

REC'D NEWASH  
CLERK OF COURTS  
STARK COUNTY, OHIO

IN THE COURT OF COMMON PLEAS

STARK COUNTY, OHIO

CASE NO. 1999 CR 0873

03 DEC 22 AM 8:33

2003 CA 00388

STATE OF OHIO,	)	
	)	
Plaintiff,	)	TRANSCRIPT OF
	)	PROCEEDINGS
versus	)	
	)	
DAVID G. THORNE,	)	
	)	
Defendant.	)	

BE IT REMEMBERED, That upon the hearing of the above entitled matter in the Court of Common Pleas, Stark County, Ohio, before the Honorable Richard D. Reinbold, Jr., Judge, and commencing on May 12, 2003, the following proceedings were had:

-----

VICKI I. DENNEWITZ, RPR  
OFFICIAL COURT REPORTER  
STARK COUNTY COURTHOUSE

ENTERED BY 78

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

## 1 APPEARANCES:

2  
3 On Behalf of the State of Ohio:4  
5 Chryssa Hartnett,

6 Assistant Prosecutor

7 Mark Caldwell,

8 Assistant Prosecutor

9 Stark County Office Building

10 Suite 510

11 Canton, Ohio 44702

12  
13 On Behalf of the Defendant:14  
15 Jeffrey W. Pederson,

16 Attorney at Law

17 3305 Beechwood Avenue

18 Cleveland Heights, Ohio 44118

19  
20 and21  
22 William T. Doyle, Attorney at Law

23 2000 Standard Building

24 Cleveland, Ohio 44113

25

I N D E XOPENING STATEMENTS:

By Mr. Doyle

Page 12

STATE'S WITNESSES

	<u>DX</u>	<u>CX</u>	<u>RDX</u>	<u>RCX</u>	<u>FDX</u>
Jeffrey Haupt	196	207			
Lloyd Sampson	217	230	245		

STATE RESTS Page 247

DEFENSE WITNESSES

	<u>DX</u>	<u>CX</u>	<u>RDX</u>	<u>RCX</u>	<u>FDX</u>
George S. Hale	22	31	40		
Brent Turvey	41	90	130		
Joseph Wilkes	139	146	154	157	
Michael Robertson	158	173	177		
Victoria Rhodes	178	185			
Fred Cameron	188	193			

DEFENSE RESTS Page 195

I N D E X C O N T I N U E DSTATE'S EXHIBITS

	<u>MARKED</u>	<u>RECEIVED</u>
State's Exhibit A (Narrative Supplement)	B/A	252
State's Exhibit B (Progress Report)	B/A	252
State's Exhibit 3 (Grand Jury proceedings)	B/A	N/A

DEFENSE EXHIBITS

	<u>MARKED</u>	<u>RECEIVED</u>
Defendant's Exhibit 1 (Offender data)	B/A	249
Defendant's Exhibit 2 (Photo)	B/A	249
Defendant's Exhibit 3 (Photo)	B/A	249
Defendant's Exhibit 4 (Memorandum dated 2/24/03)	B/A	249
Defendant's Exhibit 5 (Questioned document report)	B/A	249
Defendant's Exhibit 6 (Questioned document report)	B/A	249
Defendant's Exhibit 7 (Narrative supplement)	B/A	250

B/A = By Attorney  
N/A = Not admitted

- - - - -



1 THE COURT: Everybody all set?

2 MR. DOYLE: Yes, Your Honor.

3 THE COURT: This is Case

4 1999 CR 0873, State of Ohio versus David

5 Thorne. And we are here for the

6 evidentiary hearing on a third amended

7 post-conviction petition.

8 I think before we begin I just

9 want to indicate, for the record, a couple

10 of things as far as the history of this

11 particular motion.

12 On November 13th, 2000,

13 Defendant's post-conviction petition was

14 filed. Seven days after that the judgment

15 of the Court was affirmed by the Court of

16 Appeals.

17 On January 10th then, of 2001,

18 Defendant's second amended post-conviction

19 petition was filed. And on January 11th,

20 the Court filed a disposition sheet

21 setting a hearing for January 29th, 2001.

22 On January 18th, 2001, the motion

23 that I had previously set was canceled,

24 and I believe that was at the request of

25 the Defense.

1           On 4/6/01, the appeal to the  
2 Supreme Court on this matter was dismissed  
3 by the Ohio Supreme Court.

4           The next entry on our docket is  
5 of 12/27/01 where a third amended  
6 post-conviction petition was filed. And  
7 I, on 11/20, set a hearing for December  
8 2nd.

9           On November 27th, there was a  
10 motion from the Defense to continue that  
11 hearing. And I, in an entry of December  
12 the 2nd, continued that case. It  
13 indicates on my motion, but it was at the  
14 request of the Defense. I continued that  
15 until December 23rd.

16           On 12/9, I again filed another  
17 disposition sheet continuing that matter,  
18 and continued it from December 23rd to  
19 January 6th, 2003.

20           On January 6, 2003, the  
21 post-conviction hearing set for January  
22 6th was continued at the request of  
23 counsel for a -- to pick an appropriate  
24 hearing date.

25           On January 29th, '03, we set a

1 hearing for 3/10/03. Notices were sent,  
2 we had a hearing on that date, I believe  
3 it was informal, and we had set the  
4 evidentiary hearing then for May 12, 2003,  
5 which brings us up to date I believe. I  
6 know there have been some different briefs  
7 filed on this matter, but that is where we  
8 are today in this particular case.

9 Mr. Pederson, I'm kind of looking  
10 to you to be the lead attorney in this  
11 matter. If that's incorrect, let me know  
12 that.

13 MR. PEDERSON: That is not  
14 correct, it will be Mr. Doyle.

15 THE COURT: Mr. Doyle? I see  
16 your name more than anyone so I will make  
17 sure I do that correctly.

18 Mr. Doyle, anything you want to  
19 add as far as the Court's rendition off  
20 its docket control sheet?

21 MR. DOYLE: If I may, Your  
22 Honor. I think, for the most part, my  
23 understanding of the docket as you've put  
24 forth is correct. I do not recall that  
25 there was ever a withdrawal of any of the

1 complaints that were filed. I understood  
2 that there was a first complaint filed, as  
3 you've indicated, there was a second  
4 amended complaint, and then there was a  
5 third amended motion that was filed. Our  
6 records don't necessarily reflect that  
7 there was a withdrawal of that.

8 THE COURT: If I used the word  
9 withdrawal, I did not -- I misspoke.  
10 There's been a number of amended petitions  
11 and a number of hearings set and a number  
12 of continuances of those hearings, but  
13 nothing has been withdrawn.

14 MR. DOYLE: Thank you, Your  
15 Honor.

16 The only other, I guess,  
17 preliminary issue that we would ask the  
18 Court to consider this morning, or today,  
19 we had received from the State their  
20 response on Plaintiff's/Respondent's filed  
21 time stamped on May the 9th, it was handed  
22 to us this morning about 10:00, and we  
23 would object to the State's being given  
24 the opportunity to respond based on the  
25 fact that this case has been pending and

1 they did not respond within the ten day  
2 required time limit. Even though we did  
3 make three different amendments, this  
4 would be the first response they have  
5 made. And we would ask that their  
6 specific response would be stricken, Your  
7 Honor.

8 THE COURT: State -- anything  
9 else, Mr. Doyle?

10 MR. DOYLE: Nothing else at  
11 this time, Your Honor, other than an  
12 opening statement.

13 THE COURT: Ms. Hartnett, are  
14 you lead counsel on this or is --

15 MS. HARTNETT: I intend to  
16 conduct the direct and the  
17 cross-examination. However, the legal  
18 arguments are certainly going to be made  
19 by Mr. Caldwell.

20 THE COURT: Ms. Hartnett, do  
21 you have any response or anything you want  
22 to add?

23 MS. HARTNETT: I'd refer to Mr.  
24 Caldwell.

25 THE COURT: Mr. Caldwell?

1 MR. CALDWELL: No, Your Honor.

2 THE COURT: Well, the response  
3 has been filed, and, I mean, this case has  
4 such a long history of attorneys being on  
5 it and being off of it, I don't think  
6 anybody is prejudiced. If there's  
7 anything in that response, Mr. Doyle, that  
8 you wish to respond to, I'll certainly  
9 give you an opportunity to respond.

10 MR. DOYLE: Thank you, Your  
11 Honor.

12 THE COURT: To respond to  
13 anything that's new and different in  
14 there.

15 Counsel for the Defense, Mr.  
16 Pederson, Mr. Doyle, this is your motion  
17 and -- why don't you all approach just for  
18 a quick second.

19 (Thereupon, a side-bar  
20 discussion was had off the  
21 record.)

22 THE COURT: Mr. Graham, you  
23 want to approach please?

24 (Thereupon, a side-bar  
25 discussion was had off the

1 record.)

2 THE COURT: Mr. Doyle, you may  
3 call your first witness.

4 MR. DOYLE: Your Honor, do you  
5 want to have opening?

6 THE COURT: I'm sorry.  
7 Everybody getting their witnesses out?  
8 Okay. Curt, just kind of turn the podium  
9 towards me. You don't have to move it.  
10 They're going to do a quick opening.

11 THE BAILIFF: Open?

12 THE COURT: They're going to do  
13 a quick opening. That's fine right there.

14 Okay, Mr. Doyle.

15 MS. HARTNETT: Should we move  
16 the podium? For purposes of opening,  
17 you're going to leave it there?

18 THE COURT: We just moved it  
19 there.

20 MS. HARTNETT: Sorry.

21 THE COURT: We'll move it back,  
22 if you want.

23 MS. HARTNETT: That's okay.

24 THE COURT: All set?

25 MR. DOYLE: All set.

1           Counsel, may it please the Court.  
2           Your Honor, as you have already indicated,  
3           we are here this afternoon to seek, at  
4           this point in time, the opportunity to  
5           present evidence to you that would, in  
6           fact, vacate the original case wherein  
7           which our client was found guilty some  
8           several years ago.

9           Judge, it's our position in this  
10          case and we have enumerated at least nine  
11          different areas that we're going to ask  
12          the Court to rule on as it relates to the  
13          specifics of post-relief control here.  
14          And I would only begin by telling you  
15          that, for our purposes today, we are  
16          incorporating, obviously, all of the  
17          Court's documents, the transcripts, the  
18          Court's full docketed entries.

19          And we would further ask the  
20          Court, at this point in time, that as it  
21          relates to this particular case, that we  
22          will be focusing our attention on possibly  
23          three main areas that we believe we would  
24          ask you to focus in on, and obviously take  
25          into consideration the other things. But



1 for our presentation to you today, we're  
2 not going to be taking up your time on all  
3 of these specific allegations.

4 The first area that we would ask  
5 you to take into consideration is the area  
6 which would be entitled number three. And  
7 number three would be that relating to the  
8 witness now known as George Hale. Mr.  
9 Hale, as you will learn, Your Honor, was  
10 an individual who was walking down Devine  
11 Street in the early morning hours, between  
12 9:30 and 10:00, on April the 1st, 1999,  
13 and at that point in time he noticed an  
14 individual coming out of this house.

15 Now, you will learn that he was  
16 approximately 20 to 30 feet away, had an  
17 opportunity to see this person, that that  
18 person, at that time, had in his  
19 possession a garbage bag. As I said to  
20 you, this is between 9:30 and 10:00 in the  
21 morning.

22 Sometime later in the day this  
23 same witness is riding by when he sees, at  
24 that point in time, the police. And he  
25 stops and inquires as to what is

1           happening. He tells the police, at that  
2           point in time, that he has seen this  
3           person come out of the residence and that  
4           it was between 9:30 and 10:00 on that  
5           particular day.

6                       Now, the record will show, and,  
7           Judge, you listened to this case so you  
8           know the underlying facts, but Miss  
9           Layne's body was discovered at  
10          approximately 12:30 on that day. The  
11          person who is seen coming out of the house  
12          with the garbage bag was there  
13          approximately two and a half to, at most,  
14          three hours before the discovery of this  
15          woman's body.

16                      You will learn further, Your  
17          Honor, that that individual, George Hale,  
18          who lived right around the corner, was  
19          walking back from a McDonald's when he  
20          first saw this. That he was then asked at  
21          a later time, to identify if he could  
22          identify anyone who he saw coming out of  
23          the house.

24                      You will learn that he was shown  
25          two pictures, one of the Defendant and one

1 of Joseph Wilkes. And this witness will  
2 tell you that neither of those two people  
3 he saw coming out of that house on that  
4 morning approximately two and a half hours  
5 before this woman's body was discovered.

6 You also, Your Honor, will learn  
7 that that was made part of the police  
8 report. The interview of this individual,  
9 Mr. Hale, was noted in the police report.  
10 That when -- and after this case was  
11 concluded, a freedom of information packet  
12 was requested and the police report was  
13 turned over to the Defense investigator.  
14 That was the first time that the Defense  
15 was ever made aware of the fact of the  
16 existence of this individual.

17 It is our position that that is  
18 obviously a Brady violation. And we  
19 believe that once you hear all the  
20 evidence, including the underlying issues  
21 involved here, that you will also conclude  
22 that.

23 We further will demonstrate to  
24 you, Your Honor, and now I'm referring to  
25 the -- we're indicating where Joseph

1 Wilkes indicates that he did not commit  
2 this homicide and obviously to our case,  
3 more importantly, that David Thorne at no  
4 time did anything in terms of attempting  
5 to pay him or conspire with him in any way  
6 to, in fact, accomplish this awful  
7 homicide.

8 We have obtained an affidavit  
9 from Mr. Wilkes. And Mr. Wilkes has  
10 indicated that he did not commit this  
11 homicide. He has indicated, Your Honor,  
12 that when he was arrested that he was put  
13 under a considerable amount of stress and  
14 that he was told that David Thorne was in  
15 another room and was going to be given  
16 some type of immunity, be given immunity,  
17 and that he was going to be testifying  
18 against him.

19 We believe that Mr. Wilkes will  
20 tell you that that had a major impact on  
21 his decision making in terms of what he  
22 was going to say to the police. He was  
23 also told at one time that he would  
24 obviously avoid the death penalty and that  
25 he would -- could possibly be out of jail

1 in approximately seven years.

2 These issues, while we normally  
3 say, well, here he is, he's come back and  
4 he's recanted, the concern that I think  
5 that goes with this is that the evidence  
6 is going to present to you the fact that  
7 Joe Wilkes lied. And the recantation is  
8 one part of that, and that shows that he  
9 lied because he's going to tell you he  
10 lied. And the Prosecution will  
11 cross-examine him, and possibly that part  
12 of it, that he didn't do this, may not be  
13 believable.

14 But the underpinnings of what Joe  
15 Wilkes told that jury and what Joe Wilkes  
16 told you during the course of that trial  
17 we believe is of such significance. The  
18 forensic evidence in this case, we  
19 believe, will demonstrate, number one,  
20 that Joe Wilkes's version of what  
21 happened, the way he described the actual  
22 killing, could not physically have  
23 happened in the manner in which he  
24 described it.

25 So not only do we have his own

1 recantation, we also have physical  
2 evidence that we will bring to you that we  
3 believe demonstrates that Joe Wilkes lied.  
4 And the lies that he gave to that jury  
5 about the manner and the method of the  
6 killing were -- was from source material  
7 that was provided by the police.

8 Now, we're not saying that the  
9 police said this is what you got to say.  
10 But Joe Wilkes was given enough  
11 information, provided enough details, that  
12 he was, in fact, able to recount, to some  
13 extent, what happened at a location. The  
14 location of this killing becomes very  
15 important and forensically we will show  
16 you that the killing did not happen on the  
17 couch as Joe Wilkes says it did.

18 Joe Wilkes said that he sat next  
19 to this woman, grabbed her and violently  
20 slashed her throat while seated on the  
21 couch. We will demonstrate to you that  
22 that is not physically possible. That the  
23 evidence, the forensic evidence, that was  
24 not looked at and was not reviewed and not  
25 analyzed in the way that it should have

1           been, will clearly demonstrate that the  
2           actual attack occurred at the window some  
3           feet away from the couch by the person who  
4           actually did this. And that person was  
5           behind the individual, was behind the  
6           victim at the time of the slashing.

7                     You will learn, Your Honor, that  
8           the forensic evidence in this case will  
9           clearly demonstrate that the information,  
10          the information that this jury that  
11          convicted him of was wholly lacking in  
12          credibility in terms of the forensics, in  
13          terms of the information obtained from  
14          Joseph Wilkes, and in terms of the  
15          representation that Mr. Thorne received  
16          throughout the trial.

17                    I suppose as you look at this  
18          case, and as you examine it, one of the  
19          questions that comes up is a jury made its  
20          decision, a jury said, David Thorne,  
21          you're guilty. You tried the case, you  
22          did the best you could, Prosecutor,  
23          Defense attorneys. What we're looking for  
24          today, and I want to begin and end really  
25          with thanking you for this opportunity to

1 be given this opportunity to present this  
2 information to you.

3 There are at least nine different  
4 areas of inquiry. As I told you, we are  
5 going to put on two experts. One is the  
6 forensic expert. The second expert is a  
7 handwriting expert. This individual will  
8 testify to a note. You will recall the  
9 testimony of Rose Mohr, who indicated that  
10 she met with Joe Wilkes at a mall in  
11 Alliance on the evening before the body  
12 was found. She told this Court and jury  
13 at that time that a note was written by  
14 Joe Wilkes which gave information about  
15 him. His cell phone number.

16 We will demonstrate to the Court  
17 that Joe Wilkes did not write that note.  
18 We have brought an expert on that will  
19 testify to that. Joe Wilkes denies it.  
20 So, once again, you have the information  
21 provided by Joe Wilkes indicating that it  
22 didn't happen, and the underpinnings of  
23 that is the scientific and reliable  
24 evidence which demonstrates that this  
25 information and this testimony was not



1 credible.

2 Nine areas. We're going to focus  
3 on probably four for purposes of our  
4 presentation. We will argue and present  
5 information to you on the others. But for  
6 evidentiary purposes, Your Honor, we  
7 anticipate that the witnesses who will be  
8 called will be both forensic, scientific  
9 and fact witnesses who will give to you  
10 the information and the evidence that we  
11 believe will present a very strong  
12 inference, presumption that David Thorne  
13 should be given the opportunity to try his  
14 case again.

15 THE COURT: Thank you.

16 Mr. Caldwell, Ms. Hartnett?

17 MS. HARTNETT: That's all  
18 right, Your Honor. Your Honor, we're well  
19 aware you had the opportunity to preside  
20 over this trial and to observe the  
21 witnesses testimony and all of the facts  
22 and circumstances that went into it and we  
23 have nothing to add at this point in time.

24 THE COURT: Defense may call  
25 their first witness.

-----  
GEORGE S. HALE

1  
2  
3 who, after being first duly sworn,  
4 testified as follows:

5 DIRECT EXAMINATION

6 BY MR. DOYLE:

7 Q. Sir, I'm going to ask you to speak into  
8 the microphones there. Can you do that  
9 for us?

10 A. Yes.

11 Q. Okay. Now, tell us your full name,  
12 please.

13 A. My name is George S. Hale.

14 Q. And can you spell your last name for the  
15 record?

16 A. H-A-L-E.

17 Q. And, Mr. Hale, where do you live?

18 A. I live on 1845 South Freedom.

19 Q. And what kind of work do you do, sir?

20 A. Landscaping.

21 Q. I want to direct your attention to April  
22 the 1st of 1999. Do you remember that  
23 day?

24 A. Yes, I do.

25 Q. Okay. And do you recall at that time, on

1 April the 1st of 1999, where were you  
2 living at that time?

3 A. On Wade Street.

4 Q. And is that around the corner or near a  
5 street called Delia?

6 A. Yes.

7 Q. Okay. I want to direct your attention  
8 that morning to approximately 9 -- between  
9 9:30 and 10:00 in the morning.

10 Did you have occasion to be  
11 walking on a street that we now know is  
12 Delia?

13 A. Correct.

14 Q. Can you tell the Judge what it was that  
15 you saw as you were walking by?

16 A. That, um-m -- well, I heard puppies, you  
17 know, up at the house so I was looking  
18 that way and I seen someone came out with  
19 a trash bag and, you know, nothing  
20 particular that -- that I thought was  
21 anything so I kept on walking.

22 Q. Okay. So this person came out of the  
23 house, and they had, you say, a trash bag?

24 A. Correct.

25 Q. All right. Was this person a male?

1 A. Yes.

2 Q. Okay. And so you had occasion to see this  
3 person coming out of the house?

4 A. Correct.

5 Q. All right. After that occurred, where did  
6 you go?

7 A. Home.

8 Q. Okay. Did there come a time sometime  
9 later on in the day that you found  
10 yourself back in that area again?

11 A. Yes. Me and my ex-girlfriend, we drove by  
12 there and they had it all taped off.  
13 There was cops there.

14 Q. Okay. So that same area where you had  
15 walked before was taped off?

16 A. Yes.

17 Q. Okay. And what, if anything, did you then  
18 do?

19 A. Can you repeat that again?

20 Q. Okay. Did you do anything when you came  
21 by and you saw the markers there?

22 A. Pretty much asked what happened because I  
23 walked by there and basically, you know,  
24 was kind of strange and told them someone  
25 had walked out of there that I thought was

1 weird so...

2 Q. Okay. And did you tell the police that?

3 A. Yes, I did.

4 Q. All right. And that was the same day that  
5 you saw this man coming out?

6 A. Yes.

7 Q. And it was the same house that you saw --

8 A. Yes.

9 Q. -- the man coming out?

10 A. Yes, sir.

11 Q. When you talked to the police, you gave  
12 them this information?

13 A. Yes, I did.

14 Q. Okay. And did there come a time then that  
15 the police came to your house after that?

16 A. Yes, they have.

17 Q. And when was that?

18 A. Just probably the next day.

19 Q. And did they interview you once again?

20 A. Yes, they have.

21 Q. And after that interview, did there come a  
22 time after that that the police came to  
23 your house even after that?

24 A. Yes.

25 Q. Okay. This would be the third time that

1           you've talked to the police now?

2       A.     Yes, I have.

3       Q.     All right.  And what, if anything,  
4           happened on that day, when they came the  
5           third time?

6       A.     Um-m, pretty much they asked me to take  
7           a -- or to a hypnotist.  And I kind of  
8           went along with it and said, yeah, and  
9           went.  And the guy who I went to go see  
10          hooked me something on my finger and  
11          stuff, asked me a question and I just  
12          felt, you know, weird, you know, just  
13          because he was hooking things on my  
14          fingers, told me to relax, I thought it  
15          was kind of funny about it because I  
16          didn't want to do it.

17      Q.     Okay.

18      A.     I basically told him what -- I don't know.

19      Q.     And after -- you were told this was to be  
20          a hypnotist?

21      A.     Yes.  Correct.

22      Q.     That's what you expected?

23      A.     Yes.

24      Q.     But when they put the things on your  
25          fingers?

1 A. Yeah, I just felt uncomfortable then.

2 Q. You felt uncomfortable?

3 A. Yeah, just --

4 Q. So did you go through with this?

5 A. No. No.

6 Q. Do you now have any kind of idea as to  
7 what kind of test that really was? Have  
8 you talked to anybody or anybody explained  
9 what that test might have been?

10 A. No.

11 Q. So to you as far --

12 A. Well --

13 Q. -- as you know it's still a hypnotist?

14 A. No, not really because what other people  
15 has told me it was a lie detector test,  
16 but I don't know what it is so I  
17 basically --

18 Q. Ever been through a polygraph before?

19 A. No. No.

20 Q. Okay.

21 MR. DOYLE: If I could have  
22 just a moment, Your Honor.

23 BY MR. DOYLE:

24 Q. Now, sir, can you tell us, did there come  
25 a time that you were contacted by a

1 private investigator concerning this case?

2 A. Yes, I have.

3 Q. And did you -- did you agree to be  
4 interviewed?

5 A. Yes.

6 Q. You weren't real happy about it, though?

7 A. No.

8 Q. Okay. Okay. And at the time of that  
9 interview, do you remember approximately  
10 when that was?

11 A. No.

12 Q. Okay.

13 A. No.

14 Q. Do you remember signing an affidavit?

15 A. Yes.

16 Q. And do you recall being shown certain  
17 photographs?

18 A. Yes.

19 MR. DOYLE: Your Honor, do you  
20 want to see this first?

21 (Thereupon, a discussion  
22 was had off the record.)

23 BY MR. DOYLE:

24 Q. Sir, I'm going to show you what's been  
25 previously marked here as Defendant's



1 Exhibits 1, 2 and 3. And can you tell us  
2 what those are?

3 A. Um-m --

4 Q. Have you ever seen these?

5 A. Yes.

6 Q. Okay. And do you recall that these were  
7 the pictures that you were shown when you  
8 gave your interview?

9 A. Yes.

10 Q. And the pictures that we believe of Mr.  
11 Thorne, 2 and 3, I'm going to circle, did  
12 you see that person coming out of the  
13 house?

14 A. No.

15 Q. And number 3, which is marked as Defendant  
16 Exhibit -- I'm sorry, Defendant's Exhibit  
17 1 is noted as Joseph Wilkes. Did you see  
18 that person coming out of the house?

19 A. No.

20 Q. Those were the photographs that you were  
21 shown when you gave your affidavit?

22 A. Yes.

23 Q. Is that correct?

24 A. Correct.

25 Q. After you finished your -- the hypnotism,

1           what happened then?

2   A.       Basically they were going to take me home  
3           because I wanted to go home, you know.  
4           And then they said -- the one detective  
5           said, you want any McDonald's? I don't  
6           know if that was a bribe or anything, but  
7           I was like, no, I just want to go home  
8           pretty much.

9   Q.       You just wanted to go home?

10 A.       Yeah.

11 Q.       And the people that you dealt with, were  
12           these people in uniform or were they  
13           detectives?

14 A.       Detectives.

15 Q.       In plainclothes?

16 A.       Yes.

17 Q.       Suits like?

18 A.       Yes.

19 Q.       And were you ever contacted by the police  
20           anytime during the time that this case  
21           went to trial or anytime --

22 A.       No.

23 Q.       -- during that period of time?

24 A.       No.

25 Q.       Ever contacted by the Defense at any

1 time --

2 A. No.

3 Q. -- until you made your affidavit?

4 A. Huh-uh.

5 MR. DOYLE: If I may have a  
6 moment, Your Honor.

7 THE COURT: Sure.

8 MR. DOYLE: Thank you, no  
9 further questions, Your Honor.

10 THE COURT: Ms. Hartnett.

11 MS. HARTNETT: Thank you.

12 - - - - -

13 CROSS-EXAMINATION

14 BY MS. HARTNETT:

15 Q. Good afternoon, Mr. Hale. My name is  
16 Chryssa Hartnett, I'm from the Stark  
17 County Prosecutor's office. We've never  
18 met, have we?

19 A. No.

20 Q. Okay. Now you told police what you had  
21 seen that day, right?

22 A. Correct.

23 Q. And you also told them that nothing seemed  
24 out of the ordinary about it?

25 A. Correct.

1 Q. Okay. There is no blood on this person,  
2 no weapons?

3 A. No.

4 Q. He's just carrying a trash bag, nothing  
5 seems to be out of the ordinary?

6 A. Correct.

7 Q. All right. Now your affidavit that you  
8 signed, are you aware that it's -- what's  
9 stated in your affidavit is actually  
10 verbatim what was printed in a police  
11 report? Would you like an opportunity to  
12 see the police report? Have you seen your  
13 affidavit that you signed since you signed  
14 it?

15 A. Yes.

16 Q. Okay. Show you State's Exhibit 1 there.  
17 Highlighted portion I believe deals with  
18 you. If you could read that to yourself.

19 A. (Witness reading document.)

20 Q. You done with that?

21 A. Uh-huh.

22 Q. If you look at paragraph three of your  
23 affidavit and you read that. Once you're  
24 done, let me know.

25 A. (Witness reading document.)

1 Q. You all set?

2 A. Yeah.

3 Q. Now, this affidavit, you didn't write this  
4 affidavit, you read it and you wrote some  
5 things in yourself, and you signed it,  
6 right?

7 A. I didn't even write anything on it. I  
8 initialed it.

9 Q. Okay. So you didn't even write --

10 A. No.

11 Q. -- these things that are written in? Who  
12 wrote those things?

13 A. The detective or someone I talked to me  
14 about it.

15 Q. So you didn't write this yourself?

16 A. No.

17 Q. You signed it at the bottom?

18 A. Yes. Correct.

19 Q. Would you agree with me that that  
20 paragraph three is the same thing that's  
21 in this police report except it leaves out  
22 that last line that there was nothing out  
23 of the ordinary about what you saw?

24 A. I agree.

25 Q. Okay. And when they came and showed you

1           this affidavit and had you sign it, that's  
2           when they showed you those photographs  
3           that they have in front of you, right?

4       A.     Correct.

5       Q.     That is near after all this happened?

6       A.     Correct.

7       Q.     Now, the police contacted you the day  
8           after you told them what happened, back on  
9           April 1st when you first told police what  
10          happened they contacted you the next day,  
11          right?

12      A.     Correct.

13      Q.     They asked you if you were willing to  
14          undergo relaxation therapy at that time;  
15          didn't they?

16      A.     Correct.

17      Q.     And they told you that the reason for  
18          doing that was because they wanted to see  
19          if you could remember any other details  
20          about what you were relating to them;  
21          didn't they?

22      A.     Correct.

23      Q.     Okay. Did they tell you they didn't have  
24          any initial suspects at that time and --

25      A.     No.

1 Q. -- they were trying to get more  
2 information?

3 A. Yeah. Correct.

4 Q. And you did have one initial meeting with  
5 that relaxation therapist; didn't you?

6 A. Correct.

7 Q. Is that the time you're saying that you  
8 remember something being hooked up to your  
9 hand?

10 A. Yes.

11 Q. Okay. Mr. Brunner, Ph.D., Ray Brunner, is  
12 that the person you saw?

13 A. I can't remember his name.

14 Q. Okay. If I told you that he indicated in  
15 his notes that all he did was talk to you  
16 to try to get some background, would you  
17 agree that that's true?

18 A. Correct.

19 Q. Okay. And, in fact, if I told you that in  
20 his notes he indicated that they tried to  
21 use some relaxation to help you remember  
22 events the night that this occurred, and  
23 that he, being you, wasn't sure of  
24 anything and the more he tried the worse  
25 his memory got, does that sound like an

1 accurate description of your meeting with  
2 him?

3 A. I --

4 Q. That you tried to remember things?

5 A. Um-m, yes.

6 Q. The more you tried, you just couldn't  
7 remember anything?

8 A. Yes.

9 Q. Okay. Now the police showed you a photo  
10 lineup, not just one picture, they  
11 actually showed you six pictures that next  
12 day when they came to see you at your  
13 house; didn't they?

14 A. Correct.

15 Q. And they showed you a lineup and they  
16 asked if you recognized anybody in those  
17 pictures as being the person you had seen,  
18 right?

19 A. Correct.

20 Q. And you signed a form saying none of those  
21 people in those pictures were the person  
22 you saw --

23 A. Correct.

24 Q. -- right? So you couldn't identify who it  
25 was?



1                   And, Mr. Hale, isn't it true that  
2                   you don't know who it was who you saw  
3                   coming out?

4           A.       No, I didn't.

5           Q.       In fact, you don't know exactly where this  
6                   person was even when you saw him, you  
7                   can't even remember that, can you?

8           A.       No.

9           Q.       You don't know for sure that he was in  
10                   that house, do you?

11          A.       No.

12          Q.       You don't know what he was carrying in  
13                   that bag, whether it was the actual  
14                   garbage or something else, do you?

15          A.       No, I don't.

16          Q.       Okay. Now, the police called you a couple  
17                   of times, didn't they, asking you whether  
18                   you were going to go and comply with this  
19                   relaxation therapy?

20          A.       Yes, they have.

21          Q.       Because you state in your affidavit that  
22                   you felt harassed by them --

23          A.       Uh-huh.

24          Q.       -- because they called you a lot?

25          A.       Yes. Plus, I went to the grocery store

1 with my ex-girlfriend and they happened to  
2 be there, you know, at the grocery store,  
3 too, you know, asking me when I'm coming  
4 and what I'm doing, you know, I felt  
5 followed so...

6 Q. Okay. And, again, you understand they  
7 didn't have any leads at this time and  
8 they're trying to follow up on a murder,  
9 right?

10 A. Correct.

11 Q. But they never threatened you or anything,  
12 did they?

13 A. No, they never threatened me.

14 Q. Okay. They called you a few times about  
15 the therapy, right?

16 A. Correct.

17 Q. They came by and showed you a lineup on  
18 another day, right?

19 A. Correct.

20 Q. Okay. And actually, with regard to that  
21 therapy, after that time that you had  
22 trouble remembering, you had another  
23 appointment to come back in; didn't you?

24 A. No, I don't think so.

25 Q. Show you what I've marked as State's

1 Exhibit 2. You say Mr. Brunner is the  
2 person you saw. And if I were to tell you  
3 that his notes indicated that it was --

4 MR. DOYLE: Objection, Your  
5 Honor.

6 THE COURT: Well, for the  
7 purposes of this hearing, overruled.

8 BY MS. HARTNETT:

9 Q. That the time you met with him was on  
10 April the 29th and that's when you were  
11 having trouble recalling anything, and  
12 then he has an indication here that you  
13 had an appointment set for 5/5/1999, do  
14 you remember that?

15 A. No, I don't.

16 Q. Do you remember canceling appointments  
17 with him?

18 A. No, I don't.

19 Q. Well, you said that you didn't want to go  
20 through it anymore, how did you let him  
21 know that you didn't want to go through  
22 it?

23 A. How did I let him? I was there.

24 Q. Okay. So you never had an appointment on  
25 5/5 that you canceled --

1 A. No.

2 Q. -- or that you rescheduled?

3 A. No.

4 Q. And you never had an appointment on  
5 5/10/99 that you didn't show for?

6 A. No.

7 Q. And you never had another appointment on  
8 the 11th that you didn't show up for?

9 A. Nope.

10 Q. That wasn't you?

11 A. Nope.

12 Q. Now as you sit there today, you can't  
13 recall anything else about that incident  
14 other than there was a guy around that  
15 house carrying some sort of garbage bag,  
16 right?

17 A. That's it.

18 MS. HARTNETT: Thank you.

19 THE COURT: Mr. Doyle, anything  
20 further?

21 MR. DOYLE: Just briefly.

22 - - - - -

23 REDIRECT EXAMINATION

24 BY MR. DOYLE:

25 Q. And that guy was not David Thorne or Joe

1 Wilkes?

2 MS. HARTNETT: Objection.

3 THE COURT: Overruled.

4 BY MR. DOYLE:

5 Q. Right?

6 A. Correct.

7 THE COURT: Already answered.

8 MR. DOYLE: Thank you, no

9 further questions.

10 THE COURT: Can I see the  
11 photographs? You can step down, sir.

12 - - - - -

13 BRENT EDWARD TURVEY

14 who, after being first duly sworn,

15 testified as follows:

16 DIRECT EXAMINATION

17 BY MR. DOYLE:

18 Q. Sir, I'm going to ask you to speak into  
19 that microphone please and would you tell  
20 us your full name?

21 A. Brent Edward Turvey.

22 Q. And will you spell your last name for the  
23 record?

24 A. T-U-R-V-E-Y.

25 Q. And, Mr. Turvey, where do you live?

1 A. I live in the town Sitka, Alaska.

2 Q. Weather a little better up there these  
3 days than here?

4 A. Yes, it is.

5 Q. Okay. Sir, what do you do for a living?

6 A. I'm a forensic scientist and criminal  
7 profiler in private practice.

8 Q. And can you tell us how long you've been  
9 doing this?

10 A. Since 1996.

11 Q. Would you give the Court and counsel the  
12 benefit of --

13 MR. DOYLE: Your Honor, I'm  
14 sorry, I gave one to the Prosecutor. Is  
15 it okay, Chryssa.

16 MS. HARTNETT: Yeah.

17 BY MR. DOYLE:

18 Q. Can you give us your educational  
19 background, please?

20 A. Yes, I can. As I indicated on my resume,  
21 I have a Bachelor of Science in history, a  
22 Bachelor of Science in psychology, and a  
23 Master's of Science in the forensic  
24 sciences.

25 Q. And the Master of Science in forensics,

1 the Master's, what school was that from?

2 A. From the University of New Haven in West  
3 Haven, Connecticut.

4 Q. And when was that?

5 A. I received that degree in 1996, I believe.

6 Q. And you have been in private practice  
7 since then?

8 A. Since then, since even before then I was  
9 doing some work before I graduated. We  
10 didn't start the company until 1996.

11 Q. And can you tell us during that time have  
12 you authored any textbooks or articles  
13 concerning your areas of expertise?

14 A. Yes, I have.

15 Q. And can you tell us what those are?

16 A. In 1999 I published a textbook called  
17 Criminal Profiling: An Introduction to  
18 Behavioral Evidence Analysis with Academic  
19 Press. It's about 490 some pages in  
20 length.

21 And then in 2002 I published a  
22 second edition of that textbook which is  
23 some 700 pages long.

24 I've written a number of textbook  
25 chapter contributions for books like

1 Digital Evidence and Computer Crime by  
2 Eoghan Casey. I wrote an article -- a  
3 chapter on Modus Operandi, Motive, and  
4 Technology.

5 And I wrote a chapter recently  
6 for the eighth edition of Criminal  
7 Investigation by Chamelin, Swanson and  
8 Territo on Unraveling the Staged Burglary:  
9 A Case Study. Basically a reconstruction  
10 chapter or a segment of a chapter.

11 I've also written articles on  
12 criminal profiling, forensic science, and  
13 criminal investigation that have been  
14 published in the Journal of Behavioral  
15 Profiling and in the Encyclopedia of the  
16 Forensic Science.

17 Q. And along with your private practice and  
18 the articles and the teaching that you've  
19 done, have you also had occasion to teach  
20 internationally?

21 A. Yes. I'm actually an adjunct lecturer  
22 with Bond University in Gold Coast,  
23 Australia. I spend about a year every  
24 month there teaching a class on criminal  
25 profiling and forensic science and crime



1 reconstruction. And giving a weekend  
2 lecture seminars. So not only the course,  
3 but also special topic lectures in  
4 Australia.

5 And then this last summer, for  
6 example, I was invited by the Chinese  
7 Government to come over and give education  
8 and training to the various Chinese Police  
9 Bureaus in Wuhan, Hangzhou, Beijing and  
10 Shanghai. Two or three day seminars on  
11 forensic science, criminal profiling, and  
12 criminal investigation. So I get to  
13 travel quite a bit.

14 Q. And the teaching that you've just talked  
15 about in Australia and China, those are to  
16 law enforcement agencies?

17 A. Specifically -- I was invited by law  
18 enforcement, yes. I was invited by the  
19 Beijing People's Police Security  
20 University. They have a federal law  
21 enforcement system there. And I spoke at  
22 the university to the law enforcement and  
23 educators there. And then I went to the  
24 individual police departments and spoke to  
25 rooms full ranging from 50 to 200

1           detectives at each time I spoke.

2   Q.       And you had occasion to testify in court;  
3           is that correct?

4   A.       Yes, I have.

5   Q.       And in what states have you testified?

6   A.       I've qualified as an expert in the State  
7           of California, the State of Wisconsin, and  
8           the State of Kansas.

9   Q.       And you have been testifying over what  
10          period of time?

11   A.       Since roughly 1998.

12                   MR. DOYLE: Your Honor, at this  
13                   time we would submit the qualifications of  
14                   this witness for purposes of our  
15                   examination, Your Honor.

16                   THE COURT: State?

17                   MS. HARTNETT: Your Honor, I  
18                   object. Can we approach?

19                   THE COURT: No, say it from  
20                   there.

21                   MS. HARTNETT: Well, I object  
22                   because --

23                   THE COURT: That's good enough.  
24                   I'll wait and allow them to finish their  
25                   cross-examination.

1 MS. HARTNETT: Okay.

2 MR. DOYLE: Should we go into  
3 it then? Thank you, Judge.

4 BY MR. DOYLE:

5 Q. You've had occasion --

6 MR. DOYLE: Judge,  
7 logistically, can we bring this out  
8 further?

9 THE COURT: Sure.

10 MR. DOYLE: Is that okay?

11 (Thereupon, a discussion  
12 was had off the record.)

13 THE COURT: Folks, you may move  
14 around if you wish. That's really about  
15 the obvious place we can. Kind of put it  
16 more towards the jury box. Kind of put it  
17 more like where the jury would be sitting.

18 MR. DOYLE: These are not real  
19 large. I just want to -- you have, Judge,  
20 the booklet that we presented I assume as  
21 does counsel for the State?

22 MS. HARTNETT: The actual  
23 motion?

24 MR. DOYLE: The booklet that we  
25 sent to you.

1 MS. HARTNETT: I have a fax.

2 Oh, okay. I never got a hard edition.

3 MR. DOYLE: We're going to be  
4 using that.

5 THE COURT: What dates?

6 MR. DOYLE: This is February  
7 24, 2003.

8 THE COURT: I got it.

9 MR. DOYLE: Okay?

10 BY MR. DOYLE:

11 Q. Now, sir, can you tell us, first off, what  
12 was your engagement? What were you  
13 supposed to do in this case?

14 A. Well, there were a couple of things. I  
15 was initially contacted back in -- early  
16 this year to take a look at the case file  
17 as it existed then to look at forensic and  
18 crime scene issues and see what had been  
19 done at the crime scene, what had not been  
20 done, and what could still be done. And  
21 that's how I approached the first report  
22 that I prepared in this case.

23 But in preparation of that  
24 report, I did not have access to crime  
25 scene photos so I was not willing to give

1 any speculation or opinion about what  
2 happened during the commission of the  
3 crime. No crime reconstruction opinions  
4 were offered.

5 Subsequent to that I received the  
6 crime scene photos and combining that with  
7 the results of forensic examination and  
8 expert testimony and investigator reports,  
9 I was able to formulate conclusions what I  
10 think actually occurred at the crime  
11 scene. And that was, as I understood it,  
12 my major role in this.

13 Q. Tell us what you did in order to review  
14 what happened at the crime scene.

15 A. Well, in order to do that I sat down with  
16 the -- all of -- as I suggested already,  
17 stated already, sat down with the -- all  
18 the forensic reports, all the expert  
19 reports that I had, all the testimony that  
20 I had from those various experts, all the  
21 police investigative reports, and all of  
22 the -- anything related to the physical  
23 evidence at the crime scene. I understand  
24 there was a crime scene sketch that was  
25 developed by police, but that was never

1 made available to me, that was never in  
2 the material that I received. So I didn't  
3 have the benefit of that.

4 Then I sat down and I compared  
5 that to the -- to what was evident in the  
6 crime scene photos and the autopsy report.  
7 And then on top of that, once I was done  
8 with that, I compared it to the statements  
9 of people who claimed to be at the scene  
10 at the time of the crime.

11 Q. So you reviewed the crime scene photos?

12 A. Uh-huh.

13 Q. The coroner's report?

14 A. Yes.

15 Q. And the testimony engaged with what  
16 happened at the scene?

17 A. That's correct. I didn't get involved in  
18 anything that was outside of the crime  
19 scene. I wasn't interested in anything  
20 that didn't have directly to do with the  
21 crime scene or physical evidence that was  
22 tested related to the crime scene.

23 Q. Tell us how you go about doing that then.  
24 Once you reviewed these particular  
25 components, how do you go about reaching

1 conclusions in such a case?

2 A. Well, essentially what you need to do is  
3 you need to sit down with a very objective  
4 mind and you need to sit down and start  
5 asking yourself questions. Okay, you have  
6 this particular piece of evidence, where  
7 does it fit in the sequence of events?  
8 And by doing that, through a process of  
9 elimination, you can set up a sequence or  
10 set up a series of actions and you use --  
11 you put out your best theories of what  
12 occurred and you start killing off the  
13 weaker ones. And anything that survives,  
14 any of the stronger ones that survive  
15 those were most likely explanations to  
16 what occurred. It's a process of using  
17 analytical and deductive logic.

18 Q. Now, you have reached certain conclusions  
19 that we'll be presenting to the Court  
20 here; is that correct?

21 A. Yes, I have.

22 Q. As it relates to the conclusions, you put  
23 that into a report that was dated February  
24 the 24th of 2003?

25 A. Yes, I did.

1 Q. And I'm going to show you what's now  
2 marked as Defendant's Exhibit 4 and I just  
3 want you to look at that to make sure that  
4 is what you prepared.

5 A. I believe it is, yes.

6 Q. Okay. Now, working off of the one that  
7 you have there, your first conclusion,  
8 sir, did that deal with the location of  
9 the attack?

10 A. Yes, it did.

11 Q. And tell us how you went about reaching  
12 that conclusion.

13 A. Obviously, as I set out the first  
14 conclusion, you begin with the autopsy  
15 report, the injury, because -- well,  
16 actually that's not true. You start with  
17 the body, where is the body. And you ask  
18 yourself, does the evidence where the body  
19 is at indicate that that's where it  
20 occurred, or does the evidence lead you  
21 somewhere else. And you start asking  
22 questions like that.

23 In this case the most important  
24 evidence was the arterial gushing that was  
25 occurring in the crime scene. And so I



1           went directly to the autopsy report which  
2           describes that arterial gushing. And, as  
3           I mentioned in my report, the -- it's  
4           described -- that injury is described as  
5           the sternomastoid being severed, trachea  
6           partly severed, left internal and external  
7           carotid artery and the jugular vein  
8           severed.

9                         So you have a very deep gaping  
10           inside wound to the victim's neck which  
11           was listed as the cause of death.

12         Q.       Okay. All right. So you went from there  
13           then to the photographs?

14         A.       And then to the photographs, that's  
15           correct, to see the -- once you have that  
16           injury, that injury is going to result in  
17           the victim's death, you need to look for  
18           areas of arterial gushing.

19         Q.       When you say "arterial gushing" what do  
20           you mean by that?

21         A.       By that I mean it's a very distinctive  
22           type of blood pattern. You can have very  
23           fine particles as you would get from a  
24           high velocity blood spatter pattern that  
25           you would get from like from a gunshot.

1 You can have medium velocity blood spatter  
2 pattern that you would get from, say,  
3 blunt force. Or slow velocity that you  
4 would get from walking, and usually those  
5 are in the form of droplets, or in the  
6 high velocity is in the form of mist, and  
7 the medium velocity is any of those sizes  
8 in between.

9 But in this case you have a very  
10 distinctive type of spatter. You have a  
11 very distinctive type of group spatter  
12 that you can see in the photographs that I  
13 provided. If you look on page two, the  
14 very top of the page, you can see it,  
15 where it's just a spurting pattern coming  
16 directly from the vein. Not as a result  
17 of an impact on the victim and not as a  
18 result of a projectile traveling through  
19 the victim.

20 Q. Is that page two of the report, is that  
21 what you're referring to?

22 A. That's what I'm referring to, yes.

23 Q. And in terms of the page, is it the top  
24 picture you're referring to now?

25 A. It is the top picture, yes. The top and

1 the bottom picture are essentially the  
2 same area, but in -- from different  
3 angles.

4 Q. And as you're looking at that, what is the  
5 significance of that picture?

6 A. Well, this picture is that you see very  
7 strong, distinctive arterial spurt  
8 patterns, transferred from the victim's  
9 neck injury onto the -- unobstructed onto  
10 the window of the sliding glass door, and  
11 you can see that in sequence from the  
12 sliding glass door to the kitchen table to  
13 the wooden floor between the kitchen table  
14 and the couch and to the arm of the couch.  
15 You have these very distinctive arterial  
16 gushes.

17 And the photographs on page two  
18 to page five, to the top of page five,  
19 show that in sequence. You can see it  
20 very clearly in the -- on page two and  
21 then on page three. You can see it's on  
22 the edge of the table there. And I wish  
23 there were better photographs of that, but  
24 we're limited to what we have. And you  
25 can see on the bottom of page three

1 there's a mat in front of the sliding  
2 glass door, and that has -- that has  
3 arterial gushing on it right there. This  
4 is not just regular blood dripping, it's a  
5 lot of blood pumping out into a very  
6 spotty, splattered area on the floor and  
7 across the table.

8 You have a better picture of that  
9 on page four across the table, and then on  
10 the floor on the bottom of page four.

11 Q. And the next one here?

12 A. Yes, you are.

13 Q. You're on page --

14 A. You can go from four to five and basically  
15 you have -- from right here, four to five.

16 MS. HARTNETT: Your Honor, can  
17 I make a request? We never received a  
18 report that actually has the photographs  
19 that he's referring to and so without  
20 having that, do you have an extra copy of  
21 one that has the photos?

22 MR. PEDERSON: I don't have  
23 them here, but I can tell you that in the  
24 Judge's chambers in pretrial, Judge, I  
25 gave you a copy of it same time I gave her

1 a copy. Should have been --

2 MR. CALDWELL: Here we go.

3 MS. HARTNETT: Sorry about  
4 that. Thank you.

5 THE COURT: I don't have one  
6 with photographs in it. Oh, okay. All  
7 right. I have a February 24th.

8 BY MR. DOYLE:

9 Q. All right. So for purposes of the  
10 record --

11 A. Sure.

12 Q. -- we're still on your first conclusion?

13 A. Yes.

14 Q. And you are on -- in the report, what  
15 page?

16 A. We're on page two, conclusion 1A. Just  
17 referring to the fact that we have very  
18 distinctive arterial spurt patterns that  
19 lead from the screen door across the  
20 area -- onto the floor in front of the  
21 screen door, the sliding glass door, onto  
22 the wooden table, and then very near the  
23 edge of the kitchen on the wood floor and  
24 onto the arm of the couch. And that is  
25 shown in photographs in sequence from page

1 two to page five, to the top of page five.

2 Q. And as we go through those --

3 A. Yeah.

4 Q. -- on the top of page five, what are we  
5 looking at there?

6 A. At the top of page five we are looking at  
7 the couch inside of the living room, we're  
8 looking at the right arm of the couch, and  
9 there is an ashtray there, there is a very  
10 distinctive arterial gush pattern there on  
11 the arm of the couch. And you can see  
12 behind the arm of the couch on the wooden  
13 floor, on the left-hand side of the photo,  
14 you can see arterial gushing in the  
15 background. So it's pretty distinctive  
16 and pretty clear that the victim moved to  
17 that pattern gushing blood from her neck.  
18 And that's what these photos are meant to  
19 show.

20 Q. Now, the area -- you talked about a void,  
21 am I with you there?

22 A. Yes, but that doesn't come up until --  
23 that's moving ahead just a little bit.

24 Q. I've been known to do that, I apologize.

25 A. That's okay.

1 Q. So where are you now?

2 A. Well, five, we're on page five now,  
3 conclusion 1B. And the lettered items are  
4 just the supporting points for the  
5 conclusions. To support the conclusion  
6 that the victim was attacked in the  
7 position from behind in front of the  
8 sliding glass door, not only do we show  
9 that we have these distinctive arterial  
10 gushing patterns in a line from the  
11 sliding glass door to the couch, but you  
12 also show that the height of the arterial  
13 spatter on the sliding glass window are  
14 most consistent with a victim that's  
15 upright, that's standing. This is not  
16 somebody on the floor, this is somebody  
17 who is standing and as it's gushing it's  
18 perhaps losing a little height and then  
19 hitting the window, the glass. So they're  
20 not on the floor gushing this out, and  
21 that's important.

22 And we can see that in -- on the  
23 photo at the bottom of the page, on page  
24 five, and you can see that on the photos  
25 on page six. That's for conclusion 1B.

1 Q. 1B?

2 A. Yes.

3 Q. Conclusion for 1B?

4 A. 1B, yes. You can see that the -- you can  
5 see very clearly that the arterial sprays  
6 is quite a ways up the sliding glass  
7 window. It's not on the floor and it's  
8 not -- it's some height. So we're not  
9 talking about a victim that's down on  
10 their knees, or on the floor, we're  
11 talking about a victim that's upright and  
12 losing blood from that position.

13 Q. Go ahead, sir.

14 A. All right, conclusion 1C on the bottom of  
15 page six, the arterial spurt patterns  
16 nearest the sliding glass door are the  
17 strongest and come from a standing victim,  
18 indicating that they are the first. As  
19 the blood pressure drops --

20 THE COURT: Slow, slow, slow.

21 THE WITNESS: Sorry.

22 BY MR. DOYLE:

23 Q. Slow down a little bit. We're on 1C.

24 A. Yes.

25 THE COURT: I have it.



1 BY MR. DOYLE:

2 Q. Okay. Tell us about 1C now.

3 A. Sure. As your blood pressure -- I think  
4 it's commonly understood and commonly  
5 known that as your blood pressure drops,  
6 you're going to lose strength and the  
7 volume of the arterial spray is going to  
8 go down. You lose blood pressure, you  
9 lose the -- the spray loses its ability to  
10 come out, and so does the victim's ability  
11 to stand upright or remain conscious. So  
12 that becomes important. So we have them  
13 upright, we have them losing lots of blood  
14 out of their neck, it's getting all over  
15 the window, and they begin to move.

16 Now, 7D -- 7, conclusion 1D, page  
17 seven, conclusion 1D at the bottom of the  
18 page.

19 Q. Make sure we're all on the same page.

20 A. Right there.

21 Q. Go ahead.

22 A. Page seven, conclusion 1D, now we're going  
23 to talk about the void pattern. There's  
24 an empty space or a void pattern in the  
25 blood patterns in front of the sliding

1 glass window. This --

2 Q. Is this to my right here?

3 A. That's correct.

4 MR. DOYLE: Judge, just so --

5 THE COURT: I got it.

6 MR. DOYLE: You're closer than  
7 I am. Thank you. Okay.

8 THE WITNESS: This void pattern  
9 indicates the precise location where the  
10 offender and victim were standing when the  
11 victim suffered that injury. And that is,  
12 because the void pattern is there  
13 something is there blocking it. Nowhere  
14 else in the area is there a void pattern  
15 at all. There is blood everywhere around  
16 that area except for in one spot. And  
17 that --

18 BY MR. DOYLE:

19 Q. And when you say void pattern, for our  
20 purposes, what do you mean?

21 A. I mean it's an area that has no blood in  
22 it. There is an area -- there's blood all  
23 around and there is one area there where  
24 there's no blood at all. And because  
25 there's no blood at all, we know that --

1 there's blood all around it, we know that  
2 there was an object there blocking that  
3 blood as it was transferred, as it was  
4 coming out of the victim's neck. That  
5 object had to be the victim and her  
6 attacker.

7 And you can see that void pattern  
8 very clearly on the page -- on page eight  
9 in the three photographs that are there.  
10 Right next to the -- right in front of the  
11 sliding glass window on the left-hand  
12 side.

13 Q. This it?

14 A. Yes.

15 MR. DOYLE: Judge, are we --

16 THE COURT: I'm with you.

17 BY MR. DOYLE:

18 Q. Okay.

19 A. If the offender and the victim had been  
20 somewhere else when this occurred, then  
21 the void pattern would be somewhere else.  
22 The void pattern is conclusive as to where  
23 they were standing.

24 And that moves us on to our  
25 second conclusion.

1 Q. Okay. Relating to your second conclusion,  
2 what is that?

3 A. My second conclusion is that the offender,  
4 in this case, sustained a significant  
5 blood transfer from the victim, to the  
6 point that it was dripping off of his  
7 person.

8 Q. And how do you reach that conclusion?

9 A. As I state on page nine, conclusion 2A, as  
10 I already stated in conclusion 1, there is  
11 a void pattern in front of the sliding  
12 glass window, and that only occurs because  
13 there are bodies there or something there  
14 blocking that transfer. And since the  
15 blood has to be coming from the victim's  
16 wound and there's no other void pattern in  
17 the area, we can easily infer that that's  
18 where the victim and offender were  
19 standing. That's the first part of that  
20 conclusion.

21 On page ten, conclusion 2B, the  
22 bottom of the page, there's a photograph  
23 of the victim's right foot. Now, the  
24 bottom of the victim's right foot  
25 sustained dropped blood transfer as

1 opposed to the smeared/contact blood  
2 transfer which is what covered the  
3 victim's left foot. This had to come from  
4 blood dripping onto the victim with her  
5 feet exposed. If she was standing  
6 upright, she would not be able to receive  
7 these drops and she certainly would not be  
8 able to drip blood onto herself in this  
9 fashion from her injuries or even her own  
10 person. This could only come from blood  
11 dripping from some other object onto her  
12 while she was in this position with her  
13 feet exposed. And that's shown -- the  
14 difference between the dropped blood and  
15 the smeared blood on her left foot -- the  
16 difference between the dropped blood on  
17 her right foot and the smeared blood on  
18 her left foot are made fairly clear in the  
19 three photographs that are shown on the  
20 bottom of page ten and the top of page  
21 eleven.

22 Q. Okay.

23 A. That leads us to the third part, the third  
24 reason to support that conclusion, which  
25 is that there is blood transfer on the

1 skirt of the couch at ankle level just  
2 below the location where the bloody knife  
3 was apparently wiped off. And there are  
4 associated blood patterns on the carpet in  
5 the same area. The victim didn't make it  
6 that far. So the victim is not down there  
7 transferring blood around, and they  
8 certainly didn't wipe off the knife. So  
9 you have the offender having blood at  
10 least on their shoes and at least on the  
11 ankles of their pants, and blood on their  
12 knife, and most likely blood all over  
13 their hands, and you have them wiping it  
14 off and then transferring it in the area  
15 beyond where the victim reached. And I  
16 think that's fairly clear in the  
17 photographs on page 11 and 12.

18 Q. Okay.

19 A. And that's also clear in the photographs  
20 on page 13. You can see that the knife  
21 has been clearly wiped off on the couch.  
22 I don't think there's any disputing that.

23 Q. On 13, that is --

24 A. The knife.

25 Q. -- blood marks?

1 A. That's blood transfer from the knife being  
2 wiped off on a pillow on the couch. But,  
3 also, there's a -- below that on the -- in  
4 that same area below that, on the skirt,  
5 is where the blood transfers from the  
6 knife. Again, the victim did not make it  
7 this far. If the victim had made it this  
8 far, there would be arterial gushing from  
9 that area, in that area.

10 Q. Next.

11 A. That leads us to conclusion 3.

12 Q. Uh-huh. And what conclusion is that?

13 A. Conclusion 3 is that the victim appeared  
14 to have been partially carried or  
15 partially dragged, by the offender, away  
16 from the sliding glass window a very short  
17 distance in to the living room where she  
18 was ultimately found.

19 Q. And what is the significance of that  
20 conclusion?

21 A. The significance of that conclusion is  
22 that, again, you have the offender right  
23 behind the victim moving with them as  
24 she's falling, as she's going down.  
25 Again, the victim is not interacting with

1 the offender at all, they're not defending  
2 themselves, they're not talking to them,  
3 they're not doing anything. They're just  
4 getting their throat cut and being moved  
5 into the living room and they're down.  
6 This is not a long, drawn out sequence of  
7 events. This is a very quick attack in a  
8 very short distance.

9 Q. And what page are you on?

10 A. I'm on page 13.

11 Q. Okay.

12 A. And there are a number of things which led  
13 me to support that conclusion.

14 Q. Can you tell us what they are?

15 A. Yes. Well, first of all, as I already  
16 stated in the previous conclusion, on the  
17 victim's right foot there was blood drops  
18 and the blood -- the foot was otherwise  
19 fairly clean.

20 On the victim's left foot, there  
21 was all this bloody transfer from the  
22 victim having stepped in the blood which  
23 means that the victim, even though she was  
24 bleeding out in front of her, she had only  
25 stepped in her own blood with her left



1 foot. Her right foot didn't touch her own  
2 blood. Now, to make it the number of  
3 steps that it would take to get into the  
4 living room, it's unreasonable to think  
5 she hopped with one foot into the living  
6 room. So that right side was being  
7 supported somehow, or it was being slid  
8 along the floor somehow. It wasn't making  
9 contact with the floor. I don't subscribe  
10 to the idea that she hopped on one foot  
11 into the living room. That's the first  
12 part of that. And that's -- again, we  
13 show those photographs again on page 14.

14 The second part, item B for that  
15 conclusion, on the bottom of page 14, is  
16 that there is a long smear pattern that  
17 squirted blood beginning in the area near  
18 the void pattern at the end of the  
19 victim's right calf. Again, this shows  
20 that the victim's right calf was being  
21 moved across the blood. You can see the  
22 smear pattern very clearly, it's shown at  
23 the top of page 15. You can see a smear  
24 pattern in the blood that goes right up to  
25 the victim's right calf.

1 Q. And the significance of that?

2 A. Again, it supports the notion that she is  
3 being supported on one side or dragged  
4 through that with her right foot not  
5 touching the ground, where her left foot  
6 is touching the ground because she's got  
7 the bloody transfer on it and she's  
8 bleeding out in front of herself. It's  
9 not like she can step on the clean floor.  
10 As you can see, the floor is not clean,  
11 it's covered with blood, but the right  
12 foot has no blood on it other than that  
13 which has dripped from the offender.

14 Q. With the original location being that area  
15 that you've already indicated?

16 A. That's correct.

17 Q. Which is near the window?

18 A. In front of the sliding glass window, yes.

19 Now, the item C, on the same  
20 conclusion, shows the second smear pattern  
21 inside of the spurted blood beginning in  
22 the void pattern and ending at the  
23 victim's right thigh. It's my opinion  
24 that this is probably from the offender,  
25 indicating where the offender was

1 standing.

2 Q. What page are you on?

3 A. I'm on page 15, item C, the bottom  
4 photograph. And you can see that smear  
5 pattern. There is not a lot of blood  
6 around it, but there's a smear that ends  
7 before it even gets to the carpet. Again,  
8 more suggesting that it's associated with  
9 the offender since it comes from the area  
10 where the offender would had to have been  
11 standing rather than being associated with  
12 the victim.

13 And this -- all this is meant to  
14 show is that the movement of the offender  
15 corresponded with the movement of the  
16 victim as the victim is turning and  
17 heading into the bedroom and being  
18 supported on her right side.

19 Q. Next page.

20 A. And that's the fourth conclusion.

21 Q. What is your fourth conclusion?

22 A. The fourth conclusion is that the offender  
23 and -- well, the victim at no time during  
24 this struggle, during this attack, was  
25 facing the offender. The victim and the

1 offender did not face each other.

2 Q. And what's the significance of that?

3 A. The significance of that is that you would  
4 essentially have an attack that -- again,  
5 it goes to support the idea you have an  
6 attack that occurs from behind very  
7 quickly, the victim is moved from that  
8 location on the floor, there is no  
9 interaction or exchange between the victim  
10 and the offender. There is no time not  
11 for anything other than the victim to  
12 simply move and bleed out. Be moved, be  
13 helped to move, and bleed out. And I  
14 based that on a number of items.

15 Q. And can you share those with us please?

16 A. Yes. As I already discussed in the first  
17 conclusion, and shown on the first  
18 conclusion, the victim was attacked from  
19 behind. As -- and then, also, there are  
20 no defensive injuries sustained by the  
21 victim. If the victim were being attacked  
22 from the front with a knife or some kind  
23 of object, sharp forced object, they  
24 might -- likely would have received  
25 defensive injuries, put up their hands to

1 try to keep the blade from cutting them,  
2 so forth, and we have none of that on the  
3 arms or the hands where we expect to find  
4 it because she's not bound, not  
5 restrained, and she's certainly conscious  
6 and standing. So we would expect to see  
7 some of that.

8 Also, the distance is very short  
9 and the distance contains all of the  
10 arterial spurting in the scene. There is  
11 no arterial spurting anywhere else in the  
12 residence, just in this area.

13 Q. And what area, again, is that?

14 A. The area between the sliding glass door  
15 and the area in front of the couch where  
16 the victim was found.

17 Also, there are no spiral spurt  
18 patterns. I've worked a number of cases  
19 where I've seen if the victim turns after  
20 they've had a major artery cut, such as  
21 their throat or the artery in their leg,  
22 which is bigger than all the other  
23 arteries, I saw where a bolt will pass  
24 through it, the blood just gushes out,  
25 arterial spurting. And you can count the

1 number of spurts, you can almost count the  
2 heartbeats. Every time the heart beats,  
3 it spurts, and you can see them turning.  
4 If they turn around, it goes in a spiral  
5 pattern, much as if you -- I guess the  
6 best analogy would be like if you picked  
7 up a paint brush soaked in paint and you  
8 were walking, it was leaving a trail, and  
9 you turned around, it would be spiraled on  
10 the floor because you're turning. We see  
11 none of that in the crime scene at all.  
12 All we see is that arc from moving from  
13 the sliding glass door over to the area in  
14 front of the couch, and that's it.

15 So all those things lead me  
16 support -- lead me to the conclusion that  
17 at no time were the victim and the  
18 offender facing each other or interacting  
19 during the crime.

20 Q. Then what next?

21 A. The next conclusion.

22 Q. And what number are we on now, what page?

23 A. Conclusion 5 on page 17. This has to do  
24 with the white dresser in the living room  
25 which appears to have been pulled down

1 over the victim after the victim is  
2 already on the ground.

3 Q. Okay. And what significance does that  
4 have and how do you determine that?

5 A. Well, the significance -- I'm unsure as to  
6 the significance. All I know is that it's  
7 on -- this dresser has been pulled down,  
8 and the items from the dresser are on top  
9 of the victim and she didn't have anything  
10 to do with it. So the offender did it. I  
11 can't -- I don't have enough information  
12 in front of me to speculate as to why the  
13 offender did that. There are a number of  
14 reasons for doing such a thing, but I know  
15 it had to be the offender, it wasn't the  
16 victim.

17 You could have the offender maybe  
18 trying to simulate a struggle, or maybe  
19 the offender was removing something from  
20 the top of the -- from that dresser and  
21 accidentally knocked it over. It could be  
22 any number of things, I simply don't know.

23 But how I reached that conclusion  
24 was, first of all, when I looked at the  
25 photograph it seemed to me that the

1 television was too far away from the  
2 dresser to have landed in that position  
3 initially.

4           And then I thought, well, maybe  
5 it landed on top of her and then rolled  
6 off to the side. That's a possibility.  
7 But for that to be true, we got to go back  
8 and look at the autopsy report. Does she  
9 have any blunt force trauma or impact  
10 injuries from that television hitting her?  
11 Televisions are pretty heavy and if they  
12 hit somebody, even that short distance,  
13 they're going to leave a mark. There's  
14 not a mark on her, not according to the  
15 autopsy report, on her back associated  
16 with that TV having hit her. So that  
17 possibility is ruled out.

18           Also, the dresser itself is too  
19 close to the wall to have been knocked off  
20 balance by an impact to its base. It's  
21 right up next to the wall. You hit the  
22 base where the victim is at and it's just  
23 going to rest up against the base. It  
24 looks pretty clear that it was pulled  
25 forward from the top and it's still



1 touching the wall at the bottom. So that,  
2 again, is an indication it was pulled  
3 forward from the top.

4 Also, the victim herself is  
5 covered with blood, her hands are covered  
6 with blood, her legs are covered with  
7 blood, her upper body is covered with  
8 blood, if she is having any kind of  
9 contact with that dresser, it's going to  
10 have blood on it at the point of contact.  
11 I read no report, that I was provided,  
12 that suggested there was any blood found  
13 on that dresser at all.

14 Specifically, if the victim had  
15 like reached out for it and grabbed it and  
16 sort of fell down, we would see some  
17 bloody handprints, or something like that.  
18 There's no blood on it. So however it got  
19 knocked over, it got knocked over from  
20 somebody that had blood on them.

21 And the photographs provided  
22 between pages 17 and 19 are meant to  
23 demonstrate that. There's no blood on it  
24 that demonstrate the position of the  
25 dresser in relation to the victim. It was

1 pulled over on her and things fell on her  
2 after she was down. And if it were  
3 hitting the base, it would not have tipped  
4 forward because it was too close to the  
5 bottom of the base, it was snug up against  
6 the wall. That's the extent of that  
7 conclusion.

8 Q. What page are you on now?

9 A. Page 20.

10 Q. And your next conclusion.

11 A. Conclusion number 6 was that because the  
12 amount of blood associated with the floor  
13 of the home and the fact that the body  
14 blocked access from one side of that floor  
15 to the other, it's my opinion that it's  
16 unlikely that anybody could enter that  
17 scene and traverse it without changing it  
18 somehow and receiving bloody transfer.

19 So you can't -- basically you  
20 can't move around in that crime scene and  
21 get across the room without getting some  
22 blood on you in association with the  
23 attack. So whoever was in there had blood  
24 on them. We established that a number of  
25 ways.

1 Q. Next.

2 A. Go right to page 22, conclusion 7?

3 Q. Yes, why don't you.

4 A. This has to do with the statements made by  
5 Joseph Wilkes. And, again, as I said  
6 before, I was asked to compare my findings  
7 at the crime scene with the statements  
8 made by Joseph Wilkes about his  
9 involvement in the crime. And my --  
10 according to the -- there were two  
11 versions of events -- there are a number  
12 of versions of events that I read, and I  
13 cited two of them in here because they  
14 were all fairly -- they weren't all  
15 similar, but they were all -- the ones  
16 that described his actions at the crime  
17 scene were similar.

18 And the first one is from a  
19 narrative supplement dated 7/16/99 by  
20 Detective Sampson. And Detective Sampson  
21 provides the following summary of events,

1 grabbed her hair and cut her throat. She  
2 tried to run out the door, the big glass  
3 door that slides, she turned around and  
4 asked me why. I told her David wanted me  
5 to, and she fell to the floor. I walked  
6 over by her and said, I never did it and I  
7 walked out and ran.

8 Now, according to Alliance Police  
9 Department narrative supplement dated 7/21  
10 by Detective Sampson, there's a similar  
11 account which says, Due to Wilkes and  
12 Layne knowing each other, the two went to  
13 the living room and conversed while seated  
14 on the couch. While talking, Layne had  
15 turned her head away from Wilkes, like she  
16 was listening for one of the children.  
17 Wilkes had reached into his pocket, pulled  
18 out the knife, opened it and with one  
19 swift move, grabbed Layne by the hair,  
20 pulled and cut the throat with the knife.  
21 Layne, after having her throat, bounded to  
22 her feet in an attempt to get away from  
23 her assailant. She runs towards the  
24 sliding glass doors, but stopped. She  
25 turned around to face --

1 THE COURT: Slow, slow, slow.

2 THE WITNESS: My apologies.

3 She turned around to face Wilkes  
4 and in her last dying breath asked, Why  
5 did you do that? Wilkes, while looking  
6 Layne in the face, told her, David wanted  
7 me to. After that was said, Layne fell  
8 over to the floor and died in her living  
9 room.

10 And these two summaries are  
11 consistent with the summary of oral  
12 statements of Defendant, dated 10/5/99,  
13 signed by and agreed to by four of the  
14 prosecuting attorneys who signed the  
15 document.

16 Now, not only does this version  
17 of events absolutely contradict the  
18 physical evidence as it plays out at the  
19 scene, but as I was reading this it became  
20 clear to me this was like somebody writing  
21 maybe a novel, someone was engaging in a  
22 lot of flowery writing and trying to make  
23 things very dramatic. But it's like  
24 you're describing a movie, something that  
25 didn't -- something that maybe would sound

1 good on paper, but in reality someone  
2 whose throat is cut, who has just had  
3 their vocal cords severed, had their  
4 arteries cut, they're gushing blood, if  
5 they stand up there's a good chance  
6 they're going to lose consciousness, let  
7 alone be able to run. And if they stand  
8 up and are able to run, in their fight or  
9 flight mode, the idea that they're going  
10 to stop and then go, oh, wait a minute, I  
11 should turn around and talk to this person  
12 who just nailed me with this sharp, stabby  
13 thing, and possibly receive more injury,  
14 that's so unlikely it's not even funny.

15 And so when I read this event, I  
16 was just thinking to myself, how could  
17 anybody possibly agree that this is what  
18 happened because it sounds like somebody  
19 trying to explain it from knowledge of  
20 crime they acquired from movies rather  
21 than crime scenes.

22 And I summarize at this point how  
23 the contradictions occurred. On page 23,  
24 conclusion, I believe it's A -- 7A, As  
25 provided in conclusion 1, the attack began

1 at the sliding glass door. It did not  
2 start at or on the couch. Had it began on  
3 the couch in the position described by Mr.  
4 Wilkes, there would have been arterial  
5 gushing along the back of the couch and  
6 the wall above the couch, at the very  
7 least.

8 If she's getting her throat cut,  
9 it would be all along the side. When you  
10 get up, it would be all over the floor,  
11 along the back of the couch, everywhere,  
12 as it was over by the sliding glass door.  
13 We don't have that here --

14 Q. Nothing in the area of the couch you say?

15 A. Nothing in the area of the back of the  
16 couch or the front of the couch. You have  
17 that one arterial gush on the arm, and you  
18 have some transfer in front of that  
19 arterial gush at the ankle level, but not  
20 the sheer volume of gushing that you would  
21 have if someone was sitting down in front  
22 of you. It would get on their lap, on the  
23 sides, either side of them, there would be  
24 a big void pattern in blood with blood all  
25 around it if that had happened on the

1 couch.

2 7B, on page 24, if the victim had  
3 run to the sliding glass door and tried to  
4 leave, there would be bloody handprints on  
5 the surface or on its handle. No evidence  
6 of that exists. The victim clearly made  
7 it over there, we know that. The victim  
8 was clearly standing next to the sliding  
9 glass window at some point.

10 If we're arguing that this was  
11 the final resting place, one, she would  
12 have fallen there, but, two, her hands  
13 were not balanced, she couldn't open the  
14 door and get out. But there is no  
15 evidence of bloody handprints on the walls  
16 or on the sliding glass doors at all, so  
17 you don't have that. And you would need  
18 to have that if she was going to run over  
19 there and try to get out, but she didn't  
20 do that.

21 If the victim had run to the  
22 sliding glass door and suddenly decided to  
23 turn around and speak to her assailant,  
24 she would not have been able to. She  
25 would have been light-headed from extreme



1 blood loss, she would have been losing her  
2 vision and balance, which are common  
3 features of blood loss to the brain, and  
4 she probably would have found it nearly  
5 impossible to speak through severed vocal  
6 cords. So the idea that she turns to have  
7 a conversation with the offender, again,  
8 it's like a scene from a movie, it's not  
9 something that would happen.

10 Conclusion 7E, page 25, you get a  
11 pretty good photograph there of the inside  
12 wound to the neck area. As you can see,  
13 it's fairly extensive. That's just so we  
14 know what we're all talking about here.

15 7E, the victim's neck injury  
16 released continual arterial spurts until  
17 she collapsed on the floor in front of the  
18 couch. As provided in conclusion 4D,  
19 there are no spiraled arterial spurt  
20 patterns. This indicates that the victim  
21 did not turn to face her attacker after  
22 receiving her neck injury. She moved in a  
23 curved path from the sliding glass window  
24 to the living room. She did not rise from  
25 the couch and then turn around to talk to

1 somebody.

2 And that leads us to conclusion

3 8.

4 Q. And what was that, sir?

5 A. I was asked to look at the forensic  
6 reports related to the pair of pants that  
7 were found in relationship to this case.  
8 According to Alliance Police Department  
9 narrative supplement, dated 7/15/99,  
10 Joseph Wilkes offered to take police  
11 officers to the location where he had  
12 discarded his bloody pants. The Adidas,  
13 quote, unquote, swooshy pants were located  
14 in a muddy creek bed, in a wooded area  
15 adjacent to 4641 Loomis Parkway in  
16 Ravenna, Ohio.

17 According to a Canton-Stark  
18 County Crime Laboratory report, for Case  
19 number 99-03469, lab number 65339, dated  
20 7/29/99, the same pants were examined,  
21 and, quote, No blood or trace evidence of  
22 value was detected, unquote.

23 As I already discussed, the  
24 offender in this case was covered with  
25 blood and dripping blood and at least had

1 blood in the ankle area of the pants.

2 It's my conclusion that this pair of pants  
3 could not have been involved in the  
4 commission of this crime based on my  
5 analysis of the facts.

6 Q. Because there was no blood on them?

7 A. Because there was no blood on them. They  
8 found no blood.

9 Q. And based on your review of the scene, as  
10 it relates to those pants, if someone were  
11 in a struggle, such as this, would there  
12 have been blood on the pants?

13 A. Well, I think a better way -- yes, there  
14 would. And specifically in this case, and  
15 a better way of saying that is, that we  
16 know there was blood on the pants of this  
17 offender because they transferred it onto  
18 the couch at the ankle level. Not only  
19 was the blood transferred from bloody  
20 footwear marks in front of the couch, on  
21 the right-hand side, but there was also,  
22 at the ankle and skirt level, some blood  
23 transfer. So, yes, I would expect to find  
24 bloody transfer on the pants and clothing  
25 of the person who committed this crime.

1 But, yes, in this case there was because  
2 it was transferred so we know it existed.

3 Q. So your conclusion as to those pants is  
4 what?

5 A. Is that they were not involved in the  
6 commission of this crime.

7 Q. Now, the report that you prepared, that  
8 we've marked as Defendant's Exhibit 4,  
9 you've already reviewed it, that is the  
10 report that you've been testifying from;  
11 is that correct?

12 A. That's correct.

13 Q. And this is what you prepared at the  
14 request of Defense; is that correct?

15 A. That's correct.

16 Q. And at this time the summaries that you've  
17 reached, I'm not going to go through it  
18 all again, you reached how many different  
19 summaries?

20 A. I reached eight different conclusions.

21 Q. How many?

22 A. Eight.

23 Q. And these are after you reviewed the  
24 documents, the photographs, and the  
25 transcripts; is that correct?

1 A. That's correct. And the documents being  
2 the -- specifically the forensic and  
3 investigative and lab reports related to  
4 the physical evidence and the crime scene.

5 Q. And were you satisfied that you had enough  
6 information to review in order to reach  
7 these conclusions?

8 A. I'm satisfied that I had enough  
9 information to reach the conclusions that  
10 I reached. Given more information, I  
11 could be able to say more specific things.

12 MR. DOYLE: If I may have just  
13 a moment, Your Honor.

14 Thank you, Your Honor, no further  
15 questions.

16 THE COURT: We're going to go  
17 ahead and take a recess until 3:00. The  
18 Court stands in recess.

19 Take the Defendant down.

20 -----  
21 (Court recessed at 2:45 p.m. and  
22 reconvened at 3:00 p.m., and the  
23 following proceedings were had.)

24 THE COURT: Ms. Hartnett.

25 MS. HARTNETT: Is Mr. Pederson

1 coming back? Should I wait?

2 THE COURT: You think I know  
3 the answer to that question?

4 MS. HARTNETT: No. I just  
5 meant to point out he's not here. Should  
6 I go ahead?

7 THE COURT: Go ahead.

8 MS. HARTNETT: Okay.

9  
10 CROSS-EXAMINATION

11 BY MS. HARTNETT:

12 Q. Good afternoon. Mr. Turvey, my name is  
13 Chryssa Hartnett, and I'm from the Stark  
14 County Prosecutor's office. And I'm one  
15 of the Prosecutors who handled this case  
16 originally.

17 Now, with regard to your company,  
18 Knowledge Solutions, you run this company  
19 that's located in Oregon, yet you live in  
20 Alaska, is that how it works?

21 A. Well, I don't -- excuse me. I am not the  
22 managing partner. The managing partner is  
23 Barbara J. Berker, my ex-wife.

24 Q. Okay.

25 A. I am one of three partners and my office

1 is located in Sitka, Alaska.

2 THE COURT: In where?

3 THE WITNESS: Sitka, Alaska.

4 BY MS. HARTNETT:

5 Q. Now, your degree -- first of all, let me  
6 ask you about your degree. You said you  
7 have a Master's in forensic science?

8 A. Yes.

9 Q. And that was at University of New Haven?

10 A. A Master's of Science in forensic science,  
11 yes.

12 Q. Is that a one year program?

13 A. That's a two year program.

14 Q. And other than that, your background prior  
15 to that was not scientific as far as your  
16 undergrad degrees were psychology, things  
17 of that nature?

18 A. Both of my Bachelor's degrees were  
19 Bachelor of Science, so they are science  
20 oriented.

21 Q. Well, I understand that, but a Business  
22 Administration degree is also a Bachelor's  
23 of Science, would you agree?

24 A. I would agree, but you asked me whether or  
25 not they were a scientific background.

1 Q. Okay. My question is: What is your  
2 training in forensic science other than  
3 your two years in your Master's program?

4 A. Other than my Master of Science in  
5 forensic science?

6 Q. Uh-huh.

7 A. I have courses that were taken at the  
8 undergraduate level in forensic science  
9 and work that I've done on cases under  
10 greater forensic scientists than I since  
11 my graduation.

12 Q. Consulting, correct? You said you got  
13 your degree in 1996?

14 A. Yeah. You know, define consulting.

15 Q. Well, I believe it was your testimony that  
16 you got your degree in 1996 and you've  
17 been consulting ever since?

18 A. Yes. You were asking what consulting was,  
19 do you want me to define it or do you have  
20 a definition?

21 Q. No, I'm sorry, you asked me what  
22 consulting was. I asked you if you had  
23 been consulting since 1996 after you got  
24 your degree.

25 A. Okay, consulting -- could I define



1 consulting then, operationalize it, so we  
2 know what we're talking about here?

3 THE COURT: You know, we can do  
4 this until 7:30, 8:30 tonight.

5 MS. HARTNETT: I'll withdraw  
6 it, Your Honor.

7 THE COURT: Both of you, settle  
8 down.

9 Answer the question.

10 THE WITNESS: I have been  
11 working cases since 1996, yes.

12 BY MS. HARTNETT:

13 Q. Okay. My question then is: Have you had  
14 courses with the FBI?

15 A. No.

16 Q. Have you had any courses with any law  
17 enforcement agency?

18 A. Yes, I've had courses with law  
19 enforcement -- I have -- I believe I  
20 listed those -- actually I don't, I don't  
21 list them anymore. I have many courses,  
22 certificate courses, in crime scene  
23 investigation from law enforcement from --

24 Q. What agencies is what I'm asking.

25 A. The organization is the Northeast

1 Association of Forensic Scientists and I  
2 believe my certificate in crime scene  
3 investigation is signed by Robert Jenna or  
4 Jenna, however that's pronounced.

5 Q. Okay.

6 A. And all of my training that I received at  
7 the University of New Haven was designed  
8 and/or supervised by Henry Lee who was the  
9 head of the state crime lab.

10 Q. Other than training, do you have  
11 experience in actual crime scene  
12 investigation?

13 A. Can you describe crime scene  
14 investigation?

15 THE COURT: Were you ever a  
16 police officer?

17 THE WITNESS: What?

18 THE COURT: Were you ever a  
19 police officer?

20 THE WITNESS: For a period of  
21 about eight months I was a sworn detective  
22 with the Sitka Police Department.

23 BY MS. HARTNETT:

24 Q. A sworn detective?

25 A. That's correct.

1 Q. Did you go through law enforcement academy  
2 training to do that?

3 A. No. No.

4 Q. Have you ever been charged with collecting  
5 evidence at a crime scene through your  
6 involvement with law enforcement?

7 A. With law enforcement, no.

8 Q. You've never been affiliated with any  
9 particular lab or laboratory, have you?

10 A. No, I have not.

11 Q. Okay. And, in fact, when you indicated  
12 that you've been qualified as an expert in  
13 numerous places, that's in the area of  
14 behavioral profiling, is it not? It's not  
15 in the area of blood spatter, pattern  
16 analysis, or anything of that nature?

17 A. That's incorrect.

18 Q. That's incorrect? Where have you been  
19 qualified as an expert in blood spatter  
20 analysis?

21 A. In California -- oh, in blood spatter  
22 analysis? Let me give you my list here.

23 THE COURT: Do it slowly. Talk  
24 slowly. Review it quickly, talk slowly.

25 THE WITNESS: Let's see here,

1 California versus Gerald Johnson, I was  
2 qualified in the area of crime  
3 reconstruction, including blood spatter  
4 analysis.

5 BY MS. HARTNETT:

6 Q. And when was that?

7 A. That was in 2002.

8 California versus Larry Graham,  
9 California versus Gerald Johnson as well,  
10 March of 2002 and July of 2002.

11 Then also in --

12 THE COURT: You got to slow  
13 down.

14 THE WITNESS: My apologies.  
15 Also in Wisconsin versus Peter Kupaza,  
16 qualified in their forensic science and  
17 crime reconstruction, including blood  
18 spatter analysis.

19 THE COURT: When I say slow  
20 down, what does that mean to you?

21 THE WITNESS: I apologize.

22 When I read, I --

23 THE COURT: I know, everybody  
24 in American does it, but you've got to go  
25 slowly.

THE WITNESS: My apologies.

1 And -- trying to see if it's listed here.

2 And Louis Peoples, California versus Louis

3 Peoples, in '99, crime reconstruction,

4 including blood spatter analysis.

5 BY MS. HARTNETT:

6 Q. Those were all in California then?

7 A. Those were in California, yes.

8 Q. Have you completed the course work in

9 blood spatter analysis?

10 A. I have several courses at the University

11 of New Haven that were -- involved

12 intensive study of blood spatter analysis,

13 yes.

14 Q. Well, then you would agree with me that

15 blood spatter analysis is a very

16 interpretive type of a field, there is a

17 lot of variables that go into it; aren't

18 there?

19 A. There are when you -- yes, there are.

20 Q. And it's subject to interpretation?

21 A. A lot of it is, yes.

22 Q. Okay. Now, the lab -- well, first of all,

23 the evidence that you reviewed in this

24 case came from solely your review of

25

1 photographs, correct, and the testimony?  
2 My question is, I guess, you didn't  
3 perform any microscopic examinations?

4 A. Oh, of course not, no.

5 Q. And, in fact, Knowledge Solutions, the  
6 company you're affiliated with, is not a  
7 lab?

8 A. That's correct.

9 Q. And it's not accredited or affiliated with  
10 any particular lab, is it?

11 A. Oh, no, certainly is not. It's not a  
12 crime lab.

13 Q. And you were paid to evaluate the evidence  
14 in this particular case; were you not?

15 A. Yes.

16 Q. Okay. And you were paid, in fact, again  
17 then to come here and testify with regard  
18 to your report that you made?

19 A. I will be, yes.

20 Q. Okay. And, obviously, if after your  
21 review of the evidence or of the materials  
22 you were sent, if you agreed with the  
23 conclusions that were made at trial, your  
24 testimony would not be required here today  
25 or you would not be paid to come testify?

1 A. That's correct.

2 Q. Okay. Yet you indicated that when you sit  
3 down to do this evaluation you do it with  
4 a very objective eye?

5 A. Absolutely.

6 Q. And this makes you objective knowing that  
7 you're going to be paid if you disagree  
8 with the conclusions?

9 A. Can you rephrase that question please?

10 THE COURT: Is that a question  
11 you want an answer to?

12 MS. HARTNETT: I'll withdraw  
13 it, Your Honor.

14 THE COURT: Slow down a little  
15 bit yourself.

16 MS. HARTNETT: Thank you, I  
17 will.

18 BY MS. HARTNETT:

19 Q. What medical training do you have, sir?

20 A. The training that I have is related to --  
21 anything medical -- I have no medical  
22 degree, if that's what you're asking, no.

23 Q. Okay. Yet in your report, or in one of  
24 your reports anyhow, you challenge the  
25 autopsy protocol; do you not?

1 A. Where? I'm not saying that I didn't --

2 Q. We'll go on, that's all right, I don't  
3 want to take the time to find it.

4 Some of your conclusions that you  
5 testified to earlier were based on medical  
6 facts as far as what a person would be  
7 able to do after sustaining a particular  
8 type of wound, wouldn't you agree that  
9 that involves medical testimony or medical  
10 knowledge?

11 A. And personal experience.

12 Q. How many people have you seen with their  
13 throat cut?

14 A. I've seen lots of people with their throat  
15 cut in a photograph --

16 Q. A lot?

17 A. -- but my personal experience from having  
18 my own -- as part of a study that I did on  
19 ligature analysis, I had a Army Major  
20 friend of mine do some ligatures -- do  
21 ligatures on me about 10 or 15 times. And  
22 each time in the restriction of the blood  
23 vessels, within 7 to 15 seconds I was not  
24 able to see and I was not able to move and  
25 I always lost consciousness every time.



1 Q. But, sir, you would agree with me that  
2 would be different than getting your  
3 throat slit?

4 A. Yeah, having your throat slit would be  
5 much quicker.

6 Q. And you would agree you have not seen  
7 anyone with their throat slit while they  
8 are alive, only in photographs after the  
9 fact?

10 A. That's correct, yes.

11 Q. Now, some of your opinions, and I'm  
12 referring to the report that you testified  
13 to, but then there was also another report  
14 that was faxed to me and signed by you, I  
15 believe that was prior to this February  
16 one?

17 A. That's correct.

18 Q. And I'll concentrate on the one that  
19 you've testified to, but some of your  
20 opinions, I believe in both of them, and  
21 with, you never know what effect this  
22 could have had on the case.

23 You agree with me that there's  
24 some conclusions that end with, there is  
25 no telling what effect this could have

1 had?

2 A. Absolutely.

3 Q. Okay. So you don't point to anything  
4 specific, right?

5 A. I believe --

6 Q. In those particular ones?

7 A. I believe that I'm referring to  
8 specific (sic) things -- specific  
9 things that were not tested and not  
10 examined or not collected.

11 Q. Okay. But you say at the end of your  
12 conclusion to that, there's no telling  
13 what it could reveal, right?

14 A. Yes, related to that issue.

15 Q. Right.

16 A. Related to -- not just in the whole  
17 universe of possibilities.

18 Q. And you would agree with me the  
19 possibility exists that it would affect  
20 nothing? That's one possibility in those  
21 areas?

22 A. Yes, that's a possibility.

23 Q. Okay. And you go in great lengths in  
24 other portions of your report to point out  
25 how the crime scene was potentially

1           tainted in this case; do you not?

2           A.     Potentially, yes.

3           Q.     And that, of course, could affect numerous  
4           things, you point that out in your  
5           reports; don't you?

6           A.     Yes, I do.

7           Q.     Then you go on to make numerous detailed  
8           conclusions based upon that tainted crime  
9           scene; don't you?

10          A.     In areas where I didn't feel that there --  
11          in areas where I have no evidence of  
12          tainting, you can make the inference it  
13          wasn't tainted, I have no evidence. But  
14          in areas where there's potential problems,  
15          I think I accounted for them as much as  
16          I'm able.

17          Q.     How can you tell where there's tainted or  
18          where there's not? If it's been tainted,  
19          you wouldn't have any way of knowing that,  
20          would you?

21          A.     Well, if you could give me a specific  
22          conclusion you feel there's a problem, we  
23          can talk about it.

24          Q.     I'm asking you, because you make general  
25          opinions about the crime scene being

1 tainted and then you go on to make  
2 conclusions based upon that crime scene.

3 So my question is: Wouldn't that  
4 possible tainting, couldn't that have an  
5 effect on your conclusions as well?

6 A. If it were related to the opinion that I  
7 gave. When I talk about the tainting  
8 having an effect, I'm talking about an  
9 unknown effect in that area on that  
10 opinion. So that's why I say, if you want  
11 to talk about what specifically the  
12 effects may or may not have been, it would  
13 be more helpful to talk about a specific  
14 example rather than just saying I said it  
15 through the whole thing because I didn't.  
16 I was talking about specific areas --

17 Q. Okay.

18 A. -- that could be affected if we knew more  
19 information.

20 Q. Okay. Now, going back to the beginning of  
21 your report, you write, and I quote, that  
22 you feel the following statement is  
23 necessary, and to place it in bold type so  
24 it will not be missed in a review of this  
25 supplement, Perhaps the single-most

1 important factor in the disposition of  
2 this case has been the chronic failure of  
3 professionals to actually read through and  
4 examine the case material to develop a  
5 genuine understanding of the case facts.  
6 This includes those charged with doing so  
7 for the prosecution of the Defendant, and  
8 those charged with doing so on his behalf.

9 That's part of your report; is it  
10 not?

11 A. Absolutely, yes.

12 Q. So you profess to know what I read and  
13 what I understood?

14 A. I profess to state that apparently you  
15 agreed to a series of facts that were  
16 contradicted by the physical evidence.

17 Q. Well, you state in there that all of the  
18 professionals involved failed to have a  
19 comprehension or an understanding. And  
20 I'm asking you, are you psychic, do you  
21 know what I read?

22 A. I know that you agreed to a series of  
23 facts that did not happen.

24 Q. Based on your opinion?

25 A. Based on the facts.

1 Q. Based on your opinions that you've given  
2 here today?

3 A. Yes.

4 Q. And based on -- your opinions were based  
5 on a review of photographs of the crime  
6 scene, right?

7 A. Yes.

8 Q. You never went to the crime scene?

9 A. Well, crime really can't be reconstructed  
10 at the crime scene. You have to do it  
11 after the fact, after tests have been  
12 done, that sort of thing.

13 Q. My point is, you never went to the scene  
14 of the crime, did you?

15 A. No. But, again, you don't reconstruct the  
16 crime at the crime scene.

17 THE COURT: Let's do each of us  
18 a favor. This is cross-examination,  
19 answer the question yes or no.

20 THE WITNESS: Okay.

21 BY MS. HARTNETT:

22 Q. You never held a piece of the actual  
23 evidence and examined it, did you?

24 A. No, I did not.

25 Q. You saw photographs of pieces of evidence

1 and that's it?

2 A. That's correct.

3 Q. You never did any microscopic examinations  
4 yourself?

5 A. That's correct.

6 Q. In fact, you don't have a lab that you  
7 could even do that with?

8 A. When I need lab -- yes, I do.

9 Q. Okay. And by your own testimony earlier,  
10 you were limited by what you had? You  
11 were talking about some of the  
12 photographs, you said, well, we're limited  
13 with what we got?

14 A. Yes, we are.

15 Q. Turning to a couple of your specific  
16 conclusions in that report dated February  
17 24th, in conclusion number one you  
18 indicate that the victim was standing near  
19 the sliding glass door and was attacked  
20 from behind. That's essentially your  
21 conclusion, correct?

22 A. That's correct.

23 Q. Are you aware of the dimensions of the  
24 room?

25 A. I don't have them in front of me, but I

1 was aware at the time I rendered my  
2 report.

3 Q. And where would you have become aware of  
4 that from?

5 A. It would have been in the investigative  
6 reports. But, also, we have the scale,  
7 the victim's body, the dimensions from the  
8 autopsy report, and scale of the lighter.  
9 All these things pretty much give you an  
10 idea of how big the room is.

11 Q. Pretty much?

12 A. It's not really a factor in my  
13 reconstruction other than to say it's  
14 basically two and a half or maybe two body  
15 lengths away.

16 Q. So it is very short?

17 A. Very short.

18 Q. Okay. And you indicate that your  
19 conclusion, with regard to this number,  
20 number one, is primarily based on arterial  
21 spurt patterns on the sliding glass door,  
22 right? And that's the beginning of your  
23 opinion, you say that that's where it  
24 happened?

25 A. Yes.



1 Q. Okay. Because they're the strongest, in  
2 your opinion?

3 A. They're the strongest and they're the  
4 highest up.

5 Q. Okay.

6 A. And the void pattern. It's not just one  
7 fact by itself.

8 Q. I understand, but I'm taking them one at a  
9 time, sir.

10 A. Okay.

11 Q. Now, you would agree with me that upon  
12 sustaining an injury like that a natural  
13 human reaction might be to grab at your  
14 throat area or whatever area you're being  
15 injured?

16 A. I think that's reasonable, yes.

17 Q. And you would also have to agree with me,  
18 would you not, sir, that potentially  
19 grabbing a throat or having something  
20 blocking the blood from spurting out is  
21 one of those variables that could be there  
22 as far as what blood you're going to find  
23 in front of a person?

24 A. Yes.

25 Q. Correct? And you don't know whether or

1 not the victim, in this case, grabbed at  
2 her throat, do you?

3 A. I know that the victim's blood spurted out  
4 in front of her unobstructed in several  
5 directions.

6 Q. In several directions, but you don't know  
7 if she had been closer to that couch and  
8 had had her hand up around her throat  
9 whether or not that would have affected  
10 it?

11 A. I don't know, no. I was not there.

12 Q. No, you weren't. All right.

13 The void patterns in front of the  
14 door, you indicate that the offender was  
15 standing there, you said that that's a  
16 precise conclusion, that's precisely where  
17 the offender was standing?

18 A. Oh, yes.

19 Q. Yet you're limited to these photos that  
20 you have?

21 A. Yes.

22 Q. And you say there's no other void  
23 patterns?

24 A. That's correct.

25 Q. Yet there appear to be areas on the floor

1 where there is no blood in other areas,  
2 but you're saying those are not void  
3 patterns?

4 A. You'll have to show me what you're  
5 referring to, please.

6 Q. Areas over in this area that don't appear  
7 to have any blood, areas over here --

8 A. Those areas do, they have little specks.  
9 There is a void pattern --

10 Q. I'm not talking about --

11 THE COURT: Yo, yo, yo, we  
12 can't do you both at one time, number one.  
13 Number two --

14 BY MS. HARTNETT:

15 Q. I'm talking about --

16 THE COURT: Wait. Wait.

17 MS. HARTNETT: Oh, I'm sorry.

18 THE COURT: Help me out with  
19 what photo you're looking at.

20 THE WITNESS: Let me just look.  
21 I think we might have it in here. This is  
22 from conclusion 3C. Is that what it says  
23 up there?

24 BY MS. HARTNETT:

25 Q. Yes.

- 1 A. So that would be page 16 please.
- 2 Q. I'm not talking about this area where it's  
3 smeared. I'm talking about down in here,  
4 perhaps down in here. Those are other  
5 areas where there does not appear to be  
6 blood, that's all I'm asking?
- 7 A. You misunderstand, those aren't void  
8 patterns, that's just an area that's  
9 unrelated to the attack. A void pattern  
10 is a pattern inside an area of a  
11 bloodstain pattern where there's blood all  
12 around, but there's no blood in that spot.  
13 And that area is right there.
- 14 Q. And the door is on the other side of that?
- 15 A. That's correct.
- 16 Q. There's an area all around the outside  
17 here that's close to that area that does  
18 not have blood?
- 19 A. Right, but you can't reach the victim with  
20 a knife from over here.
- 21 Q. Okay. You say in your conclusion that is  
22 the precise location he has to be  
23 standing?
- 24 A. Has to be, yes.
- 25 Q. But what that actually tells you was

1 something was blocking the blood from  
2 flowing freely into that area, isn't that  
3 more accurate?

4 A. Well, unless it was somebody with a garden  
5 hose spraying blood, that would be the  
6 only other thing. I don't know what else  
7 it could be that would be spraying blood.

8 Q. Sir, what I'm asking you is, physically,  
9 from this analysis, that you say you have  
10 conducted --

11 A. Yes.

12 Q. -- what that tells you is -- the fact  
13 there's no blood in that area tells you  
14 that something was there blocking the  
15 spray of blood?

16 A. Right.

17 Q. You can't tell us whether it was any  
18 particular person, can you?

19 A. Not a particular person, no.

20 Q. You can't tell us if it was a particular  
21 object that was removed along with the  
22 perpetrator, can you?

23 A. I disagree with that characterization.

24 Q. You can tell us that?

25 A. Yes, you can. And the reason why is

1           whatever was in that area had blood  
2           spurting from that direction outwards from  
3           it, and that would be something that had  
4           been injured. Then on top of that you  
5           have to have somebody delivering that  
6           injury. And the only space where there  
7           was no blood has to be the place they were  
8           standing because you have -- and this is  
9           deductive logic. You have an injured  
10          person who is bleeding, the blood is all  
11          around, there is no blood in one spot,  
12          that has to be where it is, ma'am. There  
13          can't be any other explanation.

14        Q.     Let's get to that then.

15        A.     Certainly.

16        Q.     He was behind her. You say a million  
17                times in your report, he attacked her from  
18                behind.

19        A.     I think I said it twice.

20        Q.     You said it several times in your report,  
21                that she was attacked from behind?

22        A.     Yes.

23        Q.     Are you aware that that was not disputed  
24                at trial?

25        A.     I'm -- I don't know.

1 Q. Well, in fact, you didn't read the trial  
2 transcript so you don't know --

3 A. Not all of them, no.

4 Q. -- the full transcript of what was  
5 testified, do you?

6 A. Because I already testified I confined my  
7 examination to the area related to the  
8 crime scene.

9 Q. Can you just answer the question that I'm  
10 asking you? You indicate that she was  
11 attacked from behind and that that would  
12 be -- an explanation for the void pattern  
13 would be that's where the perpetrator was  
14 standing when he did it, by that door?

15 A. The only explanation for the void pattern.

16 Q. And she would be spurting blood then if  
17 she is not facing him, which again in  
18 another conclusion you go on to say that  
19 at no time did she face him?

20 A. Yes.

21 Q. She would be spurting blood in this  
22 direction, general direction, possibly out  
23 this way?

24 A. Yes.

25 Q. Clearly not spurting it from behind?

1 A. Not from behind.

2 Q. Yet one of your other conclusions was that  
3 he would have been covered and dripping in  
4 blood?

5 A. Right.

6 Q. In conclusion number three you indicate  
7 that the victim appears to have been  
8 partially dragged?

9 A. Yes.

10 Q. Are you aware through anything that you  
11 re -- excuse me. That you reviewed that  
12 the State's criminalist didn't challenge  
13 that fact? In fact, they agreed with that  
14 fact that was brought up by the Defense?

15 A. That sounds reasonable to me.

16 Q. Okay. Is it possible that those drag  
17 marks or those sliding marks on the floor  
18 could be from the victim in an attempt to  
19 move?

20 A. From the victim in an attempt to move?

21 Q. Once she's collapsed onto the floor to  
22 maybe try to move herself forward?

23 A. She has blood -- I considered that  
24 possibility, yes. I considered it, but I  
25 don't agree with it.



1 Q. I'm asking, isn't it possible? It's a  
2 possibility?

3 A. It's a remote possibility, but there's too  
4 much other stuff.

5 Q. Now, in conclusion number 4 you talked  
6 about the spiral arc of the blood spurts  
7 on the ground, you talked about there were  
8 spiral arterial spurts --

9 A. Yes.

10 Q. -- you were describing the paint on the  
11 brush and whatnot?

12 A. Yes.

13 Q. Now, you say they went from one direction  
14 to the other. It's also a possibility  
15 that they went in the opposite direction?  
16 I mean, still in that arcing pattern, but  
17 in the opposite direction; isn't it?

18 A. No, it's not.

19 Q. It's not? Wouldn't you have to do a  
20 microscopic examination in order to  
21 determine which side of the blood splatter  
22 or blood spatter contains the weight of it  
23 and the droplet?

24 A. Not microscopic. You could do it from a  
25 photograph with a good picture, but that's

1 not what we're talking about here.

2 There's another factor involved so, no,  
3 you wouldn't have to do that.

4 Q. But you're taking this based on  
5 photographs that were taken several feet  
6 away and you're saying you could determine  
7 the sequence or direction of a blood  
8 spatter based on these photographs?

9 A. Okay, I see what you're saying. I see  
10 what you're saying. But here is the  
11 thing, you have the void pattern in the  
12 center, that's where the victim has to be.  
13 So the blood is emanating from there.  
14 She's not on the other side of this blood,  
15 she's in the middle of it, okay?

16 Q. Okay.

17 A. So the blood is coming out in an arc  
18 pattern that goes from the sliding glass  
19 door to the front of the couch.

20 Q. Okay.

21 A. The only -- that's the only way this could  
22 happen where she could wind up there on  
23 the ground in front of the couch is she  
24 bleeds out there. If she bleeds out over  
25 here -- if she came from -- if she came

1 from the couch she winds up bleeding in  
2 front of the sliding glass door. We don't  
3 have a large amount of time here which the  
4 victim is going to lose consciousness, and  
5 she didn't.

6 Q. But you also indicated she was dragged  
7 towards the area where she was found?

8 A. Not dragged, no. I said assisted, helped.

9 Q. I believe in your report you indicated  
10 that it appears that the victim was  
11 dragged. Conclusion number 3, there were  
12 drag marks.

13 A. Did I use the word dragged?

14 Q. Partially dragged by the offender.

15 A. Partially, one side of her. But I  
16 explained, that's one side of her being  
17 supported, so being moved. Dragged means  
18 like you're pulling the whole body along.

19 Q. Well, the dimensions of this room are  
20 going to play a part. We're talking about  
21 a very small area?

22 A. Yes.

23 Q. And you're saying there's clearly an arced  
24 pattern of the blood spurts?

25 A. Right.

1 Q. And my question is: Take away this void  
2 pattern that you rely on, okay, if you  
3 take that out of it, are you saying that  
4 based on the blood spurts alone you can  
5 tell the direction of the arc, whether she  
6 went this way or whether she went this  
7 way?

8 A. Like you said, there is only one way that  
9 she went, only one path. The only thing  
10 we're disputing is where she started,  
11 where she ended, correct?

12 Q. Right. That's what I'm asking you, is  
13 this conclusion based on this blood  
14 pattern, on the spurt?

15 A. It's -- one, that it is arterial gushing.  
16 Two, that the void pattern is indeed there  
17 and starts there. And, three, there is no  
18 other place the offender could have been  
19 to make these injuries.

20 Q. Well, again --

21 A. You can't reach it from the other side of  
22 the room. It started here. You can  
23 characterize it however you want, but it  
24 didn't start anywhere else.

25 THE COURT: We're getting

1 argumentative. Let's move on.

2 BY MS. HARTNETT:

3 Q. There's blood -- you agree, under  
4 conclusion number 6, there is blood on the  
5 right end of the couch?

6 A. Yes, there is.

7 Q. And there is not blood on the center of  
8 the couch?

9 A. That's correct.

10 Q. Okay. Indicating to you that she was  
11 never facing that direction of the couch?

12 A. Right.

13 Q. In its proximity?

14 A. That's correct.

15 Q. So the distance, you would agree with me,  
16 from here to the sliding glass door, like  
17 you said, is about two, two and a half  
18 feet?

19 A. Right.

20 Q. So that's what you're disputing is the two  
21 and a half feet, whether she was standing  
22 near the couch or near the sliding glass  
23 door at first?

24 A. I -- I'm saying that she was not on the  
25 couch. I'm saying that she was attacked

1 at the sliding glass window. And what's  
2 on the couch, by the way, is maybe one or  
3 possibly two heartbeats. Over by the  
4 window we have three, four, maybe five  
5 heartbeats worth.

6 Q. Well, let's go with that then.

7 A person who's being attacked,  
8 you said you'd agree that it would be a  
9 natural reaction to grab for the throat?

10 A. Uh-huh.

11 Q. Probably a natural reaction to try to move  
12 away?

13 A. Absolutely.

14 Q. Okay.

15 A. But we have the offender who has got a  
16 hold of them.

17 Q. And that's based on what?

18 A. Based on the fact that she's being  
19 assisted as she moves across this arc.

20 Q. But I thought you said the drag patterns  
21 are from where she begins to collapse to  
22 where she's found?

23 A. No, I didn't. I never said that.

24 Q. Well, explain that. Enlighten me in that  
25 area then please.

1 A. We keep going over and over this, it's not  
2 going to change. The victim was using  
3 her --

4 THE COURT: When I start  
5 talking, you stop. Listen, you guys are  
6 beating this up a number of times, but she  
7 has a legitimate question in front of you.  
8 And her argument to you or her question to  
9 you is why couldn't she have been  
10 initially cut on the couch and moved from  
11 the couch to the door.

12 THE WITNESS: Right. The  
13 answer to that is that there is a void  
14 pattern in the center of the blood in  
15 front of the sliding glass window that  
16 could only be created if something were  
17 standing there while gushing out a huge  
18 amount of blood.

19 BY MS. HARTNETT:

20 Q. Is there not a void pattern on this area  
21 of the couch?

22 A. No, there is not a void pattern on this  
23 couch. There is just no blood on it,  
24 that's not a void pattern.

25 Q. Well, let me ask you this: If she had

1 gotten towards the sliding glass door,  
2 okay, let's assume, for the benefit of  
3 this example, that she's near the couch,  
4 she's standing up, she had gotten close to  
5 the sliding glass door then begins to go  
6 towards the couch, but never facing that  
7 left-hand side of the sliding glass door.  
8 She gets to the right-hand side and begins  
9 to go back the other way. Wouldn't there  
10 be a lack of blood in the area that she  
11 did not face of that door?

12 A. If what you're suggesting is true -- okay,  
13 yes.

14 Q. Okay.

15 A. But the answer is, also, that you also  
16 have a huge amount of blood over there.  
17 She would have bled out -- we would expect  
18 to find her over by the sliding glass  
19 door.

20 Q. But, again, you're not a doctor, you don't  
21 know exactly how much time she would have  
22 had on her feet, do you?

23 THE COURT: Counsel, approach  
24 for a moment.

25 - - - - -



1 (A conference was held at the  
2 bench.)

3 - - - - -

4 THE COURT: This isn't a trial  
5 for guilt or innocence, this is an issue  
6 of whether or not their forensic expert is  
7 going to supply sufficient evidence to, I  
8 guess, negate, be more credible than the  
9 State's presentation at trial. So it  
10 doesn't matter -- it's not necessary for  
11 you to argue with the witness to get him  
12 to conclude.

13 MS. HARTNETT: Okay.

14 THE COURT: You can argue and  
15 ask him, isn't this true or not. If he  
16 says yes or no then that's his answer.  
17 Let's not debate with him. You can argue  
18 that to me.

19 MS. HARTNETT: Okay.

20 THE COURT: And that's the  
21 credibility of this individual, not  
22 whether or not you're going to convince  
23 some jury as to what happened.

24 MS. HARTNETT: Okay.

25 THE COURT: Different role,

1 different stakes, so let's move on. We're  
2 going to be here forever if we argue each  
3 point on credibility. Make your point,  
4 move on.

5 MS. HARTNETT: Okay, thank you.

6 (End of conference at the bench.)

7 - - - - -

8 BY MS. HARTNETT:

9 Q. In your conclusion number 5, you talk  
10 about the dresser being pulled down. And  
11 I think it's your conclusion that it was  
12 not by the victim, correct?

13 A. That's correct.

14 Q. And, again, are you aware that there was  
15 no suggestion at trial that the victim  
16 would have pulled that down?

17 A. I'm aware of that, yes.

18 Q. Okay. And do you know for a fact that the  
19 TV was on the dresser prior to this  
20 incident?

21 A. I was told by the investigator, who worked  
22 on the case, that this is where the TV  
23 normally was and it had the cable box on  
24 top of it, and that there are various  
25 items on the top of the dresser that are

1 on the floor around the victim.

2 Q. Okay.

3 A. Yes.

4 Q. And the investigator that told you that,  
5 I'm sorry, was?

6 A. The investigator was one of the initial  
7 investigators on the case. It was -- I  
8 talked to Martin Yant about it.

9 Q. I'm sorry, who?

10 A. Martin Yant.

11 Q. So one of the investigators for the  
12 Defense attorneys?

13 A. For the Defense.

14 Q. Now, bruising is a pooling of blood,  
15 right? I mean, that's essentially what a  
16 bruise is is blood begins to pool and  
17 congeal and whatnot underneath the skin?

18 A. Correct. In addition, yes.

19 Q. If there is not enough blood in the body  
20 there is not going to be bruising, is that  
21 an accurate statement?

22 A. I honestly don't know.

23 Q. Are you aware of the fact that she did, in  
24 fact, have a significant hematoma on the  
25 back of her head?

1 A. I'm aware she had head injuries.

2 Q. And you're basing your conclusion that the  
3 TV was placed there on the fact you say  
4 it's too far away from where the dresser  
5 was?

6 A. Yes.

7 Q. And the physics background that provided  
8 you with that opinion is what?

9 A. It's not a physics background, not at all.  
10 What I said, it led me to think, hey, this  
11 is the wrong spot, let's ask a question,  
12 what should be there if it didn't. That's  
13 the transfer.

14 Q. Would the head be in the area you would  
15 expect it to fall based on your common  
16 sense?

17 A. No, it would be back. Going from this  
18 photograph -- if I had more information,  
19 but going from what I have from the  
20 photograph.

21 Q. Again, you're limited by just what you've  
22 evaluated, and your conclusions can't be  
23 complete because of that?

24 A. They would be more complete with more  
25 information, but I deemed the conclusions

1           that I made to be sufficient with the  
2           evidence that I had.

3       Q.     Okay.  And, again, you talked about her  
4           having tried to leave through the sliding  
5           glass door.  Are you aware there was never  
6           any allegation she tried to leave through  
7           the door, that she just went over to it?

8       A.     Right.  I was trying to cover all  
9           possibilities.

10      Q.     And you talked about, in your direct  
11           testimony today, the speaking issue,  
12           whether she was able to speak.

13                         Again, are you aware, through the  
14           testimony that you read, that that was  
15           addressed and thoroughly challenged at  
16           trial?

17      A.     I'm aware of that, yes.

18      Q.     And, finally, when you get to conclusion  
19           number 8, about the pants, you can't say  
20           for sure how the blood was transferred to  
21           that couch, can you?  You can say that  
22           blood was transferred to the couch?

23      A.     That's correct.

24      Q.     Okay.

25                         MS. HARTNETT:  I have nothing