

Police Detective McCarty (prosecutor's assigned investigator)
examined by prosecutor:

795

1 Q AT SOME POINT, WERE THE PERSONAL BELONGINGS OF MR. ALLRED
2 TURNED OVER TO THE FAMILY? A YES.

3 Q AND WAS THE FAMILY ALLOWED TO GO INTO THE RESIDENCE FOR
4 THAT PURPOSE? A YES.

5 Q AND DO YOU RECALL WHEN THE FAMILY OF MR. ALLRED WAS FIRST
6 ALLOWED TO GO INTO THE HOUSE FOR THAT PURPOSE?

7 A I DON'T KNOW THE EXACT DAY. IT WAS AFTER THE 18TH.

8
9 HAVING BEEN LOCATED ON THE 18TH; NAMELY, THE FIFTH CARTRIDGE
10 SHELL WHICH OFFICER CAMPOS INDICATED WAS LOCATED IN THE REAR
11 PAN AS

12 LOC. BE

13 FOUR

14 A

15 Q

16 A

17 SLUG WAS LOCATED IN THE CUBBY, WE SEIZED THE PANEL OF WALL
18 SURROUNDING THE SLUG, APPROXIMATELY 1 1/2 FEET BY 3 1/2 FEET
19 OF WALL. WE SEIZED THAT.

20 Q WAS THAT CUT OUT OF THE WALL?

21 A YES, WITH A SKILL SAW.

22 Q AND IS THAT DEPICTED IN THE PHOTOGRAPHS THAT PREVIOUSLY
23 HAVE BEEN INTRODUCED? A YES.

24 Q ANYTHING ELSE THAT WAS SEIZED ON THAT PARTICULAR DAY?

25 A I DON'T RECALL AT THIS POINT.

26 Q DID YOU LOCATE WITHIN THE HOUSE ANY SORT OF PARAPHERNALIA
27 THAT WOULD BE ASSOCIATED WITH A BB OR PELLET GUN SUCH AS A BOX

28 OR SUCH AS BB GUN INSTRUCTIONS PARTICULARLY TO A DAISY

ADDED COMMENTARY
ATTACKER'S FAMILY WAS LET INTO LAZOR'S HOUSE TO REMOVE CRITICAL EVIDENCE FROM THE CRIME SCENE, AND TO RECONSTRUCT THE CRIME SCENE AS EARLY AS 9 DAYS AFTER THE SHOOTING

tabbles
EXHIBIT
JJ
5 PAGES

Mrs. Allred, mother of attacker, as a state witness, examined by prosecutor:

1088

1 **ADDED COMMENTARY**

2 **CRIME PERPETRATOR'S FAMILY REMOVED ALL**
3 **EVIDENCE AS DESIRED, FROM THE SCENE. AND...**

10TH,

URR

4
5
6 Q AND THEREAFTER, THAT IS AFTER THE 10TH OF JANUARY OF
7 1983, DID YOU HAVE AN OCCASION TO BE WITHIN THAT RESIDENCE AT
8 16935 ROBERTS ROAD?

9 A AFTER THE 10TH, YES.

10 Q AND DO YOU RECALL APPROXIMATELY WHEN THAT WAS?

11 A IT WAS AT LEAST A WEEK AFTER, AND I WENT TO TAKE JOHN'S
12 THINGS HOME.

13 Q AND DID YOU IN FACT COLLECT MR. ALLRED'S BELONGINGS AND
14 PERSONAL EFFECTS FROM THE RESIDENCE WHEN YOU CAME DOWN FOR
15 THAT PURPOSE? A YES, MOST OF THEM.

16 Q OKAY. AND DID YOU HAVE SOME ASSISTANCE?

17 A YES, I DID. JOHN'S OLDER BROTHER JAMES CAME TO HELP ME,
18 AND HIS YOUNGER BROTHER DAVID.

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21 Q AND AS TO THE PERSONAL EFFECTS OF MR. ALLRED, DID YOU
22 COME ACROSS ANY SORT OF WEAPONS OF ANY SORT SUCH AS A GUN?

23 A NOTHING, NOTHING.

24
25 A NO.

26 Q DID
27 WARRANTY

28 A NO,

ADDED COMMENTARY

**ATTACKER'S MOTHER DID NOT REGARD HIS MEAT
CLEAVER AND BATON CUDGELS AS "WEAPONS"**

JJ-2

Schroeder to judge in chambers with prosecutor present:

Prosecutor to judge in chambers with Schroeder present:

12

1 COURT AS AN OFFICER OF THE COURT THAT THE HOUSE IS NOT IN
2 PRECISELY THE SAME CONDITION, BUT I WOULD LIKE TO AT LEAST

3
4 WHILE THE HOUSE IS NOW OCCUPIED BY ANOTHER INDIVIDUAL AND
5 THERE IS IN FACT A DIFFERENT FLOOR, -- BY THAT, I MEAN THERE
6 IS LINOLEUM AS OPPOSED TO WHERE THERE HAD BEEN A RUG, FOR
7 EXAMPLE,

8 CLOSE PROXIMITY OF THE ROOM IN QUESTION, WHICH WE
9 DESIGNATED YESTERDAY AS A PANTRY-OFFICE, IN RELATIONSHIP TO
10 THE K F WHEN
11 I WEN AT ALL
12 THE S THAT
13 MR. H
14 EXTRE AW IT.

ADDED COMMENTARY

*SCHROEDER ARGUING AGAINST HIS OWN ONLY
WRITTEN MOTION SUBMITTED IN THE ENTIRE
CASE*

15 FROM OUR POSITION, IT'S THE -- IT'S THAT PROXIMITY AND
16 THE CLOSENESS THAT IS AN IMPORTANT ISSUE IN THIS CASE. THE
17 POSITION OF FURNITURE, THAT TYPE

18 WE ARE SIMPLY ARGUING ABOUT
19 CLOSE PROXIMITY, AND I DON'T BELIEVE THAT THE PHOTOGRAPHS GIVE
20 A CLOSE REFLECTION OF THAT BECAUSE IT'S THE NATURE OF
21 PHOTOGRAPHY TO GIVE PERCEPTIONS AND DEPTHS OF FIELD THAT ARE
22 SOMETIMES DIFFERENT THAN YOU WOULD HAVE IN PERSON, BUT I CAN
23 REPRESENT THAT THE HOUSE IS NOT PRECISELY IN THE SAME
24 CONDITION THAT IT WAS AT THE TIME THAT THE INCIDENT OCCURRED.

25 MR. HAMES: YOUR HONOR, I WOULD AGREE WITH COUNSEL
26 TO THE EXTENT THAT THE HOUSE IS NOT IN THE SAME CONDITION. I
27 BELIEVE BOTH COUNSEL AND MYSELF WERE LAST AT THE HOUSE --
28 MR. SCHROEDER CAN CORRECT ME IF I AM WRONG -- ON THE 29TH OF

CONTINUED

JJ-3

1 JULY, WHICH I BELIEVE WAS A FRIDAY AFTERNOON, AT APPROXIMATELY
2 4:00 IN THE AFTERNOON. AT THAT PARTICULAR TIME, WE DID
3 DISCOVER THAT THERE IS A FAMILY IN FACT LIVING IN THE HOUSE.
4 THE ARRANGEMENT OF THE HOUSE HAS BEEN CHANGED FURNITURE-WISE,
5 THE PERTINENT AREAS OF THE KITCHEN HAVE ALSO BEEN CHANGED.
6 THE INDOOR-OUTDOOR CARPETING HAS BEEN REMOVED AND BEEN
7 REPLACED WITH LINOLEUM. A CERTAIN AREA OF THE KITCHEN, WHICH
8 WILL BE IN CONTENTION IN THIS TRIAL, A CUBBY AREA, IF YOU
9 WILL, WHERE A STOVE WOULD NORMALLY BE PLACED HAS NOW IN FACT
10 BEEN PLACED IN THAT CUBBY. THAT IS, A STOVE HAS BEEN PLACED
11 THEREIN. A CABINET DOOR, WHICH HAS BEEN SEIZED AND PLACED
12 INTO EVIDENCE AND PHOTOGRAPHED, IS NO LONGER THERE. THE DOOR
13 BETWEEN THE KITCHEN AND THE PANTRY HAS BEEN REMOVED, AND THERE
14 IS IN FACT NO DOOR BETWEEN THOSE TWO AREAS. THE SUBSTANTIAL
15 AMOUNT OF FURNITURE, DEBRIS, ODDS AND ENDS, WHAT HAVE YOU THAT
16 WAS LOCATED WITHIN THE PANTRY AREA HAS BEEN REMOVED. THE
17 VARIOUS LOCKS THAT WERE WITHIN THE PANTRY AREA, ITSELF, HAVE
18 BEEN REMOVED, AND A LOT OF VERY CRITICAL THINGS THAT HAVE IN
19 FACT BEEN PRESERVED BY THE POLICE ARE NO LONGER PRESENT AS OF
20 TODAY'S DATE.

21 AND, AGAIN, I WOULD STRESS TO THE COURT THAT THE
22 PHOTOGRAPHS DO IN FACT SHOW THE AREA. PRECISE MEASUREMENTS
23 HAVE BEEN TAKEN BY THE HOMICIDE TECHNICAL EVIDENCE CREW FOR
24 THE LOS GATOS POLICE DEPARTMENT.

ADDED COMMENTARY

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26
27 TRI **PROSECUTOR PRIVATELY ADMITS TO JUDGE WHAT**
28 DE **HE AND SCHROEDER HID FROM THE JURY: THAT THE**
ATTACKER'S FAMILY RECONSTRUCTED (I.E. DESTROYED
AND COMPLETELY CHANGED) THE ENTIRE CRIME SCENE

Judge, prosecutor, Schroeder, in chambers:

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MR. SCHROEDER: I WILL SUBMIT IT, YOUR HONOR.

THE COURT: THE COURT HAS TWO OBSERVATIONS WHICH MIGHT BE CHARACTERIZED AS PROBLEMS WITH THE MOTION. FIRST OF ALL, THERE IS NOTHING IN THE DECLARATION SUPPORTING THE MOTION THAT WOULD INDICATE TO THE COURT THAT THE PROPERTY HAS BEEN PRESERVED IN PRECISELY THE SAME CONDITION THAT IT WAS AT THE TIME OF THE EVENTS LEADING TO THE TRIAL.

NOW, IT WOULD ADD LITTLE TO THE JURY'S ABILITY TO JUDGE THE CASE IF THEY WERE TO BE TAKEN TO THE PROPERTY AND FIND THAT THE PRESENT CONDITION OF THE PROPERTY; SPECIFICALLY, THE AREAS WHICH ARE IN DISPUTE, BECAUSE OF SOMEONE ELSE'S TENANCY OR SOMETHING ELSE THAT MAY HAVE OCCURRED, THAT THEY HAVE BEEN DRAMATICALLY CHANGED. NOW, THAT DRAMATIC CHANGE MIGHT NOT SIMPLY MEAN IN DIMENSIONS BUT VARIOUS FIXTURES, FURNITURE, VARIOUS OTHER MATTERS MAY HAVE BEEN CHANGED. I DON'T KNOW. IF THE CONDITION OF THE PROPERTY AS IT NOW IS SITUATED AND SPECIFICALLY THE AREAS WHICH COUNSEL ALLUDE TO ARE NOT IN THE SAME CONDITION AS THEY WERE AT THE TIME OF THE ALLEGED EVENTS, I HAVE NO INTENTION OF HAVING THE JURY VIEW THOSE PREMISES

BE ENTERED INTO THE TRIAL MUST REFLECT THE POSITION OF THE

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ADDED COMMENTARY

AS A MATTER OF LAW, THE RECONSTRUCTION-DESTRUCTION OF THE CRIME SCENE, AUTHORIZED BY THE PROSECUTION, VOIDED THE ONLY WRITTEN DEFENSE MOTION IN THE CASE -- MONTHS BEFORE IT WAS WRITTEN. IT WAS JUST ANOTHER PRETENSE

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MR. SCHROEDER: YOUR HONOR, I CAN REPRESENT TO THE