

1 IN THE CIRCUIT COURT OF THE
2 FIFTH JUDICIAL CIRCUIT IN AND
3 FOR LAKE COUNTY, FLORIDA

4 CASE NO. 87-1347-CF-A-01 and
5 88-262-CF-A-01

6 STATE OF FLORIDA,

7 Plaintiff,

8 v.

9 JAMES AREN DUCKETT,

10 Defendant.

11 VOLUME III

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AUG 11 2 49 PM '88
CLERK OF CIRCUIT
AND COUNTY COURTS
LAKE COUNTY
TAVARES, FLORIDA

Case: 1987 CF 001347
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Dkt: CFTRANS

Ruth C. Patz & Associates
Official Court Reporters, Fifth Judicial Circuit
Tavares, Florida 32778

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1 MS. STEPHENS: Clermont, Florida.
2 MR. HOGAN: Are you familiar with the Mascotte area?
3 MS. STEPHENS: Not really.
4 MR. HOGAN: Mr. DeClerk, is there anything about your
5 religious training that is going to make it difficult for you
6 to sit on this jury knowing that the death penalty is a
7 possibility?
8 MR. DE CLERK: Absolutely not.
9 MR. HOGAN: Ms. Stephens, how about you, ma'am?
10 MS. STEPHENS: No, sir.
11 MR. HOGAN: Ms. Stephens, did you understand the
12 discussions we have had so far this morning, or earlier this
13 afternoon?
14 MS. STEPHENS: Yes.
15 MR. HOGAN: Do you understand that there are two charges,
16 one trial?
17 MS. STEPHENS: Yes.
18 MR. HOGAN: Two verdict forms, in other words?
19 MRS. STEPHENS: Ahum. (Affirmative response)
20 MR. HOGAN: You understand the Jury's obligation is to
21 return a verdict to the highest crime proved beyond a
22 reasonable doubt?
23 MS. STEPHENS: Yes, sir.
24 MR. HOGAN: Very good. That is a long sentence.
25 Mr. DeClerk, do you understand your years of experience amount

- 401 -

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1 to common sense and you are allowed to use that common
2 sense in reaching your verdict?

3 MR. DE CLERK: I hope so.

4 MR. HOGAN: We are counting on you to do just that.

5 Now, in other words, if you have an abiding conviction
6 of guilt, you have no reasonable doubt, do you understand
7 that?

8 MR. DE CLERK: Repeat that, please?

9 MR. HOGAN: Using your common sense, if you reach a
10 point in your deliberations that you know... in other words,
11 you know he is guilty. You have an abiding conviction of
12 guilt. You have no reasonable doubt. Okay?

13 You can reach that point by using your common sense?

14 MR. DE CLERK: Absolutely.

15 MR. HOGAN: In other words, using your common sense, you
16 look at all the witnesses, the experts, and you say to
17 yourself, "He did it". Okay.

18 Ms. Stephens, do you understand the discussions that
19 you had so far about expert witnesses?

20 MS. STEPHENS: Yes.

21 MR. HOGAN: The fact that we all rely on experts just
22 like life, sometimes we rely on experts to tell us what that
23 fingerprint means or what that fiber means or what that
24 prints means and what their analysis was. Do you understand
25 that is perfectly okay?

- 402 -

1 MRS. STEPHENS: Yes, sir.
2 MR. HOGAN: Ms. Gray, how are you doing?
3 MS. GRAY: Fine.
4 MR. HOGAN: Mrs. Gray, do you go to church?
5 MS. GRAY: Yes, I do.
6 MR. HOGAN: What church do you go to?
7 MS. GRAY: I am a member of the First Baptist in Leesburg.
8 MR. HOGAN: Thank you very much. Anything about your
9 religious background or training that would make this
10 difficult or impossible for you to serve on this jury?
11 MS. GRAY: No.
12 MR. HOGAN: What do your children do?
13 MS. GRAY: My oldest daughter is a paralegal. My oldest
14 son is out in Phoenix. My son, Gary is in construction and
15 my son, Larry is in on purchasing and building. Cindy is an
16 RN in Ocala and Rusty works for his dad in insulation.
17 MR. HOGAN: It was the son that was the paralegal, right?
18 MS. GRAY: My daughter.
19 MR. HOGAN: Does she work for a law firm around here?
20 MS. GRAY: Orlando.
21 MR. HOGAN: Do you ever discuss her work with her?
22 MS. GRAY: NO.
23 MR. HOGAN: Does she do civil or criminal work?
24 MS. GRAY: Civil.
25 MR. HOGAN: Now, Ms. Gray, in your training and your

- 403 -

1 profession, I believe we had nurses on the panel before, but
2 that is before you came in the room. You are dedicated to
3 the quality of life and saving lives and preserving lives
4 in your profession, am I right about that?

5 MS. GRAY: Right.

6 MR. HOGAN: Do you understand that in this case, it
7 may be appropriate for you to recommend capital punishment?

8 MS. GRAY: Right.

9 MR. HOGAN: Do you think that that may somehow go against
10 your grain?

11 MS. GRAY: No.

12 MR. HOGAN: You understand the process of aggravating
13 and mitigating factors?

14 MS. GRAY: Yes.

15 MR. HOGAN: As best as I explained it to you?

16 MS. GRAY: Yes.

17 MR. HOGAN: You understand that Judge Lockett will give
18 you detailed instructions on that?

19 MS. GRAY: I understand.

20 MR. HOGAN: And do you think you could follow the law?

21 MS. GRAY: I know I could follow the law.

22 MR. HOGAN: Do you have any questions?

23 MS. GRAY: No questions.

24 MR. HOGAN: Thank you, ma'am. Let me ask you one more
25 questions, Ms. Gray. I think if you haven't already heard,

1 you are going to hear that this eleven year old child went
2 to a convenience store at ten o'clock at night to buy a
3 pencil. Her mother allowed her to do that. The store was
4 within visual range of her home, four hundred feet or yards.
5 Now, you may not have allowed your child to do that. Maybe
6 you think that it is a shame people can't walk down to the
7 store and buy a pencil in the light of day, but whether you
8 agree with it or disagree with it, you understand Teresa
9 McAbee's mother is not on trial for allowing the girl to
10 walk to the store at night?

11 MS. GRAY: I understand that.

12 MR. HOGAN: Thank you. Ms. Gibson, how are you?

13 MS. GIBSON: Fine.

14 MR. HOGAN: Ms. Gibson, what does your husband do?

15 MS. GIBSON: He is Assistant Principal.

16 MR. HOGAN: What school was he at?

17 MS. GIBSON: Umatilla High School.

18 MR. HOGAN: Does your husband have any hobbies?

19 MS. GIBSON: He likes sports.

20 MR. HOGAN: How about yourself?

21 MS. GIBSON: I clog.

22 MR. HOGAN: Are you in a club?

23 MS. GIBSON: Yes.

24 MR. HOGAN: Do you ever get down to Hernando County?

25 MS. GIBSON: Yes.

- 405 -

1 MR. HOGAN: Do you know Sandy Mylander?

2 MS. GIBSON: No.

3 MR. HOGAN: Ms. Gibson, did you hear the witness list?

4 All of you hear the witness list I read out?

5 MS. GIBSON: Yes.

6 MR. HOGAN: Did you recognize any names?

7 MS. GIBSON: No.

8 MR. HOGAN: Did you hear the list? You understand that
9 we will be calling witnesses who don't speak English. Any of
10 you have a problem with that? Any prejudice against Hispanic
11 or Mexican people?

12 JURORS: No.

13 MR. HOGAN: Any problem with the fact that an interpreter
14 will be testifying?

15 JURORS: No.

16 MR. HOGAN: Do you all understand that we don't need eye
17 witnesses to prove this case? In fact, this is one of the
18 cases that is almost all circumstantial evidence. Do you
19 understand that the case can be proven that way?

20 JURORS: Yes.

21 MR. HOGAN: Do you understand that this defendant was
22 a police officer at the time this occurred. I am sure you
23 figured that out. But you understand just because someone is
24 a police officer, that does not mean that they can't commit
25 heinous crimes. It may sound a bit ridiculous, Mr. DeClerk,

- 406 -

1 but I have got to make sure, because trust me, there are
2 people who think absurd things.

3 MR. DE CLERK: They are all human.

4 MR. HOGAN: Okay, that is right, but there are people
5 who don't follow their common sense and I have got to try and
6 find a fair jury, do you understand?

7 MR. DE CLERK: Yes.

8 MR. HOGAN: Do you folks understand that it is necessary
9 to introduce pictures we have discussed?

10 JURORS: Yes.

11 MR. HOGAN: Do you all feel you can evaluate the
12 evidence?

13 JURORS: Yes.

14 MR. HOGAN: Do you all feel it is reasonable for an
15 eleven year old girl to trust a police officer?

16 JURORS: Yes.

17 MR. HOGAN: Do you all understand it will be your duty
18 if you are on this jury, to return a verdict for the highest
19 crime proved beyond a reasonable doubt?

20 JURORS: Yes.

21 MR. HOGAN: Do you understand there will be lesser
22 included offenses like Second Degree Murder. Okay? But if
23 the First Degree Murder elements are proven, you have an
24 obligation to follow your oath and return a verdict for that
25 crime.

1 JURORS: Yes.

2 MR. HOGAN: Do you understand that the word premeditation
3 and the word planned don't mean the same thing?

4 JURORS: Yes.

5 MR. HOGAN: I am going as fast as I can, Mr. DeClerk.

6 MR. DE CLERK: Okay.

7 MR. HOGAN: Some of the previous jurors have stated
8 when Mr. Edmund talked to them that they would not give the
9 FBI Agent, the FBT expert greater weight. Do you understand,
10 I am not asking you to give him any weight whatsoever merely
11 because he works for the FBI. What I am asking you to do is
12 to evaluate his credentials, his background and his testimony
13 by the rules the Judge gives you, but it may well be that
14 after hearing his testimony, that you do give his testimony
15 great weight. Would you agree with that, Mr. DeClerk?

16 MR. DE CLERK: Yes, sir.

17 MR. HOGAN: Ma'am?

18 MS. STEPHENS: Absolutely.

19 MR. HOGAN: Ms. Gibson?

20 MS. GIBSON: Yes.

21 MR. HOGAN: Lastly, I want you to understand that
22 stopping and smelling the roses is fine, but this case and
23 your job in this case is certainly going to be no bed of
24 roses. You understand the decision we are going to be asking
25 you to make are going to take a great deal of courage and

- 408 -

1 it may sound corney, but that is what it is going to take,
2 because in reality, the situation is that you may well be
3 sitting on a First Degree Murder jury and I can assure you that
4 I intend to do everything I can to convict this man. Okay?

5 Now, do you feel you can handle that decision,
6 Mr. DeClerk?

7 MR. DE CLERK: Absolutely.

8 MR. HOGAN: Ms. Gibson?

9 MS. GIBSON: Yes.

10 MR. HOGAN: Okay, ladies?

11 JURORS: Yes.

12 MRS. GRAY: I feel it is my civic duty to do service
13 on the jury.

14 MR. HOGAN: I certainly appreciate that. Anybody else
15 have any? Mr. Barry, any questions at this point?

16 Dr. Emerson? Ms. Symmes?

17 JURORS: No, sir.

18 MR. HOGAN: You have some questions? Anyone?

19 MS. SYMMES: You have answered all my questions fine.

20 MR. HOGAN: Do you still want to be on this jury?

21 MS. SYMMES: Do I want to be?

22 MR. HOGAN: Still the same as before?

23 MS. SYMMES: Yes, it is.

24 MR. HOGAN: Mr. Hall?

25 MR. HALL: The same.

- 409 -

1 MR. HOGAN: Ms. Stroud, Ms. Warren, any questions?

2 JURORS: No.

3 MR. HOGAN: Are you willing to serve on this jury, Ms.
4 Warren?

5 MS. WARREN: Yes, sir.

6 MR. HOGAN: Ms. Gries?

7 MS. GRIES: Yes.

8 MR. HOGAN: Mr. Flack?

9 MR. FLACK: Yes.

10 MR. HOGAN: Mr. Schlager?

11 MR. SCHLAGER: Yes.

12 MR. HOGAN: Ms. Rhodes?

13 MS. RHODES: Yes.

14 MR. HOGAN: Ms. Rhodes, do you understand we are going
15 to go with circumstantial evidence?

16 MS. RHODES: Yes, sir.

17 MR. HOGAN: Do you understand that it may be much like
18 when you start fixing air conditioners, you have to make the
19 decision of what is wrong with it based on the circumstances
20 of how it is acting?

21 MS. RHODES: Yes, sir.

22 MR. HOGAN: You can accept that?

23 MS. RHODES: Yes, sir.

24 MR. HOGAN: Anybody?

25 Thank you very much.

- 410 -

1 THE COURT: Thank you, sir. Mr. Edmund.

2 VOIR DIRE EXAMINATION

3 BY MR. EDMUND:

4 Good afternoon, ladies, Mr. DeClerk.

5 We went through this once before about smelling the
6 roses and not just talking about your honesty with yourselves
7 and your satisfaction with yourselves, and your liking your-
8 selves, because if you don't like yourself, then I don't think
9 you are going to like my client and I think it is important
10 that you do and that is why I ask you if you can spend time
11 alone and if you can be happy with yourself when you are
12 alone, and if you can like yourself. How about you,
13 Ms. Stephens?

14 MS. STEPHENS: Yes, sir.

15 MR. EDMUND: And Ms. Gray?

16 MS. GRAY: I like me best of all and I like being alone
17 at times.

18 MR. EDMUND: There you go. And Ms. Gibson?

19 MS. GIBSON: Yes.

20 MR. EDMUND: You heard me ask those that preceded you
21 about the presumption of innocence and everybody says that
22 they will presume my client, James Duckett, to be innocent.
23 I ask you if you will really give it some serious thought
24 and do you presume him innocent right now?

25 MR. DE CLERK: Yes, sir.

- 411 -

1 MR. EDMUND: How about you, Ms. Stephens?

2 MS. STEPHENS: Yes, sir.

3 MR. EDMUND: Do you have any problem at all?

4 MS. STEPHENS: No, sir.

5 MR. EDMUND: When you go in that jury room right back
6 there and start your deliberations, right then, would you
7 presume him to be innocent?

8 MS. STEPHENS: Unless he has been proven guilty.

9 MR. EDMUND: Alright, now the Court is going to tell you
10 not to try not to form these opinions. The Court is going to
11 tell you that you must keep an open mind until you have
12 heard everything and what the Court is saying is that until
13 you go back there, he is still presumed innocent. Can you
14 do that?

15 MS. STEPHENS: Yes, sir.

16 MR. EDMUND: Are you going to go and begin forming opinions
17 as you hear these things and exclude the Defense, for
18 example, from showing you something to the contrary; make up
19 your mind so quickly in this trial, Ms. Stephens, that we
20 couldn't ... we talk about the presumption of innocence and
21 we talk about Defense and Offense and all that kind of stuff,
22 and the fact is the Defense takes its shots whenever it can
23 also and are you going to close us out from showing you
24 things that are indications of innocence of James Duckett?

25 MS. STEPHENS: No, I will keep an open mind.

- 412 -

1 MR. EDMUND: Will you remember there is going to come
2 a time down the road, it may be four days, it may be five
3 days, maybe seven days from now, when you will hear from
4 James Duckett and when you may hear from other people. Will
5 you keep that in mind and say, "I can't be forming an opinion
6 right now. I have got to wait and see what is going to
7 happen down the road?

8 MS. STEPHENS: Yes.

9 MR. EDMUND: And most importantly, I have got to wait
10 and see what the Judge says the law is. If the State puts
11 on circumstantial evidence case and you decide, well there
12 are two theories to this case, so you have got a reasonable
13 doubt, just like the rabbit going in and coming out of the
14 hole. That is the circumstantial evidence and the two
15 theories and you have got a reasonable doubt. There is a
16 track coming out and one track going in. There ain't no
17 way you can say he is in there. No way you can say he is
18 out. Beyond a reasonable doubt. Okay?

19 Can you presume James Duckett to be innocent, Ms. Gray,
20 and clothe him with it throughout this entire trial?

21 MS. GRAY: I can.

22 MR. EDMUND: Thank you, ma'am.

23 Will you keep that in mind?

24 MS. GRAY: I will.

25 MR. EDMUND: Will you make every effort to keep your

- 413 -

1 mind open until such time as the Judge tells you what the
2 law is and says, "Now, this case is yours. You may retire
3 to deliberate.". Can you do that?

4 MS. GRAY: Yes.

5 MR. EDMUND: How about you, Ms. Gibson, will you do the
6 same?

7 MS. GIBSON: Yes.

8 MR. EDMUND: What are your hobbies, Ms. Gray?

9 MS. GRAY: Crocheting, painting, working in the yard,
10 and mostly arts and crafts and needle work.

11 MR. EDMUND: Do you watch television at all?

12 MS. GRAY: I am not an avid TV watcher, no.

13 MR. EDMUND: If you watch, what is likely to be on
14 in your home?

15 MS. GRAY: If I am home alone, the TV is not on.

16 MR. EDMUND: That is assuming everybody turns on the
17 TV and just leaves it on.

18 MS. GRAY: I appreciate the quiet when he is gone and
19 I can shut it off. He watches channel 55 some and do like
20 Matlock and criminal shows that he watches. Otherwise, it is
21 the game shows. Jeopardy, Wheel of Fortune.

22 MR. EDMUND: Thank you. Ms. Stephens, what are your
23 hobbies, ma'am?

24 MS. STEPHENS: I like needlepoint and crocheting and
25 crafts and stuff like that.

- 414 -

1 MR. EDMUND: If you watch TV, what would you likely
2 watch?

3 MS. STEPHENS: Knotts Landing, Dallas.

4 MR. EDMUND: Nighttime soaps.

5 MS. STEPHENS: Right.

6 MR. EDMUND: How about you, Mr. DeClerk?

7 MR. DE CLERK: Sports.

8 MR. EDMUND: What are your hobbies now?

9 MR. DE CLERK: Getting into woodworking.

10 MR. EDMUND: Getting into it or has it been a lifetime
11 thing?

12 MR. DE CLERK: It is a matter of this last year. Picking
13 up a hobby of working with wood; small projects. Enjoying it
14 very much.

15 MR. EDMUND: The next thing you will be making? A clock?

16 MR. DE CLERK: It is complicated. I will back off from
17 that.

18 MR. EDMUND: Have any of you all personally been the
19 victim of a crime of violence? I don't want to know what it
20 is, just has it happened? Or have you had any close friends
21 or relatives who have been?

22 Have any of you been involved in law enforcement in your
23 life?

24 Or have close friends or relatives so involved?

25 JURORS: No.

- 415 -

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1 MR. EDMUND: Do either of the four of you feel that
2 after you have heard this testimony about the killing of
3 this child and you have seen these photographs and it has
4 been graphically described to you what was done to her, that
5 your reaction will be so great that you will want to reach
6 out and just hammer somebody and since Jim Duckett is sitting
7 out in the courtroom, select him as the person, even though
8 the case for the State doesn't warrant it. You understand
9 there should be a terrible punishment for this crime, but we
10 do not want you to punish my client unless the State proves
11 his guilt to you beyond a reasonable doubt. Would you do the
12 same, Ms. Gray?

13 MS. GRAY: Yes.

14 MR. EDMUND: Would you do the same, Ms. Gibson?

15 MS. GIBSON: Yes.

16 MR. EDMUND: Ms. Gibson, did there ever come a time
17 that you voiced an opinion from what you have read, heard
18 and seen regarding this case? I don't want to know what
19 the opinion is. I just want to know if you voiced it?

20 MS. GIBSON: I have discussed it, yes.

21 MR. EDMUND: Will you totally refrain, if you are
22 selected on this jury, from further discussion of this case?
23 Will you make an effort to purge your mind of any discussions
24 you had and wipe out the opinion making process that goes on
25 when you start discussing something?

- 416 -

1 MS. GIBSON: Yes.

2 MR. EDMUND: Can you do that, ma'am?

3 MS. GIBSON: Ahum. (Affirmative response)

4 MR. EDMUND: Can you, in light of what you have
5 discussed, in light of what you have read, in light of what
6 you have seen, in light of what you have heard, can you see
7 James Duckett from where you are sitting? Can you look at
8 James Duckett and say, "Yes, I do presume him innocent"?

9 MS. GIBSON: Yes, I can.

10 MR. EDMUND: Thank you, ma'am. Now, during the course
11 of sitting around this courtroom the past couple days, have
12 you begun to give some thought personally to the importance
13 of the jury system and also the frustration of the jury
14 system sitting over there in that room, I suppose, but the
15 importance of the jury system, Mr. DeClerk?

16 MR. DE CLERK: Yes.

17 MR. EDMUND: Did you understand not only is it your
18 civic duty, but it is something that both the State of Florida,
19 my client, Mr. Hogan, Mr. Hurm, the Court, me, everybody
20 can profit from, simply because you take the time to sit as
21 a juror in this, Ms. Stephens, Ms. Gray, Ms. Gibson?

22 JURORS: Yes.

23 MR. EDMUND: What I really asked about the fellow from
24 the FBI is this. Is the simple fact that he is an employee
25 of the Federal Government, an employee of the FBI, of such

- 417 -

1 magnitude to you that you would immediately just buy every-
2 thing he says to the exclusion of what anybody else has to
3 say, just because he is an employee of the FBI? Is that going
4 to shine him up so that you won't look at him as you would
5 any other witnesses who took the stand? Ms. Gray?

6 MS. GRAY: No. It won't shine him up any. I would have
7 respect for his knowledge, but it would not shine him up.

8 MR. EDMUND: Okay, do you feel, ma'am, that simply
9 because a person is employed by the FBI, this instills in
10 them some particular peculiarity of above average knowledge?

11 MS. GRAY: No.

12 MR. EDMUND: Then will you re-evaluate what you said
13 to me a minute ago?

14 MS. GRAY: Well, I just re-evaluated what I said right
15 now. I would have respect for his training and knowledge
16 of what he does, but it would not... his say so would not
17 have a bearing on me making a decision. I would listen to
18 the facts of his knowledge that he has. I am not making
19 sense now.

20 MR. EDMUND: Now, would you think simply because he is
21 in the FBI that he has some particular peculiar training,
22 background and experience? Is that thought in your mind
23 now?

24 What I am asking you to do is not assume anything.
25 I am asking you not to assume this guy has got any training,

1 but listen and see what he says. I am asking you to assume
2 this guy hasn't got any experience. Listen and see what he
3 says. I don't believe they are going to bring a fella down
4 here that has no background, training and experience, but
5 we can't assume and I will ask you if you will not assume
6 anything in the trial, but make the State prove it. That is
7 all I am asking. Make the State prove it.

8 JURORS: Right.

9 MR. EDMUND: Dot every "i" and cross every "t", that
10 is dotable or crossable and available to them. Certainly,
11 no case, as Mr. Hogan says, is a perfect case. I think
12 someone said there was thirty-two errors upon which a
13 reversal could be had in the trial of Christ. There is no
14 perfect case. Under the laws of that day, but will you make
15 them fess up to everything they got?

16 MR. HOGAN: Judge, I object to that. We don't need to
17 prove the case beyond a reasonable doubt. We don't need to
18 fess up to anything.

19 MR. EDMUND: I am telling them they have got a lot of
20 holes in it.

21 THE COURT: I think the law is they have to prove the
22 case beyond a reasonable doubt.

23 MR. EDMUND: Will you make them do just that, ma'am?

24 MS. GRAY: Yes, sir.

25 MR. EDMUND: Will you, Ms. Stephens?

- 419 -

1 MS. STEPHENS: Yes.
2 MR. EDMUND: Will you, Mr. De Clerk?
3 MR. DE CLERK: Yes.
4 MR. EDMUND: And will you, Ms. Gibson?
5 MS. GIBSON: Yes.
6 MR. EDMUND: If you are sitting there in that jury
7 room and everybody is voting one way and you are voting the
8 other way, and you feel that you are correct, will you stand
9 by your decision? Ms. Stephens?
10 MS. STEPHENS: Yes. Absolutely.
11 MR. EDMUND: There you go. How about you, Mr. DeClerk?
12 MR. DE CLERK: Yes, sir, you are not going to change my
13 mind if I decided that is the way it is.
14 MR. EDMUND: Ms. Gray, the same?
15 MS. GRAY: Right.
16 MR. EDMUND: Ms. Gibson?
17 MS. GIBSON: Correct.
18 MR. EDMUND: And you will make every effort to maintain
19 an open mind throughout this trial? Ms. Gibson?
20 MS. GIBSON: Yes.
21 MR. EDMUND: Ms. Gray?
22 MS. GRAY: Yes.
23 MR. EDMUND: Ms. Stephens?
24 MS. STEPHENS: Yes.
25 MR. EDMUND: Mr. DeClerk?

- 420 -

1 MR. DE CLERK: Yes.

2 MR. EDMUND: Are there any of you who feel that in every
3 instance just because there has been a killing, there has to
4 be an execution? Do you feel that, Ms. Gibson? That in every
5 instance that someone kills someone else, there must be an
6 execution?

7 MS. GIBSON: No.

8 MR. EDMUND: Each of you said you have no real objection
9 to the death penalty, but do you think that every time someone
10 kills another person they ought to be killed?

11 MS. GIBSON: I like to think justice is done.

12 MR. EDMUND: Well, is it requiring the killing of the
13 killer? To meet the ends of justice? In your opinion?

14 MS. GIBSON: Not in every case.

15 MR. EDMUND: Ms. Stephens?

16 MS. STEPHENS: It depends on what case and what they did.

17 MR. EDMUND: Mr. DeClerk?

18 MR. DE CLERK: I can't say it right.

19 MR. EDMUND: Thank you, sir.

20 Thank you, Your Honor.

21 THE COURT: Come up when you are ready.

22 (WHEREUPON, BENCH CONFERENCE IS HELD AS FOLLOWS:)

23 THE COURT: Do we have any challenges for cause?

24 MR. HOGAN: No, sir.

25 MR. EDMUND: No, sir.

- 421 -

1 ing between a homicide and the death penalty and homicide
2 of another that requires a death penalty. I thought the
3 Court, when she had discussions, she had the opinion making
4 process of her judgment in this matter and going back to what
5 she said at the bench conference and at voir dire or something
6 at the time...

7 THE COURT: I have a problem now with your asking for
8 a cause strike. When we started I asked you if anyone had
9 a strike and now the State has used its last strike.

10 MR. EDMUND: Judge, I am really sorry then. Now, would
11 you give them another strike? I don't understand that. You
12 know, when I started to strike a while ago, they were down
13 on the last two and it totally slipped that I was supposed to
14 challenge all there for cause and it was just a slip. Would
15 you give them another strike?

16 MR. HOGAN: First of all, we already used our pre-
17 emptories with the understanding that cause was over with.
18 Secondly, which we have already tipped our hand, secondly,
19 there is no way that I can see that Ms. Gibson gave any
20 answer that was any different than any other jurors and I
21 think that it would certainly go even beyond a liberal
22 interpretation of her answers to allow her to be struck for
23 cause. She said she would put out of her mind and she can be
24 a fair juror and we have had her at the bench, and I think
25 nothing was said and now we have in the eleventh hour, all of

1 THE COURT: The State has used eight and the Defense
2 has used nine. The State has first strike. The prospective
3 jury is Stroud, Hall, Symmes, Emerson, Warren, Gries, Flack,
4 Schlager, Rhodes, Barry, DeClerk, Stephens.

5 MR. HOGAN: Symmes.

6 THE COURT: You strike Ms. Symmes?

7 MR. EDMUND: I didn't hear.

8 MR. HOGAN: Ms. Symmes.

9 THE COURT: You have both used nine. We are through
10 Gray.

11 MR. EDMUND: I don't mean to be facetious, but I am
12 ready to commence the ball. I have no more challenges.

13 THE COURT: He has no challenges.

14 MR. EDMUND: Through Ms. Gray.

15 THE COURT: Yes, sir. If they say no challenges, that
16 is our jury.

17 MR. HOGAN: We will use our last on Mr. Flack.

18 THE COURT: They struck Mr. Flack. The State used
19 their challenges. It is still up to you, Mr. Edmund, and the
20 jury is everybody left in the box. Through Ms. Gibson.
21 You have one more strike.

22 MR. EDMUND: Yes, sir. I request to strike Ms. Gibson
23 for cause.

24 MR. HOGAN: Wait a minute.

25 MR. EDMUND: She had a great deal of problems distinguish-

- 422 -

1 a sudden, she is forming her opinions.

2 THE COURT: Any more argument on her for cause?

3 MR. EDMUND: No, sir.

4 THE COURT: I am not going to strike her for cause.

5 MR. EDMUND: I challenge.

6 THE COURT: Alright. That is all the challenges.

7 We are going to rebox everybody. The next person I call, of

8 course, they will be examined for cause, and then we need

9 two alternates and a strike each per alternate.

10 About how many people would I need to put up there

11 to get this done?

12 MR. HOGAN: Seven or eight would do it.

13 THE COURT: Seven or eight would do it. We have two

14 alternates.

15 Eight would be safe.

16 MR. HURM: Eight might be safer.

17 THE COURT: What I think I will do is use eight, that

18 is probably safe. What I think I will do is take these people

19 out and put them in the box, otherwise we would only be taking

20 three at a time. Any objection to taht? Take these people

21 out and do that?

22 COUNSEL: No objection.

23 THE COURT: That is what we will do.

24 (WHEREUPON, BENCH CONFERENCE ENDS)

25 THE COURT: Folks, bear with us. This time, if you would

1 please, if I read your name, as usual, you may step down
2 and your jury service is over. You won't need to come back or
3 call back.

4 Mrs. Symmes, Mr. Flack, Ms. Gibson, you can step down.
5 Thank you very much.

6 Although we are going to rebox you all, folks, please
7 don't move around right at this time and you will see why
8 in a second. Let us go ahead with our paperwork.

9 (WHEREUPON, COURT WORK ON RE-BOXING JURY)

10 THE COURT: So for purposes of the jury box, we will
11 have Ms. Stroud in the first seat. We will have Mr. Hall in
12 the second seat. We will have Dr. Emerson in the third seat.
13 You don't need to move around actually. I am going to ask
14 you all to step out in a moment, if you don't mind, but this
15 is where we get our... we keep our names straight. Next to
16 Dr. Emerson when we come back will be Ms. Warren. First on
17 the second row will be Ms. Gries. Then next will be Mr.
18 Schlager. Next will be Mrs. Rhodes. Next will be Mr. Barry.
19 Next will be Mr. DeClerk. In the front row will be Mrs.
20 Stephens. Next to her will be Mrs. Gray.

21 Having said that, Mr. Bailiff, please remove the Jury
22 from the courtroom. Watch your step.

23 (WHEREUPON, JURORS IN JURY BOX ARE REMOVED FROM COURT-
24 ROOM INTO THE JURY ROOM)

25 THE COURT: Mr. Bailiff, we are going to slightly alter

- 425 -

1 our procedure now. We are going to fill the front two rows
2 with the second row first.

3 Alright. When I call your name, please come forward.

4 I have #59, Wade Martin.

5 #6, Frank Kratochvil.

6 #24, Julia Martin.

7 #22, Margaret Clements.

8 In the front row, #123, Billy Summe.

9 #58, Gloria Dilley.

10 #51, Hugh Ashley.

11 #42, Mardi Hartge.

12 Folks, for those of you with us, please answer out loud.

13 Do you have any physical defects, hearing, sight or otherwise
14 that would render you incapable of performing your duty as a
15 juror in this case?

16 JURORS: No.

17 THE COURT: Do you have any bias or prejudice either for
18 or against the Defendant?

19 JURORS: No.

20 THE COURT: If you are selected as a juror in this cause,
21 will you render a fair and impartial verdict, based upon the
22 evidence presented in this courtroom and the law as it pertains
23 to this particular case as instructed by the Court?

24 JURORS: Yes.

25 THE COURT: Do you have any other reason why you cannot

1 give this case your undivided attention and render a fair
2 and impartial verdict?

3 JURORS: No.

4 THE COURT: Alright, Mr. Martin, if you would, please,
5 sir, start out with us and introduce yourself to us.

6 MR. MARTIN: My name is Wade Martin. I am retired. I
7 live in Leesburg. My wife is Norma, and I have three
8 children.

9 THE COURT: What did you do before you retired, Mr.
10 Martin?

11 MR. MARTIN: I worked at the post office.

12 THE COURT: Does your wife work outside the home?

13 MR. MARTIN: Yes, she has.

14 THE COURT: What did she do, sir?

15 MR. MARTIN: Real Estate Agent.

16 THE COURT: Is she retired now, also?

17 MR. MARTIN: Yes, sir.

18 THE COURT: Have you ever served on a jury?

19 MR. MARTIN: Yes, sir.

20 THE COURT: Was it civil or criminal, if you recall?

21 MR. MARTIN: Civil.

22 THE COURT: Thank you, sir. Mr. Kratochvil. Getting
23 closer anyway, aren't we.

24 MR. KRATOCHVIL: My name is Frank Kratochvil and I took
25 an early retirement from Drummond Aero Space Corporation.

- 427 -

1 I am presently working at a part-time job with Scotty's in
2 Leesburg. I live in Leesburg. My wife works at Sears at
3 the Lake Square Mall and I have four children.

4 THE COURT: Have you ever served on a jury, sir?

5 MR. KRATOCHVIL: No, I haven't.

6 THE COURT: Thank you. Mrs. Martin?

7 MS. MARTIN: My name is Julia Martin. My husband is
8 Don Martin. He retired from the used car dealer and I am
9 a music teacher. I have four children and four grandchildren.

10 THE COURT: What town do you all live in?

11 MS. MARTIN: Leesburg.

12 THE COURT: Have you ever served on a jury?

13 MS. MARTIN: I was called, but did not serve.

14 THE COURT: Ms. Clements, we have to tell these folks
15 that we have known each other for about as long as I have
16 been alive and we should be fair about that. Your daughter
17 and I went to school together, correct?

18 MS. CLEMENTS: That is correct.

19 THE COURT: Alright, tell the folks about yourself,
20 please.

21 MS. CLEMENTS: I am Margaret Clements. I am a widow.
22 We have the Clements Pest Control and I am retired from being
23 the Secretary-Treasurer of the company, and I have two
24 children.

25 THE COURT: You live in Leesburg, I know that, unless

1 you have moved.

2 MS. CLEMENTS: No, I have lived there for forty-five
3 years in the same house.

4 THE COURT: Have you ever served on a jury, Ms. Clements?

5 MS. CLEMENTS: Yes.

6 THE COURT: Was it civil or criminal?

7 MS. CLEMENTS: Criminal.

8 THE COURT: Thank you. I remember one night when I
9 got in the fountain in your house. Do you remember that time?
10 I knew you would. I thought I had better mention it before
11 you do.

12 MS. CLEMENTS: You got an electric shock, too.

13 THE COURT: Yes, ma'am. Let's don't tell anymore of
14 our stories. Mr. Summe, if you would.

15 MR. SUMME: I am Bill Summe. I am a supervisor of
16 construction for Homes by Charlie in Mount Dora. My wife is
17 a textbook spacer for Lake County. I have three sons. Two
18 of them in Leesburg and one in Orlando.

19 THE COURT: Do you live in Leesburg?

20 MR. SUMME: No, I live in Eustis.

21 THE COURT: Have you ever served on a jury?

22 MR. SUMME: No, I haven't.

23 THE COURT: Thank you. Ms. Dilley?

24 MS. DILLEY: My name is Gloria Dilley. I live in
25 Clermont. I am semi-retired. I work for K-Mart in their office

1 down there. I am a widow. I have one son in the service.

2 THE COURT: What did your husband do before he passed
3 away, please, ma'am?

4 MS. DILLEY: He was a high voltage power electrician.

5 THE COURT: Have you ever served on a jury?

6 MS. DILLEY: I did many years ago in California and
7 I can't remember what it was about.

8 THE COURT: Okay. Thank you. Mr. Ashley?

9 MR. ASHLEY: Hugh Ashley. Currently employed at
10 Seminole County Sheriff's Department, as a police dispatcher.
11 Divorced. Two sons. I live in the City of Eustis. I have
12 never been on a jury before.

13 THE COURT: Thank you, sir. I am going to have trouble
14 with this all day and I know you are going to bear with me.

15 MS. HARTGE: Think of Archie Bunker and it is Hartge.

16 THE COURT: Alright, thanks.

17 MS. HARTGE: Mardi Hartge. I live in Eustis. My husband
18 is retired. We have three children and five grandchildren.

19 THE COURT: What did your husband do before he retired?

20 MS. HARTGE: A family owned business boats...

21 THE COURT: Okay, I know something about that. I
22 graduated from a naval academy, so I know, yes, ma'am.
23 Have you ever worked outside the home, ma'am?

24 MS. HARTGE: A very short time as a receptionist.

25 THE COURT: Have you ever served on a jury?

- 430 -

1 MS. HARTGE: A Grand Jury in Maryland.
2 THE COURT: Okay, and that is all?
3 MS. HARTGE: That is all.
4 THE COURT: That was enough. Thank you, ma'am.
5 Mr. Hogan?
6 VOIR DIRE EXAMINATION
7 BY MR. HOGAN:
8 Thank you, Judge. Ladies and gentlemen, were you able
9 to hear the discussions thus far today?
10 JURORS: Yes.
11 MR. HOGAN: That would speed things up. Mr. Martin,
12 how are you doing, sir?
13 MR. MARTIN: Fine.
14 MR. HOGAN: Mr. Martin, do you go to church?
15 MR. MARTIN: Yes.
16 MR. HOGAN: What church?
17 MR. MARTIN: St. Paul's Catholic Church.
18 MR. HOGAN: Do you have any children?
19 MR. MARTIN: Three boys.
20 MR. HOGAN: What do they do, sir?
21 MR. MARTIN: Two are in a bowling alley and one is
22 attending school.
23 MR. HOGAN: What kind of school?
24 MR. MARTIN: High school.
25 MR. HOGAN: Mr. Martin, you heard the discussions that we

- 431 -

1 had before about there being two parts to the trial?

2 MR. MARTIN: Yes.

3 MR. HOGAN: Mr. Martin, how do you feel about capital
4 punishment?

5 MR. MARTIN: I have mixed feelings about it.

6 MR. HOGAN: Is there anything about your religious
7 background that gives you those mixed feelings?

8 MR. MARTIN: No.

9 MR. HOGAN: Mr. Martin, the question then becomes this.
10 I intend to do everything I can to prove this case to you
11 and in other words, to have the jury find this Defendant
12 guilty of First Degree Murder and Sexual Battery. Having
13 found him guilty of First Degree Murder, you would then be
14 placed in a position of having to decide if the aggravating
15 factors outweigh the mitigating factors. If you follow the
16 law, and the aggravating factors outweigh the mitigating
17 factors, you will recommend capital punishment. Can you do
18 that?

19 MR. MARTIN: Yes, sir.

20 MR. HOGAN: In other words, whatever mixed feelings you
21 have, you can put those aside and follow the law?

22 MR. MARTIN: Yes.

23 MR. HOGAN: Can you also put your mixed feelings aside
24 and return a verdict of guilty of First Degree Murder, knowing
25 that capital punishment is a possible penalty?

- 432 -

1 MR. MARTIN: Yes.

2 MR. HOGAN: In other words, you won't try to avoid the
3 penalty phase of the trial by returning a Second Degree
4 Murder conviction?

5 MR. MARTIN: No.

6 MR. HOGAN: Thank you, sir. Mr. Kratochvil.

7 MR. KRATOCHVIL: There is a silent CH in there.

8 MR. HOGAN: I got up here and thought I would get it
9 right, but I got up here and forgot. Okay, sir, four children.
10 What do they do?

11 MR. KRATOCHVIL: A son who is a pastor of the Deacon
12 Baptist Church in Nashville, Tennessees. Another son who is
13 employee of Chrystals, and a daughter who is a housewife.
14 And another son who is a manager of Arby's.

15 MR. HOGAN: Any grandchildren?

16 MR. KRATOCHVIL: Seven.

17 MR. HOGAN: What church do you go to, sir?

18 MR. KRATOCHVIL: Trinity Baptist in Wildwood.

19 MR. HOGAN: Now, you understand the questions I am
20 going to ask you. Do you have any problem with the death
21 penalty?

22 MR. KRATOCHVIL: No.

23 MR. HOGAN: Could you follow the law?

24 MR. KRATOCHVIL: Yes.

25 MR. HOGAN: How do you feel about capital punishment?

- 433 -

1 Any reservations at all?

2 MR. KRATOCHVIL: No.

3 MR. HOGAN: Did you understand everything we discussed
4 about reasonable doubt. About being my only burden? In
5 other words, you can't return a verdict of not guilty unless
6 you can tell yourself at least that you have a good reason
7 why you are doing it?

8 MR. KRATOCHVIL: Yes.

9 MR. HOGAN: Do you all understand there is going to be a
10 lot of unanswered questions. We don't have to answer all
11 those questions. We don't have to cross every "t" and dot
12 every "i". Understand that?

13 MR. KRATOCHVIL: Yes, sir.

14 MR. HOGAN: Ms. Hartge?

15 MS. HARTGE: Correct.

16 MR. HOGAN: Ms. Martin, how are you doing?

17 MS. MARTIN: Fine.

18 MR. HOGAN: Ms. Martin, were you able to hear everything?

19 MS. MARTIN: Yes.

20 MR. HOGAN: Anything that you would like to tell me?
21 Any questions that come up? Any areas you need to go back
22 over? Want me to read the witness list again?

23 MS. MARTIN: No.

24 MR. HOGAN: What type of music teacher are you? In
25 school or private?

- 434 -

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1 MS. MARTIN: In school and private.
2 MR. HOGAN: I guess I wasn't taking notes if you told
3 us you had children. I didn't get it.
4 MS. MARTIN: Yes, four.
5 MR. HOGAN: What did they do?
6 MS. MARTIN: One has his own business in Leesburg.
7 One is a car salesman for Cecil Clark. My daughter is in
8 new accounts for IRAs, at Citizens National Bank. Another son
9 is an installer for security systems.
10 MR. HOGAN: Any grandchildren?
11 MS. MARTIN: Four.
12 MR. HOGAN: Ms. Martin, did you keep a curfew on your
13 kids?
14 MS. MARTIN: Yes.
15 MR. HOGAN: Do you understand this girl went to the
16 store at ten o'clock at night, just down the street?
17 MS. MARTIN: Yes.
18 MR. HOGAN: Do you understand her mother is not on trial
19 for letting her walk to the store?
20 MS. MARTIN: Yes.
21 MR. HOGAN: Whether you think it is okay or not?
22 MS. MARTIN: Yes.
23 MR. HOGAN: Do you have any questions about the fact
24 that you should use your common sense?
25 MS. MARTIN: No.

- 435 -

1 MR. HOGAN: Do you understand that you should use your
2 common sense?
3 MS. MARTIN: Yes.
4 MR. HOGAN: Do you understand that, Mr. Martin?
5 MR. MARTIN: Yes, sir.
6 MR. HOGAN: How long have you been at the post office?
7 MR. MARTIN: Thirty years.
8 MR. HOGAN: I suppose, Mr. Martin, you don't have anything
9 against Federal employees like Mr. Edmund?
10 MR. MARTIN: Not at all.
11 MR. HOGAN: You understand that expert witnesses are
12 going to testify and that is perfectly okay. Do you under-
13 stand that there is a lot of evidence that we can't understand
14 without an expert?
15 MR. MARTIN: Yes, sir.
16 MR. HOGAN: Mr. Summe, you understand that?
17 MR. SUMME: Yes, I do.
18 MR. HOGAN: Ms. Martin, do you go to church?
19 MS. MARTIN: yes.
20 MR. HOGAN: What church?
21 MS. MARTIN: Grace Bible in Leesburg.
22 MR. HOGAN: Anything about your religious training or
23 background taht would make it difficult or impossible for you
24 to serve on this jury?
25 MS. MARTIN: No.

- 436 -

1 MR. HOGAN: Do you think capital punishment is
2 appropriate in certain cases?

3 MS. MARTIN: Yes, sir.

4 MR. HOGAN: You understand the process we will go
5 through?

6 MS. MARTIN: Yes.

7 MR. HOGAN: Any questions for me? Ms. Clements, how
8 are you doing?

9 MS. CLEMENTS: Fine, thank you.

10 MR. HOGAN: Ms. Clements, you have two children?

11 MS. CLEMENTS: Right.

12 MR. HOGAN: You just don't look old enough to have a
13 child as old as Judge Lockett is.

14 THE COURT: You had better be careful here, Mr Hogan.
15 I don't know if you are talking about her or me.

16 MR. HOGAN: What do your children do?

17 MS. CLEMENTS: My son is President of our Company and
18 my daughter works for the City of Baltimore only during
19 Legislature.

20 MR. HOGAN: What does she do?

21 MS. CLEMENTS: She is a go between the City of
22 Baltimore informed of what is going on in the Legislature.

23 MR. HOGAN: Do you have any grandchildren?

24 MS. CLEMENTS: That is in Maryland.

25 MR. HOGAN: Yes, ma'am...

- 437 -

1 MS. CLEMENTS: I have four grandchildren.
2 MR. HOGAN: Do you go to church, ma'am?
3 MS. CLEMENTS: Yes, sir, I am Episcopalian.
4 MR. HOGAN: Is there anything about your training or
5 background that would cause you any problems with being on
6 this type of jury?
7 MS. CLEMENTS: No.
8 MR. HOGAN: Did you understand the process that we are
9 going to go through?
10 MS. CLEMENTS: Yes, sir.
11 MR. HOGAN: You were on a jury once before?
12 MS. CLEMENTS: Yes.
13 MR. HOGAN: You understand I don't know where that was.
14 MS. CLEMENTS: Right here.
15 MR. HOGAN: With Judge Lockett?
16 MS. CLEMENTS: No.
17 MR. HOGAN: You understand...
18 MS. CLEMENTS: Long before your time.
19 MR. HOGAN: You understand that the law we are going to
20 use in this case will come from Judge Lockett and we don't
21 change the law here. We just follow the law. Any questions
22 for me? Anything I have gone over and you want to talk about?
23 MS. CLEMENTS: No, I don't think so.
24 MR. HOGAN: Thank you. I appreciate it.
25 Thank you, ma'am. Mr. Summe, how are you doing?

- 438 -

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1 MR. SUMME: Fine.

2 MR. HOGAN: Mr. Summe, you have three sons?

3 MR. SUMME: Yes.

4 MR. HOGAN: What do they do, sir?

5 MR. SUMME: One of them works at Leesburg with

6 mentally handicapped children. One is a tool and die maker

7 at Royal Aluminum. One works for Central Florida Cablevision

8 in Orlando.

9 MR. HOGAN: Alright, sir. Any grandchildren?

10 MR. SUMME: Two granddaughters.

11 MR. HOGAN: How old are they?

12 MR. SUMME: Three and eleven.

13 MR. HOGAN: Eleven?

14 MR. SUMME: Eleven.

15 MR. HOGAN: You understand that the victim in this

16 case was an eleven year old girl?

17 MR. SUMME: I didn't know that. I just new a girl.

18 MR. HOGAN: Well, the evidence is going to show that it

19 was an eleven year old girl that was raped and murdered.

20 Do you understand if you get on this jury, you need to try

21 to put your granddaughter out of your mind and not interpose...

22 MR. SUMME: Yes, sir, yes, sir, certainly.

23 MR. HOGAN: How would you feel about your eleven year

24 old granddaughter walking down to a convenience store at

25 ten o'clock at night?

- 439 -

1 MR. SUMME: I don't think I would like it very much.
2 MR. HOGAN: Did you tell your kids to trust police
3 officers?
4 MR. SUMME: Oh, yes, always told them that.
5 MR. HOGAN: Do you believe that a police officer could
6 commit a crime like this?
7 MR. SUMME: Yes.
8 MR. HOGAN: Do you believe that an adult, grown man
9 could have some desire to sexually attack an eleven year old
10 girl?
11 MR. SUMME: There is a lot of bad people in this world.
12 MR. HOGAN: Do you believe that is possible?
13 MR. SUMME: Yes, sir.
14 MR. HOGAN: Do you go to church, Mr. Summe?
15 MR. SUMME: Methodist Church at Mount Dora.
16 MR. HOGAN: Anything about your religious training or
17 background that would make it difficult for you?
18 MR. SUMME: Nothing, sir.
19 MR. HOGAN: Do you think capital punishment is appropriate
20 in certain cases?
21 MR. SUMME: Yes. If there is sufficient evidence that
22 it is without a shadow of a doubt.
23 MR. HOGAN: Mr. Summe, beyond a shadow of a doubt is not
24 the burden in Florida, nor any other jurisdiction that I am
25 aware of.

- 440 -

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1 MR. SUMME: It would have to be proved to me that this
2 would be.

3 MR. HOGAN: Let me ask you this way. The way the process
4 will work, after the Defendant were convicted guilty of
5 First Degree Murder, Mr. Hurm and myself are representing
6 our client, who deserves a fair trial, the State of Florida;
7 if we prove that case to you beyond a reasonable doubt.
8 First the elements of First Degree Murder, premeditated
9 killing. In other words, an intentional act resulting in the
10 death of an eleven year old girl, Teresa McAbee. The next
11 thing that would happen is the jury return that verdict, and
12 you are on that jury, then you will be asked to make a
13 recommendation to Judge Lockett, and that is the process of
14 starting over. What will happen then is certain aggravating
15 factors and certain mitigating factors would be presented to
16 you. Here again, my obligation to you is to prove them to
17 you beyond a reasonable doubt, not beyond a shadow of a
18 doubt.

19 MR. SUMME: Right.

20 MR. HOGAN: Not beyond all doubt, but merely beyond a
21 reasonable doubt. In other words, asking you to be a
22 reasonable man and use your common sense and if you have an
23 abiding conviction or a gut feeling or you know it after I
24 presented it to you, then it is proved. Okay?

25 As far as the law is concerned. And then you will be

- 441 -

1 asked to weigh the aggravating factors against the mitigating
2 factors, not to count them, but to weigh them. There may be
3 ten mitigating and two aggravating things, but those
4 aggravating things may be so important that they outweigh the
5 mitigating things. Okay?

6 And then you follow the law and you will recommend to
7 Judge Lockett or you would recommend to Judge Lockett that
8 he impose capital punishment.

9 MR. SUMME: If it was proven to me, yes.

10 MR. HOGAN: Okay, beyond a reasonable doubt.

11 MR. SUMME: Right.

12 MR. HOGAN: But not beyond all doubt and not beyond a
13 shadow of a doubt?

14 MR. SUMME: Right. That is right. Very much so.

15 MR. HOGAN: How do you feel about that, Ms. Martin?

16 MS. MARTIN: The same.

17 MR. HOGAN: How do you feel about that, Mr. Martin?

18 MR. MARTIN: Which part?

19 MR. HOGAN: Which part? Not beyond a shadow of a doubt
20 part, I hope.

21 MR. MARTIN: No.

22 MR. HOGAN: You understand that my burden throughout
23 this process at no time would ever raise any higher than
24 reasonable doubt?

25 MR. MARTIN: Ahum. (Affirmative response)

- 442 -

1 MR. HOGAN: In other words, you want to be a reasonable
2 man at all times.

3 MR. MARTIN: I always considered myself to be that.

4 MR. HOGAN: But you understand I can't prove anything
5 to you beyond a shadow of a doubt?

6 MR. MARTIN: No.

7 MR. HOGAN: Mr. Summe, and Mr. Martin and all of you,
8 understand circumstantial evidence may be what I use to prove
9 each of these things. That is fine. Understand that, Mr.
10 Summe?

11 MR. SUMME: Yes.

12 MR. HOGAN: Mr. Martin?

13 MR. MARTIN: Yes.

14 MR. HOGAN: Mr. Martin, if we get to that penalty phase
15 of this trial and I show you certain aggravating factors,
16 you in fact have heard or exist are proven to you beyond a
17 reasonable doubt, you have no reasonable doubt to disbelieve
18 them and those aggravating factors outweigh the mitigating
19 factors, would you recommend capital punishment?

20 MR. MARTIN: Yes.

21 MR. HOGAN: I hope that clears it up for everyone.
22 Thank you, sir. Ms. Dilley, how are you doing? Ms. Dilley,
23 do you go to church?

24 MS. DILLEY: Occasionally.

25 MR. HOGAN: What church?

- 443 -

1 MS. DILLEY: Episcopalian.
2 MR. HOGAN: Do you go to the same church or a different
3 church?
4 MS. DILLEY: I go to a different church, I believe.
5 MR. HOGAN: Which branch of the service is your son in?
6 MS. DILLEY: Army.
7 MR. HOGAN: Where is he?
8 MS. DILLEY: Right now he is in Hawaii.
9 MR. HOGAN: Is he stationed there or on leave there?
10 MS. DILLEY: He is stationed there.
11 MR. HOGAN: And you had prior jury service in California,
12 but you don't recall any of the details?
13 MS. DILLEY: It was about thirty years ago.
14 MR. HOGAN: The only concern I have about that is that
15 you understand and I am sure that you do, whatever the law is
16 in California, it may not be the law in Florida and if you
17 don't recall anything about it, there is no problem.
18 Anything about your religious training or background that
19 would give you any difficulty with capital punishment?
20 MS. DILLEY: No, there is not.
21 MR. HOGAN: Could you follow the law?
22 MS. DILLEY: Yes, I could.
23 MR. HOGAN: Do you understand Mr. Martin, Mr. Summe, and
24 the rest of you folks, it is not an emotional decision when
25 you recommend capital punishment. What you are doing is merely

- 444 -

1 deciding if the aggravating factors have been proven beyond
2 a reasonable doubt, a reasonable doubt, and then decide if
3 those aggravating factors outweigh the mitigating factors.
4 That is the process you go through. Understand that, Mr.
5 Martin? Mr. Summe?

6 JURORS: Yes, sir.

7 MR. HOGAN: Thank you. Mr. Ashley, how long have you
8 been a dispatcher?

9 MR. ASHLEY: It will be a year next month.

10 MR. HOGAN: What did you do before that?

11 MR. ASHLEY: Prior to that I headed up an investigative
12 branch for the Department of Labor and Industry in the State
13 of Pennsylvania.

14 MR. HOGAN: Is that a law enforcement job?

15 MR. ASHLEY: We had arrest powers, yes. It was a licensed
16 and control situation.

17 MR. HOGAN: Was that something like contractors...

18 MR. ASHLEY: We dealt with private agencies.

19 MR. HOGAN: That is interesting. You had two sons.
20 What do they do?

21 MR. ASHLEY: The oldest boy is in the Air Force out in
22 Texas. The youngest boy has recently joined me down here.
23 He is currently employed on a part-time basis while he is
24 looking for full time.

25 MR. HOGAN: The fact that you work with, even though as

1 a dispatcher, you may not be a bonded deputy sheriff...

2 MR. ASHLEY: No, sir.

3 MR. HOGAN: But in effect, you do work constantly with
4 police officers...

5 MR. ASHLEY: Deputy sheriffs.

6 MR. HOGAN: In fact, they rely on you to check on them
7 to do 10-4 checks and etcetera and dispatch them properly and
8 give proper directions and so it is very important work and
9 you work very closely with them.

10 MR. ASHLEY: Yes, sir.

11 MR. HOGAN: Do you understand this defendant was a police
12 officer at the time this was committed?

13 MS. ASHLEY: Yes, sir.

14 MR. HOGAN: Knowing this and knowing ...

15 MR. ASHLEY: I didn't until recently.

16 MR. HOGAN: Well, you know it now, and knowing it and
17 knowing that you worked with police officers, is there any
18 problem with you believing a police officer could do a thing
19 like this or returning a verdict of guilty and having to go
20 back to your department and facing your fellow workers?

21 MR. ASHLEY: No, sir.

22 MR. HOGAN: No to both questions?

23 MR. ASHLEY: No to both questions. In addition, I am
24 also a retired police officer from the State of California.

25 MR. HOGAN: You should know as well as anybody then that

- 446 -

1 there are bad apples in every barrel?

2 MR. ASHLEY: In every profession, yes, sir.

3 MR. HOGAN: Do you go to church, Mr. Ashley?

4 MR. ASHLEY: No, sir.

5 MR. HOGAN: Have you ever?

6 MR. ASHLEY: Yes, sir, I was raised Catholic.

7 MR. HOGAN: Is there anything about your religious
8 background or training that would make it difficult for you
9 to be on this jury?

10 MR. ASHLEY: No, sir.

11 MR. HOGAN: Do you think you could follow the law?

12 MR. ASHLEY: Yes, I have done it.

13 MR. HOGAN: Thank you, sir. Mrs. Hartge, how are you
14 doing?

15 MRS. HARTGE: Fine.

16 MR. HOGAN: You have three children. What do they do?

17 MRS. HARTGE: The oldest daughter is in the administration
18 of a foundation in Pennsylvania. A grand organization. Our
19 second daughter is in insurance with her father's family
20 business and our son is in the Marine Corps.

21 MR. HOGAN: And you have five grandchildren?

22 MS. HARTGE: yes.

23 MR. HOGAN: Boys and girls?

24 MRS. HARTGE: Three boys and two girls.

25 MR. HOGAN: What church do you go to, ma'am?

- 447 -

1 MS. HARTGE: Episcopal Church. Sporatically, but I have
2 gone.

3 MR. HOGAN: Is there anything about your religious back-
4 ground that is going to make it hard for you to sit as a
5 juror?

6 MS. HARTGE: No.

7 MR. HOGAN: Do you understand everything we have gone
8 through so far?

9 MS. HARTGE: Yes.

10 MR. HOGAN: You understand that my burden is only to
11 prove this case beyond a reasonable doubt?

12 MS. HARTGE: Yes.

13 MR. HOGAN: No higher burden?

14 MS. HARTGE: No.

15 MR. HOGAN: No impossible burdens, no shadow of a doubt,
16 or none of that?

17 MS. HARTGE: No.

18 MR. HOGAN: You understand circumstantial evidence is
19 good?

20 MS. HARTGE: Yes.

21 MR. HOGAN: Expert testimony is certainly acceptable?

22 MS. HARTGE: Yes.

23 MR. HOGAN: There are two phases to the trial and all
24 that?

25 MS. HARTGE: Yes.

- 448 -

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1 MR. HOGAN: Do you have any questions for me?

2 MS. HARTGE: I don't think so.

3 MR. HOGAN: Do any of you have any questions?

4 Mr. Martin?

5 MR. MARTIN: No, sir.

6 MR. HOGAN: Mr. Kratochvil?

7 MR. KRATOCHVIL: No, no questions.

8 MR. HOGAN: Is that right, Kratochvil?

9 THE COURT: The only question is why can't we get your
10 name right. I understand that.

11 MR. HOGAN: Thank you, folks. Thank you, Judge.

12 THE COURT: Mr. Edmund?

13 VOIR DIRE EXAMINATION

14 BY MR. EDMUND:

15 If it please, Your Honor. Ladies and gentlemen, I am
16 Jack Edmund.

17 Mr. Kratochvil, does it bother you at all that the
18 State says we are going to ask for the death penalty, but
19 we are going to leave an awful lot of unanswered questions
20 on a First Degree Murder case. Does that bother you at all?

21 MR. KRATOCHVIL: Yes, it would.

22 MR. EDMUND: Does it bother you at all, Mr. Martin?

23 MR. MARTIN: Oh, yes.

24 MR. EDMUND: Does it now, since he told you about it?

25 MR. MARTIN: Yes.

- 449 -

1 MR. EDMUND: Do you feel some sort of kinship with the
2 FBI, sir?

3 MR. MARTIN: No, none.

4 MR. EDMUND: Mr. Summe, do you have some problem? Does
5 it bother you that the State is saying, "I want the death
6 penalty, but we are going to leave a lot of unanswered
7 questions"?

8 MR. SUMME: They have to answer the questions.

9 MR. EDMUND: Unanswered questions? That doesn't bother
10 you?

11 MR. SUMME: I don't quite understand.

12 MR. EDMUND: The State says to you when this trial is
13 over, there is going to be a lot of unanswered questions, but
14 they still want you to bring back a guilty verdict and the
15 death penalty, does that bother you at all?

16 MR. SUMME: It bothers me a lot of unanswered questions,
17 yes. Very much.

18 MR. EDMUND: Ms. Dilley?

19 MS. DILLEY: If there is enough substantial evidence,
20 it wouldn't bother me.

21 MR. EDMUND: Alright. But this statement about there is
22 going to be a lot of unanswered questions, but I want the
23 death penalty. That doesn't bother you at all, Ms. Dilley?

24 MS. DILLEY: Not really.

25 MR. EDMUND: How about you, Mr. Ashley?

- 450 -

1 MR. ASHLEY: It depends on what questions aren't going to
2 be unanswered.

3 MR. EDMUND: You feel that way also, Mr. Martin?

4 MR. MARTIN: Yes.

5 MR. EDMUND: But the statement itself doesn't worry you?

6 MR. MARTIN: It depends on the questions.

7 MR. EDMUND: How about you, Ms. Clements?

8 MS. CLEMENTS: How do they know there won't be unanswered
9 questions?

10 MR. EDMUND: He is telling you. He knows his case.
11 He is telling you there is going to be a lot of unanswered
12 questions, Ms. Clements. He knows his case. He says he knows
13 his case and he says he is going to ask you for a conviction
14 but there will be a lot of unanswered questions.

15 MR. HOGAN: I object to that. What I also said was if
16 the case was proven beyond a reasonable doubt and all the
17 questions can't be answered, because Teresa McAbee is the only
18 eye witness and she is dead. That is not exactly what I have
19 said.

20 THE COURT: I think the jury understands both sides.

21 MR. EDMUND: That bothers you none?

22 MS. CLEMENTS: Well, no, not if, in my opinion, there
23 has been beyond a reasonable doubt.

24 MR. EDMUND: Thank you. How about you, Ms. Hartge?

25 MS. HARTGE: I feel the same way. The words, "reasonable

- 451 -

1 doubt"are the most important in there.

2 MR. EDMUND: The words that I think are equally or more
3 important are the presumption of innocence. Can you presume
4 James to be innocent at this time, Ms. Hartge?

5 MS. HARTGE: Yes.

6 MR. EDMUND: How about you, Ms. Clements?

7 MS. CLEMENTS: Yes, I was brought up that way. I feel
8 like ... in some cases, people are not considered innocent
9 when they go into court, but I think I was always brought up
10 to think he would be innocent unless he is proven guilty.

11 MR. EDMUND: Thank you. How about you, Mr. Ashley?

12 MR. ASHLEY: Yes.

13 MR. EDMUND: Mr. Ashley, as opposed to being concerned
14 about taking back a guilty verdict with your colleague a police
15 officer, would you have problems going back after a not guilty
16 verdict with the Sheriff's Department, when the Sheriff's
17 Department is the principal agency that brought this case?

18 MR. HOGAN: He works for a different sheriff's department.

19 MR. EDMUND: Where do you work?

20 MR. ASHLEY: Seminole County.

21 MR. EDMUND: Why am I worried about this then. You
22 live here and work in Seminole County?

23 MR. ASHLEY: Yes, sir.

24 MR. EDMUND: Do you get associated much with these folks
25 over here?

- 452 -

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1 MR. ASHLEY: No, I got my job before I bought my house,
2 so I started working in Seminole County and the opportunity
3 came up to purchase a home in Eustis, in Lake County.
4 Probably, I will eventually move to Lake County, including
5 my employment.

6 MR. EDMUND: Thank you very much.

7 MR. ASHLEY: And besides that, what I do workwise here
8 doesn't really concern anybody at work. It is what I do.

9 MR. EDMUND: Fine. Ms. Dilley, can you presume James
10 Duckett to be innocent?

11 MS. DILLEY: Yes.

12 MR. EDMUND: Can you clothe him with that presumption
13 throughout this entire trial?

14 MS. DILLEY: Yes.

15 MR. EDMUND: Can you do the same, Mr. Summe?

16 MR. SUMME: I don't know any different.
17 I don't know him to be guilty or innocent right now.

18 MR. EDMUND: Right now, you have got to presume him to
19 be innocent. Can you do that, sir?

20 MR. SUMME: Very much so, yes, sir.

21 MR. EDMUND: How about you, Mr. Kratochvil?

22 MR. KRATOCHVIL: Definitely the man is innocent until
23 he is proven guilty.

24 MR. EDMUND: Mr. Martin?

25 MR. MARTIN: Absolutely.

- 453 -

1 MR. EDMUND: You have heard us ask questions all after-
2 noon... well, not all afternoon, but a goodly portion of the
3 afternoon and I think you probably know what we are interested
4 in. Do you, or are any of you conscious of any reason and I
5 guess I have to, on the outside with Mr. Hogan, why you
6 couldn't sit as fair and impartial jurors during the trial
7 of this case? Is there anyone who feels that their state of
8 mind is such that they should not be sitting as a juror in the
9 case of this magnitude or in the case of reckless driving,
10 as Mr. Hogan said?

11 Thank you.

12 THE COURT: Alright, gentlemen, you all come up, please.

13 (WHEREUPON, BENCH CONFERENCE IS HELD AS FOLLOWS:)

14 THE COURT: Alright, as to any of these eight in the
15 box, any challenges for cause?

16 MR. HOGAN: No, sir.

17 MR. EDMUND: The guy who works in Seminole County.

18 MR. HOGAN: Can I ask a question? Which juror is our
19 juror?

20 THE COURT: Mr. Martin, the first one over.

21 If noone challenges for cause, you have both used your
22 preemptions and he becomes our last principal juror.

23 Alright, now, so we are clear. Our jury is in order,
24 Stroud, Hall, Emerson, Warren, Gries, Schlager, Rhodes, Barry,
25 DeClerk, Stephens, Gray and Martin. That is the Jury.

- 454 -

1 MR. HOGAN: We accept.

2 MR. EDMUND: I accept.

3 THE COURT: Each has one strike per alternate. We are
4 going to use two alternates. The first potential alternate
5 is Mr. Kratochvil. To the State.

6 MR. HOGAN: We accept.

7 MR. EDMUND: I accept.

8 THE COURT: Mr. Kratochvil is your first alternate.

9 Now, you still each have one strike as to the second
10 alternate. The second alternate would be Julia Martin.

11 MR. HOGAN: Do we have to go first again?

12 THE COURT: We try to let the State go first all the
13 time.

14 MR. HOGAN: We will take her.

15 THE COURT: They accept Julia Martin. They accept her.
16 If you strike her, the next up is the alternate, unless they
17 strike her and the next...

18 MR. EDMUND: I will take Ms. Martin.

19 THE COURT: Ms. Martin is the second alternate.

20 Alright, the plan is as follows. We can send all these
21 folks home that we are not going to use. Bring all the
22 jurors back in. Go through the standard admonitions, about
23 two pages, in more detail than before. Send them home and come
24 back at nine o'clock in the morning, swear them in and go
25 right into opening statements. Any objections?

- 455 -

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1 MR. EDMUND: No, Your Honor.

2 MR. HOGAN: We just have one procedural question. If
3 Mr. Edmund intends to make a lengthy opening statement, that
4 will give me some idea of how many witnesses I should have
5 out here tomorrow.

6 MR. EDMUND: How long do you think, Steve?

7 MR. HURM: I anticipate forty-five minutes to an hour
8 on opening.

9 MR. EDMUND: I don't talk that long, no, sir. I won't
10 be making thirty minutes.

11 MR. HURM: I never have either, but this case I think...

12 THE COURT: Alright, witnesses by 10:30.

13 MR. HOGAN: I know there is no way to say this, but
14 I want to make sure we don't run out of witnesses and get
15 everybody upset.

16 (WHEREUPON, BENCH CONFERENCE ENDS)

17 THE COURT: Alright, bear with us, if I call your name,
18 you may step down. Your jury service is completed. We do
19 thank you for bearing with us for two long days. You won't
20 need to call back or come back.

21 Mrs. Hartge can come down. Mr. Ashley. Mrs. Dilley.
22 Mr. Summe. Ms. Clements.

23 Folks, for all those of you who have been with us as
24 well, we have picked a jury. We have selected our alternate
25 jurors. Every prospective juror in the room is free to go

- 456 -

1 home. You need not call back or come back. Your service is
2 complete. We do thank you very much for coming. You are
3 free to go at this time.

4 (WHEREUPON, ALL REMAINING PROSPECTIVE JURORS LEAVE
5 COURTROOM)

6 THE COURT: If you would now, Mr. Bailiff, if you good
7 folks... the easiest thing is going to be to just stand up
8 and come all the way down here in front, because I am going
9 to bring all the other jurors out of the back and we will
10 fill you all in at the end.

11 Alright, Mr. Bailiff, if you will retrieve our other
12 jurors, I will call out the names for you, so that we are
13 certain we are in our correct order.

14 We will start in the front, reverse them now, so that
15 everybody gets confused.

16 Your first juror in the front seat, the far side, is
17 going to be Mrs. Stroud. In the front row, first seat.
18 It is some plan of mine, ma'am, to make things complicated.
19 Mr. Hall will be next. Dr. Emerson will be next. Ms. Warren.
20 Mrs. Gries... which will fill the front row.

21 Then we start with Mr. Schlager, Evelyn Rhodes, Mr. Barry,
22 Mr. DeClerk, Ms. Stephens. The back row will be Mrs. Gray,
23 Mr. Martin, if you will join Mrs. Gray in the back row, please
24 sir. Next, Mr. Kratochvil and Mrs. Martin.

25 There you are folks. We have selected a jury and we

- 457 -

1 selected our alternates. You folks are going to be the ones
2 who serve.

3 Let me go over, I believe I only have one more preliminary
4 matter to go over with you. I want to read you some
5 instructions and then we are going to send you home after
6 that.

7 The first thing is we have had on occasion in court
8 jurors bring note pads and pencils and paper, in an attempt
9 to do their job diligently and to take notes. Like most
10 trial judges in the State of Florida, I do not permit that.
11 That means you should not bring note pads or pencils or take
12 notes. That does underline how important it is that everyone
13 pays careful attention to the testimony from the witness
14 stand, which will be right here, from now on and to the
15 evidence that is introduced into the evidence.

16 Ladies and gentlemen of the Jury, as you know by now,
17 you have been selected and sworn as a jury try two cases
18 involving the State of Florida versus James Aren Duckett.
19 These are criminal cases. The Defendant is charged with
20 Murder in the First Degree and Capital Sexual Battery.
21 The definition of the elements of those crimes charged will
22 be explained to you later. It is your solemn responsibility
23 to determine if the State has proved its accusations beyond a
24 reasonable doubt against the Defendant, Mr. Duckett.
25 Your verdict must be based solely on the evidence or lack of

- 458 -

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1 evidence and the law. The Information and the Indictment
2 which we read to you are not evidence and are not to be
3 considered by you as any proof of guilt. It is my responsi-
4 bility to decide which laws apply to this case and to explain
5 those laws to you. It is your responsibility to decide
6 what the facts of the case may be and to apply the law to the
7 facts. Thus, the province of the Jury and the province of the
8 Court are well defined and they do not overlap. This is one
9 of the fundamental principles of our system of justice.

10 Before we proceed further, if you don't understand by
11 now, it will be helpful if you understand how we conduct the
12 trial just in general.

13 At the beginning of the trial, tomorrow morning, the
14 attorneys will have an opportunity if they wish, to make an
15 opening statement. The opening statement gives the attorneys
16 a chance to tell you what evidence they believe will be
17 presented during the trial. What the lawyers say is not
18 evidence and you are not to consider it as such.

19 Following the opening statements, witnesses will be
20 called to testify under oath. They will be examined and
21 cross examined by the attorneys. Documents and other exhibits
22 also may be produced as evidence. After the evidence has
23 been presented, the attorneys will have the opportunity to
24 make their final arguments. Following the arguments by the
25 attorneys, the Court will instruct you on the law applicable

- 459 -

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1 to the case. After that, you will retire to deliberate your
2 verdict.

3 I am certain by now you all understand the double nature
4 of the trial and should you find the Defendant guilty beyond
5 and to the exclusion of every reasonable doubt, of First
6 Degree Murder, then there would be in that event only, a
7 second phase, the penalty phase, where the Jury would
8 recommend by a majority vote to the Court, whether the Court
9 should impose capital punishment or life imprisonment,
10 twenty-five year minimum mandatory.

11 I want to go over with you again these admonitions,
12 because now, obviously, since you are the sitting jurors, they
13 become even more important than they were before, although
14 that does not lessen how important they were before.

15 I ask you to pay very careful attention to these
16 admonitions. Failure to abide by these could result in a
17 mistrial of this case and require us to begin this entire
18 procedure again.

19 You should not form any definite or fixed opinion on the
20 merits of the case until you have heard all the evidence, the
21 argument of the lawyers, and the instructions on the law by
22 me. Until that time, you should not discuss the case among
23 yourselves. So that means if you go to lunch together or
24 we take a recess or for any reason we ask you to step back
25 to the jury room, you simply must not discuss this case among

- 460 -

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1 yourselves until we ask you to retire to deliberate your
2 verdict.

3 During the course of the trial, we will take recesses.
4 We generally ask our jurors to stay together during the
5 recesses, although we can make arrangements for you to
6 separate if you have to take care of some personal business,
7 as long as it doesn't take too long.

8 During the recesses, you will not discuss the case with
9 anyone, nor permit anyone to say anything to you or in your
10 presence about the case. Starting tomorrow morning, each of
11 you will have a badge that identifies you as a juror. We
12 ask that you wear that for this very reason. So that noone
13 would inadvertently say anything in front of you regarding
14 the case and it will be obvious to them that you are sitting
15 juror. If anyone attempts to say anything to you or in your
16 presence about the case, ask them ... tell them you are on the
17 Jury trying the case and ask them to stop. If they persist,
18 leave them at once and immediately report the matter to the
19 Bailiff, Mr. Corbett, who will advise me.

20 The case must be tried by you only on the evidence
21 presented during the trial, in your presence, and in the
22 presence of the Defendant, the attorneys and myself.

23 Jurors must not conduct any investigation of their own.
24 Accordingly, you must not visit any of the places described
25 in the evidence. You must not read nor listen to any reports

- 461 -

1 about the case. Further, you must not discuss the case with
2 any person. You must not speak with the attorneys, the
3 witnesses or the defendant about any subject until your
4 deliberations are finished.

5 In every criminal proceeding, the Defendant has the
6 absolute right to remain silent. At no time is it the duty
7 of the Defendant to prove his innocence. From the exercise
8 of the Defendant's right to remain silent, a jury is not
9 permitted to draw any inference of guilt and the fact that
10 the Defendant did not take the witness stand must not influence
11 your verdict in any manner whatsoever.

12 The attorneys are trained in the rules of evidence and
13 trial procedure and it is their duty to make all objections
14 they feel are proper. When an objection is made, you should
15 not speculate on the reason why it is made. Likewise,
16 when an objection is sustained or upheld by me, you must not
17 speculate on what might have occurred had the objection not
18 been sustained, nor what a witness might have said had he
19 or she been permitted to answer.

20 Are we all absolutely clear on the rules and the
21 admonitions?

22 I know that you are probably getting tired of hearing me
23 say this by now, but I am going to keep right on saying it.
24 I am going to ask you in the morning first thing and after
25 every recess and break we take, to assure the Court and the

- 462 -

1 Defendant and counsel that you did abide by our admonitions.
2 Are we crystal clear on that? We can presume that there will
3 be matters in the newspaper about this case, probably both
4 local newspapers. There will be matters on television about
5 this case. Obviously, we have seen the cameras here. While
6 I think of it, Mr. Bailiff, I want to be sure that we instruct
7 any television camera operator or still camera photographers
8 from this time forward, no pictures of the jurors will be
9 taken whatsoever. I want to be certain that they understand
10 that clearly.

11 Anything fruther before the Court before we recess,
12 gentlemen?

13 MR. HOGAN: No, sir.

14 MR. EDMUND: No, Your Honor.

15 THE COURT: Alright, we will be in recess; nine o'clock
16 we will ask you to come right here, tomorrow morning, folks,
17 at nine A. M. Thank you very much.

18 (WHEREUPON, COURT IS IN RECESS AT 4:43 P. M.)

19 April 27, 1988, at 9:00 A. M.

20 (WHEREUPON, DEFENDANT IS PRESENT IN COURTROOM WITH HIS
21 COUNSEL, MR. EDMUND)

22 (WHEREUPON, COURT CONVENES AT 9:10 A. M.)

23 THE COURT: Good morning, ladies and gentlemen. Before
24 we bring the Jury out and commence the trial, I want to be
25 sure that everyone in the courtroom understands certain rules

- 463 -

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1 of mine. I know that the bailiff at the door has advised
2 everyone of this, but I want to do it as well.

3 From this time forward, throughout the course of this
4 trial, noone will be permitted to leave the courtroom or
5 enter the courtroom except when we take a break or unless you
6 have a genuine emergency. So for everyone in here present,
7 if that rule creates any hardship for you, you are free to
8 leave. Understand, you will not come or go except during
9 recesses in this trial. It is extremely distracting to
10 the jury to have people coming in and out of the courtroom
11 randomly and we are not going to have that.

12 Number two, I am sure that you all are aware, but I want
13 to be doubly sure that everyone, media and spectators,
14 understand there is no whispering or talking in this courtroom
15 while trial is in session. None whatsoever. No exception.
16 I want to be sure we are clear on that.

17 I also want to be sure that the media is aware that
18 Appendix Three, adopted by the Florida Supreme Court in
19 1979, in the case of the Petition of Post News Week Station
20 Florida, 370 So2d 764, is in full force and effect. That,
21 along with Administrative Order, signed by then Administrative
22 Judge Ernest C. Aulls, Jr., that Order is entitled, "Order
23 Designating Location of Media and Equipment", dated May 7,
24 1979, are also in full force and effect throughout the course
25 of this trial. Copies of these documents are available with

- 464 -

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1 my secretary for the media, should you require them. Those
2 are the rules, the Florida Supreme Court has laid out with
3 regard to conducting a trial, and media access to trials,
4 and those are the rules we will follow.

5 Gentlemen, do we have anything before we bring the
6 Jury out?

7 MR. HURM: Your Honor, I would just have one thing. I
8 would like permission to use an easel as a demonstrative aid
9 during my opening statement. I want to bring that to the
10 Court's attention before.

11 MR. EDMUND: I would like that also, Your Honor.

12 THE COURT: Alright. We will grant that as to both.
13 Anything else?

14 MR. EDMUND: No, Your Honor.

15 MR. HURM: I want to make sure my marking pens are still
16 up here.

17 THE COURT: Yes, sir. Alright, Mr. Bailiff, if we bring
18 the Jury out, I will help you with the order.

19 MR. HURM: While he is bringing them out, may I go ahead
20 and move this?

21 THE COURT: Yes, sir.

22 MR. BAILIFF: Judge, were they last seated in the proper
23 order yesterday?

24 THE COURT: Yes, sir, they were.

25 I am sure counsel will understand that you are welcome

- 465 -

1 to move around the podium within reason and how far it will
2 reach in this courtroom and move the easels around as you see
3 fit.

4 Counsel for the Defendant and the Defendant himself
5 are always welcome, if necessary, and if you choose to, to
6 move down to this side of the courtroom, so that you can see
7 anything that the prosecutor might be writing on an easel or
8 using as demonstrative aids.

9 MR. EDMUND: Thank you, Your Honor.

10 THE COURT: Both of you have a right to move and see
11 that.

12 (WHEREUPON, JURY ENTERS COURTROOM AT 9:13 A. M.)

13 THE COURT: If you would remain standing as you come in.
14 Let's be certain, pardon me, that we have everyone in the
15 appropriate order. First seat, Mrs. Stroud, Mr. Hall,
16 Dr. Emerson, Ms. Warren, Ms. Gries; second row, Mr. Schlager,
17 Ms. Rhodes, Mr. Barry, Mr. DeClerk; last row... excuse me,
18 Ms. Stephens, I am sorry. Correct. Ms. Gray would be up,
19 yes. Next to Ms. Gray then would be Mr. Martin. Mr.
20 Kratochvil and Mrs. Martin.

21 Alright, if you would remain standing, madam clerk, swear
22 the Jury, please.

23 (WHEREUPON, THE OATH IS ADMINISTERED TO THE JURY BY THE
24 CLERK OF THE COURT)

25 MR. HURM: Your Honor, may we approach the bench briefly?

- 466 -

1 THE COURT: Yes, sir.

2 (WHEREUPON, BENCH CONFERENCE IS HELD AS FOLLOWS:)

3 MR. HURM: I just noticed the TV camera was on the jury.
4 I understand your ruling from yesterday and I thought I
5 might mention it.

6 (WHEREUPON, BENCH CONFERENCE ENDS)

7 THE COURT: Folks of the media, one more matter has
8 been brought to my attention and I want to be sure we are
9 crystal clear on this. There will be no photographs taken
10 of this jury. There will be no television pictures of this
11 jury. If any have been taken, they will not be published to
12 the public. That is an Order of this Court. I will enforce
13 that by contempt if anyone avoids that. Do we understand
14 that?

15 Alright. Thank you very much.

16 Folks, can you all assure us that you did abide by our
17 admonitions of yesterday?

18 JURORS: Yes, sir.

19 THE COURT: Thank you very much.

20 As we told you before, at the beginning of this trial,
21 at this time the attorneys will have an opportunity if they
22 wish, to make an opening statement. The opening statement
23 gives the attorneys a chance to tell you what evidence they
24 believe will be presented during the trial. What the lawyers
25 say is not evidence and you should not consider it as such.

- 467 -

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1 Nevertheless, you should give both attorneys your careful
2 attention. Mr. Hurm?

3 OPENING STATEMENT

4 BY MR. HURM:

5 May it please the Court. Mr. Edmund, members of the
6 Jury, the last few hours of Teresa McAbee's life began in a
7 very innocuous way, which would give no clue as to what fate
8 awaited her. She was doing homework. She was doing homework
9 in her home and she needed a pencil. She asked her mother if
10 there was a pencil in the house and there did not appear to be
11 one, so she asked for permission to go up to the Circle K Store
12 in Mascotte, just a few hundred yards away from her home; a
13 store where she had spent a lot of time playing video games
14 and meeting with her friends and her mother told her to go
15 right up to the store, buy a pencil, and come right home. So
16 Teresa took a quarter from her mother, put it in her pocket,
17 and she took off for the store.

18 Now, the store is located in Mascotte, you will hear
19 evidence, on Highway 50, which is an East-West road that goes
20 from Brooksville on the West into Groveland and Clermont and
21 on into Orlando on the East.

22 Highway 50 turns as you come into the City of Mascotte
23 and you go down into Groveland. There is a sweeping curve
24 there and then the road widens into two lanes in each
25 direction. Right here, just before you get to that curve, is

- 468 -

1 a little convenience store. It used to be known as the Shop
2 and Go and now it is known as the Circle K.

3 At the other end of the Circle K is a laundromat. The
4 road that runs South from 50 on the West side of the Circle
5 K is known as South Sunset, and then there is a road that
6 runs South over on the other side, which is South Talbott.

7 Right here is Polly's Bar, across Sunset from the
8 Circle K. Teresa's house, you will hear testimony, is down
9 here. She walked up Sunset and went to the Circle K to buy
10 a pencil. When she got there, she purchased the pencil and
11 put it in her back pocket, along with the two dimes that she
12 received as change, and she met some of her friends there.
13 Among them, Salvador Calisto, a boy that she had met, and they
14 were out front, just talking and playing around as kids will
15 do, and then Teresa says, "I have to go home", and she started
16 to walk home.

17 Joyce Reynolds, the clerk of the Circle K, is going to
18 tell you that she saw Teresa in the store; that she sold her
19 the pencil. She saw her out talking with Salvador and there
20 were some other Mexican boys and young men out there at the
21 time and Teresa started to go home and got over here to the
22 dumpster area. Salvador was going to walk her down to her
23 house. They stopped to talk right here in the dumpster area,
24 which is on this side of the Circle K.

25 Now, while this was going on, the Defendant, then a

- 469 -

1 Mascotte police officer, James Duckett, the Defendant was
2 sitting right up here running radar; watching cars that came
3 down 50, and clocking them on radar.

4 The two kids, Teresa and Salvador went around the corner
5 and were talking near the dumpster. Two of the other Mexicans,
6 Armando and Enrique, left the Circle K and walked down to
7 where they lived. You will hear testimony that as they walked
8 down there, they saw the police car come by them on Sunset,
9 going North. The police car went around the block and came up
10 Sunset, passing them, while Teresa and Salvador were near the
11 dumpster.

12 They talked some more and then the police car came up
13 this way and came in and parked in front of the Circle K.
14 The Defendant came into the store and talked to Joyce Reynolds.
15 By that time, Kim Vargas, who lived across the street, had
16 walked over to talk to Joyce Reynolds, a friend of hers.
17 Kim had seen the kids playing outside and she walked over
18 and was talking to Joyce Reynolds about everyday things and
19 she was there when the Defendant came in and inquired about
20 this little girl, Teresa McAbee. He wanted to know who she
21 was. He wanted to know how old she was.

22 After Joyce Reynolds told him what she knew about
23 Teresa, he left and walked out and went down to the dumpster
24 area, where he talked to Salvador and Teresa.

25 Polly, who was filling a cooler near a door right here

- 470 -

1 at her bar, looked out and saw a police officer and two kids.
2 She couldn't see well enough to identify them, because there
3 was no light here next to the store, but she knew it was a
4 police officer and two young people.

5 The Defendant took Teresa, walked her around to the
6 front of the store where his car was parked. Salvador came
7 along as well. Salvador was there doing laundry. That is
8 why he had been there the entire evening. His uncle,
9 Max Rubio, you will hear testify, had dropped him off with
10 the laundry and Salvador was there taking care of it.

11 The Defendant talked to Salvador and asked him how old
12 he was; asked him where he lived; and then took Teresa by
13 the arm and placed her into his police car on the passenger
14 side.

15 Max Rubio came up to the store to pick up Salvador.
16 The Defendant talked to Max, and said, "How old is Salvador?"
17 and Max turned and started to ask Salvador how old he was,
18 because he couldn't remember, and the Defendant said, "No,
19 I want to know from you how old he is", so Max said, "Well,
20 I think he is sixteen", and that was correct. That is how
21 old Salvador was.

22 The Defendant then said to Max Rubio, "It is curfew
23 time. These kids shouldn't be out here. You talk to Salvador
24 and I'll talk to Teresa", and he winked.

25 He then walked around to the car where Teresa was sitting

- 471 -

1 in the passenger side and Max got into his car and left,
2 going West on 50 towards his house.

3 Now, unbeknownst to the Defendant, there was some other
4 people over here in this area. You'll see photographs of
5 this area. There is a fence and septic tank area right here
6 and then there are some trees and bushes and a path that
7 kind of goes up the hill; a dirt path, and kids use that to
8 cut through and cut the corner of South Talbott and Highway 50
9 to get to the Circle K. And there was a girl named Gwen
10 Gurley, who was waiting to use the telephone. When the
11 Defendant had pulled in here initially, Gwen Gurley had been
12 in buying a coke. When she came out, the Defendant told
13 her to go hom; that she was out past curfew. Gwen still
14 wanted to use the phone, so she did not go home. She went
15 over here and hid in the bushes. She saw the police car leave.
16 It went East on 50, South on Talbott, and then she watched
17 until the taillights went out of sight. Now, Gwen is not
18 going to be here today to testify, because she is pregnant
19 and due very soon, so we video taped her testimony, realizing
20 that she might not be able to be here when the trial started.
21 So you will see her testimony on video tape. You will hear
22 her testify that she watched that police car until the
23 taillights went out of sight, and then she waited three to
24 five minutes for him to get good and away, so that she could
25 go up and use the telephone without fear of him coming up

- 472 -

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1 and seeing her.

2 After three to five minutes passed, and after the police
3 car left, and she saw just one head in the police car at that
4 point, she walked back up this hill and started to come around
5 the corner here at the end of the laundromat, and as she
6 looked down the sidewalk, she saw a Mascotte police car
7 parked right here, next to the dumpster, and parked in front
8 of the Circle K enough that she could see it was a Mascotte
9 police car. Now, again, it was dark here. There was no
10 light, so she couldn't see who was in it, but she saw a police
11 car and so she ducked back behind the building, so he wouldn't
12 see her.

13 Gwen also will testify that she saw the victim, Teresa
14 McAbee, in front of the store. That as she watched and as
15 she saw that police car and as she saw the victim, she heard
16 a voice call out from this police car, words to the effect of,
17 "Come here". She didn't know if the voice was talking to
18 her, so she kind of hid further back, so that he couldn't
19 see her, and she doesn't remember exactly what he said,
20 but words to the effect, "Come here", and she saw Teresa
21 walk over towards the police car. Gwen backed off. She
22 heard a car door open and shut and she is going to testify
23 there was only one other car in the parking lot and that was
24 empty. There was no one around it. She heard a car door open
25 and shut and when she looked out again, the police car was

- 473 -

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1 backing out onto South Sunset, and starting to come out to
2 50, this way, going East. Gwen ran back up to the bushes.
3 She is going to testify that that police car, when she got
4 up to the bushes here on the corner and hid, that police car
5 came around the corner on South Talbott and that time, there
6 wasn't just one head in there. There were two heads. And she
7 can't tell you that she knows who they were. She just saw
8 two heads and the one in the passenger seat was a small
9 person and then she watched the taillights of that police car
10 again go out of sight.

11 Gwen Gurley is going to testify that the police officer
12 she saw in the front of Circle K was the Defendant and she
13 is going to testify that the voice that she heard call from
14 that car, she recognized as the Defendant's voice. So the
15 Defendant took Teresa McAbee South on South Talbott.

16 As I indicated, the victim's house is right about here.
17 Eleven o'clock or shortly thereafter, Mrs. McAbee began to
18 get worried. Teresa hadn't come home. She had been gone for
19 half an hour. So she went up to the store. She got in her
20 car and went up to the store and looked around. She drove
21 around the store and drove around the block several times.
22 Kim Vargas was still there and said that she saw a gray car
23 going around the block and didn't know who it was and went
24 outside and discovered it was Dorothy McAbee. She looked
25 all over the store for her daughter. She went to friends'

- 474 -

1 houses and looked for her there with no luck. And then in
2 desperation, she drove the entire city of Mascotte, which is
3 not very big. You are going to see an aerial photograph of
4 the City that shows all the City Limits and she drove the
5 entire city of Mascotte for an hour looking for Teresa. She
6 never saw Teresa, but what is more, she never saw, not one
7 time in that hour, in that small city, she never saw a
8 Mascotte police car.

9 Finally, she went all the way into Groveland to report
10 her daughter missing. Now, the Mascotte Police Department
11 is right about here. There is a Jiffy Store on this corner
12 and Pearl Street kind of runs at that angle from 50 and
13 hooks up with South Sunset over here. Mrs. McAbee went
14 by the Mascotte Police Department and no police officer; no
15 police car. So she went to Groveland. You will hear the
16 Groveland officer testify that when Mrs. McAbee made her
17 report to him, he realized it was a Mascotte case, and so he
18 got on the radio and called Mascotte 4, Duckett's number,
19 and he called that number to report to him that there was a
20 person who wanted to make a missing person's report.

21 When he called Mascotte 4, you will hear the tape of
22 that conversation; of that radio conversation. There was a
23 twelve to fourteen second delay between the time he called
24 Mascotte 4 and the time the Defendant responded. And then
25 you will hear that his response is sort of weak. Then he

- 475 -

1 gets back on the radio another twelve to fourteen seconds
2 later, the Defendant does, only this time the response is much
3 stronger. The signal is much stronger. He indicated to
4 Officer Campbell... he understood the message and he said,
5 "I am out on Bay Lake. I will be there in a few." You
6 will hear that on the tape.

7 Bay Lake, you are going to hear testimony, is actually
8 off this chart and it angles down this way, and there is a
9 lake in this area, a lake and marshy area, and Bay Lake runs
10 down out of the city limits South in this direction.

11 The man who was working at the Jiffy Store that night,
12 James Williams, is going to tell you that he lives on Bay
13 Lake, or he lived at that time on Bay Lake, and in order to
14 get to work, he came up Bay Lake to 50 and went down around
15 the corner and went to the Jiffy Store. The Jiffy Store that
16 is right next door virtually, separated by Pearl Street, from
17 the police department.

18 Now, the Defendant said that he was out on Bay Lake and
19 that he would be there in a few. James Williams is going to
20 tell you that the only way to get from Bay Lake Road to this
21 area, the Jiffy Store and the police department, other than
22 Highway 50, is to follow Bay Lake Road way down to the South
23 and then come up this way and he is going to tell you that
24 in order to do that, you would go several miles out of your
25 way. It would add several miles to the trip than going

- 476 -

1 Highway 50, and yet the Defendant, when he responded and
2 Dorothy McAbee was sitting in the front of the police depart-
3 ment waiting for him, when he responded to the police
4 department, he didn't come down this way. He came up from
5 behind the police department this way. From the direction
6 of the intersection of Pearl and Sunset. Now, what is the
7 significance of that? The evidence is going to show you that
8 Teresa McAbee's body was found off a dirt road right here
9 that begins into an old abandoned orange grove at the
10 intersection of Pearl and Sunset.

11 There is a pump house down about half way down that road
12 and then there is this swampy area right in here and her
13 little body was found floating face down in that swampy area,
14 strangled and drowned.

15 Now, when Duckett got to the police department, he took
16 the report from Mrs. McAbee and he wrote down Teresa's name
17 on his pad and he wrote down her vital statistics. She was
18 4'10" high. She weighed 83 pounds. He wrote down her date
19 of birth. She was eleven years old. This is about two months
20 short of her twelfth birthday. He wrote down what she was
21 wearing, her description, and said to Mrs. McAbee, that he
22 would look through the city and see if he could find her,
23 and he even filled out a report. He even went back to
24 Mrs. McAbee's house and got a picture of Teresa. It was
25 actually a picture of Teresa and her mom together. They had

1 had taken a portrait made and he got that photograph and made
2 up posters, indicating that Teresa was missing and putting her
3 vital statistics on those posters. Flyers if you will.
4 Pieces of paper run through a xerox machine. He was going to
5 take those posters, according to what he told Mrs. McAbee,
6 around to the convenience stores and put them out so that
7 people would see them.

8 He took one of the posters to the Jiffy Store. He took
9 another one of the posters to the Presto Store, another
10 convenience store in Mascotte. He took one down to the
11 Groveland Police Department. Then he came up to the Circle K
12 with one of those posters and he brought it in and gave it to
13 the clerk who was working at that time in Circle K. and you
14 will hear her testify to this. But instead of telling her to
15 put it up, he told her not to put it up. He said, "Don't
16 put this up", and his reason was, "I'll bring you a better
17 one later". He never came back. He never came back that
18 night.

19 He called Michael Brady, who is the Chief of Police, and
20 said, "Chief, what do I do. We have a missing persons, a
21 little girl is missing, been reported missing", and Brady
22 told him to make up posters, and he said, "I have done that".
23 Take them to the convenience stores, "I have done that".
24 And then Brady said, "Spend the rest of the night beating
25 the streets looking for that girl. That is your priority.

1 That is your assignment. You look for that girl the rest of
2 your shift. When he got the call, it was a little bit after
3 midnight, when he talked to Mrs. McAbee. By the time he had
4 the posters printed up and so forth, it was an hour or so
5 later, and he was told by his Chief, to beat the streets and
6 look everywhere in the city for her and yet, by five A. M.,
7 he was out here again, running radar; writing tickets; not
8 looking for Teresa McAbee, but writing tickets.

9 He never checked in with the Jiffy Store after taking
10 the poster. He never checked in again with the Presto Store
11 after taking the poster. He never checked back with the
12 Circle K and even told them to put up the poster. He told
13 them not to put it up, but he never came back again. He
14 never went back to the victim's house to see if she had
15 returned. The whole rest of the night.

16 The next morning, oh, a little before nine, a fellow
17 named Jim Clark went out fishing, and Mr. Clark went down
18 to this lake area to fish, and he cast his line and got it
19 stuck in some weeds and as he moved around the pumphouse
20 to try to get his line disentangled, he was startled when he
21 saw a little body in the water. He will tell you he didn't
22 know whether it was human or not. He thought maybe it was a
23 manikin, but he knew he had better report it, so he went
24 out here to a traffic officer and told the traffic... the
25 school crossing guard what he had found and that school

- 479 -

1 crossing guard called Michael Brady, who had come on in the
2 morning to relieve the Defendant from his duties.

3 Brady went out to the scene; called the Sheriff's Office,
4 because this, he wasn't sure whether this area was in the
5 County or was in the City. Deputy John North responded and
6 Deputy North, Brady and Jim Clark went down to this area and
7 saw the body. The two law enforcement officers realized what
8 it was. They didn't let anybody else in the area. They
9 all came in this way. All three of them. Clark came in
10 this way; Brady and North. As a matter of fact, every law
11 enforcement vehicle that came into that scene, or other
12 vehicle involved in this investigation, that came into that
13 scene, came in this way. None came in this way.

14 They called for the Detective Division of the Sheriff's
15 Office and one of the first people on the scene was Chuck
16 Johnson, a Sergeant, Supervisor within the Detective Division.
17 Investigator Johnson went in and realized what he had, a
18 homicide crime scene, potentially a homicide crime scene,
19 and he sealed off the area. He had everyone back their
20 vehicles. The vehicles had gotten up to about this point,
21 and he had them back them up about two car lengths, and
22 then he secured the scene and noone went in past that area
23 with a vehicle. Noone. The rest of the day.

24 The detectives came out; a medical examiner came out;
25 Teresa was removed from the water and laid on the grass.

- 480 -

1 One of the first things they noticed was what appeared to be
2 little lacerations, little cuts, on her neck; bruise marks
3 on her neck; bruise marks on her arms. She was transported
4 to the Medical Examiner's Office where an autopsy was done.

5 Now, the body was discovered about nine o'clock, and
6 Brady, Chief Brady, called the Defendant to advise him that
7 the girl, the subject of his missing person's report the night
8 before, had been found dead, face down, in a lake in
9 Mascotte, and yet this Defendant, this Defendant, didn't get
10 in his car and come down to the scene the entire morning.
11 It wasn't until the middle of the afternoon when he was
12 called and told to come to the scene that he finally came.
13 His case, but he didn't come to the scene.

14 One of the first things the Detectives noticed, the
15 crime scene technicians noticed, when they got to the scene,
16 were tire tracks. One set of tire tracks that went past the
17 pumphouse and all the way out to Sunset. They photographed
18 those. The tire tracks they photographed, and you will
19 see those photographs, were taken from the pumphouse forward,
20 where no vehicle that morning had ever been. There was just
21 one set and that set ... you are going to hear testimony that
22 there was a hard rain the night before. A hard rain that
23 gradually dissipated and finally quit about 9:00 o'clock;
24 9:00 P. M.

25 There was one set of tire tracks going past the pumphouse

- 481 -

1 on out in that direction. They photographed them.

2 Deputy Nelson, one of the Crime Scene Technicians, is
3 going to testify he has done a lot of work with tire tracks
4 in his career and as he looked at them, he was struck by the
5 unusual tread pattern. He hadn't seen that type before. It
6 wasn't a common tread pattern that he recognized and he
7 noticed that. As he left the scene to go to the autopsy,
8 a Mascotte police car, and there are two Mascotte police cars...
9 two marked units and then the Chief has an unmarked unit...
10 as he drove out, he looked down out of his window as he was
11 driving out and saw the same kind of track that was up here
12 near the pumphouse, by the pumphouse, and he looked and
13 followed the track and it went right up underneath the Mascotte
14 police car. And he was so struck by the similarity of this
15 unusual tread design, that he got out with a ruler and he
16 measured the tread width. He went on to the autopsy,
17 communicated his findings to the other Crime Scene Technician,
18 Randy Aleno, and they came back to the scene. That is when
19 suspicion started to point to the Defendant.

20 Now, you are going to hear testimony about those tire
21 tracks. The Mascotte police car, the two marked units, had
22 new tires put on them in February of 1987. The unusual thing
23 about that fact is the tires they had put on were Goodyear
24 special type Goodyear tire, M and S tires, standing for
25 Mud and Snow tires. They were special ordered. The Goodyear

- 482 -

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1 dealer at Clermont didn't have them. He ordered them from the
2 Jacksonville Goodyear Distribution Center. They didn't have
3 them. They had to order them from Birmingham, a bigger
4 distribution center, and you are going to hear that the reason
5 they didn't have them was because people in Florida don't need
6 snow tires. But the police department purchased them because
7 they gave greater traction. Those are the tires that were put
8 on. Mud and Snow tires.

9 You are going to hear the Manager of the Goodyear Store
10 in Clermont testify that those are the only eight tires,
11 four for each of the marked police cars; those are the only
12 eight tires of that particular type that he can recall selling
13 at all. He hasn't had that type. He doesn't stock that type.

14 The Mascotte police car was impounded then. Tracks were
15 made of the Defendant's car and they were compared by experts
16 from the Florida Department of Law Enforcement, with the
17 tracks that were photographed out at the crime scene area. You
18 are going to hear testimony that they were similar. That they
19 could have been made from the same tire. The same wear on
20 both tires. The Defendant's vehicle and the tires that made
21 the tracks out at the crime scene. There weren't any
22 imperfections in the tires that would positively identify that
23 particular tire, but the expert from the FDLE is going to tell
24 you, "Yes, they are very similar", and you will see photographs
25 and you will be able to compare for yourself and tell whether

1 that is similar tread design.

2 You will also see photographs of every other vehicle
3 that was down there that morning, and see if any other vehicle
4 matches that particular tread design. You will hear testimony
5 that the only two vehicles with that type of tire were the
6 two marked Mascotte police cars.

7 Now, where was the other Mascotte police car the night
8 of May 11th and early morning hours of May 12th? You are
9 going to hear about the policy Chief Brady had with regard to
10 police cars. That when one man was on duty, only one was on
11 duty, the other car was kept in the impound lot here in
12 the police station, and there are only two sets of keys for
13 the marked police cars. Chief Brady had one set for each
14 police car at all times with him and the other set of keys
15 was kept by the officer on duty, so when the Defendant drove
16 his car that night, he had the keys to his car, plus he had
17 the only other set, other than Chief Brady's, the only other
18 set of keys to the other car that was kept in this lot. You
19 are going to hear testimony that the officers had to record
20 their starting mileage and ending mileage at each shift. You
21 will hear testimony that the ending mileage for the other car
22 that was kept parked the night of May 11th and early morning
23 hours of May 12th, the ending mileage was exactly the same
24 as the beginning mileage the next morning when another officer
25 came on and used that car. The other car, other than the one

- 484 -

1 the Defendant was in, had not been driven the night of May 11th
2 and May 12th. So the tire tracks were found.

3 Teresa's body was pulled out of the water. It was
4 transported to the Medical Examiner's Office for an autopsy.
5 Dr. Shutze found at the autopsy and he will be here to testify,
6 that little Teresa died as a result of strangulation and/or
7 drowning. There were marks of strangulation and there was an
8 indication of drowning as well. She was asphyxiated.

9 He will also tell you that her sexual organs, inside her
10 vagina, there was a tear, a laceration. There was fresh
11 blood. He will give you his opinion as to when that injury
12 was made in relation to the time of her death. He will give
13 you his opinion as to when she died.

14 Her clothes were taken at the time of the autopsy and
15 placed into evidence and you will hear how they were cared
16 for and so forth. They were taken to the FDLE Lab and it was
17 found that there was semen, sperm, in her jeans and on her
18 panties and a Serologist is going to testify to you of that
19 finding. That examining those stains, they found it to be
20 semen, inside her pants; inside her blue jeans, and inside her
21 panties.

22 The car that the Defendant drove that night, that marked
23 police car, was taken into evidence, was impounded and
24 processed by the Florida Department of Law Enforcement and
25 part of the processing involves dusting for fingerprints and

- 485 -

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1 they processed the entire vehicle, they dusted the entire car,
2 for prints and you are going to hear testimony as I said,
3 about the rain the night before. A hard rain and then it
4 tapered off and quit about nine o'clock.

5 You are going to hear testimony from the FDLE people
6 who dusted the car for prints, that when they got to the hood
7 area, on the right side of the hood, towards the middle, about
8 half way from the front of the car to the windshield, as they
9 dusted that, you are going to hear testimony that latent
10 fingerprints and that is the fingerprints that you leave when
11 you touch something, just popped out immediately under the
12 powder. Just popped out. And you will see photographs of
13 those, whole little hand prints of Teresa McAbee on the hood
14 of that car. You are going to hear testimony that the position
15 of those fingerprints indicate that when Teresa made them,
16 she was back like this, sitting on the police car, with her
17 hands back. Intermingled with Teresa's prints, are the
18 Defendant's prints, and you will hear testimony from experts
19 who will tell you how they compared the known fingerprints
20 of Teresa and of the Defendant with the latent prints that
21 they found on the hood of the car. They are going to tell you
22 how they reached their conclusions.

23 We have the tire tracks, the semen in her jeans, and
24 panties, and her fingerprints all over the hood of the police
25 car in that position.

- 486 -

Ruth C. Patz & Associates
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Javaries, Florida 32778

1 And then finally, her clothes were taken to the F.D.L.E.
2 and they were swept and you will hear the technician from the
3 Florida Department of Law Enforcement explain to you how they
4 swept her clothes and her panties especially. They scraped
5 them to see if there was any trace evidence; fibers, hairs,
6 that sort of thing, and you will hear them testify that they
7 recovered a hair, what appeared to be a pubic hair, inside
8 the panties. That pubic hair was placed into evidence and
9 kept secure. And then, by Court Order, you will hear testimony
10 that hairs of the Defendant were pulled, pubic hairs, chest
11 hairs, all body hairs, as well as head hairs, and those known
12 hairs from the Defendant, along with the unknown pubic hair
13 found in Teresa's panties, were sent to the F. B. I., and
14 there they were examined by Special Agent Michael Malone.
15 Special Agent Malone has over fifteen years experience in
16 hair analysis. You are going to hear his credentials, his
17 education, his training, the number of times he has been
18 qualified as an expert, and the number of times he has
19 testified. You will hear all that. You will hear that he
20 teaches law enforcement agents from all over the country at
21 the F. B. I. Academy at Quantico, and he teaches them on
22 hair analysis. Special Agent Malone took the known hairs of
23 the Defendant, the known hairs of Teresa, the known hairs of
24 Teresa's Mom, the known hairs of all the Mexican boys that
25 she was talking to that night at the store, and the known

- 487 -

Ruth C. Patz & Associates
Official Court Reporters, Fifth Judicial Circuit
Javaries, Florida 32778

1 hairs of everybody that lived in her house and he compared
2 all those, and he is going to tell you that that pubic hair
3 was not Teresa's, it was not her mother's, it was not any
4 of the Medicans', it was not anybody who lived in their house.
5 Special Agent Malone is going to come here and testify to you
6 that in his expert opinion, that pubic hair belonged to this
7 man, the Defendant.

8 Members of the Jury, that is what the evidence will
9 present. You will hear additional evidence. You will hear
10 about the pencil that Teres bought, and found snapped in two
11 and scattered in the bushes over on the side of the road
12 right near where her body was found.

13 But that is the evidence the State intends to present.
14 That is what this case is going to be all about. Teresa went
15 to the store to purchase a pencil. She was taken from the
16 store by the Defendant in his police car. She was taken to
17 this area, where she was sexually assaulted and murdered.

18 Members of the Jury, at the close of this trial, after
19 all the evidence has been presented, Mr. Hogan is going to
20 come back to you, and he is going to ask you, based on the
21 evidence, and based on the law as the Judge will explain it
22 to you, that you come back with a just verdict; the verdict
23 that the evidence demands in this case; a verdict that says,
24 "This man, James Aren Duckett, this Defendant..."...

25 MR. EDMUND: Your Honor, if it please the Court, I believe

- 488 -

Ruth C. Patz & Associates
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Javarez, Florida 32778

1 that is past opening statement and we are now on argument.

2 MR. HURM: I am finished, Your Honor.

3 THE COURT: He is through, Mr. Edmund. I overrule it.

4 MR. HURM: That this Defendant is guilty of Murder in the
5 First Degree and of Capital Sexual Battery.

6 Thank you, Your Honor.

7 THE COURT: Thank you, Mr. Hurm. Mr. Edmund?

8 MR. EDMUND: If it please the Court, Your Honor.

9 OPENING STATEMENT

10 BY MR. EDMUND:

11 Ladies and gentlemen, the evidence of this case is
12 going to show you and prove to you a number of things that
13 the State Attorney neglected to say to you. Among those is
14 that when the body was processed for hair, when the clothing
15 was processed for hair, when it was done at the Florida
16 Department of Law Enforcement Laboratory, a number of other
17 hairs were found, including head hairs that were compared
18 with those of James Duckett, and found to have no similarities
19 nor similar characteristics.

20 Additionally, the evidence of this case is going to show
21 that in June or the latter part of May of 1987, Deborah
22 Steger, who is a hair analyst for the Florida Department of
23 Law Enforcement, the person to whom the Lake County Sheriff's
24 Office had entrusted to sweep this clothing and gather the
25 evidence; to sweep this body and gather the evidence; was

- 489 -

Ruth C. Patz & Associates
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Javares, Florida 32778

1 sent thirty pubic hairs taken by Law Enforcement, from the
2 body of James Duckett and voluntarily given to them,
3 and that her examination of those thirty hairs in late May or
4 early June, found that twenty-eight of them had absolutely
5 no similarities to the unknown pubic hair that she had
6 found in the panties area of Teresa and that the other two
7 had some similarities, but a greater number of dissimilarities.

8 The evidence is going to show that she contacted the
9 Lake County Sheriff's Department. She advised them of her
10 findings. She advised them that it was obvious this was not
11 his hair, and asked for additional samples for further
12 checking and was instructed to return the pubic hair and all
13 the known samples immediately, to the Lake County Sheriff's
14 Department. The evidence is going to show that they simply
15 didn't like her findings.

16 The evidence is also going to show that Mr. Malone is
17 not going to say to you that in his opinion the pubic hair
18 known as Q7 in some instances and Q6 in another, came from
19 James Duckett. Only that it could have or that there was a
20 probability, and these experts will tell you as is reflected
21 in Mr. Malone's report, it will be pointed out that hair
22 comparisons do not constitute a basis for absolute, personal,
23 identification.

24 Now, there doesn't appear to be any report from Mr.
25 Malone as to the seven head hairs that were found by the

1 F. D. L. E. Agent, Ms. Steger, to whom this was originally
2 entrusted. The evidence is going to show that were there such
3 a report, it would reflect that those head hairs that were
4 found were totally inconsistent with the head hairs of
5 James Duckett.

6 Now, the fingerprints of James Duckett that the State
7 Attorney indicated to you were intermingled with the hand
8 prints of Teresa consists of one print of one finger, at some
9 point on the hood of the automobile.

10 (WHEREUPON, MR. EDMUND SKETCHES ON EASEL)

11 If you let me say this is the bumper. This is the hood.
12 this is the windshield. In an area IH, is how it is going to
13 be designated, with a number of Teresa's hand prints, but one
14 fingerprint of James Duckett, and interestingly enough, the
15 evidence of this case is going to show you that intermingled
16 also are unknown by someone else, by someone else, hand prints
17 and finger prints there. The evidence is further going to
18 show that an unknown print was lifted from this area, all by
19 itself, and that is lost. That is 1-A.

20 The others are scattered around in some fashion so that
21 the other unknown prints that were there at the same time as
22 Duckett's prints, such as in this area ... Duckett with an
23 unknown print... Duckett with an unknown print, down on the
24 side of the vehicle here, and along the front part of the
25 hood of the automobile. Not intermingled. The evidence will

1 show that the print, the single fingerprint of Jim Duckett
2 is much lighter than the prints that were lifted and
3 attributed to Teresa, and the prints that are lifted and
4 attributed to some unknown source.

5 There were nineteen discernible tire photos. There were
6 seventeen discernible tire photos and two plaster casts of
7 prints at the scene. Of those, none has been determine to
8 have come from the vehicle of James Duckett. Only that they
9 are similar in size and tread design, and could have come
10 from his vehicle.

11 There is not going to be evidence of identical tread
12 wear and there is not going to be evidence of measurements of
13 the tread wear on the vehicle, and the vehicle, at that time,
14 had approximately five thousand miles on those tires.

15 As Mr. Hurm said, there were no manufacturer's blemishes.
16 There were no cracks or plugs missing or marks, scuffs, skids,
17 uneven tread wear, that would indicate the tires were from
18 the same vehicle, and really, there was no record made to
19 eliminate the vehicle, because the decision, by that time,
20 had been made that James Duckett was the suspect. Other
21 suspects were summarily eliminated by decisions made by law
22 enforcement officers at or about the scene, including any
23 further inquiry into the brown, 1970 to 1976 Oldsmobile that
24 was seen throughout the area from the time of about 10:00
25 o'clock in the evening, a little prior to the time that

1 Teresa went down to the Circle K, to approximately daylight
2 the next morning, shortly before Teresa's body was found; up
3 and down this area of Sunset, because one of the law enforce-
4 ment officers made a decision, "Well, he is a local boy and
5 we are sure that he would not have had anything to do with it".

6 Two Mexican individuals who had photographs taken of
7 their bodies with scratches on them, because fingernail
8 scrapings were taken from Teresa, were summarily eliminated.

9 The evidence of this case is going to show that two
10 days following the finding of this child's body, James Duckett
11 was generally accosted by two of the women who will testify
12 here, who are clerks in the convenience store. "We under-
13 stand that you are a suspect, and one of the reasons is that
14 you have scratches on your chest.". He opened his shirt,
15 pulled up his T-shirt, and said, "What are you talking about?",
16 and had no scratches on his person or his chest.

17 Now, evidence is further going to show that at the time
18 James Duckett took the posters around and said to Shirley
19 Williams, "Don't put it up", when Shirley started to put it
20 in the window, "It is no good", Shirley will tell you she
21 looked at it and you are absolutely right. You couldn't tell
22 anything from it, and he said, "Put it here by the cash
23 register", and she did, and she will tell you other things of
24 interest, and that is that his clothing was neat. His
25 clothing was in the same neat condition she had always seen

1 him in. Every hair on his head was in place, and obviously,
2 in place with hair spray; that there was no mud on his boots
3 or his shoes. There was no debris or trash on his uniform,
4 and that he looked precisely as he always looked when he
5 would come into the store when he was on duty.

6 Now, evidence is going to show that down here at the
7 lake, around the pumphouse area, which is a bank, if you
8 looked at it from this being the lake, the bank would slope
9 off at an angle about like that, and being about five to six
10 feet high, and being quite muddy, but going down that bank
11 were slide marks with no discernible tread in them, but found
12 floating next to the child's body was a flip flop that has
13 just been summarily overlooked and ignored by law enforcement
14 officers.

15 The evidence is going to show that as this road comes
16 back through, in here, it is a gray, sandy soil. As it
17 progresses, it gets to the clay-like soil, and the red soil,
18 and the evidence is going to show that none of the soil samples
19 taken from the wheel wells of the vehicle that James Duckett
20 was driving that night, matches, in any way, any of the soil
21 from that area, nor did any of the debris taken from the
22 interior of his automobile match in any way the debris that
23 was collected from the area around the scene of the finding
24 of the body.

25 The Pathologist will testify that upon the rupturing of

1 this child's hymen, that she bled profusely. The evidence of
2 this case is going to show that there was no blood on the
3 person of James Duckett. There was no blood on the uniform
4 of James Duckett. There was no blood on the shoes of James
5 Duckett, and there was no blood on any of the accouterments
6 to his uniform. Nor, interestingly enough, was there any
7 blood in any of the area of the findings of the area of the
8 finding of the body, leaving only the single conclusion that
9 the homicide took place elsewhere.

10 MR. HURM: I want to object to that, Your Honor, that
11 is argumentative and drawing conclusions...

12 MR. EDMUND: I will say the facts of this case will
13 indicate that, if it please, Your Honor...

14 THE COURT: I think that is better.

15 OPENING STATEMENT CONTINUES

16 BY MR. EDMUND:

17 As opposed to the conclusion, but the facts of this
18 case will indicate that the homicide took place elsewhere.
19 And the facts of this case are going to show that in the
20 front seat of Duckett's automobile, in the back seat of
21 Duckett's automobile, on the floorboard in the back seat of
22 Duckett's automobile, on the floorboard of the front seat of
23 Duckett's automobile, on the hood of Duckett's automobile,
24 on the fender of Duckett's automobile, no blood was found
25 at all. Nor will the evidence show that the Florida Depart-

- 495 -

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Javaries, Florida 32778

1 ment of Law Enforcement recovered any sort of debris from the
2 body or the clothing of Teresa to indicate that it, in any way,
3 had been wrapped in anything, for transportation or otherwise.

4 Now, I don't know precisely the number, but the evidence
5 is going to show that one of the interesting features that
6 Special Agent Steger of the Florida Department of Law
7 Enforcement found and brought to the attention of the Lake
8 County Sheriff's Office, is that she found numerous small
9 gray and white hairs adhered to the body and adhered to the
10 ... human hairs, head hairs, to the clothing of Teresa, but
11 the size was not sufficient so that she could compare them
12 with anything. But her testimony will be that Duckett's head
13 hair was of a color totally different, a light brown, and
14 that Duckett's pubic hair was of a color totally different,
15 and that is a medium to a dark brown, to the small white
16 hairs that she found in some profusion among the debris taken
17 from the body and from the clothing.

18 Grace Gurley was a juvenile on probation on the 10th of
19 May of 1987. Between the 10th of May of 1987 and October
20 the 28th, of 1987, Grace Gurley got into additional trouble
21 with the law, Grand Theft, and she was incarcerated, not as a
22 juvenile, but as an adult, because of her juvenile record,
23 and then on the 28th of October, the day following James
24 Duckett's arrest, she had a sudden recall of the events of
25 the evening of the death of Teresa. Interestingly enough,

- 496 -

1 the evidence of this case will prove to you that Grace Gurley
2 could not have seen what Grace Gurley claims she saw, and
3 her statement with regard to seeing James Duckett drive off
4 with a small person in the car with him, will be contradicted
5 totally by the testimony of Shirley Williams.

6 Shirley lives North on Highway 33, which runs out ...
7 comes around and runs out this way, swinging on around and
8 there is a method or a manner or a way that Shirley can come
9 off of 33 to North Sunset and come in to work on North Sunset
10 and I didn't do it just right... that's better... come in to
11 work on North Sunset and as she did on that night, at 10:45
12 P. M., and as she crossed here, she parked where she always
13 parks and that is right here. Now, the evidence of this case
14 is going to show that if this is the Circle K, the dumpster
15 is not back in this position like this, but the dumpster
16 actually is a little bit forward of the Circle K, and Shirley
17 always parks her car in this manner and did on that evening,
18 but interestingly, as she came across, and the parking lot is
19 a little deeper, so that a car can back out and come out
20 here on Sunset, her headlights picked up the police car
21 backing out and coming across, and going out onto Highway 50
22 and that only Jim Duckett was in it.

23 An hour and fifteen minutes later, she saw him or an
24 hour and thirty minutes later, and again, the evidence will
25 show, he was just as neat as he was at the time he had been

- 497 -

Ruth C. Patz & Associates
Official Court Reporters, Fifth Judicial Circuit
Tavares, Florida 32778

1 in the store earlier where Joyce Reynolds will tell you his
2 condition prior to 10:30.

3 Now, Duckett was running his radar in an area like this
4 and when the three Mexicans, who were fooling around with the
5 little girl, came around to the dumpster in this manner, he
6 casually observed them, but that the girl and a boy stopped
7 here and they were getting very, very close together and they
8 would get apart, and she would peep up over the dumpster and
9 the boy would keep looking at the police car, and he got real
10 curious and he went down, he went around and he came so he
11 could see it from that area. Then he went back, he came
12 around and he drove in and he parked up in front of the
13 Circle K, and he got out and he called them over. As the
14 State said, now there is a light here now, but there was no
15 light in this area at that time, and he called them both to
16 his automobile and he talked to them both at his automobile,
17 and then it wasn't until after the young Mexican boy's uncle
18 arrived, that he put the child in the automobile, because he
19 was then directing his attention to the completion of his
20 report and telling both the Mexican boy and his uncle that
21 the sixteen year old should not be fooling with an eleven
22 year old girl, and during that time, if this is the automomobile,
23 and the bumper and all, she was around both sides of
24 the car, leaning against the car, even back against the car
25 there, even to the point of having her foot up on the bumper

- 498 -

1 of the automobile.

2 He told her to go home and she did go home. One of the
3 things that Joyce Reynolds is going to say to you is that
4 when the mother came to the store and Joyce said, "Look, I
5 have been worried about your child for a long time now, even
6 to the point of reporting it to the police. I have told them
7 and I am telling you that something bad is going to happen to
8 her for fooling around with these boys around that store."

9 Now, Grace Gurley. This is very, very misleading.
10 in that area there and I am sure it was not done with any
11 intentions, and I can't draw any better than Steve, but I
12 can, I think, figure out the discrepancies. If this is
13 Sunset... I mean, if this is Highway 50, and Talbott, and
14 Sunset, and 50 ... the Shop and Go and the laundromat take
15 up an area ... I don't draw as well as he did, do I? About
16 like that. Now, all through here are a number of trees.
17 All down here are fences to a point very near Peach or
18 whatever the next street is down South, and it is a long
19 block, being some four hundred feet or more down to the little
20 girl's house, which is not on a corner. There is another
21 house or two between there and the corner. And as this
22 area begins to raise up and go up a hill, a lot of trees,
23 bushes and all in that area, and a small path that goes
24 through there and comes down in an area such as like that.
25 The Gurley child will testify that she ducked back in the

- 499 -

1 bushes, so as not to be seen when she maintains she saw the
2 patrol car sitting out here like this in front of the
3 dumpster, and from that point on, she could not have seen
4 anything. She was unable to see what, in fact, she saw.
5 Her story, as you observe it on the video tape, will contain
6 at least forty-seven discrepancies that at some point in time,
7 I'll point out to you. Between that video tape and what she
8 said early on, and the statement or statements that she had
9 given to the police earlier, on the 28th of October, of
10 1987, while in jail waiting to go off to prison, where she
11 finally went on a two year sentence and got out in five
12 months, of events that she had not bothered to talk to anybody
13 about, although she connected, according to her testimony,
14 all of this two nights after, or two days after the homicide,
15 or less, and yet, she knew that all that time Duckett was a
16 suspect, but only after his arrest, did she give any
17 information to law enforcement.

18 Her theory being that it would affect her probation, but
19 her probation was long behind her and long gone when she
20 found herself in the adult slam.

21 Now, there were bare footprints that were found at
22 the scene of the finding of the body, and they have never
23 been... there has never been any effort on anyone's part to
24 determine the origin of those footprints, only that the
25 mother says that she and a friend or a niece and a little

- 500 -

1 child walked down to that lake and were around that pumphouse
2 and again, this isn't to scale. It is about two-tenths of a
3 mile from this home where the child lives, to the Shop and Go,
4 and it is virtually the balance of a mile back down here to
5 where the body was found. And the police said, "Oh, you
6 walked down there barefooted", and "Okay, we won't follow up
7 then on the barefoot prints that were there after the rain.".
8 The footprints of ten and a quarter inches, whatever that
9 may mean.

10 Now, the evidence of this case is going to show that
11 when Duckett called his Chief, he was asking for instructions
12 as to how to handle it. He was given them, and followed them.
13 The evidence is also going to show that on the following
14 morning, when the Chief called him, and told him about the
15 finding of the child's body, his response was, "Shall I come
16 in?" and the Chief says, "No, there is nothing you can
17 contribute", and then later, when the Chief wanted him in,
18 he got up and he went to the ... after he took his bath, he
19 went to the same uniform, the same shoes that he had worn on
20 duty the night before. He put them on. He got in his
21 automobile. He drove to Mascotte from his home in Webster
22 and he presented himself to the Chief and all the other law
23 enforcement officers who might be around.

24 His hours were normally, at that point in time, from
25 seven at night to seven the next morning. He had three

- 501 -

1 uniforms. He had been a police officer only six months.
2 His wife didn't work, nor did he want her to, but she took
3 care of him and she took care of his uniforms. When he
4 arrived home, she had two uniforms hanging on the line. She
5 did not anticipate that he would be called back in until
6 seven o'clock, or would go back in until seven o'clock, and
7 she, as she will tell you, liked to play with her children;
8 did play with her children; spent a lot of time with her
9 children; and blew it in that she didn't have a clean, new
10 uniform ready for him when he was suddenly, at one o'clock
11 in the afternoon, called back to Mascotte. So he had no
12 alternative, but to put on the uniform he had worn the night
13 before, but she is of such a finicky nature, that she,
14 nevertheless, examined it, even with the thought in mind of
15 holding him up long enough to press a new uniform if that
16 uniform didn't appear satisfactory to her. She fixed his
17 hair, as she always did, and she sent him on his way, as she
18 always did, and she happened to be awake that morning when he
19 came in, and she will tell you his hair was in the same
20 condition it was when he left there the evening before,
21 after she finished fixing his hair. Somebody offered even
22 to legally swap wives with him, because of the way that she
23 takes care of him.

24 There were efforts made to remove fingerprints from the
25 upper torso of this child, but there were no efforts made

1 to take fingerprints from the lower portion of this child's
2 body.

3 There was a Deputy Sheriff who arrived at Groveland
4 Police Department shortly after midnight at the same moment
5 that Duckett arrived, and that Deputy Sheriff noticed nothing
6 unusual about Duckett's appearance, or his mannerisms, nor
7 did Ms. McAbee, although she was in a distraught state,
8 notice anything unusual about his appearance, because there
9 was nothing unusual about his appearance, or his mannerisms.

10 Polly Carr will indicate to you that at or about the time
11 that Grace Gurley was maintaining she was observing what she
12 was observing, that Polly went back and forth before her door
13 and watching. She saw some things, heard some things, never
14 ever saw Gwen or Grace Gurley, nor the two individuals who
15 were supposed to be with her, whom you probably won't hear
16 from, but with whom the police have talked.

17 Shirley Williams will tell you and Joyce Reynolds will
18 tell you that Gwen Gurley nor anyone fitting Gwen Gurley's
19 description, came into that store to buy this coke that Gwen
20 Gurley will tell you she went in and bought, and Joyce
21 Reynolds was the clerk on duty. During the evening at any
22 time, particularly not during the time that Duckett was out
23 there talking with the two kids and talking with the uncle
24 of the young Mexican boy.

25 A very interesting bit of evidence will be presented to

- 503 -

1 you concerning the clothing that Teresa was wearing. When
2 Teresa went into the Circle K at or about 10:15 or 10:30, or
3 whenever, she was wearing a blue-green type color of upper
4 garment, a shirt. When this child's body was found at or
5 about 9:00 o'clock the next morning, she was clothed in a
6 tan upper body covering type of shirt.

7 The evidence of this case is going to show that at
8 some point in time, after Teresa left the Shop and Go, she
9 went to some place, wherever that place, and she changed
10 clothing, and the evidence will show that obviously, she
11 departed whatever that place was, with whomever it was, or
12 to meet whomever she was to meet, who was the person who
13 killed her, and that that person was not James Duckett.

14 As this... the evidence is going to show that as this
15 case has progressed, substantial emphasis was placed upon
16 evidence and testimony that has not now borne out, but was
17 anticipated at the time it was first taken into custody or
18 first acquired by the Sheriff's Office.

19 The evidence of this case is going to show that decisions
20 were made ignoring substantial evidence indicating that the
21 person who murdered Teresa McAbee was or is wandering around
22 the City of Mascotte, but the evidence of this case is going
23 to show that James Duckett will not be proven guilty beyond
24 any reasonable doubt, but that he is, without any question,
25 innocent of the offense with which he is charged.

- 504-

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1 When you look at the testimony that the Sheriff's Office
2 has refused to look at, and when you look at the evidence
3 that the Sheriff's Office has chosen to ignore, and when you
4 come to your conclusion that it would be an utter impossibil-
5 ity for Jim Duckett to have committed this, and I will be
6 asking at the conclusion of this trial, to follow the law the
7 Judge gives you and apply it to the evidence you receive and
8 the testimony you hear, and to real rapidly return your
9 verdict of not guilty. Thank you. If it please, Your Honor.

10 THE COURT: Thank you, Mr. Edmund.

11 MR. HOGAN: May we approach the bench?

12 (WHEREUPON, BENCH CONFERENCE IS HELD AS FOLLOWS:)

13 MR. HOGAN: I would like ten or maybe twenty minutes
14 to get all the evidence organized. We got it all organized
15 last night. I need to get it up here.

16 THE COURT: We are ready to take a break anyway.

17 MR. EDMUND: Yes, sir.

18 THE COURT: I need to ask you all about two things.
19 (1) Noone has invoked the Rule, but certainly before we
20 start testimony, I am going to give you an opportunity to do
21 that, if you choose.

22 MR. HOGAN: It doesn't matter to me.

23 MR. EDMUND: No, sir.

24 THE COURT: We don't have to do it if nobody wants it.
25 (2), and secondly, we would agree that the video tape of

- 505 -

1 of Ms. Gurley will be used in place of her live testimony
2 and remember we talked about that.

3 MR. HOGAN: Yes.

4 THE COURT: Do you agree?

5 MR. EDMUND: Yes, I would agree. I think he did a good
6 job.

7 THE COURT: Alright, we both note the stipulation that
8 the video tape of Ms. Gurley will be viewed in lieu of live
9 testimony here in court. Are you going to show that today?

10 MR. HOGAN: After lunch.

11 THE COURT: Is Ms. Berry on notice about that?

12 MR. HOGAN: We have got a VHS.

13 THE COURT: Are you going to run your own equipment?

14 MR. HOGAN: Yes.

15 THE COURT: Be sure to check and make sure we are all
16 set with the equipment, the VCR equipment.

17 MR. HOGAN: We have a cassette tape as well.

18 THE COURT: Anything else before we take a recess?

19 MR. EDMUND: No, sir.

20 MR. HOGAN: No, sir.

21 THE COURT: Thank you.

22 (WHEREUPON, BENCH CONFERENCE ENDS)

23 THE COURT: Mr. Bailiff, we are going to take about a
24 twenty minute recess at this time. The way we proceed
25 throughout the course of this trial, when we take recesses,

- 506-

1 the Jury will step out with us first, and they are free to do
2 that at this time. Everyone else, please remain seated.

3 (WHEREUPON, JURY LEAVES COURTROOM AT 10:34 A. M.)

4 THE COURT: Mr. Bailiff, let's remove the Defendant
5 from the courtroom at this time, please.

6 (WHEREUPON, DEFENDANT IS REMOVED FROM COURTROOM)

7 THE COURT: Court is in recess.

8 (WHEREUPON, COURT IS IN RECESS AT 10:35 A. M.)

9 (WHEREUPON, DEFENDANT IS PRESENT IN COURTROOM WITH
10 HIS COUNSEL)

11 (WHEREUPON, COURT RECONVENES AT 11:07 A. M.)

12 THE COURT: Do we have anything before we bring the
13 Jury back, gentlemen?

14 MR. HOGAN: No, sir.

15 MR. EDMUND: No, Your Honor.

16 THE COURT: Please, Mr. Bailiff.

17 (WHEREUPON, JURY ENTERS COURTROOM AT 11:07 A. M.)

18 THE COURT: Welcome back, folks. Be seated, please.

19 I am sorry that our recess took a little longer than
20 we anticipated. The attorneys asked for a little additional
21 time and naturally, we granted that to them.

22 The State can call your first witness.

23 MR. HOGAN: The State would call Dorothy McAbee.

24 THE COURT: Please stand right behind the chair, please,
25 ma'am. Raise your right hand and Madam Clerk will swear you

- 507 -

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1 in.

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14 (WHEREUPON, DOROTHY MAE MC ABEE IS CALLED AS FIRST
15 WITNESS FOR THE STATE AND IS DULY SWORN BY THE CLERK OF THE
16 COURT)

17 THE COURT: Make yourself comfortable in that chair,
18 ma'am. The chair will roll around, and the microphone will
19 adjust, if you need to pull it down or towards you.

20 MS. MC ABEE: Yes, sir.

21 DIRECT EXAMINATION

22 BY MR. HOGAN:

23 Q. Would you please state your name?

24 A. Dorothy Mae McAbee.
25

- 508 -

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1 Q. Mrs. McAbee, where do you live?
2 A. Now, in Minneola.
3 Q. I call your attention to the month of May, 1987.
4 Where did you live at that time?
5 A. Mascotte.
6 Q. Mrs. McAbee, do you have any children?
7 A. Yes, sir. I have Teresa, and I have two other boys;
8 Michael and Robbie.
9 Q. Now, Teresa Mae McAbee was your daughter?
10 A. Yes, sir.
11 Q. And Teresa Mae McAbee lived with you up until last
12 May?
13 A. Yes, sir.
14 Q. When was Teresa's birthday?
15 A. July the 10th, '75.
16 Q. I'm showing you what has been marked for identification
17 as State's Exhibit H, and ask you if you recognize that?
18 A. Yes, sir. I do.
19 Q. What is that?
20 A. It's a picture of me and my daughter, Teresa.
21 Q. Is that a picture of what Teresa looked like?
22 A. Yes, sir.
23 Q. Was that what Teresa looked like in last May, May
24 of 1987?
25 A. Yes, sir, it is.

1 MR. HOGAN: I'd move this photograph into evidence.

2 MR. EDMUND: No objection, Your Honor.

3 THE COURT: State's Exhibit, I believe you said H, Mr.
4 Hogan?

5 MR. HOGAN: H, yes sir.

6 THE COURT: For identification, is admitted into evidence
7 without objection, as State's Exhibit No. 1.)

8 (WHEREUPON, STATE'S EXHIBIT NO. 1 RECEIVED IN EVIDENCE)
9 BY MR. HOGAN:

10 Q. Mrs. McAbee, I call your attention to the day of May
11 the 11th, 1987, and if you would, please, the late afternoon
12 or early evening hours of that day; would you please tell us
13 what you were doing and what your daughter, Teresa, was doing
14 at that time?

15 A. May the 11th?

16 Q. Yes, ma'am.

17 A. Well, I had been gone away. I had went to Tampa to
18 take my sister, Tammy, and her husband.

19 Q. Where did your sister live?

20 A. Now?

21 Q. At that time?

22 A. With me in Mascotte.

23 Q. And her husband, also?

24 A. Yes, sir.

25 Q. Who else lived at that house?

1 A. Well, Christina Lancaster and Michelle Hernandez
2 and Pedro Savala and Tammy Zavala.

3 Q. That's your sister and her husband?

4 A. Yes, sir.

5 Q. All right, you had gone to Tampa. Did Teresa go
6 with you?

7 A. No, sir, she went to school.

8 Q. And when you came home, did you see Teresa that after-
9 noon?

10 A. Yes, sir, I was in bed asleep when she came home.

11 Q. And then what happened next?

12 A. When she came in from school, she had went into her
13 bedroom where I was at, and woke me up, and asked me if I had
14 checked the mail that day, and I told her, "Yeah." And she
15 asked me if her father had sent her any money, and I said,
16 "No." So, I went back to sleep when she left.

17 Q. Now, did she go to the laundry with your sister to
18 do the laundry?

19 A. Yes, sir, she did.

20 Q. Now, what street do you live on or did you live on
21 in Mascotte?

22 A. 29 Sunset.

23 Q. Is that near a convenience store?

24 A. Yes sir, it is.

25 Q. What is the name of that convenience store?

1 A. Circle K.

2 Q. Did your daughter go to that convenience store on a
3 regular basis?

4 A. Yes, sir. She went about every afternoon after
5 school with Christine and Shelly.

6 Q. Do they have video machines or a video game machine
7 at that convenience store?

8 A. Yes, sir, they did.

9 Q. Did Teresa like to play those games?

10 A. Yes, sir.

11 Q. Calling your attention to later that evening, was
12 Teresa at home prior to 10:00 o'clock that night?

13 A. She was home around 10:00, because I went and picked
14 her up.

15 Q. Where was she when you went and picked her up?

16 A. She was at the Circle K. Her and Michelle.

17 Q. And Michelle is your niece?

18 A. My niece.

19 Q. And Teresa's cousin?

20 A. Yes, sir.

21 Q. Now, about around 10:00 o'clock or sometime around
22 that time of the evening, did Teresa make a request to go
23 back to the convenience store?

24 A. Yes sir, she did.

25 Q. Would you tell us about that, please?

- 512 -

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1 A. She came into the bedroom where I was at she said
2 she needed a pencil to do her homework. I asked if she could
3 use one of Pedro's that he had. I don't know what kind you
4 called it. It was a real big one.

5 Q. A carpenter's pencil?

6 A. It was a real big one. She said that she couldn't
7 use one of those. I asked her to use an ink pen, and she
8 said that they couldn't do that for homework. So, I finally
9 told her that she could run to the store and get a pencil
10 and come right back.

11 Q. Did you give her any money?

12 A. Yes, sir, I gave her a quarter.

13 Q. She left your home between 10:00 and 10:30 to go to
14 the store?

15 A. Yes, sir, she did.

16 Q. And could you see that store from your home?

17 A. You could see the lights and the top of it.

18 Q. It was close to your house?

19 A. Yes, sir, it was.

20 Q. Did Teresa return? Did Teresa come home?

21 A. No, sir, she didn't.

22 Q. And at what point did you become concerned tht she
23 had not come home?

24 A. After she was gone, after about 11:00 o'clock, so
25 I went and I walked up to the store to see if I could find her.

1 She wasn't at the store. I walked across the street on 50
2 to a friend's house where my niece was spending the night with
3 a friend to see if maybe she was there. She wasn't there. I
4 went back across the street to the Circle K and talked to the
5 lady in there. And when I couldn't find her, I went back to
6 the house. My sister and I got in my car.

7 Q. When you were at the Circle K Store, Mrs. McAbee,
8 did you see a police car there?

9 A. No, sir, I did not.

10 Q. You went back home. And then what happened?

11 A. I went back to the house. Me and my sister got in
12 my car, and we went down 50 toward Bay Lake, private cemetery,
13 all out in there. And then we came back and we went behind
14 where the Old Mascotte store used to be, all back in there.
15 And then the back roads behind the Mascotte police or whatever
16 that is. We went all back in there and we couldn't find her.
17 So, I went back to the house.

18 Q. Did you go down Bay Lake Road?

19 A. I went down probably about three-fourths, something
20 like that.

21 Q. But you did drive down Bay Lake Road?

22 A. Yes, sir, I did.

23 Q. In the City of Mascotte?

24 A. Yes.

25 Q. Did you see a police car down there?

1 A. No, sir, I didn't.

2 Q. Did you ever see a police car the whole time you
3 were driving around?

4 A. No, I did not.

5 Q. How long would you say you drove around the City of
6 Mascotte looking for Teresa?

7 A. Approximately, about one hour.

8 Q. What did you do next?

9 A. Okay. I went back to the house, my sister and I,
10 and she got out of the car. I told her that, you know, that
11 we couldn't find Teresa, so I told her I was going to go and
12 report a missing person report.

13 Q. Did you go to the Mascotte Police Department?

14 A. I went by there and I didn't stop. There was no
15 car there, so I went on to Groveland.

16 Q. To Groveland?

17 A. Yes, sir.

18 Q. What did you do when you got to Groveland?

19 A. There was a bunch of sheriffs out there, and they
20 were just standing and talking and stuff. And I told them
21 that I wanted to report my little girl missing, and they told
22 me to go back to Mascotte and they would call a police officer
23 to take a report.

24 Q. And did you go back to Mascotte?

25 A. Yes, sir, I did.

1 Q. Now, when you were in Groveland, Groveland is to the
2 east of Mascotte, is that correct?
3 A. Yes.
4 Q. So, you drove back to the Mascotte Police Department,
5 is that correct?
6 A. Yes, sir.
7 Q. And what did you do when you got to the Mascotte
8 Police Department?
9 A. I was sitting in my car waiting for the officer to
10 arrive.
11 Q. How did you park your car?
12 A. Facing the building.
13 Q. Now, is the Mascotte Police Department and City Hall
14 there on Highway 50?
15 A. Yes, sir.
16 Q. So, you were facing the Police Department, parked in
17 your car?
18 A. Yes, sir. In front of the building.
19 Q. So, west would have been out the passenger's side of
20 your car, toward Brooksville, is that correct?
21 A. Yeah. I don't know my directions too well.
22 Q. Well, you know where Brooksville is, Ridge Manor?
23 A. Yes, sir.
24 Q. And your driver's side of your car would have been
25 facing back toward Groveland, where you had just come from?

1 A. You know, it was in like this, facing 50.

2 Q. The driver's side of your car was facing 50?

3 A. Yes, sir.

4 Q. Let me get this easel, so we can clear this up.

5 THE COURT: While Mr. Hogan is adjusting the easel,
6 ladies and gentlemen of the jury, if at anytime you can't
7 hear a witness or can't see something that is being presented
8 during the course of this trial, please get my attention.
9 Just raise your hand or do what you have to, and we'll be sure
10 that we remedy that.

11 BY MR. HOGAN:

12 Q. Can you see this, Mrs. McAbee?

13 A. Yes, sir.

14 Q. This is Highway 50. Can you still see it?

15 A. Yes, sir.

16 Q. And this is where you went to Groveland, down High-
17 way 50, to the Groveland Police Department, okay?

18 A. Yes, sir.

19 Q. And then you came back toward Mascotte. Does the
20 Mascotte Police Department sit like that?

21 A. Yes, sir.

22 Q. On Highway 50?

23 A. Yes, sir.

24 Q. Okay, now. Brooksville would be over in this
25 direction then, right?

- 517 -

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Tavares, Florida 32778

1 A. Yes, sir.

2 Q. You tell me how you parked your car. Was it facing
3 this way? (indicating)

4 A. Yes, sir.

5 Q. If your car is parked facing that way, would this be
6 your driver's side over here? (indicating)

7 A. Yes, sir, it would.

8 Q. Would your driver's side be facing Groveland, the
9 driver's side of your car?

10 A. Yes, sir.

11 Q. The passenger's side would be facing the direction
12 of Brooksville?

13 A. Yes, sir.

14 Q. Now, how long did you wait there at the Mascotte
15 Police Department before anyone arrived?

16 A. About fifteen to twenty minutes.

17 Q. Approximately?

18 A. Yes, sir.

19 Q. Did any other cars pull up in the parking lot while
20 you were sitting there?

21 A. No, sir, they did not.

22 Q. And you were just waiting for a police officer to
23 arrive to continue reporting your daughter missing, is that
24 correct?

25 A. Yes, sir, I was.

1 Q. Did you see a Mascotte Police officer in a police
2 car drive up to the police department?

3 A. Yes, sir, I did.

4 Q. From which direction did he come?

5 A. Like to the side of the police department.

6 Q. Which side? The Brooksville side or the Groveland
7 side?

8 A. Groveland.

9 Q. Did he come down Highway 50, or did he come up the
10 side street here?

11 A. He came up the side.

12 Q. Did he come up the side street and pull into the
13 parking lot in this fashion? (indicating)

14 A. Yes, sir.

15 Q. Is that accurate?

16 A. Yes, sir.

17 Q. In other words, the police car did not come from
18 the Brooksville direction down Highway 50?

19 A. No, sir, it did not.

20 MR. HOGAN: Could we have this marked for identification,
21 Your Honor?

22 THE COURT: Yes. Ma'am, what letter have we reached?

23 THE CLERK: BBBB.

24 THE COURT: BBBB for Identification.

25 (WHEREUPON, STATE'S BBBB MARKED FOR IDENTIFICATION)

1 MR. HOGAN: The State would move Exhibit BBBB for Identification,
2 the chart identified by Mrs. McAbee, into evidence.

3 MR. EDMUND: No objection.

4 THE COURT: State's Exhibit BBBB for Identification,
5 admitted into evidence without objection, as State's Exhibit
6 No. 2.

7 (WHEREUPON, STATE'S EXHIBIT 2 RECEIVED IN EVIDENCE)

8 BY MR. HOGAN:

9 Q. Mrs. McAbee, what happened after the Mascotte police
10 officer arrived at the police department?

11 A. I filed a missing person's report with him.

12 Q. Did you know the officer that arrived?

13 A. No, I didn't really know him.

14 Q. Had you ever seen him before?

15 A. I had seen him when he would drive by our house,
16 and when he was at the store.

17 Q. Had you ever talked to him before?

18 A. No, sir, I hadn't.

19 Q. I would ask you to look around the Courtroom here
20 today and tell me if you see the man in the Courtroom or individual in the Courtroom, who was the Mascotte police officer
21 that arrived at the Mascotte Police Department that night,
22 that you reported your daughter missing to? Would you please
23 point him out and describe what he's wearing, if he's sitting
24 in the Courtroom?
25

1 A. The gentleman right there. (indicating)
2 Q. What is he wearing?
3 MR. EDMUND: I'll stipulate she has identified my client,
4 Your Honor, for the record.
5 MR. HOGAN: Thank you, Mrs. McAbee.
6 THE COURT: Ladies and gentlement, the record would re-
7 flect that the witness has identified the defendant.
8 BY MR. HOGAN:
9 Q. Mrs. McAbee, when Teresa left your home, what was she
10 wearing, when she left to go get the pencil between 10:00 and
11 10:30?
12 A. She had a white pair of high-top shoes, her Lee jeans,
13 and a knit shirt with brown going across it.
14 Q. With brown stripes? When you say brown going across?
15 A. Yes, sir.
16 Q. I am going to show you a composite exhibit consisting
17 of two items marked for identification, State's Exhibit L.
18 I'll open them for you. Now, with the exception...Are you
19 okay?
20 A. (Witness crying.)
21 THE COURT: Take a minute.
22 MR. HOGAN: Would you like some water?
23 MR. EDMUND: Your Honor, can we break for a few minutes?
24 THE COURT: Do you want to take a break, Mr. Hogan?
25 Ma'am, would you like to take a short break?

1 MR. HOGAN: I'd request a recess, Your Honor.
2 MRS. MCABEE: Yes.
3 THE COURT: We'll take a fifteen minute recess, Mr.
4 Bailiff.
5 (WHEREUPON, JURY IS TAKEN OUT AT 11:27)
6 THE COURT: Remove the Defendant, Mr. Bailiff.
7 (WHEREUPON, COURT RECESSES FOR LUNCH PURSUANT TO STIP-
8 ULATION OF COUNSEL)
9 (WHEREUPON, COURT RECONVENES AT 1:07 P.M.)
10 (WHEREUPON, DEFENDANT IS PRESENT IN COURTROOM WITH COUNSEL)
11 THE COURT: Do we have anything before we bring the
12 Jury back, gentlemen?
13 MR. HOGAN: Your Honor, just so we're clear on how we
14 are going to proceed, I am going to try to open all of these
15 packages so that we can examine them, and then it is my under-
16 standing that you are going to announce to the Jury that these
17 items were the items that were worn by the victim.
18 THE COURT: When we say these items, let's be specific.
19 Your Composite L for Identification is the two high-topped
20 white tennis shoes?
21 MR. HOGAN: Yes, sir.
22 THE COURT: What else do you have, sir?
23 MR. HOGAN: Item TT, a pair of underpants.
24 THE COURT: Two TT.
25 MR. EDMUND: I have to speak to the Court when you finish

1 that with regard to the tennis shoes.

2 THE COURT: All right.

3 MR. HOGAN: Next would be item 2 W's, WW, which is a pair
4 of jeans. Item M, which is a sock. Two socks, a composite
5 exhibit. I'm presuming that the other sock is in this pack-
6 age that we are opening now. Yes, it is the other sock.

7 THE COURT: M is Composite two socks. Those are the
8 matters we had discussed, Mr. Edmund?

9 MR. EDMUND: Yes, sir.

10 THE COURT: As to the shoes?

11 MR. EDMUND: May we approach the bench?

12 THE COURT: Yes, sir.

13 (WHEREUPON, BENCH CONFERENCE IS HELD AS FOLLOWS:)

14 MR. EDMUND: The socks, the jeans, and the panties, I
15 would stipulate to. The shoes and the shirt, I have to cross
16 examine on, Your Honor, but I will stipulate she was wearing
17 all of those when she was found.

18 MR. HOGAN: Your Honor, to avoid what we just went through,
19 I understood we are going to stipulate to everything but the
20 shirt.

21 MR. EDMUND: Well, something came up during the lunch
22 hour with regard to the shoes.

23 MR. HOGAN: Well, all I'm requesting is a few minutes
24 to go back and tell the witness that we're going to have to
25 go back over the shoes so that she doesn't break down again.

1 MR. EDMUND: I'm sorry.

2 THE COURT: That's fine. Let's go ahead and move these
3 in...Well, we don't want to move them until the Jury gets
4 here.

5 MR. HOGAN: Right.

6 THE COURT: Just hold them all.

7 So, we are stipulating on TT, the underpants. WW,
8 the jeans. And M, composite, the two socks.

9 MR. HOGAN: Your Honor, if I could have...

10 THE COURT: That she wore them when she left the house?

11 MR. EDMUND: Yes, sir.

12 MR. HOGAN: If I could have a cople of minutes to step
13 outside?

14 THE COURT: Yes, sir.

15 (WHEREUPON, BENCH CONFERENCE ENDS.)

16 THE COURT: Brign the Jury back, Mr. Bailiff.

17 (WHEREUPON, JURY ENTERS COURTROOM AT 1:12 P.M.)

18 THE COURT: Welcome back, folks. Folks, can each of you
19 assure us that you did abide by our admonitions during the
20 luncheon recess?

21 THE JURY: (Indicating affirmatively.)

22 THE COURT: In your absence, we have agreed to certain
23 matters. If you would help me, Mr. Hogan. The State has
24 moved into evidence, State's Exhibit TT, which is a pair of
25 underpants. It has been stipulated and agreed these will be

1 admitted into evidence, and that these are the underpants
2 that the victim was wearing when she left her home that even-
3 ing to go to the convenience store. That will be admitted
4 into evidence as State's Exhibit No. 3. There is stipulated
5 into evidence State's Exhibit No. WW, a pair of jeans. It is
6 stipulated and agreed that these jeans are the jeans which the
7 victim was wearing when she left home that evening to go to
8 the convenience store. These will be admitted into evidence
9 as State's Exhibit No. 4. There is State's Composite Exhibit
10 M, which consists of two separate bags, each with one sock.
11 It is stipulated and agreed these socks are the socks the
12 victim was wearing when she left her home that evening to go
13 to the convenience store. The socks are admitted into evidence
14 as State's Composite Exhibit 5. When I tell you something
15 is stipulated and agreed, that means for purposes of this case,
16 it is proved. Do you understand?

17 THE JURY: (Indicating affirmatively.)

18 THE COURT: If you would, Mr. Hogan, let's give all those
19 matters to Madam Clerk so that she can mark them for evidence.

20 MR. HOGAN: (So doing.)

21 (WHEREUPON, STATE'S EXHIBITS 3,4, and 5, RECEIVED IN
22 EVIDENCE)

23 THE COURT: Call your witness, Mr. Hogan.

24 MR. HOGAN: I would call Dorothy McAbee.

25 THE COURT: Dorothy McAbee, please, Mr. Bailiff.

1 (WHEREUPON, DOROTHY MCABEE AGAIN TAKES STAND)

2 THE COURT: I am going to ask you, Mrs. McAbee, please,
3 to take your seat, roll your chair right up to the micro-
4 phone, and remind you you are still under oath.

5 All right. Mr. Hogan.

6 MR. HOGAN: Thank you, Judge.

7 DIRECT EXAMINATION CONTINUED:

8 BY MR. HOGAN:

9 Q. Mrs. McAbee, we are going to take our time, okay?

10 A. Yes, sir.

11 Q. I want to try to avoid repeating anything. Let's
12 try to pick up, if you will, back to the night of May the 11th.
13 I would like for you to describe for me, as best you can re-
14 call, what your daughter, Teresa, had on when she left your
15 house to go buy the pencil between 10:00 and 10:30?

16 A. She was wearing Lee jeans with stripes running down
17 and the top that you have now and a pair of white high-tops.
18 They were Pony's.

19 Q. How do you know that?

20 A. They were mine.

21 Q. She was wearing your shoes?

22 A. Yes, sir.

23 Q. Did she often wear your clothes?

24 A. She wore my clothes and she wore my shoes.

25 Q. Did that include undergarmets?

1 A. Yes, sir, she did.

2 Q. It was common for her to wear your clothes, including
3 even your underwear at times?

4 A. Yes, sir. She wore all my clothes, except my jeans,
5 which was too big. My tops and my underclothes, and my shoes,
6 and my socks, she wore.

7 Q. This was just because you were very close to your
8 daughter?

9 A. Yes, sir.

10 Q. And she liked your clothes?

11 MR. EDMUND: Your Honor, I object to the leading question,
12 if it please the Court, as not material or relevant.

13 THE COURT: I will have to sustain that for the future,
14 Mr. Hogan.

15 BY MR. HOGAN:

16 Q. Mrs. McAbee, now you can describe the shirt that
17 Teresa was wearing when she left?

18 A. Yes, sir. Well, I couldn't really remember at the
19 time, you know, the shirt she had on.

20 Q. At what time?

21 A. When I had went to report her missing.

22 Q. Okay.

23 A. But it was white and had brown going across this
24 way. (Indicating.) Big brown.

25 Q. Now, when you say you were unsure of what kind of

1 shirt she was wearing, did she wear the same clothes all
2 day long, every day, usually?

3 A. No, she did not.

4 Q. What did she do?

5 A. She changed a lot. Anywhere from five to six times
6 a day, she would change clothes.

7 Q. Now, when you say when you reported this, who were
8 you talking to when you were unsure about what type of shirt
9 she was wearing?

10 A. I was talking to Duckett at the Courthouse...or at
11 the police station.

12 Q. Okay. This is the same meeting you had with him
13 as you've used the illustration on the easel to illustrate
14 for us earlier?

15 A. Yes, sir.

16 Q. In other words, when you were talking to him at
17 Mascotte Police Department in the early morning hours or
18 shortly after midnight on May the 12th, that's when you were
19 trying to describe for him what she had on when she left?

20 A. Yes, sir.

21 Q. Did Officer Duckett say anything to you at that time
22 about what she had on?

23 A. Yes, sir, he did, because I couldn't remember exactly
24 what kind her top was, and he was telling me that when he had
25 spoken to her earlier at the store, that she had on a white

1 knit...white with brown stripes going across it.

2 Q. Did that help you recall what she had on when she
3 left the house?

4 A. Yes, sir, it did.

5 Q. And after that time, including up until today's date,
6 do you have a recollection of what Teresa had on when she
7 left your home on May the 11th, to go buy a pencil?

8 A. Yes, sir.

9 Q. And what did she have on?

10 A. She had on a pair of Lee jeans with stripes going
11 down...

12 Q. What kind of shirt was she wearing?

13 A. She had on a white knit shirt with brown stripes
14 going across it.

15 Q. I will show you what's marked for identification as
16 State's Exhibit Q, and ask if you recognize this? Now, there
17 has been...

18 MR. EDMUND: I'll waive those predicates and just ask
19 the final question, if it please the Court.

20 BY MR. HOGAN:

21 Q. I just need to ask one question in regard to...for
22 explanation for Mrs. McAbee and for the Jury, this shirt has
23 been through some processing where holes have been cut in
24 there by laboratory people. Outside of that, do you recognize
25 the shirt?

1 A. Yes, sir. It was Teresa's.

2 Q. Is that the shirt that Teresa had on when she left
3 your house between 10:00 and 10:30, on May the 11th, to go to
4 the convenience store to buy a pencil?

5 A. Yes, sir, it is.

6 Q. Are you sure?

7 A. Yes.

8 MR. HOGAN: I'd move State's Exhibit Q into evidence.

9 MR. EDMUND: No objection, counsel.

10 THE COURT: State's Exhibit Q for Identification admitted
11 into evidence without objection as State's Exhibit 6.

12 (WHEREUPON, STATE'S EXHIBIT 6 RECEIVED IN EVIDENCE)

13 BY MR. HOGAN:

14 Q. Mrs. McAbee, I want to show you a pair of shoes, and
15 I would like for you to look at those shoes and tell me if
16 you recognize them, with the understanding that these shoes
17 likewise have been through some laboratory analysis and they
18 are covered with a grayish black dust, fingerprint dust, but
19 outside of that change I would ask you if you recognize these
20 shoes? If you want, I will turn them around for you, if you
21 like.

22 A. Those are the shoes that she was wearing.

23 Q. And how do you recognize these shoes?

24 A. Because they're mine.

25 Q. They are your shoes?

1 A. Yes.

2 Q. And these were the shoes that your daughter was
3 wearing?

4 A. Yes, sir.

5 Q. On May the 11th, 1987, to the best of your knowledge?

6 A. Yes, sir.

7 Q. To go buy a pencil?

8 A. Yes.

9 A. And you're sure of that?

10 Q. Yes, sir.

11 A. Now, have you ever before told anybody that your
12 daughter was wearing a pair of black high-top shoes?

13 A. No, sir, I haven't. I always told them that they
14 were white high-tops, Pro-Kids, and they were mine.

15 Q. You are familiar with a statement that you gave to
16 the Sheriff's Office, are you not?

17 A. Yes. It was an error that was on there that said
18 black shoes.

19 Q. That was no error on your part, that was an error
20 on the...

21 MR. EDMUND: I object to the leading question, if it
22 please the Court. Move that it be stricken.

23 THE COURT: Sustain the objection.

24 MR. EDMUND: Ask the Jury be instructed to disregard
25 that.

1 THE COURT: Strike the question. Advise the Jury to
2 disregard the answer. You can rephrase the question, Mr.
3 Hogan.

4 MR. HOGAN: Thank you, Judge.

5 BY MR. HOGAN:

6 Q. Mrs. McAbee, did you ever tell anyone, even by
7 mistake, that Teresa was wearing black shoes?

8 A. No, sir, I did not.

9 Q. So, if it was typed that way...

10 MR. EDMUND: I would object, if it please the Court, on
11 the grounds that would be an assumption or a conclusion or
12 a presumption that is not within the realm or course of the
13 witness.

14 MR. HOGAN: She would know if it was her mistake or not.
15 I haven't had a chance to finish the question.

16 MR. EDMUND: I think I can anticipate that, Your Honor.
17 It's certainly leading and it's no more than selfserving.

18 THE COURT: It's leading, Mr. Hogan, just by the nature
19 of the way you began it.

20 BY MR. HOGAN:

21 Q. Okay, let me ask the question this way, Mrs. McAbee.
22 Did you type that statement yourself?

23 A. No, sir, I did not.

24 Q. Did you give that statement to a police officer who
25 had a tape recorder with him?

- 532 -

Ruth C. Patz & Associates
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Tavares, Florida 32778

1 A. No, sir, I did not.
2 Q. You don't know how they did record your statement?
3 A. No, I don't.
4 Q. But you never typed a statement?
5 A. No, I did not.
6 Q. Did you ever tell anyone, again, even by mistake,
7 they were black shoes?
8 MR. EDMUND: I object, Judge, repetitious.
9 MRS. MCABEE: No.
10 THE COURT: Overruled. She answered it.
11 MR. HOGAN: Thank you. (Document handed to Court)
12 THE COURT: This is State's Composite L for Identification.
13 Are you moving this into evidence, Mr. Hogan?
14 MR. HOGAN: Yes, sir.
15 THE COURT: Any objection, Mr. Edmund?
16 MR. EDMUND: No, Your Honor.
17 THE COURT: State's Composite L for Identification ad-
18 mitted in evidence without objection as State's Exhibit 7,
19 Composite.
20 (WHEREUPON, STATE'S EXHIBIT 7 RECEIVED IN EVIDENCE)
21 BY MR. HOGAN:
22 Q. Mrs. McAbee, had Teresa been at the Circle K Store
23 earlier that evening?
24 A. I had picked her up at the store, her and Michelle.
25 Q. Mrs. McAbee, you testified earlier, I believe, that

1 you lived at that time in Mascotte in a home of your sister
2 and her husband?

3 A. Yes, sir, that's right.

4 Q. And what is your brother-in-law's name?

5 A. Pedro Savala.

6 Q. And is he...of what nationality?

7 A. Mexican.

8 Q. Teresa then was accustomed to being around Mexican
9 people?

10 A. Yes, sir, she was.

11 Q. Did Officer Duckett make any statements to you about
12 what type of people or who Teresa was talking to at the
13 store?

14 A. Yes, sir, he did.

15 Q. What did he say?

16 A. He said Mexicans.

17 Q. And did you find anything unusual lor remarkable
18 about that?

19 A. No, sir, because she had talked to one certain boy
20 at the store.

21 Q. So, you have no...certainly no prejudice against
22 Mexicans?

23 A. No, sir, I don't.

24 Q. What did Officer Duckett tell you that he had done
25 with your daughter or how he came to be in contact with her?

1 A. Would you please repeat it?

2 Q. Would you tell us, please, what Officer Duckett told
3 you about this conversation that he had with Teresa at the
4 Circle K Store?

5 A. All he told me that he was talking to her, that
6 he had her in the police car, and that he had the boy in
7 front of the car, and he was talking to the boy, and he said
8 that he told Teresa to go home.

9 Q. After you talked to Officer Duckett in front fo the
10 Mascotte Police Department, what happened next? Did you go
11 home or what did you do?

12 A. Yes, sir, I went home.

13 Q. And then what happened? Did you ever see Officer
14 Duckett again that night?

15 A. Yes, sir. He came about fifteen to twenty minutes
16 later to get a picture.

17 Q. And you previously identified what is marked as
18 State's Exhibit No. 1 in evidence. Is this the picture that
19 Officer Duckett got from you?

20 A. Yes, sir, it is.

21 Q. And that would have been about twenty to twenty-five
22 minutes after your initial meeting?

23 A. Yes, sir.

24 Q. Did Officer Duckett tell you what he was going to
25 do with that picture?

1 A. He said he was going to run some kind of copies
2 something like that to put in the stores.

3 Q. Did Officer Duckett ever return to your house that
4 night, later on in the early morning hours?

5 A. He returned at 3:00 P.M.

6 Q. 3:00 P.M. or 3:00 A.M.?

7 A. 3:00 A.M., excuse me.

8 Q. What happened that time when he came to your house?

9 A. He had talked to me and my sister, Shirley. He was
10 sitting in his car, and I was real upset and stuff and I was
11 crying. I didn't talk to him that much because at the time,
12 I didn't know what was going on, you know, I was out of it.

13 Q. Because your daughter had not come home?

14 A. No, sir. And he did most of the talking to Shirley.
15 And he said he had been looking around, you know, and he
16 had went back and talked to the boys. That was all.

17 Q. That's all you recall?

18 A. Yes, sir.

19 Q. Did he ever come back to your house again, ever?

20 A. After 3:00, no, sir, he did not.

21 Q. He never came back to check with you to see if
22 Teresa had come home?

23 A. No, he did not.

24 MR. HOGAN: Can I have one moment, Judge?

25 THE COURT: Yes.

1 MR. HOGAN: Thank you, Mrs. McAbee. Thank you, Judge.

2 THE COURT: Mr. Edmund.

3 MR. EDMUND: If it please, Your Honor.

4 THE COURT: Yes, sir.

5 CROSS EXAMINATION:

6 BY MR. EDMUND:

7 Q. Mrs. McAbee, my name is Jack Edmund. Mrs. McAbee,
8 did the police come by your house after 7:00 o'clock that
9 morning, before anybody told you that your daughter's body had
10 been found?

11 A. If he did, I did not see him.

12 Q. No police officer on the next shift came by your
13 house to check on it, until someone came bringing you the news
14 of your daughter, is that correct?

15 A. That is correct.

16 Q. Now, Duckett did come back to your house sometime
17 around 3:00 or thereafter, and tell you what people had told
18 someone, to tell you what he had been doing in an effort to
19 find your daughter, didn't he?

20 A. Yes, sir, he did.

21 Q. He had been...he had searched the Mexican boy's house
22 down, and he had talked to him, and patrolled the streets;
23 these kinds of things; isn't that correct?

24 A. Yes, sir.

25 Q. Now, have you had an opportunity to look over the

1 statement that you made to the law enforcement officers on
2 the 18th of May of 1987, the one where you talked about the
3 black shoes, the black high-topped shoes?

4 A. No, sir, I said no black shoes at no time.

5 Q. Alright, So, if there is a statement that purports
6 to be a transcript of your testimony, wherein you said that she
7 was wearing a pair of blue jeans, black high-tops, and a halter
8 like, with the little flower things on it, and she wore her
9 hair feathered back because it was real long, they had made
10 a mistake in what they put in that transcript, ma'am?

11 A. In the black high-tops, yes, sir.

12 Q. How about the halter with the little flowr top things
13 on it?

14 A. Like I said to you earlier, I couldn't remember the
15 blouse. He's the one that told me.

16 Q. When did you make the determination that the blouse
17 was a brown and white blouse, ma'am?

18 A. When Duckett told me.

19 Q. When Duckett told you?

20 A. Uh-huh. (Indicating affirmatively.)

21 Q. So, we're talking about then in the very early morn-
22 ing hours while your daughter was missing, was when you de-
23 cided that the blouse she was wearing was brown and white;
24 is that right, ma'am?

25 A. Repeat it, please?

538

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1 Q. You decided while you were at the police station
2 talking to Duckett, while you were making the missing person's
3 report, you decided then that the blouse she was wearing was
4 brown and white?

5 A. Yes, sir.

6 Q. Did you ever change your mind again?

7 A. No.

8 Q. Can you remember the statement that you gave the
9 officers on the 18th of March of 1987? Talking to Officer
10 Rocky Harris and Officer Al Gonzales, the interpreter, for
11 the Orange County Sheriff's Office? Do you remember that
12 statement, ma'am? Do you remember giving such a statement?

13 A. As to what?

14 Q. About everything that went on that whole evening?

15 A. Yes, sir.

16 Q. At that time, didn't you tell them, when Mr. Harris
17 asked you, "Do you remember what she was wearing?". Didn't
18 you say, "Uh-huh, yes. She had on a pair of blue jeans, black
19 high-tops, a halter like with little flower things on it, and
20 she wore her hair feathered back because it was real long."
21 Isn't that what you told the officer at that time on the 18th
22 of May?

23 A. The blouse, but not the high-tops.

24 Q. So, on the 18th of May, you told the officers she
25 was wearing a halter-like blouse with little flowers on it,

- 539 -

Ruth C. Patz & Associates
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Tavares, Florida 32778

1 didn't you?

2 A. That was the one I thought she had on.

3 Q. Well, I thought you just told the Jury that when
4 Duckett told you it was brown and white, that's when you de-
5 cided it was brown and white, and I thought you told Mr. Hogan
6 here, you had never told anyone differently?

7 A. (No response)

8 Q. Didn't they ask you then, ma'am, "How long, what kind
9 of top?" And wasn't your answer, "It was a white one that my
10 sister bought her for Easter. It had little prints on it. I
11 didn't know at the time that that was the one, but I told him
12 it was a greenish color because I couldn't remember, but I
13 knew she had the Lee jeans." Isn't that what you told the
14 officers? Even on the 18th, you were still telling the
15 officers it was a greenish blouse, were you not?

16 A. That's what I thought it was, until I found it.

17 Q. Until you found them?

18 A. Until I found the blouse, the top.

19 Q. I see. You found that blouse later?

20 A. Yes, sir.

21 Q. Where did you find it, ma'am? Was it in the dirty
22 clothes, or was it in the drawer, or was it hanging up in
23 the closet?

24 A. It was in a drawer.

25 Q. It was in a drawer. Well, had you seen her wearing

- 540 -

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Tavares, Florida 32778

1 that earlier during the evening, ma'am?

2 A. Yes, sir, I had.

3 Q. And then you found it in the drawer?

4 A. Yes, sir.

5 Q. So, you don't have any specific recollection, do you
6 ma'am, of what blouse your daughter was wearing when she left
7 your house that night?

8 A. The blouse, no. The jeans, yes, and the shoes, yes.

9 Q. Right. So, you do not have any specific recollection,
10 do you, ma'am?

11 A. So, your identification of the blouse is based upon
12 the fact that you know your daughter had it on when she was
13 found? Isn't that a fair statement, ma'am?

14 A. Yes, that would be fair.

15 Q. Thank you. Now, did the officer talk to you about the
16 times and how often you allowed your daughter to go at night
17 down to the Circle K?

18 A. Yes, sir.

19 Q. And did you know that she would be down there an
20 average of five nights a week?

21 A. Yes, sir, I did.

22 Q. Now at what point in time did you decide, ma'am, that
23 you waited twenty minutes at the police station before Officer
24 Duckett got there. When did that come to your mind that it
25 was twenty minutes, Mrs. McAbee?

1 A. I remember that I was sitting there for awhile be-
2 fore he came.

3 Q. Well, do you know if it was two minutes or five
4 minutes, or as you told the Jury, fifteen or twenty minutes,
5 Mrs. McAbee?

6 A. I would estimate fifteen or twenty minutes.

7 Q. Alright, now, is fifteen or twenty minutes to you;
8 is that right away?

9 A. Is it right away?

10 Q. Yes, ma'am.

11 A. I don't think so.

12 Q. No, ma'am. Right away would be a minute or two,
13 wouldn't it?

14 A. That's right.

15 Q. Incidentally, did a deputy sheriff come up while
16 you were there, or was a deputy sheriff there while you were
17 present?

18 A. Where?

19 Q. At the police station in Mascotte, when you were
20 making a missing person's report on your daughter?

21 A. Was there a policemen there?

22 Q. Was there a deputy sheriff there, along with Mr.
23 Duckett?

24 A. No, sir, there was not.

25 Q. There was not a deputy sheriff there at that time?

1 A. No.

2 Q. Was there a law enforcement automobile, other than
3 Mr. Duckett's there?

4 A. No, sir, there was not.

5 Q. Now, do you remember giving a statement to the law
6 enforcement officer, and that would be Mr. Bill Hampton on
7 the 14th of May of 1987, at 3:05 in the afternoon, ma'am?
8 I know these things are hard to remember, but would it be a
9 fair statement if I've got something here? I'm not going to
10 pull some shenanigans on you.

11 MR. HOGAN: I'd object to that, Judge, because...

12 MR. EDMUND: I don't want her to think it's something,
13 Your Honor. I'll go away.

14 THE COURT: Go ahead, Mr. Edmund.

15 BY MR. EDMUND:

16 Q. Did you tell the officer at that time, I'm talking
17 about Officer Hampton, that you had gone over to Groveland
18 and they had sent you back to the Mascotte City Hall, to make
19 your report, is that right?

20 A. Yes, sir.

21 Q. Do you remember him saying...You telling him, "They
22 sent me b ack to Mascotte." Do you remember him saying,
23 "They sent you back to the Mascotte, P.D., and the officer met
24 you right away, right there?" And your answer was, "Yes."

25 A. I don't remember that.

1 Q. If it is on this transcript, then would it be another
2 error like the error you say about the black shoes?

3 A. I just don't remember telling him.

4 Q. Now, you did tell law enforcement, when they were
5 talking to you on the 18th of March, that she had on black
6 high-tops, or at least the transcript said so, and you said
7 you were positive about the...you were not positive about the
8 blouse, but you're positive about the jeans and the shoes?

9 A. Yes, sir.

10 Q. So, if this says black, then it is some error that
11 someone in the State Attorney...I mean, in the Sheriff's
12 Office made or the tape recorder didn't pick it up right or
13 something? Is that how it...?

14 A. It is probably the tape recorder, because I didn't
15 say black high-top shoes.

16 Q. What of the various times that evening, ma'am,
17 that you told the Jury earlier, that you were asleep?

18 A. When we got...came home from Tampa, and when I went
19 to sleep around 4:00, she woke me up.

20 Q. Okay.

21 A. And she asked me if I had checked the mail, and
22 told her, "Yes." She asked me if she had gotten any money
23 from her father, and I told her, "No." And she left, she
24 went back out of the room, and was talking to my sister and
25 her husband, and then I went back to sleep.

1 Q. And about what time was that, ma'am?

2 A. Around 4:15, 4:20.

3 Q. And then you slept on until dark time or something
4 like that?

5 A. No. I had woke up about 6:00.

6 Q. By 6:00 o'clock?

7 A. 6:00, 6:30.

8 Q. And at some point in time, you went to your brother's
9 and you watched a movie until 10:00 o'clock?

10 A. Yes, sir.

11 Q. Came on back by and picked her up, and you all went
12 on home, after the movie was over at 10:00 o'clock?

13 Q. Yes, sir.

14 Q. About how far away does your brother live, ma'am?

15 A. I don't know milage too good. It wasn't very far.

16 Q. Mrs. McAbee, is there any way at all that James
17 Duckett would know that you owned a blouse like the one you
18 described to him and the one you described to law enforcement
19 officers or that your daughter wore a blouse of that color;
20 is there any way that he would know this, ma'am, that you are
21 aware of...Let me finish my question, sir,...that you are
22 aware of?

23 THE COURT: Go ahead.

24 MR. HOGAN: I would object. It calls for speculation.

25 THE COURT: What do you say, Mr. Edmund?

- 545 -

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Tavares, Florida 32778

1 MR. EDMUND: I'm sorry?

2 THE COURT: He said he objected, and calls for speculation.
3 Your response.

4 MR. EDMUND: I didn't hear, Your Honor. Did you sustain
5 it or something?

6 THE COURT: No, sir. I am giving you an opportunity to
7 respond to the objection. Mr. Hogan said that that calls for
8 speculation.

9 MR. EDMUND: I'm sorry. I think it's not speculation,
10 Your Honor, if we get into the area that she's aware of. She
11 may be, Your Honor. We don't know until she would respond
12 to that. Then an entry might be made as to whether her
13 response would have been based on speculation, which she may
14 say "Yes", she may say "No".

15 THE COURT: Mr. Hogan.

16 MR. HOGAN: He's asking her if she knows...It's a class
17 evidentiary question, Judge. He's asking her if there is
18 any way a perfect stranger would know what's in your dresser
19 drawer at home, outside of the fact that you told him de-
20 scribed the shirt to him at the meeting you had in front of
21 the Mascotte Police Department. That's speculation.

22 MR. EDMUND: I'll go away.

23 THE COURT: All right.

24 BY MR. EDMUND:

25 Q. You told the Jury awhile ago that Mr. Duckett is the

1 one who told you that the blouse was green and white, didn't
2 you?

3 MR. HOGAN: No.

4 MRS. MCABEE: Brown.

5 MR. EDMUND: She said...Didn't you say, right?

6 MR. HOGAN: No, she said brown.

7 BY MR. EDMUND:

8 Q. Oh, he told you it was brown.

9 A. It was white with brown stripes going across it.

10 Q. And so, when you told him, "No, it wasn't brown, it
11 was green and white?"

12 A. No, I did not.

13 Q. What did you tell him, ma'am?

14 A. I didn't tell him nothing, because he told me that.

15 Q. So, you didn't tell him what color?

16 A. No, he told me what color.

17 Q. He told you what color?

18 A. Yes, sir.

19 Q. So, you went on from there?

20 A. Yes, sir.

21 Q. Who are the people that live at the home you were
22 living at back then, ma'am?

23 A. Tammy Zavala, Pedro Savala, Christina Lancaster,
24 Michelle Hernandez, Teresa Mae McAbee, and Dorothy Mae McAbee.

25 Q. Did the other people visit there on occasions and

1 remain overnight?

2 A. Yes, sir, they did.

3 Q. Who would those people be?

4 A. Antonio Morales, and he was the only one I know
5 anything about.

6 Q. Did you have any sort of special relationship with
7 Mr. Morales?

8 A. Yes, sir, I do.

9 Q. And was the nature of that relationship a cohabiting
10 type of relationship?

11 MR. HOGAN: Judge, I fail to see the relevance of badgering
12 this witness.

13 MR. EDMUND: I'm not badgering the witness, Your Honor,
14 I'm getting to a point.

15 THE COURT: I'll overrule your objection. Go ahead, Mr.
16 Edmund.

17 BY MR. EDMUND:

18 Q. Did you all share a bed together?

19 MR. HOGAN: Judge.

20 MR. EDMUND: Judge, I'm getting to a point.

21 THE COURT: I've overruled the objection, Mr. Hogan.
22 Go ahead.

23 BY MR. EDMUND:

24 Q. Did you or did you not, ma'am?

25 A. Did we or did we not, what?

1 Q. Share a bed together?

2 A. Sometimes. Not all the time, no.

3 Q. And were you requested to give certain body hairs to
4 law enforcement, and was Mr. Morales requested to give certain
5 body hairs to law enforcement, and other members of the house-
6 hold requested to certain body hairs to law enforcement?

7 A. Yes, sir, they were.

8 Q. Was Mr. Morales, for example, subjected to stripping
9 to the waist and having pictures taken of scratches on his
10 back?

11 A. No, sir, he did not.

12 Q. Now, when did you first talk to law enforcement
13 officers about which direction Mr. Duckett came from when he
14 drove up to the police department, ma'am?

15 A. I don't remember the exact date.

16 Q. Can you tell the Jury approximately how long after
17 your daughter's death?

18 A. I don't understand what you're saying.

19 Q. About how long after the tragedy was it, ma'am,
20 that you talked to the law enforcement officers and explained
21 to them which direction Mr. Duckett came from?

22 A. I don't remember.

23 Q. Would it have been within a month or a week or ten
24 days or would it have been, ma'am, after that?

25 A. I don't understand.

1 Q. Didn't you talk to the officers, any of the officers,
2 regarding which direction Duckett came from?

3 A. When?

4 Q. Who is the first person who asked you where you
5 parked when Duckett arrived?

6 A. Who was the first person?

7 Q. Who is the first person that asked you that?

8 A. I believe it was Rocky Harris.

9 Q. Ma'am.

10 A. Rocky.

11 Q. Rocky Harris?

12 A. Yes, sir.

13 Q. Do you recall where the conversation took place?

14 A. In my front yard.

15 Q. And do you recall when the conversation took place?

16 A. No, sir, I don't.

17 Q. Would you recall whether the conversation took place
18 in the last summer?

19 MR. HOGAN: Judge, she's answered the question numerous
20 times. She does not know when she made the statement. At
21 least three or four times.

22 BY MR. EDMUND:

23 Q. Have you made more than one statement regarding...
24 I'll withdraw that. Have you made more than one statement
25 regarding the direction that Duckett was traveling when he

CE 550

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1 he arrived at the P.D.?

2 A. Did I make more than one statement?

3 Q. Yes, ma'am.

4 A. I don't recall.

5 Q. You did have a conversation with Rocky Harris, though,
6 on March the 30th of this year, didn't you, about a month ago?

7 MR. HOGAN: Judge, this lady has answered she does not
8 know when she had the interview with Rocky Harris.

9 THE COURT: Overruled. Go ahead.

10 BY MR. EDMUND:

11 Q. You did have a conversation with Rocky Harris about
12 the direction that Duckett was coming from on March the 30th
13 of 1988, didn't you , ma'am?

14 A. I don't remember.

15 Q. But you do remember having a conversation with Rocky
16 about where the car came from?

17 A. Yes, sir.

18 Q. Because you said that earlier?

19 A. Yes, but I don't know when it was.

20 Q. Now do you recall anytime when you were having a
21 conversation with Rocky Harris; do you recall him asking you
22 this, "While you were waiting on Duckett, did you see which
23 way he came in? How did he get to the police station?" And
24 do you recall responding, "And he came in his car, but I be-
25 lieve he came on the side road, right beside the City Hall and

- 551 -

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1 pulled in."

2 A. Yes, sir.

3 Q. At that time you believed...Did he go that way or
4 come that way or not?

5 A. He came that way.

6 Q. Now, later, did you say to them, "I believe it was
7 around the back." He said, "He pulled his car facing this
8 way, he parked facing this way. In other words, you're saying
9 from around the back of the..." And you said, "I believe
10 from around the back."

11 MR. HOGAN: Judge, that's not...

12 MRS. MCABEE: On the side. On the side of the building.

13 THE COURT: Mr. Edmund, excuse me.

14 MR. HOGAN: That's not impeachment. That is perfectly
15 consistant with what she testified.

16 MR. EDMUND: Judge, may we...Go ahead.

17 MR. HOGAN: That's improper use of the statement. That's
18 trying to suggest there is impeachment here and that is ex-
19 actly the way she testified in Court.

20 MR. EDMUND: Judge, I guess that's probably a matter for
21 the Jury's consideration, if it please Your Honor.

22 THE COURT: Go ahead, Mr. Edmund. Overruled.

23 BY MR. EDMUND:

24 Q. Now, you didn't tell law enforcement she had on
25 black shoes?

- 552 -

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1 A. Yes, sir.

2 Q. You did tell the law enforcement, on the 18th of May
3 of 1987, that she had on a green and white blouse?

4 A. I don't remember.

5 Q. And you knew from the moment that you put in the
6 missing person's report, that she had on a brown and white
7 blouse?

8 A. I didn't know for sure, no, until he had told me
9 that that was what she was wearing earlier.

10 MR. EDMUND: No further questions, if it please Your
11 Honor.

12 THE COURT: Mr. Hogan.

13 MR. HOGAN: Very briefly.

14 RE-DIRECT EXAMINATION:

15 BY MR. HOGAN:

16 Q. Mrs. McAbee, did you or Teresa even own a pair of
17 black high-top shoes?

18 A. No, sir, we did not.

19 MR. HOGAN: May I have just one moment, Judge.
20 Thank you, Judge. Thank you, Mrs. McAbee.

21 THE COURT: Anything further, Mr. Edmund?

22 MR. EDMUND: No, thank you, Your Honor.

23 THE COURT: All right. What do you all say about this
24 lady's subpoena, folks?

25 MR. HOGAN: She can leave.

- 553 -

Ruth C. Patz & Associates
Official Court Reporters, Fifth Judicial Circuit
Tavares, Florida 32778

1 THE COURT: Any objection to releasing her?

2 MR. EDMUND: No, Your Honor.

3 THE COURT: You are free to go, ma'am. You are released
4 from your subpoena. Watch your step. The State's next witness?

5 MR. HOGAN: Joyce Reynolds Reitz.

6 (WHEREUPON, MS. REITZ IS CALLED AS NEXT WITNESS BY THE
7 STATE AND IS DULY SWORN BY THE CLERK OF THE COURT)

8 DIRECT EXAMINATION.

9 BY MR. HOGAN:

10 Q. Please state your name for the record?

11 A. Joyce Reynolds Reitz.

12 Q. Ms. Reitz, how are you employed?

13 A. I work for Circle K.

14 Q. Last May, May the 11th, did you have the same job?

15 A. Yes, I did.

16 Q. Which store did you work in on May the 11th of last
17 year?

18 A. The Circle K in Mascotte.

19 Q. And do you still work there?

20 A. No.

21 Q. Are you at a different store now?

22 A. Yes.

23 Q. What is the location of that store in Mascotte?

24 A. On Highway 50 in Mascotte.

25 Q. Is it the corner of Highway 50 and Sunset?

- 554 -

1 A. Yes, it is.

2 Q. What was your shift on May 11th, last year, what
3 hours were you working?

4 A. Six to midnight.

5 Q. Ma'am, did you know an individual by the name of
6 Teresa McAbee?

7 A. She came in the store all the time.

8 Q. And, did you see her on May the 11th?

9 A. Yes, I did.

10 Q. I'll show you what is marked down as State's Exhibit
11 Number One, and ask you if you recognize the younger girl in
12 that photograph?

13 A. That's Teresa.

14 Q. Was she a regular customer of the store?

15 A. She came in and played video games all the time.

16 Q. Was she in the store on more than one occasion on
17 May the 11th.

18 A. Yes, she was in several times.

19 Q. You recall, approximately, between...between 10:00
20 and 10:30, possibly around 10:15, do you recall seeing her at
21 that time?

22 A. Yes, she came in; she bought a pencil.

23 Q. Do you recall if you sold her that pencil, yourself?
24 Were you the only clerk there at that time?

25 A. At that time, yes.

- 555 -

Ruth C. Patz & Associates
Official Court Reporters, Fifth Judicial Circuit
Tavares, Florida 32778

1 Q. Did you recall as to how much you charged her for
2 that pencil?

3 A. I charged her a nickel.

4 Q. Do you recall seeing Teresa McAbee stay, hang...
5 hanging around the store after she bought the pencil?

6 A. No, she left right after that; there was another boy
7 in there and she spoke to him and they left together.

8 Q. Well, did you see where they went?

9 A. They went toward the West side, toward the dumpster.

10 Q. And do you know this boy she was in there with?

11 A. No, I don't.

12 Q. Can you describe him for us?

13 A. He was just a little bit taller than her, he was a
14 Mexican boy, that's all I know.

15 Q. She left the store with this Mexican boy?

16 A. Yes, she went out the door with him.

17 Q. Did you ever see or do you know an individual by the
18 name of James Duckett?

19 A. Yes, I do.

20 Q. And how do you know him?

21 A. He's a...he was an officer, a police officer.

22 Q. Mascotte Police Officer?

23 A. Yes, he was.

24 Q. Was he a Mascotte Police Officer on May the 11th,
25 last year, to your knowledge?

1 A. Yes, he was.

2 Q. Did you see him on May the 11th, last year?

3 A. Yes, I did.

4 Q. Okay. I'll ask you to look around the courtroom here

5 today and tell me if you see James Duckett in the courtroom?

6 A. Right over there.

7 Q. Describe what he is wearing...

8 MR. EDMUND: I would stipulate she can identify my

9 client, Your Honor.

10 THE COURT: Alright, ladies and gentlemen, the record

11 will reflect that the witness has identified the defendant.

12 Q. Will you tell us what happened when Officer Duckett

13 came into your...he did come into the store?

14 A. Yes, he did.

15 Q. Can you tell us what happened?

16 A. He came in and he was going to have a cup of coffee,

17 and...he asked me who the little girl was that just left

18 and I told him that I...her name was Teresa, and he asked me

19 how old she was and I told him approximately ten to thirteen

20 years old. I didn't know for sure, and I told him that she

21 had been coming up to the store late in the evening and he

22 said he was going to check on her.

23 Q. Okay, what happened next?

24 A. He went out the door to check on her.

25 Q. Did you see which way he went?

1 A. He went West, toward the dumpster.
2 Q. Is that the same direction that you had seen Teresa
3 McAbee go?
4 A. Yes.
5 Q. Did you ever see Officer Duckett or Teresa McAbee
6 again that night?
7 A. I saw them walk back from the dumpster.
8 Q. What did you see?
9 A. I saw Teresa walking first and then the Mexican boy
10 and then Officer Duckett.
11 Q. Okay. Did you see where they went, or what happened?
12 A. They walked past the store and that's all I saw.
13 Q. Did you see where Officer Duckett parked his police
14 car at that time?
15 A. His police car was parked right out by the telephone
16 booth outside and I couldn't tell if they went toward it and
17 you can't see around.
18 Q. But you saw them walk back past the window?
19 A. Uhum. (Affirmative Response)
20 Q. I'm going to show you this series of photographs,
21 to start with, composite NN.
22 THE COURT: Three N's?
23 MR. HOGAN: Yes, sir.
24 Q. And ask if you recognize that?
25 A. No.

1 Q. Okay, well let's just hold that for a minute, I be-
2 lieve it will become evident to you what that is. Photograph
3 RRR, three R's, okay, and ask if you recognize that?
4 A. That's our store.
5 Q. Okay. Photograph QQQ.
6 A. That's the store, that's Circle K and the laundromat
7 beside it.
8 Q. Okay, this photograph continues on down, panning on
9 down, to take in the laundromat?
10 A. Right.
11 Q. Alright. And photograph PPP?
12 A. That's the laundromat...I mean that is the fenced
13 area.
14 Q. Alright, and finally photograph OOO.
15 A. That's the fence right beside the laundromat.
16 Q. Okay. Now those photographs, that being RRR, QQQ,
17 PPP and OOO; are those; is that a panaramic view of the en-
18 tire front of the building?
19 A. Yes.
20 Q. And now, referring you to photograph NNN, and ask
21 you if you now recognize that?
22 A. That, that's the fence right along the laundromat.
23 Q. That is the fence that runs around the side of the
24 laundromat?
25 A. Yes.

1 Q. Okay. Are those the accurate depiction of the way
2 the store looks?

3 A. Yes.

4 Q. And this is the store that you have been testifying
5 about for all the events you testified about so far, occurred?

6 A. Yes.

7 Q. In fact, Judge, I would move into evidence, photo-
8 graphs RRR, QQQ, PPP, OOO and NNN.

9 THE COURT: Okay. Photographs NNN, for identification,
10 admitted into evidence as State's Exhibit Number Eight, with-
11 out objection. Photograph RRR admitted into evidence without
12 objection, State's Exhibit Nine. Photograph QQQ admitted
13 into evidence without objection, State's Exhibit Ten. Photo-
14 graph PPP admitted into evidence without objection, State's
15 Exhibit Eleven. Photograph OOO admitted into evidence with-
16 out objection, State's Exhibit Twelve.

17 Q. Ma'am, after you saw Officer Duckett and Teresa
18 McAbee and the young Mexican boy walk back in front of the
19 window of the store, did you ever see Teresa McAbee or Officer
20 Duckett again that night?

21 A. No.

22 Q. And what time did you get off work?

23 A. Midnight.

24 Q. What time did you leave the store?

25 A. It was about midnight.

- 560 -

1 Q. Between that time...between the time that you last
2 saw Teresa McAbee and Officer Duckett together in front of
3 your store, and the time that you left to go home, around
4 midnight, did you have any contact with Dorothy McAbee, Teresa
5 McAbee's mother?

6 A. Yeah, uh, there was a Shirley Williams was in the
7 store and Kim Barkus was in the store and Kim said that there
8 was a gray car driving around the block. She said it rode
9 around about three times, and I came around the counter to
10 check; and Teresa's mother came into the store.

11 Q. She was driving the gray car?

12 A. Yes.

13 Q. Okay. Was there...did you have any conversation with
14 her?

15 A. Yes. She asked me if I had seen her daughter, and
16 uh, she says, "You know my daughter, Teresa?" I didn't know
17 right away, because there are several girls that come there
18 whose name is Teresa, and she said that she sent her in to
19 buy a pencil, and I said, "Yes, I sold her a pencil" and I
20 said that...I told her what I had told Officer Duckett; and I
21 told her to either call the police station or go up there and
22 check, that he might have taken her up there.

23 Q. Now, after you had seen Officer Duckett and Teresa
24 McAbee together in front of the store, walking towards the
25 phones, did you have occasion to rent a video movie?

1 A. Yes, to Gary Miller and Wendy Gray.

2 Q. Okay, this would have been after you had last seen
3 Officer Duckett and Teresa McAbee?

4 A. Right.

5 Q. I'll show you what has been marked for identification
6 letter Z, and ask if you recognize that?

7 A. Yes, it's the one I rented to them, look, it has
8 my initials on it.

9 Q. Okay, and you recognize that document?

10 A. Yes.

11 Q. Is that document...and this is the movie that you
12 rented, after you last saw Teresa McAbee?

13 A. Yes.

14 Q. Does that document reflect what time the movie was
15 rented?

16 A. 10:45 P.M.

17 Q. We would move State's Exhibit Z into evidence.

18 MR. EDMUND: No objection, Your Honor.

19 THE COURT: State's Exhibit Z, admitted into evidence
20 without objection, State's Exhibit Number Thirteen.

21 Q. Ma'am, I'll show you what's been marked for identi-
22 fication, State's Exhibit U, and ask you, without opening it,
23 that would probably be best, and ask if you recognize that?

24 A. That's the pencil I sold Teresa.

25 Q. No, ma'am, that's, we will show you another one

1 similar to it.

2 MR. EDMUND: I don't object to those, the only thing

3

4 Q. Let me show you some other exhibits. I believe this
5 pencil was...you gave this to Law Enforcement Officer. Is
6 that the type of pencil that you sold in the store?

7 A. Yes, it is.

8 Q. Is that the same type of pencil that you sold to
9 Teresa McAbee?

10 A. Yes.

11 THE COURT: Are you moving that, Mr. Hogan?

12 MR. HOGAN: Not yet, Judge.

13 THE COURT: Alright.

14 Q. Ma'am, I'm going to show you what's been marked for
15 identification, State's Exhibit T, and ask you to take into
16 consideration that it has fingerprint power on it, and that
17 is is broken. But does that look like the pencil, the type
18 pencil that you sell at the store, number one; and number two,
19 does it look like the pencil that you sold to Teresa McAbee?

20 A. It looks like it, but it doesn't have any eraser on
21 it.

22 Q. Well, you'll notice the eraser is right here, it's
23 been taken off for analysis.

24 A. Yes.

25 Q. With the exceptions noted, that it has fingerprint

- 563 -

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Tavares, Florida 32778

1 powder and is broken and the eraser sliced off?

2 A. Yes, it does.

3 Q. Okay. With that, Judge, I would enter as evidence
4 T and U.

5 THE COURT: Any objection to U?

6 MR. EDMUND: No, Your Honor.

7 THE COURT: State's Exhibit U for identification, admitted
8 in evidence as State's Exhibit Fourteen, without objection.
9 Any objection to T, Mr. Edmund?

10 MR. EDMUND: No.

11 THE COURT: State's Exhibit T for identification, admitted
12 in evidence without objection, as State's Exhibit Fifteen.

13 Q. Now, ma'am, Ms. Reitz, I'm going to ask you to think
14 carefully, and, if you can, please to think in your mind that
15 last time you saw Teresa McAbee walk past the window of the
16 Circle K Store with Officer Duckett, being the last time you
17 saw her, around 10:30 on May 11th, 1987, and if you would,
18 please describe the shirt that she was wearing.

19 A. She had a tan and white striped shirt on.

20 Q. I'll show you what's been marked for identification,
21 State's Exhibit Q, and again, advise you that it has been
22 treated at the laboratory and holes put in it. Does this
23 look like the shirt you saw Teresa McAbee wearing on May the
24 11th?

25 A. Yes, sir.

1 THE COURT: This is in evidence as State's Six.

2 MR. HOGAN: It's, State's Exhibit Q, I don't think it's
3 been...

4 THE COURT: It's in evidence as Six, is what I'm telling
5 you.

6 MR. HOGAN: Okay, thank you Judge. May I have one moment,
7 please?

8 THE COURT: Yes, sir.

9 MR. HOGAN: Thank you, Judge. Thank you, Ms. Reitz.

10 THE COURT: Mr. Edmund?

11 MR. EDMUND: If it please, Your Honor.

12 THE COURT: Yes, sir.

13 CROSS EXAMINATION

14 BY MR. EDMUND:

15 Q. Ms. Reitz, I'm Jack Edmund. Have you had occasion
16 to talk to law enforcement regarding this case, from time to
17 time?

18 A. Yes.

19 Q. Could you estimate the number of times that you have
20 spoken with law enforcement regarding this case?

21 A. About three or four.

22 Q. Has there ever been an officer who has asked you,
23 until recently, the color that supposedly the child was wear-
24 ing?

25 A. No, on uh...when I came in on Friday.

- 565 -

Ruth C. Patz & Associates
Official Court Reporters, Fifth Judicial Circuit
Tavares, Florida 32778

1 Q. That's the first time you were asked about that?

2 A. No, no, no, I'm wrong, I was asked before that. I
3 was asked the very first time.

4 Q. And, would that have been when you were interviewed
5 by Rocky Harris and Bill Hampton on May the 19th of 1987?

6 A. Yes.

7 Q. Now, at that time, had you been exposed to press,
8 or a fuller way of approaching this; had you read the news-
9 paper and had you seen the television publicity regarding
10 this particular matter?

11 A. I saw some, but I tried to avoid it.

12 Q. Had you talked to people about the child or anything
13 of that nature during that period of time?

14 A. Various ones asked me questions which I didn't have
15 any answers for.

16 Q. Can you tell the jury what the Mexican boy was wear-
17 ing?

18 A. The only thing that I remember that he had on was a
19 blue shirt.

20 Q. Do you remember what sort of pants or belt he was
21 wearing?

22 A. No.

23 Q. Do you have a recollection or conscious recollection
24 of what the girl was wearing below the waist?

25 A. She had blue jeans on.

1 Q. And what else, ma'am?

2 A. I don't know about her shoes.

3 Q. Well, on the other occasions that you have had con-
4 sultations with law enforcement, have you made the reports
5 to law enforcement regarding matters that you have become
6 aware of, or that are involved in this case?

7 A. No.

8 MR. HOGAN: Judge, may we approach the Bench, please?

9 (WHEREUPON, BENCH CONFERENCE IS HELD AS FOLLOWS:)

10 MR. HOGAN: Okay, that's fine, but I want to cut off
11 this line of questioning. I know exactly where Mr. Edmund's
12 going, he's trying to elicit hearsay testimony from this wit-
13 ness. He knows it, I know it, and Mr. Hurm knows it. We are
14 go...

15 MR. EDMUND: Then why are you so bent out of shape.

16 MR. HOGAN: Because it's not right to try to elicit hear-
17 say testimony.

18 THE COURT: I don't know it.

19 MR. HOGAN: Well, I do know it.

20 THE COURT: Why are we talking about it?

21 MR. EDMUND: We are speaking about it because of the
22 report she made to law enforcement...

23 MR. HOGAN: Well...

24 MR. EDMUND: Had it remained purely hearsay testimony
25 nevertheless, the reports she made to law enforcement, they're

1 all worried about it because they didn't question it.

2 MR. HOGAN: No, because we ran it down and we knew ex-
3 actly what the man was saying, it's not rated material; in
4 fact, it supports our story; but he's trying to slip hearsay
5 testimony into this trial and if it's going to continue,
6 I want to proffer it.

7 MR. EDMUND: I am not trying to slip anything anywhere,
8 and don't, if it please the Court, I'm asking that question
9 if it is in the report; he obviously is prepared and knows
10 where I am going which does include hearsay testimony, and if
11 Your Honor says a report that includes hearsay testimony is
12 not admissible, then it's not admissible. It's just that
13 some...

14 MR. HOGAN: My problem is...

15 MR. EDMUND: If you will notice, I didn't ask it in any
16 leading forms, or I didn't come blasting out at the jury,
17 Your Honor, before anybody had an opportunity to object, and
18 I'd like to think that I know something about trying a case.

19 MR. HOGAN: I'd like to have the rest of the testimony
20 and cross examination proffered.

21 THE COURT: We are going to go further.

22 MR. HOGAN: Well, then, I'd like your instruction with
23 where we're going to go any further.

24 MR. EDMUND: What I am approaching is she has made
25 statements to his private investigator she had been in con-

1 versation with a man known only as Rick, who we can't find,
2 who has said to them that on the night of the disappearance
3 of this girl, after 10:30 in the evening he observed the girl
4 getting into a light blue car, a compact station wagon. Even
5 as of today, I've been out trying to locate Rick, because she
6 had seen him a month or so ago and he had been involved in a
7 wreck. I've got people right now, leafing through fatal ac-
8 cident reports in Florida, trying to find people with the
9 first name of Rick, so I could run him down myself and see
10 whether or not there is any validity to it. If I want to
11 sandbag the people, Judge. I would have asked the question,
12 did you say such and such and so and so, it's just that simple.

13 MR. HOGAN: Well, Judge, he's still eliciting the same
14 comment. If she said some guy named Rick came in and told
15 her...

16 MR. EDMUND: I asked her for a yes or no answer,
17 Mr. Hogan.

18 MR. HOGAN: Excuse me...and then hoping for that answer,
19 what if she blurts that answer out. That has injected hear-
20 say into this case. That we've been able to find this man,
21 he does not say anything, he said, he was drunk, he didn't
22 say that, what he meant to say was, he saw her in the car with
23 the mother, but the jury is going to be left with the very
24 uh...a very wrong impression, and I don't think, it's too
25 dangerous to allow him to keep probing at her, hoping that she

1 will come up with that answer.

2 THE COURT: She has already answered it.

3 MR. EDMUND: If it please the Court? No, I'm not going
4 to try to rehabilitate her with a blind side type statement.
5 This is too important a case for me to get thrown in jail,
6 or for me to get in some hassle with the Prosecutor. I'd
7 like to get on with trying my case, if it's alright with you,
8 Your Honor.

9 THE COURT: You're going to be going away from that
10 question?

11 MR. EDMUND: I am done, Judge, she said "no".

12 (WHEREUPON, BENCH CONFERENCE ENDS)

13 Q. Do you know a girl by the name of Gwen Gurley?

14 A. No.

15 Q. On the evening that Teresa was at the Shop & Go and
16 you had the conversation with Duckett, you indicated that you
17 told the Prosecutor, on direct examination; that you told her
18 mother what you had told Duckett, will you tell the Jury
19 what that was, please?

20 A. Okay, he asked me how old she was and I told him
21 approximately how old she was. I told him for the past
22 three weeks, that she had been coming up to the store, quite
23 frequently, late in the evening, and I was worried about her
24 since, her being thirteen years old or ten years old, she
25 was too young to be out on the streets that late, and he

570 -

1 said he would check on it.

2 Q. You're the one that gave him the information con-
3 cerning the child being out late at night.

4 A. Yes.

5 Q. Would you tell the Jury the times of night you would
6 see her there that caused you concern.

7 A. She'd be there at time, 10:30 in the evening or
8 later.

9 Q. And did you report to other officers beside Mr.
10 Duckett?

11 A. Yes, I did.

12 Q. And what, if anything, was done, if you know, by the
13 other officers?

14 A. Nothing, because the night that I told them, she
15 was up there, they asked me, you know, about how old she was,
16 and I told them, and they said it was, she still had a couple
17 of minutes until curfew and they couldn't do anything about
18 it, and curfew in Mascotte is 10:30 in the evening.

19 Q. 10:30 in the evening and they couldn't do anything
20 about it until then?

21 A. No, sir.

22 Q. But Mr. Duckett said, "Alright, I'm going to go
23 see why they're out there at this hour and send them home,"
24 or words to that effect?

25 A. Yes.

1 Q. Now, were there other customers in the store when
2 this conversation was going on with Mr. Duckett?

3 A. I believe there was one other person in there, but,
4 I don't remember what they purchased.

5 Q. Do you recall if this customer was a man or a woman?

6 A. It was a woman.

7 Q. Do you recall whether she was a grown, mature woman,
8 or a teen-age girl?

9 A. She was a grown woman, and I know she had blonde,
10 curly hair, but other than that, I couldn't tell you.

11 Q. And you remained in the store, then, until midnight?

12 A. Yes.

13 Q. So, we're talking about somewhere around 10:30 or
14 shortly before that, when Mr. Duckett came in, is that right?

15 A. Right.

16 Q. Can you tell the Jury how long the police car re-
17 mained outside the Shop & Go after Duckett came into the
18 store?

19 A. From the time that I told him, maybe about five
20 minutes.

21 Q. Alright, did you see the car depart?

22 A. No, I did not, because where he had his patrol car
23 parked, I couldn't see.

24 Q. Alright, will you tell the Jury, when you are looking
25 at the front of the store, if there is, in fact, a dumpster

1 off to your right and a laundromat off to your left.

2 A. Yes, there is.

3 Q. If you are standing in front of the store?

4 A. Right.

5 Q. And along there, is there a bank of telephones?

6 A. The telephones sit towards the left hand side, by
7 the landromat.

8 Q. Alright, and was that about the area that this car
9 was parked?

10 A. Yes.

11 Q. Did you see his car depart, in either direction?

12 A. No, I did not.

13 Q. And how did you become aware that his car was gone?

14 A. Because the girl that come...came on at 11:00 came
15 in early and she saw him leaving the parking lot.

16 Q. She saw him in the parking lot?

17 A. Yes.

18 Q. And she saw him leave?

19 A. She said he was just starting to leave.

20 Q. Alright, and this was at some point in time before
21 her 11:00 duty hours?

22 A. Yes.

23 Q. And is this girl, Ms. Williams?

24 A. Yes, it is.

25 Q. Would you tell the Jury if she normally parks her

1 car at a particular point there, or a spot there at the Circle
2 K?

3 A. She used to park it along the dumpster, beside the
4 dumpster.

5 Q. And, do you know whether or not she parked it in
6 that position that night?

7 A. I'm not sure, I believe she did. I'm not definitely
8 sure.

9 Q. And did she park it so that it was out in the light,
10 when you talk about along by the dumpster.

11 A. Okay, the only lights we have are, or had at the
12 time, were over the canopy.

13 Q. Yes, ma'am.

14 A. So you could see the car, but can't see it real good
15 when you're inside the store.

16 Q. But you could see the car, even from the inside of
17 the store?

18 A. Yes.

19 Q. She was parked in front of the dumpster, was she not?

20 A. Yes.

21 Q. Not around beside the dumpster or between the dump-
22 ster and Polly's Bar? Out in front of the dumpster?

23 A. Yes.

24 Q. Out in front of the dumpster?

25 A. Yes.

1 Q. Alright, that's fine. Now would you tell the Jury
2 what you observed about Duckett over the periods of time that
3 you knew him, as relates to his appearance? Did he keep
4 himself neat and clean?

5 A. Very neat, very clean.

6 Q. Did you ever have any conversation with him later,
7 with regards to scratches, or anything of that nature, Ms.
8 Reitz?

9 A. Yes, I did.

10 Q. Now, will you tell the Jury that conversation?
11 Where it took place, when it took place, and who said what to
12 whom?

13 A. it was Shirley Williams and I; we were in the store,
14 and he came in...

15 Q. May I interrupt you. How did this relate in time to
16 the death of Teresa?

17 A. This was after, a couple of...either the next day
18 or the following day.

19 Q. Alright, please tell the Jury.

20 A. He came in the store and Shirley and I told him that
21 we wanted to ask him a question. We had heard various rumors
22 and that we wanted to ask him a question, and she asked the
23 question, she told him, she said we heard he had scratches on
24 his chest, and he turned around, and he took his shirt and
25 yanked it open, like this, and pulled his T-shirt down and

- 575 -

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1 he had no scratches on his chest.

2 Q. Will you tell the Jury how his hair seemed to be
3 maintained over the time tht you knew him. Was it neat?

4 A. Yes, sir, his hair was always neat.

5 Q. Did it seem to be hair sprayed and all that?

6 A. No.

7 Q. Did it seem to be, so that it was never disheveled
8 and all over his face, things like that?

9 A. I never saw him with his hair messed up.

10 Q. Have you ever seen him with his shoes or his boots,
11 or his clothes messed up?

12 A. No, never.

13 Q. And he did not come back into Circle K, until after
14 you were off work that particular evening, or midnight that
15 night?

16 A. No, he did not.

17 Q. Do you recall, at or about what time, Kim Vargas
18 came into the store?

19 A. Well, she got off work at 10:00 and she came in, I
20 guess it was about a quarter, no, it was after 10:30, because
21 she wasn't there when Duckett was there.

22 Q. She wasn't there when Duckett was there, so she
23 came in after he had been in the store, and he had gone back
24 out again?

25 A. She said she saw him out in the parking lot.

- 576 -

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Tavares, Florida 32778

1 Q. She saw his car parked out there in the parking lot?
2 A. Yes.
3 Q. And this was in front of each and every person who
4 came in and out of the store?
5 A. I guess.
6 Q. And during this time that he was out in the parking
7 lot and from then on until you got off of your shift, you re-
8 call no teen-age girl coming in to buy a coke or to buy some-
9 thing else?
10 A. I can't recall anybody in particular. I might have
11 had a couple of customers, but I honestly don't remember see-
12 ing them.
13 Q. Alright. Seeing them? That means you're talking
14 about two girls and a boy who maintain they were around the
15 store and you never saw them on that evening?
16 A. Yes, those are the ones.
17 Q. Ma'am, those are the ones?
18 A. Yes, sir.
19 Q. Thank you, ma'am, I have no further questions, Your
20 Honor.
21 THE COURT: Mr. Hogan?
22 MR. HOGAN: Yes, sir.
23 RE-DIRECT EXAMINATION
24 BY MR. HOGAN:
25 Q. Ms. Reitz, you do recall giving a statement to De-

1 tectives of the Sheriff's Office on May the 19th. Mr. Edmund
2 eluded to it. Do you recall making this statement he didn't
3 carry through with describing the clothing that...

4 MR. EDMUND: Your Honor, if it please the Court, I asked
5 her if she had made the statement. I object on the grounds
6 that is not proper re-direct.

7 MR. HOGAN: That is not the problem anyway, Judge.

8 THE COURT: Overruled, go ahead, Mr. Hogan.

9 MR. HOGAN: Thank you, Judge.

10 Q. Do you recall describing the clothing this way on
11 that date of May of last year? Then she had blue jeans on
12 and a white and tan striped shirt on?

13 A. Yes, sir.

14 Q. Do you know,...Ms. Reitz, do you happen to know whether
15 or not Officer Duckett carried a comb?

16 A. No, I wouldn't know that.

17 Q. Thank you, Judge, that will be all.

18 THE COURT: Anything further, Mr. Edmund?

19 MR. EDMUND: Yes, Your Honor, if it please the Court?

20 RE-CROSS EXAMINATION:

21 BY MR. EDMUND:

22 Q. When you were talking to the officers about the
23 clothing that this child was wearing, they said can you
24 approximate...you told them that she had came in on other
25 occasions, isn't that right?

1 A. Yes.

2 Q. And she had come in, the first time, she had on a
3 little dance costume, you know, it was purple, and had silver
4 sequins around it, and it was pink, and she was with another
5 little girl?

6 A. Yes, she was.

7 Q. Thank you. And then, can you approximate the times
8 for us, during these, too?

9 A. I sure can't. The only time I remember is the last
10 time she was in and she left. Then she came back with another
11 woman; then she had blue jeans and white and tan striped shirt
12 on and when she came in, I thought it was her mother that
13 she came in with. It was an older woman and a Mexican boy
14 with her and she was cutting the fool with the Mexican boy and
15 the lady told her to settle down and they left, and they
16 stayed and played a video game, then she left; and then she
17 came back again and she played the video game and she left
18 and then I saw her at about a quarter after ten that night.
19 She came in and bought the pencil.

20 Q. You are talking about three separate occasions she
21 was in there. On one occasion she had on a dance costume,
22 another occasion, when she came in with the woman she had
23 on a tan striped shirt and you never specifically told the
24 officers what she had on on the third occasion, when she came
25 in to buy the pencil did you ma'am? And they never asked you,

1 did they?

2 A. No.

3 Q. Thank you, no further questions, Your Honor.

4 MR. HOGAN: Ms. Reitz, did she have on the same cloth...

5 MR. EDMUND: Your Honor, I object to this, if it please
6 the Court. It is not re-direct of my re-cross.

7 THE COURT: Overruled. Go ahead Mr. Hogan.

8 MR. EDMUND: May we approach the Bench, sir?

9 THE COURT: I've already ruled Mr. Edmund, if you want
10 to make a record, we can approach the Bench.

11 MR. EDMUND: No, Your Honor, I don't want to make a
12 record, I just want...may we approach the Bench, just on
13 another matter, sir.

14 THE COURT: Alright, come up please.

15 (WHEREUPON, BENCH CONFERENCE IS HELD AS FOLLOWS:)

16 MR. EDMUND: I understand when you rule, but I also
17 understood from the conference that if you made a ruling and
18 I asked an argument, we could. Do you want a request for
19 argument before you make your ruling?

20 MR. HOGAN: Yes.

21 MR. EDMUND: My problem. Judge, every time I object,
22 I expect to be sustained, and could never ask for argument.

23 THE COURT: When you stated your ground, I understood
24 it to be that that was not proper re-direct for your cross.

25 MR. EDMUND: I do think that was it, yes, sir.

- 580 -

1 THE COURT: Okay, then I ruled that you left the Jury
2 with the impression that she did not or could not give a de-
3 scription of what the little girl was wearing the last time
4 in the store.

5 MR. EDMUND: I'm sorry, Judge.

6 THE COURT: Besides, we left the Jury with the impression
7 that she did not or could not give an answer as to what the
8 little girl was wearing the last time she saw her at the store.
9 I understood Mr. Hogan's last question, what was she wearing...

10 MR. EDMUND: My re-cross was directly directed to his re-
11 direct, regarding that paragraph, and didn't you tell them
12 that and I stated I wouldn't go any further than that, but I
13 am now making an argument against the ruling, and ask you to
14 reconsider.

15 THE COURT: I appreciate that, but I won't.

16 MR. EDMUND: Alright, thank you, Judge.

17 (WHEREUPON, BENCH CONFERENCE ENDS)

18 RE-DIRECT EXAMINATION:

19 BY MR. HOGAN:

20 Q. Now, Ms. Reitz, that statement that Mr. Edmund just
21 read to you, and you described the brown and white stripe shirt,
22 or the tan and white striped shirt that you saw on the two
23 occasions and possibly when the girl was at the store.

24 MR. EDMUND: Now, I object on the grounds that's not
25 been the testimony, if it please Your Honor.

1 THE COURT: Let's ask her that. Objection sustained.
2 Q. Ms. Reitz, is this the shirt that Teresa McAbee was
3 wearing the last time you saw her at about 10:30 on May 11th,
4 1987, when she was with Officer Duckett?
5 A. Yes, it is.
6 Q. Thank you very much, ma'am.
7 THE COURT: Is there anything else, Mr. Hogan?
8 MR. HOGAN: That's it.
9 THE COURT: Anything else, Mr. Edmund?
10 MR. EDMUND: I'm sorry?
11 THE COURT: Do you have any further questions?
12 MR. EDMUND: No, Your Honor, thank you.
13 THE COURT: What do we say about Ms. Reitz's subpoena,
14 gentlemen?
15 MR. HOGAN: She's released, Your Honor.
16 THE COURT: Any objection?
17 MR. EDMUND: No objections.
18 THE COURT: You are released from your subpoena, ma'am.
19 You are free to go. Thank you.
20 (WHEREUPON, MS. REITZ IS RELEASED FROM HER SUBPOENA)
21 THE COURT: Your next witness, Mr. Hogan?
22 MR. HOGAN: One moment, Judge.
23 THE COURT: Yes, sir.
24 MR. HOGAN: Your Honor, may we approach?
25 (WHEREUPON, BENCH CONFERENCE IS HELD AS FOLLOWS:)

1 MR. HURM: Just on a procedural matter. I had asked
2 Mr. Corbett earlier to set up the audio tape player and he
3 has that, but it is not set up. We have been here an hour
4 and a half. Could we take a brief recess now?

5 THE COURT: An audio tape?

6 MR. HURM: Yes, sir. Of our next witness.

7 THE COURT: Which is?

8 MR. HURM: This is the tape of the Com Center tape.
9 The police call.

10 THE COURT: Do you have any objection to that?

11 MR. HURM: This is the police call from Campbell, the
12 Groveland officer, to Duckett about ...

13 MR. EDMUND: You said it would be an hour and a half?

14 MR. HURM: No, no, no, no. I said we have been here
15 an hour and a half and it might be time for a recess anyway.

16 Are you going to have an objection to the tape?

17 MR. EDMUND: No objection. I am not going to object
18 to it.

19 THE COURT: Let's take fifteen minutes and that will give
20 you time to get your tape player together.

21 MR. HURM: We will also go ahead and get the video stuff
22 in here now in case we get to Gurley this afternoon.

23 (WHEREUPON, BENCH CONFERENCE ENDS)

24 THE COURT: Alright, folks, let's take a fifteen minute
25 recess. We need to set up some equipment for the Jury.

- 583 -

1 Mr. Bailiff, if you would remove the Jury please, and remind
2 the folks don't discuss the case.

3 (WHEREUPON, JURY LEAVES COURTROOM AT 2:26 P. M.)

4 THE COURT: Alright, Mr. Bailiff, remove the Defendant,
5 please.

6 (WHEREUPON, DEFENDANT LEAVES COURTROOM AT THIS TIME)

7 THE COURT: Folks, just so there is no question for those
8 of you that are spectators or press, this is the way we are
9 going to proceed every time when we take a recess. First the
10 Jury leaves, then the Defendant leaves, and then everyone else
11 leaves. We are going to do that every single time throughout
12 the course of the trial.

13 (WHEREUPON, COURT IS IN RECESS AT 2:27 P. M.)

14 (WHEREUPON, DEFENDANT IS PRESENT IN COURTROOM WITH HIS
15 COUNSEL, MR. EDMUND)

16 (WHEREUPON, COURT RECONVENES AT 3:05 P. M.)

17 THE COURT: Anything before we bring the Jury back?

18 MR. HOGAN: No, sir, Your Honor.

19 MR. EDMUND: May we approach the bench.

20 (WHEREUPON, BENCH CONFERENCE IS HELD AS FOLLOWS:)

21 MR. EDMUND: The State Attorney has indicated that they
22 have located a witness tha I have been advised that might be
23 exculpatory to the my client. I ask that they tell me who and
24 where he is .

25 MR. HOGAN: This is the gentleman we discussed earlier.

- 584 -

1 I know that he is in the state prison system, Judge. Exactly
2 where he is, they have interviewed him. I was notified
3 by telephone this morning at lunch of the results of that
4 interview. We certainly didn't hear about it in any kind of
5 reciprocal discovery, but as soon as I find out exactly where
6 he is, I will be glad to let the Court know.

7 THE COURT: Who interviewed him?

8 MR. HOGAN: Rocky Harris.

9 THE COURT: Rocky is here?

10 MR. HOGAN: Rocky is in the back, yes.

11 MR. HURM: We can't say, based on the information that
12 we have been given, Judge, it is not Brady material.

13 THE COURT: I still think he has the right to know his
14 name.

15 MR. HOGAN: I have no problem with that.

16 THE COURT: Do you know what his full name is?

17 MR. HOGAN: No, sir. I didn't take any notes and we
18 might could find out for you. We can check with Wagner.

19 MR. EDMUND: We can do it after the recess, that is fine.

20 MR. HOGAN: I believe he is in Lake Butler.

21 THE COURT: We will get you his name and where he is.

22 MR. HURM: Judge, you know him as Richard Reynolds. He
23 is in jail on DUI Manslaughter that we handled. He pled to
24 back in November or December.

25 THE COURT: Richard Reynolds. We don't know where he is?

- 585 -

1 MR. HURM: No, sir.

2 THE COURT: Find out just as soon as Rocky gets back
3 what place he is.

4 MR. HURM: There is Wagner, I will find out right now.

5 (WHEREUPON, MR. HURM SPEAKS WITH MR. WAGNER AND THEN
6 RETURNS TO BENCH)

7 MR. HURM: He just indicated he is at Lake Butler and
8 he and Rocky talked to him. At Lake Butler.

9 MR. EDMUND: In the slammer?

10 MR. HURM: Yes.

11 MR. EDMUND: Thanks.

12 (WHEREUPON, BENCH CONFERENCE ENDS)

13 THE COURT: Anything further, gents?

14 MR. HOGAN: No, sir.

15 MR. EDMUND: No, Your Honor.

16 THE COURT: Alright, bring the Jury back, please,
17 Mr. Bailiff.

18 (WHEREUPON, JURY ENTERS COURTROOM AT 3:08 P. M.)

19 THE COURT: Welcome back, folks. Be seated, please.

20 As is more often the case than we would all like, our
21 fifteen minute recess has turned into thirty. Without going
22 into any details, let me tell you some of the reasons why
23 that happened. One of the main ones is when I go back up
24 stairs, obviously this is not the only matter that I have to
25 be brought to my attention during the course of the days and

- 586 -

1 weeks, and I have to hand other matters upstairs that come up.
2 We are not wasting your time. I promise you that. That is
3 all I can tell you. I appreciate it very much.

4 Mr. Hurm?

5 MR. HURM: Yes, Your Honor, the State's next witness
6 is Don Campbell.

7 THE COURT: Don Campbell.

8 (WHEREUPON, DON CAMPBELL IS CALLED AS NEXT WITNESS FOR
9 THE STATE AND IS DULY SWORN BY THE CLERK OF THE COURT)

10 DIRECT EXAMINATION

11 BY MR. HURM:

12 THE COURT: Gentlemen, while Mr. Campbell is coming up
13 something comes to my mind and I will abide your pleasure
14 on it. Just wait a minute right there, please. Apparently,
15 we are going to have to play an audio tape at some point and
16 perhaps later today a video tape. We need to have an
17 understanding with madam reporter as to whether or not you
18 want her to transcribe both the audio tape and the video tape
19 or whether we can put the tapes in evidence and let them
20 stand for themselves. I'll abide your pleasure.

21 MR. HOGAN: The video tape, there was a court reporter
22 present, so I don't think that is necessary. And we are
23 certainly willing to let the audio tape stand for itself.

24 THE COURT: What say you, Mr. Edmund:

25 MR. EDMUND: We will so stipulate, Your Honor.

- 587 -

1 THE COURT: Alright. we will note that stipulation.
2 Madam reporter, you will not need to transcribe either the
3 audio tape or the video tape. Thank you very much.

4 Mr. Campbell, sorry to keep you waiting, sir.

5 DIRECT EXAMINATION

6 BY MR. HURM:

7 Q. Mr. Campbell, will you pull that microphone, please,
8 sir, and address all of your answers to the members of the
9 Jury.

10 Q. State your name, please?

11 A. Don Campbell.

12 Q. How are you employed?

13 A. Right now, self-employed.

14 Q. How were you employed in May of 1987?

15 A. As a police officer here in the City of Groveland.

16 Q. How long have you been with the City of Groveland?

17 A. Approximately one year.

18 Q. Do you recall the night of May 11th, early morning
19 hours of May 12th, whether or not you were working at that
20 time?

21 A. Yes, sir, I was.

22 Q. What were your duty hours that night?

23 A. I come on duty at 11:00 o'clock and got off at 7:00
24 in the morning.

25 Q. Describe, please, your responsibilities on that

- 588 -

1 particular night?

2 A. Standard road patrol, security checks, and traffic
3 duty.

4 Q. Now, Mr. Campbell, at that time, did you have
5 occasion to come in contact with a lady who reported to you
6 a missing child?

7 A. Yes, sir, I did.

8 Q. Do you recall about what time that happened?

9 A. Approximately midnight.

10 Q. Where was that? That contact?

11 A. In the Groveland Police Department parking lot.

12 Q. I show you what has been marked as State's Exhibit
13 #1. Look at that, please, sir, and tell me if you recognize
14 it?

15 A. Yes, sir. The woman on the right is the Complainant
16 Ms. McAbee.

17 Q. You say Mrs. McAbee. Did she give you her name,
18 do you recall?

19 A. I do not recall if she did state her name at that
20 time.

21 Q. What was the substance of the complaint that she
22 brought to your attention?

23 A. She came to the police department and advised that
24 her daughter was missing.

25 Q. Where was she from?

- 589 -

1 A. She was from the City of Mascotte.

2 Q. Did she tell you anything else why she came to you

3 and not the Mascotte Police Department?

4 A. She said there was noone at the department.

5 Q. What did you tell her at that time?

6 A. I advised her I would contact a Mascotte officer

7 via radio communication and he could meet her.

8 Q. Did you do so?

9 A. Yes, sir, I did.

10 Q. Describe what you, for the Jury if you would, how

11 you contacted him? Through your car radio or do you have a

12 dispatch center?

13 A. The first communication, I do believe, was on a hand

14 held radio, which was inaudible at that time. He could not

15 understand what I was saying. I then went to the patrol car

16 and used the radio.

17 Q. And this was all in the parking lot of the Groveland

18 Police Department?

19 A. Yes, sir.

20 Q. Now, Mr. Campbell, when you were a police officer,

21 did you use 10 signals in communicating over the radio?

22 A. Yes, sir.

23 Q. Could you tell us, please, sir, whether that

24 communication you had with the Mascotte officer that night,

25 whether it involved any 10 signals?

- 590 -

1 A. Yes, sir, it did.

2 Q. Officer Campbell, could you tell us, please, sir,
3 what the 10 signals means and let me write them up here
4 briefly what they mean. What does 10-4 mean?

5 A. 10-4 Acknowledge of the transmission, affirmative.

6 Q. Okay, affirmative. What about 10-9?

7 A. It means repeat transmission.

8 Q. How about 10-12?

9 A. It means you have a person with you or you are
10 sending someone to him.

11 Q. Okay, person being sent.

12 A. Being sent or someone is with you.

13 Q. How about 10-26?

14 A. Basically the same as 10-4. You acknowledge the
15 transmission.

16 Q. The radio transmission?

17 A. Yes, sir.

18 Q. 10-51?

19 A. It means you are enroute to the callor whatever the
20 dispatch is.

21 Q. How about 10-99?

22 A. It means you are inaudible and you can't understand
23 what they are trying to tell you.

24 Q. Okay, are you also familiar with not 10 signals, but
25 just basic signals? Signal 1, signal 2, that sort of thing?

- 591 -

1 A. Yes, sir.

2 Q. What is a Signal 8?

3 A. Signal 8 is a missing person complaint.

4 Q. Is it a missing persons complaint or missing person

5 or is it used interchangeably for both?

6 A. Interchangeably.

7 Q. Officer Campbell, how long were you a police officer?

8 A. With Groveland, approximately a year.

9 Q. Did you have any other police experience prior to

10 Groveland?

11 A. Yes, sir.

12 Q. How long was that?

13 A. Approximately ten years police experience between

14 the State of Ohio and the State of Florida.

15 Q. During the ten years of experience, when you would

16 receive a call from the Com Center, you were called to go

17 somewhere, what was your procedure? Specifically, what was

18 your procedure when you arrived at wherever you were dispatched

19 to?

20 A. You would advise dispatch that you were on the scene.

21 2-97. So they know your location.

22 Q. Is that usual procedure?

23 A. That is procedure.

24 Q. Why is that important?

25 A. That is to keep the dispatcher and other officers

- 592 -

1 aware of your position in case dispatch call had located you
2 or whatever.

3 Q. Mr. Campbell, have you had an opportunity, showing
4 what has been marked for identification as State's Exhibit
5 FFF, have you had an opportunity to review that, sir?

6 A. Yes, sir, I have.

7 Q. What does that package contain?

8 A. A copy of the radio transmission.

9 Q. Which radio transmission?

10 A. From that night.

11 Q. What was your call signal?

12 A. Groveland 6.

13 Q. Do you recall what the Mascotte unit number was?

14 A. I did not call to the best of my recollection, I
15 did not call his number. I just came on duty and I was not
16 sure who was on duty in the City of Mascotte, so I called
17 Mascotte Unit.

18 Q. How close are you to the City of Mascotte? Groveland
19 to Mascotte?

20 A. You run out of Groveland you run into Mascotte.

21 Q. How far would you say it is from the Groveland
22 Police Department to the Mascotte Police Department?

23 A. One and a half miles, approximately.

24 Q. Did you have contact during your year with Groveland
25 with the Mascotte police officers regularly?

1 A. Yes, sir.

2 Q. Did you know them?

3 A. Fairly well, yes, sir.

4 Q. Did you know James Aren Duckett when he was employed
5 with Mascotte?

6 A. Yes, sir.

7 Q. Would you look around the courtroom and tell me if
8 you see Mr. Duckett?

9 A. Yes, I do.

10 Q. Point to him and describe what he is wearing.

11 A. The gentleman with the dark hair, the beige suit.

12 MR. HURM: May the record reflect the witness has
13 identified the Defendant.

14 THE COURT: The record would so reflect.

15 Q. Mr. Campbell, have you had occasion prior to May 12th
16 early morning hours, to have radio contact with the Defendant?

17 A. On occasion, yes, sir.

18 Q. Were you able to recognize his voice when you
19 heard it on the radio?

20 A. Yes, sir.

21 Q. When you had the transmission that night, with
22 Mascotte, did you recognize that voice?

23 A. Yes, sir.

24 Q. Whose voice was it you recognized it as being?

25 A. Mr. Duckett's.

- 594 -

1 Q. One other question before we get to the tape itself,
2 what kind of time was used in radio transmissions with the
3 department?
4 A. Well,....
5 Q. Is it based on the twelve hour clock, let we would
6 use? When we talk about one o'clock in the morning?
7 A. No, sir, it is based on the twenty-four hour, military
8 time.
9 Q. What would midnight be?
10 A. 2400 hours.
11 Q. Five minutes after midnight?
12 A. 005.
13 Q. And what would ten minutes after midnight be?
14 A. 0010.
15 Q. 0010? That means ten minutes after midnight?
16 A. Correct.
17 Q. Have you had an opportunity to listen to this tape?
18 A. Yes, sir, I have.
19 Q. Is it a fair and accurate copy, cassette recording
20 of the conversation between yourself and the defendant on
21 May 12th?
22 A. Yes, sir. It is.
23 Q. Your Honor, at this time, I would offer into evidence
24 what has been previously marked as State's Exhibit FFF for
25 identification.

- 595 -

1 MR. EDMUND: No objection, and no voir dire.

2 THE COURT: Alright, FFF for identification admitted into
3 evidence without objection as State's Exhibit #16.

4 (WHEREUPON, STATE'S EXHIBIT #16 IS ADMITTED INTO EVIDENCE
5 WITHOUT OBJECTION)

6 MR. HURM: After it is marked, Your Honor, I would like
7 to play that for the Jury at this time.

8 THE COURT: Objection, Mr. Edmund?

9 MR. EDMUND: No, Your Honor.

10 THE COURT: Alright, sir. Pull that mike down in front
11 of it.

12 (WHEREUPON, AUDIO TAPE IS PLAYED FOR THE JURY AND BY
13 STIPULATION IT IS NOT TRANSCRIBED BY THE COURT REPORTER)

14 MR. HURM: Mr. Campbell, when the voice at the beginning
15 said the time was exactly 001010, what time would that be
16 in conventional twelve hour time?

17 A. Ten minutes and ten seconds after midnight.

18 Q. Now, he said something also about Channel One. What
19 is the significance of that to you?

20 A. Channel One is Lake County's Channel One. They
21 operate on two primary channels. Our agency at that time ran
22 on Lake County Channel One.

23 Q. What other agencies ran on One?

24 A. I believe the City of Minneola, City of Astatula runs
25 on Channel One, the City of Fruitland Park.

- 596 -

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1 Q. So the South County and then Fruitland Park as well?
2 A. Yes, sir.
3 Q. And Channel Two would be the Sheriff's Office?
4 A. Yes, sir.
5 Q. Do you know where Bay Lake Road is in Mascotte?
6 A. Yes, sir.
7 Q. May I have just a moment, Your Honor?
8 THE COURT: Yes, sir.
9 Q. Did you have any contact that night with the Defendant,
10 after his radio transmission?
11 A. I cannot recall seeing him afterwards, no.
12 Q. Do you recall him ever bringing a poster, which
13 included the picture I showed you earlier?
14 A. I do believe there was one brought to the Department,
15 but I was not there.
16 Q. So it was given to someone else?
17 A. Yes, it was.
18 Q. And you had no contact as far as you recall with the
19 Defendant that evening?
20 A. Not as far as I recall, no, sir.
21 Q. How about over the radio? Did you have any contact
22 with him that way?
23 A. Other than the original transmission, I do not
24 think so.
25 Q. Nothing further.

- 597 -

1 MR. EDMUND: If it please, Your Honor.

2 May I stay here, Your Honor?

3 THE COURT: Yes, sir.

4 CROSS EXAMINATION

5 BY MR. EDMUND:

6 Q. Mr. Campbell, I am Jack Edmund. During your tenure
7 as a police officer, were you working as a city police officer
8 at the time in Groveland, were you not? A municipal officer?

9 A. Yes, sir.

10 Q. Within the city limits, when someone asks you to
11 give your position, it is normal and usual that you give your
12 position as to the street you are on, isn't that correct?

13 A. It is not straight procedure, you know. Sometimes we
14 do and sometimes we don't Depending on the call.

15 Q. Alright, and if you were on Sunset, you would say
16 "On Sunset", would you not?

17 A. Sometimes I would and sometimes I wouldn't.

18 Q. If you were on Bay Lake, you would say you were on
19 Bay Lake, would you not?

20 A. At times.

21 Q. Alright, sir, and Bay Lake is within the City Limits
22 of the City of Mascotte, is it not?

23 A. A portion of it is, I do believe.

24 Q. Were there other police vehicles on the parking lot
25 at the time?

- 598 -

1 A. At the Groveland parking lot?
2 Q. Yes, sir?
3 A. Yes, sir.
4 Q. Were there Sheriff's Office vehicles there?
5 A. There was one there, yes, sir.
6 Q. Did it depart at or about that time?
7 A. Yes, I do believe so, just right after that.
8 Q. And did the officer indicate that he was heading to
9 Mascotte to meet with Officer Duckett?
10 A. I could not advise.
11 Q. Do you recall the officer who was driving that
12 particular Sheriff's Office vehicle?
13 A. I do believe that was Deputy Pahaly.
14 Q. Pahaly?
15 A. I think so.
16 Q. Bruce Pahaly?
17 A. Yes, sir.
18 Q. Alright, sir. Did you observe the direction he left
19 your parking lot?
20 A. No, I can't remember which way he went.
21 Q. Is your parking lot in the City of Groveland...
22 do you have a double lane street that goes West and then a
23 double lane street that goes East?
24 A. Yes, sir, that is correct.
25 Q. And is the City Jail or the parking lot of the

- 599 -

1 police department on the Eastbound two lane street?

2 A. Yes, sir, it is.

3 Q. Can you come out of that and go directly West or do
4 you have to go to some corner or go across and go West?

5 How would you get from there if you wanted to go West?

6 A. You can either go down and exit Eastbound approximately
7 a hundred feet and make a left or you can go West of the
8 City Garage, which is right beside the Department and there
9 is another street there.

10 Q. You don't recall which direction Deputy Sheriff
11 Pahaly exited your parking lot?

12 A. No, I can't remember at this time.

13 Q. Did you have any conversation with Deputy Pahaly
14 on the radio?

15 A. Not to my recollection, not right now.

16 Q. Do you recall whether he left the parking lot of the
17 Groveland Police Department before or after the lady who was
18 making the missing person report?

19 A. It was after she had left.

20 Q. After she had left?

21 A. Yes, sir.

22 Q. Do you recall the length of time after she had
23 left?

24 A. Within a minute or two minutes, approximately.

25 Q. Alright, sir. Did you tell the Jury... you said there

- 600 -

Ruth C. Patz & Associates
Official Court Reporters, Fifth Judicial Circuit
Javarez, Florida 32778