

1 further, Your Honor.

2 THE COURT: Any follow-up, Mr.  
3 Doyle?

4 - - - - -  
5 REDIRECT EXAMINATION

6 BY MR. DOYLE:

7 Q. Sir, you were asked questions about your  
8 conclusions and what you reviewed in order  
9 to reach these conclusions. Do you recall  
10 those questions from the Prosecutor?

11 A. I do, yeah.

12 Q. Can you say -- based on what you reviewed  
13 here, are you satisfied that the  
14 conclusions you've reached are, in fact,  
15 satisfactory in your scientific opinion?

16 A. I can, yes. If I had more information I  
17 think that we could get more specific, but  
18 I think my conclusions are very general  
19 and I think they are very conservative  
20 given what I've examined.

21 Q. And there's no question in your mind that  
22 the actual attack occurred by the sliding  
23 glass door?

24 A. No question at all.

25 Q. And not on the couch?

1 A. Not at all.

2 MR. DOYLE: Thank you. Nothing  
3 further.

4 THE COURT: Ms. Hartnett,  
5 anything further?

6 MS. HARTNETT: No, sir.

7 THE COURT: You may step down,  
8 sir. Thank you.

9 MR. DOYLE: Your Honor, we  
10 would call Mr. Wilkes now.

11 Your Honor, I normally offer  
12 these as I go along.

13 THE COURT: That's fine, do it  
14 at the end.

15 MR. DOYLE: Okay.

16 MS. HARTNETT: Your Honor, can  
17 we approach while we're waiting?

18 THE COURT: Sure.

19

- - - - -

20 (A conference was held at the  
21 bench off the record.)

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- - - - -

23 (End of conference at the bench.)

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- - - - -

25

JOSEPH WILKES

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

3 THE COURT: Before we begin,  
4 Mr. Wilkes, you have been convicted of  
5 aggravated murder with a life  
6 specification, you are presently  
7 incarcerated for a life term. And I am  
8 not sure what the status of your appellate  
9 rights are or your appellate procedure, I  
10 don't know if you have a appeal pending in  
11 front of the Fifth District or if you have  
12 one pending in front of the Ohio Supreme  
13 Court, or whether or not you're  
14 contemplating filing an appeal through the  
15 Federal system.

16 But I will tell you, sir, once  
17 you take the witness stand here today and  
18 begin to testify, that everything that you  
19 say is on record taken down under oath by  
20 a court reporter and is a public record  
21 and is reviewable and usable by any and  
22 all parties to any type of lawsuit. So I  
23 would herein advise you that once you  
24 begin to testify, you are going to waive  
25 your Fifth Amendment right to

1 self-incrimination if, in fact, you make  
2 statements that incriminate you or can be  
3 used in an argument that you are, in fact,  
4 incriminating yourself. Do you understand  
5 that?

6 THE WITNESS: Yes, sir.

7 THE COURT: Mr. Graham is in  
8 the courtroom and Mr. Graham has had an  
9 opportunity, my understanding is, to speak  
10 to you concerning your testifying here  
11 today; is that correct?

12 THE WITNESS: Yes, he has.

13 THE COURT: And did you listen  
14 to the advice that he gave to you?

15 THE WITNESS: Yes, sir.

16 THE COURT: Mr. Graham, I'm  
17 going to address you now, I gave a rather  
18 rudimentary explanation of what Mr. Wilkes  
19 is going to face if he decides to testify.  
20 And I'm assuming in a conversation -- you  
21 had a conversation with Mr. Wilkes earlier  
22 today?

23 MR. GRAHAM: I did.

24 THE COURT: And did you advise  
25 him, again probably in a better way and in

1 more detail, what risks he runs in  
2 testifying today?

3 MR. GRAHAM: I have, Your  
4 Honor, and, in fact, I've recommended that  
5 he not testify and he exercise his right  
6 to remain silent. But it's his desire,  
7 very clearly, to disregard that advice and  
8 testify here today.

9 THE COURT: Mr. Wilkes, you  
10 have heard Mr. Graham then tell the Court  
11 and again, in a sense, advise you that you  
12 have an absolute right to remain silent?

13 THE WITNESS: Yes, sir.

14 THE COURT: Anything you say  
15 today can and will be used against you in  
16 any other proceeding, and that you are  
17 knowingly and intelligently waiving your  
18 right against self-incrimination, do you  
19 understand that?

20 THE WITNESS: Yes, sir.

21 THE COURT: Is it still your  
22 decision to testify in this matter?

23 THE WITNESS: Yes.

24 THE COURT: The Court is going  
25 to find that Mr. Graham has had an

1 opportunity to talk to the Defendant, and  
2 that he has explained to him his rights  
3 and has explained to him that there are  
4 other avenues of appeal that he may pursue  
5 in the future. And that any statement he  
6 makes here today can be used, if  
7 appropriate, against him. I believe Mr.  
8 Wilkes is also aware of that fact.

9 State of Ohio, anything you wish  
10 to say?

11 MR. CALDWELL: Yes, Your Honor.  
12 We would also like the witness to be  
13 advised that his testimony today could  
14 result in a vacation or vacating of the  
15 plea agreement which he entered into, and  
16 could result then in his subsequent trial  
17 on the original indictment which included  
18 a death penalty specification exposing Mr.  
19 Wilkes to a possible death sentence, and  
20 that he understands that in his decision  
21 today to testify.

22 THE COURT: Counsel, approach  
23 just for a quick second.

24 - - - - -

25 (Thereupon, a side-bar discussion

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was had off the record.)

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THE COURT: Mr. Wilkes, you have heard the State of Ohio, through Mr. Caldwell, raise another issue which I had not thought about, and that is you were indicted on a capital murder offense originally. You remember that, correct?

THE WITNESS: Yes.

THE COURT: You remember that one of the potential penalties was death by lethal injection? You understand that?

THE WITNESS: Yes.

THE COURT: That you made an agreement with the State of Ohio that you would, I believe, testify truthfully in all proceedings in which you were asked to testify, and that would have included hearings, I believe, we had prior to trial, the trial itself, and any other hearings subsequent to the trial against Mr. Thorne. Do you understand that that was the agreement?

THE WITNESS: Yes, I do.

THE COURT: You understand that

1           this hearing we're having today is such a  
2           hearing that it is the State's position  
3           that this is the type of hearing in which  
4           you are bound to tell the truth, and  
5           nothing but the truth, and that if, in  
6           fact, you don't tell the truth or you make  
7           statements that you never have before, or  
8           enhance or delete from your testimony any  
9           type of act they feel breaks that  
10          agreement that, in fact, they can ask the  
11          Court to void that agreement, you would  
12          then be facing again the charge of capital  
13          murder with the potential of death by  
14          lethal injection.

15                         Do you understand if you make a  
16          statement today that could be an argument  
17          that the State presents before the Court  
18          that you breached or broke the agreement?  
19          Do you understand that?

20                         THE WITNESS:  Yes, sir, I do.

21                         THE COURT:  And you understand  
22          you would then face the possibility of  
23          death by lethal injection?  Do you  
24          understand that?

25                         THE WITNESS:  Yes, I do.



1 THE COURT: Have you talked  
2 this over with Mr. Graham, this particular  
3 issue with the agreement by the State of  
4 Ohio?

5 THE WITNESS: Yes, sir.

6 THE COURT: And did he give you  
7 similar advice that I'm giving to you now,  
8 that the State could argue that you  
9 breached the agreement and, therefore,  
10 void it and they could try you again for  
11 capital murder with a death specification?

12 THE WITNESS: Yes, sir, he has.

13 THE COURT: So you understand  
14 that, correct?

15 THE WITNESS: Yes, sir.

16 THE COURT: Any questions you  
17 have now before we begin? My  
18 understanding is you spoke to Mr. Doyle  
19 moments before coming in here, I'm not  
20 going to ask what you spoke to him about,  
21 but are there any questions, any  
22 reservations that you wish to address to  
23 me, the Court, the Judge, in this  
24 particular case?

25 THE WITNESS: No, sir.

1 THE COURT: All right. State,  
2 anything further?

3 MS. HARTNETT: No, Your Honor.

4 MR. CALDWELL: No.

5 THE COURT: The Court is  
6 satisfied that Mr. Wilkes has had an  
7 opportunity to speak to Mr. Graham, who is  
8 extremely experienced and skilled in  
9 criminal matters, he has spoken to him, he  
10 has given his advice. The State of Ohio  
11 has presented their position. Mr. Wilkes  
12 is a young man that has the appropriate  
13 amount of schooling, he understands the  
14 English language, and I believe he's made  
15 his own decision to go ahead and testify  
16 here today knowing full well any  
17 consequence that may follow. And I'll  
18 permit him to testify at this time.

19 Mr. Doyle.

20 MR. DOYLE: Thank you, Judge.

21 - - - - -

22 DIRECT EXAMINATION

23 BY MR. DOYLE:

24 Q. Sir, for the record, will you tell us your  
25 full name?

1 A. Joseph Isaac Wilkes.

2 Q. And will you spell your last name for the  
3 record?

4 A. W-I-L-K-E-S.

5 Q. Mr. Wilkes, you are presently  
6 incarcerated?

7 A. Yes, sir.

8 Q. And where are you now being housed?

9 A. Mansfield Correctional Institution.

10 Q. You pled guilty to aggravated murder in  
11 the case now before this Court; is that  
12 correct?

13 A. Yes, sir.

14 Q. Mr. Wilkes, did David Thorne have anything  
15 to do with the homicide in this case?

16 A. No, he did not.

17 Q. Did you in fact kill this woman?

18 A. No, I did not.

19 Q. You were interviewed by the Alliance  
20 Police in July of 1999; is that correct?

21 A. Yes, sir, it is.

22 Q. At that time you were asked questions  
23 about what happened on the evening of  
24 March the 31st of 1999; is that correct?

25 A. It is.

1 Q. Did you receive any information concerning  
2 Mr. Thorne and what he was doing? Did the  
3 police communicate any information to you?

4 A. Yes, sir.

5 Q. And what was it that you learned?

6 A. They said that he was found for immunity  
7 in order to testify against me and that it  
8 would set him free, he wouldn't have any  
9 charges as far as self-incriminating  
10 himself.

11 Q. Did you think that Mr. Thorne was going to  
12 testify and in some way find a way to hurt  
13 you?

14 A. Yes, sir.

15 Q. What, if anything, did you do after you  
16 learned that?

17 A. I don't know. I was confused.

18 Q. Did you continue to talk to the police?

19 A. Yes.

20 Q. What else did they tell you?

21 A. They told me they had some other  
22 statements from some other witnesses, and  
23 they told me everything that happened at  
24 the crime scene.

25 Q. And they told you what?

1 A. Everything that happened at the crime  
2 scene.

3 Q. Were you told what type of penalty you  
4 were facing?

5 A. Yes, sir.

6 Q. And what was that?

7 A. They told me that I was facing death row,  
8 possible chair.

9 Q. And were you told that if you gave a  
10 statement the penalty might be  
11 significantly different?

12 A. Yes, sir.

13 Q. And what were you told?

14 A. I was told that if I gave a statement,  
15 they -- my chances of getting death row  
16 were very less, that I would more likely  
17 receive life without chance of parole, or  
18 less than that.

19 Q. Was there ever any number talked about  
20 under the life without parole that the  
21 detectives talked about, any number of  
22 years?

23 A. Fifteen. It was 15 to life, I think.

24 Q. And did they give you any indication as to  
25 when it was thought that you might be able

- 1 or -- be able to be released?
- 2 A. My first time up to the parole board.
- 3 Q. Because of your cooperation?
- 4 A. Yes.
- 5 Q. You then entered a plea of guilty in this
- 6 case?
- 7 A. Yes, sir.
- 8 Q. And you implicated David?
- 9 A. Yes.
- 10 Q. When you were going to testify in the
- 11 courtroom, did you have any communications
- 12 with a person by the name of Vicki?
- 13 A. Yes, sir.
- 14 Q. And who was that?
- 15 A. She's a -- she was a lady at the church I
- 16 used to go to, real good friend of mine.
- 17 Q. And she would visit you in jail?
- 18 A. Yes, sir.
- 19 Q. And do you know what Vicki's last name is?
- 20 A. Rhodes, R-H-O-D-E-S.
- 21 Q. Did you have occasion -- did you talk to
- 22 her --
- 23 A. Yes.
- 24 Q. -- before you testified --
- 25 A. Yes.

1 Q. -- in the trial?

2 A. Yes, sir.

3 Q. And what did you tell her?

4 A. I told her that I had to do what I had to  
5 do. That I was scared, that I was facing  
6 the death row, that they were going to  
7 kill me.

8 Q. Did you say anything to her about the  
9 truthfulness or nontruthfulness of your  
10 testimony?

11 A. Yes. I told her I had to do what I had to  
12 do. And she told me -- she advised me to  
13 tell the truth. And I just told her,  
14 again, I have to do what I have to do.

15 Q. Joe, since that time you have been in the  
16 prison system, in the Ohio State prison  
17 system, correct?

18 A. Yes, sir.

19 Q. And this same woman has come to visit you?

20 A. Yes, sir.

21 Q. And are those visits to talk about  
22 spiritual things?

23 A. Yes, sir.

24 Q. Okay. And what is it that Vicki has  
25 continually told you to do?

1 A. Her favorite saying, the truth will set  
2 you free. To tell the truth, to get the  
3 truth out so it will be known.

4 Q. And that's what you're doing here today?

5 A. Yes, sir, I am.

6 Q. I want to show you -- this is out of  
7 order, Chryssa.

8 (Thereupon, a discussion  
9 was had off the record.)

10 MR. DOYLE: Your Honor, I'm  
11 showing him handwriting.

12 BY MR. DOYLE:

13 Q. I want to show you what has been  
14 previously marked as Defendant's Exhibit  
15 5. And pointing to some writings on the  
16 bottom of this page, do you recognize that  
17 writing?

18 A. Yes, sir.

19 Q. Okay. And whose writing is that?

20 A. It's mine.

21 Q. Okay. And that's the handwriting you  
22 normally use; is that correct?

23 A. Yes, sir.

24 Q. And that would be under Exhibit C?

25 A. Yes, sir, it is.



1 MR. DOYLE: Thank you, Your  
2 Honor. No further questions.

3 THE COURT: State of Ohio.

4 - - - - -

5 CROSS-EXAMINATION

6 BY MS. HARTNETT:

7 Q. Good afternoon, Joe.

8 A. Good afternoon, ma'am.

9 Q. I'm Chryssa Hartnett, you remember me?

10 A. Yes, I do.

11 Q. You pled guilty to aggravated murder with  
12 a capital specification that that crime  
13 was committed for hire back in September,  
14 September 27th, 1999; didn't you?

15 A. Yes, ma'am.

16 Q. Okay. At that hearing you were obviously  
17 there, the Judge was there, I was there,  
18 do you remember that?

19 A. Yes, ma'am.

20 Q. You apologized, you apologized to Yvonne's  
21 family, all those folks sitting right back  
22 there today, you apologized to them and  
23 you sobbed; didn't you?

24 A. Yes, ma'am.

25 Q. You told them that you wished you could

1 take it back; didn't you?

2 A. Yes, ma'am.

3 Q. And you met with me and Mr. Baumoe1  
4 several times in the months that followed  
5 that leading up to the trial; didn't you?

6 A. Yes.

7 Q. Now, you talked to police several times,  
8 even before you met with Mr. Baumoe1 and  
9 me, correct?

10 A. Yes.

11 Q. And you gave details to them in your  
12 statements and you gave details to us in  
13 your statements; didn't you?

14 A. Yes.

15 Q. You talked about where you stayed, how  
16 much money you had been paid, where you  
17 bought things; didn't you?

18 A. Yes.

19 Q. Okay. All the details you could remember.  
20 Talked about what drugs you had done on  
21 that day, right?

22 A. Yes.

23 Q. And you even took the police, after you  
24 talked to them, to the sewer or to the  
25 ditch area or the drainage area where you

1           said you threw the knife, right?

2       A.     Yes.

3       Q.     Okay.  And they found the knife there?

4       A.     Yes.  They found two of them.

5       Q.     They found two knives in that ditch is  
6           your testimony?

7       A.     Yes, ma'am.

8       Q.     Okay.  And you took them to the woods  
9           where you say you dumped your pants,  
10          right?

11      A.     Yes.

12      Q.     And you told them about the Enochs, about  
13          Karen, about Summer, about Brent, right?

14      A.     Yes.

15      Q.     And you hadn't been living with the Enochs  
16          for several months by this time that you  
17          talked to police, right?

18      A.     Yes.

19      Q.     They had already kicked you out?  And so  
20          the corroborating evidence that the Enochs  
21          provided, the things that were found, the  
22          receipts and whatnot, these are all just a  
23          coincidence because you didn't commit this  
24          crime, that's your testimony today; is  
25          that right?

1 A. Yes.

2 Q. And you say that you told them these  
3 things because they told you that David  
4 Thorne had asked for immunity and that  
5 that's why you talked, right?

6 A. Yes.

7 Q. Okay. Are you aware that he had, in fact,  
8 asked for immunity through an attorney at  
9 the time the police talked to you?

10 A. I was aware that the lawyer had said it,  
11 but he never told the lawyer nothing like  
12 that. That's what I was told.

13 Q. When did you find that part out, that  
14 he --

15 A. After all this was over.

16 Q. After the trial and everything?

17 A. Yes.

18 Q. Okay. But the police told you that he had  
19 made a request for immunity?

20 A. Yes.

21 Q. You know Samantha Pegg; don't you?

22 A. Yes.

23 Q. You told her in June, weeks before you  
24 talked to the police, about having killed  
25 Yvonne; didn't you?

1 A. That's what she says.

2 Q. Well, I'm asking you, did you tell her?

3 A. No.

4 Q. Oh, you didn't? So she just made that up?  
5 Another big coincidence?

6 A. Yes.

7 Q. And you would agree with me that the  
8 attorneys who represented David Thorne  
9 cross-examined you for -- it was almost a  
10 couple hours when you were up on that  
11 witness stand during the trial; isn't that  
12 right?

13 A. Yes.

14 Q. And you acknowledged several times in your  
15 testimony that you were telling the truth?

16 A. Yes.

17 Q. You also acknowledged during your  
18 testimony, didn't you, that the police  
19 never told you what the penalties were,  
20 that it was only when you were discussing  
21 it with your attorneys, as to whether to  
22 enter your plea, that's when you found out  
23 what the possible penalties were?

24 A. I'm not exactly sure what I said.

25 Q. Well, if I showed you a transcript of your

1 testimony, would that refresh your memory?

2 A. It sure would, ma'am.

3 Q. This is Page 1288, Your Honor, from the  
4 trial testimony. This is during  
5 cross-examination.

6 Right here. There's a question,  
7 you can read that to yourself if you want,  
8 beginning with that question: Well, did  
9 they talk to you about. So you were asked  
10 a question: Did they talk to you about  
11 possible penalties for what they were  
12 accusing you of? And you told them what?

13 A. I told them that I wasn't.

14 Q. That you wasn't, that you hadn't been? So  
15 they never told me what could happen,  
16 that's what you said, right?

17 A. Yes.

18 Q. Yet in your affidavit you swear that they  
19 told you that you would be given 30 years?

20 A. Yes.

21 Q. Okay. And today you testified that you  
22 were told that it was 15, correct? That's  
23 what you said a few minutes ago?

24 A. I was told -- I was told by the detectives  
25 that I would go up in half time, and then

1 in 15 years most likely get out. Half  
2 time.

3 Q. But you acknowledge at trial, though, that  
4 you said they never even talked to you  
5 about what you would be facing?

6 A. Yes.

7 Q. You've been in prison for three years now,  
8 a little over, right?

9 A. Yes.

10 Q. Don't like it, do you?

11 A. Of course not.

12 Q. This affidavit that you signed, this is  
13 your signature down here?

14 A. Yes, ma'am.

15 Q. Okay. You didn't write this, somebody  
16 typed it for you, right?

17 A. Yes.

18 Q. They sent it to you and asked you to read  
19 it and sign it, right?

20 A. Yes.

21 Q. What did they promise you?

22 A. Nothing.

23 Q. Nothing?

24 A. Nothing.

25 Q. And you've been advised by your attorney

1 about the possibilities of being charged  
2 with perjury, and things of that nature,  
3 right?

4 A. Yes.

5 Q. Who in David's family have you talked to  
6 over these last three and a half years?

7 A. No one.

8 Q. No one?

9 A. No one.

10 Q. You weren't real friendly with them at the  
11 time you were testifying, right, I mean  
12 back three years ago?

13 A. No.

14 Q. Smiled and nodded at his grandparents when  
15 you walked in here; didn't you? But you  
16 haven't had any contact with them  
17 directly?

18 A. No, I haven't.

19 Q. What about any family or friends of  
20 David's?

21 A. No.

22 Q. Who sent you the affidavit? How did you  
23 get it?

24 A. Victoria Rhodes sent it to me.

25 Q. Oh, Victoria Rhodes, this person who you



1 talked about earlier?

2 A. Yes.

3 Q. She's the one who provided you with the  
4 affidavit?

5 A. I was told it was given to her, but she  
6 sent it to me, yes.

7 Q. Okay. Mr. Doyle asked you about this  
8 handwriting?

9 A. Yes.

10 Q. That phone number there, that number  
11 there, that 890-8941, do you recognize  
12 that? If I told you that was your pager  
13 number back in 1999, does that ring a  
14 bell?

15 A. No, ma'am. I'm sure it was.

16 MS. HARTNETT: Can I have just  
17 a second?

18 I have nothing further, Your  
19 Honor.

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

22 MR. DOYLE: Yes, Your Honor.

23 - - - - -

24 REDIRECT EXAMINATION

25 BY MR. DOYLE:

1 Q. Mr. Wilkes, you were asked some questions  
2 about the details of this incident. Do  
3 you recall those questions by the  
4 Prosecutor?

5 A. Yes.

6 Q. And how did you learn the details?

7 A. I'm not understanding your question.

8 Q. Well, when you were talking to the police,  
9 was there ever any discussion about how  
10 this happened or in what way it happened?

11 A. Yes. Detective Sampson told me what had  
12 happened, when it happened, how it  
13 happened. They told me pretty much  
14 everything. They told me there was a  
15 little kid under the table, told me there  
16 was a little dog in the house barking.

17 Q. And that came from the police?

18 A. Yes.

19 Q. Which police, do you recall?

20 A. Detective Bud Sampson and two other ones,  
21 I'm not sure of their name.

22 Q. Detective Sampson?

23 A. Sampson.

24 Q. And so that's how you learned some of the  
25 specific information about what happened?

1 A. Yes, sir.

2 Q. Now, you were asked questions by the  
3 Prosecutor about somebody by the name of  
4 Samantha Pegg?

5 A. Yes.

6 Q. Do you recall those questions?

7 A. Yes.

8 Q. Did Samantha Pegg ever send you a letter  
9 saying how she was being harassed by the  
10 police?

11 A. Yes, she did. She sent me a letter  
12 apologizing and told me that she was  
13 not -- she would not make a statement if  
14 the police were not harassing her. And  
15 she told me that they had said something  
16 to her, and she never said exact words of  
17 what they said to her, but they would --  
18 something about leaving her alone if she  
19 would make -- give a statement towards me.

20 Q. So the letter that she sent to you was  
21 that she was being harassed by the police?

22 A. Yes.

23 Q. And she made a statement to them because  
24 why?

25 A. Because -- so they would leave her alone.

1 Q. Did she indicate to you whether it was  
2 true or not, the statement?

3 A. She told me in the letter that it was not  
4 true. And she apologized.

5 Q. Do you know that that woman ever testified  
6 at the trial, if you know?

7 A. I do not know.

8 MR. DOYLE: Thank you.

9 THE COURT: Ms. Hartnett,  
10 anything further?

11 MS. HARTNETT: Very briefly,  
12 Your Honor.

13 - - - - -

14 RECROSS-EXAMINATION

15 BY MS. HARTNETT:

16 Q. Sir, you're the one who told the police  
17 about Samantha Pegg; isn't that right?

18 A. Yes.

19 Q. They didn't know who she was until they  
20 talked to you?

21 A. Exactly.

22 MS. HARTNETT: Nothing further,  
23 Your Honor.

24 THE COURT: Mr. Doyle?

25 MR. DOYLE: Nothing further,

1 Your Honor.

2 THE COURT: Thank you, sir, you  
3 may step down.

4 -----  
5 MICHAEL L. ROBERTSON

6 who, after being first duly sworn,  
7 testified as follows:

8 -----  
9 (Defendant's Exhibit  
10 6 was marked for  
11 identification.)  
12 -----

13 THE COURT: Mr. Graham,  
14 anything further from you?

15 MR. GRAHAM: No, Your Honor.

16 DIRECT EXAMINATION

17 BY MR. PEDERSON:

18 Q. I believe we're ready now.

19 Would you state your name for the  
20 record please?

21 A. Michael L. Robertson, R-O-B-E-R-T-S-O-N.

22 Q. And where do you live, Mr. Robertson?

23 A. In North Canton, Ohio.

24 Q. North Canton, Ohio? And what type of work  
25 do you do?

- 1 A. I have an investigative business licensed  
2 by the State of Ohio, and I'm a document  
3 examiner, questioned document examiner.
- 4 Q. Questioned document examiner? And what is  
5 a questioned document examiner?
- 6 A. A questioned document examiner provides  
7 services for clients regarding aspects of  
8 documents that are in dispute or are under  
9 question which would include handwriting  
10 samples, questioned handwriting. And  
11 other aspects of the document, such as  
12 type of paper, staple holes, indentations  
13 on the paper, and the like.
- 14 Q. Is a document examiner something different  
15 than a -- I forget what you called it.  
16 Handwriting expert I believe is the term  
17 you used?
- 18 A. A document examiner would be a more  
19 inclusive term than handwriting expert. A  
20 handwriting expert strictly works with a  
21 person's imprinted text, wherein a  
22 document examiner does that in addition to  
23 other areas of questioned documents.
- 24 Q. Does it take training to become a document  
25 examiner?

1 A. Yes, sir, it does.

2 Q. Could you tell me, tell the Court,  
3 something about your background and  
4 training, sir?

5 A. Yes, sir. When I was a special agent with  
6 the Secret Service, I was selected to  
7 attend the questioned document training  
8 school in Washington D.C. which was  
9 attended both by agents and also by police  
10 department representatives and state  
11 agencies. It was the primary source of  
12 training for many of the police  
13 departments and state crime labs, and the  
14 like, for training in the area of  
15 questioned document examination.

16 Q. Okay. Do you have an undergraduate  
17 degree?

18 A. Yes, Ohio State University.

19 Q. And what is that in, sir?

20 A. In criminology, sociology.

21 Q. Okay. Did you ever work for any  
22 Government in any capacity?

23 A. I was a special agent with the Secret  
24 Service for 17 years.

25 Q. And what department would that have been

1 with?

2 A. The Secret Service is part of the  
3 Department of Treasury.

4 Q. Okay. And in your assignments with them,  
5 what sort of -- what did you do?

6 A. My assignments, as most agents, was  
7 twofold. Secret Service has two areas of  
8 responsibility. One, protection of  
9 individuals, such as the President, Vice  
10 President, foreign visitors and the like.  
11 And second is the area of criminal  
12 investigations. And my career was fairly  
13 evenly divided between the two areas of  
14 protection and investigation.

15 Q. And did you go to a Secret Service school  
16 then?

17 A. Yes. Secret Service has initially two  
18 schools for training, and then as you go  
19 along through your career you attend  
20 specialized schools plus in-service  
21 training.

22 Q. What kind of people teach this Secret  
23 Service school?

24 A. Well, there are a variety of people that  
25 teach. It depends on what school you



1 mean. I was an instructor for two years.

2 Q. What about the questioned document school?

3 A. The questioned document school was taught  
4 by a number of document examiners from  
5 other departments and the Treasury  
6 Department, too, such as the U.S. Postal  
7 Service, DEA, the Washington D.C. Police  
8 Department, and other Government entities  
9 that employ full-time document examiners.

10 Q. Have you ever done any teaching yourself?

11 A. I taught for two years at the Secret  
12 Service Academy.

13 Q. The Secret Service Academy? And what did  
14 you teach there?

15 A. I taught both protection techniques, on  
16 how to guard the President, and  
17 investigative techniques.

18 Q. Have you been trained in any other areas  
19 besides actual handwriting?

20 A. As an agent?

21 Q. In your becoming a document -- questioned  
22 document examiner for the Secret Service.

23 A. Well, I had other training through the  
24 years, attending other courses, doing  
25 stints at the Forgery Division with -- at

1           headquarters, and I had to satisfy the  
2           requirement to actually have -- to be  
3           able to call myself an expert document  
4           examiner as was contained on my job  
5           description with the Secret Service.

6       Q.    Okay.  And besides examining then, I  
7           guess, the handwriting, what other things  
8           do you examine then as a document  
9           examiner?

10     A.    Well, in different types of cases, for  
11           instance, let's say in medical malpractice  
12           cases, there is a thing called  
13           interlineation, where someone may go back  
14           and add information to a medical report  
15           and insert between the lines and there is  
16           methods of looking at this to determine,  
17           under the sequence, which these different  
18           lines were written.

19                        In other cases someone may make  
20           an entry, erase it, write over it, and  
21           then you have to use infrared techniques  
22           in order to see what was written beneath.

23     Q.    Well, besides doing handwriting, do you  
24           have any training, for example, things  
25           that come from a typewriter or a computer?

1 A. Yes, I have -- I have a working knowledge.  
2 If it's a particularly intricate matter, I  
3 refer typewriter cases to Dr. Philip  
4 Bouffard. He's retired from the Lake  
5 County Crime Lab here in Ohio.

6 Q. Now, what kind of experience did you have  
7 then as a special agent?

8 A. Well, as I said, my experience was divided  
9 just about equally between protecting I  
10 believe it's four different Presidents,  
11 four or five Vice Presidents, and about 60  
12 foreign heads of state, Presidential  
13 candidates. And then in my investigative  
14 work it was divided between counterfeit,  
15 forged Government checks and other  
16 securities and instruments, threats  
17 against the President.

18 Q. Did you eventually go into private  
19 practice?

20 A. Yes, sir. In 1988.

21 Q. Excuse me?

22 A. In 1988.

23 Q. '88? And what have you done since 1988 to  
24 keep up with your -- with new events?

25 A. I keep in contact with other examiners.

1 The particular area that we're here for  
2 today of handwriting, the technique and  
3 methodologies haven't changed for quite  
4 some time. It's most important to keep up  
5 with having an experienced base, a mental  
6 database, of characteristics of  
7 handwriting, how common they are, how  
8 often you've seen them being written by  
9 other people, and being able to determine  
10 what is idiosyncratic. That would be  
11 individual characteristics of an  
12 individual compared to class  
13 characteristics which we all exhibit.

14 Q. Okay. Have you been qualified in any  
15 jurisdictions as an expert in this area?

16 A. I have been qualified in 19 different  
17 judicial districts, several on multiple  
18 occasions.

19 Q. What about states? What states have you  
20 been qualified in?

21 A. Everything has been -- because I limit my  
22 business, everything has been in Ohio with  
23 the exception of the Commonwealth Court of  
24 Pennsylvania where I was called upon to  
25 testify regarding voter fraud.

1 Q. Can you state some of the jurisdictions in  
2 Ohio that you've been qualified in?

3 A. Yes, sir. Franklin County Common Pleas,  
4 Cuyahoga County Common Pleas, Summit  
5 County Common Pleas, Stark County Common  
6 Pleas.

7 Q. You have been qualified here in Stark  
8 County?

9 A. Yes, sir, I have.

10 Q. Okay. Have you ever been appointed by  
11 courts to do document examinations?

12 THE COURT: Can I stop this?

13 MS. HARTNETT: I have no  
14 objection to anything further, Your Honor.

15 THE COURT: I'll admit him as  
16 an expert.

17 BY MR. PEDERSON:

18 Q. Have you ever accepted appointments --

19 THE COURT: I just did it, he's  
20 an expert.

21 MR. PEDERSON: Okay.

22 BY MR. PEDERSON:

23 Q. Have you testified --

24 THE COURT: We've done that.

25 MR. PEDERSON: You've qualified

1 him?

2 THE COURT: He's qualified.

3 MR. PEDERSON: I'm sorry.

4 THE COURT: I'm familiar with  
5 Mr. Robertson.

6 MR. PEDERSON: Okay, I'll move  
7 on then.

8 BY MR. PEDERSON:

9 Q. Mr. Robertson, what was your assignment  
10 that was given to you to come to court  
11 today?

12 A. I was contacted, I believe in late March,  
13 by Miss Sue Gless, and we met shortly  
14 thereafter, at which time she provided me  
15 with the questioned printing and numbers  
16 on the back of a business card along with  
17 text belonging to two different  
18 individuals.

19 Q. Showing you what has been marked  
20 Defendant's Exhibit 5, can you tell us  
21 what that is?

22 A. Yes, sir. This would be my preliminary  
23 questioned document report, dated March  
24 28th, 2003, regarding the instant case.

25 Q. And can you turn to the second page?

1 A. Yes, sir.

2 Q. There are three items on there, one marked  
3 Exhibit A.

4 A. Yes, sir.

5 Q. What is Exhibit A?

6 A. Exhibit A is a section of a Lawrence  
7 Township Police Department report, dated  
8 October the 29th of 1999, which bears on  
9 the document itself, I believe it's  
10 printing at the bottom, in the name of  
11 Rose M. Mohr.

12 Q. And there is an Exhibit B. Can you tell  
13 the Court what that is?

14 A. Yes, sir. That is an enlarged copy of the  
15 reversed side of the Flex-Team business  
16 card, which was marked on the face State's  
17 Exhibit 55, and bears the text Joe W. and  
18 an apparent phone number.

19 Q. And then there is an Exhibit C?

20 A. Yes, sir. Exhibit C is known printing.  
21 This was taken from an undated letter to  
22 Steve and signed Joe Wilkes.

23 Q. Okay. Now, with these exhibits that we've  
24 discussed, what is it that you did? Can  
25 you explain to me what examination you

1           made?

2           A.     Yes, sir.

3           Q.     How you came about doing that?

4           A.     Yes, sir. This type of examination only  
5           requires low level magnification to  
6           conduct the examination, there is no  
7           destructive or otherwise scientific  
8           investigations required to conduct this  
9           type of work. What I do is also enlarge  
10          the documents making it easier to see the  
11          formation of the letters, the direction of  
12          the letters formed, and the like.

13          Q.     Okay. And did you do that with these --  
14          with these documents?

15          A.     Yes, I did.

16          Q.     And do you know which one of the exhibits  
17          we talked about is the questioned  
18          document, that is, the one with Joe W. on  
19          it?

20          A.     Yes, sir. I have it marked as Exhibit B  
21          on my sheet.

22          Q.     And did you examine that with this method  
23          that you've been discussing here?

24          A.     Yes, sir.

25          Q.     And then did you make a comparison with



1 something with that handwriting?

2 A. Yes, sir. The way I do it is before I  
3 look at the known exemplars I study the  
4 questioned, in this case, business card  
5 and look to those characteristics which  
6 would separate the potential writer from  
7 the universe, from most of us writers, and  
8 identify those characteristics. And then  
9 I go back and make an attempt to find or  
10 not to find the characteristics on the  
11 known exemplars.

12 Q. And did you compare Exhibit B with Exhibit

13 C?

14 A. Yes, sir, I did.

15 Q. And did you come to a conclusion as to  
16 those two exhibits?

17 A. Yes, sir, I did.

18 Q. And what is that?

19 A. May I read from my report?

20 Q. Yes.

21 A. In my report, Exhibit C, it is referred to  
22 as K-1, K meaning known writing. This  
23 would be known printing presented to me as  
24 the known genuine handwriting of Joe  
25 Wilkes. And my conclusion was that in

1 item number two, the handprinting  
2 contained in K-1 is not similar to the Q  
3 document text, Q being the questioned  
4 document, in the exhibit.

5 Further, number three, I state  
6 the handprinting contained in K-1 is more  
7 angular than the questioned document, and  
8 the skill of the writer does not appear to  
9 rise to the skill level of the questioned  
10 document writer. That means in examining  
11 the text in Exhibit C -- and actually  
12 Exhibit C is only a representative of text  
13 of what I did examine, and it's a fair  
14 representation. This was not made in a  
15 selective manner. I digitized a certain  
16 section and put it on a computer and  
17 printed it out. But when we talk about  
18 things such as line quality or writing  
19 skill, we look for how well is the person  
20 able to execute their own handwriting.

21 Now, it's important to keep in  
22 mind in this particular document, as it's  
23 presented to me, there is no reason to  
24 think that this letter would have been not  
25 written in a normal fashion because this

1 was not probably known to anyone that was  
2 going to be used in a document  
3 examination, so I take the writing to be  
4 natural in style.

5 The skill of this particular  
6 writer is not that good. In other words,  
7 there is a certain lack of line quality.  
8 If we look at the slant or the angle of  
9 their writing, again just in general  
10 terms, we see that the slant or the angle  
11 will change, such as in line two of  
12 Exhibit C, the word a lot, the L is much  
13 more vertical than the T.

14 Most people are more consistent  
15 in their formations of the letters. I  
16 would think that possibly this writer  
17 doesn't do a -- hasn't had a lot of  
18 training in the area of printing or is not  
19 to the skill level that the person who  
20 executed Exhibit B would be able to.

21 Q. And from that analysis, are you able to  
22 tell us whether or not Exhibit B was  
23 written by Joe Wilkes?

24 A. Based on my examination, and comparing  
25 Exhibit C to Exhibit B, the author of

1 Exhibit C, being Joe Wilkes, did not  
2 execute Exhibit B.

3 Q. Okay. Now, did you also make a comparison  
4 between Exhibit A and Exhibit B?

5 A. Yes, sir, I did.

6 Q. Were you able to arrive at any conclusion?

7 A. No, sir.

8 Q. Okay.

9 MR. PEDERSON: Thank you. I'm  
10 finished, Your Honor.

11 - - - - -

12 CROSS-EXAMINATION

13 BY MS. HARTNETT:

14 Q. Good afternoon, Mr. Robertson, I just have  
15 a few questions.

16 A. Yes, ma'am.

17 Q. You received this -- these documents for  
18 evaluation through your private practice,  
19 correct?

20 A. Yes, ma'am.

21 Q. So you were hired and paid to make an  
22 evaluation; were you not?

23 A. That's correct.

24 Q. And also for coming here and testifying,  
25 correct?

1 A. I haven't been paid for that part yet.

2 Q. But you will submit a bill for that?

3 A. Yes.

4 Q. All right. And the samples that you  
5 referred to as the known samples, those  
6 samples were not written in your presence,  
7 were they?

8 A. That's correct.

9 Q. Okay. Nor were they written in the  
10 presence of those who submitted them to  
11 you? Based on what they've indicated that  
12 they are, one was a police report filed  
13 several years ago, another was an undated  
14 letter to your knowledge?

15 A. I believe that's a fair assumption.

16 Q. Okay. So you have no personal knowledge  
17 as to who actually authored the known  
18 samples that you referred to?

19 A. That's correct.

20 Q. And you agree that known samples normally  
21 include some verification of who wrote  
22 them, correct? I mean, here you have an  
23 indication that someone wrote them, but  
24 there is normally other verifying factors  
25 that come along with them?

1 A. There can be.

2 Q. Okay. Would you agree with me, also, that  
3 a preferred known sample would be one that  
4 is done under some sort of supervision  
5 where the same thing is written again and  
6 again and again in order to get different  
7 variations in a person's writing?

8 A. No.

9 Q. That's not accurate?

10 A. No, ma'am.

11 Q. When is that done? What --

12 A. That's done, I hate to say, as a last  
13 resort, but we're talking about obtaining  
14 solicited writing. And in many cases it's  
15 done under duress, whether the duress is  
16 intentional or not. But asking someone to  
17 write, you may or may not get the valid  
18 writing.

19 What -- if I have my choice, the  
20 best thing to get would be 20 or 30  
21 canceled checks predating the questioned  
22 document that way we can pretty well  
23 assume it's --

24 Q. All right.

25 A. -- written naturally.

- 1 Q. And you would agree with me that we don't  
2 have that here, do we?
- 3 A. That's correct.
- 4 Q. Now, drugs or alcohol could certainly  
5 affect one's handwriting to a certain  
6 extent; couldn't it?
- 7 A. Depending on the individual, yes.
- 8 Q. Okay. And you acknowledge that it is more  
9 difficult to do a comparison when you're  
10 talking about a questioned document, such  
11 as this, that has limited number of  
12 numerals and text as in this case?
- 13 A. To qualify it, it gives you less  
14 characteristics to look for --
- 15 Q. To compare?
- 16 A. -- but it is important to know that an  
17 individual characteristic can be important  
18 even in a single started letter.
- 19 Q. Sure. And this document has seven letters  
20 and four numerals, correct, the questioned  
21 document?
- 22 A. And a hyphen, yes.
- 23 Q. And based on your evaluation and  
24 everything that you discussed earlier and  
25 that we just talked about, you can't say

1 with certainty who wrote on that card, can  
2 you?

3 A. Would you say that one more time please?

4 Q. You can't say with any degree of certainty  
5 who wrote on that card, who wrote that  
6 questioned --

7 A. That's correct.

8 MS. HARTNETT: I have nothing  
9 further.

10 THE COURT: Mr. Pederson?

11 - - - - -

12 REDIRECT EXAMINATION

13 BY MR. PEDERSON:

14 Q. Mr. Robertson, can you say with certainty  
15 who did not?

16 A. I can say with certainty that whoever  
17 authored Exhibit C did not author Exhibit

18 B.

19 MR. PEDERSON: Thanks. That's  
20 all.

21 THE COURT: Anything further,  
22 Ms. Hartnett?

23 MS. HARTNETT: No, sir.

24 THE COURT: You may step down,  
25 sir. Thank you.



1

2 VICTORIA RHODES

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

5 DIRECT EXAMINATION

6 BY MR. PEDERSON:

7 Q. Would you state your name for the record  
8 please?

9 A. I'm Victoria Rhodes, and a lot of people  
10 call me Vicki.

11 Q. Vicki? And where do you live, Vicki?

12 A. I live at 1464 South Union Avenue,  
13 Alliance, Ohio.

14 Q. Okay. What kind of work do you do, Vicki?

15 A. I'm a surgical physician assistant, and I  
16 work in Salem for Dr. John Madison. Spend  
17 a lot of time at Salem Hospital.

18 Q. And besides doing work, are you involved  
19 in any other activities?

20 A. Well, I work with teenagers and have for a  
21 long, long period of time. So I have a  
22 Bible study youth group and was a youth  
23 minister for a number of years at various  
24 different churches.

25 Q. Now, what does a youth minister do?

1 A. Well, we usually have a meeting. The  
2 particular church I was in Wednesday night  
3 was when we had the meeting, and the  
4 adults might have theirs, and then we  
5 would have a youth group meeting. And you  
6 might take kids on special youth  
7 conferences or youth conventions or do  
8 special outings or weekend things to try  
9 to keep their interest and give them  
10 information about what God's word says in  
11 the Bible.

12 Q. Do you have to have any license or  
13 certification to be a youth minister?

14 A. Not officially in the State of Ohio, but a  
15 lot of youth ministers do and most of them  
16 that are full time do. I did have a  
17 license for a while, but it's been expired  
18 and I don't have it since January of this  
19 year.

20 Q. Have you renewed your license?

21 A. No, I didn't renew because the church  
22 organization that issued my license is no  
23 longer there. That church organization  
24 has changed names and affiliations and it  
25 doesn't exist anymore.

1 Q. Is the church itself still there?

2 A. There is still a church building still  
3 there, yes, sir.

4 Q. But do you still go to the same --

5 A. No, actually I go to another church now.

6 Q. Okay. Now, are you acquainted with Joe  
7 Wilkes?

8 A. Well, I know Joe because he came to the  
9 youth group when I was at this last --  
10 when I last had a youth group at a church  
11 he came to the church with a girlfriend of  
12 his several times and actually went with  
13 us to a weekend meeting in Cleveland, a  
14 youth conference in Cleveland. He  
15 actually went with us where we actually  
16 stayed overnight.

17 Q. When did he first come to your youth  
18 program?

19 A. You know what, I'm not sure of the exact  
20 time frame, but it was sometime in the  
21 summer or the fall the year before he was  
22 put in jail.

23 Q. Do you know what year that was?

24 A. I think it was probably 1998.

25 Q. 1998?

1 A. He went to the -- the youth conference  
2 that we went to that he attended was in  
3 November of '98.

4 Q. November of '98?

5 A. Uh-huh.

6 Q. Did he continue to come to your youth  
7 meetings?

8 A. Not much after that year. I didn't see  
9 him after the first of the year. I don't  
10 remember how many times he came back after  
11 the youth conference, but he broke up with  
12 his girlfriend and I kind of lost track  
13 with him.

14 Q. When is the next time that you saw -- that  
15 you can recall that you saw Joe?

16 A. When he was in Stark County Jail.

17 Q. And do you know when that would have been,  
18 what year?

19 A. '99.

20 Q. 1999? And did you visit him there?

21 A. Yes, I did. I found out -- somebody had  
22 told me that he was in jail, and I think  
23 it was fairly shortly after he had been  
24 put in, within a couple days. And I went  
25 to visit him.

1 Q. What was the purpose of those visits?

2 A. Well, I knew that he hadn't gone to church  
3 too much and I figured he didn't have  
4 anybody to be a spiritual support, and I  
5 still had my clergy license which I knew  
6 would allow me to go into the prison  
7 system so I used it to be able to visit  
8 him for clergy purposes.

9 Q. Have you remained in contact with Joe  
10 since?

11 A. Yes, I have.

12 Q. Do you still visit him?

13 A. I still do. Not as often as I did because  
14 he's farther away.

15 Q. Okay. What kind of things do you talk  
16 about when you visit with him?

17 A. Well, sometimes I just let him talk about  
18 what the situation is, you know, where he  
19 is. Like I ask him if he goes to church  
20 and if he likes anything associated with  
21 that, depending where he's at. Then I'm  
22 usually not allowed to bring my Bible in,  
23 but we usually talk about the scripture  
24 and salvation, especially truth which I  
25 have been telling him from day one, the

1 truth will set him free one day. It's a  
2 scripture of John 8:32 that I felt God  
3 kind of gave me to give him encouragement.  
4 So that's kind of my encouragement to him.

5 Q. Do you know whether or not Joe testified  
6 at the trial of David Thorne?

7 A. I know he testified.

8 Q. You know he testified? Did you see him  
9 prior to testifying?

10 A. Actually I saw him the night before. I  
11 didn't even think I realized it was the  
12 night before the trial, but when I went to  
13 visit him in Portage County one evening  
14 they wouldn't let me see him because he  
15 was talking to the lawyers about the trial  
16 the next day, and so I had to wait to see  
17 him. So I saw him immediately after the  
18 lawyers had left.

19 Q. Did you attend the trial?

20 A. No, I did not.

21 Q. You did not? Did you have a conversation  
22 with him then that day before?

23 A. I had a conversation with him after the  
24 lawyers left, yes, sir.

25 Q. Did you discuss how Joe was going to

1           testify, or was there any discussion how  
2           Joe was going to testify?

3       A.     Well, he seemed upset when I saw him and  
4           so the first thing I said to him was, the  
5           truth will set you free and you need to  
6           tell the truth.  And that's when he looked  
7           at me and said, but if I tell the truth  
8           they told me I would die, and I'm too  
9           young to die.

10    Q.     What was your response to that?

11    A.     Well, I just reiterated the scripture and  
12           said, the truth will set you free, you  
13           really should tell the truth.  And he told  
14           me, but if he told the story their way  
15           that they said they could give him 7 to 15  
16           years with parole, and that was a lot  
17           better than the electric chair.

18    Q.     Did you try to contact anybody regarding  
19           what Joe had told you?

20    A.     Not at that time.  When I left him he  
21           didn't give me an indication one way or  
22           another what he would do.  I knew he was  
23           concerned about what he was concerned  
24           about and what he -- you know, that he had  
25           been told if he told things their way he

1           could get a deal.  When I left I just told  
2           him to please pray about it and he needed  
3           to tell the truth because the truth would  
4           set him free.  And then I really didn't  
5           know who to contact because I tried from  
6           the first time I found out he was in jail  
7           to contact his lawyers, they wouldn't  
8           return my calls.  I didn't know who to  
9           call.

10        Q.     Did you see him after the trial?

11        A.     I saw him a week after.

12        Q.     Did he tell you how he testified, how he  
13            testified --

14        A.     No.  I pretty much -- he was pretty much  
15            dejected and down when I looked at him.  I  
16            said, you didn't tell the truth?  He hung  
17            his head, didn't say much, he was pretty  
18            upset.

19                        MR. PEDERSON:  I don't believe  
20            I have any further questions.

21                        THE COURT:  Ms. Hartnett.

22                        MS. HARTNETT:  Thank you.

23                        - - - - -

24                                        CROSS-EXAMINATION

25                        BY MS. HARTNETT:



1 Q. Ma'am, you don't know what the actual  
2 truth in this case is, do you?

3 A. Well, no, it wasn't my job to discern  
4 truth. My job is to give spiritual  
5 guidance.

6 Q. That's what I'm asking you. You don't  
7 know what version of events was true, you  
8 just know that Joe was conflicted about  
9 things?

10 A. True.

11 Q. And you've become friendly with the family  
12 of David Thorne; haven't you?

13 A. I don't know anybody from David Thorne's  
14 family.

15 Q. You weren't sitting there conversing with  
16 any of these folks earlier, before this  
17 hearing began?

18 A. No, I wasn't. I don't know any of these  
19 people.

20 Q. Well, you have had contact with his  
21 attorneys; have you not?

22 A. Just recently.

23 Q. Well, it was you, was it not, who  
24 presented Joe Wilkes with the affidavit  
25 that his attorneys prepared to have him

1 sign; wasn't it?

2 A. He asked me to type it for him.

3 Q. Who asked you to type it for him?

4 A. Well, Joe did. And I had talked to Sue  
5 Gless, who I had met, and she gave me  
6 information how to type up an affidavit.

7 Q. And Sue Gless is the person assisting the  
8 attorneys for David Thorne?

9 A. Yes, ma'am.

10 Q. So you had contact with her?

11 A. Uh-huh.

12 Q. And she's a close family friend of David's  
13 family; is she not?

14 A. I knew she knew David's family, I never  
15 met them.

16 MS. HARTNETT: I have nothing  
17 further.

18 THE COURT: Anything further,  
19 Mr. Pederson?

20 MR. PEDERSON: No, Your Honor.

21 THE COURT: Thank you, ma'am,  
22 you may step down.

23 (Thereupon, a discussion  
24 was had off the record.)

25 - - - - -

FRED CAMERON

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

DIRECT EXAMINATION

4  
5 BY MR. PEDERSON:

6 Q. State your name for the record please.

7 A. Talk up.

8 Q. State your name for the record please.

9 A. Fred Cameron.

10 Q. Where do you live, Fred?

11 A. Downtown Canton.

12 Q. Downtown Canton? Are you employed?

13 A. Pardon?

14 Q. Are you employed?

15 A. I'm retired.

16 Q. Retired, okay. Did you know Yvonne Layne?

17 Did you know a person by the name of

18 Yvonne Layne?

19 A. Yes. Yes.

20 Q. And how did you know her?

21 A. Her and my son went together for about ten

22 years and they had children together.

23 Q. Are you the grandfather then of some of

24 her children?

25 A. Yes.

1 Q. You are? Okay. Did you ever have an  
2 opportunity to discuss with Yvonne the  
3 conduct of visitors in her home?

4 A. Yes.

5 Q. You did? And what was the subject matter  
6 of those conversations?

7 A. She was worried about the kids being alone  
8 with their father.

9 Q. Okay. As a result of that conversation,  
10 did you take any action?

11 A. She wanted to install a hidden camera  
12 someplace. And I said, well, we couldn't  
13 do that, but I had this big video camera,  
14 and I said, if we put that up there and  
15 just let it sit for a while and then one  
16 of these days if this situation is what  
17 you think, just we'll have it all set, you  
18 just turn it on.

19 Q. And where -- where had you placed that  
20 camera?

21 A. I placed it on top of the refrigerator.

22 Q. And, what, would it face out to take  
23 pictures?

24 A. It was faced towards the dining -- the  
25 kitchen -- or the eating area and the

1 living room area.

2 Q. Okay. And were there -- did you provide  
3 any cassette tapes for her?

4 A. Yeah, I believe it was three. And, of  
5 course, I put one in the camera and the  
6 other two were there. The charger was  
7 there. And we just let it all sit on top  
8 of the -- the refrigerator in plain view.

9 Q. Do you have any idea how long before her  
10 death that you placed that camera there?

11 A. At least three weeks.

12 Q. Three weeks?

13 A. Yeah.

14 Q. Now, bring your attention to April 1st,  
15 1999. Did you go to Yvonne Layne's house  
16 on that date?

17 A. What was that again?

18 Q. April 1st, 1999. That was the day she  
19 died, I believe.

20 A. I went there. It was in the afternoon.

21 Q. And what did you see when you were there?

22 A. All the police were there and as soon as I  
23 pulled up they grabbed me and they  
24 wouldn't tell me anything. They just  
25 wanted to know who I was and why I was

1           there.

2       Q.     Did you tell them?

3       A.     Yes, I explained who I was.

4       Q.     And why were you there?

5       A.     Well, I had -- I had made arrangements to  
6           take her and the one little boy to an  
7           attorney up in Cleveland and I just made  
8           those arrangements, and I was going to go  
9           over that night and tell her later, but I  
10          had heard -- I heard this news thing on  
11          the radio saying that someone had been  
12          murdered on Devine Street and it  
13          sounded -- sounded like her from where it  
14          was. They didn't give any names. So  
15          that's why I rushed over there on the  
16          motorcycle rather than take my car.

17      Q.     You didn't run out, go in the house; is  
18          that correct?

19      A.     Pardon?

20      Q.     You weren't -- the police would not let  
21          you go in the house?

22      A.     No, they -- after about an hour, I think,  
23          I was there standing outside, they asked  
24          me to go in through the -- the ground  
25          floor door and look at a suitcase that had

1 clothes in it. And they asked if I could  
2 identify it, and I identified the clothes  
3 as belonging to my son.

4 Q. Did you inquire about your video recorder  
5 at that time?

6 A. No, I didn't inquire about it at all. I  
7 wasn't even thinking about it.

8 Q. Did you -- have you ever gotten your video  
9 recorder back?

10 A. Well, after -- quite a while after it was  
11 all over with I asked the police, I said,  
12 I had some stuff at the house, and I asked  
13 them if they could get it for me. And  
14 finally they called my ex-wife and told  
15 her to tell me that the camera was at the  
16 police station.

17 Q. Did you get any of the cassettes,  
18 videocassette tapes, you had supplied?  
19 Did you get any of those back?

20 A. No. The only thing I got back was the  
21 camera itself. I didn't get the charger  
22 or any of the tapes or the tape that was  
23 in it.

24 Q. Did you inquire where they might be?

25 A. I asked the police, yeah, where the rest

1 of it was. They said that's all they had.

2 Q. They said that's all they had?

3 A. Right.

4 MR. PEDERSON: I believe that's  
5 all the questions I have.

6 THE COURT: Ms. Hartnett,  
7 anything? Go ahead.

8 - - - - -

9 CROSS-EXAMINATION

10 BY MS. HARTNETT:

11 Q. Mr. Cameron, you painted a very rosy  
12 relationship between you and Yvonne. Is  
13 that what you're saying your relationship  
14 with her was, rosy?

15 A. Rosy?

16 Q. Did you have a nice, good relationship  
17 with Yvonne, no problems?

18 A. Yeah, it was okay then, at that time.

19 Q. At that time? It had been very rocky in  
20 the past; hadn't it?

21 A. No.

22 Q. You had violent arguments with her in the  
23 past; hadn't you?

24 A. No.

25 Q. That's never been reported to the police



1 by anyone?

2 A. No.

3 Q. Well, the police talked to you about that;  
4 didn't they?

5 A. Not that I know of.

6 Q. They conducted a long interview with you  
7 after Yvonne's death; didn't they? They  
8 came by and talked to you about  
9 everything?

10 A. Yeah, they asked me to come over to talk  
11 to them. And then it turned out to be  
12 more than an interview. I -- and they  
13 asked me a lot of questions.

14 Q. About your -- specifically including about  
15 your relationship with Yvonne?

16 A. Yeah, uh-huh.

17 Q. And they told you there had been  
18 allegations that you two had been violent  
19 in the past and they wanted to know how  
20 you felt about that?

21 A. I don't remember that.

22 MS. HARTNETT: Okay. Thank  
23 you, I have nothing further.

24 THE COURT: Mr. Pederson?

25 MR. PEDERSON: No questions,

1 Your Honor.

2 THE COURT: Hang on, Mr.  
3 Cameron, we're going to help you down.  
4 That's all, sir, we're going to help you  
5 down.

6 MR. DOYLE: Your Honor, at this  
7 time we would be offering into evidence  
8 the exhibits that we had marked.

9 THE COURT: Why don't we do  
10 this, I'm going to let them in so there is  
11 not going to be an issue. Let's take a  
12 five minute break, let everybody get  
13 organized.

14 State, you have two witnesses,  
15 right?

16 MS. HARTNETT: Yes, very brief.

17 THE COURT: We'll give Vicki  
18 here a chance to rest her fingers, then  
19 we'll move on. Take five minutes.

20 - - - - -  
21 (Court recessed at 4:50 p.m. and  
22 reconvened at 4:55 p.m., and the  
23 following proceedings were had.)

24 THE COURT: Counsel, would you  
25 approach just for a minute?

1 (Thereupon, a side-bar  
2 discussion was had off the  
3 record.)

4 - - - - -  
5 JEFFREY HAUPT

6 who, after being first duly sworn,  
7 testified as follows:

8 DIRECT EXAMINATION

9 BY MS. HARTNETT:

- 10 Q. Go ahead and state your name, please, and  
11 spell your last name.
- 12 A. Jeffrey Haupt, H-A-U-P-T.
- 13 Q. And your occupation is?
- 14 A. I'm a practicing attorney admitted by the  
15 State of Ohio to practice law.
- 16 Q. And you are currently certified to do that  
17 and have --
- 18 A. Have been so for 19 years, since May --  
19 I'm sorry, 18 years, beginning my 19th.  
20 Since May of 1985.
- 21 Q. And your practice includes, does it not,  
22 the representation of criminal defendants  
23 in criminal cases?
- 24 A. Yes.
- 25 Q. And you had the opportunity -- you are

1 certified as lead counsel in death penalty  
2 cases; are you not?

3 A. I have been up until this last year, then  
4 I did not renew my certification. I  
5 believe that was effective in 2002.

6 Q. And that was a decision you chose to make?

7 A. That's correct.

8 Q. Back in 1999 you were so certified?

9 A. Certainly.

10 Q. And through your experiences you've had  
11 several clients that have been on trial  
12 for capital offenses; have you not?

13 A. Several.

14 Q. Mr. Haupt, back in 1999 you came to  
15 represent a David Thorne in a capital  
16 murder case; did you not?

17 A. Yes, I did.

18 Q. And that case went to trial?

19 A. Yes, it did.

20 Q. And who accompanied you as counsel on that  
21 case?

22 A. George Keith out of Cuyahoga Falls.

23 Q. And the two of you worked together on this  
24 case?

25 A. Yes, we did.

1 Q. You were assigned as lead counsel?

2 A. Yes.

3 Q. And Mr. Thorne was ultimately convicted;  
4 is that right?

5 A. He was convicted and was given a sentence  
6 of life without the chance for parole.

7 Q. Okay. And since the time of his  
8 conviction there was an appeal to the  
9 Fifth District Court of Appeals in that  
10 case, are you aware of that?

11 A. Yes, there was. Yes.

12 Q. And are you aware of what the decision of  
13 the Court of Appeals was?

14 A. That conviction was upheld.

15 Q. Through the course of this hearing,  
16 through the course of the briefs that have  
17 been filed and other reports that have  
18 been submitted, there have been certain  
19 allegations made by attorneys now  
20 representing Mr. Thorne in this  
21 post-conviction relief hearing, and I just  
22 want to ask you and give you an  
23 opportunity to respond to some of those.

24 A. Certainly. Certainly.

25 Q. Firstly, there's been a representation

1 that your investigation and presentation  
2 for the trial in this case was not  
3 thorough or was not complete.

4 Did you hire any assistance as  
5 far as investigating in this case?

6 A. As the record would reflect, Mike Durkin,  
7 who has been recognized as the lead  
8 investigator in the private sector in  
9 Stark County for at least the last 15 to  
10 20 years, was employed to assist in the  
11 defense of David.

12 Q. Okay. Did he do work in this case?

13 A. Every day. And, to my knowledge, Mike  
14 even suggests that he is still involved in  
15 the investigation or, to the extent the  
16 conversations that I've had with him, he  
17 still is in correspondence with the  
18 family.

19 Q. Did you have contact with Mr. Durkin on a  
20 regular basis?

21 A. On a regular basis.

22 Q. Okay. Did you personally, or through Mr.  
23 Durkin, attempt to speak with witnesses  
24 listed by the State of Ohio?

25 A. Both. In addition to employing Mr.

1 Durkin, I take it upon myself to go out  
2 and interview people myself.

3 Q. And what other things did you do, through  
4 the course of your investigation of this  
5 case, leading up to trial?

6 A. Well, you can imagine that in this type of  
7 a case you have, number one, a tragic act  
8 that took place sometime March the 31st,  
9 April the 1st. The arrest of my client,  
10 David Thorne, was in late July. And so we  
11 had the preparation beginning upon my  
12 being retained.

13 And at that point in time, as you  
14 know, we had a very exhaustive preliminary  
15 hearing in Alliance Municipal Court, we  
16 had police records, police documents, we  
17 had individuals to interview, we had  
18 interviews with David. And I will just  
19 say that it's a pretty all encompassing  
20 experience whereby as counsel, in order to  
21 be zealous, you would like to believe that  
22 you're able to take a look at what facts  
23 the police would have to try to use your  
24 own life experiences and try to identify  
25 what issues, what themes, that would be

1 utilized at trial, and then utilizing your  
2 own individual trial techniques, trial  
3 tactics, trial strategy, apply those in  
4 David's defense.

5 Q. Okay. To focus in on certain things?

6 A. (Witness nodding head up and down.)

7 Q. Did you go to the crime scene before the  
8 jury view?

9 A. Several times.

10 Q. Okay. Did you have an opportunity to  
11 inspect the physical evidence in this  
12 case?

13 A. Several times.

14 Q. There's another allegation, Mr. Haupt,  
15 again, through either one of the briefs or  
16 the reports that were supplemented, that  
17 the Defendant himself, David Thorne,  
18 claims that he, in fact, wanted to testify  
19 on his own behalf at the trial, but that  
20 he claims that you weren't prepared or  
21 told him that he was not permitted to  
22 testify.

23 Can you enlighten us about that  
24 decision or what went into that?

25 A. Mrs. Hartnett, I speak humbly from this



1 chair as an advocate, I would indicate to  
2 the Court that I represent individuals and  
3 I work for those individuals. I'd like to  
4 think that my personality is so strong  
5 that I have such command over people,  
6 however, in reality, the duty lies first  
7 with my client.

8 And I can specifically recall a  
9 meeting, prior to the opportunity for  
10 David to take the stand, whereby David's  
11 family -- I would say the whole front  
12 office of my conference room or my waiting  
13 room was filled with David's family  
14 members, were brought in to hash out, to  
15 confer. And later that afternoon or  
16 evening George Keith and I went directly  
17 to the Stark County Jail and conferred  
18 with David.

19 And you have to understand the  
20 dynamics, that during the course of the  
21 trial all of the energy that is going  
22 through that people are working  
23 extensively. And I want to say that this  
24 had to have been on a Sunday, it had to  
25 have been where we had the time to meet

1 with the family and then go to the jail  
2 and talk with David.

3 But, certainly, that David had  
4 every opportunity to discuss it, to hash  
5 it out. And Mr. Keith and I went to great  
6 length to ensure that David understood  
7 what his rights were. And I might just  
8 add, and I don't mean to be lengthy with  
9 this question, like so many of the capital  
10 cases, as well as other cases that I  
11 handle, I think it's important for the  
12 client to have the opportunity to come up  
13 to the -- come up to the Court at a  
14 side-bar and have information related to  
15 him in open court that is transcribed,  
16 such as, you have the right to testify,  
17 you have the opportunity now to take the  
18 stand and go under cross-examination --

19 THE COURT: Okay, let's try to  
20 tighten it up just a little bit, Mr.  
21 Haupt.

22 BY MS. HARTNETT:

23 Q. If I could ask a question maybe. Did you  
24 have a conversation like that on the  
25 record?

1 A. Yes, we did. Yes we did.

2 Q. And there was a discourse between the  
3 Judge --

4 A. Yes, we certainly did.

5 Q. And Mr. Keith, was he involved in the  
6 decision, the ultimate decision --

7 A. Yes, he was.

8 Q. -- as to the advice that you would give  
9 Mr. Thorne?

10 A. Sure. Sure.

11 Q. And your advice to him in this particular  
12 case as far as testifying was?

13 A. We advised that David not take the stand.  
14 And you have to understand, in addition to  
15 David and his thinking and his mindset, as  
16 emotional as it might have been for  
17 David --

18 Q. Right.

19 A. -- we had David's family, and they were in  
20 complete agreement, make no mistake about  
21 it.

22 Q. Okay. Now, there is also an additional  
23 allegation that you were having some sort  
24 of drinking problem during the trial, they  
25 allege that you came in in the same

1 clothes two days in a row, that you  
2 smelled of alcohol, or something of that  
3 nature. That ultimately that you were  
4 somehow impaired.

5 Are any of those allegations --  
6 did any of those have any truth to them?

7 A. Absolutely not. Desperate people will do  
8 and say desperate things.

9 Q. In fact, there was a grievance filed by  
10 members of his family to the Bar  
11 Association --

12 A. Yes, there was.

13 Q. -- with regard to the same allegations,  
14 and that was investigated?

15 A. Mrs. Hartnett, again, I am --

16 THE COURT: That's a yes?

17 THE WITNESS: Yes, it was.

18 BY MS. HARTNETT:

19 Q. It was investigated to your knowledge?

20 A. Yes, it was.

21 Q. And the result was that the grievance was  
22 not founded?

23 A. Found without any foundation whatsoever.

24 Q. There is an allegation that you did not  
25 object to derogatory gestures made by the

1 Prosecutors during the trial. Did you  
2 observe anything of that nature?

3 A. No, ma'am, I did not. Let me make it very  
4 clear, I've had cases and I have cases  
5 every day and I am as zealous as they can  
6 be, and, Mrs. Hartnett, as respectful as I  
7 would be, you know that I will stand and I  
8 will go toe to toe every opportunity I can  
9 to represent my client's interests.

10 Q. You saw no such derogatory --

11 A. None. Absolutely not.

12 Q. Did you see any kind of inappropriate  
13 gestures by any of the witnesses towards  
14 any of the jurors?

15 A. Absolutely not. As officers of the court,  
16 we have a duty to report such activity.

17 Q. There is a suggestion about not objecting  
18 to photos of the victim, Yvonne Layne,  
19 with her children.

20 Do you recall having discussions  
21 about that with the Court either on or off  
22 the record?

23 A. That was objected to. And it's  
24 interesting that all of these briefs and  
25 all of these affidavits contain things

1 that at the time they weren't present,  
2 they didn't see or hear what went on.  
3 That was objected to, that was discussed  
4 with the Court, that was vehemently argued  
5 on David's behalf.

6 Q. And, finally, there's an allegation in  
7 multiple areas of the briefs that have  
8 been filed about not -- or about your  
9 decision not to retain your own expert on  
10 either blood spatter evidence, bloodstain  
11 analysis, crime scene, that type of thing.

12 How do you respond to that  
13 particular allegation?

14 A. Our trial tactics did not find that the  
15 blood spattering, the forensic evidence  
16 that was retrieved by the Stark County  
17 Crime Lab, was such that it was necessary  
18 to employ an expert. That was really  
19 unnecessary given the totality of the  
20 facts in this case.

21 MS. HARTNETT: I have nothing  
22 further at this time, Your Honor.

23 THE COURT: Cross-examination,  
24 Mr. Doyle.

25 MR. DOYLE: Thank you.

- - - - -  
CROSS-EXAMINATION

BY MR. DOYLE:

Q. Good afternoon, sir.

A. Good afternoon.

Q. Or maybe I should say evening.

Sir, you were retained to  
represent David Thorne in this case when?

A. In July of 1999.

Q. And you've indicated to us that you did a  
number of interviews of witnesses; is that  
correct?

A. Yes, sir.

Q. And which witnesses did you interview?

A. Most likely a majority of those that were  
provided to me by David and/or his family  
and/or the police and prosecution.

Q. Now, there's been evidence that's come out  
in this case this afternoon, and in our  
filings, about a witness by the name of  
George Hale. And it's my understanding  
that you were never informed --

A. Never.

Q. -- about that name --

A. That's correct.

1 Q. -- in any capacity whatsoever?

2 A. That's correct.

3 Q. And in terms of your working as defense  
4 counsel in this case, had you had  
5 information about an individual who had  
6 been coming out of the house where this  
7 incident had occurred approximately two  
8 and a half hours before the body is found,  
9 that would be important information for  
10 you to evaluate; is that correct?

11 A. Given the nature of the context that I've  
12 heard, that it's my understanding I would  
13 have -- I would have been thrilled to have  
14 any additional information, it would  
15 assist us in any way. But to what degree,  
16 I don't know, that would have to come out  
17 and how it's tied together.

18 Q. Sure.

19 A. But, certainly, that would be information  
20 that I would want to know.

21 Q. And if this witness were to have indicated  
22 that the person who came out of the house  
23 with a garbage bag in his hands was not  
24 identified as either Mr. Thorne or Mr.  
25 Wilkes, that also would have been



1 information that you would have used and  
2 obviously evaluated to help your client?

3 A. Certainly. Certainly. We would utilize  
4 anything. And, of course, since this has  
5 happened, of course, your investigators  
6 and your people have been out and there  
7 are many additional factual claims and  
8 allegations that have surfaced, and those  
9 all would have been useful. However,  
10 given the nature of David's trial, the  
11 information that we had, that we developed  
12 and that we worked with, there is no  
13 question we did for David Thorne the best  
14 that we could possibly do.

15 Q. Okay. As far as the crime scene itself --

16 A. Yes, sir.

17 Q. -- you evaluated and looked at the crime  
18 scene photographs?

19 A. That's correct.

20 Q. And was there -- you interviewed the  
21 coroner in this case; is that correct?

22 A. Dr. Murthy. We had a chance to interview  
23 Dr. Murthy. I can't tell you who  
24 interviewed Dr. Murthy. I presume -- I  
25 don't know.

1 Q. You don't remember whether you did it  
2 yourself?

3 A. I've seen Dr. Murthy so many times --

4 Q. Uh-huh.

5 A. -- I can't tell you. I can specifically  
6 recall being in his office, but to be --  
7 give you a date and time that I saw Dr.  
8 Murthy, I couldn't tell you that.

9 Q. And who did the cross-examination of Dr.  
10 Murthy?

11 A. It's in the transcript.

12 Q. Do you remember?

13 A. I -- it's four years ago.

14 Q. Okay.

15 THE COURT: That's a no?

16 THE WITNESS: That's a no.

17 BY MR. DOYLE:

18 Q. Okay. All right. And at the time that  
19 you were going through your case  
20 evaluation, did you at any time -- in  
21 reviewing the photographs, did you  
22 consider the usage of a forensic  
23 specialist in terms of blood spattering?

24 A. That was considered, certainly it was  
25 considered, we kept everything opened.

1 But when you -- what you have to  
2 understand, what was the theme here, Joe  
3 Wilkes had confessed to a brutal slaying  
4 of an innocent woman.

5 The crime scene itself had  
6 remained from March the 30th until  
7 sometime in July when we got involved.  
8 And then later on when we went over and  
9 did walk-throughs, it was not, in my  
10 judgment, the type of information that was  
11 such that I wanted to put our theme, our  
12 major theme of focus on.

13 The issue was Joe Wilkes, the  
14 issue was the collaborative evidence that  
15 the Alliance Police developed both from  
16 the physical evidence they retrieved from  
17 the store, they had the receipts from the  
18 Comfort Inn, they had the knife, and I  
19 believe another knife that was purchased  
20 from the store, they had the  
21 individuals -- and, as you would imagine,  
22 in most cases not all the witnesses wanted  
23 to talk with us, not all of the witnesses  
24 would come out and come forward to see us  
25 or --

1 THE COURT: If I might just  
2 interrupt, I think the question was did  
3 you consider a forensic expert. The  
4 answer is yes, you did?

5 THE WITNESS: Yes, we did.

6 BY MR. DOYLE:

7 Q. You decided not to engage a forensic  
8 specialist?

9 A. That's correct.

10 Q. And did you, during the course of your  
11 review of this case, review the note that  
12 was allegedly written by Joe Wilkes to I  
13 think it was Miss Mohr. Are you familiar  
14 with that note?

15 A. No.

16 Q. There was a note that was put together --

17 A. I'm not familiar. You would have to show  
18 it to me to refresh my recollection. In  
19 all due fairness, I don't recall.

20 Q. Supposedly his number. You don't recall?

21 A. (Witness shaking head from side to side.)

22 Q. The question is, you never retained the  
23 services of a handwriting expert in this  
24 case?

25 A. That is correct, but we considered it. We

1 considered it for whatever purpose we  
2 could, and, as you can imagine, where we  
3 deem to put our emphasis through our trial  
4 strategy, we certainly wanted to do what  
5 we could for David.

6 Q. And so the decision was not to do that  
7 then, correct?

8 A. That's accurate.

9 Q. We've talked about the fact that there was  
10 information about forensic evidence. You  
11 asked to have the local laboratory here do  
12 further examination of some of the  
13 evidence; is that correct?

14 A. That is accurate.

15 Q. Okay. And when did you ask them to do  
16 that in relation to the trial?

17 A. That would be on the subpoena, that would  
18 be in the motion. That would be available  
19 through the Court's record. I, again --

20 Q. Do you recall asking this Court for a  
21 continuance based on your --

22 A. I can't recall. I can't recall.

23 Q. Well, the record will speak to that.

24 A. That's -- that's --

25 Q. But you don't recall?

1 A. I don't, sir.

2 Q. You met with the family?

3 A. On many occasions.

4 Q. And it was decided that there would be no  
5 presentation of a defense in terms of  
6 putting David on the witness stand, you  
7 talked about that on direct?

8 A. That is accurate.

9 Q. And there were a number of other witnesses  
10 subpoenaed?

11 A. That is accurate.

12 Q. And was that information discussed at  
13 length with David and the family, not to  
14 call these people?

15 A. That information was discussed with David,  
16 the family. You understand, Joe Wilkes  
17 came in here and testified that he had  
18 committed this terrible crime. Joe Wilkes  
19 received a sentence in return for his  
20 testimony.

21 And what I would indicate to you  
22 is that there were a number of witnesses  
23 who would not speak to us. And as you are  
24 probably familiar, you're not going to put  
25 somebody on unless you know what they're

1 going to say. And our trial strategy  
2 centered around calling people or having  
3 people where we knew what they were going  
4 to say and it was going to assist David.  
5 The issue was Joe Wilkes's credibility.

6 Q. And as you've indicated, during the course  
7 of the trial you felt that you were  
8 able -- were you lead counsel?

9 A. Yes, I was.

10 Q. And the most important person who  
11 testified in that case, I assume, was Joe  
12 Wilkes?

13 A. That's accurate.

14 Q. Yet you didn't cross-examine him, why not?

15 A. Do you know George Keith? George Keith is  
16 a outstanding lawyer. George Keith  
17 prepared for days to cross-examine Joe  
18 Wilkes. I'm very comfortable with George  
19 Keith, we work together as far as lead  
20 counsel, second counsel. That's for  
21 court-appointed cases. We were retained.  
22 I didn't go by lead counsel other than the  
23 fact that, as you recall, I was from Stark  
24 County. I was present, I went to the  
25 Prosecutor's office, I met with the

1           Prosecutor on many occasions because  
2           George Keith was from the Summit County  
3           and Portage County area.

4                       As far as suggesting otherwise, I  
5           would say George Keith is an outstanding  
6           attorney, he could represent me any time.

7   Q.       So it's your testimony then that Mr.  
8           Keith -- it was planned all along that he  
9           was going to be the attorney who was going  
10          to cross-examine Joe Wilkes?

11   A.       As the trial began, 100 percent.

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

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

16                       THE COURT:  Anything further,  
17          State of Ohio, Ms. Hartnett?

18                       MS. HARTNETT:  No, sir.

19                       THE COURT:  Thank you, Mr.  
20          Haupt, you may step down.

21                       - - - - -

22                               LLOYD SAMPSON  
23          who, after being first duly sworn,  
24          testified as follows:

25                               DIRECT EXAMINATION



1 BY MS. HARTNETT:

2 Q. Go ahead and state your name, please, and  
3 spell your last name.

4 A. Lloyd Sampson, S-A-M-P-S-O-N.

5 Q. And you're with the Alliance Police  
6 Department?

7 A. Yes, I am.

8 Q. And directing your attention back to the  
9 spring and summer into fall of 1999, were  
10 you assigned as a detective at that time?

11 A. Yes, I was.

12 Q. And through the course of your duties as a  
13 detective you were involved in the  
14 investigation of the homicide of Yvonne  
15 Layne in the City of Alliance; is that  
16 correct?

17 A. That's correct.

18 Q. Okay. I just have some specific  
19 questions. I know you testified at that  
20 trial, I just have some specific questions  
21 about certain areas for you, Officer.

22 Do you recall when you came in to  
23 testify in this particular trial against  
24 David Thorne?

25 A. Yes.

1 Q. Okay. There's been an allegation that you  
2 were either flirting or conducting some  
3 sort of inappropriate conduct with a juror  
4 in the case. Are you aware of any such  
5 conduct that took place?

6 A. No, ma'am, I'm not.

7 Q. George Hale, are you familiar with who  
8 that individual is?

9 A. Yes, ma'am.

10 Q. Okay. And did you personally speak with  
11 George Hale back on April the 1st, the  
12 date that this homicide was discovered?

13 A. Yes.

14 Q. Were you present there at the scene on  
15 Devine Street?

16 A. Correct.

17 Q. And as a result of what he told you, what  
18 did you do?

19 A. After we had gotten a picture of David  
20 Thorne, the next day we put David Thorne  
21 in a six person lineup and we showed the  
22 lineup to Mr. Hale.

23 Q. Okay. And was he able to identify anyone  
24 from that lineup?

25 A. No, he was not.

1 Q. At the time that Mr. Hale talked to you,  
2 did you have any specific suspects in this  
3 case?

4 A. No, we did not.

5 Q. Did you try to follow up with Mr. Hale on  
6 any occasions?

7 A. Yes, we did.

8 Q. Okay. Approximately how many times would  
9 you say you spoke with him?

10 A. We spoke -- I believe showing the lineup  
11 to him the first time, and then a second  
12 time going to his house and asking if he  
13 would be willing to do any more of a  
14 follow-up -- or any more investigation.

15 Q. And, specifically, you asked him if he  
16 would be willing to undergo some sort of  
17 relaxation therapy?

18 A. That is correct.

19 Q. So you went to his house twice?

20 A. I believe so.

21 Q. Did you contact or did somebody in the  
22 department have contact with the  
23 individual who was supposed to conduct  
24 this relaxation therapy?

25 A. Yes.

1 Q. Okay. Were there times after that that  
2 you tried to contact Mr. Hale again in  
3 order to follow up on --

4 A. Yes, see if he was going to go through  
5 with this relaxation therapy, yes.

6 Q. Did you harass him at any point?

7 A. I don't believe so.

8 Q. Did you threaten him with anything at any  
9 point?

10 A. No, ma'am.

11 Q. Fair to say that you were just attempting  
12 to gather information on a case that you  
13 didn't really have a suspect in at that  
14 time?

15 A. Correct.

16 Q. Okay. Once the crime scene was  
17 discovered, were there officers posted at  
18 that scene?

19 A. Yes.

20 Q. And was that maintained constantly?

21 A. Yes.

22 Q. Okay. And did officers make reports  
23 indicating what time they came and took  
24 over and what time somebody else came and  
25 did the same?

1 A. Yes, they did.

2 Q. Did they document, to your knowledge, as  
3 well as yourself, who would have had  
4 access going in or out of that crime  
5 scene?

6 A. Yes.

7 Q. Do you recall the Chief responding at some  
8 point on April 1st?

9 A. Yes, the Chief was there.

10 Q. And who, if anyone, accompanied him?

11 A. He had a female ride along.

12 Q. And this was a member of the community who  
13 rides along with an officer or with  
14 someone?

15 A. Yes.

16 Q. Okay. And her name is noted in the  
17 report?

18 A. Yes.

19 Q. There was a business card submitted as  
20 evidence in this case I believe provided  
21 to you by Rose Mohr who I think had  
22 indicated that she had gotten it from  
23 Chris Campbell. But there was a business  
24 card with a name or partial name and a  
25 phone number written on the back of that

1 card. Are you familiar with that piece of  
2 evidence?

3 A. Yes, ma'am.

4 Q. Okay. And there was a phone number on the  
5 back of that card, and I believe,  
6 according to the copy that we were  
7 provided, that number is 890-8941.

8 Did you have an opportunity at  
9 some point, through the course of your  
10 investigation, to look in to see who that  
11 phone number was registered to or what  
12 that was the phone number for?

13 A. Yeah. I believe that was the pager number  
14 for Joe Wilkes.

15 Q. Okay. And when Rose Mohr provided that  
16 card to you, she indicated that she didn't  
17 know Joe Wilkes prior to this incident,  
18 correct?

19 A. Correct.

20 Q. Okay. Now, in the petitions that were  
21 filed in this post-conviction relief  
22 hearing, it was stated in one of them that  
23 the police did not go back to the Comfort  
24 Inn at any point in time after you learned  
25 that Joe Wilkes had stayed there.

1 Is that an accurate statement?

2 A. No, ma'am.

3 Q. Did you go back to the Comfort Inn?

4 A. Yes. Two detectives went back to process  
5 the room that Joe Wilkes stayed in.

6 Q. And how is it processed?

7 A. I wasn't there at the time.

8 Q. Okay. Do you know? Are you aware through  
9 their reports?

10 A. Yeah, I believe they went through with an  
11 ninhydrin to look for any traces of blood  
12 and what we have -- a flashlight called a  
13 Blue Max.

14 Q. Now, this would have been several months  
15 after the commission of this crime,  
16 though, correct?

17 A. Yes, it would have been.

18 Q. Fred Cameron, are you familiar with him?

19 A. Yes.

20 Q. Did anyone, in the course of the  
21 investigation, interview Fred Cameron?

22 A. Yes.

23 Q. Was that early on in the investigation  
24 or --

25 A. Very early on in the investigation Officer

1 Mucklo and I interviewed Fred.

2 Q. And that was at his home?

3 A. No, that was at the Alliance Police  
4 Department.

5 Q. He came down and spoke with you there?

6 A. Yes.

7 Q. Had there been any allegations as far as  
8 why you wanted to speak with Fred Cameron  
9 about this case?

10 A. Just that he was involved in Yvonne's life  
11 and we wanted to interview everybody that  
12 we could.

13 Q. Okay. Did he ever mention to you, during  
14 the course of that interview, anything  
15 about Yvonne being concerned about her own  
16 father being with her boys, or anything of  
17 that nature?

18 A. I don't recall that, no.

19 Q. Okay. Now, with regard to interviews with  
20 Joe Wilkes, were you present for the  
21 interviews with Joe?

22 A. Yes.

23 Q. It's been alleged that the details of the  
24 crime were strictly provided by the police  
25 to Joe.



1                   What details -- at the time that  
2                   you interviewed Joe Wilkes, what details  
3                   did you know at that point in time?

4       A.       The details we knew prior to what Joe had  
5                   told us is we knew he was at the Comfort  
6                   Inn that night.

7       Q.       Okay.

8       A.       And basically that was it. As far as the  
9                   knife evidence and the clothing evidence,  
10                  we had no idea.

11      Q.       Okay. You had spoken with Rose Mohr prior  
12                  to this time, correct?

13      A.       Yes. Yes.

14      Q.       And she had indicated to you that she had  
15                  seen him at the Carnation Mall and that he  
16                  had indicated he was staying at the  
17                  Comfort Inn and he had shown them some  
18                  sort of a knife?

19      A.       Correct.

20      Q.       And had indicated what he was there to do?

21      A.       Correct.

22      Q.       Okay. Did you know exactly how he had  
23                  committed this crime? I mean, did you  
24                  know where they -- how he had gotten into  
25                  the house, or any of the details about

1           that?

2       A.     No.

3       Q.     Did he provide those details to you?

4       A.     Yes, he did.

5       Q.     Did he provide details about what he had  
6           done with the knife that he had used?

7       A.     Yes, he did.

8       Q.     Did he provide details about what he had  
9           done with any of the other items?

10      A.     Yes.  He told us what he did with the  
11           pants, he told us what he did with the  
12           gloves, and told us what he did with the  
13           tennis shoes.

14      Q.     And did he actually take you to a location  
15           of a sewer or a storm drain?

16      A.     Yes, he did.

17      Q.     That was his directing you all to that  
18           area?

19      A.     That's correct.

20      Q.     And as a result of searching in that area,  
21           what was located?

22      A.     The fold lock-back knife.

23      Q.     And it was in a state that it would have  
24           been there for several months --

25      A.     Yes.

1 Q. -- or consistent with that? After you  
2 spoke with Joe, were you able to  
3 investigate and further corroborate some  
4 of the details that he provided to you?

5 A. Yes, ma'am.

6 Q. And those would include work records, time  
7 cards for David Thorne?

8 A. Right.

9 Q. As well as -- before you talked with Joe,  
10 did you know anything about Karen Enoch or  
11 Brent Enoch, or Summer Enoch?

12 A. No, we did not.

13 Q. Were you familiar, before you talked with  
14 Joe, with an individual by the name of  
15 Samantha Pegg?

16 A. No, we did not know her.

17 Q. He provided you with that name; did he  
18 not?

19 A. We -- somehow we knew of Samantha Pegg,  
20 but I think it was the day we went out to  
21 see -- to find Joe Wilkes.

22 Q. As a result of your learning about  
23 Samantha Pegg, you interviewed her; did  
24 you not?

25 A. That is correct.

1 Q. Okay. And she indicated what in relation  
2 to Joe?

3 A. That --

4 MR. DOYLE: Objection.

5 THE COURT: Overruled, go  
6 ahead.

7 THE WITNESS: They were at a  
8 party one night or together one night at  
9 some point in time and Joe had something  
10 to tell her, had to get it off his chest,  
11 and that's when Joe told her he killed  
12 this girl.

13 BY MS. HARTNETT:

14 Q. In addition to telling her that he killed  
15 the girl, he told her that he killed the  
16 girl for David; did he not?

17 A. I believe so, yes.

18 Q. Okay. And she indicated to you a specific  
19 date that she believed this conversation  
20 took place; did she not?

21 A. I can't recall.

22 Q. Well, let me ask you this: She indicated  
23 to you, when you spoke with her, that it  
24 had been several weeks prior to then that  
25 she had had this conversation with Joe?

1 A. Right.

2 Q. So prior to your contact with Joe Wilkes  
3 she had this conversation with him?

4 A. Right. Right.

5 Q. Because he was taken into custody after  
6 you had the conversation with him in July?

7 A. Correct.

8 MS. HARTNETT: If I could just  
9 have a second briefly, Your Honor.

10 I don't have anything further for  
11 this witness.

12 THE COURT: Anything further,  
13 Mr. Doyle?

14 MR. DOYLE: Thank you, Judge.

15

16

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CROSS-EXAMINATION

17 BY MR. DOYLE:

18 Q. Good evening, sir.

19 A. Hi.

20 Q. Officer, back in 1999 you were a detective  
21 with the Alliance Police Department?

22 A. Correct.

23 Q. And now I see by your uniform, are you  
24 now -- and you're in uniform obviously?

25 A. Correct.

1 Q. What has happened? You've changed your  
2 duties?

3 A. Yes, I have, voluntarily.

4 Q. Why?

5 A. I wanted to work day shift.

6 Q. Okay. That's a good enough reason.

7 Tell us, if you will, when you  
8 talked to George Hale, you've indicated to  
9 us that there was a -- and I wrote it --  
10 did you have a lineup? I thought you used  
11 the word lineup?

12 A. Six person photo lineup, yes.

13 Q. Photo lineup?

14 A. Right.

15 Q. And David Thorne's picture was in that  
16 grouping?

17 A. Correct.

18 Q. When did you show him that picture?

19 A. April the 2nd, I believe.

20 Q. April the 2nd?

21 A. (Witness nodding head up and down.)

22 Q. And so that was right after. Obviously  
23 the body is found on the 1st, this is on  
24 April the 2nd, and you're showing a  
25 picture of Mr. Thorne, among others. Who

1 else's pictures were put into that group;  
2 do you recall?

3 A. No. Names, no, I don't.

4 Q. But were there other potential suspects  
5 involved in this case?

6 A. No, sir.

7 Q. Just David Thorne was someone who had a  
8 relationship with Ms. Layne at that time?

9 A. Yes.

10 Q. And the witness failed to identify Mr.  
11 Thorne?

12 A. That is correct.

13 Q. And as far as the information is  
14 concerned, you never put that in your  
15 police reports; is that correct?

16 A. As far as what information, that he did  
17 not identify somebody?

18 Q. Identify that person.

19 A. Evidently not.

20 Q. But did you put in there -- we're on  
21 number 6?

22 MR. PEDERSON: No, 7.

23 MR. DOYLE: Thank you again.

24 MS. HARTNETT: I have it right  
25 here. I've already marked it as State's

1 Exhibit 1, but go right ahead.

2 MR. DOYLE: Your Honor, did you  
3 want to see this?

4 THE COURT: Well, go ahead.

5 BY MR. DOYLE:

6 Q. I'm going to show you what's been marked  
7 as Defendant's Exhibit 7. Will you take a  
8 look at that for us?

9 A. Yes.

10 Q. Okay. Now, this is your narrative  
11 supplement, correct?

12 A. Correct.

13 Q. And it indicates that at 1710 hours, while  
14 at the scene, George Hale, a white male,  
15 date of birth 11/20/78, and then you give  
16 his Social Security number, of 1577 --

17 A. I think it's 1522 South Wade Avenue.

18 Q. South Wade. Came walking by and stopped  
19 to speak with officers. Hale advised that  
20 he was walking by the residence sometime  
21 between 0930 and 1000 hours. He advised  
22 that he heard some puppies, which drew his  
23 attention to 916, and it was Devine

24 Street?

25 A. Correct.



- 1 Q. He advised that he saw a white male about  
2 five nine, about 180 pounds?
- 3 A. Correct.
- 4 Q. In his --
- 5 A. Mid to late 20s.
- 6 Q. -- mid to late 20s, wearing blue jeans and  
7 a short sleeve shirt, with medium length  
8 hair, exit the residence carrying a  
9 garbage bag. He stated that the white  
10 male walked around the west end of the  
11 house. He said that it did not look like  
12 anything out of the ordinary and he kept  
13 walking.
- 14 Now, that's what he told you on  
15 the date of the incident, correct?
- 16 A. Correct.
- 17 Q. And you then had occasion to interview him  
18 the next day; is that correct?
- 19 A. Interview George?
- 20 Q. Yes.
- 21 A. I think that's when we went to talk to him  
22 and took him the photo lineup.
- 23 Q. The next day?
- 24 A. Correct.
- 25 Q. Was that at his house that you did that?

1 A. Yes.

2 Q. Was there anyone else with you at that  
3 point in time?

4 A. Detective Mucklo.

5 Q. And is there anything else in your reports  
6 that reflects anything about George Hale  
7 other than what we have here marked as  
8 Defendant's Exhibit 4?

9 A. I don't recall.

10 Q. Okay. You don't know?

11 A. I don't know.

12 Q. But do you recall putting in any of your  
13 reports the fact that there was -- was it  
14 relaxation therapy?

15 A. That's what -- yeah, that's what it's  
16 called, yes.

17 Q. For relaxation therapy do you put people  
18 under -- are there some kind of metal  
19 processes, you put them on their fingers?

20 A. I don't know, sir.

21 Q. Okay. And you were trying to enhance his  
22 memory, that was the theory that you were  
23 going under?

24 A. Yes, that's the --

25 Q. Okay. All right. So you did that, and

1           then you had -- any further meetings with  
2           Mr. Hale after the relaxation therapy  
3           session ended?

4       A.     If there were, I don't think I was  
5           present.

6       Q.     Okay. But your recollection is you saw  
7           him the first day, on the 1st, the second  
8           day when he looked at the photo array and  
9           said, that's not David Thorne?

10      A.     Right.

11      Q.     And you then took him to the therapist at  
12           some other time. Was that quickly after  
13           the 2nd of April, if you recall?

14      A.     It would have been shortly thereafter,  
15           yes, but I don't think I actually took him  
16           physically there.

17      Q.     Now, if I told you that we don't see  
18           anything in the reports that we've found  
19           that indicates anything about the  
20           identification or lack of identification  
21           of Mr. Thorne, would you disagree with me?

22      A.     No, sir.

23      Q.     So you decided not to put that in your  
24           reports?

25      A.     I don't think it was a conscious decision.

1           You know what I'm saying?

2           Q.     Well, you're the detective who's  
3           investigating this homicide.

4           A.     Correct.

5           Q.     You keep track of your activities as you  
6           progress through your investigation,  
7           correct?

8           A.     Sure.

9           Q.     So on a day-by-day basis are you telling  
10          this Court that you do not keep track of  
11          your day-to-day activities on a homicide  
12          investigation?

13          A.     That's not what I'm saying at all.

14          Q.     But you didn't keep track of April 2nd  
15          when David Thorne, who is eventually  
16          charged with this crime, not being  
17          identified, you didn't put that in any  
18          report?

19          A.     Evidently.

20          Q.     Are you aware, sir, that at the time of  
21          the crime scene that -- at the point in  
22          time that the crime scene was being  
23          examined that there were members of the  
24          police department who, in fact, were  
25          wearing tennis shoes or sneakers? Are you

1 aware of that?

2 A. No, sir.

3 Q. They were in the photographs. Would you  
4 dispute it if I said they were in the  
5 crime scene photographs, that somebody was  
6 wearing sneakers who was in the area  
7 there, one of your officers or someone  
8 there?

9 A. You're telling me that there is a police  
10 officer in the crime scene, when the  
11 photographs were being taken, wearing  
12 tennis shoes?

13 Q. Uh-huh.

14 A. Okay.

15 Q. Okay. And the person who came along with  
16 the Chief, I'm sorry, what was her name  
17 again?

18 A. I can't recall off the top of my head.

19 Q. And what was her purpose of being there?

20 A. I believe she was a civilian rider.

21 Q. Civilian rider?

22 A. Yeah.

23 Q. By the way, you were asked questions about  
24 a pager number that was purportedly  
25 belonging to Joe Wilkes, correct?

1 A. Yes.

2 Q. The witness -- you interviewed that  
3 witness and she told you that Joe Wilkes  
4 wrote that number down on the card and  
5 gave it to her, isn't that what she said?

6 A. I can't recall if she said that he wrote  
7 it down or she wrote it down. I don't  
8 know who wrote it down.

9 Q. Whatever the testimony was you don't  
10 recall at this point?

11 A. Correct.

12 Q. Okay. And during the point in time when  
13 the examination of the hotel room was  
14 done, of Mr. Joe Wilkes's hotel room,  
15 you've indicated that you were not  
16 present?

17 A. Correct.

18 Q. And who conducted that examination?

19 A. I believe it would be Detective Mucklo or  
20 Detective Leech.

21 Q. And it's your testimony that no blood or  
22 obviously any evidence was found because  
23 none of that was presented at the trial as  
24 far as you know?

25 A. That's correct.

1 Q. Now, you were the investigative detective  
2 which means you sat through the trial?

3 A. No, I did not.

4 Q. You did not? But you had occasion to know  
5 what was going on at the trial as far as  
6 the conduct of the trial, who was  
7 testifying, who wasn't? You assisted, I  
8 assume, as the trial progressed?

9 A. I don't understand where you're going.

10 Q. Okay. Well, did you just come in and  
11 testify and leave and not know anything  
12 about what was going on?

13 A. Yeah, pretty much.

14 Q. Pretty much?

15 A. Yeah.

16 Q. And you're the investigative detective,  
17 you're the person that's doing the  
18 investigation of this homicide?

19 A. Yes.

20 Q. Came in and testified and left, and that  
21 was it?

22 A. I believe so.

23 Q. Okay. The woman who we have talked about,  
24 whose name escapes me right now, who was  
25 purportedly at a party when Mr. Wilkes

1 made some sort of an admission to her --

2 A. Yes.

3 Q. -- what was her name?

4 A. Samantha, I believe.

5 MS. HARTNETT: Samantha Pegg.

6 MR. DOYLE: Thank you.

7 BY MR. DOYLE:

8 Q. Samantha Pegg, did you interview her?

9 A. Yes.

10 Q. And are you aware that she wrote a letter  
11 to Mr. Wilkes that indicated that you and  
12 the police were harassing her?

13 A. I'm not aware of that at all.

14 Q. And that she was afraid? Are you aware of  
15 any of that?

16 A. No.

17 Q. You are aware, though, that this person  
18 whom made, purportedly, a pretty  
19 interesting statement about an admission  
20 from Joe Wilkes didn't even testify in the  
21 trial; isn't that right?

22 A. I don't know if she testified or did not.

23 Q. You don't know?

24 A. No.

25 Q. Okay. Now, there's been some questions



1 about details, and you interviewed Mr.  
2 Wilkes on several occasions; is that  
3 correct? July 14th, July 15th?

4 A. Yes.

5 Q. And you, in fact, taped -- you taped those  
6 statements, correct?

7 A. Yes.

8 Q. And during your taped statement of Mr.  
9 Wilkes you attempted to direct him by  
10 indicating that the actual location of the  
11 homicide occurred at the sliding glass  
12 door or window; is that correct?

13 A. I don't believe so, sir, no.

14 Q. Well, do you remember asking him that  
15 question?

16 A. Phrased just like that, no, I don't  
17 believe I asked him or told him that the  
18 homicide took place in front of the  
19 sliding glass doors.

20 Q. I'm not saying told him. Let me review  
21 this with you maybe to refresh your  
22 recollection in terms of how it came out.  
23 If I may, Your Honor, I'll make it quick.

24 This was on page ten of the  
25 statement where you were asking Mr. Wilkes

1 about what it was that he was doing in  
2 terms of pulling out the knife and how it  
3 occurred. You with me?

4 A. Yes.

5 Q. And the question was: She had her back to  
6 you?

7 Answer: She had her head turned,  
8 she was looking over to the side, and I  
9 pulled it out and was holding it down by  
10 my leg and we continued talking. Then  
11 when she turned her head again, I did it.

12 Question: Did you grab her by  
13 the hair?

14 Answer: Yes.

15 Question: Pulled her hair pretty  
16 hard?

17 Answer: Yes.

18 Question: She was standing next  
19 to the sliding glass door?

20 Answer: No, she was sitting on  
21 the couch to begin with, then she jumps up  
22 and runs over to the sliding glass door.

23 Question: After you cut her?

24 Answer: Yes.

25 Do you recall those questions and

1 answers?

2 A. Vaguely, yes.

3 Q. Well, I know it's been a while, but when  
4 those questions and answers came up the  
5 forensic people had already come through  
6 and your analysis of the crime scene was  
7 that the location of the actual homicide  
8 would have been next to the sliding glass  
9 door; isn't that correct?

10 A. The room was so small, I mean, I -- it  
11 took place in the room.

12 Q. Uh-huh. Well, would you dispute  
13 forensically the fact that the actual  
14 killing occurred as --

15 MS. HARTNETT: Your Honor, I'm  
16 going to object to disputing forensically.

17 THE COURT: Yeah, you're  
18 starting to drift and get into argument.

19 MR. DOYLE: I am and it's  
20 getting late.

21 BY MR. DOYLE:

22 Q. As far as you know from your  
23 investigation, your investigation  
24 concluded that the actual location of the  
25 slashing or the knifing itself occurred

1 next to the glass doors; isn't that  
2 correct?

3 A. I don't believe I wrote that anywhere. It  
4 happened in the living room at 916 Devine  
5 which is right next to the glass doors  
6 which is right next to the couch. I mean,  
7 they're only a few feet apart.

8 Q. And the location of the front door, the  
9 front door of the house --

10 A. Okay.

11 Q. -- to the sidewalk, from the sidewalk to  
12 the front door, is only a matter of about  
13 ten feet; isn't it? This is not a house  
14 that is set back a very long -- very far  
15 distance?

16 A. It was probably 25 feet.

17 Q. Okay.

18 MR. DOYLE: Can I have a  
19 moment, Your Honor?

20 Thank you, Your Honor, no further  
21 questions.

22 THE COURT: Thank you.

23 Anything further, Ms. Hartnett?

24 MS. HARTNETT: One question.

25 - - - - -

REDIRECT EXAMINATION

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BY MS. HARTNETT:

Q. Throughout the course of your investigation was it ever alleged by anyone that David Thorne had been in that residence on April 1st, the morning --

A. I don't believe so, no.

Q. Thank you.

THE COURT: Anything further, Mr. Doyle?

MR. DOYLE: Nothing further, Your Honor.

THE COURT: You may step down, Officer, thank you.

MS. HARTNETT: Your Honor, the only further thing that the State would have to offer, other than things that have been marked, would be what I marked as State's Exhibit 3 which is a transcript of the Grand Jury proceedings. I would have to move the Court to allow me to release those to you for consideration. This is the testimony of Samantha Pegg. I'd be happy to bring over the person who transcribed it if you want proper

1 authentication of it.

2 THE COURT: Has that been given  
3 to the other side?

4 MS. HARTNETT: No, just to you.  
5 This was just completed being that the  
6 secretary was off until last week.

7 THE COURT: I don't need it.  
8 You can offer it, but I'm not going to  
9 accept it because I don't want it.

10 MS. HARTNETT: Okay.

11 THE COURT: If I accept it I'm  
12 going to have to publish it to everybody  
13 and I can't take a secret exhibit, right?  
14 So if we want to go all through that and  
15 read it here and look at it --

16 MS. HARTNETT: I'll be happy to  
17 make a copy and provide it, but I can't  
18 provide it until you order it.

19 THE COURT: I don't need it.

20 MS. HARTNETT: Okay.

21 THE COURT: State rests.

22 Mr. Doyle?

23 MR. DOYLE: Your Honor, the  
24 only additional thing is there is a  
25 stipulation between the parties that

1 the -- make it clear that the name of  
2 George Hale was not turned over to the  
3 original defense.

4 And, further, we would make the  
5 request that a clean copy of the police  
6 reports be turned over to the Court. We  
7 have what we believe are most of them, but  
8 there seems there are things -- I'm not  
9 sure we have a complete file. I would  
10 request the Court be given the opportunity  
11 to review the police reports in this case.

12 I don't think you have an  
13 objection to turning that over; is that  
14 correct?

15 MS. HARTNETT: I have a feeling  
16 that you have more than what I have here,  
17 so I don't know if the Court is going to  
18 order me to go back, you know, to the  
19 police department and dig up their  
20 original copies.

21 THE COURT: Well, it's an  
22 awkward kind of request. If you want to  
23 submit to me -- if you wish to submit to  
24 me the police report for my review, I'll  
25 accept it as an exhibit from you.

1 MR. DOYLE: All right, Your  
2 Honor.

3 THE COURT: I don't know if you  
4 want to compare what the State has with  
5 what you have.

6 MR. DOYLE: We would like to do  
7 that.

8 THE COURT: I'll accept it as  
9 an exhibit.

10 MR. DOYLE: Thank you.

11 THE COURT: Now, you have other  
12 exhibits to be admitted, right?

13 MR. DOYLE: Right, we do, Your  
14 Honor. We have offered initially the  
15 photographs, 1, 2 and 3.

16 THE COURT: I'll accept them.

17 MR. DOYLE: And the report,  
18 number 4, from Mr. Turvey.

19 THE COURT: Got those two  
20 things.

21 MR. DOYLE: Including the CV.

22 THE COURT: I have his CV.

23 MR. DOYLE: Along with number 5  
24 which is the -- 6 which is the report  
25 offered by Michael Robertson.



1 THE COURT: I don't have that.  
2 I don't know if you gave me a copy, but  
3 I'll admit it.

4 I have 4, I need 6. I got the  
5 curriculum vitae.

6 MR. DOYLE: Assuming that we're  
7 going to -- I have Defendant's Exhibit 7,  
8 which is just a portion of the report,  
9 Your Honor, that dealt directly --

10 THE COURT: Well, let me take  
11 it now and even if you duplicate it,  
12 that's fine. I'll accept 7.

13 MR. DOYLE: And I think I  
14 marked the inside cover of the report as  
15 5.

16 THE COURT: Well, I have -- I  
17 mean, I have Mr. Turvey's 2/24/03 and then  
18 I have Mr. Turvey's 2003, which must be 5,  
19 and then I have 6 is Mr. Robertson, 7 is  
20 the partial, so I'm up to 7.

21 MR. DOYLE: Okay, Your Honor, I  
22 think we have it then.

23 THE COURT: So there's no 8? I  
24 think I'm up with you.

25 MS. HARTNETT: Your Honor,

1 there were some documents that were marked  
2 by the State, just to clean up the record.  
3 One was a portion of the police report  
4 regarding Mr. Hale.

5 THE COURT: Are you asking me  
6 to admit these?

7 MS. HARTNETT: Yeah, I'm asking  
8 to admit them now. And then 2 was the  
9 report from Ray Brunner about the  
10 relaxation therapy.

11 THE COURT: We'll call you by  
12 number.

13 MS. HARTNETT: Okay.

14 THE COURT: I'll call your  
15 first exhibit A.

16 MS. HARTNETT: Letter you mean  
17 since he did --

18 THE COURT: Numbers.

19 MS. HARTNETT: All right. I  
20 will remark what I had as State's Exhibit  
21 1 to State's Exhibit A.

22 THE COURT: Next one would be  
23 B.

24 MS. HARTNETT: Next one would  
25 be B. And the --

1 THE COURT: Let me see A, let  
2 me walk through it. A, what is A?

3 MS. HARTNETT: The portion --

4 THE COURT: Your version of  
5 his --

6 MS. HARTNETT: Right.

7 THE COURT: -- affidavit?

8 MS. HARTNETT: Yeah, because  
9 his --

10 THE COURT: I understand.

11 MS. HARTNETT: His affidavit.

12 THE COURT: I understand. Then  
13 I have a progress report from the  
14 therapist, Ray Burrows.

15 MS. HARTNETT: Brunner I think  
16 it is.

17 MR. DOYLE: We would object to  
18 that.

19 THE COURT: I'll accept it.  
20 That's B, State's B.

21 MR. DOYLE: Just put our  
22 objection on.

23 MS. HARTNETT: The only other  
24 thing, I just wanted to indicate I had the  
25 transcript which I know you said you

1 don't want for Samantha Pegg, I just  
2 wanted to indicate, on the record, we did  
3 subpoena her for this hearing today, she  
4 is out of town so there was not personal  
5 service. It was indicated on the docket  
6 that her, like, certified mail or  
7 something was received. I have not been  
8 able to contact her, but I know she did  
9 not appear today.

10 THE COURT: She didn't appear  
11 and, I mean, you caught me kind of by  
12 surprise. She doesn't appear today and  
13 now you say, if you order me, Your Honor,  
14 I'll release this, I'll give to you. I  
15 don't know what role she plays.

16 MS. HARTNETT: Well --

17 THE COURT: What do you want to  
18 do?

19 MS. HARTNETT: Yeah, I'm just  
20 saying that it was brought up in the  
21 testimony and they made a big point of  
22 suggesting that she didn't testify at  
23 trial. Well, she did testify at this  
24 hearing, she would have testified if Joe  
25 Wilkes had gone to trial, but she wasn't

1           pertinent to David Thorne's trial.

2                         THE COURT:    So that's your  
3           argument?

4                         MS. HARTNETT:   And Joe Wilkes  
5           is indicating now, of course, you know,  
6           that the police provided him with the  
7           details of this, and her testimony she  
8           indicates the timing of when Joe told her.

9                         THE COURT:    Okay.

10                        MS. HARTNETT:   I'm not  
11           asking -- saying that I won't release it  
12           unless you order me to, I just know that I  
13           cannot provide it to anyone without a  
14           Court order.  I would like it to go to  
15           both, but if you don't want to order then  
16           that's your discretion, obviously, and  
17           I'll sit down.

18                        MR. DOYLE:   Obviously we are  
19           objecting to it.

20                        THE COURT:    What are you  
21           objecting to?  Do you want it in, want it  
22           out, you want me to order it?  It's not  
23           making a lot of sense to me.

24                        MR. DOYLE:   I don't know where  
25           they're coming from.

1 THE COURT: Object if you don't  
2 want it in. Is that what I'm hearing you  
3 say?

4 MR. DOYLE: Yes.

5 THE COURT: Sustained. How's  
6 that? That settles the question.

7 MR. DOYLE: All right.

8 THE COURT: Anything else?  
9 Does anybody want to do oral argument or  
10 do you want to -- or do you want to do it  
11 by briefs?

12 MR. DOYLE: I think we need to  
13 do this by brief, Your Honor.

14 MS. HARTNETT: Agreed.

15 THE COURT: Appears there is no  
16 objection by the State of Ohio?

17 MS. HARTNETT: No, sir.

18 THE COURT: All right. I think  
19 I have everybody's exhibits. Just note  
20 the Court is taking control of all the  
21 exhibits except Exhibit 4. I'm going to  
22 give that to you just so I don't lose it  
23 because I have a copy of it. I'll give  
24 that back. Is that Turvey? I don't know  
25 if this was marked, I have his curriculum

1 vitae.

2 Why don't we all -- I'll take 5.  
3 State of Ohio, 5 is the document -- is  
4 that attached to Mr. Robertson's report?

5 MR. DOYLE: Yes, it is.

6 THE COURT: I'll give that to  
7 the court reporter. If it's in his  
8 report, that's all I'll need.

9 Each side tell me how long they  
10 want before they submit their final  
11 argument and then I'll give everybody a  
12 period to respond.

13 MR. DOYLE: Your Honor, in  
14 consulting with my co-counsel, we're  
15 talking about possibly three weeks.

16 THE COURT: Two weeks would  
17 make it, say, June the 2nd.

18 MR. DOYLE: Is that good?

19 THE COURT: Is that enough  
20 time? State of Ohio, okay?

21 MS. HARTNETT: Yes, sir.

22 THE COURT: June 2nd  
23 everybody's brief is due. Make sure you  
24 exchange briefs and then I'll give you  
25 until the 13th of June for any replies

1 that you wish to file in response to each  
2 other's briefs, okay?

3 MS. HARTNETT: Okay.

4 THE COURT: So 6/2 everybody's  
5 brief, 6/13 replies to everybody's brief.

6 Anything else, folks?

7 MS. HARTNETT: No, sir.

8 THE COURT: Thank you. Both  
9 sides well presented, I appreciate it.  
10 The people sitting in the audience, I  
11 respect your manners and the way you  
12 conducted yourselves. Thank you all very  
13 much, and we stand in recess.

14 MR. DOYLE: Thank you, Judge.

15

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16 (Thereupon, court adjourned at

17 6:00 p.m. on May 12, 2003)

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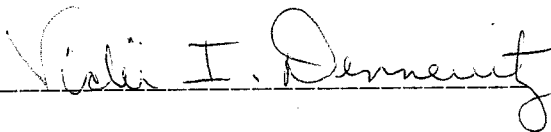
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## C-E-R-T-I-F-I-C-A-T-E

1  
2  
3 I, Vicki I. Dennewitz, a  
4 Registered Professional Reporter and  
5 Notary Public in and for the State of  
6 Ohio, do hereby certify that I reported in  
7 Stenotypy the testimony had; and I do  
8 further certify that the foregoing is a  
9 true and accurate transcription of said  
10 testimony.

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14 Vicki I. Dennewitz, RPR

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20  
21 All exhibits are being held by the  
22 Evidence Administrator and are available  
23 upon advance request.  
24  
25