

Testimony of Barbara Jovell

MR. JOHN HAGLER: Your Honor, we have
10 one matter about the last witness we talked to you about.
11 You said you would allow us to make the objection after
12 she had testified.

13 THE COURT: Oh, yes, okay.

14 MR. JOHN HAGLER: And, at this point,
15 we would object to the admission of the evidence of the
16 testimony regarding the defendant's alleged statement

17 that she was in need of \$10,000. And our objection to
18 that point was prior to that offer and the admission in
19 evidence of that testimony, and that objection was that
20 it was irrelevant and confusing and misleading to the
21 jury.

22 And, as I recall, the Court overruled
23 that objection and allowed us to make the objection at
24 this time.

25 THE COURT: Overruled.

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1 MR. JOHN HAGLER: And furthermore, we
2 would submit that even if relevant, the prejudicial
3 effect would vastly outweigh any probative value.

4 THE COURT: All right. Overruled.

5 MR. JOHN HAGLER: Note our exception.

6 THE COURT: Go ahead. Let's get
7 started with this. Mr. Shook.

8

9 Whereupon,

10

11 **BARBARA JOVELL,**

12

13 Was called as a witness, for the State of Texas, having
14 been first duly sworn to speak the truth, the whole

15 truth, and nothing but the truth, testified in open
16 court, as follows:

17

18 (OUTSIDE THE PRESENCE OF THE JURY)

19

20 DIRECT EXAMINATION

21

22 BY MR. TOBY L. SHOOK:

23 Q. State your name, please.

24 A. My name is Barbara Jovell,
25 J-o-v-e-l-l.
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1 Q. Ms. Jovell, do you know a woman by the

2 name of Darlie Routier?

3 A. Yes, I do.

4 Q. How long have you known her?

5 A. I have known her since about '87.

6 Q. Okay. And you're friends with her?

7 A. Yes, I am.

8 Q. Let me turn your attention to May of

9 '96 and ask if you went to her home to talk to her about

10 an incident that had happened?

11 A. Yes.

12 Q. Okay. And did you talk to her in her

13 home that day about something that happened while you

14 were on vacation?

15 A. Yes.

16 Q. Okay. Tell the Court the conversation

17 you had with the defendant on that day.

18 A. Darlie told me that she was trying to

19 attempt a suicide.

20 Q. Okay. Did she tell you how that

21 happened?

22 A. Yes. She told me that she had pills

23 out of the wrappers, and she was going to take them, and

24 she was writing a note but Darin walked in, and she put

25 things away, she hid from him. And she, if it wasn't for

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1 the dog, Domain, dragging the wrappers from under the

2 bed, Darin would have never known.

3 Q. Okay. Did she tell you why she was

4 about to commit suicide?

5 A. Because sometimes she gets to feel

6 really strange, and she doesn't understand why. That

7 things were getting to her.

8 Sometimes she felt like everybody

9 expected too much of her, and there was more. Pretty

10 much, that things were happening, and she felt strange,

11 and she just didn't understand why. And, sometimes she

12 just feels like she wants to end it all.

13 And I have asked her -- I have told

14 her that she had three beautiful children and a loving

15 husband, and that she should get help. And she told me

16 that, yes, that she had talked with Darin, and that she
17 is going to go with the three children to Lubbock.

18 Q. Okay. Let me stop you there. Did you
19 counsel with her about that after she told you about her
20 thinking about, or preparing to commit suicide?

21 A. Yes.

22 Q. Now, let me move you forward a little
23 bit, and ask you to go to the date of June 7th, after
24 Darlie Routier was in the hospital, that Friday. Did you
25 go to the hospital and see her?

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1 A. Yes, sir.

2 Q. Okay. At one point in time, while you
3 were at the hospital visiting her, did Darlie Routier ask
4 other members, other people in the room to leave?

5 A. Yes, sir.

6 Q. Okay. Did she have a conversation?

7

8 THE COURT: Ma'am, can you keep your
9 voice up so that everybody can hear you?

10 THE WITNESS: Okay. Yes, sir. Is
11 that better?

12 THE COURT: Just relax. Yes. Okay.

13

14 BY MR. TOBY L. SHOOK:

15 Q. Did she have a conversation with you
16 after the others left?

17 A. Yes, sir.

18 Q. Okay. Tell the Judge what she told
19 you at that time.

20 A. She was concerned about her sexual
21 toys being in the house and police searching the house.

22 Q. Okay. Did she tell you anything else
23 at that time?

24 A. No.

25 Q. And I have asked you not to go into
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1 another matter.

2 A. Yes. No, she didn't.

3 Q. Unless the Judge specifically told
4 you.

5 A. Right.

6 Q. So don't even mention that at this
7 time.

8 A. Okay.

9 Q. Okay. And did you -- what did you
10 tell her in response to that?

11 A. That she shouldn't worry about it
12 that. That she just lost her two children, and she

13 almost lost her life, and that shouldn't matter, that she
14 shouldn't even worry about those things.

15 Q. Now --

16 A. I'm sure everybody, a lot of people
17 have those things.

18 Q. Okay. Now then, let me move you
19 forward about a week later on the next Friday, June 14th.

20 Did you go to the grave site where the two children were
21 buried?

22 A. Yes, I have.

23 Q. Did you do that at Darlie's request?

24 A. Yes, sir.

25 Q. Okay. And, was there some type of
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1 birthday party there at the grave site?

2 A. Yes, sir.

3 Q. Okay. And, were you present when a
4 news team was out there filming that birthday party?

5 A. Yes, sir, I was.

6 Q. Do you remember who the news reporter
7 was that was doing that?

8 A. I remember his name was Joe.

9 Q. Okay. Joe Munoz?

10 A. I believe so. That was his last name.

11 Q. Okay. And, did he interview Darlie
12 and Darin Routier?

13 A. Yes, he had.

14 Q. Okay. And, were you present during
15 those interviews?

16 A. Yes, I was.

17 Q. And did you hear them talking to the
18 reporter Joe Munoz?

19 A. Yes, sir, I did.

20 Q. And, at that party was silly string
21 shot over the grave, and did you all sing Happy Birthday?

22 A. Yes, we did.

23 Q. Okay. And, were you there at Darlie
24 Routier's request?

25 A. Yes.

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1 Q. Okay. And, was all of that
2 celebration filmed there by Channel 5 and Joe Munoz and
3 his team?
4 A. Yes.
5 Q. You were present during all that?
6 A. Yes, I was.
7 Q. Were you just off camera?
8 A. I was trying to be off camera.
9 Q. Okay. Now, but you were -- you heard
10 the conversations between the three of them, did you not?
11 A. Yes.
12 Q. As they were being interviewed?
13 A. Pretty much so. Yes, I heard, but I
14 don't remember exactly what was -- I mean --
15 Q. You didn't memorize every word?
16 A. No.
17 Q. Okay. And if I showed you a tape of
18 that interview -- and you have reviewed that this
19 morning; is that right?
20 A. Yes, I did.
21
22
23 (Whereupon, the following
24 mentioned item was
25 marked for
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1 identification only
2 after which time the
3 proceedings were

4 resumed on the record
5 in open court, as
6 follows:)
7

8 BY MR. TOBY L. SHOOK:

9 Q. Okay. And did that tape -- let me
10 show you what has been marked as State's Exhibit 101.
11 Did that tape -- was that a tape of the interview that
12 you have just described to the Judge?
13 A. Yes.

14 Q. Okay. And, was that tape an accurate
15 representation of what went on there, as far as the
16 interview, and what Darlie did?
17 A. Yes.
18 Q. What Darlie said?
19 A. Yes.

20 Q. And you were just off camera watching
21 all that, is that right?

22 A. Yes.

23 Q. Okay.

24

25 MR. TOBY L. SHOOK: Your Honor, at
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1 this time, we will offer State's Exhibit 101 for record
2 purposes, and we would like to play that for the Court
3 and offer it for admissibility before the jury.

4 THE COURT: All right.

5

6 (Whereupon, the videotape.

7 was played for the Court.)

8

9 THE COURT: All right. That is the
10 tape you want to show, Mr. Shook?

11 MR. TOBY L. SHOOK: Yes, sir. And
12 those are the three specific areas that the defense

13 indicated to me that they wanted a hearing on.

14 THE COURT: All right. Mr. Hagler, I
15 assume you want to make an objection.

16 MR. JOHN HAGLER: Yes, your Honor.

17 THE COURT: Okay. You can take one at
18 a time, whatever areas, one at a time.

19 MR. JOHN HAGLER: Okay. Your Honor,
20 the first area is going to be this testimony regarding
21 the alleged suicide attempt.

22 As the Court well knows, the burden is
23 on the State to make a threshold showing to the Court,
24 and establish beyond a reasonable doubt, that the
25 existence of this extraneous offense, and we would
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1 classify this as an extraneous offense. I say extraneous
2 offense, I'm talking about 404-B material, your Honor.
3 We would submit, your Honor, Number 1,
4 that they have failed to make such a showing. And, in
5 particular, your Honor, Number 1, they have not -- may I
6 put this book up here, your Honor?

7 THE COURT: Oh, by all means.

8 MR. JOHN HAGLER: Your Honor, they
9 haven't made an adequate showing of an actual intent, on

10 the part of the defendant, to commit suicide. And
11 furthermore, your Honor, and I know the Court is well
12 aware of the concept or the definition of relevant
13 evidence, but we would submit further, in addition to
14 their failure to make a threshold showing beyond a

15 reasonable doubt of the conduct of the defendant.
16 Furthermore, your Honor, we would
17 vigorously urge that this testimony regarding alleged
18 suicide is simply not relevant. And again, I know the

19 Court is well aware of the definition, but just for the
20 purpose of this hearing, I would like to again state that
21 the definition means: Evidence having any tendency to
22 make the existence of any fact that is of consequence to
23 the determination of the action more probable or less
24 probable than it would be without the evidence.

25 Your Honor, I don't see any way, shape
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1 or form that this testimony regarding an alleged suicide
2 attempt would have any bearing, would have any -- would

3 add any probative value to a determination, as to whether
4 or not the defendant is guilty of the charge alleged in
5 the indictment.

6 In other words, there is simply no
7 nexus, there is no connection between the so-called
8 statements regarding -- really it was not even a suicide
9 attempt, it's some statements regarding some future
10 intent to, I guess, to commit suicide.
11 But there's no nexus, there is no

12 connection between this testimony and the allegations
13 contained in the indictment. So, we would vigorously
14 urge under 401 that such testimony is not admissible.

15 THE COURT: All right. Are you
16 through with that one?

17 MR. JOHN HAGLER: Yes, your Honor.

18 THE COURT: Okay. Well, the Court
19 will overrule that objection and admit that.

20 MR. JOHN HAGLER: Well, and
21 furthermore, your Honor, under 404-B it's conduct which
22 we would submit that it's 404-B-type material. Again,
23 the word offense was not -- incorrect on my part, but it
24 is --

25 THE COURT: I understand.

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1 MR. JOHN HAGLER: As the Court well
2 knows, it extends into any type of bad acts, what have
3 you, that would cast an aspersion of doubt on the
4 defendant's conduct.

5 THE COURT: Well, the Court feels it
6 would tend to show a state of mind, and the Court would
7 hold that the probative value far outweighs any
8 prejudicial effect.

9 MR. RICHARD C. MOSTY: Could I be sure
10 that Mr. Hagler has developed that these -- this alleged
11 event is more than 30 days removed from the offense, and
12 that is part of our objection.

13 THE COURT: That is fine.

14 MR. RICHARD C. MOSTY: That the time
15 factor of the removal. And secondly, that a suicide,
16 vis-a-vis a homicide that there is no relevance -- that
17 there is no connection between those from a psychiatric
18 standpoint and a psychological standpoint.

19 THE COURT: The Court understands your
20 objection. Same ruling. Overruled.

21 Now, let's move on to the next one.

22 MR. JOHN HAGLER: Your Honor, the
23 second area, as I understood the testimony, was the

24 hospital visit regarding the so-called sex toys. I am
25 not going to spend too much time on this area, your
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1 Honor, because I don't see any way, shape or form that
2 this could possibly be relevant.

3 THE COURT: It's not an offense. I'll
4 overrule that.

5 MR. JOHN HAGLER: Well, your Honor,

6 let's put it this way: I'm not arguing specifically as
7 an extraneous offense, but I'm arguing or submitting to
8 the Court, that the existence of, I'm not sure what is
9 meant by sexual toys. Again, I think that in itself is

10 vague. But, it's unclear, it's confusing, it is going to
11 be misleading to the jury. And then, it certainly
12 couldn't have any relevancy or any bearing, on whether or
13 not, in fact, the defendant had any so-called sexual
14 toys. What that would have any bearing or any
15 significance as to whether she committed the offense.

16 Furthermore, I would urge that it
17 would be 404-B material. And again, it's conduct that
18 casts only a bad light on the defendant.
19 Obviously, your Honor, they are

20 attempting to put this into evidence, and they are
21 obviously doing it for some reason. And the reason why
22 they are doing it is they want to show -- they want to
23 cast a shadow on the defendant on areas that are simply
24 irrelevant.

25 THE COURT: Mr. Mosty, do you have
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1 something you want to say?

2 MR. RICHARD C. MOSTY: Mr. Hagler just
3 hit it.

4 THE COURT: All right. Overruled.

5 I'll admit that. So now, I guess the next area is on the
6 tape.

7 MR. JOHN HAGLER: The third area, your
8 Honor, is the going to be the tape. Starting off with

9 the authentication. I think this witness has already
10 stated that she doesn't recall, she was simply present
11 during this grave side matter.

12 As far as the authentication, the
13 threshold of requirement that the State carries. We
14 would submit that obviously the tape itself is not

15 self-authenticating.

16 They are required to properly
17 authenticate it through proper evidence and testimony,
18 under our Rules 901 and 902 and Rule 1001, 1001 through
19 1004.

20 One, is we don't -- all we have here
21 is a tape that they played. We know the name of

22 apparently the reporter who was present and who
23 interviewed the defendant and her husband.

24 We don't know what the chain of
25 custody the tape has been. We don't know the manner and
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1 circumstances by which the tape was recorded. We don't
2 know whether or not there were any additions or
3 alterations to the tape, since the time of its recording
4 until the time it is being played in the courtroom at the
5 present time.

6 We don't know whether there have been
7 any alterations or changes, deletions or additions to the
8 tape. And therefore, at the outset, they have simply
9 failed to satisfy their threshold requirement to
10 establish and to authenticate the admission of the tape
11 into evidence.
12 Now, moving on with -- would the Court
13 want to rule on that?
14 THE COURT: Well, I will rule on that
15 one. I will overrule that and I will admit the tape.
16 MR. JOHN HAGLER: Okay. And again,
17 your Honor, I want to point out that the witness
18 testified, that she may have been present. I don't know
19 how much she heard. She simply said that she was present
20 and in fact she has even admitted that she doesn't recall
21 word for word what the statements were, and what was said
22 during the grave side matter.
23 THE COURT: I'll overrule that,
24 because she appears throughout the tape and the tape
25 speaks for itself on the screen. You can plainly see her
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1 there. You can plainly see everyone involved. Both
2 Routiers, and Mr. Munoz who is also on the tape. You can
3 hear his voice, and you can see him. He is sitting in
4 the courtroom right now.
5 So, I will overrule that and I will
6 admit the tape.
7 MR. JOHN HAGLER: Well, your Honor, a
8 few more objections.
9 THE COURT: Oh, a few more. Okay.
10 MR. JOHN HAGLER: Your Honor, in
11 addition, there are numerous -- one of the requirements
12 on authentication is to identify the various voices on
13 the tape.
14 Your Honor, in addition to the
15 defendant's voice, obviously, there are going to be some
16 areas where there is no question that the defendant is
17 speaking, but there are numerous voices on this tape,
18 background voices, voices of unidentified individuals,
19 who we have no idea who they are, who is making the
20 statements, and what have you.
21 And therefore, we would object to the
22 fact that that, again, it shows a lack of authentication.
23 And furthermore, the numerous statements on the tape
24 constitute hearsay testimony under Rule 802, and
25 specifically the background voices and also the

1 statements by Darin Routier are going to be hearsay under
2 Rule 802.

3 THE COURT: Okay. Overruled. Next.

4 MR. JOHN HAGLER: Moving on, your

5 Honor, and again, this basically gets back to my earlier

6 statements having to do with this so-called alleged

7 suicide statement and future intent.

8 Your Honor, the tape itself that was

9 made a number of days after the offense alleged in this

10 indictment, we would submit, your Honor, that there has

11 been no showing of any relevancy. It does not constitute

12 any type of evidence or adds any probative value, if, in

13 fact, it was presented before the jury.

14 And therefore, we would urge that each

15 and all of the statements contained in the tape fail to

16 satisfy the relevancy test under Rule 401.

17 THE COURT: All right. Overruled.

18 And you will not be required to -- is that all?

19 MR. JOHN HAGLER: No, your Honor.

20 THE COURT: Oh, we're still going.

21 All right.

22 MR. JOHN HAGLER: In addition, your

23 Honor, we would further urge that this tape, even if, and

24 I'd ask for a 403 ruling in the event the Court admits

25 it.

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1 THE COURT: You will get it.

2 MR. JOHN HAGLER: But we would further

3 submit, your Honor, that this tape also constitutes 404-B

4 material in the fact that it shows -- and I know the

5 State is going to argue that this tape shows a lack of

6 remorse on the part of the defendant. We would submit

7 that this therefore, it falls into the area of 404-B.

8 And in particular, the fact that this

9 tape could be easily, and we would submit will be, and

10 possibly could be misinterpreted by the jury. It's

11 confusing and it's misleading.

12 The fact is, that each and every

13 individual reacts differently to a crisis in their life.

14 And this tape, when viewed by the jurors, is going to be

15 misinterpreted by the jurors.

16 And therefore, we would urge that this

17 tape be suppressed because of the fact it will be and

18 could be misconstrued by a juror, under 404-B and 403.

19 THE COURT: Okay. Are we at the end?

20 MR. RICHARD C. MOSTY: Let me ask you

21 a question?

22 MR. JOHN HAGLER: Just one second,

23 your Honor.

24 THE COURT: All right. That's it?

25 MR. JOHN HAGLER: Yes, your Honor.

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1 MR. RICHARD C. MOSTY: I'll second

2 what Mr. Hagler said.

3 THE COURT: All right. The final

4 objection is overruled. The tape will be admitted under

5 Rule 403-B. The probative effect showing state of mind

6 far outweighs any prejudicial value -- any prejudicial

7 effect.

8 And, the Court will note your

9 objections in this hearing, and you will not have to

10 object in front of the jury.

11 All right. Are we ready to bring the

12 jury in?

13 MR. TOBY SHOOK: We're ready, Judge.

14 THE COURT: All right. Then bring the

15 jury in please.

16

17 (Whereupon, the jury

18 Was returned to the

19 Courtroom, and the

20 Proceedings were

21 Resumed on the record,

22 In open court, in the

23 Presence and hearing

24 Of the defendant,

25 As follows:)

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1

2 THE COURT: All right. Good morning,

3 ladies and gentlemen.

4 Let the record reflect that all

5 parties in the trial are present, and the jury is seated.

6 Ladies and gentlemen, this witness has

7 already been sworn outside of your presence. Mr. Shook.

8 MR. TOBY SHOOK: Judge, at this time,
9 the State will offer State's Exhibit 106, and it is
10 certified.

11 MR. RICHARD C. MOSTY: No objection.

12 THE COURT: All right. State's

13 Exhibit No. 106 is admitted.

14

15 (Whereupon, the above

16 mentioned item was

17 received in evidence

18 as State's Exhibit No. 106,

19 for all purposes

20 after which time,

21 the proceedings were

22 resumed on the record,

23 as follows:)

24

25

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1 Whereupon,

2

3 BARBARA JOVELL,

4

5 Was called as a witness, for the State of Texas having

6 been previously duly sworn by the Court to speak the

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

8 testified further in open court, in the presence of the

9 jury, as follows:

10

11

12 DIRECT EXAMINATION

13

14 BY MR. TOBY L. SHOOK:

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

16 A. My name is Barbara Jovell.

17 Q. Okay. Throughout your testimony,

18 please speak in a loud, clear voice. Okay?

19 A. Yes, sir.

20 Q. If you don't understand anyone's

21 questions, just ask them to repeat it and we will be glad

22 to do that. Okay?

23 A. Yes.

24 Q. Keep that voice up.

25 A. Yes.
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1 Q. All right. Where do you live Miss

2 Jovell? Is it Jovell?

3 A. Yes. J-o-v-e-l-l.

4 Q. I am pronouncing it right then?

5 A. Yes.

6 Q. Where do you live?

7 A. I live in Dallas, in Garland.

8 Q. Okay.

9 A. Do you want the whole address?

10 Q. Is Garland a suburb of Dallas?

11 A. Yes.

12 Q. Where are you originally from?

13 A. I am originally from Poland.

14 Q. When did move here to the United

15 States?

16 A. In 1973.

17 Q. Okay. And did you move here with your

18 family?

19 A. My father was already here. My mother

20 and my sister came here together, yes.

21 Q. Is your mother -- do you call her

22 Babcia?

23 A. Everybody else do. I call her Mom.

24 Q. Okay. All right. Is she the lady

25 that testified yesterday?

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1 A. Yes.

2 Q. Okay. And when did you move to the

3 Dallas area?

4 A. Around maybe '81 or so.

5 Q. Okay. And what brought you to Texas?

6 A. I moved in with my ex-husband. I

7 moved with my ex-husband and his family.

8 Q. Okay. Was he your ex-husband then?

9 A. No.

10 Q. That happened later?

11 A. Yes.

12 Q. Okay. And have you resided in the

13 Dallas area since that time?

14 A. Yes, I have.

15 Q. Okay. Did you eventually go to work

16 at a company called Cuplex?

17 A. Yes, I have.
18 Q. When did you start at that company?
19 A. Shortly after -- about two weeks after
20 I came here.
21 Q. Okay. And tell the jury what type of
22 company Cuplex is?
23 A. They make printed circuit boards from
24 the scratch to the electrical test.
25 Q. Circuit boards for what?
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1 A. That's the stuff that goes into the
2 computers and makes them work.
3 Q. Circuit boards for computers?
4 A. Yes.
5 Q. All right. And what did you do for
6 Cuplex?
7 A. I was an electrical test and I was
8 trouble shooting for problems.
9 Q. Okay. Now, while you worked there,
10 did you come to know a man by the name of Darin Routier?
11 A. Yes, I have.

12 Q. Okay. About what year was it that you
13 met Darin Routier?
14 A. Around '87, middle of '87 or so.
15 Q. Okay. Did he come to work there at
16 Cuplex?
17 A. Yes.
18 Q. About how old was he when you met him?
19 A. 19, around 19 or so.
20 Q. What did he do there at Cuplex?
21 A. He was working in my area at that
22 time.
23 Q. Okay. Did y'all eventually become
24 friends?
25 A. Yes.
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1 Q. Okay. Did you later come to meet his
2 fiancée?
3 A. Yes, I have.
4 Q. Okay. What was her name?
5 A. Darlie.
6 Q. Do you see Darlie here in the
7 courtroom today?
8 A. Yes, I do. That is her over there.
9 Q. You are pointing to the woman here in

10 the coat here at the counsel table?

11 A. Yes.

12

13 MR. TOBY L. SHOOK: Your Honor, if the

14 record could reflect, that the witness has identified the

15 defendant.

16 THE COURT: Yes.

17

18 BY MR. TOBY L. SHOOK:

19 Q. Had you already become friends with

20 Darin Routier before you met Darlie?

21 A. I was with Darin friends first. Later

22 on, maybe a few months, maybe a little more, I don't

23 quite remember, but it was a while before I met Darlie.

24 Q. Was that sometime in 1987 also?

25 A. Yes.

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1 Q. Okay. How old was Darlie Routier when

2 you met her?

3 A. I believe around 16 or 17.

4 Q. Okay. Were they engaged at that time?

5 A. Yes.

6 Q. After you met her, did you and Darlie

7 become friends?

8 A. Yes.

9 Q. Were Darin and Darlie eventually

10 married?

11 A. Yes.

12 Q. When was that?

13 A. August 27th, '88.

14 Q. August 27th, 1988?

15 A. Yes.

16 Q. Okay. Where did that take place?

17 A. In Lubbock.

18 Q. Were you there?

19 A. Yes, I was.

20 Q. Did you participate in the ceremony?

21 A. Pardon me?

22 Q. Did you participate in the ceremony?

23 A. Yes, I was the maid of honor.

24 Q. Maid of honor for Darlie?

25 A. For Darlie, yes.

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1 Q. Okay. Did Darin continue to work at

2 Cuplex with you after they were married?

3 A. Yes.

4 Q. Did Darlie come to work there for a
5 while?
6 A. Yes, after they were married for a
7 little while.
8 Q. How long did she work there?
9 A. I don't exactly remember but I
10 remember she was pregnant and she had an accident.
11 Before she had the baby at work there, so she was kind
12 of -- they put her with pay to stay home.
13 Q. Okay. Did Darin and Darlie have
14 children from their marriage?
15 A. Yes.
16 Q. How many children did they have?
17 A. Three.
18 Q. Who was the first?
19 A. Devon Routier, I'm sorry, Devon Rush
20 Routier.
21 Q. When was he born?
22 A. June of '89.
23 Q. Okay. Who was the second born?

24 A. Damon Routier, Damon Christian
25 Routier.
Sandra M. Halsey, CSR, Official Court Reporter
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1 Q. When was Damon born?
2 A. February of '91.
3 Q. Okay. And did they have a third
4 child?
5 A. Yes. Drake, and he was born October
6 of '95.
7 Q. Okay. Now, did Darin also develop a
8 business on the side when he was at Cuplex?
9 A. Yes, he had.
10 Q. Okay. What type of business was that?
11 A. He was not doing testing, but he was
12 building fixtures to test printed circuit boards.
13 Q. Okay. Did he do that out of his home?
14 A. Yes, he have.
15 Q. Did you help him with that sometimes?
16 A. Yes, I have.
17 Q. Did you do that just on good will or
18 were you paid for your services?
19 A. I was paid.
20 Q. Did Darlie also assist in that type of
21 work?
22 A. Yes.
23 Q. Okay. Eventually, did Darin leave
24 Cuplex and start his own company?

25 A. Yes, he had.
Sandra M. Halsey, CSR, Official Court Reporter
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1 Q. What was the name of that company?

2 A. Testnec Electronics.

3 Q. Okay. And about what time was that
4 that he started that company?

5 A. I believe it was around -- well, I
6 started working for him sometimes in May or June of 1992.
7 So, that was just a little bit before that, that he
8 opened it.

9 Q. You came to work for him as an
10 employee?

11 A. Yes, I have.

12 Q. Tell the jury what kind of company
13 that was, what you all did at Testnec.

14 A. We tested printed circuit boards.

15 Q. Same type thing?

16 A. Yes. Load fixture, drilling, the

17 material is -- it's a process that you do, but it was
18 drilling, setting up fixtures and then testing printed
19 circuit boards for companies.

20 Q. Who worked at the company?

21 A. For the longest time it was just Darin
22 and Darlie and I.

23 Q. Okay. And what did do you for the
24 company?

25 A. Well, I did everything, the testing,
Sandra M. Halsey, CSR, Official Court Reporter
2537

1 the cleaning.

2 Q. What did Darlie do for the company?

3 A. She kept the books and plus she helped
4 sometimes to test when it was very busy.

5 Q. Okay. And did -- the company started
6 in '92; is that right?

7 A. Yes, around 1992. I'm pretty sure,
8 well, around '92 because I started working shortly after
9 they opened.

10 Q. Did the company do well when it
11 started off?

12 A. Yes.

13 Q. Did it do well through '92, '93?

14 A. Yes.

15 Q. '94?

16 A. Yes.

17 Q. And most of '95?

18 A. Yes, pretty much so. We had our slow

19 periods sometimes but usually --

20 Q. And this entire time, is it you, Darin

21 and Darlie the main employees at Testnec?

22 A. Yes, but there is -- yes, through '94.

23 Well, we had my daughter working there part time. She

24 was still at school. And there was time that Julie Clark

25 came for a little while and worked with us too.

Sandra M. Halsey, CSR, Official Court Reporter

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1 Q. Primarily, though, it was you, Darin

2 and Darlie?

3 A. And Darlie.

4 Q. Okay. Now, in the last couple of

5 years, did you begin to see a change in Darlie Routier?

6 A. Yes, I have.

7 Q. Okay. Would you tell the jurors what

8 that change was?

9 A. She was up and down. It was really

10 hard to tell, but she was -- she became very

11 materialistic which I brought up to Darin.

12 Q. I'm sorry. Very much what?

13 A. Materialistic. She started to begin

14 to love material things.

15 Q. Materialistic?

16 A. Yes.

17 Q. Okay.

18 A. She was -- well, she had ups and

19 downs. She gets depressed, she gained weight, and she

20 started fighting with Darin about money.

21 Q. Okay. Now, you say she got

22 materialistic?

23 A. Yes.

24 Q. Did she become concerned with money

25 and buying things?

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1 A. Yes. She went and bought things a

2 lot.

3 Q. Okay. Now, their company was doing

4 pretty good; is that right?

5 A. Yes.

6 Q. Okay. But, was she different from the
7 Darlie you originally met back in 1987?
8 A. Well, she liked pretty things and she
9 did like to look well at that time. But it was -- well,
10 how do you say it, well, not as much as I saw later.
11 Q. Now then, did Darlie Routier
12 participate in business decisions there at Testnec?
13 A. Yes, she had.
14 Q. Were you present during conversations
15 involving business there at Testnec?

16 A. Yes, many times.
17 Q. Okay. And was Mrs. Routier involved
18 in those conversations?

19 A. Yes.
20 Q. As far as the company, was there a big
21 reinvestment in the company for new equipment, things of
22 that nature?
23 A. At first the tester was bought and
24 then later they only purchase a used drill, and then a
25 digitizer.

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1 Q. What items were purchased then that
2 you observed with the money that was made there at
3 Testnec?

4 A. There was nothing more going into
5 Testnec.

6 Q. Okay.

7 A. It was going to Darlie.

8 Q. When you say going to Darlie what are
9 you talking about?

10 A. She loves to shop.

11 Q. She liked to shop?

12 A. Yes.

13 Q. And what type of things did she start
14 buying?

15 A. She had wonderful taste, she would buy
16 expensive things.

17 Q. Okay. Did they purchase a new home?

18 A. Yes. They had a new home built, they
19 built a new home, yes.

20 Q. Okay. And when was that?

21 A. Oh, shortly after -- maybe '93, maybe
22 end of '92. Shortly after we had the company. I'm not
23 for sure.

24 Q. Okay. And who decorated the home?

25 A. Darlie did.
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1 Q. All right. Did she purchase other
2 things at that time, start buying more and more things?

3 A. Well, furniture, you know, things like
4 that, things for the house.

5 Q. And what about personal things?

6 A. Well, she buy a lot of beautiful
7 clothes and stuff like that for her and her children.

8 Q. Okay. Any items as far as jewelry
9 goes?

10 A. Yes. She liked to start buying
11 jewelry.

12 Q. And was that just something that
13 happened the last couple of years?

14 A. More so, there was a purchase of
15 jewelry more so, at that time, yes.

16 Q. Okay. Now, did you talk to her about
17 the things she was buying?

18 A. Well, yes.

19 Q. Did you have conversations about that?

20 A. Well, yes, she showed me. She tell me
21 her ideas, and how she is going to decorate. And there
22 were times that I went with her.

23 Q. Okay. Did you talk to Darin about
24 needing new equipment for the company?

25 A. Yes, I have.

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1 Q. Okay. Were you having some problems
2 there with the work you were doing?

3 A. Well, yes, because I needed pins for
4 grids and --

5 Q. Can you speak up?

6 A. I needed pins for grids because the
7 grid was too small and some of the types of jobs that we
8 did was larger and I had to stop test which is not very
9 good. And the tester needed to be fixed because it was
10 lopsided a lot of times.

11 Q. Okay. Was that -- was money paid for
12 that tester to be fixed or any new equipment bought?

13 A. He tried to, you know, kind of
14 wiggle-jiggle the tester and to kind of make it work.

15 Q. But no new equipment was bought in
16 regards to that?

17 A. No, sir.

18 Q. All right. Now, in late '95, did
19 business slacken off there at Testnec?

20 A. Yes, it had.

21 Q. Okay. And did it pick up at the
22 beginning of '96 at all?

23 A. Not really. We were slow, a lot
24 slower than we have ever been.

25 Q. Did you have a real long slow period
Sandra M. Halsey, CSR, Official Court Reporter
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1 at that time?

2 A. Very long.

3 Q. Did that slow period extend into --

4 A. Well, we still have some jobs. We

5 didn't get new jobs. When we do repeat jobs, it's just
6 cheap. We have to get new jobs for us to make money. So
7 we get mostly repeats and hardly any new jobs.

8 Q. So the business was slow through '96?

9 A. Yes.

10 Q. Okay. Now, did that cause another
11 change in Darlie Routier's attitude when the business
12 slackened off?

13 A. Yes.

14 Q. Okay. What happened with Darlie at
15 that time?

16 A. She was nervous and depressed and she
17 fought with Darin a lot.

18 Q. Okay. Did you witness a lot of these
19 fights and arguments?

20 A. Arguments, yes.

21 Q. Okay. They didn't physically hit each
22 other, did they?

23 A. No, I have never seen them hit each
24 other.

25 Q. Did these arguments become frequent?
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1 A. Yes.

2 Q. And what were the arguments over that
3 you witnessed?

4 A. Money.

5 Q. Concerning what about money?

6 A. Because money wasn't coming in and
7 there was lot of bills to pay. There was just no money.

8 There was enough, as Darin put it to me, "Oh, I am paying
9 you by --"

10

11 MR. JOHN HAGLER: I'm going to object

12 to the statement by Darin, hearsay.

13 THE COURT: I'll sustain the

14 objection.

15 THE WITNESS: I'm sorry. What did I

16 do?

17 THE COURT: That's okay. Don't worry.

18 They are going to object all the time.

19 I will rule on them -- well, they will make -- I mean,

20 both sides will make appropriate objections. I will rule

21 on those, and then you just go on back, and we will tell

22 you when to stop and when not to stop.

23 THE WITNESS: Okay.

24 THE COURT: But, we have a hearsay

25 rule.

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1 THE WITNESS: Okay.

2 THE COURT: Don't say what other

3 people said.

4 THE WITNESS: Oh, okay.

5 THE COURT: You just say what you

6 know. Don't worry, just keep going. We'll go through

7 it.

8 THE WITNESS: The money was slowing

9 down, and Darlie was upset, depressed. Yes, she fought a

10 lot with Darin. And sometimes she will become calm, and

11 things will be all right, and then it starts up again,

12 because --

13

14 BY MR. TOBY L. SHOOK:

15 Q. Did these fights increase once the

16 business slowed down?

17 A. Yes.

18 Q. Okay. Now, was Darlie Routier working

19 up there full time at that time?

20 A. No, not really, she just comes

21 sometimes.

22 Q. Okay. And what did she do when she

23 came up there? What was her role?

24 A. Well, she just came in sometimes. And

25 my daughter was doing some paperwork but Darlie was

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1 doing -- I don't exactly know for sure, but invoices or
2 something like that, to do with bookkeeping and things,
3 stuff, you know, and then she would be on the phone
4 shopping.

5 Q. Still shopping?

6 A. Yes.

7 Q. Was she still in on the business
8 decisions with the company?

9 A. Yes, she was.

10 Q. You have come to know Darlie and Darin
11 Routier pretty well over the years, haven't you?

12 A. Yes.

13 Q. Who is the more dominant personality
14 between those two?

15 A. Darlie was.

16 Q. Okay. And, did Darlie have a temper?

17 A. Yeah.

18 Q. What kinds of things would get her
19 mad?

20 A. Well, sometimes she wanted some --
21

22 MR. JOHN HAGLER: Your Honor, we will
23 object. This is irrelevant. She has already expressed
24 an opinion. We are going to object to the details as
25 being irrelevant.

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1 THE COURT: Overruled. Go ahead, if
2 you know.

3 THE WITNESS: Where was I? Can you
4 repeat that question?

5

6 BY MR. TOBY L. SHOOK:

7 Q. You said she had a temper. What kinds
8 of things would get her mad?

9 A. Well, if Darin -- well, she apparently
10 didn't show my daughter how to do that little part of the
11 invoices or something, so Tammy told me --

12 Q. Well, now, let me stop you there.

13 Don't go into with what maybe Tammy told you or Darin
14 told you.

15 A. Well, as to the money -- to get the
16 money out of the customers. Money or -- mostly money.

17 Q. Okay. Now, did you become worried

18 about the way Darlie was acting, and her emotional state?

19 A. Yes, I was.

20 Q. Okay. And, did you speak to Darin
21 specifically about that?
22 A. Yes, I have.
23 Q. Okay. Now, without going into
24 anything Darin said, tell the jury what you told Darin.
25 A. I have told Darin that, "Don't you see
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1 what's going on? Darlie was able to take care of the
2 house, the children and some, and the business." And I
3 said, "Don't you see lately, she cannot -- she has maids
4 clean the house, she has people to do the laundry, she

5 has people to help with the children. There is something
6 bothering Darlie. Something is wrong."
7 Q. Did you give him advice as to what he
8 should do?
9 A. To get help.
10 Q. What did you mean by get help?
11 A. To do anything. To go see a doctor or
12 maybe somebody she could talk to, because something bad
13 will happen.
14 Q. And, about what time was this in '96?
15 A. That was before I left for my vacation
16 at the end of --
17 Q. Go ahead.
18 A. At the end of April, and the beginning
19 of May, I went on vacation at the end of April, and that
20 was happening at that time.
21 Q. So you went on vacation at the end of
22 April of '96?
23 A. Yes.
24 Q. And this conversation that you just
25 related to the jury that you told Darin happened before
Sandra M. Halsey, CSR, Official Court Reporter
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1 you went on vacation?
2 A. Yes.
3 Q. Okay. Did Darlie sometimes bring the
4 children up to the shop?
5 A. Yes, she had.
6 Q. Do you recall an incident when she
7 brought the boys up to the shop, around this same time
8 period?
9 A. Sometimes with just the baby and Damon
10 mostly, because Devon was still at school.
11 Q. Okay. Do you recall the times she

12 brought the boys up and wanted Darin to take care of
13 them?

14 A. Well, she had errands to run so we
15 would keep an eye on the children.

16 Q. Okay. Let me turn your attention now
17 to when you got back from your vacation. When did you
18 get back from your vacation?

19 A. In May. Probably, I know the first
20 week of May I was gone, and then I came back along that
21 time.

22 Q. Okay. When you got back, did you have
23 a talk with your daughter Tammy? Don't go into anything
24 that was said. But did you have a talk?

25 A. Yes, I have.

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1 Q. Was she still working at Testnec at
2 that time?

3 A. Yes.

4 Q. Did you also have a discussion with
5 Darin on that day?

6 A. Yes.

7 Q. Subsequent to that talk, did you go
8 see Darlie Routier?

9 A. Yes, I have.

10 Q. Okay. And when did you go see her
11 after that talk?

12 A. I went to see her at her house.

13 Q. Okay. And who was there at the house?

14 A. Just her, the baby and Damon.

15 Q. Okay. And what did you talk to her

16 about when you went to -- and this was going to be in
17 May, I take it, when you got back?

18 A. Yes, I got back in May. So, when I
19 came back, what I have learned, I got concerned and I

20 wanted to talk with Darin and make sure that she was all
21 right.

22 Q. What did she tell you had happened
23 while you were on vacation?

24 A. She told me that she was trying to
25 commit suicide.

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1 Q. Did she tell you how that happened?

2 A. Yes. She said that she was just going

3 to do it. She had all the pills out of the wrappers and
4 she was writing a note, and then she heard Darin come in,
5 and she put things away very quickly, and she threw some
6 wrappers under the bed, and, if it wasn't for Domain, the
7 dog, Darin would have never known.

8 And, because Domain was -- he started
9 playing with the wrappers and taking them out from under
10 the bed.

11 Q. Did you ask her why she was going to
12 do that?

13 A. Yes.

14 Q. What did she say?

15 A. I told her, that she needs to get
16 help, because she has three beautiful children and a good
17 husband, and if she does something to herself, what would
18 her children think, that their mama didn't love them.

19 Q. Did she tell you why she was going to
20 commit suicide?

21 A. Yes, because sometimes she didn't
22 understand how she felt. Sometimes she felt strange and
23 that things got too much for her, and sometimes she just
24 felt like wanting to end it all, and she doesn't
25 understand it.

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1 So I told her, to please get help.

2 And she told me, that she already discussed it with
3 Darin, and that she was going to take the three children,
4 and go to Lubbock and that Sarilda was going to take care
5 of her three children when she goes.

6 Q. Who is Sarilda?

7 A. Sarilda is her mother-in-law.

8 Q. Okay.

9 A. But then she turned around and told me
10 that she don't know about it, because how does she know
11 that it is going to help her.

12 And I told her that she doesn't have
13 to. If she doesn't like it, that she could get maybe a
14 counselling a little bit, and maybe to put her on a
15 little medication, to see what is bothering her. And, if
16 she doesn't like it, she could always refuse and maybe
17 see somebody else.

18 And she says, well, she was kind of
19 afraid, because she said that if anything ever happens
20 between her and Darin, that Sarilda may take the children
21 away from her.

22 And I says -- because she would be in
23 the hospital, you know, to help her mentally. And, I
24 told her that she shouldn't worry about it, because she

25 will be going on her own, saying that something is
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1 bothering me, and I want to know what it is.

2 Q. Did she talk to you about the weight

3 she had gained, and that that was bothering her also?

4 A. Yes, it bothered her very much.

5 Q. What did you tell her about that?

6 A. Oh, that she makes me sick, such a

7 beautiful young woman, with three children. To me she

8 looked beautiful. And I said she was just giving herself

9 a complex and that would make her sick.

10 Q. Did you also talk about the money

11 situation and the slow business there at Testnec?

12 A. Yes. I showed her that -- well, she

13 was worried, because that was the longest period that we

14 had that was so slow. And she did have big bills. But,

15 I have told her, "Hey, you know, things will pick up,

16 things will be all right. You just go get your help and

17 me and Darin will get with it. Things will pick up, and

18 things will be all right," for her not to worry about

19 that, for her to worry about her.

20 Q. Did she express some concern about the

21 bills that were coming in, and about their house?

22 A. No, not really. She mostly said the

23 children sometimes were too much, and the neighbor's

24 children wanted to play there.

25 And I told her, I said people expect

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1 so much of her. I told her that people could expect all

2 they want, she could only deliver what she can.

3 And for the children, to tell their

4 mothers, for a change, to let them play over there.

5 And she said that she did mention it,

6 but she goes, "Well, sometimes I don't really mind and

7 sometimes it gets too much".

8 Q. Now, did she seem to get somewhat

9 better after that visit that you had with her?

10 A. Yes, somewhat, but --

11 Q. Did she go to Lubbock and follow your

12 advice?

13 A. No.

14 Q. Did she get on any medication to help

15 her with her weight?

16 A. Well, the only thing she got on was

17 diet pills.

18 Q. She got on diet pills?

19 A. Yes, sir.

20 Q. Let me turn your attention to early

21 June, and ask if --

22 A. I'm sorry.

23 Q. It's okay. Did you talk to Darlie

24 about your mother coming to work for her?

25 A. Darlie called me.

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1 Q. Okay. What did Darlie say to you when

2 she called you?

3 A. She asked me to -- if my mother would

4 consider coming and helping her out by working, helping

5 her, you know, with laundry and light housekeeping.

6 Q. And what did you say to Darlie?

7 A. I told her that I would talk to my

8 mother. I have to talk with her and what days, if she

9 agrees.

10 Q. Had Darlie had people help clean and

11 watch her children before this?

12 A. Yes.

13 Q. Okay. How soon before this had that

14 been going on?

15 A. She had a maid, but I'm not for sure,

16 I think, well, I believe that she let her go before even

17 my mom arrived to Texas.

18 Q. Okay. Did your mother agree to go

19 over there and do the housework for Darlie?

20 A. Well, I kind of asked my mom to. I

21 asked my mom, and we talked, and she agreed to work for

22 Darlie three days.

23 I don't exactly remember if Darlie

24 picked those days or my mom. I believe my mom or Darlie,

25 maybe Darlie picked those days, it was Tuesday, Wednesday

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1 and Friday.

2 Q. Okay. Did you take your mother over

3 there on that Tuesday, June the 4th?

4 A. Yes, I have.

5 Q. And when you dropped your mother off,

6 did you pick anyone up?

7 A. Darin.

8 Q. Okay. Why did you pick Darin up?

9 A. I believe he left the Pathfinder for

10 Darlie if she needs it. Since I dropped my mom off, it

11 would be easy for him to ride with me.

12 Q. Did Darin have a car?

13 A. It was a Jaguar, yes.

14 Q. What was wrong with that car at that

15 time?

16 A. It broke down.

17 Q. How long had it been broken down?

18 A. Oh, I don't remember. But, shortly,

19 not -- I don't really remember, it broke down just around

20 that time.

21 Q. So you gave him a ride to work that

22 day?

23 A. Yes.

24 Q. Okay. And, did you give your mother a

25 ride over to Darlie's the next day, that Wednesday, June

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1 5th?

2 A. Yes, I did.

3 Q. Okay. And did you give Darin a ride

4 to work on that day?

5 A. I don't remember.

6 Q. Okay. About what time did you return

7 on Wednesday to pick your mother up?

8 A. Around, maybe, 5:15 or so, somewhere

9 around that time.

10 Q. Okay. Who was at the house when you

11 went to pick her up?

12 A. My mother and Darlie.

13 Q. Where were they?

14 A. They were in the kitchen.

15 Q. And what did you?

16 A. I came in in the kitchen and I spoke

17 to them. I said, "Hey, it looks nice." And they said,

18 Yeah, that they did everything. Everything was cleaned

19 up and the only thing Darlie had to do is pick up.

20 There was -- everything was cleaned

21 and washed. But there was clothes on the kitchen cabinet

22 counter still folded up that Darlie was suppose to bring

23 upstairs.

24 Q. Okay. Did you want to stay there when

25 you got there?

1 A. Yes, I felt pretty good and I wanted
2 to stay a few minutes and talk to Darlie.
3 Q. Okay. Did you get anything to drink?
4 A. Yes, I had a beer.
5 Q. Okay. And, did you sit down?
6 A. Pardon me?
7 Q. Where did you sit down?
8 A. I really didn't sit down. I was kind
9 of around the kitchen island, you know, one of the deals
10 that sits in the middle of your kitchen.
11 Q. Would that be island there?
12 A. Yes, I was kind of around there and I
13 don't remember -- I was kind of, yeah, around that on
14 both sides, kind of moving around.
15 Q. Now, did you decide to stay there or
16 did you leave soon after that?
17 A. I believe I had a beer and my mom was
18 rushing me to leave.
19 Q. Your mom wanted to get out of there?
20 A. Yes.
21 Q. What mood was Darlie in when you left
22 that house?
23 A. She was upset.
24 Q. How do you know she was upset?
25 A. She was going back and forth, and she
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1 was upset.
2 Q. You say going back and forth, are you
3 talking about walking?
4 A. Yes, she was pacing back and forth and
5 she was upset. And I have seen Darlie upset, so I know
6 that something was wrong.
7 Q. Okay. You have seen her in that mood
8 before?
9 A. Yes. And she was upset and, you know,
10 she was still kind of moving around. She didn't really
11 want to continue conversations with me.
12 Or maybe a few things were said, but I
13 don't quite remember. All I remember is I walked in and
14 I have two nerved-up women.
15 Q. You had what?
16 A. Two nerved-up women, my mom and
17 Darlie. My mom saying, "Let's get out, let's get out".
18 Q. So they were both upset?
19 A. And Darlie is pacing -- doing

20 something, but she is not really doing -- I don't know

21 what she is doing, but she is going back and forth.

22 Q. Okay. Now, did you soon then leave

23 the house with your mother?

24 A. Yes, I have.

25 Q. Okay. Where did you park your car?

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1 A. I parked my car out front of the
2 house.

3 Q. Okay. As you drove off, did you see
4 any other cars coming down the street?

5 A. Yes, I have.

6 Q. What cars did you see?

7 A. I saw a black car passing by us really
8 fast.

9 Q. Okay. It passed by you?

10 A. It passed us, really fast. I was
11 going slow and we were going to turn to Linda Vista from
12 Eagle Drive, and we were just not too far from going
13 towards Linda Vista before we turned and that is when the
14 car went really fast passing by us.

15 Q. Okay. Describe that car, please?

16 A. It's a black car with a -- the back of
17 the -- it was tinted windows, the back of the car, the
18 window was kind of straight and there was short trunk and
19 then, you know, short, going down like that, kind of
20 sporty look.

21 Q. Short trunk?

22 A. Yes.

23 Q. Okay. Did you see who was driving the
24 car?

25 A. No, sir, I have not.

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1 Q. And when the car drove by did it upset
2 your mother?

3 A. Yes, it did.

4 Q. Did you see Darin Routier anywhere
5 around at that time, also?

6 A. As we were leaving, I believe we waved
7 to him and Dana.

8 Q. Who is Dana?

9 A. Dana is Darlie's sister.

10 Q. And how old is she?

11 A. I believe she is around 15 or 16.

12 Q. Were they on their way to the house
13 from work?

14 A. Yes. Well, they already left work
15 before me because --
16 Q. Okay. They were on their way home
17 then?
18 A. Yes. I'm sorry.
19 Q. That's all right. Now then, that was
20 Wednesday evening. Early Thursday morning, did you get a
21 phone call?
22 A. Yes, I have.
23 Q. Okay. About what time was that?
24 A. Around 3 o'clock in the morning.
25 Q. Okay. Who called you?
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1 A. My daughter.
2 Q. Okay. And after you got that phone
3 call, where did you go?
4 A. I went to Darlie's house.
5 Q. When you got to Darlie's house, what
6 was going on?
7 A. There was a bunch of -- there was
8 police cars, fire trucks, the house was taped off.
9 Q. Okay. Did you talk with someone there
10 at the -- in front of the residence?
11 A. Yes, I talked with my daughter and

12 Dana a little bit, and then I talked to a policeman.
13 Q. And did you leave the front of the
14 house and go somewhere else at that time?

15 A. I went to the hospital.
16 Q. Okay. Which hospital did you go to?
17 A. Dallas Baylor.
18 Q. Okay. Eventually that day, did you
19 get in to see Darlie Routier?

20 A. Yes, I have.
21 Q. Where was she when you saw her?
22 A. In intensive care room.
23 Q. Okay. And do you recall what time of
24 the day it was when you were talking to her?
25 A. We were there practically all day or
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1 half a day. I had to -- Darin had us leave and check on
2 the business with Dana. We were there most of the
3 morning and we left after we saw Darin. Not really after
4 though, it was sometime we were through. There was

5 sometime later that day, maybe evening, maybe somewhere
6 around, maybe evening.

7 Q. So you were there a while, left to
8 help out something with Darin and then came back?

9 A. Went and came back, yes.

10 Q. Okay. When you were there the first
11 time, did you talk to Darlie?

12 A. Yes.

13 Q. Okay. Did she tell you what had
14 happened to her?

15 A. Yes.

16 Q. Tell the jury what she told you had
17 happened to her.

18 A. She told me that she heard Damon going

19 "Mommy, Mommy." He leaned on her saying, "Mommy, Mommy."

20 And she felt pressure on her legs, and

21 she opened her eyes and the man was coming down straight

22 with a knife at her throat, and then if she didn't put

23 her arm up, he would have killed her.

24 Q. Then what did she say happened?

25 A. Damon -- she didn't see nothing more,
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1 but she says that she picks up -- maybe I'm not
2 remembering correctly, but Damon was following her.

3 She was going after a man through the

4 kitchen. It was the kitchen, she was going after the

5 man. And Damon was behind her and she told -- she pushed

6 him and told him to go back, "To wait for Mommy. Just

7 wait for Mommy." And she went out to the garage, and

8 that's all she said.

9 Q. Okay. Did you go up to the hospital
10 the next day on Friday?

11 A. Yes, I did.

12 Q. Were there a lot of other friends and
13 relatives there in her room?

14 A. Yes.

15 Q. At one point in time, did Darlie

16 ask -- well, did Darlie make a request there in the room?

17 A. Yes, she asked everybody to leave the

18 room but for me to stay behind.

19 Q. Okay. Did everyone comply with her
20 request?

21 A. Yes.

22 Q. Okay. So who was left in the room?

23 A. Just Darlie and I.

24 Q. And then what happened?

25 A. Nothing at first. She was -- we had

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1 eye contact for the longest time. And we had eye contact
2 for the longest time and it kind of scared me because I

3 told her, "Something bad is happening." I don't know.

4 I sat down next to her and I said,

5 "Darlie, please talk to me. What's going on? Please

6 talk to me." And --

7 Q. What did she say at that time?

8 A. She told me that she had sexual toys

9 in the house and that the police going to see them.

10 Q. What did you tell her about that?

11 A. I told her, that, "My God, you

12 shouldn't worry about those things. The babies were

13 killed and you almost got killed. You think they

14 weren't -- that they are going to worry about the toys.

15 I told her, a lot of people have toys." And that was her

16 private thing.

17 Q. Let me turn your attention to the next

18 week. Did you see Darlie again?

19

20 THE COURT: Just a minute. Ma'am, you

21 have been on the stand a long time. Would you want to

22 take a little break?

23 THE WITNESS: No, I'm fine.

24 THE COURT: Okay. Thank you. Go

25 ahead, please.

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1 THE WITNESS: I'll be okay. I'm

2 sorry.

3 THE COURT: No, there's no problem.

4 If you want to take a little break, we can take a little

5 break. All right. Thank you. Go ahead, please.

6

7 BY MR. TOBY L. SHOOK:

8 Q. Did you see Darlie again after she was

9 out of the hospital at her mother's house?

10 A. Yes, I have.

11 Q. Okay. Was that sometime the next

12 week?

13 A. Yeah, following week, yes.

14 Q. Okay. And did you visit with her

15 there at her mother's house?

16 A. Yes, I have.

17 Q. What is her mother's name?

18 A. Darlie Kee.

19 Q. Her name is Darlie, also?

20 A. Yes.

21 Q. It's Darlie Kee?

22 A. Yes, we call her Mama Darlie.

23 Q. Okay. Did Darlie again talk to you
24 about the attack and what had happened to her?

25 A. Yes.

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1 Q. Okay. Tell the jury what she told had
2 you happened when you had this conversation at her
3 mother's house.

4 A. Well, I didn't ask her anything. She
5 was just sitting there. She was really nervous. She
6 was, of course, chewing on her fingernails and I went,
7 "Don't do that." And she said, she says, "Basia, Basia",
8 she says, "When I opened -- when I felt pressure on
9 my --"

10 Q. Go ahead. Just take your time.

11 A. You should -- she says, "Basia, when I
12 felt pressure on my legs, and I opened my eyes, the man
13 apparently was sitting on top of her, and he was doing
14 this with the knife on her face."

15 Q. Rubbing the knife on her face?

16 A. Yes, something like -- she showed me
17 something like this.

18 Q. What did she say?

19 A. And she said, "Basia, he looked like
20 he enjoyed himself, Basia." And I said, "Darlie, Darlie,
21 please remember the face. Please remember that enjoyable
22 face." She told me she couldn't.

23 Q. So she said the man looked like he was
24 enjoying himself? You asked her to remember his face?

25 A. "Remember that enjoyable face, please,
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1 Darlie, remember that face."

2 Q. Did she tell you what he looked like?

3 A. He had short hair. He had short hair.

4 And he was tall, and he was kind of chubby around the
5 sides and he was white.

6 Q. Was she able to describe his face at
7 all?

8 A. No. She said she was in shock and
9 that the doctor is going to put her under, under hypnosis
10 to help her remember.

11 Q. Okay.
12 A. But right now she was too weak and she
13 lost a lot of blood.
14 Q. Now, let me turn your attention to
15 that Friday, June 14th, 1996. Did Darlie ask you to go
16 somewhere on that day?
17 A. She asked me to go to the cemetery.
18 Q. What was that day?
19 A. It was Devon's birthday.
20 Q. Devon's birthday?
21 A. Yes.
22 Q. And did she ask you to come to the
23 cemetery?
24 A. Yes, she have.
25 Q. Okay. Why did she want you to come to
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1 the cemetery?
2
3 MR. JOHN HAGLER: Your Honor, may I
4 approach the bench?
5 THE COURT: Yes, you may.
6
7 (Whereupon, a short

8 Discussion was held
9 Off the record, outside
10 of the hearing of the jury,
11 after which time, the
12 Proceedings were resumed
13 As follows:)
14
15 THE COURT: You may continue, Mr.
16 Shook.
17
18 BY MR. TOBY L. SHOOK:
19 Q. That was Devon's birthday?
20 A. Yes.
21 Q. And what did she ask you to do?
22 A. She asked me to come to the cemetery.
23 Q. And what was the reason for coming to
24 the cemetery?
25 A. Because they were going to celebrate
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1 Devon's birthday.
2 Q. Did you want to go to the cemetery?
3 A. I wanted to go alone. I told Darlie

4 that I was going to go alone afterward, and tell him
5 happy birthday in heaven.

6 Q. Okay. Did you agree with Darlie's
7 request?

8 A. Yes, I have.

9 Q. And why did you agree to her request?

10 A. I agreed that I am going to go with
11 them at 6:30 to the cemetery. I meet them at the
12 cemetery at 6:30.

13 Q. Did you take anyone with you when you
14 went there?

15 A. I took my mother and David.

16 Q. Okay. And was Darlie there?

17 A. I believe we were the first ones to
18 arrive, and Darlie shortly after. I don't remember
19 exactly. We all slowly were coming in.

20 Q. Okay. And, did a news team also

21 arrive, shortly thereafter, and film the events that
22 happened there?

23 A. Yes, sir.

24 Q. And were you present when those events
25 were filmed?

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1 A. Yes.

2 Q. And did they talk to Darlie and Darin
3 Routier?

4 A. Yes, they have.

5 Q. And were you present when those
6 interviews took place?

7 A. Yes, I was.

8 Q. Okay. Let me -- well, you have

9 reviewed that film. You reviewed it this morning a
10 couple of times, haven't you?

11 A. Yes, I have.

12 Q. Okay. And did the film that you saw,
13 which is marked here as State's Exhibit 101, did that
14 accurately reflect the interviews that you witnessed?

15 A. Yes, it does.

16 Q. Okay.

17 MR. TOBY SHOOK: Your Honor, at this
18 time we will offer State's Exhibit 101 for all purposes.

19 THE COURT: All right. State's

20 Exhibit 101 will be admitted.

21
22 (Whereupon, the item

23 Heretofore mentioned
24 Was received in evidence
25 As State's Exhibit No. 101

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1 For all purposes,
2 After which time, the
3 Proceedings were resumed
4 As follows:)
5
6 MR. TOBY L. SHOOK: And we will ask
7 the Court's permission to play the tape at this time.
8 THE COURT: You may play it.
9 THE COURT: Can all members of the
10 jury see this screen?
11 THE JURY: Yes.
12 THE COURT: All right. Thank you.
13 MR. TOBY L. SHOOK: Can everyone see
14 the screen? Can you see the screen, Basia?
15 THE COURT: Are you able to see the
16 screen?
17 THE WITNESS: Yes, I can.
18 THE COURT: All right.
19
20 (Whereupon, the videotape
21 was played in the Courtroom

22 for the jury, after which.
23 time the proceedings were
24 resumed as follows:)
25

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1 THE COURT: All right. Back on the
2 record.
3 Ladies and gentlemen, let's take a 10
4 minute break now, please. Thank you.
5
6 (Whereupon, a short

7 Recess was taken,
8 After which time,

9 The proceedings were
10 Resumed on the record,
11 In the presence and

12 Hearing of the defendant
13 And the jury, as follows:)
14

15 THE COURT: All right, are both sides
16 ready to bring the jury in and proceed?

17 MR. TOBY L. SHOOK: Yes, sir, the
18 State is ready.

19 MR. RICHARD MOSTY: Yes, your Honor,
20 we are ready.

21 THE COURT: All right. Let's bring
22 the jury in, please.

23

24 (Whereupon, the jury

25 Was returned to the
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1 Courtroom, and the
2 Proceedings were
3 Resumed on the record,
4 In open court, in the
5 Presence and hearing

6 Of the defendant,
7 As follows:)

8

9 THE COURT: Let the record reflect
10 that all parties in the trial are present and the jury is
11 seated.

12 THE COURT: Mr. Shook.

13 MR. TOBY L. SHOOK: Thank you, Judge.

14

15

16 DIRECT EXAMINATION (Resumed)

17

18 BY MR. TOBY L. SHOOK:

19 Q. The film we just watched, were you
20 just off camera during the interview there?

21 A. Yes, I was standing just not too far
22 by them, away from the camera, but I was watching, yes.

23 Q. Towards the end of that film, do you

24 recall when Darlie Routier then walked off camera after
25 making a statement?

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1 A. Yes, she did.

2 Q. Where did she go to?

3 A. She went to my arms.

4 Q. Did you hug her?

5 A. Yes, I have.

6 Q. Okay. Was she crying?

7 A. No. No, she was not.

8 Q. You talked earlier about seeing a car

9 when you left that Wednesday evening?

10 A. Yes.

11 Q. Okay. After the murders, did you go

12 to the police station, and talk with them on June the

13 8th?

14 A. Yes, I have.

15 Q. Did you take your mother with you?

16 A. Yes, I have.

17 Q. Did you tell them what you had seen on

18 that Wednesday?

19 A. Yes.

20 Q. Okay. Did your mother also talk to

21 the police?

22 A. Yes. Well, I translate some.

23 Q. Okay. She talked some, you translated

24 some?

25 A. Yes.

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1 Q. About the dark car she had seen?

2 A. Black car, yes.

3 Q. Okay. After Darlie Routier was

4 arrested, did you continue to work at Testnec?

5 A. Yes, I have.

6 Q. Okay. And did you continue to speak

7 to her?

8 A. Well, she will call for Darin at work

9 and when he wasn't there, we end up talking.

10 Q. Okay. At some point in time, I think

11 it was maybe in August or so, did some investigators with

12 our office, well, did they actually speak to your mother?

13 A. Yes.

14 Q. And then speak to you?

15 A. Yes.

16 Q. Okay. Did you agree to speak to them?

17 A. Pardon me?
18 Q. Did you agree to speak to them?
19 A. Yes.
20 Q. Okay. Did you tell Darin that you had
21 had a conversation with them?
22 A. Yes.
23 Q. Okay. Did you tell Darlie?
24 A. Yes.
25 Q. And did you agree to speak to the
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1 investigators again?
2 A. Yes.
3 Q. And you've met with them several
4 times, have you not?
5 A. Yes, I have.
6 Q. Investigator Bosillo and Investigator
7 Anita Kinne?
8 A. Yes, sir.
9 Q. You've also spoken to me on a number
10 of occasions, have you not?
11 A. A couple times, I believe.
12 Q. There in your house in Garland?
13 A. Pardon me?
14 Q. We've had conversations there at your
15 house in Garland?
16 A. Yes.
17 Q. And since you have arrived here, we
18 have had conversations?

19 A. Yes.
20 Q. We have gone over what questions I was
21 going to ask you?
22 A. Yes.
23 Q. Did you talk to Darlie about speaking
24 with the D. A.'s office?
25 A. Yes.
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1 Q. And, did you talk to her about being
2 subpoenaed as a witness?

3 A. Yes.
4 Q. What was her reaction? What did she
5 tell you?
6 A. She told me not to talk to you.
7 Q. What did you tell her?
8 A. I told her that I already had.

9 Q. Okay.

10 A. She told me not to speak to you
11 anymore.

12 Q. And what did you tell her?

13 A. That I have nothing to hide and I am
14 willing to talk to both sides.

15 Q. Were you close to the boys, Devon and
16 Damon?

17 A. Yes, I was.

18 Q. Were they often over at your house?

19 A. In the past couple of years, I just --
20 yes, at first, yes, I spent a lot of times with the boys.
21 But the past couple years, I just saw them mostly at
22 work.

23 Q. At work?

24 A. Yes.

25 Q. Okay. Let me show you what have been
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1 marked as State's Exhibit 9-A and 9-B. Is 9-B, is that a
2 photograph of Devon?

3 A. That is Devon Routier, yes.

4 Q. And is 9-A a photograph of Damon?

5 A. That is Damon, yes.

6 Q. Okay. Tell the jury what type of boys
7 they were.

8 A. Well, they were happy, normal, rowdy
9 sometimes, children. Damon was very smart and Damon was
10 also kind of a little bit on the moody side, and stubborn
11 kind of. And it took a lot before we got closer, and
12 even sometimes then, if he didn't want to talk to you, he
13 would just ignore you. Devon was very smart and loved to
14 play video games. Just like normal boys, happy, playing,
15 rowdy sometimes, picking at each other.

16 Q. That Wednesday, when you went to pick
17 your mother up, did you see the boys?

18 A. They were playing outside on Tuesday,
19 and, I believe, on Wednesday, they were outside somewhere
20 and then they were gone.

21 Q. Okay.

22 A. I remember, maybe it was Tuesday. I
23 know for sure I saw them on Tuesday. I saw Damon, I
24 believe, on Wednesday.

25 Q. Is that the last time?

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1 A. Outside, as we were walking out.

2 Q. As you were leaving?

3 A. I'm sorry?
4 Q. As you were leaving, do you think you
5 saw him playing outside?
6 A. Yes, because it was a bunch of
7 children, but we just left quickly.
8 Q. Okay. Ma'am, I need to show you one
9 more photograph that has been admitted for record
10 purposes. It's been marked as State's Exhibit B. I'll
11 ask you, if you recognize this photo to be Damon
12 Christian Routier?
13 A. Yes, sir.
14
15 THE COURT: What was that number, Mr.
16 Shook?
17 MR. TOBY L. SHOOK: State's Exhibit
18 No. B.
19 THE COURT: Thank you.
20 MR. TOBY L. SHOOK: Judge, that's all
21 of the questions I have of this witness.

22 THE COURT: Mr. Mosty.
23 MR. RICHARD C. MOSTY: Yes, sir.
24 THE COURT: Thank you.
25
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1 CROSS EXAMINATION

2
3 BY MR. RICHARD C. MOSTY:
4 Q. Miss Jovell, my name is Richard Mosty.
5 We have never met, have we?
6 A. No, sir, we haven't.
7 Q. In these conversations that you have
8 had with the State's attorneys, have you given a written
9 statement?
10 A. No, sir.
11 Q. You didn't sit down and write out?
12 A. No, sir.
13 Q. Did -- as you talked to Mr. Bosillo,
14 the investigator, did he take notes?
15 A. Yes, I have.
16 Q. What about Rowlett Police Department,
17 when you talked to them, did they take notes?
18 A. Yes.
19 Q. How many times did you talk to them?
20 A. To the police department?
21 Q. Yes.
22 A. Just once.
23 Q. Just once with your mother?

24 A. Yes.
25 Q. And then you talked to Mr. Bosillo,
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1 how many times?
2 A. It was -- I don't remember exactly how
3 many times. It was a few times, well, let's say maybe
4 five.

5 Q. Five times?

6 A. I'm not sure, maybe about five times.

7 Q. Okay. Are those five times alone with

8 Mr. Bosillo?

9 A. No, there was always Anita Kinne

10 present or another -- there was one time there was --

11

12 THE COURT: Can you hear all this?

13 A JUROR: No.

14 THE COURT: Okay. You're going to

15 have to speak louder than that.

16 THE WITNESS: I'm sorry. There was,

17 another man, he was only there maybe a couple of times.

18 I forget his name, he was a black man, older man. But I

19 don't remember his name.

20

21 BY MR. RICHARD MOSTY:

22 Q. Do you see Mr. Bosillo here in the

23 courtroom?

24 A. Yes, that's him right there.

25 Q. Do you see Anita Kinne here in the

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1 Courtroom?

2 A. Yes, that is her over there.

3 Q. And you understand that they are both
4 investigators with the district attorney's office?

5 A. Yes, I do.

6 Q. Then how many times, did you say about
7 five times that you had met with them?

8 A. Yeah, as much as I can remember,

9 possibly about five times, maybe six.

10 Q. That is one or both of the

11 investigators?

12 A. There's always both.

13 Q. Always both?

14 A. Always.

15 Q. Now, then separate from that, how many

16 times have you met with the district attorney's office?

17 A. Pardon?

18 Q. With district attorney, for instance,
19 with Mr. Shook here?
20 A. I only met with Toby, and Mr. Bosillo
21 and maybe -- I maybe saw Toby -- I forgot your last name,
22 I'm so sorry.
23
24 MR. TOBY L. SHOOK: That's all right.
25 THE COURT: Please raise your voice,
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1 ma'am.
2 THE WITNESS: I forgot your last name.
3 MR. RICHARD C. MOSTY: It's not a very
4 remarkable name.
5
6 BY MR. RICHARD C. MOSTY:
7 Q. Okay.
8 A. Maybe three times.
9 Q. You met with Toby maybe three times?
10 A. Together with Mr. Bosillo.
11 Q. Sometimes Mr. Bosillo was there?
12 A. Yes, and sometimes he was not there
13 and Anita Kinne was there.
14 Q. I'm a little confused. Are you saying
15 that all totaled, that you've had six meetings with
16 various people, or is that nine meetings you are now
17 telling me about?
18 A. Well, I only saw, I'll just say Toby,
19 because he came to talk to my mother.
20 Q. Well, how many times --
21 A. And --
22 Q. Just let me -- how many times do you
23 think you've talked to -- before you came to Kerrville,
24 representatives --
25 A. Oh, I'm sorry.
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1 Q. -- from the district attorney's
2 office? Either the district attorney, assistant district
3 attorney or investigators. How many times do you think
4 you talked to them?
5 A. Well, counting here?
6 Q. No, before you came to Kerrville.
7 A. Oh, before I came to Kerrville.
8 Q. Okay.
9 A. Altogether, maybe it was six times. I
10 don't really remember.
11 Q. Since you have been in Kerrville, how

12 many times?
13 A. We have talked a couple of times, I
14 believe. I mean going over the questions. Couple times.
15 Q. And when would you say that you had
16 become close friends of the Routiers, about what time?
17 A. In '87.
18 Q. '87?
19 A. Um-hum. (Witness nodding head
20 affirmatively).
21 Q. And went to work, actually for Darin,
22 in when?
23 A. Around '92 somewhere.
24 Q. But you had been co-workers with Darin
25 before that time?
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1 A. Yes, at Cuplex.
2 Q. And, I guess you were around when the
3 two boys were born?
4 A. Yes.
5 Q. Did you go to the hospital and see
6 them?
7 A. Yes.
8 Q. And where did the Routiers live at
9 that time?
10 A. They lived on Vaughan Street.
11 Q. Is that close to where you live?
12 A. No, I live in Garland.
13 Q. How far is that?
14 A. Not that far. Maybe 20 minutes, 15
15 minutes.
16 Q. Okay. And then, do you recall when
17 they moved?
18 A. Yes. They were building -- well, I
19 believe that they sold -- they sold their house, and the
20 house was being built so they stayed with me.
21 Q. And where did you live?
22 A. I lived in an apartment, yes.
23 Q. And this would be Darlie and Darin?
24 A. And the children, yes.
25 Q. And the two boys?
Sandra M. Halsey, CSR, Official Court Reporter

2587

1 A. Yes.
2 Q. How long did they live with you?
3 A. Oh, not too long. Maybe a couple,
4 three months.

5 Q. Couple or three months?
6 A. Um-hum. (Witness nodding head
7 affirmatively.)
8 Q. Would that be in 1993?
9 A. Around at the time, they were building
10 a house.
11 Q. How old were the boys then?
12 A. They were young. I don't quite
13 remember exactly.
14 Q. Okay. And were all three of you
15 working at Testnec by that time?
16 A. Yes.
17 Q. And Darin went out sort of on his own
18 to start this fledgling company, I guess?
19 A. Yes, he still continue to work, work a
20 little bit at Cuplex when he opened up his business and
21 then eventually he quit. He was still going over there
22 to have them use the machines to drill the fixtures.
23 Q. And you left -- you went to the
24 Testnec after Cuplex?
25 A. No, sir. I worked for ATG
Sandra M. Halsey, CSR, Official Court Reporter
2588

1 Electronics.
2 Q. Why did you leave Cuplex?
3 A. I was laid off, sir.
4 Q. You were laid off?
5 A. Yes.
6 Q. And why did you leave, was it ATG
7 Electronics?
8 A. Yes. It was American Testing Group.
9 It was run by Germans, from Germany.
10 Q. Okay. And why did you leave there?
11 A. The Germans pulled out.
12 Q. Okay.
13 A. So I got laid off.
14 Q. Okay. And then your next job was
15 Testnec?
16 A. Yes.
17 Q. When did you go to work for Testnec?
18 A. Around '92.
19 Q. Okay. Now, once the Routiers moved
20 into the new house in '93, how far was that from your
21 house?
22 A. The way I drive, maybe 25 minutes.
23 Q. And in that '93 time frame, you saw
24 them on a regular basis at work?
25 A. Yes.

Sandra M. Halsey, CSR, Official Court Reporter
2589

1 Q. And socially, in conjunction with
2 work?

3 A. And socially, yes.

4 Q. Pardon?

5 A. And socially and work.

6 Q. How often?

7 A. We got together quite a few times. I
8 mean we were together a lot of times, yes.

9 Q. Well --

10 A. A lot of times.

11 Q. Well, can you give me some -- you

12 know, once a month, or, you know, four or five times a
13 year?

14 A. Oh, no. We saw each other at work
15 every day. But going to the house, you mean?

16 Q. I'm talking about social times where
17 you would go to dinner together, or dinner at their house
18 or go to a party together?

19 A. Yeah, once a week sometimes, every two
20 weeks, you know. I don't exactly remember.

21 Q. Okay. Now, I'm in the '93 time frame,
22 when they first moved in that house?

23 A. Not at first, I was not going to the
24 house.

25 Q. Why was that?

Sandra M. Halsey, CSR, Official Court Reporter
2590

1 A. I was busy at work and I don't know
2 why.

3 Q. Well, I guess Darlie was getting more
4 and more busy as the kids got a little older?

5 A. Yes, she was busy. She was doing her
6 thing. She was going shopping, you know. And I worked
7 and I had my daughter, you know, to raise.

8 So, I mean, we had remained friends
9 and stuff, and she had her friends and I had my friends.
10 And we kept the contact at all times.

11 Q. But it's fair to say from '93 on that
12 both you and Darlie got a little bit more wrapped up in
13 your own lives and had less contact with each other?

14 A. Not really.

15 Q. That's not true?

16 A. Well, you know, we, what I say, you
17 know, we still kept in touch, we still talk about the

18 problems. She comes over to work all the time, but I'm
19 just not going over there visiting all the time.
20 Q. Of course, that wasn't my question.
21 A. I'm sorry.
22 Q. My question was: From '93 on, as you
23 got more wrapped up in your life with your daughter and
24 your work and she got more wrapped up in her kids as they
25 were getting on, getting a little bit older, from '93 on,
Sandra M. Halsey, CSR, Official Court Reporter
2591

1 you all had less and less social contact, didn't you?

2 A. Kind of, off and on, yes, I would say
3 that.

4 Q. And that is, I mean, that is natural,
5 isn't it?

6 A. Well, yes, of course.

7 Q. How old was your daughter in '93?

8 A. She was around 15 or 16.

9 Q. That is a pretty busy age, I know for
10 a fact.

11 A. Very.

12 Q. And you spend a lot of your time

13 driving 15 year old daughters to movies, to shopping, to
14 school, to ballet, to --

15 A. My daughter only would -- she was only
16 interested in a choir for a while at school when she was
17 around that age, she didn't really want to join anything
18 else.

19 Q. And she lived -- your daughter and you
20 lived alone, the two of you?

21 A. Yes.

22 Q. And as you would see Darlie, you would
23 see her coming down to the -- to the office, wouldn't
24 you?

25 A. Yes.

Sandra M. Halsey, CSR, Official Court Reporter
2592

1 Q. And she would bring the kids?

2 A. Yes.

3 Q. And, the kids were well cared for,
4 weren't they?

5 A. Yes, they were.

6 Q. They were well dressed?

7 A. Yes, they were.

8 Q. You went in their house, didn't you?

9 On Eagle?

10 A. Oh, yes, yes.

11 Q. The kids?

12 A. Happy.

13 Q. Happy?

14 A. Playing, yes.

15 Q. And, lots of kids over there?

16 A. Sometimes, yes.

17 Q. As a matter of fact, that is some of

18 what Darlie was -- you know, I got three of my own and

19 two boys are bringing in more?

20 A. She didn't mind. Many times she

21 didn't really mind having those children. Darlie loves

22 children.

23 Q. She loved to have them over, didn't

24 she?

25 A. Yes.

Sandra M. Halsey, CSR, Official Court Reporter

2593

1 Q. As a matter of fact, she encouraged

2 her boys to bring their friends over?

3 A. Yes, she had many times, yes.

4 Q. And she would play with them?

5 A. She would play with them, no. They

6 play on their own.

7 Q. She wouldn't participate with them,

8 sometimes as mothers do?

9 A. No, she -- the kids wanted to have

10 their friends. They just went all the time either

11 upstairs to play or outside to play.

12 Q. Well, I understand that, too. But,

13 then they need, all of those kids needs Cokes and

14 sandwiches and all that stuff?

15 A. Oh, yes, she tended to that. If they

16 come in to have a drink, yes, Darlie give them drinks or

17 Popsicles, yes.

18 Q. That's her kids and the neighbor kids?

19 A. Exactly, yes. She was kind to all of

20 the children.

21 Q. Okay. Incidentally, you were often

22 over at the house on Eagle; is that right?

23 A. Well, off and on.

24 Q. Did you have a Kee to it?

25 A. Yes, I have for a long time, yes.

Sandra M. Halsey, CSR, Official Court Reporter

2594

1 Q. Okay. So you actually had a Kee to

2 the house?

3 A. Yes. When they -- mostly, I had the

4 Kee because when they were going on trips, I went and

5 checked on the house.

6 Q. Okay. And then I guess, you, at least

7 kept up to some extent with how the boys were doing as

8 they got older? You described them both as smart kids.

9 A. Yes.

10 Q. And Damon maybe a little more

11 reserved?

12 A. Oh, yeah, he is a little bit more

13 stubborn. If he doesn't want to do something, he won't.

14 And you can't really change his mind. He would be, you

15 know, ignoring you.

16 Q. And you were aware of what they were

17 doing, in terms of going to school?

18 A. Yes, I many times picked them up from

19 day care at that time, but not from school. But at that

20 time, I was picking them up from day care.

21 Q. And, what grade had Devon completed?

22 A. First grade.

23 Q. And, did it appear to you that he had

24 done well in school?

25 A. Oh, I'll bet he did.

Sandra M. Halsey, CSR, Official Court Reporter

2595

1 Q. You bet he did?

2 A. Oh, yes, he was smart.

3 Q. Very well-adjusted child?

4 A. Oh, yes, very polite. If he's away

5 from mama, he -- you know how children are -- is a lot

6 nicer to somebody else sometimes than around their mom.

7 Q. But he acted nice even when he wasn't

8 around his mom?

9 A. Oh, yes. Sometimes, he get along -- a

10 little bit.

11 Q. But he was a little boy, wasn't he?

12 A. Yes, a normal little boy, yes.

13 Q. And these boys appeared happy, didn't

14 they?

15 A. Yes, they were happy, yes.

16 Q. And they were active?

17 A. Yes.

18 Q. Played, ran and --

19 A. All the time, Ninja turtles. Any time

20 something new came out, especially the Ninja turtles.

21 Lately it was the blue Rangers, and green Rangers, they

22 wanted to be the Rangers.

23 Q. And Darlie went and bought them that

24 stuff, didn't she?

25 A. Oh, yes, she did. She always bought

1 them things, yes.

2 Q. Whatever the current rage was, and I

3 can't even remember what those are anymore.

4 A. Yeah, neither do I. But there's

5 always toys, they always had lots of toys. Darlie always

6 made sure that they are clothed and fed and had plenty to

7 play with.

8 Q. She actually was sort of generous to a

9 fault with the children, wasn't she?

10 A. Yes, she was.

11 Q. Okay. Matter of fact, you thought she

12 was really too generous about a lot of things, didn't

13 you?

14 A. She was a very kind person. She is a

15 very kind person.

16 Q. And she donated her time to school

17 events?

18 A. Yes.

19 Q. Volunteer work?

20 A. Yes, I believe that she was going,

21 when they were in day care. I don't know too much about

22 a volunteer, but I know she was doing things for going to

23 day care, they had things, parties for the children and

24 stuff she did, yes.

25 Q. Like room mother?

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2597

1 A. Yes.

2 Q. Or that kind of thing, organizing

3 parties at day care?

4 A. She was supposed to become a room

5 mother, but I believe she pulled out it -- the children

6 out of there.

7 Q. And she did -- she donated to

8 charities, didn't she?

9 A. Yes, she had.

10 Q. Really too much, didn't she, in your

11 judgment?

12 A. Well, I know of some.

13 Q. You thought she was too generous?

14 A. She was generous.

15 Q. She was generous with you?

16 A. Well, like what do you mean?

17 Q. Well, she gave you presents, didn't

18 she?

19 A. We gave each other presents on
20 birthdays or holidays.
21 Q. She let you charge on her credit
22 cards, didn't she?
23 A. I paid her back.
24 Q. I know that, but you didn't have a
25 credit card you could charge on, did you?
Sandra M. Halsey, CSR, Official Court Reporter
2598

1 A. No.
2 Q. And she let you?
3 A. Yes, she have, oh, yes, she have, yes.
4 Q. She used it and charged to her?
5 A. Yes.
6 Q. And so you could pay her back over a
7 period of time?
8 A. Yes, exactly, yes, sir.
9 Q. Now you saw her around those boys
10 often enough, I suppose?

11 A. Yes.
12 Q. And you saw how she disciplined the
13 boys if they got a little bit out of the hand, didn't
14 she?
15 A. Yes, I have.
16 Q. What method did she use?
17 A. Sometimes she would take a time out.

18 Q. Now, let's talk about that. What is a
19 time out?
20 A. A time out is, okay, that is it, she
21 cannot get their attention, so she will make them stop,
22 she will tell them, "Stop now. Listen to me." And she
23 will tell them that they shouldn't do this or that.
24 Q. And she would do that in a gentle but
25 firm way, wouldn't she?
Sandra M. Halsey, CSR, Official Court Reporter
2599

1 A. Sometimes.
2 Q. And she told them to go, stop what
3 they were doing, and take their time?
4 A. Yes. And, listen to me. You
5 shouldn't do this or that. And if you don't behave, you
6 are going to go upstairs. There will be no playing
7 anymore.
8 Q. And that is how she generally did all
9 of her disciplining of the children, wasn't it?
10 A. Sometimes it was a spanking on the

11 butt.

12 Q. A swat on the bottom?

13 A. Yeah. With her hand, I have never

14 seen Darlie using a belt.

15 Q. Right.

16 A. And sometimes when they were too much

17 and she couldn't get attention, she sometimes would

18 squeeze their cheeks.

19 Q. And get them to where, look at me and

20 listen to me?

21 A. Yes, well, you know, like a kid. And

22 well, I was always sensitive and I always tried to stand

23 up for those boys, "No, no, no, they didn't do anything."

24 So to me, you know, sometimes it was,

25 you know, just a punishment, was like, no, don't do it.

Sandra M. Halsey, CSR, Official Court Reporter

2600

1 Q. Yeah. But you never --

2 A. I never seen her --

3 Q. You thought that all of that

4 discipline was proper, didn't you?

5 A. Yes, it was proper.

6 Q. It was appropriate?

7 A. Yes.

8 Q. And it was done in a loving manner?

9 A. Yes.

10 Q. And it was done in a caring manner?

11 A. Yes.

12 Q. And the kids expressed their love for

13 Darlie openly?

14 A. Mommy, yes, yes.

15 Q. And she expressed her love for the

16 children openly?

17 A. Yes.

18 Q. Who is Tammy?

19 A. Tammy is my daughter.

20 Q. Okay. And Darlie bought presents for

21 Tammy?

22 A. Yes, she bought presents for all of

23 her friends.

24 Q. For who?

25 A. For lots of her friends.

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2601

1 Q. Darlie did?

2 A. Yes. She was always very giving

3 person.

4 Q. Did you have occasion to meet some of

5 Devon and Damon's friends, or just as they ran through
6 the house?

7 A. Briefly, briefly.

8 Q. Okay. They had a lot of friends?

9 A. Yeah, mostly, I don't remember their

10 little boy's name but it was Mercedes' son that they play

11 with a lot. And there was a few other kids that I seen

12 faces. But I didn't believe -- but mostly when I spend

13 time, I spend it with Devon and Damon, I didn't -- the

14 other children were not really around.

15 Q. You didn't pay much attention?

16 A. No, no. I mean, yes, I have spoken

17 with them a few times, or something, but --

18 Q. Okay. And, by 1995, in the fall,

19 Darlie was pregnant with Drake. Had she been working

20 pretty much full time still?

21 A. Yes, she was still coming to the shop,

22 she was pregnant, and, yes.

23 Q. Okay.

24 A. We see her.

25 Q. And even after Drake was born, did she

Sandra M. Halsey, CSR, Official Court Reporter

2602

1 continue to work?

2 A. No, sir.

3 Q. Did she continue to do the books from

4 home?

5 A. Tammy was doing -- I don't know too

6 much about the bookkeeping because I never keep up with

7 that. But I know my daughter was doing some paperwork

8 there, and Darlie, ever so often, would come to the shop

9 with the children and the baby and she would do the work

10 there.

11 Q. Okay. And she worked at the shop?

12 A. Um-hum. (Witness nodding head

13 affirmatively).

14 Q. And at some point, did she sort of

15 take her things back home?

16 A. What things?

17 Q. Well, just books and records?

18 A. I don't know, sir.

19 Q. You don't know about that?

20 A. Not really, because, well, I never

21 really cared. I don't know what they were doing in the
22 office. I never did that.

23 Q. And the bookkeeping was not your
24 responsibility?

25 A. No, sir.

Sandra M. Halsey, CSR, Official Court Reporter
2603

1 Q. And you didn't keep up with that?

2 A. No.

3 Q. You didn't receive checks? For

4 instance, when the mail came in with a check or a
5 payment, you didn't receive that?

6 A. No, sir.

7 Q. You didn't make a deposit?

8 A. I made deposits later, sometimes, yes.

9 If they tell me to make them.

10 Q. Who would fill out the deposit?

11 A. Darlie or Darin would. Darlie mostly,

12 or sometimes Tammy.

13 Q. They would hand it to you and you

14 would drop it at the bank?

15 A. Yes.

16 Q. Or Tammy would drop it at the bank?

17 A. Mostly, sometimes I would, or Darlie

18 or Darin, it just depends.

19

20 THE COURT: Mr. Mosty, let's go ahead

21 and break now until 10 after 1:00, please, for lunch. Be

22 back then.

23

24 (Whereupon, a short

25 Recess was taken for lunch,

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1 After which time,

2 The proceedings were

3 Resumed on the record,

4 In the presence and

5 Hearing of the defendant

6 And the jury, as follows:)

7

8 THE COURT: Are both sides ready to

9 bring the jury back?

10 MR. TOBY L. SHOOK: Yes, sir, we are

11 ready.

12 MR. CURTIS GLOVER: Yes, sir, we are

13 ready.

14 THE COURT: All right. Bring the jury
15 back.

16

17 (Whereupon, the jury was

18 Returned to the courtroom

19 And the proceedings were

20 Resumed on the record as

21 Follows:)

22

23 THE COURT: All right. Let the record

24 reflect that all the parties in the trial are present and

25 the jury is seated. You may continue, Mr. Mosty.

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1

2 CROSS EXAMINATION (Resumed)

3

4 BY MR. RICHARD MOSTY:

5 Q. Mrs. Jovell, we were talking earlier

6 about mostly the relationship that Darlie had with her

7 children, which you have described in some detail for the

8 jury. And was Darin also active with the children?

9 A. More or less. Darlie had to make him

10 spend time with them.

11 Q. Okay.

12 A. She made sure -- she emphasized on him

13 spending more time with the children.

14 Q. She was wanting Darin to spend more

15 time?

16 A. Spend more time with them, yes.

17 Q. Darin was working pretty hard, wasn't

18 he?

19 A. Not really.

20 Q. Not really?

21 A. No.

22 Q. Were you doing most of the work down

23 there?

24 A. Well, he does the drilling. I do most

25 of the testing and troubleshooting, yes.

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2606

1 Q. Well, but did -- am I hearing you

2 right, that you sound like maybe you carried more than

3 your share of the load?

4 A. Well, that was my duty. Darin was the

5 owner, so a lot of times he had to be on the phone. That
6 was his hard work. And, you know, Darlie would help me
7 in tests a lot of times.

8 Q. Well, let me take out the hard work

9 part then and say, did Darin spend a lot of hours down
10 there?

11 A. At the shop, yes. He would come in
12 about ten o'clock, or eleven sometimes, and he continue
13 on staying open to customers.

14 Q. He'd stay late then?

15 A. We normally don't stay late, we close
16 up at five o'clock.

17 Q. But Darlie was wanting him to actually
18 spend more time at home apparently and less at the
19 office?

20 A. Yes.

21 Q. Okay. And, you were able to observe
22 Darin and Darlie in their relationships?

23 A. Yes, I have.

24 Q. And of course, you have been married,
25 have you not?

Sandra M. Halsey, CSR, Official Court Reporter
2607

1 A. Yes, I have.

2 Q. And you understand that every marriage
3 has its good days and its bad days?

4 A. Definitely.

5 Q. And that it's unfair to take any one
6 part of a marriage?

7 A. No.

8 Q. To look at it?

9 A. Exactly.

10 Q. And you would describe Darin and
11 Darlie as having a good marriage, wouldn't you?

12 A. Well, in many ways, yes.

13 Q. Okay. And, they spent time with each
14 other, private, just the two of them, a lot of times,
15 didn't they?

16 A. Well, I'm sure they did.

17 Q. Or did their time together mainly
18 revolve around the kids?

19 A. Well, both actually. Sometimes they
20 like to take trips by themselves, and sometimes with the
21 children. So it was --

22 Q. And, Darin and Darlie were faithful to
23 each other?

24 A. Yes, they have.

25 Q. At all times?
Sandra M. Halsey, CSR, Official Court Reporter
2608

1 A. At all times.

2 Q. And there's no question about that in
3 your mind?

4 A. There is no question.

5 Q. All right. Let's talk then some about
6 the work. I guess, it sounds like during -- you worked
7 for Testnec from '92 to '96?

8 A. Yes, sir.

9 Q. And, a lot of that time, were you the
10 only employee?

11 A. Yes, sir.

12 Q. And, was, I mean, the day-to-day
13 working and testing, and working with the boards and all
14 that kind of stuff, that was really your responsibility?

15 A. Yes, sir.

16 Q. And Darlie's responsibility was, and I
17 understand --

18 A. Office, yes, office. When we were

19 really -- when we had a lot of work, Darlie would come,
20 well, that was before -- lately she hadn't been there,
21 but she would come and help me.

22 Q. Okay. And then Darin is just mainly
23 being the manager of the business?

24 A. Yes.

25 Q. But he too would help work on those
Sandra M. Halsey, CSR, Official Court Reporter
2609

1 boards?

2 A. Well, he would help set up fixtures,
3 sometimes on boards, yes, sometimes he would test them.

4 Q. Now, tell me what you were doing. And
5 I am at a loss to understand what that business was,
6 really.

7 A. Well, do you want me to start from
8 when I come into the shop, I open it up?

9 Q. Well, why don't you try to tell me
10 generally, if I was a customer at Testnec, what would I
11 be buying?

12 A. I test, I test -- customers would send
13 us printed circuit boards.

14 Q. These are circuit boards that are
15 manufactured by some company?

16 A. Yes, some company.

17 Q. For instance?

18 A. They are all different.

19 Q. For instance, what company might send

20 circuit boards down there? Do you remember some of the
21 customers?

22 A. Compuroute, Tri-Circuits, at this

23 moment, I can't remember. Yeah, we have customers, yes.

24 They send completely different, they would be huge

25 circuit boards, or little circuits, there would be tiny

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2610

1 ones, they are different sizes. Different performance of
2 circuit boards.

3 Q. All right. What are those circuit
4 boards made of?

5 A. Fiberglass, the printed -- it starts

6 from the yellow room and so on, they print onto the

7 copper, and then, that is how they lay out the film. I

8 am not familiar too, too much as far as that area goes,
9 but I know a little bit.

10 Q. Is the board part itself made of
11 fiberglass?

12 A. Well, yes. Well, fiberglass, copper,

13 you know, nickel.

14 Q. Okay.

15 A. They have circuits and little pads

16 and, you know, surface mounts, which is more newer type
17 of stuff, getting more advanced.

18 Q. And, when you are working with those,

19 you are actually -- you have that board in front of you

20 and you are actually testing the circuits?

21 A. Sometimes it's 300 of them, sometimes

22 it's five boards only, sometimes we have a thousand of

23 them, and you have to program the board.

24 Q. Do you do anything to the board? Do

25 you work on it? Do you fix it?

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2611

1 A. I set up a fixture that Darin will

2 drill, and that fixture will match exactly the board, the
3 pegs, or whatever. The fixture is built, and with the

4 pins in the fixture, then we set it on a tester.

5 Q. What is that fixture made of?

6 A. Plastic.

7 Q. And so, the fixture then allows you to

8 test the individual circuit areas?

9 A. Exactly. Because the circuit boards
10 will look exactly like the fixture, so you have to put
11 the fixture on a tester, program it, get the points, test
12 points and then I go to program.

13 Q. Would Darin be the one who made the
14 fixture?

15 A. He would drill the fixture.

16 Q. And fit it to the boards?

17 A. Yes, yes.

18 Q. And is there a shop area that you
19 worked in?

20 A. Pardon?

21 Q. Is there a shop area, an open area, a
22 shop area where the boards were kept, and where you
23 worked day in and day out?

24 A. Yes. Normally, they will come in

25 through the office and we will bring them to the back.

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2612

1 And we have only one big room in the back and everything
2 is in that one room.

3 Q. Is it a room as big as this room?

4 A. Not exactly, smaller.

5 Q. Okay. But that is where the actual
6 boards and the actual testing goes on?

7 A. Yes.

8 Q. Is there an office?

9 A. Yes.

10 Q. Separate from that?

11 A. Yes.

12 Q. More than one office or just one?

13 A. Well, it's two offices, actually.

14 It's one in front and one in back.

15 Q. Okay. And who -- where did Darin
16 office?

17 A. Darin is the one in the back.

18 Q. Okay. And who officed up front?

19 A. Darlie's.

20 Q. Okay. And that is where the financial
21 records were kept?

22 A. Yes, I believe that, yes. That's

23 where the paperwork was done because I seen them do it
24 there.

25 Q. When the mail would come in, who would
Sandra M. Halsey, CSR, Official Court Reporter

2613

1 collect the mail?

2 A. Before it was Darin and Darlie, but I
3 was doing that recently.

4 Q. Okay. Then, if a bill needs to go out
5 to some company, who prepared that bill?

6 A. When my daughter was working, she
7 would write out bills for whatever Darlie or Darin tell
8 her to pay bills, so she just fill them out and --

9 Q. No. I'm talking about a bill to a

10 customer. Someone who had sent computer boards down?

11 A. Oh, Darin takes care of that, or

12 Darlie takes care of that.

13 Q. An invoice to that customer?

14 A. Darlie would do that.

15 Q. Darlie did that?

16 A. Yes, I didn't do any paperwork,
17 really.

18 Q. Pardon?

19 A. I didn't do any paperwork.

20 Q. You didn't do any of the bookkeeping?

21 A. No, not at all, sir.

22 Q. Do you know how much profit they made
23 on those boards?

24 A. Good profits.

25 Q. Good profits?

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1 A. Yes.

2 Q. Were some more profitable than others?

3 A. Yes. Well, when we do retest, it is
4 less money, because when the customer require a new
5 fixture and a new test, that is where the big bucks come
6 from.

7 Q. All right. But some, I guess
8 different boards or different numbers of circuits?

9 A. Oh, yes, they are all different from
10 different customers.

11 Q. Profitability --

12 A. Different part numbers, different
13 looks, different shapes.

14 Q. And do different customers get charged
15 different rates or do they all get charged the same rate?

16 A. Different rates. Sometimes -- I don't

17 know for sure, but Darin would discuss sometimes what the
18 job will cost.

19 Q. Now, over that period of time, do you

20 remember that there were computers that were purchased
21 for the front?
22 A. Only one computer for Darlie.
23 Q. Do you remember that, that computer
24 was purchased?
25 A. Yes, I remember that. That was a
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2615

1 computer purchased to do the paperwork on. There was
2 typewriting on it, typewriting only.
3 Q. And did it keep invoices and things
4 like that, or records?
5 A. I don't know if it kept invoices, I
6 have no idea.
7 Q. Well, did they buy software to go with
8 that?
9 A. I don't know.
10 Q. You do not know?
11 A. No. I just know I saw the new
12 typewriter and the computer.
13 Q. Remember that a new phone system was
14 needed?
15 A. We don't have a new phone system.
16 Q. You don't remember getting a new phone
17 system?
18 A. We don't have one.
19 Q. Ever?
20 A. We just got -- when we started the
21 shop, that is when the used bought from ATG, I remember,
22 because they went out of business and that is where Darin
23 bought the used phone system.
24 Q. Never bought any new phones?
25 A. No, sir.
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2616

1 Q. What about office furniture, buy
2 office furniture?
3 A. Darlie bought a new desk.
4 Q. Buy fax machines?
5 A. Yes, they purchased a fax machine.
6 Q. And all of those things were bought
7 and placed down in the business, weren't they?
8 A. Yes, a few things, yes.
9 Q. And, you seem like a pretty frugal
10 lady, would you say so?
11 A. What does frugal mean?

12 Q. Frugal. That you mind your dollars.
13 A. Yes, I do.
14 Q. Actually you came from a pretty
15 wealthy family in Poland, didn't you?
16 A. Well --
17 Q. By Polish standards?
18 A. Well, we were comfortable.
19 Q. Okay. And --
20 A. We were money-coordinated, we knew how
21 to save money.
22 Q. And that is your background forever,
23 as long as you can remember; isn't that right?
24 A. Yes.
25 Q. And you see nothing wrong, for
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1 instance, with buying refurbished or second-hand
2 equipment to get the job done, do you?
3 A. No, I didn't see nothing wrong with
4 that.
5 Q. Matter of fact, that makes good sense,
6 doesn't it?
7 A. Yeah, if it works, why not.
8 Q. Now, you said that -- you were
9 describing the business in September, or I'm sorry, in
10 December and January. December of '95 and January of
11 '96?
12 A. Yes, we were slow.
13 Q. Okay. How much were the billings for
14 December of 1995?
15 A. I have no idea.
16 Q. How much was collected?
17 A. Sir, I don't keep the books, I don't
18 know.
19 Q. How much were the expenses that month?
20 A. I have no idea.
21 Q. And I can go through January and ask
22 you the same questions, can't I? And you'll say, "I have
23 no idea"?
24 A. We were slow and the money really
25 wasn't coming in because Darlie would come into the shop
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2618

1 and check the books.
2 Q. The money that you have no idea how
3 much it was, was not coming in; is that right?
4 A. There was no money, because Darin was
5 talking to me about it, saying that it's upsetting Darlie

6 really bad, because when he gives me my paycheck, he say,
7 "Well, you are the only who's getting paid now, because
8 I'm not. Because we don't have no money."

9 Q. How much were the deposits for
10 January, do you know?

11 A. I didn't keep track. We got some

12 work, don't take me wrong that we didn't have work at
13 all. We were having some work coming, some retests, a
14 few new jobs started coming in slowly, but not enough.

15 Q. And, you are not the kind of person
16 who would sit around on the job, are you?

17 A. When it was slow, and Darlie and Darin
18 would go shopping or something, I would play computer
19 games before and answer the phones, and if something
20 comes in, I will do the job.

21 Q. You wouldn't go home if you didn't
22 have anything to do?

23 A. When Darin said that they didn't have
24 no money, I told him that I could leave early so he
25 didn't have to pay me.

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1 Q. But he continued to pay you, didn't
2 he?

3 A. Well, he paid me what I -- the hours
4 that I was there.

5 Q. And that was how much an hour?

6 A. What I ended up making before I quit?

7 Q. In January in 1996?

8 A. I started making \$10 an hour.

9 Q. Now, I don't mean to belabor this, but
10 you do not know what the deposits were for January,
11 February, March, April, May and June for 1996, do you?

12

13 MR. TOBY L. SHOOK: Judge, I'll
14 object. It has been asked and answered several times.

15 THE COURT: I'll sustain it. I think
16 she has answered, Mr. Mosty. She said she did not know
17 that.

18 MR. RICHARD C. MOSTY: Well, the only
19 one I asked her to answer about was January.

20 THE WITNESS: Well, I know I made
21 deposits. But, sometimes it was just a thousand dollar
22 deposit. I remember maybe a few, sometimes it was just
23 \$700, I don't exactly remember, sir. I don't stay and
24 look at the books.

2620

1 BY MR. RICHARD C. MOSTY:

2 Q. Maybe I'm the only one who has not

3 heard you answer this directly. But do you know how much

4 money was deposited in the first six months of 1996?

5 A. I don't keep the books. I don't know.

6 Q. And do you know what the expenses were

7 for the first six months of 1996?

8 A. All I know is that I was told there

9 was no money.

10 Q. That wasn't my question. Do you know

11 what the expenses were for 1996, the first 6 months?

12 A. I don't keep the books. I don't know.

13 Q. Thank you.

14 A. The only thing I know that I am

15 told --

16

17 MR. RICHARD C. MOSTY: Excuse me, your

18 Honor. I think she answered the question.

19 THE COURT: I'll let her go ahead and

20 answer the question. Go ahead and answer it.

21 MR. RICHARD C. MOSTY: Excuse me, your

22 Honor. I'm going to object, it's non-responsive. She

23 answered the question and then she quit.

24 THE COURT: Are you satisfied with the

25 answer?

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1 MR. RICHARD C. MOSTY: The, "I don't

2 know," answer?

3 THE COURT: Yes.

4 MR. RICHARD C. MOSTY: I think that

5 was the complete answer.

6 THE COURT: All right. That is fine.

7 Don't say anything until the next question.

8

9 BY MR. RICHARD C. MOSTY:

10 Q. Were you upset or -- I guess the

11 question maybe is: Did it bother you that Darlie was

12 taking more money out of the business than you were?

13 A. That is her business.

14 Q. That didn't bother you at all?

15 A. The only thing bothered me, that

16 Darin -- I asked Darin, I said, "How much more Darlie

17 needs at the house? I need things here." Because he is
18 charging people for netlist, where he is not performing a
19 netlist test. And that is cheating people.

20 Q. When did that conversation take place?

21 A. When all this happened, that started
22 from the beginning they were doing that. And I have
23 questioned that, and I've told them that we don't do
24 netlist. But they told me that the customer told them to
25 go ahead and do the golden test and just put down on the
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1 paper netlist test.

2 And so, I said, "We don't do netlist
3 test. We never use that in our tester." And so then,
4 apparently he stopped.

5 But then, when he wasn't at work and I
6 had to deal with the customers I found out that we were
7 supposed to do clam shell test, netlist test.

8 And I said, "Sir, we don't do that."

9 And he says, "Well, we have it on paper."

10 And, I said, "Well, I will let you
11 talk to Darin when he comes." So that was never a

12 netlist test performed. So I told him, I said, "You
13 can't cheat the customers like that no more. You are
14 cheating them."

15 Q. Excuse me, Miss Jovell, you said this
16 was from the beginning?

17 A. Yes.

18 Q. That's talking about 1992, wasn't it?

19 A. Yes.

20 Q. So those things that you are just now
21 describing, that long conversation --

22 A. Until now.

23 Q. Was in 19 --

24 A. Until the time that I quit.

25 Q. That started in 1992, didn't it?

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1 A. Yes, it did.

2 Q. Okay.

3 A. That is the only thing that really
4 bothered me because you will charge for netlist test --
5

6 MR. RICHARD C. MOSTY: Excuse me, your

7 Honor.
8 THE COURT: Ma'am.
9 THE WITNESS: Oh, I'm sorry.
10 THE COURT: That's all right. When
11 Mr. Mosty is through with his question and you have
12 answered it, just wait until the next question.
13 THE WITNESS: I was just trying to say
14 that is the only thing that bothered me.
15 THE COURT: All right. I thank you
16 very much. If you want to say it, say it with the
17 answer.
18 THE WITNESS: Okay.
19 THE COURT: Thank you. Don't stop and
20 then wait. All right. Go ahead.
21 THE WITNESS: Okay.
22
23 BY MR. RICHARD C. MOSTY:
24 Q. Let's talk about -- well, let's talk
25 about June 5th, 4th and 5th. You say you went by the
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1 house that day?
2 A. Yes, sir, I did.
3 Q. Essentially to pick up your mother?
4 A. That was --
5 Q. To take her and pick her up?
6 A. Darlie -- I remember I went there on
7 Wednesday, that was Wednesday, yes, that was Wednesday on
8 June 5th. Yes, it was.
9 Q. You didn't pick -- you didn't take
10 your mother both days?
11 A. No. Darlie took mother home on
12 Tuesday.
13 Q. Who took her over there on Tuesday?
14 A. I took her over there.
15 Q. You took your mother over Tuesday?
16 A. Yes.
17 Q. Darlie brought her home?
18 A. Yes.
19 Q. You took your mother over Wednesday?
20 A. Yes.
21 Q. And you picked her up?
22 A. Yes, I have.
23 Q. Now, Tuesday morning you didn't have
24 any conversations with Darlie?
25 A. No, sir. I waited for Darin outside.
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2625

1 Q. Okay. And on the second day, you
2 didn't have any conversations in the morning with anyone?
3 A. No, I haven't. I just dropped my
4 mother off.
5 Q. Okay. And that afternoon you went in
6 and had a conversation, that is when you say you drank a
7 beer?
8 A. Yes.
9 Q. And what was Darlie doing while that
10 was going on?
11 A. She was upset and she was pacing back
12 and forth. That -- when I came in, both my mother and
13 Darlie was upset. But when I walk in, I said, "Wow,
14 everything looks so nice."
15 And they say, "Yeah. We did a lot of
16 work. We done all of the laundry."
17 And there was laundry on the counter
18 that Darlie had to bring it upstairs yet. They were
19 clean.
20 Q. Now, and you say she was pacing?
21 A. Yes, she seemed like was walking back
22 and forth, but I don't exactly know what she was doing.
23 She was upset.
24 Q. Where were you?
25 A. I was in the kitchen.
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1 Q. Standing?
2 A. Yes.
3 Q. What part of the kitchen?
4 A. By the island, you call it.
5 Q. Okay.
6 A. The big thing in the middle of the
7 kitchen.
8 Q. On the opposite side from the sink?
9 A. I was on both sides, really.
10 Q. Okay. And you were moving around?
11 A. A little bit, yes. I kind of tried to
12 follow Darlie. I am looking at her, I said, "What's
13 going on?" I said, both of them are upset but I'm not
14 going to ask.
15 Q. Where was your mother?
16 A. In the kitchen.
17 Q. In the kitchen?
18 A. Ready to go, yes.

19 Q. Where was Darlie doing this pacing?

20 A. Pardon me?

21 Q. Where was she doing this pacing?

22 A. She was going back from the kitchen

23 and to the family room and then she went on the other

24 way.

25 Q. In the what?

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1 A. Well, she paced -- I see her going,

2 she is like carrying, maybe, something.

3 Q. She is like hearing maybe something?

4 A. Pardon me?

5 Q. Did you say she's like hearing

6 something?

7 A. Carrying something.

8 Q. Carrying?

9 A. Yeah, but I don't know what. She is

10 walking from the kitchen into the family room then she

11 went the other direction, kind of hallway through -- and

12 I am staring at the fireplace.

13 Q. And she was carrying things between

14 the rooms?

15 A. Well, she had something in her hand

16 but I didn't pay attention to what it was.

17 Q. You don't recall what it was?

18 A. No, sir.

19 Q. Well, when you pace back and forth in

20 an upset area, do you take things from room to room?

21 A. Well, not necessarily.

22 Q. But she could have been walking just

23 taking something from the kitchen to the family room?

24 A. I don't know. She just walked through

25 there and stuff and my mother was after me, "Come on, I

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1 want to go home".

2 Q. But you don't recall what she had in

3 her hand?

4 A. No, sir.

5 Q. Did she go other places other than

6 from the family room to the kitchen, walk other places?

7 A. I don't know. I am looking at the

8 fireplace and I have my mama upset by me, and I said,

9 "What's going on?" I said, "Is Darlie upset?"

10 Q. Okay. You are standing in the
11 kitchen?

12 A. Yes, sir.

13 Q. Looking at the fireplace?

14 A. Yes.

15 Q. And not really paying attention to

16 what Darlie is doing?

17 A. No, I am looking at her and I said,

18 something is going on. She is upset.

19 Q. So you looked at the fireplace?

20 A. And mama is standing by me and is

21 making me nervous saying, "Come on. Come on." And I

22 said, "No. I'm going to relax for a minute and then

23 we're going to go."

24 Q. Okay. But you were standing up?

25 A. Yes, I have.

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1 Q. And you were looking at the fireplace?

2 A. Yes, I love to look at fireplaces.

3 Q. Was there a fire in it?

4 A. No, sir.

5 Q. It was June, wasn't it?

6 A. Yes. I just look at the fireplace.

7 Q. You just like looking at it. Okay.

8 And Darlie was carrying things back and forth from the

9 kitchen to the family room?

10 A. She was walking back and forth. I'm

11 not really paying attention no more. I says, Okay. I'm

12 not going ask. But we did say something but I don't

13 quite recall what it was.

14 Q. What about other rooms? Did she go in

15 other rooms?

16 A. I don't know. She disappears for a

17 little bit.

18 Q. Walked in --

19 A. Then she comes back.

20 Q. Did she go upstairs?

21 A. I believe there was something on the

22 stove cooking.

23 Q. Yeah, she was cooking supper, wasn't

24 she?

25 A. Yes, she was.

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1 Q. And so while you are saying she is
2 pacing, she is cooking supper, she is taking things to
3 the family room?

4 A. The pot is simmering. Something is
5 simmering in the pot.

6 Q. And doesn't she go over and check it?

7 A. No.

8 Q. She never --

9 A. No. I went over there and said, "Um,
10 smells good."

11 Q. You were checking the supper while

12 Darlie was pacing?

13 A. Nobody is checking it. It is

14 simmering, something is simmering in the pot, and I just
15 looked and said, it looked good.

16 Q. What was for supper?

17 A. Some kind of chicken soup type of

18 stew, type of deal she was making. It smelled really
19 good.

20 Q. And how long did this pacing go on?

21 A. Well, I didn't stick around too long
22 to know. I know she was upset, mama is upset, I said,
23 "Okay, it's time to go".

24 Q. A minute or two?

25 A. Well, she is walking back and forth.

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1 She never sits down really and have a conversation or
2 anything.

3 Q. You never sat down?

4 A. No.

5 Q. You stood up and drank your beer and
6 walked around, didn't you?

7 A. A little bit. I kind of looked, you

8 know, where she is going. She is going to the family
9 room and then she went the other way. And mama is at me
10 so I'm like, "Hold on. We're going to leave soon." We
11 left shortly after I finished the beer, we left.

12 Q. And you don't recall anything that you

13 and Darlie said in that time? Or did you say anything?

14 I'm sorry.

15 A. We maybe said something but I really

16 don't remember. I was just like, what's going on? Both
17 women are upset. I didn't know what was going on. Well,
18 I kind of knew that Darlie was upset because I talked to
19 Darin before he went to pick up -- to move the Jaguar.

20 Q. We're not going to go into what Darin

21 said.

22 A. Okay.

23 Q. I'm just wanting you to describe what

24 you saw.

25 A. Okay.

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1 Q. Can you give me any estimate of how

2 long you were in the house that day?

3 A. We maybe left about quarter to 6.

4 Q. Okay. Well, what time did you get

5 there?

6 A. About quarter after.

7 Q. So you were there a half an hour, you

8 think?

9 A. Maybe not even that. I really don't

10 know.

11 Q. And during that entire time, Darlie

12 was pacing like this?

13 A. Yes. She looks upsets and she's

14 not -- she's going, then, you know, she left. I don't

15 see her, and mama is at me again.

16 Q. Okay. Now you went out the front

17 door?

18 A. Yes, I have.

19 Q. And when you got outside you saw a

20 black car?

21 A. No, I didn't see a black car.

22 Q. When did you see the black car?

23 A. It passed me by. I was driving.

24 Q. Which way were you heading?

25 A. I was going towards Linda Vista, south

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1 on Linda Vista.

2 Q. Did you see that that car was stopped

3 when you first saw it?

4 A. No, sir.

5 Q. You didn't see it when it was first

6 stopped?

7 A. No, sir, I did not.

8 Q. Your mother told you she saw it

9 stopped, didn't she?

10 A. I don't remember.

11 Q. You don't recall that?

12 A. I just saw that car driving by fast.
13 Q. You don't recall seeing a man get in
14 that car?
15 A. I didn't --
16 Q. You don't recall a Hispanic male?
17 A. No. I didn't see the male.
18 Q. How many people were in the car?
19 A. I didn't see how many people was in
20 the car.
21 Q. You don't know?
22 A. No, I only saw back of the car.
23 Q. You thought that car was suspicious,
24 didn't you?
25 A. No. I told mother to, pardon my
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1 language, "Quit freaking out, mama. There's a lot of
2 black people living in this neighborhood".
3 Q. A lot of what?
4 A. Black people. Because she said, "Who
5 is that black man?" When he passed us.
6 And I said, "What man?"
7 And she said, "That man in the black
8 car."
9 And, so I looked, and I only saw the
10 back of the car. I didn't see no man.
11 Q. And your mother told you that that was
12 the same car that she had seen the day before at the
13 Routiers?
14 A. I believe she -- I believe she saw --
15 she -- we gave a statement to police. I don't really
16 remember how it was, but there was a man in the back
17 alley in a black car.
18 Q. A man in the black alley (sic)?
19 A. In a black car.
20 Q. In the back alley?
21 A. In the back alley when she was in the
22 garage.
23 Q. And that is your mother telling you
24 this?
25 A. Yes.
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1 Q. That is the day before while she was
2 working?
3 A. That was on -- I don't really
4 remember, sir.
5 Q. Well, it was the earlier day she was

6 working, whatever day that was?
7 A. Right. But she saw, yes, she did see
8 a black car in a back alley. And she, she -- when he
9 passed us by, really fast, or a black car passed us by,
10 she said she saw the black car in the back alley. When
11 she was in the garage, he was like sitting and like
12 waiting for somebody but he was looking into the garage.
13 Q. Like he was watching the house?
14 That's what your mother told you, wasn't it?

15 A. Something like that, yes.
16 Q. That it was somebody who was
17 suspicious in the back alley looking in the garage?
18 A. Well, what was -- the exact word is.
19 What was he -- I don't recall but something, not
20 suspicious. It was more of, "Who is that black man and
21 what is he doing in this neighborhood?"
22 She thought black people don't have
23 nice neighborhoods.
24 Q. Okay. So she had seen another black,
25 she seen --
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1 A. She seen a black car in the back
2 alley, and a man was sitting there like he was waiting
3 for somebody.
4 Q. And like he was looking in the garage?
5 A. And he was looking in the garage, yes.
6 Q. The Routier garage?
7 A. Yes.
8 Q. And that was the day before you and
9 your mother saw, or the day before, two days before you
10 and your mother saw this black car?
11 A. I only saw that one time when he
12 passed us by.
13 Q. That's right. But that is when your
14 mother said, "That is the same car that I saw earlier in
15 the alley"?
16 A. Yes, yes.
17 Q. That is what she told you?
18 A. Yes.
19 Q. Now, speaking of that -- and that is
20 what you told the police, isn't it?
21 A. Well, I only told them what I saw, and
22 I tried to help translate mama, what she saw.
23 Q. And she was there with you at this
24 time?
25 A. Yes, she was.

1 Q. And that is what she told the police?

2 A. Yes, she was.

3 Q. Okay. And you also told the police at
4 that same time that you were not aware of any problems
5 between Darin and Darlie, didn't you?

6 A. Well, I lied to the police, sir.

7 Q. That -- your statement is that when
8 you told the police that --

9 A. The police asked --

10 Q. Excuse me. Let me finish my question.

11 A. I'm sorry.

12 Q. Your statement is, that when you told
13 the police that you were not aware of any problems

14 between Darlie and Darin, that you were lying to the
15 police?

16 A. No, the police asked me if I saw any
17 violence in the house and I told them no.

18 Q. And the police officer, if he wrote
19 down that Barbara didn't know of any problems between
20 Darin and Darlie, that is wrong?

21 A. I -- yes, that was wrong. I didn't --

22 I was very -- I was very tired. I had not hardly slept.

23 I didn't want to go to the police station at first. I

24 called them and I told them, the police, that I could see

25 them later, because I just wanted to see Darlie and I

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1 wanted to get to the cemetery.

2 Q. Well, this is on --

3 A. And I just wanted to tell them about
4 that black car, and I didn't want to say to the police
5 that Darlie and Darin had problems.

6 Q. Well, you have already told us that
7 they had a good marriage?

8 A. Yeah, but they had problems, too.

9 Q. Well, have you seen a marriage yet
10 that doesn't have problems?

11 A. Yes, but lately, well -- it's been
12 constant kind of fighting.

13 Q. You had problems in your marriages,
14 haven't you?

15 A. Yes, sir, but I never had that kind of
16 constant fighting.

17 Q. Well, how many divorces have you had?

18 A. Well, I had two, sir.

19 Q. Okay. And Darlie and Darin haven't

20 had one, have they?

21 A. No.

22 Q. Okay. Now, is it your statement that

23 you lied to the police officers on June 8th, when you

24 told them that Darin and Darlie did not have problems?

25 A. Yes, I have. I lied. I was too

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1 emotional to -- I didn't want -- I didn't feel at that

2 time, that it's any of their business about it. I just

3 wanted out of there. I just wanted to tell about that

4 black car, and I didn't want to say that Darlie and Darin

5 had problems.

6 Q. And over the last six or seven months,

7 that is what you said back then, and over the last six or

8 seven months you started telling this other story now?

9 A. What other story?

10 Q. The one you're telling us today.

11 A. I didn't want to go to the police

12 station. Okay? Dana, her sister, volunteered me to go

13 there.

14 Q. And that was because of the black car,

15 wasn't it?

16 A. Right, to tell about that black car.

17 Q. And you were suspicious of that black

18 car, weren't you?

19 A. I was not.

20 Q. You were not?

21 A. I just told them what mother saw and

22 what I saw pass me by.

23 Q. Your mother was suspicious of that

24 black car?

25 A. But when mother --

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1

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

3 These questions have all been asked and answered.

4 THE COURT: I'll sustain the

5 objection. Let's move on. Wait for the next question.

6

7 BY MR. RICHARD C. MOSTY:

8 Q. Tell me the day, as best you can, of

9 when you had this conversation with Darlie about what you

10 described as her telling you about getting pills out.
11 When was that?
12 A. Pardon me?
13 Q. When was the conversation you had with
14 Darlie about the pills?
15 A. She came in and she came -- well, she
16 came into the shop, and she said that she is going to go
17 see Dr. Jenson. I don't exactly remember when she went
18 or anything, but she goes back, because she went on those
19 pills once, because she went to a different doctor.
20 Q. You are talking about the diet pills
21 now?
22 A. Yes.
23 Q. Excuse me. I'm talking about the
24 conversation that you said when she was going to take
25 some pills.
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1 A. Oh, that must have occurred when I was
2 on my vacation.
3 Q. You were on vacation?
4 A. Yes, because when I came back home
5 from vacation, that is when I found this out.
6 Q. When did you have the conversation with
7 Darlie?
8 A. I went to Darlie shortly after I
9 arrived. I was concerned after talking with my daughter
10 and then Darin telling me, I got upset. I don't exactly
11 remember which day, but we were slow at work again. I
12 stayed on my vacation longer because Darin told me not to
13 rush --
14
15 MR. RICHARD C. MOSTY: Excuse me, your
16 Honor. May we approach the bench?
17 THE COURT: You may.
18
19 (Whereupon, a short

20 Discussion was held
21 Off the record, after
22 Which time the

23 Proceedings were resumed
24 As follows:)
25
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1 THE COURT: Ma'am, whenever a question
2 is asked, if you could just answer it as briefly as

3 possible. Just precisely what they ask you. Okay?

4 THE WITNESS: Okay.

5 THE COURT: Thank you. If they want
6 to know anything else, they will ask you. Okay?

7 THE WITNESS: I'm doing something
8 wrong?

9 THE COURT: You are doing nothing

10 wrong. Just answer the question that is asked. Okay?

11 THE WITNESS: Okay. Thank you.

12 THE COURT: You're doing fine. Go
13 ahead.

14

15 BY MR. RICHARD C. MOSTY:

16 Q. Where did your conversation with
17 Darlie take place?

18 A. Sometime after I came back from my
19 vacation.

20 Q. Where, was the question.

21 A. About the pills? At her home.

22 Q. Where in her house?

23 A. In the kitchen.

24 Q. Who was there?

25 A. Only Darlie and I and the children.

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1 Damon was upstairs and the baby was on the floor.

2 Q. And what was Darlie doing?

3 A. We were -- at that time, we were
4 standing together by the island and talking.

5 Q. Well, what -- when you got there, what
6 was she doing?

7 A. She was in the kitchen.

8 Q. Doing what?

9 A. I don't remember.

10 Q. Okay. So you went in the kitchen?

11 A. Yeah, I went over there.

12 Q. Okay. Tell me the first thing you
13 said.

14 A. Well --

15 Q. What I want is to know how this
16 conversation developed and how you got around to talking

17 about this. So who initiated it and how did this
18 conversation get going?

19 A. I asked her how she was doing. And

20 she said fine. And I said, okay. And then she turned
21 around to me and she told me, "Have you heard what
22 happened?"

23 Q. Now, wait a minute. I want to make
24 sure that I'm understanding this exactly.

25 A. Okay.

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1 Q. You say, "How are you doing?"

2 A. Yes.

3 Q. She says, "Fine." And then she starts
4 telling you about the pills?

5 A. No, sir. She told me, "Did you heard
6 what happened?"

7 And at the time I didn't tell Darlie
8 that I have heard from my daughter and Darin, because she
9 gets upset when -- somebody --

10 Q. And then what did --

11

12 MR. TOBY L. SHOOK: Judge, we will

13 object. She has not finished answering the question.

14 THE COURT: Yes. Finish your answer,
15 ma'am.

16 MR. RICHARD C. MOSTY: Well, excuse
17 me, your Honor, but I thought that's all --

18 THE COURT: Well, she says she gets
19 upset. You were cutting her off in the middle of the

20 sentence.

21 MR. RICHARD C. MOSTY: Well, that gets
22 upset was not near the question I was asking. It was who
23 said what.

24 THE COURT: Thank you. She was giving
25 the answer. Finish your answer, ma'am.

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1 THE WITNESS: Darlie told me that I
2 heard what happened and I lied to her telling her that I
3 didn't know what happened. And I said, "What?"

4 She said, "Well, Bashia, I was just
5 going to do it."

6 And I said, "Do what?"

7 And she said that she was going to
8 take her life.

9

10 BY MR. RICHARD C. MOSTY:

11 Q. Is that how she said it?

12 A. I don't exactly -- I can't tell you
13 word for word.

14 Q. Best you can, what words did she --

15 A. But to the best of my knowledge, that
16 she was going to take her life away, and she had already
17 taken pills out of wrappers, she had them upstairs. She
18 was upstairs. She was --

19 Q. Excuse me, Miss Jovell, what I would
20 like for you to try to do, is say it as if she were
21 saying it. Like saying, "I was doing this." That is
22 what I'm asking you. What were the exact words, as best
23 you can tell me, in her own words?

24 A. I will try, but.

25 Q. And let's -- and maybe it's easier if
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1 we go through it about who said something, who said
2 something next. We won't go through the whole thing at
3 once. We will go through it so that we can get it down
4 as it happened. All right?

5 A. All right.

6 Q. Now, she said something about, "I had

7 them out of the wrappers," or something. Tell me how she
8 said that, as best you recall.

9 A. She said that she was upstairs. She
10 was taking -- she had all the pills out of the wrappers
11 or out of the wrappers.

12 Q. All the pills out of the wrappers?

13 A. Yes.

14 Q. What kind of wrappers?

15 A. I have no idea.

16 Q. She didn't describe the wrappers to
17 you?

18 A. No, sir.

19 Q. Like she had opened a bag?

20 A. No, only wrappers.

21 Q. She didn't say anything about pill
22 bottles, did she?

23 A. No.

24 Q. She said wrappers?

25 A. Wrappers.

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1 Q. Okay. Now, then, what did she say?

2 A. She said that she had all the pills
3 ready and she was writing a note. And that if Darin

4 wouldn't come in, she would have took the pills. But she
5 heard Darin come in, and she put the pills away, she

6 quickly, because he was coming up, threw the wrappers
7 underneath the bed.

8 Q. Did she tell you where she put the
9 pills?

10 A. No.

11 Q. Just put them away?

12 A. She hid them away.

13 Q. Okay. She didn't say whether or not
14 she put them in the wrappers or out of the wrappers?

15 A. No. She just said that she put them
16 away and she shoved the wrappers under the bed. And she
17 hid everything, and when Darin came in, Darin would not
18 have known until the dog started playing with the
19 wrappers and took them from under the bed.

20 Q. When did the dog come in?

21 A. Well, she told me about it. Domain,
22 the dog was playing around with those wrappers underneath
23 the bed and he took them out from under the bed.

24 Q. And this was right after Darin --

25 A. And that is when Darin saw the
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1 wrappers.

2 Q. Okay. Did Darin come in the room
3 actually?

4 A. She said he came in.

5 Q. Okay. So she threw the wrappers under
6 the table (sic)? Darin came in.

7 A. Under the bed.

8 Q. Under the bed. Darin came in and then
9 the dog came in?

10 A. The dog stays upstairs most of the
11 time.

12 Q. But the dog went under the bed and he
13 brought out the wrappers?

14 A. Yes.

15 Q. And so Darin caught her right then?

16 A. Darin saw the wrappers and that's when
17 I told Darlie, I said, "Darlie" -- well, go ahead with
18 your question.

19 Q. But all this, it was described to you
20 as all of this happening just right after another in
21 their bedroom?

22 A. That is what I was told.

23 Q. Now, let's talk about this film that
24 we saw?

25 A. Yes.

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1 Q. That was on --

2 A. June 14th.

3 Q. June 14th, which was Devon's birthday?

4 A. Devon's birthday, yes.

5 Q. And you say you were invited out
6 there?

7 A. Yes, I was.

8 Q. Do you know whose idea it was to bring
9 that silly string out? Silly -- whatever it's called,
10 out there?

11 A. Yes. Silly string.

12 Q. Silly string out there?

13 A. Yes, that was her sister's idea.

14 Q. That wasn't Darlie's idea, was it?

15 A. She discussed it with Darlie and she
16 said -- and that is what they were going to do.

17 Q. But the sister had brought that out,
18 hadn't she?

19 A. She told me about it, that that is
20 what they were going to plan.

21 Q. And were you there for the -- were you
22 there when the Baptist ministers were there?

23 A. What Baptist ministers?

24 Q. You don't know about that?

25 A. There was no Baptist ministers in that
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1 cemetery.

2 Q. You don't know about the prayer
3 service that had been held right before that?

4 A. Yes, it had been mentioned by Mama

5 Darlie and the family that was going to leave. Yes, I

6 remember that. Yes, that was apparently, something that
7 Mama Darlie and the family that was going to leave, and
8 they went back to the cemetery. But I don't know
9 anything about ministers.

10 Q. You weren't there?

11 A. No.

12 Q. When the Baptist ministers led them in
13 prayer at the grave site?

14 A. No, sir, I was not.

15 Q. Do people in Poland have different
16 customs and different reactions to funerals than in
17 America?

18 A. Yes, sir.

19 Q. Very much so?

20 A. Well, not that much, that was
21 different.

22 Q. Well, I'm talking about just in
23 general. Do Polish people celebrate their customs of
24 funerals different than we do in America?

25 A. Well, we normally will go to the
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1 cemetery for the performance, there will be long prayers.

2 Q. You're Catholic aren't you?

3 A. A Roman Catholic, yes.

4 Q. And do you go, or do you know people
5 who go on birthdays to grave sites and talk to their
6 husband or wife, or whomever their loved one is?

7 A. Yes, yes.

8 Q. That is not uncommon, is it?

9 A. Maybe not. I personally haven't done
10 it. But we normally go really for the -- how do you say
11 in English, when we celebrate all of the dead people?

12 Q. Is that a wake?

13 A. No, no. I don't know how to say in
14 English.

15 Q. That's Irish, I believe.

16 A. No, sir. This is, it's once a year, a
17 big celebration that we go, and we all go to the cemetery
18 and we put out candles all over the graves, and we pray.

19 Q. All Souls Day?

20 A. Yeah, that type of celebration. It's
21 here too, but I forgot the name of it.

22 Q. Different religions do that
23 differently, don't they?

24 A. Well, I don't know about any other
25 religions.

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1 Q. Okay. And during that time out there
2 at the cemetery, there were times when you hugged various
3 people, weren't there?

4 A. What cemetery?

5 Q. The film we saw.

6 A. Oh, yeah.

7 Q. The birthday party.

8 A. Yes, yes.

9 Q. You hugged some people?
10 A. Yes.
11 Q. You cried some?
12 A. We tried not to cry, well, I tried not
13 to cry.
14 Q. Okay. And you laughed some?
15 A. We smiled some, not really, I didn't
16 really laugh.
17 Q. You didn't joke around?
18 A. I smiled a little bit and I don't,
19 well, I mean, what you saw really.
20 Q. You didn't joke around some, are you
21 sure about that?
22 A. Joke about what?
23 Q. Joke around about anything.
24 A. No, sir.
25 Q. You are certain?
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1 A. If I did, I don't remember joking
2 about anything.
3 Q. Well, there were pictures of Darlie
4 there crying, weren't there?
5 A. I didn't see Darlie cry.
6 Q. You never saw Darlie cry at that whole
7 time at that birthday party?

8 A. I didn't.
9 Q. Did you see her wipe away a tear?
10 A. No.
11 Q. Never did?

12 A. No, sir.
13 Q. Did you see the film?
14 A. That moment on the film, her head was
15 down.
16 Q. She was faking wiping away a tear?
17 A. I didn't see a tear.
18 Q. Did you see her walk around with
19 pictures of her babies in her arms?
20 A. Yes, I have.
21 Q. She had those in her arms a lot,
22 didn't she?
23 A. No, only when the cameraman came.

24 Q. Oh, that is just when the cameraman
25 came is when she picked up those and put them there?
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1 A. Yes, sir.

2 Q. Okay. Do you remember them talking
3 about how thankful they were that Drake was still there?

4 A. Yes, she said that they were thankful.

5

6 MR. RICHARD C. MOSTY: Your Honor,
7 this is, maybe a time when we need to take up a matter.

8 THE COURT: All right. If the jury
9 will step outside, please. Take a 10 minute break now,
10 please.

11 THE COURT: All right.

12

13 (Whereupon, the jury

14 Was excused from the
15 Courtroom, and the

16 Proceedings were held
17 In the presence of the
18 Defendant, with her

19 Attorney, but outside

20 The presence of jury

21 As follows:)

22

23 THE COURT: May the record reflect
24 that all parties of the trial are present and these

25 proceedings are being held outside of the presence of the
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1 jury. Mr. Mosty.

2 MR. RICHARD C. MOSTY: Your Honor,
3 what we're going to go into, and I can either go through
4 the whole thing or I can tell you in general, and then
5 we'll --

6 THE COURT: Well, let's just

7 generalize it first, then we will go through it.

8 MR. RICHARD C. MOSTY: Okay. Mr.
9 Hagler suggested perhaps that I talk too loud and that
10 the jury might hear me, so if the Court can't hear me,
11 let me know. I'll try to talk a little bit lower.

12 THE COURT: That will be fine.

13 MR. RICHARD C. MOSTY: What we are
14 going to propose to go into at this time is, in a

15 nutshell, Miss Jovell's psychiatric history; various
16 commitments, various times that she has been in and out
17 of insane asylums, and, into some of her background, and
18 her experience with depression, and her own relationships
19 at which are all relevant about what she is talking
20 about. That she's counselled Mrs. Routier on
21 psychiatric, psychological matters and so forth, and so
22 we're going to go in to show that.
23 And so, a substantial part of this is
24 in the Baylor medical records, when she was in there.
25 And a lot of the background in there, of what her history
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1 is, and describe what her history is that she described.
2 THE COURT: Perhaps she could
3 summarize it and if you need to ask more questions, you
4 might for the purpose of this hearing.
5 MR. TOBY SHOOK: Well, Judge, what
6 time frame are you talking about?
7 MR. RICHARD C. MOSTY: Well, I'm going
8 to -- we're going to pull it right on up to date, it's

9 going to go from '96 backwards, through, you know, she
10 is -- the first time she was ever committed or
11 hospitalized in an insane asylum was, she was -- or her
12 first bout with depression, she was 16.
13 The first time she was in the
14 hospital, was 22. She was 22 years old. She was in in
15 '89, you know, and we're going to bring up that whole
16 history of that, of her when she is sitting there
17 counselling Mrs. Routier. What her background is and
18 what her history is, is a fundamental part of that.

19 MR. TOBY L. SHOOK: Excuse me. Is '89
20 the last year you have there?
21 MR. RICHARD C. MOSTY: That is the
22 last hospitalization I have got, that I have got.
23 MR. TOBY L. SHOOK: Judge, obviously,
24 we would object then. There is no relevance to that, in
25 1989 about some stay in the hospital. It's completely
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1 irrelevant. It's only being tried to be introduced to
2 dirty this witness up, in irrelevant matters.
3 THE COURT: Overruled. I'll let them
4 do it. Go ahead.
5 MR. TOBY L. SHOOK: Well --
6 THE COURT: But if we could sort of --

7 can we just, could you ask a summation question and get
8 it, for the purpose of this hearing.

9 MR. DOUGLAS MULDER: Kind of tell us
10 about all of the times that you have been in an insane
11 asylum, or something like that?

12 MR. RICHARD C. MOSTY: Well, you know,
13 the medical records, as you might suspect, are replete
14 with things that she said. So I will try to move quickly
15 through it.

16 THE COURT: All right. Thank you.

17 MR. RICHARD C. MOSTY: That is it.

18 THE COURT: Go ahead.

19 MR. RICHARD C. MOSTY: You want me to
20 go through all this now?

21 THE COURT: Well, can I see them real
22 quickly?

23 MR. RICHARD C. MOSTY: Sure, these are
24 the Baylor records.

25 THE COURT: Okay.

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1 MR. RICHARD C. MOSTY: And we will
2 offer the whole record in, too.

3 THE COURT: Okay.

4 MR. RICHARD C. MOSTY: But then I want
5 to talk to her about some specifics.

6 THE COURT: Let's break, and let me
7 review these and then we will look at them.

8 MR. RICHARD C. MOSTY: All right.

9 THE COURT: If you will step down
10 please, ma'am. Thank you.

11 THE COURT: All right.

12

13 (Whereupon, a short
14 recess was taken, after
15 which time, the

16 proceedings were
17 resumed in open court,
18 in the presence and
19 hearing of the

20 Defendant, being
21 represented by her

22 Attorney, but outside of
23 the presence of the jury

24 as follows:)

25

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1 THE COURT: All right. Everyone
2 please have a seat.
3 All right. Let's continue. Let the
4 record reflect that these proceedings are being held
5 outside of the presence of the jury and that all parties
6 of the trial are present.
7 Mr. Mosty, if you will develop what
8 you wish to on the hearing outside of the presence of the
9 jury, please.

10

11 BY MR. RICHARD C. MOSTY:

12 Q. Miss Jovell, and I think you have
13 described this time that you gave Darlie the advice about
14 getting help, that was in May of 1996; is that right?

15 A. Yes.

16 Q. And you were counselling with her?

17 A. Pretty much. I told her to please get
18 help.

19 Q. And you were -- your opinion was that
20 she was suffering from depression?

21 A. Yes.

22 Q. That was your opinion?

23 A. Yes.

24 Q. And you thought she needed to go see a
25 doctor?

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1 A. Yes.

2 Q. Did you give her a name of a doctor?

3 A. No, I haven't, because she told me
4 that they are going to go to Lubbock and do that anyways.

5 Q. Okay. Who were you seeking
6 counselling with at that time, and who were you in
7 counselling with?

8 A. Nobody.

9 Q. Nobody? What about -- did you go to
10 an acupuncturist?

11 A. Oh, yes.

12 Q. Is that for psychological and
13 psychiatric?

14 A. No, sir, that was for my back.

15 Q. For your back?

16 A. Yes.

17 Q. What doctors were you seeing at that
18 time?

19 A. I only went to see for my back, that
20 doctor.

21 Q. When was it that -- well, let's go
22 back the other way. When have you after Baylor -- we
23 will go to Baylor in a minute.

24 A. Yes.

25 Q. But after Baylor, what psychologists,
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1 counselors and psychiatrists have you seen?

2 A. I went back to my M.D. and I told him
3 what she have said to me, and I didn't agree with that at
4 the time. And I went back to my M.D.

5 Q. Okay.

6 A. They have been keeping with me.

7 Q. So actually, and I remember that
8 because even before you went into Baylor, you had been
9 with your M.D., your doctor?

10 A. Yes.

11 Q. And he had been giving you some pills
12 for depression, had he not?

13 A. Yes.

14 Q. And then you went to Baylor and then
15 you went back to that same doctor?

16 A. Yes.

17 Q. What is his name?

18 A. Dr. Niamatali.

19 Q. Actually, he is the one who has been
20 continuing to give you --
21

22 THE COURT: Would you inquire as to
23 the first name of the doctor, please?

24 THE WITNESS: Habi Niamatali.

25 THE COURT: Habi?

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1 THE WITNESS: It's an Indian name, I
2 think.

3 THE COURT: Can you spell it for us,
4 please, ma'am?

5 THE WITNESS: I don't know. I'm
6 sorry. He is in Garland.

7 THE COURT: All right.

8

9 BY MR. RICHARD C. MOSTY:

10 Q. All right. And, then, that is the

11 doctor you went to before you went to Baylor?

12 A. Yes.

13 Q. And that is the doctor you went to

14 after you went to Baylor?

15 A. Yes.

16 Q. And that is the doctor that you have

17 continued to see?

18 A. No, I quit continue seeing that

19 doctor.

20 Q. When did you quit seeing him?

21 A. Because I didn't need no more help.

22 Q. When did you quit seeing him?

23 A. Shortly after -- no, maybe -- I maybe

24 saw him, I don't really recall, but I went there for, oh,

25 I don't know, really, four more visits to be on the safe

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1 side.

2 Q. Okay. And what medications have you

3 continued to take for depression?

4 A. I don't remember, sir.

5 Q. What are you taking now?

6 A. The name of it, no, sir, I don't.

7 Q. Are you taking anything now?

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

9 Q. Are you taking anything for it now?

10 A. No, sir, I don't. When this whole

11 thing started, I was very emotional, I went to my a

12 acupuncture doctor, and that helps me to relax.

13 Q. Okay. So you were upset and you were

14 emotional and you went to your acupuncturist to --

15 A. When the events took place, when all

16 this happened.

17 Q. So you went to your acupuncturist

18 because you were under stress and you were not feeling

19 well, mentally?

20 A. No, sir, I was grieving for the boys.

21 Q. That is a mental condition, isn't it?

22 A. I don't know what you can call it, but

23 I was --

24 Q. Whatever it is, it's an emotion, it's

25 something in your mind?

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1 A. Well, yes, it's an emotion, it's a
2 very painful emotion.

3 Q. You were treated by your acupuncturist
4 for that?

5 A. Yes, because it helps me to relax,
6 because I couldn't sleep and I cried a lot.

7 Q. That is to get over the emotional --

8 A. To help me to get sleep and not to be
9 so -- well, yes, I was very hurt.

10 Q. What have you done over the years for
11 depression, since Baylor?

12 A. I didn't have to, sir.

13 Q. Not a thing?

14 A. Not a thing.

15 Q. You have not taken any drugs at all?

16 A. Not a pill one.

17 Q. You have not had a depressed state
18 since then?

19 A. No. No, sir.

20 Q. In your counselling with Darlie

21 Routier, did you call on some of your background and your
22 experiences at Baylor?

23 A. Not at Baylor. I tried to tell her

24 that when I had my daughter, I had a post-partum

25 depression when my child was born. I had post-partum

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1 depression and I tried to take my life away.

2 Q. Okay. And, all of that was part of,

3 when you were talking to Darlie, part of what you were

4 trying to do was to relate your life's experiences to

5 her, were you not?

6 A. Because I see the difference, more or

7 less, telling her after what happened to me after I had

8 baby.

9 Q. All right. So you were taking your

10 past, the one where you were hospitalized for post-partum

11 depression, that was not at Baylor, was it? That was at

12 a previous hospitalization?

13 A. Yes, when I had my daughter.

14 Q. So you took these two -- how many

15 times have you been hospitalized?

16 A. Twice.

17 Q. In some kind of psychiatric or

18 psychological hospital? Twice?

19 A. Twice.

20 Q. And you took those life experiences

21 and they were part of why you wanted to discuss getting

22 help with Darlie, weren't they?

23 A. Pretty much so, seeing her behavior.

24 Q. Because you, in your background and in

25 your make up, you had that, and so you wanted to share

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1 that with Darlie?

2 A. Well, she had known that, I have told

3 her that before.

4 Q. But that was part of your

5 recommendation of visiting with her, about getting help

6 and suicide note?

7 A. No, I went there because I wanted to

8 make sure that Darin didn't lie to me about getting help

9 for Darlie.

10 Q. But my question is, that part of what

11 you were counselling her about --

12 A. I didn't counsel her.

13 Q. You didn't counsel her?

14 A. No. I just told her --

15 Q. Let me take that back. Your advice --

16

17 THE COURT: Let her answer the

18 question, please. Go ahead and answer the question.

19 THE WITNESS: It's not counselling. I

20 was very concerned about her, yes.

21

22 BY MR. RICHARD C. MOSTY:

23 Q. I'll take the word counselling back.

24 Your advice to her.

25 A. Yes.

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1 Q. Part of your advice was based upon

2 your own previous hospitalizations and your own previous

3 mental problems?

4 A. Pretty much so.

5 Q. And you were recommending that she

6 take the course you took?

7 A. Yes.

8 Q. Now, let's talk then about some of

9 your depression when you were admitted to Baylor. You
10 told them at that time that your depression was so bad
11 that you could not function?

12 A. Yes, sir.

13 Q. And that had -- that that was your
14 second time in the hospital?

15 A. Yes, sir.

16 Q. But your first episode with depression
17 was when you were 16?

18 A. I was 16, yes.

19 Q. And when you were 16, you were
20 dysfunctional for a year, weren't you?

21 A. No.

22 Q. Do you remember telling them at Baylor
23 that at the age of 16 you stayed home from school the
24 whole year?

25 A. No, that is when I had my accident,
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1 she must have misunderstood me.

2 Q. Isolating and doing absolutely nothing
3 except sleeping all the time?

4 A. I slept quite a bit, I remember, yes.

5 That was the summertime and I prefer sleeping.

6 Q. So, this statement in the Baylor
7 medical records is wrong?

8 A. Well, I don't know how she put it down
9 on the paper. But I remember being in my 16, through the
10 summertime, I felt depressed. I more or less wanted to
11 stay home and just sleep and don't go nowhere.

12 Q. Okay. Do you agree with this
13 statement, that you told Baylor that your first episode
14 with depression was at the age of 16 when she stayed at
15 home from school the whole year, isolating and doing
16 absolutely nothing except sleeping all the time? Did you
17 tell Baylor that?

18

19 MR. TOBY SHOOK: Judge, could we get
20 to a specific time when this statement was supposed to
21 have been made and to who?

22 THE COURT: That's sustained. I would
23 like that. If you could get the dates and times.

24

25

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1 BY MR. RICHARD C. MOSTY:

2 Q. Your date of admission to Baylor was
3 October 15th of 1989?

4 A. Somewhere -- yes.

5 Q. Okay. But this -- this incident that
6 you're describing was many, many years before?

7 A. No, the same incident.

8 Q. How old were you when you went to
9 Baylor in '89?

10 A. I don't know. 35, maybe.

11 Q. 35?

12 A. Maybe.

13 Q. So when you told Baylor about your
14 depression at age 16, you had been describing something
15 that happened 19 years before?

16 A. Well, I have told her that I could go
17 over with her and go ahead and tell her what happened to
18 me, but I already had that behind me. There was
19 something else that occurred at that time that I want to
20 go into.

21 Q. By that time, you said 19 years ago
22 you had that behind you, but now you are back at Baylor?

23 A. What have happened, well, yes, sir,

24 but there were some different reasons that I went back to
25 Baylor.

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1 Q. Well, at 16 it was depression when you
2 stayed home the whole year, was it not?

3 A. I didn't really stay the whole year, I
4 don't know why she put that down.

5 Q. Well, whatever it was, you were 16
6 years old?

7 A. That was summertime, and I felt
8 depressed, yes, and I didn't get out nowhere. I just
9 wanted to stay home and sleep.

10

11 THE COURT: The Court understands what
12 happened there. If we could move on to the next time
13 frame, please.

14

15 BY MR. RICHARD C. MOSTY:

16 Q. At 16, however, you were not
17 hospitalized, were you?

18 A. No, no, sir.

19 Q. And then the first time you were
20 hospitalized, you were 22?

21 A. When I had my daughter.

22 Q. Okay. And that is not the daughter
23 that you have now?

24 A. Yes, I have daughter.

25

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1 MR. TOBY L. SHOOK: Judge, I'll object
2 to him asking for a history. If he is going to go for
3 statements made in the records, we will just ask that the
4 question be limited that way. He is going to ask her
5 from the records.

6 MR. RICHARD C. MOSTY: That's what I'm
7 trying to do.

8 THE COURT: Well, I think that is what
9 he is trying to do. The main thing, we understand that
10 apparently, there has been some treatment for depression.
11 If we could just go through the dates in chronological
12 order, please, for the purposes of this hearing.

13

14 BY MR. RICHARD C. MOSTY:

15 Q. So, then you were hospitalized at age
16 22, what year would that have been?

17 A. 1977.

18 Q. '77. Okay. You were hospitalized at
19 that time for about three weeks; is that right?

20 A. Yes.

21 Q. And, do you say, at that time was your
22 complaint that you had had symptoms of depression for the
23 previous nine months?

24

25 MR. TOBY L. SHOOK: Judge, again, I'll
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1 object as to who the statement is made to and when it's
2 made.

3 MR. RICHARD C. MOSTY: All right.

4 I'll clarify that.

5 THE COURT: Okay.

6

7 BY MR. RICHARD C. MOSTY:

8 Q. The series of questions that I am
9 asking about now, are the history that you gave to
10 Baylor, in October of 1989. Correct? Do you understand?

11

12 MR. TOBY L. SHOOK: To who?

13 THE WITNESS: Dr. Lynn Markle.

14 THE COURT: Can you read --

15 MR. RICHARD C. MOSTY: Dr. Rae Lynn

16 Markle, M.D. --
17 THE COURT: Let's get all of that in
18 the record, and move on.
19 MR. RICHARD C. MOSTY: I'm trying.
20 THE COURT: Well, if you could do it.
21 The Court has already reviewed those records briefly. I
22 understand the doctor's name. If we could get the
23 doctor's name in the chronological order, please.
24
25
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1 BY MR. RICHARD C. MOSTY:
2 Q. The conversations that I am talking
3 about, until I tell you differently, are your history
4 that you gave to Dr. Markle in October of 1989. All

5 right?

6 A. Yes.

7 Q. Okay. At that time, you told -- we've
8 already been over the 16, and now we're talking about 22,
9 when you were 22 years old and you had been hospitalized.

10 Where was that hospitalization?

11 A. That was in Boston, Massachusetts.

12 Q. Do you remember the name of the
13 hospital?

14 A. No, sir.

15 Q. And, you told Dr. Markle that prior to
16 that hospitalization that you had been depressed for
17 about nine months. Do you remember?

18 A. No, sir.

19 Q. You don't recall that?

20 A. No, sir.

21 Q. Do you remember telling Dr. Markle at
22 that time, that you would take various antidepressants
23 from your M.D. and that once you got to feeling better,
24 you would stop taking them?

25 A. Yeah, I didn't need them no more.

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1 Q. Okay. So you would be on them --

2 A. No. I'm sorry. I told Dr. Lynn
3 Markle, I committed myself to Dr. Lynn Markle on
4 voluntarily.
5 I went there by myself because my

6 doctor told me that I better go and see, maybe if they
7 would give me different medication. So I went in on my

8 own, to the hospital, telling them to help me. And, she
9 was supposed to just make sure, that a certain dosage of
10 medication was given to me, and she did.

11 Q. Okay. At this time in May of 1996,
12 when you had that conversation with Darlie and you were
13 talking to her, would you consider Darlie your best
14 friend at that time?

15 A. Yes, sir.

16 Q. Did you make the statement to the Dr.

17 Markle, as follows: "She describes increasing symptoms

18 of depression over the past nine months, stating that her
19 local medical doctor has been giving her medication, and
20 urging her to go to the hospital, as has her best
21 friend."

22 Did you make that statement to Dr.

23 Markle?

24 A. As what?

25 Q. That --

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1 A. Oh, no, no. My best friend, I had a
2 friend named Gail.

3

4 THE COURT: What is the time frame for
5 this?

6 MR. RICHARD C. MOSTY: October --

7 well, this is -- she is describing this October of 1989,
8 to Dr. Markle. She is describing the hospitalization
9 that was earlier.

10 THE COURT: I'm aware of that. Now,

11 can we move on to other hospitalizations subsequent to

12 that, please, so we can get this in context. Are there
13 any subsequent to that?

14 MR. RICHARD C. MOSTY: Any subsequent
15 hospitalizations? I've got the two hospitalizations.

16 Now, I'm go over what she said at Baylor and what her
17 complaints were at Baylor.

18 THE COURT: In 1989?

19 MR. RICHARD C. MOSTY: In 1989.

20 THE COURT: All right.

21

22 BY MR. RICHARD C. MOSTY:

23 Q. Did you tell Dr. Markle at that time

24 in '89 that you had the inability to tolerate crowds or
25 be around people?

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1 A. Yes.
2 Q. And that you would have to frequently
3 leave and become easily agitated?
4 A. Yes, sir.
5 Q. And did you describe that you became
6 violent if people tried to calm you down?
7 A. Yes, sir. Not people, close friends.
8 Q. And you described crying spells all
9 the time?
10 A. I would get angry, yes, very easily
11 and then depressed easily.
12 Q. Now these are things that you are
13 describing that are happening in 1989, correct?
14 A. Yes, sir.
15 Q. And in 1989, you were describing

16 feelings of hopelessness, feels empty, no energy?

17 A. Yes.
18 Q. Normal interests hold nothing for her?
19 A. Yes, sir.
20 Q. That you cannot stop eating and had
21 gained 40 pounds?
22 A. Yes, sir.
23 Q. That your personal hygiene was very
24 poor?
25 A. What is a hygiene?

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1 Q. That you didn't take care of yourself,
2 and clean yourself, and brush your hair?
3 A. Well, like I say, I didn't care if I

4 put my hair up or not. But yes, I cleaned myself, sir.

5 Q. And you told Dr. Markle that if it
6 were not for your 12 year old daughter, that you would
7 just not bother to go on?

8 A. Yes, sir.

9 Q. And, you are expressing --
10

11 THE COURT: Mr. Mosty, I understand,
12 we have had a voluntary commitment in 1989. What is
13 relevance of this to now?

14 MR. RICHARD C. MOSTY: The point of
15 this is a Bill of Exception, your Honor.

16 THE COURT: Well, I think the Court
17 understands satisfactorily what happened.

18 MR. RICHARD C. MOSTY: Well, the
19 essential part of it is, that here is a lady who has a
20 history of depression, who is now becoming an

21 advisor/counsellor to quote her best friend.

22 And, you know, it goes to show about
23 these conversation about suicide and these conversations,
24 did they arise in the mind of Miss Jovell? Or did they
25 arise in the mind of Mrs. Routier?

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1 Who initiated them? Who did them?

2 Who said them? Who brought them out? And this is a
3 lady, and I will go on later, who hears voices.

4 And, so, we are trying to develop,
5 where did these things begin?

6 THE WITNESS: I have told Darlie --

7 THE COURT: Quiet, ma'am.

8 THE WITNESS: I'm sorry.

9 THE COURT: I understand that. I'll
10 let you do it. Be brief and to the point, please.

11

12 BY MR. RICHARD C. MOSTY:

13 Q. When did you quit hearing voices?

14 And, do you hear people calling your name now?

15 A. Pardon me?

16 Q. Do you hear voices still?

17 A. I don't hear voices.

18 Q. Never have?

19 A. No, I don't recall telling her that.

20 Q. Okay. Let me go on. I will try to

21 move along. Did you, at that time -- did you tell Dr.

22 Markle in 1989 that you think you hear -- that she thinks
23 she hears her name called a lot?

24 A. No.

25 Q. And you didn't say that that had been
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1 going on for years?

2 A. No, sir.

3 Q. Do you recall that at that time in

4 1989 that you were, described yourself, and were

5 described as very controlling, very histrionic?

6 A. Controlling?

7 Q. Do you remember that?

8 A. No, sir.

9 Q. Okay. Do you remember describing --

10

11 MR. TOBY L. SHOOK: Judge, if I could

12 get a little bit of clarification. Are these quotes to a

13 doctor or is this a doctor's summary?

14 MR. RICHARD C. MOSTY: It's some of

15 each. Some are observations and some are --

16 MR. TOBY L. SHOOK: Because it sounds

17 like a summary. That's not proper impeachment, Judge.

18 MR. RICHARD C. MOSTY: This is not

19 impeachment. This is a Bill of Exception.

20 THE COURT: Let's continue. And I

21 want you to be brief. I understand that, and I have read

22 that. If you can just be brief and to the point, please.

23

24 BY MR. RICHARD C. MOSTY:

25 Q. Did you describe in 1989 to Dr. Markle

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1 that you felt like you had manic-depression illness?

2 A. That is what my -- Dr. Niamatali told

3 me that I -- that I could have that.

4 Q. Is manic-depression something you get

5 over?

6 A. Pretty much so, if nothing tragic

7 happens through your life, or you can control it pretty

8 nice by doing long walks. That is what helped me, brief,

9 long walks. Swimming a lot.

10 Q. Those are things you are doing right

11 now to control manic-depression?

12 A. Yes, we do walk six miles, well, when

13 I get frustrated, I go for long walk.

14 Q. So even now, when you see signs of

15 depression or manic-depression come along --

16 A. I can control it.

17 Q. You take action to control that

18 depression?

19 A. But I don't get depressed.

20 Q. Then why are you taking long walks?

21 A. I get frustrated sometimes, you work

22 hard.

23

24 THE COURT: Thank you. Next question.

25

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1 BY MR. RICHARD C. MOSTY:

2 Q. Did Dr. Markle go over a discharge
3 summary with you?

4 A. Pardon me?

5 Q. Did Dr. Markle go over a discharge

6 summary with you, talk to you about your discharge from

7 Baylor in November of 1986?

8 A. I don't remember.

9 Q. Okay.

10 A. She put me on medication. She told me

11 to go.

12 Q. Do you remember telling Dr. Markle

13 that you described hallucinatory experiences, hearing her

14 (sic) name called a lot?

15 A. I don't remember saying that.

16 Q. Do you recall describing pains in your

17 head, sharp pains in your head?

18 A. Yes, I had that but that is because I

19 was beat up. I still have them sometimes.

20 Q. Still got that now?

21 A. Sometimes I get a sharp pain in my

22 temples.

23 Q. Do you remember your psychological

24 testing showed you to be infantile, histrionic, lacking

25 in inner core of perceptions of self and others, and

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1 strong feelings of help -- hopelessness and helplessness?

2 A. At that time yes, I was kind of --

3 yes, I was feeling -- I went for help.

4 Q. Do you remember describing your mother

5 as a psychic?

6 A. Psychic?

7 Q. A psychic.

8 A. No.

9 Q. Were you also hospitalized in 1979 for

10 a suicide attempt?

11 A. No.

12 Q. Where you O.D.'d on Tylenol and

13 Anacin, Massachusetts hospital?

14 A. That was that time after I had my

15 daughter.

16 Q. And you actually tried suicide?

17 A. Well, I believe I did.

18 Q. With pills?

19 A. Yes, sir.

20 Q. And that was part of the reason that

21 you wanted to give Darlie Routier advice and counselling,

22 wasn't it? Is that right?

23 A. Pardon me?

24 Q. That was one of the reasons you wanted
25 to give Darlie Routier advice because you had attempted
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1 suicide after you had had a child?

2 A. That is what frightened me, her trying
3 to commit suicide and the way she was acting, she was
4 depressed and she was angry. She would come to the shop
5 really angry, throwing things at Darin.
6 I just wanted to help -- Darlie wasn't
7 herself.

8 Q. Okay. And your background from when
9 you were attempting suicide was part of what you were
10 trying to relate to her?

11 A. I see, I see -- yes.

12 Q. Do you remember admitting to blocking
13 out things in your memory?

14 A. No, sir.

15 Q. Do you remember describing your mother
16 as physically and verbally abusive to you?

17 A. No.

18 Q. And that --

19 A. I told her that an American way
20 though, that American people would think that there is
21 abuse, but we got good, hard spankings with belts.

22 Q. I'm talking about what you described
23 to Baylor.

24 A. No. That is the way she put it in the
25 paper. American way, that probably would be abuse
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1 because here when you take a belt to a child, or you hit
2 a child, it's abuse called. So I said, "In America, you
3 would consider that abuse."

4 Q. My question is simply this: Did you
5 described to the registered nurse on December 16th, 1989,
6 that you remembered your mother as physically and
7 verbally abusive?

8 A. Yeah, she'll call names, but she'll
9 use a belt. I mean she wasn't abusive like --

10 Q. What I'm asking you is: Did you tell
11 these things to Baylor?

12 A. No, I didn't tell exactly that, no,
13 sir.

14 Q. You did not say those words?

15 A. My mother is not -- wasn't abusive.

16 She, well, if American people look at abusive, in Poland

17 that was a good, hard spanking with a belt.
18 Q. Do you remember telling that same
19 nurse that you were afraid of your father?
20 A. My father? No, sir.
21 Q. And describing, actually on two
22 occasions, describing your mother as both physically and
23 verbally abusive? On two separate occasions, in the same
24 interview.
25 A. That is the way they put down on the
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1 paper, but that is not what I told them.
2 Q. All right. Do you remember describing
3 that you had occasional feelings of needle pricks on both
4 sides of your head?
5 A. My temples.
6 Q. On the temples; three or four times a
7 day?
8 A. That is because I was beat up.
9 Q. And that those were going on for --
10 that that had been going on for years?
11 A. No, sir.
12 Q. You did not tell Baylor that?
13 A. No, sir.
14
15 THE COURT: Anything else?
16
17 BY MR. RICHARD C. MOSTY:
18 Q. Miss Jovell, do you remember being
19 interviewed by Carol Cloud?
20 A. Yes, I have.
21 Q. Within the last couple of weeks?
22 A. Yes, I have.
23 Q. Okay. You have hired a lawyer to
24 represent you in this case, haven't you?
25 A. Yes, I have.
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1 Q. And, that interview was conducted by
2 Carol Cloud, who works for Mr. Mulder. You understand
3 that, don't you?
4 A. Yes, sir.

5 Q. And, but, you had your lawyer present,
6 didn't you?
7 A. Yes.
8 Q. Do you remember describing to Mrs.
9 Cloud in that interview, several times, that the

10 statement, "I am afraid I'm losing my mind"?

11 A. Pardon me?

12 Q. Did you make that statement during

13 that interview, not once, but several times, that you

14 were afraid you were losing your mind, in those words?

15 A. No. I don't believe it.

16 Q. Well, of course, you were there?

17 A. Yes, and my lawyer was there, too.

18 Q. Did you say that? Did you say that to

19 Carol Cloud?

20 A. No, sir.

21 Q. Did you tell Mrs. Cloud at that time

22 that you did not believe that Darlie Routier was capable

23 of these murders?

24 A. I didn't say that.

25 Q. You did not say that either?

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1 A. I said I have questions.

2 Q. Did you discuss these mental problems

3 with the district attorney's office?

4 A. Yes, I have.

5 Q. And when was that?

6 A. From the beginning.

7 Q. From the beginning?

8 A. Yes.

9 Q. I guess you thought that was a matter

10 of on-going concern to you?

11 A. Well, I didn't want to be here. And I

12 told them that -- well, actually, it was started that

13 Darin called my daughter telling her that I am some

14 f---ed up lady, type of deal. That he is reading my

15 records right now.

16 And my daughter called me crying

17 saying, "Mom, Darin said that."

18 And so I contacted the D.A.'s office,

19 and I did tell them about it. That I committed myself

20 because I needed help. I had a hysterectomy, I --

21 shortly after, I was attacked and beat up really bad.

22 And, that is -- should I continue?

23 Q. Did I ask you what medications you are

24 presently on, or have been on in the last few months?

25 A. None.
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1 Q. None?

2 A. Natural herbs. I'm sorry. I do not
3 take medication, but I do take natural herbs since this
4 happened. I have been having a hard time sleeping. I
5 cry a lot and it's just -- for a type of stress.

6 Q. What natural herbs are those that you
7 are taking?

8 A. I don't have my purse with me. Dr.
9 Bunzo. It's all natural herbs. He only deals with
10 natural herbs and needles.

11 Q. Natural herbs and needles?

12 A. Well, he puts needles in your body.

13 Q. That is a different doctor than the
14 one you told me about a minute ago?

15 A. That's the Dr. Bunzo, the
16 acupuncturist doctor.

17 Q. So he gives you herbs and needles?

18 A. He only started doing this since this
19 happened. Sometimes I don't need them and sometimes I
20 do. Well, they really don't do anything, just kind of
21 relax you a little bit.

22 Q. Have you told people that you can fly
23 out of your body?

24 A. I used to dream a lot that I was
25 flying, yes.

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1 Q. Okay. Well, that is more recent?

2 A. No, sir. That was when I was 16, when
3 I slept a lot.

4 Q. Oh, you have not been telling -- you

5 have not told people more recently, within the last year
6 that you can fly out of your body?

7 A. No, sir.

8 Q. Or sometimes think you can?

9 A. I was dreaming that, that I was
10 flying, when I was 16. Yes, I remember that. I kind of
11 enjoyed it too.

12

13 MR. RICHARD C. MOSTY: In terms of an
14 offer of proof, your Honor, I think that's what it is.

15 And I would tell the Court this: That because this is an
16 offer of proof, I wouldn't cover a lot of this stuff but
17 I needed to do it for purposes of the record, to make
18 sure that my offer is complete.

19 THE COURT: I understand.

20 MR. RICHARD C. MOSTY: And as part of
21 that, we would also offer to back up the statements or
22 the statements in the history and the comments that I was
23 pointing out.

24 THE COURT: The Court will accept that
25 entire document.

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1

2 (Whereupon, the following
3 mentioned item was
4 marked for
5 identification only

6 after which time the
7 proceedings were
8 resumed on the record
9 in open court, as
10 follows:)

11

12 MR. RICHARD C. MOSTY: The entire
13 amount of the Baylor records which will be Defendant's 14 No. 45.

15 THE COURT: For the purposes of this
16 hearing, and Bill of Exception, is there any objection? 17
18 (Whereupon, the above

19 mentioned item was
20 received in evidence
21 as Defense Exhibit

22 Number 45, for record
23 Purposes only, after
24 which time, the

25 proceedings were
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1 resumed on the record,
2 in open court,
3 as follows:)

4

5 MR. RICHARD C. MOSTY: And then I

6 think Mr. Hagler would like to be heard on the offer.

7 MR. TOBY L. SHOOK: Judge, we will

8 object to the Baylor records for any reason, on any part
9 of the hearing, because they have not been properly
10 authenticated.

11 THE COURT: Well, I think he is just
12 putting it on his Bill of Exception. Is that not so?

13 MR. RICHARD C. MOSTY: That part is
14 just to verify that for the record purposes. That that
15 is the document that I was referring to in her -- in
16 those questions.

17 Of course, we will, at the appropriate
18 time, we will call the custodian from Baylor down here to
19 back up those records.

20 THE COURT: All right. That exhibit
21 is admitted for record purposes only.

22 Yes, sir.

23 MR. JOHN HAGLER: Okay. Your Honor,
24 the State has offered into evidence, during the direct
25 testimony of this witness, testimony about this so-called
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1 attempted suicide.

2 The purpose of this offer, and again,
3 we would offer it, and submit to the Court that all of
4 the testimony that presently has been offered is
5 admissible for the jury.

6 And specifically, your Honor, this

7 witness has testified that she has had numerous prior
8 psychiatric problems and has been committed on two
9 occasions. She's been treated, she's certainly versed
10 and knowledgeable on the area of depression, and other
11 forms of psychiatric disorders.

12 She has also testified before the
13 Court that she has advised and counselled with the

14 defendant regarding these certain difficulties and her
15 prior experiences.

16 Now, it is our -- the purpose of our
17 offer, your Honor, of this testimony, that this would
18 tend to show, the state of mind of the defendant, you
19 know, her actions and reactions to this advice and
20 counsel made by the -- made by this witness.

21 Short-handed, your Honor, what we're
22 saying is that the State has attempted to create the

23 impression in front of the jury, that this matter about
24 the so-called suicide, arose out -- was completely,

25 entirely independent of this witness, and solely came
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1 from the mind of the defendant.
2 This testimony is certainly probative
3 and relevant to showing what the true source of this
4 so-called suicide, what have you.
5 Furthermore, the prior experiences of
6 this witness, parallel and almost virtually mirror what
7 the State's contention is, that the defendant, on her
8 own, her own independent impulse did, as far as the
9 suicide attempt.
10 Furthermore, admittedly some of these

11 things occurred within a number of years ago, your Honor.
12 But there is no remoteness rule as to the admissibility
13 of this type of evidence.
14 The fact of the matter is, that it
15 exists. She has independent recollection of these
16 events. And regardless of the fact that some of them may
17 have occurred anywhere from seven to eight years ago, the
18 fact is that she related these incidences to the
19 defendant.
20 And we would submit, created and
21 caused a state of mind of the defendant as to her actions
22 and reactions.
23 And as far as the remoteness thing, I
24 might also mention that as recently as this year, or I
25 should say within the last 12 months, she has received
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1 acupuncture treatments due to her emotional problems, and
2 certainly this would also be admissible before the jury
3 to show -- to allow the jury to determine the true source
4 and actions of the defendant.
5 MR. RICHARD C. MOSTY: Your Honor, may
6 I add one other thing?
7 THE COURT: You may.
8 MR. RICHARD C. MOSTY: Particularly
9 related to the relevance aspect of it, and at the risk of
10 getting called an amateur psychiatrist, this is what is
11 known as projection.
12 THE COURT: Okay.
13 MR. RICHARD C. MOSTY: And that is,

14 she, in her mind, and we will go back to, how I -- whose
15 mind did this originate in.

16 She, in her mind, attempted suicide

17 after having had a baby. Actually, attempted it, didn't

18 think about. Actually attempted it, and was hospitalized

19 for it, and that life's experience projects into another,

20 and she sees it in another that doesn't exist.

21 So, she sees depression in Darlie

22 Routier, that is her projection of her life experiences,

23 not those life experiences that she is actually

24 observing.

25 THE COURT: Anything else? All right.

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1 Well, the Court holds that the testimony elicited by Mr.

2 Mosty is not relevant to the witness's character for

3 truthfulness or untruthfulness, regarding her testimony

4 in this case, and will not be permitted before the jury.

5 And you have made your Bill of Exception and it will be

6 noted and it will be put in the record.

7 MR. RICHARD C. MOSTY: Your Honor, let

8 me make it clear, we're not offering that for purposes of

9 demonstrating her truthfulness or untruthfulness. We're

10 offering it to demonstrate her life experiences and how

11 they relate to her testimony to impeach her version that

12 these thoughts -- that what she described as a depressed

13 person, she was really describing herself. That is why

14 we are offering it, not for truthfulness or

15 untruthfulness.

16 THE COURT: Overruled for that reason,

17 too. Thank you.

18 MR. RICHARD C. MOSTY: And, may I also

19 be afforded the opportunity to put a real psychiatrist,

20 other than myself, in to describe that projection at the

21 appropriate time?

22 THE COURT: Mr. Mosty, you have leave

23 to call any witness you want to call.

24 MR. RICHARD C. MOSTY: All right.

25 Thank you. As part of this Bill of Exception?

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1 THE COURT: Yes, sir. A real

2 psychiatrist, you know, we're happy to hear it.

3 MR. RICHARD C. MOSTY: On this Bill,

4 we are still open on that subject?

5 THE COURT: We're still open.
6 MR. RICHARD C. MOSTY: Thank you.

7 MR. JOHN HAGLER: One final thing,
8 your Honor, your ruling applies also to all the reasons
9 that I stated the --

10 THE COURT: Oh, yes, by all means.
11 All right.

12 In as much as the jury took a break, I
13 think we will take a quick 10 minute break, and then we
14 will continue on, as we say in Texas, with this witness.
15

16 (Whereupon, a short
17 recess was taken, after
18 which time, the

19 proceedings were
20 resumed in open court,
21 in the presence and
22 hearing of the

23 Defendant, being
24 represented by his
25 Attorney, and in

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1 the presence of the jury
2 as follows:)
3

4 THE COURT: All right. Let's bring
5 the jury back.

6 MR. RICHARD C. MOSTY: Yes, sir.

7 THE COURT: Are both sides ready?

8 MR. TOBY L. SHOOK: Yes, sir. We are
9 ready to resume.

10 THE COURT: All right. Bring the jury
11 in, Mrs. Biggerstaff.
12

13 (Whereupon, the jury

14 was returned to the
15 courtroom, and the
16 proceedings were

17 resumed on the record,
18 in open court, in the
19 presence and hearing

20 of the defendant,
21 as follows:)

22

23 THE COURT: Let the record reflect

24 that all parties to the trial are present and the jury is
25 seated. Mr. Mosty?
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1 MR. RICHARD C. MOSTY: I have no
2 further questions, your Honor.

3 THE COURT: You may step down, ma'am.

4 Thank you for coming. Watch your step, please. Your
5 next witness.

6

7

8 (Whereupon, the following
9 mentioned item was
10 marked for
11 identification only

12 after which time the
13 proceedings were
14 resumed on the record
15 in open court, as
16 follows:)

17

18 MR. GREG DAVIS: Your Honor, at this
19 time, the State will offer State's Exhibit No. 50 for all
20 purposes, and the documents that have been marked as
21 State's Exhibit 50-A, for record purposes only.

22 THE COURT: All right. Thank you.

23 MR. RICHARD C. MOSTY: A?

24 MR. GREG DAVIS: And, if I may briefly
25 publish it?

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1 THE COURT: Gentlemen, just one
2 minute. All right. Those are State's Exhibits 50 and
3 50-A?

4 MR. GREG DAVIS: Yes, sir.

5 THE COURT: Both State's Exhibits are
6 admitted.

7

8 (Whereupon, the above

9 mentioned items were
10 received in evidence
11 as State's Exhibit

12 Nos. 50 for all purposes.
13 and 50-A, for the.
14 record purposes only,

15 after which time, the
16 proceedings were
17 resumed on the record,
18 in open court,

19 as follows:)

20

21 MR. GREG DAVIS: Ladies and gentlemen,
22 State's Exhibit 50 contains certain documents from the
23 Bank One. In those documents, I would refer you to the
24 first document, which will be a loan document, originated
25 August 3rd of 1993.

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1 The maturity date was to be August
2 17th of 1996, for \$10,000. And it will show that the
3 monthly payment on that loan was \$343.62.

4 The next document will be a loan on a
5 boat. This one originated in May, May 17th of 1995,

6 principal amount \$24,145, with a monthly payment of
7 \$343.17.

8 The next document will be a loan, this
9 is on November 3rd, 1995, the amount of the loan is
10 \$8,990. The monthly payment on this loan was \$145.91.

11 Following that, you will see certain
12 records relating to the personal bank account of the
13 defendant and her husband. And I would state to you that
14 these are basically monthly statement summaries.

15 And the last statement date is from
16 May 15th to June 14th of 1996, and you will see in the
17 record, that for that time period, that the final ending
18 balance was \$68.09.

19 Judge, that concludes the publishing
20 of this.

21

22 THE COURT: All right. Your next
23 witness.