

Testimony of Officer David Mayne (1)

DIRECT EXAMINATION

18

19 BY MR. GREG DAVIS:

20 Q. Sir, would you please tell us your
21 full name.

22 A. David Ray Mayne.

23 Q. And please spell your last name for
24 the Court Reporter.

25 A. Last name spelling is M-A-Y-N-E.
Sandra M. Halsey, CSR, Official Court Reporter
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1 Q. Sir, are you a Rowlett Police Officer?

2 A. Yes, sir.

3 Q. Okay. And how long have you been with
4 the Rowlett Police Department?

5 A. A little over 10 years.

6 Q. Are you assigned to any particular
7 section or division at this time?

8 A. I'm assigned to support service
9 division, which includes crime scene.

10 Q. What are your duties and
11 responsibilities in that section?

12 A. I collect evidence, photograph
13 different crime scenes, and also am the manager over the
14 evidence section.

15 Q. Okay. Did you have the same duties
16 and responsibilities back on June 6th, 1996?

17 A. Yes, sir, I did.

18 Q. Officer Mayne, let me ask you if at
19 approximately, sometime around 3:00 to 3:30 in the
20 morning, if you received a call to go up to the Rowlett
21 Police Station?

22 A. Yes, sir, on June 6, 1996.

23 Q. Right. Were you at home or were you
24 on duty at that time?

25 A. I was at home.

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1 Q. Do you recall about what time you got
2 up to the station?

3 A. Approximately 3:55 a.m.

4 Q. And what was the purpose of you going
5 up to the Rowlett Police Station?

6 A. To collect supplies, crime scene
7 supplies for a crime scene.

8 Q. All right. And about how long did it

9 take you to get all of those supplies and leave?

10 A. Approximately five minutes.

11 Q. Do you recall where the next place was

12 that you went after you left the station?

13 A. Yes, sir, Fire Station Number 2.

14 Q. And what was the purpose of you going

15 over there to the fire station?

16 A. To collect clothing from a victim and

17 also the defendant.

18 Q. Okay.

19

20 MR. GREG DAVIS: Would you mark this,

21 please.

22

23

24

25 (Whereupon, the following

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1 mentioned items were

2 marked for

3 identification only

4 after which time the

5 proceedings were

6 resumed on the record

7 in open court, as

8 follows:)

9

10 BY MR. GREG DAVIS:

11 Q. Officer Mayne, if you would, look at

12 what's been marked as State's Exhibit 23 and 23-A, and

13 tell me whether or not you recognize that to be some of

14 the clothing that you retrieved at the Rowlett fire

15 station that night?

16 A. Yes, sir, it is.

17 Q. All right. A pair of blue jeans and a

18 pair of underwear; is that right?

19 A. That's correct.

20 Q. Okay.

21

22 MR. GREG DAVIS: Your Honor, at this

23 time we'll offer State's Exhibit No. 23 and 23-A.

24 MR. RICHARD C. MOSTY: No objection.

25 THE COURT: All right. State's

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1 Exhibit 23 and 23-A are admitted.

2

3 (Whereupon, the items
4 Heretofore mentioned
5 Were received in evidence
6 As State's Exhibit No. 23
7 and 23-A for all purposes,
8 After which time, the
9 Proceedings were resumed
10 As follows:)

11

12 BY MR. GREG DAVIS:

13 Q. Officer Mayne, first looking at
14 State's Exhibit 23-A, is just a pair of underwear; is
15 that correct?

16 A. That's correct.

17 Q. And so you picked up the underwear,
18 and you also picked up a pair of blue jeans; is that
19 correct?

20 A. That's correct.

21 Q. And I believe you said in addition to
22 that you also picked up the shirt of the defendant?

23 A. That's correct.

24 Q. Okay. Officer Mayne, after you picked
25 up the clothing, where did you go next?

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1 A. I went to 5801 Eagle Drive.

2 Q. And about what time did you get to
3 that location?

4 A. Approximately 4:15 a.m.

5 Q. Okay. Did you go in the house, or
6 what did you do?

7 A. No, sir, I met with Sergeant David
8 Nabors and Sergeant Matt Walling.

9 Q. Okay. And let me ask you if sometime
10 shortly after you arrived, perhaps within a half an hour,
11 if you had occasion to meet with a Sergeant Tom Ward?

12 A. Yes, sir, I did.

13 Q. And where did you meet with Tom Ward?

14 A. I met Tom Ward approximately two
15 houses down in the alleyway from 5801 Eagle Drive.

16 Q. Okay. And at the time that you went
17 down there, did you photograph and did you retrieve a
18 certain piece of evidence?

19 A. Yes, sir. I photographed a white tube
20 sock that appeared to have blood on the sock and also
21 collected it.

22

23

24 (Whereupon, the following

25 mentioned item was
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1 marked for
2 identification only
3 after which time the
4 proceedings were
5 resumed on the record
6 in open court, as
7 follows:)

8
9

10 BY MR. GREG DAVIS:

11 Q. All right. Officer Mayne, let me show
12 you what's been marked as State's Exhibit 60. Do you
13 recognize that to be the tube sock that you retrieved on
14 June 6, 1996?

15 A. Yes, sir.

16 Q. The holes and the other defects that
17 we see in the sock, were they present at the time that
18 you retrieved this item?

19 A. No, sir.

20 Q. Okay. After you retrieved it, was it
21 placed in evidence for further analysis by other
22 individuals?

23 A. That's correct, it was.

24 Q. All right.

25

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1 MR. GREG DAVIS: Your Honor, at this
2 time we'll offer State's Exhibit No. 60.

3 MR. RICHARD C. MOSTY: No objection.

4 THE COURT: State's Exhibit No. 60 is
5 admitted.

6

7 (Whereupon, the item
8 Heretofore mentioned
9 Was received in evidence
10 As State's Exhibit No. 60
11 For all purposes,
12 After which time, the
13 Proceedings were resumed
14 As follows:)

15

16 BY MR. GREG DAVIS:

17 Q. Okay. Officer Mayne, you retrieved
18 the sock. Did you do any testing on the sock when you

19 retrieved it in the alley?

20 A. Yes, sir, I did. I did a presumptive
21 blood test on what appeared to be blood.

22 Q. Okay. And the purpose of that test is
23 to determine what?

24 A. If it was blood.

25 Q. All right. And what did it come back
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1 as?

2 A. It tested positive for some type of
3 blood.

4 Q. And I assume then after you had done
5 the presumptive test, is that when you placed it into
6 evidence for further analysis?

7 A. That's correct.

8 Q. Okay. After you had retrieved the
9 sock, and you had done the presumptive test on the sock,
10 what's the next thing that you did out at the scene?

11 A. I started photographing the exterior
12 of the house.

13 Q. Okay. Front and back?

14 A. That's correct.

15 Q. All right. And after you had finished
16 photographing, what's the next thing that you did?

17 A. I was advised that we were going to
18 get consent to enter the house, so -- and also a
19 consultant, James Cron, was called, and when he arrived
20 we met with him.

21 Q. Okay. So you met with James Cron.

22 Correct?

23 A. That's correct.

24 Q. Meeting with other officers outside
25 the house also?

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1 A. That's correct.

2 Q. Okay. And you're still outside the
3 house?

4 A. That's correct.

5 Q. Was there a taped off area outside of
6 the house also?

7 A. Yes, sir, there was. And also an
8 officer at the front door.

9 Q. Okay. When is the first time that you
10 entered the house?

11 A. Approximately 6:09 a.m.

12 Q. Okay. Did you go in there by

13 yourself, or did you go in with someone else?
14 A. I went in the house with Sergeant Matt
15 Walling and a neighbor of the residence, Karen Neal.
16 Q. All right. And just tell me where you
17 went inside the residence, where Sergeant Walling went,
18 and where Karen Neal went.
19 A. At the entrance inside the house,
20 there's a stairway. I walked up halfway of the stairs,
21 and Sergeant Walling and Karen Neal went to the top of
22 the stairs.
23 Q. Okay. Did you see what Karen Neal did
24 when she went up the stairs?
25 A. Yes, sir. She retrieved a small dog.
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1 Q. All right. And after she retrieved
2 the dog, what did she do?
3 A. She immediately walked down the stairs
4 and exited through the front door.
5 Q. Was Karen Neal in your sight the
6 entire time that she was inside that house?
7 A. Yes, sir.
8 Q. Approximately how long was she inside
9 the house?
10 A. Approximately two minutes.
11 Q. And what parts of the house was she in
12 when she went in there?
13 A. It would be the front entry, up the
14 stairs and at the top of the stairs.
15 Q. Did she do anything besides retrieve
16 the dog?
17 A. No, sir.
18 Q. You said that she left about two
19 minutes later; is that right?
20 A. Yes, sir.
21 Q. Did you and Sergeant Walling leave the
22 house?
23 A. No, sir.
24 Q. Okay. Did anyone else join you inside
25 the house?
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1 A. Yes, sir, James Cron and Sergeant
2 David Nabors.
3 Q. Okay. So, you're inside the house.
4 And is Sergeant Walling still in there?
5 A. Yes, sir.
6 Q. And James Cron, the consultant, came

7 in?

8 A. Yes, sir.

9 Q. Who else?

10 A. Sergeant David Nabors.

11 Q. So now there's four of you in there?

12 A. That's correct.

13 Q. And when you had been joined by James

14 Cron and David Nabors, what did you and Sergeant Walling

15 begin to do?

16 A. Sergeant Walling began taking us

17 through the house, a walk-through of the house of the

18 crime scene.

19 Q. All right. And do you remember what

20 part of the house that you went through during this

21 walk-through?

22 A. Yes, sir, the front entryway, down a

23 hallway into the family room, in the kitchen, to the

24 utility room, and to the garage area.

25 Q. Okay. And during the time that you're

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1 doing this walk-through with these other people, is any

2 evidence being collected at that time?

3 A. No, sir.

4 Q. Anything being touched?

5 A. No, sir.

6 Q. Anything being moved?

7 A. No sir.

8 Q. Okay. You've gone through the family

9 room, the kitchen, the utility room, back to the garage,

10 where do you go next?

11 A. We went in -- we came back through the

12 utility room, and to the kitchen, and then we exited

13 through the dining room to the utility room.

14 Q. Okay. Now, did all of you leave the

15 house at that point?

16 A. All except for me.

17 Q. All right. And why did you stay

18 behind?

19 A. I started photographing the scene.

20 Q. So, Sergeant Walling, James Cron and

21 David Nabors then left the house. Right?

22 A. Yes, sir.

23 Q. And you remained behind to take

24 photographs?

25 A. That's correct.

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1 Q. About how long did this walk-through
2 take place? I'm talking the four of you coming in,
3 walking through, before the other three left. About how
4 long did that take?

5 A. Approximately 20, 25 minutes, in that
6 area.

7 Q. And you started taking photographs.
8 Right?

9 A. That's correct.

10 Q. Of the interior rooms of the house?

11 A. Yes, sir.

12 Q. Did you take photographs in the family
13 room?

14 A. Yes, sir, I did.

15 Q. Did you take photographs in the
16 kitchen?

17 A. Yes, sir.

18 Q. Did you also take photographs in the
19 utility room?

20 A. That's correct.

21 Q. And did you take photographs of the
22 interior portion of the garage?

23 A. Yes, sir.

24 Q. Okay.

25

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1 (Whereupon, the following
2 mentioned items were
3 marked for
4 identification only
5 after which time the
6 proceedings were
7 resumed on the record
8 in open court, as
9 follows:)

10

11 BY MR. GREG DAVIS:

12 Q. Officer Mayne, if you would, let me
13 just open this up and ask you if you can identify State's
14 Exhibit 35 as being a true and correct floorplan of the
15 family room as it appeared on June 6, 1996? And if
16 photographs 35-A, 35-B, 35-C, 35-D, 35-E, 35-F, 35-G and
17 35-H are, in fact, photographs that you took of the
18 residence there on June 6th, 1996?

19 A. Yes, sir.

20 Q. Do they truly and accurately depict
21 the residence as it appeared that morning on June 6,
22 1996?

23 A. Yes, sir.

24 Q. Okay.

25

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1 MR. GREG DAVIS: Your Honor, at this
2 time we'll offer State's Exhibit 35 and the photographs
3 marked 35-A through 35-H inclusive.

4 MR. RICHARD C. MOSTY: No objection.

5 THE COURT: State's Exhibit 35, 35-A,

6 B, C, D, E, F, G and H are admitted.

7

8 (Whereupon, the items

9 Heretofore mentioned

10 Were received in evidence

11 As State's Exhibit No. 35, and

12 35-A through 35-H for all

13 Purposes, after which time, the

14 Proceedings were resumed

15 As follows:)

16

17 MR. GREG DAVIS: All right. If the

18 Officer could please step down, your Honor.

19 THE COURT: All right. Please watch

20 your step going off there.

21 THE WITNESS: Yes, sir.

22

23 (Whereupon, the witness

24 Stepped down from the

25 Witness stand, and

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1 Approached the jury rail

2 And the proceedings were

3 Resumed as follows:

4

5 MR. GREG DAVIS: Okay. If you will

6 step around to the side so all of the jurors can see the

7 exhibit.

8 THE COURT: All right. Yes, so they

9 can see.

10

11 BY MR. GREG DAVIS:

12 Q. Officer Mayne -- okay. Again, we're

13 looking at the floorplan of the den here; is that right?

14 A. That's correct.

15 Q. All right. And State's Exhibit 35-A

16 right here, what do we see in that photograph, sir?

17 A. We see a coffee table with a flower
18 arrangement that is turned over.
19 Q. All right. And that coffee table was
20 essentially there in the middle of the room. Right?
21 A. That's correct.
22 Q. Okay. 35-B. What do we see in that
23 photograph, sir?
24 A. We see blood on the carpet, and, okay.
25 It's in the area here. It would be the area to the
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1 hallway here to the entry to the kitchen.
2 Q. Okay. So this area in 35-B, if we
3 walk in, it's right to our left in that family room.
4 Right?
5 A. That's correct.
6 Q. Okay. 35-C up here, what portion of
7 the room are we looking at here?
8 A. We're looking at -- excuse me, the
9 couch here, and we see a blue blanket here. This is part
10 of the coffee table, and also a pillow right here.
11 Q. Okay. So, on the chart here -- and
12 we're looking at this couch that's on the what, the west
13 side of the room?
14 A. It --
15 Q. I believe that's the west.
16 A. That's correct, it is the west.
17 Q. And we see, in fact, a yellow pillow
18 here. In 35-C is the pillow that you found on the couch;
19 is that right?
20 A. That's correct.
21 Q. And there was a blue blanket. Was
22 there also a green blanket right next to it right here?
23 A. Yes, sir. You can't hardly see it but
24 there is a green blanket there.
25 Q. Okay. The corner of the coffee table.
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1 You've got, what, a maroon-colored pillow leaning up
2 against this couch; is that right?
3 A. Yes, sir, right here.
4 Q. State's Exhibit 35-D, is that a
5 close-up of the corner of the coffee table that we see in
6 35-C?
7 A. That's correct.
8 Q. Does there appear to be blood on the
9 corner of that coffee table?
10 A. Yes, sir, there is.

11 Q. Okay. State's Exhibit 35-E, again,
12 are we looking at the portion of the room that's going to
13 be in front of this couch on the west side of the room?

14 A. That's correct.

15 Q. And there's a large red area in that
16 photograph; is that correct?

17 A. That's correct. That's where the --
18 yes, sir. Beside the couch right here.

19 Q. Okay. And does that appear to be
20 blood?

21 A. Yes, sir, it is.

22 Q. Okay. I want to direct your attention
23 to the top portion of that photograph, and we see another
24 area right up in here next to the maroon pillow. Can you
25 tell us what that appeared to be when you looked at that
Sandra M. Halsey, CSR, Official Court Reporter
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1 that morning?

2 A. That is a small blood handprint.

3 Q. With fingers pointing toward the
4 pillow; is that right?

5 A. That's correct.

6 Q. State's Exhibit 35-E, are we looking
7 between the two couches at this point?

8 A. Yes, sir, we are.

9 Q. And as you looked at the armrest, did
10 there appear to be blood on the armrest of the couches?

11 A. Yes, sir, there is.

12 Q. And 35-G, are we now looking from
13 behind the couch on the north end of the room?

14 A. Yes, we are.

15 Q. And does there appear to be blood
16 along the armrest of that couch also leading back?

17 A. Yes, sir, there is.

18 Q. State's Exhibit 35-H. Is that a
19 photograph of the couch on the north side of the room?

20 A. Yes, sir, it is.

21 Q. It shows a portion of the maroon
22 pillow, and then other pillows that you found on the
23 couch; is that right?

24 A. That's correct.

25 Q. Now, Officer, I believe you testified
Sandra M. Halsey, CSR, Official Court Reporter
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1 that you also photographed the kitchen, is that correct?

2 A. That's correct.

3 Q. Okay.

4

5

6

7 (Whereupon, the following

8 mentioned item was

9 marked for

10 identification only

11 after which time the

12 proceedings were

13 resumed on the record

14 in open court, as

15 follows:)

16

17 BY MR. GREG DAVIS:

18 Q. If you will please look at State's

19 Exhibit No. 36, 36-A, 36-B, 36-C, D, E, F and G. And let

20 me ask you if 36 is, in fact, an accurate floorplan or

21 depiction of the kitchen as it appeared that morning on

22 June 6, 1996. And if photographs marked as State's

23 Exhibits 36-A through 36-G are, in fact, true and

24 accurate depictions of the kitchen as it appeared to you

25 on June 6, 1996?

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1 A. Yes, sir, it is.

2 Q. And those are, in fact, photographs

3 that you took of the kitchen area; is that right?

4 A. That's correct.

5

6 MR. GREG DAVIS: Your Honor, at this

7 time we'll offer State's Exhibit 36, and the photographs

8 that have been marked 36-A through 36-G inclusive.

9 MR. RICHARD C. MOSTY: No objection.

10 THE COURT: State's Exhibits 36, 36-A,

11 B, C, D, E, F and G are admitted.

12

13 (Whereupon, the items

14 Heretofore mentioned

15 Were received in evidence

16 As State's Exhibit No. 36,

17 and 36-A through 36-G for all

18 Purposes, After which time,

19 The proceedings were resumed

20 As follows:)

21

22 BY MR. GREG DAVIS:

23 Q. Officer, as we look through -- first

24 of all, if we're looking at --

25

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1 (Whereupon, the witness
2 stepped down from the
3 witness box, and approached
4 the jury rail, for the
5 purpose of further describing
6 the exhibit to the jury.)

7
8 THE COURT: Better lean over a little
9 bit.

10 Mr. Mosty, can you see that over
11 there?

12 MR. RICHARD C. MOSTY: Yes, sir.

13 THE COURT: Okay. Good.

14 Can the jury see that? Okay. Good.

15

16 BY MR. GREG DAVIS:

17 Q. As we look at this diagram, the left
18 portion, if we were to walk out the left portion, would
19 we be walking into the family room that we just looked
20 at?

21 A. Yes, sir.

22 Q. All right. So the left portion of the
23 kitchen then faces to the family room; is that right?

24 A. That's correct.

25 Q. The right portion, does that lead back

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1 here to the utility room?

2 A. That's correct.

3 Q. Do we see a green object here? What
4 is that?

5 A. That's a green rug.

6 Q. Okay. We see the kitchen sink here?

7 A. Yes, sir.

8 Q. And pointing to another area, is that
9 the range?

10 A. Yes, sir.

11 Q. The refrigerator, the black object
12 here?

13 A. Yes, sir.

14 Q. Two rectangular areas, are those also
15 rugs?

16 A. Yes, sir, it is.

17 Q. Okay. We've got another circle with a

18 line through it with some bottles. Was there a wine rack
19 located in the kitchen in that area?

20 A. Yes, sir, it was.

21 Q. And we have another circular area.

22 Was this a trash can that was located in that portion of
23 the kitchen?

24 A. Yes, sir, it was.

25 Q. And we've got another white rectangle.

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1 Was that an island?

2 A. The counter, yes, sir.

3 Q. Okay. If we can, we'll start here at

4 State's Exhibit 35-A. Tell us what we see in that
5 photograph.

6 A. It's the end portion of the bar with a
7 white-handled butcher knife with blood on it.

8 Q. Okay. So, we're looking at the end of
9 this counter right here. Right?

10 A. That's correct.

11 Q. And we see here a knife with a handle
12 pointed toward the kitchen area. Correct?

13 A. That's correct.

14 Q. And the knife had blood on the --

15 A. On the blade and the handle.

16 Q. Okay. Was there also any blood that
17 you could see up here on the counter?

18 A. Yes, sir. There was some cast-off
19 type blood on the counter, and also blood drops.

20 Q. Okay. Now, State's Exhibit 36-B, is
21 this a photograph of the same area with the knife now
22 gone?

23 A. That's correct.

24 Q. Okay. And did you, yourself, retrieve
25 that knife and take it off of the counter?

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1 A. Yes, sir, I did.

2 Q. And when the knife was removed, could
3 you still see blood present on this counter area?

4 A. Yes, sir, you could.

5 Q. And is that depicted in State's
6 Exhibit 36-B?

7 A. Yes, sir.

8 Q. If you could now let's look at State's
9 Exhibits 36-C and 36-D. Do we see the wine rack?

10 A. Yes, sir, we do.

11 Q. And again, that's going to be located
12 as you come in through the family room, right in this
13 area. Right?

14 A. Yes, sir

15

16 MR. RICHARD C. MOSTY: Your Honor, we
17 are going to have to object to the continuous leading.

18 THE COURT: Well, let's phrase the
19 questions properly. Sustain the objection.

20

21 BY MR. GREG DAVIS:

22 Q. All right. What are State's Exhibits
23 36-C and 36-D?

24 A. It is a tall wine rack leading into
25 the kitchen from the family room, and you can see a wine
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1 bottle here that is partially turned over. And you can
2 also see broken glass on the linoleum tile here.

3 Q. Okay. Let me ask you, so that all of
4 the jurors can see, am I pointing at the bottle that
5 you've just indicated as being turned over?

6 A. Yes, sir.

7 Q. Okay. And you had also indicated a
8 portion of a part of glass on the floor. Am I now
9 pointing at a portion of that?

10 A. Yes, sir.

11 Q. And am I also pointing to another
12 portion that you saw there that morning?

13 A. Yes, sir. There's also blood drops
14 leading from in between here and the family room on the
15 linoleum.

16 Q. Okay. And you're pointing to State's
17 Exhibit 36-D; is that right?

18 A. That's correct.

19 Q. As you looked at State's Exhibit 36-C,
20 can you see anymore blood on the floor in that
21 photograph?

22 A. Yes, sir. You can see the blood drops
23 leading on the right side of the island here on the
24 linoleum tile.

25 Q. Okay. Looking at the wine rack here
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1 in 36-D, you had mentioned the broken glass on the floor,
2 did you notice any items on this wine rack that were
3 broken?

4 A. No, sir.

5 Q. Now, State's Exhibit No. 36-C. What
6 do we look at in this photograph?

7 A. This is an area of the counter where

8 the range is. And there's a knife block with knives in
9 it. And it's a nine-hole knife block, and there's only
10 eight knives in the knife block.

11 Q. Okay. And that was located next to
12 the range?

13 A. That's correct.

14 Q. And State's Exhibit No. 36-F, what are
15 we seeing there?

16 A. This is leading into the utility room
17 here from the kitchen, and here is the range, here is an
18 island here, and you see blood drops here on the linoleum
19 tile.

20 Q. Okay. So, we -- do we see a part of
21 the utility room here?

22 A. Yes, sir.

23 Q. And did I understand you to say
24 there's blood drops in this portion that I'm pointing to
25 in State's Exhibit 36-F?

Sandra M. Halsey, CSR, Official Court Reporter
1619

1 A. Yes, sir.

2 Q. And is the range shown on the left
3 hand part of the photograph?

4 A. Yes, sir, it is.

5 Q. And State's Exhibit 36-G. If you
6 would just take this pointer, and just show us what we
7 see in State's Exhibit 36-G?

8 A. Okay. Here's the kitchen sink right
9 here, and you can see the blood right here at the kitchen
10 sink. You can see blood right here. Here's a green rug
11 here, which is going to be this rug right here. And you
12 can see a vacuum cleaner that's on its top here, right
13 here, lying down, and you can see the blood right in
14 here.

15 Q. Okay. This vacuum cleaner that we see
16 there in the photograph, did any -- did you or any other
17 police officer place it in this position?

18 A. No, sir.

19 Q. Okay. Tell the members of the jury
20 how this vacuum cleaner was positioned the very first
21 time that you saw it?

22 A. It was positioned as you see it here,
23 lying down on its -- I call it its top. The wheels are
24 up and, --

25 Q. Okay. The kitchen sink on the
Sandra M. Halsey, CSR, Official Court Reporter

1620

1 right-hand part of the photograph?

2 A. Yes, sir.

3 Q. Okay. Where would the family room be

4 in relation to State's Exhibit 36-G?

5 A. Okay. The family room, you can see

6 this area right here. The bar would be up here, and the

7 family room would be right up here.

8 Q. Okay. Officer Mayne, did I understand

9 you to say that you also photographed the utility room?

10 A. Yes, sir.

11 Q. Okay.

12

13

14 (Whereupon, the following

15 mentioned item was

16 marked for

17 identification only

18 after which time the

19 proceedings were

20 resumed on the record

21 in open court, as

22 follows:)

23

24

25

Sandra M. Halsey, CSR, Official Court Reporter

1621

1 BY MR. GREG DAVIS:

2 Q. If you would, if you'll look at what's

3 been marked as State's Exhibits 38-A, 38-B, 38-C and

4 38-D. Do these photographs truly and accurately depict

5 the utility room as it appeared on June 6th, 1996?

6 A. Yes, sir.

7 Q. These are photographs that you took

8 that morning?

9 A. Yes, sir.

10

11 MR. GREG DAVIS: Your Honor, at this

12 time we'll offer State's Exhibits 38-A, B, C and D.

13 MR. RICHARD C. MOSTY: No objection.

14 THE COURT: All right. State's

15 Exhibit 38-A, B, C and D are admitted.

16 MR. GREG DAVIS: Okay.

17

18 (Whereupon, the items

19 Heretofore mentioned

20 Were received in evidence

21 As State's Exhibit No. 38-A

22 through 38-D for all purposes,

23 After which time, the
24 Proceedings were resumed
25 As follows:)
Sandra M. Halsey, CSR, Official Court Reporter
1622

1
2 BY MR. GREG DAVIS:
3 Q. Officer, if we could go through these
4 four photographs. And if you will step back so all the
5 jurors can see here.
6 State's Exhibit 38-A. What are we
7 looking at there?
8 A. We're looking at the utility room
9 area. You can see blood drops right here, and a small
10 child's cap right here.
11 Q. Okay. Did there appear to be any
12 blood on this cap?
13 A. No, sir.
14 Q. Okay. 38-B, is this another closer
15 image of the same ball cap?
16 A. Yes, sir, it is. You can see the
17 blood drops here, but one thing that I don't see in it is
18 cast-off type blood. It's just, you know, large blood
19 drops.
20 Q. Okay. State's Exhibit 38-C. What do
21 we see here?
22 A. This type of blood on the door,
23 transfer-type blood where somebody might have touched the
24 door.
25 Q. Which door are we looking at here, in
Sandra M. Halsey, CSR, Official Court Reporter
1623

1 38-C?
2 A. This door leads into the garage area
3 from the utility room.
4 Q. And finally, State's Exhibit 38-D.
5 What are we looking at here?
6 A. Looking at the linoleum flooring going
7 into the garage, interior of the garage.
8 Q. And do we see in 38-D the same door
9 that's shown in 38-C?
10 A. Yes, sir.
11 Q. And it's on the left-hand portion of
12 the photograph?
13 A. Yes, sir.
14 Q. And did I understand you to say the
15 top portion of this photograph would then lead into the
16 garage?

17 A. Yes, sir.
18 Q. Okay. Officer Mayne, did you also
19 take photographs of the garage?
20 A. Yes, sir, I did.
21 Q. Okay.
22
23
24
25 (Whereupon, the following
Sandra M. Halsey, CSR, Official Court Reporter
1624

1 mentioned item was
2 marked for
3 identification only
4 after which time the
5 proceedings were
6 resumed on the record
7 in open court, as
8 follows:)
9

10 BY MR. GREG DAVIS:

11 Q. Sir, if you would, looking at State's
12 Exhibit Number 40, 40-A and 40-B. First of all, State's
13 Exhibit 40, is that an accurate diagram of the way the
14 garage appeared on June 6, 1996?

15 A. Yes, sir.

16 Q. State's Exhibits 40-A and 40-B. Do
17 those photographs truly and accurately depict the garage
18 as it appeared during the morning hours of June 6, 1996?

19 A. Yes, sir.

20 Q. Okay.

21

22 MR. GREG DAVIS: Your Honor, at this
23 time we would offer State's Exhibits 40, 40-A and 40-B.

24 MR. RICHARD C. MOSTY: No objection.

25 THE COURT: All right. State's
Sandra M. Halsey, CSR, Official Court Reporter
1625

1 Exhibits 40, 40-A and B are admitted.

2

3 (Whereupon, the items
4 Heretofore mentioned
5 Were received in evidence
6 As State's Exhibit No. 40 and
7 40-A and 40-B for all purposes,
8 After which time, the
9 Proceedings were resumed
10 As follows:)

11

12 BY MR. GREG DAVIS:

13 Q. Just so we can orient the jury. On

14 State's Exhibit 40, do we see a portion of the kitchen in
15 that diagram, sir?

16 A. Yes, sir, right here.

17 Q. And do we see the doorway that would
18 lead from the utility room into the garage?

19 A. Yes, sir, it's right here.

20 Q. And we have a white rectangle in the
21 garage. What does that represent?

22 A. It's a freezer/refrigerator.

23 Q. All right. If we could, looking first
24 at State's Exhibit 40-A. What part of the garage are we
25 looking at there?

Sandra M. Halsey, CSR, Official Court Reporter
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1 A. We're looking at --

2 Q. If you need to, why don't you just
3 take this.

4 A. Yes, sir. We're looking at this area
5 here, it would be this area up here, through here. It's
6 the overhead garage door.

7 Q. Okay. Overall condition of the garage
8 that morning?

9 A. Boxes, bikes, just a normal garage.

10 Q. Okay. State's Exhibit 40-B. What are
11 we looking at there, sir?

12 A. We're looking from down here, this
13 would be the door leading from the utility room. This is
14 the wall here, and this is the area to the window that I
15 was told that the suspect entered and exited.

16 Q. All right. The top portion of the
17 photograph, does it show the window that you believed, or
18 were told to be the point of entry?

19 A. Yes, sir.

20 Q. Was there anything still on that
21 window?

22 A. Yes, sir. The screen was on the
23 window.

24 Q. Okay. Can we see the screen in the
25 photograph?

Sandra M. Halsey, CSR, Official Court Reporter
1627

1 A. Yes, sir. You can see it with the cut
2 in the window screen.

3 Q. All right. This wooden object with
4 the wire next to it, what is that?

5 A. That's some type of animal cage.
6 Q. Okay. Were there any animals in this
7 cage?
8 A. No, sir.
9 Q. What's in the cage then?
10 A. It looks like some type of litter, cat
11 litter box maybe, and just bowls for animals, eating and
12 drinking.
13 Q. Beside them to the left of the window?
14 A. That's a carrying case for an animal.
15 Q. Okay.
16 A. And we've also got a trash can here,
17 and some shoes here. In this area here, I determined
18 that it was some type of liquid Kool-aid, maybe some type
19 of --
20 Q. Okay. You talked about a presumptive
21 test for blood on the sock. Did you do a presumptive
22 test for the area that is shown here on State's Exhibit
23 40-B?
24 A. No, sir, I did not.
25 Q. Was it later -- did someone else do
Sandra M. Halsey, CSR, Official Court Reporter
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1 some analysis on that?
2 A. Yes, sir. And also, you can see a
3 trash can here, and this would be the
4 refrigerator/freezer right here.
5 Q. Okay. Directing your attention back
6 to the window, was the window open or closed when you
7 first saw it?
8 A. It was open.
9 Q. Okay. Before you photographed this
10 window, sir, did you change the position of the window in
11 any way?
12 A. No, sir, I did not.
13 Q. How about the screen? Did you touch
14 the screen or reposition it in any way before
15 photographing it here in State's Exhibit 40-B?
16 A. No, sir. Also in here, we searched
17 for blood on any of these items on the windowsill, and we
18 could not locate any blood.
19
20 MR. GREG DAVIS: Why don't you go back
21 up to your seat.
22
23 (Whereupon, the witness
24 Resumed the witness
25 Stand, and the

Sandra M. Halsey, CSR, Official Court Reporter
1629

1 Proceedings were resumed

2 On the record, as

3 Follows:)

4

5 BY MR. GREG DAVIS:

6 Q. Officer Mayne, after you photographed

7 the portions of the house that we have just seen, what's

8 the next thing that you did?

9 A. Waited on the Medical Examiner field

10 agent.

11 Q. All right. And do you know about what

12 time the medical examiner came into the house?

13 A. Yes, sir, approximately 6:55 a.m.

14 Q. All right. And what did you do when

15 the medical examiner came in?

16 A. I met with her and we proceeded to go

17 to where the body was in the family room.

18 Q. Okay. And what did you do then?

19 A. She uncovered the body and I began

20 taking photographs of the body.

21 Q. Okay. Of the child that was still in

22 the room?

23 A. That's correct.

24 Q. Now, would you mind telling us then,

25 what's the next thing that you did after you finished

Sandra M. Halsey, CSR, Official Court Reporter

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1 taking photographs of the other child?

2 A. After we took the photographs, the

3 body was removed from the area, and I began collecting

4 evidence.

5 Q. Okay. You had indicated that the

6 medical examiner's field agent came in. Anybody else

7 come into the house before you began collecting evidence?

8 A. Yes, sir.

9 Q. Okay. Who came in?

10 A. Sergeant David Nabors.

11 Q. All right. And was he your

12 supervisor?

13 A. Yes, sir, he was.

14 Q. Anybody else come in?

15 A. I think James Cron was in there.

16 Q. Had you dealt with James Cron before?

17 A. Yes, sir.

18 Q. Did you know who he was?

19 A. Yes, sir, I did.

20 Q. And when you began to collect
21 evidence, tell us, what's the first thing that you did in
22 collecting evidence in that house?
23 A. I began collecting hair, fiber samples
24 from the area where the body was removed.
25 Q. Okay. Are you talking about the body
Sandra M. Halsey, CSR, Official Court Reporter
1631

1 that you saw being removed?
2 A. That's correct. The one the medical
3 examiner field agent removed.
4 Q. Okay. So you collected hair. How did
5 you do that?
6 A. I collected it by using plastic
7 tweezers.
8 Q. Okay. And did you do any analysis on
9 that hair?
10 A. No, sir, I did not.
11 Q. What did you do with it?
12 A. I collected it and preserved it for
13 further examination.
14 Q. Okay. Did you put it into evidence
15 then?
16 A. Yes, I did.
17 Q. Okay. So, you collected the hair.
18 What's the next thing that you did?
19 A. I collected the blue and green blanket
20 from the family room area.
21 Q. Okay. And were those the blankets
22 that we saw on the photograph next to the couch?
23 A. Yes, sir, they were.
24 Q. Okay.
25
Sandra M. Halsey, CSR, Official Court Reporter
1632

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
13 BY MR. GREG DAVIS:

14 Q. Officer Mayne, let me show you what's
15 been marked as State's Exhibit 62. Do you recognize
16 that, sir?

17 A. Yes, sir, I do.

18 Q. Okay. And what is that?

19 A. That's the blue blanket that I removed
20 from the family room.

21 Q. Okay. Did you place it into evidence
22 that day?

23 A. Yes, sir, I did.

24 Q. Did you do any analysis on the blanket
25 yourself?

Sandra M. Halsey, CSR, Official Court Reporter
1633

1 A. No, sir.

2

3 MR. GREG DAVIS: Your Honor, at this
4 time we'll offer State's Exhibit 62.

5 MR. RICHARD C. MOSTY: No objection.

6 THE COURT: State's Exhibit 62 is
7 admitted.

8

9 (Whereupon, the item

10 Heretofore mentioned

11 Was received in evidence

12 As State's Exhibit No. 62

13 For all purposes,

14 After which time, the

15 Proceedings were resumed

16 As follows:)

17

18 BY MR. GREG DAVIS:

19 Q. And again, where did you find this
20 item No. 62?

21 A. I found it beside the couch in the
22 family room.

23 Q. Okay.

24

25

Sandra M. Halsey, CSR, Official Court Reporter
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1 (Whereupon, the following

2 mentioned item was

3 marked for

4 identification only

5 after which time the

6 proceedings were

7 resumed on the record

8 in open court, as
9 follows:)

10

11 BY MR. GREG DAVIS:

12 Q. Officer Mayne, let me show you what's
13 been marked as State's Exhibit 61. Do you recognize
14 that, sir?

15 A. Yes, sir, I do.

16 Q. What is that?

17 A. That's the green blanket that I
18 removed from the family room beside the couch.

19 Q. Okay. And did you also place this
20 into evidence?

21 A. Yes, sir, I did.

22 Q. Did you do any analysis on this
23 blanket yourself?

24 A. No, sir, I did not.

25

Sandra M. Halsey, CSR, Official Court Reporter
1635

1 MR. GREG DAVIS: Your Honor, at this
2 time we'll offer State's Exhibit 61

3 MR. RICHARD C. MOSTY: No objection.

4 THE COURT: State's Exhibit 61 is
5 admitted.

6

7 (Whereupon, the item

8 Heretofore mentioned

9 Was received in evidence

10 As State's Exhibit No. 61

11 For all purposes,

12 After which time, the

13 Proceedings were resumed

14 As follows:)

15

16 BY MR. GREG DAVIS:

17 Q. Let me ask you, Officer Mayne, when
18 you were collecting these two blankets, did you notice
19 whether or not you could see any blood on those two
20 blankets?

21 A. Yes, sir. There was some type of
22 blood on the blankets.

23 Q. Now, after you had collected the blue
24 and the green blanket, what's the next thing that you
25 did?

Sandra M. Halsey, CSR, Official Court Reporter
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1 A. I collected a plaid cloth that was
2 bloody on the carpet runner between the loveseat and the
3 bar in the family room. And also collected two rags in
4 the hallway beside the bathroom door.

5 Q. Okay. Let me also ask you if at some
6 later date whether or not you retrieved any evidence from
7 the front porch of the house?

8 A. Yes, sir, I did.

9 Q. And what evidence did you retrieve out
10 there?

11 A. A white rag that was bloody on the
12 front porch.

13 Q. Okay.

14

15 (Whereupon, the following
16 mentioned item was

17 marked for

18 identification only

19 after which time the

20 proceedings were

21 resumed on the record

22 in open court, as

23 follows:)

24

25

Sandra M. Halsey, CSR, Official Court Reporter
1637

1 BY MR. GREG DAVIS:

2 Q. Sir, if you would, if you would look
3 at State's Exhibit 66. Do you recognize that?

4 A. Yes, sir.

5 Q. Okay. What is State's Exhibit No. 66?

6 A. The white rag that was on the front
7 porch.

8 Q. Did you retrieve that?

9 A. Yes, sir, I did.

10 Q. And did you place that into evidence
11 also?

12 A. Yes, sir.

13 Q. Did you do any analysis on that rag
14 yourself?

15 A. No, sir.

16 Q. All right.

17

18 MR. GREG DAVIS: Your Honor, at this
19 time we'll offer State's Exhibit 66.

20 MR. RICHARD C. MOSTY: No objection.

21 THE COURT: State's Exhibit 66 is

22 admitted.

23
24 (Whereupon, the item
25 Heretofore mentioned
Sandra M. Halsey, CSR, Official Court Reporter
1638

1 Was received in evidence
2 As State's Exhibit No. 66
3 For all purposes,
4 After which time, the
5 Proceedings were resumed
6 As follows:)
7
8 MR. RICHARD C. MOSTY: Just for
9 clarification, we're going to need the bags with these.
10 MR. GREG DAVIS: Right.
11 MR. RICHARD C. MOSTY: So we can
12 identify them.
13 MR. GREG DAVIS: Right.
14
15
16
17 (Whereupon, the following
18 mentioned item was
19 marked for
20 identification only
21 after which time the
22 proceedings were
23 resumed on the record
24 in open court, as
25 follows:)
Sandra M. Halsey, CSR, Official Court Reporter
1639

1
2 BY MR. GREG DAVIS:
3 Q. Officer Mayne, would you please look
4 at State's Exhibits 64 and 65, and tell me whether or not
5 you recognize those two items, sir?
6 A. Yes, sir, I do.
7 Q. Okay. And what are they?
8 A. The rags I found in the hallway.
9 Q. Okay. And, did you place them into
10 evidence?
11 A. Yes, sir, I did.
12 Q. Did you do any analysis on them
13 yourself?
14 A. No, sir.
15 Q. Okay.
16

17 MR. GREG DAVIS: Your Honor, at this
18 time we'll offer State's Exhibit 64 and 65.
19 MR. RICHARD C. MOSTY: No objection.
20 THE COURT: State's Exhibit 64 and 65
21 are admitted.
22
23 (Whereupon, the items
24 Heretofore mentioned
25 Were received in evidence
Sandra M. Halsey, CSR, Official Court Reporter
1640

1 As State's Exhibit No. 64
2 and No. 65 for all purposes,
3 After which time, the
4 Proceedings were resumed
5 As follows:)

6
7 BY MR. GREG DAVIS:
8 Q. All right. You've collected the
9 washcloths now. Please tell us the next thing that you
10 did inside the house.

11 A. I collected the white butcher knife
12 that was on the bar and also the butcher block.

13 Q. Okay. And before you collected those
14 two items, sir, did you photograph them?

15 A. Yes, sir, I did.

16 Q. Okay.

17
18
19 (Whereupon, the following
20 mentioned items were
21 marked for
22 identification only
23 after which time the
24 proceedings were
25 resumed on the record

Sandra M. Halsey, CSR, Official Court Reporter
1641

1 in open court, as
2 follows:)

3

4

5 BY MR. GREG DAVIS:

6 Q. Officer Mayne, if you will look,
7 please, at State's Exhibit 37-A and 37-B. First, does
8 37-A truly and accurately depict the knife as it appeared
9 on June 6, 1996? And does State's Exhibit 37-B truly and
10 accurately depict the butcher block with the eight knives

11 as it appeared on June 6, 1996?
12 A. Yes, sir, it does.
13
14 MR. GREG DAVIS: Your Honor, at this
15 time we'll offer State's Exhibits 37-A and 37-B.
16 MR. RICHARD C. MOSTY: No objection.
17 THE COURT: State's Exhibit 37-A and B
18 are admitted.
19
20 (Whereupon, the items
21 Heretofore mentioned
22 Were received in evidence
23 As State's Exhibit No. 37-A
24 and 37-B for all purposes,
25 After which time, the
Sandra M. Halsey, CSR, Official Court Reporter
1642

1 Proceedings were resumed
2 As follows:)
3
4
5 BY MR. GREG DAVIS:
6 Q. Again, just very briefly, 37-A shows
7 the knife on the bar; is that right?
8 A. That's correct.
9 Q. 37-B, that shows the butcher block
10 with the knives?
11 A. Yes, sir, it does.
12 Q. Okay. Was there one of the slots
13 still open and empty on the butcher block?
14 A. Yes, sir, it was.
15 Q. Okay.
16
17 (Whereupon, the following
18 mentioned item was
19 marked for
20 identification only
21 after which time the
22 proceedings were
23 resumed on the record
24 in open court, as
25 follows:)
Sandra M. Halsey, CSR, Official Court Reporter
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1
2 BY MR. GREG DAVIS:
3 Q. Officer Mayne, if you will, please,
4 look at State's Exhibit 67, and tell me whether or not

5 you recognize that.

6 A. Yes, sir, I do.

7 Q. Okay. What is State's Exhibit No. 67?

8 A. That's the knife that I located on the
9 bar.

10 Q. Okay. Is that the same knife that is
11 shown here in State's Exhibit Number 37-A?

12 A. Yes, sir, it is.

13 Q. Okay. When you retrieved State's
14 Exhibit 67, did you place it directly into evidence, or
15 what did you do with it?

16 A. I put it in a paper bag and secured
17 it.

18 Q. Okay. Did you later give it to
19 someone?

20 A. Yes, sir, I did. I gave it to Charlie
21 Linch, which is with Southwestern Forensic Science in
22 Dallas County.

23

24 MR. GREG DAVIS: Your Honor, at this
25 time we'll offer State's Exhibit 67.

Sandra M. Halsey, CSR, Official Court Reporter
1644

1 MR. RICHARD C. MOSTY: No objection.

2 THE COURT: State's Exhibit 67 is
3 admitted.

4

5 (Whereupon, the item
6 Heretofore mentioned
7 Was received in evidence
8 As State's Exhibit No. 67

9 For all purposes,
10 After which time, the
11 Proceedings were resumed
12 As follows:)

13

14 MR. GREG DAVIS: Would you mark this,
15 please.

16

17 (Whereupon, the following
18 mentioned item was
19 marked for
20 identification only
21 after which time the
22 proceedings were
23 resumed on the record
24 in open court, as
25 follows:)

Sandra M. Halsey, CSR, Official Court Reporter
1645

1
2 BY MR. GREG DAVIS:
3 Q. Officer Mayne, let me show you what's
4 been marked for identification purposes as State's
5 Exhibit 67-A (sic).
6 A. Yes, sir.
7 Q. Do you recognize that?
8 A. It says 68.
9 Q. I'm sorry, 68.
10 A. Yes, sir.
11 Q. Do you recognize that?
12 A. Yes, sir.
13 Q. Okay. Is this the butcher block that
14 is shown in State's Exhibit 37-B?
15 A. Yes, sir, it is.
16 Q. Okay. Is there a certain amount of
17 writing on the outside of this, sir?
18 A. Yes, sir, there is.
19 Q. Okay. Was that done after it was
20 retrieved by you?
21 A. That was after.
22 Q. Okay. Was there any writing on the
23 outside of it at the time that you retrieved it?
24 A. No, sir, there was not.
25

Sandra M. Halsey, CSR, Official Court Reporter
1646

1 MR. GREG DAVIS: Your Honor, at this
2 time we'll offer State's Exhibit 68.
3 MR. RICHARD C. MOSTY: No objection.
4 THE COURT: State's Exhibit 68 is
5 admitted.
6
7 (Whereupon, the item
8 Heretofore mentioned
9 Was received in evidence
10 As State's Exhibit No. 68
11 For all purposes,
12 After which time, the
13 Proceedings were resumed
14 As follows:)
15
16
17 (Whereupon, the following
18 mentioned items were
19 marked for

20 identification only
21 after which time the
22 proceedings were
23 resumed on the record
24 in open court, as
25 follows:)
Sandra M. Halsey, CSR, Official Court Reporter
1647

1
2 BY MR. GREG DAVIS:
3 Q. Sir, now, if you'll look, please, at
4 State's Exhibit 68-D, 68-E, 68-G, 68-F, 68-C, 68-B, 68-A,
5 and 68-H. Do you recognize these eight knives that I
6 have placed before you, sir?
7 A. Yes, sir.
8 Q. Are they the knives that you found in
9 the butcher block, State's Exhibit 68 on June 6, 1996,
10 sir?
11 A. Yes, sir.
12
13 MR. GREG DAVIS: Your Honor, at this
14 time we will offer State's Exhibit 68-A, B, C, D, E, F, G
15 and H.
16 MR. RICHARD C. MOSTY: A through H?
17 MR. GREG DAVIS: Yes, sir.
18 MR. RICHARD C. MOSTY: No objection.
19 THE COURT: State's Exhibit 68-A, B,
20 C, D, E, F, G and H are admitted.
21
22 (Whereupon, the items
23 Heretofore mentioned
24 Were received in evidence
25 As State's Exhibit No. 68-A
Sandra M. Halsey, CSR, Official Court Reporter
1648

1 through 68-H for all purposes,
2 After which time, the
3 Proceedings were resumed
4 As follows:)
5
6 BY MR. GREG DAVIS:
7 Q. Officer Mayne, after you retrieved
8 State's Exhibit 67, and you retrieved the butcher block
9 with the knives in it, what's the next thing that you
10 did?
11 A. I started collecting blood samples.
12 Q. Okay. And what sort of training have
13 you received for the taking of blood samples?

14 A. I have been to numerous schools, crime
15 scene schools, and collecting type-blood evidence.
16 Q. Okay. How many years have you been
17 collecting blood evidence?
18 A. Approximately nine years.
19 Q. Okay. You got any approximation for
20 the number of crime scenes where you've actually
21 retrieved blood?
22 A. Approximate, 50.
23 Q. Okay. And do you recall the areas of
24 the house where you tried to retrieve blood that morning?
25 A. Yes, sir. In the family room, the
Sandra M. Halsey, CSR, Official Court Reporter
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1 kitchen area, the utility room, and in the front entry of
2 the house.

3 Q. Okay. What methods were you using to
4 try to collect this?

5 A. I used razor blades, scraping dried
6 blood samples.

7 Q. Okay.

8

9 (Whereupon, the following

10 mentioned item was

11 marked for

12 identification only

13 after which time the

14 proceedings were

15 resumed on the record

16 in open court, as

17 follows:)

18

19 BY MR. GREG DAVIS:

20 Q. Officer Mayne, if you would please

21 look at State's Exhibit Number 122. And if you could,

22 let me ask you whether or not we have identified some of

23 these circles with the initials RM?

24 A. Yes, sir.

25 Q. Okay. If you would, please take a

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1 look at that exhibit and tell me whether or not we have
2 on this document accurately located the locations where
3 you took blood samples on June 6, 1996, in the portion of
4 the house depicted on 122?

5 A. Yes, sir.

6 Q. Okay. And again, the areas that you

7 went to to take these blood samples?

8 A. The family room, the kitchen area.

9 Q. What part of the family room?

10 A. The family room, the coffee table in

11 the center of the room. I removed a dried blood sample

12 from the corner of the coffee table.

13 Q. Okay.

14 A. In the kitchen area, the bar where the

15 white butcher knife was removed, I collected a dried

16 blood sample from that area. Also, at the sink area, at

17 the front of the sink on the counter, I removed a dried

18 blood sample from there.

19 In front of the range area on the

20 floor, I collected a blood sample there. In the utility

21 room, on the floor, I collected a blood sample there.

22 And in the front entry area, where the

23 carpet starts in the hallway, I took a dried blood sample

24 there.

25 Q. Now, what did you do with these blood

Sandra M. Halsey, CSR, Official Court Reporter

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1 samples?

2 A. I packaged the blood samples and

3 preserved them for evidence.

4 Q. Okay. Did you, yourself, do any

5 analysis on the blood samples that you retrieved out

6 there that morning?

7 A. No, sir.

8 Q. Okay. Did you place them into

9 evidence then?

10 A. Yes, sir, I did.

11 Q. Now, if you would please tell us

12 what's the next thing that you did after you retrieved

13 the blood samples from the location that you just noted?

14 A. I cut the bloody handprint from the

15 carpet in the family area, right beside the couch area.

16 And also cut a strip portion of the carpet behind the

17 couch where there was a possible shoe print.

18 Q. Okay.

19

20

21 (Whereupon, the following

22 mentioned item was

23 marked for

24 identification only

25 after which time the

Sandra M. Halsey, CSR, Official Court Reporter

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1 proceedings were
2 resumed on the record
3 in open court, as
4 follows:)

5

6 BY MR. GREG DAVIS:

7 Q. Officer Mayne, if you would please
8 look at State's Exhibit 81, and tell me whether or not
9 you recognize that, sir?

10 A. Yes, sir, I do.

11 Q. And is that one of the carpet pieces
12 that you retrieved that morning?

13 A. Yes, sir.

14 Q. Would this be the portion behind the
15 couch?

16 A. That's correct.

17 Q. Okay.

18

19

20 (Whereupon, the following

21 mentioned item was

22 marked for

23 identification only

24 after which time the

25 proceedings were

Sandra M. Halsey, CSR, Official Court Reporter

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1 resumed on the record

2 in open court, as

3 follows:)

4

5

6 BY MR. GREG DAVIS:

7 Q. And if you would, if you will look at
8 State's Exhibit 82 and tell me whether or not you
9 recognize that?

10 A. Yes, sir, I do.

11 Q. And is that another portion of the
12 carpet that you retrieved on June 6, 1996?

13 A. It is.

14

15 MR. GREG DAVIS: Your Honor, at this
16 time we'll offer State's Exhibit 81 and 82.

17 MR. RICHARD C. MOSTY: No objection.

18 THE COURT: All right. State's

19 Exhibit 81 and 82 are admitted.

20

21 (Whereupon, the items

22 Heretofore mentioned

23 Were received in evidence
24 As State's Exhibit No. 81
25 And 82 for all purposes,
Sandra M. Halsey, CSR, Official Court Reporter
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1 After which time, the
2 Proceedings were resumed
3 As follows:)

4
5

6 BY MR. GREG DAVIS:

7 Q. Looking at State's Exhibit 82, sir,
8 what do we see on State's Exhibit No. 82?

9 A. It's a small blood handprint.

10 Q. Okay. If you would now, please tell
11 us the next thing that you did after you retrieved the
12 two portions of carpet in the family room.

13 A. I then went to the kitchen area and
14 collected a piece of the broken glass that's on the
15 kitchen floor. And also lifted the vacuum cleaner from
16 off of the floor.

17 Q. Okay.

18

19 (Whereupon, the following
20 mentioned item was

21 marked for

22 identification only

23 after which time the

24 proceedings were

25 resumed on the record

Sandra M. Halsey, CSR, Official Court Reporter
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1 in open court, as
2 follows:)

3

4 BY MR. GREG DAVIS:

5 Q. Officer Mayne, if you would please
6 look at State's Exhibit 69, and tell me whether or not
7 you recognize that exhibit, sir?

8 A. Yes, sir, I do.

9 Q. And is that the glass that you
10 collected from the kitchen floor?

11 A. Yes, it is.

12 Q. On June 6th?

13 A. That's correct.

14

15 MR. GREG DAVIS: Your Honor, at this
16 time we'll offer State's Exhibit 69.

17 MR. RICHARD C. MOSTY: No objection.
18 THE COURT: State's Exhibit 69 is
19 admitted.
20 (Whereupon, the item
21 Heretofore mentioned
22 Was received in evidence
23 As State's Exhibit No. 69
24 For all purposes,
25 After which time, the
Sandra M. Halsey, CSR, Official Court Reporter
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1 Proceedings were resumed
2 As follows:)
3
4 BY MR. GREG DAVIS:
5 Q. Just for the record, there are several
6 pieces of glass in State's Exhibit 69; is that right?
7 A. Yes, there is.
8 Q. Okay. I want to go back with you just
9 a moment to a portion of your testimony where you talked
10 about retrieving towels or rags from the floor. Do you
11 recall that?
12 A. Yes, sir.
13 Q. And, is it true that we have seen the
14 white rag from the front porch?
15 A. Yes, sir.
16 Q. And the two rags from the hallway; is
17 that right?
18 A. That's correct.
19 Q. Okay.
20
21 (Whereupon, the following
22 mentioned item was
23 marked for
24 identification only
25 after which time the
Sandra M. Halsey, CSR, Official Court Reporter
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1 proceedings were
2 resumed on the record
3 in open court, as
4 follows:)
5
6 BY MR. GREG DAVIS:
7 Q. Sir, if you would, please look at
8 State's Exhibit No. 63, and tell me whether you recognize
9 that?
10 A. Yes, sir, I do.

11 Q. What is 63?

12 A. That is the bloody rag that I
13 collected in the family room between the love seat and
14 the bar on the plastic runner.

15

16 MR. GREG DAVIS: Okay. Your Honor, at

17 this time we'll offer State's Exhibit 63.

18 MR. RICHARD C. MOSTY: No objection.

19 THE COURT: State's Exhibit 63 is

20 admitted.

21

22 (Whereupon, the item

23 Heretofore mentioned

24 Was received in evidence

25 As State's Exhibit No. 63

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1 For all purposes,

2 After which time, the

3 Proceedings were resumed

4 As follows:)

5

6 BY MR. GREG DAVIS:

7 Q. Again, I'm displaying that to the

8 jury. Is that just a white and green plaid rag, sir?

9 A. Yes, it is.

10 Q. Did it appear to have blood on it when

11 you retrieved it?

12 A. Yes, sir.

13 Q. Okay. And going back to where we

14 were. As I understand, when you retrieved the last item,

15 did I understand you to say that you started looking at

16 the vacuum cleaner?

17 A. That's correct.

18 Q. Was it still located in the kitchen?

19 A. Yes, it was.

20 Q. Was it still in the same position that

21 you had first seen it?

22 A. Yes, sir, it was.

23 Q. What is the first thing that you did

24 when you went back over to that vacuum cleaner?

25 A. Myself and James Cron started looking

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1 at it, and we observed blood footprints underneath the

2 vacuum cleaner.

3 Q. Okay. Well, are you actually looking

4 at the floor around the vacuum cleaner then?

5 A. Yes, sir.

6 Q. Is this when the vacuum cleaner is
7 still on the floor?

8 A. Yes, sir.

9 Q. And did you determine to do anything
10 at that time?

11 A. Well, we determined to lift the vacuum
12 cleaner up and look further.

13 Q. Okay.

14

15

16 (Whereupon, the following

17 mentioned item was

18 marked for

19 identification only

20 after which time the

21 proceedings were

22 resumed on the record

23 in open court, as

24 follows:)

25

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1

2 BY MR. GREG DAVIS:

3 Q. Sir, let me ask you to look at State's

4 Exhibit 93. Do you recognize that, sir?

5 A. Yes, sir.

6 Q. And what is State's Exhibit 93?

7 A. That's the vacuum cleaner that was on

8 the kitchen floor.

9 Q. Okay.

10

11 MR. GREG DAVIS: Your Honor, at this

12 time we'll offer State's Exhibit No. 93.

13 MR. RICHARD C. MOSTY: No objection.

14 THE COURT: State's Exhibit 93 is

15 admitted.

16

17 (Whereupon, the item

18 Heretofore mentioned

19 Was received in evidence

20 As State's Exhibit No. 93

21 For all purposes,

22 After which time, the

23 Proceedings were resumed

24 As follows:)

25

1
2 BY MR. GREG DAVIS:
3 Q. Okay. If you would, Officer, please
4 step down. Could you please position the vacuum cleaner
5 on the courtroom floor as it appeared on the kitchen
6 floor that morning or that afternoon?
7 A. Okay.
8 (Whereupon, the witness
9 Stepped down from the
10 Witness stand, and
11 Approached the jury rail
12 And the proceedings were
13 Resumed as follows:
14
15 BY MR. GREG DAVIS:
16 Q. Okay. You now have -- you laid the
17 vacuum cleaner down on the floor; is that right?
18 A. Yes, sir.
19 Q. Please step back so everyone can see
20 it.
21 Okay. And did I understand you to say
22 that you then made a decision to lift it up off the
23 ground; is that right?
24 A. Yes, sir. We observed blood on the
25 handle, so we decided to go ahead and lift it up and look
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1 underneath it.
2 Q. Okay. Could you please show the
3 members of the jury exactly how you picked that vacuum
4 cleaner up that day on June 6, 1996?
5 A. We --
6 Q. Just go ahead and do that now.
7 A. Yes, sir.
8 Q. Okay. If you could, just lay it down
9 and do it one more time for us and just show us.
10 A. Here, let me do it this way.
11 Q. Okay. When you lifted it up, did you
12 roll the vacuum cleaner on the floor in any way?
13 A. No, sir.
14 Q. Just strictly picked it straight up?
15 A. That's correct.
16 Q. And you're holding a portion of the
17 handle right below the light-colored handle; is that
18 right?
19 A. That's correct.

20

21 MR. GREG DAVIS: Okay. Have a seat

22 right up there.

23

24 (Whereupon, the witness

25 Resumed the witness

Sandra M. Halsey, CSR, Official Court Reporter

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1 Stand, and the

2 Proceedings were resumed

3 On the record, as

4 Follows:)

5

6 THE COURT: Mr. Davis, I think we'll

7 take a 15 minute break now.

8 MR. GREG DAVIS: Yes, sir.

9 THE COURT: The jury needs to warm up.

10

11 (Whereupon, a short

12 Recess was taken,

13 After which time,

14 The proceedings were

15 Resumed on the record,

16 In the presence and

17 Hearing of the defendant

18 But outside the presence

19 Of the Jury, as follows:)

20

21 THE COURT: All right. I have excused

22 the jury until 1:30, so we can have a hearing outside the

23 presence of the jury.

24 All right. Back on the record in the

25 Darlie Routier matter. Let the record reflect that these

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1 proceedings are being held outside the presence of the

2 jury and all parties to the trial are present.

3 Who is doing it, Mr. Shook?

4 MR. GREG DAVIS: I will.

5 THE COURT: All right, Mr. Davis.

6 MR. GREG DAVIS: Yes, sir, I'll do it.

7 THE COURT: Okay. Go ahead.

8

9 (Whereupon, the following

10 mentioned item was

11 marked for

12 identification only

13 after which time the

14 proceedings were
15 resumed on the record
16 in open court, as
17 follows:)

18

19 BY MR. GREG DAVIS:

20 Q. Officer Mayne, look at State's Exhibit
21 150, if you will, and tell me whether or not that
22 photograph shows a portion of the family room that you --
23 where you retrieved certain papers on June 6, 1996?

24 A. Yes, sir.

25 Q. The area basically is between the
Sandra M. Halsey, CSR, Official Court Reporter
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1 couch and a gold pillow. Correct?

2 A. That's correct.

3 Q. Also a lamp shade in that area?

4 A. Yes, sir.

5

6 MR. GREG DAVIS: For purposes of this
7 hearing only, we'll offer State's Exhibit 150.

8 MR. RICHARD C. MOSTY: No objection
9 for the purpose of this hearing.

10 THE COURT: State's Exhibit 150 is
11 admitted. And that's a photo of the --

12 MR. GREG DAVIS: Yes, your Honor. Let
13 me hand it to you so you can see it.

14 THE COURT: All right. Thank you.

15

16 (Whereupon, the item

17 Heretofore mentioned

18 Were received in evidence

19 As State's Exhibit No. 150

20 For record purposes,

21 After which time, the

22 Proceedings were resumed

23 As follows:)

24

25

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1 BY MR. GREG DAVIS:

2 Q. Officer Mayne, let me start showing
3 you certain pieces of evidence here.

4

5 THE COURT: State's Exhibit 150 is
6 admitted, I'm sorry, for purposes of this hearing only.

7

8

9 (Whereupon, the following
10 mentioned item was
11 marked for
12 identification only
13 after which time the
14 proceedings were
15 resumed on the record
16 in open court, as
17 follows:)

18

19 BY MR. GREG DAVIS:

20 Q. Let's just start through here, State's
21 Exhibit 73-A. Is that one of the pieces of paper that
22 you found in the family room on June 6, 1996?

23 A. Yes, sir.

24

25

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1 (Whereupon, the following
2 mentioned item was
3 marked for
4 identification only
5 after which time the
6 proceedings were
7 resumed on the record
8 in open court, as
9 follows:)

10

11 BY MR. GREG DAVIS:

12 Q. State's Exhibit 82-A, is that also a
13 piece of evidence, or a piece of paper that you retrieved
14 from the family room on June 6, 1996?

15 A. Yes, sir

16

17 MR. JOHN HAGLER: Excuse me, could we
18 have him identify those for the record, please.

19 THE COURT: All right. 73-A is what?

20 MR. GREG DAVIS: 73-A is a birth
21 certificate for Devon Routier. 82-A is a set of
22 handprints of Damon Routier.

23

24 (Whereupon, the following
25 mentioned item was

Sandra M. Halsey, CSR, Official Court Reporter
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1 marked for
2 identification only
3 after which time the
4 proceedings were
5 resumed on the record
6 in open court, as
7 follows:)

8

9 BY MR. GREG DAVIS:

10 Q. State's Exhibit 74-D, does this appear
11 to be an immunization record for Damon Routier?

12 A. Yes, sir.

13 Q. Did you also find 74-D in the family
14 room?

15 A. Yes, sir, I did.

16 Q. All right.

17

18 (Whereupon, the following

19 mentioned item was

20 marked for

21 identification only

22 after which time the

23 proceedings were

24 resumed on the record

25 in open court, as

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1 follows:)

2

3 BY MR. GREG DAVIS:

4 Q. State's Exhibit 80, is that a
5 handwritten note which states, "Money from this policy is
6 to be put into trust for Damon and Devon until age 21."

7 Appears to be signed by Darlie and Darin Routier; is that
8 correct?

9 A. Yes, sir.

10 Q. Did you find State's Exhibit 80 in the
11 family room?

12 A. Yes, sir, I did.

13

14 (Whereupon, the following

15 mentioned items were

16 marked for

17 identification only

18 after which time the

19 proceedings were

20 resumed on the record

21 in open court, as

22 follows:)

23

24 BY MR. GREG DAVIS:

25 Q. All right. State's Exhibit 84-A says
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1 Pet Rest Memorial Park, certificate of entitlement to
2 burial. State's Exhibit 84-A, did you find that in the
3 family room also?

4 A. Yes, sir, I did.

5 Q. State's Exhibit 84-C, is it entitled
6 Retail Installment Contract on a yellow piece of paper,
7 and it appears to be signed by Darlie Routier; is that
8 correct?

9 A. Yes, sir.

10 Q. Did you find 84-C in the family room
11 also?

12 A. Yes, sir.

13

14 THE COURT: What's that? 84-C, that's
15 entitled Retail Installment Contract, signed by the
16 defendant?

17 MR. DOUGLAS MULDER: For what?

18 MR. GREG DAVIS: I think for the cat's
19 funeral, I think.

20 THE COURT: Okay.

21

22 (Whereupon, the following
23 mentioned item was
24 marked for
25 identification only
Sandra M. Halsey, CSR, Official Court Reporter
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1 after which time the
2 proceedings were
3 resumed on the record
4 in open court, as
5 follows:)

6

7 BY MR. GREG DAVIS:

8 Q. State's Exhibit No. 76, this is a
9 marriage license for Darlie Routier and Darin Routier?

10 A. Yes, sir.

11 Q. Did you find State's Exhibit 76 in the
12 family room also?

13 A. Yes, sir.

14 Q. All right.

15

16 (Whereupon, the following

17 mentioned items were marked
18 for identification only as
19 State's Exhibit No. 72-A, 72-B,
20 74-A, 74-B, 74-C, 75, and 77-A,
21 after which time the
22 proceedings were
23 resumed on the record
24 in open court, as
25 follows:)
Sandra M. Halsey, CSR, Official Court Reporter
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1
2 BY MR. GREG DAVIS:
3 Q. State's Exhibit 74-A (sic), is this an
4 insurance policy issued by Massachusetts General Life on
5 Darin Routier?
6 A. Yes, sir.
7 Q. Okay. Did you find State's Exhibit
8 No. 77-A in the family room also?
9 A. Yes, sir.
10 Q. State's Exhibit 75, does this appear
11 to be a certificate of birth for Darlie Lynn Peck,
12 State's Exhibit 75?
13 A. Yes, sir.
14 Q. Did you find that in the family room?
15 A. Correct.
16 Q. State's Exhibit 73-B, does this appear
17 to be a birth certificate for Damon Christian Routier?
18 A. Yes, sir, it is.
19 Q. Did you find that in the family room
20 also?
21 A. Yes, sir.
22 Q. State's Exhibit 72-B, does this appear
23 to be a birth certificate for Damon Christian Routier?
24 A. Yes, sir.
25 Q. Did you find State's Exhibit 72-B in
Sandra M. Halsey, CSR, Official Court Reporter
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1 the family room?
2 A. Yes, sir.
3 Q. State's Exhibit 72-A, does this appear
4 to be a birth certificate for Devon Rush Routier?
5 A. Yes, sir.
6 Q. Did you find 72-A in the family room?
7 A. Yes, sir.
8 Q. And State's Exhibit 77-B, is this an
9 insurance policy issued by Massachusetts General Life for
10 the insured Darlie Routier?

11 A. Yes, sir

12

13 MR. RICHARD C. MOSTY: Is that B or D?

14 MR. GREG DAVIS: B.

15

16 BY MR. GREG DAVIS:

17 Q. Did you find State's Exhibit 77-B in

18 the family room?

19 A. Yes, sir.

20 Q. State's Exhibit 74-A, does this appear

21 to be a Social Security card for Devon Rush Routier?

22 A. Yes, sir.

23 Q. Did you find that in the family room?

24 A. I did.

25 Q. State's Exhibit 74-B, does that appear

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1 to be a Social Security card for Damon Christian Routier?

2 A. Yes, sir.

3 Q. Did you find that in the family room

4 also?

5 A. Yes, I did.

6 Q. All right.

7

8

9 (Whereupon, the following

10 mentioned item was

11 marked for

12 identification only

13 after which time the

14 proceedings were

15 resumed on the record

16 in open court, as

17 follows:)

18

19 BY MR. GREG DAVIS:

20 Q. State's Exhibit 84-B, does this appear

21 to be a receipt for \$630 from the Lyon's Funeral Home,

22 appears to be for memorial; is that right?

23 A. Yes, sir.

24 Q. Okay. Did you find that in the family

25 room, State's Exhibit Number 84-B?

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1 A. Yes, I did.

2

3 (Whereupon, the following

4 mentioned item was

5 marked for
6 identification only
7 after which time the
8 proceedings were
9 resumed on the record
10 in open court, as
11 follows:)
12
13 BY MR. GREG DAVIS:
14 Q. State's Exhibit 77-G. Does that
15 appear to be a brochure from the A.L. Williams Company
16 concerning life insurance, sir?
17 A. Yes, sir.
18 Q. And did you find the folder and the
19 enclosed papers in the family room on June 6, 1996?
20 A. Yes, sir, I did.
21 Q. Okay.
22
23
24 (Whereupon, the following
25 mentioned item was
Sandra M. Halsey, CSR, Official Court Reporter
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1 marked for
2 identification only
3 after which time the
4 proceedings were
5 resumed on the record
6 in open court, as
7 follows:)
8
9 BY MR. GREG DAVIS:
10 Q. State's Exhibit 78. Does that appear
11 to be a spiral notebook, green in color?
12 A. Yes, sir.
13 Q. Did you find that in the family room
14 on June 6th, 1996?
15 A. Yes, I did.
16 Q. All right.
17
18 (Whereupon, the following
19 mentioned items were
20 marked for
21 identification only
22 after which time the
23 proceedings were
24 resumed on the record
25 in open court, as

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1 follows:)

2

3 BY MR. GREG DAVIS:

4 Q. State's Exhibit 79-A, 79-B, 79-C.

5 First 79-A, is that a one sheet of a notepad that you
6 found in the family room on June 6, 1996?

7 A. Yes, sir.

8 Q. That's a yellow notepad; is that
9 correct?

10

11 THE COURT: That's A?

12 MR. GREG DAVIS: That's A, Your Honor.

13

14 BY MR. GREG DAVIS:

15 Q. 79-B, is it also a notepad, green in
16 color, writing on both the front and the back that you
17 found in the family room on June 6, 1996?

18 A. Yes, sir.

19 Q. State's Exhibit No. 79-C, is that the
20 notepad itself with 1, 2, 3, 3 pages that have been
21 written on at the top of the pad?

22 A. Yes, sir.

23 Q. Did you find this in the family room
24 on June 6, 1996?

25 A. Yes, sir.

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1 Q. Okay.

2

3 (Whereupon, the following

4 mentioned items were

5 marked for

6 identification only

7 as 77-C, 77-D, 77-E, & 77-F,

8 after which time the

9 proceedings were

10 resumed on the record

11 in open court, as

12 follows:)

13

14 BY MR. GREG DAVIS:

15 Q. State's Exhibit 77-E and F. Do those
16 appear to be -- it says "Semiannual renewal agreement
17 from the Combined Insurance Company of America." We have
18 one for Devon R. Routier and one for Damon C. Routier; is
19 that correct?

20 A. Yes, sir.

21 Q. 77-E and F. Did you find those two

22 items in the family room also, sir?

23 A. Yes, sir.

24 Q. All right. State's Exhibit No. 77-C

25 and 77-D again, are they the same types of semiannual

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1 renewal agreements, Combined Insurance Company of America

2 this time for Darin E. Routier and Darlie L. Routier?

3 A. Yes, sir.

4 Q. Did you find 77-C and 77-D in the

5 family room also?

6 A. Yes, sir.

7 Q. State's Exhibit 74-C. Does this

8 appear to be an immunization record for Devon Routier?

9 A. Yes, sir.

10 Q. Did you find State's Exhibit 74-C in

11 the family room?

12 A. Yes, sir.

13 Q. All right.

14

15 (Whereupon, the following

16 mentioned items were

17 marked for

18 identification only

19 after which time the

20 proceedings were

21 resumed on the record

22 in open court, as

23 follows:)

24

25

Sandra M. Halsey, CSR, Official Court Reporter

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1 BY MR. GREG DAVIS:

2 Q. Let me show you two additional

3 documents, State's Exhibit 83-A and 83-B. Do you

4 recognize those, sir?

5 A. Yes, sir, I do.

6 Q. Okay. 83-A, does this appear to be a

7 letter from the American Express Company addressed to

8 Darlie Routier dated May 9th, 1996; is that right?

9 A. Yes, sir.

10 Q. Okay. State's Exhibit 83-B, does this

11 appear to be a letter from the Melon Mortgage Company,

12 dated May 8th, 1996, addressed to Darin E. Routier,

13 Darlie L. Routier?

14 A. That's correct.
15 Q. Okay. Now, 83-A and 83-B, you did not
16 find in the family room, did you?
17 A. That's correct, I did not.
18 Q. Where did you first come in contact
19 with State's Exhibits 83-A and 83-B?
20 A. A trash bag was in the evidence
21 section that was collected, and I went through the trash
22 and found those two document.
23 Q. Okay. Now, you, yourself, did not
24 recover 83-A and 83-B from the house or vehicle or
25 anything of that sort; is that correct?
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1 A. That's correct.
2 Q. First time you saw them they were in a
3 trash bag in the evidence room at the Rowlett Police
4 Department?
5 A. That's correct.
6 Q. Did you then sort through the trash to
7 find 83-A and 83-B?
8 A. That's correct.
9 Q. Were they in the same condition as
10 we're seeing them today?
11 A. Yes, sir.
12
13 MR. GREG DAVIS: Your Honor, with the
14 exception of State's Exhibit 83-A and 83-B, we'll be
15 offering through this witness the documents that we have
16 gone through during this hearing, this having been found
17 in the family room.
18 THE COURT: Well, I missed two
19 numbers.
20 MR. GREG DAVIS: All right.
21 THE COURT: The immunization record of
22 Damon, was it? It was right after 73-A and 82-A, I
23 missed that number. That's what?
24 MR. GREG DAVIS: 74-C.
25 THE COURT: Okay. That's an
Sandra M. Halsey, CSR, Official Court Reporter
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1 immunization record of who?
2 MR. GREG DAVIS: Of Damon.
3 MS. SHERRI WALLACE: Excuse me, I'm
4 sorry, 74-C is Devin. That's 74-D.
5 THE COURT: Well, what's the one of
6 Damon, 74-D?
7 MS. SHERRI WALLACE: Yes, sir.

8 THE COURT: All right. Fine. Thank
9 you. I've got that one.
10 And then there was a marriage license,
11 you were going pretty fast, I missed that number, too.
12 That came after the Retail Installment Contract and
13 before the insurance policy.
14 MS. SHERRI WALLACE: The marriage
15 license is No. 76.
16 THE COURT: No. 76, got it.
17 All right. So you'll be offering all
18 of these documents through this officer?
19 MR. GREG DAVIS: Yes, sir, with the
20 exception of 83-A and B.
21 THE COURT: All right. I understand.
22 So, Mr. Hagler, you wanted the hearing
23 outside the presence of the jury
24 MR. JOHN HAGLER: Yes, sir. Well,
25 Judge, I might start off by saying that the mere fact
Sandra M. Halsey, CSR, Official Court Reporter
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1 that these documents were found in the defendant's
2 residence does not dispense with the requirement that
3 these documents be relevant under Rule 401.
4 And secondly, that they be properly
5 authenticated under Rule 901. And I can go -- I don't
6 have any additional testimony to develop through this
7 witness, but I would like to voice my objections to each
8 one of these exhibits.
9 THE COURT: All right. Well, why
10 don't we go exhibit by exhibit. Is that fair?
11 MR. RICHARD C. MOSTY: Your Honor, may
12 I see 150? I think that's it.
13 THE COURT: Sure
14 MR. RICHARD C. MOSTY: Could I just
15 ask a couple of questions to try to clarify?
16 THE COURT: Sure.
17
18 VOIR DIRE EXAMINATION
19
20 BY MR. RICHARD MOSTY:
21 Q. Officer Mayne you identified State's
22 Exhibit 150?
23 A. Yes, sir.
24 Q. And did all of the documents that you
25 have identified, except for the trash bag documents, did
Sandra M. Halsey, CSR, Official Court Reporter
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1 they all come from this, what I will call a blue-green
2 box?

3 A. No, sir, they came from the documents
4 on top of the blue-green box.

5 Q. Just a stack of documents?

6 A. Yes, sir.

7 Q. And none of them came from the
8 blue-green box?

9 A. That's correct.

10 Q. Were there documents in the blue-green
11 box?

12 A. If I'm not mistaken, there were sewing
13 utensils in that box.

14 Q. Okay. The documents that you've
15 identified, are those all of the documents that were on
16 this box?

17 A. Yes, sir.

18 Q. Every one of them is identified in
19 whatever these numbers are, 73 through whatever?

20 A. Yes, sir.

21 Q. Okay. And, the trash bag -- well, let
22 me go back. Do any of these documents -- are any of the
23 documents, for instance, have handwritten notes? Are any
24 of those dated?

25 A. Any of those dated?

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1 Q. Right. The handwritten stuff. I'm
2 not talking about an insurance policy or something, I'm
3 talking about the handwritten things. Do any of them
4 have a date on them?

5 A. Marriage license, that area, yes.

6 Q. No, I'm just talking about the
7 handwritten things, for instance, these ones that have
8 been identified as notes?

9 A. Oh, notes?

10 Q. Right.

11 A. I don't recall.

12 Q. And the trash bag, the two documents
13 taken out of the trash bag, when were they retrieved?

14 A. They were retrieved on the 15th of
15 June.

16 Q. Okay. And what else was in that trash
17 bag?

18 A. Just trash. There was food items,
19 just miscellaneous trash.

20 Q. All right

21

22 MR. RICHARD C. MOSTY: That's all of

23 the questions I have for Voir Dire.
24 MR. GREG DAVIS: Let me, if I could,
25 just a couple of questions.
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1 THE COURT: Yes, sir, you may.

2

3

4 DIRECT EXAMINATION (Continued)

5

6

7 BY MR. GREG DAVIS:

8 Q. These items were located how far from
9 the body of Devon Routier?

10 A. Approximately two feet.

11 Q. And these items, have they been in
12 possession of the Rowlett Police Department?

13 A. Yes, sir.

14 Q. Do you recall whether or not any
15 attorneys representing the defendant have come out to
16 inspect the evidence in this case?

17 A. Yes, sir.

18 Q. Have they?

19 A. Yes, sir.

20 Q. Okay. Was this evidence made
21 available to them prior to the trial?

22 A. Yes, sir.

23

24 MR. GREG DAVIS: No further questions,
25 your Honor.

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1 THE COURT: Well, let's take them up
2 one at a time. Now, if I'm calling these exhibits
3 numbers wrong, correct me.
4 We have State's Exhibit 73-A, the
5 birth certificate of Devon Routier; is that correct? Is
6 that the right birth certificate?

7 MS. SHERRI WALLACE: That's correct.

8 THE COURT: Any objection to that Mr.
9 Mosty?

10 MR. JOHN HAGLER: I'll do the
11 objecting.

12 MR. RICHARD C. MOSTY: We need to try
13 to identify these.

14 THE COURT: All right. Well, I have
15 73-A as the birth certificate of Devon Routier.

16 MR. JOHN HAGLER: These are in reverse

17 order, Judge. We'll have to go back through it and line
18 them up here.

19 THE COURT: Oh, okay. Where do you
20 start?

21 MR. JOHN HAGLER: How about if we work
22 from the top -- from the back to the beginning?

23 THE COURT: That's fine. Spread them
24 out.

25 MR. JOHN HAGLER: Your Honor, I'll
Sandra M. Halsey, CSR, Official Court Reporter
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1 start off by saying, as far as State's Exhibit 79-A, B,
2 C, your Honor, these are handwritten documents that
3 appear to refer to the preparation of a will.

4 We would object, your Honor, one, that
5 they're not relevant under Rule 401.

6 Secondly, is that they tend to
7 imply -- they are 404-B testimony. And third, that
8 they're hearsay under rule 802, and finally, that they're
9 not properly authenticated under Rule 901.

10 THE COURT: I'll sustain that
11 objection.

12 THE COURT: All right.

13 MR. JOHN HAGLER: Your Honor, State's
14 Exhibit Number 43 --

15 MR. GREG DAVIS: Could I please,
16 before the Court sustains the objection.

17 THE COURT: Yes.

18 MR. GREG DAVIS: Could we at least
19 state the reason why we're offering these items at this
20 time?

21 THE COURT: All right.

22 MR. GREG DAVIS: Clearly all of these
23 items go to the state of the mind of this defendant on
24 that evening.

25 Now, they're not being offered for the
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1 truthfulness of any matter that's contained therein.
2 They're going to the state of mind, to the fact that this
3 woman's got her last will and testament out, two feet
4 away from this child, who has been murdered that night.
5 And she's also got injuries that very
6 well may have been self-inflicted that night, and they go
7 very much to the state of mind that she was in that
8 evening.

9 THE COURT: Well, I'll -- let me
10 review these. I'm going to review the law on this. I

11 will hold this in abeyance then. All right.
12 MR. GREG DAVIS: And that will be our
13 grounds for all of these documents.
14 THE COURT: All right. State of mind.
15 All right. Go ahead.
16 Why don't we take up -- is there going
17 to be any objection -- let's go down to the birth
18 certificate. Any objection to those? Let's get that out
19 of the way first.
20 I got 73-A as the birth certificate of
21 Devon Routier. Any objection to that?
22 MR. JOHN HAGLER: Your Honor, we will
23 object to the basis of Devon is not the complainant in
24 the indictment. It's not relevant. It's not been
25 properly authenticated.
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1 THE COURT: Overruled. That's
2 admitted.
3

4 (Whereupon, the item
5 Heretofore mentioned
6 Was received in evidence
7 As State's Exhibit No. 73-A
8 For all purposes,
9 After which time, the
10 Proceedings were resumed
11 As follows:)
12

13 MR. RICHARD C. MOSTY: Can we get --
14 THE COURT: That's 73-A.
15 MR. RICHARD C. MOSTY: All right.
16 THE COURT: All right. The next one I
17 have in my line, I have 74-D is the immunization records
18 of, is it Damon? Whatever that number is. 74-C, is it?
19 MR. TOBY L. SHOOK: That's Damon's.
20 THE COURT: Devon's immunization
21 record. Any objection to that?
22 MR. JOHN HAGLER: Relevancy under Rule
23 401. Improper authentication under 901.
24 THE COURT: Overruled. That exhibit
25 is admitted. That was 74-C.
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1
2 (Whereupon, the item
3 Heretofore mentioned
4 Was received in evidence

5 As State's Exhibit No. 74-C

6 For all purposes,

7 After which time, the

8 Proceedings were resumed

9 As follows:)

10

11 THE COURT: All right. Then we have

12 State's Exhibit 76, which is a marriage license.

13 MR. JOHN HAGLER: Non-relevant under

14 401. Improper authentication under Rule 901, your Honor.

15 THE COURT: I'll overrule that. That

16 exhibit is admitted.

17

18 (Whereupon, the item

19 Heretofore mentioned

20 Was received in evidence

21 As State's Exhibit No. 76

22 For all purposes,

23 After which time, the

24 Proceedings were resumed

25 As follows:)

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1

2 THE COURT: All right. The next thing

3 I have is an insurance policy from Massachusetts General

4 Life on Darin. That's 77-A. Is that the number?

5 MR. GREG DAVIS: Yes, sir

6 MR. JOHN HAGLER: Yes, your Honor.

7 THE COURT: Any objection to that?

8 MR. JOHN HAGLER: Again, your Honor,

9 the only evidence that they've offered at this point was

10 the fact that these documents were found in the family

11 room. Again, there's been no showing that she had any

12 knowledge that they were there and that she handled them.

13 There's no showing of relevancy under

14 Rule 401. Later on down the line, they may be able to

15 establish that, your Honor, but the fact that there's a

16 life insurance policy on Darin is totally irrelevant to

17 the issues at hand.

18 THE COURT: All right. Overruled.

19 That exhibit is admitted.

20

21 (Whereupon, the item

22 Heretofore mentioned

23 Was received in evidence

24 As State's Exhibit No. 77-A

25 For all purposes,

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1 After which time, the
2 Proceedings were resumed
3 As follows:)
4
5 MR. RICHARD C. MOSTY: That was 77-A?
6 THE COURT: Yes, 77-A.
7 All right. Now then we've got --
8 MR. JOHN HAGLER: One other thing,
9 your Honor, if I may. Also we would object under Rule
10 404-B.
11 THE COURT: All right. I'll still
12 overrule that objection.
13 Now, we have birth certificates on
14 Damon -- on the defendant. That's 75; is that correct?
15 MR. GREG DAVIS: Yes, sir.
16 THE COURT: Any objection to that?
17 State's Exhibit 75.
18 MR. JOHN HAGLER: This is a birth
19 certificate for Darlie.
20 THE COURT: For Darlie Routier, the
21 defendant, yes.
22 MR. JOHN HAGLER: Again, no showing of
23 relevancy under Rule 401, improper authentication under
24 901. And there is no supporting affidavit having been
25 filed with the Court 14 days prior to the offer of this
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1 document.
2 THE COURT: All right. Overruled.
3 I'll admit State's Exhibit 75.
4
5 (Whereupon, the item
6 Heretofore mentioned
7 Was received in evidence
8 As State's Exhibit No. 75
9 For all purposes,
10 After which time, the
11 Proceedings were resumed
12 As follows:)
13
14 THE COURT: All right. Then I have
15 73-B, it's a birth certificate on Damon. Any objection
16 to that?
17 MR. JOHN HAGLER: Again, your Honor,
18 no relevancy under 401. Improper authentication under
19 901.

20 THE COURT: I'll overrule. 73-B is
21 admitted.
22
23 (Whereupon, the item
24 Heretofore mentioned
25 Was received in evidence
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1 As State's Exhibit No. 73-B
2 For all purposes,
3 After which time, the
4 Proceedings were resumed
5 As follows:)
6
7 THE COURT: Now then, is 72-A, is that
8 the birth certificate on Devon?
9 MR. JOHN HAGLER: Yes, your Honor.
10 Same objection as previously stated to the Court.
11 THE COURT: Same ruling. Overruled.
12 72-A is admitted.

13
14 (Whereupon, the item
15 Heretofore mentioned
16 Was received in evidence
17 As State's Exhibit No. 72-A
18 For all purposes,
19 After which time, the
20 Proceedings were resumed
21 As follows:)
22
23 THE COURT: All right. The next thing
24 I have is an insurance policy -- well, maybe that's just
25 a repeat of the one before.
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1 MR. JOHN HAGLER: No, your Honor,
2 there's a second policy.
3 THE COURT: A second policy on -- and
4 that's going to be 72-B. Right?
5 MR. JOHN HAGLER: Yes, your Honor.
6 THE COURT: All right. Any objection
7 on that?
8 MR. JOHN HAGLER: Yes, your Honor.
9 THE COURT: All right.
10 MR. JOHN HAGLER: This is the
11 insurance policy on Darlie Routier.
12 THE COURT: Right.
13 MR. GREG DAVIS: 77-B.

14 MR. JOHN HAGLER: That's 77-B, your
15 Honor.
16 THE COURT: This is 77-B?
17 MR. JOHN HAGLER: Yes, your Honor.
18 THE COURT: All right.
19 MR. JOHN HAGLER: And, again, there's
20 no -- this is the defendant's insurance policy. There's
21 certainly no relevancy under Rule 401. And secondly,
22 there's no -- it's improper authentication under Rule
23 901.
24 THE COURT: All right. Thank you.
25 Overruled. 77-B is admitted.
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1
2 (Whereupon, the item
3 Heretofore mentioned
4 Was received in evidence
5 As State's Exhibit No. 77-B
6 For all purposes,
7 After which time, the
8 Proceedings were resumed
9 As follows:)
10
11 THE COURT: All right. Now, I've got
12 two Social Security cards here, one for Devon and one for
13 Damon. My numbers are 74-A, Devon, and 74-B, Damon; is
14 that right?
15 MR. JOHN HAGLER: Yes, your Honor.
16 Damon's is 74-B, and Devon's is 74-A.
17 THE COURT: All right. Any objection
18 there?
19 MR. JOHN HAGLER: Your Honor, I can't
20 imagine any conceivable reason why their Social Security
21 cards would be relevant in 401. I would like the State
22 to explain to the Court why Damon and Devon's Social
23 Security cards are relevant.
24 MR. GREG DAVIS: Yes, your Honor, I'll
25 direct your attention to Article 38.36, evidence in
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1 prosecutions for murder. It goes to show all of the
2 circumstances surrounding the killing of these two boys.
3 And the relationship between the defendant and those two
4 boys.
5 MR. DOUGLAS MULDER: Is that a motive?
6 MR. GREG DAVIS: Sorry, did you ask me
7 something?

8 THE COURT: All right. Overruled.

9 And the 74-A and B are admitted.

10

11 (Whereupon, the items

12 Heretofore mentioned

13 Were received in evidence

14 As State's Exhibit No. 74-A

15 and 74-B for all purposes,

16 After which time, the

17 Proceedings were resumed

18 As follows:)

19

20 MR. JOHN HAGLER: If I might just make

21 a comment, your Honor.

22 THE COURT: Yes, you may.

23 MR. JOHN HAGLER: The rules he's

24 referring to does not change the rules of evidence. It

25 simply allows that the testimony is admissible in a

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1 murder case showing the previous relationship between the

2 defendant and the deceased. But, again, the cases are

3 voluminous stating that the rules of evidence are the

4 same.

5 Again, there is no authentication

6 under 901, and clearly no relevancy. Certainly not as to

7 Devon, under 74-A.

8 THE COURT: All right. Thank you.

9 Same ruling.

10 All right. Let's go down. The next

11 thing I have is -- all right. I have another

12 immunization record here. Excuse me, I don't have that.

13 I've got 74-D is the immunization record for --

14 MR. JOHN HAGLER: That's for Damon,

15 your Honor.

16 THE COURT: All right, Damon.

17 MR. JOHN HAGLER: Your Honor, again,

18 it's irrelevant under Rule 401. It contains hearsay

19 statements inadmissible under 802. Improperly

20 authenticated under Rule 901.

21 THE COURT: All right. Overruled.

22 74-D is admitted.

23

24 (Whereupon, the item

25 Heretofore mentioned

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1 Was received in evidence
2 As State's Exhibit No. 74-D
3 For all purposes,
4 After which time, the
5 Proceedings were resumed
6 As follows:)

7

8 THE COURT: All right. 77-G is a
9 brochure from the A.L. Williams Life Insurance Company.
10 What is that? Just a sales brochure?

11 MR. GREG DAVIS: That's going to -- I
12 believe when you look through that you'll see certain
13 schedules for payments.

14 THE COURT: Well, let me review this
15 thing before I rule on it. That's 77-G, it's a brochure
16 from the A.L. Williams Life Insurance Company.

17 MR. JOHN HAGLER: Just for the record,
18 again, we would urge that it's not relevant under Rule
19 401.

20 THE COURT: We'll take each one of
21 these up afterwards.

22 MR. JOHN HAGLER: Okay. Thank you.

23 THE COURT: All right. That is out of
24 the way right here.

25 All right. Now, I've got 84-B, which
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1701

1 is the \$630 receipt from the Lyon's Funeral Home. I want
2 to review that before I rule on it

3 MR. RICHARD C. MOSTY: That's 84-B?

4 THE COURT: 84-B.

5 And I'm going to look at 78, the
6 spiral notebook. In 79-A, B and C, before I rule on
7 them. I thought they were merely a piece of paper handed
8 to me. I didn't notice they were so voluminous. All
9 right. We're going to rule on that.

10 And then --

11 MR. RICHARD C. MOSTY: That's 78?

12 THE COURT: 78 is a spiral notebook.

13 And 79-A, B and C are the notes out of that book.

14 And then I've got --

15 MR. RICHARD C. MOSTY: I think that's
16 incorrect, isn't it? Those are separate notes off of a
17 small pad?

18 THE COURT: Well, I mean, they're not
19 out of that book. Excuse me, they're not out of that
20 book. They're separate notes off of a small pad. The
21 pad is 79-C, and these notes are A and B. At least
22 that's the pad I have.

23 We've got a yellow sheet that's 79-A,
24 a green sheet that is 79-B. The whole pad itself is
25 79-C. And let the record reflect that this pad is made
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1702

1 up of multicolored sheets.
2 MR. RICHARD C. MOSTY: 78 then is the
3 spiral?
4 THE COURT: Yes, 78 is the spiral
5 notebook. I want to look at those.
6 Then we come to 84-B, is this Lyon's
7 Funeral Home receipt, which I want to look at.
8 Then we come to 77-E and F. What's
9 that? I got it as a renewal agreement of some kind?
10 MR. JOHN HAGLER: Your Honor, 77-C, D,
11 E and F are four semiannual renewal agreements for an
12 insurance policy.
13 THE COURT: All right. I'll look at
14 those too before I rule on them. These are just receipts
15 for premiums paid; is that right?
16 All right. Anything else?
17 Okay. And then we've got -- and 77-C
18 and D is the same thing; is that right?
19 MR. JOHN HAGLER: Yes, your Honor,
20 there are four of those.
21 THE COURT: All right. Oh, okay,
22 four.
23 Now, then, we've got 80.
24 MR. JOHN HAGLER: 80, your Honor, is a
25 piece of paper that appears to be a distribution of
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1703

1 property.
2 THE COURT: All right. We will keep
3 that over here.
4 All right. 84-A is what?
5 MR. JOHN HAGLER: This is a Pet Rest
6 Memorial Park certificate of entitlement to burial. We
7 would ask for an explanation from the State as to why
8 this is relevant.
9 THE COURT: Why is this relevant?
10 MR. GREG DAVIS: All right. I'll go
11 ahead and withdraw that one.
12 MR. DOUGLAS MULDER: Judge, why on
13 earth would 84 be admissible?
14 MR. GREG DAVIS: Did I not just say
15 that we're withdrawing that?
16 THE COURT: 84 is not in there.

17 MR. DOUGLAS MULDER: It is a memorial
18 for the cat that died. How can -- that's ludicrous.
19 MR. GREG DAVIS: Only she can answer
20 why she's got it over there.
21 But we'll withdraw anything to do with
22 the cat.
23 MR. DOUGLAS MULDER: Yes, 1995.
24 MR. GREG DAVIS: Yeah, and there's
25 still 1996 ones there.
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1 THE COURT: All right, gentlemen. To
2 84-A, B and C are all withdrawn; is that right?
3 MR. GREG DAVIS: Yes, we'll withdraw
4 those.
5 THE COURT: All right. That brings us
6 to -- we come to 82-A, which are the handprints. Where
7 are those? I'll keep that.
8 Then what else have you got?
9 MR. JOHN HAGLER: I have one last one,
10 your Honor.
11 THE COURT: One last one. This
12 purports to be a Texas -- this is number 72-B, which is a
13 birth certificate of Damon Christian Routier. Any
14 objection to that?
15 MR. JOHN HAGLER: That's not relevant
16 to 401, and improperly authenticated in 901.
17 THE COURT: All right. Overruled.
18 72-B is admitted.
19
20 (Whereupon, the item
21 Heretofore mentioned
22 Was received in evidence
23 As State's Exhibit No. 72-B
24 For all purposes,
25 After which time, the
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1705

1 Proceedings were resumed
2 As follows:)
3
4 MR. RICHARD C. MOSTY: Did the Court
5 rule on those renewal sheets?
6 THE COURT: No, I'm going to look at
7 those over the noon hour, and I'll have my rulings on
8 those at 1:30. We will break here in a couple minutes as
9 soon as we finish this.
10 All right. What else? Have we missed

11 anything?
12 Did we go on State's Exhibit 80? What
13 was that? Was that the notes? State's Exhibit 80 is
14 what?
15 MR. GREG DAVIS: That should be, in
16 80, that one page note.
17 THE COURT: One page. Is that up
18 here?
19 MR. JOHN HAGLER: Yes, sir, right
20 there.
21 THE COURT: All right. The Court will
22 rule on that.
23 We're going to adjourn now until 1:30.
24 We're going to try to get these windows fixed up in here
25 for the jury, and I will have a ruling for you on these
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1706

1 exhibits at 1:30.
2 MR. RICHARD C. MOSTY: Judge Tolle,
3 could I clarify one thing? It's just something we're not
4 real clear about, and it's a question to Officer Mayne.
5 THE COURT: Yes, go ahead.

6
7 VOIR DIRE EXAMINATION

8
9 BY MR. RICHARD C. MOSTY:
10 Q. Are these, the documents that we've
11 gone through here, is that each and every document that
12 was on top of the green box?

13 A. Yes, sir.
14 Q. There weren't any that you didn't pick
15 up?

16 A. I picked up all the folders and the
17 spiral, with this included on top of the box.

18 Q. There wasn't anything you left?

19 A. That's correct.

20 Q. And the sewing kit, did you take
21 anything out of the sewing kit?

22 A. No, sir.

23 Q. Did any of these come out of the
24 sewing kit?

25 A. No, sir.

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1 Q. You didn't take anything from the
2 sewing kit?

3 A. No, sir.

4 Q. All right. Thank you very much.

5

6 MR. RICHARD C. MOSTY: That's all. I
7 just wanted to clarify.

8 THE COURT: Okay. We'll adjourn. Any
9 other questions?

10 MR. RICHARD C. MOSTY: No, sir.

11 THE COURT: We're recessed until 1:30.

12 Thank you.

13

14 (Whereupon, a lunch

15 Recess was taken,

16 After which time,

17 The proceedings were

18 Resumed on the record,

19 In the presence and

20 Hearing of the defendant

21 But outside the presence

22 Of the jury, as follows:)

23

24 THE COURT: All right. Let the record

25 reflect that all parties in the trial are present and

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1 these proceedings are being held still outside the
2 presence of the jury.

3 Mr. Hagler, you wanted to make a
4 statement?

5 MR. JOHN HAGLER: Well, your Honor,

6 just to reiterate our position on the exhibits. Again,

7 we've already voiced our objections to a number of them.

8 There are several of them we did not voice an objection,

9 which we wish to voice now.

10 Specifically, the documents that the

11 State's offered to the Court. We would submit, one, that

12 they failed to make a showing of relevancy under Rule

13 401.

14 And furthermore, in the event that the

15 Court finds that certain of these documents may be

16 relevant, we would further urge that the Court conduct a

17 balancing test under 403.

18 We would submit that even if there

19 were any probative value, that it would be vastly, and

20 substantially outweighed by the prejudicial effects and

21 confusion it would create in front of the jury.

22 Next, your Honor, we would further

23 urge the Court that a number of these documents contain

24 hearsay statements, statements of unidentified

25 individuals. We would urge that, for example, the spiral
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1 notebook and various writings that were -- have been
2 offered into evidence by the State.
3 We would submit, your Honor, that they
4 are likewise not admissible under Rule 802, in fact, it
5 is clearly hearsay.
6 And furthermore, the State has
7 indicated that their position of these documents is that
8 they are not being offered for the truth of the matters
9 stated therein. We would submit, on the other hand, that
10 clearly they are being offered for the truth of the
11 matters stated in the documents, the spiral notebook, the
12 insurance policies, and various other documents.
13 And I anticipate that they -- that if
14 they are admitted, that they're going to come back and
15 argue to the jury the truth of the matter in these
16 documents.
17 Next, your Honor, these documents also
18 include 404-B materials. And, based on that, we would
19 further urge that they be excluded.
20 Next, your Honor, the documents are
21 not properly authenticated under section 901. And
22 furthermore, are not self-authenticated under 902,
23 subsection 10. They haven't been on file with the Court
24 14 days prior to trial. We've been given improper notice
25 of the State's offer of these documents at the present
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1 time.
2 And for all of these reasons, your
3 Honor, we would again reurge and ask the Court to deny
4 (sic) our motion to suppress these documents that have
5 been offered.
6 THE COURT: Well, on the statements,
7 or on the exhibits already admitted this morning, the
8 Court finds that the probative value far outweighs any
9 prejudicial effect.
10 Now, over the noon hour I read some --
11 the following exhibits: I'm trying to go in numerical
12 order.
13 On 77-C, State's Exhibit 77-C, D, E
14 and F are receipts for insurance premiums paid on July
15 26th, 1994 on policies on Darin Routier, Darlie
16 Routier -- excuse me, Devon Routier and Damon Routier, to
17 the Combined Insurance Company of America.
18 MR. DOUGLAS MULDER: Did you get a

19 chance to compare those rates?
20 THE COURT: No, not at the current
21 time.
22 State's Exhibit 77-G is a life -- is a
23 folder with a life insurance policy, number 21127468 on
24 the life of Darin Routier, issued by the Massachusetts
25 Indemnity and Life Insurance Company at 3120 Breckenridge
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1 Boulevard, Deluth, Georgia, in the amount of \$200,000 on
2 his life, and \$50,000 on Darlie Routier's life, and
3 \$5,000 on each child's life. The writing agent was
4 Myrtle, M-y-r-t-l-e, Sarilda Routier.
5 The State's Exhibit 78 is a notebook
6 found at the scene with writing.
7 State's Exhibit 79-A, which the Court
8 was handed like this, with the stickers on the back, I
9 thought it was a blank sheet. I withdraw my ruling on
10 that earlier this morning. But 79-A, B, C -- 79-C, are
11 all papers, apparently from a folder in a tablet found at
12 the scene.
13 And State's Exhibit 82-A is what
14 purports to be Damon Routier's handprints found at the
15 scene.
16 State's Exhibit 84-B is a receipt
17 allegedly received from Darlie Routier from the Lyon's
18 Funeral Home, also found at the scene.
19 State's Exhibit 80 is a small piece of
20 paper with some writing on it, and would purport to be
21 the signatures of Darlie Routier and Darin Routier. All
22 of these were found at the scene.
23 The Court's ruling is that the Court
24 will admit all of these exhibits only as exhibits found
25 at the scene. They're not being admitted for the truth
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1 of any matter asserted to any one of these exhibits. And
2 if necessary, a limiting instruction will be placed in
3 the Court's charge to the jury, should that be necessary
4 at the appropriate time.
5 These are being admitted only because
6 they were found at the scene. And the Court also feels
7 that any prejudicial value is outweighed by the probative
8 effect.
9 And I'm going to admit these in front
10 of the jury. And it will not be necessary for the
11 defense to object. They may object one time if you want,
12 whatever you want to do. And it being the intent of the

13 Court, in this hearing, to preserve any error in the
14 Court's ruling for appellate review on behalf of the
15 defense, should that become necessary.

16

17 (Whereupon, the items

18 Heretofore mentioned

19 Were received in evidence

20 As State's Exhibit No. 77-C

21 Through 77-G, 78, 79-A

22 Through 79-C, 80, 82-A and

23 84-B for purposes of the hearing,

24 After which time, the

25 Proceedings were resumed

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1 As follows:)

2

3 THE COURT: So, do you wish to object

4 in front of the jury or not?

5 MR. JOHN HAGLER: No, your Honor, just

6 as long as -- we would reurge all of the objections

7 voiced, and the objections to the evidence admitted by

8 the Court.

9 THE COURT: The Court understands

10 that, the same ruling, is admitting them, and you will

11 not be required to object in front of the jury.

12 MR. RICHARD C. MOSTY: If I

13 understand, everything offered then, except for 84-A and

14 C are received?

15 THE COURT: Right. 83-A and B have

16 not been offered yet.

17 MR. RICHARD C. MOSTY: Right.

18 THE COURT: So that's where we are.

19 And they're admitted, and I'm going to

20 tell the jury I'm admitting them, only because they were

21 found at the scene, and not for the truth of any matters

22 therein asserted.

23 Mr. Hagler, is that satisfactory?

24 Also, excuse me, also the Court admits

25 State's Exhibit 150, the photo. The photo of the green

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1 or aqua-colored couch -- well, this photo right here.

2

3 (Whereupon, the item

4 Heretofore mentioned

5 Was received in evidence

6 As State's Exhibit No. 150

7 For purposes of the hearing,
8 After which time, the
9 Proceedings were resumed
10 As follows:)
11
12 THE COURT: Did you offer that?
13 MR. GREG DAVIS: Yes, for the purposes
14 of the hearing.
15 THE COURT: All right. Everybody
16 ready to bring the jury in?
17 MR. GREG DAVIS: Yes, sir.
18 MR. RICHARD C. MOSTY: Yes, sir, the
19 defense is ready.
20 THE COURT: All right. Bring the jury
21 in, please.
22
23 (Whereupon, the jury
24 Was returned to the
25 Courtroom, and the
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1 Proceedings were
2 Resumed on the record,
3 In open court, in the
4 Presence and hearing
5 Of the defendant,
6 As follows:)
7
8 THE COURT: All right. Be seated,
9 please. Let the record reflect that all parties in the
10 trial are present and the jury is seated.
11 Mr. Davis.
12 MR. GREG DAVIS: Yes, sir.
13
14 (Whereupon, the following
15 mentioned items were
16 marked for
17 identification only
18 after which time the
19 proceedings were
20 resumed on the record
21 in open court, as
22 follows:)
23
24
25
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1 DIRECT EXAMINATION (Resumed)

2

3 BY MR. GREG DAVIS:

4 Q. Officer Mayne, lets me show you first,

5 let's go back just a moment. If you would, please look

6 at State's Exhibit 60-A and 60-B. Do you recognize those

7 photographs, sir?

8 A. Yes, sir.

9 Q. Are they photographs of State's

10 Exhibit 60?

11 A. Yes, they are.

12 Q. And do they truly and accurately

13 depict the condition of the sock at the time that you

14 picked it up on June 6, 1996?

15 A. Yes, sir.

16 Q. All right.

17

18 MR. GREG DAVIS: Your Honor, at this

19 time we'll offer State's Exhibit 60-A and 60-B.

20 MR. RICHARD C. MOSTY: No objection.

21 THE COURT: State's Exhibit 60-A and B

22 are admitted.

23

24 (Whereupon, the items

25 Heretofore mentioned

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1 Were received in evidence

2 As State's Exhibit No. 60-A

3 and 60-B for all purposes,

4 After which time, the

5 Proceedings were resumed

6 As follows:)

7

8

9 BY MR. GREG DAVIS:

10 Q. And very quickly here, Officer Mayne,

11 if we look at State's Exhibit 60-B. Can you point out

12 what appeared to be a blood stain that day?

13 A. Right here.

14 Q. At the top portion where my finger is?

15 A. Yes, sir.

16 Q. Okay. And State's Exhibit 60-A. Do

17 there appear to be some holes down there at the end of

18 the sock there?

19 A. Yes, sir.

20 Q. Okay. Right here where I'm pointing?

21 A. Yes, sir.

22 Q. Were those holes present when you

23 picked the sock up?

24 A. Yes, sir.

25 Q. Now, let me ask you, Officer Mayne, if
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1 you found any property in the entryway of the house that
2 you recovered?

3 A. Yes, sir, I did.

4 Q. What did you recover there?

5 A. A pair of tennis shoes.

6 Q. Okay.

7

8

9 (Whereupon, the following

10 mentioned item was

11 marked for

12 identification only

13 after which time the

14 proceedings were

15 resumed on the record

16 in open court, as

17 follows:)

18

19 BY MR. GREG DAVIS:

20 Q. Sir, if you would, if you'll look at

21 State's Exhibits 71-C. Do you recognize that photograph?

22 A. Yes, sir, I do.

23 Q. Does that show the shoes that you

24 recovered in the entryway of the house?

25 A. Yes, sir, it does.

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1 Q. Does it truly and accurately reflect
2 their condition and location at the time that you first
3 saw them on June the 6th, 1996?

4 A. Yes, sir.

5

6 MR. GREG DAVIS: Okay. Your Honor, at
7 this time we'll offer State's Exhibit No. 71-C.

8 MR. RICHARD C. MOSTY: No objection.

9 THE COURT: State's Exhibit 71-C is

10 admitted.

11

12 (Whereupon, the item

13 Heretofore mentioned

14 Was received in evidence

15 As State's Exhibit No. 71-C

16 For all purposes,

17 After which time, the
18 Proceedings were resumed
19 As follows:)
20
21 BY MR. GREG DAVIS:
22 Q. Officer Mayne, am I now pointing to
23 the shoes there in the photograph?
24 A. Yes, sir.
25 Q. Exactly where were they located in the
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1 entryway?
2 A. It was right beside the trunk area and
3 the door exiting the house.
4 Q. Okay. And when you first saw the
5 shoes, did you look to see whether you could see any
6 blood on the shoes?
7 A. Yes, sir.
8 Q. Did there appear to be blood on the
9 shoes?
10 A. Yes, sir.
11 Q. All right.

12
13 (Whereupon, the following
14 mentioned items were
15 marked for
16 identification only
17 after which time the
18 proceedings were
19 resumed on the record
20 in open court, as
21 follows:)
22

23 BY MR. GREG DAVIS:
24 Q. Officer, if you would please look at
25 what's been marked State's Exhibit 71-A and 71-B and tell
Sandra M. Halsey, CSR, Official Court Reporter
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1 me whether or not these are the shoes that you recovered
2 in the entryway of 5801 Eagle Drive?
3 A. Yes, sir, it is.
4
5 MR. GREG DAVIS: Your Honor, at this
6 time we'll offer State's Exhibits 71-A and 71-B.
7 MR. RICHARD C. MOSTY: No objection.
8 THE COURT: State's Exhibit 71-A and B
9 are admitted.
10

11 (Whereupon, the items
12 Heretofore mentioned
13 Were received in evidence
14 As State's Exhibit No. 71-A
15 and 71-B for all purposes,
16 After which time, the
17 Proceedings were resumed
18 As follows:)

19

20 BY MR. GREG DAVIS:

21 Q. And looking at State's Exhibit 71-A
22 and 71-B, are these the shoes that you thought you saw
23 blood on that morning?

24 A. Yes, sir.

25 Q. Did you do anything at that time to
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1 test the blood on the shoes?

2 A. No, sir, I did not, not on the shoes.

3 Q. You just put them into evidence?

4 A. Yes, sir.

5 Q. All right.

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 BY MR. GREG DAVIS:

19 Q. Officer Mayne, if you would, please,
20 look at what has been marked as State's Exhibit No. 39
21 and tell me whether or not you can identify that.

22 A. Yes, sir, I do.

23 Q. Okay. What is State's Exhibit No. 39?

24 A. That's the small, black cap that was

25 found in the utility room on the floor.

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1 Q. Okay. Would it be fair to say that at
2 this point it has holes in the top of it?

3 A. Yes, sir.

4 Q. Were those holes present when you saw

5 it on June 6th?

6 A. No, sir.

7 Q. Okay. Was this item also later placed
8 into evidence for analysis by someone else?

9 A. Yes, sir.

10 Q. But this is, in fact, the cap; is that

11 right?

12 A. That's correct.

13

14 MR. GREG DAVIS: Your Honor, at this

15 time we'll offer State's Exhibit No. 39.

16 MR. RICHARD C. MOSTY: May I take the

17 witness on Voir Dire very briefly?

18 THE COURT: You may.

19

20 VOIR DIRE EXAMINATION

21

22 BY MR. RICHARD MOSTY:

23 Q. Did you take Exhibit 39 into evidence?

24 A. No, sir.

25 Q. When was it taken into evidence?

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1 A. Some days later.

2 Q. But you don't know?

3 A. I'm not for sure of the date, no, sir.

4 Q. How do you know that's the same hat?

5 Did you place any identifying marks on it of your own?

6 A. No, sir.

7 Q. How do you know it's the same hat?

8 A. Talking with the investigators and

9 officers.

10 Q. Of your knowledge, how do you know

11 it's the same hat?

12 A. It looks like the hat from the

13 pictures.

14 Q. Okay.

15

16 MR. RICHARD C. MOSTY: No objection.

17 THE COURT: All right. State's

18 Exhibit 39 is admitted.

19

20 (Whereupon, the item

21 Heretofore mentioned

22 Was received in evidence

23 As State's Exhibit No. 39

24 For all purposes,

25 After which time, the

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1 Proceedings were resumed

2 As follows:)

3

4

5 DIRECT EXAMINATION (Resumed)

6

7 BY MR. GREG DAVIS:

8 Q. Officer Mayne, now I want to take you

9 back to the vacuum cleaner in the kitchen. And before

10 lunch is it true that we -- you were testifying about

11 where that vacuum cleaner was positioned; is that

12 correct?

13 A. Yes, sir.

14 Q. Let me ask you whether or not you took

15 any photographs of the vacuum on the floor prior to the

16 time that you lifted it up on the floor?

17 A. Yes, sir.

18 Q. Did you also take photographs of that

19 area where the vacuum cleaner had been after you lifted

20 it up off the floor?

21 A. Yes, sir, I did.

22 Q. Okay.

23

24 (Whereupon, the following

25 mentioned items were

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1 marked for

2 identification only

3 after which time the

4 proceedings were

5 resumed on the record

6 in open court, as

7 follows:)

8

9 BY MR. GREG DAVIS:

10 Q. Officer Mayne, if you would, if you'll

11 look at what has been marked as State's Exhibit 43-A and

12 43-B. Does 43-A truly and accurately depict the vacuum

13 cleaner as it appeared while it was still on the floor

14 there in the kitchen?

15 A. Yes, sir.

16 Q. And does 43-B, does that truly and

17 accurately depict the portion of the kitchen floor where

18 the vacuum cleaner had been after you lifted it up on

19 June 6, 1996?

20 A. Yes, sir.

21

22 MR. GREG DAVIS: Your Honor, at this
23 time we'll offer State's Exhibit 43-A and 43-B.

24 MR. RICHARD C. MOSTY: No objection.

25 THE COURT: State's Exhibit 43-A and B
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1 are admitted.

2

3 (Whereupon, the items

4 Heretofore mentioned

5 Were received in evidence

6 As State's Exhibit No. 43-A

7 and 43-B for all purposes,

8 After which time, the

9 Proceedings were resumed

10 As follows:)

11

12 MR. GREG DAVIS: Your Honor, may the
13 witness please step down for a moment?

14 THE COURT: You may.

15

16 (Whereupon, the witness

17 Stepped down from the

18 Witness stand, and

19 Approached the jury rail

20 And the proceedings were

21 Resumed as follows:)

22

23 BY MR. GREG DAVIS:

24 Q. Officer Mayne, let me now ask you to,
25 again, stand to the side here so all of the jurors can
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1 see. State's Exhibit 43-A, what do we see in that
2 photograph, sir?

3 A. We see the vacuum cleaner lying on the
4 linoleum floor, and blood around. You see a small piece
5 of glass right here.

6 Q. Okay. What is this object that I am
7 pointing to on the right side?

8 A. Trash can.

9 Q. Okay. This rectangular-shaped object
10 here in the left-hand portion?

11 A. Is the carpet.

12 Q. Okay. And the sink would be located
13 where in relationship to 43-A?

14 A. It would be right up here.
15 Q. Okay. And again, 43-A is taken on
16 June 6th before you moved the vacuum; is that correct?
17 A. That's correct.
18 Q. State's Exhibit 43-B. What does
19 State's Exhibit Number 43-B show?
20 A. It's the area where the vacuum cleaner
21 was lying. Up here you can see the trash can. In this
22 area here you can see the rug area, and also the glass.
23 Q. Okay. Just as a reference point, let
24 me -- do you see the objects that I'm pointing to in
25 State's Exhibit 43-B?
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1 A. Yes, sir.
2 Q. What is that object?
3 A. It's a piece of broken glass.
4 Q. Okay. And I'm pointing to an object
5 down here in State's Exhibit 43-A, and I'll ask you
6 whether or not that's the same object as shown in State's
7 Exhibit 43-B?
8 A. Yes, sir.
9 Q. Now, the two objects that we have
10 drawn the lines to here, can you tell me what they
11 appeared to be when you lifted the vacuum cleaner off the
12 floor?
13 A. Blood footprints.
14 Q. Did you find anything else underneath
15 the vacuum cleaner besides the bloody footprints, any
16 other glass?
17 A. Yes, sir.
18 Q. Can you point for the members of the
19 jury where you may have found some other glass?
20 A. Right up here, and up here.
21 Q. Okay. Were these two bloody
22 footprints shown in State's Exhibit 43-B, were they
23 visible to you before you moved the vacuum cleaner?
24 A. No, sir.
25 Q. And again, just so we can get a
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1 direction here, looking at State's Exhibit 43-B, where
2 would the sink be in relationship to the bloody
3 footprints?
4 A. Right in here.
5 Q. Would the footprints then be leading
6 away from the sink or towards the sink?
7 A. Away from the sink.

8

9 MR. GREG DAVIS: Thank you.

10

11 (Whereupon, the witness

12 Resumed the witness

13 Stand, and the

14 Proceedings were resumed

15 On the record, as

16 Follows:)

17

18

19 BY MR. GREG DAVIS:

20 Q. Officer Mayne, when you picked the

21 vacuum up, where did you place it?

22 A. I placed it beside the wine rack --

23 the wine rack and the closet area.

24 Q. At any time on June the 6th, 1996, did

25 you ever move the vacuum cleaner back over to where it

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1 had been near the sink?

2 A. No, sir.

3 Q. Okay. Just one other question here:

4 As we look at State's Exhibit 43-B, do you see the object

5 on the left-hand side of that photograph?

6 A. Yes, sir.

7 Q. Let me ask you whether or not that was

8 this particular area that I'm pointing to, was that

9 visible to you before you moved the vacuum cleaner?

10 A. Yes, sir.

11 Q. Officer Mayne, let me ask you whether

12 or not you ever collected any evidence out of the garage

13 itself?

14 A. No, sir.

15 Q. Did you ever take possession of a

16 window screen from the garage area?

17 A. Yes, sir, I did take the screen off

18 the window.

19 Q. Okay. And if you would briefly tell

20 us what was the condition of the screen at the time that

21 you retrieved it from the window?

22 A. It was cut in a T-shaped pattern.

23 Q. Okay. And how did you remove the

24 screen?

25 A. The screen was removed by another

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1 officer and handed to me.
2 Q. Was that done on June the 6th?
3 A. That's correct.
4 Q. All right.

5
6
7 (Whereupon, the following
8 mentioned item was
9 marked for
10 identification only
11 after which time the
12 proceedings were
13 resumed on the record
14 in open court, as
15 follows:)

16
17 BY MR. GREG DAVIS:
18 Q. Sir, if you would, please, look at the
19 object that has been marked as State's Exhibit No. 42-A.
20 Do you recognize that?

21 A. Yes, sir.
22 Q. Is this, in fact, the screen, the
23 window screen that you retrieved from the window on June
24 6th, 1996?

25 A. Yes, sir.
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1 Q. Is it still in the same condition as
2 when you first retrieved it on June the 6th?

3 A. It appears so, yes.
4

5 MR. GREG DAVIS: Okay. Your Honor, at
6 this time we'll offer State's Exhibit Number 42-A.

7 MR. RICHARD C. MOSTY: No objection.

8 THE COURT: State's Exhibit 42-A is
9 admitted.

10 MR. GREG DAVIS: Okay.

11
12 (Whereupon, the item
13 Heretofore mentioned
14 Was received in evidence
15 As State's Exhibit No. 42-A
16 For all purposes,
17 After which time, the
18 Proceedings were resumed
19 As follows:)

20
21 BY MR. GREG DAVIS:
22 Q. The cuts that we see in this screen

23 today, were they present on June the 6th, 1996?

24 A. Yes, sir.

25 Q. Okay. And you had indicated a T-cut.

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1 By that, what do you mean?

2 A. I mean it goes straight across and

3 then down the bottom.

4 Q. Okay. When you retrieved this screen,

5 do you remember how the screen was folded? Was it folded

6 inward toward the garage, or was it folded outward toward

7 the patio? Do you recall?

8 A. Inward towards the garage.

9 Q. Okay. The frame on the bottom

10 portion, does it appear today to have been bent in some

11 fashion?

12 A. Yes, sir.

13 Q. Was it in that same condition when you

14 picked it up on June the 6th?

15 A. Yes, sir.

16 Q. Let me ask you also, Officer Mayne,

17 did you ever retrieve any evidence from upstairs in the

18 residence?

19 A. Yes, sir, I did.

20 Q. Okay. And specifically, did you go

21 into the bedroom with the bunk-beds?

22 A. Yes, sir.

23 Q. All right.

24

25 (Whereupon, the following

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1 mentioned item was

2 marked for

3 identification only

4 after which time the

5 proceedings were

6 resumed on the record

7 in open court, as

8 follows:)

9

10 BY MR. GREG DAVIS:

11 Q. Officer Mayne, let me ask you to look

12 at State's Exhibit 70. Do you recognize that, sir?

13 A. Yes, sir.

14 Q. Okay. Is this the comforter that you

15 retrieved from the bedroom on June 6, 1996?

16 A. Yes, sir, it is.

17 Q. Okay. At the time did it have any
18 holes or defects in it?
19 A. No, sir.
20 Q. Okay. Did you do anything to analyze
21 this thing for blood or other evidence?
22 A. No, sir.
23 Q. Did you place it into evidence for
24 further analysis by someone else?
25 A. Yes, sir, I did.
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1
2 MR. GREG DAVIS: Your Honor, at this
3 time we'll offer State's Exhibit 70.
4 MR. RICHARD C. MOSTY: No objection.
5 THE COURT: State's Exhibit 70 is
6 admitted.
7
8 (Whereupon, the item
9 Heretofore mentioned
10 Was received in evidence
11 As State's Exhibit No. 70
12 For all purposes,
13 After which time, the
14 Proceedings were resumed
15 As follows:)
16
17 BY MR. GREG DAVIS:
18 Q. Officer, when you looked at the
19 comforter, State's Exhibit 70, did you try to determine
20 whether or not you could see any blood on that?
21 A. It appeared to have some type of blood
22 stain on the comforter.
23 Q. Okay. Is that why you took it into
24 evidence?
25 A. Yes, sir.
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1 Q. Okay. In addition to the items that
2 you have identified here today during your testimony, did
3 you retrieve additional items from the family room there
4 at 5801 Eagle Drive?
5 A. Yes, sir.
6 Q. Officer Mayne, let me show you what's
7 been marked as State's Exhibit 150. Do you recognize
8 that photograph, sir?
9 A. Yes, sir.
10 Q. Is that a photograph that you took in

11 the family room on June 6, 1996?

12 A. Yes, sir.

13 Q. Does it show certain items in this

14 photograph that you retrieved?

15 A. Yes, sir.

16 Q. Does it show them in the position that

17 they were when you first retrieved them?

18 A. Yes, sir.

19

20 MR. GREG DAVIS: Okay. Your Honor, at

21 this time we'll offer State's Exhibit 150.

22 MR. RICHARD C. MOSTY: No objection.

23 THE COURT: State's Exhibit No. 150 is

24 admitted.

25 MR. GREG DAVIS: Yes, sir.

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1

2 (Whereupon, the item

3 heretofore mentioned

4 was received in evidence

5 as State's Exhibit No. 150

6 for all purposes,

7 after which time, the

8 proceedings were resumed

9 as follows:)

10

11 BY MR. GREG DAVIS:

12 Q. Officer Mayne, as I'm showing this to

13 the jury, can you just describe what part of the family

14 room that we're looking at here?

15 A. This is the area beside the couch, and

16 between the couch and the TV and a lamp.

17 Q. And, in the middle portion, are there

18 certain papers?

19 A. Yes, sir.

20 Q. Are you familiar with where the body

21 of Devon Routier was found?

22 A. Yes, sir.

23 Q. How far away from the body of Devon

24 Routier were these papers?

25 A. Approximately two feet.

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1 Q. Were there a number of papers that you

2 retrieved from that location?

3 A. Yes, sir.

4 Q. Okay. Let me show you first, four

5 pieces of paper. These have been marked as State's
6 Exhibit 77-C, D, E and F. Do you recognize these four
7 pieces of paper to be papers that were gathered from that
8 location in the family room, sir?

9 A. Yes, sir.

10

11 MR. GREG DAVIS: Your Honor, at this
12 time we'll offer State's Exhibits 77-C, D, E and F.

13 MR. JOHN HAGLER: Same objection as
14 previously stated.

15 THE COURT: Thank you. State's
16 Exhibits 77-D, E, C and F are admitted.

17

18 (Whereupon, the items

19 Heretofore mentioned

20 Were received in evidence

21 As State's Exhibit No. 77-C

22 through 77-F for all purposes,

23 After which time, the

24 Proceedings were resumed

25 As follows:)

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1

2 BY MR. GREG DAVIS:

3 Q. Let me just ask you, Officer, if these
4 appear to be renewal agreements from an insurance
5 company?

6 A. Yes, sir.

7 Q. What insurance company would that be?

8 A. Combined Insurance Company.

9 Q. Okay. Of America?

10 A. Of America.

11 Q. Okay. And does it show an insured on
12 77-C?

13 A. Yes, sir.

14 Q. And who is that?

15 A. Darin Routier.

16 Q. And on 77-D, is Darlie Routier the
17 insured?

18 A. Yes, sir.

19 Q. And on 77-E, is Devon R. Routier the
20 insured?

21 A. Yes, sir.

22 Q. And on 77-F, is Damon C. Routier the
23 insured?

24 A. Yes, sir.

25 Q. Let me show you what's been marked as

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1 State's Exhibit 76. Do you recognize that, sir?
2 A. Yes, sir.
3 Q. Now, is this a marriage license? Is
4 this one of the pieces of paper that you retrieved from
5 that location of the family room?
6 A. Yes, sir, it is.
7 Q. Does it appear to be a marriage
8 license between Darlie Lynn Peck and Darin Eugene
9 Routier?
10 A. Yes, sir.
11
12 MR. GREG DAVIS: All right. Your
13 Honor, at this time we'll offer State's Exhibit 76.
14 MR. JOHN HAGLER: Same objection, your
15 Honor.
16 THE COURT: All right. Same ruling.
17 State's Exhibit 76 is admitted.
18
19 (Whereupon, the item
20 Heretofore mentioned
21 Was received in evidence
22 As State's Exhibit No. 76
23 For all purposes,
24 After which time, the
25 Proceedings were resumed
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1 As follows:)
2
3 BY MR. GREG DAVIS:
4 Q. Again this appears to be a marriage
5 license of Darlie Lynn Peck and Darin E. Routier; is that
6 correct?
7 A. Yes, sir.
8 Q. These papers that I'm showing you,
9 Officer, were they found in any sort of container, or
10 where exactly were they?
11 A. They were in green folders lying on
12 top of a plastic canister tub.
13 Q. And did you ever determine if there
14 was anything inside that tub?
15 A. Yes, sir.
16 Q. Any other papers inside the tub?
17 A. No, sir.
18 Q. What was inside the tub?
19 A. Like sewing equipment.

20 Q. All right. I'm going to show you
21 what's been marked as State's Exhibit 74-A and 74-B. Do
22 you recognize those to be two of the papers that you
23 retrieved from that location in the family room?

24 A. Yes, sir, it is.

25

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1 MR. GREG DAVIS: Your Honor, at this
2 time we'll offer State's Exhibits 74-A and 74-B.

3 THE COURT: All right. 74-A and B are
4 admitted.

5

6 (Whereupon, the items
7 Heretofore mentioned
8 Were received in evidence
9 As State's Exhibit No. 74-A
10 And 74-B for all purposes,
11 After which time, the
12 Proceedings were resumed
13 As follows:)

14

15 BY MR. GREG DAVIS:

16 Q. Officer, do these appear to be Social
17 Security cards, 74-A being for Devon Rush Routier?

18 A. Yes, sir.

19 Q. And does 74-B appear to be a Social
20 Security card for Damon Christian Routier?

21 A. Yes, sir.

22 Q. Let me show you State's Exhibit 75.
23 Do you recognize this also to be one of the papers that
24 you retrieved from that location of the family room?

25 A. Yes, sir.

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1

2 MR. GREG DAVIS: We'll offer State's
3 Exhibit 75.

4 THE COURT: I believe they have
5 already been reviewed. What is State's Exhibit 75?

6 MR. GREG DAVIS: 75 is the birth
7 certificate of Darlie Lynn Peck.

8 THE COURT: Okay. Well, State's
9 Exhibit 75 is admitted.

10

11 (Whereupon, the above
12 mentioned item was

13 received in evidence as
14 State's Exhibit No. 75,
15 for all purposes
16 after which time,
17 the proceedings were
18 resumed on the record,
19 as follows:)
20

21 BY MR. GREG DAVIS:

22 Q. Again, Officer, does this appear to be
23 a certificate of birth from the Commonwealth of
24 Pennsylvania for an individual named Darlie Lynn Peck; is
25 that correct?

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1 A. Yes, sir.

2 Q. Okay. Officer, if you will please
3 look at State's Exhibit 73-A and 73-B. Are those two of
4 the papers that you retrieved from that location in the
5 family room on June 6th?

6 A. Yes, sir.

7

8 MR. GREG DAVIS: Your Honor, at this
9 time we'll offer State's Exhibits 73-A and 73-B.

10 THE COURT: All right. Exhibits 73-A
11 and B are admitted.

12

13 (Whereupon, the items
14 Heretofore mentioned
15 Were received in evidence
16 As State's Exhibit No. 73-A
17 And 73-B for all purposes,
18 After which time, the
19 Proceedings were resumed
20 As follows:)

21

22 BY MR. GREG DAVIS:

23 Q. Just looking here, does 73-A appear to
24 be a birth certificate for a Devon Rush Routier? And
25 does 73-B appear to be a birth certificate for Damon
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1 Christian Routier?

2 A. Yes, sir.

3 Q. Okay. Officer, looking at State's
4 Exhibits 72-A and B, are these also two pieces of paper
5 you retrieved from the family room that morning?

6 A. Yes, sir.

7

8 MR. GREG DAVIS: Your Honor, at this
9 time we will offer State's Exhibit Number 72-A and 72-B.

10 THE COURT: State's Exhibit 72-A and B
11 are admitted.

12

13 (Whereupon, the items

14 Heretofore mentioned

15 Were received in evidence

16 As State's Exhibit No. 72-A

17 And 72-B for all purposes,

18 After which time, the

19 Proceedings were resumed

20 As follows:)

21

22 BY MR. GREG DAVIS:

23 Q. Officer, again, does 72-A appear to be

24 a certified copy of the birth certificate for a Devon

25 Rush Routier?

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1 A. Yes, sir.

2 Q. Does 72-B appear to be a certified

3 copy of the birth certificate for Damon Christian

4 Routier?

5 A. Yes, sir.

6 Q. Officer, let me show you what's been

7 marked as State's Exhibits 74-C and 74-D. Do you

8 recognize those to also be papers that you retrieved from

9 the family room?

10 A. Yes, sir.

11

12 MR. GREG DAVIS: Your Honor, at this

13 time we'll offer State's Exhibits 74-C and 74-D.

14 THE COURT: 74-C and D are admitted.

15

16 (Whereupon, the items

17 Heretofore mentioned

18 Were received in evidence

19 As State's Exhibit No. 74-C

20 and 74-D for all purposes,

21 After which time, the

22 Proceedings were resumed

23 As follows:)

24

25

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1 BY MR. GREG DAVIS:

2 Q. All right. Officer, looking at
3 State's Exhibit 74-C, does it appear to be the
4 immunization record for Devon Routier?

5 A. Yes, sir.

6 Q. State's Exhibit 74-D, does this appear
7 to be the immunization record for Damon Routier?

8 A. Yes, sir.

9 Q. Okay. Officer, let me show you what's
10 been marked as State's Exhibit No. 82-A. Do you
11 recognize that, sir?

12 A. Yes, sir.

13 Q. Is this also one of the pieces of
14 paper that you retrieved from the den that morning?

15 A. Yes, sir.

16

17 MR. GREG DAVIS: Your Honor, at this
18 time we'll offer State's Exhibit 82-A.

19 THE COURT: State's Exhibit 82-A is
20 admitted.

21 (State's Exhibit 82-A admitted.)

22

23 BY MR. GREG DAVIS:

24 Q. Officer, did you ever look at the
25 hands here to compare the size of them to the handprint
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1 that you found on the carpet?

2 A. Visually, yes.

3 Q. What was the result of that?

4 A. It appears they were approximately the
5 same size.

6 Q. Okay. Officer, let me show you what's
7 been marked as State's Exhibit 77-G, a folder with
8 several pieces of paper inside. Were these papers also
9 found by you in the family room on June 6?

10 A. Yes, sir.

11

12 MR. GREG DAVIS: Your Honor, at this
13 time we'll offer State's Exhibit 77-G.

14 THE COURT: State's Exhibit 77-G is
15 admitted.

16

17 (Whereupon, the item

18 Heretofore mentioned

19 Was received in evidence

20 As State's Exhibit No. 77-G

21 For all purposes,

22 After which time, the

23 Proceedings were resumed
24 As follows:)
25
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1 BY MR. GREG DAVIS:
2 Q. Does this appear to be a brochure from
3 the A.L. Williams Company concerning insurance?
4 A. Yes, sir.
5 Q. Officer, looking at State's Exhibit
6 No. 77-A and 77-B. Were these papers found by you in the
7 family room on June 6th?
8 A. Yes, sir.
9

10 MR. GREG DAVIS: Your Honor, at this
11 time we'll offer State's Exhibits 77-A and 77-B.
12 THE COURT: State's Exhibits 77-A and
13 B are admitted.
14

15 (Whereupon, the items
16 Heretofore mentioned
17 Were received in evidence
18 As State's Exhibit No. 77-A
19 And 77-B for all purposes,
20 After which time, the
21 Proceedings were resumed
22 As follows:)
23

24 BY MR. GREG DAVIS:
25 Q. Officer, if you would please look at
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1 the notebook that I have marked as State's Exhibit 78.
2 Do you recognize that, sir?
3 A. Yes, sir.
4 Q. Did you find that notebook in the
5 family room on June the 6th?
6 A. Yes, sir.
7

8 MR. GREG DAVIS: Your Honor, at this
9 time we'll offer State's Exhibit 78.
10 THE COURT: State's Exhibit 78 is
11 admitted.
12
13 (Whereupon, the item
14 Heretofore mentioned
15 Was received in evidence
16 As State's Exhibit No. 78

17 For all purposes,
18 After which time, the
19 Proceedings were resumed
20 As follows:)

21

22 BY MR. GREG DAVIS:

23 Q. Officer, if you would please look at
24 the piece of paper that I'm holding, State's Exhibit 80.
25 I'll ask you whether or not you found this piece of paper
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1 in the family room on that date also on June 6th?

2 A. Yes, sir.

3 Q. As well as, did you find State's
4 Exhibit 79-A, 79-B, and the notepad identified as State's
5 Exhibit 79-C. Did you find all four of these documents
6 in the family room on June 6th, sir?

7 A. Yes, sir.

8

9 MR. GREG DAVIS: Okay. Your Honor, at
10 this time we'll offer State's Exhibit 79-A, 79-B, 79-C,
11 and State's Exhibit No. 80.

12 THE COURT: All right. State's
13 Exhibits 79-A, B and C are admitted. And State's Exhibit
14 80 is admitted.

15

16 (Whereupon, the items
17 Heretofore mentioned
18 Were received in evidence
19 As State's Exhibit No. 79-A
20 Through 79-C and No. 80
21 For all purposes,
22 After which time, the
23 Proceedings were resumed
24 As follows:)

25

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1 BY MR. GREG DAVIS:

2 Q. All right. Officer Mayne, if you
3 could step down briefly and just point on the diagram of
4 the family room exactly where you found the documents
5 that we've just offered into evidence, sir.

6

7 (Whereupon, the witness
8 Stepped down from the
9 Witness stand, and
10 Approached the jury rail

11 And the proceedings were
12 Resumed as follows:)
13
14 THE COURT: Before, let me make this
15 statement to the jury:
16 Ladies and gentlemen of the jury,
17 State's Exhibit 77-D, E, C and F, and State's Exhibit 76
18 and 74-A and B, 75, 73-A and B, 72-A and B, 74-C and D,
19 82-A, 77-G, 77-A and B, 78, 80 and 79-A, B and C were
20 admitted because they were found at the scene and for no
21 other reason. And if necessary, a limiting instruction
22 will be given to you in the Charge of the Court if that
23 is appropriate, at the time that I give my Charge of the
24 Court.
25
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1 BY MR. GREG DAVIS:
2 Q. Officer, if you could hold that end.
3 If possible, just point out for us where you found these
4 documents.
5 A. Right here.
6 Q. Okay. And I'm pointing here at
7 State's Exhibit 11-B. Am I pointing at the location in
8 that room where you found them?
9 A. That's correct.
10 Q. Okay. If you'll step around so all
11 those jurors can see you.
12 A. Okay.
13 Q. You found all the papers in that one
14 location?
15 A. Yes, sir.
16 Q. Okay.
17

18 MR. GREG DAVIS: Your Honor, I would
19 like permission to publish certain documents to the jury.
20 And what we have done is we have made copies of the
21 documents that I'll be publishing, a copy for each juror,
22 as well as for counsel and the Court.
23 THE COURT: You may do so.
24
25 (Folders passed out to
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1 the jury.)
2
3 MR. GREG DAVIS: The first document
4 that we will be looking at is State's Exhibit 77-B. And

5 that should be the first document in your folder there.
6 And I draw your attention to the first page which shows
7 that that document is an insurance policy issued by the
8 Massachusetts General Life Insurance Company of Boston,
9 Massachusetts.
10 And, if you will look at the second
11 page, you will see that the insured is Darlie Routier.

12 You will also see under the monthly cost of the insurance
13 schedule that the flexible premium adjusted for life
14 insurance for the insured is \$100,000.
15 You'll also notice on the second line,
16 CR-86, children's insurance, initial specified amount is
17 \$5,000, with premium due on that.
18 Now, if you will look at the second
19 document, in the notebook, you'll see that's State's
20 Exhibit 78. And, you'll see the first page is actually
21 the outside cover of the notebook that I'm holding here.
22 And if you'll turn to the next page,
23 you'll see the page that's actually shown about four or
24 five pages deep into the notebook here that I'm holding.
25 And you'll see here that A.L. Williams, Darin, 350,000,
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1 Darlie, 50, Combined Insurance Company, their address,
2 telephone number. Massachusetts General Life, Agent John
3 B. Tanner, his telephone. Darin, 350,000, Darlie,
4 100,000. Also says if death occurs by plane, American
5 Express will also pay for us.
6 And if you'll turn to the next page,
7 you'll see there a notation, "Guardianships Sarilda and
8 Lenny Routier. Joint custody, Darlie Kee, parenthesis,
9 Mauk. Executor of will Darlie Kee. House to be sold by
10 Mary Kay Molby, 475-5608. And any profit to be put in
11 trust fund for Devon, Damon and Drake until age 21. All
12 items in safety deposit box will remain in place until
13 Devon, Damon and Drake reach age 21. Darlie Kee will
14 have access to this box until the boys reach 21."
15 And, if you'll turn the page, you'll
16 see it's entitled "funeral arrangements." Funeral to be
17 paid for from insurance money, arrangements to be made by
18 Darlie Kee and Sarilda Routier.
19 And, if you'll turn the page one more
20 time, you'll see the last page in that exhibit. "Money
21 from insurance, money remaining after funeral arrangement
22 is to be divided into three trust funds for Devon, Damon
23 and Drake." And those are pages out of State's Exhibit
24 78, the notebook.
25 And, if you'll look at the next

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1 exhibit, that will be State's Exhibit 79-A, a cover
2 sheet. And if you'll flip over you'll see a page that's
3 entitled "House is to be sold by." And what you're
4 looking at there is actually the yellow -- the loose
5 yellow notepad here with the Brewer Printing Company and
6 the Water Tower on it that says "House is to be sold by
7 Mary Kay Molby, 475-5608. And then money to be put in
8 trust for Devon and Damon until age 21."
9 79-B: What you're looking at there is
10 actually the loose green notepad page, again, Brewer
11 Printing Company and the Water Tower. The front page
12 will be guardianship Sarilda and Lenny Routier. Joint
13 custody, Darlie Kee Mauk. Executor of will, Darlie Kee.
14 Insurance money after funeral is paid money in trust for
15 Devon and Damon until age 25.
16 Prenup for marriage, money in trust.
17 Trust is \$25,000 each when they start college. If they
18 don't -- and if you'll flip to the next page, what you'll
19 see is what's on the back of the green pad.
20 If they don't go to college the money
21 stays in trust until age 25. All items in safety deposit
22 box to be kept in box until Devon and Damon reach age 21.
23 Darlie Kee will have access to the box.
24 An allowance will be taken out of the
25 trust one -- once per year in the amount of \$10,000 to be
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1 used for Devon and Damon's living expenses while in
2 custody of Lenny and Sarilda until Devon and Damon reach
3 age 18, no exceptions.
4 And if you go to the next page. This
5 page is going -- this next page is going to begin with
6 mink coat.
7 Does everybody see the page mink coat?
8 Mink coat, diamond heart necklace,
9 leather furniture, formal dining table and chairs.
10 Leather furniture, Darlie Kee. All autographed pictures
11 and remaining jewelry and guns go in the safety deposit
12 box for Devon and Damon until age 25. Also, any
13 remaining items in house to be sold by Darlie Kee and put
14 in trust for D and D until age 21.
15 1986 XJ6 Jaguar, Deon Routier. And
16 stereo, with big screen T.V. Armani statues, two diamond
17 and gold watches, Arenda Routier. 1987, 30-foot boat,
18 Lenny and Sarilda Routier. Also green marble three-piece
19 clock set, and large vase in entrance, three piece

20 bedroom suite, Barbara Jovell.
21 If you'll turn it over, you'll see
22 what is a pink page still on the pad. Kitchen table and
23 chairs, entrance table, and green leather TV chairs, and
24 two carat diamond rings, Tammy Jovell. All clothes and
25 amethyst ring, Dana Stahl. All perfume bottles and
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1 emerald ring, Danielle Stahl.
2 Everything in shop is to be sold by
3 Darlie Kee. 10,000 each is to be given to Barbara and
4 Tammy Jovell. 10,000 is to be given to Darlie Kee.
5 10,000 is to be given to Lenny and Sarilda Routier.
6 Remaining money is to be divided among Dana Stahl.
7 And if you'll turn, you'll see the
8 beige-colored tab page here. Danielle Stahl, Arenda
9 Routier, Deon Routier. All of the boys items from house
10 to be taken with them to Lenny and Sarilda Routier,
11 including all pictures and any personal items that Devon
12 and Damon want to have with them.
13 The dog and two cats are to go with
14 Deon -- with Devon and Damon Routier, and are to be taken
15 care of at the residence of Lenny and Sarilda Routier.
16 And that's the last page on the notepad that's actually
17 written on.
18 All right. And if you'll look at the
19 next page in the packet there, you will see State's
20 Exhibit 80. The first of the back part where it's been
21 marked here, State's Exhibit No. 80. And if you'll go to
22 the last page there. The copies aren't real good, but
23 you'll see the writing: Money from this policy is to be
24 put into trust for Devon and Damon until age 21. It
25 appears Darlie Routier's signature and that of Darin
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1 Routier beneath that.
2
3 BY MR. GREG DAVIS:
4 Q. Okay. And, again, Officer, the papers
5 that we just read, were they also included in the bags
6 that were out there in the open, on top of that blue or
7 green box?
8 A. Yes, sir.
9 Q. Let me ask you: On the June 6th,
10 1996, did you collect any more evidence out there than
11 what we have just seen?
12 A. Yes, sir.
13 Q. Okay. Any other papers, for instance?

14 A. No, sir.

15 Q. Okay. What other evidence did you
16 retrieve out there on June 6th?

17 A. Some marijuana.

18

19 MR. JOHN HAGLER: Excuse me, your

20 Honor, may we approach the bench?

21 THE COURT: You may indeed.

22 MR. JOHN HAGLER: Your Honor, we need

23 a hearing outside the presence of the jury.

24 THE COURT: Will the jury step into

25 the jury room briefly, please.

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1 All right. Why don't you take a 15

2 minute break now, please. Thank you.

3

4 (Whereupon, the jury

5 Was excused from the

6 Courtroom, and the

7 Proceedings were held

8 In the presence of the

9 Defendant, with her

10 Attorney, but outside

11 The presence of jury

12 As follows:)

13

14 THE COURT: Let the record reflect

15 that these proceedings are being held outside the

16 presence of the jury and all parties in the trial are

17 present.

18 You may proceed -- well, why don't we

19 go through with this testimony first and then Mr. Hagler

20 can make his objection.

21 Go ahead, Mr. Davis.

22 MR. GREG DAVIS: I have no further

23 questions, your Honor.

24 THE COURT: That's it?

25 MR. GREG DAVIS: Yes, sir.

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1 THE COURT: All right.

2 MR. GREG DAVIS: Concerning that date,

3 I have some questions about June the 14th.

4 THE COURT: Okay. You got any

5 anything else that might indicate anything -- any

6 extraneous offense or anything?

7 MR. GREG DAVIS: No, sir. Just for

8 the record, I was not attempting to offer an extraneous
9 offense. I'm very well aware of the Court's order here
10 in that regard, and that the matters are to be taken up
11 outside the presence of the jury.

12 I expected the answer: "No, I didn't
13 retrieve anything else." Because that's the only
14 evidence -- I'm looking at an outline here. That's the
15 last piece of evidence that I've got on my outline here
16 is the papers --

17 THE COURT: All right. I'll sustain
18 the defense objection. And when the jury comes back,
19 I'll instruct them not to consider that for any reason
20 whatsoever.

21 MR. DOUGLAS MULDER: Judge, that won't
22 do us any good. This is a flagrant violation. We've
23 been over this three or four times. It's not like this
24 witness has not been prepared in this. This was a
25 deliberate attempt on the part of the prosecution and the
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1 witness, I submit, to go into matters that the Court
2 ruled inadmissible.

3 You can't cure this. And you
4 shouldn't ask us to try to live with your ruling, because
5 it won't do us any good at this point.

6 MR. RICHARD C. MOSTY: Your Honor, and
7 I would point out that he was asked a question: Did you
8 get anything else? The answer to that is a "yes".
9 And, we've been through, however many
10 items of evidence here that he's talked about, and it
11 just so happens that on this one he adds, "Yes,
12 marijuana," immediately. This witness should -- well, I
13 can't imagine that someone wouldn't know better than to
14 try to throw something out like that that has been
15 covered time, and time, and time again in rulings by this
16 Court.

17 MR. DOUGLAS MULDER: Judge, they've
18 even had a dress rehearsal on this, and the witnesses
19 have testified. If we can take this witness on voir
20 dire, we'll establish how many times he's talked to the
21 prosecution.

22 But now, you've put us in the position
23 of having to go into this matter, and show the jury that
24 it was in fact a very, very small quantity of marijuana.
25 The jury doesn't know whether there were bales out there,
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1 or whether there were pounds, or just what.
2 But now, we're put in the position,
3 because of this deliberate misconduct, of having to clear
4 this matter up before the jury, and show them that it
5 was -- that we're talking about grams, a few grams,
6 instead of ounces or pounds or whatever.
7 THE COURT: Well, are you moving for a
8 mistrial?
9 MR. DOUGLAS MULDER: Yes, sir.
10 THE COURT: Okay. Motion for mistrial
11 denied. I will so instruct the jury.
12 MR. RICHARD C. MOSTY: You're not
13 going to instruct them about a mistrial, are you?
14 THE COURT: No, I'm going to tell the
15 jury -- I will caution the jury -- I'll instruct the jury
16 to not consider the last comment of the witness for any
17 reason whatsoever.
18 MR. DOUGLAS MULDER: Well, Judge,
19 we're placed into the position of having to go into this.
20 THE COURT: I understand. You've
21 moved for a mistrial. I have denied your motion for a
22 mistrial. So if there's any error in my ruling, I think
23 it's been adequately preserved.
24 MR. DOUGLAS MULDER: Well, we have
25 been --
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1 THE COURT: All right. With that in
2 mind, we will, I guess, have another 13 minutes of break.
3 MR. DOUGLAS MULDER: Would it be
4 presumptuous of me to ask the Court to admonish both the
5 witness and the prosecution?
6 THE COURT: They are both so
7 admonished.
8 MR. DOUGLAS MULDER: Well, could you
9 do it a little bit stronger, Judge, do you think?
10 THE COURT: Well, I think they -- I
11 don't think Mr. Davis did this intentionally.
12 MR. DOUGLAS MULDER: Well, what
13 sanctions do you intend to take against the witness?
14 THE COURT: I have taken all of
15 sanctions I intend to take right now. Thank you. All
16 right.
17 MR. JOHN HAGLER: Your Honor, just for
18 the purpose of the record, our objection is that this is
19 an extraneous offenses, inadmissible under Rule 404-B.
20 THE COURT: We understand that. And
21 the jury is going to be instructed to disregard the
22 comment of the witness.

23 And you're instructed not to do
24 that -- anything like that again.
25 THE WITNESS: Yes, sir.
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1 MR. GREG DAVIS: Yes, sir.
2 THE COURT: All right.
3 MR. RICHARD C. MOSTY: And could he be
4 admonished that that's even true on cross-examination
5 when I cross-examine him?
6 THE COURT: Yes, by all means.
7 Keep quiet about that.
8 All right. I guess we're on break now
9 until 20 minutes to 3:00.
10
11 (Whereupon, a short
12 Recess was taken,
13 After which time,
14 The proceedings were
15 Resumed on the record,
16 In the presence and
17 Hearing of the defendant
18 But outside the presence
19 Of the jury, as follows:)
20
21 THE COURT: All right. Let the record
22 reflect that these proceedings are being held outside the
23 presence of the jury and all parties in the trial are
24 present.
25 Mr. Davis, Mr. Shook and Mrs. Wallace,
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1 you're instructed to make sure that all of the witnesses
2 are properly prepared and not to have a repetition of
3 what just occurred; is that clear?
4 MR. GREG DAVIS: Yes, sir. And I will
5 state to the Court that during the break that Miss
6 Wallace went back and talked to the Rowlett officers who
7 are scheduled to testify later in this case. And we have
8 re-emphasized to them again, that these matters are not
9 to be gotten into during their testimony.
10 THE COURT: All right. Thank you.
11 All right. Bring the jury in.
12 MR. DOUGLAS MULDER: Wait a minute,
13 your Honor. Couple of things: One, Judge, if it please
14 the Court, what happens if they do?
15 THE COURT: Well, we'll come to
16 that -- we'll cross that bridge when we come to it.

17 Let's bring the jury in, please.
18 MR. DOUGLAS MULDER: And what --
19 second, what -- could the Court please tell us what
20 instructions you intend to give the court -- the jury?
21 THE COURT: I intend to give the jury
22 the following instruction, not to consider the last
23 comment of the witness concerning marijuana to be found
24 at the scene for any purpose whatsoever. Please
25 disregard it.
Sandra M. Halsey, CSR, Official Court Reporter
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1 All right. Let's bring the jury in.
2 MR. RICHARD C. MOSTY: Wait a minute.
3 Could we have second to think about it?
4 MR. DOUGLAS MULDER: We may not want
5 any instruction. I just may not want it re-emphasized.
6 THE COURT: Well, I intend to do that,
7 so I am going to do it.
8 MR. DOUGLAS MULDER: Over our
9 objection?
10 THE COURT: Thank you.
11 MR. DOUGLAS MULDER: All right.
12 THE COURT: All right.
13 MS. SHERRI WALLACE: Wait. Excuse me.
14 Are y'all objecting to his limiting instruction?
15 MR. DOUGLAS MULDER: No, he's already
16 ruled, and we aren't going to argue with him.
17 THE COURT: I'm going to give them a
18 limiting instruction. So let's bring them in.
19 MR. RICHARD C. MOSTY: And it's noted
20 that we object to that limiting instruction that you
21 just --
22 THE COURT: All right. Thank you.
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: All right. Let's go back
10 on the record.

11 All right. Let the record reflect
12 that all parties in the trial are present and the jury is
13 seated.

14 Ladies and gentlemen of the jury, you
15 are instructed to disregard the last answer by the
16 witness.

17 Mr. Davis.

18 MR. GREG DAVIS: Yes, sir.

19 THE COURT: All right.

20 MR. GREG DAVIS: I'll pass the witness
21 for cross-examination.

22 THE COURT: Mr. Mosty.

23

24

25

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1 CROSS EXAMINATION

2

3 BY MR. RICHARD MOSTY:

4 Q. Mr. Mayne, have you prepared any
5 reports?

6 A. Yes, sir.

7 Q. How many?

8 A. Approximately two.

9 Q. Approximately two?

10 A. Two.

11 Q. Is it two, or is it approximately two?

12 A. It's two.

13 Q. You're sure?

14 A. Yes, sir.

15 Q. Okay. Did you take any notes?

16 A. Yes, sir.

17 Q. Did you keep them?

18 A. Yes, sir.

19 Q. Where are they?

20 A. They're at my office.

21 Q. Your office in Rowlett?

22 A. Yes, sir.

23 Q. When is the last time you looked at
24 them?

25 A. The notes?

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1 Q. Yes, sir.

2 A. It would be when I was there.

3 Q. Okay.

4 A. Before the trial.

5 Q. Before the trial?
6 A. Yes, sir.
7 Q. Okay. How many pages of notes?
8 A. One.
9 Q. One page of notes. How long are these
10 approximately two reports?
11 A. Two pages.
12 Q. Each?
13 A. No, sir.
14 Q. One page each?
15 A. Two pages on one, and a paragraph on
16 the other.
17 Q. When are they dated?
18 A. The -- June 6th and June 14th.
19 Q. When is the last time you looked at
20 those?
21 A. During the trial.
22 Q. Okay. Why didn't you bring your
23 notes?
24 A. Because I have studied them, and I
25 have looked over my reports.
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1 Q. Well, do you think maybe that there
2 might be something in the notes that I saw that was
3 interesting, that you chose not to see?
4 A. No, sir.
5 Q. Didn't think so?
6 A. No, sir.
7 Q. Okay.
8
9 MR. RICHARD C. MOSTY: Your Honor, may
10 we have Officer Mayne's reports, please.
11 MR. GREG DAVIS: Yes, sir. I'm sorry,
12 I was under the impression that the reports had been
13 given. I have located one of them now.
14 THE COURT: Well, give them to the
15 defense. They will have time to review them.
16 MR. GREG DAVIS: Yes, sir. I have
17 found the two-page narrative. And I'll tender that at
18 this time to Mr. Mosty. And I will continue to look for
19 the additional page that was produced by Officer Mayne.
20 THE COURT: Do you need some time?
21 MR. GREG DAVIS: This is the crime
22 scene report dated June 6th.
23 MR. RICHARD C. MOSTY: Thank you.
24 THE COURT: All right. Take your
25 time, gentlemen.

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1 MR. RICHARD C. MOSTY: Do you want to
2 move on? And we'll take another --

3 THE COURT: Well, whatever you prefer
4 to do.

5 MR. RICHARD C. MOSTY: Well, it's a
6 little hard for me to say not knowing what's in this
7 report.

8 THE COURT: All right. Well, can we
9 bring -- do you want to -- we can just bring another
10 witness in -- do you want to go on to another witness and
11 you can recall this gentleman?

12 MR. RICHARD C. MOSTY: No, I would
13 rather go along. They will find it before I let him go.

14 MR. GREG DAVIS: I'm probably more
15 than halfway through, and I'm going to look through every
16 page here as quickly as I can. But I've got another
17 witness available.

18 MR. RICHARD C. MOSTY: Well, I would
19 rather hop in.

20 THE COURT: All right.

21 MR. GREG DAVIS: All right.

22

23 BY MR. RICHARD MOSTY:

24 Q. Mr. Mayne, did you just tell me that
25 you have seen it since the trial?

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1 A. Yes, sir.

2 Q. Is that the second report or the first
3 report that is missing?

4 A. Excuse me?

5 Q. Is that the second report or the first
6 report?

7

8 THE COURT: I think Mr. Davis has
9 found the balance.

10 MR. GREG DAVIS: Let me just -- if I
11 could take the witness on Voir Dire for just a moment.

12 THE COURT: Yes, sir.

13

14 VOIR DIRE EXAMINATION

15

16 BY MR. GREG DAVIS:

17 Q. Officer Mayne, do you see this crime
18 scene report dated June 14th?

19 A. Yes, sir.

20 Q. Is that the other report that you're
21 talking about?

22 A. Yes, sir.

23

24 MR. GREG DAVIS: I'm tendering that

25 report to Mr. Mosty.

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1

2

3 CROSS EXAMINATION (Resumed)

4

5 BY MR. RICHARD MOSTY:

6 Q. Okay. Mr. Mayne, I have looked at a
7 two-page report dated 6-6-96. That's the date that's
8 shown up on the left. I guess -- and that's a two-page
9 report?

10 A. Yes, sir.

11 Q. And one dated 6-14-96, and that's a
12 one-page report. Let me tender these to you and ask you:
13 Is that the sum total of your report?

14 A. Yes, sir.

15 Q. Who typed those up?

16 A. I did.

17 Q. And the notes are about a page, did
18 you tell me?

19 A. Yes, sir.

20 Q. And they're still up in Rowlett?

21 A. Yes, sir.

22 Q. Other than the notes, and these three
23 pages of reports, have you created any other document,
24 handwritten, typed-written, in any manner?

25 A. Evidence tags.

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1 Q. Evidence tags?

2 A. Yes, sir.

3 Q. Okay. And is that just for the
4 evidence that you seized or for other evidence?

5 A. What I seized.

6 Q. So you filled out your tag for
7 evidence?

8 A. Yes, sir.

9 Q. Now, I guess -- I take it it's not
10 your habit to sign your reports?

11 A. That's correct.

12 Q. How is this done? On a computer?

13 A. Yes, sir.

14 Q. If I went up to Rowlett -- when is the
15 last time you looked at it on the computer?
16 A. On the computer?
17 Q. Yes, sir.
18 A. It was probably sometime in December.
19 Q. Okay. And when was this hard copy
20 produced?
21 A. I'm not for sure when that hard copy
22 was produced.
23 Q. Is that computer stuff, is it all kept
24 under this file, for instance? Is every report on this
25 case in one computer file?
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1 A. Under -- yes, sir, under my file.
2 Q. Well, what about the others of Ward
3 and some of those others?
4 A. They have it under their files.
5 Q. Okay. Can you get access to those?
6 A. No, sir.
7 Q. If someone -- if you went in and
8 wanted to make some corrections in this narrative, you
9 would just call it up on the screen?
10 A. I could.
11 Q. And you could change it?
12 A. Yes, sir.
13 Q. And there would be no -- since it's
14 not dated and signed, this hard copy, there would be no
15 way for anybody to know whether a report had been
16 changed, would there, except the person who changed it?
17 A. If I changed it, yes, sir.
18 Q. Well, or if somebody else changed
19 their own report, so long as these aren't dated and
20 signed, there's no way for someone to independently
21 verify that this computer report has not been changed, is
22 there?
23 A. Not to my knowledge.
24 Q. Is this the way you've been writing
25 reports for your full 10 years there at Rowlett?
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1 A. Yes, sir.
2 Q. Is that the way everybody does it?
3 A. I'm not for sure how other people do
4 it.
5 Q. There's no requirement that you read
6 and sign your reports?
7 A. No, sir, I just have it printed.

8 Q. Okay. Where does it go from there?
9 A. It goes into my file, and then a
10 report is generated for records.
11 Q. Do you make a habit of after you have
12 typed up one of these narrative reports, of sitting down
13 and then handwriting out that report?
14 A. No, sir.
15 Q. Do you see -- is there any reason to
16 do that?
17 A. No, sir.
18 Q. Okay. You've been an officer there 10
19 years now; is that right?
20 A. That's correct.
21 Q. And, did I understand that obviously
22 you've gone to the basic school, but you have gone to
23 some schools for specifically relating to evidence and
24 collection and preservation?
25 A. Yes, sir.
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1 Q. Okay. What are those schools?
2 A. It's just different crime scene
3 schools. It's intermediate crime scene school. I think
4 advanced crime scene school.
5 Q. Like put on by the Department of
6 Public Safety?
7 A. Different agencies.
8 Q. And, how long you have been trained in
9 evidence selection and retention?
10 A. Approximately, eight years.
11 Q. Okay. But even your basic training
12 covers that, doesn't it?
13 A. Yes, sir.
14 Q. Okay. And how long have you been --
15 are you in charge -- were you in charge of this crime
16 scene?
17 A. No, sir.
18 Q. Who was in charge of it?
19 A. As far as I know Sergeant Nabors,
20 which is my Sergeant.
21 Q. Is he your immediate supervisor?
22 A. In crime scene, yes, sir.
23 Q. Okay. Is he the highest ranking crime
24 scene officer in Rowlett PD?
25 A. Yes, sir.
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1 Q. And then he works directly under the
2 detectives, I take it?
3 A. Well --
4 Q. Or along side, is maybe a better way
5 of saying it?
6 A. Yes, sir.
7 Q. And you've been trained in blood
8 sampling?
9 A. Yes, sir.
10 Q. You have been trained -- you sounded
11 like you had some training in blood spatter?
12 A. Yes, sir.
13 Q. You've been trained in photography of
14 crime scenes?
15 A. Yes, sir.
16 Q. And did you tell me that you had taken
17 blood samples in some 50 cases?
18 A. Yes, sir.
19 Q. Over your 10 years at Rowlett?
20 A. Yes, sir.
21 Q. About five a year, on average?
22 A. Yes, sir.
23 Q. How many of those were homicides?
24 A. Death investigations, probably 45.
25 Q. By death, you're saying suicide or
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1 homicide or unknown?
2 A. Yes, sir.
3 Q. How many of them involve multiple
4 bleeding parties?
5 A. Three.
6 Q. How many of them involve multiple
7 bleeding parties who had been moving around the crime
8 scene?
9 A. Two.
10 Q. How many of them involve multiple
11 bleeding parties who have been moving around a crime
12 scene and the paramedics had come in and intervened on
13 some of the persons --
14 A. Two.
15 Q. One being this one?
16 A. That's correct.
17 Q. And one other one?
18 A. Yes, sir.
19 Q. And how long ago was that other one?
20 A. Approximately five years ago.
21 Q. Okay. So in your two years you've had
22 two occasions that are at least -- you've had two

23 experiences of multiple bleeding parties in a crime scene
24 where there's movement and paramedics and all those kinds
25 of things?

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1 A. Yes, sir.

2 Q. All right. Now, were you called out
3 there -- well, what were you called out to do initially?

4 And I know you got sidetracked, didn't you?

5 A. I was called out to help with the
6 crime scene.

7 Q. Okay. And nothing more specific than
8 that at that time?

9 A. At that time, no, sir.

10 Q. Did you go pick up your camera?

11 A. Yes, sir.

12 Q. And what other supplies?

13 A. Paper sacks, trace evidence kit, that
14 area.

15 Q. All of these Albertsons sacks that
16 we've got here?

17 A. Yes, sir.

18 Q. They might not all be Albertsons, but
19 they look like they're all Albertsons, you went by and
20 picked those up?

21 A. Yes, sir.

22 Q. Okay. But then on the way something
23 happened. What happened?

24 A. We were dispatched to Fire Station No.

25 2 to pick up some clothing --

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1 Q. All right.

2 A. -- of one of the victims and the
3 defendant.

4 Q. "We." Who is "we"?

5 A. Myself and Sergeant David Nabors.

6 Q. All right. And who did you meet
7 there?

8 A. I met a paramedic, last name
9 Zimmerman.

10 Q. Did you know him?

11 A. Yes, sir.

12 Q. Were you informed that that's who you
13 ought to look for?

14 A. No, sir.

15 Q. How did you happen to make contact
16 with Zimmerman?

17 A. We went to the fire station and he was
18 the one who handed me the sacks with the clothing.

19 Q. Okay. And this was at the fire
20 station?

21 A. Yes, sir.

22 Q. Where was Zimmerman?

23 A. Inside the fire station.

24 Q. Where was the shirt?

25 A. It was in a sack inside the fire

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1 station.

2 Q. What kind of sack?

3 A. Just a brown paper sack.

4 Q. He gave you one sack?

5 A. He gave me two.

6 Q. He gave you two sacks?

7 A. Yes, sir.

8 Q. Did you look at them?

9 A. Yes, sir.

10 Q. What did you do with them?

11 A. I basically took over the evidence and
12 secured it.

13 Q. Okay. Well, you're going to have to
14 explain to me what that means.

15 A. Well, I mean, I didn't do anything to
16 the evidence within the sacks. I put it in the car,
17 basically.

18 Q. You opened the sack up?

19 A. Um-hum. (Witness nodding head
20 affirmatively).

21 Q. Did you look inside?

22 A. Yes, sir.

23 Q. What did you see?

24 A. I saw the blue jeans.

25 Q. Okay. You saw blue jeans?

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1 A. Yes, sir.

2 Q. Okay.

3 A. And the underwear of the child.

4 Q. Okay.

5 A. And a T-shirt in the other one.

6 Q. Okay. So one sack has the blue jeans

7 and the underwear in it. How do you know there wasn't
8 anything else?

9 A. I'm sorry?

10 Q. How do you know there wasn't anything

11 else in there?
12 A. I just viewed the top of the sack
13 inside the sack.
14 Q. You didn't reach in --
15 A. No, sir.
16 Q. -- and pick up and verify what was in
17 there?
18 A. I could see plainly inside the sack
19 that it was a pair of pants and underwear.
20 Q. Were they folded?
21 A. No, sir.
22 Q. Crumpled?
23 A. Well, just laying inside.
24 Q. Okay. Were they laying together?
25 A. The underwear was on top of the pants.
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1 Q. Okay. They were touching each other?
2 A. Yes, sir.
3 Q. Did you happen to observe blood on it?
4 A. Yes, sir.
5 Q. Was it wet blood?
6 A. I'm sorry?
7 Q. Was it wet blood?
8 A. I'm not for sure if it was wet. It
9 could have been wet.
10 Q. You don't recall?
11 A. I don't recall.
12 Q. Okay. I'm not sure what sack that
13 was, but those were in such a position. I think it's --
14 did you mark this sack?
15 A. Yes, sir.
16 Q. Show me where your mark is on there.
17 A. Okay. Damon.
18 Q. That's your mark?
19 A. Um-hum. (Witness nodding head
20 affirmatively).
21 Q. Okay.
22 A. Hang on -- excuse me. Okay. I've got
23 the tape marked here when I taped it.
24 Q. Okay. That says DRM?
25 A. Yes, sir.
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1 Q. Okay. And when did you tape it up?
2 A. I had multiple tapings on it.
3 Q. Well, I can tell you, you didn't tape
4 it until the 12th, did you? Or is that 9-12?

5 A. Yes. There were several -- like I
6 said, there were several tapings. But at the scene I did
7 not tape it, no.

8 Q. Okay. Did you mark it when you
9 received it at the scene?

10 A. No, sir.

11 Q. Well, that's contrary to proper
12 policy, isn't it?

13 A. No, sir.

14 Q. It isn't good police work to note on
15 there DRM, 6-6-96? That's not good police work?

16 A. Yes, sir.

17 Q. That would be good police work?

18 A. Yes, sir.

19 Q. And it's not good police work not to
20 note that, is it?

21 A. No, sir.

22 Q. Okay. And these two bloody items were
23 crumpled together in this sack touching each other,
24 weren't they?

25 A. Yes, sir.

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1 Q. And that's not good police work, is
2 it?

3 A. No, sir.

4 Q. To have two items in a bag like this?

5 A. That's correct.

6 Q. Okay. Why do you mark things like
7 that with your date and your initials? What's the
8 purpose of that?

9 A. For my -- for noting the bag and on
10 the evidence that you collected it. And there was an
11 evidence tag that I did attach to it that had my marks on
12 it.

13 Q. Okay. But the reason for doing the
14 sacks is to say, "I got this," and to verify what it is,
15 and when it was received and how it was received and who
16 it was received from. That's the reason you put your
17 initials on there on the 6th, isn't it? Or should have?

18 A. Well, yes, sir, it went on the
19 evidence tag.

20 Q. Okay. But you've already admitted you
21 didn't -- you should have put it on the bag, shouldn't
22 you?

23 A. I could have.

24 Q. Well, you should have. Shouldn't you?

25 A. Well, not then.

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- 1 Q. Okay.
- 2 A. I mean, I did not.
- 3 Q. Well, okay. And what's the reason
- 4 that you only put one thing in a bag?
- 5 A. Well, I didn't put it in the bag.
- 6 Q. Okay. You told me that the proper
- 7 procedure --
- 8 A. To separate the clothing.
- 9 Q. Okay. And that's so that one doesn't
- 10 get blood on another?
- 11 A. Yes, sir.
- 12 Q. Now, did you look in the shirt bag?
- 13 A. Yes, sir.
- 14 Q. Where is the shirt bag?
- 15 A. I'm not for sure.
- 16 Q. Okay. You don't have it?
- 17 A. No, sir.
- 18 Q. Have you ever seen it?
- 19 A. The shirt bag?
- 20 Q. Yeah?
- 21 A. Yes.
- 22 Q. When?
- 23 A. When I placed it into evidence.
- 24 Q. Okay. Did you mark your initials on
- 25 it that night?

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- 1 A. Yes, sir, I think I did on that one.
- 2 Q. You think you did?
- 3 A. Yes, sir.
- 4
- 5 MR. RICHARD C. MOSTY: Your Honor, I
- 6 would like to see that bag.
- 7 THE COURT: Is it --
- 8 MR. RICHARD C. MOSTY: I assume it was
- 9 in the --
- 10 THE COURT: Well, whatever is there --
- 11 Where would it be, Mr. Davis, would
- 12 you know?
- 13 MR. GREG DAVIS: I believe it's in
- 14 evidence along with the T-shirt.
- 15 THE COURT: Okay. See whatever you
- 16 have there. Take your time and look for it.
- 17 MR. GREG DAVIS: Are you talking about
- 18 the defendant's T-shirt?
- 19 MR. RICHARD C. MOSTY: Yeah, the bag

20 it was in.

21 MR. GREG DAVIS: That's 25.

22

23 BY MR. RICHARD MOSTY:

24 Q. Let me show you this bag, which I

25 think, I've been told is Exhibit 25, State's Exhibit 25,

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1 and the contents. Tell me, look at the outside of the
2 bag, and tell me did you or did you not identify it on
3 the 6th?

4 A. Yes, sir.

5 Q. Okay. The bag?

6 A. The bag, the T-shirt. That looks like

7 the bag that I put it in.

8 Q. Well --

9 A. That it was in.

10 Q. Okay. Where are your initials on this

11 bag?

12 A. I must have been mistaken, it was on

13 the evidence tag.

14 Q. Okay. So you're now telling me that

15 you did not identify this bag on the 6th?

16 A. Well, it appears to be the same bag.

17 Q. It appears to be the same bag?

18 A. Yes, sir.

19 Q. Okay.

20 A. In appearance.

21 Q. And again, why would it be important

22 whether or not it's the same bag? Is that important --

23 and, please, let me just make it in a general term.

24 Why would a bag that something comes

25 in be important?

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1 A. To identify it.

2 Q. Okay. Well, were these other papers

3 in here when you got it?

4 A. No, sir. Just a shirt.

5 Q. Just a shirt. And what was the

6 condition of the shirt when you got it?

7 A. It was just in the bag.

8 Q. Just in the bag?

9 A. Yes, sir.

10 Q. Folded?

11 A. No, sir.

12 Q. Did Zimmerman tell you that he had cut

13 that shirt off of Ms. Routier?

14 A. No, sir.
15 Q. Did -- do you know where it came from?
16 A. He told me that it was Darlie's
17 T-shirt.
18 Q. Okay. But you don't know when
19 Zimmerman got it?
20 A. No, sir, it was that morning.
21 Q. You don't know where he got it?
22 A. Off the defendant.
23 Q. Well, but you don't know that, do you?
24 A. Well, he told me.
25 Q. But of your personal knowledge, you
Sandra M. Halsey, CSR, Official Court Reporter
1793

1 don't know, do you?
2 A. No, sir.
3 Q. Okay. And you don't know what
4 happened to it between the time that Zimmerman picked it
5 up and when he handed it to you, do you?
6 A. No, sir.
7 Q. How long a period of time was that?
8 A. I'm not for sure when he retrieved it,
9 but I got the bag as soon as I walked into the fire
10 station.
11 Q. And that was at what time?
12 A. That was approximately 4:05 AM.
13 Q. Okay. And was it just wadded up and
14 thrown in this bag?
15 A. I mean, it was just in the bag. It
16 wasn't folded.
17 Q. It was not folded?
18 A. No, sir.
19 Q. Okay. And did you inspect it?
20 A. Visually in the sack, yes.
21 Q. Okay. And you could tell it was
22 bloody?
23 A. Yes, sir.
24 Q. And I don't guess you could tell much
25 about the blood?
Sandra M. Halsey, CSR, Official Court Reporter
1794

1 A. No, sir.
2 Q. As you were sitting there?
3 A. No, sir.
4 Q. Now, what was the condition of the
5 sack?
6 A. It was just folded at the top when I
7 got it.

8 Q. Okay. Let me show you what's inside
9 this sack. And I don't guess you -- have you ever seen
10 what's inside that sack?
11 A. Right now? Yes, sir.
12 Q. Is that the first time you've ever
13 seen it?
14 A. Well, I mean, the shirt was in the
15 sack when I retrieved it. No, I don't know what was in
16 the bottom.
17 Q. There appears to be other blood stains
18 in this sack, doesn't it?
19 A. Yes, sir.
20 Q. And I guess those blood stains would
21 have been in contact with the shirt?
22 A. Yes, sir.
23 Q. Was the shirt moist when you saw it?
24 A. I don't recall.
25 Q. You do not recall if the blood was wet
Sandra M. Halsey, CSR, Official Court Reporter
1795

1 or dry?
2 A. It could have been wet.
3 Q. Do you remember if there was blood
4 dripping in the bag when you saw it?
5 A. No, sir, there was no blood dripping
6 in the bag or on the bottom of the bag.
7 Q. There was -- there wasn't anything
8 dripping out of the bottom?
9 A. No, sir.
10 Q. Okay. But there was blood on the
11 bottom of the bag as you have seen now?
12 A. Yes, sir.
13 Q. Was blood on -- well, you told me you
14 didn't see any blood on the bag. So you don't know
15 whether it was wet or dry?
16 A. Yes, sir.
17 Q. Okay. So you got those two pieces of
18 evidence from Zimmerman, and you didn't identify them.
19 And what did you do with them?
20 A. I put them in my vehicle.
21 Q. You didn't place any marks, or staple
22 anything to either of the piece of clothing so that you
23 could identify it, did you?
24 A. I placed the evidence tags, stapled it
25 to the bag.
Sandra M. Halsey, CSR, Official Court Reporter
1796

1 Q. To the bag?
2 A. Yes, sir.
3 Q. And that -- but that's later on.
4 Right?
5 A. That's when I got to the residence of
6 the house.
7 Q. Oh, you started the evidence tags that
8 night?
9 A. Sir?
10 Q. You started an evidence tag that
11 night?
12 A. That morning.
13 Q. Okay. Then, you got to the residence;
14 am I right?
15 A. Yes, sir.
16 Q. And where did you place the bags when
17 you were on the way to the scene?
18 A. In the back of the car.
19 Q. In the back seat?
20 A. Yes, sir.
21 Q. Trunk -- back seat?
22 A. Yes, sir.
23 Q. Okay. And when you got to the
24 residence what did you do?
25 A. I met with Sergeant Nabors and
Sandra M. Halsey, CSR, Official Court Reporter
1797

1 Sergeant Walling.
2 Q. Okay. And they were in the yard?
3 A. Yes, sir, or beside the house.
4 Q. Okay. Let's see now, Nabors rode with
5 you?
6 A. That's correct.
7 Q. So the two of y'all visited with
8 Sergeant Walling there at the scene a little bit?
9 A. Yes, sir.
10 Q. Did he brief you on, in general --
11 A. Yes, sir.
12 Q. -- what he had seen?
13 A. Yes, sir.
14 Q. Where did you park your car?
15 A. In the front of the residence.
16 Q. Directly?
17 A. There's -- it was over towards the
18 north, northeast.
19 Q. Did you lock it?
20 A. Yes, sir.
21 Q. That was a marked car?
22 A. Yes, sir. It doesn't have any lights

23 on it, but it is marked.

24 Q. Is it black and white or --

25 A. It's white with blue lettering.

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1798

1 Q. But no overhead lights?

2 A. That's correct.

3 Q. Now, then, what was the first thing
4 you did after visiting with Nabors and Walling?

5 A. I was advised that a white tube sock
6 was located in the alleyway, approximately two houses
7 down from the Routier house.

8 Q. Okay. So that was virtually
9 immediately?

10 A. Approximately 5 minutes later, 10
11 minutes later.

12 Q. Walling didn't brief you on that part?

13 A. No, sir.

14 Q. Y'all learned that, I guess, after the
15 briefing?

16 A. Yes, sir.

17 Q. And you had your camera with you?

18 A. Not then, sir.

19 Q. Did not have your camera with you?

20 A. That's correct.

21 Q. After you were advised that there was
22 a sock, what did you do?

23 A. I retrieved my camera and went down to
24 the location where the sock was.

25 Q. From your car?

Sandra M. Halsey, CSR, Official Court Reporter
1799

1 A. Yes, sir.

2 Q. What kind of camera is that?

3 A. It's a Minolta .35 millimeter.

4 Q. And I guess you had a supply of film
5 with you?

6 A. Yes, sir.

7 Q. Okay. And, where did you go?

8 A. I walked down the alleyway and to
9 where the white tube sock was.

10 Q. Accompanied by whom?

11 A. Officer Beddingfield.

12 Q. Had Beddingfield been the one who
13 advised you of the tube sock?

14 A. Yes, sir.

15 Q. Did anyone else go down there?

16 A. Sergeant Ward and Officer Ferrie was

17 down there.

18 Q. They were already down there?

19 A. I believe so, yes.

20 Q. Were they standing guard over the
21 sock?

22 A. Yes, sir.

23 Q. And you took the photographs? And I
24 think we've identified those.

25 A. Yes, sir.

Sandra M. Halsey, CSR, Official Court Reporter
1800

1 Q. How many photographs did you take?

2 A. Approximately 7.

3 Q. Approximately 7?

4 A. Yes, sir.

5 Q. Okay. Are those the first photographs
6 that you took?

7 A. Yes, sir.

8 Q. Then what did you do?

9 A. I collected the sock.

10 Q. You picked it up?

11 A. Yes, sir.

12 Q. How did you do that?

13 A. With rubber gloves. I picked up the
14 sock and placed it in a paper sack.

15 Q. Okay. And where is that sock? Where
16 is that bag? Do you -- have you seen it?

17 Well, wait a minute, this might be
18 easier, Mr. Mayne. I'm not too sure about which is
19 which. But let me hand you a sack, and let me -- you
20 tell me. Is that the bag that you put the sock in?

21 A. No, sir.

22 Q. How do you know?

23 A. Because this is the sack where the
24 knife was in.

25 Q. All right. Does it say knife on it or
Sandra M. Halsey, CSR, Official Court Reporter
1801

1 something? I got the sock, but I haven't got the bag.

2 All right. Here we go. Let me hand
3 you a bag now. It' got "sock from alley," written on it.

4 A. Okay.

5 Q. Does that have your initials on it?

6 A. No, sir, not on the 6th.

7 Q. Okay. And it wasn't taped up on the
8 6th, was it?

9 A. It was stapled and with evidence tag
10 attached to it.

11 Q. But, again, you went to the trouble to
12 put on gloves, that is to make sure the evidence is
13 secure, isn't it?

14 A. Well, that I don't contaminate the
15 sock.

16 Q. And that's part of the reason that you
17 put your initials on there, isn't it? To show that the
18 evidence is secure and that it hasn't been tampered with?

19 A. With an evidence tag, yes.

20 Q. Well, but you should have put that on
21 the sock -- on the bag, shouldn't you?

22 A. Well the tag was attached to the bag.

23 Q. When?

24 A. On the 6th.

25 Q. Well, at that time?

Sandra M. Halsey, CSR, Official Court Reporter
1802

1 A. Well, it was when I went back to the
2 car.

3 Q. You went right back to the car and did
4 the tag?

5 A. Yes, sir.

6 Q. Okay. So would this be the third tag
7 you did?

8 A. Yes, sir.

9 Q. First one is which one?

10 A. Excuse me?

11 Q. First one is which one?

12 A. It would be Damon.

13 Q. Okay. That would be the shirt -- or
14 the jeans?

15 A. Yes, sir, the jeans.

16 Q. Okay. And the second tag?

17 A. Is the defendant's T-shirt.

18 Q. A T-shirt. And the third tag is the
19 sock?

20 A. Yes, sir.

21 Q. Okay. Had you already done Damon
22 and -- the shirt tags, had you already done those before
23 you even went down the alley?

24 A. Yes, sir.

25 Q. Okay. So you did those right as soon

Sandra M. Halsey, CSR, Official Court Reporter
1803

1 as you got there?

2 A. Yes, sir.

3 Q. Before or after you visited with

4 Walling and Nabors?

5 A. Before.

6 Q. Okay. Okay. So, you picked those

7 up -- you picked the sock up and you go right back down,

8 and you enter that in your evidence log? Do you call it

9 an evidence log? What do you call it?

10 A. I placed the sock in the car along

11 with the other two sacks.

12 Q. Okay. And you made an evidence tag,

13 did you call it?

14 A. Yes, sir.

15 Q. And that would be Number 3?

16 A. I mean that's the third tag --

17 Q. All right.

18 A. -- that I filled out.

19 Q. How did you fill out these tags? Did

20 you put numbers on them?

21 A. I put the service number.

22 Q. What does that mean?

23 A. The service number that we identify

24 the case with at our police department.

25 Q. Okay. So that's '96 something or

Sandra M. Halsey, CSR, Official Court Reporter

1804

1 other?

2 A. 18563, I believe.

3 Q. Okay. You put the service number on

4 it. What else did you put on it?

5 A. I put Routier, meaning the name at the

6 top, and then I put the address, my name and the date,

7 and then the listing of what the evidence is.

8 Q. All right. You made that collection.

9 Then what did you do?

10 A. I started photographing the exterior

11 of the house.

12 Q. Before you went in it?

13 A. Yes, sir.

14 Q. Okay. How many pictures did you take

15 of the exterior?

16 A. I'm not for sure, sir.

17 Q. All right. So you visited with

18 Walling, you went down and got the sock, you photographed

19 the house. What's the next thing you did at the

20 residence?

21 A. We waited for James Cron to come to

22 the location.

23 Q. All right. And how long a wait was

24 that?

25 A. That was approximately 6:00 o'clock AM

Sandra M. Halsey, CSR, Official Court Reporter
1805

1 when he arrived.
2 Q. Okay. Let me go back just for a
3 second, to these evidence tags, so I'll be clear on that.
4 Is this a book you've got?
5 A. No, sir.
6 Q. What is it?
7 A. It's just an individual evidence tag.
8 Q. Okay. And you fill it out, and what
9 do you do with it?
10 A. I attach it to the sack.
11 Q. Staple it?
12 A. Yes, sir.
13 Q. Well, when are those removed?
14 A. They stay on them with the evidence.
15 Q. Well, we know that's not true, don't
16 we? Don't we?
17 A. Well, yes, sir, it's not with it now.
18 Q. Pardon?
19 A. It's not with it now.
20 Q. Okay. So these tags that have been
21 stapled to the evidence are now gone?
22 A. Yes, sir, they are.
23 Q. Who did that?
24 A. I'm not for sure.
25 Q. And that's not proper police work, is
Sandra M. Halsey, CSR, Official Court Reporter
1806

1 it?
2 A. I mean, we still have the evidence,
3 but not the tag.
4 Q. Well, maybe we do still have the
5 evidence. Maybe it's the same and maybe it isn't. Isn't
6 that right?
7 A. It is the same evidence.
8 Q. Well, same evidence. Okay. Well,
9 then why is it you go to all of this trouble to staple
10 these tags to these bags?
11 A. So there will be a record of that
12 piece of evidence.
13 Q. So it's secure?
14 A. Yes, sir.
15 Q. So it's not tampered with?
16 A. That's correct.
17 Q. So it stays in the same condition as
18 before?
19 A. Yes, sir.

20 Q. So that someone can identify it and
21 say this is how it was when I saw it, and the next one
22 can say this is how it was when I saw it?
23 A. Yes, sir.
24 Q. Those are all the things you do?
25 A. Yes, sir.
Sandra M. Halsey, CSR, Official Court Reporter
1807

1 Q. But we didn't in this case, did we?
2 A. I personally did, yes.
3 Q. You did your part?
4 A. Yes, sir.
5 Q. You stapled it on there, but somebody
6 has torn those tickets off of these three items that
7 we've talked about so far?
8 A. Yes, sir.
9 Q. Do you know who did that?
10 A. No, sir.
11 Q. Okay. So, you photograph the scene,
12 Cron arrives, and who goes in?
13 A. Myself and Sergeant Walling, and a
14 neighbor, Karen Neal, entered into the house.
15 Q. Okay. And you described that as a
16 couple of minutes?
17 A. Yes, sir.
18 Q. Then who goes in the second time?
19 A. When Karen Neal exits, James Cron and
20 Sergeant Nabors entered into the house.
21 Q. Was that right away? I mean, as soon
22 as she walked out?
23 A. Yes, sir.
24 Q. Or -- now, who went back in?
25 A. Sergeant Nabors and James Cron.
Sandra M. Halsey, CSR, Official Court Reporter
1808

1 Q. And yourself?
2 A. And myself and Sergeant Walling was
3 inside the house.
4 Q. Walling was already inside the house?
5 A. Yes.
6 Q. Where was he?
7 A. He was down in the entryway.
8 Q. He was in the entryway?
9 A. Um-hum. (Witness nodding head
10 affirmatively).
11 Q. Within your sight?
12 A. Yes, sir.
13 Q. Okay. You exited the residence

14 though?

15 A. No, sir.

16 Q. You never exited it after Karen Neal
17 left?

18 A. That's correct.

19 Q. At that point then, Cron, Nabors,
20 Walling, and Mayne entered the house?

21 A. We were in the house, yes, sir.

22 Q. Okay. Well, that was the four people
23 who did the walk-through?

24 A. That's correct.

25 Q. And I don't mean to pick with you, but
Sandra M. Halsey, CSR, Official Court Reporter
1809

1 you and Walling --

2 A. Remained in the house and the other
3 two came in.

4 Q. Y'all stayed in that little entry hall
5 and then y'all walked through?

6 A. Yes, sir.

7 Q. How did you walk through?

8 A. We walked through the hallway.

9 Q. Straight ahead?

10 A. Yes, sir.

11 Q. Then what did you do?

12 A. We looked into the family room.

13 Q. Okay. Did you just glance that way,
14 or did you walk in that room?

15 A. We walked in that room.

16 Q. What path did you walk?

17 A. We walked -- as you come out of the
18 hallway, we walked inside -- take a left inside where the
19 body was, and walked back out. That's the path that we
20 took.

21 Q. Okay. You walked in over the area
22 where the body had been removed?

23 A. We walked around the body, yes, sir.

24 Q. You mean you walked around the blood?

25 A. Yes, sir.

Sandra M. Halsey, CSR, Official Court Reporter
1810

1 Q. Okay. Four of y'all went in there
2 single file?

3 A. Yes, sir, single file.

4 Q. Okay. Who was in front?

5 A. My recall it was Sergeant Walling.

6 Q. Okay. Next?

7 A. I don't recall which order it was in.

8 Q. Okay. Y'all all walked in single
9 file, one behind the other?
10 A. Yes, sir.
11 Q. And then what did you do?
12 A. We stepped over the blood.
13 Q. Right.
14 A. Okay.
15 Q. All four of you?
16 A. Yes, sir.
17 Q. Okay.
18 A. And we looked at the scene.
19 Q. Okay. Then what did you do? Did you
20 go back out single file the opposite way?
21 A. Yes, sir.
22 Q. So whoever was last was first out in
23 single file?
24 A. Yes, sir.
25 Q. Okay. Then where did you go?
Sandra M. Halsey, CSR, Official Court Reporter
1811

1 A. We went into the kitchen area.
2 Q. And you knew, and everybody there knew
3 to be careful not to step in blood?
4 A. That's correct.
5 Q. You went to the kitchen area?
6 A. Yes, sir.
7 Q. Did you walk straight until you saw
8 the kitchen? As you were walking in the kitchen, you
9 walked straight ahead?
10 A. Yes, sir.
11 Q. And how far did the four of you walk
12 in?
13 A. Walked in all the way into the kitchen
14 area to the utility room.
15 Q. Okay. And again, do you remember who
16 was in front and who was?
17 A. No, sir.
18 Q. Or what the order was?
19 A. No, sir, I don't recall.
20 Q. Now when you walked down the hall and
21 turned, actually when you turned into the living room,
22 did you look in the kitchen?
23 A. I glanced, yes, sir.
24 Q. Okay. And had you seen that plastic
25 runner?
Sandra M. Halsey, CSR, Official Court Reporter
1812

1 A. Yes, sir.
2 Q. And had you seen the green rug?
3 A. Yes, sir.
4 Q. And had you seen the vacuum cleaner?
5 A. Yes, sir.
6 Q. Okay. So, as you were walking in,
7 actually -- and had y'all already decided to do that?
8 That y'all were going to go in that room first?
9 A. No, sir.
10 Q. Okay. Was Walling leading, sort of
11 saying "look in here"?
12 A. Yes, sir. I mean, he took the lead.
13 Q. Okay. So Walling was actually
14 directing your attention into the living room?
15 A. Yes, sir.
16 Q. But you had noticed, just as you
17 walked by and glanced, the runner and the green rug and
18 the vacuum cleaner already?
19 A. Yes, sir.
20 Q. So then, of course, when you went back
21 in the kitchen you saw the vacuum cleaner again, didn't
22 you?
23 A. Yes, sir.
24 Q. You couldn't miss it, could you?
25 A. No, sir.
Sandra M. Halsey, CSR, Official Court Reporter
1813

1 Q. It was obvious to anybody who walked
2 in there?
3 A. Yes, sir.
4 Q. Now, I'm going to apologize, because I
5 got my notes here, sometimes they're not in order, and
6 I'm going to skip a little bit of a time frame. So if
7 I'm missing -- if you and I get confused on the time,
8 stop me. Let's make sure.
9 A. Okay.
10 Q. I'm going to move back to the sock for
11 a minute.
12 A. Okay.
13 Q. Which is the first thing you did after
14 your briefing?
15 A. Yes, sir.
16 Q. Okay. Did you do any testing on that
17 sock?
18 A. Yes, sir.
19 Q. Okay. Where did you do it?
20 A. I did it in the house.
21 Q. Okay. After you collected it?
22 A. Yes, sir.

23 Q. Where in the house?

24 A. It would be over -- there was a dining

25 room area in the kitchen area.

Sandra M. Halsey, CSR, Official Court Reporter

1814

1 Q. When did you do that?

2 A. It was approximately 9:30 AM.

3 Q. Okay. Now, tell me, what all is

4 required for a presumptive blood test?

5 A. It's just some distilled water, and

6 there's a -- what I call a D-stick type, and you just put

7 a little distilled water on it, and kind of put it on the

8 stain itself and it will turn a certain color.

9 Q. Is that D-stick, is it, what is it

10 made of?

11 A. I'm not sure, sir, I'm not qualified

12 to answer that.

13 Q. Is it paper type?

14 A. Yes, it's just a small stick, flat

15 stick.

16 Q. Like you buy a package of them?

17 A. Yes, sir.

18 Q. And like any number of things, you can

19 dip it in a glass, different things, and there will be

20 reaction, a change of color?

21 A. Different items, yes.

22 Q. So this one indicates, at least

23 presumably, that blood may be present?

24 A. That's correct.

25 Q. And you carry those -- you carry the

Sandra M. Halsey, CSR, Official Court Reporter

1815

1 distilled water with you in your car?

2 A. We had to go buy some, yes.

3 Q. And who had the sticks?

4 A. We gathered those, if I'm not

5 mistaken, from the hospital.

6 Q. Okay. And this test takes, what, less

7 than 20 or 30 seconds?

8 A. Seconds.

9 Q. Seconds?

10 A. Yes, sir.

11 Q. Okay. And that's midmorning that you

12 had done that?

13 A. Yes, sir.

14 Q. Now, while you're out there, did

15 anybody ever suggest to you that there had been some

16 knives found?

17 A. Yes, sir.

18 Q. Okay.

19 A. Inside the residence?

20 Q. Outside the residence.

21 A. No, sir.

22 Q. You never heard that?

23 A. No, sir.

24 Q. Okay. Well, if knives were found, you

25 could have gone down there with your little presumptive

Sandra M. Halsey, CSR, Official Court Reporter

1816

1 blood test and tested those knives right on the scene,

2 couldn't you?

3 A. No, sir.

4 Q. You couldn't have?

5 A. I mean, I wasn't aware of the knives.

6 Q. Okay. Well, bear with me here a

7 little bit.

8 If there were knives found across from

9 the sock -- can you recognize State's Exhibit No. 7 as an

10 aerial of the Eagle Drive area?

11 A. Yes, sir.

12 Q. Okay. And this is Eagle on the end,

13 5801 Eagle?

14 A. Yes, sir.

15 Q. Okay. How many houses down was this

16 sock found?

17 A. Approximately two.

18 Q. Approximately two. Fourth house down

19 from the end?

20 A. 5709 Eagle Drive.

21 Q. Okay. And you do not know whether or

22 not there was a -- that there were knives found on the

23 house on Willowbrook?

24 A. No, sir.

25 Q. Just directly opposite from where the

Sandra M. Halsey, CSR, Official Court Reporter

1817

1 sock was?

2 A. No, sir, I was not.

3 Q. If there were knives down there, could

4 you have gone down there and in less than a minute walked

5 down there, or once you got there within less than a

6 minute sit down and do a presumptive blood test on the

7 knives that were across that alley?

8 A. If I was advised so, yes.

9 Q. Okay. That would have been easy to

10 do, wouldn't it?

11 A. Yes, sir.

12 Q. Okay. Now, while we're still here at
13 the beginning phases, let me show you what you've already
14 identified as your three-page report. I want to direct
15 your attention to the first paragraph of it.

16 A. Yes, sir.

17 Q. Your report indicates that the second
18 thing you did was photograph the house, doesn't it?

19 A. Yes, sir.

20 Q. Okay. And then after that, you did
21 the tube sock?

22 A. Yes, sir.

23 Q. So one of -- either your report is
24 wrong or your testimony is wrong. Is that fair to say?

25 A. Yes, sir.

Sandra M. Halsey, CSR, Official Court Reporter
1818

1 Q. Okay. Now, going on down, at
2 approximately, oh, 600 hours. Do you see that sentence?

3 A. Yes, sir.

4 Q. You described who entered the
5 residence?

6 A. Yes, sir.

7 Q. Okay. That's wrong, isn't it?

8 A. Yes, sir. I have another officer in
9 there that was not at the scene.

10 Q. Okay. You mistakenly identified who
11 went in the house, didn't you?

12 A. Yes, sir.

13 Q. And this was on the 6th?

14 A. Yes, sir.

15 Q. And you were just flat wrong when you
16 said who went in the house in your report that you wrote
17 on the 6th?

18 A. On this one, yes, sir.

19 Q. Okay. Is your testimony correct?

20 A. Yes, sir.

21 Q. And the report is wrong?

22 A. Yes, sir.

23 Q. Which was done at that time?

24 A. Yes, sir.

25 Q. Or was it done at that time?

Sandra M. Halsey, CSR, Official Court Reporter
1819

1 A. I'm sorry?

2 Q. When was it done?

3 A. It was done on the 6th.

4 Q. On the 6th. Did you write a

5 supplement to correct any of these errors?

6 A. No, sir.

7 Q. Did you even know about these errors?

8 A. No, sir.

9 Q. Okay.

10 A. I mean, I found out later.

11 Q. Okay.

12 A. But not at the time.

13 Q. Okay. All right. So, you did -- now,

14 back to the walk-through. You've gone in the living

15 room, then you've gone in the kitchen. And then what did

16 you do?

17 A. We proceeded into the utility room and

18 then into the garage.

19 Q. Okay. And did you go in the garage?

20 A. Yes, sir.

21 Q. How far?

22 A. To the windows, and that far.

23 Q. Okay. The four of you marched in

24 again single file?

25 A. Yes, sir.

Sandra M. Halsey, CSR, Official Court Reporter

1820

1 Q. All the way to the window?

2 A. Not all of us at once, no, sir.

3 Q. How did you do that?

4 A. Well --

5 Q. It would be impossible, wouldn't it?

6 A. Yes, sir.

7 Q. To go in there single file to that

8 window?

9 A. Yes, sir.

10 Q. Okay. How did you do that?

11 A. Each one of us kind of went up to it.

12 Q. Okay.

13 A. Separately.

14 Q. And then you looked at it and then

15 walked back?

16 A. Yes, sir.

17 Q. Were you able to see what the others

18 did up there?

19 A. Yes, sir.

20 Q. Okay. Were you standing back by the

21 door or something?

22 A. I mean, I was standing where the cat

23 cage was when they were there.

24 Q. Okay.

25 A. Or animal cage.

Sandra M. Halsey, CSR, Official Court Reporter
1821

1 Q. Okay. You were standing at the animal
2 cage when somebody else was looking at the screen?

3 A. Yes, sir.

4 Q. Okay. I'm going to show you what is
5 State's Exhibit 40. And you described this as a
6 depiction of the garage?

7 A. I can't hardly see it, I'm sorry.

8 Q. On the right is a depiction of the
9 garage?

10 A. Yes, sir, that area is.

11 Q. Okay. And the area where you entered
12 is where?

13 A. Sir, could I step down, please?

14 Q. Sure.

15

16 THE COURT: Please step down.

17

18 (Whereupon, the witness

19 Stepped down from the

20 Witness stand, and

21 Approached the jury rail

22 And the proceedings were

23 Resumed as follows:)

24

25

Sandra M. Halsey, CSR, Official Court Reporter
1822

1 BY MR. RICHARD MOSTY:

2 Q. All right. If you can hold that side
3 there.

4 A. All right. Right here. We entered
5 into the garage from this doorway here.

6 Q. That exhibit, that part of 46 there
7 actually shows a little bit of the kitchen, little bit of
8 the utility room and a little bit of the garage.

9 A. That's correct.

10 Q. Or is it all the garage?

11 A. This goes this way.

12 Q. Is it all the garage?

13 A. Yes, sir, this is the garage here.

14 Q. Okay. Now, you might need to sort of
15 do that twice so everybody down here --

16 A. This is the garage area.

17 Q. This block towards the top of this
18 picture?

19 A. Yes, sir.

20 Q. Okay. And y'all went in single file
21 over to that screen?
22 A. We walked in here, and kind of
23 gathered right here, and then each kind of walked into
24 this area right here.
25 Q. Okay. When you say you gathered right
Sandra M. Halsey, CSR, Official Court Reporter
1823

1 here, you are talking about the cat cage. Is this this
2 item here?

3 A. Yes, sir, this area right in here is
4 where we gathered.

5 Q. Okay. And then you walked over to the
6 screen one by one?

7 A. Yes, sir.

8 Q. And what did you do when you were over
9 at the screen?

10 A. Looked for blood evidence.

11 Q. Okay. You can go ahead and have a
12 seat.

13 A. Okay.

14

15 (Whereupon, the witness

16 Resumed the witness

17 Stand, and the

18 Proceedings were resumed

19 On the record, as

20 Follows:)

21

22 BY MR. RICHARD C. MOSTY:

23 Q. Did you look at the screen?

24 A. Yes, sir.

25 Q. Do you know what the others did when
Sandra M. Halsey, CSR, Official Court Reporter
1824

1 they were over there?

2 A. Basically the same thing.

3 Q. Was that just taking a couple of
4 seconds each? Not a couple of seconds, but --

5 A. Well, yes, sir.

6 Q. 15 or 30 seconds?

7 A. Yes, sir.

8 Q. To look at that?

9 A. Yes, sir.

10 Q. Okay. And then y'all all came out
11 again?

12 A. That's correct.

13 Q. Through the utility room?

14 A. Through the utility room.
15 Q. Did you see that ball cap?
16 A. Yes, sir.
17 Q. And that ball cap was obvious?
18 A. Yes, sir.
19 Q. Nobody could have missed it?
20 A. That's correct.
21 Q. And you exited through the dining
22 room?
23 A. Yes, sir.
24 Q. All four of you?
25 A. Yes, sir.
Sandra M. Halsey, CSR, Official Court Reporter
1825

1 Q. Did you have your camera with you?
2 A. I had it inside the foyer.
3 Q. It was sitting there in the foyer?
4 A. Yes, sir.
5 Q. And then was some decision made that
6 you would photograph the premises?
7 A. Yes, sir.
8 Q. Were you the only person in there?
9 A. When I photographed, yes.
10 Q. Okay. And describe for me how you
11 photographed it.
12 A. From the entryway, I photographed
13 towards the hallway, walking through the hallway.
14 Q. Okay.
15 A. Into the family room.
16 Q. How did you enter the family room?
17 A. Through the hallway.
18 Q. Okay. But then once you --
19 A. I took a left. I kind of did an
20 overall picture and then went into the left towards the
21 fireplace.
22 Q. Okay. And are you photographing as
23 you go?
24 A. Yes, sir.
25 Q. Okay.
Sandra M. Halsey, CSR, Official Court Reporter
1826

1 A. I mean, I'm stopping and photographing
2 and then walking.
3 Q. Okay. You will walk and photograph
4 ahead, and photograph down?
5 A. Yes.
6 Q. Are you just photographing anything
7 that caught your eye?

8 A. No, sir, I'm photographing an overall
9 picture of the room itself.
10 Q. You're trying to get everything?
11 A. Yes, sir.
12 Q. So you walked in and you turned what I
13 would call immediately left?
14 A. Yes, sir.
15 Q. In the area --
16 A. Yes, sir.
17 Q. -- where the body had been removed?
18 A. Yes, sir.
19 Q. Okay. And you photographed that?
20 A. Yes, sir.
21 Q. And then did you move on into toward
22 the fireplace?
23 A. Yes, sir.
24 Q. Okay. Then where did you go?
25 A. And then after photographing the
Sandra M. Halsey, CSR, Official Court Reporter
1827

1 family room --
2 Q. Well, now wait a minute --
3 A. I'm sorry.
4 Q. Keep me in the family room for a
5 minute.
6 A. Okay.
7 Q. You walked over toward the fireplace.
8 And did you then photograph toward the west?
9 A. Towards the kitchen area, from the
10 family room, that area there.
11 Q. Did you photograph toward, for
12 instance, toward the couches as you walked in?
13 A. Yes, sir.
14 Q. And that would be toward that west
15 wall that --
16 A. Yes, sir.
17 Q. -- that's toward the backyard?
18 A. Yes, sir.
19 Q. The blinds there are closed?
20 A. Yes, sir.
21 Q. Okay. And then did you photograph
22 back, pan back around toward the kitchen?
23 A. Yes, sir.
24 Q. From -- did you sort of pick a spot?
25 A. Yes, sir. I mean, I just had -- where
Sandra M. Halsey, CSR, Official Court Reporter
1828

1 I could kind of get every space that I could, that's
2 where I picked my spots.

3 Q. Okay. And then you came back toward
4 the kitchen?

5 A. Yes, sir.

6 Q. What kind of lens do you have on that
7 camera?

8 A. Just a standard -- I call it standard
9 .35 millimeter lens. It's not a wide angle, it's just
10 a --

11 Q. Not a zoom?

12 A. What?

13 Q. Not a zoom? Not a wide angle, just
14 a --

15 A. Well, it is a zoom.

16 Q. It is a zoom?

17 A. Yes.

18 Q. How did you have it -- did you have it
19 zoomed back or zoomed forward or both?

20 A. It's automatic, so I'm not for sure.

21 I would pan in and it would give me the shot.

22 Q. It zooms automatically?

23 A. Yes, sir.

24 Q. Okay. So you took all of these
25 pictures? How many in that room?

Sandra M. Halsey, CSR, Official Court Reporter
1829

1 A. In that room? Approximately four.

2 Q. Four photos?

3 A. Four rolls of film.

4 Q. Oh. How many per roll?

5 A. 24.

6 Q. Are you sure?

7 A. It probably --

8 Q. It's okay. I understand.

9 A. Well, I understand, but to my
10 knowledge I recall about four rolls.

11 Q. Okay. And you think there were maybe
12 24 per roll?

13 A. Yes, sir.

14 Q. So we're talking a hundred, 96, plus
15 photographs?

16 A. It's in that neighborhood, I'm not for
17 sure.

18 Q. And do you think as you were in the
19 living room that you were always -- that you were pretty
20 much always at that one location as you came all the way
21 around, or did you move around some?

22 A. I moved around. I mean, I would pan

23 the area, and then I would move to another spot.
24 Q. Okay. And I guess these are the
25 photographs that have been admitted are some of your
Sandra M. Halsey, CSR, Official Court Reporter
1830

1 photographs?
2 A. Yes, sir.
3 Q. Okay. And I noticed on a lot of these
4 they're sort of pieced together, aren't they?
5 A. Yes, sir.
6 Q. Did you do that?
7 A. No, sir.
8 Q. And I guess that's because these
9 photographs didn't have everything in it that somebody
10 wanted? That there was no single photograph that had
11 that?
12 A. Well, I'm not aware.
13 Q. You don't know?
14 A. I don't know.
15 Q. Okay. And was exhibit -- do you
16 remember Exhibit 150?
17 A. I don't recall.
18 Q. Was this one of the photographs that
19 you took -- your little camera is time-dated, isn't it?
20 A. Yes, sir.
21 Q. Is this Exhibit 150, is that one of
22 the photographs you took?
23 A. Yes, sir.
24 Q. As you went through that first time?
25 A. Yes, sir.
Sandra M. Halsey, CSR, Official Court Reporter
1831

1 Q. Now, if I'm in the living room and I'm
2 looking toward the shutters, then that photograph is
3 facing west towards the shutters, with my back toward the
4 street?
5 A. Oh, I'm sorry, yes, sir.
6 Q. Okay.
7
8
9 (Whereupon, the following
10 mentioned item was
11 marked for
12 identification only
13 after which time the
14 proceedings were
15 resumed on the record
16 in open court, as

17 follows:)

18

19 BY MR. RICHARD MOSTY:

20 Q. Officer, let me show you what's been

21 marked as Defendant's Exhibit 19 and ask if you can

22 identify that. Is that one of the photographs that you

23 took as well?

24 A. Yes, sir.

25 Q. Is it dated?

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1 A. Yes, sir, it is.

2 Q. Okay.

3

4 MR. RICHARD C. MOSTY: Now, we would

5 offer 19.

6 MR. GREG DAVIS: No objection.

7 THE COURT: Defendant's Exhibit 19 is

8 admitted.

9

10 (Whereupon, the above

11 mentioned item was

12 received in evidence

13 as Defense Number 19,

14 for all purposes

15 after which time,

16 the proceedings were

17 resumed on the record,

18 as follows:)

19

20 BY MR. RICHARD C. MOSTY:

21 Q. Okay. Do 19 and State's 150 depict

22 the same lamp?

23 A. The same lamp, yes.

24 Q. However, in 19 the lamp is still up on

25 the -- still up on the couch, isn't it?

Sandra M. Halsey, CSR, Official Court Reporter

1833

1 A. Yes, sir.

2 Q. Okay. And there's a pillow on the

3 couch?

4 A. That's correct.

5 Q. On 19, isn't there?

6 A. Um-hum. (Witness nodding head

7 affirmatively).

8 Q. Okay. And on 150, the lamp is now on

9 the ground, isn't it?

10 A. Yes, sir.

11 Q. And the pillow is now on the ground?
12 A. Yes, sir.
13 Q. So don't you conclude from that that
14 19 was taken before 150?
15 A. Yes, sir.
16 Q. So your testimony a minute ago that
17 Exhibit 150 was how it was when you went in the room the
18 first time, is not correct, is it?
19 A. No, sir.
20 Q. In fact, this -- even though this is
21 on the 6th, the very same day, your photograph, someone
22 has tampered with that crime scene, haven't they?
23 A. Yes, sir. When I took that photo,
24 that was the photo where the documents were -- I located
25 them and I took a close-up of the documents.
Sandra M. Halsey, CSR, Official Court Reporter

1834

1 Q. Okay. And 150 is an altered crime
2 scene?
3 A. Well, I mean, the items were moved,
4 yes.
5 Q. Okay. That's what you call an altered
6 crime scene, isn't it?
7 A. Well, yes, sir.
8 Q. Okay. The lamps had been moved and
9 the pillow had been moved?
10 A. Yes, sir.
11 Q. Now, at this point you've taken about
12 a hundred pictures?
13 A. Yes, sir.
14 Q. How are you noting these things? How
15 are you noting the pictures?
16 A. I don't have any type of log.
17 Q. You don't do any kind of log?
18 A. No, sir.
19 Q. You don't do any kind of list of rolls
20 of film?
21 A. No, sir.
22 Q. Do you number the rolls of film,
23 number 1, 2, 3, 4, 5?
24 A. No, sir.
25 Q. And so the result of that is that we
Sandra M. Halsey, CSR, Official Court Reporter
1835

1 can't sit here today and tell which pictures were taken
2 first, can we?
3 A. Not the rolls, that's correct.

4 Q. Well, and you can't walk over and pick
5 up a box of pictures and say that here's the sequence I
6 took these pictures in?

7 A. No, sir.

8 Q. And you can't verify whether something
9 has been altered, or has not been altered, because you
10 don't have a sequence to your photographs, do you?

11 A. I don't have a log for them.

12 Q. And that's what we just pointed out in
13 150 and 19, isn't it?

14 A. Yes, sir.

15 Q. That you were wrong, in fact, about
16 the sequence?

17 A. Yes, sir.

18 Q. Of those photographs on 150, weren't
19 you?

20 A. Yes, sir.

21 Q. And had you had a contact sheet -- do
22 you know what a contact sheet is?

23 A. Yes, sir.

24 Q. Y'all don't do contact sheets in
25 Rowlett?

Sandra M. Halsey, CSR, Official Court Reporter
1836

1 A. No, sir.

2 Q. Well, what is a contact sheet?

3 A. Well, it's just where you have the --
4 as best of my knowledge, it's where you have the
5 negatives laid out one beside each other. That's what I
6 interpret it.

7 Q. Okay. That's to verify, I guess, what
8 photos were taken when. Right?

9 A. I guess so, yes, sir.

10 Q. And that's good police work, isn't it?

11 A. Well, it's not part of our operation
12 to have the log.

13 Q. Well, that wasn't my question. My
14 question was: That's good police work. It wasn't what
15 Rowlett did. My question was: That would be good police
16 work to have a photo log, wouldn't it?

17 A. Well, to me, I'm not for sure.

18 Q. You're not for sure?

19 A. No, sir.

20 Q. Well, for instance, it would have
21 saved you the embarrassment of misidentifying Exhibit
22 150, wouldn't it?

23 A. It could have.

24 Q. Okay. And that is the same basic
25 philosophy about preserving evidence, isn't it? You

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1 identify how photographs are taken. You identify how
2 evidence was preserved. You identify when it was taken.
3 You staple it. All those are to maintain the integrity
4 of the crime scene, aren't they?

5 A. Yes, sir.

6 Q. And that's because, is it not, that
7 crime scenes get contaminated day in, day out, don't
8 they?

9 A. No, sir.

10 Q. That's not true? You don't agree
11 that -- what is artifact, do you know?

12 A. No, sir.

13 Q. You do not know the term artifact?

14 A. No, sir.

15 Q. Are you familiar that oftentimes in
16 police investigations that items get moved, kicked
17 around, knocked around? Are you familiar with that?

18 A. I mean, it could happen.

19 Q. Okay. And in this case it did happen
20 some, didn't it? We know that from 19 and 150, don't we?

21 A. Yes, sir, that was moved.

22 Q. Okay. In maintaining the integrity of
23 those photographs, for instance, that would be to
24 maintain and identify separate pieces of evidence and
25 when they were either seen, or where they were observed;

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1838

1 is that right?

2 A. Yes, sir.

3 Q. And that's true, for instance, of
4 these -- these bloody clothing? That's why you separated
5 them, isn't it?

6 A. Yes, sir.

7 Q. So one doesn't contaminate the other?

8 A. Yes, sir.

9 Q. So one doesn't soak blood on to the
10 other?

11 A. Yes, sir.

12 Q. So that a bag doesn't soak blood on to
13 a shirt?

14 A. Yes, sir.

15 Q. And those are the reasons that you do
16 all of these procedures that are designed to accurately
17 and fairly depict the crime scene, aren't they?

18 A. Yes, sir.

19 Q. I mean, you've been trained to do that

20 stuff, haven't you?

21 A. Yes, sir.

22 Q. Time in and time out?

23 A. Yes, sir.

24 Q. You've been to a lot schools on it?

25 A. A few.

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1839

1 Q. Now, you told me that you did that
2 presumptive test?

3 A. Yes, sir.

4 Q. About 9:30, did you say?

5 A. Yes, sir.

6 Q. Okay. And I guess you went out to
7 your car and got that bag?

8 A. Yes, sir.

9 Q. Okay. And you removed the stapled
10 evidence tag?

11 A. Yes, sir.

12 Q. Okay. And that is the stapled
13 evidence tag that is now missing?

14 A. Well, I mean, I opened the bag. I
15 think the evidence tag stayed on the bag itself.

16 Q. Well, you told me earlier that you
17 stapled it -- that when you went back to the car, after
18 getting the sock, that you immediately went back to the
19 car and stapled the evidence tag on as the third item?

20 A. That's correct.

21 Q. So when you went back to your car at
22 9:30, that evidence tag was still stapled to the bag?

23 A. That's correct.

24 Q. Okay. And you had to tear that, or
25 remove the staple.

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1840

1 A. Yes.

2 Q. Was it stapled through the evidence
3 tag?

4 A. Yes, sir.

5 Q. Okay. So you had to remove the staple
6 and --

7 A. Well, all I did was open up the flap.

8 Q. You kept the evidence tag on there?

9 A. On the bag itself, yes.

10 Q. Okay. And you were just able to open
11 it up and reach in and grab that sock?

12 A. Yes, sir.

13 Q. Well, doesn't that sort of defeat the

14 purpose of securing a bag?
15 A. The bag was secure.
16 Q. Well, it's not very secure if I can
17 reach in and get the sock out, is it?
18 A. Well, I had full gaining to it.
19 Q. Well, I'm not fussing with you, I'm
20 just talking about --
21 A. I had it right there.
22 Q. Why do you staple the bag?
23 A. I staple the evidence tag to attach it
24 to the bag.
25 Q. Well, why do you, in general terms,
Sandra M. Halsey, CSR, Official Court Reporter
1841

1 why do you staple the bag?
2 A. Well, when I stapled that bag it was
3 to hold the evidence tag on the bag.
4 Q. Well, isn't one of the reasons that
5 you stapled the bag shut is so that nobody can get in
6 there and tamper with the evidence?
7 A. Yes, sir.
8 Q. So that they can't open that bag
9 without tearing the staples or tearing the red tape or
10 whatever it is?
11 A. Yes, sir.
12 Q. And yet you were able to reach into
13 your own bag --
14 A. Yes, sir.
15 Q. -- without unstapling it. Right?
16 A. Yes, sir.
17 Q. Okay. So you didn't do a very good
18 job of securing your own evidence, did you?
19 A. Yes, I did secure it.
20 Q. You did?
21 A. Yes, sir.
22 Q. Well, you didn't secure it enough to
23 where somebody couldn't have reached in it.
24 A. Well, no one had access to it except
25 for myself.
Sandra M. Halsey, CSR, Official Court Reporter
1842

1 Q. Well, then after that did you restaple
2 it so nobody could get into it?
3 A. Yes, sir.
4 Q. You had a staple gun there with you?
5 A. Yes, sir. It was placed into
6 evidence.
7 Q. Well, now when did you -- you reached

8 in it, the tag is still on it.

9 A. Uh-huh.

10 Q. You reached in it without removing the
11 staples, got it out, did the test?

12 A. Yes, sir.

13 Q. You were able to do the test, and you
14 were able to put it back in?

15 A. Yes, sir.

16 Q. Did you restaple it so nobody else
17 could reach into it?

18 A. Yes, sir.

19 Q. And you had a staple gun there in the
20 living room with you?

21 A. No, sir, it was out in the car.

22 Q. So you went out to the car and stapled
23 it?

24 A. Yes, sir.

25 Q. But you know that the evidence tag was
Sandra M. Halsey, CSR, Official Court Reporter
1843

1 on it?

2 A. Yes, sir.

3 Q. All those times?

4 A. Yes, sir.

5 Q. Okay. All right. You've taken a
6 hundred, over a hundred photographs before you left the
7 living room?

8 A. Approximately.

9 Q. And did you go on into the kitchen?

10 A. Yes, sir.

11 Q. And how many rolls did you take in
12 there?

13 A. I'm not for sure, sir.

14 Q. A number?

15 A. Two.

16 Q. Two rolls?

17 A. Yes, sir.

18 Q. And, again, there's no way we can go
19 back and figure out what those were taken of, or when
20 they were taken, or what they were of?

21 A. They were taken out of the kitchen
22 area.

23 Q. Okay. Let me show you Number 150
24 again. And that's the photograph that you've
25 testified -- are those the documents that you picked up?

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1 A. Yes, sir.
2 Q. And all of those documents, each and
3 every one, are what has been entered into evidence?
4 A. Well, no, sir. There was more type
5 papers.
6 Q. Were there three more?
7 A. I'm sorry?
8 Q. Were there three more papers?
9 A. I don't recall. There were several
10 papers.
11
12 MR. RICHARD C. MOSTY: I'm going to go
13 ahead and offer those in evidence. Number 84-A, B and C.
14 Do you have Number 84-A, B and C?
15 THE COURT: Yes.
16 MR. GREG DAVIS: I have 84-B here.
17 MR. RICHARD C. MOSTY: Do you want me
18 to renumber them?
19 MR. GREG DAVIS: No, that's fine.
20 THE COURT: All right. They were
21 withdrawn.
22 MR. GREG DAVIS: They were withdrawn?
23 THE COURT: Yes.
24 MR. RICHARD C. MOSTY: Do you want me
25 to renumber those?
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1 THE COURT: All right. Let's just
2 take a 10 minute break, please. Thank you.
3
4 (Whereupon, a short
5 Recess was taken,
6 After which time,
7 The proceedings were
8 Resumed on the record,
9 In the presence and
10 Hearing of the defendant
11 But outside the presence
12 Of the jury, as follows:)
13
14 THE COURT: Let the record reflect
15 that these proceedings are being held outside the
16 presence of the jury and all parties of the trial are
17 present.
18 Mr. Hagler.
19 MR. JOHN HAGLER: Could we let the
20 record reflect that counsel has requested permission to
21 make the motion at this time.
22 THE COURT: You can, yes.

23 MR. JOHN HAGLER: Move for a mistrial
24 based on the fact that the instructions to the jury were
25 insufficient to remove the error.
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1 THE COURT: And, Mr. Hagler made this
2 objection prior to the beginning of cross-examination.
3 And since the jury was already in the jury box, we didn't
4 rule on that then. But the Court denies the motion for
5 mistrial.
6 But Mr. Hagler already made this
7 motion, and so we will just put that on the record now.
8 Let's bring the jury back in.

9
10 (Whereupon, the jury
11 Was returned to the
12 Courtroom, and the
13 Proceedings were
14 Resumed on the record,
15 In open court, in the
16 Presence and hearing
17 Of the defendant,
18 As follows:)

19
20 THE COURT: All right. Let the record
21 reflect that all parties in the trial are present and the
22 jury is seated.

23 Mr. Mosty.

24 MR. RICHARD C. MOSTY: Yes, sir.

25

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1
2
3 (Whereupon, the following
4 mentioned item was
5 marked for
6 identification only
7 after which time the
8 proceedings were
9 resumed on the record
10 in open court, as
11 follows:)

12

13 CROSS EXAMINATION (Resumed)

14

15 BY MR. RICHARD MOSTY:

16 Q. Officer Mayne, let me hand you what

17 has been marked, it's actually got two marks on it, three
18 documents, it's marked State's Exhibit No. 84-A and
19 Defendant's Exhibit 20, is the first one. And the second
20 one is marked State's 84-B and Defendant's 21. And the
21 third one is marked State's 84-C and Defendant's 22.

22 A. Yes, sir.

23 Q. Were those documents that you picked
24 up there at the end of the couch?

25 A. Yes, sir.

Sandra M. Halsey, CSR, Official Court Reporter
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1 Q. By the lamp?

2 A. Yes, sir.

3 MR. RICHARD MOSTY: Okay. We'll offer
4 Defendant's Exhibit 20, 21, 22.

5

6 MR. GREG DAVIS: No objection.

7 THE COURT: Defendant's Exhibits 20,
8 21 and 22 are admitted.

9

10 (Whereupon, the items

11 Heretofore mentioned

12 Were received in evidence

13 As Defense Exhibit No. 20

14 through 22 for all purposes,

15 After which time, the

16 Proceedings were resumed

17 As follows:)

18

19 BY MR. RICHARD MOSTY:

20 Q. Now, with these documents, are all the

21 documents that you picked up at the end of the couch, are
22 they all in evidence?

23 A. No, sir, not in this courtroom.

24 They're entered into a State's Exhibit.

25 Q. Okay. So there are others that you

Sandra M. Halsey, CSR, Official Court Reporter
1849

1 found there that aren't here?

2 A. That's correct.

3 Q. Okay. And they were there at the end
4 of the couch as well?

5 A. Yes, sir.

6 Q. Did you go through those documents?

7 A. Yes, sir.

8 Q. And pick and choose which ones to
9 bring?

10 A. No, sir.

11 Q. Who did that, if you know?
12 A. I'm not for sure.
13 Q. But there were other documents there?
14 A. Yes, sir.
15 Q. Where are they?
16 A. I think they are right here.
17 Q. With the State?
18
19 MR. GREG DAVIS: They're right over
20 here.
21 MR. RICHARD C. MOSTY: Okay.
22
23 BY MR. RICHARD MOSTY:
24 Q. When you went in the house, did you
25 photograph the fireplace in that wall?
Sandra M. Halsey, CSR, Official Court Reporter
1850

1 A. Yes, sir.
2 Q. Is that the south wall? I'm not very
3 good on --
4 A. I believe it is.
5 Q. Okay. Now, I mean, let me show you
6 some tags.
7 Now let in me show you Defendant's
8 Exhibits No. 23 and 24 and ask you if those are also
9 photographs that you took on June 6th?
10 A. Yes, sir.
11 Q. Okay. And they fairly and accurately
12 depict the scene?
13 A. The picture, yes, sir.
14
15 MR. RICHARD C. MOSTY: We would offer
16 23 and 24.
17 MR. GREG DAVIS: No objection.
18 THE COURT: State's Exhibit --
19 Defendant's Exhibit 23 and 24 are admitted.
20 What is 23, Mr. Mosty? What is it a
21 photograph of?
22
23 (Whereupon, the items
24 Heretofore mentioned
25 Were received in evidence
Sandra M. Halsey, CSR, Official Court Reporter
1851

1 As Defense Exhibit No. 23
2 and 24 for all purposes,
3 After which time, the
4 Proceedings were resumed

5 As follows:)

6

7 MR. RICHARD C. MOSTY: It's a
8 photograph of the files.

9 THE COURT: 24?

10 MR. RICHARD C. MOSTY: The couch,
11 Devon Routier, and files in it.

12 THE COURT: Okay.

13 MR. RICHARD C. MOSTY: And 24 is
14 files.

15 THE COURT: Okay. Thank you.

16

17 BY MR. RICHARD MOSTY:

18 Q. Now, let me show you Defendant's
19 Exhibit, let's start with 24, I guess. In 24, is the
20 lamp shade visible?

21 A. Yes, sir.

22 Q. Okay. When you say the lamp shade is
23 visible, is it this object here?

24 A. Yes, sir.

25 Q. Okay. And at that stage, is the lamp
Sandra M. Halsey, CSR, Official Court Reporter
1852

1 shade still up on the couch?

2 A. It appears so.

3 Q. Okay. It's knocked over, but it's
4 still up on the couch?

5 A. Yes, sir.

6 Q. Okay. And that's the sort of gold
7 object in the upper left-hand corner?

8 A. Yes, sir.

9 Q. Okay. So, do you -- do I conclude
10 from this that this photograph must have been taken
11 before State's 150?

12 A. It could have, yes, sir.

13 Q. Well, State's 150 is the one that
14 shows the lamp moved, that we've already been over,
15 doesn't it?

16 A. Yes, sir.

17 Q. Okay. So, like 19, which we talked
18 about earlier -- Okay. So, we got 20 -- let's see, that
19 was 24 we were talking about? Let's keep these. 24, 150
20 and 19.

21 Now, can you tell me which of these --

22

23 MR. DOUGLAS MULDER: Do you want me to
24 hold this?

25 MR. RICHARD C. MOSTY: Yes.

Sandra M. Halsey, CSR, Official Court Reporter
1853

1 And you might need to come down here
2 and I'll ask Mr. Mulder.
3 THE COURT: Do you want to step down,
4 Officer.
5
6 (Whereupon, the witness
7 Stepped down from the
8 Witness stand, and
9 Approached the jury rail
10 And the proceedings were
11 Resumed as follows:)
12
13 BY MR. RICHARD MOSTY:
14 Q. Okay. Defendant's 19 has the lamp
15 shade on the couch. Correct?
16 A. Yes, sir.
17 Q. Defendant's -- is that 24 -- has the
18 lamp shade on the couch?
19 A. Yes, sir.
20 Q. Can you tell me which of these were
21 taken first? You need to show -- this is 24 over here.
22 It shows the lamp shade on the couch. And 19 shows the
23 lamp shade on the couch?
24 A. Yes, sir.
25 Q. Correct? And we know they are taken
Sandra M. Halsey, CSR, Official Court Reporter
1854

1 before 150 because that is when the lamp shade has been
2 moved?
3 A. Well, I'm not for sure.
4 Q. Well, you were the only person in the
5 house, weren't you?
6 A. Yes, sir.
7 Q. Okay. Now, let's look at 24 and
8 describe what's at the top of 24, that brown object.
9 A. A brown folder.
10 Q. Okay. And that was the way it was
11 when you went in the house?
12 A. I don't recall.
13 Q. Okay. Let me show you 23, which is in
14 evidence. 23 does not agree with 24, does it?
15 A. Only this green folder.
16 Q. Well, that's only the green folder.
17 Okay. Now, this is the last one we're talking about, and
18 in this one, there are green file folders at the end of
19 the couch on top, are there not?

20 A. Yes, sir.
21 Q. Okay. And in that one, Devon Routier
22 is still in -- his body is still in there, isn't it?
23 A. Yes, sir.
24 Q. Okay. Now, then, we go to 24, and in
25 24 the green folder has been moved. Correct?
Sandra M. Halsey, CSR, Official Court Reporter
1855

1 A. Yes, sir. There is no green folder on
2 there.
3 Q. Well, can you see something that
4 maybe, it's, I don't know is that the brown folder in
5 there or not? Or can you tell?
6 A. Well, I believe it is.
7 Q. Okay. So 23 has the green folders on
8 top, and 24 has the brown folder on top?
9 A. Yes, sir.
10 Q. Those are all taken in your first trip
11 through the house?
12 A. These items here, I was taking closeup
13 shots when I found the folders at the end of the couch.
14 Q. And so you moved them?
15 A. Sir?
16 Q. You moved the green folders?
17 A. Yes, sir. When I found them.
18 Q. Okay.
19 A. I photographed it, and then I moved
20 some off and photographed again.
21 Q. Okay. All on that first trip through?
22 A. No, sir, not on the first trip.
23 Q. So these aren't on the first trip?
24 A. This is on the first trip.
25 Q. This one with the green folders is?
Sandra M. Halsey, CSR, Official Court Reporter
1856

1 A. Yes, sir.
2 Q. These others are taken on the 6th?
3 A. Yes, sir, it is.
4 Q. Who moved that evidence?
5 A. I did.
6 Q. You did?
7 A. Yes, sir.
8 Q. Okay. Is that when you looked in the
9 that green box?
10 A. That's when I was looking through the
11 folders.
12
13 MR. RICHARD C. MOSTY: You can go

14 ahead and have a seat.
15
16
17 (Whereupon, the witness
18 Resumed the witness
19 Stand, and the
20 Proceedings were resumed
21 On the record, as
22 Follows:)
23
24 BY MR. RICHARD MOSTY:
25 Q. What was in the green box?
Sandra M. Halsey, CSR, Official Court Reporter
1857

1 A. As far as I recall it was sewing.
2 Q. Why didn't you photograph it?
3 A. I didn't see it was pertinent to the
4 investigation, of just sewing items.
5 Q. You made that choice of not
6 photographing that?
7 A. That's correct.
8 Q. Where did you put those green folders
9 when you picked them up?
10 A. I placed them in a paper sack.
11 Q. And is that in an evidence sack?
12 A. It's a paper sack that we have for
13 evidence, yes.
14 Q. Well, did you -- did that get a tag,
15 get stapled, and all those good things as well?
16 A. Yes, sir.
17 Q. Did you do that right away?
18 A. I put the paper sack (sic) in a paper
19 sack and went to the car.
20 Q. You put the green folders.
21 A. Excuse me, yes, sir.
22 Q. The green folders in a paper sack?
23 A. That's correct.
24 Q. And went to the car?
25 A. Yes, sir, that's correct.
Sandra M. Halsey, CSR, Official Court Reporter
1858

1 Q. And is that the green folders that are
2 depicted in Number 23?
3 A. Yes, sir.
4 Q. Okay. And when was this?
5 A. It was late in the afternoon.
6 Q. Late in the afternoon?
7 A. Yes, sir.

8 Q. So you picked those up and walked out
9 to the car with them?

10 A. Yes, sir.

11 Q. Straight to the car?

12 A. Yes, sir.

13 Q. Let me show you Exhibit 25 and ask you
14 if you can identify that.

15 A. That's the green folders.

16

17 MR. RICHARD C. MOSTY: Okay. We would
18 offer 25 into evidence.

19 MR. GREG DAVIS: No objection.

20 THE COURT: Defense Exhibit No. 25 is
21 admitted in evidence.

22

23 (Whereupon, the item

24 Heretofore mentioned

25 Was received in evidence

Sandra M. Halsey, CSR, Official Court Reporter
1859

1 As Defense Exhibit No. 25

2 For all purposes,

3 After which time, the

4 Proceedings were resumed

5 As follows:)

6

7

8 BY MR. RICHARD C. MOSTY:

9 Q. So it's not correct that you picked

10 them up and carried them straight out to the car, is it?

11 A. When I photographed them and collected
12 them, that's when I did take them to the car.

13 Q. You photographed them at one place?

14 A. That's correct.

15 Q. You picked them up and you put them
16 down at another place?

17 A. Yes, sir.

18 Q. And then you photographed them again?

19 A. That's correct.

20 Q. And then you took them to the car?

21 A. Yes, sir.

22 Q. But a minute ago when I asked you

23 about that, you left out the photographing of them?

24 A. Well, I'm sorry, but I did photograph
25 them.

Sandra M. Halsey, CSR, Official Court Reporter
1860

1 Q. Okay. And you laid it down on the
2 couch?
3 A. Yes, sir.
4 Q. Okay. And that pillow there?
5 A. Yes, sir.
6 Q. Okay. What was on that pillow?
7 A. I'm not for sure, sir.
8 Q. Well, that's how blood gets
9 transferred from one item in a crime scene to another,
10 isn't it? Picking up one piece of evidence and putting
11 it down on another?
12 A. Well, no evidence that I saw was
13 transferred to that.
14 Q. Okay. You didn't see any?
15 A. No, sir.
16 Q. But that's when you get two objects of
17 evidence, you want to keep them separated, don't you?
18 You have already testified to that.
19 A. Yes, sir, try to.
20 Q. And in this instance you didn't. You,
21 in fact, laid one piece of evidence on top of another.
22 A. Well, yes, sir, in that sense I did.
23 Q. And we don't know whether there might
24 have been blood on that yellow thing that got on the
25 folders, or from blood from the folders that got on the
Sandra M. Halsey, CSR, Official Court Reporter
1861

1 yellow pillow, do we?
2 A. No, sir.
3 Q. And we'll never know now, will we?
4 A. No, sir.
5 Q. And that's the same thing as taking
6 Mrs. Routier's -- or the two children's clothes and
7 putting them together, blood off of one can soak on the
8 other. Right?
9 A. Possibility.
10 Q. And vice-versa?
11 A. Yes, sir.
12 Q. And that's why you're trained to
13 separate them.
14 A. Well, they were in one bag, and that's
15 the reason why I didn't separate them.
16 Q. Why didn't you separate them to stop
17 that very thing?
18 A. Because I received those items in that
19 one bag.
20 Q. And Mrs. Routier's T-shirt was all
21 wadded up, wasn't it?
22 A. It was -- yes, sir.

23 Q. So blood could soak from one place on
24 that T-shirt to another?

25 A. Yes, sir.

Sandra M. Halsey, CSR, Official Court Reporter
1862

1 Q. Blood soaked from that T-shirt out on
2 to the paper bag that it was in, didn't it?

3 A. There was blood on it, yes, sir, or
4 appeared to be blood.

5 Q. Well, whatever happened to have been
6 crumpled on top, gravity is just going to pull that drip
7 down on to another part of that shirt, can't it?

8 A. I'm not for sure. I didn't see the
9 shirt.

10 Q. Well, but that can happen, can't it,
11 you know?

12 A. Well, I'm not for sure.

13 Q. Well, you aren't trained to avoid that
14 kind of thing?

15 A. I mean, I didn't know the condition of
16 the shirt, so I'm not for sure.

17 Q. Well, aren't you supposed to, for
18 instance, with a bloody shirt, rather than put it in a
19 bag where it can mildew and everything, aren't you
20 supposed to get it out and hang it up or dry it some how?

21 A. That was done later, yes, sir.

22 Q. But, when was it done later?

23 A. When I cleared the crime scene there.

24 Q. When, that evening?

25 A. Yes, sir.

Sandra M. Halsey, CSR, Official Court Reporter
1863

1 Q. Okay. Proper procedure would have
2 been to take that shirt, and as quickly as possible
3 preserve it in as pristine a condition as possible?

4 A. Well, there is really not a procedure,
5 just when I got through with the crime scene.

6 Q. Well, what did you do?

7 A. With?

8 Q. Did you hang it up?

9 A. Yes, sir.

10 Q. And that's to let it dry?

11 A. That's correct.

12 Q. And that's to preserve it so that
13 blood is not soaking from one place to another, isn't it?

14 A. That's just to dry the blood.

15 Q. Okay. Dry it in it's place. Correct?

16 A. Yes, sir.

17 Q. Okay. But when it's wadded up, you
18 cannot -- that can't happen, can it?
19 A. I'm not for sure.
20 Q. Blood can move from one place to
21 another?
22 A. Well, like I said, I'm not for sure.
23 Q. You don't know?
24 A. No, sir.
25 Q. Common sense doesn't tell you why you
Sandra M. Halsey, CSR, Official Court Reporter
1864

1 go hang that thing up?
2 A. Just to let it dry.
3 Q. Okay. Is that bag always upright that
4 had Mrs. Routier's shirt in it?
5 A. Yes, sir.
6 Q. At every time that you ever saw it?
7 A. When it was in the car, it was
8 upright.
9 Q. All right. How was it -- well, I
10 guess you don't know how it was when Zimmerman had it,
11 where it was, what it was doing?
12 A. No, sir.
13 Q. How it was soaking through to
14 anything. You don't know any of that stuff, do you?
15 A. No, sir.
16 Q. Okay. All right. Mr. Mayne, let's
17 talk about -- first, have we covered all of the
18 photographs that you now did? As you went through to the
19 utility room to the garage, you did all of those
20 photographs on the 6th?
21 A. Yes, sir.
22 Q. And we've covered all of those?
23 A. We covered the ones in the kitchen, I
24 recall.
25 Q. Okay. And we covered ones in the
Sandra M. Halsey, CSR, Official Court Reporter
1865

1 living room earlier?
2 A. Yes, sir.
3 Q. How many -- by this time, how many
4 pictures did you take?
5 A. I'm not for sure, sir.
6 Q. Okay. And I think you told me that
7 you took a number of photographs of that ball cap?
8 A. I took a few.
9 Q. And it was right there?
10 A. Yes, sir, in the utility room.

11 Q. Okay. Your camera is a zoom camera?
12 A. Well, it's -- I call it automatic
13 camera. It's not really zoom, it just covers the area.
14 I'm not familiar -- that familiar with cameras, just to
15 take a picture.
16 Q. Well, does it automatically focus?
17 A. Focus, no it automatically focuses.
18 Q. Okay. Does it also have the ability
19 to bring things in closer?
20 A. No, it's just focus.
21 Q. It's an auto focus?
22 A. Yes.
23 Q. Now, you've been trained in how to
24 take photographs, you have told us that?
25 A. I mean, yes, sir.
Sandra M. Halsey, CSR, Official Court Reporter
1866

1 Q. Okay.
2 A. Just basic.
3 Q. And you've had some training in blood
4 spatter. Correct?
5 A. I have been to a school, yes, sir.
6 Q. And they told you how to take
7 photographs, didn't they?
8 A. Well --
9 Q. At that school of blood, didn't they?
10 A. No, sir, not at the blood school.
11 Q. They didn't?
12 A. No, sir.
13 Q. You have never been trained?
14 A. Well, I mean, on the job, and basic
15 crime scene school.
16 Q. Well, have you ever heard that for --
17 to analyze blood evidence that what the analyst wants is
18 a pan picture as big as he can of the entire room? Have
19 you ever heard that?
20 A. Yes, sir, I mean, that's all crime
21 scenes get a pan of the area.
22 Q. And you know that a blood spatter guy
23 wants a 90 degree photograph?
24 A. I mean, I do take them, but in some
25 instances, yes.
Sandra M. Halsey, CSR, Official Court Reporter
1867

1 Q. Well, can you tell me which of these
2 photographs of the hundred and -- how many, 200?
3 A. I'm not for sure how many.
4 Q. Can you tell me which of those are 90

5 degree photographs of a blood spatter?
6 A. No, sir, I couldn't tell you.
7 Q. And no one else would be able to do
8 that either, could they?
9 A. No, sir.
10 Q. Okay. Now, with blood spatter, you
11 have a direction to a blood, a drop of blood, don't you?
12 A. I have been told, yes.
13 Q. Okay. Well, you see, you used --
14 A. I mean, I've been to school for that,
15 yes, sir.
16 Q. Well, you used the phrase "cast-off
17 blood," didn't you?
18 A. Yes, sir.
19 Q. And it makes a lot of difference if
20 I'm photographing that at 90 degrees, or if I'm
21 photographing it at 45 degrees, doesn't it?
22 A. Well, I mean, from the degree, yes.
23 Q. It's distorted if I'm not at 90
24 degrees, doesn't it?
25 A. No, sir, I don't see how it distorts
Sandra M. Halsey, CSR, Official Court Reporter

1868

1 it.
2 Q. You don't think that that distorts it?
3 A. No, sir, not the photograph.
4 Q. Well, it distorts your ability to look
5 at that blood spatter, doesn't it?
6 A. Well, I'm not for sure.
7 Q. Okay. You don't think that taking it
8 at an angle adversely affects the blood spatters' man's
9 ability to say if that blood was going at an angle, and
10 if so what angle it was going at?
11 A. I'm not for sure.
12 Q. Okay. But, do you know that a blood
13 spatter analyst wants a 90 degree photograph of any
14 important blood spatters?
15 A. No.
16 Q. You don't know that?
17 A. I don't.
18 Q. Okay. Did you know that a blood
19 spatter expert also wants, for instance, a ruler in a
20 photograph?
21 A. Yes, sir.
22 Q. You know that, don't you?
23 A. Yes, sir.
24 Q. And the purpose of that is to give it
25 perspective, isn't it?

Sandra M. Halsey, CSR, Official Court Reporter
1869

1 A. Yes, sir.

2 Q. And so if you find a blood spatter

3 over here, you go and you put that ruler down by it and

4 then you get down you take a 90 degree photograph of it.

5 You know that?

6 A. Yes, sir, a photograph, yes, sir.

7 Q. You know that's what you're supposed

8 to do, don't you?

9 A. Yes, sir.

10 Q. Did you, at any time, put your ruler

11 down and measure any of these blood spatters? Or just so

12 anybody could get a perspective of what these blood drops

13 looked like?

14 A. The blood drops, no, sir.

15 Q. But you know that to be a good

16 practice, don't you?

17 A. Well, it could, yes.

18 Q. Could or is?

19 A. Well, it could.

20 Q. All right. Let's talk about some of

21 the evidence that you collected. Well, before we leave

22 the photographs, let's hit a couple more.

23 Did you pick up -- did you take

24 possession of the phone?

25 A. No, sir.

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1870

1 Q. Nobody did?

2 A. I think it was entered into evidence

3 days later.

4 Q. Days later?

5 A. Yes, sir.

6 Q. I guess somebody chose to -- made a

7 decision that the phone was not important?

8 A. Well, the first day?

9 Q. Yes.

10 A. I chose not to take it, yes, sir.

11 Q. That was your choice?

12 A. Yes, sir.

13 Q. When you went in the room, where was

14 the phone?

15 A. It was lying in the family room.

16 Q. Can you give me any better description

17 than that?

18 A. Yes, sir. By the bar area in the

19 family room.

20 Q. Okay
21
22
23 (Whereupon, the following
24 mentioned item was
25 marked for
Sandra M. Halsey, CSR, Official Court Reporter
1871

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. RICHARD MOSTY:
9 Q. Let me show what's been identified as
10 Exhibit 26. That's taken by you on the 6th, isn't it?

11 A. Yes, sir.

12 Q. Does that depict the location of the
13 phone when you first went in?

14 A. I don't think that is where it was,
15 sir.

16 Q. Okay. Let me show you Number 25.

17 Does that depict the location of the phone when you first
18 went in?

19 A. Yes, sir.

20 Q. How is it that one --

21

22 MR. RICHARD C. MOSTY: I'll offer 25
23 and 26.

24 THE COURT: I've got 25 as the green
25 folders.

Sandra M. Halsey, CSR, Official Court Reporter
1872

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: Well, how
13 about, let me call them 26 and 27.

14 THE COURT: All right. Number 26
15 would be the -- that's the location of the phone on the
16 floor.
17 MR. RICHARD C. MOSTY: Yes, sir.
18 THE COURT: Okay.
19 MR. RICHARD C. MOSTY: Okay. I'm
20 going to call Number 25 (sic), and Number 27. Let me
21 just go through this again.
22 THE COURT: Okay.
23
24 BY MR. RICHARD MOSTY:
25 Q. Number 26 is the photograph that you
Sandra M. Halsey, CSR, Official Court Reporter
1873

1 said is not where it was when you went in?
2 A. Yes, sir.
3 Q. And 27 is where the phone was when you
4 went in?
5 A. Yes, sir.
6 Q. Okay. These are both taken on the 6th
7 of June?
8 A. Yes, sir.
9 Q. Is there anyway from your records to
10 tell which was taken first?
11 A. Just by my knowledge, it's the one
12 with a rag.
13 Q. Well, how come the phone is getting
14 kicked around?
15 A. We did examine it for blood on the
16 phone, and a photo was taken after it was moved.
17 Q. It is in a different location, isn't
18 it?
19 A. Well, it appears so, yes.
20 Q. Well, in the one the antenna is
21 sticking off the runner?
22 A. Yes.
23 Q. And in the other, it's fully on the
24 runner, isn't it?
25 A. Yes, sir.
Sandra M. Halsey, CSR, Official Court Reporter
1874

1 Q. Okay. So, your story is that you saw
2 it on the floor and then you picked it up and looked at
3 it -- this is you doing all this?
4 A. Taking the photos, yes.
5 Q. Well, who picked it up?
6 A. Well, I'm not for sure who picked it
7 up.

8 Q. You don't recall that?

9 A. No, sir, those weren't on the same
10 time frame.

11 Q. Well, how did you know then that in 26
12 somebody had picked it up to look for blood and had set
13 it back down?

14 A. Well, from my knowledge that it was on
15 the runner and it was beside the green rag.

16 Q. So you don't know who moved it?

17 A. No, sir.

18 Q. And you don't know if they looked for
19 blood on it.

20 A. I do know that they did look for blood
21 on it. I'm not for sure who picked it up.

22 Q. Did you see someone look for blood on
23 it when they picked it up?

24 A. Through the conversation that we've
25 had --

Sandra M. Halsey, CSR, Official Court Reporter
1875

1 Q. No, my question is: Did you see
2 someone look for blood when they picked up that phone?

3 A. I don't recall.

4

5 THE COURT: Are you offering Number 26
6 and 27, Mr. Mosty?

7 MR. RICHARD C. MOSTY: Yes, sir.

8 THE COURT: Any objection?

9 MR. GREG DAVIS: No objection.

10 THE COURT: All right. Defense

11 Exhibits 26 and 27 are admitted.

12

13 (Whereupon, the items

14 Heretofore mentioned

15 Were received in evidence

16 As Defense Exhibit No. 26

17 and 27 for all purposes,

18 After which time, the

19 Proceedings were resumed

20 As follows:)

21

22 BY MR. RICHARD C. MOSTY:

23 Q. Okay. You don't know who moved the
24 phone?

25 A. No, sir.

Sandra M. Halsey, CSR, Official Court Reporter
1876

1 Q. And you don't know if they did a
2 presumptive blood test on it?
3 A. No, sir, I don't think they did.
4 Q. It didn't have blood on it?
5 A. It did have blood on it.
6 Q. But no testing was done on it?
7 A. No, sir. Not to my knowledge.
8 Q. Okay. Now, you picked up the glass on
9 the floor?
10 A. On the kitchen floor, I did pick up a
11 piece of glass.
12 Q. When did you do that?
13 A. It was approximately 12:20 P.M.
14 Q. Okay. And how many pieces of glass
15 were on the floor?
16 A. There were several.
17 Q. How many did you pick up?
18 A. I think I picked up one large piece
19 and a few small pieces.
20 Q. The exhibit that's in evidence, is
21 that in the same condition as when you picked them up?
22 A. Yes, sir.
23 Q. They haven't been broken up since
24 then?
25 A. No, they have not.
Sandra M. Halsey, CSR, Official Court Reporter
1877

1 Q. Okay. And that's all that you picked
2 up?
3 A. Yes, sir.
4 Q. And that's -- can we say several
5 pieces of glass?
6 A. Yes, sir, there's some tiny pieces
7 along with --
8 Q. Now, did you look carefully for glass
9 everywhere?
10 A. Yes, sir, I saw glass on the floor.
11 Q. On the floor? Did you look anywhere
12 else for glass?
13 A. No, sir, just in the kitchen area.
14 Q. But could you see it, I mean, on the
15 counters or other places? Did you look up at other
16 places, for glass, other than on the floor?
17 A. Yes, sir.
18 Q. Did you see any?
19 A. I don't recall.
20 Q. There was a wine stem on the floor as
21 well?
22 A. Yes, sir.

23 Q. To this same glass, presumably?

24 A. Presumably.

25 Q. But you didn't collect that?

Sandra M. Halsey, CSR, Official Court Reporter
1878

1 A. That's correct.

2 Q. Nobody collected that?

3 A. That day, no, sir.

4 Q. Okay. And the wine glass, I guess it

5 can get kicked around the same way a phone can?

6 A. It could have been picked up.

7 Q. Well, why would somebody pick up that

8 phone, and look at it, and then set it down at a

9 different location?

10 A. I'm not for sure. Picked it up to

11 analyze it for blood, or look at it for blood, and sit it

12 back down.

13 Q. Isn't it proper police procedure to

14 pick it up, put it in a bag, staple it down and look at

15 it later?

16 A. No, sir.

17 Q. That's not proper procedure?

18 A. No, sir.

19 Q. What -- do you make those decisions

20 out there on the spot?

21 A. Yes, sir.

22 Q. And so you can -- there might be any

23 number of things out there that don't strike your memory

24 right now that you just said, "That's nothing, I'm not

25 even going to photograph it, I'm not going to pick it up,

Sandra M. Halsey, CSR, Official Court Reporter

1879

1 I'm not going to test it, it means nothing"?

2 A. It's through discussions with

3 everybody out there that we decided to collect what we

4 collected.

5 Q. Okay. And so there's a conscious

6 decision made on the spot to say, "I'm not going pick

7 that up"?

8 A. Myself, yes, I didn't pick it up.

9 Q. Well, so, somebody collectively made a

10 conscious decision, picked up the phone -- well, first

11 off, how would you pick up a phone like that?

12 A. Just pick it up.

13 Q. With your hand?

14 A. With gloves.

15 Q. With a glove on it?

16 A. Yes, sir.

17 Q. Wouldn't you try to get tweezers or
18 something on it?
19 A. No, sir.
20 Q. Okay. You pick it up with a glove,
21 and then would you examine it with a glove?

22 A. Just examine the phone.
23 Q. Okay. And you just make that
24 determination out in the field that this piece of
25 evidence is not worthy of going down to the lab?

Sandra M. Halsey, CSR, Official Court Reporter
1880

1 A. Yes, sir.
2 Q. Okay. And y'all did that all day on
3 the 6th, I guess?
4 A. Yes, sir.
5 Q. Made those decisions?
6 A. On that particular evidence, yes.
7 Q. But on other pieces of evidence as
8 well, didn't you?
9 A. The evidence that we had, we
10 collected.
11 Q. Well, did you collect all of the
12 glass?
13 A. No, sir.
14 Q. You made some decisions, I'm going to
15 collect this piece, and I'm not going to collect that
16 one, didn't you?
17 A. Yes, sir.
18 Q. And then those are decisions that you
19 make that this piece of evidence is not worthy to go to
20 the lab?
21 A. Then and there are the only pieces
22 that I collected.
23 Q. Those are the only ones you remember?
24 A. The stem and what I collected?
25 Q. Right.

Sandra M. Halsey, CSR, Official Court Reporter
1881

1 A. I remember some more glass, yes.
2 Q. Okay. Now, how did you decide which
3 ones you were going to collect and which ones you
4 weren't?
5 A. I just talked it over with people that
6 were there and collected that piece of evidence.
7 Q. Well, I understand that, but what's
8 the reasoning? Surely somebody said, "That one there

9 looks very important, let's get it." Because?

10 A. There was no blood on the glass that I
11 collected.

12 Q. Okay. So that is how you made your
13 choice? If there was blood on it, you left it, if there
14 was not blood on it, you didn't?

15 A. Well, that's what I collected, yes,
16 sir.

17 Q. Well, why did you go through and pick
18 up all of those blood samples? Weren't blood samples
19 important out there?

20 A. Yes, sir.

21 Q. But pieces of glass without blood were
22 not important?

23 A. To me, yes, sir.

24 Q. I said that backwards, I think.

25 Pieces of glass that had blood on them were not
Sandra M. Halsey, CSR, Official Court Reporter
1882

1 important?

2 A. Well, I mean, I'm not saying that they
3 weren't important, I just did not collect them.

4 Q. Okay. That's fair enough.

5 The stem, you made a decision that
6 that wasn't important?

7 A. I just made a decision not to collect
8 it.

9 Q. Okay. You made no decision one way or
10 another whether or not it was important?

11 A. I wasn't making a determination if it
12 was not important, I just did not collect it.

13 Q. Well, that's contrary to, of course,
14 what happened with the phone. Somebody apparently made a
15 decision out there on the ground that the phone wasn't
16 important.

17 A. I didn't say that. I said somebody
18 examined it.

19 Q. And left it?

20 A. And left it, yes, sir.

21 Q. Okay. Now, you're trained over the
22 importance of fingerprints, aren't you?

23 A. Yes, sir.

24 Q. And picking up things that may have
25 latent prints on them?

Sandra M. Halsey, CSR, Official Court Reporter
1883

1 A. Yes, sir.

2 Q. And not touching things that may have

3 prints on them?

4 A. Yes, sir.

5 Q. Because you can wipe out prints, can't
6 you?

7 A. Yes, sir.

8 Q. If you handle an object.

9 A. You could possibly smudge it, yes,
10 sir.

11 Q. For instance, if you go over and pick
12 up this vacuum cleaner. Whatever prints are there,
13 you've destroyed, haven't you?

14 A. Well, I'm not for sure.

15 Q. Well, isn't it good police practice to
16 dust something like that for fingerprints before you
17 touch it?

18 A. Well, no, sir.

19 Q. No, sir?

20 A. Not the vacuum cleaner per se, at that
21 time and point.

22 Q. You made a decision, a conscious
23 decision, that dusting for prints on the vacuum cleaner
24 was not important?

25 A. Not at that time.

Sandra M. Halsey, CSR, Official Court Reporter
1884

1 Q. Well, did it later become important?

2 A. I'm not for sure if it was ever

3 dusted, sir.

4 Q. Well, if it was important now, it must
5 have been important then, isn't that right?

6 A. I mean, at the time I decided not to
7 collect it.

8 Q. And you made no determination, I
9 guess, one way or another whether or not it was important
10 or not important to dust that for prints?

11 A. That's correct. I made a
12 determination not to.

13 Q. Okay. What about other places? Did
14 you make any determinations that other places didn't need
15 to be dusted for prints?

16 A. No, sir, I did not dust any prints.

17 That was another officer that did that.

18 Q. Somebody else did that?

19 A. Yes, sir.

20 Q. Okay. When you went in the house,
21 what is the first thing you remember observing or
22 photographing?

23 A. The first thing I observed?

24 Q. Yes, first observed.

25 A. In the house was the entryway.
Sandra M. Halsey, CSR, Official Court Reporter
1885

1 Q. Okay. When you went in on your
2 photographic session, what is the first thing that you
3 noticed that you thought was worthy of photographing?

4 A. It would be the hallway.

5 Q. And what was it about that that made
6 you choose to photograph the hallway?

7 A. There was just blood in the hallway.

8 Q. What else did you see?

9 A. A couple of rags.

10 Q. A couple of rags?

11 A. Yes, sir.

12 Q. Did you see the runner?

13 A. Yes, sir.

14 Q. All right.

15

16

17 (Whereupon, the following

18 mentioned item was

19 marked for

20 identification only

21 after which time the

22 proceedings were

23 resumed on the record

24 in open court, as

25 follows:)

Sandra M. Halsey, CSR, Official Court Reporter
1886

1

2 BY MR. RICHARD MOSTY:

3 Q. Let me show you what I have marked as

4 Defendant's Exhibits 28 and 29 and ask you if those are

5 also photographs you took -- I'm not sure you can see the

6 date stamped on one of them, but are those photographs

7 you took on the 6th?

8 A. Yes, sir.

9

10 MR. RICHARD C. MOSTY: All right. 28

11 is -- well, we'll offer 28 and 29.

12 MR. GREG DAVIS: No objection.

13 THE COURT: Defense Exhibits 28 and 29

14 are admitted.

15

16 (Whereupon, the items

17 Heretofore mentioned

18 Were received in evidence

19 As Defense Exhibit No. 28
20 And 29 for all purposes,
21 After which time, the
22 Proceedings were resumed
23 As follows:)
24
25 MR. RICHARD C. MOSTY: Do you want a
Sandra M. Halsey, CSR, Official Court Reporter
1887

1 description?
2 THE COURT: Well, they're both hallway
3 photos.
4 MR. RICHARD C. MOSTY: Yeah, one is
5 sort of at the -- 28 is at the end of the hallway.
6 THE COURT: All right.
7
8 BY MR. RICHARD MOSTY:
9 Q. These are -- and does 29 appear to be
10 from farther back looking down the hallway?
11 A. Yes, sir.
12 Q. And then 28, is that a closer up view
13 of part of what is shown in 29?
14 A. Yes, sir.
15 Q. Let me show those to the jury. The
16 top one is a little farther away?
17 A. Yes, sir.
18 Q. And the bottom one is a little closer
19 up view?
20 A. Yes, sir.
21 Q. Okay. And the top one shows what in
22 it?
23 A. It shows the hallway with the two
24 rags.
25 Q. Okay.
Sandra M. Halsey, CSR, Official Court Reporter
1888

1 A. Plus a rag at the top.
2 Q. And does it show the runner also in
3 there?
4 A. I believe so.
5 Q. Okay. Did you look at those rags?
6 A. Yes, sir.
7 Q. Okay. And does it also show in 29 a
8 piece of white paper?
9 A. Yes, sir.
10 Q. Do you know what that was? Did you
11 observe it?
12 A. It appeared to be a package for gauze.

13 Q. Something like a paramedic would
14 leave?
15 A. Yes, sir.
16 Q. Okay. And in 29, you say there are
17 two rags, and the gauze and the runner?
18 A. Yes, sir.
19 Q. Now, that runner appears to be folded
20 over, or moved around or something?
21 A. Yes, sir.
22 Q. It's moved?
23 A. Yes, sir.
24 Q. Was it moved when you first went in
25 the house?
Sandra M. Halsey, CSR, Official Court Reporter
1889

1 A. I believe so.
2 Q. Okay. And the rug that's shown there,
3 the green rug, it appears to have been moved?
4 A. Yes, sir.
5 Q. You might look at 28.
6 A. Yes, sir.
7 Q. And in 28, can you actually see what
8 appears to be a green stain on the white, from the top
9 one, a green stain on the white carpet?
10 A. Yes, sir.
11 Q. Does that appear to be where that rug
12 lived most of the time?
13 A. I'm not for sure. I wasn't there.
14 Q. Okay. You can't draw that conclusion?
15 That that green stain on the white carpet is from that
16 green rug?
17 A. I'm not for sure.
18 Q. Now that green rug, when you got
19 there, was actually in the kitchen. I guess it is this
20 showing on 28, it actually shows the kitchen. It's
21 laying on the kitchen floor?
22 A. Yes, sir.
23 Q. Not on the carpet?
24 A. Not on the carpet.
25 Q. Okay. But it appears clearly to have
Sandra M. Halsey, CSR, Official Court Reporter
1890

1 been moved?
2 A. I'm not for sure. I mean, that's
3 where it was when I got there.
4 Q. You can't draw that conclusion that
5 it's been jostled around?
6 A. It could have been. I wasn't there.

7 Q. Okay. And Number 29 shows, does that
8 actually show three rags or two? One back in the --

9 A. One back here, yes, sir.

10 Q. Okay. So it shows three rags in that
11 room?

12 A. Yes, sir.

13 Q. Now, did you tell the jury that you
14 collected those rags?

15 A. Yes, sir.

16 Q. All right. The third one is -- the
17 third rag in this picture is sort of a little bit
18 darkened and it's back in the living room?

19 A. Yes, sir.

20 Q. And it was -- it's shown in one of the
21 photographs of the phone before the phone was moved, or
22 after the phone was moved, that green rag is shown closer
23 to the phone, isn't it?

24 A. Yes, sir.

25 Q. All right. But that's the way it
Sandra M. Halsey, CSR, Official Court Reporter
1891

1 looked when you first walked in?

2 A. Yes, sir.

3 Q. With that runner and that rug thrown
4 like that?

5 A. I believe so.

6 Q. Okay. And it's your understanding
7 that nothing had been moved at that point?

8 A. To my understanding, yes, sir.

9 Q. Okay. Now, did you take those rags
10 into evidence?

11 A. Yes, sir.

12 Q. And how did you mark those?

13 A. Again, placed the rags in paper sacks.

14 Q. Okay.

15 A. And attach the evidence tags to the
16 sacks.

17 Q. Okay.

18

19 THE COURT: Mr. Mosty, you will be
20 spending more time with this witness, I assume?

21 MR. RICHARD C. MOSTY: Yes, sir.

22 THE COURT: All right. By agreement
23 it's now 5:00 o'clock. And I think -- we are coming
24 right upon 5:00 o'clock.

25 What's the jury's pleasure? Do you
Sandra M. Halsey, CSR, Official Court Reporter
1892

1 wish to remain?
2 THE JUROR: How much longer?
3 THE COURT: How much longer do you
4 think you will be, Mr. Mosty?
5 MR. RICHARD C. MOSTY: I don't think
6 it will be too long. You are not going to hold me to
7 that. Just a thing or two.
8 THE COURT: Just a thing or two?
9 All right. Well, do you think you
10 will be through in like about 10 minutes?
11 MR. RICHARD C. MOSTY: It might be
12 just a tad longer that.
13 THE COURT: Well, then we will
14 adjourn.
15 MR. RICHARD C. MOSTY: Tell you what,
16 if you want to take a couple minutes break, I will get
17 myself real organized.
18 THE COURT: No, no. I think we will
19 do -- we will break until 9:00 o'clock tomorrow morning,
20 at which time you will be even more superbly organized.
21 See everybody at 9:00 o'clock in the
22 morning.