

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

13
CASE NO. 87-~~11~~47-CF-A-01
and 88-262-CF-A-01

STATE OF FLORIDA,

Plaintiff,

v.

JAMES AREN DUCKETT,

Defendant.

V O L U M E I X

Aug 11 2 47 PM '88
CLERK OF COURT
AND COUNTY CLERK
LAKE COUNTY
TAVARES, FLORIDA



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135.9

1 the Jury back?

2 MR. EDMUND: No, Your Honor.

3 THE COURT: Please, Mr. Bailiff.

4 (WHEREUPON, JURY ENTERS COURTROOM AT 9:18 A. M.)

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

6 Can all of you assure us you did abide by our admonitions
7 of yesterday?

8 JURORS: Yes, sir.

9 THE COURT: Well, a person who will remain anonymous
10 on the Jury is quite a craftsman and I appreciate the kind
11 token. That was very nice.

12 Mr. Edmund?

13 MR. EDMUND: If it please, Your Honor, may the Bailiff
14 call Deborah Steger?

15 THE COURT: Yes, sir, Deborah Steger.

16 (WHEREUPON, DEBORAH STEGER IS CALLED AS NEXT WITNESS
17 FOR THE DEFENSE AND IS DULY SWORN BY THE CLERK OF THE COURT)

18 DIRECT EXAMINATION

19 BY MR. EDMUND:

20 Q. State your name, please, ma'am?

21 A. Deborah Steger.

22 Q. What is your business occupation or profession?

23 A. I work for the Florida Department of Law Enforcement
24 Crime Lab in Sanford. In that capacity, I work as a
25 microanalyst, in Hair and Fiber Section.

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1 Q. Do you limit your work and profession to the
2 Hair and Fiber Section?

3 A. Yes, I do.

4 Q. How long have you been so engaged?

5 A. I have been doing that particular examination for
6 three and one-half years.

7 Q. Prior to that, were you still engaged with the
8 Florida Department of Law Enforcement?

9 A. Yes, sir, I was.

10 Q. In what capacity?

11 A. I was in the Drug Chemistry Section for nine and
12 one half years.

13 Q. Alright, would you tell the Jury your educational
14 background, Ms. Steger?

15 A. I have a Bachelor of Science Degree in Chemistry
16 from Florida State University. I attended the School of
17 Forensic Microscopy. I have attended the Federal Bureau of
18 Investigation Hair and Fiber Identification School. I
19 attended various short courses through microscopy companies
20 and I completed a one year training program in specifically
21 hair comparison with the Department of Law Enforcement.

22 Q. Would you tell the Jury specifically in some detail
23 what your work consists of?

24 A. Most often, my work consists of examining evidence
25 that is brought to the laboratory to determine whether or not

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1 a transfer of hair had been made between an object or two
2 individuals.

3 Q. Have you had occasion to be qualified by one or more
4 courts in the State of Florida as an expert in the field of
5 Forensic Hair Comparison?

6 A. Yes.

7 Q. Would you estimate the number of times you have been
8 so qualified?

9 A. Twelve to fifteen.

10 Q. Your Honor, if it please the Court, I tender Ms.
11 Steger.

12 MR. HURM: I have no objection, Your Honor.

13 THE COURT: Alright, ladies and gentlemen, Ms. Steger
14 will be accepted by the Court in the field of Forensic Hair
15 Comparison and is entitled to give opinions within her field.

16 MR. EDMUND: Thank you, Your Honor.

17 Q. Ms. Steger, would you describe to the Jury the
18 procedure you used when you are seeking to make a comparison
19 or when you are making a comparison between an unknown and a
20 known sample of hair?

21 A. The first step in Forensic Hair Comparison is to
22 familiarize yourself with the standard sample. The known
23 sample of hair.

24 Generally, we request thirty to fifty hairs from the
25 head or the pubic area from a known individual.

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1 The purpose of this is to examine all the range of variation
2 of the characteristics to familiarize yourself with those
3 ranges. Once you did determine that, you have established
4 this range, you can compare it on a hair by hair basis with
5 the questioned hair, to determine whether or not the
6 characteristics are also present in the standard sample.

7 Q. Would you give the Jury one or more examples of
8 what you refer to as ranges of characteristics?

9 A. There is a number of characteristics like the
10 Duckett characteristics that we use when we are performing
11 hair comparisons. Some of them are very obvious, such as the
12 length of the hair, the color of the hair, the diameter of
13 the hair. No two hairs on an individual's head or the pubic
14 area are exactly identical. By that, I mean you could not
15 overlay the hairs and have them be indistinguishable, but
16 the characteristics do tend to fall within a very narrow
17 range and that is what makes hair evidence potentially
18 valuable.

19 An example of range that is displayed by hair samples
20 would be the hair may range from gray to dark brown. That
21 would be the range of variation of the coloring of that
22 particular characteristic. Each of the characteristics that
23 are present in hair usually displays a range.

24 Q. Please give them one or more examples of characteris-
25 tics you look for or that you are likely to find in a hair

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1 you are examining, other than color?

2 A. Other than coloring, we have the obvious things,
3 such as rape or the body area; the length of the hair, the
4 diameter of the hair; the cuticle and how the cuticle is
5 displayed, whether it is thick, whether it is thin; the
6 pigmentation of the hair and how the pigment is displayed and
7 whether it is very dense pigment, the size of the pigment
8 itself; the distribution; whether the pigment is in any
9 particular pattern. Whether the hair has a medulla.
10 Sometimes it is present and sometimes it is not. Whether
11 the hair even has a medulla. Sometimes it is intact and
12 sometimes it appears broken and sometimes it is absent
13 completely. The cortex of the hair versus the medulla of the
14 hair. How it happens to appear. There is a number of
15 characteristics that are present. Obviously, grooming,
16 bleaching, other color treatments would be characteristics
17 that could be used.

18 Q. In establishing the range of the various character-
19 istics, when you examine the known hair, would you tell the
20 Jury the approximate number of known hair you would examine
21 in order to give yourself a picture that you would be
22 satisfied with of the range of characteristics that you are
23 going to be looking for in the unknown hair?

24 A. The number of hairs that is necessary to establish
25 the range of the characteristics will vary depending on how

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1 wide the range is. The vast majority of the hairs in the
2 sample have a very narrow range. By that I mean they don't
3 vary much at all. It would be possible to use a very
4 limited number of hairs in a standard. If, however, the
5 range of the variation is very wide, if, for example, the
6 hair varies from white all the way through to dark brown,
7 it would be necessary to have a large number of hairs to
8 comprise the standard, so that you can establish the outer
9 limits of each of the ranges.

10 Q. You examined all of the ... or at least a specific
11 number or a minimum number of the known hairs before you
12 establish these standards?

13 A. I prefer to work with at least ten hairs in a
14 standard. It is possible to work with less if the range is
15 very narrow. However, I prefer to work with at least ten
16 hairs in a standard.

17 Q. And that is in order to establish your standard?

18 A. That is correct.

19 Q. In order to make your comparison, would you tell
20 the Jury the number of hairs that you would prefer to work
21 with? Did you say thirty to fifty?

22 A. Thirty to fifty is what we normally request in a
23 standard to assure that we can get the range. However, we
24 don't always get that number of hairs in a standard.

25 Q. Now, from that point on, are you looking for

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1 similarity of characteristics or are you looking for a
2 dissimilarity of characteristics between the known and the
3 unknown hairs?

4 A. When I perform a hair examination, and I perform
5 the first step, I am familiarizing myself with the range
6 displayed by the standard. I then examine the questioned
7 hair and determine whether or not it had sufficient
8 similarities to compare it on a side by side basis.

9 Obviously, if it is obviously different, there would be
10 no point in going further with the hair samples.

11 However, if it appears similiar in characteristics, in
12 general, I can perform a hair by hair comparison with all
13 the hairs in the standard with that questioned hair and
14 at that point, I am looking for differences between the
15 questioned hair and the standard.

16 Q. Now, will you tell the Jury whether or not you
17 mount the hairs yourself that you are planning to examine
18 and compare?

19 A. Yes, sir, I do.

20 Q. Will you tell them whether you just haphazardly
21 mount that hair or do you mount it in a certain fashion, so
22 that you are looking through the apex of the elliptical
23 portion or the flat portion part of the elliptical portion
24 of the hair?

25 A. In my experience, it is not profitable to determine

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1 how a hair is going to lay on the slide. They have a mind
2 of their own when you are trying to mount them. The idea
3 is to get the hair on the slide so that all points of the
4 hair are visible. However, it is not possible to the best of
5 my knowledge to be able to lay a hair out completely flat
6 and visible throughout the entire length of it at all times.

7 Q. Which would be preferable? That you look at the
8 hair through the long latitude of the elliptical portion of
9 it, or through the shorter side of it?

10 A. The more characteristics, microscopic characteristics,
11 tend to be visible when the hair is lying flat, because you
12 are not examining the characteristics through the thickest
13 portion of the hair. How a hair lies on the slide and it
14 tends to roll, is a characteristic you can use for a
15 comparison. I would compare a hair lying flat with a hair
16 standard that is lying flat, trying to compare a hair upon
17 edge with a portion of the hair standard.

18 Q. Now, is there any such thing as computer microanalysis
19 of hair?

20 A. Not to my knowledge.

21 Q. Would you tell the Jury the name of the material
22 you use in order to mount a hair?

23 A. I use a semi-permanent mounting known as Permunt.

24 Q. Tell them how you go about ... the procedure you
25 use from the beginning to the end until the hair is mounted

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1 so that you feel that you can begin your examination of it?

2 A. I mount the hairs on glass microscope slides. I
3 put a small portion out of the dropper bottle of the Permunt
4 onto the slide and lay the hairs on there so that I believe
5 that I get the entire hair under the cover and then I place
6 a few more drops of the permunt on the hair and lay a cover
7 slip, a glass cover slip on the top and then let the slide
8 set up for a day or two. This prevents it from leaking out.
9 It jells and holds the hair so that it is possible to perform
10 the microscopic examination.

11 Q. Is there any coloration in the material that you
12 use to mount the hair?

13 A. The Permunt itself is a light yellowish color,
14 depending on the thickness of the mount; if the hair itself
15 is very thick, for example, it is going to have a yellow cast
16 to the mount itself.

17 Q. Does Permunt solidify at any time during the time
18 that it is being used as a semi-permanent mount?

19 A. It gets harder and harder with age, yes, sir.

20 Q. Is any heat used incidental with the mounting with
21 Permunt?

22 A. No, sir.

23 Q. Are you aware of any hair actually picking up any
24 colorations at any time from the mounting substance that is
25 used?

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1 A. No, sir, on occasions when I have unmounted hairs
2 and mounted them again in either a temporary mount in some
3 other solution, they have had none of the yellowish color
4 from the Permunt itself.

5 Q. Are you aware of any equipment that is used in your
6 profession that makes a comparison, an automatic or by machine
7 comparison of color of hair?

8 A. No, sir.

9 Q. Now, is there a range of color of hair, for example,
10 light to dark, where a lighter hair might be subject to a
11 more definitive comparison than a darker hair or vise versa?

12 A. I am not sure exactly what you are asking.

13 Q. Is there a color that seems to give examiners more
14 difficulty in making comparisons between known and unknown
15 hairs?

16 A. Very light, colorless hairs do not have as many
17 characteristics that can be used for comparison purposes.
18 They don't have as much pigment. They don't have a color in
19 the cortex, and because they lack many characteristics as
20 would darkly colored hairs, they are more difficult on
21 occasions.

22 Q. Would you tell the Jury whether it is within the
23 realm of your professional opinion that hairs from the same
24 source, the same head, of the same pubic area, might exhibit
25 substantially different characteristics?

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1 A. It is possible for hairs from a particular head or
2 a particular pubic area to display different characteristics.

3 Q. And the same is true with the differences in color?

4 A. Yes, sir.

5 Q. That might be even a wider variation than the
6 characteristic variation?

7 MR. HURM: Objection. Leading form of the question,
8 Your Honor. That doesn't allow any questions, Your Honor.
9 He still has to ask her examination questions.

10 MR. EDMUND: How about if I just ask, so I can expedite.
11 Your argument takes longer than to do the question over.

12 THE COURT: Sustain the objection.

13 Q. State whether or not there would be a wider range
14 of variation in color than in characteristics, or the likeli-
15 hood of that? Hair taken from the same source, whether it
16 be pubic or whether it be head hairs?

17 A. That would vary depending on the individual.

18 Q. Is your equipment capable of measurements of lengths
19 and diameter of the hair that you are examining?

20 A. Yes, we have micrometers in the eye pieces of the
21 microscopes, in which we make diameter determinations and
22 measure the hairs specifically.

23 Q. In making your comparisons, state whether or not
24 you consider the length and the size of the hair, the known
25 against the unknown?

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1 A. Yes, sir, we do use these as points of comparison,
2 but we do not necessarily make exact determinations of the
3 diameters or the length necessary. It is in the side by side
4 comparison.

5 Q. Would you tell the Jury your understanding of the
6 normal life span for want of a better phrase, of both head
7 hair and pubic hair?

8 A. A pubic hair, there are three growth stages. There
9 is the anagen stage, which is the active growing stage of
10 the hair when it first emerges from the follicle and it
11 grows in length. There is the catagen stage in which the
12 hair is resting in the follicle. It is not being shed. It
13 is not growing. It is kind of a transition stage.
14 There is a telogen phase. in which the follicle sheds the
15 hair, and rests for a period of time before it grows the new
16 hair.

17 Q. Is there a difference in each of those stages
18 between the pubic hair and head hair, in length of time?

19 A. Yes, sir, I believe it is.

20 Q. Which is the more rapid?

21 A. I believe the amount of time the hair spends in each
22 of these particular stages is longer in head hair than pubic
23 hair.

24 Q. How long... is there a norm that you would expect a
25 head to remain in the dormant of telogen stage?

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1 A. I understand that there is a range, for example,
2 of two years to five years. I don't believe it is possible
3 to give an exact amount of time.

4 Q. Is it possible to give an exact amount of time
5 regarding the other two ranges?

6 A. No, sir.

7 Q. Now, is it likely or unlikely that a hair on a
8 given source, in its initial stage, would exhibit all of
9 the characteristics that it will ultimately exhibit when it
10 has reached the telogen stage?

11 A. It is possible that there will be additional
12 characteristics in the telogen phase. Obviously, because the
13 hair is older and has been around longer and since it is
14 subjected to more environmental factors than newer hair.

15 Q. Now, does hair deteriorate to any degree after it
16 is removed from the human body?

17 A. In and of itself, no, sir.

18 Q. During the course of your professional career as it
19 relates to Forensic Hair Comparison, have you observed any
20 discernible difference between the pubic hair of a Mexican
21 and a pubic hair of someone else who would just be described
22 as Caucasian?

23 A. We don't always have access to the information
24 about the individuals who supplied hair standards to the
25 laboratory. On the occasions when standards have been

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1 submitted to me and described as coming from Hispanic
2 individuals, the hairs have most often demonstrated
3 characteristics that I normally associate with very dark
4 Caucasian head hair or pubic hair or on occasion, mixed
5 racial origin.

6 Q. Now, are you aware of any outside influences that,
7 other than just growth and the characteristics that the
8 genes of the body are going to put in a particular pubic
9 hair or head hair, that can have an effect or make changes in
10 the characteristics of hair? Such as illness?

11 A. It would be possible for certain illnesses to
12 affect hair, yes, sir.

13 Q. Have there been some recent studies and literature
14 in that area?

15 A. There have been some studies in the past. Specifically,
16 by dermatologists. They are the ones who are most associated
17 with diseases of the hair, who have presented evidence that
18 certain neurological disorders and genetic disorders will
19 have or can have an effect on the characteristics of the
20 hair.

21 Q. In your profession, generally, is there some opinion
22 that examiners who work for the Federal Bureau of Investi-
23 gation are more competent than the examiners who work for
24 the Florida Department of Law Enforcement or other competent
25 agencies?

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1 A. Not to my knowledge, no.
2 Q. Now, do you know Mrs. Jennie Ahern?
3 A. Yes, I do.
4 Q. Do you know Mr. Rafferty?
5 A. Yes, I do.
6 Q. Do you know Mr. Brackman?
7 A. Yes, I do.
8 Q. Are these all analysts with your Department?
9 A. Yes, sir.
10 Q. Co-workers of yours?
11 A. Yes, sir.
12 Q. Have you had occasion in the past to testify in
13 response to a Defense subpoena?
14 A. Yes, sir.
15 Q. And has that occurred on more than one occasion?
16 A. Yes, sir.
17 Q. Would you estimate for the Court and the Jury the
18 approximate number of times you had to testify in response to
19 a Defense subpoena?
20 A. About two or three.
21 Q. Did you have occasion in the case in which you are
22 testifying now, to make an examination of an unknown hair and
23 compare it with known samples of hair of James Duckett?
24 A. Yes, I did.
25 Q. Now, did you make a report, whether written or oral,

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1 as a result of your initial examination?

2 A. Yes, sir.

3 Q. Would you tell the Jury the approximate number of
4 known hairs from James Duckett that you used in your
5 examination?

6 A. I used approximately thirty hairs.

7 Q. And would you tell this Jury and the Court what your
8 ultimate conclusion was at that stage of your comparison?

9 A. I reached no conclusion, based on the examination
10 that I made.

11 Q. Did you make such a report to any representative
12 of the Lake County Sheriff's Department?

13 A. Yes, sir.

14 Q. And upon making that report, what instructions, if
15 any, did you receive from the representatives of the Lake
16 County Sheriff's Department?

17 A. Initially, before I issued the written report, I
18 requested additional standards from Mr. Duckett.

19 Q. And were you provided with the additional standards?

20 A. No, sir.

21 Q. Ma'am?

22 A. No, sir.

23 Q. What instead instructions did you receive?

24 A. I received information that the additional standards
25 were not available and then I believe it was determined that

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1 the hairs were going to be sent to Lifecodes for potential
2 DNA analysis and they requested that the hairs be returned
3 to them.

4 Q. To your knowledge, have you had experience in the
5 past where you made a report to any agencies and had them
6 send the material away to another examiner for another opinion?

7 A. No, sir, not to my knowledge.

8 Q. I am going to hand you State's Exhibit #71... 77,
9 I am sorry, which has been introduced and identified as
10 the questioned hair in the matter in which you are now
11 testifying. When you made the comparison between that,
12 State's Exhibit #77, and the known Duckett samples, will you
13 detail to the Jury as best you recall, each step that you
14 made in seeking to make a comparison or exclusion?

15 A. Okay, when I received the evidence and took it back
16 to my work area in the laboratory, I went through the items
17 of evidence that I had and inventoried what hairs were
18 present. At that time, I found a pubic hair in the debris
19 from the victim's panties. At that time, that hair was
20 mounted on a microscope slide as I described to you earlier,
21 and compared it against the standard of the victim's own
22 hair and found it to be substantially different from the
23 victim's pubic hair that had been presented to me.

24 At that time, I mounted up standards from the sample
25 from Mr. Duckett and compared that as I explained to you

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1 earlier with the Q hair present.

2 Q. Would you go in more detail into the procedure you
3 used when making the comparison, the ultimate comparison,
4 between the unknown hair and the known samples of Duckett's
5 hair? How did you go about it and how long, if you recall,
6 did it take you to make these comparisons between the
7 unknown and the thirty or more knowns?

8 A. I don't recall specifically exactly the amount of
9 time I spent in this particular examination. I examined the
10 standard from Mr. Duckett in depth, familiarizing myself
11 with the characteristics and the range of their variation.
12 I compared them macroscopically, and by that, I mean without
13 a microscope, with the standard from the victim, and they were
14 substantially different, so I knew that I would have no
15 problem distinguishing the hairs from the two individuals.

16 I then examined the questioned pubic hair microscopically.
17 I found enough similarities that I decided to do a side by
18 side hair by hair comparison with the standard from Mr.
19 Duckett.

20 At that time, I placed the questioned hair on one
21 microscope, one portion of comparison microscope, and I
22 placed the slides, one after another of the standard hairs
23 of Mr. Duckett on the other side, every hair in the standard
24 with the questioned hair.

25 Q. Each of the thirty to fifty hairs you made that

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1 type of comparison?

2 MR. HURM: Your Honor, I am going to object to the mis-
3 characterization of testimony. He has got from around thirty
4 which is what she testified to, to thirty or more, and now
5 thirty to fifty.

6 MR. EDMUND: That was her original testimony, if it
7 please, Your Honor.

8 THE COURT: Why don't we ask her how many she did?

9 A. There were approximately thirty hairs on the
10 standard I used.

11 MR. HURM: Thank you.

12 Q. Your testimony then is that you preferred thirty to
13 fifty, as opposed to the number you received on Duckett?

14 A. Thirty to fifty is the number that we normally
15 request.

16 Q. I am sorry. Then you compared each of the
17 approximate thirty hairs with the unknown hair?

18 A. Yes, sir.

19 Q. Individually?

20 A. Yes, sir.

21 Q. Did you find one or more hairs that exhibited
22 substantial similarities?

23 A. Yes, sir.

24 Q. Was that two?

25 A. Looking at the hairs in their entirety, there were

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1 many similarities in all of the hairs. However, I felt
2 that the hairs in the standard fell into two populations.
3 By that, I mean some characteristics, not all of them, but
4 some of the characteristics fell into two distinct ranges.
5 I can give you an example with color, for example. That would
6 be a good... all the hairs from the standards share many
7 characteristics. However, in the particular characteristic
8 of color, the hairs would be either brown or blonde for
9 example. We have all these other characteristics that they
10 share. That particular characteristic had two populations.
11 The hairs would be divided in that manner. That is what I
12 found in this particular case. I found that the hairs fell
13 into two distinct populations in regard to one or two
14 characteristics. Of the roughly thirty hairs that I needed,
15 the vast majority of them fell into one population and two
16 or three fell into this other population.

17 Q. And was that the population in which the unknown
18 hair would likely have been, were they compared?

19 A. Yes, sir.

20 Q. Now, I am going to ask you to look at State's
21 Exhibit #66 and ask you if you recognize the items that are
22 portrayed on State's Exhibit #66? May I, Your Honor, I am
23 sorry to block you.

24 A. Yes, I do.

25 Q. Would you tell the Jury what your opinion is of what

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1 you are observing?

2 A. It appears to be a rough diagram of the general
3 characteristics present in the human hair.

4 Q. Alright. Does it seem to contain the various items
5 that you would want displayed in a display of this sort?

6 A. Yes, sir.

7 Q. Alright., Are there characteristics that you
8 discerned in the known and the unknown hair that you might
9 point out on here to the Jury, other than just the color that
10 you referred to on a number of occasions?

11 A. Of all the characteristics that are present on this
12 particular chart, were contained in the hair, by that I mean
13 these were demonstrated more obvious characteristics that
14 are present in all hair. The pattern in which they are
15 present in the hair samples that I examined, did not look
16 exactly like this, of course. The pigment that you see here
17 in the cortex, or the middle section of the hair, were
18 present there. They had a variation in the amount of pigment
19 that was present, the size of the pigment, the distribution
20 across the hairs.

21 Q. When you say "they", are you saying from here to
22 here, you found these differences?

23 A. No two hairs are identical, even from the same
24 individual. They are all going to display a variation.
25 A very small range of variation. There are no identical

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1 hairs. By that, I mean you wouldn't take a three
2 dimensional picture of one hair and overlay it over a three
3 dimensional picture of the other and not have there be some
4 differences. They are not picked out by a machine and
5 produced by volume. All the characteristics may fall within
6 a narrow range or be very similar to one another, but they
7 are not going to be identical as for example a fiber.

8 Q. What other characteristics did you find that may
9 have been distinguishable between the known and the unknown
10 hairs?

11 A. Are you asking me what differences I found between
12 the known and the unknown hairs?

13 Q. Yes, sir.

14 A. There were several hairs that were in Mr. Duckett's
15 standard that fell into the smaller population. Had some
16 very slight differences from the questioned hair, in the
17 pigmentation. I felt the hairs in Mr. Duckett's sample were
18 quite ... the pigment wrinkles itself were slightly larger
19 and appeared slightly more crisp microscopically and a
20 little bit more distinct and I believe a little bit heavier
21 distribution. These are very slight differences. That is
22 why I requested additional standards from Mr. Duckett.

23 Q. How about differences between the known hair and
24 the balance between the unknown hair and the balance of the

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1 unknown sample, what were some of the distinctions between
2 those that you observed?

3 A. I didn't make any notes between the differences that
4 were present in the questioned hair and the larger population
5 of Mr. Duckett's. I can't tell you some exact differences.
6 I just did have in my notes that there were two populations
7 and the smaller population was the one that contained more
8 similarities.

9 Q. But even in the two that you concluded might be in
10 the population closer or more closely related to the unknown,
11 you nevertheless found still some dissimilarities ...

12 MR. HURM: I object to the leading nature of that
13 question, Your Honor.

14 Q. Can you state whether or not that in the two hairs
15 that you found with substantial similarities to the unknown
16 hair, that you nevertheless found differences no matter
17 whether subtle or otherwise?

18 A. There were, I felt, subtle differences in the hairs
19 contained from the standard, which looked most closely like
20 the questioned hair.

21 Q. Now, did you find ever a single hair in the known
22 sample that contained twenty characteristics observable by
23 you that you also observed in the unknown hair?

24 A. I found no single hair in the standard that I felt
25 was an excellent match to the questioned hair. By that I

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1 mean there were no differences whatsoever in the character-
2 istics displayed by the questioned hair and displayed by the
3 hair in the known samples.

4 Q. This is a statement that was made by Special Agent
5 Malone of the Federal Bureau of Investigation as relates to
6 this case. This pubic hair...

7 MR. HURM: Page and line, please?

8 MR. EDMUND: I am sorry. Turn to page 28, line 23.

9 MR. HURM: Thank you.

10 Q. "This pubic hair reported as being from Teresa
11 McAbee's panties microscopically matched the pubic hair
12 from Mr. Duckett. In other words, it had exactly the same
13 characteristics and the same arrangement. It was completely
14 indistinguishable from his pubic hair and, therefore, I
15 conclude that the hair from the panties is consistent with
16 having originated from Mr. Duckett." Did you find even a
17 single hair let alone twenty that were completely indistin-
18 guishable from the unknown hair?

19 MR. HURM: That has been asked and answered, Your Honor.

20 THE COURT: Overruled.

21 A. Not in the samples that I examined.

22 Q. Thank you. Did you even identify twenty distinct
23 characteristics in the unknown hair?

24 A. That is not the way that we normally perform a
25 hair examination.

- 1623 -

1 Q. Thank you. Would you explain to the Jury what you
2 would do as opposed to identifying twenty specific
3 characteristics, please?

4 A. When we are performing a hair examination, we don't
5 have the list of twenty characteristics normally present
6 in hair and we don't go down the list and describe each of
7 these characteristics. We are performing a side by side
8 comparison. We don't count the number of characteristics
9 that match. We don't have a minimum number of characteristics
10 that we use. We are actually comparing the hair side by
11 side, trying to determine whether or not the questioned hair
12 , the characteristics displayed by the questioned hair
13 falls within the range displayed by the standard hair. I will
14 never be able to tell you the exact number of characteristics
15 that I used to compare, because that is not the manner in
16 which we perform this particular examination.

17 Q. You have been through the F. B. I. school and all
18 to assist you in acquiring the knowledge to further yourself
19 in your profession, is that what you said?

20 A. Yes, sir.

21 Q. Do you feel that you failed to observe on the
22 unknown hair or for that matter, the known hair, any distin-
23 guishable characteristics, Mrs. Steger?

24 A. No, sir.

25 Q. Were you working under any distractions or anything

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1 like that when you were working on the Duckett case,
2 Mrs. Steger?

3 A. No, sir.

4 Q. Were you writing speeches or anything like that
5 during that period of time?

6 A. No, sir.

7 Q. Were you flying all over the country giving speeches
8 on serial murder investigations or anything like that?

9 A. No, sir.

10 Q. did you spend 600,000 hours looking at hairs during
11 your professional career?

12 A. No, sir.

13 Q. Will you state whether or not when you testified
14 you attempted to testify to the facts or you tend to
15 exaggerate?

16 A. I testify to the facts.

17 Q. Now, would you tell the Jury whether hair is the
18 type of identification that is normally associated with
19 fingerprints?

20 A. No, sir, hair comparison is not an identification.
21 It is corroborative evidence.

22 Q. Would you state whether or not most hair examiners
23 are of the opinion as you said, or most hair examiners, that
24 it is only corroborative and should be corroborative and
25 should have other corroboration in order to result in

- 1625 -

1 identification?

2 A. I can't state how most hair examiners feel, but the
3 examiners who I have come into professional contact with
4 agree that hair comparison has not reached the point in its
5 science, if you will, that it is possible to specifically
6 identify an individual by that hair comparison.

7 Q. During the course of your professional career, have
8 you had occasion to examine either known or unknown hairs
9 and discover especially unusual characteristics?

10 A. Yes, sir.

11 Q. Did you discover any especially unusual characteris-
12 tics in the known samples of Duckett's hair?

13 A. I didn't make a note of any unusual characteristics.

14 Q. Did you discover any particularly unusual character-
15 istics in the unknown hair comparing with the Duckett hair?

16 A. I made no notes of it.

17 Q. Is it a probability that an unusual characteristic
18 would be something of the nature that you would make a note
19 of?

20 A. Most likely I would make a note if I found it
21 unusual.

22 Q. Now, is there a narrower range of characteristics
23 incidental to pubic hair than to head hair, Ms. Steger, or
24 under normal circumstances?

25 A. If you are asking me if there are a more limited

- 1626 -

1 number of characteristics available for examination in
2 pubic hairs than head hairs, yes, sir.

3 Q. Thank you. Thank you, I guess I did ask it
4 backwards.

5 Now, did you make a determination of the stage of
6 development that the unknown hair was in? Was it in the
7 telogen phase?

8 A. Yes, sir.

9 Q. That is the stage where it is going to fall out at
10 some point in time?

11 A. Yes, sir.

12 Q. From your examination of a head hair or a pubic
13 hair, are you able to make a determination of the sex of the
14 donor?

15 A. No, sir.

16 Q. Are you aware of a scientific process that can
17 determine the sex of the donor?

18 A. Yes, sir.

19 Q. And is that more in the area of serology than
20 in the area of hair comparison?

21 A. Yes, sir.

22 Q. And does it have to do with the examination of
23 roots and the bar bodies and the wide bodies in order to make
24 a determination of the sex of the donor?

25 A. Yes, sir.

- 1627 -

1 Q. Is such a procedure available to the laboratory
2 of the Federal Bureau of Investigation?

3 A. I don't know.

4 Q. How about with the Florida Department of Law
5 Enforcement?

6 A. No, sir, we don't perform that examination in our
7 laboratory.

8 Q. Now, do you attach any significance in the manner
9 in which evidence is handled once found and become in the
10 possession of law enforcement?

11 A. Yes, sir.

12 Q. Particularly as relates to hair comparison, do
13 you find any significance in whether or not clothing, for
14 example, be kept separate from other clothing prior to
15 examination for any evidence that might be adhered to any
16 of the clothing?

17 A. Yes, sir.

18 Q. Are you familiar with the term or phenomena of
19 secondary transfer?

20 A. Yes, sir.

21 Q. Would you tell the Jury what your definition is
22 of secondary transfer?

23 A. Secondary transfer is what occurs when a hair
24 for example, is shed by an individual onto an object or
25 another individual and picked up by yet a different individual.

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1 It could be, for example, if any of the members of the Jury
2 shed a head hair onto the chair and the next person sitting
3 in that chair picks up that hair on their clothing. That is
4 secondary transfer.

5 Q. May I have a moment, Your Honor?

6 THE COURT: Yes, sir.

7 MR. EDMUND: No further questions.

8 THE COURT: Mr. Hurm?

9 CROSS EXAMINATION

10 BY MR. HURM:

11 Q. Good morning, Ms. Steger.

12 A. Good morning.

13 Q. We have talked before. My name is Steve Hurm. As
14 a matter of fact you have testified in cases for me before,
15 haven't you?

16 A. Yes, sir.

17 Q. Ms. Steger, let me start with this chart over here,
18 State's Exhibit, I believe, #66. Mr. Edmund showed it to you.
19 That is an accurate portrayal of the characteristics of a hair,
20 isn't it?

21 A. The general characteristics, yes, sir.

22 Q. General, but this has nothing to do, does it, with
23 the specific case?

24 A. That is correct.

25 Q. And this doesn't even show any color on it, does it?

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1 A. That is correct.

2 Q. Ms. Steger, what you do in a hair examination, don't
3 you first look at either the unknown hair or the known hair
4 standard under one microscope and examine that and kind of
5 familiarize yourself with what it looks like?

6 A. Yes, sir.

7 Q. Isn't it true that in a hair examination, it has
8 been analogized to seeing a person one time and not seeing
9 him for a number of months? You can't really describe what
10 they look like, but you know you would recognize them if you
11 saw them?

12 A. I have never heard that analogy.

13 Q. Would that be a fair comparison? In other words,
14 when you look at that hair, you are trying to familiarize
15 yourself with the characteristics, even though you can't, as
16 you said, write down the characteristics and say, "Well, there
17 is this one and there is this one and there is this."
18 Yet you are familiar enough with it that if you see that hair
19 again or one that is very similar to it, you would recognize it?

20 A. Yes.

21 Q. Kind of like if I saw your face and didn't see you
22 again, I couldn't tell the bailiff, you know, what it was
23 about you that would cause him to recognize you necessarily,
24 but I would recognize you myself?

25 A. Yes, sir, if you spent a sufficient amount of time

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1 familiarizing yourself with me.

2 Q. So it is that whole mix of what you look like
3 that would make an impression on my mind that would enable me
4 to recognize you?

5 A. Yes, however, you need to bear in mind that when you
6 are performing a hair comparison, we are actually comparing a
7 side by side comparison.

8 Q. But initially, you just look at one, don't you?
9 Initially, you don't look at them side by side?

10 A. No, sir, when we are determining whether or not to
11 perform the side by side, we would just look at one.

12 Q. Alright, and isn't it true that sometimes when you
13 look at the questioned hair under that one microscope and not
14 the side by side microscope, just the one, before you look at
15 the known hair, let's say you look at the unknown and then you
16 look at the known. Isn't it true in your experience that
17 sometimes you know instantly that they didn't come from the
18 same person?

19 A. Yes, sir.

20 Q. Maybe one is a Negroid and one is a Caucasian hair
21 and you can pick that up instantly, can't you?

22 A. Yes, sir.

23 Q. So isn't it true that elimination of some hairs
24 can be done in a matter of seconds?

25 A. That is correct.

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1 Q. And so in the course of an hour, if you had a whole
2 bunch of hair to look at, you could go through hundreds or
3 thousands of hairs in the course of an hour to eliminate in
4 that kind of manner, couldn't you?

5 A. I would expect it would take a little bit longer than
6 that, but it is possible to go through and eliminate some
7 hairs fairly rapidly.

8 Q. Now, you said there are ranges of characteristics
9 and these are the ones you listed. I tried to get down most
10 of them. Measurement, color, race, body area, morphological
11 characteristics, pigment, medulla, cortex, chemical treatment,
12 grooming, so that is a list of the kinds of things you would
13 be looking for, right?

14 A. Yes, sir.

15 Q. Now, wouldn't it be fair to say that if you have a
16 questioned hair or known hair, as you go through ... let me
17 kick back and strike that. When you look at the color, you
18 said there is no computer that helps you determine what
19 color it is?

20 A. That is right.

21 Q. You have to rely on your eyes?

22 A. Yes, sir.

23 Q. And your experience?

24 A. Yes, sir.

25 Q. Would it be fair to say that there is really no way

- 1632 -

1 to become a good hair examiner other than sitting down and
2 looking at hairs, because of the nature of science?

3 A. Yes.

4 Q. So the more experience you have, the more you are
5 going to be able to look down and look at hairs and make this
6 kind of comparison or elimination?

7 A. You can certainly refine your craft.

8 Q. That is what I mean. I don't mean you are not able
9 to do it one day and you are able to do it the next day, but
10 you are going to refine the more times you do it; the more
11 hairs you look at it.

12 A. Yes.

13 Q. Now, when you look at, let's say the pigment granules,
14 you said something about the density of the pigment granules
15 and so forth, when you look at that and you are doing a side
16 by side comparison, would it occur in your mind the pigment
17 granules look dense in this one and they look as dense in that
18 one, so that would be a similar characteristic, right?

19 A. Yes.

20 Q. As you compare? Do you make notes of that kind of
21 similarity or do you just keep it in your head as you are making
22 this comparison to determine whether or not the hairs are
23 similar or dissimilar?

24 A. When I perform a hair examination, the notes that I
25 take are a general description of the standard before I ever

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1 perform the side by side comparison. The notes that I take
2 when I perform the side by side comparison, are notes of any
3 differences that I might find between the questioned hair and
4 the standard. It is more of observation at the immediate time
5 rather than thinking this is dense, this is dense, this is
6 dense and I am going to write down dense.

7 Q. I see. Okay. Now, when you look under the one
8 microscope initially at a Q hair, questioned hair, and a
9 known hair, how much similarity does there have to be before
10 you are going to do a side by side?

11 A. It would have to be similar in gross characteristics,
12 general color, the configuration of the hair, whether it is
13 curly or straight, the length of the hair, things very obvious
14 at first. Then if it is very similar there, I would compare
15 it side by side.

16 Q. So there would be a number of similar characteristics
17 you would see before you would even do a side by side?

18 A. Yes, sir.

19 Q. Even though you might not write down that number of
20 characteristics?

21 A. Yes, sir.

22 Q. And you said you don't have a specific number of
23 characteristics that you are looking for?

24 A. No, sir.

25 Q. On that, let me just ask you to clarify my own mind,

1 when you said you don't look at a list, you said you don't
2 have a list of twenty characteristics that hair should have
3 and you look in the microscope and, "Yeah, that one is there"
4 and go back and check. You don't do that, right?

5 A. That is correct.

6 Q. Now, when you say you request thirty to fifty hairs,
7 you generally want those from a wide range of a particular
8 body area, right?

9 A. Yes.

10 Q. So in other words, if you got a head hair that is an
11 unknown hair and you want to compare that with known hairs,
12 of a suspect in a case, you would want head hair from the back,
13 front, both sides, top and so forth, wouldn't you?

14 A. Yes, sir.

15 Q. You want head hair from all over?

16 A. Yes.

17 Q. Would the same be true of the pubic area?

18 A. Yes.

19 Q. You would want head hairs from the entire pubic
20 area and not just one particular section?

21 A. Pubic hairs from the entire area, that is correct.

22 Q. So that even if you had say fifty hairs, talking
23 about head hairs, if you had fifty hairs and all of them were
24 pulled from right here, that wouldn't do you any good, would
25 it?

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1 A. Only if the hair in question was from that particular
2 area.

3 Q. If the hair in question was from down here in the
4 sideburn, it wouldn't help you if you had fifty or a hundred
5 from here, would it?

6 A. It is possible that there would be enough differences
7 that you would not be able to determine if that hair came from
8 that source.

9 Q. Now, in this particular case, when you got the hair,
10 the Q hair, and you got the known standards from Duckett, you
11 said you weren't able to reach a conclusion, right?

12 A. That is correct.

13 Q. So you didn't eliminate Duckett?

14 A. No, sir.

15 Q. But you just didn't have enough to compare and say,
16 "Yes, that is consistent with Duckett"?

17 A. Yes.

18 Q. And when you requested more hairs, didn't you request
19 a wider area or broader range of the pubic area?

20 A. Yes, sir.

21 Q. For the hair to be pulled from?

22 A. Yes.

23 Q. Now, when you took these thirty hairs, I believe you
24 said you used thirty?

25 A. Roughly thirty.

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1 Q. did you make thirty slides?
2 A. No, sir.
3 Q. How many slides did you make?
4 A. I don't recall exactly.
5 Q. But there were thirty hairs divided among how many
6 slides you made?
7 A. Right.
8 Q. Did you dismount any of those mounts?
9 A. No, sir.
10 Q. Is that the correct term, dismount or unmount?
11 A. Unmount.
12 Q. Okay. Dismount is off a horse I guess.
13 Alright. You didn't unmount any of the known slides?
14 A. No, sir.
15 Q. Of the known hairs. Were there hairs left over you
16 didn't mount?
17 A. It is possible there were a few hairs that were not
18 suitable for comparison purposes left in the envelope.
19 Q. And those wouldn't have been mounted at all?
20 A. No.
21 Q. And those would have been knowns of Duckett that would
22 not have been mounted at all?
23 A. Yes, sir.
24 Q. Now, are you familiar with the DNA testing that is
25 coming of age now scientifically for determining blood, semen

- 1637 -

1 and hair? The source of that blood or semen or hair? Are
2 you familiar with that method of testing?

3 A. Yes.

4 Q. Is that what Lifecodes does?

5 A. Yes.

6 Q. They take a known sample and an unknown, whether it is
7 blood, semen or hair or saliva or whatever, and they try to
8 make a DNA match, or eliminate through DNA, is that right?

9 A. Yes.

10 Q. And when you had reached no conclusion on your
11 comparison with the hair, the Sheriff's Office asked you to
12 send the hairs back so they could send them to Lifecodes and
13 have a DNA test done, right?

14 A. That is correct.

15 Q. So they didn't ask you ... they didn't tell you to
16 send the hairs back and say, "We want a second opinion, we
17 don't like yours"?

18 A. No, sir, they didn't.

19 Q. The DNA is an entirely different thing than what you
20 do, isn't it?

21 A. Yes, sir.

22 Q. Isn't it true, Ms. Steger, that the DNA as far as the
23 future of law enforcement prosecution, is a very promising
24 science?

25 A. Yes, sir.

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1 Q. Because it can match, whereas your hair analysis and
2 Agent Malone's hair analysis isn't like a fingerprint. You
3 can't match it exactly, but DNA can match exactly?

4 A. That is my understanding.

5 Q. But isn't it true that in a DNA test, let me refer
6 you again to the State's #66, in the DNA testing, they need
7 at least the root area and possibly the follicle to do that?

8 A. I understand that, yes, sir.

9 Q. Because that is where they extract the DNA out of,
10 right?

11 A. Yes.

12 Q. On the Q hair that you received in this case, was
13 there a root present?

14 A. There was a root present.

15 Q. How about a follicle?

16 A. No, sir.

17 Q. There was no follicle at all?

18 A. No, sir.

19 Q. Now, when you mount a hair, you use Permunt?

20 A. Yes, sir.

21 Q. When you took the court at the F. B. I. School, the
22 F. B. I. lab, is that what they used for mounting these?

23 A. Yes, sir.

24 Q. And you said you can't lay a hair out a certain way
25 and make sure it is flat all the way down?

- 1639 -

1 A. No, sir, curly hair is going to curl.

2 Q. Would it be fair to say that when you make a slide
3 out of say a pubic hair, which generally would be a curly
4 hair, when you make a slide out of a pubic hair, you are going
5 to be able to see microscopically through that hair as it
6 lays flat, as well as through that hair as it lays up on its
7 side?

8 A. Unless it is opaque, yes, sir.

9 Q. Opaque meaning no color?

10 A. Meaning that it is so dense or so dark that no
11 light is ...

12 Q. Oh, I see, okay. Alright. But most hair that you
13 examine is not opaque?

14 A. No, sir.

15 Q. So in one slide, you would be able to see both the
16 flat and the long side of the hair?

17 A. Generally speaking, yes, sir.

18 Q. Because of that twisting?

19 A. Yes, sir.

20 Q. And you in your comparison would compare flat
21 prospective of the unknown and flat prospective of the known?

22 A. Yes, sir.

23 Q. And the long edge to the long edge of the known to
24 the unknown?

25 A. That is correct.

- 1640 -

1 Q. Now, you said that the number of hairs you feel you
2 need to look at varies and you can use as few as ten?

3 A. Yes, sir.

4 Q. But you said that if there was a wide range, and I
5 think you said of white to dark brown, you want to look
6 at a large number of hairs?

7 A. Yes, sir.

8 Q. In a case where, let's say the hairs were all various
9 shades of dark brown, would you need a great deal more than
10 ten hairs?

11 A. It would depend on the other characteristics displayed
12 by those particular hairs. It is possible that some of the
13 other characteristics would have a wide range in which case
14 I would need more, yes, sir.

15 Q. Alright. Now, you said you were aware of no computer
16 microanalysis of hair?

17 A. No, sir.

18 Q. This relies on human brain and human eyes and human
19 experience, right?

20 A. Yes, sir.

21 Q. And you don't use any heat in your mounting of the
22 hairs?

23 A. No, sir.

24 Q. Let me show you, Ms. Steger, what has been marked in
25 evidence as State's 65. Do you recognize this Petri dish

- 1641 -

1 inside #65?

2 A. Yes, I do.

3 Q. How do you recognize it?

4 A. It has my initials on it.

5 Q. That is the Petri dish of the Q hair, the unknown
6 hair which you received from Witt Graves?

7 A. Yes.

8 Q. Who swept the pants, right?

9 A. Right.

10 Q. Thank you. And then you took it out of this Petri
11 dish and you mounted it on a slide and used that slide for
12 your examination?

13 A. That is correct.

14 Q. Then after you were finished, you found out the
15 Sheriff's Office wanted to see if Lifecodes could come up with
16 a DNA and you unmounted that hair, right?

17 A. That is correct.

18 Q. And I want to show you what has been marked in
19 evidence as State's #63, another Petri dish. Do you recognize
20 that one?

21 A. Yes, I do.

22 Q. And you put the hair, after you unmounted it, you put
23 it in that second petri dish, right?

24 A. That is correct.

25 Q. And that was the Petri dish in which the hair was

- 1642 -

1 held when you turned all the hair evidence back to the Sheriff's
2 Office for transport to Lifecodes?

3 A. Yes.

4 Q. Now, you said that very light, colorless hair is
5 harder to compare than darker hair?

6 A. Yes, sir, generally speaking, because it does not
7 contain as many characteristics as other hairs.

8 Q. Was that the case with the Q hair? Was it light in
9 color?

10 A. No, sir.

11 Q. How about Duckett's knowns?

12 A. No, sir.

13 Q. You said you can and do measure the width of hair,
14 but most of the data is obtained by side by side comparison?

15 A. That is correct. On occasion, on very rare occasions
16 we would have made actual measurement, apply a number to the
17 diameter, for example. We usually assign a number to the
18 length of head hair, but we don't normally on pubic hair.

19 Q. Because pubic hairs aren't cut?

20 A. They generally don't tend to have quite a wide range
21 of length as head hair.

22 Q. Because there is no styling done or hair cuts of
23 pubic hair, right, like there is head hair?

24 A. Not usually, no.

25 Q. So my head hair is longer on top than it would be right.

- 1643 -

1 here on the side?

2 A. Yes, sir.

3 Q. So that is why you would measure head hair, the
4 length, because it might show it came from a different area of
5 the head?

6 A. That is correct.

7 Q. But that wouldn't be true of pubic hair?

8 A. That's right.

9 Q. Now, when you look at the width of the hair in your
10 side by side comparison, if one hair is noticeably wider than
11 the other hair, that would be a dissimilarity for you to note,
12 wouldn't it?

13 A. Yes.

14 Q. Did you note any dissimilarity of that kind between
15 the Q hair and Duckett's knowns in this particular case?

16 A. No, sir.

17 Q. Now, you said that the life span of hair from what
18 your understanding is, from your training and your reading of
19 the literature, is two to five years?

20 A. No, sir, I said I believe that hair can remain in
21 the follicle or in that growing stage for that long. That
22 was not the entire life cycle.

23 Q. So the growing stage, that is the anagenic stage?

24 A. Yes, sir.

25 Q. So it could be in the agagenic stage for up to five

- 1644 -

1 years?

2 A. Yes, sir.

3 Q. And then it would go into the catagenic stage?

4 A. Yes, sir.

5 Q. Do you have any idea how long it could be in that
6 stage?

7 A. I believe that that varies a great deal also.

8 Q. What would be the minimum amount of time and maximum
9 amount of time?

10 A. Two to five years sticks in my mind, but I don't know
11 how accurate that is.

12 Q. So then two to five years in the anagenic stage,
13 another two to five years in the catagenic stage?

14 A. Yes.

15 Q. And then the telogenic stage, is that after the hair
16 has fallen out or it could fall out?

17 A. that is when the follicle releases the hair. The hair
18 may fall out on its own at that point, or it may have to have
19 some physical touch.

20 Q. Being brushed out?

21 A. Yes.

22 Q. How long can the telogenic stage last?

23 A. That is also a number of years.

24 Q. So then two to five? Would that be...?

25 A. I would think that it is certainly possible for it to

- 1645 -

1 be in that stage for two to five.

2 Q. So then essentially, one particular hair coming out of
3 one particular follicle could grow over five years; could then
4 be in the anagenic stage for another five, for a total of ten,
5 and then could be dormant after it came out before another hair
6 came in for another five years?

7 A. Yes, it is possible. These numbers are for head
8 hair. I don't know the numbers for pubic hair.

9 Q. Would there be any reason to think pubic hair would
10 be significantly different?

11 A. I believe that the life span of the pubic hair is
12 a shorter duration than head hair, but I don't know exactly
13 how much shorter.

14 Q. Well, even if we cut it from fifteen years down to
15 ten years, from the time the hair starts to come out of the
16 follicle until we find a new hair would come out of that
17 follicle could be ten years?

18 A. I don't know.

19 Q. You said there is no microscopic deterioration of
20 the hair through its life, absent some outside influence, like
21 bleaching or something like that?

22 A. I would say that is a fair statement, yes, sir.

23 Q. Now, in this particular case, Ms. Steger, on your
24 report you found the Q hair and I am reading from your results:
25 "Found within the debris from Q-6, the victim's panties, was

- 1646 -

1 one Caucasian pubic hair microscopically different from the
2 pubic hair standard collected from the victim?

3 A. Yes.

4 Q. So you determined in your experience and based on your
5 training and your examination that this was a Caucasian hair?

6 A. Yes, sir.

7 Q. And that it was a Caucasian pubic hair?

8 A. Yes, sir.

9 Q. And it was not the victim's Caucasian pubic hair?

10 A. Yes.

11 Q. And you knew it was found in the victim's panties?

12 A. Yes.

13 Q. Have you had any specific experience dealing with
14 Mexican hairs? A great number of Mexican hairs in comparison?

15 A. On occasion, we do get samples from individuals who
16 are described to us as Hispanic or Mexican. I don't have any
17 particular number of times we have actually seen this.

18 Q. You said of outside influences on hair, Mr. Edmund
19 asked you about illnesses and you said there might be some
20 neurological illnesses or genetic disorders that would cause
21 changes in hair?

22 A. Yes.

23 Q. What kind of neurological illnesses?

24 A. I don't know the names of the diseases. I know they
25 are associated with the characteristics that are in hair, that

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1 are a result of the diseases, for example, trichotillomania...

2 Q. What does that do?

3 A. These are various changes in the structure of the
4 hair itself. Sometimes in one of the illnesses, for example,
5 the pigment appears in black bands down the hair rather than
6 distributed throughout the shaft of the hair. Another of the
7 diseases, the hair appears to be in restriction. The head
8 hair, for example, is fairly even in diameter all the way down
9 the length of the hair. It would have regular or irregular
10 restriction in the diameter. There are various characteristics
11 associated with these diseases.

12 Q. You are talking about head hair. Could that affect
13 the pubic hair as well?

14 A. Yes, sir, I know a number of the diseases are displayed
15 also in pubic hair, but I can't give you the names of them.

16 Q. In your comparison of Duckett's knowns and the Q hair,
17 first with the Q hair, did you notice any indication of any
18 of the diseases you are familiar with ?

19 A. No, sir.

20 Q. How about Duckett's knowns?

21 A. No, sir.

22 Q. Can you tell whether hair is diseased in your experience
23 from your... I think you called it macroscopic investigation?
24 In other words, unaided, not under the microscope, but just
25 looking at the hair?

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1 A. I would not expect that I could do that, no, sir.

2 Q. So you couldn't look across at the defendant and tell
3 us if you think he had a hair disease now?

4 A. No, sir.

5 Q. You found no unusual characteristics in either of the
6 hair?

7 A. I noted no unusual characteristics, no.

8 Q. But you said it would be your procedure, your method,
9 to list those unusual characteristics if you found them?

10 A. Yes, sir.

11 Q. Now, in your experience, from a secondary transfer,
12 Ms. Steger, would you expect if Person A deposited a hair
13 on a chair and Person B came and sat on it, you said that would
14 be secondary transfer for Person B to pick up that hair that
15 was from Person A?

16 A. Yes.

17 Q. Would you expect that a pubic hair of Person A could
18 be transferred to that chair? A pubic hair now? Left there
19 and then when Person B came and sat down on the chair, that
20 that pubic hair would be picked up inside the crotch area of
21 the person's panties?

22 A. No, sir.

23 Q. Can I have a moment, Your Honor?

24 THE COURT: No, sir.

25 MR. HURM: Thank you, Ms. Steger.

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1 RE-DIRECT EXAMINATION

2 BY MR. EDMUND:

3 Q. Do you have an opinion as to whether or not it is
4 possible that the pulling of a man's shirttail out by a man
5 might eject a pubic hair from his clothing?

6 A. No, I have no opinion on that.

7 Q. Do you find that it is not within the area of
8 scientific possibility? Or is it within the area of scientific
9 possibility?

10 A. I don't believe I can make that determination.

11 Q. Let's assume for the purpose of our next question
12 that that, in fact, occurred. Then is it within the realm
13 of scientific possibility that that pubic hair adhering to the
14 outside of his clothing could adhere to some other object, a
15 seat or otherwise?

16 A. Yes, sir, that would be a secondary transfer.

17 Q. And then to be picked up by the clothing of a second
18 person that comes along?

19 A. Yes.

20 Q. And then during a bodily function of urinating, it
21 falls from the clothing into the panties, if we want to go to
22 extremes?

23 A. I can't really make that determination.

24 Q. Now, in your report that was read by the State,
25 you also concluded that the microscopic comparisons of the Q

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1 hair with the known sample of Duckett revealed both
2 similarities and differences such as no conclusion could be
3 reached as to whether or not this hair could have originated
4 from a source represented by Exhibit B, and that is the unknown
5 hair, right?

6 A. I believe Exhibit B was Mr. Duckett's standards.

7 Q. Alrigh. Now, in other words, whether the Q hair ...
8 you could not determine whether or not the Q hair could have
9 originated from a source represented as Exhibit B and that is
10 Duckett's?

11 A. Yes, sir.

12 Q. Did you say that you used as few as ten hairs during
13 your comparison process, or when you were defining the range
14 of characteristics with the known hairs?

15 A. In some occasions, both.

16 Q. As you recall the characteristics of the known Duckett
17 hair and the characteristics of the unknown hair, do those
18 hairs fall into the category where you would be satisfied with
19 the examination of only ten of the known samples?

20 A. No, sir.

21 Q. Or even thirty of the known samples?

22 A. No, sir.

23 Q. Thank you. Now, the DNA requires the root and the
24 follicle, doesn't it?

25 A. To the best of my knowledge, yes, sir.

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1 Q. And you were aware that the unknown hair contained no
2 follicle, didn't you?

3 A. Yes, sir.

4 Q. Did you observe any follicles on the known hair that
5 you were examining?

6 A. I didn't make a note of that. Generally speaking,
7 we do get follicle material in the examples.

8 Q. But the sending of the unknown hair without a follicle
9 to Lifecodes was an exercise in futility coming out of the gate,
10 wasn't it?

11 A. I was not able to make that determination.
12 At the time, we did not have sufficient experience with sending
13 hair evidence for DNA testing.

14 Q. Once it arrived at Lifecodes, would there have been
15 any reason with Lifecodes examination, that they received
16 further than just determining whether or not the Q hair had a
17 follicle?

18 A. I don't know.

19 Q. Would that sound scientifically reasonable? They
20 would examine to see whether or not they could do anything
21 with it before they went any further?

22 A. Yes, sir.

23 Q. Would you state whether or not hair taken from
24 12:00 o'clock, 3:00 o'clock, 6:00 o'clock and 9:00 o'clock
25 in the pubic area would be a representative collection of the

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1 distribution of the pubic hair?

2 A. That would depend on the individual the hair was
3 collected from.

4 Q. Would you have to shave him or something to know?

5 A. It would depend on how the characteristics were
6 arranged on that particular individual. It is possible that
7 one area on his body would have slightly different characteristics
8 from the remainder, so that taking samples around like that
9 it is possible that they could miss hairs in this particular
10 range.

11 Q. So even if samples were taken in that manner, you
12 still might have to send back for additional samples?

13 A. If possible, yes.

14 Q. Would you be able to indicate when you sent back for
15 the additional samples any particular area that you would wish
16 the hairs to be taken from?

17 A. No, sir, just a request to take hair from all the
18 available area.

19 Q. Now, would you state whether or not you think
20 that intelligence and dedication are as equally important to
21 the ultimate comparison of hair as is experience?

22 A. I would consider both of them very important. I don't
23 think I would distinguish between the two.

24 Q. No further questions.

25 MR. HURM: Very briefly, Your Honor.

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1 RE-CROSS EXAMINATION

2 BY MR. HURM:

3 Q. Ms. Steger, I would like to show you again this
4 Petri dish into which you placed the unknown hair after your
5 examination. Now, that has been modified somewhat, hasn't
6 it since you saw it?

7 A. Yes, sir.

8 Q. It has got evidence tape from the FBI around it?

9 A. That is correct.

10 Q. Isn't it possible that without unsealing that Petri
11 dish a determination could be made as to whether there was
12 follicle material or a root on the hair?

13 A. I don't know.

14 Q. Okay. That is fine. I have nothing further.

15 MR. EDMUND: Thank you, Your Honor. May this witness
16 be excused, Your Honor?

17 THE COURT: Any objection?

18 MR. HURM: No, sir.

19 THE COURT: You are released from your subpoena, ma'am.
20 You are free to go. Thank you very much.

21 Let's take a fifteen minute recess, Mr. Bailiff, please.
22 Folks, I remind you not yet to discuss the case among yourselves.

23 (WHEREUPON, JURY LEAVES COURTROOM AT 10:32 A. M.)

24 (WHEREUPON, DEFENDANT IS TAKEN FROM COURTROOM AT 10:33
25 A. M.)

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1 (WHEREUPON, COURT IS IN RECESS AT 10:33 A. M.)
2 (WHEREUPON, COURT RECONVENES AT 10:55 A. M.)
3 (WHEREUPON, DEFENDANT ENTERS COURTROOM AND IS PRESENT
4 WITH HIS COUNSEL, MR. EDMUND, AT 10:56 A. M.)
5 THE COURT: Anything before we bring the Jury back?
6 MR. HURM: No, sir.
7 MR. EDMUND: No, Your Honor.
8 THE COURT: Mr. Bailiff?
9 (WHEREUPON, JURY ENTERS COURTROOM AT 10:57 A. M.)
10 THE COURT: Be seated, folks, please. Can you assure us
11 you did abide by our admonitions?
12 JURORS: Yes, sir.
13 THE COURT: Mr. Edmund?
14 MR. EDMUND: May the Bailiff call Shirley Williams.
15 THE COURT: Shirley Williams.
16 (WHEREUPON, SHIRLEY WILLIAMS IS CALLED AS NEXT WITNESS
17 FOR THE DEFENSE AND IS DULY SWORN BY THE CLERK OF THE COURT)
18 DIRECT EXAMINATION
19 BY MR. EDMUND:
20 Q. State your name, please?
21 A. Shirley Williams.
22 Q. Ms. Williams, what is your business occupation or
23 profession, ma'am?
24 A. I am a clerk.
25 Q. Have you had occasion to be employed at any Circle K

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1 Stores?

2 A. Yes, sir, I have.

3 Q. Have you had occasion to be employed at the Circle K
4 Store on Highway 50 at the intersection of Sunset, in the City
5 of Mascotte?

6 A. Yes, sir.

7 Q. Will you state whether or not you were employed there
8 on May 11th, of 1987?

9 A. Yes, sir, I was.

10 Q. Do you recall the events of your coming to work on
11 May 11th of 1987?

12 A. Yes, sir.

13 Q. Could you tell the Jury at or about what time you
14 arrived at work?

15 A. Between 10:30 and twenty until eleven.

16 Q. Tell the Jury generally where you were living, not
17 your specific address, on that day?

18 A. Where I was living?

19 Q. Yes, ma'am?

20 A. On North Highway 33.

21 Q. Is North Highway 33 the highway that runs on out
22 North of Mascotte and winds up South of Leesburg on 27?

23 A. Yes, sir.

24 Q. Tell the Jury what route you normally take when you
25 come to work?

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1 A. When I leave my home, it is about a mile from my
2 home to a little side road that cuts down to 50. I take that
3 road. I think it is County 50.

4 Q. Does that little sideroad eventually become Sunset?

5 A. Yes, sir.

6 Q. And then you intersect 50 and Sunset across the
7 street from the Circle K?

8 A. Yes, sir.

9 Q. Is that the route you took on the night of May 11th,
10 1987?

11 A. Yes, sir.

12 Q. Do you know the configuration and the color of the
13 police cars in Mascotte back on May 11th, 1987?

14 A. Yes, sir.

15 Q. And you could recognize the police cars then?

16 A. Yes, sir.

17 Q. Did you have occasion... state whether or not you
18 had occasion to see a Mascotte police car at or about the
19 time you arrived to work on May 11th, 1987?

20 A. Yes, sir, it was at the parking lot.

21 Q. Tell the Jury what you observed at that time, if you
22 would, Ms. Williams?

23 A. When I was coming to work, as I was coming in and
24 pulled in and stopped my car to get out, the officer that was
25 in the car was driving through.

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1 Q. When he was driving through, would you agree with
2 me that Highway 50 runs East and West there in front of the
3 Circle K?

4 A. Yes.

5 Q. Alright, and he was in the parking lot?

6 A. Yes, sir.

7 Q. Would you tell the Jury whether he was driving
8 towards Sunset or whether he was driving towards 50 exiting
9 the parking lot?

10 A. He was going towards Sunset.

11 Q. Would you state whether or not he passed in front of
12 your headlights as you approached?

13 A. No, I was already parked.

14 Q. You were already parked? Did you have an opportunity
15 to observe the automobile to the degree that you could tell
16 whether or not it had anyone in it?

17 A. Yes, I could.

18 Q. Would you state whether you saw more than one person
19 in the automobile at the time?

20 A. No, sir, there was just one person.

21 Q. there was only one person in the automobile?

22 A. Yes, sir.

23 Q. Is the parking lot of the Circle K a well lit parking
24 lot?

25 A. It is lit well enough that you can tell.

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1 Q. Now, after going to Sunset, did you observe which
2 direction the police car went from there?

3 A. No, sir, he was just ... as I went in the store,
4 he was just stopped at the stop sign right there in the front.
5 He was at the stop sign headed back to 50.

6 Q. Had he what, ma'am?

7 A. He was stopped at a stop sign going back onto 50.

8 Q. Going back onto 50. And you did not observe which
9 way he was turned at that time?

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

11 Q. Did you observe any other people in the parking lot
12 when you drove up?

13 A. Yes, sir, there were customers in the parking lot.

14 Q. Do you recall any specific individuals that you saw
15 in the parking lot at that time?

16 A. No, sir, not in particular.

17 Q. Did you know Teresa McAbee?

18 A. I knew of Teresa McAbee.

19 Q. Did you know of her enough to recognize her if you
20 saw her?

21 A. I know that I had seen her a couple of times yes.
22 I knew that she shouldn't be out that late at night.

23 Q. Had you seen her a couple of times enough that if
24 she were in the parking lot, you would have observed her?

25 A. Yes, sir.

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1 Q. Tell the Jury whether or not you saw Teresa McAbee
2 in the parking lot when you arrived at work at or about
3 quarter of eleven, is that what you said?

4 A. No, sir, 10:30 and twenty until eleven.

5 Q. 10:30 and twenty until eleven.

6 A. She was not. Not that I noticed.

7 Q. What are your duties in the store after you come
8 on duty at that particular time of the evening, Ms. Williams?
9 What were they back then?

10 A. Well, it was my first midnight, but when I come in,
11 we run a register and at twelve o'clock when the other clerk
12 was gone, the person that stays goes outside and washes the
13 sidewalk in front and the canvas to the store down.

14 Q. Is the register located so that you still have a
15 view of the parking lot?

16 A. Of the parking lot?

17 Q. Yes, ma'am?

18 A. To an extent. There is a laundromat beside it.
19 We couldn't see that, no.

20 Q. Later in the evening... do you know Officer Duckett?
21 I believe you testified earlier that you knew Officer Duckett?

22 A. That particular night, I didn't really know him,
23 no, but I knew him to see him.

24 Q. Alright, do you know him now to the point you
25 identified him when you testified before?

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1 A. Yes, sir.
2 Q. Alright, is he still in this courtroom?
3 A. Yes, sir.
4 Q. Still the same fella you identified before?
5 A. Yes.
6 Q. Alright. Now, did you see him after you came on
7 duty in the store?
8 A. He came in the store later that morning and brought
9 me a flyer.
10 Q. Did you have a chance to look at him at that time
11 to... at his clothing and at his general appearance, such as
12 that, Ms. Williams?
13 A. Yes, sir.
14 Q. Would you tell the Jury whether you noticed anything
15 unusual about his appearance?
16 A. Nothing unusual about him.
17 Q. Will you tell the Jury whether you noticed that he
18 conducted himself in any manner that is unusual or that you
19 considered unusual?
20 A. I wouldn't think so. It was my first midnight and
21 had he been strange acting, I would have noticed it.
22 Q. Ma'am?
23 A. It was my first midnight and had he acted strange,
24 I would have noticed it.
25 Q. Midnight shift is a nervous shift?

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1 A. To me they are.

2 Q. Yes, ma'am. Thank you. May I have a moment, Your
3 Honor?

4 THE COURT: Yes, sir.

5 MR. EDMUND: Thank you, Your Honor. No further
6 questions.

7 CROSS EXAMINATION

8 BY MR. HURM:

9 Q. Good morning, Ms. Williams.

10 A. Good morning.

11 Q. Basically, Ms. Williams, what you have testified
12 here to is the same thing you told this Jury earlier when
13 we called you as a witness, right?

14 A. Yes, sir.

15 Q. One additional thing you said you lived out here on
16 33. Can you see this aerial? From where you are?

17 A. Yes, sir, but it doesn't mean anything to me.

18 Q. Okay, may I have the witness step down? Come over
19 here, Ms. Williams, if you would.

20 (WHEREUPON, WITNESS STEPS DOWN FROM WITNESS BOX AND
21 MOVES TO AERIAL PHOTOGRAPH OF MASCOTTE)

22 Q. Now, this has been identified ... stand to the side,
23 please so the Jury can see as well... this has been identified
24 as the Circle K and this is 50 towards Brooksville and down
25 past the police department towards Groveland. This has been

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1 identified as 33. You can see the number 33 right here.
2 This is the road you are talking about, isn't it? It comes
3 right down when you get off Sunset and the Circle K?
4 A. Ahum. (Affirmative response)
5 Q. So you live out past here?
6 A. I live about a mile down 33.
7 Q. Outside the city limits?
8 A. Ahum. (Affirmative response)
9 Q. Are there city limits signs in here telling you where
10 the city limits of Mascotte are?
11 A. Down in here somewhere.
12 Q. Down through here there was some?
13 A. This is 33?
14 Q. Yes, ma'am?
15 A. Is this the line?
16 THE COURT: Mr. Hurm, please ask your witness to speak
17 up. I am not sure the court reporter or the Jury can hear
18 her.
19 Q. I assume this is the line. You said you come down
20 33 and you cut off and it comes straight to the Circle K?
21 A. Right.
22 Q. And you come to Sunset?
23 A. Yes.
24 Q. That is what this road does.
25 A. There is a sign. There is a little hill like here

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1 and there is a sign here that says...

2 Q. And it says "City limits of Mascotte"?

3 A. Yes.

4 Q. Right around in this area?

5 A. Yes.

6 Q. Is this Hughie Stiefel's house?

7 A. I would say yes.

8 Q. This area out here, dirt roads out here, right? This
9 is an old abandoned orange grove area here?

10 A. Well, there is a few people that live there, too.

11 Q. Right, but there are abandoned orange groves and
12 there are dirt roads going on and off either side of 33?

13 A. Yes.

14 Q. Okay, thank you, Ms. Williams. Have a seat.

15 (WHEREUPON, WITNESS RESUMES SEAT IN WITNESS BOX)

16 Q. Now, Ms. Williams, when you pulled in to go to work
17 that night... excuse me just a moment... when you pulled in,
18 you came down Sunset like this to the Circle K, right?
19 And then you crossed 50 and pulled in the lot, and you said
20 that you parked on this far end, the Western end of the
21 sidewalk, but in front of the sidewalk, right?

22 A. Yes.

23 Q. And you saw the defenant or a police car. You
24 couldn't see who was driving it?

25 A. Yes.

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1 Q. Oh, it was Duckett driving? Okay. But he was pulling
2 out. Did you see where he pulled from? Where he had been
3 parked?

4 A. From the parking lot ...

5 Q. Okay, he was coming through the parking lot like
6 this and then he pulled out onto Sunset and stopped at the
7 stop sign and that is the last you saw him? At that point?

8 A. At that point.

9 Q. You didn't see which way he turned on 50?

10 A. No.

11 Q. You said there was a lot of people there at the
12 store? Customers?

13 A. There were customers in the parking lot, yes.

14 Q. But you don't remember seeing Teresa there?

15 A. No, sir.

16 Q. She could have been there and you just didn't see her?
17 Is that possible?

18 A. I think had she been there, I would have noticed her;
19 her being that young that late at night.

20 Q. Okay. Now, you said you didn't think she should be
21 out that late at night?

22 A. There was a 10:30 curfew and everyone knows that.

23 Q. Okay, just because she was out late that night,
24 didn't give anybody a right to rape and murder her...

25 MR. EDMUND: I object. It is argumentative.

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1 A. I didn't say it was.
2 MR. EDMUND: If it please, Your Honor.
3 THE COURT: Sustain the objection.
4 MR. HURM: I'll strike it, Your Honor.
5 Q. Ms. Williams, from inside, let me show you this
6 again. Let me show you some photographs instead. I'll show
7 her these. Ms. Williams, I am going to show you what has been
8 marked as State's Exhibit 10 and State's Exhibit 9. Now,
9 first on 10, that is the front of the Circle K, isn't it?
10 A. Part of the front.
11 Q. Now, where you would have parked your car isn't in
12 here, is it?
13 A. No.
14 Q. It is down off this part.
15 A. Yes.
16 Q. State's Exhibit 9 shows the rest of it, doesn't it?
17 A. Yes.
18 Q. And that is the same car, or appears to be, so we
19 can make a composite out of that, kind of like that?
20 A. Ahum. (Affirmative response)
21 Q. And taht shows part of the front of the store, doesn't
22 it?
23 A. Ahum. (Affirmative response)
24 Q. Ms. Williams, where is the cash register located
25 on this diagram?

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1 A. The cash register is in behind here.

2 Q. Behind the telephones, right? So there is no window
3 there from where you stand at the cash register?

4 A. Yes.

5 Q. Alright, now, from the cash register, are you able
6 to see the dumpster?

7 A. No, you can't see the dumpster, because it is back
8 in here.

9 Q. Okay. But there is an ice machine there, right,
10 and that kind of blocks your view of the dumpster area, doesn't
11 it?

12 A. Yes.

13 Q. And the lighting in the parking lot all comes from
14 overhead lights here under the overhang, just over the sidewalk
15 of the Circle K?

16 A. Ahum, and this is a light.

17 Q. Okay, now, at the time this occurred, May 11th, there
18 wasn't a light at the dumpster area, was there?

19 A. No, they put that in after.

20 Q. So then from your position at the cash register
21 behind the phones, you couldn't see anything going on in this
22 area?

23 A. No, sir.

24 Q. And you couldn't see anything going on in the
25 dumpster area?

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1 A. No, sir, but I wasn't inside the store.

2 Q. Yeah, I understand that, but I am saying at the cash
3 register, you couldn't see that?

4 A. Yes.

5 Q. Now, when you were outside is when you first pulled
6 in, right? When you first pulled in to go to work between
7 10:30 and 10:40?

8 A. Ahum. (Affirmative response)

9 Q. And that is when you saw the defendant driving through
10 the parking lot toward the stop sign at Sunset and 50?

11 A. Right.

12 Q. And then you went in and talked to Joyce Reynolds
13 and went about your duties?

14 A. Ahum. (Affirmative response)

15 Q. And that was later, after midnight wasn't it, when
16 you were washing the front of the store that the defendant
17 came back by?

18 A. Right.

19 Q. And you asked him if he had found the little girl
20 and he said, "No"?

21 A. Right.

22 Q. And then later, he came back with a poster?

23 A. Right.

24 Q. And he told you not to put that poster up in the
25 window, didn't he?

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1 A. Right.

2 Q. He told you he was going to bring you a better
3 poster later?

4 A. Right.

5 Q. But he never came back to your store that night?

6 A. No, sir, he didn't.

7 Q. He never came back to give you another poster?

8 A. Not that I have seen.

9 Q. And he never came back to ask you if you had seen
10 Teresa?

11 A. No, sir.

12 Q. You said you noticed nothing unusual about his
13 appearance when he came in to give you a poster. Where were
14 you when he came in to give you the poster?

15 A. I had just come in and finished mopping the floors.

16 Q. Were you behind the cash register?

17 A. Right.

18 Q. The counter?

19 A. Right. He also got a drink.

20 Q. Were you looking for anything unusual on him?

21 A. No, not really.

22 Q. You didn't know to look for anything out of the
23 ordinary?

24 A. No.

25 Q. I believe you said earlier when we called you as a

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1 witness that his hair was combed and his uniform appeared to
2 be neat?

3 A. I don't remember you asking me.

4 Q. No, no, I didn't ask you. I think Mr. Edmund asked
5 you.

6 A. No, neither one of you asked me.

7 Q. Oh, you weren't asked that? But he didn't appear
8 to be out of the ordinary in terms of appearance?

9 A. No, sir.

10 Q. May I have a moment, Your Honor?

11 THE COURT: Yes, sir.

12 MR. HURM: I don't have anything further, thank you,
13 Ms. Williams.

14 MR. EDMUND: Your Honor, I have no further questions.
15 May the witness be excused?

16 THE COURT: Any objections?

17 MR. HURM: We have no objection, Your Honor. She can be
18 released.

19 THE COURT: You are free to go home, ma'am. Thank you
20 very much.

21 MR. EDMUND: If it please, Your Honor, Defense would
22 call Jimmie Duckett.

23 THE COURT: Alright, I need to talk to you all at the
24 bench, please.

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

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1 THE COURT: It is right at 11:15 and it would appear
2 that perhaps only obvious to me, we can't do direct and cross
3 in forty to forty-five minutes. What I want to know is if you
4 might be able to do your direct in forty-five minutes to an
5 hour. Is that a fair statement for starters?

6 MR. EDMUND: I think so, Your Honor.

7 THE COURT: Is the State going to object if we do it
8 that way and break for lunch and come back for cross?

9 MR. HURM: No, sir.

10 MR. EDMUND: We not only won't object, but we would
11 ask that.

12 THE COURT: Do you object, because I am willing to
13 recess until one now and do them all at once?

14 MR. HURM: No objection.

15 MR. EDMUND: No objection, Your Honor.

16 THE COURT: Everybody agrees we can split him up?

17 MR. HURM: We would object to splitting the direct. In
18 other words, if he begins direct, we would ask that he be
19 required to finish direct.

20 MR. EDMUND: I won't be talking for whatever reason, past
21 noon. I think under the cases I can, I will not be talking
22 to him during the recess. I don't do that. It confuses the
23 issues.

24 THE COURT: Let's start the direct.

25 (WHEREUPON, BENCH CONFERENCE ENDS)

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1 THE COURT: Alright, Mr. Duckett, if you would come up,
2 please.

3 (WHEREUPON, JAMES DUCKETT IS CALLED AS NEXT WITNESS
4 AND IS DULY SWORN BY THE CLERK OF THE COURT)

5 DIRECT EXAMINATION

6 BY MR. EDMUND:

7 Q. State your name, sir?

8 A. James Aren Duckett.

9 Q. I'm sorry, I didn't hear you?

10 A. James Aren Duckett.

11 Q. Mr. Duckett, did you hear the testimony of your wife,
12 Carla, yesterday?

13 A. Yes, sir.

14 Q. Is it an accurate description of your relationship
15 with your wife over the period of time that you have known
16 her?

17 A. Yes, sir.

18 Q. Alright, sir, and were generally the places that
19 she indicated you had lived and the times and the places that
20 she indicated where you had worked and the times and the
21 attendance at school, the other matters of that type that she
22 testified to, were they generally correct?

23 A. Yes, sir.

24 Q. Alright, now, would you state whether or not there
25 came a time when you became an employee of the City of Mascotte

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1 in the capacity of a police officer?

2 A. Yes, sir, there was.

3 Q. And the becoming of a police officer, was that a
4 quick decision with you?

5 A. No, sir.

6 Q. Over what period of time, if you recall, had you
7 given thought to becoming a police officer?

8 A. Many years. Ever since '75, when I graduated.

9 Q. Is Mascotte the first place that you made application
10 for a job upon completing your minimum standards?

11 A. Yes, sir.

12 Q. Is it the only place to which you made application
13 for a job after you completed minimum standards?

14 A. Yes, sir.

15 Q. Alright, and were you, in fact, hired very shortly
16 after you made your application at Mascotte?

17 A. Yes, sir.

18 Q. Tell the Jury what your duties were as patrol officer
19 for the City of Mascotte, Jimmy?

20 A. Patrolling the City; maintaining law and order in
21 the City; traffic control; accident investigation; crime
22 investigation; along that line.

23 Q. Did you ever have occasion to make arrests of any
24 individuals while you were a police officer?

25 A. Many times.

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1 Q. Did you ever have occasion to make an arrest where
2 you had to use force?

3 A. To some degree, yes, sir.

4 Q. And when you say to some degree, would you give the
5 Jury an example of what type force you found necessary on
6 whatever occasion to effect an arrest?

7 A. Well, one instance that I do remember right off, I
8 had a young man that was highly intoxicated, giving his
9 parents trouble. He was eighteen - nineteen, somewhere in
10 that area. They called me to the house; told me they wanted
11 him out of the house; and he refused to leave, so I asked
12 him to go with me. At that time, he refused. I grabbed him
13 by the arm and as I did so, he snatched away from me. At that
14 time, I grabbed my cuffs and placed them on his arm, one hand,
15 and he snatched away from me again and swung at me and then
16 I went into him and had to take him to the ground.

17 Q. Did your uniform suffer any sort of dirt or damage
18 at that time, Jim?

19 A. I am sure it got wrinkled. We were inside the
20 house, so there would be no dirt. We were inside the house
21 and the floor was carpeted.

22 Q. Have you ever had to arrest someone who was outside
23 of a house or anything like that, in an automobile, or anything
24 like that, where you had to take someone down?

25 A. No, sir.

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1 Q. Would you tell the Jury whether or not you knew
2 Kimberly Fowler?

3 A. Yes, sir.

4 Q. Now, tell the Jury what the extent of your relation-
5 ship was with Kimberly Fowler?

6 A. Just more or less casual. We knew each other by
7 first names. She constantly talked to me while I was on
8 duty. I would be parked, running radar; we would be at
9 different stores. She would be coming in. Just more or
10 less, first name friendship basis.

11 Q. Tell the Jury whether or not you ever had any sexual
12 contact with Kimberly Fowler?

13 A. No, sir.

14 Q. Now, will you tell the Jury whether or not you knew
15 or know Shirley Dow?

16 A. I knew of her, yes.

17 Q. Had you ever had occasion to meet her?

18 A. Once that I know of for sure and possibly twice.

19 Q. Would you tell the Jury the circumstances of the
20 once you are sure of and if you can remember the possibly?

21 A. Okay, the first time was shortly after I was hired.
22 It might have been, like she stated, around Thanksgiving or
23 somewhere in there. We got a call to the apartment complex
24 on Talbot.

25 Q. Direct yourself to the Jury.

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1 A. We got a call of a fight in an apartment complex on
2 Talbot where she lived at the time. I responded, along with
3 another officer. She stated it was Cooper. I don't remember
4 whether it was Cooper or who it was. It was the other officer
5 that was on duty that night. When we got there, there was
6 numerous, to take a wild estimate, ten to fifteen Mexican
7 males out there. Some of them had baseball bats. Some of
8 them had bottles. They wasn't fighting. They were ... this
9 little crowd over here and there was another crowd at two or
10 three apartments down and they was just standing out there
11 arguing and waving the weapons back and forth. We calmed
12 them all down and Cooper went talking with one bunch. I went
13 to the other. She was in the bunch that I went and talked
14 to. Come to find out later on, this Rafael was in this bunch
15 that she was with, that she lived with there on Talbot, and
16 that is when I seen her. As far as going up and saying
17 anything, "My name is Officer Duckett" and she said, "Shelby
18 Dow". We never did that, but that was my first contact with
19 her was at that scene.

20 The later time I remember running a check on her, because
21 I was curious about her being there. She looked awfully young
22 at the time, and I was curious as to whether she might be a
23 run-away or something in that nature. So I don't even
24 remember who I got the information from. I got it from
25 somebody, her name, her approximate age, and I ran a check

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1 through the computers on her and it came back that there was
2 no results, you now, no indication that she was a run-away
3 or anything.

4 Q. Did you ever drive her and her sister-in-law or
5 whomever around in your patrol car?

6 A. No, sir.

7 Q. Did you ever drive her around alone in your patrol
8 car?

9 A. No, sir, sure didn't.

10 Q. Have you ever been in such a proximity to her that
11 you put your hand on her shoulder or otherwise?

12 A. Never.

13 Q. Did you know Linda Upshaw?

14 A. No, sir.

15 Q. Would you tell the Jury whether you have ever seen
16 her before?

17 A. The six and a half months or seven months that I
18 was in Mascotte, I have never seen the girl in Mascotte.

19 Q. State whether or not you ever took her out in the
20 patrol car to any area, whether North, South, East or West
21 of town, of Mascotte?

22 A. No, sir, as far as my knowledge goes, she has never
23 been in the patrol car with me, arrested or otherwise.

24 Q. Alright, you did not stop her on the side of the
25 road and question her while she was crying and offer to

1 console her and drive her around with you so you could talk
2 with her?

3 A. No, sir.

4 Q. Do you remember the events of the night of May 11th
5 of 1987?

6 A. Yes, sir.

7 Q. What were your normal duty hours for the City of
8 Mascotte during the period of time that you worked for the
9 City?

10 A. When I ... in reference to just that one night, or...?

11 Q. No, sir, generally speaking, leading up to that night.

12 A. Generally speaking. When I first hired in, I worked
13 Friday, Saturday, Sunday and Monday. Monday being an eight
14 hour shift; the other three being twelve, from 7:00 P. M. to
15 7:00 A. M. Monday was 11:00 P. M. to 7:00 A. M.
16 Sometime after the first of the year, we had a schedule change
17 and they changed my days to Sunday, Monday, Tuesday and
18 Wednesday... Saturday, Sunday, Monday and Tuesday, Monday
19 still being eight hour shift and the other three, 7:00 P. M.
20 to 7:00 A. M. I was off Wednesday, Thursday and Friday nights.

21 Q. Now, getting back to May 11th, tell the Jury as best
22 you recall, the events of the evening as they transpired?

23 A. Okay, that was a Monday night. My normal schedule,
24 like I said, was an eight hour schedule from 11:00 to 7:00.
25 We had an officer on vacation at that time, plus we had a City

1 Council Meeting that night, which the Chief had to attend, so
2 I came in at 7:00 P. M. We split, more or less, split the
3 day. Himself working from 7:00 Monday morning until 7:00
4 Monday night and I came in at 6:15 or 6:30 and took over and
5 ran from 7:00 P. M. to 7:00 A. M.

6 I came in, like I said, around 6:15 to 6:30, somewhere
7 in there. The Chief was there at the office. We conversed
8 on different things that had happened that day and more or
9 less did our transformation from one person to another. I
10 went ahead and went out and checked out my car and got it
11 ready to go. From then, it was just a routine, every night
12 thing. You know, we run through the City, up the back of the
13 City Hall. I would listen in on the Council Meeting a little
14 bit and go back out and check the City again; just normal,
15 every day things. I mean, you know, as far as our duty went.
16 There was no specific times we did something or anything like
17 that.

18 Q. At some point in time during the evening, did you get
19 a call to meet someone at the Circle K in Mascotte?

20 A. Okay, sometime after I came on duty, I went to the
21 Circle K and when I pulled up there, I noticed this heavy
22 set, black woman on the telephone and she was a hollering and
23 screaming and crying and carrying on hysterical. Everybody
24 was kind of eye on her, looking around, you know, and I went
25 on in the store and you could hear her even inside the store.

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1 Just like the doors were standing wide open. So I went in
2 and got me a cup of coffee and about that time, I walked
3 back out. The woman had got off the phone. She was still
4 in hysterics, so I walked over to her and asked her what the
5 problem was, and she told me that her boyfriend had beat her
6 up and threatened her; that he was drunk and such as that.
7 I then proceeded to question her and got her name and her
8 boyfriend's name and asked her where she was from and she
9 told me she was from Stuckey, which is outside our juris-
10 diction, so I brought her over to the car and set her down
11 in the back seat of my car with the door open and tried to
12 calm her down a little bit. I called Lake County and asked
13 if they had a Deputy available in that area, which is our
14 normal doing, since it was outside of our area.

15 Deputy Pahaley responded. We had a short conversation
16 over the radio. He wanted me to run a check on both the
17 Complainant I had there and the subject that had abused her
18 or beat her or whatever fight they had, so I did so. He
19 come pulling up in the parking lot shortly. I filled him in
20 on the instance of it and she went and got in her car and
21 they left and went to Stuckey and that was the end of my
22 part in that.

23 Q. Alright, now, were there other people in the parking
24 lot when you were there?

25 A. Oh, yes.

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1 Q. Did you have occasion to see the little girl who
2 has been identified as Teresa McAbee there at that time?

3 A. I do not remember her being there at that time.

4 Q. Alright, after you left that vicinity, where did you
5 go and what did you do with regard to your duties from there
6 on?

7 A. Just routine patrol. Like I said, probably went
8 back to the City Hall and listened a little bit more on the
9 City Council Meeting. Just every night things.

10 Q. And then what did you do? Did you ever stop and
11 start working your radar?

12 A. Okay. Approximately 10:00 P. M. that night,
13 somewhere along in that area, I set up to run stationary
14 radar at Talbot and Highway 50, just East of the Circle K.

15 Q. Is that the first street East of Circle K?

16 A. Yes, sir.

17 Q. On which side of 50 were you parked? On the North
18 or the South?

19 A. The South side.

20 Q. On which side of Talbot were you parked? The East
21 or the West?

22 A. The East side.

23 Q. Alright, go ahead, please.

24 A. I set up parking, stationary radar pointed down
25 towards the Circle K and I noticed at that time, some people

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1 sitting in front of the laundromat. The laundromat had chairs,
2 stationary chairs that they had placed in front there, kind of
3 a waiting area, I guess, you know, for the clothes. At that
4 time, I noticed a little girl with what appeared to me at the
5 time three Mexican boys sitting there talking. I watched
6 them for a minute or so and two of the boys got up and walked
7 away at that time and walked down West in front of the Circle
8 K and turned the corner down by the dumpster and disappeared.

9 A minute or so later, the little girl and the little boy
10 got up, walked down in front of the store; went around by the
11 ice machine, which is on the West end of the store, and at
12 that time, there was a space on the end of the ice machine
13 oh, a foot, foot and a half, wide. The little girl got back
14 behind the ice machine. I lost contact with her at all. I
15 couldn't see her at all then. The Mexican boy that was with
16 her, I could see from about his shoulders up, his head, over
17 top of the ice machine. Several times, he would look back at
18 me like he was observing me. At that time, throughout my
19 suspicion, you know, I was wondering why he was watching me
20 as much as I was watching him, and so I decided then to move
21 around so I could see a better contact with him. Eye contact
22 with him, and see, you know, what they were doing and such.
23 I went around, went across 50 on Talbot and went to Mohawk
24 and took Mohawk down to Sunset and on the corner of Sunset
25 and Mohawk, you could look down the road and get a straight

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1 shot of the dumpster area, the ice machines, where they were
2 standing. As I watched them from there for a short time, a
3 minute, two minutes, whatever, they moved from that area to
4 behind the dumpster, which at that time, was total darkness
5 back there. There was no light whatsoever, and as they got
6 behind the dumpster, I could just see the heads. They were
7 standing face to face a short distance between them. I never
8 seen them make any contact at that time or any time, I'll
9 put it that way, but they were standing awfully close.

10 I backed out and went back around the previous way back
11 to Mohawk, Talbot, onto Highway 50 and I pulled up in front
12 of the laundromat ... between the laundromat and the telephones,
13 in a space right in there. I still wanted to observe, to see
14 what they were up to. I walked in the store and had my
15 coffee cup with me; had my flashlight with me; walked in the
16 store and asked the clerk in there, Joyce, who the little girl
17 was. She told me all she knew was Teresa and I asked her
18 about her age and she said, somewhere ten, eleven, twelve,
19 thirteen years old, somewhere in there. I said, "Well, she
20 is out behind the store here with a Mexican boy". I said,
21 "I am just curious what they are up to". So I left my
22 coffee cup there in the store and took my flashlight and went
23 outside and walked around the corner and walked up on them
24 and they were still face to face and I asked them, you know,
25 "What the hell is going on? What you all doing back here?".

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1 Teresa said that they were just talking and at that time, I
2 asked her how old she was. She said she was eleven. I asked
3 the boy how old he was and he said sixteen. It just didn't
4 set with me too well. The age difference, plus being back
5 here in the dark alone. It just didn't set with me, so
6 I asked them to walk over to my car. We walked over to the
7 driver's side of my car. I reached in and got my note pad
8 out and started getting some information down. I set that
9 on the hood of the car and started getting some information
10 from them. About that time, well, I had asked the Mexican
11 boy, Salvador, I had asked him several questions and at that
12 time, I didn't know whether he was just ignoring me or
13 couldn't understand me or didn't want to understand me, one
14 way or the other, but he couldn't answer my questions. I
15 asked him his date of birth, where he lived, that sort of
16 questions, and he couldn't answer them. All he could tell
17 me is he was sixteen, which he told me when I was around by
18 the dumpster. So I asked him if he had any kind of
19 identification on him and all he had on him was a social
20 security card. So I took the social security card and I got
21 his name off of that and wrote down his social security number
22 and about that time, one of the two Mexican boys that had
23 walked off previous, came walking back up and sat down on the
24 chair. Come walking from the dumpster area back up and sat
25 down on the chairs. So I turned to him and I asked him, I

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1 said, "Does he speak any English?"; does Salvador speak
2 English or understand it, and he said, "No, not too good".
3 I said, "Can you translate for me?" He said, "Sure", so I
4 got him over there and we started talking and I started
5 getting a little information form him. He told me he lived
6 down behind Westside Lumber, which is down 50, from the
7 Circle K... it would be West of the Circle K. I got that
8 much information from him and somewhere in that time frame,
9 right in there, the uncle came pulling up. Well, I had done
10 an accident report on the uncle a month or so before. He had
11 had a traffic accident and I done a report on him. I knew
12 him, and he come pulling up and Salvador left my presence
13 along with the other Mexican boy and went in the store.
14 Teresa was still standing right beside the car then. When the
15 uncle come pulling up, there was several other Mexican males
16 with him... three... four... five... I know there was quite
17 a few of them. I walked around the corner. I walked in front
18 of my car around to the other side with Teresa behind me.
19 I walked over to the car, to the uncle's car, and I proceeded
20 to talk to him about Salvador. That is when Salvador and the
21 other Mexican boy grabbed the basket of clothes and they
22 headed back to the trunk area. These guys were getting out
23 of the car and so ... I don't know... I guess my suspicion,
24 nervousness, whatever you want to call it, jumped up. That
25 is when I decided to place the little girl in the front seat

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1 of my car. So I took my keys, I unlocked the front door,
2 opened the door, and asked her to sit down in the car. She
3 sat down and I pushed the door, too, and I proceeded back
4 talking to the uncle. I asked him the boy's age and he turned
5 around and started to ask in Spanish and I made the comment,
6 "No, I wanted to know from him", you know. The boy looked
7 older than sixteen to me at that time, and so he told me
8 somewhere around sixteen. I said, "Okay", and then I filled
9 him in on the situation. I told him that the little girl
10 and the little boy was behind the dumpster and I didn't think
11 it was right for an eleven year old girl to be back there with
12 a sixteen year old boy. I said, besides not looking right,
13 it just don't fill in to me. He said, "Okay", and so they
14 all piled in their car. It was a red Camaro, I believe, or
15 red Volvo, one of the two. They all jumped in the car and
16 backed out of the Circle K and went down West 50 to their
17 house. Like I say, I had done an accident report on the
18 uncle, so I knew where he lived and I got the information
19 from him that Salvador lived with the uncle, so I knew that
20 they lived on Hibiscus, which is right behind Westside
21 Lumber, so I had all the information from them, so I released
22 them and they left.

23 At that time, I came around, back to the driver's side
24 of the car. Like I said, the little girl was inside the front
25 seat of the passenger ... of my car. I sat down and got the

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1 information from her. I got her name and her age. She
2 couldn't tell me the address, where she lived, but she said
3 she lived two or three houses behind the Circle K here on
4 Sunset.

5 I got a little more information. I asked her how long
6 she had been around here. I told her I didn't remember seeing
7 her very long around here, so I was asking her where she was
8 from and she said her father was in Mississippi and she had
9 some brothers that were in Mississippi. Basically, that is
10 about all that I got. I just wanted to get some information
11 from her. So, I told her, well, it was getting close to
12 curfew. I said, you know, I chewed her out a little bit about
13 being back here in the dark. I said it don't look good for
14 you to be back there like that, hiding. I told her that I
15 had been observing her for quite a while and seen her move
16 from the ice machine to around the corner and from the chairs
17 to the ice machine. I told he at that time, to go on home.
18 I said, "If I catch you back out here again, I am going to
19 have to take you down to the police department", I said, "Then
20 we are going to have to go into it a little bit further."
21 I said, "I am going to have to notify your parents and such",
22 and I said, "Now go on home". I said, "I don't want to see
23 you out any more tonight". She said, "Yes, sir". She got
24 out of my car, walked down in front of the store, turned the
25 corner and that was the last contact that I had with her after

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1 she turned the corner.

2 Q. What did you do? Where did you go from there?

3 A. From there, I backed out of the store, got back on
4 50 and headed back out to the police department.

5 Q. Did you see Shirley at any time during that episode?

6 A. I do not remember seeing her. There was several cars
7 in the parking lot when I was leaving, but I do not remember
8 seeing her specifically.

9 Q. Do you know Grace or Gwen gurley?

10 A. No, sir, I have never seen that girl either.

11 Q. Did you observe the video tape that was played the
12 other day?

13 A. Yes, sir.

14 Q. Did you ever have conversations with that girl and
15 if so, did you have a conversation with her on that night?

16 A. I have never seen that girl again in the six or
17 seven months that I was at Mascotte, I do not remember seeing
18 the girl in Mascotte, nor I am positive I have never seen her
19 that night.

20 Q. What makes you positive you never saw her that
21 night?

22 A. From the instances that she described on the tape
23 where we first met at the door going into the Circle K, there
24 was nobody in the Circle K at that time. I went in there and
25 asked Joyce about the little girl. It was just myself and

1 Joyce in there. Now, as I was standing there, a customer or
2 friend of Joyce's came in that lived across the street, Kim
3 Vargas came in with a bowl of ... they were either blueberries
4 or blackberries, a butter bowl full of them and gave them to
5 Joyce, and she was standing there. But that is the only
6 person besides Joyce, myself and Kim that was in the store.

7 Q. Are you familiar with the area where the child's
8 body was found?

9 A. Yes, sir.

10 Q. Have you had occasion to go back into that area in
11 a patrol car or in any other vehicle during the time that you
12 have been employed at Mascotte?

13 A. Yes, sir.

14 Q. Would you tell the Jury the last occasion prior to
15 May 11th that you had your patrol car down there?

16 A. The best of my recollection it must have been around
17 the first of the year or somewhere in there, because we were
18 having a lot of fireworks and gunfire, or something, so it
19 must have been a holiday somewhere along in there. It had
20 to be a Saturday night, because there was two of us on duty,
21 Troy Smith and myself, and we heard guns going off and we were
22 both looking for them, trying to locate where the guns were;
23 where the shots were coming from, so I went down that road
24 that went down through that orange grove and made the circle
25 back out onto Sunset, trying to locate where this gunfire was

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1 coming from.

2 Q. Was that the only occasion you ever have been down
3 there?

4 A. Yes, sir.

5 Q. Well, then, state whether or not you were down on
6 that road on the night of May 11th, or the morning of May
7 12th, of 1987?

8 A. No, sir.

9 Q. Do you have any explanation why tire tracks of a
10 similar design as the tire tracks on your patrol car were
11 found in the area at that time?

12 A. No, sir. I went down there the day that the body was
13 found. That afternoon. I went down to the crime scene
14 itself, but that is as far as I went.

15 Q. You didn't go on past the crime scene and out the
16 other side through mud holes or anything like that?

17 A. No, sir.

18 Q. After the episode there in front of the Circle K,
19 what was the next event of any consequence that occurred to
20 you or in your presence during the rest of your tour of duty?

21 A. In regard to?

22 Q. Anything that occurred?

23 A. Anything that went on? After I left the little girl
24 at the store and she left and I left the store, I went back
25 to the police department and went inside and used the bathroom.

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1 That is the only place that I felt comfortable with taking my
2 gun belt off and being able to lock myself in. The only
3 thing that I would take into the bathroom area myself would
4 be my walki-talki, so I would be able to listen if anybody
5 called.

6 I don't know exactly how long I was in there, five or
7 ten minutes maybe. Somewhere in that area. I came back out
8 and went back on patrol; went down through the Country Tavern,
9 the Presto, Jiffy Store. I went in the Jiffy Store and got a
10 cup of coffee. That is when I realized that I didn't have
11 my plastic cup that the store gives us ... one of these coffee
12 clubs. Each store will give you a little coffee cup for your
13 own use. That is when I realized I didn't have my coffee
14 cup with me. I got a styrofoam cup and went back out on
15 patrol.

16 Q. Do you know the man, Crumbley, I think his name was,
17 who testified that he was the Manager of one of the convenience
18 stores or the night clerk at one of the convenience stores?

19 A. I knew of him, yes, sir.

20 Q. Did you ever have an occasion to have a conversation
21 with him?

22 A. Very little. He had only been there a short time.
23 At that time, I believe he was still living in Zephyr Hills
24 and he was commuting all the way to Mascotte and we made
25 reference to that. They had had a big turn-over at the Presto

1 Store as far as Management and he was one of the new ones
2 that they had brought into the area.

3 Q. Did you ever receive calls from him with regard to
4 people at the store or coming to the store?

5 A. Not with him.

6 Q. Now, after you got through with that portion of your
7 evening, did you go back on patrol?

8 A. Yes, sir.

9 Q. Did there come a time when you received a radio
10 message from the Groveland Police Department or an Officer
11 with the Groveland Police Department?

12 A. Yes, sir.

13 Q. Where were you at or about the time you received
14 that message?

15 A. I was out on Bay Lake Road, coming up to Highway
16 50, headed towards Highway 50.

17 Q. Alright, sir, and was the content of the message
18 pretty much what Mr. Campbell testified it was? You back and
19 forth and there was a missing child and you were going to the
20 police station?

21 A. Right. Yes, sir.

22 Q. Did you then, in fact, go to the police station?

23 A. Yes, sir.

24 Q. When you arrived, tell the Court and the Jury what
25 you observed and what occurred?

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1 A. I got the call, like I said, on Bay Lake Road,
2 approaching 50. When I got the call, I told them that I
3 would meet them at the police department, meet the mother at
4 the police department. I proceeded to the police department.
5 When I got there, I got out of my car and as I approached
6 the front, being the only one on duty, the City Hall is
7 locked up. That is where the police department is, so we
8 have a key to the City Hall. I walked up to the front door
9 and as I started to unlock the front door of the City Hall,
10 Deputy Pahaley pulled up into the parking lot in front of
11 the building. I walked out to see what he wanted. He wanted
12 to copy down the information that I had got about the heavy
13 set black woman earlier in the evening. I told him... I went
14 over to my car and got the note pad out. He copied down the
15 information that I had on there. The approximate times and
16 such and at that time, he told me that he had been at Groveland
17 when the mother pulled up and that the mother was right behind
18 him. I said, "Okay", so as he was finishing up that, the little
19 gray car, Toyota, Chevette... I don't remember what kind it
20 was... anyway, the little gray car pulled into the parking
21 lot; pulled on the other side of my police cruiser and this
22 woman got out and then he told me, "That is the one that made
23 the complaint. That was the mother." and I said, "Okay", and
24 so he left. I met with the mother. We went inside the
25 police department and she started telling me about the

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1 instances with her daughter and that she hadn't showed up
2 after she had went down to the Circle K and I got the
3 approximate times down and I believe I was the one that asked
4 her, I said, "Is your daughter's name Teresa", and she said,
5 "Yes". I said, "Well, I had talked to her earlier that
6 night", I said, "shortly before 10:30 at the Circle K". I
7 said, "She was behind the dumpster with a sixteen year old
8 boy", and I said, "I sent her home". She said, "Well, I
9 haven't seen her since a quarter of ten when she left to go
10 to the store". And so, at that time, I got out the report
11 forms that we use and I also got out a missing child report
12 out of the files that we use, and I proceeded to get the
13 information down on the little girl; the mother; the circum-
14 stances surrounding the last time she seen her. What time she
15 left the house, and this such stuff.

16 Q. Did you get her clothing description?

17 A. I asked the mother what she had on and she said
18 when she left the house, she had on a knit shirt, jeans, and
19 tennis shoes. I said, "What color knit top?" and she said,
20 she couldn't really remember, and I said, "Well, when I seen
21 her it was blue-green", and she said, "Yes, that is the one
22 that she had on". I said, "The jeans, do you know what kind
23 they were?" and she said, "They were Lee jeans", and I said,
24 "How about the tennis shoes?" and at that time she told me
25 that they were Pro-Teens or something along that line, white

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1 high tops, and so I wrote all this information down. I got
2 all the information I could on the child and while the mother
3 was still sitting there, I called Lake County to have it
4 entered into the computer as a missing person. That was our
5 routine. As far as I knew. That is the way it was to go.
6 So I called Lake County and I entered all the information,
7 told the dispatch all the information and she said she could
8 get it in the computer. That was shortly after midnight.
9 Sometime shortly after midnight. I told the mother then that
10 I was going to go talk to this young boy that I talked behind
11 the store with and see if he knew any information on maybe
12 there whereabouts ... maybe they had met later on that night
13 or something, you know, so I said, "I want you to go straight
14 home." I said, "If you have any contact with her, or if you
15 hear anything", I said, "Get back in contact with me". I gave
16 her our telephone number, which is a direct number from
17 Mascotte to the Lake County Sheriff's Department, which does
18 our dispatching. We went out of City Hall, the police
19 department. She got in her car. I got in mine. We proceeded
20 down 50. She turned off at Sunset and I went on down to
21 Hibiscus and went to the address that they gave me, where the
22 uncle and the boy lived.

23 I went up and knocked on the door and asked ... I don't
24 remember who came to the door, but there was several ... I
25 know four or five or six Mexican men in there, sitting around

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1 a table eating, and there was one or two laying on the floor
2 asleep in the livingroom and there was just a trailer full.
3 I proceeded to talk to the one that had done some interpretation
4 on this accident report, because the uncle, Maximo... Maximil...
5 however you say his name, he does not speak very good English
6 either, and so this other guy that was there, he done the
7 translating for me. Anyway, I asked to speak with Salvador
8 and they said that he was asleep. I asked them, I said,
9 "Has he been here all night?" and they said, "Yes", and I said,
10 "Well, I would still like to see him. I would like to talk
11 to him", so they went back to the bedroom and woke him up.
12 He come out and again, this same Mexican was doing some
13 interpretation and I asked if they had seen Teresa anymore
14 since the Circle K incident and they said, "No", that they
15 had left there and came straight home, grabbed something to
16 eat and Salvador went to sleep on the bed, and they were all
17 sitting around in the livingroom and said they hadn't even
18 been out of the trailer since then. I told them that the
19 little girl never showed up home. I told them that she was
20 missing. That she had never showed up. I asked Salvador
21 if he knew any other friends that might know something about
22 her, you know, maybe she had went over to a friend's house.
23 He indicated he didn't know anybody else that knew her, so
24 I said, "Okay, you going to be here the rest of the night?" and
25 they said, "Yes", and I said, "Well, if I need you, I'll come

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1 back and talk to you later on".

2 At that time, I left. I believe then, I went by the
3 mother's house and I picked up a picture. I asked her if
4 she had a picture of the little girl. We went inside the
5 house and they were looking around for a picture and this
6 Mexican male comes out of the bed... crawled out of the bed
7 in one of the bedrooms and come walking out with a picture of
8 the mother and the little girl, which is in evidence here.
9 I took it. I asked them again, had they had any contact with
10 her? Had they heard anything? They said, "No, they hadn't
11 seen her and hadn't heard anything about her from right then",
12 so I left and I went back down to the City Hall. That is when
13 I called the Chief up at home. Me being fairly new, six
14 months experience, I just wanted to check with him to make
15 sure I was following pretty well along the guidelines of what
16 should be done. I filled him in on the situation. I told
17 him that I had a picture and that I was going to make contact
18 with the stores and make a poster, you know, and he said,
19 "Fine". He said, "If you need me anymore, give me a call"
20 or "If you need me to come out, give me a call", or somewhere
21 along that line. I said, "Okay". So I proceeded to ...
22 no, it was not at that time that I made the posters. At that
23 time, I made contact with all the stores with the picture.
24 I just had the picture made up and I went to each of the stores
25 and I asked them if they had seen the little girl and nobody

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1 had remembered seeing her that night, except Circle K. That
2 was after midnight, so Shirley was on. She knew about it,
3 because Joyce had known the little girl was missing. Undoubtedly,
4 the mother had gone in there questioning her about it. So she
5 was out front washing when I pulled up with the picture. We
6 questioned about that.

7 From there, I went back and I made the poster up. We ran
8 out of paper at the City Hall for the copy machine, so I made
9 up one decent poster. I went down to Groveland then and asked
10 the dispatcher down there if I could use their copy machine.
11 She ran off several copies of my copy. I left one at
12 Groveland. As I was heading out, Officer Campbell came in
13 and asked if we had found the little girl. I said, "No".
14 I showed him a poster. I believe I gave him a poster. At
15 that time, I distributed them ... anyway, I gave them to each
16 of the stores, stopping at Presto first. I went in and gave
17 one to the clerk there. Crumbley, I believe is what his name
18 was. I don't even remember, Ed, I believe... I don't know...
19 anyway, the clerk at Presto was the first one as you leave
20 Groveland going back to Mascotte; that was the first convenience
21 store on the North hand side of 50. I gave him one. He
22 taped it up in the window right there by the cash register,
23 which their store has glass all the way down the front,
24 including in front of the cash register. I proceeded on
25 down to the Jiffy Store. I gave one to Rose Mayetta, I believe

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1 how you pronounce it. I gave one to her. She laid it on the
2 cigarette display right by the cash register, in that area.
3 I went on down to the Circle K. Went in the Circle K.
4 Shirley was there. I gave it to her and she proceeded to
5 come around the corner. She said she was going to hang it up
6 by the door. I said, "No", because I knew this was her first
7 night at the circle K. I said, "Why don't you leave it
8 around the cash register, so you will have a reference to it."
9 She said, "Okay", so she laid it somewhere by the cash
10 register or there by the ... where you pay for the stuff...
11 somewhere in that area, she laid it down there. I then went
12 out of the store. I got the coffee cup out of the Circle K.
13 I remember that much of it. I left the Circle K and went back
14 on patrol looking for the girl for the remainder of the night.

15 Q. Tell the Court and the Jury what you did between
16 approximately 10:30 and approximately midnight, after you
17 left the Circle K and before you went to... back to the police
18 station to meet the mother?

19 A. After I left the Circle K, like I said, I went back
20 ... I went directly back to the police department. I went
21 inside and used the bathroom, as I stated earlier. Made sure
22 the doors were all locked when I left and went back on patrol.

23 Q. Do you have any recollection specifically of where
24 you patrolled?

25 A. Down Anderson. I know I left the police department.

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1 I don't remember the name of the road now that runs right
2 beside the police department. Anyway, I went down that road,
3 turned onto Anderson and went around behind and back into the
4 housing part of Mascotte. I went through the parking lot of
5 Country Tavern down through the Citco Station, which is our
6 City Limits as we go. I made a U-turn and came back through
7 the parking lot of the Presto and from there, it was just
8 right back on patrol.

9 Q. Did you see Teresa again after you left the Shop and
10 Go?

11 A. No, sir, I have never seen her again since she turned
12 the corner, I assume, heading home.

13 Q. Did Teresa ever get back into your patrol car that
14 night at the Circle K or anywhere else?

15 A. No, sir.

16 Q. Did you ever have Teresa or Teresa's body at the
17 scene where the child's body was found?

18 A. No, sir.

19 Q. Now, you understand from the testimony that Teresa's
20 palm and fingerprints were on the hood of your vehicle?

21 A. Yes, sir.

22 Q. Do you have any explanation at all that you can give
23 this Jury as to how those prints may have gotten there?

24 A. The only thing, I have thought about this now for
25 well over a year, the only conclusion that I can come to is

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1 at the time that she was at my back and I was talking to the
2 uncle and all the Mexicans that were back there, is that she
3 might have jumped up on the hood of the car with the engine
4 running for two and a half hours, or two hours, the hood
5 would have been hot and I don't know how long it takes. From
6 what I understand in police work, just a mere touch will leave
7 your print, so if she jumped up there on the hood the the
8 car and jumped back down, that is the only explanation that
9 I can think of.

10 Q. Now, when you were searching for Teresa after midnight
11 and after you had delivered the posters and such, do you recall
12 any specific routes that you took on that search?

13 A. I searched mainly behind and around the Circle K
14 area. I more or less used the Circle K as a center pull up
15 and searched around that area.

16 Q. This lake here is certainly in the vicinity of the
17 Circle K. Did you not go back through there at all during the
18 time of your search?

19 A. I went down Sunset to Pearl, but no, sir, as far as
20 back to the pumphouse and around that road, no, sir, I didn't
21 even think about going back in that area.

22 Q. When you were making your search, were you making your
23 search in the area of town that was built up? Housing and
24 things of that nature?

25 A. Yes, sir.

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1 Q. Have you been questioned regarding your ... the
2 activities of your night of May 11th and May 12th by law
3 enforcement officers?

4 A. Yes, sir.

5 Q. Do you recall the number of times that you were
6 questioned?

7 A. Twice.

8 Q. And by whom were you questioned the first time, that
9 you recall?

10 A. Sgt. Johnson and Investigator Rocky Harris.

11 Q. And by whom were you questioned the second time?
12 If you recall?

13 A. Gerard King and Captain Horner.

14 Q. Will you tell this Jury whether after Investigator
15 King had finished questioning you in middle June of 1987,
16 and turned off the tape, and you had had the discussion about
17 the lie detector test and lawyer, would you tell this Jury if
18 he again asked you to take the lie detector and you refused?

19 A. No, sir, I did not refuse it. As the tape said, at
20 the end of his sentence, the tape, "Well, this will be all.
21 The interview will be over with now.". My time or my attitude
22 or my ... the way he looked at it, he was in a ... I don't know
23 of any other way to put it, a "pissed off mood". I don't
24 know whether it was due to the fact that I wouldn't take the
25 polygraph right there or what, but he said ... he made a

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1 comment to Captain Horner, "Well, show Mr. Duckett out", or
2 "Show him how to get out of here".

3 Q. But the conclusion of the tape, the conclusion of
4 any conversation you had with Mr. King?

5 A. Yes, sir.

6 Q. During the first interview, were you requested to
7 take a polygraph?

8 A. Yes, sir.

9 Q. And what was your response?

10 A. I'll be more than glad to.

11 Q. And did this occur on May 12th, the day that the
12 body was found?

13 A. Yes, sir.

14 Q. Between then and the time of your conference in
15 middle June with Mr. King and Captain Horner, did anyone ever
16 ask you to take the lie detector test?

17 A. Nobody ever asked me to.

18 Q. Your Honor, I need a moment, please. Would you tell
19 the Jury what your usual procedure was when you would bring
20 the car back to the compound in the morning?

21 A. Well, we had no set procedure really. I mean, we
22 maintained our own cars as far as gas, get it filled with
23 our own gas; half a tank or so, we went ahead and topped the
24 tank off. If the car was extremely dirty, we would wash it
25 and clean it up. Then again, it all depends on when you were

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1 going to come back to work. A lot of times, I wouldn't wash mine
2 when I got off duty, because I knew I would be back that night
3 and I would wash it when I came back on duty, so it really
4 depended on how dirty the car looked.

5 Q. Did you have all the facilities there for washing
6 your vehicle?

7 A. Yes, sir.

8 Q. What sort of facilities did you have for that?

9 A. We had a water hose set up out there to where we
10 parked at. We had a water hose set up. We had a bucket. We
11 were provided... either we bought the suds or the city would
12 buy the suds, however it would work out. Dish washing liquid
13 usually. We had a long brush, a long handle with a brush on
14 the end of it that we used to wash it.

15 Q. Could you wash your car in such a manner that you
16 wouldn't get your uniform dirty?

17 A. Oh, definitely.

18 Q. Alright, and were all those components there and
19 available to you when you came in on the morning of May 12th?

20 A. Yes, sir.

21 Q. Did you make any decision consciously to wash or not
22 wash your car?

23 A. It didn't even dawn on me, you know, I looked at the
24 car and the car was not dirty. I just decided not to wash it.
25 I would suggest, you know.

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1 Q. Were there any vacuum facilities or sweeping out
2 facilities or anything like that?

3 A. We have an industrial size vacuum cleaner that we
4 kept inside the city hall for that purpose.

5 Q. And that was available to you the morning of May 12th
6 of 1987?

7 A. Yes, sir.

8 Q. Alright, now, after you got off duty, would you tell
9 the Jury, did you go home? Straight on home?

10 A. The Chief came in about 6:30, somewhere in there,
11 and relieved. We talked for a few minutes and he walked me
12 outside. At that time, I hadn't put my car underneath the
13 carport or the shed that we use to park cars under. It was
14 still parked at the back door of City Hall, so he walked me
15 outside and we were talking and it was somehow during that
16 time period that we heard Lake County come over the radio with
17 the bulletin of the missing child. This was some six or seven
18 hours later after I had reported it to the Com Center. So
19 we made a little reference to that, you know, why it was
20 taking them so long to make this announcement over the radio.
21 I parked my vehicle, got in my personal vehicle, and drove
22 off, driving home, somewhere in the neighborhood of 8:00 or
23 8:15. Somewhere in there.

24 Q. Did you undress, take a bath, go to bed?

25 A. I undressed and as my wife stated, laid my clothes...

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1 I was very spoiled, so I laid my clothes out on the couch in
2 the livingroom and got undressed and all and went straight to
3 bed.

4 Q. Did you get any phone calls from anyone in authority?

5 A. I got a call some time later from the secretary of
6 the police department, stating that the Signal 8 that I had
7 last night was now a Signal 7, which was a dead person. They
8 wanted to know some information about the shoes that the boy
9 was wearing that Salvador was wearing that night and I told
10 them I couldn't remember whether he was wearing tennis shoes
11 or hard soled shoes or what. I didn't pay that much attention
12 to it. They said, "Okay".

13 Q. Did you ever determine why they wanted to know any-
14 thing in particular about the particular shoes?

15 A. No, I was never informed on any reason.

16 Q. Were you told to come back into the City on that first
17 phone call?

18 A. That first, no, sir.

19 Q. Did you make any inquiry as to whether or not you
20 should return?

21 A. No, not at the first call, I didn't.

22 Q. Did you receive another call?

23 A. Yes, sir, about an hour or so later, I already went
24 back to bed and was asleep. They called me the second time.
25 That was in the neighborhood of 10:00 - 10:30, somewhere in

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1 there, and I don't remember exactly what they asked me that
2 time. It was something else to do with the boy, the best of
3 my recollection. Again, it was the secretary from the police
4 department. At that time, I asked her, I said, "Well, do
5 you want me to come on in?". I said, "Get dressed and come
6 on in to work". I heard her over the radio call Chief Brady
7 and ask him, and he came back with a response which I heard
8 over the telephone, 54, which is negative. I said, "Okay",
9 and so we hung up again. I went back to bed. Then in the
10 neighborhood of 2:00 - 2:30, somewhere in there, I don't
11 remember who called me the third time. I don't know if it was
12 the secretary or the Chief or who it was, but I got another
13 call anyway, from the City and they wanted me to come on in.
14 I said, "Do you want me dressed in uniform", and they said,
15 "Yes, go ahead and get dressed, ready to work", so I got up
16 and questioned about my uniform and the only one I had avail-
17 able was the one that I had wore previously that same night,
18 or the night before there, so I put that back on and ...

19 Q. Put on the same shoes?

20 A. The same shoes. I only had one pair of shoes.
21 Uniform shoes, so I wore the same shoes. Didn't even have
22 time to polish them that time. I remember that much, because
23 like I said, I just jumped up and took a shower and Carla blew
24 my hair dry. I got dressed and left and I got over there
25 sometime after three o'clock.

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1 Q. Did anyone ever ask you to deliver them the uniform
2 you were wearing that night, or anything of that nature?
3 A. No, sir.
4 Q. Tell this Jury if you killed Teresa?
5 A. No, I sure didn't. I had no contact with the little
6 girl from 10:30 in the neighborhood of 10:30 on, was the last
7 time I seen the girl or had any contact with her whatsoever.
8 Q. Tell this Jury if you in any way assaulted sexually
9 Teresa?
10 A. No. Never.
11 Q. Tell this Jury if you hurt that little girl, Jimmy?
12 A. I would never hurt that little girl.
13 Q. Where have you been the last six or eight months?
14 A. They got a Grand Jury Indictment the 27th...
15 Q. Well, have you been in jail?
16 A. And I turned myself in.
17 Q. Have you been alone?
18 A. Yes.
19 Q. Have you thought?
20 A. Many times.
21 Q. Did you kill that girl?
22 A. No.
23 Q. If you please, Your Honor, can I have just another
24 moment?
25 THE COURT: Fine.

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1 MR. EDMUND: Thank you, Your Honor.

2 THE COURT: We are going to take the noon recess at this
3 time, Mr. Bailiff. If you would escort Mr. Duckett back to
4 counsel table, please, sir.

5 MR. CORBETT: Yes, sir.

6 (WHEREUPON, DEFENDANT LEAVES WITNESS STAND AND RETURNS
7 TO COUNSEL TABLE)

8 THE COURT: Ladies and gentlemen, I would remind you that
9 it is not yet time to discuss the case among yourselves or
10 with anyone else. Don't read any newspaper accounts, watch
11 any television accounts, or listen to any radio accounts of
12 the alleged occurrence. Don't visit the scene of the alleged
13 occurrence. Mr. Bailiff tells me that you all will probably
14 be delighted to know you are going back to your favorite place
15 to eat today. He also tells me that takes longer, so let's
16 try to come back here at ... let's shoot for two o'clock,
17 Mr. Bailiff. It takes about two hours to transport you all.
18 We will see you back as close to two as we can.

19 (WHEREUPON, JURY LEAVES COURTROOM AT 12:15 P. M.)

20 MR. EDMUND: May we approach the bench, Your Honor?

21 THE COURT: Yes, sir, I need to take to you all about a
22 few things anyway.

23 Gents, if you all would, please.

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

25 MR. EDMUND: This is ridiculous, but the only place we

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1 have been eating is Perkins.

2 THE COURT: That is where they are going.

3 MR. EDMUND: Is there a problem with us going on there?

4 MR. HOGAN: I didn't get up here for the first of this.

5 MR. EDMUND: We had been eating where they are taking the
6 Jury now and there are some places in there where we can sit
7 and have some degree or privacy.

8 MR. HOGAN: Where are they going?

9 THE COURT: Perkins.

10 MR. HOGAN: There are lots of other restaurants. Why
11 can't you just go somewhere else to avoid even the appearance
12 of a problem.

13 MR. EDMUND: Okay.

14 THE COURT: Okay, I have got several notes here. Can you
15 tell me anything about Richard Reynolds yet?

16 MR. HOGAN: This is your last witness.

17 MR. EDMUND: I am not going to call him, Judge.

18 MR. HOGAN: Are you resting now?

19 MR. EDMUND: I don't want to commit now, but in all
20 probability, I am.

21 MR. HOGAN: We can't release him.

22 THE COURT: Of course, I am going to tell the Jury to
23 bring their clothes back Monday morning. Tell them to get
24 ready for sequestration time. I would like to ask you all if
25 you can possibly find time over this long lunch break, because

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1 it does take about two hours. They have to van them over and
2 van them back and they have to do that in two shifts. Take a
3 look at those sequestration rules and see if you all can
4 agree on them. Obviously, the proposed first is changed,
5 because it says, "Sequestration during the whole trial". I
6 changed my mind on that. Also, I ask you all to give me
7 some thought to how we are exactly going to handle the
8 alternates. Assuming we send the Jury out around noon on Monday,
9 just ... I am blindly setting some kind of optimistic ...
10 exactly what do I do with the alternates while the Jury is
11 back in their room? Stick them in some other room and keep
12 them separate? I think you have to sequester them.

13 MR. HOGAN: Yes, sir.

14 THE COURT: But if you all would just ponder that over
15 lunch hour. I read something about that not too long ago,
16 because apparently some Judge didn't. Anything that can go
17 wrong will, I think, and he sent the alternates home and believe
18 it or not, he needed one, so he brought them back and put them
19 in with the pile and then they said, "Oh, no, you messed up
20 again". You all think about that.

21 Anything else?

22 MR. HOGAN: No, sir.

23 THE COURT: Okay, we will come back with your cross as
24 close to two as we can get them back.

25 (WHEREUPON, BENCH CONFERENCE ENDS)

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1 (WHEREUPON, DEFENDANT IS TAKEN FROM THE COURTROOM AT
2 12:19 P. M.)

3 THE COURT: Folks, for those of you that are interested,
4 we are going to be in recess. It may be later than two
5 o'clock before they can transport the Jury down and back, but
6 if you want to shoot for two o'clock to be back, you will
7 certainly be on time, and maybe a little later than that.

8 (WHEREUPON, COURT IS IN RECESS AT 12:20 P. M.)

9 (WHEREUPON, COURT RECONVENES AT 2:13 P. M.)

10 (WHEREUPON, DEFENDANT ENTERS COURTROOM AT 2:14 P. M.)

11 THE COURT: Anything before we bring the Jury back?

12 MR. HOGAN: No, Your Honor.

13 MR. EDMUND: No, Your Honor.

14 THE COURT: Please, Mr. Bailiff.

15 (WHEREUPON, JURY ENTERS COURTROOM AT 2:15 P. M.)

16 THE COURT: Please be seated, folks. Can you assure us
17 you did abide by our admonitions, once again?

18 JURORS: Yes, sir.

19 THE COURT: Thank you. Mr. Duckett, you can resume your
20 seat in the witness stand, please, sir.

21 (WHEREUPON, JAMES AREN DUCKETT RESUMES SEAT IN WITNESS
22 STAND)

23 THE COURT: I remind you you are still under oath, sir.

24 MR. DUCKETT: Yes, sir.

25 THE COURT: Mr. Hogan?

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1 CROSS EXAMINATION

2 BY MR. HOGAN:

3 Q. Officer Duckett.

4 A. Yes, sir.

5 Q. Now, earlier you testified that you thought about
6 being a policeman for quite a while, correct?

7 A. Yes, sir.

8 Q. Isn't the real reason you became a police officer
9 because you were laid off from your job at the phosphate
10 company and this was the way you could go to school and still
11 be on welfare?

12 A. No, sir.

13 Q. Didn't you tell Mr. King and Mr. Horner that you went
14 to school because when you got laid off, you could still get
15 welfare while going to school to be a police officer?
16 Did you tell them that?

17 A. No, I didn't say welfare.

18 Q. What did you call it?

19 A. Unemployment.

20 Q. That is the reason you went to be a police officer?

21 A. No, sir.

22 Q. That is what you told them, though?

23 A. In one sense, yes.

24 Q. Mr. Duckett, how big are you? How tall are you?

25 A. Six foot.

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1 Q. How much did you weigh back in May of last year?

2 A. Oh, 220 - 225.

3 Q. Now, you went over with your attorney, Mr. Edmund,
4 you said everything your wife said was correct in her
5 testimony?

6 A. Yes.

7 Q. So I assume that that includes the fact that you
8 did steal \$1,398.52 from one hundred thirty-six separate
9 insurance policy holders?

10 A. No.

11 Q. Well, your wife testified to that.

12 A. No, I don't believe she testified to that.

13 Q. She certainly agreed to it. Are you telling me that
14 is not true?

15 A. Not in the words you put it.

16 Q. Well, then you explain it? Tell us how you stole
17 it?

18 A. I was an insurance agent. I went on vacation. The
19 Staff Manager that is over you, ran the debit for you. He
20 found shortage on my books. I made the shortage up.

21 Q. Got fired?

22 A. No, I was not fired.

23 Q. Well, you no longer worked there?

24 A. I no longer worked there, you are right.

25 Q. You took...

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1 A. I was given a choice of... they said you pay the
2 money up and there would be no charges filed. It will not
3 be listed as such.

4 Q. You don't want to call that stealing the money
5 though?

6 A. No.

7 Q. Well, that's fine. You don't want to call this
8 rape and murder ...

9 A. I paid the money. I paid the money back. If I took
10 the money, I paid the money back. That is not stealing.

11 Q. Oh, I see. Okay. Now, you took criminal
12 investigation courses in college?

13 A. Yes.

14 Q. About twenty-four hours?

15 A. Somewhere along in there.

16 Q. So you have had police training and also college
17 education in criminal cases?

18 A. Yes.

19 Q. You say that your job as a Mascotte police officer
20 was to maintain law and order, is that correct?

21 A. True.

22 Q. Does that include enticing girls into your car for
23 sexual purposes?

24 A. I did not do that.

25 Q. So in other words, Ms. Dow, Ms. Upshaw, Mrs. Ruetz

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1 are all lying?

2 A. Call it what you may, but I know it didn't happen.

3 Q. What do you call it?

4 A. Yes, I call it lying.

5 Q. So there are three liars here, right?

6 A. If that is what they are saying, yes.

7 Q. You never even saw Upshaw before?

8 A. I have never seen her at all, you are right.

9 Q. But she came in here and lied?

10 A. Like I said, yeah.

11 Q. What about, do you know Bonnie Gray?

12 A. No.

13 Q. How about Beth Holmes?

14 A. Yes.

15 Q. Both of them are eighteen...young girls, aren't
16 they?

17 A. I know Beth is. She is over eighteen.

18 Q. How much over eighteen?

19 A. I don't know that.

20 Q. Now, you say, Officer Duckett, you say that you saw
21 Shelby Dow in a crowd of people and you picked her out of that
22 crowd, because she looked young and so you ran her through
23 the computer?

24 A. No, no. You are running everything together,
25 Mr. Hogan.

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1 Q. Whenever I do that, you just take your time and
2 you explain it.

3 A. I said on Thanksgiving or thereabouts, when the
4 disturbance was, she was in the crowd, yes.

5 Q. That is the first time you saw her?

6 A. That is the first time.

7 Q. Is that the time you thought she looked young?

8 A. She was white in amongst the Mexicans.

9 Q. And did she look young to you at that time?

10 A. Yes.

11 Q. Were you curious about that?

12 A. I was curious who she was and yes, why she was there.

13 Q. Is that the time you ran her name through the
14 computer?

15 A. No, sir.

16 Q. Okay, please explain when that was?

17 A. I said earlier, I said that was later on.

18 Q. Okay, when was it, Officer Duckett?

19 A. Several weeks down the road.

20 Q. Well, when?

21 A. When? I don't have a specific idea. No time on it
22 whatsoever. I know I ran several weeks down the road.

23 Q. Where were you and where was she? How did you get
24 her name?

25 A. Like I said, somebody gave me the information on

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1 her. I don't remember who it was, but I got the information
2 off of them and I ran a check on her.

3 Q. Now, out of that crowd of people, you saw there that
4 night, the first time you saw her, who else's name did you
5 run through the computer?

6 A. That's the only one.

7 Q. The only one. Just the young girl?

8 A. Yeah. (Affirmative response)

9 Q. Earlier this morning, you testified that during the
10 night of May 11th, you made several trips to the City
11 Council Meeting where you just stood around and watched the
12 Council Meeting?

13 A. Right.

14 Q. Do you recall having your statement taken by
15 Gerard King and Mr. Horner, and another statement taken by
16 Mr. Johnson and Mr. Harris?

17 A. Ahum. (Affirmative response)

18 Q. Did you ever tell them you were at the City Council
19 Meeting? Ever?

20 MR. EDMUND: Your Honor, if it please the Court, may we
21 approach the bench?

22 THE COURT: Yes.

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

24 MR. EDMUND: I object to this type of impeachment for
25 omissions from any statement taken, if it please, Your Honor.

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1 It is applicable to reports. It is applicable to statements
2 given by law enforcement. It is applicable to any witness
3 who testifies...

4 MR. HOGAN: I am not sure I understand.

5 THE COURT: I think he is talking about the absence of
6 statements.

7 MR. EDMUND: That's right.

8 MR. HOGAN: I am asking if he ever told them that.

9 MR. EDMUND: He is referring to his statements...

10 THE COURT: Ehrhardt Section 803.10 talks about the subject.
11 I read it not long ago. I am not sure I remember it exactly.

12 (WHEREUPON, THE COURT READS SECTION QUOTED)

13 THE COURT: I think Mr. Hogan is probably within his
14 bounds.

15 MR. EDMUND: Can I just leave a continuing objection
16 to any type of questions he may make regarding an omission?

17 THE COURT: Yes, sir.

18 MR. EDMUND: Thank you, sir.

19 (WHEREUPON, BENCH CONFERENCE ENDS)

20 CROSS EXAMINATION CONTINUES

21 BY MR. HOGAN:

22 Q. Officer Duckett, as I was saying, you were asked
23 by Mr. King and Mr. Horner, by Mr. Johnson and Mr. Harris,
24 they asked you to tell them specifically everything you did
25 that night, were you not?

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1 A. I don't remember. I guess I did, yes.

2 Q. Okay, and you never ever mentioned going to the
3 Council Meeting, did you?

4 A. Not that I can recall, sir.

5 Q. That is something that you have come up with and
6 testified to here today?

7 A. No. No. I believe I have had pretty close to a
8 year to think about it.

9 Q. I believe you have.

10 A. Yeah. (Affirmative response)

11 Q. You had a year to get ready for this day, haven't
12 you?

13 A. You're right.

14 (WHEREUPON, MR. HOGAN MOVES EASEL AROUND TO JURY'S VIEW)

15 MR. HOGAN: I would ask the Defendant be allowed to
16 stand down.

17 THE COURT: Yes, sir, go ahead.

18 (WHEREUPON, WITNESS LEAVES WITNESS STAND AND MOVES TO
19 EASEL)

20 Q. Now, Mr. Duckett, Officer Duckett, you show us where
21 you were parked on Highway 50 running radar, please?

22 THE COURT: Mr. Hogan, pardon me, reference your exhibit
23 for the record, please.

24 MR. HOGAN: I am sorry, Judge.

25 THE COURT: I think it is 66.

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1 MR. HOGAN: Number 19, in evidence.
2 THE COURT: Alright, thank you. Number 19.
3 Q. This being the Circle K Store and Highway 50.
4 A. I was parked in this area here.
5 Q. By Talbot Street?
6 A. Talbot and Highway 50.
7 Q. And that is where you were running stationary radar?
8 A. Yes, sir.
9 Q. What is the abbreviation for stationary radar?
10 A. STAT, I believe.
11 Q. Okay, sir. Now, when you were in that position,
12 that is the same position that you were described as being in
13 by Gwen Gurley, correct?
14 A. I don't recall.
15 Q. Would you please show us where you went when you say
16 you went up North Mohawk to get a better look at the dumpster?
17 A. Like I said, I parked here. I was running radar this
18 way on 50. I came on Talbot, Mohawk and proceeded into this
19 area right here at the corner and at that time, I looked
20 straight down Sunset to the dumpster area here.
21 Q. Now, when you were up here at Mohawk, did you park on
22 the corner here?
23 A. Yes, sir.
24 Q. Can anybody verify that? Did you see anybody there?
25 Talk to anybody?

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1 A. Yes, I talked to an elderly lady that lives in this
2 trailer.

3 Q. That lives in that trailer?

4 A. Yeah. (Affirmative response)

5 Q. That would be Mrs. Yates?

6 A. I don't recall who it was.

7 Q. But you say you talked with Mrs. Yates that night?

8 A. No, no, I said I talked to an elderly lady that went
9 into this trailer. Whether she lived there or whether she
10 didn't, I have no idea.

11 Q. And you say that from that position right there,
12 you were able to see the victim, Teresa McAbee, and the
13 Mexican child, behind the dumpster there?

14 A. From this location, you can look straight down
15 Sunset and see the dumpster and the side of the store.

16 Q. And that is where you were able to see them standing
17 face to face?

18 A. Yes.

19 Q. Thank you.

20 (WHEREUPON, WITNESS RESUMES WITNESS STAND)

21 Q. Now, is that when you drove down and went and talked
22 with the two kids behind the dumpster?

23 A. After they went behind the dumpster, I backed up and
24 went back and parked in front of the Circle K.

25 Q. Do you recall describing the way Teresa McAbee talked

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1 to you as being very dainty and very feminine?

2 A. Yes.

3 Q. Do you agree with that?

4 A. Yes.

5 Q. After you talked to them behind the dumpster, that
6 is when you took Teresa McAbee out from behind the dumpster
7 and put her in your police car?

8 A. No.

9 Q. No?

10 A. No.

11 Q. You did not take her directly from behind the dumpster
12 and put her in your police car?

13 A. No, I did not.

14 Q. Okay, sir, do you recall talking to Officer Harris
15 and Officer Johnson and making the statement to them...

16 THE COURT: Give the date of the interview, please,
17 Mr. Hogan, and the page you are looking at.

18 MR. HOGAN: I am looking at page three, the top of line
19 sixteen.

20 THE COURT: Alright.

21 Q. You are talking to the two kids behind the dumpster.
22 You said, "They said nothing." You asked them what they were
23 doing and they said, "Nothing. We are just talking." I said,
24 "How old are you?". The boy said, "Sixteen". "And How old
25 are you?" and she said, "Eleven". I said, "Eleven?". I said,

1 "No, this is not right". I said, "You are sixteen and you are
2 eleven," and I said, "You all come over to my car", so I took
3 them over to my car and I put her in the passenger side up
4 front and closed the door". Do you recall making that state-
5 ment?

6 A. Yes, sir.

7 Q. Now, do you recall making a handwritten Affidavit?

8 A. The day the body was found, yes.

9 Q. On the second page of the Affidavit, the handwritten
10 Affidavit, you say, "The girl started talking. I directed
11 them to my patrol car and put the girl inside my patrol car,
12 up front and closed the door.". Do you recall writing that
13 statement?

14 A. Yes.

15 Q. Do you recall making a statement to Mr. Horner and
16 Mr. King, do you recall that?

17 A. Yes, sir.

18 Q. Okay, do you recall saying a similar statement that
19 you put the girl right in the car...?

20 A. I don't believe it was similar, no, sir.
21 Go ahead and read that.

22 Q. Alright, on page fourteen, line eighteen, "Firebird
23 pulled up. You brought the girl around and put her directly
24 in the car, because the Mexicans were there."

25 A. I believe that is what I said today, Mr. Hogan.

1 Q. You put her in the car before you talked to the
2 Mexicans?

3 A. Huh?

4 Q. You put her in the car before you ever talked to the
5 Mexicans?

6 A. No. No. I did not.

7 Q. That is what you said, time and time and time again.

8 A. No.

9 Q. Yes?

10 A. No. I heard you Mr. Hogan, yes. I heard you.

11 Q. Which is it?

12 A. Today.

13 Q. Okay, you want to go by today's statement?

14 A. Yes, sir.

15 Q. And disregard these? Is that what you want us to
16 do? Disregard these?

17 A. They are similar.

18 Q. They are not the same, sir?

19 A. They are similar.

20 Q. They are not the same, sir. Do you want us to go
21 by today's statement or the prior statements?

22 A. I am not going to argue with you about it.

23 Q. I am just asking you a question. We will go by
24 whichever one you want. Do you want to go by today's state-
25 ments or the prior statements? You choose?

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1 A. No. You choose.

2 Q. Well, I would sooner go by the prior statements then.

3 Is that fine with you?

4 A. Whatever.

5 Q. Okay, you say it is true you put her directly from

6 the dumpster to your car?

7 A. I took her from the dumpster to my car...

8 Q. And put her in the car?

9 A. No. No, I did not put her in the car.

10 Q. Well, you said that on many prior occasions?

11 A. I did not put her in my car at that time.

12 Q. Mr. Rubio, Maximinio Rubio was driving the red

13 Firebird, is that correct?

14 A. I don't remember whether he was driving or not. I

15 know he was there.

16 Q. You didn't see him drive up in the red Firebird?

17 A. Like I said, I don't remember whether he was driving,

18 Mr. Hogan.

19 Q. Referring to the statement you gave to Gerard King

20 and Mr. Horner, page fourteen about the middle of the page,

21 "At about that time, a red Firebird, Camaro, I forgot which

22 one it is, pulled up, a couple spaces over from me, toward

23 the Circle K, and I recognized the car and the driver from

24 doing an accident report earlier.

25 A. Okay, I guess he was driving the car then.

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1 Q. Well, do you want us to go by your statements earlier
2 or your statements in court?

3 A. You asked me a while ago if I remember him driving
4 the car and I told you at the time, right now, I do not
5 remember him driving the car.

6 Q. Now, you testified earlier this morning that there
7 was a bunch of Mexicans in the car when it drove up,
8 is that correct?

9 A. Yes.

10 Q. Do you recall giving a statement to Gerard King and
11 Mr. Horner, at page fourteen, where you say, you indicated
12 that he got out of the car and you never mentioned any
13 other Mexicans getting out of the car, do you recall making
14 that statement?

15 A. If it is in the statement, I guess I made it.

16 Q. Do you recall ever saying at any other time other
17 than in court, in any of these other statements, do you ever
18 recall saying anybody was with Max? Because I can't find it.

19 A. I don't remember, no.

20 Q. Let me see Chuck Johnson, page three... on page three
21 of the Chuck Johnson interview with you, you say, "I
22 noticed, I recognized the driver, because I done an accident
23 report on him earlier, the first part of the month, and he
24 got out, so I went over and was talking to him.". Remember
25 that?

1 A. Okay. Sure.

2 Q. You never mentioned any other Mexicans and you do
3 mention the fact that you know Maximinio Rubio?

4 A. That is the only one I knew in there.

5 Q. So you failed to mention anybody else was even in
6 the car?

7 A. I don't see no revelance in it.

8 Q. No revelance? Well, I see revelance in it.

9 Now, you say this morning, the last time you ever saw
10 Teresa McAbee... and by the way, you have made the statement
11 before that you were the last person to ever see her alive,
12 haven't you?

13 A. Yeah, I believe I corrected myself after that though.

14 Q. Was that a slip, or...?

15 A. Yes. Definitely.

16 Q. Definitely. Now, Officer Duckett, you said this
17 morning, the last time you ever saw Teresa McAbee, she was
18 walking around by the ice machines heading toward the dumpster,
19 is that correct?

20 A. I said she was down between the ice machines and the
21 dumpster. She had turned the corner. Yes, sir.

22 Q. You never said that you took her home? You never
23 told anybody you took her home?

24 A. I did not take her home.

25 Q. Did you ever tell anybody you took her home?

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1 A. No.

2 Q. Did you ever tell anybody that you followed her home?

3 A. No.

4 Q. Now, you heard Gwen Gurley testify that she said she
5 saw you go down Talbot with a small person in the car. Was
6 she lying also?

7 A. Definitely.

8 Q. Okay, so, now we have another person to add to the
9 list of liars?

10 A. There you go.

11 Q. There you go. I wonder where you learned that from?

12 THE COURT: Mr. Hogan.

13 MR. HOGAN: Yes, sir.

14 THE COURT: Refrain from comments and ask the witness
15 questions, please.

16 MR. HOGAN: Yes, sir.

17 Q. Now, you said this morning, sir, that you went down
18 to Knight Lake, is that correct? On January, to investigate
19 some trouble down there?

20 A. Sometime around the first of the year, in there.

21 Q. And you drove down that road, down around by Knight
22 Lake?

23 A. Yes.

24 Q. With the Court's permission, I would ask the Defendant
25 to stand down, please.

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1 THE COURT: Yes, sir.

2 (WHEREUPON, WITNESS STEPS DOWN FROM WITNESS STAND)

3 Q. I am going to show him Exhibit #26. Do you
4 recognize this?

5 A. I take it that is the road that goes around by
6 Knight Lake, yes, sir.

7 Q. And you have been down there before. You were down
8 there on May 12th?

9 A. No.

10 Q. You weren't down there on May 12th?

11 A. The day the body was found, excuse me, yes, sir.

12 Q. Is this what the lake looks like? Is this a fair
13 representation?

14 A. Yes.

15 Q. Okay, now, Mr. Duckett, you say that in January,
16 that was the last time you were down there to investigate
17 some trouble down there?

18 A. I said I heard some gun shots and I rode down through
19 there to try to locate them.

20 Q. Okay, sir, and would you please indicate where you
21 drove when you went through there?

22 A. All the way around the road there.

23 Q. Point to it for us.

24 (WHEREUPON, WITNESS POINTS TO AREA ON EXHIBIT)

25 Q. And back out?

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1 A. And back out Sunset.
2 Q. And that was in January?
3 A. Sometime along in there.
4 Q. Do you recall telling Detective Johnson and
5 Detective Harris that you could not remember the last time you
6 were down there by Knight Lake?
7 A. I think later on in the statement somewhere I made
8 reference to I had been down there.
9 Q. Starting at the bottom of page seven, Chuck Johnson:
10 "Did you know that place?". Your answer: "Not that I recall."
11 "Q. Did you know that place exists at all? Where we
12 were at?
13 A. Oh, yeah, I knew it existed. I had been back there
14 before.
15 Q. How long ago?
16 A. Oh, hell, we got orders not to take the cars back
17 there, and so, you know, probably in six months, I probably
18 been in there twice in six months and I can't even say when
19 the last time was I was down there."
20 But now you know when it was?
21 A. I said it was the first of the year, because I heard
22 gunshots and fireworks going off.
23 Q. But when you gave this statement, you didn't know
24 when you had been down there?
25 A. I told you I had been down there.

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1 Q. But you didn't know when?

2 A. Yeah, I still don't know when. I can't sit here and
3 say it was January 1st, or it was January 25th.

4 Q. Do you recall telling Gerard King and Captain Horner
5 that you had never been down there until the morning of
6 May 12th?

7 A. No, I don't recall saying that.

8 Q. Page forty, line twenty-three.

9 A. Can I go back to the stand then?

10 Q. Not yet, sir. Your statement on page forty.

11 "Yes, sir, I swear to God, I have not been on that road
12 until that morning, or that afternoon, when I went over there
13 in my patrol vehicle."

14 Question: "Say that again? You went over there where?"

15 Answer: "I went over there to the crime scene in my
16 patrol vehicle."

17 You told them that was the first time you had ever been
18 there. Do you recall that?

19 A. I believe that was in reference to that night.

20 Q. I show you what is in evidence as State's Exhibit #4,
21 and ask you if you have ever seen these before?

22 A. A pair of blue jeans, Lee jeans.

23 Q. Have you ever seen them before?

24 A. No, I can't say I have.

25 Q. Thank you. You can be seated then.

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1 Wait a minute. I have got just one more question while you
2 are up here and we have got this chart. Officer Duckett,
3 on May 12th, you did drive down there. Show us where you
4 drove down there on May 12th.

5 A. I came down this road and proceeded into somewhere
6 along in here, wherever they had the evidence ribbon.

7 Q. And what did you do then?

8 A. I parked. Was that the first time, the second time,
9 or the third time I was down there?

10 Q. Well, start with the first time.

11 A. The first time?

12 Q. Yes, sir?

13 A. I don't remember whether I went down there with the
14 Chief or with Troy, one of the two took me down the first
15 time. Like I said, the evidence tape was somewhere along in
16 here. What is this number one sticker? Do you recall?

17 Q. I don't recall.

18 A. Okay, somewhere in here anyway, there was a car
19 pulled back up underneath the trees. I supposed it was Sgt.
20 Johnson's car. I don't have any ...

21 Q. On that occasion, you were not in unit 203, were you?

22 A. No, no.

23 Q. Continue on, please?

24 A. We stopped at the evidence tape. At that time, we
25 got out of the vehicle. I believe I was introduced to Rocky

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1 Harris and Sgt. Johnson at that time.

2 Q. You didn't know them before that, did you?

3 A. Sir?

4 Q. You never knew them before that day?

5 A. No, sir.

6 Q. Okay, go ahead.

7 A. I roughly ran over my story with them and they informed
8 me they would like to have an Affidavit wrote out. Either the
9 Chief or Troy, one of them, took me back to the police
10 department and that is where I wrote the statement out. When
11 I got finished with the statement, I went out at that time,
12 and that was my vehicle, 203, and I drove right back to the
13 crime scene...

14 Q. Show us where you drove?

15 A. Where you are pointing.

16 Q. All the way down that dirt road?

17 A. Right up to the ...

18 Q. It is about half a mile down there?

19 A. I don't have the slightest idea.

20 Q. A pretty good distance though, isn't it?

21 A. Yes, sir.

22 Q. Okay.

23 A. Pulled back up to the tape; got out; hand delivered...

24 Q. Okay, excuse me, I didn't mean to interrupt you. You
25 can go back to what you were saying, I was going to make one

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1 thing clear. That Unit 203, is the same unit you had been
2 driving the night before?

3 A. Yes, sir.

4 Q. And nobody else had driven it between the time you
5 dropped it off at the police department on the morning of
6 May 12th, and the time you got back into it on May 12th?

7 A. Not that I know of.

8 Q. Okay. Continue.

9 A. I hand delivered my Affidavit to, like I said, I
10 don't know, Rocky Harris, Sgt. Johnson... one of the two.
11 I gave it to them. Stood around for a while. At one point,
12 I walked up inside the ribbon to the pumphouse, standing up
13 here where the Lake County Tech Service truck was parked;
14 looked around in that area; walked back out.

15 Q. You walked all around in here, plus drove down here
16 twice in Unit 203, and that was before any soil samples were
17 ever taken off your car, isn't it?

18 A. I guess so, yes.

19 Q. Thank you.

20 (WHEREUPON, WITNESS RESUMES SEAT IN WITNESS BOX)

21 Q. Officer Duckett, on the night of May 11th, you had
22 an occasion in the early morning hours of May 12th, possibly,
23 to drive down to the clay pits, did you not?

24 A. Yes.

25 Q. And can you describe the clay pits for us, please?

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1 A. It is an open area dug down in the ground. They dug
2 the dirt out or the clay out. I have no idea what for. I
3 never heard, but anyway, it is an open pit.

4 Q. And it is all clay and sand and mud down there?

5 A. Yes, sir.

6 Q. And you drove down there that night?

7 A. Yes, sir.

8 Q. Now, Officer Duckett, the Mascotte Police Department
9 and City Hall, it is all in one building, isn't it?

10 A. Yes, sir.

11 Q. Now, when you went back up there to go to the bath-
12 room, or use the restroom facilities, you got there and the
13 place was locked up, correct?

14 A. Yes, sir.

15 Q. Now, Officer Duckett, you went to the Circle K Store
16 prior to going up to the police department, that is when
17 you talked to Maximinio Rubio and Salvador?

18 A. Yes, sir.

19 Q. Correct? And you say that you got there shortly, or
20 right around 10:30 for your investigation or whatever you
21 were doing with those kids?

22 A. No, it was just a little after ten.

23 Q. A little after ten?

24 A. Yes, sir.

25 Q. Well, how long were you there at the Circle K?

1 A. Fifteen - twenty minutes at the most.
2 Q. And you left Circle K at what time?
3 A. It had to be around 10:30.
4 Q. Well, you heard Joyce Reynolds say that she saw you
5 there at 10:45. You sat through this trial, did you not?
6 A. Sure.
7 Q. You heard Joyce Reynolds say you were there at
8 10:45 and she had a video receipt that she associated with you
9 being there?
10 A. No, I don't remember her saying that.
11 Q. Well, if she did say it, is she lying too?
12 A. No, no. I don't remember her saying that.
13 Q. I am asking you, if she said that?
14 A. If she said that, I don't know. Maybe she has got
15 her times mixed up.
16 Q. Or maybe you do?
17 A. No.
18 Q. And you say after you went to ... you took your walki-
19 talki in with you?
20 A. Yes.
21 Q. That is in case the Sheriff's Office or Groveland
22 calls you, you could respond to 10-4 checks and so forth?
23 A. Right.
24 Q. So you were on Channel One?
25 A. I believe that is the one, yes, sir.

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1 Q. And after you left there, you said you went to the
2 Presto Store to do a security check on Ed Crumbley?

3 A. No. I said I rode through the parking lot of the
4 Presto Store.

5 Q. Did everything appear to be okay when you rode
6 through?

7 A. Yes.

8 Q. Clerk appear to be okay?

9 A. Yes.

10 Q. Mr. Crumbley said you weren't there. Mr. Crumbley
11 said you never came through between 9:30 and 12:30. Is he
12 lying, too?

13 A. He said he never seen me through there.

14 Q. You saw him?

15 A. Does that mean he has to see me?

16 Q. Well, he said that you...

17 A. You turn around. I can see you. Can you see me?

18 No.

19 Q. I can see you perfectly well, sir. If Mr. Crumbly
20 says you were not there between 9:30 and 12:30, is he lying
21 or mistaken?

22 A. Mistaken.

23 Q. We can add him to the list?

24 A. No.

25 Q. To a different list?

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1 A. Mistaken.

2 Q. Between liars and mistaken lists. Now, you got a
3 call from Groveland Police Department about a missing child?

4 A. Right.

5 Q. You went from Bay Lake Road to the Police Department?

6 A. Ahum. (Affirmative response)

7 Q. And you got there before Officer Pahaley?

8 A. Right.

9 Q. You are sure about that?

10 A. I am positive about that.

11 Q. Now, Officer Duckett, is that where you first met
12 Mrs. McAbee, Dorothy McAbee?

13 A. At the police department, yes, sir.

14 Q. And at that time, you took down the information
15 regarding Teresa McAbee?

16 A. Yes.

17 Q. And you yourself described her shirt as being a knit
18 pull-over shirt, correct?

19 A. I asked the mother what type she had on.

20 Q. But you yourself described the shirt as being a knit
21 pull-over, did you not?

22 A. When?

23 Q. In several statements and also to Mrs. McAbee?

24 A. Yes.

25 Q. You remember her wearing a knit pull-over shirt?

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1 A. Yes.

2 Q. Do you remember her wearing Lee jeans like those jeans
3 sir?

4 A. Since you have entered them, I guess she had them
5 on.

6 Q. Do you recall her wearing jeans?

7 A. I recall her wearing jeans.

8 Q. Do you recall her wearing white high-top shoes?

9 A. Yes.

10 Q. Do you recall her mother telling you she was wearing
11 white high-top shoes?

12 A. Yes.

13 Q. Now, Officer Duckett, if we could talk for a minute
14 about your efforts that you went through to find Teresa
15 McAbee. You went to Maximinio Rubio's house, correct?

16 A. Ahum. (Affirmative response)

17 Q. And you talked to Mr. Rubio and talked to Salvador
18 Calisto and other people that were at the house?

19 A. Yes.

20 Q. You never searched the house?

21 A. No, sir.

22 Q. They offered to let you search the house?

23 A. Yes, sir.

24 Q. You said "No.". You trusted them?

25 A. Yes, sir.

1 Q. You went to Dorothy McAbee's house?
2 A. Yes, sir.
3 Q. Later on that night?
4 A. Yes, sir.
5 Q. To get a picture?
6 A. Yes, sir.
7 Q. And you testified that you saw a man crawl out of
8 bed from the bedroom?
9 A. Yes.
10 Q. How did you see this man crawl out of bed?
11 A. The door that we used opened into the kitchen or
12 I guess it was the kitchen area. I was standing there looking
13 through the door and seen him come out of the bed.
14 Q. Alright, did you get a...
15 A. He uncovered himself, stepped out. He had on a pair
16 of jogging shorts. He walked over to something behind the
17 wall and he come walking out with a picture.
18 Q. With that picture?
19 A. The mother and the little girl, yes.
20 Q. State's Exhibit #1?
21 A. Yes.
22 Q. What was that man's name?
23 A. I have no idea.
24 Q. You certainly didn't suspect him of anything? Didn't
25 even get his name, right?

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1 A. You are right.

2 Q. Now, you say that you took that picture and you went
3 to make a poster, is that correct?

4 A. Yes.

5 Q. What time did you call Chief Brady? He testified
6 about 1:15, is that...?

7 A. Somewhere around 1:00 o'clock, yes.

8 Q. Do you recall stating earlier to Detective Johnson
9 and Detective Harris that you called Chief Brady at exactly
10 12:00 o'clock midnight?

11 A. Yes, I remember saying that.

12 Q. That is not correct?

13 A. No, that was not correct.

14 Q. After you put those posters out and distributed the
15 flyers around, you spent the rest of the night looking for
16 Teresa McAbee?

17 A. I patrolled the City, yes.

18 Q. Looking for Teresa McAbee?

19 A. Yes.

20 Q. I show you what is in evidence as State's Exhibit
21 21 and ask you if you recognize that?

22 A. Yes, that is a speeding ticket I wrote.

23 Q. When did you write that ticket?

24 A. 5/12, 5:25 in the morning.

25 Q. On what day, sir?

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1 A. 5/12.

2 Q. Okay, that is the day that you were looking for
3 Teresa McAbee?

4 A. Yes.

5 Q. Now, Mr. Edmund indicated earlier in the trial that
6 was a moving radar. Was it moving radar or stationary radar,
7 sir?

8 A. No, we did not write tickets on moving radar.

9 Q. What kind of radar were you using when you wrote that
10 ticket?

11 A. This was our new unit that we just got in, a new
12 what they called a B unit.

13 Q. What kind of radar were you running? Stationary or
14 mobile?

15 A. Highway 50 and State 33, I was running stationary.

16 Q. So you were sitting stationary, running stationary
17 radar, in the early morning hours of May 12th, while you told
18 us you were looking for Teresa McAbee?

19 A. Yes.

20 Q. Isn't it true, Officer Duckett, that the reason you
21 weren't looking for her is because you knew where she was?

22 A. No.

23 Q. Now, you wrote that first ticket around 5:00 o'clock
24 in the morning?

25 A. 5:25, I believe, yes, sir.

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1 Q. Did you continue to run radar, stationary radar?

2 A. I wrote another ticket, I believe that was out on
3 Bay Lake Road, if I am not mistaken.

4 Q. I show you what is marked as State's Exhibit with
5 6 As, and ask you if you recognize that ticket?

6 A. Okay, excuse me, it was Highway 50 and Albbrook.

7 Q. What time did you write that ticket?

8 A. 6:15.

9 Q. And still running stationary radar?

10 A. Yes.

11 Q. Okay, sir, and how long did you run stationary radar
12 that morning?

13 A. I don't remember. Off and on, several times. Early
14 in the morning.

15 Q. Several hours?

16 A. Not several hours.

17 Q. That is at least one hour right there in your hand?

18 A. Just because it has got the times on it, Mr. Hogan,
19 does not mean you sit there and run it constantly.

20 Q. You weren't looking for Teresa...

21 A. You write the times on there at the time that the
22 offense occurs.

23 Q. You weren't looking for Teresa McAbee while you were
24 running stationary radar, were you?

25 A. Definitely.

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1 Q. You were looking for Teresa McAbee while you were
2 giving this man a speeding ticket?

3 A. Just because you look for somebody, does that mean
4 you are not supposed to write tickets when they are speeding
5 51 in a 35?

6 Q. Does that take prior over...?

7 A. Or on a one person police unit, you are supposed to
8 drop everything else?

9 A. Isn't the real reason because you knew where she
10 was?

11 A. No.

12 Q. Now, what did Chief Brady tell you to do with regard
13 to looking for Teresa McAbee? Did he tell you to run
14 stationary radar or did he tell you to look for the girl?

15 A. I don't remember the exact words he said.

16 Q. You heard him testify here?

17 A. Yes, yes. I could sit here and repeat what he said,
18 but that is not what I remember, or that is ... I don't
19 remember him saying that.

20 Q. Well, are you going to put Chief Brady on the
21 mistaken list also?

22 A. No, no. I didn't say anything about that, did I?

23 Q. You said you don't remember him saying that?

24 A. No, I don't.

25 Q. But you heard him testify he told you that ...

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1 A. Do you want me to sit here... you want me to sit
2 here and say something that I did not hear, okay? I do not
3 remember him telling me to ... what is the word he used...
4 thrash the city, or some other way?

5 Q. After 3:00 o'clock in the morning, you went to
6 Dorothy McAbee's house at 3:00 A. M., did you not?

7 A. Somewhere there, I guess.

8 Q. And you talked to the people that were there?

9 A. I talked to, I believe it was a blonde woman...

10 Q. Shirley Fernandez?

11 A. I don't remember her name. A blonde woman. She was
12 pregnant at the time, yes.

13 Q. One of the relatives of the McAbee family?

14 A. I think so.

15 Q. They were all up. They were all upset when you got
16 there at 3:00 o'clock in the morning, were they not?

17 A. I suppose they would be, yes.

18 Q. Well, do you recall them being up, and still awake?

19 A. They were outside, yes.

20 Q. They were outside. Did you ever go back to the house
21 after that to see if the girl came home?

22 A. No, I rode by there several times, but I never went
23 back to the house.

24 Q. You rode right in front of their house several times?

25 A. Yes. Some of them were sitting out in front ... in

1 front of the house.

2 Q. How many times did you say you rode up and down
3 Sunset in front of the McAbee residence and saw them sitting
4 out in front of the house? How many times would you say?

5 A. After three o'clock?

6 Q. Yes, sir?

7 A. Once or twice.

8 Q. But you never went back in the house?

9 A. No, sir.

10 Q. You never stopped to talk with any of them again?

11 A. No, sir.

12 Q. Never went back in the Circle K to see if anybody
13 had seen the girl?

14 A. No, sir.

15 Q. You never went down by Knight Lake to see if the
16 girl was there?

17 A. No, sir.

18 Q. Why didn't you go down there?

19 A. It didn't dawn on me.

20 Q. Do you recall Shirley Hernandez, at three A. M., tell-
21 ing you to go down there and look at that lake?

22 A. No, she never ... she never made that statement.
23 She never mentioned that area. She never even mentioned any
24 area.

25 Q. Can he stand down, Judge?

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THE COURT: Yes.

(WHEREUPON, WITNESS STEPS DOWN FROM WITNESS STAND)

Q. Do you recognize this aerial photograph?

A. Yes.

Q. Do you recognize this as being the Circle K?

A. Yes, sir.

Q. Do you recognize this location as being the home of the McAbees, Teresa McAbee's home at that time?

A. No.

Q. Where do you think she lived on Sunset?

A. She lived here.

Q. I am sorry. You are correct. That is the intersection of Pearl and Sunset?

A. Right.

Q. Where did you search for Teresa McAbee?

A. The whole city of Mascotte.

Q. Well, this pumphouse is in the city of Mascotte, is it not?

A. At that time, no, and I still don't believe it is. I believe the Chief got up here and said the same thing, that nobody determined whether it is in Mascotte or not.

Q. Well, this pumphouse and this orange grove and Pearl Street, this dirt road is certainly in the City of Mascotte. You have already testified that you went down there in January investigating a crime?

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1 A. Exactly.

2 Q. So you certainly knew about this road?

3 A. Yes.

4 Q. And this is the area that the girl was last seen

5 in, according to you, the Circle K?

6 A. Yes.

7 Q. And this is her home right here?

8 A. Yes.

9 Q. And this intersection of Pearl Street and Sunset is

10 less than a quarter of a mile from there?

11 A. Yes.

12 Q. Yet you never searched this area?

13 A. I never searched this area.

14 Q. You never searched the area that you knew ... you

15 knew about this area. You knew it was an area where trouble

16 occurred?

17 A. No, no, I didn't know there was an area that trouble

18 occurred at. I never went down there patrolling.

19 Q. What do you call gunshots?

20 A. I said I was looking for the area that the gunshots

21 were in.

22 Q. Well, you knew that the area was here?

23 A. Yes, sir.

24 Q. And you never went down there to look for Teresa

25 McAbee?

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1 A. No, sir.

2 Q. Thank you very much.

3 (WHEREUPON, WITNESS RESUMES WITNESS STAND)

4 Q. Now, Officer Duckett, this morning you said that you
5 had thought about this for one year and after one year, you
6 believe that possibly Teresa McAbee had sat on the hood of
7 your car while you were at the Circle K Store?

8 A. Yes, sir.

9 Q. Now, did you come up with that explanation after you
10 heard Mrs. Ahern testify?

11 A. No.

12 Q. Do you recall making several statements to Gerard
13 King and Captain Horner and Chuck Johnson and Rocky Harris,
14 that the girl had never, positively never touched the hood of
15 your car?

16 A. As far as I knew, she hadn't.

17 Q. Do you recall telling them, in fact, at one time,
18 you said I swear to God she has never been on the hood of my
19 car?

20 A. And I would.

21 Q. Would you like to do it today?

22 A. As far as I know, yes. I never seen the girl on the
23 hood of my car.

24 Q. And you heard Salvador Calisto testify that the girl
25 was never on the hood of your car and you heard Maximinio Rubio

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1 testify the girl was never on the hood of your car, and you
2 heard Joyce Reynolds testify she never saw the girl on the hood
3 of your car, and you heard Polly Carr testify that she never
4 saw the girl on the hood of your car. All the people at
5 Circle K. But that is the only time that you can think of
6 that maybe she did get on the hood of your car?

7 A. That was the only time.

8 Q. And you say this could have occurred when you were
9 talking to Salvador?

10 A. When I was talking to the bunch in the car. Salvador
11 was amongst them, yes.

12 Q. I show you a part of State's Composite Exhibit 51
13 and ask if you recognize the vehicle in that picture?

14 A. Mascotte police car.

15 Q. Does that look like the car you were driving?

16 A. I could not say one way or the other.

17 Q. Here are the rest of the photographs.

18 A. You still cannot determine. There is no outside
19 number on it.

20 Q. Do you know the tag number of your own car?

21 A. No, I do not.

22 Q. This has been identified as Unit 203. You don't
23 dispute that, do you?

24 A. No, I don't dispute it.

25 Q. And you were the only one that drove that car during

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1 that shift?

2 A. May 11th? Yes.

3 Q. And you were the next one that got in the car on
4 May 12th, the next afternoon?

5 A. As far as I know, yes.

6 Q. And when you were driving Unit 203, you had in your
7 pocket keys to 204?

8 A. I had one set.

9 Q. Yes, sir, the only known set?

10 A. No, there was another one...

11 Q. Chief Brady had another set?

12 A. There was an unknown set still out.

13 Q. Out where?

14 A. Nobody knows. I believe that has been testified to,
15 too.

16 Q. Do you recall making the statement to Gerard King
17 that when you talked to the Mexicans, including Salvador,
18 you had them standing by the spotlight of the car and you
19 were standing at the front of the car?

20 A. No.

21 Q. On page 16, line 14.

22 "Q. Now, I want you to think in your mind now,
23 I want you to get this specific. Where were both
24 Salvador and Teresa in relation to your vehicle?"

25 Your Answer:

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1 "A. They were on the driver's side to begin with.

2 Q. They were leaning up against your door, or were
3 they in the back seat?

4 A. It seems like Teresa was leaning right where
5 the spotlight is, right in front of the car and Salvador
6 was standing beside her towards 50, which would be to
7 the North side of her.

8 Q. Which direction were you facing?

9 A. I was facing, I believe I was facing North."
10 Do you recall that?

11 A. If it is down there, yes, I guess so.

12 Q. Okay, and that description has both Salvador and
13 Teresa on this side of the car with you standing in front of
14 them facing them, they are standing by the spotlight, does
15 it not?

16 A. I believe so, yeah. I believe that is what I stated
17 this morning, that I was leaning on the front of the car,
18 asking them questions.

19 Q. On the driver's side?

20 A. On the driver's side.

21 Q. And both kids on the driver's side?

22 A. Exactly.

23 Q. And that is the same statement you swore to God she
24 was never on the hood of the car?

25 A. I guess so, yes.

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1 Q. You testified this morning that you were willing to
2 take a polygraph exam?
3 A. Yes, sir.
4 Q. Where are the results?
5 A. When was I asked?
6 Q. Well, you were asked by Mr. King and Mr. Horner to
7 take one?
8 A. Exactly. So?
9 Q. And you told them you wouldn't take one?
10 A. Until I talked to an attorney.
11 Q. But you told them you would not take one, correct?
12 A. Until I talked to an attorney, and I said I would
13 take one, but I am going to talk to an attorney.
14 Q. Have you ever taken one?
15 A. After that period of time, I was never asked.
16 Q. They didn't ask you when the tape was turned off?
17 A. No, sure didn't.
18 Q. Is Gerard King mistaken or a liar?
19 A. The statement is that he lied, yes.
20 Q. He is on the liar list?
21 A. I believe this statement has already been cleared
22 on that. He lied all the way through the thing.
23 Q. I show you what has been in evidence as State's
24 Exhibit 31 and ask you if you recognize that?
25 A. Mileage log out of one of the cars.

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1 Q. It has been identified as being the mileage log out
2 of 203. Look in there, please.

3 THE COURT: What number in evidence, Mr. Hogan?

4 MR. HOGAN: That is #33 in evidence.

5 Q. Look at May 11th... May 11th first?

6 A. Okay.

7 Q. Do you see your starting mileage on May 11th?

8 A. Yes, sir.

9 Q. Please tell us your ending mileage on May 12th?

10 A. There is none.

11 Q. Did you gas the car up when you got off duty?

12 A. I do not recall. If I did, there would be a gas
13 log somewhere for it.

14 Q. Officer Duckett, Joyce Reynolds testified that at
15 10:45, she saw you and Teresa McAbee at the Circle K Store
16 and Teresa was wearing a brown and tan striped shirt, is
17 that accurate?

18 A. No.

19 Q. She is mistaken or lying?

20 A. I believe she has got her time mixed up.

21 Q. The shirt was accurate?

22 A. For one thing, if she seen me checking the video
23 tape out, she was behind the counter, so there would be no
24 way that she could see.

25 Q. She testified she saw her?

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1 A. She might have testified it, but the pictures will
2 clearly show that she could not see behind the cash register.

3 Q. So she is mistaken or lying?

4 A. Take it as it may.

5 Q. How do you take it?

6 A. I would say she has got a mix up on the times.

7 Q. Salvador Calisto testified that you came up North on
8 sunset and drove past he and Teresa as they stood in the dark
9 behind the dumpster. You said you saw them over on Mohawk.

10 A. The corner of Mohawk and North Sunset, yes.

11 Q. Now, Salvador Calisto said you drove right by North
12 on Sunset past the dumpster?

13 A. No.

14 Q. No?

15 A. No.

16 Q. So he is either lying or mistaken?

17 A. Right.

18 Q. But you agree with Polly Carr when she said she
19 never saw the girl on the hood of your car. You never saw it
20 either?

21 A. No, I never seen the girl sit on the hood of my car.

22 Q. And Gwen Gurley testified that you left there with
23 somebody else in the car?

24 A. Gwen Gurley wasn't even there.

25 Q. But she knew exactly where you were sitting running

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1 radar, didn't she?

2 A. I sat there for six months running radar.

3 Q. Edward Crumbley testified he absolutely did not see
4 you between 9:30 and 1:00 A. M., and would not have missed
5 you if you had been there. He is mistaken or lying? Correct?

6 A. Correct.

7 Q. Shirley Williams testified that, even again today,
8 that you told her not to put that poster up in the window.
9 You would bring another one later?

10 A. I did tell her not to put it up in the window.

11 Q. Did you tell her you would bring another one later?

12 A. I don't remember telling her that I would bring her
13 another one. I told her not to put it in the window.

14 Q. She is mistaken about that? About bringing another
15 poster?

16 A. I said that all along, yes.

17 Q. You do admit you were running stationary radar for
18 at least an hour? At least for two tickets?

19 A. Three tickets.

20 Q. And you were mistaken about the time you called
21 Chief Brady?

22 A. Yes.

23 Q. And Ms. Dow is lying or mistaken?

24 A. Yes.

25 Q. And Ms. Upshaw is lying or mistaken?

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1 A. Yes.

2 Q. And Ms. Ruetz is lying or mistaken?

3 A. Yes.

4 Q. And Gerard King is lying or mistaken?

5 A. Definitely.

6 Q. Could I have one moment, Judge?

7 THE COURT: Yes.

8 Q. Officer Duckett, you went out to Knight Lake

9 investigating possible gunshots sometime before May? You

10 drove your car all the way through that area?

11 A. Yes, sir.

12 Q. Now, Shirley Fernandez, if Shirley Fernandez says

13 that she told you to go check down by Knight Lake, she is

14 lying or mistaken?

15 A. She never made that statement to me.

16 Q. Okay, so she would either be lying or mistaken?

17 A. Yes.

18 Q. And if Shirley Fernandez and Tammy Zavala say that

19 they sat out in front of their residence until daylight

20 and you never drove up and down Sunset after three A. M.,

21 they are lying or mistaken?

22 A. I know they were sitting out in front. I guess I

23 drove by there twice.

24 Q. If they say you never drove by, then they are lying

25 or mistaken?

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1 A. I guess so, yes, sir.
2 Q. Alright, sir. Do you like being a policeman?
3 A. Did I like being a policeman? Yes.
4 Q. Try to do a good job?
5 A. Yes, sir.
6 Q. Conscientious?
7 A. Yes, sir.
8 Q. Interested in your work?
9 A. Yes, sir.
10 Q. Took your work seriously?
11 A. Yes, sir.
12 Q. Then would you please explain to this Jury why when
13 you were supposed to be looking for an eleven year old girl
14 who was missing, that you ran stationary radar? Take your
15 time?
16 A. When the girl came up missing, we discussed it. I
17 say, we discussed it. The Chief discussed it. We did not
18 feel, nor I did not feel that she was actually missing. We
19 felt more like she was at a friend's house or whatever. So
20 I guess I did not take my job seriously. I did not take
21 the complaint that serious.
22 Q. Well, did you take it seriously the next morning
23 at nine A. M. when someone from the police department, a
24 secretary on duty said, called you and told you that the
25 eleven year old girl that you were looking for was found

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1 strangled? Murdered? Face down in the lake? Did you take
2 that seriously, sir?

3 A. She didn't say all that.

4 Q. She told you the girl was dead?

5 A. She said the girl was dead.

6 Q. In the lake?

7 A. She said Signal 8 was a Signal 7.

8 Q. Did you take that seriously?

9 A. Yes, I took it seriously.

10 Q. This is the same girl you were supposed to have been
11 looking for the night before?

12 A. Yes.

13 Q. So you took that seriously?

14 A. Yes.

15 Q. But you went back to sleep? You rolled over and went
16 back to sleep?

17 A. Exactly.

18 Q. Then you were called an hour later and given more
19 details about the murder and rape of Teresa McAbee?

20 A. Yes.

21 Q. And you went back to bed?

22 A. I asked should I come in and the Chief said, "No".

23 Q. And you were a six month veteran of the police
24 department, conscientious about your job, a girl you were
25 supposed to be looking for, and instead you ran stationary

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1 radar, comes up dead, and you didn't even get out of bed to
2 go down to help work on the case, did you?

3 A. I knew we would not be handling the case.

4 Q. And you didn't even have enough interest in what
5 happened to that girl, to get out of bed and go down there
6 and see?

7 A. I should have. Yes, I agree with you.

8 Thank you, Judge.

9 RE-DIRECT EXAMINATION

10 BY MR. EDMUND:

11 If it please, Your Honor, may I question from here,
12 Judge?

13 THE COURT: Yes, sir.

14 Q. What Mascotte police officer, if any, was allowed
15 to participate in this investigation?

16 A. None.

17 Q. When you were speaking with Captain Horner and
18 Mr. King, and you told them that you weren't on that road,
19 this is during that course of the questioning when they were
20 talking to you about how your tire tracks could have gotten
21 down there on that morning, is it not?

22 A. Yes, sir.

23 Q. And that is reflected on pages thirty-nine and forty
24 of the statement, is it not?

25 A. Yes, sir.

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1 Q. Now, when you went down there to the scene of the
2 finding of the body on the morning of May 12th, you never went
3 around and went through the mud holes from which the soil
4 samples were taken, did you?

5 MR. HOGAN: I don't mean to interrupt, but I object to
6 the phraseology of the question, because this witness
7 testified he didn't make it down there until in the afternoon.

8 MR. EDMUND: Well, whenever. Whenever you went down
9 there to the scene, you never went through the mud holes from
10 which the soil samples were taken, did you?

11 A. No, sir.

12 Q. Did the Sheriff's Office respond at all during the
13 nighttime hours of May 11th and May 12th, and the morning
14 of May 12th, to the missing person's report that you called
15 in?

16 A. No, sir.

17 Q. Did any officer from any agency other than you
18 respond to that report?

19 A. None.

20 Q. Did you say... will you tell the Jury what time it
21 was that the Sheriff's Office got around to broadcasting
22 the report?

23 A. It was between seven and eight o'clock the next
24 morning.

25 Q. And at or about what time did you call it to them?

1 A. I called while the mother was still sitting at the
2 police department, so it was a little after twelve.

3 Q. Tell the Jury whether or not you actually suspected
4 foul play when the report was made?

5 A. No, I sure didn't.

6 Q. Tell the Jury what contribution, if any, you could
7 have made to the investigation?

8 A. No more than what I done when I went in. I gave
9 them my statement of what happened that night.

10 Q. And tell the Jury how you would have known, if you
11 can, that Teresa had a blue-green blouse?

12 A. I never seen the girl before that I can recall.
13 That's the only thing that I seen her in that night was that
14 blue-green knit top.

15 Q. And tell the Jury whether, when you told her mother
16 a blue-green top, her mother said to you, "She doesn't have
17 one"?

18 A. No, she said, "Yes, that was the color that it was".

19 Q. Thank you, Your Honor.

20 RE-CROSS EXAMINATION

21 BY MR. HOGAN:

22 Q. Officer Duckett, you say that no Mascotte police
23 officer was allowed to participate in the investigation of
24 the murder and rape of Teresa McAbee, correct?

25 A. To my knowledge, we were not involved in it.

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1 Q. When did you find that out?
2 A. We knew that from the start.
3 Q. When did you find out you weren't going to be
4 involved in the investigation?
5 A. A week or two after.
6 Q. A week or two after she was found?
7 A. Right.
8 Q. You didn't know that on the morning of May 12th, when
9 you refused to get out of bed and come to the scene, did you?
10 A. No.
11 Q. Now, you say that you had no reason to suspect foul
12 play at first, yet Chief Brady told you to thrash the streets
13 looking for the girl?
14 A. Yes.
15 Q. Do you recall describing the shirt that Teresa
16 McAbee was wearing the last time you saw her as a knit pull-
17 over with two buttons?
18 A. I don't remember those specific words, but I am
19 sure if you said it, it must be wrote down there.
20 Q. So you agree with that? You said that?
21 A. Read the whole thing. Is that the whole part?
22 Q. This is a statement that you made to Gerard King
23 and Mr. Horner on page nineteen:
24 The question was: "Shirt or sweater? Was it a pull-
25 over?"

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1 Your answer: "A pull-over knit or something like that."
2 "Q. Did it button up the front?
3 A. Not that I know of. I can't remember. It was blue-
4 green. It was bluish. It was a knit shirt."
5 Do you remember saying that?
6 A. Yes.
7 Q. Do you recall that?
8 A. Yes, sir.
9 Q. A pull-over shirt?
10 A. Ahum. (Affirmative response)
11 Q. That is what you saw her in?
12 A. A blue-green knit pull-over shirt, yes.
13 Q. Thank you. Do you recall telling Investigator
14 Johnson and Investigator Harris that it had a couple of
15 buttons on the front?
16 A. Yes.
17 Q. And you agree with that? You agree with the pull-
18 over shirt with two buttons?
19 A. Ahum. (Affirmative response)
20 Q. Thank you.
21 Thank you, Judge.
22 THE COURT: Mr. Edmund?
23 MR. EDMUND: None, Your Honor, thank you.
24 THE COURT: Alright, you can step back down, Mr. Duckett.
25 (WHEREUPON, TESTIMONY OF MR. DUCKETT ENDS)

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1 MR. EDMUND: May we approach the bench a moment,
2 Your Honor?

3 THE COURT: Yes, sir.

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

5 MR. EDMUND: I am sure I rest, but you know in a First
6 Degree Murder case, could I have five minutes to sit with Bob
7 and throw our minds together and when we come back I will
8 announce before the Jury comes in, I ask you to accept my
9 Motions in toto instead of going over everything again, if it
10 please the Court.

11 THE COURT: Let's go ahead and take fifteen minutes.

12 MR. EDMUND: If you are going to tell the Jury, I would
13 love to have an extra fifteen minutes.

14 Are you going to have rebuttal?

15 MR. HURM: We are going to present some rebuttal.

16 THE COURT: We will take fifteen minutes.

17 (WHEREUPON, BENCH CONFERENCE ENDS)

18 THE COURT: Folks, we are going to take fifteen minute
19 recess at this time and ask you not to discuss the case among
20 yourselves.

21 Thank you, Mr. Bailiff.

22 (WHEREUPON, JURY IS OUT AT 3:25 P. M.)

23 (WHEREUPON, DEFENDANT IS TAKEN FROM COURTROOM AT 3:26 P.M.)

24 (WHEREUPON, COURT IS IN RECESS AT 3:26 P. M. FOR FIFTEEN
25 MINUTES)

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1 (WHEREUPON, COURT RECONVENES AT 3:43 P. M.)
2 (WHEREUPON, DEFENDANT IS PRESENT IN COURTROOM WITH HIS
3 COUNSEL, MR. EDMUND)
4 THE COURT: Anything before we bring the Jury back?
5 MR. EDMUND: Yes, sir, if it please the Court, Defense
6 would renew our Motion for Directed Judgment of Acquittal
7 in toto. Your Honor, the Defense rests.
8 THE COURT: Yes. The same ruling on the Motion. It
9 is denied without argument. Anything further?
10 MR. EDMUND: No, Your Honor.
11 THE COURT: Bring the Jury back please, Mr. Bailiff.
12 (WHEREUPON, JURY ENTERS COURTROOM AT 3:45 P. M.)
13 THE COURT: Thank you. Be seated, folks. Can you assure
14 us you did abide by our admonitions?
15 JURORS: Yes, sir.
16 THE COURT: Thank you very much.
17 Ladies and gentlemen, the Defense has rested.
18 The State has an opportunity if it chooses to put on
19 rebuttal testimony at this time.
20 MR. HOGAN: Yes, Your Honor, we would call Detective
21 Rocky Harris.
22 THE COURT: Detective Harris.
23 (WHEREUPON, DETECTIVE ROCKY HARRIS IS CALLED AS WITNESS
24 FOR THE STATE AND IS DULY SWORN BY THE CLERK OF THE COURT)
25 DIRECT EXAMINATION

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BY MR. HOGAN:

Q. State your name for the record?

A. Rocky Harris.

Q. How are you employed, Mr. Harris?

A. Lake County Sheriff's Office.

Q. Were you so employed in May of 1987?

A. Yes, sir.

Q. Now, did you have an occasion to become involved
in the investigation of the murder and rape of Teresa McAbee?

A. Yes, sir.

Q. Directing your attention to the week of May 11th,
did you have occasion to come in contact with Dorothy McAbee?

A. Yes, sir.

Q. What was your purpose of talking with her at that
time?

A. Did you say May 11th?

Q. The week of May 11th, yes, sir.

A. Yes, sir.

Q. Did you have occasion to come in contact with her
with regard to an article of clothing that belonged to
Teresa McAbee?

A. Yes, sir.

Q. Okay, please tell us about that?

A. Approximately two days after the discovery of the
victim, I had been advised by several witnesses that the

1 victim had been seen with a blue-green shirt. I went to
2 Mrs. McAbee and asked her if there was such a shirt. She
3 said, "Yes", and I asked her if she would get it. She did get
4 it. I told her I didn't know if it was relevant to the case
5 or not. Mrs. McAbee asked me if we didn't need the shirt,
6 she would like to have it back.

7 Q. But you took it and kept it, right?

8 A. I took the shirt and kept it.

9 Q. Why were you troubled by the fact that some people
10 said earlier...

11 MR. EDMUND: I object to the phraseology, editorializing
12 or otherwise, if it please, Your Honor, to the question.

13 MR. HOGAN: I would be glad to rephrase it.

14 Q. Detective Harris, had you had any other descriptions
15 of a shirt other than blue-green?

16 A. Yes, sir.

17 Q. Who gave you the other description?

18 A. Mrs. Reynolds.

19 Q. Who is Mrs. Reynolds?

20 A. She is the clerk at the Shop and Go, Circle K.

21 Q. How did she describe Teresa McAbee?

22 A. She said she had on a pull over tan type shirt.

23 Q. And what time did Mrs. Reynolds see Teresa McAbee?

24 A. She said she seen her around 10:45.

25 Q. And these other witnesses that said the blue-green

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1 shirt, what time had they seen Teresa McAbee?
2 A. It was in the early part of the evening.
3 Q. I show you what is marked for identification as
4 State's Exhibit IIIII and ask you if you recognize that?
5 A. Yes, sir.
6 Q. What is that, sir?
7 A. This is the little pull-over shirt... I mean shirt
8 that Mrs. McAbee gave me.
9 Q. Is it a pull-over shirt?
10 A. No, sir, it is a button up shirt.
11 Q. How many buttons does it have on it, sir?
12 A. Four.
13 Q. And that is the shirt you got from Mrs. McAbee?
14 A. Yes, sir.
15 Q. Does it appear to be in the same condition or
16 substantially the same condition as the way you received it
17 last May?
18 A. Yes, sir.
19 Q. I offer State's Exhibit IIIII into evidence.
20 MR. EDMUND: No objection, Your Honor.
21 THE COURT: State's Exhibit IIIII for identification
22 admitted into evidence without objection as State's Exhibit
23 101.
24 (WHEREUPON, STATE'S EXHIBIT #101 IS ADMITTED INTO
25 EVIDENCE WITHOUT OBJECTION)

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1 MR. HOGAN: Thank you, Detective. Thank you, Judge.

2 THE COURT: Mr. Edmund?

3 MR. EDMUND: May I have just a moment, Your Honor?

4 THE COURT: Yes, sir.

5 MR. EDMUND: If it please the Court.

6 THE COURT: Yes, sir.

7 CROSS EXAMINATION

8 BY MR. EDMUND:

9 Q. Did Mrs. Reynolds, Joyce Reynolds, indicate to you
10 that Teresa had come back to the store after the police officer
11 had left the store? On the evening hours of May 11th, 1987?
12 Detective Harris?

13 A. You mean you are talking about the first encounter
14 or...?

15 Q. Talking about the time that she indicated that she
16 saw the child in a particular colored shirt?

17 A. The victim... Mrs. Reynolds said that the victim
18 had been in and out of the store numerous times.

19 Q. Didn't you say that the last time that Mrs. Reynolds
20 said she saw her was at 10:45?

21 A. Yes, sir.

22 Q. I ask you again, did Mrs. Reynolds indicate to you
23 at that time that the child had come back into the store again
24 after the police officer had left?

25 A. Not that I can recall.

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1 Q. How do you reconcile the 10:45 time with the time
2 that Mrs. Williams arrived to work, between 10:30 and 10:40
3 where the police officer had left and there was no child in
4 the parking lot as far as Mrs. Williams could remember?

5 A. We are going by Joyce, because she said she wrote
6 a receipt.

7 Q. Did you ask her if Mrs. Williams was there already
8 at that time?

9 A. I could have. I would have to refer to my notes.

10 Q. What was her response if you did?

11 A. I don't really remember.

12 Q. Did you ask Mrs. Williams if she was there at the
13 time that Mrs. Reynolds wrote the receipt?

14 A. Again, I could have, counselor.

15 Q. Throughout this investigation, has your office sort
16 of selected what they wanted to accept and rejected what they
17 wanted to reject, Detective Harris?

18 A. No, sir.

19 Q. Well, then why did you simply accept that without
20 questioning whether it was before or after Mrs. Williams had
21 not seen the girl?

22 A. That is what the child was found in, the shirt.
23 The pull-over-shirt.

24 Q. That is what the child was found in was the pull-
25 over shirt, isn't it?

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1 A. Yes, sir.

2 Q. Everybody in town knew that that is what the child
3 was found in, the brown striped pull-over shirt, isn't that
4 correct?

5 A. Sir, I can't speak for everybody in town.

6 Q. Well, is it a fair statement to say just based upon
7 your knowledge of every day affairs in a town the size of
8 Mascotte, everybody knew pretty much everything about that
9 homicide pretty quick?

10 A. There again, I couldn't say what everybody in town
11 knew. I don't know, Mr. Edmund.

12 Q. Do you have any idea of what effect the power of
13 suggestion might have on Ms. Reynolds and Ms. Reynold's
14 statement?

15 MR. HOGAN: That calls for speculation.

16 MR. EDMUND: No, sir, that calls for a yes or no if he
17 has any idea, if you please, Your Honor.

18 THE COURT: I'll let him answer that.

19 A. I wouldn't know, sir.

20 Q. You wouldn't know. Alright, sir. At what point in
21 time did you get this information from Mrs. Reynolds regarding
22 having seen the child at 10:45 in a brown and white striped
23 shirt?

24 A. The date I don't remember, Mr. Edmund. I would have
25 to look at my report to see the date.

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1 Q. Do you have the report available at this point in
2 time?

3 A. I don't have Mrs. Reynold's statement.

4 Q. Alright, sir, are you certain that Mrs. Reynold's
5 statement said 10:45 then, Detective Harris?

6 A. Yes, sir.

7 Q. And how is it you are so certain about that?

8 A. On account of the video receipt.

9 Q. On account of the video receipt. Is that what planted
10 10:45 in your mind?

11 A. She was very adamant about 10:45.

12 Q. What was the significance, or when was the video
13 receipt given and for what purpose?

14 A. A young couple came in and rented a movie and the
15 video, that was the receipt that she give them.

16 Q. And if she says to you then that it was after that,
17 that she saw the child, or at that time, or just before that?
18 When was it in relation to the video receipt that she saw
19 the child in the brown pull-over shirt?

20 A. It was somewhat before that time.

21 Q. Well, sir, could it have been twenty minutes earlier
22 than that?

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

24 Q. Do you even remember?

25 A. I know it was associated with the 10:45, yes, sir.

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1 Q. How was it associated with the 10:45, Detective
2 Harris?

3 A. That is when she related that is when she seen her.
4 That is all I can tell you.

5 Q. Was Mrs. Williams present when you were questioning
6 Mrs. Reynolds?

7 A. No, sir.

8 Q. Where was Mrs. Reynolds when you were questioning
9 her?

10 A. At the store.

11 Q. So was it daylight or dark when you were questioning
12 her?

13 A. I have got the time on the tape. I don't remember.
14 There were so many people. I am sorry.

15 Q. But you don't even remember which day it was that
16 you were questioning her?

17 A. No, sir. To be honest with you, I don't.

18 Q. Could it have been three, four, five days after the
19 homicide? How long could it have been, Detective Harris?

20 A. I don't remember. I am being honest. I really
21 don't.

22 Q. Now, you have been sitting in the courtroom for
23 some period of time. Did you sit in the courtroom when
24 Mrs. McAbee testified?

25 A. No, sir.

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1 Q. Alright, sir, would it surprise you that my
2 recollection of Mrs. McAbee's testimony is that at some point
3 a couple days later in time, that she found the shirt in a
4 drawer?

5 A. I don't know where she found it, counsel. She could
6 have.

7 Q. Alright, now did you search the drawers of the
8 McAbee household to see if there were other knit shirts than
9 the knit shirt that the child was wearing?

10 A. No, sir.

11 Q. Has anybody said to you during the course of your
12 investigation that when Mr. Duckett, at the time he was taking
13 the missing child report, indicated to the mother that the
14 shirt was a blue-green and the mother said, "Yes, that's right.
15 A knit blue-green shirt." That is in your reports also,
16 isn't it? Detective Harris?

17 A. It could be, yes, sir.

18 Q. It is, isn't it, Detective Harris?

19 A. It could be.

20 Q. So it is not Mr. Duckett who said it was a knit blue-
21 green shirt, but in fact, it was the mother who said it was a
22 blue-green shirt, isn't that correct?

23 A. There again, counsel. It could be. I would have to
24 refer to my notes.

25 Q. I have no further questions, Your Honor.

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1 MR. HOGAN: No questions.

2 THE COURT: You can step down, Officer. Thank you.

3 MR. HOGAN: Mr. Bruce Pahaley.

4 THE COURT: Can you spell that last name for me, please?

5 MR. HOGAN: P A H A L Y.

6 (WHEREUPON, BRUCE PAHALEY IS CALLED AS NEXT WITNESS FOR
7 THE STATE AND IS DULY SWORN BY THE CLERK OF THE COURT)

8 DIRECT EXAMINATION

9 BY MR. HURM:

10 Q. Good afternoon, Mr. Pahaley. State your name for
11 the record, please?

12 A. Bruce Pahaley.

13 Q. Were you employed as a Deputy Sheriff, Lake County
14 Sheriff's Office in 1987?

15 A. Yes, I was.

16 Q. Specifically on May 11, 1987, do you recall whether
17 you were on duty?

18 A. Yes, sir, I was.

19 Q. What was your position with the Lake County Sheriff's
20 Office?

21 A. I was road deputy.

22 Q. What was your responsibility or duty?

23 A. General patrol work, calls.

24 Q. What time of day or shift did you work on May 11th?

25 A. I worked from 6:00 P. M. to 6:00 A. M.

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1 Q. What area of the County did you patrol?

2 A. From County Road 48 South to County Road 50 from
3 Orange County to Sumter County.

4 Q. Would that include the City of Mascotte?

5 A. Yes, 50 goes right through the City of Mascotte.

6 Q. And the area around Groveland as well?

7 A. Yes.

8 Q. Mr. Pahaley, did you have occasion around 9:30 that
9 night to respond to a call addressed to you by Mascotte unit
10 with regard to a distraught black female at the Circle K?

11 A. Yes, sir.

12 Q. Would you tell the Jury, please, sir, about that?

13 A. I arrived ... Officer Duckett was talking to a black
14 female. I don't remember her name right off the top of my
15 head.

16 Q. Did you know the officer, Officer Duckett, prior to
17 that night?

18 A. I had come in contact with him.

19 Q. Do you see him in the courtroom now?

20 A. Yes, sir.

21 Q. Would you point to him, please, and describe what
22 he is wearing?

23 A. The gentleman in the gray suit and the gray shirt.

24 MR. EDMUND: I would stipulate he has identified my
25 client, if it please, Your Honor.

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1 THE COURT: The record would reflect the witness has
2 identified the Defendant.

3 Q. Mr. Pahaley, when you got to the Circle K, was
4 Duckett there?

5 A. Yes, sir.

6 Q. What action did you take when you got there?

7 A. I spoke with Officer Duckett. He advised me that
8 the lady had had a problem with her boyfriend or husband and
9 had come there to make contact with her and because it was not
10 in the City of Mascotte, he had called for us. He had
11 information as far as her name and his name et cetera.

12 Q. How long were you there with the Defendant?

13 A. Just a matter of a couple minutes.

14 Q. Then what did you do?

15 A. I left that area and went out to Stuckey to see if I
16 could find the other half of the problem.

17 Q. What happened to the lady?

18 A. Okay, she just didn't want to file a report or
19 anything like that, so it was a scuffle between the two of them
20 and she was going to go to some relatives, I believe.

21 Q. She left the store about the same time you did?

22 A. I don't know how much longer it was. She was still
23 there when Officer Duckett and I left.

24 Q. Do you know how long the defendant was there at the
25 store on that particular call?

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1 A. No, I don't.

2 Q. Where were you when you got the call from the Com
3 Center and were dispatched to go to the Circle K? Where did
4 you come from? Do you remember?

5 A. No, I really don't.

6 Q. Do you remember how much time passed between the time
7 you were dispatched and the time you got to the Circle K?

8 A. No.

9 Q. Now, do you recall what the weather was like that
10 night?

11 A. Yes, earlier in the evening, I would say 7:00 or
12 7:30, it rained real hard down in that area.

13 Q. You came on at six?

14 A. Yes, sir, and probably around 9:00 o'clock, it quit
15 raining in that time zone.

16 Q. Did you have occasion around midnight or a little
17 bit after midnight, around 12:10 to be at the Groveland Police
18 Department?

19 A. Yes, sir.

20 Q. Who was there with you?

21 A. There was two Groveland officers.

22 Q. Don Campbell?

23 A. And Officer Stephens.

24 Q. While you were over there, were you in the parking
25 lot or inside the police department?

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1 A. No, we were out in the parking lot.

2 Q. While you were there outside in the parking lot, did
3 a civilian come up?

4 A. Yes, sir, a lady did.

5 Q. I show you what has been marked in evidence as
6 State's Exhibit #1, a photograph. Is that woman the woman
7 that came up that night?

8 A. Yes, sir.

9 Q. When that lady came up to the Groveland Police
10 Department, Mr. Pahaley, what did she want?

11 A. She said that her child had left the house to get
12 something... I don't remember exactly what it was, but she
13 hadn't returned and she would like to report her missing.

14 Q. Who was she talking to? You or Officer Stephens?

15 A. Basically, Officer Campbell, but we were all right
16 there talking.

17 Q. Did she tell Officer Campbell where she lived?

18 A. Yes, she said she lived in Mascotte.

19 Q. What did he tell her to do?

20 A. That she would have to, because it was Mascotte's
21 jurisdiction, to report it to the Mascotte Police Department.

22 Q. Did she tell you whether or not she had been to the
23 Mascotte Police Department already?

24 A. I don't remember her saying that.

25 Q. What did Officer Campbell do, if anything, in response

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1 to her?

2 A. He got on the radio and advised the Mascotte officer,
3 Officer Duckett of the situation and he sent her over to
4 the Mascotte Police Department to meet him there.

5 Q. Were you able to hear Duckett's response on the radio?

6 A. No, no, I didn't.

7 Q. What did Mrs. McAbee do after Campbell talked to
8 Duckett on the radio?

9 A. He asked her for a brief description of the girl
10 as far as physical description and what she was wearing, in
11 case he saw her, he could contact Mascotte. Then she left and
12 went over to the Mascotte Police Department.

13 Q. About how far from the Mascotte Police Department is
14 Groveland Police Department located?

15 A. Probably a couple miles.

16 Q. Did she go West on 50 towards the Mascotte Police
17 Department?

18 A. Yes, there is a median right in front of the Groveland
19 Police Department and she crossed the median and went West.

20 Q. Mr. Pahaley, after she left, what did you do?

21 A. I stayed there and was talking to Officer Campbell and
22 Officer Stephens for oh, five minutes, and then I left and
23 went to the Mascotte Police Department.

24 Q. Why did you want to to go the Mascotte Police Deart-
25 ment?

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1 A. Okay, at the time of the incident at the Circle K,
2 Officer Duckett had the information. I didn't get the
3 information at that time. I wanted to see if I could find
4 the other half of the problem, so I was going to the Mascotte
5 Police Department to get that information.

6 Q. From Duckett?

7 A. From Duckett, yes, sir.

8 Q. When you arrived at the Mascotte Police Department,
9 did you see Mrs. McAbee?

10 A. Yes.

11 Q. Where was her car parked?

12 A. It was parked facing the building, you know the
13 parking places along there.

14 Q. In front of the Police Department?

15 A. Yes, sir.

16 Q. On Highway 50?

17 A. Yes, the Police Department is on the South side.

18 Q. Where did you park in relationship to her car?

19 A. She was parked facing the building. I pulled in,
20 I hadn't pulled into a parking place, per se. I pulled
21 up parallel to the building.

22 Q. Did you have any conversation with Mrs. McAbee at
23 that point?

24 A. I don't remember if I did or not. Very possibly just
25 said the officer was on his way.

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1 Q. Was the defendant there when you got there?
2 A. No, he wasn't.
3 Q. How long did you wait before he showed up?
4 A. It was a matter of a minute or two.
5 Q. When he came to the Police Department, do you remember
6 what direction of travel he came? In other words, what road
7 did he come to the P. D. from?
8 A. To the best of my recollection, the road that runs
9 along the side of the Police Department. Not 50, but the one
10 that dead ends at 50.
11 Q. Perpendicular to it?
12 A. Yes, sir. I don't know the name of it. He came
13 that way and pulled in.
14 Q. Was it on the Groveland side of the Police Department
15 or the Mascotte side of the Police Department?
16 A. That would have been on the East side, the Groveland
17 side.
18 Q. Okay. So he came up from behind the Police Department
19 and pulled in to where you were?
20 A. Yes, sir, we were sitting in front and he came from
21 the side and pulled in.
22 Q. When he got there, both you and Mrs. McAbee had
23 already been there?
24 A. Yes.
25 Q. Now, when he got there, who talked to him first?

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1 You or Mrs. McAbee?

2 A. I did.

3 Q. How much time did you spend with him getting the
4 information from him?

5 A. Just a matter of a couple minutes. Just long enough
6 for him to give it to me and me write it down and I said that
7 was the lady that wanted to report the missing child and I
8 left.

9 Q. While you were talking with him, was she waiting in
10 her car or was she out of the car, or what was she doing?

11 A. I don't remember if she was still in the car. I
12 don't believe she was. I think she was outside of the car
13 but she did not come over to us yet.

14 Q. So then you were at Groveland and then she left and
15 you stayed about five minutes and talked to Campbell and
16 Stephens and then you left and got to Mascotte and waited two
17 or three minutes before the defendant got there?

18 A. Yes, sir.

19 Q. And then you talked to him two or three minutes?

20 A. Just a couple minutes. Just long enough to ...

21 Q. To get the information?

22 A. Yes.

23 Q. And then Mrs. McAbee talked?

24 A. Yes, sir.

25 Q. And then you left?

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1 A. Yes, sir.

2 Q. Did the defendant ever call you on the radio that
3 night and tell you about the missing girl and ask you to help
4 look for her?

5 A. No, you mean after I was at Mascotte?
6 No, no, I don't remember him calling me.

7 Q. Can I have a moment?

8 MR. HURM: Thank you. Thank you, Mr. Pahaley.

9 THE COURT: Mr. Edmund?

10 CROSS EXAMINATION

11 BY MR. EDMUND:

12 Q. If it please, Your Honor. Mr. Pahaley, we meet this
13 morning?

14 A. Did we? Yes, sir.

15 Q. Well, my name is Jack Edmund. Mr. Pahaley, are you
16 here under the State's subpoena?

17 A. I was subpoenaed by both State and yourself.

18 Q. You are here under Defense subpoena also, aren't you?

19 A. Yes, sir.

20 Q. And you are here under a subpoena that was served on
21 you night before last, aren't you?

22 A. Yes, Wednesday night.

23 Q. And you are here under a Defense subpoena that was
24 served on you night before last by a woman by the name of
25 Sharon Mc Reynolds, isn't that correct?

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1 A. Sharon. I can't remember the last name.

2 Q. And where were you at the time the subpoena was served
3 on you?

4 A. I was in Clermont recreation.

5 Q. Would you tell the Jury whether or not you had any
6 conversation with Sharon at that time?

7 A. Yes, I did.

8 Q. Alright, now, would you tell the Jury again what the
9 sequence of events were from the time you received the report
10 from Ms. McAbee while at the Groveland Police Office and the
11 time you got up with Jim Duckett over there at the Mascotte
12 Police Office?

13 A. Okay, she pulled in...

14 Q. I am really just interested in the sequence of time.
15 Did she come in and make a report?

16 A. No, no, like I said, she talked to basically Officer
17 Campbell and said her child was missing and she lived in
18 Mascotte. He advised her that she would have to go to the
19 Mascotte Police Department, that it was in their jurisdiction.

20 Q. And then he called Duckett?

21 A. Yes, sir.

22 Q. And Duckett said he would go to the Police Station
23 in Mascotte?

24 A. I believe. I didn't hear the response, but yes.

25 Q. We are pretty safe we can assume that that happened

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1 or Campbell wouldn't have sent Ms. McAbee away, would he?

2 A. Correct.

3 Q. And he sent Ms. McAbee over to the Mascotte Police
4 Department, and then you told this Jury that you had been
5 around there five minutes more talking to Campbell and then
6 you followed Ms. McAbee over to the Police Department, did you
7 not? Isn't that what you just finished telling us?

8 A. Yes, sir.

9 Q. And then you and Ms. McAbee sat there for a while and
10 then how many minutes did you sit there before Duckett came
11 up?

12 A. I said it was a minute or two.

13 Q. A minute or two. So we are talking about five minutes
14 you stood there with Campbell and ... how long did it take
15 you to drive over to Mascotte?

16 A. Oh, probably three minutes.

17 Q. About eight minutes, and you sit there a minute or
18 two, so we are talking maybe ten minutes, right?

19 A. Yes, sir.

20 Q. When I walked in this courthouse this morning, did
21 you catch me downstairs?

22 A. Yes, sir.

23 Q. And somebody told you to look for some long haired old
24 dude with a beard?

25 A. Well, not exactly that.

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1 Q. Well, you found me anyway, right?

2 A. Yes, sir.

3 Q. And you walked up to me and you said, "I am real sorry
4 for what I told Sharon the other night is not correct", isn't
5 that correct? Isn't that what you told me?

6 A. I didn't say it that way. I said there was one
7 particular part of that.

8 Q. You didn't tell me you were real sorry. You just
9 said, "I'm sorry", didn't you, sir?

10 A. Well, something along that line, right.

11 Q. And I said, "Well, tell me, partner, what portion of
12 what you told her is incorrect?", and you said, "I told her
13 that all three of us drove up to the Mascotte Police Department
14 at the same time, and I was wrong." Isn't that what you told
15 me downstairs?

16 A. I said...

17 Q. Isn't that what you told me downstairs?

18 MR. HURM: Your Honor, I would ask that he be permitted
19 to answer the question.

20 MR. EDMUND: Well, he could give me a yes or no and then
21 I will back off, Your Honor.

22 THE COURT: You can answer, Officer.

23 A. Not in that exact words, no, I didn't.

24 Q. Well, then, what words?

25 A. I said that the only thing that was different in what

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1 I told Sharon was that instead of leaving immediately right
2 behind Mrs. McAbee, I believe the name is, that I had been
3 at the Groveland Police Department for approximately five more
4 minutes talking to Officer Campbell before I left.

5 Q. That's right. Night before last, when Sharon served
6 the subpoena on you, you told them that you left... you told
7 Campbell, "I have got to see Duckett. I'm going now", and you
8 left immediately behind, followed along with, and arrived at
9 the police station at Mascotte, with Mrs. McAbee at the same
10 time Duckett came up, didn't you? Isn't that what you told
11 Sharon McReynolds two nights ago?

12 A. I told her that...

13 Q. Just tell me yes or no.

14 A. No.

15 Q. What?

16 A. I said that we arrived approximately the same time.
17 I didn't say exactly the same time.

18 Q. You meant within seconds, didn't you, Mr. Pahaley,
19 and you told her within seconds didn't you?

20 A. No, I didn't say within seconds.

21 Q. Mr. Pahaley, did I tell you, "Well, I don't know
22 whether I am going to call you to the stand or not", when you
23 were downstairs?

24 A. Yes, sir.

25 Q. I told you, "Hang around if you want and don't hang

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1 around if you don't want", right?

2 A. Yes, sir.

3 Q. Now, as we get out in the hallway out there at the
4 first break today, I am sitting on one of those benches out
5 there and you sort of wander over to where I am. Did that
6 happen?

7 A. Yes, we talked.

8 Q. And you start talking and then Bob Nipper comes up,
9 doesn't he? And Bob Nipper starts popping some questions at
10 you, doesn't he?

11 A. Yes, he asked me some questions.

12 Q. And he wanted to know how come you changed your mind,
13 didn't he?

14 A. Yes, sir.

15 Q. And he got just a little bit close to you about it,
16 didn't he?

17 A. Yes.

18 Q. And you said, "Well, I got a call from the State
19 Attorney's Office last night," didn't you? What did you say?
20 Did you say that or didn't you?

21 A. Yes, I said I talked to the State Attorney.

22 Q. About that time, I was beginning to get sort of bent
23 out of shape, wasn't I?

24 A. Yes, sir.

25 Q. And then I got up and I said, "Fellow, how come you

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1 changed your story on me? I'm tired of that happening in this
2 case.", didn't I?

3 A. Yes, sir.

4 Q. And I had to walk around you like this, to get you
5 to look me in the face, didn't I?

6 A. You walked around me. I don't remember now looking
7 you in the face.

8 Q. Well, each time I walked around I caught your eyes,
9 didn't I? And when you put them over there, I come back over
10 here, and you put them over there, wouldn't you?

11 MR. HURM: Your Honor, I object. This is improper
12 impeachment. There is no prior statement. He is going into
13 eye movements.

14 THE COURT: I sustain that, Mr. Edmund.

15 MR. EDMUND: I don't have any further questions, Your
16 Honor.

17 MR. HURM: Can I have a moment?

18 RE-DIRECT EXAMINATION

19 BY MR. HURM:

20 Q. Mr. Pahaley, I was the one that talked to you on the
21 phone last night, wasn't I?

22 A. I don't remember talking to you, sir. I remember
23 talking to Deputy Harris.

24 Q. Well, didn't you talk to me as well? Didn't I talk
25 to you on the telephone in the last couple days?

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1 A. In the last couple days, yes, sir.
2 Q. Not last night, but the last couple days?
3 A. Yes, sir.
4 Q. Did I ever suggest to you that you change your
5 testimony?
6 A. No, sir.
7 Q. What did I tell you this morning before you came in?
8 Before we came to court? What was the thing I told you was
9 the most important thing for you to do, and that I wanted you
10 to do when you testified?
11 A. To tell the truth.
12 Q. Thank you, sir.
13 RE-CROSS EXAMINATION
14 BY MR. EDMUND:
15 Q. You mean before you caught me downstairs, you caught
16 the State Attorney someplace?
17 A. We ran into each other, yes, sir.
18 Q. Now, where did you all run into each other?
19 A. Over in the other building.
20 Q. That other building is a pretty good sized building
21 and the State Attorney's Office is on the fourth floor. Is
22 that where you happened to run into him?
23 A. Yes, sir.
24 Q. Thank you. No further questions, Your Honor.
25 MR. HURM: I don't have anything further, Your Honor.

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1 THE COURT: What do you say about his subpoena?
2 Any objection, Mr. Edmund?
3 MR. EDMUND: No, Your Honor.
4 THE COURT: You can step down. You are free to go.
5 MR. EDMUND: I will even release him from mine, if Your
6 Honor please, and the State don't object.
7 THE COURT: Next witness, Mr. Hogan?
8 MR. HOGAN: Shirley Fernandez.
9 THE COURT: Shirley Fernandez, please, Mr. Bailiff.
10 (WHEREUPON, SHIRLEY FERNANDEZ IS CALLED AS NEXT WITNESS
11 FOR THE STATE AND IS DULY SWORN BY THE CLERK OF THE COURT)
12 DIRECT EXAMINATION
13 BY MR. HOGAN:
14 Q. Please state your name for the record?
15 A. Shirley Fernandez.
16 Q. Ms. Fernandez, are you related to Dorothy McAbee?
17 A. She is my sister.
18 Q. Your sister, is that correct?
19 A. Yes, sir.
20 Q. Ms. Fernandez, on the night of May 11th or early
21 morning hours of May 12th, did you have occasion to go over
22 to your sister's house regarding the fact that Teresa McAbee,
23 your niece, was missing?
24 A. Yes.
25 Q. In the early morning hours at approximately 3:00 A. M.,

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1 did you have an occasion to come in contact with an individual
2 later known to you as Officer Duckett?

3 A. Yes.

4 Q. Do you see him in the courtroom here today?

5 A. Yes.

6 Q. Will you point to him and describe what he is
7 wearing?

8 A. It is the man in a gray suit...

9 MR. EDMUND: Excuse me, ma'am, I stipulate she has
10 identified my client, Your Honor.

11 THE COURT: The record will reflect the witness has
12 identified the Defendant.

13 Q. Ms. Fernandez, did you have occasion to have a
14 conversation with the defendant, Officer Duckett, at that time,
15 at 3:00 A. M.?

16 A. Yes, I talked to him.

17 Q. Where were you when you talked to him?

18 A. I was standing in front of my sister's house.

19 Q. Why were you standing in front of your sister's house?

20 A. Because when my other sister came and got me from
21 my house and said that Teresa was missing, I went to Dorothy's
22 and I was standing there in front of Dorothy's house, but
23 Duckett was already there.

24 Q. When you got there at 3:00 o'clock in the morning?

25 A. He was standing there with Dorothy. He was

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1 sitting in the cop car and she was standing beside him.

2 Q. Okay, and how long did you stay in the front yard
3 after you got there at three o'clock in the morning?

4 A. I was there until they come told us it was Teresa
5 in the lake.

6 Q. You stayed there until about nine o'clock?

7 A. Yes, I was there all the time.

8 Q. Now, at three o'clock in the morning, did you have
9 occasion to request that Officer Duckett search a certain
10 area around Teresa's home?

11 A. Yes.

12 Q. What area was that?

13 A. I asked him standing there in the yard, why didn't
14 he check the lake.

15 Q. Okay, now what lake are you referring to?

16 A. Knight Lake, right there behind the Mascotte Bar.

17 Q. Alright, is that right down the road from where
18 Teresa lives?

19 A. Yes, from where my sister lives.

20 Q. Are you familiar with that lake?

21 A. Yes.

22 Q. On that morning, did you have any occasion to go
23 down there?

24 A. Yes, I walked down there.

25 Q. Who went with you?

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1 A. It was me and my sister, Tammy, and my little girl,
2 Angel.
3 Q. Were you wearing shoes?
4 A. No.
5 Q. Tammy wearing shoes?
6 A. No.
7 Q. And was your little girl wearing shoes?
8 A. No.
9 Q. Did you walk down that dirt road?
10 A. Yes.
11 Q. How far down that dirt road did you go?
12 A. Around the curve and to the pumphouse.
13 Q. Then what did you do?
14 A. We turned around the come back. Like I said, I was
15 a little big, I was seven months pregnant. I got scared and
16 I told my sister we had to go back.
17 Q. What time of day was it you walked down there?
18 A. It was just beginning to turn daylight.
19 Q. Did you see anything down there that gave you any
20 information about where Teresa was?
21 A. No, I didn't see anything.
22 Q. Did you go look down in the water in the lake?
23 A. Yes.
24 Q. Did you look behind the pumphouse?
25 A. No.

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1 MR. HOGAN: Thank you, Judge. Thank you, Ms. Fernandez.

2 MR. EDMUND: If it please, Your Honor.

3 THE COURT: Yes.

4 CROSS EXAMINATION

5 BY MR. EDMUND:

6 Q. Ms. Fernandez, my name is Jack Edmund. Ms. Fernandez,
7 who all was at the McAbee house that night, ma'am?

8 A. When I got there?

9 Q. Yes, ma'am?

10 A. Well, me and my sister, Dorothy, Jessie and my
11 sister, Tammy had brought me there. She left and went to get
12 my sister's boyfriend, Dorothy's. She had left to go and get
13 him and that left me and Dorothy at the house.

14 Q. Was there no man at the house at all?

15 A. When me and Dorothy was there? No.

16 Q. Do you know where the man was who was living in the
17 house?

18 A. He was with my sister.

19 Q. And how long were they gone, ma'am?

20 A. I don't know exactly.

21 Q. Did they come back?

22 A. Yes, they come back.

23 Q. Did they get back before daylight?

24 A. I am not sure about that either.

25 Q. Did they get back before you all went down to the lake?

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1 A. Yes, because she went with me.
2 Q. Did you ask him to go down to the lake?
3 A. No, I didn't.
4 Q. Did you say anything to Mr. Duckett about some suspect
5 you had who lived in Ocoee?
6 A. No.
7 Q. Somebody who liked the little girl, who lived in
8 Ocoee?
9 A. No.
10 Q. That doesn't ring any bells with you at all?
11 A. I didn't say it.
12 Q. When the man who lived in the house came back, was
13 there a vehicle there at the house at that time? I mean
14 they were driving a car?
15 A. Who?
16 Q. Whoever it was that was with your sister?
17 A. My sister was driving the car.
18 Q. Does that fellow drive?
19 A. Pedro? Yes.
20 Q. How many cars were at the house?
21 A. Before they come back, none.
22 Q. When they got back, there was a car at the house,
23 wasn't there, ma'am?
24 A. Yeah, the one she was driving.
25 Q. Thank you, ma'am. I have no further questions.

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1 RE-DIRECT EXAMINATION

2 BY MR. HOGAN:

3 Q. One question. Pedro is Tammy's husband?

4 A. Yes.

5 THE COURT: Anything further, Mr. Edmund?

6 MR. EDMUND: No, thank you, Your Honor.

7 THE COURT: Alright. Release the lady from her subpoena,
8 gentlemen?

9 MR. HOGAN: Yes, sir.

10 THE COURT: Any objection, Mr. Edmund?

11 MR. EDMUND: No, Your Honor.

12 THE COURT: You are free to go, ma'am. Thank you.

13 MR. HURM: The next witness is James Cooper.

14 (WHEREUPON, JAMES COOPER IS CALLED AS NEXT WITNESS FOR
15 THE STATE AND IS DULY SWORN BY THE CLERK OF THE COURT)

16 DIRECT EXAMINATION

17 BY MR. HURM:

18 Q. Good afternoon, Mr. Cooper. State your name for
19 the record?

20 A. James Edwin Cooper.

21 Q. Mr. Cooper, did you have occasion in 1987, to be
22 employed as a police officer for the City of Mascotte?

23 A. Yes, sir.

24 Q. How long had you been with Mascotte?

25 A. Approximately ten months.

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