

Volume 7

1
2 IN THE CRIMINAL DISTRICT COURT NO. 3
3 DALLAS COUNTY, TEXAS
4
5
6
7 THE STATE OF TEXAS }
8 VS: } NO. F-96-39972-J
9 DARLIE LYNN ROUTIER } & F-96-39973-J 10
11
12
13
14 STATEMENT OF FACTS
15 PRETRIAL MOTIONS HEARING
16
17 VOL. 7 OF 53 VOLS.
18 September 12, 1996
19 Thursday
20
21
22
23
24
25

Sandra M. Halsey, CSR, Official Court Reporter 1

1
2 C A P T I O N
3
4
5 BE IT REMEMBERED THAT, on Thursday, the 12th day of
6 September, 1996, in the Criminal District Court Number 3
7 of Dallas County, Texas, the above-styled cause came on
8 for a hearing before the Hon. Mark Tolle, Judge of the
9 Criminal District Court No. 3, of Dallas County, Texas,
10 without a jury, and the proceedings were held, in open
11 court, as follows:
12
13
14
15
16
17
18
19
20

21
22
23
24
25

Sandra M. Halsey, CSR, Official Court Reporter 2

1 A P P E A R A N C E S

2

3

4 HON. JOHN VANCE,
5 Criminal District Attorney
6 Dallas County, Texas

7

8 BY: HON. GREG DAVIS
9 Assistant District Attorney
10 Dallas County, Texas

11

12 AND:

13 HON. JOHN GRAU
14 Assistant District Attorney
15 Dallas County, Texas

16

17 AND:

18 HON. SHERRI WALLACE
19 Assistant District Attorney
20 Dallas County, Texas

21

22 APPEARING FOR THE STATE OF TEXAS

23

24

25

Sandra M. Halsey, CSR, Official Court Reporter 3

1

2 ADDITIONAL APPEARANCES:

3

4 HON. DOUGLAS PARKS
5 Attorney at Law
6 Dallas County, Texas

7

8 AND:

9 HON. WAYNE HUFF
10 Attorney at Law
11 Dallas County, Texas

12

13 Appearing for the Defendant
14 For the purpose of the trial

15 AND:
16
17 HON. BLAKE WITHROW
18 Attorney at Law
19 Dallas County, Texas
20
21 APPEARING FOR THE DEFENDANT
22 for the purpose of the appeal
23
24
25

Sandra M. Halsey, CSR, Official Court Reporter 4

1 P R O C E E D I N G S

2
3 September 12th, 1996
4 Thursday
5 9:30 a.m.
6
7 (Whereupon, the following
8 proceedings were held in
9 Open court, in the presence
10 And hearing of the
11 Defendant, being
12 represented by her attorneys
13 and the representatives of
14 The State of Texas, but
15 without the presence of a
16 jury, as follows:)

17
18
19
20 THE COURT: All right. Cause
21 F-96-39972 and 73 styled the State of Texas versus Darlie
22 Lynn Routier. Let the record reflect that all parties in
23 the trial are present and during these proceedings today
24 the State will be represented by Mr. Greg Davis as lead
25 counsel and the defense by Mr. Douglas Parks as the lead

Sandra M. Halsey, CSR, Official Court Reporter 5

1 counsel.
2 This is a Pre-trial hearing, the Court
3 has reviewed all motions filed. The following motions are
4 granted: The motion to compel the disclosure of the
5 district attorney's jury selection data, that is granted
6 as to prospective jurors. The Defendant's request for
7 notice of State's intention to introduce evidence of other
8 crimes, wrongs or acts, pursuant to Texas Rules of

9 Criminal Evidence, 4.04-B, while that should be directed
10 to the State and not the Court and there is no need for
11 the Court to rule on it. The Court will grant that.
12 Motion for inventory of items taken at
13 the crime scenes, that is granted. Motion in Limine as
14 regards to photographs, that is granted. Motion to
15 require the State to reveal any agreement entered into
16 between the State and any prosecution witness that could
17 conceivably influence their testimony, that is granted.
18 Defendant's motion requesting notice of
19 the prosecution's intent to use certified copies of
20 official written instruments, that is granted.
21 Motion for leave to file additional
22 motions, that is granted.
23 Now, we have the motion -- the Omnibus
24 Pre-trial motion. And I am going to go down this by
25 paragraphs: Paragraph Roman Numeral 1, granted; Paragraph

Sandra M. Halsey, CSR, Official Court Reporter 6

1 Roman Numeral 2, granted; Paragraph Roman Numeral 3,
2 granted; Paragraph Roman Numeral 4, is covered by the
3 discovery motion; Paragraph Roman Numeral 5, is granted as
4 to the case in chief witnesses; Paragraph Roman Numeral 6,
5 is granted; Paragraph Roman Numeral 7, is granted;
6 Paragraph Roman Numeral 8, is granted; Paragraph Roman
7 Numeral 9, is granted; Paragraph Roman Numeral 10, is
8 granted, if the State calls the Grand Jury witness;
9 Paragraph Roman Numeral 11, is granted. As regards to
10 Paragraph Roman Numeral 10, of course, the Court will
11 review in camera any impeaching or inconsistent
12 statements. Paragraph Roman Numeral 11, is granted;
13 Paragraph Roman Numeral 12, is granted, it's already
14 covered in other motions, as is Paragraph Roman Numeral
15 13, which I will grant.
16 Paragraph Roman Numeral 14, is denied
17 at this time and the Court will consider that if any other
18 motions are filed.
19 Now we have the discovery motion. The
20 following paragraphs and requests in that motion are
21 granted: Paragraph 1, 2, 7, 10, 11, 12, 13, 14, 16, 17,
22 18, 20, 21, 25, 26, 27, 29, 30, 31, 32, 33, 34, 35, 36,
23 37-A, 37-C, 37-D and 37-E.
24 Paragraph 4 is granted as to preserving
25 any such notes. Paragraph 8 is granted as to anything

Sandra M. Halsey, CSR, Official Court Reporter 7

1 exculpatory. Paragraph 15 is granted as to anything
2 exculpatory. Paragraph 28 is granted as to any reports

3 based on the examination of the defendant.
4 The following paragraphs are denied:
5 3, 5, 19, 23, 24, 37-B, 37-F, 37-G, 37-H, 37-I, 37-J and
6 38. Paragraph 6 is denied except as to anything
7 exculpatory. Paragraph 9 is denied at this time, but the
8 State is ordered to have transcripts available at the time
9 of the trial. And Paragraph 22 is denied as to any
10 reports of State's experts, but granted as to any prints
11 and the results of any tests.
12 Now, we have the following motions
13 which will be held in abeyance at this time. The
14 defendant's written objection to admissibility of
15 extraneous offenses, we will rule on those at the
16 appropriate time during trial.
17 The defendant's special requested
18 Charge number 1 at the punishment phase of the trial. The
19 Court will rule on that when we get to that phase of the
20 trial. The State's motion in limine -- well, these were
21 filed -- we should have ruled on these first. The State's
22 motions in limine are granted. We will have a hearing
23 should that be necessary.
24 And the motion requesting the
25 defendant's intent to use certified copies, I'll grant

Sandra M. Halsey, CSR, Official Court Reporter 8

1 that motion, but the State has those copies, but we will
2 go ahead and grant that.
3 Now the following motions are denied:
4 The motion in limine as regard to the punishment argument,
5 that is denied.
6 The motions to determine the
7 constitutionality of Sections 37.071 the parties charge,
8 that is denied. The motion to exclude evidence of
9 unadjudicated extraneous offenses during the punishment
10 phase, that is denied. The motion to hold
11 unconstitutional Vernon's Annotated Code of Criminal
12 Procedure, Article 37.071, Sections 2-E and F as regard to
13 failure to require mitigation, that is denied.
14 Motion to voir dire on the parole law
15 of the 40 year minimum, that is denied. Motion to declare
16 the Texas capital sentencing scheme unconstitutional, and
17 motion to preclude imposition of the death penalty, that
18 is denied.
19 Motion to hold unconstitutional
20 Vernon's Annotated Code of Criminal Procedure, Article
21 37.071, Sections 2-E and F, as regards to the burden of
22 proof, that is denied.
23 Second motion to set aside the
24 indictment as regards to the unconstitutionality of the

25 statute, that is denied.

Sandra M. Halsey, CSR, Official Court Reporter 9

1 Motion to suppress will be held in
2 abeyance, we will rule on that at the appropriate time.
3 Motion to present evidence of parole
4 eligibility is denied. Defendant's motion requesting
5 notice of the State's intent to impeach witnesses by
6 evidence of a crime, at this time -- well, I will hold
7 that one a minute.
8 The first amended motion to record the
9 trial of this cause by video or audio recording is denied.
10 Now, getting back to the defendant's
11 motion requesting notice of the State's intent to impeach
12 witness or witnesses with evidence of the crime, this
13 should be presented to the State, but the Court will
14 accept it and will grant the motion, and the State is
15 required to give written notice upon request.
16 We now come to the -- well, so far, any
17 objections to any of the rulings of the Court?
18 MR. GREG DAVIS: No, your Honor.
19 THE COURT: Mr. Parks?
20 MR. DOUGLAS PARKS: Of course, we
21 except to the Court's ruling with respect to those motions
22 that were denied, your Honor.
23 THE COURT: Well, I understand that.
24 We now have the motion for change of
25 venue, the Court has reviewed this motion in it's

Sandra M. Halsey, CSR, Official Court Reporter 10

1 entirety. Does either side have anything further with
2 regards to that motion?
3 MR. GREG DAVIS: The State has nothing
4 further.
5 MR. DOUGLAS PARKS: No, your Honor.
6 THE COURT: The Court having reviewed
7 the motion, grants the motion and the -- will it be
8 acceptable, if the -- as regards to where the case will be
9 moved, neither side will require it to be moved -- or
10 neither side will object if it's moved to a district
11 beyond the adjoining districts; is that correct?
12 MR. GREG DAVIS: That's correct, your
13 Honor.
14 MR. DOUGLAS PARKS: That's correct,
15 your Honor.
16 THE COURT: The districts adjoining
17 Dallas County. In other words, any county in Texas will
18 be acceptable to the State; is that right?

19 MR. GREG DAVIS: Yes, sir, your Honor.
20 THE COURT: And the defense?
21 MR. DOUGLAS PARKS: Yes, your Honor.
22 THE COURT: All right. In as much as
23 one of these -- in the Pre-trial motion it was asked that
24 Mrs. Routier be arraigned outside of the presence of the
25 jury, the Court will now do that.

Sandra M. Halsey, CSR, Official Court Reporter 11

1 Mrs. Routier, in each one of these
2 cases, you are charged with capital murder, that is a
3 capital felony. The penalty range is death, or life
4 confinement in the state penitentiary, depending upon the
5 findings of the jury. Do you understand what you are
6 charged with in each case, and the penalty ranges?
7 THE DEFENDANT: Yes, sir.
8 THE COURT: Thank you.
9 All right, anything else at this time?
10 MR. GREG DAVIS: No, your Honor.
11 MR. DOUGLAS PARKS: No, sir.
12 THE COURT: All right. Thank you.
13 MR. GREG DAVIS: Thank you.
14 MR. DOUGLAS PARKS: Thank you.
15 THE COURT: We will see you. Hearing
16 is over.
17 MR. GREG DAVIS: Yes, sir.
18 MR. DOUGLAS PARKS: Yes, sir.
19 THE COURT: The Court will now resume
20 it's regular docket.
21 THE COURT: All right.
22
23 (Whereupon, this
24 Concluded the
25 Pre-trial motions

Sandra M. Halsey, CSR, Official Court Reporter 12

1 Hearing held,
2 In this cause,
3 On this date.)
4
5
6 THE COURT: All right. Let's go back
7 on the record in the Routier case.
8 MR. GREG DAVIS: If you were subpoenaed
9 by the State for today, please, come forward and be sworn.
10 THE COURT: Come on up. Anybody who
11 has been subpoenaed by the State today, come on up here
12 and get sworn in.

13 MR. GREG DAVIS: Judge, we had some
14 witnesses that we brought in to be sworn in today for this
15 hearing. Could we get those witnesses sworn in?
16 THE COURT: Yes, sure.
17 All right. If all of you ladies and
18 gentlemen will raise your right hands, please.
19 THE WITNESSES: There is one more.
20 THE COURT: One more. All right.
21 Okay. Get everybody up here.
22 MR. GREG DAVIS: We have got another
23 one.
24 THE COURT: That's all right.
25 MR. GREG DAVIS: I think there is one

Sandra M. Halsey, CSR, Official Court Reporter 13

1 more.
2 THE COURT: While we are waiting for
3 one more, let's go on the record, and the following people
4 are going to be sworn in today. If you will just state
5 your names slowly and you might spell your last name for
6 Ms. Halsey.
7 THE WITNESS: Melanie Waits, W-A-I-T-S.
8 THE WITNESS: Julie Clark, C-L-A-R-K.
9 THE WITNESS: Kevin Laredo,
10 L-A-R-E-D-O.
11 THE WITNESS: Darlie Kee, K-E-E.
12 THE WITNESS: Darin Routier,
13 R-O-U-T-I-E-R.
14 THE WITNESS: Dana Stahl, S-T-A-H-L.
15 THE COURT: What was your first name?
16 THE WITNESS: Dana.
17 THE COURT: Dana?
18 THE COURT REPORTER: Is it D-A-N-A or
19 D-A-N-N-A?
20 THE WITNESS: D-A-N-A, S-T-A-H-L.
21 THE COURT: And your name, ma'am, right
22 here in front.
23 THE WITNESS: Tammy Jovell,
24 J-O-V-E-L-L.
25 THE COURT REPORTER: What was your

Sandra M. Halsey, CSR, Official Court Reporter 14

1 first name?
2 THE WITNESS: Tammy.
3 THE COURT: With an I or a Y?
4 THE WITNESS: Y.
5 THE COURT: Okay.
6 THE WITNESS: Barbara Jovell,

7 J-O-V-E-L-L.
8 THE WITNESS: Kenneth Waits, W-A-I-T-S.
9 THE WITNESS: Kenneth Stahl, S-T-A-H-L.
10 THE COURT: All right. Are we still
11 waiting for somebody?
12 Well, here is what we will do is, we
13 will just swear this group in right now.
14 Will you ladies and gentlemen raise
15 your right hands, please.
16
17 (Whereupon, the witnesses
18 Were duly sworn by the
19 Court, to speak the truth,
20 the whole truth and
21 nothing but the truth,
22 after which, the
23 proceedings were
24 resumed as follows:)
25

Sandra M. Halsey, CSR, Official Court Reporter 15

1
2 THE COURT: You and each of you do
3 solemnly swear or affirm that the testimony you are about
4 to give in the cases styled The State of Texas versus
5 Darlie Lynn Routier, will be the truth, the whole truth,
6 and nothing but the truth, so help you God?
7 THE WITNESSES: I do.
8 THE COURT: All right. You are now
9 under -- you have now been sworn in. When Mr. Davis says
10 be back, be back. Thank you.
11 Any other witnesses coming in?
12 All right. Step up here, Miss.
13 Okay. All right. Don't worry about a
14 thing. All right. Your name, ma'am?
15 THE WITNESS: Halina Czaban,
16 C-Z-A-B-A-N.
17 THE COURT: And how do you spell your
18 first name?
19 THE WITNESS: First name is,
20 H-A-L-I-N-A.
21 THE COURT: Do you speak English?
22 THE WITNESS: Yes.
23 THE COURT: And your native tongue
24 is --
25 THE WITNESS: Well, sometimes -- not

Sandra M. Halsey, CSR, Official Court Reporter 16

1 very good.
2 THE COURT: What is your native tongue?
3 THE WITNESS: Polish.
4 THE COURT: But you understand me?
5 THE WITNESS: Yes, I understand.
6 THE COURT: And your name, ma'am?
7 THE WITNESS: Tammy Jovell.
8 THE COURT: If you will both raise
9 your right hands.
10
11 (Whereupon, the witness
12 Was duly sworn by the
13 Court, to speak the truth,
14 The whole truth and
15 Nothing but the truth,
16 After which, the
17 Proceedings were
18 Resumed as follows:
19
20
21 THE COURT: You and each of you do
22 solemnly swear or affirm that the testimony you are about
23 to give in the cases styled the State of Texas versus
24 Darlie Lynn Routier, will be the truth, the whole truth,
25 and nothing but the truth, so help you God?

Sandra M. Halsey, CSR, Official Court Reporter 17

1 THE WITNESS: I do.
2 THE WITNESS: I do.
3 THE COURT: All right. Thank you.
4 Whenever Mr. Davis sees be back, be back.
5 THE WITNESS: All right.
6 THE COURT: All right. Thank you.
7
8
9 (Whereupon, this
10 Concluded the
11 Proceedings held,
12 In this cause,
13 On this date.)
14
15
16
17
18
19
20
21
22

23
24
25

Sandra M. Halsey, CSR, Official Court Reporter 18

1 CERTIFICATION PAGE
2 THE STATE OF TEXAS)
3 THE COUNTY OF DALLAS)
4 I, Sandra M. Halsey, Official Court Reporter of
5 Criminal District Court Number 3, of Dallas County, Texas,
6 do hereby certify that I reported in Stenograph notes the
7 foregoing proceedings, and that they have been edited by
8 me, or under my direction and the foregoing transcript
9 contains a full, true, complete and accurate transcript of
10 the proceedings held in this matter, to the best of my
11 knowledge.
12 I further certify that this transcript of the
13 proceedings truly and correctly reflects the exhibits, if
14 any, offered by the respective parties.
15 SUBSCRIBED AND SWORN TO, this _____ day of
16 _____, 1996.
17 _____
18 Sandra M. Day Halsey, CSR
19 Official Court Reporter
20 Criminal District Court No. 3
21 Dallas County, Texas
22 Phone, (214) 653-5923
23
24 Cert. No. 308
25 Exp 12-31-96

Sandra M. Halsey, CSR, Official Court Reporter 19

1 STATE OF TEXAS)
2 COUNTY OF DALLAS)
3
4 JUDGES CERTIFICATE
5
6
7
8 The above and foregoing transcript, as certified by
9 the Official Court Reporter, having been presented to me,
10 has been examined and is approved as a true and correct
11 transcript of the proceedings had in the foregoing styled
12 cause, and aforementioned cause number of this case.
13
14
15
16

17

18

19

20 MARK TOLLE, JUDGE

21 Criminal District Court Number 3

22 Dallas County, Texas

23

24

25

Sandra M. Halsey, CSR, Official Court Reporter 20