letters, were copied

17 at the time that they were forwarded or sent from the

18 jail by the sheriff's department.

19 MR. TOBY SHOOK: These letters are

20 copies that were in possession of Kerr County Sheriff's

21 office. It was our understanding that they copied all

22 mail going in, and all mail going out.

23 They would not give us possession of

24 these. We subpoenaed these today, we subpoenaed all of

25 the correspondence today, and it got over here this

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1 afternoon. I have looked at a lot of these letters.
2 Prior to that, we were allowed to view it, but we were
3 not allowed to take it away, or to make copies.
4 On the 27th of December, of '96,
5 Preston Douglass and Lloyd Harrell were up at the office,
6 and I was showing them photographs on behalf of Mr.
7 Davis. I told Mr. Douglass at that time, that the Kerr
8 County Sheriff had made copies of the mail, but would not
9 give us possession of them. So they were informed at
10 that time. We didn't have possession of them, and we
11 didn't have possession of them until today, Judge. We
12 were allowed to look at them.
13 THE COURT: All right. That's fine.
14 All right.
15 MR. JOHN HAGLER: Well, just one
16 thing, your Honor. Of course, it is our position, that
17 the Kerr County Sheriff's Department is simply an arm of
18 the State, and the State did, in fact, have constructive
19 custody of these documents, and we were never given
20 proper notice, and at the time of -- prior to the time of
21 the trial, the time that the statements of the defendant
22 were tendered, pursuant to this Court's discovery order,
23 And therefore, in view of Article 39.14 or 38.14 we would
24 urge that -- we would urge for a mistrial at this time,
25 as a result of the use of these documents without proper
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1 discovery.
2 THE COURT: All right. Motion for
3 mistrial is denied. And your objection, I assume you are
4 objecting?
5 MR. JOHN HAGLER: To the use of these
6 documents.
7 THE COURT: That is overruled. You
8 have running objection back from the start, as you did
9 approach the bench, and you have a running objection from
10 the start of the presentation of these documents.
11 MR. JOHN HAGLER: Okay. And, these
12 documents, your Honor, they will be an exhibit?
13 THE COURT: They will be an exhibit,
14 you bet, you bet. Get them all in there.
15 This is off the record. See everybody
16 first thing in the morning.