

Closing Argument In Guilt Or Innocence

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
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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 --

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 tailored 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

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.