

Charge of the Court

THE COURT: All right. Let the record
21 reflect that these proceedings are being held outside of
22 the presence of the jury and all of the parties in the
23 trial are present.
24 Have both sides had a chance to read
25 the Charge of the Court?
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1 MR. GREG DAVIS: Yes, sir, we have
2 MR. JOHN HAGLER: Yes, sir, your
3 Honor.
4 THE COURT: All right. What says the
5 State?
6 MR. GREG DAVIS: The State has no
7 objections to the Charge, specifically we have no
8 objections to the extraneous offense charge as it is
9 given in the Court's Charge.
10 THE COURT: All right. And Mr.
11 Hagler?
12 MR. JOHN HAGLER: We have no objection
13 to the Charge as it presently exists. We -- is the
14 extraneous charge in there, Judge?
15 THE COURT: No, it is not? Didn't you
16 want that removed?
17 MR. JOHN HAGLER: Yes, sir, it's our
18 request that that be removed.
19 THE COURT: Granted.
20 MR. JOHN HAGLER: And also we had
21 thought about a limiting charge at one time, but we would
22 prefer that not to be in the Charge.
23 THE COURT: Granted.
24 MR. JOHN HAGLER: We're satisfied with
25 the Charge.
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1 THE COURT: All right. And just to
2 make that clear, these are two charges you are talking
3 about right here?
4 MR. JOHN HAGLER: Yes, sir, your
5 Honor.
6 THE COURT: All right. Let me mark
7 these exhibits as Court's Exhibit B and C.
8
9 (Whereupon, the
10 Exhibits were marked
11 For identification

12 Only, as Court's
13 Exhibit No. B & C.)
14
15 THE COURT: All right. The limiting
16 Charge will be Court's Exhibit B, and the extraneous
17 charge will be Court's Exhibit C.
18
19
20 (Whereupon, the above
21 mentioned items were
22 received in evidence
23 for record purposes only
24 as Court's Exhibit Nos. B & C,
25 after which time,
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1 the proceedings were
2 resumed on the record,
3 as follows:)
4
5 THE COURT: Now, you can examine this
6 Charge, Mr. Hagler, and see if that is the way you wanted
7 it.
8 MR. JOHN HAGLER: Yes, sir, but we
9 don't want that in there any more.
10 THE COURT: All right. Then that will
11 be Court's Exhibit C. All right.
12 MR. GREG DAVIS: If the record could
13 reflect, your Honor, the State objects to the Court's
14 Exhibit B, I believe it is, that you were referring to,
15 and our objection is based upon the fact that we believe
16 it is a comment on the weight of the evidence.
17 THE COURT: Well, okay, I am pulling
18 that. That is just for record purposes only.
19 MR. GREG DAVIS: Yes, sir.
20 THE COURT: All right. And both
21 Court's Exhibit B and C are removed from the Charge at
22 the defendant's request. So what is going to happen?
23 Anything else, Mr. Hagler?
24 MR. JOHN HAGLER: No, sir.
25 THE COURT: So what is going to happen
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1 now, is that we're going to call the jury in and I'm
2 going to read the Charge to them, and then we will hear
3 arguments. And who is going to open for the State?
4 MR. TOBY SHOOK: I will, Judge.
5 THE COURT: Okay. So by agreement

6 there is an hour and a half to the side and how long do
7 you want, Mr. Shook?
8 MR. TOBY SHOOK: Judge, if you could
9 tell me when I have used 25 minutes and then 45 minutes
10 if I go that long.
11 THE COURT: I'll be happy to. And
12 then I will tell you after 45 minutes every 15 minutes
13 thereafter; is that fair enough?
14 MR. TOBY SHOOK: That will be fair,
15 Judge.
16 THE COURT: All right. So with that
17 in mind. Let's bring the jury in.
18 MR. DOUGLAS MULDER: Judge, we're
19 going to need a few minutes after the State's opening
20 argument.
21 THE COURT: Well, I don't think there
22 will be any problem there. I will take a break any way.
23 MR. DOUGLAS MULDER: Okay, good. We
24 just need 2 or 3 minutes to get our exhibits together.
25 THE COURT: All right. Ladies and
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1 gentlemen in the Courtroom: We cannot have any emotional
2 outbursts of any kind. So, if some of you -- if we do
3 have any emotional outbursts, we will ask that person to
4 leave, in fact, we will remove that individual and you
5 will not be allowed to re-enter.
6 So, if you don't feel like you can
7 take any of the arguments you may hear, the time to leave
8 is now, and no one will think any less of you.
9 Is there anyone who wishes to leave?
10 All right, thank you. All right. If
11 you will bring the jury in.
12
13 (Whereupon, the jury
14 Was returned to the
15 Courtroom, and the
16 Proceedings were
17 Resumed on the record,
18 In open court, in the
19 Presence and hearing
20 Of the defendant,
21 As follows:)
22
23 THE COURT: Let the record reflect
24 that all parties in the trial are present and the jury is
25 seated.
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1 Ladies and gentlemen of the jury, what
2 is going to happen now is that I am going to read to you
3 the Charge of the Court in the case, that is the law in
4 the case. Then you will hear arguments from both sides,
5 then the case will be yours to decide.
6 The first thing you do when you retire
7 to the jury room will be to select one of your members as
8 the presiding juror. That is what we call the foreman
9 now. Any member of this jury may be the presiding juror.
10

11 **Charge of the Court:** Members of the
12 jury:

13 The defendant, Darlie Lynn Routier,
14 stands charged by indictment with the offense of capital
15 murder, alleged to have been committed in Dallas County,
16 Texas, on or about the 6th day of June, 1996. To this
17 charge the defendant has pleaded not guilty.

18 You are instructed that the law
19 applicable to this case is as follows:

20 A person commits the offense of
21 capital murder if the person intentionally or knowingly
22 murders an individual under 6 years of age.

23 A person commits murder, if he
24 intentionally or knowingly causes the death of an
25 individual.

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1 A person acts intentionally or with
2 intent, with respect to the nature of his conduct, or to
3 a result of his conduct, when it is his conscious
4 objective or desire to engage in the conduct or to cause
5 the result.

6 A person acts knowingly or with
7 knowledge with respect to a result of his conduct, when
8 he is aware that his conduct is reasonably certain to
9 cause the result.

10 The term "individual," means a human
11 being who has been born and is alive.

12 Now, bearing in mind, the foregoing
13 instructions, if you find and believe from the evidence
14 beyond a reasonable doubt, that the defendant, Darlie
15 Lynn Routier, on or about the 6th day of June, 1996, in
16 the County of Dallas and in the State of Texas, did then
17 and there, intentionally or knowingly cause the death of
18 Damon Christian Routier, an individual, by stabbing the
19 said Damon Christian Routier with a knife, and you
20 further find and believe from the evidence, beyond a
21 reasonable doubt, that the said Damon Christian Routier
22 was, at the time of his death, an individual under 6

23 years of age, then you will find the defendant guilty of
24 capital murder as charged in the indictment and so say by
25 your verdict.

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1 If you do not so believe, or if you
2 have a reasonable doubt thereof, you will acquit the
3 defendant and say by your verdict not guilty.
4 In all criminal cases, the burden of
5 proof is on the State. All persons are presumed to be
6 innocent, and no person may be convicted of an offense,
7 unless each element of the offense is proved beyond a
8 reasonable doubt.

9 The fact that a person has been
10 arrested, confined, or indicted for, or otherwise charged
11 with the offense, gives rise to no inference of guilt at
12 her trial.

13 The law does not require the defendant
14 to prove her innocence, or produce any evidence at all.
15 The presumption of innocence alone is sufficient to
16 acquit the defendant unless the jurors are satisfied
17 beyond a reasonable doubt of the defendant's guilt, after
18 careful and impartial consideration of all the evidence
19 in the case.

20 The prosecution has the burden of
21 proving the defendant guilty, and it must do so by
22 proving each and every element of the offense charged
23 beyond a reasonable doubt; and if it fails to do so you
24 must acquit the defendant.

25 It is not required that the
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1 prosecution prove guilt beyond all possible doubt. It is
2 required that the prosecution's proof excludes all
3 reasonable doubt concerning the defendant's guilt.
4 A reasonable doubt is a doubt based on
5 reason and common sense, after a careful and impartial
6 consideration of all of the evidence in the case. It is
7 the kind of doubt that would make a reasonable person
8 hesitate to act in the most important of his own affairs.
9 Proof beyond a reasonable doubt
10 therefore must be proof of such a convincing character
11 that you would be willing to rely and act upon it without
12 hesitation in the most important of your own affairs.
13 In the event you have a reasonable
14 doubt as to the defendant's guilt, after considering all
15 of the evidence before you and these instructions, you
16 will acquit the defendant and say by your verdict not

17 guilty.
18 You are further instructed that the
19 indictment is not evidence in this case, and cannot be
20 considered as a fact or circumstances against the
21 defendant in your deliberations. The true and sole use
22 of the indictment is to charge the offense, and to inform
23 the defendant of the offense alleged against her.
24 In deliberating on this case you are
25 not to refer to or discuss any matter not in issue before
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1 you. You shall not consider nor mention any personal
2 knowledge or information you may have about any fact or
3 person connected with this case, which is not shown by
4 the evidence.
5 In determining the guilt or innocence
6 of the defendant, you shall not consider or discuss the
7 punishment, if any, which may be assessed against the
8 defendant, in the event she is found guilty beyond a
9 reasonable doubt.
10 You are charged that it is only from
11 the witness stand that the jury is permitted to receive
12 evidence regarding the case, or any witness therein, and
13 no juror is permitted to communicate to any other juror
14 anything he may have heard regarding the case of any
15 witness therein, from any source other than the witness
16 stand.
17 You are instructed that during your
18 deliberations you should not consider the remarks, the
19 rulings or actions of the presiding judge during this
20 trial, as any indication of the Court's opinion, as to
21 the existence or nonexistence of any fact, or as an
22 indication of the Court's opinion as to the guilt or
23 innocence of the defendant.
24 The Court has not intended to express
25 any opinion upon any matter of fact in this case. If you
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1 have observed anything which you have or may interpret as
2 the Court's opinion upon any matter of fact in this case,
3 you must wholly disregard it.
4 At times throughout this trial, the
5 Court has been called upon to pass on the question of
6 whether or not certain offered evidence might be properly
7 admitted. You are not to be concerned with the reasons
8 for such rulings, and are not to draw any inference from
9 them. Whether offered evidence is admissible, is purely
10 a question of law.

11 In admitting evidence to which an
12 objection is made the Court does not determine what
13 weight should be given to such evidence nor does it pass
14 on the credibility of the witness.
15 As to any offer of evidence that has
16 been rejected by the Court, you of course, must not
17 consider the same. And as to any question to which an
18 objection was sustained, you must not conjecture as to
19 what the answer might have been, or as to the reason for
20 the objection.
21 You are the exclusive judges of the
22 facts proved, of the credibility of the witnesses and of
23 the weight to be given to their testimony, but you are
24 bound to receive the law from the Court which is herein
25 given you, and be governed thereby.
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1 After you retire to the jury room, you
2 shall select one of your members as your presiding juror.
3 It is his or her duty to preside at your deliberations,
4 and to vote with you in arriving at a unanimous verdict.
5 After you have arrived at your verdict
6 you may use one of the forms attached hereto by having
7 your presiding juror sign his or her name to the
8 particular form that conforms to your verdict. But in no
9 event, shall he or she sign more than one of such forms.
10 No one has authority to communicate
11 with you except the officer who has you in charge. When
12 the jury wishes to communicate with the Court it shall
13 notify the bailiff, who shall inform the Court thereof.
14 Any communication relative to the
15 cause, must be in writing, signed by the presiding juror
16 and shall be submitted to the Court through the bailiff.
17 Do not attempt to talk to the bailiff,
18 the attorneys or the Court regarding any question you may
19 have concerning the trial of this case. And after you
20 hear arguments, you will retire to consider your verdict.
21 That is signed by me, Mark Tolle, the
22 Presiding Judge.
23 Now, the final page there are two
24 verdict forms, and you will fill out whichever verdict
25 form is appropriate depending on how you decide. Only
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1 one verdict form will be filled out.
2 The presiding juror will sign the line
3 beneath that form, and we would ask the presiding juror
4 to please print his or her name beneath the signature so

5 there can be no mistake.
6 Now, arguments from both sides will be
7 had. The way this works is this: The State gets to
8 open, and then you will hear from the defense, then the
9 State will get to close.
10 And by agreement it will be ninety
11 minutes to the side.
12 Mr. Shook.

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1 **CLOSING ARGUMENT IN GUILT OR INNOCENCE**

2

3 **MR. TOBY SHOOK:** May it please the
4 Court?

5 **THE COURT:** Yes, sir.

6 **MR. TOBY SHOOK:** Members of the jury.
7 We have had a very long, and tedious trial on the issue
8 of guilt or innocence. We have reached the close of that
9 portion of this trial and now we're having closing
10 arguments.

11 As the Judge has just told you the
12 State will start out. I'm going to go over some of the
13 evidence in this case, some of the things that we talked
14 about on voir dire and Mr. Mosty and Mr. Mulder, I
15 believe, will speak on behalf of the defendant, and then
16 Mr. Davis will close for the State of Texas.
17 The first thing I want to do is thank
18 you for your service and your patience with us. We have
19 come to this county, transferred here because of the
20 publicity in this case, and we have imposed on you. We
21 have taken you from your family, your homes, and your
22 work and we have had you here a lot longer than we
23 thought we would. That wasn't planned in any way.
24 You have been patient with us, you sat
25 through hour after hour of testimony, questions from the

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1 lawyers rehashing the same issues and you sat back there
2 during hearings. We know what we have done to you, and
3 we appreciate your service.
4 But I know that each and every one of
5 you knows just how serious this offense is, and how
6 important this case is.
7 I want to talk a little bit about some
8 of the things we talked about with each and every one of
9 you on jury selection. Remember we talked to each and
10 every one of you about probably 40 minutes, maybe a
11 little longer, some a little less. We went over a lot of
12 different areas.
13 And remember, each and every one of
14 you were chosen for this case. This isn't like another
15 criminal case where each side has several strikes and
16 then they submit those strikes, and just the leftovers
17 are put on the jury. Each side agreed on you as jurors
18 because you are level-headed, and because we thought you
19 had common sense.
20 But I want to talk about some of those
21 issues that we talked about on voir dire.
22 Remember, I talked about motive or
23 Miss Wallace talked to you about motive, and what we had
24 to prove in this case.
25 We had to prove that the defendant
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1 intentionally killed Damon Routier with a knife, and we
2 had to prove that it happened in Dallas County.
3 Now, I talked about motive because
4 everyone wants to know a reason why the crime occurred.
5 That is human nature. And I told you the reason may be
6 very apparent. Sometimes it never comes out in court at
7 all, and sometimes there might be several motives out
8 there. Everyone might have their own version.
9 You could have psychiatrists,
10 psychologists, detectives argue all day long on all of
11 the motives, but you may never know the real motive. But
12 that doesn't change the evidence. And the law does not
13 require the State to prove the motive because we can not
14 always get into the mind of the defendant. That motive
15 may be locked away in there.
16 Each of you by now have your own idea
17 what the motive is in this case, I don't know. I'm going
18 to talk about motive a little bit later. But it is not a
19 requirement that the State has to prove beyond a

20 reasonable doubt what the motive is, and each and every
21 one of you agreed to that.
22 Another issue we talked about was
23 circumstantial evidence. When we try to prove a case we
24 put on evidence, and there's two kinds. You have an eye
25 witness to a crime, or you have circumstantial evidence.
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1 Circumstantial evidence covers
2 everything. Physical evidence left, statements made by
3 the defendant, anything that connects the defendant to
4 the offense is circumstantial evidence, and there is no
5 difference between the two. It all connects.
6 Inconsistencies, what they said, how it meshes with the
7 physical evidence.
8 Now, I asked each and every one of you
9 if we brought you a case using solely circumstantial
10 evidence, could you find the defendant guilty if you
11 believed that circumstantial evidence beyond a reasonable
12 doubt and each of you said yes that you could.
13 Now, the other area I want to get into
14 is something that we maybe just said in passing or
15 several times with each of you and that is the one thing
16 you had to remember, the most valuable tool that you
17 could use, and the reason you made it on this jury is
18 common sense.
19 When you review this evidence just use
20 your God given common sense. The common sense that has
21 gotten you through life so far. That's all you need to
22 do.
23 I think the first hurdle when you
24 review this evidence anyone has to look at or anyone has
25 to come to grips with is this: We have a brutal, vicious
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1 murder of a child, of two children and we have accused
2 the mother of those children of this crime. And the
3 first thought in anyone's mind is, no mother could ever
4 murder their children, it's not possible. That is a
5 natural reaction.
6 But what you have to do is come to
7 grips with reality, that there are certain people that
8 are capable of anything under the right moment. That is
9 why we have laws. That is why we have to have trials.
10 And when a mother does kill her child, it causes a huge
11 frenzy. That is why this courtroom is packed. That is
12 why there is media out there in front of this Courthouse.
13 That is why we had to come here. But these things do

14 happen.
15 And after you overcome or come to
16 grips with that, then you begin to analyze this evidence
17 using your common sense.
18 Now, I want to go through some of that
19 evidence now. There is a whole lot. We have been here
20 almost a month, there is no way anyone could remember or
21 recall every aspect of it, but I want to touch on some of
22 the high points of how I think this circumstantial
23 evidence meshes.
24 You see, circumstantial evidence comes
25 in piece by piece. One piece may not mean anything if
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1 you just look at it by itself, but it's like a jigsaw
2 puzzle. As it comes in, you start sorting through it,
3 and then you start putting it together. And when it's
4 all in, it all fits, and when it fits in this case you
5 get the true picture of the killer, who sits right over
6 here. Darlie Lynn Routier.
7 So let's talk about some of that
8 evidence. We all know now, that around 2:30 in the
9 morning or so, back on June the 6th, there was a 911 call
10 that came from the Routier home, came from Darlie Lynn
11 Routier.
12 And you know, as you look at this
13 case, and what the State has to prove, the issue comes
14 down to this: You know there is no question Damon was
15 murdered. There is no question he was under the age of
16 six.
17 There is no question that it happened
18 in Dallas County. We have alleged that he was murdered
19 with a knife. I don't think you have to be Sherlock
20 Holmes to figure out this was the knife. The blood is on
21 it. It's the size matching into the body and it's left
22 there. He was killed with a knife.
23 The only issue is who did it?
24 Identity. And it comes down to this: It's either going
25 to be some unknown intruder who came into that house and
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1 committed a horrible murder or it's going to be the
2 defendant.
3 You know that this 911 call came out.
4 I think that gives you the first insight. You have heard
5 that thing a dozen times, you have looked at transcripts
6 from both sides. It gives you the true insight into the
7 defendant, because first of all, and I think it's quite

8 clear she says: "My babies were stabbed, I was stabbed,
9 I was fighting. He went into the garage. I was
10 fighting."
11 That let's you know that she knew what
12 was going on there that night. She was well aware of
13 everything that was going on.
14 It also, towards the end of it you get
15 that unusual statement: "I picked up the knife. Maybe
16 we could have gotten some fingerprints."
17 And that gives you the insight into
18 how her mind works, because that should be the farthest
19 (sic) thing from a mother's mind in that situation. But
20 she is already trying to cover her tracks, trying to
21 point the evidence and the guilt away from her. Already
22 at that point.
23 Officer Waddell first arrived. You
24 heard from William Gorsuch, a neighbor. He saw Officer
25 Waddell as he came up and met Darin Routier and they went
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1 in that home. Officer Waddell went in, he talked briefly
2 with the defendant. There is a lot of chaos going on in
3 there. And Officer Waddell and Sergeant Walling, they
4 didn't have stop watches and weren't timing where they
5 were at one portion, and how long one conversation took
6 place.
7 Waddell told you that he was told
8 quickly this person was in the garage. Now, he couldn't
9 go and check in that garage right away because his
10 training told him this: There was only one of him, and
11 if he goes in there and gets himself killed, then this
12 family is still exposed. He has to wait on his back up.
13 But he does know this: This woman is
14 not putting pressure, not caring for Damon. Darin is
15 over there with Devon and he asks her to. The entire
16 time she is not caring for Damon. He has to watch the
17 door, he can't administer the aid, but we know the
18 mother, she has one hand on her wound and the other hand
19 has a phone. She is not putting the pressure on Damon.
20 We know that she tells him, "There was
21 a fight over here at the island."
22 We know that Sergeant Walling came in
23 and had a brief conversation with her, as she gives a
24 description of a white male with a hat, and T-shirt and
25 she says they fought on the couch. They put that
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1 description out, and that house is closed down quickly.
2 The paramedics soon got to that
3 location and you heard from them. They moved in quickly,
4 they tried to do what they could. They only stayed in
5 the one family room and cared for those children. They
6 didn't run in the kitchen or into vacuum cleaners or
7 anything like that.
8 And they told you that, you know, they
9 get Darlie out of there quickly. She is holding her
10 neck, they start putting pressure on her neck.
11 You remember the one whose nickname is
12 Toad, I think his name is Koschak. He told you while he
13 was in that room though that he heard the defendant say:
14 "He has a ball cap on. He broke out the window."
15 They put her in the ambulance, there
16 was really nothing they could do for Devon. They take
17 Damon out to the ambulance, and they try to get him to
18 the hospital.
19 They put her in the ambulance and
20 there was a paramedic named Byford who tended to her
21 during that whole trip. She is quiet there in the
22 ambulance, she is anxious, she wants to know, how long
23 it's going to take, "When are we going to get there?"
24 But there are no questions about her children. No
25 questions about their condition.
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1 Of course, once she hits Baylor
2 Hospital, when there's a lot of nurses there, and you
3 heard from Jody Fitts, the emergency room nurse. She
4 starts yelling, and she is making noise. Now that she is
5 in front of a lot of folks and they get her in there and
6 they see the blood, and she is in there about 13 minutes
7 and she is alert. The doctors come in, they take her
8 upstairs to operate. And you heard from those doctors,
9 Dr. Santos and Dr. Dillawn.
10 Now those guys don't regularly come
11 down and testify. In fact, I think that is the first
12 time they have testified. And they are not paid for
13 their testimony. They owe no allegiance to the State,
14 they owe no allegiance to the Rowlett Police Department.
15 They are just doctors, surgeons, emergency room surgeons.
16 And they have no reason to lie or be biased in this case.
17 And what did they tell you? They told
18 you that they looked at her wounds, it was in the zone 2
19 area which tells them this: They don't want to take any
20 chances, they are going to take her up and do some
21 exploratory surgery. And they did that. And what did
22 they find? Well, they found that the wound had cut

23 across the neck through the skin to the platysma, but not
24 into the platysma. Well, what does that mean? We asked
25 them to explain it in just plain English.

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1 Cut through the skin, and cut through
2 the fat and that's all. A superficial wound. Not a
3 serious injury. In fact, I think Dr. Santos said, if
4 this had happened under different circumstances, if this
5 has been a household accident, we would have sewn her up,
6 and she would have been released in a few hours.

7 But they were under the impression
8 that she was a victim at that time. Her children had
9 been killed. She didn't need to go to the ICU, but they
10 sent her there because they wanted to keep her away from
11 the press, and they thought that she would be really
12 going crazy because her children had been murdered.

13 Superficial wounds. There was also
14 two wounds, a small one right here, and one to her
15 forearm. They just sewed it up, nothing serious about
16 that. Another wound right here, nothing serious about
17 that. No wounds to her face, no wounds to her chest or
18 back.

19 You remember Dr. Santos told you that,
20 of course, he checked on her. He deals with this
21 situation all the time. People that have been seriously
22 injured, people that lose their relatives, I mean, that
23 is part of his job.

24 He said he was expecting her to go
25 crazy. Mothers, many times when they lose their
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1 children, they don't accept that fact. They want to know
2 where they are. They won't accept it when you tell them
3 they are dead. But not this woman. She wasn't of the
4 demeanor he thought she would be. Flat affect is what he
5 called it. Flat affect.

6 And the other things those doctors
7 told you was this: That there weren't any major trauma
8 to her arm. This is blunt trauma, caused by -- like what
9 they see in accidents, or someone struck with a baseball
10 bat. And it's something they look for and they didn't
11 see it.

12 They told you, you know, you can't
13 tell how old a bruise is exactly but this looks like a
14 pretty recent bruise. Twenty-four to 48 hours.
15 If she had received the type of trauma
16 that would cause a bruise like this on the 6th, they

17 would have seen it within a few hours. They would have
18 seen it begin forming. They didn't see it, folks. It
19 didn't happen then.
20 You see, Darlie Lynn Routier soon
21 realized that people weren't probably buying into her
22 story, and she had to increase those injuries. And I
23 know it seems almost diabolical, but the evidence shows
24 she went home and caused those injuries to herself after
25 she was out of that hospital.
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1 You also heard from the nurses in this
2 case. The first one you heard from, after Jody Fitts was
3 Chris Wielgosz. Remember, he was the nurse who handles
4 people when they come out of an operating room, and
5 usually he handles heart patients, but because of the
6 overflow, he got the defendant. And she is not the
7 typical patient he usually gets, because they are usually
8 unconscious and need a lot of care, but her injuries did
9 not need a lot of care. And she was alert and awake.
10 He told you sometimes people are real
11 groggy when they come out of an operation and sometimes
12 they are awake, and she was awake.
13 And he is just sitting there with her
14 and she starts making these unsolicited comments like:
15 "Gee, I wish I hadn't touched the knife. I might have
16 messed up the fingerprints."
17 He is not even asking her about the
18 offense, but she has to volunteer. See, she has to get
19 this story going, she has to get the people to believe
20 that she is the victim in this case.
21 What did he tell you? And, he has no
22 motive to lie. He is not paid for his testimony. He
23 doesn't come down here and testify. What does he tell
24 you? He says, "Well, I gave her a little bit of Demerol,
25 it didn't seem to affect her, and then the detectives
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1 came and spoke to her."
2 And he told you how the detectives
3 questioned her. They didn't suggest answers to her.
4 They went real slow and methodically, and she told them
5 what she remembered. And she told them that she
6 remembered the man standing over her and fighting him off
7 the couch. They didn't tell her that is what happened.
8 Those were her words. You see, she hadn't come up with
9 the complete amnesia defense yet.
10 And he told you she knew details all

11 about her rings, and ring sizes, and carats and
12 descriptions of that, but it was real hazy and couldn't
13 give a description of his face. And it was real slow and
14 methodical.
15 You also heard from the other nurse,
16 Jody Cotner, who is the trauma coordinator. Remember she
17 had the longer brown hair. She had been there 11 years.
18 One of her jobs is to work with
19 people, to inform people that their loved one has died.
20 She has had to do that hundreds of times. She has had to
21 deal with mothers that lose their children, and what did
22 she tell you? There is nothing like it. The bond
23 between a mother and a child. A grief that is
24 inconsolable. They do it in different ways, but they all
25 show it. And she never saw that reaction from this
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1 woman. Never saw the reaction she has always seen
2 before.
3 The same with the other nurses who
4 deal with this stuff every day. They have never seen a
5 reaction like that. It was more of a whining, no real
6 tears, I think you-all know what they are talking about
7 now, now that all of the evidence is in.
8 They have no motive to lie, but what
9 did they tell you? All day long, during their shifts,
10 what happened? The first one I believe was Dianne
11 Hollon, had her all during the day. "I woke up, a man
12 was standing over me, I yelled and he ran off." They
13 didn't suggest those answers to her, that was her
14 version.
15 And we had Paige Campbell, the little
16 blonde girl who helped bathe her at one point in time.
17 The defendant showed her her hand, "This is where he cut
18 me when I grabbed the knife. He was standing over me
19 when I woke up and tried to stab me."
20 You heard from Denise Faulk, the last
21 nurse that had her all night long. About 3:00 in the
22 morning she took the time to write those notes down the
23 next day or so. About two and a half pages on pink paper
24 and the defendant -- she didn't come up with this story,
25 the defendant did: "I was laying just like this." On
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1 her right side. "When I woke up, when Damon woke up.
2 And there was a man wrestling at my neck area." Denise
3 Faulk isn't telling her to say that. This is her
4 version.

5 "And I yelled out, and he ran off, and
6 I heard glass break. I picked up the knife. He was
7 wrestling at my neck area."
8 She didn't realize at that time that
9 people weren't going to buy this. If you are fighting
10 with a man face to face, you are going to remember his
11 face. She had not come up with her temporary amnesia
12 yet.
13 These nurses have no reason to lie.
14 Let's talk a minute then about the
15 physical evidence. You heard from retired Sheriff's
16 Lieutenant James Cron. He has been in law enforcement
17 for 39 years. He has been to hundreds -- thousands of
18 crime scenes. He knows his business. He had worked with
19 the Rowlett Police Department which is a small
20 department. I mean, it is a suburb of Dallas, but really
21 it's a small town in and of itself. And they called him
22 out there and he made it out there at 6:00 in the
23 morning. They had already sealed that house off. The
24 police had not been running through there except for the
25 officers when they first arrived.

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1 They sealed that house off and he went
2 in with them, and he did a walk through, and he saw the
3 photographs and he looked at the evidence. And it didn't
4 take him long to start figuring out, after he got the
5 story of what supposedly happened, that the physical
6 evidence isn't matching up. What are the things he
7 looked at? The window itself where this intruder should
8 have gone through. It's cut.
9 Then Cron tells you, "Well, the first
10 thing about that is, that is not how intruders get in
11 homes. They just take the screen off. They cut a little
12 slit and take it off. They don't make this big slash."
13 The other thing about it, this man is
14 supposed to be coming in and going out, but there's dust
15 on that windowsill and it's not disturbed.
16 He has also been told that there was
17 some type of struggle. There's dead children that have
18 been stabbed many times. A woman who is supposed to --
19 supposedly has had her throat slashed, he should expect
20 to see some blood on the intruder's hands. There is
21 nothing there. There is nothing disturbed. There is no
22 blood in the garage that he can see. There is no blood
23 outside. That gate is closed, and you can't get that
24 gate open because it drags on the cement. You have to
25 lift it up. But somehow this intruder, if he went out

1 that gate, shut it behind him. And that doesn't make
2 sense to Lieutenant Cron.
3 What else didn't make sense to him?
4 Well, the inside of the house itself. There's supposed
5 to be some violent struggle, but it didn't look like a
6 whole lot of violence, where two people are dead in there
7 and one woman is wounded. But not -- it's not all torn
8 up. He didn't see tears in the couch where a knife was
9 being thrown around. It just wasn't making sense to him.
10 Then he looked at this, and he was
11 there when it was picked up. This vacuum cleaner,
12 because it is just lying right there in the kitchen floor
13 close to the sink. Now, Officer Waddell and Walling
14 didn't see this. Of course, they are not looking for all
15 of the evidence, they are on a walk through when they are
16 there. They are moving very quickly looking for an
17 intruder, and this is off to the side of the sink and
18 they are not standing by there, so, no, they don't
19 remember it back then.
20 But it's right there, and you don't
21 have any evidence of officers having to move it over
22 there or paramedics having to move it over there. And
23 they notice that there are some bloody footprints.
24 Bloody footprints leading away from the sink. And when
25 they pick this up, bloody footprints are under it. Well,
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1 it doesn't take Sherlock Holmes to figure out, that this
2 vacuum cleaner was dumped down on top of those bloody
3 footprints after it was moved. But why?
4 If the defendant did it, it's because
5 it's staging. You need to show some type of struggle
6 occurred, something like that.
7 But what else didn't make sense to Mr.
8 Cron? The wine glass. Supposedly ran into this -- this
9 intruder ran into this wine rack somehow and broke a
10 glass. Well, there's glass on top of the bloody
11 footprints, and the officer said they were careful not to
12 step on blood, and not to step on glass.
13 The trouble is he checked that wine
14 rack and it was real sturdy, and the wine glass had been
15 hooked up inside, hanging upside down. And there were
16 more delicate items lying on that wine rack that were not
17 broken and not moved, and that didn't make sense to him.
18 Of course, all he had to do to get
19 that wine glass out, is reach up and hit it and it will

20 come out, and it will hit the floor or it will hit the
21 wine rack and it will break.
22 That is another indication that
23 something wasn't adding up to him with this story that he
24 had been told.
25 Another thing that didn't make sense
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1 is the hand print. You will recall, they cut it out. It
2 was Damon's hand print. It was a small palm print there
3 on the couch. Actually, I think it was right in this
4 area here.
5 They cut it out, the blood came back
6 to Damon, and you could see his little hand there. The
7 trouble is they didn't find that until after they pulled
8 the blanket up. You see that blanket had to be placed
9 there after he had walked through there.
10 We can tell from the DNA that Damon
11 moved some after he was stabbed. He sat down, probably,
12 you can see where the imprint of his pants were, and he
13 moved through here, and then, of course, wound up over
14 here.
15 All this was not adding up to Cron.
16 Now, there were fingerprints found on that windowsill,
17 and Cron told you how fingerprints get there, you know.
18 People with their oil will leave a print. Most of the
19 time you don't have a print you can get. Officer
20 Hamilton told you he got lots of prints, but most of them
21 he couldn't match up. When you touch something, it would
22 just smear. It doesn't mean anyone touched it.
23 Cron can't tell you how long that
24 print was there or when it was put there. He can tell
25 you, "Well, from looking at it though, it could have been
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1 a small child." Which would not be unusual. You
2 remember the question Mr. Davis asked Darin: "Didn't
3 your children go through that window to get popsicles?"
4 "Well, yeah, my neighbor told me they
5 did that, but I was not aware of it at the time."
6 And you can tell where that screen is
7 bent, where children could have pried it open and just go
8 in. Because, see, it's no big deal to remove that
9 screen. There is a replica of that window back there
10 with the screen in it. And another thing about that.
11 Remember the screen, you can see in the photographs, it's
12 folded in, which is not consistent with someone coming
13 out.

14 And Detective Frosch went through that
15 window very carefully. That is the only way you can make
16 it through there, the way it was blocked off, one window
17 frame from the other. You have a small area to get
18 through, and if you are not going to knock that window
19 screen off, you have to do it extremely slowly and
20 carefully, which is totally inconsistent with what an
21 intruder would do.

22 But you can take that window back
23 there if you want, and you can try to go through it fast.
24 And I guarantee you, if you go through it fast, that
25 screen will come off. All you have to do is stick your
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1 thumbs down on that screen and flip them, and that screen
2 will come off.

3 But Darlie Routier didn't know that,
4 you see. She thought that you had to cut the screen to
5 make it look like someone came in and out. She didn't
6 have to do that. It comes right off. It's not like Fort
7 Knox. Screens come off easily, that screen comes off
8 easily.

9 You heard from Charles Linch who has
10 worked at the Southwestern Institute of Forensic Sciences
11 for, I think, about 16 years. He is what they call a
12 trace analyst. He looks at things that are left behind.
13 He looks at things through a microscope. He went out
14 there that day. He called, he had heard about it, they
15 brought the boys' body in, at the same time Cron is
16 telling Rowlett, you need to get Linch out here. He is
17 good.

18 Linch found a hair in that window
19 frame. A blond hair. He told you what they do. They
20 look at them and they try to look at pigment patterns,
21 and when he looked at it through his microscope that hair
22 matched the same pigment patterns as the defendant. The
23 trouble was it was bleached hair, which he said is the
24 hardest type to match up. And what do they do next?
25 They take the next step and they submit it to a DNA lab
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1 and it turns out to be one of the Rowlett police
2 officers' hair.

3 But he found some other evidence
4 because the police confiscated these knives. In those
5 knives was a bread knife, and he looked at those under
6 the microscope, and he found a glass rod and he found
7 some rubber material and some rubber debris with glass

8 crushed in it and that wasn't on any of the other knives.
9 And he had one of the screens from the
10 garage, and he quickly found that that screen was
11 composed of fiberglass rods with plastic covering over
12 it. And he found that if he used that bread knife and
13 you cut it all the way across, that that screen was cut
14 with a serrated knife, and could be cut in the same
15 fashion with that particular bread knife.
16 And when he tested cutting that bread
17 knife, he looked at it under the microscope and what did
18 he find? Glass rods, the same type of rubber material
19 seen on the bread knife. And that same type of rubber
20 debris with the glass meshed in. The same type of stuff
21 that happens when you cut the screen. And it adds up,
22 that bread knife was used to cut that screen, and Charles
23 Linch found the evidence. And that tells you they were
24 trying to fake the crime scene.
25 You aren't going to have an intruder
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1 somehow get in the house and then take the knife out and
2 then cut the window.
3 Charles Linch also looked at that
4 shirt and saw there were some holes in the shoulder, saw
5 there were some bloody smudges where you could have held
6 that shirt up, where someone might have been testing that
7 shirt, but there is no corresponding injuries to her
8 shoulder.
9 Charles Linch talked about -- he
10 looked at other things that might leave that fiberglass,
11 like Officer Hamilton's fiberglass fingerprint brush.
12 Different size. That fiberglass on the brush was a
13 different size, not the same size as was found on the
14 bread knife.
15 He also said that he looked at
16 computer boards because you know the Routiers worked with
17 computer boards. It looked different. The material left
18 from the fiberglass on a computer board is different from
19 what was left when you cut it with that bread knife, the
20 screen with the bread knife.
21 Then you heard from Tom Bevel who was
22 from Oklahoma City. He has been a very qualified police
23 officer, retired now and is in private practice and he is
24 a blood expert. And he told you some interesting things.
25 First of all, by looking at the
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1 photographs, you remember the defendant's testimony is
2 that this man ran off with a knife and dropped it in the
3 utility room. Not on the carpet by the utility room, but
4 dropped it in the utility room and she picked it up. The
5 problem is, when you drop that knife, it leaves a mark,
6 it leaves cast off. And you don't see any cast off or
7 any mark left in that utility room, or anywhere else in
8 that kitchen.

9 She says that he ran through there,
10 but the blood shows the drops came very slowly. That
11 let's you know that she is lying about that. You know
12 that knife leaves blood wherever it sits down. You can
13 see when it was lifted off of that counter, there are
14 traces of blood where that knife was left. That knife
15 was not dropped on the utility room floor. She never
16 picked it up.

17 THE COURT: You have used 30 minutes,
18 Mr. Shook.

19 MR. TOBY SHOOK: Thank you, Judge.

20 He also told you that on this vacuum
21 cleaner, there was blood transferred on the handle. That
22 is her blood. There was blood dropped on that while she
23 was standing up, that is her blood, and there is blood
24 deposited on it after it's laying down. That is her
25 blood. That let's you know she had it, and there was --
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1 they had impressions of the wheels, that it's been rolled
2 around. She was on top of it when it was standing, and
3 she was walking around it when it was close. That let's
4 you know what? She is staging this thing.

5 He also told you that there was a
6 blood impression of a knife in the carpet. Remember
7 that? And the DNA impressions taken of that impression
8 of the knife in the carpet showed her blood, and I
9 believe it was Damon's. Well, what does that tell you?
10 Well, it is inconsistent with her story. If she is cut
11 by some intruder, why would he be going and laying the
12 knife down and then picking it up and walking off. It
13 shows that she was walking around, and she placed that
14 knife down.

15 He also told you about cast off. How
16 blood can be deposited, and he looked at that shirt
17 carefully. A lot of blood. Mostly her blood on that
18 shirt. But this particular spot right here (Indicating
19 on shirt exhibit), came back to Devon, it's right here.
20 And he can tell you from his training that that is cast
21 off. Cast off is blood that comes off an instrument such
22 as a knife.

23 He also found blood from Devon and
24 Damon on the front, which he said is also consistent with
25 cast off, and her blood is found there too. And it could
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1 happen two ways: It's either mixed, it comes off at the
2 same time and lands there on the front, or it first could
3 be deposited when she is stabbing the children and then
4 later on as she cuts herself it could be deposited in the
5 same area. Or, it could happen together.
6 But this spot on the back is Devon's,
7 and Devon's alone. And it doesn't get there when you
8 fold a shirt up. He said he could tell that. It's cast
9 off. And the defense asked him all types of questions of
10 how that could happen, but the most consistent way it
11 could happen is when the stabbing motion comes up and the
12 knife is over the shoulder. He simulated it in tests and
13 found the same size of the spot on his own T-shirt. That
14 tells you that she was stabbing, and Devon's blood winds
15 up on her back. It's not going to wind up there if she
16 is laying on the couch as the man wrestles at her neck.
17 You heard from Special Agent Brantley
18 who is with the FBI. He works for the Behavioral Science
19 Center, former prison psychologist, and he looks at these
20 things, hundreds of these cases every year, and he kind
21 of told you how they do the analysis. What is wrong with
22 this picture? And in his opinion, this crime scene was
23 staged. These boys were killed by someone they knew.
24 And, of course, once he explains it, it makes sense
25 because it is all common sense stuff, except to the
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1 average lay person. We don't deal with murders,
2 fortunately, every day. We don't look at this stuff.
3 They look at what's wrong with this
4 picture. Low crime area in this neighborhood. No
5 murders happening all the time. No easy access getting
6 in. And then he looked at what you call risk factors.
7 What would a person be worried about if they were going
8 to commit this offense? That is a well lighted house. A
9 truck is out front. There is someone home because the TV
10 is on. You don't want those people to hear you as you
11 come in. You don't cut the screen on the window. They
12 are usually just removed. There is a big cage right
13 there that let's you know that there is some animal
14 running around. They don't like animals, these
15 intruders, to let you know they are in the house. In
16 fact, there was a dog in that house who could sound an

17 alarm.
18 Then he went inside the house.
19 Obviously there was no intent to rob because all of these
20 possessions are left untouched. It's not an attempt for
21 rape because the rapist doesn't kill the children right
22 away. They use them as tools. No, from the wounds on
23 these boys he could say they were the target of this
24 offense. They were killed in anger. It was a personal
25 attack. These are devastating wounds.
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1 And they are low risk victims. There
2 was no reason for anyone to want to kill these children.
3 They had no enemies.
4 And then the great contrast is the
5 wounds to herself. She is not stabbed in the trunk.
6 There is not penetrating wounds. There's a wound to her
7 arm and a slice along the skin and the fat of her neck.
8 That tells him a lot. It is inconsistent.
9 And what else? Well, you have got the
10 vacuum cleaner laying there. That looked staged to him.
11 You have got the bread knife, with the glass rods that
12 tells you, well, that just doesn't happen. Someone
13 doesn't just go in the house and cut the screen and come
14 back out. But if you take that out of this scenario,
15 it's still inconsistent, because if somebody is going to
16 cut that screen, then doesn't bring -- gets the knife
17 from the home itself. You bring your own weapon when you
18 are intent on homicide.
19 And then after you kill these boys,
20 and wound the adult, you don't leave a live witness. It
21 makes no sense. Someone that can identify you. Not only
22 do you not leave them, you don't arm them with the very
23 knife. You don't leave them alive to sound the alarm.
24 That doesn't make sense to him.
25 And that sock, it's more like it was
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1 just put away to get away from it, because there is only
2 the boys' blood found on that sock, and not her blood.
3 And if some killer was in there with that sock on his
4 hand, stabbing those boys and slashing her, and in a
5 struggle, don't you know that her blood would be on that
6 sock, but it's not.
7 And then the strangest thing about it
8 was, of course, this crime scene where this horrible
9 crime occurred, there is not a lot of property damage.
10 There is no big struggle there. I think the way he

11 termed it "maximum human devastation, minimum property
12 damage." As if the intruder or killer wanted to be
13 careful with all of those dainty little things that were
14 in that house.

15 You heard from Barbara Jovell, who was
16 this woman's maid of honor, who has known this woman
17 almost 10 years, who had worked every day, there at their
18 work place, their one employee, their one full time
19 employee. Her mother was over at the house that week
20 cleaning for her, a close friend. And she has no motive
21 to lie. And what did she tell you?

22 It took a lot of guts to get up there
23 and she told you some facts about the defendant. She
24 loves the defendant. And a few years ago she was a very
25 different person. But their business took off and her
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1 attitude started changing. She started thinking about
2 money, and became more self-centered. She started buying
3 the jewelry. You know she wears the 10 rings on every
4 finger, all the rings and earrings. She started becoming
5 more self-centered, shopping all the time. Decorating,
6 buying boats, they bought a spa, they bought new cars,
7 and she is the dominant personality. And everything was
8 going fine, except when business suddenly tailed off,
9 and it was a real slow period and money got real tight,
10 and they can argue all they want that it's not tight,
11 folks, but you've got the evidence, how -- how much they
12 were out that year. I mean, they are down in the money
13 and it's not coming in. You have got bills, mortgage
14 payments, two payments behind in May. You have got
15 letters like that.

16 The money had run out and she didn't
17 like it, and she said that Darlie would come up to work
18 and be mad, and she was mad over money, and they argued
19 all the time, and she told Darin, "This is not the Darlie
20 we know. You need to get help for her." And this was in
21 March. And then in May, when she came back from her
22 vacation, she heard about the suicide attempt and talked
23 to Darlie and pleaded with her to get help, but she
24 didn't. She didn't.

25 And Barbara Jovell told you also when
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1 she was at that hospital and Darlie told her, "That man
2 was standing over me, he tried to stab me, and I blocked
3 that blow." She didn't tell her to say that, but that is
4 what she told you.

5 She told you she told her another
6 version later on at the house, at her mother's house.
7 That she woke up and the man had the knife, and was
8 enjoying her face, scraping the knife on her face, but
9 she just couldn't remember his face.
10 She came and told you the truth. And
11 you do know there was some type of suicide attempt from
12 the diary entry and the defendant. Well, of course, her
13 version was, "I was just kind of moody that day." Well,
14 it lets you know what? You know, I don't think the
15 defendant was going to kill herself. I think she loves
16 herself too much.
17 But did she want attention? Maybe.
18 Were things not going right in her life? No. The money
19 train had stopped and things weren't going right. One
20 month before this killing she is making an entry where
21 she is saying she is going to kill herself. Things are
22 not going right in her life. They are not going her way.
23 You have a tape taken by the grave
24 site about eight days after this offense. It's been
25 called the Silly String tape. And I think it gives you a
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1 lot of insight into this woman.
2 You see, this is not a picture of a
3 grieving mother, and I don't care how many excuses you
4 can come up with, and how many doctors you can bring in
5 here and say this is some type of Christian ceremony, or
6 she was on some Xanax or people were giving her valiums,
7 no. You can see how she is acting. She is enjoying
8 herself out there.
9 I mean, it's more of a -- she is
10 having fun. She likes the attention. She tries to cry
11 on that tape, but she can't. Those tears don't come.
12 And she tells you on that tape, "He went for them first,
13 then he tried to come to me, but he went to them first."
14 She is enjoying it, and it gives you insight into her
15 true character of what is going on. And it's scary.
16 And you have the voluntary statement
17 that she gave the police on the 8th, and what is
18 important is what she left out, you see, because she
19 didn't know what the evidence would show. She didn't
20 know that there was blood evidence that shows she was
21 standing over this, and showing that she moved this
22 vacuum cleaner around. So she didn't mention the vacuum
23 cleaner in that voluntary statement.
24 She mentions a lot of other things.
25 She didn't know that it looked like there was clean up

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1 area at the sink, so then she has to come up later with
2 the wet towel scenario, which makes no sense at all. Wet
3 towels are not going to do those children any good. But
4 she has to come up with an excuse.
5 She talks about in that voluntary
6 statement that she looks over and sees Darin doing CPR on
7 Devon, but she doesn't put herself over there because at
8 that time, she didn't know that Devon's blood was
9 deposited on her back and she needed to put herself over
10 there.
11 And another thing that is important.
12 Do you remember when Darin testified? He said, "You
13 know, I woke up because I heard glass break, and I
14 immediately heard Devon yell -- heard her yell 'Devon.'
15 Glass breaks, she yells Devon, I get up."
16 Her version is a contradiction to
17 that. Glass broke, I walked into the kitchen, I picked
18 up and found a knife, I walked back over, I turned on the
19 lights, I saw Devon and that is when I yelled "Devon." A
20 contradiction there. Key contradiction.
21 You see, Darin is not going to wake up
22 until she wants him to wake up. When she is making that
23 glass noise, so he can come downstairs and see what's
24 happened.
25 Before that she set this whole thing
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1 up, folks, she was thinking about it. She had to be
2 downstairs sleeping because if she is in bed with him,
3 she can't pull this off. She has to have those boys in
4 the room.

5 I still don't understand this excuse,
6 "Well, they wake up in the middle of the night." She had
7 to have them down there, so she could have access to
8 them. She couldn't kill them in their beds. She had to
9 have that window up, so she could cut that screen and
10 make it look like an entry, because it couldn't be a
11 noisy entry or Darin would wake up on that.
12 She had to have that TV on, so maybe
13 some sounds might be muffled. She killed those boys and
14 then she faked that scene. She probably used that sock
15 in some way, maybe to hopefully keep her prints off the
16 knife, saw blood, wanted to get rid of it. It wouldn't
17 take her a long time to go out in the back yard, cut that
18 screen and knock over a piece of furniture and go three

19 houses down and try to get rid of that thing. Come back
20 in, and cut yourself probably saw Damon moving. We don't
21 know for sure, she may have finished him off after she
22 found him moving. Then she cuts herself and bleeds, and
23 she breaks the glass. She has got to move that vacuum
24 cleaner around. She doesn't realize what she is doing,
25 that she is covering up her tracks and then leaving
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1 evidence of staging. And then she yells for her husband.
2 And then we have that scenario coming out.
3 And finally we have the amnesia
4 defense. What a lucky killer this is. He goes in and
5 brutally murders two children, wounds their mother, is
6 face to face, cutting her throat, beating her, and yet
7 decides to leave her alive, the one woman that could
8 identify him, that could put him on death row, and lucky
9 for him, she gets amnesia. She is not going to be able
10 to remember his face. He is one lucky killer.
11 Well, that doesn't make sense. That
12 doesn't pass the common sense test, and neither does how
13 this scenario could have happened, because I don't think
14 any of you believe, for one second, that woman could
15 sleep through her children being murdered.
16 One foot away is Devon. About four or
17 five feet -- I'm sorry, four or five feet away is Devon.
18 And one foot away is Damon, and no mother who cares
19 anything about her children is going to sleep through
20 that attack. And when she wakes up, she is going to be
21 screaming her head off for her husband. She is going to
22 be attacking that intruder. That room would be a
23 shambles. That dog would be barking and Darin would be
24 coming down.
25 Or you can look at it the other way,
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1 maybe she is attacked first. Well, she is going wake up
2 when she is beaten, or when her throat is cut, and she is
3 going to be screaming then also. And we will have this
4 same scenario, but that didn't happen. She murdered
5 those children.
6 And what -- why would an intruder,
7 someone so bent on homicide, that he would cause those
8 penetrating -- he almost impaled the children, if this
9 was an intruder, stabbing through those bodies. Why
10 would he then leave her alive? This intruder would have
11 been on her, and if her story was true, she wouldn't be
12 here today. If she had had that knife stuck in her, she

13 would be dead lying on that couch, if her story were
14 true.
15 And if you go, you know, what was the
16 motive? I mean, she comes across and: "My panties were
17 gone." This whole murder is over her panties, I guess.
18 The guy took a sock, he leaves the knife, but he takes
19 her panties.
20 If you are going to have amnesia, it
21 should be consistent amnesia. That is on the 911 tape,
22 they have got to have an excuse for everything. "I was
23 frightening" -- that is their version, "I was
24 frightening," that is not even a word. No, she said she
25 was fighting, and that lets you know that she knows what
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1 is going on.
2 If you are going to have amnesia, it
3 should be consistent. You don't say on that tape by the
4 grave site, "He went for them first, then he tried to
5 come to me, but he went to them first." You don't say
6 that.
7 You don't make statements to the
8 detectives down there, he came after me, and I fought him
9 on the couch. You don't tell nurse after nurse, the man
10 was standing over me, if you have amnesia.
11 You see, her relatives came in and
12 said, no, Darlie, at the hospital, just said she woke up,
13 and the man was walking away.
14 You see, that is inconsistent, because
15 at the same time she is supposedly telling them that, she
16 is telling the nurses, that the man was standing over me.
17 And they have no reason to lie. You see, they might be
18 more believable if they said, "You know, we suggested
19 that some man was standing over her. We told her that.
20 She is just trying to believe it."
21 THE COURT: You have used 45 minutes,
22 Mr. Shook.
23 MR. TOBY SHOOK: Thank you, Judge.
24 And isn't it funny how her amnesia
25 goes in and out. Nothing about the attack, plenty about
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1 when the paramedics are there, caring for her children,
2 as her children are dying, because she has got to put
3 herself in certain places to get an explanation for this
4 evidence. She has got to put herself, all of a sudden,
5 this is a cane for some reason, and that is why the blood
6 is there, this is a cane that I'm using. I am using wet

7 rags, you know. I'm using wet rags, that is my excuse
8 for that one.
9 "Well, why do you have a wet rag?"
10 "Oh, I don't know, I just panicked."
11 Of course, she was not about to put
12 any pressure on her son. She had it on her neck. She
13 was not about to do that. She didn't want Damon to live.
14 Oh, I was running over and helping
15 Darin. Of course, that is the first time that has come
16 out, because she has got to get that blood on his back.
17 It's got to be consistent amnesia. But then, when you
18 have these statements to the nurses about, "Yeah, there
19 was a man standing over me with a knife." Boy, that
20 amnesia turns on again, doesn't it?
21 I don't remember much about the
22 hospital. I don't remember telling them that. It just
23 goes in and out when she needs it.
24 And then, you have the defendant's
25 testimony, and you got to see her demeanor, how she
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1 testified, how she is. She was up there for four hours.
2 One of the parts, I think it was when Mr. Mulder had her,
3 it was so telling, it might be something small, but I
4 think it's so telling, because she said, "I didn't kill
5 those children." Not her children, "I didn't kill those
6 children."
7 She had to have an explanation for
8 everything, and she tried to cry, she tried to cry when
9 she was on direct, and just like she tried to cry at the
10 grave site, but those tears weren't streaming down her
11 face. Those tears didn't start up until she got caught
12 in a lie.
13 Now, we heard about this Glenn guy,
14 "Yeah, I told the police about that."
15 Well then we brought Glenn in, and she
16 was surprised. And, "Yeah, that is Glenn." We got that
17 out of her finally, but no, he doesn't match the
18 description in any way. He is not the killer. Darin is
19 not the killer and Glenn is not the killer.
20 Then we bring out the letters. This
21 is the woman that is suppose to not remember anything
22 about this incident. Then she is confronted with her
23 letters, one of them written -- a couple of them written
24 November 1st, 1996.
25 "I saw him. I know he did it. I saw
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1 him."
2 Another letter to her friend Karen,
3 "Glenn did it. I know who did it."
4 Another letter to a person named Joe
5 and Terry, a long description. "This man matches the
6 description." And goes into quite detail. "Broad back,
7 wide around the middle, big arms, long hair, and he lives
8 right down the street, and the sock was on the way to his
9 house. He could see me from his balcony." There is no
10 balcony that you can see from her backyard. You saw her
11 try to explain that. That house is 12 -- over 15 houses
12 away.
13 Her hot tub is covered. She is making
14 that up. Because see, she is suppose to have amnesia,
15 but she got caught. She got caught in a lie. She is
16 telling people, "I saw him," she was probably desperate
17 to try to pin this on someone else back then, and that
18 didn't work. And she got caught in a lie. It is
19 supposed to be consistent. And that is when you finally
20 see the real tears.
21 Those tears started rolling down, that
22 voice started shaking, those hands started shaking.
23 Those were the real tears. Those are the tears that the
24 paramedics and the nurses should have seen, when she is
25 supposedly grieving for the boys. Those are the tears
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1 that we should have seen on that videotape, out at that
2 grave site, when they were interviewing them.
3 Those are the type of tears that you
4 should have seen back then. Real tears. But you didn't
5 see those tears, because she wasn't crying for those
6 boys. Those boys are nothing to her more than, like
7 those pieces of jewelry left up on that counter. Those
8 tears were for herself, because she realized that you
9 knew the true then. That she does know what went on in
10 that house. That she does have a memory. She knows that
11 you know she is the killer.
12 Now, Devon and Damon didn't die
13 instantly. They had lethal wounds, but they didn't die
14 instantly. We know that. They are capable of making
15 noises, their eyes were open when that knife went in.
16 They were awakened. We know that little Damon, he moved.
17 I don't know where he was trying to go, he didn't get
18 far, but he moved.
19 And that is the most horrible aspect
20 of this case. That is the most frightening part of this
21 case. It's the part of this case that I think will haunt
22 all of us, for the rest of your lives. It's the part of

23 this case where you will wake up at 2:00 or 3:00 in the
24 morning, and it will chill your blood. Because, you see
25 Damon was awake. He came awake and he tried to walk. He
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1 opened his eyes, and he saw who was murdering him. He
2 saw her. He saw his mother.

3 THE COURT: Thank you, Mr. Shook. All
4 right. Ladies and gentlemen, we will take a 10 minute
5 break now, please.

6 We would ask the forbearance of the
7 press, if any -- we are in very close quarters here. If
8 any members of the jury are using restrooms throughout
9 the building, please do not talk with them in any manner
10 today. We would ask you not to do that. Thank you.

11
12 (Whereupon, a short
13 Recess was taken,
14 after which time,
15 the proceedings were
16 resumed on the record,
17 outside of the presence and
18 hearing of the defendant
19 And the jury, as follows:)

20
21 THE COURT: All right. Is the jury
22 ready?

23 THE BAILIFF: Yes, sir.

24 THE COURT: All right. Bring the jury
25 back in, please.

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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. Mr. Glover.

15 MR. CURTIS GLOVER: May it please the
16 Court?

17 THE COURT: Yes, sir.

18 **MR. CURTIS GLOVER:** Ladies and

19 gentlemen of the jury, my thanks along with the other
20 counsel in this case, for your very courteous attention,
21 lo, these many weeks.

22 As Mr. Shook said to you, we really

23 have imposed upon you, but you occupy a position in our
24 society, which is probably the most important, in that
25 you are a barrier between what could possibly be in a
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1 democracy, tyranny. And you make that decision, and you
2 keep that tyranny away.

3 And, as we go through this case, and

4 we talk about the responsibilities of the government or
5 of the State when they bring charges like this, you will
6 see the importance of your position.

7 You know, Judge Tolle gives you a

8 charge here, it's your guide as to the law that will

9 guide you in this case. He tells you, and I think the

10 most important thing that he tells you, is that in any

11 criminal case, charges are brought by the State. They

12 have the burden of proof, that burden never shifts.

13 And you know there is no burden on the

14 defense to do anything. They are to prove her guilt

15 beyond a reasonable doubt and if there is a reasonable

16 doubt as to any element in this case, the Judge is

17 telling you, you resolve that in behalf of the defendant

18 and say by your verdict not guilty.

19 Now, you know, you can go through this

20 evidence and you can say, well, you know there was

21 confusion about this. Or where was that witness? There

22 was confusion about this particular evidence that raised

23 a reasonable doubt in my mind.

24 Judge Tolle is telling you, you

25 resolve that reasonable doubt in behalf of Darlie Routier

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1 and say by your verdict not guilty. I don't care whether

2 there was one or there are a thousand, the Judge is

3 telling you you resolve those in her behalf.

4 Let's go on and look at the evidence,

5 and I am just going to speak with you just very briefly.

6 Let's get to Mr. Cron. He was the

7 bearded man who was a retired deputy Sheriff in Dallas.

8 He came out to the scene of this devastation very quickly

9 that morning. He was put in charge, if you please, he

10 tried to avoid that position, but he was put in charge.

11 He waltzed through that house, folks, and in 20 minutes
12 without knowing anything -- not knowing the result of any
13 DNA, not knowing the result of any fingerprints, not
14 knowing the result of anything, he waltzes through there
15 and says, "There was no intruder."
16 The die was cast. She became the
17 focus of everything. They wouldn't listen to anything
18 else from anybody. There was no -- nothing about black
19 cars, they were secretly laying their ground work to go
20 after her, and they did.
21 Now, what kind of flawed investigation
22 is this, where the conclusion comes up front? He
23 concluded it, folks. He said, "There is no intruder."
24 So, that's either Darin or her. And we know by the
25 evidence in this case, that only 2 millimeters she was
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1 away from death, and if she had died, according to Mr.
2 Bently (sic), and according to Cron, do you know who
3 would be on trial here? Mr. Bently (sic) says the
4 intruder knew those children, the intruder, Darlie.
5 But I can't point the finger at
6 anybody, but the person that killed those children knew
7 them.
8 Darin is just 2 millimeters away from
9 being tried himself for this death. If she had died
10 there on that couch, who would be out here being tried?
11 Darin, according to the FBI. So how plausible is Mr.
12 Bently's (sic) conclusion about all of this.
13 Mr. Bently (sic) comes down to Dallas
14 to lend sophistication, if you please, to what Mr. Cron
15 has decided after 20 minutes.
16 Mr. Cron waltzes through there and he
17 says: "Oh, yes, there is a torn window there, that is
18 phony."
19 But then experts come out there and
20 they say, "The cut came from the outside, Mr. Cron."
21 "Well, that's all right. We will
22 overlook that."
23 And then, as time goes by, they find
24 fingerprints down here, and do you remember when Mr.
25 Frosch, who is sitting out here on the front row, who
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1 never mounted that witness stand, came in here and gave a
2 demonstration of going through the window? Went right
3 through it very quickly. He is a big man. And he put
4 his hand, folks, exactly where those prints were found.

5 Exactly where those prints were found.
6 Now, of all the fingerprints that they
7 attempted to find in that place, that was the most
8 significant. They found very few, but that was the most
9 significant. They matched nobody.
10 Now, what does that tell you? Well,
11 they want to dismiss that, and try to infer to you, that
12 perhaps those were children's fingerprints. But isn't it
13 interesting that Mr. Frosch put his hand right down there
14 where they were, as he went through there, without any
15 trouble, I submit to you, right through that window, and
16 you saw it.
17 They want to dismiss the sock up the
18 alley. They want you to infer, that through all of this
19 melee out there, that Darlie Routier runs up the alley,
20 and plants a sock with the blood of both of the children
21 on it. How preposterous.
22 If you are going to create a scene,
23 and they have to have an answer for everything. Any time
24 the scene gets confusing, they say, "That's staging."
25 You will recall Mr. Waddell, the first
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1 officer on the scene. He testifies, you know, in lock
2 step with the position that the State has got to take to
3 back up Mr. Cron, his conclusion that she did it. She
4 wasn't upset.
5 You heard her husband talk about it,
6 he said it was chaos. It was absolutely maddening, what
7 was going on there. She was from one child to the next,
8 running around the room. The paramedics are pouring in
9 there, they don't even know how many people came in
10 there.
11 The scene, and they keep talking about
12 and using the word contaminated, the scene becomes
13 contaminated. The scene gets disrupted from the way it
14 was at the time the crime occurred. And police officers
15 do that to it. They want to come in and say that because
16 the vacuum sweeper was over her foot, that she staged all
17 of that, her print. Or the glass down there on the
18 floor.
19 The first man on the scene, Mr.
20 Waddell says, "That vacuum sweeper was not in the way."
21 That is something, folks, you would
22 have seen. A vacuum sweeper standing in an area of
23 importance in that house, would have gotten your
24 attention. Think about your vacuum sweeper being turned
25 over in your kitchen. If you were a police officer

1 walking in there, you would have noticed it.
2 Mr. Waddell says, "I didn't see a
3 vacuum sweeper." And if you want any of this evidence
4 read back to you, as to the importance of that statement,
5 ask the reporter to read that back to you. She can do
6 that.
7 Mr. Walling mounts the witness stand:
8 "I didn't see any vacuum sweeper."
9 Darlie gets on the witness stand and
10 says, "I was using it as a prop. I was standing there
11 trying to hold myself up."
12 I want to talk with you just about one
13 more subject, and then I'm going to sit down.
14 You are going to have a question in
15 your mind as to what you think went on out there that
16 night when this happened. And I'm going to submit to
17 you, that it's a reasonable deduction from the evidence
18 that you heard, that that TV was on in there, and you-all
19 know from experience, the kind of light that a TV
20 creates. It's a dimming, and it's a bouncing type of
21 light. A person standing outside of that house could
22 have seen that. They could have seen the silhouette of a
23 woman lying on that couch, little knowing that there are
24 two small children laying on the floor, and I can't put
25 myself, and neither can you, into the mind of a crazed
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1 maniac, because that is what it would take to do this.
2 But that person stealthily went into
3 that house, with the intention of going after her, gets
4 in there and sees the reflections on the floor of those
5 two small children, and they want you to believe that
6 that would have been a noisy affair.
7 How many movies have you ever seen
8 where one adult dispatches another, without even
9 virtually a sound. It can be done, folks. And you are
10 talking about two delicate little boys laying there on
11 the floor.
12 Do you think an adult male or males,
13 for that matter, could not have come up very stealthily,
14 and leaned over each one of those kids and pinned them to
15 the floor, and children are hard to wake up, and hold
16 them down with their hand over their mouths, or whatever
17 is necessary to keep them from making noises, and plunged
18 that knife into them, and that child would never have
19 moved.

20 It's like killing an animal and
21 holding it down, and it could have been done without a
22 bit of noise, and then move on next to the other child
23 before you go for what you are ultimately in there for.
24 The other adult. And stoops down over Damon, most close
25 to her, and does the same thing. And do you think an
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1 adult male or males couldn't have held a little child
2 down? It can be done, folks.
3 Use your common sense as he has asked
4 you to do. Then he moves on to her, and cuts her throat.
5 I don't know what his intentions were, but her panties
6 were gone. She said that.
7 We can't account for the mind of a
8 person like this. Damon wakes up. Damon is not dead,
9 and he comes over. And you say, "Why doesn't she hear
10 all of this?"
11 Well, he is stealthily killing those
12 two kids, and I don't know what he did to her, but I
13 submit to you the account that she gave of what she felt
14 in her mind as she came up off of that couch was one of a
15 person who was in a complete fog. She said, "I don't
16 know, I just followed him out."
17 The inside of her mouth was cut when
18 she got to the hospital. Maybe he stuck something in her
19 mouth. Maybe she momentarily lost consciousness as a
20 result of being smothered. I submit to you that is
21 probably what happened.
22 Maybe he did beat on her, she doesn't
23 know. She said, "I didn't even know that I had been
24 beaten on until these bruises showed up."
25 THE COURT: You have used 10 minutes,
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1 Mr. Glover.
2 MR. CURTIS GLOVER: Thank you, Judge.
3 I'm going to sit down now, folks. But
4 just as they say, and I adopt that, use your common
5 sense. This woman did not kill those two little
6 children. There is no evidence here whatsoever to
7 indicate that she would ever have had that kind of a
8 mentality, quite the contrary.
9 And I will ask you sincerely from my
10 heart, to find her not guilty.
11 Thank you.
12 THE COURT: Thank you, Mr. Glover.
13 Mr. Mosty.

14 **MR. RICHARD C. MOSTY:** May it please
15 the Court? Counsel.
16 Ladies and gentlemen of the jury, I
17 will just very briefly echo the thanks that you have been
18 given by the other counsel and, well, you know that we're
19 thankful for your service.
20 And, I will apologize to you, if at
21 any time you think that I have wasted your time. If you
22 think I have wasted the Court's time, I apologize to the
23 Court. If you think I have wasted the State's time, I
24 apologize to the State.
25 But I'm going to expend every ounce of
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1 my energy to defend a principle I believe in, and someone
2 I believe in. And I will never apologize for my faith
3 and my belief in those principles.
4 But if I have done that too much, in
5 time-wise, I apologize. I'm sorry.
6 I want to -- there is no way that you
7 can cover everything, but I want to focus back on a
8 couple of things. My opening comments, do you remember I
9 said, and this is the phrase that I used: "By all
10 accounts this is an attentive, doting mother whose focus
11 is her children." And ladies and gentlemen, you have not
12 heard one word contrary to that."
13 Even Basia, the one who comes down
14 here says, she is faithful, they have a faithful
15 marriage, they have a good marriage. She is attentive to
16 her children. She is interested in her house. She is
17 caring about her physical appearance. She wants her
18 house clean. She had lots of kids in the house. All of
19 these things is (sic) undisputed. They could not produce
20 one person from Rowlett, Texas who said to the contrary.
21 Not one.
22 And yet, then they say that there is a
23 psychotic killer on the loose. Claimed to be psychotic.
24 And how many times did Mr. Shook say, "It doesn't make
25 sense. Why did this happen?"
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1 You know, that is the State's
2 obligation. They can not give you an explanation of what
3 happened. They can not tell you what happened. They
4 don't know. And it's not our obligation to prove that.
5 It seems to me like when you go back,
6 in this kind of case, and me not being able to cover
7 everything I wish I could, but I know I'm going to

8 forget, and there are some things I'm going to cover, and
9 I'm going to sit down, and I'm going to remember things I
10 should have.

11 But it seems to me that a jury in this
12 case would sit down and very carefully and deliberately
13 go through the evidence, and look at some of these
14 things. Some of these things have been pointed out to
15 you quickly. And you need to get these pictures up and
16 look at them, and I will point out a couple of things as
17 we go through.

18 I said in opening statement that
19 Darlie Routier was in the cross hairs immediately. You
20 know that is true. Within 20 minutes.
21 You know, I want to get Mr. Cron in a
22 room quietly, and I want to say to him, "Who do you think
23 you are? Almighty judge, jury and executioner? Who do
24 you think you are? That you walk in within 20 minutes,
25 and determine that this scene, that you know who is
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1 guilty. You don't know what the condition of anything
2 is. You don't know what the story is. You don't know
3 what the things were like when it happened. You don't
4 know about fingerprints. You don't know about DNA. Who
5 do you think you are?"

6 And from that moment, this case and
7 the Rowlett Police Department was irretrievably,
8 irreversibly, irrevocably focused in the cross hairs on
9 Darlie Routier. And Cron said, incredibly I thought, "I
10 didn't need to pick up the glass. I didn't need to go to
11 the FBI and see how much force it would take to break.
12 Maybe we could have determined how it broke. I didn't
13 need to do that. I didn't need to check officers feet
14 for glass, because I knew there wasn't an intruder. I
15 didn't need to pick up rags by the children's body
16 because I knew that there wasn't an intruder."

17 It seems to me like the first thing
18 that you would do, if you walked on a scene, and you
19 said, "This scene is not like another scene I have been
20 to." What would you do? I would say, "Wait a minute,
21 boys. This is the case we better be careful about. This
22 one is unusual. This one is different. This one doesn't
23 fit the pattern."

24 And you know, that in the mind of a
25 crazed criminal, in the mind of a drug crazed lunatic,
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1 what is going to make sense? And so, why don't you back
2 up and say, "This is a case in which we need to leave no
3 stone unturned. Let's do this one carefully. Let's
4 don't decide in twenty minutes that we know what
5 happened." But they did.
6 And then, what does the State do? The
7 State, rather than bringing you hard facts, rather than
8 bringing you hard facts, brings you opinions that cannot
9 be tested. I'm not talking about medical opinions, based
10 on medical testimony, I'm not talking about scientific
11 opinions based on scientific testimony, I'm talking about
12 opinions that can not and will never be tested.
13 How much of the State's case is
14 opinion? Cron's opinion? Well, we have got to back that
15 up, so let's get Mr. Bevel in.
16 Before I leave Cron, what is the one
17 word that never, never came out of his lips? Sock. In
18 the entire time he testified, he never said the word
19 sock. Do you know why? Because he can't explain it. He
20 can not possibly explain the sock, so he didn't even
21 mention it. It's like the glass, the wine glass, if it
22 doesn't fit with my conclusion, I'm pushing it away. I'm
23 never going to bring it to a jury.
24 So we bring in Bevel. And Bevel is
25 the blood guy. And do you remember when I was down here
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1 (Demonstrating on the floor), and I said -- well, first,
2 he draws his opinion. And then he comes up with this
3 video, and I encourage you to look at that video, because
4 contrary to what Mr. Shook says, in that video, where he
5 is doing like this (Demonstrating), those blood spatters
6 are long, and there is clear directionality to them. As
7 bad as that video is, you can see that.
8 And remember, he says that Devon's
9 stain, he can't tell if it's going up or down. So what
10 conclusion do you draw? But think about it. I'm down
11 like this, and you remember I had my pen, I actually had
12 the court reporter's pen, this green one, and I had like
13 this, and I said, "This one is going this way and that is
14 consistent with that?"
15 "Well, yeah, that's okay."
16 "And this one is going like this, and
17 that is consistent with that?"
18 "Well, yeah, that's okay".
19 "And this one is over here, as to --
20 like that?"
21 "Yeah, that's okay."
22 They are all consistent. There is

23 nothing that he said that wasn't consistent, except in
24 his judgment, in his opinion.

25 And remember what consistent means.

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1 It means I cannot exclude it as a possibility in his
2 judgment. He can't explain how a bleeding person could
3 get to that wine rack without getting blood on it. He
4 can't explain it.

5 He can't explain how a bleeding person
6 can get to the vacuum cleaner without getting blood on
7 it. He can't explain how someone picks up the vacuum
8 cleaner three times, a woman, three times, and doesn't
9 have blood over here, where he picked it up. He didn't
10 want to admit that, do you remember? He didn't want to
11 admit where he picked it up. He can't explain that.

12 But then, he can explain a knife being
13 laid down. Now think about that for a minute. Get the
14 pictures out. You will see that that stain has a bend to
15 it that goes with the knife. And he described laying it
16 down. He described it as laying it down and leaving a
17 trail, and then laying it down.

18 Ladies and gentlemen, if that is true,
19 this trail goes straight. It does not go with the
20 curvature of the knife.

21 The other thing is, it was laid down
22 left-handed. There -- look at the photographs. It's
23 right next to a chair. A right-handed person couldn't
24 have gotten there to do that. It was laid down
25 left-handed. And he goes and he tells you -- remember
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1 back, the State says, there is no -- that this scene is
2 not disrupted.

3 Bevel describes for you blood runs.

4 Do you remember? Gravity blood runs.

5 Ladies and gentlemen, take State's

6 Exhibit 11. And I'm just going to demonstrate this for
7 you, but do it for me. Over here on this coffee table,
8 there is a blood run. There is a place where the blood
9 has run. You see what I am talking about? I may get in
10 trouble for breaking this. It's on the coffee table

11 right there. There is a blood run. That coffee table is
12 askew, there is a blood run there. I'm not going to be
13 able to get it back to you. It's number 11.

14 How does that blood run? If Darlie

15 Routier is standing there, there is going to be a drop.

16 However, if she bleeds there, or someone bleeds there, I

17 don't think that blood was identified, and that coffee
18 table is laid over, then the blood is going to run.
19 That evidence shows you, that at one
20 point, that glass top table was off of the pedestal.
21 That is how the blood ran. And it gets back up sometime.
22 But the State, and Mr. Bevel don't
23 want to talk about that, because that doesn't fit with
24 their theory. Bevel, you know, and you can give them
25 credit for this sock stuff, Bevel said that the sock,
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1 that is disconnected or disassociated evidence, I can't
2 remember what he called it. They said, "Mr. Bevel, if
3 you were going to disassociate something, would you
4 disassociate a sock?"
5 Of course not. You would disassociate
6 a murder weapon. But that is how the State -- when
7 something doesn't quite go right, we wiggle it, to try to
8 make it meet our preconceived answer.
9 And Charlie Linch -- and again, to
10 some extent I have got to include Charlie Linch in this
11 question of opinions, where I say opinion that is
12 unfounded.
13 I don't quarrel with what Charlie
14 Linch said his job was. You remember. He said, "My job
15 is to tell you what I see, and to leave it to you
16 lawyers," -- he told me this -- "to leave it to you
17 lawyers to figure out what it means."
18 That is what he said. You all
19 remember it. Sort of a humorous moment. And, of course,
20 he was describing, in some of that, the fiberglass. And
21 remember, that his fiberglass experiments in all of his
22 experiments, he got three to four times more glass rods
23 than he found on this knife. He said, "I can't marry
24 those two. I can't bond them together. There could be
25 any number of other things."
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1 He looked at one circuit board. He
2 didn't test any circuit boards, he said he picked up one.
3 He didn't test it.
4 But then, what Charlie Linch said is
5 fall in lock step with the State. He comes up with an
6 opinion, that is not verifiable, that is not
7 scientifically or medically recreatable (sic), he comes
8 up with a theory that this must be posed.
9 Well, when did Charlie stop being an
10 observer of details, and start being an advocate for the

11 State? When did he stop? And that is where you get into
12 these opinions.
13 And then, to cap it off, the State
14 brings a bureaucrat from Washington, who has been to one
15 murder scene in his life.
16 First, the State sends him what they
17 want. Their reports of these officers, who are not under
18 cross examination, these officers who didn't make a
19 report sometimes, who made supplemental reports. The
20 only person in this courtroom who has got to have a
21 perfect story is Darlie Routier.
22 All of these officers can make
23 supplemental reports, and they can forget who picked up
24 the sock, they can do all of this stuff, and it's simply
25 a mistake. I mean, you know, memories are like that.
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1 But Brantley comes down and gives you
2 a mail-in verdict. The State has mailed him what they
3 want in Washington, they know the lady is indicted, he
4 knows that Cron has said she is guilty. They send him
5 the tests that they want to send. They send Dallas
6 Morning News articles along with it, and he mails back a
7 verdict.
8 That is the antithesis of the jury
9 system. He comes down here and he says, based on what I
10 have looked at, all he did was get under oath and deliver
11 the State's final argument for them. That's all he did.
12 He -- could I hire that guy? No. He works for the
13 FBI. Can you challenge that? No, not based on reason.
14 He thinks the room is not askew enough
15 for him. Well, he didn't no this coffee table had been
16 knocked over. The trash cans are knocked over, but not
17 enough to suit him.
18 And again, saying why did something
19 happen? Or is this -- I wonder why? What is the reason?
20 That is not proving facts beyond a reasonable doubt.
21 It's an untested opinion.
22 Judge Barton who was the judge before
23 Judge Ables. I don't know how many cases I have tried in
24 this courtroom, but I will never forget this: When a
25 jury was let go, no matter what time of night it was, and
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1 Judge Barton worked long hours. We had lots of verdicts
2 at midnight. And he would invariably bring the jury in,
3 and they were tired and they were worn out, and the
4 lawyers were tired, and the lawyers were worn out, and

5 Judge Barton would invariably tell them this story that I
6 thought was silly, and I thought, "Judge, come on."
7 And he would say, "Ladies and
8 gentlemen, in this country you have the right to
9 participate in the jury system. People, ordinary
10 citizens have the right to participate in the jury
11 system. And so long as that happens," he would tell
12 them, "there are going to be fallibilities, because
13 people are fallible. And the system is not perfect
14 because people work in it. Juries work in the system."
15 But he said, "The only perfect system
16 is one in which the people are not allowed to
17 participate. In which the government chooses to decide
18 who is charged, and what evidence, and who is guilty, and
19 the people are not allowed to participate." And so he
20 would say, "Be thankful that you live in a system where
21 the people can participate."
22 And I say, thanks to Judge Barton. It
23 took me a long time to learn the importance of that, but
24 I know it.
25 You know what Brantley didn't talk
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1 about? That black car. Is there one lick of evidence in
2 the record that anybody ever looked for that black car?
3 None.
4 It's described by Basia, it's
5 described by Halina, it's described by the Neals, and
6 Nelda Watts described it to Mr. Patterson. Four times
7 that black car shows, sitting in the driveway, watching
8 the house, and there is not one lick of evidence about
9 it.
10 The State wants to disconnect that,
11 like they want to disconnect the sock, because they can't
12 explain it. They can't explain a pubic hair, they can't
13 explain a fingerprint. They can't explain those things,
14 so they want to say, this is a confusing situation. It
15 doesn't make sense. It's their obligation to make it
16 make sense.
17 Like Mr. Shook said about motive,
18 people want to know why. Do you know why people want to
19 know why? Because some things don't make sense. It
20 makes no sense that this lady would change from a good
21 mother, a doting mother to a psychotic killer.
22 So that lack of motive, that lack of
23 reason creates hesitation. That is what reasonable doubt
24 is described as, hesitation when you are acting on the
25 most important things in life.

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1 The State tries to bring in, for
2 instance, these records. Again, go look. Mr. Davis --
3 the State has tried to mislead you on some times, and
4 call them on it.
5 Mr. Davis offered the May through --
6 or the January through May bank statements and said, "You
7 are three thousand dollars less in deposits than in your
8 withdrawals." Well, of course, in June, that situation
9 reversed itself.
10 But you know what they forgot to tell
11 you? You know what he forgot to point out to you? Is
12 how much money the Routiers took out of that business,
13 for their own uses. More than five thousand dollars a
14 month in draws from the Routiers.
15 Look at it if you want to. That is
16 the average. Fifty-two hundred dollars. Plus, another
17 thousand. They paid for the Nissan, four hundred dollars
18 out of there. They paid for the boat, \$344, their
19 insurance was \$272. Over that period of time they were
20 taking sixty-seven hundred, forty-one hundred,
21 fifty-three hundred dollars out. And do you know the
22 month of May, the month of the May, draws of seven
23 thousand dollars. Do you know why? Do you know why
24 these things were in the trash can? Because they have
25 been taken care of. The draws are seven thousand dollars
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1 a month, plus another thousand on cars and payments like
2 that.
3 The reasons -- add it up. I can't
4 remember what it is, it's something like thirty-five
5 thousand dollars that the Routiers took out of that
6 business, and the State misleads you about these records.
7 That, you know, someone contemplating
8 an important event. Like someone who is going to kill
9 their children is going to get these records out. Well,
10 they didn't even get them out. They are dog and cat
11 records, there are life insurance papers, there's old
12 notes, there's a letter from a lawyer months before about
13 a will. Those are all of what is sitting up there, and
14 that is what is sitting here. The State doesn't want to
15 talk about those, because they can't, they don't get
16 anywhere, they are innuendo.
17 Did you hear some of the innuendo
18 about, "Do you take your children to the pawn shop?"
19 "Gangsters paradise."

20 What do you think Mr. Davis would say
21 if Mrs. Routier played her favorite song at her
22 children's funeral? What do you think he would say? He
23 would say, "You care so little about your children, you
24 won't even play their favorite song." Who do you think
25 you are?

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1 The State -- another thing the State
2 doesn't want to talk about. The towels. The State
3 doesn't want Darlie Routier over there by the children.
4 Well, ladies and gentlemen, look at Exhibit 56. It's got
5 blood by Devon's body. Blood drops. Whose blood is
6 that? It's Darlie Routier's. If she didn't go to help
7 Damon -- Devon, how did that blood get there?
8 The State doesn't want her bringing
9 towels. Look at Exhibit 79. It's the towel drawer.
10 It's open. You see the kind of towels that are in
11 evidence. There is blood on the drawer. Whose blood is
12 it? It's Darlie Routier's. If she didn't get towels to
13 help the children, how did the blood get there? If she
14 didn't take the towels, do you think she stood in the
15 kitchen and threw them to Darin? How did the white
16 towel, this isn't it -- they didn't pick up the one by
17 Devon. How did the white towel get over there? How did
18 those towels get to Devon, by his hand?

19 THE COURT: You have used 25 minutes,
20 Mr. Mosty.

21 MR. RICHARD C. MOSTY: I'm going to
22 talk briefly about -- and Mr. Mulder will cover this
23 more, the knife wound, and I'm going to relate this to
24 Mr. Brantley.

25 Did you notice how Doctor DiMaio
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1 described those wounds? And how they came down, and then
2 in a continuation. And common sense tells you, and
3 anybody who describes these, sees how you would do that.
4 And the length of the knife, think
5 about that. How could someone cut, in the manner that
6 Darlie is cut, up, a right-handed person? Look where the
7 knife has to be. And how do you get this wound over
8 here? It doesn't make sense. It doesn't make common
9 sense and that is medical, that is a medical opinion.
10 It's not some witchcraft opinion from the FBI
11 headquarters, it's medical. How do we get these bruises?
12 The State -- if Darlie Routier was out
13 in a long black veil at the grave site, they would say

14 she is faking it. If she had a perfect story, they would
15 say that is too good. There is no way that it can fit.
16 There is no way this knife wound can fit logically.
17 There is no way the sequence of events can fit logically.
18 And what did the State do through all of this? I cannot
19 imagine someone being more under a microscope than Darlie
20 Routier has been.
21 She started at 6:00 A.M. when they go
22 down there, and she is on a disinhibiting drug. I submit
23 they knew that, and they thought they are going to go
24 down there to the hospital and they are going to find out
25 what went on. And then to be good guys they go and visit
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1 her on the 7th. And then, on the 8th they come and they
2 get another statement, 10 pages.
3 Remember, ladies and gentlemen, when
4 you talk about these bruises, how did she leave the
5 hospital? In the escort of the Rowlett P.D. She goes --
6 and all of these bruises are described by any number of
7 people.
8 And then after that, they see her
9 again on the 10th, take pictures again, talk to her again
10 and then: Who do you think you are? To go out and put a
11 bug on a grave site in hopes that you will get a
12 confession. Who do you think you are?
13 You know the only person who needed a
14 lawyer, who needed to claim a lawyer in this case, you
15 heard him, was Officer Patterson.
16 If you are going to ask me about that,
17 I'm going to talk to a lawyer. The audacity to do that
18 at a funeral service, at a prayer service for children.
19 And then, to bring in the closer, Mr.
20 Parker. Three hours, close the deal for us. Close the
21 deal.
22 Mr. Parker says, "Well," -- in that
23 deep voice -- don't you know how he came across to Darlie
24 Routier. He says, "She didn't deny it."
25 "Well, Mr. Parker, she told you
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1 somebody else did it, didn't she?"
2 That is denial. And after three hours
3 in there, you know, can't you see her saying, "Man, leave
4 me alone. You accused me, you told me you thought you
5 (sic) were guilty, you told me you looked at all the
6 evidence, you told me all that, leave me alone."
7 Now, then beyond that, they copy all

8 of her jailhouse mail. And through all of that, through
9 everything, microscopically that they have done to Darlie
10 Routier, what is the one thing that they have failed so
11 miserably to do? Get the confession that they wanted.
12 Get the confession that they bugged graves for. Get the
13 confession that they brought the closer in for. Get the
14 confession that they read the jail mail for. They didn't
15 get any of it.
16 You know, and here is a lady sitting
17 in jail, whose investigators and lawyers are out there
18 and they are trying to say, "You know, gosh, we've got a
19 lead." And she gets beat up over that? Good night.
20 But they never, ever, got what they
21 wanted. And they never, ever have brought you an
22 explanation.
23 Mr. Brantley, Mr. Mulder said, "Mr.
24 Brantley, from all the way from Washington, here is your
25 chance. Tell me what happened."
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1 He couldn't do it.
2 "Tell me how it happened."
3 He couldn't do it. He didn't know.
4 There are things he said he didn't know. He didn't know
5 DNA results for one thing. He didn't know when the
6 children died, or how long they died, even though the
7 autopsy report was available to him.
8 He didn't want to know. He was
9 afforded the opportunity to set it out, and through this
10 trial, no one has done it. And I submit to you that they
11 never will.
12 There is no way I can cover what I
13 would like to cover. But, it is so important that you go
14 back and you look at the evidence, at the hard facts, at
15 the verifiable medical evidence, at the verifiable
16 scientific evidence. You know, all of the State's case
17 of opinions, of maybe's, of could be's, of could have
18 been, should have been, would have been. That is not
19 proof beyond a reasonable doubt.
20 This is not a could have, should have,
21 would have. This is not a case where you say, "Well, if
22 she didn't do it, who did?"
23 This isn't a multiple choice test, or
24 as we used to call them multiple guess. This isn't
25 multiple guess. This isn't a question of you solving the
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1 case. I think we talked to every one of you on the jury
2 about that. You are not here to solve the case.
3 This is a question of, has the State
4 brought you hard evidence, verifiable evidence that would
5 cause you not to hesitate in your life. That is the
6 definition of reasonable doubt. Not to hesitate to make
7 that decision. If you hesitate, then you have got a
8 doubt based on reason. Not opinions, not just, "Oh, I
9 think this, or that is consistent with this, or this is
10 consistent with blood going that way, this blood drop
11 could be going up or down, that table is not messed up
12 enough." Proof beyond a reasonable doubt.
13 And I say to you, that when you are
14 back there and you are debating this thing, and you move
15 from subject to subject, remind yourself, remind your
16 fellow jurors. We have to test this piece of evidence
17 against the presumption of innocence. Every piece of
18 evidence, test it against the presumption of innocence.
19 Every time you are in a conversation
20 with your fellow juror, you seem to hesitate about that.
21 You seem to have reasonable doubt about that. Work
22 through it, and think about it.
23 There is no explanation, the State has
24 failed miserably, as Mr. Davis said in the beginning,
25 "We're going to tell you why this happened." They didn't
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1 do that. They proved it's just the contrary.
2 A mother, that there is no explanation
3 and they will never give you one, and they will never
4 give you an explanation of what happened that night. You
5 know, and I bet the officers who walked on the scene when
6 Charles Manson had butchered those people said, "I have
7 never seen anything like this."
8 And as Cron said, the FBI, who
9 fingered Richard Jewell, I bet there are a few places
10 they would say, "I have never seen anything like this."
11 In closing, I'm going to -- I want to
12 quote two things.
13 Justice Brandeis was one of the
14 eminent Supreme Court Justices for many years, and he
15 wrote, in 1928, nearly 70 years ago, in a case called
16 Olmstead_versus_The_United_States, "They, the makers of
17 the Constitution, conferred as against the government,
18 the right to be let alone. The most comprehensive of
19 rights, and the right most valued by civilized men. The
20 greatest dangers to liberty lurk in insidious
21 encroachment by men of zeal, well meaning, but without
22 understanding."

23 They don't like Darlie Routier. They
24 don't like the lifestyle she led. They have to try to
25 trash her with breast implants.
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1 Why did they do that? They want to
2 trash her, because they can't explain it.
3 THE COURT: You have used 35 minutes
4 Mr. Mosty.
5 MR. RICHARD C. MOSTY: She had the
6 audacity -- she had the audacity to express herself the
7 way she really is, and the audacity to not fit what the
8 State -- what the government wanted her to do, and to be
9 the victim of a crime that doesn't fit what somebody in
10 Washington thinks it ought to look like.
11 Learned Hand was a Justice of the
12 Supreme Court for many years, and he made a statement
13 that I have adopted as my own. It was first written --
14 the quote was first written by Oliver Cromwell to the
15 Church of Scotland in 1650.
16 And he is writing to the Church of
17 Scotland over, at that time a religious issue, and he
18 says: "I beseech ye, in the name of God, that ye may be
19 mistaken." And Learned Hand, in his articles, Life and
20 Morals and Ethics in Public Life, made this quote: He
21 said, "I beseech ye, in the name of God, that ye may be
22 mistaken."
23 I should like to have every school
24 begin, I should like to have every legislative body
25 begin, and yes, I should like to have every court begin
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1 with this statement, "I beseech ye, in the name of God,
2 that ye may be mistaken."
3 And I should like for every jury, when
4 you are weighing reasonable doubt. When you are laying
5 the evidence against the presumption of innocence. When
6 you are seeing if you hesitate and if your fellow jurors
7 hesitate in the most important of life's events.
8 "I beseech ye, in the name of God,
9 that ye may be mistaken." Thank you.
10 THE COURT: Thank you Mr. Mosty. Mr.
11 Mulder.
12 MR. DOUGLAS MULDER: Judge, if we
13 could have just a minute to organize the evidence.
14 THE COURT: All right. If you will
15 step back in the jury room for a brief, five minute
16 break, please.

17
18 (Whereupon, the jury
19 Was excused from the
20 Courtroom, and the
21 Proceedings were held
22 In the presence of the
23 Defendant, with his
24 Attorney, but outside
25 The presence of jury
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1 As follows:)

2

3 THE COURT: All right. Are both sides
4 ready to bring the jury back in and resume the arguments?

5 MR. DOUGLAS MULDER: Yes, sir, we are
6 ready.

7 MR. GREG DAVIS: Yes, sir.

8 THE COURT: All right. Bring the jury
9 back in, please.

10

11 (Whereupon, the jury
12 Was returned to the
13 Courtroom, and the
14 Proceedings were
15 Resumed on the record,
16 In open court, in the
17 Presence and hearing
18 Of the defendant,

19 As follows:)

20

21 THE COURT: Let the record reflect
22 that all parties in the trial are present and the jury is
23 seated.

24 Mr. Mulder, you have 42 minutes.

25 MR. DOUGLAS MULDER: Yes, sir, thank
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1 you, your Honor.

2 May it please the Court?

3 THE COURT: Yes, sir.

4 **MR. DOUGLAS MULDER:** Once again, I
5 have an opportunity to speak directly to you, and I think
6 it would indeed be thoughtless of me not to take a moment
7 or two to thank you for the time and attention that you
8 have all devoted to this case.

9 This has been a relatively long case,

10 as cases go, and I'm sure that y'all have things that you

11 would rather be doing. We have taken you away from your
12 homes and from your families and from your jobs, and we
13 appreciate it deeply.

14 Last night, when I visited with
15 Darlie, and I asked her, "Is there anything in particular
16 that you would like to have me say to this jury?"

17 MR. GREG DAVIS: I'm going to object
18 to that as being outside the record as to what he did
19 last night.

20 THE COURT: Both sides are instructed
21 to stay within the record, and the jury is instructed to
22 remember the testimony as they heard it and you may
23 continue.

24 MR. DOUGLAS MULDER: She just asked
25 that I thank you, and I do that.
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1 MR. GREG DAVIS: I'm going to object
2 to that again, about whatever conversations that he may
3 have had outside of this courtroom.

4 THE COURT: Well, I'll sustain the
5 objection. And let's stay within the record, please.

6 MR. DOUGLAS MULDER: Yes, sir. I need
7 to visit with you a little bit about some of the very
8 fundamental principles of law, and then I too, would like
9 to share my thoughts with you in an effort to help you,
10 if it does, in arriving at your verdict.

11 But let me make one thing clear. You
12 aren't down here to return a verdict that is going to
13 make me happy. And you aren't down here to return a
14 verdict that is going to make Greg Davis happy.
15 The only people that have to be
16 satisfied and happy with your verdict are the 12 of you.

17 Now the law says, and we talked to you
18 about this on voir dire, the law says that all people are
19 presumed to be innocent. And the law says that that
20 presumption stays with them until the State proves their
21 guilt beyond all reasonable doubt. Another way of
22 saying, "Whoever does the accusing, has to do the
23 proving."

24 Now, way back four weeks ago, Mr.
25 Davis stood before you, and for a half an hour or 40
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1 minutes he told you, he made a pledge, he made a promise.
2 And he said, "We're going to prove that Darlie Routier is
3 self-centered, and materialistic and that she and her
4 husband were in financial straits and that it was just

5 too expensive to maintain these youngsters. And that is
6 why she killed them."
7 Now isn't that basically what he said?
8 Now let's talk about finances for a
9 minute. We know that she and Darin had their own
10 business. And we know that through June of 1996 they had
11 taken in approximately eighty-six thousand in cash in
12 that business, we know their expenses were some five
13 thousand a month in that business, and that leaves us
14 some fifty-six thousand.
15 Mr. Davis said: "Oh, but you were ten
16 thousand dollars in debt to the IRS."
17 He says, "I always owe the IRS."
18 And he said, "You owed your credit
19 card companies some twelve thousand dollars."
20 You know, I had expected from the
21 statement that he made that he was going to bring bankers
22 down here and he was going to bring mortgage people down
23 here, and he was going to bring people from the credit
24 card companies talking about how they were hounding these
25 folks.

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1 And he was going to bring car
2 repossessors and things of that nature to show how he had
3 lost his business and they were almost to be thrown out
4 in the street. But that is not what happened.
5 Eighty-six thousand in six months,
6 expenses of some thirty thousand, that is fifty-six
7 thousand. And that may not be high cotton to Mr. Davis.
8 But you know, it's better than nine thousand disposable
9 income that he had each month.
10 But he said in addition to that, he
11 said there was eighteen or twenty thousand that I had in
12 accounts receivable that I have since brought in, so it
13 was there and available if I wanted it. And he had
14 seventy-nine hundred dollars in the bank. And he showed
15 sixty-four dollars in their personal checking account.
16 You know, who cares? Like I said, that's a long way from
17 skid row. Those are not dire straits to my way of
18 thinking.
19 Now, you have had some false
20 impressions that -- and I was a little surprised, but for
21 example, you will recall from that den they brought you
22 some records, and Mr. Davis introduce through Mayne
23 records about someone contemplating the disposal of their
24 assets in the event of death. And the idea or the
25 impression that he wanted to leave was that there was

1 death thoughts in the mind of Darlie Routier on the night
2 of June the 5th. Y'all recall that.
3 You know, but the thing he didn't
4 bring you was the fact that they had a letter from the
5 lawyer dated September of 1995, talking about estate
6 planning, and all of this was in the same file. And that
7 was intended to deceive you, because it wasn't until we
8 had a chance at bat that we were able to straighten that
9 out.
10 But there was no death contemplated by
11 her. That was strictly done to mislead you.
12 Now, I think that there were some
13 leads out there that perhaps they should have pursued.
14 You will recall when Jimmy Patterson was on the witness
15 stand and I had to call him.
16 Can you believe that the leading --
17 that the lead detective, the man who made the ultimate
18 decision to charge Darlie was not called by the State.
19 They didn't call Patterson and didn't call Frosch. I had
20 to call them. And I was able to question him up until he
21 took the Fifth, and you will recall when the Judge
22 admonished him. But he tells you several things.
23 Patterson told you that the very
24 morning of this tragedy they had a call at the police
25 station, and the caller described a man who had a black
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1 cap --
2 MR. GREG DAVIS: I'm sorry, that is a
3 misstatement. It was not that morning, it was that
4 afternoon on the 6th.
5 THE COURT: The jury is instructed to
6 remember the testimony as they heard it, and be guided by
7 the Charge of the Court.
8 MR. DOUGLAS MULDER: I thought that
9 Mr. Patterson said it was that morning, but I'll stand
10 corrected. That afternoon is just as good.
11 But they had a man that fit the same
12 description that Darlie Routier had given, and he didn't
13 bother to check it out because he said it was on the
14 other side of town, which means that is five minutes
15 away.
16 He didn't bother to check it out
17 because it was on the other side of town. And the man
18 that called in had had the presence of mind to get the
19 man's name. And to this date they still haven't checked

20 his fingerprints, if they have got them, with the
21 fingerprints in that window.
22 They haven't checked the fingerprints
23 of Glenn Mize with the fingerprints in that window. And
24 they haven't checked the fingerprints of Gary Austin, the
25 fellow who lives down that alley that she wrote about in
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1 the letters, that the investigators had told her about,
2 and those were investigators that were in it before I
3 was.
4 But they still haven't checked their
5 fingerprints with the fingerprints in the window.
6 Now, what about the black car. Mr.
7 Patterson knew about that black car because he was there
8 and interviewed Nelda Watts. The neighbor who lived
9 right here. And she told Mr. Patterson that there was a
10 car that was parked out in front of her mailbox that
11 morning.
12 You see, they didn't call her because
13 she contradicts what Gorsuch says. But we know, by now,
14 from what the police officers said and everything else
15 that Gorsuch is -- he is not lying, he is simply mistaken
16 about the facts. But we know that there were more cars
17 out there than what Mr. Gorsuch led you to believe.
18 But at any rate she told you, and
19 Patterson told you that he was told that there was a
20 black car that was parked out there, and that that black
21 car was seen when a scream was heard and a lady looked
22 out of her window. She saw the black car there.
23 Then when the emergency vehicles
24 arrived that black car was gone. Now Karen Neal also
25 told you that she was there and she heard this next door
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1 neighbor of hers relate the facts to Patterson about the
2 black car that was there when the scream was heard, and
3 then later when the emergency vehicles arrived the black
4 car was gone.
5 And she told you that she had seen a
6 black car in that vicinity some seven or eight days
7 earlier and she told you when she was coming home from
8 work, remember about 3:00 o'clock and she saw the car
9 parked there and thought it was unusual because it was
10 parked there in the position where it could surveil the
11 Routier house. She said she saw the car and it was
12 suspicious to her, and she got out of her car to walk
13 around and find out what the man was up to.

14 And she said before she could ask, he
15 drove away at a fast speed. And she said she told the
16 police about that. Told Patterson about that. But they
17 didn't do anything about it.

18 And, she told you that later on, the
19 day of the murders, she again saw that black car as it
20 went through -- remember when it went through the
21 neighborhood? And she ran out and she didn't get the
22 license number, but she told the police that, "That is
23 the car that I was talking about." But they turned a
24 deaf ear.

25 THE COURT: Thirty minutes left, Mr.
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1 Mulder.

2 MR. DOUGLAS MULDER: Thirty?

3 THE COURT: Thirty.

4 MR. DOUGLAS MULDER: Yes, sir. Folks,
5 this was a -- this was a normal family. You had a mom
6 and dad and you had a house and a picket fence, a rose
7 garden, you had three children.

8 You know she just doesn't, all of a
9 sudden, out of the blue go haywire and kill her children.

10 Now, Mr. Davis has told us that he

11 would bring witnesses. The State has the burden of
12 proof. They have done the accusing, they have got to do
13 the proving.

14 They have brought you absolutely --
15 and think about this: Who of us could withstand the
16 scrutiny that they have put this woman under for the last
17 nine months? Unlimited funds to investigate her.

18 They have got some two hundred lawyers
19 in the district attorney's office in Dallas, some hundred
20 and how many investigators, I don't know.

21 They have got the Rowlett Police
22 Department at their disposal. They have had them down
23 here for four weeks. Unlimited funds to investigate
24 Darlie Routier, and they can't come up with one single
25 witness that will say anything bad about her as a mother.

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1 The undeniable proof is, that she is a
2 very loving, very caring, very devoted mother. And don't
3 you know, with unlimited funds, if that weren't true,
4 they would have somebody down here saying something about
5 it to the contrary.

6 Don't you know, if she had ever, ever,
7 ever mistreated those children, that someone would be

8 down here under oath telling you about it?
9 Let's talk for a little bit about that
10 crime scene, and there is nothing magical about a crime
11 scene. You know this fellow from the FBI that came in
12 here, Mr. Brantley, he learned a lot of what he is
13 telling about by talking to prisoners in the West
14 Virginia penitentiary. And you can imagine how truthful
15 those folks are going to be with him, but that is where
16 he got a lot of -- that and what he gleaned from that one
17 murder investigation that he was involved in.
18 But he came down here, and he said,
19 well, you know after looking at everything, he said, "I
20 think it's someone who knew the boys very, very well."
21 And he went through his risks, and he went through the
22 other things.
23 But you know when I asked him, and I
24 would suggest to you that they have a duty and a
25 responsibility to tell you how this happened. Okay? And
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1 if they can't tell you how it happened, then they have
2 the duty and the responsibility to tell you why they
3 can't tell you how it happened.
4 But I said, "Professor, Mr. Brantley,
5 you are the analyst, will you tell the jury, please, how
6 this happened?" And he said, "Well, I can't do that."
7 "Well, I mean, you are the analyst,
8 you ought to be able to tell them how it happened. Who
9 was killed first? How many knives? You know."
10 "Well, I can't do it."
11 "Well, can you tell us how long it
12 took to commit this particular" -- and that is going to
13 be important on down the line. Think about that now. I
14 want you to remember that. How long this took to commit
15 this and stage, you know, this thing.
16 He said, "I can't do that."
17 All right. Let's talk for a minute
18 about staging. You know, Cron, ex-deputy sheriff Cron
19 was called to the scene. And Jim Cron, he is a fine man,
20 he worked at the sheriff's office many, many years. He
21 was a fingerprint man. He left the sheriff's office
22 about three years ago, grew a beard, and now he calls
23 himself a consultant, and I don't quarrel with that. But
24 he is a fingerprint man. But at any rate, he doesn't
25 know any more about logic and common sense and what is
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1 reasonable and what isn't, than you all do.
2 Cron is the one, he gets out there and
3 he says, "Look," -- he said, "You couldn't go through
4 that window without disturbing the dust on it." He said
5 it was like a field of fresh fallen snow. Remember that?
6 And then here comes Frosch, right
7 before his very eyes and he goes in and out of it.
8 Frosch who is 6'3", and probably would dress out at about
9 220, goes through it back and forth three times, and
10 never disturbs it at all. You know, I thought he was
11 going to come out of here with that screen around his
12 neck. But he went through that, in and out, before your
13 very eyes three times.
14 Well, Cron says, you know, I guess he
15 wants the lights turned out and the blinds -- you know,
16 he said he didn't do it at night. I don't care what it
17 is, you know, if it doesn't fit with his ideas and his
18 opinion, then he just disregards it.
19 And another thing that astounded me,
20 and must have you, he put his hand in the very same place
21 that they have the unidentified fingerprints. I called
22 them to Cron the coincidental fingerprints, remember?
23 He said, "Well, those don't really
24 mean anything." Of course, they had all of the police
25 officers and all of the -- why are they getting the
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1 prints of the paramedics if they didn't -- if they
2 weren't wandering throughout the house.
3 They had all of the prints of the
4 paramedics, all of the prints of the police officers, all
5 of the prints of the Routier family, and they compared
6 them. No match.
7 And Cron says, "Well, you know, that
8 doesn't mean anything." And you can imagine what it
9 would mean if her prints were on there. Then it would
10 have been extremely important, like it was when her hair
11 was in the window. But we know about that.
12 Cron didn't have any opinion about
13 that sock. They never asked him about that sock. They
14 preferred to ignore the sock.
15 You talk about artifacts, and you know
16 what an artifact is. An artifact is something that has
17 been changed, or a manmade change in the crime scene.
18 That is an artifact.
19 Well, when do you determine whether or
20 not there are any artifacts? And isn't that the first
21 thing?
22 You know Bill Parker said this, and I

23 think Richard Mosty categorized him perfect as the
24 "closer." He is the guy, you know, on the used car lot
25 that comes in when they are balking a little bit, and
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1 they are trying to make a sale, and he is "the closer".
2 And I tell you, if Bill Parker can't
3 get a confession out of somebody, they haven't done
4 anything, and it's as simple as that.
5 But Parker is the one that they should
6 have asked about this, because he is the one that has
7 been out to many crime scenes. But Parker said, he
8 wasn't asked to give his opinion or reconstruct anything.
9 But I asked him, "Aren't all crime scenes contaminated?"
10 And he said "Yes, they are. The
11 police officers come in there, and everybody wants to
12 look at the weapon. Everybody wants to get a drink.
13 Everybody wants to use the bathroom. It's chaotic."
14 Especially when you get the first responders and they are
15 paramedics, because they are not interested in the crime
16 scene, they are interested in trying to save lives.
17 But the time that you find out what
18 the artifacts are and what has been changed isn't five or
19 six months later down at the courthouse, when you are
20 doing your mock trial routine. It's there. That is your
21 job, Patterson. You talk to the paramedics. You find
22 out what they have done, and what they have moved.
23 Now, there is a very telling
24 photograph here, and I will remind you that both Darlie
25 and Darin, in their statements, say that the glass table
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1 top was down. Darin says it, and you can look at that.
2 I put it in evidence, they didn't. I put her statement
3 in evidence. They didn't.
4 But she says that there was a table
5 top and it was down when she first got up, and when he
6 came down the stairs, and when they first saw the scene.
7 And this is that table top. This is
8 the table top right here. And you know, Cron criticized
9 the photographs, like all of us do, because they are not
10 proper. But Cron was right there and didn't do anything
11 to correct the situation when he saw it.
12 You know, he let the photographer go
13 through there and take three hundred pictures in the den
14 and in the kitchen, before they ever started to process
15 the situation. And that is not good police work, and you
16 know that. Just from sitting here as jurors. Common

17 sense tells you that.
18 But you can tell from this photograph,
19 I guess it goes like this. But you can see that that
20 blood has run off that table, and that is consistent with
21 it being down. Darin told you that the paramedic put
22 that table back on the pedestal. Darin told you that the
23 paramedic knocked that lamp shade down.
24 Darin told you and Darlie told you
25 that she used the vacuum cleaner to steady herself on.
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1 Now, if that is not the case, you
2 know, we know Waddell and Walling are still here. You
3 know, God only knows what this has cost the County of
4 Dallas. But, you know, they can get them here like
5 instant coffee. So they are still here.
6 They could have called Mr. Waddell up
7 here and said, "Mr. Waddell, did you ever see her using
8 this vacuum cleaner? We know, Mr. Waddell that you
9 didn't see it in the kitchen, but did you ever see her
10 using this vacuum cleaner to steady herself with, like
11 she said?"
12 And he could have told you one way or
13 the other.
14 And it's absurd for them to suggest
15 that Walling and Waddell were in that kitchen, and saw
16 the glass on the floor, and didn't see a vacuum cleaner.
17 Remember how they tip-toed around that
18 glass, so as not to step on it? And you are telling me
19 that they didn't see a vacuum cleaner?
20 You know, I asked Waddell, I said:
21 "Was there anything to obstruct you walking from the den
22 to the kitchen sink?"
23 And he said, "No."
24 "Well, I meant, would you have to jump
25 over a vacuum cleaner?"
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1 And he said he didn't see any vacuum
2 cleaner. To suggest that this is staging is absurd. To
3 suggest that she rolled this around to stage what? This
4 is absurd.
5 But you see what they didn't do, what
6 Patterson didn't do and what Walling didn't do, and what
7 the officers didn't do, was find out from the paramedics,
8 at that time, "What have you moved?" Not wait until
9 sometime later.
10 What else have they tried to mislead you on?

11 Well, you know, it's kind of curious that Waddell -- he
12 makes it sound like there wasn't much going on when he
13 got there. Darlie was rather calm. But when I got his
14 report from him, he admits that in his report, he
15 described her as hysterical.

16 Now, I think Waddell -- and I don't
17 mean to fault Waddell, I think he was -- I think he was
18 as shocked as any of us, as I would have been. And I
19 don't know how I would have reacted. I may have frozen
20 just like he did. I don't know. And so I'm not throwing
21 stones at him. But I think what you heard was what he
22 wished he had done.

23 He didn't help those children and he
24 didn't do anything to help them. And I dare say he
25 didn't give any instructions.

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1 And you are privy, you see, you have
2 this advantage, he said that he didn't do any questioning
3 of Darlie after Sergeant Walling got there. Remember
4 that? Remember that?
5 Okay. Walling got there at the end,
6 you can hear where he is coming in on the 911 tape, you
7 have listened to that a bunch of times. Waddell is the
8 one who was questioning her on the 911 tape.
9 She is answering Waddell, she is
10 talking to him about fingerprints, she is talking -- and
11 when she first said something about fingerprints, she
12 said something about, "He dropped a knife," and the woman
13 says, "Don't touch anything."
14 They are trained to tell them that,
15 because people instinctively do. Just like police
16 officers. They handle -- everybody wants to touch the
17 gun, everybody wants to see the knife.
18 And they are instructed, "Don't touch
19 anything."
20 She said, "I've already touched the
21 knife."

22 But when they talk about fingerprints,
23 she is talking to Waddell, but she is carrying on three
24 conversations, one with Waddell, one with the 911
25 operator and one with her husband. You can appreciate
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1 that. But they didn't know that at that time.
2 The 911 operator thought she was
3 talking to her. You know and Waddell I assume thought,
4 whatever, and the husband. So, to -- just to hopefully

5 clear that up.
6 But at any rate, let's talk a little
7 bit about that sock. Do you really believe that, first
8 of all, if you are going to plant evidence, what is the
9 most important consideration? That the police find it.
10 I mean, it doesn't do any good if the police don't find
11 it. The police have to find it.
12 Do you think that she is so
13 sophisticated that she would have the presence of mind to
14 put just a smidgen of blood on that sock, just a wipe of
15 blood on that sock and put it three houses down the alley
16 and depend on Patterson and his people to find it? I
17 don't think so.
18 I think what she would have been
19 inclined to do, and what someone who wasn't acquainted
20 with crime scenes, maybe you all, you know two months
21 ago, if you are going to plant something like that, it's
22 going to be a sock that is drenched in blood. And you
23 are going to put it at the end of the driveway, where the
24 driveway meets the alley to show that somebody was taking
25 off and kind of show where they were going down the
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1 alley.
2 THE COURT: Fifteen minutes left.
3 MR. DOUGLAS MULDER: You are not going
4 to do anything as subtle as a little smear on that sock,
5 down three houses and hope the police find it.
6 Now I'm going to have to move on, and
7 I'm going to talk fast, and forgive me, I would like to
8 take another 45 minutes or an hour, but I don't have that
9 luxury.
10 Let's talk about Tom Bevel and talk
11 about what he said.
12 He said basically that they are two
13 spots. A spot here and a spot here. And you can either
14 believe that the blood was mixed and it was Darlie's
15 blood and Devon's blood, or Darlie's blood and Damon's
16 blood, or Darlie's blood and Damon's blood.
17 Or, you can believe, if you choose,
18 you can believe that one spot of the child's blood hit
19 here, and then one spot of her blood hit right on top of
20 it, and then one spot of the other child's blood hit
21 here, and then another spot of her blood hit right on top
22 of it, exactly right on top of it, and the same thing
23 over here.
24 Now, to make the situation work, Mr.
25 Bevel tells you, that the only way you can get this -- or

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1 one way, I guess, that you could get this on there was
2 through stabbing, and when you draw the knife back, the
3 knife blade, which is -- it has a supply of both of their
4 blood on it, is cast off here when you stab the one boy.
5 Okay?
6 Is everybody clear on what he is
7 talking about?
8 Now, if in fact that is true, we know
9 that Darlie has to be injured prior to the time that this
10 happens because it's got to get her blood on the knife
11 blade.
12 So, that means that she is either the
13 one who is assaulted first, her throat is cut, she is
14 stabbed in the right forearm, stabbed in the left chest
15 and her fingers are cut here, and she is beaten severely
16 with a blunt instrument, all of that happens first.
17 Okay?
18 And then the boys are stabbed -- and
19 that doesn't make a lot of sense because you have got to
20 get her down that alley with that sock, and none of her
21 blood is outside the house.
22 In fact, it's not outside the -- it
23 goes to the front door, and it goes to the utility room
24 and it's in the kitchen and den. Okay?
25 So that is unlikely that she is the
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1 first one -- that she is going to cut her throat and do
2 all of this stuff to herself, and then stab the children.
3 But you see, the other version is
4 equally ridiculous. Because under that scenario, she
5 stabs both boys, then she cuts her throat and inflicts
6 all of these wounds to herself, to get her blood on that
7 knife, you see. And then, she goes back and stabs the
8 kids.
9 Now, does that make sense? Neither
10 one of these situations actually makes sense. But you
11 see, she has got to load the knife with her blood if
12 these are mixed blood cast offs, and it won't work either
13 way. I mean, it doesn't make any sense either way.
14 They have got -- they have the
15 responsibility of telling you how this happened, or they
16 have the responsibility of accounting for you why they
17 can't. And they haven't done that.
18 Now, Angie Rickels came down here and
19 testified. You remember her? She is the young lady that

20 lived -- lives on Miami, four blocks away. She is two
21 blocks on the other side of Dalrock Road. And you know
22 Dalrock runs from Highway 66 to Interstate 30. And it's
23 about five minutes between the two.
24 You get on Interstate 30 and you can
25 be in Dallas in ten minutes, or you can be in Rockwall or
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1 through Rockwall in ten minutes. You get on 60 and you
2 can -- you know, but you have got access to two highways,
3 and they are only five minutes apart.
4 She told you this: She said that her
5 husband works nights, and she said that he was working
6 this particular night and she was home with her 15 year
7 old daughter and her infant baby.
8 And she said that she was -- she heard
9 somebody trying to come in through the door. And first
10 thought it was her husband because it was 1:30, and he
11 works late nights. And sometimes comes home for lunch or
12 checks on her, because of her condition. She had a
13 stroke earlier. And then she didn't hear the key in the
14 door, and that aroused her suspicion. She went to the
15 door and she looked out, and turned on the light, and
16 these two men ran off. Do you remember that?
17 She said she -- of course, it scared
18 her, but she didn't call the police like she should have,
19 I suspect. But at any rate, she said about 15 or 20
20 minutes later she heard something at the window, and it
21 was somebody trying to get in with a knife or a
22 screwdriver, and she turned out the lights this time and
23 they -- she saw them run off.
24 She said she told her husband about it
25 immediately when he got home. He called her in-laws and
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1 told them, told some people, and they said, "You really
2 ought to report this." And so she finally did. And she
3 said the police came out there, and they really weren't
4 interested in it.
5 Now this is 1:30 to 1:45 or two
6 o'clock, I suspect on June the 6th, some four blocks from
7 where this happened. And the FBI agent said that it's
8 important what has happened in the neighborhood.
9 You know, the black car would have
10 been important. This would have been important. People
11 on the prowl, people walking around, people trying to
12 break into a lady's house and her situation was similar
13 in that, you know there was no car in the driveway. Her

14 husband had taken the car to work.
15 The TV was on, evidence that somebody
16 was there, and the house was occupied, the lady of the
17 house was home there alone.
18 I went out to see her, I filed a
19 motion and got that information from the State in
20 November. And I went out to see her the very next day,
21 just as soon as I could get out there, because I thought
22 it was important.
23 I got out there and I talked to her,
24 and you know what she told me?
25 MR. GREG DAVIS: I'm going to object
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1 to whatever she told him out there. That is outside --
2 MR. DOUGLAS MULDER: She testified to
3 the same thing here in Court. She said that Mr. Bosillo
4 had been out there the day before, and you remember I had
5 looked around for him. I walked out here and I looked
6 for him to see where he was, and he wasn't anywhere to be
7 found in Court. And then there was the lady with the
8 blonde hair she was also with him. Remember that? I
9 looked around for one of them and couldn't find them.
10 What did he tell her? They said,
11 "Don't talk to anybody." Now that is not fair play.
12 Patterson ignores everything, and he says: "Don't talk
13 to anybody." Now, I am offended by the arrogance of
14 that.
15 If this trial is to be a quest, if
16 this trial is to be a search for the truth, then I trust
17 you to hear everything that went on, and that is not fair
18 play. Is it?
19 What else has happened? The funny
20 business like this.
21 Well, we have Wade that walked down
22 the alley, and he said he saw the knife and the
23 screwdriver in the yard back there, and they brought the
24 young man, that may not have anything to do with it, but
25 if that is his type of thinking -- I mean, if he ignores
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1 obvious things like that, what else has he ignored? You
2 know? What else has he ignored? What else was there
3 besides the sock down in that alley that you ought to
4 have access to.
5 I called Darlie Routier to the stand
6 because I thought you had a right to hear her account.
7 It's as simple as that.

8 Not because I had to, not because it
9 was necessary, I don't think with the state of the
10 evidence the way it was at that time, that it was, but
11 you have a right to sift through this and hear everything
12 if this is to be a search for what the truth actually is.
13 And that is the way that I look at it. Apparently, not
14 the way they look at it. Because they have not done what
15 they said they were going to do.
16 What about this amnesia? Is that
17 something that I dreamed up? No, it's not. Lisa Clayton
18 told you about amnesia. Lisa Clayton told you that she
19 had studied under Resnick, who is the leading authority
20 on why mothers kill babies or children. And she outlined
21 for you the reasons, and I don't have time to go through
22 all of those reasons. But we went through each one
23 carefully, because I think it's important to you.
24 And, she told you why each one was not
25 applicable to this particular case, didn't she? And she
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1 said, you know, Mulder, when I got into this case, the
2 only restriction that I put on it was that I was going to
3 tell the truth.
4 And I said, "That is fair with me.
5 That's all I want." Okay?
6 And she told you that she believed
7 Darlie Routier. She talked to her family. She talked to
8 her husband. She talked to her in-laws. She said, "I
9 believed her. She is not guilty."
10 Do they rebut that? You know, these
11 folks have the luxury of having ten grand for this guy to
12 come in here and do this song and dance on this 911 tape.
13 They can spend ten thousand for that. You know, they can
14 bring you a psychiatrist, if what Lisa Clayton said is
15 not true.
16 Dr. Vincent DiMaio, 28 years as a
17 pathologist. I suggest to you, that there is no one
18 better qualified in the United States, and he happens to
19 be in Bexar County, and I didn't hire him for this case.
20 I know the man, naturally, but I didn't hire him for this
21 case.
22 But I submit to you that there is no
23 one better qualified. Seven thousand autopsies.
24 Supervised twenty-one thousand autopsies. He has been
25 doing this 28 years. And he tells you, under oath,
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1 "These are not -- these wounds are not consistent with
2 being self-inflicted. They simply are not."
3 Now their doctor wouldn't commit
4 herself. And I don't blame her, but she would not
5 commit. But they have unlimited funds. And if, what Dr.
6 DiMaio is telling you is not true, they could bring
7 someone in here, and I suspect maybe they already have.
8 I don't know.
9 THE COURT: Five minutes left, Mr.
10 Mulder.
11 MR. DOUGLAS MULDER: Yes, sir. But I
12 suspect, that if that were not the gospel truth, they
13 would bring someone in here.
14 Dr. DiMaio told you that he has been
15 involved in cases where the people who have
16 self-inflicted the wounds and injuries were medical
17 people. In fact, he told you about two months ago or so
18 that he testified, it was a nurse.
19 He said, "They use their dominant hand
20 because that is natural to them." The medical people do
21 it. Why would I think that she would be sophisticated
22 enough to think on down the line, to a jury, and use one
23 hand to do this, and another hand to do this, I mean, why
24 would she do that? You know, it makes absolutely no
25 sense.
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1 They have indicted her on two offenses
2 here. This is the first of the trials.
3 Refused to try them together. You, as
4 jurors, have the awesome duty and responsibility to
5 determine what the facts are. The credibility of the
6 witnesses and the weight that you want to assign to the
7 testimony of those witnesses.
8 Like I said, this clock is about to
9 choke me off, and I would like to talk to you a little
10 bit longer, but I have got something I want to say: Look
11 at how long it would have taken for her to do this. And
12 we have got to have a place that we can kind of start,
13 and let's start with that 911 tape that goes in at 2:31.
14 Okay?
15 The tape is 5 minutes and 44 seconds
16 long. So that takes us up to nearly 2:37 or 2:36.44, if
17 we were right on the money when we started at 2:31. It
18 takes us up to 2:36.44, when Walling gets there.
19 Remember? He gets there at the end of the tape.
20 What does Walling say? Do the
21 paramedics come in immediately? No.
22 He said "I had to secure the place

23 before the paramedics were in."
24 And he said, "We secured the place."
25 You remember, because up until then, according to Darin,
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1 Waddell had never drawn his gun. He went into the
2 kitchen a little bit, but he had never drawn his gun.
3 And Walling came in and he and Waddell
4 secured the area, and then they got the paramedics in,
5 and the paramedics came in. So let's give them a minute
6 to secure the area. And that gets us to 2:37.44.
7 He said they rushed in. And Kolbye
8 was the first one to get to Damon. Remember, he said he
9 saw that -- he administered whatever aid he could to him.
10 And he saw the light of life leave his eye. Remember
11 when he said that?
12 Now, let's give him 30 seconds to do
13 that. So it's now 2:38.
14 Dr. Townsend told you that that
15 youngster would have hung in there for a matter of
16 minutes, and when I tried to pin her down, you know, it
17 was finally five or six minutes, and then she said: "It
18 could have been as many as eight or nine minutes." Okay?
19 If you dial that back, from the 2:37,
20 nine minutes, then you are at 2:29. When that youngster
21 is stabbed and she then has to cut her throat, she has
22 got to get that sock down the alley. She has got to cut
23 her throat. She has got to do all of this staging. She
24 has got to break the glass. Remember, some of the glass
25 had blood on it, and some of the glass didn't have blood
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1 on it?
2 And then there was glass shards up on
3 the shelf and glass in the ice bucket. She didn't throw
4 it down, that was broken as she -- as the assailant went
5 out of there. You can tell from the physical evidence.
6 That is not part of staging.
7 Dr. Coons tells you -- and with this I
8 think I am about out of soap. But Dr. Coons tells you
9 this: He has done a lot of research on memory. And Mr.
10 Mosty talked to him back in December, and then called him
11 the other night, late at night, and told him that he was
12 due in Court here, and he came in.
13 And he told you about memory, and he
14 said the mind is not like a camera. And when the mind
15 experiences an overwhelmingly traumatic event, it's like
16 the circuit breaker in your electrical circuit, and it

17 flips, or it blows a fuse. It shuts down. You see.
18 The trauma that the mind can't handle.
19 He said, it's like the woman who is in a car accident and
20 her child is killed. And she doesn't remember anything
21 about the accident, but she can tell you in detail what
22 happened in the ambulance on the way to the hospital
23 because she has a memory of that.
24 You know, it's really -- the mind
25 shuts down. It's like walking into a movie in the
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1 middle. And what she told these people from time to
2 time, and I dare say that the mind, she knew that she was
3 fighting. She knew that she was involved in a struggle.
4 You can't be beat up like that.
5 They want you to think that somebody
6 beat her up when she got out of the hospital. It's
7 ludicrous. I had that little polaroid picture that shows
8 where the bruising is starting on her arm. That is
9 ludicrous.
10 THE COURT: Mr. Mulder, your time is
11 up if you could close, briefly, please.
12 MR. DOUGLAS MULDER: Yes, sir. I have
13 done all I can. You have been most attentive. I have
14 watched you. You have been most attentive. You have
15 paid attention, and you have listened to the witnesses.
16 This lady is simply not guilty. There
17 is a reasonable doubt. I'll ask you to find her not
18 guilty, and I thank you for your time and for your
19 attention.
20 Thank you, Judge.
21 THE COURT: Thank you, Mr. Mulder.
22 The jury having been in the courtroom
23 for some time will take a 10 minute break, and we mean 10
24 minutes, please. You can step outside briefly. Thank
25 you.
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1
2 (Whereupon, a short
3 Recess was taken,
4 After which time,
5 The proceedings were
6 Resumed on the record,
7 In the presence and
8 Hearing of the defendant
9 And the jury, as follows:)
10

11 THE COURT: All right. Are both sides
12 ready to bring the jury back in and resume the argument?

13 MR. GREG DAVIS: Yes, sir, the State
14 is ready.

15 THE COURT: All right. Bring the jury
16 in and we will hear the closing argument.

17

18 (Whereupon, the jury

19 Was returned to the

20 Courtroom, and the

21 Proceedings were

22 Resumed on the record,

23 In open court, in the

24 Presence and hearing

25 Of the defendant,

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1 As follows:)

2

3 THE COURT: Let the record reflect

4 that all parties in the trial are present, and the jury

5 is seated.

6 Ladies and gentlemen of the jury, the

7 defense has requested an additional five minutes to make

8 one more point. I'm going to grant that request with the

9 understanding that Mr. Davis will also have an additional

10 five minutes in his summation.

11 Mr. Mosty.

12 **MR. RICHARD C. MOSTY:** Ladies and

13 gentlemen, I have to be a little sheepish as I come up

14 here and say that there is something that we didn't

15 cover, and as Mr. Mulder would say, "Just a thing or

16 two." But it is going to be just a thing or two.

17 And I want to pick up with this time

18 line that Mr. Mulder started on and lay into that.

19 You know, that from the end of the 911

20 tape at 2:37 or 2:36.44, let me call it 2:37, there is

21 another minute or so after that to 2:38, that before the

22 paramedics are in and then there's some period of time

23 after that in the 2:38 or the 2:39 range when Damon is

24 said to be dead. So that leaves that eight to nine

25 minutes of a window, from 2:29 or 2:38 to 2:39 before

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1 Damon is dead.

2 And what I want to lay for you is what

3 has to happen there. And I'm going to describe some of

4 these things.

5 Now, for the State's theory to be
6 true -- now, you know that Mrs. Routier is not stabbing
7 any children by the time the 2:31 call comes in. That is
8 when she is on the 911 and her husband is almost
9 immediately heard on the tape within 30 seconds, I
10 believe it's maybe 38 seconds. So you know that all of
11 this has to happen then in a two or maybe three minute
12 span. And here is what has to happen.
13 Mrs. Routier has to stab the children
14 two times. Each of them multiple times, in all of this,
15 and what the State has described as, "How could anyone
16 sleep through it?"
17 And then, she has to get a smidgen of
18 blood off of each, not one, off each. And then she has
19 to go out the window, and she has got to run around
20 behind on Eagle Drive.
21 Now, you know that if somebody is
22 going to do that, they aren't going to just bolt down
23 these three houses, they are going to have to come around
24 and look in the alley.
25 Now, she has got to go out that gate,
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1 that is so hard to kick, but she had to kick it. I guess
2 she kicked it barefooted. She has to have the sock in
3 her hand and not leave any blood on the gate. She has to
4 kick it barefooted, she has to run down the alley all the
5 way down there, three houses down. More than 75 yards,
6 you know, an olympic-sprinter type. And then she has to
7 come back, and then she has to come back in the house.
8 She hasn't been wounded at this time.
9 Now, I'm saying -- I'm giving them the
10 screen, I'm not even putting this in any part of this.
11 She has to come back in, come back in the house, and get
12 the knife again.
13 Now, we know that the knife has not
14 been laid down on the carpet because she is not wounded.
15 So she has to -- she has to then take that knife, and she
16 has to cut herself five times. Somewhere. And then she
17 has got to be bleeding profusely by that time. Sometime.
18 Now, at some point she has got to go
19 over and lay the knife down carefully, carefully. By
20 there. Wait a minute. I forgot something. You have got
21 this maroon pillow in evidence. You know about blood
22 spatter now. You see this blood. You see that blood
23 run. That is Mrs. Routier's blood. She has to lay down
24 on the pillow at some point. Bleed and let that run
25 down. Maybe she cut her knife on the pillow.

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1 She has to do that. Now she has got
2 to lay a blood trail. She has got to lay lots of blood
3 trails. She has got to lay one to the utility room.
4 Slowly, the State says, slowly, lay a blood trail to the
5 utility room.
6 Then she has got to come back. Now
7 she has got to go to the sink and she has got to lay a
8 lot of blood. She has got to lay a lot of blood. She
9 has got to go over to the children. She has got to lay
10 blood over by the children, because we know those blood
11 drops are there.
12 She has to knock off the coffee table,
13 slightly askew. She has got to do all of that because
14 there is blood there. She has got to knock down the
15 lamp. What else does she have to do? She is running --
16 no, no, she is not running, she is walking, she is
17 walking through the house doing this because the blood is
18 slow, the State told you that.
19 She has got to pick up the knife off
20 of the carpet. She has got to pick up the knife off of
21 the carpet. She has got to lay more blood trails. She
22 has got to get the vacuum -- I guess she puts the knife
23 up there. Then she has got to get the vacuum cleaner.
24 She has got to do it three times. How many times?
25 Three. Up, down, then she has got to throw it over.
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1 Then, she has got to stand over it, so
2 she could bleed on it.
3 THE COURT: You have one minute left,
4 Mr. Mosty, please.
5 MR. RICHARD C. MOSTY: And all of
6 that, that is what she has got to do in all of this time
7 frame. And quite frankly, wait, she cut her shirt.
8 Don't you remember? She cut her shirt somewhere in
9 there.
10 Now, with all of that, in all of that,
11 you know, those are the things that DiMaio says are usual
12 in a statement. And all of that, what she has had. And
13 this is after Dr. Coons has described that traumatic
14 event where she wouldn't have any memory.
15 And all of this has to happen, in
16 about two minutes.
17 Thank you.
18 THE COURT: Thank you, Mr. Mosty.
19 Mr. Davis, you have 45 minutes.

20 MR. GREG DAVIS: Thank you, Judge.

21 May it please the Court?

22 THE COURT: Yes, sir.

23 MR. GREG DAVIS: Ladies and gentlemen,

24 before I begin, and I have 45 minutes, but you will be

25 relieved to know that I am going to be the last lawyer

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1 talking to you today, and that probably does come as a
2 relief.

3 But I want to also thank you, not for

4 serving because really you didn't have a choice about

5 that, but I do want to thank you for the very close

6 attention that you have shown throughout this four weeks.

7 In my 19 years, I don't recall a more

8 attentive jury. And there were times, as we talked about

9 in the opening statement, where unfortunately you had to

10 see things that really no juror should have to look at.

11 And you had to hear things that no juror should have to

12 hear. But I appreciate the attentiveness to the facts,

13 because it's on the facts that the truth is shown in this

14 case. Not on lawyers' statements. Lawyer talk here this

15 morning. But it's on the facts that you have heard here

16 over the last four weeks. That is what really counts in

17 this case.

18 Now, you have just heard three very

19 fine attorneys. Among the five that are over here at

20 this table, they are very fine attorneys. All. And you

21 have heard now, four very fine arguments from those three

22 attorneys.

23 I hope that there wasn't a one of you

24 sitting over there in the jury box that was surprised to

25 find out that none of these attorneys over here are

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1 satisfied with the State's case.

2 In 19 years I have never seen it

3 happen. And I dare say, if I live to be a hundred, and

4 if I am still out here practicing law, I don't think I

5 will ever see it either. It just doesn't happen. If it

6 did, we wouldn't be here today, would we?

7 You know, Mr. Mulder would have you

8 believe, that there was some sort of conspiracy on the

9 part of the State of Texas here in this case to mislead

10 you good people.

11 Here is my answer to that: If there

12 is a one of you, when you go back there to that jury room

13 today, if there is even a one of you who believes that,

14 before you look at any of the evidence in this case, any
15 of the facts before you, if you believe that, you write
16 not guilty and you come back in here.
17 That is how strongly I feel about
18 that. There has been no effort at all to mislead you
19 good people. There has been an over-all effort here,
20 over this four week period here, from this side of the
21 table, any way, to try to show you the truth as best we
22 know how, and we have done that.
23 You know, if I was going to mislead
24 the people at this table over here as they claim, would
25 I, over three months ago now, have given them material
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1 that might in some way help their client? Would I have
2 done that? You know the answer is no, I would not have
3 done that. I would have swept that under the rug, under
4 the carpet and said, "We don't need that stuff."
5 But, that is not the way we operate.
6 We hand it over, good or bad, and let them use it as they
7 see fit and that is what they have done in this case.
8 I'm not going to apologize for
9 standing up here and representing the good people of the
10 State of Texas and Dallas County. I'm not ashamed to be
11 sitting at this table. I'm not ashamed at all of the
12 good people from the Rowlett Police Department who are
13 still down here in this courtroom today.
14 You know, these are the men and women
15 who protect us. These are the men and women who, when
16 they got that call on June the 6th of '96, they are the
17 ones that we sent over there to 5801 Eagle Drive, aren't
18 they? And they had to walk into literally hell that
19 morning at 2:35 in the morning and start dealing with
20 that hell and start dealing with this woman right over
21 here, Darlie Lynn Routier.
22 They didn't ask to do that, you see
23 that is their job, and that is what they did in this
24 case, and they have got absolutely nothing to be ashamed
25 of and I am proud that they are a part of our case, and I
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1 am proud that they are sitting in here where you can see
2 them this morning.
3 There is one other thing I am very
4 proud to do. I am very, very, proud most of all in this
5 case, to be the voices for Damon and Devon Routier. You
6 know the two little boys, we almost forget them. You
7 know, the pictures were put over here, I suppose after

8 Mr. Shook's argument. I don't think it takes a genius to
9 figure that out.
10 You know, these two little boys right
11 here don't have voices any more, do they? They are
12 dependent on us, Mr. Shook, Ms. Wallace and myself, and I
13 will guarantee you, I am going to use my voice this
14 morning to the best of my ability to talk for these two
15 little boys, who never had a chance as their mother
16 slaughtered them there on June the 6th, 1996.
17 May we never forget these two precious
18 children. May they always be a part of this case.
19 You know this case, I think, shows a
20 very distinct difference in good and bad. It shows you a
21 very distinct difference in what the guilty do and what
22 the innocent do.
23 It's been a textbook, almost on what
24 does a guilty woman do when she comes to trial in Kerr
25 County?
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1 The first thing she does is, she tries
2 to deceive you. Mr. Mulder used that word, misleading,
3 misleading, misleading. If there is anybody in this
4 courtroom who has tried to mislead you throughout these
5 past four weeks, it's this woman over here.
6 Just like her husband, trying to
7 materially alter her appearance for you. She doesn't
8 want you to know who she really is. That is why she sits
9 over there like she is today with this plaintive little
10 look on her face, "Poor me, I am the victim," kind of
11 look. Hoping that just one of you, because it only takes
12 one of you, one of you will buy into that game.
13 And then what do they do beyond that?
14 Well, they blame the phantom intruder.
15 Mr. Mosty made mention of Charles
16 Manson out in California. I think what we saw by this
17 team over here, was what I am going to call the Susan
18 Smith defense. That phantom intruder. You know that
19 fellow -- remember, it was a black man in South Carolina,
20 supposedly, that took those two children.
21 It's that man that we just don't know
22 where he went to. We can't describe him. My goodness, I
23 don't know. It's the phantom. And you stay with that
24 phantom until all of the evidence in this case shows that
25 that is totally impossible and inconsistent with what
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1 they found out there on Eagle Drive that day.
2 And I don't have to go over that, Mr.
3 Shook did a fine job of doing that this morning earlier.
4 But you stay with that until that one doesn't work. Then
5 what do you do? You go to Glenn Mize, and you point the
6 finger through those letters at poor Glenn Mize and you
7 say, "I know it's Glenn Mize." Not that: "The
8 investigators have told me that maybe it was Glenn Mize.
9 I know it's Glenn Mize." And you stick with that until
10 poor Glenn Mize has to trot into this courtroom and stand
11 before this accuser, and where she finally has to admit,
12 it can't possibly be Glenn Mize.
13 Then what do you do? You go to a man
14 named Gary Austin. And you say, "I guess maybe it's this
15 Gary Austin," you know, this guy that lives all the way
16 down the block, who can magically, I guess, look over the
17 horizon, into her backyard and watch her while she is in
18 this hot tub.
19 If that one doesn't work, then you go
20 to Angelia Rickels, and you say, "Well, it must have been
21 those two guys over there on Miami Drive that morning."
22 But, there's a couple of problems with
23 that. Angelia Rickels, you had a chance to see her. Did
24 you really believe that she can accurately recall what
25 happened to her that night? I mean, a man is supposedly
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1 bumping on that doorknob for ten minutes solid and this
2 woman says she is alone, her husband is not there, and
3 she doesn't call the police.
4 Maybe that happened, and maybe it
5 didn't, but what you do know is this: That the
6 description of the two men that she saw there at her
7 house, don't in any way match the description that this
8 woman over here gave to the Rowlett Police Department,
9 does it?
10 Cowboy hat, cowboy shirt, long sleeved
11 for one of them. That is not the man that she described
12 out there on June 6th, or any other date.
13 Another man is wearing a toboggan with
14 a dark jogging suit, long sleeves, that is not the
15 description either, is it? So even if those men were
16 there, for whatever reason they were there, we can rest
17 assured that they are not the man that came into her home
18 that morning on June the 6th.
19 And, as a last resort then, what do
20 you do? You go for this man in the dark T-shirt and dark
21 cap that was talked to, not the morning of June the 6th,
22 but the afternoon of June the 6th, some 14 hours after

23 this thing happened.
24 And you see, it's kind of like that
25 Paul Harvey show. You didn't hear the rest of the story.
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1 Mr. Mulder knows his name as I do. His name is Wilford
2 Davis.
3 And Mr. Mulder told you something that
4 wasn't true. Maybe inadvertently he did that. But he
5 said to you, we didn't get his fingerprints and match
6 them to the ones on that window out there on Eagle Drive.
7 And I'll stand before you right now, and I will tell you
8 that the State of Texas did, when we called --
9

10 MR. RICHARD C. MOSTY: That is outside
11 the record, your Honor.

12 MR. DOUGLAS MULDER: Judge, if they
13 did, they haven't told us.

14 MR. GREG DAVIS: That is not
15 exculpatory evidence.

16 THE COURT: Just a minute, gentlemen.

17 The jury is instructed to remember the
18 testimony as they heard it, and be guided by the Charge
19 of the Court, and both sides are reminded to stay within
20 the record.

21 MR. GREG DAVIS: Yes, sir.

22 As invited argument, I'm going to tell
23 you that is not true.

24 MR. DOUGLAS MULDER: Judge --

25 MR. RICHARD C. MOSTY: That is an
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1 absolute misstatement. We have -- there is no --

2 MR. DOUGLAS MULDER: No one has ever
3 told us --

4 MR. RICHARD C. MOSTY: There is no
5 evidence of that --

6 THE COURT: Just a minute, gentlemen.

7 One defense attorney at a time, please.

8 MR. RICHARD C. MOSTY: That is not in
9 the record anywhere anyhow.

10 THE COURT: Both sides are ordered to
11 stay within the record, and the jury is ordered to

12 remember the testimony as they heard it, and be guided by
13 the Charge of the Court.

14 Please continue.

15 MR. GREG DAVIS: Yes, sir.

16 And then, I guess finally, it is some

17 drug crazed maniac, I think that was Mr. Mosty's term,
18 -- you know, where is this drug crazed maniac, and where
19 does that idea come from?
20 If there is some drug crazed maniac
21 out there that is a suspect, then I want to know this:
22 Where are those investigators that were hired by the
23 defense to go out to that neighborhood?
24 And don't you know that if they had
25 found someone like that, there is no way in this world
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1 that they wouldn't have been sitting on that witness
2 stand telling you people about the folks that they found
3 out there. But that is not what happened is it?
4 All right. Next one. When all of
5 that doesn't work, what you do is this: You blame the
6 police. I don't know of an older defense. It's the most
7 regularly used defense certainly. But you look at these
8 police officers and you say, they just didn't do the job
9 right. They either didn't do enough, or they did too
10 much. You kind of take your pick on most of these cases.
11 And you say to them, "You know, you put her in the cross
12 hairs immediately, and you weren't careful enough."
13 Ask yourselves this: If the Rowlett
14 police had gone out there on June the 6th and decided,
15 this is it, Darlie Routier is the one and only. We don't
16 care about anybody else, we're not going to look for
17 another suspect, this is our suspect right here and we're
18 going to make our case against her. You just wonder, I
19 guess somebody forgot to tell Charles Hamilton about that
20 that morning, didn't they?
21 I mean, here is poor old Charles
22 Hamilton out there for five hours trying to lift
23 fingerprints from that house. Now, why would they have
24 done that? Gone to that trouble of trying to find the
25 fingerprints of that intruder if they had already decided
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1 this is our one and only suspect? And why would they
2 wait for James Cron? Why not just go ahead and get in
3 that house, and go through there and say it all matches
4 Darlie Routier?
5 They didn't do that though, did they?
6 They waited until a man with 39 years experience in crime
7 scene search went out there and assisted them. Why would
8 you call for Charlie Linch and Kathryn Long from SWIFS if
9 you already know who you want to charge over here? Why
10 go to the trouble of finding the blood evidence? Why go

11 to the trouble of having over a hundred blood samples DNA
12 tested, like we did in this case?
13 Why do you do all of those things, if
14 you have already made up your mind that this is our
15 suspect? You don't do that. You do that because you
16 want to know the truth, the most complete truth possible,
17 and that is exactly what they did and that is exactly
18 what we did in this case right here.
19 The next person that you blame, must
20 be the medical community. You say, the nurses -- you
21 don't remember what you remember, about what she told you
22 out there that day. And when it comes to the bruising,
23 you six skilled nurses and you doctors don't know what
24 you were doing out there, you missed this obvious bruise
25 out here. You were negligent in your duties toward this
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1 woman.
2 You know, it's interesting, I watched
3 Mr. Mulder while he showed where that bruise was in that
4 polaroid. Did you notice the arm? Did Mr. Mulder point
5 here to the inside of the arm? No, he didn't, did he?
6 He pointed on the outside, where that wound was, where
7 you would expect to see a redness on June the 6th. Not
8 over here on the inside of the arm where that bruise
9 shows up on June the 10th of 1996, did he?
10 And then to buttress your case against
11 the nursing profession out there, what do you do? You
12 bring in family and friends who might as well have been
13 sitting on the front row of this gallery throughout the
14 case, they know as much about this case as you do as
15 jurors.
16 And after all of the evidence is in
17 from the State, they all get up here, with a very clear
18 memory apparently, with no photographs to back them up,
19 because you see it wasn't important back then.
20 They all tell you, "Oh sure, I know
21 that bruise was there all the way from here up to there."
22 Except for one, it was curious, Karen Neal. Of all of
23 them that came in here, who is the registered nurse of
24 the lot? It was Karen Neal. And what did Karen Neal
25 tell you about that bruise? Do you remember?
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1 When Mr. Shook asked her about the
2 location, she didn't point to the inside of the arm where
3 the family and friends had pointed to. I was watching
4 her very closely, as I hope you were also.

5 She went right to that outside, didn't
6 she? Right to where you would expect the wound to be.
7 Not to where the others said they saw that bruising, and
8 she is the registered nurse, just like the others from
9 Baylor Hospital, who know what they saw and know what
10 they didn't see. There was no bruise at Baylor Hospital.
11 Who do you blame next? You blame
12 James Cron. What you do, you call him that old bearded
13 man who came out there. You call him a fingerprint man.
14 Even though you know he is a senior crime scene analyst.
15 I mean, that is what the man does. And you say, he just
16 waltzed through that house, and he came up with this
17 conclusion like that.
18 Folks, it wasn't rocket science that
19 we were dealing with out there. A man with 39 years
20 experience walked through that house, and it just stuck
21 out like a sore thumb.
22 Her story doesn't match the evidence.
23 And now, you have had the opportunity to see what he did
24 and you can see why he walked through there and said, "It
25 doesn't match up. We need to look at some things. You
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1 people know what you are doing, let's do the testing,
2 let's do the printing, let's do all of this stuff, but I
3 am telling you right now, from what I know and from what
4 I see, it doesn't match up."
5 And he was the starting point in this
6 case. He was not the finishing touch, he was the
7 starting point. And then what do they do? After they
8 blame Cron, they come in here against Charlie Linch and
9 they say Charlie Linch gave -- I think the quote from Mr.
10 Mosty was -- he gave you a bunch of unfounded opinions.
11 I think unfounded opinions are opinions that they don't
12 like. I think that is the definition that we can
13 conclude unfounded opinions are.
14 What did Charlie Linch tell you? He
15 told you that he found that fiberglass rod, and he found
16 that rubbery material on that knife. Up to that time, he
17 had never seen a compound before, under the microscope,
18 like the rubber compound that he found on that knife that
19 just happened to come out of the butcher block, out of
20 whose kitchen? This woman's kitchen. Never seen that.
21 What did he see when he looked at that
22 window screen? What did he see right here? He saw the
23 same two things. He saw fiberglass, and he saw this
24 rubbery material that he had never seen before.
25 And there was one more thing that he

1 saw there that the defense just didn't mention during the
2 arguments. He saw embedded in that rubbery material,
3 fragments of glass. Fiberglass that were wed to the
4 rubber material, and from that, he told you that he could
5 conclude scientifically, that the rubbery material, and
6 the fiberglass in it were placed on that knife blade at
7 the same time.

8 Now, we know that Charlie Linch was
9 right about one thing in this case: He was right about
10 that sock, wasn't he?

11 When he told you those fibers were
12 consistent with that shoe. Darin Routier's shoe. Was
13 Charlie Linch right or was Charlie Linch wrong?
14 We know he was right, because Darin
15 Routier, thanks to Corrine Wells, had to get up here and
16 tell you.

17 MR. JOHN HAGLER: Excuse me, your
18 Honor, I believe he is going into something that is not
19 in evidence.

20 THE COURT: The jury is instructed to
21 remember the testimony and evidence you have heard, and
22 both sides are instructed to remain within the record.

23 MR. GREG DAVIS: Yes, sir.

24 MR. JOHN HAGLER: Could we have a
25 ruling on that, your Honor?

1 THE COURT: Well, I'll overrule that.

2 MR. JOHN HAGLER: He is going to go
3 into a matter that is not in evidence.

4 MR. GREG DAVIS: No, sir, I am not.

5 THE COURT: No, he is not, I don't
6 think he is. If he does, then the objection will be
7 sustained.

8 MR. GREG DAVIS: Yes, sir.

9 THE COURT: Stay within the record.

10 MR. GREG DAVIS: And what did Darin

11 Routier say to you good people, he said, "That is my sock
12 and it came out of that utility room. It's my sock."

13 Just like Charlie Linch had told you after his
14 microscopic examinations.

15 Now, let's talk about the sock for

16 just a second here before I go on. You know, I'm not
17 telling you that this defendant went down there in some
18 clever effort to plant this sock. I'm not saying that.

19 Mr. Shook is not saying that either. What we are saying

20 to you is, that this woman knew very well that this sock
21 right here came out of her house.
22 She knew good and well that she was
23 going to get it out of that house and try to disassociate
24 it from that house. You see, she never counted on that
25 knife being found in that butcher block with that
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1 fiberglass.
2 But she knew that that sock right
3 there had blood on it, and how is she going to ever
4 explain that? Get it out of the house. It wouldn't take
5 her very long at all, and that is exactly what she did in
6 this case. And the telltale thing is the blood that is
7 on there. Whose blood is on the sock? Is it the blood
8 that we would expect to see from some intruder who came
9 over there and stuffed it down her mouth, attacked her,
10 stabbed her, slashed her throat? Is it her blood? No,
11 it's not. It's only the two boys and about a
12 nickel-sized stain. Not her blood.
13 You know, the next man to attack was
14 Tom Bevel. Well, let me back up to Charlie Linch one
15 more time here.
16 You know, we know as they criticized
17 Charlie Linch, we know that back in August of last year,
18 that there was an expert by the name of Bart Epstein, a
19 trace evidence analyst there at SWIFS on behalf of the
20 defendant. And we know that back there in August that
21 Charlie Linch said, "Here, I will show you everything
22 that I am doing out here." He let him look at the
23 slides, let him examine the evidence.
24 Basically, he looked over Charlie
25 Linch's shoulder and graded his work out there at SWIFS.
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1 And don't you know, don't you know, that if Bart Epstein
2 had any disagreement whatsoever with the findings of
3 Charles Linch, that you would have seen him up here on
4 this witness stand? Because we know that this defense
5 team here, when they need a witness like Richard Coons,
6 hey, you can place a phone call at 9:00 P.M. and they
7 will get him here the next morning.
8 So where is Bart Epstein? You know
9 why he is not here, because there is nothing wrong with
10 Charles Linch's work in this case.
11 As we look to Tom Bevel, as they
12 criticized Tom Bevel on his opinions. That videotape,
13 and you have got the T-shirts back here, as you look at

14 that videotape with that motion demonstrated by Tom Bevel
15 and you will find that they weren't long on the back.
16 Those blood stains. They are the same size and
17 consistent with the size of Devon Routier's blood that
18 was deposited on the back of this defendant's shirt.
19 That is what the videotape and the T-shirt will show you.
20 Mr. Mosty demonstrated about picking
21 up this vacuum cleaner. Listen, it's not that hard, and
22 you can try it yourself. You don't have to hold it down
23 here by the neck. If you hold it right up here and you
24 roll it around, as this defendant did that day, what do
25 you get? You look at my hand and you will see, you get
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1 the blood smear right on the right side of this handle,
2 exactly like she did that day.
3 You know, here is the bottom line on
4 Tom Bevel. You know out there at SWIFS there is another
5 expert, Terry Labor. He is the DNA blood spatter expert
6 who went out there on behalf of the defendant also, along
7 with Bart Epstein. And if they want to quarrel with Tom
8 Bevel and tell you that he is wrong, and that he is a
9 witch doctor of some sort, where is Terry Labor then?
10 Where is their blood spatter expert?
11 Don't you know that if he had any
12 criticism of the opinions rendered by Tom Bevel, that
13 just like Bart Epstein, you would see them right up here,
14 and he would be detailing for you what those criticisms
15 are. But he is not here either, is he? And for a very
16 good reason.
17 There is one other thing that we need
18 to ask also. Where are the samples from the T-shirt
19 taken by Terry Labor? Where are they? You remember
20 those first dibs samples that Terry Labor took from the
21 defendant's T-shirt back in August? Before Tom Bevel
22 even had a chance to look at the T-shirt. Terry Labor,
23 the defendant's expert, went to Dallas and was given an
24 opportunity to take several samples from that T-shirt.
25 Did you see those samples in this
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1 courtroom at any point in this trial? No, you didn't.
2 Don't you wonder why? You really
3 don't have to wonder long about that question. It's
4 obvious to you. Why those best samples taken by the
5 defense, why you never saw them, and why you never heard
6 a test result or a DNA result on any of the samples.
7 It speaks volumes to you sometimes

8 what you don't see and hear. And it speaks volumes in
9 this case with regards that T-shirt.
10 Well, after you have beat up on the
11 police and you beat up on the nurses, the forensic
12 experts, next to last you try to change your story.
13 You see, you can still win this case
14 if you are the defendant, if you can change the facts.
15 And if you can go back and say, "By the way, you know, I
16 remember my wife, she was right over there with me doing
17 that CPR on Devon, even though I have never said it to
18 anybody before. Yeah, she was over there at that sink.
19 Now that I know that the sink has been cleaned up and
20 there is traces of blood, by golly, I just happened to
21 remember that she was over by that sink."
22 And then when her blood is found on
23 the vacuum cleaner, the DNA results come back, you say:
24 "Well, by golly, I guess that just slipped my mind too.
25 My wife was over there using that as a cane or a crutch."
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1 Then, if you are the defendant, you do
2 the very same thing. All of a sudden, through this
3 traumatic amnesia, you remember the Devon CPR, you
4 remember the sink, you remember the vacuum cleaner. You
5 remember the bruises on your arm, and then even you
6 remember that you didn't wear panties that night, or they
7 were taken from you.
8 So if you change enough facts, folks.
9 I mean, nobody is ever guilty if you can do that.
10 And when that one failed, as it did in
11 this case, what is the last thing that you do? What you
12 do is you say, traumatic amnesia.
13 You know, I think it would be fair to
14 term that the "I can't remember" or "I won't remember"
15 defense. It's just like Mr. Shook talked about with some
16 of these doctors, you know if you say "I don't remember."
17 How do you get at that? I mean, if I told you people, "I
18 don't remember something," is there any number of
19 questions that you could ask to make me remember
20 something like that?
21 It's convenient, isn't it? It's very
22 convenient in this case. And in order to try to prove
23 that defense, they bring Dr. Lisa Clayton, and I have got
24 no quarrel with her. But it really seems strange to me,
25 that when Mr. Mulder said that she had freedom to do
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1 whatever she wanted on this case, it just strikes me as
2 just a little bit funny the very limited number of things
3 that she chose to do.
4 Who does she talk to? Well, she talks
5 to the defendant quite a bit for 12 hours. You know she
6 is a real objective source of information, don't you?
7 She talks to her husband. You have all had a chance to
8 see Darin Routier. Need I say more? Okay.
9 The family, her in-laws, kind of a
10 one-sided picture that we're getting here, put that is
11 the picture that Lisa Clayton chose to see.
12 No paramedics, no police officers, no
13 nurses, no doctors, no one outside of the immediate
14 family of Darlie Routier. And then she comes to this
15 startling conclusion that she thinks that Darlie Routier
16 is telling her the truth. You know?
17 I mean, it's a bit mind-boggling that
18 she would do that. But then again, this is the doctor,
19 the psychiatrist who would have you and I believe, that
20 there is nothing inappropriate, eight days after your
21 children have been slaughtered, to go out to their
22 graves, and shoot some Silly String and laugh and carry
23 on.
24 You see, when we look at that tape,
25 according to Dr. Clayton, and our stomach turns a little
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1 bit, because we still have consciences and those things
2 bother us. It's our fault, don't you understand, because
3 we don't know what is appropriate and not appropriate.
4 That is Dr. Clayton's take on this case.
5 And then, I guess maybe she doesn't do
6 a good enough job, and so Richard Coons is called in. I
7 guess coincidences happen in life, but this one seems a
8 bit farfetched that he calls at 9:00 o'clock on
9 Wednesday, what, about four hours after the defendant
10 testifies in this case.
11 I can imagine that call going out, "Is
12 there a doctor in the house, the defendant has mortally
13 wounded her case, and we need a doctor down here now."
14 And so, Richard Coons comes to
15 Kerrville. And I have got no quarrel with him, believe
16 me. He is an eminently qualified psychiatrist and a fine
17 gentlemen, and I think he told you the truth, as he sat
18 on that stand.
19 There is only one problem with Dr.
20 Coons though. They didn't give him any facts, did they?
21 Oh, they gave him a lot of hypothetical questions from
22 Mr. Douglass here. A lot of assumptions that were all

23 favorable to the defendant, and then he answers the
24 questions.

25 But you see what happens when you
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1 change those a little bit, as Mr. Shook did, and you
2 start talking about some of the facts, the actual true
3 facts in the case, his opinion started to change, didn't
4 it? And I think it's very clear why they chose as they
5 did, because that is their witness. It's very evident
6 why they chose not to give him any facts at all to work
7 with. Because they knew, as you do, that if you give
8 that man -- because he is honest, if you give him the
9 facts, he may give you an answer that you don't like.

10 MR. RICHARD C. MOSTY: Your Honor, I'm
11 going to object to that. He was called as a rebuttal
12 witness. He could only rebut, he can only be called to
13 rebut what the State has put on. That is the only
14 purpose that he can be called for.

15 THE COURT: Thank you. The jury is
16 instructed to remember the testimony as they heard it,
17 and be guided by the Charge of the Court. You have 15
18 minutes left.

19 MR. GREG DAVIS: Thank you, Judge.
20 Well, I told you what a guilty woman
21 does and very quickly, as we walk through here, let's
22 talk about what an innocent woman does and doesn't do.
23 You ask yourselves these questions, as
24 I go through here, using the common sense test, and
25 really that is your best thing to hang on to. You have
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1 heard a lot, hang on to your common sense. But as I go
2 through here very quickly,
3 Does an innocent woman, a light
4 sleeping innocent woman, does she sleep through the
5 stabbing of a child that is five feet away from her?

6 No, she doesn't.
7 Does an innocent woman sleep through
8 the stabbing of her child as he is one foot away from
9 her?

10 No, she doesn't.
11 What do innocent women do? They come
12 to the defense of their children, is what they do.
13 And does an innocent woman then sleep
14 through her own attack. Puncture wound to the arm,
15 slashes to the neck, stab to the left shoulder. Does an
16 innocent woman sleep through her own attack?

17 You know, I don't even have to answer
18 that one. Your common sense gives you the answer.
19 Absolutely not.
20 But in all three cases, this is what
21 this woman claims to have done, and she did it because
22 she is not an innocent woman.
23 When she wakes up, does an innocent
24 woman look up and see an intruder and not immediately
25 yell upstairs for her husband? No.
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1 And does an innocent woman wake up,
2 see her children here bleeding, and then leave them and
3 chase into a darkened kitchen and utility room, after an
4 armed intruder? No.
5 But that is not what this woman did;
6 is it? What she did is not consistent with what an
7 innocent woman does. And, does an innocent woman, while
8 her children are literally bleeding at her feet, look
9 around the room, and make sure that none of her jewelry
10 is gone?
11 Heaven help us if that is what
12 innocent women and mothers do, and that is what parents
13 do. No. They don't do it, but that is exactly what she
14 did that morning. Looking around to make sure the
15 goodies aren't gone from that kitchen bar.
16 And do innocent women, innocent
17 mothers, again, as their children are bleeding, do they
18 worry about leaving fingerprints on a knife handle? Of
19 course not. But that is exactly what this woman did
20 because she is not an innocent woman.
21 And do innocent women have to give
22 eight accounts of what happened? All different accounts?
23 I'm not going to run through all of
24 them. But basically, to Waddell, the fight was at the
25 kitchen bar. To Walling, the fight was at the couch. To
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1 Jody Cotner, Damon shook her and woke her up and followed
2 her in the kitchen.
3 To Dianne Hollon, there is an intruder
4 over her immediately, and she felt pressure and there is
5 a fight at the couch.
6 To Paige Campbell, the intruder is
7 over her, and he tried to stab her. She grabbed at the
8 knife. She never saw his face.
9 To Denise Faulk, Damon was crying to
10 wake her. Struggle at the neck. Wrestling on the couch.

11 Barbara Jovell, Damon woke her by
12 saying "Mommy, Mommy," and pressure on the legs. And in
13 her voluntary statement she just says a man is walking
14 away from her.
15 Listen, folks, if you are telling the
16 truth it doesn't take eight shots at it to get it.
17 Because the truth never changes. Once is enough. But
18 that is not what this woman did, because this woman right
19 here is not an innocent woman. This woman here is guilty
20 of capital murder.
21 And does an innocent woman, can you
22 imagine, in your wildest nightmares, an innocent mother
23 sitting across the table from Bill Parker, and having
24 Bill Parker accuse her of killing her own flesh and blood
25 several times, and remaining polite for a three hour
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1 period.
2 Or never denying the fact that she
3 killed her children, and can you imagine an innocent

4 mother sitting across the table from Bill Parker and he
5 says, "I know you killed your children." And an innocent
6 mother just saying: "Hum." (Shrugging shoulders.)
7 No, they don't. That is not what she
8 did, you see, because this woman right here is not an
9 innocent woman. Guilty of capital murder, Darlie
10 Routier.
11 You know you have got a very simple
12 choice here. You have got a choice of either this woman
13 sitting over here, Darlie Lynn Routier, killed her two
14 children, or some mysterious, lucky intruder did it. And
15 he, indeed, has to be a lucky intruder, doesn't he?
16 Happened to pick the night that the
17 window is open. Happens to pick the night where a sock
18 is left conveniently in a utility room. We haven't even
19 mentioned how he got in.
20 I guess the guy just had to slip down
21 the chimney, to get the knife, then go out and then cut
22 the screen, and then come through the utility room. But
23 when he got in there, lucky fellow, the knife is in the
24 butcher block. Lucky fellow that he kills two children
25 without the mother waking. Lucky fellow that when he
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1 cuts this woman over here, she can't describe him.
2 Lucky fellow that he drops a knife on
3 the floor as he leaves, arming his victim, and she

4 doesn't pick it up and wound him. Lucky fellow that he
5 leaves no trace in the garage. Lucky fellow that he
6 leaves no trace in the backyard as he leaves.
7 Those are your choices here. And as
8 you go through here, and as you look at the hard,
9 scientific, physical evidence, as Mr. Mosty asked you to,
10 and I will also. When you look at that screen being cut
11 by that knife inside the house, as it was, that is really
12 as far as you have to go with the hard, scientific stuff.
13 Because, if that fact is true, that that screen on that
14 window was cut with a knife inside of that kitchen of the
15 defendant, that answers all of the questions that you
16 have in this case right here that you need to answer.
17 Now you know from the scientific
18 evidence that was the case. And as you look at Devon's
19 blood on the back of that T-shirt, you know how that was
20 deposited. And as you look at the boys' blood on the
21 front of the T-shirt, you know how that was transported
22 to her T-shirt.
23 As you look at that utility room
24 floor, you know that the floor is totally inconsistent
25 with the story that she gave. There is no cast off
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1 pattern, and you know from the scientific evidence that
2 that was the case.
3 The blood on the vacuum, the roll
4 marks that she made in the kitchen as she staged that
5 scene. And the sink being cleaned with the blood hidden
6 behind the closed drawers and doors to that sink.
7 The physical evidence is there. It
8 points not at many people, not at some people, but it
9 points very clearly to this woman right here, Darlie Lynn
10 Routier. And only Darlie Lynn Routier.
11 You know she did it, and they keep
12 saying that I didn't show you why they did it, and I
13 think I did. We have got a pretty good snapshot look at
14 what this woman's life was like back then.
15 It's so desperate that on May 3rd of
16 1996, in this beautifully normal American home, with no
17 problems in it, this woman is contemplating suicide. You
18 know it wasn't good in there. You know the pressures
19 were building up with the children. You know she was
20 unhappy that she hadn't had a girl. She was unhappy with
21 her weight and with her appearance. She is unhappy that
22 she is not getting the attention from her husband that
23 she wants to get out there, and she is unhappy about that
24 financial situation.
25 Those numbers don't lie there. You

1 can see that if you average it out these people are going
2 to take in ninety thousand dollars less than they took in
3 in '95.
4 That is not bad money but when you are
5 used to 260, 170 is not going to cut it. You know the
6 pressure was there. You know why she did it. You have a
7 very good idea.
8 Only God and she knows exactly why she
9 did it. But we have a pretty darn good idea, don't we,
10 of the kind of pressure that was building up that night
11 on June 6th of 1996.
12 You know, these two children here,
13 well, they lived in Rowlett and I never had the pleasure
14 of meeting them, but you know, once upon a time they were
15 ours too. They weren't just Darlie Routier's children,
16 they were ours.
17 You see, they were our neighborhood
18 kids too. The kids we saw running up and down the
19 streets on their bicycles. They were our classmates.
20 They were our students. These children right here.
21 In a real sense they were our future.
22 You know, and as these two precious children, laid on
23 that carpet, looking up with those opened eyes, literally
24 drowning in their own blood as they laid on that carpet,
25 as Mr. Shook said to you, the very last thing that each
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1 of these two children saw was their killer.
2 Can you imagine what it must have been
3 like for those two children that morning as they saw this
4 woman right here?
5 THE DEFENDANT: Liar, liar.
6 MR. GREG DAVIS: She says liar now --
7 THE DEFENDANT: You are a liar.
8 MR. GREG DAVIS: See. See. But --
9 THE DEFENDANT: I did not kill my
10 kids.
11 MR. GREG DAVIS: But they looked up
12 there, and they saw this woman right here, in a rage,
13 coming down on them with that knife, and that is the very
14 last thing that they saw. They saw their killer, and
15 after these four weeks, you have seen her too. Her name
16 is Darlie Lynn Routier. She sits here before you. And
17 I'll ask you now to go back to that commitment that you
18 all gave to us.
19 You said that if we proved our case

20 beyond a reasonable doubt, as we have in this case, that
21 not only could you, but you would, find this woman guilty
22 of capital murder, and that is exactly what I am going to
23 ask you to do at this time, because the facts in this
24 case show her to be guilty of capital murder.

25 **THE COURT:** Thank you, Mr. Davis.

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1 Ladies and gentlemen of the jury, if
2 you will retire to the jury room now, please. If you
3 will select one of your members as presiding juror, and
4 when you have reached a verdict, please contact the
5 bailiff who has you in charge at the time.

6

7 (Whereupon, the jury
8 Was excused from the
9 Courtroom, to begin their
10 deliberations at 1:40 p.m.,
11 during which time, the
12 proceedings were held
13 In the presence of the
14 Defendant, with her
15 Attorneys, but outside
16 of the presence of the jury
17 as follows:)

18

19 **THE COURT:** All right, ladies and
20 gentlemen, here is how this is going to work.
21 We can't get all of these exhibits in
22 the jury room, so we're going to let the jury deliberate
23 in here. That means that all of you will be downstairs.
24 We will be in the offices up here, should anything be
25 needed. If a verdict is reached, believe me, you will
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1 know. We will not do anything without calling everybody
2 up.
3 We will have to ask you to step
4 downstairs, please, and remain there until given further
5 notice.

6

7 (Whereupon, the Audience
8 was excused from the
9 Courtroom, and the
10 proceedings were resumed on
11 the record, in the presence
12 and hearing of the defendant,
13 but outside the presence of

14 the jury as follows:)

15

16 THE COURT: All right. Let the record
17 reflect that these proceedings are being held outside of
18 the presence of the jury, and all parties in the trial
19 are present.

20 The Charge having been read to the
21 jury, the following three alternate jurors are now
22 discharged. Mr. Lewis Hurt, Ms. Diana Castillo, and Mr.
23 Rolf Larsen.

24 We want to thank you very much for
25 your service and we appreciate all of your time, and for
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1 any inconvenience, we certainly apologize for it, and we
2 appreciate everything that you have done.
3 If you will leave your juror badge
4 here now, we have an officer that is going to escort you
5 down the backstairs of the courthouse. And please do not
6 discuss the case with anyone until it's all the way over.
7 When it is all the way over, if a verdict comes in, for
8 example, of not guilty, it will be over.

9 If a verdict comes in, for example, of
10 guilty, then we have to have another hearing, so please
11 don't discuss it until it's all the way over. After that
12 you may discuss or not discuss it as you see fit. If you
13 want to talk about it, you can, if you don't want to talk
14 about it, you don't have to. That is anybody. The
15 press, the lawyers, anybody. It's just your call and
16 your judgment. Please don't discuss anything about it
17 until it's over.

18 Thank you very much again for all of
19 your hard work and your services.

20 THE BAILIFF: Do they need to be paid
21 by Ms. Uecker before they leave, Judge?

22 THE COURT: Oh, that is Kerr County.
23 That is a very important thing. I assume so.

24 THE BAILIFF: Just follow me, folks,
25 and I will take care of you.

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1 THE COURT: All right. Thank you very
2 much.

3

4 (Whereupon, the alternate
5 Jurors were excused from
6 the Courtroom, and the
7 proceedings were recessed

8 pending the deliberations
9 of the jury on guilt or
10 innocence, until the following
11 proceedings were resumed,
12 outside the presence of the
13 defendant, represented by her
14 Attorneys, and outside
15 of the presence of the jury
16 at 6:00 P.M., as follows:)

17
18 THE COURT: All right. Let the record
19 reflect that these proceedings are being held outside of
20 the presence of the jury, and all participants in the
21 trial are present. These proceedings are being held in
22 chambers. We have present for the defense, Mr. Mulder,
23 Mr. Mosty, and Mr. Harrell; and for the State is Ms.
24 Wallace.
25 I have received the following note:
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1 "Some of us remember hearing Darin say
2 that he did not lock the door from the utility room to
3 the garage before he went to bed, 6/5/96, the rest of us
4 remember that Darin said he locked this door. Which is
5 right?"

6 "Frank S. Walker. Presiding juror."
7 Now Ms. Halsey has looked that up and
8 you have seen the reply. Does either side have any
9 objection to the answer to the note?

10 MS. SHERRI WALLACE: No objection from
11 the State.

12 MR. DOUGLAS MULDER: No objection,
13 your Honor.

14 THE COURT: All right. Just for the
15 record, both sides agree to giving this note back to the
16 jury just like it is?

17 MS. SHERRI WALLACE: The State has no
18 objection.

19 MR. DOUGLAS MULDER: The defense has
20 no objection.

21 THE COURT: All right. And just for
22 record purposes, Mrs. Darlie Lynn Routier is not here for
23 this hearing. Do you wish to waive her presence, Mr.
24 Mulder?

25 MR. DOUGLAS MULDER: Yes, sir.
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1 THE COURT: And Mr. Mosty?
2 MR. RICHARD C. MOSTY: Yes, sir.
3 THE COURT: All right. You may send
4 the note back to the jury.