

Testimony of Halina Czaban

THE COURT: All right. Let's go back
16 on the record. These proceedings are being held outside
17 of the presence of the jury and all parties in the trial
18 are present.

19 Will you please state your name,
20 please, ma'am?

21 THE WITNESS: My name is Halina
22 Czaban.

23 THE COURT: And your name, Sister?

24 THE TRANSLATOR: Krystyna Krawczyk.

25 THE COURT: All right. Sister, you
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1 are reminded that you are still under oath as an
2 interpreter in this case.

3 THE TRANSLATOR: Yes.

4 THE COURT: And ma'am, you are
5 reminded that you are still under oath as a witness
6 because you did testify earlier.

7 THE WITNESS: Yes, sir.

8 THE COURT: And you were the
9 interpreter earlier.

10 THE TRANSLATOR: Yes.

11 THE COURT: All right. Thank you.

12 Okay. Bring the jury in, please.

13

14 (Whereupon, the jury

15 Was returned to the
16 Courtroom, and the
17 Proceedings were
18 Resumed on the record,
19 In open court, in the
20 Presence and hearing
21 Of the defendant,
22 As follows:)

23

24 THE COURT: Ladies and gentlemen, let
25 the record reflect that all parties in the trial are
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1 present and the jury is seated.

2 Ladies and gentlemen, these witnesses

3 have already been sworn outside your presence. And as

4 you may recall, the witness, Halina Czaban, while she

5 speaks English prefers her native language of Polish, and

6 she will speak in Polish, and Sister Krystyna, will do
7 the translating just as it was when they previously
8 testified in these proceedings.

9 Go ahead, please, Mr. Shook.

10

11

12 Whereupon,

13

14 **HALINA CZABAN,**

15

16 was called as a witness, for the State of Texas, in the
17 punishment phase, having been first duly sworn by the
18 Court to speak the truth, the whole truth, and nothing
19 but the truth, testified in open court, as follows:

20

21 DIRECT EXAMINATION

22

23 BY MR. TOBY L. SHOOK:

24 Q. Would you tell us your name, please?

25 A. Halina Czaban.

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1 Q. And are you the same woman that
2 testified sometime back in this same trial?

3 A. Yes.

4 Q. I want to turn your attention to
5 Wednesday, June 5th, 1996. What time did you arrive at
6 Darlie Routier's home?

7 A. About 8:15, 8:20.

8 Q. All right. And who was in the house
9 when you got there in the morning?

10 A. Darlie and Becky.

11 Q. Okay. Is Becky the 12-year-old girl
12 that had been over there the previous day?

13 A. Yes.

14 Q. Where were they located in the house?

15 A. Darlie was sitting in a big armchair,
16 Rebecca was sitting on the couch across from Darlie.

17 Q. Let me show you what's been marked as
18 State's Exhibit 47-A. Is this a photograph of the room
19 where they were sitting?

20 A. Yes.

21 Q. And we see a chair here to the side.

22 Is that where Darlie was?

23 A. Yes.

24 Q. The couch over here, is that where
25 Rebecca was?

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1 A. Yes.
2 Q. Okay. And, what was going on when you
3 came in the room and they were seated there?
4 A. They were both just sitting.
5 Q. Okay. And what did you say at that
6 time?
7 A. I looked around and I was asking,
8 where was the baby.
9 Q. Okay. And what was said when you
10 asked that question?
11 A. I asked two times and I didn't get an
12 answer.
13 Q. Okay. Did Darlie have anything in her
14 lap?
15 A. Yeah. She had something that looked
16 like a bundle of laundry or clothes.
17 Q. Where was the bundle sitting?
18 A. On her lap.
19 Q. Okay. Could you tell what was in the
20 bundle at that time?
21 A. No.
22 Q. Okay. And you asked twice where the
23 baby was?
24 A. Yes.
25 Q. What happened then?
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1 A. Rebecca pointed her finger towards
2 Darlie's lap.
3 Q. Rebecca pointed her finger towards
4 Darlie's lap?
5 A. Yes.
6 Q. Okay. What did you say then?
7 A. Then I told her that probably inside
8 it has to be a baby.
9 Q. Okay. What did you say?
10 A. Then two times I said, "Please give me
11 the baby."
12 Q. Okay. Did you do anything with your
13 arms when you said that?
14 A. I stretched my arms towards Darlie
15 because I thought she would give me the baby.
16 Q. Okay. And then what happened?
17 A. She gave me in such a way as though --
18 like she throw at me and then she went upstairs.
19 Q. All right. We have kind of gone over
20 how she handed you the baby, have we not?
21 A. Yes.
22 Q. Can you demonstrate, using this doll

23 and blanket, how she was holding the baby?

24 A. Yes. The blanket was like this, the

25 blanket was covered in such a way.

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1 Q. And holding it just like that on the
2 lap?

3 A. It was only -- was a bigger blanket
4 and was double blanket.

5 Q. Okay. And show us how she handed the
6 baby to you?

7 A. Like this.

8 Q. And then what did she do?

9 A. And very fast she went upstairs.

10 Q. Did she say anything before she went
11 upstairs?

12 A. She didn't say anything.

13 Q. And what did you do with the baby?

14 A. I started slowly to uncover the baby.

15 Q. Okay. And maybe you can show us how
16 you did that?

17 A. I started slowly to uncover the baby,
18 in such a way.

19 Q. Okay.

20 A. And the face of the baby was very red
21 and very perspiring, and the lips were light blue.

22 Q. Did the baby make any noise at that
23 time?

24 A. No. When I uncovered some more, then
25 the baby started to catch its breath.

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1 Q. Then what did the baby do?

2 A. It started to cry.

3 Q. Okay. Did you --

4 A. I would like to show how I was
5 cradling the baby.

6 Q. That was my next question. What did
7 you do with the baby after the baby cried?

8 A. Well, I started to lullaby the baby.

9 The baby was looking at me and crying. I took off my
10 glasses, and started to talk to baby.

11 Q. Did that calm the baby down?

12 A. Yes, it was crying more quiet, and

13 then it was looking at me and then started to close its
14 eyes.

15 Q. Did you get the baby to go to sleep
16 eventually?

17 A. Yes.

18 Q. How long was it until Darlie came back
19 from downstairs?

20 A. Maybe 20 or 25 minutes -- it was about
21 20 or 25 minutes.

22 Q. Okay. And what did she tell you to do
23 with the baby when she came back downstairs?

24 A. I asked her, where should I put the
25 baby so the baby could sleep.

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1 Q. What did she tell you?

2 A. On the carpet, on the floor.

3 Q. Okay. What did you do then?

4 A. I put it down.

5 Q. Okay. Now, later that morning did you
6 go back in that same room and see Darlie and Rebecca with
7 the baby?

8 A. Yes.

9 Q. And where were they sitting again?

10 A. In the same way, Rebecca on the couch
11 and Darlie in the armchair.

12 Q. Where was the baby?

13 A. When they came, I only saw the baby
14 and when baby was falling down towards the table.

15 Q. Had the baby been -- was it standing
16 up or --

17 A. Yeah, it was standing.

18 Q. What was he near when he was standing?

19 A. Near the glass table.

20 Q. Okay. This glass table we see in the
21 center of the photograph?

22 A. Yes, yes.

23 Q. This area?

24 A. Yes.

25 Q. Okay. And you said you started to see
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1 the baby fall?

2 A. Yeah, I saw when the baby was falling
3 toward the glass table.

4 Q. What did you do?

5 A. Very quickly I came to the baby and I
6 caught the baby and I shouted, "Oh, my God."

7 Q. What was Darlie and Rebecca's reaction
8 when you caught the baby?

9 A. They were laughing at me.

10 Q. What did you say to them?

11 A. I told her it was not funny.
12 Q. Okay. Later on were you doing wash
13 and doing your work there in the garage and in the
14 washroom?
15 A. Yes.
16 Q. When you came into the washroom from
17 the garage, on one occasion did you see something that
18 caused you some concern?
19 A. The baby in the laundry.
20 Q. Where was the baby?
21 A. In the laundry.
22 Q. In the laundry room?
23 A. Yes.
24 Q. Okay. And was he on the floor
25 crawling or standing?
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1 A. It was crawling.
2 Q. Okay. How did you come across the
3 baby?
4 A. I -- when I opened the door, I just
5 found the baby near the door and I almost stepped on the
6 baby.
7 Q. Okay. What did you do when you found
8 the baby on the floor there?
9 A. I picked it up, I went to the kitchen
10 and I called Rebecca.
11 Q. Okay. Where were Rebecca and Darlie
12 at that time?
13 A. Upstairs.
14 Q. Okay. Did Rebecca come when you
15 called her?
16 A. Yes.
17 Q. And, what did you do then?
18 A. She took the baby and she went
19 upstairs.
20 Q. After lunch, on that same day, was the
21 baby placed in the highchair?
22 A. Yes.
23 Q. Where was this highchair located?
24 A. In the kitchen there was a table that
25 usually they were eating by, so the chair was standing by
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1 the table.
2 Q. Okay. Had the boys been in to eat
3 lunch?
4 A. Yes.

5 Q. Is that the only time -- is that the
6 first time you had seen them that day?

7 A. Yes.

8 Q. Okay. Did you -- after the baby was
9 in the highchair, did you go back to your work in the
10 laundry room?

11 A. Yes.

12 Q. Okay. Now, sometime after that, did
13 you hear something that caused you to come into the
14 kitchen?

15 A. Cry of the baby.

16 Q. Okay. When you came in the kitchen,
17 what did you see?

18 A. I saw that the baby had slipped down
19 from the seat of the chair.

20 Q. Okay. How was he positioned?

21 A. The height of the baby was resting on
22 the table and the baby just slipped down from the seat of
23 the chair.

24 Q. The table that was part of the
25 highchair, that is where his head was?

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1 A. Yes.

2 Q. And the baby had slipped out of the
3 chair itself?

4 A. Yes.

5 Q. Was the baby crying at that time?

6 A. Yes.

7 Q. Okay. And what did you do?

8 A. I came and I wanted to open the seat,
9 but I didn't know how to do this.

10 Q. Okay. So what did you do then?

11 A. I called Rebecca.

12 Q. Where was Rebecca and Darlie at that
13 time?

14 A. Upstairs.

15 Q. Okay. Did Darlie come down or just
16 Rebecca?

17 A. Rebecca.

18 Q. Okay. And what happened then?

19 A. She opened the seat, she picked up the
20 baby and I told her, "Don't do this anymore."

21 Q. Okay. Were you angry with her?

22 A. Yes, I was angry.

23 Q. Okay. Let me turn your attention now
24 to the funeral. Did you go to the boys' funeral?

25 A. Yes.

1 Q. Okay. And at the funeral, did you see

2 Darlie?

3 A. Yes.

4 Q. And did you go to her and offer your
5 condolences?

6 A. Yes.

7 Q. Okay. What did you say to her?

8 A. I told her that it happened, such a

9 tragedy to her, and now she has to spend so much money
10 for this funeral.

11 Q. Had you spoken to her a couple of days

12 before about her money situation?

13 A. Not much, but yes.

14 Q. Okay. And what was her response to

15 you when you said this to her?

16 A. She told me, "I am not worried because

17 I will get five thousand apiece."

18 Q. Okay. And when you heard her say

19 that, what was your reaction? What did you do?

20 A. I told her, "Darlie, sit down because

21 you must be very tired."

22 Q. Okay.

23

24 MR. TOBY L. SHOOK: That's all the

25 questions we have, Judge.

1 THE COURT: Mr. Mosty.

2

3 CROSS EXAMINATION

4

5 BY MR. RICHARD C. MOSTY:

6 Q. Ms. Czaban, are you a -- do you have

7 psychic qualities?

8

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

10 to relevance.

11 THE COURT: I'll let him ask the

12 question. If she knows the answer, she can answer it.

13

14 BY MR. RICHARD C. MOSTY:

15 Q. Do you have psychic abilities?

16

17 THE TRANSLATOR: Excuse me. Could you

18 qualify this psychic word?

19

20 BY MR. RICHARD C. MOSTY:

21 Q. Ms. Czaban, do you have psychic
22 abilities?

23 A. No, sir.

24

25 THE COURT: Okay. We're going to do
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1 this in Polish or we are not going to do it, because that
2 is the way we're doing that.

3 MR. RICHARD C. MOSTY: Well, your

4 Honor, I don't know how to do that.

5 THE COURT: Do you waive the
6 translation for this question?

7 MR. RICHARD C. MOSTY: For this
8 question, I do.

9 THE COURT: All right. Fine. Do you
10 know the answer to the question? Do you have psychic
11 abilities? Answer it, if you know it.

12 THE WITNESS: Never.

13

14 BY MR. RICHARD C. MOSTY:

15 Q. Never. Have you ever told anybody you
16 have psychic abilities?

17

18 MR. TOBY L. SHOOK: Now, Judge, I'll
19 object to relevance.

20 THE COURT: I'll sustain that.

21 THE WITNESS: What are you trying --

22 THE COURT: Just a minute, ma'am. Do

23 not say anything until the question is asked, please.

24 All right. Let's go back to the question and answer in
25 Polish.

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1

2 BY MR. RICHARD C. MOSTY:

3 Q. I guess that that statement about the
4 five thousand dollars bothered you?

5 A. Yes.

6 Q. It offended you?

7 A. Yes.

8 Q. And you were very upset about it?

9 A. Not so much because I thought it was
10 just a tragedy, and during this time I heard this words,
11 the sentence.

12 Q. Well, it made you not want to have

13 anything to do with her?

14 A. Yes.

15 Q. But you still went to the -- on the

16 14th, you went out to the grave site, didn't you, for

17 Devon's birthday?

18 A. My daughter asked me to go with her.

19 Q. And you picked up the child, and you

20 participated, and you were there for hours, weren't you?

21 A. Not the whole time, because I was

22 sitting under the tree, because I didn't like what was

23 happening there.

24 Q. But this lady who had offended you,

25 nonetheless, you went out to the -- were you there for

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1 the prayer service?

2 A. No.

3 Q. Didn't go for the prayer service?

4 A. No, there wasn't any prayer, there

5 wasn't any prayer.

6 Q. There wasn't, you know that, don't

7 you?

8 A. No.

9 Q. Okay. Now, when this five thousand

10 dollar statement was made, where were you standing?

11 A. I was standing near her and I was even

12 holding her.

13 Q. Where?

14 A. By the casket.

15 Q. By the caskets? Is this before the

16 service?

17 A. No, this was the day when they opened

18 first time the casket and when she saw for the first time

19 the children.

20 Q. At that point she had not seen the

21 children at all?

22 A. I don't know.

23 Q. Were you there when Darlie got to the

24 viewing with the police officers?

25 A. I was there because there was a lot of

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1 people.

2 Q. Okay. When she first got there, you

3 were already there?

4 A. I was standing in the hall and people

5 were standing in the line to give -- to express their

6 condolences.

7 Q. Okay. And did she go through the

8 line?

9 A. No, she was standing.

10 Q. Okay. And did Darlie go to the
11 casket?

12 A. She was standing there because she
13 wanted first to greet her children.

14 Q. Is this right after she got to the
15 funeral home?

16 A. Somebody else brought her.

17 Q. Okay. But as soon as she got there,
18 she first went to the casket?

19 A. Because they closed it down because
20 she first greeted children. And all of the people were
21 waiting in a hall.

22 Q. And you were one of those people
23 waiting there?

24 A. Yes.

25 Q. Then did Darlie go to the casket?

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1 A. No, she was standing already there
2 when everybody was expressing condolences.

3 Q. After the condolences, did Darlie go
4 to the casket?

5 A. I didn't see what was happening
6 further, because the child was crying, and the family was
7 there, and we were helping the family so the baby would
8 not cry.

9 Q. Now, tell me, where were you and
10 Darlie standing when this five thousand dollar statement
11 was made?

12 A. By the casket.

13 Q. By the casket. Okay. How did you get
14 there?

15 A. I was standing in a line to express my
16 condolences.

17 Q. And Darlie was standing at the casket
18 and were people coming to the casket where Darlie was?
19

20 THE TRANSLATOR: Excuse me? Could you
21 repeat that?

22

23 BY MR. RICHARD C. MOSTY:

24 Q. Was Darlie standing at the casket and
25 were people coming to the casket where Darlie was?

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1 A. Yes.
2 Q. And how many people were coming to the
3 casket?

4 A. Very many.

5 Q. Where was Darin standing?

6

7 THE TRANSLATOR: Excuse me?

8

9 BY MR. RICHARD C. MOSTY:

10 Q. Where was Darin standing?

11 A. He was standing on the side a little
12 farther with other men.

13 Q. Okay. Who was at the casket when you
14 went up there?

15 A. Darlie.

16 Q. Who else?

17 A. There was some kind of men, the men
18 were sitting on the chair, Darlie was standing, and there
19 people were standing. And I was standing there to say I
20 was sorry.

21 Q. Okay. And were there a lot of
22 people -- then, were there people behind you in the line?

23 A. Yes, not so many, but they were.

24 Q. But they weren't waiting back, were
25 they, where everybody was coming up at once?

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1 A. No, they were coming one by one.

2 Q. So how many people were standing at
3 the casket -- or at the casket, were these several men,
4 there was Darin, there was Darlie, there was you, and who
5 else?

6 THE TRANSLATOR: Sir, could you
7 repeat, but not so much? Okay?

8

9 BY MR. RICHARD C. MOSTY:

10 Q. The people that were at or close to
11 the casket were Darin and some men?

12 A. Darin wasn't by the casket. He was
13 farther on the side and Darlie was standing alone.

14 Q. Darlie was standing alone. No one was
15 holding her up, no one supporting her, no one standing
16 beside her?

17 A. No. Maybe somebody from her family
18 was there, but I was just paying attention to Darlie.

19 Q. Okay. So maybe somebody was standing
20 beside her?

21 A. When we were standing -- when I came,
22 we were standing, just two of us and nobody was by very

23 close.

24 Q. Okay. Did you speak to her in

25 English?

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1

2 THE TRANSLATOR: Excuse me?

3

4 BY RICHARD C. MOSTY:

5 Q. Did you speak to her in English?

6 A. Yes.

7 Q. In English, what did you say, exactly

8 your words?

9 A. In English?

10 Q. In English.

11 A. "Darlie, I am so sorry what happened."

12 Q. That is exactly what you said?

13 A. Yes. I say, "You have many problems,

14 and now very expensive funeral. You know I am very,

15 very, sorry." And she said --

16 Q. Now, but is that exactly what you

17 said?

18 A. Yes.

19 Q. All right. Now, let's go back to

20 Polish. Your way of expressing your condolences to

21 Darlie was to say that it was a very expensive funeral?

22

23 THE TRANSLATOR: Sir, could you

24 repeat?

25

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1 BY MR. RICHARD C. MOSTY:

2 Q. Your way of expressing your

3 condolences to Darlie was to say this is a very expensive

4 funeral?

5 A. No.

6 Q. Well, you made that statement, didn't

7 you, just a moment ago?

8 A. Because the day before she was telling

9 me that she didn't have money and that she needed ten

10 thousand dollars.

11 Q. I understand you said that. But that

12 is part of what you said, you said, "I'm sorry, this is

13 expensive."

14 A. Yes.

15 Q. Now, this morning that you went on

16 the -- what day was that that you described this incident

17 with Drake?

18 A. The 5th of June.

19 Q. How did you get to the Routier
20 residence?

21 A. My daughter brought me.

22 Q. Did she leave you off at the front

23 sidewalk?

24 A. Yes.

25 Q. And is this the second time you had
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1 been to the Routier residence?

2 A. No, one time I was there because -- I

3 was there four times. Because Darlie asked my daughter
4 to bring me to her house, and so I was in her house four
5 times.

6 Q. Four times all told?

7 A. Yes.

8 Q. Correct?

9 A. Right.

10 Q. And the first two times were just
11 social visits?

12 A. We came there and they were just
13 cleaning, making bed.

14 Q. My question is: The two times -- you
15 worked two days; am I right?

16 A. Yes, two days I worked.

17 Q. And two times before that, you had
18 been there to visit?

19 A. I didn't go, they just asked me to go
20 there.

21 Q. My question is: How many times had
22 you ever walked inside the Routier house?

23 A. Four times.

24 Q. Okay. Two of them were the day you
25 worked there, right?

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1 A. Yes.

2 Q. And the two other times was just to
3 visit, is that right?

4 A. Yes, I was accompanying my daughter.

5 Q. The first two times your daughter went
6 with you?

7 A. Yes.

8 Q. And, the first day you worked your
9 daughter went with you, didn't she?

10 A. Yes, because she was picking up Darin

11 to his work.
12 Q. And she went up and she actually went
13 in the house with you?
14 A. She only entered and then soon after,
15 Darin went with her, left with her.
16 Q. Okay. So now on this fourth visit,
17 your daughter dropped you off at the sidewalk. The
18 fourth visit, the first time you had been to the house,
19 your daughter dropped you off at the sidewalk?
20 A. No, we entered the house.
21 Q. Your daughter entered the house with
22 you the fourth time?
23
24 THE TRANSLATOR: Sir, do you ask about
25 the fourth time?
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1
2 BY MR. RICHARD C. MOSTY:
3 Q. The fourth time.
4 A. No.
5 Q. Okay. Your daughter on the fourth
6 visit, on the day you have described these instances with
7 Drake, that day your daughter let you off at the
8 sidewalk?
9 A. No, I just opened the door and I said
10 goodbye, and I entered the house and my daughter left.
11 Q. When you said goodbye, you left the
12 car and said goodbye to your daughter at the car?
13 A. By the door. My daughter didn't want
14 to enter, but my daughter wanted to be sure that I
15 entered house.
16 Q. Okay. So now --
17
18 THE TRANSLATOR: Excuse me. The lady
19 said the door, but she didn't say what kind of door. I
20 just repeat exactly what she says.
21
22 BY MR. RICHARD C. MOSTY:
23 Q. Are you testifying -- is your story
24 now that your daughter got out of her car and walked you
25 to the door?
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1 A. No, she was in the car.
2 Q. Okay. Your daughter never got out of
3 the car?
4 A. No, she was in a hurry to open the

5 business.

6 Q. So you got out of the car at the
7 sidewalk and you walked up to this house by yourself?

8 A. Yes.

9 Q. And you rang the doorbell?

10 A. The door was open.

11 Q. Standing open?

12 A. No, I opened it -- I opened the door
13 by the handle because my daughter told me about this.

14 Q. Did you knock?

15 A. No, because Darlie -- my daughter told
16 me that Darlie told her, just open the door by the handle
17 by itself.

18 Q. Oh, okay. So now the story is that
19 you had already been told just go on in the house?

20 A. Even Darlie told me just to enter the
21 house because the door will be open.

22 Q. When did she tell you that?

23 A. It was even when I came for the first
24 time.

25 Q. Okay. So this is the fourth time in
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1 the house, you didn't knock, you didn't ring the
2 doorbell, you just walked in the house?

3 A. Yes.

4 Q. Okay. And you walked in the -- what
5 room first?

6 A. Well, when I entered the house, just
7 nearby is a family room, a living room.

8 Q. Did you say when you walked in,
9 "Darlie, I'm here"?

10 A. Yes.

11 Q. Where were you when you said that?

12 A. Just when I entered the house.

13 Q. Before you saw Darlie, you had called
14 out to her?

15 A. No, when I entered the room I said,
16 "Good morning."

17 Q. Well, so when you entered the entry
18 hall you said nothing?

19 A. I entered.

20 Q. Did you call out and say, "Darlie,
21 Mrs. Routier, I am here"?

22 A. Yes, when I was coming closer.

23 Q. But not until you saw her, you never
24 said anything?

25

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1 THE COURT: You better let Sister
2 Krystyna get around there, where she can point to that
3 thing too.
4 MR. RICHARD C. MOSTY: Let me climb
5 back here. All right.
6 THE WITNESS: All right. I don't
7 remember very well, I usually do not enter a house if I
8 was not invited, but Darlie told me.
9
10 MR. RICHARD C. MOSTY:
11 Q. You had never entered the house
12 without knocking before, had you?
13 A. No, never. This morning I really
14 don't remember.
15 Q. When you walked up that entry hall,
16 you didn't say anything?
17 A. Yes.
18 Q. Not until you got to this position?
19 A. Here, here.
20 Q. And Darlie was sitting in this chair?
21 A. Yes.
22 Q. And Rebecca was sitting on what couch?
23 A. Here.
24 Q. Okay. How many pounds did Drake
25 weigh?
Sandra M. Halsey, CSR, Official Court Reporter
5509

1 A. I don't know. He was very tiny.
2 Q. Very tiny?
3 A. Not very. No, he was not fat, he
4 wasn't skinny, just like a baby.
5 Q. Okay. And, where were Darlie's feet?
6 A. On the floor.
7 Q. On the floor?
8 A. Yes.
9 Q. Was she sitting back?
10 A. Yes.
11 Q. Okay. And the chair that she was
12 sitting in, is this chair here, ma'am?
13 A. Yes.
14 Q. Okay. That is a low chair, isn't it?
15 A. It's normal.
16 Q. It's a thick chair, isn't it?
17 A. It's a thick chair that is standing in
18 the room.
19 Q. Okay. And, how was she sitting? Like

20 I am?

21 A. Yes.

22 Q. That chair is lower than this chair,

23 isn't it?

24 A. I didn't measure it, so I don't know.

25 Q. It's the kind of chair you sink down

Sandra M. Halsey, CSR, Official Court Reporter
5510

1 in, isn't it?

2

3 THE TRANSLATOR: Excuse me? Would you

4 repeat?

5

6 BY MR. RICHARD C. MOSTY:

7 Q. It's the kind of chair that you sink

8 down in?

9 A. No, but she didn't sink, the chair was
10 even.

11 Q. When you sit in that, do the cushions

12 go down when you sit in that chair?

13 A. Yes, with my weight for sure.

14 Q. Fair enough. And Rebecca is sitting

15 right in front of her?

16 A. Yes.

17 Q. And you are sitting over there, you

18 are standing over there?

19 A. What are you asking?

20 Q. When you first talked to Darlie.

21 A. Darlie was sitting in the armchair.

22 And I was standing there.

23 Q. You were standing to Darlie's right?

24 A. Yes.

25 Q. Okay. When you first said something

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5511

1 to her, how far away from her were you?

2 A. About so far as right now from me.

3 Q. Okay. As far as from me to this

4 table?

5 A. A little closer.

6 Q. Closer?

7 A. Yes.

8 Q. About like this?

9 A. Yes.

10 Q. You were standing on her side?

11 A. Yes.

12 Q. And you said something to her?

13 A. Good morning.

14 Q. Okay. What is the second thing you
15 said to her?
16 A. Nothing, because I look around,
17 because I didn't see the baby.
18 Q. Okay. She had both feet on the
19 ground?
20 A. Yes.
21 Q. Did she say good morning to you?
22 A. Yes.
23 Q. Did Rebecca say anything to you, at
24 first?
25 A. I didn't say anything to Rebecca and
Sandra M. Halsey, CSR, Official Court Reporter
5512

1 Rebecca didn't say anything to me.
2 Q. Okay. So then were you still this
3 close when you said, "Where is Drake?"
4 A. I don't know exactly about what date
5 you are asking about. The first day and about -- or the
6 second day?
7 Q. I'm asking about the day that you
8 walked in and asked about Drake. Where is the baby?
9 Which day was it?
10 A. Yes, that day I was standing in this
11 position so close as you just are showing now.
12 Q. And you could not see Drake?
13 A. No.
14 Q. You saw a bundle in Darlie's hands?
15 A. Cross my heart, yes.
16 Q. Where were Darlie's hands?
17 A. Like this.
18 Q. Like this?
19 A. Yes.
20 Q. And you were standing this close and
21 you say you said, "Where is the baby," or did you say,
22 "Where is Drake"?
23 A. No, I said where is the baby.
24 Q. Where is the baby?
25 A. Yes.
Sandra M. Halsey, CSR, Official Court Reporter
5513

1 Q. And she did not respond?
2 A. No.
3 Q. And you said again, "Where is the
4 baby"?
5 A. Yes.
6 Q. Did you say a third time, "Where is
7 the baby"?

8 A. Yes.
9 Q. And after the first and the second
10 time, you got no response?
11 A. No.
12 Q. And you were standing right here the
13 whole time?
14 A. Yes.
15 Q. You never moved?
16 A. No.
17 Q. And then after the third time, she
18 threw the baby?
19 A. No, Rebecca pointed her finger towards
20 Darlie's lap.
21 Q. Okay. What did you do when Rebecca
22 pointed her finger?
23 A. Because I saw that there was no
24 movement in this bundle so I just repeated twice, "Give
25 me the baby."
Sandra M. Halsey, CSR, Official Court Reporter
5514

1 Q. So when Rebecca pointed, you knew that
2 was the baby in the bundle?
3 A. Yes.
4 Q. So you said two times, "Give me the
5 baby"?
6 A. Three times.
7 Q. Three times? So first you said, three
8 times, "Where is the baby," and then you said, three
9 times, "Give me the baby"?
10 A. Yes.
11 Q. And all the time you are standing
12 right here?
13 A. Yes.
14 Q. And on the third time then, she throws
15 the baby?
16 A. No, I repeated, "Please, please give
17 me the baby."
18 Q. Okay. And she did, she threw the
19 baby?
20 A. Yes, she gave me baby in such a way
21 like was shown.
22 Q. Like I am showing?
23 A. No, you should get up because she got
24 up from the chair.
25 Q. Oh, she has this 18-pound baby in her
Sandra M. Halsey, CSR, Official Court Reporter
5515

1 lap sitting like I am sitting?
2 A. She wasn't sitting in exactly the way
3 you are sitting now.
4 Q. Isn't this the position you told me to
5 get in?
6 A. No, like me, like you see me.
7 Q. Sitting straight up?
8 A. Yes.
9 Q. But in this deep chair?
10 A. Yes, in a deep chair.
11 Q. And she stood up?
12 A. Yes.
13 Q. And threw the baby?
14 A. You may -- I may say as though she
15 threw the baby because she was angry, because it look
16 like -- because I felt as though she was angry or
17 something.
18 Q. So you must have run around to get in
19 front of her?
20 A. No, she just got up from the chair,
21 and she came to me and gave me the baby.
22 Q. So she got up like this, came to you
23 and gave you the baby?
24 A. She gave me in such a way, as I told
25 you before, the baby was in a double blanket.
Sandra M. Halsey, CSR, Official Court Reporter
5516

1 Q. And you have already told us a number
2 of times today you all were within arm's length of each
3 other during this whole exchange?

4

5 THE TRANSLATOR: Excuse me?

6

7 BY MR. RICHARD C. MOSTY:

8 Q. You have already told us a number of
9 times that you and she were within arm's length of each
10 other during this entire exchange?

11

12 THE TRANSLATOR: Excuse me, sir, can

13 you repeat?

14

15 BY MR RICHARD C. MOSTY:

16 Q. You have already told us several times
17 that you were within arm's length of her every time you
18 asked her questions and when she gave you the baby?

19 A. I didn't know exactly, I don't -- how

20 should I know how far exactly I was.

21 Q. Well, Ms. Czaban, every time that you

22 and I have talked here, I have been this far from this

23 table. You moved me closer, didn't you?
24 A. I thought you were asking me about the
25 baby, not about how should you move that chair. How
Sandra M. Halsey, CSR, Official Court Reporter
5517

1 should I tell you that you should move your chair closer
2 to the table?

3 Q. Didn't you tell me to move my chair
4 closer to the table?

5 A. No, I didn't say to move your chair.

6 I just wanted to say that it was closer.

7 Q. Okay. Then, you know that the baby
8 likes to sleep covered up, don't you?

9 A. Yes.

10 Q. You knew that, everybody knew that,
11 didn't they?

12 A. Yes.

13 Q. And when you laid the baby down on the
14 pillow on the floor, when you laid the baby down?

15 A. There wasn't a pillow.

16 Q. Was there a blanket?

17 A. The blanket that I had, I just put
18 together with the baby.

19 Q. Did you put it over the baby's head?

20 A. No.

21 Q. Did the baby pull it over his head?

22 A. No, I just put the blanket on the
23 floor. I just opened the blanket more.

24 Q. You didn't cover the baby?

25 A. No.

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5518

1 Q. Now, then you say -- then what did you
2 do in your work day? After you laid the baby down, what
3 did you do?

4 A. I went to the laundry and I was
5 washing the rest of the clothing. I was doing the
6 laundry.

7 Q. Did the baby take a nap?

8 A. Yes.

9 Q. How long?

10 A. I don't know. I only put the laundry
11 in the washing machine. I don't know. Maybe about 20
12 minutes, but I don't know about 20 minutes.

13 Q. Was it about 20 minutes later when you
14 went back and saw the baby walking by the glass table?

15 A. How -- in what way the baby was by the
16 glass table, I don't know.

17 Q. What time of day was it? How much
18 later was it?

19 A. It was soon after he fell asleep and
20 then got up.

21 Q. Do you know how long that was?

22 A. I started the laundry and I put into
23 the washing machine. And the machine started to work.

24 And I left the laundry.

25 And I was coming close to the chair.

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5519

1 And then I saw the baby falling, falling down and how was
2 baby there, I don't know.

3 Q. Okay. This is after you have done the
4 laundry and you are coming from the utility -- or you
5 started the laundry?

6 A. Yes.

7 Q. And you were coming into the living
8 room?

9 A. This way, I was walking.

10 Q. Why were you walking to the living
11 room?

12 A. Why? Because I was coming here and
13 then later I was dusting the fireplace.

14 Q. Okay. And where was Darlie?

15 A. Here.

16 Q. Still in the same chair?

17 A. Yes.

18 Q. Where was Rebecca?

19 A. Here.

20 Q. And when you were -- at what point did
21 you see the baby falling?

22 A. Here.

23 Q. You were standing right there?

24 A. No, I was just approaching this place.

25 Q. Where was the baby?

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5520

1 A. Here.

2 Q. Which way was the baby falling?

3 A. On toward the table, it was falling
4 toward the edge of the glass table.

5 Q. And you were standing about here?

6 A. Yes.

7 Q. Closer than my finger was.

8 A. Yes.

9 Q. So you were the one that was closest
10 to the baby, weren't you?

11 A. There was Darlie, there was Rebecca,
12 and I was there.
13 Q. Well, you have moved your finger back
14 now. Was it here or was it here?
15 A. No, because there is -- this is so
16 small and the room was bigger than this.
17 Q. And you were standing?
18 A. No, I was approaching and there is a
19 difference.
20 Q. You were on your feet, weren't you?
21 A. Yes.
22 Q. And you say that you could get to the
23 baby the quickest?
24 A. I said that the baby was falling
25 toward the table and I moved very fast in order to catch
Sandra M. Halsey, CSR, Official Court Reporter
5521

1 the baby.
2 Q. So that is the second time you had
3 seen the baby. And then the next time you saw the baby,
4 the baby was in the utility room?
5 A. Yes.
6 Q. And where had the baby been in the
7 meantime?
8 A. I don't know, because there was Darlie
9 and Rebecca and I was doing what I was supposed to do.
10 Because Darlie said that Rebecca was a babysitter.
11 Q. Okay. And you were out in the garage?
12 A. Yes, because she asked me -- because
13 she asked me to do something with the garbage that was in
14 the garage.
15 Q. Had you gone out to the garage?
16 A. I entered the garage, I went through
17 the garage.
18 Q. Did you close the utility room behind
19 you?
20 A. Yes.
21 Q. Okay. So you went out in the garage
22 and did whatever you were going to do?
23 A. Yes.
24 Q. And you walked back in and you said
25 you almost stepped on the baby?
Sandra M. Halsey, CSR, Official Court Reporter
5522

1 A. Yes.
2 Q. That utility room door opens into the
3 utility room, doesn't it?
4

5 THE TRANSLATOR: Excuse me, sir?

6 Could you repeat that?

7

8 BY MR. RICHARD C. MOSTY:

9 Q. The door opens into the utility room

10 doesn't it?

11 A. I have to see. There is the door, one

12 door, that through the door you can enter laundry or

13 garage, you just can pass by.

14 Q. So you opened this door. Where was

15 the baby?

16 A. Right here.

17 Q. And so when you opened the door, you

18 almost stepped on him?

19 A. Yes.

20 Q. Okay. You had opened the door in like

21 that and you -- it was so close that you almost stepped

22 on the baby?

23 A. Yes, because I was carrying some kind

24 of laundry like stockings or something, and so I just did

25 not pay attention exactly.

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5523

1 Q. Wait a minute. Why had you carried

2 the laundry out into the garage?

3 A. You would understand me wrong. I just

4 came from -- I just took from over there some kind of

5 dirty laundry.

6 Q. Oh, so you picked up some dirty

7 laundry out in the garage?

8 A. In the laundry there was dirty

9 clothes. And before Darlie was checking those clothes

10 because she was supposed to do garage sale. And there

11 was the laundry and the trash was over there and garbage

12 so I went to the garage too. So I picked up whatever was

13 dirty to wash.

14 Q. Okay. Picked it up with both hands?

15 A. No. I was just very -- I had very

16 little of something.

17 Q. Of the laundry you picked up in the

18 garage?

19 A. There was probably swimming suit of

20 the babies -- of the children.

21 Q. And then the fourth time you saw the

22 baby, he was in a highchair?

23 A. Yes.

24 Q. And no one was around?

25 A. First was Darlie and Rebecca and they

1 were feeding the baby.

2 Q. Okay. Did you eat with them?

3 A. No. I was eating later, Darlie gave

4 me sandwich. And I wasn't eating there because Darlie

5 put the cake for me on the table.

6 Q. You saw the baby in the highchair

7 eating, I guess?

8 A. Yes, because when I folded the dry

9 clothes I brought back to the kitchen. And so when I was

10 passing by, I saw them both standing by the child.

11 Q. Okay. And then you went on about

12 doing your laundry?

13 A. What do you mean, laundry?

14 Q. Wash.

15 A. In this day I didn't have so much

16 laundry to do, so I was dusting.

17 Q. When the baby ate, where was the crib,

18 or the highchair?

19 A. There is a table, there is a table.

20 Q. Where was the high chair?

21 A. Here.

22 Q. Now, then you were working in the

23 utility room?

24 A. Yes.

25 Q. And at some point Rebecca and Darlie

Sandra M. Halsey, CSR, Official Court Reporter

1 must have left this room?

2 A. I don't know when they left the room.

3 Q. But you were working all the time in

4 this utility room?

5 A. No. No. But at that time when the

6 child was in the highchair, I was folding down the drying

7 clothing.

8 Q. In this utility room?

9 A. Yes.

10 Q. And you don't know when Darlie and

11 Rebecca left this room?

12 A. No, I don't know.

13 Q. How long were you in this utility

14 room?

15

16 THE TRANSLATOR: Excuse me? Would you

17 repeat?

18

19 BY MR. RICHARD C. MOSTY:

20 Q. How long were you in this utility
21 room?
22 A. There wasn't so much of laundry, so it
23 was about 15 minutes.
24 Q. Okay. And when you came out -- you
25 heard something while you were in there?
Sandra M. Halsey, CSR, Official Court Reporter
5526

1 A. Cry of the baby.
2 Q. And you came out of the utility room?
3 A. Yes.
4 Q. And was the highchair still in the
5 same place?
6 A. Yes.
7 Q. And tell me: How was the baby's head
8 again?
9 A. If you will come closer to me, I will
10 show you.
11 Q. Reluctantly, yes.
12 A. Good. Please give me this baby. The
13 baby was sitting on the chair. And the baby slipped down
14 like this.
15 Q. What is under this chair? What is in
16 the bottom of this chair?
17 A. Probably there was a belt --
18 Q. Of course --
19 A. -- protecting the child.
20 Q. Of course, Drake was a lot bigger than
21 this doll, wasn't he?
22 A. Oh, yes, much bigger, yes.
23 Q. How had the baby gotten in the
24 highchair? You got any idea?
25
Sandra M. Halsey, CSR, Official Court Reporter
5527

1 THE TRANSLATOR: Excuse me? Could you
2 repeat, sir?
3
4 BY MR. RICHARD C. MOSTY:
5 Q. Do you have any idea how the baby got
6 in the highchair?
7 A. They started to feed the baby. They
8 were giving food to the baby.
9 Q. You saw somebody put the baby in the
10 highchair?
11 A. Well, no, I didn't see.
12 Q. Did the baby have food on the tray
13 while the baby was eating?

14 A. They started to feed the baby, and I
15 saw this, but who put the baby in the highchair, I didn't
16 see.

17 Q. Was somebody feeding the baby?

18 A. At the beginning, I saw when they
19 started to feed the baby. And when I saw the cry of the
20 baby, and then I thought, there is so quiet, and only I
21 hear the baby and --

22

23 MR. RICHARD C. MOSTY: I'll object to
24 non-responsive, your Honor.

25 THE COURT: Well, we are dealing with
Sandra M. Halsey, CSR, Official Court Reporter
5528

1 a translator. Just reask the question.

2

3 BY MR. RICHARD C. MOSTY:

4 Q. Ms. Czaban, I am focusing in on
5 particularly: Did you see someone feed the child?

6 A. I didn't see. I saw them both when
7 they were getting ready to feed the baby, but who was
8 feeding the baby, I didn't see.

9 Q. The baby couldn't feed himself?

10 A. No, they did not finish feeding the
11 baby and this surprised me.

12 Q. Oh, now you know from the utility room
13 that they didn't finish feeding the baby?

14 A. Yes, because when you start to feed a
15 7-month-old baby, then you have to finish feeding this
16 baby.

17 Q. Okay. Was there still food on -- when
18 you went and found the baby, was there still food on the
19 highchair?

20 A. It was spilt on the table.

21 Q. No food?

22 A. No, because it was spilt, the child
23 probably with its hand spilt on the table.

24 Q. So your story is, somebody fed the
25 baby, but they didn't finish?

Sandra M. Halsey, CSR, Official Court Reporter
5529

1 A. Yes.

2 Q. And then they took the food away, but
3 left the baby there?

4 A. No. No, the food wasn't taken away.

5 The food was still there.

6 Q. Was there a baby jar on the table, on
7 the highchair?

8

9 THE TRANSLATOR: Excuse me, by jar, do
10 you mean a bottle?

11 MR. RICHARD C. MOSTY: Yes.

12 THE WITNESS: It was a food in the
13 bottle or something.

14

15 BY MR. RICHARD C. MOSTY:

16 Q. And that was still there when you
17 found the baby?

18 A. Yes.

19 Q. Okay. So they didn't finish feeding
20 the baby, but they just left and left the food and left
21 the baby in the highchair?

22 A. Yes, and they went upstairs, yes.

23 Q. And then about 20 minutes later you
24 rescued the baby?

25 A. I don't know exactly if it was 20
Sandra M. Halsey, CSR, Official Court Reporter
5530

1 minutes.

2 Q. So, if I understand it, you saw this
3 baby basically four times during the day?

4 A. Yes, in an accident.

5 Q. Okay. And these four crises, is that
6 the only time you saw this baby that day?

7 A. During this day, yes.

8 Q. Okay. All four times you saw the
9 baby, it was in some type of crisis?

10 A. No, I saw when Rebecca was carrying
11 the baby.

12 Q. Okay.

13

14 MR. RICHARD C. MOSTY: That's all I
15 have.

16 THE COURT: Anything else?

17 MR. TOBY L. SHOOK: No, sir.

18 THE COURT: Thank you. You may step
19 down. Watch you step, ma'am.

20 THE COURT: All right. Your next
21 witness?

22 MR. GREG DAVIS: Your Honor, and
23 ladies and gentlemen of the jury, at this time the State
24 of Texas will rest its case in chief in punishment.

25 THE COURT: All right. Ladies and
Sandra M. Halsey, CSR, Official Court Reporter
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1 gentlemen, that's all the testimony you are going to be
2 hearing from the State in this phase of the trial.

3 If you will step -- we will take a
4 break now, a 15 minute break.

5 Be back at 2:45. Be ready to go,
6 please.

7 Thank you.

8

9 (Whereupon, a short

10 Recess was taken,

11 After which time,

12 The proceedings were

13 Resumed on the record,

14 In the presence and

15 Hearing of the defendant

16 And the jury, as follows:)

17

18 THE COURT: Are both sides ready to

19 bring the jury in and resume?

20 MR. GREG DAVIS: Yes, sir. The State

21 is ready.

22 MR. RICHARD MOSTY: Yes, sir.

23 THE COURT: We're ready. Bring the

24 jury in.